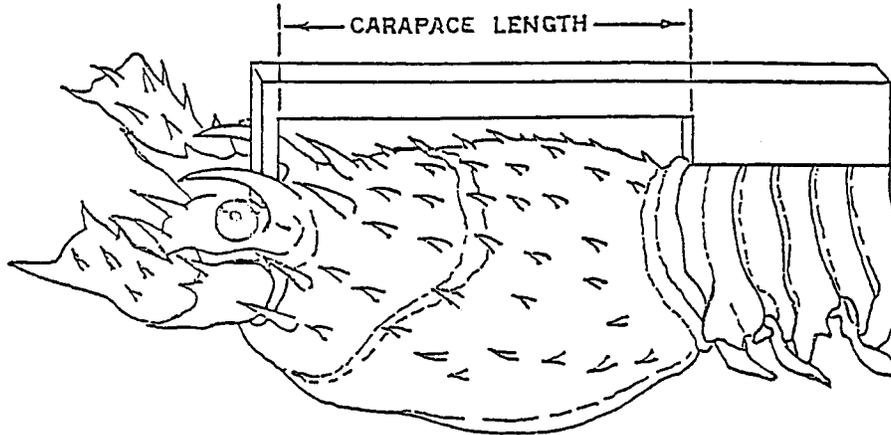
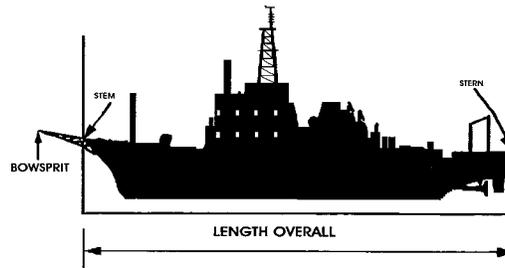


FIGURE 1 TO PART 660—CARAPACE LENGTH OF LOBSTERS



Carapace Length of Lobsters

FIGURE 2 TO PART 660—LENGTH OF FISHING VESSEL



[61 FR 34572, July 2, 1996, as amended at 67 FR 4371, Jan. 30, 2002]

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AUTHORITY: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*; Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31, 113 Stat. 57; 16 U.S.C. 1540(f).

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, 62 FR 2047, Jan. 15, 1997, and 66 FR 27909, May 21, 2001.

Subpart A—General

§ 679.1 Purpose and scope.

Regulations in this part were developed by the Council under the Magnuson-Stevens Fishery Conservation and Management Act and the Northern Pacific Halibut 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 for 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) [Reserved]

(d) *IFQ Program for sablefish and halibut*. The IFQ management measures 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 aboard such vessels are persons who currently hold quota shares, IFQ permits, or IFQ cards.

(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 defined in 50 CFR 679.2, 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 fisheries business activities that will result in an ongoing, regionally based, fisheries-related economy.

(f) *Groundfish Observer Program* (applicable through December 31, 2002). 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).

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(g) *Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs*. 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 subpart A of this part).

(2) State of Alaska laws and regulations that are consistent with the FMP and with the regulations in this part apply to vessels of the United States that are fishing for scallops in the Federal waters off Alaska.

(i) *Fishery Management Plan for the Salmon Fisheries in the EEZ off the Coast of Alaska (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.

(j) *License Limitation Program*. (1) Regulations in this part implement the license limitation program for the commercial groundfish fisheries in the EEZ off Alaska and for the commercial crab fisheries in the Bering Sea and Aleutian Islands Area.

(2) Regulations in this part govern the commercial fishing for license limitation groundfish by vessels of the United States using authorized gear within the GOA and the BSAI and the commercial fishing for crab species by vessels of the United States using authorized gear within the Bering Sea and Aleutian Islands Area.

(3) Regulations in this part implement the license limitation program for the commercial scallop fishery in the EEZ off Alaska.

(4) Regulations in this part govern the commercial fishing for scallops by vessels of the United States using authorized gear within the EEZ off Alaska.

(k) This part also governs payment and collection of the loan, under the American Fisheries Act (AFA), the Magnuson-Stevens Act, and Title XI of the Merchant Marine Act, 1936, made to all persons who harvest pollock from the directed fishing allowance allocated to the inshore component under section 206(b)(1) of the AFA.

[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; 62 FR 59298, Nov. 3, 1997; 63 FR 30398, June 4, 1998; 63 FR 38502, July 17, 1998; 63 FR 52652, Oct. 1, 1998; 64 FR 3652, Jan. 25, 1999; 65 FR 5281, Feb. 3, 2000; 65 FR 45317, July 21, 2000; 65 FR 78115, Dec. 14, 2000; 66 FR 27909, May 21, 2001; 66 FR 4148, Jan. 28, 2002; 67 FR 13293, Mar. 22, 2002; 67 FR 44094, July 1, 2002]

§ 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 (see § 679.5(a)(7)(i)).

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.

ADF&G fish ticket number means a nine-digit number designated by one alphabet letter (i.e., G = groundfish), two numbers that identify the year (i.e., 98), followed by six numbers.

Affiliates, for purposes of subpart E of this part, means business concerns, organizations, or individuals are affiliates 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.

Agent (1) For purposes of permits issued under § 679.4, means a person appointed and residing within the United States who may apply for permits and may otherwise act on behalf of the owner, operator, or manager of a catcher vessel, catcher/processor, mothership, shoreside processor, stationary floating processor, buying station, support vessel, or on behalf of the IFQ permit holders, IFQ registered buyers, or CDQ halibut permit holders.

(2) For purposes of groundfish product distribution under § 679.5(g), means a buyer, distributor, or shipper but not a buying station, who may receive and distribute groundfish on behalf of the owner, operator, and manager of a catcher/processor, mothership, shoreside processor, or stationary floating processor.

(3) For purposes of IFQ recordkeeping and reporting under § 679.5(l), means a person who on behalf of the Registered Buyer may submit IFQ reports.

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 to this part).

American Fisheries Act (AFA) means Title II—Fisheries Subtitles I and II, as cited within the Omnibus Appropriations Bill FY99 (Pub. L. 105–277).

Ancillary product (see Table 1 to this part).

Area endorsement means (for purposes of groundfish LLP) a designation on a license that authorizes a license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the designated area, subarea, or district. Area endorsements, which are inclusive of, but not necessarily the same as, management areas, subareas, or districts defined in this part, are as follows:

(1) Aleutian Islands area endorsement. Authorizes the license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the Aleutian Islands Subarea;

(2) Bering Sea area endorsement. Authorizes the license holder to deploy a

vessel to conduct directed fishing for license limitation groundfish in the Bering Sea Subarea;

(3) Central Gulf area endorsement. Authorizes the license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the Central GOA regulatory area and the West Yakutat District;

(4) Southeast Outside area endorsement. Authorizes the license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the Southeast Outside District; and

(5) Western Gulf area endorsement. Authorizes the license holder to deploy a vessel to conduct directed fishing for license limitation groundfish in the Western GOA regulatory area.

Area/species endorsement means (for purposes of LLP) a designation on a license that authorizes a license holder to deploy a vessel to conduct directed fishing for the designated crab species in Federal waters in the designated area (see Figures 16 and 17 to this part). Area/species endorsements for crab species licenses are as follows:

(1) Aleutian Islands brown king in waters with an eastern boundary the longitude of Scotch Cap Light (164° 44' W. long.), a western boundary of the U.S.-Russian Convention Line of 1867, and a northern boundary of a line from the latitude of Cape Sarichef (54° 36' N. lat.) westward to 171° W. long., then north to 55° 30' N. lat., then west to the U.S.-Russian Convention line of 1867.

(2) Aleutian Islands red king in waters with an eastern boundary the longitude of Scotch Cap Light (164° 44' W. long.), a western boundary of the U.S.-Russian Convention Line of 1867, and a northern boundary of a line from the latitude of Cape Sarichef (54° 36' N. lat.) westward to 171° W. long., then north to 55° 30' N. lat., and then west to the U.S.-Russian Convention line of 1867.

(3) Bristol Bay red king in waters with a northern boundary of 58° 39' N. lat., a southern boundary of 54° 36' N. lat., and a western boundary of 168° W. long. and including all waters of Bristol Bay.

(4) Bering Sea and Aleutian Islands Area *C. opilio* and *C. bairdi* in Pacific Ocean and Bering Sea waters east of the U.S.-Russian Convention Line of

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1867, excluding all Pacific Ocean waters east of a boundary line extending south (180°) from Scotch Cap Light.

(5) Norton Sound red king and Norton Sound blue king in waters with a western boundary of 168° W. long., a southern boundary of 61° 49' N. lat., and a northern boundary of 65° 36' N. lat.

(6) Pribilof red king and Pribilof blue king in waters with a northern boundary of 58° 39' N. lat., an eastern boundary of 168° W. long., a southern boundary line from 54° 36' N. lat., 168° W. long., to 54° 36' N. lat., 171° W. long., to 55° 30' N. lat., 171° W. long., to 55° 30' N. lat., 173° 30' E. lat., and then westward to the U.S.-Russian Convention line of 1867.

(7) St. Matthew blue king in waters with a northern boundary of 61° 49' N. lat., a southern boundary of 58° 39' N. lat., and a western boundary of the U.S.-Russian Convention line of 1867.

Associated processor means, a federally permitted mothership, shoreside processor, or stationary floating processor that has a contractual relationship with a buying station to conduct groundfish buying station activities for that processor.

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

Authorized fishing gear (see also §679.24 for gear limitations and Table 15 to this part for gear codes) means trawl gear, fixed gear, longline gear, pot gear, and nontrawl gear as follows:

(1) *Dinglebar gear* means one or more lines retrieved and set with a troll gurdy or hand troll gurdy, with a terminally attached weight from which one or more leaders with one or more lures or baited hooks are pulled through the water while a vessel is making way.

(2) *Fixed gear* means:

(i) For sablefish harvested from any GOA reporting area, all longline 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) *Hand troll gear* means 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.

(4) *Handline gear* means a hand-held line, with one or more hooks attached, that may only be operated manually.

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

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

(7) *Longline gear* means hook-and-line, jig, troll, and handline or the taking of fish by means of such a device.

(8) *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.

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

(10) *Nontrawl gear* means pot and longline gear.

(11) *Pelagic trawl gear* 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 (10)(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 passed 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 (10)(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 (10)(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.

(12) *Pot gear* means a portable structure designed and constructed to capture and retain fish alive in the water. This gear type includes longline pot and pot-and-line gear. Each groundfish pot must comply with the following:

(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).

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

(14) *Power troll gear* means 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.

(15) *Trawl gear* means a cone or funnel-shaped net that is towed through the water by one or more vessels. For purposes of this part, this definition includes, but is not limited to, beam trawls (trawl with a fixed net opening utilizing a wood or metal beam), otter trawls (trawl with a net opening controlled by devices commonly called otter doors), and pair trawls (trawl dragged between two vessels) and is further described as pelagic or non-pelagic trawl.

(16) *Troll gear* means one or more lines with hooks or lures attached drawn through the water behind a moving vessel. This gear type includes hand troll and power troll gear and dinglebar gear.

Authorized officer means, for purposes of recordkeeping and reporting, a NOAA special agent, a NOAA fishery enforcement officer, or USCG fisheries enforcement personnel.

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 to this part).

Bering Sea Subarea of the BSAI means that portion of the EEZ contained in Statistical Areas 508, 509, 512, 513, 514,

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516, 517, 518, 519, 521, 523, 524, and 530 (see Figure 1 to this part).

Bled codend means a form of discard by vessels using trawl gear wherein some or all of the fish are emptied into the sea from the net before fish are brought fully on board.

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

Bulwark means a section of a vessel's side continuing above the main deck.

Buying station means a tender vessel or land-based entity that receives unprocessed groundfish from a vessel for delivery to a shoreside processor, stationary floating 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 to 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 to this part).

Bycatch or bycatch species means fish caught and released while targeting another species or caught and released while targeting the same species.

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).

Catch (see 50 CFR 600.10.)

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) *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/processor vessel designation means, for purposes of the license limitation program, a license designation that authorizes the license holder:

(1) Designated on a groundfish license to deploy a vessel to conduct directed fishing for license limitation groundfish and process license limitation groundfish on that vessel or to conduct only directed fishing for license limitation groundfish; or

(2) Designated on a crab species license to deploy a vessel to conduct directed fishing for crab species and process crab species on that vessel or to conduct only directed fishing for crab species.

Catcher vessel means a vessel that is used for catching fish and that does not process fish on board.

Catcher vessel designation means, for purposes of the license limitation program, a license designation that authorizes the license holder:

(1) Designated on a groundfish license to deploy a vessel to conduct directed fishing for, but not process, license limitation groundfish on that vessel; or

(2) Designated on a crab species license to deploy a vessel to conduct directed fishing for, but not process, crab species on that vessel.

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

CBL means crab bycatch limit.

CDQ allocation means a percentage of a CDQ reserve specified under § 679.31 that is assigned to a CDQ group when NMFS approves a proposed CDP.

CDQ group means a qualified applicant with an approved CDP.

CDQ group number means a number assigned to a CDQ group by NMFS that must be recorded in all logbooks and all reports submitted by the CDQ group

or by vessels and processors catching CDQ or PSQ under an approved CDP.

CDQ project means any program that is funded by a CDQ group's assets for the economic or social development of a community or group of communities that are participating in a CDQ group, including, but not limited to, infrastructure development, CDQ investments, employment and training programs, and CDP administration.

CDQ representative means the individual who is the official contact for NMFS regarding all matters relating to a CDQ group's activities.

CDQ species means any species or species group that has been assigned to a CDQ reserve under § 679.31.

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

Central GOA Regulatory Area means that portion of the GOA EEZ that is contained in Statistical Areas 620 and 630 (see Figure 3 to this part).

Chinook Salmon Savings Area of the BSAI (see § 679.21(e)(7)(viii) and Figure 8a and Figure 8b to this part).

Chum Salmon Savings Area of the BSAI CVOA (See § 679.21(e)(7)(vii) and Figure 9 to this part.)

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 Table 14 to this part.

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

Commercial Operator's Annual Report (COAR) means the annual report of information on exvessel and first wholesale values for fish and shellfish required under Title 5 of the Alaska Administrative Code, chapter 39.130 (see § 679.5 (p)).

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

Community Development Plan (CDP) means a business plan for the economic and social development of a specific Western Alaska community or group of

communities under the CDQ program at § 679.30.

Community Development Quota (CDQ) means the amount of a CDQ species established under § 679.31 that is allocated to the CDQ program.

Community Development Quota Program (CDQ Program) means the Western Alaska Community Development Quota Program implemented under subpart C of this part.

Community Development Quota reserve (CDQ reserve) means a percentage of a total allowable catch for groundfish, a percentage of a catch limit for halibut, or percentage of a guideline harvest level for crab 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.

C. Opilio Crab Bycatch Limitation Zone (COBLZ) (see § 679.21(e) and Figure 13 to this part).

Council means North Pacific Fishery Management Council.

Crab species means (see also king crab and tanner crab) all crab species covered by the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs, including, but not limited to, red king crab (*Paralithodes camtschatica*), blue king crab (*Paralithodes platypus*), brown or golden king crab (*Lithodes aequispina*), scarlet or deep sea king crab (*Lithodes couesi*), Tanner or bairdi crab (*Chionoecetes bairdi*), opilio or snow crab (*Chionoecetes opilio*), grooved Tanner crab (*Chionoecetes tanneri*), and triangle Tanner crab (*Chionoecetes angulatus*).

Crab species license means a license issued by NMFS that authorizes the license holder designated on the license to deploy a vessel to conduct directed fishing for crab species.

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.

Deep water flatfish (see Table 10 to this part pursuant to § 679.20(c).)

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 amount for that species or species group as calculated under § 679.20.

(2) *With respect to license limitation groundfish species*, directed fishing as defined in paragraph (1) of this definition, or, with respect to license limitation crab species, the catching and retaining of any license limitation crab species.

(3) *(Applicable through January 16, 2001) With respect to the harvest of groundfish by AFA catcher/processors and AFA catcher vessels*, 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.

Discard (see § 600.10.)

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.

Documented harvest means a lawful harvest that was recorded in compliance with Federal and state commercial fishing regulations in effect at the time of harvesting.

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 to this part).

Eastern GOA Regulatory Area means the Reporting Areas 649 and 659 and that portion of the GOA EEZ that is contained in Statistical Areas 640 and 650 (see Figure 3 to this part).

Eligible applicant means (for purposes of the LLP program) a qualified person who submitted an application during the application period announced by NMFS and:

(1) For a groundfish license or crab species license, who owned a vessel on June 17, 1995, from which the minimum number of documented harvests of license limitation groundfish or crab species were made in the relevant areas during the qualifying periods specified in § 679.4(k)(4) and (k)(5), unless the fishing history of that vessel was transferred in conformance with the provisions in paragraph (2) of this definition; or

(2) For a groundfish license or crab species license, to whom the fishing history of a vessel from which the minimum number of documented harvests of license limitation groundfish or crab species were made in the relevant areas during the qualifying periods specified in § 679.4(k)(4) and (k)(5) has been transferred or retained by the express terms of a written contract that clearly and unambiguously provides that the qualifications for a license under the LLP have been transferred or retained; or

(3) For a crab species license, who was an individual who held a State of Alaska permit for the Norton Sound

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king crab summer fishery at the time he or she made at least one harvest of red or blue king crab in the relevant area during the period specified in § 679.4(k)(5)(ii)(G), or a corporation that owned or leased a vessel on June 17, 1995, that made at least one harvest of red or blue king crab in the relevant area during the period in § 679.4(k)(5)(ii)(G), and that was operated by an individual who was an employee or a temporary contractor; or

(4) For a scallop license, who qualifies for a scallop license as specified at § 679.4(g)(2) of this part; or

(5) Who is an individual that can demonstrate eligibility pursuant to the provisions of the Rehabilitation Act of 1973 at 29 U.S.C. 794 (a).

Eligible community means (for purposes of the CDQ program) a community that is listed in Table 7 to this part or that meets all of the following requirements:

(1) 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 most western 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.

(2) That is certified by the Secretary of the Interior pursuant to the Native Claims Settlement Act (Pub. L. 92-203) to be a native village.

(3) Whose residents conduct more than half of their current commercial or subsistence fishing effort in the waters of the BSAI.

(4) That 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.

Endorsement. (1) (See *area endorsement* for purposes of the groundfish LLP permits);

(2) (See *area/species endorsement* for purposes of the crab LLP permits);

(3) (See § 679.4(g)(3)(ii) *area endorsements* for purposes of the scallop permit).

Experimental fishery (see *Exempted fishery*, § 679.6).

Federal waters means waters within the EEZ off Alaska (see also reporting area).

Fish product (See groundfish product.)

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 (for purposes of subpart E) 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 means (for purposes of subpart E) 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).

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Fishing trip means: (1) *Retention requirements (MRB, IR/IU, and pollock roe stripping)*. With respect to retention requirements of MRB, IR/IU, and pollock roe stripping, 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 until:

- (i) The effective date of a notification prohibiting directed fishing in the same area under § 679.20 or § 679.21;
- (ii) The offload or transfer of all fish or fish product from that vessel;
- (iii) The vessel enters or leaves an area where a different directed fishing prohibition applies;
- (iv) The vessel begins fishing with different type of authorized fishing gear; or
- (v) The end of a weekly reporting period (except a catcher vessel); whichever comes first.

(2) *IFQ program*. 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) *Groundfish observer program*. With respect to subpart 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).

Fixed gear 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 under § 679.20(b)(1)(iii)(B). See also § 679.31(b).

Food bank distributor means a tax-exempt organization with the primary purpose of distributing food resources to hunger relief agencies (see § 679.26).

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 (see § 679.26).

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

Forage fish (see Table 2 to this part).

Gear (see the definition for Authorized fishing gear of this section).

Gear deployment (or to set gear) means:

(1) *Position of gear deployment* (lat. and long.):

(i) *For trawl gear*. The position where the trawl gear reaches the fishing level and begins to fish.

(ii) *For hook-and-line gear*. The beginning position of a set of hook-and-line gear.

(iii) *For jig or troll gear*. The position where the jig or troll gear enters the water.

(iv) *For pot gear*. The position of the first pot in a string of pots.

(2) *Time of gear deployment* (A.l.t.):

(i) *For trawl gear*. The time when the trawl gear reaches the fishing level and begins to fish.

(ii) *For hook-and-line gear*. The time when the first hook-and-line gear of a set is deployed.

(iii) *For jig or troll gear*. The time when jig or troll gear enters the water.

(iv) *For pot gear*. The time when the first pot in a string of pots is deployed.

Gear retrieval (or to haul gear) means:

(1) *Position of gear retrieval* (lat. and long. to the nearest minute):

(i) *For trawl gear*. The position where retrieval of trawl gear cable commences.

(ii) *For hook-and-line gear*. The position where the last hook-and-line gear of a set leaves the water, regardless of where the majority of the set took place.

(iii) *For jig or troll gear*. The position where the jig or troll gear leaves the water.

(iv) *For pot gear*. The position where the last pot of a set is retrieved, regardless of where the majority of the set took place.

(2) *Time of gear retrieval* (A.l.t.):

(i) *For trawl gear*. The time when retrieval of trawl gear cable commences.

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(ii) For *hook-and-line gear*. The time when the last hook-and-line gear of a set leaves the water.

(iii) For *jig or troll gear*. The time when the jig or troll gear leaves the water.

(iv) For *pot gear*. The time when the last pot of a set is retrieved.

Groundfish means (1) FMP species as listed in Table 2 to this part.

(2) Target species and the “other species” category, specified annually pursuant to § 679.20(a)(2) (See also the definitions for: *License limitation groundfish*; *CDQ species*; and *IR/IU species* of this section).

Groundfish CDQ fishing means fishing by an eligible vessel listed on an approved CDP that results in the catch of any groundfish CDQ species, but that does not meet the definition of halibut CDQ fishing.

Groundfish CDQ fishing (applicable through December 31, 1998) means fishing by an eligible vessel listed on an approved CDP that results in the catch of any CDQ or PSQ species other than pollock CDQ, halibut CDQ, and fixed gear sablefish CDQ.

Groundfish license means (for purposes of the LLP program) a license issued by NMFS that authorizes the license holder designated on the license to deploy a vessel to conduct directed fishing for license limitation groundfish.

Groundfish product or fish product means any species product listed in Tables 1 and 2 to this part, excluding the prohibited species listed in Table 2 to this part.

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

Halibut means Pacific halibut (*Hippoglossus stenolepis*).

Halibut CDQ fishing means the following:

(1) *Catcher vessel*. The following conditions are met at all times:

(i) Halibut CDQ is retained and the weight of halibut CDQ plus halibut IFQ onboard the vessel at any time represents the largest proportion of the retained catch in round weight equivalent onboard the vessel at that time, and

(ii) For catcher vessels less than 60 ft (18.3 m) LOA, the round weight equivalent of non-CDQ groundfish does not exceed the maximum retainable amounts for these species or species groups as established in § 679.20(e) and (f).

(2) *Catcher/processor*. Halibut CDQ is retained from a set and the weight of halibut CDQ plus halibut IFQ represents the largest proportion of the retained catch in round weight equivalent from that set.

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.

Harvest limit area for platoon managed Atka mackerel directed fishing (applicable through July 8, 2002) for the purposes of §§ 679.4(b)(5)(iv), 679.20(a)(8)(ii) and (iii) and 679.22(a)(12)(iv)(A), means the waters of statistical areas 542 and 543 west of 178° W long. within 20 nm seaward of sites listed in Table 24 of this part and located west of 177°57.00' W. long.

Harvest zone codes (see Table 8 to this part).

Haul (See gear retrieval.)

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 (see § 679.26).

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 equivalent pound(s) means the weight amount, recorded in pounds, for an IFQ landing and calculated as round weight for sablefish and headed and gutted weight for halibut.

IFQ fee liability means that amount of money for IFQ cost recovery, in U.S. dollars, owed to NMFS by an IFQ permit holder as determined by multiplying the appropriate standard ex-vessel value or actual ex-vessel value of his or her IFQ halibut or IFQ sablefish landing(s) by the appropriate IFQ fee percentage.

IFQ fee percentage means that positive number no greater than 3 percent (0.03) determined by the Regional Administrator and established for use to calculate the IFQ cost recovery fee liability for an IFQ permit holder.

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 or the removal from the water of a vessel containing IFQ halibut, IFQ sablefish, or products thereof.

IFQ permit holder means the person identified on an IFQ permit, at the time a landing is made, as defined at § 679.4(d)(3)(B).

IFQ program means the individual fishing quota program for the fixed gear fisheries for Pacific halibut and sablefish in waters in and off Alaska and governed by regulations under this part.

IFQ registered buyer means the person identified on a registered buyer permit, as defined at § 679.4(d)(2).

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 (see also Figure 15 to this part).

(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 (see Figure 14 to this part).

IFQ retro-payment means the U.S. dollar value of a payment, monetary or non-monetary, made to an IFQ permit holder for the purchase of IFQ halibut or IFQ sablefish landed at some previous time.

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.

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

IFQ standard price means a price, expressed in U.S. dollars per IFQ equivalent pound, for landed IFQ halibut and IFQ sablefish determined annually by the Regional Administrator and documented in an IFQ standard price list published by NMFS.

Incidental catch or incidental species means fish caught and retained while targeting on some other species, but does not include discard of fish that were returned to the sea.

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.

Inshore component in the BSAI (applicable through December 31, 2004) means the following categories that process groundfish harvested in the BSAI:

(1) Shoreside processors, including those eligible under section 208(f) of the American Fisheries Act; and

(2) Vessels less than 125 ft (38.1 m) LOA that process less than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod.

Inshore component in the GOA (applicable through December 31, 2001) means the following three categories of the U.S. groundfish fishery that process groundfish harvested in the BSAI or GOA:

(1) Shoreside processing operations;

(2) Vessels less than 125 ft (38.1 m) LOA that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod; and

(3) Vessels that process pollock or Pacific cod, harvested in a directed fishery for those species, at a single geographic location in Alaska State waters during a fishing year.

Inshore component in the GOA (applicable through July 8, 2002) means the following three categories of the U.S. groundfish fishery that process groundfish harvested in the BSAI or GOA:

(1) Shoreside processing operations;

(2) Vessels less than 125 ft (38.1 m) LOA that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and Pacific cod; and

(3) Vessels that process pollock or Pacific cod, harvested in a directed fishery for those species, at a single geographic location in Alaska State waters during a fishing year.

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

IR/IU means the improved retention/improved utilization program set out at § 679.27.

IR/IU species means any groundfish species that is regulated by a retention or utilization requirement set out at § 679.27.

KIFQ actual ex-vessel value means the U.S. dollar amount of all compensation, monetary or non-monetary, including any IFQ retro-payments received by an IFQ permit holder for the purchase of IFQ halibut or IFQ sablefish landing(s) on his or her permit(s) described in terms of IFQ equivalent pounds.

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 means a landing in compliance with Federal and state commercial fishing regulations in effect at the time of 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 centerline longitudinal distance, rounded to the nearest foot, measured between:

(1) The outside foremost part of the vessel visible above the waterline, including bulwarks, but excluding bowsprits and similar fittings or attachments, and

(2) The outside aftermost part of the vessel visible above the waterline, including bulwarks, but excluding rudders, outboard motor brackets, and similar fittings or attachments (see Figure 6 to this part).

License holder means the person who is named on a currently valid groundfish license, crab species license, or scallop license.

License limitation groundfish means target species and the “other species” category, specified annually pursuant to § 679.20(a)(2), except that demersal shelf rockfish east of 140° W. long. and

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sablefish managed under the IFQ program are not considered license limitation groundfish.

Limited Access System Administrative Fund (LASAF) means the administrative account used for depositing cost recovery fee payments into the U.S. Treasury as described in the Magnuson-Stevens Act under section 304(d)(2)(C)(i) and established under section 305(h)(5)(B).

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

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

Manager, with respect to any shore-side processor, stationary floating processor or land-based buying station, means the individual responsible for the operation of the shoreside processor operation or land-based buying station.

Managing organization means the organization responsible for managing all or part of a CDP.

Maximum LOA (MLOA) means:

(1) *With respect to the scallop license limitation program*, the MLOA is equal to the length overall on February 8, 1999, of the longest vessel that was:

(i) Authorized by a Federal or State of Alaska Scallop Moratorium Permit to harvest scallops;

(ii) Used by the eligible applicant to make legal landings of scallops during the scallop LLP qualification period, as specified at § 679.4(g)(2)(iii) of this part.

(2) *With respect to the groundfish and crab species license limitation program*, the LOA of the vessel on June 24, 1992, unless the vessel was less than 125 ft (38.1 m) on June 24, 1992, then 1.2 times the LOA of the vessel on June 24, 1992, or 125 ft (38.1 m), whichever is less. However, if the vessel was under reconstruction on June 24, 1992, then the basis for the MLOA will be the LOA of the vessel on the date that reconstruction was completed and not June 24, 1992. The following exceptions apply regardless of how the MLOA was determined.

(i) If the vessel's LOA on June 17, 1995, was less than 60 ft (18.3 m), or if the vessel was under reconstruction on

June 17, 1995, and the vessel's LOA on the date that reconstruction was completed was less than 60 ft (18.3 m), then the vessel's MLOA cannot exceed 59 ft (18 m).

(ii) If the vessel's LOA on June 17, 1995, was greater than or equal to 60 ft (18.3 m) but less than 125 ft (38.1 m), or if the vessel was under reconstruction on June 17, 1995, and the vessel's LOA on the date that reconstruction was completed was greater than or equal to 60 ft (18.3 m) but less than 125 ft (38.1 m), then the vessel's MLOA cannot exceed 124 ft (37.8 m).

(iii) If the vessel's LOA on June 17, 1995, was 125 ft (38.1 m) or greater, then the vessel's MLOA is the vessel's LOA on June 17, 1995, or if the vessel was under reconstruction on June 17, 1995, and the vessel's LOA on the date that reconstruction was completed was 125 ft (38.1 m) or greater, then the vessel's MLOA is the vessel's LOA on the date reconstruction was completed.

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) and Figure 12 to this part.)

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

Net weight (IFQ or CDQ halibut only). Net weight of IFQ or CDQ halibut means the weight of a halibut that is gutted, head off, and washed or ice and slime deducted.

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

NMFS Person Identification Number means a unique number assigned by NMFS to any person who applied for,

or who has been issued, a certificate, license, or permit under any fishery management program administered by the Alaska Region for purposes of the NMFS/Alaska Region Integrated Regional Data System.

Non-chinook salmon means coho, pink, chum or sockeye salmon.

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, shoreside processors, or stationary floating 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, shoreside processors, or stationary floating 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 AD-DRESSES, part 600).

Official License Limitation Program (LLP) record means the information prepared by the Regional Administrator about vessels that were used to participate in the groundfish or crab fisheries during qualified periods for the groundfish and crab LLP specified at § 679.4(k) and in the scallop fisheries during the qualifying periods for the scallop LLP specified at § 679.4(g). Information in the official LLP record includes vessel ownership information, documented harvests made from vessels during the qualification periods, and vessel characteristics. The official LLP record is presumed to be correct for the purpose of determining eligibility for licenses. An applicant for a license under the LLP will have the burden of proving the validity of information submitted in an application that is inconsistent with the official LLP record.

Offshore component in the BSAI (applicable through December 31, 2004) means all vessels not included in the definition of “inshore component in the BSAI” that process groundfish in the BSAI.

Offshore component in the GOA (applicable through December 31, 2001) means all vessels not included in the definition of “inshore component in the GOA” that process groundfish in the BSAI or GOA.

Offshore component in the GOA (applicable through July 8, 2002) means all vessels not included in the definition of “inshore component in the GOA” that process groundfish in the BSAI or GOA.

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).

Other flatfish (see Table 11 to this part pursuant to § 679.20(c).)

Other gear means gear other than authorized fishing gear.

Other red rockfish (see Table 10 to this part pursuant to § 679.20(c); see also “rockfish” at § 679.2.)

Other rockfish (see Table 10 to this part pursuant to § 679.20(c); see also “rockfish” at § 679.2.)

Other species is a category that consists of groundfish species in each management area that are not specified as target species (see Tables 10 and 11 to this part pursuant to § 679.20(c)).

Person means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized, or existing under the laws of any state), and any Federal, state, local, or foreign government or any entity of any such aforementioned governments.

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

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proof by information that, compared with that opposing it, leads to the conclusion that the fact at issue is more probably true than not.

Primary product (see Table 1 to this part).

Processing, or to process, means the preparation of, or to prepare, fish or crab 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 vessel means, unless otherwise restricted, any vessel that has been issued a Federal fisheries permit and that can be used for processing groundfish.

Product transfer report (PTR) (see § 679.5(g)).

Program Administrator, RAM means the Program Administrator of Restricted Access Management Program, Alaska Region, NMFS.

Prohibited species means any of the species of Pacific salmon (*Oncorhynchus spp.*), steelhead trout (*Oncorhynchus mykiss*), Pacific halibut (*Hippoglossus stenolepis*), 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.

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

Prohibited species quota (PSQ) means the amount of a prohibited species catch limit established under § 679.21(e)(1) and (e)(2) that is allocated to the groundfish CDQ program under § 679.21(e)(1)(i) and (e)(2)(ii).

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

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

PSD Program means the Prohibited Species Donation Program established under § 679.26.

PSQ allocation means a percentage of a PSQ reserve specified under

§ 679.21(e)(1)(i) and (e)(2)(ii) that is assigned to a CDQ group when NMFS approves a proposed CDP. See also § 679.31(d).

PSQ species means any species that has been assigned to a PSQ reserve under § 679.21(e)(1)(i) and (e)(2)(ii) for purposes of the CDQ program. See also § 679.31(d).

Qualified applicant means, for the purposes of the CDQ program:

(1) A local fishermen's organization that:

(i) Represents an eligible community or group of eligible communities;

(ii) Is incorporated under the laws of the State of Alaska or under Federal law; and

(iii) Has a board of directors composed of at least 75 percent resident fishermen of the community (or group of communities); or

(2) A local economic development organization that:

(i) Represents an eligible community or group of communities;

(ii) Is incorporated under the laws of the State of Alaska or under Federal law specifically for the purpose of designing and implementing a CDP; and

(iii) Has a board of directors composed of at least 75 percent resident fishermen of the community (or group of communities).

Qualified Person means:

(1) *With respect to the IFQ program*, see IFQ Management Measures at § 679.40(a)(2).

(2) *With respect to the groundfish and crab species license limitation program*, a person who was eligible on June 17, 1995, to document a fishing vessel under Chapter 121, Title 46, U.S.C.

(3) *With respect to the scallop LLP*, a person who was eligible on February 8, 1999, to document a fishing vessel under Chapter 121, Title 46, U.S.C.

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.

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(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 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) and Figure 11 to this part).

Red King Crab Savings Subarea (RKCSS) of the BSAI (see § 679.21(e)(3)(ii)(B) and Figure 11 to this part).

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 to this part).

Reporting area (see Figures 1 and 3 to this part) means:

(1) An area that includes a statistical area of the EEZ off Alaska and any adjacent waters of the State of Alaska;

(2) The reporting areas 300, 400, 550, and 690, which do not contain EEZ waters off Alaska or Alaska state waters; or

(3) Reporting areas 649 and 659, which contain only waters of the State of Alaska.

Representative (see § 679.5(b)).

Reprocessed or rehandled product (see Table 1 to this part).

Resident fisherman means (for purposes of the CDQ Program) an individual with documented commercial or subsistence fishing activity who maintains a mailing address and permanent domicile in an eligible community and is eligible to receive an Alaska Permanent Fund dividend at that address.

Retain on board (see §§ 600.10 and 679.27 of this chapter.)

Rockfish means:

(1) For the GOA: Any species of the genera *Sebastes* or *Sebastelobus* except *Sebastes melanops*, (black rockfish), and *Sebastes mystinus*, (blue rockfish).

(2) For the BSAI: Any species of the genera *Sebastes* or *Sebastelobus*.

Round-weight equivalent 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 to 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*. (See also *IFQ sablefish; fixed gear sablefish* at § 679.21(b)(5); and *sablefish as a prohibited species* at § 679.24(c)(2)(ii)).

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*).

Scallop license means a license issued by NMFS that authorizes the license holder to catch and retain scallops pursuant to the conditions specified on the license.

Scallop Registration Area H (Cook Inlet) means all Federal waters of the GOA west of the longitude of Cape Fairfield (148°50' W. long.) and north of the latitude of Cape Douglas (58°52' N. lat.).

Seabird avoidance gear (see §§ 679.24(e), 679.42(b)(2), and Table 19 to this part).

Set means a string of longline gear, a string of pots, or a group of pots with individual pots deployed and retrieved in the water in a similar location with similar soak time. In the case of pot gear, when the pots in a string are hauled more than once in the same position, a new set is created each time the string is retrieved and re-deployed. A set includes a test set, unsuccessful harvest, or when gear is not working and is pulled in, even if no fish are harvested.

Shallow water flatfish (see Table 10 to this part pursuant to § 679.20(c).)

Shoreside processor means any person or vessel that receives unprocessed groundfish, except catcher/processors,

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motherships, buying stations, restaurants, or persons receiving groundfish for personal consumption or bait.

Shoreside processor electronic logbook report (SPELR) (see § 679.5(d)).

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 GOA Regulatory Area contained in Statistical Area 650 (see Figure 3 to this part).

Sitka Pinnacles Marine Reserve means an area totaling 2.5 square nm in the GOA, off Cape Edgecumbe, in Statistical Area 650. See Figure 18 to this part.

State means the State of Alaska.

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

Steller Sea Lion Protection Areas (See § 679.22(a)(7), (a)(8), and (b)(2), and § 227.12 of this title.)

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

Supereclusive 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.

Tagged halibut or sablefish (see § 679.40(g)).

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, stationary floating processor, or mothership (see also “buying station”).

Transfer means:

(1) *Groundfish fisheries of the GOA and BSAI*. Any loading, offloading, shipment or receipt of any groundfish product by a mothership, catcher/processor, shoreside processor, or stationary floating processor, 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, stationary floating processor, or at any offsite meal reduction plant.

(2) *IFQ/CDQ fisheries*. Any loading, offloading, 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, stationary floating processor, or at any offsite meal reduction plant.

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

Unsorted codend is a codend of groundfish that is not brought on board a catcher vessel and that is delivered to a mothership, shoreside processor, or stationary floating processor without the potential for sorting. No other instance of catcher vessel harvest is considered an “unsorted codend.” All other catch that does not meet this definition is considered “presorted” whether or not sorting occurs.

U.S. citizen means:

(1) *General usage*. Any individual who is a citizen of the United States.

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(2) *IFQ program*. (i) Any individual who is a citizen of the United States at the time of application for QS; or

(ii) 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.

U.S.-Russian Boundary means the seaward boundary of Russian waters as defined in Figure 1 to this part.

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

Vessel length category means the length category of a vessel, based on the assigned MLOA, used to determine eligibility.

Vessel operations category (see §679.5(b)(3)).

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

Weekly production report (WPR) (see §679.5(i)).

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 Eastern GOA Regulatory Area contained in Statistical Area 640 (see Figure 3 to this part).

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

Western GOA Regulatory Area means that portion of the GOA EEZ that is contained in Statistical Area 610 (see Figure 3 to 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]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §679.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTES: 1. At 67 FR 999, Jan. 8, 2002, §679.2 was amended by suspending the definitions for “Steller Sea Lion Protection Areas” and paragraph (5) under

“Directed Fishing”, effective Jan. 1, 2002 until July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

2. At 67 FR 18138, Apr. 15, 2002, paragraph (5) under “Directed Fishing” was removed, effective May 15, 2002.

§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*. (1) 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 by the Alaska Statutes at Title 16.

(2) Alaska Administrative Code (5 AAC 39.130) governs reporting and permitting requirements using ADF&G “Intent to Operate” and “Fish Tickets.”

(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.

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(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 fish-

ing, see Alaska Statutes, title 16—Fish and Game; 5 Alaska Administrative Codes 01, 02, 39, and 99.010.

(g) *Scallops*. Additional regulations governing conservation and management of scallops off Alaska are contained in Alaska Statutes A.S. 16 and Alaska Administrative Code at 5 AAC Chapter 38.

[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; 63 FR 38502, July 17, 1998; 63 FR 47356, Sept. 4, 1998]

§ 679.4 Permits.

(a) *Requirements*. Only persons who are U.S. citizens are authorized to receive or hold permits under this section, with the exception that an IFQ card issued to an individual person designated by a QS or IFQ permit holder as a master employed to fish his/her IFQ need not be held by a U.S. citizen.

(1) *What permits are available?* Various types of permits are issued for programs codified at 50 CFR part 679. These permits are listed in the following table. The date of effectiveness for each permit is given along with certain reference paragraphs for further information.

If program permit or card type is:	Permit is in effect from issue date through the end of:	For more information, see ..
(i) IFQ		
(A) Registered Buyer	Specified fishing year	Paragraph 679.4(d)(2) of this section
(B) Halibut & sablefish permits	Specified fishing year	Paragraph 679.4(d)(3)(i)(B) of this section
(C) Halibut & sablefish cards	Specified fishing year	Paragraph 679.4(d)(3)(i)(C) of this section
(ii) CDQ Halibut		
(A) Halibut permit	Specified fishing year	679.32(f)
(B) Halibut card	Specified fishing year	679.32(f)
(iii) AFA		
(A) Catcher/processor	12/31/04	Paragraph (f) of this section
(B) Catcher vessel	12/31/04	Paragraph (f) of this section
(C) Mothership	12/31/04	Paragraph (f) of this section
(D) Inshore processor	12/31/04	Paragraph (f) of this section
(E) Inshore cooperative	Calendar year	Paragraph (f) of this section
(F) Replacement vessel	Takes dates of replaced vessel's permit	Paragraph (f) of this section
(iv) Groundfish		
(A) Federal fisheries	Until next renewal cycle	Paragraph (b) of this section
(B) Federal processor	Until next renewal cycle	Paragraph (f) of this section
(v) High seas salmon permit	Indefinite	Paragraph (h) of this section
(vi) High Seas Fishing Compliance Act (HSFCA)	5 years	§ 300.10 of this title
(vii) License Limitation Program (LLP)		
(A) Groundfish license	Specified fishing year or interim (active until further notice)	Paragraph (k) of this section
(B) Crab license	Specified fishing year or interim (active until further notice)	Paragraph (k) of this section
(viii) Exempted fisheries	1 year or less	§ 679.6
(ix) Research	1 year or less	§ 600.745(a) of this chapter

If program permit or card type is:	Permit is in effect from issue date through the end of:	For more information, see ..
(x) Prohibited species donation program		
(A) Salmon	3 years	§ 679.26
(B) Halibut	3 years	§ 679.26

(2) *Permit and logbook required by participant and fishery.* For the various types of permits issued, refer to § 679.5 for recordkeeping and reporting requirements.

(3) *Permit 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 Program Administrator, RAM.

(ii) Upon receipt of an incomplete or improperly completed permit application, the Program Administrator, RAM, 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.

(v) All permits are issued free of charge.

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

(5) *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.

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

(7) *Sanctions and denials.* Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904. Such procedures are required for en-

forcement purposes, not administrative purposes.

(8) *Harvesting privilege.* Quota shares, permits, or licenses issued pursuant to this part are neither a right to the resource nor any interest that is subject to the “takings” provision of the Fifth Amendment to the U.S. Constitution. Rather, such quota shares, permits, or licenses represent only a harvesting privilege that may be revoked or amended subject to the requirements of the Magnuson-Stevens Act and other applicable law.

(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 is required to retain any bycatch of groundfish under this part must 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 or BSAI as a catcher vessel, catcher/processor, mothership, tender vessel, or support vessel.

(ii) A Federal fisheries permit is issued to a vessel to function as a support vessel or as any combination of the other four categories (catcher vessel, catcher/processor, mothership, tender vessel).

(iii) A vessel permitted as a catcher/processor, catcher vessel, mothership, or tender vessel also may conduct all operations authorized for a support vessel.

(iv) A vessel permitted as a support vessel may not conduct activities as a

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catcher vessel, catcher/processor, mothership, and/or tender 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 Program Administrator, RAM Program, Juneau, AK.

(5) *How do I obtain a Federal fisheries permit?* To obtain a Federal fisheries permit, the owner must complete a Federal fisheries permit application and provide the following information for each vessel to be permitted:

(i) *New or amended application?* Indicate whether application is for a new or amended Federal fisheries permit and if revision, enter the current Federal fisheries permit number.

(ii) *Owner information.* Indicate the name(s), permanent business mailing address, business telephone number, business FAX number, and business e-mail address of the owner; and the name of any person or company (other than the owner) that manages the operations of the vessel.

(iii) *Vessel information.* Indicate the vessel name and homeport (city and state); U.S. Coast Guard (USCG) documentation number; ADF&G vessel registration number; ADF&G processor code; vessel's LOA (ft), registered length (ft), gross tonnage, net tonnage, and shaft horsepower; whether this is a vessel of the United States; and whether this vessel will be used as a stationary floating processor.

(iv) *Area and gear information.* Indicate requested/elected area(s) of operation. If a catcher/processor and/or a catcher vessel, the gear types used for groundfish fishing. If a mothership or catcher/processor operating in the GOA, choose inshore or offshore component.

(v) *Signature.* The owner or agent of the owner of the vessel must sign and date the application. If the owner is a company, the agent of the owner must sign and date the application.

(vi) (Applicable through July 8, 2002) If the vessel will be using pot, hook-

and-line, or trawl gear in the directed fisheries for pollock, Atka mackerel or Pacific cod in the GOA or in the BSAI.

(vii) (Applicable through July 8, 2002) If the vessel owner will be fishing in the harvest limit area in Statistical Areas 542 or 543 in the directed fishery for Atka mackerel.

(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) [Reserved]

(d) *IFQ permits.*—(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

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

(2) *Registered buyer permit.* A Registered buyer permit is required of:

(i) Any person who receives IFQ halibut, CDQ halibut or IFQ sablefish from the person(s) who harvested the fish;

(ii) Any person who harvests IFQ halibut or IFQ sablefish and transfers such fish:

(A) In a dockside sale;

(B) Outside of an IFQ regulatory area; or

(C) Outside the State of Alaska.

(iii) A vessel operator who obtains a vessel clearance or submits a departure report (see §679.5(1)(5)(iv)).

(3) *How do I obtain an IFQ permit, IFQ card, or Registered Buyer Permit?* (i) *IFQ permits and cards—(A) Issuance.* The Regional Administrator will renew IFQ permits and cards annually or at other times as needed to accommodate transfers, revocations, appeals resolution, and other changes in QS or IFQ holdings, and designation of masters under §679.42.

(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.

(7) *Validity.* An IFQ permit issued under this part is valid only if all IFQ fee liability of the IFQ permit holder

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that is due as a result of final agency action has been paid as specified in §§ 679.45 and 679.5(1)(7)(ii).

(e) *Halibut CDQ permits and CDQ cards.* See § 679.32(f).

(f) *Federal processor permit—(1) Requirement.* No shoreside processor of the United States or stationary floating processor 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) *How do I obtain a Federal processor permit?* To obtain a Federal processor permit, the owner must complete a Federal processor permit application and provide the following information for each shoreside processor facility or plant and stationary floating processor to be permitted:

(i) *Permit application information.* Indicate whether application is for a new or amended Federal processor permit and if a revision, the current Federal processor permit number.

(ii) *Owner information.* Indicate the name(s), permanent business mailing address, business telephone number, business FAX number, and business e-mail address of the owner; and the name of any person or company (other than the owner) who manages the operations of the shoreside processor or stationary floating processor.

(iii) *Stationary floating processor information.* Indicate the vessel name and homeport (city and state); USCG documentation number; ADF&G vessel registration number; ADF&G processor code; the vessel's LOA (ft), registered length (ft), gross tonnage, net tonnage and shaft horsepower; whether this is a vessel of the United States; and whether this vessel will be used as a stationary floating processor.

(iv) *Shoreside processor information.* Indicate the shoreside processor's name; name and physical location of facility or plant at which the shoreside processor is operating (street, city, state, zip code); whether the shoreside processor is replacing a previous processor at this facility; and if yes, name of previous processor; whether there are multiple processors at this facility; whether the owner named in paragraph (f)(2)(ii) of this section owns this facil-

ity; shoreside processor ADF&G processor code, business telephone number, business FAX number, and business e-mail address.

(v) *Signature.* The owner or agent of the owner of the shoreside processor or stationary floating processor must sign and date the application. If the owner is a company, the agent of the owner 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 Program Administrator, RAM Program, Juneau, AK.

(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, or stationary floating 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 LLP—(1) General requirements.* In addition to the permit and licensing requirements prescribed in this part, each vessel within the EEZ off Alaska that is catching and retaining scallops, must have an original scallop LLP license on board at all times it is catching and retaining scallops. This scallop LLP license, issued by NMFS, authorizes the person named on the license to catch and retain scallops in

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compliance with regulations of the State of Alaska and only with a vessel that does not exceed the MLOA specified on the license and the gear designation specified on the license.

(2) *Qualifications for a scallop LLP license.* A scallop LLP license will be issued to an eligible applicant who:

- (i) Is a qualified person;
- (ii) Was named on a State of Alaska scallop moratorium permit or Federal scallop moratorium permit on February 8, 1999;
- (iii) Used the moratorium permit held on February 8, 1999, to make legal landings of scallops in each of any 2 calendar years during the qualification period beginning January 1, 1996, through October 9, 1998; and
- (iv) Submitted a complete application for a scallop license during the application period specified pursuant to paragraph (g)(4) of this section.

(3) *Scallop license conditions and endorsements.* A scallop license authorizes the license holder to catch and retain scallops only if the vessel length and gear used do not exceed the vessel length and gear endorsements specified on the license. These endorsements will be determined as follows.

(i) The MLOA specified on the scallop license is equal to the length overall on February 8, 1999, of the longest vessel that was authorized by a Federal or State of Alaska Scallop Moratorium Permit to harvest scallops and used by the eligible applicant to make legal landings of scallops during the scallop LLP qualification period, as specified at § 679.4(g)(2)(iii) of this part.

(ii) The gear specified on a scallop license will be restricted to a single 6-ft (1.8-m) dredge in all areas if the eligible applicant was a moratorium permit holder with a Scallop Registration Area H (Cook Inlet) endorsement and did not make a legal landing of scallops caught outside of Area H during the qualification period specified in paragraph (g)(2)(iii) of this section.

(4) *Application for a scallop license—(i) General.* The Regional Administrator will issue a scallop license to an applicant if a complete application is submitted by or on behalf of the applicant during the specified application period, and if that applicant meets all the criteria for eligibility in this part. An ap-

plication that is postmarked or hand delivered after the ending date for the application period for the scallop LLP specified in paragraph § 679.4(g)(4)(ii) will be denied. An application form will be sent to the last known address of the person identified as an eligible applicant by the official LLP record. An application form may be requested from the Regional Administrator.

(ii) *Application Period.* January 16, 2001, through February 12, 2001.

(iii) *Contents of application.* To be complete, an application for a scallop license must be signed and dated by the applicant, or the individual representing the applicant, and contain the following information, as applicable:

(A) Scallop Moratorium Permit number under which legal landings of scallops were made during the qualification period specified in paragraph (g)(2)(iii) of this section;

(B) Name, business address, telephone number, FAX number, and social security number or tax ID number of the applicant, and whether the applicant is a U.S. citizen or a U.S. business;

(C) Name of the managing company, if any;

(D) Evidence of legal landings in the qualifying years and registration areas;

(E) For the vessel(s) being used as the basis for eligibility for a license, the name, state registration number (e.g., ADF&G number), the USCG documentation number, and valid evidence of the LOA on February 8, 1999, of the longest vessel used by the applicant during the qualification period specified in paragraph (g)(2)(iii) of this section.

(iv) *Successor-in-interest.* If an applicant is applying as the successor-in-interest to an eligible applicant, an application, to be complete, also must contain valid evidence proving the applicant's status as a successor-in-interest to that eligible applicant and:

(A) Valid evidence of the death of that eligible applicant at the time of application, if the eligible applicant was an individual; or

(B) Valid evidence that the eligible applicant is no longer in existence at the time of application, if the eligible applicant is not an individual.

(v) *Application evaluation.* The Regional Administrator will evaluate an application submitted during the specified application period and compare all claims in the application with the information in the official LLP record. Claims in the application that are consistent with information in the official LLP record will be accepted by the Regional Administrator. Inconsistent claims in the application, unless verified by evidence, will not be accepted. An applicant who submits inconsistent claims, or an applicant who fails to submit the information specified in paragraphs (g)(4)(iii) and (g)(4)(iv) of this section, will be provided a 60-day evidentiary period pursuant to paragraph (g)(4)(vii) of this section to submit the specified information, submit evidence to verify his or her inconsistent claims, or submit a revised application with claims consistent with information in the official LLP record. An applicant who submits claims that are inconsistent with information in the official LLP record has the burden of proving that the submitted claims are correct.

(vi) *Additional information or evidence.* The Regional Administrator will evaluate additional information or evidence to support an applicant's inconsistent claims submitted within the 60-day evidentiary period pursuant to paragraph (g)(4)(vii) of this section. If the Regional Administrator determines that the additional information or evidence meets the applicant's burden of proving that the inconsistent claims in his or her application are correct, the official LLP record will be amended and the information will be used in determining whether the applicant is eligible for a license. However, if the Regional Administrator determines that the additional information or evidence does not meet the applicant's burden of proving that the inconsistent claims in his or her application is correct, the applicant will be notified by an initial administrative determination, pursuant to paragraph (g)(4)(viii) of this section, that the applicant did not meet the burden of proof to change the information in the official LLP record.

(vii) *60-day evidentiary period.* The Regional Administrator will specify by letter a 60-day evidentiary period dur-

ing which an applicant may provide additional information or evidence to support the claims made in his or her application, or to submit a revised application with claims consistent with information in the official LLP record, if the Regional Administrator determines that the applicant did not meet the burden of proving that the information on the application is correct through evidence provided with the application. Also, an applicant who fails to submit information as specified in paragraphs (g)(4)(iii) and (g)(4)(iv) of this section will have 60 days to provide that information. An applicant will be limited to one 60-day evidentiary period. Additional information or evidence, or a revised application, received after the 60-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination.

(viii) *Initial administrative determinations (IAD).* The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 60-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the applicant fails to support the applicant's claims and is insufficient to rebut the presumption that the official LLP record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 60-day evidentiary period. The IAD will indicate the deficiencies in the application, including any deficiencies with the information, the evidence submitted in support of the information, or the revised application. The IAD will also indicate which claims cannot be approved based on the available information or evidence. An applicant who receives an IAD may appeal pursuant to § 679.43. An applicant who avails himself or herself of the opportunity to appeal an IAD will not receive a transferable license until after the final resolution of that appeal in the applicant's favor.

(ix) *Issuance of a non-transferable license.* The Regional Administrator will issue a non-transferable license to the applicant at the same time notification

is provided to the applicant of his or her 60-day evidentiary period if issuance is required by the license renewal provisions of 5 U.S.C. 558. A non-transferable license authorizes a person to catch and retain scallops as specified on the non-transferable license, and will have the specific endorsements and designations based on the claims in his or her application. A non-transferable license will expire upon final agency action.

(5) *Transfer of a Scallop License*—(i) *General.* The Regional Administrator will approve the transfer of a scallop license if a complete transfer application is submitted to Restricted Access Management, Alaska Region, NMFS, and if the transfer meets all the eligibility criteria as specified in paragraph (g)(5)(ii) of this section. An application form may be requested from the Regional Administrator.

(ii) *Eligibility criteria for transfers.* A scallop license can be transferred if:

(A) The designated transferee is eligible to document a fishing vessel under Chapter 121, Title 46, U.S.C.;

(B) The parties to the transfer do not have any fines, civil penalties, other payments due and outstanding, or outstanding permit sanctions resulting from Federal fishing violations;

(C) The transfer will not cause the designated transferee to exceed the license limit in § 679.7(i); and

(D) The transfer does not violate any other provision specified in this part.

(iii) *Contents of transfer application.* To be complete, an application for a scallop license transfer must be signed by the licence holder and the designated transferee, or the individuals representing them, and contain the following information, as applicable:

(A) Name, business address, telephone number, and FAX number of the license holder and of the designated transferee;

(B) License number and total price being paid for the license;

(C) Certification that the designated transferee is a U.S. citizen, or a U.S. corporation, partnership, or other association;

(D) A legible copy of a contract or sales agreement that specifies the license to be transferred, the license holder, the designated transferee, the

monetary value or the terms of the license transfer; and

(E) Other information the Regional Administrator deems necessary for measuring program performance.

(iv) *Incomplete applications.* The Regional Administrator will return an incomplete transfer application to the applicant and identify any deficiencies if the Regional Administrator determines that the application does not meet all the criteria identified in paragraph (g)(5) of this section.

(v) *Transfer by court order, operation of law, or as part of a security agreement.* The Regional Administrator will transfer a scallop license based on a court order, operation of law, or a security agreement if the Regional Administrator determines that the transfer application is complete and the transfer will not violate any of the provisions of this section.

(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 troll 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

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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 re-

ceipt 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 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:

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(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.

(i) *Exempted fisheries permits.* (See § 679.6.)

(j) *Prohibited species donation program permits.* (See § 679.26(a)(3).)

(k) *Licenses for license limitation groundfish or crab species*—(1) *General requirements.* (i) In addition to the permit and licensing requirements of this part, and except as provided in paragraph (k)(2) of this section, each vessel within the GOA or the BSAI must have an LLP groundfish license on board at all times it is engaged in fishing activities defined in § 679.2 as directed fishing for license limitation groundfish. This groundfish license, issued by NMFS to a qualified person, authorizes a license holder to deploy a vessel to conduct directed fishing for license limitation groundfish only in accordance with the specific area and species endorsements, the vessel and gear designations, and the MLOA specified on the license.

(ii) In addition to the permit and licensing requirements prescribed in this part, and except as provided in paragraph (k)(2) of this section, each vessel within the Bering Sea and Aleutian Islands Area must have a crab species license on board at all times it is engaged in fishing activities defined in § 679.2 as directed fishing for crab species. This crab species license, issued by NMFS to a qualified person, authorizes a license holder to deploy a vessel to conduct directed fishing for crab species only for the specific species and in the specific area(s) designated on the license, and may be used only on a vessel that complies with the vessel designation and MLOA specified on the license.

(2) *Exempt vessels.* Notwithstanding the requirements of paragraph (k)(1) of this section,

(i) A catcher vessel or catcher/processor vessel that does not exceed 26 ft (7.9 m) LOA may conduct directed fishing for license limitation groundfish in the GOA without a groundfish license;

(ii) A catcher vessel or catcher/processor vessel that does not exceed 32 ft (9.8 m) LOA may conduct directed fishing for license limitation groundfish in the BSAI without a groundfish license and may conduct directed fishing for crab species in the Bering Sea and Aleutian Islands Area without a crab species license;

(iii) A catcher vessel or catcher/processor vessel that does not exceed 60 ft (18.3 m) LOA may use a maximum of 5 jig machines, one line per jig machine,

and a maximum of 15 hooks per line, to conduct directed fishing for license limitation groundfish in the BSAI without a groundfish license; or

(iv) A catcher vessel or catcher/processor vessel that does not exceed 125 ft (38.1 m) LOA, and during the period after November 18, 1992, through October 9, 1998, was specifically constructed for and used exclusively in accordance with a CDP approved by NMFS, and is designed and equipped to meet specific needs that are described in the CDP, is exempted from the requirement to have a LLP groundfish license to conduct directed fishing for license limitation groundfish in the GOA and in the BSAI area and a crab species license to fish for crab species in the Bering Sea and Aleutian Islands Area.

(3) *Vessel and gear designations and vessel length categories*—(i) *General.* A license may be used only on a vessel named on the license, a vessel that complies with the vessel designation and gear designation specified on the license, and a vessel that has an LOA less than or equal to the MLOA specified on the license.

(ii) *Vessel designations*—(A) *Catcher/processor vessel.* A license will be assigned a catcher/processor vessel designation if:

(1) For license limitation groundfish, license limitation groundfish were processed on the vessel that qualified for the groundfish license under paragraph (k)(4) of this section during the period January 1, 1994, through June 17, 1995, or in the most recent calendar year of participation during the area endorsement qualifying period specified in paragraph (k)(4)(ii) of this section; or

(2) For crab species, crab species were processed on the vessel that qualified for the crab species license under paragraph (k)(5) of this section during the period January 1, 1994, through December 31, 1994, or in the most recent calendar year of participation during the area endorsement qualifying period specified in paragraph (k)(5)(ii) of this section.

(3) For purposes of paragraphs (k)(3)(ii)(A)(1) and (k)(3)(ii)(A)(2) of this section, evidence of processing must be demonstrated by Weekly Production Reports or other valid documentation

demonstrating that processing occurred on the vessel during the relevant period.

(B) *Catcher vessel.* A license will be assigned a catcher vessel designation if it does not meet the criteria in paragraph (k)(3)(ii)(A)(1) or (k)(3)(ii)(A)(2) of this section to be assigned a catcher/processor vessel designation.

(C) *Changing a vessel designation.* A person who holds a groundfish license or a crab species license with a catcher/processor vessel designation may, upon request to the Regional Administrator, have the license reissued with a catcher vessel designation. The vessel designation change to a catcher vessel will be permanent, and that license will be valid for only those activities specified in the definition of catcher vessel designation at § 679.2.

(D) *Limited processing by catcher vessels.* Up to 1 mt of round weight equivalent of license limitation groundfish or crab species may be processed per day on a vessel less than or equal to 60 ft (18.3 m) LOA that is authorized to fish with an LLP license with a catcher vessel designation.

(iii) *Vessel length categories.* A vessel's eligibility will be determined using the following three vessel length categories, which are based on the vessel's LOA on June 17, 1995, or, if the vessel was under reconstruction on June 17, 1995, the vessel's length on the date that reconstruction was completed.

(A) Vessel length category "A" if the LOA of the qualifying vessel on the relevant date was equal to or greater than 125 ft (38.1 m) LOA.

(B) Vessel length category "B" if the LOA of the qualifying vessel on the relevant date was equal to or greater than 60 ft (18.3 m) but less than 125 ft (38.1 m) LOA.

(C) Vessel length category "C" if the LOA of the qualifying vessel on the relevant date was less than 60 ft (18.3 m) LOA.

(iv) *Gear designations for groundfish licenses—(A) General.* A vessel may only use gear consistent with the gear designation on the LLP license authorizing the use of that vessel to fish for license limitation groundfish or crab species.

(B) *Trawl/non-trawl.* A license will be assigned a trawl/non-trawl gear des-

ignation if trawl and non-trawl gear were used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(C) *Trawl.* A license will be assigned a trawl gear designation if only trawl gear was used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(D) *Non-trawl.* A license will be assigned a non-trawl gear designation if only non-trawl gear was used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.

(E) *Changing a gear designation.* (1) An applicant may request a change of gear designation based on gear used from the vessel during the period beginning June 18, 1995, through February 7, 1998. Such a change would be permanent and may only be used for a change from trawl to non-trawl or from non-trawl to trawl.

(2) An applicant may request a change of gear designation based on a significant financial investment in converting a vessel or purchasing fishing gear on or before February 7, 1998, and making a documented harvest with that gear on or before December 31, 1998. Such a change would be permanent and may only be used for a change from trawl to non-trawl or from non-trawl to trawl.

(F) *Definitions of non-trawl gear and significant financial investment.* (1) For purposes of paragraph (k)(3)(iv) of this section, non-trawl gear means any legal gear, other than trawl, used to harvest license limitation groundfish.

(2) For purposes of paragraph (k)(3)(iv)(E)(2) of this section, "significant financial investment" means having spent at least \$100,000 toward vessel conversion and/or gear to change to trawl gear from non-trawl gear, or having acquired groundline, hooks, pots, jig machines, or hauling equipment to change to non-trawl gear from trawl gear.

(4) *Qualifications for a groundfish license.* A groundfish license will be issued to an eligible applicant that meets the criteria in paragraphs (k)(4)(i) and (k)(4)(ii) of this section. For purposes of the license limitation

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program, evidence of a documented harvest must be demonstrated by a state catch report, a Federal catch report, or other valid documentation that indicates the amount of license limitation groundfish harvested, the groundfish reporting area in which the license limitation groundfish was harvested, the vessel and gear type used to harvest the license limitation ground-

fish, and the date of harvesting, landing, or reporting. State catch reports are Alaska, California, Oregon, or Washington fish tickets. Federal catch reports are Weekly Production Reports required under § 679.5.

(i) *General qualification periods (GQP)*. This table provides the GQP documented harvest requirements for LLP groundfish licenses:

A GROUND FISH LICENSE WILL BE ASSIGNED...	IF THE REQUIREMENTS FOUND IN THE TABLE AT § 679.4(k)(4)(ii) ARE MET FOR THE AREA ENDORSEMENT AND AT LEAST ONE DOCUMENTED HARVEST OF LICENSE LIMITATION GROUND FISH WAS CAUGHT AND RETAINED IN...	DURING THE PERIOD...
(A) One or more area endorsements in the table at § 679.4(k)(4)(ii)(A) or (B)	the BSAI or waters shoreward of the BSAI	(1) Beginning January 1, 1988, through June 27, 1992; or (2) Beginning January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or (3) Beginning January 1, 1988, through June 17, 1995, provided that, during the period beginning January 1, 1988, through February 9, 1992, a documented harvest of crab species was made from the vessel, and, during the period beginning February 10, 1992, through December 11, 1994, a documented harvest of groundfish species, except sablefish landed using fixed gear, was made from the vessel in the GOA or the BSAI using trawl or longline gear.
(B) One or more area endorsements in the table at § 679.4(k)(4)(ii)(C) through (O)	the GOA or in waters shoreward of the GOA	(1) Beginning January 1, 1988, through June 27, 1992; or (2) Beginning January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or (3) Beginning January 1, 1988, through June 17, 1995, provided that, during the period beginning January 1, 1988, through February 9, 1992, a documented harvest of crab species was made from the vessel, and, during the period beginning February 10, 1992, through December 11, 1994, a documented harvest landing of groundfish species, except sablefish landed using fixed gear, was made from the vessel in the GOA or the BSAI using trawl or longline gear.

(ii) *Endorsement qualification periods (EQP)*. This table provides the docu-

mented harvest requirements for LLP groundfish license area endorsements:

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A GROUND FISH LICENSE WILL BE ASSIGNED...	IF...	DURING THE PERIOD...	IN...	FROM A VESSEL IN VESSEL LENGTH CATEGORY...	AND THAT MEETS THE REQUIREMENTS FOR A...
(A) An Aleutian Island area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	the Aleutian Islands Subarea or in waters shoreward of that area.	"A", "B", or "C"	catcher/ processor designation or a catcher vessel designation.
(B) A Bering Sea area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	the Bering Sea Subarea or in waters shoreward of that area.	"A", "B", or "C"	catcher/ processor designation or a catcher vessel designation.
(C) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	the Western GOA regulatory area or in waters shoreward of that area.	"A"	catcher/ processor designation or a catcher vessel designation; or
(D) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	the Western Area of the Gulf of Alaska or in waters shoreward of that area.	"B"	catcher vessel designation; or
(E) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	the Western Area of the Gulf of Alaska or in waters shoreward of that area.	"B"	catcher/processor vessel designation; or
(F) A Western Gulf area endorsement	at least four documented harvest of any amount of license limitation groundfish were made.	beginning January 1, 1995, through June 17, 1995.	the Western Area of the Gulf of Alaska or in waters shoreward of that area.	"B"	catcher/processor vessel designation; or
(G) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	the Western Area of the Gulf of Alaska or in waters shoreward of that area.	"C"	catcher/processor designation or a catcher vessel designation.
(H) A Central Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.	"A"	catcher/processor designation or a catcher vessel designation; or

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A GROUND FISH LICENSE WILL BE ASSIGNED...	IF...	DURING THE PERIOD...	IN...	FROM A VESSEL IN VESSEL LENGTH CATEGORY...	AND THAT MEETS THE REQUIREMENTS FOR A...
(I) A Central Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.	"B"	catcher/processor designation or a catcher vessel designation; or
(J) A Central Gulf area endorsement	at least four documented harvest of any amount of license limitation groundfish were made.	beginning January 1, 1995, through June 17, 1995.	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.	"B"	catcher/processor designation or a catcher vessel designation; or
(K) A Central Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district.	"C"	catcher/processor designation or a catcher vessel designation.
(L) A Southeast Outside area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	in the Southeast Outside District or in waters shoreward of that district.	"A"	catcher/processor designation or a catcher vessel designation; or
(M) A Southeast Outside area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years.	beginning January 1, 1992, through June 17, 1995.	in the Southeast Outside District or in waters shoreward of that district.	"B"	catcher/processor designation or a catcher vessel designation; or
(N) A Southeast Outside area endorsement	at least four documented harvest of any amount of license limitation groundfish were made.	beginning January 1, 1995, through June 17, 1995.	in the Southeast Outside District or in waters shoreward of that district.	"B"	catcher/processor designation or a catcher vessel designation; or
(O) A Southeast Outside area endorsement	at least one documented harvest of any amount of license limitation groundfish was made.	beginning January 1, 1992, through June 17, 1995.	in the Southeast Outside District or in waters shoreward of that district.	"C"	catcher/processor designation or a catcher vessel designation.

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(iii) An eligible applicant that is issued a groundfish license based on a vessel's qualifications in the table at paragraphs (k)(4)(i)(A)(2) or (k)(4)(i)(B)(2) of this section must choose only one area endorsement for that groundfish license even if documented harvests qualifies the eligible applicant for more than one area endorsement.

(iv) Notwithstanding the provisions in paragraph (k)(4)(i) of this section, NMFS will issue a groundfish license with the appropriate area endorsements to an eligible applicant whose vessel meets the requirements in the table at paragraph (k)(4)(i)(A) of this section, and the requirements in the table at any of the paragraphs (k)(4)(ii)(C) through (O) of this section, except:

(A) From whose vessel no documented harvests were made in the GOA or waters shoreward of the GOA during the period beginning January 1, 1988, through June 27, 1992, and

(B) From whose vessel no documented harvests were made in the BSAI or waters shoreward of the BSAI during the period beginning January 1, 1992, through June 17, 1995.

(v) Notwithstanding the provisions in paragraph (k)(4)(i) of this section, a groundfish license with the appropriate area endorsements will be issued to an eligible applicant whose vessel meets the requirements in the tables at paragraphs (k)(4)(i) and (k)(4)(ii) and (A) or (B) of this section, except:

(A) From whose vessel no documented harvests were made in the BSAI or waters shoreward of the BSAI during the period beginning January 1, 1988, through June 27, 1992, and

(B) From whose vessel no documented harvests were made in the GOA

or waters shoreward of the GOA during the period beginning January 1, 1992, through June 17, 1995.

(5) *Qualification for a crab species license.* A crab species license will be issued to an eligible applicant who owned a vessel that meets the criteria in paragraphs (k)(5)(i), (k)(5)(ii), and (k)(5)(iii) of this section, except that vessels are exempt from the requirements in paragraph (k)(5)(i) of this section for area/species endorsements at paragraphs (A) and (G) in the table at paragraph (k)(5)(ii) of this section.

(i) *General qualification period (GQP).* To qualify for one or more of the area/species endorsements in the table at paragraph (k)(5)(ii) of this section, the requirements of paragraph (k)(5)(iii) of this section must be met and:

(A) At least one documented harvest of any amount of crab species must have been made from a vessel between January 1, 1988, and June 27, 1992; or

(B) At least one documented harvest of any amount of crab species must have been made from a vessel between January 1, 1988, and December 31, 1994, providing that, during the period January 1, 1988, through February 9, 1992, the vessel for which the documented harvest was made also made a legal landing of any groundfish species harvested in the GOA or BSAI with any authorized gear, except sablefish caught with fixed gear, and, during the period February 10, 1992, through December 11, 1994, made a legal landing of any king or Tanner crab species harvested in the Bering Sea and Aleutian Islands Area.

(ii) *Area/species endorsements.* This table provides the documented harvest requirements for LLP crab license area/species endorsements:

A CRAB SPECIES LICENSE WILL BE ASSIGNED...	IF...	DURING THE PERIOD...	IN...
(A) A Pribilof red king and Pribilof blue king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1993, through December 31, 1994.	the area described in the definition for a Pribilof red king and Pribilof blue king area/species endorsement at § 679.2.
(B) A Bering Sea and Aleutian Islands Area <i>C. opilio</i> and <i>C. bairdi</i> area/species endorsement	at least three documented harvests of <i>C. opilio</i> and <i>C. bairdi</i> were made by a vessel	beginning January 1, 1992, through December 31, 1994.	the area described in the definition for a Bering Sea and Aleutian Islands Area <i>C. opilio</i> and <i>C. bairdi</i> area/species endorsement at § 679.2.

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A CRAB SPECIES LICENSE WILL BE ASSIGNED...	IF...	DURING THE PERIOD...	IN...
(C) A St. Matthew blue king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1992, through December 31, 1994.	the area described in the definition for a St. Matthew blue king area/species endorsement at § 679.2.
(D) An Aleutian Islands brown king area/species endorsement	at least three documented harvests of brown king crab were made by a vessel	beginning January 1, 1992, through December 31, 1994.	the area described in the definition for an Aleutian Islands brown king area/species endorsement at § 679.2.
(E) An Aleutian Islands red king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1992, through December 31, 1994.	the area described in the definition for an Aleutian Islands red king area/species endorsement at § 679.2.
(F) A Bristol Bay red king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1991, through December 31, 1994.	the area described in the definition for a Bristol Bay red king area/species endorsement at § 679.2.
(G) A Norton Sound red king and blue king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1993, through December 31, 1994.	the area described in the definition for a Norton Sound red king and blue king area/species endorsement at § 679.2.

(iii) *Recent participation period (RPP)*. (A) A person must have made at least one documented harvest of any amount of crab species from a qualifying vessel during the period from January 1, 1996, through February 7, 1998, to qualify for one or more of the area/species endorsements specified at § 679.2.

(B) *Exceptions to the RPP*. A person does not need to meet the documented harvest requirements in paragraph (k)(5)(iii)(A) of this section if he or she deployed a vessel that met the documented harvest requirements in paragraph (k)(5)(i) of this section, if applicable, paragraph (k)(5)(ii) of this section, and:

(1) Only qualifies area/species endorsement at paragraph (G) in the table at paragraph (k)(5)(ii).

(2) Those documented harvests were made from a vessel that meets the requirements for vessel length category "C".

(3) The vessel used to meet the document harvest requirements in paragraphs (k) (5) (i) and (k) (5) (ii) of this section was lost or destroyed, and he or she made a documented harvest of crab species any time during the period beginning after the vessel was lost or destroyed but before January 1, 2000.

(iv) *Exception to the complete fishing history earned on one vessel*. A person who can demonstrate that his or her vessel made a documented harvest of crab species during the period from

January 1, 1998, through February 7, 1998, and who obtains the fishing history of a vessel that meets the documented harvest requirements of paragraphs (k)(5)(i) and (k)(5)(ii) of this section, or who entered into a contract to obtain the fishing history of a vessel that meets the documented harvest requirements of paragraphs (k)(5)(i) and (k)(5)(ii) of this section by 8:36 am Pacific standard time on October 10, 1998, is exempted from the requirement of having a complete fishing history earned on one vessel.

(v) A qualified person who owned a vessel on June 17, 1995, that met the requirements in paragraphs (k)(5)(i) and (ii) of this section, but whose vessel was unable to meet requirements of paragraph (k)(5)(iii) of this section because of unavoidable circumstances (i.e., the vessel was lost damaged, or otherwise unable to participate in the license limitation crab fisheries) may receive a license if the qualified person is able to demonstrate that:

(A) The owner of the vessel at the time of the unavoidable circumstance held a specific intent to conduct fishing for license limitation crab species with that vessel during a specific time period in a specific area;

(B) The specific intent to conduct directed fishing for license limitation crab species was thwarted by a circumstance that was:

(1) Unavoidable;

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(2) Unique to the owner of that vessel, or unique to that vessel; and

(3) Unforeseen and reasonably unforeseeable to the owner of the vessel;

(C) The circumstance that prevented the owner from conducting directed fishing for license limitation crab species actually occurred;

(D) Under the circumstances, the owner of the vessel took all reasonable steps to overcome the circumstances that prevented the owner from conducting directed fishing for license limitation crab species; and

(E) Any amount of license limitation crab species was harvested on the vessel after the vessel was prevented from participating but before January 1, 2000.

(vi) A groundfish license or crab species license may be used on a vessel that is named on the license, that complies with the vessel designation, and that does not exceed the MLOA on the license.

(6) *Application for a groundfish license or a crab species license.* (i) *General.* The Regional Administrator will issue a groundfish license or a crab species license to an applicant if a complete application is submitted by or on behalf of the applicant during the specified application period, and if that applicant meets all the criteria for eligibility in paragraph (k) of this section. An application that is postmarked or delivered after the ending date for the application period for the License Limitation Program specified in the *Federal Register* will be denied. An application form will be sent to the last known address of a person identified as an eligible applicant by the official LLP record. An application form may be requested from the Regional Administrator.

(ii) *Application period.* An application period of no less than 90 days will be specified by notification in the *Federal Register* and other information sources deemed appropriate by the Regional Administrator.

(iii) *Contents of application.* To be complete, an application for a groundfish license or a crab species license must be signed by the applicant, or the individual representing the applicant, and contain the following, as applicable:

(A) Name, business address, telephone number, and FAX number of the applicant;

(B) Name, state registration number (e.g., ADF&G number), and, if applicable, the USCG documentation number of the vessel being used as the basis for eligibility for a license; and name, state registration number (e.g., ADF&G number), and, if applicable, the USCG documentation number of the vessel to be deployed with the license if different than the vessel used as the basis of eligibility for a license;

(C) Name of the managing company, if any;

(D) Valid evidence of the documented harvests that are the basis of eligibility for a license, including harvest area, gear used, date of landing, and, if applying for a crab species license, species;

(E) Valid evidence of LOA on June 24, 1992, of the vessel used as the basis of eligibility for a license, except if that vessel was under reconstruction on that date, valid evidence of LOA on the date reconstruction was completed and valid evidence of when reconstruction began and ended;

(F) Valid evidence of LOA on June 17, 1995, of the vessel used as the basis of eligibility for a license, except if that vessel was under reconstruction on that date, valid evidence of LOA on the date reconstruction was completed, and valid evidence of when reconstruction began and ended;

(G) Valid evidence to support the applicant's claim for a vessel designation of catcher vessel or catcher/processor vessel;

(H) Valid evidence of ownership of the vessel being used as the basis for eligibility for a license (for USCG documented vessels, valid evidence must be the USCG Abstract of Title), or if eligibility is based on a fishing history that has been separated from a vessel, valid evidence of ownership of the fishing history being used as the basis of eligibility for a license; and

(I) Valid evidence of the LOA of the vessel to be deployed by the license if different than the vessel used as the basis for eligibility for a license.

(iv) *Other information required for special circumstances.*

(A) *Successor-in-interest.* If an applicant is applying as the successor-in-interest to an eligible applicant, an application, to be complete, also must contain valid evidence proving the applicant's status as a successor-in-interest to that eligible applicant and:

(1) Valid evidence of the death of that eligible applicant at the time of application, if the eligible applicant was or is an individual; or

(2) Valid evidence that the eligible applicant is no longer in existence at the time of application, if the eligible applicant is not an individual.

(B) *Norton Sound crab species license endorsement.* If an applicant is applying for a crab species license endorsement for Norton Sound and if the applicant is a person, an application, to be complete, must contain valid evidence that the applicant was a State of Alaska permit holder for the Norton Sound king crab summer fishery in 1993 or 1994. If the applicant is a corporation, an application, to be complete, must contain valid evidence that the corporation owned or had a lease for a vessel on June 17, 1995, that participated in the Norton Sound king crab summer fishery in 1993 or 1994.

(C) *Extended general qualification period.* If an applicant is applying for a license based on meeting the general qualification period requirements of paragraph (k)(4)(i)(A)(2) or (k)(4)(i)(B)(2) of this section, the application, to be complete, must indicate which single endorsement area the applicant has selected for license. A license cannot be endorsed for more than one area, notwithstanding the fact that the applicant may have the documented harvests to qualify for more than one endorsement area.

(D) *Unavoidable circumstances.* If a person is claiming that unavoidable circumstances prevented him or her from meeting certain eligibility requirements for a license under paragraph (k) of this section, he or she must provide the information required in the particular paragraph of this section authorizing such a claim, and include valid evidence of the date the vessel was lost, damaged, or otherwise unable to participate in the fishery, and the date a documented harvest was made after the vessel was unable to

participate in the fishery by the unavoidable circumstance.

(v) *Application evaluation.* The Regional Administrator will evaluate an application submitted during the specified application period and compare all claims in the application with the information in the official LLP record. Claims in the application that are consistent with information in the official LLP record will be accepted by the Regional Administrator. Inconsistent claims in the application, unless verified by evidence, will not be accepted. Pursuant to paragraph (k)(6)(vii) of this section, an applicant who submits inconsistent claims, or an applicant who fails to submit the information specified in paragraphs (k)(6)(iii) and (k)(6)(iv) of this section, will be provided a 60-day evidentiary period pursuant to paragraph (k)(6)(vii) of this section to submit the specified information, submit evidence to verify his or her inconsistent claims, or submit a revised application with claims consistent with information in the official LLP record. An applicant who submits claims that are inconsistent with information in the official LLP record has the burden of proving that the submitted claims are correct.

(vi) *Additional information or evidence.* The Regional Administrator will evaluate additional information or evidence to support an applicant's inconsistent claims submitted within the 60-day evidentiary period pursuant to paragraph (k)(6)(vii) of this section. If the Regional Administrator determines that the additional information or evidence meets the applicant's burden of proving that the inconsistent claims in his or her application is correct, the official LLP record will be amended and the information will be used in determining whether the applicant is eligible for a license. However, if the Regional Administrator determines that the additional information or evidence does not meet the applicant's burden of proving that the inconsistent claims in his or her application is correct, the applicant will be notified by an initial administrative determination, pursuant to paragraph (k)(6)(viii) of this section, that the applicant did not meet the burden of proof to change the information in the official LLP record.

(vii) *60-day evidentiary period.* The Regional Administrator will specify by letter a 60-day evidentiary period during which an applicant may provide additional information or evidence to support the claims made in his or her application, or to submit a revised application with claims consistent with information in the official LLP record, if the Regional Administrator determines that the applicant did not meet the burden of proving that the information on the application is correct through evidence provided with the application. Also, an applicant who fails to submit information as specified in paragraphs (k)(6)(iii) and (k)(6)(iv) of this section will have 60 days to provide that information. An applicant will be limited to one 60-day evidentiary period. Additional information or evidence, or a revised application, received after the 60-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination.

(viii) *Initial administrative determinations (IAD).* The Regional will prepare and send an IAD to the applicant following the expiration of the 60-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the applicant fails to support the applicant's claims and is insufficient to rebut the presumption that the official LLP record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 60-day evidentiary period. The IAD will indicate the deficiencies in the application, including any deficiencies with the information, the evidence submitted in support of the information, or the revised application. The IAD will also indicate which claims cannot be approved based on the available information or evidence. An applicant who receives an IAD may appeal pursuant to § 679.43. An applicant who avails himself or herself of the opportunity to appeal an IAD will not receive a transferable license until after the final resolution of that appeal, notwithstanding the eligibility of that applicant for

some claims based on consistent information in the application.

(ix) *Issuance of a non-transferable license.* The Regional Administrator will issue a non-transferable license to the applicant on issuance of an IAD if required by the license renewal provisions of 5 U.S.C. 558. A non-transferable license authorizes a person to deploy a vessel to conduct directed fishing for license limitation groundfish or crab species as specified on the non-transferable license, and will have the specific endorsements and designations based on the claims in his or her application. A non-transferable license will expire upon final agency action.

(7) *Transfer of a groundfish license or a crab species license—(i) General.* The Regional Administrator will transfer a groundfish license or a crab species license if a complete transfer application is submitted to Restricted Access Management, Alaska Region, NMFS, and if the transfer meets the eligibility criteria as specified in paragraph (k)(7)(ii) of this section. An application form may be requested from the Regional Administrator.

(ii) *Eligibility criteria for transfers.* A groundfish license or crab species license can be transferred if:

(A) The designated transferee is eligible to document a fishing vessel under Chapter 121, Title 46, U.S.C.;

(B) The parties to the transfer do not have any fines, civil penalties, other payments due and outstanding, or outstanding permit sanctions resulting from Federal fishing violations;

(C) The transfer will not cause the designated transferee to exceed the license caps in § 679.7(i); and

(D) The transfer does not violate any other provision specified in this part.

(iii) *Contents of application.* To be complete, an application for a groundfish license transfer or a crab species license transfer must be signed by the license holder and the designated transferee, or the individuals representing them, and contain the following, as applicable:

(A) Name, business address, telephone number, and FAX number of the license holder and the designated transferee;

(B) Name, state registration number (e.g., ADF&G number), and, if applicable, the USCG documentation number of the vessel to be deployed with the license (i.e., the designated vessel) after the transfer is approved;

(C) Valid evidence that the designated transferee is a person eligible to document a fishing vessel under Chapter 121, Title 46, U.S.C.;

(D) A legible copy of a contract or sales agreement that specifies the license to be transferred, the license holder, the designated transferee, the monetary value or the terms of the license transfer, and the signature of the license holder and the designated transferee; and

(E) Information regarding whether a broker was used for the transaction, whether the license was collateralized, and other information the Regional Administrator deems necessary for measuring program performance.

(iv) *Incomplete applications.* The Regional Administrator will return an incomplete transfer application to the applicant and identify any deficiencies if the Regional Administrator determines that the application does not meet all the criteria identified in paragraph (k)(7) of this section.

(v) *Transfer by court order, operation of law, or as part of a security agreement.* The Regional Administrator will transfer a groundfish license or a crab species license based on a court order, operation of law, or a security agreement if the Regional Administrator determines that the transfer application is complete and the transfer will not violate any of the provisions of this section.

(vi) *Voluntary transfer limitation.* A groundfish license or a crab species license may be voluntarily transferred only once in any calendar year. A voluntary transfer is a transfer other than one pursuant to a court order, operation of law, or a security agreement. An application for transfer that would cause a person to exceed the transfer limit of this provision will not be approved.

(vii) *Request to change the designated vessel.* A request to change the vessel designated on an LLP groundfish or crab species license must be made on a transfer application. If this request is

approved and made separately from a license transfer, it will count towards the annual limit on voluntary transfers specified in paragraph (k)(7)(vi) of this section.

(viii) *Severability of licenses.* (A) Area endorsements or area/species endorsements specified on a license are not severable from the license and must be transferred together.

(B) A groundfish license and a crab species license issued based on the legal landings of the same vessel and initially issued to the same qualified person are not severable and must be transferred together.

(ix) *Other transfer restrictions.* The transfer of a LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, must be accompanied by the vessel from which the documented harvests were made or its replacement vessel, or if the LLP license and vessel were separated by transfer prior to February 7, 1998, then by the vessel that is currently being deployed by the license holder. The Regional Administrator will deny a transfer application that requests the transfer of a LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, if the appropriate vessel is not being transferred as part of the same transaction. A license holder of an LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, may replace the vessel from which the documented harvests were made with another vessel that meets the vessel designation and MLOA requirements specified on the LLP license if the original qualifying vessel is lost or destroyed.

(8) *Other provisions.* (i) Any person committing, or a fishing vessel used in the commission of, a violation of the Magnuson-Stevens Fishery Conservation and Management Act or any regulations issued pursuant thereto, is subject to the civil and criminal penalty

provisions and the civil forfeiture provisions of the Magnuson-Stevens Fishery Conservation and Management Act, part 621 of this chapter, 15 CFR part 904 (Civil Procedure), and other applicable law. Penalties include, but are not limited to, permanent or temporary sanctions to licenses.

(ii) Notwithstanding the provisions of the license limitation program in this part, vessels fishing for species other than license limitation groundfish as defined in § 679.2 that were authorized under Federal regulations to incidentally catch license limitation groundfish without a Federal fisheries permit described at § 679.4(b) will continue to be authorized to catch the maximum retainable bycatch amounts of license limitation groundfish as provided in this part without a groundfish license.

(iii) An eligible applicant, who qualifies for a groundfish license or crab species license but whose vessel on which the eligible applicant's qualification was based was lost or destroyed, will be issued a license. This license:

(A) Will have the vessel designation of the lost or destroyed vessel.

(B) Cannot be used to conduct directed fishing for license limitation groundfish or to conduct directed fishing for crab species on a vessel that has an LOA greater than the MLOA designated on the license.

(iv) A qualified person who owned a vessel on June 17, 1995, that made a documented harvest of license limitation groundfish, or crab species if applicable, between January 1, 1988, and February 9, 1992, but whose vessel was unable to meet all the criteria in paragraph (k)(4) of this section for a groundfish license or paragraph (k)(5) of this section for a crab species license because of an unavoidable circumstance (i.e., the vessel was lost, damaged, or otherwise unable to participate in the license limitation groundfish or crab fisheries) may receive a license if the qualified person is able to demonstrate that:

(A) The owner of the vessel at the time of the unavoidable circumstance held a specific intent to conduct directed fishing for license limitation groundfish or crab species with that vessel during a specific time period in a specific area.

(B) The specific intent to conduct directed fishing for license limitation groundfish or crab species with that vessel was thwarted by a circumstance that was:

(1) Unavoidable.

(2) Unique to the owner of that vessel, or unique to that vessel.

(3) Unforeseen and reasonably unforeseeable to the owner of the vessel.

(C) The circumstance that prevented the owner from conducting directed fishing for license limitation groundfish or crab species actually occurred.

(D) Under the circumstances, the owner of the vessel took all reasonable steps to overcome the circumstance that prevented the owner from conducting directed fishing for license limitation groundfish or crab species.

(E) Any amount of license limitation groundfish or appropriate crab species was harvested on the vessel in the specific area that corresponds to the area endorsement or area/species endorsement for which the qualified person who owned a vessel on June 17, 1995, is applying and that the license limitation groundfish or crab species was harvested after the vessel was prevented from participating by the unavoidable circumstance but before June 17, 1995.

(v) A groundfish license or a crab species license may be used on a vessel that complies with the vessel designation on the license and that does not exceed the MLOA on the license.

(9) *Pacific cod endorsements*—(i) *General*. In addition to other requirements of this part, and unless specifically exempted in paragraph (k)(9)(iv) of this section, a license holder must have a Pacific cod endorsement on his or her groundfish license to conduct directed fishing for Pacific cod with hook-and-line or pot gear in the BSAI. A license holder can only use the specific non-trawl gear(s) indicated on his or her license to conduct directed fishing for Pacific cod in the BSAI.

(ii) *Eligibility requirements for a Pacific cod endorsement*. This table provides eligibility requirements for Pacific cod endorsements on an LLP groundfish license:

If a license holder's license has a . . .	And the license holder harvested Pacific cod in the BSAI with . . .	Then the license holder must demonstrate that he or she harvested at least . . .	In . . .	To receive a Pacific cod endorsement that authorizes harvest with . . .
(A) Catcher vessel designation.	Hook-and-line gear or jig gear.	7.5 mt of Pacific cod in the BSAI.	In any one of the years 1995, 1996, 1997, 1998, or 1999.	Hook-and-line gear.
(B) Catcher vessel designation.	Pot gear or jig gear	100,000 lb of Pacific cod in the BSAI.	In each of any two of the years 1995, 1996, 1997, 1998, or 1999.	Pot gear.
(C) Catcher/processor vessel designation.	Hook-and-line gear	270 mt of Pacific cod in the BSAI.	In any one of the years 1996, 1997, 1998, or 1999.	Hook-and-line gear.
(D) Catcher/processor vessel designation.	Pot gear	300,000 lb of Pacific cod in the BSAI.	In each of any two of the years 1995, 1996, 1997, or 1998.	Pot gear.

(iii) *Explanations for Pacific cod endorsements.* (A) All eligibility amounts in the table at paragraph (k)(9)(ii) of this section will be determined based on round weight equivalents.

(B) Discards will not count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section.

(C) Pacific cod harvested for personal bait use will not count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section.

(D) A legal landing of Pacific cod in the BSAI for commercial bait will count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section.

(E) Harvests within the BSAI will count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section; however, a license holder will only be able to harvest Pacific cod in the specific areas in the BSAI for which he or she has an area endorsement.

(F) Harvests within the BSAI will count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section only if those harvests were made from the vessel that was used as the basis of eligibility for the license holder's LLP groundfish license.

(G) Except as provided in paragraph 679.4(k)(9)(iii)(D), only harvests of BSAI Pacific cod in the directed fishery will count toward eligibility amounts.

(iv) *Exemptions to Pacific cod endorsements.* (A) Any vessel exempted from the License Limitation Program at paragraph (k)(2) of this section.

(B) Any catcher vessel less than 60 ft (18.3 m) LOA.

(C) Any catch of Pacific cod for personal use bait.

(v) *Combination of landings and hardship provision.* Notwithstanding the eligibility requirements in paragraph (k)(9)(ii) of this section, a license holder may be eligible for a Pacific cod endorsement by meeting the following criteria.

(A) *Combination of landings.* A license holder may combine the landings of a sunken vessel and the landings of a vessel obtained to replace a sunken vessel to satisfy the eligibility amounts in the table at paragraph (k)(9)(ii) of this section only if he or she meets the requirements in paragraphs (k)(9)(v)(A)(1)–(4) of this section. No other combination of landings will satisfy the eligibility amounts in the table at paragraph (k)(9)(ii) of this section.

(1) The sunken vessel was used as the basis of eligibility for the license holder's groundfish license;

(2) The sunken vessel sank after January 1, 1995;

(3) The vessel obtained to replace the sunken vessel was obtained by December 31 of the year 2 years after the sunken vessel sank; and

(4) The length of the vessel obtained to replace the sunken vessel does not exceed the MLOA specified on the license holder's groundfish license.

(B) *Hardship provision.* A license holder may be eligible for a Pacific cod endorsement because of unavoidable circumstances if he or she meets the requirements in paragraphs (k)(9)(v)(B)(1)–(4) of this section. For purposes of this hardship provision, the term license holder includes the person

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whose landings were used to meet the eligibility requirements for the license holder's groundfish license, if not the same person.

(1) The license holder at the time of the unavoidable circumstance held a specific intent to conduct directed fishing for BSAI Pacific cod in a manner sufficient to meet the landing requirements in the table at paragraph (k)(9)(ii) of this section but that this intent was thwarted by a circumstance that was:

(i) Unavoidable;

(ii) Unique to the license holder, or unique to the vessel that was used as the basis of eligibility for the license holder's groundfish license; and

(iii) Unforeseen and reasonably unforeseeable to the license holder.

(2) The circumstance that prevented the license holder from conducting directed fishing for BSAI Pacific cod in a manner sufficient to meet the landing requirements in paragraph (k)(9)(ii) actually occurred;

(3) The license holder took all reasonable steps to overcome the circumstance that prevented the license holder from conducting directed fishing for BSAI Pacific cod in a manner sufficient to meet the landing requirements in paragraph (k)(9)(ii) of this section; and

(4) Any amount of Pacific cod was harvested in the BSAI aboard the vessel that was used as the basis of eligibility for the license holder's groundfish license after the vessel was prevented from participating by the unavoidable circumstance but before April 16, 2000.

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.4, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTE: At 67 FR 18138, Apr. 15, 2002, § 679.4, paragraph (k)(9) was added effective May 15, 2002, except for paragraph (k)(9)(i) which is effective Jan. 1, 2003.

§ 679.5 Recordkeeping and reporting.

(a) *General requirements*—(1) *Applicability*—(i) *Who must comply with recordkeeping and reporting requirements?* Except as provided in paragraphs (a)(1)(iii) and (iv) of this section, the

owner, operator, or manager of the following participants must comply with the recordkeeping and reporting requirements of this section:

(A) 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.

(B) Any shoreside processor, stationary floating processor, mothership, or buying station that receives groundfish from vessels issued a Federal fisheries permit under § 679.4.

(C) Any buying station that receives or delivers groundfish in association with a mothership issued a Federal fisheries permit under § 679.4(b) or with a shoreside processor or stationary floating processor issued a Federal processor permit under § 679.4(f).

(D) Any shoreside processor or stationary floating processor that is required to have a Federal processor permit under § 679.4.

(E) For purposes of this section, “operator or manager” means “the operator of a catcher/processor or mothership, the manager of a shoreside processor or stationary floating processor, or the operator or manager of a buying station.”

(ii) *What fish need to be recorded and reported?* A shoreside processor, stationary floating 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) *Who is exempt from recordkeeping and reporting requirements?* (A) *Catcher vessels less than 60 ft (18.3 m) LOA.* A catcher vessel less than 60 ft (18.3 m) LOA is not required to comply with recordkeeping and reporting requirements contained in paragraphs (a) through (k) of this section.

(B) *Catcher vessels that take groundfish in crab pot gear for use as crab bait on that vessel.* (1) Owners or operators of catcher vessels who, during open crab season, take groundfish in crab pot gear for use as crab bait on board their

vessels, and the bait is neither transferred nor sold, are exempt from Federal recordkeeping and reporting requirements contained in paragraphs (a) through (j) of this section. This exemption does not apply to fishermen who:

(i) Catch groundfish for bait during an open crab season and sell that groundfish or transfer it to another vessel, or

(ii) Participate in a directed fishery for groundfish using any gear type during periods that are outside an open crab season for use as crab bait on board their vessel.

(2) No groundfish species listed by NMFS as “prohibited” in a management or regulatory area may be taken in that area for use as bait.

(iv) *Who needs to use the combined groundfish/IFQ logbook?* (A) Any catcher vessel 60 ft (18.3 m) or greater LOA or catcher/processor, that participates in an IFQ sablefish fishery, IFQ halibut fishery, or CDQ halibut fishery and that retains any groundfish from the GOA or BSAI, must use a combined groundfish/IFQ logbook (catcher vessel or catcher/processor longline and pot gear logbook) to record all IFQ halibut and sablefish, CDQ halibut, and groundfish.

(B) Any catcher vessel 60 ft (18.3 m) or greater LOA or catcher/processor that is using longline or pot gear in the groundfish fisheries of the GOA or BSAI must use a combined groundfish/IFQ logbook (catcher vessel or catcher/processor longline and pot gear logbook) to record all groundfish.

(2) *Responsibility*—(i) 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.

(ii) The owner of a vessel, shoreside processor, stationary floating processor, or buying station is responsible for compliance and must ensure that the operator, manager, or representative (see paragraph (b) of this section)

complies with the requirements given in paragraph (a)(3)(i).

(iii) The owner or manager must sign the SPELR printed pages or the owner, operator, or manager must sign the DFL or DCPL as verification of acceptance of the responsibility required in paragraph (a)(2)(i) of this section.

(3) *Groundfish logbooks and forms.* (i) The Regional Administrator will prescribe and provide groundfish logbooks and forms required under this section for a catcher vessel 60 ft (18.3 m) or greater LOA, a catcher/processor, a mothership, a shoreside processor, a stationary floating processor, and a buying station (see Table 9 to this part).

(ii) The operator or manager must use the current edition of the logbooks and forms or obtain approval from the Regional Administrator to use current electronic versions of the logbooks and forms. Upon notification by the Regional Administrator, logbooks or forms may be used from the previous year.

(4) *Shoreside processor electronic logbook report (SPELR).* The manager of a shoreside processor or stationary floating processor receiving groundfish from AFA catcher vessels or receiving pollock harvested in a directed pollock fishery is required to use SPELR or NMFS-approved software described at paragraph (e) of this section to report every delivery from all catcher vessels and is required to maintain the SPELR and printed reports as described at paragraph (f) of this section. The owner or manager of a shoreside processor or stationary floating processor that is not required to use SPELR under paragraph (e) of this section may use, upon approval by the Regional Administrator, SPELR or NMFS-approved software in lieu of the shoreside processor DCPL and shoreside processor WPR.

(5) *Participant identification information.* The operator or manager must record on all required records, reports, and logbooks, as appropriate:

(i) *Name and signature.* Name and signature of operator or manager.

(ii) *Catcher vessel.* If a catcher vessel, the name as displayed in official documentation, Federal fisheries permit number and ADF&G vessel registration number.

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(iii) *Shoreside processor or stationary floating processor.* If a shoreside processor or stationary floating processor, the processor name as displayed in official documentation, ADF&G processor code, and Federal processor permit number. If a shoreside processor, the geographic location of plant.

(iv) *Mothership or catcher/processor.* If a mothership or catcher/processor, the name as displayed in official documentation, ADF&G processor code and Federal fisheries permit number.

(v) *Buying station.* If a buying station, the name as displayed in official documentation; ADF&G vessel registration number (if a vessel) or vehicle registration number (if a vehicle); name, ADF&G processor code, and Federal fisheries permit number of the associated mothership, or name, geographic location of plant, ADF&G processor code, and Federal processor permit number of the associated shoreside processor or stationary floating processor to which groundfish deliveries were made.

(6) *Maintenance of records.* The operator or manager must:

(i) Maintain in English all records, reports, and logbooks in a legible, timely, and accurate manner; if handwritten, in indelible ink; if computer-generated, in a printed paper copy; and based on A.l.t.

(ii) Account for each day of the fishing year, January 1 through December

31, in the DFL or DCPL. Unless the appropriate box is checked to indicate an inactive period, records are assumed to be for an active period. Record the first day of the fishing year, January 1, on the first page of the DFL or DCPL. Record time periods consecutively in the logbook.

(A) If a vessel owner or operator is granted reinstatement of a Federal fisheries permit after having surrendered it within the same fishing year, recordkeeping and reporting requirements as defined in this section must be continuous throughout that year, without interruption of records.

(B) If a shoreside processor owner or manager is granted reinstatement of a Federal processor permit after having surrendered it within the same fishing year, recordkeeping and reporting requirements as defined in this section must be continuous throughout that year, without interruption of records.

(C) If inactive due to surrender of a Federal fisheries or processor permit, the operator or manager must mark the inactive box, write "surrender of permit," and follow complete instructions for recording an inactive period.

(iii) Record in the appropriate report, form, and logbook, when applicable, the date of activity and type of participant as presented in the following table:

(A) *Date of activity*, as month-day-year.

Date of	If a ¹	Means the date when	In the
(1) Delivery	(i) CV	Delivery of harvest was completed	DFL
	(ii) SS, SFP, MS	Delivery of harvest was completed	DCPL
	(iii) BS	Delivery of harvest was completed	BSR
(2) Landing	SS, SFP	Sorting and weighing of a delivery by species was completed	DCPL
(3) Production	SS, SFP	Production was completed	DCPL
(4) Discard or disposition	(i) CV using longline or pot gear	Discard or disposition occurred	DFL

Date of	If a ¹	Means the date when	In the
	(i) SS, SFP, MS	Discard or disposition occurred at the facility; or Received blue DFL from a catcher vessel (not the actual date of discard or disposition indicated on the blue DFL); or Received BSR from a buying station (not the actual date of discard or disposition indicated on the BSR).	DCPL

¹ CV = Catcher vessel; SS = Shoreside processor; SFP = stationary floating processor; MS = mothership; Catcher/processor = C/P; BS = Buying station

(B) *Week-ending date.* The last day of the weekly reporting period: 2400 hours, A.l.t., Saturday night (except during the last week of each year, when it ends on December 31).

(C) *Time,* in military format, A.l.t.

(D) *Page numbering.* (1) Number the pages in each logbook and BSR consecutively, beginning with page 1 and continuing for the remainder of the fishing year.

(2) If a shoreside processor or stationary floating processor, number the DCPL pages within Part I and Part II separately, beginning with page 1. If in an inactive period, the manager needs only to record in Part I.

(E) *Logbook numbering—(1) Two logbooks of same gear type.* If more than one logbook of the same gear type is used in a fishing year, the page numbers must follow the consecutive order of the previous logbook.

(2) *Two logbooks of different gear types.* If two logbooks of different gear types are used in a fishing year, the page

numbers in each logbook must start with page 1.

(3) *Two logbooks for pair trawl.* If two catcher vessels are dragging a trawl between them (pair trawl), two logbooks must be maintained, a separate DFL by each vessel to record the amount of the catch retained and fish discarded by that vessel, each separately paginated.

(F) *Original/revised report.* Except for a DFL or DCPL, if a report is the first one submitted to the Regional Administrator for a given date, gear type, and reporting area, indicate ORIGINAL REPORT. If a report is a correction to a previously submitted report for a given date, gear type, and reporting area, indicate REVISED REPORT.

(G) *Position coordinates,* position in lat. and long.

(7) *How do you record active/inactive periods and fishing activity?* (i) The operator or manager daily must record in the appropriate logbook or SPELR the status of fishing activity as active or inactive according to the following table:

If participant is a ...	Fishing activity is ...	An active period is ...	An inactive period is ...
(A) CV ¹	Harvest or discard of groundfish.	When gear remains on the grounds in a reporting area (except 300, 400, 550, or 690), regardless of the vessel location.	When no gear remains on the grounds in a reporting area
(B) SS, SFP, MS	Receipt, discard, or processing of groundfish.	When checked in or processing.	When not checked in or not processing
(C) C/P	Harvest, discard, or processing of groundfish.	When checked in or processing.	When not checked in or not processing
(D) BS	Receipt, discard, or delivery of groundfish.	When conducting fishing activity for an associated processor.	When not conducting fishing activity for an associated processor

¹ CV = Catcher vessel; SS = Shoreside processor; SFP = stationary floating processor; MS = mothership; Catcher/processor = C/P; BS = Buying station

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(ii) The operator or manager daily must record in the appropriate logbook or SPELR if no activity occurred according to the following table:

The operator or manager must enter:	In the ...	If ...
(A) No receipt	(1)DCPL (2)DCPL, WPR.	No deliveries received for a day No deliveries received during a weekly reporting period
(B) No landings	(1)DCPL, DPR. (2) DCPL, WPR.	No landings occurred for a day No landings occurred during a weekly reporting period
(C) No production	(1) DCPL, DPR. (2) DCPL, WPR.	No production occurred for a day No production occurred for a weekly reporting period
(D) No discard or Disposition	(1)DCPL, DFL, BSR or DPR. (2) DCPL, WPR.	No discards or dispositions occurred for a day No discards or dispositions occurred for a weekly reporting period

(iii) The operator or manager daily must record whether active or inactive in the appropriate logbook or SPELR according to the following table:

(A) *Active*. If active, complete a separate logsheet for each day (except a shoreside processor, stationary floating processor, catcher vessel longline or pot gear, or catcher/processor longline or pot gear).

(B) *Inactive*. If inactive, complete on one logsheet:

- (1) Check "inactive."
- (2) Record the date of the first day when inactive under "Start date"
- (3) Indicate brief explanation that you are inactive.
- (4) Record the date of the last day when inactive under "End date."

(C) *Inactive two or more quarters*. If the inactive time period extends across two or more successive quarters, the operator or manager must complete two logsheets: the first logsheet to indicate

the first and last day of the first inactive quarter and the second logsheet to indicate the first and last day of the second inactive quarter.

(D) *Participant information if inactive*. On each logsheet used to record an inactive period, the operator or manager must record the participant information as described at paragraph (a)(8) of this section.

(iv) *Weight of fish*. When recording weight in a logbook or form, the operator or manager must follow the guidelines in the tables in paragraphs (a)(7)(iv)(C) and (D) and (a)(7)(iv)(F) through (I) of this section and must:

(A) Indicate whether records of weight are in pounds or metric tons.

(1) If using a DFL, DCPL, BSR, or shoreside processor check-in report or check-out report, record weight in pounds or in metric tons to the nearest 0.001 mt, but be consistent throughout the year.

(2) If using a WPR or DPR, record weight in metric tons to the nearest 0.001.

(B) Record the weight of groundfish landings, groundfish product, and groundfish or prohibited species Pacific herring discard or disposition weight by species codes as defined in Table 2 to this part and product codes and product designations as defined in Table 1 to this part. Except for product information provided by shoreside processors or stationary floating processors [which is the sum of product weight separately by BSAI or GOA management area], the operator or manager must summarize groundfish weights separately by reporting area, management program information, gear type, and if trawl gear used, whether harvest was caught in the CVOA or the COBLZ.

(C) *Daily catch weight*. The operator or manager must enter daily catch weight per the following table:

Enter ...	In a ...	If a ...
(1) Estimated total round catch weight of groundfish, listed by CV or BS	DCPL	SS, SFP
(2) Estimated total round catch weight of groundfish by haul	Trawl DFL ...	CV
(3) Estimated total round catch weight of groundfish by haul, excluding pollock and Pacific cod	Trawl DCPL	C/P
(4) Estimated total round catch weight of groundfish listed by CV or BS, excluding pollock and Pacific cod	DCPL	MS
(5) Estimated total round catch weight of groundfish by set, excluding CDQ/IFQ Pacific halibut and IFQ sablefish	Longline or pot DFL.	CV

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Enter ...	In a ...	If a ...
(6) Estimated total round catch weight of groundfish by set, excluding CDQ/IFQ Pacific halibut, IFQ sablefish, pollock and Pacific cod	Longline or pot DCPL.	C/P
(7) If a CV reported discards on a blue DFL but did not deliver groundfish, enter "0" in this column.	(i) DCPL (ii) BSR	MS, SS, SFP BS

(D) *Daily landings weight.* The operator or manager must enter daily landings weight per the following table:

Enter...	In a ...	If a ...
(1) Obtain actual weights for each groundfish species received and retained by: Sorting according to species codes and direct weighing of that species, or weighing the entire delivery and then sorting and weighing some or all of the groundfish species individually to determine their weight.	DCPL, DPR ..	SS, SFP
(2) Record daily combined scale weights of landings by species and product codes.	DCPL, DPR ..	SS, SFP

(E) *Daily product weight.* The operator or manager of a SS, SFP, MS, or C/P must enter total daily fish product weight or actual scale weight of fish product by species and product codes in the DCPL and DPR.

(F) *Daily discard or disposition weight and number.* The operator or manager must enter daily discard or disposition weight and number per the following table:

Enter ...	In a ...	If a ...
(1) The daily estimated total weight of discards or disposition for Pacific herring and each groundfish species or species group	DCPL, DFL, BSR, ADF&G fish ticket.	CV, BS, SS, SFP, MS, C/P
(2) The daily estimated numbers of whole fish discards or disposition of prohibited species Pacific salmon, steelhead trout, Pacific halibut, king crabs, and Tanner crabs.	DCPL, DFL, BSR, ADF&G fish ticket.	CV, BS, SS, SFP, MS, C/P

(G) *Balance brought forward.* The operator or manager must enter the bal-

ance brought forward per the following table:

Enter ...	In a ...	If a ...
(1) The total product balance brought forward from the previous day	DCPL	MS, C/P
(2) The total estimated discards or disposition balance brought forward from the previous day	DFL, DCPL.	CV, MS, C/P

(H) *Zero balance.* The operator or manager must enter zero balance per the following table:

Record weights as zero ...	In a ...	If a ...
(1) After the offload or transfer of all fish or fish product onboard and prior to the beginning of each fishing trip.	DFL	CV
(2) After the offload or transfer of all fish or fish product onboard, if such offload occurs prior to the end of a weekly reporting period. Nothing shall be carried forward.	DCPL	MS, C/P
(3) At the beginning of each weekly reporting period. Nothing shall be carried forward from the previous weekly reporting period.	DCPL	MS, C/P

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(I) *Cumulative totals.* The operator or manager must enter cumulative totals per the following table:

Enter ...	In a ...	If a ...
(1) Weekly cumulative totals, calculated by adding the daily totals and balance carried forward	DCPL, WPR.	MS, C/P
(2) Weekly cumulative totals, calculated by adding the daily totals	DCPL, WPR.	SS, SFP
(3) Cumulative total discards or disposition since last delivery, calculated by adding the daily totals and balance carried forward from the day before.	DFL	CV

(v) *Numbers of fish.* The operator or manager must record the estimated numbers of whole fish discards or disposition of prohibited species Pacific salmon, steelhead trout, Pacific halibut, king crabs, and Tanner crabs.

(vi) *Species codes.* To record species information for federally managed groundfish, the operator or manager must use Table 2 to this part to determine species codes.

(vii) *Product codes and product designations.* To record product information for federally managed groundfish, the operator or manager must use Table 1 to this part to determine product codes and product designations.

(viii) *Target codes.* To record target species information for federally man-

aged groundfish, the operator or manager must use Table 2 to this part to determine species codes. Target species may be recorded as primary and secondary.

(ix) *Gear type information.* If a catcher vessel or catcher/processor using longline or pot gear, the operator must enter:

(A) The gear type used used to harvest the fish and appropriate "gear ID".

(B) If gear information is the same on subsequent pages, check the appropriate box instead of re-entering the information.

(C) A description of the gear per the following table:

If gear type is ...	Then enter ...
(1) Pot	Number of pots set
(2) Hook-and-line	(i) Check the appropriate box to indicate whether gear is fixed hook (conventional or tub), autoline, or snap (optional, but may be required by IPHC regulations). (ii) Length of skate to the nearest foot (optional, but may be required by IPHC regulations). (iii) Size of hooks, hook spacing in feet, and number of hooks per skate (optional, but may be required by IPHC regulations). (iv) Number of skates set (v) Number of skates lost (if applicable) (optional, but may be required by IPHC regulations).
(3) Longline	Bird avoidance gear code (see Table 19 to this part)

(x) *Separate logsheet, WPR, check-in/check-out report.* The operator or manager must use a separate page (logsheet, WPR, check-in/check-out report) to record information as described in paragraphs (x)(A) through (E) of this section:

(A) For each day of an active period, except shoreside processor or stationary floating processors may use one logsheet for each day of an active period or use one logsheet for up to 7 days.

(B) If harvest from more than one reporting area.

(C) If harvest from COBLZ or RKCSA within a reporting area (see paragraph (a)(7)(xii)). Use two separate logsheets, the first to record the information from the reporting area that includes COBLZ or RKCSA, and the second to record the information from the reporting area that does not include COBLZ or RKCSA.

(D) If harvest with more than one gear type.

(E) If harvest under a separate management program. If harvest for more than one CDQ group, use a separate logsheet for each CDQ group number.

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(xi) *Reporting area.* The operator or manager must record the reporting area code (see Figures 1 and 3 to this part) where gear retrieval (see § 679.2) was completed, regardless of where the majority of the set took place. Record in the DFL, BSR, DCPL, SPELR, WPR, DPR, and mothership or catcher/processor check-in/check-out report.

(xii) *Areas within a reporting area.* If harvest was caught using trawl gear, the operator or manager must indicate whether fishing occurred in the COBLZ or RKCSA:

	Area	Reference
(A) COBLZ	BSAI <i>C. opilio</i> Bairdi Bycatch Limitation Zone.	Figure 13 to this part
(B) RKCSA	Red King Crab Savings Area.	Figure 11 to this part

(xiii) *Observer information.* Record the number of observers aboard or on site,

If harvest made under ... program	Indicate yes and record the...	Reference
(A) CDQ	CDQ group number	Subpart C to part 679
(B) Exempted Fishery	Exempted fishery permit number	§ 679.6
(C) Research	Research program permit number	§ 600.745(a) of this chapter
(D) IFQ	IFQ permit number(s)	Subpart D to part 679
(E) AFA	AFA Cooperative account number ONLY for landings from the directed pollock fishery that are counting against the coop quota. (Other species delivered at the same time can go on the same report.).	§ 679.5(e)

(8) *Landings information—(i) Requirement.* The manager of a shoreside processor or stationary floating processor must record landings information for all retained species from groundfish deliveries.

(A) If recording in DCPL, or DPR, enter date of landing and daily weight and weekly cumulative weight by species code and product code.

(B) If recording in WPR, enter weekly cumulative weight by species code and product code.

(ii) *Landings as product.* If a shoreside processor or stationary floating processor receives groundfish, records them as landings in Part IB of the DCPL, and transfers these fish to another processor without further processing, the manager must also record the species code, product code, and weight of these fish in Part II of the DCPL prior to transfer.

the name of the observer(s), and the observer cruise number(s) in the DFL and DCPL. If a shoreside processor or stationary floating processor, record also the dates present for each observer.

(xiv) *Number of crew or crew size.* Record the number of crew, excluding certified observer(s), on a mothership or catcher/processor WPR and in the BSR; on the last day of the weekly reporting period in a mothership or catcher/processor DCPL; and in the DFL on the last day of a trip for a catcher vessel.

(xv) *Management program.* Indicate whether harvest occurred under one of the listed management programs in a DFL, BSR, DCPL, SPELR, WPR, DPR, or check-in/check-out report. If harvest is not under one of these management programs, leave blank.

(9) *Product information—(i) Requirement.* The operator of a catcher/processor or mothership or the manager of a shoreside processor or stationary floating processor must record groundfish product information for all retained species from groundfish deliveries.

(A) If recording in DCPL or DPR, enter date of production (shoreside processor or stationary floating processor only); daily weight, balance forward (except shoreside processor or stationary floating processor), and weekly cumulative weight by species code, product code, and product designation.

(B) If recording in WPR, enter weekly cumulative weight by species code, product code, and product designation.

(ii) *Custom processing.* The operator of a catcher/processor or mothership or the manager of a shoreside processor or stationary floating processor must

record products that result from custom processing by you for another processor. If you receive unprocessed or processed groundfish to be handled or processed for another processor or business entity, enter these groundfish in a DCPL and a WPR consistently throughout a fishing year using one of the following two methods:

(A) *Combined records.* Record landings (if applicable), discards or dispositions, and products of contract-processed groundfish routinely in the DCPL, SPELR, WPR, and DPR without separate identification; or

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

(10) *Discard or disposition information*—(i) *Shoreside processor, stationary floating processor, mothership*—(A) *DCPL or DPR.* (1) Except as described in paragraph (a)(10)(v) of this section, the manager of a shoreside processor or stationary floating processor, and the operator of a mothership must record in a DCPL and DPR, discard or disposition information that occurred on and was reported by a catcher vessel, that occurred on and was reported by a buying station, and that occurred prior to, during, and after production of groundfish.

(2) Discard or disposition information must include: Date of discard or disposition (only shoreside processor or stationary floating processor); daily weight of groundfish; daily weight of Pacific herring PSC; daily number of PSC animals; balance forward (except shoreside processor or stationary floating processor); and weekly cumulative weight of groundfish and herring PSC; weekly cumulative number of PSC animals; species codes and product codes.

(B) *WPR.* The manager of a shoreside processor or stationary floating processor, and the operator of a mothership must record in a WPR, discard or disposition information to include: week-ending date; weekly cumulative weight of groundfish and herring PSC; and

weekly cumulative number of PSC animals by species code and product code.

(ii) *Catcher/processor*—(A) *DCPL or DPR.* (1) The operator of a catcher/processor must record in a DCPL and DPR, discard or disposition information that occurred prior to, during, and after production of groundfish.

(2) Discard or disposition information must include: Daily weight of groundfish; daily weight of herring PSC; daily number of PSC animals, balance forward, and weekly cumulative weight of groundfish and herring PSC; and weekly cumulative number of PSC animals by species code and product code.

(B) *WPR.* The operator of a catcher/processor must record in a WPR, discard or disposition information to include: Week-ending date; weekly cumulative weight of groundfish and herring PSC; and weekly cumulative number of PSC animals by species code and product code.

(iii) *Buying station.* The operator or manager of a buying station must record in a BSR discard or disposition information that occurred on and was reported by a catcher vessel and that occurred on and prior to delivery to an associated processor. Discard or disposition information must include: daily weight of groundfish, daily weight of herring PSC, and daily number of PSC animals by species code and product code.

(iv) *Catcher vessel.* Except as described in paragraph (a)(10)(v) of this section, the operator of a catcher vessel must record in a DFL discard or disposition information that occurred on and prior to delivery to a buying station, mothership, shoreside processor, or stationary floating processor. Discard or disposition information must include daily weight of groundfish, daily weight of herring PSC, and daily number of PSC animals by species code and product code.

(v) *Exemption: Catcher vessel unsorted codends.* If a catcher vessel is using trawl gear and deliveries to a mothership, shoreside processor, stationary floating processor, or buying station are of unsorted codends, the catcher vessel is exempt from recording discards in the DFL and from submittal of the blue DFL for that delivery.

(vi) *Discard quantities over maximum retainable amount.* When fishing in an IFQ fishery and the fishery for Pacific cod or rockfish is closed to directed fishing but not in PSC status in that reporting area as described in §679.20, the operator must retain and record up to and including the maximum retainable amount for Pacific cod or rockfish as defined in Table 10 or 11 to

this part; quantities over this amount must be discarded and recorded as discard in the logbook.

(vii) *Discard or disposition logbook recording time limits.* The operator or manager must record discards and disposition information in the logbook within the time limits given in the following table:

If participant type is a ¹ ...	Record information ...
(A) MS,SS,SFP	By noon each day to record the previous day's discard/disposition that: (1) Occurs on site after receipt of groundfish from a CV or BS; (2) Occurs during processing of groundfish received from a CV or BS. (3) Was reported on a blue DFL received from a CV delivering groundfish; (4) Was reported on a BSR received from a BS delivering groundfish, if different from blue DFL
(B) CV, C/P (C) BS	By noon each day to record the previous day's discard/disposition. By noon each day to record the previous day's discard/disposition that: (1) Was reported on a blue DFL received from a CV delivering groundfish. (2) Occurs on BS after receipt of harvest from a CV. (3) Occurs prior to delivery of harvest to a MS, SS, or SFP.

¹ CV = Catcher vessel; SS = Shoreside processor; SFP = Stationary floating processor; MS = mothership; Catcher/processor = C/P; BS = Buying station

(11) *Delivery information—(i) Mothership, shoreside processor or stationary floating processor.* The operator of a mothership or manager of a shoreside processor or stationary floating processor must record delivery information in a DCPL or SPELR when unprocessed groundfish deliveries are received from a buying station or a catcher vessel. Discards and dispositions also must be recorded when no groundfish are delivered but the blue DFL is submitted by a catcher vessel containing records of groundfish discards or disposition (e.g., an IFQ fish delivery with groundfish incidental catch).

BSR directly to that processor via truck or airline in the event that the processor is not located where the harvest is offloaded; or by driving a truck that contains his catch and a copy of the BSR to the processor. When the shipment arrives at the processor, the information from the BSR must be incorporated by the manager of the shoreside processor or stationary floating processor into the DCPL.

(iii) *Required delivery information, Mothership, shoreside processor, stationary floating processor, or buying station—(A) Date of delivery.* Enter date of delivery.

(ii) *Buying station.* (A) The operator or manager of a buying station must record delivery information in a BSR when unprocessed groundfish deliveries are received from a catcher vessel. Discards and dispositions also must be recorded when no groundfish are delivered but the blue DFL is submitted by a catcher vessel containing records of groundfish discards or disposition (e.g., an IFQ fish delivery with groundfish incidental catch).

(B) *CV or BS.* If a mothership, shoreside processor, or stationary floating processor, the manager or operator must:

(1) Enter CV or BS to indicate delivery from catcher vessel or buying station, respectively.

(2) If delivery is from a buying station, keep the BSR for each delivery on file throughout the fishing year and for 3 years after the end of the fishing year.

(B) In addition, a catcher vessel operator by prior arrangement with a processor may function as a buying station for his own catch by: Shipping his groundfish catch with a copy of the

(C) *Receive discard report.* Indicate whether the blue DFL was received from the catcher vessel at the time of catch delivery. If delivery from a buying station, leave this column blank. If the blue DFL is not received from the

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catcher vessel, enter NO and the response code (example: NO-L) to describe the reason for non-submittal as follows:

If blue DFL not submitted by catcher vessel, record number followed by ...	To indicate the catcher vessel
(1) P	Does not have a Federal fisheries permit
(2) P	Is under 60 ft (18.3 m) LOA and does not have a Federal fisheries permit
(3) L	Is under 60 ft (18.3 m) LOA and has a Federal fisheries permit
(4) U	Delivered an unsorted codend
(5) O	Other. Describe.

(D) *Name and ADF&G vessel registration number* (if applicable) of the catcher vessel or buying station delivering the groundfish;

(E) *Time (A.l.t.) when receipt of groundfish delivery was completed*;

(F) *Mothership begin position*. If a mothership, the mothership's begin position coordinates when receiving the groundfish delivery;

(G) *ADF&G fish ticket numbers*. (1) If a mothership, shoreside processor, or stationary floating processor and receiving unprocessed groundfish from a catcher vessel, record in the DCPL and WPR the ADF&G fish ticket number issued to each catcher vessel; if receiving unprocessed groundfish from an associated buying station, record in the DCPL and WPR the ADF&G fish ticket numbers issued by the buying station to the catcher vessel.

(2) If a buying station and receiving unprocessed groundfish from a catcher vessel, record in the BSR the ADF&G fish ticket numbers issued to each catcher vessel.

(H) *Fish ticket numbers, state other than Alaska*. If a shoreside processor located in a state other than Alaska and receiving unprocessed groundfish from a catcher vessel, record in the DCPL and WPR the fish ticket numbers issued for that non-Alaska state along with the two-character abbreviation for that state.

(I) *Catch receipt numbers, state other than Alaska*. If a shoreside processor located in a state other than Alaska where no fish ticket system is available and receiving unprocessed groundfish from a catcher vessel, record in the DCPL the catch receipt number issued to the catcher vessel.

(iv) *Catcher vessel using trawl gear*. If a catcher vessel using trawl gear, indicate whether sorting of codend onboard or bleeding from a codend occurred prior to delivery to a mothership, shoreside processor, stationary floating processor, or buying station. If delivery is an unsorted codend, see paragraph (a)(10)(v) of this section. Delivery information required: The delivery date; the ADF&G fish ticket number(s) received for delivery; and recipient's name and ADF&G processor code.

(v) *Catcher vessel using longline or pot gear*. If IFQ delivery, information required: the delivery date; the ADF&G fish ticket number(s) received at delivery; name of IFQ Registered Buyer receiving harvest; name of unloading port (see paragraph (1)(5)(vii) of this section and Table 14 to this part) or landing location. If non-IFQ delivery, information required: the delivery date; the ADF&G fish ticket number(s) received at delivery; name of recipient receiving harvest; name of unloading port (see Table 14 to this part) or landing location.

(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. All corrections must be made in ink.

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

(13) *Inspection and retention of records*—(i) *Inspection*. The operator of a catcher vessel, catcher/processor or mothership, the manager of a shoreside processor or stationary floating processor, or the operator or manager of a buying station must make all logbooks, reports, forms, and mothership-issued fish tickets required under this section available for inspection upon the request of an authorized officer for the time periods indicated in paragraph (a)(13)(ii) of this section.

(ii) *Retention of records*. The operator or manager must retain logbooks and forms as follows:

(A) *On site*. On site at the shoreside facility or onboard the vessel until the

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end of the fishing year during which the records were made and for as long thereafter as fish or fish products recorded in the logbooks and forms are retained.

(B) *For 3 years.* Make them available upon request of an authorized officer for 3 years after the end of the fishing year during which the records were made.

(14) *Submittal and distribution of logbooks and forms—(i) Submittal of forms.* The operator or manager must submit to NMFS the check-in report, check-out report, VAR, WPR, DPR, and PTR (see Table 9 to this part), as applicable, by:

(A) Faxing the NMFS printed form to the FAX number on the form; or

(B) Telexing a data file to the telex number on the form.

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

(D) With the approval of the Regional Administrator, using the voluntary electronic reporting format for the check-in report, check-out report, WPR, and SPELR.

(ii) *Logbook copy sets.* (A) The copy sets of each logbook are described in the following table:

Type of logbook	Copy sets
(1) Catcher vessel longline and pot gear DFL	White, blue, green, yellow, goldenrod
(2) Catcher vessel trawl gear DFL	White, blue, yellow, goldenrod
(3) Catcher/processor longline and pot gear DCPL	White, green, yellow, goldenrod
(4) Catcher/processor trawl gear DCPL	White, yellow, goldenrod
(5) Mothership DCPL	White, yellow, goldenrod
(6) Shoreside processor DCPL	White, yellow, goldenrod

(B) [Reserved]

(iii) *Logsheet distribution.* The logsheet distribution is described in the following table:

If logsheet is ...	Then, the operator or manager must...
(A) White	Retain, permanently bound in the logbook. Submit quarterly to: NOAA Office of Enforcement, Alaska Region Logbook Program, P.O.Box 21767 Juneau, AK 99802–1767 on the following schedule: 1st quarter by May 1 of that fishing year 2nd quarter by August 1 of that fishing year 3rd quarter by November 1 of that fishing year 4th quarter by February 1 of the following fishing year
(B) Yellow	
(C) Blue	(1) <i>Catcher vessel.</i> Except when delivering an unsorted codend (see paragraph (a)(10)(vi) of this section), submit to the buying station, mothership, shoreside processor or stationary floating processor that receives the harvest. (2) <i>Buying station.</i> Submit upon delivery of catch to an associated mothership, shoreside processor, or stationary floating processor any blue DFL received from catcher vessels delivering groundfish to the buying station.
(D) Green	<i>Longline and pot gear DFL and DCPL.</i> To support a separate IFQ data collection by the IPHC under the joint NMFS/IPHC logbook program; check with the IPHC for submittal and retention requirements.
(E) Goldenrod	Submit to the observer onboard or onsite after the logsheet is signed by the operator or manager.

(iv) *Logbook time limits.* The following table displays the responsibilities of

the operator or manager to submit the identified logsheet within a specified time limit:

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If a ...	The operator or manager must ...	Time limit
(A) CV	Submit the blue DFL to the MS, SS, SFP, or BS receiving the catch.	Within 2 hours after completion of catch delivery
(B) CV or C/P	(1) DFL, DCPL using trawl gear: record haul number, time and date gear set, time and date gear hauled, begin and end position, CDQ group number (if applicable) and estimated total round weight by species for each haul	Within 2 hours after completion of gear retrieval
	(2) DFL, DCPL using longline or pot gear: record set number; time and date gear set; time and date gear hauled; begin and end position; CDQ group number, halibut CDQ permit number, and IFQ permit number (if applicable) number of pots set, and estimated total round weight of species for each set	Within 2 hours after completion of gear retrieval
	(3) DFL, DCPL: notwithstanding other time limits, record all information required in the DFL or DCPL	Within 2 hours after the vessel's catch is off-loaded
(C) CV, C/P, MS, SS or SFP	(1) DFL, DCPL: record discard or disposition information	By noon each day to record the previous day's discard/disposition
	(2) DFL, DCPL: sign the completed logsheets	By noon of the day following the week-ending date of the weekly reporting period
	(3) DFL, DCPL: submit the goldenrod logsheet to the observer	After signature of operator or manager
(D) C/P, MS, SS, or SFP	(1) DFL, DCPL: record all other required information	By noon of the day following completion of production.
	(2) DFL, DCPL: record product information	By noon each day for the previous day's production
(E) MS, SS or SFP	(1) DFL, DCPL: record delivery information	Within 2 hours after completion of receipt of each groundfish delivery
	(2) DFL, DCPL: record all other information required in the logbook	By noon of the day following the day the receipt of groundfish was completed.
(F) SS or SFP	DCPL: record landings information	By noon each day to record the previous day's landings

Note: SS = shoreside processor; SFP = stationary floating processor; C/P = catcher/processor; CV = catcher vessel; MS = mothership; BS = buying station

(15) *IFQ/groundfish transfer document comparison.* When the operator or manager is participating in both the groundfish fisheries and the IFQ fisheries, certain exceptions to submittal of product shipment and transfer forms are provided to avoid duplication. In the following table, an "X" indicates

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submittal requirements under those circumstances.

	VAR	PTR	IFQ trans shipment authorization	IFQ Vessel Clearance	IFQ Departure Report	IFQ dockside sale Receipt	IFQ Shipment Report
	§679.5(k)	§679.5(g)	§679.5(l)(4)	§679.5(l)(5)	§679.5(l)(5)	§679.5(l)(3)(iv)	§679.5(l)(3)
(i) If a catcher vessel leaving or entering Alaska with groundfish but no IFQ product onboard	X						
(ii) If a mothership or catcher/processor leaving Alaska with groundfish but no IFQ product onboard	X						
(iii) If a vessel leaving Alaska with IFQ sablefish or halibut but no other groundfish onboard				X	X		
(iv) If a vessel leaving Alaska with IFQ sablefish or halibut and other groundfish onboard	X			X	X		
(v) Transfer of groundfish		X					
(vi) Transfer of CDQ sablefish							X
(vii) Transfer of IFQ fish						X	X
(viii) Transfer of IFQ between vessels			X				

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(b) *Representative.* (1) The operator of a catcher vessel, mothership, catcher/processor, or buying station delivering to a mothership or manager of a shoreside processor or stationary floating processor or buying station delivering to a shoreside processor or stationary floating processor may identify one contact person to complete the log-book and forms and to respond to 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)(2) of this section.

(2) Except for a DFL, BSR, PTR, or DCPL, the operator or manager must provide the following representative identification information: The representative's name; daytime business telephone number (including area code); and FAX or telex number. In addition, if completing a DPR, a VAR, or a mothership or catcher/processor check-in/check-out report, the representative's COMSAT number.

(c) *Catcher vessel DFL and catcher/processor DCPL—(1) Longline and pot DFL and DCPL.* In addition to information required at paragraphs (a) and (b) of this section, the operator of a catcher vessel or a catcher/processor using longline or pot gear to harvest groundfish or the operator of a catcher vessel or a catcher/processor using longline or pot gear to harvest IFQ sablefish or IFQ halibut must record in the DFL or DCPL:

- (i) Gear type;
- (ii) IFQ permit number of the operator, if any, and of each IFQ holder aboard the vessel;
- (iii) Groundfish CDQ group number;
- (iv) Halibut CDQ permit number;
- (v) The set number, sequentially by year;
- (vi) Date, time, and begin position coordinates of gear deployment;
- (vii) Begin and end buoy or bag numbers (optional, but may be required by IPHC regulations);
- (viii) Date, time, and end position coordinates of gear retrieval;
- (ix) Begin and end gear depths, recorded to the nearest fathom (optional, but may be required by IPHC regulations);
- (x) Number of skates or pots set;

(xi) Number of skates or pots lost (optional, but may be required by IPHC regulations);

(xii) Target species code;

(xiii) Estimated catch weight of IFQ halibut and CDQ halibut to the nearest pound, indicate "CDQ" above the amount of CDQ halibut;

(xiv) Estimated weight of IFQ sablefish to the nearest pound;

(xv) Indicate whether IFQ sablefish product is Western cut, Eastern cut, or round weight;

(xvi) Number of sablefish;

(xvii) The bird avoidance gear code;

(xviii) If a catcher/processor, enter separately the round catch weight of pollock and Pacific cod to the nearest pound or metric ton and the estimated total round catch weight of all retained species combined, except sablefish, halibut, pollock and Pacific cod to at least the nearest 0.001 mt; and

(xix) If a catcher vessel, the estimated total round catch weight of all species combined, except sablefish and halibut.

(2) *Trawl gear DFL and DCPL.* In addition to information required at paragraphs (a) and (b) of this section, the operator of a catcher vessel or a catcher/processor using trawl gear to harvest groundfish must record in the DFL or DCPL:

(i) Whether nonpelagic trawl or pelagic trawl;

(ii) Haul number, sequentially by year;

(iii) Time and begin position coordinates of gear deployment;

(iv) Date, time, and end position coordinates of gear retrieval;

(v) Average sea depth and average gear depth, recorded to the nearest meter or fathom and whether depth recorded in meters or fathoms;

(vi) Target species code;

(vii) If a catcher/processor, enter separately the round catch weight of pollock, Pacific cod, and the estimated total round catch weight of all retained species, except Pacific cod and pollock, and indicate whether weight is recorded to the nearest pound or metric ton;

(viii) If a catcher vessel, enter the estimated total round catch weight of all retained species.

(d) *Buying station report (BSR)*—(1) In addition to information required at paragraphs (a) and (b) of this section, the operator or manager of a buying station must:

(i) Enter on each BSR the name, ADF&G processor code, and Federal fisheries or processor permit number of its associated processor, date delivery completed, and time delivery completed;

(ii) Record each delivery of unprocessed groundfish or donated prohibited species to an associated processor on a separate BSR.

(iii) Ensure that a BSR, along with any blue DFLs received from a catcher vessel, accompanies each groundfish delivery from the landing site to the associated processor.

(iv) Retain a copy of each BSR.

(v) In addition to recording the total estimated delivery weight or actual scale weight of a catcher vessel delivery, the operator or manager of a buying station may enter specific species codes and weights (in lb or mt) to the BSR.

(2) The operator or manager must record all information required and sign the BSR within 2 hours of completion of delivery from catcher vessel.

(e) *Shoreside processor electronic log-book report (SPELR)*. (1) The owner or manager must use SPELR or NMFS-approved software for the duration of the fishing year to report every delivery, including but not limited to groundfish from AFA catcher vessels and pollock from a directed pollock fishery participant, from all catcher vessels and maintain the SPELR and printed reports as described at paragraph (f) of this section, if a shoreside processor or stationary floating processor:

(i) Receives groundfish from AFA catcher vessels; or

(ii) Receives pollock harvested in a directed pollock fishery.

(2) The owner or manager of a shoreside processor or stationary floating processor that is not required to use SPELR under paragraph (e)(1) of this section may use, upon approval by the Regional Administrator, SPELR or NMFS-approved software in lieu of the shoreside processor DCPL and shoreside processor WPR. Processors using

the SPELR must maintain the SPELR and printed reports as described in this paragraph (e) and at paragraph (f) of this section.

(3) *Exemptions*. The owner or manager who uses the SPELR per paragraphs (e)(1) and (2) of this section is exempt from the following requirements:

(i) Maintain shoreside processor DCPL.

(ii) Submit quarterly DCPL logsheets to NOAA Fisheries, Office for Law Enforcement (OLE), Juneau, as described at paragraph (a)(14)(iii) of this section.

(iii) Maintain and submit WPRs to the Regional Administrator as described at paragraph (i) of this section.

(iv) If receiving deliveries of fish under a CDQ program, submit CDQ delivery reports to the Regional Administrator as described at paragraph (n)(1) of this section.

(4) *Time limit and submittal*. (i) The SPELR must be submitted daily to NMFS as an electronic file. A dated return-receipt will be generated and sent by NMFS to the processor confirming receipt and acceptance of the report. The owner or manager must retain the return receipt as proof of report submittal. If an owner or manager does not receive a return receipt from NMFS, the owner or manager must contact NMFS within 24 hours for further instruction on submittal of SPELRs.

(ii) Daily information described at paragraph (e)(6) of this section must be entered into the SPELR each day on the day they occur.

(iii) Except as indicated in paragraph (e)(4)(iv) of this section, information for each delivery described at paragraph (e)(7) of this section must be submitted to the Regional Administrator by noon of the following day for each delivery of groundfish.

(iv) If a shoreside processor or stationary floating processor using the SPELR or equivalent software is not taking deliveries over a weekend from one of the AFA-permitted catcher vessels listed on NMFS Alaska Region web page at <http://www.fakr.noaa.gov/ram> the SPELR daily report may be transmitted on Monday.

(5) *Information entered once (at software installation) or whenever it changes*. The owner or manager must enter the

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following information into the SPELR when software is installed or whenever any of the information changes:

(i) Shoreside processor or stationary floating processor name, ADF&G processor code, Federal processor permit number, and processor e-mail address;

(ii) State port code as described in Table 14 to this part;

(iii) Name, telephone and FAX numbers of representative.

(6) *Information entered daily.* The owner or manager must daily enter the following information into the SPELR:

(i) Whether no deliveries or no production;

(ii) Number of observers on site;

(iii) Whether harvested in BSAI or GOA;

(iv) Product by species code, product code, and product designation;

(v) Product weight (in lb or mt).

(7) *Information entered for each delivery.* The owner or manager must enter for each delivery the following information into the SPELR:

(i) Date fishing began; delivery date; vessel name and ADF&G vessel registration number; ADF&G fish ticket number of delivery; management program name and identifying number (if any); gear type of harvester; landed species of each delivery by species code, product code, and weight (in pounds or mt); ADF&G statistical area(s) where fishing occurred and estimated percentage of total delivered weight corresponding to each area; and whether delivery is from a buying station.

(ii) If delivery received from a buying station, indicate name and type of buying station (vessel, vehicle, or other); date harvest received by buying station; if a vessel, ADF&G vessel registration number; if a vehicle, license plate number; if other than a vessel or vehicle, description.

(iii) Whether a blue DFL was received from catcher vessel; if not received, reason given; discard or disposition species; if groundfish or PSC herring, enter species code, product code, and weight (in pounds or mt); if PSC halibut, salmon, or crab, enter species code, product code, and count (in numbers of animals).

(iv) If a CDQ delivery, enter species code, product code, weight (in pounds or mt) and count of PSQ halibut.

(f) *SPELR printed reports*—(1) *Requirement*—(i) *Daily printouts.* The manager daily must print onsite at the shoreside processor or stationary floating processor two reports: a shoreside logbook daily production report and a delivery worksheet using pre-determined formats generated by the SPELR or NMFS-approved software.

(ii) *Signature.* The owner or manager of the shoreside processor or stationary floating processor must sign and enter date of signature onto each SPELR printed report. The signature of the owner or manager on SPELR printed reports is verification of acceptance of the responsibility required in paragraphs (e) and (f) of this section.

(iii) *Delivery worksheet.* The Delivery Worksheet results from a SPELR or NMFS-approved pre-determined format of the data; it summarizes daily landings and discards.

(iv) *Shoreside logbook daily production report.* The Shoreside Logbook Daily Production Report results from a SPELR or NMFS-approved pre-determined format of the data; it summarizes daily production.

(2) *Retention.* The manager must retain the paper copies of the reports described in paragraph (f)(1) of this section as follows:

(i) *Onsite.* Onsite at the shoreside processor or stationary floating processor until the end of the fishing year during which the reports were made and for as long thereafter as fish or fish products recorded in the reports are retained.

(ii) *For 3 years.* For 3 years after the end of the fishing year during which the reports were made.

(3) *Inspection.* The owner or manager must make available the reports described in paragraph (f)(1) of this section upon request of observers, NMFS personnel, and authorized officers.

(g) *Groundfish Product Transfer Report (PTR).* (1) Except as provided in paragraphs (g)(1)(i) through (iv) of this section, the operator of a mothership or catcher/processor or the manager of a shoreside processor or stationary floating processor must record on a separate PTR each transfer of groundfish

product (including unprocessed fish) or donated prohibited species.

(i) *Exemption: Bait sales.* The operator or manager may aggregate individual sales or transfers of groundfish to vessels for bait purposes during a day onto one PTR when recording the amount of such bait product leaving a facility that day. If transfer is a daily aggregation of bait sales, enter “BAIT SALES” in the “RECEIVER” box and enter the time of the first sale of the day and the time of the last sale of the day.

(ii) *Exemption: Over-the-counter groundfish sales.* (A) The operator or manager daily may aggregate and record on one PTR, individual over-the-counter sales of groundfish for human consumption, where each sale weighs less than 10 lb (0.0045 mt), when recording the amount of such over-the-counter product leaving a facility that day.

(B) If a PTR records a daily aggregation of over-the-counter product sales, enter “OVER-THE-COUNTER SALES” in the “RECEIVER” box. Enter the time of the first sale of the day and the time of the last sale of the day.

(iii) *Exemption: Wholesale sales.* (A) The operator or manager may aggregate and record on one PTR, wholesale sales of groundfish by species when recording the amount of such wholesale product leaving a facility that day, if invoices detailing destinations for all of the product are available for inspection by an authorized officer.

(B) If a PTR records a daily aggregation of wholesale product sales, enter “WHOLESALE SALES” in the “RECEIVER” box. Enter the time of the first sale of the day and enter the time of the last sale of the day.

(iv) *Exemption: IFQ Registered Buyer permit and IFQ or CDQ sablefish product.* If the operator or the manager possesses a Registered Buyer permit issued per § 679.4(d)(2), the operator or manager is not required to submit a PTR to document shipment of IFQ or CDQ sablefish product. However, a shipment report as described at paragraph (1)(3) of this section is required for each shipment of IFQ or CDQ sablefish product.

(2) *Time limits and submittal.* The operator of a mothership or catcher/proc-

essor or manager of a shoreside processor or stationary floating processor must:

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

(ii) Submit by FAX or electronic file a copy of each PTR to OLE, Juneau, by 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period in which the transfer occurred.

(iii) A PTR is not required to accompany a shipment or offload.

(3) *General information.* In addition to requirements described in paragraphs (a) and (b) of this section the operator or manager must record on a PTR:

(i) Whether original or revised PTR;

(ii) Whether receipt or shipment. “RECEIPT” if product is received; “SHIPMENT” if transferring product off your site or transferring product off your vessel;

(iii) Your processor type;

(iv) Whether you are the shipper or the receiver.

(4) *Transfer Information—(i) Shipper.* (A) Enter information about your company: If you are shipping groundfish or groundfish product, enter your company name, address, FAX number, and ADF&G processor code.

(B) *Enter information about the other company:* If you are receiving groundfish or groundfish product from another company, enter name of the other company and ADF&G processor code (if applicable).

(ii) *Receiver.* (A) *Enter information about your company:* If you are receiving groundfish or groundfish product, enter your company name and ADF&G processor code.

(B) *Enter information about the other company:* If you are shipping groundfish or groundfish product to another company on land, enter name of the receiver and ADF&G processor code (if applicable).

(C) If you are the shipper, enter appropriate information about the other company as provided in the following table:

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If you are the shipper and ...	Then enter ...	
<p>(1) Receiver is on land</p>	<p>Receiver name and ADF&G processor code (if applicable)</p>	<p>(i) If transfer involves one van or truck, enter the Date and time when shipment leaves the plant; Name of the shipping company; and Location of van or truck destination</p>
		<p>(ii) If transfer involves multiple vans or trucks; enter the Date and time when loading of vans or trucks is completed each day; Name of the shipping company; and Location of van or truck destination</p>
		<p>(iii) If transfer involves one airline flight; enter the Date and time when shipment leaves the plant; Name of the airline; and Location of destination airport</p>
		<p>(iv) If transfer involves multiple airline flights; enter the Date and time of shipment when the last airline flight of the day leaves; Name of the airline; and Location of destination airport</p>
<p>(2) Receiver is a vessel</p>	<p>Vessel name and call sign</p>	<p>If transfer occurs at sea (i) Transfer position coordinates in latitude and longitude, in degrees and minutes. (ii) The first destination of the vessel. If a mothership or catcher/processor and transfer takes place in port (iii) Name of the port and country (if other than USA) (iv) Start and finish dates and times of transfer</p>
<p>(3) Receiver is an agent (buyer, distributor, or shipping agent)</p>	<p>Agent name and location (city, state)</p>	<p>If a containerized van (i) Name of the vessel transporting the van (ii) Destination port (iii) Transfer start and finish dates and times</p>

<p>(4) If aggregating individual over-the-counter sales of groundfish for human consumption in quantities less than 10 lb (0.0045 mt) per sale during a day onto one PTR</p>	<p>(i) "OVER-THE-COUNTER SALES" (ii) Time of the first sale of the day (iii) Time of the last sale of the day</p>
<p>(5) If aggregating individual bait sales of groundfish during a day onto one PTR</p>	<p>(i) "BAIT SALES" (ii) Time of the first sale of the day (iii) Time of the last sale of the day "BAIT SALES"</p>
<p>(6) If aggregating wholesale product sales of groundfish by species during a single day onto one PTR and maintaining for inspection by an authorized officer, invoices detailing destinations for all of the product</p>	<p>(i) "WHOLESALE SALES" (ii) Time of the first sale of the day (iii) Time of the last sale of the day</p>

(5) *Products shipped or received.* Enter information for each transfer:

(i) The species code and product code for each product transferred (Tables 1 and 2 to this part).

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

(iii) The average weight of one carton or production unit for each species and product code in kilograms or pounds (indicate which).

(iv) The total net weight (to the nearest 0.001 mt) of the products transferred.

(v) In addition to paragraphs (g)(5)(i) through (iv) of this section, if recording two or more species with one or more product types of fish in the same carton, enter the actual scale weight of each product of each species to the nearest 0.001 mt. If not applicable, enter "n/a" in the species weight column. If you use more than one line to record species in one carton, use a bracket } to tie the carton information together.

(6) *Total or partial offload.* (i) If a mothership or catcher/processor, indi-

cate whether the transfer is a total or partial offload.

(ii) If a partial offload, for the products remaining on board, enter: species code, product code, and total product weight to the nearest 0.001 mt for each product.

(h) *Check-in/check-out report—(1) Time limits and submittal.* The operator of a catcher/processor or mothership or the manager of a shoreside processor or stationary floating processor must submit a check-in report prior to becoming active (see paragraph 679.5(a)(7)(i) of this section) and a check-out report for every check-in report submitted. Check-in and check-out reports must be submitted within the appropriate time limits to the Regional Administrator by FAX or Telex; or transmit a data file by e-mail, modem, or satellite (specifically INMARSAT standards A, B, or C); or transmit by voluntary electronic check-in and check-out reports.

(i) *Check-in report (BEGIN message).* Except as indicated in paragraph (h)(1)(iii) of this section the operator or manager must submit a check-in report according to the following table:

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Submit a separate BEGIN message for ...	If you are a ...	Within this time limit
(A) Each reporting area of groundfish harvest, except 300, 400, 550, or 690	(1) C/P using trawl gear	Before gear deployment
	(2) C/P using longline or pot gear	Before gear deployment. May be checked in to more than one area simultaneously.
	(3) MS, SS, SFP	Before receiving groundfish. May be checked in to more than one area simultaneously.
	(4) MS	Must check-in to reporting area(s) where groundfish were harvested
(B) COBLZ or RKCSA	(1) C/P using trawl gear	Prior to fishing. Submit one check-in for the COBLZ or RKCSA and another check-in for the area outside the COBLZ or RKCSA
	(2) MS, SS, SFP	Before receiving groundfish harvested with trawl gear, submit one check-in for the COBLZ or RKCSA and another check-in for the area outside the COBLZ or RKCSA
(C) Gear Type	(1) C/P	If in the same reporting area but using more than one gear type, prior to fishing submit a separate check-in for each gear type.
	(2) MS, SS, SFP	If harvested in the same reporting area but using more than one gear type, prior to receiving groundfish submit a separate check-in for each gear type.
(D) CDQ	(1) C/P	Prior to groundfish CDQ fishing under each CDQ program
	(2) MS, SS, SFP	Prior to receiving groundfish CDQ. If receiving groundfish under more than one CDQ number, use a separate check-in for each number.
(E) Exempted or Research Fishery	(1) C/P	If in an exempted or research fishery, prior to fishing submit a separate check-in for each type.
	(2) MS, SS, SFP	If receiving groundfish from an exempted or research fishery, prior to receiving submit a separate check-in for each type.
(F) Processor type	C/P, MS	If a catcher/processor and functioning simultaneously as a mothership in the same reporting area, before functioning as either processor type.
(G) Change of fishing year	C/P, MS, SS, SFP	If continually active through the end of one fishing year and at the beginning of a second fishing year, submit a check-in for each reporting area to start the year on January 1.

(ii) Check-out report (CEASE message). or manager must submit a check-out report according to the following table:
 Except as indicated in paragraph (h)(1)(iii) of this section, the operator

Submit a separate CEASE message for ...	If you are a ...	Within this time limit
(A) COBLZ or RKCSA	(1) C/P using trawl gear. (2) MS, SS, SFP ..	Upon completion of gear retrieval for groundfish, submit a separate check-out for the COBLZ or RKCSA and another check-out for the area outside the COBLZ or RKCSA. If receiving groundfish harvested with trawl gear, upon completion of receipt of groundfish, submit a separate check-out for the COBLZ or RKCSA and another check-out for the area outside the COBLZ or RKCSA.
(B) Processor type	C/P, MS	Upon completion of simultaneous activity as both catcher/ processor and mothership, a separate check-out, one for catcher/processor and one for mothership.
(C) Gear Type	(1) C/P	Upon completion of gear retrieval for groundfish, submit a separate check-out for each gear type for which a check-in was submitted.
(D) CDQ	(2) MS, SS, SFP ..	Upon completion of receipt of groundfish, submit a separate check-out for each gear type for which a check-in was submitted.
(E) Exempted or Research Fishery	(1) C/P	Within 24 hours after groundfish CDQ fishing for each CDQ group has ceased.
(F) Reporting Area	(2) MS, SS, SFP ..	Within 24 hours after receipt of groundfish CDQ has ceased for each CDQ group.
(G) Change of fishing year	(1) C/P using longline or pot gear. (2) C/P using trawl gear. (3) SS, SFP	If groundfish are caught during an exempted or research fishery, submit a separate check-out for each type for which a check-in was submitted. Upon completion of receipt of groundfish under an exempted or research fishery, submit a separate check-out for each type for which a check-in was submitted.
(H) Interruption of production	(4) MS, SS, SFP ..	Upon completion of gear retrieval and within 24 hours after departing each reporting area
	(5) MS	Within 24 hours after departing a reporting area but prior to checking-in another reporting area
	C/P, MS, SS, SFP	Within 48 hours after the end of the applicable weekly reporting period that a shoreside processor or stationary floating processor ceases to receive or process groundfish from that reporting area for the fishing year.
		If receipt of groundfish from a reporting area is expected to stop for a period of time (month(s)) during the fishing year and then start up again, may submit a check-out report for that reporting area
		Within 24 hours after receipt of fish is complete from that reporting area.
		If a check-out report was not previously submitted during a fishing year for a reporting area, submit on December 31, a check-out report for each reporting area.
		If receipt of groundfish from a reporting area is expected to stop for a period of time (month(s)) during the fishing year and then start up again, the manager may choose to submit a check-out report for that reporting area.

(iii) *Exception, two adjacent reporting areas.* If on the same day a catcher/processor intends to fish in two adjacent reporting areas (an action which would require submittal of check-out reports and check-in reports multiple times a day when crossing back and forth across a reporting area boundary), and the two reporting areas have on that day and time an identical fishing status for every species, the operator must:

- (A) Submit to NMFS a check-in report to the first area prior to entering the first reporting area, and
- (B) Submit to NMFS a check-in report to the second area prior to entering the second reporting area.
- (C) Remain within 10 nautical miles (18.5 km) of the boundary described in paragraph (h)(1)(iii) of this section.
- (D) If the catcher/processor proceeds in the second reporting area beyond 10

nautical miles (18.5 km) of the boundary between the two areas, the operator must submit a check-out report from the first reporting area. The operator must submit a check-out report from the second area upon exiting that reporting area (see paragraph (h)(1)(ii) of this section).

(2) *Transit through reporting areas.* The operator of a catcher/processor or mothership is not required to submit a check-in or check-out report if the vessel is transiting through a reporting area and is not fishing or receiving fish.

(3) *Required information.* The operator of a mothership or catcher/processor or the manager of a shoreside processor or stationary floating processor must record the following information.

- (i) *For each check-in and check-out report.* (A) Whether an original or revised report;

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(B) Participant identification information (see paragraph (a)(5) of this section);

(C) Representative information (see paragraph (b)(2) of this section);

(D) Management program name and identifying number (if any);

(E) If a mothership or catcher/processor, processor type and gear type.

(ii) *For each check-in report, mothership.* (A) Date and time when receipt of groundfish will begin;

(B) Position coordinates where groundfish receipt begins;

(C) Reporting area code where gear deployment begins;

(D) Primary and secondary target species expected to be received the following week. A change in intended target species within the same reporting area does not require a new BEGIN message.

(iii) *For each check-in report, catcher/processor.* (A) Date and time when gear deployment will begin;

(B) Position coordinates where gear is deployed;

(C) Reporting area code of groundfish harvest;

(D) Primary and secondary target species expected to be harvested the following week. A change in intended target species within the same reporting area does not require a new BEGIN message.

(iv) *For each check-in report, shoreside processor or stationary floating processor.* (A) Indicate check-in report;

(B) Date facility will begin to receive groundfish;

(C) Whether checking in for the first time this fishing year or checking in to restart receipt and processing of groundfish after filing a check-out report;

(D) The product weight of all fish or fish products (including non-groundfish) remaining at the facility (other than public cold storage) by species code and product code;

(E) Whether pounds or 0.001 mt.

(v) *For each check-out report, mothership:* Date, time, reporting area code, and position coordinates where the last receipt of groundfish was completed.

(vi) *For each check-out report, catcher/processor:* date, time, reporting area

code, and position coordinates where the vessel departed the reporting area.

(vii) *For each check-out report, shoreside processor or stationary floating processor:* (A) Indicate check-out report;

(B) Date facility ceased to receive or process groundfish;

(C) The product weight of all fish or fish products (including non-groundfish) remaining at the facility (other than public cold storage) by species code and product code;

(D) Whether pounds or 0.001 mt.

(i) *Weekly Production Report (WPR)—(1) Who needs to submit a weekly production report?* (i) Except as indicated in paragraph (i)(1)(iii) of this section, the operator or manager must submit a WPR for any week the mothership, catcher/processor, shoreside processor, or stationary floating processor is checked-in pursuant to paragraph (h)(2) of this section.

(ii) If a vessel is operating simultaneously during a weekly reporting period as both a catcher/processor and a mothership, the operator must submit two separate WPRs for that week, one for catcher/processor fishing activity and one for mothership fishing activity.

(iii) *Exemption.* If using SPELR or software approved by the Regional Administrator as described in §679.5(e), a shoreside processor or stationary floating processor is exempt from the requirements to submit a WPR.

(2) *Time limit and submittal.* The operator or manager must submit a separate WPR by FAX or electronic file to the Regional Administrator by 1200 hours, A.l.t. on Tuesday following the end of the applicable weekly reporting period.

(3) *Submit separate WPR.* The operator or manager must submit a separate WPR if:

(i) *Processor type.* For each processor type if a catcher/processor is functioning simultaneously as a Mothership in the same reporting area.

(ii) *Gear type.* For each gear type of harvester if groundfish are caught in the same reporting area using more than one gear type.

(iii) *COBLZ or RKCSA.* If groundfish are caught with trawl gear, submit one report for fish harvested in the COBLZ or RKCSA and another report for fish

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harvested outside the COBLZ or RKCSA.

(iv) *Management Program.* If groundfish are caught under a specific management program, submit a separate report for each program.

(v) *Reporting area.* For each reporting area, except 300, 400, 550, or 690.

(vi) *Change of fishing year.* If continually active through the end of one fishing year and at the beginning of a second fishing year, the operator or manager must submit a WPR for each reporting area:

(A) To complete the year at midnight, December 31, if still conducting fishing activity regardless of where this date falls within the weekly reporting period.

(B) To start the year on January 1, if still conducting fishing activity regardless of where this date falls within the weekly reporting period.

(4) *Required information.* The operator or manager must record:

(i) Whether original or revised WPR;

(ii) Week-ending date;

(iii) Participant identification information (see paragraph (a)(5) of this section);

(iv) Representative information (see paragraph (b)(2) of this section);

(v) Date (month-day-year) WPR completed;

(vi) Management program name and identifying number (if any);

(vii) Gear type of harvester;

(viii) If a mothership or catcher/processor, processor type and crew size;

(ix) Reporting area of harvest;

(x) If a shoreside processor or stationary floating processor, landings scale weights of groundfish by species and product codes and product designations; scale weights or fish product weights of groundfish by species and product codes and product designations;

(xi) Discard or disposition weights or numbers by species and product codes;

(xii) ADF&G fish ticket numbers issued to catcher vessels at delivery (except catcher/processors).

(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 submittal

of DPRs from motherships, catcher/processors, shoreside processors and stationary floating 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, when required.

(ii) If a shoreside processor or stationary floating 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 when required.

(iii) The operator of a catcher/processor or mothership or the manager of a shoreside processor or stationary floating 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.* In addition to requirements described in paragraphs (a) and (b) of this section, the operator of a catcher/processor or mothership, or the manager of a shoreside processor or stationary floating processor must record the processor type.

(k) *U.S. Vessel Activity Report (VAR)*—

(1) *Who needs to submit a VAR?* Except as noted in paragraphs (k)(1)(iii) and (iv) of this section, the operator of a catcher vessel greater than 60 ft (18.3 m) LOA, a catcher/processor, or a mothership holding a Federal fisheries permit issued under this part and carrying fish or fish product onboard must complete and submit a VAR by FAX or electronic file to OLE, Juneau, AK before the vessel crosses the seaward boundary of the EEZ off Alaska or

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crosses the U.S.—Canadian international boundary between Alaska and British Columbia.

(i) *Both groundfish and IFQ fish.* If a vessel is carrying both groundfish and IFQ halibut or IFQ sablefish, the operator must submit a VAR in addition to a Vessel Departure Report (VDR) or a Vessel Clearance (VC).

(ii) *Revised VAR.* If groundfish are landed at a port other than the one specified, submit a revised VAR showing the actual port of landing.

(iii) *Exemption: Vessel clearance.* If a vessel is carrying only IFQ halibut or IFQ sablefish onboard and the operator has received a Vessel Clearance per paragraph (1)(5)(iii) of this section, a VAR is not required.

(iv) *Exemption: IFQ departure report.* If a vessel is carrying only IFQ halibut or IFQ sablefish onboard and the operator has submitted a Departure Report per paragraph (1)(5)(iii)(B) of this section, a VAR is not required.

(2) *Information required.* Whether original or revised VAR: name and Federal fisheries permit number of vessel; type of vessel (whether catcher vessel, catcher/processor, or mothership); and representative information (see paragraph (b)(2) of this section).

(i) *Return report.* “Return,” for purposes of this paragraph, means coming back to Alaska. 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 into U.S. waters, indicate a “return” report and enter:

(A) Intended Alaska port of landing (see Table 14 to this part);

(B) Estimated date and time (hour and minute, Greenwich mean time) the vessel will cross;

(C) The estimated position coordinates the vessel will cross.

(ii) *Depart report.* “Depart” means leaving Alaska. 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, indicate a “depart” report and enter:

(A) The intended U.S. port of landing or country other than the United States;

(B) Estimated date and time (hour and minute, Greenwich mean time) the vessel will cross;

(C) The estimated position coordinates in latitude and longitude the vessel will cross.

(iii) *The Russian Zone.* Indicate whether your vessel is returning from fishing in the Russian Zone or is departing to fish in the Russian Zone.

(iv) *Fish or fish products.* For all fish or fish products (including non-groundfish) on board the vessel, enter: Harvest zone code; species codes; product codes; and total fish product weight in lbs or to the nearest 0.001 mt.

(1) *IFQ and CDQ halibut recordkeeping and reporting.* 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 this title, the following IFQ reports are required, when applicable: prior notices of landing, landing report, shipment report, transshipment authorization, vessel clearance, and IFQ departure report.

(1) *Prior notice of IFQ landing—(i) Applicability.* Except as provided in paragraph (1)(1)(iv) of this section, the operator of any vessel making an IFQ landing must notify OLE, Juneau, AK 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.

(ii) *Time limits.* A prior notice of landing must be made to the toll-free telephone number 800-304-4846 OR TO 907-586-7202 between the hours of 0600 hours, A.l.t., and 2400 hours, A.l.t.

(iii) *Information required.* A prior notice of landing must include the following:

(A) Vessel name and ADF&G vessel registration number;

(B) Name and permit number of the Registered Buyer who will be responsible for completion and submittal of the IFQ Landing Report(s);

(C) The location of the landing (port name or code);

(D) The date and time (A.l.t.) that the landing will take place;

(E) Landing directions;

(F) Species and estimated weight (in pounds) of the IFQ halibut or IFQ sablefish that will be landed;

(G) IFQ regulatory area(s) in which the IFQ halibut or IFQ sablefish were harvested;

(H) IFQ permit number(s) that will be used to land the IFQ halibut or IFQ sablefish.

(iv) *Exemption.* An IFQ landing of halibut of 500 lb (0.23 mt) or less of IFQ weight determined pursuant to § 679.42(c)(2) and concurrent with a legal landing of salmon or a legal landing of lingcod harvested using dinglebar gear is exempt from the prior notice of landing required by this section.

(v) *Revision to prior notice of landing.* The operator of any vessel wishing to land IFQ halibut or IFQ sablefish before the date and time (A.l.t.) reported in the prior notice of landing or later than 2 hours after the date and time (A.l.t.) reported in the prior notice of landing must submit a new prior notice of IFQ landing as described in paragraphs (1)(1)(i) through (iii) of this section.

(2) *Landing report—(i) Applicability.*

(A) A Registered Buyer must report an IFQ landing within 6 hours after all such fish are landed and prior to shipment of said fish or departure of the delivery vessel from the landing site.

(B) All IFQ catch retained onboard a vessel at commencement of a landing must be weighed and debited from the IFQ permit holder's account under which the catch was harvested.

(ii) *Electronic landing report.* (A) Except as indicated in paragraphs (1)(2)(ii)(D) and (E) of this section, electronic landing reports must be submitted to OLE, Juneau, AK using magnetic strip cards issued by NMFS, Alaska Region, and transaction terminals with printers driven by custom-designed software as provided and/or specified by NMFS, Alaska Region. It is the responsibility of the Registered Buyer to locate or procure a transaction terminal and report as required.

(B) The IFQ cardholder must initiate a landing report by using his or her own magnetic card and personal identification number (PIN).

(C) Once landing operations have commenced, the IFQ cardholder and

the harvesting vessel may not leave the landing site until the IFQ account is properly debited. The offloaded IFQ species may not be moved from the landing site until the IFQ landing report is received by OLE, Juneau, AK and the IFQ cardholder's account is properly debited. A properly concluded transaction terminal receipt, printed Internet submission receipt, or manual landing report receipt received by FAX from OLE, Juneau, AK constitutes confirmation that OLE received the landing report and that the cardholder's account was properly debited. After the Registered Buyer enters the landing data in the transaction terminal or the Internet submission form(s) and a receipt is printed, the IFQ cardholder must sign the receipt to acknowledge the accuracy of the landing report. Legible copies of the receipt must be retained by both the Registered Buyer and the IFQ cardholder pursuant to paragraph (1)(6) of this section.

(D) Electronic landing reports may be submitted to OLE, Juneau, AK using Internet submission methods as provided and/or specified by NMFS, Alaska Region. It is the responsibility of the Registered Buyer to obtain at his or her own expense, hardware, software and Internet connectivity to support Internet submissions and report as required.

(E) Waivers from the electronic reporting requirement can only be granted in writing on a case-by-case basis by a local clearing officer.

(iii) *Manual landing report.* (A) If a waiver has been granted pursuant to paragraph (1)(2)(ii) of this section, manual landing instructions must be obtained from OLE, Juneau, AK at (800)304-4846. Completed manual landing reports must be submitted by FAX to OLE, Juneau, AK at (907)586-7313.

(B) The manual landing report must be signed by the Registered Buyer or his/her representative, and the IFQ cardholder to acknowledge the accuracy of the landing report, and by the OLE representative to show that the IFQ cardholder's account was debited consistent with the landing report.

(iv) *Time limits and submittals.* (A) An IFQ landing may commence only between 0600 hours, A.l.t., and 1800 hours, A.l.t., unless permission to land at a

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different time (waiver) is granted in advance by a clearing officer.

(B) An IFQ landing report must be completed and the IFQ account(s) properly debited, as defined in paragraph (1)(2)(ii)(C) of this section, within 6 hours after the completion of the IFQ landing.

(v) *Landing verification and inspection.* 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.

(vi) *Information required.* The Registered Buyer must enter accurate information contained in a complete IFQ landing report as follows:

(A) Date and time (A.l.t.) of the IFQ landing;

(B) Location of the IFQ landing (port code or if at sea, lat. and long.);

(C) Name and permit number of the IFQ card holder;

(D) Name and permit number of Registered Buyer receiving the IFQ species;

(E) The harvesting vessel's name and ADF&G vessel registration number;

(F) Gear type used to harvest IFQ species;

(G) Alaska State fish ticket number(s) for the landing;

(H) ADF&G statistical area of harvest reported by the IFQ cardholder;

(I) If ADF&G statistical area is bisected by a line dividing two IFQ regulatory areas, the IFQ regulatory area of harvest reported by the IFQ cardholder;

(J)(1) Except as indicated in paragraph (1)(2)(vi)(J)(2) of this section, for each ADF&G statistical area of harvest, the species codes, product codes, and initial accurate scale weight (in pounds or to the nearest thousandth of a metric ton) made at the time of offloading for IFQ species sold and retained;

(2) If the vessel operator is a Registered Buyer reporting the IFQ landing, the accurate weight of IFQ sablefish processed product obtained before the offload may be substituted for the initial accurate scale weight at time of offload.

(K) Whether ice and slime is present on the fish as offloaded from the vessel (YES or NO). Fish which have been washed prior to weighing or which have been offloaded from refrigerated salt water are not eligible for a 2 percent deduction for ice and slime and must indicate NO SLIME & ICE.

(L) If IFQ halibut is incidental catch concurrent with legal landing of salmon or concurrent with legal landing of lingcod harvested using dinglebar gear;

(M) Signature of Registered Buyer representative;

(N) Signature of IFQ/CDQ card holder.

(vii) *Manual landing report.* When a waiver is issued pursuant to paragraph (1)(2)(ii)(A) of this section, additional information is required. In addition to the information required in paragraph (1)(2)(vi) of this section, the following information is required to complete a landing report using a manual landing report:

(A) Whether the manual landing report is an original or revised;

(B) Name, telephone number, and FAX number of individual submitting the manual landing report.

(3) *Shipment report—(i) Requirement.*

(A) Except as provided in paragraph (1)(3)(i)(D) of this section, complete a written shipment report for each shipment or transfer of IFQ halibut and IFQ sablefish for which the Registered Buyer submitted a landing report before the fish leave the landing site.

(B) Assure that a shipment report is submitted to, and received by, OLE, Juneau, AK by FAX to (907) 586-7313 or mail to P.O. Box 21767, Juneau, AK 99802-1767, within 7 days of the date shipment commenced.

(C) Ensure that a copy of the shipment report or a bill of lading containing the same information accompanies the shipment of IFQ species from the landing site to the first destination beyond the location of the IFQ landing.

(D) A shipment report is not required for transportation of IFQ species directly from the landing site to a processing facility owned by the Registered Buyer submitting the IFQ landing report. When transporting the fish in this manner, the landing report receipt from the IFQ terminal documenting

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the IFQ landing must accompany the offloaded IFQ species. For IFQ species transported in this manner, the Registered Buyer must complete a shipment report for each shipment or transfer of IFQ halibut and IFQ sablefish from the Registered Buyer's processing facility.

(ii) *Information required.* A shipment report must specify the following:

(A) Whether revised or original report;

(B) Shipment date;

(C) Registered Buyer name, address, FAX number, and permit number;

(D) Signature of Registered Buyer or Registered Buyer's representative;

(E) Receiver name (this is the first receiver; the purchaser, wholesaler, or retailer who will receive the shipment from the Registered Buyer) and address;

(F) Mode of transportation and intended route;

(G) Name of the shipping company or entity that is transporting the shipment.

(J) If by air, enter the name of the airline, flight number, departure and arrival airport locations.

(2) If by containerized van, enter the name of the shipping company, vessel transporting the van, and departure and arrival ports.

(3) If by vessel, enter the name of the shipping company if applicable, name of the vessel transporting, and the departure and arrival ports.

(4) If by ground transportation, enter the name of the shipping or trucking company, and departure and arrival locations.

(H) Species codes and product codes of IFQ species;

(I) Total number of production units (blocks, trays, pans, individual fish, boxes, or cartons; if iced, enter number of totes or containers).

(J) Unit weight (weight of single production unit as listed in "No. of Units"); indicate whether metric tons or pounds;

(K) Total fish product weight of shipment less packing materials; indicate whether metric tons or pounds.

(iii) *Revision to shipment report.* Each Registered Buyer must ensure that, if any information on the original Shipment Report changes prior to the first

destination of the shipment, a revised shipment report is submitted to OLE, Juneau, clearly labeled "Revised Report" and that the revised shipment report be received by OLE, Juneau, AK within 7 days of the change.

(iv) *Dockside sale.* A Registered Buyer conducting dockside sales must issue a receipt in lieu of a shipment report, that includes the date of sale or transfer, the Registered Buyer permit number, and the fish product weight of the IFQ sablefish or halibut transferred to each individual receiving IFQ halibut or IFQ sablefish.

(4) *Transshipment authorization.* (i) 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.

(ii) *Information required.* To obtain a transshipment authorization, the vessel operator must provide the following information to the clearing officer:

(A) Date and time (A.l.t.) of transshipment;

(B) Location of transshipment;

(C) Name and ADF&G vessel registration number of vessel offloading transshipment;

(D) Name of vessel receiving the transshipment;

(E) Product destination;

(F) Species and product type codes;

(G) Total product weight;

(H) Time (A.l.t.) and date of the request;

(I) Name, telephone number, FAX number (if any) for the person making the request.

(5) *Vessel clearance—(i) Requirement.* A vessel operator who intends to make an IFQ landing at any location other than in an IFQ regulatory area or in the State of Alaska must first obtain a vessel clearance at a primary port from a clearing officer.

(ii) *Canadian ports.* A vessel operator who intends to land IFQ species in Canada must first obtain a vessel clearance from a clearing officer at a primary port and must make the landing only at the British Columbia ports of Port Hardy, Prince Rupert, or Vancouver.

(iii) *Registered Buyer permit.* A vessel operator obtaining an IFQ vessel clearance or submitting a departure report must have a Registered Buyer permit.

(iv) *IFQ permits on board.* A vessel operator obtaining an IFQ vessel clearance must ensure that one or more IFQ cardholders is on board with enough remaining IFQ balance to harvest amounts of IFQ fish equal to or greater than all IFQ halibut and IFQ sablefish on board.

(v) *Inspection.* A vessel for which a vessel operator is seeking an IFQ vessel clearance is subject to inspection of all fish, logbooks, permits, and other documents on board the vessel at the discretion of the clearing officer.

(vi) *Primary ports.* Unless specifically authorized on a case-by-case basis by a clearing officer, IFQ vessel clearances will be issued only at the primary ports listed in Table 14 to this part.

(vii) *Completion of fishing.* An IFQ vessel operator who obtains an IFQ vessel clearance may only obtain that IFQ vessel clearance after completion of all fishing. If any fishing takes place after issuance of an IFQ vessel clearance, the vessel operator must obtain a new IFQ vessel clearance.

(viii) *Required information.* To obtain an IFQ vessel clearance, the vessel operator must provide the following information to the clearing officer:

(A) Date, time (A.l.t.), and location of requested IFQ vessel clearance;

(B) Vessel name and ADF&G vessel registration number;

(C) Name and permit numbers of IFQ permits used to harvest IFQ species on board;

(D) Vessel operator's IFQ Registered Buyer permit number;

(E) Estimated total weight of IFQ halibut on board (lb/kg/mt);

(F) Estimated total weight of IFQ sablefish on board;

(G) IFQ areas of harvest;

(H) Intended date, time (A.l.t.) and location of landing;

(I) Signature of vessel operator.

(ix) *First landing of any species.* 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 an IFQ fishing trip.

(x) *IFQ landing after vessel clearance.*

A vessel operator having been granted an IFQ vessel clearance must be the Registered Buyer responsible for the IFQ landing and must submit the 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.

(xi) *IFQ departure report.* (A) A vessel operator who intends to obtain a vessel clearance outside the State of Alaska must submit an IFQ departure report, by telephone, to OLE, Juneau, AK at 907-586-7225 or 800-304-4846. The IFQ departure report may only be submitted after completion of all IFQ fishing and 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. The vessel operator must provide the following information:

(B) Vessel name and ADF&G registration number;

(C) Name of vessel operator submitting the IFQ departure report;

(D) Total weight on board of IFQ halibut and total weight of IFQ sablefish;

(E) Intended date, time (A.l.t.), and location for obtaining an IFQ vessel clearance.

(6) *Record retention.* 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.

(7) *IFQ cost recovery program—(i) IFQ buyer report.*

(A) *Applicability.* An IFQ registered buyer that also operates as a shoreside processor and receives and purchases IFQ landings of sablefish or halibut must submit annually to NMFS a complete IFQ Buyer Report as described in this paragraph (1) and as provided by NMFS for each reporting period, as described at § 679.5 (1)(7)(i)(E), in which the registered buyer receives IFQ fish.

(B) *Due date.* A complete IFQ Buyer Report must be postmarked or received by the Regional Administrator not later than October 15 following the reporting period in which the IFQ registered buyer receives the IFQ fish.

(C) *Information required.* A complete IFQ Buyer Report must include the following information:

(1) *IFQ registered buyer identification*, including:

- (i) Name,
- (ii) Registered buyer number,
- (iii) Social Security number or tax identification number,
- (iv) NMFS person identification number (if applicable),
- (v) Business address,
- (vi) Telephone number,
- (vii) Facsimile telephone number,
- (viii) Primary registered buyer activity,
- (ix) Other registered buyer activity, and
- (x) Landing port location;

(2) *Pounds purchased and values paid.*

(i) The monthly total weights, represented in IFQ equivalent pounds by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;

(ii) The monthly total gross ex-vessel value, in U.S. dollars, of IFQ pounds, by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;

(3) *Value paid for price adjustments.* (i) The monthly total U.S. dollar amount of any IFQ retro-payments (correlated by IFQ species, landing month(s), and month of payment) made in the current year to IFQ permit holders for landings made during the previous calendar year;

(ii) *Certification*, including the signature or electronic PIN of the individual authorized by the IFQ registered buyer to submit the IFQ Buyer Report, and date of signature or date of electronic submittal.

(D) *Submission address.* The registered buyer must complete an IFQ Buyer Report and submit by mail or FAX to:

Administrator, Alaska Region,
NMFS,

Attn: RAM Program,
P.O. Box 21668,
Juneau, AK 99802 1668,
FAX: (907) 586-7354

or electronically to NMFS via forms available from

RAM or on the RAM area of the Alaska Region Home Page at <http://www.fakr.noaa.gov/ram>.

(E) *Reporting period.* The reporting period of the IFQ Buyer Report shall extend from October 1 through September 30 of the following year, inclusive.

(ii) *IFQ permit holder Fee Submission Form—(A) Applicability.* An IFQ permit holder who holds an IFQ permit against which a landing was made must submit to NMFS a complete IFQ permit holder Fee Submission Form provided by NMFS.

(B) *Due date and submittal.* A complete IFQ permit holder Fee Submission Form must be postmarked or received by the Regional Administrator not later than January 31 following the calendar year in which any IFQ landing was made.

(C) *Contents of an IFQ Fee Submission Form.* For each of the sections described here, a permit holder must provide the specified information.

(1) *Identification of the IFQ permit holder.* An IFQ permit holder with an IFQ landing must accurately record on the identification section of the IFQ Fee Submission Form the following information:

(i) The printed name of the IFQ permit holder;

(ii) The NMFS person identification number;

(iii) The Social Security number or tax ID number of the IFQ permit holder;

(iv) The business mailing address of the IFQ permit holder; and

(v) The telephone and facsimile number (if available) of the IFQ permit holder.

(2) *IFQ landing summary and estimated fee liability.* NMFS will provide to an IFQ permit holder an IFQ Landing Summary and Estimated Fee Liability page as required by § 679.45(a)(2). The IFQ permit holder must either accept the accuracy of the NMFS estimated fee liability associated with his or her IFQ landings for each IFQ permit, or calculate a revised IFQ fee liability in accordance with paragraph (1)(7)(ii)(C)(2)(i) of this section. The IFQ permit holder may calculate a revised fee liability for all or part of his or her IFQ landings.

(i) *Revised fee liability calculation.* To calculate a revised fee liability, an IFQ permit holder must multiply the IFQ

percentage in effect by either the IFQ actual ex-vessel value or the IFQ standard ex-vessel of the IFQ landing. If parts of the landing have different values, the permit holder must apply the appropriate values to the different parts of the landings.

(ii) *Documentation.* If NMFS requests in writing that a permit holder submit documentation establishing the factual basis for a revised IFQ fee liability, the permit holder must submit adequate documentation by the 30th day after the date of such request. Examples of such documentation regarding initial sales transactions of IFQ landings include valid fish tickets, sales receipts, or check stubs that clearly identify the IFQ landing amount, species, date, time, and ex-vessel value or price.

(3) *Fee calculation section—(i) Information required.* An IFQ permit holder with an IFQ landing must record the following information on the Fee Calculation page: The name of the IFQ permit holder; the NMFS person identification number; the fee liability amount due for each IFQ permit he or she may hold; the IFQ permit number corresponding to such fee liability amount(s) due; the total price adjustment payment value for all IFQ halibut and/or sablefish (e.g., IFQ retro-payments) received during the reporting period for the IFQ Fee Submission Form as described in § 679.5(1)(7)(ii)(D); and the fee liability amount due for such price adjustments.

(ii) *Calculation of total annual fee amount.* An IFQ permit holder with an IFQ landing must perform the following calculations and record the results on the Fee Calculation page: add all fee liability amount(s) due for each IFQ permit and record the sum as the sub-total fee liability for all permits; multiply price adjustment payment(s) received for each IFQ species by the fee percentage in effect at the time the payment(s) was received by the IFQ permit holder; add the resulting fee liability amounts due for all price adjustment payments for each IFQ species, then enter the sum as the sub-total fee for price adjustments; add the sub-total fee liability for all permits and the sub-total fee for price adjustments, then enter the resulting sum as the total annual fee amount on the Fee

Calculation page and on the Fee Payment page.

(4) *Fee payment and certification section—(i) Information required.* An IFQ permit holder with an IFQ landing must provide his or her NMFS person identification number, signature, and date of signature on the Fee Payment section of the form or provide the electronic equivalent and record the following: his or her printed name; the total annual fee amount as calculated and recorded on the Fee Calculation page; the total of any pre-payments submitted to NMFS that apply to the total annual fee amount; the remaining balance fee; and the enclosed payment amount.

(ii) *Calculation of balance fee payment.* An IFQ permit holder with an IFQ landing must perform the following calculation on the Fee Payment section of the Fee Submission Form: Subtract from the total annual fee amount the total of all pre-payments made (if any) to NMFS and any credits held by NMFS that are applicable to that year's total IFQ cost recovery fees, and record the result as the balance of the fee amount due.

(D) *Reporting Period.* The reporting period of the IFQ Fee Submission Form shall extend from January 1 to December 31 of the year prior to the January 31 due date described in § 679.5(1)(7)(ii)(B).

(m) *Consolidated weekly ADF&G fish tickets from motherships—(1) Requirement.* (i) The operator of a mothership must ensure that any groundfish catch received by a mothership from a catcher vessel that is issued a Federal fisheries permit under § 679.4 is recorded for each weekly reporting period on a minimum of one ADF&G groundfish fish ticket. The operator of a mothership may create a fish ticket for each delivery of catch. (An ADF&G fish ticket is further described at Alaska Administrative Code, 5 AAC Chapter 39.130.) A copy of the Alaska Administrative Code can be obtained from the Alaska Regional Office, see § 600.502 of this chapter, Table 1.

(ii) The operator of a mothership must ensure that the information listed in paragraph (m)(2)(iii) of this section is written legibly or imprinted from the catcher vessel operator's

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State of Alaska, Commercial Fisheries Entry Commission (CFEC) permit card on the consolidated weekly ADF&G fish ticket.

(2) *Information required from the catcher vessel.* (i) The operator of a catcher vessel delivering groundfish to a mothership must complete the parts of the fish ticket listed in paragraph (m)(2)(iii) of this section, sign the fish ticket, and provide it to the operator of the mothership receiving groundfish harvest for submittal to ADF&G.

(ii) If there is a change in the operator of the same catcher vessel during the same weekly reporting period, complete a fish ticket for each operator.

(iii) *Information required:* (A) Name and ADF&G vessel registration number of the catcher vessel;

(B) Name, signature and CFEC permit number of CFEC permit holder aboard the catcher vessel;

(C) The six-digit ADF&G groundfish statistical area denoting the actual area of catch;

(D) Write in gear type used by the catcher vessel, whether hook and line, pot, nonpelagic trawl, pelagic trawl, jig, troll, or other.

(3) *Information required from the mothership.* The operator of a mothership must ensure that the following information is written legibly or imprinted from the mothership's CFEC processor plate card on the consolidated weekly ADF&G fish ticket:

(i) Mothership name and ADF&G processor code;

(ii) Enter "FLD" for port of landing or vessel transhipped to;

(iii) Signature of the mothership operator;

(iv) The week-ending date of the weekly reporting period during which the mothership received the groundfish from the catcher vessel;

(v) Species code for each species from Table 2 to this part, except species codes 120, 144, 168, 169, or 171;

(vi) The product code from Table 1 to this part (in most cases, this will be product code 01, whole fish);

(vii) ADF&G 6-digit statistical area in which groundfish were harvested. If there are more than eight statistical areas for a fish ticket in a weekly reporting period, complete a second fish ticket. These statistical areas are defined in a set of charts obtained at no charge from Alaska Commercial Fisheries Management & Development Division, Department of Fish and Game and are also available on the ADF&G website at <http://www.cf.adfg.state.ak.us/geninfo/statmaps>;

(viii) The landed weight of each species to the nearest pound. If working in metric tons, convert to pounds using 2204.6 lb = 1 mt before recording on fish ticket.

(4) *Time limit and submittal.* (i) The operator of a mothership must complete a minimum of one ADF&G groundfish fish ticket for each catcher vessel by 1200 hours, A.I.t., on Tuesday following the end of the applicable weekly reporting period.

(ii) The operator of a mothership must ensure copy distribution within the indicated time limit or retention of the multiple copies of each consolidated weekly ADF&G groundfish fish ticket (G series) as follows:

If fish ticket color is ...	Distribute to ...	Time limit
(A) White	Retained by Mothership, see paragraph (a)(13)(ii)(D)(6) of this section.	N/A
(B) Yellow	Alaska Commercial Fisheries Management & Development Division, Department of Fish & Game, 211 Mission Road, Kodiak, AK, 99615–6399.	Within 45 days after landings are received
(C) Pink	Catcher vessel delivering groundfish to the mothership.	1200 hours, A.I.t., on Tuesday following the end of the applicable weekly reporting period.
(D) Golden-rod	Extra copy	N/A

(n) *Groundfish CDQ fisheries—(1) CDQ delivery report—(i) Who must submit a CDQ delivery report?* The manager of each shoreside processor and sta-

tionary floating processor taking deliveries of groundfish CDQ or PSQ species from catcher vessels must submit for each delivery a CDQ delivery report,

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unless using the SPELR described at paragraph (e) of this section to submit the required CDQ information.

(ii) *Time limit and submittal.* The manager as defined at paragraph (n)(1)(i) of this section must submit to the Regional Administrator a CDQ delivery report within 24 hours of completion of each delivery of groundfish CDQ or PSQ species to the processor.

(iii) *Information required.* The manager as defined at paragraph (n)(1)(i) of this section must record whether the report is original or a revision and the following information on each CDQ delivery report:

(A) *CDQ group information.* CDQ group number as defined at § 679.2 and CDQ group name or acronym.

(B) *Processor information.* (1) Name and federal processor permit number of the processor as defined at paragraph (n)(1)(i) of this section taking delivery of the CDQ catch.

(2) Date delivery report submitted.

(C) *Vessel and catch information.* (1) Enter the name, Federal Fisheries Permit number if applicable, and ADF&G vessel registration number of the vessel delivering CDQ catch. Write “unnamed” if the vessel has no name;

(2) Enter the delivery date, date fishing began, harvest gear type, and Federal reporting area of CDQ harvest. If caught with trawl gear, check appropriate box(es) to indicate if catch was made in the CVOA or the COBLZ.

(D) *Groundfish CDQ Species in this delivery.* Enter weight by species codes and product codes as defined in Tables 1 and 2 to this part, respectively, of groundfish CDQ species that were delivered. Report the weight of each CDQ species in metric tons to at least the nearest 0.001 mt.

(E) *Halibut CDQ, halibut IFQ and sablefish IFQ in this delivery.* For nontrawl vessels only, enter the product code and product weight for any halibut CDQ, halibut IFQ, and sablefish IFQ in this catch. Submit this same information to the Regional Administrator on an IFQ landing report (see paragraph (l)(2) of this section).

(F) *PSQ information.* For halibut, enter the species code and the weight to the nearest 0.001 mt. For salmon or crab, enter the species code and the number of animals.

(1) Enter PSQ species delivered and discarded from processor by species code and weight or numbers.

(2) Enter at-sea discards of PSQ for vessels without observers by species code and weight or numbers.

(2) *CDQ catch report—(i) Who must submit a CDQ catch report?* The CDQ representative must submit a CDQ catch report for all groundfish catch made by vessels groundfish CDQ fishing as defined at § 679.2 or for any groundfish harvested by vessels greater than or equal to 60 ft (18.3 m) LOA while halibut CDQ fishing and delivered to a shoreside processor, to a stationary floating processor, or to a mothership.

(ii) *Time limit and submittal.* Submit to the Regional Administrator a CDQ catch report:

(A) Within 7 days of the date CDQ catch was delivered by a catcher vessel to a shoreside processor, stationary floating processor, or mothership.

(B) Within 7 days of the date gear used to catch CDQ was retrieved by a catcher/processor.

(iii) *Information required, all CDQ catch reports.* Record whether an original or revised report and the following information on each CDQ catch report:

(A) *Vessel type.* Indicate one appropriate vessel/gear/delivery type.

(B) *Vessel catch information—(1)* Enter the name, Federal fisheries permit number if applicable, and ADF&G vessel registration number of the vessel delivering CDQ catch. Write “unnamed” if the vessel has no name.

(2) *Reporting area.* Enter reporting area in which CDQ catch occurred. If a set occurs in more than one area, record the area code where gear retrieval was completed.

(3) *Gear type.* Circle gear type used to harvest CDQ catch. If caught with trawl gear, check appropriate box(es) to indicate if catch was made in the CVOA or the COBLZ.

(4) (Applicable through July 8, 2002) Indicate the intended target species.

(C) *CDQ group information.* Enter CDQ number as defined at § 679.2, CDQ group name or acronym, and date report submitted to NMFS.

(iv) *Catch and delivery Information: catcher vessels retaining all groundfish CDQ and delivering to shoreside processors or stationary floating processors*

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(Option 1 in the CDP). Record the following information on each applicable CDQ catch report:

(A) *Delivery information.* Name and Federal processor permit number of the shoreside processor or the stationary floating processor taking delivery of the CDQ catch; date catch delivered to processor; and date fishing began on this trip.

(B) *Catch information, groundfish CDQ species.* Report the weight in metric tons to at least the nearest 0.001 mt for each groundfish CDQ species retrieved by a catcher/processor or delivered to a processor as defined in paragraph (n)(1)(i) of this section by product code and species code as defined in Tables 1 and 2 to this part, respectively.

(C) *Catch information, halibut CDQ, halibut IFQ and sablefish IFQ.* For non-trawl vessels only, enter the product code as defined in Table 1 to this part and product weight in metric tons to at least the nearest 0.001 mt for any halibut CDQ, halibut IFQ, and sablefish IFQ in the CDQ delivery. Submit this same information to the Regional Administrator on an IFQ landing report (see § 679.5(1)(2)).

(D) *Mortality information, salmon and crab PSQ.* For salmon or crab, enter the species code, as defined in Table 2 to this part, and the number of animals.

(E) *Mortality information, halibut PSQ.* For halibut PSQ catch, enter the round weight to the nearest 0.001 mt, mortality rate, and overall halibut mortality in metric tons to the nearest 0.001 mt. Use the target fishery designations and halibut bycatch mortality rates in the annual final specifications published in the FEDERAL REGISTER under § 679.20(c).

(v) *Catch and delivery information: catcher/processors, catcher vessels delivering unsorted codends to motherships, or catcher vessels (with observers) using nontrawl gear and discarding groundfish CDQ at sea (Option 2 in the CDP).* Record the following information on each applicable CDQ catch report.

(A) *Delivery information.* (1) If a catcher vessel (with observers) using nontrawl gear, discarding groundfish CDQ at sea, and delivering to a shoreside processor or stationary floating processor, enter name and Federal processor permit number of the shore-

side processor or the stationary floating processor, date catch delivered, and date fishing began on this trip.

(2) If a catcher vessel delivering unsorted codends to a mothership, enter the mothership name and Federal fisheries permit number, observer's haul number for this catch, and date codend is completely onboard the mothership as determined by the Level 2 observer.

(3) If a catcher/processor, the observer's haul number for this catch, and the date on which the gear was retrieved as determined by the Level 2 observer.

(B) *Catch information, groundfish CDQ species.* (See paragraph (n)(2)(iv)(B) of this section).

(C) *Catch information, halibut IFQ/CDQ and sablefish IFQ* (See paragraph (n)(2)(iv)(C) of this section).

(D) *Mortality information, salmon and crab prohibited species.* (See paragraph (n)(2)(iv)(D) of this section).

(E) *Mortality information, halibut PSQ.* (See § 679.5(n)(2)(iv)(E) of this section).

(o) *Catcher vessel cooperative pollock catch report—(1) Applicability.* The designated representative of each AFA inshore processor catcher vessel cooperative must submit to the Regional Administrator a catcher vessel cooperative pollock catch report detailing each delivery of pollock harvested under the allocation made to that cooperative. The owners of the member catcher vessels in the cooperative are jointly responsible for compliance and must ensure that the designated representative complies with the applicable recordkeeping and reporting requirements of this section.

(2) *Time limits and submittal.* (i) The cooperative pollock catch report must be submitted by one of the following methods:

(A) An electronic data file in a format approved by NMFS; or

(B) By FAX.

(ii) The cooperative pollock catch report must be received by the Regional Administrator by 1200 hours, A.l.t. 1 week after the date of completion of delivery.

(3) *Information required.* The cooperative pollock catch report must contain the following information:

(i) Cooperative account number;

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- (ii) Catcher vessel ADF&G number;
- (iii) Inshore processor Federal processor permit number;
- (iv) Delivery date;
- (v) Amount of pollock (in lb) delivered plus weight of at-sea pollock discards;
- (vi) ADF&G fish ticket number.

(p) *Commercial Operator's Annual Report (COAR)*—(1) *Requirement.* The owner of a mothership or catcher/processor must annually complete and submit to ADF&G the appropriate Forms A through M and COAR certification page for each year in which the mothership or catcher/processor was issued a Federal Fisheries permit. The owner of a mothership must include all fish received and processed during the year, including fish received from an associated buying station. The ADF&G COAR is further described under Alaska Administrative Code (5 AAC 39.130) (see § 679.3 (b)(2)).

(2) *Time limit and submittal of COAR.* The owner of a mothership or catcher/processor must submit to ADF&G the appropriate Forms A through M and COAR certification page by April 1 of the year following the year for which the report is required to the following address:

Alaska Department of Fish & Game,
Division of Commercial Fisheries,
Attn: COAR, P.O. Box 25526, Juneau,
AK 99802-5526

(3) *Information required, certification page.* The owner of a mothership or catcher/processor must:

- (i) Enter the company name and address, including street, city, state, and zip code; also seasonal mailing address, if applicable.
- (ii) Enter the vessel name and ADF&G processor code.
- (iii) Check YES or NO to indicate whether fishing activity was conducted during the appropriate year.
- (iv) If response to paragraph (p)(3)(iii) of this section is YES, complete the applicable forms of the COAR (see table 18 to this part) and complete and sign the certification page.
- (v) If response to paragraph (p)(3)(iii) of this section is NO, complete and sign only the certification page.
- (vi) Sign and enter printed or typed name, e-mail address, title, telephone number, and FAX number of owner.

(vii) Enter printed or typed name, e-mail address, and telephone number of alternate contact.

(4) *Buying information (exvessel), Forms A (1-3), C (1-2), E, G, I (1-2), and K.*—(i) *Requirement.* The owner of a mothership (if the first purchaser of raw fish) must complete and submit the appropriate COAR buying forms (A (1-3), C (1-2), E, G, I (1-2), and K) for each species purchased from fishermen during the applicable year.

(ii) *Buying information required.* The owner of the mothership must record the following information on the appropriate COAR buying forms:

(A) Species name and code (see table 2 to this part).

(B) Area purchased (see table 16 to this part).

(C) Gear code (see table 15 to this part).

(D) Delivery code (form G only) (see table 1 to this part).

(E) Total weight (to the nearest lb) purchased from fishermen.

(F) Total amount paid to fishermen, including all post-season adjustments and/or bonuses and any credit received by fishermen for gas expenses, ice, delivery premiums, and other miscellaneous expenses.

(G) Price per pound. If additional adjustments may be made after this report has been filed, the owner must check the "\$ not final" box, and submit Form M when these adjustments are paid. Do not include fish purchased from another processor.

(5) *Production forms, Forms B (1-6), D, F, H, J (1-2), and K.* For purposes of this paragraph, the total wholesale value is the amount that the processor receives for the finished product (free on board pricing mothership or catcher/processor). For products finished but not yet sold (still held in inventory), calculate the estimated value using the average price received to date for that product.

(i) *Requirement—(A) Mothership.* The owner of a mothership must record and submit the appropriate COAR production forms (B(1-6), D, F, H, J(1-2), and K) for all production that occurred for each species during the applicable year:

(J) That were purchased from fishermen on the grounds and/or dockside,

including both processed and unprocessed seafood.

(2) That were then either processed on the mothership or exported out of the State of Alaska.

(B) *Catcher/processor*. The owner of a catcher/processor must record and submit the appropriate COAR production forms (B(1–6), D, F, H, J (1–2), and K) for each species harvested during the applicable year that were then either processed on the vessel or exported out of the State of Alaska.

(ii) *Information required, non-canned production*—(A) Enter area of processing (see table 16 to this part). List production of Canadian-harvested fish separately.

(B) Processed product. Processed product must be described by entering three codes:

(1) Process prefix code (see table 17 to this part)

(2) Process suffix code (see table 17 to this part)

(3) Product code (see table 1 to this part)

(C) Total net weight. Enter total weight (in pounds) of the finished product.

(D) Total value(\$). Enter the total wholesale value of the finished product.

(E) Enter price per pound of the finished product.

(iii) *Information required, canned production*. Complete an entry for each can size produced:

(A) Enter area of processing (see table 16 to this part).

(B) Process 51 or 52. Enter conventional canned code (51) or smoked, conventional canned code (52).

(C) Total value(\$). Enter the total wholesale value of the finished product.

(D) Enter can size in ounces, to the hundredth of an ounce.

(E) Enter number of cans per case.

(F) Enter number of cases.

(6) *Custom production forms, Form L (1–2)*—(i) *Requirement*. The owner of a mothership or catcher/processor must record and submit COAR production form L (1–2) for each species in which custom production was done by the mothership or catcher/processor for another processor and for each species in which custom production was done for the mothership or catcher/processor by another processor.

(ii) *Custom-production by mothership or catcher/processor for another processor*. If the mothership or catcher/processor custom-processed fish or shellfish for another processor during the applicable year, the owner of the mothership or catcher/processor must list the processor name and ADF&G processor code (if known) to describe that processor, but must not include any of that production in production form L (1–2).

(iii) *Custom-production by another processor for mothership or catcher/processor*. If a processor custom-processed fish or shellfish for the mothership or catcher/processor during the applicable year, the owner of the mothership or catcher/processor must use a separate page to list each processor and must include the following information.

(A) *Custom fresh/frozen miscellaneous production*. The owner of a mothership or catcher/processor must list the following information to describe production intended for wholesale/retail market and that are not frozen for canning later:

(1) Species name and code (see table 2 to this part).

(2) Area of processing (see table 16 to this part).

(3) Processed product. Processed product must be entered using three codes:

(i) Process prefix code (see table 17 to this part).

(ii) Process suffix code (see table 17 to this part).

(iii) Product code (see table 1 to this part).

(4) Total net weight. Enter total weight in pounds of the finished product.

(5) Total wholesale value(\$). Enter the total wholesale value of the finished product.

(B) *Custom canned production*. The owner of a mothership or catcher/processor must list the following information to describe each can size produced in custom canned production:

(1) Species name and code (see table 2 to this part).

(2) Area of processing (see table 16 to this part).

(3) Process 51 or 52. Enter conventional canned code (51) or smoked, conventional canned code (52).

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(4) Total wholesale value (\$). Enter the total wholesale value of the finished product.

(5) Can size in ounces, to the hundredth of an ounce.

(6) Number of cans per case.

(7) Number of cases.

(7) *Fish buying retro payments/post-season adjustments, Form M*—(i) *Requirement*. The owner of a mothership must record and submit COAR production Form M to describe additional adjustments and/or bonuses awarded to a fisherman, including credit received by fishermen for gas expenses, ice, delivery premiums, and other miscellaneous expenses.

(ii) *Information required*—(A) Enter species name and code (see table 2 to this part).

(B) Enter area purchased (see table 16 to this part)

(C) Enter gear code (see table 16 to this part).

(D) Enter total pounds purchased from fisherman.

(E) Enter total amount paid to fishermen (base + adjustment).

[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; 63 FR 30399, June 4, 1998; 63 FR 47356, Sept. 4, 1998; 64 FR 61972, Nov. 15, 1999; 64 FR 69673, Dec. 14, 1999; 65 FR 14923, Mar. 20, 2000; 65 FR 41380, July 5, 2000; 66 FR 13672, Mar. 7, 2001; 66 FR 27910, May 21, 2001; 66 FR 43526, Aug. 20, 2001; 67 FR 999, Jan. 8, 2002; 67 FR 4108, Jan. 28, 2002; 67 FR 5148, Feb. 4, 2002; 67 FR 22011, May 2, 2002]

§ 679.6 Exempted 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 exempted fishing may be conducted unless authorized by an exempted fishing permit issued by the Regional Administrator to the participating vessel owner in accordance with the criteria and procedures specified in this section. Exempted 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 exempted fishing permit shall submit to the Regional Administrator, at least 60 days before the desired effective date of the exempted 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 exempted fishing permit is needed, including a general description of the arrangements for disposition of all species harvested under the exempted 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 exempted 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 exempted fishing permit need not be the owner or operator of the vessel(s) for which the exempted 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, NMF'S 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 exempted 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 exempted 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 exempted 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 exempted 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 exempted 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 exempted 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 exempted 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 exempted 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 exempted fishing permit.

(3) The time(s) and place(s) where exempted fishing may be conducted.

(4) The type, size, and amount of gear that may be used by each vessel operated under the exempted fishing permit.

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(5) The condition that observers be carried aboard vessels operated under an exempted fishing permit.

(6) Reasonable data reporting requirements.

(7) Such other conditions as may be necessary to assure compliance with the purposes of the exempted fishing permit and consistency with the FMP objectives.

(8) Provisions for public release of data obtained under the exempted fishing permit.

(f) *Effectiveness.* Unless otherwise specified in the exempted fishing permit or superseding notification or regulation, an exempted fishing permit is effective for no longer than 1 calendar year, but may be revoked, suspended, or modified during the calendar year. Exempted fishing permits may be renewed following the application procedures in paragraph (b) of this section.

(g) *Recordkeeping and reporting requirements.* In addition to the recordkeeping and reporting requirements in this section, the operator or manager must comply with requirements at §679.5(a) through (k).

[61 FR 31230, June 19, 1996, as amended at 64 FR 61981, Nov. 15, 1999; 67 FR 4148, Jan. 28, 2002; 67 FR 22017, May 2, 2002]

§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 in the GOA or BSAI with a vessel of the United States that does not have on board a valid Federal fisheries permit issued pursuant to §679.4.

(2) Conduct any fishing contrary to notification of inseason action, closure, or adjustment issued under §679.20, §679.21, §679.22, §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) *Prohibited species 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—*(i) (*Applicable through December 31, 2004.*) Operate any vessel in the BSAI in more than one of the two categories included in the definition of “inshore component in the BSAI,” in §679.2, during any fishing year.

(ii) (*Applicable through December 31, 2004.*) Operate any vessel in the BSAI under both the “inshore component in the BSAI” and the “offshore component in the BSAI” definitions in §679.2 during the same fishing year.

(iii) (*Applicable through December 31, 2001.*) Operate any vessel in the BSAI under both the “inshore component in the GOA” and the “offshore component in the BSAI” or under both the “offshore component in the GOA” and the “inshore component in the BSAI” definitions in §679.2 during the same fishing year.

(iv) (*Applicable through December 31, 2001.*) Operate any vessel in the GOA in more than one of the three categories included in the definition of “inshore component in the GOA,” in §679.2, during any fishing year.

(v) (*Applicable through December 31, 2001.*) Operate any vessel in the GOA under both the “inshore component in the GOA” and the “offshore component in the GOA” definitions in §679.2 during the same fishing year.

(vi) (*Applicable through December 31, 2001.*) Operate any vessel in the GOA under both the “inshore component in

the GOA” and the “offshore component in the BSAI” or under both the “offshore component in the GOA” and the “inshore component in the BSAI” definitions in §679.2 during the same fishing year.

(vii) (*Applicable through December 31, 2001*). Operate any vessel that processes pollock or Pacific cod, harvested in a directed fishery for those species, at a single location in Alaska State waters under the “inshore component in the BSAI” and the “inshore component in the GOA” 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*. (i) Fail to comply with or fail to ensure compliance with requirements in §§679.4 or 679.5.

(ii) Alter, erase, or mutilate any permit, card or document issued under §§679.4 or 679.5.

(iii) Fail to submit or submit inaccurate information on, any report, application, or statement required under this part.

(iv) Intentionally submit false information on any report, application, or statement required under this part.

(11) *Buying station*—(i) *Tender vessel*. Use a catcher vessel or catcher/proc-

essor as a tender vessel before off-loading all groundfish or groundfish product harvested or processed by that vessel.

(ii) *Associated processor*. Function as a vessel or land-based buying station without an associated processor.

(12) *Prohibited species donation program*. Retain or possess prohibited species, defined at §679.21(b)(1), except as permitted to do so under the PSD program as provided by §679.26 of this part, 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 gear performance standard*—

(i) *BSAI*. Use a vessel to participate in a non-CDQ directed fishery for pollock using trawl gear and have on board the vessel, at any particular time, 20 or more crabs of any species that have a carapace width of more than 1.5 inches (38 mm) at the widest dimension.

(ii) *GOA*. Use a vessel to participate in a directed fishery for pollock using trawl gear when directed fishing for pollock with nonpelagic trawl gear is closed and have on board the vessel, at any particular time, 20 or more crabs of any species that have a carapace width of more than 1.5 inches (38 mm) at the widest dimension.

(15) *Federal Processor Permit*. Receive or process groundfish harvested in the

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GOA or BSAI by a shoreside processor or stationary floating processor that does not have on site a valid Federal processor permit issued pursuant to §679.4(f).

(16) *Retention of groundfish bycatch species.* Exceed the maximum retainable groundfish amount established under §679.20(e).

(17) *Tender vessel* (applicable through July 8, 2002).

(i) Use a catcher vessel or catcher/processor as a tender vessel before off-loading all groundfish or groundfish product harvested or processed by that vessel.

(ii) Use a catcher vessel or catcher/processor to harvest groundfish while operating as a tender vessel.

(18) *Pollock, Pacific cod, and Atka mackerel directed fishing and VMS* (applicable 1200 hours A.l.t., June 10, 2002, through July 8, 2002). Operate a vessel which is authorized under § 679.4 (b)(5)(v) to participate in the Atka mackerel, Pacific cod or pollock directed fisheries in any BSAI or GOA reporting areas, unless the vessel carries an operable NMFS-approved Vessel Monitoring System (VMS) transmitter and complies with the requirements in § 679.28(f).

(19) *Atka Mackerel Harvest Limit Area Groundfish Prohibition* (applicable through July 8, 2002). For vessels registered for the Atka mackerel harvest limit area directed fishery under §679.20(a)(8)(iii), conduct directed fishing for groundfish, other than Atka mackerel in an assigned harvest limit area directed fishery under §679.20(a)(8)(iii), during the time period that the first Atka mackerel directed fishery assigned to the vessel under §679.20(a)(8)(iii)(B) is open.

(b) *Prohibitions specific to GOA.* Use any gear other than non-trawl gear in the GOA east of 140° W. long. (Southeast Outside District).

(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.

(3) Use a vessel to participate in a directed fishery for Atka mackerel in the Aleutian Islands subarea unless that vessel carries a NMFS-approved Vessel Monitoring System (VMS) transmitter and complies with the requirements described at §679.28(f).

(d) *CDQ.* (1) Participate in a Western Alaska CDQ program in violation of this part.

(2) Fail to submit, submit inaccurate information on, or intentionally submit false information on any report, application, or statement required under this part.

(3) Participate as a community in more than one CDP, unless the second CDP is for vessels fishing halibut CDQ only.

(4) Harvest groundfish CDQ on behalf of a CDQ group with a vessel that is not listed as an eligible vessel on an approved CDP for that CDQ group.

(5) For a CDQ group, exceed a CDQ, halibut PSQ, or crab PSQ.

(6) For the operator of an eligible vessel listed on an approved CDP, use trawl gear to harvest groundfish CDQ in Zone 1 after the CDQ group's red king crab PSQ or *C. bairdi* Tanner crab PSQ in Zone 1 is attained.

(7) For the operator of an eligible vessel listed on an approved CDP, use trawl gear to harvest groundfish CDQ in Zone 2 after the CDQ group's PSQ for *C. bairdi* Tanner crab in Zone 2 is attained.

(8) For the operator of an eligible vessel listed on an approved CDP, use trawl gear to harvest groundfish CDQ in the *C. opilio* Bycatch Limitation Zone after the CDQ group's PSQ for *C. opilio* Tanner crab is attained.

(9) For the operator of an eligible vessel listed on an approved CDP, use trawl gear to harvest pollock CDQ in the Chinook Salmon Savings Area between January 1 and April 15, and between September 1 and December 31, after the CDQ group's chinook salmon PSQ is attained.

(10) For the operator of an eligible vessel listed on an approved CDP, use trawl gear to harvest groundfish CDQ in the Chum Salmon Savings Area between September 1 and October 14 after

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the CDQ group's non-chinook salmon PSQ is attained.

(11) For the operator of a catcher vessel using trawl gear or any vessel less than 60 ft (18.3 m) LOA that is groundfish CDQ fishing as defined at §679.2, discard any groundfish CDQ species or salmon PSQ before it is delivered to an eligible processor listed on an approved CDP unless discard of the groundfish CDQ is required under other provisions or, in waters within the State of Alaska, discard is required by laws of the State of Alaska.

(12) For the operator of a vessel using trawl gear, release CDQ catch from the codend before it is brought on board the vessel and weighed on a scale approved by NMFS under §679.28(b) or delivered to a processor. This includes, but is not limited to, "codend dumping" and "codend bleeding."

(13) For the operator of a catcher vessel, catch, retain on board, or deliver groundfish CDQ species together with license limitation groundfish.

(14) For the operator of a catcher/processor, catch groundfish CDQ species together with license limitation groundfish in the same haul, set, or pot.

(15) For the operator of a catcher/processor or a catcher vessel required to carry a CDQ observer, combine catch from two or more CDQ groups in the same haul or set.

(16) Use any groundfish CDQ species as a basis species for calculating maximum retainable amounts of non-CDQ species under §679.20.

(17) For the operator of a catcher/processor using trawl gear or a mothership, harvest or take deliveries of CDQ or PSQ species without a valid scale inspection report signed by an authorized scale inspector under §679.28(b)(2) on board the vessel.

(18) For the operator of a vessel required to have an observer sampling station described at §679.28(d), harvest or take deliveries of CDQ or PSQ species without a valid observer sampling station inspection report issued by NMFS under §679.28(d)(8) on board the vessel.

(19) For the operator of a catcher/processor using trawl gear or a mothership, sort, process, or discard CDQ or PSQ species before the total

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catch is weighed on a scale that meets the requirements of §679.28(b), including the daily test requirements described at §679.28(b)(3).

(20) For the manager of a shoreside processor, stationary floating processor or the manager or operator of a buying station that is required elsewhere in this part to weigh catch on a scale approved by the State of Alaska under §679.28(c), fail to weigh catch on a scale that meets the requirements of §679.28(c).

(21) For a CDQ representative, use methods other than those approved in the CDP to determine the catch of CDQ and PSQ reported to NMFS on the CDQ catch report.

(22) For a CDQ group, report catch of sablefish CDQ for accrual against the fixed gear sablefish CDQ reserve if that sablefish CDQ was caught with fishing gear other than fixed gear.

(23) For any person on a vessel using fixed gear that is fishing for a CDQ group with an allocation of fixed gear sablefish CDQ, discard sablefish harvested with fixed gear unless retention of sablefish is not authorized under 50 CFR 679.23(e)(4)(ii) or, in waters within the State of Alaska, discard is required by laws of the State of Alaska.

(24) For a CDQ group, fail to ensure that all vessels and processors listed as eligible on the CDQ group's approved CDP comply with all regulations in this part while fishing for CDQ.

(25) Fail to comply with the requirements of a CDP.

(e) [Reserved]

(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)(i) *Halibut*. Retain halibut caught with fixed gear without a valid IFQ or CDQ permit and without an IFQ or CDQ card in the name of an individual aboard.

(ii) *Sablefish*. Retain sablefish caught with fixed gear without a valid IFQ permit and without an IFQ card in the name of an individual aboard, except as provided under an approved CDP.

(4) Except as provided in §679.40(d), retain IFQ halibut or IFQ sablefish on

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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 vessel, 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 or CDQ halibut or IFQ sablefish harvested or landed in violation of any provision of this part.

(6) Make an IFQ halibut, IFQ sablefish, or CDQ halibut landing without an IFQ or CDQ 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:

(i) In the GOA:

(A) Rockfish that are taken when IFQ halibut or IFQ sablefish are on board unless rockfish are required to be discarded under subpart B of this part.

(B) Pacific cod that are taken when IFQ halibut or IFQ sablefish are on board unless Pacific cod are required to be discarded under subpart B of this part, or Pacific cod are not authorized to be retained under subpart A of this part.

(ii) In the BSAI:

(A) Rockfish that are taken when IFQ halibut or IFQ sablefish are on board unless rockfish are required to be discarded under subpart B of this part.

(B) Pacific cod that are taken when IFQ halibut or IFQ sablefish are on board according to the following table:

If the vessel operator . . .	Then . . .
(1) has an LLP groundfish license with a Pacific cod endorsement that meets the requirements of §679.4(k)(9).	Pacific cod must not be discarded unless Pacific cod are required to be discarded under subpart B of this part, or Pacific cod are not authorized to be retained under subpart A of this part.
(2) does not have an LLP groundfish license with a Pacific cod endorsement that meets the requirements of §679.4(k)(9).	Pacific cod must not be discarded up to the retainable amount specified in Table 11 of this part unless Pacific cod are required to be discarded under subpart B of this part, or Pacific cod are not authorized to be retained under subpart A of this part.

(iii) In the waters within the State of Alaska:

(A) Rockfish that are taken when IFQ halibut or IFQ sablefish are on board unless rockfish are required to be discarded by the laws of the State of Alaska.

(B) Pacific cod that are taken when IFQ halibut or IFQ sablefish are on board unless Pacific cod are required to be discarded by the 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 halibut, IFQ sablefish, or CDQ halibut 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 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;

(16) (Applicable May 1, 2002, through July 8, 2002) Discard Pacific cod or rockfish that are taken when IFQ halibut or IFQ sablefish are on board, unless:

(i) Pacific cod or rockfish are required to be discarded under § 679.20,

(ii) the vessel is not registered under § 679.4 for the Pacific cod directed fishery and the amount of Pacific cod harvested has reached the maximum retainable amount under § 679.20(e), or

(iii) in waters within the State of Alaska, Pacific cod or rockfish are required to be discarded by laws of the State of Alaska.

(g) *Groundfish Observer Program.* (1) Forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, 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) *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).

(i) *License Limitation Program—(1) Number of licenses.* (i) Hold more than 10 groundfish licenses in the name of that person at any time, except as provided in paragraph (i)(1)(iii) of this section;

(ii) Hold more than five crab species licenses in the name of that person at any time, except as provided in paragraph (i)(1)(iii) of this section; or

(iii) Hold more licenses than allowed in paragraphs (i)(1)(i) and (i)(1)(ii) of this section unless those licenses were issued to that person in the initial distribution of licenses. Any person who receives in the initial distribution more licenses than allowed in paragraphs (i)(1)(i) and (i)(1)(ii) of this section shall have no transfer applications for receipt of additional licenses approved until the number of licenses in the name of that person is less than the numbers specified in paragraphs (i)(1)(i) and (i)(1)(ii) of this section; furthermore, when a person becomes eligible to receive licenses by transfer through the provisions of this paragraph, that person is subject to the provisions in paragraphs (i)(1)(i) and (i)(1)(ii) of this section;

(iv) Hold more than two scallop licenses in the name of that person at any time.

(2) Conduct directed fishing for license limitation groundfish without an original valid groundfish license, except as provided in § 679.4(k)(2);

(3) Conduct directed fishing for crab species without an original valid crab license, except as provided in § 679.4(k)(2);

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(4) Process license limitation groundfish on board a vessel without an original valid groundfish license with a Catcher/processor designation;

(5) Process crab species on board a vessel without an original valid crab species license with a Catcher/processor designation;

(6) Use a vessel to fish for LLP groundfish or crab species, or allow a vessel to be used to fish for LLP groundfish or crab species, that has an LOA that exceeds the MLOA specified on the license that authorizes fishing for LLP groundfish or crab species.

(7) Lease a groundfish, crab species, or scallop license; or

(8) Catch and retain scallops:

(i) Without an original valid scallop license on board;

(ii) Using a vessel with a MLOA greater than that specified on the scallop license; or

(iii) Using dredge gear contrary to a gear limitation specified on the scallop license.

(9) Use a vessel to fish for LLP groundfish or crab species, or allow a vessel to be used to fish for LLP groundfish or crab species, other than the vessel named on the license that authorizes fishing for LLP groundfish or crab species.

(j) *Prohibitions specific to the GOA* (applicable through July 8, 2002)—(1) *Southeast Outside trawl closure*. Use any gear other than non-trawl gear in the GOA east of 140° W long.

(2) *Catcher vessel trip limit for pollock*. Retain on board a catcher vessel at any time during a trip, more than 300,000 lb (136 mt) of unprocessed pollock.

(3) *Tender vessel restrictions for pollock*. (i) Operate as a tender vessel east of 157°00' W long. for pollock harvested in the GOA.

(ii) Operate as a tender vessel west of 157°00' W long. while retaining on board at any time more than 600,000 lb (272 mt) of unprocessed pollock.

(k) *Prohibitions specific to AFA* (applicable January 15, 2002, through July 8, 2002) It is unlawful for any person to do any of the following:

(1) *Catcher vessels*. Use an AFA catcher vessel to retain any BSAI crab species unless the catcher vessel's AFA permit contains a crab sideboard endorsement for that crab species.

(2) *Crab processing limits*. It is unlawful for an AFA entity that processes pollock harvested in the BSAI directed pollock fishery by an AFA inshore or AFA mothership catcher vessel cooperative to use an AFA crab facility to process crab in excess of the crab processing sideboard cap established for that AFA inshore or mothership entity. The owners and operators for the individual entities comprising the AFA inshore or mothership entity will be held jointly and severally liable for any overages of the AFA inshore or mothership entity's crab processing sideboard cap.

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTES: 1. At 67 FR 999, Jan. 8, 2002, § 679.7 was amended by suspending paragraphs (a)(11), (b), (d)(16), and (d)(23), effective Jan. 1, 2002 until July 8, 2002; suspending paragraph (c)(3) June 10, 2002, until July 8, 2002; and adding paragraphs (a)(7)(iii) through (vii), effective Jan. 1, 2002, and paragraph (k), effective Jan. 15, 2002, through July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002. For the convenience of the user paragraphs (a)(7)(iii) through (vii) follow:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(7) * * *

(iii) (Applicable through July 8, 2002) Operate any vessel in the BSAI under both the "inshore component in the GOA" and the "offshore component in the BSAI" or under both the "offshore component in the GOA" and the "inshore component in the BSAI" definitions in § 679.2 during the same fishing year.

(iv) (Applicable through July 8, 2002) Operate any vessel in the GOA in more than one of the three categories included in the definitions of "inshore component in the GOA," in § 679.2, during any fishing year.

(v) (Applicable through July 8, 2002) Operate any vessel in the GOA under both the "inshore component in the GOA" and the "offshore component in

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the GOA” definitions in § 679.2 during the same fishing year.

(vi) (Applicable through July 8, 2002) Operate any vessel in the GOA under both the “inshore component in the GOA” and the “offshore component in the BSAI” or under both the “offshore component in the GOA” and the “inshore component in the BSAI” definitions in § 679.2 during the same fishing year.

(vii) (Applicable through July 8, 2002) Operate any vessel that processes pollock or Pacific cod, harvested in a directed fishery for those species, at a single location in Alaska State waters under the “inshore component in the BSAI” and the “inshore component in the GOA” definitions in § 679.2 during the same fishing year.

* * * * *

2. At 67 FR 18139, Apr. 15, 2002, § 679.7 was amended by removing paragraph (d)(26), and revising paragraphs (d)(11), (d)(16), (d)(23), and (f)(8), effective May 15, 2002.

3. At 67 FR 21604, May 1, 2002, § 679.7 was amended by correcting paragraph (a)(18), effective June 10, 2002, through July 8, 2002, suspending paragraph (f)(8) from May 1, 2002, until July 8, 2002, and by adding paragraph (f)(16), effective May 1, 2002, through July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

§ 679.8 Facilitation of enforcement.

See § 600.730 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) *Eastern GOA regulatory area*. Vessels in the Eastern GOA regulatory area of the GOA using trawl gear will be allocated 5 percent of the sablefish TAC for bycatch in other trawl fisheries.

(ii) *Central and western GOA regulatory areas*—(A) *Hook-and-line gear*. Vessels in the Central and western GOA regulatory areas using hook-and-line gear will be allocated 80 percent of the sablefish TAC in each of the Central and Western GOA regulatory 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) *BSAI seasonal allowances* (applicable through July 8, 2002)—(1) *Inshore, catcher/processor, mothership, and CDQ components*. The portions of the BS subareas pollock directed fishing allowances allocated to each component under sections 206(a) and 206(b) of the American Fisheries Act will be divided into two seasonal allowances corresponding to the two fishing seasons set out at § 679.23(e)(5), as follows: A Season, 40 percent; B Season, 60 percent.

(2) *Inseason adjustments*. Within any fishing year, the Regional Administrator will add or subtract any under harvest or over harvest of a seasonal allowance for a component to the subsequent seasonal allowance for the component through notification published in the FEDERAL REGISTER.

(C) (F) [Reserved]

(F) *Steller sea lion conservation area harvest limit* (applicable through July 8, 2002).

(1) For each component under Sections 206(a) and 206(b) of the American Fisheries Act and for the open access fishery, no more than 28 percent of the annual pollock directed fishery allowance may be taken from the Steller sea lion conservation area (SCA) before April 1. The SCA is defined at § 679.22(a)(11)(vii).

(2) After April 1, the unharvested amount available in the SCA before April 1 is available for directed fishing either within or outside the SCA during the remainder of the A season.

(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, 35 percent, and 40 percent of the apportionment, respectively, corresponding to the three fishing seasons defined at § 679.23(d)(2).

(C) *GOA seasonal apportionments* (applicable through July 8, 2002). Each apportionment established under paragraph (a)(5)(ii)(A) of this section will be divided into four seasonal apportionments corresponding to the four fishing seasons set out at § 679.23(d)(3) of this part as follows: A Season, 25 percent; B Season, 25 percent; C Season, 25 percent; D Season, 25 percent. Within any fishing year, under harvest or over harvest of a seasonal apportionment may be added to or subtracted from remaining seasonal apportionments in a manner to be determined by the Regional Administrator, provided that any revised seasonal apportionment does not exceed 30 percent of the annual TAC apportionment for the combined GOA Western and Central Regulatory Areas.

(6) *Inshore-offshore apportionments*—(i) *BSAI pollock (applicable through December 31, 2004)*. The apportionment of pollock in each BSAI subarea or district and season between the inshore component in the BSAI and the offshore component in the BSAI will be the same as that specified in section 206(b) of the American Fisheries Act.

(ii) *GOA pollock (applicable through December 31, 2001)*. The apportionment of pollock in all GOA regulatory areas and for each season allowance described in paragraph (a)(5)(ii) of this section will be allocated entirely to vessels catching pollock for processing by the inshore component in the GOA after subtraction of an amount that is projected by the Regional Administrator to be caught by, or delivered to, the offshore component in the GOA incidental to directed fishing for other groundfish species.

(iii) *GOA Pacific cod (applicable through December 31, 2001)*. 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 in the GOA and 10 percent to vessels catching Pacific cod for processing by the offshore component in the GOA.

(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) *Allocations among vessels using hook-and-line or pot gear (Applicable through December 31, 2003)*. (1) The Regional Administrator annually will estimate the amount of Pacific cod taken as incidental catch in directed fisheries for groundfish other than Pacific cod by vessels using hook-and-line or pot gear and deduct that amount from the portion of Pacific cod TAC annually allocated to hook-and-line or pot gear under paragraph (a)(7)(i)(A) of this section. The remainder will be further allocated as directed fishing allowances as follows:

(i) 80 percent to catcher/processor vessels using hook-and-line gear;

(ii) 0.3 percent to catcher vessels using hook-and-line gear;

(iii) 18.3 percent to vessels using pot gear; and

(iv) 1.4 percent to catcher vessels less than 60 ft LOA that use either hook-and-line or pot gear.

(2) Harvests of Pacific cod made by catcher vessels less than 60 ft LOA using pot gear will not accrue to the 1.4 percent allocation under paragraph (a)(7)(i)(C)(I)(iv) of this section until vessels using pot gear have harvested the 18.3 percent allocated to all vessels using pot gear under paragraph (a)(7)(i)(C)(I)(iii) of this section.

(3) Harvests of Pacific cod made by catcher vessels less than 60 ft LOA using hook-and-line gear will not accrue to the 1.4 percent allocation under paragraph (a)(7)(i)(C)(I)(iv) of this section until catcher vessels using hook-and-line gear have harvested the 0.3 percent allocated to all catcher vessels using hook-and-line gear under paragraph (a)(7)(i)(C)(I)(ii) of this section.

(4) (Applicable through July 8, 2002) Harvest of Pacific cod made by catcher vessels less than 60 ft (18.3 m) LOA using pot gear:

(i) Will accrue against the 18.3 percent specified in paragraph (a)(7)(i)(C)(I)(iii) of this section when the Pacific cod fishery for vessels equal

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to or greater than 60 ft (18.3 m) LOA using pot gear is open.

(ii) Will accrue against the 1.4 percent specified in paragraph (a)(7)(i)(C)(I)(iv) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear is closed.

(5) (Applicable through July 8, 2002) Harvest of Pacific cod made by catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line gear:

(i) Will accrue against the 0.3 percent specified in paragraph (a)(7)(i)(C)(I)(ii) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line gear is open.

(ii) Will accrue against the 1.4 percent specified in paragraph (a)(7)(i)(C)(I)(iv) of this section when the Pacific cod fishery for vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line gear is closed.

(D) The Regional Administrator may establish separate directed fishing allowances and prohibitions authorized under paragraph (d) of this section for vessels harvesting Pacific cod using trawl gear, jig gear, hook-and-line gear, or pot 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 among vessels using hook-and-line or pot gear*. If, during a fishing year, the Regional Administrator determines that catcher vessels using hook-and-line gear or vessels less than 60 ft LOA using hook-and-line or pot gear will not be able to harvest the directed fishing allowance of Pacific cod allocated to those vessels under paragraphs (a)(7)(i)(C)(I)(ii) or (a)(7)(i)(C)(I)(iv) of this section, NMFS may reallocate the projected unused amount of Pacific cod as a directed fishing allowance to catcher/processor

vessels using hook-and-line gear through notification in the FEDERAL REGISTER.

(C) *Reallocation between vessels using trawl or non-trawl gear*. If, during a fishing year, the Regional Administrator determines that vessels using trawl gear, hook-and-line gear, pot gear or jig 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)(A), (a)(7)(i)(B) or (a)(7)(i)(C) 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, except as provided below:

(1) *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 only to vessels using hook-and-line or pot gear through notification in the FEDERAL REGISTER.

(2) *Reallocation of TAC to catcher/processor vessels using hook-and-line gear or vessels using pot gear*. Any unharvested amounts of Pacific cod TAC that are reallocated from vessels using trawl or jig gear to catcher/processor vessels using hook-and-line gear or vessels using pot gear to increase directed allowances established under paragraphs (a)(7)(i)(C)(I)(i) or (a)(7)(i)(C)(I)(iii) of this section, will be apportioned so that catcher/processor vessels using hook-and-line gear will receive 95 percent and vessels using pot gear will receive 5 percent of any such reallocation.

(D) *Reallocation within the trawl sector* (applicable through July 8, 2002). If, during a fishing season, the Regional Administrator determines that either catcher vessels using trawl gear or catcher/processors using trawl gear will not be able to harvest the entire amount of Pacific cod in the BSAI allocation to those vessels under paragraphs (a)(7)(i), (a)(7)(ii)(C) or (a)(7)(iii)(D) of this section, he/she may reallocate the projected unused amount of Pacific cod to vessels using

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trawl gear in the other trawl component through notification in the FEDERAL REGISTER before any reallocation to vessels using other gear type(s).

(E) *Unused seasonal allowance for trawl* (applicable through July 8, 2002). Any unused portion of a seasonal allowance of Pacific cod for vessels using trawl gear under paragraphs (a)(7)(ii)(D) and (a)(7)(iii)(D) of this section may be reapportioned by the Regional Administrator, through notification in the FEDERAL REGISTER, to the subsequent seasonal allocations for vessels using trawl gear.

(iii) *Seasonal allowances—(A) Time periods.* NMFS, after consultation with the Council, may divide the directed fishing allowances allocated to vessels using hook-and-line or pot gear under paragraph (a)(7)(i)(C) 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 under paragraph (a)(7)(i)(C) will be reallocated to the remaining seasons during the current fishing year in a manner determined by NMFS, after consultation with the Council.

(D) *Seasonal apportionment and gear allocations* (applicable through July 8, 2002). The Pacific cod BSAI gear allocations and apportionments by seasons, as specified in § 679.23 (e)(6), are as follows:

Gear type	A season (percent)	B season (percent)	C season (percent)
Trawl	60	20	20
Trawl CV	70	10	20
Trawl CP	50	30	20

Gear type	A season (percent)	B season (percent)	C season (percent)
Hook-and-line ≥60 ft (18.3 m) LOA, non-CDQ pot vessels ≥60 ft (18.3 m) LOA, and jig vessels	60	40	
All other nontrawl vessels	No seasonal apportionment.		

CV = catcher vessels.
CP = catcher/processor vessels.

(8) *BSAI Atka mackerel—(i) Jig gear.* Vessels using jig gear will be allocated up to 2 percent of the TAC of Atka mackerel specified for the Eastern Aleutian Islands District and Bering Sea subarea, after subtraction of reserves, based on the following criteria:

(A) The amount of Atka mackerel harvested by vessels using jig gear during recent fishing years;

(B) The anticipated harvest of Atka mackerel by vessels using jig gear during the upcoming fishing year; and

(C) The extent to which the jig-gear allocation will support the development of a jig-gear fishery for Atka mackerel while minimizing the amount of Atka mackerel TAC annually allocated to vessels using jig gear that remains unharvested at the end of the fishing year.

(ii) *Other gears.* The remainder of the Atka mackerel TAC, after subtraction of the jig gear allocation and reserves, will be allocated to vessels using other authorized gear types.

(A) *Seasonal allowances.* The Atka mackerel TAC specified for each subarea or district of the BSAI will be divided equally, after subtraction of the jig gear allocation and reserves, into two seasonal allowances corresponding to the A and B seasons defined at § 679.23(e)(3).

(B) *Overages and underages.* Within any fishing year, unharvested amounts of the A season allowance will be added to the B season allowance and harvests in excess of the A season allowance will be deducted from the B season allowance.

(C) *Atka mackerel harvest limit area* (applicable through July 8, 2002). Harvest of Atka mackerel is limited in the harvest limit area, as defined in § 679.2, as follows:

(1) For the Atka mackerel harvest limit area as defined in § 679.2, the Regional Administrator will establish a

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harvest limit of no more than 60 percent of the seasonal TAC as specified in paragraph (a)(8)(ii)(A) of this section.

(2) *CDQ fishing.* A CDQ group is prohibited from exceeding the CDQ portion of the percentage of annual Atka mackerel in the Western and/or Central districts of the AI specified in paragraph (a)(8)(ii)(C)(1) of this section for the harvest limit area as defined in § 679.2.

(iii) *Platoon management of Atka mackerel harvest limit area directed fishing* (applicable through December 31, 2002)—(A) *Registration.* All vessels using trawl gear for directed fishing for Atka mackerel in the HLA, as defined in § 679.2, are required to register with NMFS. To register, the vessel owner or operator must provide information required by § 679.4(b)(5)(vii) for an endorsement to the vessel's Federal fishery permit issued under § 679.4.

(1) To participate in the A season HLA fishery, registration information must be received by NMFS, Restricted Access Management Program, by 4:30 p.m., A.l.t., on the first working day following January 15, 2002.

(2) To participate in the B season HLA fishery,

(i) The vessel must be registered for the A season HLA fishery and must be registered for the HLA fishery through August 1, 2002, or

(ii) Registration information for the HLA fishery must be received by NMFS, Restricted Access Management Program, by 4:30 p.m., A.l.t., August 1, 2002.

(B) *Platoon assignment.* For each season, NMFS will manage the harvest limit area fishery for the vessels registered to fish in areas 542 or 543 under paragraph (a)(8)(iii)(A) of this section as follows:

(1) *Lottery.* The Regional Administrator or his/her designee randomly will assign each vessel to a platoon for one of two directed fisheries for each statistical area in which the vessel is registered under paragraph (a)(8)(iii)(A) of this section. Each platoon within a statistical area will be assigned an equal number of vessels unless there is an odd number of vessels registered under paragraph (a)(8)(iii)(A) of this section. In the case of an odd number of vessels, the Regional Administrator

will assign one additional vessel to one platoon. Vessels registering under paragraph (a)(8)(iii)(A) of this section to fish in both area 542 and area 543 will be randomly assigned to a harvest limit area directed fishery in area 542 and will be placed in the area 543 harvest limit area directed fishery occurring at an alternate time during the season.

(2) *Notification.* The Regional Administrator will provide the results of the lottery under (a)(8)(iii)(B)(1) of this section by notification published in the FEDERAL REGISTER and other means of practicable notification.

(C) *Harvest limit area directed fisheries.* 48 hours after a seasonal closure of the area 541 Atka mackerel directed fishery, the Regional Administrator will open the directed fisheries within the harvest limit area in areas 542 and 543, as defined at § 679.2. The Regional Administrator will provide notification by publication in the FEDERAL REGISTER of the opening and closure date of the directed fisheries, as determined by paragraph (a)(8)(iii)(E) of this section. Closures specified in Table 24 of this part and in § 679.22(a)(12) will remain in effect.

(D) *Harvest limit area harvest limit.* The Regional Administrator will establish the harvest limit for each harvest limit area directed fishery for areas 542 and 543 based on the seasonal apportionment at paragraph (a)(8)(ii)(C) of this section and in proportion to the number of vessels in a platoon compared to the total number of vessels participating in the harvest limit area directed fishery for area 542 or 543 during a season.

(E) *Harvest limit area directed fisheries closures.* The Regional Administrator will establish the closure date of the Atka mackerel directed fisheries in the harvest limit area for areas 542 and 543 based on the estimated fishing capacity of vessels registered to fish in the area and assigned to the platoon under paragraph (a)(8)(iii)(B) of this section. Each harvest limit area directed fishery will last no longer than 14 days.

(F) *Groundfish directed fishery prohibition.* Vessels registering under paragraph (a)(8)(iii)(A) of this section are prohibited from participating in any groundfish directed fishery other than

the one assigned under paragraph (a)(8)(iii)(B) of this section during the opening of the first harvest limit area directed fishery to which the vessel is assigned in a season, as specified in § 679.7(a)(19).

(9) *BSAI shortraker rockfish and rougheye rockfish.* After subtraction of reserves, the TAC of shortraker rockfish and rougheye rockfish specified for the Aleutian Islands subarea will be allocated 30 percent to vessels using non-trawl gear and 70 percent to vessels using trawl gear.

(10) *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.

(11) *GOA Pacific cod TAC* (applicable through July 8, 2002)—(i) *Seasonal apportionment.* The TAC established for Pacific cod in the Western and Central areas of the GOA will be divided 60 percent to the A season and 40 percent to the B season, as specified in § 679.23(d)(4).

(ii) The Regional Administrator may apply any underage or overage of Pacific cod harvest from one season to the subsequent season. In adding or subtracting any underages or overages to the subsequent season, the Regional Administrator must consider bycatch needed to optimize catch by gear groups and sectors.

(iii) *Bycatch.* Pacific cod bycatch taken between the closure of the A season and opening of the B season shall be deducted from the B season TAC apportionment.

(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) *CDQ reserve*—(A) *Groundfish CDQ Reserve.* Except as limited by § 679.31(a), one half of the nonspecified reserve established by paragraph (b)(1)(i) of this section for all species except squid is apportioned to the groundfish CDQ reserve.

(B) *Fixed gear sablefish CDQ reserves.* Twenty percent of the fixed gear allocation of sablefish established by paragraph (a)(4)(iii) of this section for each subarea or district of the BSAI is apportioned to a CDQ reserve for each subarea or district.

(C) *Apportionment of groundfish CDQ reserve by TAC category.* (1) Except for the fixed gear sablefish CDQ reserves, the groundfish CDQ reserve is apportioned among TAC categories in amounts equal to 7.5 percent of each TAC category for which a reserve is established.

(2) If the final harvest specifications required by paragraph (c) of this section change the groundfish species comprising a species category or change a TAC by combining management areas or splitting a TAC into two or more TACs by management area, then any CDQ allocations based on those TACs change proportionally.

(iv) *Pacific cod.* Any amounts of the BSAI nonspecific reserve that are apportioned to Pacific cod as provided by paragraph (b)(1)(ii) of this section must be apportioned among 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) 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,

2001). Any amounts of the GOA reserve that are reapportioned to pollock as provided by this paragraph (b) must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportion specified in paragraph (a)(6)(ii) of this section.

(ii) *Pacific cod inshore-offshore reapportionment (applicable through December 31, 2001)*. Any amounts of the GOA reserve that are reapportioned to Pacific cod as provided by this paragraph (b) must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportion specified in paragraph (a)(6)(iii) of the 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—(1) 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 by paragraph (a)(2) of this section, PSQ reserves and prohibited species catch allowances established by § 679.21, seasonal allowances of pollock TAC (including pollock CDQ), and CDQ reserve amounts established by paragraph (b)(1)(iii) of this section.

(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 pollock and the hook and line and pot gear allocation of sablefish, one quarter of each proposed initial TAC and apportionment thereof, one quarter of each CDQ reserve established by paragraph (b)(1)(iii) of this section, and one quarter of the proposed PSQ reserve and prohibited species catch allowances established by § 679.21.

(A) The interim specifications for pollock and Atka mackerel will be equal to the first seasonal allowance for pollock and Atka mackerel that is published in the proposed specifications under paragraph (c)(1) of this section.

(B) The interim specifications for CDQ pollock will be equal to the first seasonal allowance that is published in the proposed specifications under paragraph (c)(1) of this section.

(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, PSQ reserves and prohibited species catch allowances, seasonal allowances of the pollock TAC (including pollock CDQ), and CDQ reserve amounts.

(4) *Inshore-offshore allocations*—(i) *BSAI pollock (applicable through December 31, 2004)*. The proposed, interim, and final specifications will specify the allocation of pollock for processing by the inshore component in the BSAI and the offshore component in the BSAI, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(6) of this section.

(ii) *GOA pollock and Pacific cod (applicable through December 31, 2001)*. The proposed, interim, and final specifications will specify the allocation of GOA pollock and GOA Pacific cod for processing by the inshore component in the GOA and the offshore component in the GOA, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(6) of this section.

(5) *BSAI Pacific cod gear allocations*. 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.

(6) *BSAI Atka mackerel allocations*. The proposed, interim, and final specifications will specify the allocation of BSAI Atka mackerel among gear types as authorized under paragraph (a)(8) 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, as defined at § 679.25, 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 ap-

plies, 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.

(4) *Harvest control for pollock, Atka mackerel and Pacific cod* (applicable through July 8, 2002). If a biological assessment of stock condition for pollock, Pacific cod, or Atka mackerel within an area projects that the biomass in an area will be below 20 percent of the projected unfished biomass during a fishing year, the Regional Administrator will prohibit the directed fishery for the relevant species within the area. The Regional Administrator will prohibit the directed fishery under this paragraph by notification published in the FEDERAL REGISTER. The directed fishery will remain closed until a subsequent biological assessment projects that the biomass for the species in the area will exceed 20 percent of the projected unfished biomass during a fishing year.

(e) *Maximum retainable amounts*—(1) *Proportion of basis species.* The maximum retainable amount for an incidental catch species 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 amount for a specific incidental catch species, an individual retainable amount must be calculated with respect to each basis species that is retained on board that vessel.

(ii) To obtain these individual retainable amounts, multiply the appropriate retainable percentage for the incidental catch 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 amount for that specific incidental catch species is the sum of the individual retainable amount.

(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. CDQ species may only be used to calculate retainable amounts of other CDQ species.

(3) *CDQ fisheries*—(i) *General.* Directed fishing in the CDQ fisheries is determined based on the species composition of the total catch of groundfish while harvesting groundfish CDQ species. For catcher/processors, the species composition of each haul is assessed to determine the directed fishery. For catcher vessels, the species composition of the catch onboard the vessel at any time is assessed to determine the directed fishery. The ground-

fish species used to calculate total catch of groundfish includes all species categories defined in Table 1 of the annual BSAI specifications.

(ii) *Directed fishing for pollock CDQ.* A vessel operator using trawl gear is directed fishing for pollock CDQ if pollock represents 60 percent or more of the total catch of groundfish species by weight in a haul by a catcher/processor or 60 percent or more of the total catch of groundfish species by weight onboard the catcher vessel at any time.

(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(a)(9).

(3) *Pollock product recovery rates (PRRs).* Use the product types and standard PRRs for pollock found in Table 3 to this part to calculate round-weight equivalents for pollock for purposes of this paragraph (g).

(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

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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 processed may not be discarded at sea unless such discarding is necessary to meet other requirements of this part.

(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 to this part.

(2) *Adjustments.* The Regional Administrator may adjust standard PRRs and product types specified in Table 3 to 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 to 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 to 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.

(i) *Forage fish—(1) Definition.* See § 679.2.

(2) *Applicability.* The provisions of § 679.20(i) apply to all vessels fishing for groundfish in the BSAI or GOA, and to all vessels processing groundfish harvested in the BSAI or GOA.

(3) *Closure to directed fishing.* Directed fishing for forage fish is prohibited at all times in the BSAI and GOA.

(4) *Limits on sale, barter, trade, and processing.* The sale, barter, trade, or processing of forage fish is prohibited, except as provided in paragraph (i)(5) of this section.

(5) *Allowable fishmeal production.* Retained catch of forage fish not exceeding the maximum retainable bycatch amount may be processed into fishmeal for sale, barter, or trade.

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.20, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTES: 1. At 67 FR 1000, Jan. 8, 2002, § 679.20 was amended by suspending paragraphs (a)(5)(i)(A), (a)(5)(ii)(B), (a)(7)(i)(C)(2), (a)(7)(i)(C)(3), (a)(7)(ii)(A),

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(a)(7)(iii)(A), (a)(7)(iii)(B), (f)(2), and (f)(3), effective Jan. 1, 2002 until July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002. Paragraphs (a)(6)(ii), (a)(6)(iii), (b)(2)(i), and (b)(2)(ii), were added, effective Jan. 1, 2002. For the convenience of the user the added text follows:

§ 679.20 General limitations.

* * * * *

(6) * * *

(i) *GOA pollock* (applicable through July 8, 2002). The apportionment of pollock in all GOA regulatory areas and for each seasonal apportionment described in paragraph (a)(5)(ii) of this section will be allocated entirely to vessels catching pollock for processing by the inshore component in the GOA after subtraction of an amount that is projected by the Regional Administrator to be caught by, or delivered to, the offshore component in the GOA incidental to directed fishing for other groundfish species.

(iii) *GOA Pacific cod* (applicable through July 8, 2002). 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 in the GOA and 10 percent to vessels catching Pacific cod for processing by the offshore component in the GOA.

(b) * * *

(2) * * *

(i) *Pollock inshore-offshore reapportionment* (applicable through July 8, 2002). Any amounts of the GOA reserve that are reapportioned to pollock as provided by paragraph (b) of this section must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportions specified in paragraph (a)(6)(ii) of this section.

(ii) *Pacific Cod inshore-offshore reapportionment* (applicable through July 8, 2002). Any amounts of the GOA reserve that are reapportioned to Pacific cod as provided by paragraph (b) of this section must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportion specified in paragraph (a)(6)(iii) of this section.

* * * * *

2. At 67 FR 18139, Apr. 15, 2002, § 679.20 was amended by removing paragraph (f)(4) and revising paragraph (f)(2), effective May 15, 2002.

§ 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) See § 679.2 for definition of prohibited species.

(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) After allowing for sampling by an observer, if an observer is aboard, sort its catch immediately after retrieval of the gear and, except as provided below, return all prohibited species or parts thereof to the sea immediately, with a minimum of injury, regardless of its condition. The following exceptions are made:

(A) Salmon prohibited species catch in the BSAI groundfish fisheries under paragraph (c) of this section and § 679.26; and

(B) Salmon PSQ caught by catcher vessels using trawl gear in the CDQ fisheries under subpart C of this part.

(3) *Rebuttable presumption.* Except as provided under paragraph (c) of this section, § 679.26, or for salmon PSQ retained by catcher vessels using trawl gear in the CDQ fisheries, there 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.

(5) *Sablefish as a prohibited species.* (See § 679.24(c)(2)(ii).)

(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 PSD Program 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 following fishery categories are specified and defined in terms of round-weight equivalents of these 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 Eastern GOA 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.

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(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

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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) *PSQ reserve*. 7.5 percent of each PSC limit set forth in paragraphs (e)(1) (ii)

through (v), (e)(1)(vii), and (e)(1)(viii) of this section is allocated to the groundfish CDQ program as PSQ reserve. The PSQ reserve is not apportioned by gear or fishery.

(ii) *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 paragraphs (e)(1)(iii)(A) through (C) of this section. The following table refers to the PSC limits for red king crab that you must follow in Zone 1:

When the number of mature female red king crab is ...	The zone 1 PSC limit will be ...
(A) 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)	32,000 red king crab.
(B) 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)	97,000 red king crab.
(C) Above the threshold of 8.4 million mature crab and the effective spawning biomass is equal to or greater than 55 million lb	197,000 red king crab.

(iii) *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)(iii)(A) and (B) of this section.

(A) The following table refers to the PSC limits for *C. bairdi* that you must follow in Zone 1:

When the total abundance of <i>C. bairdi</i> crabs is ...	The PSC limit will be ...
(1) 150 million animals or less	0.5 percent of the total abundance minus 20,000 animals
(2) Over 150 million to 270 million animals	730,000 animals
(3) Over 270 million to 400 million animals	830,000 animals
(4) Over 400 million animals	980,000 animals

(B) This table refers to the PSC limits for *C. bairdi* that you must follow in Zone 2.

When the total abundance of <i>C. bairdi</i> crabs is ...	The PSC limit will be ...
(1) 175 million animals or less	1.2 percent of the total abundance minus 30,000 animals
(2) Over 175 million to 290 million animals	2,070,000 animals
(3) Over 290 million to 400 million animals	2,520,000 animals
(4) Over 400 million animals	2,970,000 animals

(iv) *C. opilio*. The PSC limit of *C. opilio* caught by trawl vessels while engaged in directed fishing for groundfish in the COBLZ will be specified annually by NMFS under paragraph (e)(6) of this section, based on total abundance of *C. opilio* as indicated by the NMFS annual bottom trawl survey using the following criteria:

(A) *PSC Limit*. The PSC limit will be 0.1133 percent of the total abundance, minus 150,000 *C. opilio* crabs, unless;

(B) *Minimum PSC Limit*. If 0.1133 percent multiplied by the total abundance is less than 4.5 million, then the minimum PSC limit will be 4.350 million animals; or

(C) *Maximum PSC Limit*. If 0.1133 percent multiplied by the total abundance is greater than 13 million, then the maximum PSC limit will be 12.850 million animals.

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(v) *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 3,675 mt of halibut mortality.

(vi) *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.

(vii) *Chinook salmon*. The trawl closures identified in paragraph (e)(7)(viii) of this section will take effect when the Regional Administrator determines that the PSC limit of chinook salmon caught while harvesting pollock in the BSAI between January 1 and December 31 is attained according to the following amounts identified for each year:

Year	Chinook Salmon Limit
2001	41,000
2002	37,000
2003	33,000
2004 and after	29,000

(viii) *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*. (i) The PSC limit of halibut caught while conducting any nontrawl fishery for groundfish in the BSAI during any fishing year is the amount of halibut equivalent to 900 mt of halibut mortality.

(ii) The amount of 7.5 percent of the non-trawl gear halibut PSC limit set forth in paragraph (e)(2)(i) of this section is allocated to the groundfish CDQ program as PSQ reserve. The PSQ reserve is not apportioned by gear or fishery.

(3) *PSC apportionment to trawl fisheries*—(i) *General*. NMFS, after consultation with the Council and after subtraction of PSQ reserve, will apportion each PSC limit set forth in para-

graphs (e)(1) (ii) through (viii) 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.

(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*, *C. opilio*, 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)(ii) 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*, *C. opilio*, 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 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 and after subtraction of PSQ reserve, may apportion the halibut PSC limit for nontrawl gear set forth under paragraph (e)(2)(i) 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 bycatch allowances of any prohibited species will equal its PSC limit.

(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 seasonal 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 annual *C. opilio* PSC limit, the proposed and final PSQ reserve amounts, the proposed and final bycatch allowances, the seasonal apportionments thereof and the manner in which seasonal apportionments of non-trawl fishery bycatch allowances will be managed as required by paragraph (e) of this section.

(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 annual *C. opilio* 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 pub-

lish 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) *COBLZ*. 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 will catch the COBLZ bycatch allowance, or seasonal apportionment thereof, of *C. opilio* specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of the COBLZ, as defined in Figure 13 to this part, 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) *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.

(vi) *Pacific herring*—(A) *Closure*. Except as provided in paragraph (e)(7)(vi)(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 to this part to directed fishing for

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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.

(vii) *Chum salmon.* 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) and in Figure 2 to this part, 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 Figure 9, to this part.

(viii) *Chinook salmon.* If, during the fishing year, the Regional Administrator determines that catch of chinook salmon, by vessels using trawl gear while directed fishing for pollock in the BSAI, will reach the annual limit as identified in paragraph (e)(1)(vii) of this section, NMFS, by notification in the FEDERAL REGISTER will close the Chinook Salmon Savings Area, as defined in Figure 8 to this part, to directed fishing for pollock with trawl gear consistent with the following dates:

(A) From the effective date of the closure until April 15, and from September 1 through December 31, if the Regional Administrator determines that the annual limit of chinook salmon will be attained before April 15.

(B) From September 1 through December 31, if the Regional Administrator determines that the annual limit of chinook salmon will be attained after April 15.

(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 FEDERAL 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

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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 ob-

served 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.

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(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; 62 FR 66831, Dec. 22, 1997; 63 FR 8361, Feb. 19, 1998; 63 FR 11168, Mar. 6, 1998; 63 FR 30401, June 4, 1998; 63 FR 32145, June 12, 1998; 63 FR 47367, Sept. 4, 1998; 63 FR 50801, Sept. 23, 1998; 64 FR 20214, Apr. 26, 1999; 64 FR 61981, Nov. 15, 1999; 65 FR 31107, May 16, 2000; 65 FR 60588, Oct. 12, 2000; 65 FR 64896, Oct. 31, 2000; 67 FR 4132, 4148, Jan. 28, 2002]

§ 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 (RKCSA).* 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 as RKCSA in Figure 11 to this part.

(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).* The CVOA is defined as that part of the BSAI that is south of 56°00' N. lat. and between 163°00' W. long. and 167°30' W. long. (Figure 2 to part 679).

(i) *Effective time period.* The CVOA is established annually during the B season, defined at § 679.23(e)(2)(I)(B), from September 1 until the date that NMFS closes the B season allocation for the inshore component in the BSAI to directed fishing.

(ii) *Offshore component in the BSAI restrictions.* A catcher/processor vessel in the offshore component is prohibited from conducting directed fishing for pollock in the CVOA unless it is operating under a CDP approved by NMFS.

(iii) *Fisheries other than pollock.* A vessel that harvests or processes groundfish in directed fisheries for species other than pollock may operate within the CVOA consistent with the other provisions of this part.

(iv) *AFA catcher/processor restrictions (applicable through December 31, 2001).* A catcher/processor or vessel authorized to fish for BSAI pollock under § 679.4(1)(2) is prohibited from conducting directed fishing for pollock in the CVOA during the C/D pollock season defined at § 679.23(e)(5)(i)(B).

(6) *Pribilof Island Area Habitat Conservation Zone.* Trawling is prohibited at all times in the area defined in Figure 10 to this part as the Pribilof Island Area Habitat Conservation Zone.

(7) *Steller sea lion protection areas, Bering Sea Subarea and Bogoslof District—(i) Year-round closures.* Trawling is prohibited within 10 nm of each of the eight Steller sea lion rookeries shown in Table 4a to 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 of each of the six Steller sea lion rookeries shown in Table 4b to this part.

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(8) *Steller sea lion protection areas, Aleutian Islands Subarea*—(i) *10-nm closures*. Trawling is prohibited within 10 nm of each of the 17 Steller sea lion rookeries shown in Table 5a to this part.

(ii) *20-nm closures*. Trawling is prohibited within 20 nm of each of the two Steller sea lion rookeries shown in Table 5b to this part.

(iii) *Western and Central Aleutian Islands critical habitat closures*—(A) *General*. Trawling is prohibited within areas designated as Steller sea lion critical habitat in the Western or Central Districts of the AI (see Table 1, Table 2, and Figure 4 to part 226 of this title) when the Regional Administrator announces by notification in the FEDERAL REGISTER that the criteria for a trawl closure in a district set out in paragraph (a)(8)(iii)(B) of this section have been met.

(B) *Criteria for closure*. The trawl closures identified in paragraph (a)(8)(iii)(A) of this section will take effect when the Regional Administrator determines that the harvest of a seasonal allowance of Atka mackerel specified under §679.20(a)(8)(ii)(A) reaches the following percentage identified for each year and district:

Year	Western (543) (percent)	Central (542) (percent)
1999	65	80
2000	57	67
2001	48	46
2002 and after	40	40

(C) *Duration of closure*. A Steller sea lion critical habitat area trawl closure within a district will remain in effect until NMFS closes Atka mackerel to directed fishing within the same district.

(D) *CDQ fishing*. A CDQ group is prohibited from exceeding the percentage of the annual Atka mackerel CDQ for Steller sea lion critical habitat in the Western and/or Central Districts of the AI specified at paragraph (a)(8)(iii)(B) of this section (see Table 1, Table 2, and Figure 4 to part 226 of this title).

(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., ex-

cept that the Nearshore Bristol Bay Trawl Area defined in Figure 12 to this part is open to trawling from 1200 hours A.l.t., April 1 to 1200 hours A.l.t., June 15 of each year.

(10) *Chum Salmon Savings Area*. Trawling is prohibited from August 1 through August 31 in the Chum Salmon Savings Area defined at Figure 9 to this part (see also §679.21(e)(7)(vii)).

(11) *Steller sea lion protection areas, Bering Sea subarea* (applicable through July 8, 2002)—(i) *Bogoslof area*—(A) *Boundaries*. The Bogoslof area consists of all waters of area 518 as described in Figure 1 of this part south of a straight line connecting 55°00' N lat./170°00' W long., and 55°00' N lat./168°11'4.75" W long.;

(B) *Fishing prohibition*. All waters within the Bogoslof area are closed to directed fishing for pollock, Pacific cod, and Atka mackerel by federally permitted vessels, except as provided in paragraph (a)(11)(i)(C) of this section.

(C) *Bogoslof Pacific cod exemption area*. (1) All catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear for directed fishing for Pacific cod are exempt from the Pacific cod fishing prohibition as described in paragraph (a)(11)(i)(B) of this section in the portion of the Bogoslof area south of a line connecting a point that is 3 nm north of Bishop Point (54°01'25" N lat./166° 57'00" W long.) to Cape Tanak (53°33'50" N lat./168°00'00" W long.), not including waters of the Bishop Point Pacific cod fishing closures as described in Table 23 of this part.

(2) If the Regional Administrator determines that 113 mt of Pacific cod has been caught by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the exemption area described in paragraph (a)(11)(i)(C)(1) of this section, the Regional Administrator will prohibit directed fishing for Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using jig or hook-and-line gear in the exemption area by notification published in the FEDERAL REGISTER.

(ii) *Bering Sea Pollock Restriction Area*—(A) *Boundaries*. The Bering Sea Pollock Restriction Area consists of all waters of the Bering Sea subarea south of a line connecting the points 163°0'00"

W long./55°46'30" N lat., 165°08'00" W long./54°42'9" N lat., 165°40'00" W long./54°26'30" N lat., 166°12'00" W long./54°18'40" N lat., and 167°0'00" W long./54°8'50" N lat.

(B) *Fishing prohibition.* All waters within the Bering Sea Pollock Restriction Area are closed to directed fishing for pollock by federally permitted vessels during the A season, as defined at § 679.23(e)(5).

(iii) *Groundfish closures.* Directed fishing for groundfish by federally permitted vessels is prohibited within 3 nm of selected sites. These sites are listed in Table 21 of this part and are identifiable by "Bering Sea" in column 2.

(iv) *Pollock closures.* Directed fishing for pollock by federally permitted vessels is prohibited within pollock no fishing zones around selected sites. These sites are listed in Table 22 of this part and are identifiable by "Bering Sea" in column 2.

(v) *Pacific cod closures.* Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-line, or pot gear is prohibited within the Pacific cod no fishing zones around selected sites. These sites and gear types are listed on Table 23 of this part and are identifiable by "BS" in column 2.

(vi) *Atka mackerel closures.* Directed fishing for Atka mackerel by federally permitted vessels using trawl gear is prohibited within Atka mackerel no fishing zones around selected sites. These sites are listed in Table 24 of this part and are identifiable by "Bering Sea" in column 2.

(vii) *Steller sea lion conservation area (SCA).* (A) *General.* When the Regional Administrator announces, by notification in the FEDERAL REGISTER, that the criteria set out in paragraph (a)(11)(vii)(C) of this section have been met by one or more industry component(s) made of vessels catching pollock for processing by the inshore component, catcher/processors in the offshore component, motherships in the offshore component, or directed fishing for pollock CDQ; directed fishing for pollock by that industry component(s) is prohibited within the SCA until April 1.

(B) *Boundaries.* The SCA consists of the area of the Bering Sea subarea between 170°00' W long. and 163°00' W long., south of straight lines connecting the following points in the order listed: 55°00' N lat., 170°00' W long.; 55°00' N lat., 168°00' W long.; 55°30' N lat., 168°00' W long.; 55°30' N lat., 166°00' W long.; 56°00' N lat., 166°00' W long.; and, 56°00' N lat., 163°00' W long.

(C) *Criteria for closure—(1) General.* The directed fishing closures identified in paragraph (a)(11)(vii)(A) of this section will take effect when the Regional Administrator determines that the harvest limit for pollock within the SCA, as specified in § 679.20(a)(5)(i)(F)(1) is reached before April 1. The Regional Administrator will close the directed pollock fishery in the SCA by notification published in the FEDERAL REGISTER.

(2) *Inshore catcher vessels greater than 99 ft (30.2 m) LOA.* The Regional Administrator will prohibit directed fishing for pollock to vessels greater than 99 ft (30.2 m) LOA, catching pollock for processing by the inshore component before reaching the inshore SCA harvest limit before April 1 to accommodate fishing by vessels less than or equal to 99 ft (30.2 m) inside the SCA until April 1. The Regional Administrator will estimate how much of the inshore seasonal allowance is likely to be harvested by catcher vessels less than or equal to 99 ft (30.2 m) LOA and reserve a sufficient amount of the inshore SCA allowance to accommodate fishing by such vessels after the closure of the SCA to inshore vessels greater than 99 ft (30.2 m) LOA. The Regional Administrator will prohibit directed fishing for all inshore catcher vessels within the SCA when the harvest limit specified in § 679.20(a)(5)(i)(F) has been met before April 1.

(12) *Steller sea lion protection areas, Aleutian Islands subarea* (applicable through July 8, 2002)—(i) *Seguam Foraging area.* (A) The Seguam foraging area is established as all waters within the area between 52° N lat. and 53° N lat. and between 173°30' W long. and 172°30' W long.

(B) Directed fishing for pollock, Pacific cod, and Atka mackerel by federally permitted vessels is prohibited in the Seguam Foraging area as described

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in paragraph (a)(12)(i)(A) of this section.

(ii) *Pollock Closure*. Directed fishing for pollock by federally permitted vessels is prohibited within the Aleutian Islands subarea at all times.

(iii) *Groundfish closures*. Directed fishing for groundfish by federally permitted vessels is prohibited within 3 nm of selected sites. These sites are listed in Table 21 of this part and are identifiable by "Aleutian Islands" in column 2.

(iv) *Pacific cod closures*—(A) *Central and Western Aleutian Islands harvest limit area*. Directed fishing for Pacific cod by federally permitted vessels using trawl gear is prohibited in the Atka mackerel harvest limit area in area 542 or area 543, as defined in § 679.2, when the Atka mackerel harvest limit area directed fishery in area 542 or area 543 is open.

(B) *Gear specific closures*. Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-line, or pot gear is prohibited within the Pacific cod no fishing zones around selected sites. These sites and gear types are listed in Table 23 of this part and are identifiable by "AI" in column 2.

(v) *Atka mackerel closures*. Directed fishing for Atka mackerel by federally permitted vessels using trawl gear is prohibited within Atka mackerel no fishing zones around selected sites. These sites are listed in Table 24 of this part and are identifiable by "Aleutian Islands" in column 2.

(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 to 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 to 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 to this part.

(ii) *Seasonal closures*. During January 1 through April 15, or a date earlier than April 15, if adjusted under § 679.20(d), trawling is prohibited in the GOA within 20 nm of each of the three Steller sea lion rookeries presented in Table 6b to this part.

(3) *Steller sea lion protection areas* (applicable through July 8, 2002)—(i) *Groundfish closures*. Directed fishing for groundfish by federally permitted vessels is prohibited within 3 nm of selected sites. These sites are listed in Table 21 of this part and are identifiable by "Gulf of Alaska" in column 2.

(ii) *Pollock closures*. Directed fishing for pollock by federally permitted vessels is prohibited within pollock no fishing zones around selected sites. These sites are listed in Table 22 of this part and are identifiable by "Gulf of Alaska" in column 2.

(iii) *Pacific cod closures*. Directed fishing for Pacific cod by federally permitted vessels using trawl, hook-and-line, or pot gear in the federally managed Pacific cod or State of Alaska parallel groundfish fisheries, as defined in the Alaska Administrative Code (5 AAC 28.087(c), January 3, 2002), is prohibited within Pacific cod no fishing zones around selected sites. These sites and gear types are listed in Table 23 of this part and are identifiable by "GOA" in column 2.

(iv) *Atka mackerel closure*. Directed fishing for Atka mackerel by federally permitted vessels within the Gulf of Alaska is prohibited at all times.

(4) *Southeast Outside District, gear other than nontrawl*. Use of any gear other than nontrawl gear is prohibited at all times in Southeast Outside District defined at Figure 3 to this part.

(5) [Reserved]

(6) *Chiniak Gully Research Area* (applicable through July 8, 2002)—(i) *Description of Chiniak Gully Research Area*. The Chiniak Gully Research Area is defined as that part of Statistical Area 630 bounded by straight lines connecting the coordinates in the order listed: 57.81° N lat., 152.37° W long.; 57.81° N lat., 151.85° W long.; 57.22° N lat., 150.64°

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W long.; 56.98° N lat., 151.27° W long.; 57.62° N lat., 152.16° W long.; and hence counterclockwise along the shoreline of Kodiak Island to 57.81° N lat., 152.37° W long.

(ii) *Closure.* (A) The Chiniak Gully Research Area is closed to federally permitted vessels using trawl gear from August 1 to a date no later than September 20, except that trawl gear may be tested in the manner described at § 679.24(d)(2) in the Kodiak Test Area defined at § 679.24(d)(4)(i) and illustrated in Figure 7 to this part.

(B) Prior to September 20, the Regional Administrator may publish notification in the FEDERAL REGISTER rescinding the trawl closure in the Chiniak Gully Research Area described in paragraph (b)(6)(ii)(A) of this section.

(c) *Directed fishing closures.* See § 679.20(d) and § 679.20(i).

(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) [Reserved]

(h) *CDQ fisheries closures.* See § 679.7(d)(6) through (10) for time and area closures that apply to the CDQ fisheries once salmon and crab PSQ amounts have been reached.

(i) *Forage fish closures.* See § 679.20(i)(3).

[61 FR 31230, June 19, 1996, as amended at 61 FR 65988, Dec. 16, 1996; 62 FR 2046, Jan. 15, 1997; 63 FR 13011, Mar. 17, 1998; 63 FR 30401, June 4, 1998; 63 FR 38502, July 17, 1998; 63 FR 47367, Sept. 4, 1998; 64 FR 3451, Jan. 22, 1999; 64 FR 3658, Jan. 25, 1999; 64 FR 61970, 61982, Nov. 15, 1999; 65 FR 49769, Aug. 15, 2000; 65 FR 61267, Oct. 17, 2000; 65 FR 67308, Nov. 9, 2000; 65 FR 79785, Dec. 20, 2000; 67 FR 1002, Jan. 8, 2002; 67 FR 4148, Jan. 28, 2002; 67 FR 21605, May 1, 2002]

EFFECTIVE DATE NOTE: At 67 FR 1002, Jan. 8, 2002, § 679.22 was amended by suspending paragraphs (a)(5)(i) through (iii), (a)(7), (a)(8), and (b)(2) until July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002. Paragraph (a)(5)(iv) was added, effective Jan. 1, 2002. For the convenience of the user the added text follows:

§ 679.22 Closures.

(a) * * *

(5) * * *

(iv) *Catcher/processor restrictions* (applicable through July 8, 2002). A catcher/processor

vessel authorized to fish for BSAI pollock under § 679.4 is prohibited from conducting directed fishing for pollock in the CVOA during the pollock B season defined at § 679.23(e)(5)(ii), unless it is operating under a CDP approved by NMFS.

* * * * *

EDITORIAL NOTE: At 67 FR 4148, Jan. 28, 2002, § 679.22 was amended by revising the phrase “SCA” to read “SCA (see Figure 20 to this part” in paragraph (a)(11)(iv)(B) introductory text, revising the phrase “defined at § 679.23(d)(3) of this part” to read “defined at § 679.23 and Figure 20 of this part,” in paragraph (b)(3)(iii)(A) and the phrase “Shelikof Strait conservation area” to read “Shelikof Strait conservation area (see Figure 19 to this part” in paragraph (b)(3)(iii)(B) introductory text. However, paragraphs (a)(11)(iv)(B) introductory text, (b)(3)(iii)(A) and (B) introductory text do not exist.

§ 679.23 Seasons.

(a) *Groundfish, 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 groundfish seasons—(1) Directed fishing for trawl rockfish.* Directed fishing for rockfish 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;

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(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.

(3) *Directed fishing for pollock* (applicable through July 8, 2002). Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas is authorized only during the following four seasons:

(i) *A season*. From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., February 25;

(ii) *B season*. From 1200 hours, A.l.t., March 10 through 1200 hours, A.l.t., May 31;

(iii) *C season*. From 1200 hours, A.l.t., August 25 through 1200 hours, A.l.t., September 15; and

(iv) *D season*. From 1200 hours, A.l.t., October 1 through 1200 hours, A.l.t., November 1.

(4) *Directed fishing for Pacific cod* (applicable through July 8, 2002)—(i) *Hook-and-line, pot, or jig gear*. Subject to other provisions of this part, directed fishing for Pacific cod with hook-and-line, pot, or jig gear in the Western and Central Regulatory Areas is authorized only during the following two seasons:

(A) *A season*. From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., June 10; and

(B) *B season*. From 1200 hours, A.l.t., September 1 through 2400 hours, A.l.t., December 31.

(ii) *Trawl gear*. Subject to other provisions of this part, directed fishing for Pacific cod with trawl gear in the Western and Central Regulatory Areas is authorized only during the following two seasons:

(A) *A season*. From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., June 10; and

(B) *B season*. From 1200 hours, A.l.t., September 1 through 1200 hours, A.l.t., November 1.

(5) *Directed fishing for Pacific cod*. Directed fishing for Pacific cod in the Western and Central Regulatory Areas is prohibited.

(e) *BSAI groundfish 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 only during the following two seasons:

(A) *A season*. From 0001 hours A.l.t. January 1 through 1200 hours A.l.t. April 15.

(B) *B season*. From 1200 hours A.l.t. September 1 through 1200 hours A.l.t. November 1.

(ii) *Offshore component in the BSAI restrictions (applicable through December 31, 2004)*—(A) *Offshore A season*. Subject to other provisions of this part, directed fishing by the offshore component in the BSAI, or by vessels catching pollock for processing by the offshore component in the BSAI, is authorized from 1200 hours A.l.t. January 26 through 1200 A.l.t. April 15.

(B) *Offshore A season “fair start” requirement*. Directed fishing for pollock by the offshore component in the BSAI, or by vessels catching pollock for processing by the offshore component in the BSAI, is prohibited through 1200 hours A.l.t., February 5, for any vessel that is used to fish in a non-CDQ fishery for groundfish in the BSAI or GOA, or for king or Tanner crab in the BSAI prior to 1200 hours, A.l.t., January 26 of the same year.

(iii) *B season “fair start” requirement*. Directed fishing for pollock is prohibited from 1200 hours, A.l.t., September 1, through 1200 hours, A.l.t., September 8, for any vessel that is used to fish for groundfish with trawl gear in a non-CDQ fishery in the BSAI or GOA between 1200 hours, A.l.t., August 25, and 1200 hours, A.l.t., September 1.

(3) *Directed fishing for Atka mackerel with trawl gear*. Subject to other provisions of this part, directed fishing for Atka mackerel with trawl gear in the Aleutian Islands Subarea is authorized only during the following two seasons:

(i) *A season*. From 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., April 15;

(ii) *B season*. From 1200 hours, A.l.t., September 1, through 1200 hours, A.l.t., November 1.

(4) *CDQ fishing seasons.* (i) *Halibut CDQ.* 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) *Sablefish CDQ.* 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.

(iii) *Groundfish CDQ.* Fishing for groundfish CDQ species, other than fixed gear sablefish CDQ under subpart C of this part, is authorized from 0001 hours, A.l.t., January 1, through the end of each fishing year, except as provided in paragraph (c) of this section.

(iv) *Groundfish CDQ* (applicable through July 8, 2002). Fishing for groundfish CDQ species, other than pollock CDQ; hook-and-line, jig, or trawl Pacific cod CDQ; and fixed gear sablefish CDQ under subpart C of this part, is authorized from 0001 hours, A.l.t., January 1 through the end of each fishing year, except as provided under paragraph (c) of this section.

(v) *Pollock CDQ and Pacific cod CDQ harvested with hook-and-line, jig or trawl gear* (applicable through July 8, 2002). (A) Fishing for pollock CDQ is authorized under paragraph (e)(5) of this section.

(B) Fishing for Pacific cod CDQ with hook-and-line, jig or trawl gear is authorized under paragraph (e)(6) of this section.

(5) *Directed fishing for pollock in the Bering Sea Subarea by inshore, offshore catcher/processor, and mothership components and pollock CDQ fisheries* (applicable through July 8, 2002). Subject to other provisions of this part, directed fishing for pollock by vessels catching pollock for processing by the inshore component, catcher/processors in the offshore component, and motherships in the offshore component in the Bering Sea subarea or directed fishing for pollock CDQ in the Bering Sea subarea is authorized only during the following two seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., June 10; and

(ii) *B season.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., November 1.

(6) *Directed fishing for Pacific cod* (applicable through July 8, 2002). (i) *Fixed gear.* Subject to other provisions of this part, directed fishing for Pacific cod with fixed gear in the BSAI is authorized only during the following two seasons:

(ii) *Hook-and-line and jig gear.* Subject to other provisions of this part, directed fishing for CDQ and non-CDQ Pacific cod with vessels equal to or greater than 60 ft (18.3 m) LOA using hook-and-line and with vessels using jig gear in the BSAI is authorized only during the following two seasons:

(A) *A season.* From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., June 10; and

(B) *B season.* From 1200 hours, A.l.t., June 10 through 2400 hours, A.l.t., December 31.

(iii) *Trawl gear.* Subject to other provisions of this part, directed fishing for CDQ and non-CDQ Pacific cod with trawl gear in the BSAI is authorized only during the following three seasons:

(A) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., April 1;

(B) *B season.* From 1200 hours, A.l.t., April 1 through 1200 hours, A.l.t., June 10; and

(C) *C season.* From 1200 hours, A.l.t., June 10 through 1200 hours, A.l.t., November 1.

(iv) *Pot gear.* Subject to other provisions of this part, non-CDQ directed fishing for Pacific cod with vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear in the BSAI is authorized only during the following two seasons:

(A) *A season.* From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., June 10; and

(B) *B season.* From 1200 hours, A.l.t., September 1 through 2400 hours, A.l.t., December 31.

(7) *Directed fishing for Atka mackerel with trawl gear* (applicable through July 8, 2002). Subject to other provisions of this part, non-CDQ directed

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fishing for Atka mackerel with trawl gear in the Aleutian Islands subarea is authorized only during the following two seasons:

(i) *A season*. From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., April 15; and

(ii) *B season*. From 1200 hours, A.l.t., September 1 through 1200 hours, A.l.t., November 1.

(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 Adminis-

trator 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 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 as defined at §679.21(b).

(h) *Stand down requirements for trawl catcher vessels transiting between the BSAI and GOA*.

If you own or operate a catcher vessel and fish for groundfish with trawl gear in the* * *	You are prohibited from subsequently deploying trawl gear in the* * *	Until* * *
(1) BSAI while pollock or Pacific cod is open to directed fishing in the BSAI.	Western and Central GOA regulatory areas.	1200 hours A.l.t. on the third day after the date of landing or transfer of all groundfish on board the vessel harvested in the BSAI, unless you are engaged in directed fishing for Pacific cod in the GOA for processing by the offshore component.
(2) Western GOA regulatory area while pollock or inshore Pacific cod is open to directed fishing in the Western GOA regulatory area.	BSAI	1200 hours A.l.t. on the third day after the date of landing or transfer of all groundfish on board the vessel harvested in the Western Regulatory Area of the GOA, unless you are participating in a CDQ fishery.
(3) Central GOA regulatory area while pollock or inshore Pacific cod is open to directed fishing in the Central GOA regulatory area.	BSAI	1200 hours A.l.t. on the second day after the date of landing or transfer of all groundfish on board the vessel harvested in the Central GOA regulatory area, unless you are participating in a CDQ fishery.

(i) *Catcher vessel exclusive fishing seasons for pollock* (applicable through July 8, 2002). Catcher vessels are prohibited from participating in directed fishing for pollock under the following

conditions. Vessels less than 125 ft (38.1 m) LOA are exempt from this restriction when fishing east of 157°00' W long. GOA and Bering Sea seasons are specified at §679.23(d)(3) and §679.23(e)(5).

If you own or operate a catcher vessel and engage in directed fishing for pollock in the	During the	Then you are prohibited from subsequently engaging in directed fishing for pollock with that catcher vessel in the
Bering Sea subarea	A season	GOA until the following C season.
	B season	GOA until the A season of the next year.
GOA	A season	BSAI until the following B season.
	B season	BSAI until the following B season.
	C season	BSAI until the A season of the following year.
	D season	BSAI until the A season of the following year.

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[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; 63 FR 11168, Mar. 6, 1998; 63 FR 30401, June 4, 1998; 63 FR 47368, Sept. 4, 1998; 63 FR 48642, Sept. 11, 1998; 64 FR 3452, Jan. 22, 1999; 64 FR 3658, Jan. 25, 1999; 64 FR 20214, Apr. 26, 1999; 67 FR 1003, Jan. 8, 2002; 67 FR 4818, Jan. 28, 2002; 67 FR 22017, May 2, 2002]

EFFECTIVE DATE NOTE: At 67 FR 1003, 1004, Jan. 8, 2002, § 679.23 was amended by suspending paragraphs (d)(2), (e)(2), (e)(3), and (e)(4)(iii), effective Jan. 1, 2002, until July 8, 2002. In addition, new paragraph (e)(6)(i) was suspended until July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

§ 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 hook-and-line, longline pot, and pot-and-line gear.* (1) All hook-and-line, longline pot, and pot-and-line 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 ADF&G vessel 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—Longline pot gear.* Any person using longline pot gear must treat any catch of groundfish as a prohibited species, except:

- (i) In the Aleutian Islands subarea.
- (ii) While directed fishing for sablefish in the Bering Sea subarea, except as provided in paragraph (c)(4)(ii) of this section.

(2) [Reserved]

(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.

(4) *BSAI pollock nonpelagic trawl prohibition.* No person may use nonpelagic

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trawl gear to engage in directed fishing for non-CDQ pollock in the BSAI.

(c) *Gear restrictions for sablefish—(1) Gear allocations.* Gear allocations of sablefish TAC are set out under § 679.20.

(2) *Eastern GOA regulatory area—(i) General.* (A) No person may use any gear other than hook-and-line and trawl gear when fishing for sablefish in the Eastern GOA regulatory 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 Eastern GOA 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 Eastern GOA regulatory area must treat any catch of sablefish as a prohibited species as provided by § 679.21(b).

(3) *Central and Western GOA regulatory areas; sablefish as prohibited species.* Operators of vessels using gear types other than hook-and-line and trawl gear in the Central and western GOA 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)

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and in Figure 7 to this part 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 to 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.* 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 paragraphs (e)(2) and (e)(3) 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.

(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) If offal is discharged while gear is being set or hauled, it must be discharged in a manner that distracts seabirds from baited hooks, to the extent practicable. The discharge site on board a vessel must be either 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.

(3) For a vessel greater than or equal to 26 ft (7.9 m) LOA, the operator of that vessel described in paragraph (e)(1) of this section must employ one or more of the following seabird avoidance measures:

(i) Tow a streamer line or lines during deployment of gear to prevent birds from taking hooks;

(ii) 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;

(iii) Deploy hooks underwater through a lining tube at a depth sufficient to prevent birds from settling on hooks during deployment of gear; or

(iv) Deploy gear only during the hours specified below, using only the minimum vessel's lights necessary for safety.

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HOURS THAT HOOK-AND-LINE GEAR CAN BE DEPLOYED FOR SPECIFIED LONGITUDES ACCORDING TO PARAGRAPH (e)(3)(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	(¹)	(¹)	(¹)
July	(²)	(²)	(²)
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

¹ This measure cannot be exercised during June.
² 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; 63 FR 11167, Mar. 6, 1998; 64 FR 61970, 61982, Nov. 15, 1999; 65 FR 31107, May 16, 2000; 67 FR 4133, 4148, Jan. 28, 2002]

§ 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 the least restrictive necessary to achieve the purpose of the adjustment:

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(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:

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(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 Prohibited Species Donation Program.

(a) *Authorized species.* The PSD program applies only to the following species:

(1) Salmon.

(2) Halibut delivered by catcher vessels using trawl gear to shoreside processors.

(b) *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 fish 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 fish donated under this program will be distributed to hunger relief agencies, food bank networks, or food bank distributors and that the fish 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 fish under the PSD program.

(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 documentation and disposition of fish received under the PSD program, including sufficient liability insurance to cover public interests relating to the quality of fish 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 PSD program. 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 from all persons who are listed under paragraph (b)(1)(xi) of this section and who would conduct activities pursuant to the PSD 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 PSD program.

(xiii) A list of locations where fish must be delivered by participating vessels and processors.

(xiv) A separate application must be submitted for each species listed under paragraph (a) of this section that the applicant seeks to distribute.

(2) *Selection.* The Regional Administrator may select one or more tax-exempt organizations to be authorized distributors under the PSD program based on the information submitted by applicants under paragraph (b)(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 PSD permits.
- (ii) The number of harvesters and the quantity of fish that applicants can effectively administer.
- (iii) The anticipated level of bycatch of prohibited species listed under paragraph (a) of this section.
- (iv) The potential number of vessels and processors participating in the groundfish trawl fisheries.

(3) *PSD 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 PSD permit(s).

(ii) The Regional Administrator may impose additional terms and conditions on a PSD permit consistent with the objectives of the PSD program.

(iii) A PSD 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) *Effective period.* A PSD permit issued for salmon or halibut remains in effect for a 3-year period after the selection notice is published in the FEDERAL REGISTER unless suspended or revoked. A PSD 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 PSD permit application submitted under paragraph (b)(1)(xi) or (b)(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.

(c) *Reporting and recordkeeping requirements.* (1) A vessel or processor retaining prohibited species under the PSD program must comply with all applicable recordkeeping and reporting requirements. A vessel or processor participating in the PSD program must comply with applicable regulations at §§ 679.7(c)(1) and 679.21(c) that allow for the collection of data and biological sampling by a NMFS-certified observer

prior to processing any fish under the PSD program.

(2) Prohibited species retained under the PSD program 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 fish contained in the package, and the words, "NMFS PROHIBITED SPECIES DONATION PROGRAM - NOT FOR SALE - PERISHABLE PRODUCT - KEEP FROZEN".

(3) A processor retaining or receiving fish under the PSD program 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 prohibited species bycatch. Such documentation must be retained until 3 years after the effective period of the PSD permit.

(d) *Processing, handling, and distribution.* (1) Processing and reprocessing of all fish retained under the PSD Program must be carried out under the direction of the authorized distributor. A processor retaining or receiving fish under the PSD Program, at a minimum, must head, gut, and freeze the fish in a manner that makes it fit for human consumption.

(2) Fish that are determined to be unfit for human consumption prior to delivery to an authorized distributor must be discarded under § 679.21(b). Fish 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 prohibited species only for the purpose of processing and delivering the prohibited species to hunger relief agencies, food networks or food distributors as provided by this section. Such persons may not consume or retain prohibited species for personal use and may not sell, trade or barter, or attempt to sell, trade or barter any prohibited species that is retained under the PSD program.

(4) No prohibited species that has been sorted from a vessel's catch or landing may be retained by a vessel or

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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 (b)(1)(xi), (b)(1)(xiii) or (b)(3)(v) of this section.

[61 FR 38359, July 24, 1996, as amended at 63 FR 32145, 32146, June 12, 1998; 65 FR 78121, Dec. 14, 2000; 66 FR 53122, Oct. 19, 2001; 67 FR 4148, Jan. 28, 2002]

EFFECTIVE DATE NOTE: At 67 FR 4158, Jan. 28, 2002, § 679.26 was amended in paragraph (c)(3) by removing the words “until 1 year after” and inserting in its place “until 3 years after”. This section contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 679.27 Improved Retention/Improved Utilization Program.

(a) *Applicability.* The owner or operator of a vessel that is required to obtain a Federal fisheries or processor permit under § 679.4 must comply with the IR/IU program set out in this sec-

tion while fishing for groundfish in the GOA or BSAI, fishing for groundfish in waters of the State of Alaska that are shoreward of the GOA or BSAI, or when processing groundfish harvested in the GOA or BSAI.

(b) *IR/IU species.* The following species are defined as “IR/IU species” for the purposes of this section:

- (1) Pollock.
- (2) Pacific cod.
- (3) Rock sole in the BSAI (beginning January 1, 2003).
- (4) Yellowfin sole in the BSAI (beginning January 1, 2003).
- (5) Shallow-water flatfish species complex in the GOA as defined in the annual harvest specifications for the GOA (beginning January 1, 2003).

(c) *Minimum retention requirements—*(1) *Definition of retain on board.* Notwithstanding the definition at 50 CFR 600.10, for the purpose of this section, to retain on board means to be in possession of on board a vessel.

(2) The following table displays minimum retention requirements by vessel category and directed fishing status:

If you own or operate a	And	You must retain on board until lawful transfer
(i) Catcher vessel	(A) Directed fishing for an IR/IU species is open	all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	all fish of that species brought on board the vessel up to the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited	no fish of that species.
(ii) Catcher/ processor	(A) Directed fishing for an IR/IU species is open	a primary product from all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	a primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited	no fish or product of that species.
(iii) Mothership	(A) Directed fishing for an IR/IU species is open	a primary product from all fish of that species brought on board the vessel.
	(B) Directed fishing for an IR/IU species is prohibited.	a primary product from all fish of that species brought on board the vessel up to the point that the round-weight equivalent of primary products on board equals the MRB amount for that species.
	(C) Retention of an IR/IU species is prohibited	no fish or product of that species.

(d) *Bleeding codends and shaking longline gear.* Any action intended to discard or release an IR/IU species prior to being brought on board the vessel is prohibited. This includes, but is not limited to bleeding codends and shaking or otherwise removing fish from longline gear.

(e) *At-sea discard of product.* Any product from an IR/IU species may not be discarded at sea, unless such discarding is necessary to meet other requirements of this part.

(f) *Discard of fish or product transferred from other vessels.* The retention requirements of this section apply to all IR/IU species brought on board a

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vessel, whether harvested by that vessel or transferred from another vessel. At-sea discard of IR/IU species or products that were transferred from another vessel is prohibited.

(g) *IR/IU species as bait.* IR/IU species may be used as bait provided that the deployed bait is physically secured to authorized fishing gear. Dumping of unsecured IR/IU species as bait (chumming) is prohibited.

(h) *Previously caught fish.* The retention and utilization requirements of

this section do not apply to incidental catch of dead or decomposing fish or fish parts that were previously caught and discarded at sea.

(i) *Minimum utilization requirements.* If you own or operate a catcher/processor or mothership, the minimum utilization requirement for an IR/IU species harvested in the BSAI is determined by the directed fishing status for that species according to the following table:

If * * *	then your total weight of retained or lawfully transferred products produced from your catch or receipt of that IR/IU species during a fishing trip must * * *
(1) directed fishing for an IR/IU species is open,	equal or exceed 15 percent of the round-weight catch or round-weight delivery of that species during the fishing trip.
(2) directed fishing for an IR/IU species is prohibited,	equal or exceed 15 percent of the round-weight catch or round-weight delivery of that species during the fishing trip or 15 percent of the MRB amount for that species, whichever is lower.
(3) retention of an IR/IU species is prohibited,	equal zero.

[62 FR 63890, Dec. 3, 1997, as amended at 62 FR 65381, Dec. 12, 1997]

§ 679.28 Equipment and operational requirements.

(a) *Applicability.* This section contains the requirements for scales, observer sampling stations, bins for volumetric estimates, and vessel monitoring system hardware. This section does not require any vessel or processor to provide this equipment. Such requirements appear elsewhere in this part.

(b) *Scales used to weigh catch at sea.* In order to be approved by NMFS a scale used to weigh catch at sea must meet the type evaluation requirements set forth in paragraph (b)(1) of this section and the initial inspection and annual reinspection requirements set forth in paragraph (b)(2) of this section. Once a scale is installed on a vessel and approved by NMFS for use to weigh catch at sea, it must be reinspected annually and must be tested daily and meet the maximum permissible error (MPE) requirements described in paragraph (b)(3) of this section.

(1) *List of scales eligible for approval.* The model of scale must be included on the Regional Administrator's list of scales eligible to be approved for weighing catch at sea before an inspector will schedule or conduct a scale in-

spection under paragraph (b)(2) of this section. A scale will be included on the list when the Regional Administrator receives the information specified in paragraphs (b)(1)(i) through (iv) of this section. This information identifies and describes the scale, sets forth contact information regarding the manufacturer, and sets forth the results of required type evaluations and testing. Type evaluation and testing must be conducted by a laboratory accredited by the government of the country in which the tests are conducted.

(i) *Information about the scale.* (A) Name of scale manufacturer.

(B) Name of manufacturer's representative.

(C) Mailing address of scale manufacturer and manufacturer's representative.

(D) Telephone and fax number of manufacturer's representative.

(E) Model and serial number of the scale tested.

(F) A written description of the scale and diagrams explaining how the scale operates and how it compensates for motion.

(G) A list of the model numbers of all scales for which type evaluation results are applicable, identifying the

differences between the model evaluated in the laboratory and other models listed. The scales may differ only in the elements of the scale that perform motion compensation, the size or capacity of the scale, and the software used by the scale.

(H) A list of types of scale adjustments that will be recorded on the audit trail, including the name of the adjustment as it will appear on the audit trail, and a written description of the adjustment.

(ii) *Information about the laboratory.*

(A) Name of laboratory.

(B) Mailing address of laboratory.

(C) Telephone and fax number of laboratory's representative.

(D) Name and address of government agency accrediting the laboratory.

(E) Name and signature of person responsible for evaluation of the scale and the date of signature.

(iii) *Checklist.* A completed checklist indicating that all applicable technical and performance standards in appendix A to this part and the laboratory tests in the annex to appendix A to this part have been met.

(iv) *Verification of test results.* Verification that a scale meets the laboratory evaluation and testing requirements in appendix A of this part and each of the influence quantity and disturbance tests as specified in the annex to appendix A to this part:

(A) Test results and data on forms supplied by NMFS;

(B) National Type Evaluation Program (NTEP) Certificates of Conformance, test results and data for a component of a scale or for the entire device. NTEP Certificates of Conformance, test results, and data may be submitted only in lieu of the specific influence factor tests conducted to obtain the NTEP Certificates of Conformance. Additional information must be submitted to verify compliance with the laboratory tests that are not performed under the NTEP; and/or

(C) International Organization of Legal Metrology (OIML) Certificates of Conformance, test results and data.

(2) *Inspection of at-sea scales*—(i) *What is an inspection?* An inspection is a visual assessment and test of a scale after it is installed on the vessel and while the vessel is tied up at a dock and not

under power at sea to determine if the scale meets all of the applicable performance and technical requirements in paragraph (b)(2) of this section and in appendix A to this part. A scale will be approved by the inspector if it meets all of the applicable performance and technical requirements in paragraph (b)(2) of this section and appendix A to this part.

(ii) *How often must a scale be inspected?* Each scale must be inspected and approved before the vessel may participate in any fishery requiring the weighing of catch at sea with an approved scale. Each scale must be re-inspected within 12 months of the date of the most recent inspection.

(iii) *Who may perform scale inspections?* Scales must be inspected by either a NMFS staff scale inspector or a scale inspector employed by a weights and measures agency designated by NMFS to perform scale inspections on its behalf. A list of authorized scale inspectors is available from the Regional Administrator upon request. Scale inspections are paid for by NMFS.

(A) *Inspectors from an agency designated by NMFS.* Inspectors employed by a weights and measures agency designated by NMFS to perform scale inspections on behalf of NMFS. Scale inspections by such inspectors are paid for by NMFS.

(B) *Inspectors from other agencies.* Inspectors employed by a U.S., state, or local weights and measures agency other than the weights and measures agency designated by NMFS and meeting the following requirements:

(1) The inspector successfully completes training conducted by a scale inspector from the weights and measures agency designated by NMFS to perform scale inspections on behalf of NMFS. The training consists of observing a scale inspection conducted by a scale inspector designated by NMFS and conducting an inspection under the supervision of a scale inspector designated by NMFS. The inspector must obtain this training for each type of scale inspected.

(2) The inspector notifies NMFS in writing that he/she meets the requirements of this paragraph (b)(2)(iii)(B) prior to conducting any inspections.

(3) Inspectors from agencies other than the weights and measures agency designated by NMFS to perform scale inspections on behalf of NMFS must notify the Regional Administrator of the date, time, and location of the scale inspection at least 3 working days before the inspection is conducted so that NMFS staff may have the opportunity to observe the inspection.

(iv) *How does a vessel owner arrange for a scale inspection?* The time and place of the inspection may be arranged by contacting the authorized scale inspectors. Vessel owners must request a scale inspection at least 10 working days in advance of the requested inspection by contacting an authorized scale inspector at the address indicated on the list of authorized inspectors.

(v) *Where will scale inspections be conducted?* Scale inspections by inspectors paid by NMFS will be conducted on vessels tied up at docks in Dutch Harbor, Alaska, and in the Puget Sound area of Washington State.

(vi) *Responsibilities of the vessel owner during a scale inspection.* After the vessel owner has installed a model of scale that is on the Regional Administrator's list of scales eligible to be approved for weighing catch at sea, the vessel owner must:

(A) Make the vessel and scale available for inspection by a scale inspector authorized by the Regional Administrator.

(B) Provide a copy of the scale manual supplied by the scale manufacturer to the inspector at the beginning of the inspection.

(C) Transport test weights, test material, and equipment required to perform the test to and from the inspector's vehicle and the location on the vessel where the scale is installed.

(D) Apply test weights to the scale or convey test materials across the scale, if requested by the scale inspector.

(E) Assist the scale inspector in performing the scale inspection and testing.

(vii) *Scale inspection report.* (A) A scale is approved for use when the scale inspector completes and signs a scale inspection report verifying that the scale meets all of the requirements

specified in this paragraph (b)(2) and appendix A to this part.

(B) The scale inspector must provide the original inspection report to the vessel owner and a copy to NMFS.

(C) The vessel owner must either:

(1) Maintain a copy of the report on board when use of the scale is required and make the report available to the observer, NMFS personnel, or an authorized officer, upon request, or;

(2) Display a valid NMFS-sticker on each approved scale.

(D) When in use, an approved scale must also meet the requirements described in paragraphs (b)(3) through (b)(6) of this section.

(3) *At-sea scale tests.* To verify that the scale meets the MPEs specified in this paragraph (b)(3), the vessel operator must test each scale or scale system used to weigh total catch one time during each 24-hour period when use of the scale is required. The vessel owner must ensure that these tests are performed in an accurate and timely manner.

(i) *Belt scales and automatic hopper scales.* (A) The MPE in the daily at-sea scale tests is plus or minus 3 percent of the known weight of the test material.

(B) *Test procedure.* A material test must be conducted by weighing at least 400 kg of fish or an alternative material supplied by the scale manufacturer on the scale under test. The known weight of the test material must be determined by weighing it on a platform scale approved for use under paragraph (b)(7) of this section.

(ii) *Platform and hanging scales—* (A) The MPE for platform and hanging scales is plus or minus 0.5 percent of the known weight of the test material.

(B) *Test weights.* Each test weight must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be annually certified by a National Institute of Standards and Technology approved metrology laboratory or approved for continued use by the NMFS authorized inspector at the time of the annual scale inspection. The amount of test weights that must be provided by the vessel owner is specified in paragraphs (b)(3)(ii)(B)(1) and (b)(3)(ii)(B)(2) of this section.

(1) *Platform scales used as observer sampling scales or to determine the known weight of test materials.* Any combination of test weights that will allow the scale to be tested at 10 kg, 25 kg, and 50 kg.

(2) *Scales used to weigh total catch.* Test weights equal to the largest amount of fish that will be weighed on the scale in one weighing.

(iii) *Requirements for all scale tests.* (A) Notify the observer at least 15 minutes before the time that the test will be conducted, and conduct the test while the observer is present.

(B) Conduct the scale test by placing the test material or test weights on or across the scale and recording the following information on the at-sea scale test report form:

- (1) Vessel name;
- (2) Month, day, and year of test;
- (3) Time test started to the nearest minute;
- (4) Known weight of test material or test weights;
- (5) Weight of test material or test weights recorded by scale;
- (6) Percent error as determined by subtracting the known weight of the test material or test weights from the weight recorded on the scale, dividing that amount by the known weight of the test material or test weights, and multiplying by 100; and
- (7) Sea conditions at the time of the scale test.

(C) Maintain the test report form on board the vessel until the end of the fishing year during which the tests were conducted, and make the report forms available to observers, NMFS personnel, or an authorized officer. In addition, the scale test report forms must be retained by the vessel owner for 3 years after the end of the fishing year during which the tests were performed. All scale test report forms must be signed by the vessel operator.

(4) *Scale maintenance.* The vessel owner must ensure that the vessel operator maintains the scale in proper operating condition throughout its use; that adjustments made to the scale are made so as to bring the performance errors as close as practicable to a zero value; and that no adjustment is made that will cause the scale to weigh fish inaccurately.

(5) *Printed reports from the scale* (not applicable to observer sampling scales). The vessel owner must ensure that the printed reports are provided as required by this paragraph. Printed reports from the scale must be maintained on board the vessel until the end of the year during which the reports were made and be made available to observers, NMFS personnel, or an authorized officer. In addition, printed reports must be retained by the vessel owner for 3 years after the end of the year during which the printouts were made.

(i) *Reports of catch weight and cumulative weight.* Reports must be printed at least once every 24 hours when use of the scale is required. Reports must also be printed before any information stored in the scale computer memory is replaced. Scale weights must not be adjusted by the scale operator to account for the perceived weight of water, mud, debris, or other materials. Scale printouts must show:

- (A) The vessel name and Federal fisheries or processor permit number;
- (B) The haul or set number as recorded in the processor's DCPL (see § 679.5);
- (C) The total weight of the haul or set;
- (D) The total cumulative weight of all fish or other material weighed on the scale.

(ii) *Printed report from the audit trail.* The printed report must include the information specified in sections 2.3.1.8, 3.3.1.7, and 4.3.1.8 of appendix A to this part. The printed report must be provided to the authorized scale inspector at each scale inspection and must also be printed at any time upon request of the observer, the scale inspector, NMFS staff, or an authorized officer.

(6) *Scale installation requirements.* The scale display must be readable from where the observer collects unsorted catch.

(7) *Platform scales used as observer sampling scales or to determine the known weight of test materials.* Platform scales used only as observer sampling scales or to determine the known weight of fish for a material test of another scale are required to meet all of the requirements of paragraph (b) of this section

and appendix A to this part except sections 4.3.1 and 4.3.1.5 of appendix A to this part (printer) or section 4.3.1.8 (audit trail) of appendix A to this part.

(c) *Scales approved by the State of Alaska.* Scales used to weigh groundfish catch that are also required to be approved by the State of Alaska under Alaska Statutes 45.75 must meet the following requirements:

(1) *Verification of approval.* The scale must display a valid State of Alaska sticker indicating that the scale was inspected and approved within the previous 12 months.

(2) *Visibility.* The scale and scale display must be visible simultaneously to the observer. Observers, NMFS personnel, or an authorized officer must be allowed to observe the weighing of fish on the scale and be able to read the scale display at all times.

(3) *Printed scale weights.* Printouts of the scale weight of each haul, set, or delivery must be made available to observers, NMFS personnel, or an authorized officer at the time printouts are generated and thereafter upon request for the duration of the fishing year. Printouts must be retained by the operator or manager as specified in §679.5(a)(13).

(d) *Observer sampling station—(1) Accessibility.* All of the equipment required for an observer sampling station must be available to the observer at all times while a sampling station is required and the observer is aboard the vessel, except that the observer sampling scale may be used by vessel personnel to conduct material tests of the scale used to weigh total catch under paragraph (b)(3) of this section, as long as the use of the observer's sampling scale by others does not interfere with the observer's sampling duties.

(2) *Location—(i) Motherships and catcher/processors or catcher vessels using trawl gear.* The observer sampling station must be located within 4 m of the location from which the observer collects unsorted catch. Clear, unobstructed passage must be provided between the observer sampling station and the location where the observer collects unsorted catch. When standing where unsorted catch is sampled, the observer must be able to see that no

fish have been removed between the bin and the scale used to weigh total catch.

(ii) *Vessels using nontrawl gear.* The observer sampling station must be located within 5 m of the collection area, described at §679.28(d)(7)(ii)(B), unless any location within this distance is unsafe for the observer. Clear, unobstructed passage must be provided between the observer sampling station and the collection area. Access must be provided to the tally station, described at §679.28(d)(7)(ii)(A). NMFS may approve an alternative location if the vessel owner submits a written proposal describing the alternative location and the reasons why a location within 5 m of where fish are brought on board the vessel is unsafe, and the proposed observer sampling station meets all other applicable requirements of this section.

(iii) *What is clear, unobstructed passage?* Where clear and unobstructed passage is required, passageways must be at least 65 cm wide at their narrowest point, be free of tripping hazards, and be at least 1.8 m high. Doorways or companionways must be free of obstacles.

(3) *Minimum work space.* The observer must have a working area for sampling of at least 4.5 square meters. This working area includes the observer's sampling table. The observer must be able to stand upright and have a work area at least 0.9 m deep in the area in front of the table and scale.

(4) *Table.* The observer sampling station must include a table at least 0.6 m deep, 1.2 m wide and 0.9 m high and no more than 1.1 m high. The entire surface area of the table must be available for use by the observer. Any area used for the observer sampling scale is in addition to the minimum space requirements for the table. The observer's sampling table must be secured to the floor or wall.

(5) *Observer sampling scale.* The observer sampling station must include a NMFS-approved platform scale with a capacity of at least 50 kg located within 1 m of the observer's sampling table. The scale must be mounted so that the weighing surface is no more than 0.7 m above the floor. The scale must be approved by NMFS under paragraph (b) of

this section and must meet the maximum permissible error requirement specified in paragraph (b)(3)(ii)(A) of this section when tested by the observer.

(6) *Other requirements.* The sampling station must include flooring that prevents slipping and drains well (grating or other material where appropriate), adequate lighting, and a hose that supplies fresh or sea water to the observer.

(7) *Requirements for sampling catch—(i) Motherships and catcher/processors using trawl gear.* The conveyor belt conveying unsorted catch must have a removable board to allow fish to be diverted from the belt directly into the observer's sampling baskets. The diverter board must be located downstream of the scale used to weigh total catch so that the observer can use this scale to weigh large samples. At least 1 m of accessible belt space, located downstream of the scale used to weigh total catch, must be available for the observer's use when sampling a haul.

(ii) *Catcher/processors using non-trawl gear.* In addition to the sampling station, vessels using non-trawl gear must provide: (A) *Tally station.* A place where the observer can see the gear as it leaves the water and can count and identify fish. It must be within 5 m of where fish are brought aboard the vessel and in a location where the observer is not in danger of falling overboard or being injured during gear retrieval. Where exposed to wind or seas, it must be equipped with a railing at least 1.0 m high, grating or other non-slip material, and adequate lighting.

(B) *Collection area.* A collection area is a place where the observer, or vessel crew under the observer's guidance, collects fish as they come off the line or are removed from pots. It must be located where the observer can see the gear when it leaves the water. Where exposed to wind or seas, it must be equipped with a railing at least 1.0 m high and grating or other non-slip material.

(8) *Inspection of the observer sampling station.* Each observer sampling station must be inspected and approved by NMFS prior to its use for the first time and then one time each year within 12 months of the date of the most recent inspection with the following excep-

tions: If the observer sampling station is moved or if the space or equipment available to the observer is reduced or removed when use of the observer sampling station is required, the observer sampling station inspection report issued under this section is no longer valid, and the observer sampling station must be reinspected and approved by NMFS. Inspection of the observer sampling station is in addition to inspection of the at-sea scales by an authorized scale inspector required at paragraph (b)(2) of this section.

(i) *How does a vessel owner arrange for an observer sampling station inspection?* The time and place of the inspection may be arranged by submitting to NMFS a written request for an inspection. Inspections will be scheduled no later than 10 working days after NMFS receives a complete application for an inspection, including the following information:

(A) Name and signature of the person submitting the application, and the date of the application.

(B) Street address, business address, telephone number, and fax number of the person submitting the application.

(C) Whether the vessel or processor has received an observer sampling scale inspection before and, if so, the date of the most recent inspection report.

(D) Vessel name.

(E) Federal fishery permit number.

(F) Location of vessel where sampling station inspection is requested to occur, including street address and city.

(G) For catcher/processors using trawl gear and motherships, a diagram drawn to scale showing the location(s) where all catch will be weighed, the location where observers will sample unsorted catch, and the location of the observer sampling station as described at paragraph (d) of this section.

(H) For all other vessels, a diagram drawn to scale showing the location(s) where catch comes on board the vessel, the location where observers will sample unsorted catch, the location of the observer sampling station, including the observer sampling scale, and the name of the manufacturer and model of the observer sampling scale.

(I) For all vessels, a copy of the most recent scale inspection report issued under paragraph (b)(2) of this section.

(ii) *Where will observer sampling station inspections be conducted?* Inspections will be conducted on vessels tied up at docks in Dutch Harbor, Alaska, and in the Puget Sound area of Washington State.

(iii) *Observer sampling station inspection report.* An observer sampling station inspection report, valid for 12 months from the date it is signed by NMFS, will be issued to the vessel owner if the observer sampling station meets the requirements in this paragraph (d). The vessel owner must maintain a current observer sampling station inspection report on board the vessel at all times when the vessel is required to provide an observer sampling station approved for use under this paragraph (d). The observer sampling station inspection report must be made available to the observer, NMFS personnel, or to an authorized officer upon request.

(e) *Certified bins for volumetric estimates of catch weight—(1) Certification.* The information required in this paragraph (e) must be prepared, dated, and signed by a licensed engineer with no financial interest in fishing, fish processing, or fish tendering vessels. Complete bin certification documents must be submitted to the Regional Administrator prior to harvesting or receiving groundfish from a fishery in which certified bins are required and must be on board the vessel and available to the observer at all times.

(2) *Specifications—(i) Measurement and marking.* The volume of each bin must be determined by accurate measurement of the internal dimensions of the bin. The internal walls of the bin must be permanently marked and numbered in 10-cm increments indicating the level of fish in the bin in cm. All marked increments and numerals must be readable from the outside of the bin through a viewing port or hatch at all times. Marked increments are not required on the wall in which the viewing port is located, unless such increments are necessary to determine the level of fish in the bin from another viewing port. 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. For bin certification documents dated after July 6, 1998, the numerals at the 10-cm increment marks must be at least 4 cm high.

(ii) *Viewing ports.* Each bin must have a viewing port or ports from which the internal bin markings and numerals on all walls of the bin can be seen from the outside of the bin, except that bin markings and numerals are not required on the wall in which the viewing port is placed, if that wall cannot be seen from any other viewing port in the bin.

(3) *Information required.* For bin certification documents submitted after July 6, 1998, the person certifying the bins must provide:

(i) The vessel name;

(ii) The date the engineer measured the bins and witnessed the location of the marked increments and numerals;

(iii) A diagram, to scale, of each bin showing the location of the marked increments on each internal wall of the bin, the location, and dimensions of each viewing port or hatch, and any additional information needed to estimate the volume of fish in the bin;

(iv) Tables indicating the volume of each certified bin in cubic meters for each 10-cm increment marked on the sides of the bins;

(v) Instructions for determining the volume of fish in each bin from the marked increments and table; and

(vi) The person's name and signature and the date on which the completed bin certification documents were signed.

(4) *Recertification.* The bin's volume and the marked and numbered increments must be recertified if the bin is modified in a way that changes its size or shape or if marking strips or marked increments are moved or added.

(5) *Operational requirements—(i) Placement of catch in certified bins.* All catch must be placed in a bin certified under this paragraph (e) to estimate total catch weight prior to sorting. Refrigerated seawater tanks may be used for volumetric estimates only if the tanks comply with all other requirements of this paragraph (e). No adjustments of volume will be made for the presence of water in the bin or tank.

(ii) *Prior notification.* Vessel operators must notify observers prior to any removal of fish from or addition of fish to each bin used for volumetric measurements of catch so that an observer may make bin volume estimates prior to fish being removed from or added to the bin. Once a volumetric estimate has been made, 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 estimates of catch weight until an observer indicates that bin volume estimates have been completed and any samples of catch required by the observer have been taken.

(iii) Fish from separate hauls or deliveries from separate harvesting vessels may not be mixed in any bin used for volumetric measurements of catch.

(iv) The 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.

(f) *Vessel Monitoring System (VMS) Requirements—(1) What is a VMS?* A VMS consists of a NMFS-approved VMS transmitter that automatically determines the vessels position and transmits it to a NMFS-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS.

(2) *How are VMS transmitters and communications service providers approved by NMFS?* (i) NMFS publishes type approval specifications for VMS components in the FEDERAL REGISTER.

(ii) Transmitter manufacturers or communication service providers may submit products or services to NMFS for evaluation based on the published specifications.

(iii) NMFS will publish a list of NMFS-approved transmitters and communication service providers in the FEDERAL REGISTER. As necessary, NMFS will publish amendments to the list of approved components in the FEDERAL REGISTER.

(3) *What are the vessel owner's responsibilities?* If you are a vessel owner that must participate in a VMS, you or your crew must:

(i) Obtain a NMFS-approved VMS transmitter and have it installed on-

board your vessel in accordance with the instructions provided by NMFS. You may get a copy of the VMS installation and operation instructions from the Regional Administrator upon request.

(ii) Activate the VMS transmitter and receive confirmation from NMFS that the VMS transmissions are being received before participating in a fishery requiring the VMS.

(iii) Continue the VMS transmissions until the fishery requiring VMS has closed or until notified by NMFS staff that you may stop transmissions.

(iv) Stop fishing immediately if informed by NMFS staff or an authorized officer that NMFS is not receiving position reports from the VMS transmitter.

(v) Make the VMS transmitter available for inspection by NMFS personnel, observers or an authorized officer.

(vi) Ensure that the VMS transmitter is not tampered with, disabled, destroyed or operated improperly.

(vii) Pay all charges levied by the communication service provider.

(viii) (Applicable 1200 hours A.l.t., June 10, 2002, through July 8, 2002) Reporting and transmission confirmation requirements for vessels endorsed under § 679.4(b)(5)(v) and installing a VMS:

(A) For vessels initially entering a fishery which requires VMS:

(1) Provide to NMFS Enforcement Division by FAX the VMS transmitter(s) ID and the vessel ID on which the VMS(s) are used.

(2) At least 72 hours before leaving port, activate the VMS transmitter and call NMFS Enforcement Division at 907-586-7225 between the hours of 0800 hours, A.l.t., and 1630 hours, A.l.t. to receive confirmation that the VMS transmissions are being received.

(B) For all other vessels endorsed under § 679.4(b)(5)(v) and installing a VMS:

(1) If the vessel is switching its VMS transmitters, provide to NMFS Enforcement Division by FAX the following information: the VMS transmitter ID, and the ID of the vessel on which the VMS will be used.

(2) Activate the VMS transmitter and call NMFS Enforcement Division at 907-586-7225 between the hours of 0800

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hours, A.l.t., and 1630 hours, A.l.t. to receive confirmation that the VMS transmissions are being received.

(C) No vessel required to carry a VMS pursuant to § 679.7(a)(18) may operate in a BSAI or GOA reporting area until the vessel has received confirmation from NMFS that the VMS transmissions are being received.

(ix) (Effective May 1, 2002, through July 8, 2002) Stop fishing immediately if informed by an authorized officer that NMFS is not receiving position reports from the VMS transmitter.

[63 FR 5843, Feb. 4, 1998, as amended at 63 FR 30401, June 4, 1998; 65 FR 61982, Nov. 15, 1999; 65 FR 33782, May 25, 2000; 65 FR 61267, Oct. 17, 2000]

EFFECTIVE DATE NOTE: At 67 FR 1004, Jan. 8, 2002, § 679.28 was amended by adding paragraph (f)(3)(viii), effective June 10, 2002 through July 8, 2002. At 67 FR 21605, May 1, 2002, § 679.28 was amended by suspending paragraph (f)(3)(ii) from June 10 through July 8, paragraph (f)(3)(iv) from May 1, 2002, until July 8, 2002, and by adding paragraph (f)(3)(ix), effective May 1, 2002, through July 8, 2002 and paragraph (f)(3)(viii) was corrected. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

Subpart C—Western Alaska Community Development Quota Program

§ 679.30 General CDQ regulations.

(a) *Application procedure.* The CDQ program is a voluntary program. Allocations of CDQ and PSQ are made to CDQ groups and not to vessels or processors fishing under contract with any CDQ group. Any vessel or processor harvesting or processing CDQ or PSQ under a CDP must comply with all other requirements of this part. In addition, the CDQ group is responsible to ensure that vessels and processors listed as eligible on the CDQ group's approved CDP comply with all requirements of this part while harvesting or processing CDQ species. Allocations of CDQ and PSQ are harvest privileges that expire upon the expiration of the CDP. When a CDP expires, further CDQ allocations are not implied or guaranteed, and a qualified applicant must re-apply for further allocations on a competitive basis with other qualified applicants. The CDQ allocations provide

the means for CDQ groups to complete their CDQ projects. A qualified applicant may apply for CDQ and PSQ allocations by submitting a proposed CDP to the State during the CDQ application period that is announced by the State. A proposed CDP must include the following information:

(1) *Community development information.* Community development information includes:

(i) *Project description.* A detailed description of all proposed CDQ projects, including the short-and long-term benefits to the qualified applicant from the proposed CDQ projects. CDQ projects should not be designed with the expectation of CDQ allocations beyond those requested in the proposed CDP.

(ii) *Project schedule.* A schedule for the completion of each CDQ project with measurable milestones for determining the progress of each CDQ project.

(iii) *Employment.* The number of individuals to be employed through the CDP projects, and a description of the nature of the work and the career advancement potential for each type of work.

(iv) *Community eligibility.* A list of the participating communities. Each participating community must be listed in Table 7 to this part or meet the criteria for an eligible community under § 679.2.

(v) *Community support.* A demonstration of each participating community's support for the qualified applicant and the managing organization through an official letter approved by the governing body of each such community.

(2) *Managing organization information.* A proposed CDP must include the following information about the managing organization:

(i) *Structure and personnel.* A description of the management structure and key personnel of the managing organization, such as resumes and references, including the name, address, fax number, and telephone number of the qualified applicant's CDQ representative.

(ii) *Management qualifications.* A description of how the managing organization is qualified to carry out the CDP projects in the proposed CDP, and a

demonstration that the managing organization has the management, technical expertise, and ability to manage CDQ allocations and prevent exceeding a CDQ or PSQ.

(iii) *Legal relationship.* Documentation of the legal relationship between the qualified applicant and the managing organization (if the managing organization is different from the qualified applicant) clearly describing the responsibilities and obligations of each party as demonstrated through a contract or other legally binding agreement.

(iv) *Board of directors.* The name, address, and telephone number of each member of the board of directors of the qualified applicant. If a qualified applicant represents more than one community, the board of directors of the qualified applicant must include at least one member from each of the communities represented.

(3) *Business information.* A proposed CDP must include the following business information:

(i) *Business relationships.* A description of all business relationships between the qualified applicant and all individuals who have a financial interest in a CDQ project or subsidiary venture, including, but not limited to, any arrangements for management and audit control and any joint venture arrangements, loans, or other partnership arrangements, including the distribution of proceeds among the parties.

(ii) *Profit sharing.* A description of all profit sharing arrangements.

(iii) *Funding.* A description of all funding and financing plans.

(iv) *General budget for implementing the CDP.* A general account of estimated income and expenditures for each CDQ project for the total number of calendar years that the CDP is in effect.

(v) *Financial statement for the qualified applicant.* The most recent audited income statement, balance sheet, cash flow statement, management letter, and agreed upon procedures report.

(vi) *Organizational chart.* A visual representation of the qualified applicant's entire organizational structure, including all divisions, subsidiaries, joint ventures, and partnerships. This chart

must include the type of legal entity for all divisions, subsidiaries, joint ventures, and partnerships; state of registration of the legal entity; and percentage owned by the qualified applicant.

(4) *Request for CDQ and PSQ allocations.* A list of the percentage of each CDQ reserve and PSQ reserve, as described at §679.31 that is being requested. The request for allocations of CDQ and PSQ must identify percentage allocations requested for CDQ fisheries identified by the primary target species of the fishery as defined by the qualified applicant and the gear types of the vessels that will be used to harvest the catch.

(5) *Fishing plan for groundfish and halibut CDQ fisheries.* The following information must be provided for all vessels that will be groundfish CDQ fishing, all vessels equal to or greater than 60 ft (18.3 m) LOA that will be halibut CDQ fishing, and for all shoreside processors that will take delivery of groundfish CDQ species from these vessels.

(i) *List of eligible vessels and processors—(A) Vessels—(1) Information required for all vessels.* A list of the name, Federal fisheries permit number (if applicable), ADF&G vessel number, LOA, gear type, and vessel type (catcher vessel, catcher/processor, or mothership). For each vessel, report only the gear types and vessel types that will be used while CDQ fishing. Any CDQ vessel that is exempt from license limitation requirements under §679.4(k)(2)(iv) of this part must be identified as such.

(2) *Information required for observed vessels using trawl or hook-and-line gear and motherships taking deliveries from these vessels.* For each catcher/processor and catcher vessel 60 ft (18.29 m) LOA or greater using trawl or hook-and-line gear and not delivering unsorted codends, or for each mothership, the CDP must include the following information that will be used by NMFS to determine whether sufficient observer coverage is provided to sample each CDQ haul, set, or delivery. Provide the information for groundfish CDQ fishing as defined under §679.2 and provide separate information by management area or fishery if information differs among management areas or fisheries.

(i) Number of CDQ observers that will be aboard the vessel. For catcher/processors using hook-and-line gear proposing to carry only one CDQ observer, the CDP must include vessel logbook or observer data that demonstrates that one CDQ observer can sample each set for species composition in one 12-hour shift per fishing day.

(ii) Average and maximum number of hauls or sets that will be retrieved on any given fishing day while groundfish CDQ fishing.

(iii) For vessels using trawl gear, the average and maximum total catch weight for any given haul while groundfish CDQ fishing.

(iv) For vessels using trawl gear, the number of hours necessary to process the average and maximum haul size while groundfish CDQ fishing.

(v) For vessels using hook-and-line gear, the average number of hooks in each set and estimated time it will take to retrieve each set while groundfish CDQ fishing.

(vi) Whether any halibut CDQ will be harvested by vessels groundfish CDQ fishing.

(B) *Shoreside processors or stationary floating processors.* A list of the name, Federal processor permit number, and location of each shoreside processor or stationary floating processor that is required to have a Federal processor permit under § 679.4(f) and will take deliveries of, or process, groundfish CDQ catch from any vessel groundfish CDQ fishing or from vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing.

(ii) *Sources of data or methods for estimating CDQ and PSQ catch.* The sources of data or methods that will be used to determine catch weight of CDQ and PSQ for each vessel or processor proposed as eligible under the CDP. For each vessel or processor, the CDP must specify whether the NMFS' standard sources of data set forth at § 679.32(d)(2) or some other alternative will be used. For catcher vessels using nontrawl gear, the CDP must also specify whether the vessel will be retaining all groundfish CDQ catch (Option 1) or will be discarding some groundfish CDQ catch at sea (Option 2). The qualified applicant may propose the use of an alternative method such as the sorting

and weighing of all catch by species on processor vessels or using larger sample sizes than could be collected by one observer. NMFS will review the proposal and approve it or notify the qualified applicant in writing if the proposed alternative does not meet these requirements. The qualified applicant may remove the vessel or processor for which the alternative method is proposed from the proposed CDP to facilitate approval of the CDP and add the vessel or processor to the approved CDP by substantial amendment at a later date. Alternatives to the requirement for a certified scale or an observer sampling station may not be proposed. NMFS will review the alternative proposal to determine if it meets all of the following requirements:

(A) The alternative proposed must provide equivalent or better estimates than use of the NMFS standard data source would provide and the estimates must be independently verifiable;

(B) Each haul or set on an observed vessel must be able to be sampled by an observer for species composition;

(C) Any proposal to sort catch before it is weighed must assure that the sorting and weighing process will be monitored by an observer; and

(D) The time required for the CDQ observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24-hour period and the CDQ observer is required to sample no more than 9 hours in each 24-hour period.

(iii) *Amendments to the list of eligible vessels and processors.* The list of eligible vessels and processors may be amended by submitting the information required in paragraphs (a)(5)(i) and (ii) of this section as an amendment to the approved CDP. A technical amendment may be used to remove any vessel from a CDP, to add any vessel to a CDP if the CDQ group will use NMFS' standard sources of data to determine CDQ and PSQ catch for the vessel, or to add any vessel to a CDP for which an alternative method of determining CDQ and PSQ catch has been approved by NMFS under an approved CDP for another CDQ group. A substantial amendment must be used to add a vessel to an approved CDP if the CDQ group submits a

proposed alternative method of determining CDQ and PSQ catch for NMFS review.

(6) *CDQ planning*—(i) *Transition plan*. A proposed CDP must include an overall plan and schedule for transition from reliance on CDQ allocations to self-sufficiency in fisheries. The plan for transition to self-sufficiency must be based on the qualified applicant's long-term revenue stream without CDQs.

(ii) *Post-allocation plan*. [Reserved]

(b) *Public hearings on CDQ application*. When the CDQ application period has ended, the State must hold a public hearing to obtain comments on the proposed CDPs from all interested persons. The hearing must cover the substance and content of proposed CDPs so that the general public, particularly the affected parties, have a reasonable opportunity to understand the impact of the proposed CDPs. The State must provide reasonable public notification of hearing date and location. At the time of public notification of the hearing, the State must make available for public review all State materials pertinent to the hearing.

(c) *Council consultation*. Before the State sends its recommendations for approval of proposed CDPs to NMFS, the State must consult with the Council and make available, upon request, the proposed CDPs that are not part of the State's recommendations.

(d) *Review and approval of proposed CDPs*. The State must transmit the proposed CDPs and its recommendations for approval of each of the proposed CDPs to NMFS, along with the findings and the rationale for the recommendations, by October 15 of the year prior to the first year of the proposed CDP, except in 1998, when CDPs for the 1998 through 2000 multispecies groundfish CDQs must be submitted by July 6, 1998. The State shall determine in its recommendations for approval of the proposed CDPs that each proposed CDP meets all applicable requirements of this part. Upon receipt by NMFS of the proposed CDPs and the State's recommendations for approval, NMFS will review the proposed CDPs and approve those that it determines meet all applicable requirements. NMFS shall approve or disapprove the State's rec-

ommendations within 45 days of their receipt. In the event of approval of the CDP, NMFS will notify the State in writing that the proposed CDP is approved by NMFS and is consistent with all requirements for CDPs. If NMFS finds that a proposed CDP does not comply with the requirements of this part, NMFS must so advise the State in writing, including the reasons thereof. The State may submit a revised proposed CDP along with revised recommendations for approval to NMFS.

(e) *Transfer*. CDQ groups may request that NMFS transfer CDQ allocations, CDQ, PSQ allocations, or PSQ from one group to another by each group filing an appropriate amendment to its CDP. Transfers of CDQ and PSQ allocations must be in whole integer percentages, and transfers of CDQ and PSQ must be in whole integer amounts. If NMFS approves both amendments, NMFS will make the requested transfer(s) by decreasing the account balance of the CDQ group from which the CDQ or PSQ species is transferred by the amount transferred and by increasing the account balance of the CDQ group receiving the transferred CDQ or PSQ species by the amount transferred. NMFS will not approve transfers to cover overages of CDQ or PSQ.

(1) *CDQ allocation*. CDQ groups may request that NMFS transfer any or all of one group's CDQ allocation to another by each group filing an amendment to its CDP through the CDP substantial amendment process set forth at paragraph (g)(4) of this section. The CDQ allocation will be transferred as of January 1 of the calendar year following the calendar year NMFS approves the amendments of both groups and is effective for the duration of the CDPs.

(2) *CDQ*. CDQ groups may request that NMFS transfer any or all of one group's CDQ for a calendar year to another by each group filing an appropriate amendment to its CDP. If the amount to be transferred is 10 percent or less of a group's initial CDQ amount for that year, that group's request may be made through the CDP technical amendment process set forth at paragraph (g)(5) of this section. If the amount to be transferred is greater than 10 percent of a group's initial CDQ

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amount for the year, that group's request must be made through the CDP substantial amendment process set forth at paragraph (g)(4) of this section. The CDQ will be transferred as of the date NMFS approves the amendments of both groups and is effective only for the remainder of the calendar year in which the transfer occurs.

(3) *PSQ allocation.* CDQ groups may request that NMFS transfer any or all of one group's PSQ allocation to another CDQ group through the CDP substantial amendment process set forth at paragraph (g)(4) of this section. Each group's request must be part of a request for the transfer of a CDQ allocation, and the requested amount of PSQ allocation must be the amount reasonably required for bycatch needs during the harvesting of the CDQ. Requests for the transfer of a PSQ allocation may be submitted to NMFS from January 1 through January 31. Requests for transfers of a PSQ allocation will not be accepted by NMFS at other times of the year. The PSQ allocation will be transferred as of January 1 of the calendar year following the calendar year NMFS approves the amendments of both groups and is effective for the duration of the CDPs.

(4) *PSQ.* CDQ groups may request that NMFS transfer any or all of one group's PSQ for one calendar year to another by each group filing an amendment to its CDP through the CDP substantial amendment process set forth at paragraph (g)(4) of this section. Each group's request must be part of a request for the transfer of CDQ, and the requested amount of PSQ must be the amount reasonably required for bycatch needs during the harvesting of the CDQ. Requests for the transfer of PSQ may be submitted to NMFS from January 1 through January 31. Requests for transfers of PSQ will not be accepted by NMFS at other times of the year. The PSQ will be transferred as of the date NMFS approves the amendments of both groups and is effective only for the remainder of the calendar year in which the transfer occurs.

(f) *CDQ group responsibilities.* A CDQ group's responsibilities include, but are not limited to, the following:

(1) Direct and supervise all activities of the managing organization;

(2) Maintain the capability to communicate with all vessels harvesting its CDQ and PSQ at all times;

(3) Monitor the catch of each CDQ or PSQ;

(4) Submit the CDQ catch report described at § 679.5(n)(2);

(5) Ensure that no CDQ, halibut PSQ, or crab PSQ is exceeded;

(6) Ensure that the CDQ group's CDQ harvesting vessels and CDQ processors will:

(i) Provide observer coverage, equipment, and operational requirements for CDQ catch monitoring;

(ii) Provide for the communication of observer data from their vessels to NMFS and the CDQ representative;

(iii) Maintain contact with the CDQ group for which it is harvesting CDQ and PSQ;

(iv) Cease fishing operations when requested by the CDQ group; and

(v) Comply with all requirements of this part while harvesting or processing CDQ species.

(7) Comply with all requirements of this part.

(g) *Monitoring of CDPs—(1) Annual progress report.* (i) The State must submit to NMFS, by October 31 of each year, an annual progress report for the previous calendar year for each CDP.

(ii) Annual progress reports must be organized on a project-by-project basis and include information for each CDQ project in the CDP describing how each scheduled milestone in the CDP has been met, and an estimation by the State of whether each of the CDQ projects in the CDP is likely to be successful.

(iii) The annual report must include a description by the State of any problems or issues in the CDP that the State encountered during the annual report year.

(2) *Annual budget report.* (i) Each CDQ group must submit to NMFS an annual budget report by December 15 preceding the year for which the annual budget applies.

(ii) An annual budget report is a detailed estimate of the income from the CDQ project and of the expenditures for each subsidiary, division, joint venture, partnership, investment activity,

or CDQ project as described in paragraph (a)(1)(i) of this section for a calendar year. A CDQ group must identify the administrative costs for each CDQ project. The CDQ group's total administrative costs will be considered a separate CDQ project.

(iii) An annual budget report is approved upon receipt by NMFS, unless disapproved by NMFS in writing by December 31. If disapproved, the annual budget report will be returned to the CDQ group for revision and resubmittal to NMFS.

(3) *Annual budget reconciliation report.* A CDQ group must reconcile its 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 CDQ project that is described in paragraph (a)(1)(i) of this section.

(4) *Substantial amendments.* A CDP is a working business plan and must be kept up to date.

(i) Substantial amendments to a CDP require a written request by the CDQ group to the State and NMFS for approval of the amendment. The State must forward the amendment to NMFS with a recommendation as to whether it should be approved.

(ii) NMFS will notify the State in writing of the approval or disapproval of the amendment within 30 days of receipt of both the amendment and the State's recommendation. Except for substantial amendments for the transfer of CDQ and PSQ, which are effective only for the remainder of the calendar year in which the transfer occurs (see paragraphs (e)(2) and (4) of this section), once a substantial amendment is approved by NMFS, the amendment will be effective for the duration of the CDP.

(iii) If NMFS determines that the CDP, if changed, would no longer meet the requirements of this subpart, NMFS will notify the State 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:

(A) Any change in the list of communities comprising the CDQ group 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 CDQ group and its harvesting or processing partner or a change in a CDP project, if such change is deemed by the State or NMFS to be a material change.

(G) Any transfer of a CDQ allocation, PSQ allocation, PSQ, or a transfer of more than 10 percent of a CDQ.

(H) The addition of a vessel to a CDP if the CDQ group submits a proposed alternative method of determining CDQ and PSQ catch under paragraph (a)(5)(ii) of this section for NMFS review.

(v) The request for approval of a substantial 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 a substantial amendment.

(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 revised pages of the CDP for replacement in the CDP binder. The revised pages must have the revision date noted, with the page number on all affected pages. The table of contents may also need to be revised to reflect any changes in pagination.

(E) Identification of any NMFS findings that would need to be modified if

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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.

(5) *Technical amendments.* Any change to a CDP that is not considered a substantial amendment under paragraph (g)(4)(iv) of this section is a technical amendment.

(i) The CDQ group must notify the State in writing of any technical amendment. Such notification must include a copy of the pages of the CDP that would be revised by the amendment, with the text highlighted to show the proposed deletions and additions, and a copy of the CDP pages as they would be revised by the proposed amendment for insertion into the CDP binder. All revised CDP pages must include the revision date, amendment identification number, and CDP page number. The table of contents may also need to be revised to reflect any changes in pagination.

(ii) The State must forward the technical amendment to NMFS with its recommendations for approval or disapproval of the amendment. A technical amendment is approved by NMFS and is effective when, after review, NMFS notifies the State in writing of the technical amendment's receipt and approval.

(h) *Suspension or termination of a CDP.* An annual progress report, required under paragraph (g)(1) of this section, will be used by the State to review each CDP to determine whether the CDP, CDQ, and PSQ allocations thereunder should be continued, decreased, partially suspended, suspended, or terminated under the following circumstances:

(1) If the State determines that the CDP will successfully meet its goals and objectives, the CDP may continue without any Secretarial action.

(2) If the State recommends to NMFS that an allocation be decreased, the State's recommendation for decrease will be deemed approved if NMFS does not notify the State in writing within 30 days of receipt of the State's recommendation.

(3) If the State determines that a CDP has not successfully met its goals and objectives or appears unlikely to become successful, the State may submit a recommendation to NMFS that the CDP be partially suspended, suspended, or terminated. The State must set out, in writing, the reasons for recommending suspension or termination of the CDP.

(4) After review of the State's recommendation and reasons thereof, NMFS will notify the Governor, in writing, of approval or disapproval of the recommendation within 30 days of its receipt. In the case of suspension or termination, NMFS will publish notification in the FEDERAL REGISTER, with reasons thereof.

[63 FR 30403, June 4, 1998, as amended at 64 FR 3882, Jan. 26, 1999; 64 FR 20214, Apr. 26, 1999; 65 FR 45318, July 21, 2000; 67 FR 4148, Jan. 28, 2002]

EFFECTIVE DATE NOTE: At 63 FR 30403, June 4, 1998, § 679.30 was revised. Section 679.30(a)(5)(i)(A)(2) contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 679.31 CDQ reserves.

Portions of the CDQ and PSQ reserves for each subarea or district 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 and districts combined to any one applicant with an approved CDP application.

(a) *Pollock CDQ reserve.* In the proposed and final harvest specifications required by § 679.20(c), one-half of the pollock TAC placed in the reserve for each subarea or district of the BSAI will be apportioned to a CDQ reserve for each subarea or district.

(b) *Halibut CDQ reserve.* (1) NMFS will annually withhold from IFQ allocation the proportions of the halibut catch limit that are specified in paragraph (b) of this section 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 the halibut CDQ program, exclusive of issued QS, and the eligible communities for which they shall be made available are as follows for each IPHC regulatory area (see Figure 15 to this part):

(i) *Area 4B.* In IPHC regulatory area 4B, 20 percent of the annual halibut quota shall be made available to eligible communities physically located in, or proximate to, this regulatory area.

(ii) *Area 4C.* In IPHC regulatory area 4C, 50 percent of the halibut quota shall be made available to eligible communities physically located in IPHC regulatory area 4C.

(iii) *Area 4D.* In IPHC regulatory area 4D, 30 percent of the annual halibut quota shall be made available 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 to eligible communities located in, or proximate to, IPHC regulatory area 4E. A fishing trip limit of 6,000 lb (2.7 mt) applies to halibut CDQ harvesting in IPHC regulatory area 4E.

(4) 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.

(c) *Groundfish CDQ reserves.* (See § 679.20(b)(1)(iii))

(d) *Crab CDQ reserves.* For those king and Tanner crab species in the Bering Sea and Aleutian Islands Area that have a guideline harvest level specified by the State of Alaska, 7.5 percent of the annual guideline harvest level for each fishery is apportioned to a crab CDQ reserve.

(e) *PSQ reserve.* (See § 679.21(e)(1)(i) and (e)(2)(ii)).

(f) *Non-specific CDQ reserve.* Annually, NMFS will apportion 15 percent of each

arrowtooth flounder and “other species” CDQ for each CDQ group to a non-specific CDQ reserve. A CDQ group’s non-specific CDQ reserve must be for the exclusive use of that CDQ group. A release from the non-specific CDQ reserve to the CDQ group’s arrowtooth flounder or “other species” CDQ is a technical amendment to a community development plan as described in § 679.30(g)(5). The technical amendment must be approved before harvests relying on CDQ transferred from the non-specific CDQ reserve may be conducted.

(g) Non-specific CDQ reserve (applicable through July 8, 2002). Annually, NMFS will apportion 50 percent of the arrowtooth flounder CDQ and 15 percent of the “other species” CDQ for each CDQ group to a non-specific CDQ reserve. A CDQ group’s non-specific CDQ reserve must be for the exclusive use of that CDQ group. A release from the non-specific reserve to the CDQ group’s arrowtooth flounder or “other species” CDQ is a technical amendment to a community development plan as described in § 679.30(g)(5). The technical amendment must be approved before harvests relying on CDQ transferred from the non-specific CDQ reserve may be conducted.

[63 FR 8361, Feb. 19, 1998, as amended at 63 FR 30407, June 4, 1998; 64 FR 3882, Jan. 26, 1999; 64 FR 20214, Apr. 26, 1999; 64 FR 61982, Nov. 15, 1999; 66 FR 13678, Mar. 7, 2001; 67 FR 13293, Mar. 22, 2002]

EFFECTIVE DATE NOTE: At 67 FR 1004, Jan. 8, 2002, § 679.31 was amended by suspending paragraph (f), effective Jan. 1, 2002 until July 8, 2002, and adding paragraph (g), effective Jan. 1, 2002. At 67 FR 4133, Jan. 28, 2002, paragraph (a)(2) was removed, effective Jan. 25, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

§ 679.32 Groundfish and halibut CDQ catch monitoring.

(a) *Applicability.* The CDQ group, the operator of a vessel groundfish CDQ fishing as defined at § 679.2, the operator of a catcher/processor halibut CDQ fishing as defined at § 679.2, the operator of a catcher vessel equal to or greater than 60 ft (18.3 m) LOA halibut CDQ fishing, the operator of a mothership taking deliveries from these vessels, and the manager of a shoreside processor taking deliveries

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from these vessels must comply with the requirements of paragraphs (b) through (d) of this section for all groundfish CDQ and PSQ. For the catch of halibut CDQ or for vessels halibut CDQ fishing, the CDQ group, the operator of the vessel, the shoreside processor, and the registered buyer must comply with the requirements of paragraph (f) of this section. In addition, the CDQ group is responsible for ensuring that vessels and processors listed as eligible on the CDQ group's approved CDP comply with all requirements of this section while harvesting or processing CDQ species.

(b) *PSQ catch.* Time and area closures required once a CDQ group has reached its salmon PSQ or crab PSQ are listed in § 679.7(d)(7) through (10). The catch of salmon or crab by vessels using other than trawl gear does not accrue to the PSQ for these species. The discard of halibut by vessels using pot or jig gear will not accrue to the halibut PSQ if this bycatch has been exempted from the halibut PSC limit under § 679.21(e)(5) in the annual specifications published in the FEDERAL REGISTER.

(c) *Requirements for vessels and processors.* In addition to complying with the minimum observer coverage requirements at § 679.50(c)(4), operators of vessels groundfish CDQ fishing and managers of shoreside processors or stationary floating processors taking deliveries from vessels groundfish CDQ fishing must comply with the following requirements:

(1) *Catcher vessels without an observer.*

(i) Operators of catcher vessels less than 60 ft (18.3 m) LOA must retain all groundfish CDQ, halibut CDQ, and salmon PSQ until it is delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section unless retention of groundfish CDQ species is not authorized under § 679.4 of this part, discard of the groundfish CDQ species is required under subpart B of this part, or, in waters within the State of Alaska, discard is required by laws of the State of Alaska. All halibut PSQ and crab PSQ must be discarded at sea. Operators of catcher vessels using trawl gear must report the at-sea discards of halibut PSQ or crab PSQ on the CDQ delivery report

(see § 679.5(n)(1)). Operators of catcher vessels using nontrawl gear must report the at-sea discards of halibut PSQ on the CDQ delivery report, unless exempted from accounting for halibut PSQ under paragraph (b) of this section.

(ii) *Catcher vessels delivering unsorted codends.* Operators of catcher vessels delivering unsorted codends to motherships must retain all CDQ and PSQ species and deliver them to a mothership that meets the requirements of paragraph (c)(4) of this section.

(2) *Catcher vessels with observers.* Operators of catcher vessels equal to or greater than 60 ft (18.29 m) LOA must comply with the following requirements:

(i) *If using trawl gear, the vessel operator must:*

(A) Retain all CDQ species and salmon PSQ until they are delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section unless retention of groundfish CDQ species is not authorized under § 679.4 of this part, discard of the groundfish CDQ species is required under subpart B of this part, or, in waters within the State of Alaska, discard is required by laws of the State of Alaska;

(B) Retain all halibut and crab PSQ in a bin or other location until it is counted and sampled by a CDQ observer; and

(C) Provide space on the deck of the vessel for the CDQ observer to sort and store catch samples and a place from which to hang the observer sampling scale.

(ii) *If using nontrawl gear, the vessel operator must either:*

(A) *Option 1: Retain all CDQ species.* Retain all CDQ species until they are delivered to a processor that meets the requirements of paragraph (c)(3) or (c)(4) of this section unless retention of groundfish CDQ species is not authorized under § 679.4 of this part, discard of the groundfish CDQ or PSQ species is required under subpart B of this part, or, in waters within the State of Alaska, discard is required by laws of the State of Alaska. Have all of the halibut PSQ counted by the CDQ observer and

sampled for length or average weight; or

(B) *Option 2: Discard some CDQ species at sea.* May discard some CDQ species at sea if the following requirements are met:

(1) *Observer sampling station.* The vessel owner provides an observer sampling station that complies with § 679.28(d) so that the CDQ observer can accurately determine the average weight of discarded CDQ species. A valid observer sampling station inspection report described at § 679.28(d)(8) must be on board the vessel at all times when a sampling station is required; and

(2) *Species composition.* Each CDQ set on vessels using hook-and-line gear is sampled for species composition by a CDQ observer.

(3) *Shoreside processors and stationary floating processors.* The manager of a shoreside processor or stationary floating processor must comply with all of the following requirements:

(i) *Prior notice to observer of offloading schedule.* Notify the CDQ observer of the offloading schedule of each CDQ delivery at least 1 hour prior to offloading to provide the CDQ observer an opportunity to monitor the sorting and weighing of the entire delivery.

(ii) *CDQ and PSQ by weight.* Sort and weigh on a scale approved by the State of Alaska under § 679.28(c) all groundfish and halibut CDQ or PSQ by species or species group.

(iii) *PSQ by number.* Sort and count all salmon and crab PSQ.

(iv) *CDQ and PSQ sorting and weighing.* Sorting and weighing of CDQ and PSQ must be monitored by a CDQ observer.

(v) *CDQ delivery report.* Submit a CDQ delivery report described at § 679.5(n)(1) for each delivery of groundfish CDQ.

(4) *Catcher/processors and motherships.* The operator of a catcher/processor or a mothership taking deliveries of unsorted codends from catcher vessels must comply with the following requirements:

(i) *Prior notice to observer of CDQ catch.* Notify the CDQ observer(s) before CDQ catch is brought onboard the vessel and notify the CDQ observer(s) of the CDQ group and CDQ number associated with the CDQ catch.

(ii) *Observer sampling station.* Provide an observer sampling station as described at § 679.28(d). A valid observer sampling station inspection report described at § 679.28(d)(8) must be on board the vessel at all times when a sampling station is required.

(iii) Obtain the data entry software provided by the Regional Administrator (“ATLAS software”) for use by the observer and ensure that observer data can be transmitted from the vessel to NMFS at any time while the vessel is receiving, catching or processing CDQ species.

(iv) *Catcher/processors using trawl gear and motherships.* The operator of a catcher/processor using trawl gear or of a mothership taking deliveries of unsorted codends from catcher vessels must weigh all catch on a scale that complies with the requirements of § 679.28(b). A valid scale inspection report described at § 679.28(b)(2) must be on board the vessel at all times when a scale is required. Catch from each CDQ haul must be weighed separately. Catch must not be sorted before it is weighed, unless a provision for doing so is approved by NMFS for the vessel in the CDP. Each CDQ haul must be sampled by a CDQ observer for species composition and the vessel operator must allow CDQ observers to use any scale approved by NMFS to weigh partial CDQ haul samples.

(v) *Catcher/processors using nontrawl gear.* Each CDQ set on a vessel using hook-and-line gear must be sampled by a CDQ observer for species composition and average weight.

(d) *Recordkeeping and reporting—(1) Catch record.* The manager of a shoreside processor or stationary floating processor must submit to NMFS the CDQ delivery report required in § 679.5(n)(1). The CDQ representative must submit to NMFS the CDQ catch report required in § 679.5(n)(2). Additionally, all other applicable requirements in § 679.5 for groundfish fishing must be met.

(2) *Verification of CDQ and PSQ catch reports.* CDQ groups may specify the sources of data listed below as the sources they will use to determine CDQ and PSQ catch on the CDQ catch report by specifying “NMFS standard sources of data” in their CDP. In the case of a

catcher vessel using nontrawl gear, the CDP must specify whether the vessel will be retaining all groundfish CDQ (Option 1) or discarding some groundfish CDQ species at sea (Option 2). CDQ species may be discarded at sea by these vessels only if the requirements of paragraph (c)(2)(ii)(B) of this section are met. NMFS will use the following sources to verify the CDQ catch reports, unless an alternative catch estimation procedure in the CDP is approved by NMFS under § 679.30(a)(5)(ii).

(i) *Catcher vessels less than 60 ft (18.29 m) LOA.* The weight or numbers of all CDQ and PSQ species will be the same as the information on the CDQ delivery report if all CDQ species and salmon PSQ are retained on board the vessel, delivered to a shoreside processor listed as eligible in the CDP, and sorted and weighed in compliance with paragraph (c)(3) of this section.

(ii) *Catcher vessels delivering unsorted codends.* The weight and numbers of CDQ and PSQ species will be determined by applying the species composition sampling data collected for each CDQ haul by the CDQ observer on the mothership to the total weight of each CDQ haul as determined by weighing all catch from each CDQ haul on a scale approved under § 679.28(b).

(iii) *Observed catcher vessels using trawl gear.* The weight of halibut and numbers of crab PSQ discarded at sea will be determined by using the CDQ observer's sample data. The weight or numbers of all groundfish CDQ and salmon PSQ will be the same as the information submitted on the CDQ delivery report if all CDQ species and salmon PSQ are retained on board the vessel until delivered to a processor listed as eligible in the CDP, and sorted and weighed in compliance with paragraph (c)(3) of this section.

(iv) *Observed catcher vessels using nontrawl gear—(A) Option 1.* The weight of halibut PSQ discarded at sea will be determined by using the CDQ observer's sample data. The weight of all groundfish CDQ will be the same as the information submitted on the CDQ delivery report if all CDQ species are retained on board the vessel until delivered to a processor, and sorted and weighed in compliance with paragraph (c)(3) of this section (Option 1); or

(B) *Option 2.* The weight of halibut PSQ and all groundfish CDQ species will be determined by applying the CDQ observer's species composition sampling data to the estimate of total catch weight if any CDQ species are discarded at sea.

(v) *Catcher/processors using trawl gear.* The weight and numbers of CDQ and PSQ species will be determined by applying the CDQ observer's species composition sampling data for each CDQ haul to the total weight of the CDQ haul as determined by weighing all catch from each CDQ haul on a scale certified under § 679.28(b).

(vi) *Catcher/processors using nontrawl gear.* The weight of halibut PSQ and all groundfish CDQ species will be determined by applying the CDQ observer's species composition sampling data to the estimate of total catch weight, if any CDQ species are discarded at sea.

(e) *Pollock CDQ—(1) Directed fishing for pollock CDQ.* Owners and operators of vessels directed fishing for pollock CDQ as calculated under § 679.20(f)(3) and processors taking deliveries from vessels directed fishing for pollock CDQ must comply with all applicable requirements of paragraphs (a) through (d) of this section. Pollock catch by vessels directed fishing for pollock CDQ will accrue against the pollock CDQ for the CDQ group.

(2) *Catch of pollock by vessels not directed fishing for pollock CDQ.* Pollock catch by vessels groundfish CDQ fishing, but not directed fishing for pollock CDQ as calculated under § 679.20(f)(3), will not accrue against the pollock CDQ for the CDQ group.

(3) Operators of all vessels participating in any CDQ fishery must retain all pollock caught while CDQ fishing as required at § 679.27 (IR/IU).

(f) *Halibut CDQ—(1) Applicability.* The CDQ group, the operator of the vessel, the manager of a shoreside processor or stationary floating processor, and the registered buyer must comply with the requirements of this paragraph (f) for the catch of halibut CDQ or while halibut CDQ fishing.

(2) *Accounting for halibut CDQ catch—(i) Halibut CDQ permit.* The CDQ group must obtain a halibut CDQ permit issued by the Regional Administrator. The vessel operator must have a copy

of the halibut CDQ permit on any fishing vessel operated by, or for, a CDQ group that will have halibut CDQ onboard and must make the permit available for inspection by an authorized officer. The halibut CDQ permit is non-transferable and is issued annually until revoked, suspended, or modified.

(ii) *Halibut CDQ card.* An individual must have onboard the vessel a valid halibut CDQ card issued by the Regional Administrator before landing any halibut CDQ. Each halibut CDQ card will identify a CDQ permit number and the individual authorized by the CDQ group to land halibut for debit against the CDQ group's halibut CDQ.

(iii) *Alteration.* No person may alter, erase, mutilate, or forge a halibut CDQ permit, landing 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, mutilated, or forged is invalid.

(iv) *Landings.* A person may land halibut CDQ only if he or she has a valid halibut CDQ card, and that person may deliver halibut CDQ only to a person with a valid registered buyer permit. The person holding the halibut CDQ card and the registered buyer must comply with the requirements of § 679.5(1)(1) and (1)(2).

(v) The CDQ group, vessel owner or operator, and registered buyer must comply with all of the IFQ prohibitions at § 679.7(f).

(3) *Accounting for catch of groundfish CDQ while halibut CDQ fishing.* The manager of a shoreside processor or stationary floating processor must report on a CDQ delivery report described at § 679.5(n)(1), all groundfish CDQ delivered by vessels equal to or greater than 60 ft (18.3 m) LOA while halibut CDQ fishing and all sablefish CDQ delivered by vessels of any size while halibut CDQ fishing. The CDQ group must report on a CDQ catch report described at § 679.5(n)(2), all groundfish CDQ caught by vessels equal to or greater than 60 ft (18.3 m) LOA while halibut CDQ fishing and all sablefish CDQ retained by vessels of any size while halibut CDQ fishing. This groundfish CDQ will accrue to the CDQ group's groundfish CDQ allocations. The manager of a

shoreside processor or stationary floating processor and the CDQ group are not required to report on the CDQ delivery report, groundfish, except sablefish CDQ, that is caught by vessels less than 60 ft (18.3 m) LOA while halibut CDQ fishing, and this catch (except sablefish CDQ) will not accrue against the CDQ group's groundfish CDQ allocations.

(4) *Groundfish CDQ retention requirements.* Operators of vessels less than 60 ft (18.3 m) LOA are not required to retain and deliver groundfish CDQ species while halibut CDQ fishing, unless required to do so elsewhere in this part. Operators of vessels equal to or greater than 60 ft (18.3 m) LOA are required to comply with all groundfish CDQ and PSQ catch accounting requirements in paragraphs (b) through (d) of this section, including the retention of all groundfish CDQ, if option 1 under § 679.32(c)(2)(ii) is selected in the CDP. CDQ species must be discarded when required by other provisions in subpart B of this part or, in waters within the State of Alaska, when discard is required by laws of the State of Alaska.

(5) *Observer coverage requirements.* The owner or operator of a vessel equal to or greater than 60 ft (18.3 m) LOA halibut CDQ fishing as defined at § 679.2 or shoreside processors taking deliveries from vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing must comply with observer coverage requirements at § 679.50(c)(4) and (d)(4).

[63 FR 30407, June 4, 1998, as amended at 64 FR 3882, Jan. 26, 1999; 64 FR 20214, Apr. 26, 1999; 64 FR 61982, Nov. 15, 1999; 65 FR 33783, May 25, 2000; 66 FR 13678, Mar. 7, 2001; 67 FR 4133, 4148, Jan. 28, 2002; 67 FR 18140, Apr. 15, 2002]

EFFECTIVE DATE NOTE 1: At 63 FR 30407, June 4, 1998, § 679.32 was revised. Paragraph 679.32(c)(4)(i) contains information collection and recordkeeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

EFFECTIVE DATE NOTE 2: At 67 FR 1004, Jan. 8, 2002, § 679.32 was amended by suspending paragraphs (a)(2) and (e), effective Jan. 1, 2002 until July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

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.

(C) Who is a citizen of the United States at the time of application for QS.

(D) Who is a 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.

(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 hal-

ibut 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, except as provided in § 679.42(a);

(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

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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*. The Application period for QS ended on July 15, 1994. As of that date, the Request for QS Application form replaced the QS Application form as the means by which the Administrator, RAM, reviews and makes initial administrative determinations on requests for initial allocations of QS. A Request for QS Application must contain the following: information identifying the individual, representative of a deceased fisherman's estate, corporation or partnership, or dissolved corporation or partnership making the request; contact numbers; vessel identification, length overall, and purchase date; and information on any vessel leasing arrangement pertinent to the claim of eligibility.

(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:

$$\text{IFQ}_{\text{pa}} = [(\text{fixed gear TAC}_a - \text{CDQ reserve}_a) \times (\text{QS}_{\text{pa}}/\text{QS pool}_a)] - \text{overage of IFQ}_{\text{pa}}$$

(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,

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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; 62 FR 59299, Nov. 3, 1997; 66 FR 27910, May 21, 2001; 67 FR 4133, Jan. 28, 2002]

§ 679.41 Transfer of quota shares 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 re-

quested 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)(i) The person applying to make or receive the IFQ or QS transfer has paid all IFQ fees that have become due as a result of an initial administrative determination.

(ii) The person applying to make or receive the IFQ or QS transfer who has not paid all IFQ fees that are due (as provided under § 679.45(a)) has timely appealed the administrative determination that IFQ fees have not been paid in full and has submitted to NMFS an amount sufficient to satisfy any disputed liability pending a final agency action.

(9) 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) *General*. 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) *Sablefish*. 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 GOA regulatory area: 46,055 QS.

(iv) Western GOA regulatory area: 48,410 QS.

(v) Aleutian Islands subarea: 99,210 QS.

(vi) Bering Sea subarea: 91,275 QS.

(3) *Halibut*. 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

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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) IFQ resulting from category B, C, or D QS may not be transferred separately from its originating QS, except as provided in paragraph (k) of this section.

(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

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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) *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 result-

ing 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:

$$Q_N = (Q_C \times QSP_N \times RATE) / (SUM_{CDQ} - [RATE \times SUM_{TAC}]) \times ([1 - RATE] \times TAC_{AVE}) / (QSP_C \times [CDQ_{PCT} - RATE])$$

Where:

Q_N = quota share in non-CDQ area

Q_C = quota share in CDQ area

QSP_N = quota share pool in non-CDQ area (as existing on January 31, 1995)

$RATE$ = SUM_{CDQ} /average of the TAC (1988-1994) for all CDQ and non-CDQ areas

TAC_{AVE} = average of the TAC (1988-1994) for CDQ area

QSP_C = quota share pool in CDQ area (as existing on January 31, 1995)

CDQ_{PCT} = CDQ percentage for CDQ area

SUM_{CDQ} = sum [$TAC_{AVE} \times CDQ_{PCT}$]

SUM_{TAC} = sum [TAC_{AVE}]

(k) *Survivorship transfer privileges*—(1) On the death of an individual who holds QS or IFQ, the surviving spouse or, in the absence of a surviving spouse, a beneficiary designated pursuant to paragraph (k)(2) of this section, 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. The Regional Administrator will approve an Application for Transfer to the surviving spouse or designated beneficiary when sufficient evidence has been provided to verify the death of the individual.

(2) QS holders may provide the Regional Administrator with the name of a designated beneficiary from the QS holder's immediate family to receive survivorship transfer privileges in the event of the QS holder's death and in the absence of a surviving spouse.

(3) 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 or, in the absence of a surviving spouse, from a beneficiary from the QS holder's immediate family designated pursuant to paragraph (k)(2) of this section to a person eligible to receive IFQ under the provisions of this section, notwithstanding

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the limitations on transfers of IFQ in paragraph (h)(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; 63 FR 47368, Sept. 4, 1998; 65 FR 14942, Mar. 20, 2000; 66 FR 27910, May 21, 2001; 67 FR 4133, 4148, Jan. 28, 2002]

§ 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—(1) IFQ Fisheries.* 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.

(2) *Seabird avoidance gear and methods.* The operator of a vessel using gear authorized at § 679.2 while fishing for IFQ halibut or hook-and-line gear while fishing for IFQ sablefish must comply with requirements for seabird avoidance gear and methods set forth at § 679.24(e).

(c) *Requirements and deductions.* (1) Any individual who harvests halibut or sablefish with fixed gear must:

- (i) Have a valid IFQ card.
- (ii) Be aboard the vessel at all times during the fishing operation.
- (iii) Sign any required fish ticket.
- (iv) Sign the IFQ landing report required by §§ 679.5(1)(2)(ii)(C) and (iii)(B).

(2) NMFS shall use the following sources of information to debit a CDQ or IFQ account.

(i) Except as provided in § 679.5(1)(2)(vi)(J)(2), if offload of unprocessed CDQ or IFQ halibut or IFQ sablefish from a vessel, the scale weight of the halibut or sablefish product actually measured at the time of offload, as required by § 679.5(1)(2)(vi) to be included in the IFQ/CDQ landing report.

(ii) If offload of processed IFQ & CDQ halibut or IFQ sablefish from a vessel, the scale weight of the halibut or sablefish processed product actually measured at or before the time of offload. If the product scale weights are taken before the time of offload, then the species and actual product weight of each box or container must be visibly marked on the outside of each container to facilitate enforcement inspection.

(3) All IFQ catch onboard a vessel must be debited from the IFQ permit holder's account under which the catch was harvested.

(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 more than 3,229,721 units of sablefish QS, except if the amount of a person's initial allocation of sablefish QS is greater than 3,229,721 units, in which case that person may not use more than the amount of the initial allocation.

(2) In the IFQ regulatory area east of 140° W. long., no person, individually or collectively, may use more than 688,485 units of sablefish QS for this area, except if the amount of a person's initial allocation of sablefish QS is greater than 688,485 units, in which case that person may not use more than the amount of the initial allocation.

(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. How-

ever, 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 received an initial allocation of QS assigned to categories B, C, or D does not have to be aboard the vessel on which his or her IFQ is being fished or to sign IFQ landing reports if that individual owns at least a 20-percent interest in the vessel and is represented on the vessel by a master employed by that individual. NMFS will determine ownership interest for purposes of this paragraph only on the basis of written documentation. This minimum 20-percent ownership requirement does not apply to any individual who received an initial allocation of QS assigned to categories B, C, or D and who, prior to April 17, 1997, employed a master to fish any of the IFQ issued to that individual, provided the individual continues to own the vessel from which the IFQ is being fished at no lesser percentage of ownership interest than that held on April 17, 1997, and provided that this individual has not acquired additional QS through transfer after September 23, 1997.

(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.

(3) The exemption provided in paragraph (i)(1) of this section may be exercised by an individual on a vessel owned by a corporation, partnership, or other entity in which the individual is a shareholder, partner, or member, provided that the individual maintains a minimum 20 percent interest in the vessel owned by the corporation, partnership, or other entity. For purposes

of this paragraph, interest in a vessel is determined as the percentage ownership of a corporation, partnership, or other entity by that individual multiplied by the percentage of ownership of the vessel by the corporation, partnership, or other entity.

(j) *Use of IFQ resulting from QS assigned to vessel categories B, C, or D by corporations and partnerships.* Except as provided in paragraph (j)(5) of this section, a corporation or partnership that received an initial allocation of QS assigned to categories B, C, or D may fish the IFQ resulting from that QS and any additional QS acquired within the limitations of this section provided that the corporation or partnership owns at least a 20- percent interest in the vessel on which its IFQ is fished, and that it is represented on the vessel by a master employed by the corporation or partnership that received the initial allocation of QS. NMFS will determine ownership interest for purposes of this paragraph only on the basis of written documentation. 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" means:

(i) for corporations and partnerships, 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; or

(ii) for estates, the final or summary distribution of the estate.

(3) The Regional Administrator must be notified of a change in the corporation, partnership, or other entity 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 or, for estates, the date of the determination of a legal heir to the estate, or the date of the order for distribution of the estate.

(4) QS assigned to vessel categories B, C, or D and IFQ resulting from that QS held in the name of a corporation, partnership, or other entity 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.

(5) A corporation or a partnership that received an initial allocation of QS assigned to categories B, C, or D and that, prior to April 17, 1997, employed a master to fish any of the IFQ issued to that corporation or partnership may continue to employ a master to fish its IFQ on a vessel owned by the corporation or partnership provided that the corporation or partnership continues to own the vessel at no lesser percentage of ownership interest than that held on April 17, 1997, and provided that corporation or partnership did not acquire additional QS through transfer after September 23, 1997.

(6) A corporation, partnership, or other entity, except for a publicly held corporation, that receives an initial allocation of QS assigned to categories B, C, or D must provide annual updates to the Regional Administrator identifying all current shareholders or partners and affirming the entity's continuing existence as a corporation or partnership.

(7) The exemption provided in paragraph (j) of this section may be exercised by a corporation, partnership, or other entity on a vessel owned by a person who is a shareholder in the corporation, partnership, or other entity,

provided that the corporation, partnership, or other entity maintains a minimum of 20 percent interest in the vessel. For purposes of this paragraph, interest in a vessel is determined as the percentage of ownership in the corporation, partnership, or other entity by that person who is a shareholder in the corporation, partnership, or other entity, multiplied by the percentage of ownership in the vessel by that person who is a shareholder in the corporation, partnership, or other entity.

(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; 62 FR 60669, Nov. 12, 1997; 62 FR 66311, Dec. 18, 1997; 63 FR 11167, Mar. 6, 1998; 63 FR 47368, Sept. 4, 1998; 63 FR 54611, Oct. 13, 1998; 64 FR 24962, May 10, 1999; 64 FR 61982, Nov. 15, 1999; 66 FR 27911, May 21, 2001; 67 FR 4133, Jan. 28, 2002; 67 FR 20918, Apr. 29, 2002; 67 FR 22011, May 2, 2002]

EFFECTIVE DATE NOTE: At 66 FR 27911, May 21, 2001, § 679.42 was amended by adding paragraph (j)(6). This section contains information collection requirements and will not become effective until approved by the Office of Management and Budget.

§ 679.43 Determinations and appeals.

(a) *General.* This section describes the procedure for appealing initial administrative determinations made under this subpart D as well as portions of subpart C of this part.

(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 to the Office of Administrative Appeals, P. O. Box 21668, Juneau, AK 99802 or delivered to Federal Building, 709 West 9th St., Room 801, Juneau, AK. Appeals may be transmitted by facsimile to (907) 586-9361. Additional information about appeals may be obtained by calling (907) 586-7258, and by accessing Office of Administrative Appeals section of the NMFS Alaska Region website <http://www.fakr.noaa.gov>.

(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 Program Administrator, RAM, 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

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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.

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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

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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.

(p) *Issuance of a non-transferable license.* A non-transferable license will be issued to a person upon acceptance of his or her appeal of an initial administrative determination denying an application for a license for license limitation groundfish, crab species under §679.4(k) or scallops under §679.4(g). This non-transferable license authorizes a person to conduct directed fishing for groundfish, crab species, or catch and retain scallops and will have specific endorsements and designations based on the person's claims in his or her application for a license. This non-transferable license expires upon the resolution of the appeal.

[61 FR 31230, June 19, 1996, as amended at 62 FR 17753, Apr. 11, 1997; 63 FR 52657, Oct. 1, 1998; 63 FR 64879, Nov. 24, 1998; 65 FR 78118, Dec. 14, 2000; 66 FR 27911, May 21, 2001; 67 FR 4148, Jan. 28, 2002]

§ 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.

§ 679.45 IFQ cost recovery program.

(a) *Cost recovery fees—(1) Responsibility.* The person documented on the IFQ permit as the permit holder at the

time of an IFQ landing must comply with the requirements of this section. Subsequent transfer of QS or IFQ does not affect the permit holder's liability for noncompliance with this section.

(2) *IFQ Fee Liability Determination.* After each IFQ fishing year, the Regional Administrator will issue each IFQ permit holder a summary of his or her IFQ pounds landed during that IFQ fishing year for each permit as part of the IFQ Landing and Estimated Fee Liability page described at §679.5(1)(7)(ii)(C)(2). The summary will include an estimated IFQ fee liability based on the standard ex-vessel values of the landings. The summary and estimated fee liability will include details of IFQ equivalent pounds landed by permit, port or port-group, species, date, and IFQ standard prices. The permit holder must either accept NMFS's estimate of IFQ liability or revise NMFS's estimate of IFQ fee liability using the Fee Submission Form described at §679.5(1)(7)(ii). If the permit holder revises NMFS's estimate of his or her fee liability, NMFS may request in writing that the permit holder submit documentation establishing the factual basis for the revised calculation. If the permit holder fails to provide adequate documentation by the 30th day after the date of such request, NMFS will determine the IFQ permit holder's fee liability based on standard ex-vessel values.

(3) *Fee Collection.* An IFQ permit holder with an IFQ landing is responsible for self-collecting his or her own fee during the calendar year in which the IFQ fish is harvested.

(4) *Payment—(i) Payment due date.* An IFQ permit holder must submit his or her IFQ fee liability payment(s) to NMFS at the address provided in this section at paragraph (a)(4)(iii) of this section not later than January 31 of the year following the calendar year in which the IFQ landings were made.

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

(iii) *Payment address.* Mail payment and related documents to:

Administrator, Alaska Region,
NMFS,
Attn: RAM Program,
P.O. Box 21668,
Juneau, AK 99802 1668,

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FAX: (907) 586-7354.

or submit electronically to NMFS via forms available from RAM or on the RAM area of the Alaska Region Home Page at <http://www.fakr.noaa.gov/ram>.

(iv) *Payment method.* Payment must be made in U.S. dollars by personal check drawn on a U.S. bank account, money order, bank certified check, or credit card.

(b) *IFQ ex-vessel value determination and use—(1) General.* An IFQ permit holder must use either the IFQ standard ex-vessel value or the IFQ actual ex-vessel value when determining the IFQ fee liability based on ex-vessel value. An IFQ permit holder must base all fee liability calculations on the ex-vessel value that correlates to landed IFQ fish that is recorded in IFQ equivalent pounds.

(2) *IFQ actual ex-vessel value.* An IFQ permit holder that uses actual ex-vessel value, as defined in § 679.2, to determine IFQ fee liability must document actual ex-vessel value for each IFQ permit.

(c) *IFQ standard ex-vessel value determination and use—(1) Use of standard price.* An IFQ permit holder that uses standard ex-vessel value to determine the IFQ fee liability as part of a revised IFQ fee liability submission must use the corresponding standard price(s) as published in the FEDERAL REGISTER.

(2) *Duty to publish list—(i) General.* Each year the Regional Administrator will publish IFQ standard prices in the FEDERAL REGISTER during the last quarter of each calendar year. The standard prices will be described in U.S. dollars per IFQ equivalent pound, for IFQ halibut and sablefish landings made during the current calendar year.

(ii) *Effective duration.* The IFQ standard prices will remain in effect until revised by the Regional Administrator by notification in the FEDERAL REGISTER based upon new information of the type set forth in this section. IFQ standard prices published in the FEDERAL REGISTER by NMFS shall apply to all landings made in the same calendar year as the IFQ standard price publication and shall replace any IFQ standard prices previously provided by NMFS that may have been in effect for that same calendar year.

(iii) *Determination.* NMFS will calculate the IFQ standard prices to reflect, as closely as possible by month and port or port-group, the variations in the actual ex-vessel values of IFQ halibut and IFQ sablefish landings based on information provided in the IFQ Buyer Reports as described in § 679.5(1)(7)(i). The Regional Administrator will base IFQ standard prices on the following types of information:

(A) Landed pounds by IFQ species, port-group, and month;

(B) Total ex-vessel value by IFQ species, port-group, and month; and

(C) Price adjustments, including IFQ retro-payments.

(d) *IFQ fee percentage—(1) Default percentage.* The IFQ fee percentage is 3 percent (0.03) unless adjusted by the Regional Administrator by publication in the FEDERAL REGISTER in accordance with § 679.45(d)(3).

(2) *Calculating fee percentage value.* Each year the Regional Administrator will calculate the fee percentage.

(i) *Factors.* In making the calculations the Regional Administrator will consider the following factors:

(A) The catch to which the IFQ fee will apply;

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

(C) The costs directly related to the management and enforcement of the IFQ program;

(D) The funds available for the IFQ program in the Limited Access System Administrative Fund (LASAF); and

(E) Nonpayment of fee liabilities.

(ii) *Methodology.* In making the calculation, the Regional Administrator will use the methodology described here.

$$[100 \times (DPC - AB) / V] / (1 - NPR)$$

where:

DPC is the direct program costs for the IFQ fishery for the previous fiscal year,

AB is the projected end of the year LASAF account balance for the IFQ program,

V is the projected ex-vessel value of the catch subject to the IFQ fee for the current year, and

NPR is the fraction of the fee assessments that is expected to result in nonpayment.

(3) *Adjustments.* (i) *General.* During or before the last quarter of each year, the Regional Administrator will consider adjusting the IFQ fee percentage.

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Consideration will be based on the calculations described in §679.45(d)(2). The Regional Administrator may reduce the IFQ fee percentage at any time based on new information of the type set forth in §679.45(d)(2).

(ii) *In-season effective period.* An in-season reduction in the IFQ fee percentage supersedes the IFQ fee percentage previously in effect for the calendar year and remains in effect through the end of the calendar year in which it was determined unless otherwise adjusted by the Regional Administrator.

(4) *Publication.* The Regional Administrator will publish notification in the FEDERAL REGISTER any adjustment of the IFQ fee percentage.

(5) *Applicable percentage.* The IFQ permit holder must use the IFQ fee percentage in effect at the time an IFQ landing is made to calculate his or her fee liability for such landed IFQ pounds unless the percentage is subsequently adjusted as described in §679.45(d)(3). The IFQ permit holder must use the IFQ percentage in effect at the time an IFQ retro-payment is received by the IFQ permit holder to calculate his or her IFQ fee liability for the IFQ retro-payment.

(e) *Non-payment of fee.* If an IFQ permit holder does not submit a complete Fee Submission Form and corresponding payment by the due date described in §679.45(a)(2) and (3), the Regional Administrator may:

(1) At any time thereafter send an IAD to the IFQ permit holder stating that the IFQ permit holder's estimated fee liability, as calculated by the Regional Administrator and sent to the IFQ permit holder pursuant to §679.45(a)(2) is the amount of IFQ fee due from the IFQ permit holder.

(2) Disapprove any transfer of IFQ or QS to or from the IFQ permit holder in accordance with §679.41(c)(8)(i). Upon final agency action determining that an IFQ permit holder has not paid his or her IFQ fee liability, any IFQ fishing permit held by the IFQ permit holder is not valid until all IFQ fee liabilities are paid. If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(f) *Underpayment of IFQ fee.* (1) When an IFQ permit holder has incurred a fee liability and made a timely payment to NMFS of an amount less than the NMFS estimated IFQ fee liability, the Regional Administrator will review the Fee Submission Form and related documentation submitted by the IFQ permit holder. If the Regional Administrator determines that the IFQ permit holder has not paid a sufficient amount, the Regional Administrator may disapprove any transfer of IFQ or QS to or from the IFQ permit holder in accordance with §679.41(c)(4). The Regional Administrator will notify the IFQ permit holder by letter that an insufficient amount has been paid and that the IFQ permit holder has 30 days from the date of the letter to either pay the amount determined to be due or provide additional documentation to prove that the amount paid was the correct amount. The Regional Administrator will evaluate any additional documentation submitted by an IFQ permit holder in support of his or her payment. If the Regional Administrator determines that the additional documentation does not meet the IFQ permit holder's burden of proving his or her payment is correct, the Regional Administrator will send the permit holder an IAD indicating that the permit holder did not meet the burden of proof to change the IFQ fee liability as calculated by the Regional Administrator based upon the IFQ standard ex-vessel value.

(2) After expiration of the 30-day period, the Regional Administrator will issue an IAD and notify the IFQ permit holder. The IAD will set out the facts and indicate the deficiencies in the documentation submitted by the permit holder. An IFQ permit holder who receives an IAD may appeal pursuant to §679.43. In an appeal of an IAD made under this section, the IAD permit holder has the burden of proving his or her claim.

(3) If the permit holder fails to file an appeal of the IAD pursuant to §679.43, the IAD will become the final agency action. If the IAD is appealed and the final agency action is a determination that additional sums are due from the IFQ permit holder, the IFQ permit holder must pay any IFQ fee amount

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determined to be due not later than 30 days from the issuance of the final agency action. Once a fee liability determination becomes final, any IFQ fishing permit held by the IFQ permit holder will be deemed not valid until all IFQ fee liabilities have been paid. If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(g) *Over payment.* Upon issuance of final agency action, any amount submitted to NMFS in excess of the IFQ fee liability determined to be due by the final agency action will be returned to the IFQ permit holder unless the permit holder requests the agency to credit the excess amount against the IFQ permit holder's future IFQ fee liability.

(h) *Appeals and requests for reconsideration.* An IFQ permit holder who receives an IAD may either appeal the IAD pursuant to § 679.43 or request reconsideration. Within 60 days from the date of issuance of the IAD, the Regional Administrator may undertake a reconsideration of the IAD on his or her own initiative. If a request for reconsideration is submitted or the Regional Administrator initiates a reconsideration, the 60-day period for appeal under § 679.43 will begin anew upon issuance of the Regional Administrator's reconsidered IAD. The Regional Administrator may undertake only one reconsideration of the IAD, if any. If an IFQ permit holder fails to file an appeal of the IAD pursuant to § 679.43, the IAD will become the final agency action. In any appeal or reconsideration of an IAD made under this section, an IFQ permit holder has the burden of proving his or her claim.

(i) *Annual report.* NMFS will publish annually a report describing the status of the IFQ Cost Recovery Program.

[65 FR 14924, Mar. 20, 2000, as amended at 67 FR 4133, Jan. 28, 2002]

Subpart E—Groundfish Observer Program

SOURCE: 61 FR 56431, Nov. 1, 1996, unless otherwise noted.

§ 679.50 Groundfish Observer Program applicable through December 31, 2002.

(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 for the CDQ fisheries obtained in compliance with paragraphs (c)(4) and (d)(4) of this section may not be used to comply with observer coverage requirements for non-CDQ groundfish fisheries specified in this section.

(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 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 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

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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 during at least one entire fishing trip using hook-and-line gear in the Eastern GOA regulatory area during each calendar quarter in which the vessel participates in a directed fishery for groundfish in the Eastern Regulatory Area using hook-and-line gear.

(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 while using pot gear in that calendar quarter and during at least one entire fishing trip using pot gear 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.

(x) (Applicable through July 8, 2002) *A vessel directed fishing with trawl gear for Atka mackerel in the Aleutian Islands subarea* must carry two NMFS-certified observers at all times while directed fishing for Atka mackerel in the harvest limit area for platoon managed Atka mackerel directed fishing, as defined in §679.2.

(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 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 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 Regional 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 stationary floating processor 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.

(4) *Groundfish and halibut CDQ fisheries*. The owner or operator of a vessel groundfish CDQ fishing or halibut CDQ fishing as defined at § 679.2 must comply with the following minimum observer coverage requirements each day that the vessel is used to transport (catcher vessels only), harvest, process, deliver or take delivery of CDQ or PSQ species. The time required for the CDQ observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24-hour period, and, the CDQ observer is required to sample no more than 9 hours in each 24-hour period.

(i) *Motherships or catcher/processors using trawl gear*. A mothership or catcher/processor using trawl gear

must have at least two CDQ observers as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessel, at least one of whom must be certified as a lead CDQ observer.

(ii) *Catcher/processors using hook-and-line gear*. A catcher/processor using hook-and-line gear must have at least two CDQ observers as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessels, unless NMFS approves a CDP authorizing the vessel to carry only one lead CDQ observer. At least one of the CDQ observers must be certified as a lead CDQ observer. NMFS may approve a CDP authorizing the vessel to carry only one lead CDQ observer if the CDQ group supplies vessel logbook or observer data that demonstrates that one CDQ observer can sample each CDQ set for species composition in one 12-hour shift per fishing day. NMFS will not approve a CDP that would require the observer to divide a 12-hour shift into shifts of less than 6 hours.

(iii) *Catcher/processors using pot gear*. A catcher/processor using pot gear must have at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section aboard the vessel.

(iv) *Catcher vessel using trawl gear*. A catcher vessel equal to or greater than 60 ft (18.3 m) LOA using trawl gear, except a catcher vessel that delivers only unsorted codends to a processor or another vessel, must have at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section aboard the vessel.

(v) *Catcher vessel using nontrawl gear*. A catcher vessel equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear must meet the following observer coverage requirements:

(A) *Option 1*. If the vessel operator selected Option 1 (as described at § 679.32(c)(2)(ii)(A)) for CDQ catch accounting, then at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section must be aboard the vessel.

(B) *Option 2*. If the vessel operator selected Option 2 (as described at § 679.32(c)(2)(ii)(B)) for CDQ catch accounting, then at least one lead CDQ observer as described at paragraph

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(h)(1)(i)(E) of this section must be aboard the vessel.

(vi) *Motherships or catcher/processors using trawl gear* (applicable January 15, 2002, through July 8, 2002). (A) A mothership or catcher/processor vessel using trawl gear to participate in a directed fishery for pollock CDQ must have at least two NMFS-certified observers aboard the vessel, at least one of whom must be certified as a lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section.

(B) A mothership or catcher/processor vessel using trawl gear to participate in a directed fishery for other than pollock CDQ must have at least two CDQ observers as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessel, at least one of whom must be certified as a lead CDQ observer.

(C) (Effective May 1, 2002, through July 8, 2002) A mothership or catcher/processor vessel engaged in fishing with trawl gear in a directed CDQ fishery for other than pollock CDQ must carry at least two CDQ observers as described at paragraphs (h)(1)(i)(D) and (E) of this section aboard the vessel, at least one of whom must be certified as a lead CDQ observer.

(5) [Reserved]

(6) *AFA catcher/processors and motherships* (applicable January 15, 2002, through July 8, 2002).

(i) *Coverage requirement*—(A) *Unrestricted AFA catcher/processors and AFA motherships*. The owner or operator of an unrestricted AFA catcher/processor or AFA mothership must provide at least two NMFS-certified observers for each day that the vessel is used to harvest, process, or take deliveries of groundfish. More than two observers are required if the observer workload restriction in paragraph (c)(6)(iii) of this section would otherwise preclude sampling.

(B) *Restricted AFA catcher/processors*. The owner or operator of a restricted AFA catcher/processor must provide at least two NMFS-certified observers for each day that the vessel is used to engage in directed fishing for pollock in the BSAI, or take deliveries of pollock harvested in the BSAI. When a restricted AFA catcher/processor is not engaged in directed fishing for BSAI

pollock and is not receiving deliveries of pollock harvested in the BSAI, the observer coverage requirements in paragraph (c)(1)(iv) of this section apply.

(ii) *Certification level*. At least one of the observers required under paragraphs (c)(6)(i)(A) and (B) of this section must be certified as a lead CDQ observer as specified in paragraph (h)(1)(i)(E)(I) of this section.

(iii) *Observer work load*. The time required for the observer to complete sampling, data recording, and data communication duties may not exceed 12 consecutive hours in each 24-hour period, and the observer may not sample more than 9 hours in each 24-hour period.

(d) *Observer requirements for shoreside processors and stationary floating processors*. Observer coverage is required as follows. A shoreside processor or stationary floating processor that:

(1) Processes 1,000 mt or more in 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 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.

(4) *Groundfish and halibut CDQ fisheries*—(i) *CDQ deliveries requiring observer coverage*. Subject to paragraph (d)(4)(ii) of this section, each shoreside

processor or stationary floating processor taking deliveries of groundfish or halibut CDQ must have at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section present at all times while CDQ is being received or processed.

(ii) *CDQ deliveries not requiring CDQ observer coverage.* A shoreside processor is not required to provide a CDQ observer for CDQ deliveries from the following vessels:

(A) Vessels less than 60 ft (18.3 m) LOA that are halibut CDQ fishing;

(B) Vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear that have selected Option 1 (as described at § 679.32(c)(2)(ii)(A)) for CDQ catch accounting, so long as the CDQ observer on the catcher vessel monitors the entire delivery without exceeding the working hour limitations described in paragraph (d)(4)(iii) of this section; and

(C) Vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear that have selected Option 2 (as described at § 679.32(c)(2)(ii)(B)) for CDQ catch accounting.

(iii) *Observer working hours.* The time required for the CDQ observer to complete sampling, data recording, and data communication duties may not exceed 12 hours in each 24-hour period, and the CDQ observer is required to sample no more than 9 hours in each 24-hour period.

(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 pub-

lish changes in observer coverage requirements in the FEDERAL REGISTER, with the reasons for the changes and any special instructions to vessels, shoreside processors or stationary floating 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 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), a mouse, and a 3.5-inch floppy

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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 logbook 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 or stationary floating processor responsibilities.* A manager of a shoreside processor or stationary floating 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 receipt 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 or stationary floating processor's communication equipment and personnel, on request, for the entry,

transmission, and receipt of work-related messages, at no cost to the observers in 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 or stationary floating 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 or stationary floating 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, shoreside processors or stationary floating 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.

(D) For purposes of the groundfish CDQ fisheries, a NMFS-certified CDQ observer must meet the following requirements.

(1) Be a prior observer in the groundfish fisheries off Alaska who has completed at least 60 days of observer data collection.

(2) Receive the rating of 1 for "meets expectations" or 2 for "exceptional" by NMFS for his or her most recent deployment.

(3) Successfully complete a NMFS-approved CDQ observer training and/or briefing as prescribed by NMFS and available from the Observer Program Office.

(4) Comply with all of the other requirements of this section.

(E) In addition to the requirements in paragraph (h)(1)(i)(D) of this section,

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to be certified as a “lead CDQ observer”, an observer must meet the following requirements.

(1) A “lead CDQ observer” on a catcher/processor using trawl gear or a mothership must have completed two observer cruises (contracts) and sampled at least 100 hauls on a catcher/processor using trawl gear or a mothership.

(2) A “lead CDQ observer” on a catcher vessel using trawl gear must have completed two observer cruises (contracts) and sampled at least 50 hauls on a catcher vessel using trawl gear.

(3) A “lead CDQ observer” on a vessel using nontrawl gear must have completed two observer cruises (contracts) of at least 10 days each and sampled at least 60 sets on a vessel using nontrawl gear.

(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 purchasing 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 solicit or accept employment as a crew member or an employee of a vessel, shoreside processor, or stationary floating 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 to be used. Observer contractors certified for the year 2000 to provide observers through the North Pacific Groundfish Observer Program, are exempt from this requirement to submit an application and are certified for the term specified in paragraph (i)(1)(iii) of this section.

(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, 2002. NMFS can decertify or suspend observer contractors pursuant to 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 or stationary floating 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, shoreside processors and/or stationary floating 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), fax, or other method specified by NMFS.

(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

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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, shoreside processor, or stationary floating 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, shoreside processor, or stationary floating 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, shoreside processor, or stationary floating 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) Commercial 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 completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) an observer contractor has with those entities requiring observer services under paragraphs (c) and (d) of this section and with observers. Completed and unaltered copies of signed and valid contracts with specific entities requiring observer services or with specific observers must be submitted to the Observer Program Office upon request. Types of signed and valid contracts include the contracts an observer contractor has with:

(1) Vessels required to have observer coverage as specified at paragraphs (c)(1)(i) and (iv) of this section,

(2) Vessels required to have observer coverage as specified at paragraphs (c)(1)(ii), (v), and (vii) of this section,

(3) Shoreside processors or stationary floating processors required to have observer coverage as specified at paragraph (d)(1)(i) of this section,

(4) Shoreside processors or stationary floating processors required to have observer coverage as specified at paragraph (d)(1)(ii) of this section,

(5) Observers (to include contracts for the various compensation or salary levels of observers, the levels being based on observer experience).

(6) Required copies of contracts must be submitted by mail or faxed to: NMFS Observer Program Office, 7600 Sandpoint Way Northeast, Seattle, WA 98115-0070; fax number 206-526-4066.

(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, shoreside processors, and stationary floating 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)(I) or (j)(6)(ii)(B)(I) 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 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 evidence 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

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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 (j)(6) 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; 62 FR 60182, Nov. 7, 1997; 62 FR 63891, Dec. 3, 1997; 62 FR 67760, Dec. 30, 1997; 63 FR 11168, Mar. 6, 1998; 63 FR 30409, June 4, 1998; 63 FR 69025, Dec. 15, 1998; 64 FR 20215, Apr. 26, 1999; 65 FR 69485, Nov. 17, 2000; 65 FR 80383, Dec. 21, 2000; 67 FR 4148, Jan. 28, 2002]

EFFECTIVE DATE NOTES: 1. At 67 FR 1005, Jan. 8, 2002, §679.50, paragraph (c)(4)(i) was suspended from Jan. 1, 2002 until July 8, 2002,

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and paragraphs (c)(4)(vi) and (c)(6) were added effective Jan. 15, 2002, through July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

2. At 67 FR 21605, May 1, 2002, § 679.50 was amended by suspending paragraph (c)(4)(vi)(B) from May 1, 2002, until July 8, 2002, and by adding paragraph (c)(4)(vi)(C), effective May 1, 2002, through July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

Subpart F [Reserved]

Subpart G—Inshore Fee System for Repayment of the Loan to Harvesters of Pollock from the Directed Fishing Allowance Allocated to the Inshore Component Under Section 206(b)(1) of the AFA.

AUTHORITY: Pub. L. 105-277, 16 U.S.C. 1801, *et seq.*

SOURCE: 65 FR 5281, Feb. 3, 2000; 65 FR 6921, Feb. 11, 2000, unless otherwise noted.

§ 679.70 Definitions.

In addition to the definitions in the Magnuson-Stevens Act and in § 679.2 of this title, the terms used in this subpart have the following meanings:

American Fisheries Act (AFA) means Title II of Pub.L. 105-277.

Borrower means (individually and collectively) all persons who, after January 1, 2000, harvest fee fish from the IC directed fishing allowance.

Business week means a 7-day period, Saturday through Friday.

Delivery value means the gross ex-vessel value of all fee fish at fish delivery.

Deposit principal means all collected fee revenue that a fish buyer deposits in a segregated deposit account maintained in a federally chartered national bank for the sole purpose of aggregating collected fee revenue before sending the fee revenue to NMFS for repaying the loan.

Fee means the six-tenths (0.6) of one cent that fish buyers deduct at fish delivery from the delivery value of each pound of round weight fee fish.

Fee fish means all pollock harvested from the IC directed fishing allowance beginning on February 10, 2000 and ending at such time as the loan's principal and interest are fully repaid.

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Fish buyer means the first ex-vessel fish buyer who purchases fee fish from a fish seller.

Fish delivery means the point at which a fish buyer first takes delivery or possession of fee fish from a fish seller.

Fish seller means the harvester who catches and first sells fee fish to a fish buyer.

IC directed fishing allowance means the directed fishing allowance allocated to the inshore component under section 206(b)(1) of the AFA.

Loan means the loan authorized by section 207(a) of the AFA.

Net delivery value means the delivery value minus the fee.

Subaccount means the Inshore Component Pollock Subaccount of the Fishing Capacity Reduction Fund in the U.S. Treasury for the deposit of all funds involving the loan.

§ 679.71 Loan.

(a) *Principal amount.* The loan's principal amount is \$75,000,000 (seventy five million dollars).

(b) *Interest.* Interest shall, from December 30, 1998, when NMFS disbursed the loan, until the date the borrower fully repays the loan, accrue at a fixed rate of 7.09 percent. Interest shall be simple interest and shall accrue on the basis of a 365-day year.

(c) *Repayment.* The fee shall be the exclusive source of loan repayment. The fee shall be paid on all fee fish.

(d) *Application of fee receipts.* NMFS shall apply all fee receipts it receives, first, to payment of the loan's accrued interest and, second, to reduction of the loan's principal balance.

(e) *Obligation.* The borrower shall repay the loan in accordance with the AFA and this subpart.

§ 679.72 Fee payment and collection.

(a) *Payment and collection.* (1) The fee is due and payable at the time of fish delivery. Each fish buyer shall collect the fee at the time of fish delivery by deducting the fee from the delivery value before paying or promising later to pay the net delivery value. Each fish seller shall pay the fee at the time of fish delivery by receiving from the fish buyer the net delivery value or the fish

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buyer's promise later to pay the net delivery value rather than the delivery value. Regardless of when the fish buyer pays the net delivery value, the fish buyer shall collect the fee at the time of fish delivery;

(2)(i) Each fish seller shall be deemed, for the purpose of the fee collection, deposit, disbursement, and accounting requirements of this subpart, to be both the fish seller and the fish buyer—and all requirements and penalties under this subpart applicable to both a fish seller and a fish buyer shall equally apply to the fish seller—each time that the fish seller sells fee fish to:

(A) Any fish buyer whose place of business is not located in the United States, who does not take delivery or possession of the fee fish in the United States, who is not otherwise subject to this subpart, or to whom or against whom NMFS cannot otherwise apply or enforce this subpart,

(B) Any fish buyer who is a general food-service wholesaler or supplier, a restaurant, a retailer, a consumer, some other type of end-user, or some other fish buyer not engaged in the business of buying fish from fish sellers for the purpose of reselling the fish, or

(C) Any other fish buyer who the fish seller has good reason to believe is a fish buyer not subject to this subpart or to whom or against whom NMFS cannot otherwise apply or enforce this subpart,

(ii) In each such case the fish seller shall, with respect to the fee fish involved in each such case, discharge, in addition to the fee payment requirements of this subpart, all the fee collection, deposit, disbursement, accounting, recordkeeping, and reporting requirements that this subpart otherwise imposes on the fish buyer, and the fish seller shall be subject to all the penalties this subpart provides for a fish buyer's failure to discharge such requirements;

(b) *Notification.* (1) NMFS will send an appropriate fee payment and collection commencement notification to each affected fish seller and fish buyer of whom NMFS has knowledge.

(2) When NMFS determines that the loan is fully repaid, NMFS will publish a FEDERAL REGISTER notification that the fee is no longer in effect and should

no longer be either paid or collected. NMFS will then also send an appropriate fee termination notification to each affected fish seller and fish buyer of whom NMFS has knowledge;

(c) *Failure to pay or collect.* (1) If a fish buyer refuses to collect the fee in the amount and manner that this subpart requires, the fish seller shall then advise the fish buyer of the fish seller's fee payment obligation and of the fish buyer's fee collection obligation. If the fish buyer still refuses to properly collect the fee, the fish seller, within the next 7 calendar days, shall forward the fee to NMFS. The fish seller at the same time shall also advise NMFS in writing of the full particulars, including:

(i) The fish buyer's and fish seller's name, address, and telephone number,

(ii) The name of the fishing vessel from which the fish seller made fish delivery and the date of doing so,

(iii) The quantity and delivery value of fee fish that the fish seller delivered, and

(iv) The fish buyer's reason (if known) for refusing to collect the fee in accordance with this subpart;

(2) If a fish seller refuses to pay the fee in the amount and manner that this subpart requires, the fish buyer shall then advise the fish seller of the fish buyer's collection obligation and of the fish seller's payment obligation. If the fish seller still refuses to pay the fee, the fish buyer shall then either deduct the fee from the delivery value over the fish seller's protest or refuse to buy the fee fish. The fish buyer shall also, within the next 7 calendar days, advise NMFS in writing of the full particulars, including:

(i) The fish buyer's and fish seller's name, address, and telephone number,

(ii) The name of the fishing vessel from which the fish seller made or attempted to make fish delivery and the date of doing so,

(iii) The quantity and delivery value of fee fish the fish seller delivered or attempted to deliver,

(iv) Whether the fish buyer deducted the fee over the fish seller's protest or refused to buy the fee fish, and

(v) The fish seller's reason (if known) for refusing to pay the fee in accordance with this subpart.

§ 679.73 Fee collection deposits, disbursements, records, and reports.

(a) *Deposit accounts.* Each fish buyer that this subpart requires to collect a fee shall maintain a segregated account at a federally insured financial institution for the sole purpose of depositing collected fee revenue and disbursing the fee revenue directly to NMFS in accordance with paragraph (c) of this section.

(b) *Fee collection deposits.* Each fish buyer, no less frequently than at the end of each business week, shall deposit, in the deposit account established under paragraph (a) of this section, all fee revenue, not previously deposited, that the fish buyer has collected through a date not more than 2 calendar days before the date of deposit. Neither the deposit account nor the principal amount of deposits in the account may be pledged, assigned, or used for any purpose other than aggregating collected fee revenue for disbursement to the subaccount in accordance with paragraph (c) of this section. The fish buyer is entitled, at any time, to withdraw deposit interest, if any, but never deposit principal, from the deposit account for the fish buyer's own use and purposes.

(c) *Deposit principal disbursement.* On the last business day of each month, or more frequently if the amount in the account exceeds the account limit for insurance purposes, the fish buyer shall disburse to NMFS the full amount of deposit principal then in the deposit account. The fish buyer shall do this by check made payable to "NOAA Inshore Component Pollock Loan Subaccount." The fish buyer shall mail each such check to the subaccount lockbox account that NMFS establishes for the receipt of the disbursements of deposit principal. Each disbursement shall be accompanied by the fish buyer's settlement sheet completed in the manner and form that NMFS specifies. NMFS will specify the subaccount's lockbox and the manner and form of settlement sheet by means of the notification in § 679.72(b)(1).

(d) *Records maintenance.* Each fish buyer shall maintain, in a secure and orderly manner for a period of at least 3 years from the date of each trans-

action involved, at least the following information:

(1) For all deliveries of fee fish that the fish buyer buys from each fish seller:

- (i) The date of delivery,
- (ii) The fish seller's identity,
- (iii) The round weight of fee fish delivered,
- (iv) The identity of the fishing vessel that delivered the fee fish,
- (v) The delivery value,
- (vi) The net delivery value,
- (vii) The identity of the party to whom the net delivery value is paid, if other than the fish seller,
- (viii) The date the net delivery value was paid, and
- (ix) The total fee amount collected;

(2) For all fee collection deposits to and disbursements from the deposit account:

- (i) The dates and amounts of deposits,
- (ii) The dates and amounts of disbursements to the subaccount's lockbox account, and
- (iii) The dates and amounts of disbursements to the fish buyer or other parties of interest earned on deposits.

(e) *Annual report.* By January 15, 2001, and by each January 15 thereafter until the loan is fully repaid, each fish buyer shall submit to NMFS a report, on or in the form NMFS specifies, containing the following information for the preceding year for all fee fish each fish buyer purchases from fish sellers:

- (1) Total round weight bought;
- (2) Total delivery value paid;
- (3) Total fee amount collected;
- (4) Total fee collection amounts deposited by month;
- (5) Dates and amounts of monthly disbursements to the subaccount lockbox;
- (6) Total amount of interest earned on deposits; and
- (7) Depository account balance at year-end.

(f) *State records.* If landing records that a state requires from fish sellers contain some or all of the data that this section requires and state confidentiality laws or regulations do not prevent NMFS' access to the records

maintained for the state, then fish buyers can use such records to meet appropriate portions of this section's record-keeping requirements. If, however, state confidentiality laws or regulations make such records unavailable to NMFS, then fish buyers shall maintain separate records for NMFS that meet the requirements of this section.

(g) *Audits.* NMFS or its agents may audit, in whatever manner NMFS believes reasonably necessary for the duly diligent administration of the loan, the financial records of the fish buyers and the fish sellers in order to ensure proper fee payment, collection, deposit, disbursement, accounting, recordkeeping, and reporting. Fish buyers and fish sellers shall make all records of all transactions involving fee fish catches, fish deliveries, and fee payments, collections, deposits, disbursements, accounting, recordkeeping, and reporting available to NMFS or its agents at reasonable times and places and promptly provide all requested information reasonably related to these records that such fish sellers and fish buyers may otherwise lawfully provide. Trip tickets (or similar accounting records establishing the round weight pounds of fee fish that each fish buyer buys from each fish seller each time that each fish buyer does so) are essential audit documentation.

(h) *Confidentiality of records.* NMFS and its auditing agents shall maintain the confidentiality of all data to which NMFS has access under this section and shall neither release the data nor allow the data's use for any purpose other than the purpose of this subpart, unless otherwise required by law; provided, however, that NMFS may aggregate such data so as to preclude their identification with any fish buyer or any fish seller and use them in the aggregate for other purposes.

(i) *Refunds.* When NMFS determines that the loan is fully repaid, NMFS will refund any excess fee receipts, on a last-in/first-out basis, to the fish buyers. Fish buyers shall return the refunds, on a last-in/first-out basis, to the fish sellers who paid the amounts refunded.

§ 679.74 Late charges.

The late charge to fish buyers for fee payment, collection, deposit, and/or disbursement shall be one and one-half (1.5) percent per month, or the maximum rate permitted by state law, for the total amount of the fee not paid, collected, deposited, and/or disbursed when due to be paid, collected, deposited, and/or disbursed within 5 days of the date due. The full late charge shall apply to the fee for each month or portion of a month that the fee remains unpaid, uncollected, undeposited, and/or undisbursed.

§ 679.75 Enforcement.

In accordance with applicable law or other authority, NMFS may take appropriate action against each fish seller and/or fish buyer responsible for non-payment, non-collection, non-deposit, and/or non-disbursement of the fee in accordance with this subpart to enforce the collection from such fish seller and/or fish buyer of any fee (including penalties and all costs of collection) due and owing the United States on account of the loan that such fish seller and/or fish buyer should have, but did not, pay, collect, deposit, and/or disburse in accordance with this subpart. All such loan recoveries shall be applied to reduce the unpaid balance of the loan.

§ 679.76 Prohibitions and penalties.

(a) The following activities are prohibited, and it is unlawful for anyone to:

(1) Avoid, decrease, interfere with, hinder, or delay payment or collection of, or otherwise fail to fully and properly pay or collect, any fee due and payable under this subpart or convert, or otherwise use for any purpose other than the purpose this subpart intends, any paid or collected fee;

(2) Fail to fully and properly deposit on time the full amount of all fee revenue collected under this subpart into a deposit account and disburse the full amount of all deposit principal to the subaccount's lockbox account—all as this subpart requires;

(3) Fail to maintain full, timely, and proper fee payment, collection, deposit, and/or disbursement records or make full, timely, and proper reports of such

information to NMFS—all as this subpart requires;

(4) Fail to advise NMFS of any fish seller's refusal to pay, or of any fish buyer's refusal to collect, any fee due and payable under this subpart;

(5) Refuse to allow NMFS or agents that NMFS designates to review and audit at reasonable times all books and records reasonably pertinent to fee payment, collection, deposit, disbursement, and accounting under this subpart or otherwise interfere with, hinder, or delay NMFS or its agents in the course of their activities under this subpart;

(6) Make false statements to NMFS, any of the NMFS' employees, or any of NMFS' agents about any of the matters in this subpart;

(7) Obstruct, prevent, or unreasonably delay or attempt to obstruct, prevent, or unreasonably delay any audit or investigation NMFS or its agents conduct, or attempt to conduct, in connection with any of the matters in this subpart; and/or

(8) Otherwise materially interfere with the efficient and effective repayment of the loan.

(b) Anyone who violates one or more of the prohibitions of paragraph (a) of this section is subject to the full range of penalties the Magnuson-Stevens Act and 15 CFR part 904 provide (including, but not limited to: civil penalties, sanctions, forfeitures, and punishment for criminal offenses) and to the full penalties and punishments otherwise provided by any other applicable law of the United States.

APPENDIX A TO PART 679—PERFORMANCE AND TECHNICAL REQUIREMENTS FOR SCALES USED TO WEIGH CATCH AT SEA IN THE GROUND FISH FISHERIES OFF ALASKA

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INFLUENCE QUANTITY AND DISTURBANCE TESTS

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1. Introduction

(a) This appendix to part 679 contains the performance and technical requirements for scales to be approved by NMFS for use to weigh, at sea, catch from the groundfish fisheries off Alaska. The performance and technical requirements in this document have not been reviewed or endorsed by the National Conference on Weights and Measures. Regulations implementing the requirements of this appendix and additional requirements for and with respect to scales used to weigh catch at sea are found at 50 CFR 679.28(b).

(b) Revisions, amendments, or additions to this appendix may be made after notice and opportunity for public comments. Send requests for revisions, amendments, or additions to the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

(c) *Types of Scales Covered by Appendix*—This appendix contains performance and technical requirements for belt, automatic hopper, platform, and hanging scales.

(d) *Testing and Approval of Scales Used to Weigh Catch at Sea*—Scales used to weigh catch at sea are required to comply with four categories of performance and technical requirements: (1) Type evaluation; (2) initial inspection after installation while the vessel is tied up at a dock and is not under power at sea; (3) annual reinspection while the vessel is tied up at a dock and is not under power at sea; and (4) daily at-sea tests of the scale's accuracy. This appendix contains only the performance and technical requirements for type evaluation and initial and annual reinspections by an authorized scale inspector.

2. Belt Scales

2.1 *Applicability*. The requirements in this section apply to a scale or scale system that employs a conveyor belt in contact with a weighing element to determine the weight of a bulk commodity being conveyed across the scale.

2.2 *Performance Requirements*—2.2.1 *Maximum Permissible Errors*. For laboratory tests of a scale and initial inspections and annual reinspections of an installed scale when the vessel is tied up at a dock and is not under power at sea, the following maximum permissible errors (MPEs) are specified:

2.2.1.1 *Laboratory Tests*. See annex A to this appendix A for procedures for disturbance tests and influence factors.

a. *Disturbances.* ± 0.18 percent of the weight of the load totalized.

b. *Influence Factors.* ± 0.25 percent of the weight of the load totalized.

c. *Temperature Effect at Zero Flow Rate.* The difference between the values obtained at zero flow rate taken at temperatures that differ by 10°C $\pm 0.2^{\circ}\text{C}$ must not be greater than 0.035 percent of the weight of the load totalized at the maximum flow-rate for the time of the test.

2.2.1.2 *Zero Load Tests.* For zero load tests conducted in a laboratory or on a scale installed on a vessel and conducted when the vessel is tied up at a dock and not under power at sea, ± 0.1 percent of the value of the minimum totalized load or 1 scale division (d), whichever is greater.

2.2.1.3 *Material Tests.* For material tests conducted in a laboratory or on a scale installed on a vessel and conducted when the vessel is tied up at a dock and not under power at sea, ± 1.0 percent of the known weight of the test material.

2.2.2 *Minimum Flow Rate (Q_{min}).* The minimum flow rate must be specified by the manufacturer and must not be greater than 35 percent of the rated capacity of the scale in kilograms per hour (kg/hr) or metric tons per hour (mt/hr).

2.2.3 *Minimum Totalized Load (Σ_{min}).* The minimum totalized load must not be less than the greater of—

a. Two percent of the load totalized in 1 hour at the maximum flow rate;

b. The load obtained at the maximum flow rate in 1 revolution of the belt; or

c. A load equal to 800 scale divisions (d).

2.2.4 *Influence Quantities.* The following requirements apply to influence factor tests conducted in the laboratory.

2.2.4.1 *Temperature.* A belt scale must comply with the performance and technical requirements at a range of temperatures from -10°C to $+40^{\circ}\text{C}$. However, for special applications the temperature range may be different, but the range must not be less than 30°C and must be so specified on the scale's descriptive markings.

2.2.4.2 *Power Supply.* A belt scale must comply with the performance and technical requirements when operated within a range of -15 percent to $+10$ percent of the power supply specified on the scale's descriptive markings.

2.3.1 *Technical Requirements.*

2.3.1 *Indicators and Printers.*

2.3.1.1 *General.* A belt scale must be equipped with an indicator capable of displaying both the weight of fish in each haul or set and the cumulative weight of all fish or other material weighed on the scale between annual inspections ("the cumulative weight"), a rate of flow indicator, and a printer. The indications and printed representations must be clear, definite, accu-

rate, and easily read under all conditions of normal operation of the belt scale.

2.3.1.2 *Values Defined.* If indications or printed representations are intended to have specific values, these must be defined by a sufficient number of figures, words, or symbols, uniformly placed with reference to the indications or printed representations and as close as practicable to the indications or printed representations but not so positioned as to interfere with the accuracy of reading.

2.3.1.3 *Units.* The weight of each haul or set must be indicated in kilograms, and the cumulative weight must be indicated in either kilograms or metric tons and decimal subdivisions.

2.3.1.4 *Value of the Scale Division.* The value of the scale division (d) expressed in a unit of weight must be equal to 1, 2, or 5, or a decimal multiple or sub-multiple of 1, 2, or 5.

2.3.1.5 *Range of Indication.* The range of the weight indications and printed values for each haul or set must be from 0 kg to 999,999 kg and for the cumulative weight must be from 0 to 99,999 metric tons.

2.3.1.6 *Resettable and Non-resettable Values.* The means to indicate the weight of fish in each haul or set must be resettable to zero. The means to indicate the cumulative weight must not be resettable to zero without breaking a security means and must be reset only upon direction of NMFS or an authorized scale inspector.

2.3.1.7 *Rate of Flow Indicator.* Permanent means must be provided to produce an audio or visual signal when the rate of flow is less than the minimum flow rate or greater than 98 percent of the maximum flow rate.

2.3.1.8 *Printed Information.* The information printed must include—

a. For catch weight:

i. The vessel name;

ii. The Federal fisheries or processor permit number of the vessel;

iii. The haul or set number;

iv. The total weight of catch in each haul or set;

v. The total cumulative weight of all fish or other material weighed on the scale; and

vi. The date and time the information is printed.

b. For the audit trail:

i. The vessel name;

ii. The Federal fisheries or processor permit number of the vessel;

iii. The date and time (to the nearest minute) that the adjustment was made;

iv. The name or type of adjustment being made; and

v. The initial and final values of the parameter being changed.

2.3.1.9 *Permanence of Markings.* All required indications, markings, and instructions must be distinct and easily readable and must be of such character that they will not tend to become obliterated or illegible.

2.3.1.10 *Power Loss.* In the event of a power failure, means must be provided to retain in a memory the weight of fish in each haul or set for which a printed record has not yet been made, the cumulative weight, and the information on the audit trail.

2.3.1.11 *Adjustable Components.* An adjustable component that when adjusted affects the performance or accuracy of the scale must be held securely in position and must not be capable of adjustment without breaking a security means unless a record of the adjustment is made on the audit trail described in 2.3.1.12.

2.3.1.12 *Audit Trail.* An audit trail in the form of an event logger must be provided to document changes made using adjustable components. The following information must be provided in an electronic form that cannot be changed or erased by the scale operator, can be printed at any time, and can be cleared by the scale manufacturer's representative upon direction by NMFS or by an authorized scale inspector:

- a. The date and time (to the nearest minute) of the change;
- b. The name or type of adjustment being made; and
- c. The initial and final values of the parameter being changed.

2.3.1.13 *Adjustments to Scale Weights.* The indicators and printer must be designed so that the scale operator cannot change or adjust the indicated and printed weight values.

2.3.2 *Weighing Elements.*

2.3.2.1 *Speed Measurement.* A belt scale must be equipped with means to accurately sense the belt travel and/or speed whether the belt is loaded or empty.

2.3.2.2 *Conveyor Belt.* The weight per unit length of the conveyor belt must be practically constant. Belt joints must be such that there are no significant effects on the weighing results.

2.3.2.3 *Overload Protection.* The load receiver must be equipped with means so that an overload of 150 percent or more of the capacity does not affect the metrological characteristics of the scale.

2.3.2.4 *Speed Control.* The speed of the belt must not vary by more than 5 percent of the nominal speed.

2.3.2.5 *Adjustable Components.* An adjustable component that can affect the performance of the belt scale must be held securely in position and must not be capable of adjustment without breaking a security means.

2.3.2.6 *Motion Compensation.* A belt scale must be equipped with automatic means to compensate for the motion of a vessel at sea so that the weight values indicated are within the MPEs. Such means shall be a reference load cell and a reference mass weight or other equally effective means. When equivalent means are utilized, the manufacturer must provide NMFS with information

demonstrating that the scale can weigh accurately at sea.

2.3.3 *Installation Conditions.* A belt scale must be rigidly installed in a level condition.

2.3.4 *Marking.* A belt scale must be marked with the—

- a. Name, initials, or trademark of the manufacturer or distributor;
- b. Model designation;
- c. Non-repetitive serial number;
- d. Maximum flow rate (Q_{max});
- e. Minimum flow rate (Q_{min});
- f. Minimum totalized load (Σ_{min});
- g. Value of a scale division (d);
- h. Belt speed;
- i. Weigh length;
- j. Maximum capacity (Max);
- k. Temperature range (if applicable); and
- l. Mains voltage.

2.3.4.1 *Presentation.* The markings must be reasonably permanent and of such size, shape, and clarity to provide easy reading in normal conditions of use. They must be grouped together in a place visible to the operator.

2.4 *Tests.*

2.4.1 *Minimum Test Load.* The minimum test load must be the greater of—

- a. 2 percent of the load totalized in 1 hour at the maximum flow rate;
- b. The load obtained at maximum flow rate in one revolution of the belt; or
- c. A load equal to 800 scale divisions.

2.4.2 *Laboratory Tests.*

2.4.2.1 *Influence Quantity and Disturbance Tests.* Tests must be conducted according to annex A and the results of these tests must be within the values specified in section 2.2.1.1.

2.4.2.2 *Zero-Load Tests.* A zero-load test must be conducted for a time equal to that required to deliver the minimum totalized load ("min). At least two zero-load tests must be conducted prior to a material test. The results of these tests must be within the values specified in section 2.2.1.2.

2.4.2.3 *Material Tests.* At least one material test must be conducted with the weight of the material or simulated material equal to or greater than the minimum test load. The results of these tests must be within the values specified in section 2.2.1.3.

2.4.3 *Annual Inspections.*

2.4.3.1 *Zero-Load Tests.* A zero-load test must be conducted for a time equal to that required to deliver the minimum totalized load (Σ_{min}). At least one zero-load test must be conducted prior to each material test. The results of this test must be within the values specified in section 2.2.1.2.

2.4.3.2 *Material Tests.* At least one material or simulated material test must be conducted with the weight of the material or simulated material equal to or greater than the minimum test load. The results of these tests must be within the values specified in section 2.2.1.3.

3. Automatic Hopper Scales

3.1 *Applicability.* The requirements in this section apply to a scale or scale system that is designed for automatic weighing of a bulk commodity in predetermined amounts.

3.2 Performance Requirements.

3.2.1 *Maximum Permissible Errors.* For laboratory tests of a scale and initial inspection and annual reinspections of an installed scale when the vessel is tied up at a dock and is not under power at sea, the following MPEs are specified:

3.2.1.1 *Laboratory Tests.* See annex A to appendix A for procedures for disturbance test and influence factors.

a. *Disturbances.* Significant fault (sf) (\pm scale division).

b. *Influence Factors.* ± 1 percent of test load.

3.2.1.2 *Increasing and Decreasing Load Tests.* For increasing and decreasing load tests conducted in a laboratory or on a scale installed on a vessel tied up at a dock and not under power at sea, ± 1.0 percent of the test load.

3.2.2 *Minimum Weighment (Σ min).* The minimum weighment must not be less than 20 percent of the weighing capacity, or a load equal to 100 scale intervals (d), except for the final weighment of a lot.

3.2.3 *Minimum Totalized Load (Lot).* The minimum totalized load must not be less than 4 weighments.

3.2.4 *Influence Quantities.* The following requirements apply to influence factor tests conducted in the laboratory:

3.2.4.1 *Temperature.* A hopper scale must comply with the metrological and technical requirements at temperatures from -10° C to $+40^{\circ}$ C. However, for special applications the temperature range may be different, but the range must not be less than 30° C and must be so specified on the scale's descriptive markings.

3.2.4.1.1 *Operating Temperature.* A hopper scale must not display or print any usable weight values until the operating temperature necessary for accurate weighing and a stable zero-balance condition have been attained.

3.2.4.2 *Power Supply.* A hopper scale must comply with the performance and technical requirements when operated within -15 percent to $+10$ percent of the power supply specified on the scale's descriptive markings.

3.3 Technical Requirements.

3.3.1 Indicators and Printers.

3.3.1.1 *General.* a. A hopper scale must be equipped with an indicator and printer that indicates and prints the weight of each load and a no-load reference value; and a printer that prints the total weight of fish in each haul or set and the total cumulative weight of all fish and other material weighed on the scale between annual inspections ("the cumulative weight"). The indications and printed information must be clear, definite, accurate, and easily read under all condi-

tions of normal operation of the hopper scale.

b. A no-load reference value may be a positive or negative value in terms of scale divisions or zero. When the no-load reference value is zero, the scale must return to a zero indication (within ± 0.5 scale division) when the load receptor (hopper) is empty following the discharge of all loads, without the intervention of either automatic or manual means.

3.3.1.2 *Values Defined.* If indications or printed representations are intended to have specific values, these must be defined by a sufficient number of figures, words, or symbols, uniformly placed with reference to the indications or printed representations and as close as practicable to the indications or printed representations but not so positioned as to interfere with the accuracy of reading.

3.3.1.3 *Units.* The weight of each haul or set must be indicated in kilograms, and the cumulative weight must be indicated in either kilograms or metric tons and decimal subdivisions.

3.3.1.4 *Value of the Scale Division.* The value of the scale division (d) expressed in a unit of weight must be equal to 1, 2, or 5, or a decimal multiple or sub-multiple of 1, 2, or 5.

3.3.1.5 *Weighing Sequence.* For hopper scales used to receive (weigh in), the no-load reference value must be determined and printed only at the beginning of each weighing cycle. For hopper scales used to deliver (weigh out), the no-load reference value must be determined and printed only after the gross-load weight value for each weighing cycle has been indicated and printed.

3.3.1.6 *Printing Sequence.* Provision must be made so that all weight values are indicated until the completion of the printing of the indicated values.

3.3.1.7 *Printed Information.* The information printed must include—

- a. For catch weight:
 - i. The vessel name;
 - ii. The Federal fisheries or processor permit number of the vessel;
 - iii. The haul or set number;
 - iv. The total weight of catch in each haul or set;
 - v. The total cumulative weight of all fish or other material weighed on the scale; and
 - vi. The date and time the information is printed.
- b. For the audit trail:
 - i. The vessel name;
 - ii. The Federal fisheries or processor permit number of the vessel;
 - iii. The date and time (to the nearest minute) of the change;
 - iv. The name or type of adjustment being made; and
 - v. The initial and final values of the parameter being changed.

3.3.1.8 *Permanence of Markings.* All required indications, markings, and instructions must be distinct and easily readable and must be of such character that they will not tend to become obliterated or illegible.

3.3.1.9 *Range of Indication.* The range of the weight indications and printed values for each haul or set must be from 0 kg to 999,999 kg and for the cumulative weight must be from 0 to 99,999 metric tons.

3.3.1.10 *Non-Resetable Values.* The cumulative weight must not be resettable to zero without breaking a security means and must be reset only upon direction by NMFS or by an authorized scale inspector.

3.3.1.11 *Power Loss.* In the event of a power failure, means must be provided to retain in a memory the weight of fish in each haul or set for which a printed record has not yet been made, the cumulative weight, and the information on the audit trail described in 3.3.1.13.

3.3.1.12 *Adjustable Components.* An adjustable component that, when adjusted, affects the performance or accuracy of the scale must not be capable of adjustment without breaking a security means, unless a record of the adjustment is made on the audit trail described in 3.3.1.13.

3.3.1.13 *Audit Trail.* An audit trail in the form of an event logger must be provided to document changes made using adjustable components. The following information must be provided in an electronic form that cannot be changed or erased by the scale operator, can be printed at any time, and can be cleared by the scale manufacturer's representative upon direction of NMFS or by an authorized scale inspector:

- a. The date and time (to the nearest minute) of the change;
- b. The name or type of adjustment being made; and
- c. The initial and final values of the parameter being changed.

3.3.1.14 *Zero-Load Adjustment.* A hopper scale must be equipped with a manual or semi-automatic means that can be used to adjust the zero-load balance or no-load reference value.

3.3.1.14.1 *Manual.* A manual means must be operable or accessible only by a tool outside of, or entirely separate from, this mechanism or enclosed in a cabinet.

3.3.1.14.2 *Semi-Automatic.* A semi-automatic means must be operable only when the indication is stable within ± 1 scale division and cannot be operated during a weighing cycle (operation).

3.3.1.15 *Damping Means.* A hopper scale must be equipped with effective automatic means to bring the indications quickly to a readable stable equilibrium. Effective automatic means must also be provided to permit the recording of weight values only when the indication is stable within plus or minus one scale division.

3.3.1.16 *Adjustments to Scale Weights.* The indicators and printer must be designed so that the scale operator cannot change or adjust the indicated and printed weight values.

3.3.2 *Interlocks and Gate Control.* A hopper scale must have operating interlocks so that—

- a. Product cannot be weighed if the printer is disconnected or subject to a power loss;
- b. The printer cannot print a weight if either of the gates leading to or from the weigh hopper is open;
- c. The low paper sensor of the printer is activated;
- d. The system will operate only in the sequence intended; and
- e. If the overflow sensor is activated, this condition is indicated to the operator and is printed.

3.3.3 *Overflow Sensor.* The weigh hopper must be equipped with an overflow sensor that will cause the feed gate to close, activate an alarm, and stop the weighing operation until the overflow condition has been corrected.

3.3.4 *Weighing Elements.*

3.3.4.1 *Overload Protection.* The weigh hopper must be equipped with means so that an overload of 150 percent or more of the capacity of the hopper does not affect the metrological characteristics of the scale.

3.3.4.2 *Adjustable Components.* An adjustable component that can affect the performance of the hopper scale must be held securely in position and must not be capable of adjustment without breaking a security means.

3.3.4.3 *Motion Compensation.* A hopper scale must be equipped with automatic means to compensate for the motion of a vessel at sea so that the weight values indicated are within the MPEs. Such means shall be a reference load cell and a reference mass weight or other equally effective means. When equivalent means are utilized, the manufacturer must provide NMFS with information demonstrating that the scale can weigh accurately at sea.

3.3.5 *Installation Conditions.* A hopper scale must be rigidly installed in a level condition.

3.3.6 *Marking.* A hopper scale must be marked with the following:

- a. Name, initials, or trademark of the manufacturer or distributor;
- b. Model designation;
- c. Non-repetitive serial number;
- d. Maximum capacity (Max);
- e. Minimum capacity (min);
- f. Minimum totalized load (Σ min);
- g. Minimum weighing;
- h. Value of the scale division (d);
- i. Temperature range (if applicable); and
- j. Mains voltage.

3.3.6.1 *Presentation.* Descriptive markings must be reasonably permanent and grouped together in a place visible to the operator.

3.4 *Tests.*

3.4.1 *Standards.* The error of the standards used must not exceed 25 percent of the MPE to be applied.

3.4.2 *Laboratory Tests.*

3.4.2.1 *Influence Quantity and Disturbance Tests.* Tests must be conducted according to annex A and the results of these tests must be within the values specified in section 3.2.1.1.

3.4.2.2 *Performance Tests.* Performance tests must be conducted as follows:

a. *Increasing load test.* At least five increasing load tests must be conducted with test loads at the minimum load, at a load near capacity, and at 2 or more critical points in between; and

b. *Decreasing load test.* A decreasing load test must be conducted with a test load approximately equal to one-half capacity when removing the test loads of an increasing load test.

3.4.3 *Annual Inspections.*

At least two increasing load tests and two decreasing load tests must be conducted as specified in 3.4.2.2. Additionally, tests must be conducted with test loads approximately equal to the weight of loads at which the scale is normally used.

4. Platform Scales and Hanging Scales

4.1 *Applicability.* The requirements in this section apply to platform and hanging scales used to weigh total catch. Platform scales used only as observer sampling scales or to determine the known weight of fish for a material test of another scale are not required to have a printer under sections 4.3.1 and 4.3.1.5 or an audit trail under section 4.3.1.8.

4.2 *Performance Requirements.*

4.2.1 *Maximum Permissible Errors.* For laboratory tests of a scale and initial inspection and annual reinspections of an installed scale while the vessel is tied up at a dock and is not under power at sea, the following MPEs are specified:

4.2.1.1 *Laboratory Tests.* See annex A to this appendix A for procedures for disturbance tests and influence factors.

a. *Disturbances.* Significant fault (± 1 scale division); and

b. *Influence Factors.* See Table 1 in section 4.2.1.2.

4.2.1.2 *Increasing and Decreasing Load and Shift Tests.* Increasing and decreasing load and shift tests conducted in a laboratory or on a scale installed on a vessel while the vessel is tied up at a dock and is not under power at sea, see Table 1 as follows:

TABLE 1—INFLUENCE FACTORS

Test load in scale divisions (d)		Maximum permissible error (d)
Class III ¹	Class IIII	
0 < m ² ≤ 500	0 < m ≤ 50	0.5
500 < m ≤ 2000	50 < m ≤ 200	1.0

TABLE 1—INFLUENCE FACTORS—Continued

Test load in scale divisions (d)		Maximum permissible error (d)
Class III ¹	Class IIII	
2000 < m	200 < m	1.5

¹ Scale accuracy classes are defined in section 4.2.2, table 2.

² Mass or weight of the test load in scale divisions.

4.2.2 *Accuracy Classes.* Scales are divided into two accuracy classes, class III and class IIII. The accuracy class of a scale is designated by the manufacturer. The design of each accuracy class with respect to number of scale divisions (n) and the value of the scale division (d) is specified according to table 2:

TABLE 2—ACCURACY CLASSES

Accuracy class	Value of scale division (d)	Number of scale divisions (n)	
		Minimum	Maximum
III	5 g or greater	500	10,000
IIII	5 g or greater	100	1,000

4.2.3 *Minimum Load.* For a Class III scale, 20d; for a Class IIII scale, 10d.

4.2.4 *Influence Quantities.* The following requirements apply to influence factor tests conducted in the laboratory.

4.2.4.1 *Temperature.* A scale must comply with the performance and technical requirements at temperatures from -10° C to $+40^{\circ}$ C. However, for special applications the temperature range may be different, but the range must not be less than 30° C and must be so specified on the descriptive markings.

4.2.4.1.1 *Operating Temperature.* A scale must not display or print any usable weight values until the operating temperature necessary for accurate weighing and a stable zero-balance condition have been attained.

4.2.4.2 *Power Supply.* A scale must comply with the performance and technical requirements when operated within -15 percent to $+10$ percent of the power supply specified on the scale's descriptive markings.

4.3 *Technical Requirements.*

4.3.1 *Indicators and Printers.*

4.3.1.1 *General.* A scale must be equipped with an indicator and a printer. The indications and printed information must be clear, definite, accurate, and easily read under all conditions of normal operation of the scale.

4.3.1.2 *Values Defined.* If indications or printed representations are intended to have specific values, these must be defined by a sufficient number of figures, words, or symbols, uniformly placed with reference to the indications or printed representations and as close as practicable to the indications or printed representations but not so positioned as to interfere with the accuracy of reading.

4.3.1.3 *Units.* The weight units indicated must be in terms of kilograms and decimal subdivisions.

4.3.1.4 *Value of the Scale Division.* The value of the scale division (d) expressed in a unit of weight must be equal to 1, 2, or 5, or a decimal multiple or sub-multiple of 1, 2, or 5.

4.3.1.5 *Printed Information.* The information printed must include—

- a. For catch weight:
 - i. The vessel name;
 - ii. The Federal fisheries or processor permit number of the vessel;
 - iii. The haul or set number;
 - iv. Net weight of the fish.
- b. For the audit trail:
 - i. The vessel name;
 - ii. The Federal fisheries or processor permit number of the vessel;
 - iii. The date and time (to the nearest minute) of the change;
 - iv. The name or type of adjustment being made; and
 - v. The initial and final values of the parameter being changed.

4.3.1.6 *Permanence of Markings.* All required indications, markings, and instructions must be distinct and easily readable and must be of such character that they will not tend to become obliterated or illegible.

4.3.1.7 *Power Loss.* In the event of a power failure, means must be provided to retain in a memory the weight of the last weighing if it is a non-repeatable weighing.

4.3.1.8 *Adjustable Components.*

- a. An adjustable component that, when adjusted, affects the performance or accuracy of the scale must be held securely in position and must not be capable of adjustment without breaking a security means.
- b. An audit trail in the form of an event logger must be provided to document changes made using adjustable components. The following information must be provided in an electronic form that cannot be changed or erased by the scale operator, can be printed at any time, and can be cleared by the scale manufacturer's representative upon direction of NMFS or an authorized scale inspector:
 - i. The date and time (to the nearest minute) of the change;
 - ii. The name or type of adjustment being made; and
 - iii. The initial and final values of the parameter being changed.

4.3.1.9 *Zero-Load Adjustment.* A scale must be equipped with a manual or semi-automatic means that can be used to adjust the zero-load balance or no-load reference value.

4.3.1.9.1 *Manual.* A manual means must be operable or accessible only by a tool outside of or entirely separate from this mechanism or enclosed in a cabinet.

4.3.1.9.2 *Semi-automatic.* A semi-automatic means must meet the provisions of 4.3.1.8 or

must be operable only when the indication is stable within ± 1 scale division and cannot be operated during a weighing cycle (operation).

4.3.1.10 *Damping Means.* A scale must be equipped with effective automatic means to bring the indications quickly to a readable stable equilibrium. Effective automatic means must also be provided to permit the recording of weight values only when the indication is stable within plus or minus one scale division.

4.3.2 *Weighing Elements.*

4.3.2.1 *Overload Protection.* The scale must be so designed that an overload of 150 percent or more of the capacity does not affect the metrological characteristics of the scale.

4.3.2.2 *Adjustable Components.* An adjustable component that can affect the performance of the scale must be held securely in position and must not be capable of adjustment without breaking a security means.

4.3.2.3 *Motion Compensation.* A platform scale must be equipped with automatic means to compensate for the motion of a vessel at sea so that the weight values indicated are within the MPEs. Such means shall be a reference load cell and a reference mass weight or other equally effective means. When equivalent means are utilized, the manufacturer must provide NMFS with information demonstrating that the scale can weigh accurately at sea.

4.3.3 *Installation Conditions.* A platform scale must be rigidly installed in a level condition. When in use, a hanging scale must be freely suspended from a fixed support or a crane.

4.3.4 *Marking.* A scale must be marked with the following:

- a. Name, initials, or trademark of the manufacturer or distributor;
- b. Model designation;
- c. Non-repetitive serial number;
- d. Accuracy class (II or III);
- e. Maximum capacity (Max);
- f. Minimum capacity (min);
- g. Value of a scale division (d);
- h. Temperature range (if applicable); and
- i. Mains voltage.

4.3.4.1 *Presentation.* Descriptive markings must be reasonably permanent and grouped together in a place visible to the operator.

4.4 *Tests.*

4.4.1 *Standards.* The error of the standards used must not exceed 25 percent of the MPE applied.

4.4.2 *Laboratory Tests.*

4.4.2.1 *Influence Quantities and Disturbance Tests.* Tests must be conducted according to annex A to this appendix A, and the results of these tests must be within the values specified in section 4.2.1.1.

4.4.2.2 *Performance Tests.* Performance tests must be conducted as follows:

- a. *Increasing load test.* At least five increasing load tests must be conducted with test

loads at the minimum load, at a load near capacity, and at 2 or more critical points in between.

b. *Shift test (platform scales only)*. A shift test must be conducted during the increasing load test at one-third capacity test load centered in each quadrant of the platform.

c. *Decreasing load test*. A decreasing load test must be conducted with a test load approximately equal to one-half capacity when removing the test loads of an increasing load test.

4.4.3 Annual Scale Inspections.

At least two increasing load tests, shift tests, and decreasing load tests must be conducted as specified in section 4.4.2.2. Additionally tests must be conducted with test loads approximately equal to the weight of loads at which the scale is normally used. The results of all tests must be as specified in Table 1 in section 4.2.1.2.

5. Definitions

Adjustable component—Any component that, when adjusted, affects the performance or accuracy of the scale, e.g., span adjustment or automatic zero-setting means. Manual or semi-automatic zero-setting means are not considered adjustable components.

Audit trail—An electronic count and/or information record of the changes to the values of the calibration or configuration parameters of a scale.

Automatic hopper scale—A hopper scale adapted to the automatic weighing of a bulk commodity (fish) in predetermined amounts. Capacities vary from 20 kg to 50 mt. It is generally equipped with a control panel, with functions to be set by an operator, including the start of an automatic operation. (See definition of hopper scale).

Belt scale—A scale that employs a conveyor belt in contact with a weighing element to determine the weight of a bulk commodity being conveyed. It is generally a part of a system consisting of an input conveyor, the flow scale, and an output conveyor. The conveyor belt may be constructed of various materials, including vulcanized rubber, canvas, and plastic. The capacity is generally specified in terms of the amount of weight that can be determined in a specified time, and can vary from, for example, 1 ton per hour to 100 or more tons per hour. An operator generally directs the flow of product onto the input conveyor.

Calibration mode—A means by which the span of a scale can be adjusted by placing a known “test weight” on the scale and manually operating a key on a key board.

Disturbances—An influence that may occur during the use of a scale but is not within the rated operating conditions of the scale.

Event logger—A form of audit trail containing a series of records where each record contains the identification of the parameter that was changed, the time and date when

the parameter was changed, and the new value of the parameter.

Final weighing—The last partial load weighed on a hopper scale that is part of the weight of many loads.

Hanging scale—A scale that is designed to weigh a load that is freely suspended from an overhead crane or it may be permanently installed in an overhead position. The load receiver may be a part of the scale such as a pan suspended on chains, or simply a hook that is used to “pick-up” the container of the commodity to be weighed. The technology employed may be mechanical, electro-mechanical, or electronic. The loads can be applied either manually or by such means as a crane.

Hopper scale—A scale designed for weighing individual loads of a bulk commodity (fish). The load receiver is a cylindrical or rectangular container mounted on a weighing element. The weighing element may be mechanical levers, a combination of levers and a load cell, or all load cells. The capacity can vary from less than 20 kg to greater than 50 mt. The loads are applied from a bulk source by such means as a conveyor or storage hopper. Each step of the weighing process, that is the loading and unloading of the weigh hopper, is controlled by an operator.

Indicator—That part of a scale that indicates the quantity that is being weighed.

Influence factor—A value of an influence quantity, e.g., 10°, that specifies the limits of the rated operating conditions of the scale.

Influence quantity—A quantity that is not the subject of the measurement but which influences the measurement obtained within the rated operating conditions of the scale.

Influence quantity and disturbance tests—Tests conducted in a laboratory to determine the capability of the scale under test to perform correctly in the environmental influences in which they are used and when subjected to certain disturbances that may occur during the use of the scale.

Initial verification—The first evaluation (inspection and test) of a production model of a weighing instrument that has been type evaluated to determine that the production model is consistent with the model that had been submitted for type evaluation.

Known weight test—A test in which the load applied is a test weight with a known value simulating the weight of the material that is usually weighed.

Load receiver—That part of the scale in which the quantity is placed when being weighed.

Material test—A test using a material that is the same or similar to the material that is usually weighed, the weight of which has been determined by a scale other than the scale under test.

Maximum flow-rate—The maximum flow-rate of material specified by the manufacturer at which a belt scale can perform correctly.

Minimum flow-rate—The minimum flow-rate specified by the manufacturer at which a belt scale can perform correctly.

Minimum load—The smallest weight load that can be determined by the scale that is considered to be metrologically acceptable.

Minimum totalized load—The smallest weight load that can be determined by a belt scale that is considered to be metrologically acceptable.

Minimum weight—The smallest weight that can be determined by a hopper scale that is considered to be metrologically acceptable.

Motion compensation—The means used to compensate for the motion of the vessel at sea.

No-load reference value—A weight value obtained by a hopper scale when the load receiver (hopper) is empty of the product that was or is to be weighed.

Non-repeatable weight—A process where the product after being weighed is disposed of in such a manner that it cannot be retrieved to be reweighed.

Number of scale divisions (n)—The number of scale divisions of a scale in normal operation. It is the quotient of the scale capacity divided by the value of the scale division. $n = \text{Max}/d$

Performance requirements—A part of the regulations or standards that applies to the weighing performance of a scale, e.g., MPES.

Performance test—A test conducted to determine that the scale is performing within the MPE applicable.

Periodic verification—A verification of a weighing instrument at an interval that is specified by regulation or administrative ruling.

Platform scale—A scale by the nature of its physical size, arrangement of parts, and relatively small capacity (generally 220 kg or less) that is adapted for use on a bench or counter or on the floor. A platform scale can be self contained, that is, the indicator and load receiver and weighing elements are all comprised of a single unit, or the indicator can be connected by cable to a separate load receiver and weighing element. The technology used may be mechanical, electro-mechanical, or electronic. Loads are applied manually.

Rated capacity—The maximum flow-rate in terms of weight per unit time specified by the manufacturer at which a belt scale can perform correctly.

Scale division (d)—The smallest digital subdivision in units of mass that is indicated by the weighing instrument in normal operation.

Sealing—A method used to prevent the adjustment of certain operational characteris-

tics or to indicate that adjustments have been made to those operational characteristics.

Security seals or means—A physical seal such as a lead and wire seal that must be broken in order to change the operating or performance characteristics of the scale, or a number generated by the scale whenever a change is made to an adjustable component. The number must be sequential and it must not be possible for the scale operator to alter it. The number must be displayed whenever the scale is turned on.

Significant fault—An error greater than the value specified for a particular scale. For a belt scale: A fault greater than 0.18 percent of the weight value equal to the minimum totalized load. For all other scales: 1 scale division (d). A significant fault does not include faults that result from simultaneous and mutually independent causes in the belt scale; faults that imply the impossibility of performing any measurement; transitory faults that are momentary variations in the indications that cannot be interpreted, memorized, or transmitted as a measurement result; faults so serious that they will inevitably be noticed by those interested in the measurement.

Simulated material test—A test in which the load applied is test material simulating the weight of the material that is usually weighed.

Simulated test—A test in which the weight indications are developed by means other than weight, e.g., a load cell simulator.

Stationary installation—An installation of a scale in a facility on land or a vessel that is tied-up to a dock or in dry dock.

Subsequent verification—Any evaluation of a weighing instrument following the initial verification.

Suitability for use—A judgement that must be made that certain scales by nature of their design are appropriate for given weighing applications.

Technical requirements—A part of the regulations or standards that applies to the operational functions and characteristics of a scale, e.g., capacity, scale division, tare.

Testing laboratory—A facility for conducting type evaluation examinations of a scale that can establish its competency and proficiency by such means as ISO Guide 25, ISO 9000, EN 45011, NVLAP, NTEP.

Type evaluation—A process for evaluating the compliance of a weighing instrument with the appropriate standard or regulation.

User requirements—A part of the regulations or standards that applies to the operator/owner of the scale.

Weightment—A single complete weighing operation.

ANNEX A TO APPENDIX A TO PART 679—
INFLUENCE QUANTITY AND DISTURBANCE TESTS

A.1 General—Included in this annex are tests that are intended to ensure that electronic scales can perform and function as intended in the environment and under the conditions specified. Each test indicates, where appropriate, the reference condition under which the intrinsic error is determined.

A.2 Test Considerations

A.2.1 All electronic scales of the same category must be subjected to the same performance test program.

A.2.2 Tests must be carried out on fully operational equipment in its normal operational state. When equipment is connected in other than a normal configuration, the

procedure must be mutually agreed to by NMFS and the applicant.

A.2.3 When the effect of one factor is being evaluated, all other factors must be held relatively constant, at a value close to normal. The temperature is deemed to be relatively constant when the difference between the extreme temperatures noted during the test does not exceed 5° C and the variation over time does not exceed 5° C per hour.

A.2.4 Before the start of a test, the equipment under test (EUT) must be energized for a period of time at least equal to the warm-up time specified by the manufacturer. The EUT must remain energized throughout the duration of the test.

A.3 Tests

Test	Characteristics under test	Conditions applied
A.3.1 Static temperatures	Influence factor	MPE
A.3.2 Damp heat, steady state	Influence factor	MPE
A.3.3 Power voltage variation	Influence factor	MPE
A.3.4 Short time power reduction	Disturbance	sf
A.3.5 Bursts	Disturbance	sf
A.3.6 Electrostatic discharge	Disturbance	sf
A.3.7 Electromagnetic susceptibility	Disturbance	sf

A.3 Tests

A.3.1 Static Temperatures

Test method: Dry heat (non condensing) and cold.

Object of the test: To verify compliance with the applicable MPE under conditions of high and low temperature.

Reference to standard: See Bibliography (1).

Test procedure in brief: The test consists of exposure of the EUT to the high and low temperatures specified in section 2.2.4.1 for belt scales, section 3.2.4.1 for automatic hopper scales, and section 4.2.3.1 for platform scales and hanging scales, under “free air” condition for a 2-hour period after the EUT has reached temperature stability. The EUT must be tested during a weighing operation consisting of:

For belt scales—the totalization of the Σ_{min} , 2 times each at approximately the minimum flow rate, an intermediate flow rate, and the maximum flow rate.

For platform, hanging, and automatic hopper scales—tested with at least five different test loads or simulated loads under the following conditions:

- a. At a reference temperature of 20° C following conditioning.
- b. At the specified high temperature, 2 hours after achieving temperature stabilization.
- c. At the specified low temperature, 2 hours after achieving temperature stabilization.
- d. At a temperature of 5° C, 2 hours after achieving temperature stabilization.

e. After recovery of the EUT at the reference temperature of 20° C.

Test severities: Duration: 2 hours.

Number of test cycles: At least one cycle.

Maximum allowable variations:

- a. All functions must operate as designed.
- b. All indications must be within the applicable MPEs.

Conduct of test: Refer to the International Electrotechnical Commission (IEC) Publications mentioned in section A.4 Bibliography (a) for detailed test procedures.

Supplementary information to the IEC test procedures.

Preconditioning: 16 hours.

Condition of EUT: Normal power supplied and “on” for a time period equal to or greater than the warm-up time specified by the manufacturer. Power is to be “on” for the duration of the test. Adjust the EUT as close to a zero indication as practicable prior to the test.

Test Sequence:

- a. Stabilize the EUT in the chamber at a reference temperature of 20° C. Conduct the tests as specified in the test procedure in brief and record the following data:
 - i. Date and time,
 - ii. Temperature,
 - iii. Relative humidity,
 - iv. Test load,
 - v. Indication,
 - vi. Errors, and
 - vii. Functions performance.

b. Increase the temperature in the chamber to the high temperature specified. Check by measurement that the EUT has reached temperature stability and maintain the temperature for 2 hours. Following the 2 hours, repeat the tests and record the test data indicated in this A.3.1 Test Sequence section.

c. Reduce the temperature in the chamber as per the IEC procedures to the specified low temperature. After temperature stabilization, allow the EUT to soak for 2 hours. Following the 2 hours, repeat the tests and record the test data as indicated in this A.3.1 Test Sequence section.

d. Raise the temperature in the chamber as per the IEC procedures to 5° C. After temperature stabilization, allow the EUT to soak for 2 hours. Following the 2 hours, repeat the tests and record the test data as indicated in this A.3.1 Test Sequence section. NOTE: This test relates to a -10° C to +40° C range. For special ranges, it may not be necessary.

e. Raise the temperature in the chamber as per the IEC procedures and to the 20° C reference temperature. After recovery, repeat the tests and record the test data as indicated in this A.3.1 Test Sequence section.

A.3.2 Damp Heat, Steady State

Test method: Damp heat, steady state.

Object of the test: To verify compliance with the applicable MPE under conditions of high humidity and constant temperature.

Reference to standard: See section A.4 Bibliography (b)

Test procedure in brief: The test consists of exposure of the EUT to a constant temperature at the upper limit of the temperature range and of a constant relative humidity of 85 percent for a 2-day period. The EUT must be tested during a weighing operation consisting of the following:

For belt scales—the totalization of the Σ_{\min} , 2 times each at approximately the minimum flow rate, an intermediate flow rate, and the maximum flow rate.

For platform, hanging, and automatic hopper scales—tested with at least five different test loads or simulated loads at a reference temperature of 20° C and a relative humidity of 50 percent following conditioning, and at the upper limit temperature and a relative humidity of 85 percent 2 days following temperature and humidity stabilization.

Test severities:

Temperature: upper limit.
Humidity: 85 percent (non-condensing).
Duration: 2 days.
Number of test cycles: At least one test.

Maximum Allowable Variations:

a. All functions must operate as designed.
b. All indications must be within the applicable MPE.

Conduct of the test: Refer to the IEC Publications mentioned in section A.4 Bibliography (b) for detailed test procedures.

Supplementary information to the IEC test procedures.

Preconditioning: None required.

Condition of EUT:

a. Normal power supplied and “on” for a time period equal to or greater than the warm-up time specified by the manufacturer. Power is to be “on” for the duration of the test.

b. The handling of the EUT must be such that no condensation of water occurs on the EUT.

c. Adjust the EUT as close to a zero indication as practicable prior to the test.

Test Sequence:

a. Allow 3 hours for stabilization of the EUT at a reference temperature of 20° C and a relative humidity of 50 percent. Following stabilization, conduct the tests as specified in the test procedures in brief and record the following data:

- i. Date and time,
- ii. Temperature,
- iii. Relative humidity,
- iv. Test load,
- v. Indication,
- vi. Errors, and
- vii. Functions performance.

b. Increase the temperature in the chamber to the specified high temperature and a relative humidity of 85 percent. Maintain the EUT at no load for a period of 2 days. Following the 2 days, repeat the tests and record the test data as indicated in this A.3.2 Test Sequence section.

c. Allow full recovery of the EUT before any other tests are performed.

A.3.3 Power Voltage Variation

A.3.3.1 AC Power Supply

Test method: Variation in AC mains power supply (single phase).

Object of the test: To verify compliance with the applicable MPEs under conditions of varying AC mains power supply.

Reference to standard: See section A.4 Bibliography (c).

Test procedure in brief: The test consists of subjecting the EUT to AC mains power during a weighing operation consisting of the following:

For belt scales—while totalizing the Σ_{\min} at the maximum flow rate.

For platform, hanging, and automatic hopper scales—at no load and a test load between 50 percent and 100 percent of weighing capacity.

Test severities: Mains voltage:
Upper limit U (nom) +10 percent.
Lower limit U (nom) -15 percent.

Number of test cycles: At least one cycle.

Maximum allowable variations:
a. All functions must operate correctly.

b. All indications must be within MPEs specified in sections 2, 3, or 4 of this appendix to part 679.

Conduct of the test:

Preconditioning: None required.

Test equipment:

- a. Variable power source,
- b. Calibrated voltmeter, and
- c. Load cell simulator, if applicable.

Condition of EUT:

- a. Normal power supplied and “on” for a time period equal to or greater than the warm-up time specified by the manufacturer.
- b. Adjust the EUT as close to a zero indication as practicable prior to the test.

Test sequence:

- a. Stabilize the power supply at nominal voltage ± 2 percent.
- b. Conduct the tests specified in the test procedure in brief and record the following data:
 - i. Date and time,
 - ii. Temperature,
 - iii. Relative humidity,
 - iv. Power supply voltage,
 - v. Test load,
 - vi. Indications,
 - vii. Errors, and
 - viii. Functions performance.
- c. Reduce the power supply to -15 percent nominal.
- d. Repeat the test and record the test data as indicated in this A.3.3 Test Sequence section.
- e. Increase the power supply to $+10$ percent nominal.
- f. Repeat the test and record the test data as indicated in this A.3.3 Test Sequence section.
- g. Unload the EUT and decrease the power supply to nominal power ± 2 percent.
- h. Repeat the test and record the test data as indicated in this A.3.3 Test Sequence section.

Note: In case of three-phase power supply, the voltage variation must apply for each phase successively. Frequency variation applies to all phases simultaneously.

A.3.3.2 DC Power Supply
Under consideration.

A.3.4 Short Time Power Reduction

Test method: Short time interruptions and reductions in mains voltage.

Object of the test: To verify compliance with the applicable significant fault under conditions of short time mains voltage interruptions and reductions.

Reference to standard: See section A.4 Bibliography (d) IEC Publication 1000–4–11 (1994).

Test procedure in brief: The test consists of subjecting the EUT to voltage interruptions from nominal voltage to zero voltage for a

period equal to 8–10 ms, and from nominal voltage to 50 percent of nominal for a period equal to 16–20 ms. The mains voltage interruptions and reductions must be repeated ten times with a time interval of at least 10 seconds. This test is conducted during a weighing operation consisting of the following:

*For belt scales—*while totalizing at the maximum flow rate at least the Σ_{\min} (or a time sufficient to complete the test).

*For platform, hanging, and automatic hopper scales—*tested with one small test load or simulated load.

Test severities: One hundred percent voltage interruption for a period equal to 8–10 ms. Fifty percent voltage reduction for a period equal to 16–20 ms.

Number of test cycles: Ten tests with a minimum of 10 seconds between tests.

Maximum allowable variations: The difference between the weight indication due to the disturbance and the indication without the disturbance either must not exceed 1d or the EUT must detect and act upon a significant fault.

Conduct of the Test:

Preconditioning: None required.

Test equipment:

- a. A test generator suitable to reduce the amplitude of the AC voltage from the mains. The test generator must be adjusted before connecting the EUT.
- b. Load cell simulator, if applicable.

Condition of EUT:

- a. Normal power supplied and “on” for a time period equal to or greater than the warm-up time specified by the manufacturer.
- b. Adjust the EUT as close to zero indication as practicable prior to the test.

Test sequence:

- a. Stabilize all factors at nominal reference conditions.
- b. Totalize as indicated in this A.3.4 Test Sequence section and record the—
 - i. Date and time,
 - ii. Temperature,
 - iii. Relative humidity,
 - iv. Power supply voltage,
 - v. Test load,
 - vi. Indications,
 - vii. Errors, and
 - viii. Functions performance.
- c. Interrupt the power supply to zero voltage for a period equal to 8–10 ms. During interruption observe the effect on the EUT and record, as appropriate.
- d. Repeat the steps four times in this A.3.4 Test Sequence section, making sure that there is a 10 second interval between repetitions. Observe the effect on the EUT.

e. Reduce the power supply to 50 percent of nominal voltage for a period equal to 16–20 ms. During reduction observe the effect on the EUT and record, as appropriate.

f. Repeat the steps four times in this A.3.4 Test Sequence section, making sure that there is a 10 second interval between repetitions. Observe the effect on the EUT.

A.3.5 Bursts

Test method: Electrical bursts.

Object of the test: To verify compliance with the provisions in this manual under conditions where electrical bursts are superimposed on the mains voltage.

Reference to standard: See section A.4 Bibliography (e)

Test Procedure in brief:

The test consists of subjecting the EUT to bursts of double exponential wave-form transient voltages. Each spike must have a rise in time of 5 ns and a half amplitude duration of 50 ns. The burst length must be 15 ms, the burst period (repetition time interval) must be 300 ms. This test is conducted during a weighing operation consisting of the following:

For belt scales—while totalizing at the maximum flow rate at least the Σ_{\min} (or a time sufficient to complete the test).

For platform, hanging, and automatic hopper scales—tested with one small test load or simulated load.

Test severities: Amplitude (peak value) 1000 V.

Number of test cycles: At least 10 positive and 10 negative randomly phased bursts must be applied at 1000 V.

Maximum allowable variations: The difference between the indication due to the disturbance and the indication without the disturbance either must not exceed the values given in sections 2.2.1.1b., 3.2.1.1b., and 4.2.1.1b, of this appendix, or the EUT must detect and act upon a significant fault.

Conduct of the test: Refer to the IEC Publication referenced in section A.4 Bibliography (e) for detailed test procedures.

Supplementary information to the IEC test procedures:

Test equipment:

A burst generator having an output impedance of 50 ohms.

Test conditions:

The burst generator must be adjusted before connecting the EUT. The bursts must be coupled to the EUT both on common mode and differential mode interference.

Condition of EUT:

a. Normal power supplied and “on” for a time period equal to or greater than the warm-up time specified by the manufacturer.

b. Adjust the EUT as close to a zero indication as practicable prior to the test.

Test Sequence:

a. Stabilize all factors at nominal reference conditions.

b. Conduct the test as indicated in this A.3.5 Test Sequence section and record the—

- i. Date and time,
- ii. Temperature,
- iii. Relative humidity,
- iv. Test load,
- v. Indication,
- vi. Errors, and
- vii. Functions performance.

c. Subject the EUT to at least 10 positive and 10 negative randomly phased bursts at the 1000 V mode. Observe the effect on the EUT and record, as appropriate.

d. Stabilize all factors at nominal reference conditions.

e. Repeat the test and record the test data as indicated in this A.3.5 Test Sequence section.

A.3.6 Electrostatic Discharge

Test method: Electrostatic discharge (ESD).

Object of the test: To verify compliance with the provisions of this manual under conditions of electrostatic discharges.

Reference to standard: See section A.4 Bibliography (f)

Test procedure in brief:

A capacitor of 150 pF is charged by a suitable DC voltage source. The capacitor is then discharged through the EUT by connecting one terminal to ground (chassis) and the other via 150 ohms to surfaces which are normally accessible to the operator. This test is conducted during a weighing operation consisting of the following:

For belt scales—while totalizing at the maximum flow rate at least the Σ_{\min} (or a time sufficient to complete the test).

For platform, hanging, and automatic hopper scales—test with one small test load or simulated load.

Test severities

Air Discharge: up to and including 8 kV.

Contact Discharge: up to and including 6 kV.

Number of test cycles: At least 10 discharges must be applied at intervals of at least 10 seconds between discharges.

Maximum allowable variations:

The difference between the indication due to the disturbance and the indication without the disturbance either must not exceed the values indicated in sections 2.2.1.1 b., 3.2.1.1 b., and 4.2.1.1 b. of this appendix, or the EUT must detect and act upon a significant fault.

Conduct of the test: Refer to the IEC Publication mentioned in section A.4 Bibliography (d) for detailed test procedures.

Supplementary information to the IEC test procedures.

Preconditioning: None required.

Condition of EUT:

a. The EUT without a ground terminal must be placed on a grounded plate which projects beyond the EUT by at least 0.1 m on all sides. The ground connection to the capacitor must be as short as possible.

b. Normal power supplied and “on” for a time period equal to or greater than the warm-up time specified by the manufacturer. Power is to be “on” for the duration of the test.

c. The EUT must be operating under standard atmospheric conditions for testing.

d. Adjust the EUT as close to a zero indication as practicable prior to the test.

Test sequence:

a. Stabilize all factors at nominal reference conditions.

b. Conduct test as indicated in this A.3.6 Test Sequence section and record the—

- i. Date and time,
- ii. Temperature,
- iii. Relative humidity,
- iv. Power supply voltage,
- v. Test load,
- vi. Indication,
- vii. Errors, and
- viii. Functions performance.

c. Approach the EUT with the discharge electrode until discharge occurs and then remove it before the next discharge. Observe the effect of the discharge on the EUT and record, as appropriate.

d. Repeat the above step at least nine times, making sure to wait at least 10 seconds between successive discharges. Observe the effect on the EUT and record as appropriate.

e. Stabilize all factors at nominal reference conditions.

f. Repeat the test and record the test data as indicated in this A.3.6 Test Sequence section.

A.3.7 Electromagnetic Susceptibility

Test method: Electromagnetic fields (radiated).

Object of the Test:

To verify compliance with the provisions in this manual under conditions of electromagnetic fields.

Reference to standard: See section A.4 Bibliography (g).

Test procedure in brief:

a. The EUT is placed in an EMI chamber and tested under normal atmospheric conditions. This test is first conducted at one load

in a static mode, and the frequencies at which susceptibility is evident are noted. Then tests are conducted at the problem frequencies, if any, during a weighing operation consisting of the following:

For belt scales—while totalizing at the maximum flow rate at least the Σ_{\min} (or a time sufficient to complete the test). It is then exposed to electromagnetic field strengths as specified in the Test severities in this section A.3.7 of this annex to appendix A of this part.

For platform, hanging, and automatic hopper scales—tested with one small test load.

b. The field strength can be generated in various ways:

i. The strip line is used at low frequencies (below 30 MHz or in some cases 150 MHz) for small EUT's;

ii. The long wire is used at low frequencies (below 30 MHz) for larger EUT's;

iii. Dipole antennas or antennas with circular polarization placed 1 m from the EUT are used at high frequencies.

c. Under exposure to electromagnetic fields the EUT is again tested as indicated above.

Test severities: Frequency range: 26–1000 MHz.

Field strength: 3 V/m.

Modulation: 80 percent AM, 1 kHz sine wave.

Number of test cycles: Conduct test by continuously scanning the specified frequency range while maintaining the field strength.

Maximum allowable variations: The difference between the indication due to the disturbance and the indication without the disturbance either must not exceed the values given in this manual, or the EUT must detect and act upon a significant fault.

Conduct of the test: Refer to the IEC Publication referenced in section A.4 Bibliography (g) for detailed information on test procedures.

Supplementary information to the IEC test procedures.

Test conditions:

a. The specified field strength must be established prior to the actual testing (without the EUT in the field). At least 1 m of all external cables must be included in the exposure by stretching them horizontally from the EUT.

b. The field strength must be generated in two orthogonal polarizations and the frequency range scanned slowly. If antennas with circular polarization, *i.e.*, log-spiral or helical antennas, are used to generate the electromagnetic field, a change in the position of the antennas is not required. When the test is carried out in a shielded enclosure to comply with international laws prohibiting interference to radio communications, care needs to be taken to handle reflections from the walls. Anechoic shielding might be necessary.

Condition of EUT:

- a. Normal power supplied and “on” for a time period equal to or greater than the warm-up time specified by the manufacturer. Power is to be “on” for the duration of the test. The EUT must be operating under standard atmospheric conditions for testing.
- b. Adjust the EUT as close to a zero indication as practicable prior to the test.

Test sequence:

- a. Stabilize all factors at nominal reference conditions.
 - b. Conduct the test as indicated in this A.3.7 Test Sequence section and record the—
 - i. Date and time,
 - ii. Temperature,
 - iii. Relative humidity,
 - iv. Test load,
 - v. Indication,
 - vi. Errors, and
 - vii. Functions performance.
 - c. Following the IEC test procedures, expose the EUT at zero load to the specified field strengths while slowly scanning the three indicated frequency ranges.
 - d. Observe and record the effect on the EUT.
 - e. Repeat the test and observe and record the effect.
 - f. Stabilize all factors at nominal reference conditions.
 - g. Repeat the test and record the test data.
- A.4 Bibliography
- Below are references to Publications of the International Electrotechnical Commission (IEC), where mention is made in the tests in annex A to appendix A of this part.

a. IEC Publication 68-2-1 (1974): Basic environmental testing procedures. Part 2: Tests, Test Ad: Cold, for heat dissipating equipment under test (EUT), with gradual change of temperature.

IEC Publication 68-2-2 (1974): Basic environmental testing procedures, Part 2: Tests,

Test Bd: Dry heat, for heat dissipating equipment under test (EUT) with gradual change of temperature.

IEC Publication 68-3-1 (1974): Background information, Section 1: Cold and dry heat tests.

b. IEC Publication 68-2-56 (1988): Environmental testing, Part 2: Tests, Test Cb: Damp heat, steady state. Primarily for equipment.

IEC Publication 68-2-28 (1980): Guidance for damp heat tests.

c. IEC Publication 1000-4-11 (1994): Electromagnetic compatibility (EMC) Part 4: Testing and measurement techniques, Section 11: Voltage dips, short interruptions and voltage variations immunity tests. Section 5.2 (Test levels—Voltage variation). Section 8.2.2 (Execution of the test-voltage variation).

d. IEC Publication 1000-4-11 (1994): Electromagnetic compatibility (EMC) Part 4: Testing and measurement techniques, Section 11: Voltage dips, short interruptions and voltage variations immunity tests. Section 5.1 (Test levels—Voltage dips and short interruptions). Section 8.2.1 (Execution of the test-voltage dips and short interruptions) of the maximum transit speed and the range of operating speeds.

e. IEC Publication 1000-4-4 (1995): Electromagnetic compatibility (EMC) Part 4: Testing and measurement techniques—Section 4: Electrical fast transient/burst immunity test. Basic EMC publication.

f. IEC Publication 1000-4-2 (1995): Electromagnetic compatibility (EMC) Part 4: Testing and measurement techniques—Section 2: Electrostatic discharge immunity test. Basic EMC Publication.

g. IEC Publication 1000-4-3 (1995): Electromagnetic compatibility (EMC) Part 4: Testing and measurement techniques—Section 3: Radiated, radio-frequency electromagnetic field immunity test.

[63 FR 5845, Feb. 4, 1998, as amended at 65 FR 33783, May 25, 2000]

FIGURE 1 TO PART 679—BERING SEA AND ALEUTIAN ISLANDS STATISTICAL AND REPORTING AREAS

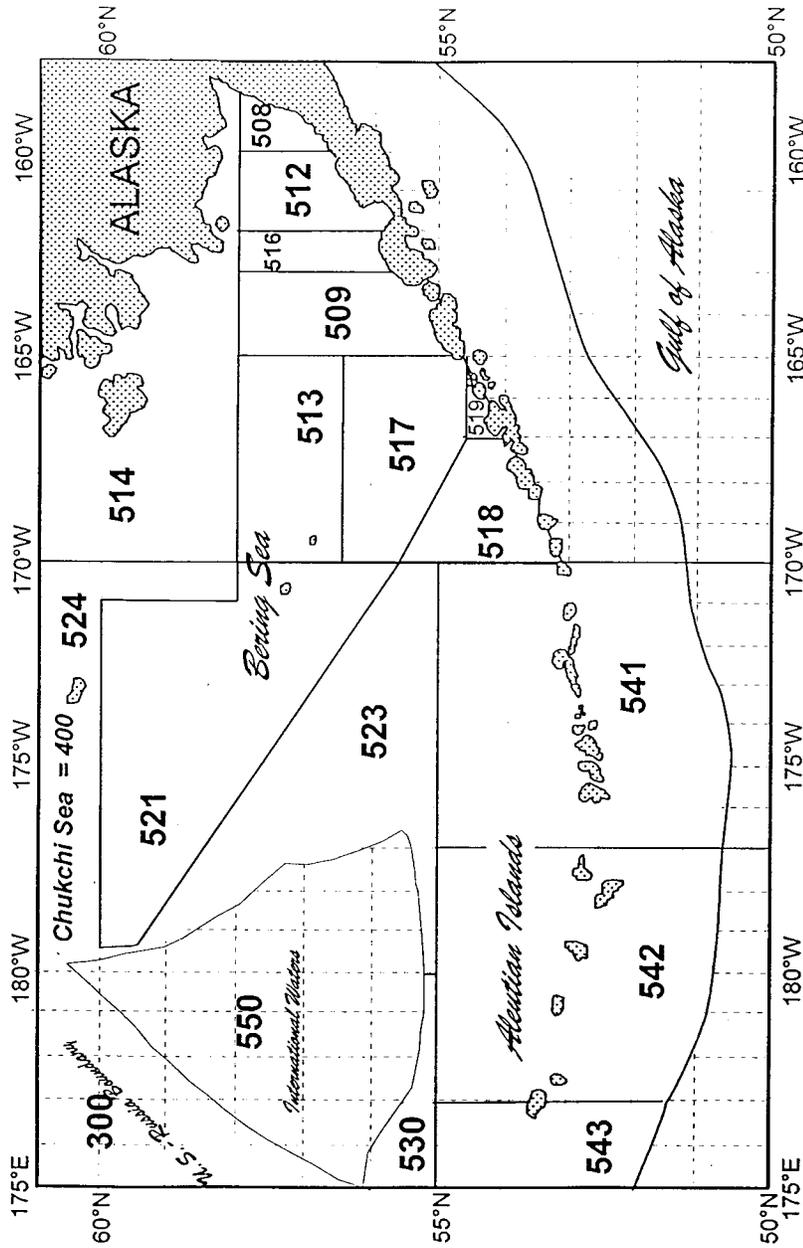


Figure 1 to Part 679. Bering Sea and Aleutian Islands statistical and reporting areas
a. Map

Fishery Conservation and Management

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b. Coordinates

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°49.18' N, 169°40.47' W, 52°49.24' N, 169°07.10' W, 53°23.13' N, 167°50.50' W, 53°18.95' N, 167°51.06' 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°58.97' N, 166°16.50' W, 54°02.69' N, 166°02.93' W, 54°07.69' N, 165°39.74' W, 54°08.40' N, 165°38.29' W, 54°11.71' N, 165°23.09' W, 54°23.74' N, 164°44.73' 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).

Note: A statistical area is the part of a reporting area contained in the EEZ.

[64 FR 61983, Nov. 15, 1999; 65 FR 25290, May 1, 2000]

FIGURE 2 TO PART 679—BSAI CATCHER VESSEL OPERATIONAL AREA

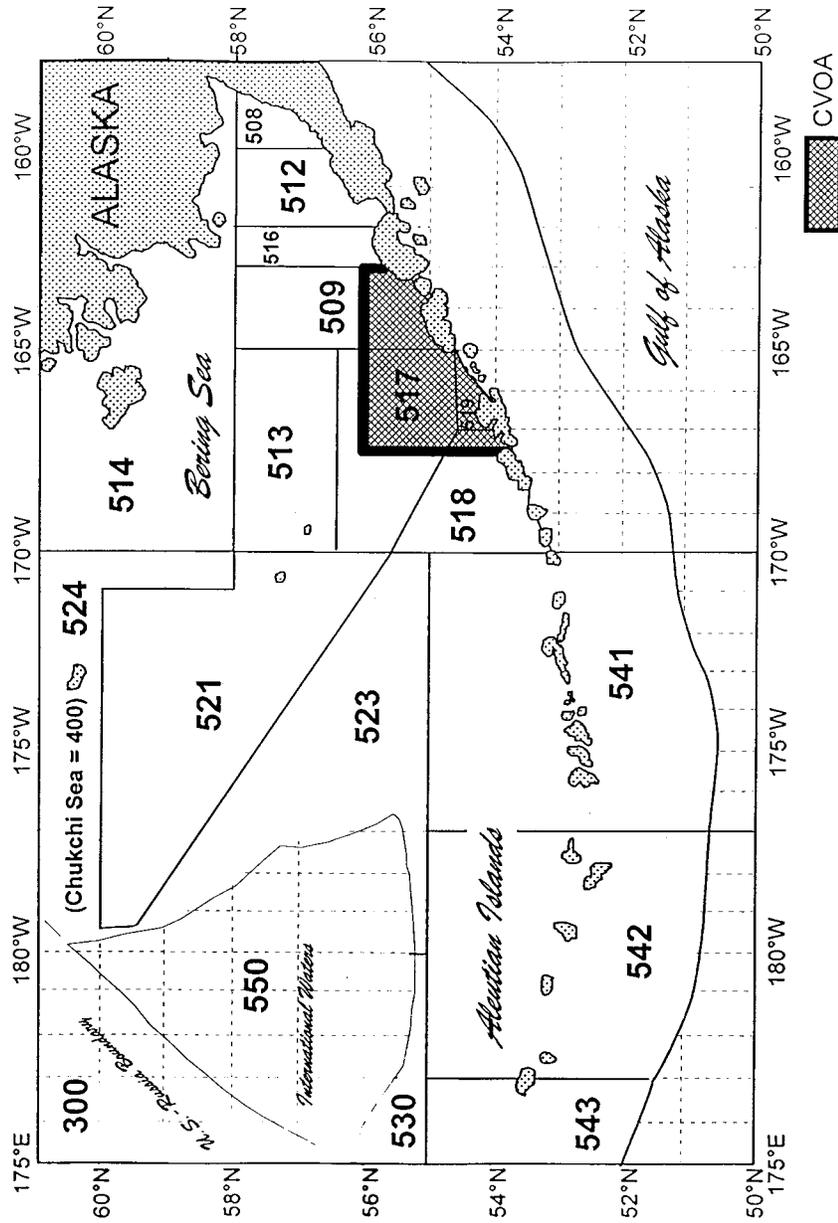


Figure 2 to Part 679. BSAI Catcher Vessel Operational Area (CVOA) (South of 56°00' N lat between 163°00' W and 167°30' W Long)

[64 FR 61985, Nov. 15, 1999]

FIGURE 3 TO PART 679—GULF OF ALASKA STATISTICAL AND REPORTING

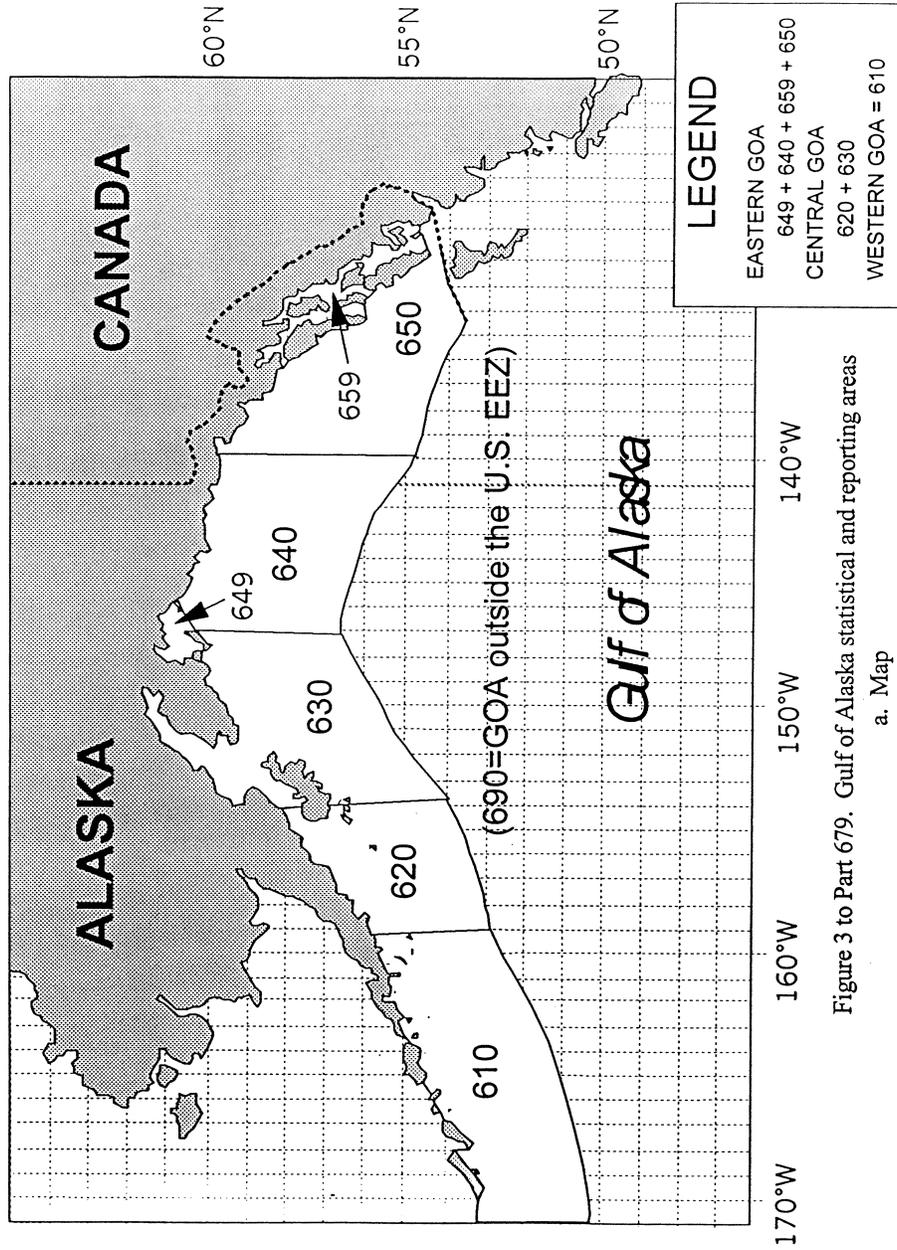


Figure 3 to Part 679. Gulf of Alaska statistical and reporting areas
a. Map

b. Coordinates

Code	Description
610	<p><i>Western GOA Regulatory Area, Shumagin District.</i> Along the south side of the Aleutian Islands, including those waters south of Nichols Point (54°51'30" N lat) near False Pass, and straight lines between the islands and the Alaska Peninsula connecting the following coordinates in the order listed:</p> <p>52°49.18' N, 169°40.47' W; 52°49.24' N, 169°07.10' W; 53°23.13' N, 167°50.50' W; 53°18.95' N, 167°51.06' W; 53°58.97' N, 166°16.50' W; 54°02.69' N, 166°02.93' W; 54°07.69' N, 165°39.74' W; 54°08.40' N, 165°38.29' W; 54°11.71' N, 165°23.09' W; 54°23.74' N, 164°44.73' W; and</p>
	<p>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 GOA 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 GOA 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 GOA 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 GOA 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>Eastern GOA Regulatory Area, Southeast Inside District.</i> As specified in Alaska State regulations at 5AAC 28.105 (a)(1) and (2).</p>
690	<p><i>GOA outside the U.S. EEZs</i> 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>

NOTE: A statistical area is the part of a reporting area contained in the EEZ.

[64 FR 61987, Nov. 15, 1999; 65 FR 25291, May 1, 2000, as amended at 67 FR 4134, Jan. 28, 2002]

FIGURE 4 TO PART 679—BSAI HERRING SAVINGS AREAS IN THE BSAI

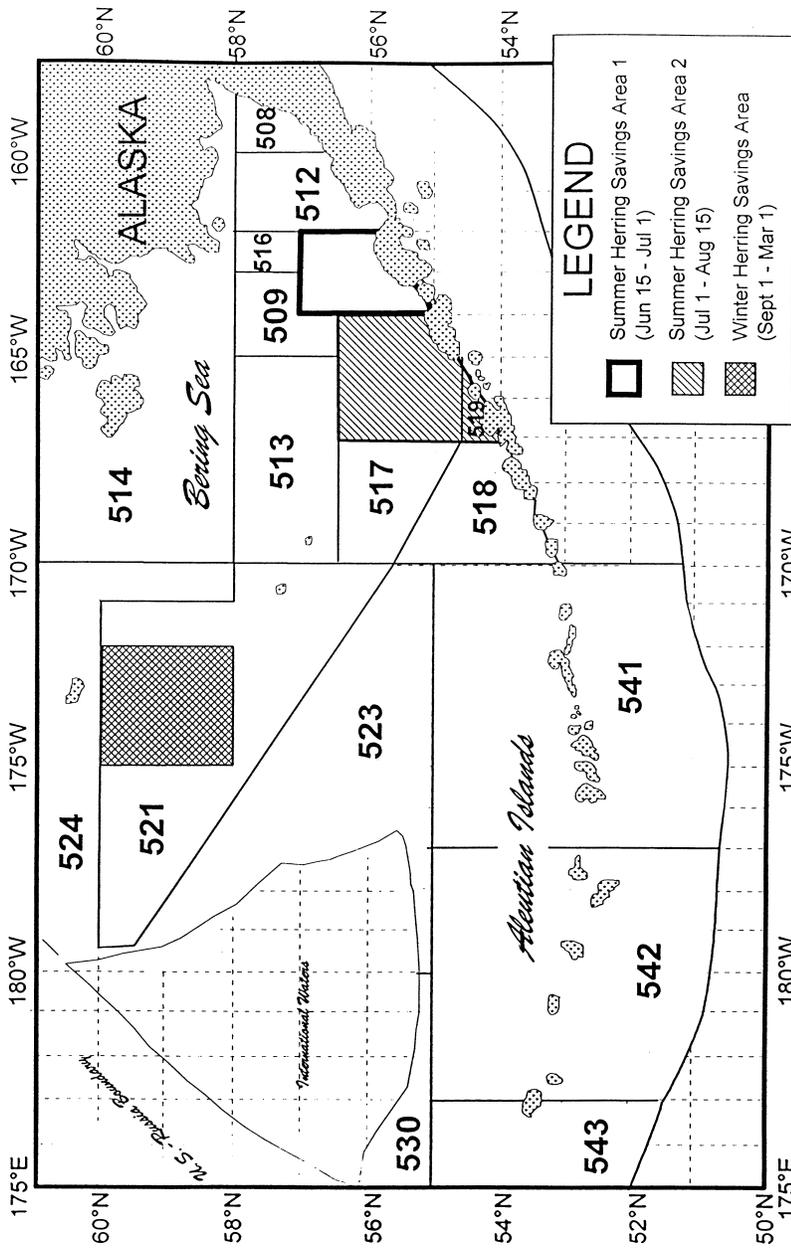


Figure 4 to Part 679. BSAI Herring Savings Areas
a. Map.

b. Coordinates

Name	Description and effective date
<i>Summer Herring Savings Area 1.</i>	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.
<i>Summer Herring Savings Area 2.</i>	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.
<i>Winter Herring Savings Area</i>	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.

[64 FR 61989, Nov. 15, 1999]

FIGURE 5 TO PART 679—KODIAK ISLAND AREAS CLOSED TO NON-PELAGIC TRAWL GEAR

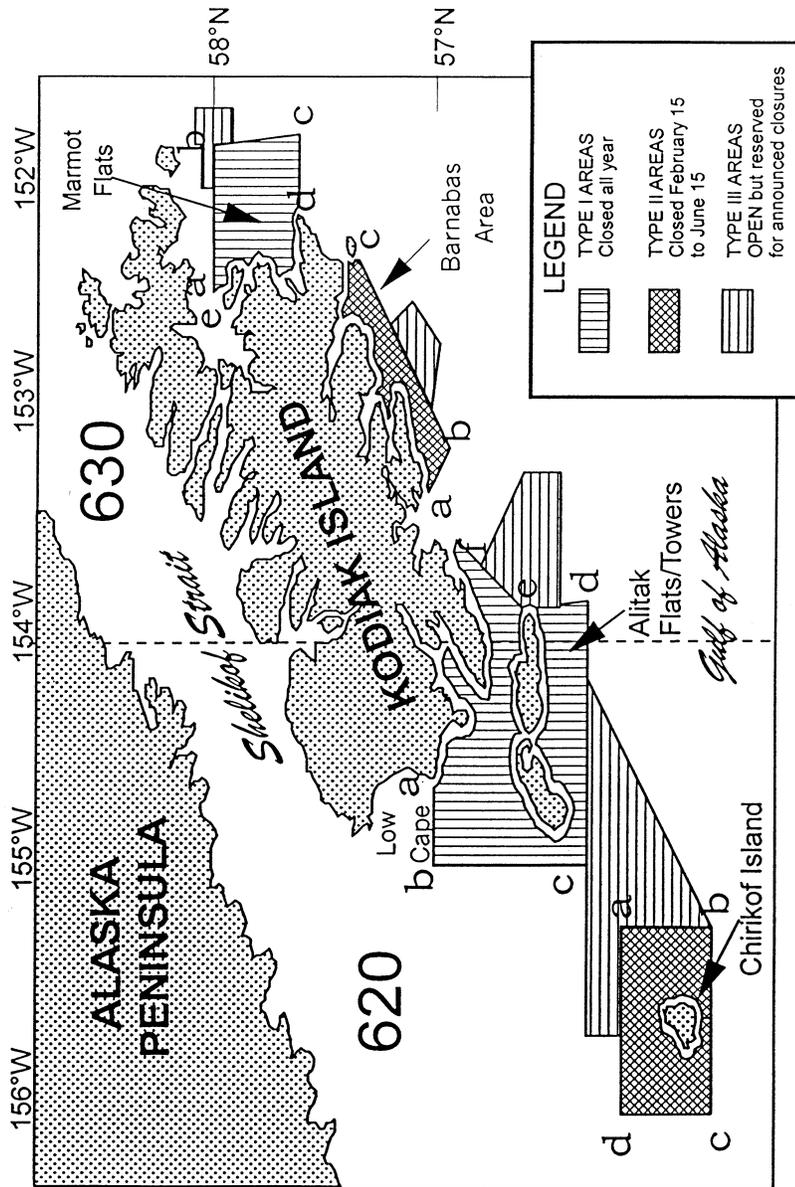


Figure 5 to Part 679. Areas closed to non-pelagic trawl gear in the Gulf of Alaska near Kodiak Island
a. Map

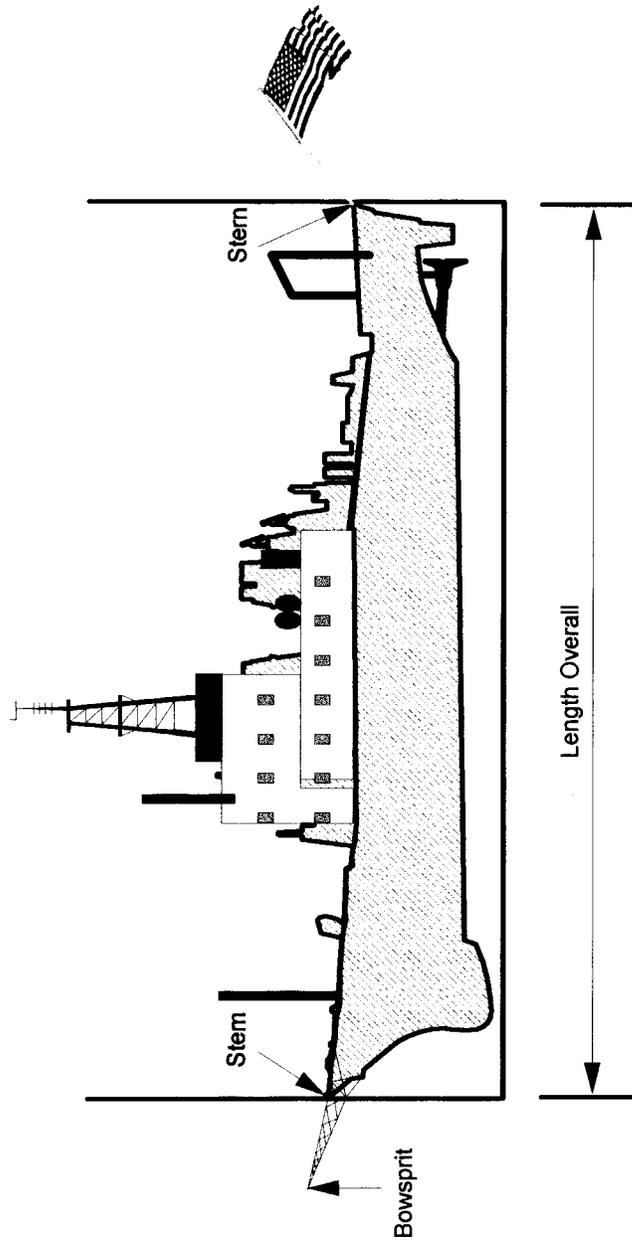
b. Coordinates

Name and description of reference area	North latitude/West longitude	Reference point
Alitak Flats and Towers Areas		

Name and description of reference area	North latitude/West longitude	Reference point
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"	
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"	Cape Sitkinak.
<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"	East point of Twoheaded Island. Kodiak Island, thence, along the coastline of Kodiak Island until intersection of Low Cape. Low 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"	Cape Chiniak, then along the coastline of Kodiak Island to North Cape.
<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:		
a	57°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 coastline 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"	

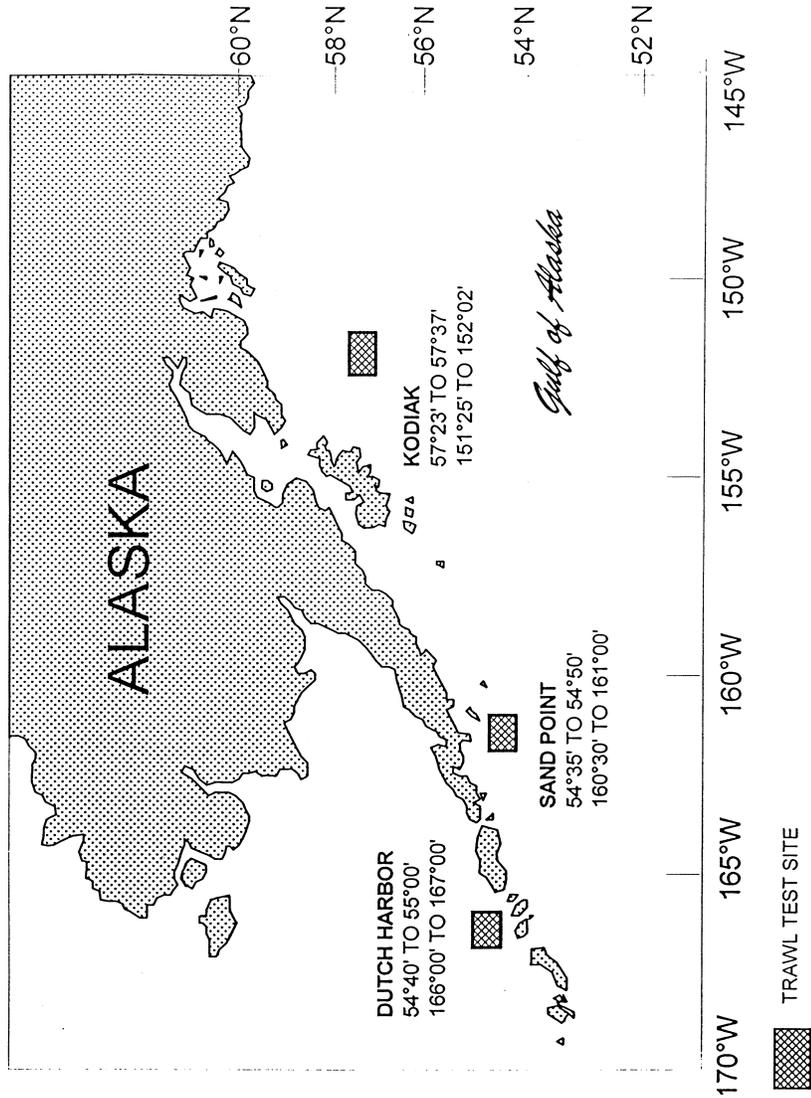
[64 FR 61990, Nov. 15, 1999]

FIGURE 6 TO PART 679—LENGTH OVERALL OF A VESSEL



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FIGURE 7 TO PART 679—LOCATION OF TRAWL GEAR TEST AREAS IN THE GOA AND THE BSAI



[64 FR 61992, Nov. 15, 1999]

Figure 7 to Part 679. Location of Trawl Gear Test Areas in the GOA and the BSAI

FIGURE 8 TO PART 679—CHINOOK SALMON SAVINGS AREAS OF THE BSAI

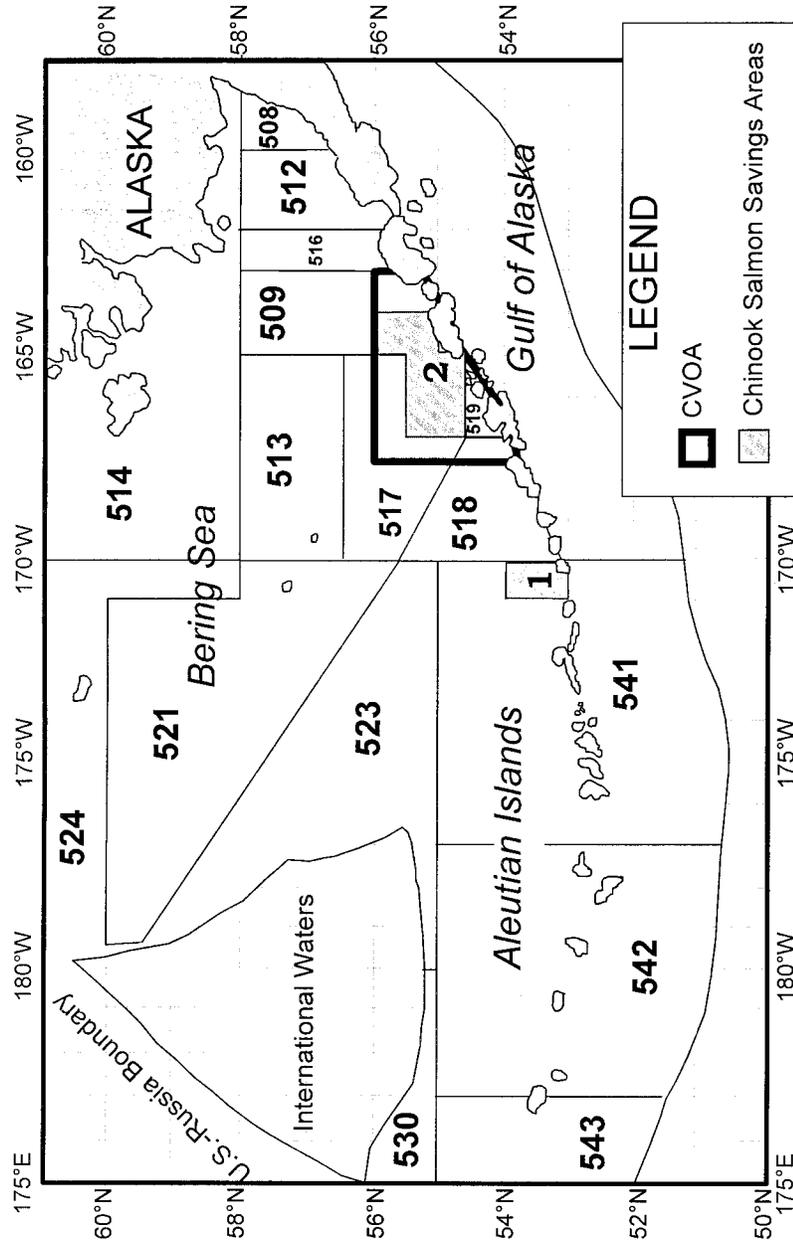


Figure 8 to Part 679. Chinook Salmon Savings Area of the BSAI.

b. Coordinates

The Chinook Salmon Savings Area as defined in the following two areas of the BSAI:

b. Coordinates

(1) The area defined by straight lines connecting the following coordinates in the order listed:

- 54° 00' N., 171° 00' W.;
- 54° 00' N., 170° 00' W.;
- 53° 00' N., 170° 00' W.;
- 53° 00' N., 171° 00' W.; and
- 54° 00' N., 171° 00' W.

(2) The area defined by straight lines connecting the following coordinates in the order listed:

- 56° 00' N., 165° 00' W.;
- 56° 00' N., 164° 00' W.;
- 55° 00' N., 164° 00' W.;
- 55° 00' N., 165° 00' W.;
- 54° 30' N., 165° 00' W.;
- 54° 30' N., 167° 00' W.;
- 55° 30' N., 167° 00' W.;
- 55° 30' N., 165° 00' W.; and
- 56° 00' N., 165° 00' W.

FIGURE 9 TO PART 679—CHUM SAVINGS AREA (CSSA) OF THE CVOA

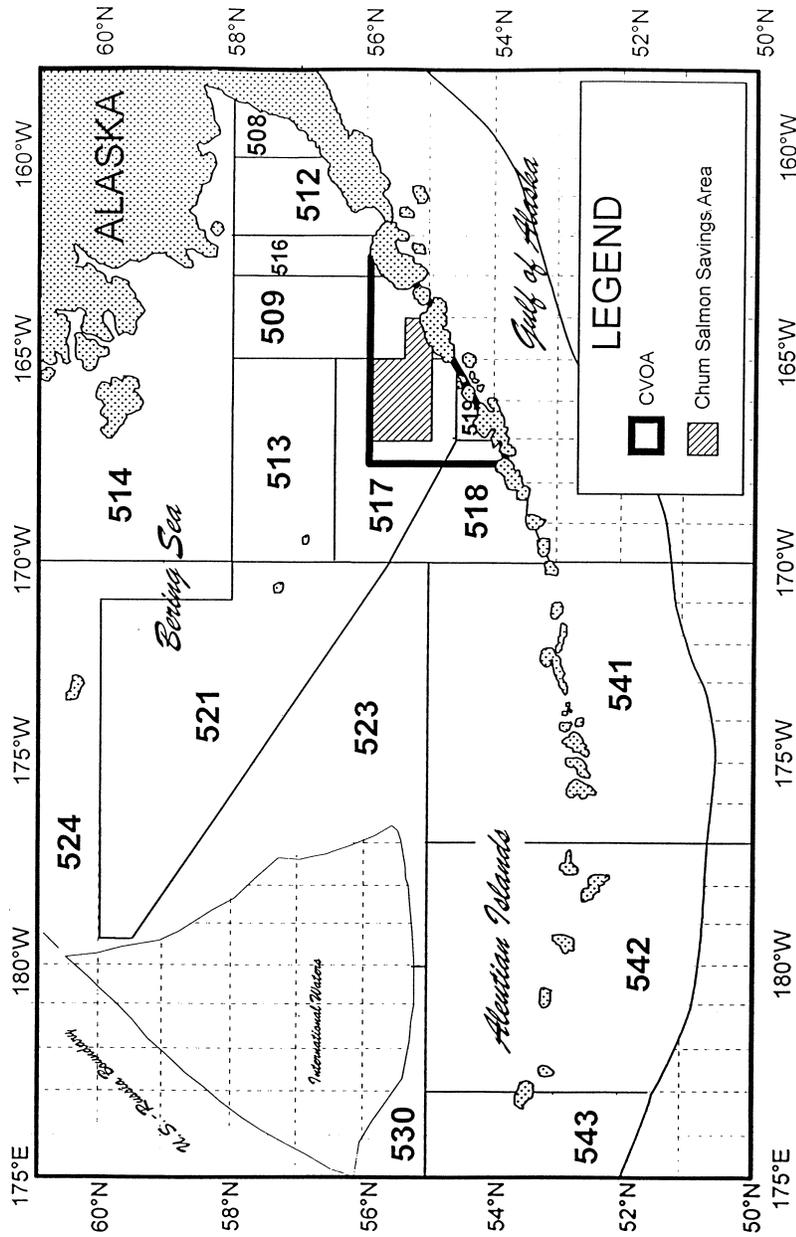


Figure 9 to Part 679. Chum Salmon Savings Area of the BSAI CVOA
a. Map

b. Coordinates

The CSSA is an area defined as that portion of the Bering Sea Subarea described 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.
55°00' N. lat. 164°00' W. long.
55°00' N. lat. 167°00' W. long.
56°00' N. lat. 167°00' W. long.

[64 FR 61995, Nov. 15, 1999]

FIGURE 10 TO PART 679—PRIBILOF ISLANDS AREA HABITAT CONSERVATION ZONE IN THE BERING SEA

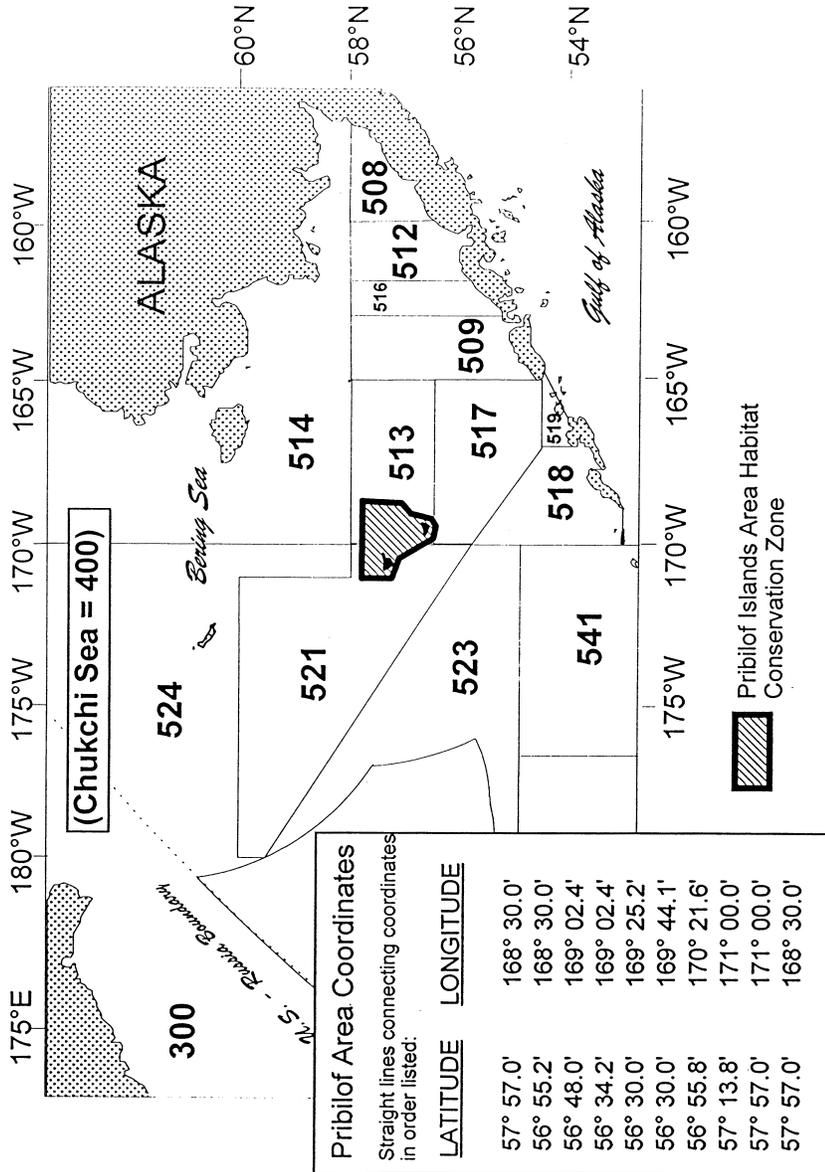
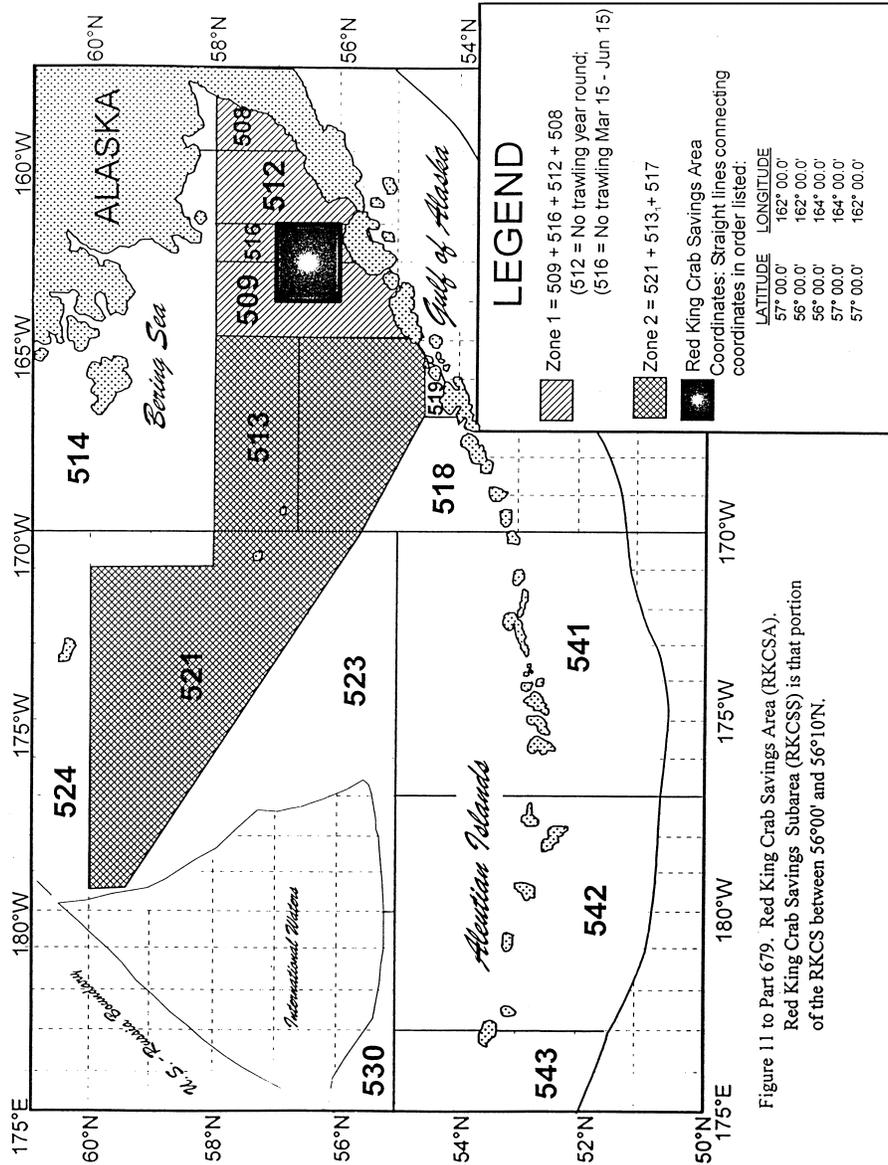


Figure 10 to Part 679. Pribilof Islands Area Habitat Conservation Zone in the Bering Sea

[64 FR 61997, Nov. 15, 1999]

FIGURE 11 TO PART 679—RED KING CRAB SAVINGS AREA (RKCSA)



[64 FR 61998, Nov. 15, 1999]

FIGURE 12 TO PART 679—NEARSHORE BRISTOL BAY TRAWL CLOSURE AREA

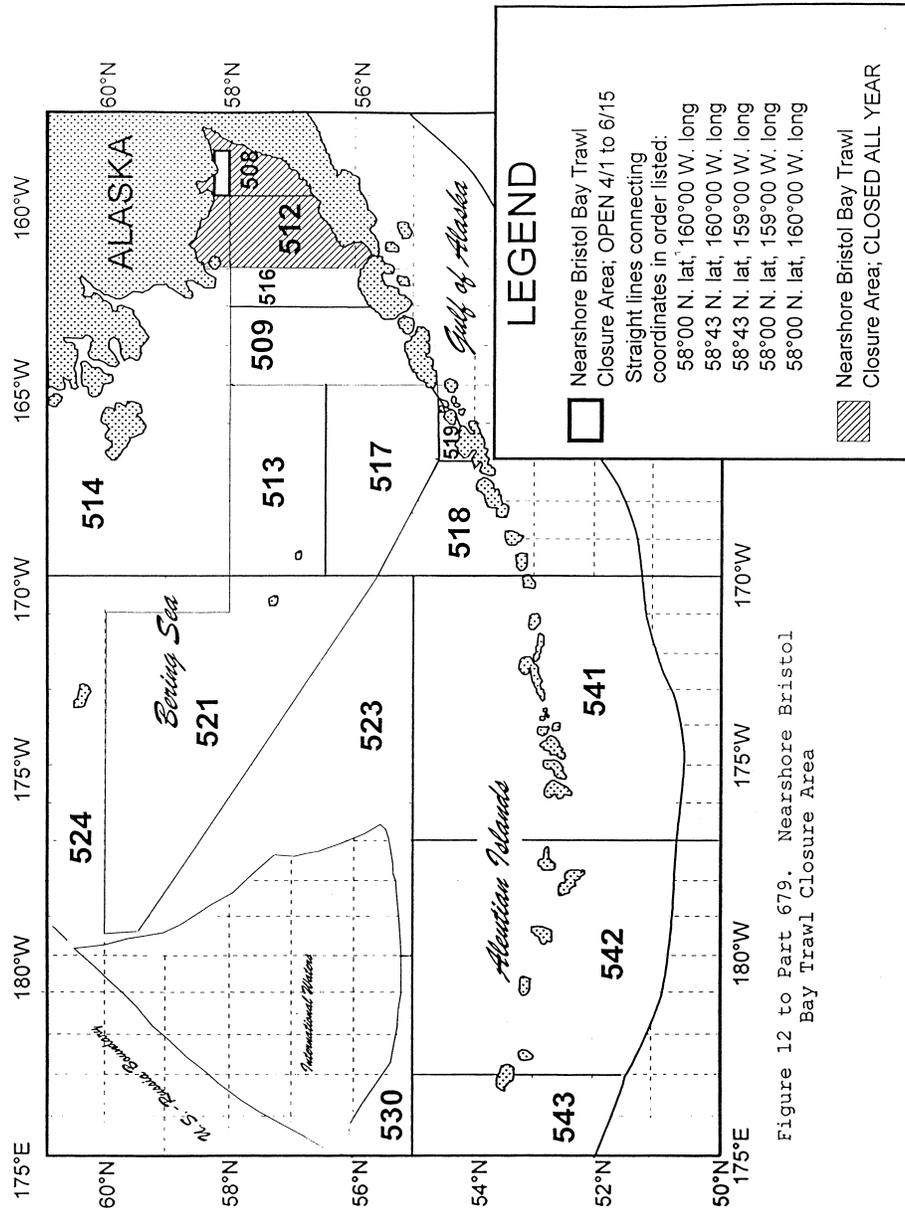


Figure 12 to Part 679. Nearshore Bristol Bay Trawl Closure Area

[64 FR 61999, Nov. 15, 1999]

FIGURE 13 TO PART 679—BSAI C. OPILIO TANNER CRAB BYCATCH LIMITATIONS ZONE

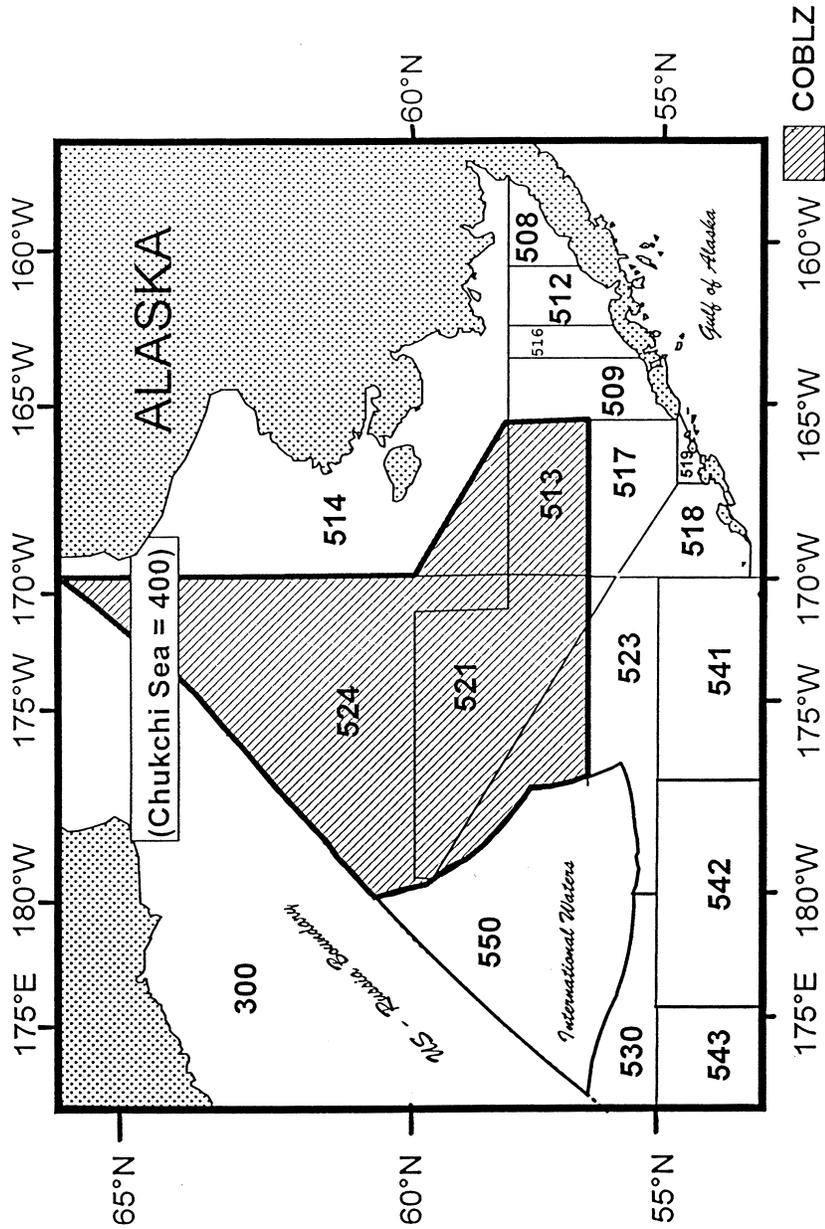


Figure 13 to Part 679. BSAI C. Opilio Tanner Crab Bycatch Limitation Zone (COBLZ)
a. Map

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b. Coordinates

The COBLZ is an area defined as that portion of the Bering Sea Subarea north of 56°30' N. lat. that is west of a line connecting the following coordinates in the order listed:

56° 30' N. lat., 165° 00' W. long.

58° 00' N. lat., 165° 00' W. long.

59° 30' N. lat., 170° 00' W. long.

and north along 170° 00' W. long. to its intersection with the U.S.-Russia Boundary.

[64 FR 62000, Nov. 15, 2000]

FIGURE 14 TO PART 679—SABLEFISH REGULATORY AREAS

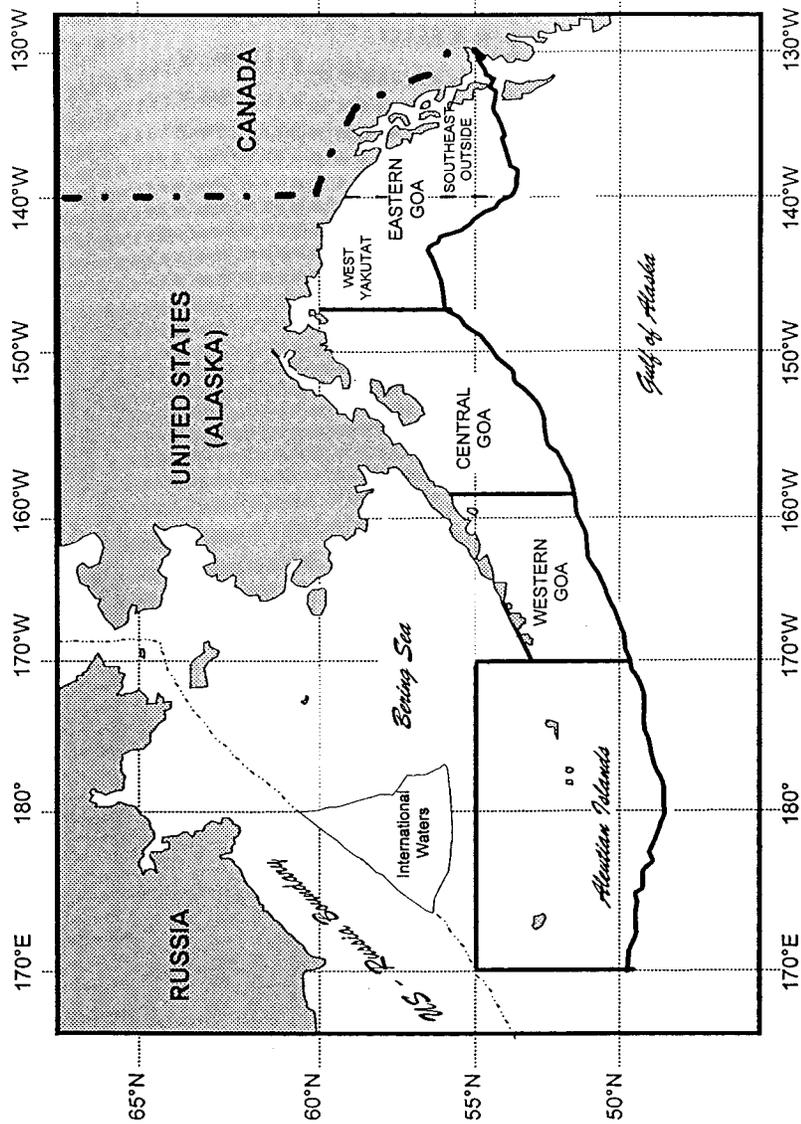
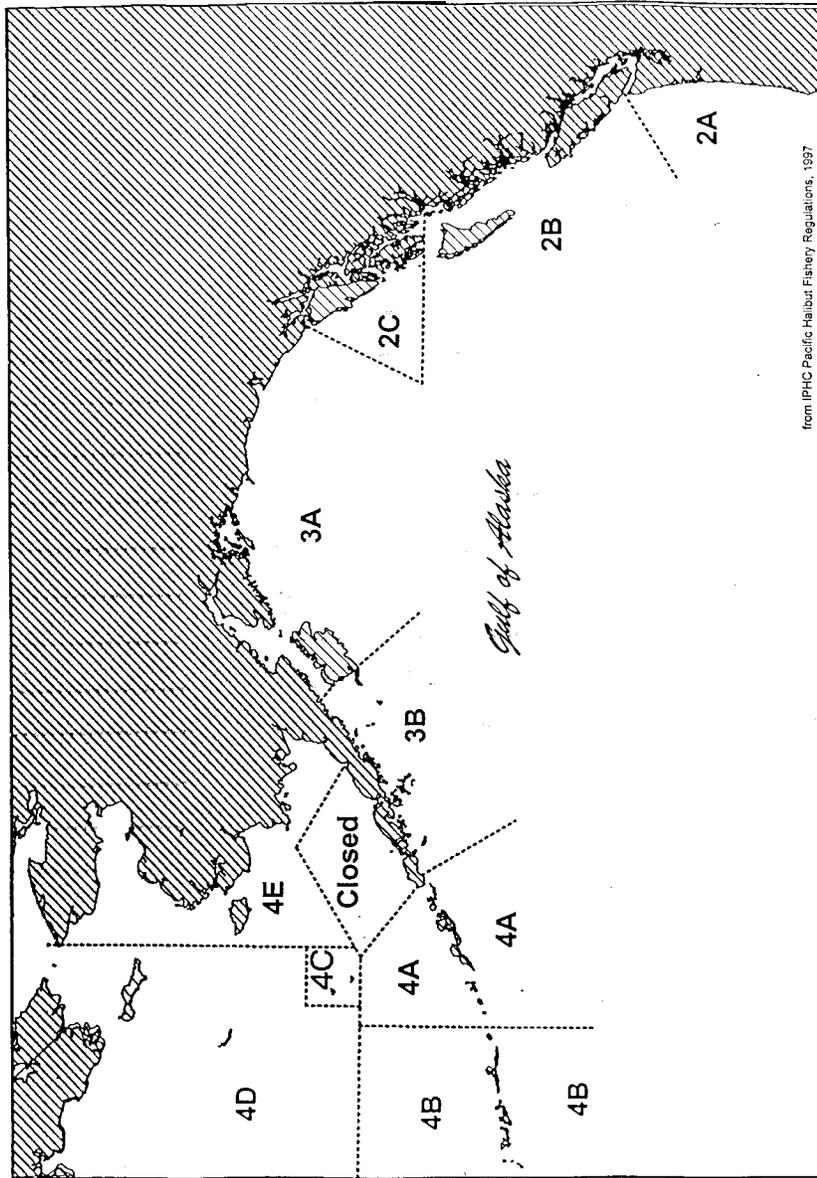


Figure 14 to Part 679, Sablefish Regulatory Areas and Districts

NOTE: Refer to Figures 1 and 3 for coordinates.

[64 FR 62002, Nov. 15, 2000]

FIGURE 15 TO PART 679—REGULATORY AREAS FOR THE PACIFIC HALIBUT FISHERY



from IPHC Pacific Halibut Fishery Regulations, 1997

Figure 15 to Part 679. Regulatory Areas for the Pacific Halibut Fishery
a. Map

b. Coordinates

Area 2A includes all waters off the states of California, Oregon, and Washington;

Area 2B includes all waters off British Columbia;

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Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58°11'57" N. lat., 136°38'18" W. long.) and south and east of a line running 205° true from said light;

Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (57°41'15" N. lat., 155°35'00" W. long.) to Cape Ikolik (57°17'17" N. lat., 154°47'18" W. long.), then along the Kodiak Island coastline to Cape Trinity (56°44'50" N. lat., 154°08'44" W. long.), then 140° true;

Area 3B includes all waters between Area 3A and a line extending 150° true from Cape Lutke (54°29'00" N. lat., 164°20'00" W. long.) and south of 54°49'00" N. lat. in Isanotski Strait;

Area 4A includes all waters in the GOA west of Area 3B and in the Bering Sea west of the closed area defined below that are east of 172°00'00" W. long. and south of 56°20'00" N. lat.;

Area 4B includes all waters in the Bering Sea and the GOA west of Area 4A and south of 56°20'00" N. lat.;

Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed

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area defined below which are east of 171°00'00" W. long., south of 58°00'00" N. lat., and west of 168°00'00" W. long.;

Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of 168°00'00" W. long.;

Area 4E includes all waters in the Bering Sea north and east of the closed area defined below, east of 168°00'00" W. long., and south of 65°34'00" N. lat.

Closed areas

All waters in the Bering Sea north of 54°49'00" N. lat. in Isanotski Strait that are enclosed by a line from Cape Sarichef Light (54°36'00" N. lat., 164°55'42" W. long.) to a point at 56°20'00" N. lat., 168°30'00" W. long.; thence to a point at 58°21'25" N. lat., 163°00'00" W. long.; thence to Strogonof Point (56°53'18" N. lat., 158°50'37" W. long.); and then along the northern coasts of the Alaska Peninsula and Unimak Island to the point of origin at Cape Sarichef Light.

In Area 2A, all waters north of Point Chehalis, WA (46°53'18" N. lat.).

[64 FR 62003, Nov. 15, 1999]

FIGURE 16 TO PART 679—BSAI *C. opilio* AND *C. bairdi* TANNER CRAB ENDORSEMENT AREAS

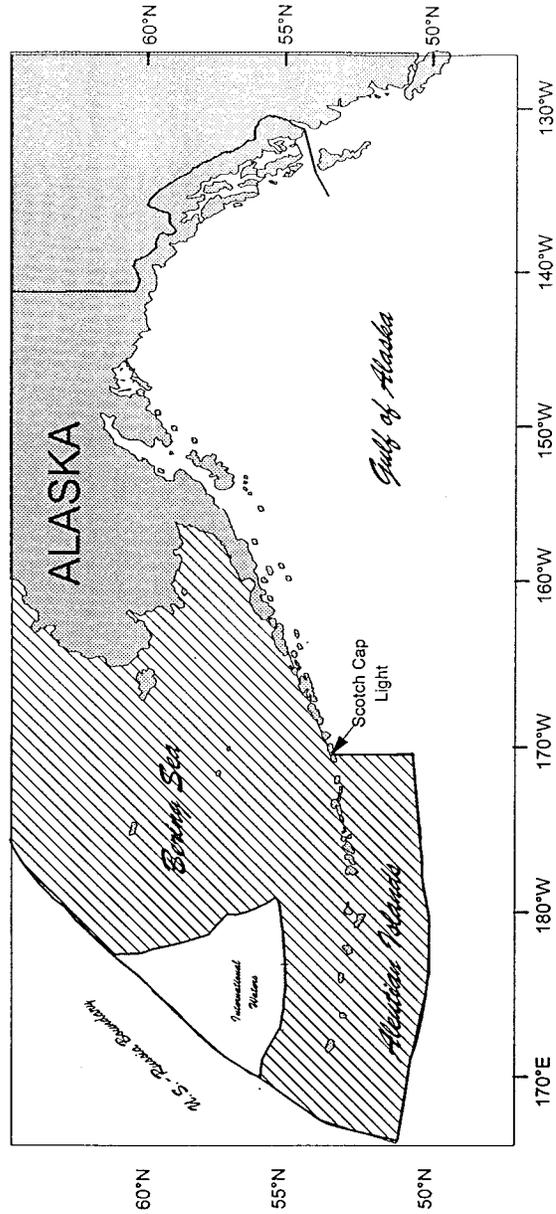


Figure 16 to Part 679. BSAI *C. opilio* and *C. bairdi* tanner crab endorsement areas. Waters east of the U.S.-Russian Convention Line of 1867 excluding all GOA waters east of a boundary extending south from Scotch Cap Light (54°36' N. lat., 164°44' W. long.).

FIGURE 17 TO PART 679—BSAI KING CRAB ENDORSEMENT AREAS

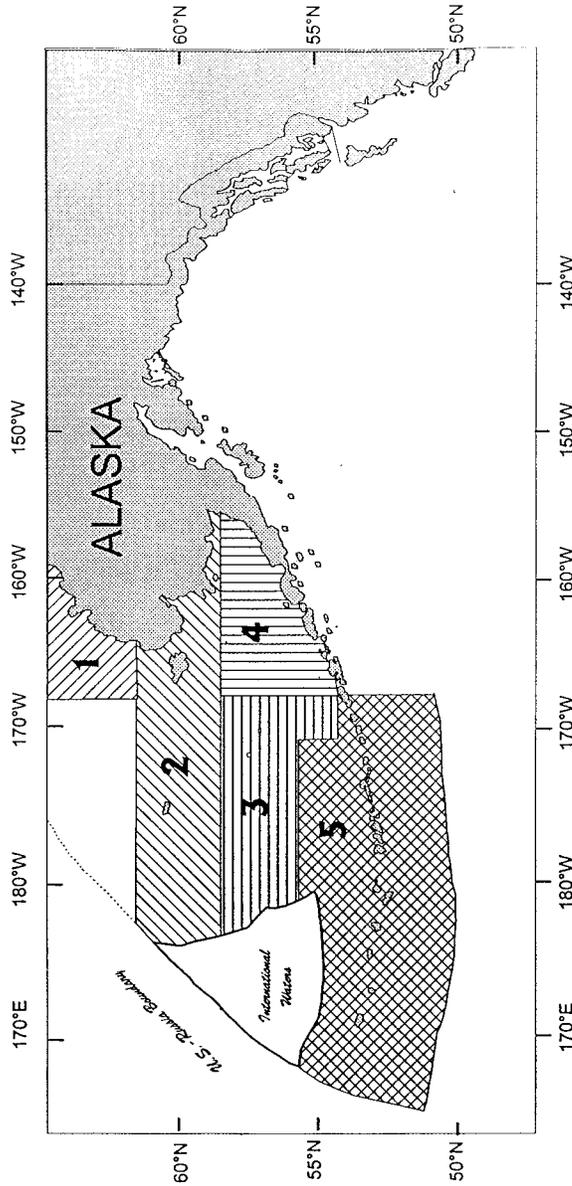


Figure 17 to Part 679. BSAI King crab endorsement areas
a. Map

b. Coordinates

1. *Norton Sound Red King Crab and Blue King Crab Area*
 Area defined by a northern boundary of 65°36' N. lat., along the east side of continental Alaska, a southern boundary of 61°49' N. lat., and a western boundary of 168° W. long.
2. *St. Matthew Blue King Crab Area*
 Area defined by a northern boundary of 61°49' N. lat., along the east side of continental Alaska, a southern boundary of 58°39' N. lat., and a western boundary of the U.S.-Russian Convention Line of 1867.
3. *Pribilof Red King Crab and Blue King Crab Area*
 Area defined by a northern boundary of 58°39' N. lat., an eastern boundary of 168° W. long. south to 54°36' N. lat., then westward to (54°36' N. lat., 171° W. long.), then north to (55°30' N. lat., 171° W. long.), then westward to the western boundary of the U.S.-Russian Convention Line of 1867.
4. *Bristol Bay Red King Crab Area*
 Area defined by a northern boundary of 58°39' N. lat., along the east side of continental Alaska, a southern boundary of 54°36' N. lat., and a western boundary of 168° W. long. and including all waters of Bristol Bay.
5. *Aleutian Islands Brown King Crab and Red King Crab Area*
 Area defined by a northern boundary of 55°30' N. lat. eastward to 171° W. long., then south to Cape Sarichef (54°36' N. lat., 171° W. long.), then east to Scotch Cap Light (54°36' N. lat., 164°44' W. long.), 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), and a western boundary of the U.S.-Russian Convention Line of 1867.

[64 FR 62006, Nov. 15, 1999]

FIGURE 18 TO PART 679—SITKA
 PINNACLES MARINE RESERVE

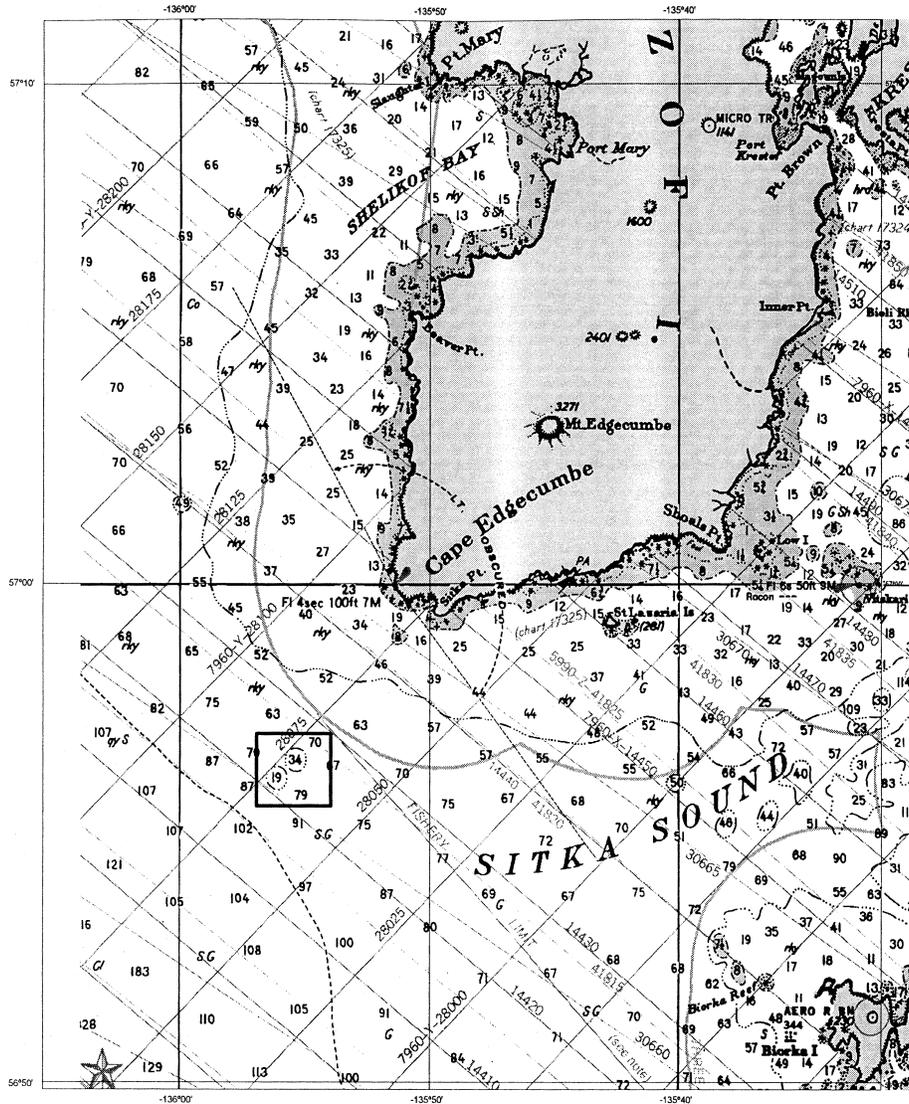


Figure 18 to Part 679. Sitka Pinnacles Marine Reserve (area enclosed within rectangle).

a. Map

b. Coordinates

An area totaling 2.5 square nm off Cape Edgecumbe, defined by straight lines con-

necting the following points in a counter-clockwise manner:

56°55.5'N lat., 135°54.0'W long;

56°57.0'N lat., 135°54.0'W long;
 56°57.0'N lat., 135°57.0'W long;
 56°55.5'N lat., 135°57.0'W long.

FIGURE 19 TO PART 679—SHELIKOF STRAIT CONSERVATION AREA

[65 FR 67308, Nov. 9, 2000]

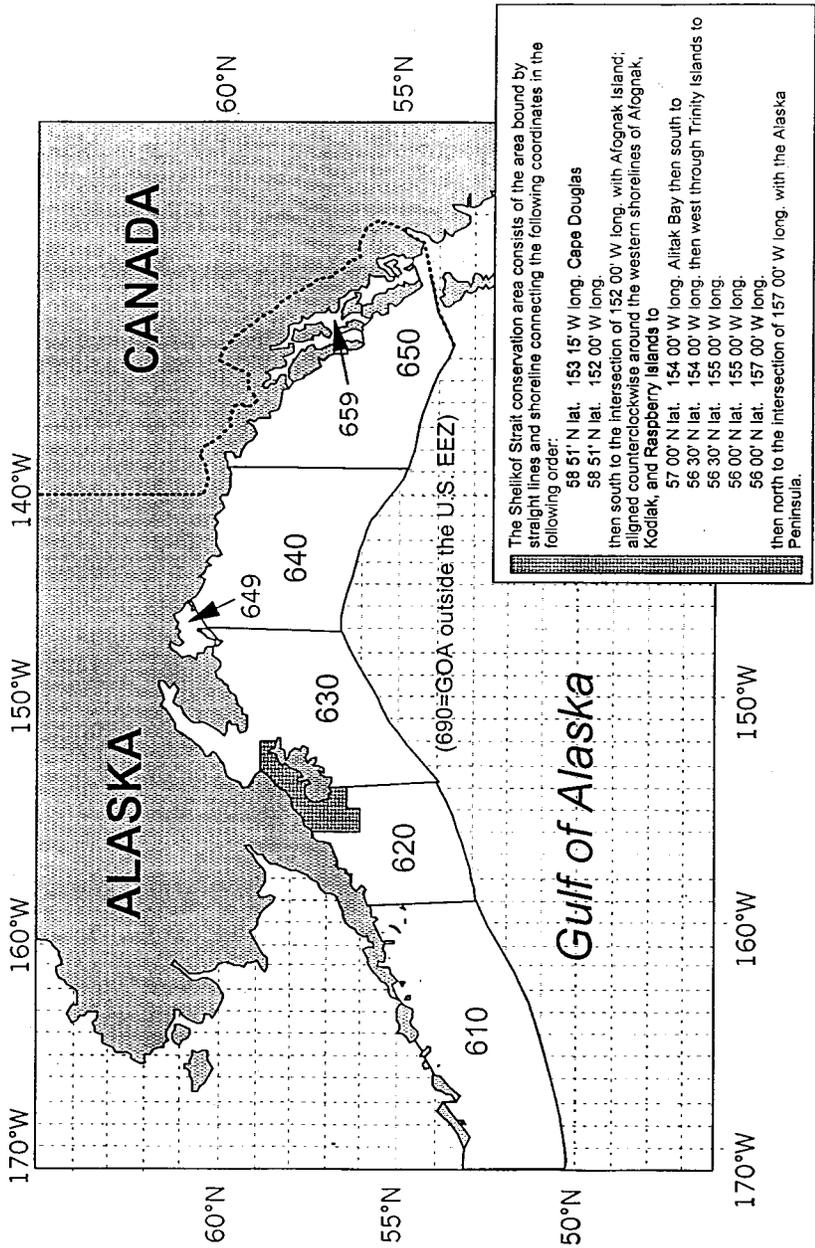


Figure 19 to Part 679. Shelikof Strait Conservation Area

[67 FR 4134, Jan. 28, 2002]

FIGURE 20 TO PART 679—STELLER SEA LION CONSERVATION AREA (SCA) OF THE BERING SEA

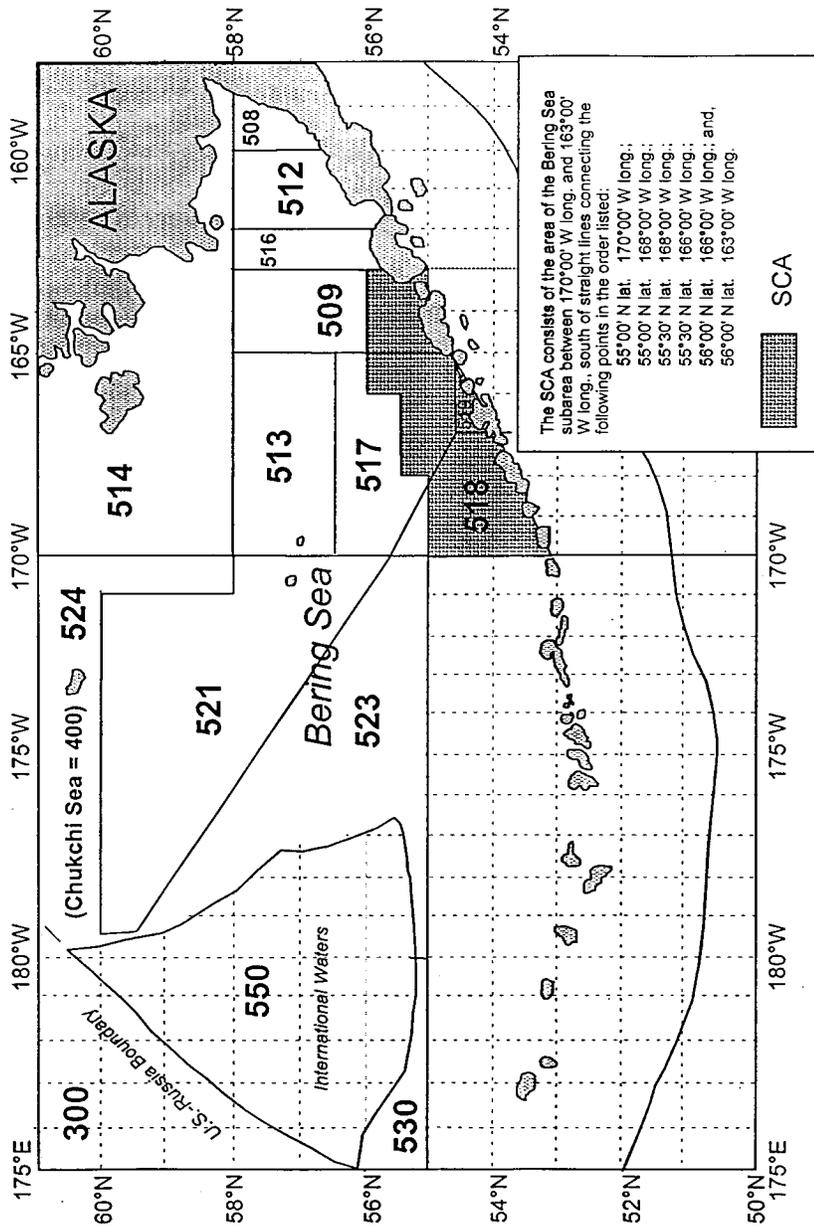


Figure 20 to Part 679. Steller sea lion conservation area (SCA) of the Bering Sea

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[67 FR 4134, Jan. 28, 2002]

TABLE 1 TO PART 679—PRODUCT AND DELIVERY CODES

(These codes describe the condition of the fish at the point it is weighed and recorded)

Product Description	Code
GENERAL USE CODES*	
Belly flaps. Flesh in region of pelvic and pectoral fins and behind head. (ancillary only)	19
Bled only. Throat, or isthmus, slit to allow blood to drain.	03
Bled fish destined for fish meal (includes offsite production) DO NOT RECORD ON PTR.	42
Bones (if meal, report as 32) (ancillary only).	39
Butterfly, no backbone. Head removed, belly slit, viscera and most of backbone removed; fillets attached.	37
Cheeks. Muscles on sides of head (ancillary only)	17
Chins. Lower jaw (mandible), muscles, and flesh (ancillary only)	18
Fillets, deep-skin. 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.	24
Fillets, skinless/boneless. Meat with both skin and ribs removed, from sides of body behind head and in front of tail.	23
Fillets with ribs, no skin. Meat with ribs with skin removed, from sides of body behind head and in front of tail.	22
Fillets with skin and ribs. Meat and skin with ribs attached, from sides of body behind head and in front of tail.	20
Fillets with skin, no ribs. Meat and skin with ribs removed, from sides of body behind head and in front of tail.	21
Fish meal. Meal from whole fish or fish parts; includes bone meal.	32
Fish oil. Rendered oil from whole fish or fish parts. Record only oil destined for sale and not oil stored or burned for fuel onboard.	33
Gutted, head on. Belly slit and viscera removed.	04
Head and gutted, with roe.	06
Headed and gutted, Western cut. Head removed just in front of the collar bone, and viscera removed.	07
Headed and gutted, Eastern cut. Head removed just behind the collar bone, and viscera removed.	08
Headed and gutted, tail removed. Head removed usually in front of collar bone, and viscera and tail removed.	10
Heads. Heads only, regardless where severed from body (ancillary only).	16

(These codes describe the condition of the fish at the point it is weighed and recorded)

Product Description	Code
Kirimi (Steak) Head removed either in front or behind the collar bone, viscera removed, and tail removed by cuts perpendicular to the spine, resulting in a steak.	11
Mantles, octopus or squid. Flesh after removal of viscera and arms.	36
Milt. (in sacs, or testes) (ancillary only).	34
Minced. Ground flesh.	31
Other retained product. If product is not listed on this table, enter code 97 and write a description with product recovery rate next to it in parentheses.	97
Pectoral girdle. Collar bone and associated bones, cartilage and flesh.	15
Roe. Eggs, either loose or in sacs, or skeins (ancillary only).	14
Salted and split. Head removed, belly slit, viscera removed, fillets cut from head to tail but remaining attached near tail. Product salted.	12
Stomachs. Includes all internal organs (ancillary only)	35
Surimi. Paste from fish flesh and additives	30
Whole fish/meal. Whole fish destined for meal (includes offsite production.) DO NOT RECORD ON PTR.	41 ¹
Whole fish/food fish.	01 ¹
Whole fish/bait. Processed for bait. Sold	02
Wings. On skates, side fins are cut off next to body.	13
DISCARD/DISPOSITION CODES	
Whole fish/donated prohibited species. Number of Pacific salmon or Pacific halibut, otherwise required to be discarded, that is donated to charity under a NMFS-authorized program.	86
Whole fish/onboard bait. Whole fish used as bait on board vessel. Not sold.	92 ¹
Whole fish/damaged. Whole fish damaged by observer's sampling procedures.	93 ¹
Whole fish/personal use, consumption. Fish or fish products eaten on board or taken off the vessel for personal use. Not sold or utilized as bait	95 ¹
Whole fish, discard, at sea. Whole groundfish and prohibited species discarded by catcher vessels, catcher/processors, motherships, or vessel buying stations. DO NOT RECORD ON PTR.	98
Whole fish, discard, infested. Flea-infested fish, parasite-infested fish.	88

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(These codes describe the condition of the fish at the point it is weighed and recorded)

Product Description	Code
Whole fish, discard, decomposed. Decomposed or previously discarded fish	89
Whole fish, discard, onshore. Discard after delivery and before processing by shoreside processors, stationary floating processors and buying stations and in-plant discard of whole ground-fish and prohibited species during processing. DO NOT RECORD ON PTR.	99
PRODUCT DESIGNATION CODES	
Ancillary product. A product, such as meal, heads, internal organs, pectoral girdles, or any other product that may be made from the same fish as the primary product.	A
Primary product. A product, such as fillets, made from each fish, with the highest recovery rate.	P
Reprocessed or rehandled product. A product, such as meal, that results from processing a previously reported product or from rehandling a previously reported product.	R

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(These codes describe the condition of the fish at the point it is weighed and recorded)

Product Description	Code
PACIFIC HALIBUT IFQ & CDQ CODES The following codes are authorized for IFQ and CDQ reporting of Pacific halibut.	
Gutted, head off. Belly slit and viscera removed. Pacific halibut only.	05
Gutted, head on. Belly slit and viscera removed. Pacific halibut.	04
The following codes are effective through December 31, 2001.	
Whole fish/food fish with ice & slime. Sablefish only.	51
Gutted, head on. Belly slit and viscera removed. Pacific halibut and sablefish.	54
Gutted, head off, with ice & slime. Belly slit and viscera removed. Pacific halibut only.	55
Headed and gutted, Western cut, with ice & slime. Sablefish only.	57
Headed and gutted, Eastern cut, with ice & slime. Sablefish only.	58

¹When using whole fish codes, record round weights not product weights, even if the whole fish is not used.

[67 FR 4137, Jan. 28, 2002]

TABLE 2 TO PART 679—SPECIES CODES FOR FMP SPECIES AND NON-FMP SPECIES

(Codes without asterisks are FMP species—Federal groundfish or Prohibited Species in groundfish fisheries—that must be recorded in R&R systems)

Species description	Code
Atka mackerel (greenling)	193
FLOUNDER	
Arrowtooth and/or Kamchatka	121
Starry	129
Alaska Plaice	133
Octopus	870
Pacific Cod	110
Pollock	270
ROCKFISH	
Aurora	185
Black (BSAI)	142
Blackgill	177
Bocaccio	137
Canary	146
Chilipepper	178
China	149
Copper	138
Darkblotched	159
Dusky	154
Greenstriped	135
Harlequin	176
Northern	136
Pacific Ocean Perch (<i>S. alutus</i> only)	141
Pygmy	179
Quillback	147
Redbanded	153
Redstripe	158
Rosethorn	150

(Codes without asterisks are FMP species—Federal groundfish or Prohibited Species in groundfish fisheries—that must be recorded in R&R systems)

Species description	Code
Rougheye <i>S. Aleutianus</i>	151
Sharpchin	166
Shortbelly	181
Shortraker (<i>S. borealis</i>)	152
Silvergray	157
Splitnose	182
Stripetail	183
Thornyhead (all <i>Sebastolobus</i> species)	143
Tiger	148
Vermilion	184
Widow	156
Yelloweye	145
Yellowmouth	175
Yellowtail	155
Sablefish (blackcod)	710
Sculpins	160
SHARKS	
general	689
Pacific sleeper	692
salmon	690
spiny dogfish	691
Skate, longnose	701
Skates, general	700
SOLE	
Butter	126
Dover	124
English	128
Flathead	122

Fishery Conservation and Management

Pt. 679, Table 2

(Codes without asterisks are FMP species—Federal groundfish or Prohibited Species in groundfish fisheries—that must be recorded in R&R systems)

(Codes without asterisks are FMP species—Federal groundfish or Prohibited Species in groundfish fisheries—that must be recorded in R&R systems)

Species description	Code
Petrale	131
Rex	125
Rock	123
Sand	132
Yellowfin	127
Squid	875
Turbot, Greenland	134
FORAGE FISH (all species of the following families)	
Bristlemouths, lightfishes, and anglemouths (family <i>Gonostomatidae</i>)	209
Capelin smelt (family <i>Osmeridae</i>)	516
Deep-sea smelts (family <i>Bathylagidae</i>)	773
Eulachon smelt (family <i>Osmeridae</i>)	511
Gunnels (family <i>Pholidae</i>)	207
Krill (order <i>Euphausiacea</i>)	800
Laternfishes (family <i>Myctophidae</i>)	772
Pacific herring (family <i>Clupeidae</i>)	235
Pacific Sand fish (family <i>Trichodontidae</i>)	206
Pacific Sand lance (family <i>Ammodytidae</i>)	774
Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family <i>Stichaeidae</i>)	208
Surf smelt (family <i>Osmeridae</i>)	515
GROUP CODES (DO NOT USE FOR SORTING SPECIES. Do not record on ADF&G fish tickets).	
<i>Demersal shelf rockfish</i> (china, copper, quillback, rosethorn, tiger, yellow-eye, canary)	168
<i>Miscellaneous flatfish</i> (all flatfish without separate codes)	120
<i>Pelagic shelf rockfish</i> (dusky, yellowtail, widow) ...	169
Shortraker/rougheye rockfish	171
<i>Slope rockfish</i> (aurora, blackgill, Bocaccio, redstripe, silvergray, chili-pepper, dark-blotched, green-striped, harlequin, pygmy, redbanded, shortbelly, split-nose, stripetail, vermillion, yellowmouth, sharpchin)	144
PROHIBITED SPECIES CODES	
CRAB	
Red king	921
Blue king	922
Gold/brown king	923
Scarlet king	924
Bairdi tanner	931
Opilio Tanner	932
Tanner, grooved	933
Tanner, triangle	934
Pacific halibut	200
Pacific herring (family <i>Clupeidae</i>)	230
SALMON	
Chinook	410
Sockeye	420
Coho	430
Pink	440
Chum	450
Steelhead trout	540
Additional *non-FMP CODES (*These species codes may be recorded in NMFS logbooks and reports but are not required by regulations of this part.)	

Species description	Code
Abalone	860
Albacore	720
Arctic char, anadromous	521*
CLAMS	
Butter	810*
Cockle	820*
Eastern softshell	842*
Geoduck	815*
Little-neck	840*
Razor	830*
Surf	812*
Coral	899*
CRAB	
Box	900*
Dungeness	910
Korean horsehair	940*
Multispine	951*
Verrilli	953*
Dolly varden, anadromous	531*
Eels or eel-like fish	210*
Giant grenadier	214*
Greenling, kelp	194*
Greenling, rock	191*
Greenling, whitespot	192*
Grenadier (rattail)	213*
Jellyfish	625*
Lamprey, pacific	600*
Lingcod	130*
Lumpsucker	216*
Mussel, blue	855*
Pacific flatnose	260*
Pacific hagfish	212*
Pacific saury	220*
Pacific tomcod	250*
Prowfish	215*
Rockfish, black	142*
Rockfish, blue	167*
Sardine, Pacific (pilchard)	170*
Scallop, weathervane	850*
Scallop, pink (or calico)	851*
Sea cucumber	895*
Sea urchin, green	893*
Sea urchin, red	892*
Shad	180*
SHRIMP	
Pink	961*
Sidestripe	962*
Humpy	963*
Coonstripe	964*
Spot	965*
Skilfish	715*
Smelt, surf	515*
Snails	890*
Sturgeon, general	680*

[67 FR 4137, Jan. 28, 2002]

TABLE 3 TO PART 679—PRODUCT RECOVERY RATES FOR GROUND FISH SPECIES AND CONVERSION RATES FOR PACIFIC HALIBUT

Table 3 to Part 679--Product Recovery Rates for groundfish species and conversion rates for Pacific halibut

FMP SPECIES	Species Code	PRODUCT CODE												
		1 WHOLE FISH 1, 2, 41, 86, 92, 93, 95	2 BLEND	3 CUTTED HEAD ON	4 CUTTED HEAD OFF (NET WEIGHT)	5 H&G WITH ROE	6 H&G WESTERN CUT	7 H&G EASTERN CUT	8 H&G W/O TAIL	9 KIRIMI	10 SALTED & SPLIT	11 MINGS	12 ROE	
PACIFIC COD	110	1.00	0.98	0.85	...	0.63	0.57	0.47	0.44	...	0.45	...	0.05	
ARROWTOOTH FLOUNDER	121	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	...	...	0.08
FLATHEAD SOLE	122	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	...	...	0.08
ROCK SOLE	123	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	...	...	0.08
DOVER SOLE	124	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	...	...	0.08
REX SOLE	125	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	...	...	0.08
YELLOWFIN SOLE	127	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	...	...	0.08
GREENLAND TURBOT	134	1.00	0.98	0.90	...	0.80	0.72	0.65	0.62	0.48	...	...	0.08
THORNYHEAD ROCKFISH	143	1.00	0.98	0.88	...	0.55	0.60	0.50	...	...	...	...	...
SCULPINS	160	1.00	0.98	0.87	...	...	0.50	0.40	...	...	...	...	...
ATKA MACKEREL	193	1.00	0.98	0.87	...	0.67	0.64	0.61	...	...	...	...	...
POLLOCK	270	1.00	0.98	0.80	...	0.70	0.65	0.56	0.50	0.35	...	...	0.07
SMELTS	510	1.00	0.98	0.82	...	...	0.71	...	...	...	...	...	...
BULLACHON	511	1.00	0.98	0.82	...	...	0.71	...	...	...	...	...	...
CAPELIN	516	1.00	0.98	0.89	...	...	0.78	...	...	...	...	...	...
SHARKS	689	1.00	0.98	0.83	...	...	0.72	...	...	...	...	...	...
SKATES	700	1.00	0.98	0.90	...	...	...	0.32	...	...	...	...	...
SABLEFISH	710	1.00	0.98	0.89	...	...	0.68	0.63	0.50	...	...	0.32	...
OCTOPUS	870	1.00	0.98	0.81	...	...	...	...	...	...	...	...	...
SQUID	875	1.00	0.98	0.69	...	...	...	...	...	...	...	...	...
ROCKFISH	...	1.00	0.98	0.88	...	...	0.60	0.50	...	...	...	...	...
CONVERSION Net Weight PACIFIC HALIBUT	200	...	...	0.90	1.0	...	...	...	...	...	...	...	...

Table 3 to Part 679--Product Recovery Rates for groundfish species and conversion rates for Pacific halibut

FMP SPECIES	Species Code	PRODUCT CODE												
		15 PECTORAL GIRDLE	16 HEADS	17 CHEEKS	18 CHINS	19 BELLY	20 FILETS W/SKIN & RBS	21 FILETS W/SKIN NO RBS	22 FILETS W/RBS NO SKIN	23 FILETS SKNLESS/BNLESS	24 FILETS DEEP SKIN	30 SURIMI	31 MINCE	
PACIFIC COD	110	0.05	...	0.05	...	0.01	0.45	0.35	0.25	0.25	...	0.15	0.5	
ARROWTOOTH FLOUNDER	121	...	...	...	...	...	0.32	0.27	0.27	0.22	...	...	...
FLATHEAD SOLE	122	...	...	...	...	...	0.32	0.27	0.27	0.22	...	...	...
ROCK SOLE	123	...	...	...	...	...	0.32	0.27	0.27	0.22	...	...	...
DOVER SOLE	124	...	...	...	...	...	0.32	0.27	0.27	0.22	...	...	...
REX SOLE	125	...	...	...	...	...	0.32	0.27	0.27	0.22	...	...	...
YELLOWFIN SOLE	127	...	...	...	...	...	0.32	0.27	0.27	0.22	...	0.18	...
GREENLAND TURBOT	134	...	...	...	...	...	0.32	0.27	0.27	0.22	...	...	...
THORNYHEAD ROCKFISH	143	...	0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25	...	...	...
SCULPINS	160	...	...	...	...	...	...	...	...	...	...	...	...
ATKA MACKEREL	193	...	...	...	...	...	...	...	...	...	...	0.15	...
POLLOCK	270	...	0.15	...	...	...	0.35	0.30	0.30	0.21	0.16	0.16/0.17	0.22
SMEELTS	510	...	...	...	...	...	...	0.38	...	...	...	...	...
EULACHON	511	...	...	...	...	...	...	0.38	...	...	...	...	...
CAPELIN	516	...	...	...	...	...	...	...	...	...	...	...	...
SHARKS	689	...	...	...	...	...	...	0.30	0.30	0.25	...	...	...
SKATES	700	...	...	...	...	...	...	...	...	...	...	...	...
SABLEFISH	710	...	...	0.05	...	...	0.35	0.30	0.30	0.25	...	...	...
OCTOPUS	870	...	...	...	...	...	...	...	...	...	...	...	...
SQUID	875	...	...	...	...	...	...	...	...	...	...	...	...
ROCKFISH	...	...	0.15	0.05	0.05	0.10	0.40	0.30	0.35	0.25	...	...	...
Conversion Rate to Net Weight for PACIFIC HALIBUT	200	...	...	...	...	...	...	...	...	...	...	...	...

Table 3 to Part 679--Product Recovery Rates for groundfish species and conversion rates for Pacific halibut

FMP SPECIES	Species Code	PRODUCT CODE									
		32 MEAT	33 OIL	34 MILK	35 STOMACHS	36 MANTLES	37 BUTTERFLY	38 BONE REMOVED	88 INFESTED OR DISCARDS	98, 99	
PACIFIC COD	110	0.17	...	...	...	...	0.43	0.00	1.00	1.00	...
ARROWTOOTH FLOUNDER	121	0.17	...	...	...	...	...	0.00	1.00	1.00	...
FLATHEAD SOLE	122	0.17	...	...	...	...	...	0.00	1.00	1.00	...
ROCK SOLE	123	0.17	...	...	...	...	...	0.00	1.00	1.00	...
DOVER SOLE	124	0.17	...	...	...	...	...	0.00	1.00	1.00	...
REX SOLE	125	0.17	...	...	...	...	...	0.00	1.00	1.00	...
YELLOWFIN SOLE	127	0.17	...	...	...	...	...	0.00	1.00	1.00	...
GREENLAND TURBOT	134	0.17	...	...	...	...	...	0.00	1.00	1.00	...
THORNYHEAD ROCKFISH	143	0.17	...	...	...	...	...	0.00	1.00	1.00	...
SCULPINS	160	0.17	...	...	...	...	...	0.00	1.00	1.00	...
ATKA MACKEREL	193	0.17	...	...	...	...	...	0.00	1.00	1.00	...
POLLOCK	270	0.17	...	...	...	...	0.43	0.00	1.00	1.00	...
SMELTS	510	0.17	...	...	...	...	...	0.00	1.00	1.00	...
BULACHON	511	0.17	...	...	...	...	...	0.00	1.00	1.00	...
CAPELIN	516	0.17	...	...	...	...	...	0.00	1.00	1.00	...
SHARKS	689	0.17	...	...	...	...	...	0.00	1.00	1.00	...
SKATES	700	0.17	...	...	...	...	...	0.00	1.00	1.00	...
SABLEFISH	710	0.17	...	...	...	...	...	0.00	1.00	1.00	...
OCTOPUS	870	0.17	...	...	...	0.85	...	0.00	1.00	1.00	...
SQUID	875	0.17	...	...	...	0.75	...	0.00	1.00	1.00	...
ROCKFISH	...	...	...	...	...	...	...	0.00	1.00	1.00	...
Conversion Rate Net Weight for PACIFIC HALIBUT	200	...	...	...	...	...	...	...	...	0.75	...

Standard pollock surimi rate during January through June
 Standard pollock surimi rate during July through December
 Notes: To obtain round weight of groundfish, divide the product weight of groundfish by the table conversion rate
 To obtain IQO net weight of Pacific halibut, multiply the product weight of halibut by the table conversion rate
 To obtain round weight from net weight of Pacific halibut, divide net weight by 0.75 or multiply by 1.33333.

[67 FR 4137, Jan. 28, 2002, as amended at 67 FR 46024, July 11, 2002]

Fishery Conservation and Management

Pt. 679, Table 5

TABLE 4 TO PART 679—BERING SEA SUBAREA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at part 223.202 of this title				
a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).				
Sea Lion Rocks	55°28.0' N	163°12.0' 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
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. 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).				
Sea Lion Rocks	55°28.0' N	163°12.0' 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
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.

[61 FR 31230, June 19, 1996, as amended at 64 FR 14077, Mar. 23, 1999]

EFFECTIVE DATE NOTE: At 67 FR 1005, Jan. 8, 2002, Table 4 to part 679 was suspended, effective Jan. 1, 2002 until July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

TABLE 5 TO PART 679—ALEUTIAN ISLANDS SUBAREA STELLER SEA LION PROTECTION AREAS

Name of island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at §227.12(a)(2) of this title				
a. Trawling Prohibited Year-Round Within 10 nm:				
Yunaska Island	52°42.0' N	170°38.5' W	52°41.0' N	170°34.5' 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./Gillon Pt	52°24.0' N	173°21.5' E		
Agattu Island	52°23.5' N	173°43.5' E	52°22.0' N	173°41.0' E
Attu Island	52°54.5' N	172°28.5' E	52°57.5' N	172°31.5' E
b. Trawling Prohibited Year-Round Within 20 nm:				
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: Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

[64 FR 62013, Nov. 15, 1999]

Pt. 679, Table 6

50 CFR Ch. VI (10–1–02 Edition)

EFFECTIVE DATE NOTE: At 67 FR 1005, Jan. 8, 2002, Table 5 to part 679 was suspended, effective Jan. 1, 2002 until July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

TABLE 6 TO PART 679—GULF OF ALASKA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at part 223.202 of this title				
a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).				
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. 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).				
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.

[61 FR 31230, June 19, 1996, as amended at 64 FR 14077, Mar. 23, 1999]

EFFECTIVE DATE NOTE: At 67 FR 1005, Jan. 8, 2002, Table 6 to part 679 was suspended, effective Jan. 1, 2002 until July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002.

Fishery Conservation and Management

Pt. 679, Table 8

TABLE 7 TO PART 679—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS

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 | 9. Port Heiden/Meschick |
| 2. Atka | 10. South Naknek |
| 3. False Pass | 11. Sovonoski/King Salmon |
| 4. Nelson Lagoon | 12. Togiak |
| 5. Nikolski | 13. Twin Hills |
| 6. St. George | |
| 7. St. Paul | |

Southwest Coastal Lowlands

- | | |
|--------------------|---------------------|
| 1. Brevig Mission | 1. Alakanuk |
| 2. Diomede/Inalik | 2. Chefornak |
| 3. Elim | 3. Chevak |
| 4. Gambell | 4. Eek |
| 5. Golovin | 5. Emmonak |
| 6. Koyuk | 6. Goodnews Bay |
| 7. Nome | 7. Hooper Bay |
| 8. Savoonga | 8. Kipnuk |
| 9. Shaktoolik | 9. Kongiganak |
| 10. St. Michael | 10. Kotlik |
| 11. Stebbins | 11. Kwigillingok |
| 12. Teller | 12. Mekoryuk |
| 13. Unalakleet | 13. Newtok |
| 14. Wales | 14. Nightmute |
| 15. White Mountain | 15. Platinum |
| | 16. Quinhagak |
| | 17. Scammon Bay |
| | 18. Sheldon's Point |
| | 19. Toksook Bay |
| | 20. Tununak |
| | 21. Tuntutuliak |

Bristol Bay

1. Aleknagik
2. Clark's Point
3. Dillingham
4. Egegik
5. Ekuk
6. Manokotak
7. Naknek
8. Pilot Point/Ugashik

[63 FR 47375, Sept. 4, 1998]

TABLE 8 TO PART 679—HARVEST ZONE CODES FOR USE WITH VESSEL ACTIVITY REPORTS

Harvest Zone	Description
A1	BSAI EEZ off Alaska
A2	GOA EEZ off Alaska
B	State waters of Alaska
C	State waters other than 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

Pt. 679, Table 8

50 CFR Ch. VI (10-1-02 Edition)

[67 FR 4137, Jan. 28, 2002]

Table 9 to Part 679--Required Logbooks, Reports, Forms and Electronic Logbook and Reports from Participants in the Federal Groundfish Fisheries

Requirement Name	Catcher vessel	Catcher/Processor	Mothership	Shoreside Processor ⁽²⁾	Buying Station
Daily Fishing Logbook (DFL) ⁽¹⁾	YES	NO	NO	NO	NO
Daily Cumulative Production Logbook (DCPL) ⁽¹⁾	NO	YES	YES	YES	NO
Buying Station Report (BSR)	NO	NO	NO	NO	YES
Check-in/Check-out Report	NO	YES	YES	YES	NO
Optional: Electronic Check-in/out report	NO	YES	YES	YES	NO
Weekly Production Report (WPR)	NO	YES	YES	YES	NO
Optional: Electronic WPR	NO	YES	YES	YES	NO
Shoreside Processor Electronic Logbook Report (SPELR) instead of DCPL and WPR when receiving AFA pollock or pollock harvested in a directed pollock fishery	NO	NO	NO	YES	NO
Optional: SPELR instead of DCPL and WPR	NO	NO	NO	YES	NO
U.S. Vessel Activity Report (VAR)	YES	YES	YES	NO	NO
Daily Production Report (DPR) ⁽²⁾	NO	YES	YES	YES	NO
Product Transfer Report (PTR)	NO	YES	YES	YES	NO
Required use AFA and CDQ at-sea scales, including daily scale test, printed scale output, request for inspection of scales and observer station, scale approval sticker	NO	YES	YES	NO	NO
VMS when directed fishing for Atka mackerel, pollock, or Pacific cod	YES	YES	NO	NO	NO

¹Two formats of the DFL and catcher/processor DCPL exist: one for trawl gear and one for longline and pot gear.

²DPR is submitted only when specifically requested by Regional Administrator.

³Also stationary floating processor

[67 FR 22012, May 2, 2002]

TABLE 10 TO PART 679—GULF OF ALASKA RETAINABLE PERCENTAGES

BASIS SPECIES		INCIDENTAL CATCH SPECIES													
Code	Species	Pollock	Pacific cod	DW flat ⁽¹⁾	Rex sole	Flathead sole	SW flat ⁽¹⁾	Arrowtooth	Sablefish	Aggregated rockfish ⁽²⁾	SR/RE ERA ⁽¹⁾	DSR SGO	Alka mackerel	Aggregated foragg. fish	Other species
110	Pacific cod	20	na ⁸	20	20	20	20	35	1	5	⁽¹⁾	10	20	2	20
121	Arrowtooth	5	5	0	0	0	0	na ⁸	0	0	0	0	0	2	0
122	Flathead sole	20	20	20	20	na ⁸	20	35	7	15	7	1	20	2	20
125	Rex sole	20	20	20	na ⁸	20	20	35	7	15	7	1	20	2	20
136	Northern rockfish	20	20	20	20	20	20	35	7	15	7	1	20	2	20
141	Pacific ocean perch	20	20	20	20	20	20	35	7	15	7	1	20	2	20
143	Thornyhead	20	20	20	20	20	20	35	7	15	7	1	20	2	20
152/ 151	Shortraker/ rougheye ⁽¹⁾	20	20	20	20	20	20	35	7	15	na ⁸	1	20	2	20
193	Alka mackerel	20	20	20	20	20	20	35	1	5	⁽¹⁾	10	na ⁸	2	20
270	Pollock	na ⁸	20	20	20	20	20	35	1	5	⁽¹⁾	10	20	2	20
710	Sablefish	20	20	20	20	20	20	35		15	7	1	20	2	20
	Flatfish, deep water ⁽²⁾	20	20	na ⁸	20	20	20	35	7	15	7	1	20	2	20
	Flatfish, shallow water ⁽²⁾	20	20	20	20	na ⁸	20	35	1	5	⁽¹⁾	10	20	2	20
	Rockfish, other ⁽²⁾	20	20	20	20	20	20	35	7	15	7	1	20	2	20
	Rockfish, pelagic ⁽⁵⁾	20	20	20	20	20	20	35	7	15	7	1	20	2	20
	Rockfish, DSR-SEO ⁽⁶⁾	20	20	20	20	20	20	35	7	15	7	na ⁸	20	2	20
	Other species ⁽⁷⁾	20	20	20	20	20	20	35	1	5	⁽¹⁾	10	20	2	na ⁸
	Aggregated amount of non-groundfish species	20	20	20	20	20	20	35	1	5	⁽¹⁾	10	20	2	20

Notes to Table 10 to Part 679				
1	Shortraker/rougheye rockfish			
	SR/RE			
	shortraker/rougheye rockfish (171)			
	shortraker rockfish (152)			
	rougheye rockfish (151)			
	SR/RE ERA			
	shortraker/rougheye rockfish in the Eastern Regulatory Area.			
	Where numerical percentage is not indicated, the retainable percentage of SR/RE is included under Aggregated Rockfish			
2	Deep-water flatfish Dover sole, Greenland turbot, and deep-sea sole			
3	Shallow water flatfish Flatfish not including deep water flatfish, flathead sole, rex sole, or arrowtooth flounder			
4	Other rockfish			
	Western Regulatory Area			
	Central Regulatory Area			
	West Yakutat District			
	Southeast Outside District			
	means slope rockfish and demersal shelf rockfish			
	means slope rockfish			
	Slope rockfish			
	<i>S. aurora</i> (aurora)	<i>S. variegatus</i> (harlequin)	<i>S. brevispinis</i> (silverygrey)	
	<i>S. melanostomus</i> (blackgill)	<i>S. wilsoni</i> (pygmy)	<i>S. diploproa</i> (splitnose)	
	<i>S. paucispinis</i> (bocaccio)	<i>S. babcocki</i> (redbanded)	<i>S. saxicola</i> (stripetail)	
	<i>S. goodei</i> (chilipepper)	<i>S. proriger</i> (redstripe)	<i>S. minianus</i> (vermilion)	
	<i>S. crameri</i> (darkblotch)	<i>S. zacentrus</i> (sharpchin)	<i>S. reedi</i> (yellowmouth)	
	<i>S. elongatus</i> (greenstriped)	<i>S. jordani</i> (shortbelly)		
	In the Eastern GOA only,	Slope rockfish also includes	<i>S. polyspinosus</i> (Northern)	
5	Pelagic shelf rockfish	<i>S. ciliatus</i> (dusky)	<i>S. entomelas</i> (widow)	<i>S. flavidus</i> (yellowtail)
6	Demersal shelf rockfish (DSR)	<i>S. pinniger</i> (canary)	<i>S. maliger</i> (quillback)	<i>S. ruberrimus</i> (yelloweye)
		<i>S. nebulosus</i> (china)	<i>S. heivonmaculatus</i> (rosehorn)	
		<i>S. caurinus</i> (copper)	<i>S. nigrocinctus</i> (tiger)	

DSR-SEO = Demersal shelf rockfish in the Southeast Outside District			
7	Other species	sculpins sharks	skates squid octopus
8	Aggregated rockfish	means rockfish of the genera <u>Sebastes</u> and <u>Sebastolobus</u> defined at § 679.2 except in: Southeast Outside District (SEO) where DSR is a separate category for those species marked with a numerical percentage Eastern Regulatory Area (ERA) where SR/RE is a separate category for those species marked with a numerical percentage	
9	N/A	not applicable	
10	Aggregated forage fish (all species of the following families)		
	Bristlemouths, lightfishes, and anglemouths (family <u>Gonostomatidae</u>)		209
	Capelin smelt (family <u>Osmeridae</u>)		516
	Deep-sea smelts (family <u>Bathylagidae</u>)		773
	Eulachon smelt (family <u>Osmeridae</u>)		511
	Gummels (family <u>Pholidae</u>)		207
	Krill (order <u>Euphausiacea</u>)		800
	Laternfishes (family <u>Myctophidae</u>)		772
	Pacific herring (family <u>Clupeidae</u>)		235
	Pacific Sand fish (family <u>Trichodontidae</u>)		206
	Pacific Sand lance (family <u>Ammodytidae</u>)		774
	Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family <u>Sichaeidae</u>)		208
	Surf smelt (family <u>Osmeridae</u>)		515

[67 FR 22013, May 2, 2002]

TABLE 11 TO PART 679—BSAI RETAINABLE PERCENTAGES

Table 11 to Part 679—BSAI Retainable Percentages

BASIS SPECIES		INCIDENTAL CATCH SPECIES											
		Pollock	Pacific cod	Atka mackerel	Alaska plaice	Arrowtooth	Yellow fin sole	Other flatfish ¹	Rock sole	Flathead sole	Greenland turbot	Sablefish ¹	Shortraker/rougheye
110	Pacific cod	20	na ⁵	20	20	35	20	20	20	20	1	1	2
121	Arrowtooth	0	0	0	0	na ⁵	0	0	0	0	0	0	0
122	Flathead sole	20	20	20	35	35	35	35	35	na ⁵	35	15	7
123	Rock sole	20	20	20	35	35	35	35	na ⁵	35	1	1	2
127	Yellowfin sole	20	20	20	35	35	na ⁵	35	35	35	1	1	2
133	Alaska Plaice	20	20	20	na ⁵	35	35	35	35	35	1	1	2
134	Greenland turbot	20	20	20	20	35	20	20	20	20	na ⁵	15	7
136	Northern	20	20	20	20	35	20	20	20	20	35	15	7
141	Pacific Ocean perch	20	20	20	20	35	20	20	20	20	35	15	7
152/151	Shortraker/Rougheye	20	20	20	20	35	20	20	20	20	35	15	na ⁵
193	Atka mackerel	20	20	na ⁵	20	35	20	20	20	20	1	1	2
270	Pollock	na ⁵	20	20	20	35	20	20	20	20	1	1	2
710	Sablefish ¹	20	20	20	20	35	20	20	20	20	35	na ⁵	7
875	Squid	20	20	20	20	35	20	20	20	20	1	1	2
	Other flatfish ²	20	20	20	35	35	35	na ⁵	35	35	1	1	2
	Other rockfish ³	20	20	20	20	35	20	20	20	20	35	15	7
	Other species ⁴	20	20	20	20	35	20	20	20	20	1	1	2
	Aggregated amount non-groundfish species	20	20	20	20	35	20	20	20	20	1	1	2

NOTES to Table 11	
1	Sablefish: for fixed gear restrictions, see 50 CFR 679.7(f)(3)(ii) and 679.7(f)(11).
2	Other flatfish includes all flatfish species, except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, Alaska plaice, and arrowtooth flounder.
3	Other rockfish includes all <i>Sebastes</i> and <i>Sebastolobus</i> species except for Pacific ocean perch; and northern, shortraker, and rougheye rockfish. The CDQ reserves for shortraker, rougheye, and northern rockfish will continue to be managed as the "other red rockfish" complex for the BS.
4	Other species includes sculpins, sharks, skates and octopus. Forage fish, as defined at Table 2 to this part are not included in the "other species" category.
5	na = not applicable
6	Aggregated rockfish includes all of the genera <i>Sebastes</i> and <i>Sebastolobus</i> , except shortraker and rougheye rockfish.
7	Forage fish are defined at Table 2 to this part.

[67 FR 22016, May 2, 2002]

TABLES 12-13 [RESERVED]

Fishery Conservation and Management

Pt. 679, Table 14a

TABLE 14a TO PART 679— PORT OF LANDING CODES, INCLUDING CDQ AND IFQ
PRIMARY PORTS (A) ALASKA

Port Name	NMFS Code	ADF&G Code ADF&G Code	CDQ/IFQ Primary Ports for Vessel Clearance (X indicates an authorized IFQ port; see § 679.5(l)(5)(vi))		
			CDQ/IFQ	North Latitude	West Longitude
Adak	186	ADA			
Akutan	101	AKU	X	54°08'05"	165°46'20"
Akutan Bay	102				
Alitak	103	ALI			
Anchor Point	104				
Anchorage	105	ANC			
Angoon	106	ANG			
Aniak		ANI			
Anvik		ANV			
Atka	107	ATK			
Auke Bay	108				.....
Baranof Warm Springs	109				.....
Beaver Inlet	110				.....
Bethel		BET			.....
Captains Bay	112				.....
Chignik	113	CHG			.....
Chinitna Bay	114				.....
Cordova	115	COR	X	60°33'00"	145°45'00"
Craig	116	CRG	X	55°28'30"	133°09'00"
Dillingham	117	DIL			.....
Douglas	118				.....
Dutch Harbor/Unalaska	119	DUT	X	53°53'27"	166°32'05"
Edna Bay	121				.....
Egegik	122	EGE			.....
Eruk		EKU			.....
Elfin Cove	123	ELF			.....
Emmonak		EMM			.....
False Pass	125	FSP			.....
Fairbanks		FBK	.....		.....
Galena		GAL			.....
Glacier Bay		GLB			.....
Glennallen		GLN	.....		.....
Gustavus	127	GUS			.....
Haines	128	HNS			.....
Halibut Cove	130				.....
Hollis	131				.....
Homer	132	HOM	X	59°38'40"	151°33'00"
Hoonah	133	HNH			.....
Hydaburg		HYD			.....
Hyder	134	HDR			.....
Ikatan Bay	135				.....
Juneau	136	JNU			.....
Take	137	KAK			.....
Kaltag		KAL			.....
Kasilof	138	KAS			.....
Kenai	139	KEN			.....
Kenai River	140				.....
Ketchikan	141	KTN	X	55°20'30"	131°38'45"
King Cove	142	KCO	X	55°03'20"	162°19'00"
King Salmon	143	KNG			.....
Kipnuk	144				.....
Klawock	145	KLA			.....
Kotzebue		KOT			.....
La Conner		LAC			.....
Mekoryuk	147				.....
Metlakatla	148	MET			.....
Moser Bay		MOS			.....
Naknek	149	NAK			.....
Nenana		NEN			.....
Nikiski (or Nikishka)	150	NIK			.....
Ninilchik	151	NIN			.....
Nome	152	NOM			.....
Nunivak Island		NUN			.....
Old Harbor	153	OLD			.....
Other/Unknown ¹	499	UNK			.....
Pelican	155	PEL	X	57°57'30"	136°13'30"

Pt. 679, Table 14b

50 CFR Ch. VI (10-1-02 Edition)

Port Name	NMFS Code	ADF&G Code ADF&G Code	CDQ/IFQ Primary Ports for Vessel Clearance (X indicates an authorized IFQ port; see § 679.5(l)(5)(vi))		
			CDQ/IFQ	North Latitude	West Longitude
Petersburg	156	PBG	X	56°48'10"	132°58'00"
Point Baker	157				
Port Alexander	158	PAL			
Port Armstrong		PTA			
Port Bailey	159	PTB			
Port Graham	160	GRM			
Port Lions		LIO			
Port Moller		MOL			
Port Protection	161				
Resurrection Bay	163				
Sand Point	164	SPT	X	55°20'15"	160°30'00"
Savoonga	165				
Seldovia	166	SEL			
Seward	167	SEW	X	60°06'30"	149°26'30"
Sitka	168	SIT	X	57°03'	135°20'
Skagway	169	SKG			
Soldotna		SOL			
St. George	170	STG			
St. Lawrence	171				
St. Mary		STM			
St. Paul	172	STP	X	57°07'20"	170°16'30"
Tee Harbor	173				
Tenakee Springs	174	TEN			
Thorne Bay	175				
Togiak	176	TOG			
Toksook Bay	177				
Tununak	178				
Ugadaga Bay	179				
Ugashik		UGA			
Unalakleet		UNA			
Valdez	181	VAL			
Wasilla		WAS			
Whittier	183	WHT			
Wrangell	184	WRN			
Yakutat	185	YAK	X	59°33'	139°44'

¹To report a landing at a location not currently assigned a location code number: use the code for "Other" for the state or country at which the landing occurs and notify NMFS of the actual location so that we may update our list. For example, to report a landing for Levelock, Alaska if there is currently no code assigned, use "499" "Other, AK".

[67 FR 4137, Jan. 28, 2002]

TABLE 14b TO PART 679—PORT OF LANDING CODES: CALIFORNIA, OREGON, CANADA, INCLUDING CDQ AND IFQ PRIMARY PORTS

Port Name	NMFS Code	ADF&G Code	CDQ/IFQ Primary Ports for Vessel Clearance (X indicates an authorized IFQ port; see § 679.5(l)(5)(vi))		
			CDQ/IFQ	North Latitude	West Longitude
California					
Eureka	500	EUR			.....
Fort Bragg	501				
Other	599				
Oregon					
Astoria	600	AST			.....
Lincoln City	602				
Newport	603	NPT			.....
Olympia		OLY			.....
Portland		POR			.....
Warrenton	604				
Other	699				
Canada					
Port Edward	800	.....			.....
Port Hardy	801				

Fishery Conservation and Management

Pt. 679, Table 15

Port Name	NMFS Code	ADF&G Code	CDQ/IFQ Primary Ports for Vessel Clearance (X indicates an authorized IFQ port; see § 679.5 (l)(5)(vi))		
			CDQ/IFQ	North Latitude	West Longitude
Prince Rupert	802	PRU			.....
Other	899	.....			.....

[66 FR 43527, Aug. 20, 2001]

TABLE 14c TO PART 679— WASHINGTON PORT OF LANDING CODES: INCLUDING CDQ AND IFQ PRIMARY PORTS

Port Name	NMFS Code	ADF&G Code	CDQ/IFQ Primary Ports for Vessel Clearance (X indicates an authorized IFQ port; see § 679.5 (l)(5)(vi))		
			CDQ/IFQ	North Latitude	West Longitude
Anacortes	700	ANA			.....
Bellevue	701				.....
Bellingham	702		X	48°45'04"	122°30'02"
Blaine		BLA			
Edmonds	703				
Everett	704				
Fox Island	706				
Ilwaco	707				
La Conner	708	LAC			
Mercer Island	709				
Nagai Island	710				
Port Angeles	711				
Port Orchard	712				
Port Townsend	713				
Rainier	714				
Seattle	715	SEA			
Tacoma		TAC			
Other	799				

[66 FR 43527, Aug. 20, 2001]

TABLE 15 TO PART 679—GEAR CODES, DESCRIPTIONS, AND USE (X INDICATES WHERE THIS CODE IS USED)

Name of Gear	NMFS Logbooks and Forms ¹	Electronic WPR & Check-in/out Code ¹	Gear Code, Numeric	Use Numeric Code to Complete the Following:		
				Shoreside Electronic Logbook (SPELR)	IFQ Terminal & Forms	ADF&G COAR
Diving		OTH	11	X		X
Dredge		OTH	22	X		X
Dredge, hydro/mechanical		OTH	23	X		X
Fish wheel		OTH	08	X		X
Gillnet, drift		OTH	03	X		X
Gillnet, herring	.....	OTH	34	X		X
Gillnet, set		OTH	04	X		X
Gillnet, sunken		OTH	41	X		X
Hand line/jig/troll (IFQ name: hand troll)		(¹)	05	X	X	X
Handpicked		OTH	12	X		X
Hatchery		n/a	77	X		X
Hook-and-line	X	HAL	61	X	X	X
Jig, mechanical (IFQ name: jigs)	X	JIG	26	X	X	X
Net,dip		OTH	13	X		X
Net,ring		OTH	10	X		X
Other/specify	X	OTH	99	X		X
Pair Trawl			37			X
Pot	X	POT	91	X	X	X
Pound		OTH	21	X		X
Seine,purse		OTH	01	X		X
Seine,beach	.....	OTH	02	X		X
Shovel		OTH	18	X		X
Trap		OTH	90	X		X
Trawl, beam		(¹)	17	X		X
Trawl, double otter		(¹)	27	X		X
Trawl, nonpelagic/bottom	X	NPT	07	X		X
Trawl, pelagic/midwater	X	PTR	47	X		X
Troll, dinglebar	X	TROLL	25	X	X	X
Troll, power gurdy	X	TROLL	15	X	X	X
Weir		OTH	14	X		X

¹ For logbooks, forms, electronic WPR, electronic check-in/out reports: all trawl gear must be reported as either nonpelagic or pelagic trawl

Fishery Conservation and Management

Pt. 679, Table 16

[66 FR 55125, Nov. 1, 2001]

TABLE 16 TO PART 679—AREA CODES AND DESCRIPTIONS FOR USE WITH STATE OF ALASKA ADF&G COMMERCIAL OPERATOR'S ANNUAL REPORT (COAR)

COAR: Name (Code)	Species	ADF&G Fisheries Management Areas	Area Description in ADF&G Regulations
Alaska Peninsula South Peninsula (MS) North Peninsula (MN)	King Crab	M	5 AAC 34.500
	AK Peninsula/Aleutian Islands Salmon	M	5 AAC 12.100
		M	(Aleutians) 5 AAC 09.100 (AK Peninsula)
Bering Sea: Pribilof Island (Q1) St. Matthew Island (Q2) St. Lawrence Island (Q4) Bristol Bay (T)	Herring	M	5 AAC 27.600
	Bering Sea King Crab	Q	5 AAC 34.900
	Bering Sea/Kotzebue Herring	Q	5 AAC 27.900
	King Crab	T	5 AAC 34.800
Chignik (L)	Salmon	T	5 AAC 06.100
	Herring	T	5 AAC 27.800
	Groundfish	L	5 AAC 28.500
	Herring	L	5 AAC 27.550
	Salmon	L	5 AAC 15.100
Cook Inlet: Lower Cook Inlet (HL) Upper Cook Inlet (HU)	Groundfish	H	5 AAC 28.300
	Herring	H	5 AA 27.400
	Cook Inlet Shrimp	H	5 AAC 31.300
	Outer Cook Inlet Shrimp	H	5 AA 31.400
	Dungeness Crab	H	5 AA 32.300
	King Crab	H	5 AA 34.300
	Tanner Crab	H	5 AA 35.400
	Miscellaneous Shellfish	H	5 AA 38.300
	Salmon	H	5 AA 21.100
	Aleutian Islands King Crab	O	5 AA 34.600
	Dutch Harbor (O) EEZ (Federal waters of BSAI) (FB)	Groundfish	n/a
Atka-Amliia Islands Salmon		n/a	5 AAC 11.1010
GOA (FG) Kodiak (western GOA) (K)	Groundfish	K	5 AAC 28.400
	Herring	K	5 AAC 27.500
	King Crab	K	5 AAC 34.400
	Salmon	K	5 AAC 18.100
	Shrimp	J	5 AAC 31.500
	Dungeness Crab	J	5 AAC 32.400
	Tanner Crab	J	5 AAC 35.500
	Miscellaneous Shellfish	J	5 AAC 38.400
Kotzebue (X) Kuskokwim:	Salmon	X	5 AAC 03.100
	Salmon	W	5 AAC 07.100
Kuskokwim River/Bay (W1) Security Cove (W2) Goodnews Bay (W3) Nelson Island (W4) Ninivak Island (W5) Cape Avinof (W6) Norton Sound (Z)	Herring	W	5AAC 27.870
	Norton Sound-Port Clarence Salmon	Z	5 AAC 04.100
	Norton Sound-Port Clarence King Crab		
	Groundfish	E	5 AAC 28.200
	Herring	E	5 AAC 27.300
	Shrimp	E	5 AAC 31.200
Prince William Sound (E)	Dungeness Crab	E	5 AAC 32.200
	King Crab	E	5 AAC 34.200
	Tanner Crab	E	5 AAC 35.300
	Miscellaneous Shellfish	E	5 AAC 38.200
	Salmon	E	5 AAC 24.100

COAR: Name (Code)	Species	ADF&G Fisheries Management Areas	Area Description in ADF&G Regulations
Southeast:	Groundfish	A	5 AAC 28.100
Juneau/Haines (A1)	Southeast (w/o Yakutat) Herring	A	5 AAC 27.100
Yakutat (A2)	Yakutat Herring	D	5 AAC 27.200
Ketchikan/Craig (B)	Southeast (w/o Yakutat) Shrimp	A	5 AAC 31.100
Petersburg/Wrangell (C)	Yakutat Shrimp	D	5 AAC 31.150
Sitka/Pelican (D)	Southeast (w/o Yakutat) Dungeness Crab	A	5 AAC 32.100
	Yakutat Dungeness Crab	D	5 AAC 32.155
	Southeast (w/o Yakutat) Dungeness, King Crab	A	5 AAC 34.100
	Yakutat King Crab	D	5 AAC 34.160
	Southeast (w/o Yakutat) Tanner Crab	A	5 AAC 35.100
	Yakutat Tanner Crab	D	5 AAC 35.160
	Southeast (w/o Yakutat) Miscellaneous Shellfish	A	5 AAC 38.100
	Yakutat Miscellaneous Shellfish	D	5 AAC 38.160
	Southeast (w/o Yakutat) Salmon	A	5 AAC 33.100
	Yakutat Salmon	D	5 AAC 29.010 5 AAC 30.100
Yukon River:	Yukon-Northern Salmon	Y	5 AAC 05.100
Lower Yukon (YL)			
Upper Yukon (YU)			

[66 FR 55126, Nov. 1, 2001]

TABLE 17 TO PART 679—PROCESS CODES FOR USE WITH STATE OF ALASKA
COMMERCIAL OPERATOR'S ANNUAL REPORT (COAR)

Codes	Process Codes and Description
Prefix Codes	1—Fresh 2—Frozen 3—Salted/brined 4—Smoked 5—Canned 6—Cooked 7—Live 8—Dry 9—Pickled 11—Minced
Suffix Codes	0—General 1—Canned Conv. 2—Canned smoked 8—Vacuum packed B—Block I—Individual quick frozen (IQF) pack S—Shatter pack

[66 FR 43527, Aug. 20, 2001]

Fishery Conservation and Management

Pt. 679, Table 21

TABLE 18 TO PART 679— REQUIRED BUYING AND PRODUCTION FORMS FOR USE WITH STATE OF ALASKA COMMERCIAL OPERATOR’S ANNUAL REPORT (COAR)

Fishery	Form Number and Name	Fishery	Form Number and Name
Salmon	<i>Salmon Buying</i> (A)(1) Seine gear (A)(1) Gillnet gear (A)(2) Troll gear (A)(2) Hatchery (A)(3) Miscellaneous gear <i>King Salmon Production</i> (B)(1) Production (B)(1) Canned Production <i>Sockeye Salmon Production:</i> (B)(2)(i) Production (B)(2)(ii) Canned Production <i>Coho Salmon Production</i> (B)(3)(i) Production (B)(3)(ii) Canned Production <i>Pink Salmon Production</i> (B)(4)(i) Production (B)(4)(ii) Canned Production <i>Chum Salmon Production</i> (B)(5)(i) Production (B)(5)(ii) Canned Production <i>Salmon Roe & Byproduct Production</i> (B)(6)(i) Roe (B)(6)(ii) Byproduct Production	Crab Shrimp/Miscellaneous Shellfish Groundfish Halibut Custom Production	Herring Production (D)(1)(i) Production (D)(1)(ii) Byproduct Production (E) <i>Crab Buying</i> (F) Crab Production (G) <i>Shrimp/Misc. Shellfish Buying</i> (G)(1)(i) Trawl gear (G)(1)(ii) Pot gear (G)(1)(iii) Diving/picked gear (G)(1)(iv) Other gear (specify) (H) Shrimp/Misc. Shellfish/Finfish Production (I)(1) Groundfish Buying (I)(2) Groundfish Buying (J)(1) Groundfish Production (J)(2) Groundfish Production (K) Halibut Buying & Production <i>Custom Production</i> (L)(1) Associated Processors (L)(1)(i) Custom Fresh/Frozen (L)(1)(ii) Misc. production (L)(1)(iii) Custom Canned Production (L)(2) (additional sheet) (M)(1) Fish Buying Retro Payments (M)(2) Post-season Adjustments
Herring	Herring Buying (C)(1)(i) Seine gear (C)(1)(ii) Gillnet gear (C)(2)(i) Gillnet gear (C)(2)(ii) Pound gear (C)(2)(iii) Hand-pick gear	PRICES NOT FINAL	

[66 FR 55128, Nov. 1, 2001]

TABLE 19 TO PART 679—SEABIRD AVOIDANCE GEAR CODES

Code	Seabird Avoidance Gear
1	<i>Bird streamer line.</i> Tow a streamer line or lines during deployment of gear to prevent birds from taking hooks. Streamer line consists of three components: a length of line, streamers attached along a portion of the length and one or more float devices at the terminal end. This device can be single or paired.
2	<i>Buoy bag, bird bag, or other float device.</i> Tow a buoy, board, stick or other device during deployment of gear, at a distance appropriate to prevent birds from taking baited hooks. Each of these devices consist of two components: a length of line (without streamers attached), and one or more float devices at the terminal end. Multiple devices may be used.
3	<i>Lining tube and /or line shooter.</i> Deploy hooks underwater through a lining tube at a depth sufficient to prevent birds from settling on hooks during deployment of gear.
4	<i>Combination of devices.</i> Any combination of the above devices (codes 1, 2, and / or 3).
9	<i>No bird deterrent device</i> deployed.
0	<i>Night fishing</i> Deploy gear only during the hours specified in §679.24 (e)(3) using only the minium vessel's lights necessary for safety.

[67 FR 4137, Jan. 28, 2002]

TABLES 20 [RESERVED]

TABLE 21 TO PART 679—STELLER SEA LION PROTECTION AREAS 3NM NO GROUND FISH FISHING SITES

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to 1		7 No transit 3 nm
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Wairus I. (Pribilofs)	Bering Sea	57 11.00 N	169 56.00 W	57 11.00 N	169 56.00 W	Y
Attu I./Cape Wrangell	Aleutian I.	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	Y
Agattu I./Gillon Pt	Aleutian I.	52 24.13 N	173 21.31 E	52 24.13 N	173 21.31 E	Y
Agattu I./Cape Sabak	Aleutian I.	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	Y
Budir I.	Aleutian I.	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	Y
Kiska I./Cape St. Stephen	Aleutian I.	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	Y
Kiska I./Lief Cove	Aleutian I.	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	Y
Ayudadak Point	Aleutian I.	51 45.36 N	178 24.30 E	51 45.36 N	178 24.30 E	Y
Amchitka I./Column Rocks	Aleutian I.	51 32.32 N	178 49.28 E	51 32.32 N	178 49.28 E	Y
Amchitka I./East Cape	Aleutian I.	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	Y
Semisopochnoi/Petrel Pt.	Aleutian I.	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	Y
Semisopochnoi I./Pochnoi Pt.	Aleutian I.	51 57.30 N	179 46.00 E	51 57.30 N	179 46.00 E	Y
Ulak I./Hasgox Pt.	Aleutian I.	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	Y
Tag I.	Aleutian I.	51 33.50 N	178 34.50 W	51 33.50 N	178 34.50 W	Y
Gramp Rock	Aleutian I.	51 28.87 N	178 20.58 W	51 28.87 N	178 20.58 W	Y
Adak I.	Aleutian I.	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	Y
Kaatochi I.	Aleutian I.	52 11.11 N	175 31.00 W	52 11.11 N	175 31.00 W	Y
Agigadak I.	Aleutian I.	52 06.09 N	172 54.23 W	52 06.09 N	172 54.23 W	Y
Segum I./Saddieridge Pt.	Aleutian I.	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	Y
Yunaska I.	Aleutian I.	52 41.40 N	170 36.35 W	52 41.40 N	170 36.35 W	Y
Adugak I.	Bering Sea	52 54.70 N	169 10.50 W	52 54.70 N	169 10.50 W	Y
Ogchul I.	Gulf Of Alaska	52 59.71 N	168 24.24 W	52 59.71 N	168 24.24 W	Y
Bogoslof I./Fire I.	Bering Sea	53 55.69 N	168 02.05 W	53 55.69 N	168 02.05 W	Y
Akutan I./Cape Morgan	Gulf Of Alaska	54 03.39 N	165 59.65 W	54 03.39 N	165 59.65 W	Y
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	Y
Ugamak I.	Gulf Of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	Y

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to 1		7 No transit 3 nm
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			Y
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W			Y
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W			Y
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W			Y
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	Y
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			Y
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	Y
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	Y
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			Y
Marmot I.	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	Y
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	Y
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			Y
Seal Rocks (Cordova)	Gulf of Alaska	60 09.78 N	146 50.30 W			Y

Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

Note: No groundfish fishing zones are the waters between 0 nm to 3 nm surrounding each site.

TABLE 22 TO PART 679—STELLER SEA LION PROTECTION AREAS POLLOCK FISHERIES RESTRICTIONS

Table 22 to 50 CFR Part 679 Steller Sea Lion Protection Areas Pollock Fisheries Restrictions

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to 1		7 Pollock No Fishing Zones for Trawl Gear. ^{1, 2} (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
St. Lawrence I./S Punuk I.	Bering Sea	63 04.00 N	168 51.00 W			20
St. Lawrence I./SW Cape Hall I.	Bering Sea	63 18.00 N	171 26.00 W			20
St Paul I./Sea Lion Rock	Bering Sea	60 37.00 N	173 00.00 W			20
St Paul I./NE Pt.	Bering Sea	57 06.00 N	170 17.50 W			3
Walrus I. (Pribilofs)	Bering Sea	57 15.00 N	170 06.50 W			3
St. George I./Dalnoi Pt.	Bering Sea	57 11.00 N	169 56.00 W			10
St. George I./S Rookery	Bering Sea	56 36.00 N	169 46.00 W			3
Cape Newenham	Bering Sea	56 33.50 N	169 40.00 W			3
Round (Walrus Islands)	Bering Sea	58 39.00 N	162 10.50 W			20
Uliaga ³	Bering Sea	58 36.00 N	159 58.00 W			20
Chuginadak	Bering Sea	53 04.00 N	169 47.00 W	53 05.00 N	169 46.00 W	10
Kagamil ³	Gulf of Alaska	52 46.70 N	169 41.90 W			20
Samalga	Bering Sea	53 02.10 N	169 41.00 W			10
Adugak I. ³	Gulf of Alaska	52 46.00 N	169 15.00 W			20
Umnak I./Cape Aslik ³	Bering Sea	52 54.70 N	169 10.50 W			10
Ogchul I.	Bering Sea	53 25.00 N	168 24.50 W			BA
Bogoslof I./Fire I. ³	Gulf of Alaska	52 59.71 N	168 24.24 W			20
Polivnoi Rock	Bering Sea	53 55.69 N	168 02.05 W			BA
Emerald I.	Gulf of Alaska	53 15.96 N	167 57.99 W			20
Unalaska/Cape Izigan	Gulf of Alaska	53 17.50 N	167 51.50 W			20
		53 13.64 N	167 39.37 W			20

Column Number 1	2	3		4		5		6	7
		Subarea	Boundaries from		Boundaries to		Pollock No Fishing Zones for Trawl Gear ^{2, 8}		
Site name		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)		
Unalaska/Bishop Pt ³	Bering Sea	53 58.40 N	166 57.50 W	54 09.10 N	166 05.50 W			10	
Akutan I./Reef-lava ³	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W			10	
Unalaska I./Cape Sedanka ⁴	Gulf of Alaska	53 50.50 N	166 05.00 W					20	
Old Man Rocks ⁶	Gulf of Alaska	53 52.20 N	166 04.90 W					20	
Akutan I./Cape Morgan ⁶	Gulf of Alaska	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W			20	
Akun I./Billings Head ⁹	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W			10	
Rootok ⁶	Gulf of Alaska	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W			20	
Tinginak I. ⁶	Gulf of Alaska	54 12.00 N	165 19.40 W					20	
Tigalda/Rocks NF ⁶	Gulf of Alaska	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W			20	
Unimak/Cape Sarichef ⁹	Bering Sea	54 34.30 N	164 56.80 W					10	
Aktak ⁶	Gulf of Alaska	54 10.99 N	164 51.15 W					20	
Ugamak I. ⁶	Gulf of Alaska	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W			20	
Round (GOA) ⁶	Gulf of Alaska	54 12.05 N	164 46.60 W					20	
Sea Lion Rock (Amak) ⁹	Bering Sea	55 27.82 N	163 12.10 W					10	
Amak I. and rocks ⁹	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W			10	
Bird I.	Gulf of Alaska	54 40.00 N	163 17.2 W					10	
Caton I.	Gulf of Alaska	54 22.70 N	162 21.30 W					3	
South Rocks	Gulf of Alaska	54 18.14 N	162 41.3 W					10	
Clubbing Rocks (S)	Gulf of Alaska	54 41.98 N	162 26.7 W					10	
Clubbing Rocks (N)	Gulf of Alaska	54 42.75 N	162 26.7 W					10	
Pinnacle Rock	Gulf of Alaska	54 46.06 N	161 45.85 W					3	
Sushilnoi Rocks	Gulf of Alaska	54 49.30 N	161 42.73 W					10	
Oiga Rocks	Gulf of Alaska	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W			10	
Jude I.	Gulf of Alaska	55 15.75 N	161 06.27 W					20	
Sea Lion Rocks (Shumagins)	Gulf of Alaska	55 04.70 N	160 31.04 W					3	

Column Number 1	2	3	4	5	6	7						
							Subarea	Boundaries from		Boundaries to		Pollock No Fishing Zones for Trawl Gear ^{2, 6} (nm)
								Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Site name												
Nagai I./Mountain Pt.	Gulf of Alaska	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	3						
The Whaleback	Gulf of Alaska	55 16.82 N	160 05.04 W			3						
Chernabura I.	Gulf of Alaska	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	20						
Castle Rock	Gulf of Alaska	55 16.47 N	159 29.77 W			3						
Atkins I.	Gulf of Alaska	55 03.20 N	159 17.40 W			20						
Spitz I.	Gulf of Alaska	55 46.60 N	158 53.90 W			3						
Mitrofanina	Gulf of Alaska	55 50.20 N	158 41.90 W			3						
Kak	Gulf of Alaska	56 17.30 N	157 50.10 W			20						
Lighthouse Rocks	Gulf of Alaska	55 46.79 N	157 24.89 W			20						
Sutwik I.	Gulf of Alaska	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20						
Chowiet I.	Gulf of Alaska	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20						
Nagai Rocks	Gulf of Alaska	55 49.80 N	155 47.50 W			20						
Chirikof I.	Gulf of Alaska	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20						
Puale Bay	Gulf of Alaska	57 40.60 N	155 23.10 W			10						
Kodiak/Cape Ikolik	Gulf of Alaska	57 17.20 N	154 47.50 W			3						
Takli I.	Gulf of Alaska	58 01.75 N	154 31.25 W			10						
Cape Kuliak	Gulf of Alaska	58 08.00 N	154 12.50 W			10						
Cape Gull	Gulf of Alaska	58 11.50 N	154 09.60 W	58 12.50 N	154 10.50 W	10						
Kodiak/Cape Ugat	Gulf of Alaska	57 52.41 N	153 50.97 W			10						
Sitkinak/Cape Sitkinak	Gulf of Alaska	56 34.30 N	153 50.96 W			10						
Shakun Rock	Gulf of Alaska	58 32.80 N	153 41.50 W			10						
Twoheaded I.	Gulf of Alaska	56 54.50 N	153 32.75 W	56 53.90 N	153 33.74 W	10						
Cape Douglas (Shaw I.)	Gulf of Alaska	59 00.00 N	153 22.50 W			10						
Kodiak/Cape Barnabas	Gulf of Alaska	57 10.20 N	152 53.05 W			3						
Kodiak/Gull Point ⁴	Gulf of Alaska	57 21.45 N	152 36.30 W			10, 3						
Latax Rocks	Gulf of Alaska	58 40.10 N	152 31.30 W			10						
Ushagat I./SW	Gulf of Alaska	58 54.75 N	152 22.20 W			10						

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to 1		7 Pollock Fishing Zones for Trawl Gear ^{2, 5} (nm)
		5 Latitude (N)		6 Longitude (W)		
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Ugak I. ⁴	Gulf of Alaska	57 23.60 N	152 17.50 W	57 21.90 N	152 17.40 W	10, 3
Sea Otter I.	Gulf of Alaska	58 31.15 N	152 13.30 W			10
Long I.	Gulf of Alaska	57 46.82 N	152 12.90 W			10
Sud I.	Gulf of Alaska	58 54.00 N	152 12.50 W			10
Kodiak/Cape Chiniak	Gulf of Alaska	57 37.90 N	152 08.25 W			10
Sugarloaf I.	Gulf of Alaska	58 53.25 N	152 02.40 W			20
Sea Lion Rocks (Marmot)	Gulf of Alaska	58 20.53 N	151 48.83 W			10
Marmot I. ⁵	Gulf of Alaska	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	15, 20
Negahut Rocks	Gulf of Alaska	59 06.00 N	151 46.30 W			10
Perl	Gulf of Alaska	59 05.75 N	151 39.75 W			10
Gore Point	Gulf of Alaska	59 12.00 N	150 58.00 W			10
Outer (Pye) I.	Gulf of Alaska	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20
Steep Point	Gulf of Alaska	59 29.05 N	150 15.40 W			10
Seal Rocks (Kenai)	Gulf of Alaska	59 31.20 N	149 37.50 W			10
Chiswell Islands	Gulf of Alaska	59 36.00 N	149 34.00 W			10
Rugged Island	Gulf of Alaska	59 50.00 N	149 23.10 W			10
Point Elington ^{7, 10}	Gulf of Alaska	59 56.00 N	148 15.20 W	59 51.00 N	149 24.70 W	20
Perry I. ⁷	Gulf of Alaska	60 44.00 N	147 54.60 W			
The Needle ⁸	Gulf of Alaska	60 06.64 N	147 36.17 W			
Point Eleanor ⁷	Gulf of Alaska	60 35.00 N	147 34.00 W			
Wooded I. (Fish I.)	Gulf of Alaska	59 52.90 N	147 20.65 W			20
Glacier Island ⁷	Gulf of Alaska	60 51.30 N	147 14.50 W			20
Seal Rocks (Cordova) ¹⁰	Gulf of Alaska	60 09.78 N	146 50.30 W			20
Cape Hinchinbrook ¹⁰	Gulf of Alaska	60 14.00 N	146 38.50 W			20
Middleton I.	Gulf of Alaska	59 28.30 N	146 18.80 W			10
Hook Point ¹⁰	Gulf of Alaska	60 20.00 N	146 15.60 W			20
Cape St. Elias	Gulf of Alaska	59 47.50 N	144 36.20 W			20

Column Number 1	2	3	4	5	6	7
Site name	Subarea	Boundaries from		Boundaries to		Pollock No Fishing Zones for Trawl Gear's (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	

Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

1 Closures as stated in § 679.22(a)(11)(iv) and (b)(3)(ii).

2 This site lies within the Bogoslof area (BA). The BA consists of all waters of Area 518 as described in Figure 1 of this part south of a straight line connecting 55°00' N/170°00' W, and 55°00' N/168°11'4.75" W.

3 The trawl closure between 0 nm to 10 nm is effective from January 20 through May 31. Trawl closure between 0 nm to 3 nm is effective from August 25 through November 1.

4 Trawl closure between 0 nm to 15 nm is effective from January 20 through May 31. Trawl closure between 0 nm to 20 nm is effective from August 25 to November 1.

5 Restriction area includes only waters of the Gulf of Alaska Area.

6 Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

7 No fishing zones are the waters between 0 nm and the nm specified in column 7 around each site and within the BA.

8 This site is located in the Bering Sea Pollock Restriction Area, closed to pollock trawling during the A season. This area consists of all waters of the Bering Sea subarea south of a line connecting the points 163° 0'00" W long./55°46'30" N lat., 165°08'00" W long./54°42'9" N lat., 165°40'00" long./54°26'30" N lat., 166°12'00" W long./54°18'40" N lat., and 167°0'00" W long./54°8'50" N lat.

9 The 20 nm closure around this site is effective in federal waters outside of State of Alaska waters of Prince William Sound.

[67 FR 1008, Jan. 8, 2002]

TABLE 23 TO PART 679—STELLER SEA LION PROTECTION AREAS PACIFIC COD FISHERIES RESTRICTIONS

Table 23 to 50 CFR Part 679 Steller Sea Lion Protection Areas Pacific Cod Fisheries Restrictions

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to		5 Pacific Fishing Zones for Trawl Gear ^{1,2} (nm)	6 Pacific Fishing Zone for Hook-and- Line Gear ^{1,2} (nm)	7 Pacific Fishing Zone for Pot Gear ^{1,2} (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)			
St. Lawrence I./S Punuk I.	BS	63 04.00 N	168 51.00 W			20	20	20
St. Lawrence I./SW Cape Hall I.	BS	63 18.00 N	171 26.00 W			20	20	20
St Paul I./Sea Lion Rock	BS	60 37.00 N	173 00.00 W			3	3	3
St Paul I./NE Pt.	BS	57 15.00 N	170 06.50 W			3	3	3
Walrus I. (Pribilofs)	BS	57 11.00 N	169 56.00 W			10	3	3
St. George I./Dalnoi Pt.	BS	56 36.00 N	169 46.00 W			3	3	3
St. George I./S Rookery	BS	56 33.50 N	169 40.00 W			3	3	3
Cape Newenham	BS	58 39.00 N	162 10.50 W			20	20	20
Round (Walrus Islands)	BS	58 36.00 N	159 58.00 W			20	20	20
Attu I./Cape Wrangell ¹¹	AI	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	20, 10	3	3
Agattu I./Gillon Pt. ¹¹	AI	52 24.13 N	173 21.31 E			20, 10	3	3
Attu I./Chirikof Pt. ¹¹	AI	52 49.75 N	173 26.00 E			20, 3	3	3
Agattu I./Cape Sabak ¹¹	AI	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	20, 10	3	3
Alaid I. ¹¹	AI	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E	20, 3	3	3
Shemya I. ¹¹	AI	52 44.00 N	174 08.70 E			20, 3	3	3
Buldir I. ¹¹	AI	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	20, 10	10	10
Kiska I./Cape St. Stephen ¹¹	AI	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	20, 10	3	3

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to 1		7 Pacific Fishing Zones for Trawl Gear ^{2,3} (nm)	8 Pacific Fishing Zone for Hook-and-Line Gear ^{2,3} (nm)	9 Pacific Cod No Fishing Zone for Pot Gear ^{2,3} (nm)
		Latitude (N)		Longitude (W)				
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)			
Kiska I./Sobaka & Vega ¹¹	AI	51 49.50 N	177 19.00 E	51 48.50 N	177 20.50 E	20, 3		
Kiska I./Lief Cove ¹¹	AI	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	20, 10	3	3
Kiska I./Sirius Pt. ¹¹	AI	52 08.50 N	177 36.50 E			20, 3		
Tanadak I. (Kiska) ¹¹	AI	51 56.80 N	177 46.80 E			20, 3		
Segula I. ¹¹	AI	51 59.90 N	178 05.80 E	52 03.06 N	178 08.80 E	20, 3		
Ayagadak Point ¹¹	AI	51 45.36 N	178 24.30 E			20, 10	3	3
Rat I./Krysi Pt. ¹¹	AI	51 49.98 N	178 12.35 E			20, 3		
Little Sitkin I. ¹¹	AI	51 59.30 N	178 29.80 E			20, 3		
Amchitka I./Column Rocks ¹¹	AI	51 32.32 N	178 49.28 E			20, 10	3	3
Amchitka I./East Cape ¹¹	AI	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E	20, 10	3	3
Amchitka I./Cape Ivakin ¹¹	AI	51 24.46 N	179 24.21 E			20, 3		
Semisopchnoi/Petrel Pt. ¹¹	AI	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E	20, 10	3	3
Semisopchnoi I./Pochnoi Pt. ¹¹	AI	51 57.30 N	179 46.00 E			20, 10	3	3
Amatignak I./Nitrof Pt. ¹¹	AI	51 13.00 N	179 07.80 W			20, 3		
Unalga & Dinkum Rocks ¹¹	AI	51 33.67 N	179 04.25 W	51 35.09 N	179 03.66 W	20, 3		
Ulak I./Hasgox Pt. ¹¹	AI	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W	20, 10	3	3
Kavalga I. ¹¹	AI	51 34.50 N	178 51.73 W	51 34.50 N	178 49.50 W	20, 3		
Tag I. ¹¹	AI	51 33.50 N	178 34.50 W			20, 10	3	3
Ugidak I. ¹¹	AI	51 34.95 N	178 30.45 W			20, 3		
Gramp Rock ¹¹	AI	51 28.87 N	178 20.58 W			20, 10	3	3

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to 1		5 Pacific Fishing Zone for Hook-and- Line Gear ^{2,3} (nm)	6 Pacific Fishing Zone for Trawl Gear ^{1,3} (nm)	7 Pacific Fishing Zone for Hook-and- Line Gear ^{2,3} (nm)	8 Pacific Fishing Zone for Hook-and- Line Gear ^{2,3} (nm)	9 Pacific Fishing Zone for Pot Gear ^{2,3} (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)					
Tanaga I./Bumpy Pt.	AI	51 55.00 N	177 58.50 W	51 55.00 N	177 57.10 W		3			
Bobrof I.	AI	51 54.00 N	177 27.00 W				3			
Kanaga I./Ship Rock	AI	51 46.70 N	177 20.72 W				3			
Kanaga I./North Cape	AI	51 56.50 N	177 09.00 W				3			
Adak I.	AI	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W		10	3	3	
Little Tanaga Strait	AI	51 49.09 N	176 13.90 W				3			
Great Sitkin I.	AI	52 06.00 N	176 10.50 W	52 06.60 N	176 07.00 W		3			
Anagaksik I.	AI	51 50.86 N	175 53.00 W				3			
Kasatochi I.	AI	52 11.11 N	175 31.00 W				10	3	3	
Atka I./N. Cape	AI	52 24.20 N	174 17.80 W				3			
Amlia I./Sviech. Harbor ⁴	AI	52 01.80 N	173 23.90 W				3			
Sagigik I. ⁴	AI	52 00.50 N	173 09.30 W				3			
Amlia I./East ⁴	AI	52 05.70 N	172 59.00 W	52 05.75 N	172 57.50 W		3	20	20	
Tanadak I. (Amlia) ⁴	AI	52 04.20 N	172 57.60 W				3	20	20	
Agligadak I. ⁴	AI	52 06.09 N	172 54.23 W				20	20	20	
Seguam I./Saddleridge Pt. ⁴	AI	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W		10	20	20	
Seguam I./Finch Pt.	AI	52 23.40 N	172 27.70 W	52 23.25 N	172 24.30 W		3	20	20	
Seguam I./South Side	AI	52 21.60 N	172 19.30 W	52 15.55 N	172 31.22 W		3	20	20	
Amukta I. & Rocks	AI	52 27.25 N	171 17.90 W				3	20	20	
Chegulak I.	AI	52 34.00 N	171 10.50 W				3	20	20	
Yunaska I.	AI	52 41.40 N	170 36.35 W				10	20	20	
Uliaga ^{5, 14}	BS	53 04.00 N	169 47.00 W	53 05.00 N	169 46.00 W		10	BA	BA	
Chuginadak ¹⁴	GOA	52 46.70 N	169 41.90 W				20	10	20	
Kagamil ^{5, 14}	BS	53 02.10 N	169 41.00 W				10	BA	BA	

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to 1		7 Pacific Cod No Fishing Zones for Trawl Gear ^{2,3}	8 Pacific Cod No Fishing Zone for Hook-and- Line Gear ^{2,3}	9 Pacific Cod No Fishing Zone for Pot Gear ^{2,3}
		5 Latitude (N)		6 Longitude (W)				
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)			
Samalga	GOA	52 46.00 N	169 15.00 W			20	10	20
Adugak I ⁵	BS	52 54.70 N	169 10.50 W			10	BA	BA
Umnak I./Cape Aslik ⁵	BS	53 25.00 N	168 24.50 W			BA	BA	BA
Ogchul I.	GOA	52 59.71 N	168 24.24 W			20	10	20
Bogoslof I./Fire Island ⁶	BS	53 55.69 N	168 02.05 W			BA	BA	BA
Pollivnoi Rock ⁶	GOA	53 15.96 N	167 57.99 W			20	10	20
Emerald I. 11, 13	GOA	53 17.50 N	167 51.50 W			20	10	20
Unalaska/Cape Izigan ⁹	GOA	53 13.64 N	167 39.37 W			20	10	20
Unalaska/Bishop Pt ^{6, 11}	BS	53 58.40 N	166 57.50 W			10	10	3
Aktutan I./Reef-lava ⁶	BS	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	10	10	3
Unalaska I./Cape Sedanka ⁹	GOA	53 50.50 N	166 05.00 W			20	10	20
Old Man Rocks ⁹	GOA	53 52.20 N	166 04.90 W			20	10	20
Aktutan I./Cape Morgan ⁹	GOA	54 03.39 N	165 59.65 W	54 03.70 N	166 03.68 W	20	10	20
Akun I./Billings Head	BS	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	10	3	3
Rootok ⁹	GOA	54 03.90 N	165 31.90 W	54 02.90 N	165 29.50 W	20	10	20
Tanginak I. ⁹	GOA	54 12.00 N	165 19.40 W			20	10	20
Tigalda/Rocks NE ⁹	GOA	54 09.60 N	164 59.00 W	54 09.12 N	164 57.18 W	20	10	20
Unimak/Cape Sarichef	BS	54 34.30 N	164 56.80 W			10	3	3
Aiktak ⁹	GOA	54 10.99 N	164 51.15 W			20	10	20
Ugamak I. ⁹	GOA	54 13.50 N	164 47.50 W	54 12.80 N	164 47.50 W	20	10	20
Round (GOA) ⁹	GOA	54 12.05 N	164 46.60 W			20	10	20
Sea Lion Rock (Amak)	BS	55 27.82 N	163 12.10 W			10	7	7
Amak I. and rocks	BS	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	10	3	3

Column Number 1 Site name	Column Number 2 Subarea	Column Number 3 Boundaries from		Column Number 4 Boundaries to		Column Number 5 Pacific Cod No Fishing Zones for Trawl Gear ^{1,3}	Column Number 6 Pacific Cod No Fishing Zones for Hook-and- Line Gear ^{2,3}	Column Number 7 Pacific Cod No Fishing Zones for Pot Gear ^{1,3}
		Column Number 3 Boundaries from		Column Number 4 Boundaries to				
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)			
Bird I.	GOA	54 40.00 N	163 17.2 W			10		
Caton I.	GOA	54 22.70 N	162 21.30 W			3	3	3
South Rocks	GOA	54 18.14 N	162 41.3 W			10		
Clubbing Rocks (S)	GOA	54 41.98 N	162 26.7 W			10	3	3
Clubbing Rocks (N)	GOA	54 42.75 N	162 26.7 W			10	3	3
Pinnacle Rock	GOA	54 46.06 N	161 45.85 W			3	3	3
Sushilnoi Rocks	GOA	54 49.30 N	161 42.73 W			10		
Olga Rocks	GOA	55 00.45 N	161 29.81 W	54 59.09 N	161 30.89 W	10		
Jude I.	GOA	55 15.75 N	161 06.27 W			20		
Sea Lion Rocks	GOA	55 04.70 N	160 31.04 W			3	3	3
(Shumegins)								
Nagai I./Mountain Pt.	GOA	54 54.20 N	160 15.40 W	54 56.00 N	160 15.00 W	3	3	3
The Whaleback	GOA	55 16.82 N	160 05.04 W			3	3	3
Chernabura I.	GOA	54 45.18 N	159 32.99 W	54 45.87 N	159 35.74 W	20	3	3
Castle Rock	GOA	55 16.47 N	159 29.77 W			3	3	3
Atkins I.	GOA	55 03.20 N	159 17.40 W			20	3	3
Spitz I.	GOA	55 46.60 N	158 53.90 W			3	3	3
Mitrofanía	GOA	55 50.20 N	158 41.90 W			3	3	3
Kak	GOA	56 17.30 N	157 50.10 W			20	20	20
Lighthouse Rocks	GOA	55 46.79 N	157 24.89 W			20	20	20
Sutwik I.	GOA	56 31.05 N	157 20.47 W	56 32.00 N	157 21.00 W	20	20	20
Chowiet I.	GOA	56 00.54 N	156 41.42 W	56 00.30 N	156 41.60 W	20	20	20
Nagai Rocks	GOA	55 49.80 N	155 47.50 W			20	20	20
Chirikof I.	GOA	55 46.50 N	155 39.50 W	55 46.44 N	155 43.46 W	20	20	20
Fuale Bay	GOA	57 40.60 N	155 23.10 W			10		
Kodiak/Cape Ikolik	GOA	57 17.20 N	154 47.50 W			3	3	3

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to 1		7 Pacific Fishing Zones for Trawl Gear ^{2,3} (nm)	8 Pacific Fishing Zones for Hook-and- Line Gear ^{2,3} (nm)	9 Pacific Fishing Zones for Pot Gear ^{2,3} (nm)
		Latitude (N)		Longitude (W)				
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)			
Takli I.	GOA	58 01.75 N	154 31.25 W			10		
Cape Kuliak	GOA	58 08.00 N	154 12.50 W			10		
Cape Gull	GOA	58 11.50 N	154 09.60 W	58 12.50 N	154 10.50 W	10		
Kodiak/Cape Ugat	GOA	57 52.41 N	153 50.97 W			10		
Sitkinak/Cape Sitkinak	GOA	56 34.30 N	153 50.96 W			10		
Shakun Rock	GOA	58 32.80 N	153 41.50 W			10		
Twoheaded I.	GOA	56 54.50 N	153 32.75 W	56 53.90 N	153 33.74 W	10		
Cape Douglas (Shaw I.)	GOA	59 00.00 N	153 22.50 W			10		
Kodiak/Cape Barnabas	GOA	57 10.20 N	152 53.05 W			3		
Kodiak/Gull Point ⁷	GOA	57 21.45 N	152 36.30 W			10, 3	3	3
Latax Rocks	GOA	58 40.10 N	152 31.30 W			10		
Ushagat I./SW	GOA	58 54.75 N	152 22.20 W			10		
Ugak I. ⁷	GOA	57 23.60 N	152 17.50 W	57 21.90 N	152 17.40 W	10, 3		
Sea Otter I.	GOA	58 31.15 N	152 13.30 W			10		
Long I.	GOA	57 46.82 N	152 12.90 W			10		
Sud I.	GOA	58 54.00 N	152 12.50 W			10		
Kodiak/Cape Chiniak	GOA	57 37.90 N	152 08.25 W			10		
Sugarloaf I.	GOA	58 53.25 N	152 02.40 W			20	10	10
Sea Lion Rocks (Marmot)	GOA	58 20.53 N	151 48.83 W			10		
Marmot I. ⁸	GOA	58 13.65 N	151 47.75 W	58 09.90 N	151 52.06 W	15, 20	10	10
Nagahut Rocks	GOA	59 06.00 N	151 46.30 W			10		
Perl	GOA	59 05.75 N	151 39.75 W			10		
Gore Point	GOA	59 12.00 N	150 58.00 W			10		
Outer (Pye) I.	GOA	59 20.50 N	150 23.00 W	59 21.00 N	150 24.50 W	20	10	10
Steep Point	GOA	59 29.05 N	150 15.40 W			10		

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to 1		7 Pacific Cod No Fishing Zones for Hook-and- Line Gear ^{2,3}	8 Pacific Cod No Fishing Zones for Hook-and- Line Gear ^{2,3}	9 Pacific Cod No Fishing Zones for Hook-and- Line Gear ^{2,3}
		Latitude (N)		Longitude (W)				
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)			
Seal Rocks (Kenai)	GOA	59 31.20 N	149 37.50 W			10		
Chiswell Islands	GOA	59 36.00 N	149 34.00 W			10		
Rugged Island	GOA	59 50.00 N	149 23.10 W	59 51.00 N	149 24.70 W	10		
Point Elrington ^{10,12}	GOA	59 56.00 N	148 15.20 W			20		
Perry I. ¹⁰	GOA	60 44.00 N	147 54.60 W					
The Needle ¹⁰	GOA	60 06.64 N	147 36.17 W					
Point Eleanor ¹³	GOA	60 35.00 N	147 34.00 W					
Wooded I. (Fish I.)	GOA	59 52.90 N	147 20.65 W			20	3	3
Glacier Island ¹⁰	GOA	60 51.30 N	147 14.50 W					
Seal Rocks (Cordova) ¹²	GOA	60 09.78 N	146 50.30 W			20	3	3
Cape Hinchinbrook ¹²	GOA	60 14.00 N	146 38.50 W			20		
Middleton I.	GOA	59 28.30 N	146 18.80 W			10		
Hook Point ¹²	GOA	60 20.00 N	146 15.60 W			20		
Cape St. Elias	GOA	59 47.50 N	144 36.20 W			20		

BS = Bering Sea, AI = Aleutian Islands, GOA = Gulf of Alaska
¹Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

²Closures as stated in § 679.22 (a) (11) (v), (a) (12) (iv), and (b) (3) (iii).
³No fishing zones are the waters between 0 nm and the nm specified in columns 7, 8, and 9 around each site and within the Bogoslof Area (BA) and the Seguam Foraging Area (SFA).

⁴Some or all of the restricted area is located in the SFA which is closed to all gears types. The SFA is established as all waters within the area between 52° N lat. and 53° N lat. and between 173° 30' W long. and 172° 30' W long.

⁵This site lies within the BA which is closed to all gear types. The BA consists of all waters of Area 518 as

described in Figure 1 of this part south of a straight line connecting 55°00'N/170°00'W, and 55°00' N/168°11'4.75" W.

⁶Hook-and-line no fishing zones apply only to vessels greater than or equal to 60 feet LOA in waters east of 167° W long. For Bishop Point the 10 nm closure west of 167° W. long. applies to all hook and line vessels.

⁷The trawl closure between 0 nm to 10 nm is effective from January 20 through June 10. Trawl closure between 0 nm to 3 nm is effective from September 1 through November 1.

⁸ The trawl closure between 0 nm to 15 nm is effective from January 20 through June 10. Trawl closure between 0 nm to 20 nm is effective from September 1 through November 1.

⁹Restriction area includes only waters of the Gulf of Alaska Area.

¹⁰Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

¹¹Directed fishing for Pacific cod using trawl gear is prohibited in the harvest limit area (HLA) as defined at § 679.2 until the HLA Atka mackerel directed fishery in the A or B seasons is completed. The 20 nm closure around Gramp Rock applies only to waters west of 178° W long. After closure of the Atka mackerel HLA directed fishery, directed fishing for Pacific cod using trawl gear is prohibited in the HLA between 0 nm and 10 nm of rookeries and between 0 nm and 3 nm of haulouts.

¹² The 20 nm closure around this site is effective only in waters outside of the State of Alaska waters of Prince William Sound.

¹³ See § 679.22(a)(11)(i)(C) for exemptions for catcher vessels less than 60 feet (18.3 m) LOA using jig or hook-and-line gear between Bishop Point and Emerald Island closure areas.

¹⁴Trawl closure around this site is limited to waters east of 170°0'00" W long.

[67 FR 1013, Jan. 8, 2002; 67 FR 21605, May 1, 2002]

TABLE 24 TO PART 679—STELLER SEA LION PROTECTION AREAS ATKA MACKEREL FISHERIES RESTRICTIONS

Table 24 to 50 CFR Part 679 Steller Sea Lion Protection Areas Atka Mackerel Fisheries Restrictions

Column Number 1 Site name	Column Number 2 Subarea	Column Number 3 Boundaries from		Column Number 4 Boundaries to		Column Number 5 Atka mackerel no fishing zone ^{2,3} (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
St. Lawrence I./S	Bering Sea	63 04.00 N	168 51.00 W			20
Punuk I.	Bering Sea	63 18.00 N	171 26.00 W			20
St. Lawrence I./SW Cape	Bering Sea	60 37.00 N	173 00.00 W			20
Hall I.	Bering Sea	57 06.00 N	170 17.50 W			20
St Paul I./Sea Lion Rock	Bering Sea	57 15.00 N	170 06.50 W			20
St Paul I./NE Pt.	Bering Sea	57 11.00 N	169 56.00 W			20
Walrus I. (Pribilofs)	Bering Sea	56 36.00 N	169 46.00 W			20
St. George I./Dalnoi Pt.	Bering Sea	56 33.50 N	169 40.00 W			20
Rookery	Bering Sea	58 39.00 N	162 10.50 W			20
Cape Newenham	Bering Sea	58 36.00 N	159 58.00 W			20
Round (Walrus Islands)	Aleutian Islands	52 54.60 N	172 27.90 E	52 55.40 N	172 27.20 E	10
Attu I./Cape Wrangell	Aleutian Islands	52 24.13 N	173 21.31 E			10
Agattu I./Gillon Pt	Aleutian Islands	52 49.75 N	173 26.00 E			3
Attu I./Chirikof Pt.	Aleutian Islands	52 22.50 N	173 43.30 E	52 21.80 N	173 41.40 E	10
Agattu I./Cape Sabak	Aleutian Islands	52 46.50 N	173 51.50 E	52 45.00 N	173 56.50 E	3
Alaid I.	Aleutian Islands	52 44.00 N	174 08.70 E			3
Shemya I.	Aleutian Islands	52 20.25 N	175 54.03 E	52 20.38 N	175 53.85 E	15
Buldir I.	Aleutian Islands	51 52.50 N	177 12.70 E	51 53.50 N	177 12.00 E	10
Kiska I./Cape St. Stephen	Aleutian Islands					

Column Number 1 Site name	2 Subarea	3 Boundaries from				4 Boundaries to				6 Atka mackerel fishing zone's; ³ (nm)
		5 Latitude (N)		6 Longitude (W)		7 Latitude (N)		8 Longitude (W)		
		9	10	11	12	13	14	15	16	
Kiska I./Sobaka & Vega	Aleutian Islands	51 49.50 N	177 19.00 E	51 48.50 N	177 20.50 E	51 48.50 N	177 20.50 E	51 48.50 N	177 20.50 E	3
Kiska I./Lief Cove	Aleutian Islands	51 57.16 N	177 20.41 E	51 57.24 N	177 20.53 E	51 57.24 N	177 20.53 E	51 57.24 N	177 20.53 E	10
Kiska I./Sirius Pt.	Aleutian Islands	52 08.50 N	177 36.50 E							3
Tanadak I. (Kiska)	Aleutian Islands	51 56.80 N	177 46.80 E							3
Segula I.	Aleutian Islands	51 59.90 N	178 05.80 E	52 03.06 N	178 08.80 E					3
Ayugadak Point	Aleutian Islands	51 45.36 N	178 24.30 E							10
Rat I./Krysi Pt.	Aleutian Islands	51 49.98 N	178 12.35 E							3
Little Sitkin I.	Aleutian Islands	51 59.30 N	178 29.80 E							3
Amchitka I./Column Rocks	Aleutian Islands	51 32.32 N	178 49.28 E							10
Amchitka I./East Cape	Aleutian Islands	51 22.26 N	179 27.93 E	51 22.00 N	179 27.00 E					10
Amchitka I./Cape Ivakin	Aleutian Islands	51 24.46 N	179 24.21 E							3
Semisopochnoi/Petrel Pt.	Aleutian Islands	52 01.40 N	179 36.90 E	52 01.50 N	179 39.00 E					10
Semisopochnoi I./Pochnoi Pt.	Aleutian Islands	51 57.30 N	179 46.00 E							10
Amatignak I./Nitrof Pt.	Aleutian Islands	51 13.00 N	179 07.80 W							3
Unalga & Dinkum Rocks	Aleutian Islands	51 33.67 N	179 04.25 W	51 35.09 N	179 03.66 W					3
Ulak I./Hasgox Pt.	Aleutian Islands	51 18.90 N	178 58.90 W	51 18.70 N	178 59.60 W					10
Kavalga I.	Aleutian Islands	51 34.50 N	178 51.73 W	51 34.50 N	178 49.50 W					3
Tag I.	Aleutian Islands	51 33.50 N	178 34.50 W							10
Ugidak I.	Aleutian Islands	51 34.95 N	178 30.45 W							3
Gramp Rock	Aleutian Islands	51 28.87 N	178 20.58 W							10
Tanaga I./Bumpy Pt. ⁴	Aleutian Islands	51 55.00 N	177 58.50 W	51 55.00 N	177 57.10 W					20
Bobrof I.	Aleutian Islands	51 54.00 N	177 27.00 W							20

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to		7 Atka mackerel no fishing zone's (mm)
		5 Latitude (N)		6 Longitude (W)		
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Kanaga I./Ship Rock	Aleutian Islands	51 46.70 N	177 20.72 W			20
Kanaga I./North Cape	Aleutian Islands	51 56.50 N	177 09.00 W			20
Adak I.	Aleutian Islands	51 35.50 N	176 57.10 W	51 37.40 N	176 59.60 W	20
Little Tanaga Strait	Aleutian Islands	51 49.09 N	176 13.90 W			20
Great Sitkin I.	Aleutian Islands	52 06.00 N	176 10.50 W	52 06.60 N	176 07.00 W	20
Anagaksik I.	Aleutian Islands	51 50.86 N	175 53.00 W			20
Kasatochi I.	Aleutian Islands	52 11.11 N	175 31.00 W			20
Atka I./N. Cape	Aleutian Islands	52 24.20 N	174 17.80 W			20
Amlia I./Sviech. Harbor ⁵	Aleutian Islands	52 01.80 N	173 23.90 W			20
Sagigik I. ⁵	Aleutian Islands	52 00.50 N	173 09.30 W			20
Amlia I./East ⁵	Aleutian Islands	52 05.70 N	172 59.00 W	52 05.75 N	172 57.50 W	20
Tanadak I. (Amlia) ⁵	Aleutian Islands	52 04.20 N	172 57.60 W			20
Agligadak I. ⁵	Aleutian Islands	52 06.09 N	172 54.23 W			20
Segum I./Saddleridge Pt. ⁵	Aleutian Islands	52 21.05 N	172 34.40 W	52 21.02 N	172 33.60 W	20
Segum I./Finch Pt. ⁵	Aleutian Islands	52 23.40 N	172 27.70 W	52 23.25 N	172 24.30 W	20
Segum I./South Side ⁵	Aleutian Islands	52 21.60 N	172 19.30 W	52 15.55 N	172 31.22 W	20
Amukta I. & Rocks	Aleutian Islands	52 27.25 N	171 17.90 W			20
Chagulak I.	Aleutian Islands	52 34.00 N	171 10.50 W			20
Yunaska I.	Aleutian Islands	52 41.40 N	170 36.35 W			20
Uliaga ⁶	Bering Sea	53 04.00 N	169 47.00 W	53 05.00 N	169 46.00 W	20
Kagamil ⁶	Bering Sea	53 02.10 N	169 41.00 W			20
Adugak I. ⁶	Bering Sea	52 54.70 N	169 10.50 W			20
Ummak I./Cape Aslik ⁶	Bering Sea	53 25.00 N	168 24.50 W			BA
Bogosiof I./Fire Island ⁶	Bering Sea	53 55.69 N	168 02.05 W			BA
Unalaska/Bishop Pt	Bering Sea	53 58.40 N	166 57.50 W			20

Column Number 1 Site name	2 Subarea	3 Boundaries from		4 Boundaries to 1		6 Atka mackerel no fishing zone ^{2,3} (nm)
		Latitude (N)	Longitude (W)	Latitude (N)	Longitude (W)	
Akutan I./Reef-lava	Bering Sea	54 08.10 N	166 06.19 W	54 09.10 N	166 05.50 W	20
Akun I./Billings Head	Bering Sea	54 17.62 N	165 32.06 W	54 17.57 N	165 31.71 W	20
Unimak/Cape Sarichef	Bering Sea	54 34.30 N	164 56.80 W			20
Sea Lion Rock (Amak)	Bering Sea	55 27.82 N	163 12.10 W			20
Amak I. and rocks	Bering Sea	55 24.20 N	163 09.60 W	55 26.15 N	163 08.50 W	20

¹Where two sets of coordinates are given, the baseline extends in a clock-wise direction from the first set of geographic coordinates along the shoreline at mean lower-low water to the second set of coordinates. Where only one set of coordinates is listed, that location is the base point.

²Closures as stated in § 679.22 (a) (ii) (vi) and (a) (ii) (v).

³No fishing zones are the waters between 0 nm and the nm specified in column 7 around each site and within the Bogoslof Area (BA).

⁴The 20 nm Atka mackerel fishery closure around the Tanaga I./Bumpy Pt. Rookery is established only for that portion of the area east of 178° W longitude.

⁵Some or all of the restricted area is located in the Sequam Foraging Area (SFA) which is closed to all gear types. The SFA is established as all waters within the area between 52° N lat. and 53° N lat. and between 173°30' W long. and 172°30' W long.

⁶This site lies in the BA, closed to all gear types. The BA consists of all waters of Area 518 described in Figure 1 of this part south of a straight line connecting 55°00'N/170°00'W and 55°00'N/168°11'4.75" W.