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# Title 50—Wildlife and Fisheries

(This book contains part 660 to end)

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EDITORIAL NOTE: Nomenclature changes to Chapter VI appear at 69 FR 53361, 53362, Sept. 1, 2004.


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

SOURCE: 61 FR 34572, July 2, 1996, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 660 appear at 67 FR 65906, Oct. 29, 2002.

## Subpart A—General

### § 660.1 Purpose and scope.

(a) The regulations in this part govern fishing for West Coast fishery management unit species by vessels of the United States that operate or are based inside the outer boundary of the EEZ off West Coast States.

(b) General regulations governing fishing by all vessels of the United States and by fishing vessels other than vessels of the United States are contained in part 600 of this chapter.

(c) Regulations governing the harvest, possession, landing, purchase, and sale of shark fins are found at part 600, subpart N, of this chapter.

[61 FR 34572, July 2, 1996, as amended at 67 FR 6201, Feb. 11, 2002; 69 FR 53362, Sept. 1, 2004; 71 FR 17989, Apr. 10, 2006]

### § 660.2 Relation to other laws.

(a) NMFS recognizes that any state law pertaining to vessels registered under the laws of that state while operating in the fisheries regulated under this part, and that is consistent with this part and the FMPs implemented by this part, shall continue in effect with respect to fishing activities regulated under this part.

(b) Fishing activities addressed by this Part may also be subject to regulation under 15 CFR part 922, subpart G, if conducted in the Channel Islands National Marine Sanctuary.

[72 FR 29235, May 24, 2007]

### § 660.3 Reporting and recordkeeping.

Any person who is required to do so by applicable state law or regulation must make and/or file all reports of management unit species landings containing all data and in the exact manner required by applicable state law or regulation.

[71 FR 17989, Apr. 10, 2006]

## Subparts B–F [Reserved]

## Subpart G—West Coast Groundfish Fisheries

### § 660.301 Purpose and scope.

(a) This subpart implements the Pacific Coast Groundfish Fishery Management Plan (PCGFMP) developed by the Pacific Fishery Management Council. This subpart governs fishing vessels of the U.S. in the EEZ off the coasts of Washington, Oregon, and California. All weights are in round weight or round-weight equivalents, unless specified otherwise.

(b) Any person fishing subject to this subpart is bound by the international boundaries described in this section, notwithstanding any dispute or negotiation between the U.S. and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are established or recognized by the U.S.

[69 FR 42347, July 15, 2004, as amended at 71 FR 27414, May 11, 2006]

### § 660.302 Definitions.

*Active sampling unit* means a portion of the groundfish fleet in which an observer coverage plan is being applied.

*Address of record*. Address of Record means the business address of a person, partnership, or corporation used by NMFS to provide notice of actions.

*Allocation*. (See § 600.10).

*Base permit*, with respect to a limited entry permit stacking program, means a limited entry permit described at § 660.333(a) registered for use with a vessel that meets the permit length endorsement requirements appropriate to that vessel, as described at § 660.334(c).

*Biennial fishing period* means a 24–month period beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the subsequent year.

$B_{MSY}$ means the biomass level that produces maximum sustainable yield (MSY), as stated in the PCGFMP at Section 4.2.

*Catch, take, harvest*. (See § 600.10).

*Change in partnership or corporation* means the addition of a new shareholder or partner to the corporate or partnership membership. This definition of a ''change'' will apply to any person added to the corporate or partnership membership since November 1, 2000, including any family member of an existing shareholder or partner. A change in membership is not considered to have occurred if a member dies or becomes legally incapacitated and a trustee is appointed to act on his behalf, nor if the ownership of shares among existing members changes, nor if a member leaves the corporation or partnership and is not replaced. Changes in the ownership of publicly held stock will not be deemed changes in ownership of the corporation.

*Closure or closed* means, when referring to closure of a fishery or a closed fishery, that taking and retaining, possessing, or landing the particular species or species group covered by the fishing closure is prohibited. Unless otherwise announced in the FEDERAL REGISTER or authorized in this subpart, offloading must begin before the closure time.

*Commercial fishing* means:

(1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, landing and/or sale; or

(2) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

*Commercial harvest guideline or commercial quota* means the harvest guideline or quota after subtracting any allocation for the Pacific Coast treaty Indian tribes, projected research catch, recreational fisheries set-asides or harvest guidelines, deductions for fishing mortality in non-groundfish fisheries, as necessary, and set-asides for compensation fishing under § 660.350. Limited entry and open access allocations are derived from the commercial harvest guideline or quota.

*Conservation area(s)* means either a Groundfish Conservation Area (GCA), an Essential Fish Habitat Conservation Area (EFHCA), or both.

(1) *Groundfish Conservation Area or GCA* means a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may

be prohibited. GCAs are created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species. Regulations at § 660.390 define coordinates for these polygonal GCAs: Yelloweye Rockfish Conservation Areas, Cowcod Conservation Areas, waters encircling the Farallon Islands, and waters encircling the Cordell Banks. GCAs also include Rockfish Conservation Areas or RCAs, which are areas closed to fishing by particular gear types, bounded by lines approximating particular depth contours. RCA boundaries may and do change seasonally according to the different conservation needs of the different overfished species. Regulations at §§ 660.390 through 660.394 define RCA boundary lines with latitude/longitude coordinates; regulations at Tables 3 5 of Part 660 set RCA seasonal boundaries. Fishing prohibitions associated with GCAs are in addition to those associated with EFH Conservation Areas.

(2) *Essential Fish Habitat Conservation Area or EFHCA* means a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may be prohibited. EFHCAs are created and enforced for the purpose of contributing to the protection of West Coast groundfish essential fish habitat. Regulations at §§ 660.396 - .399 define EFHCA boundary lines with latitude/longitude coordinates. Fishing prohibitions associated with EFHCAs, which are found at § 660.306, are in addition to those associated with GCAs.

*Continuous transiting or transit through* means that a fishing vessel crosses a groundfish conservation area or EFH conservation area on a constant heading, along a continuous straight line course, while making way by means of a source of power at all times, other than drifting by means of the prevailing water current or weather conditions.

*Corporation* is a legal, business entity, including incorporated (INC) and limited liability corporations (LLC).

*Council* means the Pacific Fishery Management Council, including its Groundfish Management Team, Scientific and Statistical Committee (SSC), Groundfish Advisory Subpanel (GAP), and any other committee established by the Council.

*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 duties.

*Electronic fish ticket* means a software program or data files meeting data export specifications approved by NMFS that is used to send landing data to the Pacific States Marine Fisheries Commission. Electronic fish tickets are used to collect information similar to the information required in state fish receiving tickets or landing receipts, but do not replace or change any state requirements.

*Electronic Monitoring System (EMS)* means a data collection tool that uses a software operating system connected to an assortment of electronic components, including video recorders, to create a collection of data on vessel activities.

*Essential Fish Habitat or EFH*. (See § 600.10).

*Fishery* (See § 600.10).

*Fishery management area* means the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nm offshore, and bounded on the north by the Provisional International Boundary between the U.S. and Canada, and bounded on the south by the International Boundary between the U.S. and Mexico. The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the ''3–mile limit''). The outer boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nm from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the U.S. and Canada or Mexico. All groundfish possessed between 0–200 nm offshore or landed in Washington, Oregon, or California are presumed to have been taken and retained from the EEZ, unless otherwise demonstrated by the person in possession of those fish.

*Fishing*. (See § 600.10).

*Fishing gear* includes the following types of gear and equipment:

(1) *Bottom contact gear*. Fishing gear designed or modified to make contact with the bottom. This includes, but is not limited to, beam trawl, bottom trawl, dredge, fixed gear, set net, demersal seine, dinglebar gear, and other gear (including experimental gear) designed or modified to make contact with the bottom. Gear used to harvest bottom dwelling organisms (e.g. by hand, rakes, and knives) are also considered bottom contact gear for purposes of this subpart.

(2) *Demersal seine*. A net designed to encircle fish on the seabed. The Demersal seine is characterized by having its net bounded by lead-weighted ropes that are not encircled with bobbins or rollers. Demersal seine gear is fished without the use of steel cables or otter boards (trawl doors). Scottish and Danish Seines are demersal seines. Purse seines, as defined at § 600.10, are not demersal seines. Demersal seine gear is included in the definition of bottom trawl gear in (11)(i) of this subsection.

(3) *Dredge gear*. Dredge gear, with respect to the U.S. West Coast EEZ, refers to a gear consisting of a metal frame attached to a holding bag constructed of metal rings or mesh. As the metal frame is dragged upon or above the seabed, fish are pushed up and over the frame, then into the mouth of the holding bag.

(4) *Entangling nets* include the following types of net gear:

(i) *Gillnet*. (See § 600.10).

(ii) *Set net*. A stationary, buoyed, and anchored gillnet or trammel net.

(iii) *Trammel net*. A gillnet made with two or more walls joined to a common float line.

(5) *Fixed gear (anchored nontrawl gear)* includes the following gear types: longline, trap or pot, set net, and stationary hook-and-line (including commercial vertical hook-and-line) gears.

(6) *Hook-and-line*. One or more hooks attached to one or more lines. It may be stationary (commercial vertical hook-and-line) or mobile (troll).

(i) *Bottom longline*. A stationary, buoyed, and anchored groundline with hooks attached, so as to fish along the seabed. It does not include pelagic hook-and-line or troll gear.

(ii) *Commercial vertical hook-and-line*. Commercial fishing with hook-and-line gear that involves a single line anchored at the bottom and buoyed at the surface so as to fish vertically.

(iii) *Dinglebar gear*. 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.

(iv) *Troll gear*. A lure or jig towed behind a vessel via a fishing line. Troll gear is used in commercial and recreational fisheries.

(7) *Mesh size*. The opening between opposing knots. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot, regardless of twine size.

(8) *Nontrawl gear*. All legal commercial groundfish gear other than trawl gear.

(9) *Spear*. A sharp, pointed, or barbed instrument on a shaft.

(10) *Trap or pot*. These terms are used as interchangeable synonyms. See § 600.10 definition of ''trap''.

(11) *Trawl gear* means a cone or funnel-shaped net that is towed through the water, and can include a pair trawl that is towed simultaneously by two boats. Groundfish trawl is trawl gear that is used under the authority of a valid limited entry permit issued under this subpart endorsed for trawl gear. It does not include any type of trawl gear listed as non-groundfish trawl gear. Non-groundfish trawl gear is any trawl gear other than the Pacific Coast groundfish trawl gear that is authorized for use with a valid groundfish limited entry permit. Non-groundfish trawl gear includes pink shrimp, ridgeback prawn, California halibut south of Pt. Arena, and sea cucumbers south of Pt. Arena.

(i) *Bottom trawl*. A trawl in which the otter boards or the footrope of the net are in contact with the seabed. It includes demersal seine gear, and pair trawls fished on the bottom. Any trawl not meeting the requirements for a midwater trawl in § 660.381 is a bottom trawl.

(A) *Beam trawl gear*. A type of trawl gear in which a beam is used to hold the trawl open during fishing. Otter boards or doors are not used.

(B) *Large footrope trawl gear*. Large footrope gear is bottom trawl gear with a footrope diameter larger than 8 inches (20 cm,) and no larger than 19 inches (48 cm) including any rollers, bobbins, or other material encircling or tied along the length of the footrope.

(C) *Small footrope trawl gear*. Small footrope trawl gear is bottom trawl gear with a footrope diameter of 8 inches (20 cm) or smaller, including any rollers, bobbins, or other material encircling or tied along the length of the footrope. Selective flatfish trawl gear that meets the gear component requirements in § 660.381 is a type of small footrope trawl gear.

(ii) *Midwater (pelagic or off-bottom) trawl*. A trawl in which the otter boards and footrope of the net remain above the seabed. It includes pair trawls if fished in midwater. A midwater trawl has no rollers or bobbins on any part of the net or its component wires, ropes, and chains. For additional midwater trawl gear requirements and restrictions, see § 660.381(b).

(iii) *Trawl gear components*.

(A) *Breastline*. A rope or cable that connects the end of the headrope and the end of the trawl fishing line along the edge of the trawl web closest to the towing point.

(B) *Chafing gear*. Webbing or other material attached to the codend of a trawl net to protect the codend from wear.

(C) *Codend*. (See § 600.10).

(D) *Double-bar mesh*. Webbing comprised of two lengths of twine tied into a single knot.

(E) *Double-walled codend*. A codend constructed of two walls of webbing.

(F) *Footrope*. A chain, rope, or wire attached to the bottom front end of the trawl webbing forming the leading edge of the bottom panel of the trawl net, and attached to the fishing line.

(G) *Headrope*. A chain, rope, or wire attached to the trawl webbing forming the leading edge of the top panel of the trawl net.

(H) *Rollers or bobbins* are devices made of wood, steel, rubber, plastic, or other hard material that encircle the trawl footrope. These devices are commonly used to either bounce or pivot over seabed obstructions, in order to prevent the trawl footrope and net from snagging on the seabed.

(I) *Single-walled codend*. A codend constructed of a single wall of webbing knitted with single or double-bar mesh.

(J) *Trawl fishing line*. A length of chain, rope, or wire rope in the bottom front end of a trawl net to which the webbing or lead ropes are attached.

(K) *Trawl riblines*. Heavy rope or line that runs down the sides, top, or underside of a trawl net from the mouth of the net to the terminal end of the codend to strengthen the net during fishing.

*Fishing trip* is a period of time between landings when fishing is conducted.

*Fishing vessel*. (See § 600.10).

*Fishing year* is the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31 of the same year. There are two fishing years in each biennial fishing period.

*Grandfathered or first generation*, when referring to a limited entry sablefish-endorsed permit owner, means those permit owners who owned a sablefish-endorsed limited entry permit prior to November 1, 2000, and are, therefore, exempt from certain requirements of the sablefish permit stacking program within the parameters of the regulations at §§ 660.334 through 660.341 and § 660.372.

*Groundfish* means species managed by the PCGFMP, specifically:

(1) Sharks: leopard shark, *Triakis semifasciata*; soupfin shark, *Galeorhinus zyopterus*; spiny dogfish, *Squalus acanthias*.

(2) Skates: big skate, *Raja binoculata*; California skate, *R. inornata*; longnose skate, *R. rhina*.

(3) Ratfish: ratfish, *Hydrolagus colliei*.

(4) Morids: finescale codling, *Antimora microlepis*.

(5) Grenadiers: Pacific rattail, *Coryphaenoides acrolepis*.

(6) Roundfish: cabezon, *Scorpaenichthys marmoratus*; kelp greenling, *Hexagrammos decagrammus*; lingcod, *Ophiodon elongatus*; Pacific cod, *Gadus macrocephalus*; Pacific whiting, *Merluccius productus*; sablefish, *Anoplopoma fimbria*.

(7) Rockfish: In addition to the species below, longspine thornyhead, *S. altivelis*, and shortspine thornyhead, *S. alascanus*, ''rockfish'' managed under the PCGFMP include all genera and species of the family Scorpaenidae that occur off Washington, Oregon, and California, even if not listed below. The Scorpaenidae genera are Sebastes, Scorpaena, Scorpaenodes, and Sebastolobus. Where species below are listed both in a major category (nearshore, shelf, slope) and as an area-specific listing (north or south of 40°10′ N. lat.) those species are considered ''minor'' in the geographic area listed.

(i) Nearshore rockfish includes black rockfish, *Sebastes melanops* and the following minor nearshore rockfish species:

(A) North of 40°10′ N. lat.:black and yellow rockfish, *S. chrysomelas*; blue rockfish, *S. mystinus*; brown rockfish, *S. auriculatus*; calico rockfish, *S. dalli*; China rockfish, *S. nebulosus*; copper rockfish, *S. caurinus*; gopher rockfish, *S. carnatus*; grass rockfish, *S. rastrelliger*; kelp rockfish, *S. atrovirens*; olive rockfish, *S. serranoides*; quillback rockfish, *S. maliger*; treefish, *S. serriceps*.

(B) South of 40°10′ N. lat., nearshore rockfish are divided into three management categories:

(*1*) Shallow nearshore rockfish consists of black and yellow rockfish, *S. chrysomelas*; China rockfish, *S. nebulosus*; gopher rockfish, *S. carnatus*; grass rockfish, *S. rastrelliger*; kelp rockfish, *S. atrovirens*.

(*2*) Deeper nearshore rockfish consists of black rockfish, *S. melanops*, blue rockfish, *S. mystinus*; brown rockfish, *S. auriculatus*; calico rockfish, *S. dalli*; copper rockfish, *S. caurinus*; olive rockfish, *S. serranoides*; quillback rockfish, *S. maliger*; treefish, *S. serriceps*.

(*3*) California scorpionfish, *Scorpaena guttata*.

(ii) Shelf rockfish includes bocaccio, *Sebastes paucispinis*; canary rockfish, *S. pinniger*; chilipepper, *S. goodei*; cowcod, *S. levis*; shortbelly rockfish, *S. jordani*; widow rockfish, *S. entomelas*; yelloweye rockfish, *S. ruberrimus*; yellowtail rockfish, *S. flavidus* and the following minor shelf rockfish species:

(A) North of 40°10′ N. lat.: bronzespotted rockfish, *S. gilli*; bocaccio, *Sebastes paucispinis*; chameleon rockfish, *S. phillipsi*; chilipepper, *S. goodei*; cowcod, *S. levis*; dusky rockfish, *S. ciliatus*; dwarf-red, *S. rufianus*; flag rockfish, *S. rubrivinctus*; freckled, *S. lentiginosus*; greenblotched rockfish, *S. rosenblatti*; greenspotted rockfish, *S. chlorostictus*; greenstriped rockfish, *S. elongatus*; halfbanded rockfish, *S. semicinctus*; harlequin rockfish, *S. variegatus*; honeycomb rockfish, *S. umbrosus*; Mexican rockfish, *S. macdonaldi*; pink rockfish, *S. eos*; pinkrose rockfish, *S. simulator*; pygmy rockfish, *S. wilsoni*; redstripe rockfish, *S. proriger*; rosethorn rockfish, *S. helvomaculatus*; rosy rockfish, *S. rosaceus*; silvergray rockfish, *S. brevispinis*; speckled rockfish, *S. ovalis*; squarespot rockfish, *S. hopkinsi*; starry rockfish, *S. constellatus*; stripetail rockfish, *S. saxicola*; swordspine rockfish, *S. ensifer*; tiger rockfish, *S. nigrocinctus*; vermilion rockfish, *S. miniatus*.

(B) South of 40°10′ N. lat.: bronzespotted rockfish, *S. gilli*; chameleon rockfish, *S. phillipsi*; dusky rockfish, *S. ciliatus*; dwarf-red rockfish, *S. rufianus*; flag rockfish, *S. rubrivinctus*; freckled, *S. lentiginosus*; greenblotched rockfish, *S. rosenblatti*; greenspotted rockfish, *S. chlorostictus*; greenstriped rockfish, *S. elongatus*; halfbanded rockfish, *S. semicinctus*; harlequin rockfish, *S. variegatus*; honeycomb rockfish, *S. umbrosus*; Mexican rockfish, *S. macdonaldi*; pink rockfish, *S. eos*; pinkrose rockfish, *S. simulator*; pygmy rockfish, *S. wilsoni*; redstripe rockfish, *S. proriger*; rosethorn rockfish, *S. helvomaculatus*; rosy rockfish, *S. rosaceus*; silvergray rockfish, *S. brevispinis*; speckled rockfish, *S. ovalis*; squarespot rockfish, *S. hopkinsi*; starry rockfish, *S. constellatus*; stripetail rockfish, *S. saxicola*; swordspine rockfish, *S. ensifer*; tiger rockfish, *S. nigrocinctus*; vermilion rockfish, *S. miniatus*; yellowtail rockfish, *S. flavidus*.

(iii) Slope rockfish includes darkblotched rockfish, *S. crameri*; Pacific ocean perch, *S. alutus*; splitnose rockfish, *S. diploproa* and the following minor slope rockfish species:

(A) North of 40°10′ N. lat.: aurora rockfish, *Sebastes aurora*; bank rockfish, *S. rufus*; blackgill rockfish, *S. melanostomus*; redbanded rockfish, *S. babcocki*; rougheye rockfish, *S.*

*aleutianus*; sharpchin rockfish, *S. zacentrus*; shortraker rockfish, *S. borealis*; splitnose rockfish, *S. diploproa*; yellowmouth rockfish, *S. reedi*.

(B) South of 40°10′ N. lat.: aurora rockfish, *Sebastes aurora*; bank rockfish, *S. rufus*; blackgill rockfish, *S. melanostomus*; Pacific ocean perch, *S. alutus*; redbanded rockfish, *S. babcocki*; rougheye rockfish, *S. aleutianus*; sharpchin rockfish, *S. zacentrus*; shortraker rockfish, *S. borealis*; yellowmouth rockfish, *S. reedi*.

(8) Flatfish: arrowtooth flounder (arrowtooth turbot), *Atheresthes stomias*; butter sole, *Isopsetta isolepis*; curlfin sole, *Pleuronichthys decurrens*; Dover sole, *Microstomus pacificus*; English sole, *Parophrys vetulus*; flathead sole, *Hippoglossoides elassodon*; Pacific sanddab, *Citharichthys sordidus*; petrale sole, *Eopsetta jordani*; rex sole, *Glyptocephalus zachirus*; rock sole, *Lepidopsetta bilineata*; sand sole, *Psettichthys melanostictus*; starry flounder, *Platichthys stellatus*. Where regulations of this subpart refer to landings limits for ''other flatfish,'' those limits apply to all flatfish cumulatively taken except for those flatfish species specifically listed in Tables 1–2 of this subpart. (i.e., ''other flatfish'' includes butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.)

(9) ''Other fish'': Where regulations of this subpart refer to landings limits for ''other fish,'' those limits apply to all groundfish listed here in paragraphs (1)–(8) of this definition except for the following: those groundfish species specifically listed in Tables 1–2 of this subpart with an ABC for that area (generally north and/or south of 40°10′ N. lat.); and Pacific cod and spiny dogfish coastwide. (i.e., ''other fish'' may include all sharks (except spiny dogfish), skates, ratfish, morids, grenadiers, and kelp greenling listed in this section, as well as cabezon in the north.)

*Groundfish trawl* means trawl gear that is used under the authority of a valid limited entry permit issued under this subpart endorsed for trawl gear. It does not include any type of trawl gear listed as ''exempted gear.''

*Harvest guideline* means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require closure of a fishery.

*IAD* means Initial Agency Decision.

*Incidental catch* or *incidental species* means groundfish species caught while fishing for the primary purpose of catching a different species.

*Land or landing* means to begin transfer of fish, offloading fish, or to offload fish from any vessel. Once transfer of fish begins, all fish aboard the vessel are counted as part of the landing.

*Legal fish* means fish legally taken and retained, possessed, or landed in accordance with the provisions of 50 CFR part 660, the Magnuson-Stevens Act, any document issued under part 660, and any other regulation promulgated or permit issued under the Magnuson-Stevens Act.

*Length overall (LOA)* (with respect to a vessel) means the length overall set forth in the Certificate of Documentation (CG–1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state or the USCG for an undocumented vessel; for vessels that do not have the LOA stated in an official document, the LOA is the LOA as determined by the USCG or by a marine surveyor in accordance with the USCG method for measuring LOA.

*Limited entry fishery* means the fishery composed of vessels registered for use with limited entry permits.

*Limited entry gear* means longline, trap (or pot), or groundfish trawl gear used under the authority of a valid limited entry permit affixed with an endorsement for that gear.

*Limited entry permit* means the Federal permit required to participate in the limited entry fishery, and includes any gear, size, or species endorsements affixed to the permit.

*Maximum Sustainable Yield or MSY*. (See § 600.310).

*Mobile transceiver unit* means a vessel monitoring system or VMS device, as set forth at § 660.312, installed on board a vessel that is used for vessel monitoring and transmitting the vessel's position as required by this subpart.

*North-South management area* means the management areas defined in paragraph (1) of this definition, or defined and bounded by one or more or the commonly used geographic coordinates

set out in paragraph (2) of this definition for the purposes of implementing different management measures in separate geographic areas of the U.S. West Coast.

(1) *Management areas*—(i) *Vancouver*. (A) The northeastern boundary is that part of a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73′ N. lat., 124°43.00′ W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62′ N. lat., 124°43.55′ W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(B) The northern and northwestern boundary is a line connecting the following coordinates in the order listed, which is the provisional international boundary of the EEZ as shown on NOAA/NOS Charts 18480 and 18007:

| Point | N. Lat. | W. Long. |
|---|---|---|
| 1 | 48°29.62′ | 124°43.55′ |
| 2 | 48°30.18′ | 124°47.22′ |
| 3 | 48°30.37′ | 124°50.35′ |
| 4 | 48°30.23′ | 124°54.87′ |
| 5 | 48°29.95′ | 124°59.23′ |
| 6 | 48°29.73′ | 125°00.10′ |
| 7 | 48°28.15′ | 125°05.78′ |
| 8 | 48°27.17′ | 125°08.42′ |
| 9 | 48°26.78′ | 125°09.20′ |
| 10 | 48°20.27′ | 125°22.80′ |
| 11 | 48°18.37′ | 125°29.97′ |
| 12 | 48°11.08′ | 125°53.80′ |
| 13 | 47°49.25′ | 126°40.95′ |
| 14 | 47°36.78′ | 127°11.97′ |
| 15 | 47°22.00′ | 127°41.38′ |
| 16 | 46°42.08′ | 128°51.93′ |
| 17 | 46°31.78′ | 129°07.65′ |
| | | |

(C) The southern limit is 47°30′ N. lat.

(ii) *Columbia*. (A) The northern limit is 47°30′ N. lat.

(B) The southern limit is 43°00′ N. lat.

(iii) *Eureka*. (A) The northern limit is 43°00′ N. lat.

(B) The southern limit is 40°30′ N. lat.

(iv) *Monterey*. (A) The northern limit is 40°30′ N. lat.

(B) The southern limit is 36°00′ N. lat.

(v) *Conception*. (A) The northern limit is 36°00′ N. lat.

(B) The southern limit is the U.S.-Mexico International Boundary, which is a line connecting the following coordinates in the order listed:

| Point | N. Lat. | W. Long. |
|---|---|---|
| 1 | 32°35.37′ | 117°27.82′ |
| 2 | 32°37.62′ | 117°49.52′ |
| 3 | 31°07.97′ | 118°36.30′ |
| 4 | 30°32.52′ | 121°51.97′ |

(2) *Commonly used geographic coordinates*. (i) Cape Alava, WA—48°10.00′ N. lat.

(ii) Queets River, WA—47°31.70′ N. lat.

(iii) Pt. Chehalis, WA—46°53.30′ N. lat.

(iv) Leadbetter Point, WA—46°38.17′ N. lat.

(v) Washington/Oregon border—46°16.00′ N. lat.

(vi) Cape Falcon, OR—45°46.00′ N. lat.

(vii) Cape Lookout, OR—45°20.25′ N. lat.

(viii) Cascade Head, OR—45°03.83′ N. lat.

(ix) Heceta Head, OR—44°08.30′ N. lat.

(x) Cape Argo, OR—43°20.83′ N. lat.

(xi) Cape Blanco, OR—42°50.00′ N. lat.

(xii) Humbug Mountain—42°40.50′ N. lat.

(xiii) Marck Arch, OR—42°13.67′ N. lat.

(xiv) Oregon/California border—42°00.00′ N. lat.

(xv) Cape Mendocino, CA—40°30.00′ N. lat.

(xvi) North/South management line—40°10.00′ N. lat.

(xvii) Point Arena, CA—38°57.50′ N. lat.

(xviii) Point San Pedro, CA—37°35.67′ N. lat.

(xix) Pigeon Point, CA—37°11.00′ N. lat.

(xx) Ano Nuevo, CA—37°07.00′ N. lat.

(xxi) Point Lopez, CA—36°00.00′ N. lat.

(xxii) Point Conception, CA—34°27.00′ N. lat. [Note: Regulations that apply to waters north of 34°27.00′ N. lat. are applicable only west of 120°28.00′ W. long.; regulations that apply to waters south of 34°27.00′ N. lat. also apply to all waters both east of 120°28.00′ W. long. and north of 34°27.00′ N. lat.]

*Observer Program or Observer Program Office* means the West Coast Groundfish Observer Program (WCGOP) Office of the Northwest Fishery Science Center, National Marine Fisheries Service, Seattle, Washington.

*Office of Law Enforcement (OLE)* refers to the National Marine Fisheries Service, Office of Law Enforcement, Northwest Division.

*Open access fishery* means the fishery composed of commercial vessels using open access gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the harvest of open access allocations (detailed in § 660.320 and Tables 1–2 of this subpart) or governing the fishing activities of open access vessels (detailed in § 660.383 and Table 5 of this subpart.) Any commercial vessel that is not registered to a limited entry permit and which takes and retains, possesses or lands groundfish is a participant in the open access groundfish fishery.

*Open access gear* means all types of fishing gear except:

(1) Longline or trap (or pot) gear fished by a vessel that has a limited entry permit affixed with a gear endorsement for that gear.

(2) Groundfish trawl.

*Optimum yield (OY)* means the amount of fish that will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and, taking into account the protection of marine ecosystems, is prescribed as such on the basis of the MSY from the fishery, as reduced by any relevant economic, social, or ecological factor; and, in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the MSY in such fishery. OY may be expressed numerically (as a harvest guideline, quota, or other specification) or non-numerically.

*Operator*. (See § 600.10).

*Overage* means the amount of fish harvested by a vessel in excess of the applicable trip limit.

*Owner of a vessel* or *vessel owner*, as used in this subpart, means a person identified as the current owner in the Certificate of Documentation (CG–1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state or the USCG for an undocumented vessel.

*Ownership interest, with respect to a sablefish endorsed permit,* means participation in ownership of a corporation, partnership, or other entity that owns a sablefish endorsed permit. Participation in ownership does not mean owning stock in a publicly owned corporation.

*Pacific Coast Groundfish Fishery Management Plan (PCGFMP)* means the Fishery Management Plan for the Washington, Oregon, and California Groundfish Fishery developed by the Pacific Fishery Management Council and approved by the Secretary on January 4, 1982, and as it may be subsequently amended.

*Pacific whiting shoreside or shore-based fishery* means Pacific whiting shoreside vessels and Pacific whiting shoreside first receivers.

*Pacific whiting shoreside first receivers* means persons who receive, purchase, or take custody, control, or possession of Pacific whiting onshore directly from a Pacific whiting shoreside vessel.

*Pacific whiting shoreside vessel* means any vessel that fishes using midwater trawl gear to take, retain, possess and land 4,000 lb (1,814 kg) or more of Pacific whiting per fishing trip from the Pacific whiting shore-based sector allocation for delivery to a Pacific whiting shoreside first receiver during the primary season.

*Partnership* is two or more individuals, partnerships, or corporations, or combinations thereof, who have ownership interest in a permit, including married couples and legally recognized trusts and partnerships, such as limited partnerships (LP), general partnerships (GP), and limited liability partnerships (LLP).

*Permit holder* means a vessel owner as identified on the United States Coast Guard form 1270 or state motor vehicle licensing document.

*Permit lessee* means a person who has the right to possess and use a limited entry permit for a designated period of time, with reversion of those rights to the permit owner. A permit lessee does not have the right to transfer a permit or change the ownership of the permit.

*Permit owner* means a person who owns a limited entry permit.

*Person*, as it applies to limited entry and open access fisheries conducted under this subpart, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to

own a documented vessel under the terms of 46 U.S.C. 12102(a).

*Processing or to process* means the preparation or packaging of groundfish to render it suitable for human consumption, retail sale, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done.

(1) *At-sea processing* means processing that takes place on a vessel or other platform that floats and is capable of being moved from one location to another, whether shore-based or on the water.

(2) *Shore-based processing or processing in the shore-based sector* means processing that takes place at a facility that is permanently fixed to land.

*Prohibited species* means those species and species groups whose retention is prohibited unless authorized by other applicable law (for example, to allow for examination by an authorized observer or to return tagged fish as specified by the tagging agency).

*Quota* means a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group.

*Recreational fishing* means fishing with authorized recreational fishing gear for personal use only, and not for sale or barter.

*Regional Administrator* means the Administrator, Northwest Region, NMFS.

*Reserve* means a portion of the harvest guideline or quota set aside at the beginning of the fishing year or biennial fishing period to allow for uncertainties in preseason estimates.

*Round weight*. (See § 600.10). Round weight does not include ice, water, or slime.

*Scientific research activity*. (See § 600.10).

*Secretary*. (See § 600.10).

*Sell or sale*. (See § 600.10).

*Specification* is a numerical or descriptive designation of a management objective, including but not limited to: ABC; optimum yield; harvest guideline; quota; limited entry or open access allocation; a setaside or allocation for a recreational or treaty Indian fishery; an apportionment of the above to an area, gear, season, fishery, or other subdivision.

*Spouse* means a person who is legally married to another person as recognized by state law (i.e., one's wife or husband).

*Stacking* is the practice of registering more than one limited entry permit for use with a single vessel (See § 660.335(c)).

*Sustainable Fisheries Division (SFD)* means the Chief, Sustainable Fisheries Division, Northwest Regional Office, NMFS, or a designee.

*Target fishing* means fishing for the primary purpose of catching a particular species or species group (the target species).

*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).

*Totally lost* means the vessel being replaced no longer exists *in specie*, or is absolutely and irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair (including recovery) would exceed the repaired value of the vessel.

*Trip*. (See § 600.10).

*Trip limits*. Trip limits are used in the commercial fishery to specify the maximum amount of a fish species or species group that may legally be taken and retained, possessed, or landed, per vessel, per fishing trip, or cumulatively per unit of time, or the number of landings that may be made from a vessel in a given period of time, as follows:

(1) A per trip limit is the total allowable amount of a groundfish species or species group, by weight, or by percentage of weight of legal fish on board, that may be taken and retained, possessed, or landed per vessel from a single fishing trip.

(2) A daily trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time (l.t.) Only one landing of groundfish may be made in that 24-hour period. Daily trip limits may not be accumulated during multiple day trips.

(3) A weekly trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in 7 consecutive days, starting at 0001 hours l.t. on Sunday and ending at 2400 hours l.t. on Saturday. Weekly trip limits may not be accumulated during multiple week trips. If a calendar week falls within two different months or two different cumulative limit periods, a vessel is not entitled to two separate weekly limits during that week.

(4) A cumulative trip limit is the maximum amount of a groundfish species or species group that may be taken and retained, possessed, or landed per vessel in a specified period of time without a limit on the number of landings or trips, unless otherwise specified. The cumulative trip limit periods for limited entry and open access fisheries, which start at 0001 hours l.t. and end at 2400 hours l.t., are as follows, unless otherwise specified:

(i) The 2-month or ''major'' cumulative limit periods are: January 1–February 28/29, March 1–April 30, May 1–June 30, July 1–August 31, September 1–October 31, and, November 1–December 31.

(ii) One month means the first day through the last day of the calendar month.

(iii) One week means 7 consecutive days, Sunday through Saturday.

*Vessel manager* means a person or group of persons whom the vessel owner has given authority to oversee all or a portion of groundfish fishing activities aboard the vessel.

*Vessel monitoring system or VMS* means a vessel monitoring system or mobile transceiver unit as set forth in § 660.312 and approved by NMFS for use on vessels that take (directly or incidentally) species managed under the Pacific Coast Groundfish FMP, as required by this subpart.

*Vessel of the United States or U.S. vessel*. (See § 600.10).

[61 FR 34572, July 2, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 660.302, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 660.303 Reporting and recordkeeping.**

(a) This subpart recognizes that catch and effort data necessary for implementing the PCGFMP are collected by the States of Washington, Oregon, and California under existing state data collection requirements.

(b) Any person who is required to do so by the applicable state law must make and/or file, retain, or make available any and all reports (i.e., logbooks, fish tickets, etc.) of groundfish harvests and landings containing all data, and in the exact manner, required by the applicable state law.

(c) Any person landing groundfish must retain on board the vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing occurred and for 15 days thereafter. For participants in the primary sablefish season (detailed at § 660.372(b)), the cumulative limit period to which this requirement applies is April 1 through October 31.

(d) *Declaration reporting requirements*—(1) *Declaration reports for vessels registered to limited entry permits*. The operator of any vessel registered to a limited entry permit must provide NMFS OLE with a declaration report, as specified at paragraph(d)(5)(iv) of this section, before the vessel leaves port on a trip in which the vessel is used to fish in U.S. ocean waters between 0 and 200 nm offshore of Washington, Oregon, or California.

(2) *Declaration reports for all vessels using non-groundfish trawl gear*. The operator of any vessel that is not registered to a limited entry permit and which uses non-groundfish trawl gear to fish in the EEZ (3–200 nm offshore), must provide NMFS OLE with a declaration report, as specified at paragraph(d)(5)(iv) of this section, before the vessel leaves port to fish in the EEZ.

(3) *Declaration reports for open access vessels using non-trawl gear (all types of open access gear other than non-groundfish trawl gear)*. The operator of any

vessel that is not registered to a limited entry permit, must provide NMFS with a declaration report, as specified at paragraph(d)(5)(iv) of this section, before the vessel leaves port on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ or land groundfish taken in the EEZ.

(4) *Declaration reports for tribal vessels using trawl gear*. The operator of any tribal vessel using trawl gear must provide NMFS with a declaration report, as specified at paragraph (d)(5)(iv) of this section, before the vessel leaves port on a trip in which fishing occurs within the trawl RCA.

(5) *Declaration reports*.

(i) The operator of a vessel specified in paragraphs (d)(1), (d)(2), and (d)(3) of this section must provide a declaration report to NMFS OLE prior to leaving port on the first trip in which the vessel meets the requirement specified at § 660.312 (b) to have a VMS.

(ii) The vessel operator must send a new declaration report before leaving port on a trip in which a gear type that is different from the gear type most recently declared for the vessel will be used. A declaration report will be valid until another declaration report revising the existing gear declaration is received by NMFS OLE.

(iii) During the period of time that a vessel has a valid declaration report on file with NMFS OLE, it cannot fish with a gear other than a gear type declared by the vessel.

(iv) Declaration reports will include: the vessel name and/or identification number, and gear type (as defined in paragraph(d)(5)(iv)(A) of this section). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt to confirm that a valid declaration report was received for the vessel. Retention of the confirmation code or receipt to verify that a valid declaration report was filed and the declaration requirement was met is the responsibility of the vessel owner or operator. Vessels using non-trawl gear may declare more than one gear type, however, vessels using trawl gear may only declare one of the trawl gear types listed in paragraph (d)(5)(iv)(A) of this section on any trip and may not declare non-trawl gear on the same trip in which trawl gear is declared.

(A) One of the following gear types must be declared:

(*1*) Limited entry fixed gear,

(*2*) [Reserved]

(*3*) Limited entry midwater trawl,

(*4*) Limited entry bottom trawl, not including demersal trawl,

(*5*) Limited entry demersal trawl,

(*6*) Non-groundfish trawl gear for pink shrimp,

(*7*) Non-groundfish trawl gear for ridgeback prawn,

(*8*) Non-groundfish trawl gear for California halibut,

(*9*) Non-groundfish trawl gear for sea cucumber,

(*10*) Open access longline gear for groundfish,

(*11*) Open access Pacific halibut longline gear,

(*12*) Open access groundfish trap or pot gear,

(*13*) Open access Dungeness crab trap or pot gear,

(*14*) Open access prawn trap or pot gear,

(*15*) Open access sheephead trap or pot gear,

(*16*) Open access line gear for groundfish,

(*17*) Open access HMS line gear,

(*18*) Open access salmon troll gear,

(*19*) Open access California Halibut line gear,

(*20*) Open access net gear,

(*21*) Other gear, and

(*22*) Tribal trawl.

(B) [Reserved]

(e) *Participants in the Pacific whiting shoreside fishery*. Reporting requirements defined in the following section are in addition to reporting requirements under applicable state law and requirements described at § 660.303(b).

(1) *Reporting requirements for any Pacific whiting shoreside first receiver*—(i) *Responsibility for compliance*. The Pacific whiting shoreside first receiver is responsible for compliance with all reporting requirements described in this paragraph.

(ii) *General requirements*. All records or reports required by this paragraph must: be maintained in English, be accurate, be legible, be based on local time, and be submitted in a timely manner as required in paragraph (e)(1)(iv) of this section.

(iii) *Required information*. All Pacific whiting shoreside first receivers must provide the following types of information: date of landing, Pacific whiting shoreside vessel that made the delivery, gear type used, first receiver, round weights of species landed listed by species or species group including species with no value, number of salmon by species, number of Pacific halibut, and any other information deemed necessary by the Regional Administrator as specified on the appropriate electronic fish ticket form.

(iv) *Electronic fish ticket submissions*. The Pacific whiting shoreside first receiver must:

(A) Sort all fish, prior to first weighing, by species or

species groups as specified at § 660.370 (h)(6)(iii).

(B) Include as part of each electronic fish ticket submission, the actual scale weight for each groundfish species as specified by requirements at § 660.373 (j)(2)(i) and the Pacific whiting shoreside vessel identification number.

(C) Use for the purpose of submitting electronic fish tickets, and maintain in good working order, computer equipment as specified at § 660.373 (j)(2)(ii)(A);

(D) Install, use, and update as necessary, any NMFS-approved software described at § 660.373 (j)(2)(ii)(B);

(E) Submit a completed electronic fish ticket for every landing that includes 4,000 lb (1,814 kg) or more of Pacific whiting (round weight equivalent) no later than 24 hours after the date the fish are received, unless a waiver of this requirement has been granted under provisions specified at paragraph (e)(1) (vii) of this section.

(v) *Revising a submitted electronic fish ticket submission*. In the event that a data error is found, electronic fish ticket submissions may be revised by resubmitting the revised form. Electronic fish tickets are to be used for the submission of final data. Preliminary data, including estimates of fish weights or species composition, shall not be submitted on electronic fish tickets.

(vi) *Retention of records*. [Reserved]

(vii) *Waivers for submission of electronic fish tickets upon written request*. On a case-by-case basis, a temporary written waiver of the requirement to submit electronic fish tickets may be granted by the Assistant Regional Administrator or designee if he/she determines that circumstances beyond the control of a Pacific whiting shoreside first receiver would result in inadequate data submissions using the electronic fish ticket system. The duration of the waiver will be determined on a case-by-case basis.

(viii) *Reporting requirements when a temporary waiver has been granted*. Pacific whiting shoreside first receivers that have been granted a temporary waiver from the requirement to submit electronic fish tickets must submit on paper the same data as is required on electronic fish tickets within 24 hours of the date received during the period that the waiver is in effect. Paper fish tickets must be sent by facsimile to NMFS, Northwest Region, Sustainable Fisheries Division, 206–526–6736 or by delivering it in person to 7600 Sand Point Way NE, Seattle, WA 98115. The requirements for submissions of paper tickets in this paragraph are separate from, and in addition to existing state requirements for landing receipts or fish receiving tickets.

(2) [Reserved]

[68 FR 62381, Nov. 4, 2003, as amended at 69 FR 11124, Mar. 9, 2004; 69 FR 31755, June 7, 2004; 69 FR 42348, July 15, 2004; 71 FR 10620, Mar. 2, 2006; 72 FR 50910, Sept. 5, 2007; 72 FR 69168, Dec. 7, 2007]

### § 660.305 Vessel identification.

(a) *Display*. The operator of a vessel that is over 25 ft (7.6 m) in length and is engaged in commercial fishing for groundfish must display the vessel's official number on the port and starboard sides of the deckhouse or hull, and on a weather deck so as to be visible from above. The number must contrast with the background and be in block Arabic numerals at least 18 inches (45.7 cm) high for vessels over 65 ft (19.8 m) long and at least 10 inches (25.4 cm) high for vessels between 25 and 65 ft (7.6 and 19.8 m) in length. The length of a vessel for purposes of this section is the length set forth in USCG records or in state records, if no USCG record exists.

(b) *Maintenance of numbers*. The operator of a vessel engaged in commercial fishing for groundfish must keep the

identifying markings required by paragraph (a) of this section clearly legible and in good repair, and must ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

(c) *Commercial passenger vessels.* This section does not apply to vessels carrying fishing parties on a per-capita basis or by charter.

**§ 660.306 Prohibitions.**

In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to:

(a) *General.* (1) Sell, offer to sell, or purchase any groundfish taken in the course of recreational groundfish fishing.

(2) Retain any prohibited species (defined in § 660.302 and restricted in § 660.370(e)) caught by means of fishing gear authorized under this subpart, unless authorized by part 600 or part 300 of this chapter. Prohibited species must be returned to the sea as soon as practicable with a minimum of injury when caught and brought on board.

(3) Falsify or fail to affix and maintain vessel and gear markings as required by § 660.305 or §§ 660.382 and 660.383.

(4) Fish for groundfish in violation of any terms or conditions attached to an EFP under § 600.745 of this chapter or § 660.350.

(5) Fish for groundfish using gear not authorized in this subpart or in violation of any terms or conditions attached to an EFP under § 660.350 or part 600 of this chapter.

(6) Take and retain, possess, or land more groundfish than specified under §§ 660.370 through 660.373 or §§ 660.381 through 660.385, or under an EFP issued under § 660.350 or part 600 of this chapter.

(7) Fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, scientific sorting designation, quota, harvest guideline, or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, scientific sorting designation, quota, harvest guideline, or OY applied.

(8) Possess, deploy, haul, or carry onboard a fishing vessel subject to this subpart a set net, trap or pot, longline, or commercial vertical hook-and-line that is not in compliance with the gear restrictions in §§ 660.382 and 660.383, unless such gear is the gear of another vessel that has been retrieved at sea and made inoperable or stowed in a manner not capable of being fished. The disposal at sea of such gear is prohibited by Annex V of the International Convention for the Prevention of Pollution From Ships, 1973 (Annex V of MARPOL 73/78).

(9) When requested or required by an authorized officer, refuse to present fishing gear for inspection, refuse to present fish subject to such persons control for inspections; or interfere with a fishing gear or marine animal or plant life inspection.

(10) Take, retain, possess, or land more than a single cumulative limit of a particular species, per vessel, per applicable cumulative limit period, except for sablefish taken in the primary limited entry, fixed gear sablefish season from a vessel authorized under § 660.372(a) to participate in that season, as described at § 660.372(b).

(11) Take and retain, possess, or land groundfish in excess of the landing limit for the open access fishery without having a valid limited entry permit for the vessel affixed with a gear endorsement for the gear used to catch the fish.

(12) Transfer fish to another vessel at sea unless a vessel is participating in the primary whiting fishery as part of the mothership or catcher-processor sectors, as described at § 660.373(a).

(13) Fish with dredge gear (defined in § 660.302) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at 660.395.

(14) Fish with beam trawl gear (defined in § 660.302) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at 660.395.

(b) *Reporting and recordkeeping.* (1) Falsify or fail to make and/or file, retain or make available any and all reports of groundfish landings, containing all data, and in the exact manner, required by the applicable State

law, as specified in § 660.303, provided that person is required to do so by the applicable state law.

(2) Fail to retain on board a vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings, or receipts containing all data, and made in the exact manner required by the applicable state law throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

(3) Fail to retain on board a vessel from which sablefish caught in the primary sablefish season is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings against the sablefish endorsed permit's tier limit, or receipts containing all data, and made in the exact manner required by the applicable state law throughout the primary sablefish season during which such landings occurred and for 15 days thereafter.

(4) Fail to comply with all requirements at § 660.303 (d); including failure to submit information, submission of inaccurate information, or intentionally submitting false information on any report required at § 660.303 (d) when participating in the Pacific whiting shoreside fishery.

(c) *Limited entry fisheries.* (1) Fish with groundfish trawl gear, or carry groundfish trawl gear on board a vessel that also has groundfish on board, unless the vessel is registered for use with a valid limited entry permit with a trawl gear endorsement, with the following exception.

(i) The vessel is in continuous transit from outside the fishery management area to a port in Washington, Oregon, or California; or

(ii) The vessel is a mothership, in which case trawl nets and doors must be stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(2) Carry on board a vessel, or deploy, limited entry gear when the limited entry fishery for that gear is closed, except that a vessel may carry on board limited entry groundfish trawl gear as provided in paragraph (c)(1) of this section.

(d) *Black rockfish fisheries.* Have onboard a commercial hook-and-line fishing vessel (other than a vessel operated by persons under § 660.370(c)(1)(ii), more than the amount of the trip limit set for black rockfish by § 660.371 while that vessel is fishing between the U.S.-Canada border and Cape Alava (48°09′30″ N. lat.), or between Destruction Island (47°40′00″ N. lat.) and Leadbetter Point (46°38′10″ N. lat.).

(e) *Fixed gear sablefish fisheries.* (1) Take, retain, possess or land sablefish under the cumulative limits provided for the primary limited entry, fixed gear sablefish season, described in § 660.372(b), from a vessel that is not registered to a limited entry permit with a sablefish endorsement.

(2) Beginning January 1, 2007, take, retain, possess or land sablefish in the primary sablefish season described at § 660.372(b) unless the owner of the limited entry permit registered for use with that vessel and authorizing the vessel to participate in the primary sablefish season is on board that vessel. Exceptions to this prohibition are provided at § 660.372(b)(4)(i) and (ii).

(3) Beginning January 1, 2007, process sablefish taken at-sea in the limited entry primary sablefish fishery defined at § 660.372(b), from a vessel that does not have a sablefish at-sea processing exemption, defined at § 660.334(e).

(f) *Pacific whiting fisheries.* (1) Process whiting in the fishery management area during times or in areas where at-sea processing is prohibited for the sector in which the vessel participates, unless:

(i) The fish are received from a member of a Pacific Coast treaty Indian tribe fishing under §§ 660.324 or 660.385;

(ii) The fish are processed by a waste-processing vessel according to § 660.373(i); or

(iii) The vessel is completing processing of whiting taken on board during that vessel's primary season.

(2) During times or in areas where at-sea processing is prohibited, take and retain or receive whiting, except as cargo or fish waste, on a vessel in the fishery management area that already has processed whiting on board. An exception to this prohibition is provided

if the fish are received within the tribal U&A from a member of a Pacific Coast treaty Indian tribe fishing under §§ 660.324 or 660.385.

(3) Participate in the mothership or shore-based sector as a catcher vessel that does not process fish, if that vessel operates in the same calendar year as a catcher/processor in the whiting fishery, according to § 660.373(h)(2).

(4) Operate as a waste-processing vessel within 48 hours of a primary season for whiting in which that vessel operates as a catcher/processor or mothership, according to § 660.373(i).

(5) Fail to keep the trawl doors on board the vessel and attached to the trawls on a vessel used to fish for whiting, when taking and retention is prohibited under § 660.373(f).

(6) *Pacific whiting shoreside first receivers.*

(i) [Reserved]

(ii) Fail to sort fish received from a Pacific whiting shoreside vessel prior to first weighing after offloading as specified at § 660.370 (h)(6)(iii) for the Pacific whiting fishery.

(iii) Process, sell, or discard any groundfish received from a Pacific whiting shoreside vessel that has not been weighed on a scale that is in compliance with requirements at § 660.373 (j)(1)(i) and accounted for on an electronic fish ticket with the identification number for the Pacific whiting shoreside vessel that delivered the fish.

(iv) Fail to weigh fish landed from a Pacific whiting shoreside vessel prior to transporting any fish from that landing away from the point of landing.

(g) *Limited entry permits.* (1) If a limited entry permit is registered for use with a vessel, fail to carry that permit onboard the vessel registered for use with the permit. A photocopy of the permit may not substitute for the original permit itself.

(2) Make a false statement on an application for issuance, renewal, transfer, vessel registration, replacement of a limited entry permit, or a declaration of ownership interest in a limited entry permit.

(h) *Fishing in conservation areas.* (1) Operate any vessel registered to a limited entry permit with a trawl endorsement and trawl gear on board in a applicable GCA (as defined at § 660.381 (d)), except for purposes of continuous transiting, with all groundfish trawl gear stowed in accordance with § 660.381(d), or except as authorized in the groundfish management measures published at § 660.381.

(2) Operate any vessel registered to a limited entry permit with a longline or trap (pot) endorsement and longline and/or trap gear onboard in an applicable GCA (as defined at § 660.382(c)), except for purposes of continuous transiting, with all groundfish longline and/or trap gear stowed in accordance with § 660.382(c) or except as authorized in the groundfish management measures at § 660.382.

(3) Operate any vessel with non-groundfish trawl gear onboard in any applicable GCA (as defined at § 660.383 (c)) except for purposes of continuous transiting, with all trawl gear stowed in accordance with § 660.383 (c), or except as authorized in the groundfish management measures published at § 660.383.

(4) Operate any vessel in an applicable GCA (as defined at § 660.383 (c)) that has non-trawl gear onboard and is not registered to a limited entry permit on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ, possess or land groundfish taken in the EEZ, except for purposes of continuous transiting, with all groundfish non-trawl gear stowed in accordance with § 660.383(c), or except as authorized in the groundfish management measures published at § 660.383.

(5) Fish with bottom trawl gear (defined in § 660.302) anywhere within EFH within the EEZ seaward of a line approximating the 700–fm (1280–m) depth contour, as defined in § 660.396. For the purposes of regulation, EFH seaward of 700–fm (1280–m) within the EEZ is described at 660.395.

(6) Fish with bottom trawl gear (defined in § 660.302) with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within EFH within the EEZ. For the purposes of regulation, EFH within the EEZ is described at 660.395.

(7) Fish with bottom trawl gear (defined in § 660.302) with a footrope diameter greater than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope) anywhere within the EEZ shoreward of a line approximating the 100–fm (183–m) depth contour (defined in § 660.393).

(8) Fish with bottom trawl gear (as defined in § 660.302), within the EEZ in the following areas (defined in § 660.397 and § 660.398): Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Astoria Canyon, Nehalem Bank/Shale Pile, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, Rogue Canyon.

(9) Fish with bottom trawl gear (as defined in § 660.302), other than demersal seine, unless otherwise specified in this section or section 660.381, within the EEZ in the following areas (defined in § 660.399): Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East.

(10) Fish with bottom contact gear (as defined in § 660.302) within the EEZ in the following areas (defined in § 660.398 and § 660.399): Thompson Seamount, President Jackson Seamount, Cordell Bank (50–fm (91–m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara.

(11) Fish with bottom contact gear (as defined in § 660.302), or any other gear that is deployed deeper than 500–fm (914–m), within the Davidson Seamount area (defined in § 660.395).

(i) *Groundfish observer program.* (1) Forcibly assault, resist, oppose, impede, intimidate, harass, sexually harass, bribe, or interfere with an observer.

(2) Interfere with or bias the sampling procedure employed by an observer, including either mechanically or physically sorting or discarding 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) Harass an observer by conduct that:

(i) Has sexual connotations,

(ii) Has the purpose or effect of interfering with the observer's work performance, and/or

(iii) 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.

(5) Fish for, land, or process fish without observer coverage when a vessel is required to carry an observer under § 660.314(c).

(6) 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.

(7) Fail to provide departure or cease fishing reports specified at § 660.314 (c)(2).

(8) Fail to meet the vessel responsibilities specified at § 660.314 (d).

(j) *Vessel monitoring systems.* (1) Use any vessel required to operate a VMS unit under § 660.312 (b) unless that vessel carries a NMFS OLE type-approved mobile transceiver unit and complies with all the requirements described at § 660.312.

(2) Fail to install, activate, repair or replace a mobile transceiver unit prior to leaving port as specified at § 660.312.

(3) Fail to operate and maintain a mobile transceiver unit on board the vessel at all times as specified at § 660.312.

(4) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the VMS, mobile transceiver unit, or VMS signal required to be installed on or transmitted by a vessel as specified at § 660.312.

(5) Fail to contact NMFS OLE or follow NMFS OLE instructions when automatic position reporting has been interrupted as specified at § 660.312.

(6) Register the same VMS transceiver unit to more than one vessel at the same time.

(7) Falsify any VMS activation report or VMS exemption report that is authorized or required, as specified at § 660.312.

(8) Falsify any declaration report that is required, as specified at § 660.303.

[69 FR 42348, July 15, 2004, as amended at 69 FR 77029, Dec. 23, 2004; 70 FR 16148, Mar. 30, 2005; 71 FR 10620, Mar. 2, 2006; 71 FR 27415, May 11, 2006; 71 FR 66139, Nov. 13, 2006; 71 FR 78653, Dec. 29, 2006; 72 FR 50910, Sept. 5, 2007; 72 FR 69169, Dec. 7, 2007]

### § 660.312 Vessel Monitoring System (VMS) requirements.

(a) *What is a VMS?* A VMS consists of a NMFS OLE type-approved mobile transceiver unit that automatically determines the vessel's position and transmits it to a NMFS OLE type-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS OLE.

(b) *Who is required to have VMS?* The following vessels are required to install a NMFS OLE type-approved mobile transceiver unit and to arrange for a NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE prior to fishing:

(1) Any vessel registered for use with a limited entry permit that fishes in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore).

(2) Any vessel that uses non-groundfish trawl gear to fish in the EEZ.

(3) Any vessel that uses open access gear to take and retain, or possess groundfish in the EEZ or land groundfish taken in the EEZ.

(c) *How are mobile transceiver units and communications service providers approved by NMFS OLE?* (1) NMFS OLE will publish type-approval specifications for VMS components in the FEDERAL REGISTER or notify the public through other appropriate media.

(2) Mobile transceiver unit manufacturers or communication service providers will submit products or services to NMFS OLE for evaluation based on the published specifications.

(3) NMFS OLE may publish a list of NMFS OLE type-approved mobile transceiver units and communication service providers for the Pacific Coast groundfish fishery in the FEDERAL REGISTER or notify the public through other appropriate media. As necessary, NMFS OLE may publish amendments to the list of type-approved mobile transceiver units and communication service providers in the FEDERAL REGISTER or through other appropriate media. A list of VMS transceivers that have been type-approved by NMFS OLE may be mailed to the permit owner's address of record. NMFS will bear 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, as required at 660.335(a)(2).

(d) *What are the vessel owner's responsibilities?* If you are a vessel owner that must participate in the VMS program, you or the vessel operator must:

(1) Obtain a NMFS OLE type-approved mobile transceiver unit and have it installed on board your vessel in accordance with the instructions provided by NMFS OLE. You may obtain a copy of the VMS installation and operation instructions from the NMFS OLE Northwest, VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115–6349, phone: (206) 526–6133.

(2) Activate the mobile transceiver unit, submit an activation report at least 72 hours prior to leaving port on a trip in which VMS is required, and

receive confirmation from NMFS OLE that the VMS transmissions are being received before participating in a fishery requiring the VMS. Instructions for submitting an activation report may be obtained from the NMFS, Northwest OLE VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115–6349, phone: (206)526–6133. An activation report must again be submitted to NMFS OLE following reinstallation of a mobile transceiver unit or change in service provider before the vessel may participate in a fishery requiring the VMS.

(i) *Activation reports.* If you are a vessel owner who must use VMS and you are activating a VMS transceiver unit for the first time or reactivating a VMS transceiver unit following a reinstallation of a mobile transceiver unit or change in service provider, you must fax NMFS OLE an activation report that includes: Vessel name; vessel owner's name, address and telephone number, vessel operator's name, address and telephone number, USCG vessel documentation number/state registration number; if applicable, the groundfish permit number the vessel is registered to; VMS transceiver unit manufacturer; VMS communications service provider; VMS transceiver identification; identifying if the unit is the primary or backup; and a statement signed and dated by the vessel owner confirming compliance with the installation procedures provided by NMFS OLE.

(ii) *Transferring ownership of VMS unit.* Ownership of the VMS transceiver unit may be transferred from one vessel owner to another vessel owner if all of the following documents are provided to NMFS OLE: a new activation report, which identifies that the transceiver unit was previously registered to another vessel; a notarized bill of sale showing proof of ownership of the VMS transceiver unit; documentation from the communications service provider showing proof that the service agreement for the previous vessel was terminated and that a service agreement was established for the new vessel.

(3) *Transceiver unit operation.* Operate and maintain in good working order the mobile transceiver unit continuously 24 hours a day throughout the fishing year, unless such vessel is exempted under paragraph (d)(4) of this section. The mobile transceiver unit must transmit a signal accurately indicating the vessel's position at least once every hour, 24 hours a day, throughout the year unless a valid exemption report, as described in paragraph (b)(4) of this section, has been received by NMFS OLE. Less frequent position reporting at least once every four hours is authorized when a vessel remains in port for an extended period of time, but the mobile transceiver unit must remain in continuous operation at all times unless the vessel is exempted under this section.

(4) *VMS exemptions.* A vessel that is required to operate the mobile transceiver unit continuously 24 hours a day throughout the fishing year may be exempted from this requirement if a valid exemption report, as described at paragraph (d)(4)(vii) of this section, is received by NMFS OLE and the vessel is in compliance with all conditions and requirements of the VMS exemption identified in this section and specified in the exemption report.

(i) *Haul out exemption.* When it is anticipated that a vessel will be continuously out of the water for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, electrical power to the VMS mobile transceiver unit may be removed and transmissions may be discontinued. Under this exemption, VMS transmissions can be discontinued from the time the vessel is removed from the water until the time that the vessel is placed back in the water.

(ii) *Outside areas exemption.* When the vessel will be operating seaward of the EEZ off Washington, Oregon, or California continuously for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, the VMS mobile transceiver unit transmissions may be reduced or discontinued from the time the vessel leaves the EEZ off the coasts of Washington, Oregon or California until the time that the vessel re-enters the EEZ off the coasts of Washington, Oregon or California. Under this exemption, the vessel owner or operator can request that NMFS OLE reduce or discontinue the VMS transmissions after receipt of

an exemption report, if the vessel is equipped with a VMS transceiver unit that NMFS OLE has approved for this exemption.

(iii) *Permit transfer exemption.* If the limited entry permit has been transferred from a vessel (for the purposes of this section, this includes permits placed into ''unidentified'' status) the vessel may be exempted from VMS requirements providing the vessel is not used to fish in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore) for the remainder of the fishing year. If the vessel is used to fish in this area for any species of fish at any time during the remaining portion of the fishing year without being registered to a limited entry permit, the vessel is required to have and use VMS.

(iv) *Long-term departure exemption.* A vessel participating in the open access fishery that is required to have VMS under § 660.312 (b)(3) may be exempted from VMS provisions after the end of the fishing year in which it participated in the open access fishery, providing the vessel submits a completed exemption report signed by the vessel owner that includes a statement signed by the vessel owner indicating that the vessel will not be used to take and retain or possess groundfish in the EEZ or land groundfish taken in the EEZ during the new fishing year.

(v) *Emergency exemption.* Vessels required to have VMS under 660.312(b) may be exempted from VMS provisions in emergency situations that are beyond the vessel owner's control, including but not limited to: fire, flooding, or extensive physical damage to critical areas of the vessel. A vessel owner may apply for an emergency exemption from the VMS requirements specified in § 660.312(b) for his/her vessel by sending a written request to NMFS OLE specifying the following information: The reasons for seeking an exemption, including any supporting documents (e.g., repair invoices, photographs showing damage to the vessel, insurance claim forms, etc.); the time period for which the exemption is requested; and the location of the vessel while the exemption is in effect. NMFS OLE will issue a written determination granting or denying the emergency exemption request. A vessel will not be covered by the emergency exemption until NMFS OLE issues a determination granting the exemption. If an exemption is granted, the duration of the exemption will be specified in the NMFS OLE determination.

(vi) *Submission of exemption reports.* Signed long-term departure exemption reports must be submitted by fax or by emailing a electronic copy of the actual report. In the event of an emergency in which an emergency exemption request will be submitted, initial contact with NMFS OLE must be made by telephone, fax or email within 24 hours from when the incident occurred. Emergency exemption requests must be requested in writing within 72 hours from when the incident occurred. Other exemption reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the FEDERAL REGISTER. Submission methods for exemption requests, except long-term departures and emergency exemption requests, may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting exemption reports. Instructions and other information needed to make exemption reports may be mailed to the vessel owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record for the vessel owner and is not received because the vessel owner's actual address has changed without notification to NMFS, as required at § 660.335(a)(2). Owners of vessels required to use VMS who do not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the exemption is required to obtain information needed to make exemption reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Time).

(vii) *Valid exemption reports.* For an exemption report to be valid, it must be received by NMFS at least 2 hours and not more than 24 hours before the

exempted activities defined at paragraph (d)(4)(i) through (iv) of this section occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption; at least 2 hours before the vessel is placed back in the water following a haul out exemption; at least 2 hours before the vessel resumes fishing for any species of fish in state or Federal waters off the States of Washington, Oregon, or California after it has received a permit transfer exemption; or at least 2 hours before a vessel resumes fishing in the open access fishery after a long-term departure exemption. If a vessel is required to submit an activation report under § 660.312(d)(2)(i) before returning to fish, that report may substitute for the exemption cancellation. Initial contact must be made with NMFS OLE not more than 24 hours after the time that an emergency situation occurred in which VMS transmissions were disrupted and followed by a written emergency exemption request within 72 hours from when the incident occurred. If the emergency situation upon which an emergency exemption is based is resolved before the exemption expires, an exemption cancellation must be received by NMFS at least 2 hours before the vessel resumes fishing.

(5) When aware that transmission of automatic position reports has been interrupted, or when notified by NMFS OLE that automatic position reports are not being received, contact NMFS OLE at 7600 Sand Point Way NE, Seattle, WA 98115–6349, phone: (206)526–6133 and follow the instructions provided to you. Such instructions may include, but are not limited to, manually communicating to a location designated by NMFS OLE the vessel's position or returning to port until the VMS is operable.

(6) After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must replace or repair the mobile transceiver unit prior to the vessel's next fishing trip. Repair or reinstallation of a mobile transceiver unit or installation of a replacement, including change of communications service provider shall be in accordance with the instructions provided by NMFS OLE and require the same certification.

(7) Make the mobile transceiver units available for inspection by NMFS OLE personnel, USCG personnel, state enforcement personnel or any authorized officer.

(8) Ensure that the mobile transceiver unit is not tampered with, disabled, destroyed or operated improperly.

(9) Pay all charges levied by the communication service provider as necessary to ensure continuous operation of the VMS transceiver units.

[68 FR 62384, Nov. 4, 2003. Redesignated and amended at 69 FR 42350, July 15, 2004; 72 FR 69169, Dec. 7, 2007; 73 FR 4759, Jan. 28, 2008]

### § 660.314 Groundfish observer program.

(a) *General*. Vessel owners, operators, and managers are jointly and severally responsible for their vessel's compliance with this section.

(b) *Purpose*. The purpose of the Groundfish Observer Program is to allow observers to collect fisheries data deemed by the Northwest Regional Administrator, NMFS, to be necessary and appropriate for management, compliance monitoring, and research in the groundfish fisheries and for the conservation of living marine resources and their habitat.

(c) *Observer coverage requirements*—(1) *At-sea processors*. A catcher-processor or mothership 125 ft (38.1 m) LOA or longer must carry two NMFS-certified observers, and a catcher-processor or mothership shorter than 125 ft (38.1 m) LOA must carry one NMFS-certified observer, each day that the vessel is used to take, retain, receive, land, process, or transport groundfish.

(2) *Catcher vessels*. When NMFS notifies the owner, operator, permit holder, or the manager of a catcher vessel of any requirement to carry an observer, the catcher vessel may not be used to fish for groundfish without carrying an observer.

(i) For the purposes of this section, the term ''catcher vessel'' includes all of the following vessels (except vessels

described in paragraphs (c)(1) and (c)(3) of this section):

(A) Any vessel registered for use with a Pacific Coast groundfish limited entry permit that fishes off the States of Washington, Oregon, or California seaward of the baseline from which the territorial sea of the United States is measured out to the seaward edge of the EEZ (*i.e.*, 0–200 nm offshore).

(B) Any vessel other than a vessel described in paragraph (c)(2)(i)(A) of this section that is used to take and retain, possess, or land groundfish in or from the EEZ.

(C) Any vessel that is required to take a Federal observer by the applicable State law.

(ii) *Notice of departure—Basic rule*. At least 24 hours (but not more than 36 hours) before departing on a fishing trip, a vessel that has been notified by NMFS that it is required to carry an observer, or that is operating in an active sampling unit, must notify NMFS (or its designated agent) of the vessel's intended time of departure. Notice will be given in a form to be specified by NMFS.

(A) *Optional notice—Weather delays*. A vessel that anticipates a delayed departure due to weather or sea conditions may advise NMFS of the anticipated delay when providing the basic notice described in paragraph (c)(2)(ii) of this section. If departure is delayed beyond 36 hours from the time the original notice is given, the vessel must provide an additional notice of departure not less than 4 hours prior to departure, in order to enable NMFS to place an observer.

(B) *Optional notice—Back-to-back fishing trips*. A vessel that intends to make back-to-back fishing trips (*i.e.*, trips with less than 24 hours between offloading from one trip and beginning another), may provide the basic notice described in paragraph (c)(2)(ii)) of this section for both trips, prior to making the first trip. A vessel that has given such notice is not required to give additional notice of the second trip.

(iii) *Cease fishing report*. Within 24 hours of ceasing the taking and retaining of groundfish, vessel owners, operators, or managers must notify NMFS or its designated agent that fishing has ceased. This requirement applies to any vessel that is required to carry an observer, or that is operating in a segment of the fleet that NMFS has identified as an active sampling unit.

(3) *Vessels engaged in recreational fishing*. [Reserved]

(4) *Waiver*. The Northwest Regional Administrator may provide written notification to the vessel owner stating that a determination has been made to temporarily waive coverage requirements because of circumstances that are deemed to be beyond the vessel's control.

(d) *Vessel responsibilities*. An operator of a vessel required to carry one or more observer(s) must provide:

(1) *Accommodations and food*. Provide accommodations and food that are:

(i) *At-sea processors*. Equivalent to those provided for officers, engineers, foremen, deck-bosses or other management level personnel of the vessel.

(ii) *Catcher vessels*. Equivalent to those provided to the crew.

(2) *Safe conditions*. Maintain safe conditions on the vessel for the protection of observer(s) including adherence to all USCG and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel, and provisions at §§ 600.725 and 600.746 of this chapter.

(3) *Observer communications*. Facilitate observer communications by:

(i) *Observer use of equipment*. Allowing observer(s) 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 observer(s) or the U.S. or designated agent.

(ii) *Functional equipment*. Ensuring that the vessel's communications equipment, used by observers to enter and transmit data, is fully functional and operational.

(iii) *Hardware and software*. At-sea processing vessels must provide hardware and software pursuant to regulations at 50 CFR 679.50(f)(1)(iii)(B)(1) and 50 CFR 679.50(f)(2), as follows:

(A) Providing for use by the observer a personal computer in working condition that contains a full Pentium 120 Mhz or greater capacity processing chip, at least 32 megabytes of RAM, at least 75 megabytes of free hard disk

storage, a Windows 9x or NT compatible operating system, an operating mouse, and a 3.5–inch (8.9 cm) floppy disk drive. The associated computer monitor must have a viewable screen size of at least 14.1 inches (35.8 cm) and minimum display settings of 600×800 pixels. The computer equipment specified in this paragraph (A) must be connected to a communication device that provides a 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. Processors that use a modem 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.

(B) *NMFS-supplied software*. Ensuring that each at-sea processing ship that is required to have two observers aboard obtains the data entry software provided by the Regional Administrator for use by the observer.

(4) *Vessel position*. Allow observer(s) access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(5) *Access*. Allow observer(s) 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.

(6) *Prior notification*. Notify observer(s) 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 observer specifically requests not to be notified.

(7) *Records*. Allow observer(s) to inspect and copy any state or Federal logbook maintained voluntarily or as required by regulation.

(8) *Assistance*. Provide all other reasonable assistance to enable observer(s) to carry out their duties, including, but not limited to:

(i) Measuring decks, codends, and holding bins.

(ii) Providing the observer(s) with a safe work area.

(iii) Collecting bycatch when requested by the observer(s).

(iv) Collecting and carrying baskets of fish when requested by the observer(s).

(v) Allowing the observer(s) to collect biological data and samples.

(vi) Providing adequate space for storage of biological samples.

(9) *At-sea transfers to or from processing vessels*. Processing vessels must:

(i) 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.

(ii) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.

(iii) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(iv) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(e) *Procurement of observer services by at-sea processing vessels*. Owners of vessels required to carry observers under paragraph (c)(1) of this section must arrange for observer services from an observer provider permitted by the North Pacific Groundfish Observer Program under 50 CFR 679.50(i), except that:

(1) Vessels are required to procure observer services directly from NMFS when NMFS has determined and given notification that the vessel must carry NMFS staff or an individual authorized by NMFS in lieu of an observer provided by a permitted observer provider.

(2) Vessels are required to procure observer services directly from NMFS and a permitted observer provider when NMFS has determined and given notification that the vessel must carry NMFS staff or individuals authorized by NMFS, in addition to an observer provided by a permitted observer provider.

(f) *Observer certification and responsibilities*—(1) *Observer Certification*—(i) *Applicability*. Observer certification authorizes an individual to fulfill duties as specified in writing by the NMFS Observer Program Office while under

the employ of a NMFS-permitted observer provider and according to certification endorsements as designated under paragraph (f)(1)(v) of this section.

(ii) *Observer certification official*. The Regional Administrator will designate a NMFS observer certification official who will make decisions for the Observer Program Office on whether to issue or deny observer certification.

(iii) *Certification requirements*. NMFS will certify individuals who:

(A) Are employed by an observer provider company permitted pursuant to 50 CFR 679.50 at the time of the issuance of the certification;

(B) Have provided, through their observer provider:

(*1*) Information identified by NMFS at 50 CFR 679.50(i)(2) (x)(A)(1)(iii) and (iv); and

(*2*) Information identified by NMFS at 50 CFR 679.50(i)(2)(x)(C) regarding the observer candidate's health and physical fitness for the job;

(C) Meet all education and health standards as specified in 50 CFR 679.50(i)(2)(i)(A) and (1)(2)(x)(C), respectively; and

(D) Have successfully completed NMFS-approved training as prescribed by the Observer Program.

(*1*) Successful completion of training by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other training requirements established by the Observer Program.

(*2*) If a candidate fails training, he or she will be notified in writing on or before the last day of training. The notification will indicate: the reasons the candidate failed the training; whether the candidate can retake the training, and under what conditions, or whether, the candidate will not be allowed to retake the training. If a determination is made that the candidate may not pursue further training, notification will be in the form of an IAD denying certification, as specified under paragraph (f)(1)(iv)(A) of this section.

(E) Have not been decertified under paragraph (f)(3) of this section, or pursuant to 50 CFR 679.50.

(iv) Agency determinations on observer certification (A) *Denial of a certification*. The NMFS observer certification official will issue a written IAD denying observer certification when the observer certification official determines that a candidate has unresolvable deficiencies in meeting the requirements for certification as specified in paragraph (f)(1)(iii) of this section. The IAD will identify the reasons certification was denied and what requirements were deficient.

(B) *Appeals*. A candidate who receives an IAD that denies his or her certification may appeal pursuant to paragraph (f)(4) of this section. A candidate who appeals the IAD will not be issued an interim observer certification, and will not receive a certification unless the final resolution of that appeal is in the candidate's favor.

(C) *Issuance of an observer certification*. An observer certification will be issued upon determination by the observer certification official that the candidate has successfully met all requirements for certification as specified in paragraph (f)(1)(iii) of this section.

(v) *Endorsements*. The following endorsements must be obtained, in addition to observer certification, in order for an observer to deploy.

(A) *Certification training endorsement*. A certification training endorsement signifies the successful completion of the training course required to obtain observer certification. This endorsement expires when the observer has not been deployed and performed sampling duties as required by the Observer Program Office for a period of time, specified by the Observer Program, after his or her most recent debriefing. The observer can renew the endorsement by successfully completing certification training once more.

(B) *Annual general endorsements*. Each observer must obtain an annual general endorsement to their certification prior to his or her first deployment within any calendar year subsequent to a year in which a certification training endorsement is obtained. To obtain an

annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.

(C) *Deployment endorsements*. Each observer who has completed an initial deployment after certification or annual briefing must receive a deployment endorsement to their certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all precruise briefing requirements. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.

(D) *Pacific whiting fishery endorsements*. A Pacific whiting fishery endorsement is required for purposes of performing observer duties aboard vessels that process groundfish at sea in the Pacific whiting fishery. A Pacific whiting fishery endorsement to an observer's certification may be obtained by meeting the following requirements:

(*1*) Be a prior NMFS-certified observer in the groundfish fisheries off Alaska or the Pacific Coast, unless an individual with this qualification is not available;

(*2*) Receive an evaluation by NMFS for his or her most recent deployment (if any) that indicated that the observer's performance met Observer Program expectations for that deployment;

(*3*) Successfully complete a NMFS-approved observer training and/or whiting briefing as prescribed by the Observer Program; and

(*4*) Comply with all of the other requirements of this section.

(2) *Standards of observer conduct*—(i) Limitations on conflict of interest.

(A) Observers:

(*1*) Must not have a direct financial interest, other than the provision of observer services, in a North Pacific fishery managed pursuant to an FMP for the waters off the coast of Alaska, or in a Pacific Coast fishery managed by either the state or Federal governments in waters off Washington, Oregon, or California, including but not limited to:

(*i*) Any ownership, mortgage holder, or other secured interest in a vessel, shore-based or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish,

(*ii*) Any business involved with selling supplies or services to any vessel, shore-based or floating stationary processing facility; or

(*iii*) Any business involved with purchasing raw or processed products from any vessel, shore-based or floating stationary processing facilities.

(*2*) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS or 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 shore-based or floating stationary processing 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, shore-based processor, or stationary floating processor while employed by an observer provider.

(B) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(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 perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office.

(B) Observers must accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(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*) Violating the drug and alcohol policy established by and available from the Observer Program;

(*2*) Engaging in the use, possession, or distribution of illegal drugs; or

(*3*) Engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(3) *Suspension and decertification*—(i) *Suspension and decertification review official*. The Regional Administrator (or a designee) will designate an observer suspension and decertification review official(s), who will have the authority to review observer certifications and issue initial administrative determinations of observer certification suspension and/or decertification.

(ii) *Causes for suspension or decertification*. The suspension/decertification official may initiate suspension or decertification proceedings against an observer:

(A) When it is alleged that the observer has committed any acts or omissions of any of the following:

(*1*) Failed to satisfactorily perform the duties of observers as specified in writing by the NMFS Observer Program; or

(*2*) Failed to abide by the standards of conduct for observers as prescribed under paragraph (f)(2) of this section;

(B) Upon conviction of a crime or upon entry of a civil judgment for:

(*1*) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the duties as specified in writing by the NMFS Observer Program;

(*2*) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(*3*) Commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the fitness of observers.

(iii) *Issuance of initial administrative determination*. Upon determination that suspension or decertification is warranted under paragraph (f)(3)(ii) of this section, the suspension/decertification official will issue a written IAD to the observer via certified mail at the observer's most current address provided to NMFS. The IAD will identify whether a certification is suspended or revoked and will identify the specific reasons for the action taken. If the IAD issues a suspension for an observer certification, the terms of the suspension will be specified. Suspension or decertification is effective immediately as of the date of issuance, unless the suspension/decertification official notes a compelling reason for maintaining certification for a specified period and under specified conditions.

(iv) *Appeals*. A certified observer who receives an IAD that suspends or revokes his or her observer certification may appeal pursuant to paragraph (f)(4) of this section.

(4) *Appeals*. (i) Decisions on appeals of initial administrative decisions denying certification to, or suspending, or decertifying, an observer, will be made by the Regional Administrator (or designated official).

(ii) Appeals decisions shall be in writing and shall state the reasons therefor.

(iii) An appeal must be filed with the Regional Administrator within 30 days of the initial administrative decision denying, suspending, or revoking the observer's certification.

(iv) The appeal must be in writing, and must allege facts or circumstances to show why the certification should be granted, or should not be suspended or revoked, under the criteria in this section.

(v) Absent good cause for further delay, the Regional Administrator (or designated official) will issue a written decision on the appeal within 45 days of

receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department as of the date of the decision.

(g) *Sample station and operational requirements*—(1) *Observer sampling station*. This paragraph contains the requirements for observer sampling stations. The vessel owner must provide an observer sampling station that complies with this section so that the observer can carry out required duties.

(i) *Accessibility*. The observer sampling station must be available to the observer at all times.

(ii) *Location*. The observer sampling station must be located within 4 m of the location from which the observer samples unsorted catch. Unobstructed passage must be provided between the observer sampling station and the location where the observer collects sample catch.

(iii) *Minimum work space aboard at-sea processing vessels*. The observer must have a working area of 4.5 square meters, including the observer's sampling table, for sampling and storage of fish to be sampled. 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.

(iv) *Table aboard at-sea processing vessels*. 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 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.

(v) *Diverter board aboard at-sea processing vessels*. The conveyor belt conveying unsorted catch must have a removable board (diverter board) to allow all 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. At least 1 m of accessible belt space, located downstream of the scale used to weight total catch, must be available for the observer's use when sampling.

(vi) *Other requirement for at-sea processing vessels*. The sampling station must be in a well-drained area that includes floor grating (or other material that prevents slipping), lighting adequate for day or night sampling, and a hose that supplies fresh or sea water to the observer.

(vii) *Observer sampling scale*. The observer sample station must include a NMFS-approved platform scale (pursuant to requirements at 50 CFR 679.28(d)(5)) 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.

(2) *Requirements for bins used to make volumetric estimates on at-sea processing vessels*. [Reserved]

(3) *Operational requirements for at-sea processing vessels*. [Reserved]

[66 FR 20613, Apr. 24, 2001, as amended at 69 FR 31755, June 7, 2004. Redesignated and amended at 69 FR 42350, July 15, 2004; 69 FR 57881, Sept. 28, 2004; 71 FR 66139, Nov. 13, 2006; 71 FR 78654, Dec. 29, 2006]

### § 660.320 Allocations.

(a) *General*. The commercial portion of the Pacific Coast groundfish fishery, excluding the treaty Indian fishery, is divided into limited entry and open access fisheries. Separate allocations for the limited entry and open access fisheries will be established biennially or annually for certain species and/or areas using the procedures described in this subpart or the PCGFMP.

(1) *Limited entry allocation*. The allocation for the limited entry fishery is the allowable catch (harvest guideline or quota excluding set asides for recreational or tribal Indian fisheries) minus the allocation to the open access fishery.

(2) *Open access allocation*. The allocation for the open access fishery is derived by applying the open access allocation percentage to the annual harvest guideline or quota after subtracting any recreational fishery estimates or tribal allocations. For management areas where quotas or harvest guidelines for a stock are not fully utilized, no separate allocation will be established for the open access fishery until it is projected that the allowable catch for a species will be reached.

(b) *Open access allocation percentage.* For each species with a harvest guideline or quota, the initial open access allocation percentage is calculated by:

(1) Computing the total catch for that species during the window period by any vessel that does not initially receive a limited entry permit.

(2) Dividing that amount by the total catch during the window period by all gear.

(3) The guidelines in this paragraph (b)(3) apply to recalculation of the open access allocation percentage. Any recalculated allocation percentage will be used in calculating the following biennial fishing period's open access allocation.

(c) *Catch accounting between the limited entry and open access fisheries.* Any groundfish caught by a vessel with a limited entry permit will be counted against the limited entry allocation while the limited entry fishery for that vessel's limited entry gear is open. When the fishery for a vessel's limited entry gear has closed, groundfish caught by that vessel with open access gear will be counted against the open access allocation. All groundfish caught by vessels without limited entry permits will be counted against the open access allocation.

(d) *Additional guidelines.* Additional guidelines governing determination of the limited entry and open access allocations are in the PCGFMP.

(e) *Treaty Indian fisheries.* Certain amounts of groundfish may be set aside biennially or annually for tribal fisheries prior to dividing the balance of the allowable catch between the limited entry and open access fisheries. Tribal fisheries conducted under a set-aside are not subject to the regulations governing limited entry and open access fisheries.

(f) *Recreational fisheries.* Recreational fishing for groundfish is outside the scope of, and not affected by, the regulations governing limited entry and open access fisheries. Certain amounts of groundfish may be specifically allocated to the recreational fishery, and will be estimated prior to dividing the commercial allocation between the commercial limited entry and open access fisheries.

[61 FR 34572, July 2, 1996, as amended at 68 FR 52523, Sept. 4, 2003. Redesignated at 69 FR 42350, July 15, 2004; 71 FR 78654, Dec. 29, 2006]

### § 660.321 Black rockfish harvest guideline.

From the commercial harvest of black rockfish off Washington State, a treaty Indian tribes' harvest guideline is set of 20,000 lb (9,072 kg) for the area north of Cape Alava, WA (48°09.50′ N. lat) and 10,000 lb (4,536 kg) for the area between Destruction Island, WA (47°40′ N. lat.) and Leadbetter Point, WA (46°38.17′ N. lat.). This harvest guideline applies and is available to the treaty Indian tribes identified in § 660.324(b).

[69 FR 77029, Dec. 23, 2004]

### § 660.322 Sablefish allocations.

(a) *Tribal-nontribal allocation.* The sablefish allocation to Pacific coast treaty Indian tribes identified at § 660.324(b) is 10 percent of the sablefish total catch OY for the area north of 36° N. lat. This allocation represents the total amount available to the treaty Indian fisheries before deductions for discard mortality. The annual tribal sablefish allocations are provided in § 660.385(a).

(b) *Between the limited entry and open access sectors.* Sablefish is allocated between the limited entry and open access fisheries according to the procedure described in § 660.320(a).

(c) *Between the limited entry trawl and limited entry nontrawl sectors.* The limited entry sablefish allocation is further allocated 58 percent to the trawl sector and 42 percent to the nontrawl (longline and pot/trap) sector.

(d) *Between the limited entry fixed gear primary season and daily trip limit fisheries.* Within the limited entry nontrawl sector allocation, 85 percent is reserved for the primary season described in § 660.372(b), leaving 15 percent for the limited entry daily trip limit fishery described in § 660.372(c).

(e) *Ratios between tiers for sablefish-endorsed limited entry permits.* The Regional Administrator will biennially or annually calculate the size of the cumulative trip limit for each of the

three tiers associated with the sablefish endorsement such that the ratio of limits between the tiers is approximately 1:1.75:3.85 for Tier 3:Tier 2:Tier 1, respectively. The size of the cumulative trip limits will vary depending on the amount of sablefish available for the primary fishery and on estimated discard mortality rates within the fishery. The size of the cumulative trip limits for the three tiers in the primary fishery will be announced in § 660.372.

[69 FR 77029, Dec. 23, 2004, as amended by 71 FR 78654, Dec. 29, 2006]

### § 660.323 Pacific whiting allocations, allocation attainment, and inseason allocation reapportionment.

(a) *Allocations*. (1) Annual treaty tribal whiting allocations are provided in § 660.385(e).

(2) The non-tribal commercial harvest guideline for whiting is allocated among three sectors, as follows: 34 percent for the catcher/processor sector; 24 percent for the mothership sector; and 42 percent for the shore-based sector. No more than 5 percent of the shore-based allocation may be taken and retained south of 42° N. lat. before the start of the primary whiting season north of 42° N. lat. Specific sector allocations for a given calendar year are found in tables 1a and 2a of this subpart.

(b) *Reaching an allocation*. If the whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached, the following action(s) for the applicable sector(s) may be taken as provided under paragraph (e) of this section and will remain in effect until additional amounts are made available the next calendar year or under paragraph (c) of this section.

(1) *Catcher/processor sector*. Further taking and retaining, receiving, or at-sea processing of whiting by a catcher/processor is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a catcher/processor may continue to process whiting that was on board before at-sea processing was prohibited.

(2) *Mothership sector*. Further receiving or at-sea processing of whiting by a mothership is prohibited. No additional unprocessed whiting may be brought on board after at-sea processing is prohibited, but a mothership may continue to process whiting that was on board before at-sea processing was prohibited. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the mothership sector.

(3) *Shore-based sector coastwide*. Whiting may not be taken and retained, possessed, or landed by a catcher vessel participating in the shore-based sector except as authorized under a trip limit specified under § 660.370(c).

(4) *Shore-based south of 42° N. lat*. If 5 percent of the shore-based allocation for whiting is taken and retained south of 42° N. lat. before the primary season for the shore-based sector begins north of 42° N. lat., then a trip limit specified under § 660.370(c) may be implemented south of 42° N. lat. until the northern primary season begins, at which time the southern primary season would resume.

(c) *Reapportionments*. That portion of a sector's allocation that the Regional Administrator determines will not be used by the end of the fishing year shall be made available for harvest by the other sectors, if needed, in proportion to their initial allocations, on September 15 or as soon as practicable thereafter. NMFS may release whiting again at a later date to ensure full utilization of the resource. Whiting not needed in the fishery authorized under § 660.324 may also be made available.

(d) *Estimates*. Estimates of the amount of whiting harvested will be based on actual amounts harvested, projections of amounts that will be harvested, or a combination of the two. Estimates of the amount of Pacific whiting that will be used by shore-based processors by the end of the calendar year will be based on the best information available to the Regional Administrator from state catch and landings data, the testimony received at Council meetings, and/or other relevant information.

(e) *Announcements*. The Regional Administrator will announce in the FEDERAL REGISTER when a harvest guideline, commercial harvest guideline, or an allocation of whiting is reached, or

is projected to be reached, specifying the appropriate action being taken under paragraph (b) of this section. The Regional Administrator will announce in the FEDERAL REGISTER any reapportionment of surplus whiting to others sectors on September 15, or as soon as practicable thereafter. In order to prevent exceeding the limits or to avoid underutilizing the resource, prohibitions against further taking and retaining, receiving, or at-sea processing of whiting, or reapportionment of surplus whiting may be made effective immediately by actual notice to fishers and processors, by e-mail, internet (*www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Whiting-Management/index.cfm*), phone, fax, letter, press release, and/or USCG Notice to Mariners (monitor channel 16 VHF), followed by publication in the FEDERAL REGISTER, in which instance public comment will be sought for a reasonable period of time thereafter.

[69 FR 42350, July 15, 2004, as amended at 69 FR 77029, Dec. 23, 2004; 70 FR 22812, May 3, 2005; 70 FR 28853, May 19, 2005; 71 FR 29262, May 22, 2006; 71 FR 78654, Dec. 29, 2006]

### § 660.324 Pacific Coast treaty Indian fisheries.

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest groundfish in their usual and accustomed fishing areas in U.S. waters.

(b) For the purposes of this part, Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation.

(c) The Pacific Coast treaty Indian tribes' usual and accustomed fishing areas within the fishery management area (FMA) are set out below in paragraphs (c)(1) through (c)(4) of this section. Boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

(1) Makah That portion of the FMA north of 48°02.25′ N. lat. (Norwegian Memorial) and east of 125°44′ W. long.

(2) Quileute That portion of the FMA between 48°07.60′ N. lat. (Sand Point) and 47°31.70′ N. lat. (Queets River) and east of 125°44′ W. long.

(3) Hoh That portion of the FMA between 47°54.30′ N. lat. (Quillayute River) and 47°21′ N. lat. (Quinault River) and east of 125°44′ W. long.

(4) Quinault That portion of the FMA between 47°40.10′ N. lat. (Destruction Island) and 46°53.30′ N. lat. (Point Chehalis) and east of 125°44′ W. long.

(d) *Procedures.* The rights referred to in paragraph (a) of this section will be implemented by the Secretary, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations in this section that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the Regional Administrator, prior to the first Council meeting in which biennial harvest specifications and management measures are discussed for an upcoming biennial management period. The Secretary generally will announce the annual tribal allocations at the same time as the announcement of the harvest specifications. The Secretary recognizes the sovereign status and comanager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations under this paragraph in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

(e) *Identification.* A valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, is *prima facie* evidence that the holder is a member of the Pacific Coast treaty Indian tribe named on the card.

(f) A limited entry permit under § 660.331 through § 660.341 is not required for participation in a tribal fishery described in paragraph (d) of this section.

(g) Fishing under this section and § 660.385 by a member of a Pacific Coast treaty Indian tribe within their usual and accustomed fishing area is not subject to the provisions of other sections of this subpart.

(h) Any member of a Pacific Coast treaty Indian tribe must comply with this section and § 660.385, and with any applicable tribal law and regulation, when participating in a tribal groundfish fishery described in paragraph (d) of this section.

(i) Fishing by a member of a Pacific Coast treaty Indian tribe outside the applicable Indian tribe's usual and accustomed fishing area, or for a species of groundfish not covered by an allocation or regulation under this section, is subject to the regulations in the other sections of this part.

(j) *Black rockfish.* Harvest guidelines for commercial harvests of black rockfish by members of the Pacific Coast Indian tribes using hook and line gear will be established biennially for two subsequent one-year periods for the areas between the U.S.-Canadian border and Cape Alava (48°09.50′ N. lat.) and between Destruction Island (47°40′ N. lat.) and Leadbetter Point (46°38.17′ N. lat.), in accordance with the procedures for implementing harvest specifications and management measures. Pacific Coast treaty Indians fishing for black rockfish in these areas under these harvest guidelines are subject to the provisions in this section §§ 660.321 and 660.385, and not to the restrictions in other sections of this part.

(k) *Groundfish without a tribal allocation.* Makah tribal members may use midwater trawl gear to take and retain groundfish for which there is no tribal allocation and will be subject to the trip landing and frequency and size limits applicable to the limited entry fishery.

[61 FR 34572, July 2, 1996, as amended at 67 FR 65905, Oct. 29, 2002; 68 FR 52522, Sept. 4, 2003; 71 FR 78655, Dec. 29, 2006]

### § 660.331 Limited entry and open access fisheries—general.

All commercial fishing for groundfish must be conducted in accordance with the regulations governing limited entry and open access fisheries, except such fishing by treaty Indian tribes as may be separately provided for.

### § 660.333 Limited entry fishery-eligibility and registration.

(a) *General.* In order for a vessel to participate in the limited entry fishery, the vessel owner must hold (by ownership or lease) a limited entry permit and, through SFD, must register that permit for use with his/her vessel. When participating in the limited entry fishery, a vessel is authorized to fish with the gear type endorsed on the limited entry permit registered for use with that vessel. There are three types of gear endorsements: trawl, longline, and pot (or trap). A sablefish endorsement is also required for a vessel to participate in the primary season for the limited entry fixed gear sablefish fishery, north of 36° N. lat. A limited entry permit confers a privilege of participating in the Pacific Coast limited entry groundfish fishery in accordance with Federal regulations in 50 CFR part 660.

(b) *Eligibility.* Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102 (a) may be issued or may hold a limited entry permit.

(c) *Registration.* Limited entry permits will normally be registered for use with a particular vessel at the time the permit is issued, renewed, transferred, or replaced. If the permit will be used with a vessel other than the one registered on the permit, the permit owner must register that permit for use with the new vessel through the SFD. The reissued permit must be placed on board the new vessel in order for the vessel to participate in the limited entry fishery.

(1) Registration of a permit to be used with a new vessel will take effect no earlier than the first day of the next major limited entry cumulative limit period following the date SFD receives the transfer form and the original permit.

(2) The major limited entry cumulative limit periods will be announced in the FEDERAL REGISTER with the harvest specifications and management measures, and with routine management measures when the cumulative limit periods are changed.

(d) *Limited entry permits indivisible.* Limited entry permits may not be divided for use by more than one vessel.

(e) *Initial decisions.* SFD will make initial decisions regarding permit endorsements, renewal, replacement, and change in vessel registration. SFD will notify the permit holder in writing with an explanation of any decision to deny a permit endorsement, renewal, replacement, or change in vessel registration. The SFD will decline to act on an application for permit endorsement, renewal, transfer, replacement,

or registration of a limited entry permit if the permit is subject to sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858 (a) and implementing regulations at 15 CFR part 904, subpart D, apply.

(f) *Limited entry permits indivisible.* Nothwithstanding paragraph (d), a trawl-endorsed limited entry permit that was created between December 31, 2006, and May 14, 2007 by aggregating multiple limited entry permits under § 660.335(b) may be disaggregated back into the initially combined component permits.

[66 FR 40919, Aug. 6, 2001, as amended at 66 FR 41158, Aug. 7, 2001; 68 FR 52523, Sept. 4, 2003; 72 FR 27764, May 17, 2007]

### § 660.334 Limited entry permits-endorsements.

(a) *''A'' endorsement.* A limited entry permit with an ''A'' endorsement entitles the holder to participate in the limited entry fishery for all groundfish species with the type(s) of limited entry gear specified in the endorsement, except for sablefish harvested north of 36° N. lat. during times and with gears for which a sablefish endorsement is required. See § 660.334 (d) for provisions on sablefish endorsement requirements. An ''A'' endorsement is transferable with the limited entry permit to another person, or to a different vessel under the same ownership under § 660.335. An ''A'' endorsement expires on failure to renew the limited entry permit to which it is affixed.

(b) *Gear endorsements.* There are three types of gear endorsements: trawl, longline and pot (trap). When limited entry permits were first issued, some vessel owners qualified for more than one type of gear endorsement based on the landings history of their vessels. Each limited entry permit has one or more gear endorsement(s). Gear endorsement(s) assigned to the permit at the time of issuance will be permanent and shall not be modified. While participating in the limited entry fishery, the vessel registered to the limited entry permit is authorized to fish the gear(s) endorsed on the permit. While participating in the limited entry, primary fixed gear fishery for sablefish described at § 660.372, a vessel registered to more than one limited entry permit is authorized to fish with any gear, except trawl gear, endorsed on at least one of the permits registered for use with that vessel. During the limited entry fishery, permit holders may also fish with open access gear; except that vessels fishing against primary sablefish season cumulative limits described at § 660.372(b)(3) may not fish with open access gear against those limits.

(c) *Vessel size endorsements*—(1) *General.* Each limited entry permit will be endorsed with the LOA for the size of the vessel that initially qualified for the permit, except:

(i) If the permit is registered for use with a trawl vessel that is more than 5 ft (1.52 m) shorter than the size for which the permit is endorsed, it will be endorsed for the size of the smaller vessel. This requirement does not apply to a permit with a sablefish endorsement that is endorsed for both trawl and either longline or pot gear and which is registered for use with a longline or pot gear vessel for purposes of participating in the limited entry primary fixed gear sablefish fishery described at § 660.372.

(ii) When permits are combined into one permit to be registered for use with a vessel requiring a larger size endorsement, the new permit will be endorsed for the size that results from the combination of the permits as described in paragraph (c)(2)(iii) of this section.

(2) *Limitations of size endorsements*—(i) A limited entry permit endorsed only for gear other than trawl gear may be registered for use with a vessel up to 5 ft (1.52 m) longer than, the same length as, or any length shorter than, the size endorsed on the existing permit without requiring a combination of permits under § 660.335 (b) or a change in the size endorsement.

(ii) A limited entry permit endorsed for trawl gear may be registered for use with a vessel between 5 ft (1.52 m) shorter and 5 ft (1.52 m) longer than the size endorsed on the existing permit without requiring a combination of permits under § 660.335 (b) or a change in the size endorsement under paragraph (c)(1)(i) of this section.

(iii) The vessel harvest capacity rating for each of the permits being combined is that indicated in Table 2 of

this part for the LOA (in feet) endorsed on the respective limited entry permit. Harvest capacity ratings for fractions of a foot in vessel length will be determined by multiplying the fraction of a foot in vessel length by the difference in the two ratings assigned to the nearest integers of vessel length. The length rating for the combined permit is that indicated for the sum of the vessel harvest capacity ratings for each permit being combined. If that sum falls between the sums for two adjacent lengths on Table 2 of this part, the length rating shall be the higher length.

(3) *Size endorsement requirements for sablefish-endorsed permits.* Notwithstanding paragraphs (c)(1) and (2) of this section, when multiple permits are ''stacked'' on a vessel, as described in § 660.335(c), at least one of the permits must meet the size requirements of those sections. The permit that meets the size requirements of those sections is considered the vessel's ''base'' permit, as defined in § 660.302. Beginning in the Fall of 2006 with the limited entry permit renewal process (§ 660.335(a)), if more than one permit registered for use with the vessel has an appropriate length endorsement for that vessel, NMFS SFD will designate a base permit by selecting the permit that has been registered to the vessel for the longest time. If the permit owner objects to NMFS's selection of the base permit, the permit owner may send a letter to NMFS SFD requesting the change and the reasons for the request. If the permit requested to be changed to the base permit is appropriate for the length of the vessel as provided for in paragraph (c)(2)(i) of this section, NMFS SFD will reissue the permit with the new base permit. Any additional permits that are stacked for use with a vessel participating in the limited entry primary fixed gear sablefish fishery may be registered for use with a vessel even if the vessel is more than 5 ft (1.5 m) longer or shorter than the size endorsed on the permit.

(d) *Sablefish endorsement and tier assignment*—(1) *General.* Participation in the limited entry fixed gear sablefish fishery during the primary season described in § 660.372 north of 36° N. lat., requires that an owner of a vessel hold (by ownership or lease) a limited entry permit, registered for use with that vessel, with a longline or trap (or pot) endorsement and a sablefish endorsement. Up to three permits with sablefish endorsements may be registered for use with a single vessel. Limited entry permits with sablefish endorsements are assigned to one of three different cumulative trip limit tiers, based on the qualifying catch history of the permit.

(i) A sablefish endorsement with a tier assignment will be affixed to the permit and will remain valid when the permit is transferred.

(ii) A sablefish endorsement and its associated tier assignment are not separable from the limited entry permit, and therefore may not be transferred separately from the limited entry permit.

(2) Endorsement and tier assignment qualifying criteria.

(i) *Permit catch history.* Permit catch history will be used to determine whether a permit meets the qualifying criteria for a fixed gear sablefish endorsement and to determine the appropriate tier assignment for endorsed permits. Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit, and subsequent catch histories accrued when the limited entry permit or permit rights were associated with other vessels. The catch history of a permit also includes the catch of any interim permit held by the current owner of the permit during the appeal of an initial NMFS decision to deny the initial issuance of a limited entry permit, but only if the appeal for which an interim permit was issued was lost by the appellant, and the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery. The catch history of an interim permit where the full ''A'' permit was ultimately granted will also be considered part of the catch history of the ''A'' permit. If the current permit is the result of the combination of multiple permits, then for the combined permit to qualify for an endorsement, at least one of the permits that were combined must have had sufficient sablefish history to qualify for an endorsement; or the permit must qualify based on catch occurring

after it was combined, but taken within the qualifying period. If the current permit is the result of the combination of multiple permits, the combined catch histories of all of the permits that were combined to create a new permit before March 12, 1998, will be used in calculating the tier assignment for the resultant permit, together with any catch history (during the qualifying period) of the resultant permit. Only sablefish catch regulated by this part that was taken with longline or trap (pot) gear will be considered for the sablefish endorsement, except that vessels qualifying for the sablefish endorsement based on longline or trap (pot) landings may include setnet sablefish landings defined at (d)(2)(ii)(B) of this section in meeting tier assignment qualifications. Sablefish harvested illegally or landed illegally will not be considered for this endorsement.

(ii) Sablefish endorsement tier assignments. Only limited entry, fixed gear permits with sablefish endorsements will receive cumulative trip limit tier assignments.

(A) The qualifying weight criteria for Tier 1 are at least 898,000 lb (407,326 kg) cumulative round weight of sablefish caught over the years 1984–1994. The qualifying weight criteria for Tier 2 are at least 380,000 lb (172,365 kg), but no more than 897,999 lb (407,326 kg) cumulative round weight of sablefish caught over the years 1984–1994. Fixed gear permits with less than 380,000 lb (172,365 kg) cumulative round weight of sablefish caught over the years 1984–1994 qualify for Tier 3. All qualifying sablefish landings must be caught with longline or trap (pot), although setnet landings defined at sub-paragraph (B) of this section may also be included in tier assignment qualifying landings. Sablefish taken in tribal set aside fisheries does not qualify.

(B) Setnet sablefish landings are included in sablefish endorsement tier assignment qualifying criteria if those landings were made north of 38° N. lat. under the authority of an EFP issued by NMFS in any of the years 1984–1985, by a vessel that landed at least 16,000 lb (7,257 kg) of sablefish with longline or trap (pot) gear in any one year between 1984–1994.

(iii) *Evidence and burden of proof.* A vessel owner (or person holding limited entry rights under the express terms of a written contract) applying for issuance, renewal, replacement, transfer, or registration of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. The owner of a permit endorsed for longline or trap (pot) gear applying for a sablefish endorsement or a tier assignment under this section has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

(A) A certified copy of the current vessel document (USCG or State) is the best evidence of vessel ownership and LOA.

(B) A certified copy of a State fish receiving ticket is the best evidence of a landing, and of the type of gear used.

(C) A copy of a written contract reserving or conveying limited entry rights is the best evidence of reserved or acquired rights.

(D) Such other relevant, credible evidence as the applicant may submit, or the SFD or the Regional Administrator request or acquire, may also be considered.

(3) Issuance process for sablefish endorsements and tier assignments. (i) No new applications for sablefish endorsements will be accepted after November 30, 1998.

(ii) All tier assignments and subsequent appeals processes were completed by September 1998. If, however, a permit owner with a sablefish endorsement believes that his permit may qualify for a change in tier status based on qualifications in paragraph (d)(2)(ii)(B) of this section, the SFD will accept applications for a tier change through December 31, 2002. The application shall consist of a written letter stating the applicant's circumstances, requesting action, be signed by the applicant, and submitted along with the relevant documentation (fish tickets) in support of the application for a change in tier status.

(iii) After review of the evidence submitted under paragraph (ii), and any additional information the SFD finds

to be relevant, the Regional Administrator will issue a letter of determination notifying a permit owner of whether the evidence submitted is sufficient to alter the initial tier assignment. If the Regional Administrator determines the permit qualifies for a different tier, the permit owner will be issued a permit with the revised tier assignment once the initial permit is returned to the SFD for processing.

(iv) If a permit owner chooses to file an appeal of the determination under paragraph (iii) of this section, the appeal must be filed with the Regional Administrator within 30 days of the issuance of the letter of determination. The appeal must be in writing and must allege facts or circumstances, and include credible evidence demonstrating why the permit qualifies for a different tier assignment. The appeal of a denial of an application for a different tier assignment will not be referred to the Council for a recommendation under § 660.340 (e).

(v) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 30 days of receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department of Commerce as of the date of the decision.

(4) Ownership requirements and limitations. (i) No partnership or corporation may own a limited entry permit with a sablefish endorsement unless that partnership or corporation owned a limited entry permit with a sablefish endorsement on November 1, 2000. Otherwise, only individual human persons may own limited entry permits with sablefish endorsements.

(ii) No individual person, partnership, or corporation in combination may have ownership interest in or hold more than 3 permits with sablefish endorsements either simultaneously or cumulatively over the primary season, except for an individual person, or partnerships or corporations that had ownership interest in more than 3 permits with sablefish endorsements as of November 1, 2000. The exemption from the maximum ownership level of 3 permits only applies to ownership of the particular permits that were owned on November 1, 2000. An individual person, or partnerships or corporations that had ownership interest in 3 or more permits with sablefish endorsements as of November 1, 2000, may not acquire additional permits beyond those particular permits owned on November 1, 2000. If, at some future time, an individual person, partnership, or corporation that owned more than 3 permits as of November 1, 2000, sells or otherwise permanently transfers (not holding through a lease arrangement) some of its originally owned permits, such that they then own fewer than 3 permits, they may then acquire additional permits, but may not have ownership interest in or hold more than 3 permits.

(iii) A partnership or corporation will lose the exemptions provided in paragraphs (d)(4)(i) and (ii) of this section on the effective date of any change in the corporation or partnership from that which existed on November 1, 2000. A ''change'' in the partnership or corporation is defined at § 660.302. A change in the partnership or corporation must be reported to SFD within 15 calendar days of the addition of a new shareholder or partner.

(iv) During 2006 when a permit's ownership interest is requested for the first time, NMFS anticipates sending a form to legally recognized corporations and partnerships (i.e., permit owners or holders that do not include only individual's names) that currently own or hold sablefish-endorsed permits that requests a listing of the names of all shareholders or partners as of November 1, 2000, and a listing of that same information as of the current date in 2006. Applicants will be provided at least 60 calendar days to submit completed applications. If a corporation or partnership fails to return the completed form by the deadline date of July 1, 2006, NMFS will send a second written notice to delinquent entities requesting the completed form by a revised deadline date of August 1, 2006. If the permit owning or holding entity fails to return the completed form by that second date, August 1, 2006, NMFS will void their existing permit(s) and reissue the permit(s) with a vessel registration given as ''unidentified'' until such time that the completed form is provided to NMFS. For the 2007 fishing year and beyond, any partnership or

corporation with any ownership interest in or that holds a limited entry permit with a sablefish endorsement shall document the extent of that ownership interest or the individuals that hold the permit with the SFD via the Identification of Ownership Interest Form sent to the permit owner through the annual permit renewal process defined at § 660.335(a) and whenever a change in permit owner, permit holder, and/or vessel registration occurs as defined at § 660.335(d) and (e). SFD will not renew a sablefish-endorsed limited entry permit through the annual renewal process described at § 660.335(a) or approve a change in permit owner, permit holder, and/or vessel registration unless the Identification of Ownership Interest Form has been completed. Further, if SFD discovers through review of the Identification of Ownership Interest Form that an individual person, partnership, or corporation owns or holds more than 3 permits and is not authorized to do so under paragraph (d)(4)(ii) of this section, the individual person, partnership or corporation will be notified and the permits owned or held by that individual person, partnership, or corporation will be void and reissued with the vessel status as ''unidentified'' until the permit owner owns and/or holds a quantity of permits appropriate to the restrictions and requirements described in paragraph (d)(4)(ii) of this section. If SFD discovers through review of the Identification of Ownership Interest Form that a partnership or corporation has had a change in membership since November 1, 2000, as described in paragraph (d)(4)(iii) of this section, the partnership or corporation will be notified, SFD will void any existing permits, and reissue any permits owned and/or held by that partnership or corporation in ''unidentified'' status with respect to vessel registration until the partnership or corporation is able to transfer those permits to persons authorized under this section to own sablefish-endorsed limited entry permits.

(v) For permit owners with one individual listed and who were married as of November 1, 2000, and who wish to add their spouse as co-owner on their permit(s), NMFS will accept corrections to NMFS' permit ownership records. Permit owners may add a not-listed spouse as a co-owner without losing their exemption from the owner-on-board requirements (i.e., grandfathered status). Their new grandfathered status will be as a partnership, as defined at § 660.302 which includes married couples. Individual permit owners will lose their individual grandfathered status when they add their not-listed spouse unless they also owned at least one permit as an individual and did not retroactively add a spouse as co-owner on that permit. In cases where married couples are listed as co-owners of the same permit, both individuals will be counted as owning one permit each and will have grandfathered status as a partnership. An individual within the married couple will not, however, be able to retain their exemption from owner-on-board requirements if they choose to buy another permit as an individual and did not own a permit as an individual as of the control date in NMFS ''corrected'' records (i.e., NMFS records after allowing a not-listed spouse to be added as co-owner). Members of partnerships and corporations will not be allowed to add their spouses to the corporate ownership listing as of November 1, 2000, for purposes of exempting them from the owner-on-board requirements. NMFS will send a form to permit owners with one individual listed on the permit as of November 1, 2000, to allow married individuals who wish to declare their spouses as having permit ownership interest as of November 1, 2000. Applicants will be required to submit a copy of their marriage certificate as evidence of marriage. Applicants will be provided at least 60 calendar days to submit an application to add a spouse as co-owner. Failure to return the completed form to NMFS SFD by July 1, 2006, will result in the individual listed on the permit in SFD records as of November 1, 2000, remaining on the permit. SFD will not accept any declarations to add a spouse as co-owner for couples married as of November 1, 2000, postmarked after the July 1, 2006, deadline.

(vi) For an individual person, partnership, or corporation that qualified for the owner-on-board exemption, but later divested their interest in a permit or permits, they may retain rights to

an owner-on-board exemption as long as that individual person, partnership, or corporation obtains another permit by March 2, 2007. An individual person, partnership or corporation could only obtain a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation or that have died. NMFS will send out a letter to all individuals, partnerships or corporations who owned a permit as of November 1, 2000, and who no longer own a permit to notify them that they would qualify as a grandfathered permit owner if they choose to buy a permit by March 2, 2007.

(vii) A person, partnership, or corporation that is exempt from the owner-on-board requirement may sell all of their permits, buy another sablefish-endorsed permit within up to a year from the date the last permit was approved for transfer, and retain their exemption from the owner-on-board requirements. An individual person, partnership or corporation could only obtain a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation or that have died.

(e) *Sablefish at-sea processing prohibition and exemption*—(1) *General.* Beginning January 1, 2007, vessels are prohibited from processing sablefish at sea that were caught in the primary sablefish fishery without sablefish at-sea processing exemptions at § 660.306(e)(3). A permit and/or vessel owner may get an exemption to this prohibition if his/her vessel meets the exemption qualifying criteria provided in paragraph (e)(2) of this section. The sablefish at-sea processing exemption is issued to a particular vessel and the permit and/or vessel owner who requested the exemption. The exemption is not part of the limited entry permit. The exemption is not transferable to any other vessel, vessel owner, or permit owner for any reason. The sablefish at-sea processing exemption will expire upon transfer of the vessel to a new owner or if the vessel is totally lost, as defined at § 660.302.

(2) *Qualifying criteria.* A sablefish at-sea processing exemption will be issued to any vessel registered for use with a sablefish-endorsed limited entry permit that meets the sablefish at-sea processing exemption qualifying criteria and for which the owner submits a timely application. The qualifying criteria for a sablefish at-sea processing exemption are: at least 2,000 lb (907.2 mt), round weight, of frozen sablefish landed by the applicant vessel during any one calendar year in either 1998 or 1999, or between January 1 and November 1, 2000. The best evidence of a vessel having met these qualifying criteria will be receipts from frozen product buyers or exporters, accompanied by the state fish tickets or landings receipts appropriate to the frozen product. Documentation showing investment in freezer equipment without also showing evidence of how poundage qualifications have been met is not sufficient evidence to qualify a vessel for a sablefish at-sea processing exemption. All landings of sablefish must have occurred during the regular and/or mop-up seasons and must have been harvested in waters managed under this part. Sablefish taken in tribal set aside fisheries or taken outside of the fishery management area, as defined at § 660.302, does not meet the qualifying criteria.

(3) *Issuance process for sablefish at-sea processing exemptions.*

(i) The SFD will mail sablefish at-sea processing exemption applications to all limited entry permit owners with sablefish endorsements and/or fixed gear vessel owners and will make those applications available online at *www.nwr.noaa.gov/Groundfish-Halibut/Fisheries-Permits/index.cfm.* Permit and/or vessel owners will have at least 60 calendar days to submit applications. A permit and/or vessel owner who believes that their vessel may qualify for the sablefish at-sea processing exemption will have until July 1, 2006, to submit evidence showing how their vessel has met the qualifying criteria described in this section at paragraph (e)(2) of this section. Paragraph (e)(4) of this section sets out the relevant evidentiary standards and burden of proof. SFD will not accept applications for the sablefish at-sea processing exemption postmarked after July 1, 2006.

(ii) Within 30 calendar days of the deadline or after receipt of a complete

application, the SFD will notify applicants by letter of determination whether their vessel qualifies for the sablefish at-sea processing exemption. A person who has been notified by the SFD that their vessel qualifies for a sablefish at-sea processing exemption will be issued an exemption letter by SFD that must be onboard the vessel at all times. After the deadline for the receipt of applications has expired and all applications processed, SFD will publish a list of vessels that qualified for the sablefish at-sea processing exemption in the FEDERAL REGISTER.

(iii) If a permit and/or vessel owner chooses to file an appeal of the determination under paragraph (e)(3)(ii) of this section, the appeal must be filed with the Regional Administrator within 30 calendar days of the issuance of the letter of determination. The appeal must be in writing and must allege facts or circumstances, and include credible evidence demonstrating why the vessel qualifies for a sablefish at-sea processing exemption. The appeal of a denial of an application for a sablefish at-sea processing exemption will not be referred to the Council for a recommendation, nor will any appeals be accepted by SFD after September 1, 2006.

(iv) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 30 calendar days of receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department of Commerce as of the date of the decision.

(4) *Evidence and burden of proof.* A permit and/or vessel owner applying for issuance of a sablefish at-sea processing exemption has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

(i) A certified copy of the current vessel document (USCG or state) is the best evidence of vessel ownership and LOA.

(ii) A certified copy of a state fish receiving ticket is the best evidence of a landing, and of the type of gear used.

(iii) A copy of a written receipt indicating the name of their buyer, the date, and a description of the product form and the amount of sablefish landed is the best evidence of the commercial transfer of frozen sablefish product.

(iv) Such other relevant, credible evidence as the applicant may submit, or the SFD or the Regional Administrator request or acquire, may also be considered.

(f) *Endorsement and exemption restrictions.* ''A'' endorsements, gear endorsements, sablefish endorsements and sablefish tier assignments may not be transferred separately from the limited entry permit. Sablefish at-sea processing exemptions are associated with the vessel and not with the limited entry permit and may not be transferred at all.

[66 FR 40919, Aug. 6, 2001, as amended at 66 FR 41158, Aug. 7, 2001; 67 FR 65905, Oct. 29, 2002; 69 FR 42351, July 15, 2004; 69 FR 57881, Sept. 28, 2004; 71 FR 10621, Mar. 2, 2006]

### § 660.335 Limited entry permits—renewal, combination, stacking, change of permit ownership or permit holdership, and transfer.

(a) *Renewal of limited entry permits and gear endorsements*—(1) Limited entry permits expire at the end of each calendar year, and must be renewed between October 1 and November 30 of each year in order to remain in force the following year.

(2) Notification to renew limited entry permits will be issued by SFD prior to September 1 each year to the most recent address of the permit owner. The permit owner shall provide SFD with notice of any address change within 15 days of the change.

(3) Limited entry permit renewal requests received in SFD between November 30 and December 31 will be effective on the date that the renewal is approved. A limited entry permit that is allowed to expire will not be renewed unless the permit owner requests reissuance by March 31 of the following year and the SFD determines that failure to renew was proximately caused by illness, injury, or death of the permit owner.

(4) Limited entry permits with sablefish endorsements, as described at § 660.334(d), will not be renewed until

SFD has received complete documentation of permit ownership as required under § 660.334(d)(4)(iv).

(b) *Combining limited entry permits.* Two or more limited entry permits with ''A'' gear endorsements for the same type of limited entry gear may be combined and reissued as a single permit with a larger size endorsement as described in paragraph § 660.334 (c)(2)(iii). With respect to permits endorsed for nontrawl limited entry gear, a sablefish endorsement will be issued for the new permit only if all of the permits being combined have sablefish endorsements. If two or more permits with sablefish endorsements are combined, the new permit will receive the same tier assignment as the tier with the largest cumulative landings limit of the permits being combined.

(c) *Stacking limited entry permits.* ''Stacking'' limited entry permits, as defined at § 660.302, refers to the practice of registering more than one permit for use with a single vessel. Only limited entry permits with sablefish endorsements may be stacked. Up to 3 limited entry permits with sablefish endorsements may be registered for use with a single vessel during the primary sablefish season described at § 660.372. Privileges, responsibilities, and restrictions associated with stacking permits to participate in the primary sablefish fishery are described at § 660.372 and at § 660.334(d).

(d) *Changes in permit ownership and permit holder*—(1) *General.* The permit owner may convey the limited entry permit to a different person. The new permit owner will not be authorized to use the permit until the change in permit ownership has been registered with and approved by the SFD. The SFD will not approve a change in permit ownership for limited entry permits with sablefish endorsements that does not meet the ownership requirements for those permits described at § 660.334 (d)(4). Change in permit owner and/or permit holder applications must be submitted to SFD with the appropriate documentation described at § 660.335(g).

(2) *Effective date.* The change in ownership of the permit or change in the permit holder will be effective on the day the change is approved by SFD, unless there is a concurrent change in the vessel registered to the permit. Requirements for changing the vessel registered to the permit are described at paragraph (e) of this section.

(3) *Sablefish-endorsed permits.* Beginning January 1, 2007, if a permit owner submits an application to transfer a sablefish-endorsed limited entry permit to a new permit owner or holder (transferee) during the primary sablefish season described at § 660.372(b) (generally April 1 through October 31), the initial permit owner (transferor) must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The transferee must sign the application form acknowledging the amount of landings to date given by the transferor. This certified amount should match the total amount of primary season sablefish landings reported on state fish tickets. As required at § 660.303(c), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

(e) *Changes in vessel registration-transfer of limited entry permits and gear endorsements*—(1) *General.* A permit may not be used with any vessel other than the vessel registered to that permit. For purposes of this section, a permit transfer occurs when, through SFD, a permit owner registers a limited entry permit for use with a new vessel. Permit transfer applications must be submitted to SFD with the appropriate documentation described at § 660.335(g). Upon receipt of a complete application, and following review and approval of the application, the SFD will reissue the permit registered to the new vessel. Applications to transfer limited entry permits with sablefish endorsements, as described at § 660.334(d), will not be approved until SFD has received complete documentation of permit ownership as required under § 660.334(d)(4)(iv).

(2) *Application*. A complete application must be submitted to SFD in order for SFD to review and approve a change in vessel registration. At a minimum, a permit owner seeking to transfer a limited entry permit shall submit to SFD a signed application form and his/her current limited entry permit before the first day of the cumulative limit period in which they wish to participate. If a permit owner provides a signed application and current limited entry permit after the first day of a cumulative limit period, the permit will not be effective until the succeeding cumulative limit period. SFD will not approve a change in vessel registration (transfer) until it receives a complete application, the existing permit, a current copy of the USCG 1270, and other required documentation.

(3) *Effective date*. Changes in vessel registration on permits will take effect no sooner than the first day of the next major limited entry cumulative limit period following the date that SFD receives the signed permit transfer form and the original limited entry permit. No transfer is effective until the limited entry permit has been reissued as registered with the new vessel.

(4) *Sablefish-endorsed permits*. Beginning January 1, 2007, if a permit owner submits an application to register a sablefish-endorsed limited entry permit to a new vessel during the primary sablefish season described at § 660.372(b) (generally April 1 through October 31), the initial permit owner (transferor) must certify on the application form the cumulative quantity, in round weight, of primary season sablefish landed against that permit as of the application signature date for the then current primary season. The new permit owner or holder (transferee) associated with the new vessel must sign the application form acknowledging the amount of landings to date given by the transferor. This certified amount should match the total amount of primary season sablefish landings reported on state fish tickets. As required at § 660.303(c)), any person landing sablefish must retain on board the vessel from which sablefish is landed, and provide to an authorized officer upon request, copies of any and all reports of sablefish landings from the primary season containing all data, and in the exact manner, required by the applicable state law throughout the primary sablefish season during which a landing occurred and for 15 days thereafter.

(f) *Restriction on frequency of transfers*. Limited entry permits may not be registered for use with a different vessel (transfer) more than once per calendar year, except in cases of death of a permit holder or if the permitted vessel is totally lost as defined in 660.302. The exception for death of a permit holder applies for a permit held by a partnership or a corporation if the person or persons holding at least 50 percent of the ownership interest in the entity dies.

(1) A permit owner may designate the vessel registration for a permit as ''unidentified,'' meaning that no vessel has been identified as registered for use with that permit. No vessel is authorize to use a permit with the vessel registration designated as ''unidentified.'' A vessel owner who removes a permit from his vessel and registers that permit as ''unidentified'' is not exempt from VMS requirements at § 660.312 unless specifically authorized by that section.

(2) When a permit owner requests that the permit's vessel registration be designated as ''unidentified,'' the transaction is not considered a ''transfer'' for purposes of this section. Any subsequent request by a permit owner to change from the ''unidentified'' status of the permit in order to register the permit with a specific vessel will be considered a change in vessel registration (transfer) and subject to the restriction on frequency and timing of changes in vessel registration (transfer).

(3) Any transfer of a trawl-endorsed limited entry permit that occurred between December 31, 2006, and May 14, 2007 may be rescinded by the permit owner without counting against that permit owner's once per calendar year restriction on frequency of permit transfers for the 2007 calendar year.

(g) Application and supplemental documentation. Permit holders may request a transfer (change in vessel registration) and/or change in permit ownership or permit holder by submitting a complete application form. In addition, a permit owner applying for renewal, replacement, transfer, or change of ownership or change of permit holder of a limited entry permit has the burden to submit evidence to prove that qualification requirements are met. The owner of a permit endorsed for longline or trap (or pot) gear applying for a tier assignment under § 660.334 (d) has the burden to submit evidence to prove that certain qualification requirements are met. The following evidentiary standards apply:

(1) For a request to change a vessel registration and/or change in permit ownership or permit holder, the permit owner must provide SFD with a current copy of the USCG Form 1270 for vessels of 5 net tons or greater, or a current copy of a state registration form for vessels under 5 net tons.

(2) For a request to change a vessel registration and/or change in permit ownership or permit holder for sablefish-endorsed permits with a tier assignment for which a corporation or partnership is listed as permit owner and/or holder, an Identification of Ownership Interest Form must be completed and included with the application form.

(3) For a request to change the vessel registration to a permit, the permit holder must submit to SFD a current marine survey conducted by a certified marine surveyor in accordance with USCG regulations to authenticate the length overall of the vessel being newly registered with the permit. Marine surveys older than 3 years at the time of the request for change in vessel registration will not be considered ''current'' marine surveys for purposes of this requirement.

(4) For a request to change a permit's ownership where the current permit owner is a corporation, partnership or other business entity, the applicant must provide to SFD a corporate resolution that authorizes the conveyance of the permit to a new owner and which authorizes the individual applicant to request the conveyance on behalf of the corporation, partnership, other business entity.

(5) For a request to change a permit's ownership that is necessitated by the death of the permit owner(s), the individual(s) requesting conveyance of the permit to a new owner must provide SFD with a death certificate of the permit owner(s) and appropriate legal documentation that either: specifically transfers the permit to a designated individual(s); or, provides legal authority to the transferor to convey the permit ownership.

(6) For a request to change a permit's ownership that is necessitated by divorce, the individual requesting the change in permit ownership must submit an executed divorce decree that awards the permit to a designated individual(s).

(7) Such other relevant, credible documentation as the applicant may submit, or the SFD or Regional Administrator may request or acquire, may also be considered.

(h) *Application forms available.* Application forms for the change in vessel registration (transfer) and change of permit ownership or permit holder of limited entry permits are available from the SFD (see part 600 for address of the Regional Administrator). Contents of the application, and required supporting documentation, are specified in the application form.

(i) *Records maintenance.* The SFD will maintain records of all limited entry permits that have been issued, renewed, transferred, registered, or replaced.

[66 FR 40921, Aug. 6, 2001, as amended at 66 FR 41158, Aug. 7, 2001; 67 FR 65906, Oct. 29. 2002; 69 FR 11124, Mar. 9, 2004; 69 FR 42351, July 15, 2004; 71 FR 10623, Mar. 2, 2006; 72 FR 27764, May 17, 2007; 72 FR 69171, Dec. 7, 2007]

### §§ 660.336–660.337 [Reserved]

### § 660.338 Limited entry permits-small fleet.

(a) Small limited entry fisheries fleets that are controlled by a local government, are in existence as of July 11, 1991, and have negligible impacts on the groundfish resource, may be certified as consistent with the goals and objectives of the limited entry program and incorporated into the limited entry

fishery. Permits issued under this subsection will be issued in accordance with the standards and procedures set out in the PCGFMP and will carry the rights explained therein.

(b) A permit issued under this section may be registered only to another vessel that will continue to operate in the same certified small fleet, provided that the total number of vessels in the fleet does not increase. A vessel may not use a small fleet limited entry permit for participation in the limited entry fishery outside of authorized activities of the small fleet for which that permit and vessel have been designated.

[66 FR 40922, Aug. 6, 2001]

### § 660.339 Limited entry permit fees.

The Regional Administrator will charge fees to cover administrative expenses related to issuance of limited entry permits, including initial issuance, renewal, transfer, vessel registration, replacement, and appeals. The appropriate fee must accompany each application.

### § 660.340 Limited entry permit appeals.

(a) Decisions on appeals of initial decisions regarding issuance, renewal, change in vessel registration, change in permit owner or permit holder, and endorsement upgrade, will be made by the Regional Administrator.

(b) Appeals decisions shall be in writing and shall state the reasons therefor.

(c) Within 30 days of an initial decision by the SFD denying issuance, renewal, change in vessel registration, change in permit owner or permit holder, or endorsement upgrade, on the terms requested by the applicant, an appeal may be filed with the Regional Administrator.

(d) The appeal must be in writing, and must allege facts or circumstances to show why the criteria in this subpart have been met, or why an exception should be granted.

(e) At the appellant's discretion, the appeal may be accompanied by a request that the Regional Administrator seek a recommendation from the Council as to whether the appeal should be granted. Such a request must contain the appellant's acknowledgment that the confidentiality provisions of the Magnuson-Stevens Act at 16 U.S.C. 1853 (d) and part 600 of this chapter are waived with respect to any information supplied by Regional Administrator to the Council and its advisory bodies for purposes of receiving the Council's recommendation on the appeal. In responding to a request for a recommendation on appeal, the Council will apply the provisions of the PCGFMP in making its recommendation as to whether the appeal should be granted.

(f) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 45 days of receipt of the appeal, or, if a recommendation from the Council is requested, within 45 days of receiving the Council's recommendation. The Regional Administrator's decision is the final administrative decision of the Department as of the date of the decision.

[66 FR 40922, Aug. 6, 2001]

### § 660.341 Limited entry permit sanctions.

Limited entry permits issued or applied for under this subpart are subject to sanctions pursuant to the Magnuson Act at 16 U.S.C. 1858(g) and 15 CFR part 904, subpart D.

### § 660.350 Compensation with fish for collecting resource information—exempted fishing permits off Washington, Oregon, and California.

In addition to the reasons stated in § 600.745(b)(1) of this chapter, an EFP may be issued under this subpart G for the purpose of compensating the owner or operator of a vessel for collecting resource information according to a protocol approved by NMFS. NMFS may issue an EFP allowing a vessel to retain fish as compensation in excess of trip limits or to be exempt from other specified management measures for the Pacific coast groundfish fishery.

(a) *Compensation EFP for vessels under contract with NMFS to conduct a resource survey*. NMFS may issue an EFP to the owner or operator of a vessel that conducted a resource survey according to a contract with NMFS. A vessel's total compensation from all sources (in

terms of dollars or amount of fish, including fish from survey samples or compensation fish) will be determined through normal Federal procurement procedures. The compensation EFP will specify the maximum amount or value of fish the vessel may take and retain after the resource survey is completed.

(1) *Competitive offers.* NMFS may initiate a competitive solicitation (request for proposals or RFP) to select vessels to conduct resource surveys that use fish as full or partial compensation, following normal Federal procurement procedures.

(2) *Consultation and approval.* At a Council meeting, NMFS will consult with the Council and receive public comment on upcoming resource surveys to be conducted if groundfish could be used as whole or partial compensation. Generally, compensation fish would be similar to surveyed species, but there may be reasons to provide payment with healthier, more abundant, less restricted stocks, or more easily targeted species. For example, NMFS may decline to pay a vessel with species that are, or are expected to be, overfished, or that are subject to overfishing, or that are unavoidably caught with species that are overfished or subject to overfishing. NMFS may also consider levels of discards, bycatch, and other factors. If the Council does not approve providing whole or partial compensation for the conduct of a survey, NMFS will not use fish, other than fish taken during the scientific research, as compensation for that survey. For each proposal, NMFS will present:

(i) The maximum number of vessels expected or needed to conduct the survey,

(ii) An estimate of the species and amount of fish likely to be needed as compensation,

(iii) When the survey and compensation fish would be taken, and

(iv) The year in which the compensation fish would be deducted from the ABC before determining the optimum yield (harvest guideline or quota).

(3) *Issuance of the compensation EFP.* Upon successful completion of the survey, NMFS will issue a ''compensation EFP'' to the vessel if it has not been fully compensated. The procedures in § 600.745(b)(1) through (b)(4) of this chapter do not apply to a compensation EFP issued under this subpart for the Pacific coast groundfish fishery (50 CFR part 660, subpart G).

(4) *Terms and conditions of the compensation EFP.* Conditions for disposition of bycatch or any excess catch, for reporting the value of the amount landed, and other appropriate terms and conditions may be specified in the EFP. Compensation fishing must occur during the period specified in the EFP, but no later than the end of September of the fishing year following the survey, and must be conducted according to the terms and conditions of the EFP.

(5) *Reporting the compensation catch.* The compensation EFP may require the vessel owner or operator to keep separate records of compensation fishing and to submit them to NMFS within a specified period of time after the compensation fishing is completed.

(6) *Accounting for the compensation catch.* As part of the harvest specifications process (§ 660.370), NMFS will advise the Council of the amount of fish authorized to be retained under a compensation EFP, which then will be deducted from the next harvest specifications (ABCs) set by the Council. Fish authorized in an EFP too late in the year to be deducted from the following year's ABCs will be accounted for in the next management cycle where it is practicable to do so.

(b) *Compensation for commercial vessels collecting resource information under a standard EFP.* NMFS may issue an EFP to allow a commercial fishing vessel to take and retain fish in excess of current management limits for the purpose of collecting resource information (§ 600.745(b) of this chapter). The EFP may include a compensation clause that allows the participating vessel to be compensated with fish for its efforts to collect resource information according to NMFS' approved protocol. If compensation with fish is requested in an EFP application, or proposed by NMFS, the following provisions apply in addition to those at § 600.745(b) of this chapter.

(1) *Application*. In addition to the requirements in § 600.745(b) of this chapter, application for an EFP with a compensation clause must clearly state whether a vessel's participation is contingent upon compensation with groundfish and, if so, the minimum amount (in metric tons, round weight) and the species. As with other EFPs issued under § 600.745 of this chapter, the application may be submitted by any individual, including a state fishery management agency or other research institution.

(2) *Denial*. In addition to the reasons stated in § 600.745(b)(3)(iii) of this chapter, the application will be denied if the requested compensation fishery, species, or amount is unacceptable for reasons such as, but not limited to, the following: NMFS concludes the value of the resource information is not commensurate with the value of the compensation fish; the proposed compensation involves species that are (or are expected to be) overfished or subject to overfishing, fishing in times or areas where fishing is otherwise prohibited or severely restricted, or fishing for species that would involve unavoidable bycatch of species that are overfished or subject to overfishing; or NMFS concludes the information can reasonably be obtained at a less cost to the resource.

(3) *Window period for other applications*. If the Regional Administrator or designee agrees that compensation should be considered, and that more than a minor amount would be used as compensation, then a window period will be announced in the FEDERAL REGISTER during which additional participants will have an opportunity to apply. This notification would be made at the same time as announcement of receipt of the application and request for comments required under § 660.745(b). If there are more qualified applicants than needed for a particular time and area, NMFS will choose among the qualified vessels, either randomly, in order of receipt of the completed application, or by other impartial selection methods. If the permit applicant is a state, university, or Federal entity other than NMFS, and NMFS approves the selection method, the permit applicant may choose among the qualified vessels, either randomly, in order of receipt of the vessel application, or by other impartial selection methods.

(4) *Terms and conditions*. The EFP will specify the amounts that may be taken as scientific samples and as compensation, the time period during which the compensation fishing must occur, management measures that NMFS will waive for a vessel fishing under the EFP, and other terms and conditions appropriate to the fishery and the collection of resource information. NMFS may require compensation fishing to occur on the same trip that the resource information is collected.

(5) *Accounting for the catch*. Samples taken under this EFP, as well as any compensation fish, count toward the current year's catch or landings.

[64 FR 49101, Sept. 10, 1999, as amended at 67 FR 65906, Oct. 29, 2002; 68 FR 52523, Sept. 4, 2003; 69 FR 42351, July 15, 2004]

### § 660.365 Overfished species rebuilding plans.

For each overfished groundfish stock with an approved rebuilding plan, this section contains the standards to be used to establish annual or biennial OYs, specifically the target date for rebuilding the stock to its MSY level and the harvest control rule to be used to rebuild the stock. The harvest control rule is expressed as a ''Spawning Potential Ratio'' or ''SPR'' harvest rate.

(a) *Bocaccio*. The target year for rebuilding the southern bocaccio stock to $B_{MSY}$ is 2026. The harvest control rule to be used to rebuild the southern bocaccio stock is an annual SPR harvest rate of 77.7 percent.

(b) *Canary rockfish*. The target year for rebuilding the canary rockfish stock to $B_{MSY}$ is 2063. The harvest control rule to be used to rebuild the canary rockfish stock is an annual SPR harvest rate of 88.7 percent.

(c) *Cowcod*. The target year for rebuilding the cowcod stock south of Point Conception to $B_{MSY}$ is 2039. The harvest control rule to be used to rebuild the cowcod stock is an annual SPR harvest rate of 90.0 percent.

(d) *Darkblotched rockfish*. The target year for rebuilding the darkblotched rockfish stock to $B_{MSY}$ is 2011. The harvest control rule to be used to rebuild

the darkblotched rockfish stock is an annual SPR harvest rate of 64.1 percent in 2007 and 60.7 percent beginning in 2008.

(e) *Pacific ocean perch (POP).* The target year for rebuilding the POP stock to $B_{MSY}$ is 2017. The harvest control rule to be used to rebuild the POP stock is an annual SPR harvest rate of 86.4 percent.

(f) *Widow rockfish.* The target year for rebuilding the widow rockfish stock to $B_{MSY}$ is 2015. The harvest control rule to be used to rebuild the widow rockfish stock is an annual SPR harvest rate of 95.0 percent.

(g) *Yelloweye rockfish.* The target year for rebuilding the yelloweye rockfish stock to $B_{MSY}$ is 2084. The harvest control rule to be used to rebuild the yelloweye rockfish stock is an annual SPR harvest rate is 55.4 in 2007 and 60.8 in 2008. Yelloweye rockfish is subject to a ramp-down strategy where the harvest level will be reduced from current levels until 2011. Beginning in 2011, yelloweye rockfish will be subject to a constant harvest rate strategy with a constant SPR harvest rate of 71.9 percent.

[71 FR 78655, Dec. 29, 2006]

### § 660.370 Specifications and management measures.

(a) *General.* NMFS will establish and adjust specifications and management measures biennially or annually and during the fishing year. Management of the Pacific Coast groundfish fishery will be conducted consistent with the standards and procedures in the PCGFMP and other applicable law. The PCGFMP is available from the Regional Administrator or the Council. Regulations under this subpart may be promulgated, removed, or revised during the fishing year. Any such action will be made according to the framework standards and procedures in the PCGFMP and other applicable law, and will be published in the FEDERAL REGISTER.

(b) *Biennial actions.* The Pacific Coast Groundfish fishery is managed on a biennial, calendar year basis. Harvest specifications and management measures will be announced biennially, with the harvest specifications for each species or species group set for two sequential calendar years. In general, management measures are designed to achieve, but not exceed, the specifications, particularly optimum yields (harvest guidelines and quotas), commercial harvest guidelines and quotas, limited entry and open access allocations, or other approved fishery allocations, and to protect overfished and depleted stocks. Management measures will be designed to take into account the co-occurrence ratios of target species with overfished species, and will select measures that will minimize bycatch to the extent practicable.

(c) *Routine management measures.* In addition to the catch restrictions in §§ 660.371 through 660.373, other catch restrictions that are likely to be adjusted on a biennial or more frequent basis may be imposed and announced by a single notification in the FEDERAL REGISTER if good cause exists under the APA to waive notice and comment, and if they have been designated as routine through the two-meeting process described in the PCGFMP. Routine management measures that may be revised during the fishing year via this process are implemented in paragraph (h) of this section and in §§ 660.371 through 660.373, §§ 660.381 through 660.385 and Tables 3–5 of this subpart. Most trip, bag, and size limits, and area closures in the groundfish fishery have been designated ''routine,'' which means they may be changed rapidly after a single Council meeting. Council meetings are held in the months of March, April, June, September, and November. Inseason changes to routine management measures are announced in the FEDERAL REGISTER pursuant to the requirements of the Administrative Procedure Act (APA). Changes to trip limits are effective at the times stated in the FEDERAL REGISTER. Once a change is effective, it is illegal to take and retain, possess, or land more fish than allowed under the new trip limit. This means that, unless otherwise announced in the FEDERAL REGISTER, offloading must begin before the time a fishery closes or a more restrictive trip limit takes effect. The following catch restrictions have been designated as routine:

(1) *Commercial limited entry and open access fisheries*—(i) *Trip landing and frequency limits, size limits, all gear*. Trip landing and frequency limits have been designated as routine for the following species or species groups: widow rockfish, canary rockfish, yellowtail rockfish, Pacific ocean perch, yelloweye rockfish, black rockfish, blue rockfish, splitnose rockfish, chilipepper rockfish, bocaccio, cowcod, minor nearshore rockfish or shallow and deeper minor nearshore rockfish, shelf or minor shelf rockfish, and minor slope rockfish; DTS complex which is composed of Dover sole, sablefish, shortspine thornyheads, and longspine thornyheads; petrale sole, rex sole, arrowtooth flounder, Pacific sanddabs, and the flatfish complex, which is composed of those species plus any other flatfish species listed at § 660.302; Pacific whiting; lingcod; Pacific cod; spiny dogfish; and ''other fish'' as a complex consisting of all groundfish species listed at § 660.302 and not otherwise listed as a distinct species or species group. Size limits have been designated as routine for sablefish and lingcod. Trip landing and frequency limits and size limits for species with those limits designated as routine may be imposed or adjusted on a biennial or more frequent basis for the purpose of keeping landings within the harvest levels announced by NMFS, and for the other purposes given in paragraphs (c)(1)(i)(A) and (B) of this section.

(A) *Trip landing and frequency limits*. To extend the fishing season; to minimize disruption of traditional fishing and marketing patterns; to reduce discards; to discourage target fishing while allowing small incidental catches to be landed; to protect overfished species; to allow small fisheries to operate outside the normal season; and, for the open access fishery only, to maintain landings at the historical proportions during the 1984-88 window period.

(B) *Size limits*. To protect juvenile fish; to extend the fishing season.

(ii) *Differential trip landing limits and frequency limits based on gear type, closed seasons*. Trip landing and frequency limits that differ by gear type and closed seasons may be imposed or adjusted on a biennial or more frequent basis for the purpose of rebuilding and protecting overfished or depleted stocks. To achieve the rebuilding of an overfished or depleted stock, the Pacific whiting primary seasons described at § 660.373(b), may be closed for any or all of the fishery sectors identified at § 660.373(a) before the sector allocation is reached if any of the bycatch limits identified at § 660.373(b)(4) are reached.

(iii) *Type of limited entry trawl gear on board*. Limits on the type of limited entry trawl gear on board a vessel may be imposed on a biennial or more frequent basis. Requirements and restrictions on limited entry trawl gear type are found at § 660.381.

(2) *Recreational fisheries all gear types*. Routine management measures for all groundfish species, separately or in any combination, include bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements. All routine management measures on recreational fisheries are intended to keep landings within the harvest levels announced by NMFS, to rebuild and protect overfished or depleted species, and to maintain consistency with State regulations, and for the other purposes set forth in this section.

(i) *Bag limits*. To spread the available catch over a large number of anglers; to protect and rebuild overfished species; to avoid waste.

(ii) *Size limits*. To protect juvenile fish; to protect and rebuild overfished species; to enhance the quality of the recreational fishing experience.

(iii) *Season duration restrictions*. To spread the available catch over a large number of anglers; to protect and rebuild overfished species; to avoid waste; to enhance the quality of the recreational fishing experience.

(3) *All fisheries, all gear types, depth-based management measures*. Depth-based management measures, particularly the setting of closed areas known as Groundfish Conservation Areas, may be implemented in any fishery that takes groundfish directly or incidentally. Depth-based management measures are set using specific boundary lines that approximate depth contours with latitude/longitude waypoints found at § 660.390–.394. Depth-based management measures and the setting of closed areas may be used: to protect

and rebuild overfished stocks, to prevent the overfishing of any groundfish species by minimizing the direct or incidental catch of that species, to minimize the incidental harvest of any protected or prohibited species taken in the groundfish fishery, to extend the fishing season; for the commercial fisheries, to minimize disruption of traditional fishing and marketing patterns; for the recreational fisheries, to spread the available catch over a large number of anglers; to discourage target fishing while allowing small incidental catches to be landed; and to allow small fisheries to operate outside the normal season.

(d) Automatic actions. Automatic management actions may be initiated by the NMFS Regional Administrator without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts must have been taken into account prior to the action. Unless otherwise stated, a single notice will be published in the FEDERAL REGISTER making the action effective if good cause exists under the APA to waive notice and comment. Automatic actions are used in the Pacific whiting fishery to close the fishery or reinstate trip limits when a whiting harvest guideline, commercial harvest guideline, or a sector's allocation is reached, or is projected to be reached; or to reapportion unused allocation to other sectors of the fishery. An automatic action is also used in the Pacific whiting fishery to implement the Ocean Salmon Conservation Zone, described at 660.373(c)(3), when NMFS projects the Pacific whiting fishery may take in excess of 11,000 Chinook within a calendar year.

(e) *Prohibited species.* Groundfish species or species groups under the PCGFMP for which quotas have been achieved and/or the fishery closed are prohibited species. In addition, the following are prohibited species:

(1) Any species of salmonid.

(2) Pacific halibut.

(3) Dungeness crab caught seaward of Washington or Oregon.

(f) *Exempted fisheries.* U.S. vessels operating under an exempted fishing permit (EFP) issued under 50 CFR part 600 are also subject to restrictions in §§ 660.301 through 660.394, unless otherwise provided in the permit. EFPs may include the collecting of scientific samples of groundfish species that would otherwise be prohibited for retention.

(g) *Applicability.* Groundfish species harvested in the territorial sea (0–3 nm) will be counted toward the catch limitations in §§ 660.370 through 660.385 and in Tables 1–5 of this subpart.

(h) *Fishery restrictions*—(1) *Commercial trip limits and recreational bag and boat limits.* Commercial trip limits and recreational bag and boat limits defined in § 660.302 and set in §§ 660.371 through 660.373, §§ 660.381 through 660.385 and Tables 3–5 of this subpart must not be exceeded.

(2) *Landing.* As stated at 50 CFR 660.302 (in the definition of ''Landing''), once the offloading of any species begins, all fish aboard the vessel are counted as part of the landing and must be reported as such. Transfer of fish at sea is prohibited under § 660.306(a)(12) unless a vessel is participating in the primary whiting fishery as part of the mothership or catcher-processor sectors, as described at § 660.373(a).

(3) *Fishing ahead.* Unless the fishery is closed, a vessel that has landed its cumulative or daily limit may continue to fish on the limit for the next legal period, so long as no fish (including, but not limited to, groundfish with no trip limits, shrimp, prawns, or other nongroundfish species or shellfish) are landed (offloaded) until the next legal period. Fishing ahead is not allowed during or before a closed period.

(4) *Weights and percentages.* All weights are round weights or round-weight equivalents unless otherwise specified. Percentages are based on round weights, and, unless otherwise specified, apply only to legal fish on board.

(5) *Size limits, length measurement, and weight limits*—(i) *Size limits and length measurement.* Unless otherwise specified, size limits in the commercial and recreational groundfish fisheries apply to the ''total length,'' which is the longest measurement of the fish without mutilation of the fish or the use of force to extend the length of the fish. No fish with a size limit may be retained if it is in such condition that its

length has been extended or cannot be determined by these methods. For conversions not listed here, contact the state where the fish will be landed. Washington state regulations require all fish with a size limit landed into Washington to be landed with the head on.

(A) *Whole fish*. For a whole fish, total length is measured from the tip of the snout (mouth closed) to the tip of the tail in a natural, relaxed position.

(B) ''*Headed*'' *fish*. For a fish with the head removed (''headed''), the length is measured from the origin of the first dorsal fin (where the front dorsal fin meets the dorsal surface of the body closest to the head) to the tip of the upper lobe of the tail; the dorsal fin and tail must be left intact.

(C) *Filets*. A filet is the flesh from one side of a fish extending from the head to the tail, which has been removed from the body (head, tail, and backbone) in a single continuous piece. Filet lengths may be subject to size limits for some groundfish taken in the recreational fishery off California (see § 660.384). A filet is measured along the length of the longest part of the filet in a relaxed position; stretching or otherwise manipulating the filet to increase its length is not permitted.

(ii) *Weight limits and conversions*. The weight limit conversion factor established by the state where the fish is or will be landed will be used to convert the processed weight to round weight for purposes of applying the trip limit. Weight conversions provided herein are those conversions currently in use by the States of Washington, Oregon and California and may be subject to change by those states. Fishery participants should contact fishery enforcement officials in the state where the fish will be landed to determine that state's official conversion factor. To determine the round weight, multiply the processed weight times the conversion factor.

(iii) *Sablefish*. The following conversion applies to both the limited entry and open access fisheries when trip limits are in effect for those fisheries. For headed and gutted (eviscerated) sablefish the weight conversion factor is 1.6 (multiply the headed and gutted weight by 1.6 to determine the round weight).

(iv) *Lingcod*. The following conversions apply in both limited entry and open access fisheries.

(A) North of 42° N. lat., for lingcod with the head removed, the minimum size limit is 18 inches (46 cm), which corresponds to 22 inches (56 cm) total length for whole fish.

(B) South of 42° N. lat., for lingcod with the head removed, the minimum size limit is 19.5 inches (49.5 cm), which corresponds to 24 inches (61 cm) total length for whole fish.

(C) The weight conversion factor for headed and gutted lingcod is 1.5. The conversion factor for lingcod that has only been gutted with the head on is 1.1.

(6) *Sorting*. Under § 660.306(a)(7), it is unlawful for any person to ''fail to sort, prior to the first weighing after offloading, those groundfish species or species groups for which there is a trip limit, size limit, scientific sorting designation, quota, harvest guideline, or OY, if the vessel fished or landed in an area during a time when such trip limit, size limit, scientific sorting designation, quota, harvest guideline, or OY applied.'' The States of Washington, Oregon, and California may also require that vessels record their landings as sorted on their state fish tickets. This provision applies to both the limited entry and open access fisheries. The following species must be sorted:

(i) For vessels with a limited entry permit:

(A) Coastwide – widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, black rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, petrale sole, starry flounder, English sole, other flatfish, lingcod, sablefish, Pacific cod, spiny dogfish, other fish and Pacific whiting;

(B) North of 40°10′ N. lat.—POP, yellowtail rockfish, and, for fixed gear, blue rockfish;

(C) South of 40 10′ N. lat. minor shallow nearshore rockfish, minor deeper nearshore rockfish, California

scorpionfish, chilipepper rockfish, bocaccio rockfish, splitnose rockfish, Pacific sanddabs, cowcod and cabezon.

(ii) For open access vessels (vessels without a limited entry permit):

(A) Coastwide - widow rockfish, canary rockfish, darkblotched rockfish, yelloweye rockfish, shortbelly rockfish, black rockfish, minor nearshore rockfish, minor shelf rockfish, minor slope rockfish, shortspine and longspine thornyhead, Dover sole, arrowtooth flounder, petrale sole, starry flounder, English sole, other flatfish, lingcod, sablefish, Pacific cod, spiny dogfish, other fish, Pacific whiting, and Pacific sanddabs;

(B) North of 40°10′ N. lat.—blue rockfish, POP, yellowtail rockfish;

(C) South of 40°10′ N. lat. – minor shallow nearshore rockfish, minor deeper nearshore rockfish, chilipepper rockfish, bocaccio rockfish, splitnose rockfish, cowcod and cabezon.

(iii) *Sorting requirements for the Pacific whiting shoreside fishery*. Fish delivered to Pacific whiting shoreside first receivers (including shoreside processing facilities and buying stations that intend to transport catch for processing elsewhere) must be sorted, prior to first weighing after offloading from the vessel and prior to transport away from the point of landing, to the species groups specified in paragraph (h)(6)(i)(A) of this section for vessels with limited entry permits. Prohibited species must be sorted according to the following species groups: Dungeness crab, Pacific halibut, Chinook salmon, Other salmon. Non-groundfish species must be sorted as required by the state of landing.

(7) *Operating in both limited entry and open access fisheries*. Open access trip limits apply to any fishing conducted with open access gear, even if the vessel has a valid limited entry permit with an endorsement for another type of gear. A vessel that operates in both the open access and limited entry fisheries is not entitled to two separate trip limits for the same species. If a vessel has a limited entry permit and uses open access gear, but the open access limit is smaller than the limited entry limit, the open access limit may not be exceeded and counts toward the limited entry limit. If a vessel has a limited entry permit and uses open access gear, but the open access limit is larger than the limited entry limit, the smaller limited entry limit applies, even if taken entirely with open access gear.

(8) *''Crossover provisions,'' operating in north-south management areas with different trip limits*. NMFS uses different types of management areas for West Coast groundfish management. One type of management area is the north-south management area, a large ocean area with northern and southern boundary lines wherein trip limits, seasons, and conservation areas follow a single theme. Within each north-south management area, there may be one or more conservation areas, detailed in §§ 660.302 and 660.390 through 660.394. The provisions within this paragraph apply to vessels operating in different north-south management areas. Trip limits for a species or a species group may differ in different north-south management areas along the coast. The following ''crossover'' provisions apply to vessels operating in different geographical areas that have different cumulative or ''per trip'' trip limits for the same species or species group. Such crossover provisions do not apply to species that are subject only to daily trip limits, or to the trip limits for black rockfish off Washington (see § 660.371).

(i) *Going from a more restrictive to a more liberal area*. If a vessel takes and retains any groundfish species or species group of groundfish in an area where a more restrictive trip limit applies before fishing in an area where a more liberal trip limit (or no trip limit) applies, then that vessel is subject to the more restrictive trip limit for the entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.

(ii) *Going from a more liberal to a more restrictive area*. If a vessel takes and retains a groundfish species or species group in an area where a higher trip limit or no trip limit applies, and takes and retains, possesses or lands the same species or species group in an area where a more restrictive trip limit applies, that vessel is subject to the more restrictive trip limit for the

entire period to which that trip limit applies, no matter where the fish are taken and retained, possessed, or landed.

(iii) *Operating in two different areas where a species or species group is managed with different types of trip limits.* During the fishing year, NMFS may implement management measures for a species or species group that set different types of trip limits (for example, per trip limits versus cumulative trip limits) for different areas. If a vessel fishes for a species or species group that is managed with different types of trip limits in two different areas within the same cumulative limit period, then that vessel is subject to the most restrictive overall cumulative limit for that species, regardless of where fishing occurs.

(iv) *Minor rockfish.* Several rockfish species are designated with species-specific limits on one side of the 40°10′ N. lat. management line, and are included as part of a minor rockfish complex on the other side of the line. A vessel that takes and retains fish from a minor rockfish complex (nearshore, shelf, or slope) on both sides of a management line during a single cumulative limit period is subject to the more restrictive cumulative limit for that minor rockfish complex during that period.

(A) If a vessel takes and retains minor slope rockfish north of 40°10′ N. lat., that vessel is also permitted to take and retain, possess or land splitnose rockfish up to its cumulative limit south of 40°10′ N. lat., even if splitnose rockfish were a part of the landings from minor slope rockfish taken and retained north of 40°10′ N. lat.

(B) If a vessel takes and retains minor slope rockfish south of 40°10′ N. lat., that vessel is also permitted to take and retain, possess or land POP up to its cumulative limit north of 40°10′ N. lat., even if POP were a part of the landings from minor slope rockfish taken and retained south of 40°10′ N. lat.

(C) If a trawl vessel takes and retains minor shelf rockfish south of 40°10′ N. lat., that vessel is also permitted to take and retain, possess, or land yellowtail rockfish up to its cumulative limits north of 40°10′ N. lat., even if yellowtail rockfish is part of the landings from minor shelf rockfish taken and retained south of 40°10′ N. lat. Yellowtail rockfish is included in overall shelf rockfish limits for limited entry fixed gear and open access gear groups. Widow rockfish is included in overall shelf rockfish limits for all gear groups.

(D) If a trawl vessel takes and retains minor shelf rockfish north of 40°10′ N. lat., that vessel is also permitted to take and retain, possess, or land chilipepper rockfish up to its cumulative limits south of 40°10′ N. lat., even if chilipepper rockfish is part of the landings from minor shelf rockfish taken and retained north of 40°10′ N. lat.

(v) ''*DTS complex.*'' There are often differential trawl trip limits for the ''DTS complex'' north and south of latitudinal management lines. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph when making landings that include any one of the four species in the ''DTS complex.''

(vi) *Flatfish complex.* There are often differential trip limits for the flatfish complex (butter, curlfin, English, flathead, petrale, rex, rock, and sand soles, Pacific sanddab, and starry flounder) north and south of latitudinal management lines. Vessels operating in the limited entry trawl fishery are subject to the crossover provisions in this paragraph when making landings that include any one of the species in the flatfish complex.

[69 FR 42351, July 15, 2004, as amended at 69 FR 77029, Dec. 23, 2004; 70 FR 8496, Feb. 17, 2006; 71 FR 15046, Mar. 27, 2006; 71 FR 66140, Nov. 13, 2006; 71 FR 78655, Dec. 29, 2006; 72 FR 13044, Mar. 20, 2007; 72 FR 50911, Sept. 5, 2007]

### § 660.371 Black rockfish fishery management.

The trip limit for black rockfish (Sebastes melanops) for commercial fishing vessels using hook-and-line gear between the U.S.-Canada border and Cape Alava (48°09.50′ N. lat.), and between Destruction Island (47°40′ N. lat.) and Leadbetter Point (46°38.17′ N. lat.), is 100 lbs (45 kg) or 30 percent, by weight of all fish on board, whichever is greater, per vessel per fishing trip.

These per trip limits apply to limited entry and open access fisheries, in conjunction with the cumulative trip limits and other management measures in §§ 660.382 and 660.383. The crossover provisions in § 660.370(h)(8) do not apply to the black rockfish per-trip limits.

[69 FR 77032, Dec. 23, 2004]

### § 660.372 Fixed gear sablefish fishery management.

This section applies to the primary season for the fixed gear limited entry sablefish fishery north of 36° N. lat., except for paragraph (c), of this section, which also applies to the open access fishery north of 36° N. lat. and to both the limited entry and open access fisheries south of 36° N. lat. Limited entry and open access fixed gear sablefish fishing outside of the primary sablefish season north of 36° N. lat. is governed by routine management measures imposed under § 660.370.

(a) *Sablefish endorsement.* A vessel may not participate in the primary season for the fixed gear limited entry fishery, unless at least one limited entry permit with both a gear endorsement for longline or trap (or pot) gear and a sablefish endorsement is registered for use with that vessel. Permits with sablefish endorsements are assigned to one of three tiers, as described at § 660.334(d).

(b) *Primary season limited entry, fixed gear sablefish fishery*—(1) *Season dates.* North of 36° N. lat., the primary sablefish season for the limited entry, fixed gear, sablefish-endorsed vessels begins at 12 noon l.t. on April 1 and ends at 12 noon l.t. on October 31, unless otherwise announced by the Regional Administrator through the routine management measures process described at § 660.370(c).

(2) *Gear type.* During the primary season and when fishing against primary season cumulative limits, each vessel authorized to participate in that season under paragraph (a) of this section may fish for sablefish with any of the gear types, except trawl gear, endorsed on at least one of the permits registered for use with that vessel.

(3) *Cumulative limits.* (i) A vessel participating in the primary season will be constrained by the sablefish cumulative limit associated with each of the permits registered for use with that vessel. During the primary season, each vessel authorized to participate in that season under paragraph (a) of this section may take, retain, possess, and land sablefish, up to the cumulative limits for each of the permits registered for use with that vessel. If multiple limited entry permits with sablefish endorsements are registered for use with a single vessel, that vessel may land up to the total of all cumulative limits announced in this paragraph for the tiers for those permits, except as limited by paragraph (b)(3)(ii) of this section. Up to 3 permits may be registered for use with a single vessel during the primary season; thus, a single vessel may not take and retain, possess or land more than 3 primary season sablefish cumulative limits in any one year. A vessel registered for use with multiple limited entry permits is subject to per vessel limits for species other than sablefish, and to per vessel limits when participating in the daily trip limit fishery for sablefish under paragraph (c) of this section. The following annual limits are in effect: Tier 1 at 48,500 lb (21,999 kg), Tier 2 at 22,000 lb (9,979 kg), and Tier 3 at 12,500 lb (5,670 kg).

(ii) If a permit is registered to more than one vessel during the primary season in a single year, the second vessel may only take the portion of the cumulative limit for that permit that has not been harvested by the first vessel to which the permit was registered. The combined primary season sablefish landings for all vessels registered to that permit may not exceed the cumulative limit for the tier associated with that permit.

(iii) A cumulative trip limit is the maximum amount of sablefish that may be taken and retained, possessed, or landed per vessel in a specified period of time, with no limit on the number of landings or trips.

(iv) *Incidental halibut retention north of Pt. Chehalis, WA (46°53.30′ N. lat.).* From May 1 through October 31, vessels authorized to participate in the primary sablefish fishery, licensed by the International Pacific Halibut Commission for commercial fishing in Area 2A (waters off Washington, Oregon, California), and fishing with longline

gear north of Pt. Chehalis, WA (46°53.30′ N. lat.) may land up to the following cumulative limits: 100 lb (45 kg) dressed weight, head-on of halibut per 1,000 lb (454 kg) dressed weight of sablefish, plus up to two additional halibut per fishing trip in excess of this ratio. ''Dressed'' halibut in this area means halibut landed eviscerated with their heads on. Halibut taken and retained in the primary sablefish fishery north of Pt. Chehalis may only be landed north of Pt. Chehalis and may not be possessed or landed south of Pt. Chehalis.

(4) *Owner-on-board Requirement*. Beginning January 1, 2007, any person who owns or has ownership interest in a limited entry permit with a sablefish endorsement, as described at § 660.334(d), must be on board the vessel registered for use with that permit at any time that the vessel has sablefish on board the vessel that count toward that permit's cumulative sablefish landing limit. This person must carry government issued photo identification while aboard the vessel. A permit owner is not obligated to be on board the vessel registered for use with the sablefish-endorsed limited entry permit during the primary sablefish season if:

(i) The person, partnership or corporation had ownership interest in a limited entry permit with a sablefish endorsement prior to November 1, 2000. A person who has ownership interest in a partnership or corporation that owned a sablefish-endorsed permit as of November 1, 2000, but who did not individually own a sablefish-endorsed limited entry permit as of November 1, 2000, is not exempt from the owner-on-board requirement when he/she leaves the partnership or corporation and purchases another permit individually. A person, partnership, or corporation that is exempt from the owner-on-board requirement may sell all of their permits, buy another sablefish-endorsed permit within up to a year from the date the last permit was approved for transfer, and retain their exemption from the owner-on-board requirements. Additionally, a person, partnership, or corporation that qualified for the owner-on-board exemption, but later divested their interest in a permit or permits, may retain rights to an owner-on-board exemption as long as that person, partnership, or corporation purchases another permit by March 2, 2007. A person, partnership or corporation could only purchase a permit if it has not added or changed individuals since November 1, 2000, excluding individuals that have left the partnership or corporation, or that have died.

(ii) The person who owns or who has ownership interest in a sablefish-endorsed limited entry permit is prevented from being on board a fishing vessel because the person died, is ill, or is injured. The person requesting the exemption must send a letter to NMFS requesting an exemption from the owner-on-board requirements, with appropriate evidence as described at § 660.372(b)(4)(ii)(A) or (B). All emergency exemptions for death, injury, or illness will be evaluated by NMFS and a decision will be made in writing to the permit owner within 60 calendar days of receipt of the original exemption request.

(A) Evidence of death of the permit owner shall be provided to NMFS in the form of a copy of a death certificate. In the interim before the estate is settled, if the deceased permit owner was subject to the owner-on-board requirements, the estate of the deceased permit owner may send a letter to NMFS with a copy of the death certificate, requesting an exemption from the owner-on-board requirements. An exemption due to death of the permit owner will be effective only until such time that the estate of the deceased permit owner has transferred the deceased permit owner's permit to a beneficiary or up to three years after the date of death as proven by a death certificate, whichever is earlier. An exemption from the owner-on-board requirements will be conveyed in a letter from NMFS to the estate of the permit owner and is required to be on the vessel during fishing operations.

(B) Evidence of illness or injury that prevents the permit owner from participating in the fishery shall be provided to NMFS in the form of a letter from a certified medical practitioner. This letter must detail the relevant medical conditions of the permit owner

and how those conditions prevent the permit owner from being onboard a fishing vessel during the primary season. An exemption due to injury or illness will be effective only for the calendar year of the request for exemption, and will not be granted for more than three consecutive or total years. NMFS will consider any exemption granted for less than 12 months in a year to count as one year against the 3–year cap. In order to extend an emergency medical exemption for a succeeding year, the permit owner must submit a new request and provide documentation from a certified medical practitioner detailing why the permit owner is still unable to be onboard a fishing vessel. An emergency exemption will be conveyed in a letter from NMFS to the permit owner and is required to be on the vessel during fishing operations.

(c) *Limited entry and open access daily trip limit fisheries both north and south of 36° N. lat.* (1) Before the start of the primary season, all sablefish landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will be subject to the restrictions and limits of the limited entry daily and/or weekly trip limit fishery for sablefish, which is governed by routine management measures imposed under § 660.370(c).

(2) Following the start of the primary season, all landings made by a vessel authorized under paragraph (a) of this section to participate in the primary season will count against the primary season cumulative limit(s) associated with the permit(s) registered for use with that vessel. A vessel that is eligible to participate in the primary sablefish season may participate in the daily trip limit fishery for sablefish once that vessels' primary season sablefish limit(s) have been taken, or after the end of the primary season, whichever occurs earlier. Any subsequent sablefish landings by that vessel will be subject to the restrictions and limits of the limited entry daily and/or trip limit fishery for sablefish for the remainder of the calendar year.

(3) No vessel may land sablefish against both its primary season cumulative sablefish limits and against the daily and/or weekly trip limit fishery limits within the same 24 hour period of 0001 hours l.t. to 2400 hours l.t. If a vessel has taken all of its tier limit except for an amount that is smaller than the daily trip limit amount, that vessel's subsequent sablefish landings are automatically subject to daily and/or weekly trip limits.

(4) Vessels registered for use with a limited entry, fixed gear permit that does not have a sablefish endorsement may participate in the limited entry, daily and/or weekly trip limit fishery for as long as that fishery is open during the year, subject to routine management measures imposed under § 660.370(c). Daily and/or weekly trip limits for the limited entry fishery north and south of 36° N. lat. are provided in Tables 4 (North) and 4 (South) of this subpart.

(5) Open access vessels may participate in the open access, daily trip limit fishery for as long as that fishery is open during the year, subject to the routine management measures imposed under § 660.370(c). Daily and/or weekly trip limits for the open access fishery north and south of 36° N. lat. are provided in Tables 5 (North) and 5 (South) of this subpart.

(d) *Trip limits.* Trip and/or frequency limits may be imposed in the limited entry fishery on vessels that are not participating in the primary season under § 660.370(c). Trip and/or size limits to protect juvenile sablefish in the limited entry or open-access fisheries also may be imposed at any time under § 660.370(c). Trip limits may be imposed in the open-access fishery at any time under § 660.370(c).

[69 FR 42352, July 15, 2004, as amended at 69 FR 77032, Dec. 23, 2004; 70 FR 16149, Mar. 30, 2005; 70 FR 23045, May 4, 2005; 71 FR 10624, Mar. 2, 2006; 71 FR 24604, Apr. 26, 2006; 71 FR 78656, Dec. 29, 2006]

### § 660.373 Pacific whiting (whiting) fishery management.

(a) *Sectors.* The catcher/processor sector is composed of catcher/processors, which are vessels that harvest and process whiting during a calendar year. The mothership sector is composed of motherships and catcher vessels that harvest whiting for delivery to motherships. Motherships are vessels

that process, but do not harvest, whiting during a calendar year. The shore-based sector is composed of vessels that harvest whiting for delivery to shore-based processors.

(b) *Seasons*. The primary seasons for the whiting fishery are: For the shore-based sector, the period(s) when the large-scale target fishery is conducted (when trip limits under paragraph (b) of this section are not in effect); for catcher/processors, the period(s) when at-sea processing is allowed and the fishery is open for the catcher/processor sector; and for vessels delivering to motherships, the period(s) when at-sea processing is allowed and the fishery is open for the mothership sector. Before and after the primary seasons, trip landing or frequency limits may be imposed under § 660.370(c). The sectors are defined at § 660.370(a).

(1) *North of 40°30′ N. lat*. Different starting dates may be established for the catcher/processor sector, the mothership sector, catcher vessels delivering to shoreside processors north of 42° N. lat., and catcher vessels delivering to shoreside processors between 42°-40°30′ N. lat.

(i) *Procedures*. The primary seasons for the whiting fishery north of 40°30′ N. lat. generally will be established according to the procedures of the PCGFMP for developing and implementing harvest specifications and apportionments. The season opening dates remain in effect unless changed, generally with the harvest specifications and management measures.

(ii) *Criteria*. The start of a primary season may be changed based on a recommendation from the Council and consideration of the following factors, if applicable: Size of the harvest guidelines for whiting and bycatch species; age/size structure of the whiting population; expected harvest of bycatch and prohibited species; availability and stock status of prohibited species; expected participation by catchers and processors; environmental conditions; timing of alternate or competing fisheries; industry agreement; fishing or processing rates; and other relevant information.

(iii) *Primary whiting seasons*. After the start of a primary season for a sector of the whiting fishery, the season remains open for that sector until the quota is taken and the fishery season for that sector is closed by NMFS. The primary seasons for the whiting fishery are as follows:

(A) Catcher/processor sector – May 15;

(B) Mothership sector May 15;

(C) Shore-based sector June 15 north of 42° N. lat.; April 1 between 42° – 40°30′ N. lat.

(2) *South of 40°30′ N. lat*. The primary season starts on April 15 south of 40°30′ N. lat.

(3) *Trip limits in the whiting fishery*. The ''per trip'' limit for whiting before and after the regular (primary) season for the shore-based sector is announced in Table 3 of this subpart, and is a routine management measure under § 660.370(c). This trip limit includes any whiting caught shoreward of 100–fm (183–m) in the Eureka, CA area. The ''per trip'' limit for other groundfish species before, during, and after the regular (primary) season are announced in Table 3 (North) and Table 3 (South) of this subpart and apply as follows:

(i) During the groundfish cumulative limit periods both before and after the primary whiting season, vessels may use either small and/or large footrope gear, but are subject to the more restrictive trip limits for those entire cumulative periods.

(ii) During the primary whiting season for a sector of the fishery, then the midwater trip limits apply and are additive to the trip limits for other groundfish species for that fishing period (i.e., vessels are not constrained by the lower midwater limits and can harvest up to a footrope-specific trawl limit plus the midwater trawl limit per species or species group for that cumulative limit period).

(4) *Bycatch limits in the whiting fishery*. The bycatch limits for the whiting fishery may be used inseason to close a sector or sectors of the whiting fishery to achieve the rebuilding of an overfished or depleted stock, under routine management measure authority at § 660.370(c)(1)(ii). These limits are routine management measures under

§ 660.370(c) and, as such, may be adjusted inseason or may have new species added to the list of those with bycatch limits. The whiting fishery bycatch limits for the sectors identified in § 660.323(a) are: 4.7 mt of canary rockfish; 275 mt of widow rockfish; and 40 mt of darkblotched rockfish.

(c) *Closed areas.* Pacific whiting may not be taken and retained in the following portions of the fishery management area:

(1) *Klamath River Salmon Conservation Zone.* The ocean area surrounding the Klamath River mouth bounded on the north by 41°38.80′ N. lat. (approximately 6 nm north of the Klamath River mouth), on the west by 124°23′ W. long. (approximately 12 nm from shore), and on the south by 41°26.80′ N. lat. (approximately 6 nm south of the Klamath River mouth).

(2) *Columbia River Salmon Conservation Zone.* The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nm due west from North Head along 46°18′ N. lat. to 124°13.30′ W. long., then southerly along a line of 167 True to 46°11.10′ N. lat. and 124°11′ W. long. (Columbia River Buoy), then northeast along Red Buoy Line to the tip of the south jetty.

(3) *Ocean Salmon Conservation Zone.* All waters shoreward of a boundary line approximating the 100 fm (183 m) depth contour. Latitude and longitude coordinates defining the boundary line approximating the 100 fm (183 m) depth contour are provided at § 660.393(a). This closure will be implemented through automatic action, defined at 660.370(d), when NMFS projects the Pacific whiting fishery may take in excess of 11,000 Chinook within a calendar year.

(d) *Eureka area trip limits.* Trip landing or frequency limits may be established, modified, or removed under § 660.370 or § 660.373, specifying the amount of Pacific whiting that may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fathom (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka area (from 43 00′ to 40 30′ N. lat.). Unless otherwise specified, no more than 10,000 lb (4,536 kg) of whiting may be taken and retained, possessed, or landed by a vessel that, at any time during a fishing trip, fished in the fishery management area shoreward of the 100 fm (183 m) contour (as shown on NOAA Charts 18580, 18600, and 18620) in the Eureka management area (defined at § 660.302).

(e) *At-sea processing.* Whiting may not be processed at sea south of 42°00′ N. lat. (Oregon-California border), unless by a waste-processing vessel as authorized under paragraph (i) of this section.

(f) *Time of day.* Pacific whiting may not be taken and retained by any vessel in the fishery management area south of 42°00′ N. lat. between 0001 hours to one-half hour after official sunrise (local time). During this time south of 42°00′ N. lat., trawl doors must be on board any vessel used to fish for whiting and the trawl must be attached to the trawl doors. Official sunrise is determined, to the nearest 5° lat., in The Nautical Almanac issued annually by the Nautical Almanac Office, U.S. Naval Observatory, and available from the U.S. Government Printing Office.

(g) *Bycatch reduction and full utilization program for at-sea processors (optional).* If a catcher/processor or mothership in the whiting fishery carries more than one NMFS-approved observer for at least 90 percent of the fishing days during a cumulative trip limit period, then groundfish trip limits may be exceeded without penalty for that cumulative trip limit period, if the conditions in paragraph (g)(1) of this section are met. For purposes of this program, ''fishing day'' means a 24–hour period, from 0001 hours through 2400 hours, local time, in which fishing gear is retrieved or catch is received by the vessel, and will be determined from the vessel's observer data, if available. Changes to the number of observers required for a vessel to participate in the program will be announced prior to the start of the fishery, generally concurrent with the harvest specifications and management measures. Groundfish consumed on board the vessel must be within any applicable trip limit and recorded as retained catch in any applicable logbook or report. [Note: For a mothership, non-whiting groundfish landings are limited by the cumulative

landings limits of the catcher vessels delivering to that mothership.]

(1) *Conditions.* Conditions for participating in the voluntary full utilization program are as follows:

(i) All catch must be made available to the observers for sampling before it is sorted by the crew.

(ii) Any retained catch in excess of cumulative trip limits must either be: Converted to meal, mince, or oil products, which may then be sold; or donated to a bona fide tax-exempt hunger relief organization (including food banks, food bank networks or food bank distributors), and the vessel operator must be able to provide a receipt for the donation of groundfish landed under this program from a tax-exempt hunger relief organization immediately upon the request of an authorized officer.

(iii) No processor or catcher vessel may receive compensation or otherwise benefit from any amount in excess of a cumulative trip limit unless the overage is converted to meal, mince, or oil products. Amounts of fish in excess of cumulative trip limits may only be sold as meal, mince, or oil products.

(iv) The vessel operator must contact the NMFS enforcement office nearest to the place of landing at least 24 hours before landing groundfish in excess of cumulative trip limits for distribution to a hunger relief agency. Cumulative trip limits and a list of NMFS enforcement offices are found on the NMFS, Northwest Region homepage at *www.nwr.noaa.gov*.

(v) If the meal plant on board the whiting processing vessel breaks down, then no further overages may be retained for the rest of the cumulative trip limit period unless the overage is donated to a hunger relief organization.

(vi) Prohibited species may not be retained.

(vii) Donation of fish to a hunger relief organization must be noted in the transfer log (Product Transfer/Offloading Log (PTOL)), in the column for total value, by entering a value of ''0'' or ''donation,'' followed by the name of the hunger relief organization receiving the fish. Any fish or fish product that is retained in excess of trip limits under this rule, whether donated to a hunger relief organization or converted to meal, must be entered separately on the PTOL so that it is distinguishable from fish or fish products that are retained under trip limits. The information on the Mate's Receipt for any fish or fish product in excess of trip limits must be consistent with the information on the PTOL. The Mate's Receipt is an official document that states who takes possession of offloaded fish, and may be a Bill of Lading, Warehouse Receipt, or other official document that tracks the transfer of offloaded fish or fish product. The Mate's Receipt and PTOL must be made available for inspection upon request of an authorized officer throughout the cumulative limit period during which such landings occurred and for 15 days thereafter.

(h) *Additional restrictions on catcher/processors.* (1) A catcher/processor may receive fish from a catcher vessel, but that catch is counted against the catcher/processor allocation unless the catcher/processor has been declared as a mothership under paragraph (h)(3) of this section.

(2) A catcher/processor may not also act as a catcher vessel delivering unprocessed whiting to another processor in the same calendar year.

(3) When renewing its limited entry permit each year under § 660.335, the owner of a catcher/processor used to take and retain whiting must declare if the vessel will operate solely as a mothership in the whiting fishery during the calendar year to which its limited entry permit applies. Any such declaration is binding on the vessel for the calendar year, even if the permit is transferred during the year, unless it is rescinded in response to a written request from the permit holder. Any request to rescind a declaration must be made by the permit holder and granted in writing by the Regional Administrator before any unprocessed whiting has been taken on board the vessel that calendar year.

(i) *Processing fish waste at sea.* A vessel that processes only fish waste (a ''waste-processing vessel'') is not considered a whiting processor and therefore is not subject to the allocations, seasons, or restrictions for catcher/

processors or motherships while it operates as a waste-processing vessel. However, no vessel may operate as a waste-processing vessel 48 hours immediately before and after a primary season for whiting in which the vessel operates as a catcher/processor or mothership. A vessel must meet the following conditions to qualify as a waste-processing vessel:

(1) The vessel makes meal (ground dried fish), oil, or minced (ground flesh) product, but does not make, and does not have on board, surimi (fish paste with additives), fillets (meat from the side of the fish, behind the head and in front of the tail), or headed and gutted fish (head and viscera removed).

(2) The amount of whole whiting on board does not exceed the trip limit (if any) allowed under § 660.370(c).

(3) Any trawl net and doors on board are stowed in a secured and covered manner, and detached from all towing lines, so as to be rendered unusable for fishing.

(4) The vessel does not receive codends containing fish.

(5) The vessel's operations are consistent with applicable state and Federal law, including those governing disposal of fish waste at sea.

(j) *Additional requirements for participants in the Pacific Whiting Shoreside fishery*—(1) *Pacific whiting shoreside first receiver responsibilities*—(i) *Weights and measures*. All groundfish weights reported on fish tickets must be recorded from scales with appropriate weighing capacity that ensures accuracy for the amount of fish being weighed. For example: amounts of fish less than 1,000 lb (454 kg) should not be weighed on scales that have an accuracy range of 1,000 lb–7,000 lb (454 - 3,175 kg) and are therefore not capable of accurately weighing amounts less than 1,000 lb (454 kg).

(ii) *Electronic fish tickets*—(A) *Hardware and software requirements*. First receivers using the electronic fish ticket software provided by Pacific States Marine Fish Commission are required to meet the hardware and software requirements below. Those whiting first receivers who have NMFS-approved software compatible with the standards specified by Pacific States Marine Fish Commission for electronic fish tickets are not subject to any specific hardware or software requirements.

(*1*) A personal computer with Pentium 75–MHz or higher. Random Access Memory (RAM) must have sufficient megabyte (MB) space to run the operating system, plus an additional 8 MB for the software application and available hard disk space of 217 MB or greater. A CD-ROM drive with a Video Graphics Adapter(VGA) or higher resolution monitor (super VGA is recommended).

(*2*) Microsoft Windows 2000 (64 MB or greater RAM required), Windows XP (128 MB or greater RAM required) or later operating system.

(*3*) Microsoft Access 2003 or newer for:

(*i*) *NMFS Approved Software Standards and Internet Access*.

The Pacific whiting shoreside first receiver is responsible for obtaining, installing and updating electronic fish tickets software either provided by Pacific States Marine Fish Commission, or compatible with the data export specifications specified by Pacific States Marine Fish Commission and for maintaining internet access sufficient to transmit data files via email. Requests for data export specifications can be submitted to: Attn: Frank Lockhart, National Marine Fisheries Service, Northwest Region Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA 98115, or via email to *frank.lockhart@noaa.gov*.

(*ii*) *Maintenance*. The Pacific whiting shoreside first receiver is responsible for ensuring that all hardware and software required under this subsection are fully operational and functional whenever the Pacific whiting primary season deliveries are accepted.

(2) Pacific whiting shoreside first receivers and processors that receive groundfish species other than Pacific whiting in excess of trip limits from Pacific whiting shoreside vessels fishing under an EFP issued by the Assistant Regional Administrator are authorized to possess the catch.

(3) Vessel owners and operators, first receivers, or shoreside processor owners, or managers may contact NMFS in writing to request assistance in improving data quality and resolving monitoring issues. Requests may be

submitted to: Attn: Frank Lockhart, National Marine Fisheries Service, Northwest Region Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, WA 98115, or via email to *frank.lockhart@noaa.gov*.

[69 FR 42353, July 15, 2004, as amended at 69 FR 57882, Sept. 28, 2004; 69 FR 77033, Dec. 23, 2004; 70 FR 13119, Mar. 18, 2005; 70 FR 22812, May 3, 2005; 70 FR 58071, Oct. 5, 2005; 71 FR 29262, May 22, 2006; 71 FR 37844, July 3, 2006; 71 FR 58293, Oct. 3, 2006; 71 FR 66140, Nov. 13, 2006; 71 FR 78656, Dec. 29, 2006; 72 FR 13044, Mar. 20, 2007; 72 FR 19398, Apr. 18, 2007; 72 FR 53167, Sept. 18, 2007; 72 FR 56669, Oct. 4, 2007; 72 FR 50911, Sept. 5, 2007; 73 FR 21062, Apr. 18, 2008]

### § 660.380 Groundfish harvest specifications.

Fishery specifications include ABCs, the designation of OYs (which may be represented by harvest guidelines (HGs) or quotas for species that need individual management,) and the allocation of commercial OYs between the open access and limited entry segments of the fishery. These specifications include fish caught in state ocean waters (0–3 nm offshore) as well as fish caught in the EEZ (3–200 nm offshore). Specifications and management measures are provided as Tables 1a and 1b, and 2a and 2b of this subpart.

[69 FR 77033, Dec. 23, 2004]

### § 660.381 Limited entry trawl fishery management measures.

(a) *General*. Limited entry trawl vessels include those vessels registered to a limited entry permit with a trawl endorsement. Most species taken in limited entry trawl fisheries will be managed with cumulative trip limits (see trip limits in Tables 3 (North) and 3 (South) of this subpart), size limits (see § 660.370 (h)(5)), seasons (see Pacific whiting at § 660.373), gear restrictions (see paragraph (b) of this section) and closed areas (see paragraph (d) of this section and §§ 660.390 through 660.399). The trawl fishery has gear requirements and trip limits that differ by the type of trawl gear on board and the area fished. Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (d)(1) of this section and § 660.390). The trip limits in Table 3 (North) and Table 3 (South) of this subpart apply to vessels participating in the limited entry groundfish trawl fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish.

(b) *Trawl gear requirements and restrictions*. Trawl nets may be fished with or without otter boards, and may use warps or cables to herd fish.

(1) *Codends*. Only single-walled codends may be used in any trawl. Double-walled codends are prohibited.

(2) *Mesh size*. Groundfish trawl gear must meet the minimum mesh size requirements in this paragraph. Mesh size requirements apply throughout the net. Minimum trawl mesh sizes are: bottom trawl, 4.5 inches (11.4 cm); midwater trawl, 3.0 inches (7.6 cm). Minimum trawl mesh size requirements are met if a 20–gauge stainless steel wedge, less one thickness of the metal wedge, can be passed with only thumb pressure through at least 16 of 20 sets of two meshes each of wet mesh.

(3) *Chafing gear*. Chafing gear may encircle no more than 50 percent of the net's circumference. No section of chafing gear may be longer than 50 meshes of the net to which it is attached. Chafing gear may be used only on the last 50 meshes, measured from the terminal (closed) end of the codend. Except at the corners, the terminal end of each section of chafing gear on all trawl gear must not be connected to the net. (The terminal end is the end farthest from the mouth of the net.) Chafing gear must be attached outside any riblines and restraining straps. There is no limit on the number of sections of chafing gear on a net.

(4) *Large footrope trawl gear*. Large footrope gear is bottom trawl gear with a footrope diameter larger than 8 inches (20 cm) (including rollers, bobbins or other material encircling or tied along the length of the footrope). Fishing with bottom trawl gear with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins, or other material encircling or tied along the length of the footrope) is prohibited anywhere in EFH within the

EEZ, as defined by latitude/longitude coordinates at § 660.395.

(5) *Small footrope trawl gear.* Small footrope gear is bottom trawl gear with a footrope diameter of 8 inches (20 cm) or smaller (including rollers, bobbins or other material encircling or tied along the length of the footrope). Other lines or ropes that run parallel to the footrope may not be augmented with material encircling or tied along their length such that they have a diameter larger than 8 inches (20 cm). For enforcement purposes, the footrope will be measured in a straight line from the outside edge to the opposite outside edge at the widest part on any individual part, including any individual disk, roller, bobbin, or any other device.

(i) Selective flatfish trawl gear is a type of small footrope trawl gear. The selective flatfish trawl net must be a two-seamed net with no more than two riblines, excluding the codend. The breastline may not be longer than 3 ft (0.92 m) in length. There may be no floats along the center third of the headrope or attached to the top panel except on the riblines. The footrope must be less than 105 ft (32.26 m) in length. The headrope must be not less than 30 percent longer than the footrope. An explanatory diagram of a selective flatfish trawl net is provided as Figure 1 of part 660, subpart G.

(ii) [Reserved]

(6) *Midwater (or pelagic) trawl gear.* Midwater trawl gear must have unprotected footropes at the trawl mouth, and must not have rollers, bobbins, tires, wheels, rubber discs, or any similar device anywhere on any part of the net. The footrope of midwater gear may not be enlarged by encircling it with chains or by any other means. Ropes or lines running parallel to the footrope of midwater trawl gear must be bare and may not be suspended with chains or any other materials. Sweep lines, including the bottom leg of the bridle, must be bare. For at least 20 ft (6.15 m) immediately behind the footrope or headrope, bare ropes or mesh of 16–inch (40.6–cm) minimum mesh size must completely encircle the net. A band of mesh (a ''skirt'') may encircle the net under transfer cables, lifting or splitting straps (chokers), but must be: over riblines and restraining straps; the same mesh size and coincide knot-to-knot with the net to which it is attached; and no wider than 16 meshes.

(c) *Cumulative trip limits and prohibitions by limited entry trawl gear type.* Management measures may vary depending on the type of trawl gear (i.e., large footrope, small footrope, selective flatfish, or midwater trawl gear) used and/or on board a vessel during a fishing trip and the area fished. Trawl nets may be used on and off the seabed. For some species or species groups, Table 3 (North) and Table 3 (South) provide cumulative and/or trip limits that are specific to different types of trawl gear: large footrope, small footrope (including selective flatfish), selective flatfish, and midwater. If Table 3 (North) and Table 3 (South) provide gear specific limits for a particular species or species group, it is unlawful to take and retain, possess or land that species or species group with limited entry trawl gears other than those listed.

(1) *Large footrope trawl gear.* It is unlawful for any vessel using large footrope gear to fish for groundfish shoreward of the RCAs defined at paragraph (d) of this section and at §§ 660.390 through 660.394. The use of large footrope gear is permitted seaward of the RCAs coastwide.

(2) *Small footrope trawl gear.* North of 40°10′ N. lat., it is unlawful for any vessel using small footrope gear (except selective flatfish gear) to fish for groundfish or have small footrope trawl gear (except selective flatfish gear) onboard while fishing shoreward of the RCA defined at paragraph (d) of this section and at §§ 660.390 through 660.394. South of 40°10′ N. lat., small footrope gear is required shoreward of the RCA. Small footrope gear is permitted seaward of the RCA coastwide.

(i) North of 40°10′ N. lat., selective flatfish gear is required shoreward of the RCA defined at paragraph (d) of this section and at §§ 660.390 through 660.394. South of 40°10′ N. lat., selective flatfish gear is permitted, but not required, shoreward of the RCA. The use of selective flatfish trawl gear is permitted seaward of the RCA coastwide.

(ii) [Reserved]

(3) *Midwater trawl gear*. North of 40°10′ N. lat., midwater trawl gear is permitted only for vessels participating in the primary Pacific whiting fishery (for details on the Pacific whiting fishery see § 660.373). South of 40°10′ N. lat., the use of midwater trawl gear is prohibited shoreward of the RCA and permitted seaward of the RCA.

(4) *More than one type of trawl gear on board*. The cumulative trip limits in Table 3 (North) or Table 3 (South) of this subpart must not be exceeded.

(i) The following restrictions apply to vessels operating north of 40°10′ N. lat.:

(A) A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom trawl gear and midwater trawl gear onboard simultaneously. A vessel may have more than one type of limited entry bottom trawl gear on board, either simultaneously or successively, during a cumulative limit period.

(B) If a vessel fishes exclusively with large or small footrope trawl gear during an entire cumulative limit period, the vessel is subject to the small or large footrope trawl gear cumulative limits and that vessel must fish seaward of the RCA during that limit period.

(C) If a vessel fishes exclusively with selective flatfish trawl gear during an entire cumulative limit period, then the vessel is subject to the selective flatfish trawl gear cumulative limits during that limit period, regardless of whether the vessel is fishing shoreward or seaward of the RCA.

(D) If more than one type of bottom trawl gear (selective flatfish, large footrope, or small footrope) is on board, either simultaneously or successively, at any time during a cumulative limit period, then the most restrictive cumulative limit associated with the bottom trawl gear on board during that cumulative limit period applies for the entire cumulative limit period, regardless of whether the vessel is fishing shoreward or seaward of the RCA.

(E) If a vessel fishes both north and south of 40°10′ N. lat. with any type of small footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear (See crossover provisions at § 660.370(h)(8).)

(F) Midwater trawl gear is allowed only for vessels participating in the primary whiting season.

(ii) The following restrictions apply to vessels operating south of 40°10′ N. lat.:

(A) A vessel may not have both groundfish trawl gear and non-groundfish trawl gear onboard simultaneously. A vessel may not have both bottom trawl gear and midwater trawl gear onboard simultaneously. A vessel may not have small footrope trawl gear and any other type of bottom trawl gear onboard simultaneously.

(B) For vessels using more than one type of trawl gear during a cumulative limit period, limits are additive up to the largest limit for the type of gear used during that period. (Example: If a vessel harvests 300 lb (136 kg) of chilipepper rockfish with small footrope gear, it may harvest up to 11,700 lb (5,209 kg) of chilipepper rockfish with large footrope gear during July and August 2007, because the largest cumulative limit for chilipepper rockfish during that period is 12,000 lb (5,443 kg)for large footrope gear.)

(C) If a vessel fishes both north and south of 40°10’ N. lat. with any type of small footrope gear onboard the vessel at any time during the cumulative limit period, the most restrictive trip limit associated with the gear on board applies for that trip and will count toward the cumulative trip limit for that gear (See crossover provisions at § 660.370(h)(8).)

(d) *Groundfish Conservation Areas (GCAs) applicable to trawl vessels*. A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§ 660.390 through 660.394. A vessel that is fishing within a GCA listed in this paragraph(d) with trawl gear authorized for use within a GCA may not have any other type of trawl gear on board the vessel. The following GCAs apply to vessels participating in the limited entry trawl fishery.

(1) *Cowcod Conservation Areas (CCAs).* Vessels using limited entry trawl gear are prohibited from fishing within the CCAs. See § 660.390 for the coordinates that define the CCAs. Limited entry trawl vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00.50′ N. lat., and bounded on the south by the latitude line at 32°59.50′ N. lat. It is unlawful to take and retain, possess, or land groundfish within the CCAs, except as authorized in this paragraph, when those waters are open to fishing.

(2) Farallon Islands. Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands. (See § 660.390)

(3) *Cordell Banks.* Commercial fishing for groundfish is prohibited in waters of depths less than 100–fm (183–m) around Cordell Banks as defined by specific latitude and longitude coordinates at § 660.390.

(4) *Trawl rockfish conservation areas.* The trawl RCAs are closed areas, defined by specific latitude and longitude coordinates which are specified at §§ 660.390 through 660.394. Boundaries for the trawl RCAs applicable to groundfish trawl vessels throughout the year are provided in the header to Table 3 (North) and Table 3 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c).

(i) It is unlawful to operate a vessel with trawl gear onboard within the trawl RCA, except for the purpose of continuous transiting, or when the use of trawl gear is authorized in this section. It is lawful to fish with groundfish trawl gear within the trawl RCA only under the following conditions: vessels fishing with mid-water trawl gear on Pacific whiting trips during the primary whiting season, provided a valid declaration report has been filed with NMFS OLE, as required at § 660.303(d); and vessels fishing with demersal seine gear between 38° N. lat. and 36° N. lat. shoreward of a boundary line approximating the 100 fm (183 m) depth contour as defined at § 660.393, provided a valid declaration report has been filed.

(ii) Trawl vessels may transit through an applicable GCA, with or without groundfish on board, provided all groundfish trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors. These restrictions do not apply to vessels fishing with midwater trawl gear for whiting during a primary season.

(iii) It is unlawful to take and retain, possess, or land groundfish taken with limited entry trawl gear within the trawl RCA, unless otherwise authorized in this section.

(iv) If a vessel fishes in the trawl RCA, it may not participate in any fishing on that trip that is prohibited within the trawl RCA. [For example, if a vessel participates in the pink shrimp fishery within the RCA, the vessel cannot on the same trip participate in the DTS fishery seaward of the RCA.] Nothing in these Federal regulations supercedes any state regulations that may prohibit trawling shoreward of the fishery management area (3–200 nm).

(5) *Essential Fish Habitat Conservation Areas.* An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§ 660.395 through 660.399, where specified types of fishing are prohibited in accordance with § 660.306. EFHCAs apply to vessels using bottom trawl gear or to vessels using ''bottom contact gear,'' which is defined at § 660.302 to include bottom trawl gear, among other gear types.

(i) The following EFHCAs apply to vessels operating within the West Coast EEZ with bottom trawl gear:

(A) *Seaward of a boundary line approximating the 700–fm (1280–m) depth contour.* Fishing with bottom trawl gear is prohibited in waters of depths greater than 700 fm (1280 m) within the EFH, as defined by specific latitude and longitude coordinates at § 660.395 and § 660.396.

(B) *Shoreward of a boundary line approximating the 100–fm (183 m) depth contour.* Fishing with bottom trawl gear with a footrope diameter greater than 8 inches (20 cm) is prohibited in waters shoreward of a boundary line approximating the 100–fm (183–m) depth contour, as defined by specific latitude and longitude coordinates at § 660.393.

(C) *EFHCAs for all bottom trawl gear.* Fishing with bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at § 660.397 - .398: Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Astoria Canyon, Nehalem Bank/Shale Pile, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, Rogue Canyon.

(D) *EFHCAs for all bottom trawl gear, except demersal seine gear.* Fishing with bottom trawl gear except demersal seine gear (defined at § 660.302) is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at § 660.399: Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East.

(ii) *EFHCAs for bottom contact gear, which includes bottom trawl gear.* Fishing with bottom contact gear, including bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.398 through 660.399: Thompson Seamount, President Jackson Seamount, Cordell Bank (50 fm (91 m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined with specific latitude and longitude coordinates at § 660.395.

[69 FR 77033, Dec. 23, 2004, as amended at 70 FR 16149, Mar. 30, 2005; 70 FR 23045, May 4, 2005; 71 FR 78657, Dec. 29, 2006; 72 FR 69171, Dec. 7, 2007]

### § 660.382 Limited entry fixed gear fishery management measures.

(a) *General.* Most species taken in limited entry fixed gear (longline and pot/trap) fisheries will be managed with cumulative trip limits (see trip limits in Tables 4 (North) and 4 (South) of this subpart), size limits (see § 660.370(h)(5)), seasons (see trip limits in Tables 4 (North) and 4 (South) of this subpart and primary sablefish season details in § 660.372(b)), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (c) of this section and §§ 660.390 through 660.399). Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (c)(4) of this section and § 660.390). Yelloweye rockfish and canary rockfish retention is prohibited in the limited entry fixed gear fisheries. Regulations governing and tier limits for the limited entry, fixed gear primary sablefish season north of 36° N. lat. are found in § 660.372. Vessels not participating in the primary sablefish season are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see § 660.371. The trip limits in Table 4 (North) and Table 4 (South) of this subpart apply to vessels participating in the limited entry groundfish fixed gear fishery and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally-managed groundfish.

(b) *Gear Restrictions*—(1) *General.* The following types of fishing gear are authorized in the limited entry fixed gear fishery, with the restrictions set forth in this section: longline and pot or trap. Vessels participating in the limited entry fixed gear fishery may also fish with open access gear subject to the gear restrictions at § 660.383(b), but will be subject to the most restrictive trip limits for the gear used as specified at § 660.370(h)(7).

(2) *Limited entry fixed gear.* (i) Fixed gear (longline, trap or pot) must be:

(A) Marked at the surface, at each terminal end, with a pole, flag, light, radar reflector, and a buoy.

(B) Attended at least once every 7 days.

(ii) A buoy used to mark fixed gear under paragraph (b)(2)(i)(A) of this section must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either:

(A) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or

(B) The vessel documentation number issued by the USCG, or, for an undocumented vessel, the vessel registration number issued by the state.

(3) *Traps or pots.* Traps must have biodegradable escape panels constructed with 21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches (20.3 cm) in diameter results when the twine deteriorates.

(c) *Groundfish Conservation Areas applicable to limited entry fixed gear vessels.* A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. The latitude and longitude coordinates of the GCA boundaries are specified at §§ 660.390 through 660.394. A vessel that is authorized by this paragraph to fish within a GCA (e.g. fishing for ''other flatfish'' using no more than 12 hooks, ''Number 2'' or smaller), may not simultaneously have other gear on board the vessel that is unlawful to use for fishing within the GCA. The following GCAs apply to vessels participating in the limited entry fixed gear fishery.

(1) *North Coast Recreational Yelloweye Rockfish Conservation Area.* The latitude and longitude coordinates of the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at § 660.390. The North Coast Recreational YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishers.

(2) *North Coast Commercial Yelloweye Rockfish Conservation Area.* The latitude and longitude coordinates of the North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at § 660.390. Fishing with limited entry fixed gear is prohibited within the North Coast Commercial YRCA. It is unlawful to take and retain, possess, or land groundfish taken with limited entry fixed gear within the North Coast Commercial YRCA. Limited entry fixed gear vessels may transit through the North Coast Commercial YRCA with or without groundfish on board.

(3) *South Coast Recreational Yelloweye Rockfish Conservation Area.* The latitude and longitude coordinates of the South Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at § 660.390. The South Coast Recreational YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishers.

(4) *Cowcod Conservation Areas.* The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at § 660.390. It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this paragraph caught according to gear requirements in this paragraph, when those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00.50′ N. lat., and bounded on the south by the latitude line at 32°59.50′ N. lat. Fishing with limited entry fixed gear is prohibited within the CCAs, except as follows:

(i) Fishing for ''other flatfish'' is permitted within the CCAs under the following conditions: when using no more

than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line; and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(ii) Fishing for rockfish and lingcod is permitted shoreward of the 20 fm (37 m) depth contour within the CCAs when trip limits authorize such fishing, and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(5) *Non-trawl Rockfish Conservation Areas (RCA).* The non-trawl RCAs are closed areas, defined by specific latitude and longitude coordinates (specified at §§ 660.390 through 660.394) designed to approximate specific depth contours, where fishing for groundfish with non-trawl gear is prohibited. Boundaries for the non-trawl RCA throughout the year are provided in the header to Table 4 (North) and Table 4 (South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c).

(i) It is unlawful to operate a vessel with limited entry non-trawl gear in the non-trawl RCA, except for the purpose of continuous transit, or when the use of limited entry non-trawl gear is authorized in Part 660. It is unlawful to take and retain, possess, or land groundfish taken with limited entry non-trawl gear within the non-trawl RCA, unless otherwise authorized in Part 660.

(ii) Limited entry non-trawl vessels may transit through the non-trawl RCA, with or without groundfish on board, provided all groundfish non-trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all lines, so that it is rendered unusable for fishing.

(iii) The non-trawl RCA restrictions in this section apply to vessels registered to fixed gear limited entry permits fishing for species other than groundfish with non-trawl gear on trips where groundfish species are retained. Unless otherwise authorized by Part 660, a vessel may not retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the non-trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-trawl RCA, it may not participate in any fishing for groundfish on that trip that is prohibited within the non-trawl RCA. [For example, if a vessel participates in the salmon troll fishery within the RCA, the vessel cannot on the same trip participate in the sablefish fishery outside of the RCA.]

(iv) It is lawful to fish within the non-trawl RCA with limited entry fixed gear only under the following conditions: when fishing for ''other flatfish'' off California (between 42° N. lat. south to the U.S./Mexico border) using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1–lb (0.91 kg) weights per line when trip limits authorize such fishing, provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(6) *Farallon Islands.* Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands. An exception to this prohibition is that commercial fishing for ''other flatfish'' is permitted around the Farallon Islands using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1–lb (0.45–kg) weights per line. (See Table 4 (South) of this subpart.) For a definition of the Farallon Islands, see § 660.390.

(7) *Cordell Banks.* Commercial fishing for groundfish is prohibited in waters of depths less than 100 fm (183 m) around Cordell Banks, as defined by specific latitude and longitude coordinates at § 660.390. An exception to this prohibition is that commercial fishing for ''other flatfish'' is permitted around Cordell Banks using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1–lb (0.45–kg) weights per line.

(8) *Essential Fish Habitat Conservation Areas.* An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§ 660.396 through 660.399, where specified types of fishing are prohibited in accordance

with § 660.306. EFHCAs apply to vessels using ''bottom contact gear,'' which is defined at § 660.302 to include limited entry fixed gear (longline and pot/trap,) among other gear types. Fishing with all bottom contact gear, including longline and pot/trap gear, is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at § 660.398 and § 660.399: Thompson Seamount, President Jackson Seamount, Cordell Bank (50 fm (91 m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined by specific latitude and longitude coordinates at § 660.395.

[69 FR 77035, Dec. 23, 2004, as amended at 71 FR 24604, Apr. 26, 2006; 71 FR 78657, Dec. 29, 2006; 72 FR 69172, Dec. 7, 2007]

### § 660.383 Open access fishery management measures.

(a) *General*. Groundfish species taken in open access fisheries will be managed with cumulative trip limits (see trip limits in Tables 5 (North) and 5 (South) of this subpart), size limits (see § 660.370(h)(5)), seasons (see seasons in Tables 5 (North) and 5 (South) of this subpart), gear restrictions (see paragraph (b) of this section), and closed areas (see paragraph (c) of this section and §§ 660.390 through 660.399). Unless otherwise specified, a vessel operating in the open access fishery is subject to, and must not exceed any trip limit, frequency limit, and/or size limit for the open access fishery. Cowcod retention is prohibited in all fisheries and groundfish vessels operating south of Point Conception must adhere to CCA restrictions (see paragraph (c)(5) of this section and § 660.390). Retention of yelloweye rockfish and canary rockfish is prohibited in all open access fisheries. For information on the open access daily/weekly trip limit fishery for sablefish, see § 660.372(c) and the trip limits in Tables 5 (North) and 5 (South) of this subpart. Open access vessels are subject to daily or weekly sablefish limits in addition to cumulative limits for each cumulative limit period. Only one sablefish landing per week may be made in excess of the daily trip limit and, if the vessel chooses to make a landing in excess of that daily trip limit, then that is the only sablefish landing permitted for that week. The trip limit for black rockfish caught with hook-and-line gear also applies, see § 660.371. The trip limits in Table 5 (North) and Table 5 (South) of this subpart apply to vessels participating in the open access fisheries and may not be exceeded. Federal commercial groundfish regulations are not intended to supersede any more restrictive state commercial groundfish regulations relating to federally managed groundfish.

(b) *Gear restrictions*. Open access gear is gear used to take and retain groundfish from a vessel that is not registered for use with a limited entry permit for the Pacific Coast groundfish fishery with an endorsement for the gear used to harvest the groundfish. This includes longline, trap, pot, hook-and-line (fixed or mobile), setnet (anchored gillnet or trammel net, which are permissible south of 38° N. lat. only), spear and non-groundfish trawl gear (trawls used to target non-groundfish species: pink shrimp or ridgeback prawns, and, south of Pt. Arena, CA (38°57.50′ N. lat.), California halibut or sea cucumbers). Restrictions for gears used in the open access fisheries are as follows:

(1) *Non-groundfish trawl gear*. Non-groundfish trawl gear is any trawl gear other than limited entry groundfish trawl gear as described at § 660.381(b) and as defined at § 660.302 for trawl vessels with limited entry groundfish permits. Non-groundfish trawl gear is generally trawl gear used to target pink shrimp, ridgeback prawn, California halibut and sea cucumber. Non-groundfish trawl gear is exempt from the limited entry trawl gear restrictions at § 660.381(b). Fishing with bottom trawl gear with a footrope diameter greater than 19 inches (48 cm) (including rollers, bobbins, or other material encircling ro tied along the length of the footrope) is prohibited anywhere in EFH within the EEZ, as defined by latitude/longitude coordinates at § 660.395.

(2) *Fixed gear*. (i) Fixed gear (longline, trap or pot, set net and stationary hook-and-line gear, including commercial vertical hook-and-line gear) must be:

(A) Marked at the surface, at each terminal end, with a pole, flag, light, radar reflector, and a buoy except as provided in paragraph (b)(2)(ii) of this section.

(B) Attended at least once every 7 days.

(ii) Commercial vertical hook-and-line gear that is closely tended may be marked only with a single buoy of sufficient size to float the gear. ''Closely tended'' means that a vessel is within visual sighting distance or within 0.25 nm (463 m) as determined by electronic navigational equipment, of its commercial vertical hook-and-line gear.

(iii) A buoy used to mark fixed gear under paragraph (b)(2)(i)(A) or (b)(2)(ii) of this section must be marked with a number clearly identifying the owner or operator of the vessel. The number may be either:

(A) If required by applicable state law, the vessel's number, the commercial fishing license number, or buoy brand number; or

(B) The vessel documentation number issued by the USCG, or, for an undocumented vessel, the vessel registration number issued by the state.

(3) *Set nets*. Fishing for groundfish with set nets is prohibited in the fishery management area north of 38°00.00′ N. lat.

(4) *Traps or pots*. Traps must have biodegradable escape panels constructed with 21 or smaller untreated cotton twine in such a manner that an opening at least 8 inches (20.3 cm) in diameter results when the twine deteriorates.

(5) *Spears*. Spears may be propelled by hand or by mechanical means.

(c) *Groundfish Conservation Areas Affecting Open Access Vessels*. A GCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude. A vessel that is authorized by this paragraph to fish within a GCA (e.g. fishing for ''other flatfish'' using no more than 12 hooks, ''Number 2'' or smaller), may not simultaneously have other gear on board the vessel that is unlawful to use for fishing within the GCA. The following GCAs apply to vessels participating in the open access groundfish fishery.

(1) *North Coast Recreational Yelloweye Rockfish Conservation Area*. The latitude and longitude coordinates of the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at § 660.390. The North Coast Recreational YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishers.

(2) *North Coast Commercial Yelloweye Rockfish Conservation Area*. The latitude and longitude coordinates of the North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at § 660.390. Fishing with open access gear is prohibited within the North Coast Commercial YRCA. It is unlawful to take and retain, possess, or land groundfish taken with open access gear within the North Coast Commercial YRCA. Open access vessels may transit through the North Coast Commercial YRCA with or without groundfish on board.

(3) *South Coast Recreational Yelloweye Rockfish Conservation Area*. The latitude and longitude coordinates of the South Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified at § 660.390. The South Coast Recreational YRCA is designated as an area to be avoided (a voluntary closure) by commercial fixed gear fishers.

(4) *Salmon Troll Yelloweye Rockfish Conservation Area*. The latitude and longitude coordinates of the Salmon Troll Yelloweye Rockfish Conservation Area (YRCA) boundaries are specified in the groundfish regulations at § 660.390 and in the salmon regulations at § 660.405. Fishing with salmon troll gear is prohibited within the Salmon Troll YRCA. It is unlawful for commercial salmon troll vessels to take and retain, possess, or land fish taken with salmon troll gear within the Salmon Troll YRCA. Open access vessels may transit through the Salmon Troll YRCA with or without fish on board.

(5) *Cowcod Conservation Areas*. The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at § 660.390. It

is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this paragraph caught according to gear requirements in this paragraph, when those waters are open to fishing. Commercial fishing vessels may transit through the Western CCA with their gear stowed and groundfish on board only in a corridor through the Western CCA bounded on the north by the latitude line at 33°00.50′ N. lat., and bounded on the south by the latitude line at 32°59.50′ N. lat. Fishing with open access gear is prohibited in the CCAs, except as follows:

(i) Fishing for ''other flatfish'' is permitted within the CCAs under the following conditions: when using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line; and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(ii) Fishing for rockfish and lingcod is permitted shoreward of the 20 fm (37 m) depth contour within the CCAs when trip limits authorize such fishing, and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(6) *Non-trawl Rockfish Conservation Areas for the open access fisheries.* The non-trawl RCAs are closed areas, defined by specific latitude and longitude coordinates (specified at §§ 660.390 through 660.394) designed to approximate specific depth contours, where fishing for groundfish with non-trawl gear is prohibited. Boundaries for the non-trawl RCA throughout the year are provided in the open access trip limit tables, Table 5 (North) and Table 5(South) of this subpart and may be modified by NMFS inseason pursuant to § 660.370(c).

(i) It is unlawful to operate a vessel in the non-trawl RCA that has non-trawl gear onboard and is not registered to a limited entry permit on a trip in which the vessel is used to take and retain or possess groundfish in the EEZ, or land groundfish taken in the EEZ, except for the purpose of continuous transiting, or when the use of non-trawl gear is authorized in part 660.

(ii) On any trip on which a groundfish species is taken with non-trawl open access gear and retained, the open access non-trawl vessel may transit through the non-trawl RCA only if all groundfish non-trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all lines, so that it is rendered unusable for fishing.

(iii) The non-trawl RCA restrictions in this section apply to vessels taking and retaining or possessing groundfish in the EEZ, or landing groundfish taken in the EEZ. Unless otherwise authorized by Part 660, a vessel may not retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the non-trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-trawl RCA, it may not participate in any fishing for groundfish on that trip that is prohibited within the non-trawl RCA. [For example, if a vessel participates in the salmon troll fishery within the RCA, the vessel cannot on the same trip participate in the sablefish fishery outside of the RCA.]

(iv) Fishing for ''other flatfish'' off California (between 42° N. lat. south to the U.S./Mexico border) is permitted within the non-trawl RCA with fixed gear only under the following conditions: when using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1–lb (0.91 kg) weights per line when trip limits authorize such fishing; and provided a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE.

(7) *Non-groundfish Trawl Rockfish Conservation Areas for the open access non-groundfish trawl fisheries.* The non-groundfish trawl RCAs are closed areas, defined by specific latitude and longitude coordinates (specified at §§ 660.390 through 660.394) designed to approximate specific depth contours, where fishing for groundfish with non-trawl gear is prohibited. Boundaries for the non-trawl RCA throughout the year are provided in the open access trip limit tables, Table 5 (North) and Table 5 (South) of this subpart and

may be modified by NMFS inseason pursuant to § 660.370(c).

(i) It is unlawful to operate in the non-groundfish trawl RCA with non-groundfish trawl gear onboard, except for the purpose of continuous transiting, or when the use of trawl gear is authorized in part 660. It is unlawful to take and retain, possess, or land groundfish taken with non-groundfish trawl gear within the non-trawl RCA, unless otherwise authorized in part 660.

(ii) Non-groundfish trawl vessels may transit through the non-groundfish trawl RCA, with or without groundfish on board, provided all non-groundfish trawl gear is stowed either: below deck; or if the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors.

(iii) The non-groundfish trawl RCA restrictions in this section apply to vessels taking and retaining or possessing groundfish in the EEZ, or landing groundfish taken in the EEZ. Unless otherwise authorized by Part 660, it is unlawful for a vessel to retain any groundfish taken on a fishing trip for species other than groundfish that occurs within the non-groundfish trawl RCA. If a vessel fishes in a non-groundfish fishery in the non-groundfish trawl RCA, it may not participate in any fishing on that trip that is prohibited within the non-groundfish trawl RCA. [For example, if a vessel participates in the pink shrimp fishery within the RCA, the vessel cannot on the same trip participate in the DTS fishery seaward of the RCA.] Nothing in these Federal regulations supercedes any state regulations that may prohibit trawling shoreward of the fishery management area (3–200 nm).

(iv) It is lawful to fish with non-groundfish trawl gear within the non-groundfish trawl RCA only under the following conditions:

(A) Pink shrimp trawling is permitted in the non-groundfish trawl RCA when a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE. Groundfish caught with pink shrimp trawl gear may be retained anywhere in the EEZ and are subject to the limits in Table 5 (North) and Table 5 (South) of this subpart.

(B) When the shoreward line of the trawl RCA is shallower than 100 fm (183 m), vessels using ridgeback prawn trawl gear south of 34°27.00′ N. lat. may operate out to the 100 fm (183 m) boundary line specified at § 660.393 when a valid declaration report as required at § 660.303(d) has been filed with NMFS OLE. Groundfish caught with ridgeback prawn trawl gear are subject to the limits in Table 5 (North) and Table 5 (South) of this subpart.

(8) *Farallon Islands.* Under California law, commercial fishing for all groundfish is prohibited between the shoreline and the 10 fm (18 m) depth contour around the Farallon Islands. An exception to this prohibition is that commercial fishing for ''other flatfish'' is permitted around the Farallon Islands using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line. (See Table 5 (South) of this subpart.) For a definition of the Farallon Islands, see § 660.390.

(9) *Cordell Banks.* Commercial fishing for groundfish is prohibited in waters of depths less than 100–fm (183–m) around Cordell Banks, as defined by specific latitude and longitude coordinates at § 660.390. An exception to this prohibition is that commercial fishing for ''other flatfish'' is permitted around Cordell Banks using no more than 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line.

(10) *Essential Fish Habitat Conservation Areas.* An EFHCA, a type of closed area, is a geographic area defined by coordinates expressed in degrees of latitude and longitude at §§ 660.396 through 660.399, where specified types of fishing are prohibited in accordance with § 660.306. EFHCAs apply to vessels using bottom trawl gear and or vessels using ''bottom contact gear,'' which is defined at § 660.302 and includes, but is not limited to: beam trawl, bottom trawl, dredge, fixed gear, set net, demersal seine, dinglebar gear, and other gear (including experimental

gear) designed or modified to make contact with the bottom.

(i) The following EFHCAs apply to vessels operating within the West Coast EEZ with bottom trawl gear:

(A) *Seaward of a boundary line approximating the 700–fm (1280–m) depth contour*. Fishing with bottom trawl gear is prohibited in waters of depths greater than 700 fm (1280 m) within the EFH, as defined by specific latitude and longitude coordinates at § 660.395 and § 660.396.

(B) *Shoreward of a boundary line approximating the 100–fm (183–m) depth contour*. Fishing with bottom trawl gear with a footrope diameter greater than 8 inches (20 cm) is prohibited in waters shoreward of a boundary line approximating the 100–fm (183–m) depth contour, as defined by specific latitude and longitude coordinates at § 660.393.

(C) *EFHCAs for all bottom trawl gear*. Fishing with all bottom trawl gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.397 through 660.398: Olympic 2, Biogenic 1, Biogenic 2, Grays Canyon, Biogenic 3, Astoria Canyon, Nehalem Bank/Shale Pile, Siletz Deepwater, Daisy Bank/Nelson Island, Newport Rockpile/Stonewall Bank, Heceta Bank, Deepwater off Coos Bay, Bandon High Spot, Rogue Canyon.

(ii) *EFHCAs for all bottom trawl gear, except demersal seine gear*. Fishing with all bottom trawl gear except demersal seine gear (defined at § 660.302) is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at § 660.399: Eel River Canyon, Blunts Reef, Mendocino Ridge, Delgada Canyon, Tolo Bank, Point Arena North, Point Arena South Biogenic Area, Cordell Bank/Biogenic Area, Farallon Islands/Fanny Shoal, Half Moon Bay, Monterey Bay/Canyon, Point Sur Deep, Big Sur Coast/Port San Luis, East San Lucia Bank, Point Conception, Hidden Reef/Kidney Bank (within Cowcod Conservation Area West), Catalina Island, Potato Bank (within Cowcod Conservation Area West), Cherry Bank (within Cowcod Conservation Area West), and Cowcod EFH Conservation Area East.

(iii) *EFHCAs for bottom contact gear, which includes bottom trawl gear*. Fishing with bottom contact gear is prohibited within the following EFHCAs, which are defined by specific latitude and longitude coordinates at §§ 660.398–.399: Thompson Seamount, President Jackson Seamount, Cordell Bank (50–fm (91–m) isobath), Harris Point, Richardson Rock, Scorpion, Painted Cave, Anacapa Island, Carrington Point, Judith Rock, Skunk Point, Footprint, Gull Island, South Point, and Santa Barbara. Fishing with bottom contact gear is also prohibited within the Davidson Seamount EFH Area, which is defined by specific latitude and longitude coordinates at § 660.395.

(d) *Groundfish taken with non-groundfish trawl gear by vessels engaged in fishing for ridgeback prawns, California halibut, or sea cucumbers*. Trip limits for groundfish retained in the ridgeback prawn, California halibut, or sea cucumber fisheries are in the open access trip limit table, Table 5 (South) of this subpart. The table also generally describes the RCAs for vessels participating in these fisheries.

(1) *Participation in the ridgeback prawn fishery*. A trawl vessel will be considered participating in the ridgeback prawn fishery if:

(i) It is not registered to a valid Federal limited entry groundfish permit issued under § 660.333 for trawl gear; and

(ii) The landing includes ridgeback prawns taken in accordance with California Fish and Game Code, section 8595, which states: ''Prawns or shrimp may be taken for commercial purposes with a trawl net, subject to Article 10 (commencing with Section 8830) of Chapter 3.''

(2) *Participation in the California halibut fishery*. A trawl vessel will be considered participating in the California halibut fishery if:

(i) It is not registered to a valid Federal limited entry groundfish permit issued under § 660.333 for trawl gear;

(ii) All fishing on the trip takes place south of Pt. Arena, CA (38°57.50′ N. lat.); and

(iii) The landing includes California halibut of a size required by California Fish and Game Code section 8392(a), which states: ''No California halibut may be taken, possessed or sold which measures less than 22 in (56 cm) in

total length, unless it weighs 4 lb (1.8144 kg) or more in the round, 3 and one-half lbs (1.587 kg) or more dressed with the head on, or 3 lbs (1.3608 kg) or more dressed with the head off. Total length means the shortest distance between the tip of the jaw or snout, whichever extends farthest while the mouth is closed, and the tip of the longest lobe of the tail, measured while the halibut is lying flat in natural repose, without resort to any force other than the swinging or fanning of the tail.''

(3) *Participation in the sea cucumber fishery*. A trawl vessel will be considered to be participating in the sea cucumber fishery if:

(i) It is not registered to a valid Federal limited entry groundfish permit issued under § 660.333 for trawl gear;

(ii) All fishing on the trip takes place south of Pt. Arena, CA (38°57.50′ N. lat.); and

(iii) The landing includes sea cucumbers taken in accordance with California Fish and Game Code, section 8405, which requires a permit issued by the State of California.

(e) *Groundfish taken with non-groundfish trawl gear by vessels engaged in fishing for pink shrimp*. Trip limits for groundfish retained in the pink shrimp fishery are in Tables 5 (North) and 5 (South) of this subpart. Notwithstanding § 660.370(h)(7), a vessel that takes and retains pink shrimp and also takes and retains groundfish in either the limited entry or another open access fishery during the same applicable cumulative limit period that it takes and retains pink shrimp (which may be 1 month or 2 months, depending on the fishery and the time of year), may retain the larger of the two limits, but only if the limit(s) for each gear or fishery are not exceeded when operating in that fishery or with that gear. The limits are not additive; the vessel may not retain a separate trip limit for each fishery.

[69 FR 77036, Dec. 23, 2004, as amended at 70 FR 38599, July 5, 2005; 70 FR 65862, Nov. 1, 2005; 71 FR 8497, Feb. 17, 2006; 71 FR 24605, Apr. 26, 2006; 71 FR 78658, Dec. 29, 2006; 72 FR 69173, Dec. 7, 2007]

## § 660.384 Recreational fishery management measures.

(a) *General*. Federal recreational groundfish regulations are not intended to supersede any more restrictive state recreational groundfish regulations relating to federally-managed groundfish. The bag limits include fish taken in both state and Federal waters.

(b) *Gear restrictions*. The only types of fishing gear authorized for recreational fishing are hook-and-line and spear. Spears may be propelled by hand or by mechanical means. More fishery-specific gear restrictions may be required by state as noted in paragraph (c) of this section (e.g. California's recreational ''other flatfish'' fishery).

(c) *State-specific recreational fishery management measures*. Federal recreational groundfish regulations are not intended to supersede any more restrictive State recreational groundfish regulations relating to federally-managed groundfish. Off the coast of Washington, Oregon, and California, boat limits apply, whereby each fisher aboard a vessel may continue to use angling gear until the combined daily limits of groundfish for all licensed and juvenile anglers aboard has been attained (additional state restrictions on boat limits may apply).

(1) *Washington*. For each person engaged in recreational fishing off the coast of Washington, the groundfish bag limit is 15 groundfish per day, including rockfish and lingcod, and is open year-round (except for lingcod). In the Pacific halibut fisheries, retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the FEDERAL REGISTER. South of Leadbetter Point, WA to the Washington/Oregon border, when Pacific halibut are onboard the vessel, no groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod. The following sublimits and closed areas apply:

(i) *Recreational Groundfish Conservation Areas off Washington*.

(A) *North Coast Recreational Yelloweye Rockfish Conservation Area*. Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish

Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land groundfish taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any groundfish. Recreational vessels may transit through the North Coast Recreational YRCA with or without groundfish on board. The North Coast Recreational YRCA is defined by latitude and longitude coordinates specified at § 660.390.

(B) *South Coast Recreational Yelloweye Rockfish Conservation Area.* Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land groundfish taken with recreational gear within the South Coast Recreational YRCA. A vessel fishing in the South Coast Recreational YRCA may not be in possession of any groundfish. Recreational vessels may transit through the South Coast Recreational YRCA with or without groundfish on board. The South Coast Recreational YRCA is defined by latitude and longitude coordinates specified at § 660.390.

(C) *Recreational Rockfish Conservation Area.* Fishing for groundfish with recreational gear is prohibited within the recreational RCA. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA. A vessel fishing in the recreational RCA may not be in possession of any groundfish. [For example, if a vessel participates in the recreational salmon fishery within the RCA, the vessel cannot be in possession of groundfish while in the RCA. The vessel may, however, on the same trip fish for and retain groundfish shoreward of the RCA on the return trip to port.]

(*1*) Between the U.S. border with Canada and the Queets River, recreational fishing for groundfish is prohibited seaward of a boundary line approximating the 20-fm (37-m) depth contour from May 21 through September 30, except on days when the Pacific halibut fishery is open in this area. Days open to Pacific halibut recreational fishing off Washington are announced on the NMFS hotline at (206) 526–6667 or (800) 662–9825. Coordinates for the boundary line approximating the 20-fm (37-m) depth contour are listed in § 660.391.

(*2*) Between the Queets River and Leadbetter Point, recreational fishing for groundfish is prohibited seaward of a boundary line approximating the 30-fm (55-m) depth contour from March 17, 2007, through June 15, 2007, except that recreational fishing for sablefish and Pacific cod is permitted within the recreational RCA from May 1 through June 15. In 2008, recreational fishing for groundfish is prohibited seaward of a boundary line approximating the 30-fm (55-m) depth contour in from March 15, 2008, through June 15, 2008, except that recreational fishing for sablefish and Pacific cod is permitted within the recreational RCA from May 1 through June 15. Coordinates for the boundary line approximating the 30-fm (55-m) depth contour are listed in § 660.391.

(ii) *Rockfish.* In areas of the EEZ seaward of Washington that are open to recreational groundfish fishing, there is a 10 rockfish per day bag limit. Taking and retaining canary rockfish and yelloweye rockfish is prohibited.

(iii) *Lingcod.* In areas of the EEZ seaward of Washington that are open to recreational groundfish fishing and when the recreational season for lingcod is open, there is a bag limit of 2 lingcod per day, which may be no smaller than 22 in (56 cm) total length. The recreational fishing season for lingcod is open as follows:

(A) Between the U.S./Canada border to 48°10′ N. lat. (Cape Alava) (Washington Marine Area 4), recreational fishing for lingcod is open, for 2007, from April 15 through October 13, and for 2008, from April 15 through October 15.

(B) Between 48°10′ N. lat. (Cape Alava) and 46°16′ N. lat. (Washington/Oregon border) (Washington Marine Areas 1–3), recreational fishing for lingcod is open for 2007, from March 17 through October 13, and for 2008, from March 15 through October 18.

(2) *Oregon*—(i) *Recreational Groundfish Conservation Areas off Oregon.*(A) *Stonewall Bank Yelloweye Rockfish Conservation Area.* Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is

unlawful for recreational fishing vessels to take and retain, possess, or land groundfish taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not be in possession of any groundfish. Recreational vessels may transit through the Stonewall Bank YRCA with or without groundfish on board. The Stonewall Bank YRCA is defined by latitude and longitude coordinates specified at § 660.390.

(B) *Recreational Rockfish Conservation Area.* Fishing for groundfish with recreational gear is prohibited within the recreational RCA, a type of closed area or GCA. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA. A vessel fishing in the recreational RCA may not be in possession of any groundfish. [For example, if a vessel participates in the recreational salmon fishery within the RCA, the vessel cannot be in possession of groundfish while in the RCA. The vessel may, however, on the same trip fish for and retain groundfish shoreward of the RCA on the return trip to port.] Off Oregon, from April 1 through September 30, recreational fishing for groundfish is prohibited seaward of a recreational RCA boundary line approximating the 40 fm (73 m) depth contour. Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are listed at § 660.391.

(C) *Essential Fish Habitat Conservation Areas.* The Essential Fish Habitat Conservation Areas (EFHCAs) are closed areas, defined by specific latitude and longitude coordinates at §§ 660.396 through 660.399, where specified types of fishing are prohibited. Prohibitions applying to specific EFHCAs are found at § 660.306.

(ii) *Seasons.* Recreational fishing for groundfish is open from January 1 through December 31, subject to the closed areas described in paragraph (c)(2) of this section.

(iii) *Bag limits, size limits.* The bag limits for each person engaged in recreational fishing in the EEZ seaward of Oregon are two lingcod per day, which may be no smaller than 22 in (56 cm) total length; and 8 marine fish per day, which excludes Pacific halibut, salmonids, tuna, perch species, sturgeon, sanddabs, flatfish, lingcod, striped bass, hybrid bass, offshore pelagic species and baitfish (herring, smelt, anchovies and sardines), but which includes rockfish, greenling, cabezon and other groundfish species. The bag limit for all flatfish is 25 fish per day, which excludes Pacific halibut, but which includes all soles, flounders and Pacific sanddabs. In the Pacific halibut fisheries, retention of groundfish is governed in part by annual management measures for Pacific halibut fisheries, which are published in the FEDERAL REGISTER. Between the Oregon border with Washington and Cape Falcon, when Pacific halibut are onboard the vessel, groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod. Between Cape Falcon and Humbug Mountain, during days open to the Oregon Central Coast ''all-depth'' sport halibut fishery, when Pacific halibut are onboard the vessel, no groundfish may be taken and retained, possessed or landed, except sablefish. ''All-depth'' season days are established in the annual management measures for Pacific halibut fisheries, which are published in the FEDERAL REGISTER and are announced on the NMFS halibut hotline, 1 800 662 9825. The minimum size limit for cabezon retained in the recreational fishery is 16 in (41 cm), and for greenling is 10 in (26 cm). Taking and retaining canary rockfish and yelloweye rockfish is prohibited at all times and in all areas. From October 1 through December 31, 2007, taking and retaining cabezon is prohibited in all areas by boat anglers.

(3) *California.* Seaward of California, California law provides that, in times and areas when the recreational fishery is open, there is a 20 fish bag limit for all species of finfish, within which no more than 10 fish of any one species may be taken or possessed by any one person. [Note: There are some exceptions to this rule. The following groundfish species are not subject to a bag limit: petrale sole, Pacific sanddab and starry flounder.] For groundfish species not specifically mentioned in this paragraph, fishers are subject to

the overall 20–fish bag limit for all species of finfish and the depth restrictions at paragraph (c)(3)(i) of this section. Recreational spearfishing for all federally-managed groundfish, except lingcod during January, February, March, and December, is exempt from closed areas and seasons, consistent with Title 14 of the California Code of Regulations. This exemption applies only to recreational vessels and divers provided no other fishing gear, except spearfishing gear, is on board the vessel. California state law may provide regulations similar to Federal regulations for the following state-managed species: ocean whitefish, California sheephead, and all greenlings of the genus Hexagrammos. Kelp greenling is the only federally-managed greenling. Retention of cowcod, yelloweye rockfish, and canary rockfish is prohibited in the recreational fishery seaward of California all year in all areas. For each person engaged in recreational fishing in the EEZ seaward of California, the following closed areas, seasons, bag limits, and size limits apply:

(i) *Recreational Groundfish Conservation Areas off California.* A Groundfish Conservation Area (GCA), a type of closed area, is a geographic area defined by coordinates expressed in degrees latitude and longitude. The following GCAs apply to participants in California's recreational fishery.

(A) *Recreational Rockfish Conservation Areas.* The recreational RCAs are areas that are closed to recreational fishing for groundfish. Fishing for groundfish with recreational gear is prohibited within the recreational RCA, except that recreational fishing for ''other flatfish'' is permitted within the recreational RCA as specified in paragraph (c)(3)(iv) of this section. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA, unless otherwise authorized in this section. A vessel fishing in the recreational RCA may not be in possession of any species prohibited by the restrictions that apply within the recreational RCA. [For example, if a vessel participates in the recreational salmon fishery within the RCA, the vessel cannot be in possession of rockfish while in the RCA. The vessel may, however, on the same trip fish for and retain rockfish shoreward of the RCA on the return trip to port.]

(*1*) Between 42° N. lat. (California/Oregon border) and 40°10.00′ N. lat. (North Region), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the 20 fm (37 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through December 31; and is closed entirely from January 1 through April 30 (i.e., prohibited seaward of the shoreline).

(*2*) Between 40°10' N. lat. and 37°11' N. lat. (North Central Region), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of the 20–fm (37–m) depth contour along the mainland coast and along islands and offshore seamounts from June 1 through November 30; and is closed entirely from January 1 through May 31 and from December 1 31 (i.e., prohibited seaward of the shoreline). Closures around the Farallon Islands (see paragraph (c)(3)(i)(C) of this section) and Cordell Banks (see paragraph (c)(3)(i)(D) of this section) also apply in this area.

(*3*) Between 37°11′ N. lat. and 34°27′ N. lat. (South Central Regions - Monterey and Morro Bay), recreational fishing for all groundfish (except ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 40 fm (73 m) depth contour along the mainland coast and along islands and offshore seamounts from May 1 through November 30; and is closed entirely from January 1 through April 30 and from December 1 – 31 (i.e., prohibited seaward of the shoreline). Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are specified in § 660.391.

(*4*) South of 34°27′ N. latitude (South Region), recreational fishing for all groundfish (except California scorpionfish as specified below in this paragraph and in paragraph (v) and ''other flatfish'' as specified in paragraph (c)(3)(iv) of this section) is prohibited seaward of a boundary line approximating the 60 fm (110 m) depth

contour from March 1 through December 31 along the mainland coast and along islands and offshore seamounts, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open (see paragraph (c)(3)(i)(B) of this section). Recreational fishing for all groundfish (except California scorpionfish and ''other flatfish'') is closed entirely from January 1 through February 28 (i.e., prohibited seaward of the shoreline). Recreational fishing for California scorpionfish south of 34°27′ N. lat. is prohibited seaward of a boundary line approximating the 40 fm (73 m) depth contour from January 1 through February 28, and seaward of the 60 fm (110 m) depth contour from March 1 through December 31, except in the CCAs where fishing is prohibited seaward of the 20 fm (37 m) depth contour when the fishing season is open. Coordinates for the boundary line approximating the 40 fm (73 m) and 60 fm (110 m) depth contours are specified in §§ 660.391 and 660.392.

(B) *Cowcod Conservation Areas*. The latitude and longitude coordinates of the Cowcod Conservation Areas (CCAs) boundaries are specified at § 660.390. In general, recreational fishing for all groundfish is prohibited within the CCAs, except that fishing for ''other flatfish'' is permitted within the CCAs as specified in paragraph (c)(3)(iv) of this section. However, recreational fishing for the following species is permitted shoreward of the 20 fm (37 m) depth contour when the season for those species is open south of 34°27′ N. lat.: Minor nearshore rockfish, cabezon, kelp greenling, lingcod, California scorpionfish, and ''other flatfish'' (subject to gear requirements at paragraph (c)(3)(iv) of this section during January–February). [NOTE: California state regulations also permit recreational fishing for California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* shoreward of the 20 fm (37 m) depth contour in the CCAs when the season for the RCG complex is open south of 34°27′ N. lat.] It is unlawful to take and retain, possess, or land groundfish within the CCAs, except for species authorized in this section.

(C) *Farallon Islands*. Under California state law, recreational fishing for groundfish is prohibited between the shoreline and the 10–fm (18–m) depth contour around the Farallon Islands, except that recreational fishing for ''other flatfish'' is permitted around the Farallon Islands as specified in paragraph (c)(3)(iv) of this section. (Note: California state regulations also prohibit the retention of other greenlings of the genus Hexagrammos, California sheephead and ocean whitefish.) For a definition of the Farallon Islands, see § 660.390.

(D) *Cordell Banks*. Recreational fishing for groundfish is prohibited in waters less than 100 fm (183 m) around Cordell Banks as defined by specific latitude and longitude coordinates at § 660.390, except that recreational fishing for ''other flatfish'' is permitted around Cordell Banks as specified in paragraph (c)(3)(iv) of this section. [Note: California state regulations also prohibit fishing for all greenlings of the genus *Hexagrammos*, California sheephead and ocean whitefish.]

(E) *Essential Fish Habitat Conservation Areas*. The Essential Fish Habitat Conservation Areas (EFHCAs) are closed areas, defined by specific latitude and longitude coordinates at §§ 660.396 through 660.399, where specified types of fishing are prohibited. Prohibitions applying to specific EFHCAs are found at § 660.306.

(ii) *RCG Complex*. The California rockfish, cabezon, greenling complex (RCG Complex), as defined in state regulations (Section 1.91, Title 14, California Code of Regulations), includes all rockfish, kelp greenling, rock greenling, and cabezon. This category does not include California scorpionfish, also known as ''sculpin.

(A) *Seasons*. When recreational fishing for the RCG Complex is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(*1*) North of 40°10′ N. lat. (North Region), recreational fishing for the RCG Complex is open from May 1, 2007 through September 30, 2007 (i.e., it's closed from January 1 through April 30 and from October 1 through December 31, 2007). Recreational fishing for the

RCG Complex is open from May 1, 2008 through December 31, 2008.

(*2*) Between 40°10′ N. lat. and 37°11′ N. lat. (North Central Region), recreational fishing for the RCG Complex is open from June 1, 2007 through September 30, 2007 (i.e., it's closed from January 1 through May 31 and from October 1 through December 31, 2007). Recreational fishing for the RCG Complex is open from June 1, 2008 through November 30, 2008 (i.e., it's closed from January 1 through May 31 and from December 1–31, 2008).

(*3*) Between 37°11′ N. lat. and 34°27′ N. lat. (South Central Regions - Monterey and Morro Bay), recreational fishing for the RCG Complex is open from May 1 through November 30 (i.e., it's closed from January 1 through April 30 and from December 1–31).

(*4*) South of 34°27′ N. lat. (South Region),recreational fishing for the RCG Complex is open from March 1 through December 31 (i.e., it's closed from January 1 through February 29).

(B) *Bag limits, hook limits*. In times and areas when the recreational season for the RCG Complex is open, there is a limit of 2 hooks and 1 line when fishing for rockfish. The bag limit is 10 RCG Complex fish per day coastwide. Retention of canary rockfish, yelloweye rockfish and cowcod is prohibited. North of 40°10′ N. lat., within the 10 RCG Complex fish per day limit, no more than 2 may be bocaccio, no more than 2 may be greenling (kelp and/or other greenlings) and no more than 1 may be cabezon. South of 40°10′ N. lat., within the 10 RCG Complex fish per day limit, no more than 1 may be bocaccio, no more than 2 may be greenling (kelp and/or other greenlings) and no more than 1 may be cabezon. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) *Size limits*. The following size limits apply: bocaccio may be no smaller than 10 in (25 cm) total length; cabezon may be no smaller than 15 in (38 cm) total length; and kelp and other greenling may be no smaller than 12 in (30 cm) total length.

(D) *Dressing/Fileting*. Cabezon, kelp greenling, and rock greenling taken in the recreational fishery may not be fileted at sea. Rockfish skin may not be removed when fileting or otherwise dressing rockfish taken in the recreational fishery. The following rockfish filet size limits apply: bocaccio filets may be no smaller than 5 in (12.8 cm) and brown-skinned rockfish fillets may be no smaller than 6.5 in (16.6 cm). ''Brown-skinned'' rockfish include the following species: brown, calico, copper, gopher, kelp, olive, speckled, squarespot, and yellowtail.

(iii) *Lingcod*—(A) *Seasons*. When recreational fishing for lingcod is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(*1*) North of 40°10′ N. lat. (North Region), recreational fishing for lingcod is open from May 1 through September 30, 2007 (i.e., it's closed from January 1 through April 30 and from October 1 through December 31, 2007). Recreational fishing for lingcod is open from May 1, 2008 through November 30, 2008 (i.e., it's closed from January 1 through April 30 and from December 1 31, 2008).

(*2*) Between 40°10′ N. lat. and 37°11′ N. lat. (North Central Region), recreational fishing for lingcod is open from June 1, 2007 through September 30, 2007 (i.e., it's closed from January 1 through May 31 and from October 1 through December 31, 2007). Recreational fishing for lingcod is open from June 1, 2008 through November 30, 2008 (i.e., it's closed from January 1 through May 31 and from December 1–31, 2008).

(*3*) Between 37°11′ N. lat. and 34°27′ N. lat. (South Central Regions - Monterey and Morro Bay), recreational fishing for lingcod is open from May 1 through November 30 (i.e., it's closed from January 1 through April 30 and from December 1 - 31).

(*4*) South of 34°27′ N. lat. (South Region), recreational fishing for lingcod is open from April 1 through November 30 (i.e., it's closed from January 1 through March 31 and from December 1 - 31).

(B) *Bag limits, hook limits*. In times and areas when the recreational season for lingcod is open, there is a limit of 2 hooks and 1 line when fishing for lingcod. The bag limit is 2 lingcod per

day. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) *Size limits*. Lingcod may be no smaller than 24 in (61 cm) total length.

(D) *Dressing/Fileting*. Lingcod filets may be no smaller than 16 in (41 cm) in length.

(iv) ''*Other flatfish*''. Coastwide off California, recreational fishing for ''other flatfish'' is permitted both shoreward of and within the closed areas described in paragraph (c)(3)(i) of this section. ''Other flatfish'' are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole. Recreational fishing for ''other flatfish'' is permitted within the closed areas, subject to a limit of up to 12 hooks, ''Number 2'' or smaller, which measure no more than 11 mm (0.44 inches) point to shank, and up to 2 lb (0.91 kg) of weight per line. ''Other flatfish,'' except Pacific sanddab, are subject to the overall 20 fish bag limit for all species of finfish, of which there may be no more than 10 fish of any one species. There is no season restriction or size limit for ''other flatfish;'' however, it is prohibited to filet ''other flatfish'' at sea.

(v) *California scorpionfish*. California scorpionfish predominately occur south of 40°10′ N. lat.

(A) *Seasons*. When recreational fishing for California scorpionfish is open, it is permitted only outside of the recreational RCAs described in paragraph (c)(3)(i) of this section.

(*1*) Between 40°10′ N. lat. and 37°11′ N. lat. (North Central Region), recreational fishing for California scorpionfish is open from June 1 through November 30 (i.e., it's closed from January 1 through May 31 and from December 1 through December 31).

(*2*) Between 37°11′ N. lat. and 34°27′ N. lat. (South Central Regions - Monterey and Morro Bay), recreational fishing for California scorpionfish is open from May 1 through November 30 (i.e., it's closed from January 1 through April 30 and from December 1 through December 31).

(*3*) South of 34°27′ N. lat. (South Region), recreational fishing for California scorpionfish is open from January 1 through December 31.

(B) *Bag limits, hook limits*. South of 40°10.00′ N. lat., in times and areas where the recreational season for California scorpionfish is open, the bag limit is 5 California scorpionfish per day. California scorpionfish do not count against the 10 RCG Complex fish per day limit. Multi-day limits are authorized by a valid permit issued by California and must not exceed the daily limit multiplied by the number of days in the fishing trip.

(C) *Size limits*. California scorpionfish may be no smaller than 10 in (25 cm) total length.

(D) *Dressing/Fileting*. California scorpionfish filets may be no smaller than 5 in (12.8 cm) and must bear an intact 1 in (2.6 cm) square patch of skin.

[69 FR 77038, Dec. 23, 2004; 70 FR 13119, Mar. 18, 2005, as amended at 70 FR 16149, Mar. 30, 2005; 70 FR 20314, Apr. 19, 2005; 70 FR 23046, May 4, 2005; 70 FR 58071, Oct. 5, 2005; 70 FR 72389, Dec. 5, 2005; 71 FR 8497, Feb. 17, 2006; 71 FR 18229, Apr. 11, 2006; 71 FR 37844, July 3, 2006; 71 FR 58293, Oct. 3, 2006; 71 FR 69077, Nov. 29, 2006; 71 FR 78660, Dec. 29, 2006; 72 FR 19398, Apr. 18, 2007; 72 FR 56669, Oct. 4, 2007; 73 FR 21062, Apr. 18, 2008]

### § 660.385 Washington coastal tribal fisheries management measures.

In 1994, the United States formally recognized that the four Washington coastal treaty Indian tribes (Makah, Quileute, Hoh, and Quinault) have treaty rights to fish for groundfish in the Pacific Ocean, and concluded that, in general terms, the quantification of those rights is 50 percent of the harvestable surplus of groundfish that pass through the tribes usual and accustomed fishing areas (described at § 660.324). Measures implemented to minimize adverse impacts to groundfish EFH, as described in § 660.306, do not apply to tribal fisheries in their usual and accustomed fishing areas (described in § 660.324). Treaty fisheries operating within tribal allocations are prohibited from operating outside ususal and accustomed fishing areas. Tribal fishery allocations for sablefish and whiting, are provided in paragraphs (a) and (e) of this section, respectively, and the tribal harvest

guideline for black rockfish is provided in paragraph (b)(1) of this section. Trip limits for certain species were recommended by the tribes and the Council and are specified here with the tribal allocations.

(a) *Sablefish*. The tribal allocation is 561.4 mt per year. This allocation is, for each year, 10 percent of the Monterey through Vancouver area OY, less 1.9 percent estimated discard mortality.

(b) *Rockfish*. The tribes will require full retention of all overfished rockfish species and all other marketable rockfish species during treaty fisheries.

(1) For the commercial harvest of black rockfish off Washington State, a harvest guideline of: 20,000 lb (9,072 kg) north of Cape Alava, WA (48°09.50′ N. lat.) and 10,000 lb (4,536 kg) between Destruction Island, WA (47°40′ N. lat.) and Leadbetter Point, WA (46°38.17′ N. lat.). There are no tribal harvest restrictions for the area between Cape Alava and Destruction Island.

(2) *Thornyheads*. The tribes will manage their fisheries to the limited entry trip limits in place at the beginning on the year for both shortspine and longspine thornyheads as follows:

(i) *Trawl gear*. (A) Shortspine thornyhead cumulative trip limits are as follows:

(*1*) Small and large footrope trawl gear- 7,500–lb (3,402–kg) per 2 months.

(*2*) Selective flatfish trawl gear- 3,000–lb (1,361–kg) per 2 months.

(*3*) Multiple bottom trawl gear- 3,000–lb (1,361–kg) per 2 months.

(B) Longspine thornyhead cumulative trip limits are as follows:

(*1*) Small and large footrope trawl gear- 22,000–lb (9,979–kg) per 2 months.

(*2*) Selective flatfish trawl gear- 3,000–lb (1,361–kg) per 2 months.

(*3*) Multiple bottom trawl gear- 3,000–lb (1,361–kg) per 2 months.

(ii) Fixed gear. (A) Shortspine thornyhead cumulative trip limits are 2,000–lb (907–kg) per 2 months.

(B) Longspine thornyhead cumulative trip limits are 10,000–lb (4,536–kg) per 2 months.

(3) Canary rockfish are subject to a 300–lb (136–kg) trip limit.

(4) Yelloweye rockfish are subject to a 100–lb (45–kg) trip limit.

(5) The Makah Tribe will manage the midwater trawl fisheries as follows: yellowtail rockfish taken in the directed tribal mid-water trawl fisheries are subject to a cumulative limit of 180,000 lb (81,647 kg) per 2 month period for the entire fleet. Landings of widow rockfish must not exceed 10 percent of the weight of yellowtail rockfish landed in any two-month period. These limits may be adjusted by the tribe inseason to minimize the incidental catch of canary rockfish and widow rockfish, provided the average 2–month cumulative yellowtail rockfish limit does not exceed 180,000 lb (81,647 kg) for the fleet.

(6) Other rockfish, including minor nearshore, minor shelf, and minor slope rockfish groups are subject to a 300–lb (136–kg) trip limit per species or species group, or to the non-tribal limited entry trip limit for those species if those limits are less restrictive than 300 lb (136 kg) per trip.

(c) *Lingcod*. Lingcod taken in the treaty fisheries are subject to an overall expected total lingcod catch of 250 mt.

(d) *Flatfish and other fish*. Treaty fishing vessels using bottom trawl gear are subject to the limits applicable to the non-tribal limited entry trawl fishery for Dover sole, English sole, rex sole, arrowtooth flounder, and other flatfish in place at the beginning of the season. For Dover sole and arrowtooth flounder, the limited entry trip limits in place at the beginning of the season will be combined across periods and the fleet to create a cumulative harvest target. The limits available to individual vessels will then be adjusted inseason to stay within the overall harvest target as well as estimated impacts to overfished species. For petrale sole, treaty fishing vessels are restricted to a 50,000 lb (22,680 kg) per 2 month limit for the entire year. Trawl vessels are restricted to using small footrope trawl gear.

(e) Pacific whiting. The tribal allocation is 35,000 mt.

(f) *Pacific cod*. There is a tribal harvest guideline of 400 mt of Pacific cod. The tribes will manage their fisheries to stay within this harvest guideline.

(g) *Spiny dogfish*. The tribes will manage their spiny dogfish fishery within

the limited entry trip limits for the non-tribal fisheries.

[69 FR 77041, Dec. 23, 2004, as amended at 70 FR 22812, May 3, 2005; 71 FR 8498, Feb. 17, 2006; 71 FR 27415, May 11, 2006; 71 FR 37844, July 3, 2006; 71 FR 78663, Dec. 29, 2006; 72 FR 53167, Sept. 18, 2007; 72 FR 71589, Dec. 18, 2007; 73 FR 26329, May 9, 2008]

### § 660.390 Groundfish conservation areas.

In § 660.302, a groundfish conservation area is defined in part as ''a geographic area defined by coordinates expressed in degrees latitude and longitude, wherein fishing by a particular gear type or types may be prohibited.'' While some groundfish conservation areas may be designed with the intent that their shape be determined by ocean bottom depth contours, their shapes are defined in regulation by latitude/longitude coordinates and are enforced by those coordinates. Latitude/longitude coordinates designating the large-scale boundaries for rockfish conservation areas are found in §§ 660.391 through 660.394. Fishing activity that is prohibited or permitted within a particular groundfish conservation area is detailed at §§ 660.381 through 660.384.

(a) *North Coast Recreational Yelloweye Rockfish Conservation Area.* The North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 48°18.00′ N. lat.; 125°18.00′ W. long.;
(2) 48°18.00′ N. lat.; 124°59.00′ W. long.;
(3) 48°11.00′ N. lat.; 124°59.00′ W. long.;
(4) 48°11.00′ N. lat.; 125°11.00′ W. long.;
(5) 48°04.00′ N. lat.; 125°11.00′ W. long.;
(6) 48°04.00′ N. lat.; 124°59.00′ W. long.;
(7) 48°00.00′ N. lat.; 124°59.00′ W. long.;
(8) 48°00.00′ N. lat.; 125°18.00′ W. long.;

and connecting back to 48°18.00′ N. lat.; 125°18.00′ W. long.

(b) *North Coast Commercial Yelloweye Rockfish Conservation Area.* The North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA) is an area off the northern Washington coast, overlapping the northern part of North Coast Recreational YRCA, intended to protect yelloweye rockfish. The North Coast Commercial YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 48°11.77′ N. lat., 125°13.03′ W. long.;
(2) 48°16.43′ N. lat., 125°07.55′ W. long.;
(3) 48°14.72′ N. lat., 125°01.84′ W. long.;
(4) 48°13.36′ N. lat., 125°03.20′ W. long.;
(5) 48°12.74′ N. lat., 125°05.83′ W. long.;
(6) 48°11.55′ N. lat., 125°04.99′ W. long.;
(7) 48°09.96′ N. lat., 125°06.63′ W. long.;
(8) 48°09.68′ N. lat., 125°08.75′ W. long.;

and connecting back to 48°11.77′ N. lat., 125°13.03′ W. long.

(c) *Salmon Troll Yelloweye Rockfish Conservation Area.* The Salmon Troll Yelloweye Rockfish Conservation Area (YRCA) is an area off the northern Washington coast, overlapping the southern part of North Coast Recreational YRCA, intended to protect yelloweye rockfish. The Salmon Troll YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 48°00.00′ N. lat., 125°14.00′ W. long.;
(2) 48°02.00′ N. lat., 125°14.00′ W. long.;
(3) 48°02.00′ N. lat., 125°16.50′ W. long.;
(4) 48°00.00′ N. lat., 125°16.50′ W. long.;

and connecting back to 48°00.00′ N. lat., 125°14.00′ W. long.

(d) *South Coast Recreational Yelloweye Rockfish Conservation Area.* The South Coast Recreational Yelloweye Rockfish Conservation Area (YRCA) is an area off the southern Washington coast intended to protect yelloweye rockfish. The South Coast Recreational YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 46°58.00′ N. lat., 124°48.00′ W. long.;
(2) 46°55.00′ N. lat., 124°48.00′ W. long.;
(3) 46°55.00′ N. lat., 124°49.00′ W. long.;
(4) 46°58.00′ N. lat., 124°49.00′ W. long.;

and connecting back to 46°58.00′ N. lat., 124°48.00′ W. long.

(e) *Stonewall Bank Yelloweye Rockfish Conservation Area.* The Stonewall Bank Yelloweye Rockfish Conservation Area (YRCA) is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined by straight lines

connecting the following specific latitude and longitude coordinates in the order listed:

(1) 44°37.46′ N. lat.; 124°24.92′ W. long.;
(2) 44°37.46′ N. lat.; 124°23.63′ W. long.;
(3) 44°28.71′ N. lat.; 124°21.80′ W. long.;
(4) 44°28.71′ N. lat.; 124°24.10′ W. long.;
(5) 44°31.42′ N. lat.; 124°25.47′ W. long.;

and connecting back to 44°37.46′ N. lat.; 124°24.92′ W. long.

(f) *Cowcod Conservation Areas.* The Cowcod Conservation Areas (CCAs) are two areas off the southern California coast intended to protect cowcod. The Western CCA is an area south of Point Conception defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 33°50.00′ N. lat., 119°30.00′ W. long.;
(2) 33°50.00′ N. lat., 118°50.00′ W. long.;
(3) 32°20.00′ N. lat., 118°50.00′ W. long.;
(4) 32°20.00′ N. lat., 119°37.00′ W. long.;
(5) 33°00.00′ N. lat., 119°37.00′ W. long.;
(6) 33°00.00′ N. lat., 119°53.00′ W. long.;
(7) 33°33.00′ N. lat., 119°53.00′ W. long.;
(8) 33°33.00′ N. lat., 119°30.00′ W. long.;

and connecting back to 33°50.00′ N. lat., 119°30.00′ W. long.

(g) The Eastern CCA is an area west of San Diego defined by the straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 32°42.00′ N. lat., 118°02.00′ W. long.;
(2) 32°42.00′ N. lat., 117°50.00′ W. long.;
(3) 32°36.70′ N. lat., 117°50.00′ W. long.;
(4) 32°30.00′ N. lat., 117°53.50′ W. long.;
(5) 32°30.00′ N. lat., 118°02.00′ W. long.;

and connecting back to 32°42.00′ N. lat., 118°02.00′ W. long.

(h) *Farallon Islands.* The Farallon Islands, off San Francisco and San Mateo Counties, include Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock. Generally, the State of California prohibits fishing for groundfish between the shoreline and the 10–fm (18–m) depth contour around the Farallon Islands.

(i) *Cordell Banks.* Cordell Banks are located offshore of California's Marin County. Generally, fishing for groundfish is prohibited in waters of depths less than 100–fm (183–m) around Cordell Banks as defined by specific latitude and longitude coordinates. The Cordell Banks closed area is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 38°03.18′ N. lat., 123°20.77′ W. long.;
(2) 38°06.29′ N. lat., 123°25.03′ W. long.;
(3) 38°06.34′ N. lat., 123°29.32′ W. long.;
(4) 38°04.57′ N. lat., 123°31.30′ W. long.;
(5) 38°02.32′ N. lat., 123°31.07′ W. long.;
(6) 38°00.00′ N. lat., 123°28.40′ W. long.;
(7) 37°58.10′ N. lat., 123°26.66′ W. long.;
(8) 37°55.07′ N. lat., 123°26.81′ W. long.;
(9) 38°00.00′ N. lat., 123°23.08′ W. long.;

and connecting back to 38°03.18′ N. lat., 123°20.77′ W. long.

(j) *Rockfish Conservation Areas.* RCA restrictions are detailed at §§ 660.381 through 660.384. RCAs may apply to a single gear type or to a group of gear types such as ''trawl RCAs'' or ''non-trawl RCAs.'' Specific latitude and longitude coordinates for RCA boundaries that approximate the depth contours selected for trawl, non-trawl, and recreational RCAs are provided in §§ 660.391 through 660.394. Also provided in §§ 660.391 through 660.394 are references to islands and rocks that serve as reference points for the RCAs.

(1) *Trawl (Limited Entry and Open Access Nongroundfish Trawl Gears) Rockfish Conservation Areas.* Trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the trawl RCA throughout the year are provided in Tables 3 and 5 (North) and Tables 3 and 5 (South) and may be modified by NMFS inseason pursuant to § 660.370(c). Trawl RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§ 660.391 through 660.394.

(2) *Non-Trawl (Limited Entry Fixed Gear and Open Access Non-trawl Gears) Rockfish Conservation Areas.* Non-trawl RCAs are intended to protect a complex of species, such as overfished shelf rockfish species, and have boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the non-trawl RCA throughout the year are provided in Tables 4 and 5 (North) and Tables 4 and 5 (South) of this subpart and may be modified by NMFS inseason pursuant

to § 660.370(c). Non-trawl RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§ 660.391 through 660.394.

(3) *Recreational Rockfish Conservation Areas*. Recreational RCAs are closed areas intended to protect overfished rockfish species. Recreational RCAs may either have boundaries defined by general depth contours or boundaries defined by specific latitude and longitude coordinates intended to approximate particular depth contours. Boundaries for the recreational RCAs throughout the year are provided in the text in § 660.384(c) under each state (Washington, Oregon and California) and may be modified by NMFS inseason pursuant to § 660.370. Recreational RCA boundaries are defined by specific latitude and longitude coordinates and are provided in §§ 660.391 through 660.394.

[71 FR 78663, Dec. 29, 2006, as amended at 72 FR 53167, Sept. 18, 2007]

### § 660.391 Latitude/longitude coordinates defining the 10–fm (18–m) through 40–fm (73–m) depth contours.

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 10–fm (18–m) through 40–fm (73–m) depth contours.

(a) The 10–fm (18–m) depth contour between the U.S. border with Canada and 46°16′ N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 48°23.80′ N. lat., 124°44.18′ W. long.;
(2) 48°23.60′ N. lat., 124°44.80′ W. long.;
(3) 48°23.45′ N. lat., 124°44.80′ W. long.;
(4) 48°23.30′ N. lat., 124°44.20′ W. long.;
(5) 48°22.20′ N. lat., 124°44.30′ W. long.;
(6) 48°20.25′ N. lat., 124°42.20′ W. long.;
(7) 48°12.80′ N. lat., 124°43.10′ W. long.;
(8) 48°11.10′ N. lat., 124°46.50′ W. long.;
(9) 48°10.00′ N. lat., 124°46.50′ W. long.;
(10) 48°08.50′ N. lat., 124°44.20′ W. long.;
(11) 47°59.40′ N. lat., 124°42.50′ W. long.;
(12) 47°52.60′ N. lat., 124°38.80′ W. long.;
(13) 47°51.50′ N. lat., 124°34.60′ W. long.;
(14) 47°39.80′ N. lat., 124°28.10′ W. long.;
(15) 47°31.70′ N. lat., 124°26.30′ W. long.;
(16) 47°25.20′ N. lat., 124°24.80′ W. long.;
(17) 47°09.80′ N. lat., 124°15.20′ W. long.;
(18) 46°54.40′ N. lat., 124°14.80′ W. long.;
(19) 46°48.30′ N. lat., 124°10.25′ W. long.;
(20) 46°38.17′ N. lat., 124°10.30′ W. long.;
(21) 46°27.20′ N. lat., 124°06.50′ W. long.; and
(22) 46°16.00′ N. lat., 124°10.00′ W. long.

(b) The 20–fm (37–m) depth contour between the U.S. border with Canada and 42° N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 48°23.90′ N. lat., 124°44.20′ W. long.;
(2) 48°23.60′ N. lat., 124°44.90′ W. long.;
(3) 48°18.60′ N. lat., 124°43.60′ W. long.;
(4) 48°18.60′ N. lat., 124°48.20′ W. long.;
(5) 48°10.00′ N. lat., 124°48.80′ W. long.;
(6) 48°02.40′ N. lat., 124°49.30′ W. long.;
(7) 47°37.60′ N. lat., 124°34.30′ W. long.;
(8) 47°31.70′ N. lat., 124°32.40′ W. long.;
(9) 47°17.90′ N. lat., 124°25.00′ W. long.;
(10) 46°58.80′ N. lat., 124°18.30′ W. long.;
(11) 46°47.40′ N. lat., 124°12.70′ W. long.;
(12) 46°38.17′ N. lat., 124°12.40′ W. long.;
(13) 46°16.00′ N. lat., 124°11.50′ W. long.;
(14) 46°16.01′ N. lat., 124°11.56′ W. long.;
(15) 46°15.09′ N. lat., 124°11.33′ W. long.;
(16) 46°11.94′ N. lat., 124°08.51′ W. long.;
(17) 46°08.02′ N. lat., 124°04.06′ W. long.;
(18) 46°05.05′ N. lat., 124°02.13′ W. long.;
(19) 46°02.19′ N. lat., 124°01.35′ W. long.;
(20) 45°58.28′ N. lat., 124°01.70′ W. long.;
(21) 45°55.64′ N. lat., 124°01.16′ W. long.;
(22) 45°52.61′ N. lat., 124°00.33′ W. long.;
(23) 45°48.43′ N. lat., 124°00.65′ W. long.;
(24) 45°46.59′ N. lat., 124°00.79′ W. long.;
(25) 45°46.00′ N. lat., 124°00.53′ W. long.;
(26) 45°44.75′ N. lat., 123°59.92′ W. long.;
(27) 45°44.57′ N. lat., 123°59.64′ W. long.;
(28) 45°41.86′ N. lat., 123°58.82′ W. long.;
(29) 45°36.40′ N. lat., 123°59.42′ W. long.;
(30) 45°34.10′ N. lat., 123°59.90′ W. long.;
(31) 45°32.81′ N. lat., 124°00.35′ W. long.;
(32) 45°29.87′ N. lat., 124°00.98′ W. long.;
(33) 45°27.49′ N. lat., 124°00.79′ W. long.;
(34) 45°25.37′ N. lat., 124°00.73′ W. long.;
(35) 45°22.06′ N. lat., 124°01.66′ W. long.;
(36) 45°17.27′ N. lat., 124°00.76′ W. long.;
(37) 45°14.09′ N. lat., 124°00.75′ W. long.;
(38) 45°12.50′ N. lat., 124°00.53′ W. long.;
(39) 45°11.92′ N. lat., 124°01.62′ W. long.;
(40) 45°11.02′ N. lat., 124°00.60′ W. long.;
(41) 45°10.08′ N. lat., 124°00.58′ W. long.;
(42) 45°05.51′ N. lat., 124°02.15′ W. long.;
(43) 45°01.03′ N. lat., 124°03.22′ W. long.;
(44) 44°57.98′ N. lat., 124°04.29′ W. long.;
(45) 44°55.37′ N. lat., 124°04.39′ W. long.;
(46) 44°51.56′ N. lat., 124°05.54′ W. long.;
(47) 44°45.24′ N. lat., 124°06.47′ W. long.;
(48) 44°42.69′ N. lat., 124°06.73′ W. long.;
(49) 44°33.86′ N. lat., 124°07.43′ W. long.;

(50) 44°29.78′ N. lat., 124°07.62′ W. long.;
(51) 44°28.53′ N. lat., 124°07.93′ W. long.;
(52) 44°23.71′ N. lat., 124°08.30′ W. long.;
(53) 44°21.75′ N. lat., 124°08.79′ W. long.;
(54) 44°20.99′ N. lat., 124°08.48′ W. long.;
(55) 44°17.29′ N. lat., 124°08.82′ W. long.;
(56) 44°11.90′ N. lat., 124°09.44′ W. long.;
(57) 44°03.25′ N. lat., 124°10.33′ W. long.;
(58) 43°52.69′ N. lat., 124°12.01′ W. long.;
(59) 43°42.94′ N. lat., 124°13.88′ W. long.;
(60) 43°41.44′ N. lat., 124°14.47′ W. long.;
(61) 43°36.60′ N. lat., 124°14.92′ W. long.;
(62) 43°29.85′ N. lat., 124°17.35′ W. long.;
(63) 43°25.00′ N. lat., 124°20.84′ W. long.;
(64) 43°21.61′ N. lat., 124°24.09′ W. long.;
(65) 43°20.51′ N. lat., 124°25.01′ W. long.;
(66) 43°19.33′ N. lat., 124°25.43′ W. long.;
(67) 43°16.18′ N. lat., 124°26.02′ W. long.;
(68) 43°14.39′ N. lat., 124°26.17′ W. long.;
(69) 43°13.94′ N. lat., 124°26.72′ W. long.;
(70) 43°13.39′ N. lat., 124°26.41′ W. long.;
(71) 43°11.39′ N. lat., 124°26.90′ W. long.;
(72) 43°10.06′ N. lat., 124°28.24′ W. long.;
(73) 43°07.48′ N. lat., 124°28.65′ W. long.;
(74) 43°06.67′ N. lat., 124°28.63′ W. long.;
(75) 43°06.43′ N. lat., 124°28.22′ W. long.;
(76) 43°03.09′ N. lat., 124°28.52′ W. long.;
(77) 42°57.55′ N. lat., 124°30.74′ W. long.;
(78) 42°52.91′ N. lat., 124°35.03′ W. long.;
(79) 42°51.58′ N. lat., 124°36.43′ W. long.;
(80) 42°49.85′ N. lat., 124°37.20′ W. long.;
(81) 42°46.07′ N. lat., 124°36.98′ W. long.;
(82) 42°46.03′ N. lat., 124°34.76′ W. long.;
(83) 42°45.37′ N. lat., 124°33.59′ W. long.;
(84) 42°43.91′ N. lat., 124°32.14′ W. long.;
(85) 42°41.73′ N. lat., 124°29.20′ W. long.;
(86) 42°40.49′ N. lat., 124°28.95′ W. long.;
(87) 42°40.06′ N. lat., 124°28.94′ W. long.;
(88) 42°39.74′ N. lat., 124°27.80′ W. long.;
(89) 42°37.53′ N. lat., 124°26.39′ W. long.;
(90) 42°34.33′ N. lat., 124°26.56′ W. long.;
(91) 42°32.81′ N. lat., 124°27.55′ W. long.;
(92) 42°31.66′ N. lat., 124°29.58′ W. long.;
(93) 42°30.70′ N. lat., 124°30.91′ W. long.;
(94) 42°29.20′ N. lat., 124°31.27′ W. long.;
(95) 42°27.52′ N. lat., 124°30.79′ W. long.;
(96) 42°24.70′ N. lat., 124°29.65′ W. long.;
(97) 42°23.93′ N. lat., 124°28.60′ W. long.;
(98) 42°19.35′ N. lat., 124°27.23′ W. long.;
(99) 42°14.87′ N. lat., 124°26.14′ W. long.;
(100) 42°11.85′ N. lat., 124°23.78′ W. long.;
(101) 42°08.08′ N. lat., 124°22.91′ W. long.;
(102) 42°07.04′ N. lat., 124°22.66′ W. long.;
(103) 42°05.17′ N. lat., 124°21.41′ W. long.;
(104) 42°04.16′ N. lat., 124°20.55′ W. long.;
(105) 42°02.12′ N. lat., 124°20.51′ W. long.;
(106) 42°01.42′ N. lat., 124°20.29′ W. long.; and
(107) 42°00.00′ N. lat., 124°19.61′ W. long.

(c) The 25–fm (46–m) depth contour between the Queets River, WA, and 42° N. lat. is defined by straight lines connecting all of the following points in the order stated:

(1) 47°31.70′ N. lat., 124°34.70′ W. long.;
(2) 47°25.70′ N. lat., 124°33.00′ W. long.;
(3) 47°12.80′ N. lat., 124°26.00′ W. long.;
(4) 46°53.00′ N. lat., 124°21.00′ W. long.;
(5) 46°44.20′ N. lat., 124°15.00′ W. long.;
(6) 46°38.17′ N. lat., 124°13.70′ W. long.;
(7) 46°16.00′ N. lat., 124°12.50′ W. long.;
(8) 46°15.99′ N. lat., 124°12.04′ W. long.;
(9) 46°13.72′ N. lat., 124°11.04′ W. long.;
(10) 46°09.50′ N. lat., 124°07.62′ W. long.;
(11) 46°04.00′ N. lat., 124°03.20′ W. long.;
(12) 45°57.61′ N. lat., 124°01.85′ W. long.;
(13) 45°51.73′ N. lat., 124°01.06′ W. long.;
(14) 45°47.27′ N. lat., 124°01.22′ W. long.;
(15) 45°43.19′ N. lat., 124°00.32′ W. long.;
(16) 45°36.11′ N. lat., 124°00.38′ W. long.;
(17) 45°32.95′ N. lat., 124°01.38′ W. long.;
(18) 45°27.47′ N. lat., 124°01.46′ W. long.;
(19) 45°23.18′ N. lat., 124°01.94′ W. long.;
(20) 45°19.04′ N. lat., 124°01.29′ W. long.;
(21) 45°16.79′ N. lat., 124°01.90′ W. long.;
(22) 45°13.54′ N. lat., 124°01.64′ W. long.;
(23) 45°09.56′ N. lat., 124°01.94′ W. long.;
(24) 45°06.15′ N. lat., 124°02.38′ W. long.;
(25) 45°00.77′ N. lat., 124°03.72′ W. long.;
(26) 44°49.08′ N. lat., 124°06.49′ W. long.;
(27) 44°40.06′ N. lat., 124°08.14′ W. long.;
(28) 44°36.64′ N. lat., 124°08.51′ W. long.;
(29) 44°29.41′ N. lat., 124°09.24′ W. long.;
(30) 44°25.18′ N. lat., 124°09.37′ W. long.;
(31) 44°16.34′ N. lat., 124°10.30′ W. long.;
(32) 44°12.16′ N. lat., 124°10.82′ W. long.;
(33) 44°06.59′ N. lat., 124°11.00′ W. long.;
(34) 44°02.09′ N. lat., 124°11.24′ W. long.;
(35) 43°57.82′ N. lat., 124°11.60′ W. long.;
(36) 43°53.44′ N. lat., 124°12.34′ W. long.;
(37) 43°49.19′ N. lat., 124°13.08′ W. long.;
(38) 43°45.19′ N. lat., 124°13.73′ W. long.;
(39) 43°41.22′ N. lat., 124°14.59′ W. long.;
(40) 43°37.52′ N. lat., 124°15.05′ W. long.;
(41) 43°33.97′ N. lat., 124°16.00′ W. long.;
(42) 43°29.72′ N. lat., 124°17.78′ W. long.;
(43) 43°27.63′ N. lat., 124°19.11′ W. long.;
(44) 43°20.66′ N. lat., 124°25.39′ W. long.;
(45) 43°15.57′ N. lat., 124°26.86′ W. long.;
(46) 43°06.88′ N. lat., 124°29.30′ W. long.;
(47) 43°03.37′ N. lat., 124°29.06′ W. long.;
(48) 43°01.03′ N. lat., 124°29.41′ W. long.;

(49) 42°56.59′ N. lat., 124°31.93′ W. long.;
(50) 42°54.08′ N. lat., 124°34.55′ W. long.;
(51) 42°51.16′ N. lat., 124°37.02′ W. long.;
(52) 42°49.27′ N. lat., 124°37.73′ W. long.;
(53) 42°46.02′ N. lat., 124°37.54′ W. long.;
(54) 42°45.76′ N. lat., 124°35.68′ W. long.;
(55) 42°42.25′ N. lat., 124°30.47′ W. long.;
(56) 42°40.51′ N. lat., 124°29.00′ W. long.;
(57) 42°40.00′ N. lat., 124°29.01′ W. long.;
(58) 42°39.64′ N. lat., 124°28.28′ W. long.;
(59) 42°38.80′ N. lat., 124°27.57′ W. long.;
(60) 42°35.42′ N. lat., 124°26.77′ W. long.;
(61) 42°33.13′ N. lat., 124°29.06′ W. long.;
(62) 42°31.44′ N. lat., 124°30.71′ W. long.;
(63) 42°29.03′ N. lat., 124°31.71′ W. long.;
(64) 42°24.98′ N. lat., 124°29.95′ W. long.;
(65) 42°20.05′ N. lat., 124°28.16′ W. long.;
(66) 42°14.24′ N. lat., 124°26.03′ W. long.;
(67) 42°10.23′ N. lat., 124°23.93′ W. long.;
(68) 42°06.20′ N. lat., 124°22.70′ W. long.;
(69) 42°04.66′ N. lat., 124°21.49′ W. long.; and
(70) 42°00.00′ N. lat., 124°20.80′ W. long.

(d) The 30–fm (55–m) depth contour between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°24.79′ N. lat., 124°44.07′ W. long.;
(2) 48°24.80′ N. lat., 124°44.74′ W. long.;
(3) 48°23.94′ N. lat., 124°44.70′ W. long.;
(4) 48°23.51′ N. lat., 124°45.01′ W. long.;
(5) 48°22.59′ N. lat., 124°44.97′ W. long.;
(6) 48°21.75′ N. lat., 124°45.26′ W. long.;
(7) 48°21.23′ N. lat., 124°47.78′ W. long.;
(8) 48°20.32′ N. lat., 124°49.53′ W. long.;
(9) 48°16.72′ N. lat., 124°51.58′ W. long.;
(10) 48°10.00′ N. lat., 124°52.58′ W. long.;
(11) 48°05.63′ N. lat., 124°52.91′ W. long.;
(12) 47°53.37′ N. lat., 124°47.37′ W. long.;
(13) 47°40.28′ N. lat., 124°40.07′ W. long.;
(14) 47°31.70′ N. lat., 124°37.03′ W. long.;
(15) 47°25.67′ N. lat., 124°34.79′ W. long.;
(16) 47°12.82′ N. lat., 124°29.12′ W. long.;
(17) 46°52.94′ N. lat., 124°22.58′ W. long.;
(18) 46°44.18′ N. lat., 124°18.00′ W. long.;
(19) 46°38.17′ N. lat., 124°15.88′ W. long.;
(20) 46°29.53′ N. lat., 124°15.89′ W. long.;
(21) 46°19.27′ N. lat., 124°14.15′ W. long.;
(22) 46°16.00′ N. lat., 124°13.04′ W. long.;
(23) 46°07.00′ N. lat., 124°07.01′ W. long.;
(24) 45°55.95′ N. lat., 124°02.23′ W. long.;
(25) 45°54.53′ N. lat., 124°02.57′ W. long.;
(26) 45°50.65′ N. lat., 124°01.62′ W. long.;
(27) 45°48.20′ N. lat., 124°02.16′ W. long.;
(28) 45°46.00′ N. lat., 124°01.86′ W. long.;
(29) 45°43.46′ N. lat., 124°01.28′ W. long.;
(30) 45°40.48′ N. lat., 124°01.03′ W. long.;
(31) 45°39.04′ N. lat., 124°01.68′ W. long.;
(32) 45°35.48′ N. lat., 124°01.90′ W. long.;
(33) 45°29.81′ N. lat., 124°02.45′ W. long.;
(34) 45°27.97′ N. lat., 124°01.90′ W. long.;
(35) 45°27.22′ N. lat., 124°02.66′ W. long.;
(36) 45°24.20′ N. lat., 124°02.94′ W. long.;
(37) 45°20.60′ N. lat., 124°01.74′ W. long.;
(38) 45°20.25′ N. lat., 124°01.85′ W. long.;
(39) 45°16.44′ N. lat., 124°03.22′ W. long.;
(40) 45°13.63′ N. lat., 124°02.69′ W. long.;
(41) 45°11.05′ N. lat., 124°03.59′ W. long.;
(42) 45°08.55′ N. lat., 124°03.47′ W. long.;
(43) 45°02.81′ N. lat., 124°04.64′ W. long.;
(44) 44°58.06′ N. lat., 124°05.03′ W. long.;
(45) 44°53.97′ N. lat., 124°06.92′ W. long.;
(46) 44°48.89′ N. lat., 124°07.04′ W. long.;
(47) 44°46.94′ N. lat., 124°08.25′ W. long.;
(48) 44°42.72′ N. lat., 124°08.98′ W. long.;
(49) 44°38.16′ N. lat., 124°11.48′ W. long.;
(50) 44°33.38′ N. lat., 124°11.54′ W. long.;
(51) 44°28.51′ N. lat., 124°12.04′ W. long.;
(52) 44°27.65′ N. lat., 124°12.56′ W. long.;
(53) 44°19.67′ N. lat., 124°12.37′ W. long.;
(54) 44°10.79′ N. lat., 124°12.22′ W. long.;
(55) 44°09.22′ N. lat., 124°12.28′ W. long.;
(56) 44°08.30′ N. lat., 124°12.30′ W. long.;
(57) 44°00.22′ N. lat., 124°12.80′ W. long.;
(58) 43°51.56′ N. lat., 124°13.18′ W. long.;
(59) 43°44.26′ N. lat., 124°14.50′ W. long.;
(60) 43°33.82′ N. lat., 124°16.28′ W. long.;
(61) 43°28.66′ N. lat., 124°18.72′ W. long.;
(62) 43°23.12′ N. lat., 124°24.04′ W. long.;
(63) 43°20.83′ N. lat., 124°25.67′ W. long.;
(64) 43°20.48′ N. lat., 124°25.90′ W. long.;
(65) 43°16.41′ N. lat., 124°27.52′ W. long.;
(66) 43°14.23′ N. lat., 124°29.28′ W. long.;
(67) 43°14.03′ N. lat., 124°28.31′ W. long.;
(68) 43°11.92′ N. lat., 124°28.26′ W. long.;
(69) 43°11.02′ N. lat., 124°29.11′ W. long.;
(70) 43°10.13′ N. lat., 124°29.15′ W. long.;
(71) 43°09.26′ N. lat., 124°31.03′ W. long.;
(72) 43°07.73′ N. lat., 124°30.92′ W. long.;
(73) 43°05.93′ N. lat., 124°29.64′ W. long.;
(74) 43°01.59′ N. lat., 124°30.64′ W. long.;
(75) 42°59.72′ N. lat., 124°31.16′ W. long.;
(76) 42°53.75′ N. lat., 124°36.09′ W. long.;
(77) 42°50.00′ N. lat., 124°38.39′ W. long.;
(78) 42°49.37′ N. lat., 124°38.81′ W. long.;
(79) 42°46.42′ N. lat., 124°37.69′ W. long.;
(80) 42°46.07′ N. lat., 124°38.56′ W. long.;
(81) 42°45.29′ N. lat., 124°37.95′ W. long.;
(82) 42°45.61′ N. lat., 124°36.87′ W. long.;
(83) 42°44.27′ N. lat., 124°33.64′ W. long.;
(84) 42°42.75′ N. lat., 124°31.84′ W. long.;
(85) 42°40.50′ N. lat., 124°29.67′ W. long.;
(86) 42°40.04′ N. lat., 124°29.20′ W. long.;
(87) 42°38.09′ N. lat., 124°28.39′ W. long.;
(88) 42°36.73′ N. lat., 124°27.54′ W. long.;
(89) 42°36.56′ N. lat., 124°28.40′ W. long.;

(90) 42°35.77′ N. lat., 124°28.79′ W. long.;
(91) 42°34.03′ N. lat., 124°29.98′ W. long.;
(92) 42°34.19′ N. lat., 124°30.58′ W. long.;
(93) 42°31.27′ N. lat., 124°32.24′ W. long.;
(94) 42°27.07′ N. lat., 124°32.53′ W. long.;
(95) 42°24.21′ N. lat., 124°31.23′ W. long.;
(96) 42°20.47′ N. lat., 124°28.87′ W. long.;
(97) 42°14.60′ N. lat., 124°26.80′ W. long.;
(98) 42°13.67′ N. lat., 124°26.25′ W. long.;
(99) 42°10.90′ N. lat., 124°24.56′ W. long.;
(100) 42°07.04′ N. lat., 124°23.35′ W. long.;
(101) 42°02.16′ N. lat., 124°22.59′ W. long.;
(102) 42°00.00′ N. lat., 124°21.81′ W. long.;
(103) 41°55.75′ N. lat., 124°20.72′ W. long.;
(104) 41°50.93′ N. lat., 124°23.76′ W. long.;
(105) 41°42.53′ N. lat., 124°16.47′ W. long.;
(106) 41°37.20′ N. lat., 124°17.05′ W. long.;
(107) 41°24.58′ N. lat., 124°10.51′ W. long.;
(108) 41°20.73′ N. lat., 124°11.73′ W. long.;
(109) 41°17.59′ N. lat., 124°10.66′ W. long.;
(110) 41°04.54′ N. lat., 124°14.47′ W. long.;
(111) 40°54.26′ N. lat., 124°13.90′ W. long.;
(112) 40°40.31′ N. lat., 124°26.24′ W. long.;
(113) 40°34.00′ N. lat., 124°27.39′ W. long.;
(114) 40°30.00′ N. lat., 124°31.32′ W. long.;
(115) 40°28.89′ N. lat., 124°32.43′ W. long.;
(116) 40°24.77′ N. lat., 124°29.51′ W. long.;
(117) 40°22.47′ N. lat., 124°24.12′ W. long.;
(118) 40°19.73′ N. lat., 124°23.59′ W. long.;
(119) 40°18.64′ N. lat., 124°21.89′ W. long.;
(120) 40°17.67′ N. lat., 124°23.07′ W. long.;
(121) 40°15.58′ N. lat., 124°23.61′ W. long.;
(122) 40°13.42′ N. lat., 124°22.94′ W. long.;
(123) 40°10.00′ N. lat., 124°16.65′ W. long.;
(124) 40°09.46′ N. lat., 124°15.28′ W. long.;
(125) 40°08.89′ N. lat., 124°15.24′ W. long.;
(126) 40°06.40′ N. lat., 124°10.97′ W. long.;
(127) 40°06.08′ N. lat., 124°09.34′ W. long.;
(128) 40°06.64′ N. lat., 124°08.00′ W. long.;
(129) 40°05.08′ N. lat., 124°07.57′ W. long.;
(130) 40°04.29′ N. lat., 124°08.12′ W. long.;
(131) 40°00.61′ N. lat., 124°07.35′ W. long.;
(132) 39°58.60′ N. lat., 124°05.51′ W. long.;
(133) 39°54.89′ N. lat., 124°04.67′ W. long.;
(134) 39°53.01′ N. lat., 124°02.33′ W. long.;
(135) 39°53.20′ N. lat., 123°58.18′ W. long.;
(136) 39°48.45′ N. lat., 123°53.21′ W. long.;
(137) 39°43.89′ N. lat., 123°51.75′ W. long.;
(138) 39°39.60′ N. lat., 123°49.14′ W. long.;
(139) 39°34.43′ N. lat., 123°48.48′ W. long.;
(140) 39°30.63′ N. lat., 123°49.71′ W. long.;
(141) 39°21.25′ N. lat., 123°50.54′ W. long.;
(142) 39°08.87′ N. lat., 123°46.24′ W. long.;
(143) 39°03.79′ N. lat., 123°43.91′ W. long.;
(144) 38°59.65′ N. lat., 123°45.94′ W. long.;
(145) 38°57.50′ N. lat., 123°46.28′ W. long.;
(146) 38°56.80′ N. lat., 123°46.48′ W. long.;
(147) 38°51.16′ N. lat., 123°41.48′ W. long.;
(148) 38°45.77′ N. lat., 123°35.14′ W. long.;
(149) 38°42.21′ N. lat., 123°28.17′ W. long.;
(150) 38°34.05′ N. lat., 123°20.96′ W. long.;
(151) 38°22.47′ N. lat., 123°07.48′ W. long.;
(152) 38°16.52′ N. lat., 123°05.62′ W. long.;
(153) 38°14.42′ N. lat., 123°01.91′ W. long.;

(154) 38°08.24′ N. lat., 122°59.79′ W. long.;
(155) 38°02.69′ N. lat., 123°01.96′ W. long.;
(156) 38°00.00′ N. lat., 123°04.75′ W. long.;
(157) 37°58.41′ N. lat., 123°02.93′ W. long.;
(158) 37°58.25′ N. lat., 122°56.49′ W. long.;
(159) 37°50.30′ N. lat., 122°52.23′ W. long.;
(160) 37°43.36′ N. lat., 123°04.18′ W. long.;
(161) 37°40.77′ N. lat., 123°01.62′ W. long.;
(162) 37°40.13′ N. lat., 122°57.30′ W. long.;
(163) 37°42.59′ N. lat., 122°53.64′ W. long.;
(164) 37°35.67′ N. lat., 122°44.20′ W. long.;
(165) 37°29.62′ N. lat., 122°36.00′ W. long.;
(166) 37°22.38′ N. lat., 122°31.66′ W. long.;
(167) 37°13.86′ N. lat., 122°28.27′ W. long.;
(168) 37°11.00′ N. lat., 122°26.50′ W. long.;
(169) 37°08.01′ N. lat., 122°24.75′ W. long.;
(170) 37°07.00′ N. lat., 122°23.60′ W. long.;
(171) 37°05.84′ N. lat., 122°22.47′ W. long.;
(172) 36°58.77′ N. lat., 122°13.03′ W. long.;
(173) 36°53.74′ N. lat., 122°03.39′ W. long.;
(174) 36°52.71′ N. lat., 122°00.14′ W. long.;
(175) 36°52.51′ N. lat., 121°56.77′ W. long.;
(176) 36°49.44′ N. lat., 121°49.63′ W. long.;
(177) 36°48.01′ N. lat., 121°49.92′ W. long.;
(178) 36°48.25′ N. lat., 121°47.66′ W. long.;
(179) 36°46.26′ N. lat., 121°51.27′ W. long.;
(180) 36°39.14′ N. lat., 121°52.05′ W. long.;
(181) 36°38.00′ N. lat., 121°53.57′ W. long.;
(182) 36°39.14′ N. lat., 121°55.45′ W. long.;
(183) 36°38.50′ N. lat., 121°57.09′ W. long.;
(184) 36°36.75′ N. lat., 121°59.44′ W. long.;
(185) 36°34.97′ N. lat., 121°59.37′ W. long.;
(186) 36°33.07′ N. lat., 121°58.32′ W. long.;
(187) 36°33.27′ N. lat., 121°57.07′ W. long.;
(188) 36°32.68′ N. lat., 121°57.03′ W. long.;
(189) 36°32.04′ N. lat., 121°55.98′ W. long.;
(190) 36°31.61′ N. lat., 121°55.72′ W. long.;
(191) 36°31.59′ N. lat., 121°57.12′ W. long.;
(192) 36°31.52′ N. lat., 121°57.57′ W. long.;
(193) 36°30.88′ N. lat., 121°57.90′ W. long.;
(194) 36°30.25′ N. lat., 121°57.37′ W. long.;
(195) 36°29.47′ N. lat., 121°57.55′ W. long.;
(196) 36°26.72′ N. lat., 121°56.40′ W. long.;
(197) 36°24.33′ N. lat., 121°56.00′ W. long.;
(198) 36°23.36′ N. lat., 121°55.45′ W. long.;
(199) 36°18.86′ N. lat., 121°56.15′ W. long.;
(200) 36°16.21′ N. lat., 121°54.81′ W. long.;
(201) 36°15.30′ N. lat., 121°53.79′ W. long.;
(202) 36°12.04′ N. lat., 121°45.38′ W. long.;
(203) 36°11.87′ N. lat., 121°44.45′ W. long.;
(204) 36°12.13′ N. lat., 121°44.25′ W. long.;
(205) 36°11.89′ N. lat., 121°43.65′ W. long.;
(206) 36°10.56′ N. lat., 121°42.62′ W. long.;
(207) 36°09.90′ N. lat., 121°41.57′ W. long.;
(208) 36°08.14′ N. lat., 121°40.44′ W. long.;
(209) 36°06.69′ N. lat., 121°38.79′ W. long.;
(210) 36°05.85′ N. lat., 121°38.47′ W. long.;
(211) 36°03.08′ N. lat., 121°36.25′ W. long.;

(212) 36°02.92′ N. lat., 121°35.89′ W. long.;
(213) 36°01.53′ N. lat., 121°36.13′ W. long.;
(214) 36°00.59′ N. lat., 121°35.40′ W. long.;
(215) 36°00.00′ N. lat., 121°34.10′ W. long.;
(216) 35°59.93′ N. lat., 121°33.81′ W. long.;
(217) 35°59.69′ N. lat., 121°31.84′ W. long.;
(218) 35°58.59′ N. lat., 121°30.30′ W. long.;
(219) 35°54.02′ N. lat., 121°29.71′ W. long.;
(220) 35°51.54′ N. lat., 121°27.67′ W. long.;
(221) 35°50.42′ N. lat., 121°25.79′ W. long.;
(222) 35°48.37′ N. lat., 121°24.29′ W. long.;
(223) 35°47.02′ N. lat., 121°22.46′ W. long.;
(224) 35°42.28′ N. lat., 121°21.20′ W. long.;
(225) 35°41.57′ N. lat., 121°21.82′ W. long.;
(226) 35°39.24′ N. lat., 121°18.84′ W. long.;
(227) 35°35.14′ N. lat., 121°10.45′ W. long.;
(228) 35°30.11′ N. lat., 121°05.59′ W. long.;
(229) 35°25.86′ N. lat., 121°00.07′ W. long.;
(230) 35°22.82′ N. lat., 120°54.68′ W. long.;
(231) 35°17.96′ N. lat., 120°55.54′ W. long.;
(232) 35°14.83′ N. lat., 120°55.42′ W. long.;
(233) 35°08.87′ N. lat., 120°50.22′ W. long.;
(234) 35°05.55′ N. lat., 120°44.89′ W. long.;
(235) 35°02.91′ N. lat., 120°43.94′ W. long.;
(236) 34°53.80′ N. lat., 120°43.94′ W. long.;
(237) 34°34.89′ N. lat., 120°41.92′ W. long.;
(238) 34°32.48′ N. lat., 120°40.05′ W. long.;
(239) 34°30.12′ N. lat., 120°32.81′ W. long.;
(240) 34°27.00′ N. lat., 120°30.46′ W. long.;
(241) 34°27.00′ N. lat., 120°30.31′ W. long.;
(242) 34°25.84′ N. lat., 120°27.40′ W. long.;
(243) 34°25.16′ N. lat., 120°20.18′ W. long.;
(244) 34°25.88′ N. lat., 120°18.24′ W. long.;
(245) 34°27.26′ N. lat., 120°12.47′ W. long.;
(246) 34°26.27′ N. lat., 120°02.22′ W. long.;
(247) 34°23.41′ N. lat., 119°53.40′ W. long.;
(248) 34°23.33′ N. lat., 119°48.74′ W. long.;
(249) 34°22.31′ N. lat., 119°41.36′ W. long.;
(250) 34°21.72′ N. lat., 119°40.14′ W. long.;
(251) 34°21.25′ N. lat., 119°41.18′ W. long.;
(252) 34°20.25′ N. lat., 119°39.03′ W. long.;
(253) 34°19.87′ N. lat., 119°33.65′ W. long.;
(254) 34°18.67′ N. lat., 119°30.16′ W. long.;
(255) 34°16.95′ N. lat., 119°27.90′ W. long.;
(256) 34°13.02′ N. lat., 119°26.99′ W. long.;
(257) 34°08.62′ N. lat., 119°20.89′ W. long.;
(258) 34°06.95′ N. lat., 119°17.68′ W. long.;
(259) 34°05.93′ N. lat., 119°15.17′ W. long.;
(260) 34°08.42′ N. lat., 119°13.11′ W. long.;
(261) 34°05.23′ N. lat., 119°13.34′ W. long.;
(262) 34°04.98′ N. lat., 119°11.39′ W. long.;
(263) 34°04.55′ N. lat., 119°11.09′ W. long.;
(264) 34°04.15′ N. lat., 119°09.35′ W. long.;
(265) 34°04.89′ N. lat., 119°07.86′ W. long.;
(266) 34°04.08′ N. lat., 119°07.33′ W. long.;
(267) 34°04.10′ N. lat., 119°06.89′ W. long.;
(268) 34°05.08′ N. lat., 119°07.02′ W. long.;
(269) 34°05.27′ N. lat., 119°04.95′ W. long.;

(270) 34°04.51′ N. lat., 119°04.70′ W. long.;
(271) 34°02.26′ N. lat., 118°59.88′ W. long.;
(272) 34°01.08′ N. lat., 118°59.77′ W. long.;
(273) 34°00.94′ N. lat., 118°51.65′ W. long.;
(274) 33°59.77′ N. lat., 118°49.26′ W. long.;
(275) 34°00.04′ N. lat., 118°48.92′ W. long.;
(276) 33°59.65′ N. lat., 118°48.43′ W. long.;
(277) 33°59.46′ N. lat., 118°47.25′ W. long.;
(278) 33°59.80′ N. lat., 118°45.89′ W. long.;
(279) 34°00.21′ N. lat., 118°37.64′ W. long.;
(280) 33°59.26′ N. lat., 118°34.58′ W. long.;
(281) 33°58.07′ N. lat., 118°33.36′ W. long.;
(282) 33°53.76′ N. lat., 118°30.14′ W. long.;
(283) 33°51.00′ N. lat., 118°25.19′ W. long.;
(284) 33°50.07′ N. lat., 118°24.70′ W. long.;
(285) 33°50.16′ N. lat., 118°23.77′ W. long.;
(286) 33°48.80′ N. lat., 118°25.31′ W. long.;
(287) 33°47.07′ N. lat., 118°27.07′ W. long.;
(288) 33°46.12′ N. lat., 118°26.87′ W. long.;
(289) 33°44.15′ N. lat., 118°25.15′ W. long.;
(290) 33°43.54′ N. lat., 118°23.02′ W. long.;
(291) 33°41.35′ N. lat., 118°18.86′ W. long.;
(292) 33°39.96′ N. lat., 118°17.37′ W. long.;
(293) 33°40.12′ N. lat., 118°16.33′ W. long.;
(294) 33°39.28′ N. lat., 118°16.21′ W. long.;
(295) 33°38.04′ N. lat., 118°14.86′ W. long.;
(296) 33°36.57′ N. lat., 118°14.67′ W. long.;
(297) 33°34.93′ N. lat., 118°10.94′ W. long.;
(298) 33°35.14′ N. lat., 118°08.61′ W. long.;
(299) 33°35.69′ N. lat., 118°07.68′ W. long.;
(300) 33°36.21′ N. lat., 118°07.53′ W. long.;
(301) 33°36.43′ N. lat., 118°06.73′ W. long.;
(302) 33°36.05′ N. lat., 118°06.15′ W. long.;
(303) 33°36.32′ N. lat., 118°03.91′ W. long.;
(304) 33°35.69′ N. lat., 118°03.64′ W. long.;
(305) 33°34.62′ N. lat., 118°00.04′ W. long.;
(306) 33°34.80′ N. lat., 117°57.73′ W. long.;
(307) 33°35.57′ N. lat., 117°56.62′ W. long.;
(308) 33°35.46′ N. lat., 117°55.99′ W. long.;
(309) 33°35.98′ N. lat., 117°55.99′ W. long.;
(310) 33°35.46′ N. lat., 117°55.38′ W. long.;
(311) 33°35.21′ N. lat., 117°53.46′ W. long.;
(312) 33°33.61′ N. lat., 117°50.45′ W. long.;
(313) 33°31.41′ N. lat., 117°47.28′ W. long.;
(314) 33°27.54′ N. lat., 117°44.36′ W. long.;
(315) 33°26.63′ N. lat., 117°43.17′ W. long.;
(316) 33°25.21′ N. lat., 117°40.90′ W. long.;
(317) 33°20.33′ N. lat., 117°35.99′ W. long.;
(318) 33°16.35′ N. lat., 117°31.51′ W. long.;
(319) 33°11.53′ N. lat., 117°26.81′ W. long.;
(320) 33°07.59′ N. lat., 117°21.13′ W. long.;
(321) 33°02.21′ N. lat., 117°19.05′ W. long.;
(322) 32°56.55′ N. lat., 117°17.70′ W. long.;
(323) 32°54.61′ N. lat., 117°16.60′ W. long.;
(324) 32°52.32′ N. lat., 117°15.97′ W. long.;
(325) 32°51.48′ N. lat., 117°16.15′ W. long.;
(326) 32°51.85′ N. lat., 117°17.26′ W. long.;
(327) 32°51.55′ N. lat., 117°19.01′ W. long.;

(328) 32°49.55′ N. lat., 117°19.63′ W. long.;
(329) 32°46.71′ N. lat., 117°18.32′ W. long.;
(330) 32°36.35′ N. lat., 117°15.68′ W. long.; and
(331) 32°32.85′ N. lat., 117°15.44′ W. long.

(e) The 30 fm (55 m) depth contour around the Farallon Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 37°46.73′ N. lat., 123°6.37′ W. long.;
(2) 37°45.79′ N. lat., 123°07.91′ W. long.;
(3) 37°45.28′ N. lat., 123°07.75′ W. long.;
(4) 37°44.98′ N. lat., 123°07.11′ W. long.;
(5) 37°45.51′ N. lat., 123°06.26′ W. long.;
(6) 37°45.14′ N. lat., 123°05.41′ W. long.;
(7) 37°45.31′ N. lat., 123°04.82′ W. long.;
(8) 37°46.11′ N. lat., 123°05.23′ W. long.;
(9) 37°46.44′ N. lat., 123°05.63′ W. long.; and
(10) 37°46.73′ N. lat., 123°06.37′ W. long.

(f) The 30 fm (55 m) depth contour around Noon Day Rock off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 37°47.83′ N. lat., 123°10.83′ W. long.;
(2) 37°47.51′ N. lat., 123°11.19′ W. long.;
(3) 37°47.33′ N. lat., 123°10.68′ W. long.;
(4) 37°47.02′ N. lat., 123°10.59′ W. long.;
(5) 37°47.21′ N. lat., 123°09.85′ W. long.;
(6) 37°47.56′ N. lat., 123°09.72′ W. long.;
(7) 37°47.87′ N. lat., 123°10.26′ W. long.; and
(8) 37°47.83′ N. lat., 123°10.83′ W. long.

(g) The 30 fm (55–m) depth contour around the northern Channel Islands of the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 34°00.98′ N. lat., 119°20.46′ W. long.;
(2) 34°00.53′ N. lat., 119°20.98′ W. long.;
(3) 34°00.17′ N. lat., 119°21.83′ W. long.;
(4) 33°59.65′ N. lat., 119°24.45′ W. long.;
(5) 33°59.68′ N. lat., 119°25.20′ W. long.;
(6) 33°59.95′ N. lat., 119°26.25′ W. long.;
(7) 33°59.87′ N. lat., 119°27.27′ W. long.;
(8) 33°59.55′ N. lat., 119°28.02′ W. long.;
(9) 33°58.63′ N. lat., 119°36.48′ W. long.;
(10) 33°57.62′ N. lat., 119°41.13′ W. long.;
(11) 33°57.00′ N. lat., 119°42.20′ W. long.;
(12) 33°56.93′ N. lat., 119°48.00′ W. long.;
(13) 33°56.45′ N. lat., 119°49.12′ W. long.;
(14) 33°58.54′ N. lat., 119°52.80′ W. long.;
(15) 33°59.95′ N. lat., 119°54.49′ W. long.;
(16) 33°59.83′ N. lat., 119°56.00′ W. long.;
(17) 33°59.18′ N. lat., 119°57.17′ W. long.;
(18) 33°57.83′ N. lat., 119°56.74′ W. long.;
(19) 33°55.71′ N. lat., 119°56.89′ W. long.;
(20) 33°53.89′ N. lat., 119°57.68′ W. long.;
(21) 33°52.93′ N. lat., 119°59.80′ W. long.;
(22) 33°52.79′ N. lat., 120°01.81′ W. long.;
(23) 33°52.51′ N. lat., 120°03.08′ W. long.;
(24) 33°53.12′ N. lat., 120°04.88′ W. long.;
(25) 33°53.12′ N. lat., 120°05.80′ W. long.;
(26) 33°52.94′ N. lat., 120°06.50′ W. long.;
(27) 33°54.03′ N. lat., 120°10.00′ W. long.;
(28) 33°54.58′ N. lat., 120°11.82′ W. long.;
(29) 33°57.08′ N. lat., 120°14.58′ W. long.;
(30) 33°59.50′ N. lat., 120°16.72′ W. long.;
(31) 33°59.63′ N. lat., 120°17.88′ W. long.;
(32) 34°00.30′ N. lat., 120°19.14′ W. long.;
(33) 34°00.02′ N. lat., 120°19.68′ W. long.;
(34) 34°00.08′ N. lat., 120°21.73′ W. long.;
(35) 34°00.94′ N. lat., 120°24.82′ W. long.;
(36) 34°01.09′ N. lat., 120°27.29′ W. long.;
(37) 34°00.96′ N. lat., 120°28.09′ W. long.;
(38) 34°01.56′ N. lat., 120°28.71′ W. long.;
(39) 34°01.80′ N. lat., 120°28.31′ W. long.;
(40) 34°03.60′ N. lat., 120°28.87′ W. long.;
(41) 34°05.20′ N. lat., 120°29.38′ W. long.;
(42) 34°05.35′ N. lat., 120°28.20′ W. long.;
(43) 34°05.30′ N. lat., 120°27.33′ W. long.;
(44) 34°05.65′ N. lat., 120°26.79′ W. long.;
(45) 34°05.69′ N. lat., 120°25.82′ W. long.;
(46) 34°07.24′ N. lat., 120°24.98′ W. long.;
(47) 34°06.00′ N. lat., 120°23.30′ W. long.;
(48) 34°05.64′ N. lat., 120°21.44′ W. long.;
(49) 34°03.61′ N. lat., 120°18.40′ W. long.;
(50) 34°03.25′ N. lat., 120°16.64′ W. long.;
(51) 34°04.33′ N. lat., 120°14.22′ W. long.;
(52) 34°04.11′ N. lat., 120°11.17′ W. long.;
(53) 34°03.72′ N. lat., 120°09.93′ W. long.;
(54) 34°03.81′ N. lat., 120°08.96′ W. long.;
(55) 34°03.36′ N. lat., 120°06.52′ W. long.;
(56) 34°04.80′ N. lat., 120°04.00′ W. long.;
(57) 34°03.48′ N. lat., 120°01.75′ W. long.;
(58) 34°04.00′ N. lat., 120°01.00′ W. long.;
(59) 34°03.99′ N. lat., 120°00.15′ W. long.;
(60) 34°03.51′ N. lat., 119°59.42′ W. long.;
(61) 34°03.79′ N. lat., 119°58.15′ W. long.;
(62) 34°04.72′ N. lat., 119°57.61′ W. long.;
(63) 34°05.14′ N. lat., 119°55.17′ W. long.;
(64) 34°04.66′ N. lat., 119°51.60′ W. long.;
(65) 34°03.79′ N. lat., 119°48.86′ W. long.;
(66) 34°03.79′ N. lat., 119°45.46′ W. long.;
(67) 34°03.27′ N. lat., 119°44.17′ W. long.;
(68) 34°03.29′ N. lat., 119°43.30′ W. long.;
(69) 34°01.71′ N. lat., 119°40.83′ W. long.;
(70) 34°01.74′ N. lat., 119°37.92′ W. long.;
(71) 34°02.07′ N. lat., 119°37.17′ W. long.;
(72) 34°02.93′ N. lat., 119°36.52′ W. long.;
(73) 34°03.48′ N. lat., 119°35.50′ W. long.;
(74) 34°03.56′ N. lat., 119°32.80′ W. long.;
(75) 34°02.72′ N. lat., 119°31.84′ W. long.;

(76) 34°02.20′ N. lat., 119°30.53′ W. long.;
(77) 34°01.49′ N. lat., 119°30.20′ W. long.;
(78) 34°00.66′ N. lat., 119°28.62′ W. long.;
(79) 34°00.66′ N. lat., 119°27.57′ W. long.;
(80) 34°01.41′ N. lat., 119°26.91′ W. long.;
(81) 34°00.91′ N. lat., 119°24.28′ W. long.;
(82) 34°01.51′ N. lat., 119°22.06′ W. long.;
(83) 34°01.41′ N. lat., 119°20.61′ W. long.; and
(84) 34°00.98′ N. lat., 119°20.46′ W. long.

(h) The 30 fm (55 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°03.37′ N. lat., 118°37.76′ W. long.;
(2) 33°02.72′ N. lat., 118°38.12′ W. long.;
(3) 33°02.18′ N. lat., 118°37.46′ W. long.;
(4) 33°00.66′ N. lat., 118°37.36′ W. long.;
(5) 33°00.08′ N. lat., 118°36.94′ W. long.;
(6) 33°00.11′ N. lat., 118°36.00′ W. long.;
(7) 32°58.02′ N. lat., 118°35.41′ W. long.;
(8) 32°56.00′ N. lat., 118°33.59′ W. long.;
(9) 32°54.76′ N. lat., 118°33.58′ W. long.;
(10) 32°53.97′ N. lat., 118°32.45′ W. long.;
(11) 32°51.18′ N. lat., 118°30.83′ W. long.;
(12) 32°50.00′ N. lat., 118°29.68′ W. long.;
(13) 32°49.72′ N. lat., 118°28.33′ W. long.;
(14) 32°47.88′ N. lat., 118°26.90′ W. long.;
(15) 32°47.30′ N. lat., 118°25.73′ W. long.;
(16) 32°47.28′ N. lat., 118°24.83′ W. long.;
(17) 32°48.12′ N. lat., 118°24.33′ W. long.;
(18) 32°48.74′ N. lat., 118°23.39′ W. long.;
(19) 32°48.69′ N. lat., 118°21.75′ W. long.;
(20) 32°49.06′ N. lat., 118°20.53′ W. long.;
(21) 32°50.28′ N. lat., 118°21.90′ W. long.;
(22) 32°51.73′ N. lat., 118°23.86′ W. long.;
(23) 32°52.79′ N. lat., 118°25.08′ W. long.;
(24) 32°54.03′ N. lat., 118°26.83′ W. long.;
(25) 32°54.70′ N. lat., 118°27.55′ W. long.;
(26) 32°55.49′ N. lat., 118°29.04′ W. long.;
(27) 32°59.58′ N. lat., 118°32.51′ W. long.;
(28) 32°59.89′ N. lat., 118°32.52′ W. long.;
(29) 33°00.29′ N. lat., 118°32.73′ W. long.;
(30) 33°00.85′ N. lat., 118°33.50′ W. long.;
(31) 33°01.70′ N. lat., 118°33.64′ W. long.;
(32) 33°02.90′ N. lat., 118°35.35′ W. long.;
(33) 33°02.61′ N. lat., 118°36.96′ W. long.; and
(34) 33°03.37′ N. lat., 118°37.76′ W. long.

(i) The 30 fm (55 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°19.13′ N. lat., 118°18.04′ W. long.;
(2) 33°18.32′ N. lat., 118°18.20′ W. long.;
(3) 33°17.82′ N. lat., 118°18.73′ W. long.;
(4) 33°17.54′ N. lat., 118°19.52′ W. long.;
(5) 33°17.99′ N. lat., 118°21.71′ W. long.;
(6) 33°18.48′ N. lat., 118°22.82′ W. long.;
(7) 33°18.77′ N. lat., 118°26.95′ W. long.;
(8) 33°19.69′ N. lat., 118°28.87′ W. long.;
(9) 33°20.53′ N. lat., 118°30.52′ W. long.;
(10) 33°20.46′ N. lat., 118°31.47′ W. long.;
(11) 33°20.98′ N. lat., 118°31.39′ W. long.;
(12) 33°20.81′ N. lat., 118°30.49′ W. long.;
(13) 33°21.38′ N. lat., 118°30.07′ W. long.;
(14) 33°23.12′ N. lat., 118°29.31′ W. long.;
(15) 33°24.95′ N. lat., 118°29.70′ W. long.;
(16) 33°25.39′ N. lat., 118°30.50′ W. long.;
(17) 33°25.21′ N. lat., 118°30.79′ W. long.;
(18) 33°25.65′ N. lat., 118°31.60′ W. long.;
(19) 33°25.65′ N. lat., 118°32.04′ W. long.;
(20) 33°25.94′ N. lat., 118°32.96′ W. long.;
(21) 33°25.86′ N. lat., 118°33.49′ W. long.;
(22) 33°26.06′ N. lat., 118°34.12′ W. long.;
(23) 33°28.28′ N. lat., 118°36.60′ W. long.;
(24) 33°28.83′ N. lat., 118°36.42′ W. long.;
(25) 33°28.72′ N. lat., 118°34.93′ W. long.;
(26) 33°28.71′ N. lat., 118°33.61′ W. long.;
(27) 33°28.81′ N. lat., 118°32.95′ W. long.;
(28) 33°28.73′ N. lat., 118°32.07′ W. long.;
(29) 33°27.55′ N. lat., 118°30.14′ W. long.;
(30) 33°27.86′ N. lat., 118°29.41′ W. long.;
(31) 33°26.98′ N. lat., 118°29.06′ W. long.;
(32) 33°26.96′ N. lat., 118°28.58′ W. long.;
(33) 33°26.76′ N. lat., 118°28.40′ W. long.;
(34) 33°26.52′ N. lat., 118°27.66′ W. long.;
(35) 33°26.31′ N. lat., 118°27.41′ W. long.;
(36) 33°25.09′ N. lat., 118°23.13′ W. long.;
(37) 33°24.80′ N. lat., 118°22.86′ W. long.;
(38) 33°24.60′ N. lat., 118°22.02′ W. long.;
(39) 33°22.82′ N. lat., 118°21.04′ W. long.;
(40) 33°20.23′ N. lat., 118°18.45′ W. long.; and
(41) 33°19.13′ N. lat., 118°18.04′ W. long.

(j) The 40–fm (73–m) depth contour between 46°16′ N. lat. and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:
(1) 46°16.00′ N. lat., 124°16.10′ W. long.;
(2) 46°15.29′ N. lat., 124°15.60′ W. long.;
(3) 46°11.90′ N. lat., 124°13.59′ W. long.;
(4) 46°06.94′ N. lat., 124°10.15′ W. long.;
(5) 46°05.33′ N. lat., 124°08.30′ W. long.;
(6) 45°58.69′ N. lat., 124°05.60′ W. long.;
(7) 45°57.71′ N. lat., 124°05.81′ W. long.;
(8) 45°53.98′ N. lat., 124°05.05′ W. long.;
(9) 45°49.75′ N. lat., 124°05.14′ W. long.;
(10) 45°47.87′ N. lat., 124°05.16′ W. long.;
(11) 45°47.07′ N. lat., 124°04.21′ W. long.;
(12) 45°46.00′ N. lat., 124°04.49′ W. long.;
(13) 45°44.34′ N. lat., 124°05.09′ W. long.;
(14) 45°40.64′ N. lat., 124°04.90′ W. long.;
(15) 45°33.00′ N. lat., 124°04.46′ W. long.;
(16) 45°32.27′ N. lat., 124°04.74′ W. long.;

(17) 45°29.26′ N. lat., 124°04.22′ W. long.;
(18) 45°20.25′ N. lat., 124°04.67′ W. long.;
(19) 45°19.99′ N. lat., 124°04.62′ W. long.;
(20) 45°17.50′ N. lat., 124°04.91′ W. long.;
(21) 45°11.29′ N. lat., 124°05.20′ W. long.;
(22) 45°05.80′ N. lat., 124°05.40′ W. long.;
(23) 45°05.08′ N. lat., 124°05.93′ W. long.;
(24) 45°03.83′ N. lat., 124°06.47′ W. long.;
(25) 45°01.70′ N. lat., 124°06.53′ W. long.;
(26) 44°58.75′ N. lat., 124°07.14′ W. long.;
(27) 44°51.28′ N. lat., 124°10.21′ W. long.;
(28) 44°49.49′ N. lat., 124°10.90′ W. long.;
(29) 44°44.96′ N. lat., 124°14.39′ W. long.;
(30) 44°43.44′ N. lat., 124°14.78′ W. long.;
(31) 44°42.26′ N. lat., 124°13.81′ W. long.;
(32) 44°41.68′ N. lat., 124°15.38′ W. long.;
(33) 44°34.87′ N. lat., 124°15.80′ W. long.;
(34) 44°33.74′ N. lat., 124°14.44′ W. long.;
(35) 44°27.66′ N. lat., 124°16.99′ W. long.;
(36) 44°19.13′ N. lat., 124°19.22′ W. long.;
(37) 44°15.35′ N. lat., 124°17.38′ W. long.;
(38) 44°14.38′ N. lat., 124°17.78′ W. long.;
(39) 44°12.80′ N. lat., 124°17.18′ W. long.;
(40) 44°09.23′ N. lat., 124°15.96′ W. long.;
(41) 44°08.38′ N. lat., 124°16.79′ W. long.;
(42) 44°08.30′ N. lat., 124°16.75′ W. long.;
(43) 44°01.18′ N. lat., 124°15.42′ W. long.;
(44) 43°51.61′ N. lat., 124°14.68′ W. long.;
(45) 43°42.66′ N. lat., 124°15.46′ W. long.;
(46) 43°40.49′ N. lat., 124°15.74′ W. long.;
(47) 43°38.77′ N. lat., 124°15.64′ W. long.;
(48) 43°34.52′ N. lat., 124°16.73′ W. long.;
(49) 43°28.82′ N. lat., 124°19.52′ W. long.;
(50) 43°23.91′ N. lat., 124°24.28′ W. long.;
(51) 43°20.83′ N. lat., 124°26.63′ W. long.;
(52) 43°17.96′ N. lat., 124°28.81′ W. long.;
(53) 43°16.75′ N. lat., 124°28.42′ W. long.;
(54) 43°13.97′ N. lat., 124°31.99′ W. long.;
(55) 43°13.72′ N. lat., 124°33.25′ W. long.;
(56) 43°12.26′ N. lat., 124°34.16′ W. long.;
(57) 43°10.96′ N. lat., 124°32.33′ W. long.;
(58) 43°05.65′ N. lat., 124°31.52′ W. long.;
(59) 42°59.66′ N. lat., 124°32.58′ W. long.;
(60) 42°54.97′ N. lat., 124°36.99′ W. long.;
(61) 42°53.81′ N. lat., 124°38.57′ W. long.;
(62) 42°50.00′ N. lat., 124°39.68′ W. long.;
(63) 42°49.13′ N. lat., 124°39.70′ W. long.;
(64) 42°46.47′ N. lat., 124°38.89′ W. long.;
(65) 42°45.74′ N. lat., 124°38.86′ W. long.;
(66) 42°44.79′ N. lat., 124°37.96′ W. long.;
(67) 42°45.01′ N. lat., 124°36.39′ W. long.;
(68) 42°44.14′ N. lat., 124°35.17′ W. long.;
(69) 42°42.14′ N. lat., 124°32.82′ W. long.;
(70) 42°40.50′ N. lat., 124°31.98′ W. long.;
(71) 42°38.81′ N. lat., 124°31.09′ W. long.;
(72) 42°35.91′ N. lat., 124°31.02′ W. long.;
(73) 42°31.34′ N. lat., 124°34.84′ W. long.;
(74) 42°28.13′ N. lat., 124°34.84′ W. long.;
(75) 42°26.74′ N. lat., 124°35.59′ W. long.;
(76) 42°23.84′ N. lat., 124°34.06′ W. long.;
(77) 42°21.68′ N. lat., 124°30.64′ W. long.;
(78) 42°19.62′ N. lat., 124°29.02′ W. long.;
(79) 42°15.01′ N. lat., 124°27.72′ W. long.;
(80) 42°13.67′ N. lat., 124°26.93′ W. long.;
(81) 42°11.38′ N. lat., 124°25.63′ W. long.;
(82) 42°04.66′ N. lat., 124°24.40′ W. long.;
(83) 42°00.00′ N. lat., 124°23.55′ W. long.;
(84) 41°51.35′ N. lat., 124°25.25′ W. long.;
(85) 41°44.10′ N. lat., 124°19.05′ W. long.;
(86) 41°38.00′ N. lat., 124°20.04′ W. long.;
(87) 41°18.43′ N. lat., 124°13.48′ W. long.;
(88) 40°55.12′ N. lat., 124°16.33′ W. long.;
(89) 40°41.00′ N. lat., 124°27.66′ W. long.;
(90) 40°36.71′ N. lat., 124°27.15′ W. long.;
(91) 40°32.81′ N. lat., 124°29.42′ W. long.;
(92) 40°30.00′ N. lat., 124°32.38′ W. long.;
(93) 40°29.13′ N. lat., 124°33.23′ W. long.;
(94) 40°24.55′ N. lat., 124°30.40′ W. long.;
(95) 40°22.32′ N. lat., 124°24.19′ W. long.;
(96) 40°19.67′ N. lat., 124°25.52′ W. long.;
(97) 40°18.63′ N. lat., 124°22.38′ W. long.;
(98) 40°15.21′ N. lat., 124°24.53′ W. long.;
(99) 40°12.56′ N. lat., 124°22.69′ W. long.;
(100) 40°10.00′ N. lat., 124°17.84′ W. long.;
(101) 40°09.30′ N. lat., 124°15.68′ W. long.;
(102) 40°08.31′ N. lat., 124°15.17′ W. long.;
(103) 40°05.62′ N. lat., 124°09.80′ W. long.;
(104) 40°06.57′ N. lat., 124°07.99′ W. long.;
(105) 40°00.86′ N. lat., 124°08.42′ W. long.;
(106) 39°54.79′ N. lat., 124°05.25′ W. long.;
(107) 39°52.75′ N. lat., 124°02.62′ W. long.;
(108) 39°52.51′ N. lat., 123°58.15′ W. long.;
(109) 39°49.64′ N. lat., 123°54.98′ W. long.;
(110) 39°41.46′ N. lat., 123°50.65′ W. long.;
(111) 39°34.57′ N. lat., 123°49.24′ W. long.;
(112) 39°22.62′ N. lat., 123°51.21′ W. long.;
(113) 39°04.58′ N. lat., 123°45.43′ W. long.;
(114) 39°00.45′ N. lat., 123°47.58′ W. long.;
(115) 38°57.50′ N. lat., 123°47.27′ W. long.;
(116) 38°55.82′ N. lat., 123°46.97′ W. long.;
(117) 38°52.26′ N. lat., 123°44.35′ W. long.;

(118) 38°45.41′ N. lat., 123°35.67′ W. long.;
(119) 38°40.60′ N. lat., 123°28.22′ W. long.;
(120) 38°21.64′ N. lat., 123°08.91′ W. long.;
(121) 38°12.01′ N. lat., 123°03.86′ W. long.;
(122) 38°06.16′ N. lat., 123°07.01′ W. long.;
(123) 38°00.00′ N. lat., 123°07.05′ W. long.;
(124) 37°51.73′ N. lat., 122°57.97′ W. long.;
(125) 37°47.96′ N. lat., 122°59.34′ W. long.;
(126) 37°47.37′ N. lat., 123°08.84′ W. long.;
(127) 37°50.00′ N. lat., 123°14.38′ W. long.;
(128) 37°39.91′ N. lat., 123°00.84′ W. long.;
(129) 37°38.75′ N. lat., 122°52.16′ W. long.;
(130) 37°35.67′ N. lat., 122°49.47′ W. long.;
(131) 37°20.24′ N. lat., 122°33.82′ W. long.;
(132) 37°11.00′ N. lat., 122°28.50′ W. long.;
(133) 37°07.00′ N. lat., 122°26.26′ W. long.;
(134) 36°52.04′ N. lat., 122°04.60′ W. long.;
(135) 36°52.00′ N. lat., 121°57.41′ W. long.;
(136) 36°49.26′ N. lat., 121°52.53′ W. long.;
(137) 36°49.22′ N. lat., 121°49.85′ W. long.;
(138) 36°47.87′ N. lat., 121°50.15′ W. long.;
(139) 36°48.07′ N. lat., 121°48.21′ W. long.;
(140) 36°45.93′ N. lat., 121°52.11′ W. long.;
(141) 36°40.55′ N. lat., 121°52.59′ W. long.;
(142) 36°38.93′ N. lat., 121°58.17′ W. long.;
(143) 36°36.54′ N. lat., 122°00.18′ W. long.;
(144) 36°32.96′ N. lat., 121°58.84′ W. long.;
(145) 36°33.14′ N. lat., 121°57.56′ W. long.;
(146) 36°31.81′ N. lat., 121°55.86′ W. long.;
(147) 36°31.53′ N. lat., 121°58.09′ W. long.;
(148) 36°23.28′ N. lat., 121°56.10′ W. long.;
(149) 36°17.52′ N. lat., 121°57.33′ W. long.;
(150) 36°15.90′ N. lat., 121°57.00′ W. long.;
(151) 36°11.06′ N. lat., 121°43.10′ W. long.;
(152) 36°02.85′ N. lat., 121°36.21′ W. long.;
(153) 36°01.22′ N. lat., 121°36.36′ W. long.;
(154) 36°00.00′ N. lat., 121°34.73′ W. long.;
(155) 35°58.67′ N. lat., 121°30.68′ W. long.;
(156) 35°54.16′ N. lat., 121°30.21′ W. long.;
(157) 35°46.98′ N. lat., 121°24.02′ W. long.;
(158) 35°40.75′ N. lat., 121°21.89′ W. long.;
(159) 35°34.36′ N. lat., 121°11.07′ W. long.;
(160) 35°29.30′ N. lat., 121°05.74′ W. long.;
(161) 35°22.15′ N. lat., 120°56.15′ W. long.;
(162) 35°14.93′ N. lat., 120°56.37′ W. long.;
(163) 35°04.06′ N. lat., 120°46.35′ W. long.;
(164) 34°45.85′ N. lat., 120°43.96′ W. long.;
(165) 34°37.80′ N. lat., 120°44.44′ W. long.;
(166) 34°32.82′ N. lat., 120°42.08′ W. long.;
(167) 34°27.00′ N. lat., 120°31.27′ W. long.;
(168) 34°24.25′ N. lat., 120°23.33′ W. long.;
(169) 34°26.48′ N. lat., 120°13.93′ W. long.;
(170) 34°25.12′ N. lat., 120°03.46′ W. long.;
(171) 34°17.58′ N. lat., 119°31.62′ W. long.;
(172) 34°11.49′ N. lat., 119°27.30′ W. long.;
(173) 34°05.59′ N. lat., 119°15.52′ W. long.;
(174) 34°08.60′ N. lat., 119°12.93′ W. long.;
(175) 34°04.81′ N. lat., 119°13.44′ W. long.;

(176) 34°04.26′ N. lat., 119°12.39′ W. long.;
(177) 34°03.89′ N. lat., 119°07.06′ W. long.;
(178) 34°05.14′ N. lat., 119°05.55′ W. long.;
(179) 34°01.27′ N. lat., 118°59.62′ W. long.;
(180) 33°59.56′ N. lat., 118°48.21′ W. long.;
(181) 33°59.30′ N. lat., 118°35.43′ W. long.;
(182) 33°55.14′ N. lat., 118°32.16′ W. long.;
(183) 33°52.95′ N. lat., 118°34.49′ W. long.;
(184) 33°51.07′ N. lat., 118°31.50′ W. long.;
(185) 33°52.45′ N. lat., 118°28.54′ W. long.;
(186) 33°49.86′ N. lat., 118°24.10′ W. long.;
(187) 33°47.14′ N. lat., 118°28.38′ W. long.;
(188) 33°44.14′ N. lat., 118°25.18′ W. long.;
(189) 33°41.54′ N. lat., 118°19.63′ W. long.;
(190) 33°37.86′ N. lat., 118°15.06′ W. long.;
(191) 33°36.58′ N. lat., 118°15.97′ W. long.;
(192) 33°34.78′ N. lat., 118°12.60′ W. long.;
(193) 33°34.46′ N. lat., 118°08.77′ W. long.;
(194) 33°35.92′ N. lat., 118°07.04′ W. long.;
(195) 33°36.06′ N. lat., 118°03.96′ W. long.;
(196) 33°34.98′ N. lat., 118°02.74′ W. long.;
(197) 33°34.03′ N. lat., 117°59.37′ W. long.;
(198) 33°35.46′ N. lat., 117°55.61′ W. long.;
(199) 33°34.97′ N. lat., 117°53.33′ W. long.;
(200) 33°31.20′ N. lat., 117°47.40′ W. long.;
(201) 33°27.26′ N. lat., 117°44.34′ W. long.;
(202) 33°24.84′ N. lat., 117°40.75′ W. long.;
(203) 33°11.45′ N. lat., 117°26.84′ W. long.;
(204) 33°07.59′ N. lat., 117°21.46′ W. long.;
(205) 33°01.74′ N. lat., 117°19.23′ W. long.;
(206) 32°56.44′ N. lat., 117°18.08′ W. long.;
(207) 32°54.63′ N. lat., 117°16.94′ W. long.;
(208) 32°51.67′ N. lat., 117°16.21′ W. long.;
(209) 32°52.16′ N. lat., 117°19.41′ W. long.;
(210) 32°46.91′ N. lat., 117°20.43′ W. long.;
(211) 32°43.49′ N. lat., 117°18.12′ W. long.; and
(212) 32°33.00′ N. lat., 117°16.39′ W. long.

(k) The 40 fm (73 m) depth contour around the northern Channel Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 34°07.88′ N. lat., 120°27.79′ W. long.;
(2) 34°07.45′ N. lat., 120°28.26′ W. long.;
(3) 34°07.03′ N. lat., 120°27.29′ W. long.;
(4) 34°06.19′ N. lat., 120°28.81′ W. long.;
(5) 34°06.44′ N. lat., 120°31.17′ W. long.;
(6) 34°05.81′ N. lat., 120°31.97′ W. long.;
(7) 34°03.51′ N. lat., 120°29.61′ W. long.;
(8) 34°01.56′ N. lat., 120°28.83′ W. long.;
(9) 34°00.81′ N. lat., 120°27.94′ W. long.;
(10) 33°59.26′ N. lat., 120°17.95′ W. long.;
(11) 33°54.71′ N. lat., 120°12.72′ W. long.;
(12) 33°51.61′ N. lat., 120°02.49′ W. long.;
(13) 33°51.68′ N. lat., 119°59.41′ W. long.;
(14) 33°52.71′ N. lat., 119°57.25′ W. long.;
(15) 33°55.83′ N. lat., 119°55.92′ W. long.;
(16) 33°59.64′ N. lat., 119°56.03′ W. long.;
(17) 33°56.30′ N. lat., 119°48.63′ W. long.;
(18) 33°56.77′ N. lat., 119°41.87′ W. long.;
(19) 33°58.54′ N. lat., 119°34.98′ W. long.;
(20) 33°59.52′ N. lat., 119°24.69′ W. long.;
(21) 34°00.24′ N. lat., 119°21.00′ W. long.;
(22) 34°02.00′ N. lat., 119°19.57′ W. long.;
(23) 34°01.29′ N. lat., 119°23.92′ W. long.;
(24) 34°01.95′ N. lat., 119°28.94′ W. long.;
(25) 34°03.90′ N. lat., 119°33.43′ W. long.;
(26) 34°03.31′ N. lat., 119°36.51′ W. long.;
(27) 34°02.13′ N. lat., 119°37.99′ W. long.;
(28) 34°01.96′ N. lat., 119°40.35′ W. long.;
(29) 34°03.52′ N. lat., 119°43.22′ W. long.;
(30) 34°04.03′ N. lat., 119°45.66′ W. long.;
(31) 34°04.03′ N. lat., 119°48.13′ W. long.;
(32) 34°05.15′ N. lat., 119°52.97′ W. long.;
(33) 34°05.47′ N. lat., 119°57.55′ W. long.;
(34) 34°04.43′ N. lat., 120°02.29′ W. long.;
(35) 34°05.64′ N. lat., 120°04.05′ W. long.;
(36) 34°04.16′ N. lat., 120°07.60′ W. long.;
(37) 34°05.04′ N. lat., 120°12.78′ W. long.;
(38) 34°04.45′ N. lat., 120°17.78′ W. long.;

(39) 34°07.37′ N. lat., 120°24.14′ W. long.; and

(40) 34°07.88′ N. lat., 120°27.79′ W. long.

(l) The 40 fm (73 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°02.94′ N. lat., 118°38.42′ W. long.;
(2) 33°01.79′ N. lat., 118°37.67′ W. long.;
(3) 33°00.47′ N. lat., 118°37.65′ W. long.;
(4) 32°59.64′ N. lat., 118°37.04′ W. long.;
(5) 32°59.81′ N. lat., 118°36.37′ W. long.;
(6) 32°57.84′ N. lat., 118°35.67′ W. long.;
(7) 32°55.89′ N. lat., 118°33.88′ W. long.;
(8) 32°54.75′ N. lat., 118°33.57′ W. long.;
(9) 32°53.75′ N. lat., 118°32.47′ W. long.;
(10) 32°50.36′ N. lat., 118°30.50′ W. long.;
(11) 32°49.78′ N. lat., 118°29.65′ W. long.;
(12) 32°49.70′ N. lat., 118°28.96′ W. long.;
(13) 32°46.79′ N. lat., 118°25.60′ W. long.;
(14) 32°45.24′ N. lat., 118°24.55′ W. long.;
(15) 32°45.94′ N. lat., 118°24.12′ W. long.;
(16) 32°46.85′ N. lat., 118°24.79′ W. long.;
(17) 32°48.49′ N. lat., 118°23.25′ W. long.;
(18) 32°48.80′ N. lat., 118°20.52′ W. long.;
(19) 32°49.76′ N. lat., 118°20.98′ W. long.;
(20) 32°55.04′ N. lat., 118°27.97′ W. long.;
(21) 32°55.48′ N. lat., 118°29.01′ W. long.;
(22) 33°00.35′ N. lat., 118°32.61′ W. long.;
(23) 33°01.79′ N. lat., 118°33.66′ W. long.;
(24) 33°02.98′ N. lat., 118°35.40′ W. long.; and

(25) 33°02.94′ N. lat., 118°38.42′ W. long.

(m) The 40 fm (73 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°28.90′ N. lat., 118°36.43′ W. long.;
(2) 33°28.49′ N. lat., 118°36.70′ W. long.;
(3) 33°28.02′ N. lat., 118°36.70′ W. long.;
(4) 33°25.81′ N. lat., 118°33.95′ W. long.;
(5) 33°25.78′ N. lat., 118°32.94′ W. long.;
(6) 33°24.77′ N. lat., 118°29.99′ W. long.;
(7) 33°23.19′ N. lat., 118°29.61′ W. long.;
(8) 33°20.81′ N. lat., 118°30.52′ W. long.;
(9) 33°21.06′ N. lat., 118°31.52′ W. long.;
(10) 33°20.43′ N. lat., 118°31.62′ W. long.;
(11) 33°20.45′ N. lat., 118°30.46′ W. long.;
(12) 33°18.71′ N. lat., 118°27.64′ W. long.;
(13) 33°17.36′ N. lat., 118°18.75′ W. long.;
(14) 33°19.17′ N. lat., 118°17.56′ W. long.;
(15) 33°22.20′ N. lat., 118°20.11′ W. long.;
(16) 33°23.31′ N. lat., 118°20.45′ W. long.;
(17) 33°24.71′ N. lat., 118°22.13′ W. long.;
(18) 33°25.27′ N. lat., 118°23.30′ W. long.;
(19) 33°26.73′ N. lat., 118°28.00′ W. long.;
(20) 33°27.85′ N. lat., 118°29.33′ W. long.;
(21) 33°27.91′ N. lat., 118°29.93′ W. long.;
(22) 33°28.79′ N. lat., 118°32.16′ W. long.; and

(23) 33°28.90′ N. lat., 118°36.43′ W. long.

[69 FR 77042, Dec. 23, 2004, as amended at 70 FR 16149, Mar. 30, 2005; 71 FR 8498, Feb. 17, 2006; 71 FR 78665, Dec. 29, 2006; 72 FR 13045, Mar. 20, 2007]

### § 660.392 Latitude/longitude coordinates defining the 50 fm (91 m) through 75 fm (137 m) depth contours.

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 50 fm (91 m) through 75 fm (137 m) depth contours.

(a) The 50–fm (91–m) depth contour between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°22.15′ N. lat., 124°43.15′ W. long.;
(2) 48°22.15′ N. lat., 124°49.10′ W. long.;
(3) 48°20.03′ N. lat., 124°51.18′ W. long.;
(4) 48°16.61′ N. lat., 124°53.72′ W. long.;
(5) 48°14.68′ N. lat., 124°54.50′ W. long.;
(6) 48°12.02′ N. lat., 124°55.29′ W. long.;
(7) 48°03.14′ N. lat., 124°57.02′ W. long.;
(8) 47°56.05′ N. lat., 124°55.60′ W. long.;
(9) 47°52.58′ N. lat., 124°54.00′ W. long.;
(10) 47°50.18′ N. lat., 124°52.36′ W. long.;
(11) 47°45.34′ N. lat., 124°51.07′ W. long.;
(12) 47°40.96′ N. lat., 124°48.84′ W. long.;
(13) 47°34.59′ N. lat., 124°46.24′ W. long.;
(14) 47°27.86′ N. lat., 124°42.12′ W. long.;
(15) 47°22.34′ N. lat., 124°39.43′ W. long.;
(16) 47°17.66′ N. lat., 124°38.75′ W. long.;
(17) 47°06.25′ N. lat., 124°39.74′ W. long.;
(18) 47°00.43′ N. lat., 124°38.01′ W. long.;
(19) 46°52.00′ N. lat., 124°32.44′ W. long.;
(20) 46°35.41′ N. lat., 124°25.51′ W. long.;
(21) 46°25.43′ N. lat., 124°23.46′ W. long.;
(22) 46°16.00′ N. lat., 124°17.32′ W. long.;
(23) 45°50.88′ N. lat., 124°09.68′ W. long.;
(24) 45°46.00′ N. lat., 124°09.39′ W. long.;
(25) 45°20.25′ N. lat., 124°07.34′ W. long.;
(26) 45°12.99′ N. lat., 124°06.71′ W. long.;
(27) 45°03.83′ N. lat., 124°09.17′ W. long.;
(28) 44°52.48′ N. lat., 124°11.22′ W. long.;
(29) 44°42.41′ N. lat., 124°19.70′ W. long.;
(30) 44°38.80′ N. lat., 124°26.58′ W. long.;
(31) 44°23.39′ N. lat., 124°31.70′ W. long.;
(32) 44°20.30′ N. lat., 124°38.72′ W. long.;
(33) 44°13.52′ N. lat., 124°40.45′ W. long.;
(34) 44°18.80′ N. lat., 124°35.48′ W. long.;
(35) 44°19.62′ N. lat., 124°27.18′ W. long.;

(36) 44°08.30′ N. lat., 124°22.17′ W. long.;
(37) 43°56.65′ N. lat., 124°16.86′ W. long.;
(38) 43°34.95′ N. lat., 124°17.47′ W. long.;
(39) 43°20.83′ N. lat., 124°29.11′ W. long.;
(40) 43°12.60′ N. lat., 124°35.80′ W. long.;
(41) 43°08.96′ N. lat., 124°33.77′ W. long.;
(42) 42°59.66′ N. lat., 124°34.79′ W. long.;
(43) 42°54.29′ N. lat., 124°39.46′ W. long.;
(44) 42°50.00′ N. lat., 124°39.84′ W. long.;
(45) 42°46.50′ N. lat., 124°39.99′ W. long.;
(46) 42°41.00′ N. lat., 124°34.92′ W. long.;
(47) 42°40.50′ N. lat., 124°34.98′ W. long.;
(48) 42°36.29′ N. lat., 124°34.70′ W. long.;
(49) 42°28.36′ N. lat., 124°37.90′ W. long.;
(50) 42°25.53′ N. lat., 124°37.68′ W. long.;
(51) 42°18.64′ N. lat., 124°29.47′ W. long.;
(52) 42°13.67′ N. lat., 124°27.67′ W. long.;
(53) 42°03.04′ N. lat., 124°25.81′ W. long.;
(54) 42°00.00′ N. lat., 124°26.21′ W. long.;
(55) 41°57.60′ N. lat., 124°27.35′ W. long.;
(56) 41°52.53′ N. lat., 124°26.51′ W. long.;
(57) 41°50.17′ N. lat., 124°25.63′ W. long.;
(58) 41°46.01′ N. lat., 124°22.16′ W. long.;
(59) 41°26.50′ N. lat., 124°21.78′ W. long.;
(60) 41°15.66′ N. lat., 124°16.42′ W. long.;
(61) 41°05.45′ N. lat., 124°16.89′ W. long.;
(62) 40°54.55′ N. lat., 124°19.53′ W. long.;
(63) 40°42.22′ N. lat., 124°28.29′ W. long.;
(64) 40°39.68′ N. lat., 124°28.37′ W. long.;
(65) 40°36.76′ N. lat., 124°27.39′ W. long.;
(66) 40°34.44′ N. lat., 124°28.89′ W. long.;
(67) 40°32.57′ N. lat., 124°32.43′ W. long.;
(68) 40°30.95′ N. lat., 124°33.87′ W. long.;
(69) 40°30.00′ N. lat., 124°34.18′ W. long.;
(70) 40°28.90′ N. lat., 124°34.59′ W. long.;
(71) 40°24.36′ N. lat., 124°31.42′ W. long.;
(72) 40°23.66′ N. lat., 124°28.35′ W. long.;
(73) 40°22.54′ N. lat., 124°24.71′ W. long.;
(74) 40°21.52′ N. lat., 124°24.86′ W. long.;
(75) 40°21.25′ N. lat., 124°25.59′ W. long.;
(76) 40°20.63′ N. lat., 124°26.47′ W. long.;
(77) 40°19.18′ N. lat., 124°25.98′ W. long.;
(78) 40°18.42′ N. lat., 124°24.77′ W. long.;
(79) 40°18.64′ N. lat., 124°22.81′ W. long.;
(80) 40°15.31′ N. lat., 124°25.28′ W. long.;
(81) 40°15.37′ N. lat., 124°26.82′ W. long.;
(82) 40°11.91′ N. lat., 124°22.68′ W. long.;
(83) 40°10.00′ N. lat., 124°19.97′ W. long.;
(84) 40°09.20′ N. lat., 124°15.81′ W. long.;
(85) 40°07.51′ N. lat., 124°15.29′ W. long.;
(86) 40°05.22′ N. lat., 124°10.06′ W. long.;
(87) 40°06.51′ N. lat., 124°08.01′ W. long.;
(88) 40°00.72′ N. lat., 124°08.45′ W. long.;
(89) 39°56.60′ N. lat., 124°07.12′ W. long.;
(90) 39°52.58′ N. lat., 124°03.57′ W. long.;
(91) 39°50.65′ N. lat., 123°57.98′ W. long.;
(92) 39°40.16′ N. lat., 123°52.41′ W. long.;
(93) 39°30.12′ N. lat., 123°52.92′ W. long.;
(94) 39°24.53′ N. lat., 123°55.16′ W. long.;
(95) 39°11.58′ N. lat., 123°50.93′ W. long.;
(96) 38°57.50′ N. lat., 123°51.10′ W. long.;
(97) 38°55.13′ N. lat., 123°51.14′ W. long.;
(98) 38°28.58′ N. lat., 123°22.84′ W. long.;
(99) 38°14.60′ N. lat., 123°09.92′ W. long.;
(100) 38°01.84′ N. lat., 123°09.75′ W. long.;
(101) 38°00.00′ N. lat., 123°09.25′ W. long.;
(102) 37°55.24′ N. lat., 123°08.30′ W. long.;
(103) 37°52.06′ N. lat., 123°09.19′ W. long.;
(104) 37°50.21′ N. lat., 123°14.90′ W. long.;
(105) 37°35.67′ N. lat., 122°55.43′ W. long.;
(106) 37°11.00′ N. lat., 122°31.67′ W. long.;
(107) 37°07.00′ N. lat., 122°28.00′ W. long.;
(108) 37°03.06′ N. lat., 122°24.22′ W. long.;
(109) 36°50.20′ N. lat., 122°03.58′ W. long.;
(110) 36°51.46′ N. lat., 121°57.54′ W. long.;
(111) 36°48.53′ N. lat., 121°57.84′ W. long.;
(112) 36°48.91′ N. lat., 121°49.92′ W. long.;
(113) 36°36.82′ N. lat., 122°00.66′ W. long.;
(114) 36°32.89′ N. lat., 121°58.85′ W. long.;
(115) 36°33.10′ N. lat., 121°57.56′ W. long.;
(116) 36°31.82′ N. lat., 121°55.96′ W. long.;
(117) 36°31.57′ N. lat., 121°58.15′ W. long.;
(118) 36°23.15′ N. lat., 121°57.12′ W. long.;
(119) 36°17.10′ N. lat., 122°00.53′ W. long.;
(120) 36°10.41′ N. lat., 121°42.92′ W. long.;
(121) 36°02.56′ N. lat., 121°36.37′ W. long.;
(122) 36°01.11′ N. lat., 121°36.39′ W. long.;
(123) 36°00.00′ N. lat., 121°35.15′ W. long.;
(124) 35°58.26′ N. lat., 121°32.88′ W. long.;
(125) 35°40.38′ N. lat., 121°22.59′ W. long.;
(126) 35°24.35′ N. lat., 121°02.53′ W. long.;

(127) 35°01.43′ N. lat., 120°48.01′ W. long.;
(128) 34°39.52′ N. lat., 120°48.72′ W. long.;
(129) 34°31.26′ N. lat., 120°44.12′ W. long.;
(130) 34°27.00′ N. lat., 120°33.31′ W. long.;
(131) 34°23.47′ N. lat., 120°24.76′ W. long.;
(132) 34°25.78′ N. lat., 120°16.82′ W. long.;
(133) 34°24.65′ N. lat., 120°04.83′ W. long.;
(134) 34°23.18′ N. lat., 119°56.18′ W. long.;
(135) 34°19.20′ N. lat., 119°41.64′ W. long.;
(136) 34°16.82′ N. lat., 119°35.32′ W. long.;
(137) 34°13.43′ N. lat., 119°32.29′ W. long.;
(138) 34°05.39′ N. lat., 119°15.13′ W. long.;
(139) 34°08.22′ N. lat., 119°13.64′ W. long.;
(140) 34°07.64′ N. lat., 119°13.10′ W. long.;
(141) 34°04.56′ N. lat., 119°13.73′ W. long.;
(142) 34°03.90′ N. lat., 119°12.66′ W. long.;
(143) 34°03.66′ N. lat., 119°06.82′ W. long.;
(144) 34°04.58′ N. lat., 119°04.91′ W. long.;
(145) 34°01.28′ N. lat., 119°00.21′ W. long.;
(146) 34°00.19′ N. lat., 119°03.14′ W. long.;
(147) 33°59.66′ N. lat., 119°03.10′ W. long.;
(148) 33°59.54′ N. lat., 119°00.88′ W. long.;
(149) 34°00.82′ N. lat., 118°59.03′ W. long.;
(150) 33°59.11′ N. lat., 118°47.52′ W. long.;
(151) 33°59.07′ N. lat., 118°36.33′ W. long.;
(152) 33°55.06′ N. lat., 118°32.86′ W. long.;
(153) 33°53.56′ N. lat., 118°37.75′ W. long.;
(154) 33°51.22′ N. lat., 118°36.14′ W. long.;
(155) 33°50.48′ N. lat., 118°32.16′ W. long.;
(156) 33°51.86′ N. lat., 118°28.71′ W. long.;
(157) 33°50.09′ N. lat., 118°27.88′ W. long.;
(158) 33°49.95′ N. lat., 118°26.38′ W. long.;
(159) 33°50.73′ N. lat., 118°26.17′ W. long.;
(160) 33°49.86′ N. lat., 118°24.25′ W. long.;
(161) 33°48.10′ N. lat., 118°26.87′ W. long.;
(162) 33°47.54′ N. lat., 118°29.66′ W. long.;
(163) 33°44.10′ N. lat., 118°25.25′ W. long.;
(164) 33°41.78′ N. lat., 118°20.28′ W. long.;
(165) 33°38.18′ N. lat., 118°15.69′ W. long.;
(166) 33°37.50′ N. lat., 118°16.71′ W. long.;
(167) 33°35.98′ N. lat., 118°16.54′ W. long.;
(168) 33°34.15′ N. lat., 118°11.22′ W. long.;
(169) 33°34.29′ N. lat., 118°08.35′ W. long.;
(170) 33°35.85′ N. lat., 118°07.00′ W. long.;
(171) 33°36.12′ N. lat., 118°04.15′ W. long.;
(172) 33°34.97′ N. lat., 118°02.91′ W. long.;
(173) 33°34.00′ N. lat., 117°59.53′ W. long.;
(174) 33°35.44′ N. lat., 117°55.67′ W. long.;
(175) 33°35.15′ N. lat., 117°53.55′ W. long.;
(176) 33°31.12′ N. lat., 117°47.40′ W. long.;
(177) 33°27.99′ N. lat., 117°45.19′ W. long.;
(178) 33°26.93′ N. lat., 117°43.98′ W. long.;
(179) 33°25.44′ N. lat., 117°41.63′ W. long.;
(180) 33°19.50′ N. lat., 117°36.08′ W. long.;
(181) 33°12.74′ N. lat., 117°28.53′ W. long.;
(182) 33°10.29′ N. lat., 117°25.68′ W. long.;
(183) 33°07.50′ N. lat., 117°21.52′ W. long.;
(184) 32°59.77′ N. lat., 117°18.83′ W. long.;

(185) 32°56.10′ N. lat., 117°18.37′ W. long.;
(186) 32°54.43′ N. lat., 117°16.93′ W. long.;
(187) 32°51.89′ N. lat., 117°16.42′ W. long.;
(188) 32°52.24′ N. lat., 117°19.36′ W. long.;
(189) 32°47.06′ N. lat., 117°21.92′ W. long.;
(190) 32°45.09′ N. lat., 117°20.68′ W. long.;
(191) 32°43.62′ N. lat., 117°18.68′ W. long.; and
(192) 32°33.43′ N. lat., 117°17.00′ W. long.

(b) The 50–fm (91–m) depth contour between the U.S. border with Canada and the Swiftsure Bank is defined by straight lines connecting all of the following points in the order stated:
(1) 48°30.15′ N. lat., 124°56.12′ W. long.;
(2) 48°28.29′ N. lat., 124°56.30′ W. long.;
(3) 48°29.23′ N. lat., 124°53.63′ W. long.;
(4) 48°30.31′ N. lat., 124°51.73′ W. long.; and
(5) 48°30.15′ N. lat., 124°56.12′ W. long.

(c) The 50 fm (91 m) depth contour around the northern Channel Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 34°08.40′ N. lat., 120°33.78′ W. long.;
(2) 34°07.80′ N. lat., 120°30.99′ W. long.;
(3) 34°08.68′ N. lat., 120°26.61′ W. long.;
(4) 34°05.85′ N. lat., 120°17.13′ W. long.;
(5) 34°05.57′ N. lat., 119°51.35′ W. long.;
(6) 34°07.08′ N. lat., 119°52.43′ W. long.;
(7) 34°04.49′ N. lat., 119°35.55′ W. long.;
(8) 34°04.73′ N. lat., 119°32.77′ W. long.;
(9) 34°02.02′ N. lat., 119°19.18′ W. long.;
(10) 34°01.03′ N. lat., 119°19.50′ W. long.;
(11) 33°59.45′ N. lat., 119°22.38′ W. long.;
(12) 33°58.68′ N. lat., 119°32.36′ W. long.;
(13) 33°56.43′ N. lat., 119°41.13′ W. long.;
(14) 33°56.04′ N. lat., 119°48.20′ W. long.;
(15) 33°57.32′ N. lat., 119°51.96′ W. long.;
(16) 33°59.32′ N. lat., 119°55.59′ W. long.;
(17) 33°57.52′ N. lat., 119°55.19′ W. long.;
(18) 33°56.26′ N. lat., 119°54.29′ W. long.;
(19) 33°54.30′ N. lat., 119°54.83′ W. long.;
(20) 33°50.97′ N. lat., 119°57.03′ W. long.;
(21) 33°50.03′ N. lat., 120°03.00′ W. long.;
(22) 33°51.14′ N. lat., 120°03.65′ W. long.;
(23) 33°54.49′ N. lat., 120°12.85′ W. long.;
(24) 33°58.48′ N. lat., 120°18.50′ W. long.;
(25) 34°00.71′ N. lat., 120°28.21′ W. long.;
(26) 34°03.60′ N. lat., 120°30.60′ W. long.;
(27) 34°06.96′ N. lat., 120°34.22′ W. long.;
(28) 34°08.01′ N. lat., 120°35.24′ W. long.; and
(29) 34°08.40′ N. lat., 120°33.78′ W. long.

(d) The 50 fm (91 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°03.73′ N. lat., 118°36.98′ W. long.;
(2) 33°02.56′ N. lat., 118°34.12′ W. long.;
(3) 32°55.54′ N. lat., 118°28.87′ W. long.;
(4) 32°55.02′ N. lat., 118°27.69′ W. long.;
(5) 32°49.73′ N. lat., 118°20.99′ W. long.;
(6) 32°48.55′ N. lat., 118°20.24′ W. long.;
(7) 32°47.92′ N. lat., 118°22.45′ W. long.;
(8) 32°45.25′ N. lat., 118°24.59′ W. long.;
(9) 32°50.23′ N. lat., 118°30.80′ W. long.;
(10) 32°55.28′ N. lat., 118°33.83′ W. long.;
(11) 33°00.45′ N. lat., 118°37.88′ W. long.;
(12) 33°03.27′ N. lat., 118°38.56′ W. long.; and
(13) 33°03.73′ N. lat., 118°36.98′ W. long.

(e) The 50 fm (91 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°28.01′ N. lat., 118°37.42′ W. long.;
(2) 33°29.02′ N. lat., 118°36.33′ W. long.;
(3) 33°28.97′ N. lat., 118°33.16′ W. long.;
(4) 33°28.71′ N. lat., 118°31.22′ W. long.;
(5) 33°26.66′ N. lat., 118°27.48′ W. long.;
(6) 33°25.35′ N. lat., 118°22.83′ W. long.;
(7) 33°22.61′ N. lat., 118°19.18′ W. long.;
(8) 33°20.06′ N. lat., 118°17.35′ W. long.;
(9) 33°17.58′ N. lat., 118°17.42′ W. long.;
(10) 33°17.05′ N. lat., 118°18.72′ W. long.;
(11) 33°17.87′ N. lat., 118°24.47′ W. long.;
(12) 33°18.63′ N. lat., 118°28.16′ W. long.;
(13) 33°20.17′ N. lat., 118°31.69′ W. long.;
(14) 33°20.85′ N. lat., 118°31.82′ W. long.;
(15) 33°23.19′ N. lat., 118°29.78′ W. long.;
(16) 33°24.85′ N. lat., 118°31.22′ W. long.;
(17) 33°25.65′ N. lat., 118°34.11′ W. long.; and
(18) 33°28.01′ N. lat., 118°37.42′ W. long.

(f) The 60–fm (110–m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:
(1) 48°26.70′ N. lat., 125°09.43′ W. long.;
(2) 48°23.76′ N. lat., 125°06.77′ W. long.;
(3) 48°23.01′ N. lat., 125°03.48′ W. long.;
(4) 48°22.42′ N. lat., 124°57.84′ W. long.;
(5) 48°22.62′ N. lat., 124°48.97′ W. long.;
(6) 48°18.61′ N. lat., 124°52.52′ W. long.;
(7) 48°16.62′ N. lat., 124°54.03′ W. long.;

(8) 48°15.39′ N. lat., 124°54.79′ W. long.;
(9) 48°13.81′ N. lat., 124°55.45′ W. long.;
(10) 48°10.51′ N. lat., 124°56.56′ W. long.;
(11) 48°06.90′ N. lat., 124°57.72′ W. long.;
(12) 48°02.23′ N. lat., 125°00.20′ W. long.;
(13) 48°00.87′ N. lat., 125°00.37′ W. long.;
(14) 47°56.30′ N. lat., 124°59.51′ W. long.;
(15) 47°46.84′ N. lat., 124°57.34′ W. long.;
(16) 47°36.49′ N. lat., 124°50.93′ W. long.;
(17) 47°32.01′ N. lat., 124°48.45′ W. long.;
(18) 47°27.19′ N. lat., 124°46.47′ W. long.;
(19) 47°21.76′ N. lat., 124°43.29′ W. long.;
(20) 47°17.82′ N. lat., 124°42.12′ W. long.;
(21) 47°08.87′ N. lat., 124°43.10′ W. long.;
(22) 47°03.16′ N. lat., 124°42.61′ W. long.;
(23) 46°49.70′ N. lat., 124°36.80′ W. long.;
(24) 46°42.91′ N. lat., 124°33.20′ W. long.;
(25) 46°39.67′ N. lat., 124°30.59′ W. long.;
(26) 46°32.47′ N. lat., 124°26.34′ W. long.;
(27) 46°23.69′ N. lat., 124°25.41′ W. long.;
(28) 46°20.84′ N. lat., 124°24.24′ W. long.;
(29) 46°16.00′ N. lat., 124°19.10′ W. long.;
(30) 46°15.97′ N. lat., 124°18.80′ W. long.;
(31) 46°11.23′ N. lat., 124°19.96′ W. long.;
(32) 46°02.51′ N. lat., 124°19.84′ W. long.;
(33) 45°59.05′ N. lat., 124°16.52′ W. long.;
(34) 45°50.99′ N. lat., 124°12.83′ W. long.;
(35) 45°45.85′ N. lat., 124°11.54′ W. long.;
(36) 45°38.53′ N. lat., 124°11.92′ W. long.;
(37) 45°30.90′ N. lat., 124°10.94′ W. long.;
(38) 45°21.20′ N. lat., 124°09.12′ W. long.;
(39) 45°12.43′ N. lat., 124°08.74′ W. long.;
(40) 44°59.89′ N. lat., 124°11.95′ W. long.;
(41) 44°51.96′ N. lat., 124°15.15′ W. long.;
(42) 44°44.63′ N. lat., 124°20.07′ W. long.;
(43) 44°39.23′ N. lat., 124°28.09′ W. long.;
(44) 44°30.61′ N. lat., 124°31.66′ W. long.;
(45) 44°26.20′ N. lat., 124°35.87′ W. long.;
(46) 44°23.65′ N. lat., 124°39.07′ W. long.;
(47) 44°20.30′ N. lat., 124°38.72′ W. long.;
(48) 44°13.52′ N. lat., 124°40.45′ W. long.;
(49) 44°10.97′ N. lat., 124°38.78′ W. long.;
(50) 44°08.71′ N. lat., 124°33.54′ W. long.;
(51) 44°04.91′ N. lat., 124°24.55′ W. long.;
(52) 43°57.49′ N. lat., 124°20.05′ W. long.;
(53) 43°50.26′ N. lat., 124°21.85′ W. long.;
(54) 43°41.69′ N. lat., 124°21.94′ W. long.;
(55) 43°35.51′ N. lat., 124°21.51′ W. long.;
(56) 43°25.77′ N. lat., 124°28.47′ W. long.;
(57) 43°20.25′ N. lat., 124°31.59′ W. long.;
(58) 43°12.73′ N. lat., 124°36.68′ W. long.;
(59) 43°08.08′ N. lat., 124°36.10′ W. long.;
(60) 43°00.33′ N. lat., 124°37.57′ W. long.;
(61) 42°53.99′ N. lat., 124°41.03′ W. long.;
(62) 42°46.66′ N. lat., 124°41.13′ W. long.;
(63) 42°41.74′ N. lat., 124°37.46′ W. long.;
(64) 42°37.42′ N. lat., 124°37.22′ W. long.;
(65) 42°27.35′ N. lat., 124°39.91′ W. long.;
(66) 42°23.94′ N. lat., 124°38.29′ W. long.;
(67) 42°17.72′ N. lat., 124°31.10′ W. long.;
(68) 42°10.36′ N. lat., 124°29.11′ W. long.;
(69) 42°00.00′ N. lat., 124°28.00′ W. long.;
(70) 41°54.87′ N. lat., 124°28.50′ W. long.;
(71) 41°45.80′ N. lat., 124°23.89′ W. long.;
(72) 41°34.40′ N. lat., 124°24.03′ W. long.;
(73) 41°28.33′ N. lat., 124°25.46′ W. long.;
(74) 41°15.80′ N. lat., 124°18.90′ W. long.;
(75) 41°09.77′ N. lat., 124°17.99′ W. long.;
(76) 41°02.26′ N. lat., 124°18.71′ W. long.;
(77) 40°53.54′ N. lat., 124°21.18′ W. long.;
(78) 40°49.93′ N. lat., 124°23.02′ W. long.;
(79) 40°43.15′ N. lat., 124°28.74′ W. long.;
(80) 40°40.19′ N. lat., 124°29.07′ W. long.;
(81) 40°36.77′ N. lat., 124°27.61′ W. long.;
(82) 40°34.13′ N. lat., 124°29.39′ W. long.;
(83) 40°33.15′ N. lat., 124°33.46′ W. long.;
(84) 40°30.00′ N. lat., 124°35.84′ W. long.;
(85) 40°24.72′ N. lat., 124°33.06′ W. long.;
(86) 40°23.91′ N. lat., 124°31.28′ W. long.;
(87) 40°23.67′ N. lat., 124°28.35′ W. long.;
(88) 40°22.53′ N. lat., 124°24.72′ W. long.;
(89) 40°21.51′ N. lat., 124°24.86′ W. long.;
(90) 40°21.02′ N. lat., 124°27.70′ W. long.;
(91) 40°19.75′ N. lat., 124°27.06′ W. long.;
(92) 40°18.23′ N. lat., 124°25.30′ W. long.;
(93) 40°18.60′ N. lat., 124°22.86′ W. long.;
(94) 40°15.43′ N. lat., 124°25.37′ W. long.;
(95) 40°15.55′ N. lat., 124°28.16′ W. long.;
(96) 40°11.27′ N. lat., 124°22.56′ W. long.;
(97) 40°10.00′ N. lat., 124°19.97′ W. long.;
(98) 40°09.20′ N. lat., 124°15.81′ W. long.;
(99) 40°07.51′ N. lat., 124°15.29′ W. long.;
(100) 40°05.22′ N. lat., 124°10.06′ W. long.;
(101) 40°06.51′ N. lat., 124°08.01′ W. long.;
(102) 40°00.72′ N. lat., 124°08.45′ W. long.;
(103) 39°56.60′ N. lat., 124°07.12′ W. long.;
(104) 39°52.58′ N. lat., 124°03.57′ W. long.;
(105) 39°50.65′ N. lat., 123°57.98′ W. long.;
(106) 39°40.16′ N. lat., 123°52.41′ W. long.;
(107) 39°30.12′ N. lat., 123°52.92′ W. long.;
(108) 39°24.53′ N. lat., 123°55.16′ W. long.;
(109) 39°11.58′ N. lat., 123°50.93′ W. long.;
(110) 38°57.50′ N. lat., 123°51.14′ W. long.;
(111) 38°55.13′ N. lat., 123°51.14′ W. long.;
(112) 38°28.58′ N. lat., 123°22.84′ W. long.;

(113) 38°08.57′ N. lat., 123°14.74′ W. long.;
(114) 38°00.00′ N. lat., 123°15.61′ W. long.;
(115) 37°56.98′ N. lat., 123°21.82′ W. long.;
(116) 37°49.65′ N. lat., 123°17.48′ W. long.;
(117) 37°36.41′ N. lat., 122°58.09′ W. long.;
(118) 37°11.00′ N. lat., 122°40.22′ W. long.;
(119) 37°07.00′ N. lat., 122°37.64′ W. long.;
(120) 37°02.08′ N. lat., 122°25.49′ W. long.;
(121) 36°48.20′ N. lat., 122°03.32′ W. long.;
(122) 36°51.46′ N. lat., 121°57.54′ W. long.;
(123) 36°48.13′ N. lat., 121°58.16′ W. long.;
(124) 36°48.84′ N. lat., 121°50.06′ W. long.;
(125) 36°45.38′ N. lat., 121°53.56′ W. long.;
(126) 36°45.13′ N. lat., 121°57.06′ W. long.;
(127) 36°36.86′ N. lat., 122°00.81′ W. long.;
(128) 36°32.77′ N. lat., 121°58.90′ W. long.;
(129) 36°33.03′ N. lat., 121°57.63′ W. long.;
(130) 36°31.87′ N. lat., 121°56.10′ W. long.;
(131) 36°31.59′ N. lat., 121°58.27′ W. long.;
(132) 36°23.26′ N. lat., 121°57.70′ W. long.;
(133) 36°17.30′ N. lat., 122°01.55′ W. long.;
(134) 36°10.42′ N. lat., 121°42.90′ W. long.;
(135) 36°02.55′ N. lat., 121°36.35′ W. long.;
(136) 36°01.09′ N. lat., 121°36.41′ W. long.;
(137) 36°00.00′ N. lat., 121°35.15′ W. long.;
(138) 35°58.25′ N. lat., 121°32.88′ W. long.;
(139) 35°40.38′ N. lat., 121°22.59′ W. long.;
(140) 35°24.35′ N. lat., 121°02.53′ W. long.;
(141) 35°01.36′ N. lat., 120°49.02′ W. long.;
(142) 34°39.52′ N. lat., 120°48.72′ W. long.;
(143) 34°31.26′ N. lat., 120°44.12′ W. long.;
(144) 34°27.00′ N. lat., 120°36.00′ W. long.;
(145) 34°23.00′ N. lat., 120°25.32′ W. long.;
(146) 34°25.65′ N. lat., 120°17.20′ W. long.;
(147) 34°23.18′ N. lat., 119°56.17′ W. long.;
(148) 34°18.73′ N. lat., 119°41.89′ W. long.;
(149) 34°11.18′ N. lat., 119°31.21′ W. long.;
(150) 34°10.01′ N. lat., 119°25.84′ W. long.;
(151) 34°03.88′ N. lat., 119°12.46′ W. long.;
(152) 34°03.58′ N. lat., 119°06.71′ W. long.;
(153) 34°04.52′ N. lat., 119°04.89′ W. long.;
(154) 34°01.28′ N. lat., 119°00.27′ W. long.;
(155) 34°00.20′ N. lat., 119°03.18′ W. long.;
(156) 33°59.60′ N. lat., 119°03.14′ W. long.;
(157) 33°59.45′ N. lat., 119°00.87′ W. long.;
(158) 34°00.71′ N. lat., 118°59.07′ W. long.;
(159) 33°59.05′ N. lat., 118°47.34′ W. long.;
(160) 33°59.06′ N. lat., 118°36.30′ W. long.;
(161) 33°55.05′ N. lat., 118°32.85′ W. long.;
(162) 33°53.56′ N. lat., 118°37.73′ W. long.;
(163) 33°51.22′ N. lat., 118°36.13′ W. long.;
(164) 33°50.19′ N. lat., 118°32.19′ W. long.;
(165) 33°51.28′ N. lat., 118°29.12′ W. long.;
(166) 33°49.89′ N. lat., 118°28.04′ W. long.;
(167) 33°49.95′ N. lat., 118°26.38′ W. long.;
(168) 33°50.73′ N. lat., 118°26.16′ W. long.;
(169) 33°49.87′ N. lat., 118°24.37′ W. long.;
(170) 33°47.54′ N. lat., 118°29.65′ W. long.;

(171) 33°44.10′ N. lat., 118°25.25′ W. long.;
(172) 33°41.77′ N. lat., 118°20.32′ W. long.;
(173) 33°38.17′ N. lat., 118°15.69′ W. long.;
(174) 33°37.48′ N. lat., 118°16.72′ W. long.;
(175) 33°35.98′ N. lat., 118°16.54′ W. long.;
(176) 33°34.15′ N. lat., 118°11.22′ W. long.;
(177) 33°34.09′ N. lat., 118°08.15′ W. long.;
(178) 33°35.73′ N. lat., 118°05.01′ W. long.;
(179) 33°33.75′ N. lat., 117°59.82′ W. long.;
(180) 33°35.44′ N. lat., 117°55.65′ W. long.;
(181) 33°35.15′ N. lat., 117°53.54′ W. long.;
(182) 33°31.12′ N. lat., 117°47.39′ W. long.;
(183) 33°27.49′ N. lat., 117°44.85′ W. long.;
(184) 33°16.42′ N. lat., 117°32.92′ W. long.;
(185) 33°06.66′ N. lat., 117°21.59′ W. long.;
(186) 33°00.08′ N. lat., 117°19.02′ W. long.;
(187) 32°56.11′ N. lat., 117°18.41′ W. long.;
(188) 32°54.43′ N. lat., 117°16.93′ W. long.;
(189) 32°51.89′ N. lat., 117°16.42′ W. long.;
(190) 32°52.61′ N. lat., 117°19.50′ W. long.;
(191) 32°46.96′ N. lat., 117°22.69′ W. long.;
(192) 32°44.98′ N. lat., 117°21.87′ W. long.;
(193) 32°43.52′ N. lat., 117°19.32′ W. long.; and
(194) 32°33.56′ N. lat., 117°17.72′ W. long.

(g) The 60 fm (110 m) depth contour around the northern Channel Islands off the State of California is defined by straight lines connecting all of the following points in the order stated:
(1) 34°09.16′ N. lat., 120°26.31′ W. long.;
(2) 34°06.69′ N. lat., 120°16.43′ W. long.;
(3) 34°06.38′ N. lat., 120°04.00′ W. long.;
(4) 34°07.36′ N. lat., 119°52.06′ W. long.;
(5) 34°04.84′ N. lat., 119°36.94′ W. long.;
(6) 34°04.84′ N. lat., 119°35.50′ W. long.;
(7) 34°05.04′ N. lat., 119°32.80′ W. long.;
(8) 34°04.00′ N. lat., 119°26.70′ W. long.;
(9) 34°02.80′ N. lat., 119°21.40′ W. long.;
(10) 34°02.36′ N. lat., 119°18.97′ W. long.;
(11) 34°00.65′ N. lat., 119°19.42′ W. long.;
(12) 33°59.45′ N. lat., 119°22.38′ W. long.;
(13) 33°58.68′ N. lat., 119°32.36′ W. long.;
(14) 33°56.14′ N. lat., 119°41.09′ W. long.;
(15) 33°55.84′ N. lat., 119°48.00′ W. long.;
(16) 33°57.22′ N. lat., 119°52.09′ W. long.;
(17) 33°59.32′ N. lat., 119°55.59′ W. long.;
(18) 33°57.52′ N. lat., 119°55.19′ W. long.;
(19) 33°56.10′ N. lat., 119°54.25′ W. long.;
(20) 33°50.28′ N. lat., 119°56.02′ W. long.;
(21) 33°48.51′ N. lat., 119°59.67′ W. long.;
(22) 33°49.14′ N. lat., 120°03.58′ W. long.;
(23) 33°51.93′ N. lat., 120°06.50′ W. long.;
(24) 33°54.36′ N. lat., 120°13.06′ W. long.;
(25) 33°58.53′ N. lat., 120°20.46′ W. long.;
(26) 34°00.12′ N. lat., 120°28.12′ W. long.;
(27) 34°08.09′ N. lat., 120°35.85′ W. long.;
(28) 34°08.80′ N. lat., 120°34.58′ W. long.; and
(29) 34°09.16′ N. lat., 120°26.31′ W. long.

(h) The 60 fm (110 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°04.06′ N. lat., 118°37.32′ W. long.;
(2) 33°02.56′ N. lat., 118°34.12′ W. long.;
(3) 32°55.54′ N. lat., 118°28.87′ W. long.;
(4) 32°55.02′ N. lat., 118°27.69′ W. long.;
(5) 32°49.78′ N. lat., 118°20.88′ W. long.;
(6) 32°48.32′ N. lat., 118°19.89′ W. long.;
(7) 32°47.60′ N. lat., 118°22.00′ W. long.;
(8) 32°44.59′ N. lat., 118°24.52′ W. long.;
(9) 32°49.97′ N. lat., 118°31.52′ W. long.;
(10) 32°53.62′ N. lat., 118°32.94′ W. long.;
(11) 32°55.63′ N. lat., 118°34.82′ W. long.;
(12) 33°00.71′ N. lat., 118°38.42′ W. long.;
(13) 33°03.31′ N. lat., 118°38.74′ W. long.; and
(14) 33°04.06′ N. lat., 118°37.32′ W. long.

(i) The 60 fm (110 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°28.15′ N. lat., 118°37.85′ W. long.;
(2) 33°29.23′ N. lat., 118°36.27′ W. long.;
(3) 33°28.85′ N. lat., 118°30.85′ W. long.;
(4) 33°26.69′ N. lat., 118°27.37′ W. long.;
(5) 33°25.35′ N. lat., 118°22.83′ W. long.;
(6) 33°22.60′ N. lat., 118°18.82′ W. long.;
(7) 33°19.49′ N. lat., 118°16.91′ W. long.;
(8) 33°17.13′ N. lat., 118°16.58′ W. long.;
(9) 33°16.72′ N. lat., 118°18.07′ W. long.;
(10) 33°18.35′ N. lat., 118°27.86′ W. long.;

(11) 33°20.03′ N. lat., 118°32.04′ W. long.;
(12) 33°21.86′ N. lat., 118°31.72′ W. long.;
(13) 33°23.15′ N. lat., 118°29.89′ W. long.;
(14) 33°25.13′ N. lat., 118°32.16′ W. long.;
(15) 33°25.73′ N. lat., 118°34.88′ W. long.; and
(16) 33°28.15′ N. lat., 118°37.85′ W. long.

(j) The 75–fm (137–m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°16.80′ N. lat., 125°34.90′ W. long.;
(2) 48°14.50′ N. lat., 125°29.50′ W. long.;
(3) 48°12.08′ N. lat., 125°28.00′ W. long.;
(4) 48°09.00′ N. lat., 125°28.00′ W. long.;
(5) 48°07.80′ N. lat., 125°31.70′ W. long.;
(6) 48°04.28′ N. lat., 125°29.00′ W. long.;
(7) 48°02.50′ N. lat., 125°25.70′ W. long.;
(8) 48°10.00′ N. lat., 125°20.19′ W. long.;
(9) 48°21.70′ N. lat., 125°17.56′ W. long.;
(10) 48°23.12′ N. lat., 125°10.25′ W. long.;
(11) 48°21.77′ N. lat., 125°02.59′ W. long.;
(12) 48°23.00′ N. lat., 124°59.30′ W. long.;
(13) 48°23.90′ N. lat., 124°54.37′ W. long.;
(14) 48°23.05′ N. lat., 124°48.80′ W. long.;
(15) 48°17.10′ N. lat., 124°54.82′ W. long.;
(16) 48°05.10′ N. lat., 124°59.40′ W. long.;
(17) 48°04.50′ N. lat., 125°02.00′ W. long.;
(18) 48°04.70′ N. lat., 125°04.08′ W. long.;
(19) 48°05.20′ N. lat., 125°04.90′ W. long.;
(20) 48°06.25′ N. lat., 125°06.40′ W. long.;
(21) 48°05.91′ N. lat., 125°08.30′ W. long.;
(22) 48°07.00′ N. lat., 125°09.80′ W. long.;
(23) 48°06.93′ N. lat., 125°11.48′ W. long.;
(24) 48°04.98′ N. lat., 125°10.02′ W. long.;
(25) 47°54.00′ N. lat., 125°04.98′ W. long.;
(26) 47°44.52′ N. lat., 125°00.00′ W. long.;
(27) 47°42.00′ N. lat., 124°58.98′ W. long.;
(28) 47°35.52′ N. lat., 124°55.50′ W. long.;
(29) 47°22.02′ N. lat., 124°44.40′ W. long.;
(30) 47°16.98′ N. lat., 124°45.48′ W. long.;
(31) 47°10.98′ N. lat., 124°48.48′ W. long.;
(32) 47°04.98′ N. lat., 124°49.02′ W. long.;
(33) 46°57.98′ N. lat., 124°46.50′ W. long.;
(34) 46°54.00′ N. lat., 124°45.00′ W. long.;
(35) 46°48.48′ N. lat., 124°44.52′ W. long.;
(36) 46°40.02′ N. lat., 124°36.00′ W. long.;
(37) 46°34.09′ N. lat., 124°27.03′ W. long.;
(38) 46°24.64′ N. lat., 124°30.33′ W. long.;
(39) 46°19.98′ N. lat., 124°36.00′ W. long.;
(40) 46°18.14′ N. lat., 124°34.26′ W. long.;
(41) 46°18.72′ N. lat., 124°22.68′ W. long.;
(42) 46°16.00′ N. lat., 124°19.49′ W. long.;
(43) 46°14.63′ N. lat., 124°22.54′ W. long.;
(44) 46°11.08′ N. lat., 124°30.74′ W. long.;
(45) 46°04.28′ N. lat., 124°31.49′ W. long.;
(46) 45°55.97′ N. lat., 124°19.95′ W. long.;
(47) 45°46.00′ N. lat., 124°16.41′ W. long.;
(48) 45°44.97′ N. lat., 124°15.95′ W. long.;
(49) 45°43.14′ N. lat., 124°21.86′ W. long.;
(50) 45°34.45′ N. lat., 124°14.44′ W. long.;
(51) 45°20.25′ N. lat., 124°12.23′ W. long.;
(52) 45°15.49′ N. lat., 124°11.49′ W. long.;
(53) 45°03.83′ N. lat., 124°13.75′ W. long.;
(54) 44°57.31′ N. lat., 124°15.03′ W. long.;
(55) 44°43.90′ N. lat., 124°28.88′ W. long.;
(56) 44°28.64′ N. lat., 124°35.67′ W. long.;
(57) 44°25.31′ N. lat., 124°43.08′ W. long.;
(58) 44°16.28′ N. lat., 124°47.86′ W. long.;
(59) 44°13.47′ N. lat., 124°54.08′ W. long.;
(60) 44°02.88′ N. lat., 124°53.96′ W. long.;
(61) 44°00.14′ N. lat., 124°55.25′ W. long.;
(62) 43°57.68′ N. lat., 124°55.48′ W. long.;
(63) 43°56.66′ N. lat., 124°55.45′ W. long.;
(64) 43°57.50′ N. lat., 124°41.23′ W. long.;
(65) 44°01.79′ N. lat., 124°38.00′ W. long.;
(66) 44°02.17′ N. lat., 124°32.62′ W. long.;
(67) 43°58.15′ N. lat., 124°30.39′ W. long.;
(68) 43°53.25′ N. lat., 124°31.39′ W. long.;
(69) 43°35.56′ N. lat., 124°28.17′ W. long.;
(70) 43°21.84′ N. lat., 124°36.07′ W. long.;
(71) 43°20.83′ N. lat., 124°35.49′ W. long.;
(72) 43°19.73′ N. lat., 124°34.87′ W. long.;
(73) 43°09.38′ N. lat., 124°39.29′ W. long.;
(74) 43°07.11′ N. lat., 124°37.66′ W. long.;
(75) 42°56.27′ N. lat., 124°43.28′ W. long.;
(76) 42°50.00′ N. lat., 124°42.30′ W. long.;
(77) 42°45.01′ N. lat., 124°41.50′ W. long.;
(78) 42°40.50′ N. lat., 124°39.46′ W. long.;
(79) 42°39.71′ N. lat., 124°39.11′ W. long.;
(80) 42°32.87′ N. lat., 124°40.13′ W. long.;
(81) 42°32.30′ N. lat., 124°39.04′ W. long.;
(82) 42°26.96′ N. lat., 124°44.30′ W. long.;
(83) 42°24.11′ N. lat., 124°42.16′ W. long.;
(84) 42°21.10′ N. lat., 124°35.46′ W. long.;
(85) 42°14.72′ N. lat., 124°32.30′ W. long.;
(86) 42°13.67′ N. lat., 124°32.29′ W. long.;
(87) 42°09.25′ N. lat., 124°32.04′ W. long.;
(88) 42°01.88′ N. lat., 124°32.71′ W. long.;
(89) 42°00.00′ N. lat., 124°32.02′ W. long.;
(90) 41°46.18′ N. lat., 124°26.60′ W. long.;
(91) 41°29.22′ N. lat., 124°28.04′ W. long.;
(92) 41°09.62′ N. lat., 124°19.75′ W. long.;
(93) 40°50.71′ N. lat., 124°23.80′ W. long.;
(94) 40°43.35′ N. lat., 124°29.30′ W. long.;
(95) 40°40.24′ N. lat., 124°29.86′ W. long.;
(96) 40°37.50′ N. lat., 124°28.68′ W. long.;
(97) 40°34.42′ N. lat., 124°29.65′ W. long.;
(98) 40°34.74′ N. lat., 124°34.61′ W. long.;
(99) 40°31.70′ N. lat., 124°37.13′ W. long.;
(100) 40°30.00′ N. lat., 124°36.50′ W. long.;
(101) 40°25.03′ N. lat., 124°34.77′ W. long.;
(102) 40°23.58′ N. lat., 124°31.49′ W. long.;

(103) 40°23.64′ N. lat., 124°28.35′ W. long.;
(104) 40°22.53′ N. lat., 124°24.76′ W. long.;
(105) 40°21.46′ N. lat., 124°24.86′ W. long.;
(106) 40°21.74′ N. lat., 124°27.63′ W. long.;
(107) 40°19.76′ N. lat., 124°28.15′ W. long.;
(108) 40°18.00′ N. lat., 124°25.38′ W. long.;
(109) 40°18.54′ N. lat., 124°22.94′ W. long.;
(110) 40°15.55′ N. lat., 124°25.75′ W. long.;
(111) 40°16.06′ N. lat., 124°30.48′ W. long.;
(112) 40°15.75′ N. lat., 124°31.69′ W. long.;
(113) 40°10.00′ N. lat., 124°21.28′ W. long.;
(114) 40°08.37′ N. lat., 124°17.99′ W. long.;
(115) 40°09.00′ N. lat., 124°15.77′ W. long.;
(116) 40°06.93′ N. lat., 124°16.49′ W. long.;
(117) 40°03.60′ N. lat., 124°11.60′ W. long.;
(118) 40°06.20′ N. lat., 124°08.23′ W. long.;
(119) 40°00.94′ N. lat., 124°08.57′ W. long.;
(120) 40°00.01′ N. lat., 124°09.84′ W. long.;
(121) 39°57.75′ N. lat., 124°09.53′ W. long.;
(122) 39°55.56′ N. lat., 124°07.67′ W. long.;
(123) 39°52.21′ N. lat., 124°05.54′ W. long.;
(124) 39°48.07′ N. lat., 123°57.48′ W. long.;
(125) 39°41.60′ N. lat., 123°55.12′ W. long.;
(126) 39°30.39′ N. lat., 123°55.03′ W. long.;
(127) 39°29.48′ N. lat., 123°56.12′ W. long.;
(128) 39°13.76′ N. lat., 123°54.65′ W. long.;
(129) 39°05.21′ N. lat., 123°55.38′ W. long.;
(130) 38°57.50′ N. lat., 123°54.50′ W. long.;
(131) 38°55.90′ N. lat., 123°54.35′ W. long.;
(132) 38°48.59′ N. lat., 123°49.61′ W. long.;
(133) 38°28.82′ N. lat., 123°27.44′ W. long.;
(134) 38°09.70′ N. lat., 123°18.66′ W. long.;
(135) 38°01.81′ N. lat., 123°19.22′ W. long.;
(136) 38°00.00′ N. lat., 123°22.19′ W. long.;
(137) 37°57.70′ N. lat., 123°25.98′ W. long.;
(138) 37°56.73′ N. lat., 123°25.22′ W. long.;
(139) 37°55.59′ N. lat., 123°25.62′ W. long.;
(140) 37°52.79′ N. lat., 123°23.85′ W. long.;
(141) 37°49.13′ N. lat., 123°18.83′ W. long.;
(142) 37°46.01′ N. lat., 123°12.28′ W. long.;
(143) 37°35.67′ N. lat., 123°00.33′ W. long.;
(144) 37°24.16′ N. lat., 122°51.96′ W. long.;
(145) 37°23.32′ N. lat., 122°52.38′ W. long.;
(146) 37°11.00′ N. lat., 122°43.89′ W. long.;
(147) 37°07.00′ N. lat., 122°41.06′ W. long.;
(148) 37°04.12′ N. lat., 122°38.94′ W. long.;
(149) 37°00.64′ N. lat., 122°33.26′ W. long.;
(150) 36°59.15′ N. lat., 122°27.84′ W. long.;
(151) 37°01.41′ N. lat., 122°24.41′ W. long.;
(152) 36°58.75′ N. lat., 122°23.81′ W. long.;
(153) 36°59.17′ N. lat., 122°21.44′ W. long.;
(154) 36°57.51′ N. lat., 122°20.69′ W. long.;
(155) 36°51.46′ N. lat., 122°10.01′ W. long.;
(156) 36°48.43′ N. lat., 122°06.47′ W. long.;
(157) 36°48.66′ N. lat., 122°04.99′ W. long.;
(158) 36°47.75′ N. lat., 122°03.33′ W. long.;
(159) 36°51.23′ N. lat., 121°57.79′ W. long.;
(160) 36°49.72′ N. lat., 121°57.87′ W. long.;

(161) 36°48.84′ N. lat., 121°58.68′ W. long.;
(162) 36°47.89′ N. lat., 121°58.53′ W. long.;
(163) 36°48.66′ N. lat., 121°50.49′ W. long.;
(164) 36°45.56′ N. lat., 121°54.11′ W. long.;
(165) 36°45.30′ N. lat., 121°57.62′ W. long.;
(166) 36°38.54′ N. lat., 122°01.13′ W. long.;
(167) 36°35.76′ N. lat., 122°00.87′ W. long.;
(168) 36°32.58′ N. lat., 121°59.12′ W. long.;
(169) 36°32.95′ N. lat., 121°57.62′ W. long.;
(170) 36°31.96′ N. lat., 121°56.27′ W. long.;
(171) 36°31.74′ N. lat., 121°58.24′ W. long.;
(172) 36°30.57′ N. lat., 121°59.66′ W. long.;
(173) 36°27.80′ N. lat., 121°59.30′ W. long.;
(174) 36°26.52′ N. lat., 121°58.09′ W. long.;
(175) 36°23.65′ N. lat., 121°58.94′ W. long.;
(176) 36°20.93′ N. lat., 122°00.28′ W. long.;
(177) 36°18.23′ N. lat., 122°03.10′ W. long.;
(178) 36°14.21′ N. lat., 121°57.73′ W. long.;
(179) 36°14.68′ N. lat., 121°55.43′ W. long.;
(180) 36°10.42′ N. lat., 121°42.90′ W. long.;
(181) 36°02.55′ N. lat., 121°36.35′ W. long.;
(182) 36°01.04′ N. lat., 121°36.47′ W. long.;
(183) 36°00.00′ N. lat., 121°35.15′ W. long.;
(184) 35°58.25′ N. lat., 121°32.88′ W. long.;
(185) 35°39.35′ N. lat., 121°22.63′ W. long.;
(186) 35°24.33′ N. lat., 121°02.53′ W. long.;
(187) 35°10.84′ N. lat., 120°55.90′ W. long.;
(188) 35°04.35′ N. lat., 120°51.62′ W. long.;
(189) 34°55.25′ N. lat., 120°49.36′ W. long.;
(190) 34°47.95′ N. lat., 120°50.76′ W. long.;
(190) 34°39.27′ N. lat., 120°49.16′ W. long.;
(192) 34°31.05′ N. lat., 120°44.71′ W. long.;
(193) 34°27.00′ N. lat., 120°36.54′ W. long.;
(194) 34°22.60′ N. lat., 120°25.41′ W. long.;
(195) 34°25.45′ N. lat., 120°17.41′ W. long.;
(196) 34°22.94′ N. lat., 119°56.40′ W. long.;
(197) 34°18.37′ N. lat., 119°42.01′ W. long.;
(198) 34°11.22′ N. lat., 119°32.47′ W. long.;
(199) 34°09.58′ N. lat., 119°25.94′ W. long.;
(200) 34°03.89′ N. lat., 119°12.47′ W. long.;
(201) 34°03.57′ N. lat., 119°06.72′ W. long.;
(202) 34°04.53′ N. lat., 119°04.90′ W. long.;
(203) 34°02.84′ N. lat., 119°02.37′ W. long.;
(204) 34°01.30′ N. lat., 119°00.26′ W. long.;
(205) 34°00.22′ N. lat., 119°03.20′ W. long.;
(206) 33°59.60′ N. lat., 119°03.16′ W. long.;
(207) 33°59.46′ N. lat., 119°00.88′ W. long.;
(208) 34°00.49′ N. lat., 118°59.08′ W. long.;
(209) 33°59.07′ N. lat., 118°47.34′ W. long.;
(210) 33°58.73′ N. lat., 118°36.45′ W. long.;
(211) 33°55.24′ N. lat., 118°33.42′ W. long.;
(212) 33°53.71′ N. lat., 118°38.01′ W. long.;
(213) 33°51.22′ N. lat., 118°36.17′ W. long.;
(214) 33°49.85′ N. lat., 118°32.31′ W. long.;
(215) 33°49.61′ N. lat., 118°28.07′ W. long.;
(216) 33°49.95′ N. lat., 118°26.38′ W. long.;
(217) 33°50.36′ N. lat., 118°25.84′ W. long.;
(218) 33°49.84′ N. lat., 118°24.78′ W. long.;

(219) 33°47.53′ N. lat., 118°30.12′ W. long.;
(220) 33°44.11′ N. lat., 118°25.25′ W. long.;
(221) 33°41.77′ N. lat., 118°20.32′ W. long.;
(222) 33°38.17′ N. lat., 118°15.70′ W. long.;
(223) 33°37.48′ N. lat., 118°16.73′ W. long.;
(224) 33°36.01′ N. lat., 118°16.55′ W. long.;
(225) 33°33.76′ N. lat., 118°11.37′ W. long.;
(226) 33°33.76′ N. lat., 118°07.94′ W. long.;
(227) 33°35.59′ N. lat., 118°05.05′ W. long.;
(228) 33°33.75′ N. lat., 117°59.82′ W. long.;
(229) 33°35.10′ N. lat., 117°55.68′ W. long.;
(230) 33°34.91′ N. lat., 117°53.76′ W. long.;
(231) 33°30.77′ N. lat., 117°47.56′ W. long.;
(232) 33°27.50′ N. lat., 117°44.87′ W. long.;
(233) 33°16.89′ N. lat., 117°34.37′ W. long.;
(234) 33°06.66′ N. lat., 117°21.59′ W. long.;
(235) 33°03.35′ N. lat., 117°20.92′ W. long.;
(236) 33°00.07′ N. lat., 117°19.02′ W. long.;
(237) 32°55.99′ N. lat., 117°18.60′ W. long.;
(238) 32°54.43′ N. lat., 117°16.93′ W. long.;
(239) 32°52.13′ N. lat., 117°16.55′ W. long.;
(240) 32°52.61′ N. lat., 117°19.50′ W. long.;
(241) 32°46.95′ N. lat., 117°22.81′ W. long.;
(242) 32°45.01′ N. lat., 117°22.07′ W. long.;
(243) 32°43.40′ N. lat., 117°19.80′ W. long.; and
(244) 32°33.74′ N. lat., 117°18.67′ W. long.

(k) The 75 fm (137 m) depth contour around the northern Channel Islands off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 34°09.12′ N. lat., 120°35.03′ W. long.;
(2) 34°09.99′ N. lat., 120°27.85′ W. long.;
(3) 34°07.19′ N. lat., 120°16.28′ W. long.;
(4) 34°06.56′ N. lat., 120°04.00′ W. long.;
(5) 34°07.27′ N. lat., 119°57.76′ W. long.;
(6) 34°07.48′ N. lat., 119°52.08′ W. long.;
(7) 34°05.18′ N. lat., 119°37.94′ W. long.;
(8) 34°05.22′ N. lat., 119°35.52′ W. long.;
(9) 34°05.12′ N. lat., 119°32.74′ W. long.;
(10) 34°04.32′ N. lat., 119°27.32′ W. long.;
(11) 34°03.00′ N. lat., 119°21.36′ W. long.;
(12) 34°02.32′ N. lat., 119°18.46′ W. long.;
(13) 34°00.65′ N. lat., 119°19.42′ W. long.;
(14) 33°59.45′ N. lat., 119°22.38′ W. long.;
(15) 33°58.68′ N. lat., 119°32.36′ W. long.;
(16) 33°56.12′ N. lat., 119°41.10′ W. long.;
(17) 33°55.74′ N. lat., 119°48.00′ W. long.;
(18) 33°57.78′ N. lat., 119°53.04′ W. long.;
(19) 33°59.06′ N. lat., 119°55.38′ W. long.;
(20) 33°57.57′ N. lat., 119°54.93′ W. long.;
(21) 33°56.35′ N. lat., 119°53.91′ W. long.;
(22) 33°54.43′ N. lat., 119°54.07′ W. long.;
(23) 33°52.67′ N. lat., 119°54.78′ W. long.;
(24) 33°48.33′ N. lat., 119°55.09′ W. long.;
(25) 33°47.28′ N. lat., 119°57.30′ W. long.;
(26) 33°47.36′ N. lat., 120°00.39′ W. long.;
(27) 33°49.16′ N. lat., 120°05.06′ W. long.;
(28) 33°51.41′ N. lat., 120°06.49′ W. long.;
(29) 33°52.99′ N. lat., 120°10.01′ W. long.;
(30) 33°56.64′ N. lat., 120°18.88′ W. long.;
(31) 33°58.02′ N. lat., 120°21.41′ W. long.;
(32) 33°58.73′ N. lat., 120°25.22′ W. long.;
(33) 33°59.08′ N. lat., 120°26.58′ W. long.;
(34) 33°59.95′ N. lat., 120°28.21′ W. long.;
(35) 34°03.54′ N. lat., 120°32.23′ W. long.;
(36) 34°05.57′ N. lat., 120°34.23′ W. long.;
(37) 34°08.13′ N. lat., 120°36.05′ W. long.; and
(38) 34°09.12′ N. lat., 120°35.03′ W. long.

(l) The 75 fm (137 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°04.54′ N. lat., 118°37.54′ W. long.;
(2) 33°02.56′ N. lat., 118°34.12′ W. long.;
(3) 32°55.54′ N. lat., 118°28.87′ W. long.;
(4) 32°55.02′ N. lat., 118°27.69′ W. long.;
(5) 32°49.78′ N. lat., 118°20.88′ W. long.;
(6) 32°48.32′ N. lat., 118°19.89′ W. long.;
(7) 32°47.41′ N. lat., 118°21.98′ W. long.;
(8) 32°44.39′ N. lat., 118°24.49′ W. long.;
(9) 32°47.93′ N. lat., 118°29.90′ W. long.;
(10) 32°49.69′ N. lat., 118°31.52′ W. long.;
(11) 32°53.57′ N. lat., 118°33.09′ W. long.;
(12) 32°55.42′ N. lat., 118°35.17′ W. long.;
(13) 33°00.49′ N. lat., 118°38.56′ W. long.;
(14) 33°03.23′ N. lat., 118°39.16′ W. long.; and
(15) 33°04.54′ N. lat., 118°37.54′ W. long.

(m) The 75 fm (137 m) depth contour around Santa Catalina Island off the

state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°28.17′ N. lat., 118°38.16′ W. long.;
(2) 33°29.35′ N. lat., 118°36.23′ W. long.;
(3) 33°28.85′ N. lat., 118°30.85′ W. long.;
(4) 33°26.69′ N. lat., 118°27.37′ W. long.;
(5) 33°26.31′ N. lat., 118°25.14′ W. long.;
(6) 33°25.35′ N. lat., 118°22.83′ W. long.;
(7) 33°22.47′ N. lat., 118°18.53′ W. long.;
(8) 33°19.51′ N. lat., 118°16.82′ W. long.;
(9) 33°17.07′ N. lat., 118°16.38′ W. long.;
(10) 33°16.58′ N. lat., 118°17.61′ W. long.;
(11) 33°18.35′ N. lat., 118°27.86′ W. long.;
(12) 33°20.07′ N. lat., 118°32.12′ W. long.;
(13) 33°21.77′ N. lat., 118°31.85′ W. long.;
(14) 33°23.15′ N. lat., 118°29.99′ W. long.;
(15) 33°24.96′ N. lat., 118°32.21′ W. long.;
(16) 33°25.67′ N. lat., 118°34.88′ W. long.;
(17) 33°27.80′ N. lat., 118°37.90′ W. long.; and
(18) 33°28.17′ N. lat., 118°38.16′ W. long.

[69 FR 77051, Dec. 23, 2004, as amended at 71 FR 8500, Feb. 17, 2006; 71 FR 78672, Dec. 29, 2006]

### § 660.393 Latitude/longitude coordinates defining the 100 fm (183 m) through 150 fm (274 m) depth contours.

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 100 fm (183 m) through 150 fm (274 m) depth contours.

(a) The 100–fm (183–m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°15.00′ N. lat., 125°41.00′ W. long.;
(2) 48°14.00′ N. lat., 125°36.00′ W. long.;
(3) 48°09.50′ N. lat., 125°40.50′ W. long.;
(4) 48°08.00′ N. lat., 125°38.00′ W. long.;
(5) 48°05.00′ N. lat., 125°37.25′ W. long.;
(6) 48°02.60′ N. lat., 125°34.70′ W. long.;
(7) 47°59.00′ N. lat., 125°34.00′ W. long.;
(8) 47°57.26′ N. lat., 125°29.82′ W. long.;
(9) 47°59.87′ N. lat., 125°25.81′ W. long.;
(10) 48°01.80′ N. lat., 125°24.53′ W. long.;
(11) 48°02.08′ N. lat., 125°22.98′ W. long.;
(12) 48°02.97′ N. lat., 125°22.89′ W. long.;
(13) 48°04.47′ N. lat., 125°21.75′ W. long.;
(14) 48°06.11′ N. lat., 125°19.33′ W. long.;
(15) 48°07.95′ N. lat., 125°18.55′ W. long.;
(16) 48°09.00′ N. lat., 125°18.00′ W. long.;
(17) 48°11.31′ N. lat., 125°17.55′ W. long.;
(18) 48°14.60′ N. lat., 125°13.46′ W. long.;
(19) 48°16.67′ N. lat., 125°14.34′ W. long.;
(20) 48°18.73′ N. lat., 125°14.41′ W. long.;
(21) 48°19.67′ N. lat., 125°13.70′ W. long.;
(22) 48°19.70′ N. lat., 125°11.13′ W. long.;
(23) 48°22.95′ N. lat., 125°10.79′ W. long.;
(24) 48°21.61′ N. lat., 125°02.54′ W. long.;
(25) 48°23.00′ N. lat., 124°49.34′ W. long.;
(26) 48°17.00′ N. lat., 124°56.50′ W. long.;
(27) 48°06.00′ N. lat., 125°00.00′ W. long.;
(28) 48°04.62′ N. lat., 125°01.73′ W. long.;
(29) 48°04.84′ N. lat., 125°04.03′ W. long.;
(30) 48°06.41′ N. lat., 125°06.51′ W. long.;
(31) 48°06.00′ N. lat., 125°08.00′ W. long.;
(32) 48°07.08′ N. lat., 125°09.34′ W. long.;
(33) 48°07.28′ N. lat., 125°11.14′ W. long.;
(34) 48°03.45′ N. lat., 125°16.66′ W. long.;
(35) 47°59.50′ N. lat., 125°18.88′ W. long.;
(36) 47°58.68′ N. lat., 125°16.19′ W. long.;
(37) 47°56.62′ N. lat., 125°13.50′ W. long.;
(38) 47°53.71′ N. lat., 125°11.96′ W. long.;
(39) 47°51.70′ N. lat., 125°09.38′ W. long.;
(40) 47°49.95′ N. lat., 125°06.07′ W. long.;
(41) 47°49.00′ N. lat., 125°03.00′ W. long.;
(42) 47°46.95′ N. lat., 125°04.00′ W. long.;
(43) 47°46.58′ N. lat., 125°03.15′ W. long.;
(44) 47°44.07′ N. lat., 125°04.28′ W. long.;
(45) 47°43.32′ N. lat., 125°04.41′ W. long.;
(46) 47°40.95′ N. lat., 125°04.14′ W. long.;
(47) 47°39.58′ N. lat., 125°04.97′ W. long.;
(48) 47°36.23′ N. lat., 125°02.77′ W. long.;
(49) 47°34.28′ N. lat., 124°58.66′ W. long.;
(50) 47°32.17′ N. lat., 124°57.77′ W. long.;
(51) 47°30.27′ N. lat., 124°56.16′ W. long.;
(52) 47°30.60′ N. lat., 124°54.80′ W. long.;
(53) 47°29.26′ N. lat., 124°52.21′ W. long.;
(54) 47°28.21′ N. lat., 124°50.65′ W. long.;
(55) 47°27.38′ N. lat., 124°49.34′ W. long.;
(56) 47°25.61′ N. lat., 124°48.26′ W. long.;
(57) 47°23.54′ N. lat., 124°46.42′ W. long.;
(58) 47°20.64′ N. lat., 124°45.91′ W. long.;
(59) 47°17.99′ N. lat., 124°45.59′ W. long.;
(60) 47°18.20′ N. lat., 124°49.12′ W. long.;
(61) 47°15.01′ N. lat., 124°51.09′ W. long.;
(62) 47°12.61′ N. lat., 124°54.89′ W. long.;
(63) 47°08.22′ N. lat., 124°56.53′ W. long.;
(64) 47°08.50′ N. lat., 124°57.74′ W. long.;
(65) 47°01.92′ N. lat., 124°54.95′ W. long.;
(66) 47°01.08′ N. lat., 124°59.22′ W. long.;
(67) 46°58.48′ N. lat., 124°57.81′ W. long.;
(68) 46°56.79′ N. lat., 124°56.03′ W. long.;
(69) 46°58.01′ N. lat., 124°55.09′ W. long.;
(70) 46°55.07′ N. lat., 124°54.14′ W. long.;
(71) 46°59.60′ N. lat., 124°49.79′ W. long.;
(72) 46°58.72′ N. lat., 124°48.78′ W. long.;
(73) 46°54.45′ N. lat., 124°48.36′ W. long.;
(74) 46°53.99′ N. lat., 124°49.95′ W. long.;
(75) 46°54.38′ N. lat., 124°52.73′ W. long.;
(76) 46°52.38′ N. lat., 124°52.02′ W. long.;

(77) 46°48.93′ N. lat., 124°49.17′ W. long.;
(78) 46°41.50′ N. lat., 124°43.00′ W. long.;
(79) 46°34.50′ N. lat., 124°28.50′ W. long.;
(80) 46°29.00′ N. lat., 124°30.00′ W. long.;
(81) 46°20.00′ N. lat., 124°36.50′ W. long.;
(82) 46°18.40′ N. lat., 124°37.70′ W. long.;
(83) 46°18.03′ N. lat., 124°35.46′ W. long.;
(84) 46°17.00′ N. lat., 124°22.50′ W. long.;
(85) 46°16.00′ N. lat., 124°20.62′ W. long.;
(86) 46°13.52′ N. lat., 124°25.49′ W. long.;
(87) 46°12.17′ N. lat., 124°30.74′ W. long.;
(88) 46°10.63′ N. lat., 124°37.96′ W. long.;
(89) 46°09.29′ N. lat., 124°39.01′ W. long.;
(90) 46°02.40′ N. lat., 124°40.37′ W. long.;
(91) 45°56.45′ N. lat., 124°38.00′ W. long.;
(92) 45°51.92′ N. lat., 124°38.50′ W. long.;
(93) 45°47.20′ N. lat., 124°35.58′ W. long.;
(94) 45°46.40′ N. lat., 124°32.36′ W. long.;
(95) 45°46.00′ N. lat., 124°32.10′ W. long.;
(96) 45°41.75′ N. lat., 124°28.12′ W. long.;
(97) 45°36.95′ N. lat., 124°24.47′ W. long.;
(98) 45°31.84′ N. lat., 124°22.04′ W. long.;
(99) 45°27.10′ N. lat., 124°21.74′ W. long.;
(100) 45°20.25′ N. lat., 124°18.54′ W. long.;
(101) 45°18.14′ N. lat., 124°17.59′ W. long.;
(102) 45°11.08′ N. lat., 124°16.97′ W. long.;
(103) 45°04.39′ N. lat., 124°18.35′ W. long.;
(104) 45°03.83′ N. lat., 124°18.60′ W. long.;
(105) 44°58.05′ N. lat., 124°21.58′ W. long.;
(106) 44°47.67′ N. lat., 124°31.41′ W. long.;
(107) 44°44.54′ N. lat., 124°33.58′ W. long.;
(108) 44°39.88′ N. lat., 124°35.00′ W. long.;
(109) 44°32.90′ N. lat., 124°36.81′ W. long.;
(110) 44°30.34′ N. lat., 124°38.56′ W. long.;
(111) 44°30.04′ N. lat., 124°42.31′ W. long.;
(112) 44°26.84′ N. lat., 124°44.91′ W. long.;
(113) 44°17.99′ N. lat., 124°51.04′ W. long.;
(114) 44°12.92′ N. lat., 124°56.28′ W. long.;
(115) 44°00.14′ N. lat., 124°55.25′ W. long.;
(116) 43°57.68′ N. lat., 124°55.48′ W. long.;
(117) 43°56.66′ N. lat., 124°55.45′ W. long.;
(118) 43°56.47′ N. lat., 124°34.61′ W. long.;
(119) 43°42.73′ N. lat., 124°32.41′ W. long.;
(120) 43°30.92′ N. lat., 124°34.43′ W. long.;
(121) 43°20.83′ N. lat., 124°39.39′ W. long.;
(122) 43°17.45′ N. lat., 124°41.16′ W. long.;
(123) 43°07.04′ N. lat., 124°41.25′ W. long.;
(124) 43°03.45′ N. lat., 124°44.36′ W. long.;
(125) 43°03.91′ N. lat., 124°50.81′ W. long.;
(126) 42°55.70′ N. lat., 124°52.79′ W. long.;
(127) 42°54.12′ N. lat., 124°47.36′ W. long.;
(128) 42°50.00′ N. lat., 124°45.33′ W. long.;
(129) 42°44.00′ N. lat., 124°42.38′ W. long.;
(130) 42°40.50′ N. lat., 124°41.71′ W. long.;
(131) 42°38.23′ N. lat., 124°41.25′ W. long.;
(132) 42°33.02′ N. lat., 124°42.38′ W. long.;
(133) 42°31.90′ N. lat., 124°42.04′ W. long.;
(134) 42°30.08′ N. lat., 124°42.67′ W. long.;
(135) 42°28.28′ N. lat., 124°47.08′ W. long.;
(136) 42°25.22′ N. lat., 124°43.51′ W. long.;
(137) 42°19.23′ N. lat., 124°37.91′ W. long.;
(138) 42°16.29′ N. lat., 124°36.11′ W. long.;
(139) 42°13.67′ N. lat., 124°35.81′ W. long.;
(140) 42°05.66′ N. lat., 124°34.92′ W. long.;
(141) 42°00.00′ N. lat., 124°35.27′ W. long.;
(142) 41°47.04′ N. lat., 124°27.64′ W. long.;
(143) 41°32.92′ N. lat., 124°28.79′ W. long.;
(144) 41°24.17′ N. lat., 124°28.46′ W. long.;
(145) 41°10.12′ N. lat., 124°20.50′ W. long.;
(146) 40°51.41′ N. lat., 124°24.38′ W. long.;

(147) 40°43.71′ N. lat., 124°29.89′ W. long.;
(148) 40°40.14′ N. lat., 124°30.90′ W. long.;
(149) 40°37.35′ N. lat., 124°29.05′ W. long.;
(150) 40°34.76′ N. lat., 124°29.82′ W. long.;
(151) 40°36.78′ N. lat., 124°37.06′ W. long.;
(152) 40°32.44′ N. lat., 124°39.58′ W. long.;
(153) 40°30.00′ N. lat., 124°38.13′ W. long.;
(154) 40°24.82′ N. lat., 124°35.12′ W. long.;
(155) 40°23.30′ N. lat., 124°31.60′ W. long.;
(156) 40°23.52′ N. lat., 124°28.78′ W. long.;
(157) 40°22.43′ N. lat., 124°25.00′ W. long.;
(158) 40°21.72′ N. lat., 124°24.94′ W. long.;
(159) 40°21.87′ N. lat., 124°27.96′ W. long.;
(160) 40°21.40′ N. lat., 124°28.74′ W. long.;
(161) 40°19.68′ N. lat., 124°28.49′ W. long.;
(162) 40°17.73′ N. lat., 124°25.43′ W. long.;
(163) 40°18.37′ N. lat., 124°23.35′ W. long.;
(164) 40°15.75′ N. lat., 124°26.05′ W. long.;
(165) 40°16.75′ N. lat., 124°33.71′ W. long.;
(166) 40°16.29′ N. lat., 124°34.36′ W. long.;
(167) 40°10.00′ N. lat., 124°21.12′ W. long.;
(168) 40°07.70′ N. lat., 124°18.44′ W. long.;
(169) 40°08.84′ N. lat., 124°15.86′ W. long.;
(170) 40°06.53′ N. lat., 124°17.39′ W. long.;
(171) 40°03.15′ N. lat., 124°14.43′ W. long.;
(172) 40°02.19′ N. lat., 124°12.85′ W. long.;
(173) 40°02.89′ N. lat., 124°11.78′ W. long.;
(174) 40°02.78′ N. lat., 124°10.70′ W. long.;
(175) 40°04.57′ N. lat., 124°10.08′ W. long.;
(176) 40°06.06′ N. lat., 124°08.30′ W. long.;
(177) 40°04.05′ N. lat., 124°08.93′ W. long.;
(178) 40°01.17′ N. lat., 124°08.80′ W. long.;
(179) 40°01.03′ N. lat., 124°10.06′ W. long.;
(180) 39°58.07′ N. lat., 124°11.89′ W. long.;
(181) 39°56.39′ N. lat., 124°08.71′ W. long.;
(182) 39°54.64′ N. lat., 124°07.30′ W. long.;
(183) 39°53.86′ N. lat., 124°07.95′ W. long.;
(184) 39°51.95′ N. lat., 124°07.63′ W. long.;
(185) 39°48.78′ N. lat., 124°03.29′ W. long.;
(186) 39°47.36′ N. lat., 124°03.31′ W. long.;
(187) 39°40.08′ N. lat., 123°58.37′ W. long.;
(188) 39°36.16′ N. lat., 123°56.90′ W. long.;
(189) 39°30.75′ N. lat., 123°55.86′ W. long.;
(190) 39°31.62′ N. lat., 123°57.33′ W. long.;
(191) 39°30.91′ N. lat., 123°57.88′ W. long.;
(192) 39°01.79′ N. lat., 123°56.59′ W. long.;
(193) 38°59.42′ N. lat., 123°55.67′ W. long.;
(194) 38°58.89′ N. lat., 123°56.28′ W. long.;
(195) 38°57.50′ N. lat., 123°56.28′ W. long.;
(196) 38°54.72′ N. lat., 123°55.68′ W. long.;
(197) 38°48.95′ N. lat., 123°51.85′ W. long.;
(198) 38°36.67′ N. lat., 123°40.20′ W. long.;
(199) 38°33.82′ N. lat., 123°39.23′ W. long.;
(200) 38°29.02′ N. lat., 123°33.52′ W. long.;
(201) 38°18.88′ N. lat., 123°25.93′ W. long.;
(202) 38°14.12′ N. lat., 123°23.26′ W. long.;
(203) 38°11.07′ N. lat., 123°22.07′ W. long.;
(204) 38°03.18′ N. lat., 123°20.77′ W. long.;

(205) 38°00.00′ N. lat., 123°23.08′ W. long.;
(206) 37°55.07′ N. lat., 123°26.81′ W. long.;
(207) 37°50.66′ N. lat., 123°23.06′ W. long.;
(208) 37°45.18′ N. lat., 123°11.88′ W. long.;
(209) 37°35.67′ N. lat., 123°01.20′ W. long.;
(210) 37°15.58′ N. lat., 122°48.36′ W. long.;
(211) 37°11.00′ N. lat., 122°44.50′ W. long.;
(212) 37°07.00′ N. lat., 122°41.25′ W. long.;
(213) 37°03.18′ N. lat., 122°38.15′ W. long.;
(214) 37°00.48′ N. lat., 122°33.93′ W. long.;
(215) 36°58.70′ N. lat., 122°27.22′ W. long.;
(216) 37°00.85′ N. lat., 122°24.70′ W. long.;
(217) 36°58.00′ N. lat., 122°24.14′ W. long.;
(218) 36°58.74′ N. lat., 122°21.51′ W. long.;
(219) 36°56.97′ N. lat., 122°21.32′ W. long.;
(220) 36°51.52′ N. lat., 122°10.68′ W. long.;
(221) 36°48.39′ N. lat., 122°07.60′ W. long.;
(222) 36°47.43′ N. lat., 122°03.22′ W. long.;
(223) 36°50.95′ N. lat., 121°58.03′ W. long.;
(224) 36°49.92′ N. lat., 121°58.01′ W. long.;
(225) 36°48.88′ N. lat., 121°58.90′ W. long.;
(226) 36°47.70′ N. lat., 121°58.75′ W. long.;
(227) 36°48.37′ N. lat., 121°51.14′ W. long.;
(228) 36°45.74′ N. lat., 121°54.17′ W. long.;
(229) 36°45.51′ N. lat., 121°57.72′ W. long.;
(230) 36°38.84′ N. lat., 122°01.32′ W. long.;
(231) 36°35.62′ N. lat., 122°00.98′ W. long.;
(232) 36°32.46′ N. lat., 121°59.15′ W. long.;
(233) 36°32.79′ N. lat., 121°57.67′ W. long.;
(234) 36°31.98′ N. lat., 121°56.55′ W. long.;
(235) 36°31.79′ N. lat., 121°58.40′ W. long.;
(236) 36°30.73′ N. lat., 121°59.70′ W. long.;
(237) 36°30.31′ N. lat., 122°00.22′ W. long.;
(238) 36°29.35′ N. lat., 122°00.36′ W. long.;
(239) 36°27.66′ N. lat., 121°59.80′ W. long.;
(240) 36°26.22′ N. lat., 121°58.35′ W. long.;
(241) 36°21.20′ N. lat., 122°00.72′ W. long.;
(242) 36°20.47′ N. lat., 122°02.92′ W. long.;
(243) 36°18.46′ N. lat., 122°04.51′ W. long.;
(244) 36°15.92′ N. lat., 122°01.33′ W. long.;
(245) 36°13.76′ N. lat., 121°57.27′ W. long.;
(246) 36°14.43′ N. lat., 121°55.43′ W. long.;
(247) 36°10.24′ N. lat., 121°43.08′ W. long.;
(248) 36°07.66′ N. lat., 121°40.91′ W. long.;
(249) 36°02.49′ N. lat., 121°36.51′ W. long.;
(250) 36°01.08′ N. lat., 121°36.63′ W. long.;
(251) 36°00.00′ N. lat., 121°35.15′ W. long.;
(252) 35°57.84′ N. lat., 121°33.10′ W. long.;
(253) 35°50.36′ N. lat., 121°29.32′ W. long.;
(254) 35°39.03′ N. lat., 121°22.86′ W. long.;
(255) 35°24.30′ N. lat., 121°02.56′ W. long.;
(256) 35°16.53′ N. lat., 121°00.39′ W. long.;
(257) 35°04.82′ N. lat., 120°53.96′ W. long.;
(258) 34°52.51′ N. lat., 120°51.62′ W. long.;
(259) 34°43.36′ N. lat., 120°52.12′ W. long.;
(260) 34°37.64′ N. lat., 120°49.99′ W. long.;
(261) 34°30.80′ N. lat., 120°45.02′ W. long.;
(262) 34°27.00′ N. lat., 120°39.00′ W. long.;

(263) 34°21.90′ N. lat., 120°25.25′ W. long.;
(264) 34°24.86′ N. lat., 120°16.81′ W. long.;
(265) 34°22.80′ N. lat., 119°57.06′ W. long.;
(266) 34°18.59′ N. lat., 119°44.84′ W. long.;
(267) 34°15.04′ N. lat., 119°40.34′ W. long.;
(268) 34°14.40′ N. lat., 119°45.39′ W. long.;
(269) 34°12.32′ N. lat., 119°42.41′ W. long.;
(270) 34°09.71′ N. lat., 119°28.85′ W. long.;
(271) 34°04.70′ N. lat., 119°15.38′ W. long.;
(272) 34°03.33′ N. lat., 119°12.93′ W. long.;
(273) 34°02.72′ N. lat., 119°07.01′ W. long.;
(274) 34°03.90′ N. lat., 119°04.64′ W. long.;
(275) 34°01.80′ N. lat., 119°03.23′ W. long.;
(276) 33°59.32′ N. lat., 119°03.50′ W. long.;
(277) 33°59.00′ N. lat., 118°59.55′ W. long.;
(278) 33°59.51′ N. lat., 118°57.25′ W. long.;
(279) 33°58.82′ N. lat., 118°52.47′ W. long.;
(280) 33°58.54′ N. lat., 118°41.86′ W. long.;
(281) 33°55.07′ N. lat., 118°34.25′ W. long.;
(282) 33°54.28′ N. lat., 118°38.68′ W. long.;
(283) 33°51.00′ N. lat., 118°36.66′ W. long.;
(284) 33°39.77′ N. lat., 118°18.41′ W. long.;
(285) 33°35.50′ N. lat., 118°16.85′ W. long.;
(286) 33°32.68′ N. lat., 118°09.82′ W. long.;
(287) 33°34.09′ N. lat., 117°54.06′ W. long.;
(288) 33°31.60′ N. lat., 117°49.28′ W. long.;
(289) 33°16.07′ N. lat., 117°34.74′ W. long.;
(290) 33°07.06′ N. lat., 117°22.71′ W. long.;
(291) 32°59.28′ N. lat., 117°19.69′ W. long.;
(292) 32°55.36′ N. lat., 117°19.54′ W. long.;
(293) 32°53.35′ N. lat., 117°17.05′ W. long.;
(294) 32°53.34′ N. lat., 117°19.13′ W. long.;
(295) 32°46.39′ N. lat., 117°23.45′ W. long.;
(296) 32°42.79′ N. lat., 117°21.16′ W. long.; and
(297) 32°34.22′ N. lat., 117°21.20′ W. long.

(b) The 100 fm (183 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°04.73′ N. lat., 118°37.98′ W. long.;
(2) 33°02.67′ N. lat., 118°34.06′ W. long.;
(3) 32°55.80′ N. lat., 118°28.92′ W. long.;
(4) 32°49.78′ N. lat., 118°20.88′ W. long.;
(5) 32°48.01′ N. lat., 118°19.49′ W. long.;
(6) 32°47.53′ N. lat., 118°21.76′ W. long.;
(7) 32°44.03′ N. lat., 118°24.70′ W. long.;
(8) 32°49.75′ N. lat., 118°32.10′ W. long.;
(9) 32°53.36′ N. lat., 118°33.23′ W. long.;
(10) 32°55.17′ N. lat., 118°34.64′ W. long.;
(11) 32°55.13′ N. lat., 118°35.31′ W. long.;
(12) 33°00.22′ N. lat., 118°38.68′ W. long.;
(13) 33°03.13′ N. lat., 118°39.59′ W. long.; and
(14) 33°04.73′ N. lat., 118°37.98′ W. long.

(c) The 100 fm (183 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°28.23′ N. lat., 118°39.38′ W. long.;
(2) 33°29.60′ N. lat., 118°36.11′ W. long.;
(3) 33°29.14′ N. lat., 118°30.81′ W. long.;
(4) 33°26.97′ N. lat., 118°27.57′ W. long.;
(5) 33°25.68′ N. lat., 118°23.00′ W. long.;
(6) 33°22.67′ N. lat., 118°18.41′ W. long.;
(7) 33°19.72′ N. lat., 118°16.25′ W. long.;
(8) 33°17.14′ N. lat., 118°14.96′ W. long.;
(9) 33°16.09′ N. lat., 118°15.46′ W. long.;
(10) 33°18.10′ N. lat., 118°27.95′ W. long.;
(11) 33°19.84′ N. lat., 118°32.16′ W. long.;
(12) 33°20.83′ N. lat., 118°32.83′ W. long.;
(13) 33°21.91′ N. lat., 118°31.98′ W. long.;
(14) 33°23.05′ N. lat., 118°30.11′ W. long.;
(15) 33°24.87′ N. lat., 118°32.45′ W. long.;
(16) 33°25.30′ N. lat., 118°34.32′ W. long.; and
(17) 33°28.23′ N. lat., 118°39.38′ W. long.

(d) The 125–fm (229–m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all

of the following points in the order stated:

(1) 48°15.00′ N. lat., 125°41.13′ W. long.;
(2) 48°13.05′ N. lat., 125°37.43′ W. long.;
(3) 48°08.62′ N. lat., 125°41.68′ W. long.;
(4) 48°07.42′ N. lat., 125°42.38′ W. long.;
(5) 48°04.20′ N. lat., 125°36.57′ W. long.;
(6) 48°02.79′ N. lat., 125°35.55′ W. long.;
(7) 48°00.48′ N. lat., 125°37.84′ W. long.;
(8) 47°54.90′ N. lat., 125°34.79′ W. long.;
(9) 47°58.37′ N. lat., 125°26.58′ W. long.;
(10) 47°59.84′ N. lat., 125°25.20′ W. long.;
(11) 48°01.85′ N. lat., 125°24.12′ W. long.;
(12) 48°02.13′ N. lat., 125°22.80′ W. long.;
(13) 48°03.31′ N. lat., 125°22.46′ W. long.;
(14) 48°06.83′ N. lat., 125°17.73′ W. long.;
(15) 48°10.08′ N. lat., 125°15.56′ W. long.;
(16) 48°11.24′ N. lat., 125°13.72′ W. long.;
(17) 48°12.41′ N. lat., 125°14.48′ W. long.;
(18) 48°13.01′ N. lat., 125°13.77′ W. long.;
(19) 48°13.59′ N. lat., 125°12.83′ W. long.;
(20) 48°12.22′ N. lat., 125°12.28′ W. long.;
(21) 48°11.15′ N. lat., 125°12.26′ W. long.;
(22) 48°10.18′ N. lat., 125°10.44′ W. long.;
(23) 48°10.18′ N. lat., 125°06.32′ W. long.;
(24) 48°15.39′ N. lat., 125°02.83′ W. long.;
(25) 48°18.32′ N. lat., 125°01.00′ W. long.;
(26) 48°21.67′ N. lat., 125°01.86′ W. long.;
(27) 48°25.70′ N. lat., 125°00.10′ W. long.;
(28) 48°26.43′ N. lat., 124°56.65′ W. long.;
(29) 48°24.28′ N. lat., 124°56.48′ W. long.;
(30) 48°23.27′ N. lat., 124°59.12′ W. long.;
(31) 48°21.79′ N. lat., 124°59.30′ W. long.;
(32) 48°20.71′ N. lat., 124°58.74′ W. long.;
(33) 48°19.84′ N. lat., 124°57.09′ W. long.;
(34) 48°22.06′ N. lat., 124°54.78′ W. long.;
(35) 48°22.45′ N. lat., 124°53.35′ W. long.;
(36) 48°22.74′ N. lat., 124°50.96′ W. long.;
(37) 48°21.04′ N. lat., 124°52.60′ W. long.;
(38) 48°18.07′ N. lat., 124°55.85′ W. long.;
(39) 48°15.03′ N. lat., 124°58.16′ W. long.;
(40) 48°11.31′ N. lat., 124°58.53′ W. long.;
(41) 48°06.25′ N. lat., 125°00.06′ W. long.;
(42) 48°04.70′ N. lat., 125°01.80′ W. long.;
(43) 48°04.93′ N. lat., 125°03.92′ W. long.;
(44) 48°06.44′ N. lat., 125°06.50′ W. long.;
(45) 48°07.34′ N. lat., 125°09.35′ W. long.;
(46) 48°07.62′ N. lat., 125°11.37′ W. long.;
(47) 48°03.71′ N. lat., 125°17.63′ W. long.;
(48) 48°01.35′ N. lat., 125°18.66′ W. long.;
(49) 48°00.05′ N. lat., 125°19.66′ W. long.;
(50) 47°59.51′ N. lat., 125°18.90′ W. long.;
(51) 47°58.29′ N. lat., 125°16.64′ W. long.;
(52) 47°54.67′ N. lat., 125°13.20′ W. long.;
(53) 47°53.15′ N. lat., 125°12.53′ W. long.;
(54) 47°48.46′ N. lat., 125°04.72′ W. long.;
(55) 47°46.10′ N. lat., 125°04.00′ W. long.;
(56) 47°44.60′ N. lat., 125°04.49′ W. long.;
(57) 47°42.90′ N. lat., 125°04.72′ W. long.;
(58) 47°40.71′ N. lat., 125°04.68′ W. long.;
(59) 47°39.02′ N. lat., 125°05.63′ W. long.;
(60) 47°34.86′ N. lat., 125°02.11′ W. long.;
(61) 47°31.64′ N. lat., 124°58.11′ W. long.;
(62) 47°29.69′ N. lat., 124°55.71′ W. long.;
(63) 47°29.35′ N. lat., 124°53.23′ W. long.;
(64) 47°28.56′ N. lat., 124°51.34′ W. long.;
(65) 47°25.31′ N. lat., 124°48.20′ W. long.;
(66) 47°23.92′ N. lat., 124°47.15′ W. long.;
(67) 47°18.09′ N. lat., 124°45.74′ W. long.;
(68) 47°18.65′ N. lat., 124°51.51′ W. long.;
(69) 47°18.12′ N. lat., 124°52.58′ W. long.;
(70) 47°17.64′ N. lat., 124°50.45′ W. long.;
(71) 47°16.31′ N. lat., 124°50.92′ W. long.;
(72) 47°15.60′ N. lat., 124°52.62′ W. long.;
(73) 47°14.25′ N. lat., 124°52.49′ W. long.;
(74) 47°11.32′ N. lat., 124°57.19′ W. long.;
(75) 47°09.14′ N. lat., 124°57.46′ W. long.;
(76) 47°08.83′ N. lat., 124°58.47′ W. long.;
(77) 47°05.88′ N. lat., 124°58.26′ W. long.;
(78) 47°03.60′ N. lat., 124°55.84′ W. long.;
(79) 47°02.91′ N. lat., 124°56.15′ W. long.;
(80) 47°01.08′ N. lat., 124°59.46′ W. long.;
(81) 46°58.13′ N. lat., 124°58.83′ W. long.;
(82) 46°57.44′ N. lat., 124°57.78′ W. long.;
(83) 46°55.98′ N. lat., 124°54.60′ W. long.;
(84) 46°54.90′ N. lat., 124°54.14′ W. long.;
(85) 46°58.47′ N. lat., 124°49.65′ W. long.;
(86) 46°54.44′ N. lat., 124°48.79′ W. long.;
(87) 46°54.41′ N. lat., 124°52.87′ W. long.;
(88) 46°49.36′ N. lat., 124°52.77′ W. long.;
(89) 46°40.06′ N. lat., 124°45.34′ W. long.;
(90) 46°39.64′ N. lat., 124°42.21′ W. long.;
(91) 46°34.27′ N. lat., 124°34.63′ W. long.;
(92) 46°33.58′ N. lat., 124°29.10′ W. long.;
(93) 46°25.64′ N. lat., 124°32.57′ W. long.;
(94) 46°21.33′ N. lat., 124°36.36′ W. long.;
(95) 46°20.59′ N. lat., 124°36.15′ W. long.;
(96) 46°19.38′ N. lat., 124°38.21′ W. long.;
(97) 46°17.94′ N. lat., 124°38.10′ W. long.;
(98) 46°16.00′ N. lat., 124°22.17′ W. long.;
(99) 46°13.37′ N. lat., 124°30.70′ W. long.;
(100) 46°12.20′ N. lat., 124°36.04′ W. long.;
(101) 46°11.01′ N. lat., 124°38.68′ W. long.;
(102) 46°09.73′ N. lat., 124°39.91′ W. long.;
(103) 46°03.23′ N. lat., 124°42.03′ W. long.;
(104) 46°01.16′ N. lat., 124°42.06′ W. long.;
(105) 46°00.35′ N. lat., 124°42.26′ W. long.;
(106) 45°52.81′ N. lat., 124°41.62′ W. long.;
(107) 45°49.70′ N. lat., 124°41.14′ W. long.;
(108) 45°46.00′ N. lat., 124°38.92′ W. long.;

(109) 45°45.18′ N. lat., 124°38.39′ W. long.;
(110) 45°43.24′ N. lat., 124°37.77′ W. long.;
(111) 45°34.75′ N. lat., 124°28.58′ W. long.;
(112) 45°19.90′ N. lat., 124°21.34′ W. long.;
(113) 45°12.44′ N. lat., 124°19.34′ W. long.;
(114) 45°07.48′ N. lat., 124°19.73′ W. long.;
(115) 45°03.83′ N. lat., 124°21.20′ W. long.;
(116) 44°59.96′ N. lat., 124°22.91′ W. long.;
(117) 44°54.73′ N. lat., 124°26.84′ W. long.;
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(119) 44°49.97′ N. lat., 124°32.37′ W. long.;
(120) 44°47.06′ N. lat., 124°34.43′ W. long.;
(121) 44°41.38′ N. lat., 124°36.52′ W. long.;
(122) 44°31.80′ N. lat., 124°38.11′ W. long.;
(123) 44°30.35′ N. lat., 124°43.03′ W. long.;
(124) 44°27.95′ N. lat., 124°45.13′ W. long.;
(125) 44°24.73′ N. lat., 124°47.42′ W. long.;
(126) 44°19.67′ N. lat., 124°51.17′ W. long.;
(127) 44°17.96′ N. lat., 124°52.52′ W. long.;
(128) 44°13.70′ N. lat., 124°56.45′ W. long.;
(129) 44°12.26′ N. lat., 124°57.53′ W. long.;
(130) 44°08.30′ N. lat., 124°57.17′ W. long.;
(131) 44°07.57′ N. lat., 124°57.19′ W. long.;
(132) 44°04.78′ N. lat., 124°56.31′ W. long.;
(133) 44°01.14′ N. lat., 124°56.07′ W. long.;
(134) 43°57.49′ N. lat., 124°56.78′ W. long.;
(135) 43°54.58′ N. lat., 124°52.18′ W. long.;
(136) 43°53.18′ N. lat., 124°47.41′ W. long.;
(137) 43°53.60′ N. lat., 124°37.45′ W. long.;
(138) 43°53.05′ N. lat., 124°36.00′ W. long.;
(139) 43°47.93′ N. lat., 124°35.18′ W. long.;
(140) 43°39.32′ N. lat., 124°35.14′ W. long.;
(141) 43°32.38′ N. lat., 124°35.26′ W. long.;
(142) 43°30.19′ N. lat., 124°35.89′ W. long.;
(143) 43°27.80′ N. lat., 124°36.42′ W. long.;
(144) 43°23.73′ N. lat., 124°39.66′ W. long.;
(145) 43°20.83′ N. lat., 124°41.18′ W. long.;
(146) 43°10.48′ N. lat., 124°43.54′ W. long.;
(147) 43°04.77′ N. lat., 124°45.51′ W. long.;
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(149) 43°03.38′ N. lat., 124°51.86′ W. long.;
(150) 43°00.39′ N. lat., 124°51.77′ W. long.;
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(152) 42°54.53′ N. lat., 124°52.72′ W. long.;
(153) 42°52.89′ N. lat., 124°47.45′ W. long.;
(154) 42°50.00′ N. lat., 124°47.03′ W. long.;
(155) 42°48.10′ N. lat., 124°46.75′ W. long.;
(156) 42°46.34′ N. lat., 124°43.54′ W. long.;
(157) 42°41.66′ N. lat., 124°42.70′ W. long.;
(158) 42°39.97′ N. lat., 124°42.45′ W. long.;
(159) 42°32.53′ N. lat., 124°42.77′ W. long.;
(160) 42°30.37′ N. lat., 124°42.97′ W. long.;
(161) 42°28.07′ N. lat., 124°47.65′ W. long.;
(162) 42°21.58′ N. lat., 124°41.41′ W. long.;
(163) 42°15.17′ N. lat., 124°36.25′ W. long.;
(164) 42°13.67′ N. lat., 124°36.20′ W. long.;
(165) 42°8.29′ N. lat., 124°36.08′ W. long.;
(166) 42°00.00′ N. lat., 124°35.46′ W. long.;
(167) 41°47.67′ N. lat., 124°28.67′ W. long.;

(168) 41°32.91′ N. lat., 124°29.01′ W. long.;
(169) 41°22.57′ N. lat., 124°28.66′ W. long.;
(170) 41°13.38′ N. lat., 124°22.88′ W. long.;
(171) 41°06.42′ N. lat., 124°22.02′ W. long.;
(172) 40°50.19′ N. lat., 124°25.58′ W. long.;
(173) 40°44.08′ N. lat., 124°30.43′ W. long.;
(174) 40°40.54′ N. lat., 124°31.75′ W. long.;
(175) 40°37.36′ N. lat., 124°29.17′ W. long.;
(176) 40°35.30′ N. lat., 124°30.03′ W. long.;
(177) 40°37.02′ N. lat., 124°37.10′ W. long.;
(178) 40°35.82′ N. lat., 124°39.58′ W. long.;
(179) 40°31.70′ N. lat., 124°39.97′ W. long.;
(180) 40°29.88′ N. lat., 124°38.09′ W. long.;
(181) 40°24.77′ N. lat., 124°35.39′ W. long.;
(182) 40°23.22′ N. lat., 124°31.87′ W. long.;
(183) 40°23.40′ N. lat., 124°28.65′ W. long.;
(184) 40°22.30′ N. lat., 124°25.27′ W. long.;
(185) 40°21.91′ N. lat., 124°25.18′ W. long.;
(186) 40°21.91′ N. lat., 124°27.97′ W. long.;
(187) 40°21.37′ N. lat., 124°29.03′ W. long.;
(188) 40°19.74′ N. lat., 124°28.71′ W. long.;
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(190) 40°17.57′ N. lat., 124°25.49′ W. long.;
(191) 40°18.20′ N. lat., 124°23.63′ W. long.;
(192) 40°15.89′ N. lat., 124°26.00′ W. long.;
(193) 40°17.00′ N. lat., 124°35.01′ W. long.;
(194) 40°15.97′ N. lat., 124°35.91′ W. long.;
(195) 40°10.00′ N. lat., 124°22.00′ W. long.;
(196) 40°07.35′ N. lat., 124°18.64′ W. long.;
(197) 40°08.46′ N. lat., 124°16.24′ W. long.;
(198) 40°06.26′ N. lat., 124°17.54′ W. long.;
(199) 40°03.26′ N. lat., 124°15.30′ W. long.;
(200) 40°02.00′ N. lat., 124°12.97′ W. long.;
(201) 40°02.60′ N. lat., 124°10.61′ W. long.;
(202) 40°03.63′ N. lat., 124°09.12′ W. long.;
(203) 40°02.18′ N. lat., 124°09.07′ W. long.;
(204) 40°01.26′ N. lat., 124°09.86′ W. long.;
(205) 39°58.05′ N. lat., 124°11.87′ W. long.;
(206) 39°56.39′ N. lat., 124°08.70′ W. long.;
(207) 39°54.64′ N. lat., 124°07.31′ W. long.;
(208) 39°53.87′ N. lat., 124°07.95′ W. long.;
(209) 39°52.42′ N. lat., 124°08.18′ W. long.;
(210) 39°42.50′ N. lat., 124°00.60′ W. long.;
(211) 39°34.23′ N. lat., 123°56.82′ W. long.;
(212) 39°33.00′ N. lat., 123°56.44′ W. long.;
(213) 39°30.96′ N. lat., 123°56.00′ W. long.;
(214) 39°32.03′ N. lat., 123°57.44′ W. long.;
(215) 39°31.43′ N. lat., 123°58.16′ W. long.;
(216) 39°05.56′ N. lat., 123°57.24′ W. long.;
(217) 39°01.75′ N. lat., 123°56.83′ W. long.;
(218) 38°59.52′ N. lat., 123°55.95′ W. long.;
(219) 38°58.98′ N. lat., 123°56.57′ W. long.;
(220) 38°57.50′ N. lat., 123°56.57′ W. long.;
(221) 38°53.91′ N. lat., 123°56.00′ W. long.;
(222) 38°42.57′ N. lat., 123°46.60′ W. long.;
(223) 38°28.72′ N. lat., 123°35.61′ W. long.;
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(225) 38°20.94′ N. lat., 123°31.26′ W. long.;

(226) 38°15.94′ N. lat., 123°25.33′ W. long.;
(227) 38°10.95′ N. lat., 123°23.19′ W. long.;
(228) 38°05.52′ N. lat., 123°22.90′ W. long.;
(229) 38°08.46′ N. lat., 123°26.23′ W. long.;
(230) 38°06.95′ N. lat., 123°28.03′ W. long.;
(231) 38°06.34′ N. lat., 123°29.80′ W. long.;
(232) 38°04.57′ N. lat., 123°31.24′ W. long.;
(233) 38°02.33′ N. lat., 123°31.02′ W. long.;
(234) 38°00.00′ N. lat., 123°28.23′ W. long.;
(235) 37°58.10′ N. lat., 123°26.69′ W. long.;
(236) 37°55.46′ N. lat., 123°27.05′ W. long.;
(237) 37°51.51′ N. lat., 123°24.86′ W. long.;
(238) 37°45.01′ N. lat., 123°12.09′ W. long.;
(239) 37°35.67′ N. lat., 123°01.56′ W. long.;
(240) 37°26.62′ N. lat., 122°56.21′ W. long.;
(241) 37°14.41′ N. lat., 122°49.07′ W. long.;
(242) 37°11.00′ N. lat., 122°45.87′ W. long.;
(243) 37°07.00′ N. lat., 122°41.97′ W. long.;
(244) 37°03.19′ N. lat., 122°38.31′ W. long.;
(245) 37°00.99′ N. lat., 122°35.51′ W. long.;
(246) 36°58.23′ N. lat., 122°27.36′ W. long.;
(247) 37°00.54′ N. lat., 122°24.74′ W. long.;
(248) 36°57.81′ N. lat., 122°24.65′ W. long.;
(249) 36°58.54′ N. lat., 122°21.67′ W. long.;
(250) 36°56.52′ N. lat., 122°21.70′ W. long.;
(251) 36°55.37′ N. lat., 122°18.45′ W. long.;
(252) 36°52.16′ N. lat., 122°12.17′ W. long.;
(253) 36°51.53′ N. lat., 122°10.67′ W. long.;
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(255) 36°47.35′ N. lat., 122°03.27′ W. long.;
(256) 36°50.71′ N. lat., 121°58.17′ W. long.;
(257) 36°48.89′ N. lat., 121°58.90′ W. long.;
(258) 36°47.70′ N. lat., 121°58.76′ W. long.;
(259) 36°48.37′ N. lat., 121°51.15′ W. long.;
(260) 36°45.74′ N. lat., 121°54.18′ W. long.;
(261) 36°45.50′ N. lat., 121°57.73′ W. long.;
(262) 36°44.02′ N. lat., 121°58.55′ W. long.;
(263) 36°38.84′ N. lat., 122°01.32′ W. long.;
(264) 36°35.63′ N. lat., 122°00.98′ W. long.;
(265) 36°32.47′ N. lat., 121°59.17′ W. long.;
(266) 36°32.52′ N. lat., 121°57.62′ W. long.;
(267) 36°30.16′ N. lat., 122°00.55′ W. long.;
(268) 36°24.56′ N. lat., 121°59.19′ W. long.;
(269) 36°22.19′ N. lat., 122°00.30′ W. long.;
(270) 36°20.62′ N. lat., 122°02.93′ W. long.;
(271) 36°18.89′ N. lat., 122°05.18′ W. long.;
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(273) 36°13.73′ N. lat., 121°57.38′ W. long.;
(274) 36°14.41′ N. lat., 121°55.45′ W. long.;
(275) 36°10.25′ N. lat., 121°43.08′ W. long.;
(276) 36°07.67′ N. lat., 121°40.92′ W. long.;
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(281) 35°45.57′ N. lat., 121°27.26′ W. long.;
(282) 35°39.02′ N. lat., 121°22.86′ W. long.;
(283) 35°25.92′ N. lat., 121°05.52′ W. long.;

(284) 35°16.26′ N. lat., 121°01.50′ W. long.;
(285) 35°07.60′ N. lat., 120°56.49′ W. long.;
(286) 34°57.77′ N. lat., 120°53.87′ W. long.;
(287) 34°42.30′ N. lat., 120°53.42′ W. long.;
(288) 34°37.69′ N. lat., 120°50.04′ W. long.;
(289) 34°30.13′ N. lat., 120°44.45′ W. long.;
(290) 34°27.00′ N. lat., 120°39.24′ W. long.;
(291) 34°24.71′ N. lat., 120°35.37′ W. long.;
(292) 34°21.63′ N. lat., 120°24.86′ W. long.;
(293) 34°24.39′ N. lat., 120°16.65′ W. long.;
(294) 34°22.48′ N. lat., 119°56.42′ W. long.;
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(297) 34°15.91′ N. lat., 119°47.29′ W. long.;
(298) 34°13.80′ N. lat., 119°45.40′ W. long.;
(299) 34°11.69′ N. lat., 119°41.80′ W. long.;
(300) 34°09.98′ N. lat., 119°31.87′ W. long.;
(301) 34°08.12′ N. lat., 119°27.71′ W. long.;
(302) 34°06.35′ N. lat., 119°32.65′ W. long.;
(303) 34°06.80′ N. lat., 119°40.08′ W. long.;
(304) 34°07.48′ N. lat., 119°47.54′ W. long.;
(305) 34°08.21′ N. lat., 119°54.90′ W. long.;
(306) 34°06.85′ N. lat., 120°05.60′ W. long.;
(307) 34°06.99′ N. lat., 120°10.37′ W. long.;
(308) 34°08.53′ N. lat., 120°17.89′ W. long.;
(309) 34°10.00′ N. lat., 120°23.05′ W. long.;
(310) 34°12.53′ N. lat., 120°29.82′ W. long.;
(311) 34°09.02′ N. lat., 120°37.47′ W. long.;
(312) 34°01.01′ N. lat., 120°31.17′ W. long.;
(313) 33°58.07′ N. lat., 120°28.33′ W. long.;
(314) 33°53.37′ N. lat., 120°14.43′ W. long.;
(315) 33°50.53′ N. lat., 120°07.20′ W. long.;
(316) 33°45.88′ N. lat., 120°04.26′ W. long.;
(317) 33°38.19′ N. lat., 119°57.85′ W. long.;
(318) 33°38.19′ N. lat., 119°50.42′ W. long.;
(319) 33°42.36′ N. lat., 119°49.60′ W. long.;
(320) 33°53.95′ N. lat., 119°53.81′ W. long.;
(321) 33°55.99′ N. lat., 119°41.40′ W. long.;
(322) 33°58.48′ N. lat., 119°27.90′ W. long.;
(323) 33°59.94′ N. lat., 119°19.57′ W. long.;
(324) 34°04.48′ N. lat., 119°15.32′ W. long.;
(325) 34°02.80′ N. lat., 119°12.95′ W. long.;
(326) 34°02.39′ N. lat., 119°07.17′ W. long.;
(327) 34°03.75′ N. lat., 119°04.72′ W. long.;
(328) 34°01.82′ N. lat., 119°03.24′ W. long.;
(329) 33°59.33′ N. lat., 119°03.49′ W. long.;
(330) 33°59.01′ N. lat., 118°59.56′ W. long.;
(331) 33°59.51′ N. lat., 118°57.25′ W. long.;
(332) 33°58.83′ N. lat., 118°52.50′ W. long.;
(333) 33°58.55′ N. lat., 118°41.86′ W. long.;
(334) 33°55.10′ N. lat., 118°34.25′ W. long.;
(335) 33°54.30′ N. lat., 118°38.71′ W. long.;
(336) 33°50.88′ N. lat., 118°37.02′ W. long.;
(337) 33°39.78′ N. lat., 118°18.40′ W. long.;
(338) 33°35.50′ N. lat., 118°16.85′ W. long.;
(339) 33°32.46′ N. lat., 118°10.90′ W. long.;
(340) 33°34.11′ N. lat., 117°54.07′ W. long.;
(341) 33°31.61′ N. lat., 117°49.30′ W. long.;

(342) 33°16.36′ N. lat., 117°35.48′ W. long.;
(343) 33°06.81′ N. lat., 117°22.93′ W. long.;
(344) 32°59.28′ N. lat., 117°19.69′ W. long.;
(345) 32°55.37′ N. lat., 117°19.55′ W. long.;
(346) 32°53.35′ N. lat., 117°17.05′ W. long.;
(347) 32°53.36′ N. lat., 117°19.12′ W. long.;
(348) 32°46.42′ N. lat., 117°23.45′ W. long.;
(349) 32°42.71′ N. lat., 117°21.45′ W. long.; and
(350) 32°34.54′ N. lat., 117°23.04′ W. long.

(e) The 125 fm (229 m) depth contour around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°04.73′ N. lat., 118°37.99′ W. long.;
(2) 33°02.67′ N. lat., 118°34.07′ W. long.;
(3) 32°55.97′ N. lat., 118°28.95′ W. long.;
(4) 32°49.79′ N. lat., 118°20.89′ W. long.;
(5) 32°48.02′ N. lat., 118°19.49′ W. long.;
(6) 32°47.37′ N. lat., 118°21.72′ W. long.;
(7) 32°43.58′ N. lat., 118°24.54′ W. long.;
(8) 32°49.74′ N. lat., 118°32.11′ W. long.;
(9) 32°53.36′ N. lat., 118°33.44′ W. long.;
(10) 32°55.03′ N. lat., 118°34.64′ W. long.;
(11) 32°54.89′ N. lat., 118°35.37′ W. long.;
(12) 33°00.20′ N. lat., 118°38.72′ W. long.;
(13) 33°03.15′ N. lat., 118°39.80′ W. long.; and
(14) 33°04.73′ N. lat., 118°37.99′ W. long.

(f) The 125 fm (229 m) depth contour around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°28.42′ N. lat., 118°39.85′ W. long.;
(2) 33°29.99′ N. lat., 118°36.14′ W. long.;
(3) 33°29.47′ N. lat., 118°33.66′ W. long.;
(4) 33°29.31′ N. lat., 118°30.53′ W. long.;
(5) 33°27.24′ N. lat., 118°27.71′ W. long.;
(6) 33°25.77′ N. lat., 118°22.57′ W. long.;
(7) 33°23.76′ N. lat., 118°19.27′ W. long.;
(8) 33°17.61′ N. lat., 118°13.61′ W. long.;
(9) 33°16.16′ N. lat., 118°13.98′ W. long.;
(10) 33°15.86′ N. lat., 118°15.27′ W. long.;
(11) 33°18.11′ N. lat., 118°27.96′ W. long.;
(12) 33°19.83′ N. lat., 118°32.16′ W. long.;
(13) 33°20.81′ N. lat., 118°32.94′ W. long.;
(14) 33°21.99′ N. lat., 118°32.04′ W. long.;
(15) 33°23.09′ N. lat., 118°30.37′ W. long.;
(16) 33°24.78′ N. lat., 118°32.46′ W. long.;
(17) 33°25.43′ N. lat., 118°34.93′ W. long.; and
(18) 33°28.42′ N. lat., 118°39.85′ W. long.

(g) The 125 fm (229 m) depth contour around Lasuen Knoll off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°24.57′ N. lat., 118°00.15′ W. long.;
(2) 33°23.42′ N. lat., 117°59.43′ W. long.;
(3) 33°23.69′ N. lat., 117°58.72′ W. long.;
(4) 33°24.72′ N. lat., 117°59.51′ W. long.; and
(5) 33°24.57′ N. lat., 118°00.15′ W. long.

(h) The 150–fm (274–m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:
(1) 48°14.96′ N. lat., 125°41.24′ W. long.;
(2) 48°12.89′ N. lat., 125°37.83′ W. long.;
(3) 48°11.49′ N. lat., 125°39.27′ W. long.;
(4) 48°08.72′ N. lat., 125°41.84′ W. long.;
(5) 48°07.00′ N. lat., 125°45.00′ W. long.;
(6) 48°06.13′ N. lat., 125°41.57′ W. long.;
(7) 48°05.00′ N. lat., 125°39.00′ W. long.;
(8) 48°04.15′ N. lat., 125°36.71′ W. long.;
(9) 48°03.00′ N. lat., 125°36.00′ W. long.;
(10) 48°01.65′ N. lat., 125°36.96′ W. long.;
(11) 48°01.00′ N. lat., 125°38.50′ W. long.;
(12) 47°57.50′ N. lat., 125°36.50′ W. long.;
(13) 47°56.53′ N. lat., 125°30.33′ W. long.;
(14) 47°57.28′ N. lat., 125°27.89′ W. long.;
(15) 47°59.00′ N. lat., 125°25.50′ W. long.;
(16) 48°01.77′ N. lat., 125°24.05′ W. long.;
(17) 48°02.08′ N. lat., 125°22.98′ W. long.;
(18) 48°03.00′ N. lat., 125°22.50′ W. long.;
(19) 48°03.46′ N. lat., 125°22.10′ W. long.;
(20) 48°04.29′ N. lat., 125°20.37′ W. long.;
(21) 48°02.00′ N. lat., 125°18.50′ W. long.;
(22) 48°00.01′ N. lat., 125°19.90′ W. long.;
(23) 47°58.75′ N. lat., 125°17.54′ W. long.;
(24) 47°53.50′ N. lat., 125°13.50′ W. long.;
(25) 47°48.88′ N. lat., 125°05.91′ W. long.;
(26) 47°48.50′ N. lat., 125°05.00′ W. long.;
(27) 47°45.98′ N. lat., 125°04.26′ W. long.;
(28) 47°45.00′ N. lat., 125°05.50′ W. long.;
(29) 47°42.11′ N. lat., 125°04.74′ W. long.;
(30) 47°39.00′ N. lat., 125°06.00′ W. long.;
(31) 47°35.53′ N. lat., 125°04.55′ W. long.;
(32) 47°30.90′ N. lat., 124°57.31′ W. long.;
(33) 47°29.54′ N. lat., 124°56.50′ W. long.;
(34) 47°29.50′ N. lat., 124°54.50′ W. long.;
(35) 47°28.57′ N. lat., 124°51.50′ W. long.;
(36) 47°25.00′ N. lat., 124°48.00′ W. long.;
(37) 47°23.95′ N. lat., 124°47.24′ W. long.;
(38) 47°23.00′ N. lat., 124°47.00′ W. long.;
(39) 47°21.00′ N. lat., 124°46.50′ W. long.;

(40) 47°18.20′ N. lat., 124°45.84′ W. long.;
(41) 47°18.50′ N. lat., 124°49.00′ W. long.;
(42) 47°19.17′ N. lat., 124°50.86′ W. long.;
(43) 47°18.07′ N. lat., 124°53.29′ W. long.;
(44) 47°17.78′ N. lat., 124°51.39′ W. long.;
(45) 47°16.81′ N. lat., 124°50.85′ W. long.;
(46) 47°15.96′ N. lat., 124°53.15′ W. long.;
(47) 47°14.31′ N. lat., 124°52.62′ W. long.;
(48) 47°11.87′ N. lat., 124°56.90′ W. long.;
(49) 47°12.39′ N. lat., 124°58.09′ W. long.;
(50) 47°09.50′ N. lat., 124°57.50′ W. long.;
(51) 47°09.00′ N. lat., 124°59.00′ W. long.;
(52) 47°06.06′ N. lat., 124°58.80′ W. long.;
(53) 47°03.62′ N. lat., 124°55.96′ W. long.;
(54) 47°02.89′ N. lat., 124°56.89′ W. long.;
(55) 47°01.04′ N. lat., 124°59.54′ W. long.;
(56) 46°58.47′ N. lat., 124°59.08′ W. long.;
(57) 46°58.29′ N. lat., 125°00.28′ W. long.;
(58) 46°56.30′ N. lat., 125°00.75′ W. long.;
(59) 46°57.09′ N. lat., 124°58.86′ W. long.;
(60) 46°55.95′ N. lat., 124°54.88′ W. long.;
(61) 46°54.79′ N. lat., 124°54.14′ W. long.;
(62) 46°58.00′ N. lat., 124°50.00′ W. long.;
(63) 46°54.50′ N. lat., 124°49.00′ W. long.;
(64) 46°54.53′ N. lat., 124°52.94′ W. long.;
(65) 46°49.52′ N. lat., 124°53.41′ W. long.;
(66) 46°42.24′ N. lat., 124°47.86′ W. long.;
(67) 46°39.50′ N. lat., 124°42.50′ W. long.;
(68) 46°37.50′ N. lat., 124°41.00′ W. long.;
(69) 46°36.50′ N. lat., 124°38.00′ W. long.;
(70) 46°33.85′ N. lat., 124°36.99′ W. long.;
(71) 46°33.50′ N. lat., 124°29.50′ W. long.;
(72) 46°32.00′ N. lat., 124°31.00′ W. long.;
(73) 46°30.53′ N. lat., 124°30.55′ W. long.;
(74) 46°25.50′ N. lat., 124°33.00′ W. long.;
(75) 46°23.00′ N. lat., 124°35.00′ W. long.;
(76) 46°21.05′ N. lat., 124°37.00′ W. long.;
(77) 46°20.64′ N. lat., 124°36.21′ W. long.;
(78) 46°20.36′ N. lat., 124°37.85′ W. long.;
(79) 46°19.48′ N. lat., 124°38.35′ W. long.;
(80) 46°17.87′ N. lat., 124°38.54′ W. long.;
(81) 46°16.15′ N. lat., 124°25.20′ W. long.;
(82) 46°16.00′ N. lat., 124°23.00′ W. long.;
(83) 46°14.87′ N. lat., 124°26.15′ W. long.;
(84) 46°13.37′ N. lat., 124°31.36′ W. long.;
(85) 46°12.08′ N. lat., 124°38.39′ W. long.;
(86) 46°09.46′ N. lat., 124°40.64′ W. long.;
(87) 46°07.29′ N. lat., 124°40.89′ W. long.;
(88) 46°02.76′ N. lat., 124°44.01′ W. long.;
(89) 46°01.22′ N. lat., 124°43.47′ W. long.;
(90) 45°51.82′ N. lat., 124°42.89′ W. long.;
(91) 45°46.00′ N. lat., 124°40.88′ W. long.;
(92) 45°45.95′ N. lat., 124°40.72′ W. long.;
(93) 45°44.11′ N. lat., 124°43.09′ W. long.;
(94) 45°34.50′ N. lat., 124°30.28′ W. long.;
(95) 45°21.10′ N. lat., 124°23.11′ W. long.;
(96) 45°20.25′ N. lat., 124°22.92′ W. long.;
(97) 45°09.69′ N. lat., 124°20.45′ W. long.;
(98) 45°03.83′ N. lat., 124°23.30′ W. long.;
(99) 44°56.41′ N. lat., 124°27.65′ W. long.;
(100) 44°44.47′ N. lat., 124°37.85′ W. long.;
(101) 44°37.17′ N. lat., 124°38.60′ W. long.;
(102) 44°35.55′ N. lat., 124°39.27′ W. long.;
(103) 44°31.81′ N. lat., 124°39.60′ W. long.;
(104) 44°31.48′ N. lat., 124°43.30′ W. long.;
(105) 44°12.67′ N. lat., 124°57.87′ W. long.;
(106) 44°08.30′ N. lat., 124°57.84′ W. long.;
(107) 44°07.38′ N. lat., 124°57.87′ W. long.;
(108) 43°57.42′ N. lat., 124°57.20′ W. long.;
(109) 43°52.52′ N. lat., 124°49.00′ W. long.;
(110) 43°51.55′ N. lat., 124°37.49′ W. long.;
(111) 43°47.83′ N. lat., 124°36.43′ W. long.;
(112) 43°31.79′ N. lat., 124°36.80′ W. long.;
(113) 43°29.34′ N. lat., 124°36.77′ W. long.;
(114) 43°26.37′ N. lat., 124°39.53′ W. long.;
(115) 43°20.83′ N. lat., 124°42.39′ W. long.;
(116) 43°16.15′ N. lat., 124°44.36′ W. long.;
(117) 43°09.33′ N. lat., 124°45.35′ W. long.;
(118) 43°08.77′ N. lat., 124°49.82′ W. long.;
(119) 43°08.83′ N. lat., 124°50.93′ W. long.;
(120) 43°05.89′ N. lat., 124°51.60′ W. long.;
(121) 43°04.60′ N. lat., 124°53.02′ W. long.;
(122) 43°02.64′ N. lat., 124°52.01′ W. long.;
(123) 43°00.39′ N. lat., 124°51.77′ W. long.;
(124) 42°58.00′ N. lat., 124°52.99′ W. long.;
(125) 42°57.56′ N. lat., 124°54.10′ W. long.;
(126) 42°53.82′ N. lat., 124°55.76′ W. long.;
(127) 42°52.31′ N. lat., 124°50.76′ W. long.;
(128) 42°50.00′ N. lat., 124°48.97′ W. long.;

(129) 42°47.78′ N. lat., 124°47.27′ W. long.;
(130) 42°46.31′ N. lat., 124°43.60′ W. long.;
(131) 42°41.63′ N. lat., 124°44.07′ W. long.;
(132) 42°40.50′ N. lat., 124°43.52′ W. long.;
(133) 42°38.83′ N. lat., 124°42.77′ W. long.;
(134) 42°35.36′ N. lat., 124°43.22′ W. long.;
(135) 42°32.78′ N. lat., 124°44.68′ W. long.;
(136) 42°32.02′ N. lat., 124°43.00′ W. long.;
(137) 42°30.54′ N. lat., 124°43.50′ W. long.;
(138) 42°28.16′ N. lat., 124°48.38′ W. long.;
(139) 42°18.26′ N. lat., 124°39.01′ W. long.;
(140) 42°13.66′ N. lat., 124°36.82′ W. long.;
(141) 42°00.00′ N. lat., 124°35.99′ W. long.;
(142) 41°47.80′ N. lat., 124°29.41′ W. long.;
(143) 41°23.51′ N. lat., 124°29.50′ W. long.;
(144) 41°13.29′ N. lat., 124°23.31′ W. long.;
(145) 41°06.23′ N. lat., 124°22.62′ W. long.;
(146) 40°55.60′ N. lat., 124°26.04′ W. long.;
(147) 40°49.62′ N. lat., 124°26.57′ W. long.;
(148) 40°45.72′ N. lat., 124°30.00′ W. long.;
(149) 40°40.56′ N. lat., 124°32.11′ W. long.;
(150) 40°37.33′ N. lat., 124°29.27′ W. long.;
(151) 40°35.60′ N. lat., 124°30.49′ W. long.;
(152) 40°37.38′ N. lat., 124°37.14′ W. long.;
(153) 40°36.03′ N. lat., 124°39.97′ W. long.;
(154) 40°31.58′ N. lat., 124°40.74′ W. long.;
(155) 40°30.00′ N. lat., 124°38.50′ W. long.;
(156) 40°29.76′ N. lat., 124°38.13′ W. long.;
(157) 40°28.22′ N. lat., 124°37.23′ W. long.;
(158) 40°24.86′ N. lat., 124°35.71′ W. long.;
(159) 40°23.01′ N. lat., 124°31.94′ W. long.;
(160) 40°23.39′ N. lat., 124°28.64′ W. long.;
(161) 40°22.29′ N. lat., 124°25.25′ W. long.;
(162) 40°21.90′ N. lat., 124°25.18′ W. long.;
(163) 40°22.02′ N. lat., 124°28.00′ W. long.;
(164) 40°21.34′ N. lat., 124°29.53′ W. long.;
(165) 40°19.74′ N. lat., 124°28.95′ W. long.;
(166) 40°18.13′ N. lat., 124°27.08′ W. long.;
(167) 40°17.45′ N. lat., 124°25.53′ W. long.;
(168) 40°17.97′ N. lat., 124°24.12′ W. long.;
(169) 40°15.96′ N. lat., 124°26.05′ W. long.;
(170) 40°17.00′ N. lat., 124°35.01′ W. long.;
(171) 40°15.97′ N. lat., 124°35.90′ W. long.;
(172) 40°10.00′ N. lat., 124°22.96′ W. long.;
(173) 40°07.00′ N. lat., 124°19.00′ W. long.;
(174) 40°08.10′ N. lat., 124°16.70′ W. long.;
(175) 40°05.90′ N. lat., 124°17.77′ W. long.;
(176) 40°02.99′ N. lat., 124°15.55′ W. long.;
(177) 40°02.00′ N. lat., 124°12.97′ W. long.;
(178) 40°02.60′ N. lat., 124°10.61′ W. long.;
(179) 40°03.63′ N. lat., 124°09.12′ W. long.;
(180) 40°02.18′ N. lat., 124°09.07′ W. long.;
(181) 39°58.25′ N. lat., 124°12.56′ W. long.;
(182) 39°57.03′ N. lat., 124°11.34′ W. long.;
(183) 39°56.30′ N. lat., 124°08.96′ W. long.;
(184) 39°54.82′ N. lat., 124°07.66′ W. long.;
(185) 39°52.57′ N. lat., 124°08.55′ W. long.;
(186) 39°45.34′ N. lat., 124°03.30′ W. long.;

(187) 39°34.75′ N. lat., 123°58.50′ W. long.;
(188) 39°34.22′ N. lat., 123°56.82′ W. long.;
(189) 39°32.98′ N. lat., 123°56.43′ W. long.;
(190) 39°31.47′ N. lat., 123°58.73′ W. long.;
(191) 39°05.68′ N. lat., 123°57.81′ W. long.;
(192) 39°00.24′ N. lat., 123°56.74′ W. long.;
(193) 38°57.50′ N. lat., 123°56.74′ W. long.;
(194) 38°54.31′ N. lat., 123°56.73′ W. long.;
(195) 38°41.42′ N. lat., 123°46.75′ W. long.;
(196) 38°39.61′ N. lat., 123°46.48′ W. long.;
(197) 38°37.52′ N. lat., 123°43.78′ W. long.;
(198) 38°35.25′ N. lat., 123°42.00′ W. long.;
(199) 38°28.79′ N. lat., 123°37.07′ W. long.;
(200) 38°19.88′ N. lat., 123°32.54′ W. long.;
(201) 38°14.43′ N. lat., 123°25.56′ W. long.;
(202) 38°08.75′ N. lat., 123°24.48′ W. long.;
(203) 38°10.10′ N. lat., 123°27.20′ W. long.;
(204) 38°07.16′ N. lat., 123°28.18′ W. long.;
(205) 38°06.42′ N. lat., 123°30.18′ W. long.;
(206) 38°04.28′ N. lat., 123°31.70′ W. long.;
(207) 38°01.88′ N. lat., 123°30.98′ W. long.;
(208) 38°00.75′ N. lat., 123°29.72′ W. long.;
(209) 38°00.00′ N. lat., 123°28.60′ W. long.;
(210) 37°58.23′ N. lat., 123°26.90′ W. long.;
(211) 37°55.32′ N. lat., 123°27.19′ W. long.;
(212) 37°51.47′ N. lat., 123°24.92′ W. long.;
(213) 37°44.47′ N. lat., 123°11.57′ W. long.;
(214) 37°35.67′ N. lat., 123°01.76′ W. long.;
(215) 37°15.16′ N. lat., 122°51.64′ W. long.;
(216) 37°11.00′ N. lat., 122°47.20′ W. long.;
(217) 37°07.00′ N. lat., 122°42.90′ W. long.;
(218) 37°01.68′ N. lat., 122°37.28′ W. long.;
(219) 36°59.70′ N. lat., 122°33.71′ W. long.;
(220) 36°58.00′ N. lat., 122°27.80′ W. long.;
(221) 37°00.25′ N. lat., 122°24.85′ W. long.;
(222) 36°57.50′ N. lat., 122°24.98′ W. long.;
(223) 36°58.38′ N. lat., 122°21.85′ W. long.;
(224) 36°55.85′ N. lat., 122°21.95′ W. long.;
(225) 36°52.02′ N. lat., 122°12.10′ W. long.;
(226) 36°47.63′ N. lat., 122°07.37′ W. long.;
(227) 36°47.26′ N. lat., 122°03.22′ W. long.;
(228) 36°50.34′ N. lat., 121°58.40′ W. long.;
(229) 36°48.83′ N. lat., 121°59.14′ W. long.;
(230) 36°44.81′ N. lat., 121°58.28′ W. long.;
(231) 36°39.00′ N. lat., 122°01.71′ W. long.;
(232) 36°29.60′ N. lat., 122°00.49′ W. long.;
(233) 36°23.43′ N. lat., 121°59.76′ W. long.;
(234) 36°18.90′ N. lat., 122°05.32′ W. long.;
(235) 36°15.38′ N. lat., 122°01.40′ W. long.;
(236) 36°13.79′ N. lat., 121°58.12′ W. long.;
(237) 36°10.12′ N. lat., 121°43.33′ W. long.;
(238) 36°02.57′ N. lat., 121°37.02′ W. long.;
(239) 36°01.01′ N. lat., 121°36.69′ W. long.
(240) 36°00.00′ N. lat., 121°35.15′ W. long.;
(241) 35°57.74′ N. lat., 121°33.45′ W. long.;
(242) 35°51.32′ N. lat., 121°30.08′ W. long.;
(243) 35°45.84′ N. lat., 121°28.84′ W. long.;
(244) 35°38.94′ N. lat., 121°23.16′ W. long.;

(245) 35°26.00′ N. lat., 121°08.00′ W. long.;
(246) 35°07.42′ N. lat., 120°57.08′ W. long.;
(247) 34°42.76′ N. lat., 120°55.09′ W. long.;
(248) 34°37.75′ N. lat., 120°51.96′ W. long.;
(249) 34°29.29′ N. lat., 120°44.19′ W. long.;
(250) 34°27.00′ N. lat., 120°40.42′ W. long.;
(251) 34°21.89′ N. lat., 120°31.36′ W. long.;
(252) 34°20.79′ N. lat., 120°21.58′ W. long.;
(253) 34°23.97′ N. lat., 120°15.25′ W. long.;
(254) 34°22.11′ N. lat., 119°56.63′ W. long.;
(255) 34°19.00′ N. lat., 119°48.00′ W. long.;
(256) 34°15.00′ N. lat., 119°48.00′ W. long.;
(257) 34°08.00′ N. lat., 119°37.00′ W. long.;
(258) 34°08.39′ N. lat., 119°54.78′ W. long.;
(259) 34°07.10′ N. lat., 120°10.37′ W. long.;
(260) 34°10.08′ N. lat., 120°22.98′ W. long.;
(261) 34°13.16′ N. lat., 120°29.40′ W. long.;
(262) 34°09.41′ N. lat., 120°37.75′ W. long.;
(263) 34°03.15′ N. lat., 120°34.71′ W. long.;
(264) 33°57.09′ N. lat., 120°27.76′ W. long.;
(265) 33°51.00′ N. lat., 120°09.00′ W. long.;
(266) 33°38.16′ N. lat., 119°59.23′ W. long.;
(267) 33°37.04′ N. lat., 119°50.17′ W. long.;
(268) 33°42.28′ N. lat., 119°48.85′ W. long.;
(269) 33°53.96′ N. lat., 119°53.77′ W. long.;
(270) 33°55.88′ N. lat., 119°41.05′ W. long.;
(271) 33°59.94′ N. lat., 119°19.57′ W. long.;
(272) 34°03.12′ N. lat., 119°15.51′ W. long.;
(273) 34°01.97′ N. lat., 119°07.28′ W. long.;
(274) 34°03.60′ N. lat., 119°04.71′ W. long.;
(275) 33°59.30′ N. lat., 119°03.73′ W. long.;
(276) 33°58.87′ N. lat., 118°59.37′ W. long.;
(277) 33°58.08′ N. lat., 118°41.14′ W. long.;
(278) 33°50.93′ N. lat., 118°37.65′ W. long.;
(279) 33°39.54′ N. lat., 118°18.70′ W. long.;
(280) 33°35.42′ N. lat., 118°17.14′ W. long.;
(281) 33°32.15′ N. lat., 118°10.84′ W. long.;
(282) 33°33.71′ N. lat., 117°53.72′ W. long.;
(283) 33°31.17′ N. lat., 117°49.11′ W. long.;
(284) 33°16.53′ N. lat., 117°36.13′ W. long.;
(285) 33°06.77′ N. lat., 117°22.92′ W. long.;
(286) 32°58.94′ N. lat., 117°20.05′ W. long.;
(287) 32°55.83′ N. lat., 117°20.15′ W. long.;
(288) 32°46.29′ N. lat., 117°23.89′ W. long.;
(289) 32°42.00′ N. lat., 117°22.16′ W. long.;
(290) 32°39.47′ N. lat., 117°27.78′ W. long.; and
(291) 32°34.83′ N. lat., 117°24.69′ W. long.

(i) The 150 fm (274 m) depth contour used around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 32°47.95′ N. lat., 118°19.31′ W. long.;
(2) 32°49.79′ N. lat., 118°20.82′ W. long.;
(3) 32°55.99′ N. lat., 118°28.80′ W. long.;
(4) 33°03.00′ N. lat., 118°34.00′ W. long.;
(5) 33°05.00′ N. lat., 118°38.00′ W. long.;
(6) 33°03.21′ N. lat., 118°39.85′ W. long.;
(7) 33°01.93′ N. lat., 118°39.85′ W. long.;
(8) 32°54.69′ N. lat., 118°35.45′ W. long.;
(9) 32°53.28′ N. lat., 118°33.58′ W. long.;
(10) 32°48.26′ N. lat., 118°31.62′ W. long.;
(11) 32°43.03′ N. lat., 118°24.21′ W. long.;
(12) 32°47.15′ N. lat., 118°21.53′ W. long.; and
(13) 32°47.95′ N. lat., 118°19.31′ W. long.

(j) The 150 fm (274 m) depth contour used around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°17.24′ N. lat., 118°12.94′ W. long.;
(2) 33°23.60′ N. lat., 118°18.79′ W. long.;
(3) 33°26.00′ N. lat., 118°22.00′ W. long.;
(4) 33°27.57′ N. lat., 118°27.69′ W. long.;
(5) 33°29.78′ N. lat., 118°31.01′ W. long.;
(6) 33°30.46′ N. lat., 118°36.52′ W. long.;
(7) 33°28.65′ N. lat., 118°41.07′ W. long.;
(8) 33°23.23′ N. lat., 118°30.69′ W. long.;
(9) 33°20.97′ N. lat., 118°33.29′ W. long.;
(10) 33°19.81′ N. lat., 118°32.24′ W. long.;
(11) 33°18.00′ N. lat., 118°28.00′ W. long.;
(12) 33°15.62′ N. lat., 118°14.74′ W. long.;
(13) 33°16.00′ N. lat., 118°13.00′ W. long.; and
(14) 33°17.24′ N. lat., 118°12.94′ W. long.

(k) The 150 fm (274 m) depth contour used around Lasuen Knoll off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°24.99′ N. lat., 117°59.32′ W. long.;
(2) 33°23.66′ N. lat., 117°58.28′ W. long.;
(3) 33°23.21′ N. lat., 117°59.55′ W. long.;
(4) 33°24.74′ N. lat., 118°00.61′ W. long.; and
(5) 33°24.99′ N. lat., 117°59.32′ W. long.

[69 FR 77059, Dec. 23, 2004; 70 FR 13119, Mar. 18, 2005, as amended at 70 FR 16149, Mar. 30, 2005; 71 FR 8500, Feb. 17, 2006; 71 FR 78678, Dec. 29, 2006]

### § 660.394 Latitude/longitude coordinates defining the 180 fm (329 m) through 250 fm (457 m) depth contours.

Boundaries for RCAs are defined by straight lines connecting a series of latitude/longitude coordinates. This section provides coordinates for the 180 fm (329 m) through 250 fm (457 m) depth contours.

(a) The 180–fm (329–m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:
(1) 48°14.82′ N. lat., 125°41.61′ W. long.;
(2) 48°12.86′ N. lat., 125°37.95′ W. long.;
(3) 48°11.28′ N. lat., 125°39.67′ W. long.;
(4) 48°10.13′ N. lat., 125°42.62′ W. long.;
(5) 48°08.86′ N. lat., 125°41.92′ W. long.;
(6) 48°08.15′ N. lat., 125°44.95′ W. long.;
(7) 48°07.18′ N. lat., 125°45.67′ W. long.;
(8) 48°05.79′ N. lat., 125°44.64′ W. long.;
(9) 48°06.04′ N. lat., 125°41.84′ W. long.;
(10) 48°04.26′ N. lat., 125°40.09′ W. long.;
(11) 48°04.18′ N. lat., 125°36.94′ W. long.;
(12) 48°03.02′ N. lat., 125°36.24′ W. long.;
(13) 48°01.75′ N. lat., 125°37.42′ W. long.;
(14) 48°01.39′ N. lat., 125°39.42′ W. long.;
(15) 47°57.08′ N. lat., 125°36.51′ W. long.;
(16) 47°55.20′ N. lat., 125°36.62′ W. long.;
(17) 47°54.33′ N. lat., 125°34.98′ W. long.;
(18) 47°54.73′ N. lat., 125°31.95′ W. long.;
(19) 47°56.39′ N. lat., 125°30.22′ W. long.;
(20) 47°55.86′ N. lat., 125°28.54′ W. long.;
(21) 47°58.07′ N. lat., 125°25.72′ W. long.;
(22) 48°00.81′ N. lat., 125°24.39′ W. long.;
(23) 48°01.81′ N. lat., 125°23.76′ W. long.;
(24) 48°02.16′ N. lat., 125°22.71′ W. long.;
(25) 48°03.46′ N. lat., 125°22.01′ W. long.;
(26) 48°04.21′ N. lat., 125°20.40′ W. long.;
(27) 48°03.15′ N. lat., 125°19.50′ W. long.;
(28) 48°01.92′ N. lat., 125°18.69′ W. long.;
(29) 48°00.85′ N. lat., 125°20.02′ W. long.;
(30) 48°00.12′ N. lat., 125°20.04′ W. long.;
(31) 47°58.18′ N. lat., 125°18.78′ W. long.;
(32) 47°58.24′ N. lat., 125°17.26′ W. long.;
(33) 47°52.47′ N. lat., 125°15.30′ W. long.;
(34) 47°52.13′ N. lat., 125°12.95′ W. long.;
(35) 47°50.60′ N. lat., 125°10.65′ W. long.;
(36) 47°49.39′ N. lat., 125°10.59′ W. long.;
(37) 47°48.74′ N. lat., 125°06.07′ W. long.;
(38) 47°47.03′ N. lat., 125°06.95′ W. long.;
(39) 47°47.46′ N. lat., 125°05.20′ W. long.;
(40) 47°45.88′ N. lat., 125°04.50′ W. long.;
(41) 47°44.51′ N. lat., 125°06.64′ W. long.;
(42) 47°42.22′ N. lat., 125°04.86′ W. long.;
(43) 47°38.49′ N. lat., 125°06.32′ W. long.;
(44) 47°34.93′ N. lat., 125°04.34′ W. long.;
(45) 47°30.85′ N. lat., 124°57.42′ W. long.;
(46) 47°28.80′ N. lat., 124°56.51′ W. long.;
(47) 47°29.25′ N. lat., 124°53.92′ W. long.;
(48) 47°28.29′ N. lat., 124°51.32′ W. long.;
(49) 47°24.04′ N. lat., 124°47.38′ W. long.;
(50) 47°18.24′ N. lat., 124°45.97′ W. long.;
(51) 47°19.36′ N. lat., 124°50.96′ W. long.;
(52) 47°18.07′ N. lat., 124°53.38′ W. long.;
(53) 47°17.73′ N. lat., 124°52.83′ W. long.;
(54) 47°17.77′ N. lat., 124°51.56′ W. long.;
(55) 47°16.84′ N. lat., 124°50.94′ W. long.;
(56) 47°16.01′ N. lat., 124°53.36′ W. long.;
(57) 47°14.32′ N. lat., 124°52.73′ W. long.;
(58) 47°11.97′ N. lat., 124°56.81′ W. long.;
(59) 47°12.93′ N. lat., 124°58.47′ W. long.;
(60) 47°09.43′ N. lat., 124°57.99′ W. long.;
(61) 47°09.36′ N. lat., 124°59.29′ W. long.;
(62) 47°05.88′ N. lat., 124°59.06′ W. long.;
(63) 47°03.64′ N. lat., 124°56.07′ W. long.;
(64) 47°01.00′ N. lat., 124°59.69′ W. long.;
(65) 46°58.72′ N. lat., 124°59.17′ W. long.;
(66) 46°58.30′ N. lat., 125°00.60′ W. long.;
(67) 46°55.61′ N. lat., 125°01.19′ W. long.;
(68) 46°56.96′ N. lat., 124°58.85′ W. long.;
(69) 46°55.91′ N. lat., 124°54.98′ W. long.;
(70) 46°54.55′ N. lat., 124°54.21′ W. long.;
(71) 46°56.80′ N. lat., 124°50.55′ W. long.;
(72) 46°54.87′ N. lat., 124°49.59′ W. long.;

(73) 46°54.63′ N. lat., 124°53.48′ W. long.;
(74) 46°52.33′ N. lat., 124°54.75′ W. long.;
(75) 46°45.12′ N. lat., 124°51.82′ W. long.;
(76) 46°39.20′ N. lat., 124°47.02′ W. long.;
(77) 46°33.45′ N. lat., 124°36.61′ W. long.;
(78) 46°33.37′ N. lat., 124°30.21′ W. long.;
(79) 46°31.67′ N. lat., 124°31.41′ W. long.;
(80) 46°27.87′ N. lat., 124°32.04′ W. long.;
(81) 46°21.01′ N. lat., 124°37.63′ W. long.;
(82) 46°18.58′ N. lat., 124°38.92′ W. long.;
(83) 46°16.00′ N. lat., 124°23.57′ W. long.;
(84) 46°12.85′ N. lat., 124°35.52′ W. long.;
(85) 46°12.27′ N. lat., 124°38.69′ W. long.;
(86) 46°08.71′ N. lat., 124°41.27′ W. long.;
(87) 46°05.80′ N. lat., 124°42.11′ W. long.;
(88) 46°02.84′ N. lat., 124°48.05′ W. long.;
(89) 46°02.41′ N. lat., 124°48.16′ W. long.;
(90) 45°58.96′ N. lat., 124°43.97′ W. long.;
(91) 45°47.05′ N. lat., 124°43.25′ W. long.;
(92) 45°46.00′ N. lat., 124°43.31′ W. long.;
(93) 45°44.22′ N. lat., 124°44.55′ W. long.;
(94) 45°34.97′ N. lat., 124°31.95′ W. long.;
(95) 45°20.25′ N. lat., 124°25.18′ W. long.;
(96) 45°13.09′ N. lat., 124°21.61′ W. long.;
(97) 45°09.59′ N. lat., 124°22.78′ W. long.;
(98) 45°03.83′ N. lat., 124°26.21′ W. long.;
(99) 45°00.22′ N. lat., 124°28.31′ W. long.;
(100) 44°53.53′ N. lat., 124°32.98′ W. long.;
(101) 44°40.79′ N. lat., 124°45.76′ W. long.;
(102) 44°41.35′ N. lat., 124°48.03′ W. long.;
(103) 44°40.27′ N. lat., 124°49.11′ W. long.;
(104) 44°38.52′ N. lat., 124°49.11′ W. long.;
(105) 44°38.25′ N. lat., 124°46.47′ W. long.;
(106) 44°28.84′ N. lat., 124°47.09′ W. long.;
(107) 44°23.24′ N. lat., 124°49.96′ W. long.;
(108) 44°13.07′ N. lat., 124°58.34′ W. long.;
(109) 44°08.30′ N. lat., 124°58.23′ W. long.;
(110) 43°57.99′ N. lat., 124°57.83′ W. long.;
(111) 43°51.43′ N. lat., 124°52.02′ W. long.;
(112) 43°50.72′ N. lat., 124°39.23′ W. long.;
(113) 43°39.04′ N. lat., 124°37.82′ W. long.;
(114) 43°27.76′ N. lat., 124°39.76′ W. long.;
(115) 43°20.83′ N. lat., 124°42.70′ W. long.;
(116) 43°20.22′ N. lat., 124°42.92′ W. long.;
(117) 43°13.07′ N. lat., 124°46.03′ W. long.;
(118) 43°10.43′ N. lat., 124°50.27′ W. long.;
(119) 43°08.83′ N. lat., 124°50.93′ W. long.;
(120) 43°05.89′ N. lat., 124°51.60′ W. long.;
(121) 43°04.60′ N. lat., 124°53.01′ W. long.;
(122) 43°02.64′ N. lat., 124°52.01′ W. long.;
(123) 43°00.39′ N. lat., 124°51.77′ W. long.;
(124) 42°58.00′ N. lat., 124°52.99′ W. long.;
(125) 42°57.56′ N. lat., 124°54.10′ W. long.;
(126) 42°53.82′ N. lat., 124°55.76′ W. long.;
(127) 42°53.20′ N. lat., 124°53.56′ W. long.;
(128) 42°50.00′ N. lat., 124°52.36′ W. long.;
(129) 42°49.43′ N. lat., 124°52.03′ W. long.;
(130) 42°47.68′ N. lat., 124°47.72′ W. long.;
(131) 42°46.17′ N. lat., 124°44.05′ W. long.;
(132) 42°41.67′ N. lat., 124°44.36′ W. long.;
(133) 42°40.50′ N. lat., 124°43.86′ W. long.;
(134) 42°38.79′ N. lat., 124°42.88′ W. long.;
(135) 42°32.39′ N. lat., 124°45.38′ W. long.;
(136) 42°32.08′ N. lat., 124°43.44′ W. long.;
(137) 42°30.98′ N. lat., 124°43.84′ W. long.;
(138) 42°28.37′ N. lat., 124°48.91′ W. long.;
(139) 42°20.07′ N. lat., 124°41.59′ W. long.;
(140) 42°15.05′ N. lat., 124°38.07′ W. long.;
(141) 42°13.67′ N. lat., 124°37.77′ W. long.;
(142) 42°07.37′ N. lat., 124°37.25′ W. long.;
(143) 42°04.93′ N. lat., 124°36.79′ W. long.;
(144) 42°00.00′ N. lat., 124°36.26′ W. long.;

(145) 41°47.60′ N. lat., 124°29.75′ W. long.;
(146) 41°22.07′ N. lat., 124°29.55′ W. long.;
(147) 41°13.58′ N. lat., 124°24.17′ W. long.;
(148) 41°06.51′ N. lat., 124°23.07′ W. long.;
(149) 40°55.20′ N. lat., 124°27.46′ W. long.;
(150) 40°49.76′ N. lat., 124°27.17′ W. long.;
(151) 40°45.79′ N. lat., 124°30.37′ W. long.;
(152) 40°40.31′ N. lat., 124°32.47′ W. long.;
(153) 40°37.42′ N. lat., 124°37.20′ W. long.;
(154) 40°36.03′ N. lat., 124°39.97′ W. long.;
(155) 40°31.48′ N. lat., 124°40.95′ W. long.;
(156) 40°30.00′ N. lat., 124°38.50′ W. long.;
(157) 40°24.81′ N. lat., 124°35.82′ W. long.;
(158) 40°22.00′ N. lat., 124°30.01′ W. long.;
(159) 40°16.84′ N. lat., 124°29.87′ W. long.;
(160) 40°17.06′ N. lat., 124°35.51′ W. long.;
(161) 40°16.41′ N. lat., 124°39.10′ W. long.;
(162) 40°10.00′ N. lat., 124°23.56′ W. long.;
(163) 40°06.67′ N. lat., 124°19.08′ W. long.;
(164) 40°08.10′ N. lat., 124°16.71′ W. long.;
(165) 40°05.90′ N. lat., 124°17.77′ W. long.;
(166) 40°02.80′ N. lat., 124°16.28′ W. long.;
(167) 40°01.98′ N. lat., 124°12.99′ W. long.;
(168) 40°01.53′ N. lat., 124°09.82′ W. long.;
(169) 39°58.28′ N. lat., 124°12.93′ W. long.;
(170) 39°57.06′ N. lat., 124°12.03′ W. long.;
(171) 39°56.31′ N. lat., 124°08.98′ W. long.;
(172) 39°55.20′ N. lat., 124°07.98′ W. long.;
(173) 39°52.57′ N. lat., 124°09.04′ W. long.;
(174) 39°42.78′ N. lat., 124°02.11′ W. long.;
(175) 39°34.76′ N. lat., 123°58.51′ W. long.;
(176) 39°34.22′ N. lat., 123°56.82′ W. long.;
(177) 39°32.98′ N. lat., 123°56.43′ W. long.;
(178) 39°32.14′ N. lat., 123°58.83′ W. long.;
(179) 39°07.79′ N. lat., 123°58.72′ W. long.;
(180) 39°00.99′ N. lat., 123°57.56′ W. long.;
(181) 39°00.05′ N. lat., 123°56.83′ W. long.;
(182) 38°57.50′ N. lat., 123°57.22′ W. long.;
(183) 38°56.28′ N. lat., 123°57.53′ W. long.;
(184) 38°56.01′ N. lat., 123°58.72′ W. long.;
(185) 38°52.41′ N. lat., 123°56.38′ W. long.;
(186) 38°46.81′ N. lat., 123°51.46′ W. long.;
(187) 38°45.56′ N. lat., 123°51.32′ W. long.;
(188) 38°43.24′ N. lat., 123°49.91′ W. long.;
(189) 38°41.42′ N. lat., 123°47.22′ W. long.;
(190) 38°40.97′ N. lat., 123°47.80′ W. long.;
(191) 38°38.58′ N. lat., 123°46.07′ W. long.;
(192) 38°37.38′ N. lat., 123°43.80′ W. long.;
(193) 38°33.86′ N. lat., 123°41.51′ W. long.;
(194) 38°29.45′ N. lat., 123°38.42′ W. long.;
(195) 38°28.20′ N. lat., 123°38.17′ W. long.;
(196) 38°24.09′ N. lat., 123°35.26′ W. long.;
(197) 38°16.72′ N. lat., 123°31.42′ W. long.;
(198) 38°15.32′ N. lat., 123°29.33′ W. long.;
(199) 38°14.45′ N. lat., 123°26.15′ W. long.;
(200) 38°10.26′ N. lat., 123°25.43′ W. long.;
(201) 38°12.61′ N. lat., 123°28.08′ W. long.;
(202) 38°11.98′ N. lat., 123°29.35′ W. long.;

(203) 38°08.23′ N. lat., 123°28.04′ W. long.;
(204) 38°06.39′ N. lat., 123°30.59′ W. long.;
(205) 38°04.25′ N. lat., 123°31.81′ W. long.;
(206) 38°02.08′ N. lat., 123°31.27′ W. long.;
(207) 38°00.17′ N. lat., 123°29.43′ W. long.;
(208) 38°00.00′ N. lat., 123°28.55′ W. long.;
(209) 37°58.24′ N. lat., 123°26.91′ W. long.;
(210) 37°55.32′ N. lat., 123°27.19′ W. long.;
(211) 37°51.52′ N. lat., 123°25.01′ W. long.;
(212) 37°44.21′ N. lat., 123°11.38′ W. long.;
(213) 37°35.67′ N. lat., 123°01.86′ W. long.;
(214) 37°14.29′ N. lat., 122°52.99′ W. long.;
(215) 37°11.00′ N. lat., 122°49.28′ W. long.;
(216) 37°07.00′ N. lat., 122°44.65′ W. long.;
(217) 37°00.86′ N. lat., 122°37.55′ W. long.;
(218) 36°59.71′ N. lat., 122°33.73′ W. long.;
(219) 36°57.98′ N. lat., 122°27.80′ W. long.;
(220) 36°59.83′ N. lat., 122°25.17′ W. long.;
(221) 36°57.21′ N. lat., 122°25.17′ W. long.;
(222) 36°57.79′ N. lat., 122°22.28′ W. long.;
(223) 36°55.86′ N. lat., 122°21.99′ W. long.;
(224) 36°52.06′ N. lat., 122°12.12′ W. long.;
(225) 36°47.63′ N. lat., 122°07.40′ W. long.;
(226) 36°47.26′ N. lat., 122°03.23′ W. long.;
(227) 36°49.53′ N. lat., 121°59.35′ W. long.;
(228) 36°44.81′ N. lat., 121°58.29′ W. long.;
(229) 36°38.95′ N. lat., 122°02.02′ W. long.;
(230) 36°23.43′ N. lat., 121°59.76′ W. long.;
(231) 36°19.66′ N. lat., 122°06.25′ W. long.;
(232) 36°14.78′ N. lat., 122°01.52′ W. long.;
(233) 36°13.64′ N. lat., 121°57.83′ W. long.;
(234) 36°09.99′ N. lat., 121°43.48′ W. long.;
(235) 36°00.00′ N. lat., 121°36.95′ W. long.;
(236) 35°57.09′ N. lat., 121°34.16′ W. long.;
(237) 35°52.71′ N. lat., 121°32.32′ W. long.;
(238) 35°51.23′ N. lat., 121°30.54′ W. long.;
(239) 35°46.07′ N. lat., 121°29.75′ W. long.;
(240) 35°34.08′ N. lat., 121°19.83′ W. long.;
(241) 35°31.41′ N. lat., 121°14.80′ W. long.;
(242) 35°15.42′ N. lat., 121°03.47′ W. long.;
(243) 35°07.70′ N. lat., 120°59.31′ W. long.;
(244) 34°57.27′ N. lat., 120°56.93′ W. long.;
(245) 34°44.27′ N. lat., 120°57.65′ W. long.;
(246) 34°32.75′ N. lat., 120°50.08′ W. long.;
(247) 34°27.00′ N. lat., 120°41.50′ W. long.;
(248) 34°20.00′ N. lat., 120°30.99′ W. long.;
(249) 34°19.15′ N. lat., 120°19.78′ W. long.;
(250) 34°23.24′ N. lat., 120°14.17′ W. long.;
(251) 34°21.35′ N. lat., 119°54.89′ W. long.;
(252) 34°09.79′ N. lat., 119°44.51′ W. long.;
(253) 34°07.34′ N. lat., 120°06.71′ W. long.;
(254) 34°09.74′ N. lat., 120°19.78′ W. long.;
(255) 34°13.95′ N. lat., 120°29.78′ W. long.;
(256) 34°09.41′ N. lat., 120°37.75′ W. long.;
(257) 34°03.39′ N. lat., 120°35.26′ W. long.;
(258) 33°56.82′ N. lat., 120°28.30′ W. long.;
(259) 33°50.71′ N. lat., 120°09.24′ W. long.;
(260) 33°38.21′ N. lat., 119°59.90′ W. long.;

(261) 33°35.35′ N. lat., 119°51.95′ W. long.;
(262) 33°35.99′ N. lat., 119°49.13′ W. long.;
(263) 33°42.74′ N. lat., 119°47.80′ W. long.;
(264) 33°53.65′ N. lat., 119°53.29′ W. long.;
(265) 33°57.85′ N. lat., 119°31.05′ W. long.;
(266) 33°56.78′ N. lat., 119°27.44′ W. long.;
(267) 33°58.03′ N. lat., 119°27.82′ W. long.;
(268) 33°59.31′ N. lat., 119°20.02′ W. long.;
(269) 34°02.91′ N. lat., 119°15.38′ W. long.;
(270) 33°59.04′ N. lat., 119°03.02′ W. long.;
(271) 33°57.88′ N. lat., 118°41.69′ W. long.;
(272) 33°50.89′ N. lat., 118°37.78′ W. long.;
(273) 33°39.54′ N. lat., 118°18.70′ W. long.;
(274) 33°35.42′ N. lat., 118°17.15′ W. long.;
(275) 33°31.26′ N. lat., 118°10.84′ W. long.;
(276) 33°32.71′ N. lat., 117°52.05′ W. long.;
(277) 32°58.94′ N. lat., 117°20.05′ W. long.;
(278) 32°46.45′ N. lat., 117°24.37′ W. long.;
(279) 32°42.25′ N. lat., 117°22.87′ W. long.;
(280) 32°39.50′ N. lat., 117°27.80′ W. long.; and
(281) 32°34.83′ N. lat., 117°24.67′ W. long.

(b) The 180 fm (329 m) depth contour used around San Clemente Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°01.90′ N. lat., 118°40.17′ W. long.;
(2) 33°03.23′ N. lat., 118°40.05′ W. long.;
(3) 33°05.07′ N. lat., 118°39.01′ W. long.;
(4) 33°05.00′ N. lat., 118°38.01′ W. long.;
(5) 33°03.00′ N. lat., 118°34.00′ W. long.;
(6) 32°55.92′ N. lat., 118°28.39′ W. long.;
(7) 32°49.78′ N. lat., 118°20.82′ W. long.;
(8) 32°47.32′ N. lat., 118°18.30′ W. long.;
(9) 32°47.46′ N. lat., 118°20.29′ W. long.;
(10) 32°46.21′ N. lat., 118°21.96′ W. long.;
(11) 32°42.25′ N. lat., 118°24.07′ W. long.;
(12) 32°47.73′ N. lat., 118°31.74′ W. long.;
(13) 32°53.16′ N. lat., 118°33.85′ W. long.;
(14) 32°54.51′ N. lat., 118°35.56′ W. long.; and
(15) 33°01.90′ N. lat., 118°40.17′ W. long.

(c) The 180 fm (329 m) depth contour used around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°30.00′ N. lat., 118°44.18′ W. long.;
(2) 33°30.65′ N. lat., 118°35.07′ W. long.;
(3) 33°29.88′ N. lat., 118°30.89′ W. long.;
(4) 33°27.54′ N. lat., 118°26.91′ W. long.;
(5) 33°26.11′ N. lat., 118°21.97′ W. long.;
(6) 33°24.20′ N. lat., 118°19.05′ W. long.;
(7) 33°14.58′ N. lat., 118°10.35′ W. long.;
(8) 33°17.91′ N. lat., 118°28.20′ W. long.;
(9) 33°19.14′ N. lat., 118°31.34′ W. long.;
(10) 33°20.79′ N. lat., 118°33.75′ W. long.;
(11) 33°23.14′ N. lat., 118°30.80′ W. long.;and
(12) 33°30.00′ N. lat., 118°44.18′ W. long.

(d) The 180 fm (329 m) depth contour used around Lasuen Knoll off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°25.12′ N. lat., 118°01.09′ W. long.;
(2) 33°25.41′ N. lat., 117°59.36′ W. long.;
(3) 33°23.49′ N. lat., 117°57.47′ W. long.;
(4) 33°23.02′ N. lat., 117°59.58′ W. long.; and
(5) 33°25.12′ N. lat., 118°01.09′ W. long.

(e) The 180 fm (329 m) depth contour used around San Diego Rise off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°49.98′ N. lat., 117°50.19′ W. long.;
(2) 32°44.10′ N. lat., 117°45.34′ W. long.;
(3) 32°42.01′ N. lat., 117°46.01′ W. long.;
(4) 32°44.42′ N. lat., 117°48.69′ W. long.;
(5) 32°49.86′ N. lat., 117°50.50′ W. long.; and
(6) 32°49.98′ N. lat., 117°50.19′ W. long.

(f) The 180 fm (329 m) depth contour between 42° N. lat. and the U.S. border with Mexico, modified to allow fishing in petrale sole areas, is defined by straight lines connecting all of the following points in the order stated:
(1) 42°00.00′ N. lat., 124°36.37′ W. long.;
(2) 41°47.79′ N. lat., 124°29.48′ W. long.;
(3) 41°21.16′ N. lat., 124°28.97′ W. long.;
(4) 41°11.30′ N. lat., 124°22.86′ W. long.;
(5) 41°06.51′ N. lat., 124°23.07′ W. long.;
(6) 40°55.20′ N. lat., 124°27.46′ W. long.;
(7) 40°53.95′ N. lat., 124°26.04′ W. long.;
(8) 40°49.96′ N. lat., 124°26.04′ W. long.;

(9) 40°44.49′ N. lat., 124°30.81′ W. long.;
(10) 40°40.58′ N. lat., 124°32.05′ W. long.;
(11) 40°38.82′ N. lat., 124°29.45′ W. long.;
(12) 40°35.65′ N. lat., 124°30.34′ W. long.;
(13) 40°37.39′ N. lat., 124°37.00′ W. long.;
(14) 40°36.03′ N. lat., 124°39.97′ W. long.;
(15) 40°31.42′ N. lat., 124°40.85′ W. long.;
(16) 40°30.00′ N. lat., 124°37.12′ W. long.;
(17) 40°27.36′ N. lat., 124°37.14′ W. long.;
(18) 40°24.81′ N. lat., 124°35.82′ W. long.;
(19) 40°22.45′ N. lat., 124°30.94′ W. long.;
(20) 40°14.00′ N. lat., 124°32.90′ W. long.;
(21) 40°10.00′ N. lat., 124°23.56′ W. long.;
(22) 40°06.67′ N. lat., 124°19.08′ W. long.;
(23) 40°08.10′ N. lat., 124°16.71′ W. long.;
(24) 40°05.90′ N. lat., 124°17.77′ W. long.;
(25) 40°02.80′ N. lat., 124°16.28′ W. long.;
(26) 40°01.98′ N. lat., 124°12.99′ W. long.;
(27) 40°01.52′ N. lat., 124°09.83′ W. long.;
(28) 39°58.55′ N. lat., 124°12.32′ W. long.;
(29) 39°55.74′ N. lat., 124°07.37′ W. long.;
(30) 39°42.78′ N. lat., 124°02.11′ W. long.;
(31) 39°34.76′ N. lat., 123°58.51′ W. long.;
(32) 39°34.22′ N. lat., 123°56.82′ W. long.;
(33) 39°32.98′ N. lat., 123°56.43′ W. long.;
(34) 39°32.14′ N. lat., 123°58.83′ W. long.;
(35) 39°07.79′ N. lat., 123°58.72′ W. long.;
(36) 39°00.99′ N. lat., 123°57.56′ W. long.;
(37) 39°00.05′ N. lat., 123°56.83′ W. long.;
(38) 38°57.50′ N. lat., 123°57.04′ W. long.;
(39) 38°51.19′ N. lat., 123°55.70′ W. long.;
(40) 38°47.29′ N. lat., 123°51.12′ W. long.;
(41) 38°45.48′ N. lat., 123°51.36′ W. long.;
(42) 38°43.24′ N. lat., 123°49.91′ W. long.;
(43) 38°41.61′ N. lat., 123°47.50′ W. long.;
(44) 38°35.75′ N. lat., 123°43.76′ W. long.;
(45) 38°34.92′ N. lat., 123°42.45′ W. long.;
(46) 38°19.84′ N. lat., 123°31.96′ W. long.;
(47) 38°14.38′ N. lat., 123°25.51′ W. long.;
(48) 38°09.39′ N. lat., 123°24.39′ W. long.;
(49) 38°10.02′ N. lat., 123°26.73′ W. long.;
(50) 38°04.11′ N. lat., 123°31.62′ W. long.;
(51) 38°02.11′ N. lat., 123°31.11′ W. long.;
(52) 38°00.23′ N. lat., 123°29.51′ W. long.;
(53) 38°00.00′ N. lat., 123°28.72′ W. long.;
(54) 37°58.07′ N. lat., 123°26.97′ W. long.;
(55) 37°50.80′ N. lat., 123°24.47′ W. long.;
(56) 37°44.21′ N. lat., 123°11.38′ W. long.;
(57) 37°35.67′ N. lat., 123°01.86′ W. long.;
(58) 37°23.42′ N. lat., 122°56.78′ W. long.;
(59) 37°23.23′ N. lat., 122°53.78′ W. long.;
(60) 37°13.97′ N. lat., 122°49.91′ W. long.;
(61) 37°11.00′ N. lat., 122°45.61′ W. long.;
(62) 37°07.00′ N. lat., 122°42.89′ W. long.;
(63) 37°01.10′ N. lat., 122°37.50′ W. long.;
(64) 36°57.81′ N. lat., 122°28.29′ W. long.;
(65) 36°59.83′ N. lat., 122°25.17′ W. long.;
(66) 36°57.21′ N. lat., 122°25.17′ W. long.;
(67) 36°57.81′ N. lat., 122°21.73′ W. long.;
(68) 36°56.10′ N. lat., 122°21.51′ W. long.;
(69) 36°55.17′ N. lat., 122°16.94′ W. long.;
(70) 36°52.06′ N. lat., 122°12.12′ W. long.;
(71) 36°47.63′ N. lat., 122°07.40′ W. long.;
(72) 36°47.37′ N. lat., 122°03.10′ W. long.;
(73) 36°24.14′ N. lat., 121°59.45′ W. long.;
(74) 36°21.82′ N. lat., 122°00.80′ W. long.;
(75) 36°19.47′ N. lat., 122°05.28′ W. long.;
(76) 36°14.67′ N. lat., 122°00.88′ W. long.;
(77) 36°09.34′ N. lat., 121°42.61′ W. long.;
(78) 36°00.00′ N. lat., 121°35.77′ W. long.;
(79) 35°56.78′ N. lat., 121°32.69′ W. long.;
(80) 35°52.71′ N. lat., 121°32.32′ W. long.;
(81) 35°51.23′ N. lat., 121°30.54′ W. long.;
(82) 35°46.07′ N. lat., 121°29.75′ W. long.;
(83) 35°34.08′ N. lat., 121°19.83′ W. long.;
(84) 35°31.41′ N. lat., 121°14.80′ W. long.;
(85) 35°15.42′ N. lat., 121°03.47′ W. long.;
(86) 35°07.21′ N. lat., 120°59.05′ W. long.;
(87) 35°07.45′ N. lat., 120°57.09′ W. long.;
(88) 34°44.29′ N. lat., 120°54.28′ W. long.;
(89) 34°44.24′ N. lat., 120°57.62′ W. long.;
(90) 34°40.04′ N. lat., 120°53.95′ W. long.;
(91) 34°21.16′ N. lat., 120°33.11′ W. long.;
(92) 34°19.15′ N. lat., 120°19.78′ W. long.;
(93) 34°23.24′ N. lat., 120°14.17′ W. long.;
(94) 34°21.47′ N. lat., 119°54.68′ W. long.;
(95) 34°09.79′ N. lat., 119°44.51′ W. long.;
(96) 34°07.34′ N. lat., 120°06.71′ W. long.;
(97) 34°09.43′ N. lat., 120°18.34′ W. long.;
(98) 34°12.50′ N. lat., 120°18.34′ W. long.;
(99) 34°12.50′ N. lat., 120°26.11′ W. long.;
(100) 34°14.02′ N. lat., 120°29.61′ W. long.;
(101) 34°09.55′ N. lat., 120°37.83′ W. long.;
(102) 34°05.35′ N. lat., 120°36.23′ W. long.;
(103) 34°02.21′ N. lat., 120°36.23′ W. long.;
(104) 34°02.21′ N. lat., 120°33.94′ W. long.;
(105) 33°56.82′ N. lat., 120°28.30′ W. long.;
(106) 33°50.40′ N. lat., 120°09.94′ W. long.;
(107) 33°38.21′ N. lat., 119°59.90′ W. long.;
(108) 33°35.35′ N. lat., 119°51.95′ W. long.;
(109) 33°35.99′ N. lat., 119°49.13′ W. long.;
(110) 33°42.74′ N. lat., 119°47.81′ W. long.;
(111) 33°51.63′ N. lat., 119°52.94′ W. long.;
(112) 33°51.62′ N. lat., 119°47.94′ W. long.;
(113) 33°54.67′ N. lat., 119°47.94′ W. long.;

(114) 33°57.84′ N. lat., 119°30.94′ W. long.;
(115) 33°54.11′ N. lat., 119°30.94′ W. long.;
(116) 33°54.11′ N. lat., 119°25.94′ W. long.;
(117) 33°58.14′ N. lat., 119°25.94′ W. long.;
(118) 33°59.31′ N. lat., 119°20.02′ W. long.;
(119) 34°02.91′ N. lat., 119°15.38′ W. long.;
(120) 33°59.04′ N. lat., 119°03.02′ W. long.;
(121) 33°57.88′ N. lat., 118°41.69′ W. long.;
(122) 33°50.89′ N. lat., 118°37.78′ W. long.;
(123) 33°39.16′ N. lat., 118°18.24′ W. long.;
(124) 33°35.44′ N. lat., 118°17.31′ W. long.;
(125) 33°31.37′ N. lat., 118°10.39′ W. long.;
(126) 33°32.71′ N. lat., 117°52.05′ W. long.;
(127) 32°58.94′ N. lat., 117°20.06′ W. long.; and
(128) 32°35.48′ N. lat., 117°28.83′ W. long.

(g) The 200–fm (366–m) depth contour between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°14.75′ N. lat., 125°41.73′ W. long.;
(2) 48°12.85′ N. lat., 125°38.06′ W. long.;
(3) 48°07.10′ N. lat., 125°45.65′ W. long.;
(4) 48°05.71′ N. lat., 125°44.70′ W. long.;
(5) 48°04.07′ N. lat., 125°36.96′ W. long.;
(6) 48°03.05′ N. lat., 125°36.38′ W. long.;
(7) 48°01.98′ N. lat., 125°37.41′ W. long.;
(8) 48°01.46′ N. lat., 125°39.61′ W. long.;
(9) 47°56.94′ N. lat., 125°36.65′ W. long.;
(10) 47°55.11′ N. lat., 125°36.92′ W. long.;
(11) 47°54.10′ N. lat., 125°34.98′ W. long.;
(12) 47°54.50′ N. lat., 125°32.01′ W. long.;
(13) 47°55.77′ N. lat., 125°30.13′ W. long.;
(14) 47°55.65′ N. lat., 125°28.46′ W. long.;
(15) 47°58.11′ N. lat., 125°26.60′ W. long.;
(16) 48°00.40′ N. lat., 125°24.83′ W. long.;
(17) 48°02.04′ N. lat., 125°22.90′ W. long.;
(18) 48°03.60′ N. lat., 125°21.84′ W. long.;
(19) 48°03.98′ N. lat., 125°20.65′ W. long.;
(20) 48°03.26′ N. lat., 125°19.76′ W. long.;
(21) 48°01.50′ N. lat., 125°18.80′ W. long.;
(22) 48°01.03′ N. lat., 125°20.12′ W. long.;
(23) 48°00.04′ N. lat., 125°20.26′ W. long.;
(24) 47°58.10′ N. lat., 125°18.91′ W. long.;
(25) 47°58.17′ N. lat., 125°17.50′ W. long.;
(26) 47°52.33′ N. lat., 125°15.78′ W. long.;
(27) 47°49.20′ N. lat., 125°10.67′ W. long.;
(28) 47°48.27′ N. lat., 125°07.38′ W. long.;
(29) 47°47.24′ N. lat., 125°05.38′ W. long.;
(30) 47°45.95′ N. lat., 125°04.61′ W. long.;
(31) 47°44.58′ N. lat., 125°07.12′ W. long.;
(32) 47°42.24′ N. lat., 125°05.15′ W. long.;
(33) 47°38.54′ N. lat., 125°06.76′ W. long.;
(34) 47°35.03′ N. lat., 125°04.28′ W. long.;
(35) 47°28.82′ N. lat., 124°56.24′ W. long.;
(36) 47°29.15′ N. lat., 124°54.10′ W. long.;
(37) 47°28.43′ N. lat., 124°51.58′ W. long.;
(38) 47°24.13′ N. lat., 124°47.50′ W. long.;
(39) 47°18.31′ N. lat., 124°46.17′ W. long.;
(40) 47°19.57′ N. lat., 124°51.00′ W. long.;
(41) 47°18.12′ N. lat., 124°53.66′ W. long.;
(42) 47°17.60′ N. lat., 124°52.94′ W. long.;
(43) 47°17.71′ N. lat., 124°51.63′ W. long.;
(44) 47°16.90′ N. lat., 124°51.23′ W. long.;
(45) 47°16.10′ N. lat., 124°53.67′ W. long.;
(46) 47°14.24′ N. lat., 124°53.02′ W. long.;
(47) 47°12.16′ N. lat., 124°56.77′ W. long.;
(48) 47°13.35′ N. lat., 124°58.70′ W. long.;
(49) 47°09.53′ N. lat., 124°58.32′ W. long.;
(50) 47°09.54′ N. lat., 124°59.50′ W. long.;
(51) 47°05.87′ N. lat., 124°59.30′ W. long.;
(52) 47°03.65′ N. lat., 124°56.26′ W. long.;
(53) 47°00.87′ N. lat., 124°59.52′ W. long.;
(54) 46°56.80′ N. lat., 125°00.00′ W. long.;
(55) 46°51.55′ N. lat., 125°00.00′ W. long.;
(56) 46°50.07′ N. lat., 124°53.90′ W. long.;
(57) 46°44.88′ N. lat., 124°51.97′ W. long.;
(58) 46°33.45′ N. lat., 124°36.11′ W. long.;
(59) 46°33.20′ N. lat., 124°30.64′ W. long.;
(60) 46°27.85′ N. lat., 124°31.95′ W. long.;
(61) 46°18.27′ N. lat., 124°39.28′ W. long.;
(62) 46°16.00′ N. lat., 124°24.88′ W. long.;
(63) 46°14.22′ N. lat., 124°26.29′ W. long.;
(64) 46°11.53′ N. lat., 124°39.58′ W. long.;
(65) 46°08.77′ N. lat., 124°41.71′ W. long.;
(66) 46°05.86′ N. lat., 124°42.26′ W. long.;
(67) 46°03.85′ N. lat., 124°48.20′ W. long.;
(68) 46°02.33′ N. lat., 124°48.51′ W. long.;
(69) 45°58.99′ N. lat., 124°44.42′ W. long.;
(70) 45°46.90′ N. lat., 124°43.50′ W. long.;
(71) 45°46.00′ N. lat., 124°44.27′ W. long.;
(72) 45°44.98′ N. lat., 124°44.93′ W. long.;
(73) 45°43.46′ N. lat., 124°44.93′ W. long.;
(74) 45°34.88′ N. lat., 124°32.59′ W. long.;
(75) 45°20.25′ N. lat., 124°25.47′ W. long.;
(76) 45°13.06′ N. lat., 124°22.25′ W. long.;
(77) 45°03.83′ N. lat., 124°27.13′ W. long.;
(78) 45°00.17′ N. lat., 124°29.29′ W. long.;
(79) 44°55.60′ N. lat., 124°32.36′ W. long.;
(80) 44°48.25′ N. lat., 124°40.61′ W. long.;
(81) 44°42.24′ N. lat., 124°48.05′ W. long.;
(82) 44°41.35′ N. lat., 124°48.03′ W. long.;

(83) 44°40.27′ N. lat., 124°49.11′ W. long.;
(84) 44°38.52′ N. lat., 124°49.11′ W. long.;
(85) 44°23.30′ N. lat., 124°50.17′ W. long.;
(86) 44°13.19′ N. lat., 124°58.66′ W. long.;
(87) 44°08.30′ N. lat., 124°58.50′ W. long.;
(88) 43°57.89′ N. lat., 124°58.13′ W. long.;
(89) 43°50.59′ N. lat., 124°52.80′ W. long.;
(90) 43°50.10′ N. lat., 124°40.27′ W. long.;
(91) 43°39.05′ N. lat., 124°38.56′ W. long.;
(92) 43°28.85′ N. lat., 124°40.00′ W. long.;
(93) 43°20.83′ N. lat., 124°42.84′ W. long.;
(94) 43°20.22′ N. lat., 124°43.05′ W. long.;
(95) 43°13.29′ N. lat., 124°47.00′ W. long.;
(96) 43°13.15′ N. lat., 124°52.61′ W. long.;
(97) 43°04.60′ N. lat., 124°53.01′ W. long.;
(98) 42°57.56′ N. lat., 124°54.10′ W. long.;
(99) 42°53.82′ N. lat., 124°55.76′ W. long.;
(100) 42°53.41′ N. lat., 124°54.35′ W. long.;
(101) 42°49.52′ N. lat., 124°53.16′ W. long.;
(102) 42°47.47′ N. lat., 124°50.24′ W. long.;
(103) 42°47.57′ N. lat., 124°48.13′ W. long.;
(104) 42°46.19′ N. lat., 124°44.52′ W. long.;
(105) 42°41.75′ N. lat., 124°44.69′ W. long.;
(106) 42°40.50′ N. lat., 124°44.02′ W. long.;
(107) 42°38.81′ N. lat., 124°43.09′ W. long.;
(108) 42°31.82′ N. lat., 124°46.24′ W. long.;
(109) 42°31.96′ N. lat., 124°44.32′ W. long.;
(110) 42°30.95′ N. lat., 124°44.50′ W. long.;
(111) 42°28.39′ N. lat., 124°49.56′ W. long.;
(112) 42°23.34′ N. lat., 124°44.91′ W. long.;
(113) 42°19.72′ N. lat., 124°41.60′ W. long.;
(114) 42°15.12′ N. lat., 124°38.34′ W. long.;
(115) 42°13.67′ N. lat., 124°38.22′ W. long.;
(116) 42°12.35′ N. lat., 124°38.09′ W. long.;
(117) 42°04.35′ N. lat., 124°37.23′ W. long.;
(118) 42°00.00′ N. lat., 124°36.80′ W. long.;
(119) 41°47.84′ N. lat., 124°30.48′ W. long.;
(120) 41°43.33′ N. lat., 124°29.96′ W. long.;
(121) 41°23.46′ N. lat., 124°30.36′ W. long.;
(122) 41°21.29′ N. lat., 124°29.43′ W. long.;
(123) 41°13.52′ N. lat., 124°24.48′ W. long.;
(124) 41°06.71′ N. lat., 124°23.37′ W. long.;
(125) 40°54.66′ N. lat., 124°28.20′ W. long.;
(126) 40°51.52′ N. lat., 124°27.47′ W. long.;
(127) 40°40.62′ N. lat., 124°32.75′ W. long.;
(128) 40°36.08′ N. lat., 124°40.18′ W. long.;
(129) 40°32.90′ N. lat., 124°41.90′ W. long.;
(130) 40°31.30′ N. lat., 124°41.00′ W. long.;
(131) 40°30.00′ N. lat., 124°38.15′ W. long.;
(132) 40°27.29′ N. lat., 124°37.34′ W. long.;
(133) 40°24.98′ N. lat., 124°36.44′ W. long.;
(134) 40°22.22′ N. lat., 124°31.85′ W. long.;
(135) 40°16.94′ N. lat., 124°32.00′ W. long.;
(136) 40°17.58′ N. lat., 124°45.30′ W. long.;
(137) 40°13.24′ N. lat., 124°32.43′ W. long.;
(138) 40°10.00′ N. lat., 124°24.64′ W. long.;
(139) 40°06.43′ N. lat., 124°19.26′ W. long.;
(140) 40°07.06′ N. lat., 124°17.82′ W. long.;
(141) 40°04.70′ N. lat., 124°18.17′ W. long.;
(142) 40°02.34′ N. lat., 124°16.64′ W. long.;
(143) 40°01.52′ N. lat., 124°09.89′ W. long.;
(144) 39°58.27′ N. lat., 124°13.58′ W. long.;
(145) 39°56.59′ N. lat., 124°12.09′ W. long.;
(146) 39°55.19′ N. lat., 124°08.03′ W. long.;
(147) 39°52.54′ N. lat., 124°09.47′ W. long.;
(148) 39°42.67′ N. lat., 124°02.59′ W. long.;
(149) 39°35.95′ N. lat., 123°59.56′ W. long.;

(150) 39°34.61′ N. lat., 123°59.66′ W. long.;
(151) 39°33.77′ N. lat., 123°56.89′ W. long.;
(152) 39°33.01′ N. lat., 123°57.14′ W. long.;
(153) 39°32.20′ N. lat., 123°59.20′ W. long.;
(154) 39°07.84′ N. lat., 123°59.14′ W. long.;
(155) 39°01.11′ N. lat., 123°57.97′ W. long.;
(156) 39°00.51′ N. lat., 123°56.96′ W. long.;
(157) 38°57.50′ N. lat., 123°57.57′ W. long.;
(158) 38°56.57′ N. lat., 123°57.80′ W. long.;
(159) 38°56.39′ N. lat., 123°59.48′ W. long.;
(160) 38°50.22′ N. lat., 123°55.55′ W. long.;
(161) 38°46.76′ N. lat., 123°51.56′ W. long.;
(162) 38°45.27′ N. lat., 123°51.63′ W. long.;
(163) 38°42.76′ N. lat., 123°49.83′ W. long.;
(164) 38°41.53′ N. lat., 123°47.83′ W. long.;
(165) 38°40.97′ N. lat., 123°48.14′ W. long.;
(166) 38°38.02′ N. lat., 123°45.85′ W. long.;
(167) 38°37.19′ N. lat., 123°44.08′ W. long.;
(168) 38°33.43′ N. lat., 123°41.82′ W. long.;
(169) 38°29.44′ N. lat., 123°38.49′ W. long.;
(170) 38°28.08′ N. lat., 123°38.33′ W. long.;
(171) 38°23.68′ N. lat., 123°35.47′ W. long.;
(172) 38°19.63′ N. lat., 123°34.05′ W. long.;
(173) 38°16.23′ N. lat., 123°31.90′ W. long.;
(174) 38°14.79′ N. lat., 123°29.98′ W. long.;
(175) 38°14.12′ N. lat., 123°26.36′ W. long.;
(176) 38°10.85′ N. lat., 123°25.84′ W. long.;
(177) 38°13.15′ N. lat., 123°28.25′ W. long.;
(178) 38°12.28′ N. lat., 123°29.88′ W. long.;
(179) 38°10.19′ N. lat., 123°29.11′ W. long.;
(180) 38°07.94′ N. lat., 123°28.52′ W. long.;
(181) 38°06.51′ N. lat., 123°30.96′ W. long.;
(182) 38°04.21′ N. lat., 123°32.03′ W. long.;
(183) 38°02.07′ N. lat., 123°31.37′ W. long.;
(184) 38°00.00′ N. lat., 123°29.62′ W. long.;
(185) 37°58.13′ N. lat., 123°27.28′ W. long.;
(186) 37°55.01′ N. lat., 123°27.53′ W. long.;
(187) 37°51.40′ N. lat., 123°25.25′ W. long.;
(188) 37°43.97′ N. lat., 123°11.56′ W. long.;
(189) 37°35.67′ N. lat., 123°02.32′ W. long.;
(190) 37°13.65′ N. lat., 122°54.25′ W. long.;
(191) 37°11.00′ N. lat., 122°50.97′ W. long.;
(192) 37°07.00′ N. lat., 122°45.90′ W. long.;
(193) 37°00.66′ N. lat., 122°37.91′ W. long.;
(194) 36°57.40′ N. lat., 122°28.32′ W. long.;
(195) 36°59.25′ N. lat., 122°25.61′ W. long.;
(196) 36°56.88′ N. lat., 122°25.49′ W. long.;
(197) 36°57.40′ N. lat., 122°22.69′ W. long.;
(198) 36°55.43′ N. lat., 122°22.49′ W. long.;
(199) 36°52.29′ N. lat., 122°13.25′ W. long.;
(200) 36°47.12′ N. lat., 122°07.62′ W. long.;
(201) 36°47.10′ N. lat., 122°02.17′ W. long.;
(202) 36°43.76′ N. lat., 121°59.17′ W. long.;
(203) 36°38.85′ N. lat., 122°02.26′ W. long.;
(204) 36°23.41′ N. lat., 122°00.17′ W. long.;
(205) 36°19.68′ N. lat., 122°06.99′ W. long.;
(206) 36°14.75′ N. lat., 122°01.57′ W. long.;
(207) 36°09.74′ N. lat., 121°45.06′ W. long.;

(208) 36°06.75′ N. lat., 121°40.79′ W. long.;
(209) 36°00.00′ N. lat., 121°35.98′ W. long.;
(210) 35°58.18′ N. lat., 121°34.69′ W. long.;
(211) 35°52.31′ N. lat., 121°32.51′ W. long.;
(212) 35°51.21′ N. lat., 121°30.97′ W. long.;
(213) 35°46.32′ N. lat., 121°30.36′ W. long.;
(214) 35°33.74′ N. lat., 121°20.16′ W. long.;
(215) 35°31.37′ N. lat., 121°15.29′ W. long.;
(216) 35°23.32′ N. lat., 121°11.50′ W. long.;
(217) 35°15.28′ N. lat., 121°04.51′ W. long.;
(218) 35°07.08′ N. lat., 121°00.36′ W. long.;
(219) 34°57.46′ N. lat., 120°58.29′ W. long.;
(220) 34°44.25′ N. lat., 120°58.35′ W. long.;
(221) 34°32.30′ N. lat., 120°50.28′ W. long.;
(222) 34°27.00′ N. lat., 120°42.61′ W. long.;
(223) 34°19.08′ N. lat., 120°31.27′ W. long.;
(224) 34°17.72′ N. lat., 120°19.32′ W. long.;
(225) 34°22.45′ N. lat., 120°12.87′ W. long.;
(226) 34°21.36′ N. lat., 119°54.94′ W. long.;
(227) 34°09.95′ N. lat., 119°46.24′ W. long.;
(228) 34°09.08′ N. lat., 119°57.59′ W. long.;
(229) 34°07.53′ N. lat., 120°06.41′ W. long.;
(230) 34°10.54′ N. lat., 120°19.13′ W. long.;
(231) 34°14.68′ N. lat., 120°29.54′ W. long.;
(232) 34°09.51′ N. lat., 120°38.38′ W. long.;
(233) 34°03.06′ N. lat., 120°35.60′ W. long.;
(234) 33°56.39′ N. lat., 120°28.53′ W. long.;
(235) 33°50.25′ N. lat., 120°09.49′ W. long.;
(236) 33°37.96′ N. lat., 120°00.14′ W. long.;
(237) 33°34.52′ N. lat., 119°51.90′ W. long.;
(238) 33°35.51′ N. lat., 119°48.55′ W. long.;
(239) 33°42.76′ N. lat., 119°47.83′ W. long.;
(240) 33°53.62′ N. lat., 119°53.34′ W. long.;
(241) 33°57.61′ N. lat., 119°31.32′ W. long.;
(242) 33°56.34′ N. lat., 119°26.46′ W. long.;
(243) 33°57.79′ N. lat., 119°26.91′ W. long.;
(244) 33°58.88′ N. lat., 119°20.12′ W. long.;
(245) 34°02.65′ N. lat., 119°15.17′ W. long.;
(246) 33°59.02′ N. lat., 119°03.05′ W. long.;
(247) 33°57.61′ N. lat., 118°42.13′ W. long.;
(248) 33°50.76′ N. lat., 118°38.03′ W. long.;
(249) 33°39.41′ N. lat., 118°18.74′ W. long.;
(250) 33°35.51′ N. lat., 118°18.08′ W. long.;
(251) 33°30.68′ N. lat., 118°10.40′ W. long.;
(252) 33°32.49′ N. lat., 117°51.90′ W. long.;
(253) 32°58.87′ N. lat., 117°20.41′ W. long.; and
(254) 32°35.53′ N. lat., 117°29.72′ W. long.

(h) The 200 fm (366 m) depth contour used around San Clemente Island is defined by straight lines connecting all of the following points in the order stated:

(1) 33°05.89′ N. lat., 118°39.45′ W. long.;
(2) 33°02.68′ N. lat., 118°33.14′ W. long.;
(3) 32°57.32′ N. lat., 118°29.12′ W. long.;
(4) 32°47.51′ N. lat., 118°17.88′ W. long.;
(5) 32°41.22′ N. lat., 118°23.78′ W. long.;
(6) 32°46.83′ N. lat., 118°32.10′ W. long.;
(7) 33°01.61′ N. lat., 118°40.64′ W. long.; and
(8) 33°5.89′ N. lat., 118°39.45′ W. long.

(i) The 200 fm (366 m) depth contour used around Santa Catalina Island off the state of California is defined by straight lines connecting all of the following points in the order stated:

(1) 33°32.06′ N. lat., 118°44.52′ W. long.;
(2) 33°31.36′ N. lat., 118°35.28′ W. long.;
(3) 33°30.10′ N. lat., 118°30.82′ W. long.;
(4) 33°27.91′ N. lat., 118°26.83′ W. long.;

(5) 33°26.27′ N. lat., 118°21.35′ W. long.;
(6) 33°21.34′ N. lat., 118°15.24′ W. long.;
(7) 33°13.66′ N. lat., 118°08.98′ W. long.;
(8) 33°17.15′ N. lat., 118°28.35′ W. long.;
(9) 33°20.94′ N. lat., 118°34.34′ W. long.;
(10) 33°23.32′ N. lat., 118°32.60′ W. long.;
(11) 33°28.68′ N. lat., 118°44.93′ W. long.; and
(12) 33°32.06′ N. lat., 118°44.52′ W. long.

(j) The 200 fm (366 m) depth contour used around Lasuen Knoll off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 33°25.91′ N. lat., 117°59.44′ W. long.;
(2) 33°23.37′ N. lat., 117°56.97′ W. long.;
(3) 33°22.82′ N. lat., 117°59.50′ W. long.;
(4) 33°25.24′ N. lat., 118°01.68′ W. long.; and
(5) 33°25.91′ N. lat., 117°59.44′ W. long.

(k) The 200 fm (366 m) depth contour used around San Diego Rise off the state of California is defined by straight lines connecting all of the following points in the order stated:
(1) 32°50.30′ N. lat., 117°50.18′ W. long.;
(2) 32°44.01′ N. lat., 117°44.46′ W. long.;
(3) 32°41.34′ N. lat., 117°45.86′ W. long.;
(4) 32°45.45′ N. lat., 117°50.09′ W. long.;
(5) 32°50.10′ N. lat., 117°50.76′ W. long.; and
(6) 32°50.30′ N. lat., 117°50.18′ W. long.

(l) The 200–fm (366–m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico, modified to allow fishing in petrale sole areas, is defined by straight lines connecting all of the following points in the order stated:
(1) 48°14.75′ N. lat., 125°41.73′ W. long.;
(2) 48°12.85′ N. lat., 125°38.06′ W. long.;
(3) 48°07.10′ N. lat., 125°45.65′ W. long.;
(4) 48°05.71′ N. lat., 125°44.70′ W. long.;
(5) 48°04.07′ N. lat., 125°36.96′ W. long.;
(6) 48°03.05′ N. lat., 125°36.38′ W. long.;
(7) 48°01.98′ N. lat., 125°37.41′ W. long.;
(8) 48°01.46′ N. lat., 125°39.61′ W. long.;
(9) 47°56.94′ N. lat., 125°36.65′ W. long.;
(10) 47°55.77′ N. lat., 125°30.13′ W. long.;
(11) 47°55.65′ N. lat., 125°28.46′ W. long.;
(12) 47°58.11′ N. lat., 125°26.60′ W. long.;
(13) 48°00.40′ N. lat., 125°24.83′ W. long.;
(14) 48°02.04′ N. lat., 125°22.90′ W. long.;
(15) 48°03.60′ N. lat., 125°21.84′ W. long.;
(16) 48°03.98′ N. lat., 125°20.65′ W. long.;
(17) 48°03.26′ N. lat., 125°19.76′ W. long.;
(18) 48°01.50′ N. lat., 125°18.80′ W. long.;
(19) 48°01.03′ N. lat., 125°20.12′ W. long.;
(20) 48°00.04′ N. lat., 125°20.26′ W. long.;
(21) 47°58.10′ N. lat., 125°18.91′ W. long.;
(22) 47°58.17′ N. lat., 125°17.50′ W. long.;
(23) 47°52.33′ N. lat., 125°15.78′ W. long.;
(24) 47°49.20′ N. lat., 125°10.67′ W. long.;
(25) 47°48.27′ N. lat., 125°07.38′ W. long.;
(26) 47°47.24′ N. lat., 125°05.38′ W. long.;
(27) 47°45.95′ N. lat., 125°04.61′ W. long.;
(28) 47°44.58′ N. lat., 125°07.12′ W. long.;
(29) 47°42.24′ N. lat., 125°05.15′ W. long.;
(30) 47°38.54′ N. lat., 125°06.76′ W. long.;
(31) 47°35.03′ N. lat., 125°04.28′ W. long.;
(32) 47°28.82′ N. lat., 124°56.24′ W. long.;
(33) 47°29.15′ N. lat., 124°54.10′ W. long.;
(34) 47°28.43′ N. lat., 124°51.58′ W. long.;
(35) 47°24.13′ N. lat., 124°47.50′ W. long.;
(36) 47°18.31′ N. lat., 124°46.17′ W. long.;
(37) 47°19.57′ N. lat., 124°51.00′ W. long.;
(38) 47°18.12′ N. lat., 124°53.66′ W. long.;
(39) 47°17.60′ N. lat., 124°52.94′ W. long.;
(40) 47°17.71′ N. lat., 124°51.63′ W. long.;
(41) 47°16.90′ N. lat., 124°51.23′ W. long.;
(42) 47°16.10′ N. lat., 124°53.67′ W. long.;
(43) 47°14.24′ N. lat., 124°53.02′ W. long.;
(44) 47°12.16′ N. lat., 124°56.77′ W. long.;
(45) 47°13.35′ N. lat., 124°58.70′ W. long.;
(46) 47°09.53′ N. lat., 124°58.32′ W. long.;
(47) 47°09.54′ N. lat., 124°59.50′ W. long.;
(48) 47°05.87′ N. lat., 124°59.30′ W. long.;
(49) 47°03.65′ N. lat., 124°56.26′ W. long.;
(50) 47°00.87′ N. lat., 124°59.52′ W. long.;
(51) 46°56.80′ N. lat., 125°00.00′ W. long.;
(52) 46°51.55′ N. lat., 125°00.00′ W. long.;
(53) 46°50.07′ N. lat., 124°53.90′ W. long.;
(54) 46°44.88′ N. lat., 124°51.97′ W. long.;
(55) 46°33.45′ N. lat., 124°36.11′ W. long.;
(56) 46°33.20′ N. lat., 124°30.64′ W. long.;
(57) 46°27.85′ N. lat., 124°31.95′ W. long.;
(58) 46°18.27′ N. lat., 124°39.28′ W. long.;
(59) 46°16.00′ N. lat., 124°24.88′ W. long.
(60) 46°14.22′ N. lat., 124°26.28′ W. long.;
(61) 46°11.53′ N. lat., 124°39.58′ W. long.;
(62) 46°08.77′ N. lat., 124°41.71′ W. long.;
(63) 46°05.86′ N. lat., 124°42.27′ W. long.;
(64) 46°03.85′ N. lat., 124°48.20′ W. long.;
(65) 46°02.34′ N. lat., 124°48.51′ W. long.;
(66) 45°58.99′ N. lat., 124°44.42′ W. long.;
(67) 45°49.68′ N. lat., 124°42.37′ W. long.;
(68) 45°49.74′ N. lat., 124°43.69′ W. long.;
(69) 45°46.00′ N. lat., 124°41.82′ W. long.;
(70) 45°40.83′ N. lat., 124°40.90′ W. long.;
(71) 45°34.88′ N. lat., 124°32.58′ W. long.;
(72) 45°20.25′ N. lat., 124°25.47′ W. long.;
(73) 45°13.04′ N. lat., 124°21.92′ W. long.;
(74) 45°03.83′ N. lat., 124°27.13′ W. long.;
(75) 45°00.17′ N. lat., 124°29.28′ W. long.;
(76) 44°50.99′ N. lat., 124°35.40′ W. long.;
(77) 44°46.87′ N. lat., 124°38.20′ W. long.;
(78) 44°48.25′ N. lat., 124°40.62′ W. long.;
(79) 44°41.34′ N. lat., 124°49.20′ W. long.;

(80) 44°23.30′ N. lat., 124°50.17′ W. long.;
(81) 44°13.19′ N. lat., 124°58.66′ W. long.;
(82) 44°08.30′ N. lat., 124°58.72′ W. long.;
(83) 43°57.37′ N. lat., 124°58.71′ W. long.;
(84) 43°52.32′ N. lat., 124°49.43′ W. long.;
(85) 43°51.35′ N. lat., 124°37.94′ W. long.;
(86) 43°49.73′ N. lat., 124°40.26′ W. long.;
(87) 43°39.06′ N. lat., 124°38.55′ W. long.;
(88) 43°28.85′ N. lat., 124°39.99′ W. long.;
(89) 43°20.83′ N. lat., 124°42.89′ W. long.;
(90) 43°20.22′ N. lat., 124°43.05′ W. long.;
(91) 43°13.29′ N. lat., 124°47.00′ W. long.;
(92) 43°10.64′ N. lat., 124°49.95′ W. long.;
(93) 43°04.26′ N. lat., 124°53.05′ W. long.;
(94) 42°53.93′ N. lat., 124°54.60′ W. long.;
(95) 42°50.00′ N. lat., 124°50.60′ W. long.;
(96) 42°47.57′ N. lat., 124°48.12′ W. long.;
(97) 42°46.19′ N. lat., 124°44.52′ W. long.;
(98) 42°41.75′ N. lat., 124°44.69′ W. long.;
(99) 42°40.50′ N. lat., 124°44.02′ W. long.;
(100) 42°38.81′ N. lat., 124°43.09′ W. long.;
(101) 42°31.83′ N. lat., 124°46.23′ W. long.;
(102) 42°32.08′ N. lat., 124°43.58′ W. long.;
(103) 42°30.96′ N. lat., 124°43.84′ W. long.;
(104) 42°28.41′ N. lat., 124°49.17′ W. long.;
(105) 42°24.80′ N. lat., 124°45.93′ W. long.;
(106) 42°19.71′ N. lat., 124°41.60′ W. long.;
(107) 42°15.12′ N. lat., 124°38.34′ W. long.;
(108) 42°13.67′ N. lat., 124°38.28′ W. long.;
(109) 42°12.35′ N. lat., 124°38.09′ W. long.;
(110) 42°00.00′ N. lat., 124°36.83′ W. long.;
(111) 41°47.78′ N. lat., 124°29.55′ W. long.;
(112) 41°21.15′ N. lat., 124°29.04′ W. long.;
(113) 41°13.50′ N. lat., 124°24.40′ W. long.;
(114) 41°11.00′ N. lat., 124°22.99′ W. long.;
(115) 41°06.69′ N. lat., 124°23.30′ W. long.;
(116) 40°54.73′ N. lat., 124°28.15′ W. long.;
(117) 40°53.94′ N. lat., 124°26.11′ W. long.;
(118) 40°50.31′ N. lat., 124°26.15′ W. long.;
(119) 40°44.49′ N. lat., 124°30.89′ W. long.;
(120) 40°40.62′ N. lat., 124°32.16′ W. long.;
(121) 40°38.87′ N. lat., 124°29.79′ W. long.;
(122) 40°35.67′ N. lat., 124°30.43′ W. long.;
(123) 40°37.41′ N. lat., 124°37.06′ W. long.;
(124) 40°36.09′ N. lat., 124°40.11′ W. long.;
(125) 40°31.33′ N. lat., 124°41.01′ W. long.;
(126) 40°30.00′ N. lat., 124°38.15′ W. long.;
(127) 40°27.34′ N. lat., 124°37.28′ W. long.;
(128) 40°25.01′ N. lat., 124°36.36′ W. long.;
(129) 40°22.28′ N. lat., 124°31.35′ W. long.;
(130) 40°14.00′ N. lat., 124°33.02′ W. long.;
(131) 40°10.00′ N. lat., 124°24.55′ W. long.;
(132) 40°06.45′ N. lat., 124°19.24′ W. long.;
(133) 40°07.08′ N. lat., 124°17.80′ W. long.;
(134) 40°05.55′ N. lat., 124°18.11′ W. long.;
(135) 40°04.74′ N. lat., 124°18.11′ W. long.;
(136) 40°02.35′ N. lat., 124°16.54′ W. long.;
(137) 40°01.51′ N. lat., 124°09.89′ W. long.;
(138) 39°58.54′ N. lat., 124°12.43′ W. long.;
(139) 39°55.72′ N. lat., 124°07.45′ W. long.;
(140) 39°42.64′ N. lat., 124°02.52′ W. long.;
(141) 39°35.96′ N. lat., 123°59.47′ W. long.;
(142) 39°34.61′ N. lat., 123°59.59′ W. long.;
(143) 39°33.79′ N. lat., 123°56.77′ W. long.;
(144) 39°33.03′ N. lat., 123°57.06′ W. long.;
(145) 39°32.21′ N. lat., 123°59.12′ W. long.;
(146) 39°07.81′ N. lat., 123°59.06′ W. long.;
(147) 38°57.50′ N. lat., 123°57.32′ W. long.;
(148) 38°52.26′ N. lat., 123°56.18′ W. long.;

(149) 38°50.21′ N. lat., 123°55.48′ W. long.;
(150) 38°46.81′ N. lat., 123°51.49′ W. long.;
(151) 38°45.29′ N. lat., 123°51.55′ W. long.;
(152) 38°42.76′ N. lat., 123°49.73′ W. long.;
(153) 38°41.42′ N. lat., 123°47.45′ W. long.;
(154) 38°35.74′ N. lat., 123°43.82′ W. long.;
(155) 38°34.92′ N. lat., 123°42.53′ W. long.;
(156) 38°19.65′ N. lat., 123°31.95′ W. long.;
(157) 38°14.38′ N. lat., 123°25.51′ W. long.;
(158) 38°09.39′ N. lat., 123°24.40′ W. long.;
(159) 38°10.06′ N. lat., 123°26.84′ W. long.;
(160) 38°04.58′ N. lat., 123°31.91′ W. long.;
(161) 38°02.06′ N. lat., 123°31.26′ W. long.;
(162) 38°00.00′ N. lat., 123°29.56′ W. long.;
(163) 37°58.07′ N. lat., 123°27.21′ W. long.;
(164) 37°50.77′ N. lat., 123°24.52′ W. long.;
(165) 37°43.94′ N. lat., 123°11.49′ W. long.;
(166) 37°35.67′ N. lat., 123°02.23′ W. long.;
(167) 37°23.48′ N. lat., 122°57.77′ W. long.;
(168) 37°23.23′ N. lat., 122°53.85′ W. long.;
(169) 37°13.96′ N. lat., 122°49.97′ W. long.;
(170) 37°11.00′ N. lat., 122°45.68′ W. long.;
(171) 37°07.00′ N. lat., 122°43.37′ W. long.;
(172) 37°01.04′ N. lat., 122°37.94′ W. long.;
(173) 36°57.40′ N. lat., 122°28.36′ W. long.;
(174) 36°59.21′ N. lat., 122°25.64′ W. long.;
(175) 36°56.90′ N. lat., 122°25.42′ W. long.;
(176) 36°57.60′ N. lat., 122°21.95′ W. long.;
(177) 36°55.92′ N. lat., 122°21.71′ W. long.;
(178) 36°55.06′ N. lat., 122°17.07′ W. long.;
(179) 36°52.27′ N. lat., 122°13.17′ W. long.;
(180) 36°47.38′ N. lat., 122°07.62′ W. long.;
(181) 36°47.27′ N. lat., 122°03.77′ W. long.;
(182) 36°24.12′ N. lat., 121°59.74′ W. long.;
(183) 36°21.99′ N. lat., 122°01.01′ W. long.;
(184) 36°19.56′ N. lat., 122°05.88′ W. long.;
(185) 36°14.63′ N. lat., 122°01.10′ W. long.;
(186) 36°09.74′ N. lat., 121°45.01′ W. long.;
(187) 36°06.69′ N. lat., 121°40.77′ W. long.;
(188) 36°00.00′ N. lat., 121°36.01′ W. long.;
(189) 35°56.54′ N. lat., 121°33.27′ W. long.;
(190) 35°52.21′ N. lat., 121°32.46′ W. long.;
(191) 35°51.21′ N. lat., 121°30.94′ W. long.;
(192) 35°46.28′ N. lat., 121°30.29′ W. long.;
(193) 35°33.68′ N. lat., 121°20.09′ W. long.;
(194) 35°31.33′ N. lat., 121°15.22′ W. long.;
(195) 35°23.29′ N. lat., 121°11.41′ W. long.;
(196) 35°15.26′ N. lat., 121°04.49′ W. long.;
(197) 35°07.05′ N. lat., 121°00.26′ W. long.;
(198) 35°07.46′ N. lat., 120°57.10′ W. long.;
(199) 34°44.29′ N. lat., 120°54.28′ W. long.;
(200) 34°44.24′ N. lat., 120°57.69′ W. long.;
(201) 34°39.06′ N. lat., 120°55.01′ W. long.;
(202) 34°19.08′ N. lat., 120°31.21′ W. long.;
(203) 34°17.72′ N. lat., 120°19.26′ W. long.;
(204) 34°22.45′ N. lat., 120°12.81′ W. long.;
(205) 34°21.36′ N. lat., 119°54.88′ W. long.;
(206) 34°09.95′ N. lat., 119°46.18′ W. long.;

(207) 34°09.08′ N. lat., 119°57.53′ W. long.;
(208) 34°07.53′ N. lat., 120°06.35′ W. long.;
(209) 34°10.37′ N. lat., 120°18.40′ W. long.;
(210) 34°12.50′ N. lat., 120°18.40′ W. long.;
(211) 34°12.50′ N. lat., 120°24.96′ W. long.;
(212) 34°14.68′ N. lat., 120°29.48′ W. long.;
(213) 34°09.51′ N. lat., 120°38.32′ W. long.;
(214) 34°04.66′ N. lat., 120°36.29′ W. long.;
(215) 34°02.21′ N. lat., 120°36.29′ W. long.;
(216) 34°02.21′ N. lat., 120°34.65′ W. long.;
(217) 33°56.39′ N. lat., 120°28.47′ W. long.;
(218) 33°50.40′ N. lat., 120°10.00′ W. long.;
(219) 33°37.96′ N. lat., 120°00.08′ W. long.;
(220) 33°34.52′ N. lat., 119°51.84′ W. long.;
(221) 33°35.51′ N. lat., 119°48.49′ W. long.;
(222) 33°42.76′ N. lat., 119°47.77′ W. long.;
(223) 33°51.63′ N. lat., 119°53.00′ W. long.;
(224) 33°51.62′ N. lat., 119°48.00′ W. long.;
(225) 33°54.59′ N. lat., 119°48.00′ W. long.;
(226) 33°57.69′ N. lat., 119°31.00′ W. long.;
(227) 33°54.11′ N. lat., 119°31.00′ W. long.;
(228) 33°54.11′ N. lat., 119°26.00′ W. long.;
(229) 33°57.94′ N. lat., 119°26.00′ W. long.;
(230) 33°58.88′ N. lat., 119°20.06′ W. long.;
(231) 34°02.65′ N. lat., 119°15.11′ W. long.;
(232) 33°59.02′ N. lat., 119°02.99′ W. long.;
(233) 33°57.61′ N. lat., 118°42.07′ W. long.;
(234) 33°50.76′ N. lat., 118°37.98′ W. long.;
(235) 33°39.17′ N. lat., 118°18.47′ W. long.;
(236) 33°37.14′ N. lat., 118°18.39′ W. long.;
(237) 33°35.51′ N. lat., 118°18.03′ W. long.;
(238) 33°30.68′ N. lat., 118°10.35′ W. long.;
(239) 33°32.49′ N. lat., 117°51.85′ W. long.;
(240) 32°58.87′ N. lat., 117°20.36′ W. long.; and
(241) 32°35.56′ N. lat., 117°29.66′ W. long.

(m) The 250–fm (457–m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico is defined by straight lines connecting all of the following points in the order stated:

(1) 48°14.71′ N. lat., 125°41.95′ W. long.;
(2) 48°13.00′ N. lat., 125°39.00′ W. long.;
(3) 48°08.50′ N. lat., 125°45.00′ W. long.;
(4) 48°06.00′ N. lat., 125°46.50′ W. long.;
(5) 48°03.50′ N. lat., 125°37.00′ W. long.;
(6) 48°01.50′ N. lat., 125°40.00′ W. long.;
(7) 47°57.00′ N. lat., 125°37.00′ W. long.;
(8) 47°55.20′ N. lat., 125°37.26′ W. long.;
(9) 47°54.02′ N. lat., 125°36.60′ W. long.;
(10) 47°53.70′ N. lat., 125°35.09′ W. long.;
(11) 47°54.16′ N. lat., 125°32.38′ W. long.;
(12) 47°55.50′ N. lat., 125°28.50′ W. long.;
(13) 47°58.00′ N. lat., 125°25.00′ W. long.;
(14) 48°00.50′ N. lat., 125°24.50′ W. long.;
(15) 48°03.50′ N. lat., 125°21.00′ W. long.;
(16) 48°02.00′ N. lat., 125°19.50′ W. long.;
(17) 48°00.00′ N. lat., 125°21.00′ W. long.;
(18) 47°58.00′ N. lat., 125°20.00′ W. long.;
(19) 47°58.00′ N. lat., 125°18.00′ W. long.;
(20) 47°52.00′ N. lat., 125°16.50′ W. long.;
(21) 47°46.00′ N. lat., 125°06.00′ W. long.;
(22) 47°44.50′ N. lat., 125°07.50′ W. long.;
(23) 47°42.00′ N. lat., 125°06.00′ W. long.;
(24) 47°37.96′ N. lat., 125°07.17′ W. long.;
(25) 47°28.00′ N. lat., 124°58.50′ W. long.;
(26) 47°28.88′ N. lat., 124°54.70′ W. long.;
(27) 47°27.70′ N. lat., 124°51.87′ W. long.;
(28) 47°24.84′ N. lat., 124°48.45′ W. long.;
(29) 47°21.76′ N. lat., 124°47.42′ W. long.;
(30) 47°18.84′ N. lat., 124°46.75′ W. long.;
(31) 47°19.82′ N. lat., 124°51.43′ W. long.;
(32) 47°18.13′ N. lat., 124°54.25′ W. long.;
(33) 47°13.50′ N. lat., 124°54.70′ W. long.;
(34) 47°15.00′ N. lat., 125°01.10′ W. long.;
(35) 47°08.77′ N. lat., 125°00.91′ W. long.;
(36) 47°05.80′ N. lat., 125°01.00′ W. long.;
(37) 47°03.34′ N. lat., 124°57.50′ W. long.;
(38) 47°01.00′ N. lat., 125°00.00′ W. long.;
(39) 46°55.00′ N. lat., 125°02.00′ W. long.;
(40) 46°53.32′ N. lat., 125°00.00′ W. long.;
(41) 46°51.55′ N. lat., 125°00.00′ W. long.;

(42) 46°50.80′ N. lat., 124°56.90′ W. long.;
(43) 46°47.00′ N. lat., 124°55.00′ W. long.;
(44) 46°34.00′ N. lat., 124°38.00′ W. long.;
(45) 46°30.50′ N. lat., 124°41.00′ W. long.;
(46) 46°33.00′ N. lat., 124°32.00′ W. long.;
(47) 46°29.00′ N. lat., 124°32.00′ W. long.;
(48) 46°20.00′ N. lat., 124°39.00′ W. long.;
(49) 46°18.16′ N. lat., 124°40.00′ W. long.;
(50) 46°16.00′ N. lat., 124°27.00′ W. long.;
(51) 46°16.00′ N. lat., 124°27.01′ W. long.;
(52) 46°15.00′ N. lat., 124°30.96′ W. long.;
(53) 46°13.17′ N. lat., 124°37.87′ W. long.;
(54) 46°13.17′ N. lat., 124°38.75′ W. long.;
(55) 46°10.50′ N. lat., 124°42.00′ W. long.;
(56) 46°06.21′ N. lat., 124°41.85′ W. long.;
(57) 46°03.02′ N. lat., 124°50.27′ W. long.;
(58) 45°57.00′ N. lat., 124°45.52′ W. long.;
(59) 45°46.85′ N. lat., 124°45.91′ W. long.;
(60) 45°45.81′ N. lat., 124°47.05′ W. long.;
(61) 45°44.87′ N. lat., 124°45.98′ W. long.;
(62) 45°43.44′ N. lat., 124°46.03′ W. long.;
(63) 45°35.82′ N. lat., 124°45.72′ W. long.;
(64) 45°35.70′ N. lat., 124°42.89′ W. long.;
(65) 45°24.45′ N. lat., 124°38.21′ W. long.;
(66) 45°11.68′ N. lat., 124°39.38′ W. long.;
(67) 44°57.94′ N. lat., 124°37.02′ W. long.;
(68) 44°44.28′ N. lat., 124°50.79′ W. long.;
(69) 44°32.63′ N. lat., 124°54.21′ W. long.;
(70) 44°23.36′ N. lat., 124°50.53′ W. long.;
(71) 44°13.30′ N. lat., 124°59.03′ W. long.;
(72) 43°57.85′ N. lat., 124°58.57′ W. long.;
(73) 43°50.12′ N. lat., 124°53.36′ W. long.;
(74) 43°49.53′ N. lat., 124°43.96′ W. long.;
(75) 43°42.76′ N. lat., 124°41.40′ W. long.;
(76) 43°24.00′ N. lat., 124°42.61′ W. long.;
(77) 43°19.74′ N. lat., 124°45.12′ W. long.;
(78) 43°19.62′ N. lat., 124°52.95′ W. long.;
(79) 43°17.41′ N. lat., 124°53.02′ W. long.;
(80) 42°56.41′ N. lat., 124°54.59′ W. long.;
(81) 42°53.82′ N. lat., 124°55.76′ W. long.;
(82) 42°53.54′ N. lat., 124°54.88′ W. long.;
(83) 42°49.26′ N. lat., 124°55.17′ W. long.;
(84) 42°46.74′ N. lat., 124°53.39′ W. long.;
(85) 42°43.76′ N. lat., 124°51.64′ W. long.;
(86) 42°45.41′ N. lat., 124°49.35′ W. long.;
(87) 42°43.92′ N. lat., 124°45.92′ W. long.;
(88) 42°38.84′ N. lat., 124°43.51′ W. long.;
(89) 42°34.78′ N. lat., 124°46.56′ W. long.;
(90) 42°31.47′ N. lat., 124°46.89′ W. long.;
(91) 42°31.59′ N. lat., 124°44.85′ W. long.;
(92) 42°31.12′ N. lat., 124°44.82′ W. long.;
(93) 42°28.48′ N. lat., 124°49.96′ W. long.;
(94) 42°26.28′ N. lat., 124°47.99′ W. long.;
(95) 42°19.58′ N. lat., 124°43.21′ W. long.;
(96) 42°13.75′ N. lat., 124°40.06′ W. long.;
(97) 42°05.12′ N. lat., 124°39.06′ W. long.;
(98) 42°00.00′ N. lat., 124°37.76′ W. long.;
(99) 41°47.93′ N. lat., 124°31.79′ W. long.;
(100) 41°21.35′ N. lat., 124°30.35′ W. long.;
(101) 41°07.11′ N. lat., 124°25.25′ W. long.;
(102) 40°57.37′ N. lat., 124°30.25′ W. long.;
(103) 40°48.77′ N. lat., 124°30.69′ W. long.;
(104) 40°41.03′ N. lat., 124°33.21′ W. long.;
(105) 40°37.40′ N. lat., 124°38.96′ W. long.;
(106) 40°33.70′ N. lat., 124°42.50′ W. long.;
(107) 40°31.31′ N. lat., 124°41.59′ W. long.;
(108) 40°30.00′ N. lat., 124°40.50′ W. long.;
(109) 40°25.00′ N. lat., 124°36.65′ W. long.;
(110) 40°22.42′ N. lat., 124°32.19′ W. long.;
(111) 40°17.17′ N. lat., 124°32.21′ W. long.;
(112) 40°18.68′ N. lat., 124°50.44′ W. long.;
(113) 40°13.55′ N. lat., 124°34.26′ W. long.;
(114) 40°10.00′ N. lat., 124°28.25′ W. long.;
(115) 40°06.72′ N. lat., 124°21.40′ W. long.;
(116) 40°01.63′ N. lat., 124°17.25′ W. long.;
(117) 40°00.68′ N. lat., 124°11.19′ W. long.;
(118) 39°59.09′ N. lat., 124°14.92′ W. long.;
(119) 39°51.85′ N. lat., 124°10.33′ W. long.;
(120) 39°36.90′ N. lat., 124°00.63′ W. long.;
(121) 39°32.41′ N. lat., 124°00.01′ W. long.;
(122) 39°05.40′ N. lat., 124°00.52′ W. long.;
(123) 39°04.32′ N. lat., 123°59.00′ W. long.;
(124) 38°58.02′ N. lat., 123°58.18′ W. long.;
(125) 38°57.50′ N. lat., 124°01.90′ W. long.;
(126) 38°50.27′ N. lat., 123°56.26′ W. long.;
(127) 38°46.73′ N. lat., 123°51.93′ W. long.;
(128) 38°44.64′ N. lat., 123°51.77′ W. long.;
(129) 38°32.97′ N. lat., 123°41.84′ W. long.;

(130) 38°14.56′ N. lat., 123°32.18′ W. long.;
(131) 38°13.85′ N. lat., 123°29.94′ W. long.;
(132) 38°11.88′ N. lat., 123°30.57′ W. long.;
(133) 38°08.72′ N. lat., 123°29.56′ W. long.;
(134) 38°05.62′ N. lat., 123°32.38′ W. long.;
(135) 38°01.90′ N. lat., 123°32.00′ W. long.;
(136) 38°00.00′ N. lat., 123°30.00′ W. long.;
(137) 37°58.07′ N. lat., 123°27.35′ W. long.;
(138) 37°54.97′ N. lat., 123°27.69′ W. long.;
(139) 37°51.32′ N. lat., 123°25.40′ W. long.;
(140) 37°43.82′ N. lat., 123°11.69′ W. long.;
(141) 37°35.67′ N. lat., 123°02.62′ W. long.;
(142) 37°11.00′ N. lat., 122°54.50′ W. long.;
(143) 37°07.00′ N. lat., 122°48.59′ W. long.;
(144) 36°59.99′ N. lat., 122°38.49′ W. long.;
(145) 36°56.64′ N. lat., 122°28.78′ W. long.;
(146) 36°58.93′ N. lat., 122°25.67′ W. long.;
(147) 36°56.19′ N. lat., 122°25.67′ W. long.;
(148) 36°57.09′ N. lat., 122°22.85′ W. long.;
(149) 36°54.95′ N. lat., 122°22.63′ W. long.;
(150) 36°52.25′ N. lat., 122°13.94′ W. long.;
(151) 36°46.94′ N. lat., 122°07.90′ W. long.;
(152) 36°46.86′ N. lat., 122°02.24′ W. long.;
(153) 36°43.73′ N. lat., 121°59.33′ W. long.;
(154) 36°38.93′ N. lat., 122°02.46′ W. long.;
(155) 36°30.77′ N. lat., 122°01.40′ W. long.;
(156) 36°23.78′ N. lat., 122°00.52′ W. long.;
(157) 36°19.98′ N. lat., 122°07.63′ W. long.;
(158) 36°15.36′ N. lat., 122°03.50′ W. long.;
(159) 36°09.47′ N. lat., 121°45.37′ W. long.;
(160) 36°06.42′ N. lat., 121°41.34′ W. long.;
(161) 36°00.00′ N. lat., 121°37.68′ W. long.;
(162) 35°52.25′ N. lat., 121°33.21′ W. long.;
(163) 35°51.09′ N. lat., 121°31.83′ W. long.;
(164) 35°46.47′ N. lat., 121°31.19′ W. long.;
(165) 35°33.97′ N. lat., 121°21.69′ W. long.;
(166) 35°30.94′ N. lat., 121°18.36′ W. long.;
(167) 35°23.08′ N. lat., 121°15.56′ W. long.;
(168) 35°13.67′ N. lat., 121°05.79′ W. long.;
(169) 35°06.77′ N. lat., 121°02.45′ W. long.;
(170) 34°53.32′ N. lat., 121°01.46′ W. long.;
(171) 34°49.36′ N. lat., 121°03.04′ W. long.;
(172) 34°44.12′ N. lat., 121°01.28′ W. long.;
(173) 34°32.38′ N. lat., 120°51.78′ W. long.;
(174) 34°27.00′ N. lat., 120°44.25′ W. long.;
(175) 34°17.93′ N. lat., 120°35.43′ W. long.;
(176) 34°16.02′ N. lat., 120°28.70′ W. long.;
(177) 34°09.84′ N. lat., 120°38.85′ W. long.;
(178) 34°03.22′ N. lat., 120°36.12′ W. long.;
(179) 33°55.98′ N. lat., 120°28.81′ W. long.;
(180) 33°49.88′ N. lat., 120°10.07′ W. long.;
(181) 33°37.75′ N. lat., 120°00.35′ W. long.;
(182) 33°33.91′ N. lat., 119°51.74′ W. long.;
(183) 33°35.07′ N. lat., 119°48.14′ W. long.;
(184) 33°42.60′ N. lat., 119°47.40′ W. long.;
(185) 33°53.25′ N. lat., 119°52.58′ W. long.;
(186) 33°57.48′ N. lat., 119°31.27′ W. long.;
(187) 33°55.47′ N. lat., 119°24.96′ W. long.;

(188) 33°57.60′ N. lat., 119°26.68′ W. long.;
(189) 33°58.68′ N. lat., 119°20.13′ W. long.;
(190) 34°02.02′ N. lat., 119°14.62′ W. long.;
(191) 33°58.73′ N. lat., 119°03.21′ W. long.;
(192) 33°57.33′ N. lat., 118°43.08′ W. long.;
(193) 33°50.71′ N. lat., 118°38.33′ W. long.;
(194) 33°39.27′ N. lat., 118°18.76′ W. long.;
(195) 33°35.16′ N. lat., 118°18.33′ W. long.;
(196) 33°28.82′ N. lat., 118°08.73′ W. long.;
(197) 33°31.44′ N. lat., 117°51.34′ W. long.;
(198) 32°58.76′ N. lat., 117°20.85′ W. long.; and
(199) 32°35.61′ N. lat., 117°30.15′ W. long.

(n) The 250–fm (457–m) depth contour used around San Clemente Island is defined by straight lines connecting all of the following points in the order stated:
(1) 33°06.10′ N. lat., 118°39.07′ W. long.;
(2) 33°05.31′ N. lat., 118°40.88′ W. long.;
(3) 33°03.03′ N. lat., 118°41.72′ W. long.;
(4) 32°46.62′ N. lat., 118°32.23′ W. long.;
(5) 32°40.81′ N. lat., 118°23.85′ W. long.;
(6) 32°47.55′ N. lat., 118°17.59′ W. long.;
(7) 32°57.35′ N. lat., 118°28.83′ W. long.;
(8) 33°02.79′ N. lat., 118°32.85′ W. long.; and
(9) 33°06.10′ N. lat., 118°39.07′ W. long.

(o) The 250–fm (457–m) depth contour used around Santa Catalina Island is defined by straight lines connecting all of the following points in the order stated:
(1) 33°13.37′ N. lat., 118°08.39′ W. long.;
(2) 33°20.86′ N. lat., 118°14.39′ W. long.;
(3) 33°26.49′ N. lat., 118°21.17′ W. long.;
(4) 33°28.14′ N. lat., 118°26.68′ W. long.;
(5) 33°30.36′ N. lat., 118°30.55′ W. long.;
(6) 33°31.65′ N. lat., 118°35.33′ W. long.;
(7) 33°32.89′ N. lat., 118°42.97′ W. long.;
(8) 33°32.64′ N. lat., 118°49.44′ W. long.;
(9) 33°38.02′ N. lat., 118°57.35′ W. long.;
(10) 33°37.08′ N. lat., 118°57.93′ W. long.;
(11) 33°30.76′ N. lat., 118°49.96′ W. long.;
(12) 33°23.24′ N. lat., 118°32.88′ W. long.;
(13) 33°20.91′ N. lat., 118°34.67′ W. long.;
(14) 33°17.04′ N. lat., 118°28.21′ W. long.; and
(15) 33°13.37′ N. lat., 118°08.39′ W. long.

(p) The 250–fm (457–m) depth contour used around Lasuen Knoll is defined by straight lines connecting all of the following points in the order stated:
(1) 33°26.76′ N. lat., 118°00.77′ W. long.;
(2) 33°25.30′ N. lat., 117°57.88′ W. long.;
(3) 33°23.37′ N. lat., 117°56.14′ W. long.;
(4) 33°22.06′ N. lat., 117°57.06′ W. long.;
(5) 33°22.85′ N. lat., 117°59.47′ W. long.;
(6) 33°23.97′ N. lat., 118°00.72′ W. long.;
(7) 33°25.98′ N. lat., 118°01.63′ W. long.; and
(8) 33°26.76′ N. lat., 118°00.77′ W. long.

(q) The 250–fm (457–m) depth contour used around San Diego Rise is defined by straight lines connecting all of the following points in the order stated:
(1) 32 °51.58′ N. lat., 117°51.00′ W. long.;
(2) 32°44.69′ N. lat., 117°44.55′ W. long.;
(3) 32°37.05′ N. lat., 117°42.02′ W. long.;
(4) 32°36.07′ N. lat., 117°44.29′ W. long.;
(5) 32°47.03′ N. lat., 117°50.97′ W. long.;
(6) 32°51.50′ N. lat., 117°51.47′ W. long.; and
(7) 32°51.58′ N. lat., 117°51.00′ W. long.

(r) The 250–fm (457–m) depth contour used between the U.S. border with Canada and the U.S. border with Mexico, modified to allow fishing in petrale sole areas, is defined by straight lines connecting all of the following points in the order stated:
(1) 48°14.71′ N. lat., 125°41.95′ W. long.;
(2) 48°13.00′ N. lat., 125°39.00′ W. long.;
(3) 48°08.50′ N. lat., 125°45.00′ W. long.;
(4) 48°06.00′ N. lat., 125°46.50′ W. long.;
(5) 48°03.50′ N. lat., 125°37.00′ W. long.;
(6) 48°01.50′ N. lat., 125°40.00′ W. long.;
(7) 47°57.00′ N. lat., 125°37.00′ W. long.;
(8) 47°55.50′ N. lat., 125°28.50′ W. long.;
(9) 47°58.00′ N. lat., 125°25.00′ W. long.;
(10) 48°00.50′ N. lat., 125°24.50′ W. long.;
(11) 48°03.50′ N. lat., 125°21.00′ W. long.;
(12) 48°02.00′ N. lat., 125°19.50′ W. long.;
(13) 48°00.00′ N. lat., 125°21.00′ W. long.;
(14) 47°58.00′ N. lat., 125°20.00′ W. long.;
(15) 47°58.00′ N. lat., 125°18.00′ W. long.;
(16) 47°52.00′ N. lat., 125°16.50′ W. long.;
(17) 47°46.00′ N. lat., 125°06.00′ W. long.; and
(18) 47°44.50′ N. lat., 125°07.50′ W. long.
(19) 47°42.00′ N. lat., 125°06.00′ W. long.;
(20) 47°37.96′ N. lat., 125°07.17′ W. long.;
(21) 47°28.00′ N. lat., 124°58.50′ W. long.;
(22) 47°28.88′ N. lat., 124°54.70′ W. long.;
(23) 47°27.70′ N. lat., 124°51.87′ W. long.;
(24) 47°24.84′ N. lat., 124°48.45′ W. long.;
(25) 47°21.76′ N. lat., 124°47.42′ W. long.;

(26) 47°18.84′ N. lat., 124°46.75′ W. long.;
(27) 47°19.82′ N. lat., 124°51.43′ W. long.;
(28) 47°18.13′ N. lat., 124°54.25′ W. long.;
(29) 47°13.50′ N. lat., 124°54.70′ W. long.;
(30) 47°15.00′ N. lat., 125°01.10′ W. long.;
(31) 47°08.77′ N. lat., 125°00.91′ W. long.;
(32) 47°05.80′ N. lat., 125°01.00′ W. long.;
(33) 47°03.34′ N. lat., 124°57.50′ W. long.;
(34) 47°01.00′ N. lat., 125°00.00′ W. long.;
(35) 46°55.00′ N. lat., 125°02.00′ W. long.;
(36) 46°53.32′ N. lat., 125°00.00′ W. long.;
(37) 46°51.55′ N. lat., 125°00.00′ W. long.;
(38) 46°50.80′ N. lat., 124°56.90′ W. long.;
(39) 46°47.00′ N. lat., 124°55.00′ W. long.;
(40) 46°34.00′ N. lat., 124°38.00′ W. long.;
(41) 46°30.50′ N. lat., 124°41.00′ W. long.;
(42) 46°33.00′ N. lat., 124°32.00′ W. long.;
(43) 46°29.00′ N. lat., 124°32.00′ W. long.;
(44) 46°20.00′ N. lat., 124°39.00′ W. long.;
(45) 46°18.16′ N. lat., 124°40.00′ W. long.;
(46) 46°16.00′ N. lat., 124°27.00′ W. long.;
(47) 46°15.00′ N. lat., 124°30.96′ W. long.;
(48) 46°13.17′ N. lat., 124°38.76′ W. long.;
(49) 46°10.51′ N. lat., 124°41.99′ W. long.;
(50) 46°06.24′ N. lat., 124°41.81′ W. long.;
(51) 46°03.04′ N. lat., 124°50.26′ W. long.;
(52) 45°56.99′ N. lat., 124°45.45′ W. long.;
(53) 45°49.94′ N. lat., 124°45.75′ W. long.;
(54) 45°49.94′ N. lat., 124°42.33′ W. long.;
(55) 45°45.73′ N. lat., 124°42.18′ W. long.;
(56) 45°45.73′ N. lat., 124°43.82′ W. long.;
(57) 45°41.94′ N. lat., 124°43.61′ W. long.;
(58) 45°41.58′ N. lat., 124°39.86′ W. long.;
(59) 45°38.45′ N. lat., 124°39.94′ W. long.;
(60) 45°35.75′ N. lat., 124°42.91′ W. long.;
(61) 45°24.49′ N. lat., 124°38.20′ W. long.;
(62) 45°14.43′ N. lat., 124°39.05′ W. long.;
(63) 45°14.30′ N. lat., 124°34.19′ W. long.;
(64) 45°08.98′ N. lat., 124°34.26′ W. long.;
(65) 45°09.02′ N. lat., 124°38.81′ W. long.;
(66) 44°57.98′ N. lat., 124°36.98′ W. long.;
(67) 44°56.62′ N. lat., 124°38.32′ W. long.;
(68) 44°50.82′ N. lat., 124°35.52′ W. long.;
(69) 44°46.89′ N. lat., 124°38.32′ W. long.;
(70) 44°50.78′ N. lat., 124°44.24′ W. long.;
(71) 44°44.27′ N. lat., 124°50.78′ W. long.;
(72) 44°32.63′ N. lat., 124°54.24′ W. long.;
(73) 44°23.25′ N. lat., 124°49.78′ W. long.;
(74) 44°13.16′ N. lat., 124°58.81′ W. long.;
(75) 43°57.88′ N. lat., 124°58.25′ W. long.;
(76) 43°56.89′ N. lat., 124°57.33′ W. long.;
(77) 43°53.41′ N. lat., 124°51.95′ W. long.;
(78) 43°51.56′ N. lat., 124°47.38′ W. long.;
(79) 43°51.49′ N. lat., 124°37.77′ W. long.;
(80) 43°48.02′ N. lat., 124°43.31′ W. long.;
(81) 43°42.77′ N. lat., 124°41.39′ W. long.;
(82) 43°24.09′ N. lat., 124°42.57′ W. long.;
(83) 43°19.73′ N. lat., 124°45.09′ W. long.;
(84) 43°15.98′ N. lat., 124°47.76′ W. long.;
(85) 43°04.14′ N. lat., 124°52.55′ W. long.;
(86) 43°04.00′ N. lat., 124°53.88′ W. long.;
(87) 42°54.69′ N. lat., 124°54.54′ W. long.;
(88) 42°45.46′ N. lat., 124°49.37′ W. long.;
(89) 42°43.91′ N. lat., 124°45.90′ W. long.;
(90) 42°38.84′ N. lat., 124°43.36′ W. long.;
(91) 42°34.82′ N. lat., 124°46.56′ W. long.;
(92) 42°31.57′ N. lat., 124°46.86′ W. long.;
(93) 42°30.98′ N. lat., 124°44.27′ W. long.;
(94) 42°29.21′ N. lat., 124°46.93′ W. long.;
(95) 42°28.52′ N. lat., 124°49.40′ W. long.;
(96) 42°26.06′ N. lat., 124°46.61′ W. long.;
(97) 42°21.82′ N. lat., 124°43.76′ W. long.;
(98) 42°17.47′ N. lat., 124°38.89′ W. long.;
(99) 42°13.67′ N. lat., 124°37.51′ W. long.;
(100) 42°13.76′ N. lat., 124°40.03′ W. long.;
(101) 42°05.12′ N. lat., 124°39.06′ W. long.;
(102) 42°02.67′ N. lat., 124°38.41′ W. long.;
(103) 42°02.67′ N. lat., 124°35.95′ W. long.;
(104) 42°00.00′ N. lat., 124°36.83′ W. long.;
(105) 41°47.79′ N. lat., 124°29.48′ W. long.;
(106) 41°21.01′ N. lat., 124°29.01′ W. long.;
(107) 41°13.50′ N. lat., 124°24.40′ W. long.;
(108) 41°11.00′ N. lat., 124°22.99′ W. long.;
(109) 41°06.69′ N. lat., 124°23.30′ W. long.;
(110) 40°54.73′ N. lat., 124°28.15′ W. long.;
(111) 40°53.95′ N. lat., 124°26.04′ W. long.;
(112) 40°50.27′ N. lat., 124°26.20′ W. long.;
(113) 40°44.49′ N. lat., 124°30.81′ W. long.;
(114) 40°40.63′ N. lat., 124°32.14′ W. long.;
(115) 40°38.96′ N. lat., 124°30.04′ W. long.;
(116) 40°35.67′ N. lat., 124°30.43′ W. long.;
(117) 40°37.41′ N. lat., 124°37.06′ W. long.;
(118) 40°36.09′ N. lat., 124°40.11′ W. long.;
(119) 40°31.35′ N. lat., 124°40.98′ W. long.;
(120) 40°30.00′ N. lat., 124°37.48′ W. long.;
(121) 40°27.34′ N. lat., 124°37.28′ W. long.;

(122) 40°25.01′ N. lat., 124°36.36′ W. long.;
(123) 40°22.28′ N. lat., 124°31.83′ W. long.;
(124) 40°13.68′ N. lat., 124°33.10′ W. long.;
(125) 40°10.00′ N. lat., 124°24.55′ W. long.;
(126) 40°06.45′ N. lat., 124°19.24′ W. long.;
(127) 40°07.08′ N. lat., 124°17.80′ W. long.;
(128) 40°05.55′ N. lat., 124°18.11′ W. long.;
(129) 40°04.74′ N. lat., 124°18.11′ W. long.;
(130) 40°02.35′ N. lat., 124°16.53′ W. long.;
(131) 40°01.13′ N. lat., 124°12.98′ W. long.;
(132) 40°01.52′ N. lat., 124°09.83′ W. long.;
(133) 39°58.54′ N. lat., 124°12.43′ W. long.;
(134) 39°55.72′ N. lat., 124°07.44′ W. long.;
(135) 39°42.64′ N. lat., 124°02.52′ W. long.;
(136) 39°35.96′ N. lat., 123°59.47′ W. long.;
(137) 39°34.61′ N. lat., 123°59.58′ W. long.;
(138) 39°33.79′ N. lat., 123°56.77′ W. long.;
(139) 39°33.03′ N. lat., 123°57.06′ W. long.;
(140) 39°32.21′ N. lat., 123°59.12′ W. long.;
(141) 39°07.81′ N. lat., 123°59.06′ W. long.;
(142) 38°57.50′ N. lat., 123°57.25′ W. long.;
(143) 38°52.26′ N. lat., 123°56.18′ W. long.;
(144) 38°50.21′ N. lat., 123°55.48′ W. long.;
(145) 38°46.81′ N. lat., 123°51.49′ W. long.;
(146) 38°45.29′ N. lat., 123°51.55′ W. long.;
(147) 38°42.76′ N. lat., 123°49.73′ W. long.;
(148) 38°41.26′ N. lat., 123°47.28′ W. long.;
(149) 38°35.75′ N. lat., 123°43.76′ W. long.;
(150) 38°34.93′ N. lat., 123°42.46′ W. long.;
(151) 38°19.95′ N. lat., 123°32.90′ W. long.;
(152) 38°14.38′ N. lat., 123°25.51′ W. long.;
(153) 38°09.39′ N. lat., 123°24.39′ W. long.;
(154) 38°10.18′ N. lat., 123°27.11′ W. long.;
(155) 38°04.64′ N. lat., 123°31.97′ W. long.;
(156) 38°02.06′ N. lat., 123°31.26′ W. long.;
(157) 38°00.00′ N. lat., 123°29.64′ W. long.;
(158) 37°58.19′ N. lat., 123°27.40′ W. long.;
(159) 37°50.62′ N. lat., 123°24.51′ W. long.;
(160) 37°43.82′ N. lat., 123°11.69′ W. long.;
(161) 37°35.67′ N. lat., 123°02.62′ W. long.;
(162) 37°23.53′ N. lat., 122°58.65′ W. long.;
(163) 37°23.23′ N. lat., 122°53.78′ W. long.;
(164) 37°13.97′ N. lat., 122°49.91′ W. long.;
(165) 37°11.00′ N. lat., 122°45.61′ W. long.;
(166) 37°07.00′ N. lat., 122°44.76′ W. long.;
(167) 36°59.99′ N. lat., 122°38.49′ W. long.;
(168) 36°56.64′ N. lat., 122°28.78′ W. long.;
(169) 36°58.93′ N. lat., 122°25.67′ W. long.;
(170) 36°56.19′ N. lat., 122°25.67′ W. long.;
(171) 36°57.09′ N. lat., 122°22.85′ W. long.;
(172) 36°54.95′ N. lat., 122°22.63′ W. long.;
(173) 36°52.25′ N. lat., 122°13.94′ W. long.;
(174) 36°46.94′ N. lat., 122°07.90′ W. long.;
(175) 36°47.12′ N. lat., 122°03.99′ W. long.;
(176) 36°23.87′ N. lat., 122°00.00′ W. long.;
(177) 36°22.17′ N. lat., 122°01.19′ W. long.;
(178) 36°19.61′ N. lat., 122°06.29′ W. long.;
(179) 36°14.73′ N. lat., 122°01.55′ W. long.;

(180) 36°09.47′ N. lat., 121°45.37′ W. long.;
(181) 36°06.42′ N. lat., 121°41.34′ W. long.;
(182) 36°00.07′ N. lat., 121°37.68′ W. long.;
(183) 36°00.00′ N. lat., 121°37.66′ W. long.;
(184) 35°52.25′ N. lat., 121°33.21′ W. long.;
(185) 35°51.09′ N. lat., 121°31.83′ W. long.;
(186) 35°46.47′ N. lat., 121°31.19′ W. long.;
(187) 35°33.97′ N. lat., 121°21.69′ W. long.;
(188) 35°30.94′ N. lat., 121°18.36′ W. long.;
(189) 35°23.08′ N. lat., 121°15.56′ W. long.;
(190) 35°13.67′ N. lat., 121°05.79′ W. long.;
(191) 35°06.77′ N. lat., 121°02.45′ W. long.;
(192) 35°07.46′ N. lat., 120°57.10′ W. long.;
(193) 34°44.29′ N. lat., 120°54.28′ W. long.;
(194) 34°44.24′ N. lat., 120°57.62′ W. long.;
(195) 34°41.65′ N. lat., 120°59.54′ W. long.;
(196) 34°17.97′ N. lat., 120°35.54′ W. long.;
(197) 34°16.02′ N. lat., 120°28.70′ W. long.;
(198) 34°09.84′ N. lat., 120°38.85′ W. long.;
(199) 34°02.21′ N. lat., 120°36.23′ W. long.;
(200) 33°55.98′ N. lat., 120°28.81′ W. long.;
(201) 33°49.88′ N. lat., 120°10.07′ W. long.;
(202) 33°37.75′ N. lat., 120°00.35′ W. long.;
(203) 33°33.91′ N. lat., 119° 51.74′ W. long.;
(204) 33°35.07′ N. lat., 119°48.14′ W. long.;
(205) 33°42.60′ N. lat., 119°47.40′ W. long.;
(206) 33°51.63′ N. lat., 119°52.35′ W. long.;
(207) 33°51.62′ N. lat., 119°47.94′ W. long.;
(208) 33°54.29′ N. lat., 119°47.94′ W. long.;
(209) 33°57.52′ N. lat., 119°30.94′ W. long.;
(210) 33°54.11′ N. lat., 119°30.94′ W. long.;
(211) 33°54.11′ N. lat., 119°25.94′ W. long.;
(212) 33°57.74′ N. lat., 119°25.94′ W. long.;
(213) 33°58.68′ N. lat., 119°20.13′ W. long.;
(214) 34°02.02′ N. lat., 119°14.62′ W. long.;
(215) 33°58.73′ N. lat., 119°03.21′ W. long.;
(216) 33°57.33′ N. lat., 118°43.08′ W. long.;
(217) 33°50.71′ N. lat., 118°38.33′ W. long.;
(218) 33°39.27′ N. lat., 118°18.76′ W. long.;
(219) 33°35.16′ N. lat., 118°18.33′ W. long.;
(220) 33°28.82′ N. lat., 118°08.73′ W. long.;
(221) 33°31.44′ N. lat., 117°51.34′ W. long.;
(222) 32°58.76′ N. lat., 117°20.85′ W. long.; and
(223) 32°35.61′ N. lat., 117°30.15′ W. long.

[69 FR 77069, Dec. 23, 2004; 70 FR 13119, Mar. 18, 2005, as amended at 70 FR 16149, Mar. 30, 2005; 71 FR 78687, Dec. 29, 2006; 72 FR 13045, Mar. 20, 2007; 72 FR 53167, Sept. 18, 2007]

### § 660.395 Essential Fish Habitat (EFH)

Essential fish habitat (EFH) is defined as those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity (16 U.S.C. 1802 (10). EFH for Pacific Coast Groundfish includes all waters and substrate within areas with a depth less than or equal to 3,500 m (1,914 fm) shoreward to the mean higher high water level or the upriver extent of saltwater intrusion (defined as upstream and landward to where ocean-derived salts measure less than 0.5 parts per thousand during the period of average annual low flow). Seamounts in depths greater than 3,500 m (1,914 fm) are also included due to their ecological importance to groundfish. Geographically, EFH for Pacific Coast groundfish includes both a large band of marine waters that extends from the Northern edge of the EEZ at the U.S. border with Canada to the Southern

edge of the EEZ at the U.S. border with Mexico, and inland within bays and estuaries. The seaward extent of EFH is consistent with the westward edge of the EEZ for areas approximately north of Cape Mendocino. Approximately south of Cape Mendocino, the 3500 m depth contour and EFH is substantially shoreward of the seaward boundary of the EEZ. There are also numerous discrete areas seaward of the main 3500 m depth contour where the ocean floor rises to depths less than 3500 m and therefore are also EFH. The seaward boundary of EFH and additional areas of EFH are defined by straight lines connecting a series of latitude and longitude coordinates in § 660.395(a) through § 660.395(qq).

(a) The seaward boundary of EFH, with the exception of the areas in paragraphs (b) through (qq), is bounded by the EEZ combined with a straight line connecting all of the following points in the order stated:

(1) 40°18.17′ N. lat., 128°46.72′ W. long.;
(2) 40°17.33′ N. lat., 125°58.62′ W. long.;
(3) 39°59.10′ N. lat., 125°44.13′ W. long.;
(4) 39°44.99′ N. lat., 125°41.63′ W. long.;
(5) 39°29.98′ N. lat., 125°23.86′ W. long.;
(6) 39°08.46′ N. lat., 125°38.17′ W. long.;
(7) 38°58.71′ N. lat., 125°22.33′ W. long.;
(8) 38°33.22′ N. lat., 125°16.82′ W. long.;
(9) 38°50.47′ N. lat., 124°53.20′ W. long.;
(10) 38°51.66′ N. lat., 124°35.15′ W. long.;
(11) 37°48.74′ N. lat., 123°53.79′ W. long.;
(12) 37°45.53′ N. lat., 124°03.18′ W. long.;
(13) 37°05.55′ N. lat., 123°46.18′ W. long.;
(14) 36°41.37′ N. lat., 123°25.16′ W. long.;
(15) 36°24.44′ N. lat., 123°25.03′ W. long.;
(16) 36°10.47′ N. lat., 123°31.11′ W. long.;
(17) 35°57.97′ N. lat., 123°21.33′ W. long.;
(18) 36°05.20′ N. lat., 123°15.17′ W. long.;
(19) 36°01.23′ N. lat., 123°04.04′ W. long.;
(20) 35°29.75′ N. lat., 123°02.44′ W. long.;
(21) 35°22.25′ N. lat., 122°58.24′ W. long.;
(22) 35°21.91′ N. lat., 122°34.83′ W. long.;
(23) 35°34.35′ N. lat., 122°25.83′ W. long.;
(24) 34°57.35′ N. lat., 122°07.03′ W. long.;
(25) 34°20.19′ N. lat., 121°33.92′ W. long.;
(26) 33°55.10′ N. lat., 121°43.15′ W. long.;
(27) 33°39.65′ N. lat., 121°28.35′ W. long.;
(28) 33°40.68′ N. lat., 121°23.06′ W. long.;
(29) 33°26.19′ N. lat., 121°06.16′ W. long.;
(30) 33°03.77′ N. lat., 121°34.33′ W. long.;
(31) 32°46.38′ N. lat., 121°02.84′ W. long.;
(32) 33°05.45′ N. lat., 120°40.71′ W. long.;
(33) 32°12.70′ N. lat., 120°10.85′ W. long.;
(34) 32°11.36′ N. lat., 120°03.19′ W. long.;
(35) 32°00.77′ N. lat., 119°50.68′ W. long.;
(36) 31°52.47′ N. lat., 119°48.11′ W. long.;
(37) 31°45.43′ N. lat., 119°40.89′ W. long.;
(38) 31°41.96′ N. lat., 119°28.57′ W. long.;
(39) 31°35.10′ N. lat., 119°33.50′ W. long.;
(40) 31°24.37′ N. lat., 119°29.61′ W. long.;
(41) 31°26.74′ N. lat., 119°18.47′ W. long.;
(42) 31°03.75′ N. lat., 118°59.58′ W. long.

(b) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 31°11.94′ N. lat., 121°57.84′ W. long.;
(2) 31°06.87′ N. lat., 121°57.42′ W. long.;
(3) 31°06.29′ N. lat., 122°09.22′ W. long.;
(4) 31°11.39′ N. lat., 122°09.10′ W. long.;

and connecting back to 31°11.94′ N. lat., 121°57.84′ W. long.

(c) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 31°11.21′ N. lat., 122°10.24′ W. long.;
(2) 31°07.62′ N. lat., 122°09.62′ W. long.;
(3) 31°07.40′ N. lat., 122°19.34′ W. long.;
(4) 31°12.84′ N. lat., 122°18.82′ W. long.;

and connecting back to 31°11.21′ N. lat., 122°10.24′ W. long.

(d) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 31°06.87′ N. lat., 119°28.05′ W. long.;
(2) 30°58.83′ N. lat., 119°26.74′ W. long.;
(3) 30°55.41′ N. lat., 119°45.63′ W. long.;
(4) 31°05.90′ N. lat., 119°42.05′ W. long.;

and connecting back to 31°06.87′ N. lat., 119°28.05′ W. long.

(e) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 31°02.05′ N. lat., 119°08.97′ W. long.;
(2) 31°04.96′ N. lat., 119°09.96′ W. long.;
(3) 31°06.24′ N. lat., 119°07.45′ W. long.;
(4) 31°02.63′ N. lat., 119°05.77′ W. long.;

and connecting back to 31°02.05′ N. lat., 119°08.97′ W. long.

(f) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 31°23.41′ N. lat., 122°23.99′ W. long.;
(2) 31°25.98′ N. lat., 122°23.67′ W. long.;
(3) 31°25.52′ N. lat., 122°21.95′ W. long.;
(4) 31°23.51′ N. lat., 122°21.98′ W. long.;

and connecting back to 31°23.41′ N. lat., 122°23.99′ W. long.

(g) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 31°21.95′ N. lat., 122°25.05′ W. long.;
(2) 31°23.31′ N. lat., 122°27.73′ W. long.;
(3) 31°26.63′ N. lat., 122°27.64′ W. long.;

(4) 31°26.72′ N. lat., 122°25.23′ W. long.;
and connecting back to 31°21.95′ N. lat., 122°25.05′ W. long.

(h) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 31°21.36′ N. lat., 119°47.67′ W. long.;
(2) 31°29.17′ N. lat., 119°48.51′ W. long.;
(3) 31°29.48′ N. lat., 119°43.20′ W. long.;
(4) 31°21.92′ N. lat., 119°40.68′ W. long.;
and connecting back to 31°21.36′ N. lat., 119°47.67′ W. long.

(i) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 31°37.36′ N. lat., 122°20.86′ W. long.;
(2) 31°41.22′ N. lat., 122°21.35′ W. long.;
(3) 31°42.68′ N. lat., 122°18.80′ W. long.;
(4) 31°39.71′ N. lat., 122°15.99′ W. long.;
and connecting back to 31°37.36′ N. lat., 122°20.86′ W. long.

(j) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 31°45.92′ N. lat., 121°40.55′ W. long.;
(2) 31°48.79′ N. lat., 121°40.52′ W. long.;
(3) 31°48.61′ N. lat., 121°37.65′ W. long.;
(4) 31°45.93′ N. lat., 121°38.00′ W. long.;
and connecting back to 31°45.92′ N. lat., 121°40.55′ W. long.

(k) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 31°36.78′ N. lat., 120°54.41′ W. long.;
(2) 31°44.65′ N. lat., 120°58.01′ W. long.;
(3) 31°48.56′ N. lat., 120°43.25′ W. long.;
(4) 31°41.76′ N. lat., 120°41.50′ W. long.;
and connecting back to 31°36.78′ N. lat., 120°54.41′ W. long.

(l) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 31°45.66′ N. lat., 123°17.00′ W. long.;
(2) 31°49.43′ N. lat., 123°19.89′ W. long.;
(3) 31°54.54′ N. lat., 123°14.91′ W. long.;
(4) 31°50.88′ N. lat., 123°13.17′ W. long.;
and connecting back to 31°45.66′ N. lat., 123°17.00′ W. long.

(m) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 31°55.28′ N. lat., 121°02.98′ W. long.;
(2) 31°58.25′ N. lat., 121°05.08′ W. long.;
(3) 31°59.77′ N. lat., 121°00.37′ W. long.;
(4) 31°57.88′ N. lat., 120°57.23′ W. long.;
and connecting back to 31°55.28′ N. lat., 121°02.98′ W. long.

(n) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 32°06.04′ N. lat., 121°29.08′ W. long.;
(2) 31°59.52′ N. lat., 121°23.10′ W. long.;
(3) 31°54.55′ N. lat., 121°31.53′ W. long.;
(4) 32°01.66′ N. lat., 121°38.38′ W. long.;
and connecting back to 32°06.04′ N. lat., 121°29.08′ W. long.

(o) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 31°59.89′ N. lat., 119°54.82′ W. long.;
(2) 31°59.69′ N. lat., 120°03.96′ W. long.;
(3) 32°04.47′ N. lat., 120°00.09′ W. long.;
and connecting back to 31°59.89′ N. lat., 119°54.82′ W. long.

(p) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 31°59.49′ N. lat., 121°18.59′ W. long.;
(2) 32°08.15′ N. lat., 121°22.16′ W. long.;
(3) 32°12.16′ N. lat., 121°14.64′ W. long.;
(4) 32°04.15′ N. lat., 121°08.61′ W. long.;
and connecting back to 31°59.49′ N. lat., 121°18.59′ W. long.

(q) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 32°07.77′ N. lat., 121°46.26′ W. long.;
(2) 32°05.89′ N. lat., 121°38.01′ W. long.;
(3) 31°59.35′ N. lat., 121°52.10′ W. long.;
(4) 32°08.86′ N. lat., 121°52.13′ W. long.;
(5) 32°19.76′ N. lat., 121°43.70′ W. long.;
(6) 32°14.85′ N. lat., 121°37.16′ W. long.;
and connecting back to 32°07.77′ N. lat., 121°46.26′ W. long.

(r) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 32°17.08′ N. lat., 121°11.84′ W. long.;
(2) 32°18.96′ N. lat., 121°14.15′ W. long.;
(3) 32°23.03′ N. lat., 121°10.52′ W. long.;
(4) 32°21.23′ N. lat., 121°08.53′ W. long.;
and connecting back to 32°17.08′ N. lat., 121°11.84′ W. long.

(s) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 32°27.64′ N. lat., 121°27.83′ W. long.;
(2) 32°15.43′ N. lat., 121°23.89′ W. long.;
(3) 32°16.18′ N. lat., 121°30.67′ W. long.;
(4) 32°25.80′ N. lat., 121°33.08′ W. long.;
and connecting back to 32°27.64′ N. lat., 121°27.83′ W. long.

(t) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 32°28.05′ N. lat., 122°03.54′ W. long.;
(2) 32°30.64′ N. lat., 122°06.11′ W. long.;
(3) 32°35.90′ N. lat., 121°59.61′ W. long.;
(4) 32°32.05′ N. lat., 121°54.66′ W. long.;

and connecting back to 32°28.05′ N. lat., 122°03.54′ W. long.

(u) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 32°44.69′ N. lat., 121°39.99′ W. long.;
(2) 32°43.72′ N. lat., 121°43.03′ W. long.;
(3) 32°47.31′ N. lat., 121°43.91′ W. long.;
(4) 32°48.21′ N. lat., 121°40.74′ W. long.;

and connecting back to 32°44.69′ N. lat., 121°39.99′ W. long.

(v) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 32°48.07′ N. lat., 121°15.86′ W. long.;
(2) 32°36.99′ N. lat., 121°20.21′ W. long.;
(3) 32°25.33′ N. lat., 121°38.31′ W. long.;
(4) 32°34.03′ N. lat., 121°44.05′ W. long.;
(5) 32°43.19′ N. lat., 121°41.58′ W. long.;

and connecting back to 32°48.07′ N. lat., 121°15.86′ W. long.

(w) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 32°48.38′ N. lat., 120°47.95′ W. long.;
(2) 32°47.49′ N. lat., 120°41.50′ W. long.;
(3) 32°43.79′ N. lat., 120°42.01′ W. long.;
(4) 32°44.01′ N. lat., 120°48.79′ W. long.;

and connecting back to 32°48.38′ N. lat., 120°47.95′ W. long.

(x) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 33°08.71′ N. lat., 121°41.24′ W. long.;
(2) 33°00.10′ N. lat., 121°37.67′ W. long.;
(3) 33°01.01′ N. lat., 121°45.93′ W. long.;
(4) 33°07.71′ N. lat., 121°46.31′ W. long.;

and connecting back to 33°08.71′ N. lat., 121°41.24′ W. long.

(y) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 33°19.30′ N. lat., 121°54.69′ W. long.;
(2) 33°11.41′ N. lat., 121°47.26′ W. long.;
(3) 32°56.93′ N. lat., 121°54.41′ W. long.;
(4) 33°03.85′ N. lat., 122°03.52′ W. long.;
(5) 33°17.73′ N. lat., 122°00.05′ W. long.;

and connecting back to 33°19.30′ N. lat., 121°54.69′ W. long.

(z) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 33°23.67′ N. lat., 123°04.28′ W. long.;
(2) 33°22.88′ N. lat., 123°04.93′ W. long.;
(3) 33°23.66′ N. lat., 123°05.77′ W. long.;
(4) 33°24.30′ N. lat., 123°04.90′ W. long.;

and connecting back to 33°23.67′ N. lat., 123°04.28′ W. long.

(aa) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 33°26.06′ N. lat., 121°44.42′ W. long.;
(2) 33°32.00′ N. lat., 121°41.61′ W. long.;
(3) 33°28.80′ N. lat., 121°26.92′ W. long.;
(4) 33°23.50′ N. lat., 121°26.92′ W. long.;

and connecting back to 33°26.06′ N. lat., 121°44.42′ W. long.

(bb) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 33°38.22′ N. lat., 123°56.91′ W. long.;
(2) 33°39.58′ N. lat., 123°58.56′ W. long.;
(3) 33°41.37′ N. lat., 123°57.22′ W. long.;
(4) 33°40.08′ N. lat., 123°55.14′ W. long.;

and connecting back to 33°38.22′ N. lat., 123°56.91′ W. long.

(cc) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 33°46.86′ N. lat., 121°58.49′ W. long.;
(2) 33°41.28′ N. lat., 121°52.80′ W. long.;
(3) 33°36.95′ N. lat., 121°54.42′ W. long.;
(4) 33°42.05′ N. lat., 122°07.48′ W. long.;
(5) 33°47.07′ N. lat., 122°05.71′ W. long.;

and connecting back to 33°46.86′ N. lat., 121°58.49′ W. long.

(dd) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 34°17.70′ N. lat., 124°11.04′ W. long.;
(2) 34°19.41′ N. lat., 124°14.12′ W. long.;
(3) 34°21.61′ N. lat., 124°12.89′ W. long.;
(4) 34°20.35′ N. lat., 124°09.11′ W. long.;

and connecting back to 34°17.70′ N. lat., 124°11.04′ W. long.

(ee) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 34°13.39′ N. lat., 124°03.18′ W. long.;
(2) 34°19.45′ N. lat., 124°09.21′ W. long.;
(3) 34°23.12′ N. lat., 124°05.49′ W. long.;
(4) 34°17.93′ N. lat., 123°57.87′ W. long.;

and connecting back to 34°13.39′ N. lat., 124°03.18′ W. long.

(ff) This area of EFH is bounded by straight lines connecting all of the following points in the order stated::

(1) 35°19.23′ N. lat., 122°39.91′ W. long.;
(2) 35°08.76′ N. lat., 122°23.83′ W. long.;
(3) 35°06.22′ N. lat., 122°28.09′ W. long.;
(4) 35°15.81′ N. lat., 122°45.90′ W. long.;

and connecting back to 35°19.23′ N. lat., 122°39.91′ W. long.

(gg) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:

(1) 35°25.81′ N. lat., 123°24.05′ W. long.;

(2) 35°21.76′ N. lat., 123°23.47′ W. long.;
(3) 35°21.05′ N. lat., 123°27.22′ W. long.;
(4) 35°24.89′ N. lat., 123°28.49′ W. long.;
and connecting back to 35°25.81′ N. lat., 123°24.05′ W. long.

(hh) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 35°27.15′ N. lat., 125°03.69′ W. long.;
(2) 35°28.68′ N. lat., 125°04.86′ W. long.;
(3) 35°30.23′ N. lat., 125°02.59′ W. long.;
(4) 35°28.85′ N. lat., 125°01.48′ W. long.;
and connecting back to 35°27.15′ N. lat., 125°03.69′ W. long.

(ii) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 35°31.14′ N. lat., 123°52.80′ W. long.;
(2) 35°31.38′ N. lat., 123°54.83′ W. long.;
(3) 35°32.98′ N. lat., 123°53.80′ W. long.;
and connecting back to 35°31.14′ N. lat., 123°52.80′ W. long.

(jj) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 35°24.08′ N. lat., 123°40.83′ W. long.;
(2) 35°24.76′ N. lat., 123°45.92′ W. long.;
(3) 35°33.04′ N. lat., 123°44.92′ W. long.;
(4) 35°32.24′ N. lat., 123°39.16′ W. long.;
and connecting back to 35°24.08′ N. lat., 123°40.83′ W. long.

(kk) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 36°08.72′ N. lat., 124°22.59′ W. long.;
(2) 36°07.91′ N. lat., 124°22.48′ W. long.;
(3) 36°07.90′ N. lat., 124°24.27′ W. long.;
(4) 36°08.75′ N. lat., 124°24.10′ W. long.;
and connecting back to 36°08.72′ N. lat., 124°22.59′ W. long.

(ll) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 36°07.33′ N. lat., 124°18.83′ W. long.;
(2) 36°08.21′ N. lat., 124°19.86′ W. long.;
(3) 36°09.64′ N. lat., 124°18.70′ W. long.;
(4) 36°08.62′ N. lat., 124°17.22′ W. long.;
and connecting back to 36°07.33′ N. lat., 124°18.83′ W. long.

(mm) This area of EFH is bounded by straight lines connecting all of the following points in the order stated::
(1) 36°47.33′ N. lat., 124°10.21′ W. long.;
(2) 36°50.85′ N. lat., 124°11.63′ W. long.;
(3) 36°52.22′ N. lat., 124°08.65′ W. long.;
(4) 36°49.93′ N. lat., 124°06.40′ W. long.;
and connecting back to 36°47.33′ N. lat., 124°10.21′ W. long.

(nn) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 36°56.03′ N. lat., 123°40.86′ W. long.;
(2) 36°56.37′ N. lat., 123°40.86′ W. long.;
(3) 36°56.42′ N. lat., 123°40.49′ W. long.;
(4) 36°56.18′ N. lat., 123°40.37′ W. long.;
and connecting back to 36°56.03′ N. lat., 123°40.86′ W. long.

(oo) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 36°32.58′ N. lat., 125°01.80′ W. long.;
(2) 36°50.38′ N. lat., 125°44.21′ W. long.;
(3) 37°00.91′ N. lat., 125°40.06′ W. long.;
(4) 36°41.26′ N. lat., 124°55.90′ W. long.;
and connecting back to 36°32.58′ N. lat., 125°01.80′ W. long.

(pp) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 37°45.73′ N. lat., 124°11.40′ W. long.;
(2) 37°47.91′ N. lat., 124°14.01′ W. long.;
(3) 37°50.99′ N. lat., 124°09.09′ W. long.;
(4) 37°47.97′ N. lat., 124°07.00′ W. long.;
and connecting back to 37°45.73′ N. lat., 124°11.40′ W. long.

(qq) This area of EFH is bounded by straight lines connecting all of the following points in the order stated:
(1) 38°08.53′ N. lat., 124°29.98′ W. long.;
(2) 38°10.65′ N. lat., 124°32.69′ W. long.;
(3) 38°12.81′ N. lat., 124°29.45′ W. long.;
(4) 38°10.86′ N. lat., 124°26.66′ W. long.;
and connecting back to 38°08.53′ N. lat., 124°29.98′ W. long.

[71 FR 27416, May 11, 2006]

### § 660.396 EFH Conservation Areas.

EFH Conservation Areas are designated to minimize to the extent practicable adverse effects to EFH caused by fishing(16 U.S.C. 1853 section 303(a)(7)). The boundaries of areas designated as Groundfish EFH Conservation Areas are defined by straight lines connecting a series of latitude and longitude coordinates. This § 660.396 provides coordinates outlining the boundaries of the coastwide EFH Conservation Area. Section 660.397 provides coordinates outlining the boundaries of EFH Conservation Areas that occur wholly off the coast of Washington. Section 660.398 provides coordinates outlining the boundaries of EFH Conservation Areas that occur wholly off the coast of Oregon. Section 660.399 provides coordinates outlining the

boundaries of EFH Conservation Areas that occur wholly off the coast of California. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at § 660.306 and § 660.385.

(a) *Seaward of the 700–fm (1280–m) contour*. This area includes all waters designated as EFH within the West Coast EEZ west of a line approximating the 700–fm (1280–m) depth contour which is defined by straight lines connecting all of the following points in the order stated:

(1) 48°06.97′ N. lat., 126°02.96′ W. long.;
(2) 48°00.44′ N. lat., 125°54.96′ W. long.;
(3) 47°55.96′ N. lat., 125°46.51′ W. long.;
(4) 47°47.21′ N. lat., 125°43.73′ W. long.;
(5) 47°42.89′ N. lat., 125°49.58′ W. long.;
(6) 47°38.18′ N. lat., 125°37.26′ W. long.;
(7) 47°32.36′ N. lat., 125°32.87′ W. long.;
(8) 47°29.77′ N. lat., 125°26.27′ W. long.;
(9) 47°28.54′ N. lat., 125°18.82′ W. long.;
(10) 47°19.25′ N. lat., 125°17.18′ W. long.;
(11) 47°08.82′ N. lat., 125°10.01′ W. long.;
(12) 47°04.69′ N. lat., 125°03.77′ W. long.;
(13) 46°48.38′ N. lat., 125°18.43′ W. long.;
(14) 46°41.92′ N. lat., 125°17.29′ W. long.;
(15) 46°27.49′ N. lat., 124°54.36′ W. long.;
(16) 46°14.13′ N. lat., 125°02.72′ W. long.;
(17) 46°09.53′ N. lat., 125°04.75′ W. long.;
(18) 45°46.64′ N. lat., 124°54.44′ W. long.;
(19) 45°40.86′ N. lat., 124°55.62′ W. long.;
(20) 45°36.50′ N. lat., 124°51.91′ W. long.;
(21) 44°55.69′ N. lat., 125°08.35′ W. long.;
(22) 44°49.93′ N. lat., 125°01.51′ W. long.;
(23) 44°46.93′ N. lat., 125°02.83′ W. long.;
(24) 44°41.96′ N. lat., 125°10.64′ W. long.;
(25) 44°28.31′ N. lat., 125°11.42′ W. long.;
(26) 43°58.37′ N. lat., 125°02.93′ W. long.;
(27) 43°52.74′ N. lat., 125°05.58′ W. long.;
(28) 43°44.18′ N. lat., 124°57.17′ W. long.;
(29) 43°37.58′ N. lat., 125°07.70′ W. long.;
(30) 43°15.95′ N. lat., 125°07.84′ W. long.;
(31) 42°47.50′ N. lat., 124°59.96′ W. long.;
(32) 42°39.02′ N. lat., 125°01.07′ W. long.;
(33) 42°34.80′ N. lat., 125°02.89′ W. long.;
(34) 42°34.11′ N. lat., 124°55.62′ W. long.;
(35) 42°23.81′ N. lat., 124°52.85′ W. long.;
(36) 42°16.80′ N. lat., 125°00.20′ W. long.;
(37) 42°06.60′ N. lat., 124°59.14′ W. long.;
(38) 41°59.28′ N. lat., 125°06.23′ W. long.;
(39) 41°31.10′ N. lat., 125°01.30′ W. long.;
(40) 41°14.52′ N. lat., 124°52.67′ W. long.;
(41) 40°40.65′ N. lat., 124°45.69′ W. long.;
(42) 40°35.05′ N. lat., 124°45.65′ W. long.;
(43) 40°23.81′ N. lat., 124°41.16′ W. long.;
(44) 40°20.54′ N. lat., 124°36.36′ W. long.;
(45) 40°20.84′ N. lat., 124°57.23′ W. long.;
(46) 40°18.54′ N. lat., 125°09.47′ W. long.;
(47) 40°14.54′ N. lat., 125°09.83′ W. long.;
(48) 40°11.79′ N. lat., 125°07.39′ W. long.;
(49) 40°06.72′ N. lat., 125°04.28′ W. long.;
(50) 39°50.77′ N. lat., 124°37.54′ W. long.;
(51) 39°56.67′ N. lat., 124°26.58′ W. long.;
(52) 39°44.25′ N. lat., 124°12.60′ W. long.;
(53) 39°35.82′ N. lat., 124°12.02′ W. long.;
(54) 39°24.54′ N. lat., 124°16.01′ W. long.;
(55) 39°01.97′ N. lat., 124°11.20′ W. long.;
(56) 38°33.48′ N. lat., 123°48.21′ W. long.;
(57) 38°14.49′ N. lat., 123°38.89′ W. long.;
(58) 37°56.97′ N. lat., 123°31.65′ W. long.;
(59) 37°49.09′ N. lat., 123°27.98′ W. long.;
(60) 37°40.29′ N. lat., 123°12.83′ W. long.;
(61) 37°22.54′ N. lat., 123°14.65′ W. long.;
(62) 37°05.98′ N. lat., 123°05.31′ W. long.;
(63) 36°59.02′ N. lat., 122°50.92′ W. long.;
(64) 36°50.32′ N. lat., 122°17.44′ W. long.;
(65) 36°44.54′ N. lat., 122°19.42′ W. long.;
(66) 36°40.76′ N. lat., 122°17.28′ W. long.;
(67) 36°39.88′ N. lat., 122°09.69′ W. long.;
(68) 36°44.52′ N. lat., 122°07.13′ W. long.;
(69) 36°42.26′ N. lat., 122°03.54′ W. long.;
(70) 36°30.02′ N. lat., 122°09.85′ W. long.;
(71) 36°22.33′ N. lat., 122°22.99′ W. long.;
(72) 36°14.36′ N. lat., 122°21.19′ W. long.;
(73) 36°09.50′ N. lat., 122°14.25′ W. long.;
(74) 35°51.50′ N. lat., 121°55.92′ W. long.;
(75) 35°49.53′ N. lat., 122°13.00′ W. long.;
(76) 34°58.30′ N. lat., 121°36.76′ W. long.;
(77) 34°53.13′ N. lat., 121°37.49′ W. long.;
(78) 34°46.54′ N. lat., 121°46.25′ W. long.;
(79) 34°37.81′ N. lat., 121°35.72′ W. long.;
(80) 34°37.72′ N. lat., 121°27.35′ W. long.;
(81) 34°26.77′ N. lat., 121°07.58′ W. long.;
(82) 34°18.54′ N. lat., 121°05.01′ W. long.;
(83) 34°02.68′ N. lat., 120°54.30′ W. long.;
(84) 33°48.11′ N. lat., 120°25.46′ W. long.;
(85) 33°42.54′ N. lat., 120°38.24′ W. long.;
(86) 33°46.26′ N. lat., 120°43.64′ W. long.;
(87) 33°40.71′ N. lat., 120°51.29′ W. long.;
(88) 33°33.14′ N. lat., 120°40.25′ W. long.;
(89) 32°51.57′ N. lat., 120°23.35′ W. long.;
(90) 32°38.54′ N. lat., 120°09.54′ W. long.;
(91) 32°35.76′ N. lat., 119°53.43′ W. long.;
(92) 32°29.54′ N. lat., 119°46.00′ W. long.;
(93) 32°25.99′ N. lat., 119°41.16′ W. long.;
(94) 32°30.46′ N. lat., 119°33.15′ W. long.;
(95) 32°23.47′ N. lat., 119°25.71′ W. long.;
(96) 32°19.19′ N. lat., 119°13.96′ W. long.;
(97) 32°13.18′ N. lat., 119°04.44′ W. long.;
(98) 32°13.40′ N. lat., 118°51.87′ W. long.;
(99) 32°19.62′ N. lat., 118°47.80′ W. long.;
(100) 32°27.26′ N. lat., 118°50.29′ W. long.;
(101) 32°28.42′ N. lat., 118°53.15′ W. long.;

(102) 32°31.30′ N. lat., 118°55.09′ W. long.;
(103) 32°33.04′ N. lat., 118°53.57′ W. long.;
(104) 32°19.07′ N. lat., 118°27.54′ W. long.;
(105) 32°18.57′ N. lat., 118°18.97′ W. long.;
(106) 32°09.01′ N. lat., 118°13.96′ W. long.;
(107) 32°06.57′ N. lat., 118°18.78′ W. long.;
(108) 32°01.32′ N. lat., 118°18.21′ W. long.; and
(109) 31°57.82′ N. lat., 118°10.34′ W. long.

(b) [Reserved]

[71 FR 27419, May 11, 2006]

### § 660.397 EFH Conservation Areas off the Coast of Washington.

Boundary line coordinates for EFH Conservation Areas off Washington are provided in this § 660.397. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at § 660.306 and § 660.385.

(a) *Olympic 2*. The boundary of the Olympic 2 EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 48°21.46′ N. lat., 124°51.61′ W. long.;
(2) 48°17.00′ N. lat., 124°57.18′ W. long.;
(3) 48°06.13′ N. lat., 125°00.68′ W. long.;
(4) 48°06.66′ N. lat., 125°06.55′ W. long.;
(5) 48°08.44′ N. lat., 125°14.61′ W. long.;
(6) 48°22.57′ N. lat., 125°09.82′ W. long.;
(7) 48°21.42′ N. lat., 125°03.55′ W. long.;
(8) 48°22.99′ N. lat., 124°59.29′ W. long.;
(9) 48°23.89′ N. lat., 124°54.37′ W. long.;
and connecting back to 48°21.46′ N. lat., 124°51.61′ W. long.

(b) *Biogenic 1*. The boundary of the Biogenic 1 EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 47°29.97′ N. lat., 125°20.14′ W. long.;
(2) 47°30.01′ N. lat., 125°30.06′ W. long.;
(3) 47°40.09′ N. lat., 125°50.18′ W. long.;
(4) 47°47.27′ N. lat., 125°50.06′ W. long.;
(5) 47°47.00′ N. lat., 125°24.28′ W. long.;
(6) 47°39.53′ N. lat., 125°10.49′ W. long.;
(7) 47°30.31′ N. lat., 125°08.81′ W. long.;
and connecting back to 47°29.97′ N. lat., 125°20.14′ W. long.

(c) *Biogenic 2*. The boundary of the Biogenic 2 EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 47°08.77′ N. lat., 125°00.91′ W. long.;
(2) 47°08.82′ N. lat., 125°10.01′ W. long.;
(3) 47°20.01′ N. lat., 125°10.00′ W. long.;
(4) 47°20.00′ N. lat., 125°01.25′ W. long.;
and connecting back to 47°08.77′ N. lat., 125°00.91′ W. long.

(d) *Grays Canyon*. The boundary of the Grays Canyon EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 46°51.55′ N. lat., 125°00.00′ W. long.;
(2) 46°56.79′ N. lat., 125°00.00′ W. long.;
(3) 46°58.01′ N. lat., 124°55.09′ W. long.;
(4) 46°55.07′ N. lat., 124°54.14′ W. long.;
(5) 46°59.60′ N. lat., 124°49.79′ W. long.;
(6) 46°58.72′ N. lat., 124°48.78′ W. long.;
(7) 46°54.45′ N. lat., 124°48.36′ W. long.;
(8) 46°53.99′ N. lat., 124°49.95′ W. long.;
(9) 46°54.38′ N. lat., 124°52.73′ W. long.;
(10) 46°52.38′ N. lat., 124°52.02′ W. long.;
(11) 46°48.93′ N. lat., 124°49.17′ W. long.;
and connecting back to 46°51.55′ N. lat., 125°00.00′ W. long.

(e) *Biogenic 3*. The boundary of the Biogenic 3 EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 46°48.16′ N. lat., 125°10.75′ W. long.;
(2) 46°40.00′ N. lat., 125°10.00′ W. long.;
(3) 46°40.00′ N. lat., 125°20.01′ W. long.;
(4) 46°50.00′ N. lat., 125°20.00′ W. long.;
and connecting back to 46°48.16′ N. lat., 125°10.75′ W. long.

[71 FR 27420, May 11, 2006]

### § 660.398 EFH Conservation Areas off the Coast of Oregon.

Boundary line coordinates for EFH Conservation Areas off Oregon are provided in this § 660.398. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at § 660.306 and § 660.385.

(a) *Thompson Seamount*. The boundary of the Thompson Seamount EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 46°06.93′ N. lat., 128°39.77′ W. long.;
(2) 46°06.76′ N. lat., 128°39.60′ W. long.;
(3) 46°07.80′ N. lat., 128°39.43′ W. long.;

(4) 46°08.50′ N. lat., 128°34.39′ W. long.;
(5) 46°06.76′ N. lat., 128°29.36′ W. long.;
(6) 46°03.64′ N. lat., 128°28.67′ W. long.;
(7) 45°59.64′ N. lat., 128°31.62′ W. long.;
(8) 45°56.87′ N. lat., 128°33.18′ W. long.;
(9) 45°53.92′ N. lat., 128°39.25′ W. long.;
(10) 45°54.26′ N. lat., 128°43.42′ W. long.;
(11) 45°56.87′ N. lat., 128°45.85′ W. long.;
(12) 46°00.86′ N. lat., 128°46.02′ W. long.;
(13) 46°03.29′ N. lat., 128°44.81′ W. long.;
(14) 46°06.24′ N. lat., 128°42.90′ W. long.;
and connecting back to 46°06.93′ N. lat., 128°39.77′ W. long.

(b) *Astoria Canyon*. The boundary of the Astoria Canyon EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 46°06.48′ N. lat., 125°05.46′ W. long.;
(2) 46°03.00′ N. lat., 124°57.36′ W. long.;
(3) 46°02.28′ N. lat., 124°57.66′ W. long.;
(4) 46°01.92′ N. lat., 125°02.46′ W. long.;
(5) 45°48.72′ N. lat., 124°56.58′ W. long.;
(6) 45°47.70′ N. lat., 124°52.20′ W. long.;
(7) 45°40.86′ N. lat., 124°55.62′ W. long.;
(8) 45°29.82′ N. lat., 124°54.30′ W. long.;
(9) 45°25.98′ N. lat., 124°56.82′ W. long.;
(10) 45°26.04′ N. lat., 125°10.50′ W. long.;
(11) 45°33.12′ N. lat., 125°16.26′ W. long.;
(12) 45°40.32′ N. lat., 125°17.16′ W. long.;
(13) 46°03.00′ N. lat., 125°14.94′ W. long.;
and connecting back to 46°06.48′ N. lat., 125°05.46′ W. long.

(c) *Nehalem Bank/Shale Pile*. The boundary of the Nehalem Bank/Shale Pile EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 46°00.60′ N. lat., 124°33.94′ W. long.;
(2) 45°55.63′ N. lat., 124°30.52′ W. long.;
(3) 45°47.95′ N. lat., 124°31.70′ W. long.;
(4) 45°52.75′ N. lat., 124°39.20′ W. long.;
(5) 45°58.02′ N. lat., 124°38.99′ W. long.;
(6) 46°00.83′ N. lat., 124°36.78′ W. long.;
and connecting back to 46°00.60′ N. lat., 124°33.94′ W. long.

(d) *Siletz Deepwater*. The boundary of the Siletz Deepwater EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 44°42.72′ N. lat., 125°18.49′ W. long.;
(2) 44°56.26′ N. lat., 125°12.61′ W. long.;
(3) 44°56.34′ N. lat., 125°09.13′ W. long.;
(4) 44°49.93′ N. lat., 125°01.51′ W. long.;
(5) 44°46.93′ N. lat., 125°02.83′ W. long.;
(6) 44°41.96′ N. lat., 125°10.64′ W. long.;
(7) 44°33.36′ N. lat., 125°08.82′ W. long.;
(8) 44°33.38′ N. lat., 125°17.08′ W. long.;
and connecting back to 44°42.72′ N. lat., 125°18.49′ W. long.

(e) *Daisy Bank/Nelson Island*. The boundary of the Daisy Bank/Nelson Island EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 44°39.73′ N. lat., 124°41.43′ W. long.;
(2) 44°39.60′ N. lat., 124°41.29′ W. long.;
(3) 44°37.17′ N. lat., 124°38.60′ W. long.;
(4) 44°35.55′ N. lat., 124°39.27′ W. long.;
(5) 44°37.57′ N. lat., 124°41.70′ W. long.;
(6) 44°36.90′ N. lat., 124°42.91′ W. long.;
(7) 44°38.25′ N. lat., 124°46.28′ W. long.;
(8) 44°38.52′ N. lat., 124°49.11′ W. long.;
(9) 44°40.27′ N. lat., 124°49.11′ W. long.;
(10) 44°41.35′ N. lat., 124°48.03′ W. long.;
and connecting back to 44°39.73′ N. lat., 124°41.43′ W. long.

(f) *Newport Rockpile/Stonewall Bank*. The boundary of the Newport Rockpile/Stonewall Bank EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 44°27.61′ N. lat., 124°26.93′ W. long.;
(2) 44°34.64′ N. lat., 124°26.82′ W. long.;
(3) 44°38.15′ N. lat., 124°25.15′ W. long.;
(4) 44°37.78′ N. lat., 124°23.05′ W. long.;
(5) 44°28.82′ N. lat., 124°18.80′ W. long.;
(6) 44°25.16′ N. lat., 124°20.69′ W. long.;
and connecting back to 44°27.61′ N. lat., 124°26.93′ W. long.

(g) *Heceta Bank*. The boundary of the Heceta Bank EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 43°57.68′ N. lat., 124°55.48′ W. long.;
(2) 44°00.14′ N. lat., 124°55.25′ W. long.;
(3) 44°02.88′ N. lat., 124°53.96′ W. long.;
(4) 44°13.47′ N. lat., 124°54.08′ W. long.;
(5) 44°20.30′ N. lat., 124°38.72′ W. long.;
(6) 44°13.52′ N. lat., 124°40.45′ W. long.;
(7) 44°09.00′ N. lat., 124°45.30′ W. long.;
(8) 44°03.46′ N. lat., 124°45.71′ W. long.;
(9) 44°03.26′ N. lat., 124°49.42′ W. long.;
(10) 43°58.61′ N. lat., 124°49.87′ W. long.;
and connecting back to 43°57.68′ N. lat., 124°55.48′ W. long.

(h) *Deepwater off Coos Bay*. The boundary of the Deepwater off Coos Bay EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 43°29.32′ N. lat., 125°20.11′ W. long.;
(2) 43°38.96′ N. lat., 125°18.75′ W. long.;
(3) 43°37.88′ N. lat., 125°08.26′ W. long.;
(4) 43°36.58′ N. lat., 125°06.56′ W. long.;

(5) 43°33.04′ N. lat., 125°08.41′ W. long.;
(6) 43°27.74′ N. lat., 125°07.25′ W. long.;
(7) 43°15.95′ N. lat., 125°07.84′ W. long.;
(8) 43°15.38′ N. lat., 125°10.47′ W. long.;
(9) 43°25.73′ N. lat., 125°19.36′ W. long.;
and connecting back to 43°29.32′ N. lat., 125°20.11′ W. long.

(i) *Bandon High Spot*. The boundary of the Bandon High Spot EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 43°08.83′ N. lat., 124°50.93′ W. long.;
(2) 43°08.77′ N. lat., 124°49.82′ W. long.;
(3) 43°05.16′ N. lat., 124°49.05′ W. long.;
(4) 43°02.94′ N. lat., 124°46.87′ W. long.;
(5) 42°57.18′ N. lat., 124°46.01′ W. long.;
(6) 42°56.10′ N. lat., 124°47.48′ W. long.;
(7) 42°56.66′ N. lat., 124°48.79′ W. long.;
(8) 42°52.89′ N. lat., 124°52.59′ W. long.;
(9) 42°53.82′ N. lat., 124°55.76′ W. long.;
(10) 42°57.56′ N. lat., 124°54.10′ W. long.;
(11) 42°58.00′ N. lat., 124°52.99′ W. long.;
(12) 43°00.39′ N. lat., 124°51.77′ W. long.;
(13) 43°02.64′ N. lat., 124°52.01′ W. long.;
(14) 43°04.60′ N. lat., 124°53.01′ W. long.;
(15) 43°05.89′ N. lat., 124°51.60′ W. long.;
and connecting back to 43°08.83′ N. lat., 124°50.93′ W. long.

(j) *President Jackson Seamount*. The boundary of the President Jackson Seamount EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 42°21.41′ N. lat., 127°42.91′ W. long.;
(2) 42°21.96′ N. lat., 127°43.73′ W. long.;
(3) 42°23.78′ N. lat., 127°46.09′ W. long.;
(4) 42°26.05′ N. lat., 127°48.64′ W. long.;
(5) 42°28.60′ N. lat., 127°52.10′ W. long.;
(6) 42°31.06′ N. lat., 127°55.02′ W. long.;
(7) 42°34.61′ N. lat., 127°58.84′ W. long.;
(8) 42°37.34′ N. lat., 128°01.48′ W. long.;
(9) 42°39.62′ N. lat., 128°05.12′ W. long.;
(10) 42°41.81′ N. lat., 128°08.13′ W. long.;
(11) 42°43.44′ N. lat., 128°10.04′ W. long.;
(12) 42°44.99′ N. lat., 128°12.04′ W. long.;
(13) 42°48.27′ N. lat., 128°15.05′ W. long.;
(14) 42°51.28′ N. lat., 128°15.05′ W. long.;
(15) 42°53.64′ N. lat., 128°12.23′ W. long.;
(16) 42°52.64′ N. lat., 128°08.49′ W. long.;
(17) 42°51.64′ N. lat., 128°06.94′ W. long.;
(18) 42°50.27′ N. lat., 128°05.76′ W. long.;
(19) 42°48.18′ N. lat., 128°03.76′ W. long.;
(20) 42°45.45′ N. lat., 128°01.94′ W. long.;
(21) 42°42.17′ N. lat., 127°57.57′ W. long.;
(22) 42°41.17′ N. lat., 127°53.92′ W. long.;
(23) 42°38.80′ N. lat., 127°49.92′ W. long.;
(24) 42°36.43′ N. lat., 127°44.82′ W. long.;
(25) 42°33.52′ N. lat., 127°41.36′ W. long.;
(26) 42°31.24′ N. lat., 127°39.63′ W. long.;
(27) 42°28.33′ N. lat., 127°36.53′ W. long.;
(28) 42°23.96′ N. lat., 127°35.89′ W. long.;
(29) 42°21.96′ N. lat., 127°37.72′ W. long.;
(30) 42°21.05′ N. lat., 127°40.81′ W. long.;
and connecting back to 42°21.41′ N. lat., 127°42.91′ W. long.

(k) *Rogue Canyon*. The boundary of the Rogue Canyon EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 42°41.33′ N. lat., 125°16.61′ W. long.;
(2) 42°41.55′ N. lat., 125°03.05′ W. long.;
(3) 42°35.29′ N. lat., 125°02.21′ W. long.;
(4) 42°34.11′ N. lat., 124°55.62′ W. long.;
(5) 42°30.61′ N. lat., 124°54.97′ W. long.;
(6) 42°23.81′ N. lat., 124°52.85′ W. long.;
(7) 42°17.94′ N. lat., 125°10.17′ W. long.;
and connecting back to 42°41.33′ N. lat., 125°16.61′ W. long.

[71 FR 27421, May 11, 2006]

### § 660.399 EFH Conservation Areas off the Coast of California.

Boundary line coordinates for EFH Conservation Areas off California are provided in this § 660.399. Fishing activity that is prohibited or permitted within the EEZ in a particular area designated as a groundfish EFH Conservation Area is detailed at § 660.306 and § 660.385.

(a) *Eel River Canyon*. The boundary of the Eel River Canyon EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 40°38.27′ N. lat., 124°27.16′ W. long.;
(2) 40°35.60′ N. lat., 124°28.75′ W. long.;
(3) 40°37.52′ N. lat., 124°33.41′ W. long.;
(4) 40°37.47′ N. lat., 124°40.46′ W. long.;
(5) 40°35.47′ N. lat., 124°42.97′ W. long.;
(6) 40°32.78′ N. lat., 124°44.79′ W. long.;
(7) 40°24.32′ N. lat., 124°39.97′ W. long.;
(8) 40°23.26′ N. lat., 124°42.45′ W. long.;
(9) 40°27.34′ N. lat., 124°51.21′ W. long.;
(10) 40°32.68′ N. lat., 125°05.63′ W. long.;
(11) 40°49.12′ N. lat., 124°47.41′ W. long.;
(12) 40°44.32′ N. lat., 124°46.48′ W. long.;
(13) 40°40.75′ N. lat., 124°47.51′ W. long.;
(14) 40°40.65′ N. lat., 124°46.02′ W. long.;
(15) 40°39.69′ N. lat., 124°33.36′ W. long.;
and connecting back to 40°38.27′ N. lat., 124°27.16′ W. long.

(b) *Blunts Reef*. The boundary of the Blunts Reef EFH Conservation Area is defined by straight lines connecting all

of the following points in the order stated:

(1) 40°27.53′ N. lat., 124°26.84′ W. long.;
(2) 40°24.66′ N. lat., 124°29.49′ W. long.;
(3) 40°28.50′ N. lat., 124°32.42′ W. long.;
(4) 40°30.46′ N. lat., 124°32.23′ W. long.;
(5) 40°30.21′ N. lat., 124°26.85′ W. long.;

and connecting back to 40°27.53′ N. lat., 124°26.84′ W. long.

(c) *Mendocino Ridge.* The boundary of the Mendocino Ridge EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 40°25.23′ N. lat., 124°24.06′ W. long.;
(2) 40°12.50′ N. lat., 124°22.59′ W. long.;
(3) 40°14.40′ N. lat., 124°35.82′ W. long.;
(4) 40°16.16′ N. lat., 124°39.01′ W. long.;
(5) 40°17.47′ N. lat., 124°40.77′ W. long.;
(6) 40°19.26′ N. lat., 124°47.97′ W. long.;
(7) 40°19.98′ N. lat., 124°52.73′ W. long.;
(8) 40°20.06′ N. lat., 125°02.18′ W. long.;
(9) 40°11.79′ N. lat., 125°07.39′ W. long.;
(10) 40°12.55′ N. lat., 125°11.56′ W. long.;
(11) 40°12.81′ N. lat., 125°12.98′ W. long.;
(12) 40°20.72′ N. lat., 125°57.31′ W. long.;
(13) 40°23.96′ N. lat., 125°56.83′ W. long.;
(14) 40°24.04′ N. lat., 125°56.82′ W. long.;
(15) 40°25.68′ N. lat., 125°09.77′ W. long.;
(16) 40°21.03′ N. lat., 124°33.96′ W. long.;
(17) 40°25.72′ N. lat., 124°24.15′ W. long.;

and connecting back to 40°25.23′ N. lat., 124°24.06′ W. long.

(d) *Delgada Canyon.* The boundary of the Delgada Canyon EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 40°07.13′ N. lat., 124°09.09′ W. long.;
(2) 40°06.58′ N. lat., 124°07.39′ W. long.;
(3) 40°01.18′ N. lat., 124°08.84′ W. long.;
(4) 40°02.48′ N. lat., 124°12.93′ W. long.;
(5) 40°05.71′ N. lat., 124°09.42′ W. long.;
(6) 40°07.18′ N. lat., 124°09.61′ W. long.;

and connecting back to 40°07.13′ N. lat., 124°09.09′ W. long.

(e) *Tolo Bank.* The boundary of the Tolo Bank EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 39°58.75′ N. lat., 124°04.58′ W. long.;
(2) 39°56.05′ N. lat., 124°01.45′ W. long.;
(3) 39°53.99′ N. lat., 124°00.17′ W. long.;
(4) 39°52.28′ N. lat., 124°03.12′ W. long.;
(5) 39°57.90′ N. lat., 124°07.07′ W. long.;

and connecting back to 39°58.75′ N. lat., 124°04.58′ W. long.

(f) *Point Arena North.* The boundary of the Point Arena North EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 39°03.32′ N. lat., 123°51.15′ W. long.;
(2) 38°56.54′ N. lat., 123°49.79′ W. long.;
(3) 38°54.12′ N. lat., 123°52.69′ W. long.;
(4) 38°59.64′ N. lat., 123°55.02′ W. long.;
(5) 39°02.83′ N. lat., 123°55.21′ W. long.;

and connecting back to 39°03.32′ N. lat., 123°51.15′ W. long.

(g) *Point Arena South Biogenic Area.* The boundary of the Point Arena South Biogenic Area EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 38°35.49′ N. lat., 123°34.79′ W. long.;
(2) 38°32.86′ N. lat., 123°41.09′ W. long.;
(3) 38°34.92′ N. lat., 123°42.53′ W. long.;
(4) 38°35.74′ N. lat., 123°43.82′ W. long.;
(5) 38°47.28′ N. lat., 123°51.19′ W. long.;
(6) 38°49.50′ N. lat., 123°45.83′ W. long.;
(7) 38°41.22′ N. lat., 123°41.76′ W. long.;

and connecting back to 38°35.49′ N. lat., 123°34.79′ W. long.

(h) *Cordell Bank/Biogenic Area.* The boundary of the Cordell Bank/Biogenic Area EFH Conservation Area is located offshore of California's Marin County defined by straight lines connecting all of the following points in the order stated:

(1) 38°04.05′ N. lat., 123°07.28′ W. long.;
(2) 38°02.84′ N. lat., 123°07.36′ W. long.;
(3) 38°01.09′ N. lat., 123°07.06′ W. long.;
(4) 38°01.02′ N. lat., 123°22.08′ W. long.;
(5) 37°54.75′ N. lat., 123°23.64′ W. long.;
(6) 37°46.01′ N. lat., 123°25.62′ W. long.;
(7) 37°46.68′ N. lat., 123°27.05′ W. long.;
(8) 37°47.66′ N. lat., 123°28.18′ W. long.;
(9) 37°50.26′ N. lat., 123°30.94′ W. long.;
(10) 37°54.41′ N. lat., 123°32.69′ W. long.;
(11) 37°56.94′ N. lat., 123°32.87′ W. long.;
(12) 37°57.12′ N. lat., 123°25.04′ W. long.;
(13) 37°59.43′ N. lat., 123°27.29′ W. long.;
(14) 38°00.82′ N. lat., 123°29.61′ W. long.;
(15) 38°02.31′ N. lat., 123°30.88′ W. long.;
(16) 38°03.99′ N. lat., 123°30.75′ W. long.;
(17) 38°04.85′ N. lat., 123°30.36′ W. long.;
(18) 38°04.88′ N. lat., 123°27.85′ W. long.;
(19) 38°04.44′ N. lat., 123°24.44′ W. long.;
(20) 38°03.05′ N. lat., 123°21.33′ W. long.;
(21) 38°05.77′ N. lat., 123°06.83′ W. long.;

and connecting back to 38°04.05′ N. lat., 123°07.28′ W. long.

(i) *Cordell Bank (50–fm (91–m) isobath).* The boundary of the Cordell Bank (50–fm (91–m) isobath) EFH Conservation Area is located offshore of California's

Marin County defined by straight lines connecting all of the following points in the order stated:

(1) 37°57.62′ N. lat., 123°24.22′ W. long.;
(2) 37°57.70′ N. lat., 123°25.25′ W. long.;
(3) 37°59.47′ N. lat., 123°26.63′ W. long.;
(4) 38°00.24′ N. lat., 123°27.87′ W. long.;
(5) 38°00.98′ N. lat., 123°27.65′ W. long.;
(6) 38°02.81′ N. lat., 123°28.75′ W. long.;
(7) 38°04.26′ N. lat., 123°29.25′ W. long.;
(8) 38°04.55′ N. lat., 123°28.32′ W. long.;
(9) 38°03.87′ N. lat., 123°27.69′ W. long.;
(10) 38°04.27′ N. lat., 123°26.68′ W. long.;
(11) 38°02.67′ N. lat., 123°24.17′ W. long.;
(12) 38°00.87′ N. lat., 123°23.15′ W. long.;
(13) 37°59.32′ N. lat., 123°22.52′ W. long.;
(14) 37°58.24′ N. lat., 123°23.16′ W. long.;

and connecting back to 37°57.62′ N. lat., 123°24.22′ W. long.

(j) *Farallon Islands/Fanny Shoal*. The boundary of the Farallon Islands/Fanny Shoal EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 37°51.58′ N. lat., 123°14.07′ W. long.;
(2) 37°44.51′ N. lat., 123°01.50′ W. long.;
(3) 37°41.71′ N. lat., 122°58.38′ W. long.;
(4) 37°40.80′ N. lat., 122°58.54′ W. long.;
(5) 37°39.87′ N. lat., 122°59.64′ W. long.;
(6) 37°42.05′ N. lat., 123°03.72′ W. long.;
(7) 37°43.73′ N. lat., 123°04.45′ W. long.;
(8) 37°49.23′ N. lat., 123°16.81′ W. long.;

and connecting back to 37°51.58′ N. lat., 123°14.07′ W. long.

(k) *Half Moon Bay*. The boundary of the Half Moon Bay EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 37°18.14′ N. lat., 122°31.15′ W. long.;
(2) 37°19.80′ N. lat., 122°34.70′ W. long.;
(3) 37°19.28′ N. lat., 122°38.76′ W. long.;
(4) 37°23.54′ N. lat., 122°40.75′ W. long.;
(5) 37°25.41′ N. lat., 122°33.20′ W. long.;
(6) 37°23.28′ N. lat., 122°30.71′ W. long.;

and connecting back to 37°18.14′ N. lat., 122°31.15′ W. long.

(l) *Monterey Bay/Canyon*. The boundary of the Monterey Bay/Canyon EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 36°38.21′ N. lat., 121°55.96′ W. long.;
(2) 36°25.31′ N. lat., 121°54.86′ W. long.;
(3) 36°25.25′ N. lat., 121°58.34′ W. long.;
(4) 36°30.86′ N. lat., 122°00.45′ W. long.;
(5) 36°30.02′ N. lat., 122°09.85′ W. long.;
(6) 36°30.23′ N. lat., 122°36.82′ W. long.;
(7) 36°55.08′ N. lat., 122°36.46′ W. long.;
(8) 36°51.41′ N. lat., 122°14.14′ W. long.;
(9) 36°49.37′ N. lat., 122°15.20′ W. long.;
(10) 36°48.31′ N. lat., 122°18.59′ W. long.;
(11) 36°45.55′ N. lat., 122°18.91′ W. long.;
(12) 36°40.76′ N. lat., 122°17.28′ W. long.;
(13) 36°39.88′ N. lat., 122°09.69′ W. long.;
(14) 36°44.94′ N. lat., 122°08.46′ W. long.;
(15) 36°47.37′ N. lat., 122°03.16′ W. long.;
(16) 36°49.60′ N. lat., 122°00.85′ W. long.;
(17) 36°51.53′ N. lat., 121°58.25′ W. long.;
(18) 36°50.78′ N. lat., 121°56.89′ W. long.;
(19) 36°47.39′ N. lat., 121°58.16′ W. long.;
(20) 36°48.34′ N. lat., 121°50.95′ W. long.;
(21) 36°47.23′ N. lat., 121°52.25′ W. long.;
(22) 36°45.60′ N. lat., 121°54.17′ W. long.;
(23) 36°44.76′ N. lat., 121°56.04′ W. long.;
(24) 36°41.68′ N. lat., 121°56.33′ W. long.;

and connecting back to 36°38.21′ N. lat., 121°55.96′ W. long.

(m) *Point Sur Deep*. The boundary of the Point Sur Deep EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 36°25.25′ N. lat., 122°11.61′ W. long.;
(2) 36°16.05′ N. lat., 122°14.37′ W. long;
(3) 36°16.14′ N. lat., 122°15.94′ W. long.;
(4) 36°17.98′ N. lat., 122°15.93′ W. long.;
(5) 36°17.83′ N. lat., 122°22.56′ W. long.;
(6) 36°22.33′ N. lat., 122°22.99′ W. long.;
(7) 36°26.00′ N. lat., 122°20.81′ W. long.;

and connecting back to 36°25.25′ N. lat., 122°11.61′ W. long.

(n) *Big Sur Coast/Port San Luis*. The boundary of the Big Sur Coast/Port San Luis EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 36°17.83′ N. lat., 122°22.56′ W. long.;
(2) 36°17.98′ N. lat., 122°15.93′ W. long.;
(3) 36°16.14′ N. lat., 122°15.94′ W. long.;
(4) 36°10.82′ N. lat., 122°15.97′ W. long.;
(5) 36°15.84′ N. lat., 121°56.35′ W. long.;
(6) 36°14.27′ N. lat., 121°53.89′ W. long.;
(7) 36°10.93′ N. lat., 121°48.66′ W. long.;
(8) 36°07.40′ N. lat., 121°43.14′ W. long.;
(9) 36°04.89′ N. lat., 121°51.34′ W. long.;
(10) 35°55.70′ N. lat., 121°50.02′ W. long.;
(11) 35°53.05′ N. lat., 121°56.69′ W. long.;
(12) 35°38.99′ N. lat., 121°49.73′ W. long.;
(13) 35°20.06′ N. lat., 121°27.00′ W. long.;
(14) 35°20.54′ N. lat., 121°35.84′ W. long.;
(15) 35°02.49′ N. lat., 121°35.35′ W. long.;
(16) 35°02.79′ N. lat., 121°26.30′ W. long.;
(17) 34°58.71′ N. lat., 121°24.21′ W. long.;
(18) 34°47.24′ N. lat., 121°22.40′ W. long.;
(19) 34°35.70′ N. lat., 121°45.99′ W. long.;

(20) 35°47.36′ N. lat., 122°30.25′ W. long.;
(21) 35°27.26′ N. lat., 122°45.15′ W. long.;
(22) 35°34.39′ N. lat., 123°00.25′ W. long.;
(23) 36°01.64′ N. lat., 122°40.76′ W. long.;
(24) 36°17.41′ N. lat., 122°41.22′ W. long.;
and connecting back to 36°17.83′ N. lat., 122°22.56′ W. long.

(o) *Davidson Seamount*. The boundary of the Davidson Seamount EFH Conservation Area is defined by straight lines connecting the following points in the order stated:
(1) 35°54.00′ N. lat., 123°00.00′ W. long.;
(2) 35°54.00′ N. lat., 122°30.00′ W. long.;
(3) 35°30.00′ N. lat., 122°30.00′ W. long.;
(4) 35°30.00′ N. lat., 123°00.00′ W. long.;
and connecting back to 35°54.00′ N. lat., 123°00.00′ W. long.

(p) *East San Lucia Bank*. The boundary of the East San Lucia Bank EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 34°45.09′ N. lat., 121°05.73′ W. long.;
(2) 34°39.90′ N. lat., 121°10.30′ W. long.;
(3) 34°43.39′ N. lat., 121°14.73′ W. long.;
(4) 34°52.83′ N. lat., 121°14.85′ W. long.;
(5) 34°52.82′ N. lat., 121°05.90′ W. long.;
and connecting back to 34°45.09′ N. lat., 121°05.73′ W. long.

(q) *Point Conception*. The boundary of the Point Conception EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 34°29.24′ N. lat., 120°36.05′ W. long.;
(2) 34°28.57′ N. lat., 120°34.44′ W. long.;
(3) 34°26.81′ N. lat., 120°33.21′ W. long.;
(4) 34°24.54′ N. lat., 120°32.23′ W. long.;
(5) 34°23.41′ N. lat., 120°30.61′ W. long.;
(6) 33°53.05′ N. lat., 121°05.19′ W. long.;
(7) 34°13.64′ N. lat., 121°20.91′ W. long.;
(8) 34°40.04′ N. lat., 120°54.01′ W. long.;
(9) 34°36.41′ N. lat., 120°43.48′ W. long.;
(10) 34°33.50′ N. lat., 120°43.72′ W. long.;
(11) 34°31.22′ N. lat., 120°42.06′ W. long.;
(12) 34°30.04′ N. lat., 120°40.27′ W. long.;
(13) 34°30.02′ N. lat., 120°40.23′ W. long.;
(14) 34°29.26′ N. lat., 120°37.89′ W. long.;
and connecting back to 34°29.24′ N. lat., 120°36.05′ W. long.

(r) *Harris Point*. The boundary of the Harris Point EFH Conservation Area is defined by the mean high water line and straight lines connecting all of the following points in the order stated:
(1) 34°03.10′ N. lat., 120°23.30′ W. long.;
(2) 34°12.50′ N. lat., 120°23.30′ W. long.;
(3) 34°12.50′ N. lat., 120°18.40′ W. long.;
(4) 34°01.80′ N. lat., 120°18.40′ W. long.;
(5) 34°02.90′ N. lat., 120°20.20′ W. long.;
(6) 34°03.50′ N. lat., 120°21.30′ W. long.;

(s) *Harris Point Exception*. An exemption to the Harris Point reserve, where commercial and recreational take of living marine resources is allowed, exists between the mean high water line in Cuyler Harbor and a straight line connecting all of the following points:
(1) 34°02.90′ N. lat., 120°20.20′ W. long.;
(2) 34°03.50′ N. lat., 120°21.30′ W. long.;

(t) *Richardson Rock*. The boundary of the Richardson Rock EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:
(1) 34°10.40′ N. lat., 120°28.20′ W. long.;
(2) 34°10.40′ N. lat., 120°36.29′ W. long.;
(3) 34°02.21′ N. lat., 120°36.29′ W. long.;
(4) 34°02.21′ N. lat., 120°28.20′ W. long.;
and connecting back to 34°10.40′ N. lat., 120°28.20′ W. long.

(u) *Scorpion*. The boundary of the Scorpion EFH Conservation Area is defined by the mean high water line and a straight line connecting all of the following points in the order stated:
(1) 34°02.94′ N. lat., 119°35.50′ W. long.;
(2) 34°09.35′ N. lat., 119°35.50′ W. long.;
(3) 34°09.35′ N. lat., 119°32.80′ W. long.;
(4) 34°02.80′ N. lat., 119°32.80′ W. long.

(v) *Painted Cave*. The boundary of the Painted Cave EFH Conservation Area is defined by the mean high water line and a straight line connecting all of the following points in the order stated:
(1) 34°04.50′ N. lat., 119°53.00′ W. long.;
(2) 34°05.20′ N. lat., 119°53.00′ W. long.;
(3) 34°05.00′ N. lat., 119°51.00′ W. long.;
(4) 34°04.00′ N. lat., 119°51.00′ W. long.

(w) *Anacapa Island*. The boundary of the Anacapa Island EFH Conservation Area is defined by the mean high water line and straight lines connecting all of the following points in the order stated:
(1) 34°00.80′ N. lat., 119°26.70′ W. long.;
(2) 34°05.00′ N. lat., 119°26.70′ W. long.;
(3) 34°05.00′ N. lat., 119°21.40′ W. long.;
(4) 34°01.00′ N. lat., 119°21.40′ W. long.

(x) *Carrington Point*. The boundary of the Carrington Point EFH Conservation Area is defined by the mean high water line and straight lines connecting all of the following points:
(1) 34°01.30′ N. lat., 120°05.20′ W. long.;
(2) 34°04.00′ N. lat., 120°05.20′ W. long.;

(3) 34°04.00′ N. lat., 120°01.00′ W. long.;
(4) 34°00.50′ N. lat., 120°01.00′ W. long.;
(5) 34°00.50′ N. lat., 120°02.80′ W. long.;

(y) *Judith Rock*. The boundary of the Judith Rock EFH Conservation Area is defined by the mean high water line and a straight line connecting all of the following points in the order stated:

(1) 34°01.80′ N. lat., 120°26.60′ W. long.;
(2) 33°58.50′ N. lat., 120°26.60′ W. long.;
(3) 33°58.50′ N. lat., 120°25.30′ W. long.;
(4) 34°01.50′ N. lat., 120°25.30′ W. long.

(z) *Skunk Point*. The boundary of the Skunk Point EFH Conservation Area is defined by the mean high water line and straight lines connecting all of the following points in the order stated:

(1) 33°59.00′ N. lat., 119°58.80′ W. long.;
(2) 33°59.00′ N. lat., 119°58.02′ W. long.;
(3) 33°57.10′ N. lat., 119°58.00′ W. long.;
(4) 33°57.10′ N. lat., 119°58.20′ W. long.

(aa) *Footprint*. The boundary of the Footprint EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 33°59.00′ N. lat., 119°26.00′ W. long.;
(2) 33°59.00′ N. lat., 119°31.00′ W. long.;
(3) 33°54.11′ N. lat., 119°31.00′ W. long.;
(4) 33°54.11′ N. lat., 119°26.00′ W. long.;

and connecting back to 33°59.00′ N. lat., 119°26.00′ W. long.

(bb) *Gull Island*. The boundary of the Gull Island EFH Conservation Area is defined by the mean high water line and straight lines connecting all of the following points in the order stated:

(1) 33°58.02′ N. lat., 119°51.00′ W. long.;
(2) 33°58.02′ N. lat., 119°53.00′ W. long.;
(3) 33°51.63′ N. lat., 119°53.00′ W. long.;
(4) 33°51.62′ N. lat., 119°48.00′ W. long.;
(5) 33°57.70′ N. lat., 119°48.00′ W. long.

(cc) *South Point*. The boundary of the South Point EFH Conservation Area is defined by the mean high water line and straight lines connecting all of the following points in the order stated:

(1) 33°55.00′ N. lat., 120°10.00′ W. long.;
(2) 33°50.40′ N. lat., 120°10.00′ W. long.;
(3) 33°50.40′ N. lat., 120°06.50′ W. long.;
(4) 33°53.80′ N. lat., 120°06.50′ W. long.

(dd) *Hidden Reef/Kidney Bank*. The boundary of the Hidden Reef/Kidney Bank EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 33°48.00′ N. lat., 119°15.06′ W. long.;
(2) 33°48.00′ N. lat., 118°57.06′ W. long.;
(3) 33°33.00′ N. lat., 118°57.06′ W. long.;
(4) 33°33.00′ N. lat., 119°15.06′ W. long.;

and connecting back to 33°48.00′ N. lat., 119°15.06′ W. long.

(ee) *Catalina Island*. The boundary of the Catalina Island EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 33°34.71′ N. lat., 118°11.40′ W. long.;
(2) 33°25.88′ N. lat., 118°03.76′ W. long.;
(3) 33°11.69′ N. lat., 118°09.21′ W. long.;
(4) 33°19.73′ N. lat., 118°35.41′ W. long.;
(5) 33°23.90′ N. lat., 118°35.11′ W. long.;
(6) 33°25.68′ N. lat., 118°41.66′ W. long.;
(7) 33°30.25′ N. lat., 118°42.25′ W. long.;
(8) 33°32.73′ N. lat., 118°38.38′ W. long.;
(9) 33°27.07′ N. lat., 118°20.33′ W. long.;

and connecting back to 33°34.71′ N. lat., 118°11.40′ W. long.

(ff) *Potato Bank*. Potato Bank is within the Cowcod Conservation Area West, an area south of Point Conception. The boundary of the Potato Bank EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 33°30.00′ N. lat., 120°00.06′ W. long.;
(2) 33°30.00′ N. lat., 119°50.06′ W. long.;
(3) 33°20.00′ N. lat., 119°50.06′ W. long.;
(4) 33°20.00′ N. lat., 120°00.06′ W. long.;

and connecting back to 33°30.00′ N. lat., 120°00.06′ W. long.

(gg) *Santa Barbara*. The Santa Barbara EFH Conservation Area is defined by the mean high water line and straight lines connecting all of the following points in the order stated:

(1) 33°28.50′ N. lat., 119°01.70′ W. long.;
(2) 33°28.50′ N. lat., 118°54.54′ W. long.;
(3) 33°21.78′ N. lat., 118°54.54′ W. long.;
(4) 33°21.78′ N. lat., 119°02.20′ W. long.;
(5) 33°27.90′ N. lat., 119°02.20′ W. long.

(hh) *Cherry Bank*. Cherry Bank is within the Cowcod Conservation Area West, an area south of Point Conception. The Cherry Bank EFH Conservation Area is defined by straight lines connecting all of the following points in the order stated:

(1) 32°59.00′ N. lat., 119°32.05′ W. long.;
(2) 32°59.00′ N. lat., 119°17.05′ W. long.;
(3) 32°46.00′ N. lat., 119°17.05′ W. long.;
(4) 32°46.00′ N. lat., 119°32.05′ W. long.;

and connecting back to 32°59.00′ N. lat., 119°32.05′ W. long.

(ii) *Cowcod EFH Conservation Area East*. The Cowcod EFH Conservation

Area East is defined by straight lines connecting all of the following points in the order stated:

(1) 32°41.15′ N. lat., 118°02.00′ W. long.;
(2) 32°42.00′ N. lat., 118°02.00′ W. long.;
(3) 32°42.00′ N. lat., 117°50.00′ W. long.;
(4) 32°36.70′ N. lat., 117°50.00′ W. long.;
(5) 32°30.00′ N. lat., 117°53.50′ W. long.;
(6) 32°30.00′ N. lat., 118°02.00′ W. long.;
(7) 32°40.49′ N. lat., 118°02.00′ W. long.;

and connecting back to 32°41.15′ N. lat., 118°02.00′ W. long.

[71 FR 27422, May 11, 2006]

TABLE 1a TO PART 660, SUBPART G—2007 SPECIFICATIONS OF ACCEPTABLE BIOLOGICAL CATCH (ABC), OPTIMUM YIELDS (OYS), HARVEST GUIDELINES (HGS) BY MANAGEMENT AREA(WEIGHTS IN METRIC TONS)

| Species | ABC Specifications | | | | | | | HG b/ | |
|---|---|---|---|---|---|---|---|---|---|
| | ABC Contributions by Area | | | | | ABC | OY b/ | Commercial | Recreational |
| | Vancouver a/ | Columbia | Eureka | Monterey | Conception | | | | |
| ROUNDFISH: | | | | | | | | | |
| Lingcod c/ north of 42° N. lat. | 5,428 | | 852 | | | 6,280 | 5,558 | | |
| south of 42° N. lat. | | | | | | | 612 | | |
| Pacific Cod e/ | 3,200 | | d/ | | | 3,200 | 1,600 | 1,200 | |
| Pacific Whiting f/ | 452,196 | | | | | 452,196 | 242,591 | | |
| Sablefish g/ | 6,210 | | | | | 6,210 | 5,934 | 5,362 | |
| Cabezon h/ south of 42° N. lat. | d/ | | 71 | | 23 | 94 | 69 | 27 | |
| FLATFISH: | | | | | | | | | |
| Dover sole i/ | 28,522 | | | | | 28,522 | 16,500 | | |
| English sole j/ | 6,237 | | | | | 6,237 | 6,237 | | |
| Petrale sole k/ | 1,397 | | 1,628 | | | 3,025 | 2,499 | | |
| Arrowtooth flounder l/ | 5,800 | | | | | 5,800 | 5,800 | | |
| Starry Flounder m/ | 1,221 | | | | | 1,221 | 890 | | |
| Other flatfish n/ | 6,731 | | | | | 6,731 | 4,884 | | |
| ROCKFISH: | | | | | | | | | |
| Pacific Ocean Perch o/ | 900 | | | | | 900 | 150 | 111.3 | |
| Shortbelly p/ | 13,900 | | | | | 13,900 | 13,900 | | |
| Widow q/ | 5,334 | | | | | 5,334 | 368 | 251.4 | 9.4 |
| Canary r/ | 172 | | | | | 172 | 44 | 23.8 | 17.2 |
| Chilipepper s/ | d/ | | | 2,700 | | 2,700 | 2,000 | | |
| Bocaccio t/ | d/ | | | 602 | | 602 | 218 | 80.2 | 66.3 |
| Splitnose u/ | d/ | | | 615 | | 615 | 461 | | |
| Yellowtail v/ | 4,548 | | | d/ | | 4,548 | 4,548 | | |

Table 1a. To Part 660, Subpart G - 2007 Specifications of ABCs, OYs, HGs by Management Area (weights in metric tons). - Continued

| Species | ABC Specifications | | | | | | | HG b/ | |
|---|---|---|---|---|---|---|---|---|---|
| | ABC Contributions by Area | | | | | ABC | OY b/ | Commercial | Recreational |
| | Vancouver a/ | Columbia | Eureka | Monterey | Conception | | | | |
| ROCKFISH: | | | | | | | | | |
| Shortspine thornyhead w/ north of 34°27' N. lat. | 2,476 | | | | | 2,476 | 1,634 | | |
| south of 34°27' N. lat. | | | | | | | 421 | | |
| Longspine thornyhead x/ north of 34°27' N. lat. | 3,907 | | | | | 3,907 | 2,220 | | |
| south of 34°27' N. lat. | | | | | | | 476 | | |
| Cowcod y/ 36° to 40° 30 N. lat. | d/ | | | 19 | -- | 19 | 4 | 3.1 | 0.3 |
| south of 36° N. lat. | d/ | | | -- | 17 | 17 | | | |
| Darkblotched z/ | 456 | | | | | 456 | 290 | 259.8 | |
| Yelloweye aa/ | 26 | | | | | 26 | 23 | 7.9 | 8.9 |
| California Scorpionfish bb/ | | | | | 219 | 219 | 175 | 34 | |
| Black cc/ north of 46°16' N. lat. | 540 | | | | | 540 | 540 | | |
| south of 46°16' N. lat. | | | 722 | | | 722 | 722 | | |
| Minor Rockfish dd/ north of 40° 10' N. lat. | 3,680 | | | -- | | 3,680 | 2,270 | 2,181 | 89 |
| Minor Rockfish ee/ south of 40° 10' N. lat. | -- | | | 3,403 | | 3,403 | 1,904 | 1,418 | 486 |
| Remaining Rockfish | 1,612 | | | 1,105 | | -- | | | |
| bank ff/ | d/ | | | 350 | | | | | |
| blackgill gg/ | d/ | | | 292 | | | | | |
| bocaccio north | 318 | | | -- | | | | | |
| chilipepper north | 32 | | | -- | | | | | |
| redstripe | 576 | | | d/ | | | | | |
| sharpchin | 307 | | | 45 | | | | | |
| silvergrey | 38 | | | d/ | | | | | |

Table 1a. To Part 660, Subpart G - 2007 Specifications of ABCs, OYs, and HGs by Management Area (weights in metric tons). - Continued

| Species | ABC Specifications | | | | | | OY b/ | HG b/ | |
|---|---|---|---|---|---|---|---|---|---|
| | ABC Contributions by Area | | | | | ABC | | | |
| | Van-cou-ver a/ | Col-umbia | Eureka | Mont-erey | Con-cep-tion | | | Com mer-cial | Rec-rea-tional |
| splitnose north | 242 | | | -- | | | | | |
| yellowmouth | 99 | | | d/ | | | | | |
| yellowtail south | -- | | | 116 | | | | | |
| Gopher | d/ | | | 302 | | | | | |
| Other rockfish hh/ | 2,068 | | | 2,298 | | -- | | | |
| SHARKS/SKATES/RATFISH/MORIDS/GRENADIERS/KELP GREENLING: | | | | | | | | | |
| Other fish ii/ | 2,500 | 7,000 | 1,200 | 3,900 | | 14,600 | 7,300 | | |

a/ ABCs apply to the U.S. portion of the Vancouver area.

b/ Optimum Yields (OYs) and Harvest Guidelines (HGs) are specified as total catch values. Though presented as harvest guidelines, the recreational values for widow rockfish, bocaccio, and cowcod are catch estimates. A harvest guideline is a specified harvest target and not a quota. The use of this term may differ from the use of similar terms in state regulation.

c/ Lingcod- A coastwide lingcod stock assessment was prepared in 2005. The lingcod biomass was estimated to be at 64 percent of its unfished biomass in 2005. The ABC was calculated using an $F_{MSY}$ proxy of $F_{45\%}$. The ABC of 6,280 mt is a two year average ABC for 2007 and 2008. Because the stock is above $B_{40\%}$ coastwide, the OY could be set equal to the ABC. Separate OYs are being adopted for the area north of 42° N. lat. and the area south of 42° N. lat. For that portion of the stock north of 42° N. lat. the OY of 5,558 mt is set equal to the ABC contribution for the area. The biomass in the area south of 42° N. lat. is estimated to be at 24 percent of the unfished biomass. As a precautionary measure, the OY for the southern portion of the stock is being set at 612 mt, which is lower than the ABC contribution for the area. An OY of 612 mt (equivalent to the 2006 OY) is expected to result in a biomass increase for the southern portion of the stock. The tribes do not have a specific allocation at this time, but are expected to take 30 mt of the commercial HG.

d/ "Other species", these species are neither common nor important to the commercial and recreational fisheries in the areas footnoted. Accordingly, these species are included in the harvest guidelines of "other fish", "other rockfish" or "remaining rockfish".

e/ Pacific Cod - The 3,200 mt ABC for the Vancouver-Columbia area is based on historical landings data. The 1,600 mt OY is the ABC reduced by 50 percent as a precautionary adjustment. A tribal harvest guideline of 400 mt is deducted from the OY resulting in a commercial OY of 1,200 mt.

f/ Pacific whiting - The most recent stock assessment was prepared in February 2007, and the whiting biomass was estimated to be between 36 percent and 44 percent of its unfished biomass at the end of 2006 using the base model with catchability coefficient of q=1 and q=0.7, respectively. Model estimates applying the 40-10 harvest policy rule resulted in ABCs and OYs that were unsupportably high. The U.S.-Canada coastwide ABC of 612,068 mt is based on the q=1 assessment model. Per the U.S.-Canada agreement, the U.S. portion of the coastwide ABC is 73.88 percent, resulting in a U.S. ABC of 452,196 mt. The U.S.-Canada coastwide OY of 328,358 mt is based on the 2006 coastwide OY, with a 10 percent precautionary reduction. Per the U.S.-Canada agreement, the U.S. portion of the

coastwide OY is 73.88 percent, resulting in a U.S. OY of 242,591. The OY is reduced by 32,500 mt for the tribal allocation, and 2,000 mt for the estimated catch in non-groundfish fisheries, resulting in a commercial OY of 208,091 mt. The commercial OY is allocated between the sectors, with 42 percent (87,398 mt) going to the shore-based sector, 34 percent (70,751 mt) going to the catcher/processor sector, and 24 percent (49,942 mt) going to the mothership sector. Discards of whiting during the primary season fisheries are estimated and counted towards the OY inseason.

g/ Sablefish - A coastwide sablefish stock assessment was prepared in 2005. The coastwide sablefish biomass was estimated to be at 35.2 percent of its unfished biomass in 2005. Projections indicate that the biomass is increasing and will be near 42 percent of its unfished biomass by 2008. The coastwide ABC of 6,210 mt was based on the base-case assessment model with a $F_{MSY}$ proxy of $F_{45\%}$. The coastwide OY of 5,934 mt is based on the application of the 40-10 harvest policy and is a two year average OY for 2007 and 2008. To apportion fishery allocations for the area north of 36° N. lat., 96.45 percent of the coastwide OY (5,723 mt) is attributed to the northern area. The tribal allocation for the area north of 36° N. lat. is 572 mt (10 percent of the OY north of 36° N. lat), which is further reduced by 1.9 percent (10.9 mt) for discards. The tribal landed catch value is 561.4 mt.

h/ Cabezon was assessed south of 42° N. lat. in 2005. In 2005, the stock was estimated to be at 40 percent of its unfished biomass north of 34° 27' N. lat. and 28 percent of its unfished biomass south of 34° 27' N. lat. The biomass is projected to be increasing in the northern area and decreasing in the southern area. The ABC of 94 mt (71 mt for the northern portion of the stock and 23 mt for the southern portion of the stock) is based on the new assessment with a harvest rate proxy of $F_{50}$. The OY of 69 mt is a constant harvest level that is consistent with the application of a 60-20 harvest rate policy specified in the California Nearshore Management Plan.

i/ Dover sole was assessed north of 34° 27' N. lat. in 2005. The Dover sole biomass was estimated to be at 59.8 percent of its unfished biomass in 2005 and is projected to be increasing. The ABC of 28,522 mt is based on the results of the 2005 assessment with an $F_{MSY}$ proxy of $F_{40}$. Because the stock is above $B_{40}$ coastwide, the OY could be set equal to the ABC. The OY of 16,500 mt, which is less than the ABC, is the MSY harvest level and is considerably larger than the coastwide catches in any recent years.

j/ A coastwide English sole stock assessment was prepared in 2005 and the stock was estimated to be at 91.5 percent of its unfished biomass in 2005, but the stock biomass is believed to be declining. The ABC of 6,237 is a 2007-2008 two year average ABC based on the the results of the 2005 assessment with an $F_{MSY}$ proxy of $F_{40\%}$. Because the stock is above $B_{40\%}$, the OY was set equal to the ABC.

k/ A petrale sole stock assessment was prepared for 2005. In 2005 the petrale sole stock coastwide was estimated to be at 32 percent of its unfished biomass (34 percent in the northern assessment area and 29 percent in the southern assessment area). The petrale sole biomass is believed to be increasing. The ABC of 2,917 mt is based on the new assessment with a $F_{40\%}$ $F_{MSY}$ proxy. To derive the OY, the 40-10 harvest policy was applied to the ABC for both the northern and southern assessment areas. As a precautionary measure, an additional 25 percent reduction was made in the OY contribution for the southern area due to assessment uncertainty. The OY of 2,499 mt is the average coastwide OY value for 2007 and 2008.

l/ Arrowtooth flounder was last assessed in 1993 and was estimated to be above 40 percent of its unfished biomass, therefore the OY will be set equal to the ABC.

m/ Starry Flounder was assessed for the first time in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005 (44 percent for the northern stock off Washington and Oregon, and 62 percent for the southern stock of California). The starry flounder biomass is believed to be declining, and will be below $B_{40\%}$. The starry flounder assessment was considered to be a data-poor assessment relative to other groundfish assessments. For 2007, the coastwide ABC of 1,221 mt is based on the new assessment with a $F_{MSY}$ proxy of $F_{40\%}$ and is an average ABC for 2007 and 2008. Because the stock is believed to be above $B_{40\%}$, the OY could be set equal to the ABC. To derive the OY, the 40-10 harvest policy was applied to the ABC for both the northern and southern assessment areas then an additional 25 percent reduction was made due to assessment uncertainty. Starry flounder was previously managed as part of the "other flatfish" category. The OY of 890 mt is the average coastwide OY value for 2007 and 2008.

n/ "Other flatfish" are those flatfish species that do not have individual ABC/OYs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, and sand sole. Starry flounder was assessed in 2005 and is

being removed from other flatfish complex beginning in 2007. The ABC is based on historical catch levels. The ABC of 6,731 mt is based on the highest landings for sanddabs (1995) and rex sole (1982) for the 1981-2003 period and on the average landings from the 1994-1998 period for the remaining other flatfish species. The OY of 4,884 mt is based on the ABC with a 25 percent precautionary adjustment for sanddabs and rex sole and a 50 percent precautionary adjustment for the remaining species.

o/ A POP stock assessment was prepared in 2005 and the stock was estimated to be at 23.4 percent of its unfished biomass in 2005. The ABC of 900 mt for the Vancouver-Columbia area was projected from the 2005 stock assessment and is based on an $F_{MSY}$ proxy of $F_{50\%}$. The OY of 150 mt is based on a rebuilding plan with a target year to rebuild of 2017 and an SPR harvest rate of 86.4 percent. The OY is reduced by 3.6 mt for the amount anticipated to be taken during research activity.

p/ Shortbelly rockfish remains an unexploited stock and is difficult to assess quantitatively. A 1989 stock assessment provided two alternative yield calculations of 13,900 mt and 47,000 mt. NMFS surveys have shown poor recruitment in most years since 1989, indicating low recent productivity and a naturally declining population in spite of low fishing pressure. The ABC and OY are therefore set at the low end of the range projected in the stock assessment, 13,900 mt.

q/ Widow rockfish was assessed in 2005 and was estimated to be at 31.1 percent of its unfished biomass in 2004. The ABC of 5,334 mt is based on an $F_{50\%}$ $F_{MSY}$ proxy. The OY of 368 mt is based on a rebuilding plan with a target year to rebuild of 2015 and an SPR rate of 95 percent. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity. Tribal vessels are estimated to catch about 46.1 mt of widow rockfish in 2007, but do not have a specific allocation at this time. For the Pacific whiting fishery, 200 mt is being set aside and will be managed with bycatch limits.

r/ A canary rockfish stock assessment was completed in 2005 and the stock was estimated to be at 9.4 percent of its unfished biomass coastwide in 2005. The coastwide ABC of 172 mt is based on a $F_{MSY}$ proxy of $F_{50\%}$. The OY of 44 mt is based on a rebuilding plan with a target year to rebuild of 2063 and an SPR harvest rate of 88.7 percent. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity. Tribal vessels are estimated to catch about 5 mt of canary rockfish under the 2007 commercial HG, but do not have a specific allocation at this time. South of 42° N. lat., the canary rockfish recreational fishery HG is 9.0 mt and north of 42° N. lat., the canary rockfish recreational fishery HG 8.2 mt.

s/ Chilipepper rockfish was last assessed in 1998. The ABC (2,700 mt) for the Monterey-Conception area is based on a three year average projection from 1999-2001 with a $F_{50\%}$ $F_{MSY}$ proxy. Because the unfished biomass is estimated to be above 40 percent the unfished biomass, the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt to discourage fishing on chilipepper, which is taken with bocaccio. Management measures to constrain the harvest of overfished species have reduced the availability of chilipepper rockfish to the fishery during the past several years. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2007 was considered to be conservative and based on the best available data. Open access is allocated 44.3 percent (886 mt) of the commercial HG and limited entry is allocated 55.7 percent (1,114 mt) of the commercial HG.

t/ A bocaccio stock assessment update and a rebuilding analysis were prepared in 2005. The bocaccio stock was estimated to be at 10.7 percent of its unfished biomass in 2005. The ABC of 602 mt for the Monterey and Conception areas is based on a $F_{50\%}$ $F_{MSY}$ proxy. The OY of 218 mt is based on a rebuilding plan with a target year to rebuild of 2026 and a SPR harvest rate of 77.7 percent. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity.

u/ Splitnose rockfish - The ABC is 615 mt in the southern area (Monterey-Conception). The 461 mt OY for the southern area reflects a 25 percent precautionary adjustment because of the less rigorous stock assessment for this stock. Because the harvest assumptions used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2007 was considered to be conservative and based on the best available data.

v/ Yellowtail rockfish - A yellowtail rockfish stock assessment was prepared in 2005 for the Vancouver-Columbia-Eureka areas. Yellowtail rockfish was estimated to be above 40 percent of its unfished biomass in 2005. The ABC of 4,548 mt is a 2 year average ABC for 2007 and 2008 and is based on the 2005 stock assessment with the $F_{MSY}$ proxy of $F_{50\%}$. The OY of 4,548 mt was set equal to the ABC, because the stock is above the precautionary threshold of $B_{40\%}$. Tribal vessels are estimated to catch about 539 mt of yellowtail rockfish in 2007, but do not have a specific allocation at this time.

w/ Shortspine thornyhead was assessed coastwide in 2005 and the stock was estimated to be at 63 percent of its unfished biomass in 2005. The ABC of 2,476 mt is based on a $F_{50\%}$ $F_{MSY}$ proxy and is the two year average ABC for 2007 and 2008. For that portion of the stock (66 percent of the biomass) north of Pt. Conception (34° 27' N. lat.), the OY of 1,634 mt was set at equal to the ABC because the stock is estimated to be above the precautionary threshold. For that portion of the stock south of Pt. Conception (34 percent of the biomass), the OY of 421 mt was the portion of the ABC for the area reduced by 50 percent as a precautionary adjustment due to the short duration and amount of survey data for that area. Tribal vessels are estimated to catch about 13 mt of shortspine thornyhead in 2007, but do not have a specific allocation at this time.

x/ Longspine thornyhead was assessed coastwide in 2005 and the stock was estimated to be at 71 percent of its unfished biomass in 2005. The coastwide ABC of 3,907 mt is based on a $F_{50\%}$ $F_{MSY}$ proxy and is the two year average OY for the 2007 and 2008 period. The OY is set equal to the ABC because the stock is above the precautionary threshold. Separate OYs are being established for the areas north and south of 34° 27' N. lat. (Point Conception). The OY for that portion of the stock in the northern area (79 percent)is set equal to the ABC. For that portion of the stock in the southern area (21 percent), the OY of 476 mt was the portion of the ABC for the area reduced by 25 percent as a precautionary adjustment due to the short duration and amount of survey data for that area.

y/ Cowcod in the Conception area was assessed in 2005 and was estimated to be between 14 and 21 percent of its unfished biomass. The ABC of in the area south of 36° N. lat., the Conception area, is 17 mt and is based on the 2005 stock assessment with a $F_{50\%}$ $F_{MSY}$ proxy. The ABC for the Monterey area (19 mt) is based on average landings from 1993-1997. A OY of 4 mt is being set for the combined areas. The OY is based on a rebuilding plan with a target year to rebuilding of 2039 and an SPR harvest rate 90 percent. The OY is reduced by 0.1 mt for the amount anticipated to be taken during research activity.

z/ Darkblotched rockfish was assessed in 2005 and was estimated to be at 16 percent of its unfished biomass in 2005. The ABC is projected to be 456 mt and is based on the 2005 stock assessment with an $F_{MSY}$ proxy of F50%. The OY of 290 mt is based on a rebuilding plan with a target year to rebuild of 2011 and an SPR harvest rate of 64.1 percent in 2007. The OY is reduced by 3.8 mt for the amount anticipated to be taken during research activity.

aa/ Yelloweye rockfish was assessed in 2006 and is estimated to be at 17.7 percent of its unfished biomass coastwide. The 26 mt coastwide ABC is based on the new stock assessment and an $F_{MSY}$ proxy of $F_{50\%}$. The 23 mt OY is based on a rebuilding plan with a target year to rebuild of 2084 an SPR harvest rate of 55.4 percent in 2007. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity. Tribal vessels are estimated to catch 2.3 mt of yelloweye rockfish of the commercial HG in 2007, but do not have a specific allocation at this time. South of 42° N. lat. the yelloweye rockfish recreational fishery HG is 2.1 mt and north of 42° N. lat. the yelloweye rockfish recreational fishery HG 6.8 mt.

bb/ California Scorpionfish south of 34° 27' N. lat. was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. The ABC of 219 mt is based on the new assessment with a harvest rate proxy of $F_{50\%}$ and is an average ABC for 2007 and 2008. Because the stock is above $B_{40\%}$ coastwide, the OY could be set equal to the ABC. The OY of 175 mt, which is lower than the ABC, reflects the highest historical catch levels.

cc/ Black rockfish was last assessed in 2003 for the Columbia and Eureka area and in 2000 for the Vancouver area. The ABC for the area north of 46°16' N. lat. is 540 mt and the ABC for the area south of 46°16' N. lat. is 722 mt which is the average ABC for the 2007 and 2008 period. Because of an overlap in the assessed areas between Cape Falcon and the Columbia River, projections from the 2000 stock assessment were adjusted downward by 12 percent to account for the overlap. The ABCs were derived using an $F_{MSY}$ proxy of $F_{50\%}$. Because the unfished biomass is estimated to be above 40 percent, the OYs were set equal to the ABCs. For the area north of 46°16' N. lat., the OY is

540 mt. The following tribal harvest guidelines are being set: 20,000 lb (9.1 mt) north of Cape Alava, WA (48°09.50' N. lat.) and 10,000 lb (4.5 mt) between Destruction Island, WA (47°40' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.). For the area south of 46°16' N. lat., the OY is 722 mt. The black rockfish OY in the area south of 46°16' N. lat., is subdivided with separate HGs being set for the area north of 42° N. lat (419 mt/58 percent) and for the area south of 42° N. lat (303 mt/42 percent). For the southern area north of 42° N. lat., a range is presented for the recreational estimate (289-350 mt) and comercial HG (91 -111 mt). Specific values will be specified in the final rule. Of the 303 mt of black rockfish attributed to the area south of 42° N. lat., 168 mt is estimated to be taken in the recreational fisheries, resulting in a commercial HG of 135 mt.

dd/ Minor rockfish north includes the "remaining rockfish" and "other rockfish" categories in the Vancouver, Columbia, and Eureka areas combined. These species include "remaining rockfish", which generally includes species that have been assessed by less rigorous methods than stock assessments, and "other rockfish", which includes species that do not have quantifiable stock assessments. The ABC of 3,680 mt is the sum of the individual "remaining rockfish" ABCs plus the "other rockfish" ABCs. The remaining rockfish ABCs continues to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain the total catch OY of 2,270 mt, the remaining rockfish ABC was reduced by 25 percent and other rockfish ABC was reduced by 50 percent. This was a precautionary measure to address limited stock assessment information. Tribal vessels are estimated to catch about 38 mt of minor rockfish in 2007, but do not have a specific allocation at this time.

ee/ Minor rockfish south includes the "remaining rockfish" and "other rockfish" categories in the Monterey and Conception areas combined. These species include "remaining rockfish" which generally includes species that have been assessed by less rigorous methods than stock assessment, and "other rockfish" which includes species that do not have quantifiable stock assessments. The ABC of 3,403 mt is the sum of the individual "remaining rockfish" ABCs plus the "other rockfish" ABCs. California scorpionfish is being removed from this category in 2007. Gopher rockfish is being moved from the "other rockfish" group to the remaining rockfish group in 2007. The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. The remaining rockfish ABCs are further reduced by 25 percent, with the exception of blackgill rockfish (see footnote gg). The other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The resulting minor rockfish OY is 1,904 mt.

ff/ Bank rockfish - The ABC is 350 mt which is based on a 2000 stock assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

gg/ Blackgill rockfish in the Monterey and Conception areas was assessed in 2005 and is estimated to be at 50.6 percent of its unfished biomass in 2005. The ABC of 292 mt for Monterey and Conception areas is based on the 2005 stock assessment with an $F_{MSY}$ proxy of F50% and is the two year average ABC for the 2007 and 2008 periods. This stock contributes 292 mt towards minor rockfish south.

hh/ "Other rockfish" includes rockfish species listed in 50 CFR 660.302. California scorpionfish and gopher rockfish were assessed in 2005 and are being removed from this category. The California Scorpionfish contribution of 163 mt and the gopher rockfish contribution of 97 mt were removed from the ABC value. The ABC for the remaining species is based on the 1996 review of commercial Sebastes landings and includes an estimate of recreational landings. These species have never been assessed quantitatively.

ii/ "Other fish" includes sharks, skates, rays, ratfish, morids, grenadiers, kelp greenling and other groundfish species noted above in footnote d/.

[72 FR 19398, Apr. 18, 2007]

TABLE 1b TO PART 660, SUBPART G—2007 OYS FOR MINOR ROCKFISH BY DEPTH SUB-GROUPS (WEIGHTS IN METRIC TONS)

| Species | Total Catch ABC | Total Catch OY | Recreational HG | Commercial HG | Limited Entry HG | | Open Access HG | |
|---|---|---|---|---|---|---|---|---|
| | | | | | Mt | % | Mt | % |
| Minor Rockfish North dd/ north of 40°10' N. lat. | 3,680 | 2,270 | 89 | 2,181 | 2,000 | 91.7 | 181 | 8.3 |
| Nearshore | | 142 | 79 | 63 | | | | |
| Shelf | | 968 | 10 | 958 | | | | |

| Species | Total Catch ABC | Total Catch OY | Recreational HG | Commercial HG | Limited Entry HG | | Open Access HG | |
|---|---|---|---|---|---|---|---|---|
| | | | | | Mt | % | Mt | % |
| Slope | | 1,160 | 0 | 1,160 | | | | |
| Minor Rockfish South ee/ | 3,403 | 1,904 | 486 | 1,418 | 790 | 55.7 | 628 | 44.3 |
| Nearshore | | 564 | 426 | 138 | | | | |
| Shelf | | 714 | 60 | 654 | | | | |
| Slope | | 626 | 0 | 626 | | | | |

[71 FR 78701, Dec. 29, 2006]

TABLE 1C TO PART 660, SUBPART G—2007 OPEN ACCESS AND LIMITED ENTRY ALLOCATIONS BY SPECIES OR SPECIES GROUP (WEIGHTS IN METRIC TONS)

| Species | Commercial Total Catch HGs | Commercial Total Catch HGs | | | |
|---|---|---|---|---|---|
| | | Limited Entry | | Open Access | |
| | | Mt | % | Mt | % |
| Lingcod<br>north of 42° N. lat.<br>south of 42° N. lat. | -- | -- | 81.0 | -- | 19.0 |
| Sablefish jj/<br>north of 36° N. lat. | 5,151 | 4,667 | 90.6 | 484 | 9.4 |
| Widow kk/ | 251.4 | -- | 97.0 | -- | 3.0 |
| Canary kk/ | 23 | -- | 87.7 | -- | 12.3 |
| Chilipepper | 2,000 | 1,114 | 55.7 | 886 | 44.3 |
| Bocaccio kk/ | 80.2 | -- | 55.7 | -- | 44.3 |
| Yellowtail | -- | -- | 91.7 | -- | 8.3 |
| Shortspine thornyhead<br>north of 34°27' N. lat. | 1,634 | 1,193 | 99.7 | 441 | 0.27 |
| Minor Rockfish<br>north of 40°10' N. lat. | 2,181 | 2,000 | 91.7 | 181 | 8.3 |
| south of 40°10' N. lat. | 1,418 | 790 | 55.7 | 628 | 44.3 |

a/ ABCs apply to the U.S. portion of the Vancouver area.

b/ Optimum Yields (OYs) and Harvest Guidelines (HGs) are specified as total catch values. Though presented as harvest guidelines, the recreational values for widow rockfish, bocaccio, and cowcod are catch estimates. A harvest guideline is a specified harvest target and not a quota. The use of this term may differ from the use of similar terms in state regulation.

c/ Lingcod- A coastwide lingcod stock assessment was prepared in 2005. The lingcod biomass was estimated to be at 64 percent of its unfished biomass in 2005. The ABC was calculated using an $F_{MSY}$ proxy of $F_{45\%}$. The ABC of 6,280 mt is a two year average ABC for 2007 and 2008. Because the stock is above $B_{40\%}$ coastwide, the OY could be set equal to the ABC. Separate OYs are being adopted for the area north of 42° N. lat. and the area south of 42° N. lat. For that portion of the stock north of 42° N. lat. the OY of 5,558 mt is set equal to the ABC contribution for the area. The biomass in the area south of 42° N. lat. is estimated to be at 24 percent of the unfished biomass. As a precautionary measure, the OY for the southern portion of the stock is being set at 612 mt, which is lower than the ABC contribution for the area. An OY of 612 mt (equivalent to the 2006 OY) is expected to result in a biomass increase for the southern portion of the stock. The tribes do not have a specific allocation at this time, but are expected to take 30 mt of the commercial HG.

d/ ″Other species″, these species are neither common nor important to the commercial and recreational fisheries in the areas footnoted. Accordingly, these species are included in the harvest guidelines of ″other fish″, ″other rockfish″ or ″remaining rockfish″.

e/ Pacific Cod - The 3,200 mt ABC for the Vancouver-Columbia area is based on historical landings data. The 1,600 mt OY is the ABC reduced by 50 percent as a precautionary adjustment. A tribal harvest guideline of 400 mt is deducted from the OY resulting in a commercial OY of 1,200 mt.

f/ Pacific whiting - Final adoption of the Pacific whiting ABC and OY have been deferred until the Council's March 2007 meeting. Therefore, table 1a contains the ABC and OY range considered in the EIS and under the proposed rule. It is anticipated that a new assessment will be available in early 2007 and the results will be used to set the 2007 ABC and OY. The final ABC and OY will be published as a separate action following the Council's recommendation at its March 2007 meeting.

g/ Sablefish - A coastwide sablefish stock assessment was prepared in 2005. The coastwide sablefish biomass was estimated to be at 35.2 percent of its unfished biomass in 2005. Projections indicate that the biomass is increasing and will be near 42 percent of its unfished biomass by 2008. The coastwide ABC of 6,210 mt was based on the base-case assessment model with a $F_{MSY}$ proxy of $F_{45\%}$. The coastwide OY of 5,934 mt is based on the application of the 40-10 harvest policy and is a two year average OY for 2007 and 2008. To apportion fishery allocations for the area north of 36° N. lat., 96.45 percent of the coastwide OY (5,723 mt) is attributed to the northern area. The tribal allocation for the area north of 36° N. lat. is 572 mt (10 percent of the OY north of 36° N. lat), which is further reduced by 1.9 percent (10.9 mt) for discards. The tribal landed catch value is 561.4 mt.

h/ Cabezon was assessed south of 42° N. lat. in 2005. In 2005, the stock was estimated to be at 40 percent of its unfished biomass north of 34° 27' N. lat. and 28 percent of its unfished biomass south of 34° 27' N. lat. The biomass is projected to be increasing in the northern area and decreasing in the southern area. The ABC of 94 mt (71 mt for the northern portion of the stock and 23 mt for the southern portion of the stock) is based on the new assessment with a harvest rate proxy of $F_{50\%}$. The OY of 69 mt is a constant harvest level that is consistent with the application of a 60-20 harvest rate policy specified in the California Nearshore Management Plan.

i/ Dover sole was assessed north of 34° 27' N. lat. in 2005. The Dover sole biomass was estimated to be at 59.8 percent of its unfished biomass in 2005 and is projected to be increasing. The ABC of 28,522 mt is based on the results of the 2005 assessment with an $F_{MSY}$ proxy of $F_{40\%}$. Because the stock is above $B_{40\%}$ coastwide, the OY could be set equal to the ABC. The OY of 16,500 mt, which is less than the ABC, is the MSY harvest level and is considerably larger than the coastwide catches in any recent years.

j/ A coastwide English sole stock assessment was prepared in 2005 and the stock was estimated to be at 91.5 percent of its unfished biomass in 2005, but the stock biomass is believed to be declining. The ABC of 6,237 is a 2007-2008 two year average ABC based on the the results of the 2005 assessment with an $F_{MSY}$ proxy of $F_{40\%}$. Because the stock is above $B_{40\%}$, the OY was set equal to the ABC.

k/ A petrale sole stock assessment was prepared for 2005. In 2005 the petrale sole stock coastwide was estimated to be at 32 percent of its unfished biomass (34 percent in the northern assessment area and 29 percent in the southern assessment area). The petrale sole biomass is believed to be increasing. The ABC of 2,917 mt is based on the new assessment with a $F_{40\%}$ $F_{MSY}$ proxy. To derive the OY, the 40-10 harvest policy was applied to the ABC for both the northern and southern assessment areas. As a precautionary measure, an additional 25 percent reduction was made in the OY contribution for the southern area due to assessment uncertainty. The OY of 2,499 mt is the average coastwide OY value for 2007 and 2008.

l/ Arrowtooth flounder was last assessed in 1993 and was estimated to be above 40 percent of its unfished biomass, therefore the OY will be set equal to the ABC.

m/ Starry Flounder was assessed for the first time in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005 (44 percent for the northern stock off Washington and Oregon, and 62 percent for the southern stock of California). The starry flounder biomass is believed to be declining, and will be below $B_{40\%}$. The starry flounder assessment was considered to be a data-poor assessment relative to other groundfish assessments. For 2007, the coastwide ABC of 1,221 mt is based on the new assessment with a $F_{MSY}$ proxy of $F_{40\%}$ and is an average ABC for 2007 and 2008. Because the stock is believed to be above $B_{40\%}$, the OY could be set equal to the ABC. To derive the OY, the 40-10 harvest policy was applied to the ABC for both the northern and southern assessment areas then an additional 25 percent reduction was made due to assessment uncertainty. Starry flounder was previously managed as part of the ″other flatfish″ category. The OY of 890 mt is the average coastwide OY value for 2007 and 2008.

n/ ″Other flatfish″ are those flatfish species that do not have individual ABC/OYs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, and sand sole. Starry flounder was assessed in 2005 and is being removed from other flatfish complex beginning in 2007. The ABC is based on historical catch levels. The ABC of 6,731 mt is based on the highest landings for sanddabs (1995) and rex sole (1982) for the 1981-2003 period and on the average landings from the 1994-1998 period for the remaining other flatfish species. The OY of 4,884 mt is based on the ABC with a 25 percent precautionary adjustment for sanddabs and rex sole and a 50 percent precautionary adjustment for the remaining species.

o/ A POP stock assessment was prepared in 2005 and the stock was estimated to be at 23.4 percent of its unfished biomass in 2005. The ABC of 900 mt for the Vancouver-Columbia area was projected from the 2005 stock assessment and is based on an $F_{MSY}$ proxy of $F_{50\%}$. The OY of 150 mt is based on a rebuilding plan with a target year to rebuild of 2017 and an SPR harvest rate of 86.4 percent. The OY is reduced by 3.6 mt for the amount anticipated to be taken during research activity.

p/ Shortbelly rockfish remains an unexploited stock and is difficult to assess quantitatively. A 1989 stock assessment provided two alternative yield calculations of 13,900 mt and 47,000 mt. NMFS surveys have shown poor recruitment in most years since 1989, indicating low recent productivity and a naturally declining population in spite of low fishing pressure. The ABC and OY are therefore set at the low end of the range projected in the stock assessment, 13,900 mt.

q/ Widow rockfish was assessed in 2005 and was estimated to be at 31.1 percent of its unfished biomass in 2004. The ABC of 5,334 mt is based on an $F_{50\%}$ $F_{MSY}$ proxy. The OY of 368 mt is based on a rebuilding plan with a target year to rebuild of 2015 and an SPR rate of 95 percent. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity. Tribal vessels are estimated to catch about 46.1 mt of widow rockfish in 2007, but do not have a specific allocation at this time. For the Pacific whiting fishery, 200 mt is being set aside and will be managed with bycatch limits.

r/ A canary rockfish stock assessment was completed in 2005 and the stock was estimated to be at 9.4 percent of its unfished biomass coastwide in 2005. The coastwide ABC of 172 mt is based on a $F_{MSY}$ proxy of $F_{50\%}$. The OY of 44 mt is based on a rebuilding plan with a target year to rebuild of 2063 and an SPR harvest rate of 88.7 percent. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity. Tribal vessels are estimated to catch about 5 mt of canary rockfish under the 2007 commercial HG, but do not have a specific allocation at this time. South of 42° N. lat., the canary rockfish recreational fishery HG is 9.0 mt and north of 42° N. lat., the canary rockfish recreational fishery HG 8.2 mt.

s/ Chilipepper rockfish was last assessed in 1998. The ABC (2,700 mt) for the Monterey-Conception area is based on a three year average projection from 1999-2001 with a $F_{50\%}$ $F_{MSY}$ proxy. Because the unfished biomass is estimated to be above 40 percent the unfished biomass, the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt to discourage fishing on chilipepper, which is taken with bocaccio. Management measures to constrain the harvest of overfished species have reduced the availability of chilipepper rockfish to the fishery during the past several years. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2007 was considered to be conservative and based on the best available data. Open access is allocated 44.3 percent (886 mt) of the commercial HG and limited entry is allocated 55.7 percent (1,114 mt) of the commercial HG.

t/ A bocaccio stock assessment update and a rebuilding analysis were prepared in 2005. The bocaccio stock was estimated to be at 10.7 percent of its unfished biomass in 2005. The ABC of 602 mt for the Monterey and Conception areas is based on a $F_{50\%}$ $F_{MSY}$ proxy. The OY of 218 mt is based on a rebuilding plan with a target year to rebuild of 2026 and a SPR harvest rate of 77.7 percent. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity.

u/ Splitnose rockfish - The ABC is 615 mt in the southern area (Monterey-Conception). The 461 mt OY for the southern area reflects a 25 percent precautionary adjustment because of the less rigorous stock assessment for this stock. Because the harvest assumptions used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2007 was considered to be conservative and based on the best available data.

v/ Yellowtail rockfish - A yellowtail rockfish stock assessment was prepared in 2005 for the Vancouver-Columbia-Eureka areas. Yellowtail rockfish was estimated to be above 40 percent of its unfished biomass in 2005. The ABC of 4,548 mt is a 2 year average ABC for 2007 and 2008 and is based on the 2005 stock assessment with the $F_{MSY}$ proxy of $F_{50\%}$. The OY of 4,548 mt was set equal to the ABC, because the stock is above the precautionary threshold of $B_{40\%}$. Tribal vessels are estimated to catch about 539 mt of yellowtail rockfish in 2007, but do not have a specific allocation at this time.

w/ Shortspine thornyhead was assessed coastwide in 2005 and the stock was estimated to be at 63 percent of its unfished biomass in 2005. The ABC of 2,476 mt is based on a $F_{50\%}$ $F_{MSY}$ proxy and is the two year average ABC for 2007 and 2008. For that portion of the stock (66 percent of the biomass) north of Pt. Conception (34° 27' N. lat.), the OY of 1,634 mt was set at equal to the ABC because the stock is estimated to be above the precautionary threshold. For that portion of the stock south of Pt. Conception (34 percent of the biomass), the OY of 421 mt was the portion of the ABC for the area reduced by 50 percent as a precautionary adjustment due to the short duration and amount of survey data for that area. Tribal vessels are estimated to catch about 13 mt of shortspine thornyhead in 2007, but do not have a specific allocation at this time.

x/ Longspine thornyhead was assessed coastwide in 2005 and the stock was estimated to be at 71 percent of its unfished biomass in 2005. The coastwide ABC of 3,907 mt is based on a $F_{50\%}$ $F_{MSY}$ proxy and is the two year average OY for the 2007 and 2008 period. The OY is set equal to the ABC because the stock is above the precautionary threshold. Separate OYs are being established for the areas north and south of 34° 27' N. lat. (Point Conception). The OY for that portion of the stock in the northern area (79 percent)is set equal to the ABC. For that portion of the stock in the southern area (21 percent), the OY of 476 mt was the portion of the ABC for the area reduced by 25 percent as a precautionary adjustment due to the short duration and amount of survey data for that area.

y/ Cowcod in the Conception area was assessed in 2005 and was estimated to be between 14 and 21 percent of its unfished biomass. The ABC of in the area south of 36° N. lat., the Conception area, is 17 mt and is based on the 2005 stock assessment with a $F_{50\%}$ $F_{MSY}$ proxy. The ABC for the Monterey area (19 mt) is based on average landings from 1993-1997. A OY of 4 mt is being set for the combined areas. The OY is based on a rebuilding plan with a target year to rebuilding of 2039 and an SPR harvest rate 90 percent. The OY is reduced by 0.1 mt for the amount anticipated to be taken during research activity.

z/ Darkblotched rockfish was assessed in 2005 and was estimated to be at 16 percent of its unfished biomass in 2005. The ABC is projected to be 456 mt and is based on the 2005 stock assessment with an $F_{MSY}$ proxy of $F_{50\%}$. The OY of 290 mt is based on a rebuilding plan with a target year to rebuild of 2011 and an SPR harvest rate of 64.1 percent in 2007. The OY is reduced by 3.8 mt for the amount anticipated to be taken during research activity.

aa/ Yelloweye rockfish was assessed in 2006 and is estimated to be at 17.7 percent of its unfished biomass coastwide. The 26 mt coastwide ABC is based on the new stock assessment and an $F_{MSY}$ proxy of $F_{50\%}$. The 23 mt OY is based on a rebuilding plan with a target year to rebuild of 2084 an SPR harvest rate of 55.4 percent in 2007. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity. Tribal vessels are estimated to catch 2.3 mt of yelloweye rockfish of the commercial HG in 2007, but do not have a specific allocation at this time. South of 42° N. lat. the yelloweye rockfish recreational fishery HG is 2.1 mt and north of 42° N. lat. the yelloweye rockfish recreational fishery HG 6.8 mt.

bb/ California Scorpionfish south of 34° 27' N. lat. was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. The ABC of 219 mt is based on the new assessment with a harvest rate proxy of $F_{50\%}$ and is an average ABC for 2007 and 2008. Because the stock is above $B_{40\%}$ coastwide, the OY could be set equal to the ABC. The OY of 175 mt, which is lower than the ABC, reflects the highest historical catch levels.

cc/ Black rockfish was last assessed in 2003 for the Columbia and Eureka area and in 2000 for the Vancouver area. The ABC for the area north of 46°16' N. lat. is 540 mt and the ABC for the area south of 46°16' N. lat. is 722 mt which is the average ABC for the 2007 and 2008 period. Because of an overlap in the assessed areas between Cape Falcon and the Columbia River, projections from the 2000 stock assessment were adjusted downward by 12 percent to account for the overlap. The ABCs were derived using an $F_{MSY}$ proxy of $F_{50\%}$. Because the unfished biomass is estimated to be above 40 percent, the OYs were set equal to the ABCs. For the area north of 46°16' N. lat., the OY is 540 mt. The following tribal harvest guidelines are being set: 20,000 lb (9.1 mt) north of Cape Alava, WA (48° 09.50' N. lat.) and 10,000 lb (4.5 mt) between Destruction Island, WA (47° 40' N. lat.) and Leadbetter Point, WA (46° 38.17' N. lat.). For the area south of 46°16' N. lat., the OY is 722 mt. The black rockfish OY in the area south of 46°16' N. lat., is subdivided with separate HGs being set for the area north of 42° N. lat (419 mt/58 percent) and for the area south of 42° N. lat (303 mt/42 percent). For the southern area north of 42° N. lat., a range is presented for the recreational estimate (289-350 mt) and comercial HG (91 -111 mt). Specific values will be specified in the final rule. Of the 303 mt of black rockfish attributed to the area south of 42° N. lat., 168 mt is estimated to be taken in the recreational fisheries, resulting in a commercial HG of 135 mt.

dd/ Minor rockfish north includes the ″remaining rockfish″ and ″other rockfish″ categories in the Vancouver, Columbia, and Eureka areas combined. These species include ″remaining rockfish″, which generally includes species that have been assessed by less rigorous methods than stock assessments, and ″other rockfish″, which includes species that do not have quantifiable stock assessments. The ABC of 3,680 mt is the sum of the individual ″remaining rockfish″ ABCs plus the ″other rockfish″ ABCs. The remaining rockfish ABCs continues to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain the total catch OY of 2,270 mt, the remaining rockfish ABC was reduced by 25 percent and other rockfish ABC was reduced by 50 percent. This was a precautionary measure to address limited stock assessment information. Tribal vessels are estimated to catch about 38 mt of minor rockfish in 2007, but do not have a specific allocation at this time.

ee/ Minor rockfish south includes the ″remaining rockfish″ and ″other rockfish″ categories in the Monterey and Conception areas combined. These species include ″remaining rockfish″ which generally includes species that have been assessed by less rigorous methods than stock assessment, and ″other rockfish″ which includes species that do not have quantifiable stock assessments. The ABC of 3,403 mt is the sum of the individual ″remaining rockfish″ ABCs plus the ″other rockfish″ ABCs. California scorpionfish is being removed from this category in 2007. Gopher rockfish is being moved from the ″other rockfish″ group to the remaining rockfish group in 2007. The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. The remaining rockfish ABCs are further reduced by 25 percent, with the exception of blackgill rockfish (see footnote gg). The other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The resulting minor rockfish OY is 1,904 mt.

ff/ Bank rockfish - The ABC is 350 mt which is based on a 2000 stock assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

gg/ Blackgill rockfish in the Monterey and Conception areas was assessed in 2005 and is estimated to be at 50.6 percent of its unfished biomass in 2005. The ABC of 292 mt for Monterey and Conception areas is based on the 2005 stock assessment with an $F_{MSY}$ proxy of $F_{50\%}$ and is the two year average ABC for the 2007 and 2008 periods. This stock contributes 292 mt towards minor rockfish south.

hh/ ″Other rockfish″ includes rockfish species listed in 50 CFR 660.302. California scorpionfish and gopher rockfish were assessed in 2005 and are being removed from this category. The California Scorpionfish contribution of 163 mt and the gopher rockfish contribution of 97 mt were removed from the ABC value. The ABC for the remaining species is based on the 1996 review of commercial Sebastes landings and includes an estimate of recreational landings. These species have never been assessed quantitatively.

ii/ ″Other fish″ includes sharks, skates, rays, ratfish, morids, grenadiers, kelp greenling and other groundfish species noted above in footnote [d].

jj/ Sablefish allocation north of 36° N. lat. - The limited entry allocation is further divided with 58 percent allocated to the trawl fishery and 42 percent allocated to the fixed-gear fishery.

kk/ Specific open access/limited entry allocations have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks.

[71 FR 78701, Dec. 29, 2006]

TABLE 2 TO PART 660, SUBPART G—2008, AND BEYOND

Table 2a. To Part 660, Subpart G-2008, and Beyond, Specifications of ABCs, OYs, and HGs, by Management Area (weights in metric tons).

| Species | ABC Specifications | | | | | | OY b/ | HG b/ | |
|---|---|---|---|---|---|---|---|---|---|
| | ABC Contributions by Area | | | | | ABC | | | |
| | Vancouver a/ | Columbia | Eureka | Monterey | Conception | | | Commercial | Recreational |
| ROUNDFISH | | | | | | | | | |
| Lingcod c/ N of 42° N. lat. | | | | | | | 5,558 | | |
| S of 42° N. lat. | 5,428 | | 852 | | | 6,280 | 612 | | |
| Pacific Cod e/ | 3,200 | | d/ | | | 3,200 | 1,600 | 1,200 | |
| Pacific Whiting f/ | 295,520 | | | | | 295,520 | 269,545 | 232,545 | |
| Sablefish g/ | 6,058 | | | | | 6,058 | 5,934 | 5,362 | |
| Cabezon h/ S of 42°N. lat. | d/ | | 71 | | 23 | 94 | 69 | 27 | |
| FLATFISH: | | | | | | | | | |
| Dover sole i/ | 28,442 | | | | | 28,442 | 16,500 | | |
| English sole j/ | 6,237 | | | | | 6,237 | 6,237 | - | |
| Petrale sole k/ | 1,475 | | 1,444 | | | 2,919 | 2,499 | - | |
| Arrowtooth | 5,800 | | | | | 5,800 | 5,800 | - | |
| Starry Flounder m/ | 1,221 | | | | | 1,221 | 890 | | |
| Other flatfish n/ | 6,731 | | | | | 6,731 | 4,884 | - | |
| ROCKFISH: | | | | | | | | | |
| Pacific Ocean Perch o/ | 911 | | | | | 911 | 150 | 111.3 | |
| Shortbelly p/ | 13,900 | | | | | 13,900 | 13,900 | | |
| Widow q/ | 5,144 | | | | | 5,144 | 368 | 251.4 | 9.4 |
| Canary r/ | 179 | | | | | 179 | 44 | 23.8 | 17.2 |
| Chilipepper s/ | d/ | | | 2,700 | | 2,700 | 2,000 | | |
| Bocaccio t/ | d/ | | | 618 | | 618 | 218 | 80.2 | 66.3 |
| Splitnose u/ | d/ | | | 615 | | 615 | 461 | | |
| Yellowtail v/ | 4,548 | | | d/ | | 4,548 | 4,548 | | |

| Species | ABC Specifications | | | | | | OY b/ | HG b/ | |
|---|---|---|---|---|---|---|---|---|---|
| | ABC Contributions by Area | | | | | ABC | | | |
| | Vancouver a/ | Columbia | Eureka | Monterey | Conception | | | Commercial | Recreational |
| ROCKFISH: | | | | | | | | | |
| Shortspine thornyhead w/ N of 34°27' N.lat. | 2,476 | | | | | 2,476 | 1,634 | | |
| S of 34°27' N. lat | | | | | | | 421 | | |
| Longspine thornyhead x/ N of 34°27' N. lat. | 3,907 | | | | | 3,907 | 2,220 | | |
| S of 34°27' N. lat. | | | | | | | 476 | | |
| Cowcod y/ 36° to 40° 30 N. lat. | d/ | | | 19 | -- | 19 | 4 | 3.1 | 0.3 |
| south of 36° N. lat. | d/ | | | -- | 17 | 17 | | | |
| Darkblotched z/ | 487 | | | | | 487 | 330 | - | |
| Yelloweye aa/ | | | | | | 26 | 20 | 7.8 | 8.9 |
| California Scorpionfish bb/ | | | | | 219 | 219 | 175 | 34 | |
| Black cc/ N of 46°16' N. lat. | 540 | | | | | 540 | 540 | | |
| S of 46°16' N. lat. | | | 722 | | | 722 | 722 | | |
| Minor Rockfish dd/ N of 40° 10' N. lat. | 3,680 | | | -- | | 3,680 | 2,270 | 2,181 | 89 |
| Minor Rockfish ee/ S of 40° 10' N. lat. | -- | | | 3,403 | | 3,403 | 1,904 | 1,418 | 486 |
| Remaining | 1,612 | | | 1,105 | | | | | |
| bank | d/ | | | 350 | | | | | |
| blackgill | d/ | | | 292 | | | | | |
| bocaccio north | 318 | | | -- | | | | | |
| chilipepper north | 32 | | | -- | | | | | |
| redstripe | 576 | | | d/ | | | | | |
| sharpchin | 307 | | | 45 | | | | | |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| silvergrey | 38 | | | d/ | | | | |
| splitnose north | 242 | | | -- | | | | |
| Species | ABC Specifications | | | | | | HG b/ | |
| | ABC Contributions by Area | | | | | ABC | OY b/ | Commercial | Recreational |
| | Vancouver a/ | Columbia | Eureka | Monterey | Conception | | | | |
| yellowmouth | 99 | | | d/ | | | | | |
| yellowtail | -- | | | 116 | | | | | |
| gopher | d/ | | | 302 | | | | | |
| Other rockfish | 2,068 | | | 2,298 | | | | | |
| SHARKS/SKATES/RATFISH/MORIDS/GRENADIERS/KELP GREENLING: | | | | | | | | | |
| Other fish ii/ | 2,500 | 7,000 | 1,200 | 3,900 | | 14,600 | 7,300 | | |

Table 2b. To Part 660, Subpart G-2008, and Beyond, Harvest Guidelines for Minor Rockfish by Depth Sub-groups (weights in metric tons).

| Species | Total Catch ABC | Total Catch OY | Recreational HG | Commercial HG | Limited Entry HG | | Open Access HG | |
|---|---|---|---|---|---|---|---|---|
| | | | | | Mt | % | Mt | % |
| Minor Rockfish dd/ N of 40° 10' N. lat | 3,680 | 2,270 | 89 | 2,181 | 2,000 | 91.7 | 181 | 8.3 |
| Nearshore | | 142 | 79 | 63 | | | | |
| Shelf | | 968 | 10 | 958 | | | | |
| Slope | | 1,160 | 0 | 1,160 | | | | |
| Minor Rockfish ee/ S of 40° 10' N. lat | 3,403 | 1,904 | 486 | 1,418 | 790 | 55.7 | 628 | 44.3 |
| Nearshore | | 564 | 426 | 138 | | | | |
| Shelf | | 714 | 60 | 654 | | | | |
| Slope | | 626 | 0 | 626 | | | | |

Table 2c. To Part 660, Subpart G-2008, and Beyond, Open Access and Limited Entry Allocations by Species or Species Group. (Weights in Metric Tons)

| Species | Commercial Total Catch HGs | Commercial Total Catch HGs | | | |
|---|---|---|---|---|---|
| | | Limited Entry | | Open Access | |
| | | Mt | % | Mt | % |
| Lingcod N of 42° N. lat. | -- | | | | |
| S of 42° N. lat. | | -- | 81.0 | -- | 19.0 |
| Sablefish jj/ | 5,151 | 4,667 | 90.6 | 484 | 9.4 |

| | | | | | |
|---|---|---|---|---|---|
| N of 36° N. lat. | | | | | |
| Widow kk/ | 251.4 | -- | 97.0 | -- | 3.0 |
| Canary kk/ | 23 | -- | 87.7 | -- | 12.3 |
| Chilipepper | 2,000 | 1,114 | 55.7 | 886 | 44.3 |
| Bocaccio kk/ | 80.2 | -- | 55.7 | -- | 44.3 |
| Yellowtail | -- | -- | 91.7 | -- | 8.3 |
| Shortspine thornyhead N of 34°27' N. lat. | 1,634 | 1,193 | 99.7 | 441 | 0.27 |
| Minor Rockfish N of 40°10' N. | 2,181 | 2,000 | 91.7 | 181 | 8.3 |
| S of 40°10' N. lat. | 1,418 | 790 | 55.7 | 628 | 44.3 |

a/ ABCs apply to the U.S. portion of the Vancouver area.

b/ Optimum Yields (OYs) and Harvest Guidelines (HGs) are specified as total catch values. Though presented as harvest guidelines, the recreational values for widow rockfish, bocaccio, and cowcod are catch estimates. A harvest guideline is a specified harvest target and not a quota. The use of this ter may differ from the use of similar terms in state regulation.

c/ Lingcod - A coastwide lingcod stock assessment was prepared in 2005. The lingcod biomass was estimated to be at 64 percent of its unfished biomass in 2005. The ABC was calculated using an $F_{MSY}$ proxy of $F_{45\%}$. The ABC of 6,280 mt is a two year average ABC for 2007 and 2008. Because the stock is above $B_{40\%}$ coastwide, the OY could be set equal to the ABC. Separate OYs are being adopted for the area north of 42° N. lat. and the area south of 42° N. lat. For that portion of the stock north of 42° N. lat. the OY of 5,558 mt is set equal to the ABC contribution for the area. The biomass in the area south of 42° N. lat. is estimated to be at 24 percent of the unfished biomass. As a precautionary measure, the OY for the southern portion of the stock is being set at 612 mt, which is lower than the ABC contribution for the area. An OY of 612 mt (equivalent to the 2006 OY) is expected to result in a biomass increase for the southern portion of the stock. The tribes do not have a specific allocation at this time, but are expected to take 30 mt of the commercial HG.

d/ "Other species", these species are neither common nor important to the commercial and recreational fisheries in the areas footnoted. Accordingly, these species are included in the harvest guidelines of "other fish", "other rockfish" or "remaining rockfish".

e/ Pacific Cod - The 3,200 mt ABC for the Vancouver-Columbia area is based on historical landings data. The 1,600 mt OY is the ABC reduced by 50 percent as a precautionary adjustment. A tribal harvest guideline of 400 mt is deducted from the OY resulting in a commercial OY of 1,200 mt.

f/ Pacific whiting – The most recent stock assessment was prepared in February 2008, and the whiting biomass was estimated to be 42.6 percent ($50^{th}$ percentile estimate of depletion) of its unfished biomass in 2008 using the base model. The U.S. Canada coastwide ABC is 400,000 mt. Per the U.S.-Canada agreement, the U.S. ABC is 295,520 mt, 73.88 percent of the coastwide value. The U.S.-Canada coastwide OY is 364,842 mt. The U.S. OY is 269,545 mt (73.88 percent of the coastwide value). The tribal allocation is 35,000 mt. The 2008

commercial OY (non-tribal) for Pacific whiting is 232,545 mt, which is calculated by deducting the 35,000 mt tribal allocation and 2,000 mt for research catch and bycatch in non-groundfish fisheries from the 269,545 mt total catch OY. Each sector receives a portion of the commercial OY, with the catcher/processors getting 34 percent (79,065 mt), motherships getting 24 percent (55,811 mt), and the shore-based sector getting 42 percent (97,669 mt).

g/ Sablefish - A coastwide sablefish stock assessment was prepared in 2005. The coastwide sablefish biomass was estimated to be at 35.2 percent of its unfished biomass in 2005. Projections indicate that the biomass is increasing and will be near 42 percent of its unfished biomass by 2008. The coastwide ABC of 6,058 mt was based on the base-case assessment model with a $F_{MSY}$ proxy of $F_{45\%}$. The coastwide OY of 5,934 mt is based on the application of the 40-10 harvest policy and is a two year average OY for 2007 and 2008. To apportion fishery allocations for the area north of 36° N. lat., 96.45 percent of the coastwide OY (5,723 mt) is attributed to the northern area. The tribal allocation for the area north of 36° N. lat. is 572 mt (10 percent of the OY north of 36° N. lat), which is further reduced by 1.9 percent (10.9 mt) for discards. The tribal landed catch value is 561.4 mt.

h/ Cabezon south of 42° N. lat. was assessed in 2005. In 2005, the Cabazon stock was estimated to be at 40 percent of its unfished biomass north of 34° 27' N. lat. and 28 percent of its unfished biomass south of 34° 27' N. lat. The stock biomass is projected to be increasing in the northern area and decreasing in the southern area. The ABC of 94 mt (71 mt for the northern portion of the stock and 23 mt for the southern portion of the stock) is based on a harvest rate proxy of $F_{50\%}$. The OY of 69 mt is a constant harvest level that is consistent with the application of a 60-20 harvest rate policy specified in the California Nearshore Management Plan.

i/ Dover sole north of 34° 27' N. lat. was assessed in 2005. The Dover sole biomass was estimated to be at 59.8 percent of its unfished biomass in 2005 and is projected to be increasing. The ABC of 28,442 mt is based on the results of the 2005 assessment with an $F_{MSY}$ proxy of $F_{40\%}$. Because the stock is above $B_{40\%}$ coastwide, the OY could be set equal to the ABC. The OY of 16,500 mt, which is less than the ABC, is the MSY harvest level and is considerably larger than the coastwide catches in any recent years.

j/ A coastwide English sole stock assessment was prepared in 2005 and the stock was estimated to be at 91.5 percent of its unfished biomass in 2005, but the stock biomass is believed to be declining. The ABC of 6,237 is a two year average ABC for 2007 and 2008 based on the results of the 2005 assessment with an $F_{MSY}$ proxy of $F_{40\%}$. Because the stock is above $B_{40\%}$, the OY was set equal to the ABC.

k/ A petrale sole stock assessment was prepared for 2005. In 2005 the petrale sole stock coastwide was estimated to be at 32 percent of its unfished biomass (34 percent in the northern assessment area and 29 percent of in the southern assessment area). The petrale sole biomass is believed to be increasing. The ABC of 2,919 mt is based on the new assessment with a $F_{40\%}$ $F_{MSY}$ proxy. To derive the OY, the 40-10 harvest policy was applied to the ABC for both the northern and southern assessment areas. As a precautionary measure, an additional 25 percent reduction was made in the OY contribution for the southern area due assessment uncertainty. The OY of 2,499 mt is the average coastwide OY value for 2007 and 2008.

l/ Arrowtooth flounder was last assessed in 1993 and was estimated to be above 40 percent of its unfished biomass, therefore the OY will be set equal to the ABC.

m/ Starry Flounder was assessed for the first time in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005 (44 percent for the northern stock off Washington and Oregon, and 62 percent for the southern stock of California). The starry flounder biomass is believed to be declining, and will be below $B_{40\%}$. The starry flounder assessment was considered to be a data-poor assessment relative to other groundfish assessments. For 2007, the coastwide ABC of 1,221 mt is based on the new assessment with a $F_{MSY}$ proxy of $F_{40\%}$ and is an average ABC for 2007 and 2008. Because the stock is believed to be above $B_{40\%}$, the OY could be set equal to the ABC. To derive the OY, the 40-10 harvest policy was applied to the ABC for both the northern and southern assessment areas then an additional 25 percent reduction was made due to assessment uncertainty. Starry flounder was previously managed as part of the "other flatfish" category. The OY of 890 mt is the average coastwide OY value for 2007 and 2008.

n/ "Other flatfish" are those flatfish species that do not have individual ABC/OYs and include butter sole, curlfin sole, flathead sole, Pacific sand dab, rex sole, rock sole, and sand sole. Starry flounder was first assessed in 2005 and has been removed from the other flatfish complex. The other flatfish ABC is based on historical catch levels. The ABC of 6,731 mt is based on the highest landings for sanddabs (1995) and rex sole (1982) for the 1981-2003 period and on the average landings from the 1994-1998 period for the remaining other flatfish species. The OY of 4,884 mt is based on the ABC with a 25 percent precautionary adjustment for sanddabs and rex sole and a 50 percent precautionary adjustment for the remaining species.

o/ A POP stock assessment was prepared in 2005 and the stock was estimated to be at 23.4 percent of its unfished biomass in 2005. The ABC of 911 mt for the Vancouver and Columbia areas is based on an $F_{MSY}$ proxy of $_{F50\%}$. The OY of 150 mt is based on a rebuilding plan with a target year to rebuild of 2017 and an SPR harvest rate of 86.4 percent. The OY is reduced by 3.6 mt for the amount anticipated to be taken during research activity.

p/ Shortbelly rockfish remains an unexploited stock and is difficult to assess quantitatively. A 1989 stock assessment provided 2 alternative yield calculations of 13,900 mt and 47,000 mt. NMFS surveys have shown poor recruitment in most years since 1989, indicating low recent productivity and a naturally declining population in spite of low fishing pressure. The ABC and OY are therefore set at the low end of the range projected in the stock assessment, 13,900 mt.

q/ Widow rockfish was assessed in 2005 and was estimated to be at 31.1 percent of its unfished biomass in 2004. The ABC of 5,144 mt is based on an $F_{50\%}$ $F_{MSY}$ proxy. The OY of 368 is based on a rebuilding plan with a target year to rebuild of 2015 and an SPR harvest rate or 95 percent. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity. Tribal vessels are estimated to catch about 46.1 mt of widow rockfish in 2008, but do not have a specific allocation at this time. For the Pacific whiting fishery, 200 mt is being set aside and will be managed with bycatch limits.

r/ Canary rockfish - A coastwide canary rockfish stock assessment was completed in 2005 and the stock was estimated to be at 9.4 percent of its unfished biomass coastwide in 2005. The coastwide ABC of 179 mt is based on a $F_{MSY}$ proxy of F50%. The OY of 44 mt is based on a rebuilding plan with a target year to rebuild of 2063 and a SPR harvest rate of 88.7 percent. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research

activity. Tribal vessels are estimated to catch about 5 mt of canary rockfish under the 2008 commercial HG, but do not have a specific allocation at this time. South of 42° N. lat., the canary rockfish recreational fishery HG is 9.0 mt and north of 42° N. lat., the canary rockfish recreational fishery HG 8.2 mt.

s/ Chilipepper rockfish was last assessed in 1998. The ABC (2,700 mt) for the Monterey-Conception area is based on a three year average projection from 1999-2001 with a $F_{50\%}$ $F_{MSY}$ proxy. Because the unfished biomass is estimated to be above 40 percent the unfished biomass, the default OY could be set equal to the ABC. However, the OY is set at 2,000 mt to discourage fishing on chilipepper, which is taken with bocaccio. Management measures to constrain the harvest of overfished species have reduced the availability of chilipepper rockfish to the fishery during the past several years. Because the harvest assumptions (from the most recent stock assessment) used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 2008 was considered to be conservative and based on the best available data. Open access is allocated 44.3 percent (886 mt) of the commercial HG and limited entry is allocated 55.7 percent (1,114 mt) of the commercial HG.

t/ A bocaccio stock assessment updates and a rebuilding analysis were prepared in 2005. The bocaccio stock was estimated to be at 10.7 percent of its unfished biomass in 2005. The ABC of 618 mt for the Monterey-Conception is based on a $F_{50\%}$ $F_{MSY}$ proxy. The OY of 218 is based on a rebuilding plan with a target year to rebuild of 2026 and a SPR harvest rate of 77.7 percent. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity.

u/ Splitnose rockfish - The ABC is 615 mt in the southern area (Monterey-Conception). The 461 mt OY for the southern area reflects a 25 percent precautionary adjustment because of the less rigorous stock assessment for this stock. In the north, splitnose is included in the minor slope rockfish OY. Because the harvest assumptions used to forecast future harvest were likely overestimates, carrying the previously used ABCs and OYs forward into 20085 was considered to be conservative and based on the best available data.

v/ Yellowtail rockfish - A yellowtail rockfish stock assessment was prepared in 2005 for the Vancouver-Columbia-Eureka areas. Yellowtail rockfish was estimated to be above 40 percent of its unfished biomass in 2005. The ABC of 4,548 mt is a 2 year average ABC for 2007 and 2008 and is based on the 2005 stock assessment with the $F_{MSY}$ proxy of $F_{50\%}$. The OY of 4,548 mt was set equal to the ABC, because the stock is above the precautionary threshold of $B_{40\%}$. Tribal vessels are estimated to catch about 539 mt of yellowtail rockfish in 2007, but do not have a specific allocation at this time. Tribal vessels are estimated to catch about 539 mt of yellowtail rockfish in 2008, but do not have a specific allocation at this time.

w/ Shortspine thornyhead was assessed in 2005 and the stock was estimated to be at 63 percent of its unfished biomass in 2005. The ABC of 2,476 mt is based on a F50% $F_{MSY}$ proxy and is the two year average ABC for 2007 and 2008. For that portion of the stock (66 percent of the biomass) north of Point Conception ($34^{0}$ 27' N. lat.), the OY of 1,634 mt was set at equal to the ABC because the stock is estimated to be above the precautionary threshold. For that portion of the stock south of Point Conception (34 percent of the biomass), the OY of 421 mt was the portion of the ABC for the area reduced by 50 percent as a precautionary adjustment due to the short duration and amount

of survey data for that area. Tribal vessels are estimated to catch about 13 mt of shortspine thornyhead in 2008, but do not have a specific allocation at this time.

x/ Longspine thornyhead was assessed coastwide in 2005 and the stock was estimated to be at 71 percent of its unfished biomass in 2005. The coastwide ABC of 3,907 mt is based on a F50% $F_{MSY}$ proxy and is the two year average OY for the 2007 and 2008 period. The OY is set equal to the ABC because the stock is above the precautionary threshold. Separate OYs are being established for the areas north and south of 34° 27' N. lat. (Point Conception). The OY for that portion of the stock in the northern area (79 percent) is set equal to the ABC. For that portion of the stock in the southern area (21 percent), the OY of 476 mt was the portion of the ABC for the area reduced by 25 percent as a precautionary adjustment due to the short duration and amount of survey data for that area.

y/ Cowcod in the Conception area was assessed in 2005 and the stock was estimated to be between 14 and 21 percent of its unfished biomass. The ABC for the area south of 36° N. lat., the Conception area, is 17 mt and is based on the 2005 stock assessment with a $F_{50\%}$ $F_{MSY}$ proxy. The ABC for the Monterey area (19 mt)is based on average landings from 1993-1997. An OY of 4 mt is being set for both areas. The OY is based on a rebuilding plan with a target year to rebuild of 2039 and an SPR rate of 90.0 percent. The OY is reduced by 0.1 mt for the amount anticipated to be taken during research activity.

z/ Darkblotched rockfish was assessed in 2005 and was estimated to be at 16 percent of its unfished biomass in 2005. The ABC is projected to be 487 mt and is based on the 2005 stock assessment with an $F_{MSY}$ proxy of F50%. The OY of 330 mt is based on a rebuilding plan with a target year to rebuild of 2011 and an SPR harvest rate of 60.7 percent in 2008. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity.

aa/ Yelloweye rockfish was assessed in 2006 and is estimated to be at 17.7 percent of its unfished biomass coastwide. The 26 mt coastwide ABC is based on the new stock assessment and an $F_{MSY}$ proxy of F50%. The 20 mt OY is based on a rebuilding plan with a target year to rebuild of 2084 and an SPR harvest rate of 60.8 percent in 2008. The OY is reduced by 3.0 mt for the amount anticipated to be taken during research activity. Tribal vessels are estimated to catch 2.3 mt of yelloweye rockfish of the commercial HG in 2008, but do not have a specific allocation at this time. South of 42° N. lat. the yelloweye rockfish recreational fishery HG is 2.1 mt and north of 42° N. lat. the yelloweye rockfish recreational fishery HG 6.8 mt.

bb/ California Scorpionfish south of 34° 27' N. lat. was assessed in 2005 and was estimated to be above 40 percent of its unfished biomass in 2005. The ABC of 219 mt is based on the new assessment with a harvest rate proxy of $F_{50\%}$ and is an average ABC for 2007 and 2008. Because the stock is above $B_{40\%}$ coastwide, the OY could be set equal to the ABC. The OY of 175 mt, which is lower than the ABC, reflects the highest historical catch levels.

cc/ Black rockfish was last assessed in 2003 for the Columbia and Eureka area and in 2000 for the Vancouver area. The ABC for the area north of 46°16' N. lat. is 540 mt and the ABC for the area south of 46°16' N. lat. is 722 mt which is the two year average OY for the 2007 and 2008 period. Because of an overlap in the assessed areas between Cape Falcon and the Columbia River, projections from the 2000 stock assessment were adjusted downward by 12 percent to account for the overlap. The ABCs were derived using an $F_{MSY}$ proxy of F50%. Because the unfished biomass is estimated to be above 40 percent, the OYs were set equal to the ABCs. For the area north of 46°16' N. lat., the OY is 540 mt. The following tribal harvest guidelines are being set: 20,000 lb

(9.1 mt) north of Cape Alava, WA (48°09.50' N. lat.) and 10,000 lb (4.5 mt) between Destruction Island, WA (47°40' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.). For the area south of 46°16' N. lat., the OY is 722 mt. The black rockfish OY in the area south of 46°16' N. lat., is subdivided with separate HGs being set for the area north of 42° N. lat (419 mt/58 percent) and for the area south of 42° N. lat (303 mt/42 percent). For the southern area north of 42° N. lat., a range is presented for the recreational estimate (289-350 mt) and commercial HG (91 -111 mt). Specific values will be specified in the final rule. Of the 303 mt of black rockfish attributed to the area south of 42° N. lat., 168 mt is estimated to be taken in the recreational fisheries, resulting in a commercial HG of 135 mt.

dd/ Minor rockfish north includes the "remaining rockfish" and "other rockfish" categories in the Vancouver, Columbia, and Eureka areas combined. These species include "remaining rockfish", which generally includes species that have been assessed by less rigorous methods than stock assessments, and "other rockfish", which includes species that do not have quantifiable stock assessments. The ABC of 3,680 mt is the sum of the individual "remaining rockfish" ABCs plus the "other rockfish" ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. To obtain the total catch OY of 2,270 mt, the remaining rockfish ABCs were further reduced by 25 percent and other rockfish ABCs were reduced by 50 percent. This was a precautionary measure to address limited stock assessment information. Tribal vessels are estimated to catch about 38 mt of minor rockfish in 2008, but do not have a specific allocation at this time.

ee/ Minor rockfish south includes the "remaining rockfish" and "other rockfish" categories in the Monterey and Conception areas combined. These species include "remaining rockfish" which generally includes species that have been assessed by less rigorous methods than stock assessment, and "other rockfish" which includes species that do not have quantifiable stock assessments. The ABC of 3,403 mt is the sum of the individual "remaining rockfish" ABCs plus the "other rockfish" ABCs. The remaining rockfish ABCs continue to be reduced by 25 percent (F=0.75M) as a precautionary adjustment. The remaining rockfish ABCs are further reduced by 25 percent, with the exception of blackgill rockfish (see footnote gg). The other rockfish ABCs were reduced by 50 percent. This was a precautionary measure due to limited stock assessment information. The resulting minor rockfish OY is 1,904 mt.

ff/ Bank rockfish - The ABC is 350 mt which is based on a 2000 stock assessment for the Monterey and Conception areas. This stock contributes 263 mt towards the minor rockfish OY in the south.

gg/ Blackgill rockfish in the Monterey and Conception areas was assessed in 2005 and is estimated to be at 49.9 percent of its unfished biomass in 2008. The ABC of 292 mt for the Monterey and Conception areas is based on the 2005 stock assessment with an $F_{MSY}$ proxy of F50% and is the two year average ABC for the 2007 and 2008 periods. This stock contributes 292 mt towards minor rockfish south.

hh/ "Other rockfish" includes rockfish species listed in 50 CFR 660.302. California scorpionfish and gopher rockfish were assessed in 2005 and are being removed from this category. The California Scorpionfish contribution of 163 mt and the gopher rockfish contribution of 97 mt were removed from the ABC value. The ABC for the remaining species is based on the 1996 review of commercial Sebastes landings and includes an estimate of recreational landings. These species have never been assessed quantitatively.

ii/ "Other fish" includes sharks, skates, rays, ratfish, morids, grenadiers, kelp greenling, and other groundfish species noted above in footnote d/.

kk/ Sablefish allocation north of 36° N. lat. - The limited entry allocation is further divided with 58 percent allocated to the trawl fishery and 42 percent allocated to the fixed-gear fishery.

jj/ Specific open access/limited entry allocations have been suspended during the rebuilding period as necessary to meet the overall rebuilding target while allowing harvest of healthy stocks.

[73 FR 26329, May 9, 2008]

## TABLE 3 (NORTH) TO PART 660, SUBPART G—2007–2008 TRIP LIMITS FOR LIMITED ENTRY TRAWL GEAR NORTH OF 40°10′ N. LAT.

**Table 3 (North) to Part 660, Subpart G -- 2007-2008 Trip Limits for Limited Entry Trawl Gear North of 40°10' N. Lat.**

**Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table** 070108

| | | JAN-FEB | MAR-APR | MAY-JUN | JUL-AUG | SEP-OCT | NOV-DEC |
|---|---|---|---|---|---|---|---|
| | **Rockfish Conservation Area (RCA)[6/]:** | | | | | | |
| 1 | North of 48°10.00' N. lat. | shore - modified 200 fm [7/] | shore - 200 fm | shore - 150 fm | | | shore - modified 200 fm [7/] |
| 2 | 48°10.00' N. lat. - 46°38.17' N. lat. | 75 fm - modified 200 fm [7/] | 60 fm - 200 fm | 60 fm - 150 fm | | | 75 fm - modified 200 fm [7/] |
| 3 | 46°38.17' N. lat. - 46°16.00 N. lat. | | 60 fm - 200 fm | | 60 fm - 150 fm | | |
| 4 | 46°16.00 N. lat. - 45°46.00' N. lat. | | 75 fm - 200 fm | 75 fm - 150 fm | | 75 fm - 200 fm | |
| 5 | 45°46.00' N. lat. - 43°20.83' N. lat. | | 75 fm - 200 fm | | | | |
| 6 | 43°20.83' N. lat. - 42°40.50' N. lat. | shore - modified 200 fm [7/] | shore - 200fm | | | | shore - modified 200 fm [7/] |
| 7 | 42°40.50' N. lat. -40°10.00' N. lat. | 75 fm - modified 200 fm [7/] | 75 fm - 200 fm | 60 fm - 200 fm | | | 75 fm - modified 200 fm [7/] |
| | Selective flatfish trawl gear is required shoreward of the RCA; all trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope trawl gear is prohibited shoreward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season. | | | | | | |
| | **See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).** | | | | | | |
| | State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California. | | | | | | |
| 8 | **Minor slope rockfish[2/] & Darkblotched rockfish** | 1,500 lb/ 2 months | | | | | |
| 9 | **Pacific ocean perch** | 1,500 lb/ 2 months | | | | | |
| 10 | **DTS complex** | | | | | | |
| 11 | Sablefish | | | | | | |
| 12 | large & small footrope gear | 14,000 lb/ 2 months | | 19,000 lb/ 2 months | 24,000 lb/ 2 months | | 19,000 lb/ 2 months |
| 13 | selective flatfish trawl gear | 5,000 lb/ 2 months | | | 7,000 lb/ 2months | | |
| 14 | multiple bottom trawl gear [8/] | 5,000 lb/ 2 months | | | | | |
| 15 | Longspine thornyhead | | | | | | |
| 16 | large & small footrope gear | 25,000 lb/ 2 months | | | | | |
| 17 | selective flatfish trawl gear | 3,000 lb/ 2 months | | | | | |
| 18 | multiple bottom trawl gear [8/] | 3,000 lb/ 2 months | | | | | |
| 19 | Shortspine thornyhead | | | | | | |
| 20 | large & small footrope gear | 12,000 lb/ 2 months | | 25,000 lb/ 2 months | | | |
| 21 | selective flatfish trawl gear | 3,000 lb/ 2 months | | | | | |
| 22 | multiple bottom trawl gear [8/] | 3,000 lb/ 2 months | | | | | |
| 23 | Dover sole | | | | | | |
| 24 | large & small footrope gear | 80,000 lb/ 2 months | | | | | |
| 25 | selective flatfish trawl gear | 40,000 lb/ 2 months | 50,000 lb/ 2 months | 40,000 lb/ 2 months | 50,000 lb/ 2 months | | |
| 26 | multiple bottom trawl gear [8/] | 40,000 lb/ 2 months | 50,000 lb/ 2 months | 40,000 lb/ 2 months | | | |

TABLE 3 (North)

*Table 3 (North). Continued*

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 27 | **Whiting** | | | | | | | TABLE 3 (North) con't |
| 28 | midwater trawl | Before the primary whiting season: CLOSED. – During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. – After the primary whiting season: CLOSED. | | | | | | |
| 29 | large & small footrope gear | Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. – After the primary whiting season: 10,000 lb/trip. | | | | | | |
| 30 | **Flatfish** (except Dover sole) | | | | | | | |
| 31 | Arrowtooth flounder | | | | | | | |
| 32 | large & small footrope gear | 150,000 lb/ 2 months | | | | | | |
| 33 | selective flatfish trawl gear | 10,000 lb/ 2 months | | | | | | |
| 34 | multiple bottom trawl gear [8/] | 10,000 lb/ 2 months | | | | | | |
| 35 | Other flatfish [3/], English sole, starry flounder, & Petrale sole | | | | | | | |
| 36 | large & small footrope gear for Other flatfish [3/], English sole, & starry flounder | 110,000 lb/ 2 months | 110,000 lb/ 2 months, no more than 30,000 lb/ 2 months of which may be petrale sole. | 110,000 lb/ 2 months, no more than 20,000 lb/ 2 months of which may be petrale sole. | | | 110,000 lb/ 2 months | |
| 37 | large & small footrope gear for Petrale sole | 40,000 lb/ 2 months | | | | | 30,000 lb/ 2 months | |
| 38 | selective flatfish trawl gear for Other flatfish [3/], English sole, & starry flounder | 70,000 lb/ 2 months, no more than 10,000 lb/ 2 months of which may be petrale sole. | 70,000 lb/ 2 months, no more than 18,000 lb/ 2 months of which may be petrale sole. | 50,000 lb/ 2 months, no more than 18,000 lb/ 2 months of which may be petrale sole. | 80,000 lb/ 2 months, no more than 18,000 lb/ 2 months of which may be petrale sole. | 80,000 lb/ 2 months, no more than 16,000 lb/ 2 months of which may be petrale sole. | 80,000 lb/ 2 months, no more than 10,000 lb/ 2 months of which may be petrale sole. | |
| 39 | selective flatfish trawl gear for Petrale sole | | | | | | | |
| 40 | multiple bottom trawl gear [8/] | 70,000 lb/ 2 months, no more than 10,000 lb/ 2 months of which may be petrale sole. | 70,000 lb/ 2 months, no more than 18,000 lb/ 2 months of which may be petrale sole. | 50,000 lb/ 2 months, no more than 18,000 lb/ 2 months of which may be petrale sole. | 80,000 lb/ 2 months, no more than 18,000 lb/ 2 months of which may be petrale sole. | 80,000 lb/ 2 months, no more than 16,000 lb/ 2 months of which may be petrale sole. | 80,000 lb/ 2 months, no more than 10,000 lb/ 2 months of which may be petrale sole. | |
| 41 | **Minor shelf rockfish [1/], Shortbelly, Widow & Yelloweye rockfish** | | | | | | | |
| 42 | midwater trawl for Widow rockfish | Before the primary whiting season: CLOSED. – During primary whiting season: In trips of at least 10,000 lb of whiting, combined widow and yellowtail limit of 500 lb/ trip, cumulative widow limit of 1,500 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. -- After the primary whiting season: CLOSED. | | | | | | |
| 43 | large & small footrope gear | 300 lb/ 2 months | | | | | | |
| 44 | selective flatfish trawl gear | 300 lb/ month | | 1,000 lb/ month, no more than 200 lb/ month of which may be yelloweye rockfish | | | 300 lb/ month | |
| 45 | multiple bottom trawl gear [8/] | 300 lb/ month | | 300 lb/ 2 months, no more than 200 lb/ month of which may be yelloweye rockfish | | | 300 lb/ month | |

*Table 3 (North). Continued*

| | | | | | |
|---|---|---|---|---|---|
| 46 | **Canary rockfish** | | | | |
| 47 | large & small footrope gear | CLOSED | | | |
| 48 | selective flatfish trawl gear | 100 lb/ month | 300 lb/ month | 100 lb/ month | |
| 49 | multiple bottom trawl gear [8/] | CLOSED | | | |
| 50 | **Yellowtail** | | | | |
| 51 | midwater trawl | Before the primary whiting season: CLOSED. – During primary whiting season: In trips of at least 10,000 lb of whiting: combined widow and yellowtail limit of 500 lb/ trip, cumulative yellowtail limit of 2,000 lb/ month. Mid-water trawl permitted in the RCA. See §660.373 for primary whiting season and trip limit details. – After the primary whiting season: CLOSED. | | | |
| 52 | large & small footrope gear | 300 lb/ 2 months | | | |
| 53 | selective flatfish trawl gear | 2,000 lb/ 2 months | | | |
| 54 | multiple bottom trawl gear [8/] | 300 lb/ 2 months | | | |
| 55 | **Minor nearshore rockfish & Black rockfish** | | | | |
| 56 | large & small footrope gear | CLOSED | | | |
| 57 | selective flatfish trawl gear | 300 lb/ month | | | |
| 58 | multiple bottom trawl gear [8/] | CLOSED | | | |
| 59 | **Lingcod** [4/] | | | | |
| 60 | large & small footrope gear | 1,200 lb/ 2 months | 4,000 lb/ 2 months | | |
| 61 | selective flatfish trawl gear | | 1,200 lb/2 months | | |
| 62 | multiple bottom trawl gear [8/] | | | | |
| 63 | **Pacific cod** | 30,000 lb/ 2 months | 70,000 lb/ 2 months | | 30,000 lb/ 2 months |
| 64 | **Spiny dogfish** | 200,000 lb/ 2 months | 150,000 lb/ 2 months | 100,000 lb/ 2 months | |
| 65 | **Other Fish** [5/] | Not limited | | | |

TABLE 3 (North) con't

1/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish.
2/ Splitnose rockfish is included in the trip limits for minor slope rockfish.
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
5/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394.
7/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
8/ If a vessel has both selective flatfish gear and large or small footrope gear on board during a cumulative limit period (either simultaneously or successively), the most restrictive cumulative limit for any gear on board during the cumulative limit period applies for the entire cumulative limit period.

**To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.**

[73 FR 43142, July 24, 2008]

TABLE 3 (SOUTH) TO PART 660, SUBPART G—2007–2008 TRIP LIMITS FOR LIMITED ENTRY TRAWL GEAR SOUTH OF 40°10′ N. LAT.

**Table 3 (South) to Part 660, Subpart G -- 2007-2008 Trip Limits for Limited Entry Trawl Gear South of 40°10' N. Lat.**

**Other Limits and Requirements Apply – Read § 660.301 - § 660.399 before using this table** 070108

| | | JAN-FEB | MAR-APR | MAY-JUN | JUL-AUG | SEP-OCT | NOV-DEC |
|---|---|---|---|---|---|---|---|
| | **Rockfish Conservation Area (RCA)[6/]:** | | | | | | |
| 1 | South of 40°10' N. lat. | 100 fm - 150 fm [7/] | | | | | |
| All trawl gear (large footrope, selective flatfish trawl, and small footrope trawl gear) is permitted seaward of the RCA. Large footrope trawl gear is prohibited shoreward of the RCA. Midwater trawl gear is permitted only for vessels participating in the primary whiting season. | | | | | | | |
| **See § 660.370 and § 660.381 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).** | | | | | | | |
| State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California. | | | | | | | |
| 2 | **Minor slope rockfish[2/] & Darkblotched rockfish** | | | | | | |
| 3 | 40°10' - 38° N. lat. | 15,000 lb/ 2 months | | | | | |
| 4 | South of 38° N. lat. | 55,000 lb/ 2 months | | | | | |
| 5 | **Splitnose** | | | | | | |
| 6 | 40°10' - 38° N. lat. | 15,000 lb/ 2 months | | | 10,000 lb/ 2 months | | 15,000 lb/ 2 months |
| 7 | South of 38° N. lat. | 40,000 lb/ 2 months | | | | | |
| 8 | **DTS complex** | | | | | | |
| 9 | Sablefish | 14,000 lb/ 2 months | | 19,000 lb/ 2 months | 24,000 lb/ 2 months | | 19,000 lb/ 2 months |
| 10 | Longspine thornyhead | 25,000 lb/ 2 months | | | | | |
| 11 | Shortspine thornyhead | 12,000 lb/ 2 months | | 25,000 lb/ 2 months | | | |
| 12 | Dover sole | 80,000 lb/ 2 months | | | | | |
| 13 | **Flatfish** (except Dover sole) | | | | | | |
| 14 | Other flatfish[3/], English sole, & starry flounder | 110,000 lb/ 2 months | 110,000 lb/ 2 months, no more than 30,000 lb/ 2 months of which may be petrale sole. | | | | 110,000 lb/ 2 months |
| 15 | Petrale sole | 50,000 lb/ 2 months | | | | | 50,000 lb/ 2 months |
| 16 | Arrowtooth flounder | 10,000 lb/ 2 months | | | | | |
| 17 | **Whiting** | | | | | | |
| 18 | midwater trawl | Before the primary whiting season: CLOSED. -- During the primary season: mid-water trawl permitted in the RCA. See §660.373 for season and trip limit details. -- After the primary whiting season: CLOSED. | | | | | |
| 19 | large & small footrope gear | Before the primary whiting season: 20,000 lb/trip. -- During the primary season: 10,000 lb/trip. -- After the primary whiting season: 10,000 lb/trip. | | | | | |

TABLE 3 (South)

*Table 3 (South). Continued*

| | | | | | |
|---|---|---|---|---|---|
| 20 | **Minor shelf rockfish[1/], Chilipepper, Shortbelly, Widow, & Yelloweye rockfish** | | | | |
| 21 | large footrope or midwater trawl for Minor shelf rockfish & Shortbelly | 300 lb/ month | | | |
| 22 | large footrope or midwater trawl for Chilipepper | 2,000 lb/ 2 months | 12,000 lb/ 2 months | 8,000 lb/ 2 months | |
| 23 | large footrope or midwater trawl for Widow & Yelloweye | CLOSED | | | |
| 24 | small footrope trawl for Minor Shelf, Shortbelly, Widow & Yelloweye | 300 lb/ month | | | |
| 25 | small footrope trawl for Chilipepper | 2,000 lb/ 2 months | | | |
| 26 | **Bocaccio** | | | | |
| 27 | large footrope or midwater trawl | 300 lb/ 2 months | | | |
| 28 | small footrope trawl | CLOSED | | | |
| 29 | **Canary rockfish** | | | | |
| 30 | large footrope or midwater trawl | CLOSED | | | |
| 31 | small footrope trawl | 100 lb/ month | 300 lb/ month | 100 lb/ month | |
| 32 | **Cowcod** | CLOSED | | | |
| 33 | **Minor nearshore rockfish & Black rockfish** | | | | |
| 34 | large footrope or midwater trawl | CLOSED | | | |
| 35 | small footrope trawl | 300 lb/ month | | | |
| 36 | **Lingcod[4/]** | | | | |
| 37 | large footrope or midwater trawl | 1,200 lb/ 2 months | 4,000 lb/ 2 months | | |
| 38 | small footrope trawl | | 1,200 lb/ 2 months | | |
| 39 | **Pacific cod** | 30,000 lb/ 2 months | 70,000 lb/ 2 months | | 30,000 lb/ 2 months |
| 40 | **Spiny dogfish** | 200,000 lb/ 2 months | 150,000 lb/ 2 months | 100,000 lb/ 2 months | |
| 41 | **Other Fish[5/] & Cabezon** | Not limited | | | |

**TABLE 3 (South) con't**

1/ Yellowtail is included in the trip limits for minor shelf rockfish.
2/ POP is included in the trip limits for minor slope rockfish
3/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
4/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
5/ Other fish are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling.
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394.
7/ South of 34°27' N. lat., the RCA is 100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands.
**To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.**

[73 FR 43142, July 24, 2008]

TABLE 4 (NORTH) TO PART 660, SUBPART G—2007–2008 TRIP LIMITS FOR LIMITED ENTRY FIXED GEAR NORTH OF 40°10′ N. LAT.

**Table 4 (North) to Part 660, Subpart G -- 2007-2008 Trip Limits for Limited Entry Fixed Gear North of 40°10' N. Lat.**

**Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table** 070108

| | | JAN-FEB | MAR-APR | MAY-JUN | JUL-AUG | SEP-OCT | NOV-DEC |
|---|---|---|---|---|---|---|---|
| | **Rockfish Conservation Area (RCA)[6/]:** | | | | | | |
| 1 | North of 46°16' N. lat. | shoreline - 100 fm | | | | | |
| 2 | 46°16' N. lat. - 40°10' N. lat. | 30 fm - 100 fm | | | | | |
| | **See § 660.370 and § 660.382 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).** | | | | | | |
| | State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California. | | | | | | |
| 3 | **Minor slope rockfish[2/] & Darkblotched rockfish** | 4,000 lb/ 2 months | | | | | |
| 4 | **Pacific ocean perch** | 1,800 lb/ 2 months | | | | | |
| 5 | **Sablefish** | 300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 5,000 lb/ 2 months | | | 500 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 5,000 lb/ 2 months | | |
| 6 | **Longspine thornyhead** | 10,000 lb/ 2 months | | | | | |
| 7 | **Shortspine thornyhead** | 2,000 lb/ 2 months | | | | | |
| 8 | **Dover sole** | 5,000 lb/ month<br>South of 42°N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs. | | | | | |
| 9 | **Arrowtooth flounder** | | | | | | |
| 10 | **Petrale sole** | | | | | | |
| 11 | **English sole** | | | | | | |
| 12 | **Starry flounder** | | | | | | |
| 13 | **Other flatfish[1/]** | | | | | | |
| 14 | **Whiting** | 10,000 lb/ trip | | | | | |
| 15 | **Minor shelf rockfish[2/], Shortbelly, Widow, & Yellowtail rockfish** | 200 lb/ month | | | | | |
| 16 | **Canary rockfish** | CLOSED | | | | | |
| 17 | **Yelloweye rockfish** | CLOSED | | | | | |
| 18 | **Minor nearshore rockfish & Black rockfish** | | | | | | |
| 19 | North of 42° N. lat. | 5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/] | | | | | |
| 20 | 42°- 40°10' N. lat. | 6,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/] | | | | | |
| 21 | **Lingcod[4/]** | CLOSED | | 800 lb/ 2 months | | 400 lb/ month | CLOSED |
| 22 | **Pacific cod** | 1,000 lb/ 2 months | | | | | |
| 23 | **Spiny dogfish** | 200,000 lb/ 2 months | | 150,000 lb/ 2 months | 100,000 lb/ 2 months | | |
| 24 | **Other fish[5/]** | Not limited | | | | | |

TABLE 4 (North)

1/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
2/ Bocaccio, chilipepper and cowcod are included in the trip limits for minor shelf rockfish and splitnose rockfish is included in the trip limits for minor slope rockfish.
3/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lb or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.
4/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length south of 42° N. lat.
5/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling. Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394.
**To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.**

[73 FR 43142, July 24, 2008]

TABLE 4 (SOUTH) TO PART 660, SUBPART G—2007–2008 TRIP LIMITS FOR LIMITED ENTRY FIXED GEAR SOUTH OF 40°10′ N. LAT.

**Table 4 (South) to Part 660, Subpart G -- 2007-2008 Trip Limits for Limited Entry Fixed Gear South of 40°10' N. Lat.**

**Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table** 070108

| | | JAN-FEB | MAR-APR | MAY-JUN | JUL-AUG | SEP-OCT | NOV-DEC |
|---|---|---|---|---|---|---|---|
| | **Rockfish Conservation Area (RCA)[5/]:** | | | | | | |
| 1 | 40°10' - 34°27' N. lat. | 30 fm - 150 fm | | | | | |
| 2 | South of 34°27' N. lat. | 60 fm - 150 fm (also applies around islands) | | | | | |
| | **See § 660.370 and § 660.382 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).** | | | | | | |
| | State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California. | | | | | | |
| 3 | **Minor slope rockfish[2/] & Darkblotched rockfish** | 40,000 lb/ 2 months | | | | | |
| 4 | **Splitnose** | 40,000 lb/ 2 months | | | | | |
| 5 | **Sablefish** | | | | | | |
| 6 | 40°10' - 36° N. lat. | 300 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 5,000 lb/ 2 months | | | 500 lb/ day, or 1 landing per week of up to 1,000 lb, not to exceed 5,000 lb/ 2 months | | |
| 7 | South of 36° N. lat. | 350 lb/ day, or 1 landing per week of up to 1,050 lb | | | | | |
| 8 | **Longspine thornyhead** | 10,000 lb / 2 months | | | | | |
| 9 | **Shortspine thornyhead** | | | | | | |
| 10 | 40°10' - 34°27' N. lat. | 2,000 lb/ 2 months | | | | | |
| 11 | South of 34°27' N. lat. | 3,000 lb/ 2 months | | | | | |
| 12 | **Dover sole** | 5,000 lb/ month<br>South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs. | | | | | |
| 13 | **Arrowtooth flounder** | | | | | | |
| 14 | **Petrale sole** | | | | | | |
| 15 | **English sole** | | | | | | |
| 16 | **Starry flounder** | | | | | | |
| 17 | **Other flatfish[1/]** | | | | | | |
| 18 | **Whiting** | 10,000 lb/ trip | | | | | |
| 19 | **Minor shelf rockfish[2/], Shortbelly, Widow rockfish, and Bocaccio (including Chilipepper between 40°10' - 34°27' N. lat.)** | | | | | | |
| 20 | 40°10' - 34°27' N. lat. | Minor shelf rockfish, shortbelly, widow rockfish, bocaccio & chilipepper: 2,500 lb/ 2 months, of which no more than 500 lb/ 2 months may be any species other than chilipepper. | | | | | |
| 21 | South of 34°27' N. lat. | 3,000 lb/ 2 months | CLOSED | 3,000 lb/ 2 months | | | |
| 22 | **Chilipepper rockfish** | | | | | | |
| 23 | 40°10' - 34°27' N. lat. | Chilipepper included under minor shelf rockfish, shortbelly, widow and bocaccio limits - - See above | | | | | |
| 24 | South of 34°27' N. lat. | 2,000 lb/ 2 months, this opportunity only available seaward of the nontrawl RCA | | | | | |
| 25 | **Canary rockfish** | CLOSED | | | | | |
| 26 | **Yelloweye rockfish** | CLOSED | | | | | |
| 27 | **Cowcod** | CLOSED | | | | | |
| 28 | **Bocaccio** | | | | | | |
| 29 | 40°10' - 34°27' N. lat. | Bocaccio included under Minor shelf rockfish, shortbelly, widow & chilipepper limits -- See above | | | | | |
| 30 | South of 34°27' N. lat. | 300 lb/ 2 months | CLOSED | 300 lb/ 2 months | | | |

TABLE 4 (South)

*Table 4 (South). Continued*

**TABLE 4 (South)**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 31 | **Minor nearshore rockfish & Black rockfish** | | | | | | | |
| 32 | Shallow nearshore | 600 lb/ 2 months | CLOSED | 800 lb/ 2 months | 900 lb/ 2 months | 800 lb/ 2 months | 600 lb/ 2 months | |
| 33 | Deeper nearshore | | | | | | | |
| 34 | 40°10' - 34°27' N. lat. | 700 lb/ 2 months | CLOSED | 700 lb/ 2 months | | 600 lb/ 2 months | 700 lb/ 2 months | |
| 35 | South of 34°27' N. lat. | 500 lb/ 2 months | | 600 lb/ 2 months | | | | |
| 36 | California scorpionfish | 600 lb/ 2 months | CLOSED | 600 lb/ 2 months | 800 lb/ 2 months | | 600 lb/ 2 months | |
| 37 | **Lingcod[3/]** | CLOSED | | 800 lb/ 2 months | | | 400 lb/ month | CLOSED |
| 38 | **Pacific cod** | 1,000 lb/ 2 months | | | | | | |
| 39 | **Spiny dogfish** | 200,000 lb/ 2 months | | 150,000 lb/ 2 months | 100,000 lb/ 2 months | | | |
| 40 | **Other fish[4/] & Cabezon** | Not limited | | | | | | |

1/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
2/ POP is included in the trip limits for minor slope rockfish. Yellowtail is included in the trip limits for minor shelf rockfish.
3/ The minimum size limit for lingcod is 24 inches (61 cm) total length.
4/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling.
5/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394, except that the 20-fm depth contour off California is defined by the depth contour and not coordinates.

**To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.**

[73 FR 43142, July 24, 2008]

TABLE 5 (NORTH) TO PART 660, SUBPART G—2007–2008 TRIP LIMITS FOR OPEN ACCESS GEARS NORTH OF 40°10′ N. LAT.

**Table 5 (North) to Part 660, Subpart G -- 2007-2008 Trip Limits for Open Access Gears North of 40°10' N. Lat.**

**Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table** 031708

| | | JAN-FEB | MAR-APR | MAY-JUN | JUL-AUG | SEP-OCT | NOV-DEC |
|---|---|---|---|---|---|---|---|
| | **Rockfish Conservation Area (RCA)[6/]:** | | | | | | |
| 1 | North of 46°16' N. lat. | shoreline - 100 fm | | | | | |
| 2 | 46°16' N. lat. - 40°10' N. lat. | 30 fm - 100 fm | | | | | |
| | **See § 660.370 and § 660.383 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).** | | | | | | |
| | State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California. | | | | | | |
| 3 | **Minor slope rockfish[1/] & Darkblotched rockfish** | Per trip, no more than 25% of weight of the sablefish landed | | | | | |
| 4 | **Pacific ocean perch** | 100 lb/ month | | | | | |
| 5 | **Sablefish** | 300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months | | 300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,200 lb/ 2 months | | | |
| 6 | **Thornyheads** | CLOSED | | | | | |
| 7 | **Dover sole** | 3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs. | | | | | |
| 8 | **Arrowtooth flounder** | | | | | | |
| 9 | **Petrale sole** | | | | | | |
| 10 | **English sole** | | | | | | |
| 11 | **Starry flounder** | | | | | | |
| 12 | **Other flatfish[2/]** | | | | | | |
| 13 | **Whiting** | 300 lb/ month | | | | | |
| 14 | **Minor shelf rockfish[1/], Shortbelly, Widow, & Yellowtail rockfish** | 200 lb/ month | | | | | |
| 15 | **Canary rockfish** | CLOSED | | | | | |
| 16 | **Yelloweye rockfish** | CLOSED | | | | | |
| 17 | **Minor nearshore rockfish & Black rockfish** | | | | | | |
| 18 | North of 42° N. lat. | 5,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/] | | | | | |
| 19 | 42° - 40°10' N. lat. | 6,000 lb/ 2 months, no more than 1,200 lb of which may be species other than black or blue rockfish [3/] | | | | | |
| 20 | **Lingcod[4/]** | CLOSED | | 400 lb/ month | | | CLOSED |
| 21 | **Pacific cod** | 1,000 lb/ 2 months | | | | | |
| 22 | **Spiny dogfish** | 200,000 lb/ 2 months | | 150,000 lb/ 2 months | 100,000 lb/ 2 months | | |
| 23 | **Other Fish[5/]** | Not limited | | | | | |

TABLE 5 (North)

*Table 5 (North). Continued*

| | | |
|---|---|---|
| 24 | **PINK SHRIMP NON-GROUNDFISH TRAWL** *(not subject to RCAs)* | |
| 25 | North | **Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/month (minimum 24 inch size limit); sablefish 2,000 lb/month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed. |
| 26 | **SALMON TROLL** | |
| 27 | North | Salmon trollers may retain and land up to 1 lb of yellowtail rockfish for every 2 lbs of salmon landed, with a cumulative limit of 200 lb/month, both within and outside of the RCA. This limit is within the 200 lb per month combined limit for minor shelf rockfish, widow rockfish and yellowtail rockfish, and not in addition to that limit. All groundfish species are subject to the open access limits, seasons and RCA restrictions listed in the table above. |

TABLE 5 (North) con't

1/ Bocaccio, chilipepper and cowcod rockfishes are included in the trip limits for minor shelf rockfish.
Splitnose rockfish is included in the trip limits for minor slope rockfish.
2/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
3/ For black rockfish north of Cape Alava (48°09.50' N. lat.), and between Destruction Is. (47°40' N. lat.) and Leadbetter Pnt. (46°38.17' N. lat.), there is an additional limit of 100 lbs or 30 percent by weight of all fish on board, whichever is greater, per vessel, per fishing trip.
4/ The minimum size limit for lingcod is 22 inches (56 cm) total length North of 42° N. lat. and 24 inches (61 cm) total length south of 42° N. lat.
5/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling.
Cabezon is included in the trip limits for "other fish."
6/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394.
**To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.**

[73 FR 21063, Apr. 18, 2008]

TABLE 5 (SOUTH) TO PART 660, SUBPART G—2007–2008 TRIP LIMITS FOR OPEN ACCESS GEARS SOUTH OF 40°10′ N. LAT.

**Table 5 (South) to Part 660, Subpart G -- 2007-2008 Trip Limits for Open Access Gears South of 40°10' N. Lat.**

**Other Limits and Requirements Apply -- Read § 660.301 - § 660.399 before using this table** 070108

| | | JAN-FEB | MAR-APR | MAY-JUN | JUL-AUG | SEP-OCT | NOV-DEC |
|---|---|---|---|---|---|---|---|
| | **Rockfish Conservation Area (RCA)[5/]:** | | | | | | |
| 1 | 40°10' - 34°27' N. lat. | 30 fm - 150 fm | | | | | |
| 2 | South of 34°27' N. lat. | 60 fm - 150 fm (also applies around islands) | | | | | |
| | **See § 660.370 and § 660.383 for Additional Gear, Trip Limit, and Conservation Area Requirements and Restrictions. See §§ 660.390-660.394 and §§ 660.396-660.399 for Conservation Area Descriptions and Coordinates (including RCAs, YRCA, CCAs, Farallon Islands, Cordell Banks, and EFHCAs).** | | | | | | |
| | State trip limits and seasons may be more restrictive than federal trip limits, particularly in waters off Oregon and California. | | | | | | |
| 3 | **Minor slope rockfish[1/] & Darkblotched rockfish** | | | | | | |
| 4 | 40°10' - 38° N. lat. | Per trip, no more than 25% of weight of the sablefish landed | | | | | |
| 5 | South of 38° N. lat. | 10,000 lb/ 2 months | | | | | |
| 6 | **Splitnose** | 200 lb/ month | | | | | |
| 7 | **Sablefish** | | | | | | |
| 8 | 40°10' - 36° N. lat. | 300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,400 lb/ 2 months | | 300 lb/ day, or 1 landing per week of up to 800 lb, not to exceed 2,200 lb/ 2 months | | | |
| 9 | South of 36° N. lat. | 300 lb/ day, or 1 landing per week of up to 700 lb | | | 300 lb/ day, or 1 landing per week of up to 700 lb, not to exceed 1,000 lb/ 1 month | 300 lb/ day, or 1 landing per week of up to 700 lb, not to exceed 2,100 lb/ 2 months | |
| 10 | **Thornyheads** | | | | | | |
| 11 | 40°10' - 34°27' N. lat. | CLOSED | | | | | |
| 12 | South of 34°27' N. lat. | 50 lb/ day, no more than 1,000 lb/ 2 months | | | | | |
| 13 | **Dover sole** | 3,000 lb/month, no more than 300 lb of which may be species other than Pacific sanddabs. South of 42° N. lat., when fishing for "other flatfish," vessels using hook-and-line gear with no more than 12 hooks per line, using hooks no larger than "Number 2" hooks, which measure 11 mm (0.44 inches) point to shank, and up to two 1 lb (0.45 kg) weights per line are not subject to the RCAs. | | | | | |
| 14 | **Arrowtooth flounder** | | | | | | |
| 15 | **Petrale sole** | | | | | | |
| 16 | **English sole** | | | | | | |
| 17 | **Starry flounder** | | | | | | |
| 18 | **Other flatfish[2/]** | | | | | | |
| 19 | **Whiting** | 300 lb/ month | | | | | |
| 20 | **Minor shelf rockfish[1/], Shortbelly, Widow & Chilipepper rockfish** | | | | | | |
| 21 | 40°10' - 34°27' N. lat. | 300 lb/ 2 months | CLOSED | 200 lb/ 2 months | | 300 lb/ 2 months | |
| 22 | South of 34°27' N. lat. | 750 lb/ 2 months | | 750 lb/ 2 months | | | |
| 23 | **Canary rockfish** | CLOSED | | | | | |
| 24 | **Yelloweye rockfish** | CLOSED | | | | | |
| 25 | **Cowcod** | CLOSED | | | | | |
| 26 | **Bocaccio** | | | | | | |
| 27 | 40°10' - 34°27' N. lat. | 200 lb/ 2 months | CLOSED | 100 lb/ 2 months | | 200 lb/ 2 months | |
| 28 | South of 34°27' N. lat. | 100 lb/ 2 months | | 100 lb/ 2 months | | | |

TABLE 5 (South)

*Table 5 (South). Continued*

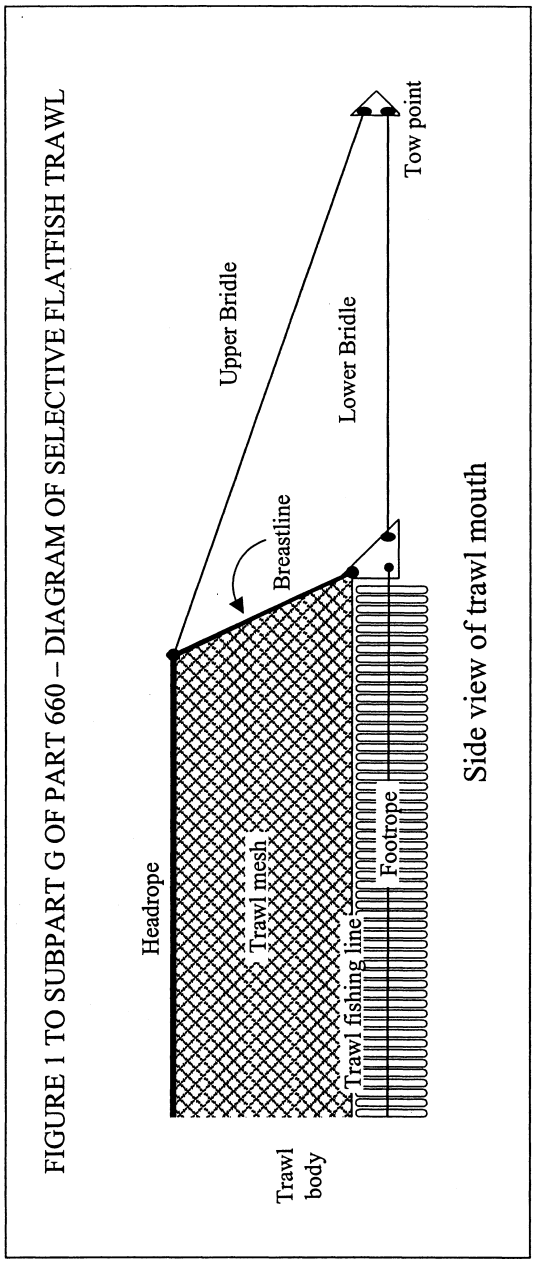
| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 29 | **Minor nearshore rockfish & Black rockfish** | | | | | | | |
| 30 | Shallow nearshore | 600 lb/ 2 months | CLOSED | 800 lb/ 2 months | 900 lb/ 2 months | 800 lb/ 2 months | 600 lb/ 2 months | |
| 31 | Deeper nearshore | | | | | | | |
| 32 | 40°10' - 34°27' N. lat. | 700 lb/ 2 months | CLOSED | 700 lb/ 2 months | | 600 lb/ 2 months | 700 lb/ 2 months | |
| 33 | South of 34°27' N. lat. | 500 lb/ 2 months | | 600 lb/ 2 months | | | | |
| 34 | California scorpionfish | 600 lb/ 2 months | CLOSED | 600 lb/ 2 months | 800 lb/ 2 months | | 600 lb/ 2 months | |
| 35 | **Lingcod**[3/] | CLOSED | | 400 lb/ month | | | | CLOSED |
| 36 | **Pacific cod** | 1,000 lb/ 2 months | | | | | | |
| 37 | **Spiny dogfish** | 200,000 lb/ 2 months | | 150,000 lb/ 2 months | 100,000 lb/ 2 months | | | |
| 38 | **Other Fish**[4/] **& Cabezon** | Not limited | | | | | | |
| 39 | **RIDGEBACK PRAWN AND, SOUTH OF 38°57.50' N. LAT., CA HALIBUT AND SEA CUCUMBER NON-GROUNDFISH TRAWL** | | | | | | | |
| 40 | **NON-GROUNDFISH TRAWL Rockfish Conservation Area (RCA) for CA Halibut, Sea Cucumber & Ridgeback Prawn:** | | | | | | | |
| 41 | 40°10' - 38° N. lat. | 100 fm - modified 200 fm [6/] | 100 fm - 150 fm | | | | 100 fm - modified 200 fm [6/] | |
| 42 | 38° - 34°27' N. lat. | 100 fm - 150 fm | | | | | | |
| 43 | South of 34°27' N. lat. | 100 fm - 150 fm along the mainland coast; shoreline - 150 fm around islands | | | | | | |
| 44 | | Groundfish: 300 lb/trip. Trip limits in this table also apply and are counted toward the 300 lb groundfish per trip limit. The amount of groundfish landed may not exceed the amount of the target species landed, except that the amount of spiny dogfish landed may exceed the amount of target species landed. Spiny dogfish are limited by the 300 lb/trip overall groundfish limit. The daily trip limits for sablefish coastwide and thornyheads south of Pt. Conception and the overall groundfish "per trip" limit may not be multiplied by the number of days of the trip. Vessels participating in the California halibut fishery south of 38°57.50' N. lat. are allowed to (1) land up to 100 lb/day of groundfish without the ratio requirement, provided that at least one California halibut is landed and (2) land up to 3,000 lb/month of flatfish, no more than 300 lb of which may be species other than Pacific sanddabs, sand sole, starry flounder, rock sole, curlfin sole, or California scorpionfish (California scorpionfish is also subject to the trip limits and closures in line 31). | | | | | | |
| 45 | **PINK SHRIMP NON-GROUNDFISH TRAWL GEAR** *(not subject to RCAs)* | | | | | | | |
| 46 | South | **Effective April 1 - October 31:** Groundfish: 500 lb/day, multiplied by the number of days of the trip, not to exceed 1,500 lb/trip. The following sublimits also apply and are counted toward the overall 500 lb/day and 1,500 lb/trip groundfish limits: lingcod 300 lb/ month (minimum 24 inch size limit); sablefish 2,000 lb/ month; canary, thornyheads and yelloweye rockfish are PROHIBITED. All other groundfish species taken are managed under the overall 500 lb/day and 1,500 lb/trip groundfish limits. Landings of these species count toward the per day and per trip groundfish limits and do not have species-specific limits. The amount of groundfish landed may not exceed the amount of pink shrimp landed. | | | | | | |

**TABLE 5 (South) con't**

1/ Yellowtail rockfish is included in the trip limits for minor shelf rockfish and POP is included in the trip limits for minor slope rockfish.
2/ "Other flatfish" are defined at § 660.302 and include butter sole, curlfin sole, flathead sole, Pacific sanddab, rex sole, rock sole, and sand sole.
3/ The size limit for lingcod is 24 inches (61 cm) total length.
4/ "Other fish" are defined at § 660.302 and include sharks, skates, ratfish, morids, grenadiers, and kelp greenling.
5/ The Rockfish Conservation Area is a gear and/or sector specific closed area generally described by depth contours but specifically defined by lat/long coordinates set out at §§ 660.391-660.394, except that the 20-fm depth contour off California is defined by the depth contour and not coordinates.
6/ The "modified 200 fm" line is modified to exclude certain petrale sole areas from the RCA.
**To convert pounds to kilograms, divide by 2.20462, the number of pounds in one kilogram.**

[73 FR 43142, July 24, 2008]

FIGURE 1 TO SUBPART G OF PART 660—DIAGRAM OF SELECTIVE FLATFISH TRAWL




[69 FR 77112, Dec. 23, 2004]

## Subpart H—West Coast Salmon Fisheries

### § 660.401 Purpose and scope.

This subpart implements the Fishery Management Plan for Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California developed by the Pacific Fishery Management Council. These regulations govern the management of West Coast salmon fisheries in the EEZ.

### § 660.402 Definitions.

In addition to the definitions in the Magnuson Act and in § 600.10 of this chapter, the terms used in this subpart have the following meanings:

*Barbless hook* means a hook with a single shank and point, with no secondary point or barb curving or projecting in any other direction. Where barbless hooks are specified, hooks manufactured with barbs can be made barbless by forcing the point of the barb flat against the main part of the point.

*Commercial fishing* means fishing with troll fishing gear as defined annually under § 660.408, or fishing for the purpose of sale or barter of the catch.

*Council* means the Pacific Fishery Management Council.

*Dressed, head-off length of salmon* means the shortest distance between the midpoint of the clavicle arch (see Figure 3 of this subpart) and the fork of the tail, measured along the lateral line while the fish is lying on its side, without resort to any force or mutilation of the fish other than removal of the head, gills, and entrails (see Figure 3 of this subpart).

*Dressed, head-off salmon* means salmon that have been beheaded, gilled, and gutted without further separation of vertebrae, and are either being prepared for on-board freezing, or are frozen and will remain frozen until landed.

*Fishery management area* means the EEZ off the coasts of Washington, Oregon, and California, bounded on the north by the Provisional International Boundary between the United States and Canada, and bounded on the south by the International Boundary between the United States and Mexico. The northeastern, northern, and northwestern boundaries of the fishery management area are as follows:

(1) Northeastern boundary—that part of a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia, southerly of the International Boundary between the United States and Canada (at 48°29′37″ N. lat., 124°43′33″ W. long.), and northerly of the point where that line intersects with the boundary of the U.S. territorial sea.

(2) Northern and northwestern boundary is a line[1] connecting the following coordinates:

| *N. lat.* | *W. long.* |
|---|---|
| 48°29′37.19″ | 124°43′33.19″ |
| 48°30′11″ | 124°47′13″ |
| 48°30′22″ | 124°50′21″ |
| 48°30′14″ | 124°52′52″ |
| 48°29′57″ | 124°59′14″ |
| 48°29′44″ | 125°00′06″ |
| 48°28′09″ | 125°05′47″ |
| 48°27′10″ | 125°08′25″ |
| 48°26′47″ | 125°09′12″ |
| 48°20′16″ | 125°22′48″ |
| 48°18′22″ | 125°29′58″ |
| 48°11′05″ | 125°53′48″ |
| 47°49′15″ | 126°40′57″ |
| 47°36′47″ | 127°11′58″ |
| 47°22′00″ | 127°41′23″ |
| 46°42′05″ | 128°51′56″ |
| 46°31′47″ | 129°07′39″ |

(3) The southern boundary of the fishery management area is the U.S.-Mexico International Boundary, which is a line connecting the following coordinates:

| *N. lat.* | *W. long.* |
|---|---|
| 32°35′22″ | 117°27′49″ |
| 32°37′37″ | 117°49′31″ |
| 31°07′58″ | 118°36′18″ |
| 30°32′31″ | 121°51′58″ |

(4) The inner boundaries of the fishery management area are subject to change if the Secretary assumes responsibility for the regulation of the salmon fishery within state waters under section 306(b) of the Magnuson Act.

*Freezer trolling vessel* means a fishing vessel, equipped with troll fishing gear, that has a present capability for:

[1] The line joining these coordinates is the provisional international boundary of the U.S. EEZ as shown on NOAA/NOS Charts #18480 and #18002.

(1) On board freezing of the catch.

(2) Storage of the fish in a frozen condition until they are landed.

*Land* or *landing* means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish onboard the vessel are counted as part of the landing.

*Pacific Coast Salmon Plan (PCSP or Salmon FMP)* means the Fishery Management Plan, as amended, for commercial and recreational ocean salmon fisheries in the Exclusive Economic Zone (EEZ)(3 to 200 nautical miles offshore) off Washington, Oregon, and California. The Salmon FMP was first developed by the Council and approved by the Secretary in 1978. The Salmon FMP was amended on October 31, 1984, to establish a framework process to develop and implement fishery management actions. Other names commonly used include: Pacific Coast Salmon Fishery Management Plan, West Coast Salmon Plan, West Coast Salmon Fishery Management Plan.

*Plugs* means artificial fishing lures made of wood or hard plastic with one or more hooks attached. Lures commonly known as ''spoons,'' ''wobblers,'' ''dodgers,'' and flexible plastic lures are not considered plugs, and may not be used where ''plugs only'' are specified.

*Recreational fishing* means fishing with recreational fishing gear as defined annually under § 660.408 and not for the purpose of sale or barter.

*Recreational fishing gear* will be defined annually under § 660.408.

*Regional Administrator* means the Director, Northwest Region, NMFS, or a designee. For fisheries occurring primarily or exclusively in the fishery management area seaward of California, *Regional Administrator* means the Director, Northwest Region, NMFS, acting in consultation with the Director, Southwest Region, NMFS.

*Salmon* means any anadromous species of the family Salmonidae and genus *Oncorhynchus*, commonly known as Pacific salmon, including, but not limited to:

Chinook (king) salmon, *Oncorhynchus tshawytscha*
Coho (silver) salmon, *Oncorhynchus kisutch*
Pink (humpback) salmon, *Oncorhynchus gorbuscha*
Chum (dog) salmon, *Oncorhynchus keta*
Sockeye (red) salmon, *Oncorhynchus nerka*
Steelhead (rainbow trout), *Oncorhynchus mykiss*

*Total length of salmon* means the shortest distance between the tip of the snout or jaw (whichever extends furthest while the mouth is closed) and the tip of the longest lobe of the tail, without resort to any force or mutilation of the salmon other than fanning or swinging the tail.

*Treaty Indian fishing* means fishing for salmon and steelhead in the fishery management area by a person authorized by the Makah Tribe to exercise fishing rights under the Treaty with the Makah, or by the Quileute, Hoh, or Quinault Tribes to exercise fishing rights under the Treaty of Olympia.

*Troll fishing gear* will be defined annually under § 660.408.

*Whole bait* means a hook or hooks baited with whole natural bait with no device to attract fish other than a flasher.

[61 FR 34572, July 2, 1996, as amended at 66 FR 29241, May 30, 2001]

### § 660.403 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 600.705 of this chapter, § 660.2, and paragraphs (b) and (c) of this section.

(b) Any person fishing subject to this subpart who also engages in fishing for groundfish should consult Federal regulations in subpart G for applicable requirements of that subpart, including the requirement that vessels engaged in commercial fishing for groundfish (except commercial passenger vessels) have vessel identification in accordance with § 660.305.

(c) Any person fishing subject to this subpart is bound by the international boundaries of the fishery management area described in § 660.402, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are published by the United States.

**§ 660.404 Recordkeeping and reporting.**

(a) This subpart recognizes that catch and effort data necessary for implementation of any applicable fishery management plan are collected by the States and Indian tribes of Washington, Oregon, California, and Idaho under existing data collection requirements. Except as provided in paragraph (b) of this section, no additional catch reports will be required of fishermen or processors so long as the data collection and reporting systems operated by State agencies and Indian tribes continue to provide NMFS with statistical information adequate for management.

(b) Persons engaged in commercial fishing may be required to submit catch reports that are specified annually under § 660.408.

EFFECTIVE DATE NOTE: At 61 FR 34600, July 2, 1996, § 660.404 was added. 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.

**§ 660.405 Prohibitions.**

(a) 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:

(1) Take and retain or land salmon caught with a net in the fishery management area, except that a hand-held net may be used to bring hooked salmon on board a vessel.

(2) Fish for, or take and retain, any species of salmon:

(i) During closed seasons or in closed areas;

(ii) While possessing on board any species not allowed to be taken in the area at the time;

(iii) Once any catch limit is attained;

(iv) By means of gear or methods other than recreational fishing gear or troll fishing gear, or gear authorized under § 660.408(k) for treaty Indian fishing;

(v) In violation of any action issued under this subpart; or

(vi) In violation of any applicable area, season, species, zone, gear, daily bag limit, or length restriction.

(3) Fish for salmon in an area when salmon of less than the legal minimum length for that area are on board the fishing vessel, except that this provision does not prohibit transit of an area when salmon of less than the legal minimum length for that area are on board, so long as no fishing is being conducted.

(4) Remove the head of any salmon caught in the fishery management area, or possess a salmon with the head removed, if that salmon has been marked by removal of the adipose fin to indicate that a coded wire tag has been implanted in the head of the fish.

(5) Take and retain or possess on board a fishing vessel any species of salmon that is less than the applicable minimum total length, including the applicable minimum length for dressed, head-off salmon.

(6) Possess on board a fishing vessel a salmon, for which a minimum total length is extended or cannot be determined, except that dressed, head-off salmon may be possessed on board a freezer trolling vessel, unless the adipose fin of such salmon has been removed.

(7) Fail to return to the water immediately and with the least possible injury any salmon the retention of which is prohibited by this subpart.

(8) Engage in recreational fishing while aboard a vessel engaged in commercial fishing. This restriction is not intended to prohibit the use of fishing gear otherwise permitted under the definitions of troll and recreational fishing gear, so long as that gear is legal in the fishery for which it is being used.

(9) Take and retain, possess, or land any steelhead taken in the course of commercial fishing in the fishery management area, unless such take and retention qualifies as treaty Indian fishing.

(10) Sell, barter, offer to sell, offer to barter, or purchase any salmon taken in the course of recreational salmon fishing.

(11) Refuse to submit fishing gear or catch subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(12) Take and retain Pacific halibut (*Hippoglossus stenolepis*) except in accordance with regulations of the International Pacific Halibut Commission

at part 300 of this title. Pacific halibut that cannot be retained lawfully must be returned to the water immediately and with the least possible injury.

(13) Violate any other provision of this subpart.

(b) The fishery management area is closed to salmon fishing except as opened by this subpart or superseding regulations or notices. All open fishing periods begin at 0001 hours and end at 2400 hours local time on the dates specified.

(c) Under the Pacific Coast groundfish regulations at § 660.383, fishing with salmon troll gear is prohibited within the Salmon Troll Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for commercial salmon troll vessels to take and retain, possess, or land fish taken with salmon troll gear within the Salmon Troll YRCA. Vessels may transit through the Salmon Troll YRCA with or without fish on board. The Salmon Troll YRCA is an area off the northern Washington coast. The Salmon Troll YRCA is intended to protect yelloweye rockfish. The Salmon Troll YRCA is defined by straight lines connecting the following specific latitude and longitude coordinates in the order listed:

(1) 48°00.00′ N. lat., 125°14.00′ W. long.;
(2) 48°02.00′ N. lat., 125°14.00′ W. long.;
(3) 48°00.00′ N. lat., 125°16.50′ W. long.;
(4) 48°02.00′ N. lat., 125°16.50′ W. long.;
and connecting back to 48°00.00′ N. lat., 125°14.00′ W. long.

[61 FR 34572, July 2, 1996, as amended at 71 FR 78719, Dec. 29, 2006]

### § 660.406 Exempted fishing.

(a) NMFS may allow such exempted fishing in the fishery management area as may be recommended by the Council, the Federal Government, state government, or treaty Indian tribes having usual and accustomed fishing grounds in the fishery management area.

(b) NMFS will not allow any exempted fishery recommended by the Council unless NMFS determines that the purpose, design, and administration of the exempted fishery are consistent with the goals and objectives of the Council's fishery management plan, the national standards (section 301(a) of the Magnuson Act), and other applicable law.

(c) Each vessel participating in any exempted fishery recommended by the Council and allowed by NMFS is subject to all provisions of this subpart, except those portions which relate to the purpose and nature of the exempted fishery. These exceptions will be specified in a permit issued by the Regional Director to each vessel participating in the exempted fishery and that permit must be carried aboard each participating vessel.

### § 660.407 Treaty Indian fishing.

Except as otherwise provided in this subpart, treaty Indian fishing in any part of the fishery management area is subject to the provisions of this subpart, the Magnuson Act, and any other regulations issued under the Magnuson Act.

### § 660.408 Annual actions.

(a) *General*. NMFS will annually establish or, as necessary, adjust management specifications for the commercial, recreational, and treaty Indian fisheries by publishing the action in the FEDERAL REGISTER under § 660.411. Management specifications are set forth in paragraphs (b) through (n) of this section.

(b) *Allowable ocean harvest levels*. The allowable ocean harvest for commercial, recreational, and treaty Indian fishing may be expressed in terms of season regulations expected to achieve a certain optimum harvest level or in terms of a particular number of fish. Procedures for determining allowable ocean harvest vary by species and fishery complexity, and are documented in the fishery management plan and Council documents.

(c) *Allocation of ocean harvest levels*—(1) *Coho and chinook from the U.S.-Canada border to Cape Falcon*—(i) *Overall allocation schedule*. Initial allocation of coho and chinook salmon north of Cape Falcon, OR, will be based on the following schedule:

| Allowable non-treaty ocean harvest (thousands of fish) | Percentage [1] | |
|---|---|---|
| | Commercial | Recreational |
| Coho: | | |
| 0–300 | 25 | 75 |
| >300 | 60 | 40 |
| Chinook: | | |
| 0–100 | 50 | 50 |
| >100–150 | 60 | 40 |

| Allowable non-treaty ocean harvest (thousands of fish) | Percentage [1] | |
|---|---|---|
| | Commercial | Recreational |
| >150 | 70 | 30 |

[1] The percentage allocation is tiered and must be calculated in additive steps when the harvest level exceeds the initial tier. For example, for a total allowable ocean harvest of 150,000 chinook, the recreational allocation would be equal to 50 percent of 100,000 chinook plus 40 percent of 50,000 chinook or 50,000 + 20,000 = 70,000 chinook.

(ii) *Deviations from allocation schedule.* The initial allocation may be modified annually in accordance with paragraphs (c)(1)(iii) through (viii) of this section. These deviations from the allocation schedule provide flexibility to account for the dynamic nature of the fisheries and better achieve the allocation objectives and fishery allocation priorities in paragraphs (c)(1)(ix) and (x) of this section. Total allowable ocean harvest will be maximized to the extent possible consistent with treaty obligations, state fishery needs, and spawning requirements. Every effort will be made to establish seasons and gear requirements that provide troll and recreational fleets a reasonable opportunity to catch the available harvest. These may include single-species directed fisheries with landing restrictions for other species.

(iii) *Preseason trades.* Preseason species trades (chinook and coho) may be made if they are based upon the recommendation of the commercial and recreational Salmon Advisory Subpanel representatives for the area north of Cape Falcon; simultaneously benefit both the commercial and recreational fisheries or benefit one fishery without harming the other; and are supported by a socio-economic analysis that compares the impacts of the recommendation to those of the standard allocation schedule to determine the allocation that best meets the allocation objectives. This analysis will be made available to the public during the preseason process for establishing annual management measures. Preseason trades will use an exchange ratio of four coho to one chinook as a desirable guideline.

(iv) *Commercial allocation.* The commercial allowable ocean harvest of chinook and coho derived during the preseason allocation process may be varied by major subareas (i.e., north of Leadbetter Point and south of Leadbetter Point) if there is need to do so to decrease impacts on weak stocks. Deviations in each major subarea will generally not exceed 50 percent of the allowable ocean harvest of each species that would have been established without a geographic deviation in the distribution of the allowable ocean harvest. Deviation of more than 50 percent will be based on a conservation need to protect the weak stocks and will provide larger overall harvest for the entire fishery north of Cape Falcon than would have been possible without the deviation.

(v) *Recreational allocation.* The recreational allowable ocean harvest of chinook and coho derived during the preseason allocation process will be distributed among the four major recreational subareas as described in the coho and chinook distribution sections below. The Council may deviate from subarea quotas to meet recreational season objectives, based on agreement of representatives of the affected ports and/or in accordance with section 6.5.3.2 of the Pacific Coast Salmon Plan, regarding certain selective fisheries. Additionally, based upon the recommendation of the recreational Salmon Advisory Subpanel representatives for the area north of Cape Falcon, the Council will include criteria in its preseason salmon management recommendations to guide any inseason transfer of coho among the recreational subareas to meet recreational season duration objectives.

(A) *Coho distribution.* The preseason recreational allowable ocean harvest of coho north of Cape Falcon will be distributed to provide 50 percent to the area north of Leadbetter Point and 50 percent to the area south of Leadbetter Point. In years with no fishery in Washington State management area 4B, the distribution of coho north of Leadbetter Point will be divided to provide 74 percent to the subarea between Leadbetter Point and the Queets River (Westport), 5.2 percent to the subarea between Queets River and Cape Flattery (La Push), and 20.8 percent to the area north of the Queets River (Neah Bay). In years when there is an Area 4B (Neah Bay) fishery under state management, 25 percent of the numerical value of that fishery shall be added

to the recreational allowable ocean harvest north of Leadbetter Point prior to applying the sharing percentages for Westport and La Push. The increase to Westport and La Push will be subtracted from the Neah Bay ocean share to maintain the same total harvest allocation north of Leadbetter Point. Each of the four recreational port area allocations will be rounded, to the nearest hundred fish, with the largest quotas rounded downward, if necessary, to sum to the preseason recreational allowable ocean harvest of coho north of Cape Falcon.

(B) *Chinook distribution.* Subarea distributions of chinook will be managed as guidelines based on calculations of the Salmon Technical Team with the primary objective of achieving all-species fisheries without imposing chinook restrictions (i.e., area closures or bag limit reductions). Chinook in excess of all-species fisheries needs may be utilized by directed chinook fisheries north of Cape Falcon or by negotiating a preseason species trade of chinook and coho between commercial and recreational allocations in accordance with paragraph (c)(1)(iii) of this section.

(vi) *Inseason trades and transfers.* Inseason transfers, including species trades of chinook and coho, may be permitted in either direction between commercial and recreational fishery quotas to allow for uncatchable fish in one fishery to be reallocated to the other. Fish will be deemed uncatchable by a respective commercial or recreational fishery only after considering all possible annual management actions to allow for their harvest that are consistent with the harvest management objectives specific in the fishery management plan including consideration of single species fisheries. Implementation of inseason transfers will require consultation with the pertinent commercial and recreational Salmon Advisory Subpanel representatives from the area involved and the Salmon Technical Team, and a clear establishment of available fish and impacts from the transfer. Inseason trades or transfers may vary from the guideline ratio of four coho to one chinook to meet the allocation objectives in paragraph (c)(1)(ix) of this section.

(vii) *Other inseason provisions.* Any increase or decrease in the recreational or commercial allowable ocean harvest resulting from an inseason restructuring of a fishery or other inseason management action does not require reallocation of the overall non-treaty allowable ocean harvest north of Cape Falcon between the recreational and commercial fisheries. Inseason redistribution of subarea quotas within the recreational fishery or the distribution of allowable coho catch transfers from the commercial fishery among subareas may deviate from the preseason distribution. Inseason management actions may be taken by the Regional Director to assure meeting the primary objective of achieving all-species fisheries without imposing chinook restrictions in each of the recreational subareas north of Cape Falcon. Such actions might include, but are not limited to: Closure from 0 to 3, 0 to 6, 3 to 200, or 5 to 200 nm from shore; closure from a point extending due west from Tatoosh Island for 5 nm, then south to a point due west of Umatilla Reef Buoy, then due east to shore; closure from North Head at the Columbia River mouth north to Leadbetter Point; change in species that may be landed; or other actions as prescribed in the annual management measures.

(viii) *Selective fisheries.* Deviations from the initial gear and port area allocations may be allowed to implement selective fisheries for marked salmon stocks as long as the deviations are within the constraints and process specified in section 6.5.3.2 of the Pacific Coast Salmon Plan.

(ix) *Allocation objectives.* The goal of allocating ocean harvest north of Cape Falcon is to achieve, to the greatest degree possible, the following objectives for the commercial and recreational fisheries. When deviation from the allocation schedule is being considered, these objectives will serve as criteria to help determine whether a user group will benefit from the deviation.

(A) Provide recreational opportunity by maximizing the duration of the fishing season while minimizing daily and area closures and restrictions on gear and daily limits.

(B) Maximize the value of the commercial harvest while providing fisheries of reasonable duration.

(x) *Fishery allocation priorities.* The following fishery allocation priorities will provide guidance in the preseason process of establishing final harvest allocations and structuring seasons that best achieve the allocation objectives. To the extent fish are provided to each fishery by the allocation schedule, these priorities do not favor one user group over the other and should be met simultaneously for each fishery. Seasons may be structured that deviate from these priorities consistent with the allocation objectives.

(A) At total allowable harvest levels up to 300,000 coho and 100,000 chinook: For the recreational fishery, provide coho for a late June through early September all-species season; provide chinook to allow access to coho and, if possible, a minimal chinook-only fishery prior to the all-species season; and adjust days per week and/or institute area restrictions to stabilize season duration. For the commercial fishery, provide chinook for a May and early June chinook season and provide coho for hooking mortality and/or access to a pink fishery, and ensure that part of the chinook season will occur after June 1.

(B) At total allowable harvest levels above 300,000 coho and above 100,000 chinook: For the recreational fishery, relax any restrictions in the all-species fishery and/or extend the all-species season beyond Labor Day as coho quota allows; provide chinook for a Memorial Day through late June chinook-only fishery; and adjust days per week to ensure continuity with the all-species season. For the commercial fishery, provide coho for an all-species season in late summer and/or access to a pink fishery; and leave adequate chinook from the May through June season to allow access to coho.

(2) *Coho south of Cape Falcon*—(i) *Allocation schedule.* Preseason allocation shares of coho salmon south of Cape Falcon, OR, will be determined by an allocation schedule, which is based on the following formula. The formula will be used to interpolate between allowable harvest levels as shown in the table below.

(A) Up to 350,000 allowable ocean harvest: The first 150,000 fish will be allocated to the recreational fishery. Additional fish will be allocated 66.7 percent to troll and 33.3 percent to recreational. The incidental coho mortality for a commercial all-salmon-except-coho fishery will be deducted from the troll allocation. If the troll allocation is insufficient for this purpose, the remaining number of coho needed for this estimated incidental coho mortality will be deducted from the recreational share.

(B) From 350,000 to 800,000 allowable ocean harvest: The recreational allocation is equal to 14 percent of the allowable harvest above 350,000 fish, plus 217,000 fish. The remainder of the allowable ocean harvest will be allocated to the troll fishery.

(C) Above 800,000 allowable ocean harvest: The recreational allocation is equal to 10 percent of the allowable harvest above 800,000 fish, plus 280,000 fish. The remainder of the allowable ocean harvest will be allocated to the troll fishery.

| Allowable ocean harvest (thousands of fish) | Commercial | | Recreational | |
|---|---|---|---|---|
| | Number (thousands) | Percentage | Number (thousands) | Percentage |
| 2,700 | 2,230 | 82.6 | 470 | 17.4 |
| 2,600 | 2,140 | 82.3 | 460 | 17.7 |
| 2,500 | 2,050 | 82.0 | 450 | 18.0 |
| 2,400 | 1,960 | 81.7 | 440 | 18.3 |
| 2,300 | 1,870 | 81.3 | 430 | 18.7 |
| 2,200 | 1,780 | 80.9 | 420 | 19.1 |
| 2,100 | 1,690 | 80.5 | 410 | 19.5 |
| 2,000 | 1,600 | 80.0 | 400 | 20.0 |
| 1,900 | 1,510 | 79.5 | 390 | 20.5 |
| 1,800 | 1,420 | 78.9 | 380 | 21.1 |
| 1,700 | 1,330 | 78.2 | 370 | 21.8 |
| 1,600 | 1,240 | 77.5 | 360 | 22.5 |
| 1,500 | 1,150 | 76.7 | 350 | 23.3 |
| 1,400 | 1,060 | 75.7 | 340 | 24.3 |
| 1,300 | 970 | 74.6 | 330 | 25.4 |
| 1,200 | 880 | 73.3 | 320 | 26.7 |
| 1,100 | 790 | 71.8 | 310 | 28.2 |
| 1,000 | 700 | 70.0 | 300 | 30.0 |
| 900 | 610 | 67.8 | 290 | 32.2 |
| 800 | 520 | 65.0 | 280 | 35.0 |
| 700 | 434 | 62.0 | 266 | 38.0 |
| 600 | 348 | 58.0 | 252 | 42.0 |
| 500 | 262 | 52.4 | 238 | 47.6 |
| 400 | 176 | 44.0 | 224 | 56.0 |
| 350 | 133 | 38.0 | 217 | 62.0 |
| 300 | 100 | 33.3 | 200 | 66.7 |
| 200 | [1] 33 | [1] 16.5 | [1] 167 | [1] 83.5 |
| 100 | ([1]) | ([1]) | ([1]) | ([1]) |

[1] An incidental coho allowance associated with any commercial all-salmon-except-coho fishery will be deducted from the recreational share of coho during periods of low coho abundance when the commercial allocation of coho under the schedule would be insufficient to allow for incidental hooking mortality of coho in the commercial all-salmon-except-coho fishery.

(ii) *Geographic distribution.* Allowable harvest south of Cape Falcon may be divided and portions assigned to subareas based on considerations including, but not limited to, controlling ocean harvest impacts on depressed, viable natural stocks within acceptable maximum allowable levels; stock abundance; allocation considerations; stock specific impacts; relative abundance of the salmon species in the fishery; escapement goals; and maximizing harvest potential.

(iii) *Recreational allocation at 167,000 fish or less.* When the recreational allocation is at 167,000 fish or less, the total recreational allowable ocean harvest of coho will be divided between two major subareas with independent impact quotas. The initial allocation will be 70 percent from Cape Falcon to Humbug Mountain and 30 percent south of Humbug Mountain. Coho transfers between the two impact quotas may be permitted on a one-for-one basis, if chinook constraints preclude access to coho. Horse Mountain to Point Arena will be managed for an impact guideline of 3 percent of the south of Cape Falcon recreational allocation. The recreational coho fishery between Humbug Mountain and Point Arena may be closed when it is projected that the harvest impact between Humbug Mountain and Point Arena, combined with the projected harvest impact that will be taken south of Point Arena to the end of the season, equals the impact quota for south of Humbug Mountain. The recreational fishery for coho salmon south of Point Arena will not close upon attainment of the south of Humbug Mountain impact quota.

(iv) *Oregon coastal natural coho.* The allocation provisions in paragraph (c)(2) of this section provide guidance only when coho abundance permits a directed coho harvest, not when the allowable harvest impacts are insufficient to allow coho retention south of Cape Falcon. At such low levels, allowable harvest impacts will be allocated during the Council's preseason process.

(v) *Inseason reallocation.* No later than August 15 each year, the Salmon Technical Team will estimate the number of coho salmon needed to complete the recreational seasons. Any coho salmon allocated to the recreational fishery that are not needed to complete the recreational seasons will be reallocated to the commercial fishery. Once reallocation has taken place, the remaining recreational quota will change to a harvest guideline. If the harvest guideline for the recreational fishery is projected to be reached on or before Labor Day, the Regional Director may allow the recreational fishery to continue through the Labor Day weekend only if there is no significant danger of impacting the allocation of another fishery or of failing to meet an escapement goal.

(d) *Management boundaries and zones.* Management boundaries and zones will be established or adjusted to achieve a conservation purpose. A conservation purpose protects a fish stock, simplifies management of a fishery, or promotes wise use of fishery resources by, for example, separating fish stocks, facilitating enforcement, separating conflicting fishing activities, or facilitating harvest opportunities. Management boundaries and zones will be described by geographical references, coordinates (latitude and longitude), LORAN readings, depth contours, distance from shore, or similar criteria.

(e) *Minimum harvest lengths.* The minimum harvest lengths for commercial, recreational, and treaty Indian fishing may be changed upon demonstration that a useful purpose will be served. For example, an increase in minimum size for commercially caught salmon may be necessary for conservation or may provide a greater poundage and monetary yield from the fishery while not substantially increasing hooking mortality. The removal of a minimum size for the recreational fishery may prevent wastage of fish and outweigh the detrimental impacts of harvesting immature fish.

(f) *Recreational daily bag limits.* Recreational daily bag limits for each fishing area will be set equal to one, two, or three salmon of some combination of species. The recreational daily bag limits for each fishing area will be set to maximize the length of the fishing season consistent with the allowable level of harvest in the area.

(g) *Fishing gear restrictions.* Gear restrictions for commercial, recreational, and treaty Indian fishing may be established or modified upon demonstration that a useful purpose will be served. For example, gear restrictions may be imposed or modified to facilitate enforcement, reduce hooking mortality, or reduce gear expenses for fishermen.

(h) *Seasons*—(1) *In general.* Seasons for commercial and recreational fishing will be established or modified taking into account allowable ocean harvest levels and quotas, allocations between the commercial and recreational fisheries, and the estimated amount of effort required to catch the available fish based on past seasons.

(2) *Commercial seasons.* Commercial seasons will be established or modified taking into account wastage of fish that cannot legally be retained, size and poundage of fish caught, effort shifts between fishing areas, and protection of depressed stocks present in the fishing areas. All-species seasons will be established to allow the maximum allowable harvest of pink and sockeye salmon without exceeding allowable chinook or coho harvest levels and within conservation and allocation constraints of the pink and sockeye stocks.

(3) *Recreational seasons.* If feasible, recreational seasons will be established or modified to encompass Memorial Day and Labor Day weekends, and to avoid the need for inseason closures.

(i) *Quotas* (by species, including fish caught 0–3 nm seaward of Washington, Oregon, and California). Quotas for commercial, recreational, and treaty Indian fishing may be established or modified to ensure that allowable ocean harvests are not exceeded. Quotas may be fixed or adjustable and used in conjunction with seasons. Any quota established does not represent a guaranteed ocean harvest, but a maximum ceiling on catch.

(j) *Selective fisheries.* In addition to the all-species seasons and the all-species-except-coho seasons established for the commercial and recreational fisheries, selective coho-only, chinook-only, or pink-only fisheries may be established if harvestable fish of the target species are available; harvest of incidental species will not exceed allowable levels; proven, documented selective gear exists; significant wastage of incidental species will not occur; and the selective fishery will occur in an acceptable time and area where wastage can be minimized and target stocks are primarily available.

(k) *Treaty Indian fishing.* (1) NMFS will establish or modify treaty Indian fishing seasons and/or fixed or adjustable quotas, size limits, gear restrictions, and/or area restrictions taking into account recommendations of the Council, proposals from affected tribes, and relevant Federal court proceedings.

(2) The combined treaty Indian fishing seasons will not be longer than necessary to harvest the allowable treaty Indian catch, which is the total treaty harvest that would occur if the tribes chose to take their total entitlement of the weakest stock in the fishery management area, assuming this level of harvest did not create conservation or allocation problems on other stocks.

(3) Any fixed or adjustable quotas established will be consistent with established treaty rights and will not exceed the harvest that would occur if the entire treaty entitlement to the weakest run were taken by treaty Indian fisheries in the fishery management area.

(4) If adjustable quotas are established for treaty Indian fishing, they may be subject to inseason adjustment because of unanticipated coho hooking mortality occurring during the season, catches in treaty Indian fisheries inconsistent with those unanticipated under Federal regulations, or a need to redistribute quotas to ensure attainment of an overall quota.

(l) *Yurok and Hoopa Valley tribal fishing rights.* For purposes of section 303 of the Magnuson Act, the federally reserved fishing rights of the Yurok and Hoopa Valley Indian Tribes as set out in a legal opinion[2] dated October 4, 1993, by the Office of the Solicitor, Department of the Interior, are applicable law. Under section 303 of the Magnuson Act, allowable ocean harvest must be consistent with all applicable laws.

[2] Copies of the Solicitor's Opinion are available from the Director, Southwest Region, NMFS.

(m) *Inseason notice procedures.* Telephone hotlines and USCG broadcasts will provide actual notice of inseason actions for commercial, recreational, and treaty Indian fishing.

(n) *Reporting requirements.* Reporting requirements for commercial fishing may be imposed to ensure timely and accurate assessment of catches in regulatory areas subject to quota management. Such reports are subject to the limitations described herein. Persons engaged in commercial fishing in a regulatory area subject to quota management and landing their catch in another regulatory area open to fishing may be required to transmit a brief radio report prior to leaving the first regulatory area. The regulatory areas subject to these reporting requirements, the contents of the radio reports, and the entities receiving the reports will be specified annually.

[61 FR 34601, July 2, 1996, as amended at 64 FR 26328, May 14, 1999; 66 FR 29241, May 30, 2001]

EFFECTIVE DATE NOTE: At 61 FR 34601, July 2, 1996, § 660.408 was added. 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.

### § 660.409 Inseason actions.

(a) *Fixed inseason management provisions.* NMFS is authorized to take the following inseason management actions annually, as appropriate.

(1) *Automatic season closures based on quotas.* When a quota for the commercial or the recreational fishery, or both, for any salmon species in any portion of the fishery management area is projected by the Regional Administrator to be reached on or by a certain date, NMFS will, by an inseason action issued under § 660.411, close the commercial or recreational fishery, or both, for all salmon species in the portion of the fishery management area to which the quota applies as of the date the quota is projected to be reached.

(2) *Rescission of automatic closure.* If a fishery is closed under a quota before the end of a scheduled season based on overestimate of actual catch, NMFS will reopen that fishery in as timely a manner as possible for all or part of the remaining original season provided NMFS finds that a reopening of the fishery is consistent with the management objectives for the affected species and the additional open period is no less than 24 hours. The season will be reopened by an inseason action issued under § 660.411.

(3) *Adjustment for error in preseason estimates.* NMFS may, by an inseason action issued under § 660.411, make appropriate changes in relevant seasons or quotas if a significant computational error or errors made in calculating preseason estimates of salmon abundance are identified, provided that such correction can be made in a timely manner to affect the involved fishery without disrupting the capacity to meet the objectives of the fishery management plan.

(b) *Flexible inseason management provisions.* (1) The Regional Administrator will consult with the Chairman of the Council and the appropriate State Directors prior to taking any of the following flexible inseason management provisions, which include, but are not limited to, the following:

(i) Modification of quotas and/or fishing seasons.

(ii) Modification of the species that may be caught and landed during specific seasons and the establishment or modification of limited retention regulations.

(iii) Modification of recreational bag limits and recreational fishing days per calendar week.

(iv) Establishment or modification of gear restrictions.

(v) Modification of boundaries, including landing boundaries, and establishment of closed areas.

(2) Fishery managers must determine that any inseason adjustment in management measures is consistent with fishery regimes established by the U.S.-Canada Pacific Salmon Commission, ocean escapement goals, conservation of the salmon resource, any adjudicated Indian fishing rights, and the ocean allocation scheme in the fishery management plan. All inseason adjustments will be based on consideration of the following factors:

(i) Predicted sizes of salmon runs.

(ii) Harvest quotas and hooking mortality limits for the area and total allowable impact limitations, if applicable.

(iii) Amount of commercial, recreational, and treaty Indian catch for each species in the area to date.

(iv) Amount of commercial, recreational, and treaty Indian fishing effort in the area to date.

(v) Estimated average daily catch per fisherman.

(vi) Predicted fishing effort for the area to the end of the scheduled season.

(vii) Other factors, as appropriate.

### § 660.410 Conservation objectives.

(a) The conservation objectives are summarized in Table 3-1 of the Pacific Coast Salmon Plan.

(b) *Modification of escapement goals.* NMFS is authorized, through an action issued under § 660.411, to modify an escapement goal if—

(1) A comprehensive technical review of the best scientific information available provides conclusive evidence that, in the view of the Council, the Scientific and Statistical Committee, and the Salmon Technical Team, justifies modification of a conservation objective: except that the 35,000 natural spawner floor and the *de minimis* fishing provisions for Klamath River fall Chinook may be changed only by amendment.

(2) For Oregon coastal chinook, specific goals are developed within the overall goal for north coast and south coast stocks; or

(3) Action by a Federal court indicates that modification of an escapement goal is appropriate.

(c) The annual management measures will be consistent with NMFS jeopardy standards or NMFS recovery plans for species listed under the Endangered Species Act.

(d) Within the Cape Falcon to Point Sur area, the Council may allow de minimis fisheries which: permit an ocean impact rate of no more than 10 percent on age–4 Klamath River fall Chinook, if the projected natural spawning escapement associated with a 10 percent age–4 ocean impact rate, including river recreational and tribal impacts, is between the conservation objective (35,000) and 22,000. If the projected natural escapement associated with a 10 percent age–4 ocean impact rate is less than 22,000, the Council shall further reduce the allowable age–4 ocean impact rate to reflect the status of the stock.[1]

(1)When recommending an allowable age–4 ocean impact rate, the Council shall consider the following year specific circumstances:

(i)The potential for critically low natural spawner abundance, including the risk of Klamath Basin substocks dropping below crucial genetic thresholds;

(ii) A series of low spawner abundance in recent years;

(iii) The status of co-mingled stocks;

(iv) The occurrence of El Nino or other adverse environmental conditions;

(v) Endangered Species Act (ESA) considerations; and

(vi) Other considerations as appropriate.

(2) The Klamath River fall Chinook age–4 ocean impact rate must not jeopardize the long term capacity of the stock to produce maximum sustainable yield on continuing basis.

[61 FR 34572, July 2, 1996, as amended at 62 FR 35451, July 1, 1997; 66 FR 29241, May 30, 2001; 73 FR 9964, Feb. 25, 2008]

### § 660.411 Notification and publication procedures.

(a) *Notification and effective dates.* (1) Annual and certain other actions taken under §§ 660.408 and 660.410 will be implemented by an action published in the FEDERAL REGISTER, and will be effective upon filing, unless a later time is specified in the action.

(2) Inseason actions taken under § 660.409 will be by actual notice available from telephone hotlines and USCG broadcasts, as specified annually. Inseason actions will also be published in the FEDERAL REGISTER as soon as practicable. Inseason actions will be effective from the time specified in the

[1] NMFS interprets that, consistent with the *de minimis* provisions of the FMP, the maximum allowable 10 percent age-4 ocean impact rate may be implemented only when the anticipated escapement is near the 35,000 natural spawner floor. As escapement falls below approximately 30,000, the impact rate will need to decline automatically.

actual notice of the action (telephone hotlines and USCG broadcasts), or at the time the inseason action published in the FEDERAL REGISTER is effective, whichever comes first.

(3) Any action issued under this section will remain in effect until the expiration date stated in the action or until rescinded, modified, or superseded. However, no inseason action has any effect beyond the end of the calendar year in which it is issued.

(b) *Public comment*. If time allows, NMFS will invite public comment prior to the effective date of any action published in the FEDERAL REGISTER. If NMFS determines, for good cause, that an action must be filed without affording a prior opportunity for public comment, public comments on the action will be received by NMFS for a period of 15 days after filing of the action with the Office of the Federal Register.

(c) *Availability of data*. The Regional Administrator will compile in aggregate form all data and other information relevant to the action being taken and will make them available for public review during normal office hours at the Northwest Region, NMFS. For actions affecting fisheries occurring primarily or exclusively in the fishery management area seaward of California, information relevant to the action also will be made available for public review during normal office hours at the Southwest Region, NMFS.

## Subpart I—Coastal Pelagics Fisheries

SOURCE: 64 FR 69893, Dec. 15, 1999, unless otherwise noted.

### § 660.501 Purpose and scope.

This subpart implements the Fishery Management Plan for Coastal Pelagic Species (FMP). These regulations govern commercial fishing for CPS in the EEZ off the coasts of Washington, Oregon, and California.

### § 660.502 Definitions.

In addition to the definitions in the Magnuson-Stevens Act and in § 600.10 of this chapter, the terms used in this subpart have the following meanings:

*Actively managed species* (AMS) means those CPS for which the Secretary has determined that harvest guidelines or quotas are needed by Federal management according to the provisions of the FMP.

*Advisory Subpanel* (AP) means the Coastal Pelagic Species Advisory Subpanel that comprises members of the fishing industry and public appointed by the Council to review proposed actions for managing the coastal pelagic fisheries.

*Biomass* means the estimated amount, by weight, of a coastal pelagic species population. The term biomass means total biomass (age 1 and above) unless stated otherwise.

*Coastal pelagic species (CPS)* means northern anchovy (*Engraulis mordax*), Pacific mackerel (*Scomber japonicus*), Pacific sardine (*Sardinops sagax*), jack mackerel (*Trachurus symmetricus*), and market squid (*Loligo opelescens*).

*Coastal Pelagic Species Management Team (CPSMT)* means the individuals appointed by the Council to review, analyze, and develop management measures for the CPS fishery.

*Comparable capacity* means gross tonnage plus 10 percent of the vessel's calculated gross tonnage.

*Council* means the Pacific Fishery Management Council, including its CPSMT, AP, Scientific and Statistical Committee (SSC), and any other committee established by the Council.

*Finfish* means northern anchovy, Pacific mackerel, Pacific sardine, and jack mackerel.

*Fishery Management Area* means the EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nautical miles offshore, bounded in the north by the Provisional International Boundary between the United States and Canada, and bounded in the south by the International Boundary between the United States and Mexico.

*Fishing trip* means a period of time between landings when fishing is conducted.

*Gross tonnage* (GT) means gross tonnage as determined by the formula in 46 CFR 69.209(a) for a vessel not designed for sailing (.67×length×breadth×depth/100). A vessel's length, breadth, and depth are those specified on the vessel's certificate of documentation issued by the U.S. Coast Guard or State.

*Harvest guideline* means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require complete closure of a fishery.

*Harvesting vessel* means a vessel involved in the attempt or actual catching, taking or harvesting of fish, or any activity that can reasonably be expected to result in the catching, taking or harvesting of fish.

*Initial harvest guideline* means a specified numerical harvest objective set at the beginning of the fishing season.

*Land* or *Landing* means to begin transfer of fish from a fishing vessel. Once transfer begins, all fish onboard the vessel are counted as part of the landing.

*Limited entry fishery* means the commercial fishery consisting of vessels fishing for CPS in the CPS Management Zone under limited entry permits issued under § 660.512.

*Live bait fishery* means fishing for CPS for use as live bait in other fisheries.

*Monitored species* (MS) means those CPS the Secretary has determined not to need management by harvest guidelines or quotas according to the provisions of the FMP.

*Nonreduction fishery* means fishing for CPS for use as dead bait or for processing for direct human consumption.

*Owner*, means a person who is identified as the current owner in the Certificate of Documentation (CG–1270) issued by the U.S. Coast Guard for a documented vessel, or in a registration certificate issued by a state or the U.S. Coast Guard for an undocumented vessel.

*Person*, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

*Processing* or *to process* means preparing or packaging coastal pelagic species to render the fish suitable for human consumption, pet food, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless there is additional preparation.

*Prohibited Species* means all species of trout and salmon (*Salmonidae*) and Pacific halibut (*Hippoglossus stenolepis*).

*Quota* means a specified numerical harvest objective for a single species of CPS, the attainment (or expected attainment) of which causes the complete closure of the fishery for that species.

*Reduction fishery* means fishing for CPS for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or byproducts for purposes other than direct human consumption.

*Regional Administrator* means the Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, or a designee.

*Reserve* means a portion of the harvest guideline or quota set aside at the beginning of the year for specific purposes, such as for individual harvesting groups to ensure equitable distribution of the resource or to allow for uncertainties in preseason estimates of DAP and JVP.

*Sustainable Fisheries Division* (SFD) means the Assistant Regional Administrator for Sustainable Fisheries, Southwest Region, NMFS, or a designee.

*Totally lost* means that the vessel being replaced no longer exists *in specie*, or is absolutely and irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair (including recovery) would exceed the repaired value of the vessel.

*Trip limit* means the total allowable amount of a CPS species by weight or by percentage of weight of fish on board the vessel that may be taken and retained, possessed, or landed from a single fishing trip by a vessel that harvests CPS.

[64 FR 69893, Dec. 15, 1999, as amended at 68 FR 3822, Jan. 27, 2003; 71 FR 37001, June 29, 2006]

### § 660.503 Management subareas.

The fishery management area is divided into subareas for the regulation

of fishing for CPS, with the following designations and boundaries:

(a) *CPS Limited Entry Zone* means the EEZ between:

(1) Northern boundary—at 39°00′00″ N. lat. off California; and

(2) Southern boundary—the United States-Mexico International Boundary, which is a line connecting the following coordinates:

32°35′22″ N. lat., 117°27′49″ W. long.
32°37′37″ N. lat., 117°49′31″ W. long.
31°07′58″ N. lat., 118°36′18″ W. long.
30°32′31″ N. lat., 121°51′58″ W. long.

(b) *Subarea A* means the EEZ between:

(1) Northern boundary—the United States-Canada Provisional International Boundary, which is a line connecting the following coordinates:

48°29′37.19″ N. lat. 124°43′33.19″ W. long.
48°30′11″ N. lat. 124°47′13″ W. long.
48°30′22″ N. lat. 124°50′21″ W. long.
48°30′14″ N. lat. 124°54′52″ W. long.
48°29′57″ N. lat. 124°59′14″ W. long.
48°29′44″ N. lat. 125°00′06″ W. long.
48°28′09″ N. lat. 125°05′47″ W. long.
48°27′10″ N. lat. 125°08′25″ W. long.
48°26′47″ N. lat 125°09′12″ W. long.
48°20′16″ N. lat. 125°22′48″ W. long.
48°18′22″ N. lat. 125°29′58″ W. long.
48°11′05″ N. lat. 125°53′48″ W. long.
47°49′15″ N. lat. 126°40′57″ W. long.
47°36′47″ N. lat. 127°11′58″ W. long.
47°22′00″ N. lat. 127°41′23″ W. long.
46°42′05″ N. lat. 128°51′56″ W. long.
46°31′47″ N. lat. 129°07′39″ W. long.; and

(2) Southern boundary—at 39°00′00″ N. lat. (Pt. Arena).

(c) *Subarea B* means the EEZ between:

(1) Northern boundary—at 39°00′00″ N. lat. (Pt. Arena); and

(2) Southern boundary—the United States-Mexico International Boundary described in paragraph (a)(2) of this section.

[64 FR 69893, Dec. 15, 1999, as amended at 68 FR 52527, Sept. 4, 2003]

### § 660.504 Vessel identification.

(a) *Official number*. Each fishing vessel subject to this subpart must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(b) *Numerals*. The official number must be affixed to each vessel subject to this subpart in block Arabic numerals at least 14 inches (35.56 cm) in height. Markings must be legible and of a color that contrasts with the background.

### § 660.505 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) In the CPS Limited Entry Zone, take and retain, possess or land more than 5 mt of CPS finfish, other than live bait, on a harvesting vessel without a limited entry permit.

(b) In the CPS Limited Entry Zone, take and retain, possess or land more than 125 mt of CPS finfish on a harvesting vessel.

(c) Sell CPS without an applicable commercial state fishery license.

(d) Fish in the reduction fishery for CPS in any closed area specified in § 660.507.

(e) Fish in the reduction fishery for northern anchovy using gear not authorized under § 660.506.

(f) When fishing for CPS, fail to return a prohibited species to the sea immediately with a minimum of injury.

(g) Falsify or fail to affix and maintain vessel markings as required by § 660.504.

(h) Fish for CPS in violation of any terms or conditions attached to an exempted fishing permit issued under § 600.745 of this chapter.

(i) When a directed fishery has been closed, take and retain, possess, or land more than the incidental trip limit announced in the FEDERAL REGISTER.

(j) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(k) Falsify or fail to make and/or file any and all reports of fishing, landing, or any other activity involving CPS, containing all data, and in the exact manner, required by the applicable State law, as specified in § 660.3.

(l) Fail to carry aboard a vessel that vessel's limited entry permit issued under § 660.512 or exempted fishing permit issued under § 660.516.

(m) Make a false statement on an application for issuing, renewing, transferring, or replacing a limited entry permit for the CPS fishery.

(n) When fishing for CPS, deploy a net if a southern sea otter is observed within the area that would be encircled by the purse seine net.

[64 FR 69893, Dec. 15, 1999, as amended by 72 FR 29892, May 30, 2007]

### § 660.506 Gear restrictions.

The only fishing gear authorized for use in the reduction fishery for northern anchovy off California are round haul nets that have a minimum wet-stretch mesh size of 10/16 of an inch (1.59 cm) excluding the bag portion of a purse seine. The bag portion must be constructed as a single unit and must not exceed a rectangular area, adjacent to 20 percent of the total corkline of the purse seine. Minimum mesh size requirements are met if a stainless steel wedge can be passed with only thumb pressure through 16 of 20 sets of 2 meshes each of wet mesh. The wedges used to measure trawl mesh size are made of 20 gauge stainless steel and will be no wider than 10/16 of an inch (1.59 cm) less one thickness of the metal at the widest part.

### § 660.507 Closed areas to reduction fishing.

The following areas are closed to reduction fishing:

(a) *Farallon Islands closure* (see Figure 1 to this subpart). The portion of Subarea A bounded by—

(1) A straight line joining Pigeon Point Light (37°10.9′ N. lat., 122°23.6′ W. long.) and the U.S. navigation light on Southeast Farallon Island (37°42.0′ N. lat., 123°00.1′ W. long.); and

(2) A straight line joining the U.S. navigation light on Southeast Farallon Island (37°42.0′ N. lat., 123°00.1′ W. long.) and the U.S. navigation light on Point Reyes (37°59.7′ N. lat., 123°01.3′ W. long.).

(b) *Subarea B closures.* Those portions of Subarea B described as—

(1) *Oxnard closure* (see Figure 1 to this subpart). The area that extends offshore 4 miles from the mainland shore between lines running 250° true from the steam plant stack at Manadalay Beach (34°12.4′ N. lat., 119°15.0′ W. long.) and 220° true from the steam plant stack at Ormond Beach (34°07.8′ N. lat., 119°10.0′ W. long.).

(2) *Santa Monica Bay closure* (see Figure 1 to this subpart). Santa Monica Bay shoreward of that line from Malibu Point (34°01.8′ N. lat., 188°40.8′ W. long.) to Rocky Point (Palos Verdes Point) (33°46.5′ N. lat., 118°25.7′ W. long.).

(3) *Los Angeles Harbor closure* (see Figure 1 to this subpart). The area outside Los Angeles Harbor described by a line extending 6 miles 180° true from Point Fermin (33°42.3′ N. lat., 118°17.6′ W. long.) and then to a point located 3 miles offshore on a line 225° true from Huntington Beach Pier (33°39.2′ N. lat., 118°00.3′ W. long.).

(4) *Oceanside to San Diego closure* (see Figure 1 to this subpart). The area 6 miles from the mainland shore south of a line running 225° true from the tip of the outer breakwater (33°12.4′ N. lat., 117°24.1′ W. long.) of Oceanside Harbor to the United States-Mexico International Boundary.

### § 660.508 Annual specifications.

(a) The Regional Administrator will determine the harvest guidelines or quotas for all AMS from the estimated biomass and the formulas in the FMP.

(b) Harvest guidelines or quotas, including any apportionment between the directed fishery and set-aside for incidental harvest, will be published in the FEDERAL REGISTER before the beginning of the relevant fishing season.

(c) The announcement of each harvest guideline or quota will contain the following information:

(1) A summary of the status of AMS and MS;

(2) The estimated biomass on which the harvest guideline or quota was determined;

(3) The portion, if appropriate, of the harvest guideline or quota set aside to allow for incidental harvests after closure of the directed fishery;

(4) The estimated level of the incidental trip limit that will be allowed after the directed fishery is closed; and

(5) The allocation, if appropriate, between Subarea A and Subarea B.

(d) Harvest guidelines and quotas will receive a public review according to the following procedure:

(1) A meeting will be held between the Council's CPSMT and AP, where

the estimated biomass and the harvest guideline or quota will be reviewed and public comments received. This meeting will be announced in the FEDERAL REGISTER before the date of the meeting, if possible.

(2) All materials relating to the biomass and harvest guideline or quota will be forwarded to the Council and its Scientific and Statistical Committee and will be available to the public from the Regional Administrator.

(3) At a regular meeting of the Council, the Council will review the estimated biomass and harvest guideline or quota and offer time for public comment. If the Council requests a revision, justification must be provided.

(4) The Regional Administrator will review the Council's recommendations, justification, and public comments and base his or her final decision on the requirements of the FMP.

### § 660.509 Closure of directed fishery.

(a) When the annual harvest guideline for either Pacific sardine or Pacific mackerel is reached, the directed fishery for Pacific sardine or Pacific mackerel shall be closed until the beginning of the next fishing season as stated in § 660.510 (a) and (b). The Regional Administrator shall announce in the FEDERAL REGISTER the date of closure of the directed fishery for Pacific sardine or Pacific mackerel. Upon such closure, Pacific mackerel may be harvested incidental to the directed fishery for Pacific sardine to the extent permitted by the annual harvest guideline. The Regional Administrator shall announce in the FEDERAL REGISTER the amount of the incidental trip limit, if any, that was recommended by the Council and approved by NMFS.

(b) When the allocation and reallocation levels for Pacific sardine in § 660.511 (f)-(h) are reached, the Pacific sardine fishery shall be closed until either it re-opens per the allocation scheme in § 660.511 (g) and (h) or the beginning of the next fishing season as stated in § 660.510 (a). The Regional Administrator shall announce in the FEDERAL REGISTER the date of the closure of the directed fishery for Pacific sardine.

[71 FR 37001, June 29, 2006]

### § 660.510 Fishing seasons.

All seasons will begin at 0001 hours and terminate at 2400 hours local time. Fishing seasons for the following CPS species are:

(a) *Pacific sardine*. January 1 to December 31, or until closed under § 660.509.

(b) *Pacific mackerel*. July 1 to June 30, or until closed under § 660.509.

### § 660.511 Catch restrictions.

(a) All CPS harvested shoreward of the outer boundary of the EEZ (0–200 nautical miles off shore) will be counted toward the catch limitations specified in this section.

(b) The trip limit for harvesting vessels fishing in the CPS Limited Entry Zone for CPS other than live bait without a limited entry permit is 5 mt tons of all CPS finfish combined.

(c)The trip limit for vessels with a limited entry permit on a fishing trip in which the vessel fishes or lands fish in the Limited Entry Zone is 125 mt of all CPS finfish combined.

(d) After the directed fishery for a CPS is closed under § 660.509, no person may take and retain, possess or land more of that species than the incidental trip limit set by the Regional Administrator.

(e) While fishing for CPS, all species of trout and salmon (*Salmonidae*) and Pacific halibut (*Hippoglossus stenolepis*) are prohibited species and must be released immediately with a minimum of injury.

(f) On January 1, 35 percent of the initial harvest guideline for Pacific sardine is allocated coastwide within the fishery management area.

(g) On July 1, 40 percent of the initial harvest guideline for Pacific sardine plus the remaining unharvested portion of the January 1 allocation in (f) is allocated coastwide within the fishery management area.

(h) On September 15, 25 percent of the initial harvest guideline for Pacific sardine plus the remaining unharvested portion of the July 1 allocation is allocated coastwide within the fishery management area.

[64 FR 69893, Dec. 15, 1999, as amended at 68 FR 52527, Sept. 4, 2003; 71 FR 37001, June 29, 2006]

**§ 660.512 Limited entry fishery.**

(a) *General*. (1) This section applies to fishing for or landing CPS finfish in the limited entry fishery in the Limited Entry Zone.

(2) Effective January 1, 2000, the owner of a vessel with more than 5 mt of CPS finfish on board in the CPS Limited Entry Zone, other than live bait, must have a limited entry permit registered for use with that vessel.

(3) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) qualifies to be issued or may hold, by ownership or otherwise, a limited entry permit.

(b) *Initial qualification*. (1) A limited entry permit for a vessel will be issued only if that vessel landed 100 mt of CPS finfish from January 1, 1993, through November 5, 1997.

(2) A limited entry permit will be issued only to the current owner of the vessel, unless:

(i) The previous owner of a vessel qualifying for a permit, by the express terms of a written contract, reserved the right to the limited entry permit, in which case the limited entry permit will be issued to the previous owner based on the catch history of the qualifying vessel, or

(ii) A vessel that would have qualified for a limited entry permit was totally lost prior to issuance of a limited entry permit. In this case, the owner of the vessel at the time it was lost retains the right to a permit for a replacement vessel, unless the owner conveyed the right to another person by the express terms of a written contract. The lost vessel must be replaced within 2 years of the date that the qualifying vessel was lost, and the replaced vessel must be of equal or less net tonnage.

(c) *Documentation and burden of proof*. A vessel owner (or person holding limited entry rights under the express terms of a written contract as specified in paragraph (a)(2)) of this section applying for issuance, renewal, transfer, or registration of a limited entry permit must prove that the qualification requirements are met by submitting the following documentation:

(1) A certified copy of the vessel's documentation as a fishing vessel of the United States (U.S. Coast Guard or state) is the best evidence of vessel ownership;

(2) A certified copy of a state fish landing receipt is the best evidence of a landing of a vessel;

(3) A copy of a written contract reserving or conveying limited entry rights is the best evidence of reserved or acquired rights; and

(4) Other relevant, credible evidence that the applicant may wish to submit or that the SFD may request or require.

(d) *Fees*. The Regional Administrator may charge fees to cover administrative expenses related to issuing limited entry permits, as well as renewing, transferring, and replacing permits. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application.

(e) *Initial decisions*. (1) The SFD will make initial decisions regarding issuing, renewing, transferring, and registering limited entry permits.

(2) Adverse decisions shall be in writing and shall state the reasons for the adverse decision.

(3) The SFD may decline to act on an application for issuing, renewing, transferring, or registering a limited entry permit and will notify the applicant, if the permit sanction provisions of the Magnuson-Stevens Act at 16 U.S.C. 1858(a) and implementing regulations at 15 CFR part 904, subpart D, apply.

(f) *Initial issuance*. (1) The SFD will issue limited entry permits.

(2) In order to receive a final decision on a limited entry permit application before January 1, 2000, an applicant must submit the application to the SFD on or before February 14, 2000.

(3) A separate, complete, and accurate application form, accompanied by any required supporting documentation and the appropriate fee, must be submitted for each vessel for which a limited entry permit is sought.

(4) Upon receipt of an incomplete or improperly executed application, the

SFD will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered void.

(5) The SFD may request further documentation before acting on an application.

(6) The SFD will not accept applications for a limited entry permit after July 1, 2000.

(g) *Appeals.* (1) Any applicant for an initial permit may appeal the initial issuance decision to the Regional Administrator. To be considered by the Regional Administrator, such appeal must be in writing and state the reasons for the appeal, and must be submitted within 30 days of the action by the Regional Administrator. The appellant may request an informal hearing on the appeal.

(2) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal.

(3) Upon receipt of sufficient information, the Regional Administrator will decide the appeal in accordance with the permit eligibility criteria set forth in this section and in the FMP, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information submitted to or obtained by the Regional Administrator, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as the Regional Administrator deems appropriate. The Regional Administrator will notify all interested persons of the decision, and the reasons therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(4) If a hearing is requested or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing to the applicant. The appellant and, at the discretion of the hearing officer, other interested persons may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action shall constitute final action for the agency for the purposes of the APA.

(6) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Regional Administrator for good cause, either upon his or her own motion or upon written request from the appellant stating the reason(s) therefore.

(h) *Issuance of new permits.* (1) When the aggregate gross tonnage of all vessels participating in the limited entry fishery declines below 5,650.9 metric tons (mt), the Council will review the status of the fishery, taking into consideration:

(i) The changes in gross tonnage that have and are likely to occur in the transfer of limited entry permits;

(ii) The actual harvesting capacity as experienced in the current fishery in comparison to the capacity goal;

(iii) Comments of the CPSMT;

(iv) Any other relevant factors related to maintaining the capacity goal.

(2) Following its review, the Council will recommend to NMFS whether additional permit(s) should be issued and if the new permit(s) should be temporary or permanent. The issuance of new permit(s) shall be based on the following:

(i) The qualifying criteria in paragraph (b) of this section, but vessels that were issued a permit before December 31, 2000, are not eligible.

(ii) If no vessel meets the qualifying criteria in paragraph (b), then the permit(s) will be issued to the vessel(s) with total landings nearest 100 mt during the qualifying period of paragraph (b).

(iii) No vessel will be issued a permit under this paragraph (h) that is currently registered for use with a permit.

(3) The Regional Administrator will review the Council's recommendation and determine whether issuing additional permit(s) is consistent with the FMP and with paragraph (h)(2) of this section. If issuing additional permit(s) is appropriate, the Regional Administrator will:

(i) Issue the appropriate number of permits consistent with the Council's recommendation; and

(ii) Publish a document in the FEDERAL REGISTER notifying the public that new permits or a new permit has been issued, the conditions attached to any permit, and the reasons for the action.

[64 FR 69893, Dec. 15, 1999, as amended at 68 FR 3822, Jan. 27, 2003]

### § 660.513 Permit conditions.

(a) A limited entry permit expires on failure to renew the limited entry permit as specified in § 660.515.

(b) A limited entry permit may not be used with a vessel unless it is registered for use with that vessel. Limited entry permits will be registered for use with a particular vessel at the time the permit is issued, renewed, or transferred.

(c) Limited entry permits issued or applied for under this subpart are subject to sanctions pursuant to the Magnuson-Stevens Act, 16 U.S.C. 1858(g), and 15 CFR part 904, subpart D.

### § 660.514 Transferability.

(a) *General.* (1) The SFD will process applications for transferring limited entry permits to a different owner and/or to a different vessel according to this section.

(2) After January 27, 2003, the SFD will issue a limited entry permit to the owner of each vessel permitted to participate in the limited entry fishery for CPS. This permit will replace the existing permit and will include the gross tonnage of the vessel, which will constitute an endorsement for that vessel for the purpose of regulating the transfer of limited entry permits.

(b) *Criteria.* (1) When the aggregate gross tonnage of all vessels participating the limited entry fishery is at or below 5,650.9 mt, a permit may be transferred to a different owner or to a different vessel in the following circumstances only:

(i) A permit may be transferred to a vessel without a permit if the vessel without a permit has a comparable capacity to the capacity on the permit or is less than comparable capacity on the permit.

(ii) When a permit is transferred to a vessel without a permit that has less gross tonnage than that of the permitted vessel, the excess gross tonnage may not be separated from the permit and applied to a second vessel.

(iii) A permit may be transferred to a vessel without a permit that is of greater than comparable capacity only if two or more permits are transferred to the vessel without a permit to equal the gross tonnage of the vessel. The number of permits required will be determined by adding together the comparable capacity of all permits being transferred. Any gross tonnage in excess of that needed for a vessel remains with the permit.

(2) When a vessel with multiple permits leaves the fishery, the permits may be sold separately and applied to other vessels according to the criteria in this section.

(c) *Stipulations.* (1) The gross tonnage endorsement of a permit is integral to the permit for the duration of the permit, regardless of the gross tonnage of any vessel to which the permit is transferred.

(2) Permits may be used only on the vessel for which they are registered by the SFD. All permits that authorize a vessel to operate in the limited entry fishery must be on board the vessel during any fishing trip on which CPS is harvested or is on board.

(3) A permit may be transferred only once during a calendar year.

(d) *Vessel alterations.* (1) A permitted vessel's length, breadth, or depth may be altered to increase the gross tonnage of the vessel only if the aggregate

gross tonnage of all vessels participating in the limited entry fishery equals, or is below 5,650.9 mt, and only under the following conditions:

(i) The gross tonnage of the altered vessel, calculated according to the formula in 46 CFR 69.209(a), does not exceed 110 percent of the vessel's original gross tonnage endorsement, and

(ii) A new certificate of documentation is obtained from the U.S. Coast Guard or State. Modifications exceeding 110 percent of the vessel's gross tonnage endorsement will require registration of the vessel under an additional permit or permits or under a permit with a sufficient gross tonnage endorsement.

(2) A copy of the certificate of documentation indicating changes in length, depth, or breadth must be provided to the SFD.

(3) The revised gross tonnage will not be valid as an endorsement until a revised permit is issued by the SFD.

(e) *Applications*. (1) All requests for the transfer of a limited entry permit will be made to the SFD in writing and shall contain the following information:

(i) Name, address, and phone number of the owner of the permitted vessel.

(ii) Name of the permitted vessel and documentation number of the vessel.

(iii) Name, address, and phone number of the owner of the vessel to which the permit is to be transferred.

(iv) Name and documentation number of the vessel to which the permit is to be transferred.

(v) Signature(s) of the owner(s) of the vessels participating in the transfer.

(vi) Any other information that the SFD may request.

(2) No permit transfer is effective until the transfer has been authorized by the SFD.

(f) *Capacity reduction*. (1) When the aggregate gross tonnage of the limited entry fleet reaches 5,933.5 mt, a permit may be transferred to a vessel without a permit only if the vessel without a permit is of the same or less gross tonnage.

(2) When the aggregate gross tonnage of the limited entry fleet reaches 5,933.5 mt, alterations in the length, depth, or breadth of a permitted vessel may not result in an increase in the gross tonnage of the vessel.

[68 FR 3823, Jan. 27, 2003]

### § 660.515 Renewal of limited entry permits.

(a) Each limited entry permit must be renewed by January 1 of even numbered years.

(b) The SFD will send notices to renew limited entry permits to the most recent address of the permit holder.

(c) The permit owner must provide SFD with notice of any address change within 15 days of the change.

(d) The permit holder must submit applications for renewal of a permit on forms available from the SFD.

(e) The permit owner is responsible for renewing a limited entry permit.

(f) An expired permit cannot be used to fish for CPS in the limited entry fishery.

### § 660.516 Exempted fishing.

(a) *General*. In the interest of developing an efficient and productive fishery for CPS, the Regional Administrator may issue exempted fishing permits (EFP) for the harvest of CPS that otherwise would be prohibited.

(b) No exempted fishing for CPS may be conducted unless authorized by an EFP issued for the participating vessel in accordance with the criteria and procedures specified in § 600.745 of this chapter.

### § 660.517 Framework for revising regulations.

(a) *General*. NMFS will establish and adjust specifications and management measures in accordance with procedures and standards in Amendment 8 to the FMP.

(b) *Annual actions*. Annual specifications are developed and implemented according to § 660.508.

(c) *Routine management measures*. Consistent with section. 2.1 of Amendment 8 to the FMP, management measures designated as routine may be adjusted during the year after recommendation from the Council, approval by NMFS, and publication in the FEDERAL REGISTER.

(d) *Changes to the regulations.* Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework measures in section 2 of Amendment 8 to the FMP and will be published in the FEDERAL REGISTER.

### § 660.518 Pacific Coast Treaty Indian Rights.

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest CPS in their usual and accustomed fishing areas in U.S. waters.

(b) For the purposes of this section, ''Pacific Coast treaty Indian tribes'' and their ''usual and accustomed fishing areas'' are described at § 660.324(b) and (c).

(c) Boundaries of a tribe's fishing area may be revised as ordered by a Federal court.

(d) *Procedures.* The rights referred to in paragraph (a) of this section will be implemented in accordance with the procedures and requirements of the framework contained in Amendment 9 to the FMP and in this Subpart.

(1) The Secretary, after consideration of the tribal request, the recommendation of the Council, and the comments of the public, will implement Indian fishing rights.

(2) The rights will be implemented either through an allocation of fish that will be managed by the tribes or through regulations that will apply specifically to the tribal fisheries.

(3) An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the NMFS Southwest Regional Administrator at least 120 days prior to the start of the fishing season as specified at § 660.510 and will be subject to public review according to the procedures in § 660.508(d).

(4) The Regional Administrator will announce the annual tribal allocation at the same time as the annual specifications.

(e) The Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

[66 FR 44987, Aug. 27, 2001]

### § 660.519 Scientific observers.

All fishing vessels operating in the coastal pelagic species fishery, including catcher/processors, at-sea processors, and vessels that harvest in Washington, Oregon, or California and land catch in another area, may be required to accommodate NMFS- certified observers aboard to collect scientific data. An observer program will be considered only for circumstances where other data collection methods are deemed insufficient for management of the fishery. Any observer program will be implemented in accordance with § 660.517.

[66 FR 44987, Aug. 27, 2001]

### § 660.520 Reporting requirements.

(a) *Otter interaction.* (1) If a southern sea otter is entangled in a net, regardless of whether the animal is injured or killed, the vessel operator must report this interaction within 24 hours to the Regional Administrator.

(2) While fishing for CPS, vessel operators must record all observations of otter interactions (defined as otters within encircled nets or coming into contact with nets or vessels, including but not limited to entanglement) with their purse seine net(s) or vessel(s). With the exception of an entanglement, which must be initially reported as described in paragraph (a)(1)of this section, all other observations must be reported within 20 days to the Regional Administrator.

(3) When contacting NMFS after an interaction, vessel operators must provide the location (latitude and longitude) of the interaction and a description of the interaction itself. If available, location information should also include water depth, distance from shore, and relation to port or other landmarks. Descriptive information of the interaction should include: whether or not the otters were seen inside or outside the net; if inside the net, had the net been completely encircled; whether any otters came in contact with either the net or the vessel; the number of otters present; duration of

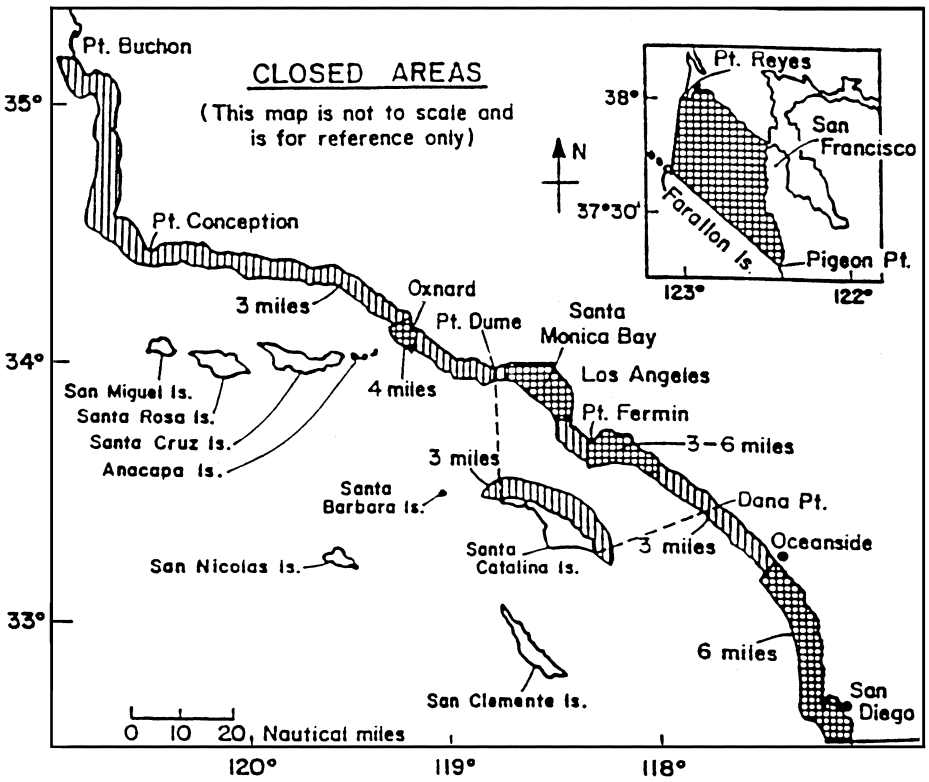
interaction; the otter's behavior during interaction; measures taken to avoid interaction.

(b) [Reserved]

[72 FR 29892, May 30, 2007]

EFFECTIVE DATE NOTE: At 72 FR 29892, May 30, 2007, § 660.520 was added. 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.

FIGURE 1 TO SUBPART I OF PART 660—EXISTING CALIFORNIA AREA CLOSURES (HATCHED AREAS EXTEND TO 3 MILES OFFSHORE; CROSS-HATCHED AREAS EXTEND BEYOND 3 MILES OFFSHORE) AND OPTIONAL CATALINA CHANNEL FOREIGN VESSEL CLOSURE (OUTLINED BY DASHED LINES)




## Subpart J [Reserved]

## Subpart K—Highly Migratory Fisheries

SOURCE: 69 FR 18453, Apr. 7, 2004, unless otherwise noted.

### § 660.701 Purpose and scope.

This subpart implements the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (FMP). These regulations govern commercial and recreational fishing for HMS in the U.S. EEZ off the coasts of Washington, Oregon, and California and in adjacent high seas waters.

### § 660.702 Definitions.

*Basket-style longline gear* means a type of longline gear that is divided into units called *baskets*, each consisting of a segment of main line to

which 10 or more branch lines with hooks are spliced. The mainline and all branch lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

*Closure,* when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited.

*Commercial fishing* means:

(1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, retaining, possessing, landing and/or sale of fish; or

(2) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

*Commercial fishing gear* includes the following types of gear and equipment used in the highly migratory species fisheries:

(1) *Harpoon*. Gear consisting of a pointed dart or iron attached to the end of a pole or stick that is propelled only by hand and not by mechanical means.

(2) *Surface hook-and-line*. Fishing gear, other than longline gear, with one or more hooks attached to one or more lines (includes troll, rod and reel, handline, albacore jig, live bait, and bait boat). Surface hook and line is always attached to the vessel.

(3) *Drift gillnet*. A panel of netting, 14 inch (35.5 cm) stretched mesh or greater, suspended vertically in the water by floats along the top and weights along the bottom. A drift gillnet is not stationary or anchored to the bottom.

(4) *Purse seine*. An encircling net that may be closed by a purse line threaded through the bottom of the net. Purse seine gear includes ring net, drum purse seine, and lampara nets.

(5) *Pelagic longline*. A main line that is suspended horizontally in the water column and not stationary or anchored, and from which dropper lines with hooks (gangions) are attached. Legal longline gear also includes basket-style longline gear.

*Council* means the Pacific Fishery Management Council, including its Highly Migratory Species Management Team (HMSMT), Scientific and Statistical Committee (SSC), Highly Migratory Species Advisory Subpanel (HMSAS), and any other committee established by the Council.

*Fishing trip* is a period of time between landings when fishing is conducted.

*Fishing year* is the year beginning at 0801 GMT (0001 local time) on April 1 and ending at 0800 GMT on March 31 (2400 local time) of the following year.

*Harvest guideline* means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require closure of a fishery.

*Highly Migratory Species* (HMS) means species managed by the FMP, specifically:

*Billfish/Swordfish:*
striped marlin (*Tetrapturus audax*)
swordfish (*Xiphias gladius*)
*Sharks:*
common thresher shark (*Alopias vulpinus*)
pelagic thresher shark (*Alopias pelagicus*)
bigeye thresher shark (*Alopias superciliosus*)
shortfin mako or bonito shark (*Isurus oxyrinchus*)
blue shark (Prionace glauca)
*Tunas:*
north Pacific albacore (*Thunnus alalunga*)
yellowfin tuna (*Thunnus albacares*)
bigeye tuna (*Thunnus obesus*)
skipjack tuna (*Katsuwonus pelamis*)
northern bluefin tuna (*Thunnus orientalis*)
*Other:*
dorado or dolphinfish (*Coryphaena hippurus*)

*Highly Migratory Species Advisory Subpanel* (HMSAS) means the individuals comprised of members of the fishing industry and public appointed by the Council to review proposed actions for managing highly migratory species fisheries.

*Highly Migratory Species Fishery Management Plan* (FMP) means the Fishery Management Plan for the U.S. West Coast Fisheries for Highly Migratory Species developed by the Pacific Fishery Management Council and approved by the Secretary of Commerce and amendments to the FMP.

*Highly Migratory Species Management Team* (HMSMT) means the individuals

appointed by the Council to review, analyze, and develop management measures for highly migratory species fisheries.

*Incidental catch or incidental species* means HMS caught while fishing for the primary purpose of catching other species with gear not authorized by the FMP.

*Land or landing* means offloading fish from a fishing vessel or arriving in port to begin offloading fish or causing fish to be offloaded from a fishing vessel.

*Mesh size* means the opening between opposing knots in a net. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot when the mesh is stretched, regardless of twine size.

*Offloading* means removing HMS from a vessel.

*Permit holder* means a permit owner.

*Permit owner* means a person who owns an HMS permit for a specific vessel fishing with specific authorized fishing gear.

*Person, as it applies to fishing conducted under this subpart,* means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

*Processing or to process* means the preparation or packaging of HMS to render it suitable for human consumption, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting or freezing at sea unless additional preparation is done.

*Prohibited species* means those species and species groups whose retention is prohibited unless authorized by other applicable law (for example, to allow for examination by an authorized observer or to return tagged fish as specified by the tagging agency).

*Quota* means a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group.

*Recreational charter vessel* means a vessel that carries fee-paying passengers for the purpose of recreational fishing.

*Recreational fishing* means fishing with authorized recreational fishing gear for personal use only and not for sale or barter.

*Regional Administrator* means the Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, or a designee.

*Special Agent-In-Charge* (SAC) means the Special Agent-In-Charge, NMFS, Office of Enforcement, Southwest Region, or a designee of the Special Agent-In-Charge.

*Sustainable Fisheries Division* (SFD) means the Assistant Regional Administrator for Sustainable Fisheries, Southwest Region, NMFS, or his or her designee.

*Tranship* means offloading or otherwise transferring HMS or products thereof to a receiving vessel.

*Vessel monitoring system unit* (VMS unit) means the hardware and software equipment owned by NMFS, installed on vessels by NMFS, and required by this subpart K to track and transmit the positions from fishing vessels.

### § 660.703 Management area.

The fishery management area for the regulation of fishing for HMS has the following designations and boundaries:

(a) Southern boundary—the United States-Mexico International Boundary, which is a line connecting the following coordinates:

32°35′22″ N. lat. 117°27′49″ W. long.
32°37′37″ N. lat. 117°49′31″ W. long.
31°07′58″ N. lat. 118°36′18″ W. long.
30°32′31″ N. lat. 121°51′58″ W. long.

(b) Northern boundary—the United States-Canada Provisional International Boundary, which is a line connecting the following coordinates:

48°29′37.19″ N. lat. 124°43′33.19″ W. long.
48°30′11″ N. lat. 124°47′13″ W. long.
48°30′22″ N. lat. 124°50′21″ W. long.
48°30′14″ N. lat. 124°54′52″ W. long.
48°29′57″ N. lat. 124°59′14″ W. long.
48°29′44″ N. lat. 125°00′06″ W. long.
48°28′09″ N. lat. 125°05′47″ W. long.
48°27′10″ N. lat. 125°08′25″ W. long.
48°26′47″ N. lat 125°09′12″ W. long.
48°20′16″ N. lat. 125°22′48″ W. long.

48°18′22″ N. lat. 125°29′58″ W. long.
48°11′05″ N. lat. 125°53′48″ W. long.
47°49′15″ N. lat. 126°40′57″ W. long.
47°36′47″ N. lat. 127°11′58″ W. long.
47°22′00″ N. lat. 127°41′23″ W. long.
46°42′05″ N. lat. 128°51′56″ W. long.
46°31′47″ N. lat. 129°07′39″ W. long.

(c) Adjacent waters on the high seas in which persons subject to this subpart may fish.

### § 660.704 Vessel identification.

(a) *General*. This section only applies to commercial fishing vessels that fish for HMS off or land HMS in the States of California, Oregon, and Washington. This section does not apply to recreational charter vessels that fish for HMS off or land HMS in the States of California, Oregon, and Washington.

(b) *Official number*. Each fishing vessel subject to this section must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(c) *Numerals*. The official number must be affixed to each vessel subject to this section in block Arabic numerals at least 10 inches (25.40 cm) in height for vessels more than 25 ft (7.62 m) but equal to or less than 65 ft (19.81 m) in length; and 18 inches (45.72 cm)in height for vessels longer than 65 ft (19.81 m) in length. Markings must be legible and of a color that contrasts with the background.

[72 FR 43564, Aug. 6, 2007]

### § 660.705 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) Fish for HMS in the U.S. EEZ off the Pacific coast without a permit issued under § 660.707 for the use of authorized fishing gear.

(b) Fish with gear in any closed area specified in this subpart that prohibits the use of such gear.

(c) Land HMS at Pacific coast ports without a permit issued under § 600.707 for the use of authorized fishing gear.

(d) Sell HMS without an applicable commercial state fishery license.

(e) When fishing for HMS, fail to return a prohibited species to the sea immediately with a minimum of injury.

(f) Falsify or fail to affix and maintain vessel markings as required by § 660.704.

(g) Fish for HMS in violation of any terms or conditions attached to an exempted fishing permit issued under § 600.745 of this chapter.

(h) When a directed fishery has been closed for a specific species, take and retain, possess, or land that species after the closure date.

(i) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(j) Falsify or fail to make and/or file any and all reports of fishing, landing, or any other activity involving HMS, containing all data, and in the exact manner, required by the applicable state law, as specified in § 660.708(b).

(k) Fail to carry aboard a vessel that vessel's permit issued under § 660.707 or exempted fishing permit issued under § 660.718, except if the permit was issued while the vessel was at sea.

(l) Fail to carry a VMS unit as required under § 660.712(d).

(m) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or to attempt any of the same; or to move or remove a VMS unit without the prior permission of the SAC.

(n) Make a false statement, oral or written, to an authorized officer, regarding the use, operation, or maintenance of a VMS unit.

(o) Fish for, catch, or harvest HMS with longline gear without a VMS unit on board the vessel after installation of the VMS unit by NMFS.

(p) Possess on board a vessel without a VMS unit HMS harvested with longline gear after NMFS has installed the VMS unit on the vessel.

(q) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear deployed west of 150° W. long. and north of the equator (0° lat.) on a vessel registered for use of longline gear in violation of § 660.712(a)(1).

(r) Possess a light stick on board a longline vessel when fishing west of

150° W. long. and north of the equator (0° lat.) in violation of § 660.712(a)(6)

(s) Possess more than 10 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° lat.) in violation of § 660.712(a)(9).

(t) Interfere with, impede, delay, or prevent the installation, maintenance, repair, inspection, or removal of a VMS unit.

(u) Interfere with, impede, delay, or prevent access to a VMS unit by a NMFS observer.

(v) Connect or leave connected additional equipment to a VMS unit without the prior approval of the SAC.

(w) Fish for HMS with a vessel registered for use of longline gear within closed areas or by use of unapproved gear configurations in violation of § 660.712(a)(2), (a)(3), (a)(7), (a)(8), or (a)(9).

(x) Fail to use a line setting machine or line shooter, with weighted branch lines, to set the main longline when operating a vessel that is registered for use of longline gear and equipped with monofilament main longline, when making deep sets north of 23° N. lat. in violation of § 660.712(c)(1)(i) and (c)(1)(ii).

(y) Fail to employ basket-style longline gear such that the mainline is deployed slack when operating a vessel registered for use of longline gear north of 23° N. lat. in violation of § 660.712 (c)(1)(iii).

(z) Fail to maintain and use blue dye to prepare thawed bait when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat., in violation of § 660.712(c)(2) and (c)(3).

(aa) Fail to retain, handle, and discharge fish, fish parts, and spent bait strategically when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat. in violation of § 660.712 (c)(4) through (c)(7).

(bb) Fail to handle short-tailed albatrosses that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of § 660.712(c)(8).

(cc) Fail to handle seabirds other than short-tailed albatross that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival in violation of § 660.712(c)(17).

(dd) Own a longline vessel registered for use of longline gear that is engaged in longline fishing for HMS without a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.712(e)(3).

(ee) Fish for HMS on a vessel registered for use of longline gear without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.712(e).

(ff) Fail to carry line clippers, dip nets, and wire or bolt cutters on a vessel registered for use as a longline vessel in violation of § 660.712(b).

(gg) Fail to comply with sea turtle handling, resuscitation, and release requirements specified in § 660.712(b)(4) through (7) when operating a vessel.

(hh) Fail to comply with seabird take mitigation or handling techniques required under § 660.712(c)

(ii) Fish for HMS with a vessel registered for use as a longline vessel without being certified by NMFS for completion of an annual protected species workshop as required under § 660.712(e).

(jj) Fail to notify the Regional Administrator at least 24 hours prior to departure on a fishing trip using longline gear as required under § 660.712(f).

(kk) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, direct fishing effort toward the harvest of swordfish or fail to have and use gear in waters west of 150° W. long. in violation of § 660.720.

(ll) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, possess a light stick on board a longline vessel on the high seas of the Pacific Ocean west of 150° W. long. north of the equator in violation of § 660.720 (a)(ii).

(mm) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, possess more than 10 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing on the high seas of the Pacific

Ocean west of 150° W. long. north of the equator in violation of § 660.720 (a)(iii).

(nn) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, fail to employ basket-style longline gear such that the mainline is deployed slack when fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator, in violation of § 660.720 (a)(iv).

(oo) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, when a conventional monofilament longline is deployed by a vessel subject to this section, deploy fewer than 15 branch lines between any two floats, in violation of § 660.720 (a)(v). Vessel operators using basket-style longline gear may not set less than 10 branch lines between any 2 floats when fishing in waters west of 150° W. long. north of the equator.

(pp) Except when fishing under a western Pacific longline limited entry permit issued under § 660.21, fail to deploy longline gear such that the deepest point of the main longline between any two floats, *i.e.*, the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface, in violation of § 660.720 (a)(vi).

(qq) Take and retain, possess on board, or land, fish in excess of any bag limit specified in § 660.721.

[69 FR 18453, Apr. 7, 2004, as amended at 72 FR 58259, Oct. 15, 2007]

### § 660.706 Pacific Coast Treaty Indian rights.

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest HMS in their usual and accustomed (u&a) fishing areas in U.S. waters.

(b) Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation.

(c) NMFS recognizes the following areas as marine u&a fishing grounds of the four Washington coastal tribes. The Makah u&a grounds were adjudicated in *U.S.* v. *Washington*, 626 F.Supp. 1405, 1466 (W.D. Wash. 1985), affirmed 730 F.2d 1314 (9th Cir. 1984). The u&a grounds of the Quileute, Hoh, and Quinault tribes have been recognized administratively by NMFS (*See, e.g.*, 64 FR 24087 (May 5, 1999) (u&a grounds for groundfish); 50 CFR 300.64(i) (u&a grounds for halibut)). The u&a grounds recognized by NMFS may be revised as ordered by a Federal court.

(d) *Procedures.* The rights referred to in paragraph (a) of this section will be implemented by the Secretary of Commerce, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the NMFS Northwest Regional Administrator, at least 120 days prior to the time the allocation is desired to be effective, and will be subject to public review through the Council process. The Secretary of Commerce recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary of Commerce will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

(e) *Identification.* A valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, is prima facie evidence that the holder is a member of the Pacific Coast treaty Indian tribe named on the card.

(f) Fishing (on a tribal allocation or under a Federal regulation applicable to tribal fisheries) by a member of a Pacific Coast treaty Indian tribe within that tribe's u&a fishing area is not subject to provisions of the HMS regulations applicable to non-treaty fisheries.

(g) Any member of a Pacific Coast treaty Indian tribe must comply with any applicable Federal and tribal laws and regulations, when participating in a tribal HMS fishery implemented under paragraph (d) of this section.

(h) Fishing by a member of a Pacific Coast treaty Indian tribe outside that

tribe's u&a fishing area, or for a species of HMS not covered by a treaty allocation or applicable Federal regulation, is subject to the HMS regulations applicable to non-treaty fisheries.

**§ 660.707 Permits.**

(a) *General*. This section applies to vessels that fish for HMS off or land HMS in the States of California, Oregon, and Washington.

(1) A commercial fishing vessel of the United States must be registered for use under a HMS permit that authorizes the use of specific gear, and a recreational charter vessel must be registered for use under a HMS permit if that vessel is used:

(i) To fish for HMS in the U.S. EEZ off the States of California, Oregon, and Washington; or

(ii) To land or transship HMS shoreward of the outer boundary of the U.S. EEZ off the States of California, Oregon, and Washington.

(2) The permit must be on board the vessel and available for inspection by an authorized officer, except that if the permit was issued while the vessel was at sea, this requirement applies only to any subsequent trip.

(3) A permit is valid only for the vessel for which it is registered. A permit not registered for use with a particular vessel may not be used.

(4) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) may be issued or may hold (by ownership or otherwise) an HMS permit.

(b) *Application*. (1) Following publication of the final rule implementing the FMP, NMFS will issue permits to the owners of those vessels on a list of vessels obtained from owners previously applying for a permit under the authority of the High Seas Fishing Compliance Act, the Tuna Conventions Act of 1950, the Marine Mammal Protection Act, and the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region, or whose vessels are listed on the vessel register of the Inter-American Tropical Tuna Commission.

(2) All permits issued by NMFS in accordance with paragraph (b)(1) of this section will authorize the use of specific fishing gear by the identified commercial fishing vessels.

(3) An owner of a vessel subject to these requirements who has not received an HMS permit from NMFS and who wants to engage in the fisheries must apply to the SFD for the required permit in accordance with the following:

(i) A Southwest Region Federal Fisheries application form may be obtained from the SFD or downloaded from the Southwest Region home page (*http://swr.nmfs.noaa.gov/permits.htm*) to apply for a permit under this section. A completed application is one that contains all the necessary information and signatures required.

(ii) A minimum of 15 days should be allowed for processing a permit application. If an incomplete or improperly completed application is filed, the applicant will be sent a notice of deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(iii) A permit will be issued by the SFD. If an application is denied, the SFD will indicate the reasons for denial.

(iv) *Appeals*. (A) Any applicant for an initial permit may appeal the initial issuance decision to the RA. To be considered by the RA, such appeal must be in writing and state the reasons for the appeal, and must be submitted within 30 days of the action by the RA. The appellant may request an informal hearing on the appeal.

(B) Upon receipt of an appeal authorized by this section, the RA will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal.

(C) Upon receipt of sufficient information, the RA will decide the appeal in accordance with the permit provisions set forth in this section at the time of the application, based upon information relative to the application on file at NMFS and the Council and any additional information submitted to or obtained by the RA, the summary record kept of any hearing and the

hearing officer's recommended decision, if any, and such other considerations as the RA deems appropriate. The RA will notify all interested persons of the decision, and the reasons for the decision, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(D) If a hearing is requested, or if the RA determines that one is appropriate, the RA may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing to the applicant. The appellant, and, at the discretion of the hearing officer, other interested persons, may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the RA.

(E) The RA may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the RA will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The RA's decision will constitute the final administrative action by NMFS on the matter.

(F) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the RA for good cause, either upon his or her own motion or upon written request from the appellant stating the reason(s) therefore.

(4) Permits issued under this subpart will remain valid until the first date of renewal, and permits may be subsequently be renewed for 2-year terms. The first date of renewal will be the last day of the vessel owner's birth month in the second calendar year after the permit is issued (e.g., if the birth month is March and the permit is issued on October 3, 2007, the permit will remain valid through March 31, 2009).

(5) Replacement permits may be issued without charge to replace lost or mutilated permits. Replacement permits may be obtained by submitting to the SFD c/o the Regional Administrator a complete, signed vessel permit application. An application for a replacement permit is not considered a new application.

(6) Any permit that has been altered, erased, or mutilated is invalid.

(c) *Display*. Any permit issued under this subpart, or a facsimile of the permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing HMS shoreward of the outer boundary of the fishery management area unless the vessel was at sea at the time the permit was issued. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

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

[69 FR 18453, Apr. 7, 2004, as amended at 72 FR 10937, Mar. 12, 2007]

### § 660.708 Reporting and recordkeeping.

(a) *Logbooks*. The operator of any commercial fishing vessel and any recreational charter vessel fishing for HMS in the management area must maintain on board the vessel an accurate and complete record of catch, effort, and other data on report forms provided by the Regional Administrator or a state agency. All information specified on the forms must be recorded on the forms within 24 hours after the completion of each fishing day. The original logbook form for each day of the fishing trip must be submitted to either the Regional Administrator or the appropriate state management agency within 30 days of each landing or transhipment of HMS. Each form must be signed and dated by the fishing vessel operator.

(1) Logbooks that meet the logbook reporting requirement may be found at *http://swr.nmfs.noaa.gov/logbooks.htm* and include:

(i) The logbook required under 50 CFR 300.21 implementing the Tuna Conventions Act of 1950;

(ii) The logbook required under § 660.14 implementing the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region;

(iii) The logbook required by 50 CFR 300.17 implementing the High Seas Fishing Compliance Act of 1995.

(iv) Any logbook required by the fishery management agency of the States of California, Oregon, or Washington.

(2) Any holder of a permit who does not submit logbooks under any of the above authorities must submit a written request to the SFD for the appropriate logbook. The applicant must provide his or her name and address, the name of the vessel, and the type of fishing gear used.

(3) The Regional Administrator may, after consultation with the Council, act to modify the information to be provided on the fishing record forms.

(b) Any person who is required to do so by the applicable state law must make and/or file, retain, or make available any and all reports of HMS containing all data, and in the exact manner, required by the applicable state law.

[69 FR 18453, Apr. 7, 2004]

### § 660.709 Annual specifications.

(a) *Procedure.* (1) In June of each year, the HMSMT will deliver a preliminary SAFE report to the Council for all HMS with any necessary recommendations for harvest guidelines, quotas or other management measures to protect HMS.

(2) In September of each year, the HMSMT will deliver a final SAFE report to the Council. The Council will adopt any necessary harvest guidelines, quotas or other management measures for public review.

(3) In November each year, the Council will take final action on any necessary harvest guidelines, quotas, or other management measures and make its recommendations to NMFS.

(4) The Regional Administrator will implement through rulemaking any necessary and appropriate harvest guidelines, quotas, or other management measures based on the SAFE report, recommendations from the Council, and the requirements contained in the FMP.

(b) Fishing seasons for all species will begin on April 1 of each year at 0001 hours local time and terminate on March 31 of each year at 2400 hours local time.

(c) Harvest guidelines, quotas, and other management measures announced for a particular year will be in effect the following year unless changed through the public review process described in paragraph (a) of this section.

(d) Irrespective of the normal review process, the Council may propose management action to protect HMS at any time. The Council may adopt a management cycle different from the one described in this section provided that such change is made by a majority vote of the Council and a 6-month notice of the change is given. NMFS will implement the new schedule through rulemaking.

### § 660.710 Closure of directed fishery.

(a) When a quota has been taken, the Regional Administrator will announce in the FEDERAL REGISTER the date of closure of the fishery for the species of concern.

(b) When a harvest guideline has been taken, the Regional Administrator will initiate review of the species of concern according to section 8.4.8 of the FMP and publish in the FEDERAL REGISTER any necessary and appropriate regulations following Council recommendations.

### § 660.711 General catch restrictions.

(a) Prohibited species. HMS under the FMP for which quotas have been achieved and the fishery closed are prohibited species. In addition, the following are prohibited species:

(1) Any species of salmon.

(2) Great white shark.

(3) Basking shark.

(4) Megamouth shark.

(5) Pacific halibut.

(b) *Incidental landings.* HMS caught by gear not authorized by this subpart may be landed in incidental amounts as follows:

(1) Drift gillnet vessels with stretched mesh less than 14 inches may land up to 10 HMS per trip, except that no swordfish may be landed.

(2) Bottom longline vessels may land up to 20 percent by weight of management unit sharks in landings of all species, or 3 individual sharks of the species in the management unit, whichever is greater.

(3) Trawl and pot gear vessels may land up to 1 percent by weight of management unit sharks in a landing of all species or 2 individual sharks of the species in the management unit, whichever is greater.

(c) *Marlin prohibition*. The sale of striped marlin by a vessel with a permit under this subpart is prohibited.

(d) *Sea turtle handling and resuscitation*. All sea turtles taken incidentally in fishing operations by any HMS vessel other than vessels subject to § 660.712 must be handled in accordance with 50 CFR 223.206(d)(1).

**§ 660.712 Longline fishery.**

(a) *Gear and fishing restrictions*. (1) Owners and operators of vessels registered for use of longline gear may not use longline gear to fish for or target HMS within the U.S. EEZ.

(2) Owners and operators of vessels registered for use of longline gear may not make shallow sets with longline gear to fish for or target swordfish (*Xiphias gladius*) west of 150° W. long. and north of the equator (0° N. lat.).

(3) A person aboard a vessel registered for use of longline gear fishing for HMS west of 150° W. long. and north of the equator (0° N. lat.) may not possess or deploy any float line that is shorter than or equal to 20 m (65.6 ft or 10.9 fm). As used in this paragraph, float line means a line used to suspend the main longline beneath a float.

(4) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not use longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.

(5) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not receive from another vessel HMS that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.

(6) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not land or transship HMS that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.

(7) No light stick may be possessed on board a vessel registered for use of longline gear during fishing trips that include any fishing west of 150° W. long. and north of the equator (0° N. lat.). A light stick as used in this paragraph is any type of light emitting device, including any flourescent glow bead, chemical, or electrically powered light that is affixed underwater to the longline gear.

(8) When a conventional monofilament longline is deployed in waters west of 150° W. long. and north of the equator (0° N. lat.) by a vessel registered for use of longline gear, no fewer than 15 branch lines may be set between any two floats. Vessel operators using basket-style longline gear must set a minimum of 10 branch lines between any 2 floats when fishing in waters north of the equator.

(9) Longline gear deployed west of 150° W. long. and north of the equator (0° N. lat.) by a vessel registered for use of longline gear must be deployed such that the deepest point of the main longline between any two floats, *i.e.*, the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.

(10) Owners and operators of longline vessels registered for use of longline gear may land or posses no more than 10 swordfish from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° N. lat.).

(11) Owners and operators of longline vessels registered for use of longline gear are subject to the provisions at 50 CFR part 223 prohibiting shallow sets to target swordfish in waters beyond the U.S. EEZ and east of 150° W. long. and establishing that no more than 10 swordfish may be landed by a longline vessel registered for use of longline gear from a trip if any sets of longline gear were made on that trip in those waters.

(b) *Sea turtle take mitigation measures*. (1) Owners and operators of vessels registered for use of longline gear must carry aboard their vessels line clippers meeting the minimum design standards

specified in paragraph (b)(2) of this section, dip nets meeting minimum standards specified in paragraph (b)(3) of this section, and wire or bolt cutters capable of cutting through the vessel's hooks. These items must be used to disengage any hooked or entangled sea turtles with the least harm possible to the sea turtles and as close to the hook as possible in accordance with the requirements specified in paragraphs (b)(4) through (b)(7) of this section.

(2) Line clippers are intended to cut fishing line as close as possible to hooked or entangled sea turtles. NMFS has established minimum design standards for line clippers. The Arceneaux line clipper (ALC) is a model line clipper that meets these minimum design standards and may be fabricated from readily available and low-cost materials (see figure 1 to § 660.32). The minimum design standards are as follows:

(i) The cutting blade must be curved, recessed, contained in a holder, or otherwise afforded some protection to minimize direct contact of the cutting surface with sea turtles or users of the cutting blade.

(ii) The blade must be capable of cutting 2.0–2.1 mm monofilament line and nylon or polypropylene multistrand material commonly known as braided mainline or tarred mainline.

(iii) The line clipper must have an extended reach handle or pole of at least 6 ft (1.82 m).

(iv) The cutting blade must be securely fastened to the extended reach handle or pole to ensure effective deployment and use.

(3) Dip nets are intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of cutting lines in a manner that minimizes injury and trauma to sea turtles. The minimum design standards for dip nets that meet the requirements of this section are:

(i) The dip net must have an extended reach handle of at least 6 ft (1.82 m) of wood or other rigid material able to support a minimum of 100 lbs (34.1 kg) without breaking or significant bending or distortion.

(ii) The dip net must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may be no more than 3 inches × 3 inches (7.62 cm × 7.62 cm).

(4) All incidentally taken sea turtles brought aboard for dehooking and/or disentanglement must be handled in a manner to minimize injury and promote post-hooking survival.

(i) When practicable, comatose sea turtles must be brought on board immediately, with a minimum of injury, and handled in accordance with the procedures specified in paragraphs (b)(5) and (b)(6) of this section.

(ii) If a sea turtle is too large or hooked in such a manner as to preclude safe boarding without causing further damage/injury to the turtle, line clippers described in paragraph (b)(2) of this section must be used to clip the line and remove as much line as possible prior to releasing the turtle.

(iii) If a sea turtle is observed to be hooked or entangled by longline gear during hauling operations, the vessel operator must immediately cease hauling operations until the turtle has been removed from the longline gear or brought on board the vessel.

(iv) Hooks must be removed from sea turtles as quickly and carefully as possible. If a hook cannot be removed from a turtle, the line must be cut as close to the hook as possible.

(5) If the sea turtle brought aboard appears dead or comatose, the sea turtle must be placed on its belly (on the bottom shell or plastron) so that the turtle is right side up and its hindquarters elevated at least 6 inches (15.24 cm) for a period of no less than 4 hours and no more than 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. A reflex test, performed by gently touching the eye and pinching the tail of a sea turtle, must be administered by a vessel operator, at least every 3 hours, to determine if the sea turtle is responsive. Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance may be placed into a container holding water. A water-soaked towel placed over the eyes, carapace, and flippers is the most effective method to keep a turtle moist. Those that revive and become active must be returned to the sea in the manner described in paragraph

(b)(6) of this section. Sea turtles that fail to revive within the 24-hour period must also be returned to the sea in the manner described in paragraph (b)(6)(i) of this section.

(6) Live turtles must be returned to the sea after handling in accordance with the requirements of paragraphs (b)(4) and (b)(5) of this section:

(i) By putting the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped, and releasing the turtle away from deployed gear; and

(ii) Observing that the turtle is safely away from the vessel before engaging the propeller and continuing operations.

(7) In addition to the requirements in paragraphs (b) and (c) of this section, a vessel operator shall perform sea turtle handling and resuscitation techniques consistent with 50 CFR 223.206(d)(1), as appropriate.

(c) *Longline Seabird mitigation measures*. (1) Seabird mitigation techniques. Owners and operators of vessels registered for use of longline gear must ensure that the following actions are taken when fishing north of 23° N. lat.:

(i) Employ a line setting machine or line shooter to set the main longline when making deep sets west of 150° W. long. using monofilament main longline;

(ii) Attach a weight of at least 45 g to each branch line within 1 m of the hook when making deep sets using monofilament main longline;

(iii) When using basket-style longline gear, ensure that the main longline is deployed slack to maximize its sink rate;

(2) Use completely thawed bait that has been dyed blue to an intensity level specified by a color quality control card issued by NMFS;

(3) Maintain a minimum of two cans (each sold as 0.45 kg or 1 lb size) containing blue dye on board the vessel;

(4) Discharge fish, fish parts (offal), or spent bait while setting or hauling longline gear, on the opposite side of the vessel from where the longline gear is being set or hauled;

(5) Retain sufficient quantities of fish, fish parts, or spent bait, between the setting of longline gear for the purpose of strategically discharging it in accordance with paragraph (a)(6) of this section;

(6) Remove all hooks from fish, fish parts, or spent bait prior to its discharge in accordance with paragraph (c)(4) of this section; and

(7) Remove the bill and liver of any swordfish that is caught, sever its head from the trunk and cut it in half vertically, and periodically discharge the butchered heads and livers in accordance with paragraph (a)(6) of this section.

(8) If a short-tailed albatross is hooked or entangled by a vessel registered for use of longline gear, owners and operators must ensure that the following actions are taken:

(i) Stop the vessel to reduce the tension on the line and bring the bird on board the vessel using a dip net;

(ii) Cover the bird with a towel to protect its feathers from oils or damage while being handled;

(iii) Remove any entangled lines from the bird;

(iv) Determine if the bird is alive or dead.

(A) If dead, freeze the bird immediately with an identification tag attached directly to the specimen listing the species, location and date of mortality, and band number if the bird has a leg band. Attach a duplicate identification tag to the bag or container holding the bird. Any leg bands present must remain on the bird. Contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop, inform them that you have a dead short-tailed albatross on board, and submit the bird to NMFS within 72 hours following completion of the fishing trip.

(B) If alive, handle the bird in accordance with paragraphs (c)(9) through (c)(14) of this section.

(9) Place the bird in a safe enclosed place;

(10) Immediately contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop and request veterinary guidance;

(11) Follow the veterinary guidance regarding the handling and release of the bird.

(12) Complete the short-tailed albatross recovery data form issued by NMFS.

(13) If the bird is externally hooked and no veterinary guidance is received within 24–48 hours, handle the bird in accordance with paragraphs (c)(17)(iv) and (v) of this section, and release the bird only if it meets the following criteria:

(i) Able to hold its head erect and respond to noise and motion stimuli;

(ii) Able to breathe without noise;

(iii) Capable of flapping and retracting both wings to normal folded position on its back;

(iv) Able to stand on both feet with toes pointed forward; and

(v) Feathers are dry.

(14) If released under paragraph (c)(13) of this section or under the guidance of a veterinarian, all released birds must be placed on the sea surface.

(15) If the hook has been ingested or is inaccessible, keep the bird in a safe, enclosed place and submit it to NMFS immediately upon the vessel's return to port. Do not give the bird food or water.

(16) Complete the short-tailed albatross recovery data form issued by NMFS.

(17) If a seabird other than a short-tailed albatross is hooked or entangled by a vessel registered for use of longline gear, owners and operators must ensure that the following actions are taken:

(i) Stop the vessel to reduce the tension on the line and bring the seabird on board the vessel using a dip net;

(ii) Cover the seabird with a towel to protect its feathers from oils or damage while being handled;

(iii) Remove any entangled lines from the seabird;

(iv) Remove any external hooks by cutting the line as close as possible to the hook, pushing the hook barb out point first, cutting off the hook barb using bolt cutters, and then removing the hook shank;

(v) Cut the fishing line as close as possible to ingested or inaccessible hooks;

(vi) Leave the bird in a safe enclosed space to recover until its feathers are dry; and

(vii) After recovered, release seabirds by placing them on the sea surface.

(d) *Vessel monitoring system.*

(1) Only a VMS unit owned by NMFS and installed by NMFS complies with the requirement of this subpart.

(2) After the holder of a permit to use longline gear has been notified by the SAC of a specific date for installation of a VMS unit on the permit holder's vessel, the vessel must carry the VMS unit after the date scheduled for installation.

(3) A longline permit holder will not be assessed any fee or other charges to obtain and use a VMS unit, including the communication charges related directly to requirements under this section. Communication charges related to any additional equipment attached to the VMS unit by the owner or operator shall be the responsibility of the owner or operator and not NMFS.

(4) The holder of a longline permit and the master of the vessel operating under the permit must:

(i) Provide opportunity for the SAC to install and make operational a VMS unit after notification.

(ii) Carry the VMS unit on board whenever the vessel is at sea.

(iii) Not remove or relocate the VMS unit without prior approval from the SAC.

(5) The SAC has authority over the installation and operation of the VMS unit. The SAC may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit when deemed appropriate by the SAC.

(e) *Protected species workshop.* (1) Each year both the owner and the operator of a vessel registered for use of longline gear must attend and be certified for completion of a workshop conducted by NMFS on mitigation, handling, and release techniques for turtles and seabirds and other protected species.

(2) A protected species workshop certificate will be issued by NMFS annually to any person who has completed the workshop.

(3) An owner of a vessel registered for use of longline gear must have on file a

valid protected species workshop certificate or copy issued by NMFS in order to maintain or renew their vessel registration.

(4) An operator of a vessel registered for use of longline gear must have on board the vessel a valid protected species workshop certificate issued by NMFS or a legible copy thereof.

(f) An operator of a vessel registered for use of longline gear must notify the Regional Administrator at least 24 hours prior to embarking on a fishing trip regardless of the intended area of fishing.

(g) An operator of a vessel registered for use of longline gear in waters east of 150° W. long. and beyond the EEZ is subject to the requirements at 50 CFR part 223.

[69 FR 18453, Apr. 7, 2004]

### § 660.713 Drift gillnet fishery.

(a) *Take Reduction Plan gear restrictions*. Gear restrictions resulting from the Pacific Offshore Cetacean Take Reduction Plan established under the authority of the Marine Mammal Protection Act of 1972 can be found at 50 CFR 229.31.

(b) *Other gear restrictions*. (1) The maximum length of a drift gillnet on board a vessel shall not exceed 6,000 ft (1828 m).

(2) Up to 1,500 ft (457 m) of drift gillnet in separate panels of 600 ft (182.88 m) may be on board the vessel in a storage area.

(c) *Protected Resource Area closures*. (1) Pacific leatherback conservation area. No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean from August 15 through November 15 in the area bounded by straight lines connecting the following coordinates in the order listed:

(i) Pt. Sur at 36°18.5′ N. lat., to

(ii) 34°27′ N. lat. 123°35′ W. long., to

(iii) 34°27′ N. lat. 129° W. long., to

(iv) 45° N. lat. 129° W. long., thence to

(v) the point where 45° N. lat. intersects the Oregon coast.

(2) *Pacific loggerhead conservation area*. No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean east of the 120° W. meridian from June 1 through August 31 during a forecasted, or occurring, El Nino event off the coast of southern California.

(i) *Notification of an El Nino event*. The Assistant Administrator will publish in the FEDERAL REGISTER a notification that an El Nino event is occurring, or is forecast to occur, off the coast of southern California and the requirement of a closure under this paragraph (c)(2). Furthermore, the Assistant Administrator will announce the requirement of such a closure by other methods as are necessary and appropriate to provide actual notice to the participants in the California/Oregon drift gillnet fishery.

(ii) *Determination of El Nino conditions*. The Assistant Administrator will rely on information developed by NOAA offices which monitor El Nino events, such as NOAA's Climate Prediction Center and the West Coast Office of NOAA's Coast Watch program, in order to determine whether an El Nino is forecasted or occurring for the coast of southern California. The Assistant Administrator will use the monthly sea surface temperature anomaly charts to determine whether there are warmer than normal sea surface temperatures present off of southern California during the months prior to the closure month for years in which an El Nino event has been declared by the NOAA Climate Prediction Center. Specifically, the Assistant Administrator, will use sea surface temperature data from the third and second months prior to the month of the closure for determining whether El Nino conditions are present off of southern California.

(iii) *Reopening*. If, during a closure as described within this paragraph (c)(2), sea surface temperatures return to normal or below normal, the Assistant Administrator may publish a FEDERAL REGISTER notice announcing that El Nino conditions are no longer present off the coast of southern California and may terminate the closure prior to August 31.

(d) *Mainland area closures*. The following areas off the Pacific coast are closed to driftnet gear:

(1) Within the U.S. EEZ from the United States-Mexico International Boundary to the California-Oregon border from February 1 through April 30.

(2) In the portion of the U.S. EEZ within 75 nautical miles from the mainland shore from the United States-Mexico International Boundary to the California-Oregon border from May 1 through August 14.

(3) In the portion of the U.S. EEZ within 25 nautical miles of the coastline from December 15 through January 31 of the following year from the United States-Mexico International Boundary to the California-Oregon border.

(4) In the portion of the U.S. EEZ from August 15 through September 30 within the area bounded by line extending from Dana Point to Church Rock on Santa Catalina Island, to Point La Jolla, CA.

(5) In the portion of the U.S. EEZ within 12 nautical miles from the mainland shore north of a line extending west of Point Arguello, CA, to the California-Oregon border.

(6) In the portion of the U.S. EEZ within the area bounded by a line from the lighthouse at Point Reyes to Noonday Rock, to Southeast Farallon Island to Pillar Point, CA.

(7) In the portion of the U.S. EEZ off the Oregon coast east of a line approximating 1000 fathoms as defined by the following coordinates:

42°00′00″ N. lat. 125°10′30″ W. long.
42°25′39″ N. lat. 124°59′09″ W. long.
42°30′42″ N. lat. 125°00′46″ W. long.
42°30′23″ N. lat. 125°04′14″ W. long.
43°02′56″ N. lat. 125°06′57″ W. long.
43°01′29″ N. lat. 125°10′55″ W. long.
43°50′11″ N. lat. 125°19′14″ W. long.
44°03′23″ N. lat. 125°12′22″ W. long.
45°00′06″ N. lat. 125°16′42″ W. long.
45°25′27″ N. lat. 125°16′29″ W. long.
45°45′37″ N. lat. 125°15′19″ W. long.
46°04′45″ N. lat. 125°24′41″ W. long.
46°16′00″ N. lat. 125°20′32″ W. long.

(8) In the portion of the U.S. EEZ north of 46°16′ N. latitude (Washington coast).

(e) *Channel Islands area closures.* The following areas off the Channel Islands are closed to driftnet gear:

(1) *San Miguel Island closures.* (i) Within the portion of the U.S. EEZ north of San Miguel Island between a line extending 6 nautical miles west of Point Bennett, CA, and a line extending 6 nautical miles east of Cardwell Point, CA.

(ii) Within the portion of the U.S. EEZ south of San Miguel Island between a line extending 10 nautical miles west of Point Bennett, CA, and a line extending 10 nautical miles east of Cardwell Point, CA.

(2) *Santa Rosa Island closure.* Within the portion of the U.S. EEZ north of San Miguel Island between a line extending 6 nautical miles west from Sandy Point, CA, and a line extending 6 nautical miles east of Skunk Point, CA, from May 1 through July 31.

(3) *San Nicolas Island closure.* In the portion of the U.S. EEZ within a radius of 10 nautical miles of 33°16′41″ N. lat., 119°34′39″ W. long. (west end) from May 1 through July 31.

(4) *San Clemente Island closure.* In the portion of the U.S. EEZ within 6 nautical miles of the coastline on the easterly side of San Clemente Island within a line extending 6 nautical miles west from 33°02′16″ N. lat., 118°35′27″ W. long. and a line extending 6 nautical miles east from the light at Pyramid Head, CA.

[69 FR 18453, Apr. 7, 2004, as amended at 72 FR 31757, June 8, 2007]

### § 660.714 Purse seine fishery. [Reserved]

### § 660.715 Harpoon fishery. [Reserved]

### § 660.716 Surface hook-and-line fishery. [Reserved]

### § 660.717 Framework for revising regulations.

(a) *General.* NMFS will establish and adjust specifications and management measures in accordance with procedures and standards in the FMP.

(b) *Annual actions.* Annual specifications are developed and implemented according to § 660.709.

(c) *Routine management measures.* Consistent with section 3.4 of the FMP, management measures designated as routine may be adjusted during the year after recommendation from the Council, approval by NMFS, and publication in the FEDERAL REGISTER.

(d) *Changes to the regulations.* Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework measures in section

8.3.4 of the FMP and will be published in the FEDERAL REGISTER.

### § 660.718 Exempted fishing.

(a) In the interest of developing an efficient and productive fishery for HMS, the Regional Administrator may issue exempted fishing permits (EFP) for the harvest of HMS that otherwise would be prohibited.

(b) No exempted fishing for HMS may be conducted unless authorized by an EFP issued for the participating vessel in accordance with the criteria and procedures specified in 50 CFR 600.745.

### § 660.719 Scientific observers.

(a) All fishing vessels with permits issued under this subpart and operating in HMS fisheries, including catcher/processors, at-sea processors, and vessels that embark from a port in Washington, Oregon, or California and land catch in another area, may be required to accommodate an NMFS certified observer on board to collect scientific data.

(b) All vessels with observers on board must comply with the safety regulations at 50 CFR 600.746.

(c) NMFS shall advise the permit holder or the designated agent of any observer requirement in response to any pre-trip notification in this subpart.

(d) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer in response to a notification under this subpart or as a condition of an EFP issued under 50 CFR 660.718, the vessel may not engage in the fishery without taking the observer.

(e) A permit holder must accommodate a NMFS observer assigned under this section. The Regional Administrator's office, and not the observer, will address any concerns raised over accommodations.

(f) The permit holder, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties, including:

(1) Allowing for the embarking and debarking of the observer.

(2) Allowing the observer access to all areas of the vessel necessary to conduct observer duties.

(3) Allowing the observer access to communications equipment and navigation equipment as necessary to perform observer duties.

(4) Allowing the observer access to VMS units to verify operation, obtain data, and use the communication capabilities of the units for official purposes.

(5) Providing accurate vessel locations by latitude and longitude or loran coordinates, upon request by the observer.

(6) Providing sea turtle, marine mammal, or sea bird specimens as requested.

(7) Notifying the observer in a timely fashion when commercial fishing operations are to begin and end.

(g) The permit holder, operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Administrator imposes by written notice.

(h) The permit holder must ensure that assigned observers are provided living quarters comparable to crew members and are provided the same meals, snacks, and amenities as are normally provided to other vessel personnel.

### § 660.720 Interim protection for sea turtles.

(a) Until the effective date of §§ 660.707 and 660.712 (d) and (e), it is unlawful for any person who is not operating under a Hawaii longline limited access permit under § 660.21(b) to do any of the following:

(1) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear deployed on the high seas of the Pacific Ocean west of 150° W. long. and north of the equator (0° lat.).

(2) Possess a light stick on board a longline vessel on the high seas of the Pacific Ocean west of 150° W. long. north of the equator. A light stick as used in this paragraph is any type of light emitting device, including any fluorescent glow bead, chemical, or electrically powered light that is affixed underwater to the longline gear.

(3) An operator of a longline vessel subject to this section may land or possess no more than 10 swordfish from a

fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° N. lat.).

(4) Fail to employ basket-style longline gear such that the mainline is deployed slack when fishing on the high seas of the Pacific Ocean west of 150° W. long. north of the equator.

(5) When a conventional monofilament longline is deployed by a vessel subject to this section, no fewer than 15 branch lines may be set between any two floats. Vessel operators using basket-style longline gear must set a minimum of 10 branch lines between any 2 floats when fishing in waters west of 150° W. long. north of the equator.

(6) Longline gear deployed by a vessel subject to this section must be deployed such that the deepest point of the main longline between any two floats, *i.e.*, the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.

(b) [Reserved]

### § 660.721 Recreational fishing bag limits.

This section applies to recreational fishing for HMS management unit species in the U.S. EEZ off the coast of California, Oregon, and Washington and in the adjacent high seas areas. In addition to individual fishermen, the operator of a vessel that fishes in the EEZ is responsible for ensuring that the bag limits of this section are not exceeded. The bag limits of this section apply on the basis of each 24-hour period at sea, regardless of the number of trips per day. The provisions of this section do not authorize any person to take more than one daily bag limit of fishing during one calendar day. Federal recreational HMS regulations are not intended to supersede any more restrictive state recreational HMS regulations relating to federally-managed HMS. The bag limits include fish taken in both state and Federal waters.

(a) *Albacore Tuna Daily Bag Limit*. Except pursuant to a multi-day possession permit referenced in paragraph (c) of this section, a recreational fisherman may take or retain no more than:

(1) Ten albacore tuna if any part of the fishing trip occurs in the U.S. EEZ south of a line running due west true from 34°27′ N. latitude (at Point Conception, Santa Barbara County) to the U.S.-Mexico border.

(2) Twenty-five albacore tuna if any part of the fishing trip occurs in the U.S. EEZ north of a line running due west true from 34°27′ N. latitude (at Point Conception, Santa Barbara County) to the California-Oregon border.

(b) *Bluefin Tuna Daily Bag Limit*. A recreational fisherman may take or retain no more than 10 bluefin tuna in the U.S. EEZ off the coast of California.

(c) *Possession Limits*. If the State of California requires a multi-day possession permit for albacore or bluefin tuna harvested by a recreational fishing vessel and landed in California, aggregating daily trip limits for multi-day trips would be deemed consistent with Federal law.

(d) *Boat Limits* Off the coast of California, boat limits apply, whereby each fisherman aboard a vessel may continue to use recreational angling gear until the combined daily limits of HMS for all licensed and juvenile anglers aboard has been attained (additional state restrictions on boat limits may apply). Unless otherwise prohibited, when two or more persons are angling for HMS species aboard a vessel in the EEZ, fishing may continue until boat limits are reached.

[72 FR 58259, Oct. 15, 2007]

TABLE 2 TO PART 660—VESSEL CAPACITY RATINGS FOR WEST COAST GROUNDFISH LIMITED ENTRY PERMITS

| Vessel length | Capacity rating |
|---|---|
| <20 | 1.00 |
| 21 | 1.13 |
| 22 | 1.27 |
| 23 | 1.42 |
| 24 | 1.58 |
| 25 | 1.75 |
| 26 | 1.93 |
| 27 | 2.12 |
| 28 | 2.32 |
| 29 | 2.53 |
| 30 | 2.76 |
| 31 | 2.99 |
| 32 | 3.24 |
| 33 | 3.50 |
| 34 | 3.77 |
| 35 | 4.05 |
| 36 | 4.35 |
| 37 | 4.66 |
| 38 | 4.98 |
| 39 | 5.31 |

| Vessel length | Capacity rating | Vessel length | Capacity rating |
|---|---|---|---|
| 40 | 5.66 | 113 | 75.88 |
| 41 | 6.02 | 114 | 77.57 |
| 42 | 6.39 | 115 | 79.28 |
| 43 | 6.78 | 116 | 81.02 |
| 44 | 7.18 | 117 | 82.77 |
| 45 | 7.59 | 118 | 84.55 |
| 46 | 8.02 | 119 | 86.36 |
| 47 | 8.47 | 120 | 88.18 |
| 48 | 8.92 | 121 | 90.03 |
| 49 | 9.40 | 122 | 91.90 |
| 50 | 9.88 | 123 | 93.80 |
| 51 | 10.38 | 124 | 95.72 |
| 52 | 10.90 | 125 | 97.66 |
| 53 | 11.43 | 126 | 99.62 |
| 54 | 11.98 | 127 | 101.61 |
| 55 | 12.54 | 128 | 103.62 |
| 56 | 13.12 | 129 | 105.66 |
| 57 | 13.71 | 130 | 107.72 |
| 58 | 14.32 | 131 | 109.80 |
| 59 | 14.95 | 132 | 111.91 |
| 60 | 15.59 | 133 | 114.04 |
| 61 | 16.25 | 134 | 116.20 |
| 62 | 16.92 | 135 | 118.38 |
| 63 | 17.61 | 136 | 120.58 |
| 64 | 18.32 | 137 | 122.81 |
| 65 | 19.04 | 138 | 125.06 |
| 66 | 19.78 | 139 | 127.34 |
| 67 | 20.54 | 140 | 129.64 |
| 68 | 21.32 | 141 | 131.97 |
| 69 | 22.11 | 142 | 134.32 |
| 70 | 22.92 | 143 | 136.70 |
| 71 | 23.74 | 144 | 139.10 |
| 72 | 24.59 | 145 | 141.53 |
| 73 | 25.45 | 146 | 143.98 |
| 74 | 26.33 | 147 | 146.46 |
| 75 | 27.23 | 148 | 148.96 |
| 76 | 28.15 | 149 | 151.49 |
| 77 | 29.08 | 150 | 154.05 |
| 78 | 30.04 | 151 | 154.68 |
| 79 | 31.01 | 152 | 155.31 |
| 80 | 32.00 | 153 | 155.94 |
| 81 | 33.01 | 154 | 156.57 |
| 82 | 34.04 | 155 | 157.20 |
| 83 | 35.08 | 156 | 157.83 |
| 84 | 36.15 | 157 | 158.46 |
| 85 | 37.24 | 158 | 159.10 |
| 86 | 38.34 | 159 | 159.73 |
| 87 | 39.47 | 160 | 160.36 |
| 88 | 40.61 | 161 | 160.99 |
| 89 | 41.77 | 162 | 161.62 |
| 90 | 42.96 | 163 | 162.25 |
| 91 | 44.16 | 164 | 162.88 |
| 92 | 45.38 | 165 | 163.51 |
| 93 | 46.63 | 166 | 164.14 |
| 94 | 47.89 | 167 | 164.77 |
| 95 | 49.17 | 168 | 165.41 |
| 96 | 50.48 | 169 | 166.04 |
| 97 | 51.80 | 170 | 166.67 |
| 98 | 53.15 | 171 | 167.30 |
| 99 | 54.51 | 172 | 167.93 |
| 100 | 55.90 | 173 | 168.56 |
| 101 | 57.31 | 174 | 169.19 |
| 102 | 58.74 | 175 | 169.82 |
| 103 | 60.19 | 176 | 170.45 |
| 104 | 61.66 | 177 | 171.08 |
| 105 | 63.15 | 178 | 171.72 |
| 106 | 64.67 | 179 | 172.35 |
| 107 | 66.20 | 180 | 172.98 |
| 108 | 67.76 | 181 | 173.61 |
| 109 | 69.34 | 182 | 174.24 |
| 110 | 70.94 | 183 | 174.87 |
| 111 | 72.57 | 184 | 175.50 |
| 112 | 74.21 | 185 | 176.13 |

| Vessel length | Capacity rating | Vessel length | Capacity rating |
|---|---|---|---|
| 186 | 176.76 | 259 | 222.83 |
| 187 | 177.40 | 260 | 223.46 |
| 188 | 178.03 | 261 | 224.09 |
| 189 | 178.66 | 262 | 224.72 |
| 190 | 179.29 | 263 | 225.35 |
| 191 | 179.92 | 264 | 225.98 |
| 192 | 180.55 | 265 | 226.61 |
| 193 | 181.18 | 266 | 227.25 |
| 194 | 181.81 | 267 | 227.88 |
| 195 | 182.44 | 268 | 228.51 |
| 196 | 183.07 | 269 | 229.14 |
| 197 | 183.71 | 270 | 229.77 |
| 198 | 184.34 | 271 | 230.40 |
| 199 | 184.97 | 272 | 231.03 |
| 200 | 185.60 | 273 | 231.66 |
| 201 | 186.23 | 274 | 232.29 |
| 202 | 186.86 | 275 | 232.93 |
| 203 | 187.49 | 276 | 233.56 |
| 204 | 188.12 | 277 | 234.19 |
| 205 | 188.75 | 278 | 234.82 |
| 206 | 189.38 | 279 | 235.45 |
| 207 | 190.02 | 280 | 236.08 |
| 208 | 190.65 | 281 | 236.71 |
| 209 | 191.28 | 282 | 237.34 |
| 210 | 191.91 | 283 | 237.97 |
| 211 | 192.54 | 284 | 238.60 |
| 212 | 193.17 | 285 | 239.24 |
| 213 | 193.80 | 286 | 239.87 |
| 214 | 194.43 | 287 | 240.50 |
| 215 | 195.06 | 288 | 241.13 |
| 216 | 195.69 | 289 | 241.76 |
| 217 | 196.33 | 290 | 242.39 |
| 218 | 196.96 | 291 | 243.02 |
| 219 | 197.59 | 292 | 243.65 |
| 220 | 198.22 | 293 | 244.28 |
| 221 | 198.85 | 294 | 244.91 |
| 222 | 199.48 | 295 | 245.55 |
| 223 | 200.11 | 296 | 246.18 |
| 224 | 200.74 | 297 | 246.81 |
| 225 | 201.37 | 298 | 247.44 |
| 226 | 202.01 | 299 | 248.07 |
| 227 | 202.64 | 300 | 248.70 |
| 228 | 203.27 | 301 | 249.33 |
| 229 | 203.90 | 302 | 249.96 |
| 230 | 204.53 | 303 | 250.59 |
| 231 | 205.16 | 304 | 251.22 |
| 232 | 205.79 | 305 | 251.86 |
| 233 | 206.42 | 306 | 252.49 |
| 234 | 207.05 | 307 | 253.12 |
| 235 | 207.68 | 308 | 253.75 |
| 236 | 208.32 | 309 | 254.38 |
| 237 | 208.95 | 310 | 255.01 |
| 238 | 209.58 | 311 | 255.64 |
| 239 | 210.21 | 312 | 256.27 |
| 240 | 210.84 | 313 | 256.90 |
| 241 | 211.47 | 314 | 257.54 |
| 242 | 212.10 | 315 | 258.17 |
| 243 | 212.73 | 316 | 258.80 |
| 244 | 213.36 | 317 | 259.43 |
| 245 | 213.99 | 318 | 260.06 |
| 246 | 214.63 | 319 | 260.69 |
| 247 | 215.26 | 320 | 261.32 |
| 248 | 215.89 | 321 | 261.95 |
| 249 | 216.52 | 322 | 262.58 |
| 250 | 217.15 | 323 | 263.21 |
| 251 | 217.78 | 324 | 263.85 |
| 252 | 218.41 | 325 | 264.48 |
| 253 | 219.04 | 326 | 265.11 |
| 254 | 219.67 | 327 | 265.74 |
| 255 | 220.30 | 328 | 266.37 |
| 256 | 220.94 | 329 | 267.00 |
| 257 | 221.57 | 330 | 267.63 |
| 258 | 222.20 | 331 | 268.26 |

| Vessel length | Capacity rating |
|---|---|
| 332 | 268.89 |
| 333 | 269.52 |
| 334 | 270.16 |
| 335 | 270.79 |
| 336 | 271.42 |
| 337 | 272.05 |
| 338 | 272.68 |
| 339 | 273.31 |
| 340 | 273.94 |
| 341 | 274.57 |
| 342 | 275.20 |
| 343 | 275.83 |
| 344 | 276.47 |
| 345 | 277.10 |
| 346 | 277.73 |
| 347 | 278.36 |
| 348 | 278.99 |
| 349 | 279.62 |
| 350 | 280.25 |
| 351 | 280.88 |
| 352 | 281.51 |
| 353 | 282.14 |
| 354 | 282.78 |
| 355 | 283.41 |
| 356 | 284.04 |
| 357 | 284.67 |
| 358 | 285.30 |
| 359 | 285.93 |
| 360 | 286.56 |
| 361 | 287.19 |
| 362 | 287.82 |
| 363 | 288.46 |
| 364 | 289.09 |
| 365 | 289.72 |
| 366 | 290.35 |
| 367 | 290.98 |
| 368 | 291.61 |
| 369 | 292.24 |
| 370 | 292.87 |
| 371 | 293.50 |
| 372 | 294.13 |
| 373 | 294.77 |
| 374 | 295.40 |
| 375 | 296.03 |
| 376 | 296.66 |
| 377 | 297.29 |
| 378 | 297.92 |
| 379 | 298.55 |
| 380 | 299.18 |
| 381 | 299.81 |
| 382 | 300.44 |
| 383 | 301.08 |
| 384 | 301.71 |
| 385 | 302.34 |
| 386 | 302.97 |
| 387 | 303.60 |
| 388 | 304.23 |
| 389 | 304.86 |
| 390 | 305.49 |
| 391 | 306.12 |
| 392 | 306.75 |
| 393 | 307.39 |
| 394 | 308.02 |
| 395 | 308.65 |
| 396 | 309.28 |
| 397 | 309.91 |
| 398 | 310.54 |
| 399 | 311.17 |
| >400 | 311.80 |

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

SOURCE: 61 FR 34572, July 2, 1996, as amended at 71 FR 17988, Apr. 10, 2006.

EDITORIAL NOTE: Nomenclature changes to part 665 appear at 71 FR 30299, May 26, 2006.

## Subpart A—General

### § 665.1 Purpose and scope.

(a) The regulations in this part govern fishing for Western Pacific fishery management unit species by vessels of the United States that operate or are based inside the outer boundary of the EEZ off Western Pacific States.

(b) General regulations governing fishing by all vessels of the United States and by fishing vessels other than vessels of the United States are contained in part 665 of this chapter.

(c) Regulations governing the harvest, possession, landing, purchase, and sale of shark fins are found at part 665, subpart N of this chapter.

### § 665.2 Relation to other laws.

NMFS recognizes that any state law pertaining to vessels registered under the laws of that state while operating in the fisheries regulated under this part, and that is consistent with this part and the FMPs implemented by this part, shall continue in effect with respect to fishing activities regulated under this part.

### § 665.3 Reporting and recordkeeping.

Except for fisheries subject to subparts D and F of this part, any person who is required to do so by applicable state law or regulation must make and/or file all reports of management unit species landings containing all data and in the exact manner required by applicable state law or regulation.

### § 665.4 Licensing and registration.

Any person who is required to do so by applicable state law or regulation must comply with licensing and registration requirements in the exact manner required by applicable state law or regulation.

[73 FR 18458, Apr. 4, 2008]

## Subpart B—Western Pacific Fisheries—General

SOURCE: 61 FR 34572, July 2, 1996, unless otherwise noted. Redesignated at 71 FR 17989, Apr. 10, 2006.

### § 665.11 Purpose and scope.

(a) This subpart contains regulations that are common to all Western Pacific fisheries managed under fishery management plans prepared by the Western Pacific Fishery Management Council under the Magnuson Act.

(b) Regulations specific to individual fisheries are included in subparts C, D, E, F, and G of this part.

(c) Nothing in subparts C, D, E, F, and G of this part is intended to supercede any valid state or Federal regulations that are more restrictive than those published here.

[61 FR 34572, July 2, 1996, as amended at 69 FR 8341, Feb. 24, 2004; 71 FR 17989, Apr. 10, 2006]

### § 665.12 Definitions.

In addition to the definitions in the Magnuson-Stevens Act, and in § 665.10, the terms used in subparts B through G of this part have the following meanings:

*American Samoa longline limited access permit* means the permit required by § 665.21 to use a vessel shoreward of the outer boundary of the EEZ around American Samoa to fish for Pacific pelagic management unit species using longline gear or to land or transship Pacific pelagic management unit species that were caught in the EEZ around American Samoa using longline gear.

*American Samoa pelagics mailing list* means the list maintained by the Pacific Islands Regional Office of names and mailing addresses of parties interested in receiving notices of availability for American Samoa longline limited access permits.

*Basket-style longline gear* means a type of longline gear that is divided into units called ''baskets'' each consisting of a segment of main line to which 10 or more branch lines with hooks are spliced. The mainline and all branch lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

*Bottomfish FMP* means the Fishery Management Plan for Bottomfish and Seamount Groundfish of the Western Pacific Region.

*Bottomfish management area* means the areas designated in § 665.69.

*Bottomfish management unit species* means the following fish:

| Common name | Local name | Scientific name |
|---|---|---|
| Snappers: | | |
| Silver jaw jobfish | Lehi (H); palu-gustusilvia (S) | *Aphareus rutilans.* |
| Gray jobfish | Uku (H); asoama (S) | *Aprion virescens.* |
| Squirrelfish snapper | Ehu (H); palu-malau (S) | *Etelis carbunculus.* |
| Longtail snapper | Onaga, ula'T1ula (H); palu-loa (S) | *Etelis coruscans.* |
| Blue stripe snapper | Ta'ape (H); savane (S); funai (G) | *Lutjanus kasmira.* |
| Yellowtail snapper | Palu-i iusama (S); yellowtail kalekale | *Pristipomoides auricilla.* |
| Pink snapper | Opakapaka (H); Palu-'tlena'lena (S); gadao (G). | *Pristipomoides.* |
| Yelloweye snapper | Palusina (S); yelloweye opakapaka | *Pristipomoides flavipinnis.* |
| Snapper | Kalekale (H) | *Pristipomoides sieboldii.* |
| Snapper | Gindai (H,G); palu-sega (S) | *Pristipomoides zonatus.* |
| Jacks: | | |
| Giant trevally | White ulua (H); tarakito (G); sapo-anae (S). | *Caranx ignoblis.* |
| Black jack | Black ulua (H); tarakito (G); tafauli (S) | *Caranx lugubris.* |
| Thick lipped trevally | Pig ulua (H); butaguchi (H) | *Pseudocaranx dentex.* |
| Amberjack | Kahala (H) | *Seriola dumerili.* |
| Groupers: | | |
| Blacktip grouper | Fausi (S); gadau (G) | *Epinephelus fasciatus.* |
| Sea bass | Hapu'upu'u (H) | *Epinephelus quernus.* |
| Lunartail grouper | Papa (S) | *Variola louti.* |
| Emperor fishes: | | |
| Ambon emperor | Filoa-gutumumu (S) | *Lethrinus amboinensis.* |
| Redgill emperor | Filoa-palo 'omumu (S); mafuti (G) | *Lethrinus rubrioperculatus.* |

NOTES: G—Guam; H—Hawaii; S—American Samoa.

*Carapace length* means a measurement in a straight line from the ridge between the two largest spines above the eyes, back to the rear edge of the carapace of a spiny lobster (see Figure 1 of this part).

*Circle hook* means a fishing hook with the point turned perpendicularly back towards the shank.

*Commercial fishing* means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter, or trade. All lobster fishing in Crustaceans Permit Area 1 is considered commercial fishing.

*Commonwealth of the Northern Mariana Islands* (CNMI) means Northern Mariana Islands.

*CNMI offshore area* means the portion of the U.S. EEZ around the CNMI extending seaward from a line drawn 3 nautical miles from the baseline around the CNMI from which the territorial sea is measured, to the outer boundary of the U.S. EEZ, which to the south means those points which are equidistant between Guam and the island of Rota in the CNMI.

*Council* means the Western Pacific Fishery Management Council.

*Coral reef ecosystem management unit species* (Coral reef ecosystem MUS) means all of the Currently Harvested Coral Reef Taxa listed in Table 3 and Potentially Harvested Coral Reef Taxa listed Table 4 of this part and which spend the majority of their non-pelagic (post-settlement) life stages within waters less than or equal to 50 fathoms in total depth.

*Coral reef ecosystem regulatory area* means the U.S. EEZ waters around American Samoa, Guam, Hawaii, CNMI and the PRIA except for the portion of EEZ waters 0–3 miles around the CNMI, and EEZ waters around the NWHI west of 160°50′ W. long.

*Crustaceans FMP* means the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region.

*Crustaceans management area* means the EEZ waters around American Samoa, the CNMI, Guam, Hawaii, and the PRIA.

*Crustaceans management unit species* means spiny lobster (*Panulirus marginatus* or *Panulirus penicillatus*), slipper lobster (family *Scyllaridae*), and Kona crab (*Ranina ranina*).

*Crustaceans Permit Area 1* (Permit Area 1) means the EEZ off the Northwestern Hawaiian Islands.

*Crustaceans Permit Area 2* (Permit Area 2) means the EEZ off the main Hawaiian Islands.

*Crustaceans Permit Area 3 (Permit Area 3)* means the EEZ around Guam and American Samoa, and the EEZ seaward of points 3 nautical miles from the shoreline of the CNMI.

*Crustaceans Permit Area 4 (Permit Area 4)* means the EEZ around the PRIA, with the exception of EEZ waters around Midway Atoll.

*Crustaceans Permit Area 1 VMS Subarea* means an area within the EEZ off the NWHI 50 nm from the center geographical positions of the islands and reefs in the NWHI as follows: Nihoa Island 23°05′ N. lat., 161°55′ W. long.; Necker Island 23°35′ N. lat., 164°40′ W. long.; French Frigate Shoals 23°45′ N. lat., 166°15′ W. long; Garner Pinnacles 25°00′ N. lat., 168°00′ W. long.; Maro Reef 25°25′ N. lat., 170°35′ W. long.; Laysan Island 25°45′ N. lat., 171°45′ W. long; Lisianski Island 26°00′ N. lat., 173°55′ W. long.; Pearl and Hermes Reef 27°50′ N. lat., 175°50′ W. long.; Midway Islands 28°14′ N. lat., 177°22′ W. long.; and Kure Island 28°25′ N. lat., 178°20′ W. long. The remainder of the VMS subarea is delimited by parallel lines tangent to and connecting the 50–nm areas around the following: from Nihoa Island to Necker Island; from French Frigate Shoals to Gardner Pinnacles; from Gardner Pinnacles to Maro Reef; from Laysan Island to Lisianski Island; and from Lisianski Island to Pearl and Hermes Reef.

*Crustaceans receiving vessel* means a vessel of the United States to which lobsters taken in the crustaceans management area are transferred from another vessel.

*Currently harvested coral reef taxa* (CHCRT) means coral reef associated species, families, or subfamilies, as described in Table 3 of this part, that have annual landings greater than 454.54 kg (1,000 lb) as reported on individual state, commonwealth, or territory catch reports or through creel surveys. Fisheries and research data from

many of these species have been analyzed by regional management agencies.

*Dead coral* means any precious coral that no longer has any live coral polyps or tissue.

*Deep-set or Deep-setting* means the deployment of, or deploying, respectively, longline gear in a manner consistent with all the following criteria: with all float lines at least 20 meters in length; with a minimum of 15 branch lines between any two floats (except basket-style longline gear which may have as few as 10 branch lines between any two floats); without the use of light sticks; and resulting in the possession or landing of no more than 10 swordfish (Xiphias gladius) at any time during a given trip. As used in this definition ''float line'' means a line used to suspend the main longline beneath a float and ''light stick'' means any type of light emitting device, including any fluorescent ''glow bead'', chemical, or electrically powered light that is affixed underwater to the longline gear.

*EFP* means an experimental fishing permit.

*First level buyer* means:

(1) The first person who purchases, with the intention to resell, management unit species, or portions thereof, that were harvested by a vessel that holds a permit or is otherwise regulated under subpart D of this part; or

(2) A person who provides recordkeeping, purchase, or sales assistance in the first transaction involving management unit species (such as the services provided by a wholesale auction facility).

*Fish dealer* means any person who:

(1) Obtains, with the intention to resell, Pacific pelagic management unit species, or portions thereof, that were harvested or received by a vessel that holds a permit or is otherwise regulated under subpart E of this part; or

(2) Provides recordkeeping, purchase, or sales assistance in obtaining or selling such management unit species (such as the services provided by a wholesale auction facility).

*Fishing gear*, as used in subpart D of this part, includes:

(1) *Bottom trawl*, which means a trawl in which the otter boards or the footrope of the net are in contact with the sea bed.

(2) *Gillnet*, (see § 600.10).

(3) *Hook-and-line*, which means one or more hooks attached to one or more lines.

(4) *Set net*, which means a stationary, buoyed, and anchored gill net.

(5) *Trawl*, (see § 600.10).

*Fishing trip* means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel lands fish.

*Fishing year* means the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31, with the exception of fishing for Hawaii Restricted Bottomfish Species.

*Freeboard* means the straight-line vertical distance between a vessel's working deck and the sea surface. If the vessel does not have gunwale door or stern door that exposes the working deck, freeboard means the straight-line vertical distance between the top of a vessel's railing and the sea surface.

*Guam bottomfish permit* means the permit required by § 665.61(a)(4) to use a large vessel to fish for, land, or transship bottomfish management unit species shoreward of the outer boundary of the Guam subarea of the bottomfish fishery management area.

*Harvest guideline* means a specified numerical harvest objective.

*Hawaiian Archipelago* means the Main and Northwestern Hawaiian Islands, including Midway Atoll.

*Hawaii longline limited access permit* means the permit required by § 665.21 to use a vessel to fish for Pacific pelagic management unit species with longline gear in the EEZ around Hawaii or to land or transship longline-caught Pacific pelagic management unit species shoreward of the outer boundary of the EEZ around Hawaii.

*Hawaii restricted bottomfish species fishing year 2008–09 and After* means the year beginning at 0001 HST on September 1 and ending at 2400 HST on August 31 of the next calendar year.

*Hookah breather* means a tethered underwater breathing device that pumps air from the surface through one or more hoses to divers at depth.

*Incidental catch* or *incidental species* means species caught while fishing for

the primary purpose of catching a different species.

*Interested parties* means the State of Hawaii Department of Land and Natural Resources, the Council, holders of permits issued under subpart D of this part, and any person who has notified the Regional Administrator of his or her interest in the procedures and decisions described in §§ 665.51 and 665.52, and who has specifically requested to be considered an ''interested party.''

*Land* or *landing* means offloading fish from a fishing vessel, arriving in port to begin offloading fish, or causing fish to be offloaded from a fishing vessel.

*Large vessel* means, as used in §§ 665.22, 665.37, 665.38, 665.61, 665.62, and 665.70, any vessel equal to or greater than 50 ft (15.2 m) in length overall.

*Length overall (LOA) or length of a vessel* means, as used in §§ 665.21(i) and 665.22, the horizontal distance, rounded to the nearest foot (with any 0.5 foot or 0.15 meter fraction rounded upward), between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments (see Figure 2 to this part). ''Stem'' is the foremost part of the vessel, consisting of a section of timber or fiberglass, or cast forged or rolled metal, to which the sides of the vessel are united at the fore end, with the lower end united to the keel, and with the bowsprit, if one is present, resting on the upper end. ''Stern'' is the aftermost part of the vessel.

*Live coral* means any precious coral that has live coral polyps or tissue.

*Live rock* means any natural, hard substrate, including dead coral or rock, to which is attached, or which supports, any living marine life-form associated with coral reefs.

*Lobster closed area* means an area of the EEZ that is closed to fishing for lobster.

*Lobster grounds* refers, singularly or collectively, to the following four areas in Crustaceans Permit Area 1 that shall be used to manage the lobster fishery:

(1) *Necker Island Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 24°00′ N. lat., 165°00′ W. long.; 24°00′ N. lat., 164°00′ W. long.; 23°00′ N. lat., 164°00′ W. long.; and 23°00′ N. lat., 165°00′ W. long.

(2) *Gardner Pinnacles Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 25°20′ N. lat., 168°20′ W. long.; 25°20′ N. lat., 167°40′ W. long.; 24°20′ N. lat., 167°40′ W. long.; and 24°20′ N. lat., 168°20′ W. long.

(3) *Maro Reef Lobster Grounds*—waters bounded by straight lines connecting the following coordinates in the order presented: 25°40′ N. lat., 171°00′ W. long.; 25°40′ N. lat., 170°20′ W. long.; 25°00′ N. lat., 170°20′ W. long.; and 25°00′ N. lat., 171°00′ W. long.

(4) *General NWHI Lobster Grounds*—all waters within Crustaceans Permit Area 1 except for the Necker Island, Gardner Pinnacles, and Maro Reef Lobster Grounds.

*Longline fishing prohibited area* means the portions of the EEZ in which longline fishing is prohibited as specified in § 665.26.

*Longline fishing vessel* means a vessel that has longline gear on board the vessel.

*Longline gear* means a type of fishing gear consisting of a main line that exceeds 1 nm in length, is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached; except that, within the protected species zone, longline gear means a type of fishing gear consisting of a main line of any length that is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached.

*Low use marine protected area* (MPA) means an area of the U.S. EEZ where fishing operations have specific restrictions in order to protect the coral reef ecosystem, as specified under area restrictions.

*Main Hawaiian Islands* means the islands of the Hawaiian Islands Archipelago lying to the east of 161° W. long.

*Main Hawaiian Islands Non-Commercial Bottomfish Permit* means the permit required by § 665.61(a)(4) to own or fish from a vessel that is used in any noncommercial vessel-based fishing, landing, or transshipment of any bottomfish management unit species in

the Main Hawaiian Islands Management Subarea.

*Non-commercial fishing* means fishing that does not meet the definition of commercial fishing.

*Non-precious coral* means any species of coral other than those listed under the definition for precious coral in this section.

*Non-selective gear* means any gear used for harvesting corals that cannot discriminate or differentiate between types, size, quality, or characteristics of living or dead corals.

*Northwestern Hawaiian Islands (NWHI)* means the islands of the Hawaiian Islands Archipelago lying to the west of 161° W. long.

*No-take MPA* means an area of the U.S. EEZ that is closed to fishing for or harvesting of management unit species, precious corals and seamount groundfish, as defined in this section.

*Offloading* means removing management unit species from a vessel.

*Offset circle hook* means a circle hook in which the barbed end of the hook is displaced relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side.

*Owner*, as used in subparts C and D of this part and § 665.61(i) through (m), means a person who is identified as the current owner of the vessel as described in the Certificate of Documentation (Form CG–1270) issued by the USCG for a documented vessel, or in a registration certificate issued by a state, a territory, or the USCG for an undocumented vessel. As used in subpart F of this part and § 665.61(c) through (h), the definition of ''owner'' in § 600.10 of this chapter continues to apply.

*Pacific Pelagic Management Unit Species* means the following fish:

| Common name | Scientific name |
|---|---|
| Mahimahi (dolphinfish) | *Coryphaena spp.* |
| Indo-Pacific blue marlin | *Makaira mazara* |
| Black marlin | *M. indica* |
| Striped marlin | *Tetrapturus audax* |
| Shortbill spearfish | *T. angustirostris* |
| Swordfish | *Xiphias gladius* |
| Sailfish | *Istiophorus platypterus* |
| Pelagic thresher shark | *Alapias pelagicus* |
| Bigeye thresher shark | *Alopias* |
| Common thresher shark | *Alopias vulpinus* |
| Silky shark | *Carcharhinus falciformis* |
| Oceanic whitetip shark | *Carcharhinus longimanus* |
| Blue shark | *Prionace glauca* |
| Shortfin mako shark | *Isurus oxyrinchus* |
| Longfin mako shark | *Isurus paucus* |
| Salmon shark | *Lamna ditropis* |
| Albacore | *Thunnus alalunga* |
| Bigeye tuna | *T. obesus* |
| Yellowfin tuna | *T. albacore* |
| Northern bluefin tuna | *T. thynnus* |
| Skipjack tuna | *Katsuwonus pelamis* |
| Kawakawa | *Euthynnus affinis* |
| Wahoo | *Acanthocybium solandri* |
| Moonfish | *Lampris spp.* |
| Oilfish family | *Gempylidae* |
| Pomfret | *family Bramidae* |
| Other tuna relatives | *Auxis spp., Scomber spp.;* Allothunus spp. |

*Pacific Islands Regional Office (PIRO)* means the headquarters of the Pacific Islands Region, NMFS, located at 1601 Kapiolani Blvd., Suite 1110, Honolulu, Hawaii 96814; telephone number (808) 944–2200.

*Pacific Remote Island Areas (PRIA) bottomfish fishing permit* means the permit required by § 665.61 to use a vessel to fish for bottomfish management unit species (MUS) in the EEZ around the PRIA, or to land bottomfish MUS shoreward of the outer boundary of the EEZ around the PRIA, with the exception of EEZ waters around Midway Atoll.

*Pacific Remote Island Areas (PRIA) crustacean fishing permit* means the permit required by § 665.41 to use a vessel to fish for crustacean management unit species (MUS) in the EEZ around the PRIA, or to land crustacean MUS shoreward of the outer boundary of the EEZ around the PRIA, with the exception of EEZ waters around Midway Atoll.

*Pacific Remote Island Areas (PRIA) pelagic troll and handline fishing permit* means the permit required by § 665.21 to use a vessel shoreward of the outer boundary of the EEZ around the PRIA to fish for Pacific pelagic management unit species using pelagic handline or troll fishing methods.

*Pacific remote island areas (PRIA, or U.S. island possessions in the Pacific Ocean)* means Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, Wake Island, and Midway Atoll.

*Pelagic handline fishing* means fishing for pelagic management unit species from a stationary or drifting vessel using hook and line gear other than longline gear.

*Pelagic troll fishing (trolling)* means fishing for pelagic management unit species from a moving vessel using hook and line gear.

*Pelagics FMP* means the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region.

*Potentially harvested coral reef taxa* (PHCRT) means coral reef associated species, families, or subfamilies, as listed in Table 4 of this part, for which little or no information is available beyond general taxonomic and distribution descriptions. These species have either not been caught in the past or have been harvested annually in amounts less than 454.54 kg (1,000 lb). Coral reef ecosystem management unit species that are not listed as management unit species, precious corals, seamount groundfish, as defined in this section, or listed as CHCRT in Table 3 of this part.

*Precious coral* means any coral of the genus *Corallium* in addition to the following species of corals:

| Common name | Scientific name |
|---|---|
| Pink coral (also known as red coral) | *Corallium secundum.* |
| Pink coral (also known as red coral) | *Corallium regale.* |
| Pink coral (also known as red coral) | *Corallium laauense.* |
| Gold coral | *Gerardia* spp. |
| Gold coral | *Callogorgia gilberti.* |
| Gold coral | *Narella* spp. |
| Gold coral | *Calyptrophora* spp. |
| Bamboo coral | *Lepidisis olapa.* |
| Bamboo coral | *Acanella* spp. |
| Black coral | *Antipathes dichotoma.* |
| Black coral | *Antipathes grandis.* |
| Black coral | *Antipathes ulex.* |

*Precious coral permit area* means the area encompassing the precious coral beds in the management area. Each bed is designated by a permit area code and assigned to one of the following four categories:

(1) *Established beds.* (i) Makapu'u (Oahu), Permit Area E-B–1, includes the area within a radius of 2.0 nm of a point at 21°18.0′ N. lat., 157°32.5′ W. long.

(ii) Au'au Channel (Maui), Permit Area E-B–2, includes the area west and south of a point at 21°10′ N. lat., 156°40′ W. long., and east of a point at 21° N. lat., 157° W. long., and west and north of a point at 20°45′ N. lat., 156°40′ W. long.

(2) *Conditional beds.* (i) Keahole Point (Hawaii), Permit Area C-B-1, includes the area within a radius of 0.5 nm of a point at 19°46.0′ N. lat., 156°06.0′ W. long.

(ii) Kaena Point (Oahu), Permit Area C-B-2, includes the area within a radius of 0.5 nm of a point at 21°35.4′ N. lat., 158°22.9′ W. long.

(iii) Brooks Bank, Permit Area C-B-3, includes the area within a radius of 2.0 nm of a point at 24°06.0′ N. lat., 166°48.0′ W. long.

(iv) 180 Fathom Bank, Permit Area C-B-4, N.W. of Kure Atoll, includes the area within a radius of 2.0 nm of a point at 28°50.2′ N. lat., 178°53.4′ W. long.

(3) *Refugia.* Westpac Bed, Permit Area R-1, includes the area within a radius of 2.0 nm of a point at 23°18′ N. lat., 162°35′ W. long.

(4) *Exploratory areas.* (1) Permit Area X-P-H includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of the State of Hawaii.

(ii) Permit Area X-P-AS includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of American Samoa.

(iii) Permit Area X-P-G includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of Guam.

(iv) Permit Area X-P-PI includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of the U.S. Pacific Island possessions.

(v) Permit Area X-P-CNMI includes all coral beds, other than established beds, conditional beds, or refugia, in the EEZ seaward of points 3 nautical miles from the shoreline of the CNMI.

*Protected species* means an animal protected under the MMPA, listed under the ESA, or subject to the Migratory Bird Treaty Act, as amended.

*Protected species study zones* means the waters within a specified distance, designated by the Regional Administrator pursuant to § 665.66, around the following islands of the NWHI and as measured from the following coordinates: Nihoa Island 23°05′ N. lat., 161°55′ W. long.; Necker Island 23°35′ N. lat., 164°40′ W. long.; French Frigate Shoals 23°45′ N. lat., 166°15′ W. long.; Gardner Pinnacles 25°00′ N. lat., 168°00′ W. long.; Maro Reef 25°25′ N. lat., 170°35′ W. long.; Laysan Island 25°45′ N. lat., 171°45′ W. long.; Lisianski Island 26°00′ N. lat., 173°55′ W. long.; Pearl and Hermes Reef 27°50′ N. lat., 175°50′ W. long.; Midway

Island 28°14′ N. lat., 177°22′ W. long.; and Kure Island 28°25′ N. lat., 178°20′ W. long. The protected species study zones encompasses waters within 50 nm of the geographical coordinates listed above.

*Protected species zone* means an area, designated under § 665.26, measured from the center geographical positions of certain islands and reefs in the NWHI, as follows: Nihoa Island 23°05′ N. lat., 161°55′ W. long.; Necker Island 23°35′ N. lat., 164°40′ W. long.; French Frigate Shoals 23°45′ N. lat., 166°15′ W. long; Gardner Pinnacles 25°00′ N. lat., 168°00′ W. long.; Maro Reef 25°25′ N. lat., 170°35′ W. long.; Laysan Island 25°45′ N. lat., 171°45′ W. long; Lisianski Island 26°00′ N. lat., 173°55′ W. long.; Pearl and Hermes Reef 27°50′ N. lat., 175°50′ W. long.; Midway Islands 28°14′ N. lat., 177°22′ W. long.; and Kure Island 28°25′ N. lat., 178°20′ W. long. Where the areas are not contiguous, parallel lines drawn tangent to and connecting those semi-circles of the 50-nm areas that lie between Nihoa Island and Necker Island, French Frigate Shoals and Gardner Pinnacles, Gardner Pinnacles and Maro Reef, and Lisianski Island and Pearl and Hermes Reef, shall delimit the remainder of the protected species zone.

*Receiving vessel permit* means a permit required by § 665.21(c) for a receiving vessel to transship or land Pacific pelagic management unit species taken by other vessels using longline gear.

*Regional Administrator* means Director, Pacific Islands Region, NMFS (*see* Table 1 of § 600.502 for address).

*Seamount groundfish* means the following species:

| Common name | Scientific name |
|---|---|
| Armorhead | Pentaceros richardsoni. |
| Alfonsin | Beryx splendens. |
| Raftfish | Hyperoglyphe japonica. |

*Selective gear* means any gear used for harvesting corals that can discriminate or differentiate between type, size, quality, or characteristics of living or dead corals.

*Shallow-set or Shallow-setting* means the deployment of, or deploying, respectively, longline gear in a manner that does not meet the definition of deep-set or deep-setting as defined in this section.

*Shallow-set certificate* means an original paper certificate that is issued by NMFS and valid for one shallow-set of longline gear (more than one nautical mile of deployed longline gear is a complete set) for sets that start during the period of validity indicated on the certificate.

*Special Agent-In-Charge (SAC)* means the Special-Agent-In-Charge, NMFS, Pacific Islands Enforcement Division, or a designee of the SAC, located at 300 Ala Moana Blvd., Suite 7–118, Honolulu, Hawaii, 96850; telephone number (808) 541–2727.

*Special permit* means a permit issued to allow fishing for coral reef ecosystem management unit species in low-use MPAs or to fish for any PHCRT.

*State of Hawaii Commercial Marine License* means the license required by the State of Hawaii for anyone to take marine life for commercial purposes (also known as the commercial fishing license).

*Transship* means offloading or otherwise transferring management unit species or products thereof to a receiving vessel.

*Trap* means a box-like device used for catching and holding lobsters or fish.

*U.S. harvested corals* means coral caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan has been implemented under the Magnuson Act.

*Vessel monitoring system unit (VMS unit)* means the hardware and software owned by NMFS, installed on vessels by NMFS, and required by subpart C of this part to track and transmit the positions of longline vessels or the hardware and software used by vessels to track and transmit the positions of vessels permitted under subpart D of this part to fish in Crustaceans Permit Area 1.

*Western Pacific Fishery Management Area* means those waters shoreward of the outer boundary of the EEZ around American Samoa, Guam, Hawaii, the Northern Mariana Islands, Midway, Johnston and Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, and Howland Islands.

*Western Pacific general longline permit* means the permit authorized under

§ 665.21 to use a vessel shoreward of the outer boundary of the EEZ around Guam, the Northern Mariana Islands, Johnston or Palmyra Atolls, Kingman Reef, or Wake, Jarvis, Baker or Howland Islands to fish for Pacific pelagic management unit species using longline gear or to land or to transship Pacific pelagic management unit species that were caught using longline gear.

[61 FR 34572, July 2, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 665.12, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 665.13 Permits and fees.

(a) *Applicability*. The requirements for permits for specific Western Pacific fisheries are set forth in subparts C, D, E, F, and G of this part.

(b) *Validity*. Each permit is valid for fishing only in the specific fishery management areas identified on the permit.

(c) *Application*. (1) A Western Pacific Federal Fisheries Permit Application Form may be obtained from the NMFS PIRO to apply for a permit or permits to operate in any of the fisheries regulated under subparts C, D, E, F, and G of this part. The completed application must be submitted to PIRO. In no case shall PIRO accept an application that is not on the Western Pacific Federal Fisheries Application Form.

(2) A minimum of 15 days after the day PIRO receives a complete application should be allowed for processing a permit application for fisheries under subparts C, D, E, and F of this part. A minimum of 60 days after the day PIRO receives a complete application should be allowed for processing a permit application for fisheries under subpart J of this part. If an incomplete or improperly completed application is filed, the applicant will be sent a letter of notice of deficiency. If the applicant fails to correct the deficiency within 30 days following the date of the letter of notification of deficiency, the application will be considered abandoned.

(d) *Change in application information*. Any change in the permit application information or vessel documentation, submitted under paragraph (c) of this section, must be reported to PIRO in writing within 15 days of the change to avoid a delay in processing the permit application. A minimum of 10 days from the day the information is received by PIRO should be given for PIRO to record any change in information from the permit application submitted under paragraph (c) of this section. Failure to report such changes may result in a delay in processing an application, permit holders failing to receive important notifications, or sanctions pursuant to the Magnuson-Stevens Act at 16 U.S.C. § 1858(g) or 15 CFR part 904, subpart D.

(e) *Issuance*. After receiving a complete application, the Regional Administrator will issue a permit to an applicant who is eligible under §§ 665.21, 665.36, 665.41, 665.61, 665.601, or 665.8, or 665.602 as appropriate.

(f) *Fees*. (1) PIRO will not charge a fee for a permit issued under subpart D or F of this part, for a Ho′omalu Zone limited access permit, or for a Guam bottomfish permit issued under § 665.61.

(2) PIRO will charge a non-refundable processing fee for each application (including transfers and renewals) for the following permits. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook, for determining the administrative costs of each special product or service incurred in processing the permit. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude the issuance, transfer or renewal of any of these permits:

(i) Hawaii longline limited access permit;

(ii) Mau Zone limited access permit;

(iii) Coral reef ecosystem special permit;

(iv) American Samoa longline limited access permit; and

(v) Main Hawaiian Islands non-commercial bottomfish permit.

(g) *Expiration*. Permits issued under subparts C, D, E, F, and G of this part are valid for the period specified on the permit unless revoked, suspended, transferred, or modified.

(h) *Replacement*. Replacement permits may be issued, without charge, to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(i) *Transfer*. An application for a permit transfer under §§ 665.21(h), 665.41(e), or 665.61(e), or for registration of a permit for use with a replacement vessel under § 665.61(k), must be submitted to the PIRO as described in paragraph (c) of this section.

(j) *Alteration*. Any permit that has been altered, erased, or mutilated is invalid.

(k) *Display*. Any permit issued under this subpart, or a facsimile of the permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing management unit species shoreward of the outer boundary of the fishery management area. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

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

(m) *Permit appeals*. Procedures for appeals of permit and administrative actions are specified in the relevant subparts of this part.

[61 FR 34572, July 2, 1996, as amended at 64 FR 22812, Apr. 28, 1999; 69 FR 8342, Feb. 24, 2004; 70 FR 29651, May 24, 2005; 71 FR 64476, Nov. 2, 2006; 73 FR 18458, Apr. 4, 2008]

### § 665.14 Reporting and recordkeeping.

(a) *Fishing record forms*. (1) *Applicability*. The operator of any fishing vessel subject to the requirements of §§ 665.21, 665.41, 665.61(a)(2), 665.61(a)(3), 665.61(a)(4), 665.81, or 665.602 must maintain on board the vessel an accurate and complete record of catch, effort, and other data on paper report forms provided by the Regional Administrator, or electronically as specified and approved by the Regional Administrator. All information specified by the Regional Administrator must be recorded on paper or electronically within 24 hours after the completion of each fishing day. The logbook information, reported on paper or electronically, for each day of the fishing trip must be signed and dated or otherwise authenticated by the vessel operator in the manner determined by the Regional Administrator, and be submitted or transmitted via an approved method as specified by the Regional Administrator, and as required by this paragraph (a).

(2) *Timeliness of submission*. (i) If fishing was authorized under a permit pursuant to §§ 665.21, 665.41, 665.61(a)(1), 665.61(a)(3), or 665.81 the vessel operator must submit the original logbook form for each day of the fishing trip to the Regional Administrator within 72 hours of the end of each fishing trip, except as allowed in paragraph (iii) of this section.

(ii) If fishing was authorized under a permit pursuant to § 665.61(a)(4) the vessel operator or vessel owner must submit the original logbook form for each day of the fishing trip to the Regional Administrator within 72 hours of the end of each fishing trip.

(iii) If fishing was authorized under a PRIA bottomfish permit pursuant to § 665.61(a)(2), PRIA pelagic troll and handline permit pursuant to § 665.21(f), crustaceans fishing permit for the PRIA (Permit Area 4) pursuant to § 665.41, or a precious corals fishing permit for Permit Area X-P-PI pursuant to § 665.81, the original logbook form for each day of fishing within the PRIA EEZ waters must be submitted to the Regional Administrator within 30 days of the end of each fishing trip.

(iv) If fishing was authorized under a permit pursuant to § 665.602, the original logbook information for each day of fishing must be submitted to the Regional Administrator within 30 days of the end of each fishing trip.

(b) *Transshipment logbooks*. Any person subject to the requirements of § 665.21(c) or § 665.602(a)(2) must maintain on board the vessel an accurate and complete NMFS transshipment logbook containing report forms provided by the Regional Administrator. All information specified on the forms must be recorded on the forms within 24 hours after the day of transshipment. Each form must be signed and dated by the receiving vessel operator. The original logbook for each day of transshipment activity must be submitted to the Regional Administrator within 72 hours of each landing of Pacific pelagic management unit species.

The original logbook for each day of transshipment activity must be submitted to the Regional Administrator within 7 days of each landing of coral reef ecosystem MUS.

(c) *Sales report.* The operator of any fishing vessel subject to the requirements of § 665.41 must submit to the Regional Administrator, within 72 hours of offloading of crustaceans management unit species, an accurate and complete sales report on a form provided by the Regional Administrator. The form must be signed and dated by the fishing vessel operator.

(d) *Packing or weigh-out slips.* The operator of any fishing vessel subject to the requirements of § 665.41 must attach packing or weighout slips provided to the operator by the first-level buyer(s), unless the packing or weighout slips have not been provided in time by the buyer(s).

(e) *Modification of reporting and recordkeeping requirements.* The Regional Administrator may, after consultation with the Council, initiate rulemaking to modify the information to be provided on the fishing record forms, transshipment logbook, and sales report forms and timeliness by which the information is to be provided, including the submission of packing or weighout slips.

(f) *Availability of records for inspection*—(1) *Pacific pelagic management unit species.* Upon request, any fish dealer must immediately provide an authorized officer access for inspecting and copying all records of purchases, sales, or other transactions involving Pacific pelagic management unit species taken or handled by longline vessels that have permits issued under this subpart or that are otherwise subject to subpart C of this part, including, but not limited to, information concerning:

(i) The name of the vessel involved in each transaction and the owner or operator of the vessel.

(ii) The weight, number, and size of each species of fish involved in each transaction.

(iii) Prices paid by the buyer and proceeds to the seller in each transaction.

(2) *Crustaceans management unit species.* Upon request, any first-level buyer must immediately allow an authorized officer and any employee of NMFS designated by the Regional Administrator, to access, inspect, and copy all records relating to the harvest, sale, or transfer of crustacean management unit species taken by vessels that have permits issued under this subpart or that are otherwise subject to subpart D of this part. This requirement may be met by furnishing the information on a worksheet provided by the Regional Administrator. The information must include, but is not limited to:

(i) The name of the vessel involved in each transaction and the owner or operator of the vessel.

(ii) The amount, number, and size of each management unit species involved in each transaction.

(iii) Prices paid by the buyer and proceeds to the seller in each transaction.

(3) *Bottomfish and seamount groundfish management unit species.* Any person who is required by state laws and regulations to maintain records of landings and sales for vessels regulated by this subpart and subpart E of this part must make those records immediately available for Federal inspection and copying upon request by an authorized officer.

(4) *Coral reef ecosystem MUS.* Any person who has a special permit and who is required by state laws and regulations to maintain and submit records of catch and effort, landings and sales for coral reef ecosystem MUS by this subpart and subpart G of this part must make those records immediately available for Federal inspection and copying upon request by an authorized officer as defined in § 600.10 of this chapter of this chapter

(g) *State reporting.* Any person who has a permit under § 665.21, 665.61, or 665.601 and who is regulated by state laws and regulations to maintain and submit records of catch and effort, landings and sales for vessels regulated by subparts C, E and G of this part must maintain and submit those records in the exact manner required by state laws and regulations.

[61 FR 34572, July 2, 1996, as amended at 62 FR 27524, May 20, 1997; 67 FR 56501, Sept. 4, 2002; 69 FR 8343, Feb. 24, 2004; 71 FR 53607, Sept. 12, 2006; 71 FR 64476, Nov. 2, 2006; 72 FR 19125, Apr. 17, 2007; 73 FR 18458, Apr. 4, 2008]

**§ 665.15 Prohibitions.**

In addition to the prohibitions in § 600.725 of this chapter, it is unlawful for any person to:

(a) Engage in fishing without a valid permit or facsimile of a valid permit on board the vessel and available for inspection by an authorized officer, when a permit is required under § 665.13 or § 665.17, unless the vessel was at sea when the permit was issued under § 665.13, in which case the permit must be on board the vessel before its next trip.

(b) File false information on any application for a fishing permit under § 665.13 or an EFP under § 665.17.

(c) Fail to file reports in the exact manner required by any state law or regulation, as required in § 665.14.

(d) Falsify or fail to make, keep, maintain, or submit any logbook or logbook form or other record or report required under §§ 665.14 and 665.17.

(e) Refuse to make available to an authorized officer or a designee of the Regional Administrator for inspection or copying, any records that must be made available in accordance with § 665.14.

(f) Fail to affix or maintain vessel or gear markings, as required by §§ 665.16, 665.24, 665.47, and 665.605.

(g) Violate a term or condition of an EFP issued under § 665.17.

(h) Fail to report any take of or interaction with protected species as required by § 665.17(k).

(i) Fish without an observer on board the vessel after the owner or agent of the owner has been directed by NMFS to make accommodations available for an observer under §§ 665.17, 665.28, 665.49, or 665.65.

(j) Refuse to make accommodations available for an observer when so directed by the Regional Administrator under § 665.28, § 665.49, or § 665.65, or under any provision in an EFP issued under § 665.17.

(k) Fail to notify officials as required in §§ 665.23, 665.28, 665.43, 665.63, and 665.603.

(l) Fish for, take or retain within a no-take MPA, defined in § 665.18, any bottomfish management unit species, crustacean management unit species, Pacific pelagic management unit species, precious coral, seamount groundfish or coral reef ecosystem MUS.

[61 FR 34572, July 2, 1996, as amended at 69 FR 8343, Feb. 24, 2004]

**§ 665.16 Vessel identification.**

(a) Each fishing vessel subject to this subpart, except those identified in paragraph (e) of this section, must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck, so as to be visible from enforcement vessels and aircraft.

(b) The official number must be affixed to each vessel subject to this subpart and subparts C, D, E, and F of this part, in block Arabic numerals at least 18 inches (45.7 cm) in height for fishing and receiving vessels of 65 ft (19.8 m) LOA or longer, and at least 10 inches (25.4 cm) in height for all other vessels, except vessels subject to Subpart F and 65 ft (19.8 m) LOA or longer must be marked in block Arabic numerals at least 14 inches (35.6 cm) in height. Marking must be legible and of a color that contrasts with the background.

(c) The vessel operator must ensure that the official number is clearly legible and in good repair.

(d) The vessel operator must ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

(e) The following fishing vessels are exempt from the vessel identification requirements in this section:

(1) A vessel registered for use under a Main Hawaiian Islands non-commercial bottomfish permit that is in compliance with State of Hawaii bottomfish vessel registration and marking requirements.

(2) [Reserved]

[61 FR 34572, July 2, 1996. Redesignated at 71 FR 17989, Apr. 10, 2006; 73 FR 18459, Apr. 4, 2008]

**§ 665.17 Experimental fishing.**

(a) *General.* The Regional Administrator may authorize, for limited purposes, the direct or incidental harvest of management unit species that would otherwise be prohibited by this subpart and subparts C, D, E, and F of this part. No experimental fishing may be

conducted unless authorized by an EFP issued by the Regional Administrator in accordance with the criteria and procedures specified in this section. EFPs will be issued without charge.

(b) *Observers.* No experimental fishing for crustacean management unit species may be conducted unless an NMFS scientific observer is aboard the vessel.

(c) *Application.* An applicant for an EFP must submit to the Regional Administrator at least 60 days before the desired date of the EFP 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 purposes and goals of the experiment for which an EFP is needed, including a general description of the arrangements for disposition of all species harvested under the EFP.

(4) A statement of whether the proposed experimental fishing has broader significance than the applicant's individual goals.

(5) For each vessel to be covered by the EFP:

(i) Vessel name.

(ii) Name, address, and telephone number of owner and operator.

(iii) USCG documentation, state license, or registration number.

(iv) Home port.

(v) Length of vessel.

(vi) Net tonnage.

(vii) Gross tonnage.

(6) A description of the species (directed and incidental) to be harvested under the EFP and the amount of such harvest necessary to conduct the experiment.

(7) For each vessel covered by the EFP, the approximate times and places fishing will take place, and the type, size, and amount of gear to be used.

(8) The signature of the applicant.

(d) *Incomplete applications.* The Regional Administrator may request from an applicant additional information necessary to make the determinations required under this section. An applicant will be notified of an incomplete application within 10 working days of receipt of the application. An incomplete application will not be considered until corrected in writing.

(e) *Issuance.* (1) If an application contains all of the required information, NMFS will publish a notice of receipt of the application in the FEDERAL REGISTER with a brief description of the proposal and will give interested persons an opportunity to comment. The Regional Administrator will also forward copies of the application to the Council, the USCG, and the fishery management agency of the affected state, accompanied by the following information:

(i) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of the directed and incidental species for which an EFP is being requested.

(ii) A citation of the regulation or regulations that, without the EFP, would prohibit the proposed activity.

(iii) Biological information relevant to the proposal.

(2) At a Council meeting following receipt of a complete application, the Regional Administrator will consult with the Council and the Director of the affected state fishery management agency concerning the permit application. The applicant will be notified in advance of the meeting at which the application will be considered, and invited to appear in support of the application, if the applicant desires.

(3) Within 5 working days after the consultation in paragraph (e)(2) of this section, or as soon as practicable thereafter, NMFS will notify the applicant in writing of the decision to grant or deny the EFP and, if denied, the reasons for the denial. Grounds for denial of an EFP include, but are not limited to, the following:

(i) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his or her application.

(ii) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect any species of fish in a significant way.

(iii) Issuance of the EFP would inequitably allocate fishing privileges among domestic fishermen or would have economic allocation as its sole purpose.

(iv) Activities to be conducted under the EFP would be inconsistent with the intent of this section or the management objectives of the FMP.

(v) The applicant has failed to demonstrate a valid justification for the permit.

(vi) The activity proposed under the EFP would create a significant enforcement problem.

(4) The decision to grant or deny an EFP is final and unappealable. If the permit is granted, NMFS will publish a notice in the FEDERAL REGISTER describing the experimental fishing to be conducted under the EFP. The Regional Administrator may attach terms and conditions to the EFP consistent with the purpose of the experiment including, but not limited to:

(i) The maximum amount of each species that can be harvested and landed during the term of the EFP, including trip limits, where appropriate.

(ii) The number, sizes, names, and identification numbers of the vessels authorized to conduct fishing activities under the EFP.

(iii) The times and places where experimental fishing may be conducted.

(iv) The type, size, and amount of gear which may be used by each vessel operated under the EFP.

(v) The condition that observers be carried aboard vessels operating under an EFP.

(vi) Data reporting requirements.

(vii) Such other conditions as may be necessary to assure compliance with the purposes of the EFP consistent with the objectives of the FMP.

(f) *Duration*. Unless otherwise specified in the EFP or a superseding notice or regulation, an EFP is effective for no longer than 1 year, unless revoked, suspended, or modified. EFPs may be renewed following the application procedures in this section.

(g) *Alteration*. Any EFP that has been altered, erased, or mutilated is invalid.

(h) *Transfer*. EFPs issued under subparts B through F of this part are not transferable or assignable. An EFP is valid only for the vessel(s) for which it is issued.

(i) *Inspection*. Any EFP issued under subparts B through F of this part must be carried aboard the vessel(s) for which it was issued. The EFP must be presented for inspection upon request of any authorized officer.

(j) *Sanctions*. Failure of the holder of an EFP to comply with the terms and conditions of an EFP, the provisions of subparts A through F of this part, any other applicable provision of this part, the Magnuson Act, or any other regulation promulgated thereunder, is grounds for revocation, suspension, or modification of the EFP with respect to all persons and vessels conducting activities under the EFP. Any action taken to revoke, suspend, or modify an EFP will be governed by 15 CFR part 904 subpart D. Other sanctions available under the statute will be applicable.

(k) *Protected species*. Persons fishing under an EFP must report any incidental take or fisheries interaction with protected species on a form provided for that purpose. Reports must be submitted to the Regional Administrator within 3 days of arriving in port.

### § 665.18 Area restrictions.

(a) Fishing is prohibited in all no-take MPAs designated in this section.

(b) Anchoring by all fishing vessels over 50 ft (15.25 m) LOA is prohibited in the U.S. EEZ seaward of the Territory of Guam west of 144°30′ E. long. except in the event of an emergency caused by ocean conditions or by a vessel malfunction that can be documented.

(c) *MPAs*—(1) *No-take MPAs*. The following U.S. EEZ waters are no-take MPAs:

(i) Landward of the 50-fathom (fm) (91.5-m) curve at Jarvis, Howland, and Baker Islands, and Kingman Reef; as depicted on National Ocean Survey Chart Numbers 83116 and 83153;

(ii) Landward of the 50-fm (91.5-m) curve around Rose Atoll, as depicted on National Ocean Survey Chart Number 83484.

(2) *Low-use MPAs*. The following U.S. EEZ waters in the Western Pacific Region are low-use MPAs:

(i) All waters between the shoreline and the 50-fm (91.5-m) curve around Johnston Atoll, Palmyra Atoll, and Wake Island as depicted on National Ocean Survey Chart Numbers 83637, 83157 and 81664.

(ii) [Reserved]

[69 FR 8343, Feb. 24, 2004]

## Subpart C—Western Pacific Pelagic Fisheries

SOURCE: 61 FR 34572, July 2, 1996, unless otherwise noted. Redesignated at 71 FR 17989, Apr. 10, 2006.

### § 665.21 Permits.

(a) A vessel of the United States must be registered for use with a valid permit under the High Seas Fishing Compliance Act if that vessel is used to fish on the high seas, as required under § 300.15 of this title.

(b) A vessel of the United States must be registered for use under a valid Hawaii longline limited access permit if that vessel is used:

(1) To fish for Pacific pelagic management unit species using longline gear in the EEZ around the Hawaiian Archipelago; or

(2) To land or transship, shoreward of the outer boundary of the EEZ around the Hawaiian Archipelago, Pacific pelagic management unit species that were harvested using longline gear.

(c) A vessel of the United States must be registered for use under a valid American Samoa longline limited access permit, in accordance with § 665.36, if that vessel is used:

(1) To fish for Pacific pelagic management unit species using longline gear in the EEZ around American Samoa; or

(2) To land shoreward of the outer boundary of the EEZ around American Samoa Pacific pelagic management unit species that were harvested using longline gear in the EEZ around American Samoa; or

(3) To transship shoreward of the outer boundary of the EEZ around American Samoa Pacific pelagic management unit species that were harvested using longline gear in the EEZ around American Samoa or on the high seas.

(d) A vessel of the United States must be registered for use under a valid Western Pacific general longline permit, American Samoa longline limited access permit, or Hawaii longline limited access permit if that vessel is used:

(1) To fish for Pacific pelagic management unit species using longline gear in the EEZ around Guam, the Northern Mariana Islands, or the Pacific remote island areas (with the exception of Midway Atoll); or

(2) To land or transship shoreward of the outer boundary of the EEZ around Guam, the Northern Mariana Islands, or the Pacific remote island areas (with the exception of Midway Atoll), Pacific pelagic management unit species that were harvested using longline gear.

(e) A receiving vessel of the United States must be registered for use with a valid receiving vessel permit if that vessel is used to land or transship, within the Western Pacific Fishery Management Area, Pacific pelagic management unit species that were harvested using longline gear.

(f) A vessel of the United States must be registered for use with a valid PRIA pelagic troll and handline fishing permit if that vessel is used to fish for Pacific pelagic management unit species using pelagic handline or trolling fishing methods in the EEZ around the PRIA.

(g) Any required permit must be valid and on board the vessel and available for inspection by an authorized agent, except that, if the permit was issued (or registered to the vessel) during the fishing trip in question, this requirement applies only after the start of any subsequent fishing trip.

(h) A permit is valid only for the vessel for which it is registered. A permit not registered for use with a particular vessel may not be used.

(i) An application for a permit required under this section will be submitted to PIRO as described in § 665.13.

(j) General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, and sanctions for permits issued under this section, as applicable, are contained in § 665.13.

(k) A Hawaii longline limited access permit may be transferred as follows:

(1) The owner of a Hawaii longline limited access permit may apply to transfer the permit:

(i) To a different person for registration for use with the same or another vessel; or

(ii) For registration for use with another U.S. vessel under the same ownership.

(2) [Reserved]

(l) A Hawaii longline limited access permit will not be registered for use with a vessel that has a LOA greater than 101 ft (30.8 m).

(m) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) may be issued or may hold (by ownership or otherwise) a Hawaii longline limited access permit.

(n) *Permit appeals*. Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or any permit owner may appeal to the Regional Administrator the granting, denial, conditioning, suspension, or transfer of a permit or requested permit under this section. To be considered by the Regional Administrator, the appeal must be in writing, must state the action(s) appealed, and the reasons therefor, and must be submitted within 30 days of the action(s) by the Regional Administrator. The appellant may request an informal hearing on the appeal.

(1) Upon receipt of an appeal authorized by this section, the Regional Administrator may request additional information. Upon receipt of sufficient information, the Regional Administrator will decide the appeal in accordance with the criteria set out in this part for qualifying for, or renewing, limited access permits. In making such decision, the Administrator will review relevant portions of the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region, to the extent such review would clarify the criteria in this part. Such decision will be based upon information relative to the application on file at NMFS and the Council and any additional information available; the summary record kept of any hearing and the hearing officer's recommended decision, if any, as provided in paragraph (n)(3) of this section; and such other considerations as deemed appropriate. The Regional Administrator will notify the appellant of the decision and the reasons therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(2) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose. Such a hearing normally shall be held no later than 30 days following receipt of the appeal, unless the hearing officer extends the time. The appellant and, at the discretion of the hearing officer, other interested persons, may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend, in writing, a decision to the Regional Administrator.

(3) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify the appellant, and interested persons, if any, of the decision, and the reason(s) therefor, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action shall constitute final Agency action for purposes of the Administrative Procedure Act.

(4) In the case of a timely appeal from an American Samoa longline limited access permit initial permit decision, the Regional Administrator will issue the appellant a temporary American Samoa longline limited access permit. A temporary permit will expire 20 days after the Regional Administrator's final decision on the appeal. In no event will a temporary permit be effective for longer than 60 days.

(5) With the exception of temporary permits issued under paragraph (n)(4) of this section, any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Regional Administrator for good cause, either upon his/her own motion or upon written request from the appellant stating the reason(s) therefor.

[70 FR 29651, May 24, 2005]

### § 665.22 Prohibitions.

In addition to the prohibitions specified in Part 600 § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) Falsify or fail to make and/or file all reports of Pacific pelagic management unit species landings, containing

all data and in the exact manner, as required by applicable state law or regulation, as specified in § 665.3, provided that the person is required to do so by applicable state law or regulation.

(b) Use a vessel without a valid permit issued under the High Seas Fishing Compliance Act to fish for Pacific pelagic management unit species using longline gear, on the high seas, in violation of §§ 300.15 and 665.21(a)of this title.

(c) Use a vessel in the EEZ around the Hawaiian Archipelago without a valid Hawaii longline limited access permit registered for use with that vessel, to fish for Pacific pelagic management unit species using longline gear, in violation of § 665.21(b)(1).

(d) Use a vessel shoreward of the outer boundary of the EEZ around the Hawaiian Archipelago without a valid Hawaii longline limited access permit registered for use with that vessel, to land or transship Pacific pelagic management unit species that were harvested with longline gear, in violation of § 665.21(b)(2).

(e) Use a vessel in the EEZ around American Samoa without a valid American Samoa longline limited access permit registered for use with that vessel, to fish for Pacific pelagic management unit species using longline gear, in violation of § 665.21(c)(1).

(f) Use a vessel shoreward of the outer boundary of the EEZ around American Samoa without a valid American Samoa longline limited access permit registered for use with that vessel, to land Pacific pelagic management unit species that were caught with longline gear within the EEZ around American Samoa, in violation of § 665.21(c)(2).

(g) Use a vessel within the EEZ around American Samoa without a valid American Samoa longline limited access permit registered for use with that vessel, to transship Pacific pelagic management unit species that were caught with longline gear, in violation of § 665.21(c)(3).

(h) Use a vessel in the EEZ around Guam, the Northern Mariana Islands, or the Pacific remote island areas (with the exception of Midway Atoll) without either a valid Western Pacific general longline permit, American Samoa longline limited access permit or a Hawaii longline limited access permit registered for use with that vessel, to fish for Pacific pelagic management unit species using longline gear, in violation of § 665.21(d)(1).

(i) Use a vessel shoreward of the outer boundary of the EEZ around Guam, the Northern Mariana Islands, or the Pacific remote island areas (with the exception of Midway Atoll) without either a valid Western Pacific general longline permit, American Samoa longline limited access permit or a Hawaii longline limited access permit registered for use with that vessel, to land or transship Pacific pelagic management unit species that were harvested using longline gear, in violation of § 665.21(d)(2).

(j) Use a vessel in the Western Pacific Fishery Management Area to land or transship Pacific pelagic management unit species caught by other vessels using longline gear, without a valid receiving vessel permit registered for use with that vessel, in violation of § 665.21(e).

(k) Use a vessel in the EEZ around the PRIA employing handline or trolling methods to fish for Pacific pelagic management unit species without a valid PRIA pelagic troll and handline fishing permit registered for use for that vessel, in violation of § 665.21(f).

(l) Fish in the fishery after failing to comply with the notification requirements in § 665.23.

(m) Fail to comply with notification requirements set forth in § 665.23 or in any EFP issued under § 665.17.

(n) Fail to comply with a term or condition governing the vessel monitoring system when using a vessel registered for use with a Hawaii longline limited access permit, or a vessel registered for use with a size Class C or D American Samoa longline limited access permit, in violation of § 665.25.

(o) Fish for, catch, or harvest Pacific pelagic management unit species with longline gear without a VMS unit on board the vessel after installation of the VMS unit by NMFS, in violation of § 665.25(d)(2).

(p) Possess on board a vessel without a VMS unit Pacific pelagic management unit species harvested with longline gear after NMFS has installed

the VMS unit on the vessel, in violation of § 665.25(d)(2).

(q) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or to attempt any of the same; or to move or remove a VMS unit without the prior permission of the SAC in violation of § 665.25(d)(3).

(r) Make a false statement, oral or written, to an authorized officer, regarding the use, operation, or maintenance of a VMS unit, in violation of § 665.25(d)(1).

(s) Interfere with, impede, delay, or prevent the installation, maintenance, repair, inspection, or removal of a VMS unit, in violation of § 665.25(d)(1).

(t) Interfere with, impede, delay, or prevent access to a VMS unit by a NMFS observer, in violation of § 665.28(f)(4).

(u) Connect or leave connected additional equipment to a VMS unit without the prior approval of the SAC, in violation of § 665.25(e).

(v) Fish with longline gear within a longline fishing prohibited area, except as allowed pursuant to an exemption issued under § 665.17 or § 665.27, in violation of § 665.26.

(w) Fish for Pacific pelagic management unit species with longline gear within the protected species zone, in violation of § 665.26(b).

(x) Fail to comply with a term or condition governing the observer program established in § 665.28 if using a vessel registered for use with a Hawaii longline limited access permit, or a vessel registered for use with a size Class B, C or D American Samoa longline limited access permit, to fish for Pacific pelagic management unit species using longline gear.

(y) Fail to comply with other terms and conditions that the Regional Administrator imposes by written notice to either the permit holder or the designated agent of the permit holder to facilitate the details of observer placement.

(z) Fail to fish in accordance with the seabird take mitigation techniques set forth at § 665.35(a)(1) or § 665.35(a)(2) when operating a vessel registered for use under a Hawaii longline limited access permit in violation of § 665.35(a).

(aa) When operating a vessel registered for use under a American Samoa longline limited access permit or a Hawaii longline limited access permit, fail to comply with the sea turtle handling, resuscitation, and release requirements, in violation of § 665.32(b).

(bb) Engage in shallow-setting without a valid shallow-set certificate for each shallow set made, in violation of § 665.33(c).

(cc) Own or operate a vessel registered for use under any longline permit issued under § 665.21 while engaged in longline fishing for Pelagic Management Unit Species and fail to be certified for completion of a NMFS protected species workshop, in violation of § 665.34(a).

(dd) Own or operate a vessel registered for use under any longline permit issued under § 665.21 while engaged in longline fishing for Pelagic Management Unit Species without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof, in violation of § 665.34(d).

(ee) Possess light sticks on board a vessel registered for use under a Hawaii longline limited access permit at any time during a trip for which notification to NMFS under § 665.23(a) indicated that deep-setting would be done, in violation of § 665.33(d).

(ff) Fail to carry, or fail to use, a line clipper, dip net, or dehooker on a vessel registered for use under any longline permit issued under § 665.21, in violation of § 665.32.

(gg) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit north of the equator (0° lat.) with hooks other than offset circle hooks sized 18/0 or larger, with 10° offset, in violation of § 665.33(f).

(hh) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit north of the equator (0° lat.) with bait other than mackerel-type bait, in violation of § 665.33(g).

(ii) When operating a vessel registered for use under any longline permit issued under § 665.21 or operating a vessel using hooks to target Pelagic Management Unit Species while fishing under the Pelagics FMP, fail to comply with the sea turtle handling requirements, in violation of § 665.32(b).

(jj) Engage in shallow-setting from a vessel registered for use under any longline permit issued under § 665.21 north of the Equator (0° lat.) with hooks other than offset circle hooks sized 18/0 or larger, with a 10° offset, in violation of § 665.33(f).

(kk) Engage in shallow-setting from a vessel registered for use under any longline permit issued under § 665.21 north of the Equator (0° lat.) with bait other than mackerel-type bait, in violation of § 665.33(g).

(ll) Operate a vessel registered for use under a Hawaii longline limited access permit while engaged in longline fishing without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof, in violation of § 665.34(d).

(mm) Fail to use a line setting machine or line shooter, with weighted branch lines, to set the main longline when operating a vessel that is registered for use under a Hawaii longline limited access permit and equipped with monofilament main longline, when making deep sets north of 23° N. lat., in violation of § 665.35(a)(1) or (a)(2).

(nn) Fail to employ basket-style longline gear such that the mainline is deployed slack when operating a vessel registered for use under a Hawaii longline limited access north of 23° N. lat., in violation of § 665.35(a)(3).

(oo) Fail to maintain and use blue dye to prepare thawed bait when operating a vessel registered for use under a Hawaii longline limited access permit that is fishing north of 23° N. lat., in violation of § 665.35(a)(4), (a)(5), or (a)(6).

(pp) Fail to retain, handle, and discharge fish, fish parts, and spent bait, strategically when operating a vessel registered for use under a Hawaii longline limited access permit that is fishing north of 23° N. lat., in violation of § 665.35(a)(7), through (a)(9).

(qq) Fail to be begin the deployment of longline gear at least 1 hour after local sunset or fail to complete the setting process before local sunrise from a vessel registered for use under a Hawaii longline limited access permit while shallow-setting north of 23° N. lat., in violation of § 665.35(a)(1).

(rr) Fail to handle short-tailed albatrosses that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of § 665.35 (b).

(ss) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit after the shallow-set component of the longline fishery has been closed pursuant to § 665.33(b), in violation of § 665.33(i).

(tt) Fail to immediately retrieve longline fishing gear upon receipt of actual notice that the shallow-set component of the longline fishery has been closed pursuant to § 665.33(b), in violation of § 665.33(i).

(uu)–(vv) [Reserved]

(ww) Fail to handle seabirds other than short-tailed albatrosses that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of § 665.35(c).

(xx) Use a large vessel to fish for Pelagic management unit species within an American Samoa large vessel prohibited area except as allowed pursuant to an exemption issued under § 665.38.

(yy) Fish for Pacific pelagic management unit species using gear prohibited under § 665.30 or not permitted by an EFP issued under § 665.17.

[70 FR 29652, May 24, 2005, as amended at 70 FR 69284, Nov. 15, 2005; 70 FR 75080, Dec. 19, 2005; 72 FR 8291, Feb. 26, 2007]

### § 665.23 Notifications.

(a) The permit holder for any vessel registered for use under a Hawaii longline limited access permit or for any vessel greater than 40 ft (12.2 m) in length overall that is registered for use under an American Samoa longline limited access permit, or a designated agent, shall provide a notice to the Regional Administrator at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in the EEZ around the Hawaiian Archipelago or American Samoa. For the purposes of this section, the vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is

otherwise notified by the permit holder. The notice must be provided to the office or telephone number designated by the Regional Administrator. The notice must provide the official number of the vessel, the name of the vessel, the intended departure date, time, and location, the name of the operator of the vessel, and the name and telephone number of the agent designated by the permit holder to be available between 8 a.m. and 5 p.m. (local time) on weekdays for NMFS to contact to arrange observer placement. Permit holders for vessels registered for use under Hawaii longline limited access permits must also provide notification of the trip type (either deep-setting or shallow-setting).

(b) The operator of any vessel subject to the requirements of this subpart who does not have on board a VMS unit while transiting the protected species zone as defined in § 665.12, must notify the NMFS Special-Agent-In-Charge immediately upon entering and immediately upon departing the protected species zone. The notification must include the name of the vessel, name of the operator, date and time (GMT) of access or exit from the protected species zone, and location by latitude and longitude to the nearest minute.

(c) The permit holder for any American Samoa longline limited access permit, or an agent designated by the permit holder, must notify the Regional Administrator in writing within 30 days of any change to the permit holder's contact information or any change to the vessel documentation associated with a permit registered to an American Samoa longline limited access permit. Complete changes in the ownership of the vessel registered to an American Samoa longline limited access permit must also be reported to PIRO in writing within 30 days of the change. Failure to report such changes may result in a delay in processing an application, permit holders failing to receive important notifications, or sanctions pursuant to the Magnuson-Stevens Act at 16 U.S.C. § 1858(g) or 15 CFR part 904, subpart D.

[70 FR 29654, May 24, 2005]

### § 665.24 Gear identification.

(a) *Identification*. The operator of each permitted vessel in the fishery management area must ensure that the official number of the vessel be affixed to every longline buoy and float, including each buoy and float that is attached to a radar reflector, radio antenna, or flag marker, whether attached to a deployed longline or possessed on board the vessel. Markings must be legible and permanent, and must be of a color that contrasts with the background material.

(b) *Enforcement action*. Longline gear not marked in compliance with paragraph (a) of this section and found deployed in the EEZ will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer.

### § 665.25 Vessel monitoring system.

(a) *VMS unit*. Only a VMS unit owned by NMFS and installed by NMFS complies with the requirement of this subpart.

(b) *Notification*. After a Hawaii longline limited access permit holder or size Class C or D American Samoa longline limited access permit holder has been notified by the SAC of a specific date for installation of a VMS unit on the permit holder's vessel, the vessel must carry the VMS unit after the date scheduled for installation.

(c) *Fees and charges*. During the experimental VMS program, a Hawaii longline limited access permit holder or size Class C or D American Samoa longline permit holder with a size Class D or D permit shall not be assessed any fee or other charges to obtain and use a VMS unit, including the communication charges related directed to requirements under this section. Communication charges related to any additional equipment attached to the VMS unit by the owner or operator shall be the responsibility of the owner or operator and not NMFS.

(d) *Permit holder duties*. The holder of a Hawaii longline limited access permit or a size Class C or D American Samoa longline permit and master of the vessel must:

(1) Provide opportunity for the SAC to install and make operational a VMS unit after notification.

(2) Carry the VMS unit on board whenever the vessel is at sea.

(3) Not remove or relocate the VMS unit without prior approval from the SAC.

(e) *Authorization by the SAC*. The SAC has authority over the installation and operation of the VMS unit. The SAC may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit when deemed appropriate by the SAC.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29654, May 24, 2005]

### § 665.26 Longline fishing prohibited area management.

(a) *Prohibited areas*. Longline fishing shall be prohibited in the longline fishing prohibited areas as defined in paragraphs (b), (c), and (d) of this section.

(b) *Longline protected species zone*. The protected species zone is 50 nm from the center geographical positions of Nihoa Island, Necker Island, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Islands, and Kure Island, as defined in § 665.12.

(c) *Main Hawaiian Islands*. (1) From February 1 through September 30 each year, the longline fishing prohibited area around the main Hawaiian Islands is the portion of the EEZ seaward of Hawaii bounded by straight lines connecting the following coordinates in the order listed:

| Point | N. lat. | DW. long. |
|---|---|---|
| A | 18°05′ | 155°40′ |
| B | 18°20′ | 156°25′ |
| C | 20°00′ | 157°30′ |
| D | 20°40′ | 161°40′ |
| E | 21°40′ | 161°55′ |
| F | 23°00′ | 161°30′ |
| G | 23°05′ | 159°30′ |
| H | 22°55′ | 157°30′ |
| I | 21°30′ | 155°30′ |
| J | 19°50′ | 153°50′ |
| K | 19°00′ | 154°05′ |
| A | 18°05′ | 155°40′ |

(2) From October 1 through the following January 31 each year, the longline fishing prohibited area around the main Hawaiian Islands is the portion of the EEZ seaward of Hawaii bounded by straight lines connecting the following coordinates in the order listed:

| Point | N. lat. | W. long. |
|---|---|---|
| A | 18°05′ | 155°40′ |
| L | 18°25′ | 155°40′ |
| M | 19°00′ | 154°45′ |
| N | 19°15′ | 154°25′ |
| O | 19°40′ | 154°20′ |
| P | 20°20′ | 154°55′ |
| Q | 20°35′ | 155°30′ |
| R | 21°00′ | 155°35′ |
| S | 22°30′ | 157°35′ |
| T | 22°40′ | 159°35′ |
| U | 22°25′ | 160°20′ |
| V | 21°55′ | 160°55′ |
| W | 21°40′ | 161°00′ |
| E | 21°40′ | 161°55′ |
| D | 20°40′ | 161°40′ |
| C | 20°00′ | 157°30′ |
| B | 18°20′ | 156°25′ |
| A | 18°05′ | 155°40′ |

(d) *Guam*. The longline fishing prohibited area around Guam is the waters seaward of Guam bounded by straight lines connecting the following coordinates in the order listed:

| Point | N. lat. | E. long. |
|---|---|---|
| A | 14°25′ | 144°00′ |
| B | 14°00′ | 143°38′ |
| C | 13°41′ | 143°33′33″ |
| D | 13°00′ | 143°25′30″ |
| E | 12°20′ | 143°37′ |
| F | 11°40′ | 144°09′ |
| G | 12°00′ | 145°00′ |
| H | 13°00′ | 145°42′ |
| I | 13°27′ | 145°51′ |

[61 FR 34572, July 2, 1996, as amended at 71 FR 10869, Mar. 3, 2006]

### § 665.27 Exemptions for longline fishing prohibited areas; procedures.

(a) An exemption permitting a person to use longline gear to fish in a portion(s) of the Hawaii longline fishing prohibited area will be issued to a person who can document that he or she:

(1) Currently owns a Hawaii longline limited access permit issued under this part and registered for use with his or her vessel.

(2) Before 1970, was the owner or operator of a vessel when that vessel landed Pacific pelagic management unit species taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area.

(3) Was the owner or operator of a vessel that landed Pacific pelagic management unit species taken on longline gear in an area that is now within the

Hawaii longline fishing prohibited area, in at least 5 calendar years after 1969, which need not be consecutive.

(4) In any one of the 5 calendar years, was the owner or operator of a vessel that harvested at least 80 percent of its total landings, by weight, of longline-caught Pacific pelagic management unit species in an area that is now in the Hawaii longline fishing prohibited area.

(b) Each exemption shall specify the portion(s) of the Hawaii longline fishing prohibited area, bounded by longitudinal and latitudinal lines drawn to include each statistical area, as appearing on Hawaii State Commercial Fisheries Charts, in which the exemption holder made the harvest documented for the exemption application under paragraph (a)(4) of this section.

(c) Each exemption is valid only within the portion(s) of the Hawaii longline fishing prohibited area specified on the exemption.

(d) A person seeking an exemption under this section must submit an application and supporting documentation to the PIRO at least 15 days before the desired effective date of the exemption.

(e) If the Regional Administrator determines that a gear conflict has occurred and is likely to occur again in the Hawaii longline fishing prohibited area between a vessel used by a person holding an exemption under this section and a non-longline vessel, the Regional Administrator may prohibit all longline fishing in the Hawaii longline fishing prohibited area around the island where the conflict occurred, or in portions thereof, upon notice to each holder of an exemption who would be affected by such a prohibition.

(f) The Council will consider information provided by persons with Hawaii longline limited access permits issued under this part who believe they have experienced extreme financial hardship resulting from the Hawaii longline area closure, and will consider recommendations of the Pelagic Advisory Review Board to assess whether exemptions under this section should continue to be allowed, and, if appropriate, revise the qualifying criteria in paragraph (a) of this section to permit additional exemptions.

(1) If additional exemptions are needed, the Council will advise the Regional Administrator in writing of its recommendation, including criteria by which financial hardships will be mitigated, while retaining the effectiveness of the longline fishing prohibited area.

(2) Following a review of the Council's recommendation and supporting rationale, the Regional Administrator may:

(i) Reject the Council's recommendation, in which case written reasons will be provided by the Regional Administrator to the Council for the rejection; or

(ii) Concur with the Council's recommendation and, after finding that it is consistent with the goals and objectives of the Pelagics FMP, the national standards, and other applicable law, initiate rulemaking to implement the Council's recommendations.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29657, May 24, 2005]

### § 665.28 Conditions for at-sea observer coverage.

(a) NMFS shall advise the permit holder or the designated agent of any observer requirement at least 24 hours (not including weekends and Federal holidays) before any trip for which NMFS received timely notice in compliance with these regulations.

(b) The ''Notice Prior to Fishing Trip'' requirements in this subpart commit the permit holder to the representations in the notice. The notice can be modified by the permit holder or designated agent because of changed circumstance, if the Regional Administrator is promptly provided a modification to the notice that complies with the notice requirements. The notice will also be considered modified if the Regional Administrator and the permit holder or designated agent agree to placement changes.

(c) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer in response to a notification under this subpart, or as a condition of an EFP issued under § 665.17, the vessel may not engage in the fishery without taking the observer.

(d) A NMFS observer shall arrive at the observer's assigned vessel 30 minutes before the time designated for departure in the notice or the notice as modified, and will wait 1 hour for departure.

(e) A permit holder must accommodate a NMFS observer assigned under these regulations. The Regional Administrator's office, and not the observer, will address any concerns raised over accommodations.

(f) The permit holder, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties, including:

(1) Allowing for the embarking and debarking of the observer.

(2) Allowing the observer access to all areas of the vessel necessary to conduct observer duties.

(3) Allowing the observer access to communications equipment and navigation equipment as necessary to perform observer duties.

(4) Allowing the observer access to VMS units to verify operation, obtain data, and use the communication capabilities of the units for official purposes.

(5) Providing accurate vessel locations by latitude and longitude or loran coordinates, upon request by the observer.

(6) Providing sea turtle, marine mammal, or sea bird specimens as requested.

(7) Notifying the observer in a timely fashion when commercial fishing operations are to begin and end.

(g) The permit holder, operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Administrator imposes by written notice.

(h) The permit holder must ensure that assigned observers are provided living quarters comparable to crew members and are provided the same meals, snacks, and amenities as are normally provided to other vessel personnel. A mattress or futon on the floor or a cot is not acceptable if a regular bunk is provided to any crew member, unless other arrangements are approved in advance by the Regional Administrator.

(i) Reimbursement requirements are as follows:

(1) Upon observer verification of vessel accommodations and the number of assigned days on board, NMFS will reimburse vessel owners a reasonable amount for observer subsistence as determined by the Regional Administrator.

(2) If requested and properly documented, NMFS will reimburse the vessel owner for the following:

(i) Communications charges incurred by the observer.

(ii) Lost fishing time arising from a seriously injured or seriously ill observer, provided that notification of the nature of the emergency is transmitted to the Observer Program, NMFS (see address for PIRO Regional Administrator) at the earliest practical time. NMFS will reimburse the owner only for those days during which the vessel is unable to fish as a direct result of helping the NMFS employee who is seriously injured or seriously ill. Lost fishing time is based on time travelling to and from the fishing grounds and any documented out-of-pocket expenses for medical services. Payment will be based on the current target fish market prices and that vessel's average target fish catch retained per day at sea for the previous 2 years, but shall not exceed $5,000 per day or $20,000 per claim. Detailed billing with receipts and supporting records are required for allowable communication and lost fishing time claims. The claim must be completed in ink, showing the claimant's printed name, address, vessel name, observer name, trip dates, days observer on board, an explanation of the charges, and claimant's dated signature with a statement verifying the claim to be true and correct. Requested reimbursement claims must be submitted to the Fisheries Observer Branch, Pacific Islands Region, NMFS. NMFS will not process reimbursement invoices and documentation submitted more than 120 days after the occurrence.

(j) If a vessel normally has cabins for crew members, female observers on a vessel with an all-male crew must be accommodated either in a single person cabin or, if NMFS concludes that

adequate privacy can be ensured by installing a curtain or other temporary divider, in a two-person shared cabin. If the vessel normally does not have cabins for crew members, alternative accommodations must be approved by NMFS. If a cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, or if no cabin is assigned, then arrangements for sharing common facilities must be established and approved in advance by NMFS.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29657, May 24, 2005]

### § 665.29 Port privileges and transiting for unpermitted U.S. longline vessels.

A U.S. longline fishing vessel that does not have a permit under subpart B of this part may enter waters of the fishery management area with Pacific pelagic management unit species on board, but may not land or transship any management unit species on board the vessel. The vessel's longline gear must be stowed or secured so it is rendered unusable during the time the vessel is in those waters.

### § 665.30 Prohibition of drift gillnetting.

Fishing with drift gillnets in the fishery management area is prohibited, except where authorized5by an EFP issued under § 665.17.

### § 665.31 Framework adjustments to management measures.

(a) *Introduction*. Adjustments in management measures may be made through rulemaking if new information demonstrates that there are biological, social, or economic concerns in the fishery. The following framework process authorizes the implementation of measures that may affect the operation of the fisheries, gear, harvest guidelines, or changes in catch and/or effort.

(b) *Annual report*. By June 30 of each year, the Council-appointed Pelagics Plan Team will prepare an annual report on the fisheries in the management area. The report shall contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(c) *Procedure for established measures*. (1) Established measures are management measures that, at some time, have been included in regulations implementing the FMP, and for which the impacts have been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 7 to the Pelagics FMP, the Council may recommend to the Regional Administrator that established measures be modified, removed, or re-instituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(d) *Procedure for new measures*. (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 7 to the Pelagics FMP, the Council will publicize, including by FEDERAL REGISTER notice, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a FEDERAL REGISTER notice summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Administrator about any new measure. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

### § 665.32 Sea turtle take mitigation measures.

(a) *Possession and use of required mitigation gear*. The gear required in paragraph (a) of this section must be used

according to the sea turtle handling requirements set forth in paragraph (b) of this section.

(1) *Hawaii longline limited access permits.* Any owner or operator of a vessel registered for use under a Hawaii longline limited access permit must carry aboard the vessel line clippers meeting the minimum design standards specified in paragraph (a)(5) of this section, dip nets meeting the minimum design standards specified in paragraph (a)(6) of this section, and dehookers meeting the minimum design and performance standards specified in paragraph (a)(4) of this section.

(2) *Other longline vessels with freeboards of more than 3 ft (0.91m).* Any owner or operator of a longline vessel with a permit issued under § 665.21 other than a Hawaii limited access longline permit and that has a freeboard of more than 3 ft (0.91 m) must carry aboard the vessel line clippers meeting the minimum design standards specified in paragraph (a)(5) of this section, dip nets meeting the minimum design standards specified in paragraph (a)(6) of this section, and dehookers meeting ths minimum design and performance standards specified in paragraph (a)(7) of this section.

(3) *Other longline vessels with freeboards of 3 ft (0.91 m) or less.* Any owner or operator of a longline vessel with a permit issued under § 665.21 other than a Hawaii limited access longline permit and that has a freeboard of 3 ft (0.91 m) or less must carry aboard their vessels line clippers capable of cutting the vessels fishing line or leader within approximately 1 ft (0.3 m) of the eye of an embedded hook, as well as wire or bolt cutters capable of cutting through the vessel's hooks.

(4) *Handline, troll, pole-and-line, and other vessels using hooks other than longline vessels.* Any owner or operator of a vessel fishing under the Pelagics FMP with hooks other than longline gear are not required to carry specific mitigation gear, but must comply with the handling requirements set forth in paragraph (b) of this section.

(5) *Dip nets.* Dip nets are intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of cutting lines in a manner that minimizes injury and trauma to sea turtles. The minimum design standards for dip nets that meet the requirements of this section nets are:

(i) *An extended reach handle.* The dip net must have an extended reach handle of at least 6 ft (1.82 m) of wood or other rigid material able to support a minimum of 100 lbs (34.1 kg) without breaking or significant bending or distortion.

(ii) *Size of dip net.* The dip net must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may be no more than 3 inches × 3 inches (7.62 cm 7.62 cm).

(6) *Dehookers*—(i) *Long-handled dehooker for ingested hooks.* This item is intended to be used to remove ingested hooks from sea turtles that cannot be boated, and to engage a loose hook when a turtle is entangled but not hooked and line is being removed. One long-handled dehooker for ingested hooks is required on board. The minimum design and performance standards are as follows:

(A) *Hook removal device.* The hook removal device must be constructed of 5/16–inch (7.94 mm) 316 L stainless steel and have a dehooking end no larger than 1 7/8 inches (4.76 cm) outside diameter. The device must be capable of securely engaging and controlling the leader while shielding the barb of the hook to prevent the hook from re-engaging during removal. It must not have any unprotected terminal points (including blunt ones), as these could cause injury to the esophagus during hook removal. The device must be of a size capable of securing the range of hook sizes and styles used by the vessel.

(B) *Extended reach handle.* The hook removal device must be securely fastened to an extended reach handle or pole with a length equal to or greater than 150 percent of the vessel's freeboard or 6 ft (1.83 m), whichever is greater. It is recommended that the handle be designed so that it breaks down into sections. The handle must be sturdy and strong enough to facilitate the secure attachment of the hook removal device.

(ii) *Long-handled dehooker for external hooks.* This item is intended to be used

to remove externally-hooked hooks from sea turtles that cannot be boated. The long-handled dehooker for ingested hooks described in paragraph (a)(4)(i) of this section meets this requirement. The minimum design and performance standards are as follows:

(A) *Construction*. The device must be constructed of 5/16–inch (7.94 mm) 316 L stainless steel rod. A 5–inch (12.70–cm) tube T-handle of 1–inch (2.54–cm) outside diameter is recommended, but not required. The dehooking end must be blunt with all edges rounded. The device must be of a size capable of securing the range of hook sizes and styles used by the vessel.

(B) *Handle*. The handle must have a length equal to or greater than the vessel's freeboard or 3 ft (0.91 m), whichever is greater.

(iii) *Long-handled device to pull an ''inverted V''*. This item is intended to be used to pull an ''inverted V'' in the fishing line when disentangling and dehooking entangled sea turtles. One long-handled device to pull an ''inverted V'' is required on board. The long-handled dehooker for external hooks described in paragraph (a)(4)(ii) of this section meets this requirement. The minimum design and performance standards are as follows:

(A) *Hook end*. It must have a hook-shaped end, like that of a standard boat hook or gaff, which must be constructed of stainless steel or aluminum.

(B) *Handle*. The handle must have a length equal to or greater than 150 percent of the vessel's freeboard or 6 ft (1.83 m), whichever is greater. The handle must be sturdy and strong enough to allow the hook end to be effectively used to engage and pull an ''inverted V'' in the line.

(iv) *Tire*. This item is intended to be used for supporting a turtle in an upright orientation while it is on board. One tire is required on board, but an assortment of sizes is recommended to accommodate a range of turtle sizes. The tire must be a standard passenger vehicle tire and must be free of exposed steel belts.

(v) *Short-handled dehooker for ingested hooks*. This item is intended to be used to remove ingested hooks, externally hooked hooks, and hooks in the front of the mouth of sea turtles that can be boated. One short-handled dehooker for ingested hooks is required on board. The minimum design and performance standards are as follows:

(A) *Hook removal device*. The hook removal device must be constructed of 1/4–inch (6.35–mm) 316 L stainless steel, and the design of the dehooking end must be such to allow the hook to be secured and the barb shielded without re-engaging during the hook removal process. The dehooking end must be no larger than 1 5/16 inch (3.33 cm) outside diameter. It must not have any unprotected terminal points (including blunt ones), as this could cause injury to the esophagus during hook removal. The dehooking end must be of a size appropriate to secure the range of hook sizes and styles used by the vessel.

(B) *Sliding plastic bite block*. The dehooker must have a sliding plastic bite block, which is intended to be used to protect the sea turtle's beak and facilitate hook removal if the turtle bites down on the dehooker. The bite block must be constructed of a 3/4–inch (1.91–cm) inside diameter high impact plastic cylinder (for example, Schedule 80 PVC) that is 10 inches (25.40 cm) long. The dehooker and bite block must be configured to allow for 5 inches (12.70 cm) of slide of the bite block along the shaft of the dehooker.

(C) *Shaft and handle*. The shaft must be 16 to 24 inches (40.64 - 60.69 cm) in length, and must have a T-handle 4 to 6 inches (10.16 - 15.24 cm) in length and 3/4 to 1 1/4 inches (1.90 - 3.18 cm) in diameter.

(vi) *Short-handled dehooker for external hooks*. This item is intended to be used to remove externally hooked hooks from sea turtles that can be boated. One short-handled dehooker for external hooks is required on board. The short-handled dehooker for ingested hooks required to comply with paragraph (a)(4)(v) of this section meets this requirement. The minimum design and performance standards are as follows:

(A) *Hook removal device*. The hook removal device must be constructed of 5/16–inch (7.94–cm) 316 L stainless steel, and the design must be such that a hook can be rotated out without pulling it out at an angle. The dehooking

end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used by the vessel.

(B) *Shaft and handle.* The shaft must be 16 to 24 inches (40.64 - 60.69 cm) in length, and must have a T-handle 4 to 6 inches (10.16 - 15.24 cm) in length and 3/4 to 1 1/4 inches (1.90 - 3.18 cm) in diameter.

(vii) *Long-nose or needle-nose pliers.* This item is intended to be used to remove deeply embedded hooks from the turtle's flesh that must be twisted in order to be removed, and also to hold in place PVC splice couplings when used as mouth openers. One pair of long-nose or needle-nose pliers is required on board. The minimum design standards are as follows: The pliers must be 8 to 14 inches (20.32 - 35.56 cm) in length. It is recommended that they be constructed of stainless steel material.

(viii) *Wire or bolt cutters.* This item is intended to be used to cut through hooks in order to remove all or part of the hook. One pair of wire or bolt cutters is required on board. The minimum design and performance standards are as follows: The wire or bolt cutters must be capable of cutting hard metals, such as stainless or carbon steel hooks, and they must be capable of cutting through the hooks used by the vessel.

(ix) *Monofilament line cutters.* This item is intended to be used to cut and remove fishing line as close to the eye of the hook as possible if the hook is swallowed or cannot be removed. One pair of monofilament line cutters is required on board. The minimum design standards are as follows: Monofilament line cutters must be 6 to 9 inches (15.24 - 22.86 cm) in length. The blades must be 1 3/4 (4.45 cm) in length and 5/8 inches (1.59 cm) wide when closed.

(x) *Mouth openers and gags.* These items are intended to be used to open the mouths of boated sea turtles, and to keep them open when removing ingested hooks in a way that allows the hook or line to be removed without causing further injury to the turtle. At least two of the seven different types of mouth openers and gags described below are required on board. The seven types and their minimum design standards are as follows.

(A) *A block of hard wood.* A block of hard wood is intended to be used to gag open a turtle's mouth by placing it in the corner of the jaw. It must be made of hard wood of a type that does not splinter (for example, maple), and it must have rounded and smoothed edges. The dimensions must be 10 to 12 inches (24.50 - 30.48 cm) by 3/4 to 1 1/4 inches (1.90 - 3.18 cm) by 3/4 to 1 1/4 inches (1.90 - 3.18 cm).

(B) *A set of three canine mouth gags.* A canine mouth gag is intended to be used to gag open a turtle's mouth while allowing hands-free operation after it is in place. A set of canine mouth gags must include one of each of the following sizes: small (5 inches) (12.7 cm), medium (6 inches) (15.2 cm), and large (7 inches) (17.8 cm). They must be constructed of stainless steel. A 1 3/4–inch (4.45 cm) long piece of vinyl tubing (3/4 inch (1.91 cm) outside diameter and 5/8 inch (1.59 cm) inside diameter) must be placed over the ends of the gags to protect the turtle's beak.

(C) *A set of two sturdy canine chew bones.* A canine chew bone is intended to be used to gag open a turtle's mouth by placing it in the corner of the jaw. They must be constructed of durable nylon, zylene resin, or thermoplastic polymer, and strong enough to withstand biting without splintering. To accommodate a variety of turtle beak sizes, a set must include one large (5 1/2 - 8 inches (13.97 - 20.32 cm) in length) and one small (3 1/2 - 4 1/2 inches (8.89 - 11.43 cm) in length) canine chew bones.

(D) *A set of two rope loops covered with hose.* A set of two rope loops covered with a piece of hose is intended to be used as a mouth opener and to keep a turtle's mouth open during hook and/or line removal. A set consists of two 3–foot (0.91–m) lengths of poly braid rope, each covered with an 8–inch (20.32–cm) section of 1/2–inch (1.27–cm) or 3/4–inch (1.91–cm) light-duty garden hose, and each tied into a loop.

(E) *A hank of rope.* A hank of rope is intended to be used to gag open a sea turtle's mouth by placing it in the corner of the jaw. A hank of rope is made from a 6–foot (1.83–m) lanyard of braided nylon rope that is folded to create a

hank, or looped bundle, of rope. The hank must be 2 to 4 inches (5.08 - 10.16 cm) in thickness.

(F) *A set of four PVC splice couplings.* PVC splice couplings are intended to be used to allow access to the back of the mouth of a turtle for hook and line removal by positioning them inside a turtle's mouth and holding them in place with long-nose or needle-nose pliers. The set must consist of the following Schedule 40 PVC splice coupling sizes: 1 inch (2.54 cm), 1 1/4 inches (3.18 cm), 1 1/2 inches (3.81 cm), and 2 inches (5.08 cm).

(G) *A large avian oral speculum.* A large avian oral speculum is intended to be used to hold a turtle's mouth open and control the head with one hand while removing a hook with the other hand. It must be 9 inches (22.86 cm) in length and constructed of 3/16–inch (4.76–mm) wire diameter surgical stainless steel (Type 304). It must be covered with 8 inches (20.32 cm) of clear vinyl tubing (5/16–inch (7.94–mm) outside diameter, 3/16–inch (4.76–mm) inside diameter).

(b) *Handling requirements.* If a sea turtle is observed to be hooked or entangled in fishing gear from any vessel fishing under the Pelagics FMP, vessel owners and operators must use the required mitigation gear set forth in paragraph (a) of this section to comply with these handling requirements. Any hooked or entangled sea turtle must be handled in a manner to minimize injury and promote survival.

(1) *Sea turtles that cannot be brought aboard.* In instances where a sea turtle is too large to be brought aboard or the sea turtle cannot be brought aboard without causing further injury to the sea turtle, the vessel owner or operator must disentangle and remove the gear, or cut the line as close as possible to the hook or entanglement, to remove the maximum amount of the gear from the sea turtle.

(2) *Sea turtles that can be brought aboard.* In instances where a sea turtle is not too large to be brought aboard, or the sea turtle can be brought aboard without causing further injury to the turtle, the vessel owner or operator must take the following actions:

(i) Immediately bring the sea turtle aboard;

(ii) Handle the sea turtle in accordance with the procedures in paragraphs (b)(3) and (b)(4) of this section; and

(iii) Disentangle and remove the gear, or cut the line as close as possible to the hook or entanglement, to remove the maximum amount of the gear from the sea turtle.

(3) *Sea turtle resuscitation.* If a sea turtle appears dead or comatose, the following actions must be taken:

(i) Place the sea turtle on its belly (on the bottom shell or plastron) so that the sea turtle is right side up and its hindquarters elevated at least 6 inches (15.24 cm) for a period of no less than 4 hours and no more than 24 hours. The amount of the elevation varies with the size of the sea turtle; greater elevations are needed for larger sea turtles;

(ii) Administer a reflex test at least once every 3 hours. The test is to be performed by gently touching the eye and pinching the tail of a sea turtle to determine if the sea turtle is responsive;

(iii) Keep the sea turtle shaded and damp or moist (but under no circumstances place the sea turtle into a container holding water). A water-soaked towel placed over the eyes, carapace and flippers is the most effective method of keeping a sea turtle moist; and

(iv) Return to the sea any sea turtle that revives and becomes active in the manner described in paragraph (b)(4) of this section. Sea turtles that fail to revive within the 24–hour period must also be returned to the sea in the manner described in paragraph (b)(4) of this section.

(4) *Sea turtle release.* After handling a sea turtle in accordance with the requirements of paragraphs (b)(2) and (b)(3) of this section, the sea turtle must be returned to the ocean after identification unless NMFS requests the retention of a dead sea turtle for research. In releasing a sea turtle the vessel owner or operator must:

(i) Place the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped, and release the sea turtle away from deployed gear; and

(ii) Observe that the turtle is safely away from the vessel before engaging

the propeller and continuing operations.

(5) *Other sea turtle requirements.* No sea turtle, including a dead turtle, may be consumed or sold. A sea turtle may be landed, offloaded, transhipped or kept below deck only if NMFS requests the retention of a dead sea turtle for research.

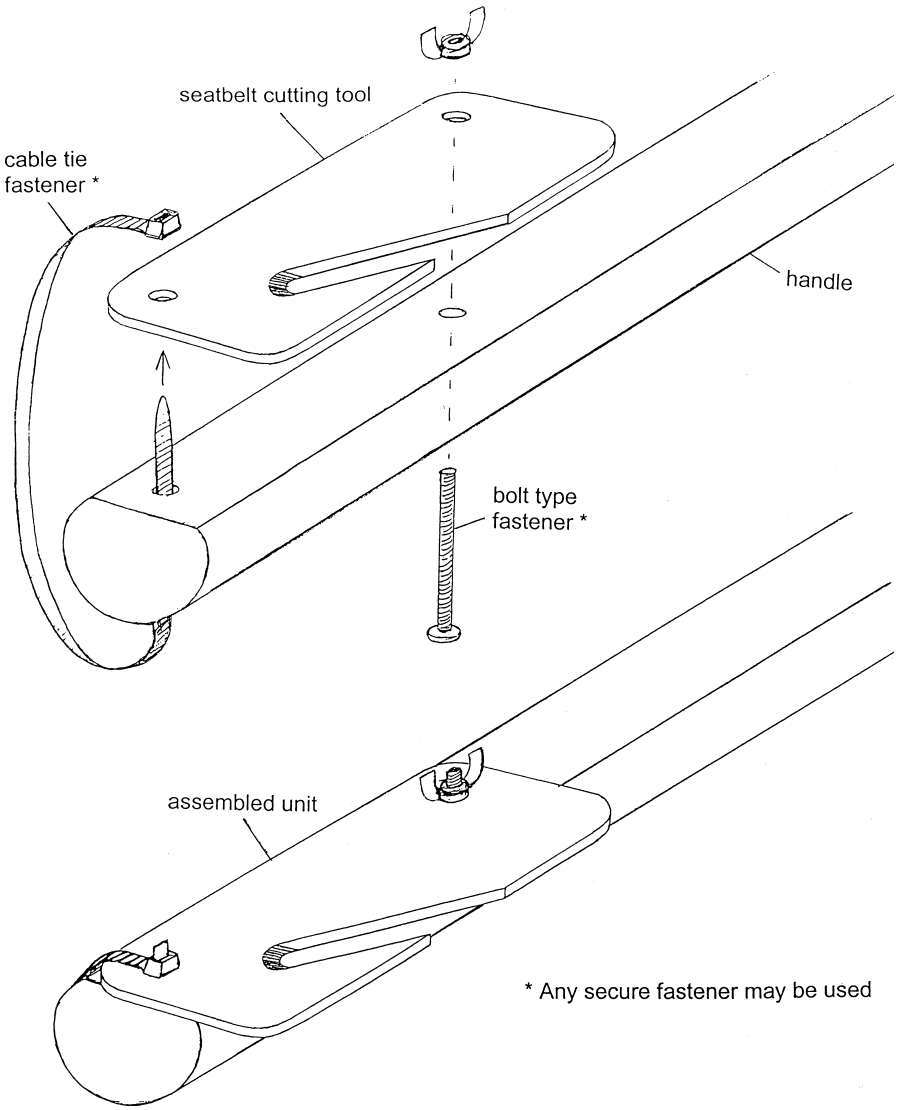



Figure 1 – Sample Fabricated Arceneaux Line Clipper

[65 FR 16347, Mar. 28, 2000, as amended at 67 FR 40236, June 12, 2002; 67 FR 48576, July 25, 2002; 69 FR 17351, Apr. 2, 2004; 70 FR 69284, Nov. 15, 2005]

**§ 665.33 Western Pacific longline fishing restrictions.**

(a) *Annual Effort Limit on shallow-setting by Hawaii longline vessels.* (1) A maximum annual limit of 2,120 is established on the number of shallow-set certificates that will be made available each calendar year to vessels registered for use under Hawaii longline limited access permits.

(2) The Regional Administrator will divide the 2,120–set annual effort limit each calendar year into equal shares such that each holder of a Hawaii longline limited access permit who provides notice of interest to the Regional Administrator no later than November 1 prior to the start of the calendar year, pursuant to paragraph (a)(3) of this section, receives one share for each permit held. If such division would result in shares containing a fraction of a set, the annual effort limit will be adjusted downward such that each share consists of a whole number of sets.

(3) Any permit holder who provides notice according to this paragraph is eligible to receive shallow-set certificates. In order to be eligible to receive shallow-set certificates for a given calendar year, holders of Hawaii longline limited access permits must provide written notice to the Regional Administrator of their interest in receiving such certificates no later than November 1 prior to the start of the calendar year, except for 2004, the notification deadline for which is May 1, 2004.

(4) No later than December 1 of each year, the Regional Administrator will send shallow-set certificates valid for the upcoming calendar year to all holders of Hawaii longline limited access permits, as of the just previous November 1, that provided notice of interest to the Regional Administrator pursuant to paragraph (a)(3) of this section. The Regional Administrator will send shallow-set certificates valid for 2004 no later than June 1, 2004, based on permit holders as of May 1, 2004.

(b) *Limits on sea turtle interactions.* (1) Maximum annual limits are established on the numbers of physical interactions that occur each calendar year between leatherback and loggerhead sea turtles and vessels registered for use under Hawaii longline limited access permits while shallow-setting. The limits are based on the annual numbers of the two turtle species expected to be captured in the shallow-set component of the Hawaii-based fishery, as indicated in the incidental take statement of the biological opinion issued by the National Marine Fisheries Service pursuant to section 7 of the Endangered Species Act. If the numbers in the incidental take statement are modified or if a new biological opinion is issued, new rule-making will be undertaken to change the interaction limits accordingly. The limits are as follows:

(i) The annual limit for leatherback sea turtles (*Dermochelys coriacea*) is sixteen (16).

(ii) The annual limit for loggerhead sea turtles (*Caretta caretta*) is seventeen (17).

(2) Upon determination by the Regional Administrator that, based on data from NMFS observers, either of the two sea turtle interaction limits has been reached during a given calendar year:

(i) As soon as practicable, the Regional Administrator will file for publication at the Office of the Federal Register a notification of the sea turtle interaction limit having been reached. The notification will include an advisement that the shallow-set component of the longline fishery shall be closed, and that shallow-set longline fishing north of the Equator by vessels registered for use under Hawaii longline limited access permits will be prohibited beginning at a specified date, until the end of the calendar year in which the sea turtle interaction limit was reached. Coincidental with the filing of the notification, the Regional Administrator will also provide actual notice that the shallow-set component of the longline fishery shall be closed, and that shallow-set longline fishing north of the Equator by vessels registered for use under Hawaii longline limited access permits will be prohibited beginning at a specified date, to all holders of Hawaii longline limited access permits via telephone, satellite telephone, radio, electronic mail, facsimile transmission, or post.

(ii) Beginning on the fishery closure date indicated by the Regional Administrator in the notification provided to vessel operators and permit holders and published in the FEDERAL REGISTER under paragraph (b)(3)(i) of this section, until the end of the calendar year in which the sea turtle interaction limit was reached, the Hawaii-based shallow-set component of the longline fishery shall be closed.

(c) Owners and operators of vessels registered for use under a Hawaii longline limited access permit may engage in shallow-setting north of the equator (0° lat.) providing that there is on board one valid shallow-set certificate for every shallow-set that is made north of the equator (0° lat.) during the trip. For each shallow-set made north of the equator (0° lat.) vessel operators must submit one valid shallow-set certificate to the Regional Administrator. The certificate must be attached to the original logbook form that corresponds to the shallow-set and that is submitted to the Regional Administrator within 72 hours of each landing of management unit species as required under § 665.14.

(d) Vessels registered for use under a Hawaii longline limited access permit may not have on board at any time during a trip for which notification to NMFS under § 665.23(a) indicated that deep-setting would be done any float lines less than 20 meters in length or light sticks. As used in this paragraph ''float line'' means a line used to suspend the main longline beneath a float and ''light stick'' means any type of light emitting device, including any fluorescent ''glow bead'', chemical, or electrically powered light that is affixed underwater to the longline gear.

(e) Shallow-set certificates may be transferred only to holders of Hawaii longline limited access permits.

(f) Any owner or operator of a vessel registered for use under any longline permit issued under § 665.21 must use only offset circle hooks sized 18/0 or larger, with a 10° offset, when shallow-setting north of the Equator (0° lat.). As used in this paragraph, an offset circle hook sized 18/0 or larger is one with an outer diameter at its widest point is no smaller than 1.97 inches (50 mm) when measured with the eye of the hook on the vertical axis (y-axis) and perpendicular to the horizontal axis (x-axis). As used in this paragraph, a 10° offset is measured from the barbed end of the hook and is relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side.

(g) Any owner or operator of a vessel registered for use under any longline permit issued under § 665.21 must use only mackerel-type bait when shallow-setting north of the Equator (0° lat.). As used in this paragraph, mackerel-type bait means a whole fusiform fish with a predominantly blue, green or gray back and predominantly gray, silver or white lower sides and belly.

(h) Owners and operators of vessels registered for use under a Hawaii longline limited access permit may make sets only of the type (shallow-setting or deep-setting) indicated in the notification to NMFS pursuant to § 665.23(a).

(i) Vessels registered for use under Hawaii longline limited access permits may not be used to engage in shallow-setting north of the equator (0° lat.) any time during which the shallow-set component of the longline fishery is closed pursuant to paragraph (b)(3)(ii) of this section.

(j) Owners and operators of vessels registered for use under a Hawaii longline limited access permit may land or possess no more than 10 swordfish from a fishing trip for which the permit holder notified NMFS under § 665.23(a) that the vessel would engage in a deep-setting trip.

[69 FR 17352, Apr. 2, 2004, as amended at 70 FR 69285, Nov. 15, 2005; 72 FR 8291, Feb. 26, 2007]

### § 665.34 Protected species workshop.

(a) Each year, both the owner and the operator of a vessel registered for use under any longline permit issued under § 665.21 must attend and be certified for completion of a workshop conducted by NMFS on interaction mitigation techniques for sea turtles, seabirds and other protected species.

(b) A protected species workshop certificate will be issued by NMFS annually to any person who has completed the workshop.

(c) An owner of a vessel registered for use under any longline permit issued

under § 665.21 must have a valid protected species workshop certificate issued by NMFS to the owner of the vessel, in order to maintain or renew their vessel registration.

(d) An owner and an operator of a vessel registered for use under any longline permit issued under § 665.21 must have on board the vessel a valid protected species workshop certificate issued by NMFS to the operator of the vessel, or a legible copy thereof.

[69 FR 17354, Apr. 2, 2004, as amended at 70 FR 69285, Nov. 15, 2005]

### § 665.35 Pelagic longline seabird mitigation measures.

(a) *Seabird mitigation techniques*. When deep-setting or shallow-setting north of 23° N. lat. or shallow-setting south of 23 N. lat., owners and operators of vessels registered for use under a Hawaii longline limited access permit, must either side-set according to paragraph (a)(1) of this section, or fish in accordance with paragraph (a)(2) of this section.

(1) *Side-setting*. Owners and operators of vessels opting to side-set under this section must fish according to the following specifications:

(i) The mainline must be deployed as far forward on the vessel as practicable, and at least 1 m (3.3 ft) forward from the stern of the vessel;

(ii) The mainline and branch lines must be set from the port or the starboard side of the vessel;

(iii) If a mainline shooter is used, the mainline shooter must be mounted as far forward on the vessel as practicable, and at least 1 m (3.3 ft) forward from the stern of the vessel;

(iv) Branch lines must have weights with a minimum weight of 45 g (1.6 oz);

(v) One weight must be connected to each branch line within 1 m (3.3 ft) of each hook;

(vi) When seabirds are present, the longline gear must be deployed so that baited hooks remain submerged and do not rise to the sea surface; and

(vii) A bird curtain must be deployed. Each bird curtain must consist of the following three components: a pole that is fixed to the side of the vessel aft of the line shooter and which is at least 3 m (9.8 ft) long; at least three main streamers that are attached at regular intervals to the upper 2 m (6.6 ft) of the pole and each of which has a minimum diameter of 20 mm (0.8 in); and branch streamers attached to each main streamer at the end opposite from the pole, each of which is long enough to drag on the sea surface in the absence of wind, and each of which has a minimum diameter 10 mm (0.4 in).

(2) *Alternative to side-setting*. Owners and operators of vessels that do not side-set must:

(i) Discharge fish, fish parts (offal), or spent bait while setting or hauling longline gear, on the opposite side of the vessel from where the longline gear is being set or hauled, when seabirds are present;

(ii) Retain sufficient quantities of fish, fish parts, or spent bait, between the setting of longline gear for the purpose of strategically discharging it in accordance with paragraph (i) of this section;

(iii) Remove all hooks from fish, fish parts, or spent bait prior to its discharge in accordance with paragraph (i) of this section;

(iv) Remove the bill and liver of any swordfish that is caught, sever its head from the trunk and cut it in half vertically and periodically discharge the butchered heads and livers in accordance with paragraph (i) of this section;

(v) When using basket-style longline gear north of 23° N. lat., ensure that the main longline is deployed slack to maximize its sink rate; and

(vi) Use completely thawed bait that has been dyed blue to an intensity level specified by a color quality control card issued by NMFS; and

(vii) Maintain a minimum of two cans (each sold as 0.45 kg or 1 lb size) containing blue dye on board the vessel; and

(viii) Follow the requirements in paragraphs (a)(3) and (a)(4) of this section, as applicable.

(3) *Deep-setting requirements*. The following additional requirements apply to vessels engaged in deep-setting using a monofilament main longline north of 23° N. lat. that do not side-set. Owners and operators of these vessels must:

(i) Employ a line shooter; and

(ii) Attach a weight of at least 45 g (1.6 oz) to each branch line within 1 m (3.3 ft) of the hook.

(4) *Shallow-setting requirement*. In addition to the requirements set forth in paragraphs (a)(1) and (a)(2) of this section, owners and operators of vessels engaged in shallow-setting that do not side-set must begin the deployment of longline gear at least 1 hour after local sunset and complete the deployment no later than local sunrise, using only the minimum vessel lights to conform with navigation rules and best safety practices.

(b) *Short-tailed albatross handling techniques*. If a short-tailed albatross is hooked or entangled by a vessel registered for use under a Hawaii longline limited access permit, owners and operators must ensure that the following actions are taken:

(1) Stop the vessel to reduce the tension on the line and bring the bird on board the vessel using a dip net;

(2) Cover the bird with a towel to protect its feathers from oils or damage while being handled;

(3) Remove any entangled lines from the bird;

(4) Determine if the bird is alive or dead.

(i) If dead, freeze the bird immediately with an identification tag attached directly to the specimen listing the species, location and date of mortality, and band number if the bird has a leg band. Attach a duplicate identification tag to the bag or container holding the bird. Any leg bands present must remain on the bird. Contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop, inform them that you have a dead short-tailed albatross on board, and submit the bird to NMFS within 72 hours following completion of the fishing trip.

(ii) If alive, handle the bird in accordance with paragraphs (b)(5) through (b)(10) of this section.

(5) Place the bird in a safe enclosed place;

(6) Immediately contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop and request veterinary guidance;

(7) Follow the veterinary guidance regarding the handling and release of the bird.

(8) Complete the short-tailed albatross recovery data form issued by NMFS.

(9) If the bird is externally hooked and no veterinary guidance is received within 24–48 hours, handle the bird in accordance with paragraphs (c)(4) and (c)(5) of this section, and release the bird only if it meets the following criteria:

(i) Able to hold its head erect and respond to noise and motion stimuli;

(ii) Able to breathe without noise;

(iii) Capable of flapping and retracting both wings to normal folded position on its back;

(iv) Able to stand on both feet with toes pointed forward; and

(v) Feathers are dry.

(10) Any seabird that is released in accordance with paragraph (b)(9) of this section or under the guidance of a veterinarian must be placed on the sea surface.

(11) If the hook has been ingested or is inaccessible, keep the bird in a safe, enclosed place and submit it to NMFS immediately upon the vessel's return to port. Do not give the bird food or water.

(12) Complete the short-tailed albatross recovery data form issued by NMFS.

(c) *Non-short-tailed albatross seabird handling techniques*. If a seabird other than a short-tailed albatross is hooked or entangled by a vessel registered for use under a Hawaii longline limited access permit owners and operators must ensure that the following actions are taken:

(1) Stop the vessel to reduce the tension on the line and bring the seabird on board the vessel using a dip net;

(2) Cover the seabird with a towel to protect its feathers from oils or damage while being handled;

(3) Remove any entangled lines from the seabird;

(4) Remove any external hooks by cutting the line as close as possible to the hook, pushing the hook barb out

point first, cutting off the hook barb using bolt cutters, and then removing the hook shank;

(5) Cut the fishing line as close as possible to ingested or inaccessible hooks;

(6) Leave the bird in a safe enclosed space to recover until its feathers are dry; and

(7) After recovered, release seabirds by placing them on the sea surface.

[67 FR 34412, May 14, 2002, as amended at 69 FR 17354, Apr. 2, 2004; 70 FR 75080, Dec. 19, 2005]

### § 665.36 American Samoa longline limited entry program.

(a) *General*. Under § 665.21(c), certain U.S. vessels are required to be registered for use under a valid American Samoa longline limited access permit. With the exception of reductions in permits in vessel size Class A under paragraph (c)(1) of this section, the maximum number of permits will be capped at the number of initial permits actually issued under paragraph (f)(1) of this section.

(b) *Terminology*. For purposes of this section, the following terms have these meanings:

(1) *Documented participation* means participation proved by, but not necessarily limited to, a properly submitted NMFS or American Samoa logbook, an American Samoa creel survey record, a delivery or payment record from an American Samoa-based cannery, retailer or wholesaler, an American Samoa tax record, an individual wage record, ownership title, vessel registration, or other official documents showing:

(i) Ownership of a vessel that was used to fish in the EEZ around American Samoa, or

(ii) Evidence of work on a fishing trip during which longline gear was used to harvest Pacific pelagic management unit species in the EEZ around American Samoa. If the applicant does not possess the necessary documentation of evidence of work on a fishing trip based on records available only from NMFS or the Government of American Samoa (e.g., creel survey record or logbook), the applicant may request PIRO to obtain such records from the appropriate agencies, if available. The applicant should provide sufficient information on the fishing trip to allow PIRO to retrieve the records.

(2) *Family* means those people related by blood, marriage, and formal or informal adoption.

(c) *Vessel size classes*. The Regional Administrator shall issue American Samoa longline limited access permits in the following size classes:

(1) Class A: Vessels less than or equal to 40 ft (12.2 m) length overall. The maximum number will be reduced as Class B–1, C–1, and D–1 permits are issued under paragraph (e) of this section.

(2) Class B: Vessels over 40 ft (12.2 m) to 50 ft (15.2 m) length overall.

(3) Class B–1: Maximum number of 14 permits for vessels over 40 ft (12.2 m) to 50 ft (15.2 m) length overall, to be made available according to the following schedule:

(i) Four permits in the first calendar year after the Regional Administrator has issued all initial permits in Classes A, B, C, and D (initial issuance),

(ii) In the second calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first four, plus four additional permits,

(iii) In the third calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first eight, plus four additional permits, and

(iv) In the fourth calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first 12, plus two additional permits.

(4) Class C: Vessels over 50 ft (15.2 m) to 70 ft (21.3 m) length overall.

(5) Class C–1: Maximum number of six permits for vessels over 50 ft (15.2) to 70 ft (21.3 m) length overall, to be made available according to the following schedule:

(i) Two permits in the first calendar year after initial issuance,

(ii) In the second calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first two, plus two additional permits, and

(iii) In the third calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first four, plus two additional permits.

(6) Class D: Vessels over 70 ft (21.3 m) length overall.

(7) Class D–1: Maximum number of 6 permits for vessels over 70 ft (21.3 m) length overall, to be made available according to the following schedule:

(i) Two permits in the first calendar year after initial issuance,

(ii) In the second calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first two, plus two additional permits, and

(iii) In the third calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first four, plus two additional permits.

(d) A vessel subject to this section may only be registered with an American Samoa longline limited access permit of a size class equal to or larger than the vessel's length overall.

(e) *Initial permit qualification*. Any U.S. national or U.S. citizen or company, partnership, or corporation qualifies for an initial American Samoa longline limited access permit if the person, company, partnership, or corporation, on or prior to March 21, 2002, owned a vessel that was used during the time of their ownership to harvest Pacific pelagic management unit species with longline gear in the EEZ around American Samoa and that fish was landed in American Samoa:

(1) Prior to March 22, 2002, or

(2) Prior to June 28, 2002, provided that the person or business provided to NMFS or the Council, prior to March 22, 2002, a written notice of intent to participate in the pelagic longline fishery in the EEZ around American Samoa.

(f) *Initial permit issuance*. (1) Any application for issuance of an initial permit must be submitted to the Pacific Islands Regional Office no later than 120 days after the effective date of this final rule. The Regional Administrator shall publish a notice in the FEDERAL REGISTER, send notices to persons on the American Samoa pelagics mailing list, and use other means to notify prospective applicants of the availability of permits. Applications for initial permits must be made, and application fees paid, in accordance with §§ 665.13(c)(1), (d) and (f)(2). A complete application must include documented participation in the fishery in accordance with § 665.36(b)(1). If the applicant is any entity other than a sole owner, the application must be accompanied by a supplementary information sheet obtained from the Regional Administrator, containing the names and mailing addresses of all owners, partners, and corporate officers.

(2) Only permits of Class A, B, C, and D will be made available for initial issuance. Permits of Class B–1, C–1, and D–1, will be made available in subsequent calendar years.

(3) Within 30 days of receipt of a completed application, the Assistant Regional Administrator for Sustainable Fisheries, PIRO, shall make a decision on whether the applicant qualifies for an initial permit and will notify the successful applicant by a dated letter. The successful applicant must register a vessel, of the equivalent size class or smaller to which the qualifying vessel would have belonged, to the permit within 120 days of the date of the letter of notification, and maintain this vessel registration to the permit for at least 120 days. The successful applicant must also submit a supplementary information sheet, obtained from the Regional Administrator, containing the name and mailing address of the owner of the vessel to which the permit is registered. If the registered vessel is owned by any entity other than a sole owner, the names and mailing addresses of all owners, partners, and corporate officers must be included.

(4) An appeal of a denial of an application for an initial permit shall be processed in accordance with § 665.21(n) of this subpart.

(5) After all appeals on initial permits are concluded in any vessel size class, the maximum number of permits in that class shall be the number of permits issued during the initial issuance process (including appeals). The maximum number of permits will not change, except that the maximum number of Class A permits will be reduced if Class A permits are replaced by B–1, C–1, or D–1 permits under paragraph (h) of this section. Thereafter, if any Class A, B, C, or D permit becomes available, the Regional Administrator shall re-issue that permit according to the process set forth in paragraph (g) of this section.

(g) *Additional permit issuance*. (1) If the number of permits issued in Class

A, B, C, or D, falls below the maximum number of permits, the Regional Administrator shall publish a notice in the FEDERAL REGISTER, send notices to persons on the American Samoa pelagics mailing list, and use other means to notify prospective applicants of any available permit(s) in that class. Any application for issuance of an additional permit must be submitted to PIRO no later than 120 days after the date of publication of the notice on the availability of additional permits in the FEDERAL REGISTER. A complete application must include documented participation in the fishery in accordance with § 665.36(b)(1). The Regional Administrator shall issue permits to persons according the following priority standard:

(i) First priority accrues to the person with the earliest documented participation in the pelagic longline fishery in the EEZ around American Samoa on a Class A sized vessel.

(ii) The next priority accrues to the person with the earliest documented participation in the pelagic longline fishery in the EEZ around American Samoa on a Class B size, Class C size, or Class D size vessel, in that order.

(iii) In the event of a tie in the priority ranking between two or more applicants, then the applicant whose second documented participation in the pelagic longline fishery in the EEZ around American Samoa is first in time will be ranked first in priority. If there is still a tie between two or more applicants, the Regional Administrator will select the successful applicant by an impartial lottery.

(2) Applications must be made, and application fees paid, in accordance with §§ 665.13(c)(1), (d), and (f)(2). If the applicant is any entity other than a sole owner, the application must be accompanied by a supplementary information sheet, obtained from the Regional Administrator, containing the names and mailing addresses of all owners, partners, and corporate officers that comprise ownership of the vessel for which the permit application is prepared.

(3) Within 30 days of receipt of a completed application, the Assistant Regional Administrator for Sustainable Fisheries shall make a decision on whether the applicant qualifies for a permit and will notify the successful applicant by a dated letter. The successful applicant must register a vessel of the equivalent vessel size or smaller to the permit within 120 days of the date of the letter of notification. The successful applicant must also submit a supplementary information sheet, obtained from the Regional Administrator, containing the name and mailing address of the owner of the vessel to which the permit is registered. If the registered vessel is owned by any entity other than a sole owner, the names and mailing addresses of all owners, partners, and corporate officers must be included. If the successful applicant fails to register a vessel to the permit within 120 days of the date of the letter of notification, the Assistant Regional Administrator for Sustainable Fisheries shall issue a letter of notification to the next person on the priority list or, in the event that there are no more prospective applicants on the priority list, re-start the issuance process pursuant to paragraph (g)(1) of this section. Any person who fails to register the permit to a vessel under this paragraph within 120 days shall not be eligible to apply for a permit for 6 months from the date those 120 days expired.

(4) An appeal of a denial of an application for a permit shall be processed in accordance with § 665.21(n).

(h) *Class B–1, C–1, and D–1 Permits.* (1) Permits of Class B–1, C–1, and D–1 will be initially issued only to persons who hold a Class A permit and who, prior to March 22, 2002, participated in the pelagic longline fishery around American Samoa.

(2) The Regional Administrator shall issue permits to persons for Class B–1, C–1, and D–1 permits based on each person's earliest documented participation, with the highest priority given to that person with the earliest date of documented participation.

(3) A permit holder who receives a Class B–1, C–1, or D–1 permit must relinquish his or her Class A permit and that permit will no longer be valid. The maximum number of Class A permits will be reduced accordingly.

(4) Within 30 days of receipt of a completed application for a Class B–1, C–1,

and D–1 permit, the Regional Administrator shall make a decision on whether the applicant qualifies for a permit and will notify the successful applicant by a dated letter. The successful applicant must register a vessel of the equivalent vessel size or smaller to the permit within 120 days of the date of the letter of notification. The successful applicant must also submit a supplementary information sheet, obtained from the Regional Administrator, containing the name and mailing address of the owner of the vessel to which the permit is registered. If the registered vessel is owned by any entity other than a sole owner, the names and mailing addresses of all owners, partners, and corporate officers must be included.

(5) An appeal of a denial of an application for a Class B–1, C–1, or D–1 permit shall be processed in accordance with § 665.21(n).

(6) If a Class B–1, C–1, or D–1 permit is relinquished, revoked, or not renewed pursuant to paragraph (j)(1) of this section, the Regional Administrator shall make that permit available according to the procedure described in paragraphs (g)(1) through (g)(4) of this section.

(i) *Permit transfer*. The holder of an American Samoa longline limited access permit may transfer the permit to another individual, partnership, corporation, or other entity as described in this section. Applications for permit transfers must be submitted to the Regional Administrator within 30 days of the transferral date. If the applicant is any entity other than a sole owner, the application must be accompanied by a supplementary information sheet, obtained from the Regional Administrator, containing the names and mailing addresses of all owners, partners, and corporate officers. After such an application has been made, the permit is not valid for use by the new permit holder until the Regional Administrator has issued the permit in the new permit holder's name under § 665.13(c).

(1) *Permits of all size classes except Class A*. An American Samoa longline limited access permit of any size class except Class A may be transferred (by sale, gift, bequest, intestate succession, barter, or trade) to the following persons only:

(i) A Western Pacific community located in American Samoa that meets the criteria set forth in section 305(I)(2) of the Magnuson-Stevens Act, 16 U.S.C. 1855(I)(2), and its implementing regulations, or

(ii) Any person with documented participation in the pelagic longline fishery in the EEZ around American Samoa.

(2) *Class A Permits*. An American Samoa longline limited access permit of Class A may be transferred (by sale, gift, bequest, intestate succession, barter, or trade) to the following persons only:

(i) A family member of the permit holder,

(ii) A Western Pacific community located in American Samoa that meets the criteria set forth in section 305(I)(2) of the Magnuson-Stevens Act, 16 U.S.C. 1855(I)(2), and its implementing regulations, or

(iii) Any person with documented participation in the pelagic longline fishery on a Class A size vessel in the EEZ around American Samoa prior to March 22, 2002.

(3) *Class B–1, C–1, and D–1 Permits*. Class B–1, C–1, and D–1 permits may not be transferred to a different owner for 3 years from the date of initial issuance, except by bequest or intestate succession if the permit holder dies during those 3 years. After the initial 3 years, Class B–1, C–1, and D–1 permits may be transferred only in accordance with the restrictions in paragraph (I)(1) of this section.

(j) *Permit renewal and registration of vessels*—(1) *Use requirements*. An American Samoa longline limited access permit will not be renewed following 3 consecutive calendar years (beginning with the year after the permit was issued in the name of the current permit holder) in which the vessel(s) to which it is registered landed less than:

(i) For permit size Classes A or B: a total of 1,000 lb (455 kg) of Pacific pelagic management unit species harvested in the EEZ around American Samoa using longline gear, or

(ii) For permit size Classes C or D: a total of 5,000 lb (2,273 kg) of Pacific pelagic management unit species harvested in the EEZ around American Samoa using longline gear.

(k) *Concentration of ownership of permits*. No more than 10 percent of the maximum number of permits, of all size classes combined, may be held by the same permit holder. Fractional interest will be counted as a full permit for the purpose of calculating whether the 10–percent standard has been reached.

(l) *Three year review*. Within 3 years of the effective date of this final rule the Council shall consider appropriate revisions to the American Samoa limited entry program after reviewing the effectiveness of the program with respect to its biological and socioeconomic objectives, concerning gear conflict, overfishing, enforceability, compliance, and other issues.

[70 FR 29654, May 24, 2005; 70 FR 33719, June 9, 2005]

### § 665.37 American Samoa pelagic fishery area management.

(a) *Large vessel prohibited areas*. A large vessel of the United States may not be used to fish for Pacific pelagic management unit species in the American Samoa large vessel prohibited areas as defined in paragraphs (b) and (c) of this section, except as allowed pursuant to an exemption issued under § 665.38.

(b) *Tutuila Island, Manu'a Islands, and Rose Atoll (AS-1)*. The large vessel prohibited area around Tutuila Island, the Manu'a Islands, and Rose Atoll consists of the waters of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

| Point | S. lat. | W. long. |
|---|---|---|
| AS-1-A | 13°30′ | 167°25′ |
| AS-1-B | 15°13′ | 167°25′ |

and from Point AS-1-A westward along the latitude 13°30′ S. until intersecting the U.S. EEZ boundary with Samoa, and from Point AS-1-B westward along the latitude 15°13′ S. until intersecting the U.S. EEZ boundary with Samoa.

(c) *Swains Island (AS-2)*. The large vessel prohibited area around Swains Island consists of the waters of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

| Point | S. lat. | W. long. |
|---|---|---|
| AS-2-A | 11°48′ | 171°50′ |
| AS-2-B | 11°48′ | 170°20′ |

and from Point AS-2-A northward along the longitude 171°50′ W. until intersecting the U.S. EEZ boundary with Tokelau, and from Point AS-2-B northward along the longitude 170°20′ W. until intersecting the U.S. EEZ boundary with Tokelau.

[67 FR 4371, Jan. 30, 2002]

### § 665.38 Exemptions for American Samoa large vessel prohibited areas.

(a) An exemption will be issued to a person who currently owns a large vessel, to use that vessel to fish for Pacific pelagic management unit species in the American Samoa large vessel prohibited management areas, if he or she had been the owner of that vessel when it was registered for use with a Western Pacific general longline permit and made at least one landing of Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997.

(b) A landing of Pacific pelagic management unit species for the purpose of this section must have been properly recorded on a NMFS Western Pacific Federal daily longline form that was submitted to NMFS, as required in § 665.14.

(c) An exemption is valid only for a vessel that was registered for use with a Western Pacific general longline permit and landed Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997, or for a replacement vessel of equal or smaller LOA than the vessel that was initially registered for use with a Western Pacific general longline permit on or prior to November 13, 1997.

(d) An exemption is valid only for the vessel for which it is registered. An exemption not registered for use with a particular vessel may not be used.

(e) An exemption may not be transferred to another person.

(f) If more than one person, e.g., a partnership or corporation, owned a large vessel when it was registered for use with a Western Pacific general longline permit and made at least one landing of Pacific pelagic management unit species in American Samoa on or prior to November 13, 1997, an exemption issued under this section will be issued to only one person.

[67 FR 4371, Jan. 30, 2002, as amended at 70 FR 29657, May 24, 2005]

## Subpart D—Western Pacific Crustacean Fisheries

SOURCE: 61 FR 34572, July 2, 1996, unless otherwise noted. Redesignated at 71 FR 17989, Apr. 10, 2006.

### § 665.41 Permits.

(a) *Applicability*. (1) The owner of any vessel used to fish for lobster in Permit Area 1 must have a limited access permit issued for such vessel. Only one permit will be assigned to any vessel.

(2) The owner of any vessel used to fish for lobster in Permit Area 2, Permit Area 3, or Permit Area 4, must have a permit issued for that vessel.

(3) No vessel owner will have permits for a single vessel to harvest lobsters in Permit Areas 1 and 2 at the same time.

(4) A limited access permit is valid for fishing only in Permit Area 1.

(b) *General requirements*. General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, sanctions, and appeals for permits issued under this section, as applicable, are contained in § 665.13.

(c) *Application*. An application for a permit required under this section will be submitted to the Pacific Islands Regional Office as described in § 665.13. If the application for a limited access permit is submitted on behalf of a partnership or corporation, the application must be accompanied by a supplementary information sheet obtained from the Pacific Islands Regional Office and contain the names and mailing addresses of all partners or shareholders and their respective percentage of ownership in the partnership or corporation.

(d) *Number of permits*. A maximum of 15 limited access permits can be valid at any time.

(e) *Transfer or sale of limited access permits*. (1) Permits may be transferred or sold, but no one individual, partnership, or corporation will be allowed to hold a whole or partial interest in more than one permit, except that an owner who qualifies initially for more than one permit may maintain those permits, but may not obtain additional permits. Layering of partnerships or corporations shall not insulate a permit holder from this requirement.

(2) If 50 percent or more of the ownership of a limited access permit is passed to persons other than those listed on the permit application, the Pacific Islands Regional Office must be notified of the change in writing and provided copies of the appropriate documents confirming the changes within 30 days.

(3) Upon the transfer or sale of a limited access permit, a new application must be submitted by the new permit owner according to the requirements of § 665.13. The transferred permit is not valid until this process is completed.

(f) *Replacement of a vessel covered by a limited access permit*. A limited access permit issued under this section may, without limitation as to frequency, be transferred by the permit holder to a replacement vessel owned by that person.

(g) *Issuance of limited access permits to future applicants*. (1) The Regional Administrator may issue limited access permits under this section when fewer than 15 vessel owners hold active permits.

(2) When the Regional Administrator has determined that limited access permits may be issued to new persons, a notice shall be placed in the FEDERAL REGISTER, and other means will be used to notify prospective applicants of the opportunity to obtain permits under the limited access management program.

(3) A period of 90 days will be provided after publication of the FEDERAL REGISTER notice for submission of new applications for a limited access permit.

(4) Limited access permits issued under this paragraph (g) will be issued

first to applicants qualifying under paragraph (g)(4)(i) of this section. If the number of limited access permits available is greater than the number of applicants that qualify under paragraph (g)(4)(i) of this section, then limited access permits will be issued to applicants under paragraph (g)(4)(ii) of this section.

(i) First priority to receive limited access permits under this paragraph (g) goes to owners of vessels that were used to land lobster from Permit Area 1 during the period 1983 through 1990, and who were excluded from the fishery by implementation of the limited access system. If there are insufficient permits for all such applicants, the new permits shall be issued by the Regional Administrator through a lottery.

(ii) Second priority to receive limited access permits under paragraph (g) goes to owners with the most points, based upon a point system. If two or more owners have the same number of points and there are insufficient permits for all such owners, the Regional Administrator shall issue the permits through a lottery. Under the point system, limited access permits will be issued, in descending order, beginning with owners who have the most points and proceeding to owners who have the least points, based on the following:

(A) Three points shall be assigned for each calendar year after August 8, 1985, that the applicant was the operator of a vessel that was used to land lobster from Permit Area 1.

(B) Two points shall be assigned for each calendar year or partial year after August 8, 1985, that the applicant was the owner, operator, or crew member of a vessel engaged in either commercial fishing in Permit Area 2 for lobster, or fishing in Permit Area 1 for fish other than lobster with an intention to sell all or part of the catch.

(C) One point shall be assigned for each calendar year or partial year after August 8, 1985, that the applicant was the owner, operator, or crew member of a vessel engaged in any other commercial fishing in the EEZ surrounding Hawaii.

(5) A holder of a new limited access permit must own at least a 50-percent share in the vessel that the permit would cover.

[61 FR 34572, July 2, 1996. Redesignated at 71 FR 17989, Apr. 10, 2006 and amended at 71 FR 30299, May 26, 2006; 71 FR 53607, Sept. 12, 2006]

### § 665.42 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.16, it is unlawful for any person to do any of the following:

(a) In Permit Area 1, it is unlawful for any person to—

(1) Fish for, take, or retain lobsters—

(i) Without a limited access permit issued under § 665.41;

(ii) By methods other than lobster traps or by hand for lobsters, as specified in § 665.48;

(iii) From closed areas for lobsters, as specified in § 665.46;

(iv) During a closed season, as specified in § 665.45; or

(v) After the closure date, as specified in § 665.50, and until the fishery opens again in the following calendar year.

(vi) In a lobster grounds after closure of that grounds as specified in § 665.50(b).

(2) Fail to report before landing or offloading as specified in § 665.43.

(3) Fail to comply with any protective measures implemented under § 665.51 or § 665.52.

(4) Leave a trap unattended in the Management Area except as provided in § 665.48.

(5) Maintain on board the vessel or in the water more than 1,200 traps per fishing vessel, of which no more than 1,100 can be assembled traps, as specified in § 665.48.

(6) Land lobsters taken in Permit Area 1 after the closure date, as specified in § 665.50, until the fishery opens again the following year.

(7) Refuse to make available to an authorized officer and employee of NMFS designated by the Regional Administrator for inspection and copying any records that must be made available in accordance with § 665.14(f)(2).

(8) Possess on a fishing vessel that has a limited access permit issued under this subpart any lobster trap in Crustaceans Permit Area 1 when fishing for lobster is prohibited as specified

in §§ 665.45(a), 665.50, 665.51, or 665.52, except as allowed under § 665.48(a)(7).

(9) Possess on a fishing vessel that has a limited access permit issued under this subpart any lobster trap in Crustaceans Permit Area 1 VMS Subarea when fishing for lobsters is prohibited as specified in §§ 665.45(a), 665.50, 665.51, and 665.52, except as allowed under § 665.48(a)(8).

(10) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or to attempt any of the same while engaged in the Permit Area 1 fishery; or to move or remove a VMS unit while engaged in the Permit Area 1 fishery without first notifying the Regional Administrator.

(11) Make a false statement, oral or written, to the Regional Administrator or an authorized officer, regarding the certification, use, operation, or maintenance of a VMS unit used in the fishery.

(12) Fail to allow an authorized officer to inspect and certify a VMS unit used in the fishery.

(13) Possess, on a fishing vessel that has a limited access permit issued under this subpart, any lobster trap in a lobster grounds that is closed under § 665.50(b), unless the vessel has an operational VMS unit, certified by NMFS, on board.

(b) In Permit Area 2, it is unlawful for any person to—

(1) Fish for, take, or retain lobsters—

(i) By methods other than lobster traps or by hand, as specified in § 665.48; or

(ii) During a closed season, as specified in § 665.45(b).

(2) Retain or possess on a fishing vessel any lobster taken in Permit Area 2 that is less than the minimum size specified in § 665.44.

(3) Possess on a fishing vessel any lobster or lobster part taken in Permit Area 2 in a condition where the lobster is not whole and undamaged as specified in § 665.44.

(4) Retain or possess on a fishing vessel, or remove the eggs from, any egg-bearing lobster, as specified in § 665.44.

(5) Possess on a fishing vessel that has a permit for Permit Area 2 issued under this subpart any lobster trap in Permit Area 2 when fishing for lobster in the main Hawaiian Islands is prohibited during the months of May, June, July, and August.

[61 FR 34572, July 2, 1996, as amended at 62 FR 35449, July 1, 1997; 63 FR 20540, Apr. 27, 1998; 64 FR 36822, July 8, 1999; 70 FR 29657, May 24, 2005]

### § 665.43 Notifications.

(a) The operator of any vessel subject to the requirements of this subpart must:

(1) Report, not less than 24 hours, but not more than 36 hours, before landing, the port, the approximate date and the approximate time at which spiny and slipper lobsters will be landed.

(2) Report, not less than 6 hours and not more than 12 hours before offloading, the location and time that offloading of spiny and slipper lobsters will begin.

(b) The Regional Administrator will notify permit holders of any change in the reporting method and schedule required in paragraphs (a)(1) and (2) of this section at least 30 days prior to the opening of the fishing season.

### § 665.44 Lobster size and condition restrictions—Permit Area 2.

(a) Only spiny lobsters with a carapace length of 8.26 cm or greater may be retained (see Figure 3 of this subpart).

(b) Any lobster with a punctured or mutilated body, or a separated carapace and tail, may not be retained.

(c) A female lobster of any size may not be retained if it is carrying eggs externally. Eggs may not be removed from female lobsters.

### § 665.45 Closed seasons.

(a) Lobster fishing is prohibited in Permit Area 1 during the months of January through June, inclusive.

(b) Lobster fishing is prohibited in Permit Area 2 during the months of May, June, July, and August.

[61 FR 34572, July 2, 1996, as amended at 63 FR 20540, Apr. 27, 1998]

### § 665.46 Closed areas.

All lobster fishing is prohibited:

(a) Within 20 nm of Laysan Island.

(b) Within the EEZ landward of the 10-fathom curve as depicted on National Ocean Survey Charts, Numbers 19022, 19019, and 19016.

### § 665.47 Gear identification.

In Permit Area 1, the vessel's official number must be marked legibly on all traps and floats maintained on board the vessel or in the water by that vessel.

### § 665.48 Gear restrictions.

(a) *Permit Area 1.* (1) Lobsters may be taken only with lobster traps or by hand. Lobsters may not be taken by means of poisons, drugs, other chemicals, spears, nets, hook, or explosives.

(2) The smallest opening of an entry way of any lobster trap may not allow any sphere or cylinder greater than 6.5 inches (16.5 cm) in diameter to pass from outside the trap to inside the trap.

(3) Each lobster trap must have a minimum of two escape vent panels that meet the following requirements:

(i) Panels must have at least four unobstructed circular holes no smaller than 67 mm in diameter, with centers at least 82 mm apart.

(ii) The lowest part of any opening in an escape vent panel must not be more than 85 mm above the floor of the trap.

(iii) Panels must be placed opposite one another in each trap.

(4) A vessel fishing for or in possession of lobster in any permit area may not have on board the vessel any trap that does not meet the requirements of paragraphs (a)(1), (2), and (3) of this section.

(5) A maximum of 1,200 traps per vessel may be maintained on board or in the water, provided that no more than 1,100 assembled traps are maintained on board or in the water. If more than 1,100 traps are maintained, the unassembled traps may be carried as spares only, in order to replace assembled traps that may be lost or become unusable.

(6) Traps shall not be left unattended in any permit area, except in the event of an emergency, in which case the vessel operator must notify the SAC of the emergency that necessitated leaving the traps on the grounds, and the location and number of the traps, within 24 hours after the vessel reaches port.

(7) A vessel whose owner has a limited access permit issued under this subpart and has an operating VMS unit certified by the NMFS may enter Crustaceans Permit Area 1 with lobster traps on board on or after June 25, but must remain outside the Crustaceans Permit Area 1 VMS Subarea until the NWHI lobster season opens on July 1.

(8) A vessel whose owner has a limited access permit issued under this subpart and has on board an operational VMS unit certified by NMFS may transit Crustaceans Permit Area 1, including Crustaceans Permit Area 1 VMS Subarea, with lobster traps on board for the purpose of moving to another lobster grounds or returning to port following the closure date, as specified in § 665.50, providing the vessel does not stop or fish and is making steady progress to another lobster grounds or back to port as determined by NMFS.

(9) The operator of a permitted vessel must notify the Regional Administrator or an authorized officer no later than June 15 of each year if the vessel will use a VMS unit in the fishery and allow for inspection and certification of the unit.

(b) *Permit Area 2.* Lobsters may be taken only with lobster traps or by hand. Lobsters may not be taken by means of poisons, drugs, other chemicals, spears, nets, hooks, or explosives.

[61 FR 34572, July 2, 1996, as amended at 62 FR 35450, July 1, 1997; 63 FR 20540, Apr. 27, 1998; 64 FR 36822, July 8, 1999; 70 FR 29657, May 24, 2005]

### § 665.49 At-sea observer coverage.

All fishing vessels subject to this subpart and subpart B of this part must carry an observer when requested to do so by the Regional Administrator.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29657, May 24, 2005]

### § 665.50 Harvest limitation program.

(a) *General.* Harvest guidelines for the Necker Island Lobster Grounds, Gardner Pinnacles Lobster Grounds, Maro Reef Lobster Grounds, and General NWHI Lobster Grounds for Permit Area 1 will be set annually for the calendar year and shall:

(1) Apply to the total catch of spiny and slipper lobsters.

(2) Be expressed in terms of numbers of lobsters.

(b) *Harvest guideline.* (1) The Regional Administrator shall use information

from daily lobster catch reports and lobster sales reports from previous years, and may use information from research sampling and other sources to establish the annual harvest guideline in accordance with the FMP after consultation with the Council.

(2) NMFS shall publish a document indicating the annual harvest guideline in the FEDERAL REGISTER by February 28 of each year and shall use other means to notify permit holders of the harvest guideline for the year.

(3) The Regional Administrator shall determine, on the basis of the information reported to NMFS by the operator of each vessel fishing, when the harvest guideline for each lobster ground will be reached.

(4) Notice of the date when the harvest guideline for a lobster ground is expected to be reached and specification of the closure date of the lobster grounds will be provided to each permit holder and/or operator of each permitted vessel at least 24 hours in advance of the closure. After a closure, the harvest of lobster in that lobster ground is prohibited, and the possession of lobster traps on board the vessel in that lobster ground is prohibited unless allowed under § 665.48(a)(8).

(5) With respect to the notification in paragraph (b)(4) of this section, NMFS shall provide each permit holder and operator of each permitted vessel with the following information, as appropriate:

(i) Determination of when the overall harvest guideline for Crustaceans Permit Area 1 will be reached;

(ii) Closure date after which harvest of lobster or possession of lobster traps on board the vessel in a lobster grounds is prohibited;

(iii) Closure date after which the possession of lobster traps on board the vessel in Crustaceans Permit Area 1 is prohibited by any permitted vessel that is not operating a VMS unit certified by NMFS; and

(iv) Specification of when further landings of lobster will be prohibited by permitted vessels not carrying an operational VMS unit, certified by NMFS, on board.

(c) *Monitoring and adjustment*. The operator of each vessel fishing during the open season shall report lobster catch (by species) and effort (number of trap hauls) data while at sea to NMFS in Honolulu. The Regional Administrator shall notify permit holders of the reporting method, schedule, and logistics at least 30 days prior to the opening of the fishing season.

[61 FR 34572, July 2, 1996, as amended at 62 FR 35450, July 1, 1997; 63 FR 20541, Apr. 27, 1998; 64 FR 36822, July 8, 1999]

### § 665.51 Monk seal protective measures.

(a) *General*. This section establishes a procedure that will be followed if the Regional Administrator receives a report of a monk seal death that appears to be related to the lobster fishery in Permit Area 1.

(b) *Notification*. Upon receipt of a report of a monk seal death that appears to be related to the lobster fishery, the Regional Administrator will notify all interested parties of the facts known about the incident. The Regional Administrator will also notify them that an investigation is in progress, and that, if the investigation reveals a threat of harm to the monk seal population, protective measures may be implemented.

(c) *Investigation*. (1) The Regional Administrator will investigate the incident reported and will attempt to:

(i) Verify that the incident occurred.

(ii) Determine the extent of the harm to the monk seal population.

(iii) Determine the probability of a similar incident recurring.

(iv) Determine details of the incident such as:

(A) The number of animals involved.

(B) The cause of the mortality.

(C) The age and sex of the dead animal(s).

(D) The relationship of the incident to the reproductive cycle, for example, breeding season (March-September), non-breeding season (October- February).

(E) The population estimates or counts of animals at the island where the incident occurred.

(F) Any other relevant information.

(v) Discover and evaluate any extenuating circumstances.

(vi) Evaluate any other relevant factors.

(2) The Regional Administrator will make the results of the investigation available to the interested parties and request their advice and comments.

(d) *Determination of relationship.* The Regional Administrator will review and evaluate the results of the investigation and any comments received from interested parties. If there is substantial evidence that the death of the monk seal was related to the lobster fishery, the Regional Administrator will:

(1) Advise the interested parties of his or her conclusion and the facts upon which it is based.

(2) Request from the interested parties their advice on the necessity of protective measures and suggestions for appropriate protective measures.

(e) *Determination of response.* The Regional Administrator will consider all relevant information discovered during the investigation or submitted by interested parties in deciding on the appropriate response. Protective measures may include, but are not limited to, changes in trap design, changes in gear, closures of specific areas, or closures for specific periods of time.

(f) *Action by the Regional Administrator.* If the Regional Administrator decides that protective measures are necessary and appropriate, the Regional Administrator will prepare a document that describes the incident, the protective measures proposed, and the reasons for the protective measures; provide it to the interested parties; and request their comments.

(g) *Implementation of protective measures.* (1) If, after completing the steps described in paragraph (f) of this section, the Regional Administrator concludes that protective measures are necessary and appropriate, the Regional Administrator will recommend the protective measures to the Assistant Administrator and provide notice of this recommendation to the Chairman of the Council and the Director of the Division of Aquatic Resources, Department of Land and Natural Resources, State of Hawaii.

(2) If the Assistant Administrator concurs with the Regional Administrator's recommendation, NMFS will publish an action in the FEDERAL REGISTER that includes a description of the incident that triggered the procedure described in this section, the protective measures, and the reasons for the protective measures.

(h) *Notification of "no action."* If, at any point in the process described in this section, the Regional Administrator or Assistant Administrator decides that no further action is required, the interested parties will be notified of this decision.

(i) *Effective dates.* (1) The protective measures will take effect 10 days after the date of publication in the FEDERAL REGISTER.

(2) The protective measures will remain in effect for the shortest of the following time periods:

(i) Until the Crustaceans FMP and this section are amended to respond to the problem;

(ii) Until other action that will respond to the problem is taken under the ESA;

(iii) Until the Assistant Administrator, following the procedures set forth in paragraph (j) of this section, decides that the protective measures are no longer required and repeals the measures; or

(iv) For the period of time set forth in the FEDERAL REGISTER notification, not to exceed 3 months. The measures may be renewed for 3 months after again following procedures in paragraphs (b) through (g) of this section.

(j) *Repeal.* (1) If the Assistant Administrator decides that protective measures may no longer be necessary for the protection of monk seals, the interested parties will be notified of this preliminary decision and the facts upon which it is based. The Assistant Administrator will request advice on the proposed repeal of the protective measures.

(2) The Assistant Administrator will consider all relevant information obtained by the Regional Administrator or submitted by interested parties in deciding whether to repeal the protective measures.

(3) If the Assistant Administrator decides to repeal the protective measures—

(i) Interested parties will be notified of the decision; and

(ii) Notification of repeal and the reasons for the repeal will be published in the FEDERAL REGISTER.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29657, May 24, 2005]

### § 665.52 Monk seal emergency protective measures.

(a) *Determination of emergency*. If, at any time during the process described in § 665.51, the Regional Administrator determines that an emergency exists involving monk seal mortality related to the lobster fishery and that measures are needed immediately to protect the monk seal population, the Regional Administrator will—

(1) Notify the interested parties of this determination and request their immediate advice and comments.

(2) Forward a recommendation for emergency action and any advice and comments received from interested parties to the Assistant Administrator.

(b) *Implementation of emergency measures*. If the Assistant Administrator agrees with the recommendation for emergency action—

(1) The Regional Administrator will determine the appropriate emergency protective measures.

(2) NMFS will publish the emergency protective measures in the FEDERAL REGISTER.

(3) The Regional Administrator will notify the interested parties of the emergency protective measures. Holders of permits to fish in Permit Area I will be notified by certified mail. Permit holders that the Regional Administrator knows are on the fishing grounds also will be notified by radio.

(c) *Effective dates*. (1) Emergency protective measures are effective against a permit holder at 12:01 a.m., local time, of the day following the day the permit holder receives actual notice of the measures.

(2) Emergency protective measures are effective for 10 days from the day following the day the first permit holder is notified of the protective measures.

(3) Emergency protective measures may be extended for an additional 10 days, if necessary, to allow the completion of the procedures set out in § 665.51.

### § 665.53 Framework procedures.

(a) *Introduction*. New management measures may be added through rulemaking if new information demonstrates that there are biological, social, or economic concerns in Permit Areas 1, 2, or 3. The following framework process authorizes the implementation of measures that may affect the operation of the fisheries, gear, harvest guidelines, or changes in catch and/or effort.

(b) *Annual report*. By June 30 of each year, the Council-appointed Crustaceans Plan Team will prepare an annual report on the fisheries in the management area. The report shall contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(c) *Procedure for established measures*. (1) Established measures are management measures that, at some time, have been included in regulations implementing the FMP, and for which the impacts have been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 9 to the FMP, the Council may recommend to the Regional Administrator that established measures be modified, removed, or reinstituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(d) *Procedure for New Measures*. (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 9 to the FMP, the Council will publicize, including by a FEDERAL REGISTER document, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a FEDERAL REGISTER document summarizing

the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Administrator about any new measure. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

### § 665.54 Five-year review.

The Council, in cooperation with NMFS, will conduct a review of the effectiveness and impacts of the NWHI management program, including biological, economic, and social aspects of the fishery, by July 1, 2001.

## Subpart E—Bottomfish and Seamount Groundfish Fisheries

SOURCE: 61 FR 34572, July 2, 1996, unless otherwise noted. Redesignated at 71 FR 17989, Apr. 10, 2006.

### § 665.61 Permits.

(a) *Applicability*. (1) *Northwestern Hawaiian Islands (NWHI)*. The owner of any vessel used to fish for, land, or transship bottomfish management unit species shoreward of the outer boundary of the Northwestern Hawaiian Islands subarea must have a permit issued under this section, and the permit must be registered for use with that vessel. The PIRO will not register a single vessel for use with a Ho omalu Zone permit and a Mau Zone permit at the same time. Mau Zone permits issued before June 14, 1999, become invalid June 14, 1999, except that a permit issued to a person who submitted a timely application under paragraph (b)(3) of this section is valid until the permit holder either receives a Mau Zone limited entry permit or until final agency action is taken on the permit holder's application. The Ho omalu Zone and the Mau Zone limited entry systems described in this section are subject to abolition, modification, or additional effort limitation programs.

(2) *Pacific Remote Island Areas (PRIA)*. The owner of any vessel used to fish for, land, or transship bottomfish management unit species shoreward of the outer boundary of the Pacific Remote Island Areas subarea must have a permit issued under this section, and the permit must be registered for use with that vessel.

(3) *Guam large vessel*. The owner of any large vessel used to fish for, land, or transship bottomfish management unit species shoreward of the outer boundary of the Guam subarea must have a permit issued under this section, and the permit must be registered for use with that vessel.

(4) *Main Hawaiian Islands non-commercial*. The owner of a vessel that is used for and any person who participates in non-commercial, vessel-based fishing, landing, or transshipment of bottomfish management unit species in the Main Hawaiian Islands Management Subarea is required to obtain a Main Hawaiian Islands non-commercial bottomfish permit or a State of Hawaii Commercial Marine License. If one or more persons on a vessel-based bottomfish fishing trip holds a Main Hawaiian Islands non-commercial permit, then the entire trip is considered non-commercial, and not commercial. However, if any commercial fishing occurs during or as a result of a vessel-based fishing trip, then the fishing trip is considered commercial, and not non-commercial. Charter boat customers are not subject to the requirements of the section.

(b) *Submission*. (1) An application for a permit required under this section must be submitted to the PIRO as described in § 665.13. (2) *Ho'omalu Zone limited access permit*. In addition to an application under § 665.13(c), each applicant for a Ho'omalu Zone permit must also submit a supplementary information sheet provided by the PIRO, which must be signed by the vessel owner or a designee and include the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;

(ii) A copy of landings receipts or other documentation, with a certification from a state or Federal agency that this information is accurate, to demonstrate participation in the NWHI bottomfish fishery; and

(iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentages of ownership of the partnership or corporation.

(3) *Mau Zone limited access permit*. The PIRO will not accept applications for a new Mau Zone permit after June 14, 1999. In addition to an application under § 665.13(c), each applicant for a Mau Zone permit must also submit a supplementary information sheet provided by the PIRO, which must be signed by the vessel owner or a designee and include the following information:

(i) The qualification criterion that the applicant believes he or she meets for issuance of a limited access permit;

(ii) Copy of State of Hawaii catch report(s) to demonstrate that the permitted vessel had made qualifying landings of bottomfish from the Mau Zone; and

(iii) If the application is filed by a partnership or corporation, the names of each of the individual partners or shareholders and their respective percentage of ownership of the partnership or corporation.

(c) *Sale or transfer of Ho'omalu limited access permits to new vessel owners*. (1) A Ho'omalu zone permit may not be sold or otherwise transferred to a new owner.

(2) A Ho'omalu zone permit or permits may be held by a partnership or corporation. If 50 percent or more of the ownership of the vessel passes to persons other than those listed in the original application, the permit will lapse and must be surrendered to the Regional Administrator.

(d) *Transfer of Ho'omalu Zone limited access permits to replacement vessels*. (1) Upon application by the owner of a permitted vessel, the Regional Administrator will transfer that owner's permit to a replacement vessel owned by that owner, provided that the replacement vessel does not exceed 60 ft (18.3 m) in length. The replacement vessel must be put into service no later than 12 months after the owner applies for the transfer, or the transfer shall be void.

(2) An owner of a permitted vessel may apply to the Regional Administrator for transfer of that owner's permit to a replacement vessel greater than 60 ft (18.3 m) in length. The Regional Administrator may transfer the permit upon determining, after consultation with the Council and considering the objectives of the limited access program, that the replacement vessel has catching power that is comparable to the rest of the vessels holding permits for the fishery, or has catching power that does not exceed that of the original vessel, and that the transfer is not inconsistent with the objectives of the program. The Regional Administrator shall consider vessel length, range, hold capacity, gear limitations, and other appropriate factors in making determinations of catching power equivalency and comparability of the catching power of vessels in the fishery.

(e) *Ho'omalu Zone limited access permit renewal*. (1) A qualifying landing for Ho'omalu Zone permit renewal is a landing of at least 2,500 lb (1,134 kg) of bottomfish management unit species from the Ho'omalu Zone or a landing of at least 2,500 lb (1,134 kg) of fish from the Ho'omalu Zone, of which at least 50 percent by weight was bottomfish management unit species. A permit is eligible for renewal for the next calendar year if the vessel covered by the permit made three or more qualifying landings during the current calendar year.

(2) The owner of a permitted vessel that did not make three or more qualifying landings of bottomfish in a year may apply to the Regional Administrator for waiver of the landing requirement. If the Regional Administrator finds that failure to make three landings was due to circumstances beyond the owner's control, the Regional Administrator may renew the permit. A waiver may not be granted if the failure to make three landings was due to general economic conditions or market conditions, such that the vessel operations would not be profitable.

(f) *Issuance of new Ho'omalu Zone limited access permits*. The Regional Administrator may issue new Ho'omalu Zone limited access permits under § 665.13 if the Regional Administrator determines, in consultation with the Council, that bottomfish stocks in the

Ho'omalu Zone are able to support additional fishing effort.

(g) *Eligibility for new Ho'omalu Zone limited access permits.* When the Regional Administrator has determined that new permits may be issued, they shall be issued to applicants based upon eligibility, determined as follows:

(1) *Point system.* (i) Two points will be assigned for each year in which the applicant was owner or captain of a vessel that made three or more of any of the following types of landings in the NWHI:

(A) Any amount of bottomfish management unit species, regardless of weight, if made on or before August 7, 1985;

(B) At least 2,500 lb (1,134 kg) of bottomfish management unit species, if made after August 7, 1985; or

(C) At least 2,500 lb (1,134 kg) of any fish lawfully harvested from the NWHI, of which at least 50 percent by weight was bottomfish, if made after August 7, 1985.

(ii) One point will be assigned for each year in which the applicant was owner or captain of a vessel that landed at least 6,000 lb (2,722 kg) of bottomfish from the main Hawaiian Islands.

(iii) For any one year, points will be assigned under either paragraph (g)(1)(i) or (g)(1)(ii) of this section, but not under both paragraphs.

(iv) Before the Regional Administrator issues an Ho'omalu zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) *Restrictions.* An applicant must own at least a 25–percent share in the vessel that the permit would cover, and only one permit will be assigned to any vessel.

(3) *Order of issuance.* New permits shall be awarded to applicants in descending order, starting with the applicant with the largest number of points. If two or more persons have an equal number of points, and there are insufficient new permits for all such applicants, the new permits shall be awarded by the Regional Administrator through a lottery.

(4) *Notification.* The Regional Administrator shall place a notice in the FEDERAL REGISTER and shall use other means to notify prospective applicants of the opportunity to file applications for new permits under this program.

(h) *Eligibility for new Mau Zone limited access permits.* (1) The PIRO will issue an initial Mau Zone permit to a vessel owner who qualifies for at least three points under the following point system:

(i) An owner who held a Mau Zone permit on or before December 17, 1991, and whose permitted vessel made at least one qualifying landing of bottomfish management unit species on or before December 17, 1991, shall be assigned 1.5 points.

(ii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1991, shall be assigned 0.5 point.

(iii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1992, shall be assigned 1.0 point.

(iv) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1993, shall be assigned 1.5 points.

(v) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1994, shall be assigned 2.0 points.

(vi) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1995, shall be assigned 2.5 points.

(vii) An owner whose permitted vessel made at least one qualifying landing of bottomfish management unit species during 1996, shall be assigned 3.0 points.

(viii) Before the PIRO issues a Mau Zone permit to fish for bottomfish under this section, the primary operator and relief operator named on the application form must have completed a protected species workshop conducted by NMFS.

(2) For purposes of this paragraph § 665.61(h), a ''qualifying landing'' means any amount of bottomfish management unit species lawfully harvested from the Mau Zone and offloaded for sale. No points shall be assigned to an owner for any qualifying

landings reported to the State of Hawaii more than 1 year after the landing.

(3) More than one Mau Zone permit may be issued to an owner of two or more vessels, provided each of the owner's vessels for which a permit will be registered for use has made the required qualifying landings for the owner to be assigned at least three eligibility points.

(4) A Mau Zone permit holder who does not own a vessel at the time initial permits are issued must register the permit for use with a vessel owned by the permit holder within 12 months from the date the permit was issued. In the interim, the permit holder may register the permit for use with a leased or chartered vessel. If within 12 months of initial permit issuance, the permit holder fails to apply to the PIRO to register the permit for use with a vessel owned by the permit holder, then the permit expires.

(5) For each of paragraphs (h)(1)(i) through (h)(1)(viii) of this section, the PIRO shall assign points based on the landings of one permitted vessel to only one owner if the vessel did not have multiple owners during the time frame covered by the subordinate paragraphs. If a vessel had multiple owners during a time frame covered by any of paragraphs (h)(1)(i) through (h)(1)(viii) of this section (including joint owners, partners, or shareholders of a corporate owner), the PIRO will assign the points for that subordinate paragraph to a single owner if only one owner submits an application with respect to the landings of that vessel during that time frame. If multiple owners submit separate applications with respect to the same landings of the same vessel during the same time frame, then the PIRO shall:

(i) Adhere to any written agreement between the applicants with respect to who among them shall be assigned the aggregate point(s) generated by landings during such time frame(s), or

(ii) If there is no agreement:

(A) Shall issue the applicants a joint permit provided the vessel's landings during such time frames generated at least three points, or

(B) In the event the vessel's landings during such time frame(s) generated less than three points, shall not assign any points generated by the vessel's landings during such time frame(s).

(i) *Ownership requirements and registration of Mau Zone limited access permits for use with other vessels.* (1) A Mau Zone permit may be held by an individual, partnership, or corporation. No more than 49 percent of the underlying ownership interest in a Mau Zone permit may be sold, leased, chartered, or otherwise transferred to another person or entity. If more than 49 percent of the underlying ownership of the permit passes to persons or entities other than those listed in the original permit application supplemental information sheet, then the permit expires and must be surrendered to the PIRO.

(2) A Mau Zone permit holder may apply under § 665.13 to the PIRO to register the permit for use with another vessel if that vessel is owned by the permit holder, and is no longer than 60 ft (18.3 m).

(3) If a Mau Zone permit holder sells the vessel, for which the permit is registered for use, the permit holder must within 12 months of the date of sale apply to the PIRO to register the permit for use with a vessel owned by the permit holder. If the permit holder has not applied to register a replacement vessel within 12 months, then the permit expires.

(4) If a permitted vessel owned by the permit holder is sold or becomes unseaworthy, the Mau Zone permit with which the vessel was registered may be registered for use with a leased or chartered vessel for a period not to exceed 12 months from the date of registration of the leased or chartered vessel. If by the end of that 12-month period the permit holder fails to apply to the PIRO to register the permit for use with a vessel owned by the permit holder, then the permit expires.

(j) *Mau Zone limited access permit renewal.* (1) A Mau Zone permit will be eligible for renewal if the vessel for which the permit is registered for use made at least five separate fishing trips with landings of at least 500 lb (227 kg) of bottomfish management unit species per trip during the calendar year. Only one landing of bottomfish management unit species per fishing trip to the Mau Zone will be

counted toward the landing requirement.

(2) If the vessel for which the permit is registered for use fails to meet the landing requirement of paragraph (j)(1) of this section, the owner may apply to the Regional Administrator for a waiver of the landing requirement. Grounds for a waiver are limited to captain incapacitation, vessel breakdowns, and the loss of the vessel at sea if the event prevented the vessel from meeting the landing requirement. Unprofitability is not sufficient for waiver of the landing requirement.

(3) Failure of the permit holder to register a vessel for use under the permit does not exempt a permit holder from the requirements specified in this paragraph.

(k) *Appeals of permit actions.* (1) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or a permit holder may appeal the granting, denial, or revocation of his or her permit to the Regional Administrator.

(2) In order to be considered by the Regional Administrator, such appeal must be in writing, must state the action appealed, and the reasons therefore, and must be submitted within 30 days of the appealed action. The appellant may request an informal hearing on the appeal.

(3) The Regional Administrator, in consultation with the Council, will decide the appeal in accordance with the FMP and implementing regulations and based upon information relative to the application on file at NMFS and the Council, the summary record kept of any hearing, the hearing officer's recommended decision, if any, and any other relevant information.

(4) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose. The applicant or permit holder may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(5) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. The Regional Administrator's decision on the application is the final administrative decision of the Department of Commerce, and is effective on the date the Administrator signs the decision.

[64 FR 22812, Apr. 28, 1999, as amended at 70 FR 29657, May 24, 2005; 71 FR 53607, Sept. 12, 2006; 71 FR 64477, Nov. 2, 2006; 73 FR 18459, Apr. 4, 2008]

### § 665.62 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15, it is unlawful for any person to do any of the following:

(a) Fish for bottomfish or seamount groundfish using gear prohibited under § 665.64.

(b) Fish for, or retain on board a vessel, bottomfish management unit species in the Ho'omalu Zone, the Mau Zone, or the Pacific Remote Island Areas without the appropriate permit registered for use with that vessel issued under § 665.13.

(c) Serve as primary operator or relief operator on a vessel with a Mau or Ho'omalu Zone permit without completing a protected species workshop conducted by NMFS, as required by § 665.61.

(d) Fail to notify the USCG at least 24 hours prior to making any landing of bottomfish taken in the Ho'omalu Zone, as required by § 665.63.

(e) Fish within any protected species study zone in the NWHI without notifying the Regional Administrator of the intent to fish in these zones, as required under § 665.63.

(f) Falsify or fail to make or file all reports of bottomfish management unit species landings taken in the Pacific Remote Island Areas, containing all data in the exact manner, as specified in § 665.14(a).

(g) Use a large vessel that does not have a valid Guam bottomfish permit registered for use with that vessel to fish for, land, or transship bottomfish management unit species shoreward of the outer boundary of the Guam subarea of the bottomfish fishery management area in violation of § 665.61(a).

(h) Use a large vessel to fish for bottomfish management unit species within the Guam large vessel bottomfish prohibited area, as defined in § 665.70(b).

(i) Land or transship, shoreward of the outer boundary of the Guam subarea of the bottomfish fishery management area, bottomfish management unit species that were harvested in violation of § 665.62(h).

(j) Falsify or fail to make or file reports of all fishing activities shoreward of outer boundary of the Main Hawaiian Islands Management Subarea, in violation of §§ 665.3 or 665.14(a).

(k) Own a vessel or fish from a vessel that is used to fish non-commercially for any bottomfish management unit species in the Main Hawaiian Islands Management Subarea without either a Main Hawaiian Islands non-commercial bottomfish permit or a State of Hawaii Commercial Marine License, in violation of §§ 665.4 or 665.61(a)(4).

(l) Fish for or possess any Hawaii Restricted Bottomfish Species as specified in § 665.71, in the Main Hawaiian Islands Management Subarea after a closure of the fishery, in violation of §§ 665.72 or 665.74.

(m) Sell or offer for sale any Hawaii Restricted Bottomfish Species, as specified in § 665.71, after a closure of the fishery, in violation of §§ 665.72 or 665.74.

(n) Harvest, possess, or land more than a total of five fish (all species combined) identified as Hawaii Restricted Bottomfish Species in § 665.71 from a vessel in the Main Hawaiian Islands Management Subarea, while holding a Main Hawaiian Islands non-commercial bottomfish permit, or while participating as a charter boat customer, in violation of § 665.73.

(o) Fish for or possess any Hawaii Restricted Bottomfish Species as specified in § 665.71, in the Main Hawaiian Islands Management Subarea after a closure of the fishery, in violation of §§ 665.72, 665.74, or 665.75.

(p) Sell or offer for sale any Hawaii Restricted Bottomfish Species, as specified in § 665.71, after a closure of the fishery, in violation of §§ 665.72, 665.74, or 665.75.

[61 FR 34572, July 2, 1996, as amended at 64 FR 22814, Apr. 28, 1999; 70 FR 29657, May 24, 2005; 71 FR 53607, Sept. 12, 2006; 71 FR 64477, Nov. 2, 2006; 73 FR 18459, Apr. 4, 2008]

EFFECTIVE DATE NOTE: At 73 FR 50573, Aug. 27, 2008, § 665.62 was amended by suspending paragraphs (l) and (m) and adding paragraphs (o) and (p), effective Aug. 22, 2008 through Nov. 14, 2008.

### § 665.63 Notification.

(a) The owner or operator of a fishing vessel subject to this subpart must inform the PIRO at least 72 hours (not including weekends and holidays) before leaving port, of his or her intent to fish within the protected species study zones defined in § 665.12. The notice must include the name of the vessel, name of the operator, intended departure and return date, and a telephone number at which the owner or operator may be contacted during the business day (8 a.m. to 5 p.m.) to indicate whether an observer will be required on the subject fishing trip.

(b) The operator of a fishing vessel that has taken bottomfish in the Ho'omalu Zone must contact the USCG, by radio or otherwise, at the 14th District, Honolulu, HI; Pacific Area, San Francisco, CA; or 17th District, Juneau, AK, at least 24 hours before landing, and report the port and the approximate date and time at which the bottomfish will be landed.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29657, May 24, 2005]

### § 665.64 Gear restrictions.

(a) *Bottom trawls and bottom set gillnets.* Fishing for bottomfish and seamount groundfish with bottom trawls and bottom set gillnets is prohibited.

(b) *Possession of gear.* Possession of a bottom trawl and bottom set gillnet by any vessel having a permit under § 665.61 or otherwise established to be fishing for bottomfish or seamount groundfish in the management subareas is prohibited.

(c) *Poisons and explosives.* The possession or use of any poisons, explosives, or intoxicating substances for the purpose of harvesting bottomfish and seamount groundfish is prohibited.

**§ 665.65 At-sea observer coverage.**

(a) All fishing vessels subject to this subpart must carry an observer when directed to do so by the Regional Administrator.

(b) The PIRO will advise the vessel owner or operator of any observer requirement within 72 hours (not including weekends or holidays) of receipt of the notice. If an observer is required, the owner or operator will be informed of the terms and conditions of observer coverage, and the time and place of embarkation of the observer.

(c) All observers must be provided with sleeping, toilet, and eating accommodations at least equal to that provided to a full crew member. A mattress of futon on the floor or a cot is not acceptable in place of a regular bunk. Meal and other gallery privileges must be the same for the observer as for other crew members.

(d) Female observers on a vessel with an all-male crew must be accommodated either in a single-person cabin or, if reasonable privacy can be ensured by installing a curtain or other temporary divider, in a two-person cabin shared with a licensed officer of the vessel. If the cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing of common facilities must be established and approved by the Regional Administrator prior to the vessel's departure from port.

[61 FR 34572, July 2, 1996, as amended at 70 FR 29657, May 24, 2005]

**§ 665.66 Protected species conservation.**

The Regional Administrator may change the size of the protected species study zones defined in § 665.12 of this subpart:

(a) If the Regional Administrator determines that a change in the size of the study zones would not result in fishing for bottomfish in the NWHI that would adversely affect any species listed as threatened or endangered under the ESA.

(b) After consulting with the Council.

(c) Through notification in the FEDERAL REGISTER published at least 30 days prior to the effective date or through actual notice to the permit holders.

**§ 665.67 Framework for regulatory adjustments.**

(a) *Annual reports*. By June 30 of each year, a Council-appointed bottomfish monitoring team will prepare an annual report on the fishery by area covering the following topics:

(1) Fishery performance data.

(2) Summary of recent research and survey results.

(3) Habitat conditions and recent alterations.

(4) Enforcement activities and problems.

(5) Administrative actions (e.g., data collection and reporting, permits).

(6) State and territorial management actions.

(7) Assessment of need for Council action (including biological, economic, social, enforcement, administrative, and state/Federal needs, problems, and trends). Indications of potential problems warranting further investigation may be signaled by the following indicator criteria:

(i) Mean size of the catch of any species in any area is a pre-reproductive size.

(ii) Ratio of fishing mortality to natural mortality for any species.

(iii) Harvest capacity of the existing fleet and/or annual landings exceed best estimate of MSY in any area.

(iv) Significant decline (50 percent or more) in bottomfish catch per unit of effort from baseline levels.

(v) Substantial decline in ex-vessel revenue relative to baseline levels.

(vi) Significant shift in the relative proportions of gear in any one area.

(vii) Significant change in the frozen/fresh components of the bottomfish catch.

(viii) Entry/exit of fishermen in any area.

(ix) Per-trip costs for bottomfishing exceed per-trip revenues for a significant percentage of trips.

(x) Significant decline or increase in total bottomfish landings in any area.

(xi) Change in species composition of the bottomfish catch in any area.

(xii) Research results.

(xiii) Habitat degradation or environmental problems.

(xiv) Reported interactions between bottomfishing operations and protected species in the NWHI.

(8) Recommendations for Council action.

(9) Estimated impacts of recommended action.

(b) *Recommendation of management action*. (1) The team may present management recommendations to the Council at any time. Recommendations may cover actions suggested for Federal regulations, state/territorial action, enforcement or administrative elements, and research and data collection. Recommendations will include an assessment of urgency and the effects of not taking action.

(2) The Council will evaluate the team's reports and recommendations, and the indicators of concern. The Council will assess the need for one or more of the following types of management action: Catch limits, size limits, closures, effort limitations, access limitations, or other measures.

(3) The Council may recommend management action by either the state/territorial governments or by Federal regulation.

(c) *Federal management action*. (1) If the Council believes that management action should be considered, it will make specific recommendations to the Regional Administrator after requesting and considering the views of its Scientific and Statistical Committee and Bottomfish Advisory Panel and obtaining public comments at a public hearing.

(2) The Regional Administrator will consider the Council's recommendation and accompanying data, and, if he or she concurs with the Council's recommendation, will propose regulations to carry out the action. If the Regional Administrator rejects the Council's proposed action, a written explanation for the denial will be provided to the Council within 2 weeks of the decision.

(3) The Council may appeal denial by writing to the Assistant Administrator, who must respond in writing within 30 days.

(4) The Regional Administrator and the Assistant Administrator will make their decisions in accord with the Magnuson Act, other applicable law, and the Bottomfish FMP.

(5) To minimize conflicts between the Federal and state management systems, the Council will use the procedures in paragraph (b) of this section to respond to state/territorial management actions. Council consideration of action would normally begin with a representative of the state or territorial government bringing a potential or actual management conflict or need to the Council's attention.

(d) *Access limitation procedures*. (1) Access limitation may be adopted under this paragraph (d) only for the NWHI, American Samoa, and Guam.

(2) If access limitation is proposed for adoption or subsequent modification through the process described in this paragraph (d), the following requirements must be met:

(i) The Bottomfish Monitoring Team must consider and report to the Council on present participation in the fishery; historical fishing practices in, and dependence on, the fishery; economics of the fishery; capability of fishing vessels used in the fishery to engage in other fisheries; cultural and social framework relevant to the fishery; and any other relevant considerations.

(ii) Public hearings must be held specifically addressing the limited access proposals.

(iii) A specific advisory subpanel of persons experienced in the fishing industry will be created to advise the Council and the Regional Administrator on administrative decisions.

(iv) The Council's recommendation to the Regional Administrator must be approved by a two-thirds majority of the voting members.

(e) *Five-year review*. The Council will conduct a comprehensive review on the effectiveness of the Mau Zone limited access program 5 years following implementation of the program. The Council will consider the extent to which the FMP objectives have been met and verify that the target number of vessels established for the fishery is appropriate for current fishing activity levels, catch rates, and biological condition of the stocks. The Council may

establish a new target number based on the 5-year review.

[61 FR 34572, July 2, 1996, as amended at 64 FR 22814, Apr. 28, 1999]

### § 665.68 Fishing moratorium on Hancock Seamount.

Fishing for bottomfish and seamount groundfish on the Hancock Seamount is prohibited through August 31, 2010.

[69 FR 51401, Aug. 19, 2004]

### § 665.69 Management subareas.

(a) The bottomfish fishery management area is divided into eight subareas with the following designations and boundaries:

(1) Main Hawaiian Islands means the EEZ of the Hawaiian Islands Archipelago lying to the east of 161°20′ W. long.

(2) Northwestern Hawaiian Islands (NWHI) means the EEZ of the Hawaiian Islands Archipelago lying to the west of 161°20′ W. long. However, for the purposes of regulations issued under this subpart, Midway Island is treated as part of the Northwestern Hawaiian Islands Subarea.

(i) Ho'omalu Zone means that portion of the EEZ around the NWHI west of 165° W. long.

(ii) Mau Zone means that portion of the EEZ around the NWHI between 161°20′ W. long. and 165° W. long.

(3) Hancock Seamount means that portion of the EEZ in the Northwestern Hawaiian Islands west of 180°00′ W. long. and north of 28°00′ N. lat.

(4) Guam means the EEZ seaward of the Territory of Guam.

(5) American Samoa means the EEZ seaward of the Territory of American Samoa.

(6) CNMI Inshore Area means that portion of the EEZ shoreward of 3 nautical miles of the shoreline of the CNMI.

(7) CNMI Offshore Area means that portion of the EEZ seaward of 3 nautical miles from the shoreline of the CNMI.

(8) Pacific Remote Island Areas means that portion of the EEZ seaward of the Pacific Remote Island Areas, with the exception of Midway Atoll.

(b) The inner boundary of each fishery management area is a line coterminous with the seaward boundaries of the State of Hawaii, the Territory of American Samoa, the Territory of Guam, the CNMI, and the PRIA.

(c) The outer boundary of each fishery management area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is coterminous with adjacent international maritime boundaries. The boundary between the fishery management areas of Guam and the CNMI extends to those points which are equidistant between Guam and the island of Rota in the CNMI.

[61 FR 34572, July 2, 1996. Redesignated at 71 FR 17989, Apr. 10, 2006, as amended by 71 FR 53607, Sept. 12, 2006]

### § 665.70 Bottomfish fishery area management.

(a) *Large vessel bottomfish prohibited area.* A large vessel of the United States may not be used to fish for bottomfish management unit species in any large vessel bottomfish prohibited area as defined in paragraph (b) of this section.

(b) *Guam large vessel bottomfish prohibited area (Area GU–1).* The large vessel bottomfish prohibited area around Guam means the waters of the US EEZ surrounding Guam that are enclosed by straight lines connecting the following coordinates in the order listed:

| Point | N. lat. | E. long. |
|---|---|---|
| GU–1–A | 14°16′ | 144°17′ |
| GU–1–B | 13° 50′ | 143° 52′ |
| GU–1–C | 13° 17′ | 143° 46′ |
| GU–1–D | 12° 50′ | 143° 54′ |
| GU–1–E | 12° 30′ | 144° 14′ |
| GU–1–F | 12° 25′ | 144° 51′ |
| GU–1–G | 12° 57′ | 145° 33′ |
| GU–1–H | 13° 12′ | 145° 43′ |
| GU–1–I | 13° 29′ 44″ | 145° 48′ 27″ |
| GU–1–A | 14° 16′ | 144° 17′ |

[71 FR 64477, Nov. 2, 2006]

### § 665.71 Hawaii restricted bottomfish species.

Hawaii restricted bottomfish species means the following species:

| Common Name | Common Name | Scientific Name |
|---|---|---|
| Silver jaw jobfish | Lehi | *Aphareus rutilans* |
| Squirrelfish snapper | Ehu | *Etelis carbunculus* |
| Longtail snapper | Onaga | *Etelis coruscans* |
| Pink snapper | Opakapaka | *Pristipomoides filamentosus* |
| Snapper | Kalekale | *Pristipomoides sieboldii* |
| Snapper | Gindai | *Pristipomoides zonatus* |
| Sea bass | Hapu'upu'u | *Epinephelus quernus* |

[73 FR 18459, Apr. 4, 2008]

### § 665.72 Total Allowable Catch (TAC) limit.

(a) TAC limits will be set annually for the fishing year by NMFS, as recommended by the Council, based on the best available scientific, commercial, and other information, and taking into account the associated risk of overfishing.

(b) The Regional Administrator shall publish a notice indicating the annual Total Allowable Catch limit in the FEDERAL REGISTER by August 31 of each year, and shall use other means to notify permit holders of the TAC limit for the year.

(c) When the TAC limit specified in this section is projected to be reached based on analyses of available information, the Regional Administrator shall publish a notice to that effect in the FEDERAL REGISTER and shall use other means to notify permit holders. The notice will include an advisement that the fishery will be closed beginning at a specified date, which is not earlier than 14 days after the date of filing the closure notice for public inspection at the Office of the Federal Register, until the end of the fishing year in which the TAC is reached.

(d) On and after the date specified in § 665.72(c), no person may fish for or possess any Hawaii Restricted Bottomfish Species as specified in § 665.71 in the Main Hawaiian Islands Management Subarea, except as otherwise allowed by law.

(e) On and after the date specified in § 665.72(c), no person may sell or offer for sale Hawaii Restricted Bottomfish Species as specified in § 665.71, except as otherwise authorized by law.

(f) Fishing for, and the resultant possession or sale of, Hawaii Restricted Bottomfish Species by vessels legally registered to Mau Zone, Ho omalu Zone, or PRIA bottomfish fishing permits and conducted in compliance with all other laws and regulations, is exempted from this section.

[73 FR 18459, Apr. 4, 2008]

### § 665.73 Non-commercial bag limits.

No more than a total of five fish (all species combined) identified as Hawaii Restricted Bottomfish Species as specified in § 665.71, may be harvested, possessed, or landed by any individual participating in a non-commercial vessel-based fishing trip in the Main Hawaiian Islands Management Subarea. Charter boat customers are also subject to the bag limit.

[73 FR 18460, Apr. 4, 2008]

### § 665.75 Closed season.

(a) All fishing for, or possession of, any Hawaii Restricted Bottomfish Species as specified in § 665.71, is prohibited in the Main Hawaiian Islands Management Subarea during September 1, 2008, through November 14, 2008, inclusive. All such species possessed in the Main Hawaiian Islands Management Subarea are presumed to have been taken and retained from that Subarea, unless otherwise demonstrated by the person in possession of those species.

(b) Hawaii Restricted Bottomfish Species, as specified in § 665.71, may not be sold or offered for sale during September 1, 2008, through November 14, 2008, inclusive, except as otherwise authorized by law.

(c) Fishing for, and the resultant possession or sale of, Hawaii Restricted Bottomfish Species by vessels legally registered to Mau Zone, Ho'omalu Zone, or PRIA bottomfish fishing permits and conducted in compliance with all other laws and regulations, is exempted from paragraphs (a) and (b).

EFFECTIVE DATE NOTE: At 73 FR 50573, Aug. 27, 2008, § 665.75 was added, effective Aug. 22, 2008 through Nov. 14, 2008.

## Subpart F—Precious Corals Fisheries

SOURCE: 61 FR 34572, July 2, 1996, unless otherwise noted. Redesignated at 71 FR 17989, Apr. 10, 2006.

### § 665.81 Permits.

(a) Any vessel of the United States fishing for, taking, or retaining precious coral in any precious coral permit area must have a permit issued under § 665.13.

(b) Each permit will be valid for fishing only in the permit area specified on the permit. Precious Coral Permit Areas are defined in § 665.12.

(c) No more than one permit will be valid for any one vessel at any one time.

(d) No more than one permit will be valid for any one person at any one time.

(e) The holder of a valid permit to fish one permit area may obtain a permit to fish another permit area only upon surrendering to the Regional Administrator any current permit for the precious corals fishery issued under § 665.13.

(f) General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, sanctions, and appeals for permits for the precious corals fishery are contained in § 665.13.

### § 665.82 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter and in § 665.15, it is unlawful for any person to:

(a) Use any vessel to fish for, take, retain, possess or land precious coral in any precious coral permit area, unless a permit has been issued for that vessel and area as specified in § 665.13 and that permit is on board the vessel.

(b) Fish for, take, or retain any species of precious coral in any precious coral permit area:

(1) By means of gear or methods prohibited by § 665.88.

(2) In refugia specified in § 665.12.

(3) In a bed for which the quota specified in § 665.84 has been attained.

(4) In violation of any permit issued under § 665.13 or § 665.17.

(5) In a bed that has been closed pursuant to §§ 665.85 or 665.90.

(c) Take and retain, possess, or land any live pink coral or live black coral from any precious coral permit area that is less than the minimum height specified in § 665.86 unless:

(1) A valid EFP was issued under § 665.17 for the vessel and the vessel was operating under the terms of the permit; or

(2) The coral originated outside coral beds listed in this paragraph, and this can be demonstrated through receipts of purchase, invoices, or other documentation.

[61 FR 34572, July 2, 1996, as amended at 67 FR 11945, Mar. 18, 2002; 73 FR 47099, Aug. 13, 2008]

### § 665.83 Seasons.

The fishing year for precious corals begins on July 1 and ends on June 30 the following year, except at the Makapu'u and Au'au Channel Beds, which have a two-year fishing period that begins July 1 and ends June 30, two years later.

[73 FR 47100, Aug. 13, 2008]

### § 665.84 Quotas.

(a) *General*. The quotas limiting the amount of precious coral that may be taken in any precious coral permit area during the fishing year are listed in Table 1 of this part. Only live coral is counted toward the quota. The accounting period for all quotas begins July 1, 1983.

(b) *Conditional bed closure*. A conditional bed will be closed to all nonselective coral harvesting after the quota for one species of coral has been taken.

(c) *Reserves and reserve release*. The quotas for exploratory areas will be held in reserve for harvest by vessels of the United States in the following manner:

(1) At the start of the fishing year, the reserve for each of the three exploratory areas will equal the quota minus the estimated domestic annual harvest for that year.

(2) As soon as practicable after December 31 each year, the Regional Administrator will determine the amount harvested by vessels of the United States between July 1 and December 31 of that year.

(3) NMFS will release to TALFF an amount of precious coral for each exploratory area equal to the quota minus two times the amount harvested by vessels of the United States in that July 1 through December 31 period.

(4) NMFS will publish in the FEDERAL REGISTER a notification of the Regional Administrator's determination and a summary of the information on which it is based as soon as practicable after the determination is made.

### § 665.85 Closures.

(a) If the Regional Administrator determines that the harvest quota for any coral bed will be reached prior to the end of the fishing year, or the end of the 2-year fishing period at Makapu'u Bed or Au'au Channel Bed, NMFS shall publish a notice to that effect in the FEDERAL REGISTER and shall use other means to notify permit holders. Any such notice must indicate the reason for the closure, the bed being closed, and the effective date of the closure.

(b) A closure is also effective for a permit holder upon the permit holder's actual harvest of the applicable quota.

[61 FR 34572, July 2, 1996. Redesignated at 71 FR 17989, Apr. 10, 2006., as amended at 73 FR 47100, Aug. 13, 2008]

### § 665.86 Size restrictions.

The height of a live coral specimen shall be determined by a straight line measurement taken from its base to its most distal extremity. The stem diameter of a living coral specimen shall be determined by measuring the greatest diameter of the stem at a point no less than 1 inch (2.54 cm) from the top surface of the living holdfast.

(a) Live pink coral harvested from any precious coral permit area must have attained a minimum height of 10 inches (25.4 cm).

(b) *Black coral*. Live black coral harvested from any precious coral permit area must have attained either a minimum stem diameter of 1 inch (2.54 cm), or a minimum height of 48 inches (122 cm).

[67 FR 11945, Mar. 18, 2002, as amended at 70 FR 29657, May 24, 2005; 72 FR 58261, Oct. 15, 2007]

### § 665.87 Area restrictions.

Fishing for coral on the WestPac Bed is not allowed. The specific area closed to fishing is all waters within a 2-nm radius of the midpoint of 23°18.0′ N. lat., 162°35.0′ W. long.

### § 665.88 Gear restrictions.

Only selective gear may be used to harvest coral from any precious coral permit area.

[67 FR 11945, Mar. 18, 2002]

### § 665.89 Framework procedures.

(a) *Introduction*. Established management measures may be revised and new management measures may be established and/or revised through rulemaking if new information demonstrates that there are biological, social, or economic concerns in a precious coral permit area. The following framework process authorizes the implementation of measures that may affect the operation of the fisheries, gear, quotas, season, or levels of catch and/or in effort.

(b) *Annual report*. By June 30 of each year, the Council-appointed Precious Coral Team will prepare an annual report on the fisheries in the management area. The report will contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(c) *Procedure for established measures*. (1) Established measures are management measures that, at some time, have been included in regulations implementing the FMP, and for which the impacts have been evaluated in Council/NMFS documents in the context of current conditions.

(2) According to the framework procedures of Amendment 3 to the FMP, the Council may recommend to the Regional Administrator that established measures be modified, removed, or reinstituted. Such recommendation will include supporting rationale and analysis and will be made after advance

public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(d) *Procedure for new measures.* (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions.

(2) Following the framework procedures of Amendment 3 to the FMP, the Council will publicize, including by a FEDERAL REGISTER document, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a FEDERAL REGISTER document summarizing the Council's deliberations, rationale, and analysis for the preferred action and the time and place for any subsequent Council meeting(s) to consider the new measure. At a subsequent public meeting, the Council will consider public comments and other information received before making a recommendation to the Regional Administrator about any new measure. If approved by the Regional Administrator, NMFS may implement the Council's recommendation by rulemaking.

[63 FR 55810, Oct. 19, 1998]

### § 665.90 Gold coral harvest moratorium.

Fishing for, taking, or retaining any gold coral in any precious coral permit area is prohibited through June 30, 2013.

[73 FR 47100, Aug. 13, 2008]

## Subpart G—Western Pacific Coral Reef Ecosystem Fisheries

SOURCE: 69 FR 8343, Feb. 24, 2004, unless otherwise noted. Redesignated at 71 FR 17989, Apr. 10, 2006.

### § 665.601 Relation to other laws.

To ensure consistency between the management regimes of different Federal agencies with shared management responsibilities of fishery resources within the Coral reef ecosystem regulatory area, fishing authorized under this subpart is not allowed within the boundary of a National Wildlife Refuge unless specifically authorized by the USFWS, regardless of whether that refuge was established by action of the President or the Secretary of the Interior.

### § 665.602 Permits and fees.

(a) *Applicability.* Unless otherwise specified in this subpart, § 665.13 applies to coral reef ecosystem permits.

(1) *Special permit.* Any person of the United States fishing for, taking or retaining coral reef ecosystem MUS must have a special permit if they, or a vessel which they operate, is used to fish for any:

(i) Coral reef ecosystem MUS in low-use MPAs as defined in § 665.18;

(ii) Potentially Harvested Coral Reef Taxa in the coral reef ecosystem regulatory area; or

(iii) Coral reef ecosystem MUS in the coral reef ecosystem regulatory area with any gear not specifically allowed in this subpart.

(2) *Transshipment permit.* A receiving vessel must be registered for use with a transshipment permit if that vessel is used in the coral reef ecosystem regulatory area to land or tranship PHCRT, or any coral reef ecosystem MUS harvested within low-use MPAs.

(3) *Exceptions.* The following persons are not required to have a permit under this section:

(i) Any person issued a permit to fish under the Bottomfish and Seamount Groundfish FMP, Pelagics FMP, Crustaceans FMP or Precious Corals FMP who incidentally catches coral reef ecosystem MUS while fishing for bottomfish management unit species, crustaceans management unit species, Pacific pelagic management unit species, precious coral, or seamount groundfish.

(ii) Any person fishing for CHCRT outside of an MPA, who does not retain any incidentally caught PHCRT; and

(iii) Any person collecting marine organisms for scientific research as described in § 600.745 of this chapter.

(b) *Validity.* Each permit will be valid for fishing only in the fishery management subarea specified on the permit.

(c) *General requirements*. General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, sanctions, and appeals for permits are contained in § 665.13.

(d) *Special permit*. The Regional Administrator shall issue a special permit in accordance with the criteria and procedures specified in this section.

(1) *Application*. An applicant for a special or transshipment permit issued under this section must complete and submit to the Regional Administrator, a Special Coral Reef Ecosystem Fishing Permit Application Form issued by NMFS. Information in the application form must include, but is not limited to a statement describing the objectives of the fishing activity for which a special permit is needed, including a general description of the expected disposition of the resources harvested under the permit (*i.e.*, stored live, fresh, frozen, preserved; sold for food, ornamental, research, or other use, and a description of the planned fishing operation, including location of fishing and gear operation, amount and species (directed and incidental) expected to be harvested and estimated habitat and protected species impacts).

(2) *Incomplete applications*. The Regional Administrator may request from an applicant additional information necessary to make the determinations required under this section. An applicant will be notified of an incomplete application within 10 working days of receipt of the application. An incomplete application will not be considered until corrected in writing.

(3) *Issuance*. (i) If an application contains all of the required information, the Regional Administrator will forward copies of the application within 30 days to the Council, the U.S. Coast Guard, the fishery management agency of the affected state, and other interested parties who have identified themselves to the Council, and the USFWS.

(ii) Within 60 days following receipt of a complete application, the Regional Administrator will consult with the Council through its Executive Director, USFWS, and the Director of the affected state fishery management agency concerning the permit application and will receive their recommendations for approval or disapproval of the application based on:

(A) Information provided by the applicant,

(B) The current domestic annual harvesting and processing capacity of the directed and incidental species for which a special permit is being requested,

(C) The current status of resources to be harvested in relation to the overfishing definition in the FMP,

(D) Estimated ecosystem, habitat, and protected species impacts of the proposed activity, and

(E) Other biological and ecological information relevant to the proposal. The applicant will be provided with an opportunity to appear in support of the application.

(iii) Following a review of the Council's recommendation and supporting rationale, the Regional Administrator may:

(A) Concur with the Council's recommendation and, after finding that it is consistent with the goals and objectives of the FMP, the national standards, the Endangered Species Act, and other applicable laws, approve or deny a special permit; or

(B) Reject the Council's recommendation, in which case, written reasons will be provided by the Regional Administrator to the Council for the rejection.

(iv) If the Regional Administrator does not receive a recommendation from the Council within 60 days of Council receipt of the permit application, the Regional Administrator can make a determination of approval or denial independently.

(v) Within 30 working days after the consultation in paragraph (d)(3)(ii) of this section, or as soon as practicable thereafter, NMFS will notify the applicant in writing of the decision to grant or deny the special permit and, if denied, the reasons for the denial. Grounds for denial of a special permit include the following:

(A) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his or her application.

(B) According to the best scientific information available, the directed or

incidental catch in the season or location specified under the permit would detrimentally affect any coral reef resource or coral reef ecosystem in a significant way, including, but not limited to issues related to, spawning grounds or seasons, protected species interactions, EFH, and habitat areas of particular concern (HAPC).

(C) Issuance of the special permit would inequitably allocate fishing privileges among domestic fishermen or would have economic allocation as its sole purpose.

(D) The method or amount of harvest in the season and/or location stated on the permit is considered inappropriate based on previous human or natural impacts in the given area.

(E) NMFS has determined that the maximum number of permits for a given area in a given season has been reached and allocating additional permits in the same area would be detrimental to the resource.

(F) The activity proposed under the special permit would create a significant enforcement problem.

(vi) The Regional Administrator may attach conditions to the special permit, if it is granted, consistent with the management objectives of the FMP, including but not limited to:

(A) The maximum amount of each resource that can be harvested and landed during the term of the special permit, including trip limits, where appropriate.

(B) The times and places where fishing may be conducted.

(C) The type, size, and amount of gear which may be used by each vessel operated under the special permit.

(D) Data reporting requirements.

(E) Such other conditions as may be necessary to ensure compliance with the purposes of the special permit consistent with the objectives of the FMP.

(4) *Appeals of permit actions.* (i) Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or a permit holder may appeal the granting, denial, conditioning, or suspension of their permit or a permit affecting their interests to the Regional Administrator. In order to be considered by the Regional Administrator, such appeal must be in writing, must state the action(s) appealed, and the reasons therefore, and must be submitted within 30 days of the original action(s) by the Regional Administrator. The appellant may request an informal hearing on the appeal.

(ii) Upon receipt of an appeal authorized by this section, the Regional Administrator will notify the permit applicant, or permit holder as appropriate, and will request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Regional Administrator will rule on the appeal in accordance with the permit eligibility criteria set forth in this section and the FMP, as appropriate, based upon information relative to the application on file at NMFS and the Council and any additional information, the summary record kept of any hearing and the hearing officer's recommended decision, if any, and such other considerations as deemed appropriate. The Regional Administrator will notify all interested persons of the decision, and the reasons therefor, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(iii) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose after first giving notice of the time, place, and subject matter of the hearing in the FEDERAL REGISTER. Such a hearing shall normally be held no later than 30 days following publication of the notice in the FEDERAL REGISTER, unless the hearing officer extends the time for reasons deemed equitable. The appellant, the applicant (if different), and, at the discretion of the hearing officer, other interested parties, may appear personally or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend in writing a decision to the Regional Administrator.

(iv) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in

part, or may reject or modify it. In any event, the Regional Administrator will notify interested persons of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action constitutes final action for the agency for the purposes of the Administrative Procedure Act.

(5) Any time limit prescribed in this section may be extended for good cause, for a period not to exceed 30 days by the Regional Administrator, either upon his or her own motion or upon written request from the Council, appellant or applicant stating the reason(s) therefore.

**§ 665.603 Prohibitions.**

In addition to the general prohibitions specified in § 600.725 of this chapter and § 665.15 of this part, it is unlawful for any person to do any of the following:

(a) Fish for, take, retain, possess or land any coral reef ecosystem MUS in any low-use MPA as defined in § 665.18(c)(1) and (c)(2) unless:

(1) A valid permit has been issued for the hand harvester or the fishing vessel operator that specifies the applicable area of harvest;

(2) A permit is not required, as outlined in § 600.602 of this chapter;

(3) The coral reef ecosystem MUS possessed on board the vessel originated outside the regulatory area and this can be demonstrated through receipts of purchase, invoices, fishing logbooks or other documentation.

(b) Fish for, take, or retain any coral reef ecosystem MUS species:

(1) That is determined overfished with subsequent rulemaking by the Regional Administrator.

(2) By means of gear or methods prohibited under § 665.604.

(3) In a low-use MPA without a valid special permit.

(4) In violation of any permit issued under § 665.13 or § 665.601.

(c) Fish for, take, or retain any wild live rock or live hard coral except under a valid special permit for scientific research, aquaculture seed stock collection or traditional and ceremonial purposes by indigenous people.

**§ 665.604 Notifications.**

Any special permit holder subject to the requirements of this subpart must contact the appropriate NMFS enforcement agent in American Samoa, Guam, or Hawaii at least 24 hours before landing any coral reef ecosystem MUS unit species harvested under a special permit, and report the port and the approximate date and time at which the catch will be landed.

**§ 665.605 Allowable gear and gear restrictions.**

(a) Coral reef ecosystem MUS may be taken only with the following allowable gear and methods:

(1) Hand harvest;

(2) Spear;

(3) Slurp gun;

(4) Hand net/dip net;

(5) Hoop net for Kona crab;

(6) Throw net;

(7) Barrier net;

(8) Surround/purse net that is attended at all times;

(9) Hook-and-line (includes handline (powered or not)), rod-and-reel, and trolling);

(10) Crab and fish traps with vessel ID number affixed; and

(11) Remote-operating vehicles/submersibles.

(b) Coral reef ecosystem MUS may not be taken by means of poisons, explosives, or intoxicating substances. Possession or use of these materials by any permit holder under this subpart who is established to be fishing for coral reef ecosystem MUS in the regulatory area is prohibited.

(c) Coral reef ecosystem MUS may not be taken by means of spearfishing with SCUBA at night (from 6 p.m. to 6 a.m.) in the U.S. EEZ waters around Howland Island, Baker Island, Jarvis Island, Wake Island, Kingman Reef, Johnston Atoll and Palmyra Atoll.

(d) Existing FMP fisheries shall follow the allowable gear and methods outlined in their respective plans.

(e) Any person who intends to fish with new gear not included in § 665.604 must describe the new gear and its method of deployment in the special permit application. A decision on the permissibility of this gear type will be made by the Regional Administrator after consultation with the Council and

the director of the affected state fishery management agency.

### § 665.606 Gear identification.

(a) The vessel number must be affixed to all fish and crab traps on board the vessel or deployed in the water by any vessel or person holding a permit under § 665.13 or § 665.601 or that is otherwise established to be fishing for coral reef ecosystem MUS in the regulatory area.

(b) *Enforcement action*. (1) Traps not marked in compliance with paragraph (a) of this section and found deployed in the coral reef ecosystem regulatory area will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer;

(2) Unattended surround nets or bait seine nets found deployed in the coral reef ecosystem regulatory area will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer.

### § 665.607 Framework for regulatory adjustments.

(a) *Procedure for established measures*. (1) Established measures are management measures that, at some time, have been included in regulations implementing the FMP, or for which the impacts have been evaluated in Council/NMFS documents in the context of current conditions;

(2) Following framework procedures of the CREFMP, the Council may recommend to the Regional Administrator that established measures be modified, removed, or re-instituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(b) *Procedure for new measures*. (1) New measures are management measures that have not been included in regulations implementing the FMP, or for which the impacts have not been evaluated in Council/NMFS documents in the context of current conditions. New measures include but are not limited to catch limits, resource size limits, closures, effort limitations, reporting and recordkeeping requirements;

(2) Following the framework procedures of the FMP, the Regional Administrator will publicize, including by FEDERAL REGISTER notice, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a document summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Administrator about any new measure. NMFS may implement the Council's recommendation by rule making if approved by the Regional Administrator.

(i) The Regional Administrator will consider the Council's recommendation and supporting rationale and analysis, and, if the Regional Administrator concurs with the Council's recommendation, will propose regulations to carry out the action. If the Regional Administrator rejects the Council's proposed action, the Regional Administrator will provide a written explanation for the denial within 2 weeks of the decision.

(ii) The Council may appeal denial by writing to the Assistant Administrator, who must respond in writing within 30 days.

(iii) The Regional Administrator and the Assistant Administrator will make their decisions in accordance with the Magnuson-Stevens Act, other applicable laws, and the CREFMP.

(iv) To minimize conflicts between the Federal and state/territorial/commonwealth management systems, the Council will use the procedures in paragraph (a)(2) in this section to respond to state/territorial/commonwealth management actions. The Council's consideration of action would normally begin with a representative of the state, territorial or commonwealth

government bringing a potential or actual management conflict or need to the Council's attention.

### § 665.608 Regulatory area.

(a) The regulations in this subpart govern fishing for coral reef ecosystem management unit species by vessels of the United States or persons who operate or are based inside the outer boundary of the U.S. EEZ off:

(1) The Hawaiian Islands Archipelago lying to the east of 160°50′ W. long.

(2) Guam.

(3) American Samoa.

(4) Offshore area of the CNMI or that portion of the U.S. EEZ around the CNMI between three nautical miles offshore and the outer boundary of the U.S. EEZ.

(5) Baker Island, Howland Island, Jarvis Island, Wake Island, Johnston Atoll, Palmyra Atoll and Kingman Reef.

(b) The inner boundary of the regulatory area is as follows:

(1) The shoreline of Baker Island, Howland Island, Jarvis Island, Wake Island, Johnston Atoll, Palmyra Atoll and Kingman Reef.

(2) The seaward boundaries of the State of Hawaii, the Territory of Guam, the Territory of American Samoa; and

(3) A line three nautical miles seaward from the shoreline of the CNMI.

(c) The outer boundary of the regulatory area is the outer boundary of the U.S. EEZ or adjacent international maritime boundaries. The CNMI and Guam regulatory area is divided by a line intersecting these two points: 148° E. long., 12° N. lat., and 142° E. long., 16° N. lat.

### § 665.609 Annual reports

(a) *Annual reports.* By July 31 of each year, a Council-appointed coral reef ecosystem plan team will prepare an annual report on coral reef fisheries of the western Pacific region. The report will contain, among other things, fishery performance data, summaries of new information and assessments of need for Council action.

(b) *Recommendation for Council action.* (1) The Council will evaluate the annual report and advisory body recommendations and may recommend management action by either the state/territorial/commonwealth governments or by Federal regulation;

(2) If the Council believes that management action should be considered, it will make specific recommendations to the Regional Administrator after considering the views of its advisory bodies.

TABLE 1 TO PART 665—PRECIOUS CORAL QUOTAS

| Type of coral bed | Name of coral bed | Harvest quota in kilograms | Number of years |
|---|---|---|---|
| Established Beds | Au'au Channel | Black: 5,000 | 2 |
| | Makapu'u | Pink: 2,000 | 2 |
| | | Gold: 0 (zero) | -- |
| | | Bamboo: 500 | 2 |
| Conditional Beds | 180 Fathom Bank | Pink: 222 | 1 |
| | | Gold: 67 | 1 |
| | | Bamboo: 56 | 1 |
| | Brooks Bank | Pink: 17 | 1 |
| | | Gold: 133 | 1 |
| | | Bamboo: 111 | 1 |
| | Kaena Point | Pink: 67 | 1 |
| | | Gold: 20 | 1 |
| | | Bamboo: 17 | 1 |
| | Keahole Point | Pink: 67 | 1 |
| | | Gold: 20 | 1 |
| | | Bamboo: 17 | 1 |
| Refugia | Westpac | All: 0 (zero) | -- |
| Exploratory Areas | Hawaii, American Samoa, Guam, CNMI, U.S. Pacific Remote Island Areas | 1,000 per area (all species combined except black corals) | 1 |

Notes:
1. No fishing for coral is authorized in refugia.
2. A moratorium on gold coral harvesting is in effect through June 30, 2013.

[73 FR 47100, Aug. 13, 2008]

TABLE 2 TO PART 665—CURRENTLY HARVESTED CORAL REEF TAXA

| Family name | Common name (scientific name) |
|---|---|
| Acanthuridae (Surgeonfishes) | Orange-spot surgeonfish (*Acanthurus olivaceus*) |
| | Yellowfin surgeonfish (*Acanthurus xanthopterus*) |
| | Convict tang (*Acanthurus triostegus*) |
| | Eye-striped surgeonfish (*Acanthurus dussumieri*) |
| | Blue-lined surgeon (*Acanthurus nigroris*) |
| | Whitebar surgeonfish (*Acanthurus leucopareius*) |
| | Blue-banded surgeonfish (*Acanthurus lineatus*) |
| | Blackstreak surgeonfish (*Acanthurus nigricauda*) |
| | Whitecheek surgeonfish (*Acanthurus nigricans*) |
| | White-spotted surgeonfish (*Acanthurus guttatus*) |
| | Ringtail surgeonfish (*Acanthurus blochii*) |
| | Brown surgeonfish (*Acanthurus nigrofuscus*) |
| | Elongate surgeonfish (*Acanthurus mata*) |
| | Mimic surgeonfish (*Acanthurus pyroferus*) |
| | Yellow-eyed surgeonfish (*Ctenochaetus strigousus*) |
| | Striped bristletooth (*Ctenochaetus striatus*) |
| | Twospot bristletooth (*Ctenochaetus binotatus* |
| | Bluespine unicornfish (*Naso unicornus*) |
| | Orangespine unicornfish (*Naso lituratus*) |
| | Humpnose unicornfish (*Naso tuberosus*) |
| | Black tongue unicornfish (*Naso hexacanthus*) |
| | Bignose unicornfish (*Naso vlamingii*) |
| | Whitemargin unicornfish (*Naso annulatus*) |
| | Spotted unicornfish (*Naso brevirostris*) |
| | Humpback unicornfish (*Naso brachycentron*) |
| | Barred unicornfish (*Naso thynnoides*) |
| | Gray unicornfish (*Naso caesius*) |
| Balistidae (Triggerfishes) | Titan triggerfish (*Balistoides viridescens*) |
| | Clown triggerfish (*Balistoides conspicillum*) |
| | Orangstriped triggerfish (*Balistapus undulatus*) |
| | Pinktail triggerfish (*Melichthys vidua*) |
| | Black triggerfish (*Melichtys niger*) |
| | Blue Triggerfish (*Pseudobalistesfucus fucus*) |
| | Picassofish (*Rhinecanthus aculeatus*) |
| | Wedged Picassofish (*Balistoides rectangulus*) |
| | Bridled triggerfish (*Sufflamen fraenatus*) |
| Carangidae (Jacks) | Bigeye scad (*Selar crumenophthalmus*) |
| | Mackerel scad (*Decapterus macarellus*) |
| Carcharhinidae (Sharks) | Grey reef shark (*Carcharhinus amblyrhynchos*) |
| | Silvertip shark (*Carcharhinus albimarginatus*) |
| | Galapagos shark (*Carcharhinus galapagenis*) |
| | Blacktip reef shark (*Carcharhinus melanopterus*) |
| | Whitetip reef shark (*Triaenodon obesus*) |
| Holocentridae (Soldierfish/Squirrelfish) | Bigscale soldierfish (*Myripristis berndti*) |
| | Bronze soldierfish (*Myripristis adusta*) |
| | Blotcheye soldierfish (*Myripristis murdjan*) |
| | Brick soldierfish (*Myripristis amaena*) |
| | Scarlet soldierfish (*Myripristis pralinia*) |
| | Violet soldierfish (*Myripristis violacea*) |
| | Whitetip soldierfish (*Myripristis vittata*) |
| | Yellowfin soldierfish (*Myripristis chryseres*) |
| | Pearly soldierfish (*Myripristis kuntee*) |
| | Double tooth squirrel fish (*Myripristis hexagona*) |
| | Tailspot squirrelfish (*Sargocentron caudimaculatum*) |
| | Blackspot squirrelfish (*Sargocentron melanospilos*) |
| | File-lined squirrelfish (*Sargocentron microstoma*) |
| | Pink squirrelfish (*Sargocentron tieroides*) |
| | Crown squirrelfish (*Sargocentron diadema*) |
| | Peppered squirrelfish (*Sargocentron punctatissimum*) |
| | Blue-lined squirrelfish (*Sargocentron tiere*) |
| | Hawaiian squirrelfish (*Sargocentron xantherythrum*) |
| | Squirrelfish (*Sargocentron furcatum*) |
| | Saber or Long jaw squirrelfish (*Sargocentron spiniferum*) |
| | Spotfin squirrelfish (*Neoniphon* spp.) |
| Kuhliidae (*Flag-tails*) | Hawaiian flag-tail (*Kuhlia sandvicensis*) |
| | Barred flag-tail (*Kuhlia mugil*) |
| Kyphosidae Rudderfish | Rudderfish (*Kyphosus biggibus*) |
| | Rudderfish (*Kyphosus cinerascens*) |
| | Rudderfish (*Kyphosus vaigienses*) |
| Labridae (*Wrasses*) | Saddleback hogfish (*Bodianus bilunulatus*) |
| | Napoleon wrasse (*Cheilinus undulatus*) |
| | Triple-tail wrasse (*Cheilinus trilobatus*) |

| Family name | Common name (scientific name) |
|---|---|
| | Floral wrasse (*Cheilinus chlorourus*) |
| | Harlequin tuskfish (*Cheilinus fasciatus*) |
| | Ring-tailed wrasse (*Oxycheilinus unifasciatus*) |
| | Bandcheek wrasse (*Oxycheilinus diagrammus*) |
| | Arenatus wrasse (*Oxycheilinus arenatus*) |
| | Razor wrasse (*Xyricthys pavo*) |
| | Whitepatch wrasse (*Xyrichtes aneitensis*) |
| | Cigar wrasse (*Cheilio inermis*) |
| | Blackeye thicklip (*Hemigymnus melapterus*) |
| | Barred thicklip (*Hemigymnus fasciatus*) |
| | Three-spot wrasse (*Halichoeres trimaculatus*) |
| | Checkerboard wrasse (*Halichoeres hortulanus*) |
| | Weedy surge wrasse (*Halichoeres margaritacous*) |
| | Goldstripe wrasse(*Halichoeres zeylonicus*) |
| | Surge wrasse (*Thalassoma purpureum*) |
| | Red ribbon wrasse (*Thalassoma quinquevittatum*) |
| | Sunset wrasse (*Thalassoma lutescens*) |
| | Longface wrasse (*Hologynmosus doliatus*) |
| | Rockmover wrasse (*Novaculichthys taeniourus*) |
| Mullidae (Goatfishes) | Yellow goatfish (*Mulloidichthys* spp.) |
| | Orange goatfish (*Mulloidichthys pfleugeri*) |
| | Yellowfin goatfish (*Mulloidichthys vanicolensis*) |
| | Yellowstripe goatfish (*Mulloidichthys flaviolineatus*) |
| | Banded goatfish (*Parupeneus* spp.) |
| | Dash-dot goatfish (*Parupeneus barberinus*) |
| | Doublebar goatfish (*Parupeneus bifasciatus*) |
| | Redspot goatfish (*Parupeneus heptacanthus*) |
| | White-lined goatfish (*Parupeneus ciliatus*) |
| | Yellowsaddle goatfish (*Parupeneus cyclostomas*) |
| | Side-spot goatfish (*Parupeneus pleurostigma*) |
| | Indian goatfish (*Parupeneus indicus*) |
| | Multi-barred goatfish (*Parupeneus multifaciatus*) |
| | Bantail goatfish (*Upeneus arge*) |
| Mugilidae (Mullets) | Stripped mullet (*Mugil cephalus*) |
| | Engel's mullet (*Moolgarda engeli*) |
| | False mullet (*Neomyxus leuciscus*) |
| | Fringelip mullet (*Crenimugil crenilabis*) |
| Muraenidae (Moray ells) | Yellowmargin moray eel (*Gymnothorax flavimarginatus*) |
| | Giant moray eel (*Gymnothorax javanicus*) |
| | Undulated moray eel (*Gymnothorax undulatus*) |
| Octopodidae | Octopus (*Octopus cyanea; Octopus ornatus*) |
| Polynemidae | Threadfin (*Polydactylus sexfilis*) |
| Pricanthidae (Bigeye) | Glasseye (*Heteropriacanthus cruentatus*) |
| | Bigeye (*Priacanthus hamrur*) |
| Scaridae (Parrotfishes) | Humphead parrotfish (*Bulbometapon muracatum*) |
| | Parrotfish (*Scarus* spp.) |
| | Pacific longnose parrotfish (*Hipposcarus longiceps*) |
| | Stareye parrotfish (*Catolomus carolinus*) |
| Scombridae | Dogtooth tuna (*Gymnosarda unicolor*) |
| Siganidae (Rabbitfish) | Forktail rabbitfish (*Siganus aregentus*) |
| | Golden rabbitfish (*Siganus guttatus*) |
| | Gold-spot rabbitfish (*Siganus punctatissimus*) |
| | Randall's rabbitfish (*Siganus randalli*) |
| | Scribbled rabbitfish (*Siganus spinus*) |
| | Vermiculate rabbitfish (*Siganus vermiculatus*) |
| Sphyraenidae (Barracuda) | Heller's barracuda (*Sphyraena helleri*) |
| | Great Barracuda (*Sphyraena barracuda*) |
| Turbinidae (turban shells/green snails) | Green snails (*Turbo* spp.) |
| Aquarium Taxa/Species | Acanthuridae |
| | Yellow tang (*Zebrasoma flavescens*) |
| | Yellow-eyed surgeon fish (*Ctenochaetus strigosus*) |
| | Achilles tang (*Acanthurus achilles*) |
| | Muraenidae |
| | Dragon eel (*Enchelycore pardalis*) |
| | Zanclidae |
| | Morrish idol (*Zanclus cornutus*) |
| | Pomacanthidae |
| | Angelfish (*Centropyge shepardi, Centropyge flavissimus*) |
| | Cirrhitidae |
| | Flame hawkfish (*Neocirrhitus armatus*) |
| | Chaetodontidae |
| | Butterflyfish (*Chaetodon auriga, Chaetodon lunula, Chaetodon melannotus, Chaetodon ephippium*) |
| | Pomacentridae |

| Family name | Common name (scientific name) |
|---|---|
| | Damselfish (*Chromis viridis, Dascyllus aruanus, Dascyllus trimaculatus*) |
| | Sabellidae |
| | Featherduster worm |

[69 FR 8346, Feb. 24, 2004]

TABLE 3 TO PART 665—POTENTIALLY HARVESTED CORAL REEF TAXA

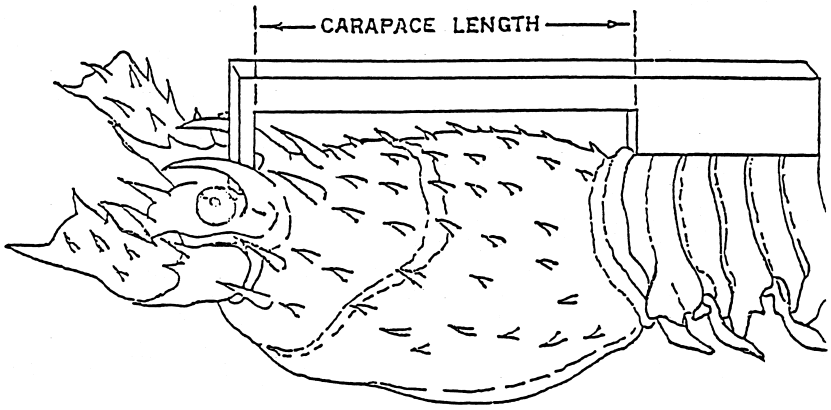
| | |
|---|---|
| Labridae spp. (wrasses) (Those species not listed in Table 3). | Ephippidae (batfish) |
| Carcharhinidae spp. Sphyrnidae spp. (Those species not listed in Table 3). | Monodactylidae (monos) |
| Dasyatididae, Myliobatidae, Mobulidae (rays) | Haemulidae (sweetlips) |
| Serranidae spp. (groupers) (Those species not listed in Table 3 or are not bottomfish management unit species). | Echineididae (remoras) |
| Carangidae (jacks/trevallies) (Those species not listed in Table 3 or are not bottomfish management unit species). | Malacanthidae (tilefish) |
| | Acanthoclinidae (spiny basslets) |
| Holocentridae spp. (soldierfish/squirrelfish) (Those species not listed in Table 3). | Pseudochromidae (dottybacks) |
| Mullidae spp. (goatfish) (Those species not listed in Table 3). | Plesiopidae (prettyfins) |
| Acanthuridae spp. (surgeonfish/unicornfish) (Those species not listed in Table 3). | Tetrarogidae (waspfish) |
| Lethrinidae spp. (emperor fish) (Those species not listed in Table 3 or are not bottomfish management unit species). | Caracanthidae (coral crouchers) |
| Chlopsidae, Congridae, Moringuidae, Ophichthidae (eels) Muraenidae (morays eels) (Those species not listed in Table 3). | Grammistidae (soapfish) |
| Apogonidae (cardinalfish) | *Aulostomus chinensis* (trumpetfish) |
| Zanclidae spp. (moorish idols) (Those species not listed in Table 3). | *Fistularia commersoni* (coronetfish) |
| Chaetodontidae spp. (butterflyfish) (Those species not listed in Table 3). | Anomalopidae (flashlightfish) |
| Pomacanthidae spp. (angelfish) (Those species not listed in Table 3). | Clupeidae (herrings) |
| Pomacentridae spp. (damselfish) (Those species not listed in Table 3). | Engraulidae (anchovies) |
| Scorpaenidae (scorpionfish) | Gobiidae (gobies) |
| Blenniidae (blennies) | Lutjanidae (snappers) (Those species that are not listed in Table 3 or are not bottomfish management unit species) |
| Sphyraenidae spp. (barracudas) (Those species not listed in Table 3). | Ballistidae/Monocanthidae spp. (Those species not listed in Table 3) |
| Pinguipedidae (sandperches) | Siganidae spp. (rabbit fish) (Those species not listed in Table 3) |
| *Gymnosarda unicolor* | Kyphosidae spp. (rudderfish) (Those species not listed in Table 3) |
| Bothidae/Soleidae/Pleurnectidae (flounder/sole) | Caesionidae (fusiliers) |
| Ostraciidae (trunkfish) | Cirrhitidae (hawkfish) (Those species not listed in Table 3 |
| Tetradontidae/Diodontidae (puffer/porcupinefish) | Antennariidae (frogfishes) |
| | Syngnathidae (pipefishes/seahorses) |
| Stony corals | Echinoderms (*e.g.,* sea cucumbers, sea urchins) |
| Heliopora (blue corals) | Mollusca (Those species not listed in Table 3) |
| Tubipora (organpipe corals) | Sea Snails (gastropods) (Those species not listed in Table 3) |
| Azooxanthellates (ahermatypic corals) | *Trochus* spp. |
| Fungiidae (mushroom corals) | Opistobranchs (sea slugs) |
| Small and large polyp corals | *Pinctada margaritifera* (black lipped pearl oyster) |
| Millepora (firecorals) | Tridacnidae (giant clams) |

| | |
|---|---|
| Soft corals and Gorgonians | Other Bivalves (other clams) |
| Actinaria (anemones) | Cephalopods |
| Zoanthinaria (soft zoanthid corals) | Crustaceans (Lobsters, Shrimps/mantis shrimps, true crabs and hermit crabs (not listed as crustacean management unit species) |
| Sponges (Porifera) | Stylasteridae (lace corals) |
| Hydrozoans | Solanderidae (hydroid corals) |
| Bryozoans | Annelids (segmented worms) (Those species not listed in Table 3) |
| | Algae (seaweeds) |
| Tunicates (sea squirts) | Live rock |

All other coral reef ecosystem management unit species that are marine plants, invertebrates, and fishes that are not listed in Table 3 or are not bottomfish management unit species, crustacean management unit species, Pacific pelagic management unit species, precious coral or seamount groundfish.

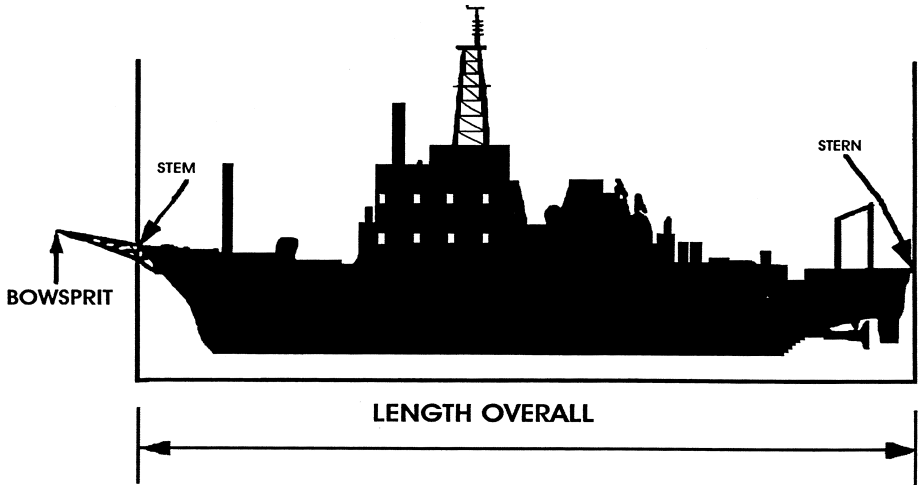
[69 FR 8346, Feb. 24, 2004]

FIGURE 1 TO PART 665—CARAPACE LENGTH OF LOBSTERS




Carapace Length of Lobsters

FIGURE 2 TO PART 665—LENGTH OF FISHING VESSEL




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

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

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AUTHORITY: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; Pub. L. 108–447.

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; 66 FR 27909, May 21, 2001; and 67 FR 79739, Dec. 30, 2002.

## 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 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 Groundfish of the Bering Sea and Aleutian Islands Management 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 sablefish quota shares, sablefish IFQ permits, or sablefish IFQ hired master permits.

(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, 2007). Regulations in this part govern elements of the Groundfish Observer Program for the BSAI groundfish and GOA groundfish fisheries under the Council's authority (see subpart E of this part).

(g) *Fishery Management Plan for 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, and supersede State of Alaska regulations applicable to the commercial king and Tanner crab fisheries in the Bering Sea and Aleutians Islands Area EEZ that are determined to be inconsistent with the FMP (see subpart A, B, and E of this part). Additional regulations governing commercial fishing for, and processing of, king and Tanner crab managed pursuant to section 313(j) of the Magnuson-Stevens Act and the Crab Rationalization Program are codified at 50 CFR part 680.

(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).* (1) Regulations in this part govern fishing for salmon by fishing vessels of the United States in the Salmon Management Area.

(2) State of Alaska laws and regulations that are consistent with the Salmon FMP and with the regulations in this part apply to vessels of the United States that are fishing for salmon in the Salmon Management Area.

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

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

(k) *American Fisheries Act and AI directed pollock fishery measures.* Regulations in this part were developed by

NMFS and the Council under the Magnuson-Stevens Act, the American Fisheries Act (AFA), and the Consolidated Appropriations Act of 2004 to govern commercial fishing for BSAI pollock according to the requirements of the AFA and the Consolidated Appropriations Act of 2004. This part also governs payment and collection of the loan, under the AFA, the Magnuson-Stevens Act, and Title XI of the Merchant Marine Act, 1936, made to all those 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]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.1, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 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.

*ADF&G processor code* means State of Alaska Department of Fish & Game (ADF&G) Intent to operate processor license number (example: F12345).

*Advanced nurse practitioner* means a registered nurse authorized to practice in any state who, because of specialized education and experience, is certified to perform acts of medical diagnosis and the prescription and dispensing of medical, therapeutic, or corrective measures under regulations adopted by the state Board of Nursing.

*AFA catcher vessel* means a catcher vessel permitted to harvest BS pollock under § 679.4(l)(3).

*AFA crab processing facility* means a processing plant, catcher/processor, mothership, floating processor or any other operation that processes any FMP species of BSAI crab, and that is affiliated with an AFA entity that processes pollock harvested by a catcher vessel cooperative operating in the inshore or mothership sectors of the BS pollock fishery.

*AFA entity* means a group of affiliated individuals, corporations, or other business concerns that harvest or process pollock in the BS directed pollock fishery.

*AFA inshore processor* means a shoreside processor or stationary floating processor permitted to process BS pollock under § 679.4(l)(5).

*AFA mothership* means a mothership permitted to process BS pollock under § 679.4(l)(5).

*AFA trawl catcher/processor* means:

(1) For purposes of BS pollock and all BSAI groundfish fisheries other than Atka mackerel, flathead sole, Greenland turbot, Pacific cod, Pacific ocean perch, rock sole, and yellowfin sole, a catcher/processor that is permitted to harvest BS pollock under § 679.4(l)(2).

(2) For purposes of BSAI Atka mackerel, flathead sole, Greenland turbot, Pacific cod, Pacific ocean perch, rock sole, and yellowfin sole, a catcher/processor that is permitted to harvest BS pollock and that is listed under § 679.4(l)(2)(i).

*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 provider that has the same or similar management, ownership, or principal employees as the observer provider that was decertified, suspended, or proposed for decertification.

*Affiliation for the purpose of defining AFA entities* means a relationship between two or more individuals, corporations, or other business concerns in which one concern directly or indirectly owns a 10–percent or greater interest in another, exerts control over another, or has the power to exert control over another; or a third individual, corporation, or other business concern directly or indirectly owns a 10 percent or greater interest in both, exerts control over both, or has the power to exert control over both.

(1) *What is 10-percent or greater ownership?* For the purpose of determining affiliation, 10–percent or greater ownership is deemed to exist if an individual, corporation, or other business concern directly or indirectly owns 10 percent or greater interest in a second corporation or other business concern.

(2) *What is an indirect interest?* An indirect interest is one that passes through one or more intermediate entities. An entity's percentage of indirect interest in a second entity is equal to the entity's percentage of direct interest in an intermediate entity multiplied by the intermediate entity's direct or indirect interest in the second entity.

(3) *What is control?* For the purpose of determining affiliation, control is deemed to exist if an individual, corporation, or other business concern has any of the following relationships or forms of control over another individual, corporation, or other business concern:

(i) Controls 10 percent or more of the voting stock of another corporation or business concern;

(ii) Has the authority to direct the business of the entity which owns the fishing vessel or processor. The authority to ''direct the business of the entity'' does not include the right to simply participate in the direction of the business activities of an entity which owns a fishing vessel or processor;

(iii) Has the authority in the ordinary course of business to limit the actions of or to replace the chief executive officer, a majority of the board of directors, any general partner or any person serving in a management capacity of an entity that holds 10 percent or greater interest in a fishing vessel or processor. Standard rights of minority shareholders to restrict the actions of the entity are not included in this definition of control provided they are unrelated to day-to-day business activities. These rights include provisions to require the consent of the minority shareholder to sell all or substantially all the assets, to enter into a different business, to contract with the major investors or their affiliates or to guarantee the obligations of majority investors or their affiliates;

(iv) Has the authority to direct the transfer, operation or manning of a fishing vessel or processor. The authority to ''direct the transfer, operation, or manning'' of a vessel or processor does not include the right to simply participate in such activities;

(v) Has the authority to control the management of or to be a controlling factor in the entity that holds 10 percent or greater interest in a fishing vessel or processor;

(vi) Absorbs all the costs and normal business risks associated with ownership and operation of a fishing vessel or processor;

(vii) Has the responsibility to procure insurance on the fishing vessel or processor, or assumes any liability in excess of insurance coverage;

(viii) Has the authority to control a fishery cooperative through 10–percent or greater ownership or control over a majority of the vessels in the cooperative, has the authority to appoint, remove, or limit the actions of or replace the chief executive officer of the cooperative, or has the authority to appoint, remove, or limit the actions of a majority of the board of directors of the cooperative. In such instance, all members of the cooperative are considered affiliates of the individual, corporation, or other business concern that exerts control over the cooperative; and

(ix) Has the ability through any other means whatsoever to control the entity that holds 10 percent or greater interest in a fishing vessel or processor.

*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.

*AI directed pollock fishery* means directed fishing for pollock in the AI under the allocation to the Aleut Corporation authorized at § 679.20(a)(5)(iii).

*Alaska local time (A.l.t.)* means the time in the Alaska time zone.

*Alaska Seamount Habitat Protection Areas* means management areas established for the protection of seamount habitat areas of particular concern in the BSAI and GOA. See Table 22 to this part.

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

*Aleut Corporation* means the Aleut Corporation incorporated pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

*Aleut Corporation entity* means a harvester or processor selected by the Aleut Corporation and approved by NMFS to harvest or process pollock in the AI directed pollock fishery.

*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).

*Aleutian Islands Coral Habitat Protection Areas* means management areas established for the protection of certain coral garden areas in reporting areas of the Aleutian Islands subarea and adjacent State waters. See Table 23 to this part.

*Aleutian Islands Habitat Conservation Area* means a management area established for the protection of fish habitat in reporting areas of the Aleutian Islands subarea and adjacent State waters. See Table 24 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).

*Amendment 80 cooperative* means a group of Amendment 80 QS holders who have chosen to fish cooperatively for Amendment 80 species under the requirements of subpart H to this part and who have applied for and received a CQ permit issued by NMFS to catch a quantity of fish expressed as a portion of the ITAC and crab and halibut PSC limits.

*Amendment 80 fishery* means an Amendment 80 cooperative or the Amendment 80 limited access fishery.

*Amendment 80 initial QS pool* means the sum of Amendment 80 QS units established for an Amendment 80 species in a management area based on the Amendment 80 official record and used for the initial allocation of Amendment 80 QS units and use cap calculations as described in § 679.92(a).

*Amendment 80 legal landing* means the total catch of Amendment 80 species in a management area in the BSAI by an Amendment 80 vessel that:

(1) Was made in compliance with state and Federal regulations in effect at that time; and

(2) Is recorded on a Weekly Production Report from January 20, 1998, through December 31, 2004; and

(3) Amendment 80 species caught while test fishing, fishing under an experimental, exploratory, or scientific activity permit, or fishing under the Western Alaska CDQ Program are not considered Amendment 80 legal landings.

*Amendment 80 limited access fishery* means the fishery conducted in the BSAI by persons with Amendment 80 QS permits, Amendment 80 LLP licenses, or Amendment 80 vessels assigned to the Amendment 80 limited access fishery.

*Amendment 80 LLP license means:*

(1) Any LLP license that is endorsed for groundfish in the Bering Sea subarea or Aleutian Islands subarea with a catcher/processor designation and that designates an Amendment 80 vessel in an approved application for Amendment 80 QS;

(2) Any LLP license that designates an Amendment 80 vessel at any time after the effective date of the Amendment 80 Program; and

(3) Any Amendment 80 LLP/QS license.

*Amendment 80 LLP/QS license* means an LLP license originally assigned to an Amendment 80 vessel with an Amendment 80 QS permit assigned to that LLP license.

*Amendment 80 mackerel QS* means Atka mackerel QS derived from Amendment 80 legal landings assigned to an Amendment 80 mackerel vessel.

*Amendment 80 mackerel vessel* means an Amendment 80 vessel that is not an Amendment 80 non-mackerel vessel.

*Amendment 80 non-mackerel QS* means Atka mackerel QS derived from Amendment 80 legal landings assigned to an Amendment 80 non-mackerel vessel.

*Amendment 80 non-mackerel vessel* means an Amendment 80 vessel that is less than 200 feet in length overall and that has been used to catch less than 2.0 percent of the total Amendment 80 legal landings of BSAI Atka mackerel.

*Amendment 80 official record* means information used by NMFS to determine eligibility to participate in the Amendment 80 Program and to assign specific catch privileges to Amendment 80 QS holders.

*Amendment 80 Program* means the Program implemented under subpart H of this part to manage Amendment 80 species fisheries by limiting participation in these fisheries to eligible participants.

*Amendment 80 PSC* means halibut and crab PSC as described in Table 35 to this part that are allocated to the Amendment 80 sector.

*Amendment 80 QS holder* means a person who is issued an Amendment 80 QS permit by NMFS.

*Amendment 80 QS permit* means a permit issued by NMFS that designates the amount of Amendment 80 QS units derived from the Amendment 80 legal landings assigned to an Amendment 80 vessel for each Amendment 80 species in a management area.

*Amendment 80 QS pool* means the sum of Amendment 80 QS units established for each Amendment 80 species in a management area based on the Amendment 80 official record.

*Amendment 80 QS unit* means a measure of the Amendment 80 QS pool based on Amendment 80 legal landings.

*Amendment 80 sector* means:

(1) Those Amendment 80 QS holders who own Amendment 80 vessels and hold Amendment 80 LLP licenses; or

(2) Those persons who hold Amendment 80 LLP/QS licenses.

*Amendment 80 species means* the following species in the following regulatory areas:

(1) BSAI Atka mackerel;

(2) Aleutian Islands Pacific ocean perch;

(3) BSAI flathead sole;

(4) BSAI Pacific cod;

(5) BSAI rock sole; and

(6) BSAI yellowfin sole.

*Amendment 80 vessel* means:

(1) The vessels listed in Column A of Table 31 to this part with the corresponding USCG Documentation Number listed in Column B of Table 31 to this part; or

(2) Any vessel that:

(i) Is not listed as an AFA trawl catcher/processor under sections 208(e)(1) through (20) of the American Fisheries Act; and

(ii) Has been used to harvest with trawl gear and process not less than 150 mt of Atka mackerel, flathead sole, Pacific cod, Pacific ocean perch, rock sole, turbot, or yellowfin sole in the aggregate in the BSAI during the period from January 1, 1997, through December 31, 2002.

*Ancillary product* (see Table 1 to this part).

*Appointed agent for service of process* means an agent appointed by the members of a fishery cooperative to serve on behalf of the cooperative. The appointed agent for service of process may be the owner of a vessel listed as a member of the cooperative or a registered agent.

*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 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) *Bottom contact gear* means nonpelagic trawl, dredge, dinglebar, pot, or hook-and-line gear.

(2) *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.

(3) *Dredge* means a dredge-like device designed specifically for and capable of taking scallops by being towed along the ocean floor.

(4) *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.

(5) *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.

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

(7) *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.

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

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

(10) *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.

(11) *Mobile bottom contact gear* means nonpelagic trawl, dredge, or dinglebar gear.

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

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

(14) *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.

(15) *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).

(16) *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.

(17) *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.

(18) *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 nonpelagic trawl.

(19) *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.

(20) *Snap gear* means a type of hook-and-line gear where the hook and gangion are attached to the groundline using a mechanical fastener or snap.

*Authorized officer* means:

(1) Any commissioned, warrant, or petty officer of the USCG;

(2) Any special agent or fishery enforcement officer of NMFS;

(3) Any officer designated by the head of any Federal or state agency that has entered into an agreement with the Secretary and the Commandant of the USCG to enforce the provisions of the Magnuson-Stevens Act or any other statute administered by NOAA; or

(4) Any USCG personnel accompanying and acting under the direction of any person described in paragraph (1) of this definition.

*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 Habitat Conservation Area* means a habitat protection area specified at Table 42 and Figure 16 to this part.

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

*Bowers Ridge Habitat Conservation Zone* means a management area established for the protection of the Bowers Ridge and Ulm Plateau habitat areas of particular concern in the BSAI. See Table 25 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 endorsement requirements.

*BSAI trawl limited access sector* means fisheries conducted in the BSAI by persons using trawl gear and who are not:

(1) Using an Amendment 80 vessel or an Amendment 80 LLP license; or

(2) Fishing for CDQ groundfish.

*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 recordkeeping 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* means community development quota and is the amount of a CDQ reserve that is allocated to a CDQ group.

*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 and is required in all logbooks and all reports submitted by the CDQ group, vessels harvesting CDQ, or processors taking deliveries of CDQ.

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

*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 any individual who is authorized by a CDQ group to sign documents submitted to NMFS on behalf of the CDQ group.

*CDQ reserve* means the amount of each groundfish TAC apportioned under § 679.20, the amount of each catch limit for halibut, or the amount of TAC for crab that has been set aside for purposes of the CDQ Program.

*CDQ species* means any species or species group that is allocated from a CDQ reserve to a CDQ group.

*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 NOAA Fisheries Office for Law Enforcement (OLE) special agent, an OLE fishery enforcement officer, or an OLE enforcement aide.

*Commercial fishing* means:

(1) For purposes of the salmon fishery, fishing for salmon for sale or barter.

(2) For purposes of the Pacific halibut fishery, fishing, the resulting catch of which either is, or is intended to be, sold or bartered but does not include subsistence fishing for halibut, as defined at 50 CFR 300.61.

*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 quota entity (CQE):* (for purposes of the IFQ Program) means a non-profit organization that:

(1) Did not exist prior to April 10, 2002;

(2) Represents at least one eligible community that is listed in Table 21 of this part; and,

(3) Has been approved by the Regional Administrator to obtain by transfer and hold QS, and to lease IFQ resulting from the QS on behalf of an eligible community.

*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.

*Cooperative quota (CQ):*

(1) *For purposes of the Amendment 80 Program* means:

(i) The annual catch limit of an Amendment 80 species that may be caught by an Amendment 80 cooperative while fishing under a CQ permit;

(ii) The amount of annual halibut and crab PSC that may be used by an Amendment 80 cooperative while fishing under a CQ permit.

(2) *For purposes of the Rockfish Program* means:

(i) The annual catch limit of a primary rockfish species or secondary species that may be harvested by a rockfish cooperative while fishing under a CQ permit;

(2) The amount of annual halibut PSC that may be used by a rockfish cooperative in the Central GOA while fishing under a CQ permit (see rockfish halibut PSC in this section).

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

*CQ permit* means a permit issued to an Amendment 80 cooperative under § 679.4(o)(2) or to a rockfish cooperative under § 679.4(n)(1).

*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 providers under this section; an observer or observer provider 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.

*Designated contact for the Aleut Corporation* means an individual who is designated by the Aleut Corporation for the purpose of communication with NMFS regarding the identity of selected AI directed pollock fishery participants and weekly reports required by § 679.5.

*Designated cooperative representative* means an individual who is designated by the members of a fishery cooperative to fulfill requirements on behalf of the cooperative including, but not limited to, the signing of cooperative fishing permit applications; submitting catcher vessel pollock cooperative catch reports, and submitting annual cooperative fishing reports.

*Designated primary processor* means an AFA inshore processor that is designated by an inshore pollock cooperative as the AFA inshore processor to which the cooperative will deliver at least 90 percent of its BS pollock allocation during the year in which the AFA inshore cooperative fishing permit is in effect.

*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 provider duties.

*Directed fishing* means:

(1) *Unless indicated otherwise*, 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.

(3) With respect to crab species under this part, the catching and retaining of any crab species.

(4) 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 percentage

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

*Discard* (see § 600.10.)

*Dockside sale* means, the transfer of IFQ halibut, CDQ 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).

*Economic data report (EDR)* means the report of cost, labor, earnings, and revenue data required under § 679.94.

*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 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:*

(1) 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:

(i) The community is located within 50 nm from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the 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;

(ii) That is certified by the Secretary of the Interior pursuant to the Native Claims Settlement Act (P.L. 92–203) to be a native village;

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

(iv) That has not previously deployed 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 investment. The community of Unalaska is excluded under this provision.

(2) For purposes of the IFQ program, a community that is listed in Table 21 to this part, and that:

(i) Is a municipality or census designated place, as defined in the 2000 United States Census, located on the GOA coast of the North Pacific Ocean;

(ii) Has a population of not less than 20 and not more than 1,500 persons based on the 2000 United States Census;

(iii) Has had a resident of that community with at least one commercial landing of halibut or sablefish made during the period from 1980 through 2000, as documented by the State of Alaska Commercial Fisheries Entry Commission; and

(iv) Is not accessible by road to a community larger than 1,500 persons based on the 2000 United States Census.

*Eligible community resident* means, for purposes of the IFQ Program, any individual who:

(1) Is a citizen of the United States;

(2) Has maintained a domicile in a rural community listed in Table 21 to this part for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another community, state, territory, or country, except that residents of the Village of Seldovia shall be considered to be eligible community residents of the City of Seldovia for the purposes of eligibility to lease IFQ from a CQE; and

(3) Is an IFQ crew member.

*Eligible rockfish harvester* means a person who is permitted by NMFS to hold rockfish QS.

*Eligible rockfish processor* means a person who is authorized by NMFS to receive and process primary rockfish species and secondary rockfish species harvested by a rockfish cooperative or in a rockfish limited access fishery.

*Eligible vessel* means, for the purposes of the CDQ Program, a fishing vessel designated by a CDQ group to harvest part or all of its CDQ allocation and approved by NMFS under §679.32(c).

*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).

*Federally permitted vessel* means a vessel that is named on either a Federal fisheries permit issued pursuant to §679.4(b) or on a Federal crab vessel permit issued pursuant to §680.4(k) of this chapter. Federally permitted vessels must conform to regulatory requirements for purposes of fishing restrictions in habitat conservation areas, habitat conservation zones, and habitat protection areas; for purposes of anchoring prohibitions in habitat protection areas; and for purposes of VMS requirements.

*Fishery cooperative or cooperative* means any entity cooperatively managing directed fishing for BS pollock and formed under section 1 of the Fisherman's Collective Marketing Act of 1934 (15 U.S.C. 521). In and of itself, a cooperative is not an AFA entity subject to excessive harvest share limitations, unless a single person, corporation or other business entity controls the cooperative and the cooperative has the power to control the fishing activity of its member vessels.

*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).

*Fishing trip* means: (1) Retention requirements (MRA, IR/IU, and pollock roe stripping).

(i) With respect to retention requirements of MRA, IR/IU, and pollock roe stripping, an operator of a catcher/processor or mothership processor 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:

(A) The effective date of a notification prohibiting directed fishing in the same area under § 679.20 or § 679.21;

(B) The offload or transfer of all fish or fish product

from that vessel;

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

(D) The vessel begins fishing with a different type of authorized fishing gear; or

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

(ii) With respect to retention requirements of MRA, IR/IU, and pollock roe stripping, an operator of a catcher vessel is engaged in a fishing trip from the time the harvesting of groundfish is begun until the offload or transfer of all fish or fish product from that vessel.

(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 monthership, 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 2c to this part and § 679.20(i)).

*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.

(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 2a 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 that results in the catch of any groundfish CDQ species, but that does not meet the definition of halibut CDQ fishing.

*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, 2a, 2c, and 2d to this part.

*Groundfish Retention Standard (GRS)* means the retention and utilization standard for groundfish described at § 679.27(j).

*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).

*Gulf of Alaska Coral Habitat Protection Areas* means management areas established for the protection of coral habitat areas of particular concern in the Gulf of Alaska. See Table 26 to this part.

*Gulf of Alaska Slope Habitat Conservation Areas* means management areas established for the protection of essential fish habitat on the Gulf of Alaska slope. See Table 27 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)).

*Halibut PSC sideboard limit* means the maximum amount of halibut PSC that may be used from July 1 through July 31 by eligible rockfish harvesters or rockfish cooperatives in the West Yakutat District, Central GOA, and Western GOA as established under § 679.82(d), as applicable.

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

*Harvest limit area for platoon managed Atka mackerel directed fishing* (applicable through December 31, 2002) for the purposes of §§ 679.4(b)(5)(vii), 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 limit area (HLA) for Atka mackerel directed fishing* for the purposes of §§ 679.4(b)(5)(vi)(B), 679.20(a)(8)(ii) and (iii), and 679.22(a)(8)(iv)(A), means the waters of statistical areas 542 and 543 that are (1) west of 178° W long. and (2) within 20 nm seaward of sites listed in Table 6 of this part that are 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).

*Hook-and-line catcher/processor* means a catcher/processor vessel that is named on a valid LLP license that is noninterim and transferable, or that is interim and subsequently becomes noninterim and transferable, and that is endorsed for Bering Sea or Aleutian Islands catcher/processor fishing activity, catcher/processor, Pacific cod, and hook-and-line gear.

*Hunger relief agency* means a tax-exempt organization with the primary purpose of feeding economically disadvantaged individuals free of charge (see § 679.26).

*IFQ 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.

*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 setline or other hook and line gear while commercial fishing in any IFQ regulatory area defined in this section.

*IFQ landing* means the unloading or transferring of any IFQ halibut, CDQ 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, CDQ halibut, IFQ sablefish, or products thereof.

*IFQ permit holder* means the person identified on an IFQ permit, at the time a landing is made (*see* §679.4(d)(1)).

*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 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.

*Initial rockfish QS pool* means the sum of rockfish QS units established for a Rockfish Program fishery based on the official Rockfish Program record and used for the initial allocation of rockfish QS units and use cap calculations as described in §679.82(a).

*Initial Total Allowable Catch (ITAC)* means the tonnage of a TAC for an Amendment 80 species in a management area that is available for apportionment to the BSAI trawl limited access sector and the Amendment 80 sector in a calendar year after deducting from the TAC the CDQ reserve, the incidental catch allowance the Regional Administrator determines is required on an annual basis, as applicable, to account for projected incidental catch of an Amendment 80 species by non-Amendment 80 vessels engaged in directed fishing for groundfish and, for Atka mackerel, the Atka mackerel jig allocation.

*Inshore component in the GOA* means the following three categories of the U.S. groundfish fishery that process groundfish harvested in the GOA:

(1) Shoreside processors.

(2) Vessels less than 125 ft (38.1 m) LOA that hold an inshore processing endorsement on their Federal fisheries permit, and that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of pollock and GOA Pacific cod.

(3) Stationary floating processors that hold an inshore processing endorsement on their Federal processor permit, and that process pollock and/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.

*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.

*Legal rockfish landing for purposes of qualifying for the Rockfish Program* means groundfish caught and retained in compliance with state and Federal regulations in effect at that time unless harvested and then processed as meal, and

(1) *For catcher vessels:* (i) The harvest of groundfish from the Central GOA regulatory area that is offloaded and recorded on a State of Alaska fish ticket during the directed fishing season for that primary rockfish species as established in Table 28 to this part; and

(ii) An amount of halibut PSC attributed to that sector during the directed fishing season for the primary rockfish species as established in Table 28 to this part.

(2) *For catcher/processors:* (i) The harvest of groundfish from the Central GOA regulatory area that is recorded on a Weekly Production Report based on harvests during the directed fishing season for that primary rockfish species as established in Table 28 to this part; and

(ii) An amount of halibut PSC attributed that sector during the directed fishing season for the primary rockfish species as established in Table 28 to this part.

*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. longitude, sablefish managed under the IFQ program, and pollock allocated to the Aleutian Islands directed pollock fishery and harvested by vessels 60 feet (18.3 m) LOA or less, are not considered license limitation groundfish.

*Licensed medical doctor* means a person who is licensed, certified, and/or registered in accordance with applicable Federal, state, or local laws and regulations, and is authorized to conduct the practice of medicine as defined by the state in which the person resides.

*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).

*Listed AFA catcher/processor* means an AFA catcher/processor permitted to harvest BS pollock under § 679.4(l)(2)(i).

*LLP license originally assigned to an Amendment 80 vessel* means the LLP license listed in Column C of Table 31 to

this part that corresponds to the vessel listed in Column A of Table 31 to this part with the USCG Documentation Number listed in Column B of Table 31 to this part.

*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 shoreside 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 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, prowfish, lingcod).

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

*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-allocated secondary species* (see *Rockfish Program species* in this section).

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

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

*Northern Bering Sea Research Area* means a habitat research area specified at Table 43 and Figure 17 to this part.

*Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area* means a habitat protection area specified at Table 44 and Figure 21 to this part.

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

*Observer* means any

(1) Individual who is awarded NMFS observer certification to carry out observer responsibilities under this part, and who is employed by an observer provider for the purposes of providing observer services to vessels, shoreside processors or stationary floating processors under this part; or

(2) NMFS staff or other individual authorized by NMFS deployed, at the direction of the Regional Administrator, aboard vessels or at shoreside processors or stationary floating processors for purposes of providing observer services as required for vessels, shoreside processors or stationary floating processors under § 679.50(c) or (d), or for other purposes of conservation and management of marine resources as specified by the Regional Administrator.

*Observer Program Office* means the administrative office of the Groundfish Observer Program located at Alaska Fisheries Science Center (see ADDRESSES, part 600).

*Observer Provider* means any person or commercial enterprise that is granted a permit by NMFS to provide observer services to vessels, shoreside processors, or stationary floating processors for observer coverage credit as required in subpart E of this part.

*Official AFA record* means the information prepared by the Regional Administrator about vessels and processors that were used to participate in the BSAI pollock fisheries during the qualifying periods specified in § 679.4(l). Information in the official AFA record includes vessel ownership information, documented harvests made from vessels during AFA qualifying periods, vessel characteristics, and documented amounts of pollock processed by pollock processors during AFA qualifying periods. The official AFA record is presumed to be correct for the purpose of determining eligibility for AFA permits. An applicant for an AFA permit will have the burden of proving correct any information submitted in an application that is inconsistent with the official record.

*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.

*Official Rockfish Program record* means information used by NMFS necessary to determine eligibility to participate in the Rockfish Program and assign specific harvest or processing privileges to Rockfish Program participants.

*Offshore component in the GOA* means all vessels not included in the definition of ''inshore component in the GOA'' that process groundfish harvested in the GOA.

*Operate a vessel* means for purposes of VMS that the fishing vessel is:

(1) Offloading or processing fish;

(2) In transit to, from, or between the fishing areas; or

(3) Fishing or conducting operations in support of fishing.

*Optimum yield* means:

(1) With respect to the salmon fishery, that amount of any species of salmon that 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).

*Opt–out fishery* means the fishery conducted by persons who are eligible rockfish harvesters holding an LLP license endorsed for catcher/processor activity and who are not participating in a rockfish cooperative or the rockfish limited access fishery in the catcher/processor sector.

*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(e)).

*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 salmon fishery, fishing other than commercial fishing.

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

*Pot catcher/processor* means a catcher/processor vessel that is named on a valid LLP license that is noninterim and transferable, or that is interim and subsequently becomes noninterim and transferable, and that is endorsed for Bering Sea or Aleutian Islands catcher/processor fishing activity, catcher/processor, Pacific cod, and pot gear.

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

*Primary community health aide* means a person who has completed the first of three levels of community health aide training offered by the Norton Sound Health Corporation at the Nome Hospital, the Kuskokwim Community College in Bethel, the Alaska Area Native Health Service in Anchorage, or another accredited training center.

*Primary product* (see Table 1 to this part).

*Primary rockfish species* (see *Rockfish Program species* in this section).

*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 pallasi*), king crab, and Tanner crab (see Table 2b to this part), 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).

*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* means prohibited species quota and is the amount of a PSQ reserve that is allocated to a CDQ group.

*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 reserve* means the percentage 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).

*PSQ species* means any species or species group that has been allocated from a PSQ reserve to a CDQ group.

*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.

(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.

*Registered buyer* means the person identified on a Registered Buyer permit (see § 679.4(d)(3)).

*Registered crab receiver (RCR)* means a person issued an RCR permit, described under 50 CFR part 680, by the Regional Administrator.

*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.

*Restricted AFA inshore processor* means an AFA inshore processor permitted to harvest pollock under § 679.4(l)(5)(i)(B).

*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*.

*Rockfish cooperative* means a group of eligible rockfish harvesters who have chosen to form a rockfish cooperative under the requirements of § 679.81(i) in order to combine and harvest fish collectively under a CQ permit issued by NMFS.

*Rockfish entry level fishery* means the trawl and longline gear fisheries conducted under the Rockfish Program by rockfish entry level harvesters and rockfish entry level processors.

*Rockfish entry level harvester* means a person who is authorized by NMFS to harvest fish in the rockfish entry level fishery and who is not an eligible rockfish harvester.

*Rockfish entry level processor* means a person who is authorized by NMFS to receive and process fish harvested under the rockfish entry level fishery and who is not an eligible rockfish processor.

*Rockfish halibut PSC* means the amount of halibut PSC that may be used by a rockfish cooperative in the Central GOA as assigned on a CQ permit.

*Rockfish limited access fishery* means the fishery for primary rockfish species conducted by persons who are eligible rockfish harvesters or eligible rockfish processors and who are not participating in a rockfish cooperative or opt–out fishery for that applicable sector.

*Rockfish Program* means the program authorized under the authority of Section 802 of the Consolidated Appropriations Act of 2004 (Public Law 108–199) and implemented under subpart G of this part to manage Rockfish Program fisheries.

*Rockfish Program fisheries* means one of following fisheries under the Rockfish Program:

(1) A rockfish cooperative in the catcher/processor sector;

(2) A rockfish cooperative in the catcher vessel sector;

(3) The limited access fishery in the catcher/processor sector;

(4) The limited access fishery in the catcher vessel sector;

(5) The opt–out fishery;

(6) The entry level trawl fishery; and

(7) The entry level longline gear fishery.

*Rockfish Program species* means the following species in the Central GOA regulatory area that are managed under the authority of the Rockfish Program:

(1) *Primary rockfish species* means northern rockfish, Pacific ocean perch, and pelagic shelf rockfish.

(2) *Secondary species* means the following species:

(i) Sablefish not allocated to the IFQ Program;

(ii) Thornyhead rockfish;

(iii) Pacific cod for the catcher vessel sector;

(iv) Rougheye rockfish for the catcher/processor sector; and

(v) Shortraker rockfish for the catcher/processor sector.

(3) *Non-allocated secondary species* means the following species:

(i) Aggregate forage fish, Atka mackerel, arrowtooth flounder, deep water flatfish, flathead sole, other rockfish, ''other species,'' pollock, rex sole, shallow water flatfish, and skates;

(ii) Pacific cod for the catcher/processor sector; and

(iii) Rougheye rockfish and shortraker rockfish for the catcher vessel sector.

*Rockfish Quota Share (QS)* means a permit the amount of which is based on legal rockfish landings for purposes of qualifying for the Rockfish Program and that are assigned to an LLP license.

*Rockfish QS pool* means the sum of rockfish QS units established for the

Rockfish Program fishery based on the official Rockfish Program record.

*Rockfish QS unit* means a measure of QS based on legal rockfish landings.

*Rockfish sideboard fisheries* means fisheries that are assigned a sideboard limit that may be harvested by participants in the Rockfish Program.

*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*).

*Salmon bycatch reduction intercooperative agreement (ICA)* is a voluntary chum and Chinook salmon catch avoidance agreement, as described at § 679.21(g) and approved by NMFS, for directed pollock fisheries in the Bering Sea subarea.

*Salmon Management Area* means the waters of the EEZ off the coast of Alaska (see Figure 23 to part 679), including parts of the North Pacific Ocean, Bering Sea, Chukchi Sea, and Beaufort Sea. The Salmon Management Area is divided into a West Area and an East Area with the border between the two at the longitude of Cape Suckling (143°53′36″ W):

(1) The West Area is the area of the EEZ off the coast of Alaska west of the longitude of Cape Suckling (143°53′36″ W). It includes the EEZ in the Bering Sea, Chukchi Sea, and Beaufort Sea, as well as the EEZ in the North Pacific Ocean west of Cape Suckling.

(2) The East Area is the area of the EEZ off the coast of Alaska east of the longitude of Cape Suckling (143°53′36″ W).

*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* means those bird species that habitually obtain their food from the sea below the low water mark.

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

*Secondary species* (see *Rockfish Program species* in this section).

*Sector for purposes of the Rockfish Program* means:

(1) *Catcher/processor sector:* those eligible rockfish harvesters who hold an LLP license with a catcher/processor designation and who are eligible to receive rockfish QS that may result in CQ that may be harvested and processed at sea.

(2) *Catcher vessel sector:* those eligible rockfish harvesters who hold an LLP license who are eligible to receive rockfish QS that may result in CQ that may not be harvested and processed at sea.

*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, purchases, or arranges to purchase, unprocessed

groundfish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving groundfish for personal consumption or bait.

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

*Sideboard limit for purposes of the Rockfish Program* means:

(1) The maximum amount of northern rockfish, Pacific ocean perch, and pelagic shelf rockfish that may be harvested by all vessels in the Rockfish Program in all areas as specified under § 679.82(d) through (h), as applicable;

(2) The maximum amount of BSAI Pacific cod that may be harvested by catcher vessels in all areas as specified under § 679.82(d) through (h), as applicable; or

(3) The maximum amount of halibut PSC that may be used by all vessels in all areas as specified under § 679.82(d) through (h), as applicable.

*Sideboard ratio for purposes of the Rockfish Program* means a portion of a sideboard limit for a groundfish fishery that is assigned to the catcher vessel sector or catcher/processor sector based on the catch history of vessels in that sector.

*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.

*St. Lawrence Island Habitat Conservation Area* means a habitat protection area specified at Table 45 to this part.

*St. Matthew Island Habitat Conservation Area* means a habitat protection area specified at Table 46 to this part.

*State* means the State of Alaska.

*Stationary floating processor* means a vessel of the United States operating as a processor in Alaska State waters that remains anchored or otherwise remains stationary in a single geographic location while receiving or processing groundfish harvested in the GOA or BSAI.

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

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

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

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

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

*Suspension,* as used in § 679.50, means action taken by a suspending official under § 679.50(j) to suspend certification of observers or observer providers 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'').

*Ten percent or greater direct or indirect ownership interest for purposes of the Amendment 80 Program and Rockfish Program* means a relationship between two or more persons in which one directly

or indirectly owns or controls a 10 percent or greater interest in, or otherwise controls, another person; or a third person which directly or indirectly owns or controls, or otherwise controls a 10 percent or greater interest in both. For the purpose of this definition, the following terms are further defined:

(1) *Person*. A person is a person as defined in this section.

(2) *Indirect interest*. An indirect interest is one that passes through one or more intermediate persons. A person's percentage of indirect interest in a second person is equal to the person's percentage of direct interest in an intermediate person multiplied by the intermediate person's direct or indirect interest in the second person.

(3) *Controls a 10 percent or greater interest*. A person controls a 10 percent or greater interest in a second person if the first person:

(i) Controls a 10 percent ownership share of the second person; or

(ii) Controls 10 percent or more of the voting or controlling stock of the second person.

(4) *Otherwise controls*. A person otherwise controls another person, if it has:

(i) The right to direct, or does direct, the business of the other person;

(ii) The right in the ordinary course of business to limit the actions of, or replace, or does limit or replace, the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the other person;

(iii) The right to direct, or does direct, the Rockfish Program fishery processing activities of that other person;

(iv) The right to restrict, or does restrict, the day-to-day business activities and management policies of the other person through loan covenants;

(v) The right to derive, or does derive, either directly, or through a minority shareholder or partner, and in favor of the other person, a significantly disproportionate amount of the economic benefit from the processing of fish by that other person;

(vi) The right to control, or does control, the management of, or to be a controlling factor in, the other person;

(vii) The right to cause, or does cause, the purchase or sale of fish processed by that person;

(viii) Absorbs all of the costs and normal business risks associated with ownership and operation of the other person; or

(ix) Has the ability through any other means whatsoever to control the other person.

*Transfer* means:

(1) *Groundfish fisheries of the GOA and BSAI*. Any loading, offloading, shipment or receipt of any IFQ sablefish or other 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 halibut and CDQ halibut fisheries*. Any loading, offloading, or shipment of any IFQ halibut or CDQ halibut 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)).

*Unlisted AFA catcher/processor* means an AFA catcher/processor permitted to harvest BS pollock under § 679.4(l)(2)(ii).

*Unrestricted AFA inshore processor* means an AFA inshore processor permitted to harvest pollock under § 679.4(l)(5)(i)(A).

*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.

(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.

### §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 crabs.* Additional regulations governing conservation and management of king crabs and Tanner crabs in the Bering Sea and Aleutian Islands Area are contained in 50 CFR part 680 and 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 salmon are set forth in §600.705 of this chapter.

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

(3) The Salmon Fishery east of Cape Suckling 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. 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).

(4) Commercial fishing for salmon in the EEZ west of Cape Suckling is not allowed except in three net fisheries managed by the State of Alaska as described in Section 2.2.2 and Appendix C of the Salmon FMP. For State of Alaska regulations governing these fisheries, see 5 Alaska Administrative Code 09 (Alaska Peninsula), 5 Alaska Administrative Code 21 (Cook Inlet), and 5 Alaska Administrative Code 24 (Prince William Sound).

(5) 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.

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

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

(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; 69 FR 877, Jan. 7, 2004; 70 FR 10232, Mar. 2, 2005]

## § 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 hired master permit or a CDQ hired master permit 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 parts 300 and 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 | Until next renewal cycle | Paragraph (d)(3) of this section |
| (B) Halibut & sablefish permits | Specified fishing year | Paragraph (d)(1) of this section |
| (C) Halibut & sablefish hired master permits | Specified fishing year | Paragraph (d)(2) of this section |
| (ii) CDQ Halibut | | |
| (A) Halibut permit | Specified fishing year | Paragraph (e) of this section |
| (B) Halibut hired master permit | Specified fishing year | Paragraph (e) of this section |
| (iii) AFA: | | |
| (A) Catcher/processor | Indefinite | Paragraph (l) of this section |
| (B) Catcher vessel | Indefinite | Paragraph (l) of this section |
| (C)Mothership | Indefinite | Paragraph (l) of this section |
| (D) Inshore processor | Indefinite | Paragraph (l) of this section |
| (E) Inshore cooperative | Calendar year | Paragraph (l) of this section |
| (F) Replacement vessel | Indefinite | Paragraph (l) 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) 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 |
| (x) Prohibited species donation program: | | |
| (A) Salmon | 3 years | § 679.26 |
| (B) Halibut | 3 years | § 679.26 |
| (xi) Special Subsistence Permits: | | |
| (A) Community Harvest Permit | 1 year | § 300.65 of this title |
| (B) Ceremonial or Educational Permit | 30 days | § 300.65 of this title |
| (xii) Rockfish Program: | | |
| (A) CQ | Specified fishing year | § 679.81(e)(4) |

| If program permit or card type is: | Permit is in effect from issue date through the end of: | For more information, see . . . |
|---|---|---|
| (B) Rockfish Limited Access Fishery | Specified fishing year | §679.81(e)(5) |
| (C) Optout Fishery | Specified fishing year | §679.81(e)(6) |
| (D) Rockfish Entry Level Fishery | Specified fishing year | §679.81(e)(7) |
| (xiii) Amendment 80 Program: | | |
| (A) Amendment 80 QS permit | Indefinite | §679.90(b). |
| (B) CQ permit | Specified fishing year | §679.91(b). |
| (C) Amendment 80 limited access fishery | Specified fishing year | §679.91(b). |

(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. For subsistence permits, refer to §300.65 of this title 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 enforcement 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 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) *Atka Mackerel, Pollock, and Pacific Cod Directed Fisheries.* (A) Indicate use of pot, hook-and-line, or trawl gear in the directed fisheries for pollock, Atka mackerel, or Pacific cod.

(B) Indicate directed fishing for Atka mackerel in the harvest limit area, as defined in § 679.2.

(vii) (Applicable through December 31, 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.

(iii) NMFS will reissue a Federal fisheries permit to any person who holds a Federal fisheries permit issued for a vessel if that vessel was used to make any legal rockfish landings and is subject to a sideboard limit as described under § 679.82(d) through (h).

(iv) NMFS will reissue a Federal fisheries permit to any person who holds a Federal fisheries permit issued to an Amendment 80 vessel.

(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, IFQ hired master permits, and Registered Buyer permits.* The permits described in this section are required in addition to the permit and licensing requirements prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to §300.62 of this title and in the permit requirements of this section.

(1) *IFQ permit.* (i) 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 the permit is revoked, suspended, or modified under 15 CFR part 904.

(ii) A legible copy of any IFQ permit that specifies the IFQ regulatory area and vessel length overall from which IFQ halibut or IFQ sablefish may be harvested by the IFQ permit holder 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.

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

(ii) A legible copy of an IFQ hired master permit issued to an eligible individual in accordance with §679.42(i) and (j) by the Regional Administrator must be onboard the vessel that harvests IFQ halibut or IFQ sablefish at all times that such fish are retained onboard by a hired master. Except as specified in §679.42(d), an individual that is issued an IFQ hired master permit must remain onboard the vessel used to harvest IFQ halibut or IFQ sablefish with that IFQ hired master permit during the IFQ fishing trip and at the landing site during all IFQ landings.

(iii) Each IFQ hired master permit issued by the Regional Administrator will display an IFQ permit number and the name of the individual authorized by the IFQ permit holder to land IFQ halibut or IFQ sablefish for debit against the IFQ permit holder's IFQ. In addition, IFQ hired master permits will also display the ADF&G vessel identification number of the authorized vessel.

(3) *Registered Buyer permit.* (i) A Registered Buyer permit authorizes the person identified on the permit to receive and make an IFQ landing by an IFQ permit holder or IFQ hired master permit holder or to receive and make a CDQ halibut landing by a CDQ permit holder or CDQ hired master permit 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.

(ii) A Registered Buyer permit is required of:

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

(B) Any person who harvests IFQ halibut, CDQ halibut or IFQ sablefish and transfers such fish in a dockside sale, outside of an IFQ regulatory area, or outside the State of Alaska.

(C) A vessel operator who submits a Departure Report (see §679.5(l)(4)).

(iii) A Registered Buyer permit is issued on a 3-year cycle by the Regional Administrator to persons that have a Registered Buyer application approved by the Regional Administrator.

(iv) A Registered Buyer permit is in effect from the first day of the year for which it is issued or from the date of issuance, whichever is later, 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.

(4) *Issuance.* The Regional Administrator will issue IFQ permits and IFQ hired master permits 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.

(5) *Transfer*. The quota shares and IFQ issued under this section are not transferable, except as provided under § 679.41. IFQ hired master permits and Registered Buyer permits issued under this paragraph (d) are not transferable.

(6) *Inspection*—(i) *IFQ permit and IFQ hired master permit*. (A) The IFQ permit holder must present a legible copy of the IFQ permit for inspection on request of any authorized officer or Registered Buyer receiving IFQ species.

(B) The IFQ hired master permit holder must present a legible copy of the IFQ permit and a legible copy of the IFQ hired master permit for inspection on request of any authorized officer or Registered Buyer receiving IFQ species.

(ii) *Registered Buyer permit*. A legible copy of the Registered Buyer permit must be present at the location of an IFQ landing or CDQ halibut landing and must be made available by an individual representing the Registered Buyer for inspection on request of any authorized officer.

(7) *Validity*. An IFQ permit issued under this part is valid only if the IFQ permit holder has paid all IFQ fees that are due as a result of final agency action as specified in §§ 679.45 and 679.5(l)(7)(ii).

(e) *Halibut CDQ permits and CDQ hired master permits*—(1) *Requirements*. (i) 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 (e) and of paragraph § 679.32(f) for the catch of CDQ halibut.

(ii) The CDQ group, vessel owner or operator, and Registered Buyer are subject to all of the IFQ prohibitions at § 679.7(f).

(2) *Halibut CDQ permit*. The CDQ group must obtain a halibut CDQ permit issued by the Regional Administrator. The vessel operator must have a legible 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.

(3) *Halibut CDQ hired master permits*. An individual must have onboard the vessel a legible copy of the halibut CDQ hired master permit issued by the Regional Administrator before landing any CDQ halibut. Each halibut CDQ hired master permit 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.

(4) *Alteration*. No person may alter, erase, mutilate, or forge a halibut CDQ permit, hired master permit, Registered Buyer permit, or any valid or current permit or document issued under this part. Any such permit or document that has been intentionally altered, erased, mutilated, or forged is invalid.

(5) *Landings*. A person may land CDQ halibut only if he or she has a valid halibut CDQ hired master permit. The person(s) holding the halibut CDQ hired master permit and the Registered buyer must comply with the requirements of § 679.5(g) and (l)(1) through (6).

(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 facility; 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 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 two dredges with a combined width of no more than 20 feet (6.1 m) 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 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 application 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 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 (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 license 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) *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 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 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 use fishing in the Salmon Management Area.

(4) *Duration.* Authorization under this paragraph (h) to engage in fishing for salmon in the 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 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 Salmon Management Area.

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

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

(D) Landed such salmon.

(ii) The following persons are not eligible to be issued a 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 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 Salmon Management Area by the applicant with power troll gear during any one of the years 1975 to 1977.

(7) *Issuance*. (i) Except as provided in subpart D of 15 CFR part 904, upon receipt of a properly completed application, the Regional Administrator will determine whether the permit eligibility conditions have been met, and if so, will issue a 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 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 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 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 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 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 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 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 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 Salmon Management Area for a period not lasting beyond the calendar year of the proposed transfer, if a person:

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

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

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

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

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

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

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

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

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

(vii) Upon approval of the application by the Regional Administrator, the authority of the permit holder to engage in commercial fishing for salmon using

power troll gear in the 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 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) Each vessel must have a crab species license, defined in § 679.2, issued by NMFS on board at all times it is engaged in fishing activities for the crab fisheries identified in this paragraph. A crab species license may be used only to participate in the fisheries endorsed on the license and on a vessel that complies with the vessel designation and MLOA specified on the license. NMFS requires a crab species license endorsed for participation in the following crab fisheries:

(A) Aleutian Islands red king crab in waters of the EEZ with an eastern boundary the longitude of Scotch Cap Light (164°44′ W. long.) to 53°30′ N. lat., then west to 165° W. long., a western boundary of 174° W. long., 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 174° W. long.;

(B) Aleutian Islands Area *C. opilio* and *C. bairdi* in waters of the EEZ with an eastern boundary the longitude of Scotch Cap Light (164°44′ W. long.) to 53°30′ N. lat., then west to 165° W. long, a western boundary of the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991), and a northern boundary of a line from the latitude of Cape Sarichef (54°36′ N. lat.), with a southern boundary of 54°30′ N. lat. to 171° W. long., and then south to 54 36′ N. lat.;

(C) Norton Sound red king and Norton Sound blue king in waters of the EEZ with a western boundary of 168° W. long., a southern boundary of 62° N. lat., and a northern boundary of 65°36′ N. lat.;

(D) Minor Species endorsement includes:

(*1*) Bering Sea golden king crab (*Lithodes aequispinus*) in waters of the EEZ east of the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991), with a southern boundary of 54°36′ N. lat. to 171° W. long., and then south to 54°30′ N. lat.

(*2*) Scarlet or deep sea king crab (*Lithodes couesi*) in the waters of the Bering Sea and Aleutian Islands Area;

(*3*) Grooved Tanner crab (*Chionoecetes tanneri*) in the waters of the Bering Sea and Aleutian Islands Area; and

(*4*) Triangle Tanner crab (*Chionoecetes angulatus*) in the waters of the Bering Sea and Aleutian Islands Area.

(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, except that a vessel fishing under authority of an LLP license endorsed only for trawl gear may fish for slope rockfish with non-trawl gear within the Gulf of Alaska Slope Habitat Conservation Areas, as described in Table 27 to this part.

(B) *Trawl/non-trawl.* A license will be assigned a trawl/non-trawl gear designation 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 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 groundfish, 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 groundfish 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 groundfish 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<br>(*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<br>(*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<br>(*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<br>(*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 documented harvest requirements for LLP groundfish license area endorsements:

| A groundfish 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 |
| (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 |

| A groundfish license will be assigned... | if... | during the period... | in... | from a vessel in vessel length category... | and that meets the requirements for a... |
|---|---|---|---|---|---|
| (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. |

(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 *C. opilio* and *C. bairdi* area/species endorsement | at least three documented harvests of *C. opilio* and *C. bairdi* 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 *C. opilio* and *C. bairdi* area/species endorsement at § 679.2. |
| (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) The RPP is the period from January 1, 1996, through February 7, 1998. To qualify for a crab species license, defined at § 679.2, a person must have made at least one documented harvest of any amount of LLP crab species from a vessel during the RPP and must have held a LLP qualifying fishing history at the time of that documented harvest. A LLP qualifying fishing history meets the documented harvest requirements at paragraphs (k)(5)(i) and (k)(5)(ii) of this section.

(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 allow purchase of LLP qualifying fishing history after the documented harvest in the RPP. To qualify for a LLP crab species license, a person who made a documented harvest of LLP crab species during the period from January 1, 1998, through February 7, 1998, must have obtained, or entered into a contract to obtain, the LLP qualifying fishing history by 8:36 a.m. Pacific time on October 10, 1998,

(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;

(*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 Would count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section if:

(*1*) Those harvests were made from the vessel that was used as the basis of eligibility for the license holder's LLP groundfish license, or

(*2*) Those harvests were made from a vessel that was not the vessel used as the basis of eligibility for the license holder's LLP groundfish license, provided that, at the time the endorsement-qualifying Pacific cod harvests were made, the person who owned such Pacific cod endorsement-qualifying fishing history also owned the fishing history of a vessel that satisfied the requirements for the LLP groundfish license.

(*3*) Notwithstanding the provisions of paragraph (k)(9)(iii)(F)(*2*) of this section, the LLP groundfish license qualifying history or the Pacific cod qualifying history of any one vessel may not be used to satisfy the requirements for issuance of more than one LLP groundfish license endorsed for the BSAI Pacific cod hook-and-line or pot gear fisheries.

(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 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.

(10) *Restrictions on licenses earned on AFA catcher vessels and listed AFA catcher/processors.* No person may use an LLP license that was derived in whole or in part from the qualifying fishing history of an AFA catcher vessel or a listed AFA catcher/processor to fish for groundfish or crab on a non-AFA catcher vessel or non-AFA catcher/processor. NMFS will identify all such licenses affected by this restriction and inform the holders of such licenses of this restriction through a restriction printed on the face of the license.

(11) *Rockfish QS*—(i) *General.* In addition to other requirements of this part, a license holder must have rockfish QS on his or her groundfish LLP license to conduct directed fishing for Rockfish Program fisheries with trawl gear.

(ii) *Eligibility requirements for rockfish QS.* The eligibility requirements to receive rockfish QS are established in § 679.80(b).

(12) *Amendment 80 Program.* In addition to other requirements of this part, a license holder must have an Amendment 80 LLP license to conduct fishing for an Amendment 80 species assigned to the Amendment 80 sector.

(l) *AFA permits*—(1) *General*—(i) *Applicability.* In addition to any other permit and licensing requirements set out in this part, any vessel used to engage

in directed fishing for a non-CDQ allocation of pollock in the BS and any shoreside processor, stationary floating processor, or mothership that receives pollock harvested in a non-CDQ directed pollock fishery in the BS must have a valid AFA permit onboard the vessel or at the facility location at all times while non-CDQ pollock is being harvested or processed. In addition, the owner of any vessel that is a member of a pollock cooperative in the BS must also have a valid AFA permit for every vessel that is a member of the cooperative, regardless of whether or not the vessel actually engages in directed fishing for pollock in the BS. Finally, an AFA permit does not exempt a vessel operator, vessel, or processor from any other applicable permit or licensing requirement required under this part or in other state or Federal regulations.

(ii) *Duration*—(A) *Expiration of interim AFA permits.* All interim AFA vessel and processor permits issued prior to January 1, 2002, will expire on December 31, 2002, unless extended or reissued by NMFS.

(B) *Duration of final AFA permits.* Except as provided in paragraphs (l)(5)(v)(B)(3) and (l)(6)(iii) of this section, AFA vessel and processor permits issued under this paragraph (l) will have no expiration date, and are valid indefinitely unless suspended or revoked.

(iii) *Application for permit.* NMFS will issue AFA vessel and processor permits to the current owner(s) of a qualifying vessel or processor if the owner(s) submits to the Regional Administrator a completed AFA permit application that is subsequently approved.

(iv) *Amended permits.* AFA vessel and processor permits may not be used on or transferred to any vessel or processor that is not listed on the permit. However, AFA permits may be amended to reflect any change in the ownership of the vessel or processor. An application to amend an AFA permit must include the following:

(A) The original AFA permit to be amended, and

(B) A completed AFA permit application signed by the new vessel or processor owner.

(2) AFA catcher/processor permits—(i) Listed AFA catcher/processors. NMFS will issue to an owner of a catcher/processor a listed AFA catcher/processor permit if the catcher/processor is one of the following (as listed in AFA paragraphs 208(e)(1) through (20)):

(A) AMERICAN DYNASTY (USCG documentation number 951307);

(B) KATIE ANN (USCG documentation number 518441);

(C) AMERICAN TRIUMPH (USCG documentation number 646737);

(D) NORTHERN EAGLE (USCG documentation number 506694);

(E) NORTHERN HAWK (USCG documentation number 643771);

(F) NORTHERN JAEGER (USCG documentation number 521069);

(G) OCEAN ROVER (USCG documentation number 552100);

(H) ALASKA OCEAN (USCG documentation number 637856);

(I) ENDURANCE (USCG documentation number 592206);

(J) AMERICAN ENTERPRISE (USCG documentation number 594803);

(K) ISLAND ENTERPRISE (USCG documentation number 610290);

(L) KODIAK ENTERPRISE (USCG documentation number 579450);

(M) SEATTLE ENTERPRISE (USCG documentation number 904767);

(N) US ENTERPRISE (USCG documentation number 921112);

(O) ARCTIC STORM (USCG documentation number 903511);

(P) ARCTIC FJORD (USCG documentation number 940866);

(Q) NORTHERN GLACIER (USCG documentation number 663457);

(R) PACIFIC GLACIER (USCG documentation number 933627);

(S) HIGHLAND LIGHT (USCG documentation number 577044);

(T) STARBOUND (USCG documentation number 944658).

(ii) *Unlisted AFA catcher/processors.* NMFS will issue to an owner of a catcher/processor an unlisted AFA catcher/processor permit if the catcher/processor is not listed in §679.4(l)(2)(i) and is determined by the Regional Administrator to have harvested more than 2,000 mt of pollock in the 1997 BSAI directed pollock fishery.

(iii) *Application for AFA catcher/processor permit.* A completed application

for an AFA catcher/processor permit must contain:

(A) *Vessel information*. The vessel name, ADF&G registration number, USCG documentation number, vessel telephone number (if any), gross tons, shaft horsepower, and registered length (in feet);

(B) *Ownership information*. The managing owner name(s), tax ID number(s), signature(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);

(3) *AFA catcher vessel permits*. NMFS will issue to an owner of a catcher vessel an AFA catcher vessel permit containing sector endorsements and sideboard restrictions upon receipt and approval of a completed application for an AFA catcher vessel permit.

(i) *Qualifying criteria*—(A) *Catcher vessels delivering to catcher/processors*. NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for delivery to a catcher/processor if the catcher vessel:

(*1*) Is one of the following (as listed in paragraphs 208(b)(1) through (7) of the AFA):

AMERICAN CHALLENGER (USCG documentation number 633219);

FORUM STAR (USCG documentation number 925863);

MUIR MILACH (USCG documentation number 611524);

NEAHKAHNIE (USCG documentation number 599534);

OCEAN HARVESTER (USCG documentation number 549892);

SEA STORM (USCG documentation number 628959);

TRACY ANNE (USCG documentation number 904859); or

(*2*) Is not listed in § 679.4(l)(3)(i)(A)(*1*) and is determined by the Regional Administrator to have delivered at least 250 mt and at least 75 percent of the pollock it harvested in the directed BSAI pollock fishery in 1997 to catcher/processors for processing by the offshore component.

(B) *Catcher vessels delivering to AFA motherships*. NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for delivery to an AFA mothership if the catcher vessel:

(*1*) Is one of the following (as listed in paragraphs 208(c)(1) through (20) and in subsection 211(e) of the AFA):

(*i*) ALEUTIAN CHALLENGER (USCG documentation number 603820);

(*ii*) ALYESKA (USCG documentation number 560237);

(*iii*) AMBER DAWN (USCG documentation number 529425);

(*iv*) AMERICAN BEAUTY (USCG documentation number 613847);

(*v*) CALIFORNIA HORIZON (USCG documentation number 590758);

(*vi*) MAR-GUN (USCG documentation number 525608);

(*vii*) MARGARET LYN (USCG documentation number 615563);

(*viii*) MARK I (USCG documentation number 509552);

(*ix*) MISTY DAWN (USCG documentation number 926647);

(*x*) NORDIC FURY (USCG documentation number 542651);

(*xi*) OCEAN LEADER (USCG documentation number 561518);

(*xii*) OCEANIC (USCG documentation number 602279);

(*xiii*) PACIFIC ALLIANCE (USCG documentation number 612084);

(*xiv*) PACIFIC CHALLENGER (USCG documentation number 518937);

(*xv*) PACIFIC FURY (USCG documentation number 561934);

(*xvi*) PAPADO II (USCG documentation number 536161);

(*xvii*) TRAVELER (USCG documentation number 929356);

(*xviii*) VESTERAALEN (USCG documentation number 611642);

(*xix*) WESTERN DAWN (USCG documentation number 524423);

(*xx*) LISA MARIE (USCG documentation number 1038717); or

(*2*) Is not listed in § 679.4(l)(3)(i)(B)(*1*) and is determined by the Regional Administrator to have delivered at least 250 mt of pollock for processing by motherships in the offshore component of the BSAI directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998, and September 1, 1998, and is not eligible for an endorsement to deliver pollock to catcher/processors under § 679.4(l)(3)(i)(A).

(C) *Catcher vessels delivering to AFA inshore processors*. NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for

delivery to an AFA inshore processor if the catcher vessel is:

(*1*) One of the following vessels authorized by statute to engage in directed fishing for inshore sector pollock:

HAZEL LORRAINE (USCG documentation number 592211),
LISA MARIE (USCG documentation number 1038717),
PROVIDIAN (USCG documentation number 1062183); or

(*2*) Is not listed in §679.4(l)(3)(i)(A), and:

(*i*) Is determined by the Regional Administrator to have delivered at least 250 mt of pollock harvested in the directed BSAI pollock fishery for processing by the inshore component in any one of the years 1996 or 1997, or between January 1, 1998, and September 1, 1998; or

(*ii*) Is less than 60 ft (18.1 meters) LOA and is determined by the Regional Administrator to have delivered at least 40 mt of pollock harvested in the directed BSAI pollock fishery for processing by the inshore component in any one of the years 1996 or 1997, or between January 1, 1998, and September 1, 1998.

(ii) *Application for AFA catcher vessel permit*. A completed application for an AFA catcher vessel permit must contain:

(A) *Vessel information*. The vessel name, ADF&G registration number, USCG documentation number, vessel telephone number (if any), gross tons, shaft horsepower, and registered length (in feet);

(B) *Ownership information*. The managing owner name(s), tax ID number(s), signature(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);

(C) *Vessel AFA qualification information*. The AFA catcher vessel permit sector endorsement(s) requested.

(D) [Reserved]

(E) *Vessel exemptions from AFA catcher vessel groundfish sideboard directed fishing closures*. An AFA catcher vessel permit may contain exemptions from certain groundfish sideboard directed fishing closures. If a vessel owner is requesting such an exemption, the application must provide supporting documentation that the catcher vessel qualifies for the exemption based on the following criteria. The Regional Administrator will review the vessel's catch history according to the following criteria:

(*1*) *BSAI Pacific cod*. For a catcher vessel to qualify for an exemption from AFA catcher vessel sideboards in the BSAI Pacific cod fishery, the catcher vessel must: Be less than 125 ft (38.1 m) LOA, have landed a combined total of less than 5,100 mt of BSAI pollock in the BSAI directed pollock fishery from 1995 through 1997, and have made 30 or more legal landings of Pacific cod in the BSAI directed fishery for Pacific cod from 1995 through 1997.

(*2*) *GOA groundfish species*. For a catcher vessel to qualify for an exemption from AFA catcher vessel sideboards in the GOA groundfish fisheries, the catcher vessel must: Be less than 125 ft (38.1 m) LOA, have landed a combined total of less than 5,100 mt of BSAI pollock in the BSAI directed pollock fishery from 1995 through 1997, and made 40 or more legal landings of GOA groundfish in a directed fishery for GOA groundfish from 1995 through 1997.

(4) *AFA mothership permits*. NMFS will issue to an owner of a mothership an AFA mothership permit if the mothership is one of the following (as listed in paragraphs 208(d)(1) through (3) of the AFA):

EXCELLENCE (USCG documentation number 967502);
GOLDEN ALASKA (USCG documentation number 651041); and
OCEAN PHOENIX (USCG documentation number 296779).

(i) [Reserved]

(ii) *Application for AFA mothership permit*. A completed application for an AFA mothership permit must contain:

(A) *Type of permit requested*. Type of processor and whether requesting an AFA cooperative endorsement.

(B) *Vessel information*. The mothership name, ADF&G processor code, USCG documentation number, Federal fisheries permit number, gross tons, shaft horsepower, and registered length (in feet).

(C) *Ownership information*. The managing owner name(s), tax ID number(s),

signature(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);

(5) *AFA inshore processor permits.* NMFS will issue to an owner of a shoreside processor or stationary floating processor an AFA inshore processor permit upon receipt and approval of a completed application.

(i) *Qualifying criteria*—(A) *Unrestricted processors.* NMFS will issue an unrestricted AFA inshore processor permit to a shoreside processor or stationary floating processor if the Regional Administrator determines that the processor facility processed annually more than 2,000 mt round-weight of pollock harvested in the inshore component of the directed BSAI pollock fishery during each of 1996 and 1997.

(B) *Restricted processors.* NMFS will issue a restricted AFA inshore processor permit to a shoreside processor or stationary floating processor if the Regional Administrator determines that the facility processed pollock harvested in the inshore component of the directed BSAI pollock fishery during 1996 or 1997, but did not process annually more than 2,000 mt round-weight of BSAI pollock during each of 1996 and 1997.

(ii) [Reserved]

(iii) *Single geographic location requirement.* An AFA inshore processor permit authorizes the processing of pollock harvested in the BS directed pollock fishery only in a single geographic location during a fishing year. For the purpose of this paragraph, ''single geographic location'' means:

(A) *Shoreside processors.* The physical location at which the land-based shoreside processor first processed pollock harvested from the BS subarea directed pollock fishery during a fishing year.

(B) *Stationary floating processors.* A location within Alaska state waters that is within 5 nm of the position in which the stationary floating processor first processed pollock harvested in the BS subarea directed pollock fishery during a fishing year.

(iv) *Application for permit.* A completed application for an AFA inshore processor permit must contain:

(A) *Type of permit requested.* Type of processor, whether requesting an AFA cooperative endorsement, and amount of BSAI pollock processed in 1996 and 1997;

(B) *Stationary floating processor information.* The vessel name, ADF&G processor code, USCG documentation number, Federal processor permit number, gross tons, shaft horsepower, registered length (in feet), and business telephone number, business FAX number, and business e-mail address used on board the vessel.

(C) *Shoreside processor information.* The processor name, Federal processor permit number, ADF&G processor code, business street address; business telephone and FAX numbers, and business e-mail address.

(D) *Ownership information.* The managing owner name(s), tax ID number(s), signature(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);

(v) *Authorization of new AFA inshore processors.* If the Council recommends and NMFS approves a combined BSAI pollock TAC that exceeds 1,274,900 mt for any fishing year, or in the event of the actual total loss or constructive loss of an existing AFA inshore processor, the Council may recommend that an additional inshore processor (or processors) be issued AFA inshore processing permits.

(A) *Timing of Council action.* At any time prior to or during a fishing year in which the combined BSAI pollock TAC exceeds 1,274,900 mt, or at any time after the actual total loss or constructive total loss of an existing AFA inshore processor, the Council may, after opportunity for public comment, recommend that an additional inshore processor (or processors) be issued AFA inshore processor permits.

(B) *Required elements in Council recommendation.* Any recommendation from the Council to add an additional inshore processor (or processors) must include the following information:

(*1*) *Identification of inshore processor(s).* The Council recommendation must identify by name the inshore processor(s) to which AFA inshore processor permits would be issued;

(*2*) *Type of AFA inshore processor permit(s)*. The Council recommendation must specify whether the identified inshore processor(s) should be issued a restricted or unrestricted AFA inshore processor permit.

(*3*) *Duration of permit*. The Council recommendation must specify the recommended duration of the permit. Permit duration may be for any duration from a single fishing season to the duration of section 208 of the AFA. Alternatively, the Council may recommend that the permit be valid as long as the conditions that led to the permit remain in effect. For example, the Council could recommend that a permit issued under this paragraph remain valid as long as the combined annual BSAI pollock TAC remains above 1,274,900 mt. or a lost AFA inshore processor is not reconstructed.

(*4*) *Council procedures*. The Council may establish additional procedures for the review and approval of requests to authorize additional AFA inshore processors. However, such procedures must be consistent with the Magnuson-Stevens Act, the national standards, and other applicable law.

(*5*) *Action by NMFS*. Upon receipt of a recommendation from the Council to authorize additional AFA inshore processors, NMFS may issue an AFA inshore processor permit to the identified inshore processor(s) of the type and duration recommended by the Council, provided the Council has met the requirements identified in paragraphs (l)(5)(v)(B)(*1*) through (*4*) of this section, and the owner(s) of the identified inshore processor has submitted a completed application for an AFA inshore processor permit that is subsequently approved.

(6) *Inshore cooperative fishing permits*—(i) *General*. NMFS will issue to an inshore catcher vessel cooperative formed pursuant to 15 U.S.C. 521 for the purpose of cooperatively managing directed fishing for pollock for processing by an AFA inshore processor an AFA inshore cooperative fishing permit upon receipt and approval of a completed application.

(ii) *Application for permit*. A completed application for an inshore cooperative fishing permit must contain the following information:

(A) *Cooperative contact information*. Name of cooperative; name of cooperative representative; and business mailing address, business telephone number, business fax number, and business e-mail address of the cooperative;

(B) *Designated cooperative processor*. The name and physical location of an AFA inshore processor that is designated in the cooperative contract as the processor to whom the cooperative has agreed to deliver at least 90 percent of its BS pollock catch;

(C) *Cooperative contract information*. A copy of the cooperative contract and a written certification that:

(*1*) The contract was signed by the owners of at least 80 percent of the qualified catcher vessels;

(*2*) The cooperative contract requires that the cooperative deliver at least 90 percent of its BS pollock catch to its designated AFA processor; and

(*3*) Each catcher vessel in the cooperative is a qualified catcher vessel and is otherwise eligible to fish for groundfish in the BSAI, has an AFA catcher vessel permit with an inshore endorsement, and has no permit sanctions or other type of sanctions against it that would prevent it from fishing for groundfish in the BSAI;

(D) *Qualified catcher vessels*. For the purpose of this paragraph, a catcher vessel is a qualified catcher vessel if it meets the following permit and landing requirements:

(*1*) *Permit requirements*—(*i*) *AFA permit*. The vessel must have a valid AFA catcher vessel permit with an inshore endorsement;

(*ii*) *LLP permit*. The vessel must be named on a valid LLP permit authorizing the vessel to engage in trawling for pollock in the Bering Sea subarea. If the vessel is more than 60 feet (18.3 m) LOA, the vessel must be named on a valid LLP permit endorsed for the AI to engage in trawling for pollock in the AI; and

(*iii*) *Permit sanctions*. The vessel has no permit sanctions that otherwise make it ineligible to engage in fishing for pollock in the BSAI.

(*2*) *Landing requirements*—(*i*) *Active vessels*. The vessel delivered more pollock harvested in the BS inshore directed pollock fishery to the AFA inshore processor designated under

paragraph (l)(6)(ii)(B) of this section than to any other shoreside processor or stationary floating processor during the year prior to the year in which the cooperative fishing permit will be in effect; or

(*ii*) *Inactive vessels*. The vessel delivered more pollock harvested in the BS inshore directed pollock fishery to the AFA inshore processor designated under paragraph (l)(6)(ii)(B) of this section than to any other shoreside processor or stationary floating processor during the last year in which the vessel delivered BS pollock harvested in the BS directed pollock fishery to an AFA inshore processor.

(*iii*) *Harvests under contract to a cooperative*. Any landings made by a vessel operating under contract to an inshore cooperative in which it was not a member will not be used to determine eligibility under paragraph (l)(6)(ii)(D)(*2*).

(E) *Business review letter*. A copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and of any response to such request;

(F) *Vessel information*. For each cooperative catcher vessel member: Vessel name, ADF&G registration number, USCG documentation number, AFA permit number; and

(G) *Certification of notary and applicant*. Signature and printed name of cooperative representative, date of signature, and notary stamp or seal, signature and date commission expires of a notary public.

(iii) *Duration of cooperative fishing permits*. Inshore cooperative fishing permits are valid for 1 calendar year.

(iv) *Addition or subtraction of vessels*. The cooperative representative must submit a new application to add or subtract a catcher vessel to or from an inshore cooperative fishing permit to the Regional Administrator prior to the application deadline. Upon approval by the Regional Administrator, NMFS will issue an amended cooperative fishing permit.

(v) *Application deadline*. An inshore cooperative fishing permit application and any subsequent contract amendments that add or subtract vessels must be received by the Regional Administrator by December 1 prior to the year in which the inshore cooperative fishing permit will be in effect. Inshore cooperative fishing permit applications or amendments to inshore fishing cooperative permits received after December 1 will not be accepted by the Regional Administrator for the subsequent fishing year.

(7) *Replacement vessels*. (i) In the event of the actual total loss or constructive total loss of an AFA catcher vessel, AFA mothership, or AFA catcher/processor, the owner of such vessel may replace such vessel with a replacement vessel. The replacement vessel will be eligible in the same manner as the original vessel after submission and approval of an application for an AFA replacement vessel, provided that:

(A) Such loss was caused by an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel, or any other event not caused by the willful misconduct of the owner or agent;

(B) The replacement vessel was built in the United States and, if ever rebuilt, rebuilt in the United States;

(C) The USCG certificate of documentation with fishery endorsement for the replacement vessel is issued within 36 months of the end of the last year in which the eligible vessel harvested or processed pollock in the directed pollock fishery;

(D) If the eligible vessel is greater than 165 ft (50.3 meters (m)) in registered length, or more than 750 gross registered tons, or has engines capable of producing more than 3,000 shaft horsepower, the replacement vessel is of the same or lesser registered length, gross registered tons, and shaft horsepower;

(E) If the eligible vessel is less than 165 ft (50.3 m) in registered length, fewer than 750 gross registered tons, and has engines incapable of producing more than 3,000 shaft horsepower, the replacement vessel is less than each of such thresholds and does not exceed by more than 10 percent the registered length, gross registered tons, or shaft horsepower of the eligible vessel; and

(F) If the replacement vessel is already an AFA catcher vessel, the inshore cooperative catch history of

both vessels may be merged in the replacement vessel for the purpose of determining inshore cooperative allocations except that a catcher vessel with an endorsement to deliver pollock to AFA catcher/processors may not be simultaneously endorsed to deliver pollock to AFA motherships or AFA inshore processors.

(G) Replacement of replacement vessels. In the event that a permitted replacement vessel is lost under the circumstances described in paragraph (l)(7)(i)(A) of this section, the replacement vessel may be replaced according to the provisions of this paragraph (l)(7). However, the maximum length, tonnage, and horsepower of any subsequent replacement vessels are determined by the length, tonnage, and horsepower of the originally qualifying AFA vessel and not by those of any subsequent replacement vessels.

(ii) *Application for permit*. A completed application for an AFA permit for a replacement vessel must contain:

(A) *Identification of lost AFA eligible vessel*.

(*1*) Name, ADF&G vessel registration number, USCG documentation number, AFA permit number, gross tons, shaft horsepower, and registered length from USCG documentation of the vessel;

(*2*) Name(s), tax ID number(s), business mailing address(es), telephone number(s), FAX number(s), and e-mail address(es) of owner(s);

(*3*) The last year in which the vessel harvested or processed pollock in a BSAI directed pollock fishery; and

(*4*) Description of how the vessel was lost or destroyed. Attach a USCG Form 2692 or insurance papers to verify the claim.

(B) *Identification of replacement vessel*.

(*1*) Name, ADF&G vessel registration number, USCG documentation number, gross tons, shaft horsepower, registered length, net tons from USCG documentation, length overall (in feet), and Federal Fisheries Permit number of the vessel;

(*2*) Name(s), tax ID number(s), business mailing address(es), business telephone number(s), business FAX number(s), and business e-mail address(es) of the owner(s);

(*3*) YES or NO indication of whether the vessel was built in the United States; and

(*4*) YES or NO indication of whether the vessel has ever been rebuilt, and if so whether it was rebuilt in the United States.

(C) *Certification of applicant and notary*. Signature(s) and printed name(s) of owner(s) and date of signature; signature, notary stamp or seal of notary public, and date notary commission expires.

(8) *Application evaluations and appeals*—(i) *Initial evaluation*. The Regional Administrator will evaluate an application for an AFA fishing or processing permit submitted in accordance with paragraph (1) of this section and compare all claims in the application with the information in the official AFA record. Claims in the application that are consistent with information in the official AFA record will be accepted by the Regional Administrator. Inconsistent claims in the application, unless supported by evidence, will not be accepted. An applicant who submits claims based on inconsistent information or fails to submit the information specified in the application for an AFA permit will be provided a single 60–day evidentiary period to submit the specified information, submit evidence to verify the applicant's inconsistent claims, or submit a revised application with claims consistent with information in the official AFA record. An applicant who submits claims that are inconsistent with information in the official AFA record has the burden of proving that the submitted claims are correct.

(ii) *Additional information and evidence*. The Regional Administrator will evaluate the additional information or evidence to support an applicant's claims submitted within the 60–day evidentiary period. 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 AFA record will be amended and the information will be used in determining whether the applicant is eligible for an AFA permit. 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 that the applicant did not meet the burden of proof to change information in the official AFA record.

(iii) *Sixty-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 AFA 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 required information 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 the purposes of the initial administrative determination.

(iv) *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 AFA 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 under the appeals procedures set out at § 679.43. An applicant who avails himself or herself of the opportunity to appeal an IAD will receive an interim AFA permit that authorizes a person to participate in an AFA pollock fishery and will have the specific endorsements and designations based on the claims in his or her application. An interim AFA permit based on claims contrary to the Official Record will expire upon final agency action.

(v) *Effect of cooperative allocation appeals.* An AFA inshore cooperative may appeal the pollock quota share issued to the cooperative under § 679.62; however, final agency action on the appeal must occur prior to December 1 for the results of the appeal to take effect during the subsequent fishing year.

(m) *Participation in the AI directed pollock fishery*—(1) *Applicability.* Harvesting pollock in the AI directed pollock fishery and processing pollock taken in the AI directed pollock fishery is authorized only for those harvesters and processors that are selected by the Aleut Corporation and approved by the Regional Administrator to harvest pollock in the AI directed pollock fishery or to process pollock taken in the AI directed pollock fishery.

(2) *Annual selection of participants by the Aleut Corporation.* Each year and at least 14 days before harvesting pollock in the AI directed pollock fishery or processing pollock harvested in the AI directed pollock fishery, a participant must be selected by the Aleut Corporation and the following information for each participant must be submitted by the designated contact to the Regional Administrator:

(i) Vessel or processor name;

(ii) Federal fisheries permits number issued under paragraph (b) of this section or Federal processor permit issued under paragraph (f) of this section; and

(iii) The fishing year which participation approval is requested.

(3) *Participant approval.* (i) Participants must have:

(A) A valid Federal fisheries permit or Federal processing permit, pursuant to paragraphs (b) and (f) of this section, respectively;

(B) A valid fishery endorsement on the vessel's U.S. Coast Guard documentation for the vessel's participation in the U. S. fishery; and

(C) A valid AFA permit under: paragraph (l)(2) of this section for all catcher/processors, paragraph (l)(3) of this section for all catcher vessels greater than 60 ft (18.3 m) LOA, or paragraph (l)(4) of this section for all motherships.

(ii) Each participant selected by the Aleut Corporation that meets the conditions under paragraph (m)(3)(i) of this section will be approved by the Regional Administrator for participation in the AI directed pollock fishery.

(iii) The Regional Administrator will provide to the designated contact for the Aleut Corporation the identity of each approved participant and the date upon which participation in the AI directed pollock fishery may commence. The Aleut Corporation shall forward to the approved participants a copy of NMFS's approval letter before harvesting or processing occurs.

(iv) A copy of NMFS' approval letter for participating in the AI directed pollock fishery during the fishing year must be on site at the shoreside processor or stationary floating processor, or on board the vessel at all times and must be presented for inspection upon the request of any authorized officer.

(4) *Participant disapproval.* (i) The Regional Administrator shall disapprove any participant that does not meet the conditions under paragraph (m)(3)(i) of this section. The Regional Administrator will notify in writing the Aleut Corporation and the selected participant of the disapproval. The selected participant will have 30 days in which to submit proof of meeting the requirements to participate in the AI directed pollock fishery.

(ii) The Regional Administrator will prepare and send an initial administrative determinations (IAD) to the selected participant following the expiration of the 30-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the selected participant fails to support the participant's claims and is insufficient to rebut the presumption that the disapproval for participation in the AI directed pollock fishery is correct or if the additional information or evidence is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies in the information required, including the evidence submitted in support of the information. The IAD also will indicate which claims cannot be approved based on the available information or evidence. A participant who receives an IAD may appeal under the appeals procedures set out at § 679.43. A participant who avails himself or herself of the opportunity to appeal an IAD will receive an interim approval from NMFS authorizing participation in the AI directed pollock fishery. An interim approval based on claims contrary to the final determination will expire upon final agency determination.

(n) *Rockfish Program*—(1) *Cooperative quota (CQ).* (i) A CQ permit is issued annually to a rockfish cooperative if the members of that rockfish cooperative have submitted a complete and timely application for CQ as described at § 679.81(e)(4) that is subsequently approved by the Regional Administrator. A CQ permit authorizes a rockfish cooperative to participate in the Rockfish Program. The CQ permit will indicate the amount of primary rockfish species and secondary species that may be harvested by the rockfish cooperative, and the amount of rockfish halibut PSC that may be used by the rockfish cooperative. The CQ permit will list the members of the rockfish cooperative, the vessels that are authorized to fish under the CQ permit for that rockfish cooperative, and the eligible rockfish processor with whom that rockfish cooperative is associated, if applicable.

(ii) A CQ permit is valid under the following circumstances:

(A) Until the end of the year for which the CQ permit is issued;

(B) Until the amount harvested is equal to the amount specified on the CQ permit for all primary rockfish species, secondary species, and rockfish halibut PSC;

(C) Until the permit is modified by transfers under § 679.81(f);

(D) Until the permit is voided through an approved rockfish cooperative termination of fishing declaration; or

(E) Until the permit is revoked, suspended, or modified pursuant to § 679.43 or under 15 CFR part 904.

(iii) A legible copy of the CQ permit must be carried on board the vessel(s) used by the rockfish cooperative.

(2) *Rockfish cooperative termination of fishing declaration*. (i) A rockfish cooperative may choose to extinguish its CQ permit through a declaration submitted to NMFS.

(ii) This declaration may only be submitted to NMFS using the following methods:

(A) Fax: 907–586–7354;

(B) Hand Delivery or Carrier. NMFS, Room 713, 709 4th Street, Juneau, AK 99801; or

(C) By mail: Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668

(iii) A Rockfish cooperative termination of fishing declaration must include the following information:

(A) CQ permit number;

(B) The date the declaration is submitted; and

(C) The rockfish cooperative's legal name, NMFS Person ID, the permanent business address, telephone number, fax number, and e-mail address (if available) of the rockfish cooperative or its designated representative, and the printed name and signature of the designated representative of the rockfish cooperative.

(iv) NMFS will review the declaration and notify the rockfish cooperative's designated representative once the declaration has been approved.

(v) Upon approval of a declaration, the CQ for all primary rockfish species and secondary species will be set to zero, rockfish halibut PSC assigned to that rockfish cooperative will be reapportioned under the provisions described at § 679.21(d)(5)(iii)(B) and that rockfish cooperative may not receive any CQ for any primary rockfish species, secondary species, and rockfish halibut PSC by transfer for the remainder of that calendar year.

(3) *Eligible rockfish processor*. (i) The Regional Administrator will issue an eligible rockfish processor permit to persons who have submitted a complete application described at § 679.81(d), that is subsequently approved by the Regional Administrator. An eligible rockfish processor permit authorizes a shoreside processor or stationary floating processor to receive fish harvested under the Rockfish Program, except for fish harvested under the rockfish entry level fishery.

(ii) A permit is valid under the following circumstances:

(A) Until the permit is modified by transfers under § 679.81(g); or

(B) Until the permit is revoked, suspended, or modified pursuant to § 679.43 or 15 CFR part 904.

(iii) A legible copy of the eligible rockfish processor permit must be available at the facility at which Rockfish Program fish are received.

(o) *Amendment 80 Program*—(1) *Amendment 80 QS permit*. (i) An Amendment 80 QS permit is issued to a person who submits a timely and complete application for Amendment 80 QS that is approved by NMFS under § 679.90(b).

(ii) An Amendment 80 QS permit is assigned to the owner of an Amendment 80 vessel that gave rise to that permit under the provisions of § 679.90(b), unless the Amendment 80 QS permit is assigned to the holder of an LLP license originally assigned to an Amendment 80 vessel under the provisions of § 679.90(d) or § 679.90(e).

(iii) If an Amendment 80 QS permit is assigned to the owner of an Amendment 80 vessel the Amendment 80 QS permit will designate the Amendment 80 vessel to which that permit is assigned.

(iv) If an Amendment 80 QS permit is assigned to the holder of an LLP license originally assigned to an Amendment 80 vessel under the provisions of § 679.90(d)(2)(ii) or § 679.90(e)(4), the Amendment 80 QS permit will be permanently affixed to the LLP license originally assigned to an Amendment 80 vessel which will be designated as an Amendment 80 LLP/QS license.

(v) Amendment 80 QS units assigned to an Amendment 80 QS permit are non-severable from that Amendment 80 QS permit and if transferred, the Amendment 80 QS permit must be transferred in its entirety to another

person under the provisions of §679.90(e).

(vi) A person must hold an Amendment 80 LLP license to hold an Amendment 80 QS permit.

(2) *Amendment 80 Cooperative quota (CQ) permit.* (i) A CQ permit is issued annually to an Amendment 80 cooperative that submits a timely and complete application for CQ that is approved by NMFS as described at §679.91(b)(4).

(ii) A CQ permit authorizes an Amendment 80 cooperative to catch a quantity of fish expressed as a portion of the ITAC and halibut and crab PSC that may be held for exclusive use by that Amendment 80 cooperative.

(iii) A CQ permit will indicate the amount of Amendment 80 species that may be caught by the Amendment 80 cooperative, and the amount of Amendment 80 crab and halibut PSC that may be used by the Amendment 80 cooperative. The CQ permit will list the members of the Amendment 80 cooperative, Amendment 80 LLP licenses, Amendment 80 QS permits, and Amendment 80 vessels that are assigned to that Amendment 80 cooperative.

(iv) The amount of CQ listed on the CQ permit will be based on:

(A) The amount of Amendment 80 QS units held by all members of the Amendment 80 cooperative designated on a timely and complete application for CQ as described under §679.91(b) that is approved by NMFS;

(B) The Amendment 80 QS units derived from Amendment 80 QS permits held by members of the Amendment 80 cooperative who have submitted a timely and complete EDR for all Amendment 80 QS permits held by that member as described under §679.94; and

(C) The amount of CQ as modified by an application for CQ transfer as described under §679.91(g) that is approved by NMFS.

(v) A CQ permit is valid until whichever of the following occurs first:

(A) Until the end of the year for which the CQ permit is issued; or

(B) Until the permit is revoked, suspended, or modified pursuant to §679.43 or under 15 CFR part 904.

(vi) A legible copy of the CQ permit must be carried onboard an Amendment 80 vessel assigned to an Amendment 80 cooperative when fishing in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(3) *Amendment 80 limited access fishery permit.* (i) An Amendment 80 limited access fishery permit is required for an Amendment 80 QS holder to catch, process, and receive Amendment 80 species assigned to the Amendment 80 limited access fishery, or use halibut and crab PSC assigned to the Amendment 80 limited access fishery. An Amendment 80 limited access fishery permit is issued annually to an Amendment 80 QS holder who:

(A) Has submitted a timely and complete application for the Amendment 80 limited access fishery as described at §679.91(b)(4) that is approved by NMFS, or

(B) Is assigned to the Amendment 80 limited access fishery by NMFS as described at §679.91(a)(3)(ii); and

(C) Has submitted a timely and complete EDR for all Amendment 80 QS permits held by that person as described under §679.94.

(ii) An Amendment 80 limited access fishery permit is valid until whichever of the following occurs first:

(A) Until the end of the year for which the Amendment 80 limited access fishery permit is issued; or

(B) Until the permit is revoked, suspended, or modified pursuant to §679.43 or under 15 CFR part 904.

(iii) A legible copy of the Amendment 80 limited access fishery permit must be carried onboard an Amendment 80 vessel assigned to the Amendment 80 limited access fishery when fishing in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

[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.

### §679.5 Recordkeeping and reporting (R&R).

(a) *General requirements*—(1) *Applicability*—(i) *Who must comply with R&R requirements?* Participants in the groundfish fisheries, the IFQ fisheries, and the CDQ fisheries must comply with the

appropriate R&R requirements of paragraphs (l)(i)(A) through (C) of this section. Sablefish are managed under both the IFQ Program and the Groundfish Program. As such, sablefish must be recorded and reported as groundfish and also as IFQ sablefish.

(A) *Groundfish.* Except as provided in paragraph (a)(1)(iii) of this section, the owner, operator, or manager of the following participants must comply with the appropriate groundfish R&R requirements provided at paragraphs (a) through (k), (m), (o), and (p) of this section; § 679.28(b), (f), and (g):

(*1*) 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.

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

(*3*) 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).

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

(*5*) 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.''

(B) *IFQ halibut and sablefish.* The IFQ permit holder, IFQ hired master permit holder, or Registered Buyer must comply with the R&R requirements provided at paragraphs (g), (k), and (l) of this section.

(C) *CDQ halibut.* The CDQ permit holder, CDQ cardholder, or Registered Buyer must comply with the R&R requirements provided in paragraphs (g), (k), and (l)(1) through (6) of this section.

(ii) *What fish need to be recorded and reported?* (A) *Groundfish, prohibited species, and forage fish received.* A shoreside processor, stationary floating processor, mothership, or buying station subject to R&R requirements must record and report all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), and forage fish (see Table 2c to this part) received, including fish received from vessels not required to have a federal fisheries permit; and fish received under contract for handling or processing for another processor.

(B) *Groundfish, prohibited species, and forage fish reported by catcher vessels and buying stations.* A shoreside processor, stationary floating processor, or mothership subject to R&R requirements must record and report discard or disposition information for all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), and forage fish (see Table 2c to this part) reported to it by catcher vessels or buying stations.

(C) *Groundfish, prohibited species, and forage fish transferred.* A shoreside processor, stationary floating processor, or mothership subject to R&R requirements must record and report all groundfish (see Table 2a to this part), prohibited species (see Table 2b to this part), and forage fish (see Table 2c to this part) transferred out of the facility or off the vessel.

(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.

(C) Any catcher vessel that is using pot gear in the CR crab fisheries must use a combined groundfish/IFQ logbook to record all CR crab.

(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) [Reserved]

(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.

(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 |
| | (*ii*) 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 . . . | And 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 | Receipt, purchase or arrange to purchase, or processing of groundfish. | When checked in or processing | When not checked in or processing. |
| (C) MS | Receipt, discard, or processing of groundfish. | When checked in or processing | When not checked in or not processing. |
| (D) CP | Harvest, discard, or processing of groundfish. | When checked in or processing | When not checked in or not processing. |
| (E) 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 = CP; BS = Buying station.

(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 | No deliveries received for a day |
| | (*2*) DCPL, WPR | No deliveries received during a weekly reporting period |
| (B) No landings | (*1*) DCPL, DPR | No landings occurred for a day |
| | (*2*) DCPL, WPR | No landings occurred during a weekly reporting period |
| (C) No production | (*1*) DCPL, DPR | No production occurred for a day |
| | (*2*) DCPL, WPR | No production occurred for a weekly reporting period |
| (D) No discard or Disposition | (*1*) DCPL, DFL, BSR or DPR | No discards or dispositions occurred for a day |
| | (*2*) DCPL, WPR | 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 weight of groundfish by haul. If the owner or operator of the vessel is required to comply with the GRS program described at § 679.27(j), the operator or manager must enter the round weight total of all catch by haul as measured by the NMFS-approved scale. | 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 |
| (*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 | MS, SS, SFP |
| | (*ii*) BSR | 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 balance 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 |

(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 managed 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).<br>(*ii*) Length of skate to the nearest foot (optional, but may be required by IPHC regulations).<br>(*iii*) Size of hooks, hook spacing in feet, and number of hooks per skate (optional, but may be required by IPHC regulations).<br>(iv) Number of skates set<br>(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.

(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 *C. opilio* 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, 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.

| 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) |
| (F) AIP | n/a | Subpart F to part 679 |

(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.

(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:<br>(*1*) Occurs on site after receipt of groundfish from a CV or BS;<br>(*2*) Occurs during processing of groundfish received from a CV or BS.<br>(*3*) Was reported on a blue DFL received from a CV delivering groundfish;<br>(*4*) Was reported on a BSR received from a BS delivering groundfish, if different from blue DFL |
| (B) CV, C/P | By noon each day to record the previous day's discard/disposition. |
| (C) BS | By noon each day to record the previous day's discard/disposition that:<br>(*1*) Was reported on a blue DFL received from a CV delivering groundfish.<br>(*2*) Occurs on BS after receipt of harvest from a CV.<br>(*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).

(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) 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 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.

(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.

(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 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&Gfish 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 (l)(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 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. |
| (B) Yellow | Submit quarterly to:<br>NOAA Office of Enforcement,<br>Alaska Region<br>Logbook Program,<br>P.O. Box 21767<br>Juneau, AK 99802–1767<br>on the following schedule:<br>1st quarter by May 1 of that fishing year<br>2nd quarter by August 1 of that fishing year<br>3rd quarter by November 1 of that fishing year<br>4th quarter by February 1 of the following fishing year |
| (C) Blue | (*1*) *Catcher vessel.* 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.<br>(*2*) *Buying station.* 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 | *Longline and pot gear DFL and DCPL.* 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. |

| If logsheet is ... | Then, the operator or manager must... |
|---|---|
| (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:

| 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) *Transfer comparison.* The operator, manager, Registered Buyer, or Registered Crab Receiver must refer to Table 13 to this part for paperwork submittal, issuance, and possession requirements for each type of transfer activity of non-IFQ groundfish, IFQ

halibut, IFQ sablefish, CDQ halibut, and crab rationalization (CR) crab.

(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 logbook 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 gear catcher vessel DFL and catcher/processor DCPL*. (i) In addition to information required at paragraphs (a) and (b) of this section:

(A) *Groundfish fisheries*. (*1*) The operator of a catcher vessel using longline or pot gear to harvest groundfish and that retains any groundfish from the GOA, or BSAI, must maintain a longline and pot gear DFL.

(*2*) The operator of a catcher/processor using longline or pot gear to harvest groundfish and that retains any groundfish from the GOA, or BSAI, must maintain a longline and pot gear DCPL.

(B) *IFQ halibut, CDQ halibut, and IFQ sablefish fisheries*. (*1*) The operator of a catcher vessel using longline or pot gear to harvest IFQ sablefish, IFQ halibut, or CDQ halibut from the GOA, or BSAI, must maintain a longline and pot gear DFL.

(*2*) The operator of a catcher/processor using longline or pot gear to harvest IFQ sablefish, IFQ halibut, or CDQ halibut from the GOA, or BSAI, must maintain a longline and pot gear DCPL.

(C) *CR fisheries*. (*1*) The operator of a catcher vessel using pot gear to harvest CR crab from the BSAI, must maintain a longline and pot gear DFL.

(*2*) The operator of a catcher/processor using pot gear to harvest CR crab from the BSAI, must maintain a longline and pot gear DCPL.

(ii) *Required information*. The operator of a catcher vessel or catcher/processor identified in paragraph (c)(1)(i) of this section must record in the DFL or DCPL, the following information:

(A) *Federal reporting area*. Federal 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. Use a separate logsheet for each reporting area.

(B) *Crew size*. If a catcher vessel, the number of crew, excluding observer(s), on the last day of a trip. If a catcher/processor, the number of crew, excluding observer(s), on the last day of the weekly reporting period.

(C) *Gear type*. Use a separate logsheet for each gear type.

(*1*) Circle gear type used to harvest the fish. If gear is other than those listed, circle ''Other'' and describe. If using hook-and-line gear, enter the alphabetical letter that coincides with gear description.

(*2*) If gear information is the same on subsequent pages, mark the box instead of re-entering the gear type information.

(*3*) *Pot gear*. If you checked pot gear, enter the number of pots set and the number of pots lost (if applicable).

(*4*) *Hook-and-line gear*. If you checked hook-and-line gear:

(*i*) Indicate whether gear is fixed hook (conventional or tub), autoline, or snap (optional, but may be required by IPHC regulations).

(*ii*) *Skates*. Indicate length of skate to the nearest foot (optional, but may be required by IPHC regulations), number of skates set, and number of skates lost (optional, but may be required by IPHC regulations).

(*iii*) *Hooks*. Indicate size of hooks, hook spacing in feet, number of hooks per skate (optional, but may be required by IPHC regulations).

(*iv*) *Seabird avoidance gear code*. Record seabird avoidance gear code(s) (see § 679.24(e) and Table 19 to this part).

(D) *Permit numbers*. Enter the permit number(s) for the applicable fishery in which you participated.

(*1*) IFQ permit number of the operator and of each IFQ permit holder aboard the vessel.

(*2*) CDQ group number (if applicable).

(*3*) Halibut CDQ permit number (if applicable).

(*4*) Federal crab vessel permit number (if applicable).

(E) *Observer information*. Record the number of observers aboard, the name of the observer(s), and the observer cruise number(s).

(F) *Management program*. Use a separate logsheet for each management program. Indicate whether harvest occurred under one of the following management programs. If harvest is not under one of these management programs, leave blank:

(*1*) *Exempted Fishery*. Record exempted fishery permit number (see § 679.6).

(*2*) *Research Fishery*. Record research program permit number (see § 600.745(a) of this chapter).

(*3*) Aleutian Islands Pollock (AIP) (see paragraph (a)(7)(xv)(F) of this section).

(G) *Catch by set*. (See § 679.2 for definition of ''set''). The operator must record the following information for each set, if applicable:

(*1*) If no catch occurred for a day, write ''no catch;'

(*2*) Set number, sequentially by year;

(*3*) Gear deployment date (month-day), time (in military format, A.l.t.), and begin position coordinates (in lat and long to the nearest minute);

(*4*) Gear retrieval date (month-day), time (in military format, A.l.t.), and end position coordinates (in lat and long to the nearest minute);

(*5*) *Begin and end buoy or bag numbers* (optional, but may be required by IPHC regulations);

(*6*) *Begin and end gear depths*, recorded to the nearest fathom (optional, but may be required by IPHC regulations);

(*7*) *Target species code*. Enter the species code of the species you intend to catch;

(*8*) *Estimated haul weight*. Enter the total estimated haul weight of all retained species. Indicate whether to the nearest pound or to the nearest 0.001 mt (2.20 lb);

(*9*) *IR/IU Species (see § 679.27)*. If a catcher/processor, enter species code of IR/IU species and estimated total round weight for each IR/IU species; indicate whether to the nearest pound or the nearest 0.001 mt (2.20 lb);

(*10*) Estimated total round weight of IFQ halibut and CDQ halibut to the nearest pound;

(*11*) Number and estimated total round weight of IFQ sablefish to the nearest pound;

(*12*) Circle to indicate whether IFQ sablefish product is Western cut (WC), Eastern cut (EC), or round weight (RD); and

(*13*) Number and scale weight of raw CR crab to the nearest pound.

(H) *Data entry time limits*. (*1*) The operator must record in the DFL or DCPL within 2 hours after completion of gear retrieval: Set number; time and date gear set; time and date gear hauled; begin and end position; CDQ group number, halibut CDQ permit number, halibut IFQ permit number, sablefish IFQ permit number, crab IFQ permit number, and/or Federal crab vessel permit number (if applicable), number of pots set, and estimated total haul for each set.

(*2*) If a catcher vessel, the operator must record all other required information in the DFL within 2 hours after the vessel's catch is off-loaded, notwithstanding other time limits.

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

(*4*) If a catcher/processor, the operator must record product information in the DCPL by noon each day to record the previous day's production information.

(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 logbook report (SPELR)*. The owner or manager of a shoreside processor or stationary floating processor:

(1) That receives groundfish from AFA catcher vessels or receives pollock harvested in a directed pollock fishery from catcher vessels:

(i) Must use SPELR or NMFS–approved software to report every delivery of harvests made during the fishing year, including but not limited to groundfish from AFA catcher vessels and pollock from a directed pollock fishery participant; and

(ii) Must maintain the SPELR and printed reports as described in paragraphs (e) and (f) of this section.

(2) That receives groundfish from catcher vessels that are authorized as harvesters in the Rockfish Program:

(i) Must use SPELR or NMFS–approved software to report every delivery of harvests made during the fishing year, including but not limited to groundfish from catcher vessels authorized as harvesters in the Rockfish Program; and

(ii) Must maintain the SPELR and printed reports as described in paragraphs (e) and (f) of this section.

(3) That receives groundfish and that is not required to use SPELR under paragraph (e)(1) or (e)(2) of this section:

(i) May use, upon approval by the Regional Administrator, SPELR or NMFS–approved software in lieu of the shoreside processor DCPL and shoreside processor WPR.

(ii) If using SPELR, must maintain the SPELR and printed reports as described in paragraphs (e) and (f) of this section.

(4) *Exemptions*. The owner or manager who uses the SPELR per paragraphs (e)(1), (e)(2), and (e)(3) 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.

(5) *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)(7) of this section must be entered into the SPELR each day on the day they occur.

(iii) Except as indicated in paragraph (e)(5)(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.

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

(7) *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).

(8) *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) *Product transfer report (PTR)*—(1) *General requirements*. Except as provided in paragraph (g)(1)(i) through (vi) of this section:

(i) *Groundfish*. The operator of a mothership or catcher/processor or the manager of a shoreside processor or SFP must complete and submit a separate PTR for each shipment of groundfish and donated prohibited species caught in groundfish fisheries. A PTR is not required to accompany a shipment.

(ii) *IFQ halibut, IFQ sablefish, and CDQ halibut*. A Registered Buyer must submit a separate PTR for each shipment of halibut or sablefish for which the Registered Buyer submitted an IFQ landing report or was required to submit an IFQ landing report. A PTR is not required to accompany a shipment.

(iii) *CR crab*. A Registered Crab Receiver (RCR) must submit a separate PTR for each shipment of crab for which the RCR submitted a CR crab landing report or was required to submit a CR crab landing report. A PTR is not required to accompany a shipment.

(2) *Exceptions*—(i) *Bait sales (non-IFQ groundfish only)*. During one calendar day, the operator or manager may aggregate and record on one PTR the individual sales or shipments of non-IFQ groundfish to vessels for bait purposes during the day recording the amount of such bait product shipped from a vessel or facility that day.

(ii) *Retail sales*—(A) *IFQ halibut, IFQ sablefish, CDQ halibut, and non-IFQ groundfish*. During one calendar day, the operator, manager, or Registered Buyer may aggregate and record on one PTR the amount of transferred retail product of IFQ halibut, IFQ sablefish, CDQ halibut, and non-IFQ groundfish if each sale weighs less than 10 lb or 4.5 kg.

(B) *CR crab*. During one calendar day, the RCR may aggregate and record on one PTR the amount of transferred retail product of CR crab if each sale weighs less than 100 lb or 45 kg.

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

(iv) *Dockside sales*.

(A) A person holding a valid IFQ permit, or IFQ hired master permit, and a Registered Buyer permit may conduct a dockside sale of IFQ halibut or IFQ sablefish with a person who has not been issued a Registered Buyer permit after all IFQ halibut and IFQ sablefish have been landed and reported in accordance with paragraph (l) of this section.

(B) A person holding a valid halibut CDQ hired master permit and Registered Buyer permit may conduct a dockside sale of CDQ halibut with a person who has not been issued a Registered Buyer permit after all CDQ halibut have been landed and reported in accordance with paragraph (l) of this section.

(C) A Registered Buyer conducting dockside sales must issue a receipt to each individual receiving IFQ halibut,

CDQ halibut, or IFQ sablefish in lieu of a PTR. This receipt must include:

(*1*) Date of sale;

(*2*) Registered Buyer permit number;

(*3*) Weight by product of the IFQ halibut, CDQ halibut or IFQ sablefish transferred.

(D) A Registered Buyer must maintain a copy of each dockside sales receipt as described in paragraph (l) of this section.

(v) *Transfer directly from the landing site to a processing facility (CDQ halibut, IFQ halibut, IFQ sablefish, or CR crab only).* A PTR is not required for transportation of unprocessed IFQ halibut, IFQ sablefish, CDQ halibut, or CR crab directly from the landing site to a facility for processing, provided the following conditions are met:

(A) A copy of the IFQ landing report receipt (Internet receipt) documenting the IFQ landing accompanies the offloaded IFQ halibut, IFQ sablefish, or CDQ halibut while in transit.

(B) A copy of the CR crab landing report receipt (Internet receipt) documenting the IFQ landing accompanies the offloaded CR crab while in transit.

(C) A copy of the IFQ landing report or CR crab landing report receipt is available for inspection by an authorized officer.

(D) The Registered Buyer submitting the IFQ landing report or RCR submitting the CR crab landing report completes a PTR for each shipment from the processing facility pursuant to paragraph (g)(1) of this section.

(3) *Time limits and submittal.* The operator of a mothership or catcher/processor, the manager of a shoreside processor or SFP, the Registered Buyer, or RCR must:

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

(ii) Submit a PTR by facsimile or electronic file to OLE, Juneau, AK (907–586–7313), by 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period in which the shipment occurred.

(iii) If any information on the original PTR changes prior to the first destination of the shipment, submit a revised PTR by facsimile or electronic file to OLE, Juneau, AK (907–586–7313), by 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period in which the change occurred.

(4) *Required information.* The operator of a mothership or catcher/processor, the manager of a shoreside processor or SFP, the Registered Buyer, or RCR must include the following information on a PTR:

(i) *Original or revised PTR.* Whether a submittal is an original or revised PTR.

(ii) *Shipper information.* Name, telephone number, and facsimile number of the representative. According to the following table:

| If you are shipping . . . | Enter under "Shipper" . . . |
|---|---|
| (A) Non-IFQ groundfish ..... | Your processor's name, Federal fisheries or Federal processor permit number. |
| (B) IFQ halibut, CDQ halibut or IFQ sablefish. | Your Registered Buyer name and permit number. |
| (C) CR crab ..... | Your RCR name and permit number. |
| (D) Non-IFQ groundfish, IFQ halibut, CDQ halibut or IFQ sablefish, and CR crab on the same PTR. | (*1*) Your processor's name and Federal fisheries permit number or Federal processor permit number, (*2*) Your Registered Buyer's name and permit number, and (*3*) Your RCR name and permit number. |

(iii) *Transfer information.* Using descriptions from the following table, enter receiver information, date and time of product transfer, location of product transfer (*e.g.*, port, position coordinates, or city), mode of transportation, and intended route:

| If you are the shipper and . . . | Then enter . . . | | | |
|---|---|---|---|---|
| | Receiver | Date & time of product transfer | Location of product transfer | Mode of transportation and intended route |
| (A) Receiver is on land and transfer involves one van, truck, or vehicle. | Receiver name and Federal fisheries, Federal processor, or Federal crab vessel permit number (if any). | Date and time when shipment leaves the plant. | Port or city of product transfer. | Name of the shipping company; destination city and state or foreign country. |

| If you are the shipper and . . . | Then enter . . . | | | |
|---|---|---|---|---|
| | Receiver | Date & time of product transfer | Location of product transfer | Mode of transportation and intended route |
| (B) Receiver is on land and transfer involves multiple vans, trucks or vehicles. | Receiver name and Federal fisheries, Federal processor, or Federal crab vessel permit number (if any). | Date and time when loading of vans or trucks, is completed each day. | Port or city of product transfer. | Name of the shipping company; destination city and state or foreign country. |
| (C) Receiver is on land and transfer involves one airline flight. | Receiver name and Federal fisheries, Federal processor, or Federal crab vessel permit number (if any). | Date and time when shipment leaves the plant. | Port or city of product transfer. | Name of the airline company; destination airport city and state. |
| (D) Receiver is on land and transfer involves multiple airline flights. | Receiver name and Federal fisheries, Federal processor, or Federal crab vessel permit number (if any). | Date and time of shipment when the last airline flight of the day leaves. | Port or city of product transfer. | Name of the airline company(s); destination airport(s) city and state. |
| (E) Receiver is a vessel and transfer occurs at sea. | Vessel name and call sign. | Start and finish dates and times of transfer. | Transfer position coordinates in latitude and longitude, in degrees and minutes. | The first destination of the vessel. |
| (F) Receiver is a vessel and transfer takes place in port. | Vessel name and call sign. | Start and finish dates and times of transfer. | Port or position of product transfer. | The first destination of the vessel. |
| (G) Receiver is an agent (buyer, distributor, shipping agent) and transfer is in a containerized van(s). | Agent name and location (city, state). | Transfer start and finish dates and times. | Port, city, or position of product transfer. | Name (if available) of the vessel transporting the van; destination port. |
| (H) You are aggregating individual retail sales for human consumption. (see paragraph (g)(2) of this section). | ''RETAIL SALES'' ..... | Date of transfer. ..... | Port or city of product transfer. | N/A. |
| (I) You are aggregating individual bait sales during a day onto one PTR (non-IFQ groundfish only). | ''BAIT SALES'' ..... | Date of transfer. ..... | Port or city of product transfer. | N/A. |
| (J) *Non-IFQ Groundfish only*. You are aggregating wholesale non-IFQ groundfish product sales by species during a single day onto one PTR and maintaining invoices detailing destinations for all of the product for inspection by an authorized officer. | ''WHOLESALE SALES'' | Time of the first sale of the day; time of the last sale of the day. | Port or city of product transfer. | N/A. |

(iv) *Products shipped*. The operator, manager, Registered Buyer, or RCR must record the following information for each product shipped:

(A) *Species code and product code*. (*1*) For non-IFQ groundfish, IFQ halibut, IFQ sablefish, and CDQ halibut, the species code and product code (Tables 1 and 2 to this part).

(*2*) For CR crab, the species code and product code (Tables 1 and 2 to 50 CFR part 680).

(B) *Species weight*. Use only if recording 2 or more species with 2 or more product types contained within the same production unit. Enter the actual scale weight of each product of each species to the nearest kilogram or pound (indicate which). If not applicable, enter ''n/a'' in the species weight

column. If using more than one line to record species in one carton, use a brace ''}'' to tie the carton information together.

(C) *Number of units*. Total number of production units (blocks, trays, pans, individual fish, boxes, or cartons; if iced, enter number of totes or containers).

(D) *Unit weight*. Unit weight (average weight of single production unit as listed in ''No. of Units'' less packing materials) for each species and product code in kilograms or pounds (indicate which).

(E) *Total weight*. Total weight for each species and product code of shipment less packing materials in kilograms or pounds (indicate which).

(F) *Total or partial offload*. (*1*) If a mothership or catcher/processor, the operator must indicate whether fish or fish products are left onboard the vessel (partial offload) after the shipment is complete.

(*2*) If a partial offload, for the products remaining on board after the transfer, the operator must enter: Species code, product code, and total product weight to the nearest kilogram or pound (indicate which) 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:

| 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 ..... | 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 .. | 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. |
| (H) AIP | (*1*)C/P ..... | Prior to AI pollock fishing. |
| | (*2*) MS, SS, SFP .. | Before receiving AI pollock. |

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

| Submit a separate CEASE message for ... | If you are a ... | Within this time limit |
|---|---|---|
| (A) COBLZ or RKCSA | (*1*) C/P using trawl gear. | 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. |
| | (*2*) MS, SS, SFP .. | 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. |
| | (*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. |
| (D) CDQ | (*1*) C/P ..... | Within 24 hours after groundfish CDQ fishing for each CDQ group has ceased. |
| | (*2*) MS, SS, SFP .. | Within 24 hours after receipt of groundfish CDQ has ceased for each CDQ group. |
| (E) Exempted or Research Fishery | (*1*) C/P ..... | 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. |
| | (*2*) MS, SS, SFP .. | 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. |
| (F) Reporting Area | (*1*) C/P using longline or pot gear. | Upon completion of gear retrieval and within 24 hours after departing each reporting area. |
| | (*2*) C/P using trawl gear. | Within 24 hours after departing a reporting area but prior to checking-in another reporting area. |
| | (*3*) 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. |
| | (*4*) MS, SS, SFP .. | 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. |
| | (*5*) MS ..... | Within 24 hours after receipt of fish is complete from that reporting area. |
| (G) Change of fishing year | C/P, MS, SS, SFP | 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. |
| (H) Interruption of production | SS, SFP ..... | 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. |
| (I) AIP | (*1*) C/P ..... | Within 24 hours after completion of gear retrieval for AI pollock. |
| | (*2*) SS, SFP ..... | Within 48 hours after the end of the applicable weekly reporting period that a shoreside processor or SFP ceases to receive or process AI pollock for the fishing year. |
| | (*3*) MS ..... | Within 24 hours after receipt of AIP pollock has ceased. |

(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;

(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 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) *Fish or fish product onboard.* Except as noted in paragraph (k)(4) of this section, the operator of a catcher vessel greater than 60 ft (18.3 m) LOA, a catcher/processor, or a mothership required to hold a Federal fisheries permit issued under this part and carrying fish or fish product onboard must complete and submit a VAR by facsimile or electronic file to OLE, Juneau, AK (907–586–7313) before the vessel crosses the seaward boundary of the EEZ off Alaska or crosses the U.S.-Canadian international boundary between Alaska and British Columbia.

(2) *Combination of non-IFQ groundfish with IFQ halibut, CDQ halibut, IFQ sablefish or CR crab.* If a vessel is carrying non-IFQ groundfish and IFQ halibut, CDQ halibut, IFQ sablefish or CR crab, the operator must submit a VAR in addition to an IFQ Departure Report required by paragraph (l)(4) of this section.

(3) *Revised VAR.* If fish or fish products are landed at a port other than the one specified on the VAR, the operator must submit a revised VAR showing the actual port of landing before any fish are offloaded.

(4) *Exemption: IFQ Departure Report.* A VAR is not required if a vessel is carrying only IFQ halibut, CDQ halibut, IFQ sablefish, or CR crab onboard and the operator has submitted an IFQ Departure Report required by paragraph (l)(4) of this section.

(5) *Information required.* (i) Whether original or revised VAR.

(ii) Name and Federal fisheries permit number of vessel or RCR permit number.

(iii) Type of vessel (whether catcher vessel, catcher/processor, or mothership).

(iv) Name, daytime telephone number (including area code), and facsimile number and COMSAT number (if available) of representative.

(v) *Return report.* ''Return,'' for purposes of this paragraph, means returning to Alaska. If the vessel is crossing 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 14a to this part);

(B) Estimated date and time (hour and minute, Greenwich mean time) the vessel will cross the boundary; and

(C) The estimated position coordinates in latitude and longitude where the vessel will cross.

(vi) *Depart report.* ''Depart'' means leaving Alaska. If the vessel is crossing the seaward boundary of the EEZ off Alaska and moving out of the EEZ or crossing the U.S.-Canadian international boundary between Alaska and British Columbia and moving into Canadian waters, indicate a ''depart'' report and enter:

(A) The intended U.S. port of landing or country other than the United States (*see* Table 14b to this part);

(B) Estimated date and time (hour and minute, Greenwich mean time) the vessel will cross the boundary; and

(C) The estimated position coordinates in latitude and longitude where the vessel will cross.

(vii) *The Russian Zone.* Indicate whether the vessel is returning from fishing in the Russian Zone or is departing to fish in the Russian Zone.

(viii) *Fish or fish products.* For all fish or fish products (including non-groundfish) on board the vessel, enter:

(A) Harvest zone code;

(B) Species codes;

(C) Product codes; and

(D) Total fish product weight in lbs or to the nearest 0.001 mt (2.20 lb).

(l) *IFQ halibut, CDQ halibut, IFQ sablefish, or CR crab R&R.* In addition to the R&R requirements in this section, in 50 CFR part 680 with respect to CR crab, and as prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of this title, the following reports and authorizations are required, when applicable: IFQ Prior Notice of Landing, Product Transfer Report (*see* § 679.5(g)), IFQ landing report, IFQ Transshipment Authorization, and IFQ Departure Report.

(1) *IFQ Prior Notice of Landing (PNOL)*—(i) *Time limits and submittal.* (A) Except as provided in paragraph (l)(1)(iv) of this section, the operator of any vessel making an IFQ landing

must notify OLE, Juneau, AK, no fewer than 3 hours before landing IFQ halibut, CDQ halibut, or IFQ sablefish, unless permission to commence an IFQ landing within 3 hours of notification is granted by a clearing officer.

(B) A PNOL must be made to the toll-free telephone number 800–304–4846 or to 907–586–7163 between the hours of 0600 hours, A.l.t., and 2400 hours, A.l.t.

(ii) *Revision to PNOL.* The operator of any vessel wishing to make an IFQ landing before the date and time (A.l.t.) reported in the PNOL or later than 2 hours after the date and time (A.l.t.) reported in the PNOL must submit a new PNOL as described in paragraphs (l)(1)(i) and (iii) of this section.

(iii) *Information required.* A PNOL must include the following:

(A) Vessel name and ADF&G vessel registration number;

(B) Port of landing and port code from Tables 14a and 14b to this part;

(C) Exact location of landing within the port (*i.e.*, dock name, harbor name, facility name, or geographical coordinates);

(D) The date and time (A.l.t.) that the landing will take place;

(E) Species and estimated weight (in pounds) of the IFQ halibut, CDQ halibut or IFQ sablefish that will be landed;

(F) IFQ regulatory area(s) in which the IFQ halibut, CDQ halibut, or IFQ sablefish were harvested; and

(G) IFQ permit number(s) that will be used to land the IFQ halibut, CDQ halibut, or IFQ sablefish.

(iv) *Exemption.* An IFQ landing of halibut of 500 lb 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 PNOL required by this section.

(2) *IFQ Landing report*—(i) *Requirements*—(A) *All IFQ halibut, CDQ halibut and IFQ sablefish catch debited.* Except as provided in paragraph 679.40(g) of this section, all IFQ halibut, CDQ halibut, and IFQ sablefish catch must be weighed and debited from the IFQ permit holder's account or CDQ halibut permit holder's account under which the catch was harvested.

(B) *Single offload site for halibut.* The vessel operator who lands IFQ halibut or CDQ halibut must continuously and completely offload at a single offload site all halibut on board the vessel.

(C) *Single offload site for sablefish.* The vessel operator who lands IFQ sablefish must continuously and completely offload at a single offload site all sablefish on board the vessel.

(D) *Remain at landing site.* Once the landing has commenced, the IFQ permit holder, IFQ hired master permit holder, or CDQ hired master permit holder and the harvesting vessel may not leave the landing site until the IFQ halibut, IFQ sablefish or CDQ halibut account is properly debited (as defined in paragraph (l)(2)(iv)(D) of this section).

(E) *No movement of IFQ halibut, CDQ halibut, or IFQ sablefish.* The offloaded IFQ halibut, CDQ halibut, or IFQ sablefish may not be moved from the landing site until the IFQ Landing Report is received by OLE, Juneau, AK, and the IFQ permit holder's or CDQ permit holder's account is properly debited (as defined in paragraph (l)(2)(iv)(D) of this section).

(ii) *Time limits.* (A) A landing of IFQ halibut, CDQ halibut, or IFQ sablefish may commence only between 0600 hours, A.l.t., and 1800 hours, A.l.t., unless permission to land at a different time (waiver) is granted in advance by a clearing officer.

(B) A Registered Buyer must submit a completed IFQ Landing Report within 6 hours after all IFQ halibut, CDQ halibut, or IFQ sablefish are landed and prior to shipment or transfer of said fish from the landing site.

(iii) *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 permit holder, IFQ hired master permit holder, or CDQ hired master permit holder;

(D) Name and permit number of Registered Buyer receiving the IFQ halibut, IFQ sablefish, or CDQ halibut;

(E) The harvesting vessel's name and ADF&G vessel registration number;

(F) Gear code 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 permit holder or IFQ hired master permit holder;

(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 permit holder or IFQ hired master permit holder;

(J) For each ADF&G statistical area of harvest:

(*1*) Except as provided in paragraph (1)(2)(iii)(J)(*2*) of this section, the species codes, product codes, and initial accurate scale weight(s) (in pounds or to the nearest thousandth of a metric ton) made at the time of offloading for IFQ halibut, IFQ sablefish, or CDQ halibut sold and retained.

(*2*) If the vessel operator is the 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) Initial accurate scale weight(s) with or without ice and slime, as appropriate, of fish as offloaded from the vessel. 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 be reported as fish weights without ice and slime.

(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) After the Registered Buyer enters the landing data in the Internet submission form(s) and receipts are printed, the Registered Buyer, or his/her representative, and the IFQ permit holder, IFQ hired master permit holder, or CDQ hired master permit holder must sign the receipts to acknowledge the accuracy of the IFQ landing report.

(iv) *Submittals.* Except as indicated in paragraph (1)(2)(iv)(C) of this section, IFQ landing reports must be submitted electronically to OLE, Juneau, AK by using the Internet as follows:

(A) [Reserved]

(B) *Internet.* Landing Reports submitted using Internet submission methods as provided and/or specified by NMFS, Alaska Region.

(*1*) The Registered Buyer must obtain at his or her own expense, hardware, software and Internet connectivity to support Internet submissions and report as required.

(*2*) The IFQ permit holder, IFQ hired master permit holder, or CDQ hired master permit holder must initiate a Landing Report by logging into the IFQ landing report system using his or her own password and must provide identification information requested by the system.

(*3*) The Registered Buyer must enter additional log-in information, including his or her password, and provide landing information requested by the system.

(C) *Manual landing report.* Waivers from the Internet reporting requirement can only be granted in writing on a case-by-case basis by a local clearing officer. If a waiver is granted, manual landing instructions must be obtained from OLE, Juneau, AK, (800–304–4846, Select Option 1). Registered Buyers must complete and submit manual landing reports by facsimile to OLE, Juneau, AK, (907–586–7313). When a waiver is issued, the following additional information is required: Whether the manual landing report is an original or revised; and name, telephone number, and facsimile number of individual submitting the manual landing report.

(D) *Properly debited landing.* A properly concluded printed Internet submission receipt or a manual landing report receipt which is sent by facsimile from OLE to the Registered Buyer, and which is then signed by the Registered Buyer and IFQ permit holder, IFQ hired master permit holder, or CDQ hired master permit holder constitutes confirmation that OLE received the landing report and that the IFQ permit holder's or CDQ permit holder's account is properly debited. A copy of each receipt must be maintained by the Registered Buyer as described in paragraph (l) of this section.

(3) *Transshipment authorization*. (i) No person may transship processed IFQ halibut, CDQ halibut, IFQ sablefish, or CR crab between vessels without authorization by a local clearing officer. Authorization from a local 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.

(4) *IFQ departure report*—(i) *General requirements*—(A) *Time limit and submittal*. A vessel operator who intends to make a landing of IFQ halibut, CDQ halibut, IFQ sablefish, or CR crab at any location other than in an IFQ regulatory area for halibut and sablefish or in a crab fishery for CR crab (*see* Table 1 to part 680) in the State of Alaska must submit an IFQ Departure Report, by telephone, to OLE, Juneau, AK, (800–304–4846 or 907–586–7163) between the hours of 0600 hours, A.l.t., and 2400 hours, A.l.t.

(B) *Completion of fishing*. A vessel operator must submit an IFQ Departure Report after completion of all 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 when IFQ halibut, CDQ halibut, IFQ sablefish, or CR crab are on board.

(C) *Permit*—(*1*) *Registered Crab Receiver permit*. A vessel operator submitting an IFQ Departure Report for CR crab must have a Registered Crab Receiver permit.

(*2*) *Registered Buyer permit*. A vessel operator submitting an IFQ Departure Report for IFQ halibut, CDQ halibut, or IFQ sablefish must have a Registered Buyer permit.

(D) *First landing of any species*. A vessel operator submitting an IFQ Departure Report must submit IFQ landing reports for all IFQ halibut, CDQ halibut, and IFQ sablefish on board at the same time and place as the first landing of any IFQ halibut, CDQ halibut, or IFQ sablefish.

(E) *Permits on board*.

(*1*) A vessel operator submitting an IFQ Departure Report to document IFQ halibut or IFQ sablefish must have one or more IFQ permit holders or IFQ hired master permit holders on board with a combined IFQ balance equal to or greater than all IFQ halibut and IFQ sablefish on board the vessel.

(*2*) A vessel operator submitting an IFQ Departure Report to document CDQ halibut must ensure that one or more CDQ hired master permit holders are onboard with enough remaining halibut CDQ balance to harvest amounts of CDQ halibut equal to or greater than all CDQ halibut onboard.

(*3*) A vessel operator submitting an IFQ Departure Report to document CR crab must have one or more permit holders on board with a combined CR balance equal to or greater than all CR crab on board the vessel.

(ii) *Required information*. When submitting an IFQ Departure Report, the vessel operator must provide the following information:

(A) Intended date, time (A.l.t.), and location of landing;

(B) Vessel name and ADF&G vessel registration number;

(C) Vessel operator's name and Registered Buyer permit or Registered Crab Receiver permit number;

(D) Halibut IFQ, halibut CDQ, sablefish IFQ, and CR crab permit numbers of IFQ and CDQ permit holders on board;

(E) *Area of harvest*. (*1*) If IFQ or CDQ halibut, then halibut regulatory areas (*see* Figure 15 to this part).

(*2*) If IFQ sablefish, then sablefish regulatory areas (*see* Figure 14 to this part).

(*3*) If CR crab, then the crab rationalization fishery code (*see* Table 1 to part 680).

(F) Estimated total weight as appropriate of IFQ halibut, CDQ halibut, IFQ sablefish, or CR crab on board (lb/kg/mt).

(iii) *Revision to Departure Report*. A vessel operator who intends to make an IFQ landing at a location different from the location named on the IFQ Departure report must submit a revised report naming the new location at least 12 hours in advance of the offload. Revisions must be submitted by telephone, to OLE, Juneau, AK, (800–304–4846 or 907–586–7163) between the hours of 0600 hours, A.l.t., and 2400 hours, A.l.t.

(5) *Landing verification, inspection and record retention*—(i) *Verification and inspection*. Each IFQ landing and all fish retained on board the vessel making an IFQ landing are subject to verification and inspection by authorized officers.

(ii) *Record retention*. The IFQ permit holder, IFQ hired master permit holder, or CDQ hired master permit holder must retain a legible copy of all Landing Report receipts, and the Registered Buyer must retain a copy of all reports and receipts required by this section. All retained records must be available for inspection by an authorized officer:

(A) Until the end of the fishing year during which the records were made and for as long thereafter as fish or fish products recorded are retained onboard the vessel or at the facility; and

(B) Upon request of an authorized officer for 3 years after the end of the fishing year during which the records were made.

(6) *Sampling*—(i) Each IFQ landing and all fish retained onboard a vessel making an IFQ landing are subject to sampling by NMFS-authorized observers.

(ii) Each IFQ halibut landing or CDQ halibut landing is subject to sampling for biological information by persons authorized by the IPHC.

(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 (l) and as provided by NMFS for each reporting period, as described at § 679.5(l)(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*) *IFQ retro-payments*. 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*) *Electronic submittal*. Certification, including the NMFS ID and password of the IFQ Registered Buyer; or

(*iii*) *Non-electronic submittal*. Certification, including the printed name and signature of the individual submitting the IFQ Buyer Report on behalf of the Registered Buyer, and date of signature.

(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 (l)(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(l)(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(l)(7)(ii)(B).

(8) *CQE annual report for an eligible community.* By January 31, the CQE shall submit a complete annual report on halibut and sablefish IFQ activity for the prior fishing year for each community represented by the CQE to the Regional Administrator, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802, and to the governing body of each community represented by the CQE as identified in Table 21 to this part.

(i) A complete annual report contains the following information:

(A) Name, ADF&G vessel registration number, USCG documentation number, length overall, and home port of each vessel from which the IFQ leased from QS held by a CQE was fished;

(B) Name and business addresses of individuals employed as crew members when fishing the IFQ derived from the QS held by the CQE;

(C) Detailed description of the criteria used by the CQE to distribute IFQ leases among eligible community residents;

(D) Description of efforts made to ensure that IFQ lessees employ crew members who are eligible community residents of the eligible community aboard vessels on which IFQ derived from QS held by a CQE is being fished;

(E) Description of the process used to solicit lease applications from eligible community residents of the eligible community on whose behalf the CQE is holding QS;

(F) Names and business addresses and amount of IFQ requested by each individual applying to receive IFQ from the CQE;

(G) Any changes in the bylaws of the CQE, board of directors, or other key management personnel; and

(H) Copies of minutes and other relevant decision making documents from CQE board meetings.

(ii) Additional information may be submitted as part of the annual report based on data available through NMFS. This includes:

(A) Identification of the eligible community, or communities, represented by the CQE;

(B) Total amount of halibut QS and sablefish QS held by the CQE at the start of the calendar year and at the end of the calendar year;

(C) Total amount of halibut and sablefish IFQ leased from the CQE;

(D) Names, business addresses, and amount of halibut and sablefish IFQ received by each individual to whom the CQE leased IFQ; and

(E) Number of vessels that fished for IFQ derived from QS held by a CQE.

(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 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 transshipped 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 Tables 2a though 2d to this part, except species code 120;

(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.l.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 |

| If fish ticket color is ... | Distribute to ... | Time limit |
|---|---|---|
| (C) Pink | Catcher vessel delivering groundfish to the mothership | 1200 hours, A.l.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 or PSQ transfer request*—(i) *Who must submit a CDQ or PSQ transfer request?* A CDQ group requesting transfer of CDQ or PSQ to or from another CDQ group must submit a completed CDQ or PSQ transfer request to NMFS.

(ii) *Information required*—(A) *Transferring CDQ group information*. For the group transferring CDQ, enter: the CDQ group name or initials; the CDQ group number as defined at § 679.2; and, the CDQ representative's telephone number, fax number, printed name, and signature.

(B) *Receiving CDQ group information*. For the group receiving CDQ, enter: the CDQ group name or initials; the CDQ group number as defined at § 679.2; and, the CDQ representative's telephone number, fax number, printed name, and signature.

(C) *CDQ amount transferred*—(*1*) *Species or Species Category*. For each species for which a transfer is being requested, enter the species name or species category.

(*2*) *Area*. Enter the management area associated with a species category, if applicable.

(*3*) Amount transferred. Specify the amount being transferred. For groundfish, specify transfer amounts to the nearest 0.001 mt. For halibut CDQ, specify the amount in pounds (net weight).

(D) *PSQ amount transferred*—(*1*) *Species or Species Category*. For each species for which a transfer is being requested, enter the species name or species category.

(*2*) *Crab zone*. For crab only, designate the appropriate zone for each PSQ being transferred, if applicable.

(*3*) *Amount transferred*. Specify the amount being transferred. For crab and salmon, specify transfer amounts in numbers of animals. For halibut, specify the amount to the nearest 0.001 mt.

(2) *Request for approval of an eligible vessel*—(i) *Who must submit a request for approval of an eligible vessel?* A CDQ group must submit a completed request for approval of an eligible vessel to NMFS for each vessel that will be groundfish CDQ fishing and for each vessel equal to or greater than 60 ft (18.3 m) LOA that will be halibut CDQ fishing. See § 679.32(c) for more information about this requirement.

(ii) *Information required*—(A) *Vessel information*. Enter the vessel name, Federal fisheries permit number, if applicable, ADF&G vessel registration number, and LOA. Indicate all the gear types that will be used to catch CDQ.

(B) *Vessel contact information*. Enter the name, mailing address, telephone number, and e-mail address (if available) of a contact person representing the vessel.

(C) *Method to determine CDQ and PSQ catch*. Select the method that will be used to determine CDQ and PSQ catch, either NMFS standard sources of data or an alternative method. If the selection is ''NMFS standard sources of data,'' select either ''all trawl vessels greater than or equal to 60 ft (18.3 m) LOA using non-trawl gear'' or ''catcher vessels greater than or equal to 60 ft (18.3 m) LOA using non-trawl gear.'' If the selection is ''catcher vessels greater than or equal to 60 ft (18.3 m) LOA using non-trawl gear,'' select either Option 1 or Option 2, described at § 679.32(e)(2)(iv). If an alternative method (fishing plan) is proposed, it must be attached to the request for approval of an eligible vessel.

(D) *Notice of submission and review*. Enter the name, telephone number, and fax number of the CDQ representative; the date submitted to NMFS; and signature of the CDQ representative.

(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;

(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:

(*1*) 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).

(*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).

(q) *AI directed pollock fishery catch reports*—(1) *Applicability*. The Aleut Corporation shall provide NMFS the identity of its designated contact for the Aleut Corporation. The Aleut Corporation shall submit to the Regional Administrator a pollock catch report containing information required by paragraph (q)(3) of this section.

(2) *Time limits and submittal*. (i) The Aleut Corporation must submit its AI directed pollock fishery catch reports by one of the following methods:

(A) An electronic data file in a format approved by NMFS; or

(B) By fax.

(ii) The AI directed pollock fishery catch reports must be received by the Regional Administrator by 1200 hours, A.l.t. on Tuesday following the end of the applicable weekly reporting period, as defined at § 679.2.

(3) *Information required*. The AI directed pollock fishery catch report must contain the following information:

(i) Catcher vessel ADF&G number;

(ii) Federal fisheries or Federal processor permit number;

(iii) Delivery date;

(iv) Pollock harvested:

(A) For shoreside and stationary floating processors and motherships, the amount of pollock (in lb for shoreside and stationary floating processors and in mt for motherships) delivered, including the weight of at-sea pollock discards; and

(B) For catcher/processors, the amount of pollock (in mt) harvested and processed, including the weight of at-sea pollock discards; and

(v) ADF&G fish ticket number.

(r) *Rockfish Program*—(1) *General*. The owners and operators of catcher vessels, catcher/processors, shoreside processors, and stationary floating processors authorized as participants in the Rockfish Program must comply with the applicable recordkeeping and reporting requirements of this section and must assign all catch to a rockfish cooperative, rockfish limited access fishery, sideboard fishery, opt–out fishery, or rockfish entry level fishery as applicable at the time of catch or receipt of groundfish. All owners of catcher vessels, catcher/processors, shoreside processors, and stationary floating processors authorized as participants in the Rockfish Program must ensure that their designated representatives or employees comply with

all applicable recordkeeping and reporting requirements.

(2) *Logbook*—(i) *DFL*. Operators of catcher vessels equal to or greater than 60 ft (18.3 m) LOA participating in a Rockfish Program fishery must maintain a daily fishing logbook for trawl gear as described in paragraphs (a) and (c) of this section.

(ii) *DCPL*. Operators of catcher/processors permitted in the Rockfish Program must use a daily cumulative production logbook for trawl gear as described in paragraph (a) of this section to record Rockfish Program landings and production.

(3) *SPELR*. Managers of shoreside processors or SFPs that are authorized as processors in the Rockfish Program must use SPELR or NMFS-approved software as described in paragraphs (e) and (f) of this section, instead of a logbook and WPR, to record Rockfish Program landings and production.

(4) *Check-in/check-out report, processors*. Operators or managers of a catcher/processor, mothership, stationary processor, or stationary floating processor that are authorized as processors in the Rockfish Program must submit check-in/check-out reports as described in paragraph (h) of this section.

(5) *Weekly production report (WPR)*. Operators of catcher/processors that are authorized as processors in the Rockfish Program and that use a DCPL must submit a WPR as described in paragraph (i) of this section.

(6) *Product transfer report (PTR), processors*. Operators of catcher/processors and managers of shoreside processors or SFPs that are authorized as processors in the Rockfish Program must submit a PTR as described in paragraph (g) of this section.

(7) *Rockfish cooperative catch report*—(i) *Applicability*. Operators of catcher/processors and managers of shoreside processors or SFPs that are authorized to receive fish harvested under a CQ permit in the Rockfish Program (see § 679.4(n)) must submit to the Regional Administrator a rockfish cooperative catch report detailing each cooperative's delivery and discard of fish, as described in paragraph (r)(7) of this section.

(ii) *Time limits and submittal*. (A) The rockfish cooperative catch report must be submitted by one of the following methods:

(*1*) An electronic data file in a format approved by NMFS mailed to: Sustainable Fisheries, P.O. Box 21668, Juneau, AK 99802–1668; or

(*2*) By fax: 907–586–7131.

(B) The rockfish cooperative catch report must be received by the Regional Administrator by 1200 hours, A.l.t. one week after the date of completion of a delivery.

(iii) *Information required*. The rockfish cooperative catch report must contain the following information:

(A) CQ permit number;

(B) ADF&G vessel registration number(s) of vessel(s) delivering catch;

(C) Federal processor permit number of processor receiving catch;

(D) Date the delivery was completed;

(E) Amount of fish (in lb) delivered, plus weight of at–sea discards;

(F) ADF&G fish ticket number(s) issued to catcher vessel(s).

(8) *Annual rockfish cooperative report*—(i) *Applicability*. A rockfish cooperative permitted in the Rockfish Program (see § 679.4(m)(1)) annually must submit to the Regional Administrator an annual rockfish cooperative report detailing the use of the cooperative's CQ.

(ii) *Time limits and submittal*. (A) The annual rockfish cooperative report must be submitted to the Regional Administrator by an electronic data file in a NMFS-approved format by fax: 907–586–7557; or by mail to the Regional Administrator, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668; and

(B) The annual rockfish cooperative report must be received by the Regional Administrator by December 15th of each year.

(iii) *Information required*. The annual rockfish cooperative report must include at a minimum:

(A) The cooperative's CQ, sideboard limit (if applicable), and any rockfish sideboard fishery harvests made by the rockfish cooperative vessels on a vessel-by-vessel basis;

(B) The cooperative's actual retained and discarded catch of CQ, and sideboard limit (if applicable) by statistical area and vessel-by-vessel basis;

(C) A description of the method used by the cooperative to monitor fisheries in which cooperative vessels participated; and

(D) A description of any actions taken by the cooperative in response to any members that exceeded their catch as allowed under the rockfish cooperative agreement.

(9) *Vessel monitoring system (VMS) requirements* (see § 679.28(f)).

(10) *Rockfish cooperative vessel check-in and check-out report*—(i) *Applicability*—(A) *Vessel check-in*. The designated representative of a rockfish cooperative must designate any vessel that is fishing under the rockfish cooperative's CQ permit before that vessel may fish under that CQ permit through a check-in procedure. The designated representative for a rockfish cooperative must submit this designation for a vessel:

(*1*) At least 48 hours prior to the time the vessel begins a fishing trip to fish under a CQ permit; and

(*2*) A check-in report is effective at the beginning of the first fishing trip after the designation has been submitted.

(B) *Vessel check-out*. The designated representative of a rockfish cooperative must designate any vessel that is no longer fishing under a CQ permit for that rockfish cooperative through a check-out procedure. This check-out report must be submitted within 6 hours after the effective date and time the rockfish cooperative wishes to end the vessel's authority to fish under the CQ permit. This designation is effective at:

(*1*) The end of a complete offload if that vessel is fishing under a CQ permit for a catcher vessel cooperative or the earlier of;

(*2*) The end of the weekending date as reported in a WPR if that vessel is fishing under a CQ permit for a catcher/processor cooperative; or

(*3*) The end of a complete offload if that vessel is fishing under a CQ permit for a catcher/processor cooperative.

(ii) *Submittal*. The designated representative of the rockfish cooperative must submit a vessel check-in or check-out report by one of the following methods:

(A) By mail: Sustainable Fisheries, P.O. Box 21668, Juneau, AK 99802–1668; or

(B) By fax: 907–586–7131.

(iii) *Information required*. The vessel check-in or check-out report must contain the following information:

(A) CQ permit number;

(B) ADF&G vessel registration number(s) of vessel(s) designated to fish under the CQ permit;

(C) USCG designation number(s) of vessel(s) designated to fish under the CQ permit; and

(D) Date and time when check-in or check-out begins.

(iv) *Limitations on vessel check-in and check-out*. (A) A rockfish cooperative may submit no more check-in reports in a calendar year than an amount equal to three times the number of LLP licenses that are assigned to that rockfish cooperative in that calendar year.

(B) A rockfish cooperative may submit no more check-out reports in a calendar year than an amount equal to three times the number of LLP licenses that are assigned to that rockfish cooperative in that calendar year.

(s) *Amendment 80 Program*—(1) *General*. The owners and operators of Amendment 80 vessels must comply with the applicable recordkeeping and reporting requirements of this section. All owners of Amendment 80 vessels must ensure that their designated representatives or employees comply with all applicable recordkeeping and reporting requirements.

(2) *Logbook-DCPL*. Operators of Amendment 80 vessels must use a daily cumulative production logbook for trawl gear as described in paragraph (a) of this section to record Amendment 80 Program landings and production.

(3) *Check-in/check-out report, processors*. Operators or managers of an Amendment 80 vessel must submit check-in/check-out reports as described in paragraph (h) of this section.

(4) *Weekly production report (WPR)*. Operators of Amendment 80 vessels that use a DCPL must submit a WPR as described in paragraph (i) of this section.

(5) *Product transfer report (PTR), processors.* Operators of Amendment 80 vessels must submit a PTR as described in paragraph (g) of this section.

(6) *Annual Amendment 80 cooperative report*—(i) *Applicability.* An Amendment 80 cooperative issued a CQ permit must submit annually to the Regional Administrator an Amendment 80 cooperative report detailing the use of the cooperative's CQ.

(ii) *Time limits and submittal.* (A) The annual Amendment 80 cooperative report must be submitted to the Regional Administrator by an electronic data file in a NMFS-approved format; by fax: 907–586–7557; or by mail sent to the Regional Administrator, NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668; and

(B) The annual Amendment 80 cooperative report for fishing activities under a CQ permit issued for the prior calendar year must be received by the Regional Administrator not later than 1700 hours A.l.t. on March 1 of each year.

(iii) *Information required.* The annual Amendment 80 cooperative report must include at a minimum:

(A) The cooperative's actual retained and discarded catch of CQ and GOA sideboard limited fisheries (if applicable) by statistical area and on a vessel-by-vessel basis;

(B) A description of the method used by the cooperative to monitor fisheries in which cooperative vessels participated; and

(C) A description of any actions taken by the cooperative against specific members in response to a member that exceeded the amount of CQ that the member was assigned to catch for the Amendment 80 cooperative.

(7) *Vessel monitoring system (VMS) requirements* (see § 679.28(f)).

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.5, 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 73 FR 53392, Sept. 16, 2008, § 679.5 was amended by redesignating paragraphs (h)(2) and (h)(3) as paragraphs (h)(3) and (h)(4), respectively; by adding paragraph (h)(2) heading and paragraph (h)(2)(i); by redesignating paragraph (h)(1)(iii) as paragraph (h)(2)(ii); and by revising paragraphs (a)(7)(i)(C), (a)(7)(i)(D), and (h)(1) introductory text, and the heading for newly redesignated paragraph (h)(2)(ii), effective Oct. 16, 2008. For the convenience of the user, the added and revised text is set forth as follows:

**§ 679.5 Recordkeeping and reporting (R&R).**

(a) * * *

(7) * * *

(i) * * *

| If participant is. . . | And fishing activity is. . . | An active period is. . . | An inactive period is. . . |
|---|---|---|---|
| * * * * * * * | | | |
| (C) MS | Receipt, discard, or processing of groundfish | When receiving or processing groundfish. | When not active |
| (D) C/P | Harvest, discard, or processing groundfish | A longline or pot gear catcher/processor is active when processing groundfish or when all or part of the longline or pot gear is in the water. | When not active |
| | | A trawl gear catcher/processor is active when processing groundfish or when all or part of the trawl net is in the water. | When not active |
| * * * * * * * | | | |

* * * * *

(h) * * *

(1) *Requirement.* Except as noted in paragraph (h)(2) of this section, the operator of a catcher/processor or mothership and the manager of a shoreside processor or stationary floating processor must submit to NMFS a check–in report (BEGIN message) prior to becoming active and a check–out report (CEASE message) for every check–in report submitted. The check–in report and check–out report must be submitted by fax to 907–586–7131, or by e–mail to *erreports.alaskafisheries@noaa.gov*.

* * * * *

(2) *Exceptions*—(i) *VMS onboard.* The operator of a catcher/processor or mothership is not required to submit to NMFS a check–in report or check–out report if the vessel is carrying onboard a transmitting VMS that meets the requirements of § 679.28(f).

(ii) *Two adjacent reporting areas.* * * *

* * * * *

**§ 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, NMFS will publish notification of

receipt of the application in the FEDERAL REGISTER with a brief description of the proposal.

(d) *Notifying the applicant.* (1) The decision of the Regional Administrator, after consulting with the Council, to grant or deny an 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.

(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.* (i) Fish for groundfish in the BSAI or GOA with a vessel of the United States that does

not have on board a valid Federal Fisheries Permit issued under § 679.4.

(ii) Conduct directed fishing for Atka mackerel, Pacific cod, or pollock with pot, hook-and-line, or trawl gear from a vessel of the United States that does not have on board a valid Federal Fisheries Permit issued under § 679.4 and endorsed for Atka mackerel, Pacific cod, or pollock under § 679.4(b)(5)(vi).

(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.* (i) Fish or process groundfish except in compliance with the terms of the Groundfish Observer Program as provided by subpart E of this part.

(ii) Except where observer services are provided by NMFS staff or other individuals authorized by NMFS under § 679.50(e), provide observer services to the North Pacific Groundfish fisheries without an observer provider permit issued under § 679.50(i)(1).

(4) *Pollock roe.* Retain pollock roe on board a vessel in violation of § 679.20(g).

(5) [Reserved]

(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) Operate a vessel in the ''inshore component in the GOA'' as defined in § 679.2 without a valid inshore processing endorsement on the vessel's Federal fisheries or Federal processor permit.

(ii) Operate a vessel as a ''stationary floating processor'' in the ''inshore component in the GOA'' as defined in § 679.2, and as a catcher/processor in the BSAI during the same fishing year.

(iii) Operate a vessel as a ''stationary floating processor'' in the ''inshore component in the GOA'' as defined in § 679.2, and as an AFA mothership in the BSAI during the same fishing year.

(iv) 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) 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) Use a stationary floating processor with an GOA inshore processing endorsement to process pollock or GOA Pacific cod harvested in a directed fishery for those species in more than one single geographic location during a 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 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/processor as a tender vessel before offloading 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 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, purchase or arrange for purchase, discard, or process groundfish harvested in the GOA or BSAI by a shoreside processor or SFP 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.* (i) Use a catcher vessel or catcher/processor as a tender vessel before offloading 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.* Operate a vessel in any Federal reporting area when a vessel is authorized under § 679.4(b)(5)(vi) to participate in the Atka mackerel, Pacific cod, or pollock directed fisheries and the vessel's authorized species and gear type is open to directed fishing, unless the vessel carries an operable NMFS-approved Vessel Monitoring System (VMS) and complies with the requirements in § 679.28(f).

(19) *Atka Mackerel HLA Groundfish Prohibition.* For vessels registered for an Atka mackerel HLA directed fishery under § 679.20(a)(8)(iii), conduct directed fishing for groundfish, other than Atka mackerel, during the time period that the first Atka mackerel HLA directed fishery to which the vessel is assigned under § 679.20(a)(8)(iii)(B) is open.

(20) *Anchoring in a habitat protection area.* Anchor any federally permitted vessel in any habitat protection area described in Tables 22, 23, and 26 of this part.

(21) *VMS on vessels in the Aleutian Islands subarea.* Operate a federally permitted vessel in the Aleutian Islands subarea without an operable VMS and without complying with the requirements at § 679.28.

(22) *VMS for mobile bottom contact gear vessels in the GOA.* Operate a federally permitted vessel in the GOA with mobile bottom contact gear on board without an operable VMS and without complying with the requirements at § 679.28.

(b) *Prohibitions specific to the GOA*—(1) *Southeast outside trawl closure.* Use 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.

(c) *Prohibitions specific to BSAI*—(1) *Incidental salmon.* Discard any salmon taken incidental to a directed fishery for BSAI groundfish by vessels using trawl gear until notified by an observer that the number of salmon has been determined and the collection of any scientific data or biological samples has been completed as provided in § 679.21(c)(1).

(2) *Prohibited species.* Conduct any fishing contrary to a notification issued under § 679.21.

(d) *CDQ.* (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 for that CDQ group.

(5) For a CDQ group, exceed a CDQ or a halibut PSQ.

(6) For the operator of an eligible vessel, 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, 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, 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, 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, unless the vessel is participating in a salmon bycatch reduction ICA under § 679.21(e)(7)(ix).

(10) For the operator of an eligible vessel, use trawl gear to harvest pollock CDQ in the Chum Salmon Savings Area between September 1 and October 14 after the CDQ group's non-Chinook salmon PSQ is attained, unless the vessel is participating in a salmon bycatch reduction ICA under § 679.21(e)(7)(ix).

(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 a processor 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)—(14) [Reserved]

(15) For the operator of a catcher/processor or a catcher vessel required

to carry a level 2 observer, combine catch from two or more CDQ groups in the same haul or set.

(16) [Reserved]

(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 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 by NMFS 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) Fail to comply with the requirements of a CDP.

(25) For a CDQ group, exceed a seasonal allowance of Pacific cod under § 679.20(a)(7)(i)(B).

(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*. (A) Retain halibut caught with fixed gear without a valid IFQ permit, and if using a hired master, without an IFQ hired master permit in the name of an individual aboard.

(B) Retain halibut caught with fixed gear without a valid CDQ permit and without a CDQ hired master permit in the name of an individual aboard.

(ii) *Sablefish*. Retain sablefish caught with fixed gear without a valid IFQ permit, and if using a hired master, without an IFQ hired master permit in the name of an individual aboard, unless fishing on behalf of a CDQ group and authorized under § 679.32(c).

(4) Except as provided in § 679.40(d), retain IFQ or CDQ halibut or IFQ or CDQ sablefish on a vessel in excess of the total amount of unharvested IFQ or CDQ, applicable to the vessel category and IFQ or CDQ regulatory area(s) in which the vessel is deploying fixed gear, and that is currently held by all IFQ or CDQ permit 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 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) *Landing*—(i) IFQ permit or IFQ hired master permit. Make an IFQ landing without an IFQ permit or IFQ hired master permit, as appropriate, in the name of the individual making the landing.

(ii) Hired master, CDQ. Make a CDQ halibut landing without a CDQ hired master permit listing the name of the hired master.

(iii) *Hired master, CDQ halibut.* Make a CDQ halibut landing without a CDQ hired master permit listing the name of the hired master.

(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 permit 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) Commence an IFQ landing without a Prior Notice of Landing (PNOL), before the date and time stated on the PNOL, or more than 2 hours after the date and time stated on the PNOL, except as provided in §679.5(l)(1).

(13) [Reserved]

(14) Violate any other provision under this part.

(15) Hire a master to fish for IFQ halibut or IFQ sablefish that is derived from QS held by a CQE.

(16) Process IFQ halibut or IFQ sablefish onboard a vessel on which a person is using IFQ derived from QS held by a CQE.

(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) *Salmon fisheries.* (1) Fish for, take, or retain any salmon in violation of this part.

(2) Engage in fishing for salmon in the Salmon Management Area defined at § 679.2 and Figure 23 to this part, except to the extent authorized by § 679.4(h) or applicable State of Alaska regulations.

(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);

(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 December 31, 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 the AFA*. It is unlawful for any person to do any of the following:

(1) *Catcher/processors*—(i) *Permit requirement*. Use a catcher/processor to engage in directed fishing for non-CDQ BSAI pollock without a valid AFA catcher/processor permit on board the vessel.

(ii) *Fishing in the GOA*. Use a listed AFA catcher/processor to harvest any species of fish in the GOA.

(iii) *Processing BSAI crab*. Use a listed AFA catcher/processor to process any crab species harvested in the BSAI.

(iv) *Processing GOA groundfish*. Use a listed AFA catcher/processor to process any pollock harvested in a directed pollock fishery in the GOA and any groundfish harvested in Statistical Area 630 of the GOA.

(v) *Directed fishing after a sideboard closure*. Use a listed AFA catcher/processor to engage in directed fishing for a groundfish species or species group in the BSAI after the Regional Administrator has issued an AFA catcher/processor sideboard directed fishing closure for that groundfish species or species group under § 679.20(d)(1)(iv) or § 679.21(e)(3)(v).

(vi) *Catch weighing*—(A) *Listed AFA catcher/processors*. Process any groundfish that was not weighed on a NMFS-approved scale that complies with the requirements of § 679.28(b). Catch may not be sorted before it is weighed and each haul must be sampled by an observer for species composition.

(B) Unlisted AFA catcher/processors. Process groundfish harvested in the BSAI pollock fishery that was not weighed on a NMFS-approved scale that complies with the requirements of § 679.28(b). Catch may not be sorted before it is weighed and each haul must be sampled by an observer for species composition.

(vii) *Observer sampling station*—(A) *Listed AFA catcher/processors*. Process any groundfish without an observer sampling station as described at § 679.28(d). A valid observer sampling station inspection report must be on board at all times when an observer sampling station is required.

(B) *Unlisted AFA catcher/processors*. Process groundfish harvested in the BSAI pollock fishery without an observer sampling station as described at § 679.28(d). A valid observer sampling station inspection report must be on board at all times when an observer sampling station is required.

(2) *Motherships*—(i) *Permit requirement*. Use a mothership to process pollock harvested in a non-CDQ directed fishery for pollock in the BSAI without a valid AFA permit on board the mothership.

(ii) [Reserved]

(iii) *Catch weighing*. Process any groundfish that was not weighed on a NMFS-approved scale that complies with the requirements of § 679.28(b). Catch may not be sorted before it is weighed and each delivery must be sampled by an observer for species composition.

(iv) *Observer sampling station*. Process any groundfish without an observer sampling station as described at § 679.28(d). A valid observer sampling station inspection report must be on board at all times when an observer sampling station is required.

(3) *AFA inshore processors*—(i) *Permit requirement*. Use a shoreside processor or stationary floating processor to process pollock harvested in a non-CDQ directed fishery for pollock in the BS without a valid AFA inshore processor permit at the facility or on board vessel.

(ii) *Cooperative processing endorsement*. Use a shoreside processor or stationary floating processor required to have an AFA inshore processor permit to process groundfish harvested by a fishery cooperative formed under § 679.62 unless

the AFA inshore processor permit contains a valid cooperative pollock processing endorsement.

(iii) [Reserved]

(iv) *Single geographic location requirement.* Use an AFA inshore processor to process pollock harvested in the BS directed pollock fishery at a location other than the single geographic location defined as follows:

(A) *Shoreside processors.* The physical location at which the land-based shoreside processor first processed BS pollock harvested in the BS directed pollock fishery during a fishing year.

(B) *Stationary floating processors.* A location within Alaska State waters that is within 5 nm of the position in which the stationary floating processor first processed BS pollock harvested in the BS directed pollock fishery during a fishing year.

(v) *Catch weighing.* Process any groundfish that was not weighed on a scale approved by the State of Alaska and meeting the requirements specified in § 679.28(c).

(vi) *Catch monitoring and control plan (CMCP).* Take deliveries or process groundfish delivered by a vessel engaged in directed fishing for BSAI pollock without following an approved CMCP as described at § 679.28(g). A copy of the CMCP must be maintained on the premises and made available to authorized officers or NMFS-authorized personnel upon request.

(4) *Catcher vessels*—(i) *Permit requirement.* Use a catcher vessel to engage in directed fishing for non-CDQ BS pollock for delivery to any AFA processing sector (catcher/processor, mothership, or inshore) unless the vessel has a valid AFA catcher vessel permit on board that includes an endorsement for the sector of the BS pollock fishery in which the vessel is participating.

(ii) [Reserved]

(iii) *Groundfish sideboard closures.* Use an AFA catcher vessel to engage in directed fishing for a groundfish species or species group in the BSAI or GOA after the Regional Administrator has issued an AFA catcher vessel sideboard directed fishing closure for that groundfish species or species group under § 679.20(d)(1)(iv), § 679.21(d)(8) or § 679.21(e)(3)(iv), if the vessel's AFA permit does not contain a sideboard exemption for that groundfish species or species group.

(5) *AFA inshore fishery cooperatives*—(i) *Overages by vessel.* Use an AFA catcher vessel listed on an AFA inshore cooperative fishing permit, or under contract to a fishery cooperative under § 679.62(c), to harvest non-CDQ BS pollock in excess of the fishery cooperative's annual allocation of pollock specified under § 679.62.

(ii) *Overages by fishery cooperative.* An inshore pollock fishery cooperative is prohibited from exceeding its annual allocation of BS pollock TAC.

(6) *Excessive harvesting shares.* It is unlawful for an AFA entity to harvest, through a fishery cooperative or otherwise, an amount of BS pollock that exceeds the 17.5 percent excessive share limit specified under § 679.20(a)(5)(i)(A)(*6*). The owners and operators of the individual vessels comprising the AFA entity that harvests BS pollock will be held jointly and severally liable for exceeding the excessive harvesting share limit.

(7) *Excessive processing shares.* It is unlawful for an AFA entity to process an amount of BS pollock that exceeds the 30–percent excessive share limit specified under § 679.20(a)(5)(i)(A)(*7*). The owners and operators of the individual processors comprising the AFA entity that processes BS pollock will be held jointly and severally liable for exceeding the excessive processing share limit.

(l) *Prohibitions specific to the AI directed pollock fishery*—(1) *Catcher/processors.* (i) Use a catcher/processor vessel to harvest pollock in the AI directed pollock fishery or process pollock harvested in the AI directed pollock fishery without a copy of NMFS' approval letter on board pursuant to § 679.4(m).

(ii) Process any pollock harvested in the AI directed pollock fishery without complying with catch weighing and observer sampling station requirements set forth at paragraphs (k)(1)(vi) and (k)(1)(vii) of this section, respectively.

(iii) Use a catcher/processor to harvest pollock in the AI directed pollock fishery or process pollock harvested in the AI directed pollock fishery without a valid AFA catcher/processor permit on board the vessel.

(2) *Motherships.* (i) Use a mothership to process pollock harvested in the AI directed pollock fishery without a copy of NMFS' approval letter on board pursuant to §679.4(m).

(ii) Process any pollock harvested in the AI directed pollock fishery without complying with catch weighing and observer sampling station requirements set forth at paragraphs (k)(2)(iii) and (k)(2)(iv) of this section, respectively.

(iii) Use a mothership to process pollock harvested in the AI directed pollock fishery without a valid AFA mothership permit on board the vessel.

(3) Shoreside and stationary floating processors. (i) Use a shoreside processor or stationary floating processor to process pollock harvested in the in AI directed pollock fishery without a copy of NMFS' approval letter on location pursuant to §679.4(m).

(ii) Process any pollock harvested in the AI directed pollock fishery without complying with catch weighing requirements set forth at paragraph (k)(3)(v) of this section.

(iii) Take deliveries of pollock harvested in the AI directed pollock fishery or process pollock harvested in the AI pollock fishery without following an approved CMCP as described in §679.28(g). A copy of the CMCP must be maintained on the premises and made available to authorized officers or NMFS-authorized personnel upon request.

(4) *Catcher vessels.* (i) Use a catcher vessel to harvest pollock in the AI directed pollock fishery without a copy of NMFS' approval letter on board pursuant to §679.4(m).

(ii) Have on board at any one time pollock harvested in the AI directed pollock fishery and pollock harvested from either the Bering Sea subarea or the Gulf of Alaska.

(iii) Use a catcher vessel to deliver pollock harvested in the AI directed pollock fishery:

(A) To a shoreside or stationary floating processor that does not have an approved CMCP pursuant to §679.28(g) and is not approved by NMFS to process pollock harvested in the AI directed pollock fishery, or

(B) To a catcher/processor or mothership that is not approved by NMFS to process pollock harvested in the AI directed pollock fishery.

(iv) Use a catcher vessel greater than 60 ft (18.3 m) LOA to harvest pollock in the AI directed pollock fishery unless the vessel has a valid AFA catcher vessel permit on board.

(5) *AI directed pollock fishery overages.* (i) Use a catcher vessel selected by the Aleut Corporation and approved by NMFS to participate in the AI directed pollock fishery under §679.4(m) to harvest pollock in the AI directed pollock fishery in excess of the Aleut Corporation's annual or seasonal allocations of pollock or in excess of the vessel allocation specified under §679.20(a)(5)(iii).

(ii) The Aleut Corporation is prohibited from exceeding its annual and seasonal allocations of AI pollock TAC or from exceeding the allocation to vessels, as specified in §679.20(a)(5)(iii).

(m) *Prohibitions specific to GRS.* (Effective January 20, 2008). It is unlawful for either the owner or operator of a catcher/processor not listed in §679.4(l)(2)(i) not assigned to an Amendment 80 cooperative and using trawl gear in the BSAI, or an Amendment 80 cooperative to:

(1) Retain an amount of groundfish during a fishing year that is less than the amount of groundfish required to be retained under the GRS described at §679.27(j).

(2) Fail to submit, submit inaccurate information, or intentionally submit false information, on any report, application or statement required under this part.

(3) Process or discard any catch not weighed on a NMFS-approved scale that complies with the requirements of §679.28(b). Catch must not be sorted before it is weighed and each haul must be available to be sampled by an observer for species composition.

(4) Process any groundfish without an observer sampling station that complies with §679.28(d).

(5) Combine catch from two or more hauls.

(6) Receive deliveries of unsorted catch at any time during a fishing year without complying with §679.27(j)(5), if the vessel is required to comply with §679.27(j)(1) at any time during the same fishing year.

(n) *Rockfish Program*—(1) *General*. (i) Fail to retain any primary rockfish species caught by a vessel that is assigned to a rockfish cooperative when that vessel is fishing under a CQ permit.

(ii) Fail to retain any primary rockfish species in the Central GOA caught by a vessel assigned to a rockfish limited access fishery, or to a rockfish entry level fishery, when that fishery is open.

(iii) Fail to retain any secondary species caught by a vessel assigned to a rockfish cooperative when that vessel is fishing under a CQ permit.

(iv) Use an LLP license assigned to a Rockfish Program fishery in any other Rockfish Program fishery other than the Rockfish Program fishery to which that LLP license was initially assigned for that fishing year.

(v) Operate a vessel assigned to a Rockfish Program Fishery in any other Rockfish Program fishery other than the Rockfish Program fishery to which that vessel was initially assigned for that fishing year.

(vi) Receive any primary rockfish species harvested in the entry level rockfish fishery if that person is an eligible rockfish processor.

(vii) Harvest any primary rockfish species in the entry level rockfish fishery if that person is an eligible rockfish harvester.

(viii) Harvest primary rockfish species, secondary species, or use halibut PSC assigned to a rockfish cooperative without a valid CQ permit.

(2) *Vessels operators participating in the Rockfish Program*. (i) Operate a vessel that is assigned to a rockfish cooperative and fishing under a CQ permit and fail to follow the catch monitoring requirements detailed at § 679.84(c) through (e) from May 1:

(A) Until November 15; or

(B) Until that rockfish cooperative has submitted a rockfish cooperative termination of fishing declaration that has been approved by NMFS.

(ii) Operate a vessel that is assigned to a rockfish limited access fishery and fail to follow the catch monitoring requirements detailed at § 679.84(c) through (e) from July 1:

(A) Until November 15; or

(B) Until NMFS closes all directed fishing for all primary rockfish species for that rockfish limited access fishery for that sector.

(iii) Operate a vessel, other than a catcher/processor vessel assigned to the opt–out fishery, that is subject to a sideboard limit detailed at § 679.82(d) through (h), as applicable, and fail to follow the catch monitoring requirements detailed at § 679.84(c) through (e) from July 1 until July 31, if that vessel is harvesting fish in the West Yakutat District, Central GOA, or Western GOA management areas.

(iv) Operate a catcher/processor vessel assigned to the opt–out fishery, that is subject to a sideboard limit detailed at § 679.82(d) through (h), as applicable, and fail to follow the catch monitoring requirements detailed at § 679.84(d) from July 1 until July 31, if that vessel is harvesting fish in the West Yakutat District, Central GOA, or Western GOA management areas.

(3) *VMS*. (i) Operate a vessel that is assigned to a rockfish cooperative and fail to use functioning VMS equipment as described at § 679.28(f) at all times when operating in a reporting area off Alaska from May 1:

(A) Until November 15; or

(B) Until that rockfish cooperative has submitted a rockfish cooperative termination of fishing declaration that has been approved by NMFS.

(ii) Operate a vessel that is assigned to a rockfish limited access fishery and fail to use functioning VMS equipment as described at § 679.28(f) at all times when operating in a reporting area off Alaska from July 1:

(A) Until November 15; or

(B) Until NMFS closes all directed fishing for all primary rockfish species for that rockfish limited access fishery for that sector.

(iii) Operate a vessel that is subject to a sideboard limit detailed at § 679.82(d) through (h), as applicable, and fail to use functioning VMS equipment as described at § 679.28(f) at all times when operating in a reporting area off Alaska from July 1 until July 31.

(iv) Operate a vessel assigned to the rockfish entry level fishery for trawl gear and fail to use functioning VMS equipment as described at § 679.28(f) at

all times when operating in a reporting area off Alaska from July 1:

(A) Until November 15; or

(B) Until NMFS closes all directed fishing for all primary rockfish species for the rockfish entry level fishery for trawl gear.

(4) *Catcher/processor vessels participating in the opt–out fishery*. Operate a vessel that is assigned to the opt–out fishery to directed fish for northern rockfish, Pacific ocean perch, or pelagic shelf rockfish in the Central GOA.

(5) *Shoreside and stationary floating processors eligible for the Rockfish Program*—(i) *Catch weighing*. Process any groundfish delivered by a vessel assigned to a Rockfish Program fishery, or subject to a sideboard limit not weighed on a scale approved by the State of Alaska. The scale must meet the requirements specified in § 679.28(c).

(ii) *Catch monitoring and control plan (CMCP)*. Take deliveries of, or process, groundfish caught by a vessel in a rockfish cooperative or the rockfish limited access fishery as detailed under this subpart without following an approved CMCP as described at § 679.28(g). A copy of the CMCP must be maintained at the facility and made available to authorized officers or NMFS-authorized personnel upon request.

(iii) *Delivery location limitations*. Receive or process outside of the geographic boundaries of the community that is designated on the permit issued by NMFS to the eligible rockfish processor any groundfish caught by a vessel while that vessel is harvesting groundfish under a CQ permit or in a rockfish limited access fishery.

(6) *Catcher vessels participating in the Rockfish Program*. Deliver groundfish harvested by a catcher vessel fishing under a CQ permit or in a rockfish limited access fishery to a shoreside or stationary floating processor that is not operating under an approved CMCP pursuant to § 679.28(g).

(7) *Rockfish cooperatives*. (i) Exceed the CQ permit amount assigned to that rockfish cooperative for any Rockfish Program species.

(ii) Exceed any sideboard limit assigned to a rockfish cooperative in the catcher/processor sector.

(iii) Operate a vessel assigned to a rockfish cooperative to fish under a CQ permit unless the rockfish cooperative has notified NMFS that the vessel is fishing under a CQ permit as described under § 679.5(r)(10).

(iv) Operate a vessel fishing under the authority of a CQ permit in the catcher vessel sector and to have any Pacific ocean perch, pelagic shelf rockfish, northern rockfish, sablefish, thornyhead rockfish, aboard the vessel unless those fish were harvested under the authority of a CQ permit.

(v) Operate a vessel fishing under the authority of a CQ permit in the catcher vessel sector and to have any Pacific cod aboard the vessel unless those fish were harvested under the authority of a CQ permit.

(8) *Use caps*. Exceed the use caps that apply under § 679.82(a).

(o) *Amendment 80 Program*—(1) *Amendment 80 vessels*. (i) Use any vessel other than an Amendment 80 vessel to catch any amount of Amendment 80 species, crab PSC, or halibut PSC assigned to the Amendment 80 sector.

(ii) Use an Amendment 80 vessel to catch any amount of Amendment 80 species, crab PSC, or halibut PSC assigned to the BSAI trawl limited access sector.

(2) *Amendment 80 LLP license*. (i) Designate any vessel other than an Amendment 80 vessel on an Amendment 80 LLP license;

(ii) Fail to designate an Amendment 80 vessel on an Amendment 80 LLP license that is endorsed for groundfish in the Bering Sea subarea or Aleutian Islands subarea with a catcher/processor designation at all times during a calendar year unless that Amendment 80 vessel has suffered an actual total loss, constructive total loss, or is permanently ineligible to receive a fishery endorsement under 46 U.S.C. 12108.

(3) *Amendment 80 QS permit*. (i) Hold an Amendment 80 QS permit assigned to an Amendment 80 vessel if that person does not hold an Amendment 80 LLP license that designates that Amendment 80 vessel.

(ii) Hold an Amendment 80 QS permit that is assigned to an Amendment 80 vessel under § 679.4(o)(1) if that person is not designated as the owner of that Amendment 80 vessel by an abstract of title or USCG documentation.

(iii) Hold an Amendment 80 QS permit assigned to an Amendment 80 vessel if that Amendment 80 vessel has suffered an actual total loss, constructive total loss, or is permanently ineligible to receive a fishery endorsement under 46 U.S.C. 12108 after October 15 in the calendar year following the date of that actual total loss, constructive total loss, or permanent ineligibility to receive a fishery endorsement under 46 U.S.C. 12108.

(4) *Amendment 80 cooperatives.* (i) Use an Amendment 80 vessel, Amendment 80 LLP license, or Amendment 80 QS permit not assigned to an Amendment 80 cooperative for a calendar year to catch any Amendment 80 species, crab PSC, or halibut PSC assigned to that Amendment 80 cooperative during that calendar year;

(ii) Use an Amendment 80 vessel assigned to an Amendment 80 cooperative for a calendar year to receive or process catch from any Amendment 80 vessel not assigned to that Amendment 80 cooperative for that calendar year.

(iii) Catch, process, or receive Amendment 80 species assigned to an Amendment 80 cooperative in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season without a copy of a valid Amendment 80 CQ permit onboard unless that Amendment 80 vessel is using dredge gear while directed fishing for scallops.

(iv) Retain an amount of groundfish during a fishing year that is less than the amount of groundfish required to be retained by an Amendment 80 cooperative under the GRS described at § 679.27(j).

(v) For an Amendment 80 cooperative to catch any Amendment 80 species, crab PSC, or halibut PSC in excess of the CQ permit amounts assigned to that Amendment 80 cooperative.

(5) *Amendment 80 limited access fishery.* (i) Use an Amendment 80 vessel, Amendment 80 LLP license, or Amendment 80 QS permit not assigned to the Amendment 80 limited access fishery for a calendar year to catch any Amendment 80 species, crab PSC, or halibut PSC assigned to the Amendment 80 limited access sector during that calendar year;

(ii) Use an Amendment 80 vessel assigned to the Amendment 80 limited access fishery for a calendar year to receive or process catch from any Amendment 80 vessel not assigned to the Amendment 80 limited access fishery for that calendar year;

(iii) Catch, process, or receive Amendment 80 species assigned to the Amendment 80 limited access fishery in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season without a copy of a valid Amendment 80 limited access fishery permit onboard unless that Amendment 80 vessel is using dredge gear while directed fishing for scallops.

(6) *Catch monitoring.* (i) Operate an Amendment 80 vessel using any gear but dredge gear while directed fishing for scallops or a catcher/processor not listed in § 679.4(l)(2)(i) and using trawl gear, to catch, process, or receive fish in the BSAI or adjacent waters opened by the State of Alaska for which it adopts a Federal fishing season and fail to follow the catch monitoring requirements detailed at § 679.93(a), (b), and (c).

(ii) Operate an Amendment 80 vessel using any gear but dredge gear while directed fishing for scallops that is subject to a sideboard limit detailed at § 679.92(b) and (c), as applicable, in the GOA or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, and fail to follow the catch monitoring requirements detailed at § 679.93(a), (b), and (d).

(7) *Use caps.* Exceed the use caps that apply under § 679.92(a).

(8) *Economic data report (EDR):* Fail to submit a timely and complete EDR as described under § 679.94.

[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.

### § 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 or the 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) *Bering Sea Subarea*—(A) *AFA allocations*. The pollock TAC apportioned to the Bering Sea Subarea, after subtraction of the 10 percent CDQ reserve under § 679.31(a), will be allocated as follows:

(*1*) *Incidental catch allowance*. The Regional Administrator will establish an incidental catch allowance to account for projected incidental catch of pollock by vessels engaged in directed fishing for groundfish other than pollock and by vessels harvesting non-pollock CDQ. If during a fishing year, the Regional Administrator determines that the incidental catch allowance has been set too high or too low, he/she may issue inseason notification in the FEDERAL REGISTER that reallocates incidental catch allowance to the directed fishing allowance, or vice versa, according to the proportions established under paragraph (a)(5)(i)(A) of this section.

(*2*) *Directed fishing allowance*. The remaining pollock TAC apportioned to the Bering Sea subarea is established as a directed fishing allowance.

(*3*) *Inshore sector allocation*. Fifty percent of the directed fishing allowance will be allocated to AFA catcher vessels harvesting pollock for processing by AFA inshore processors. The inshore allocation will be further divided into separate allocations for cooperative and open access fishing.

(*i*) *Inshore cooperatives*. The inshore cooperative allocation will be equal to the aggregate annual allocations of all AFA inshore catcher vessel cooperatives that receive pollock allocations under § 679.62(e).

(*ii*) *Inshore open access*. The inshore open access allocation will equal that portion of the inshore sector allocation that is not allocated to inshore cooperatives.

(*4*) *Catcher/processor sector allocation*. Forty percent of the directed fishing allowance will be allocated to AFA catcher/processors and AFA catcher vessels delivering to catcher processors.

(*i*) *Catcher/processor and catcher vessel cooperatives*. If by December 1 of the year prior to the year when fishing under the cooperative agreement will begin, NMFS receives filing of cooperative contracts and/or an inter-cooperative agreement entered into by listed AFA catcher/processors and all AFA catcher vessels with catcher/processor sector endorsements, and the Regional Administrator determines that such contracts provide for the distribution of harvest between catcher/processors and catcher vessels in a manner agreed to by all members of the catcher/processor sector cooperative(s), then NMFS will not subdivide the catcher/processor sector allocation between catcher vessels and catcher/processors.

(*ii*) *Catcher vessel allocation*. If such contract is not filed with NMFS by December 1 of the preceding year, then NMFS will allocate 91.5 percent of the catcher/processor sector allocation to AFA catcher/processors engaged in directed fishing for pollock and 8.5 percent of the catcher/processor sector allocation to AFA catcher vessels delivering to catcher/processors.

(*iii*) *Unlisted AFA catcher processors*. Unlisted AFA catcher/processors will be limited to harvesting not more than 0.5 percent of catcher/processor sector allocation.

(*5*) *Mothership sector allocation*. Ten percent of the directed fishing allowance will be allocated to AFA catcher vessels harvesting pollock for processing by AFA motherships.

(*6*) *Excessive harvesting share*. NMFS will establish an excessive harvesting share limit equal to 17.5 percent of the sum of the directed fishing allowances established under paragraphs (a)(5)(i) and (a)(5)(ii) of this section. The excessive harvesting share limit will be published in the annual harvest specifications and is subject to revision on an inseason basis if NMFS reallocates unharvested amounts of the incidental catch allowance to the directed fishing allowance, or vice versa.

(*7*) *Excessive processing share*. NMFS will establish an excessive processing share limit equal to 30.0 percent of the sum of the directed fishing allowances established under paragraphs (a)(5)(i) and (a)(5)(ii) of this section. The excessive processing share limit will be published in the annual harvest specifications and is subject to revision on an inseason basis if NMFS reallocates unharvested amounts of the incidental catch allowance to the directed fishing allowance, or vice versa.

(B) *BSAI seasonal allowances for AFA and CDQ*—(*1*) *Inshore, catcher/processor, mothership, and CDQ components*. The portions of the BS subarea pollock directed fishing allowances allocated to each component under sections 206(a) and 206(b) of the AFA and the CDQ allowance in the BSAI will be divided into two seasonal allowances corresponding to the two fishing seasons set out at § 679.23(e)(2), as follows: A season, 40 percent; and B season, 60 percent.

(*2*) *Inseason adjustments*. Within any fishing year, the Regional Administrator may 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) *Steller sea lion conservation area (SCA) harvest limit*. For each component under Sections 206(a) and 206(b) of the AFA and for the open access fishery, no more than 28 percent of the annual pollock directed fishery allowance may be taken from the SCA before April 1. The SCA is defined at § 679.22(a)(7)(vii).

(D)–(E) [Reserved]

(F) *Steller sea lion conservation area harvest limit* (applicable through December 31, 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) *Bogoslof District*. If the Bogoslof District is open to directed fishing for pollock by regulation, then the pollock TAC for this district will be allocated according to the same procedure established for the Bering Sea subarea at paragraph (a)(5)(i) of this section. If the Bogoslof District is closed to directed fishing for pollock by regulation, then the entire TAC for this district will be allocated as an incidental catch allowance.

(iii) *AI*. (A) If a directed fishery for pollock in the AI is not specified under paragraph (c) of this section, then the entire TAC for this subarea will be allocated as an incidental catch allowance.

(B) If the AI is open to directed fishing for pollock under paragraph (c) of this section, then the pollock TAC for this subarea will be specified, allocated, seasonally apportioned, and reallocated as follows:

(*1*) *AI annual TAC limitations*. When the AI pollock ABC is less than 19,000 mt, the annual TAC will be no greater than the ABC. When the AI pollock ABC equals or exceeds 19,000 mt, the annual TAC will be equal to 19,000 mt.

(*2*) *Allocations*—(*i*) *CDQ Directed fishing allowance*. 10 percent of the annual TAC will be allocated to the CDQ pollock reserve established under § 679.31(a)(2).

(*ii*) *Incidental catch allowance*. The Regional Administrator will determine the amount of the pollock incidental catch necessary to support an incidental catch allowance in the AI during the fishing year for each season. This amount of pollock will be deducted from the annual TAC. If during a fishing year, the Regional Administrator determines that the incidental catch allowance is excessive or inadequate, the Regional Administrator may reallocate the excess of the incidental catch allowance to the directed pollock fishery, or may reallocate pollock from the directed pollock fishery to the incidental catch allowance as necessary to support incidental catch of pollock in AI groundfish fisheries, by publication in the FEDERAL REGISTER.

(*iii*) *Directed Pollock Fishery*. The amount of the TAC remaining after subtraction of the CDQ directed fishing allowance and the incidental catch allowance will be allocated to the Aleut Corporation as a directed pollock fishery allocation.

(*3*) Seasonal apportionment. The seasonal harvest of pollock in the AI directed pollock fishery shall be:

(*i*) *A season*. No greater than the lesser of the annual initial TAC plus any A season CDQ pollock directed fishery allowance or 40 percent of the AI pollock ABC. The total A season apportionment, including the AI directed pollock

fishery allocation, the CDQ pollock directed fishery seasonal allowance, and the incidental catch amount, shall not exceed 40 percent of the ABC.

(*ii*) *B season*. The B season apportionment of the AI directed pollock fishery shall equal the annual initial TAC minus the A season directed pollock fishery apportionment under paragraph (a)(5)(iii)(B)(*3*)(*i*) of this section and minus the incidental catch amount under paragraph (a)(5)(iii)(B)(*2*)(*ii*) of this section.

(*iii*) *Inseason adjustments for the directed pollock fishery*. During any fishing year, the Regional Administrator may add any under harvest of the A season directed pollock fishery apportionment to the B season directed pollock fishery apportionment by inseason notification published in the FEDERAL REGISTER if the Regional Administrator determines that the harvest capacity in the B season is sufficient to harvest the adjusted B season apportionment.

(*iv*) *Inseason adjustments for the incidental catch allowance*. During any fishing year, the Regional Administrator may add any under harvest of the A season incidental catch allowance apportionment to the B season incidental catch allowance apportionment by publication in the FEDERAL REGISTER if the Regional Administrator determines that the additional B season incidental catch allowance is necessary to support other groundfish fisheries.

(*4*) *Reallocation of the annual AI directed pollock fishery and AI CDQ allocations*. As soon as practicable, if the Regional Administrator determines that vessels participating in either the AI directed pollock fishery or the AI CDQ directed pollock fishery likely will not harvest the entire AI directed pollock fishery or CDQ pollock directed fishing allowance, the Regional Administrator may reallocate some or all of the projected unused directed pollock fishery allocation to the Bering Sea subarea directed pollock fishery or AI CDQ pollock directed fishing allowance to the Bering Sea subarea CDQ pollock directed fishing allowance by inseason notification published in the FEDERAL REGISTER.

(*5*) *Allocations to small vessels*. The annual allocation for vessels 60 feet (18.3 m) LOA or less participating in the AI directed pollock fishery will be:

(*i*) No more than 25 percent of the AI directed pollock fishery allocation through 2008;

(*ii*) No more than 50 percent of the AI directed pollock fishery allocation from 2009 through 2012; and

(*iii*) 50 percent of the AI directed pollock fishery allocation in 2013 and beyond.

(iv) *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) *GOA Western and Central Regulatory Areas seasonal apportionments*. Each apportionment established under paragraph (a)(5)(iv)(A) of this section will be divided into four seasonal apportionments corresponding to the four fishing seasons specified in § 679.23(d)(2) as follows: A Season, 25 percent; B Season, 25 percent; C Season, 25 percent; and D Season, 25 percent. Within any fishing year, underharvest or overharvest 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 20 percent of the seasonal TAC apportionment for the statistical area. The reapportionment of underharvest will be applied to the subsequent season within the same statistical area up to the 20 percent limit specified in this paragraph. Any underharvest remaining beyond the 20 percent limit may be further apportioned to the subsequent season in the other statistical areas, in proportion to estimated biomass and in an amount no more than 20 percent of the seasonal TAC apportionment for the statistical area.

(C) *GOA seasonal apportionments* (applicable through December 31, 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) *GOA inshore/offshore allocations*—(i) *GOA pollock*. The apportionment of pollock in all GOA regulatory areas for each seasonal allowance described in paragraph (a)(5)(iv) of this section will be allocated entirely to vessels harvesting 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.

(ii) *GOA Pacific cod*. The apportionment of Pacific cod in all GOA regulatory areas will be allocated 90 percent to vessels harvesting Pacific cod for processing by the inshore component in the GOA and 10 percent to vessels harvesting Pacific cod for processing by the offshore component in the GOA.

(7) *Pacific cod TAC, BSAI*—(i) *CDQ reserve and seasonal allowances*. (A) A total of 10.7 percent of the annual Pacific cod TAC will be allocated to the CDQ Program in the annual harvest specifications required under paragraph (c) of this section. The Pacific cod CDQ allocation will be deducted from the annual Pacific cod TAC before allocations to the non-CDQ sectors are made under paragraph (a)(7)(ii) of this section.

(B) The BSAI Pacific cod CDQ gear allowances by season, as those seasons are specified under § 679.23(e)(5), are as follows:

| Gear Type | A season | B season | C season |
|---|---|---|---|
| (*1*) Trawl | 60% | 20% | 20% |
| (*i*) Trawl CV | 70% | 10% | 20% |
| (*ii*) Trawl CP | 50% | 30% | 20% |
| (*2*) Hook-and-line CP and hook-and-line CV ≥60 ft (18.3 m) LOA | 60% | 40% | no C season |
| (*3*) Jig | 40% | 20% | 40% |
| (*4*) All other non-trawl gear | no seasonal allowance | no seasonal allowance | no seasonal allowance |

(ii) *Non-CDQ allocations*—(A) *Sector allocations*. The remainder of the BSAI Pacific cod TAC after subtraction of the CDQ reserve for Pacific cod will be allocated to non-CDQ sectors as follows:

| Sector | % Allocation |
|---|---|
| (*1*) Jig vessels | 1.4 |
| (*2*) Hook-and-line/pot CV <60 ft (18.3 m) LOA | 2 |
| (*3*) Hook-and-line CV ≥60 ft (18.3 m) LOA | 0.2 |
| (*4*) Hook-and-line CP | 48.7 |
| (*5*) Pot CV ≥60 ft (18.3 m) LOA | 8.4 |
| (*6*) Pot CP | 1.5 |
| (*7*) AFA trawl CP | 2.3 |
| (*8*) Amendment 80 sector | 13.4 |
| (*9*) Trawl CV | 22.1 |

(B) *Incidental catch allowance*. During the annual harvest specifications process set forth at paragraph (c) of this section, the Regional Administrator will specify an amount of Pacific cod that NMFS estimates will be taken as incidental catch in directed fisheries for groundfish other than Pacific cod

by the hook-and-line and pot gear sectors. This amount will be the incidental catch allowance and will be deducted from the aggregate portion of Pacific cod TAC annually allocated to the hook-and-line and pot gear sectors before the allocations under paragraph (a)(7)(ii)(A) of this section are made to these sectors.

(iii) *Reallocation among non-CDQ sectors.* If, during a fishing year, the Regional Administrator determines that a non-CDQ sector will be unable to harvest the entire amount of Pacific cod allocated to that sector under paragraph (a)(7)(ii)(A) of this section, the Regional Administrator will reallocate the projected unused amount of Pacific cod to other sectors through notification in the FEDERAL REGISTER. Any reallocation decision by the Regional Administrator will take into account the capability of a sector to harvest the reallocated amount of Pacific cod, and the following reallocation hierarchy:

(A) *Catcher vessel sectors.* The Regional Administrator will reallocate projected unharvested amounts of Pacific cod TAC from a catcher vessel sector as follows: first to the jig sector, or to the less than 60 ft (18.3 m) LOA hook-and-line or pot catcher vessel sector, or to both of these sectors; second, to the greater than or equal to 60 ft (18.3 m) LOA hook-and-line or to the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sectors; and third to the trawl catcher vessel sector. If the Regional Administrator determines that a projected unharvested amount from the jig sector allocation, the less than 60 ft (18.3 m) LOA hook-and-line or pot catcher vessel sector allocation, or the greater than or equal to 60 ft (18.3 m) LOA hook-and-line catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the hook-and-line catcher/processor sector. If the Regional Administrator determines that a projected unharvested amount from a greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the pot catcher/processor sector in accordance with the hierarchy set forth in paragraph (a)(7)(iii)(C) of this section. If the Regional Administrator determines that a projected unharvested amount from a trawl catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the other trawl sectors in accordance with the hierarchy set forth in paragraph (a)(7)(iii)(B) of this section.

(B) *Trawl gear sectors.* The Regional Administrator will reallocate any projected unharvested amounts of Pacific cod TAC from the trawl catcher vessel or AFA trawl catcher/processor sectors to other trawl sectors before unharvested amounts are reallocated and apportioned to specified gear sectors as follows:

(*1*) 83.1 percent to the hook-and-line catcher/processor sector,

(*2*) 2.6 percent to the pot catcher/processor sector, and

(*3*) 14.3 percent to the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector.

(C) *Pot gear sectors.* The Regional Administrator will reallocate any projected unharvested amounts of Pacific cod TAC from the pot catcher/processor sector to the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector, and from the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector to the pot catcher/processor sector before reallocating it to the hook-and-line catcher/processor sector.

(iv) *Non-CDQ seasonal allowances*—(A) *Seasonal allowances by sector.* The BSAI Pacific cod sector allowances are apportioned by season, as those seasons are specified at § 679.23(e)(5), as follows:

| Sector | Seasonal Allowances | | |
|---|---|---|---|
| | A season | B season | C season |
| (*1*) Trawl | | | |
| (*i*) Trawl CV | 74 % | 11 % | 15 % |

| Sector | Seasonal Allowances | | |
|---|---|---|---|
| | A season | B season | C season |
| (*ii*) Trawl CP | 75 % | 25 % | 0 % |
| (*2*) Hook-and-line CP, hook-and-line CV ≥60 ft (18.3 m) LOA, and pot gear vessels ≥60 ft (18.3 m) LOA | 51 % | 49 % | no C season |
| (*3*) Jig vessels | 60 % | 20 % | 20 % |
| (*4*) All other nontrawl vessels | no seasonal allowance | no seasonal allowance | no seasonal allowance |

(B) *Unused seasonal allowances*. Any unused portion of a seasonal allowance of Pacific cod from any sector except the jig sector will be reallocated to that sector's next season during the current fishing year unless the Regional Administrator makes a determination under paragraph (a)(7)(iii) of this section that the sector will be unable to harvest its allocation.

(C) *Jig sector*. The Regional Administrator will reallocate any projected unused portion of a seasonal allowance of Pacific cod for the jig sector under this section to the less than 60 ft (18.3 m) LOA hook-and-line or pot catcher vessel sector. The Regional Administrator will reallocate the projected unused portion of the jig sector's C season allowance on or about September 1 of each year.

(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) *ITAC allocation to Amendment 80 and BSAI trawl limited access sectors*. The remainder of the Atka mackerel TAC, after subtraction of the jig gear allocation, CDQ reserve, and incidental catch allowance for the BSAI trawl limited access sector and vessels using non-trawl gear, will be allocated as ITAC to the Amendment 80 and BSAI trawl limited access sectors.

(iii) *Atka mackerel HLA directed fishing*—(A) *Registration*. All vessels using trawl gear to conduct 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)(vi) for an endorsement to the vessel's Federal Fisheries 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., of the first working day following January 1.

(*2*) To participate in the B season HLA fishery,

(*i*) The vessel must be registered for the A season HLA fishery and must maintain registration for the HLA fishery through the first working day following July 31, or

(*ii*) The vessel must be registered for the HLA fishery with NMFS, Restricted Access Management Program, by 4:30 p.m., A.l.t., of the first working day following July 31.

(B) *HLA assignment*. For each season, NMFS will manage the HLA directed 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 will randomly assign each vessel to 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 HLA directed fishery

within a statistical area will be assigned an equal number of vessels unless there is an odd number of vessels under paragraph (a)(8)(iii)(A) of this section. In the case of an odd number of vessels, the Regional Administrator or his/her designee will assign one additional vessel to one HLA directed fishery. 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 an HLA directed fishery in area 542 and will be placed in the area 543 HLA 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) *HLA directed fisheries*. 48 hours after a prohibited directed fishing for Atka mackerel in area 541, the Regional Administrator will allow directed fishing within the HLA in areas 542 and 543. The Regional Administrator will provide notification by publication in the FEDERAL REGISTER of the opening and closure dates of the HLA directed fisheries, as determined by paragraph (a)(8)(iii)(E) of this section. Closures specified in Table 6 to this part and in § 679.22(a)(8) will remain in effect.

(D) *HLA harvest limit*. The Regional Administrator will establish the harvest limit for each HLA directed fishery for each area based on the seasonal apportionment at paragraph (a)(8)(ii)(C) of this section and in proportion to the number of vessels in an HLA directed fishery compared to the total number of vessels fishing in the HLA of an area during a season.

(E) *HLA directed fishery closure*. The Regional Administrator will establish the closure date of the Atka mackerel HLA directed fishery for each statistical area based on the estimated fishing capacity of vessels registered to fish in the area and assigned to the HLA directed fishery under paragraph (a)(8)(iii)(B) of this section. Each HLA 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 Atka mackerel, during the opening of the first HLA directed fishery assigned to the vessel in a season, as specified in § 679.7(a)(19).

(iv) *Amendment 80 sector allocation*. The allocation of Atka mackerel ITAC to the Amendment 80 sector is established in Table 33 to this part. The allocation of Atka mackerel ITAC to the Amendment 80 sector will be further divided into seasonal apportionments under § 679.23(e)(3), and separate allocations for each Amendment 80 cooperative and the Amendment 80 limited access fishery as described under § 679.91.

(A) *Use of seasonal apportionments by Amendment 80 cooperatives*. (*1*) The amount of Atka mackerel listed on a CQ permit that is assigned for use in the A season may be used in the B season.

(*2*) The amount of Atka mackerel listed on a CQ permit that is assigned for use in the B season may not be used in the A season.

(B) *Harvest of seasonal apportionments in the Amendment 80 limited access fishery*. (*1*) Atka mackerel ITAC assigned for harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B season.

(*2*) Atka mackerel ITAC assigned for harvest by the Amendment 80 limited access fishery in the B season may not be harvested in the A season.

(v) *BSAI trawl limited access sector allocation*—(A) *BSAI trawl limited access sector directed fishing allowance*. The amount of Atka mackerel ITAC assigned as a directed fishing allowance to the BSAI trawl limited access sector is established in Table 33 to this part.

(B) *BSAI trawl limited access sector incidental catch allowance and ITAC rollover*. If, during a fishing year, the Regional Administrator determines that a portion of the Atka mackerel incidental catch allowance or ITAC assigned to the BSAI trawl limited access sector is unlikely to be harvested, the Regional Administrator may issue inseason notification in the FEDERAL REGISTER that reallocates that remaining amount of Atka mackerel directed

fishing allowance to Amendment 80 cooperatives, according to the procedures established under § 679.91(f).

(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) *Amendment 80 species except Pacific cod and Atka mackerel*—(i) *ITAC allocation to the Amendment 80 and BSAI trawl limited access sectors*. The remainder of the TACs for each Amendment 80 species other than Atka mackerel and Pacific cod, after subtraction of the CDQ reserve and incidental catch allowance for the BSAI trawl limited access sector and vessels using non-trawl gear, will be allocated as ITAC to the Amendment 80 and BSAI trawl limited access sectors.

(ii) *Amendment 80 sector ITAC*. The allocation of ITAC for each Amendment 80 species other than Atka mackerel and Pacific cod to the Amendment 80 sector is established in Tables 33 and 34 to this part. The allocation of these species to the Amendment 80 sector will be further divided into separate allocations for each Amendment 80 cooperative and the Amendment 80 limited access fishery as described under § 679.91.

(iii) *BSAI trawl limited access sector allocation*—(A) *BSAI trawl limited access sector directed fishing allowance*. The amount of ITAC for each Amendment 80 species other than Atka mackerel and Pacific cod assigned as a directed fishing allowance to the BSAI trawl limited access sector is established in Tables 33 and 34 to this part.

(B) *BSAI trawl limited access sector ITAC rollover*. If, during a fishing year, the Regional Administrator determines that a portion of the incidental catch allowance or ITAC assigned to the BSAI trawl limited access sector for each Amendment 80 species other than Atka mackerel and Pacific cod is unlikely to be harvested, the Regional Administrator may issue inseason notification in the FEDERAL REGISTER that reallocates that remaining amount to Amendment 80 cooperatives, according to the procedures established under § 679.91(f).

(11) *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.

(12) *GOA Pacific cod TAC*—(i) *Seasonal apportionment*. The TAC established for Pacific cod in the Western and Central Regulatory 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)(3).

(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 shall consider bycatch needed to optimize catch by gear groups and sectors.

(iii) Pacific cod catch between the A and B seasons. Pacific cod harvested 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) *Nonspecified reserve*. Fifteen percent of the BSAI TAC for each target species and the ''other species'' category, except pollock, the hook-and-line and pot gear allocation for sablefish, and the Amendment 80 species, which includes Pacific cod, is automatically placed in the nonspecified reserve before allocation to any sector. The remaining 85 percent of each TAC is apportioned to the initial TAC for each target species that contributed to the nonspecified reserve and the ''other species'' category. The nonspecified reserve is not designated by species or species group. Any amount of the nonspecified reserve may be apportioned to target species that contributed to the nonspecified reserve 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.

(ii) *CDQ reserves*—(A) *Pollock CDQ reserves*—(*1*) *Bering Sea*. In the annual harvest specifications required by paragraph (c) of this section, 10 percent of the Bering Sea subarea pollock TAC

will be allocated to a CDQ reserve as a directed fishing allowance.

(*2*) *Aleutian Islands subarea and Bogoslof District*. In the annual harvest specifications required by paragraph (c) of this section, 10 percent of the Aleutian Islands subarea and Bogoslof District pollock TACs will be allocated to a CDQ reserve as a directed fishing allowance unless the Aleutian Islands subarea or Bogoslof District is closed to directed fishing for pollock by regulation. If the Aleutian Islands subarea and/or Bogoslof District is closed to directed fishing for pollock by regulation, then no pollock CDQ reserve will be established for those areas and incidental harvest of pollock by CDQ groups will accrue against the incidental catch allowance for pollock established under paragraph (a)(5)(i)(A)(*1*) of this section.

(B) *Fixed gear sablefish CDQ reserves*. Twenty percent of the hook-and-line or pot gear allocation of sablefish established under paragraphs (a)(4)(iii)(A) and (a)(4)(iv)(A) of this section will be allocated to a CDQ reserve for each subarea.

(C) *CDQ reserves for Amendment 80 species*. An amount equal to 10.7 percent of the BSAI TACs for Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod will be allocated to a CDQ reserve for each of these species by management area, subarea, or district.

(D) *CDQ reserves for other groundfish species*. An amount equal to 10.7 percent of the BSAI TACs for Bering Sea Greenland turbot and arrowtooth flounder, and 7.5 percent of the trawl gear allocation of sablefish in the BS and AI is apportioned from the nonspecified reserve established under paragraph (b)(1)(i) of this section to a CDQ reserve for each of these species by management area, subarea, or district.

(E) If the groundfish harvest specifications required by paragraph (c) of this section change a TAC category allocated to a CDQ reserve under paragraphs (b)(1)(ii)(A) through (D) of this section by combining or splitting a species, species group, or management area, then the same percentage of the TAC apportioned to a CDQ reserve in paragraphs (b)(1)(ii)(A) through (D) of this section will apply to the new TAC categories.

(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*. Any amounts of the GOA reserve that are reapportioned to pollock as provided by paragraph (b) of this section must be apportioned for processing by the inshore component in the GOA and the offshore component in the GOA in the same proportions specified in paragraph (a)(6)(i) of this section.

(ii) *Pacific Cod inshore-offshore reapportionment*. Any amounts of the GOA reserve that are reapportioned to Pacific cod as provided by paragraph (b) of this section must be apportioned for processing by 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.

(3) *Apportionment of reserves*. (i) *Notification*. (A) As soon as practicable after April 1, June 1, and August 1, and on such other dates as NMFS determines appropriate, NMFS will, by notification in the FEDERAL REGISTER, apportion all or part of the BSAI or GOA reserve in accordance with this paragraph (b).

(B) No apportionment, retention, or PSC limit adjustment may take effect until notification has been published in the FEDERAL REGISTER with a statement of the findings upon which the apportionment, retention, or adjustment is based.

(ii) *Apportionment*—(A) *General*. Except as provided in paragraph (b)(3)(ii)(B) of this section, NMFS will apportion the amount of BSAI or GOA reserve that will be harvested by U.S. vessels during the remainder of the year.

(B) *Exception*. Part or all of the BSAI or GOA reserve may be withheld if an apportionment would adversely affect the conservation of groundfish resources or prohibited species.

(iii) *Public comment*—(A) *Prior comment*. NMFS will provide all interested persons an opportunity to comment on

the proposed apportionments, retentions, or PSC limit adjustments under this paragraph (b) before such apportionments, retentions, or adjustments are made, unless NMFS finds that there is good cause for not providing a prior comment opportunity, and publishes the reasons therefor in the notification of apportionment, retention, or adjustment.

(B) *Submittal dates*. Comments provided for in this paragraph (b)(3)(iii) must be received by NMFS not later than 5 days before April 1, June 1, and August 1, or other dates that may be specified.

(C) *Subsequent comment*. If NMFS determines for good cause that notification of apportionment, retention or PSC limit adjustment must be issued without providing interested persons a prior opportunity for public comment, comments on the apportionment, retention or adjustment will be received for a period of 15 days after its effective date.

(D) *Response to comments*. NMFS will consider all timely comments in deciding whether to make a proposed apportionment, retention, or PSC limit adjustment or to modify an apportionment, retention, or adjustment that previously has been made, and shall publish responses to those comments in the FEDERAL REGISTER as soon as practicable.

(E) *Data available*. The Regional Administrator will make available to the public during business hours the aggregate data upon which any preliminary TAC or PSC limit figure is based or the data upon which any apportionment or retention of surplus or reserve, or PSC limit adjustment was or is proposed to be based. These data will be available for a sufficient period to facilitate informed comment by interested persons.

(c) *Annual specifications*—(1) *Proposed specifications*—(i) *Notification*. As soon as practicable after consultation with the Council, NMFS will publish proposed specifications for the groundfish fisheries in the BSAI and the GOA.

(ii) *Public comment*. NMFS will accept public comment on the proposed specifications established by this section and by § 679.21 for a period specified in the notice of proposed specifications published in the FEDERAL REGISTER.

(iii) *GOA*. The proposed specifications will specify for up to two fishing years 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 and Pacific cod.

(iv) *BSAI*. The proposed specifications will specify for up to two fishing years 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 pollock, Pacific cod, and Atka mackerel TAC (including pollock, Pacific cod, and Atka mackerel CDQ), and CDQ reserve amounts.

(2) *Interim specifications*. (Applicable until April 1, 2005.) 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 allowances of pollock or Pacific cod), one-fourth of the proposed halibut prohibited species catch amounts, and the proposed first seasonal allowances of pollock and Pacific cod.

(ii) *BSAI*. Except for pollock, Pacific cod, Atka mackerel, 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, Pacific cod, and Atka mackerel will be equal to the first seasonal allowances for pollock, Pacific cod, and Atka mackerel that are published in the proposed specifications under paragraph (c)(1) of this section.

(B) The interim specifications for CDQ pollock, CDQ Atka mackerel, and CDQ Pacific cod will be equal to the first seasonal allowances that are published in the proposed specifications under paragraph (c)(1) of this section.

(3) *Final specifications*—(i) *Procedure and notification*. NMFS will consider comments received on the proposed specifications and, after consultation with the Council, will publish a notice of final specifications in the FEDERAL REGISTER unless NMFS determines that the final specifications would not be a logical outgrowth of the notice of proposed specifications. In that event, NMFS will either:

(A) Publish a revised notice of proposed specifications in the FEDERAL REGISTER for public comment, and after considering comments received on the revised proposed specifications, publish a notice of final specifications in the FEDERAL REGISTER; or

(B) Publish a notice of final specifications in the FEDERAL REGISTER without an additional opportunity for public comment based on a finding that good cause pursuant to the Administrative Procedure Act justifies waiver of the requirement for a revised notice of proposed specifications and opportunity for public comment thereon.

(ii) *GOA*. The final specifications will specify for up to two fishing years 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 and Pacific cod.

(iii) *BSAI*. The final specifications will specify for up to two fishing years 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 pollock, Pacific cod, and Atka mackerel TAC (including pollock, Pacific cod, and Atka mackerel CDQ), and CDQ reserve amounts.

(4) *AFA and inshore/offshore allocations*—(i) *BSAI pollock*. The annual harvest specifications will specify the allocation of pollock for processing by each AFA industry component in the BSAI, and any seasonal allowances thereof, as authorized under paragraph (a)(5) of this section.

(ii) *GOA pollock and Pacific cod*. The annual harvest 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*. (Effective April 1, 2005) The proposed 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*. (Effective April 1, 2005) The proposed and final specifications will specify the allocation of BSAI Atka mackerel among gear types and HLA fisheries 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 incidental species*. Except as described in § 679.20(e)(3)(iii), if directed fishing for a target species, species group, or the ''other species'' category is prohibited, a vessel may not retain that incidental species in an amount that exceeds the maximum retainable amount, as calculated under paragraphs (e) and (f) of this section, at any time during a fishing trip.

(iv) *AFA sideboard limitations*—(A) If the Regional Administrator determines that any sideboard harvest limit for a group of AFA vessels established under § 679.64 has been or will be reached, the Regional Administrator may establish a sideboard directed fishing allowance for the species or species group applicable only to the identified group of AFA vessels.

(B) In establishing a directed fishing allowance under paragraph (d)(1)(iv)(A) of this section, the Regional Administrator will consider the amount of the sideboard limit established for a group of AFA vessels under § 679.64 that will be taken as incidental catch by those vessels in directed fishing for other species.

(C) If the Regional Administrator determines that a sideboard amount is insufficient to support a directed fishery for that species then the Regional Administrator may set the sideboard directed fishing allowance at zero for that species or species group.

(v) *Amendment 80 GOA sideboard limits—GOA groundfish*. (A) If the Regional Administrator determines that a GOA sideboard limit for a GOA groundfish species as described under Table 37 to this part is sufficient to support a directed fishing allowance for that species, the Regional Administrator may establish a directed fishing allowance for the species applicable only to Amendment 80 vessels subject to the GOA groundfish sideboard limit.

(B) If the Regional Administrator determines that a GOA groundfish sideboard limit as described under Table 37 to this part is insufficient to support a directed fishing allowance by Amendment 80 vessels for that species, then the Regional Administrator may set the directed fishing allowance to zero for that species for Amendment 80 vessels.

(C) Upon determining that a GOA sideboard limit as described under Table 37 to this part for a species is or will be reached, the Regional Administrator will publish notification in the FEDERAL REGISTER prohibiting directed fishing for that species by the Amendment 80 vessels to which the GOA sideboard limit applies.

(vi) *Amendment 80 GOA sideboard limits—halibut PSC*. (A) If the Regional Administrator determines that a GOA sideboard limit for halibut PSC is sufficient to support a directed fishery for a species or species group, management area, and season specified in Table 38 to this part, then the Regional Administrator may establish a halibut PSC sideboard limit for that species or species group, management area, and season applicable to the Amendment 80 vessels to which the halibut PSC limit applies.

(B) If the Regional Administrator determines that a halibut PSC sideboard limit is insufficient to support a directed fishery for a species or species group, management area, and season as specified in Table 38 to this part then the Regional Administrator may set the halibut PSC sideboard limit for that species or species group to zero for the Amendment 80 vessels to which the halibut PSC limit applies.

(C) Upon determining that a halibut PSC sideboard limit for a species or species group, management area, and season as specified in Table 38 to this part is or will be reached, the Regional Administrator will publish notification in the FEDERAL REGISTER prohibiting directed fishing for a specific species or species group by the Amendment 80 vessels to which the halibut PSC limit applies as follows:

(*1*) If the halibut PSC sideboard limit is reached for the deep-water species fishery as defined in § 679.21(d)(3)(iii)(B) for a season, then NMFS will close directed fishing in the GOA for all species in the deep-water species fishery except northern rockfish, Pacific ocean perch, and pelagic shelf rockfish in the Central GOA for that season.

(*2*) If the halibut PSC sideboard limit is reached for the shallow-water species fishery as defined in § 679.21(d)(3)(iii)(A)

for a season, then NMFS will close directed fishing in the GOA for all species in the shallow-water species fishery for that season.

(2) *Groundfish as prohibited species closure*. When the Regional Administrator determines that the TAC of any target species or the ''other species'' category specified under paragraph (c) of this section, or the share of any TAC assigned to any type of gear, has been or will be achieved prior to the end of a year, NMFS will publish notification in the FEDERAL REGISTER requiring that target species or the ''other species'' be treated in the same manner as a prohibited species, as described under § 679.21(b), for the remainder of the year.

(3) *Overfishing closure*—(i) *Notification*. If, in making a determination under paragraph (d)(2) of this section, the Regional Administrator also determines that fishing for other target species or species groups in the area, district or part thereof where the notification applies, may lead to the overfishing of the species or species group for which the allocation or apportionment has been or will be reached, NMFS will publish notification in the FEDERAL REGISTER specifying limitations or prohibitions designed to prevent overfishing of that species or species group.

(ii) *Limitations and prohibitions*. These limitations and prohibitions may prohibit directed fishing for other species or species groups in the area, district, or part thereof where the notification applies, or may limit time, area, or gear types that may be used in directed fishing for the other species or species groups.

(iii) *Factors to be considered*. When making the determinations specified under paragraphs (d)(1), (d)(2), and (d)(3) of this section, the Regional Administrator may consider allowing fishing to continue or resume with certain gear types or in certain areas and times based on findings of:

(A) The risk of biological harm to a groundfish species or species group for which the TAC or PSC limit is or will be reached.

(B) The risk of socioeconomic harm to authorized users of the groundfish for which the TAC or PSC limit will be or has been reached.

(C) The impact that the continued closure might have on the socioeconomic well-being of other domestic fisheries.

(4) *Harvest control for pollock, Atka mackerel, and Pacific cod*. If a biological assessment of stock condition for pollock, Pacific cod, or Atka mackerel within an area projects that the spawning biomass in that area will be equal to or below 20 percent of the projected unfished spawning 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 spawning biomass for the species in the area will exceed 20 percent of the projected unfished spawning biomass during a fishing year.

(e) *Maximum retainable amounts*—(1) *Proportion of basis species*. The maximum retainable amount of an incidental catch species is calculated as a proportion of the basis species retained on board the vessel using:

(i) The retainable percentages in Table 10 to this part for the GOA species categories (except the Rockfish Program fisheries, which are described in Table 30 to this part for the Rockfish Program fisheries); and

(ii) 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 (except the Rockfish Program fisheries, which are described in Table 30 to this part for the Rockfish Program fisheries), 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.

(3) *Application*. (i) For catcher vessels, the maximum retainable amount for vessels fishing during a fishing trip in areas closed to directed fishing is the lowest maximum retainable amount applicable in any area, and this maximum retainable amount must be applied at any time and to all areas for the duration of the fishing trip.

(ii) For catcher/processors fishing in an area closed to directed fishing for a species or species group, the maximum retainable amount for that species or species group applies at any time for the duration of the fishing trip.

(iii) For all vessels not listed in subpart F of this section, the maximum retainable amount for pollock harvested in the BSAI is calculated at the end of each offload and is based on the basis species harvested since the previous offload. For purposes of this paragraph, offload means the removal of any fish or fish product from the vessel that harvested the fish or fish product to any other vessel or to shore.

(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. Only fish harvested under the CDQ Program may be used to calculate retainable amounts of other CDQ species. Only primary rockfish species harvested under the Rockfish Program may be used to calculate retainable amounts of other species, as provided in Table 30 to this part.

(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 the following percentages of the total round-weight equivalent of pollock, as calculated from the primary pollock product on board the vessel during the same fishing trip:

(A) 7 percent in the Gulf of Alaska, and

(B) 9 percent in the Bering Sea and Aleutian Islands.

(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 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 in the Gulf of Alaska or 0.09 in the Bering Sea and Aleutian Islands.

(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 in the Gulf of Alaska or 0.09 in the Bering Sea and Aleutian Islands.

(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 Table 2c to this part.

(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.

(j) *Full retention of Demersal Shelf Rockfish (DSR) in the Southeast Outside District of the GOA (SEO)*—(1) *Retention and landing requirements*. The operator of a catcher vessel that is required to have a Federal fisheries permit, or that harvests IFQ halibut with hook and line or jig gear, must retain and land all DSR that is caught while fishing for groundfish or IFQ halibut in the SEO.

(2) *Disposal of DSR when closed to directed fishing*. When DSR is closed to directed fishing in the SEO, the operator of a catcher vessel that is required to have a Federal fisheries permit under § 679.4 (b), or the manager of a shoreside processor that is required to have a Federal processor permit under § 679.4(f), must dispose of DSR retained and landed in accordance with paragraph (j)(1) of this section as follows:

(i) A person may sell, barter, or trade a round weight equivalent amount of DSR that is less than or equal to 10 percent of the aggregate round weight

equivalent of IFQ halibut and groundfish species, other than sablefish, that are landed during the same fishing trip.

(ii) A person may sell, barter, or trade a round weight equivalent amount of DSR that is less than or equal to 1 percent of the aggregate round weight equivalent of IFQ sablefish that are landed during the same fishing trip.

(iii) Amounts of DSR retained by catcher vessels under paragraph (j)(1) of this section that are in excess of the limits specified in paragraphs (j)(2)(i) and (ii) may be put to any use, including but not limited to personal consumption or donation, but must not enter commerce through 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.

### § 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 and Table 2b to this part 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 saltwater 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 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 specified in the notice of proposed halibut PSC limits published in the FEDERAL REGISTER. NMFS will consider comments received on proposed halibut PSC 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.

(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*. (A) 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; and

(B) Unused halibut PSC that had been allocated as CQ that has not been used by a rockfish cooperative will be added to the last seasonal apportionment for trawl gear during the current fishing year:

(*1*) After November 15; or

(*2*) After the effective date of a declaration to terminate fishing.

(iv) *Seasonal apportionment exceeded.* If a seasonal apportionment of a halibut PSC limit specified for trawl, hook-and-line, or pot gear is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the respective apportionment for the next season during a current fishing year.

(6) *Apportionment among regulatory areas and districts.* Each halibut PSC limit specified under this paragraph (d) also may be apportioned among the GOA regulatory areas and districts.

(7) *Halibut PSC closures*—(i) *Trawl gear fisheries.* If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in either of the trawl fishery categories listed in paragraph (d)(3)(iii) (A) or (B) of this section will catch the halibut bycatch allowance, or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification in the FEDERAL REGISTER closing the entire GOA or the applicable regulatory area or district to directed fishing with trawl gear for each species and/or species group that comprises that fishing category; provided, however, that when the halibut bycatch allowance, or seasonal apportionment thereof, specified for the shallow-water species fishery is reached, fishing for pollock by vessels using pelagic trawl gear may continue, consistent with other provisions of this part.

(ii) *Hook-and-line fisheries.* If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the three hook-and-line gear fishery categories listed under paragraph (d)(4)(iii) of this section will catch the halibut bycatch allowance, or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification in the FEDERAL REGISTER closing the entire GOA or the applicable regulatory area or district to directed fishing with hook-and-line gear for each species and/or species group that comprises that fishing category.

(iii) *Pot gear fisheries.* If, during the fishing year, the Regional Administrator determines that the catch of halibut by operators of vessels using pot gear to participate in a directed fishery for groundfish will reach the halibut PSC limit, or seasonal apportionment thereof, NMFS will publish notification in the FEDERAL REGISTER prohibiting directed fishing for groundfish by vessels using pot gear for the remainder of the season to which the halibut PSC limit or seasonal apportionment applies.

(iv) *Nonpelagic trawl gear fisheries*—(A) *Continued fishing under specified conditions.* When the vessels to which a halibut PSC limit applies have caught an amount of halibut equal to that PSC, the Regional Administrator may, by notification in the FEDERAL REGISTER, allow some or all of those vessels to continue to fish for groundfish using nonpelagic trawl gear under specified conditions, subject to the other provisions of this part.

(B) *Factors to be considered.* In authorizing and conditioning such continued fishing with bottom-trawl gear, the Regional Administrator will take into account the following considerations, and issue relevant findings:

(*1*) The risk of biological harm to halibut stocks and of socio-economic harm to authorized halibut users posed by continued bottom trawling by these vessels.

(*2*) The extent to which these vessels have avoided incidental halibut catches up to that point in the year.

(*3*) The confidence of the Regional Administrator in the accuracy of the estimates of incidental halibut catches by these vessels up to that point in the year.

(*4*) Whether observer coverage of these vessels is sufficient to assure adherence to the prescribed conditions and to alert the Regional Administrator to increases in their incidental halibut catches.

(*5*) The enforcement record of owners and operators of these vessels, and the confidence of the Regional Administrator that adherence to the prescribed conditions can be assured in light of available enforcement resources.

(8) *AFA halibut bycatch limitations.* Halibut bycatch limits for AFA catcher vessels will be established according to the procedure and formula set out in § 679.64(b) and managed through directed fishing closures for AFA catcher

vessels in the groundfish fisheries to which the halibut bycatch limit applies.

(e) *BSAI PSC limits*—(1) *Trawl gear*—(i) *Red king crab in Zone 1*. The PSC limit of red king crab caught by trawl vessels while engaged in directed fishing for groundfish in Zone 1 during any fishing year will be specified for up to two fishing years 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)(i)(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. |

(ii) *Tanner crab (C. bairdi)*. The PSC limit of *C. bairdi* crabs caught by trawl vessels while engaged in directed fishing for groundfish in Zones 1 and 2 during any fishing year will be specified for up to two fishing years by NMFS under paragraph (e)(6) of this section, based on total abundance of *C. bairdi* crabs as indicated by the NMFS annual bottom trawl survey, using the criteria set out under paragraphs (e)(1)(ii)(A) and (B) of this section.

(A) The following table refers to the PSC limits for C. bairdi that you must follow in Zone 1:

| When the total abundance of *C. bairdi* 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 C. bairdi 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 |

(iii) *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.

(iv) *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.

(v) *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.

(vi) *BS 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 29,000 Chinook salmon caught while harvesting pollock in the BS between January 1 and December 31 is attained.

(vii) *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.

(viii) *AI Chinook salmon*. The trawl closures identified in paragraph (e)(7)(viii) of this section will take effect when the Regional Administrator determines that the AI PSC limit of 700 Chinook salmon caught while harvesting pollock in the AI between January 1 and December 31 is attained.

(2) *Nontrawl gear, halibut*. The PSC limit of halibut caught while conducting any nontrawl fishery for groundfish in the BSAI during any fishing year is the amount of halibut equivalent to 900 mt of halibut mortality.

(3) *PSC apportionment to trawl fisheries*—(i) *General*.—(A) *PSQ reserve*. The following allocations of the trawl gear PSC limits are made to the CDQ Program as PSQ reserves. The PSQ reserves are not apportioned by gear or fishery.

(*1*) *Crab PSQ*. 10.7 percent of each PSC limit set forth in paragraphs (e)(1)(i) through (iii) of this section.

(*2*) *Halibut PSQ*. (*i*) 276 mt of the total PSC limit set forth in paragraph (e)(1)(iv) of this section in each year for 2008 and 2009.

(*ii*) 326 mt of the total PSC limit set forth in paragraph (e)(1)(iv) of this section effective in 2010 and each year thereafter.

(*3*) *Salmon PSQ*—(*i*) *Chinook salmon*. 7.5 percent of the PSC limit set forth in paragraph (e)(1)(vi) of this section.

(*ii*) *Non-Chinook salmon*. 10.7 percent of the PSC limit set forth in paragraph (e)(1)(vii) of this section.

(B) *Fishery categories*. NMFS, after consultation with the Council and after subtraction of PSQ reserves and PSC CQ assigned to Amendment 80 cooperatives, will apportion each PSC limit set forth in paragraphs (e)(1)(i) through (vii) of this section into bycatch allowances for fishery categories defined in paragraph (e)(3)(iv) of this section, based on each category's proportional share of the anticipated incidental catch during a fishing year of prohibited species for which a PSC limit is specified and the need to optimize the amount of total groundfish harvested under established PSC limits.

(ii) *Red king crab, C. bairdi, C. opilio, and halibut*—(A) *General*. For vessels engaged in directed fishing for groundfish in the BSAI, other than vessels fishing under a CQ permit assigned to an Amendment 80 cooperative, 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 paragraph (e)(3)(ii)(B)(*1*) of this section, NMFS, after consultation with the Council, will specify an amount of the red king crab bycatch limit annually established under paragraph (e)(1)(i) of this section for the RKCSS. The amount of the red king crab bycatch limit specified for the RKCSS will not exceed an amount equivalent to 25 percent of the red king crab PSC allowance 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, other than PSC CQ assigned to an Amendment 80 cooperative, 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).

(v) *AFA prohibited species catch limitations.* Halibut and crab PSC limits for the AFA trawl catcher/processor sector and the AFA trawl catcher vessel sector will be established according to the procedures and formulas set out in § 679.64(a) and (b) and managed through directed fishing closures for the AFA trawl catcher/processor sector and the AFA trawl catcher vessel sector in the groundfish fisheries for which the PSC limit applies.

(vi) *Amendment 80 sector bycatch limitations.* (A) Halibut and crab bycatch limits for the Amendment 80 sector in the BSAI will be established according to the procedure and formulae set out in § 679.91(d) through (f); and

(B) Halibut and crab PSC assigned to the Amendment 80 limited access fishery will be managed through directed fishing closures for Amendment 80 vessels to which the halibut and crab bycatch limits apply.

(4) *Halibut apportionment to nontrawl fishery categories*—(i) *General.* (A) An amount equivalent to 7.5 percent of the nontrawl gear halibut PSC limit set forth in paragraph (e)(2) of this section is allocated to the groundfish CDQ Program as PSQ reserve. The PSQ reserve is not apportioned by gear or fishery.

(B) NMFS, after consultation with the Council and after subtraction of the PSQ reserve, will apportion the halibut PSC limit for nontrawl gear set forth under paragraph (e)(2) of this section into bycatch allowances for the

nontrawl fishery categories defined under paragraph (e)(4)(ii) of this section.

(C) Apportionment of the nontrawl halibut PSC limit among the nontrawl fishery categories will be 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.

(D) 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 catcher vessel fishery.* Catcher vessels 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) *Pacific cod hook-and-line catcher/processor fishery.* Catcher/processors 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.

(C) *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.

(D) *Groundfish jig gear fishery.* Fishing with jig gear during any weekly reporting period that results in a retained catch of groundfish.

(E) *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.

(F) *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 catcher vessel fishery, a Pacific cod hook-and-line catcher/processor fishery, a sablefish hook-and-line fishery, a jig gear fishery, or a groundfish pot gear fishery as defined under this paragraph (e)(4)(ii).

(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 in the FEDERAL REGISTER, for up to two fishing years, 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 nontrawl 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 specified in the notice of proposed specifications published in the FEDERAL REGISTER.

(7) *Trawl PSC closures*—(i) *Exception.* When a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/''other species'' fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(ii) *Red king crab or C. bairdi Tanner crab, Zone 1, closure*—(A) *General.* Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv) (B) through (F) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of Zone 1, including the RKCSS, to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(B) *RKCSS.* If, during the fishing year the Regional Administrator determines that the amount of the red king crab PSC limit that is specified for the RKCSS under § 679.21(e)(3)(ii)(B) of this section will be caught, NMFS will publish in the FEDERAL REGISTER the closure of the RKCSS to directed fishing for groundfish with nonpelagic trawl gear for the remainder of the year.

(iii) *C. bairdi Tanner crab, Zone 2, closure.* Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv) (B) through (F) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of Zone 2 to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(iv) *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 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 directed fishing for pollock 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 limits, as identified in paragraphs (e)(1)(vi) and (e)(1)(viii) of this section, NMFS, by notification in the FEDERAL REGISTER will close the Chinook Salmon Savings Areas, as defined in Figure 8 to this part, to directed fishing for pollock with trawl gear as follows:

(A) For the BS Chinook salmon PSC limit under paragraph (e)(1)(vi) of this section, area 1 and area 2 in Figure 8 to this part will be closed on the following dates:

(*1*) 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 BS Chinook salmon will be attained before April 15.

(*2*) From September 1 through December 31, if the Regional Administrator determines that the annual limit of BS Chinook salmon will be attained after April 15.

(B) For the AI Chinook salmon limit under paragraph (e)(1)(viii) of this section, area 1 in Figure 8 to this part will be closed on the following dates:

(*1*) 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 AI Chinook salmon will be attained before April 15.

(*2*) From September 1 through December 31, if the Regional Administrator determines that the annual limit of AI Chinook salmon will be attained after April 15.

(ix) *Exemptions*. (A) Trawl vessels participating in directed fishing for pollock and operating under a salmon bycatch reduction ICA approved by NMFS are exempt from closures in the Chum Salmon Savings Area described at paragraph (e)(7)(vii) of this section. See also § 679.22(a)(10).

(B) Trawl vessels participating in directed fishing for pollock and operating under a salmon bycatch reduction ICA approved by NMFS are exempt from closures in area 2 of the Chinook Salmon Savings Area described at paragraph (e)(7)(viii) of this section.

(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)[Reserved]

(g) *Requirements for vessels participating in a salmon bycatch reduction ICA*—(1) *Who must file the salmon bycatch reduction ICA?* The representative for the salmon bycatch reduction ICA identified at paragraph (g)(5)(v) of this section must file a copy of the initial ICA and any amended salmon bycatch reduction ICA with NMFS.

(2) *With whom must the initial salmon bycatch reduction ICA and an amended salmon bycatch reduction ICA be filed?* The ICA representative must send a signed copy of the initial salmon bycatch reduction ICA and any amended salmon bycatch reduction ICA to the NMFS Alaska Region. The mailing address for the Administrator, NMFS Alaska Region is P.O. Box 21668, Juneau, AK 99802. The street address for courier delivery is 709 West 9th St., Suite 401, Juneau, AK 99801.

(3) *What is the deadline for filing?* In order for any ICA participant to be exempt from salmon savings area closures as described at paragraphs (e)(7)(ix)(A) and (B) of this section and at § 679.22(a)(10), the salmon bycatch reduction ICA must be filed in compliance with the requirements of this section, and approved by NMFS. The initial salmon bycatch reduction ICA must be received by NMFS by December 1, 2007, for the 2008 fishing year. Exemptions from salmon savings area closures will expire upon termination of the initial ICA, expiration of the initial ICA, or if superseded by a NMFS-approved amended salmon bycatch reduction ICA.

(4) *How is the initial and an amended salmon bycatch reduction ICA approved by NMFS?* NMFS will approve the initial or an amended salmon bycatch reduction ICA if it meets all the requirements specified in paragraph (g)(5) of this section. If NMFS disapproves a salmon bycatch reduction ICA, the representative identified at (g)(5)(v) of this section may resubmit a revised salmon bycatch reduction ICA or file an administrative appeal as set forth under the administrative appeals procedures described at § 679.43.

(5) *What are the minimum information requirements for the salmon bycatch reduction ICA?* The salmon bycatch ICA must include the following provisions:

(i) The names of the AFA cooperatives, CDQ groups, and third party groups that are parties to the ICA. The ICA must identify at least one third party group. Third party groups include any organizations representing western Alaskans who depend on Chinook and chum salmon and have an interest in salmon bycatch reduction but do not directly fish in a groundfish fishery. The ICA must identify one entity retained to facilitate vessel bycatch avoidance behavior and information sharing. Collectively, these groups are known as parties to the ICA. Parties to the ICA must agree to comply with all provisions of the ICA;

(ii) The names, Federal fisheries permit numbers, and USCG vessel identification numbers of vessels subject to the salmon bycatch reduction ICA;

(iii) Provisions that dictate salmon bycatch avoidance behaviors for vessel operators subject to the ICA, including:

(A) *''A'' season salmon bycatch management—(1) Initial base rate calculation for Chinook salmon*. The initial ''A'' season Chinook base rate shall be calculated by dividing the total number of

Chinook taken incidentally in the ''A'' season in the prior year by the total number of metric tons of ''A'' season pollock catch during the prior year, except that if the initial ''A'' season Chinook base rate for any given year is less than or equal to 0.04 Chinook per metric ton of pollock, the initial base rate shall be 0.04 Chinook per metric ton, and if the initial base rate for any given year is equal to or greater than 0.06 Chinook per metric ton of pollock, the initial base rate shall be 0.06 Chinook per metric ton. Base rate calculations shall include Chinook salmon and pollock caught in both the CDQ and non-CDQ pollock directed fisheries.

(*2*) *Inseason adjustments to the Chinook salmon base rate calculation*. On February 14 of each year, the ''A'' season Chinook base rate shall be recalculated. The recalculated base rate shall be the Chinook bycatch rate for the current year, calculated by dividing the total number of Chinook salmon taken incidentally in the current ''A'' season by the total number of metric tons of ''A'' season pollock catch during the current season. The recalculated base rate shall be used to determine bycatch avoidance areas.

(*3*) *ICA salmon savings area notices*. On January 30 of each year and each Thursday and Monday thereafter for the duration of the pollock ''A'' season, the entity retained to facilitate vessel bycatch avoidance behavior and information sharing identified in paragraph (g)(5)(i) of this section must provide notice to the parties to the salmon bycatch reduction ICA and NMFS identifying one or more areas designated as ''ICA Chinook Savings Areas'' by a series of latitude and longitude coordinates. The Thursday notice of ICA Chinook savings area designations must be effective from 6 p.m. Alaska local time the following Friday through 6 p.m. Alaska local time the following Tuesday. The Monday notice must be effective from 6 p.m. Alaska local time the following Tuesday through 6 p.m. Alaska local time the following Friday. For any ICA salmon savings area notice, the maximum total area closed must be at least 1,000 square miles.

(*4*) *Fishing restrictions for vessels assigned to Tiers as described at paragraph (g)(5)(iii)(C) of this section*. ICA Chinook savings area closures announced on Thursdays must be closed to directed fishing for pollock for seven days, including pollock CDQ, by vessels assigned to Tier 3. ICA Chinook savings area closures announced on Thursdays must be closed to vessels assigned to Tier 2 through 6 p.m. Alaska local time on the following Tuesday. Vessels assigned to Tier 1 may operate in any area designated as an ICA Chinook savings area.

(B) *''B'' season salmon bycatch management—(1) ''B'' season Chinook salmon*. For the ''B'' season of the 2008 fishing year, the Chinook salmon base rate shall be 0.05 Chinook salmon per metric ton of pollock. For the ''B'' season of the 2009 fishing year and each ''B'' season thereafter, the base rate shall be based on the Chinook salmon bycatch during a representative period of the prior year's ''B'' season. The recalculated base rate shall be used to determine bycatch avoidance areas. Base rate calculations shall include Chinook salmon and pollock caught in both the CDQ and non-CDQ pollock directed fisheries.

(*2*) *Non-Chinook salmon*. The initial ''B'' season non-Chinook salmon base rate shall be 0.19 non-Chinook salmon per metric ton of pollock.

(*3*) *Inseason adjustments to the non-Chinook base rate calculation*. Beginning July 1 of each fishing year, and on each Thursday during ''B'' season, the ''B'' season non-Chinook base rate shall be recalculated. The recalculated non-Chinook base rate shall be the three week rolling average of the ''B'' season non-Chinook bycatch rate for the current year. The recalculated base rate shall be used to determine bycatch avoidance areas.

(*4*) *ICA salmon savings area notices*. On each Thursday and Monday after June 10 of each year for the duration of the pollock ''B'' season, the entity retained to facilitate vessel bycatch avoidance behavior and information sharing identified in paragraph (g)(5)(i) of this section must provide notice to the parties to the salmon bycatch reduction ICA and NMFS identifying one or more areas designated as ''ICA Chinook Savings Areas'' and/or ''ICA Chum Savings

Areas'' by a series of latitude and longitude coordinates. The Thursday notice of ICA Chinook savings area designations must be effective from 6 p.m. Alaska local time the following Friday through 6 p.m. Alaska local time the following Tuesday. The Monday notice must be effective from 6 p.m. Alaska local time the following Tuesday through 6 p.m. Alaska local time the following Friday. For any ICA salmon savings area notice, the maximum total area closed must be at least 3,000 square miles for ICA chum savings area closures, and 500 square miles for ICA Chinook savings area closures.

(*5*) *Fishing restrictions for vessels assigned to Tiers as described at paragraph (g)(5)(iii)(C) of this section*. ICA chum savings area closures announced on Thursdays must be closed to directed fishing for pollock for seven days, including pollock CDQ, by vessels assigned to Tier 3. ICA chum savings area closures announced on Thursdays must be closed to vessels assigned to Tier 2 through 6 p.m. Alaska local time on the following Tuesday. Vessels assigned to Tier 1 may operate in any area designated as an ICA chum savings area. ICA Chinook savings areas must be closed to fishing by all vessels identified at paragraph (g)(5)(iii)(C) of this section.

(C) *Cooperative tier assignments*. Initial and subsequent base rate calculations must be based on each cooperative's pollock catch for the prior two weeks and the associated bycatch of Chinook or non-Chinook salmon taken by its members. Base rate calculations shall include salmon bycatch and pollock caught in both the CDQ and non-CDQ pollock directed fisheries. Cooperatives with salmon bycatch rates of less than 75 percent of the base rate shall be assigned to Tier 1. Cooperatives with salmon bycatch rates of equal to or greater than 75 percent, but less than or equal to 125 percent of the base rate shall be assigned to Tier 2. Cooperatives with salmon bycatch rates of greater than 125 percent of the base rate shall be assigned to Tier 3. Bycatch rates for Chinook salmon must be calculated separately from non-Chinook salmon, and cooperatives must be assigned to tiers separately for Chinook and non-Chinook salmon bycatch.

(iv) Internal monitoring and enforcement provisions to ensure compliance of fishing activities with the provisions of the ICA. The ICA must include provisions allowing any party of the ICA to bring civil suit or initiate a binding arbitration action against another for breach of the ICA. The ICA must include minimum annual uniform assessments for any violation of savings area closures of $10,000 for the first offense, $15,000 for the second offense, and $20,000 for each offense thereafter;

(v) The name, phone number, and business address of the person who will annually file the ICA with NMFS;

(vi) Provisions requiring the parties to conduct an annual compliance audit, and to cooperate fully in such audit, including providing information required by the auditor. The compliance audit must be conducted by a non-party entity, and each party must have an opportunity to participate in selecting the non-party entity. If the non-party entity hired to conduct a compliance audit discovers a previously undiscovered failure to comply with the terms of the ICA, the non-party entity must notify all parties to the ICA of the failure to comply and must simultaneously distribute to all parties of the ICA information used to determine the failure to comply occurred and must include such notice(s) in the compliance report described in § 679.61(f)(2)(vii).

(vii) Provisions requiring data dissemination in certain circumstances. If the entity retained to facilitate vessel bycatch avoidance behavior and information sharing identified at paragraph (g)(5)(i) of this section determines that an apparent violation of an ICA savings area closure has occurred, that entity must promptly notify the Board of Directors of the cooperative to which the vessel involved belongs. If this Board of Directors fails to assess a minimum uniform assessment within 180 days of receiving the notice, the information used by the entity retained to facilitate vessel bycatch avoidance behavior to determine if an apparent violation was committed must be disseminated to all parties to the ICA.

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.21, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

**§ 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)*—(i) *Definition*. 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., and north of the Aleutian Islands (Figure 2 to part 679).

(ii) *Catcher/processor restrictions*. 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 B pollock season defined at § 679.23(e)(2)(ii), unless it is directed fishing for Pollock CDQ.

(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*—(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 vessels named on a Federal Fisheries Permit under § 679.4(b), except as provided in paragraph (a)(7)(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)(7)(i)(B) of this section in the portion of the Bogoslof area south of a line connecting a point 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 5 of this part.

(*2*) If the Regional Administrator determines that 113 mt of Pacific cod have 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)(7)(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 during the A season, as defined at § 679.23(e)(2), to directed fishing for pollock by vessels named on a Federal Fisheries Permit under § 679.4(b).

(iii) *Groundfish closures*. Directed fishing for groundfish by vessels named on a Federal Fisheries Permit under § 679.4(b) is prohibited within 3 nm of

selected sites. These sites are listed in Table 12 of this part and are identified by ''Bering Sea'' in column 2.

(iv) *Pollock closures*. Directed fishing for pollock by vessels named on a Federal Fisheries Permit under § 679.4(b) is prohibited within pollock no-fishing zones around selected sites. These sites are listed in Table 4 of this part and are identified by ''Bering Sea'' in column 2.

(v) *Pacific cod closures*. Directed fishing for Pacific cod by vessels named on a Federal Fisheries Permit under § 679.4(b) and 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 5 of this part and are identified by ''BS'' in column 2.

(vi) *Atka mackerel closures*. Directed fishing for Atka mackerel by vessels named on a Federal Fisheries Permit under § 679.4(b) and using trawl gear is prohibited within Atka mackerel no-fishing zones around selected sites. These sites are listed in Table 6 to this part and are identified by ''Bering Sea'' in column 2.

(vii) *Steller sea lion conservation area (SCA)*—(A) *General*. Directed fishing for pollock by vessels catching pollock for processing by the inshore component, catcher/processors in the offshore component, motherships in the offshore component, or directed fishing for CDQ pollock, is prohibited within the SCA until April 1 when the Regional Administrator announces, by notification in the FEDERAL REGISTER, that the criteria set out in paragraph (a)(7)(vii)(C) of this section have been met by that industry component.

(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)(7)(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)(C) is reached before April 1. The Regional Administrator shall prohibit directed fishing for pollock 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 by 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)(C) has been met before April 1.

(8) *Steller sea lion protection areas, Aleutian Islands subarea*—(i) *Seguam Foraging area*. (A) The Seguam foraging area is 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 vessels named on a Federal Fisheries Permit under § 679.4(b) is prohibited in the Seguam Foraging area as described in paragraph (a)(8)(i)(A) of this section.

(ii) *Pollock Closure*. Directed fishing for pollock by vessels named on a Federal Fisheries Permit under § 679.4(b) is prohibited within the pollock no-fishing zones around selected sites. These sites are listed in Table 4 of this part and are identified by ''Aleutian I.'' in column 2.

(iii) *Groundfish closures*. Directed fishing for groundfish by vessels named on a Federal Fisheries Permit under § 679.4(b) is prohibited within 3 nm of selected sites. These sites are listed in

Table 12 of this part and are identified by ''Aleutian Islands'' in column 2.

(iv) *Pacific cod closures*—(A) *HLA Closure*. Directed fishing for Pacific cod by vessels named on a Federal Fisheries Permit under § 679.4(b) and using trawl gear is prohibited in the HLA in area 542 or area 543, as defined in § 679.2 when the Atka mackerel HLA directed fishery in area 542 or area 543 is open.

(B) *Gear specific closures*. Directed fishing for Pacific cod by vessels named on a Federal Fisheries Permit under § 679.4(b) and 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 5 of this part and are identified by ''AI'' in column 2.

(v) *Atka mackerel closures*. Directed fishing for Atka mackerel by vessels named on a Federal Fisheries Permit under § 679.4(b) and using trawl gear is prohibited within Atka mackerel no-fishing zones around selected sites. These sites are listed in Table 6 of this part and are identified by ''Aleutian Islands'' in column 2.

(9) *Nearshore Bristol Bay Trawl Closure*. Directed fishing for groundfish by vessels using trawl gear in Bristol Bay, as described in the current edition of NOAA chart 16006, is closed at all times in the area east of 162°00′ W. long., except that the 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*. Directed fishing for pollock by vessels using trawl gear 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)). Vessels using trawl gear participating in directed fishing for pollock, including pollock CDQ, and operating under a salmon bycatch reduction ICA are exempt from closures in the Chum Salmon Savings Area. See also § 679.21(e)(7)(vii).

(11) [Reserved]

(12) *Alaska Seamount Habitat Protection Areas*. No federally permitted vessel may fish with bottom contact gear in the Alaska Seamount Habitat Protection Areas, as described in Table 22 to this part.

(13) *Aleutian Islands Coral Habitat Protection Areas*. No federally permitted vessel may fish with bottom contact gear in the Aleutian Islands Coral Habitat Protection Areas, as described in Table 23 to this part.

(14) *Aleutian Islands Habitat Conservation Area*. Except within those areas identified as opened to nonpelagic trawl gear fishing in Table 24 to this part, no federally permitted vessel may fish with nonpelagic trawl gear in the Aleutian Islands Habitat Conservation Area, as described in Table 24 to this part.

(15) *Bowers Ridge Habitat Conservation Zone*. No federally permitted vessel may fish with mobile bottom contact gear in the Bowers Ridge Habitat Conservation Zone, as described in Table 25 to this part.

(16) *Bering Sea Habitat Conservation Area*. No federally permitted vessel may fish with nonpelagic trawl gear in the Bering Sea Habitat Conservation Area specified at Table 42 and Figure 16 to this part.

(17) *Northern Bering Sea Research Area*. No federally permitted vessel may fish with nonpelagic trawl gear in the Northern Bering Sea Research Area specified at Table 43 and Figure 17 to this part.

(18) *Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area*. No federally permitted vessel may fish with nonpelagic trawl gear in the Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area specified at Table 44 and Figure 21 to this part.

(19) *St. Lawrence Island Habitat Conservation Area*. No federally permitted vessel may fish with nonpelagic trawl gear in the St. Lawrence Island Habitat Conservation Area specified at Table 45 to this part.

(20) *St. Matthew Island Habitat Conservation Area*. No federally permitted vessel may fish with nonpelagic trawl gear in the St. Matthew Island Habitat Conservation Area specified at Table 46 to this part.

(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) *Groundfish closures*. Directed fishing for groundfish by vessels named on a Federal Fisheries Permit under § 679.4(b) is prohibited within 3 nm of selected sites. These sites are listed in Table 12 of this part and are identified by ''Gulf of Alaska'' in column 2.

(ii) *Pollock closures*. Directed fishing for pollock by vessels named on a Federal Fisheries Permit under § 679.4(b) is prohibited within pollock no-fishing zones around selected sites. These sites are listed in Table 4 of this part and are identified by ''Gulf of Alaska'' in column 2.

(iii) *Pacific cod closures*. Directed fishing for Pacific cod by vessels named on a Federal Fisheries Permit under § 679.4(b) and using trawl, hook-and-line, or pot gear in the federally managed Pacific cod or State of Alaska parallel groundfish fisheries, as defined in 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 5 of this part and are identified by ''GOA'' in column 2.

(iv) *Atka mackerel closure*. Directed fishing for Atka mackerel by vessels named on a Federal Fisheries Permit under § 679.4(b) within the Gulf of Alaska subarea is prohibited at all times.

(3) [Reserved]

(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) *Sitka Pinnacles Marine Reserve*. (i) No vessel required to have a Federal fisheries permit under § 679.4(b) may fish for groundfish or anchor in the Sitka Pinnacles Marine Reserve, as described in Figure 18 to this part.

(ii) No vessel required to have on board an IFQ halibut permit under § 679.4(d) may fish for halibut or anchor in the Sitka Pinnacles Marine Reserve, as described in Figure 18 to this part.

(6) *Chiniak Gully Research Area* (applicable through December 31, 2010).

(i) *Description of Chiniak Gully Research Area*. The Chiniak Gully Research Area, as shown in Figure 22 to this part, is defined as the waters bounded by straight lines connecting the coordinates in the order listed:

57°48.60 N lat., 152°22.20 W long.;
57°48.60 N lat., 151°51.00 W long.;
57°13.20 N lat., 150°38.40 W long.;
56°58.80 N lat., 151°16.20 W long.;
57°37.20 N lat., 152°09.60 W long.; and hence counterclockwise along the shoreline of Kodiak Island to 57°48.60 N lat., 152°22.20 W long.

(ii) *Closure*. (A) No vessel named on a Federal fisheries permit issued pursuant to § 679.4(b) shall deploy trawl gear for purposes of either fishing, or of testing gear under § 679.24(d)(2), within the Chiniak Gully Research Area at any time from August 1 through September 20.

(B) If the Regional Administrator makes a determination that the relevant research activities have been completed for a particular year or will not be conducted that year, the Regional Administrator shall publish notification in the FEDERAL REGISTER rescinding the Chiniak Gully Research Area trawl closure, described in paragraph (b)(6)(i) of this section, for that year.

(7) *Cook Inlet*. No person may use a non-pelagic trawl in waters of the EEZ of Cook Inlet north of a line from Cape Douglas (58°51.10′ N. lat.) to Point Adam (59°15.27′ N. lat.).

(8) *Alaska Seamount Habitat Protection Areas*. No federally permitted vessel may fish with bottom contact gear in the Alaska Seamount Habitat Protection Areas, as described in Table 22 to this part.

(9) *Gulf of Alaska Coral Habitat Protection Areas*. No federally permitted vessel may fish with bottom contact gear in the Gulf of Alaska Coral Habitat Protection Areas, as described in Table 26 to this part.

(10) *Gulf of Alaska Slope Habitat Conservation Areas.* No federally permitted vessel may fish with nonpelagic trawl gear in the Gulf of Alaska Slope Habitat Conservation Areas, as described in Table 27 to this part.

(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]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.22, 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 71 FR 31107, June 1, 2006, § 679.22 was amended by revising paragraph (b)(6), effective July 3, 2006, through Dec. 31, 2010.

### § 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 following four seasons:

(i) *A season.* From 1200 hours, A.l.t., January 20 through 1200 hours, A.l.t., March 10;

(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., October 1; and

(iv) *D season.* From 1200 hours, A.l.t., October 1 through 1200 hours, A.l.t., November 1.

(3) *Directed fishing for Pacific cod* (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.

(4) *Directed fishing for Pacific cod* (applicable through December 31, 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 in the Bering Sea subarea by inshore, offshore catcher/processor, and mothership components, in the AI directed pollock fishery, and pollock CDQ fisheries*. 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, directed fishing for pollock in the AI directed pollock fishery, or directed fishing for CDQ pollock in the BSAI 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.

(3) *Directed fishing for Atka mackerel with trawl gear*. Subject to other provisions of this part, non-CDQ 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 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.

(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 CDQ pollock; hook-and-line, jig, or trawl CDQ Pacific cod; and fixed gear CDQ sablefish 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.

(iv) *Groundfish CDQ* (applicable through December 31, 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 December 31, 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 Pacific cod*—(i) *Hook-and-line 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 gear 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.

(ii) *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.

(iii) *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.

(iv) *Jig gear*. Subject to other provisions of this part, directed fishing for CDQ and non-CDQ Pacific cod with jig gear is authorized only during the following three seasons:

(A) *A season*. From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., April 30;

(B) *B season*. From 1200 hours, A.l.t., April 30 through 1200 hours, A.l.t., August 31;

(C) *C season*. From 1200 hours, A.l.t., August 31 through 2400 hours, A.l.t., December 31.

(f) *IFQ halibut*. The fishing period(s) for IFQ halibut are established by the IPHC and are specified in the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of chapter III of this title. Catches of halibut by fixed gear at times other than during the specified fishing periods must be treated as prohibited species as prescribed at § 679.21(b).

(g) *IFQ sablefish*. (1) Directed fishing for sablefish using fixed gear in any IFQ regulatory area may be conducted in any fishing year during the period specified by the Regional Administrator and announced by publication in the FEDERAL REGISTER. The Regional Administrator will take into account the opening date of the halibut season when determining the opening date for sablefish for the purposes of reducing bycatch and regulatory discards between the two fisheries.

(2) Catches of sablefish by fixed gear during other periods may be retained up to the amounts provided for by the directed fishing standards specified at § 679.20 when made by an individual aboard the vessel who has a valid IFQ permit and unused IFQ in the account on which the permit 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. |

| 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* * * |
|---|---|---|
| (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*. 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 BSAI seasons are specified at § 679.23(d)(2) and § 679.23(e)(2).

| | 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... |
|---|---|---|---|
| (1) | BSAI | (i) A season | GOA until the following C season |
| | | (ii)B season | GOA until the A season of the next year |
| (2) | GOA | (i) A season | BSAI until the following B season |
| | | (ii) B season | BSAI until the following B season |
| | | (iii) C season | BSAI until the A season of the following year |
| | | (iv) D season | BSAI until the A season of the following year |

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.23, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

## § 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 trawl gear to engage in directed fishing for 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*. 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).

(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) 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 program for vessels fishing with hook-and-line gear*—(1) *Applicability.* The operator of a vessel that is longer than 26 ft (7.9 m) LOA fishing with hook-and-line gear must comply with the seabird avoidance requirements as specified in paragraphs (e)(2) and (e)(3) of this section while fishing for any of the following species:

(i) IFQ halibut or CDQ halibut.

(ii) IFQ sablefish.

(iii) Groundfish in the EEZ off Alaska.

(2) *Seabird Avoidance Requirements.* The operator of a vessel described in paragraph (e)(1) of this section must:

(i) *Gear onboard.* Have onboard the vessel the seabird avoidance gear as specified in paragraph (e)(3) of this section;

(ii) *Gear inspection.* Upon request by an authorized officer or observer, make the seabird avoidance gear available for inspection;

(iii) *Gear use.* Use seabird avoidance gear as specified in paragraph (e)(3) of this section that meets standards as specified in paragraph (e)(4) of this section, while hook-and-line gear is being deployed.

(iv) *Sink baited hooks.* Use hooks that when baited, sink as soon as they are put in the water.

(v) *Offal discharge.* (A) If offal is discharged while gear is being set or hauled, discharge offal 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.

(B) Remove hooks from any offal that is discharged.

(C) Eliminate directed discharge through chutes or pipes of residual bait or offal from the stern of the vessel while setting gear. This does not include baits falling off the hook or offal discharges from other locations that parallel the gear and subsequently drift into the wake zone well aft of the vessel.

(D) For vessels not deploying gear from the stern, eliminate directed discharge of residual bait or offal over sinking hook-and-line gear while gear is being deployed.

(vi) *Safe release of seabirds.* Make every reasonable effort to ensure birds brought on board alive are released alive and that, wherever possible, hooks are removed without jeopardizing the life of the birds.

(3) *Seabird avoidance gear requirements.* (See also Table 20 to this part.) The operator of a vessel identified in paragraph (e)(1) of this section must comply with the following requirements while fishing with hook-and-line gear for groundfish, IFQ halibut, CDQ halibut, or IFQ sablefish in Federal waters (EEZ) and for IFQ halibut, CDQ halibut, or IFQ sablefish in the State of Alaska waters, excluding NMFS Reporting Area 649 (Prince William Sound), State waters of Cook Inlet, and NMFS Reporting Area 659 (Eastern GOA Regulatory Area, Southeast Inside District), but including waters in the areas south of a straight line at 56°17.25 N. lat. between Point Harris and Port Armstrong in Chatham Strait, State statistical areas 325431 and 325401, and west of a straight line at 136°21.17 E. long. from Point Wimbledon extending south through the Inian Islands to Point Lavinia:

(i) Using other than snap gear,

(A) A minimum of 1 buoy bag line as specified in paragraph (e)(4)(i) of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA without masts, poles, or rigging.

(B) A minimum of a single streamer line as specified in paragraph (e)(4)(ii) of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA with masts, poles, or rigging.

(C) A minimum of a paired streamer line of a standard as specified in paragraph (e)(4)(iii) of this section must be used by vessels greater than 55 ft (16.8 m) LOA.

(ii) Using snap gear,

(A) A minimum of 1 buoy bag line as specified in paragraph (e)(4)(i) of this

section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA without masts, poles, or rigging.

(B) A minimum of a single streamer line as specified in paragraph (e)(4)(iv) of this section must be used by vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA with masts, poles, or rigging.

(C) A minimum of a single streamer line as specified in paragraph (e)(4)(iv) of this section must be used by vessels greater than 55 ft (16.8 m) LOA.

(4) *Seabird avoidance gear performance and material standards:*

(i) *Buoy bag line weather exception.* In winds exceeding 45 knots (storm or Beaufort 9 conditions), the use of a buoy bag line is discretionary.

(ii) *Single streamer standard.* (A) A single streamer line must:

(*1*) Be a minimum of 300 feet (91.4 m) in length;

(*2*) Have streamers spaced every 16.4 ft (5 m);

(*3*) Be deployed before the first hook is set in such a way that streamers are in the air for a minimum of 131.2 ft (40 m) aft of the stern and within 6.6 ft (2 m) horizontally of the point where the main groundline enters the water.

(*4*) Have individual streamers that hang attached to the mainline to 9.8 in (0.25 m) above the waterline in the absence of wind.

(*5*) Have streamers constructed of material that is brightly colored, UV-protected plastic tubing or 3/8 inch polyester line or material of an equivalent density.

(B) *Weather exception:* In winds exceeding 45 knots (storm or Beaufort 9 conditions), the use of a single streamer line is discretionary.

(iii) *Paired streamer standard:* (A) At least one streamer line must be deployed before the first hook is set and two streamer lines must be fully deployed within 90 seconds.

(B) *Weather exceptions*: In conditions of wind speeds exceeding 30 knots (near gale or Beaufort 7 conditions), but less than or equal to 45 knots, a single streamer must be deployed from the windward side of the vessel. In winds exceeding 45 knots (storm or Beaufort 9 conditions), the use of streamer lines is discretionary.

(C) Streamer lines must:

(*1*) Be deployed in such a way that streamers are in the air for a minimum of 131.2 ft (40 m) aft of the stern for vessels under 100 ft (30.5 m) and 196.9 ft (60 m) aft of the stern for vessels 100 ft (30.5 m) or over;

(*2*) Be a minimum of 300 feet (91.4 m) in length;

(*3*) Have streamers spaced every 16.4 ft (5 m);

(*4*) For vessels deploying hook-and-line gear from the stern, the streamer lines must be deployed from the stern, one on each side of the main groundline.

(*5*) For vessels deploying gear from the side, the streamer lines must be deployed from the stern, one over the main groundline and the other on one side of the main groundline.

(*6*) Have individual streamers that hang attached to the mainline to 9.8 in (0.25 m) above the waterline in the absence of wind.

(*7*) Have streamers constructed of material that is brightly colored, UV-protected plastic tubing or 3/8 inch polyester line or material of an equivalent density.

(iv) *Snap gear streamer standard:* (A) For vessels using snap gear, a single streamer line must:

(*1*) Be deployed before the first hook is set in such a way that streamers are in the air for 65.6 ft (20 m) aft of the stern and within 6.6 ft (2 m) horizontally of the point where the main groundline enters the water.

(*2*) Have a minimum length of 147.6 ft (45 m).

(B) *Weather exception:* In winds exceeding 45 knots (storm or Beaufort 9 conditions), the use of a single streamer line is discretionary.

(v) *Weather safety standard.* The use of seabird avoidance devices required by paragraph (e)(3) of this section is discretionary for vessels greater than 26 ft (7.9 m) LOA and less than or equal to 55 ft (16.8 m) LOA in conditions of wind speeds exceeding 30 knots (near gale or Beaufort 7 conditions).

(5) *Other methods.* Any of the following measures or methods must be accompanied by the applicable seabird avoidance gear requirements as specified in paragraph (e)(3) of this section:

(i) Night-setting.

(ii) Line shooter.

(iii) Lining tube.

(6) *Seabird avoidance exemption*.

Nothwithstanding any other paragraph in this part, operators of vessels 32 ft (9.8 m) LOA or less using hook-and-line gear in IPHC Area 4E in waters shoreward of the EEZ are exempt from seabird avoidance regulations.

[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; 69 FR 1948, Jan. 13, 2004; 71 FR 36703, June 28, 2006; 72 FR 71604, Dec. 18, 2007; 73 FR 28738, May 19, 2008]

### § 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:

(A) Any gear modification that would protect the species in need of conservation, but that would still allow other fisheries to continue;

(B) An inseason adjustment that would allow other fisheries to continue in noncritical areas and time periods;

(C) Closure of a management area and season to all groundfish fishing; or

(D) Reopening of a management area or season to achieve the TAC or gear share of a TAC for any of the target species or the ''other species'' category.

(iv) The adjustment of a TAC or PSC limit for any species under paragraph (a)(1)(iii) of this section must be based upon a determination by the Regional Administrator that the adjustment is based upon the best available scientific information concerning the biological stock status of the species in question and that the currently specified TAC or PSC limit is incorrect. Any adjustment to a TAC or PSC limit must be reasonably related to the change in biological stock status.

(v) The inseason closure of a statistical area, or a portion thereof, under paragraph (a)(1)(iv) of this section shall

not extend beyond a 60-day period unless information considered under paragraph (b) of this section warrants an extended closure period. Any closure of a statistical area, or portion thereof, to reduce prohibited species bycatch rates requires a determination by the Regional Administrator that the closure is based on the best available scientific information concerning the seasonal distribution and abundance of prohibited species and bycatch rates of prohibited species associated with various groundfish fisheries.

(b) *Data.* All information relevant to one or more of the following factors may be considered in making the determinations required under paragraphs (a)(2)(i) and (ii) of this section:

(1) The effect of overall fishing effort within a statistical area;

(2) Catch per unit of effort and rate of harvest;

(3) Relative distribution and abundance of stocks of groundfish species and prohibited species within all or part of a statistical area;

(4) Condition of a stock in all or part of a statistical area;

(5) Inseason prohibited species bycatch rates observed in groundfish fisheries in all or part of a statistical area;

(6) Historical prohibited species bycatch rates observed in groundfish fisheries in all or part of a statistical area;

(7) Economic impacts on fishing businesses affected; or

(8) Any other factor relevant to the conservation and management of groundfish species or any incidentally caught species that are designated as prohibited species or for which a PSC limit has been specified.

(c) *Procedure.* (1) No inseason adjustment issued under this section will take effect until—

(i) NMFS has filed the proposed adjustment for public inspection with the Office of the Federal Register; and

(ii) NMFS has published the proposed adjustment in the FEDERAL REGISTER for public comment for a period of 30 days before it is made final, unless NMFS finds for good cause that such notification and public procedure is impracticable, unnecessary, or contrary to the public interest.

(2) If NMFS decides, for good cause, that an adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment will be received by the Regional Administrator for a period of 15 days after the effective date of notification.

(3) During any such 15-day period, the Regional Administrator will make available for public inspection, during business hours, the aggregate data upon which an adjustment was based.

(4) If written comments are received during any such 15-day period that oppose or protest an inseason adjustment issued under this section, NMFS will reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, will either—

(i) Publish in the FEDERAL REGISTER notification of continued effectiveness of the adjustment, responding to comments received; or

(ii) Modify or rescind the adjustment.

(5) Notifications of inseason adjustments issued by NMFS under paragraph (a) of this section will include the following information:

(i) A description of the management adjustment.

(ii) Reasons for the adjustment and the determinations required under paragraph (a)(2)(i) of this section.

(iii) The effective date and any termination date of such adjustment. If no termination date is specified, the adjustment will terminate on the last day of the fishing year.

### § 679.26 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, except that processors may convert offal from salmon or halibut that has been retained pursuant to the PSD program into fish meal, fish oil, or bone meal, and sell or trade these products.

(4) No prohibited species that has been sorted from a vessel's catch or landing may be retained by a vessel or processor, or delivered to a delivery location under this section, unless the vessel or processor and delivery location is included on the list provided to the Regional Administrator under paragraph (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; 69 FR 52612, Aug. 27, 2004]

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''. The amendment 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 section 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) Shallow-water flatfish species complex in the GOA as defined in the annual harvest specifications for the GOA (beginning January 1, 2003).

(4) All species listed in Table 2a to this part for purposes of the GRS program described in paragraph (j) of this section, except for groundfish in prohibited species status at the end of each reporting week.

(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 MRA 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 MRA 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 MRA 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 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 MRA for that species, whichever is lower. |
| (3) retention of an IR/IU species is prohibited, | equal zero. |

(j) *Groundfish retention standard.* (Effective January 20, 2008)—(1) *Applicability.* (i) The operator of a catcher/processor not listed in § 679.4(1)(2)(i), not assigned to an Amendment 80 cooperative, and using trawl gear in the BSAI must comply with the GRS set forth under paragraph (j)(4) of this section while fishing for or processing groundfish caught from the BSAI from January 1 through December 31 of each year.

(ii) An Amendment 80 cooperative and the members of an Amendment 80 cooperative must comply with the GRS set forth under paragraph (j)(4) of this section while fishing for or processing groundfish caught from the BSAI from January 1 through December 31 of each year.

(iii) No part of the GRS supersedes minimum retention or utilization requirements for IR/IU species found in this section.

(2) *Percent of groundfish retained calculation for a catcher/processor not in an Amendment 80 cooperative.* For any fishing year, the percent of groundfish retained by each catcher/processor not listed in § 679.4(1)(2)(i), not assigned to an Amendment 80 cooperative, and using trawl gear in the BSAI will be calculated using the following equations:

$$\text{GFroundweight} = \sum_{i=1}^{n} \left( \text{PWspecies}_n / \text{PRRspecies}_n \right)$$

Substituting the value for GFroundweight into the following equation:

GFR% = (GFroundweight / TotalGF) * 100

Where:

GFroundweight is the total annual round weight equivalent of all retained product weights for each IR/IU groundfish species.

$\text{PWspecies}_n$ is the total annual product weight for each groundfish species listed in Table 2a to this part by product type as reported in the vessel's weekly production report required at § 679.5(i).

$\text{PRRspecies}_n$ is the standard product recovery rate for each groundfish species and product combination listed in Table 3 to this part.

GFR% is the groundfish retention percentage for a vessel calculated as GFroundweight divided by the total weight of groundfish catch.

TotalGF is the total groundfish round catch weight as measured by the flow scale measurement, less any non-groundfish, PSC species or groundfish species on prohibited species status under § 679.20.

(3) *Percent of groundfish retained calculation for an Amendment 80 cooperative.* For each Amendment 80 cooperative, for any fishing year, the percent of groundfish retained by that Amendment 80 cooperative is based on the aggregate groundfish retained by all Amendment 80 vessels assigned to that Amendment 80 cooperative and will be calculated using the following equations:

$$\text{GFroundweight} = \sum_{i=1}^{n} \left( \text{PWspecies}_n / \text{PRRspecies}_n \right)$$

Substituting the value for GFroundweight into the following equation:

GFR% = (GFroundweight / TotalGF) * 100

Where:

GFroundweight is the total annual round weight equivalent of all retained product weights retained by all Amendment 80 vessels assigned to that Amendment 80 cooperative for each IR/IU groundfish species.

$PWspecies_n$ is the total annual product weight for each groundfish species listed in Table 2a to this part by product type as reported in the vessel's weekly production report for all Amendment 80 vessels assigned to that Amendment 80 cooperative required at § 679.5(i).

$PRRspecies_n$ is the standard product recovery rate for each groundfish species and product combination listed in Table 3 to this part.

GFR% is the groundfish retention percentage for an Amendment 80 cooperative calculated as GFroundweight divided by the total weight of groundfish catch.

TotalGF is the total groundfish round catch weight for all Amendment 80 vessels assigned to that Amendment 80 cooperative as measured by the flow scale measurement, less any non-groundfish, PSC species or groundfish species on prohibited species status under § 679.20.

(4) *Minimum groundfish retention standard.* An Amendment 80 cooperative or a catcher/processor not listed in § 679.4(l)(2)(i), not assigned to an Amendment 80 cooperative, and using trawl gear in the BSAI must comply with the annual minimum groundfish retention standard requirements displayed in the following table:

GROUNDFISH RETENTION STANDARD

| Year | Annual GRS (percent) |
|---|---|
| 2008 | 65 |
| 2009 | 75 |
| 2010 | 80 |
| 2011 and each year after | 85 |

(5) *Monitoring requirements*—(i) *Observer coverage requirements.* In addition to complying with minimum observer coverage requirements at § 679.50(c), the owner of an Amendment 80 vessel or any other catcher/processor not listed in § 679.4(l)(2)(i) and using trawl gear in the BSAI, must comply with observer coverage requirements as described at §§ 679.50(c)(6), and 679.7(m)(3) at all times the vessel is used to harvest groundfish in the BSAI with trawl gear.

(ii) *Catch weighing.* For each haul, all catch by an Amendment 80 vessel or any other catcher/processor not listed in § 679.4(l)(2)(i) and using trawl gear in the BSAI must be weighed on a NMFS-approved scale and made available for sampling by a NMFS certified observer at a single location. The owner or operator of an Amendment 80 vessel or a catcher/processor not listed in § 679.4(l)(2)(i) and using trawl gear in the BSAI must ensure that the vessel is in compliance with the scale requirements described at § 679.28(b), that each haul is weighed separately, and that no sorting of catch takes place prior to weighing. All weighed catch must be recorded as required at § 679.5(a)(7)(iv)(C).

(iii) *Observer sampling station.* The owner or operator of an Amendment 80 vessel or any other catcher/processor not listed in § 679.4(l)(2)(i) and using trawl gear in the BSAI must provide an observer sampling station as described at § 679.28(d) and the owner of the vessel must ensure that the vessel operator complies with the observer sampling station requirements described at § 679.28(d) at all times the vessel is used to harvest groundfish in the BSAI. In addition to the requirements at § 679.28(d)(7)(ii), observers must be able to sample all catch from a single point along the conveyer belt conveying unsorted catch, and when standing where unsorted catch is collected, the observer must be able to see that no catch has been removed between the bin and the location along the conveyer belt at which the observers collect their samples.

(6) *Requirements for vessels that also harvest groundfish outside of the BSAI.* The operator of an Amendment 80 vessel, or any other vessel required to comply with paragraph (j) of this section, must offload or transfer all fish or fish product prior to harvesting fish outside the BSAI, unless the operator of the vessel is in compliance with the recordkeeping and reporting and monitoring requirements described at § 679.5(a)(7)(iv)(C) and paragraph (j)(5) of this section at all times the vessel

harvests or processes groundfish outside the BSAI.

(7) *Requirements for vessels receiving deliveries of unsorted catch.* The owner or operator of an Amendment 80 vessel, or any other vessel required to comply with this paragraph (j) at any time during a fishing year and who also receives deliveries of unsorted catch at any time during a fishing year must comply with paragraph (j)(5) of this section while processing deliveries of unsorted catch.

[62 FR 63890, Dec. 3, 1997, as amended at 62 FR 65381, Dec. 12, 1997; 68 FR 52144, Sept. 2, 2003; 69 FR 32903, June 14, 2004; 71 FR 17381, Apr. 6, 2006; 72 FR 52722, Sept. 14, 2007]

### § 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 inspection 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.

(v) *Exceptions.* A scale manufacturer or their representative may request that NMFS approve a custom built automatic hopper scale under the following conditions:

(A) The scale electronics are the same as those used in other scales on the Regional Administrator's list of scales eligible for approval;

(B) Load cells have received Certificates of Conformance from NTEP or OIML;

(C) The scale compensates for motion in the same manner as other scales made by that manufacturer which have been listed on the Regional Administrator's list of scales eligible for approval;

(D) The scale, when installed, meets all of the requirements set forth in paragraph 3 of appendix A to this part, except those requirements set forth in paragraph 3.2.1.1.

(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 reinspected 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? Scales inspections by inspectors paid by NMFS will be conducted on vessels tied up at docks in Kodiak, Alaska, 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 weighment.

(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.* Scale requirements in this paragraph are in addition to those requirements set forth by the State of Alaska, and nothing in this paragraph may be construed to reduce or supersede the authority of the State to regulate, test, or approve scales within the State of Alaska or its territorial sea. Scales used to weigh groundfish catch that

are also required to be approved by the State of Alaska under Alaska Statute 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 owner and manager of the processor must ensure that the scale and scale display are 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 allowed to read the scale display at all times.

(3) *Printed scale weights.* (i) The owner and manager of the processor must ensure that printouts of the scale weight of each haul, set, or delivery are 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. The owner and manager must retain scale printouts as records as specified in § 679.5(a)(13).

(ii) A scale identified in a CMCP (see paragraph (g) of this section) must produce a printed record for each delivery, or portion of a delivery, weighed on that scale. If approved by NMFS as part of the CMCP, scales not designed for automatic bulk weighing may be exempted from part or all of the printed record requirements. The printed record must include:

(A) The processor name;

(B) The weight of each load in the weighing cycle;

(C) The total weight of fish in each delivery, or portion of the delivery that was weighed on that scale;

(D) The total cumulative weight of all fish or other material weighed on the scale since the last annual inspection;

(E) The date and time the information is printed;

(F) The name and ADF&G number of the vessel making the delivery. This information may be written on the scale printout in pen by the scale operator at the time of delivery.

(4) *Inseason scale testing.* Scales identified in an approved CMCP (see paragraph (g) of this section) must be tested by plant personnel in accordance with the CMCP when testing is requested by NMFS-staff or NMFS-authorized personnel. Plant personnel must be given no less than 20 minutes notice that a scale is to be tested and no testing may be requested if a scale test has been requested and the scale has been found to be accurate within the last 24 hours.

(i) *How does a scale pass an inseason test?* To pass an inseason test, NMFS staff or NMFS-authorized personnel will verify that the scale display and printed information are clear and easily read under all conditions of normal operation, weight values are visible on the display until the value is printed, and the scale does not exceed the maximum permissible errors specified below:

| Test Load in Scale Divisions | Maximum Error in Scale Divisions |
|---|---|
| (A) 0–500 | 1 |
| (B) 501–2,000 | 2 |
| (C) 2,001–4,000 | 3 |
| (D) >4,000 | 5 |

(ii) How much weight is required to do an inseason scale test? Scales must be tested with the amount and type of weight specified for each scale type in the following tables:

(A) Automatic hopper 0 to 150 kg (0 to 300 lb) capacity.

| *Certified Test Weights* | *Other test material* |
|---|---|
| (*1*) Minimum weighment or 10 kg (20 lb), whichever is greater | Minimum |
| (*2*) Maximum | Maximum |

(B) Automatic hopper > 150 kg (300 lb) capacity.

| *Certified Test Weights* | *Other test material* |
|---|---|
| (*1*) Minimum weighment or 10 kg (20 lb), whichever is greater | Minimum |
| (*2*) 25 percent of maximum or 150 kg (300 lb), whichever is greater. | Maximum |

(C) Platform or flatbed 0 to 150 kg (0 to 300 lb) capacity.

| *Certified Test Weights* | *Other test material* |
|---|---|
| (*1*) 10 kg (20 lb) | Not Acceptable |
| (*2*) Midpoint | Not Acceptable |
| (*3*) Maximum | Not Acceptable |

(D) Platform or flatbead > 150 kg (300 lb) capacity.

| *Certified Test Weights* | *Other test material* |
|---|---|
| (*1*) 10 kg (20 lb) | Not Acceptable |
| (*2*) 12.5 percent of maximum or 75 kg (150 lb), whichever is greater | 50 percent of maximum or 75 kg (150 lb), whichever is greater |
| (*3*) 25 percent of maximum or 150 kg (300 lb), whichever is greater | 75 percent of maximum or 150 kg (300 lb), whichever is greater |

(E) Observer sampling scale > 50 kg capacity.

| *Certified Test Weights* | *Other test material* |
|---|---|
| (*1*) 10 kg | Not Acceptable |
| (*2*) 25 kg | Not Acceptable |
| (*3*) 50 kg | Not Acceptable |

(iii) *Certified test weights*. Each test weight used for inseason scale testing must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be certified by a National Institute of Standards and Technology approved metrology laboratory every 2 years. An observer platform scale must be provided with sufficient test weights to test the scale at 10 kg, 25 kg, and 50 kg. All other scales identified in an approved CMCP must be provided with sufficient test weights to test the scale as described in this paragraph (c)(4) of this section. Test weights for observer platform scales must be denominated in kilograms. Test weights for other scales may be denominated in pounds.

(iv) *Other test material*. When permitted in paragraph (c)(4)(ii) of this section, a scale may be tested with test material other than certified test weights. This material must be weighed on an accurate observer platform scale at the time of each use.

(v) *Observer sampling scales*. Platform scales used as observer sampling scales must:

(A) Have a capacity of no less than 50 kg;

(B) Have a division size of no less than 5 g;

(C) Indicate weight in kilograms and decimal subdivisions; and

(D) Be accurate within plus or minus 0.5 percent when tested at 10 kg, 25 kg, and 50 kg by NMFS staff or a NMFS-certified observer.

(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 exceptions: 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 owner may arrange the inspection time and place by submitting to NMFS by fax (206–526–4066) or e-mailing (*station.inspections@noaa.gov*) an Inspection Request for Observer Sampling Station available on the NMFS Alaska Region Web site at *http://www.fakr.noaa.gov*. Inspections will be scheduled no later than 10 working days after NMFS receives a complete application for an inspection. The owner must provide the following information:

(A) Name and signature of the person submitting the application, and the date of the application.

(B) Business mailing 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 and name of contact person on vessel.

(E) Federal fishery permit number.

(F) Location of vessel where sampling station inspection is requested to occur, including street address and city.

(G) Requested inspection date.

(H) 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 including the observer sampling scale, and the name of the manufacturer and model of the observer sampling scale.

(I) 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.

(J) For all vessels, a copy of the most recent scale inspection report issued under paragraph (b)(2) of this section.

(ii) Where will observer sample station inspections be conducted? Inspections will be conducted on vessels tied up at docks in Kodiak, Alaska, 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 onboard 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 engaging in operations when a VMS is required.

(iii) Continue the VMS transmissions until no longer engaged in operations requiring VMS.

(iv) Stop fishing immediately if:

(A) Informed by NMFS staff or an authorized officer that NMFS is not receiving position reports from the VMS transmitter, or

(B) The vessel operator determines that the VMS is not transmitting properly.

(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.

(4) What must the vessel owner do before activating a VMS transmitter for the first time? If you are a vessel owner who must use a VMS and you are activating a VMS transmitter for the first time, you must:

(i) Contact the OLE by Facsimile (907–586–7703) and provide: the VMS transmitter ID, the vessel name, the Federal Fisheries Permit number or Federal crab vessel permit number.

(ii) Call NMFS enforcement at 907–586–7225, Monday through Friday, between the hours of 0800 hours, A.l.t., and 1630 hours, A.l.t., at least 72 hours before leaving port and receive confirmation that the transmissions are being received.

(5) *What must the vessel owner do when the vessel replaces a VMS transmitter?* If you are a vessel owner who must use a VMS and you wish to replace a transmitter, you must either:

(i) Have followed the reporting and confirmation procedure for the replacement transmitter, as described above in paragraph (f)(4) of this section, or

(ii) Contact the NMFS Enforcement Division by phone or FAX and provide: the replacement VMS transmitter ID, the vessel name and the vessel's Federal Fisheries Permit Number and receive confirmation that the transmissions are being received before beginning operations.

(6) *When must the VMS transmitter be transmitting?* Your vessel's transmitter must be transmitting if:

(i) You operate a vessel in any reporting area (see definitions at § 679.2) off Alaska while any fishery requiring VMS, for which the vessel has a species and gear endorsement on its Federal Fisheries Permit under § 679.4(b)(5)(vi), is open.

(ii) You operate a vessel required to be federally permitted in reporting areas located in the Aleutian Islands subarea or operate a federally permitted vessel in adjacent State waters;

(iii) You operate a vessel required to be federally permitted with mobile bottom contact gear onboard in reporting areas located in the GOA or operate a federally permitted vessel with mobile bottom contact gear onboard in adjacent State waters; or

(iv) When that vessel is required to use functioning VMS equipment in the Rockfish Program as described in § 679.7(n)(3).

(g) *Catch monitoring and control plan requirements (CMCP)*—(1) *What is a CMCP?* A CMCP is a plan submitted by the owner and manager of a processing plant, and approved by NMFS, detailing how the processing plant will meet the catch monitoring and control standards detailed in paragraph (g)(7) of this section.

(2) *Who is required to prepare and submit a CMCP for approval?* The owner and manager of shoreside or stationary floating processors receiving fish harvested in the following fisheries must prepare, submit, and have approved a CMCP prior to the receipt of fish harvested in these fisheries:

(i) AFA pollock,

(ii) AI directed pollock,

(iii) Rockfish Program, unless those fish are harvested under the entry level rockfish fishery as described under § 679.83.

(3) *How is a CMCP approved by NMFS?* NMFS will approve a CMCP if it meets all the requirements specified in paragraph (g)(7) of this section. The processor must be inspected by NMFS prior to approval of the CMCP to ensure that the processor conforms to the elements addressed in the CMCP. NMFS will complete its review of the CMCP within 14 working days of receiving a complete CMCP and conducting a CMCP inspection. If NMFS disapproves a CMCP, the plant owner or manager may resubmit a revised CMCP or file an administrative appeal as set forth under the administrative appeals procedures described at § 679.43.

(4) *How is a CMCP inspection arranged?* The time and place of a CMCP inspection may be arranged by submitting a written request for an inspection to NMFS, Alaska Region. NMFS will schedule an inspection within 10 working days after NMFS receives a complete application for an inspection. The inspection request must include:

(i) Name and signature of the person submitting the application and the date of the application;

(ii) Address, telephone number, fax number, and email address (if available) of the person submitting the application;

(iii) A proposed CMCP detailing how the processor will meet each of the performance standards in paragraph (g)(7) of this section.

(5) *For how long is a CMCP approved?* NMFS will approve a CMCP for 1 year if it meets the performance standards specified in paragraph (e)(2) of this section. An owner or manager must notify NMFS in writing if changes are made in plant operations or layout that do not conform to the CMCP.

(6) *How do I make changes to my CMCP?* An owner and manager may change an approved CMCP by submitting a CMCP addendum to NMFS. NMFS will approve the modified CMCP if it continues to meet the performance standards specified in paragraph (e)(2) of this section. Depending on the nature and magnitude of the change requested, NMFS may require a CMCP inspection as described in paragraph (g)(3) of this section. A CMCP addendum must contain:

(i) Name and signature of the person submitting the addendum;

(ii) Address, telephone number, fax number and email address (if available) of the person submitting the addendum;

(iii) A complete description of the proposed CMCP change.

(7) *Catch monitoring and control standards*—(i) *Catch sorting and weighing requirements.* All groundfish delivered to the plant must be sorted and weighed by species. The CMCP must detail the amount and location of space for sorting catch, the number of staff assigned to catch sorting and the maximum rate that catch will flow through the sorting area.

(ii) *Scales used for weighing groundfish.* The CMCP must identify by serial number each scale used to weigh groundfish and describe the rational for its use.

(iii) *Scale testing procedures.* Scales identified in the CMCP must be accurate within the limits specified in paragraph (c)(4)(i) of this section. For each scale identified in the CMCP a testing plan must be developed that:

(A) Describes the procedure the plant will use to test the scale;

(B) Lists the test weights and equipment required to test the scale;

(C) Lists where the test weights and equipment will be stored; and

(D) Lists the plant personnel responsible for conducting the scale testing.

(iv) *Printed record.* The owner and manager must ensure that the scale produces a complete and accurate printed record of the weight of each species in a delivery. All of the groundfish in a delivery must be weighed on a scale capable of producing a complete printed record as described in paragraph (c)(3) of this section. However, NMFS may exempt scales not designed for automatic bulk weighing from some or all of the printed record requirements if the CMCP identifies any scale that cannot produce a complete printed record, states how the processor will use the scale, and states how the plant intends to produce a complete record of the total weight of each delivery.

(v) *Delivery point.* Each CMCP must identify a single delivery point. The delivery point is the first location where fish removed from a delivering catcher vessel can be sorted or diverted to more than one location. If the catch is pumped from the hold of a catcher vessel or a codend, the delivery point normally will be the location where the pump first discharges the catch. If catch is removed from a vessel by brailing, the delivery point normally will be the bin or belt where the brailer discharges the catch.

(vi) *Observation area.* Each CMCP must designate an observation area. The observation area is a location designated on the CMCP where an individual may monitor the flow of fish during a delivery. The owner and manager must ensure that the observation area meets the following standards:

(A) *Access to the observation area.* The observation area must be freely accessible to NMFS staff or NMFS-authorized personnel at any time a valid CMCP is required.

(B) *Monitoring the flow of fish.* From the observation area, an individual must have an unobstructed view or otherwise be able to monitor the entire flow of fish between the delivery point

and a location where all sorting has taken place and each species has been weighed.

(vii) *Observer work station.* Each CMCP must identify and include an observer work station for the exclusive use of NMFS-certified observers. Unless otherwise approved by NMFS, the work station must meet the following criteria:

(A) *Location of observer work station.* The observer work station must be located in an area protected from the weather where the observer has access to unsorted catch.

(B) *Platform scale.* The observer work station must include a platform scale as described in paragraph (c)(4) of this section;

(C) *Proximity to observer work station.* The observer area must be located near the observer work station. The plant liaison must be able to walk between the work station and the observation area in less than 20 seconds without encountering safety hazards.

(D) *Workspace.* The observer work station must include: A working area of at least 4.5 square meters, a table as specified in paragraph (d)(4) of this section, and meet the other requirements as specified in paragraph (d)(6) of this section.

(E) *Lockable cabinet.* The observer work station must include a secure and lockable cabinet or locker of at least 0.5 cubic meters.

(viii) *Communication with observer.* The CMCP must describe what communication equipment such as radios, pagers or cellular phones, is used to facilitate communications within the plant. The plant owner must ensure that the plant manager provides the NMFS-certified observer with the same communications equipment used by plant staff.

(ix) Plant liaison. The CMCP must designate a plant liaison. The plant liaison is responsible for:

(A) Orienting new observers to the plant;

(B) Assisting in the resolution of observer concerns; and

(C) Informing NMFS if changes must be made to the CMCP.

(x) *Scale drawing of plant.* The CMCP must be accompanied by a scale drawing of the plant showing:

(A) The delivery point;

(B) The observation area;

(C) The observer work station;

(D) The location of each scale used to weigh catch; and

(E) Each location where catch is sorted.

(h) [Reserved]

(i) *Bin monitoring*—(1) *Bin monitoring standards.* The vessel owner or operator must comply with the requirements specified in paragraph (i)(1)(i) of this section unless the vessel owner or operator has requested, and NMFS has approved, one of the monitoring options described at paragraph (i)(1)(ii) or (i)(1)(iii) of this section.

(i) *Option 1—No crew in bin or tank.* No crew may enter any bin or tank preceding the point where the observer samples unsorted catch, unless:

(A) The flow of fish has been stopped between the tank and the location where the observer samples unsorted catch;

(B) All catch has been cleared from all locations between the tank and the location where the observer samples unsorted catch;

(C) The observer has been given notice that the vessel crew must enter the tank; and either

(D) The observer is given the opportunity to observe the activities of the person(s) in the tank; or

(E) The observer informs the vessel operator, or his designee, that all sampling has been completed for a given haul, in which case crew may enter a tank containing fish from that haul without stopping the flow of fish or clearing catch between the tank and the observer sampling station.

(iii) *Option 2—Line of sight option.* From the observer sampling station, the location where the observer sorts and weighs samples, and the location from which the observer collects unsorted catch, an observer of average height (between 64 and 74 inches (140 and 160 cm)) must be able to see all areas of the bin or tank where crew could be located preceding the point where the observer samples catch. If clear panels are used to comply with this requirement, those panels must be maintained sufficiently clear to allow an individual with normal vision to read text located two feet inside of the

bin or tank. The text must be written in 87 point type (corresponding to line four on a standard Snellen eye chart) and the text must be readable from the observer sampling station, the location where the observer sorts and weighs samples, and the location from which the observer collects unsorted catch. The observer must be able to view the activities of crew in the bin from these locations.

(iv) *Option 3—Video option.* A vessel must provide and maintain cameras, a monitor, and a digital video recording system for all areas of the bin or tank where crew could be located preceding the point where the observer collects catch. The vessel owner or operator must ensure that:

(A) The system has sufficient data storage capacity to store all video data from an entire trip. Each frame of stored video data must record a time/date stamp in Alaska local time (A.l.t.). At a minimum, all periods of time when fish are inside the bin must be recorded and stored;

(B) The system must include at least one external USB (1.1 or 2.0) port or other removable storage device approved by NMFS;

(C) The system uses commercially available software;

(D) Color cameras must have at a minimum 420 TV lines of resolution, a lux rating of 0.1, and auto-iris capabilities;

(E) The video data must be maintained and made available to NMFS staff, or any individual authorized by NMFS, upon request. These data must be retained onboard the vessel for no less than 120 days after the beginning of a trip, unless NMFS has notified the vessel operator that the video data may be retained for less than this 120-day period;

(F) The system provides sufficient resolution and field of view to see and read a text sample written in 130 point type (corresponding to line two of a standard Snellen eye chart) from any location within the tank where crew could be located;

(G) The system is recording at a speed of no less than 5 frames per second at all times when fish are inside the tank;

(H) A 16-bit or better color monitor, for viewing activities within the tank in real time, is provided within the observer sampling station (or location where the observer sorts and weighs samples, if applicable). The monitor must:

(*1*) Have the capacity to display all cameras simultaneously;

(*2*) Be operating at all times when fish are in the tank;

(*3*) Be securely mounted at or near eye level;

(*4*) Provide the same resolution as specified in paragraph (i)(1)(iii)(F) of this section.

(I) The observer is able to view any earlier footage from any point in the trip and is assisted by crew knowledgeable in the operation of the system in doing so;

(J) The vessel owner has, in writing, provided the Regional Administrator with the specifications of the system. At a minimum, this must include:

(*1*) The length and width (in pixels) of each image;

(*2*) The file type in which the data are recorded;

(*3*) The type and extent of compression;

(*4*) The frame rate at which the data will be recorded;

(*5*) The brand and model number of the cameras used;

(*6*) The brand, model, and specifications of the lenses used;

(*7*) A scale drawing of the location of each camera and its coverage area;

(*8*) The size and type of storage device;

(*9*) The type, speed, and operating system of any computer that is part of the system;

(*10*) The individual or company responsible for installing and maintaining the system;

(*11*) The individual onboard the vessel responsible for maintaining the system and working with the observer on its use; and

(*12*) Any additional information requested by the Regional Administrator.

(K) Any change to the video system that would affect the system's functionality must be submitted to,

and approved by, the Regional Administrator in writing before that change is made.

(v) *Failure of line of sight or video option.* If the observer determines that a monitoring option selected by a vessel owner or operator specified in paragraph (i)(1)(ii) or (i)(1)(iii) of this section fails to provide adequate monitoring of all areas of the bin where crew could be located, then the vessel must use the monitoring option specified in paragraph (i)(1)(i) of this section until the observer determines that adequate monitoring of all areas of the bin where crew could be located is provided by the monitoring option selected by the vessel owner or operator.

(2) *Who must have a bin monitoring option inspection?* A vessel owner or operator choosing to operate under the line of sight option (option 2) in paragraph (i)(1)(ii) of this section or the video option (option 3) in paragraph (i)(1)(iii) of this section must receive an annual bin monitoring option inspection.

(3) *How does a vessel owner arrange for a bin monitoring option inspection?* The owner may arrange the inspection time and place by submitting to NMFS by fax (206–526–4066) or e-mail (*station.inspections@noaa.gov*) an Inspection Request for Bin Monitoring available on the NMFS Alaska Region Web site at (*http://www.fakr.noaa.gov*). Inspections will be scheduled no later than 10 working days after NMFS receives a complete application for an inspection. The owner must provide the following information:

(i) Name and signature of the person submitting the application, and the date of the application;

(ii) Business mailing address, telephone number, and fax number of the person submitting the application;

(iii) Whether the vessel has received a bin monitoring option inspection before, and if so, the date of the most recent inspection report;

(iv) Vessel name;

(v) Federal fishery permit number;

(vi) Location where the inspection is requested to occur, including street address and city; and

(vii) A diagram drawn to scale showing the locations where all catch will be weighed and sorted by the observer, the location where unsorted catch will be collected, and the location of any video equipment or viewing panels or ports.

(4) *Where will bin monitoring option inspections be conducted?* Inspections will be conducted on vessels tied to docks at Dutch Harbor, Alaska, Kodiak, Alaska, and in the Puget Sound area of Washington State.

(5) *Bin monitoring option inspection report.* A bin monitoring option inspection report, valid for 12 months from the date it is signed by NMFS, will be issued to the vessel owner if the bin monitoring option meets the requirements of paragraph (i)(1)(ii) or (i)(1)(iii) of this section. The vessel owner must maintain a current bin option inspection report onboard the vessel at all times the vessel is required to provide an approved bin monitoring option under this paragraph (i)(5). The bin monitoring option inspection report must be made available to the observer, NMFS personnel or to an authorized officer upon request.

[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; 67 FR 79731, Dec. 30, 2002; 68 FR 215, Jan. 2, 2003; 70 FR 9867, Mar. 1, 2005; 70 FR 10238, Mar. 2, 2005; 71 FR 20349, Apr. 20, 2006; 71 FR 36703, June 28, 2006; 71 FR 67251, Nov. 20, 2006; 72 FR 52723, Sept. 14, 2007; 72 FR 63502, Nov. 9, 2007]

## 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 on behalf of a CDQ group must comply with all other requirements of this part. 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) *Harvesting plans.* A narrative description of how the CDQ group intends to harvest and process its CDQ allocations, including a description of the target fisheries, the types of vessels and processors that will be used, the locations and methods of processing, and the CDQ group's proposed partners.

(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 recommendations 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) *Transfers*—(1) *Transfer of annual CDQ and PSQ.* CDQ groups may request that NMFS transfer CDQ or PSQ from one group to another group by each group submitting a completed transfer request as described in § 679.5(n)(3). NMFS will approve the transfer request if the CDQ group transferring quota to another CDQ group has sufficient quota available for transfer. If NMFS approves the request, 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 and by increasing the account balance of the CDQ group receiving the transferred CDQ or PSQ species. NMFS will not approve transfers to cover overages of CDQ or PSQ. The CDQ or PSQ will be transferred as of the date NMFS approves the transfer request and is effective only for the remainder of the calendar year in which the transfer occurs.

(2) *Transfer of CDQ and PSQ allocation.* CDQ groups may request that some or all of one group's CDQ or PSQ allocation, as defined at § 679.2, be transferred by NMFS to another group by each group filing an amendment to its respective CDP through the CDP substantial amendment process set forth at paragraph (g)(4) of this section. The CDQ or 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. Transfers of CDQ and PSQ allocations must be in whole integer percentages.

(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) 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. 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 or a PSQ allocation.

(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 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; 70 FR 15013, Mar. 24, 2005]

### § 679.31 CDQ and PSQ reserves.

Portions of the CDQ and PSQ reserves for each subarea or district may be allocated for the exclusive use of CDQ groups 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 each CDQ reserve to any one group with an approved CDP.

(a) *CDQ and PSQ reserves*—(1) *Groundfish CDQ reserves*. See § 679.20(b)(1)(ii).

(2) *Halibut CDQ reserve*. (i) 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.

(ii) 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.

(iii) 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):

(A) *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.

(B) *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.

(C) *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.

(D) *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 10,000 lb (4.54 mt) applies to halibut CDQ harvested in IPHC regulatory area 4E through September 1.

(iv) 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.

(3) *Crab CDQ reserves*. Crab CDQ reserves for crab species governed by the Crab Rationalization Program are specified at § 680.40 (a)(1). For Norton Sound red king crab, 7.5 percent of the guideline harvest level specified by the State of Alaska is allocated to the crab CDQ reserve.

(4) *PSQ reserve*. (See § 679.21(e)(3)(i)(A) and (e)(4)(i)(A)).

(b)—(f) [Reserved]

(g) Non-specific CDQ reserve (applicable through December 31, 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; 67 FR 79733, Dec. 30, 2002; 68 FR 9905, Mar. 3, 2003; 68 FR 69977, Dec. 16, 2003; 70 FR 10238, Mar. 2, 2005; 72 FR 52725, Sept. 14, 2007; 73 FR 27771, May 14, 2008]

**§ 679.32 Groundfish and halibut CDQ catch monitoring.**

(a) *Applicability*. This section contains requirements for CDQ groups, operators of vessels, and managers of processors that harvest and/or process groundfish CDQ, including vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing.

(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)(4) in the annual specifications published in the FEDERAL REGISTER.

(c) *Vessels eligible for groundfish and halibut CDQ fisheries*. The following information must be provided by the CDQ group for all vessels that are groundfish CDQ fishing and all vessels equal to or greater than 60 ft (18.3 m) LOA that are halibut CDQ fishing.

(1) *Request for approval of an eligible vessel*. Prior to a vessel participating in the CDQ fishery, a CDQ group must submit to NMFS a completed request for approval of an eligible vessel as described at § 679.5(n)(4). NMFS will approve all vessels for which a completed request is submitted. Once approved, a vessel will remain eligible until December 31 of the last year in the current CDQ allocation cycle under § 679.30(d), or until the CDQ group removes the vessel from eligibility under paragraph (c)(2) of this section. A list of eligible vessels for each CDQ group will be publicly available from the Alaska Regional Office or on the NMFS website at *http://www.fakr.noaa.gov*. The CDQ group must provide a copy of the NMFS-approved eligible vessel request to the operator of the approved vessel. The vessel operator must maintain a copy of the eligible vessel request approved by NMFS onboard the vessel at all times while harvesting, transporting, or offloading CDQ.

(2) *Removing a vessel from eligibility*. A CDQ group may remove a vessel from eligibility to harvest CDQ on its behalf by advising NMFS by letter of the removal. Removal of a vessel from eligibility to harvest CDQ will be effective on the date that NMFS approves the request and notifies the CDQ group of NMFS's approval. Upon receipt of notification of NMFS's approval, the CDQ group must notify the operator of the vessel of the vessel's removal from eligibility to harvest CDQ on behalf of the CDQ group.

(d) *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 species, halibut CDQ, and salmon PSQ until they are delivered to a processor that meets the requirements of paragraph (d)(3) or (d)(4) of this section, unless retention of groundfish CDQ species is not authorized under § 679.4, 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 the State of Alaska.

(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 (d)(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 (d)(3) or (d)(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 level 2 observer; and

(C) Provide space on the deck of the vessel for the level 2 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 (d)(3) or (d)(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 level 2 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 level 2 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 level 2 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 level 2 observer of the offloading schedule of each CDQ delivery at least 1 hour prior to offloading to provide the level 2 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 level 2 observer.

(v) *CDQ delivery report.* Submit a CDQ delivery report described at § 679.5(n)(1) for each delivery of groundfish CDQ.

(vi) *AFA inshore processors.* Take deliveries from a vessel engaged in directed fishing for pollock CDQ without following an approved CMCP as described at § 679.28(g).

(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 level 2 observer(s) before CDQ catch is brought onboard the vessel and notify the level 2 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. Each CDQ haul must be sampled by a level 2 observer for species composition and the vessel operator must allow level 2 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 level 2 observer for species composition and average weight.

(e) *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'' on their request for approval of an eligible vessel. In the case of a catcher vessel using nontrawl gear, the CDQ group must specify on their request for approval of an eligible vessel 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 (d)(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 is approved by NMFS under paragraph (e)(3) of this section.

(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 until delivered to a processor, and sorted and weighed in compliance with paragraph (d)(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 level 2 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 level 2 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, and sorted and weighed in compliance with paragraph (d)(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 level 2 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 (d)(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 level 2 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 level 2 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 level 2 observer's species composition sampling data to the estimate of total catch weight, if any CDQ species are discarded at sea.

(3) *Alternative methods for verification of CDQ and PSQ catch.* The method to be used to determine CDQ and PSQ catch for each vessel must be listed by a CDQ group on the request for approval of an eligible vessel. A CDQ group may propose the use of an alternative method, such as using only one observer where normally two would be required, sorting and weighing of all catch by species on processor vessels, or using larger sample sizes than could be collected by one observer, by submitting an alternative fishing plan attached to its request for approval of an eligible vessel. NMFS will review the alternative fishing plan and approve it or notify the qualified applicant in writing if the proposed alternative does not meet the requirements listed under paragraphs (e)(3)(i) through (iv) of this section. The CDQ group must provide a copy of the approved alternative fishing plan to the operator of the approved vessel. A copy of the alternative fishing plan approved by NMFS must be maintained onboard the vessel at all times while it is operating under the alternative fishing plan. Alternative fishing plans are valid for the remainder of the calendar year in which they are approved. Alternatives to the requirement for a certified scale or an observer sampling station will not be approved. NMFS will review the alternative fishing plan to determine if it meets all of the following requirements:

(i) 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;

(ii) Each haul or set on an observed vessel must be able to be sampled by an observer for species composition;

(iii) Any proposal to sort catch before it is weighed must ensure that the sorting and weighing process will be monitored by an observer; and

(iv) The time required for the level 2 observer to complete sampling, data recording, and data communication duties must not exceed 12 hours in each 24-hour period and the level 2 observer must not be required to sample more than 9 hours in each 24-hour period.

(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 catch monitoring requirements of this paragraph (f) and with the R&R requirements of § 679.4(e) for the catch of CDQ halibut or while CDQ halibut fishing.

(2) *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.

(3) *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 (e) of this section including the retention of all groundfish CDQ, if Option 1 under § 679.32(d)(2)(ii) is selected. 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.

(4) *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).

(5) *Seabird avoidance requirements*. The CDQ group, and vessel owner or operator must comply with all of the seabird avoidance requirements at § 679.42(b)(2).

[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; 67 FR 79733, Dec. 30, 2002; 68 FR 215, Jan. 2, 2003; 68 FR 44487, July 29, 2003; 68 FR 69977, Dec. 16, 2003; 69 FR 1949, Jan. 13, 2004; 70 FR 15014, 15015, Mar. 24, 2005; 72 FR 50818, Sept. 4, 2007]

EFFECTIVE DATE NOTE: At 63 FR 30407, June 4, 1998, § 679.32 was revised. Paragraph (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.

## 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 halibut were harvested using fixed gear, as follows: 1988, 1989, or 1990; or calendar year 1991 prior to September 26, 1991.

(ii) *Vessel categories.* QS and its associated IFQ assigned to vessel categories include:

(A) Category A QS and associated IFQ, which authorizes an IFQ permit holder to harvest and process IFQ species on a vessel of any length;

(B) Category B QS and associated IFQ, which authorizes an IFQ permit holder to harvest IFQ species on a vessel of any length;

(C) Category C QS and associated IFQ, which authorizes an IFQ permit holder 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 permit holder to harvest IFQ halibut on a vessel less than or equal to 35 ft (10.7 m) LOA, except as provided in § 679.42(a).

(iii) *QS assignment.* A qualified person's QS will be assigned:

(A) To vessel category A if, at any time during his/her most recent year of participation, that person's vessel

processed any groundfish or halibut caught with fixed gear.

(B) To vessel category B if, at any time during his/her most recent year of participation, that person's vessel was greater than 60 ft (18.3 m) LOA and did not process any groundfish or halibut caught with fixed gear.

(C) To each applicable vessel category in proportion to the landings of halibut or sablefish made by that person if, at any time during their most recent year of participation, that person used more than one vessel in different categories.

(iv) *Sablefish QS.* A qualified person's sablefish QS will be assigned:

(A) To vessel category C if, at any time during his/her most recent year of participation, that person's vessel was less than or equal to 60 ft (18.3 m) LOA and did not process any groundfish or halibut caught with fixed gear.

(B) To the vessel category in which halibut and groundfish were landed, or vessel categories in proportion to the total fixed gear landings of halibut and groundfish, if, at any time during the most recent year of participation, that person's vessel(s) makes no landing(s) of sablefish.

(v) *Halibut QS.* A qualified person's halibut QS will be assigned:

(A) To vessel category C if, at any time during his/her most recent year of participation, that person's vessel was less than or equal to 60 ft (18.3 m), but greater than 35 ft (10.7 m), LOA and did not process any groundfish or halibut caught with fixed gear.

(B) To vessel category D if, at any time during his/her most recent year of participation, that person's vessel was less than or equal to 35 ft (10.7 m) LOA and did not process any groundfish or halibut caught with fixed gear.

(C) To the vessel category in which groundfish were landed, or vessel categories in proportion to the total fixed gear landings of groundfish, if, at any time during the most recent year of participation, that person's vessel(s) makes no landing(s) of halibut.

(vi) *Both species QS.* A qualified person's QS for both species will be assigned to the vessel category in which groundfish were landed in the most recent year of participation if, at any time during that year, that person landed halibut in one vessel category and sablefish in a different vessel category.

(6) *Application for initial QS*—(i) *Application form.* 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:

$$IFQ_{pa} = [(\text{fixed gear } TAC_a - \text{CDQ reserve}_a) \times (QS_{pa}/\text{QS pool}_a)] - \text{overage of } IFQ_{pa}.$$

(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) *External research tags for halibut and sablefish*. (1) Nothing contained in this part 679 shall prohibit any person at any time from retaining and landing a Pacific halibut or sablefish that bears at the time of capture an external research tag from any state, Federal, or international agency, provided that the halibut or sablefish is one of the following:

(i) A Pacific halibut landed pursuant to § 300.62 of this title and to this part 679; or

(ii) A sablefish landed in accordance with the Tagged Groundfish Research Program, and in compliance with all sablefish requirements of this part 679.

(2) Halibut and sablefish bearing an external research tag from any state, Federal, or international agency, landed pursuant to paragraph (g)(1)(i) or (g)(1)(ii) of this section, and in accordance with § 679.5(l), shall be excluded from IFQ or CDQ deduction as follows:

(i) The fish shall not be calculated as part of a person's IFQ harvest of halibut or sablefish and shall not be debited against a person's halibut IFQ or a person's sablefish IFQ; or

(ii) The fish shall not be calculated as part of the CDQ harvest of halibut or sablefish and shall not be debited against a CDQ group's halibut CDQ or a CDQ group's sablefish CDQ.

[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; 71 FR 36492, June 27, 2006; 72 FR 44809, Aug. 9, 2007]

### § 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 permits to be issued in the name of a hired master employed by an individual or a corporation are not transfers of QS or IFQ.

(b) *Transfer procedure*—(1) *Application for transfer*. An Application for Transfer of QS/IFQ (Application for Transfer) must be approved by the Regional Administrator before a person may use IFQ to harvest IFQ halibut or IFQ sablefish, whether the IFQ was the result of a direct transfer or the result of a QS transfer. An Application for Transfer will not be approved until the Regional Administrator has reviewed and approved the transfer agreement signed by the parties to the transaction. The Regional Administrator shall provide an Application for Transfer form to any person on request. Persons who submit an Application for Transfer to the Regional Administrator for approval will receive notification of the Regional Administrator's decision to approve or disapprove the Application for Transfer, and, if applicable, the reason(s) for disapproval, by mail posted on the date of that decision, unless another communication mode is requested on the Application for Transfer.

(2) *QS or IFQ accounts*. QS or IFQ accounts affected by an Application for Transfer approved by the Regional Administrator will change on the date of approval. Any necessary IFQ permits will be sent with the notification of the Regional Administrator's decision.

(c) *Application for Transfer approval criteria*. Except as provided in paragraph (f) of this section, an Application for Transfer will not be approved until the Regional Administrator has determined that:

(1) The person applying for transfer received the QS or IFQ to be transferred:

(i) By initial assignment by the Regional Administrator as provided in § 679.40(a); or

(ii) By approved transfer.

(2) The person applying to receive the QS or IFQ meets the requirements of eligibility in paragraph (d) of this section.

(3) The person applying for transfer and the person applying to receive the QS or IFQ have their notarized signatures on the Application for Transfer.

(4) There are no fines, civil penalties, or other payments due and owing, or outstanding permit sanctions, resulting from Federal fishery violations involving either person.

(5) The person applying to receive the QS or IFQ currently exists.

(6) The transfer would not cause the person applying to receive the QS or IFQ to exceed the use limits in § 679.42 (e) or (f).

(7) The transfer would not violate the provisions of paragraph (g) of this section.

(8)(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.

(10) If the person applying to transfer or receive QS or IFQ is a CQE, the following determinations are required for each eligible community represented by that CQE:

(i) An individual applying to receive IFQ from QS held by a CQE is an eligible community resident of the eligible community in whose name the CQE is holding QS;

(ii) The CQE applying to receive or transfer QS, has submitted a complete annual report(s) required by § 679.5 (l)(8);

(iii) The CQE applying to transfer QS has provided information on the reasons for the transfer as described in paragraph (g)(7) of this section;

(iv) The CQE applying to receive QS is eligible to hold QS on behalf of the eligible community in the halibut or sablefish regulatory area designated for that eligible community in Table 21 to this part; and

(v) The CQE applying to receive QS has received notification of approval of eligibility to receive QS/IFQ for that community as described in paragraph (d)(1) of this section.

(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, except that an Application for Eligibility to Receive QS/IFQ (Application for Eligibility) is not required for a CQE if a complete application to become a CQE, as described in paragraph (l)(3) of this section, has been approved by the Regional Administrator on behalf of an eligible community. 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 lb (1.4 mt) of halibut IFQ, based on the 1996 catch limit for halibut in a specific IFQ regulatory area and the QS pool for that IFQ regulatory area on January 31, 1996, may be consolidated into larger QS blocks provided that the consolidated blocks do not represent greater than 3,000 lb (1.4 mt) of halibut IFQ based on the preceding criteria. In Areas 2C and 3A, QS blocks for the same IFQ regulatory area and vessel category that represent less than 5,000 lb (2.3 mt) of halibut IFQ, based on the 1996 catch limit for halibut in a specific IFQ regulatory area and the QS pool for that IFQ regulatory area on January 31, 1996, may be consolidated into larger QS blocks provided that the consolidated blocks do not represent greater than 5,000 lb (2.3 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: 33,320 QS.

(ii) Area 3A: 46,520 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.

(4) A CQE may not purchase or use sablefish QS blocks less than or equal to the number of QS units specified in (e)(2)(i) through (e)(2)(iv) of this section.

(5) A CQE may not purchase or use halibut QS blocks less than or equal to the number of QS units specified in (e)(3)(i) and (e)(3)(ii) of this section.

(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), paragraph (g)(2), or paragraph (l) 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 eligibility 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 paragraphs (h) and (m) 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.

(5) A CQE may not hold QS in halibut IFQ regulatory areas 2C or 3A that is assigned to vessel category D.

(6) IFQ derived from QS held by a CQE on behalf of an eligible community may be used only by an eligible community resident of that eligible community.

(7) A CQE may transfer QS:

(i) To generate revenues to provide funds to meet administrative costs for managing the community QS holdings;

(ii) To generate revenue to improve the ability of residents within the community to participate in the halibut and sablefish IFQ fisheries;

(iii) To generate revenue to purchase QS to yield IFQ for use by community residents;

(iv) To dissolve the CQE; or

(v) As a result of a court order, operation of law, or as part of a security agreement.

(8) If the Regional Administrator determines that a CQE transferred QS for purposes other than those specified in paragraph (g)(7) of this section, then:

(i) The CQE must divest itself of any remaining QS holdings and will not be eligible to receive QS by transfer for a period of three years after the effective

date of final agency action on the Regional Administrator's determination; and

(ii) The Regional Administrator will not approve a CQE to represent the eligible community in whose name the CQE transferred quota for a period of three years after the effective date of final agency action on the Regional Administrator's determination.

(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 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 resulting QS amount will be blocked or unblocked according to the criteria found at § 679.40(a). Compensation will be calculated for each non-CDQ area using the following formula:

$$Q_N = (Q_C \times QSP_N \times RATE)/(SUM_{CDQ} - [RATE \times SUM_{TAC}]) ([1 - RATE] \times TAC_{AVE})(QSP_C \times [CDQ_{PCT} - RATE])$$

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 the limitations on transfers of IFQ in paragraph (h)(2) of this section.

(l) *Transfer of QS to CQEs.* (1) Each eligible community must designate a CQE to transfer and hold QS on behalf of that community.

(2) Each eligible community may designate only one CQE to hold QS on behalf of that community at any one time.

(3) Prior to initially receiving QS by transfer on behalf of a specific eligible community, a non-profit entity that intends to represent that eligible community as a CQE must have approval from the Regional Administrator. To receive that approval, the non-profit entity seeking to become a CQE must submit a complete application to become a CQE to the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802. The Regional Administrator will provide a copy of the complete application to the Alaska Department of Community and Economic Development, Commissioner, P.O. Box 110809, Juneau, AK 99811–0809. NMFS will consider comments received from the Alaska Department of Community and Economic Development when reviewing applications for a non-profit entity to become a CQE. The Alaska Department of Community and Economic Development must submit comments on an application to the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802, within 30 days of receipt of the application in order for those comments to be considered by the Regional Administrator during the approval process. If an application is disapproved, than that determination may be appealed under the provisions established at 50 CFR 679.43. A complete application to become a CQE consists of:

(i) The articles of incorporation under the laws of the State of Alaska for that non-profit entity, except that a non-profit entity that is representing the Metlakatla Indian Village may provide articles of incorporation under Federal Law;

(ii) A statement indicating the eligible community, or communities, represented by that non-profit entity for purposes of holding QS;

(iii) Management organization information, including:

(A) The bylaws of the non-profit entity;

(B) A list of key personnel of the managing organization including, but not limited to, the board of directors, officers, representatives, and any managers;

(C) A description of how the non-profit entity is qualified to manage QS on behalf of the eligible community, or communities, it is designated to represent, and a demonstration that the non-profit entity has the management, technical expertise, and ability to manage QS and IFQ; and

(D) The name of the non-profit organization, taxpayer ID number, NMFS person number, permanent business mailing addresses, name of contact persons and additional contact information of the managing personnel for the non-profit entity, resumes of management personnel, name of community or communities represented by the CQE, name of contact for the governing body of each community represented, date, name and notarized signature of applicant, Notary Public signature and date when commission expires.

(iv) A statement describing the procedures that will be used to determine

the distribution of IFQ to residents of the community represented by that CQE, including:

(A) Procedures used to solicit requests from residents to lease IFQ; and

(B) Criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria.

(v) A statement of support from the governing body of the eligible community as that governing body is identified in Table 21 to this part. That statement of support is:

(A) A resolution from the City Council or other official governing body for those eligible communities incorporated as first or second class cities in the State of Alaska;

(B) A resolution from the tribal government authority recognized by the Bureau of Indian Affairs for those eligible communities that are not incorporated as first or second class cities in the State of Alaska; but are represented by a tribal government authority recognized by the Secretary of the Interior; or

(C) A resolution from a non-profit community association, homeowner association, community council, or other non-profit entity for those eligible communities that are not incorporated as first or second class cities in the State of Alaska, and is not represented by a tribal government authority recognized by the Bureau of Indian Affairs. The non-profit entity that provides a statement of support must:

(*1*) Have articles of incorporation as a non-profit community association, homeowner association, community council, or other non-profit entity; and

(*2*) Have an established relationship with the State of Alaska Department of Community and Economic Development for purposes of representing that community for governmental functions.

(D) If an eligible community is not incorporated as a first or second class city in the State of Alaska, is not represented by a tribal government authority recognized by the Secretary of the Interior, and does not have a non-profit community association, homeowner association, community council, or other non-profit entity within that community with an established relationship with the Alaska Department of Community and Economic Development for purposes of representing that community for purposes of governmental functions, then the Regional Administrator, NMFS, will not consider any statement from a non-profit entity representing that community until that community:

(*1*) Is incorporated as a first or second class city in the State of Alaska;

(*2*) Establishes a tribal government authority recognized by the Secretary of the Interior; or

(*3*) Establishes a non-profit community association, homeowner association, community council, or other non-profit entity within that community that meets the requirements established in paragraph (E) of this section.

(E) If a community described under paragraph (l)(3)(v)(D) of this section establishes a non-profit community association, homeowner association, community council, or other non-profit entity within that community, then the Regional Administrator, NMFS, will consider any recommendations from this entity to support a particular applicant after reviewing:

(*1*) Petitions from residents affirming that the non-profit community association, homeowner association, community council, or other non-profit entity within that community represents the residents within that community; and

(*2*) Comments from the State of Alaska Department of Community and Economic Development on the articles of incorporation for that non-profit entity and the ability of that non-profit entity to adequately represent the interests of that community for purposes of governmental functions.

(*3*) If the Regional Administrator determines that this statement of support is not adequate, than that determination may be appealed under the provisions established at 50 CFR 679.43.

(4) The governing body of an eligible community as that governing body is identified in Table 21 to this part, must provide authorization for any transfer of QS by the CQE that holds QS on behalf of that eligible community prior to that transfer of QS being approved by NMFS. This authorization must be submitted as part of the Application

for Transfer. That authorization consists of a signature on the Application for Transfer by a representative of the governing body that has been designated by that governing body to provide such authorization to approve the transfer of QS.

(m) *Temporary military transfers*. In the event of a military mobilization or order to report for military service affecting a QS holder that prevents him or her from being able to participate in the halibut or sablefish IFQ fisheries, the Regional Administrator may approve a temporary military transfer for the IFQ derived from the QS held by a QS holder affected by the military mobilization.

(1) *General*. A temporary military transfer will be approved if the QS holder demonstrates that he or she is unable to participate in the IFQ fishery for which he or she holds QS because of a military mobilization, order to report for military service, or active duty military service.

(2) *Eligibility*. To be eligible to receive a temporary military transfer, a QS holder must meet all of the following requirements:

(i) Be a member of a branch of the National Guard or a member of a reserve component;

(ii) Possess one or more catcher vessel IFQ permits;

(iii) Not qualify for a hired master exception under § 679.42(i)(1);

(iv) Be in active duty military service as that term is defined at 10 U.S.C. 101(d)(1), be under a call to active service authorized by the President or the Secretary for a period of more than 30 consecutive days under 32 U.S.C. 502(f), or in the case of a member of a reserve component, have been ordered to report for military service beginning on the date of the member's receipt of the order and ending on the date on which the member reports for active duty military service.

(3) *Application*. A QS holder may apply for a temporary military transfer by submitting a temporary military transfer application to the Alaska Region, NMFS. NMFS will transfer, upon approval of the application, the applicable IFQ from the applicant (transferor) to the recipient (transferee). A temporary military transfer application is available at *http://www.fakr.noaa.gov* or by calling 1–800–304–4846. A complete application must include all of the following:

(i) The transferor's identity including his or her full name, NMFS person ID, date of birth, permanent business mailing address, business telephone and fax numbers, and e-mail address (if any). A temporary mailing address may be provided, if appropriate.

(ii) The transferee's identity including his or her full name, NMFS person ID, date of birth, permanent business mailing address, business telephone and fax numbers, and e-mail address (if any). A temporary mailing address may be provided, if appropriate.

(iii) The identification characteristics of the IFQ including whether the transfer is for halibut or sablefish IFQ, IFQ regulatory area, number of units, range of QS serial numbers for IFQ to be transferred, actual number of IFQ pounds, transferor (seller) IFQ permit number, and fishing year.

(iv) Documentation of active military mobilization or deployment. This documentation must include the following:

(A) A copy of official documentation such as valid military orders or call that direct the transferor to report to active duty military service, to mobilize for a military deployment, or to report to active service.

(B) A concise description of the nature of the military deployment or active duty military service, including verification that the applicant is unable to participate in the IFQ fishery for which he or she holds IFQ permits during the IFQ season because of his/her active duty military service.

(v) The signatures and printed names of the transferor and transferee, and date.

(vi) The signature, seal, and commission expiration of a notary public.

(4) *Restrictions*. (i) A temporary military transfer shall be valid only during the calendar year for which the associated IFQ is issued.

(ii) A temporary military transfer will be issued only for the IFQ derived from the QS held by the applicant.

(5) *Temporary military transfer evaluations and appeals*—(i) *Initial evaluation*.

The Regional Administrator will evaluate an application for a temporary military transfer submitted in accordance with paragraphs (c)(1) through (c)(9) of this section. An applicant who fails to submit the information specified in the application for a temporary military transfer will be provided a reasonable opportunity to submit the specified information or submit a revised application.

(ii) *Initial administrative determination (IAD).* The Regional Administrator will prepare and send an IAD to the applicant if the Regional Administrator determines that the application provided by the applicant is deficient or if the applicant fails to submit the specified information or a revised application. The IAD will indicate the deficiencies in the application, including any deficiencies with the information on the revised application. An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43.

[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; 69 FR 23691, Apr. 30, 2004; 72 FR 44809, Aug. 9, 2007; 73 FR 28738, May 19, 2008]

### § 679.42 Limitations on use of QS and IFQ.

(a) *IFQ regulatory area and vessel category.* (1) The QS or IFQ specified for one IFQ regulatory area must not be used in a different IFQ regulatory area, except all or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

(i) Notwithstanding § 679.4(d)(1), § 679.7(f)(4) and (f)(11), § 679.40(b)(1), (c)(3), and (e), from July 22, 2005 to November 15, 2005, all or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

(ii) For the year 2006 and subsequent annual IFQ fishing seasons, all or part of the QS and IFQ specified for regulatory area 4C may be harvested in either Area 4C or Area 4D.

(2) The QS or IFQ assigned to one vessel category must not be used to harvest IFQ species on a vessel of a different vessel category, except:

(i) As provided in paragraph (k) of this section (processing fish other than IFQ halibut and IFQ sablefish);

(ii) As provided in § 679.41(i)(1) of this part (CDQ compensation QS exemption);

(iii) IFQ derived from QS held by a CQE may be used to harvest IFQ species from a vessel of any length.

(iv) In Areas 3B and 4C, category D QS and associated IFQ authorizes an IFQ permit holder to harvest IFQ halibut on a vessel less than or equal to 60 ft (18.3 m) LOA.

(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, CDQ 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 permit or a valid IFQ hired master permit.

(ii) Be aboard the vessel at all times during the fishing trip and present during the landing.

(iii) Sign any required fish ticket.

(iv) Sign the IFQ Landing Report required by § 679.5(l)(2)(iii)(M) or § 679.5(l)(2)(iv)(D).

(2) NMFS shall use the following sources of information to debit a CDQ or IFQ account.

(i) Except as provided in § 679.5(l)(2)(iii)(J), if offload of unprocessed IFQ halibut, CDQ 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(l)(2)(iii) to be included in the IFQ 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 waivers and medical transfers*. The person authorized to fish IFQ halibut or sablefish must be aboard the vessel during fishing operations and must sign the IFQ landing report except as provided in § 679.41 and under the following circumstances:

(1) *Emergency waiver*. In the event of extreme personal emergency during a fishing trip involving a person authorized to fish IFQ halibut or sablefish, the requirements or paragraph (c)(1) of this section may be waived. The waiving of these requirements under this provision shall apply to IFQ halibut or IFQ sablefish retained on the fishing trip during which the emergency occurred.

(2) *Medical transfers*. In the event of a medical condition affecting a QS holder or an immediate family member of a QS holder that prevents the QS holder from being able to participate in the halibut or sablefish IFQ fisheries, a medical transfer may be approved for the IFQ derived from the QS held by the person affected by the medical condition.

(i) *General*. A medical transfer will be approved if the QS holder demonstrates that:

(A) He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition that precludes participation by the QS holder; or

(B) He or she is unable to participate in the IFQ fishery for which he or she holds QS because of a medical condition involving an immediate family member that requires the QS holder's full time attendance.

(ii) *Eligibility*. To be eligible to receive a medical transfer, a QS holder must:

(A) Possess one or more catcher vessel IFQ permits; and

(B) Not qualify for a hired master exception under paragraph (i)(1) of this section.

(iii) *Application*. A QS holder may apply for a medical transfer by submitting a medical transfer application to the Alaska Region, NMFS. A QS holder who has received an approved medical transfer from RAM may transfer the IFQ derived from his or her own QS to an individual eligible to receive IFQ. A medical transfer application is available at *http://www.fakr.noaa.gov* or by calling 1–800–304–4846. Completed applications must be mailed to: Restricted Access Management Program, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668. A complete application must include:

(A) The applicant's (transferor's) identity including his or her full name, NMFS person ID, date of birth, Social Security Number or Tax ID, permanent business mailing address, business telephone and fax numbers, and e-mail address (if any). A temporary mailing address may be provided, if appropriate;

(B) The recipient's (transferee's) identity including his or her full name, NMFS person ID, date of birth, Social Security Number or Tax ID, permanent business mailing address, business telephone and fax numbers, and e-mail address (if any). A temporary mailing address may be provided, if appropriate;

(C) The identification characteristics of the IFQ including whether the transfer is for halibut or sablefish IFQ, IFQ regulatory area, number of units, range of serial numbers for IFQ to be transferred, actual number of IFQ pounds, transferor (seller) IFQ permit number, and fishing year;

(D) The price per pound (including leases) and total amount paid for the IFQ in the requested transaction, including all fees;

(E) The primary source of financing for the transfer, how the IFQ was located, and the transferee's (buyer's) relationship to the transferor (seller);

(F) A written declaration from a licensed medical doctor, advanced nurse practitioner, or primary community health aide as those persons are defined in § 679.2. The declaration must include:

(*1*) The identity of the licensed medical doctor, advanced nurse practitioner, or primary community health

aide including his or her full name, business telephone, permanent business mailing address (number and street, city and state, zip code), and whether the individual is a licensed medical doctor, advanced nurse practitioner, or primary community health aide;

(*2*) A concise description of the medical condition affecting the applicant or applicant's family member including verification that the applicant is unable to participate in the IFQ fishery for which he or she holds IFQ permits during the IFQ season because of the medical condition and, for an affected family member, a description of the care required; and

(*3*) The dated signature of the licensed medical doctor, advanced nurse practitioner, or primary community health aide who conducted the medical examination;

(G) The signatures and printed names of the transferor and transferee, and date; and

(H) The signature, seal, and commission expiration of a notary public.

(iv) *Restrictions*. (A) A medical transfer shall be valid only during the calendar year for which the permit is issued;

(B) A medical transfer will be issued only for the IFQ derived from the QS held by the applicant;

(C) NMFS will not approve a medical transfer if the applicant has received a medical transfer in any 2 of the previous 5 years for the same medical condition.

(v) *Medical transfer evaluations and appeals*—(A) *Initial evaluation*. The Regional Administrator will evaluate an application for a medical transfer submitted in accordance with paragraphs (d)(2)(iii) and (d)(2)(iv) of this section. An applicant who fails to submit the information specified in the application for a medical transfer will be provided a reasonable opportunity to submit the specified information or submit a revised application.

(B) *Initial administrative determinations (IAD)*. The Regional Administrator will prepare and send an IAD to the applicant if the Regional Administrator determines that the application provided by the applicant is deficient or if the applicant fails to submit the specified information or a revised application. The IAD will indicate the deficiencies in the application, including any deficiencies with the information on the revised application. An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43.

(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.

(3) No CQE may hold sablefish QS in the IFQ regulatory areas of the Bering Sea subarea and the Aleutian Islands subareas.

(4) No CQE may hold more than 3,229,721 units of sablefish QS on behalf of any single eligible community.

(5) In the IFQ regulatory area east of 140° W. long., no CQE may hold more than 688,485 units of sablefish QS for this area on behalf of any single eligible community.

(6) In the aggregate, all CQEs are limited to holding a maximum of 3 percent of the total QS in those IFQ regulatory areas specified in § 679.41(e)(2)(I) through (e)(2)(iv) of this part for sablefish in the first calendar year implementing the regulation in this section. In each subsequent calendar year, this aggregate limit on all CQEs shall increase by an additional 3 percent in each IFQ regulatory area specified in § 679.41(e)(2)(i) through (e)(2)(iv) of this part up to a maximum limit of 21 percent of the total QS in each regulatory area specified in §§ 679.41(e)(2)(i) through (e)(2)(iv) of this part for sablefish.

(7) No individual that receives IFQ derived from sablefish QS held by a CQE may hold, individually or collectively, more than 50,000 lb (22.7 mt) of

IFQ sablefish derived from any sablefish QS source.

(8) A CQE receiving category B, or C sablefish QS through transfer may lease the IFQ resulting from that QS only to an eligible community resident of the eligible community on whose behalf the QS is held.

(f) *Halibut QS use.* (1) 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:

(i) *IFQ regulatory area 2C.* 599,799 units of halibut QS.

(ii) *IFQ regulatory area 2C, 3A, and 3B.* 1,502,823 units of halibut QS.

(iii) *IFQ regulatory area 4A, 4B, 4C, 4D, and 4E.* 495,044 units of halibut QS.

(2) No CQE may receive an amount of halibut QS on behalf of any single eligible community which is more than:

(i) *IFQ regulatory area 2C.* 599,799 units of halibut QS.

(ii) *IFQ regulatory area 2C, 3A, and 3B.* 1,502,823 units of halibut QS.

(3) No CQE may hold halibut QS in the IFQ regulatory areas 4A, 4B, 4C, 4D, and 4E.

(4) A CQE representing an eligible community may receive by transfer or use QS only in the IFQ regulatory areas designated for that species and for that eligible community as described in Table 21 to this part.

(5) In the aggregate, all CQEs are limited to holding a maximum of 3 percent of the total QS in those IFQ regulatory areas specified in §§ 679.41(e)(3)(i) through (e)(3)(iii) for halibut in the first calendar year implementing the regulation in this section. In each subsequent calendar year, this aggregate limit on all community quota entities shall increase by an additional 3 percent in each IFQ regulatory area specified in §§ 679.41(e)(3)(i) through (e)(3)(iii). This limit shall increase up to a maximum limit of 21 percent of the total QS in each regulatory area specified in §§ 679.41(e)(3)(i) through (e)(3)(iii) for halibut.

(6) No individual that receives IFQ derived from halibut QS held by a CQE may hold, individually or collectively, more than 50,000 lb (22.7 mt) of IFQ halibut derived from any halibut QS source.

(7) A CQE receiving category B or C halibut QS through transfer may lease the IFQ resulting from that QS only to an eligible community resident of the eligible community represented by the CQE.

(g) *Limitations on QS blocks*—(1) *Number of blocks per species.* No person, individually or collectively, may hold more than two blocks of sablefish or three blocks of halibut in any IFQ regulatory area, except:

(i) A person, individually or collectively, who holds unblocked QS for a species in an IFQ regulatory area, may hold only one QS block for that species in that regulatory area; and

(ii) A CQE may hold no more than ten blocks of halibut QS in any IFQ regulatory area and no more than five blocks of sablefish QS in any IFQ regulatory area on behalf of any eligible community.

(2) *Action by the Regional Administrator in Areas 3B and 4A.* In Areas 3B and 4A, the Regional Administrator shall:

(i) Identify any halibut blocks that result in an allocation of more than 20,000 lb (9.1) mt of halibut IFQ, based on the 2004 TAC for fixed gear halibut in those areas and the QS pools for those areas as of January 31, 2004; and

(ii) Divide those halibut blocks into one block of 20,000 lb (9.1 mt) and the remainder unblocked, based on the 2004 TAC for fixed gear halibut in those areas and the QS pools for those areas as of January 31, 2004.

(3) *Transfer of QS blocks.* Notwithstanding paragraph (g)(1)(i) of this section, a person who holds more than one block of halibut QS and unblocked halibut QS as a result of the Regional Administrator's action under paragraph (g)(2) of this section may transfer unblocked QS until such time as that person transfers a halibut QS block to another person.

(4) 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.* 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, except that:

(i) In IFQ regulatory area 2C, no vessel may be used to harvest more than 1 percent of the halibut catch limit for this area.

(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 lb (22.7 mt) of IFQ halibut from any halibut QS source if that vessel is used to harvest IFQ halibut derived from halibut QS held by a CQE.

(2) *Sablefish.* No vessel may be used, during any fishing year, to harvest more than one percent of the combined fixed gear TAC of sablefish for the GOA and BSAI IFQ regulatory areas, except that:

(i) In the IFQ regulatory area east of 140 degrees W. long., no vessel may be used to harvest more than 1 percent of the fixed gear TAC of sablefish for this area.

(ii) No vessel may be used, during any fishing year, to harvest more than 50,000 lb (22.7 mt) of IFQ sablefish from any sablefish QS source if that vessel is used to harvest IFQ sablefish derived from sablefish QS held by a CQE.

(3) 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, except that this provision does not apply if that IFQ allocation includes IFQ derived from QS held by a CQE. However, two or more persons may not catch and retain their IFQ in excess of these limitations.

(i) *Use of IFQ resulting from QS assigned to vessel category B, C, or D by individuals.* In addition to the requirements of paragraph (c) of this section, IFQ permits issued for IFQ resulting from QS assigned to vessel category 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 category 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:

(i) For a documented vessel, owns a minimum 20–percent interest in the vessel as shown by the U.S. Abstract of Title issued by the U.S. Coast Guard that lists the individual as an owner and, if necessary to prove the required percentage ownership, other written documentation;

(ii) For an undocumented vessel, owns a minimum 20–percent interest in the vessel as shown by a State of Alaska vessel license or registration that lists the individual as an owner and, if necessary to show the required percentage ownership interest, other written documentation; and

(iii) Is represented on the vessel by a hired master employed by that individual and permitted in accordance with § 679.4(d)(2).

(2) Paragraph (i)(1) of this section does not apply to any individual who received an initial allocation of QS assigned to category 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.

(3) Paragraph (i)(1) of this section does not apply to individuals who received an initial allocation of QS assigned to vessel category 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 transferable.

(4) 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.

(5) IFQ derived from QS held by a CQE must be used only by the individual whose IFQ permit account contains the resulting IFQ.

(j) *Use of IFQ resulting from QS assigned to vessel category B, C, or D by corporations and partnerships.* (1) Except as provided in paragraph (j)(7) of this section, a corporation, partnership or other entity that received an initial allocation of QS assigned to category B, C, or D may fish the IFQ resulting from that QS and any additional QS acquired within the limitations of this section from a vessel if that corporation, partnership or other entity:

(i) For a documented vessel, owns a minimum 20–percent interest in the vessel as shown by the U.S. Abstract of Title issued by the U.S. Coast Guard that lists the corporation, partnership or other entity as an owner and, if necessary to prove the required percentage ownership, other written documentation;

(ii) For an undocumented vessel, owns a minimum 20–percent interest in the vessel as shown by a State of Alaska vessel license or registration that lists the corporation, partnership or other entity as an owner and, if necessary to show the required percentage ownership interest, other written documentation; and

(iii) Is represented on the vessel by a hired master employed by that individual and permitted in accordance with § 679.4(d)(2).

(2) The provision of paragraph (j)(1) of this section is not transferable and does not apply to QS assigned to vessel category 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) and be used pursuant to paragraphs (c) and (i) of this section.

(3) A corporation or partnership, except for a publicly held corporation, that receives an initial allocation of QS assigned to vessel category B, C, or D loses the exemption provided under this paragraph (j) on the effective date of a change in the corporation or partnership from that which existed at the time of initial allocation.

(4) 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.

(5) 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.

(6) QS assigned to vessel category 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 (j), must be transferred to an individual, as prescribed in § 679.41, before it may be used at any time after the effective date of the change.

(7) A corporation or a partnership that received an initial allocation of QS assigned to category 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.

(8) A corporation, partnership, or other entity, except for a publicly held corporation, that receives an initial allocation of QS assigned to category 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.

(9) The exemption provided in this paragraph (j) 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 (j), 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) *Sablefish vessel clearance requirements*—(1) *General*. Any vessel operator who fishes for sablefish in the Bering Sea or Aleutian Islands IFQ regulatory areas must possess a transmitting VMS transmitter while fishing for sablefish.

(2) *VMS requirements*. (i) The operator of the vessel must comply with § 679.28(f)(3), (f)(4), and (f)(5); and

(ii) The operator of the vessel must contact NMFS at 800–304–4846 (option 1) between 0600 and 0000 A.l.t. and receive a VMS confirmation number at least 72 hours prior to fishing for sablefish in the Bering Sea or Aleutian Islands IFQ regulatory areas.

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.42, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 679.43 Determinations and appeals.

(a) *General*. This section describes the procedure for appealing initial administrative determinations made in this title under parts 679, 680, and under subpart E of part 300. This section does not apply to initial administrative determinations made under § 679.30(d).

(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 mailed to the: National Marine Fisheries Service, Office of Administrative Appeals (OAA), P. O. Box 21668, Juneau, AK 99802–1668, or delivered to National Marine Fisheries Service, Attention: Appeals (OAA), 709 W. 9th Street, Room 453, Juneau, AK 99801.

(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*. *General*—NMFS will establish as the address of record the address used by the applicant in initial correspondence to NMFS concerning the application. Notifications of all actions affecting the applicant after establishing an address of record will be mailed to that address, unless the applicant provides NMFS, in writing, with any changes to that address. NMFS bears no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS.

(f) *Statement of reasons for appeals*. Applicants must timely submit a full written statement in support of the appeal, including a concise statement of the reasons the initial administrative determination has a direct and adverse effect on the applicant and should be reversed or modified. If the applicant requests a hearing on any issue presented in the appeal, such request for hearing must be accompanied by a concise written statement raising genuine and substantial issues of adjudicative fact for resolution and a list of available and specifically identified reliable evidence upon which the factual issues can be resolved. The appellate officer will limit his/her review to the issues stated in the appeal; all issues not set out in the appeal will be waived.

(g) *Hearings*. The appellate officer will review the applicant's appeal and

request for hearing, and has discretion to proceed as follows:

(1) Deny the appeal;

(2) Issue a decision on the merits of the appeal, if the record contains sufficient information on which to reach final judgment; or

(3) Order that a hearing be conducted. The appellate officer may so order only if the appeal demonstrates the following:

(i) There is a genuine and substantial issue of adjudicative fact for resolution at a hearing. A hearing will not be ordered on issues of policy or law.

(ii) The factual issue can be resolved by available and specifically identified reliable evidence. A hearing will not be ordered on the basis of mere allegations or denials or general descriptions of positions and contentions.

(iii) The evidence described in the request for hearing, if established at hearing, would be adequate to justify resolution of the factual issue in the way sought by the applicant. A hearing will not be ordered if the evidence described is insufficient to justify the factual determination sought, even if accurate.

(iv) Resolution of the factual issue in the way sought by the applicant is adequate to justify the action requested. A hearing will not be ordered on factual issues that are not determinative with respect to the action requested.

(h) *Types of hearings*. If the appellate officer determines that a hearing should be held to resolve one or more genuine and substantial issues of adjudicative fact, he/she may order:

(1) A written hearing, as provided in paragraph (m) of this section; or

(2) An oral hearing, as provided in paragraph (n) of this section.

(i) *Authority of the appellate officer*. The appellate officer is vested with general authority to conduct all hearings in an orderly manner, including the authority to:

(1) Administer oaths.

(2) Call and question witnesses.

(3) Issue a written decision based on the record.

(j) *Evidence*. All evidence that is relevant, material, reliable, and probative may be included in the record. Formal rules of evidence do not apply to hearings conducted under this section.

(k) *Appellate officers' decisions*. The appellate officer will close the record and issue a decision after determining there is sufficient information to render a decision on the record of the proceedings and that all procedural requirements have been met. The decision must be based solely on the record of the proceedings. Except as provided in paragraph (o) of this section, an appellate officer's decision takes effect 30 days after it is issued and, upon taking effect, is the final agency action for purposes of judicial review.

(l) *Disqualification of an appellate officer*. (1) The appellate officer will withdraw from an appeal at any time he/she deems himself/herself disqualified.

(2) The appellate officer may withdraw from an appeal on an appellant's motion if:

(i) The motion is entered prior to the appellate officer's issuance of a decision; and

(ii) The appellant demonstrates that the appellate officer has a personal bias or any other basis for disqualification.

(3) If the appellate officer denies a motion to withdraw, he/she will so rule on the record.

(m) *Written hearing*. (1) An appellate officer may order a written hearing under paragraph (h)(1) of this section if he/she:

(i) Orders a hearing as provided in paragraph (g)(3) of this section; and

(ii) Determines that the issues to be resolved at hearing can be resolved by allowing the appellant to present written materials to support his/her position.

(2) After ordering a written hearing, the appellate officer will:

(i) Provide the appellant with notification that a written hearing has been ordered.

(ii) Provide the appellant with a statement of issues to be determined at hearing.

(iii) Provide the appellant with 30 days to file a written response. The appellant may also provide documentary evidence to support his/her position. The period to file a written response may be extended at the sole discretion of the appellate officer, if the appellant shows good cause for the extension.

(3) The appellate officer may, after reviewing the appellant's written response and documentary evidence:

(i) Order that an oral hearing be held, as provided in paragraph (h)(2) of this section, to resolve issues that cannot be resolved through the written hearing process;

(ii) Request supplementary evidence from the appellant before closing the record; or

(iii) Close the record.

(4) The appellate officer will close the record and issue a decision after determining that the information on the record is sufficient to render a decision.

(n) *Oral hearing*. (1) The appellate officer may order an oral hearing under paragraphs (h)(2) and (m)(3)(i) of this section if he/she:

(i) Orders a hearing as provided in paragraph (g)(3) of this section; and

(ii) Determines that the issues to be resolved at hearing can best be resolved through the oral hearing process.

(2) After ordering an oral hearing, the appellate officer will:

(i) Provide the appellant with notification that an oral hearing has been ordered.

(ii) Provide the appellant with a statement of issues to be determined at hearing.

(iii) Provide the appellant with notification, at least 30 days in advance, of the place, date, and time of the oral hearing. Oral hearings will be held in Juneau, AK, at the prescribed date and time, unless the appellate officer determines, based upon good cause shown, that a different place, date, or time will better serve the interests of justice. A continuance of the oral hearing may be ordered at the sole discretion of the appellate officer if the appellant shows good cause for the continuance.

(3) The appellate officer may, either at his/her own discretion or on the motion of the appellant, order a pre-hearing conference, either in person or telephonically, to consider:

(i) The simplification of issues.

(ii) The possibility of obtaining stipulations, admissions of facts, and agreements to the introduction of documents.

(iii) The possibility of settlement or other means to facilitate resolution of the case.

(iv) Such other matters as may aid in the disposition of the proceedings.

(4) The appellate officer must provide the appellant with notification of a pre-hearing conference, if one is ordered, at least 30 days in advance of the conference. All action taken at the pre-hearing conference will be made part of the record.

(5) At the beginning of the oral hearing, the appellate officer may first seek to obtain stipulations as to material facts and the issues involved and may state any other issues on which he/she may wish to have evidence presented. Issues to be resolved at the hearing will be limited to those identified by the appellate officer as provided in paragraph (g)(3) of this section. The appellant will then be given an opportunity to present his/her case.

(6) During the oral hearing, the appellant has the right to present reliable and material oral or documentary evidence and to conduct such cross-examination as may be required in the interests of justice.

(7) After the conclusion of the oral hearing, the appellant may be given time by the appellate officer to submit any supplementary information that may assist in the resolution of the case.

(8) The appellate officer will close the record and issue a decision after determining that the information on the record is sufficient to render a decision.

(o) *Review by the Regional Administrator*. An appellate officer's decision is subject to review by the Regional Administrator, as provided in this paragraph (o).

(1) The Regional Administrator may affirm, reverse, modify, or remand the appellate officer's decision before the 30-day effective date of the decision provided in paragraph (k) of this section.

(2) The Regional Administrator may take any of these actions on or after the 30-day effective date by issuing a stay of the decision before the 30-day effective date. An action taken under paragraph (o)(1) of this section takes effect immediately.

(3) The Regional Administrator must provide a written explanation why an appellate officer's decision has been reversed, modified, or remanded.

(4) The Regional Administrator must promptly notify the appellant(s) of any action taken under this paragraph (o).

(5) The Regional Administrator's decision to affirm, reverse, or modify an appellate officer's decision is a final agency action for purposes of judicial review.

(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; 67 FR 64317, Oct. 18, 2002; 67 FR 72611, Dec. 6, 2002; 68 FR 44487, July 29, 2003; 70 FR 10238, Mar. 2, 2005; 70 FR 16754, Apr. 1, 2005]

### § 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(l)(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(l)(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,
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(l)(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) *Established percentage*. The annual IFQ fee percentage is the amount as determined by the factors and methodology described in paragraph (d)(2) of this section. This amount will be announced by publication in the FEDERAL REGISTER in accordance with paragraph (d)(3) of this section. This amount must not exceed 3 percent pursuant to 16 U.S.C. 1854(d)(2)(B).

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

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

(A) The catch to which the IFQ fee will apply;

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

(C) The costs directly related to the management and enforcement of the IFQ program.

(ii) *Methodology*. NMFS must use the following equation to determine the fee percentage:

$$100 \times (DPC / V)$$

where:

"DPC" is the direct program costs for the IFQ fishery for the previous fiscal year, and

"V" is the ex-vessel value of the catch subject to the IFQ fee for the current year.

(3) *Publication*—(i) *General*. During or before the last quarter of each year, NMFS shall publish the IFQ fee percentage in the FEDERAL REGISTER. NMFS shall base any calculations on the factors and methodology in paragraph (d)(2) of this section.

(ii) *Effective period*. The calculated IFQ fee percentage shall remain in effect through the end of the calendar year in which it was determined.

(4) *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. 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 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; 71 FR 44232, Aug. 4, 2006]

## Subpart E—Groundfish Observer Program

SOURCE: 61 FR 56431, Nov. 1, 1996, unless otherwise noted.

### § 679.50 Groundfish Observer Program.

(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 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. The following table provides a reference to the paragraphs in this section that contain observer coverage requirements for vessels, shoreside processors, and stationary floating processors participating in certain fishery programs or fishing in certain areas. Observer coverage for the CDQ fisheries obtained in compliance with paragraphs (c)(4) and (d)(5) of this section may not be used to comply with observer coverage requirements for non-CDQ groundfish fisheries specified in this section.

| Program | Catcher/ processors | Catcher vessels | Motherships | Shoreside and stationary floating processors |
|---|---|---|---|---|
| (1) CDQ Program | (c)(4) | (c)(4) | (c)(4) | (d)(5). |
| (2) AFA pollock | (c)(5)(i)(A) and (B) | (c)(1) through (3) | (c)(5)(i)(A) | (d)(6). |
| (3) Aleutian Islands pollock | (c)(5)(i)(C) | (c)(1) through (3) | (c)(5)(i)(C) | (d)(1) through (4). |
| (4) Rockfish Program | (c)(7)(i) | (c)(7)(ii) | N/A | (d)(7). |
| (5) Vessels fishing in the Red King Crab Savings Area. | (c)(1)(vii) | (c)(1)(viii) | N/A | N/A. |
| (6) Vessels fishing in the Nearshore Bristol Bay Trawl Closure Area. | (c)(1)(ix) | (c)(1)(ix) | N/A | N/A. |
| (7) Vessels fishing in the HLA for Atka mackerel. | (c)(1)(x) | (c)(1)(x) | N/A | N/A. |
| (8) Amendment 80 vessels and Non-AFA trawl C/Ps fishing in the BSAI. | (c)(6) | N/A | N/A | N/A. |
| (9) Vessels and processors participating in all other BSAI and GOA groundfish fisheries. | (c)(1) through (3), in GOA only. | (c)(1) through (3) | (c)(1) through (3) | (d)(1) through (4). |

(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 closed under § 679.21(e)(7)(vii), 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) *Vessels using pot gear.* (A) 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:

(*1*) For at least 30 percent of the total number of pot retrievals for that calendar quarter, and

(*2*) For 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.

(B) Groundfish are required to be retained each day that pot gear is retrieved in order for gear retrieved that day to count toward observer coverage requirements for all catcher vessels and catcher/processors using pot gear and required to carry observers.

(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) 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 HLA directed fishery, as specified in § 679.20(a)(8).

(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) and in a retained catch of pollock harvested in the AI directed pollock fishery.

(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.

(vii) *Rockfish Program*. In retained catch from Rockfish Program fisheries.

(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 roundweight 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 level 2 observer to complete sampling, data recording, and data communication duties shall not exceed 12 hours in each 24–hour period, and, the level 2 observer is required to sample no more than 9 hours in each 24–hour period.

(i) *Motherships or catcher/processors using trawl gear*—(A) *CDQ groundfish fisheries (effective January 20, 2008)*—*(1) Catcher/processors using trawl gear*. A catcher/processor not listed in § 679.4(1)(2)(i) using trawl gear and groundfish CDQ fishing, except catcher/processors directed fishing for pollock CDQ, must comply with the observer coverage requirements at paragraph (c)(6)(i) of this section and the catch monitoring requirements in § 679.93(c).

*(2) Motherships*. A mothership that receives groundfish from catcher vessels using trawl gear and groundfish CDQ fishing, except catcher vessels directed fishing for pollock CDQ, must have at least two level 2 observers as described at paragraphs (j)(1)(v)(D) and (E) of this section onboard the vessel, at least one of whom must be endorsed as a lead level 2 observer.

(B) *Pollock CDQ fishery*. A mothership or catcher/processor 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 level 2 observer.

(ii) *Catcher/processors using hook-and-line gear.* A catcher/processor using hook-and-line gear must have at least two level 2 observers as described at paragraphs (j)(1)(v)(D) and (E) of this section aboard the vessels, unless NMFS approves an alternative fishing plan under § 679.32(e)(3) authorizing the vessel to carry only one lead level 2 observer. At least one of the level 2 observers must be certified as a lead level 2 observer. NMFS may approve an alternative fishing plan authorizing the vessel to carry only one lead level 2 observer if the CDQ group supplies vessel logbook or observer data that demonstrates that one level 2 observer can sample each CDQ set for species composition in one 12–hour shift per fishing day. NMFS will not approve an alternative fishing plan 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 level 2 observer as described at paragraph (j)(1)(v)(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 level 2 observer as described at paragraph (j)(1)(v)(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(d)(2)(ii)(A)) for CDQ catch accounting, then at least one level 2 observer as described at paragraph (j)(1)(v)(D) of this section must be aboard the vessel.

(B) *Option 2.* If the vessel operator selected Option 2 (as described at § 679.32(d)(2)(ii)(B)) for CDQ catch accounting, then at least one lead level 2 observer as described at paragraph (j)(1)(v)(E) of this section must be aboard the vessel.

(5) [Reserved]

(6) *Amendment 80 vessels and non-AFA trawl catcher/processors (effective January 20, 2008)*—(i) *Amendment 80 vessels and catcher/processors not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI.* All Amendment 80 vessels using any gear but dredge gear while directed fishing for scallops and catcher/processors not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI must have onboard at least two NMFS-certified observers for each day that the vessel is used to harvest, receive, or process groundfish in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(A) *Observer lead level 2 requirements.* At least one of the observers required under this paragraph (c)(6)(i) must be endorsed as a lead level 2 observer. More than two observers are required if the observer workload restriction at paragraph (c)(6)(i)(B) of this section would otherwise preclude sampling as required.

(B) *Observer workload.* The time required for the observer to complete sampling, data recording, and data communication duties must not exceed 12 consecutive hours in each 24-hour period.

(ii) *Amendment 80 vessels in the GOA.* Except for the F/V GOLDEN FLEECE (USCG Documentation Number 609951), all Amendment 80 vessels, except when directed fishing for scallops using dredge gear, in the GOA must have onboard at least one NMFS-certified observer for each day that the vessel is used to harvest, receive, or process groundfish in the GOA management areas or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(7) *Rockfish Program*—(i) *Catcher/processor vessel*—(A) *Rockfish cooperative.* A catcher/processor vessel that is named on an LLP license that is assigned to a rockfish cooperative and is fishing under a CQ permit must have onboard at least two NMFS-certified observers for each day that the vessel is used to harvest or process in the Central GOA from May 1 through the earlier of:

(*1*) November 15; or

(*2*) The effective date and time of an approved rockfish cooperative termination of fishing declaration.

(B) *Rockfish limited access fishery*. A catcher/processor vessel harvesting fish allocated to the rockfish limited access fishery for the catcher/processor sector must have onboard at least two NMFS-certified observers for each day that the vessel is used to harvest or process in the Central GOA from July 1 through the earlier of:

(*1*) November 15; or

(*2*) The date and time NMFS closes all directed fishing for all primary rockfish species in the rockfish limited access fishery for the catcher/processor sector.

(C) *Sideboard fishery*. A catcher/processor vessel, other than a catcher/processor vessel assigned to the opt–out fishery, that is subject to a sideboard limit as described under § 679.82(d) through (h), as applicable, must have onboard at least two NMFS-certified observers for each day that the vessel is used to harvest or process from July 1 through July 31 while harvesting fish in the West Yakutat District, Central GOA, or Western GOA management areas.

(D) *Observer lead level 2 requirements*. At least one of these observers must be endorsed as a lead level 2 observer. More than two observers are required if the observer workload restriction at paragraph (c)(7)(i)(E) of this section would otherwise preclude sampling as required.

(E) *Observer workload*. 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.

(F) *Sideboard fishery for catcher/processor vessels in the opt–out fishery*. (i) A catcher/processor vessel assigned to the opt–out fishery, that is subject to a sideboard limit as described under § 679.82(d) through (h), as applicable, must have onboard at least one NMFS-certified observer for each day that the vessel is used to harvest or process from July 1 through July 31 while harvesting fish in the West Yakutat District, Central GOA, or Western GOA management areas.

(ii) *Catcher vessels*—(A) *Rockfish cooperative*. A catcher vessel that is named on an LLP license that is assigned to a rockfish cooperative and fishing under a CQ permit must have onboard a NMFS-certified observer at all times the vessel is used to harvest fish in the Central GOA from May 1 through the earlier of:

(*1*) November 15; or

(*2*) The effective date and time of an approved rockfish cooperative termination of fishing declaration.

(B) *Rockfish limited access fishery*. A catcher vessel harvesting fish allocated to the rockfish limited access fishery for the catcher vessel sector must have onboard a NMFS-certified observer onboard at all times the vessel is used to harvest in the Central GOA from July 1 through the earlier of:

(*1*) November 15; or

(*2*) The date and time NMFS closes all directed fishing for all primary rockfish species in the rockfish limited access fishery for the catcher vessel sector.

(C) *Sideboard fishery*. A catcher vessel that is subject to a sideboard limit as described under § 679.82(d) through (h), as applicable, must have onboard a NMFS-certified observer at all times the vessel is used to harvest from July 1 through July 31 while harvesting fish in the West Yakutat District, Central GOA, or Western GOA management areas.

(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) Is subject to observer requirements specified in paragraph (d)(1) of this section that receives pollock or

Pacific cod, may reduce observer coverage in the event that a directed fishery for such species closes, subject to the following conditions:

(i) The shoreside or stationary floating processor must maintain observer coverage for 30 percent of all days that groundfish are received or processed, beginning on the fourth calendar day following the day that the directed fishery for pollock or Pacific cod was closed and ending on the last day of the month, except as allowed in this paragraph (d)(3)(iv) of this section.

(ii) Observer coverage for the month following the month with reduced observer coverage will be based on monthly landings projections and thresholds as specified in paragraphs (d)(1) and (2) of this section, but may also be reduced for that subsequent month as specified in this paragraph (d)(3) of this section.

(iii) Total groundfish landings received by a shoreside or stationary floating processor under reduced observer coverage as authorized under this paragraph (d)(3) may not exceed 250 mt per calendar week.

(iv) If greater than 250 mt in round weight equivalent of groundfish are projected to be received in a given calender week by a shoreside or stationary floating processor during a month with reduced observer coverage, as authorized under this paragraph (d)(3), the shoreside or stationary floating processor must return to observer coverage requirements as specified in paragraph (d)(1) of this section until all fish received during that week is processed. The shoreside or stationary floating processor may then return to reduced observer coverage as authorized under this paragraph (d)(3) for the remainder of the calendar month.

(4) 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.

(5) *Groundfish and halibut CDQ fisheries*—(i) *CDQ deliveries requiring observer coverage*. Subject to paragraph (d)(5)(ii) of this section, each shoreside processor or stationary floating processor taking deliveries of groundfish or halibut CDQ must have at least one level 2 observer as described at paragraph (j)(1)(v)(D) of this section present at all times while CDQ is being received or processed.

(ii) *CDQ deliveries not requiring level 2 observer coverage*. A shoreside processor is not required to provide a level 2 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(d)(2)(ii)(A)) for CDQ catch accounting, so long as the level 2 observer on the catcher vessel monitors the entire delivery without exceeding the working hour limitations described in paragraph (d)(5)(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(d)(2)(ii)(B)) for CDQ catch accounting.

(iii) *Observer working hours*. The time required for the level 2 observer to complete sampling, data recording, and data communication duties may not exceed 12 hours in each 24-hour period, and the level 2 observer is required to sample no more than 9 hours in each 24-hour period.

(6) *AFA inshore processors*—(i) *Coverage level*. An AFA inshore processor is required to provide a NMFS certified observer for each 12 consecutive hour period of each calendar day during which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in a directed pollock fishery in the BSAI. An AFA inshore processor that takes delivery of or processes pollock harvested in the BSAI directed pollock fishery for more than 12 consecutive hours in a calendar day is required to provide two NMFS-certified observers for each such day.

(ii) *Multiple processors*. An observer deployed to an AFA inshore processor may not be assigned to cover more than one processor during a calendar day in which the processor receives or processes pollock harvested in the BSAI directed pollock fishery.

(iii) *Observers transferring between vessels and processors.* An observer transferring from an AFA catcher vessel to an AFA inshore processor may not be assigned to cover the AFA inshore processor until at least 12 hours after offload and sampling of the catcher vessel's delivery is completed.

(7) *Rockfish Program*—(i) *Coverage level.* A shoreside or stationary floating processor must have a NMFS-certified observer for each 12 consecutive hour period in each calendar day during which it receives deliveries from a catcher vessel described at paragraph (c)(7)(ii) of this section. A shoreside or stationary floating processor that receives deliveries or processes catch from a catcher vessel described at paragraph (c)(7)(ii) of this section for more than 12 consecutive hours in a calendar day is required to have two NMFS-certified observers each of these days.

(ii) *Multiple processors.* An observer deployed to a shoreside or stationary floating processor that receives deliveries from a catcher vessel described at paragraph (c)(7)(ii) of this section that were harvested under the Rockfish Program fisheries may not be assigned to cover more than one processor during a calendar day.

(iii) *Observers transferring between vessels and processors.* An observer transferring from a catcher vessel delivering to a shoreside or stationary floating processor that receives deliveries from a catcher vessel described at paragraph (c)(7)(ii) of this section may not be assigned to cover the shoreside or stationary floating processor until at least 12 hours after offload and sampling of the catcher vessel's delivery is complete.

(iv) *Observer coverage limitations.* Observer coverage requirements at paragraph (d)(7) of this section are in addition to observer coverage requirements in other fisheries. Observer coverage of deliveries of groundfish harvested by catcher vessels described at paragraph (c)(7)(ii) of this section are not counted for purposes of meeting minimum delivery standards applicable to groundfish at a shoreside processor or stationary floating processor. Any observer coverage of deliveries by catcher vessels not described at paragraph (c)(7)(ii) of this section that occur when the Program observer is present at that shoreside processor or stationary floating processor during that calendar day will be counted towards the coverage requirements for that month.

(e) *NMFS staff observers.* (1) Any vessel, shoreside processor, or stationary floating processor required to comply with observer coverage requirements under paragraphs (c) or (d) of this section or under § 679.7(f)(4) or a catcher vessel less than 60 ft (18.3 m) LOA that is participating in the AI directed pollock fishery must use, upon written notification by the Regional Administrator, NMFS' staff or an individual authorized by NMFS to satisfy observer coverage requirements as specified in paragraphs (c) and (d) of this section or for other conservation and management purpose.

(2) Prior to deployment of NMFS staff or individuals authorized by NMFS, the agency will provide written notification to the owner or operator of a vessel, shoreside processor, or stationary floating processor whether observer coverage credit will be granted for that deployment.

(3) Vessel, shoreside processor, and stationary floating processor owners and operators, as well as observers and observer providers, may contact NMFS in writing to request assistance in improving observer data quality and resolving observer sampling issues. Requests may be submitted to: NMFS Observer Program Office, P.O. Box 15700, Seattle, Washington 98115–0070 or transmitted by facsimile to 206–526–4066.

(f) *Inseason adjustments in observer coverage requirements.* (1) The Regional Administrator may adjust the observer coverage requirements set out under paragraphs (c) and (d) of this section at any time to improve the accuracy, reliability, and availability of observer data, so long as the changes are based on one or more of the following:

(i) A finding that fishing methods, times, or areas, or catch or bycatch composition for a specific fishery or fleet component have changed significantly, or are likely to change significantly.

(ii) A finding that such modifications are necessary to improve data availability or quality in order to meet specific fishery management objectives.

(2) *Procedure*. Observer coverage requirements may be adjusted in accordance with § 679.25(c). NMFS must publish changes in observer coverage requirements in the FEDERAL REGISTER, with the reasons for the changes and any special instructions to vessels, shoreside processors or stationary floating processors required to carry observers, at least 10 calendar days prior to their effective date.

(g) *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 NMFS-certified observers to use the vessel's communications equipment and personnel, on request, for the confidential entry, transmission, and receipt of work-related messages, at no cost to the NMFS-certified observers or the nation.

(B) *Communication equipment requirements*. In the case of an operator of a catcher/processor or mothership that is required to carry one or more observers, or a catcher vessel required to carry an observer as specified in paragraph (c)(1)(iv) or (c)(7)(ii) of this section:

(*1*) *Observer access to computer*. Making a computer available for use by the observer. This computer must be connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(*2*) *NMFS-supplied software*. Ensuring that the catcher/processor, mothership, or catcher vessel specified in this paragraph (g)(1) has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software.

(*3*) *Functional and operational equipment*. Ensuring that the communication equipment required in this paragraph (g)(1)(iii)(B) and that is used by observers to enter and transmit data, is fully functional and operational. ''Functional'' means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (g)(1)(iii)(B)(*2*) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

(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.

(F) Collecting all seabirds that are incidentally taken on the observer-sampled portions of hauls using hook-and-line gear or as requested by an observer during non-sampled portions of hauls.

(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 and stationary floating processor responsibilities.* A manager of a shoreside processor or a stationary floating processor that is required to maintain observer coverage as specified under paragraph (d) of this section must:

(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 or the United States.

(B) *Communication equipment requirements—(1) Observer access to computer.* Making a computer available for use by the observer. This computer must be connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(*2*) *NMFS-supplied software.* Ensuring that the shoreside or stationary floating processor specified in paragraph (g)(2) of this section has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software.

(*3*) *Functional and operational equipment.* Ensuring that the communication equipment required in paragraph (g)(2)(iii)(B) of this section and that is used by observers to enter and transmit data, is fully functional and operational. ''Functional'' means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (g)(2)(iii)(B)(*2*) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

(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.

(3) The owner of a vessel, shoreside processor, stationary floating processor, or buying station is responsible for compliance and must ensure that the operator or manager of a vessel, shoreside processor, or stationary floating processor required to maintain observer coverage under paragraphs (c) or (d) of this section complies with the requirements given in paragraphs (g)(1) and (g)(2) of this section.

(h) *Procurement of observer services.* Owners of vessels, shoreside processors, or stationary floating processors required to use observers under paragraphs (c) and (d) of this section must arrange for observer services from a permitted observer provider, except that:

(1) Owners of vessels, shoreside processors, or stationary floating processors are required to procure observer services directly from NMFS when the agency has determined and notified them under paragraph (e) of this section that their vessel, shoreside processor, or stationary floating processor will use NMFS staff or an individual authorized by NMFS in lieu of an observer provided through a permitted observer provider to satisfy requirements under paragraphs (c) and (d) of this section or for other conservation and management purposes.

(2) Owners of vessels, shoreside processors, or stationary floating processors are required to procure observer services directly from NMFS and a permitted observer provider when NMFS has determined and notified them under paragraph (e) of this section, that their vessel, shoreside processor, or stationary floating processor will use NMFS staff or individuals authorized by NMFS, in addition to an observer provided through an observer provider to satisfy requirements under paragraphs (c) and (d) of this section or for other conservation and management purposes.

(i) *Observer provider permitting and responsibilities*—(1) *Observer provider permits*—(i) *General.* (A) Persons seeking to provide observer services under this section must obtain an observer provider permit from NMFS.

(B) *New observer providers.* An applicant seeking an observer provider permit must submit a completed application by fax or mail to the Observer Program Office at the address listed in paragraph (e)(3) of this section.

(C) *Existing observer providers as of 2002.* NMFS-certified providers who deployed observers under the North Pacific Groundfish Observer Program in 2002 are exempt from the requirement to apply for a permit and will be issued an observer provider permit, except that a change in ownership of an existing observer provider after January 1, 2003, requires a new permit application under paragraph (i)(1)(vi) of this section if the change involves a new person. Such observer providers must submit to the Observer Program Office within 30 days of receiving the observer provider permit issued under this paragraph any changes or corrections regarding information required under paragraphs (i)(1)(ii)(A) and (i)(1)(ii)(B) of this section.

(ii) *Contents of application.* An application for an observer provider permit shall consist of a narrative that contains the following:

(A) Identification of the management, organizational structure, and ownership structure of the applicant's business, including identification by name and general function of all controlling management interests in the company, including but not limited to owners, board members, officers, authorized agents, and staff. If the applicant is a corporation, the articles of incorporation must be provided. If the applicant is a partnership, the partnership agreement must be provided.

(B) *Contact information*—(*1*) *Owner(s) information.* The permanent mailing address, phone and fax numbers where the owner(s) can be contacted for official correspondence.

(*2*) *Business information.* Current physical location, business mailing address, business telephone and fax numbers, and business e-mail address for each office.

(*3*) *Authorized agent.* For observer providers with ownership based outside the United States, identify an authorized agent and provide contact information for that agent including mailing address and phone and fax numbers

where the agent can be contacted for official correspondence. An authorized agent means a person appointed and maintained within the United States who is authorized to receive and respond to any legal process issued in the United States to an owner or employee of an observer provider. Any diplomatic official accepting such an appointment as designated agent waives diplomatic or other immunity in connection with the process.

(C) A statement signed under penalty of perjury from each owner, or owners, board members, and officers if a corporation, that they are free from a conflict of interest as described under paragraph (i)(3) of this section.

(D) A statement signed under penalty of perjury from each owner, or owners, board members, and officers if a corporation, describing any criminal convictions, Federal contracts they have had and the performance rating they received on the contract, and previous decertification action while working as an observer or observer provider.

(E) A description of any prior experience the applicant may have in placing individuals in remote field and/or marine work environments. This includes, but is not limited to, recruiting, hiring, deployment, and personnel administration.

(F) A description of the applicant's ability to carry out the responsibilities and duties of an observer provider as set out under paragraph (i)(2) of this section, and the arrangements to be used.

(iii) *Application evaluation*. (A) The Regional Administrator will establish an observer provider permit application review board to review and evaluate an application submitted under paragraph (i)(1) of this section. The board will be comprised of NMFS staff. Issuance of a permit will be based on the completeness of the applicant's application, as well as the following evaluation criteria for each owner, or owners, board members, and officers if a corporation:

(*1*) Absence of conflict of interest as defined under paragraph (i)(3) of this section;

(*2*) Absence of criminal convictions related to:

(*i*) Embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property, or

(*ii*) The commission of any other crimes of dishonesty, as defined by Alaska State law or Federal law that would seriously and directly affect the fitness of an applicant in providing observer services under this section;

(*3*) Satisfactory performance ratings on any Federal contracts held by the applicant; and

(*4*) Absence of any history of decertification as either an observer or observer provider;

(B) The evaluation by the review board will provide a basis for the board's initial agency determination (IAD) on whether the application is complete and all evaluation criteria are met.

(iv) *Evidentiary period*. The observer provider permitting review board will specify, by letter via certified return-receipt mail, a 60–day evidentiary period during which a candidate may provide additional information or evidence to support the application, if the application is found to be deficient.

(v) *Agency determination on an application*—(A) *Approval of an application*. Upon determination by the review board that the application is complete and all evaluation criteria are met, an IAD is made to approve the application and the observer provider permit application review board will issue an observer provider permit to the applicant.

(B) *Denial of an application*. An application will be denied if the observer provider permit application review board determines that the information provided in the application was not complete or all the evaluation criteria were not met. The observer provider permit application review board will prepare and send a written IAD to the applicant upon evaluation of a completed application. The IAD will identify any deficiencies in the application or any information submitted in support of the application. An applicant who receives an IAD that denies his or her application may appeal under § 679.43. An applicant who appeals the

IAD will not be issued an interim observer provider permit and will not receive a permit unless the final resolution of that appeal is in favor of the applicant.

(vi) *Transferability*. An observer provider permit is not transferable. An observer provider that experiences a change in ownership that involves a new person must submit a new permit application and cannot continue to operate until a new permit is issued under this paragraph.

(vii) *Expiration of Permit*. (A) The observer provider permit will expire after a period of 12 continuous months during which no observers are deployed by the provider under this section to the North Pacific groundfish industry.

(B) The Regional Administrator will provide a written determination to an observer provider if NMFS deployment records indicate that the permit has expired. An observer provider who receives a written IAD of permit expiration may appeal under § 679.43. A permit holder who appeals the IAD will be issued an extension of the expiration date of the permit until after the final resolution of that appeal.

(viii) *Sanctions*. Procedures governing sanctions of permits are found at subpart D of 15 CFR part 904.

(2) *Responsibilities of observer providers*. Observer providers must:

(i) *Provide qualified candidates to serve as observers*. (A) To be qualified, a candidate must have:

(*1*) A Bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences;

(*2*) Successfully completed a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course;

(*3*) Successfully completed at least one undergraduate course each in math and statistics with a minimum of 5 semester hours total for both; and

(*4*) Computer skills that enable the candidate to work competently with standard database software and computer hardware.

(B) Prior to hiring an observer candidate, the observer provider must:

(*1*) Provide to the candidate copies of NMFS-provided pamphlets and other literature describing observer duties; and

(*2*) Provide to the candidate a copy of the Observer Program's drug and alcohol policy. Observer job pamphlets and the drug and alcohol policy are available from the Observer Program Office at the address listed in paragraph (e)(3) of this section or at the Observer Program's web site at *http://www.afsc.noaa.gov/refm/observers/default.htm*.

(C) For each observer employed by an observer provider, either a written contract or a written contract addendum must exist that is signed by the observer and observer provider prior to the observer's deployment and that contains the following provisions for continued employment:

(*1*) That the observer comply with the Observer Program's drug and alcohol policy;

(*2*) That all the observer's in-season catch messages between the observer and NMFS are delivered to the Observer Program Office at least every 7 days, unless otherwise specified by the Observer Program;

(*3*) That the observer completes in-person mid-deployment data reviews, unless:

(*i*) The observer is specifically exempted by the Observer Program, or

(*ii*) The observer does not at any time during their deployment travel through a location where Observer Program staff are available for an in-person data review and the observer completes a phone or fax mid-deployment data review as described in the observer manual; and

(*4*) The observer inform the observer provider prior to the time of embarkation if he or she is experiencing any new mental illness or physical ailments or injury since submission of the physician's statement as required in paragraph (i)(2)(x)(C) of this section that would prevent him or her from performing their assigned duties;

(ii) *Ensure that observers complete duties in a timely manner*. An observer provider must ensure that observers employed by that observer provider do the following in a complete and timely manner:

(A) Once an observer is scheduled for a final deployment debriefing under

paragraph (i)(2)(x)(E) of this section, submit to NMFS all data, reports required by the Observer Manual, and biological samples from the observer's deployment by the completion of the electronic vessel and/or processor survey(s);

(B) Complete NMFS electronic vessel and/or processor surveys before performing other jobs or duties which are not part of NMFS groundfish observer requirements;

(C) Report for his or her scheduled debriefing and complete all debriefing responsibilities; and

(D) Return all sampling and safety gear to the Observer Program Office.

(iii) *Observer vessel and processor assignment*. An observer provider must assign to vessels or shoreside or floating processors only observers:

(A) With valid North Pacific groundfish observer certifications and endorsements to provide observer services;

(B) Who have not informed the provider prior to the time of embarkation that he or she is experiencing a mental illness or a physical ailment or injury developed since submission of the physician's statement, as required in paragraph (i)(2)(x)(C) of this section that would prevent him or her from performing his or her assigned duties; and

(C) Who have successfully completed all NMFS required training and briefing before deployment.

(iv) *Response to industry requests for observers*. An observer provider must provide an observer for deployment as requested by vessels and processors to fulfill vessel and processor requirements for observer coverage under sections (c) and (d) of this section. An alternate observer must be supplied in each case where injury or illness prevents the observer from performing his or her duties or where the observer resigns prior to completion of his or her duties.

(v) *Observer salaries and benefits*. An observer provider must provide to its observer employees salaries and any other benefits and personnel services in accordance with the terms of each observer's contract.

(vi) *Observer deployment logistics*. (A) An observer provider must provide to each of its observers under contract:

(*1*) All necessary transportation, including arrangements and logistics, of observers to the initial location of deployment, to all subsequent vessel and shoreside or stationary floating processor assignments during that deployment, and to the debriefing location when a deployment ends for any reason; and

(*2*) Lodging, per diem, and any other services necessary to observers assigned to fishing vessels or shoreside or stationary floating processing facilities.

(B) Except as provided in paragraphs (i)(2)(vi)(C) and (i)(2)(vi)(D) of this section, each observer deployed to a shoreside processing facility or stationary floating processor, and each observer between vessel, stationary floating processor or shoreside assignments while still under contract with a permitted observer provider, shall be provided with accommodations at a licensed hotel, motel, bed and breakfast, stationary floating processor, or other shoreside accommodations for the duration of each shoreside assignment or period between vessel or shoreside assignments. Such accommodations must include an assigned bed for each observer and no other person may be assigned that bed for the duration of that observer's stay. Additionally, no more than four beds may be in any room housing observers at accommodations meeting the requirements of this section.

(C) An observer under contract may be housed on a vessel to which he or she is assigned:

(*1*) Prior to their vessel's initial departure from port;

(*2*) For a period not to exceed twenty-four hours following the completion of an offload when the observer has duties and is scheduled to disembark; or

(*3*) For a period not to exceed twenty-four hours following the vessel's arrival in port when the observer is scheduled to disembark.

(D) During all periods an observer is housed on a vessel, the observer provider must ensure that the vessel operator or at least one crew member is aboard.

(E) Each observer deployed to shoreside processing facilities shall be provided with individually assigned communication equipment in working order, such as a cell phone or pager for notification of upcoming deliveries or other necessary communication. Each observer assigned to a shoreside processing facility located more than 1 mile from the observer's local accommodations shall be provided with motorized transportation that will ensure the observer's arrival at the processing facility in a timely manner such that the observer can complete his or her assigned duties.

(vii) *Observer deployment limitations.* Unless alternative arrangements are approved by the Observer Program Office, an observer provider must not:

(A) Deploy an observer on the same vessel or at the same shoreside or stationary floating processor for more than 90 days in a 12–month period;

(B) Deploy an observer for more than 90 days in a single deployment;

(C) Include in a single deployment of an observer assignments to more than four vessels, including groundfish and all other vessels, and/or shoreside processors; or

(D) Move an observer from a vessel or stationary floating or shoreside processor before that observer has completed his or her sampling or data transmission duties.

(viii) *Vessel safety decal verification.* An observer provider must verify that a vessel has a valid USCG safety decal as required under paragraph (g)(1)(ii)(B) of this section before an observer may get underway aboard the vessel. One of the following acceptable means of verification must be used to verify the decal validity:

(A) An employee of the observer provider, including the observer, visually inspects the decal aboard the vessel and confirms that the decal is valid according to the decal date of issuance; or

(B) The observer provider receives a hard copy of the USCG documentation of the decal issuance from the vessel owner or operator.

(ix) *Communications with observers.* An observer provider 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 or stationary floating processors, in transit, or in port awaiting vessel or processor reassignment.

(x) *Communications with the Observer Program Office.* An observer provider must provide all of the following information to the Observer Program Office by electronic transmission (e-mail), fax, or other method specified by NMFS.

(A) *Observer training and briefing.* Observer training and briefing registration materials. This information must be submitted to the Observer Program Office at least 5 business days prior to the beginning of a scheduled observer certification training or briefing session. Registration materials consist of the following:

(*1*) Observer training registration, including:

(*i*) Date of requested training;

(*ii*) A list of observer candidates. The list must include each candidate's full name (i.e., first, middle and last names), date of birth, and sex;

(*iii*) A copy of each candidate's academic transcripts and resume; and

(*iv*) A statement signed by the candidate under penalty of perjury which discloses the candidate's criminal convictions.

(*2*) Observer briefing registration, including:

(*i*) Date and type of requested briefing session and briefing location; and

(*ii*) List of observers to attend the briefing session. Each observer's full name (first, middle, and last names) must be included.

(B) *Projected observer assignments.* Prior to the observer or observer candidate's completion of the training or briefing session, the observer provider must submit to the Observer Program Office a statement of projected observer assignments that include the observer's name; vessel, shoreside processor, or stationary floating processor assignment, gear type, and vessel/processor code; port of embarkation; target species; and area of fishing.

(C) *Physical examination.* A signed and dated statement from a licensed physician that he or she has physically examined an observer or observer candidate. The statement must confirm that, based on that physical examination, the observer or observer candidate does not have any health problems or conditions that would jeopardize that individual's safety or the safety of others while deployed, or prevent the observer or observer candidate from performing his or her duties satisfactorily. The statement must declare that, prior to the examination, the physician was made aware of the duties of the observer and the dangerous, remote, and rigorous nature of the work by reading the NMFS-prepared pamphlet, provided to the candidate by the observer provider as specified in paragraph (i)(2)(i)(B)(*1*) of this section. The physician's statement must be submitted to the Observer Program Office prior to certification of an observer. The physical exam must have occurred during the 12 months prior to the observer's or observer candidate's deployment. The physician's statement will expire 12 months after the physical exam occurred. A new physical exam must be performed, and accompanying statement submitted, prior to any deployment occurring after the expiration of the statement.

(D) *Observer deployment/logistics reports.* A deployment/logistics report must be submitted by Wednesday, 4:30 pm, Pacific local time, of each week with regard to each observer deployed by the observer provider during that week. The deployment/logistics report must include the observer's name, cruise number, current vessel, shoreside processor, or stationary floating processor assignment and vessel/processor code, embarkation date, and estimated or actual disembarkation dates. If the observer is currently not assigned to a vessel, shoreside processor, or stationary floating processor, the observer's location must be included in the report.

(E) *Observer debriefing registration.* The observer provider must contact the Observer Program within 5 business days after the completion of an observer's deployment to schedule a date, time and location for debriefing. Observer debriefing registration information must be provided at the time of debriefing scheduling and must include the observer's name, cruise number, vessel, or shoreside or stationary floating processor assignment name(s) and code(s), and requested debriefing date.

(F) *Certificates of Insurance.* Copies of ''certificates of insurance'', that name the NMFS Observer Program leader as the ''certificate holder'', shall be submitted to the Observer Program Office by February 1 of each year. 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 canceled.

(*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 Worker's Compensation as required.

(*4*) Commercial General Liability.

(G) *Observer provider contracts.* Observer providers must submit to the Observer Program Office a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under paragraphs (c) and (d) of this section. Observer providers must also submit to the Observer Program Office upon request, a completed and unaltered copy of the current or most recent signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract and any agreements or policies with regard to observer compensation or salary levels) between the observer provider and the particular entity identified by the Observer Program or with specific observers. Said copies must be submitted to the Observer Program Office via fax or mail within 5 business days of the request for the contract at the address or fax number listed in paragraph (e)(3) of this section. Signed and valid contracts include the contracts an observer provider has with:

(*1*) Vessels required to have observer coverage as specified at paragraph (c) of this section;

(*2*) Shoreside or stationary floating processors required to have observer coverage as specified at paragraph (d) of this section; and

(*3*) Observers.

(H) *Change in observer provider management and contact information*. Except for changes in ownership addressed under paragraph (i)(1)(vi) of this section, an observer provider must submit notification of any other change to the information submitted on the provider's permit application under paragraphs (i)(1)(ii)(A) through (D) of this section. Within 30 days of the effective date of such change, this information must be submitted by fax or mail to the Observer Program Office at the address listed in paragraph (e)(3) of this section. Any information submitted under (i)(1)(ii)(C) or (i)(1)(ii)(D) of this section will be subject to NMFS review and determinations under (i)(1)(iii) through (viii) of this section.

(I) *Other reports*. Reports of the following must be submitted in writing to the Observer Program Office by the observer provider via fax or email address designated by the Observer Program Office within 24 hours after the observer provider becomes aware of the information:

(*1*) Any information regarding possible observer harassment;

(*2*) Any information regarding any action prohibited under § 679.7(g) or § 600.725(o), (t) and (u);

(*3*) Any concerns about vessel safety or marine casualty under 46 CFR 4.05–1 (a)(1) through (7), or processor safety;

(*4*) Any observer illness or injury that prevents the observer from completing any of his or her duties described in the observer manual; and

(*5*) Any information, allegations or reports regarding observer conflict of interest or breach of the standards of behavior described at (j)(2)(i) or (j)(2)(ii) of this section.

(xi) *Replacement of lost or damaged gear*. An observer provider must replace all lost or damaged gear and equipment issued by NMFS to an observer under contract to that provider. All replacements must be in accordance with requirements and procedures identified in writing by the Observer Program Office.

(xii) *Maintain confidentiality of information*. An observer provider must ensure that all records on individual observer performance received from NMFS under the routine use provision of the Privacy Act remain confidential and are not further released to anyone outside the employ of the observer provider company to whom the observer was contracted except with written permission of the observer.

(3) *Limitations on conflict of interest*. Observer providers:

(i) Must not have a direct financial interest, other than the provision of observer services, in a North Pacific fishery managed under an FMP for the waters off the coast of Alaska, including, but not limited to,

(A) Any ownership, mortgage holder, or other secured interest in a vessel, shoreside or stationary floating processors facility involved in the catching, taking, harvesting or processing of fish,

(B) Any business involved with selling supplies or services to any vessel, shoreside or stationary floating processors participating in a fishery managed pursuant to an FMP in the waters off the coast of Alaska, or

(C) Any business involved with purchasing raw or processed products from any vessel, shoreside or stationary floating processors participating in a fishery managed pursuant to an FMP in the waters off the coast of Alaska.

(ii) Must assign observers without regard to any preference by representatives of vessels, shoreside processors, or stationary floating processors other than when an observer will be deployed.

(iii) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who conducts fishing or fish processing 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 providers.

(j) *Observer certification and responsibilities*—(1) *Observer Certification*—(i) *Applicability*. Observer certification authorizes an individual to fulfill duties

as specified in writing by the NMFS Observer Program Office while under the employ of a NMFS-permitted observer provider and according to certification endorsements as designated under paragraph (j)(1)(v) of this section.

(ii) *Observer certification official*. The Regional Administrator will designate a NMFS observer certification official who will make decisions for the Observer Program Office on whether to issue or deny observer certification.

(iii) *Certification requirements*. (A) Existing Observers. Observers who completed sampling activities between June 30, 2001, and December 31, 2002, and have not had their certification revoked during or after that time period, will be considered to have met certification requirements under this section. These observers will be issued a new certification prior to their first deployment after December 31, 2002, unless NMFS determines that the observer has not been deployed, or has not performed sampling duties, or has not been debriefed successfully in the preceding 18 months.

(B) *New Observers*. NMFS will certify individuals who:

(*1*) Are employed by a permitted observer provider company at the time of the issuance of the certification;

(*2*) Have provided, through their observer provider:

(*i*) Information identified by NMFS at paragraphs (i)(2)(x)(A)(*1*)(*iii*) and (*iv*) of this section and in writing from the Observer Program; and

(*ii*) Information identified by NMFS at paragraph (i)(2)(x)(C) of this section regarding the observer candidate's health and physical fitness for the job;

(*3*) Meet all education and health standards as specified in paragraphs (i)(2)(i)(A) and (i)(2)(x)(C) of this section, respectively;

(*4*) Have successfully completed a NMFS-approved training as prescribed by the Observer Program.

(*i*) Successful completion of training by an observer applicant consists of meeting all attendance and conduct standards issued in writing at the start of training; meeting all performance standards issued in writing at the start of training for assignments, tests, and other evaluation tools; and completing all other training requirements established by the Observer Program.

(*ii*) If a candidate fails training, he or she will be verbally notified of the unsatisfactory status of his or her training on or before the last day of training. Within 10 business days of the verbal notification, the observer candidate will be notified in writing. The written notification will indicate why the candidate failed the training; whether the candidate can retake the training. If a determination is made that the candidate may not pursue further training, notification will be in the form of an IAD denying certification, as specified under paragraph (j)(1)(iv)(A) of this section.

(*5*) Have not been decertified under paragraph (j)(3) of this section.

(iv) *Agency determinations on observer certification*—(A) *Denial of a certification*. The NMFS observer certification official will issue a written IAD denying observer certification when the observer certification official determines that a candidate has unresolvable deficiencies in meeting the requirements for certification as specified in paragraph (j)(1)(iii) of this section. The IAD will identify the reasons certification was denied and what requirements were deficient.

(B) *Appeals*. A candidate who receives an IAD that denies his or her certification may appeal pursuant to § 679.43 of this part. A candidate who appeals the IAD will not be issued an interim observer certification and will not receive a certification unless the final resolution of that appeal is in the candidate's favor.

(C) *Issuance of an observer certification*. An observer certification will be issued upon determination by the observer certification official that the candidate has successfully met all requirements for certification as specified in paragraph (j)(1)(iii) of this section.

(v) *Endorsements*. The following endorsements must be obtained, in addition to observer certification, in order for an observer to deploy as indicated.

(A) *Certification training endorsement*. A certification training endorsement signifies the successful completion of the training course required to obtain this endorsement. A certification

training endorsement is required for any deployment as an observer in the Bering Sea and Aleutian Islands groundfish fisheries and the Gulf of Alaska groundfish fisheries and will be granted with the initial issuance of an observer certification. This endorsement expires when the observer has not been deployed and performed sampling duties as required by the Observer Program Office for a period of time, specified by the Observer Program, after his or her most recent debriefing. Renewal can be obtained by the observer successfully completing certification training once more. Observers will be notified of any changes to the endorsement expiration period prior to that change taking place. Observers who have been issued certificates under paragraph (j)(1)(iii)(A) of this section will be issued a new certification training endorsement upon issuance of their observer certification prior to their first deployment after December 31, 2002.

(B) *Annual general endorsements*. Each observer must obtain an annual general endorsement to their certification prior to his or her first deployment within any calendar year subsequent to a year in which a certification training endorsement is obtained. To obtain an annual general endorsement, an observer must successfully complete the annual briefing, as specified by the Observer Program. All briefing attendance, performance, and conduct standards required by the Observer Program must be met.

(C) *Deployment endorsements*. Each observer who has completed an initial deployment after certification or annual briefing must receive a deployment endorsement to their certification prior to any subsequent deployments for the remainder of that year. An observer may obtain a deployment endorsement by successfully completing all precruise briefing requirements. The type of briefing the observer must attend and successfully complete will be specified in writing by the Observer Program during the observer's most recent debriefing.

(D) *Level 2 endorsements*. A certified observer may obtain a Level 2 endorsement to their certification. A Level 2 endorsement is required for purposes of performing observer duties aboard vessels or stationary floating processors or at shoreside processors participating in the CDQ or AFA fisheries as prescribed in paragraphs (c) and (d) of this section. A Level 2 endorsement to an observer's certification may be obtained by meeting 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 an evaluation by NMFS for his or her most recent deployment that indicated that the observer's performance met Observer Program expectations for that deployment;

(*3*) Successfully complete a NMFS-approved Level 2 observer training as prescribed by the Observer Program; and

(*4*) Comply with all of the other requirements of this section.

(E) An observer who has achieved a Level 2 endorsement to their observer certification as specified in paragraph (j)(1)(v) (D) of this section may additionally receive a Level 2 ''lead'' observer endorsement by meeting the following requirements:

(*1*) A Level 2 ''lead'' 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 on a mothership.

(*2*) A Level 2 ''lead'' 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 Level 2 ''lead'' 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.

(2) *Standards of observer conduct*—(i) *Limitations on conflict of interest*. (A) Observers:

(*1*) Must not have a direct financial interest, other than the provision of observer services, in a North Pacific fishery managed pursuant to an FMP for the waters off the coast of Alaska, including, but not limited to,

(*i*) Any ownership, mortgage holder, or other secured interest in a vessel, shoreside or stationary floating processors facility involved in the catching, taking, harvesting or processing of fish,

(*ii*) Any business involved with selling supplies or services to any vessel, shoreside or stationary floating processors participating in a fishery managed pursuant to an FMP in the waters off the coast of Alaska, or

(*iii*) Any business involved with purchasing raw or processed products from any vessel, shoreside or stationary floating processors participating in a fishery managed pursuant to an FMP in the waters off the coast of Alaska.

(*2*) May not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS or 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 or floating stationary processing 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 employed by an observer provider.

(B) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(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 perform their assigned duties as described in the Observer Manual or other written instructions from the Observer Program Office.

(B) Observers must accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.

(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*) Violating the drug and alcohol policy established by and available from the Observer Program;

(*2*) Engaging in the use, possession, or distribution of illegal drugs; or

(*3*) Engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(3) *Suspension and Decertification*—(i) *Suspension and decertification review official*. The Regional Administrator will establish an observer suspension and decertification review official(s), who will have the authority to review observer certifications and issue initial administrative determinations of observer certification suspension and/or decertification.

(ii) *Causes for suspension or decertification*. The suspension/decertification official may initiate suspension or decertification proceedings against an observer:

(A) When it is alleged that the observer has committed any acts or omissions of any of the following:

(*1*) Failed to satisfactorily perform the duties of observers as specified in writing by the NMFS Observer Program; or

(*2*) Failed to abide by the standards of conduct for observers as prescribed under paragraph (j)(2) of this section;

(B) Upon conviction of a crime or upon entry of a civil judgement for:

(*1*) Commission of fraud or other violation in connection with obtaining or attempting to obtain certification, or in performing the duties as specified in

writing by the NMFS Observer Program;

(*2*) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(*3*) Commission of any other offense indicating a lack of integrity or honesty that seriously and directly affects the fitness of observers.

(iii) *Issuance of initial administrative determination*. Upon determination that suspension or decertification is warranted under paragraph (j)(3)(ii) of this section, the suspension/decertification official will issue a written IAD to the observer via certified mail at the observer's most current address provided to NMFS under § 679.43(e). The IAD will identify whether a certification is suspended or revoked and will identify the specific reasons for the action taken. If the IAD issues a suspension for an observer certification, the terms of the suspension will be specified. Suspension or decertification can be made effective upon issuance of the IAD in cases of willfulness or those cases in which public health, interest, or safety require such actions. In such cases, the suspension/decertification official will state in the IAD that suspension or decertification is effective at time of issuance and the reason for the action.

(iv) *Appeals*. A certified observer who receives an IAD that suspends or revokes his or her observer certification may appeal pursuant to § 679.43.

(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]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.50, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

## Subpart F—American Fisheries Act and Aleutian Island Directed Pollock Fishery Management Measures

SOURCE: 67 FR 79734, Dec. 30, 2002, unless otherwise noted.

### § 679.60 Authority and related regulations.

(a) Regulations under this subpart were developed by the National Marine Fisheries Service and the North Pacific Fishery Management Council to implement the American Fisheries Act (AFA) (Div. C, Title II, Subtitle II, Public Law 105–277, 112 Stat. 2681 (1998)) and the Consolidated Appropriations Act of 2004 (Public Law 108–199, Sec. 803). Additional regulations in this part that implement specific provisions of the AFA and Consolidated Appropriations Act of 2004 are set out at §§ 679.2 Definitions, 679.4 Permits, 679.5 Recordkeeping and reporting (R &R), 679.7 Prohibitions, 679.20 General limitations, 679.21 Prohibited species bycatch management, 679.28 Equipment and operational requirements, 679.31 CDQ reserves, and 679.50 Groundfish Observer Program.

(b) Regulations developed by the Department of Transportation to implement provisions of the AFA are found at 46 CFR part 356.

[70 FR 9867, Mar. 1, 2005]

### § 679.61 Formation and operation of fishery cooperatives.

(a) *Who is liable for violations by a fishery cooperative and cooperative members?* A fishery cooperative must comply with the provisions of this section. The owners and operators of vessels that are members of a fishery cooperative, including vessels under contract to a cooperative, are responsible for ensuring that the fishery cooperative complies with the directed fishing, sideboard closures, PSC limits and other allocations and restrictions that are applicable to the fishery cooperative. The owners and operators of vessels that are members of a fishery cooperative, including vessels under contract to a cooperative, are responsible for ensuring that all fishery cooperative members comply with the directed fishing, sideboard closures, PSC limits and other allocations and restrictions that are applicable to the fishery cooperative.

(b) *Who must comply this section?* Any fishery cooperative formed under section 1 of the Fisherman's Collective Marketing Act 1934 (15 U.S.C. 521) for the purpose of cooperatively managing directed fishing for BS subarea pollock must comply with the provisions of this section. The owners and operators of all the member vessels that are signatories to a fishery cooperative are jointly and severally responsible for compliance with the requirements of this section.

(c) *Designated representative and agent for service of process.* Each cooperative must appoint a designated representative and agent for service of process and must ensure that the cooperative's designated representative and agent for service of process comply with the regulations in this part.

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

(2) *What is an agent for service of process?* Any cooperative formed under this section must appoint an agent who is authorized to receive and respond to any legal process issued in the United States with respect to all owners and operators of vessels that are members of the cooperative. The cooperative

must provide the Regional Administrator with the name, address and telephone number of the appointed agent. Service on or notice to the cooperative's appointed agent constitutes service on or notice to all members of the cooperative.

(3) *What is the term of service and process for replacing the agent for service of process?* The agent for service of process must be capable of accepting service on behalf of the cooperative until December 31 of the year 5 years after the calendar year for which the fishery cooperative has filed its intent to operate. The owners and operators of all member vessels of a cooperative are responsible for ensuring that a substitute agent is designated and the Agency is notified of the name, address and telephone number of the substitute agent in the event the previously designated agent is no longer capable of accepting service on behalf of the cooperative or the cooperative members within that 5–year period.

(d) *Annual filing requirements.* You must file on an annual basis, with the Council and NMFS, a signed copy of your fishery cooperative contract, and any material modifications to any such contract, together with a copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request. The Council and NMFS will make this information available to the public upon request.

(1) *Must multi-year contracts be re-filed annually?* If your cooperative contract was previously filed with NMFS and the Council under paragraph (c) of this section, then you may submit a renewal letter to NMFS and the Council by the filing deadline in lieu of the cooperative contract and business review letter. The renewal letter must provide notice that the previously filed cooperative contract will remain in effect for the subsequent fishing year. The renewal letter also must detail any material modifications to the cooperative contract that have been made since the last filing including, but not limited to, any changes in cooperative membership.

(2) *Where must contracts or renewal letters be filed?* You must send a signed copy of your cooperative contract or renewal letter and the required supporting materials to the North Pacific Fishery Management Council, 605 West 4th Ave, Suite 306, Anchorage, AK 99501; and to the NMFS Alaska Region. The mailing address for the NMFS Alaska Region is P.O. Box 21668, Juneau, AK 99802. The street address for delivery by private courier is 709 West 9th St., Suite 401, Juneau, AK 99801.

(3) *What is the deadline for filing?* The contract or renewal letter and supporting materials must be received by NMFS and by the Council at least 30 days prior to the start of any fishing activity conducted under the terms of the contract. In addition, an inshore cooperative that is also applying for an allocation of BS subarea pollock under § 679.62 must file its contract, any amendments hereto, and supporting materials no later than December 1 of the year prior to the year in which fishing under the contract will occur.

(e) *What are the required elements in a cooperative contract?*—(1) *Requirements for all fishery cooperatives.* Any cooperative contract filed under paragraph (c) of this section must:

(i) List parties to the contract.

(ii) List all vessels and processors that will harvest and process pollock harvested under the cooperative.

(iii) Specify the amount or percentage of pollock allocated to each party to the contract.

(iv) Specify a designated representative and agent for service of process.

(v) Include a contract clause under which the parties to the contract agree to make payments to the State of Alaska for any pollock harvested in the directed pollock fishery that are not landed in the State of Alaska, in amounts which would otherwise accrue had the pollock been landed in the State of Alaska subject to any landing taxes established under Alaska law. Failure to include such a contract clause or for such amounts to be paid will result in a revocation of the authority to form fishery cooperatives under section 1 of the Act of June 25, 1934 (15 U.S.C. 521 *et seq.*).

(2) *Additional required elements in all fishery cooperatives that include AFA catcher vessels.* A cooperative contract

that includes catcher vessels must include adequate provisions to prevent each non-exempt member catcher vessel from exceeding an individual vessel sideboard limit for each BSAI or GOA sideboard species or species group that is issued to the vessel by the cooperative in accordance with the following formula:

(i) The aggregate individual vessel sideboard limits issued to all member vessels in a cooperative must not exceed the aggregate contributions of each member vessel towards the overall groundfish sideboard amount as calculated by NMFS under § 679.64(b) and as announced to the cooperative by the Regional Administrator, or

(ii) In the case of two or more cooperatives that have entered into an inter-cooperative agreement, the aggregate individual vessel sideboard limits issued to all member vessels subject to the inter-cooperative agreement must not exceed the aggregate contributions of each member vessel towards the overall groundfish sideboard amount as calculated by NMFS under § 679.64(b) and as announced by the Regional Administrator.

(f) *Annual reporting requirement*. Any fishery cooperative governed by this section must submit preliminary and final annual written reports on fishing activity to the North Pacific Fishery Management Council, 605 West 4th Ave, Suite 306, Anchorage, AK 99501. The Council will make copies of each report available to the public upon request.

(1) *What are the submission deadlines?* You must submit the preliminary report by December 1 of each year. You must submit the final report by February 1 of the following year. Annual reports must be postmarked by the submission deadline or received by a private courier service by the submission deadline.

(2) *What information must be included?* The preliminary and final written reports must contain, at a minimum:

(i) The cooperative's allocated catch of pollock and sideboard species, and any sub-allocations of pollock and sideboard species made by the cooperative to individual vessels on a vessel-by-vessel basis;

(ii) The cooperative's actual retained and discarded catch of pollock, sideboard species, and PSC on an area-by-area and vessel-by-vessel basis;

(iii) A description of the method used by the cooperative to monitor fisheries in which cooperative vessels participated;

(iv) A description of any actions taken by the cooperative in response to any vessels that exceed their allowed catch and bycatch in pollock and all sideboard fisheries; and

(v) The total weight of pollock landed outside the State of Alaska on a vessel-by-vessel basis.

(vi) The annual report must indicate the number of salmon taken by species and season, estimate the number of salmon avoided as demonstrated by the movement of fishing effort away from salmon savings areas, include the results of the compliance audit described at § 679.21(g)(6)(vi), and list each vessel's number of appearances on the weekly dirty 20 lists for both salmon species.

(3) *What is the required format?* You must submit at least one copy of each annual report ready for duplication on unbound single-sided 8.5- by 11–inch paper, or in an alternative format approved in advance by the Council.

(g) *Landing tax payment deadline*. You must pay any landing tax owed to the State of Alaska under section 210(f) of the AFA and paragraph (e)(1)(v) of this section before April 1 of the following year, or the last day of the month following the date of publication of statewide average prices by the Alaska State Department of Revenue, whichever is later. All members of the cooperative are prohibited from harvesting pollock in the BS subarea directed pollock fishery after the payment deadline if any member vessel has failed to pay all required landing taxes from any landings made outside the State of Alaska by the landing deadline. Members of the cooperative may resume directed fishing for pollock once all overdue landing taxes are paid.

[67 FR 79734, Dec. 30, 2002, as amended at 68 FR 6836, Feb. 11, 2003; 70 FR 9868, Mar. 1, 2005; 72 FR 61076, Oct. 29, 2007]

**§ 679.62 Inshore sector cooperative allocation program.**

(a) *How will inshore sector cooperative allocations be made?* An inshore catcher vessel cooperative that applies for and receives an AFA inshore cooperative fishing permit under § 679.4(l)(6) will receive a sub-allocation of the annual BS subarea inshore sector directed fishing allowance. Each inshore cooperative's annual allocation amount(s) will be determined using the following procedure:

(1) *Determination of individual vessel catch histories.* The Regional Administrator will calculate an official AFA inshore cooperative catch history for every inshore-sector endorsed AFA catcher vessel according to the following steps:

(i) *Determination of annual landings.* For each year from 1995 through 1997 the Regional Administrator will determine each vessel's total non-CDQ inshore pollock landings from the Bering Sea Subarea and Aleutian Islands Subarea separately, except for the F/V PROVIDIAN (USCG documentation number 1062183).

(ii) *Determination of annual landings for the F/V PROVIDIAN.* For the F/V PROVIDIAN, pursuant to Public Law 106–562, the Regional Administrator will substitute the 1992 through 1994 total Bering Sea subarea and Aleutian Islands subarea pollock non-CDQ inshore landings made by the F/V OCEAN SPRAY (USCG documentation number 517100 for the purpose of determining annual cooperative quota share percentage.

(iii) *Offshore compensation.* If a catcher vessel made a total of 500 or more mt of landings of non-CDQ Bering Sea Subarea pollock or Aleutian Islands Subarea pollock to catcher/processors or offshore motherships other than the EXCELLENCE (USCG documentation number 967502); GOLDEN ALASKA (USCG documentation number 651041); or OCEAN PHOENIX (USCG documentation number 296779) over the 3–year period from 1995 through 1997, then all non-CDQ offshore pollock landings made by that vessel during from 1995 through 1997 will be added to the vessel's inshore catch history by year and subarea.

(iv) *Best two out of three years.* After steps (a)(1)(i) and (ii) of this section are completed, the 2 years with the highest landings will be selected for each subarea and added together to generate the vessel's official AFA inshore cooperative catch history for each subarea. A vessel's best 2 years may be different for the Bering Sea subarea and the Aleutian Islands Subarea.

(2) *Conversion of individual vessel catch histories to annual cooperative quota share percentages.* Each inshore pollock cooperative that applies for and receives an AFA inshore pollock cooperative fishing permit will receive an annual quota share percentage of pollock for the BS subarea that is equal to the sum of each member vessel's official AFA inshore cooperative catch history for the BS subarea divided by the sum of the official AFA inshore cooperative catch histories of all inshore-sector endorsed AFA catcher vessels. The cooperative's quota share percentage will be listed on the cooperative's AFA pollock cooperative permit.

(3) *Conversion of quota share percentage to TAC allocations.* (Effective April 1, 2005) Each inshore pollock cooperative that receives a quota share percentage for a fishing year will receive an annual allocation of Bering Sea and/or Aleutian Islands pollock that is equal to the cooperative's quota share percentage for that subarea multiplied by the annual inshore pollock allocation for that subarea. Each cooperative's annual pollock TAC allocation may be published in the proposed and final BSAI harvest specifications notice.

(b) *What are the restrictions on fishing under a cooperative fishing permit?* A cooperative that receives a cooperative fishing permit under § 679.4(l)(6) must comply with all of the fishing restrictions set out in this subpart. The owners and operators of all the member vessels that are named on an inshore cooperative fishing permit and the owners and operators of any vessels under contract to the cooperative under paragraph (c) of this section are jointly and severally responsible for compliance with all of the requirements of a cooperative fishing permit pursuant to § 679.4(l)(6).

(1) *What vessels are eligible to fish under an inshore cooperative fishing permit?* Only catcher vessels listed on a cooperative's AFA inshore cooperative fishing permit or vessels under contract to the cooperative under paragraph (c) of this section are permitted to harvest any portion of an inshore cooperative's annual pollock allocation.

(2) *What harvests accrue against an inshore cooperative's annual pollock allocation?* The following catches will accrue against a cooperative's annual pollock allocation regardless of whether the pollock was retained or discarded:

(i) *Member vessels.* All pollock caught by a member vessel while engaged in directed fishing for pollock in the BS subarea unless the vessel is under contract to another cooperative and the pollock is assigned to another cooperative.

(ii) *Contract vessels.* All pollock contracted for harvest and caught by a vessel under contract to the cooperative under paragraph (c) of this section while the vessel was engaged in directed fishing for pollock in the BS subarea.

(3) *How must cooperative harvests be reported to NMFS?* Each inshore pollock cooperative must report its BS subarea pollock harvest to NMFS on a weekly basis according to the recordkeeping and reporting requirements set out at § 679.5(o).

(c) *Contract fishing by non-member vessels.* A cooperative that wishes to contract with a non-member vessel to harvest a portion of the cooperative's annual pollock allocation must comply with the following procedures.

(1) *How does a cooperative contract with a non-member vessel?* A cooperative that wishes to contract with a non-member vessel must submit a completed contract fishing application to the Alaska Region, NMFS, in accordance with the contract fishing application instructions.

(2) *What information must be included on a contract fishing application?* The following information must be included on a contract fishing application:

(i) *Co-op name(s).* The names of the cooperative or cooperatives that wish to contract with a non-member vessel.

(ii) *Designated representative(s).* The names and signatures of the designated representatives for the cooperatives that wish to contract with a non-member vessel and the vessel's home cooperative.

(iii) *Vessel name.* The name and AFA permit number of the contracted vessel.

(iv) *Vessel owner.* The name and signature of the owner of the contracted vessel.

(v) *Harvest schedule.* A completed harvest schedule showing how all catch and any overages by the contracted vessel will be allocated between the contracting cooperative (or cooperatives) and the contract vessel's home cooperative. In the event that multiple cooperatives are jointly contracting with a non-member vessel, the harvest schedule must clearly specify how all catch and any overages will be allocated among the various cooperatives.

(3) *What vessels are eligible to conduct contract fishing on behalf of an inshore cooperative?* Only AFA catcher vessels with an inshore fishing endorsement that are members of an inshore cooperative may conduct contract fishing on behalf of another inshore cooperative.

(4) *Who must be informed?* A cooperative that has contracted with a non-member vessel to harvest a portion of its inshore pollock allocation must inform any AFA inshore processors to whom the vessel will deliver pollock while under contract to the cooperative prior to the start of fishing under the contract.

(5) *How must contract fishing be reported to NMFS?* An AFA inshore processor that receives pollock harvested by a vessel under contract to a cooperative must report the delivery to NMFS on the electronic delivery report by using the co-op code for the contracting cooperative rather than the co-op code of the vessel's home cooperative.

[67 FR 79734, Dec. 30, 2002, as amended at 68 FR 6836, Feb. 11, 2003; 69 FR 64688, Nov. 8, 2004; 70 FR 9868, Mar. 1, 2005]

### § 679.63 Catch weighing requirements for vessels and processors.

(a) *What are the requirements for listed AFA catcher/processors and AFA motherships?*—(1) *Catch weighing.* All

groundfish landed by listed AFA catcher/processors or received by AFA motherships must be weighed on a NMFS-certified scale and made available for sampling by a NMFS certified observer. The owner and operator of a listed AFA catcher/processor or an AFA mothership must ensure that the vessel is in compliance with the scale requirements described at § 679.28(b), that each groundfish haul is weighed separately, and that no sorting of catch takes place prior to weighing.

(2) *Observer sampling station.* The owner and operator of a listed AFA catcher/processor or AFA mothership must provide an observer sampling station as described at § 679.28(d) and must ensure that the vessel operator complies with the observer sampling station requirements described at § 679.28(d) at all times that the vessel harvests groundfish or receives deliveries of groundfish harvested in the BSAI or GOA.

(b) *What are the requirements for unlisted AFA catcher/processors?* The owner or operator of an unlisted AFA catcher/processor must comply with the catch weighing and observer sampling station requirements set out in paragraph (a) of this section at all times the vessel is engaged in directed fishing for pollock in the BSAI.

(c) *What are the requirements for AFA inshore processors?*—(1) *Catch weighing.* All groundfish landed by AFA catcher vessels engaged in directed fishing for pollock in the BSAI must be sorted and weighed on a scale approved by the State of Alaska as described in § 679.28(c), and be made available for sampling by a NMFS certified observer. The observer must be allowed to test any scale used to weigh groundfish in order to determine its accuracy.

(2) The plant manager or plant liaison must notify the observer of the offloading schedule for each delivery of BSAI pollock by an AFA catcher vessel at least 1 hour prior to offloading. An observer must monitor each delivery of BSAI pollock from an AFA catcher vessel and be on site the entire time the delivery is being weighed or sorted.

## § 679.64 Harvesting sideboard limits in other fisheries.

(a) *Harvesting sideboards for listed AFA catcher/processors.* The Regional Administrator will restrict the ability of listed AFA catcher/processors to engage in directed fishing for non-pollock groundfish species to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the BS subarea directed pollock fishery.

(1) *How will groundfish sideboard limits for AFA listed catcher/processors be calculated?* Except for Aleutian Islands pollock and BSAI Pacific cod, the Regional Administrator will establish annual AFA catcher/processor harvest limits for each groundfish species or species group in which a TAC is specified for an area or subarea of the BSAI as follows:

(i) *Aleutian Islands Pacific ocean perch.* (A) The Aleutian Islands Pacific ocean perch harvest limit will be equal to the 1996 through 1997 aggregate retained catch of Aleutian Islands Pacific ocean perch by catcher/processors listed in Sections 208(e)(1) through (20) and 209 of the AFA in non-pollock target fisheries divided by the sum of the Aleutian Islands Pacific ocean perch catch in 1996 and 1997 multiplied by the remainder of the Aleutian Islands Pacific ocean perch TAC after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C) in the year in which the harvest limit will be in effect.

(B) If the amount of Pacific ocean perch calculated under paragraph (a)(1)(i)(A) of this section is determined by the Regional Administrator to be insufficient to meet bycatch needs of AFA catcher/processors in other directed fisheries for groundfish, the Regional Administrator will prohibit directed fishing for Aleutian Islands Pacific ocean perch by AFA catcher/processors and establish the sideboard amount equal to the amount of Aleutian Islands Pacific ocean perch caught by AFA catcher/processors incidental to directed fishing for other groundfish species.

(ii) *Atka mackerel.* The Atka mackerel harvest limit for each area and season will be equal to:

(A) Bering Sea subarea and Eastern Aleutian Islands, zero;

(B) Central Aleutian Islands, 11.5 percent of the annual TAC specified for Atka mackerel; and

(C) Western Aleutian Islands, 20 percent of the annual TAC specified for Atka mackerel.

(iii) *Flathead sole, rock sole, and yellowfin sole.* The harvest limit for flathead sole, rock sole, and yellowfin sole will be equal to the 1995 through 1997 aggregate retained catch of that species by catcher/processors listed in Sections 208(e)(1) through (e)(20) and 209 of the AFA in non-pollock target fisheries divided by the sum of the catch of that species in 1995 through 1997 multiplied by the remainder of the TAC of that species after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C) in the year in which the harvest limit will be in effect.

(iv) *Remaining groundfish species.* (A) Except as provided for in paragraphs (a)(1)(i) through (a)(1)(iii) of this section, the harvest limit for each BSAI groundfish species or species group will be equal to the 1995 through 1997 aggregate retained catch of that species by catcher/processors listed in Sections 208 (e)(1) through (e)(20) and 209 of the AFA in non-pollock target fisheries divided by the sum of the catch of that species in 1995 through 1997 multiplied by the TAC of that species available for harvest by catcher/processors in the year in which the harvest limit will be in effect.

(B) If the amount of a species calculated under paragraph (a)(1)(iv)(A) of this section is determined by the Regional Administrator to be insufficient to meet bycatch needs for AFA catcher/processors in other directed fisheries for groundfish, the Regional Administrator will prohibit directed fishing for that species by AFA catcher/processors and establish the sideboard amount equal to the amount of that species caught by AFA catcher/processors incidental to directed fishing for other groundfish species.

(v) *Yellowfin sole sideboard limit exemption.* AFA catcher/processors will not be subject to a harvest limit for yellowfin sole in the BSAI during a calendar year if the aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than or equal to 125,000 metric tons.

(2) *What are the halibut and crab PSC sideboard limits?* The halibut and crab PSC bycatch limits specified for catcher/processors in the BSAI are listed in Tables 40 and 41 to this part.

(3) *How will AFA catcher/processor sideboard limits be managed?* The Regional Administrator will manage groundfish harvest limits and PSC bycatch limits for AFA catcher/processors through directed fishing closures in fisheries established under paragraph (a)(1) of this section in accordance with the procedures set out in §§ 679.20(d)(1)(iv) and 679.21(e)(3)(v).

(b) *Harvesting sideboards for AFA catcher vessels.* The Regional Administrator will restrict the ability of AFA catcher vessels to engage in directed fishing for other groundfish species to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the BS subarea directed pollock fishery.

(1) *To whom do the catcher vessel sideboard limits apply?* Catcher vessel harvest limits and PSC bycatch limits apply to all AFA catcher vessels participating in all GOA groundfish fisheries and all non-pollock groundfish fisheries in the BSAI except vessels qualifying for sideboard exemptions in the specific fisheries identified in paragraph (b)(2) of this section.

(2) *Who is exempt from catcher vessel sideboards?* (i) BSAI Pacific cod sideboard exemptions—(A) AFA catcher vessels less than 125 ft (38.1 m) LOA that are determined by the Regional Administrator to have harvested a combined total of less than 5,100 mt of BSAI pollock, and to have made 30 or more legal landings of Pacific cod in the BSAI directed fishery for Pacific cod from 1995 through 1997 are exempt from sideboard closures for BSAI Pacific cod.

(B) AFA catcher vessels with mothership endorsements are exempt from BSAI Pacific cod catcher vessel sideboard directed fishing closures after March 1 of each fishing year.

(ii) *GOA groundfish sideboard exemptions.* AFA catcher vessels less than 125 ft (38.1 m) LOA that are determined by

the Regional Administrator to have harvested less than 5,100 mt of BSAI pollock and to have made 40 or more landings of GOA groundfish from 1995 through 1997 are exempt from GOA groundfish catcher vessel sideboard directed fishing closures.

(3) *How will groundfish sideboard limits be calculated?* Except for Aleutian Islands pollock, the Regional Administrator will establish annual AFA catcher vessel harvest limits for each groundfish species or species group in which a TAC is specified for an area or subarea of the GOA and BSAI as follows:

(i) *BSAI groundfish other than Amendment 80 species.* The AFA catcher vessel groundfish harvest limit for each BSAI groundfish species or species group other than BSAI Pacific cod will be equal to the aggregate retained catch of that groundfish species or species group from 1995 through 1997 by all AFA catcher vessels; divided by the sum of the TACs available to catcher vessels for that species or species group from 1995 through 1997; multiplied by the TAC available to catcher vessels in the year or season in which the harvest limit will be in effect.

(ii) *BSAI Pacific cod.* The AFA catcher vessel groundfish harvest limit for BSAI Pacific cod will be equal to the retained catch of BSAI Pacific cod in 1997 by AFA catcher vessels not exempted under paragraph (b)(2)(i)(A) of this section divided by the BSAI Pacific cod TAC available to catcher vessels in 1997; multiplied by the BSAI Pacific cod TAC available to catcher vessels in the year or season in which the harvest limit will be in effect.

(iii) *Amendment 80 species other than Pacific cod.* The AFA catcher vessel groundfish harvest limit for each Amendment 80 species other than BSAI Pacific cod will be equal to the aggregate retained catch of that Amendment 80 species from 1995 through 1997 by all AFA catcher vessels, divided by the sum of the TAC available to catcher vessels for that species or species group from 1995 through 1997, and multiplied by the remainder of the TAC after the subtraction of the CDQ reserve under § 679.20(b)(1)(ii)(C) in the year or season in which the harvest limit will be in effect.

(iv) *GOA groundfish.* The AFA catcher vessel groundfish harvest limit for each GOA groundfish species or species group will be equal to the aggregate retained catch of that groundfish species or species group from 1995 through 1997 by AFA catcher vessels not exempted under paragraph (b)(2)(ii) of this section; divided by the sum of the TACs of that species or species group available to catcher vessels from 1995 through 1997; multiplied by the TAC available to catcher vessels in the year or season in which the harvest limit will be in effect.

(4) *How will halibut and crab PSC limits be calculated?*—(i) *BSAI.* The halibut and crab PSC bycatch limits specified for catcher vessels in the BSAI are listed in Tables 40 and 41 to this part.

(ii) *GOA.* The AFA catcher vessel PSC bycatch limit for halibut in the GOA will be a portion of the PSC limit equal to the ratio of aggregate retained groundfish catch by AFA catcher vessels in each PSC target category from 1995 through 1997 relative to the retained catch of all vessels in that fishery from 1995 through 1997.

(5) *How will catcher vessel sideboard limits be managed?* The Regional Administrator will manage groundfish harvest limits and PSC bycatch limits for AFA catcher vessels using directed fishing closures according to the procedures set out at §§ 679.20(d)(1)(iv) and 679.21(d)(8) and (e)(3)(v).

(6) *Yellowfin sole sideboard limit exemption.* AFA catcher vessels will not be subject to a harvest limit for yellowfin sole in the BSAI during a calendar year if the aggregate ITAC of yellowfin sole assigned to the Amendment 80 sector and BSAI trawl limited access sector is greater than or equal to 125,000 metric tons.

[67 FR 79734, Dec. 30, 2002, as amended at 70 FR 9868, Mar. 1, 2005; 72 FR 52725, Sept. 14, 2007; 72 FR 50818, Sept. 4, 2007; 73 FR 27770, May 14, 2008]

### § 679.65 [Reserved]

## Subpart G—Rockfish Program

SOURCE: 71 FR 67252, Nov. 20, 2006, unless otherwise noted.

**§ 679.80 Initial allocation of rockfish QS.**

Regulations under this subpart were developed by National Marine Fisheries Service to implement Section 802 of the Consolidated Appropriations Act of 2004 (Public Law 108–199). Additional regulations that implement specific portions of the Rockfish Program are set out at: § 679.2 Definitions, § 679.4 Permits, § 679.5 Recordkeeping and reporting, § 679.7 Prohibitions, § 679.20 General limitations, § 679.21 Prohibited species bycatch management, § 679.28 Equipment and operational requirements, and § 679.50 Groundfish Observer Program.

(a) *Applicable areas and duration*—(1) *Applicable areas*. The Rockfish Program applies to Rockfish Program fisheries in the Central GOA Regulatory Area and rockfish sideboard fisheries in the GOA and BSAI.

(2) *Duration*. The Rockfish Program authorized under this part expires on December 31, 2008.

(3) *Seasons*. The following fishing seasons apply to fishing under this subpart subject to other provisions of this part:

(i) *Rockfish entry level fishery—longline gear vessels*. Fishing by vessels participating in the longline gear portion of the rockfish entry level fishery is authorized from 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., November 15.

(ii) *Rockfish entry level fishery—trawl vessels*. Fishing by vessels participating in the trawl gear portion of the rockfish entry level fishery is authorized from 1200 hours, A.l.t., May 1 through 1200 hours, A.l.t., November 15.

(iii) *Rockfish cooperative*. Fishing by vessels participating in a rockfish cooperative is authorized from 1200 hours, A.l.t., May 1 through 1200 hours, A.l.t., November 15.

(iv) *Rockfish fishery—rockfish limited access fishery*. Fishing by vessels participating in the rockfish limited access fishery is authorized from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.t., November 15.

(b) *Eligibility for harvesters to participate in the Rockfish Program*—(1) *Eligible rockfish harvester*. A person is eligible to participate in the Rockfish Program as an eligible rockfish harvester if that person:

(i) Holds a permanent fully transferrable LLP license at the time of application to participate in the Rockfish Program that:

(A) Is endorsed for Central GOA groundfish with a trawl gear designation; and

(B) Has a legal rockfish landing of any primary rockfish species in which the sum of the catch of all primary rockfish species for that legal rockfish landing exceeded the catch of all other groundfish; and

(ii) Submits a timely application to participate in the Rockfish Program that is approved by NMFS.

(2) *Rockfish entry level fishery harvester*. A person is eligible to participate in the Rockfish Program as a rockfish entry level fishery harvester if that person:

(i) Holds a valid LLP license endorsed for Central GOA groundfish at the time of application for the entry level fishery;

(ii) Submits a timely application for the entry level fishery that is approved by NMFS; and

(iii) That person does not hold a permanent fully transferrable LLP license that is endorsed for Central GOA groundfish with a trawl designation and has a legal rockfish landing of any primary rockfish species in which the sum of the catch of all primary rockfish species for that legal rockfish landing exceeded the catch of all other groundfish.

(3) *Assigning a legal rockfish landing to an LLP license*. A legal rockfish landing is assigned to an eligible LLP license endorsed for the Central GOA management area with a trawl gear designation if that legal rockfish landing was made onboard a vessel that gave rise to that LLP license prior to the issuance of that LLP license, or that legal rockfish landing was made on a vessel using trawl gear operating under the authority of that LLP license.

(4) *Legal rockfish landings assigned to the catcher/processor sector*. A legal rockfish landing for a primary rockfish species is assigned to the catcher/processor sector if:

(i) The legal rockfish landing of that primary rockfish species was harvested and processed onboard a vessel during

the season dates for that primary rockfish species as established in Table 28 to this part; and

(ii) The legal rockfish landings that were derived from that vessel resulted in, or were made under the authority of, an eligible LLP license that is endorsed for Central GOA groundfish fisheries with trawl gear with a catcher/processor designation.

(5) *Legal rockfish landings assigned to the catcher vessel sector*. A legal rockfish landing for a primary rockfish species is assigned to the catcher vessel sector if:

(i) The legal rockfish landing of that primary rockfish species was harvested and not processed onboard a vessel during the season dates for that primary rockfish species as established under Table 28 to this part; and

(ii) The legal rockfish landings that were derived from that vessel resulted in, or were made under the authority of, an eligible LLP license that is endorsed for Central GOA groundfish fisheries with trawl gear; and

(iii) Those legal rockfish landings do not meet the criteria for being a legal rockfish landing assigned to the catcher/processor sector as defined in paragraph (b)(4) of this section.

(c) *Eligibility for processors to participate in the Rockfish Program*—(1) *Eligible rockfish processor*. A person is eligible to participate in the Rockfish Program as an eligible rockfish processor if that person:

(i) Holds the processing history of a shoreside processor or stationary floating processor that received not less than 250 metric tons in round weight equivalents of aggregate legal rockfish landings of primary rockfish species each calendar year in any four of the five calendar years from 1996 through 2000 during the season dates for that primary rockfish species as established in Table 28 to this part;

(ii) Submits a timely application to participate in the Rockfish Program that is approved by NMFS; and

(iii) That person or successor-in-interest exists at the time of application to participate in the Rockfish Program.

(2) *Holder of processing history*. A person holds the processing history of a shoreside processor or stationary floating processor if that person:

(i) Owns the shoreside processor or stationary floating processor at which the legal rockfish landings were received at the time of application to participate in the Rockfish Program, unless that processing history has been transferred to another person by the express terms of a written contract that clearly and unambiguously provides that such processing history has been transferred; or

(ii) (A) Holds the processing history of a shoreside processor or stationary floating processor at which the legal rockfish landings were received and obtained that processing history by the express terms of a written contract that clearly and unambiguously provides that such processing history is held by that person at the time of application to participate in the Rockfish Program; and

(B) The shoreside processor or stationary floating processor from which that processing history is derived did not have a valid Federal Processor Permit at the time that the processing history had been transferred by the express terms of a written contract.

(3) *Eligible entry level fishery processor*. A person is eligible to participate in the Rockfish Program as an eligible entry level fishery processor if that person is not an eligible rockfish processor.

(d) *Official Rockfish Program record*—(1) *Use of the official Rockfish Program record*. The official Rockfish Program record will contain information used by the Regional Administrator to determine:

(i) The amount of legal rockfish landings and resulting processing history assigned to a shoreside processor or stationary floating processor;

(ii) The amount of legal rockfish landings assigned to an LLP license;

(iii) The amount of rockfish QS resulting from legal rockfish landings assigned to an LLP license held by an eligible rockfish harvester;

(iv) Sideboard ratios assigned to eligible rockfish harvesters;

(v) The amount of legal rockfish landings assigned to an eligible rockfish processor for purposes of establishing a rockfish cooperative with eligible rockfish harvesters; and includes:

(vi) All other information used by NMFS that is necessary to determine eligibility to participate in the Rockfish Program and assign specific harvest or processing privileges to Rockfish Program participants.

(2) *Presumption of correctness*. The official Rockfish Program record is presumed to be correct. An applicant to participate in the Rockfish Program has the burden to prove otherwise. For the purposes of creating the official Rockfish Program record, the Regional Administrator will presume the following:

(i) An LLP license is presumed to have been used onboard the same vessel from which that LLP license was derived during the calendar years 2000 and 2001, unless written documentation is provided that establishes otherwise.

(ii) If more than one person is claiming the same legal rockfish landing, then each LLP license for which the legal rockfish landing is being claimed will receive an equal share of any resulting rockfish QS unless the applicants can provide written documentation that establishes an alternative means for distributing the catch history to the LLP licenses.

(3) *Documentation*. (i) Only legal rockfish landings, as defined in § 679.2, shall be used to establish an allocation of rockfish QS or a sideboard ratio.

(ii) Evidence of legal rockfish landings used to establish processing history for an eligible rockfish processor is limited to State of Alaska fish tickets.

(4) *Non-severability of legal rockfish landings*. Legal rockfish landings are non-severable:

(i) From the LLP license to which those legal rockfish landings are assigned according to the official Rockfish Program record; or

(ii) From the shoreside processor or stationary floating processor at which the legal rockfish landings were received unless the processing history assigned to that shoreside processor or stationary floating processor is transferred, in its entirety, to another person under the provisions in paragraph (c)(2)(ii) of this section.

(e) *Application to participate in the Rockfish Program*—(1) *Submission of application to participate in the Rockfish Program*. A person who wishes to participate in the Rockfish Program as an eligible rockfish harvester or eligible rockfish processor must submit a timely and complete application to participate in the Rockfish Program. This application may only be submitted to NMFS using the following methods:

(i) Mail: Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668;

(ii) Fax: 907–586–7354; or

(iii) Hand Delivery or Carrier: NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(2) *Forms*. Forms are available through the internet on the NMFS Alaska Region website at *http://www.fakr.noaa.gov*, or by contacting NMFS at 800–304–4846, Option 2.

(3) *Deadline*. A completed application to participate in the Rockfish Program must be received by NMFS no later than 1700 hours A.l.t. on January 2, 2007, or if sent by U.S. mail, postmarked by that time.

(4) *Contents of application*. A completed application must contain the following information:

(i) *Applicant identification*. (A) The applicant's name, NMFS person ID (if applicable), tax ID or social security number, permanent business mailing address, business telephone number, and business fax number, and e-mail (if available);

(B) Indicate (YES or NO) if the applicant is a U.S. citizen; if YES, enter his or her date of birth;

(C) Indicate (YES or NO) if the applicant is a U.S. corporation, partnership, association, or other business entity; if YES, enter the date of incorporation;

(D) Indicate (YES or NO) if the applicant is a successor-in-interest to a deceased individual or to a non-individual no longer in existence, if YES attach evidence of death or dissolution;

(E) For an applicant claiming legal rockfish landings associated with an LLP license, enter the following information for each LLP license: LLP license number, name of the original

qualifying vessel(s) (OQV(s)) that gave rise to the LLP license, ADF&G vessel registration number of the OQV, and names, ADF&G vessel registration numbers, and USCG documentation numbers of all other vessels used under the authority of this LLP license, including dates when landings were made under the authority of an LLP license for 2000 and 2001;

(F) For an applicant claiming legal rockfish landings in the catcher/processor sector, enter the following information: LLP license numbers, vessel names, ADF&G vessel registration numbers, and USCG documentation numbers of vessels on which legal rockfish landings were caught and processed.

(ii) *Processor eligibility*. (A) Indicate (YES or NO) if the applicant received at least 250 metric tons in round weight equivalent of aggregate legal rockfish landings of primary rockfish species each calendar year in any four of the five calendar years from 1996 through 2000 during the season dates for that primary rockfish species as established in Table 28 to this part;

(B) If the answer to paragraph (e)(4)(ii)(A) of this section is YES, enter the facility name and ADF&G processor code(s) for each processing facility where legal rockfish landings were received and the qualifying years or seasons for which applicant is claiming eligibility.

(C) Enter the name of the community in which the primary rockfish species were received. The community is either:

(*1*) The city, if the community is incorporated as a city within the State of Alaska;

(*2*) The borough, if the community is not a city incorporated within the State of Alaska, but the community is in a borough incorporated within the State of Alaska.

(D) Enter the four calendar years from 1996 through 2000 that NMFS will use to determine the percentage of legal rockfish landings received by that eligible rockfish processor for purposes of forming an association with a rockfish cooperative.

(E) Submit a copy of the contract that demonstrates that the legal processing history and rights to apply for and receive processor eligibility based on that legal processing history have been transferred or retained (if applicable); and

(F) Any other information deemed necessary by the Regional Administrator.

(iii) *Applicant signature and certification*. The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by a designated representative, then explicit authorization signed by the applicant must accompany the application.

(5) *Application evaluation*. The Regional Administrator will evaluate applications received as specified in paragraph (e)(3) of this section and compare all claims in an application with the information in the official Rockfish Program record. Application claims that are consistent with information in the official Rockfish Program record will be approved by the Regional Administrator. Application claims that are inconsistent with official Rockfish Program record, unless verified by documentation, will not be approved. An applicant who submits inconsistent claims, or an applicant who fails to submit the information specified in paragraph (e)(4) of this section, will be provided a single 30-day evidentiary period 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 Rockfish Program record. An applicant who submits claims that are inconsistent with information in the official Rockfish Program record has the burden of proving that the submitted claims are correct. Any claims that remain inconsistent or that are not accepted after the 30-day evidentiary period will be denied, and the applicant will be notified by an initial administrative determination (IAD) of his or her appeal rights under § 679.43.

(6) *Appeals*. If an applicant is notified by an IAD that claims made by the applicant have been denied, that applicant may appeal that IAD under the provisions at § 679.43.

(f) *Rockfish QS allocation*—(1) *General.* An eligible rockfish harvester who holds an LLP license at the time of application to participate in the Rockfish Pilot Program will receive rockfish QS assigned to that LLP license based on the legal rockfish landings assigned to that LLP license according to the official Rockfish Program record.

(2) *Non-severability of rockfish QS from an LLP license.* Rockfish QS assigned to an LLP license is non-severable from that LLP license.

(3) *Calculation of rockfish QS.* (i) Based on the official Rockfish Program record, the Regional Administrator shall determine the total amount of legal rockfish landings of each primary rockfish species in each year during the fishery seasons established in Table 28 to this part.

(ii) For each sector, Rockfish QS for each primary rockfish species shall be based on the percentage of the legal rockfish landings of each primary rockfish species in that sector associated with each fully transferrable LLP licenses held by eligible rockfish harvesters in that sector.

(iii) The Regional Administrator shall calculate rockfish QS for each sector for each primary rockfish species ''s'' based on each fully transferable LLP license ''l'' held by all eligible rockfish harvesters by the following procedure:

(A) Sum the legal rockfish landings for each year during the fishery seasons established in Table 28 to this part.

(B) Select the five years that yield the highest tonnage of that primary rockfish species, including zero pounds if necessary.

(C) Sum the tonnage of the highest five years, for that species for that LLP license as selected under paragraph (f)(3)(iii)(B) of this section. This yields the Highest Five Years.

(D) Divide the Highest Five Years in paragraph (f)(3)(iii)(C) of this section for an LLP license and species by the sum of all Highest Five Years based on the official Rockfish Program record for that species as presented in the following equation:

$$\text{Highest Five Years}_{ls} \;/\; \Sigma \text{ All Highest Five Years}_{s} = \text{Percentage of the Total}_{ls}$$

The result (quotient) of this equation is the Percentage of the $\text{Total}_{ls}$.

(E) Multiply the Percentage of the $\text{Total}_{ls}$ by the Initial Rockfish QS Pool for each relevant species as established in Table 29 to this part. This yields the number of rockfish QS units for that LLP license for that primary rockfish species in rockfish QS units.

(F) Determine the percentage of legal rockfish landings from the official Rockfish Program record in the qualifying years used to calculate the rockfish QS assigned to the catcher/processor sector and multiply the rockfish QS units calculated in paragraph (f)(3)(iii)(E) of this section by this percentage. This yields the rockfish QS units to be assigned to the catcher/processor sector for that LLP license and species. For each primary rockfish species, the total amount of rockfish QS units assigned to the catcher/processor sector is the sum of all catch history allocation units assigned to all eligible rockfish harvesters in the catcher/processor sector.

(G) Determine the percentage of legal rockfish landings from the official Rockfish Program record in the qualifying years used to calculate rockfish QS assigned to the catcher vessel sector and multiply the Rockfish QS units calculated in paragraph (f)(3)(iii)(E) of this section by this percentage. This yields the rockfish QS units to be assigned to the catcher vessel sector for that LLP license and species. For each primary rockfish species, the total amount of rockfish QS units assigned to the catcher vessel sector is equal to the sum of all rockfish QS units assigned to all eligible rockfish harvesters in the catcher vessel sector.

[71 FR 67252, Nov. 20, 2006, as amended at 72 FR 37681, July 11, 2007]

### § 679.81 Rockfish Program annual harvester and processor privileges.

(a) *Sector and LLP license allocations of primary rockfish species*—(1) *General.* Each calendar year, the Regional Administrator will determine the tonnage of primary rockfish species that will be assigned to the Rockfish Program. For participants in a rockfish cooperative, rockfish limited access fishery, or opt–out fishery, amounts will be allocated to the appropriate sector, either the

catcher/processor sector or the catcher vessel sector. The tonnage of fish assigned to a sector will be further assigned to rockfish cooperative(s) or the rockfish limited access fishery within that sector.

(2) *Calculation*. The amount of primary rockfish species allocated to the Rockfish Program is calculated by deducting the incidental catch allowance (ICA) the Regional Administrator determines is required on an annual basis in other non-target fisheries from the TAC. Ninety-five (95) percent of the remaining TAC for that primary rockfish species ($TAC_s$) is assigned for use by rockfish cooperatives and the rockfish limited access fishery in the catcher vessel and catcher/processor sectors. Five (5) percent of the remaining TAC is allocated for use in the rockfish entry level fishery. The formulae are as follows in paragraphs (g)(2)(i) and (ii) of this section:

(i) (TAC - ICA) x 0.95 = $TAC_s$.

(ii) (TAC - ICA) x 0.05 = TAC for the Rockfish Entry Level Fishery.

(3) *Primary rockfish species TACs assigned to the catcher/processor and catcher vessel sector*. $TAC_s$ assigned for a primary rockfish species will be divided between the catcher/processor sector and the catcher vessel sector. Each sector will receive a percentage of $TAC_s$ for each primary rockfish species equal to the sum of the rockfish QS units assigned to all LLP licenses that receive rockfish QS in that sector divided by the rockfish QS pool for that primary rockfish species. Expressed algebraically for each primary rockfish species ''s'' in paragraphs (g)(3)(i) and (ii) of this section:

(i) Catcher/Processor Sector $TAC_s$ = [($TAC_s$) x (Rockfish QS Units in the Catcher/Processor $Sector_s$/Rockfish QS $Pool_s$)].

(ii) Catcher Vessel Sector $TAC_s$ = [($TAC_s$) x (Rockfish QS Units in the Catcher Vessel $Sector_s$/Rockfish QS $Pool_s$)].

(4) *Use of primary rockfish species by an eligible rockfish harvester*. Once a $TAC_s$ is assigned to a sector, the use of that $TAC_s$ by eligible rockfish harvesters in that sector is governed by regulations applicable to the rockfish cooperative, limited access fishery, or opt–out fishery in which those eligible rockfish harvesters are participating. The $TAC_s$ is assigned as follows:

(i) Any $TAC_s$ assigned to a rockfish cooperative is issued as CQ and may be harvested only by the members of the rockfish cooperative that has been assigned that CQ and only on vessels that are authorized to fish under that CQ permit. Once issued, CQ may be transferred between rockfish cooperatives according to the provisions in paragraph (f) of this section.

(ii) Any $TAC_s$ assigned to the rockfish limited access fishery in the catcher vessel sector may be harvested by any eligible rockfish harvester who has assigned an LLP license with rockfish QS for use in the rockfish limited access fishery in the catcher vessel sector.

(iii) Any $TAC_s$ assigned to the rockfish limited access fishery in the catcher/processor sector may be harvested by any eligible rockfish harvester who has assigned an LLP license with rockfish QS for use in the rockfish limited access fishery in the catcher/processor sector.

(iv) $TAC_s$ is not assigned to an opt–out fishery. Any $TAC_s$ that would have been derived from rockfish QS assigned to the opt–out fishery is reassigned to rockfish cooperatives and the rockfish limited access fishery in the catcher/processor sector as established in paragraph (a)(5)(ii) of this section.

(5) *Determining the TACs of primary rockfish species*. $TAC_s$ is assigned to each rockfish cooperative or limited access fishery based on the rockfish QS assigned to that fishery in each sector according to the following procedures:

(i) *Catcher vessel sector*. The assignment of $TAC_s$ to a rockfish cooperative or limited access fishery is governed by the Rockfish Program fishery to which an LLP license is assigned under this paragraph (a).

(A) *Rockfish cooperative*. The amount of $TAC_s$ for each primary rockfish species assigned to a rockfish cooperative is equal to the amount of rockfish QS units assigned to that rockfish cooperative divided by the total rockfish QS pool in the catcher vessel sector multiplied by the catcher vessel $TAC_s$. Once $TAC_s$ for a primary rockfish species is assigned to a rockfish cooperative, it is issued as CQ specific to that rockfish

cooperative. The amount of CQ for each primary rockfish species that is assigned to a rockfish cooperative is expressed algebraically as follows:

CQ = [(Catcher Vessel Sector $TAC_s$) x (Rockfish QS assigned to that Cooperative/Rockfish QS Units in the Catcher Vessel $Sector_s$)].

(B) *Rockfish limited access fishery*. The amount of $TAC_s$ for each primary rockfish species assigned to the rockfish limited access fishery is equal to the catcher vessel sector $TAC_s$ subtracting all CQ issued to rockfish cooperatives in the catcher vessel sector for that primary rockfish species. Expressed algebraically in the following equation:

Catcher Vessel Sector Rockfish Limited Access Fishery $TAC_s$ = Catcher Vessel Sector $TAC_s$ − (**Σ** CQ issued to Rockfish Cooperatives in the Catcher Vessel Sector).

(ii) *Catcher/processor sector*. The assignment of $TAC_s$ to a rockfish cooperative or limited access fishery is determined by the Rockfish Program fishery to which an LLP license is assigned under this paragraph (a).

(A) *Rockfish cooperative*. The amount of $TAC_s$ for each primary rockfish species assigned to a rockfish cooperative is equal to the amount of rockfish QS units assigned to that rockfish cooperative divided by the sum of the rockfish QS units assigned to rockfish cooperatives and the limited access fishery in the catcher/processor sector multiplied by the catcher/processor $TAC_s$. Once $TAC_s$ for a primary rockfish species is assigned to a rockfish cooperative it is issued as CQ specific to that rockfish cooperative. The amount of CQ for each primary rockfish species that is assigned to a rockfish cooperative is expressed algebraically as follows:

CQ = [(Catcher/Processor Sector $TAC_s$) x (Rockfish QS Units assigned to that Cooperative / **Σ** Rockfish QS Units assigned to all rockfish cooperatives and the Limited Access Fishery in the Catcher/Processor Sector).

(B) *Rockfish limited access fishery*. The amount of $TAC_s$ for each primary rockfish species assigned to the limited access fishery is equal to the catcher/processor $TAC_s$ subtracting all CQ issued to rockfish cooperatives in the catcher/processor sector for that primary rockfish species. Expressed algebraically in the following equation:

Catcher/Processor Sector Rockfish Limited Access Fishery $TAC_s$ = [(Catcher/Processor Sector $TAC_s$) − (**Σ** CQ issued to rockfish cooperatives in the Catcher/Processor Sector).

(b) *Sector and LLP license allocations of secondary species*—(1) *General*. Each calendar year, the Regional Administrator will determine the tonnage of secondary species that may be assigned to the Rockfish Program. This amount will be assigned to the catcher/processor sector and the catcher vessel sector. The tonnage of fish assigned to a sector will be assigned only to rockfish cooperatives within that sector. CQ of secondary species is subject to the use limitations established in paragraph (b)(4) of this section.

(2) *Maximum amount of secondary species tonnage that may be assigned to the catcher/processor sector*. (i) Sum the amount of each secondary species retained by all vessels that gave rise to an LLP license with a catcher/processor designation or that fished under an LLP license with a catcher/processor designation during the directed fishery for any primary rockfish species in which the sum of the catch of all primary rockfish species for that legal rockfish landing exceeded the catch of all other groundfish during all qualifying season dates established in Table 28 to this part. This is the rockfish catcher/processor sector harvest for that secondary species.

(ii) Sum the amount of each secondary species retained by all vessels in the Central GOA regulatory Area and adjacent waters open by the State of Alaska for which it adopted a Federal fishing season from January 1, 1996, until December 31, 2002. This is the total secondary species harvest.

(iii) For each secondary species, divide the rockfish catcher/processor sector harvest by the total secondary species harvest and multiply by 100. This is the percentage of secondary species that may be assigned to the catcher/processor sector in the Rockfish Program fishery.

(iv) Multiply the percentage of each secondary species assigned to the catcher/processor sector in the Rockfish Program fishery by the TAC for that secondary species. This is the maximum amount of that secondary species that may be allocated to the catcher/processor sector in the Rockfish Program.

(v) The maximum amount of rougheye rockfish that may be allocated to the catcher/processor sector is equal to 58.87 percent of the TAC for the Central GOA.

(vi) The maximum amount of shortraker rockfish that may be allocated to the catcher/processor sector is equal to 30.03 percent of the TAC for the Central GOA.

(3) *Maximum amount of secondary species tonnage that may be assigned to the catcher vessel sector*. (i) Sum the amount of each secondary species retained by all vessels that gave rise to an LLP license with a catcher vessel designation or that fished under an LLP license with a catcher vessel designation during the directed fishery for any primary rockfish species in which the sum of the catch of all primary rockfish species for that legal rockfish landing exceeded the catch of all other groundfish during all qualifying season dates established in Table 28 to this part. This is the rockfish catcher vessel sector harvest for that secondary species.

(ii) Sum the amount of each secondary species retained by all vessels in the Central GOA regulatory Area and adjacent waters open by the State of Alaska for which it adopted a Federal fishing season from January 1, 1996, until December 31, 2002. This is the total secondary species harvest.

(iii) For each secondary species, divide the rockfish catcher vessel sector harvest by the total secondary species harvest and multiply by 100. This is the percentage of each secondary species that may be assigned to the catcher vessel sector in the Rockfish Program fishery.

(iv) Multiply the percentage of each secondary species assigned to the catcher vessel sector in the Rockfish Program fishery by the TAC for that secondary species. This is the maximum amount of that secondary species that may be allocated to the catcher vessel sector in the Rockfish Program.

(4) *Use of a secondary species by an eligible rockfish harvester*. Once the maximum amount of secondary species that may be assigned to a sector has been determined, the use of that specific amount that is assigned to that sector is governed by regulations applicable to the specific Rockfish Program fishery in which eligible rockfish harvesters are participating. The specific amount of each secondary species that may be used by eligible rockfish harvesters is determined by the following procedure:

(i) Secondary species may only be assigned to a rockfish cooperative. Once a secondary species is assigned to a rockfish cooperative it is issued as CQ, which may only be used by the rockfish cooperative to which it is assigned.

(ii) Secondary species are not assigned to a rockfish limited access fishery or the opt–out fishery and there is not a dedicated harvestable allocation for any specific participant in these rockfish fisheries.

(5) *Determining the amount of secondary species CQ assigned to a rockfish cooperative*. The amount of CQ for each secondary species that is assigned to each rockfish cooperative is determined according to the following procedures:

(i) *CQ assigned to rockfish cooperatives in the catcher/processor sector*. The CQ for a secondary species that is assigned to a rockfish cooperative is equal to the maximum amount of that secondary species that may be allocated to the catcher/processor sector in the Rockfish Program multiplied by the sum of the rockfish QS units for all primary rockfish species assigned to that rockfish cooperative divided by the sum of the rockfish QS units assigned to rockfish cooperatives and the limited access fishery for all primary rockfish species in the catcher/processor sector. Expressed algebraically in the following equation:

CQ for that Secondary Species = maximum amount of that Secondary Species that may be allocated to the Catcher/Processor Sector in the Rockfish Program x (**Σ** Rockfish QS

Units assigned to that Rockfish cooperative / Σ Rockfish QS Units assigned to all rockfish cooperatives and the Limited Access Fishery in the Catcher/Processor Sector)

(ii) *CQ assigned to rockfish cooperatives in the catcher vessel sector*. The CQ for a secondary species that is assigned to a specific rockfish cooperative is equal to the maximum amount of that secondary species that may be allocated to the catcher vessel sector in the Rockfish Program multiplied by the sum of the rockfish QS units for all primary rockfish species assigned to that rockfish cooperative divided by the rockfish QS pool for all primary rockfish species in the catcher vessel sector. Expressed algebraically in the following equation:

CQ for that Secondary Species = maximum amount of that Secondary Species that may be allocated to the Catcher Vessel Sector in the Rockfish Program x (Σ Rockfish QS Units assigned to that Rockfish Cooperative / Rockfish QS Pool in the Catcher Vessel Sector).

(c) *Sector and LLP license allocations of rockfish halibut PSC*—(1) *General*. Each calendar year, the Regional Administrator will determine the tonnage of rockfish halibut PSC that will be assigned to the Rockfish Program. This amount will be allocated to the appropriate sector, either the catcher/processor sector or the catcher vessel sector. The tonnage of rockfish halibut PSC assigned to a sector will be further assigned as CQ only to rockfish cooperative(s) within that sector.

(2) *Maximum amount of rockfish halibut PSC that may be assigned to the catcher/processor and catcher vessel sectors*. (i) Sum the amount of halibut PSC used by all vessels that gave rise to an LLP license or that fished under an LLP license used during the directed fishery for any primary rockfish species in which the sum of the catch of all primary rockfish species for that legal rockfish landing exceeded the catch of all other groundfish during all qualifying season dates established in Table 28 to this part. This is the rockfish halibut PSC amount.

(ii) Sum the amount of halibut PSC by all vessels in the GOA Regulatory Area and adjacent waters open by the State of Alaska for which it adopted a Federal fishing season from January 1, 1996, until December 31, 2002. This is the Total Halibut PSC.

(iii) Divide the rockfish halibut PSC amount by the total halibut PSC and multiply by 100. This is the percentage of rockfish halibut PSC assigned to the Rockfish Program fishery.

(iv) Multiply the percentage of rockfish halibut PSC assigned to the Rockfish Program fishery by the GOA halibut PSC limit. This is the maximum amount of rockfish halibut PSC that may be allocated to the Rockfish Program fishery.

(v) Multiply the maximum amount of rockfish halibut PSC that may be allocated to the Rockfish Program fishery by the percentage of the aggregate Rockfish QS assigned to the catcher/processor sector. This is the maximum amount of rockfish halibut PSC that may be allocated to the catcher/processor sector.

(vi) Multiply the maximum amount of rockfish halibut PSC that may be allocated to the Rockfish Program fishery by the percentage of the aggregate Rockfish QS assigned to the catcher vessel sector. This is the maximum amount of rockfish halibut PSC that may be allocated to the catcher vessel sector.

(3) *Use of rockfish halibut PSC by an eligible rockfish harvester*. Once the maximum amount of rockfish halibut PSC that may be assigned to a sector has been determined, the use of that specific amount that is assigned to that sector is governed by the specific Rockfish Program fishery in which eligible rockfish harvesters are participating.

(i) *Rockfish halibut PSC is assigned only to a rockfish cooperative*. Once rockfish halibut PSC is assigned to a rockfish cooperative, it is issued as CQ, which may only be used by the members of the rockfish cooperative to which it is assigned.

(ii) Rockfish halibut PSC is not assigned to a rockfish limited access fishery or the opt–out fishery and there is not a dedicated allocation for any specific participant in these rockfish fisheries.

(4) *Determining the amount of rockfish halibut PSC CQ assigned to a rockfish cooperative*. The amount of CQ of rockfish halibut PSC that is assigned to each rockfish cooperative is determined according to the following procedures:

(i) *CQ assigned to rockfish cooperatives in the catcher/processor sector*. The CQ for rockfish halibut PSC that is assigned to a specific rockfish cooperative is equal to the maximum amount of rockfish halibut PSC that may be allocated to the catcher/processor sector multiplied by the sum of the rockfish QS units for all primary rockfish species assigned to that rockfish cooperative divided by the sum of the rockfish QS units assigned to rockfish cooperatives and the limited access fishery for all primary rockfish species in the catcher/processor sector. This is expressed algebraically in the following equation:

CQ for Rockfish Halibut PSC to a specific rockfish cooperative = maximum amount of Rockfish Halibut PSC that may be allocated to the Catcher/Processor Sector x (**Σ** Rockfish QS Units assigned to that Rockfish Cooperative / **Σ** Rockfish QS Units assigned to all rockfish cooperatives and the Limited Access Fishery in the Catcher/Processor Sector).

(ii) *CQ assigned to rockfish cooperatives in the catcher vessel sector*. The CQ for rockfish halibut PSC that is assigned to a specific rockfish cooperative is equal to the maximum amount of rockfish halibut PSC that may be allocated to the catcher vessel sector multiplied by the sum of the rockfish QS units for all primary rockfish species assigned to that rockfish cooperative divided by the rockfish QS pool for all primary rockfish species in the catcher vessel sector. This is expressed algebraically in the following equation:

CQ for Rockfish Halibut PSC to a specific rockfish cooperative = maximum amount of Rockfish Halibut PSC that may be allocated to the Catcher Vessel Sector x (**Σ** Rockfish QS Units assigned to that Rockfish Cooperative/Rockfish QS Pool in the Catcher Vessel Sector).

(d) *Assigning rockfish QS to a Rockfish Program fishery*—(1) *General*. Each calendar year, a person that is participating in the Rockfish Program must assign any LLP license and any rockfish QS assigned to that LLP license to a Rockfish Program fishery by the process specified in paragraph (e) of this section. A person may assign an LLP license and any rockfish QS assigned to that LLP license to only one Rockfish Program fishery in a fishing year. Any rockfish QS assigned to a person's LLP license after NMFS has issued CQ or the TAC for that calendar year will not result in any additional CQ or TAC being issued for that rockfish QS for that calendar year.

(2) *Rockfish cooperatives in the catcher vessel sector*. An eligible rockfish harvester may assign rockfish QS to a rockfish cooperative in the catcher vessel sector if:

(i) That eligible rockfish harvester assigns the rockfish QS associated with that LLP license to a rockfish cooperative on a complete application for CQ that is approved by the Regional Administrator and that meets the requirements of paragraph (i) of this section; and

(ii) That rockfish QS is derived from legal rockfish landings assigned to the catcher vessel sector.

(3) *Rockfish cooperative in the catcher/processor sector*. An eligible rockfish harvester may assign rockfish QS to a rockfish cooperative in the catcher/processor sector if:

(i) That eligible rockfish harvester assigns the rockfish QS associated with that LLP license to a rockfish cooperative on a complete application for CQ that is approved by the Regional Administrator and that meets the requirements of paragraph (i) of this section; and

(ii) That rockfish QS is derived from legal rockfish landings assigned to the catcher/processor sector.

(4) *Rockfish limited access fishery*. (i) An eligible rockfish harvester may assign rockfish QS to a rockfish limited access fishery if that eligible rockfish harvester:

(A) Assigns the rockfish QS associated with that LLP license to a limited access fishery on a complete application for the rockfish limited access

fishery that is approved by the Regional Administrator; or

(B) Does not submit a complete application for CQ, or an application for the opt–out fishery that is approved.

(ii) The rockfish QS is assigned to the rockfish limited access fishery in the catcher vessel sector if that rockfish QS is assigned to the catcher vessel sector.

(iii) The rockfish QS is assigned to the rockfish limited access fishery in the catcher/processor sector if that rockfish QS is assigned to the catcher/processor sector.

(5) *Opt–out fishery*. An eligible rockfish harvester may assign rockfish QS assigned to the catcher/processor sector to the opt–out fishery if that eligible rockfish harvester assigns the rockfish QS associated with that LLP license to the opt–out fishery on a complete application for the opt–out fishery that is approved by the Regional Administrator.

(6) *Rockfish entry level fishery*. (i) A rockfish entry level harvester may assign an LLP license to the rockfish entry level fishery if that rockfish entry level harvester assigns that LLP license to the rockfish entry level fishery on a complete application for the entry level fishery that is approved by the Regional Administrator.

(ii) A rockfish entry level processor may participate in the rockfish entry level fishery if that rockfish entry level processor submits a complete application for the entry level fishery that is approved by the Regional Administrator.

(e) *Applications for a Rockfish Program fishery*—(1) *General*. Applications to participate in a Rockfish Program fishery are required to be submitted each year. A person who wishes to participate in a particular Rockfish Program fishery must submit a timely and complete application that is appropriate to that Rockfish Program fishery. These applications may only be submitted to NMFS using the following methods:

(i) Mail: Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668;

(ii) Fax: 907–586–7354; or

(iii) Hand Delivery or Carrier: NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(2) *Forms*. Forms are available through the internet on the NMFS Alaska Region website at *http://www.fakr.noaa.gov*, or by contacting NMFS at: 800–304–4846, Option 2.

(3) *Deadline*. A completed application must be received by NMFS no later than 1700 hours A.l.t. on March1 of the year for which the applicant wishes to participate in a Rockfish Program fishery, or if sent by U.S. mail, the application must be postmarked by that time.

(4) *Application for CQ*. A rockfish cooperative that submits a complete application that is approved by NMFS will receive a CQ permit that establishes an annual amount of primary rockfish species, secondary species, and rockfish halibut PSC that is based on the collective rockfish QS of the LLP licenses assigned to the rockfish cooperative by its members. A CQ permit will list the amount of CQ, by fishery, held by the rockfish cooperative, the members of the rockfish cooperative and LLP licenses assigned to that rockfish cooperative, and the vessels which are authorized to harvest fish under that CQ permit.

(i) *Contents of an application for CQ*. A completed application must contain the following information:

(A) *Rockfish cooperative identification*. The rockfish cooperative's legal name; the type of business entity under which the rockfish cooperative is organized; the state in which the rockfish cooperative is legally registered as a business entity; Tax ID number, date of incorporation, the printed name of the rockfish cooperative's designated representative; the permanent business address, telephone number, fax number, and e-mail address (if available) of the rockfish cooperative or its designated representative; and the signature of the rockfish cooperative's designated representative and date signed.

(B) *Members of the rockfish cooperative—(1) Harvester identification*. Full name, NMFS Person ID, LLP license number(s), Tax ID or SSN, name of the vessel(s), ADF&G vessel registration number, and USCG documentation number of vessel(s) on which the CQ

issued to the rockfish cooperative will be used.

(*2*) *LLP holdership documentation*. Provide the names of all persons, to the individual level, holding an ownership interest in the LLP license(s) assigned to the rockfish cooperative and the percentage ownership each person and individual holds in the LLP license(s).

(C) *Processor associates of the rockfish cooperative—(1) Identification*. Full name, NMFS Person ID, Tax ID, facility name, ADF&G processor code, SFP vessel name, ADF&G vessel registration number, and USCG documentation number of vessel (if a vessel), and Federal Processor Permit for each processing facility or vessel.

(*2*) *Processor ownership documentation*. Provide the names of all persons, to the individual person level, holding an ownership interest in the processor and the percentage ownership each person and individual holds in the processor.

(D) *Additional documentation*. For the cooperative application to be considered complete, the following documents must be attached to the application:

(*1*) A copy of the business license issued by the state in which the rockfish cooperative is registered as a business entity;

(*2*) A copy of the articles of incorporation or partnership agreement of the rockfish cooperative;

(*3*) A copy of the rockfish cooperative agreement signed by the members of the rockfish cooperative (if different from the articles of incorporation or partnership agreement of the rockfish cooperative) that includes terms that specify that:

(*i*) Eligible rockfish processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law; and

(*ii*) The rockfish cooperative must establish a monitoring program sufficient to ensure compliance with the Rockfish Program; and

(E) *Applicant signature and certification*. The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an designated representative, then explicit authorization signed by the applicant must accompany the application.

(ii) *Issuance of CQ*. Issuance by NMFS of a CQ permit is not a determination that the rockfish cooperative is formed or is operating in compliance with antitrust law.

(5) *Application for the rockfish limited access fishery*. An eligible rockfish harvester who wishes to participate in the rockfish limited access fishery for a calendar year must submit an application for the rockfish limited access fishery.

(i) *Contents of application for the rockfish limited access fishery*. A completed application must contain the following information:

(A) *Applicant identification*. The applicant's name, NMFS person ID (if applicable), tax ID or social security number, date of birth or date of incorporation, permanent business mailing address, business telephone number, fax number, and e-mail (if available);

(B) Indicate (YES or NO) whether the applicant is an eligible rockfish harvester;

(C) Indicate (YES or NO) whether the applicant is participating in the rockfish limited access fishery;

(D) *Vessel identification*. The name of the vessel, ADF&G vessel registration number, USCG documentation number, and LLP license number(s) held by the applicant and used on that vessel in this rockfish limited access fishery;

(E) *LLP holdership documentation*. Provide the names of all persons, to the individual person level, holding an ownership interest in the LLP license assigned to the rockfish limited access fishery and the percentage ownership each person and individual holds in the LLP license; and

(F) *Signature and certification*. The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an designated representative, then explicit authorization signed by the applicant must accompany the application.

(ii) [Reserved]

(6) *Application to opt–out*. An eligible rockfish harvester who wishes to opt–

out of the Rockfish Program for a calendar year with an LLP license assigned rockfish QS in the catcher/processor sector must submit an application to opt–out.

(i) *Contents of application to opt–out.* A completed application must contain the following information:

(A) *Applicant identification.* The applicant's name, NMFS person ID (if applicable), tax ID or social security number, date of birth or date of incorporation, permanent business mailing address, business telephone number, fax number, and e-mail (if available);

(B) Indicate (YES or NO) whether the applicant is an eligible rockfish harvester;

(C) Indicate (YES or NO) whether the applicant is opting-out of the Rockfish Program;

(D) Indicate (YES or NO) whether the applicant holds an LLP license with rockfish QS assigned to the catcher/processor sector;

(E) *Vessel identification.* The name of the vessel, ADF&G vessel registration number, USCG documentation number, and LLP license number(s) held by the applicant and used on that vessel;

(F) *LLP holdership documentation.* Provide the names of all persons, to the individual level, holding an ownership interest in the LLP license and the percentage ownership each person and individual holds in the LLP license; and

(G) *Signature and certification.* The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an designated representative, then explicit authorization signed by the applicant must accompany the application.

(ii) [Reserved]

(7) *Application for the rockifsh entry level fishery.* A rockfish entry level harvester who wishes to participate in the rockfish entry level fishery must submit an application for the rockifsh entry level fishery.

(i) Contents of application for the entry level fishery. A completed application must contain the following information:

(A) The applicant's name, NMFS person ID (if applicable), tax ID or social security number (required), permanent business mailing address, and business telephone number, fax number, and e-mail address (if available);

(B) Indicate (YES or NO) whether applicant is a U.S. citizen, U.S. corporation, partnership; association, or other business entity; if YES, enter the date of birth or date of incorporation;

(C) For harvesters who are applying to participate in the entry level fishery, enter the name, ADF&G vessel registration number, and USCG documentation number of the vessel to be used in the entry level fishery, and LLP license number(s) held by the applicant and used on that vessel in the rockfish entry level fishery;

(D) Harvesters who are applying to participate in the entry level fishery must attach a statement from an eligible entry level processor that affirms that the harvester has a market for any rockfish delivered by that harvester in the entry level fishery; and

(E) The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an designated representative, then explicit authorization signed by the applicant must accompany the application.

(ii) [Reserved]

(f) *Transfer applications.* A rockfish cooperative may transfer all or part of its CQ to another rockfish cooperative. This transfer requires the submission of an application for inter-cooperative transfer to NMFS.

(1) *Application for inter-cooperative transfer.* NMFS will notify the transferor and transferee once the application has been received and approved. A transfer of CQ is not effective until approved by NMFS. A completed transfer of CQ issued to a rockfish cooperative requires that the following information be provided to NMFS in the application for inter-cooperative transfer:

(i) *Identification of transferor.* Enter the name of the rockfish cooperative; NMFS Person ID; name of the rockfish cooperative's designated representative; permanent business mailing address; and business telephone number, fax number, and e-mail address (if available) of the rockfish cooperative

designated representative. A temporary mailing address for each transaction may also be provided.

(ii) *Identification of transferee.* Enter the name of the rockfish cooperative; NMFS Person ID(s); name of rockfish cooperative's designated representative; permanent business mailing address; and business telephone number, fax number, and e-mail address (if available) of the rockfish cooperative designated representative. A temporary mailing address for each transaction may also be provided.

(iii) *Identification of rockfish cooperative member.* Enter the name and NMFS Person ID of the member(s) to whose use cap the rockfish cooperative CQ will be applied, and the amount of CQ applied to each member for purposes of applying use caps established under the Rockfish Program under § 679.82(a).

(iv) *CQ to be transferred.* Identify the type and amount of Primary species, secondary species, or rockfish halibut PSC CQ to be transferred.

(v) *Certification of transferor.* The rockfish cooperative transferor's designated representative and the eligible rockfish processor with whom that rockfish cooperative in the catcher vessel sector is associated must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. Also enter the printed name of the rockfish cooperative transferor's designated representative. Explicit authorization for the designated representative to act on behalf of the rockfish cooperatives must accompany the application.

(vi) Certification of transferee. The rockfish cooperative transferee's designated representative and the eligible rockfish processor with whom that rockfish cooperative in the catcher vessel sector is associated must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. Also enter the printed name of the rockfish cooperative transferee's designated representative. Explicit authorization for the designated representative to act on behalf of the rockfish cooperatives must accompany the application.

(2) [Reserved]

(g) *Transfer of processor eligibility.* A person may not transfer eligibility to receive and process under the Rockfish Program to another person except:

(1) As provided for under § 679.80(c)(2)(ii); or

(2) If an eligible rockfish processor transfers complete ownership of a stationary floating processor or shoreside processing facility and all processing history associated with that stationary floating processor or shoreside processing facility to another person.

(3) *Limitation on use of processor eligibility.* Any person becoming an eligible rockfish processor by transfer may not receive fish harvested under the Rockfish Program outside of the community listed by the original recipient of the processor eligibility in the application to participate in the Rockfish Program under § 679.80(e)(4)(ii)(C).

(4) *Non-severability of processor eligibility.* An eligible rockfish processor permit may not be divided or suballocated.

(h) *Maximum retainable amount (MRA) limits*—(1) *Rockfish cooperative.* A vessel assigned to a rockfish cooperative and fishing under a CQ permit may harvest groundfish species not allocated as CQ up to the amounts of the MRAs for those species as established in Table 30 to this part.

(2) *Catcher/processor sector rockfish limited access fishery.* An eligible rockfish harvester in the catcher/processor rockfish limited access fishery may harvest groundfish species other than primary rockfish species up to the amounts of the MRAs for those species as established in Table 30 to this part.

(3) *Catcher vessel sector rockfish limited access fishery.* An eligible rockfish harvester in the catcher vessel rockfish limited access fishery may harvest groundfish species other than primary rockfish species up to the amounts of the MRAs for those species as established in Table 30 to this part.

(4) *Opt–out fishery.* An eligible rockfish harvester in the opt–out fishery may harvest groundfish species other than primary rockfish species up to the amounts of the MRAs for those species as established in Table 10 to this part.

(5) *Rockfish entry level fishery.* An rockfish entry level harvester in the

rockfish entry level fishery may harvest groundfish species other than primary rockfish species up to amounts of the MRAs for those species as established in Table 10 to this part.

(6) *Maximum retainable amounts (MRA).* (i) The MRA for an incidental catch species for vessels participating in a rockfish cooperative, or a rockfish limited access fishery, is calculated as a proportion of the total allocated primary rockfish species on board the vessel in round weight equivalents using the retainable percentage in Table 30 to this part; except that:

(ii) In the catcher vessel sector, shortraker and rougheye rockfish are incidental catch species and are limited to an aggregate MRA of 2.0 percent of the retained weight of all primary rockfish species during that fishing trip.

(iii) Once the amount of shortraker rockfish harvested in the catcher vessel sector is equal to 9.72 percent of the shortraker rockfish TAC in the Central GOA regulatory area, then shortraker rockfish may not be retained by any participant in the catcher vessel sector.

(iv) In the rockfish limited access fishery for the catcher/processor sector, shortraker and rougheye rockfish are incidental catch species and are limited to an aggregate MRA of 2.0 percent of the retained weight of all primary rockfish species during that fishing trip.

(v) Once the amount of shortraker rockfish harvested in the catcher/processor sector is equal to 30.03 percent of the shortraker rockfish TAC in the Central GOA regulatory area, then shortraker rockfish may not be retained in the rockfish limited access fishery in the catcher/processor sector.

(vi) Once the amount of rougheye rockfish harvested in the catcher/processor sector is equal to 58.87 percent of the rougheye rockfish TAC in the Central GOA regulatory area, then rougheye rockfish may not be retained in the rockfish limited access fishery in the catcher/processor sector.

(i) *Rockfish cooperative*—(1) *General.* This section governs the formation and operation of rockfish cooperatives. The regulations in this section apply only to rockfish cooperatives that have formed for the purpose of applying for and fishing with CQ issued annually by NMFS. Members of rockfish cooperatives should consult legal counsel before commencing any activity if the members are uncertain about the legality under the antitrust laws of the rockfish cooperative's proposed conduct. Membership in a rockfish cooperative is voluntary. No person may be required to join a rockfish cooperative. Upon receipt of written notification that a person is eligible and wants to join a rockfish cooperative, that rockfish cooperative must allow that person to join subject to the terms and agreements that apply to the members of the cooperative as established in the contract governing the conduct of the rockfish cooperative. Members may leave a rockfish cooperative, but any CQ contributed by the rockfish QS held by that member remains assigned to that rockfish cooperative for the remainder of the calendar year. An LLP license or vessel that has been assigned to a rockfish cooperative in the catcher/processor sector that leaves a rockfish cooperative continues to be subject to the sideboard limits established for that rockfish cooperative under § 679.82(d) and (f), for that calendar year. If a person becomes the holder of an LLP license that has been assigned to a rockfish cooperative, then that person may join that rockfish cooperative upon receipt of that LLP license.

(2) *Legal and organizational requirements.* A rockfish cooperative must meet the following legal and organizational requirements before it is eligible to receive CQ:

(i) Each rockfish cooperative must be formed as a partnership, corporation, or other legal business entity that is registered under the laws of one of the 50 states or the District of Columbia;

(ii) Each rockfish cooperative must appoint an individual as designated representative to act on the rockfish cooperative's behalf and serve as contact point for NMFS for questions regarding the operation of the rockfish cooperative. The designated representative must be an individual, and may be a member of the rockfish cooperative, or some other individual designated by the rockfish cooperative;

(iii) Each rockfish cooperative must submit a complete and timely application for CQ;

(iv) Each rockfish cooperative must meet the mandatory requirements established in paragraphs (i)(3) and (4) of this section applicable to that rockfish cooperative.

(3) *Mandatory requirements*. The following table describes the requirements to form a rockfish cooperative in the catcher vessel or catcher/processor sector.

| Requirement | Catcher Vessel Sector | Catcher/Processor Vessel Sector |
|---|---|---|
| (i) Who may join a rockfish cooperative? | Only persons who are eligible rockfish harvesters may join a rockfish cooperative. Persons who are not eligible rockfish harvesters may be employed by, or serve as the designated representative of a rockfish cooperative, but are not members of the rockfish cooperative. | |
| (ii) What is the minimum number of LLP licenses that must be assigned to form a rockfish cooperative? | No minimum requirement. | 2 LLP licenses assigned rockfish QS in the catcher/processor sector. These licenses can be held by one or more persons. |
| (iii) Is an association with an eligible rockfish processor required? | Yes. An eligible rockfish harvester may only be a member of a rockfish cooperative formed in association with an eligible rockfish processor to which the harvester made the plurality of legal rockfish landings assigned to the LLP license(s) during the applicable processor qualifying period chosen by an eligible rockfish processor in the application to participate in the Rockfish Program. | No |
| (iv) What if an eligible rockfish harvester did not deliver any legal rockfish landings assigned to an LLP license to an eligible rockfish processor during a processor qualifying period? | That eligible rockfish harvester can assign that LLP license to any rockfish cooperative. | N/A |
| (v) What is the processor qualifying period? | The processor qualifying period is the four of five years from 1996 through 2000 that are used to establish the legal rockfish landings that are considered for purposes of establishing an association with an eligible rockfish processor. Each eligible rockfish processor will select a processor qualifying period in the application to participate in the Rockfish Program. An eligible rockfish harvester that has acquired the processing history of a shoreside processor or stationary floating processor under the provisions of § 679.80(c)(2)(ii) must select only one processor qualifying period that is applicable to the aggregated processing history held by that eligible rockfish processor. The processor qualifying period may not be changed once selected for that eligible rockfish processor, including upon transfer of processor eligibility. The same processor qualifying period will be used for all LLP licenses to determine the legal rockfish landings that are considered for purposes of eligible rockfish harvesters establishing an association with an eligible rockfish processor. | N/A |
| (vi) Is there a minimum amount of rockfish QS that must be assigned to a rockfish cooperative for it to be allowed to form? | Yes. A rockfish cooperative must be assigned rockfish QS that represents at least 75 percent of all the legal rockfish landings that yields Rockfish QS of primary rockfish species delivered to that eligible rockfish processor during the four years selected by that processor. | No |
| (vii) What is allocated to the rockfish cooperative? | CQ for primary rockfish species, secondary species, and rockfish halibut PSC, based on the rockfish QS assigned to all of the LLP licenses that are assigned to the cooperative. | |
| (viii) Is this CQ an exclusive harvest privilege? | Yes, the members of the rockfish cooperative have an exclusive harvest privilege to collectively catch this CQ, or a cooperative can transfer all or a portion of this CQ to another rockfish cooperative. | |

| Requirement | Catcher Vessel Sector | Catcher/Processor Vessel Sector |
|---|---|---|
| (ix) Is there a season during which designated vessels must catch CQ? | Yes, any vessel designated to catch CQ for a rockfish cooperative is limited to catching CQ during the season beginning on 1200 hours, A.l.t. on May 1 through 1200 hours A.l.t. on November 15. | |
| (x) Can any vessel catch a rockfish cooperative's CQ? | No, only vessels that are named on the application for CQ for that rockfish cooperative can catch the CQ assigned to that rockfish cooperative. A vessel may be assigned to only one rockfish cooperative in a calendar year. | |
| (xi) Can the member of a rockfish cooperative transfer CQ individually without the approval of the other members of the rockfish cooperative? | No, only the rockfish cooperative's designated representative, and not individual members, may transfer its CQ to another rockfish cooperative, but only if that transfer is approved by NMFS as established under paragraph (i) of this section. | |
| (xii) Can a rockfish cooperative in the catcher/processor sector transfer its sideboard limit? | N/A | No, sideboard limits assigned to a rockfish cooperative in the catcher/processor sector is a limit applicable to a specific rockfish cooperative, and may not be transferred between rockfish cooperatives. |
| (xiii) Is there a hired master requirement? | No, there is no hired master requirement. | N/A |
| (xiv) Can an LLP license be assigned to more than one rockfish cooperative in a calendar year? | No. An LLP license can only be assigned to one rockfish cooperative in a calendar year. An eligible rockfish harvester holding multiple LLP licenses may assign different LLP licenses to different rockfish cooperatives subject to any other restrictions that may apply. | |
| (xv) Can an eligible rockfish processor be associated with more than one rockfish cooperative? | An eligible rockfish processor can only associate with one rockfish cooperative per year at each shoreside processor or stationary floating processor owned by that eligible rockfish processor. An eligible rockfish processor who holds more than one processing history based on a transfer of processing history under the provisions of § 679.80(c)(2)(ii) would be issued a single eligible rockfish processor permit that aggregates the processing history held by that eligible rockfish processor. That eligible rockfish processor may form an association with a rockfish cooperative with the eligible rockfish harvesters eligible to form a rockfish cooperative based on the aggregated processing history of that eligible rockfish processor and may receive rockfish delivered by that rockfish cooperative at a shoreside processor or stationary floating processor owned by that eligible rockfish processor subject to any other restrictions that may apply. | N/A |
| (xvi) Can an LLP license be assigned to a rockfish cooperative and the rockfish limited access fishery or opt-out fishery? | No. Once an LLP license is assigned to a rockfish cooperative, any rockfish QS assigned to that LLP license yields CQ for that rockfish cooperative for the calendar year. An LLP license may only be assigned to one Rockfish Program fishery in a calendar year. | |
| (xvii) Which members may harvest the rockfish cooperative's CQ? | That is determined by the rockfish cooperative contract signed by its members. Any violations of this contract by one cooperative member may be subject to civil claims by other members of the rockfish cooperative. | |
| (xviii) Does a rockfish cooperative need a contract? | Yes, a rockfish cooperative must have a membership agreement or contract that specifies how the rockfish cooperative intends to harvest its CQ. A copy of this agreement or contract must be submitted with the application for CQ. | |
| (xix) What happens if the rockfish cooperative exceeds its CQ amount? | A rockfish cooperative is not authorized to catch fish in excess of its CQ. Exceeding a CQ is a violation of the regulations. Each member of the rockfish cooperative is jointly and severally liable for any violations of the Rockfish Program regulations while fishing under authority of a CQ permit. This liability extends to any persons who are hired to catch or receive CQ assigned to a rockfish cooperative. Each member of a rockfish cooperative is responsible for ensuring that all members of the rockfish cooperative comply with all regulations applicable to fishing under the Rockfish Program. | |

| Requirement | Catcher Vessel Sector | Catcher/Processor Vessel Sector |
|---|---|---|
| (xx) Is there a limit on how much CQ a rockfish cooperative may hold or use? | Yes, generally, a rockfish cooperative may not hold or use more than 30 percent of the aggregate primary rockfish species CQ assigned to the catcher vessel sector for that calendar year. See § 679.82(a) for the provisions that apply. | No, but a catcher/processor vessel is still subject to any vessel use caps that may apply. See § 679.82(a) for the use cap provisions that apply. |
| (xxi) Is there a limit on how much CQ a vessel may harvest? | No. However, a vessel may not catch more CQ than the CQ assigned to that rockfish cooperative for which it is authorized to fish. | Yes, generally, no vessel may harvest more than 60 percent of the aggregate primary rockfish species TAC assigned to the catcher/processor sector for that calendar year, unless exempt from this restriction. See § 679.82(a) for the provisions that apply. |
| (xxii) If my vessel is fishing in a directed flatfish fishery in the Central GOA and I catch groundfish and halibut PSC, does that count against the rockfish cooperative's CQ? | (A) Any vessel authorized to harvest the CQ assigned to a rockfish cooperative must count any catch of primary rockfish species, secondary species, or rockfish halibut PSC against that rockfish cooperative's CQ from May 1 until November 15, or until the effective date of a rockfish cooperative termination of fishing declaration that has been approved by NMFS.<br>(B) Groundfish harvests would not be debited against the rockfish cooperative's CQ if the vessel is not authorized to harvest CQ. In this case, any catch of halibut would be attributed to the halibut PSC limit for that directed target fishery and gear type. | |
| (xxiii) Can my rockfish cooperative negotiate prices for me? | The rockfish cooperatives formed under the Rockfish Program are intended to conduct and coordinate harvest activities for their members. Rockfish cooperatives formed under the Rockfish Program are subject to existing antitrust laws. Collective price negotiation by a rockfish cooperative must be conducted in accordance with existing antitrust laws. | |
| (xxiv) Are there any special reporting requirements? | Yes, each year a rockfish cooperative must submit an annual rockfish cooperative report to NMFS by December 15 of each year. The annual rockfish cooperative report may be made available to NMFS by mailing a copy to NMFS: Regional Administrator, P.O. Box 21668, Juneau, AK, 99802. | |
| (xxv) What is required in the annual rockfish cooperative report? | The annual rockfish cooperative report must include at a minimum:<br>(A) The rockfish cooperative's CQ, sideboard limit (if applicable), and any rockfish sideboard fishery harvests made by the vessels in the rockfish cooperative on a vessel-by-vessel basis;<br>(B) The rockfish cooperative's actual retained and discarded catch of CQ, and sideboard limit on an area-by-area and vessel-by-vessel basis;<br>(C) A description of the method used by the rockfish cooperative to monitor fisheries in which rockfish cooperative vessels participated;<br>(D) A description of any civil actions taken by the rockfish cooperative in response to any members that exceeded their allowed catch. | |

(4) *Additional mandatory requirements*—(i) *Calculation of minimum legal rockfish landings for forming a rockfish cooperative*. If an eligible rockfish harvester holds an LLP license with rockfish QS for the catcher vessel sector that does not have any legal rockfish landings associated with an eligible rockfish processor from January 1, 1996, through December 31, 2000, during the fishery seasons established in Table 28 to this part, that eligible rockfish harvester may join any rockfish cooperative with that LLP license. Any such eligible rockfish harvester that joins a rockfish cooperative may not be considered as contributing an amount of Rockfish QS necessary to meet a minimum of 75 percent of the legal rockfish landings that yielded Rockfish QS delivered to that eligible rockfish processor during the four calendar years selected by that eligible rockfish processor for the purposes of establishing the rockfish cooperative.

(ii) *Restrictions on fishing CQ assigned to a rockfish cooperative*. A person fishing CQ assigned to a rockfish cooperative must maintain a copy of the CQ permit onboard any vessel that is being used to harvest any primary rockfish species, or secondary species, or that uses any rockfish halibut PSC.

(iii) *Transfer of CQ between rockfish cooperatives*. Rockfish cooperatives may transfer CQ during a calendar year with the following restrictions:

(A) A rockfish cooperative may only transfer CQ to another rockfish cooperative;

(B) A rockfish cooperative may only receive CQ from another rockfish cooperative;

(C) A rockfish cooperative in the catcher vessel sector may not transfer any CQ to a rockfish cooperative in the catcher/processor sector;

(D) A rockfish cooperative receiving primary rockfish species CQ by transfer must assign that primary rockfish species CQ to a member(s) of the rockfish cooperative for the purposes of applying the use caps established under § 679.82(a). Secondary species or halibut PSC CQ is not assigned to a specific member of a rockfish cooperative;

(E) A rockfish cooperative may not transfer any sideboard limit assigned to it; and

(F) A rockfish cooperative may not receive any CQ by transfer after NMFS has approved a rockfish cooperative termination of fishing declaration that was submitted by that rockfish cooperative.

(5) *Use of CQ*. (i) A rockfish cooperative in the catcher vessel sector may not use a primary rockfish species CQ in excess of the amounts specified in § 679.82(a).

(ii) Rockfish cooperative primary rockfish species CQ transferred to another rockfish cooperative will apply to the use caps of a named member(s) of the rockfish cooperative receiving the CQ, as specified in the transfer application.

(A) Each pound of CQ must be assigned to a member of the rockfish cooperative receiving the CQ for purposes of use cap calculations. No member of a rockfish cooperative may exceed the CQ use cap applicable to that member.

(B) For purposes of CQ use cap calculation, the total amount of CQ held or used by a person is equal to all tons of CQ derived from the Rockfish QS held by that person and assigned to the rockfish cooperative and all tons of CQ assigned to that person by the rockfish cooperative from approved transfers.

(C) The amount of rockfish QS held by a person, and CQ derived from that rockfish QS is calculated using the individual and collective use cap rule established in § 679.82(a).

(6) *Successors-in-interest*. If a member of a rockfish cooperative dies (in the case of an individual) or dissolves (in the case of a business entity), the LLP license(s) and associated rockfish QS held by that person will be transferred to the legal successor-in-interest under the procedures described at § 679.4(k)(6)(iv)(A). However, the CQ derived from that rockfish QS and assigned to the rockfish cooperative for that year from that person remains under the control of the rockfish cooperative for the duration of that calendar year. Each rockfish cooperative is free to establish its own internal procedures for admitting a successor-in-interest during the fishing season to reflect the transfer of an LLP license and associated rockfish QS, or the transfer of the processor eligibility due to the death or dissolution of a rockfish cooperative member or associated eligible rockfish processor.

### § 679.82 Rockfish Program use caps and sideboard limits.

(a) *Use caps*—(1) *General*. Use caps limit the amount of rockfish QS and CQ of primary rockfish species that may be held or used by an eligible rockfish harvester, and the amount of primary rockfish species TAC that may be received, by an eligible rockfish processor. Use caps do not apply to secondary species or halibut PSC CQ. Use caps may not be exceeded unless the entity subject to the use cap is specifically allowed to exceed a cap according to the criteria established under this paragraph (a) or by an operation of law. There are three types of use caps: person use caps; vessel use caps; and processor use caps. Person use caps limit the maximum amount of aggregate rockfish QS a person may hold and the maximum amount of aggregate primary rockfish species CQ that a person may hold or use. Person use caps apply to eligible rockfish harvesters and rockfish cooperatives. Vessel use caps limit the maximum amount of aggregate primary rockfish species CQ that a vessel operating as a catcher/processor may harvest. Processor use caps limit the maximum amount of aggregate primary rockfish species that may be received or processed by an eligible rockfish processor. All rockfish QS use caps are based on the aggregate primary rockfish species initial rockfish QS pool established by NMFS.

(2) *Eligible rockfish harvester use cap.* An eligible rockfish harvester may not individually or collectively hold or use more than:

(i) Five (5.0) percent of the aggregate rockfish QS initially assigned to the catcher vessel sector and resulting CQ unless that eligible rockfish harvester qualifies for an exemption to this use cap under paragraph (a)(6) of this section;

(ii) Twenty (20.0) percent of the aggregate rockfish QS initially assigned to the catcher/processor sector and resulting CQ unless that eligible rockfish harvester qualifies for an exemption to this use cap under paragraph (a)(6) of this section.

(3) *CQ use cap for rockfish cooperatives in the catcher vessel sector.* A rockfish cooperative may not hold or use an amount of CQ that is greater than the amount derived from 30.0 percent of the aggregate rockfish QS initially assigned to the catcher vessel sector unless the sum of the aggregate rockfish QS held by the eligible members of that rockfish cooperative prior to June 6, 2005 exceeds this use cap.

(4) *CQ use cap for a vessel in the catcher/processor sector.* (i) A vessel harvesting CQ in the catcher/processor sector may not harvest an amount of CQ that is greater than the amount derived from 60.0 percent of the aggregate rockfish QS initially assigned to the catcher/processor sector; unless:

(ii) the CQ harvested by a vessel is not greater than the amount of CQ derived from the rockfish QS assigned to the LLP licence(s) that was used on that vessel prior to June 6, 2005; and

(iii) This amount is greater than the CQ use cap for a vessel in the catcher/processor sector.

(5) *Primary rockfish species use cap for eligible rockfish processors.* (i) An eligible rockfish processor may not receive or process in excess of 30.0 percent of the aggregate primary rockfish species TAC, including CQ, assigned to the catcher vessel sector unless that eligible rockfish processor is receiving or processing an amount of aggregate primary rockfish species TAC that is not greater than the sum of the aggregate rockfish CQ derived from the amount of Rockfish QS initially assigned to those eligible rockfish harvesters eligible to form a rockfish cooperative in association with that eligible rockfish processor.

(ii) The amount of aggregate primary rockfish species TAC that is received by an eligible rockfish processor is calculated based on the sum of all aggregate primary rockfish species TAC, including CQ, received or processed by that eligible rockfish processor and the aggregate primary rockfish species TAC received or processed by any person in which that eligible rockfish processor has a ''Ten percent or greater direct or indirect ownership interest for purposes of the Rockfish Program'' as that term is defined in § 679.2.

(6) *Use cap exemptions*—(i) *Rockfish QS.* An eligible rockfish harvester may receive an initial allocation of aggregate rockfish QS in excess of the use cap in that sector only if that rockfish QS is assigned to LLP license(s) held by that eligible rockfish harvester prior to June 6, 2005, and at the time of application to participate in the Rockfish Program.

(ii) *Transfer limitations.* (A) An eligible rockfish harvester that receives an initial allocation of aggregate rockfish QS that exceeds the use cap listed in paragraph (a)(2) of this section shall not receive any rockfish QS by transfer unless and until that person's holdings of aggregate rockfish QS in that sector are reduced to an amount below the use cap specified in paragraph (a)(2) of this section.

(B) If an eligible rockfish harvester receives an initial allocation of aggregate rockfish QS that exceeds the use cap listed in paragraph (a)(2) of this section, and that eligible rockfish harvester transfers rockfish QS to another person, and the amount of aggregate rockfish QS held by that eligible rockfish harvester after the transfer is greater than the use cap established in paragraph (a)(2) of this section, that eligible rockfish harvester may not hold more than the amount of aggregate rockfish QS remaining after the transfer.

(C) An eligible rockfish harvester that receives an initial allocation of aggregate rockfish QS that exceeds the use cap listed in paragraph (a)(2) of this section may not receive any rockfish

QS by transfer or have any CQ attributed to that eligible rockfish harvester by a rockfish cooperative unless and until that person's holdings of aggregate rockfish QS in that sector are reduced to an amount below the use cap specified in paragraph (a)(2) of this section.

(iii) *CQ*. A rockfish cooperative may use CQ in excess of the use cap in that sector only if that CQ is derived from the rockfish QS assigned to an LLP license that was held by an eligible rockfish harvester prior to June 6, 2005 and that eligible rockfish harvester is eligible to join that cooperative.

(b) *Rockfish limited access fishery*—(1) *General*. (i) An eligible rockfish harvester may use an LLP license and assigned rockfish QS in the appropriate rockfish limited access fishery only if:

(A) That person submitted a complete and timely application for the rockfish limited access fishery that is approved by NMFS; or

(B) That LLP is not assigned to a rockfish cooperative for that calendar year, and that person has not submitted a complete and timely application to opt–out of the Rockfish Program that is approved by NMFS.

(ii) [Reserved]

(2) *Limited access fishery sectors*. (i) If an LLP license with rockfish QS in the catcher vessel sector is assigned to a limited access fishery, it is assigned to the catcher vessel rockfish limited access fishery.

(ii) If an LLP license with a rockfish QS in the catcher/processor sector is assigned a limited access fishery, it is assigned to the catcher/processor rockfish limited access fishery.

(3) *Primary rockfish species harvest limit*. All vessels that are participating in a rockfish limited access fishery may harvest an amount of primary rockfish species not greater than the TAC assigned to that primary rockfish species for the rockfish limited access fishery in that sector.

(4) *Secondary species allocations*. Secondary species shall be managed based on an MRA as established under Table 30 to this part.

(5) *Rockfish halibut PSC allocations*. Halibut caught by vessels in the rockfish limited access fishery shall be accounted against the halibut PSC allocation to the deep water species fishery complex for trawl gear for that seasonal apportionment. If the halibut PSC limit in the deep water fishery complex has been reached or exceeded for that seasonal apportionment, the rockfish limited access fishery will be closed until deep water species fishery complex halibut PSC is available for that sector.

(6) *Opening of the rockfish limited access fishery*. The Regional Administrator maintains the authority to not open a rockfish limited access fishery if he deems it appropriate for conservation or other management measures. Factors such as the total allocation, anticipated harvest rates, and number of participants will be considered in making any such decision.

(c) *Opt–out fishery*. An eligible rockfish harvester who holds an LLP license and who submits an application to opt–out with that LLP licence that is subsequently approved by NMFS may not fish for that fishing year in any directed fishery for any primary rockfish species in the Central GOA and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species with any vessel named on that LLP license.

(d) *Sideboard limitations—General*. The regulations in this section restrict the holders of LLP licenses eligible to receive rockfish QS from using the increased flexibility provided by the Rockfish Program to expand their level of participation in other groundfish fisheries. These limitations are commonly known as ''sideboards.''

(1) *Notification of affected vessel owners and LLP license holders*. After NMFS determines which vessels and LLP licenses meet the criteria described in paragraphs (d) through (h) of this section, NMFS will inform each vessel owner and LLP license holder in writing of the type of sideboard limitation and issue a revised Federal Fisheries Permit and/or LLP license that displays the limitation on the face of the permit or LLP license.

(2) *Appeals*. A vessel owner or LLP license holder who believes that NMFS has incorrectly identified his or her vessel or LLP license as meeting the criteria for a sideboard limitation may

make a contrary claim and provide evidence to NMFS. All claims must be submitted in writing to the RAM Program, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, together with any documentation or evidence supporting the request within 30 days of being notified by NMFS of the sideboard limitation. If NMFS finds the claim is unsupported, the claim will be denied in an Initial Administrative Determination (IAD). The affected persons may appeal this IAD using the procedures described at § 679.43.

(3) *Classes of sideboard restrictions.* There are several types of sideboard restrictions that apply under the Rockfish Program:

(i) General sideboard restrictions as described under this paragraph (d);

(ii) Catcher vessel sideboard restrictions as described under paragraph (e) of this section;

(iii) Catcher/processor rockfish cooperative sideboard restrictions as described under paragraph (f) of this section;

(iv) Catcher/processor limited access sideboard restrictions as described under paragraph (g) of this section; and

(v) Catcher/processor opt–out sideboard restrictions as described under paragraph (h) of this section.

(4) *General sideboard restrictions.* General sideboard restrictions apply to fishing activities during July 1 through July 31 of each year in each fishery as follows:

(i) Directed fishing for Pacific ocean perch, pelagic shelf rockfish, and northern rockfish in the regulatory area of the Western GOA and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season;

(ii) Directed fishing for Pacific ocean perch, pelagic shelf rockfish, and northern rockfish in the Western Yakutat District and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season;

(iii) Directed fishing for the following species in the West Yakutat District, Central GOA, and Western GOA and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species based on the use of halibut PSC:

(A) Rex sole;

(B) Deep water flatfish;

(C) Arrowtooth flounder;

(D) Shallow water flatfish;

(E) Flathead sole; and

(iv) Directed fishing by a vessel in the catcher vessel sector for Pacific cod in the BSAI and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(5) *Vessels and LLP licenses subject to general and halibut PSC sideboard limitations.* (i) The sideboard fishing limitations described in paragraph (d) of this section apply both to the fishing vessel itself and to any LLP license derived in whole or in part from the history of that vessel. The sideboard limitations apply to any vessel named on that LLP license. These sideboard restrictions apply even if an LLP license holder did not submit an application to participate in the Rockfish Program but that LLP license is otherwise eligible to receive rockfish QS under the Rockfish Program based on legal rockfish landings.

(ii) Except as described in paragraph (d)(5)(iii) of this section, the owner of any vessel that NMFS has determined meets one of the following criteria is subject to groundfish directed fishing sideboard limits and halibut PSC sideboard limits issued under this paragraph (d):

(A) Any vessel whose legal rockfish landings could generate rockfish QS;

(B) Any LLP license under whose authority legal rockfish landings were made;

(C) Any vessel named on an LLP license that was generated in whole or in part by the legal rockfish landings of a vessel meeting the criteria in paragraph (d)(5)(ii)(B) of this section.

(iii) Any AFA vessel that is not exempt from GOA groundfish sideboards under the AFA as specified under § 679.64(b)(2)(ii) is exempt from the sideboard limits in this paragraph (d).

(6) *Determination of general sideboard ratios.* (i) Separate sideboard ratios for each rockfish sideboard fishery are established for the catcher vessel and the catcher/processor sectors. The general sideboard ratio for each fishery is determined according to the following table:

| For the Management Area of the... | In the directed fishery for... | The Sideboard Limit for the Catcher/Processor Sector is... | The Sideboard Limit for the Catcher Vessel Sector is... |
|---|---|---|---|
| West Yakutat District | Pelagic Shelf Rockfish | 72.4 percent of the TAC | 1.7 percent of the TAC |
| | Pacific ocean perch | 76.0 percent of the TAC | 2.9 percent of the TAC |
| Western GOA | Pelagic Shelf Rockfish | 63.3 percent of the TAC | 0.0 percent of the TAC |
| | Pacific ocean perch | 61.1 percent of the TAC | (Not released due to confidentiality requirements on fish ticket data established by the State of Alaska). |
| | Northern Rockfish | 78.9 percent fo the TAC | 0.0 percent of the TAC |
| BSAI | Pacific cod | N/A | 0.0 percent of the TAC |

(ii) Each rockfish cooperative in the catcher/processor sector will be assigned a sideboard limit for that rockfish cooperative as a percentage of the general sideboard ratio for that fishery.

(iii) The sideboard ratios that are applicable for each general sideboarded fishery for a rockfish cooperative in the catcher/processor sector are calculated by dividing the aggregate retained catch of that fishery, from July 1 through July 31 in each year from 1996 through 2002, caught by LLP licenses assigned to that rockfish cooperative that are subject to directed fishing closures under this paragraph (d), by the total retained catch from July 1 through July 31 in each year from 1996 through 2002 caught by all groundfish vessels in that sector.

(7) *Management of annual sideboard limits*—(i) *Sideboard directed fishing allowance*. (A) If the Regional Administrator determines that an annual sideboard limit for a general rockfish sideboard fishery has been or will be reached, the Regional Administrator may establish a directed fishing allowance for the species or species group applicable only to the group of vessels to which the general sideboard limit applies. A directed fishing allowance that is established for a rockfish cooperative in the catcher/processor sector may be fished only by that rockfish cooperative to which it is assigned.

(B) If the Regional Administrator determines that a sideboard limit is insufficient to support a directed fishing allowance for that species or species group, then the Regional Administrator may set the directed fishing allowance to zero for that species or species group for that sector or rockfish cooperative, as applicable.

(ii) *Directed fishing closures*. Upon attainment of a general directed fishing sideboard limit, the Regional Administrator will publish notification in the FEDERAL REGISTER prohibiting directed fishing for the species or species group in the specified sector, regulatory area, or district.

(8) *Determination of halibut PSC sideboard ratios*. (i) Sideboards for halibut PSC are established for the catcher vessel and the catcher/processor sectors separately. Sideboard limits for halibut PSC are calculated for each rockfish cooperative in the catcher/processor sector separately. The halibut PSC sideboard limit for each sector is established according to the following table:

| For the following Sector... | the annual Deep-water complex halibut PSC Sideboard Limit in the GOA is... | the annual Shallow-water complex halibut PSC Sideboard Limit in the GOA is... |
|---|---|---|
| Catcher/Processor Sector | 3.99 percent of the GOA annual halibut mortality limit | 0.54 percent of the GOA annual halibut mortality limit |
| Catcher Vessel Sector | 1.08 percent of the GOA annual halibut mortality limit | 6.32 percent of the GOA annual halibut mortality limit |

(ii) Each rockfish cooperative in the catcher/processor sector will be assigned a percentage of each halibut PSC sideboard limit established under paragraph (d)(8) of this section based on the following calculation:

(A) The aggregate halibut PSC used in the deep-water complex from July 1 through July 31 in each year from 1996

through 2002 by LLP licenses assigned to that rockfish cooperative that are subject to directed fishing closures under this paragraph (d), except primary rockfish fisheries in the Central GOA, divided by 3.99 percent of the GOA annual halibut mortality limit; and

(B) The aggregate halibut PSC used in the shallow-water complex from July 1 through July 31 in each year from 1996 through 2002 by LLP licenses assigned to that rockfish cooperative that are subject to directed fishing closures under this paragraph (d), divided by 0.54 percent of the GOA annual halibut mortality limit.

(C) Catcher/processor sector participants that are not in a rockfish cooperative will receive the aggregate portion of the deep water halibut PSC sideboard limit and shallow-water halibut PSC sideboard limit not assigned to rockfish cooperatives.

(9) *Management of halibut PSC sideboard limits*—(i) *Halibut PSC sideboard limits*. The resulting halibut PSC sideboard limits established under this paragraph (d) will be published in the annual GOA groundfish harvest specification notice and expressed in metric tons.

(A) If the Regional Administrator determines that a halibut PSC sideboard limit is sufficient to support a directed fishery for groundfish specified under paragraph (d)(4)(iii) of this section for a particular sector, then the Regional Administrator may establish a halibut PSC sideboard limit for the species complex applicable only to the group of vessels in that sector to which the halibut PSC sideboard limit applies. A halibut PSC sideboard limit that is established for a rockfish cooperative in the catcher/processor sector may be fished only by that rockfish cooperative in the catcher/processor sector to which it is assigned.

(B) If the Regional Administrator determines that a halibut PSC sideboard limit is insufficient to support a directed fishery for a groundfish fishery specified under paragraph (d)(4)(iii) of this section for a particular sector then the Regional Administrator may close directed fishing by that sector or rockfish cooperative in the catcher/processor sector.

(ii) *Directed fishing closures*. Upon determining that a halibut PSC sideboard limit is or will be reached, the Regional Administrator will publish notification in the FEDERAL REGISTER prohibiting directed fishing for the species or species complex in the specified sector, rockfish cooperative in the catcher/processor sector, regulatory area, or district. The following specific directed fishing closures will be implemented if a halibut PSC sideboard limit is reached:

(A) If the shallow-water halibut PSC sideboard limit for a sector or rockfish cooperative in the catcher/processor sector is reached, then NMFS will close directed fishing in that management area for:

(*1*) Flathead sole; and

(*2*) Shallow water flatfish.

(B) If the deep-water halibut PSC sideboard limit is reached for a sector or rockfish cooperative in the catcher/processor sector, then NMFS will close directed fishing in that management area for:

(*1*) Rex sole;

(*2*) Deep water flatfish; and

(*3*) Arrowtooth flounder.

(iii) *Halibut PSC accounting*. Any halibut mortality occurring under a CQ permit or in a rockfish limited access fishery will not apply against the halibut PSC sideboard limits established paragraph (d)(8) of this sector.

(e) *Sideboard provisions for catcher vessels*—(1) *General*. In addition to the sideboard provisions that apply under paragraph (d) of this section, except as described in paragraph (d)(5)(iii) of this section, the following additional sideboards apply to catcher vessels.

(2) *Catcher vessels subject to catcher vessel sideboard limits*. Any catcher vessel that NMFS has determined meets any of the following criteria is subject to the provisions under this paragraph (e):

(i) Any catcher vessel whose legal rockfish landings could be used to generate rockfish QS for the catcher vessel sector in the Rockfish Program;

(ii) Any catcher vessel named on an LLP license under which catch history could be used to qualify that LLP license for eligibility in the Rockfish Program; or

(iii) Any catcher vessel named on an LLP license that was generated in whole or in part by the legal rockfish landings of a catcher vessel.

(3) *Prohibition for directed fishing in BSAI groundfish fisheries during July.* Vessels subject to the provisions of this paragraph (e) may not participate in directed fishing in the BSAI and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species from July 1 through July 31 in any of the following directed fisheries:

(i) Alaska plaice;

(ii) Arrowtooth flounder;

(iii) Flathead sole;

(iv) Other flatfish;

(v) Pacific ocean perch;

(vi) Rock sole; and

(vii) Yellowfin sole.

(f) *Sideboard provision—catcher/processor rockfish cooperative provisions*—(1) *General.* In addition to the sideboard provisions that apply under paragraph (d) of this section, the following additional sideboard limits under this paragraph (f) apply to catcher/processor vessels and LLP licenses that are assigned to a rockfish cooperative in the catcher/processor sector during a calendar year.

(2) *Vessels subject to rockfish cooperative sideboard provisions.* Any vessel that NMFS has determined meets any of the following criteria is subject to groundfish sideboard directed fishing closures issued under this paragraph (f):

(i) Any catcher/processor vessel whose legal rockfish landings has been used to qualify for the Rockfish Program and the vessel named on that LLP license is assigned to a rockfish cooperative;

(ii) Any catcher/processor vessel named on an LLP license under which catch history has been used to qualify that LLP license for the Rockfish Program and that LLP license is used in a rockfish cooperative; or

(iii) Any catcher/processor vessel that has been designated in an application for CQ.

(3) *Prohibition from fishing in BSAI groundfish fisheries.* A vessel subject to a rockfish cooperative sideboard provision under this paragraph (f) may not participate in directed groundfish fisheries in the BSAI and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species between July 1 and July 14 except for sablefish harvested under the IFQ Program and pollock.

(4) *Prohibitions for fishing in GOA groundfish fisheries.* A vessel subject to a rockfish cooperative sideboard provision under this paragraph (f) may not participate in any directed groundfish fishery the GOA and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species except sablefish harvested under the IFQ Program and groundfish harvested under a CQ permit in the GOA, until the earlier of:

(i) From July 1 through July 14 if:

(A) Any vessel in the rockfish cooperative does not meet monitoring standards established under paragraph (f)(4)(iii) of this section; and

(B) The rockfish cooperative has harvested any CQ prior to July 1; or

(ii) From July 1 until 90 percent of the rockfish cooperative's primary rockfish species CQ has been harvested if:

(A) Any vessel in the rockfish cooperative does not meet monitoring standards established under paragraph (f)(4)(iii) of this section; and

(B) The rockfish cooperative has not harvested any CQ prior to July 1.

(iii) The prohibition on fishing in any directed groundfish fishery in the GOA and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species, except sablefish harvested under the IFQ Program, does not apply if all vessels in the rockfish cooperative maintain an adequate monitoring plan during all fishing for any CQ or any directed sideboard fishery as required under § 679.84(c) through (e).

(g) *Sideboard provisions—catcher/processor limited access provisions*—(1) *General.* In addition to the sideboard provisions that apply under paragraph (d) of this section, the following sideboard limits under this paragraph (g) apply to any catcher/processor vessels and LLP licenses that are used in the rockfish limited access fishery for the catcher/processor sector.

(2) *Vessels subject to rockfish limited access fishery sideboard provisions.* Any vessel that NMFS has determined meets any of the following criteria is subject to groundfish sideboard directed fishing closures issued under this paragraph (g):

(i) Any catcher/processor vessel named on an LLP license whose legal rockfish landings were used to qualify for the Rockfish Program and the vessel named on that LLP license is assigned to a catcher/processor rockfish limited access fishery;

(ii) Any catcher/processor vessel named on an LLP license under which catch history was used to qualify that LLP license for the Rockfish Program and that LLP license is used in the catcher/processor rockfish limited access fishery;

(iii) Any catcher/processor vessel designated in an application for the rockfish limited access fishery for the catcher/processor sector; or

(iv) Any vessel named on an LLP license with legal rockfish landings in the catcher/processor sector if that LLP license is not specified in an application for CQ or an application to opt–out.

(3) *Prohibition from directed fishing in GOA and BSAI groundfish fisheries.* If a vessel named on an LLP license used in the rockfish limited access fishery has been assigned rockfish QS greater than an amount equal to 5 percent of the Pacific ocean perch rockfish QS allocated to the catcher/processor sector, then that vessel may not participate in any:

(i) GOA groundfish fishery and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species other than the rockfish limited access fishery and sablefish harvested under the IFQ Program; or

(ii) BSAI groundfish fishery and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species other than sablefish harvested under the IFQ Program or pollock, from July 1 until 90 percent of the Central GOA Pacific ocean perch that is allocated to the rockfish limited access fishery for the catcher/processor sector has been harvested.

(h) *Sideboard provisions—catcher/processor opt–out provisions*—(1) *General.* In addition to the sideboard provisions that apply under paragraph (d) of this section, the following sideboards under this paragraph (h) apply to any catcher/processor vessels and LLP license designated in an application to opt–out that is subsequently approved by NMFS.

(2) *Vessels subject to opt–out sideboard provisions.* (i) Any catcher/processor vessel whose legal rockfish landings were used to qualify for the Rockfish Program and for which the vessel named on that LLP license is assigned to the opt–out fishery;

(ii) Any catcher/processor vessel named on an LLP license under which catch history was used to qualify that LLP license for the Rockfish Program and that LLP license is used in the opt–out fishery; or

(iii) Any catcher/processor vessel designated in an application to opt–out.

(3) *Prohibitions on Central GOA rockfish directed harvest by opt–out vessels.* Any vessel that is subject to the opt–out sideboard restriction under this paragraph (h) is prohibited from directed fishing for the following species in the following management areas:

(i) Central GOA northern rockfish and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season;

(ii) Central GOA Pacific ocean perch and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season; and

(iii) Central GOA pelagic shelf rockfish and adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(4) *Prohibitions on directed fishing in GOA groundfish fisheries without previous participation.* (i) Any vessel that is subject to the opt–out sideboard restriction under paragraph (c) of this section is prohibited from directed fishing in any groundfish fishery in the GOA and adjacent waters open by the State of Alaska for which it adopts the applicable Federal fishing season for that species (except sablefish harvested under the IFQ Program) from July 1 through July 14 of each year if that vessel has not participated in that directed groundfish fishery in any two

years from 1996 through 2002 during the following time periods:

(A) June 30, 1996 through July 6, 1996;

(B) June 29, 1997 through July 5, 1997;

(C) June 28, 1998 through July 4, 1998;

(D) July 4, 1999 through July 10, 1999;

(E) July 8, 2000 through July 15, 2000;

(F) July 1, 2001 through July 7, 2001; and

(G) June 30, 2002 through July 6, 2002.

(ii) For purposes of this paragraph (h), participation in a fishery in Statistical Area 650 during a time period specified in paragraph (h)(4)(i) of this section shall be considered as participation in that same fishery in Statistical Area 640 during that time period.

[71 FR 67252, Nov. 20, 2006, as amended at 72 FR 37681, July 11, 2007]

### § 679.83 Rockfish Program entry level fishery.

(a) *Rockfish entry level fishery*—(1) *General*. A rockfish entry level harvester and rockfish entry level processor may participate in the rockfish entry level fishery as follows:

(i) *Trawl catcher vessels*. Trawl catcher vessels participating in the rockfish entry level fishery may collectively harvest, prior to September 1, an amount not greater than 50 percent of the total allocation to the rockfish entry level fishery as calculated under § 679.81(a)(2). Allocations to trawl catcher vessels shall be made first from the allocation of Pacific ocean perch available to the rockfish entry level fishery. If the amount of Pacific ocean perch available for allocation is less than the total allocation allowable for trawl catcher vessels in the rockfish entry level fishery, then northern rockfish and pelagic shelf rockfish shall be allocated to trawl catcher vessels.

(ii) *Longline gear vessels*. Longline gear vessels participating in the rockfish entry level fishery may collectively harvest, prior to September 1, an amount not greater than 50 percent of the total allocation to the rockfish entry level fishery as calculated under § 679.81(a)(2). Allocations of Pacific ocean perch, northern rockfish, and pelagic shelf rockfish to longline gear vessels shall be made after the allocation to trawl catcher vessels.

(iii) *Secondary species allocations*. Secondary species shall not be allocated to the rockfish entry level fishery. Secondary species shall be managed based on a MRA for the target species as described in Table 10 to this part.

(iv) *Halibut PSC allocations—trawl vessels*. Halibut PSC from trawl vessels in the rockfish entry level fishery shall be accounted against the allocation to the deep water species fishery complex for that seasonal apportionment. If the Halibut PSC allocation in the deep water fishery complex has been achieved or exceeded for that seasonal apportionment, the rockfish entry level fishery for trawl vessels will be closed until deep water species fishery complex halibut PSC is available.

(v) *Halibut PSC allocations—longline gear vessels*. Halibut PSC from longline gear vessels in the rockfish entry level fishery shall be accounted against the allocation to the other non-trawl fishery category for that seasonal apportionment. If the Halibut PSC allocation in the other non-trawl fishery category has been reached or exceeded for that seasonal apportionment, the rockfish entry level fishery for longline gear vessels will be closed until deep water species fishery complex halibut PSC is available.

(2) *Reallocation among trawl and longline gear vessels*. Any allocation of Pacific ocean perch, northen rockfish, or pelagic shelf rockfish that has not been harvested by 1200 hours, A.l.t. on September 1, may be harvested by either trawl or longline gear vessels in the rockfish entry level fishery.

(3) *Opening of the rockfish entry level fishery*. The Regional Administrator maintains the authority to not open the rockfish entry level fishery if he deems it appropriate for conservation or other management measures. Factors such as the total allocation, anticipated harvest rates, and number of participants will be considered in making any such decision.

(b) [Reserved]

[71 FR 67252, Nov. 20, 2006, as amended at 72 FR 37681, July 11, 2007]

### § 679.84 Rockfish Program recordkeeping, permits, monitoring, and catch accounting.

(a) *Recordkeeping and reporting*. See § 679.5(r).

(b) *Permits*. See § 679.4(m).

(c) *Catch monitoring requirements for catcher/processors assigned to a rockfish cooperative or rockfish limited access fishery*. The requirements under paragraphs (c)(1) through (9) of this section apply to any catcher/processor vessel participating in a rockfish cooperative or the rockfish limited access fishery, and that is subject to a sideboard limit as described in this section. At all times when a vessel has groundfish onboard that were harvested under a CQ permit that were harvested during a rockfish limited access fishery, or that were harvested by a vessel subject to a sideboard limit as described under § 679.82(d) through (g), as applicable, the vessel owner or operator must ensure that:

(1) *Catch weighing*. All groundfish are weighed on a NMFS-approved scale in compliance with the scale requirements at § 679.28(b). Each haul must be weighed separately and all catch must be made available for sampling by a NMFS-certified observer.

(2) *Observer sampling station*. An observer sampling station meeting the requirements at § 679.28(d) is available at all times.

(3) *Observer coverage requirements*. The vessel is in compliance with the observer coverage requirements described at § 679.50(c)(7)(i).

(4) *Operational line*. The vessel has no more than one operational line or other conveyance for the mechanized movement of catch between the scale used to weigh total catch and the location where the observer collects species composition samples.

(5) *Fish on deck*. No fish are allowed to remain on deck unless an observer is present, except for fish inside the codend and fish accidentally spilled from the codend during hauling and dumping. Fish accidentally spilled from the codend must be moved to the fish bin.

(6) *Sample storage*. The vessel owner or operator provides sufficient space to accommodate a minimum of 10 observer sampling baskets. This space must be within or adjacent to the observer sample station.

(7) *Pre-cruise meeting*. The Observer Program Office is notified by phone at 1–907–271–1702 at least 24 hours prior to departure when the vessel will be carrying an observer who had not previously been deployed on that vessel within the last 12 months. Subsequent to the vessel's departure notification, but prior to departure, NMFS may contact the vessel to arrange for a pre-cruise meeting. The pre-cruise meeting must minimally include the vessel operator or manager, and any observers assigned to the vessel.

(8) *Belt and flow operations*. The vessel operator stops the flow of fish and clear all belts between the bin doors and the area where the observer collects samples of unsorted catch when requested to do so by the observer.

(9) *Vessel crew in tanks or bins*. The vessel owner or operator must comply with the bin monitoring standards specified in § 679.28(i).

(d) Catch monitoring requirements for catcher/processors assigned to the opt-out fishery. At all times any catcher/processor vessel assigned to the opt-out fishery has groundfish onboard that vessel that were harvested subject to a sideboard limit as described under § 679.82(d) through (h), as applicable, the vessel owner or operator must ensure catch from an individual haul is not mixed with catch from another haul prior to sampling by a NMFS-certified observer, that all catch be made available for sampling by a NMFS-certified observer, and that the requirements in paragraphs (c)(3), (4), (5), (8), and (9) of this section are met.

(e) *Catch monitoring requirements for catcher vessels*. The owner or operator of a catcher vessel must ensure the vessel complies with the observer coverage requirements described at § 679.50(c)(7)(ii) at all times the vessel is participating in a rockfish cooperative, rockfish limited access fishery, or rockfish sideboard fishery described in this section.

(f) *Catch monitoring requirements for shoreside and stationary floating processors*—(1) *Catch monitoring and control plan (CMCP)*. The owner or operator of a shoreside or stationary floating processor receiving deliveries from a catcher vessel described at § 679.50(c)(7)(ii) must ensure the shoreside or stationary floating processor complies with the CMCP requirements described at § 679.28(g).

(2) *Catch weighing.* All groundfish landed by catcher vessels described at § 679.50(c)(7)(ii) must be sorted, weighed on a scale approved by the State of Alaska as described at § 679.28(c), and be made available for sampling by a NMFS-certified observer. The observer must be allowed to test any scale used to weigh groundfish to determine its accuracy.

(3) *Notification requirements.* The plant manager or plant liaison must notify the observer of the offloading schedule for each delivery of groundfish harvested in a Rockfish Program fishery at least 1 hour prior to offloading. An observer must be available to monitor each delivery of groundfish harvested in a Rockfish Program fishery. The observer must be available the entire time the delivery is being weighed or sorted.

(g) *Catch accounting*—(1) *Primary rockfish species and secondary species.* All primary rockfish species and secondary species harvested by a vessel, including harvests in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is named on an LLP license that is assigned to a rockfish cooperative and fishing under a CQ permit will be debited against the CQ for that rockfish cooperative from May 1:

(i) Until November 15; or

(ii) Until that rockfish cooperative has submitted a rockfish cooperative termination of fishing declaration that has been approved by NMFS.

(2) *Rockfish halibut PSC.* All rockfish halibut PSC used by a vessel, including halibut PSC used in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is named on an LLP license that is assigned to a rockfish cooperative and fishing under a CQ permit will be debited against the CQ for that rockfish cooperative from May 1:

(i) Until November 15; or

(ii) Until the designated representative of that rockfish cooperative has submitted a rockfish cooperative termination of fishing declaration that has been approved by NMFS.

(3) *Groundfish sideboard limits.* All groundfish harvested by a vessel, except groundfish harvested by a vessel fishing under a CQ permit in the Central GOA including groundfish harvested in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is subject to a sideboard limit for that groundfish species as described under § 679.82(d) through (h), as applicable, from July 1 until July 31 will be debited against the sideboard limit established for that sector or rockfish cooperative, as applicable.

(4) *Halibut sideboard limits.* All halibut PSC used by a vessel, except halibut PSC used by a vessel fishing under a CQ permit, or in a rockfish limited access fishery including halibut PSC used in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, that is subject to a sideboard limit as described under § 679.82(d) through (h), as applicable, from July 1 until July 31 will be debited against the sideboard limit established for that sector or rockfish cooperative, as applicable.

[71 FR 67252, Nov. 20, 2006, as amended at 72 FR 37681, July 11, 2007; 72 FR 52726, Sept. 14, 2007]

## Subpart H—Amendment 80 Program

SOURCE: 72 FR 52726, Sept. 14, 2007, unless otherwise noted.

### § 679.90 Allocation, use, and transfer of Amendment 80 QS permits.

Regulations under this subpart were developed by NMFS to implement the Amendment 80 Program. Additional regulations that implement specific portions of the Amendment 80 Program are set out at § 679.2 Definitions, § 679.4 Permits, § 679.5 Recordkeeping and reporting (R&R), § 679.7 Prohibitions, § 679.20 General limitations, § 679.21 Prohibited species bycatch management, § 679.27 Improved Retention/Improved Utilization Program, § 679.28 Equipment and operational requirements, § 679.31 CDQ and PSQ reserves, § 679.50 Groundfish Observer Program applicable through December 31, 2007, and § 679.64 Harvesting sideboard limits in other fisheries.

(a) *Issuance of Amendment 80 QS permits*—(1) *General.* NMFS will issue an Amendment 80 QS permit to a person who is eligible to receive Amendment

80 QS units as described in paragraph (a)(2) of this section and based on:

(i) The information contained in an approved application for Amendment 80 QS as described in paragraph (b) of this section;

(ii) The information contained in the Amendment 80 official record as described in paragraph (c) of this section;

(iii) The Amendment 80 QS permit allocation procedures as described in paragraph (d) of this section; and

(iv) In consideration of any use caps as described in § 679.92(a).

(2) *Eligibility to receive an Amendment 80 QS permit*—(i) *Owner of an Amendment 80 vessel.* A person may receive an Amendment 80 QS permit based on the legal landings of an Amendment 80 vessel if:

(A) That person owns that Amendment 80 vessel at the time of application for Amendment 80 QS as demonstrated on an abstract of title or USCG documentation;

(B) That person holds an Amendment 80 LLP license at the time of application for Amendment 80 QS;

(C) That person is a U.S. citizen;

(D) That person submits a timely application for Amendment 80 QS that is approved by NMFS as described in paragraph (b) of this section; and

(E) A person is not eligible to receive an Amendment 80 QS permit based on the legal landings of that Amendment 80 vessel under the provisions of paragraph (a)(2)(ii) of this section.

(ii) *Holder of an Amendment 80 LLP license.* A person may receive an Amendment 80 QS permit based on the legal landings of an Amendment 80 vessel if:

(A) At the time of application for Amendment 80 QS that person holds the LLP license originally assigned to that Amendment 80 vessel and that Amendment 80 vessel has suffered an actual total loss, constructive total loss, or is permanently ineligible to receive a fishery endorsement under 46 U.S.C. 12108;

(B) The actual total loss, constructive total loss, or permanent ineligibility of that Amendment 80 vessel to receive a fishery endorsement under 46 U.S.C. 12108 has been clearly and unambiguously established and documented in written form in the application for Amendment 80 QS and that documentation is accepted by NMFS;

(C) The express terms of a written contract clearly and unambiguously provide that the owner(s) of that Amendment 80 vessel transferred all rights and privileges to use the Amendment 80 legal landings from that Amendment 80 vessel to the person holding the LLP license originally assigned to that Amendment 80 vessel;

(D) That person is a U.S. citizen; and

(E) That person has submitted a timely application for Amendment 80 QS that is approved by NMFS as described in paragraph (b) of this section.

(b) *Application for Amendment 80 QS*—(1) *Submission.* A person who wishes to receive an Amendment 80 QS permit must submit a timely and complete application for Amendment 80 QS. Once a person submits a timely and complete application for Amendment 80 QS that is approved by NMFS, an application for Amendment 80 QS is not required to be resubmitted. An application for Amendment 80 QS may only be submitted to NMFS using any one of the following methods:

(i) *Mail:* Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668;

(ii) *Fax:* 907–586–7354; or

(iii) *Hand delivery or carrier:* NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(2) *Application forms.* Application forms are available through the internet on the NMFS Alaska Region Web site at *http://www.fakr.noaa.gov*, or by contacting NMFS at 800–304–4846, Option 2.

(3) *Deadline.* A completed application for Amendment 80 QS must be received by NMFS no later than 1700 hours A.l.t. on October 15 of the year prior to the fishing year for which the applicant is applying, or if sent by U.S. mail, postmarked by that time. Applications received or postmarked after the deadline will not be eligible to receive an Amendment 80 QS permit for the upcoming fishing year.

(4) *Contents of application.* A completed application must contain the following information:

(i) *Applicant identification*. (A) The applicant's name, NMFS person ID (if applicable), tax ID number, permanent business mailing address, business telephone number, business fax number, and e-mail (if available);

(B) Indicate (YES or NO) if the applicant is a U.S. citizen; if YES, enter his or her date of birth;

(C) Indicate (YES or NO) if the applicant is a U.S. corporation, partnership, association, or other business entity; if YES, enter the date of incorporation;

(D) Indicate (YES or NO) if the applicant is a successor-in-interest to a deceased individual or to a non-individual no longer in existence, if YES attach evidence of death or dissolution;

(E) Indicate whether the applicant is applying as the owner of an Amendment 80 vessel or the holder of an LLP license originally assigned to an Amendment 80 vessel;

(F) For an applicant claiming Amendment 80 legal landings associated with an Amendment 80 vessel, enter the following information for each Amendment 80 vessel: USCG documentation number of vessel on which Amendment 80 legal landings were caught and processed, vessel name, ADF&G vessel registration number, and LLP license held by that person at the time of application;

(G) If an Amendment 80 vessel has suffered an actual total loss, constructive total loss, or is permanently ineligible to receive a fishery endorsement under 46 U.S.C. 12108, provide clear and unambiguous documentation in written form that the Amendment 80 vessel has suffered an actual total loss, constructive total loss, or is permanently ineligible to receive a fishery endorsement under 46 U.S.C. 12108; and

(H) If applicable, a copy of the express terms of a written contract held by the applicant that clearly and unambiguously indicates that the owner of the Amendment 80 vessel that has suffered has an actual total loss, constructive total loss, or is permanently ineligible to receive a fishery endorsement under 46 U.S.C. 12108 has transferred all rights and privileges to use Amendment 80 legal landings and any resulting Amendment 80 QS or exclusive harvest privilege from that Amendment 80 vessel to the person holding the LLP license originally assigned to that Amendment 80 vessel.

(ii) *Applicant signature and certification*. The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. If the application is completed by a designated representative, then explicit authorization for the designated representative signed by the applicant must accompany the application.

(5) *Application evaluation*. The Regional Administrator will evaluate applications received as specified in this paragraph (b)(5) of this section and compare all claims in an application with the information in the Amendment 80 official record. Application claims that are consistent with information in the Amendment 80 official record will be approved by the Regional Administrator. Application claims that are inconsistent with the Amendment 80 official record, unless verified by documentation, will not be approved. An applicant who submits inconsistent claims, or an applicant who fails to submit the information specified in paragraph (b)(4) of this section, will be provided a single 30-day evidentiary period in which 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 Amendment 80 official record. An applicant who submits claims that are inconsistent with information in the Amendment 80 official record has the burden of proving that the submitted claims are correct. Any claims that remain inconsistent or that are not accepted after the 30-day evidentiary period will be denied, and the applicant will be notified by an IAD of his or her appeal rights under § 679.43.

(6) *Appeals*. If an applicant is notified by an IAD that inconsistent claims made by the applicant have been denied, that applicant may appeal that IAD under the provisions described at § 679.43.

(c) *Amendment 80 official record*—(1) *Use of the Amendment 80 official record*. The Amendment 80 official record will

contain all information used by the Regional Administrator to determine eligibility to participate in the Amendment 80 Program, assign QS, and any other privileges or limits for the Amendment 80 Program.

(2) *Amendment 80 official record presumed to be correct.* The Amendment 80 official record is presumed to be correct. An applicant to participate in the Amendment 80 Program has the burden to prove otherwise.

(3) *Documentation is used to establish the amount of Amendment 80 legal landings.* Only Amendment 80 legal landings as defined in § 679.2 will be used to assign Amendment 80 QS units to an Amendment 80 QS permit unless an Amendment 80 vessel has no Amendment 80 legal landings, in which case Amendment 80 QS units will be allocated to the Amendment 80 QS permit derived from that Amendment 80 vessel according to the procedures established under paragraphs (d)(1)(iii) and (iv) of this section.

(4) *Assignment of Amendment 80 legal landings.* An Amendment 80 legal landing is assigned only to the Amendment 80 vessel that was used to make that Amendment 80 legal landing.

(d) *Assigning an Amendment 80 QS permit to an Amendment 80 QS holder*—(1) Amendment 80 QS units derived from an Amendment 80 vessel and issued to an Amendment 80 QS holder. NMFS will assign a specific amount of Amendment 80 QS units to each Amendment 80 QS permit based on the Amendment 80 legal landings of each Amendment 80 vessel for each Amendment 80 species in each management area for that Amendment 80 species as listed in Table 32 to this part, using information from the Amendment 80 official record according to the following procedures:

(i) *All Amendment 80 species.* (A) For each Amendment 80 species, sum the Amendment 80 legal landings for each Amendment 80 vessel in all management areas for that Amendment 80 species listed in Table 32 to this part for each calendar year from 1998 through 2004.

(B) Select the five calendar years that yield the highest amount of Amendment 80 legal landings of that Amendment 80 species in all management areas for that Amendment 80 species listed in Table 32 to this part, including zero metric tons if necessary.

(C) Sum the Amendment 80 legal landings of the highest five years for an Amendment 80 species. This yields the Highest Five Years for that Amendment 80 species.

(D) Divide the Highest Five Years for an Amendment 80 species in paragraph (d)(1)(i)(C) of this section for an Amendment 80 vessel by the sum of all Highest Five Years for all Amendment 80 vessels for that Amendment 80 species based on the Amendment 80 official record for that Amendment 80 species as presented in the following equation:

$$\text{Highest Five Years}/\Sigma\ \text{All Highest Five Years} \times 100 = \text{Percentage of the Total.}$$

The result (quotient) of this equation is the Percentage of the Total for that Amendment 80 vessel for that Amendment 80 species.

(ii) *Aleutian Islands Pacific ocean perch and BSAI Pacific cod.* Multiply the Percentage of the Total for that Amendment 80 vessel for Aleutian Islands Pacific ocean perch and BSAI Pacific cod as calculated in paragraph (d)(1)(i)(D) of this section by the Amendment 80 initial QS pool for Aleutian Islands Pacific ocean perch and BSAI Pacific cod as set forth in Table 32 to this part. This yields the number of Amendment 80 QS units for that Amendment 80 vessel for Aleutian Islands Pacific ocean perch and BSAI Pacific cod Pacific cod.

(iii) *BSAI rock sole and BSAI yellowfin sole.* (A) If an Amendment 80 vessel did not have any Amendment 80 legal landings during 1998 through 2004, that Amendment 80 vessel will receive 0.5 percent of the Percentage of the Total for BSAI rock sole and BSAI yellowfin sole as calculated in paragraph (d)(1)(i)(D) of this section.

(B) All Amendment 80 vessels that did have Amendment 80 legal landings will have the Percentage of the Total assigned to that Amendment 80 vessel as calculated in paragraph (d)(1)(i)(D) of this section adjusted to account for the assignment of the Percentage of the Total to Amendment 80 vessels under paragraph (d)(1)(iii)(A) of this section for BSAI rock sole and BSAI

yellowfin sole as presented in the following equation:

Percentage of the Total for that Amendment 80 vessel × (100-Σ Percentage of the Total assigned to all Amendment 80 vessels under paragraph (d)(1)(iii)(A) of this section) = Adjusted Percentage of the Total for that Amendment 80 vessel.

(C) Multiply the Adjusted Percentage of the Total for that Amendment 80 vessel by the Amendment 80 initial QS pool for BSAI rock sole and BSAI yellowfin sole as set forth in Table 32 to this part. This yields the number of Amendment 80 QS units for that Amendment 80 vessel for BSAI rock sole or BSAI yellowfin sole.

(iv) *BSAI flathead sole.* (A) If an Amendment 80 vessel did not have any Amendment 80 legal landings during 1998 through 2004, that Amendment 80 vessel will receive 0.1 percent of the Percentage of the Total for BSAI flathead sole as calculated in paragraph (d)(1)(i)(D) of this section.

(B) All Amendment 80 vessels that did have Amendment 80 legal landings during 1998 through 2004 will have the Percentage of the Total assigned to that Amendment 80 vessel as calculated in paragraph (d)(1)(i)(D) of this section adjusted to account for the assignment of the Percentage of the Total to Amendment 80 vessels under paragraph (d)(1)(iv)(A) of this section for BSAI flathead sole as presented in the following equation:

Percentage of the Total for that Amendment 80 vessel × (100-Σ Percentage of the Total assigned to all Amendment 80 vessels under paragraph (d)(1)(iv)(A) of this section) = Adjusted Percentage of the Total for that Amendment 80 vessel.

(C) Multiply the Adjusted Percentage of the Total for that Amendment 80 vessel by the Amendment 80 initial QS pool for BSAI flathead sole as set forth in Table 32 to this part. This yields the number of Amendment 80 QS units for that Amendment 80 vessel for BSAI flathead sole.

(v) *BSAI Atka mackerel.* (A) Multiply the Percentage of the Total for that Amendment 80 vessel as calculated in paragraph (d)(1)(i)(D) of this section by the Amendment 80 initial QS pool for BSAI Atka mackerel as set forth in Table 32 to this part. This yields the number of Amendment 80 QS units for that Amendment 80 vessel for BSAI Atka mackerel.

(B) If an Amendment 80 vessel is an Amendment 80 non-mackerel vessel, determine the percentage of the Amendment 80 QS pool that is assigned to each Atka mackerel management area listed in Table 32 to this part in each year from 1998 through 2004 for that Amendment 80 non-mackerel vessel based on the percentage of Amendment 80 legal landings in that Atka mackerel management area from 1998 through 2004 for that Amendment 80 non-mackerel vessel.

(C) The sum of the Amendment 80 QS units allocated to all Amendment 80 non-mackerel vessels is the Total Amendment 80 non-mackerel QS pool.

(D) The sum of the Amendment 80 QS units allocated to all Amendment 80 mackerel vessels is the Total Amendment 80 mackerel QS pool.

(2) *Assigning Amendment 80 QS units to an Amendment 80 permit.* Once the Regional Administrator determines the amount of Amendment 80 QS units to be issued for an Amendment 80 species derived from an Amendment 80 vessel based on the criteria described in paragraphs (b) through (d) of this section, NMFS will assign that amount of Amendment 80 QS units for each Amendment 80 species as an Amendment 80 QS permit to the Amendment 80 QS holder as follows:

(i) *Amendment 80 vessel owner.* NMFS will issue an Amendment 80 QS permit for each Amendment 80 vessel to the owner of that Amendment 80 vessel if that person submitted a timely and complete Application for Amendment 80 QS that was approved by NMFS under paragraph (a)(2)(i) of this section; or

(ii) *Amendment 80 LLP/QS license.* NMFS will issue an Amendment 80 QS permit as an endorsement on an Amendment 80 LLP license to the holder of an LLP license originally assigned to an Amendment 80 vessel if that person submitted a timely and complete Application for Amendment 80 QS that was approved by NMFS

under paragraph (a)(2)(ii) of this section.

(e) *Transfers of Amendment 80 QS permits*—(1) *Non-severability of Amendment 80 QS permits*. (i) An Amendment 80 QS holder may not transfer an Amendment 80 QS permit to another person unless all Amendment 80 QS units for all Amendment 80 species on that Amendment 80 QS permit are transferred in their entirety to the same person at the same time; and

(ii) Once an Amendment 80 QS permit is assigned to an Amendment 80 LLP license, that Amendment 80 LLP license is designated as an Amendment 80 LLP/QS license and a person may not separate the Amendment 80 QS permit from that Amendment 80 LLP/QS license.

(2) *Transfer of an Amendment 80 LLP/QS license*. A person holding an Amendment 80 LLP/QS license may transfer that Amendment 80 LLP/QS license to another person only under the provisions of § 679.4(k)(7).

(3) *Transfers of Amendment 80 QS permits*. A person holding an Amendment 80 QS permit assigned to an Amendment 80 vessel may transfer that Amendment 80 QS permit to another person only by submitting an application to transfer Amendment 80 QS permit that is approved by NMFS under the provisions of paragraph (f) of this section.

(4) *Assigning an Amendment 80 QS permit to an Amendment 80 LLP license*. An Amendment 80 vessel owner holding an Amendment 80 QS permit assigned to an Amendment 80 vessel may transfer that Amendment 80 QS permit to the LLP license originally assigned to that Amendment 80 vessel only by submitting an application to transfer an Amendment 80 QS permit that is approved by NMFS under the provisions of paragraph (f) of this section.

(f) *Application to transfer an Amendment 80 QS permit*—(1) *General*. An Amendment 80 QS holder who wishes to transfer an Amendment 80 QS permit must submit a complete application that is approved by NMFS. This application may only be submitted to NMFS using any one of the following methods:

(i) *Mail:* Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668;

(ii) *Fax:* 907–586–7354; or

(iii) *Hand delivery or carrier:* NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(2) *Application forms*. Application forms are available through the internet on the NMFS Alaska Region Web site at *http://www.fakr.noaa.gov*, or by contacting NMFS at 800–304–4846, Option 2.

(3) *Application*—(i) *Transferor information*—(A) *Transferor identification*. The transferor's name, NMFS person ID (if applicable), tax ID number, date of incorporation or date of birth, permanent business mailing address, business telephone number, fax number, and e-mail (if available).

(B) *Type of transfer*. (*1*) Indicate whether the transferor is applying to transfer an Amendment 80 QS permit to another person; or

(*2*) Indicate whether the transferor is applying to transfer an Amendment 80 QS permit to the LLP license originally assigned to that Amendment 80 vessel as listed in Table 31 to this part.

(C) *Amendment 80 QS permit*. Indicate the Amendment 80 QS permit to be transferred.

(D) *Information for transfers of Amendment 80 QS permit to another person*. If transferring an Amendment 80 QS permit assigned to an Amendment 80 vessel owner to another person, attach abstract of title or USCG documentation that clearly and unambiguously indicates that the Amendment 80 QS permit transferee is named on the abstract of title or USCG documentation as the owner of the Amendment 80 vessel to which that Amendment 80 QS permit would be assigned.

(E) *Information for transfers of Amendment 80 QS permits to an Amendment 80 LLP license*. If transferring Amendment 80 QS assigned to an Amendment 80 vessel owner to the LLP license originally assigned to that Amendment 80 vessel, provide clear and unambiguous written documentation that can be verified by NMFS that the Amendment 80 vessel for which that Amendment 80 LLP license was originally assigned is no longer able to be used in the Amendment 80 Program due to the actual total loss, constructive total loss, or

permanent ineligibility of that vessel to receive a fishery endorsement under 46 U.S.C. 12108.

(F) *Certification of transferor*. The transferor must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. If the application is completed by a designated representative, then explicit authorization signed by the applicant must accompany the application.

(ii) *Transferee information*—(A) *Transferee identification*. The transferee's name, NMFS person ID (if applicable), tax ID number, date of incorporation or date of birth, permanent business mailing address, business telephone number, fax number, and e-mail (if available).

(B) *Certification of transferee*. The transferee must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. If the application is completed by a designated representative, then explicit authorization signed by the applicant must accompany the application.

**§ 679.91 Amendment 80 Program annual harvester privileges.**

(a) *Assigning an Amendment 80 QS permit to an Amendment 80 cooperative or Amendment 80 limited access fishery*—(1) *General*. (i) Each calendar year, each Amendment 80 QS permit, associated Amendment 80 vessel, and Amendment 80 LLP license must be assigned to an Amendment 80 cooperative or the Amendment 80 limited access fishery in order to use that Amendment 80 QS permit, associated Amendment 80 vessel, and Amendment 80 LLP license to catch, process, or receive Amendment 80 species, crab PSC, or halibut PSC assigned to the Amendment 80 sector.

(ii) NMFS will assign an Amendment 80 QS permit(s), associated Amendment 80 vessel(s), and Amendment 80 LLP license(s) held by an Amendment 80 QS holder to an Amendment 80 cooperative if that Amendment 80 QS permit(s), associated Amendment 80 vessel(s), and Amendment 80 LLP license(s) is designated on an application for CQ that is approved by the Regional Administrator as described under paragraph (b) of this section.

(iii) NMFS will assign an Amendment 80 QS permit(s), associated Amendment 80 vessel(s), and Amendment 80 LLP license(s) held by an Amendment 80 QS holder to the Amendment 80 limited access fishery if that Amendment 80 QS permit(s), associated Amendment 80 vessel(s), and Amendment 80 LLP license(s) is assigned to the Amendment 80 limited access fishery.

(2) *Amendment 80 QS permits issued after issuance of CQ or ITAC*. Any Amendment 80 QS permits, or Amendment 80 QS units on an Amendment 80 QS permit, assigned to an Amendment 80 QS holder after NMFS has issued CQ or ITAC to the Amendment 80 sector for a calendar year will not result in any additional:

(i) CQ being issued to an Amendment 80 cooperative if that Amendment 80 QS holder has assigned his Amendment 80 QS permit(s) to an Amendment 80 cooperative for that calendar year; or

(ii) ITAC being issued to the Amendment 80 limited access fishery if that Amendment 80 QS holder has assigned his Amendment 80 QS permit(s) to the Amendment 80 limited access fishery for that calendar year.

(3) *Failure to submit an application for an Amendment 80 fishery*. (i) If an Amendment 80 QS permit is not designated on a timely and complete application for CQ that is approved by the Regional Administrator as described under paragraph (b) of this section, the Regional Administrator will not assign that Amendment 80 QS permit, associated Amendment 80 vessel, or Amendment 80 LLP license to an Amendment 80 cooperative for the applicable calendar year.

(ii) The Regional Administrator will assign an Amendment 80 QS permit, associated Amendment 80 vessel, or Amendment 80 LLP license to the Amendment 80 limited access fishery for the applicable calendar year if that Amendment 80 QS permit, associated Amendment 80 vessel, or Amendment 80 LLP license is designated on a timely and complete application for an Amendment 80 limited access fishery, or if that Amendment 80 QS permit, associated Amendment 80 vessel, or

Amendment 80 LLP license is not designated on a timely and complete application for CQ that is approved by the Regional Administrator as described under paragraph (b) of this section.

(b) *Application for CQ and Application for the Amendment 80 limited access fishery*—(1) *General*. An application for CQ or an application for the Amendment 80 limited access fishery may only be submitted to NMFS using any one of the following methods:

(i) *Mail:* Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668;

(ii) *Fax:* 907–586–7354; or

(iii) *Hand delivery or carrier:* NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(2) *Application forms*. Application forms are available through the internet on the NMFS Alaska Region Web site at *http://www.fakr.noaa.gov*, or by contacting NMFS at 800–304–4846, Option 2.

(3) *Deadline*. A completed application must be received by NMFS no later than 1700 hours A.l.t. on November 1 of the year prior to the calendar year for which the applicant is applying, or if sent by U.S. mail, the application must be postmarked by that time.

(4) *Application for CQ*—(i) *Amendment 80 cooperative identification*. The Amendment 80 cooperative's legal name; tax ID number, the type of business entity under which the Amendment 80 cooperative is organized; the state in which the Amendment 80 cooperative is legally registered as a business entity; permanent business address; business telephone number; business fax number; e-mail address (if available); and printed name of the Amendment 80 cooperative's designated representative.

(ii) *Identification of Amendment 80 QS permit holders and ownership documentation*. Full name of each Amendment 80 cooperative member; NMFS person ID of each member; Amendment 80 QS permit number(s), the names of all persons, to the individual level, holding an ownership interest in the Amendment 80 QS permit(s) assigned to the Amendment 80 cooperative and the percentage ownership each person and individual holds in the Amendment 80 QS permit(s).

(iii) *Identification of Amendment 80 cooperative member vessels and Amendment 80 LLP licenses*. Vessel name; ADF&G vessel registration number; USCG documentation number; and Amendment 80 LLP license number.

(iv) *Identification of vessels on which the CQ issued to the Amendment 80 cooperative will be used*. Vessel name, ADF&G vessel registration number, and USCG documentation number.

(v) *EDR submission*. For 2009 and thereafter, indicate (YES or NO) whether each member of the Amendment 80 cooperative has submitted a timely and complete EDR for each Amendment 80 QS permit held by that person as required under § 679.94.

(vi) *Certification of cooperative authorized representative*. The cooperative's authorized representative must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. Explicit authorization to complete the application on behalf of the members of the cooperative must accompany the application.

(vii) *Copy of membership agreement or contract*. Attach a copy of the membership agreement or contract that specifies how the Amendment 80 cooperative intends to catch its CQ.

(5) *Application for the Amendment 80 limited access fishery*—(i) *Applicant identification*. The applicant's name, NMFS Person ID (if applicable), tax ID number (required), permanent business mailing address, business telephone number, fax number, and e-mail (if available).

(ii) *Amendment 80 vessel identification*. The name, ADF&G vessel registration number(s), and USCG documentation number(s) of the Amendment 80 vessel(s) owned by the applicant.

(iii) *Amendment 80 LLP identification*. The Amendment 80 LLP license number(s) held by the applicant.

(iv) *Amendment 80 QS permit information*. The Amendment 80 QS permit number(s) held by the applicant.

(v) *Amendment 80 QS ownership documentation*. The names of all persons, to the individual person level, holding an ownership interest in the Amendment 80 QS permit(s) held by the applicant

and the percentage ownership each person and individual holds in the Amendment 80 QS permit(s).

(vi) *EDR submission*. For 2009 and thereafter, indicate (YES or NO) whether the applicant has submitted a timely and complete EDR for each Amendment 80 QS permit held by that person as required under § 679.94.

(vii) *Applicant signature and certification*. The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. If the application is completed by a designated representative, then explicit authorization signed by the applicant must accompany the application.

(c) *Allocations of Amendment 80 species*—(1) *General*. Each calendar year, the Regional Administrator will determine the tonnage of Amendment 80 species that will be assigned to the BSAI trawl limited access sector and the Amendment 80 sector. For participants in the Amendment 80 sector, the tonnage of fish will be further assigned between Amendment 80 cooperatives and the Amendment 80 limited access fishery.

(2) *Calculation*—(i) *Determination of TAC and ITAC*. NMFS will determine the TAC and ITAC for each Amendment 80 species in a calendar year in the annual harvest specification process in § 679.20.

(ii) *Annual apportionment of ITAC*. The annual apportionment of ITAC for each Amendment 80 species between the Amendment 80 sector and the BSAI trawl limited access sector in a given calendar year is established in Tables 33 and 34 to this part.

(3) *Allocation of CQ to Amendment 80 cooperatives*—(i) *General*. The amount of ITAC for each Amendment 80 species assigned to an Amendment 80 cooperative is equal to the amount of Amendment 80 QS units assigned to that Amendment 80 cooperative by Amendment 80 QS holders divided by the total Amendment 80 QS pool multiplied by the Amendment 80 sector ITAC for that Amendment 80 species in that management area. Once ITAC for an Amendment 80 species in a management area is assigned to an Amendment 80 cooperative, it is issued as CQ specific to that Amendment 80 cooperative.

(ii) *CQ allocation for Amendment 80 species except BSAI Atka mackerel*. The amount of CQ for each Amendment 80 species except BSAI Atka mackerel that is assigned to a Amendment 80 cooperative is expressed algebraically as follows:

CQ in a management area = [(Amendment 80 sector ITAC in a management area) × (Amendment 80 QS units assigned to that Amendment 80 cooperative/Amendment 80 QS pool)].

(iii) *CQ allocation for BSAI Atka mackerel*. The amount of CQ for BSAI Atka mackerel that is assigned to each Amendment 80 cooperative in each management area is determined by the following procedure:

(A) Determine the amount of non-mackerel ITAC in each management area using the following equation:

Non-mackerel ITAC in a management area = (Amendment 80 non-mackerel QS units designated for that management area/Total Atka mackerel QS pool) × Amendment 80 sector ITAC in all management areas.

(B) Determine the amount of mackerel ITAC in each management area using the following equation:

Mackerel ITAC in a management area = Amendment 80 sector ITAC in that management area − Non-mackerel ITAC in that management area.

(C) Determine the amount of non-mackerel CQ assigned to the Amendment 80 cooperative using the following equation:

Non-mackerel CQ assigned to that Amendment 80 cooperative = (Amendment 80 non-mackerel QS units designated for that management area assigned to that Amendment 80 cooperative/Amendment 80 non-mackerel QS pool in that management area) × Non-mackerel ITAC for that management area.

(D) Determine the amount of mackerel CQ assigned to the Amendment 80 cooperative using the following equation:

Mackerel CQ in a management area = (Mackerel QS units assigned to that

Amendment 80 cooperative/Mackerel QS pool) × Mackerel ITAC in that management area.

(E) The total amount of Atka mackerel CQ assigned to an Amendment 80 cooperative for a management area is equal to the sum of paragraphs (c)(3)(iii)(C) and (D) of this section.

(4) *Amendment 80 limited access fishery*. The amount of ITAC in a management area for each Amendment 80 species assigned to the Amendment 80 limited access fishery is equal to the Amendment 80 sector ITAC remaining after subtracting all CQ issued to all Amendment 80 cooperatives for that Amendment 80 species in that management area.

(d) *Allocations of halibut PSC*—(1) *Amount of Amendment 80 halibut PSC assigned to the Amendment 80 sector*. The amount of halibut PSC assigned to the Amendment 80 sector for each calendar year is specified in Table 35 to this part. That amount of halibut PSC is then assigned to Amendment 80 cooperatives and the Amendment 80 limited access fishery.

(2) *Amount of Amendment 80 halibut PSC assigned to an Amendment 80 cooperative*. For each calendar year, the amount of Amendment 80 halibut PSC assigned as CQ to an Amendment 80 cooperative is determined by the following procedure:

(i) Multiply the amount of halibut PSC established in Table 35 to this part by the percentage of the Amendment 80 halibut PSC apportioned to each Amendment 80 species as established in Table 36 to this part. This yields the halibut PSC apportionment for that Amendment 80 species.

(ii) For each Amendment 80 species, divide the amount of Amendment 80 QS units assigned to an Amendment 80 cooperative by the Amendment 80 QS pool. This yields the percentage of Amendment 80 QS units held by that Amendment 80 cooperative.

(iii) For each Amendment 80 species, multiply the halibut PSC apportionment for that Amendment 80 species established in paragraph (d)(2)(i) of this section by the percentage of the Amendment 80 QS pool assigned to an Amendment 80 cooperative for that Amendment 80 species established in paragraph (d)(2)(ii) of this section. This yields the amount of halibut PSC apportioned to that cooperative for that Amendment 80 species.

(iv) For each Amendment 80 cooperative, sum the results of paragraph (d)(2)(iii) of this section for all Amendment 80 species. This yields the amount of Amendment 80 halibut PSC assigned to that Amendment 80 cooperative as CQ.

(3) *Amount of Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery*. The amount of Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery is equal to the amount of halibut PSC assigned to the Amendment 80 sector specified in Table 35 to this part subtracting the amount of Amendment 80 halibut PSC assigned as CQ to all Amendment 80 cooperatives as determined in paragraph (d)(2)(iv) of this section.

(4) *Use of Amendment 80 halibut PSC in the Amendment 80 sector*—(i) *Amendment 80 halibut PSC assigned to a Amendment 80 cooperative*. An amount of Amendment 80 halibut PSC is assigned to the CQ permit issued to an Amendment 80 cooperative for use while fishing for all groundfish species in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. Any halibut PSC used by an Amendment 80 cooperative must be deducted from the amount of halibut PSC CQ on its CQ permit. Amendment 80 halibut PSC on a CQ permit may only be used by the members of the Amendment 80 cooperative to which it is assigned. Halibut PSC assigned as CQ is not subject to seasonal apportionment under § 679.21.

(ii) *Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery*. An amount of Amendment 80 halibut PSC is assigned to the Amendment 80 limited access fishery for use by all Amendment 80 vessels in the Amendment 80 limited access fishery while fishing for all groundfish species in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. Any halibut PSC used by Amendment 80 vessels assigned to the Amendment 80 limited access fishery must be deducted from the amount of halibut PSC assigned to

the Amendment 80 limited access fishery. Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery is subject to seasonal apportionment under § 679.21.

(5) *Halibut PSC assigned to the BSAI trawl limited access sector*. Halibut PSC assigned to the BSAI trawl limited access sector for groundfish fishing in the BSAI may only be used by the members of the BSAI trawl limited access sector unless modified by reallocation to Amendment 80 cooperatives according to the procedures in paragraph (f) of this section. Halibut PSC assigned to the BSAI trawl limited access sector is subject to seasonal apportionment under § 679.21.

(e) *Allocations of crab PSC*—(1) *Amount of Amendment 80 crab PSC assigned to the Amendment 80 sector*. The amount of Amendment 80 crab PSC assigned to the Amendment 80 sector for each Amendment 80 crab PSC in a calendar year is specified in Table 35 to this part. That amount of Amendment 80 crab PSC is then assigned to Amendment 80 cooperatives and the Amendment 80 limited access fishery.

(2) *Amount of Amendment 80 crab PSC assigned to an Amendment 80 cooperative*. For each calendar year, for each Amendment 80 crab PSC, the amount assigned as CQ to an Amendment 80 cooperative is determined by the following procedure:

(i) Multiply the amount of an Amendment 80 crab PSC established in Table 35 to this part by the percentage of the Amendment 80 crab PSC apportioned to each Amendment 80 species as established in Table 36 to this part. This yields the Amendment 80 crab PSC apportionment for that Amendment 80 species.

(ii) For each Amendment 80 species, divide the amount of Amendment 80 QS units assigned to an Amendment 80 cooperative by the Amendment 80 QS pool. This yields the percentage of Amendment 80 QS units held by that Amendment 80 cooperative.

(iii) For each Amendment 80 species, multiply the Amendment 80 crab PSC apportionment to that Amendment 80 species established in paragraph (e)(2)(i) of this section by the percentage of the Amendment 80 QS pool held by an Amendment 80 cooperative as established in paragraph (e)(2)(ii) of this section. This yields the amount of Amendment 80 crab PSC apportioned to that Amendment 80 cooperative for that Amendment 80 species.

(iv) For each Amendment 80 crab PSC, sum the results of paragraph (e)(2)(iii) for all Amendment 80 species. This yields the amount of that Amendment 80 crab PSC assigned to that Amendment 80 cooperative.

(3) *Amount of Amendment 80 crab PSC assigned to the Amendment 80 limited access fishery*. The amount of each Amendment 80 crab PSC assigned to the Amendment 80 limited access fishery is equal to the amount of that Amendment 80 crab PSC assigned to the Amendment 80 sector specified in Table 35 to this part subtracting the amount of that crab PSC that has been assigned as CQ to all Amendment 80 cooperatives as determined in paragraph (e)(2)(iv) of this section.

(4) *Use of Amendment 80 crab PSC in the Amendment 80 sector—(i) Amendment 80 crab PSC assigned to an Amendment 80 cooperative*. An amount of Amendment 80 crab PSC is assigned to the CQ permit issued to an Amendment 80 cooperative for use while fishing for all groundfish species in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. Any Amendment 80 crab PSC used by an Amendment 80 cooperative must be deducted from the amount of Amendment 80 crab PSC CQ on its CQ permit. Amendment 80 crab PSC on a CQ permit may only be used by the members of the Amendment 80 cooperative to which it is assigned. Amendment 80 crab PSC assigned as CQ is not subject to seasonal apportionment under § 679.21.

(ii) *Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery*. An amount of Amendment 80 crab PSC is assigned to the Amendment 80 limited access fishery for use by all Amendment 80 vessels in the Amendment 80 limited access fishery while fishing for all groundfish species in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. Any Amendment 80 crab PSC used by Amendment 80 vessels assigned to the Amendment

80 limited access fishery must be deducted from the amount of Amendment 80 crab PSC assigned to the Amendment 80 limited access fishery. Amendment 80 crab PSC assigned to the Amendment 80 limited access fishery is subject to seasonal apportionment under § 679.21.

(5) *Amendment 80 crab PSC assigned to the BSAI trawl limited access sector.* Amendment 80 crab PSC assigned to the BSAI trawl limited access sector for groundfish fishing in the BSAI may only be used by the members of the BSAI trawl limited access sector unless modified by reallocation to Amendment 80 cooperatives according to the procedures in paragraph (f) of this section. Amendment 80 crab PSC assigned to the BSAI trawl limited access sector is subject to seasonal apportionment under § 679.21.

(f) *Rollover—Annual reallocation of an Amendment 80 species ICA or ITAC, crab PSC, and halibut PSC from the BSAI trawl limited access sector to Amendment 80 cooperatives*—(1) *General.* The Regional Administrator may reallocate a portion of an ICA or ITAC of an Amendment 80 species, crab PSC, or halibut PSC amount assigned to the BSAI trawl limited access sector to Amendment 80 cooperatives if the amount assigned to the BSAI trawl limited access sector is projected not to be harvested or used. Any reallocation will result in an amended CQ permit for each Amendment 80 cooperative. The timing of a reallocation will be at the discretion of the Regional Administrator.

(2) *Factors considered.* The Regional Administrator may consider the following factors when reallocating an ICA, a directed fishing allowance of an Amendment 80 species, or crab PSC, or halibut PSC amounts from the BSAI trawl limited access sector to Amendment 80 cooperatives:

(i) The risk of biological harm to a groundfish species or species group;

(ii) The risk of socioeconomic harm to other domestic fishery participants;

(iii) The impact that the allocation might have on the socioeconomic wellbeing of Amendment 80 cooperatives;

(iv) Current catch and PSC use in the BSAI trawl limited access sector;

(v) Historic catch and PSC use in the BSAI trawl limited access sector;

(vi) Harvest capacity and any stated intent on the future harvesting patterns of vessels in the BSAI trawl limited access sector;

(vii) Administrative requirements to reissue CQ permits; and

(viii) Any other relevant biological, socioeconomic, or administrative factors.

(3) *Rollover of Amendment 80 species.* If, during a fishing year, the Regional Administrator determines that a reallocation of a portion of the ITAC or ICA of an Amendment 80 species assigned to the BSAI trawl limited access sector to Amendment 80 cooperatives is appropriate, the Regional Administrator will issue a revised CQ permit to reallocate that amount of Amendment 80 species to each Amendment 80 cooperative according to the following formula:

Amount of additional CQ issued to an Amendment 80 cooperative = Amount of Amendment 80 species available for reallocation to Amendment 80 cooperatives × (Amount of CQ for that Amendment 80 species initially assigned to that Amendment 80 cooperative / Σ CQ for that Amendment 80 species initially assigned to all Amendment 80 cooperatives).

(4) *Rollover of halibut PSC.* If, during a fishing year, the Regional Administrator determines that a reallocation of a portion of the halibut PSC assigned to the BSAI trawl limited access sector to Amendment 80 cooperatives is appropriate, the Regional Administrator will issue a revised CQ permit to reallocate that amount of halibut PSC to each Amendment 80 cooperative according to the following procedure:

(i) Multiply the amount of the halibut PSC limit to be reallocated by 95 percent (0.95). This yields the maximum amount of halibut PSC available for allocation to Amendment 80 cooperatives; and

(ii) Determine the halibut PSC CQ issued to each Amendment 80 cooperative according to the following formula:

Amount of additional CQ issued to an Amendment 80 cooperative = Maximum amount of halibut PSC available for reallocation to Amendment

80 cooperatives × (Amount of halibut PSC CQ initially assigned to that Amendment 80 cooperative / Σ halibut PSC CQ initially assigned to all Amendment 80 cooperatives).

(5) *Rollover of crab PSC*. If, during a fishing year, the Regional Administrator determines that a reallocation of a portion of a crab PSC assigned to the BSAI trawl limited access sector to Amendment 80 cooperatives is appropriate, the Regional Administrator will issue a revised CQ permit to reallocate that amount of crab PSC to each Amendment 80 cooperative according to the following formula:

Amount of CQ issued to an Amendment 80 cooperative = Amount of that crab PSC available for allocation to Amendment 80 cooperatives × (Amount of that crab PSC CQ initially assigned to that Amendment 80 cooperative / Σ that crab PSC CQ initially assigned to all Amendment 80 cooperatives).

(g) *CQ transfer applications*—(1) *General*. An Amendment 80 cooperative may transfer all or part of its CQ to another Amendment 80 cooperative. Amendment 80 cooperatives may transfer CQ during a calendar year with the following restrictions:

(i) An Amendment 80 cooperative may only transfer CQ to another Amendment 80 cooperative;

(ii) An Amendment 80 cooperative may only receive CQ from another Amendment 80 cooperative; and

(iii) An Amendment 80 cooperative receiving Amendment 80 species CQ by transfer must assign that Amendment 80 species CQ to a member(s) of the Amendment 80 cooperative for the purposes of use cap calculation as established under § 679.92(a).

(2) *Application for CQ transfer*. NMFS will notify the transferor and transferee once the application for CQ transfer has been received and approved. A transfer of CQ is not effective until approved by NMFS. An application for CQ transfer may only be submitted to NMFS using any one of the following methods:

(i) *Mail:* Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802–1668;

(ii) *Fax:* 907–586–7354; or

(iii) *Hand delivery or carrier:* NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.

(3) *Application forms*. Application forms are available through the internet on the NMFS Alaska Region Web site at *http://www.fakr.noaa.gov*, or by contacting NMFS at 800–304–4846, Option 2.

(4) *Contents of application*. A completed application for CQ transfer requires that the following information be provided:

(i) *Identification of transferor*. Enter the name, NMFS Person ID, name of Amendment 80 cooperative's designated representative; permanent business mailing address, business telephone number, business fax number, and e-mail address (if available) of the Amendment 80 cooperative transferor. A temporary mailing address for each transaction may also be provided.

(ii) *Identification of transferee*. Enter the name, NMFS Person ID, name of Amendment 80 cooperative's designated representative, permanent business mailing address, business telephone number, business fax number, and e-mail address (if available) of the Amendment 80 cooperative transferee. A temporary mailing address for each transaction may also be provided.

(iii) *CQ to be transferred*. Identify the type and amount of Amendment 80 species, or Amendment 80 PSC CQ to be transferred, and the number of QS units from which this CQ is derived.

(iv) *Identification of Amendment 80 cooperative member*. Enter the name and NMFS Person ID of the member(s) of the receiving Amendment 80 cooperative to whose use cap Amendment 80 species CQ will be assigned, and the amount of Amendment 80 species CQ applied to each member, for purposes of applying Amendment 80 species use caps established under the Amendment 80 Program under § 679.92(a).

(v) *Certification of transferor*. The Amendment 80 cooperative transferor's designated representative must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. The printed name of the Amendment 80 cooperative

transferor's designated representative must be entered.

(vi) *Certification of transferee.* The Amendment 80 cooperative transferee's designated representative must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. The printed name of the Amendment 80 cooperative transferee's designated representative must be entered.

(5) *CQ amounts applied to a member of an Amendment 80 cooperative.* (i) Amendment 80 species CQ must be assigned to a member of the Amendment 80 cooperative receiving the CQ for purposes of use cap calculations. No member of an Amendment 80 cooperative may exceed the CQ use cap applicable to that member.

(ii) For purposes of Amendment 80 species CQ use cap calculations, the total amount of Amendment 80 species CQ held or used by a person is equal to all metric tons of Amendment 80 species CQ derived from all Amendment 80 QS units on all Amendment 80 QS permits held by that person and assigned to the Amendment 80 cooperative and all metric tons of Amendment 80 species CQ assigned to that person by the Amendment 80 cooperative from approved transfers.

(iii) The amount of Amendment 80 QS units held by a person, and CQ derived from those Amendment 80 QS units, is calculated using the individual and collective use cap rule established in § 679.92(a).

(h) *Amendment 80 cooperative*—(1) *General.* This section governs the formation and operation of Amendment 80 cooperatives. The regulations in this section apply only to Amendment 80 cooperatives that have formed for the purpose of applying for and fishing with CQ issued annually by NMFS. Members of Amendment 80 cooperatives should consult legal counsel before commencing any activity if the members are uncertain about the legality under the antitrust laws of the Amendment 80 cooperative's proposed conduct. Membership in an Amendment 80 cooperative is voluntary. No person may be required to join an Amendment 80 cooperative. If a person becomes the owner of an Amendment 80 vessel or a holder of an Amendment 80 LLP/QS license that has been assigned to an Amendment 80 cooperative, then that person may join that Amendment 80 cooperative as a member upon receipt of that Amendment 80 vessel or Amendment 80 LLP/QS license. Members may leave an Amendment 80 cooperative, but any CQ contributed by the Amendment 80 QS permit(s) held by that member will remain with that Amendment 80 cooperative for the duration of the calendar year.

(2) *Legal and organizational requirements.* An Amendment 80 cooperative must meet the following legal and organizational requirements before it is eligible to receive CQ:

(i) Each Amendment 80 cooperative must be formed as a partnership, corporation, or other legal business entity that is registered under the laws of one of the 50 states or the District of Columbia;

(ii) Each Amendment 80 cooperative must appoint an individual as the designated representative to act on the Amendment 80 cooperative's behalf and to serve as a contact point for NMFS for questions regarding the operation of the Amendment 80 cooperative. The designated representative may be a member of the Amendment 80 cooperative, or some other individual designated by the Amendment 80 cooperative to act on its behalf;

(iii) Each Amendment 80 cooperative must submit a timely and complete application for CQ; and

(iv) Each Amendment 80 cooperative must meet the mandatory requirements established in paragraphs (h)(3) and (4) of this section applicable to that Amendment 80 cooperative.

(3) *Mandatory requirements.* The following table describes the requirements to form an Amendment 80 cooperative:

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|---|---|
| (i) Who may join an Amendment 80 cooperative? ..... | Any Amendment 80 QS holder named on a timely and complete application for CQ for that calendar year that is approved by NMFS. Individuals who are not Amendment 80 QS holders may be employed by, or serve as the designated representative of an Amendment 80 cooperative, but are not members of the Amendment 80 cooperative. |
| (ii) What is the minimum number of Amendment 80 QS permits that must be assigned to an Amendment 80 cooperative to allow it to form? | Any combination of at least nine Amendment 80 QS permits which would include Amendment 80 LLP/QS licenses. |
| (iii) How many Amendment 80 QS holders are required to form an Amendment 80 cooperative? | At least three Amendment 80 QS holders each of whom may not have a ten percent or greater direct or indirect ownership interest in any of the other Amendment 80 QS holders. |
| (iv) Is there a minimum amount of Amendment 80 QS units that must be assigned to an Amendment 80 cooperative for it to be allowed to form? | No. |
| (v) What is allocated to the Amendment 80 cooperative? | CQ for each Amendment 80 species, crab PSC, and halibut PSC, based on the amount of Amendment 80 QS units assigned to the cooperative. |
| (vi) Is this CQ an exclusive catch and use privilege? | Yes, the members of the Amendment 80 cooperative have an exclusive privilege to collectively catch and use this CQ, or an Amendment 80 cooperative can transfer all or a portion of this CQ to another Amendment 80 cooperative. |
| (vii) Is there a period in a calendar year during which designated vessels must catch CQ? | Yes, any Amendment 80 vessel designated to catch CQ for an Amendment 80 cooperative is prohibited from catching CQ during the season closure for trawl gear in the BSAI specified at § 679.23(c) unless regulations at § 679.23 applicable to an Amendment 80 species in the BSAI are more restrictive than those established in § 679.23(c), in which case the more restrictive regulations will apply. |
| (viii) Can any vessel catch an Amendment 80 cooperative's CQ?. | No, only Amendment 80 vessels that are assigned to that Amendment 80 cooperative for that calendar year in the application for CQ may catch and process the CQ assigned to that Amendment 80 cooperative. |
| (ix) Can a member of an Amendment 80 cooperative transfer CQ individually without the approval of the other members of the Amendment 80 cooperative? | No, only the designated representative of the Amendment 80 cooperative, and not individual members, may transfer its CQ to another Amendment 80 cooperative; and only if that transfer is approved by NMFS as established under paragraph (g) of this section. |
| (x) Are GOA sideboard limits assigned to specific persons or Amendment 80 cooperatives? | No, GOA sideboard limits are not assigned to specific persons or Amendment 80 cooperatives. GOA sideboard limits are assigned to the Amendment 80 sector. |
| (xi) Can an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 vessel be assigned to more than one Amendment 80 cooperative in a calendar year? | No, an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 vessel may be assigned to only one Amendment 80 cooperative in a calendar year. A person holding multiple Amendment 80 QS permits, Amendment 80 LLP licenses, or owning multiple Amendment 80 vessels is not required to assign all Amendment 80 QS permits, Amendment 80 LLP licenses, or Amendment 80 vessels to the same Amendment 80 cooperative or the Amendment 80 limited access fishery. |
| (xii) Can an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 vessel be assigned to an Amendment 80 cooperative and the Amendment 80 limited access fishery? | No, an Amendment 80 QS permit, Amendment 80 LLP license, or Amendment 80 vessel assigned to an Amendment 80 cooperative may not be assigned to the Amendment 80 limited access fishery for that calendar year. A person holding multiple Amendment 80 QS permits, Amendment 80 LLP licenses, or owning multiple Amendment 80 vessels is not required to assign all Amendment 80 QS permits, Amendment 80 LLP licenses, or Amendment 80 vessels to the same Amendment 80 cooperative or the Amendment 80 limited access fishery. |
| (xiii) Which members may catch the Amendment 80 cooperative's CQ? | Use of a cooperative's CQ permit is determined by the Amendment 80 cooperative contract signed by its members. Any violations of this contract by a cooperative member may be subject to civil claims by other members of the Amendment 80 cooperative. |
| (xiv) Does an Amendment 80 cooperative need a membership agreement or contract? | Yes, an Amendment 80 cooperative must have a membership agreement or contract that specifies how the Amendment 80 cooperative intends to catch its CQ. A copy of this agreement or contract must be submitted to NMFS with the application for CQ. |
| (xv) What happens if the Amendment 80 cooperative membership agreement or contract is modified during the fishing year? | A copy of the amended Amendment 80 membership agreement or contract must be sent to NMFS in accordance with § 679.4(a)(4). |

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|---|---|
| (xvi) What happens if the Amendment 80 cooperative exceeds its CQ amount? | An Amendment 80 cooperative is not authorized to catch Amendment 80 species or use crab PSC or halibut PSC in excess of the amount on its CQ permit. Exceeding a CQ permit is a violation of the regulations. Each member of the Amendment 80 cooperative is jointly and severally liable for any violations of the Amendment 80 Program regulations while fishing under the authority of a CQ permit. This liability extends to any persons who are hired to catch or receive CQ assigned to an Amendment 80 cooperative. Each member of an Amendment 80 cooperative is responsible for ensuring that all members of the cooperative comply with all regulations applicable to fishing under the Amendment 80 Program. |
| (xvii) Is there a limit on how much CQ an Amendment 80 cooperative may hold or use? | No, but each Amendment 80 QS holder is subject to use caps, and an Amendment 80 vessel may be subject to vessel use caps. See § 679.92(a). |
| (xviii) Is there a limit on how much CQ a vessel may catch? .... | Yes, an Amendment 80 vessel may not catch more than 20 percent of the aggregate Amendment 80 species ITAC assigned to the Amendment 80 sector for that calendar year. See § 679.92(a) for use cap provisions. |
| (xix) Are there any special reporting requirements? ..... | Yes, the designated representative of the Amendment 80 cooperative must submit an annual Amendment 80 cooperative report as described under § 679.5(s). In addition, each member of an Amendment 80 cooperative must submit a timely and complete EDR as described under § 679.94. |

(4) *Successors-in-interest*. If a member of an Amendment 80 cooperative dies (in the case of an individual) or dissolves (in the case of a business entity), the CQ derived from the Amendment 80 QS permits assigned to the Amendment 80 cooperative for that year from that person remains under the control of the Amendment 80 cooperative for the duration of that calendar year as specified in the Amendment 80 cooperative contract. Each Amendment 80 cooperative is free to establish its own internal procedures for admitting a successor-in-interest during the fishing season due to the death or dissolution of an Amendment 80 cooperative member.

### § 679.92 Amendment 80 Program use caps and sideboard limits.

(a) *Use caps*—(1) *General*. Use caps limit the amount of Amendment 80 QS units and Amendment 80 species CQ that may be held or used by an Amendment 80 QS holder or Amendment 80 vessel. Use caps may not be exceeded unless the Amendment 80 QS holder or Amendment 80 vessel subject to the use cap is specifically allowed to exceed a cap according to the criteria established under this paragraph (a) or by an operation of law. There are two types of use caps: Person use caps and vessel use caps. All Amendment 80 QS unit use caps are based on the aggregate Amendment 80 species Amendment 80 initial QS pool set forth in Table 32 to this part. The use caps apply as follows:

(2) *Amendment 80 QS holder use cap*—(i) *QS and CQ use cap*. A person may not individually or collectively hold or use more than thirty (30.0) percent of the aggregate Amendment 80 QS units initially assigned to the Amendment 80 sector and resulting CQ unless that person receives those Amendment 80 QS units on an Amendment 80 permit(s) based on Amendment 80 legal landings assigned to Amendment 80 vessel(s) or Amendment 80 LLP license(s) held by that Amendment 80 QS holder:

(A) Prior to June 9, 2006; and

(B) At the time of application for Amendment 80 QS.

(ii) *CQ use cap calculation*. For purposes of calculating and applying the CQ use cap, a person is assigned CQ based on:

(A) The amount of CQ derived from the Amendment 80 QS units held by that person; and

(B) Any CQ assigned to that person in an Application for CQ transfer.

(iii) *Transfer limitations*. (A) An Amendment 80 QS holder that receives an initial allocation of aggregate Amendment 80 QS units that exceeds the use cap listed in paragraph (a)(2)(i) of this section cannot receive any Amendment 80 QS permit by transfer unless and until that person's holdings of aggregate Amendment 80 QS units

are reduced to an amount below the use cap specified in paragraph (a)(2)(i) of this section.

(B) If an Amendment 80 QS holder that received an initial allocation of aggregate Amendment 80 QS units on his or her Amendment 80 QS permits that exceeds the use cap listed in paragraph (a)(2)(i) of this section transfers an Amendment 80 QS permit to another person, the transferor may not hold more than the greater of either the amount of Amendment 80 QS units held by the transferor after the transfer if the amount of aggregate Amendment 80 QS units continues to exceed the use cap, or the amount equal to the Amendment 80 QS unit use cap established in paragraph (a)(2)(i) of this section.

(C) An Amendment 80 QS holder that receives an initial allocation of aggregate Amendment 80 QS units on his or her Amendment 80 QS permits that exceeds the use cap listed in paragraph (a)(2)(i) of this section is prohibited from having any CQ assigned to that Amendment 80 QS holder in an application for CQ transfer unless and until that Amendment 80 QS holder's holdings of aggregate Amendment 80 QS units are reduced to an amount below the use cap specified in paragraph (a)(2)(i) of this section.

(3) *ITAC use cap for an Amendment 80 vessel.* An Amendment 80 vessel may not be used to catch an amount of Amendment 80 species greater than twenty (20.0) percent of the aggregate Amendment 80 species ITACs assigned to the Amendment 80 sector. This amount includes ITAC that is assigned as CQ or to the Amendment 80 limited access fishery.

(b) *GOA sideboard limits*—(1) *GOA groundfish sideboard limits.* Amendment 80 vessels may not be used to catch more than the amounts of groundfish in the management areas specified in Table 37 to this part from January 1 through December 31 of each year, except that GOA groundfish sideboard limits specified in Table 37 to this part do not apply when an Amendment 80 vessel is using dredge gear while directed fishing for scallops in the GOA.

(2) *GOA halibut PSC sideboard limits.* All Amendment 80 vessels, other than the fishing vessel GOLDEN FLEECE as specified in paragraph (d) of this section, may not use halibut PSC in the fishery complexes, management areas, and seasons greater than the amounts specified in Table 38 to this part during January 1 through December 31 of each year; except that:

(i) An Amendment 80 vessel that uses halibut PSC CQ in the Central GOA subject to the regulations established in the Rockfish Program under subpart G to this part is not subject to the halibut PSC sideboard limits in Table 38 to this part while fishing under a Rockfish CQ permit; and

(ii) Halibut PSC sideboard limits in Table 38 to this part do not apply when an Amendment 80 vessel is using dredge gear while directed fishing for scallops in the GOA.

(c) *Sideboard restrictions applicable to Amendment 80 vessels directed fishing for flatfish in the GOA.* Only an Amendment 80 vessel listed in column A of Table 39 to this part may be used to fish in the directed arrowtooth flounder, deep-water flatfish, flathead sole, rex sole, and shallow-water flatfish fisheries in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(d) *Sideboard restrictions applicable to the fishing vessel GOLDEN FLEECE.* (1) The fishing vessel GOLDEN FLEECE (USCG documentation number 609951):

(i) May not be used for directed groundfish fishing for northern rockfish, pelagic shelf rockfish, pollock, Pacific cod, or Pacific ocean perch in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season; and

(ii) Is not subject to halibut PSC sideboard limits as described in paragraph (b)(2) of this section in the GOA or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

### § 679.93 Amendment 80 Program recordkeeping, permits, monitoring, and catch accounting.

(a) *Recordkeeping and reporting.* See § 679.5(s).

(b) *Permits.* See § 679.4(o).

(c) *Catch monitoring requirements for Amendment 80 vessels and catcher/processors not listed in § 679.4(l)(2)(i) using*

*trawl gear and fishing in the BSAI.* The requirements under paragraphs (c)(1) through (9) of this section apply to all Amendment 80 vessels except Amendment 80 vessels using dredge gear while directed fishing for scallops, and any other catcher/processor not listed in § 679.4(l)(2)(i) using trawl gear and fishing or receiving fish in the BSAI and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. Except when using dredge gear while directed fishing for scallops, at all times when an Amendment 80 vessel or a catcher/processor not listed in § 679.4(l)(2)(i) using trawl gear has BSAI groundfish onboard the vessel, the vessel owner or operator must ensure that:

(1) *Catch weighing.* All groundfish are weighed on a NMFS-approved scale in compliance with the scale requirements at § 679.28(b). Each haul must be weighed separately and all catch must be made available for sampling by a NMFS-certified observer.

(2) *Observer sampling station.* An observer sampling station meeting the requirements at § 679.28(d) is available at all times.

(3) *Observer coverage requirements.* The vessel is in compliance with the observer coverage requirements described at § 679.50(c)(6).

(4) *Operational line.* The vessel has no more than one operational line or other conveyance for the mechanized movement of catch between the scale used to weigh total catch and the location where the observer collects species composition samples.

(5) *Fish on deck.* No fish are allowed to remain on deck unless an observer is present, except for fish inside the codend and fish accidentally spilled from the codend during hauling and dumping. Fish accidentally spilled from the codend must be moved to the fish bin.

(6) *Sample storage.* There is sufficient space to accommodate a minimum of 10 observer sampling baskets. This space must be within or adjacent to the observer sample station.

(7) *Pre-cruise meeting.* The Observer Program Office is notified by phone at 1–907–271–1702 at least 24 hours prior to departure when the vessel will be carrying an observer who has not previously been deployed on that vessel within the last 12 months. Subsequent to the vessel's departure notification, but prior to departure, NMFS may contact the vessel to arrange for a pre-cruise meeting. The pre-cruise meeting must minimally include the vessel operator or manager, and any observers assigned to the vessel.

(8) *Belt and flow operations.* The vessel operator stops the flow of fish and clears all belts between the bin doors and the area where the observer collects samples of unsorted catch when requested to do so by the observer.

(9) *Vessel crew in tanks or bins.* The vessel owner or operator must comply with the bin monitoring standards specified in § 679.28(i).

(d) *Catch monitoring requirements for Amendment 80 vessels fishing in the GOA.* The requirements under this section apply to any Amendment 80 vessel fishing in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season except Amendment 80 vessels using dredge gear while directed fishing for scallops. At all times when an Amendment 80 vessel is not using dredge gear while directed fishing for scallops and has GOA groundfish onboard the vessel owner or operator must ensure that:

(1) Catch from an individual haul is not mixed with catch from another haul prior to sampling by a NMFS-certified observer, and all catch is made available for sampling by a NMFS-certified observer;

(2) The vessel is in compliance with the observer coverage requirements described at § 679.50(c)(6)(ii);

(3) *Operational Line.* The vessel has no more than one operational line or other conveyance for the mechanized movement of catch at the location where the observer collects species composition samples; and

(4) The requirements in § 679.93(c)(5), (8), and (9) are met.

(e) *Catch accounting*—(1) *Amendment 80 species*—(i) *Amendment 80 cooperative.* All Amendment 80 species caught in the BSAI, including catch in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, by an Amendment 80 vessel assigned to an Amendment 80 cooperative will be debited from the CQ permit for

that Amendment 80 cooperative for that calendar year unless that Amendment 80 vessel is using dredge gear while directed fishing for scallops.

(ii) *Amendment 80 limited access fishery*. All Amendment 80 species caught in the BSAI, including catch in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, by an Amendment 80 vessel assigned to the Amendment 80 limited access fishery will be debited against the ITAC for that Amendment 80 species in the Amendment 80 limited access fishery for that calendar year unless that Amendment 80 vessel is using dredge gear while directed fishing for scallops.

(2) *Crab PSC and halibut PSC*—(i) *Amendment 80 cooperative*. All crab PSC or halibut PSC used by an Amendment 80 vessel assigned to an Amendment 80 cooperative in the BSAI, including crab PSC or halibut PSC used in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, will be debited against the CQ permit for that Amendment 80 cooperative for that calendar year unless that Amendment 80 vessel is using dredge gear while directed fishing for scallops.

(ii) *Amendment 80 limited access fishery*. All crab PSC or halibut PSC used by an Amendment 80 vessel assigned to the Amendment 80 limited access fishery in the BSAI, including crab PSC or halibut PSC used in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, will be debited against the crab PSC or halibut PSC limit assigned to the Amendment 80 limited access fishery for that calendar year, unless that Amendment 80 vessels is using dredge gear while directed fishing for scallops.

(3) *GOA groundfish sideboard limits*. All Amendment 80 sideboard species defined in Table 37 to this part caught in the GOA, including catch in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, by an Amendment 80 vessel will be debited against the Amendment 80 sideboard limit for that Amendment 80 sideboard species for that calendar year except Amendment 80 sideboard species caught by Amendment 80 vessel using dredge gear while directed fishing for scallops.

(4) *GOA halibut sideboard limits*. All halibut PSC used by all Amendment 80 vessels in the GOA, including halibut PSC used in the adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, will be debited against the sideboard limit established for the Amendment 80 sector, except:

(i) Halibut PSC CQ used by the catcher/processor sector in the Rockfish Program in the Central GOA;

(ii) Halibut PSC used by the fishing vessel GOLDEN FLEECE (USCG Documentation number 609951); and

(iii) Halibut PSC used by an Amendment 80 vessel using dredge gear while directed fishing for scallops.

### § 679.94 Economic data report (EDR) for the Amendment 80 sector.

(a) *Amendment 80 EDR*—(1) *Requirement to submit an EDR*. Each year except 2008, a person who held an Amendment 80 QS permit during a calendar year must submit to NMFS an EDR for that calendar year for each Amendment 80 QS permit held by that person. An EDR must be timely and complete.

(2) *Submission of EDR*. An EDR may only be submitted to NMFS using any one of the following methods:

(i) *Mail:* NMFS, Alaska Fisheries Science Center, Economic Data Reports, 7600 Sand Point Way NE, F/AKC2, Seattle, WA 98115; or

(ii) *Fax:* 206–526–6723

(3) *EDR forms*. EDR forms are available through the Internet on the NMFS Alaska Region Web site at *http://www.fakr.noaa.gov*, or by contacting NMFS at 206–526–6414.

(4) *Deadline*. For each calendar year except 2008, a completed EDR must be received by NMFS no later than 1700 hours A.l.t. on June 1 of the year following the calendar year during which the Amendment 80 QS permit was held, or if sent by U.S. mail, postmarked by that date.

(5) *Contents of EDR*. An EDR must contain completed submissions for each data field required under paragraphs (b) and (c) of this section, as applicable, and the following information:

(i) *Calendar year of EDR*. Calendar year for which the EDR is being submitted;

(ii) *Amendment 80 QS holder information*. Name of company, partnership, other business entity, business telephone number, business fax number, e-mail address (if available) and Amendment 80 QS permits held;

(iii) *Designated representative*. An Amendment 80 QS holder must appoint an individual to be his designated representative and must ensure that the designated representative complies with the regulations in this section. The designated representative is the primary contact person for NMFS on issues relating to data required in the EDR. If an individual Amendment 80 QS holder chooses to complete the EDR, then they are the designated representative;

(iv) *Person completing this report*. (A) Indicate whether the person completing this report is the Amendment 80 QS holder, or the designated representative for the Amendment 80 QS holder;

(B) Record the name of the person completing the report, title, business telephone number, fax number, signature of the person submitting the EDR, and e-mail address (if available). If a designated representative is not the Amendment 80 QS holder, written authorization to act on behalf of the Amendment 80 QS holder must accompany the EDR;

(v) *Amendment 80 QS holders who own Amendment 80 vessels*. An Amendment 80 QS holder who is an Amendment 80 vessel owner must submit, or have his designated representative submit, revenue and cost information for each Amendment 80 QS permit held and each Amendment 80 vessel owned by that Amendment 80 QS holder as described under paragraphs (b) and (c) of this section;

(vi) *Amendment 80 QS holders who do not own Amendment 80 vessels*. An Amendment 80 QS holder who is not an Amendment 80 vessel owner must submit, or have his designated representative submit, revenue and cost information for each Amendment 80 QS permit held by that Amendment 80 QS holder as described under paragraph (c) of this section; and

(vii) *Certification*. The Amendment 80 QS holder and his designated representative, if applicable, must certify that all information provided under paragraphs (b) and (c) of this section is accurate and complete.

(b) *Amendment 80 vessel information*—(1) *Ownership of an Amendment 80 vessel*. If a person owned any part of an Amendment 80 vessel during a calendar year, that person must provide the following information for each Amendment 80 vessel owned:

(i) *Amendment 80 vessel owner information*. Vessel name, USCG Documentation number, ADF&G vessel registration number, ADF&G processor code, Amendment 80 LLP license number(s) which designated that vessel during that calendar year, Amendment 80 QS permit assigned to that vessel during that calendar year, Amendment 80 limited access fishery permit number assigned to that vessel during that calendar year, or name of Amendment 80 cooperative to which that Amendment 80 vessel was assigned during that calendar year (if applicable);

(ii) *Amendment 80 vessel operator information*. If a person other than the Amendment 80 QS holder operated an Amendment 80 vessel owned by that Amendment 80 QS holder during a calendar year, provide the following: Name of company, partnership, other business entity, and business telephone number, business fax number, and e-mail address (if available);

(2) *Vessel characteristics*. (i) Home port, U.S. gross registered tonnage, net tonnage, length overall, beam, shaft horsepower, fuel capacity, year built;

(ii) Vessel survey value: most recent survey value, date of last survey value, did survey reflect value of permits and processing equipment;

(iii) Freezing capacity: maximum freezing capacity of this vessel in pounds per hour and freezer space (measured in pounds of product);

(iv) Fuel consumption: total consumption for the calendar year and average fuel consumed per hour from fishing and processing, transiting, and in shipyard.

(v) Vessel activity during calendar year: number of days the vessel was engaged in fishing, processing, steaming empty, offloading, and inactive or in shipyard. Report separately for Amendment 80 fisheries and all other fisheries; and

(vi) Processing capacity: Record each type of product processed on the line in the Amendment 80 fishery, the number of processing lines of similar type (equipment and/or product mix), and the vessel's maximum average throughput in pounds (round weight) per hour under normal operating conditions (assuming quantity of raw fish and other inputs is not limiting), totaled over all processing lines of this type.

(3) *Calendar year revenues.*

(i) Total fishery product sales volume and FOB Alaska revenue; and

(ii) All other income derived from vessel operations: tendering, charters, cargo transport, etc.

(4) *Calendar year costs.* (i) Fishing labor expenses (including bonuses and payroll taxes, but excluding benefits and insurance);

(ii) Processing labor expenses (including bonuses and payroll taxes, but excluding benefits and insurance);

(iii) Labor expenses for all other employees aboard the vessel;

(iv) Food and provisions not paid by crew;

(v) Recruitment, travel, benefits, and other employee related costs;

(vi) Lease expense for this vessel and onboard equipment;

(vii) Purchases of fishing gear (nets, net electronics, doors, cables, etc.);

(viii) Expenditures on processing equipment;

(ix) Product storage equipment;

(x) Expenditures on vessel and onboard equipment (other than fishing, processing, or storage equipment);

(xi) Fishing gear leases;

(xii) Repair and maintenance expenses for vessel and processing equipment;

(xiii) Freight storage and other sales costs;

(xiv) Product packaging materials;

(xv) Fuel and lubrication;

(xvi) Observer fees and monitoring costs;

(xvii) General administrative costs;

(xviii) Insurance;

(xix) Fisheries landing taxes;

(xx) Total raw fish purchases; and

(xxi) All other costs related to vessel operations not included in the preceding list.

(5) *Calendar year labor.* Average number and total number of employees for fishing, processing, and other activities on this vessel.

(i) Average number of hours worked per day by processing line employee; and

(ii) Crew revenue share system used for some processing, all processing, some non-processing, and all non-processing crew.

(c) *Permit revenues or expenditures.* An Amendment 80 QS holder or his designated representative will record revenues and expenditures for any tradable fishing or processing privilege. Attribute those revenues or costs to a specific Amendment 80 vessel or Amendment 80 LLP as applicable.

(1) *Permit revenues.* (i) Income from sale or lease of fishery licenses, permits, harvesting or processing rights: record license or permit number and revenue for each asset sold; and

(ii) Royalties received from leasing allocations including metric tons and dollars for Amendment 80 yellowfin sole, rock sole, flathead sole, Atka mackerel, Pacific ocean perch, Pacific cod, Amendment 80 leased halibut PSC, leased crab PSC, and any other species leased.

(2) *Permit expenditures.* (i) Fishery licenses, permits, harvesting or processing rights: record license or permit number and cost for each asset purchased;

(ii) Royalties paid for leases of catcher/processing quota, including metric tons, and dollars for Amendment 80 yellowfin sole, rock sole, flathead sole, Atka mackerel, Pacific ocean perch, Pacific cod, Amendment 80 leased halibut PSC, leased king crab PSC, and any other species leased;

(iii) Cooperative costs including lawyer and accountant costs, association fees, and other fees charged by harvest cooperative; and

(iv) Any other costs incurred from the use of fishery licenses, permits, harvesting or processing rights not included in the preceding list.

(d) *EDR audit procedures.* (1) NMFS will conduct verification of information with the Amendment 80 QS holder or designated representative, if applicable.

(2) The Amendment 80 QS holder or designated representative, if applicable, must respond to inquiries by NMFS within 20 days of the date of issuance of the inquiry.

(3) The Amendment 80 QS holder or designated representative, if applicable, must provide copies of additional data to facilitate verification by NMFS. The NMFS auditor may review and request copies of additional data provided by the Amendment 80 QS holder or designated representative, including but not limited to, previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data submitted.

## APPENDIX A TO PART 679—PERFORMANCE AND TECHNICAL REQUIREMENTS FOR SCALES USED TO WEIGH CATCH AT SEA IN THE GROUNDFISH FISHERIES OFF ALASKA

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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 ±0.2 °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 (Qmin)*. 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* (Σmin). 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 °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, accurate, 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 *Conveyer 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 distributer;

b. Model designation;

c. Non-repetitive serial number;

d. Maximum flow rate (Qmax);

e. Minimum flow rate (Qmin);

f. Minimum totalized load (Σmin);

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 (Σmin). 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) (±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* (Σmin). 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 °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 conditions 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-Resettable 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 overfill sensor is activated, this condition is indicated to the operator and is printed.

3.3.3 *Overfill Sensor*. The weigh hopper must be equipped with an overfill sensor that will cause the feed gate to close, activate an alarm, and stop the weighing operation until the overfill 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 distributer;

b. Model designation;

c. Non-repetitive serial number;

d. Maximum capacity (Max);

e. Minimum capacity (min);

f. Minimum totalized load (Σmin);

g. Minimum weighment;

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 |
| 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 °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 weighment if it is a non-repeatable weighment.

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 (III or IIII);

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 weighment*—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 weighment*—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 weighment*—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=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 characteristics 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.

*Weighment*—A single complete weighing operation.

## ANNEX A OF 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 $\Sigma_{min}$, 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 $\Sigma_{min}$, 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 $\Sigma_{min}$ 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 $\Sigma_{min}$ (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 $\Sigma_{min}$ (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 $\Sigma_{min}$ (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 $\Sigma_{min}$ (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

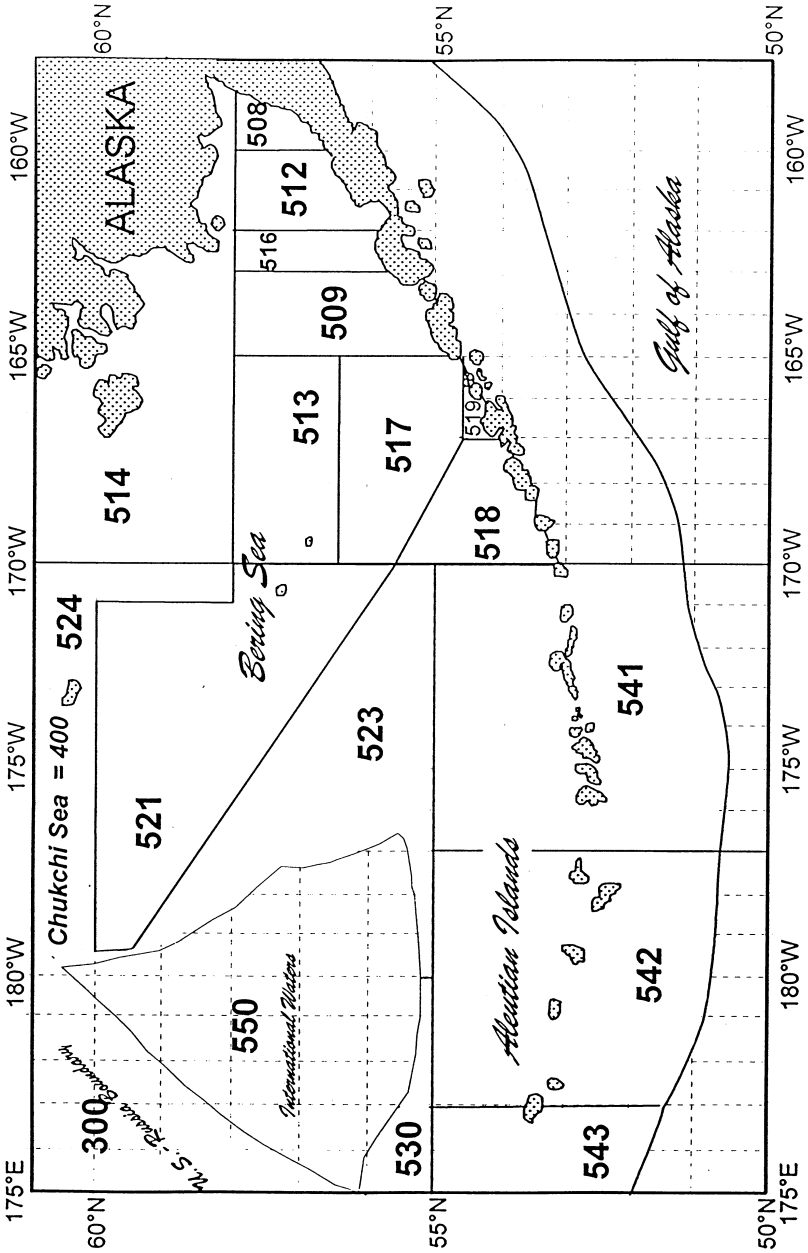


Figure 1 to Part 679. Bering Sea and Aleutian Islands statistical and reporting areas

a. Map

b. Coordinates

| Code | Description |
|---|---|
| 300 | *Russian waters.* 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 | *Chukchi Sea.* 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<br>54°30′ N lat, 165°00′ W long,<br>54°30′ N lat, 167°00′ W long, and<br>55°46′ N lat, 170°00′ W long. |
| 518 | *Bogoslof District:* 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:<br>52°49.18′ N, 169°40.47′ W,<br>52°49.24′ N, 169°07.10′ W,<br>53°23.13′ N, 167°50.50′ W,<br>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:<br>53°58.97′ N, 166°16.50′ W,<br>54°02.69′ N, 166°02.93′ W,<br>54°07.69′ N, 165°39.74′ W,<br>54°08.40′ N, 165°38.29′ W,<br>54°11.71′ N, 165°23.09′ W,<br>54°23.74′ N, 164°44.73′ W. |
| 521 | The area bounded by straight lines connecting the following coordinates in the order listed:<br>55°46′ N, 170°00′ W,<br>59°25′ N, 179°20′ W,<br>60°00′ N, 179°20′ W,<br>60°00′ N, 171°00′ W,<br>58°00′ N, 171°00′ W,<br>58°00′ N, 170°00′ W,<br>55°46′ N, 170°00′ W. |
| 523 | The area bounded by straight lines connecting the following coordinates in the order listed:<br>59°25′ N, 179°20′ W,<br>55°46′ N, 170°00′ W,<br>55°00′ N, 170°00′ W,<br>55°00′ N, 180°00′ W,<br>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:<br>58°00′ N, 170°00′ W,<br>58°00′ N, 171°00′ W,<br>60°00′ N, 171°00′ W,<br>60°00′ N, 179°20′ W,<br>59°25′ N, 179°20′ W,<br>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 | *Eastern Aleutian District.* 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 | *Central Aleutian District.* 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 | *Western Aleutian District.* 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 | *Donut Hole.* 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

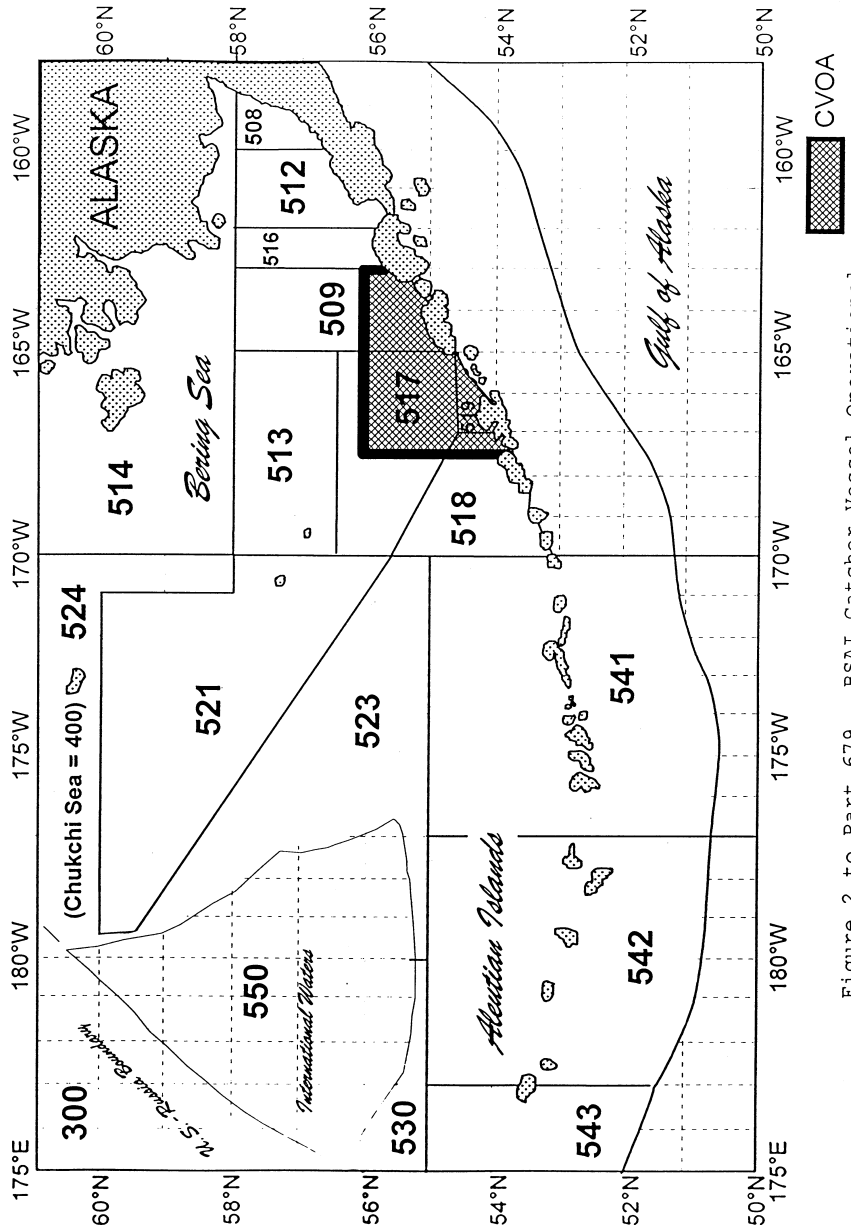


Figure 2 to Part 679. BSAI Catcher Vessel Operational Area (CVOA) (South of 56°00' N lat between 163°00' W and 167°30' W long)

[64 FR 61985, Nov. 15, 1999]

FIGURE 3 TO PART 679—GULF OF ALASKA STATISTICAL AND REPORTING AREAS

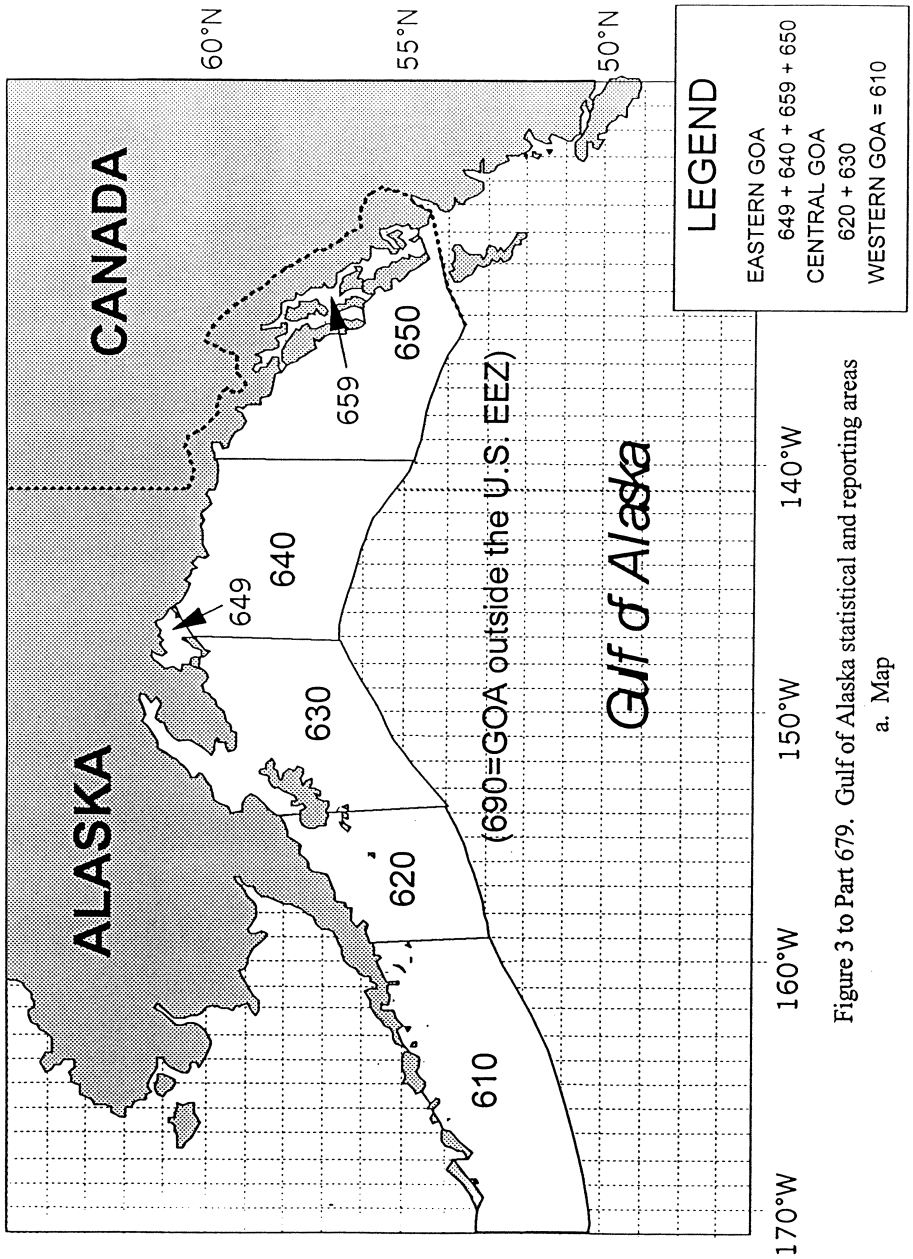


Figure 3 to Part 679. Gulf of Alaska statistical and reporting areas

a. Map

b. Coordinates

| Code | Description |
|---|---|
| 610 | *Western GOA Regulatory Area, Shumagin District.* 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:<br>52°49.18′ N, 169°40.47′ W;<br>52°49.24′ N, 169°07.10′ W;<br>53°23.13′ N, 167°50.50′ W;<br>53°18.95′ N, 167°51.06′ W;<br>53°58.97′ N, 166°16.50′ W;<br>54°02.69′ N, 166°02.93′ W;<br>54°07.69′ N, 165°39.74′ W;<br>54°08.40′ N, 165°38.29′ W;<br>54°11.71′ N, 165°23.09′ W;<br>54°23.74′ N, 164°44.73′ W; and<br>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. |
| 620 | *Central GOA Regulatory Area, Chirikof District.* 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) except that all waters of the Alitak/Olga/Deadman's/Portage Bay complex of Kodiak Island are included in this area. |
| 630 | *Central GOA Regulatory Area, Kodiak District.* 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 all waters of the Alitak/Olga/Deadman's/Portage Bay complex of Kodiak Island and Area 649. |
| 640 | *Eastern GOA Regulatory Area West Yakutat District.* 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. |
| 649 | *Prince William Sound.* Includes those waters of the State of Alaska inside the base line as specified in Alaska State regulations at 5 AAC 28.200. |
| 650 | *Eastern GOA Regulatory Area, Southeast Outside District.* 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. |
| 659 | *Eastern GOA Regulatory Area, Southeast Inside District.* As specified in Alaska State regulations at 5 AAC 28.105 (a)(1) and (2). |
| 690 | *GOA Outside the U.S. 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). |

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; 69 FR 21977, Apr. 23, 2004]

FIGURE 4 TO PART 679—BSAI HERRING SAVINGS AREAS IN THE BSAI

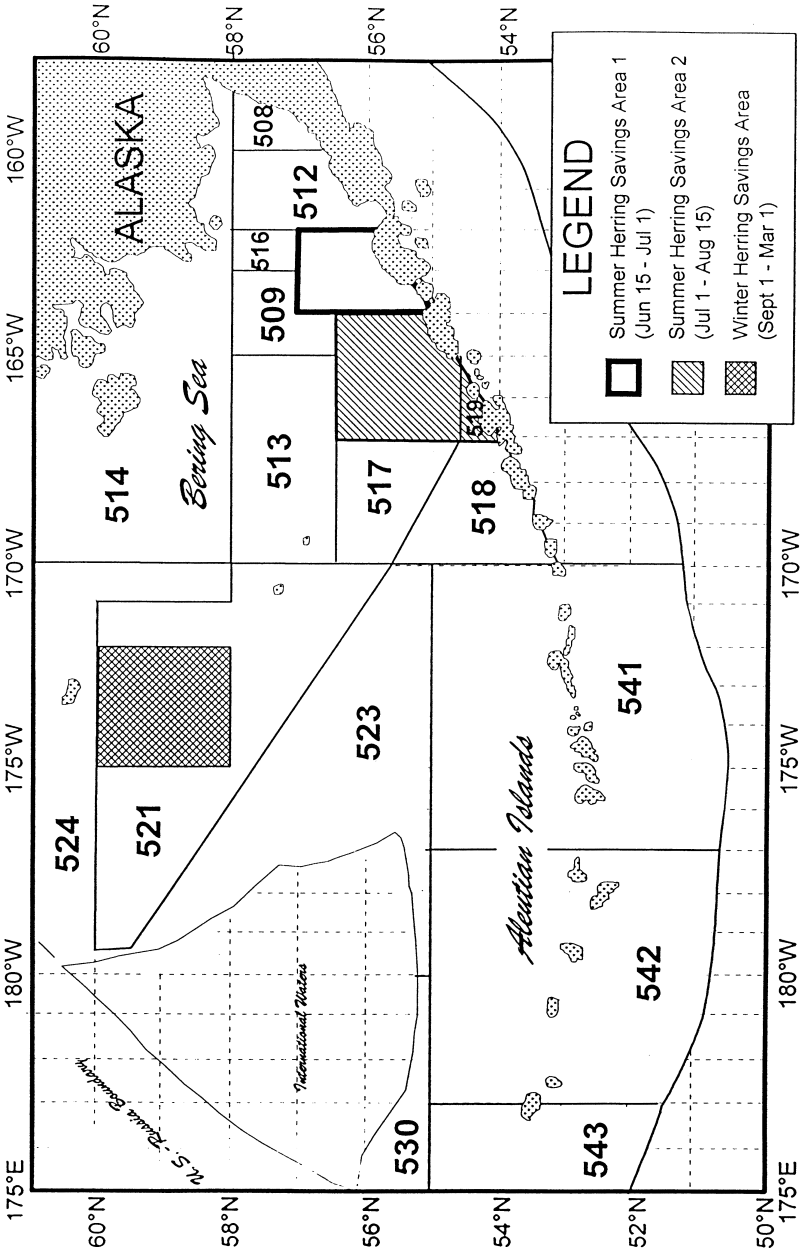


Figure 4 to Part 679. BSAI Herring Savings Areas
a. Map.

b. Coordinates

| Name | Description and effective date |
|---|---|
| *Summer Herring Savings Area 1.* | That part of the Bering Sea subarea that is south of 57° N lat and between 162° and 164° W long from 1200 hours, A.l.t., June 15 through 1200 hours, A.l.t. July 1 of a fishing year. |
| *Summer Herring Savings Area 2.* | That part of the Bering Sea subarea that is south of 56°30″ N lat and between 164° and 167° W long from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.t. August 15 of a fishing year. |
| *Winter Herring Savings Area* .... | That part of the Bering Sea subarea that is between 58° and 60° N lat and between 172° and 175° W long from 1200 hours, A.l.t. September 1 of the current fishing year through 1200 hours, A.l.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

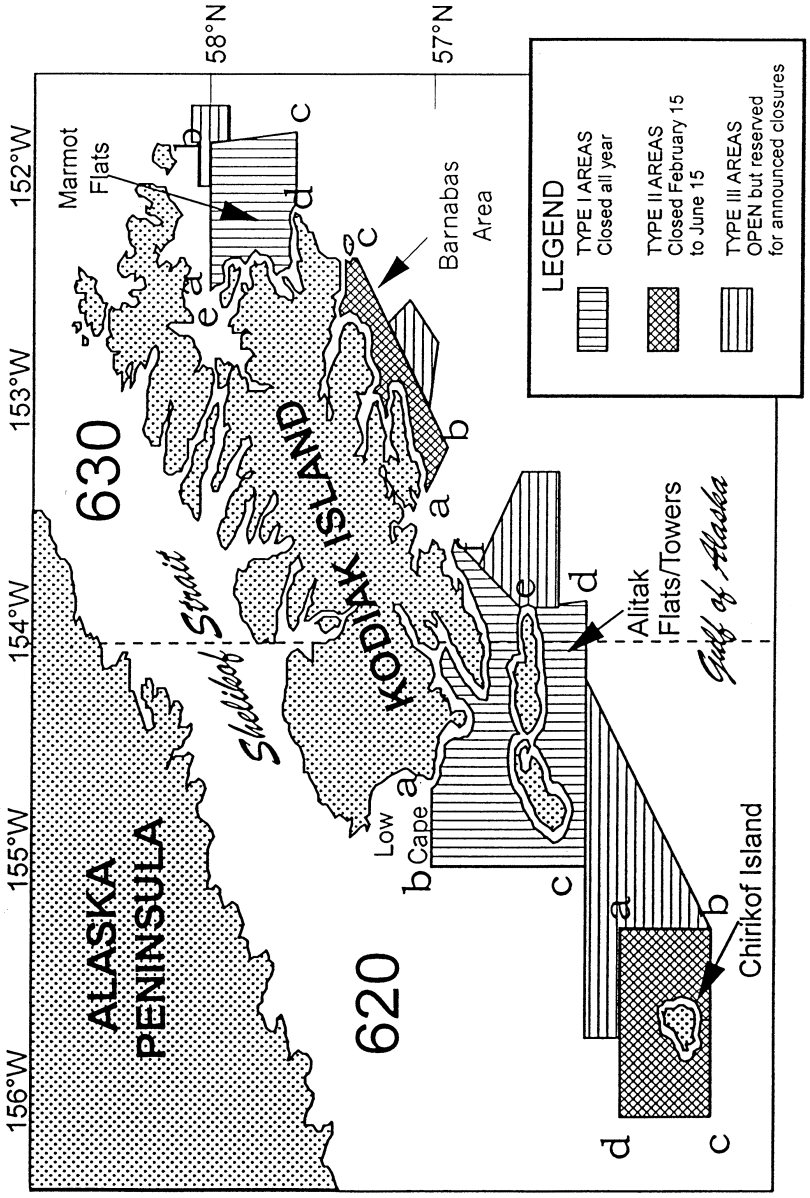


Figure 5 to Part 679. Areas closed to non-pelagic trawl gear in the Gulf of Alaska near Kodiak Island

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″ | Cape Sitkinak. |
| f | 56°54′5″ 153°32′5″ | East point of Twoheaded Island. |
| g | 56°56′0″ 153°35′5″ | Kodiak Island, thence, along the coastline of Kodiak Island until intersection of Low Cape. |
| a | 56°59′4″ 154°31′1″ | Low Cape. |
| *Marmot Flats Area* | | |
| All waters enclosed by a line connecting the following five points in the clockwise order listed: | | |
| a | 58°00′0″ 152°30′0″ | |
| b | 58°00′0″ 151°47′0″ | |
| c | 57°37′0″ 151°47′0″ | |
| d | 57°37′0″ 152°10′1″ | Cape Chiniak, then along the coastline of Kodiak Island to North Cape. |
| e | 57°54′5″ 152°30′0″ | |
| a | 58°00′0″ 152°30′0″ | |
| *Chirikof Island Area* | | |
| 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″ | |
| *Barnabas Area* | | |
| 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″ | |
| c | 57°22′0″ 152°18′5″ | South Tip of Ugak Island. |
| d | 57°23′5″ 152°17′5″ | North Tip of Ugak Island. |
| e | 57°25′3″ 152°20′0″ | Narrow Cape, thence, along the coastline of Kodiak Island Cape Kasick to Black Point, including inshore waters. |
| 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 VESSEL

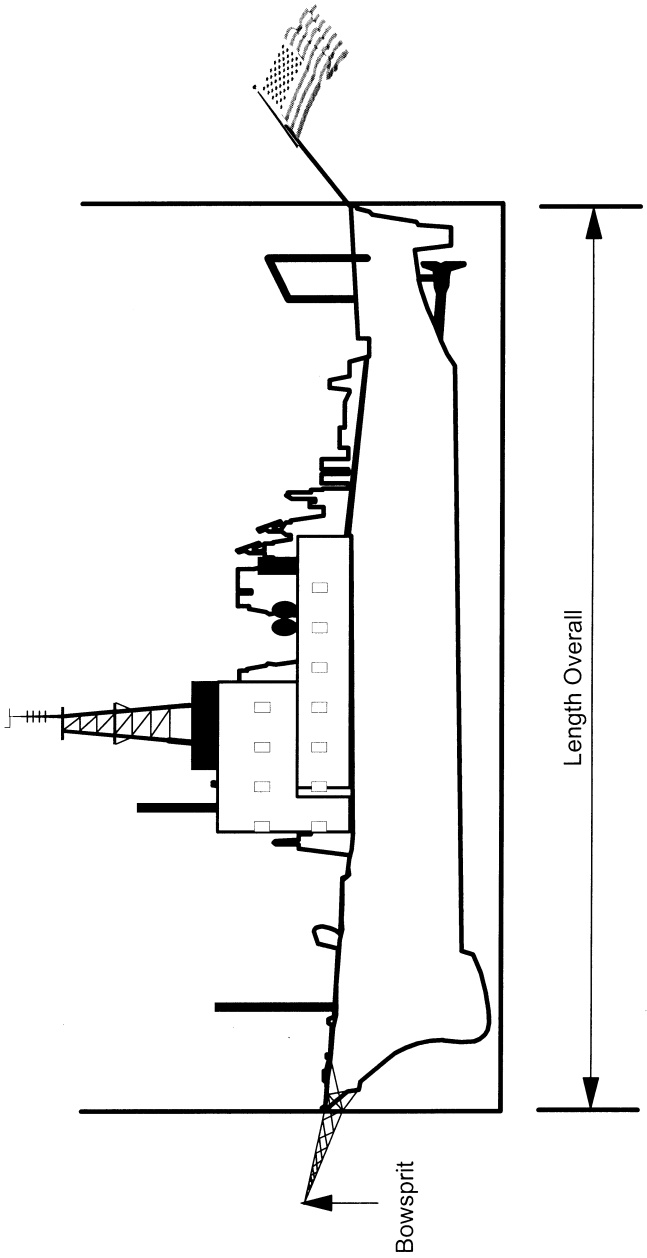


Figure 6 to Part 679. Length Overall of Vessel (see § 679.2)

[68 FR 23925, May 6, 2003]

FIGURE 7 TO PART 679—LOCATION OF TRAWL GEAR TEST AREAS IN THE GOA AND THE BSAI

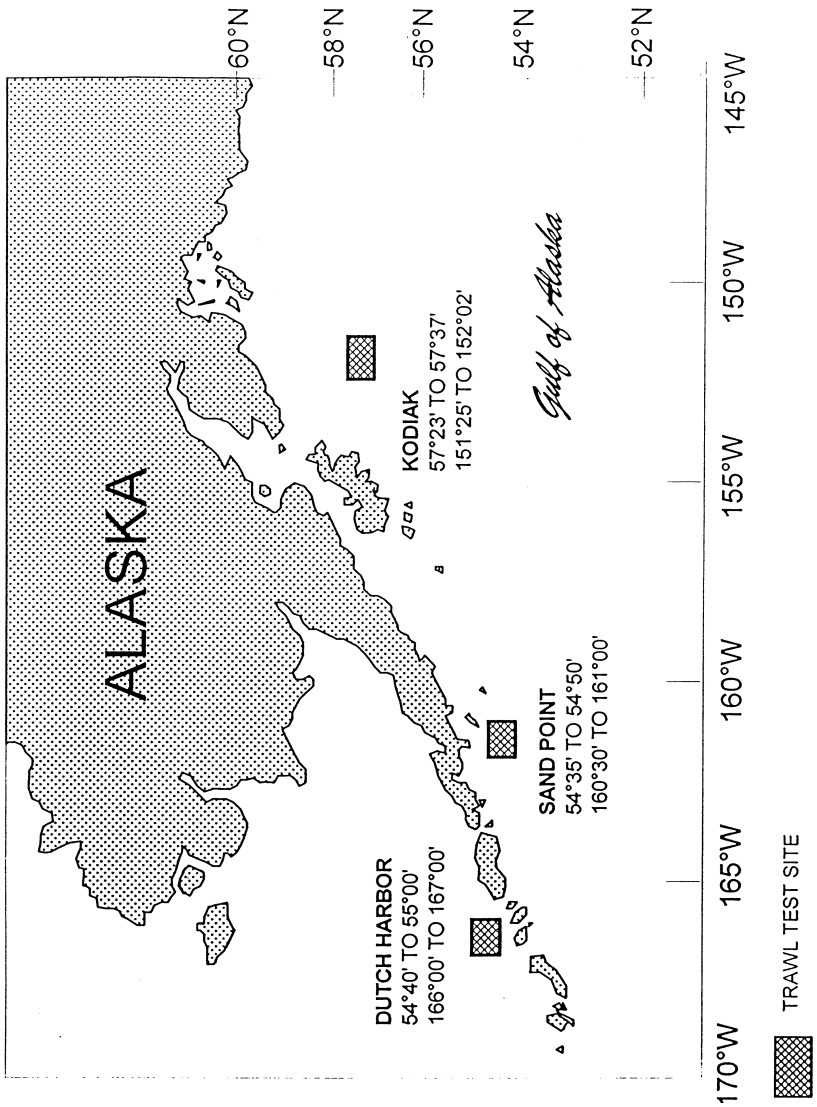


Figure 7 to Part 679. Location of Trawl Gear Test Areas in the GOA and the BSAI

[64 FR 61992, Nov. 15, 1999]

FIGURE 8 TO PART 679—CHINOOK SALMON SAVINGS AREAS OF THE BSAI

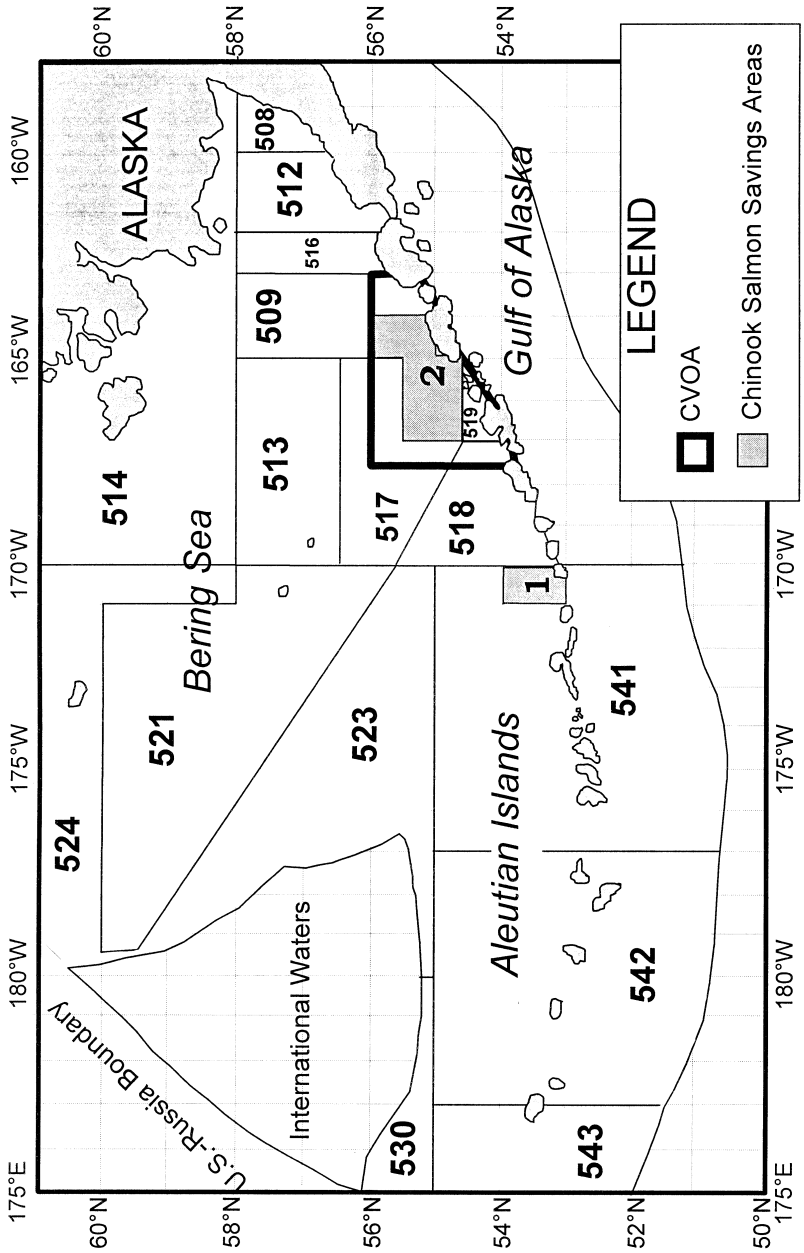


Figure 8 to Part 679. Chinook Salmon Savings Area of the BSAI.

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.

[65 FR 60588, Oct. 12, 2000]

FIGURE 9 TO PART 679—CHUM SAVINGS AREA (CSSA) OF THE CVOA

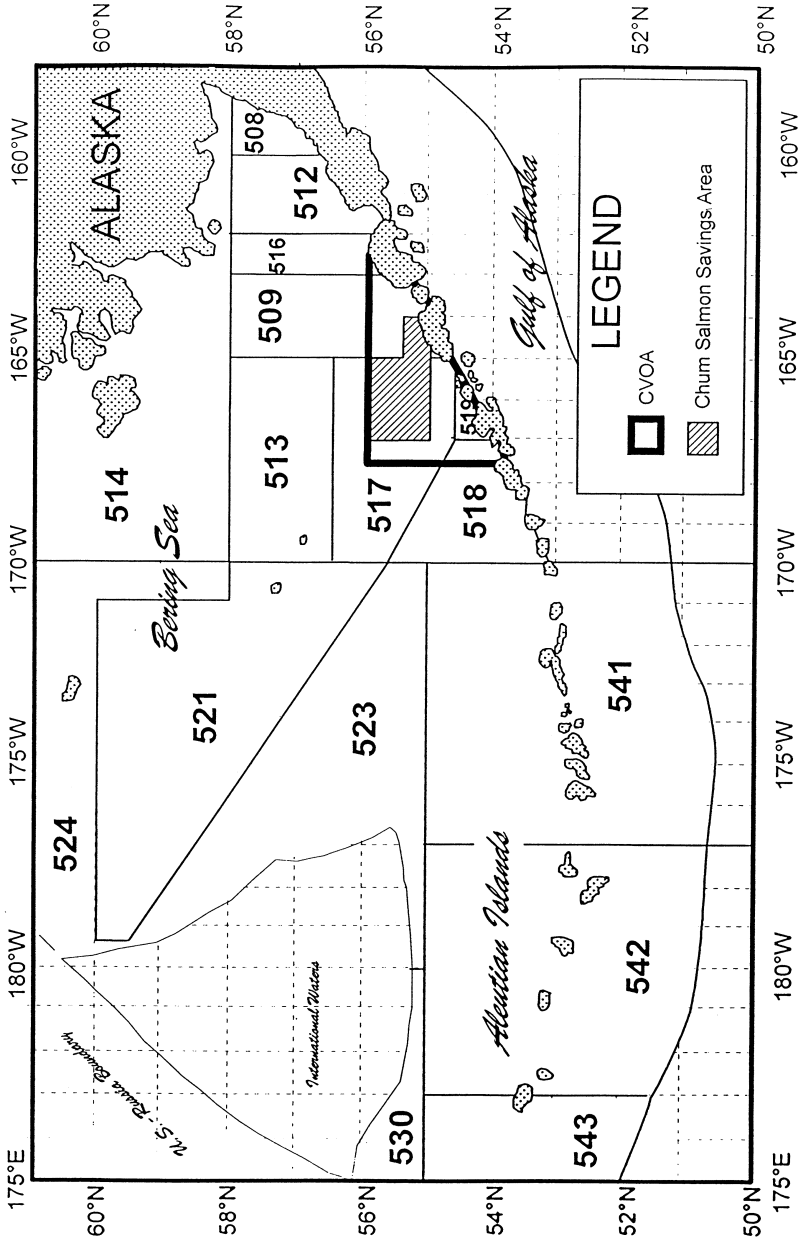


Figure 9 to Part 679. Chum Salmon Savings Area of the BSAI CVOA

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

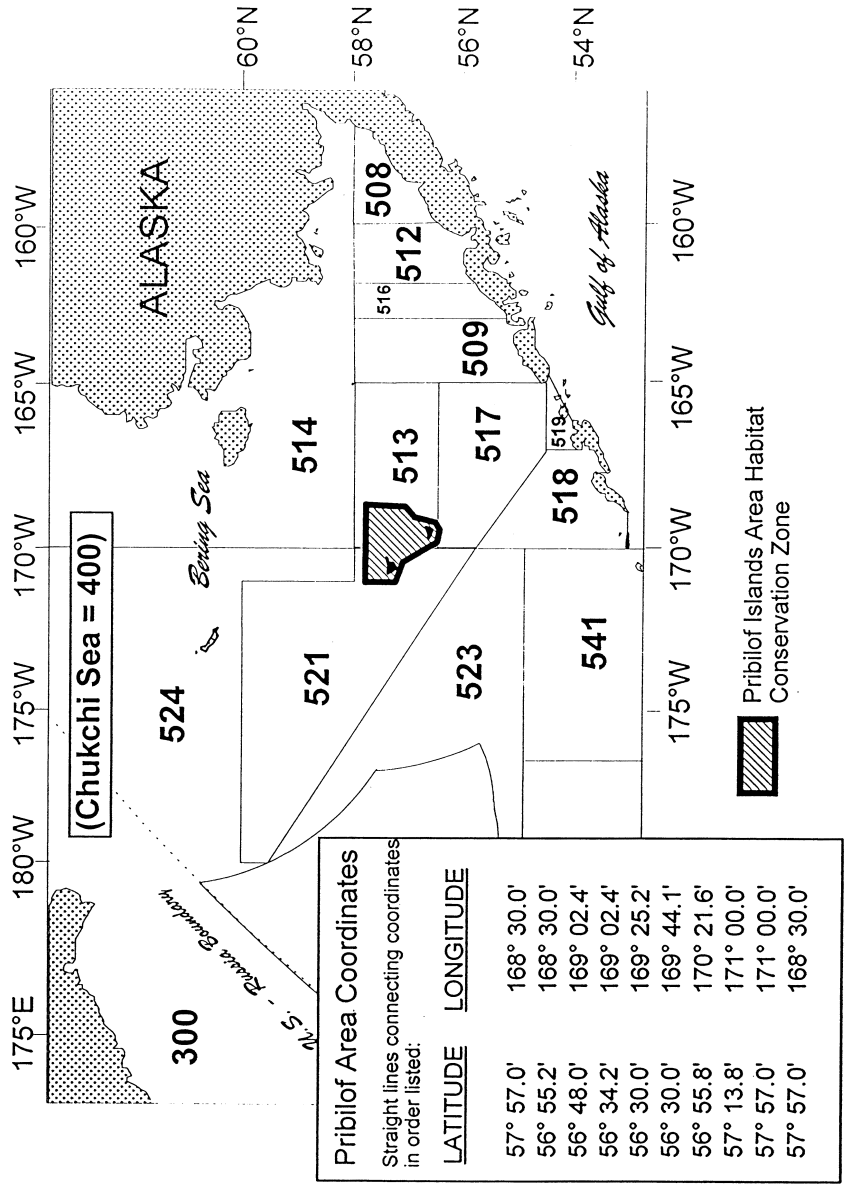


Figure 10 to Part 679. Pribilof Islands Area Habitat Conservation Zone in the Bering Sea

[64 FR 61997, Nov. 15, 1999]

FIGURE 11 TO PART 679—RED KING CRAB SAVINGS AREA (RKCSA)

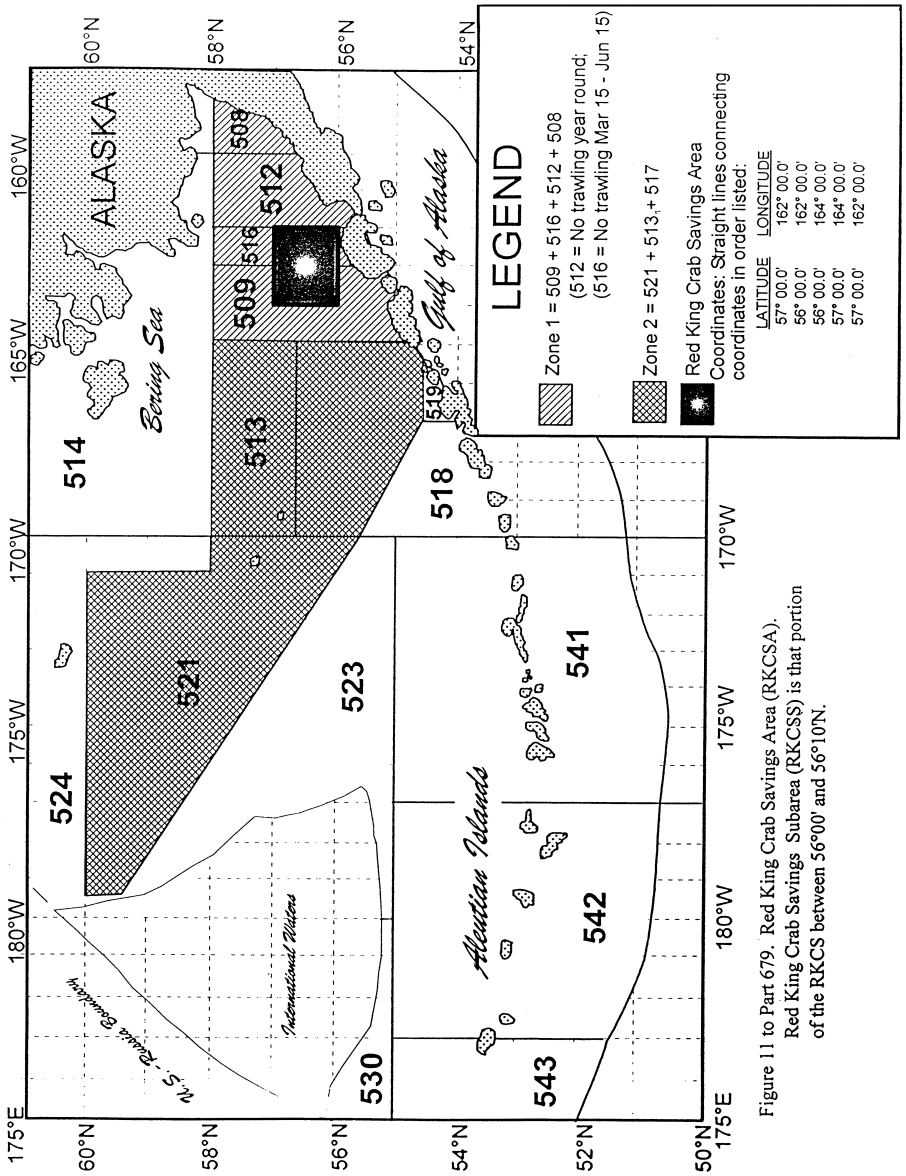


Figure 11 to Part 679. Red King Crab Savings Area (RKCSA). Red King Crab Savings Subarea (RKCSS) is that portion of the RKCS between 56°00' and 56°10'N.

[64 FR 61998, Nov. 15, 1999]

FIGURE 12 TO PART 679—NEARSHORE BRISTOL BAY TRAWL CLOSURE AREA

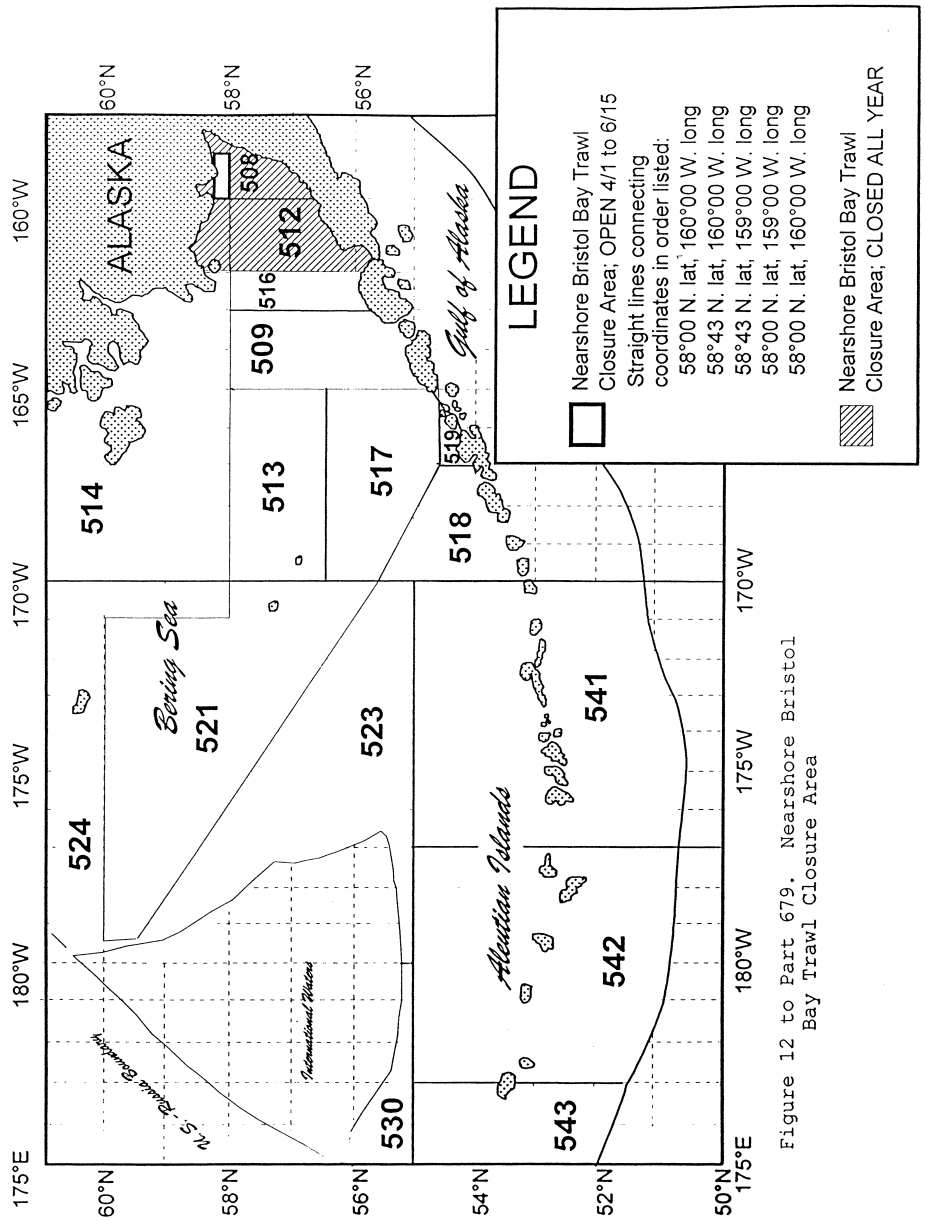


Figure 12 to Part 679. Nearshore Bristol Bay Trawl Closure Area

[64 FR 61999, Nov. 15, 1999]

FIGURE 13 TO PART 679—BSAI C. OPILIO TANNER CRAB BYCATCH LIMITATIONS ZONE

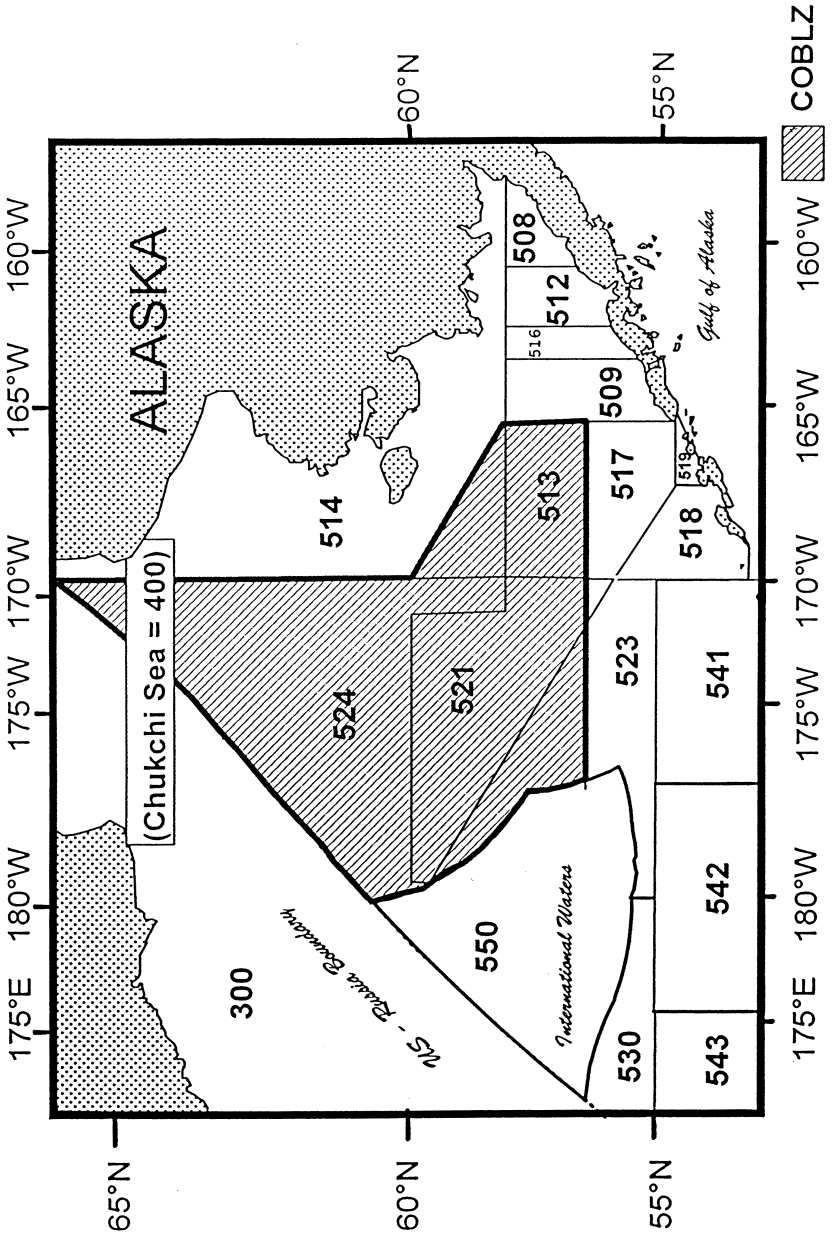


Figure 13 to Part 679. BSAI C. Opilio Crab Bycatch Limitation Zone (COBLZ)
a. Map

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

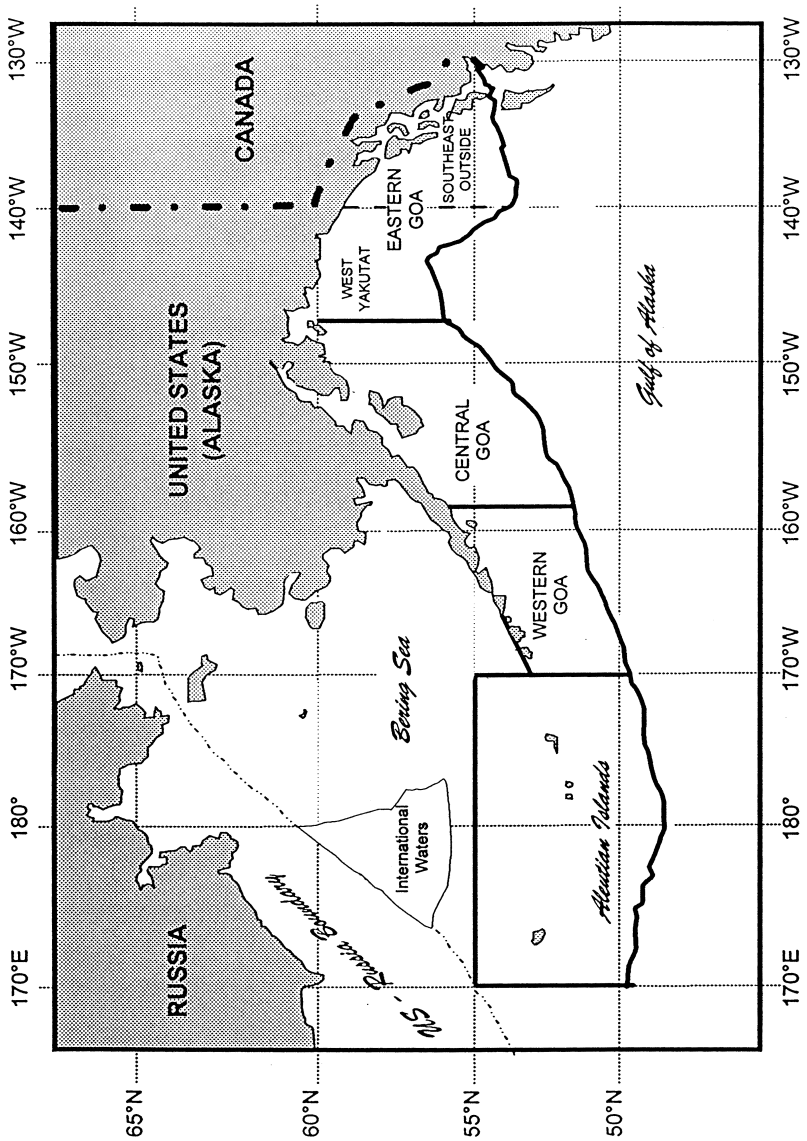


Figure 14 to Part 679. Sablefish Regulatory Areas and Districts

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

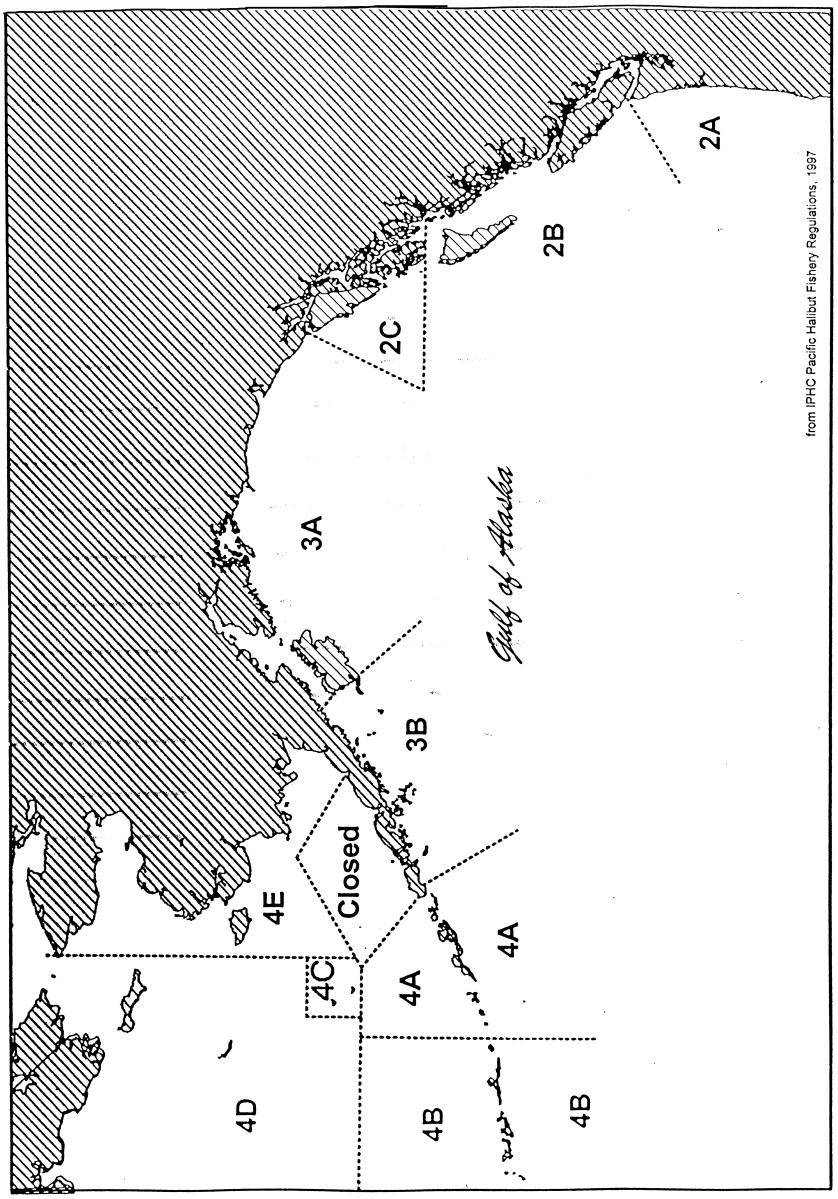


Figure 15 to Part 679. Regulatory Areas for the Pacific Halibut Fishery
a. Map

b. Coordinates

*Area 2A* includes all waters off the states of California, Oregon, and Washington;

*Area 2B* includes all waters off British Columbia;

*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 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—BERING SEA HABITAT CONSERVATION AREA

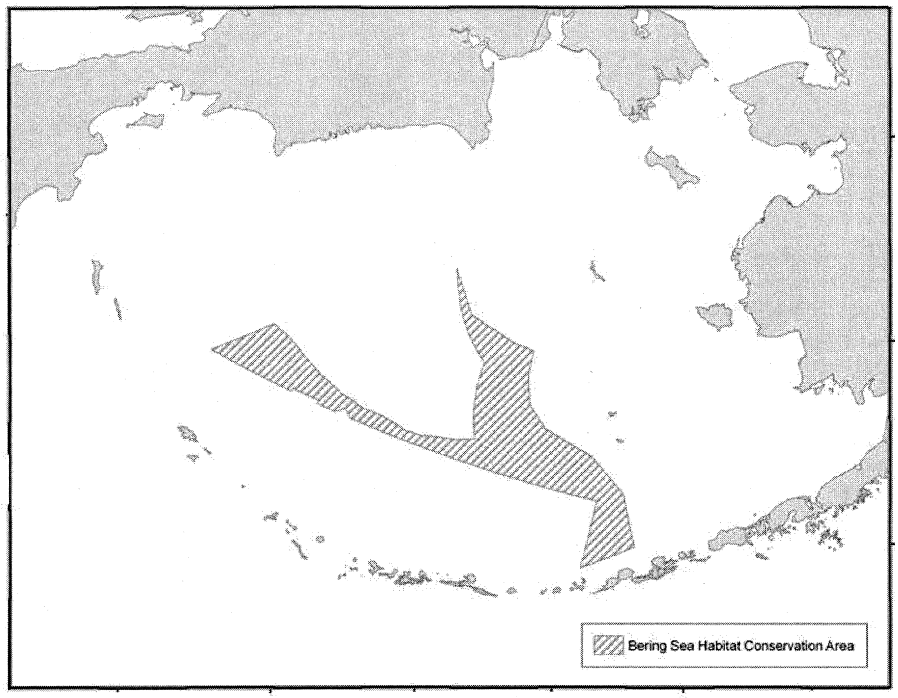


Figure 16 to Part 679--Bering Sea Habitat Conservation Area

[73 FR 43371, July 25, 2008]

FIGURE 17 TO PART 679—NORTHERN BERING SEA RESEARCH AREA AND ST. LAWRENCE ISLAND HABITAT CONSERVATION AREA

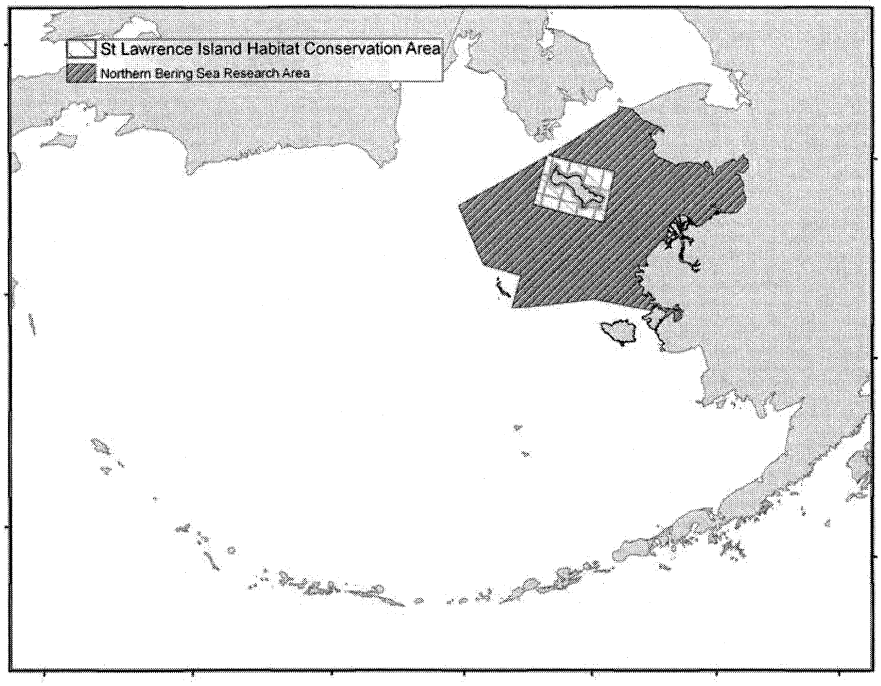


Figure 17 to Part 679--Northern Bering Sea Research Area and St. Lawrence Island Habitat Conservation Area

[73 FR 43371, July 25, 2008]

FIGURE 18 TO PART 679—SITKA PINNACLES MARINE RESERVE

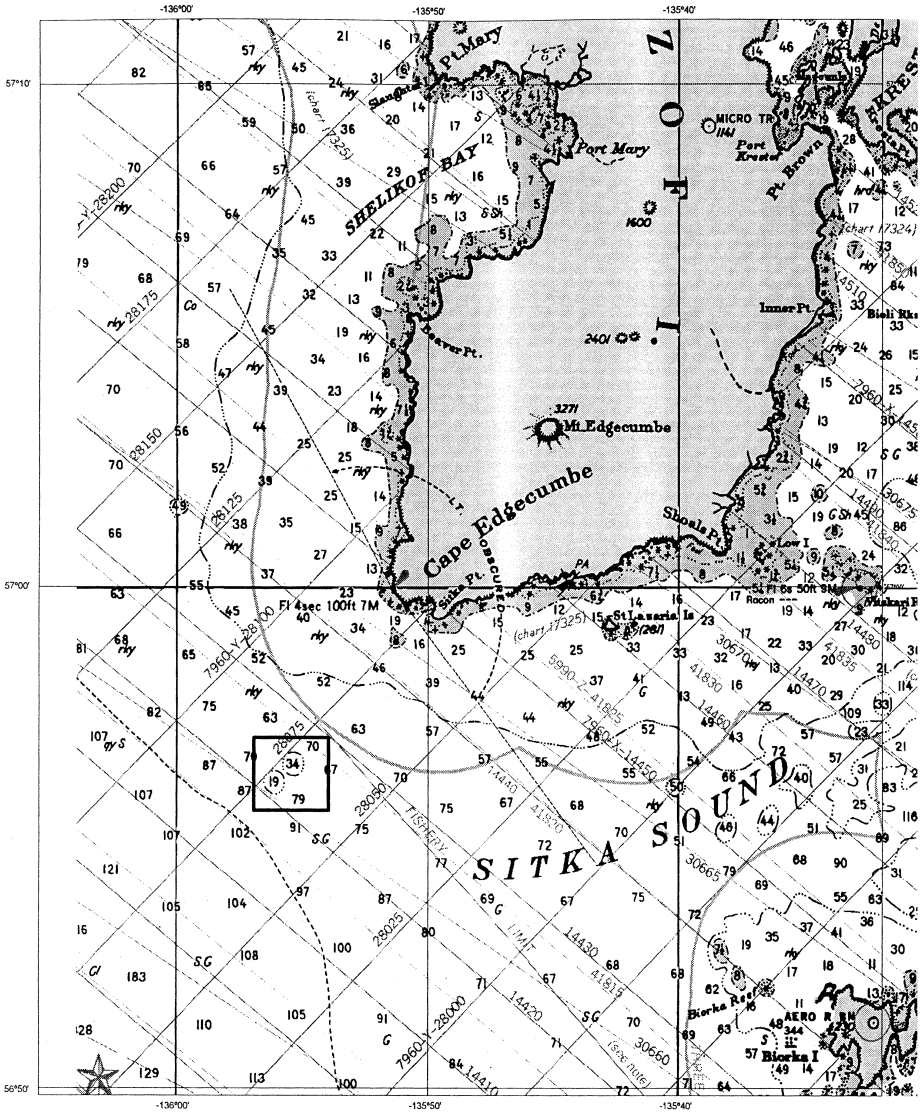


Figure 18 to Part 679. Sitka Pinnacles Marine Reserve (area enclosed within rectangle).

a. Map

b. Coordinates

An area totaling 2.5 square nm off Cape Edgecumbe, defined by straight lines connecting the following points in a counterclockwise 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.

[65 FR 67308, Nov. 9, 2000]

FIGURE 19 TO PART 679—SHELIKOF STRAIT CONSERVATION AREA

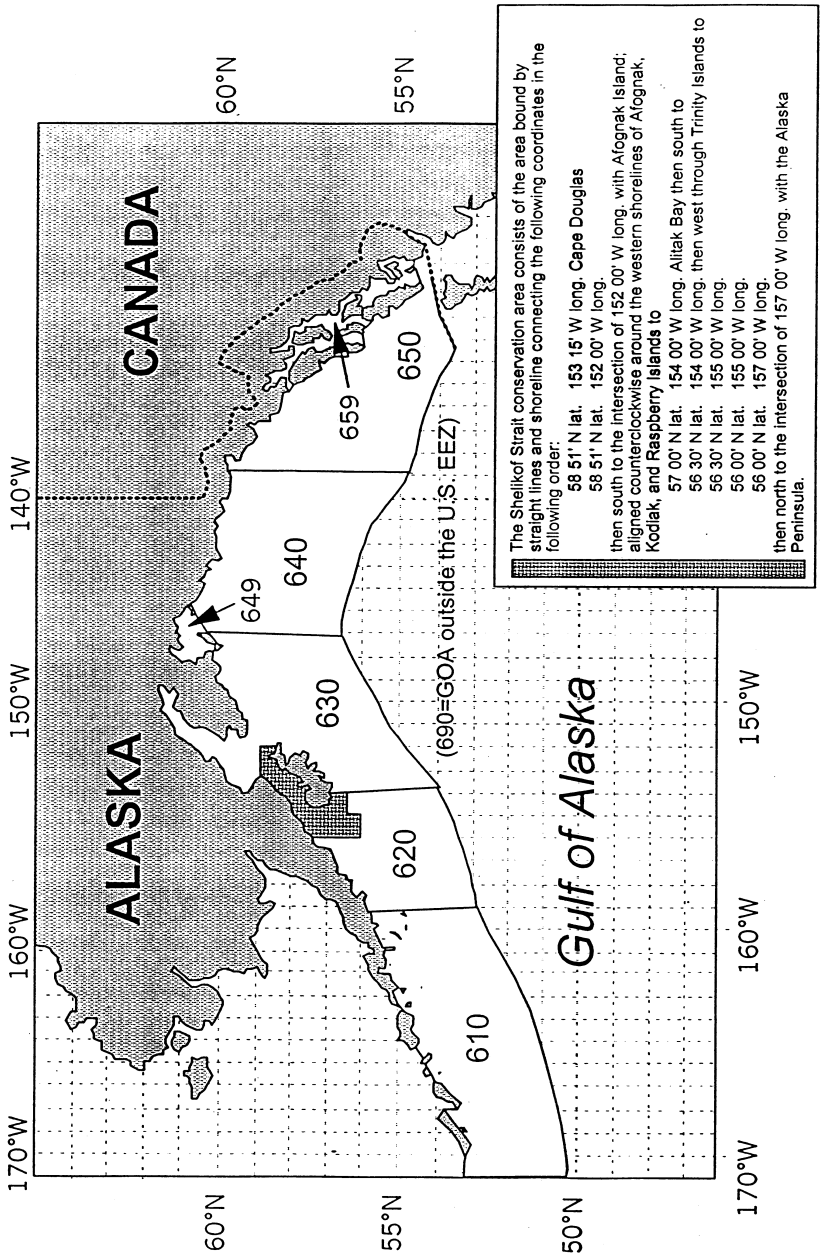


Figure 19 to Part 679. Shelikof Strait Conservation Area

[67 FR 4134, Jan. 28, 2002]

FIGURE 20 TO PART 679—STELLER SEA LION CONSERVATION AREA (SCA) OF THE BERING SEA

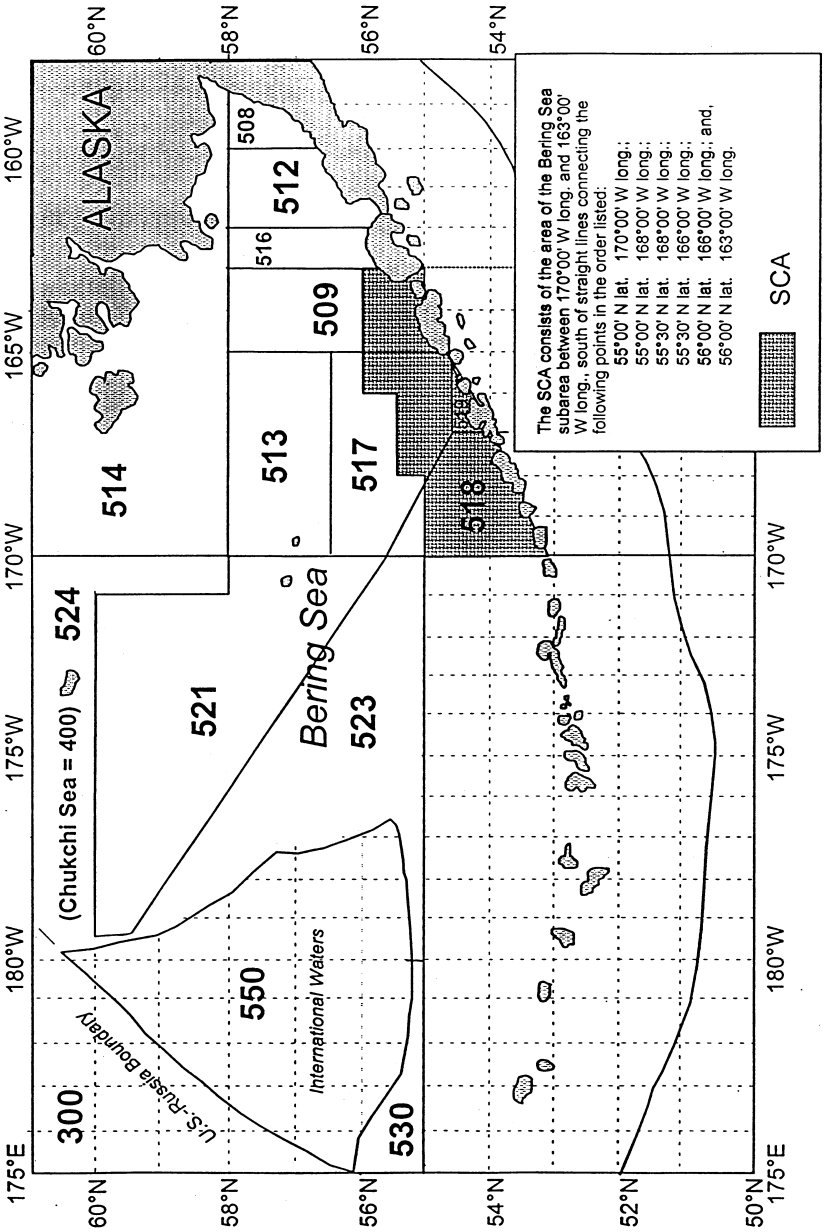


Figure 20 to Part 679. Steller sea lion conservation area (SCA) of the Bering Sea

[67 FR 4134, Jan. 28, 2002]

FIGURE 21 TO PART 679—NUNIVAK ISLAND, ETOLIN STRAIT, AND KUSKOKWIM BAY HABITAT CONSERVATION AREA

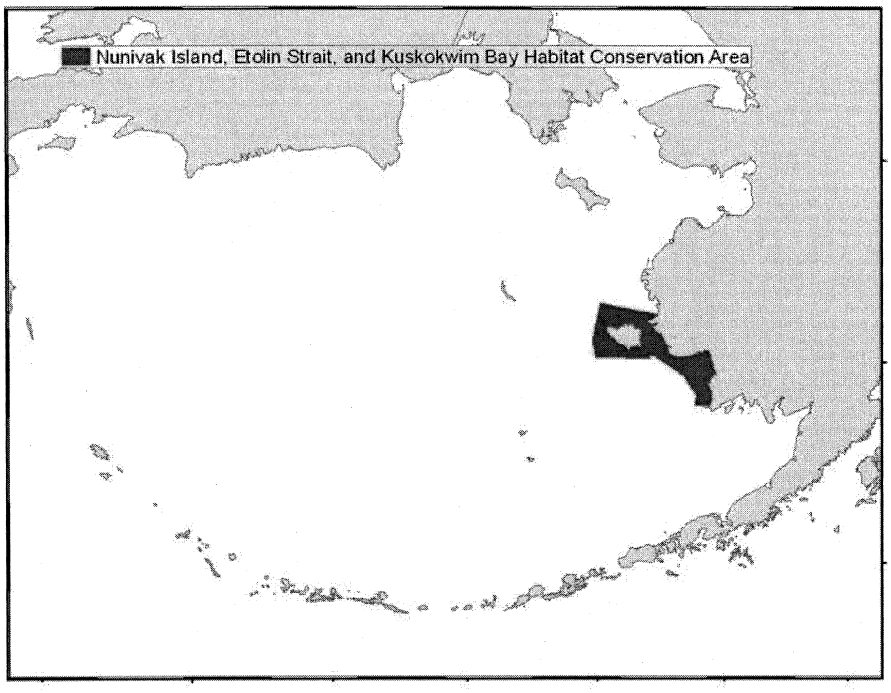


Figure 21 to Part 679--Nunivak Island, Etolin Strait, and Kuskokwim Bay Habitat Conservation Area

[73 FR 43372, July 25, 2008]

FIGURE 22 TO PART 679—CHINIAK GULLY RESEARCH AREA (APPLICABLE THROUGH DECEMBER 31, 2010)

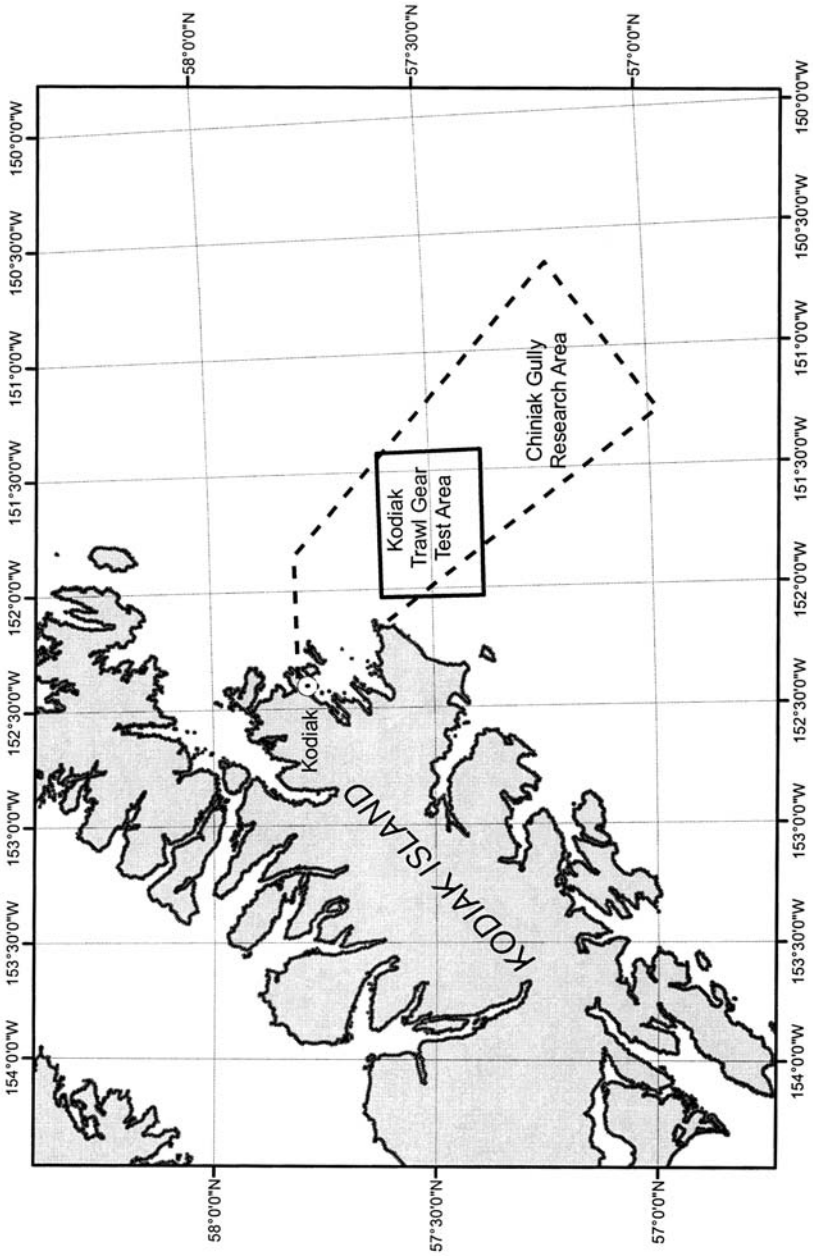


Figure 22 to Part 679 -- Chiniak Gully Research Area (applicable through December 31, 2010)

[71 FR 31107, June 1, 2006]

EFFECTIVE DATE NOTE: At 71 FR 31107, June 1, 2006, Figure 22 to part 679 was added, effective July 3, 2006, through Dec. 31, 2010.

FIGURE 23 TO PART 679—SALMON MANAGEMENT AREA (SEE § 679.2)

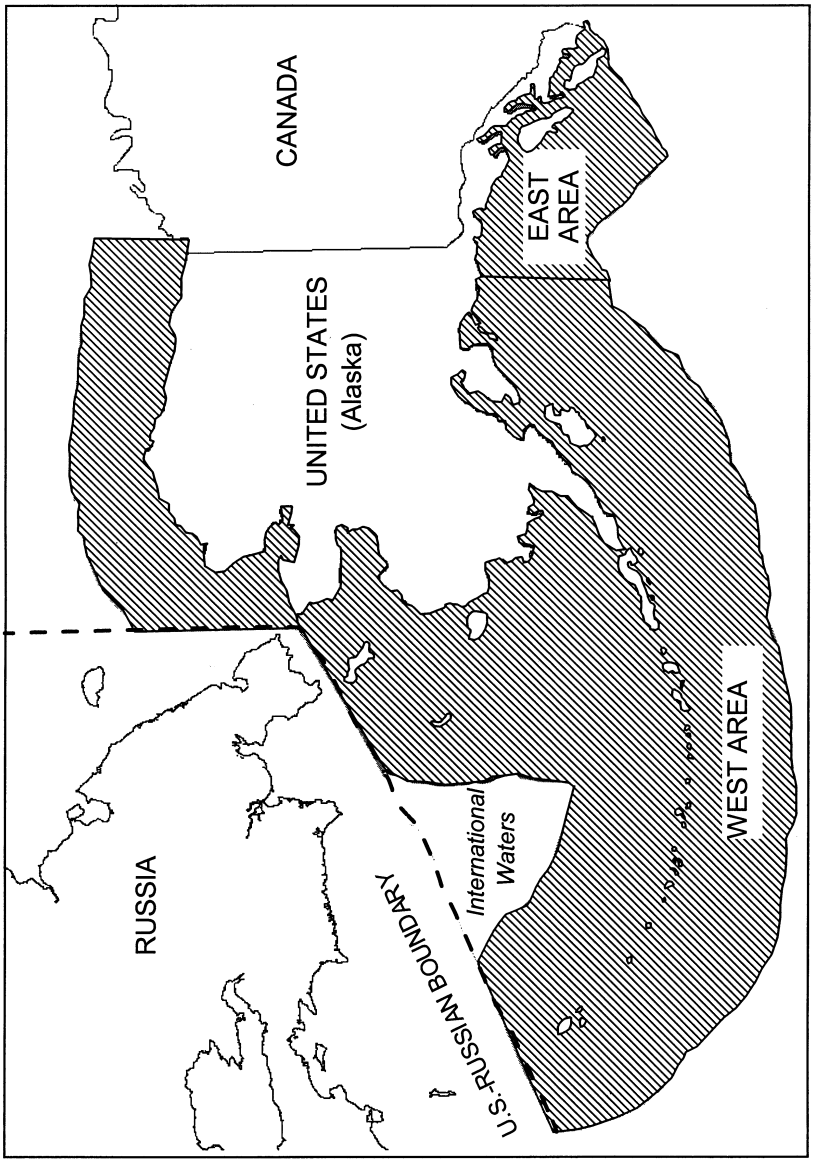


Figure 23 to Part 679 -- Salmon Management Area
(see § 679.2)

[69 FR 877, Jan. 7, 2004]

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 |
| **Whole fish, discard, decomposed.** Decomposed or previously discarded fish | 89 |

(These codes describe the condition of the fish at the point it is weighed and recorded)

| Product Description | Code |
|---|---|
| **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 |
| 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 |

[1] When 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 2a to Part 679—Species Codes: FMP Groundfish

| Species Description | Code |
|---|---|
| Atka mackerel (greenling) | 193 |
| Flatfish, miscellaneous (flatfish species without separate codes) | 120 |
| FLOUNDER | |
| Alaska plaice | 133 |
| Arrowtooth and/or Kamchatka | 121 |
| Starry | 129 |
| Octopus | 870 |
| Pacific cod | 110 |
| Pollock | 270 |
| ROCKFISH | |
| Aurora (*S. aurora*) | 185 |
| Black (BSAI) (*S. melanops*) | 142 |
| Blackgill (*S. melanostomus*) | 177 |
| Blue (BSAI) (*S. mystinus*) | 167 |
| Bocaccio (*S. paucispinis*) | 137 |
| Canary (*S. pinniger*) | 146 |
| Chilipepper (*S. goodei*) | 178 |
| China (*S. nebulosus*) | 149 |
| Copper (*S. caurinus*) | 138 |
| Darkblotched (*S. crameri*) | 159 |
| Dusky (*S. ciliatus*) | 154 |
| Greenstriped (*S. elongatus*) | 135 |
| Harlequin (*S. variegatus*) | 176 |
| Northern (*S. polyspinis*) | 136 |
| Pacific ocean perch (*S. alutus*) | 141 |
| Pygmy (*S. wilsoni*) | 179 |
| Quillback (*S. maliger*) | 147 |
| Redbanded (*S. babcocki*) | 153 |
| Redstripe (*S. proriger*) | 158 |
| Rosethorn (*S. helvomaculatus*) | 150 |
| Rougheye (*S. aleutianus*) | 151 |
| Sharpchin (*S. zacentrus*) | 166 |
| Shortbelly (*S. jordani*) | 181 |
| Shortraker (*S. borealis*) | 152 |
| Silvergray (*S. brevispinis*) | 157 |
| Splitnose (*S. diploproa*) | 182 |
| Stripetail (*S. saxicola*) | 183 |
| Thornyhead (all *Sebastolobus* species) | 143 |
| Tiger (*S. nigrocinctus*) | 148 |
| Vermilion (*S. miniatus*) | 184 |
| Widow (*S. entomelas*) | 156 |
| Yelloweye (*S. ruberrimus*) | 145 |
| Yellowmouth (*S. reedi*) | 175 |

| Species Description | Code |
|---|---|
| Yellowtail (*S. flavidus*) | 155 |
| Sablefish (blackcod) | 710 |
| Sculpins | 160 |
| SHARKS | |
| Other (if salmon, spiny dogfish or Pacific sleeper shark - use specific species code) | 689 |
| Pacific sleeper | 692 |
| Salmon | 690 |
| Spiny dogfish | 691 |
| SKATES | |
| Big | 702 |
| Longnose | 701 |
| Other (if longnose or big skate - use specific species code) | 700 |
| SOLE | |
| Butter | 126 |
| Dover | 124 |
| English | 128 |
| Flathead | 122 |
| Petrale | 131 |
| Rex | 125 |
| Rock | 123 |
| Sand | 132 |
| Yellowfin | 127 |
| Squid | 875 |
| Turbot, Greenland | 134 |

[70 FR 75083, Dec. 19, 2005]

TABLE 2b TO PART 679—SPECIES CODE: FMP PROHIBITED SPECIES

| Species Description | Code |
|---|---|
| CRAB | |
| King, blue | 922 |
| King, golden (brown) | 923 |
| King, red | 921 |
| King, scarlet | 924 |
| Tanner, Bairdi (*C. bairdi*) | 931 |
| Tanner, grooved | 933 |
| Tanner, snow (*C. opilio*) | 932 |
| Tanner, triangle | 934 |
| Pacific halibut | 200 |
| Pacific herring (family *Clupeidae*) | 235 |
| SALMON | |
| Chinook | 410 |
| Chum | 450 |
| Coho | 430 |
| Pink | 440 |
| Sockeye | 420 |
| Steelhead trout | 540 |

[70 FR 75083, Dec. 19, 2005]

TABLE 2c TO PART 679—SPECIES CODES: FMP FORAGE FISH SPECIES (ALL SPECIES OF THE FOLLOWING FAMILIES)

| Species Description | Code |
|---|---|
| Bristlemouths, lightfishes, and anglemouths (family *Gonostomatidae*) | 209 |
| Capelin smelt (family *Osmeridae*) | 516 |
| Deep-sea smelts (family *Bathylagidae*) | 773 |
| Eulachon smelt (family *Osmeridae*) | 511 |
| Gunnels (family *Pholidae*) | 207 |
| Krill (order *Euphausiacea*) | 800 |
| Laternfishes (family *Myctophidae*) | 772 |
| Pacific sandfish (family *Trichodontidae*) | 206 |
| Pacific sand lance (family *Ammodytidae*) | 774 |
| Pricklebacks, war-bonnets, eelblennys, cockscombs and shannys (family *Stichaeidae*) | 208 |
| Surf smelt (family *Osmeridae*) | 515 |

[70 FR 75083, Dec. 19, 2005]

TABLE 2d TO PART 679—SPECIES CODES—NON-FMP SPECIES

| Species Description | Code |
|---|---|
| Abalone | 860 |
| Albacore | 720 |
| Arctic char, anadromous | 521 |
| CLAMS | |
| Butter | 810 |
| Cockle | 820 |
| Eastern softshell | 842 |

| Species Description | Code |
|---|---|
| Geoduck | 815 |
| Little-neck | 840 |
| Razor | 830 |
| Surf | 812 |
| Coral | 899 |
| CRAB | |
| Box | 900 |
| Dungeness | 910 |
| Korean horsehair | 940 |
| Multispina (*Paralomis multispina*) | 951 |
| Verrilli (*Paralomis verillii*) | 953 |
| Dolly varden, anadromous | 531 |
| Eels or eel-like fish | 210 |
| Giant grenadier | 214 |
| GREENLING | |
| Kelp | 194 |
| Rock | 191 |
| Whitespot | 192 |
| Grenadier (rattail) | 213 |
| Jellyfish | 625 |
| Lamprey, Pacific | 600 |
| Lingcod | 130 |
| Lumpsucker | 216 |
| Mussel, blue | 855 |
| Pacific flatnose | 260 |
| Pacific hagfish | 212 |
| Pacific hake | 112 |
| Pacific saury | 220 |
| Pacific tomcod | 250 |
| Prowfish | 215 |
| Rockfish, black (GOA) | 142 |
| Rockfish, blue (GOA) | 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 | |
| Coonstripe | 964 |
| Humpy | 963 |
| Northern (pink) | 961 |
| Sidestripe | 962 |
| Spot | 965 |
| Skilfish | 715 |
| Smelt, surf | 515 |
| Snails | 890 |
| Sturgeon, general | 680 |

[70 FR 75083, Dec. 19, 2005]

TABLE 3 TO PART 679—PRODUCT RECOVERY RATES FOR GROUNDFISH 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, 2, 41, 86, 92, 93, 95 WHOLE FISH | 3, 42 BLED | 4 GUTTED HEAD ON | 5 GUTTED HEAD OFF (NET WEIGHT) | 6 H&G WITH ROE | 7 H&G WESTERN CUT | 8 H&G EASTERN CUT | 10 H&G W/O TAIL | 11 KIRIMI | 12 SALTED & SPLIT | 13 WINGS | 14 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 | 0.25 | --- | --- | 0.07 |
| SMELTS | 510 | 1.00 | 0.98 | 0.82 | --- | --- | 0.71 | --- | --- | --- | --- | --- | --- |
| EULACHON | 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 | --- | --- | --- | 0.32 | --- |
| SABLEFISH | 710 | 1.00 | 0.98 | 0.89 | --- | --- | 0.68 | 0.63 | 0.50 | --- | --- | --- | --- |
| 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 rates to 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 FILLETS W/SKIN & RIBS | 21 FILLETS W/SKIN NO RIBS | 22 FILLETS W/RIBS NO SKIN | 23 FILLETS SKNLESS/BNLESS | 24 FILLETS 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[1];0.17[2] | 0.22 |
| SMELTS | 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 | 0.33 | 0.25 | --- | --- | --- |
| **Conversion rates 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 MEAL | 33 OIL | 34 MILT | 35 STOMACHS | 36 MANTLES | 37 BUTTERFLY BACKBONE REMOVED | 88, 89 INFESTED OR DECOMPOSED FISH | 98, 99 DISCARDS |
| PACIFIC COD | 110 | 0.17 | --- | --- | --- | --- | 0.43 | 0.00 | 1.00 |
| ARROWTOOTH FLOUNDER | 121 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| FLATHEAD SOLE | 122 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| ROCK SOLE | 123 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| DOVER SOLE | 124 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| REX SOLE | 125 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| YELLOWFIN SOLE | 127 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| GREENLAND TURBOT | 134 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| THORNYHEAD ROCKFISH | 143 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| SCULPINS | 160 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| ATKA MACKEREL | 193 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| POLLOCK | 270 | 0.17 | --- | --- | --- | --- | 0.43 | 0.00 | 1.00 |
| SMELTS | 510 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| EULACHON | 511 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| CAPELIN | 516 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| SHARKS | 689 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| SKATES | 700 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| SABLEFISH | 710 | 0.17 | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| OCTOPUS | 870 | 0.17 | --- | --- | --- | 0.85 | --- | 0.00 | 1.00 |
| SQUID | 875 | 0.17 | --- | --- | --- | 0.75 | --- | 0.00 | 1.00 |
| ROCKFISH | --- | --- | --- | --- | --- | --- | --- | 0.00 | 1.00 |
| **Conversion rates to Net Weight for PACIFIC HALIBUT** | 200 | --- | --- | --- | --- | --- | --- | 0.00 | 0.75 |

[1]Standard pollock surimi rate during January through June
[2]Standard pollock surimi rate during July through December.
Notes: To obtain round weight of groundfish, divide the product weight of groundfish by the table PRR.
To obtain IFQ 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]

TABLE 4 TO PART 679—STELLER SEA LION PROTECTION AREAS POLLOCK FISHERIES RESTRICTIONS

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from Latitude | Boundaries from Longitude | Boundaries to[1] Latitude | Boundaries to[1] Longitude | Pollock No-fishing Zones for Trawl Gear[2,8] (nm) |
| St. Lawrence I./S Punuk I. | Bering Sea | 63 04.00 N | 168 51.00 W | | | 20 |
| St. Lawrence I./SW Cape | Bering Sea | 63 18.00 N | 171 26.00 W | | | 20 |
| Hall I. | Bering Sea | 60 37.00 N | 173 00.00 W | | | 20 |
| St. Paul I./Sea Lion Rock | Bering Sea | 57 06.00 N | 170 17.50 W | | | 3 |
| St. Paul I./NE Pt. | Bering Sea | 57 15.00 N | 170 06.50 W | | | 3 |
| Walrus I. (Pribilofs) | Bering Sea | 57 11.00 N | 169 56.00 W | | | 10 |
| St. George I./Dalnoi Pt. | Bering Sea | 56 36.00 N | 169 46.00 W | | | 3 |
| St. George I./S Rookery | Bering Sea | 56 33.50 N | 169 40.00 W | | | 3 |
| Cape Newenham | Bering Sea | 58 39.00 N | 162 10.50 W | | | 20 |
| Round (Walrus Islands) | Bering Sea | 58 36.00 N | 159 58.00 W | | | 20 |
| Attu I./Cape Wrangell | Aleutian I. | 52 54.60 N | 172 27.90 E | 52 55.40 N | 172 27.20 E | 20 |
| Agattu I./Gillon Pt. | Aleutian I. | 52 24.13 N | 173 21.31 E | | | 20 |
| Attu I./Chirikof Pt. | Aleutian I. | 52 49.75 N | 173 26.00 E | | | 20 |
| Agattu I./Cape Sabak | Aleutian I. | 52 22.50 N | 173 43.30 E | 52 21.80 N | 173 41.40 E | 20 |
| Alaid I. | Aleutian I. | 52 46.50 N | 173 51.50 E | 52 45.00 N | 173 56.50 E | 20 |
| Shemya I. | Aleutian I. | 52 44.00 N | 174 08.70 E | | | 20 |
| Buldir I. | Aleutian I. | 52 20.25 N | 175 54.03 E | 52 20.38 N | 175 53.85 E | 20 |
| Kiska I./Cape St. Stephen | Aleutian I. | 51 52.50 N | 177 12.70 E | 51 53.50 N | 177 12.00 E | 20 |
| Kiska I./Sobaka & Vega | Aleutian I. | 51 49.50 N | 177 19.00 E | 51 48.50 N | 177 20.50 E | 20 |
| Kiska I./Lief Cove | Aleutian I. | 51 57.16 N | 177 20.41 E | 51 57.24 N | 177 20.53 E | 20 |
| Kiska I./Sirius Pt. | Aleutian I. | 52 08.50 N | 177 36.50 E | | | 20 |
| Tanadak I. (Kiska) | Aleutian I. | 51 56.80 N | 177 46.80 E | | | 20 |
| Segula I. | Aleutian I. | 51 59.90 N | 178 05.80 E | 52 03.06 N | 178 08.80 E | 20 |
| Ayugadak Point | Aleutian I. | 51 45.36 N | 178 24.30 E | | | 20 |
| Rat I./Krysi Pt. | Aleutian I. | 51 49.98 N | 178 12.35 E | | | 20 |
| Little Sitkin I. | Aleutian I. | 51 59.30 N | 178 29.80 E | | | 20 |
| Amchitka I./Column Rocks | Aleutian I. | 51 32.32 N | 178 49.28 E | | | 20 |
| Amchitka I./East Cape | Aleutian I. | 51 22.26 N | 179 27.93 E | 51 22.00 N | 179 27.00 E | 20 |
| Amchitka I./Cape Ivakin | Aleutian I. | 51 24.46 N | 179 24.21 E | | | 20 |
| Semisopochnoi/Petrel Pt. | Aleutian I. | 52 01.40 N | 179 36.90 E | 52 01.50 N | 179 39.00 E | 20 |
| Semisopochnoi I./Pochnoi Pt. | Aleutian I. | 51 57.30 N | 179 46.00 E | | | 20 |
| Amatignak I. Nitrof Pt. | Aleutian I. | 51 13.00 N | 179 07.80 W | | | 20 |
| Unalga & Dinkum Rocks | Aleutian I. | 51 33.67 N | 179 04.25 W | 51 35.09 N | 179 03.66 W | 20 |
| Ulak I./Hasgox Pt. | Aleutian I. | 51 18.90 N | 178 58.90 W | 51 18.70 N | 178 59.60 W | 20 |
| Kavalga I. | Aleutian I. | 51 34.50 N | 178 51.73 W | 51 34.50 N | 178 49.50 W | 20 |
| Tag I. | Aleutian I. | 51 33.50 N | 178 34.50 W | | | 20 |
| Ugidak I. | Aleutian I. | 51 34.95 N | 178 30.45 W | | | 20 |
| Gramp Rock | Aleutian I. | 51 28.87 N | 178 20.58 W | | | 20 |
| Tanaga I./Bumpy Pt. | Aleutian I. | 51 55.00 N | 177 58.50 W | 51 55.00 N | 177 57.10 W | 20 |
| Bobrof I. | Aleutian I. | 51 54.00 N | 177 27.00 W | | | 20 |
| Kanaga I./Ship Rock | Aleutian I. | 51 46.70 N | 177 20.72 W | | | 20 |
| Kanaga I./North Cape | Aleutian I. | 51 56.50 N | 177 09.00 W | | | 20 |
| Adak I. | Aleutian I. | 51 35.50 N | 176 57.10 W | 51 37.40 N | 176 59.60 W | 20 |
| Little Tanaga Strait | Aleutian I. | 51 49.09 N | 176 13.90 W | | | 20 |
| Great Sitkin I. | Aleutian I. | 52 06.00 N | 176 10.50 W | 52 06.60 N | 176 07.00 W | 20 |
| Anagaksik I. | Aleutian I. | 51 50.86 N | 175 53.00 W | | | 20 |
| Kasatochi I. | Aleutian I. | 52 11.11 N | 175 31.00 W | | | 20 |
| Atka I./North Cape | Aleutian I. | 52 24.20 N | 174 17.80 W | | | 20 |
| Amlia I./Sviech. Harbor[11] | Aleutian I. | 52 01.80 N | 173 23.90 W | | | 20 |
| Sagigik I.[11] | Aleutian I. | 52 00.50 N | 173 09.30 W | | | 20 |
| Amlia I./East[11] | AIX | 52 05.70 N | 172 59.00 W | 52 05.75 N | 172 57.50 W | 20 |
| Tanadak I. (Amlia[11]) | Aleutian I. | 52 04.20 N | 172 57.60 W | | | 20 |
| Agligadak I.[11] | Aleutian I. | 52 06.09 N | 172 54.23 W | | | 20 |
| Seguam I./Saddleridge Pt.[11] | Aleutian I. | 52 21.05 N | 172 34.40 W | 52 21.02 N | 172 33.60 W | 20 |
| Seguam I./Finch Pt. | Aleutian I. | 52 23.40 N | 172 27.70 W | 52 23.25 N | 172 24.30 W | 20 |
| Seguam I./South Side | Aleutian I. | 52 21.60 N | 172 19.30 W | 52 15.55 N | 172 31.22 W | 20 |
| Amukta I. & Rocks | Aleutian I. | 52 27.25 N | 171 17.90 W | | | 20 |
| Chagulak I. | Aleutian I. | 52 34.00 N | 171 10.50 W | | | 20 |
| Yunaska I. | Aleutian I. | 52 41.40 N | 170 36.35 W | | | 20 |
| Uliaga[3] | Bering Sea | 53 04.00 N | 169 47.00 W | 53 05.00 N | 169 46.00 W | 20,10 |
| Chuginadak | Gulf of Alaska | 52 46.70 N | 169 41.90 W | | | 20 |
| Kagamil[3] | Bering Sea | 53 02.10 N | 169 41.00 W | | | 20,10 |
| Samalga | Gulf of Alaska | 52 46.00 N | 169 15.00 W | | | 20 |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from Latitude | Boundaries from Longitude | Boundaries to[1] Latitude | Boundaries to[1] Longitude | Pollock No-fishing Zones for Trawl Gear[2,8] (nm) |
| Adugak I.[3] | Bering Sea | 52 54.70 N | 169 10.50 W | | | 10 |
| Umnak I./Cape Aslik[3] | Bering Sea | 53 25.00 N | 168 24.50 W | | | BA |
| Ogchul I. | Gulf of Alaska | 52 59.71 N | 168 24.24 W | | | 20 |
| Bogoslof I./Fire I.[3] | Bering Sea | 53 55.69 N | 168 02.05 W | | | BA |
| Polivnoi Rock | Gulf of Alaska | 53 15.96 N | 167 57.99 W | | | 20 |
| Emerald I. | Gulf of Alaska | 53 17.50 N | 167 51.50 W | | | 20 |
| Unalaska/Cape Izigan | Gulf of Alaska | 53 13.64 N | 167 39.37 W | | | 20 |
| Unalaska/Bishop Pt.9 | Bering Sea | 53 58.40 N | 166 57.50 W | | | 10 |
| Akutan I./Reef-lava[9] | Bering Sea | 54 08.10 N | 166 06.19 W | 54 09.10 N | 166 05.50 W | 10 |
| Unalaska I./Cape Sedanka[6] | 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 |
| Tanginak I.[6] | Gulf of Alaska | 54 12.00 N | 165 19.40 W | | | 20 |
| Tigalda/Rocks NE[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 |
| Aiktak[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 |
| Olga 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 |
| 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 |
| Mitrofania | 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 | 55 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[12] | Gulf of Alaska | 57 40.60 N | 155 23.10 W | | | 3,10 |
| 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.)[12] | Gulf of Alaska | 59 00.00 N | 153 22.50 W | | | 20,10 |
| 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 |
| 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 |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from Latitude | Boundaries from Longitude | Boundaries to[1] Latitude | Boundaries to[1] Longitude | Pollock No-fishing Zones for Trawl Gear[2,8] (nm) |
| Marmot I.[5] | Gulf of Alaska | 58 13.65 N | 151 47.75 W | 58 09.90 N | 151 52.06 W | 15,20 |
| Nagahut 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 | 59 51.00 N | 149 24.70 W | 10 |
| Point Elrington[7,10] | Gulf of Alaska | 59 56.00 N | 148 15.20 W | | | 20 |
| Perry I.[7] | Gulf of Alaska | 60 44.00 N | 147 54.60 W | | | |
| The Needle[7] | 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 | | | |
| 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 |

[1]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.

[2]Closures as stated in 50 CFR 679.22(a)(7)(iv), (a)(8)(ii) and (b)(2)(ii).

[3]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. Closure to directed fishing for pollock around Uliaga and Kagamil is 20 nm for waters west of 170° W long. and 10 nm for waters east of 170° W long.

[4]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.

[5]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.

[6]Restriction area includes only waters of the Gulf of Alaska Area.

[7]Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

[8]No-fishing zones are the waters between 0 nm and the nm specified in column 7 around each site and within the BA.

[9]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.

[10]The 20 nm closure around this site is effective in federal waters outside of State of Alaska waters of Prince William Sound.

[11]Some or all of the restricted area is located in the Seguam Foraging area (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.

[12]The 3 nm trawl closure around Puale Bay and the 20 nm trawl closure around Cape Douglas/Shaw I. are effective January 20 through May 31. The 10 nm trawl closure around Puale Bay and the 10 nm trawl closure around Cape Douglas/Shaw I. are effective August 25 through November 1.

[69 FR 75867, Dec. 20, 2004]

TABLE 5 TO PART 679—STELLER SEA LION PROTECTION AREAS PACIFIC COD FISHERIES RESTRICTIONS

**Table 5 to 50 CFR Part 679 Steller Sea Lion Protection Areas Pacific Cod Fisheries Restrictions**

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm) |
| | | Latitude | Longitude | Latitude | Longitude | | | |
| St. Lawrence I./S Punuk I. | BS | 63 04.00 N | 168 51.00 W | | | 20 | 20 | 20 |
| St. Lawrence I./SW Cape | BS | 63 18.00 N | 171 26.00 W | | | 20 | 20 | 20 |
| Hall I. | BS | 60 37.00 N | 173 00.00 W | | | 20 | 20 | 20 |
| St. Paul I./Sea Lion Rock | BS | 57 06.00 N | 170 17.50 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 | | |
| 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 | | |
| Shemya I.[11] | AI | 52 44.00 N | 174 08.70 E | | | 20, 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 |
| 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 |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm) |
| | | Latitude | Longitude | Latitude | Longitude | | | |
| 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 | | |
| Ayugadak 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[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 | | |
| Semisopochnoi/Petrel Pt.[11] | AI | 52 01.40 N | 179 36.90 E | 52 01.50 N | 179 39.00 E | 20, 10 | 3 | 3 |
| Semisopochnoi 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 |
| Tanaga I./Bumpy Pt.[11] | AI | 51 55.00 N | 177 58.50 W | 51 55.00 N | 177 57.10 W | 20,3 | | |
| 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 | | |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm) |
| | | Latitude | Longitude | Latitude | Longitude | | | |
| 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 |
| Chagulak 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 | 20 | 20 |
| Chuginadak[14] | GOA | 52 46.70 N | 169 41.90 W | | | 20 | 20,10 | 20 |
| Kagamil[5, 14] | BS | 53 02.10 N | 169 41.00 W | | | 10 | 20 | 20 |
| Samalga | GOA | 52 46.00 N | 169 15.00 W | | | 20 | 10 | 20 |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm) |
| | | Latitude | Longitude | Latitude | Longitude | | | |
| 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 I.[5] | BS | 53 55.69 N | 168 02.05 W | | | BA | BA | BA |
| Polivnoi Rock[9] | GOA | 53 15.96 N | 167 57.99 W | | | 20 | 10 | 20 |
| Emerald I.[13, 9] | 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, 13] | BS | 53 58.40 N | 166 57.50 W | | | 10 | 10 | 3 |
| Akutan 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 |
| Akutan 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 |
| Bird I. | GOA | 54 40.00 N | 163 17.2 W | | | 10 | | |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm) |
| | | Latitude | Longitude | Latitude | Longitude | | | |
| Caton I. | GOA | 54 22.70 N | 162 21.30 W | | | 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 (Shumagins) | GOA | 55 04.70 N | 160 31.04 W | | | 3 | 3 | 3 |
| 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 | |
| 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 |
| Mitrofania | GOA | 55 50.20 N | 158 41.90 W | | | 3 | 3 | 3 |
| Kak | GOA | 56 17.30 N | 157 50.10 W | | | 20 | 20 | 3 |
| 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 |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm) |
| | | Latitude | Longitude | Latitude | Longitude | | | |
| Puale 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 |
| 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 | 3 | |
| Kodiak/Gull Point[7] | GOA | 57 21.45 N | 152 36.30 W | | | 10, 3 | | |
| Latax Rocks | GOA | 58 40.10 N | 152 31.30 W | | | 10 | | |
| Ushagat I./SW | GOA | 58 54.75 | 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 | | |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|---|---|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | Pacific Cod No-fishing Zones for Trawl Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Hook-and-Line Gear[2,3] (nm) | Pacific Cod No-fishing Zone for Pot Gear[2,3] (nm) |
| | | Latitude | Longitude | Latitude | Longitude | | | |
| 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 | | |
| 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 | | | 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[10] | 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

[1]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.

[2] Closures as stated in 50 CFR 679.22(a)(7)(v), (a)(8)(iv) and (b)(2)(iii).

[3] No-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).

[4] Some 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. Amlia I./East, and Tanadak I. (Amlia) haulouts 20 nm hook-and-line and pot closures apply only to waters located east of 173° W longitude.

[5]This 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.

[6]Hook-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 and jig vessels.

[7]The 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.

[9]Restriction area includes only waters of the Gulf of Alaska Area.

[10]Contact the Alaska Department of Fish and Game for fishery restrictions at these sites.

[11]Directed 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 and Tanaga I./Bumpy Pt. applies only to waters west of 178°W long. and only during the HLA directed fishery. 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 to 10 nm of rookeries and between 0 nm to 3 nm of haulouts. Directed fishing for Pacific cod using trawl gear is prohibited between 0-3 nm of Tanaga I./Bumpy Pt.

[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 50 CFR 679.22(a)(7)(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.

[14]Trawl closure around this site is limited to waters east of 170°0'00" W long. Closure to hook-and-line fishing around Chuginadak is 20 nm for waters west of 170°W long. and 10 nm for waters east of 170°W long.

TABLE 6 TO PART 679—STELLER SEA LION PROTECTION AREAS ATKA MACKEREL FISHERIES RESTRICTIONS

**Table 6 to 50 CFR Part 679 Steller Sea Lion Protection Areas Atka Mackerel Fisheries Restrictions**

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | Atka mackerel No-fishing Zones for Trawl Gear [2,3] (nm) |
| | | Latitude | Longitude | Latitude | Longitude | |
| St. Lawrence I./S Punuk I. | Bering Sea | 63 04.00 N | 168 51.00 W | | | 20 |
| St. Lawrence I./SW Cape | Bering Sea | 63 18.00 N | 171 26.00 W | | | 20 |
| Hall I. | Bering Sea | 60 37.00 N | 173 00.00 W | | | 20 |
| St. Paul I./Sea Lion Rock | Bering Sea | 57 06.00 N | 170 17.50 W | | | 20 |
| St. Paul I./NE Pt. | Bering Sea | 57 15.00 N | 170 06.50 W | | | 20 |
| Walrus I. (Pribilofs) | Bering Sea | 57 11.00 N | 169 56.00 W | | | 20 |
| St. George I./Dalnoi Pt. | Bering Sea | 56 36.00 N | 169 46.00 W | | | 20 |
| St. George I./S Rookery | Bering Sea | 56 33.50 N | 169 40.00 W | | | 20 |
| Cape Newenham | Bering Sea | 58 39.00 N | 162 10.50 W | | | 20 |
| Round (Walrus Islands) | Bering Sea | 58 36.00 N | 159 58.00 W | | | 20 |
| Attu I./Cape Wrangell | Aleutian Islands | 52 54.60 N | 172 27.90 E | 52 55.40 N | 172 27.20 E | 10 |
| Agattu I./Gillon Pt. | Aleutian Islands | 52 24.13 N | 173 21.31 E | | | 10 |
| Attu I./Chirikof Pt. | Aleutian Islands | 52 49.75 N | 173 26.00 E | | | 3 |
| Agattu I./Cape Sabak | Aleutian Islands | 52 22.50 N | 173 43.30 E | 52 21.80 N | 173 41.40 E | 10 |
| Alaid I. | Aleutian Islands | 52 46.50 N | 173 51.50 E | 52 45.00 N | 173 56.50 E | 3 |
| Shemya I. | Aleutian Islands | 52 44.00 N | 174 08.70 E | | | 3 |
| Buldir I. | Aleutian Islands | 52 20.25 N | 175 54.03 E | 52 20.38 N | 175 53.85 E | 15 |
| Kiska I./Cape St. Stephen | Aleutian Islands | 51 52.50 N | 177 12.70 E | 51 53.50 N | 177 12.00 E | 10 |
| Kiska I./Sobaka & Vega | Aleutian Islands | 51 49.50 N | 177 19.00 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 | 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 |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | Atka mackerel No-fishing Zones for Trawl Gear [2,3] (nm) |
| | | Latitude | Longitude | Latitude | Longitude | |
| 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[7] | Aleutian Islands | 51 28.87 N | 178 20.58 W | | | 10, 20 |
| 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 |
| 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 |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | Atka mackerel No-fishing Zones for Trawl Gear [2,3] (nm) |
| | | Latitude | Longitude | Latitude | Longitude | |
| Kasatochi I. | Aleutian Islands | 52 11.11 N | 175 31.00 W | | | 20 |
| Atka I./North 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 |
| Seguam I./Saddleridge Pt.[5] | Aleutian Islands | 52 21.05 N | 172 34.40 W | 52 21.02 N | 172 33.60 W | 20 |
| Seguam I./Finch Pt.[5] | Aleutian Islands | 52 23.40 N | 172 27.70 W | 52 23.25 N | 172 24.30 W | 20 |
| Seguam 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 |
| Umnak I./Cape Aslik[6] | Bering Sea | 53 25.00 N | 168 24.50 W | | | BA |
| Bogóslof I./Fire I.[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 |
| 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 |

[1]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.
[2] Closures as stated in 50 CFR 679.22 (a)(7)(vi) and (a)(8)(v).
[3] No-fishing zones are the waters between 0 nm and the nm specified in column 7 around each site and within the Bogoslof area (BA).
[4] The 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. Waters located within 20 nm of Tanaga I./Bumpy Pt. and west of 178° W long. are including in the harvest limit area, as defined in §679.2.
[5] Some or all of the restricted area is located in the Seguam Foraging Area (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.
[6] This 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.
[7]Directed fishing for Atka mackerel by vessels using trawl gear is prohibited in waters located a)0-20 nm seaward of Gramp Rock and east of 178°W long., and b)0-10 nm of Gramp Rock and west of 178°W long.

[68 FR 24618, May 8, 2003]

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 elgible.)

Aleutian Region
1. Akutan
2. Atka
3. False Pass
4. Nelson Lagoon
5. Nikolski
6. St. George
7. St. Paul

Bering Strait
1. Brevig Mission
2. Diomede/Inalik
3. Elim
4. Gambell
5. Golovin
6. Koyuk
7. Nome
8. Savoonga
9. Shaktoolik
10. St. Michael
11. Stebbins
12. Teller
13. Unalakleet
14. Wales
15. White Mountain

Bristol Bay
1. Alegnagik
2. Clark's Point
3. Dillingham
4. Egegik
5. Ekuk
6. Manokotak
7. Naknek
8. Pilot Point/Ugashik
9. Port Heiden/Meschick
10. South Naknek
11. Sovonoski/King Salmon
12. Togiak
13. Twin Hills

Southwest Coastal Lowlands
1. Alakanuk
2. Chefornak
3. Chevak
4. Eek
5. Emmonak
6. Goodnews Bay
7. Hooper Bay
8. Kipnuk
9. Kongiganak
10. Kotlik
11. Kwigillingok
12. Mekoryuk
13. Newtok
14. Nightmute
15. Platinum
16. Quinhagak
17. Scammon Bay
18. Sheldon's Point
19. Toksook Bay
20. Tununak
21. Tuntutuliak

[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 |

[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[3] | 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 |

[1]Two formats of the DFL and catcher/processor DCPL exist: one for trawl gear and one for longline and pot gear.
[2]DPR is submitted only when specifically requested by Regional Administrator.
[3]Also stationary floating processor

[67 FR 22012, May 2, 2002]

TABLE 10 TO PART 679—GULF OF ALASKA RETAINABLE PERCENTAGES

Table 10 to Part 679—Gulf of Alaska Retainable Percentages

| BASIS SPECIES | | INCIDENTAL CATCH SPECIES (for DSR caught on catcher vessels in the SEO, see § 679.20 (j)[6]) | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Code | Species | Pollock | Pacific cod | DW flat (2) | Rex sole | Flathead sole | SW flat (3) | Arrow tooth | Sablefish | Aggregated rockfish[8] | SR/RE ERA (1) | DSR SEO (C/Ps only): (6) | Atka mackerel | Aggregated forage fish (10) | Skates[11] | Other species (7) |
| 110 | Pacific cod | 20 | na[9] | 20 | 20 | 20 | 20 | 35 | 1 | 5 | (1) | 10 | 20 | 2 | 20 | 20 |
| 121 | Arrowtooth | 5 | 5 | 0 | 0 | 0 | 0 | na[9] | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 20 |
| 122 | Flathead sole | 20 | 20 | 20 | 20 | na[9] | 20 | 35 | 7 | 15 | 7 | 1 | 20 | 2 | 20 | 20 |
| 125 | Rex sole | 20 | 20 | 20 | na[9] | 20 | 20 | 35 | 7 | 15 | 7 | 1 | 20 | 2 | 20 | 20 |
| 136 | Northern rockfish | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 7 | 1 | 20 | 2 | 20 | 20 |
| 141 | Pacific ocean perch | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 7 | 1 | 20 | 2 | 20 | 20 |
| 143 | Thornyhead | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 7 | 1 | 20 | 2 | 20 | 20 |
| 152/151 | Shortraker/rougheye (1) | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | na[9] | 1 | 20 | 2 | 20 | 20 |
| 193 | Atka mackerel | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 1 | 5 | (1) | 10 | na[9] | 2 | 20 | 20 |
| 270 | Pollock | na[9] | 20 | 20 | 20 | 20 | 20 | 35 | 1 | 5 | (1) | 10 | 20 | 2 | 20 | 20 |
| 710 | Sablefish | 20 | 20 | 20 | 20 | 20 | 20 | 35 | na[9] | 15 | 7 | 1 | 20 | 2 | 20 | 20 |
| Flatfish, deep water (2) | | 20 | 20 | na[9] | 20 | 20 | 20 | 35 | 7 | 15 | 7 | 1 | 20 | 2 | 20 | 20 |
| Flatfish, shallow water (3) | | 20 | 20 | 20 | 20 | 20 | na[9] | 35 | 1 | 5 | (1) | 10 | 20 | 2 | 20 | 20 |
| Rockfish, other (4) | | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 7 | 1 | 20 | 2 | 20 | 20 |
| Rockfish, pelagic (5) | | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 7 | 1 | 20 | 2 | 20 | 20 |
| Rockfish, DSR-SEO (6) | | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 7 | 15 | 7 | na[9] | 20 | 2 | 20 | 20 |
| Skates[11] | | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 1 | 5 | (1) | 10 | 20 | 2 | na[9] | 20 |

| BASIS SPECIES | | INCIDENTAL CATCH SPECIES (for DSR caught on catcher vessels in the SEO, see § 679.20 (j)[6]) | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Code | Species | Pollock | Pacific cod | DW flat (2) | Rex sole | Flathead sole | SW flat (3) | Arrow tooth | Sablefish | Aggregated rockfish[8] | SR/RE ERA (1) | DSR SEO (C/Ps only): (6) | Atka mackerel | Aggregated forage fish (10) | Skates[11] | Other species (7) |
| Other species (7) | | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 1 | 5 | (1) | 10 | 20 | 2 | 20 | na[9] |
| Aggregated amount of non-groundfish species | | 20 | 20 | 20 | 20 | 20 | 20 | 35 | 1 | 5 | (1) | 10 | 20 | 2 | 20 | 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 | means slope rockfish and demersal shelf rockfish | | |
| | | Central Regulatory Area | | | |
| | | West Yakutat District | | | |
| | | Southeast Outside District | means slope rockfish | | |
| | | Slope rockfish | | | |
| | | S. aurora (aurora) | S. variegatus (harlequin) | S. brevispinis (silvergrey) | |
| | | S. melanostomus (blackgill) | S. wilsoni (pygmy) | S. diploproa (splitnose) | |
| | | S. paucispinis (bocaccio) | S. babcocki (redbanded) | S. saxicola (stripetail) | |
| | | S. goodei (chilipepper) | S. proriger (redstripe) | S. miniatus (vermilion) | |
| | | S. crameri (darkblotch) | S. zacentrus (sharpchin) | S. reedi (yellowmouth) | |
| | | S. elongatus (greenstriped) | S. jordani (shortbelly) | | |
| | | In the Eastern GOA only, Slope rockfish also includes S. polyspinous. (Northern) | | | |
| 5 | Pelagic shelf rockfish | S. ciliatus (dusky) | S. entomelas (widow) | S. flavidus (yellowtail) | |
| 6 | Demersal shelf rockfish (DSR) | S. pinniger (canary) | S. maliger (quillback) | S. ruberrimus (yelloweye) | |
| | | S. nebulosus (china) | S. helvomaculatus (rosethorn) | | |
| | | S. caurinus (copper) | S. nigrocinctus (tiger) | | |

| Notes to Table 10 to Part 679 | | | | | |
|---|---|---|---|---|---|
| | | DSR-SEO = Demersal shelf rockfish in the Southeast Outside District<br>The operator of a catcher vessel that is required to have a Federal fisheries permit, or that harvests IFQ halibut with hook and line or jig gear, must retain and land all DSR that is caught while fishing for groundfish or IFQ halibut in the SEO. Limits on sale and requirements for disposal of DSR are set out at § 679.20 (j). | | | |
| 7 | Other species | sculpins | octopus | squid | sharks |
| 8 | Aggregated rockfish | means rockfish of the genera Sebastes and Sebastolobus 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 Gonostomatidae) | | | 209 |
| | | Capelin smelt (family Osmeridae) | | | 516 |
| | | Deep-sea smelts (family Bathylagidae) | | | 773 |
| | | Eulachon smelt (family Osmeridae) | | | 511 |
| | | Gunnels (family Pholidae) | | | 207 |
| | | Krill (order Euphausiacea) | | | 800 |
| | | Laternfishes (family Myctophidae) | | | 772 |
| | | Pacific herring (family Clupeidae) | | | 235 |
| | | Pacific Sand fish (family Trichodontidae) | | | 206 |
| | | Pacific Sand lance (family Ammodytidae) | | | 774 |
| | | Pricklebacks, war-bonnets, eelblennys, cockscombs and Shannys (family Stichaeidae) | | | 208 |
| | | Surf smelt (family Osmeridae) | | | 515 |
| 11 | Skates Species and Groups | | | | |
| | | Big Skates (702) | | | |

Notes to Table 10 to Part 679

| | | |
|---|---|---|
| | Longnose Skates (701) | |
| | Other Skates (700) | |

[71 FR 12628, Mar. 13, 2006]

TABLE 11 TO PART 679—BSAI RETAINABLE PERCENTAGES

Table 11 to Part 679 – BSAI Retainable Percentages

| BASIS SPECIES | | INCIDENTAL CATCH SPECIES[5] | | | | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | Pollock | Pacific cod | Atka mackerel | Alaska plaice | Arrow-tooth | Yellow fin sole | Other flatfish[2] | Rock sole | Flathead sole | Green-land turbot | Sablefish[1] | Short-raker/ rougheye | Aggregated rockfish[6] | Squid | Aggregated forage fish[7] | Other species[4] |
| 110 | Pacific cod | 20 | na[5] | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 2 | 5 | 20 | 2 | 20 |
| 121 | Arrowtooth | 0 | 0 | 0 | 0 | na[5] | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 |
| 122 | Flathead sole | 20 | 20 | 20 | 35 | 35 | 35 | 35 | 35 | na[5] | 35 | 15 | 7 | 15 | 20 | 2 | 20 |
| 123 | Rock sole | 20 | 20 | 20 | 35 | 35 | 35 | 35 | na[5] | 35 | 1 | 1 | 2 | 15 | 20 | 2 | 20 |
| 127 | Yellowfin sole | 20 | 20 | 20 | 35 | 35 | na[5] | 35 | 35 | 35 | 1 | 1 | 2 | 5 | 20 | 2 | 20 |
| 133 | Alaska Plaice | 20 | 20 | 20 | na[5] | 35 | 35 | 35 | 35 | 35 | 1 | 1 | 2 | 5 | 20 | 2 | 20 |
| 134 | Greenland turbot | 20 | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | na[5] | 15 | 7 | 15 | 20 | 2 | 20 |
| 136 | Northern | 20 | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | 15 | 7 | 15 | 20 | 2 | 20 |
| 141 | Pacific Ocean perch | 20 | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | 15 | 7 | 15 | 20 | 2 | 20 |
| 152/ 151 | Shortraker/ Rougheye | 20 | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | 15 | na[5] | 5 | 20 | 2 | 20 |
| 193 | Atka mackerel | 20 | 20 | na[5] | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 2 | 5 | 20 | 2 | 20 |
| 270 | Pollock | na[5] | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 2 | 5 | 20 | 2 | 20 |
| 710 | Sablefish[1] | 20 | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | na[5] | 7 | 15 | 20 | 2 | 20 |
| 875 | Squid | 20 | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 2 | 5 | na[5] | 2 | 20 |
| Other flatfish[2] | | 20 | 20 | 20 | 35 | 35 | 35 | na[5] | 35 | 35 | 1 | 1 | 2 | 5 | 20 | 2 | 20 |
| Other rockfish[3] | | 20 | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 35 | 15 | 7 | 15 | 20 | 2 | 20 |
| Other species[4] | | 20 | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 2 | 5 | 20 | 2 | na[5] |
| Aggregated amount non-groundfish species | | 20 | 20 | 20 | 20 | 35 | 20 | 20 | 20 | 20 | 1 | 1 | 2 | 5 | 20 | 2 | 20 |

| 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 *Sebastes* and *Sebastolobus* 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.<br>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 *Sebastes* and *Sebastolobus,* except shortraker and rougheye rockfish. |
| 7 | Forage fish are defined at Table 2 to this part. |

[67 FR 64317, Oct. 18, 2002]

TABLE 12 TO PART 679—STELLER SEA LION PROTECTION AREAS 3NM NO GROUNDFISH FISHING SITES

**Table 12 to 50 CFR Part 679 Steller Sea Lion Protection Areas 3nm No Groundfish Fishing Sites**

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | No transit[2] |
| | | Latitude | Longitude | Latitude | Longitude | 3 nm |
| Walrus I. (Pribilofs) | Bering Sea | 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 | | | Y |
| Agattu I./Cape Sabak | Aleutian I. | 52 22.50 N | 173 43.30 E | 52 21.80 N | 173 41.40 E | Y |
| Buldir 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 |
| Ayugadak Point | Aleutian I. | 51 45.36 N | 178 24.30 E | | | Y |
| Amchitka I./Column Rocks | Aleutian I. | 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 | | | 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 | | | Y |
| Gramp Rock | Aleutian I. | 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 |
| Kasatochi I. | Aleutian I. | 52 11.11 N | 175 31.00 W | | | Y |
| Agligadak I. | Aleutian I. | 52 06.09 N | 172 54.23 W | | | Y |
| Seguam I./Saddleridge 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 | | | Y |
| Adugak I. | Bering Sea | 52 54.70 N | 169 10.50 W | | | Y |
| Ogchul I. | Gulf of Alaska | 52 59.71 N | 168 24.24 W | | | Y |
| Bogoslof I./Fire I. | Bering Sea | 53 55.69 N | 168 02.05 W | | | Y |

| Column Number 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|---|---|---|---|---|---|---|
| Site Name | Area or Subarea | Boundaries from | | Boundaries to[1] | | No transit[2] |
| | | Latitude | Longitude | Latitude | Longitude | 3 nm |
| Akutan I./Cape Morgan | Gulf of Alaska | 54 03.39 N | 165 59.65 W | 54 03.70 N | 166 03.68 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 |
| 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 | 55 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 | | | |
| Seal Rocks (Cordova) | Gulf of Alaska | 60 09.78 N | 146 50.30 W | | | |

[1] 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.

[2] See 50 CFR 223.202(a)(2)(i) for regulations regarding 3 nm no transit zones.

Note: No groundfish fishing zones are the waters between 0 nm to 3 nm surrounding each site.

* * * * *

TABLE 13 TO PART 679—TRANSFER FORM SUMMARY

| If participant type is . . . | And has . . . Fish product onboard | And is involved in this activity | Submit | | | | Issue | Possess |
|---|---|---|---|---|---|---|---|---|
| | | | VAR (§ 679.5(k)) | PTR (§ 679.5(g)) | Trans-ship (§ 679.5(l)(3)) | Departure report (§ 679.5(l)(4)) | Dockside sales receipt (§ 679.5(g)(1)(v)) | Landing receipt (§ 679.5(g)(1)(vi)) |
| Catcher vessel greater than 60 ft LOA, mothership or catcher/processor. | Only non-IFQ groundfish | Vessel leaving or entering Alaska. | X | | | | | |
| Catcher vessel greater than 60 ft LOA, mothership or catcher/processor. | Only IFQ sablefish, IFQ halibut, CDQ halibut, or CR crab. | Vessel leaving Alaska. | | | | X | | |
| Catcher vessel greater than 60 ft LOA, mothership or catcher/processor. | Combination of IFQ sablefish, IFQ halibut, CDQ halibut, or CR crab and non-IFQ groundfish. | Vessel leaving Alaska. | X | | | X | | |
| Mothership, catcher/processor, shoreside processor, or SFP. | Non-IFQ groundfish | Transfer of product. | | X | | | | |
| Registered Buyer | IFQ sablefish, IFQ halibut or CDQ halibut. | Transfer of product. | | X | | | | |
| Registered Crab Receiver | CR crab | Transfer of product. | | X | | | | |
| A person holding a valid IFQ permit, IFQ card, and Registered Buyer permit. | IFQ sablefish, IFQ halibut or CDQ halibut. | Transfer of product. | | | | | XXX | |
| Registered Buyer | IFQ sablefish, IFQ halibut or CDQ halibut. | Transfer from landing site to Registered Buyer's processing facility. | | | | | | XX |
| Registered Crab Receiver | CR crab | Transfer from landing site to RCR's processing facility. | | | | | | XX |
| Vessel operator | Processed IFQ sablefish, IFQ halibut, CDQ halibut, or CR crab. | Transshipment between vessels. | | | XXXX | | | |

''X'' indicates under what circumstances each report is submitted.
''XX'' indicates that the document must accompany the transfer of IFQ species from landing site to processor.
''XXX'' indicates receipt must be issued to each receiver in a dockside sale.
''XXXX'' indicates authorization must be obtained 24 hours in advance.

[70 FR 10238, Mar. 2, 2005]

TABLE 14a TO PART 679—PORT OF LANDING CODES[1]: ALASKA

| Port name | NMFS code | ADF&G code |
|---|---|---|
| Adak | 186 | ADA |
| Akutan, Akutan Bay | 101 | AKU |
| Alitak | 103 | ALI |
| Anchorage | 105 | ANC |
| Angoon | 106 | ANG |
| Aniak | 300 | ANI |
| Anvik | 301 | ANV |
| Atka | 107 | ATK |
| Auke Bay | 136 | JNU |
| Beaver Inlet | 119 | DUT |
| Bethel | 302 | BET |
| Captains Bay | 119 | DUT |
| Chefornak | 189 | CHF |
| Chignik | 113 | CHG |
| Cordova | 115 | COR |
| Craig | 116 | CRG |
| Dillingham | 117 | DIL |
| Douglas | 136 | JNU |
| Dutch Harbor/Unalaska | 119 | DUT |
| Egegik | 122 | EGE |
| Ekuk | 303 | EKU |
| Elfin Cove | 123 | ELF |
| Emmonak | 304 | EMM |
| Excursion Inlet | 124 | XIP |
| False Pass | 125 | FSP |
| Fairbanks | 305 | FBK |
| Galena | 306 | GAL |
| Glacier Bay | 307 | GLB |
| Glennallen | 308 | GLN |
| Gustavus | 127 | GUS |
| Haines | 128 | HNS |
| Halibut Cove | 130 | HBC |
| Homer | 132 | HOM |
| Hoonah | 133 | HNH |
| Hydaburg | 309 | HYD |
| Hyder | 134 | HDR |
| Juneau | 136 | JNU |
| Kake | 137 | KAK |
| Kaltag | 310 | KAL |
| Kasilof | 138 | KAS |
| Kenai | 139 | KEN |
| Kenai River | 139 | KEN |
| Ketchikan | 141 | KTN |
| King Cove | 142 | KCO |
| King Salmon | 143 | KNG |
| Kipnuk | 144 | KIP |
| Klawock | 145 | KLA |
| Kodiak | 146 | KOD |
| Kotzebue | 311 | KOT |
| Mekoryuk | 147 | MEK |
| Metlakatla | 148 | MET |
| Moser Bay | 312 | MOS |
| Naknek | 149 | NAK |
| Nenana | 313 | NEN |
| Nikiski (or Nikishka) | 150 | NIK |
| Ninilchik | 151 | NIN |
| Nome | 152 | NOM |
| Nunivak Island | 314 | NUN |
| Old Harbor | 153 | OLD |
| Other Alaska[1] | 499 | OAK |
| Pelican | 155 | PEL |
| Petersburg | 156 | PBG |
| Port Alexander | 158 | PAL |
| Port Armstrong | 315 | PTA |
| Port Bailey | 159 | PTB |
| Port Graham | 160 | GRM |
| Port Lions | 316 | LIO |
| Port Moller | 317 | MOL |
| Port Protection | 161 | PRO |
| Quinhagak | 187 | QUK |
| Sand Point | 164 | SPT |
| Savoonga | 165 | SAV |
| Selawik | 326 | SWK |

| Port name | NMFS code | ADF&G code |
|---|---|---|
| Seldovia | 166 | SEL |
| Seward | 167 | SEW |
| Sitka | 168 | SIT |
| Skagway | 169 | SKG |
| Soldotna | 318 | SOL |
| St. George | 170 | STG |
| St. Mary | 319 | STM |
| St. Paul | 172 | STP |
| Tee Harbor | 136 | JNU |
| Tenakee Springs | 174 | TEN |
| Togiak | 176 | TOG |
| Toksook Bay | 177 | TOB |
| Tununak | 178 | TUN |
| Ugashik | 320 | UGA |
| Unalakleet | 321 | UNA |
| Valdez | 181 | VAL |
| Wasilla | 322 | WAS |
| Whittier | 183 | WHT |
| Wrangell | 184 | WRN |
| Yakutat | 185 | YAK |

[1]To report a landing at a location not currently assigned a location code number, use the code for ''Other Alaska'' code ''499'' or ''OAK.''

[70 FR 33393, June 8, 2005]

TABLE 14b TO PART 679—PORT OF LANDING CODES: NON-ALASKA (CALIFORNIA, CANADA, OREGON, WASHINGTON)

| Port State or Country | Port name | NMFS code | ADF&G code |
|---|---|---|---|
| CALIFORNIA | Eureka | 500 | EUR |
| | Other California[1] | 599 | OCA |
| CANADA | Other Canada[1] | 899 | OCN |
| | Port Edward | 802 | PRU |
| | Prince Rupert | 802 | PRU |
| OREGON | Astoria | 600 | AST |
| | Newport | 603 | NPT |
| | Other Oregon[1] | 699 | OOR |
| | Portland | 323 | POR |
| | Warrenton | 604 | WAR |
| WASHINGTON | Anacortes | 700 | ANA |
| | Bellingham | 702 | BEL |
| | Blaine | 717 | BLA |
| | Everett | 704 | EVT |
| | La Conner | 708 | LAC |
| | Olympia | 324 | OLY |
| | Other Washington[1] | 799 | OWA |
| | Seattle | 715 | SEA |
| | Tacoma | 325 | TAC |

[1]To report a landing at a location not currently assigned a location code number, use the code for ''Other California,'' ''Other Oregon,'' ''Other Washington,'' or Other Canada'' at which the landing occurs.

[70 FR 33394, June 8, 2005]

TABLE 14c—AT-SEA OPERATION TYPE CODES TO BE USED AS PORT CODES FOR VESSELS MATCHING THIS TYPE OF OPERATION

| Description of code | | |
|---|---|---|
| Code | NMFS Alaska region | ADF&G |
| FCP | Catcher/processor | Floating catcher processor. |
| FLD | Mothership | Floating domestic mothership. |
| IFP | Stationary Floating Processor | Inshore floating processor—processing in State of Alaska waters only. |

[70 FR 10238, Mar. 2, 2005]

TABLE 15 TO PART 679—GEAR CODES, DESCRIPTIONS, AND USE

[X indicates where this code is used]

| | Use alphabetic code to complete the following: | | | Use numeric code to complete the following: | | | | |
|---|---|---|---|---|---|---|---|---|
| Name of gear | Alpha gear code | NMFS logbooks & paper forms [1] | Electronic WPR & check-in/check-out code [1] | Numeric gear code | Shoreside electronic logbook (SSPELR) | IFQ Internet & forms | CR crab | ADF&G COAR |
| Diving | OTH | X | X | 11 | X | | | X |
| Dredge | OTH | X | X | 22 | X | | | X |
| Dredge, hydro/mechanical | OTH | X | X | 23 | X | | | X |
| Fish wheel | OTH | X | X | 08 | X | | | X |
| Gillnet, drift | OTH | X | X | 03 | X | | | X |
| Gillnet, herring | OTH | X | X | 34 | X | | | X |
| Gillnet, set | OTH | X | X | 04 | X | | | X |
| Gillnet, sunken | OTH | X | X | 41 | X | | | X |
| Hand line/jig/troll (IFQ name: hand troll). | n/a | | | 05 | X | X | | X |
| Handpicked | OTH | X | X | 12 | X | | | X |
| Hatchery | n/a | | | 77 | X | | | X |
| Hook-and-line | HAL | X | X | 61 | X | X | | X |
| Jig, mechanical (IFQ name: jigs). | JIG | X | X | 26 | X | X | | X |
| Net, dip | OTH | X | X | 13 | X | | | X |
| Net, ring | OTH | X | X | 10 | X | | | X |
| Other/specify | OTH | X | X | 99 | X | | | X |
| Pair trawl | (1) | | | 37 | | | | X |
| Pot | POT | X | X | 91 | X | X | X | X |
| Pound | OTH | X | X | 21 | X | | | X |
| Seine, purse | OTH | X | X | 01 | X | | | X |
| Seine, beach | OTH | X | X | 02 | X | | | X |
| Shovel | OTH | X | X | 18 | X | | | X |
| Trap | OTH | X | X | 90 | X | | | X |
| Trawl, beam | (1) | | | 17 | X | | | X |
| Trawl, double otter | (1) | | | 27 | X | | X | |
| Trawl, nonpelagic/bottom | NPT | X | X | 07 | X | | | X |
| Trawl, pelagic/midwater | PTR | X | X | 47 | X | | | X |
| Troll, dinglebar | TROLL | X | X | 25 | X | X | | X |
| Troll, power gurdy | TROLL | X | X | 15 | X | X | | X |
| Weir | OTH | X | X | 14 | X | | | X |

[1] For groundfish logbooks, forms, electronic WPR, electronic check-in/out reports: all trawl gear must be reported as either nonpelagic trawl (NPT) or pelagic trawl (PTR).

[70 FR 10238, Mar. 2, 2005]

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 | King Crab: | M | 5 AAC 34.500 |
| South Peninsula (MS) | AK Peninsula/Aleutian Islands Salmon | M | 5 AAC 12.100 |
| North Peninsula (MN) | | M | (Aleutians) 5 AAC 09.100 (AK Peninsula) |
| | Herring | M | 5 AAC 27.600 |
| Bering Sea: | Bering Sea King Crab | Q | 5 AAC 34.900 |
| Pribilof Island (Q1) | Bering Sea/Kotzebue Herring | Q | 5 AAC 27.900 |
| St. Matthew Island Q2) | | | |
| St. Lawrence Island (Q4) | | | |
| Bristol Bay (T) | King Crab | T | 5 AAC 34.800 |
| | Salmon | T | 5 AAC 06.100 |
| | Herring | T | 5 AAC 27.800 |
| Chignik (L) | Groundfish | L | 5 AAC 28.500 |
| | Herring | L | 5 AAC 27.550 |
| | Salmon | L | 5 AAC 15.100 |
| Cook Inlet: | Groundfish | H | 5 AAC 28.300 |
| Lower Cook Inlet (HL) | Herring | H | 5 AA 27.400 |
| Upper Cook Inlet (HU) | 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 |
| Dutch Harbor (O) | Aleutian Islands King Crab | O | 5 AA 34.600 |
| EEZ (Federal waters of BSAI (FB) | Groundfish | n/a | n/a |
| GOA (FG) | Atka-Amlia Islands Salmon | n/a | 5 AAC 11.1010 |
| 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) | Salmon | X | 5 AAC 03.100 |
| Kuskokwim: | Salmon | W | 5 AAC 07.100 |
| Kuskokwim River/Bay (W1) | Herring | W | 5AAC 27.870 |
| Security Cove (W2) | | | |
| Goodnews Bay (W3) | | | |
| Nelson Island (W4) | | | |
| Ninivak Island (W5) | | | |
| Cape Avinof (W6) | | | |
| Norton Sound (Z) | Norton Sound-Port Clarence Salmon | Z | 5 AAC 04.100 |
| | Norton Sound-Port Clarence King Crab | | |
| Prince William Sound (E) | Groundfish | E | 5 AAC 28.200 |
| | Herring | E | 5 AAC 27.300 |
| | Shrimp | E | 5 AAC 31.200 |
| | 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<br>5 AAC 30.100 |
| Yukon River:<br>Lower Yukon (YL)<br>Upper Yukon (YU) | Yukon-Northern Salmon | Y | 5 AAC 05.100 |

[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]

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 |
|---|---|
| Salmon | *Salmon Buying* |
| | (A)(1) Seine gear |
| | (A)(1) Gillnet gear |
| | (A)(2) Troll gear |
| | (A)(2) Hatchery |
| | (A)(3) Miscellaneous gear |
| | *King Salmon Production* |
| | (B)(1) Production |
| | (B)(1) Canned Production |
| | *Sockeye Salmon Production*: |
| | (B)(2)(i) Production |
| | (B)(2)(ii) Canned Production |
| | *Coho Salmon Production* |
| | (B)(3)(i) Production |
| | (B)(3)(ii) Canned Production |
| | *Pink Salmon Production* |
| | (B)(4)(i) Production |
| | (B)(4)(ii) Canned Production |
| | *Chum Salmon Production* |
| | (B)(5)(i) Production |
| | (B)(5)(ii) Canned Production |
| | *Salmon Roe & Byproduct Production* |
| | (B)(6)(i) Roe |
| | (B)(6)(ii) Byproduct Production |
| 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 |
| | Herring Production |
| | (D)(1)(i) Production |
| | (D)(1)(ii) Byproduct Production |
| Crab | (E)*Crab Buying* |
| | (F) Crab Production |
| Shrimp/Miscellaneous Shellfish | (G)*Shrimp/Misc.Shellfish Buying* |
| | (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 |
| Groundfish | (I)(1) Groundfish Buying |
| | (I)(2) Groundfish Buying |
| | (J)(1) Groundfish Production |
| | (J)(2) Groundfish Production |
| Halibut | (K) Halibut Buying & Production |
| Custom Production | *Custom Production* |
| | (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) |
| PRICES NOT FINAL | (M)(1) Fish Buying Retro Payments |
| | (M)(2) Post-season Adjustments |

[66 FR 55128, Nov. 1, 2001]

TABLE 19 TO PART 679—SEABIRD AVOIDANCE GEAR CODES

| Vessel Logbook | |
|---|---|
| Code | Seabird Avoidance Gear or Method |
| 1 | *Paired Streamer Lines*: Used during deployment of hook-and-line gear to prevent birds from taking hooks. Two streamer lines used, one on each side of the main groundline. Each 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. See performance and material standards at § 679.24(e)(5)(iii). |

| Vessel Logbook | |
|---|---|
| Code | Seabird Avoidance Gear or Method |
| 2 | *Single Streamer Line*: Used during deployment of hook-and-line gear to prevent birds from taking hooks. The 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. See performance and material standards at § 679.24(e)(5)(ii). |
| 3 | *Single Streamer Line, used with Snap Gear*: Used during the deployment of snap gear to prevent birds from taking hooks. The 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. See performance and material standards at § 679.24(e)(5)(iv). |
| 4 | *Buoy Bag Line*: Used during the deployment of hook-and-line gear to prevent birds from taking hooks. A buoy bag line consists of two components: a length of line (without streamers attached) and one or more float devices at the terminal end. See performance and material standards at § 679.24(e)(5)(i). |
| | Other Device used in conjunction with Single Streamer Line or Buoy Bag Line. |
| 5 | *Add weights to groundline*: Applying weights to the groundline for the purpose of sinking the hook-and-line gear more quickly and preventing seabirds from accessing the baited hooks. |
| 6 | *Additional Buoy Bag Line or Single Streamer Line*: Using a second buoy bag line or streamer line for the purpose of enhancing the effectiveness of these deterrent devices at preventing seabirds from accessing baited hooks. |
| 7 | *Strategic Offal Discharge*: Discharging fish, fish parts (i.e. offal) or spent bait for the purpose of distracting seabirds away from the main groundline while setting gear. |
| | Additional Device Used |
| 8 | *Night Fishing*: Setting hook-and-line gear during dark hours.<br>*Line Shooter*: A hydraulic device designed to deploy hook-and-line gear at a speed slightly faster than the vessel's speed during setting.<br>*Lining Tube*: A device used to deploy hook-and-line gear through an underwater-setting device.<br>*Other* (Describe) |
| 9 | No Deterrent Used Due to Weather. [See weather exceptions at § 679.24(e)(5)(i)(B), (e)(5)(ii)(B), (e)(5)(iii)(B), (e)(5)(iv)(B).] |
| 0 | No Deterrent Used. |

[69 FR 1949, Jan. 13, 2004]

TABLE 20 TO PART 679—SEABIRD AVOIDANCE GEAR REQUIREMENTS FOR VESSELS, BASED ON AREA, GEAR, AND VESSEL TYPE. (SEE § 679.24(e) FOR COMPLETE SEABIRD AVOIDANCE PROGRAM REQUIREMENTS; SEE 679.24(e)(1) FOR APPLICABLE FISHERIES)

| **If you operate a vessel deploying hook-and-line gear, other than snap gear, in waters specified at § 679.24(e)(3), and your vessel is.....** | **Then you must use this seabird avoidance gear in conjunction with requirements at § 679.24(e)...** |
|---|---|
| >26 ft (7.9 m) to 55 ft (16.8 m) LOA and without masts, poles, or rigging | minimum of one buoy bag line |
| >26 ft (7.9 m) to 55 ft (16.8 m) LOA and with masts, poles, or rigging | minimum of a single streamer line of a standard specified at § 679.24(e)(4)(ii) |
| >55 ft (16.8 m) LOA | minimum of paired streamer lines of a standard specified at § 679.24(e)(4)(iii) |
| **If you operate a vessel deploying hook-and-line gear and use snap gear in waters specified at § 679.24(e)(3), and your vessel is...** | **Then you must use this seabird avoidance gear in conjunction with requirements at § 679.24(e)...** |
| >26 ft (7.9 m) to 55 ft (16.8 m) LOA and without masts, poles, or rigging | minimum of one buoy bag line |
| >26 ft (7.9 m) to 55 ft (16.8 m) LOA and with masts, poles, or rigging | minimum of a single streamer line of a standard specified at § 679.24(e)(4)(iv) |
| >55 ft (16.8 m) LOA | minimum of a single streamer line of a standard specified at § 679.24(e)(4)(iv) |

| | |
|---|---|
| **If you operate a vessel < 32 ft (9.8 m) LOA in the State waters of IPHC Area 4E, or operate a vessel in NMFS Reporting Area 649 (Prince William Sound), State waters of Cook Inlet, and NMFS Reporting Area 659 (Eastern GOA Regulatory Area, Southeast Inside District), but not including waters in the areas south of a straight line at latitude 56 deg. 17.25 N between Point Harris and Port Armstrong in Chatham Strait, State statistical areas 325431 and 325401, and west of a straight line at longitude 136 deg. 21.17 E from Point Wimbledon extending south through the Inian Islands to Point Lavinia** | **Then you are exempt from seabird avoidance regulations.** |

[72 FR 71605, Dec. 18, 2007]

TABLE 21 TO PART 679—ELIGIBLE GOA COMMUNITIES, HALIBUT IFQ REGULATORY USE AREAS, AND COMMUNITY GOVERNING BODY THAT RECOMMENDS THE COMMUNITY QUOTA ENTITY

| Eligible GOA Community | Community Governing Body that recommends the CQE |
|---|---|
| May use halibut QS only in halibut IFQ regulatory areas 2C, 3A | |
| Angoon | City of Angoon |
| Coffman Cove | City of Coffman Cove |
| Craig | City of Craig |
| Edna Bay | Edna Bay Community Association |
| Elfin Cove | Community of Elfin Cove |
| Gustavus | Gustavus Community Association |
| Hollis | Hollis Community Council |
| Hoonah | City of Hoonah |
| Hydaburg | City of Hydaburg |
| Kake | City of Kake |
| Kasaan | City of Kasaan |
| Klawock | City of Klawock |
| Metlakatla | Metlakatla Indian Village |
| Meyers Chuck | N/A |
| Pelican | City of Pelican |
| Point Baker | Point Baker Community |
| Port Alexander | City of Port Alexander |
| Port Protection | Port Protection Community Association |
| Tenakee Springs | City of Tenakee Springs |
| Thorne Bay | City of Thorne Bay |
| Whale Pass | Whale Pass Community Association |
| May use halibut QS only in halibut IFQ regulatory areas 3A, 3B | |
| Akhiok | City of Akhiok |
| Chenega Bay | Chenega IRA Village |
| Chignik | City of Chignik |
| Chignik Lagoon | Chignik Lagoon Village Council |
| Chignik Lake | Chignik Lake Traditional Council |
| Halibut Cove | N/A |
| Ivanof Bay | Ivanof Bay Village Council |
| Karluk | Native Village of Karluk |
| King Cove | City of King Cove |
| Larsen Bay | City of Larsen Bay |
| Nanwalek | Nanwalek IRA Council |
| Old Harbor | City of Old Harbor |
| Ouzinkie | City of Ouzinkie |
| Perryville | Native Village of Perryville |
| Port Graham | Port Graham Village Council |
| Port Lyons | City of Port Lyons |
| Sand Point | City of Sand Point |
| Seldovia | City of Seldovia |
| Tatitlek | Native Village of Tatitlek |
| Tyonek | Native Village of Tyonek |
| Yakutat | City of Yakutat |

[69 FR 23694, Apr. 30, 2004]

TABLE 22 TO PART 679— ALASKA SEAMOUNT HABITAT PROTECTION AREAS

| Area No. | Name | Latitude | Longitude |
|---|---|---|---|
| 1 | Dickins Seamount | 54 39.00 N<br>54 39.00 N<br>54 27.00 N<br>54 27.00 N | 136 48.00 W<br>137 9.00 W<br>137 9.00 W<br>136 48.00 W |
| 2 | Denson Seamount | 54 13.20 N<br>54 13.20 N<br>53 57.00 N<br>53 57.00 N | 137 6.00 W<br>137 36.00 W<br>137 36.00 W<br>137 6.00 W |
| 3 | Brown Seamount | 55 0.00 N<br>55 0.00 N<br>54 48.00 N<br>54 48.00 N | 138 24.00 W<br>138 48.00 W<br>138 48.00 W<br>138 24.00 W |
| 4 | Welker Seamount | 55 13.80 N<br>55 13.80 N<br>55 1.80 N<br>55 1.80 N | 140 9.60 W<br>140 33.00 W<br>140 33.00 W<br>140 9.60 W |
| 5 | Dall Seamount | 58 18.00 N<br>58 18.00 N<br>57 45.00 N<br>57 45.00 N | 144 54.00 W<br>145 48.00 W<br>145 48.00 W<br>144 54.00 W |
| 6 | Quinn Seamount | 56 27.00 N<br>56 27.00 N<br>56 12.00 N<br>56 12.00 N | 145 0.00 W<br>145 24.00 W<br>145 24.00 W<br>145 0.00 W |
| 7 | Giacomini Seamount | 56 37.20 N<br>56 37.20 N<br>56 25.20 N<br>56 25.20 N | 146 7.20 W<br>146 31.80 W<br>146 31.80 W<br>146 7.20 W |
| 8 | Kodiak Seamount | 57 0.00 N<br>57 0.00 N<br>56 48.00 N<br>56 48.00 N | 149 6.00 W<br>149 30.00 W<br>149 30.00 W<br>149 6.00 W |
| 9 | Odessey Seamount | 54 42.00 N<br>54 42.00 N<br>54 30.00 N<br>54 30.00 N | 149 30.00 W<br>150 0.00 W<br>150 0.00 W<br>149 30.00 W |
| 10 | Patton Seamount | 54 43.20 N<br>54 43.20 N<br>54 34.20 N<br>54 34.20 N | 150 18.00 W<br>150 36.00 W<br>150 36.00 W<br>150 18.00 W |
| 11 | Chirikof & Marchand Seamounts | 55 6.00 N<br>55 6.00 N<br>54 42.00 N<br>54 42.00 N | 151 0.00 W<br>153 42.00 W<br>153 42.00 W<br>151 0.00 W |
| 12 | Sirius Seamount | 52 6.00 N<br>52 6.00 N<br>51 57.00 N<br>51 57.00 N | 160 36.00 W<br>161 6.00 W<br>161 6.00 W<br>160 36.00 W |
| 13 | Derickson Seamount | 53 0.00 N<br>53 0.00 N<br>52 48.00 N<br>52 48.00 N | 161 0.00 W<br>161 30.00 W<br>161 30.00 W<br>161 0.00 W |
| 14 | Unimak Seamount | 53 48.00 N<br>53 48.00 N<br>53 39.00 N<br>53 39.00 N | 162 18.00 W<br>162 42.00 W<br>162 42.00 W<br>162 18.00 W |
| 15 | Bowers Seamount | 54 9.00 N | 174 52.20 E |

| Area No. | Name | Latitude | Longitude |
|---|---|---|---|
| | | 54 9.00 N | 174 42.00 E |
| | | 54 4.20 N | 174 42.00 E |
| | | 54 4.20 N | 174 52.20 E |

**Note:** Each area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. Projected coordinate system is North American Datum 1983, Albers.

[71 FR 36703, June 28, 2006]

TABLE 23 TO PART 679—ALEUTIAN ISLANDS CORAL HABITAT PROTECTION AREAS

| Area No. | Name | Latitude | Longitude |
|---|---|---|---|
| 1 | Great Sitkin I | 52 9.56 N | 176 6.14 W |
| | | 52 9.56 N | 176 12.44 W |
| | | 52 4.69 N | 176 12.44 W |
| | | 52 6.59 N | 176 6.12 W |
| 2 | Cape Moffett I | 52 0.11 N | 176 46.65 W |
| | | 52 0.10 N | 176 53.00 W |
| | | 51 55.69 N | 176 53.00 W |
| | | 51 55.69 N | 176 48.59 W |
| | | 51 57.96 N | 176 46.52 W |
| 3 | Adak Canyon | 51 39.00 N | 177 0.00 W |
| | | 51 39.00 N | 177 3.00 W |
| | | 51 30.00 N | 177 3.00 W |
| | | 51 30.00 N | 177 0.00 W |
| 4 | Bobrof I | 51 57.35 N | 177 19.94 W |
| | | 51 57.36 N | 177 29.11 W |
| | | 51 51.65 N | 177 29.11 W |
| | | 51 51.71 N | 177 19.93 W |
| 5 | Ulak I | 51 25.85 N | 178 59.00 W |
| | | 51 25.69 N | 179 6.00 W |
| | | 51 22.28 N | 179 6.00 W |
| | | 51 22.28 N | 178 58.95 W |
| 6 | Semisopochnoi I | 51 53.10 N | 179 53.11 E |
| | | 51 53.10 N | 179 46.55 E |
| | | 51 48.84 N | 179 46.55 E |
| | | 51 48.89 N | 179 53.11 E |

**Note:** Each area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. Projected coordinate system is North American Datum 1983, Albers.

[71 FR 36703, June 28, 2006]

TABLE 24 TO PART 679—EXCEPT AS NOTED, LOCATIONS IN THE ALEUTIAN ISLANDS HABITAT CONSERVATION AREA OPEN TO NONPELAGIC TRAWL FISHING

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| 1. Islands of 4 Mountains North | 52 | 54.00 | N | 170 | 18.00 | W | |
| | 52 | 54.00 | N | 170 | 24.00 | W | |
| | 52 | 42.00 | N | 170 | 24.00 | W | |
| | 52 | 42.00 | N | 170 | 18.00 | W | |
| 2. Islands of 4 Mountains West | 53 | 12.00 | N | 170 | 0.00 | W | |
| | 53 | 12.00 | N | 170 | 12.00 | W | |
| | 53 | 6.00 | N | 170 | 12.00 | W | |
| | 53 | 6.00 | N | 170 | 30.00 | W | |
| | 53 | 0.00 | N | 170 | 30.00 | W | |
| | 53 | 0.00 | N | 170 | 48.00 | W | |
| | 52 | 54.00 | N | 170 | 48.00 | W | |
| | 52 | 54.00 | N | 170 | 54.00 | W | |
| | 52 | 48.00 | N | 170 | 54.00 | W | |
| | 52 | 48.00 | N | 170 | 30.00 | W | |
| | 52 | 54.00 | N | 170 | 30.00 | W | |
| | 52 | 54.00 | N | 170 | 24.00 | W | |
| | 53 | 0.00 | N | 170 | 24.00 | W | |
| | 53 | 0.00 | N | 170 | 0.00 | W | |
| 3. Yunaska I. South | 52 | 24.00 | N | 170 | 30.00 | W | |
| | 52 | 24.00 | N | 170 | 54.00 | W | |
| | 52 | 12.00 | N | 170 | 54.00 | W | |
| | 52 | 12.00 | N | 170 | 30.00 | W | |
| 4. Amukta I. North | 52 | 54.00 | N | 171 | 6.00 | W | |
| | 52 | 54.00 | N | 171 | 30.00 | W | |
| | 52 | 48.00 | N | 171 | 30.00 | W | |
| | 52 | 48.00 | N | 171 | 36.00 | W | |
| | 52 | 42.00 | N | 171 | 36.00 | W | |
| | 52 | 42.00 | N | 171 | 12.00 | W | |
| | 52 | 48.00 | N | 171 | 12.00 | W | |
| | 52 | 48.00 | N | 171 | 6.00 | W | |
| 5. Amukta Pass North | 52 | 42.00 | N | 171 | 42.00 | W | |
| | 52 | 42.00 | N | 172 | 6.00 | W | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 52 | 36.00 | N | 172 | 6.00 | W | |
| | 52 | 36.00 | N | 171 | 42.00 | W | |
| 6. Amlia North/Seguam | 52 | 42.00 | N | 172 | 12.00 | W | |
| | 52 | 42.00 | N | 172 | 30.00 | W | |
| | 52 | 30.00 | N | 172 | 30.00 | W | |
| | 52 | 30.00 | N | 172 | 36.00 | W | |
| | 52 | 36.00 | N | 172 | 36.00 | W | |
| | 52 | 36.00 | N | 172 | 42.00 | W | |
| | 52 | 39.00 | N | 172 | 42.00 | W | |
| | 52 | 39.00 | N | 173 | 24.00 | W | |
| | 52 | 36.00 | N | 173 | 30.00 | W | |
| | 52 | 36.00 | N | 173 | 36.00 | W | |
| | 52 | 30.00 | N | 173 | 36.00 | W | |
| | 52 | 30.00 | N | 174 | 0.00 | W | |
| | 52 | 27.00 | N | 174 | 0.00 | W | |
| | 52 | 27.00 | N | 174 | 6.00 | W | |
| | 52 | 23.93 | N | 174 | 6.00 | W | 1 |
| | 52 | 13.71 | N | 174 | 6.00 | W | |
| | 52 | 12.00 | N | 174 | 6.00 | W | |
| | 52 | 12.00 | N | 174 | 0.00 | W | |
| | 52 | 9.00 | N | 174 | 0.00 | W | |
| | 52 | 9.00 | N | 173 | 0.00 | W | |
| | 52 | 6.00 | N | 173 | 0.00 | W | |
| | 52 | 6.00 | N | 172 | 45.00 | W | |
| | 51 | 54.00 | N | 172 | 45.00 | W | |
| | 51 | 54.00 | N | 171 | 48.00 | W | |
| | 51 | 48.00 | N | 171 | 48.00 | W | |
| | 51 | 48.00 | N | 171 | 42.00 | W | |
| | 51 | 54.00 | N | 171 | 42.00 | W | |
| | 52 | 12.00 | N | 171 | 42.00 | W | |
| | 52 | 12.00 | N | 171 | 48.00 | W | |
| | 52 | 18.00 | N | 171 | 48.00 | W | |
| | 52 | 18.00 | N | 171 | 42.00 | W | |
| | 52 | 30.00 | N | 171 | 42.00 | W | |
| | 52 | 30.00 | N | 171 | 54.00 | W | |
| | 52 | 24.00 | N | 171 | 54.00 | W | |
| | 52 | 24.00 | N | 172 | 0.00 | W | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 52 | 12.00 | N | 172 | 0.00 | W | |
| | 52 | 12.00 | N | 172 | 42.00 | W | |
| | 52 | 18.00 | N | 172 | 42.00 | W | |
| | 52 | 18.00 | N | 172 | 37.13 | W | 2 |
| | 52 | 18.64 | N | 172 | 36.00 | W | |
| | 52 | 24.00 | N | 172 | 36.00 | W | |
| | 52 | 24.00 | N | 172 | 12.00 | W | 6 |
| 7. Amlia North/Seguam donut | 52 | 33.00 | N | 172 | 42.00 | W | 5 |
| | 52 | 33.00 | N | 173 | 6.00 | W | 5 |
| | 52 | 30.00 | N | 173 | 6.00 | W | 5 |
| | 52 | 30.00 | N | 173 | 18.00 | W | 5 |
| | 52 | 24.00 | N | 173 | 18.00 | W | 5 |
| | 52 | 24.00 | N | 172 | 48.00 | W | 5 |
| | 52 | 30.00 | N | 172 | 48.00 | W | 5 |
| | 52 | 30.00 | N | 172 | 42.00 | W | 5,7 |
| 8. Atka/Amlia South | 52 | 0.00 | N | 173 | 18.00 | W | |
| | 52 | 0.00 | N | 173 | 54.00 | W | |
| | 52 | 3.08 | N | 173 | 54.00 | W | 2 |
| | 52 | 6.00 | N | 173 | 58.00 | W | |
| | 52 | 6.00 | N | 174 | 6.00 | W | |
| | 52 | 0.00 | N | 174 | 18.00 | W | |
| | 52 | 0.00 | N | 174 | 12.00 | W | |
| | 51 | 54.00 | N | 174 | 12.00 | W | |
| | 51 | 54.00 | N | 174 | 18.00 | W | |
| | 52 | 6.00 | N | 174 | 18.00 | W | |
| | 52 | 6.00 | N | 174 | 21.86 | W | 1 |
| | 52 | 4.39 | N | 174 | 30.00 | W | |
| | 52 | 3.09 | N | 174 | 30.00 | W | 1 |
| | 52 | 2.58 | N | 174 | 30.00 | W | |
| | 52 | 0.00 | N | 174 | 30.00 | W | |
| | 52 | 0.00 | N | 174 | 36.00 | W | |
| | 51 | 54.00 | N | 174 | 36.00 | W | |
| | 51 | 54.00 | N | 174 | 54.00 | W | |
| | 51 | 48.00 | N | 174 | 54.00 | W | |
| | 51 | 48.00 | N | 173 | 24.00 | W | |
| | 51 | 54.00 | N | 173 | 24.00 | W | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 51 | 54.00 | N | 173 | 18.00 | W | |
| 9. Atka I. North | 52 | 30.00 | N | 174 | 24.00 | W | |
| | 52 | 30.00 | N | 174 | 30.00 | W | |
| | 52 | 24.00 | N | 174 | 30.00 | W | |
| | 52 | 24.00 | N | 174 | 48.00 | W | |
| | 52 | 18.00 | N | 174 | 48.00 | W | |
| | 52 | 18.00 | N | 174 | 54.00 | W | |
| | 52 | 12.00 | N | 174 | 54.00 | W | |
| | 52 | 12.00 | N | 175 | 18.00 | W | |
| | 52 | 1.14 | N | 175 | 18.00 | W | 1 |
| | 52 | 2.19 | N | 175 | 12.00 | W | |
| | 52 | 6.00 | N | 175 | 12.00 | W | |
| | 52 | 6.00 | N | 174 | 55.51 | W | 1 |
| | 52 | 6.00 | N | 174 | 54.04 | W | |
| | 52 | 6.00 | N | 174 | 48.00 | W | |
| | 52 | 12.00 | N | 174 | 48.00 | W | |
| | 52 | 12.00 | N | 174 | 26.85 | W | 1 |
| | 52 | 12.94 | N | 174 | 18.00 | W | |
| | 52 | 16.80 | N | 174 | 18.00 | W | 1 |
| | 52 | 17.06 | N | 174 | 18.00 | W | |
| | 52 | 17.64 | N | 174 | 18.00 | W | 1 |
| | 52 | 18.00 | N | 174 | 19.12 | W | |
| | 52 | 18.00 | N | 174 | 20.04 | W | 1 |
| | 52 | 19.37 | N | 174 | 24.00 | W | |
| 10. Atka I. South | 52 | 0.68 | N | 175 | 12.00 | W | 2 |
| | 52 | 0.76 | N | 175 | 18.00 | W | |
| | 52 | 0.00 | N | 175 | 18.00 | W | |
| | 52 | 0.00 | N | 175 | 12.00 | W | |
| 11. Adak I. East | 52 | 12.00 | N | 176 | 36.00 | W | |
| | 52 | 12.00 | N | 176 | 0.00 | W | |
| | 52 | 2.59 | N | 176 | 0.00 | W | 1 |
| | 52 | 1.79 | N | 176 | 0.00 | W | |
| | 52 | 0.00 | N | 176 | 0.00 | W | |
| | 52 | 0.00 | N | 175 | 48.00 | W | |
| | 51 | 57.74 | N | 175 | 48.00 | W | 1 |
| | 51 | 55.48 | N | 175 | 48.00 | W | |
| | 51 | 54.00 | N | 175 | 48.00 | W | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 51 | 54.00 | N | 176 | 0.00 | W | 1 |
| | 51 | 53.09 | N | 176 | 6.00 | W | |
| | 51 | 51.40 | N | 176 | 6.00 | W | 1 |
| | 51 | 49.67 | N | 176 | 6.00 | W | |
| | 51 | 48.73 | N | 176 | 6.00 | W | 1 |
| | 51 | 48.00 | N | 176 | 6.36 | W | |
| | 51 | 48.00 | N | 176 | 9.82 | W | 1 |
| | 51 | 48.00 | N | 176 | 9.99 | W | |
| | 51 | 48.00 | N | 176 | 16.19 | W | 1 |
| | 51 | 48.00 | N | 176 | 24.71 | W | |
| | 51 | 48.00 | N | 176 | 25.71 | W | 1 |
| | 51 | 45.58 | N | 176 | 30.00 | W | |
| | 51 | 42.00 | N | 176 | 30.00 | W | |
| | 51 | 42.00 | N | 176 | 33.92 | W | 1 |
| | 51 | 41.22 | N | 176 | 42.00 | W | |
| | 51 | 30.00 | N | 176 | 42.00 | W | |
| | 51 | 30.00 | N | 176 | 36.00 | W | |
| | 51 | 36.00 | N | 176 | 36.00 | W | |
| | 51 | 36.00 | N | 176 | 0.00 | W | |
| | 51 | 42.00 | N | 176 | 0.00 | W | |
| | 51 | 42.00 | N | 175 | 36.00 | W | |
| | 51 | 48.00 | N | 175 | 36.00 | W | |
| | 51 | 48.00 | N | 175 | 18.00 | W | |
| | 51 | 51.00 | N | 175 | 18.00 | W | |
| | 51 | 51.00 | N | 175 | 0.00 | W | |
| | 51 | 57.00 | N | 175 | 0.00 | W | |
| | 51 | 57.00 | N | 175 | 18.00 | W | |
| | 52 | 0.00 | N | 175 | 18.00 | W | |
| | 52 | 0.00 | N | 175 | 30.00 | W | |
| | 52 | 3.00 | N | 175 | 30.00 | W | |
| | 52 | 3.00 | N | 175 | 36.00 | W | |
| 12. Cape Adagdak | 52 | 6.00 | N | 176 | 12.44 | W | |
| | 52 | 6.00 | N | 176 | 30.00 | W | |
| | 52 | 3.00 | N | 176 | 30.00 | W | |
| | 52 | 3.00 | N | 176 | 42.00 | W | |
| | 52 | 0.00 | N | 176 | 42.00 | W | |
| | 52 | 0.00 | N | 176 | 46.64 | W | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 51 | 57.92 | N | 176 | 46.51 | W | 1 |
| | 51 | 54.00 | N | 176 | 37.07 | W | |
| | 51 | 54.00 | N | 176 | 18.00 | W | |
| | 52 | 0.00 | N | 176 | 18.00 | W | |
| | 52 | 0.00 | N | 176 | 12.00 | W | |
| | 52 | 2.85 | N | 176 | 12.00 | W | 1 |
| | 52 | 4.69 | N | 176 | 12.44 | W | |
| 13. Cape Kiguga/Round Head | 52 | 0.00 | N | 176 | 53.00 | W | |
| | 52 | 0.00 | N | 177 | 6.00 | W | |
| | 51 | 56.06 | N | 177 | 6.00 | W | 1 |
| | 51 | 54.00 | N | 177 | 2.84 | W | |
| | 51 | 54.00 | N | 176 | 54.00 | W | |
| | 51 | 48.79 | N | 176 | 54.00 | W | 1 |
| | 51 | 48.00 | N | 176 | 50.35 | W | |
| | 51 | 48.00 | N | 176 | 43.14 | W | 1 |
| | 51 | 55.69 | N | 176 | 48.59 | W | |
| | 51 | 55.69 | N | 176 | 53.00 | W | |
| 14. Adak Strait South | 51 | 42.00 | N | 176 | 55.77 | W | |
| | 51 | 42.00 | N | 177 | 12.00 | W | |
| | 51 | 30.00 | N | 177 | 12.00 | W | |
| | 51 | 36.00 | N | 177 | 6.00 | W | |
| | 51 | 36.00 | N | 177 | 3.00 | W | |
| | 51 | 39.00 | N | 177 | 3.00 | W | |
| | 51 | 39.00 | N | 177 | 0.00 | W | |
| | 51 | 36.00 | N | 177 | 0.00 | W | |
| | 51 | 36.00 | N | 176 | 57.72 | W | 3 |
| 15. Bay of Waterfalls | 51 | 38.62 | N | 176 | 54.00 | W | |
| | 51 | 36.00 | N | 176 | 54.00 | W | |
| | 51 | 36.00 | N | 176 | 55.99 | W | 3 |
| 16. Tanaga/Kanaga North | 51 | 54.00 | N | 177 | 12.00 | W | |
| | 51 | 54.00 | N | 177 | 19.93 | W | |
| | 51 | 51.71 | N | 177 | 19.93 | W | |
| | 51 | 51.65 | N | 177 | 29.11 | W | |
| | 51 | 54.00 | N | 177 | 29.11 | W | |
| | 51 | 54.00 | N | 177 | 30.00 | W | |
| | 51 | 57.00 | N | 177 | 30.00 | W | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 51 | 57.00 | N | 177 | 42.00 | W | |
| | 51 | 54.00 | N | 177 | 42.00 | W | |
| | 51 | 54.00 | N | 177 | 54.00 | W | |
| | 51 | 50.92 | N | 177 | 54.00 | W | 1 |
| | 51 | 48.00 | N | 177 | 46.44 | W | |
| | 51 | 48.00 | N | 177 | 42.00 | W | |
| | 51 | 42.59 | N | 177 | 42.00 | W | 1 |
| | 51 | 45.57 | N | 177 | 24.01 | W | |
| | 51 | 48.00 | N | 177 | 24.00 | W | |
| | 51 | 48.00 | N | 177 | 14.08 | W | 4 |
| 17. Tanaga/Kanaga South | 51 | 43.78 | N | 177 | 24.04 | W | 1 |
| | 51 | 42.37 | N | 177 | 42.00 | W | |
| | 51 | 42.00 | N | 177 | 42.00 | W | |
| | 51 | 42.00 | N | 177 | 50.04 | W | 1 |
| | 51 | 40.91 | N | 177 | 54.00 | W | |
| | 51 | 36.00 | N | 177 | 54.00 | W | |
| | 51 | 36.00 | N | 178 | 0.00 | W | |
| | 51 | 38.62 | N | 178 | 0.00 | W | 1 |
| | 51 | 42.52 | N | 178 | 6.00 | W | |
| | 51 | 49.34 | N | 178 | 6.00 | W | 1 |
| | 51 | 51.35 | N | 178 | 12.00 | W | |
| | 51 | 48.00 | N | 178 | 12.00 | W | |
| | 51 | 48.00 | N | 178 | 30.00 | W | |
| | 51 | 42.00 | N | 178 | 30.00 | W | |
| | 51 | 42.00 | N | 178 | 36.00 | W | |
| | 51 | 36.26 | N | 178 | 36.00 | W | 1 |
| | 51 | 35.75 | N | 178 | 36.00 | W | |
| | 51 | 27.00 | N | 178 | 36.00 | W | |
| | 51 | 27.00 | N | 178 | 42.00 | W | |
| | 51 | 21.00 | N | 178 | 42.00 | W | |
| | 51 | 21.00 | N | 178 | 24.00 | W | |
| | 51 | 24.00 | N | 178 | 24.00 | W | |
| | 51 | 24.00 | N | 178 | 12.00 | W | |
| | 51 | 30.00 | N | 178 | 12.00 | W | |
| | 51 | 30.00 | N | 177 | 24.00 | W | |
| 18. Amchitka Pass East | 51 | 42.00 | N | 178 | 48.00 | W | |
| | 51 | 42.00 | N | 179 | 18.00 | W | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 51 | 45.00 | N | 179 | 18.00 | W | |
| | 51 | 45.00 | N | 179 | 36.00 | W | |
| | 51 | 42.00 | N | 179 | 36.00 | W | |
| | 51 | 42.00 | N | 179 | 39.00 | W | |
| | 51 | 30.00 | N | 179 | 39.00 | W | |
| | 51 | 30.00 | N | 179 | 36.00 | W | |
| | 51 | 18.00 | N | 179 | 36.00 | W | |
| | 51 | 18.00 | N | 179 | 24.00 | W | |
| | 51 | 30.00 | N | 179 | 24.00 | W | |
| | 51 | 30.00 | N | 179 | 0.00 | W | |
| | 51 | 25.82 | N | 179 | 0.00 | W | |
| | 51 | 25.85 | N | 178 | 59.00 | W | |
| | 51 | 24.00 | N | 178 | 58.97 | W | |
| | 51 | 24.00 | N | 178 | 54.00 | W | |
| | 51 | 30.00 | N | 178 | 54.00 | W | |
| | 51 | 30.00 | N | 178 | 48.00 | W | |
| | 51 | 32.69 | N | 178 | 48.00 | W | 1 |
| | 51 | 33.95 | N | 178 | 48.00 | W | |
| 19. Amatignak I. | 51 | 18.00 | N | 178 | 54.00 | W | |
| | 51 | 18.00 | N | 179 | 5.30 | W | 1 |
| | 51 | 18.00 | N | 179 | 6.75 | W | |
| | 51 | 18.00 | N | 179 | 12.00 | W | |
| | 51 | 6.00 | N | 179 | 12.00 | W | |
| | 51 | 6.00 | N | 179 | 0.00 | W | |
| | 51 | 12.00 | N | 179 | 0.00 | W | |
| | 51 | 12.00 | N | 178 | 54.00 | W | |
| 20. Amchitka Pass Center | 51 | 30.00 | N | 179 | 48.00 | W | |
| | 51 | 30.00 | N | 180 | 0.00 | W | |
| | 51 | 24.00 | N | 180 | 0.00 | W | |
| | 51 | 24.00 | N | 179 | 48.00 | W | |
| 21. Amchitka Pass West | 51 | 36.00 | N | 179 | 54.00 | E | |
| | 51 | 36.00 | N | 179 | 36.00 | E | |
| | 51 | 30.00 | N | 179 | 36.00 | E | |
| | 51 | 30.00 | N | 179 | 45.00 | E | |
| | 51 | 27.00 | N | 179 | 48.00 | E | |
| | 51 | 24.00 | N | 179 | 48.00 | E | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 51 | 24.00 | N | 179 | 54.00 | E | |
| 22. Petrel Bank | 52 | 51.00 | N | 179 | 12.00 | W | |
| | 52 | 51.00 | N | 179 | 24.00 | W | |
| | 52 | 48.00 | N | 179 | 24.00 | W | |
| | 52 | 48.00 | N | 179 | 30.00 | W | |
| | 52 | 42.00 | N | 179 | 30.00 | W | |
| | 52 | 42.00 | N | 179 | 36.00 | W | |
| | 52 | 36.00 | N | 179 | 36.00 | W | |
| | 52 | 36.00 | N | 179 | 48.00 | W | |
| | 52 | 30.00 | N | 179 | 48.00 | W | |
| | 52 | 30.00 | N | 179 | 42.00 | E | |
| | 52 | 24.00 | N | 179 | 42.00 | E | |
| | 52 | 24.00 | N | 179 | 36.00 | E | |
| | 52 | 12.00 | N | 179 | 36.00 | E | |
| | 52 | 12.00 | N | 179 | 36.00 | W | |
| | 52 | 24.00 | N | 179 | 36.00 | W | |
| | 52 | 24.00 | N | 179 | 30.00 | W | |
| | 52 | 30.00 | N | 179 | 30.00 | W | |
| | 52 | 30.00 | N | 179 | 24.00 | W | |
| | 52 | 36.00 | N | 179 | 24.00 | W | |
| | 52 | 36.00 | N | 179 | 18.00 | W | |
| | 52 | 42.00 | N | 179 | 18.00 | W | |
| | 52 | 42.00 | N | 179 | 12.00 | W | |
| 23. Rat I./Amchitka I. South | 51 | 21.00 | N | 179 | 36.00 | E | |
| | 51 | 21.00 | N | 179 | 18.00 | E | |
| | 51 | 18.00 | N | 179 | 18.00 | E | |
| | 51 | 18.00 | N | 179 | 12.00 | E | |
| | 51 | 23.77 | N | 179 | 12.00 | E | 1 |
| | 51 | 24.00 | N | 179 | 10.20 | E | |
| | 51 | 24.00 | N | 179 | 0.00 | E | |
| | 51 | 36.00 | N | 178 | 36.00 | E | |
| | 51 | 36.00 | N | 178 | 24.00 | E | |
| | 51 | 42.00 | N | 178 | 24.00 | E | |
| | 51 | 42.00 | N | 178 | 6.00 | E | |
| | 51 | 48.00 | N | 178 | 6.00 | E | |
| | 51 | 48.00 | N | 177 | 54.00 | E | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 51 | 54.00 | N | 177 | 54.00 | E | |
| | 51 | 54.00 | N | 178 | 12.00 | E | |
| | 51 | 48.00 | N | 178 | 12.00 | E | |
| | 51 | 48.00 | N | 178 | 17.09 | E | 1 |
| | 51 | 48.00 | N | 178 | 20.60 | E | |
| | 51 | 48.00 | N | 178 | 24.00 | E | |
| | 52 | 6.00 | N | 178 | 24.00 | E | |
| | 52 | 6.00 | N | 178 | 12.00 | E | |
| | 52 | 0.00 | N | 178 | 12.00 | E | |
| | 52 | 0.00 | N | 178 | 11.01 | E | 1 |
| | 52 | 0.00 | N | 178 | 5.99 | E | |
| | 52 | 0.00 | N | 177 | 54.00 | E | |
| | 52 | 9.00 | N | 177 | 54.00 | E | |
| | 52 | 9.00 | N | 177 | 42.00 | E | |
| | 52 | 0.00 | N | 177 | 42.00 | E | |
| | 52 | 0.00 | N | 177 | 48.00 | E | |
| | 51 | 54.00 | N | 177 | 48.00 | E | |
| | 51 | 54.00 | N | 177 | 30.00 | E | |
| | 51 | 51.00 | N | 177 | 30.00 | E | |
| | 51 | 51.00 | N | 177 | 24.00 | E | |
| | 51 | 45.00 | N | 177 | 24.00 | E | |
| | 51 | 45.00 | N | 177 | 30.00 | E | |
| | 51 | 48.00 | N | 177 | 30.00 | E | |
| | 51 | 48.00 | N | 177 | 42.00 | E | |
| | 51 | 42.00 | N | 177 | 42.00 | E | |
| | 51 | 42.00 | N | 178 | 0.00 | E | |
| | 51 | 39.00 | N | 178 | 0.00 | E | |
| | 51 | 39.00 | N | 178 | 12.00 | E | |
| | 51 | 36.00 | N | 178 | 12.00 | E | |
| | 51 | 36.00 | N | 178 | 18.00 | E | |
| | 51 | 30.00 | N | 178 | 18.00 | E | |
| | 51 | 30.00 | N | 178 | 24.00 | E | |
| | 51 | 24.00 | N | 178 | 24.00 | E | |
| | 51 | 24.00 | N | 178 | 36.00 | E | |
| | 51 | 30.00 | N | 178 | 36.00 | E | |
| | 51 | 24.00 | N | 178 | 48.00 | E | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 51 | 18.00 | N | 178 | 48.00 | E | |
| | 51 | 18.00 | N | 178 | 54.00 | E | |
| | 51 | 12.00 | N | 178 | 54.00 | E | |
| | 51 | 12.00 | N | 179 | 30.00 | E | |
| | 51 | 18.00 | N | 179 | 30.00 | E | |
| | 51 | 18.00 | N | 179 | 36.00 | E | |
| 24. Amchitka I. North | 51 | 42.00 | N | 179 | 12.00 | E | |
| | 51 | 42.00 | N | 178 | 57.00 | E | |
| | 51 | 36.00 | N | 178 | 56.99 | E | |
| | 51 | 36.00 | N | 179 | 0.00 | E | |
| | 51 | 33.62 | N | 179 | 0.00 | E | 2 |
| | 51 | 30.00 | N | 179 | 5.00 | E | |
| | 51 | 30.00 | N | 179 | 18.00 | E | |
| | 51 | 36.00 | N | 179 | 18.00 | E | |
| | 51 | 36.00 | N | 179 | 12.00 | E | |
| 25. Pillar Rock | 52 | 9.00 | N | 177 | 30.00 | E | |
| | 52 | 9.00 | N | 177 | 18.00 | E | |
| | 52 | 6.00 | N | 177 | 18.00 | E | |
| | 52 | 6.00 | N | 177 | 30.00 | E | |
| 26. Murray Canyon | 51 | 48.00 | N | 177 | 12.00 | E | |
| | 51 | 48.00 | N | 176 | 48.00 | E | |
| | 51 | 36.00 | N | 176 | 48.00 | E | |
| | 51 | 36.00 | N | 177 | 0.00 | E | |
| | 51 | 39.00 | N | 177 | 0.00 | E | |
| | 51 | 39.00 | N | 177 | 6.00 | E | |
| | 51 | 42.00 | N | 177 | 6.00 | E | |
| | 51 | 42.00 | N | 177 | 12.00 | E | |
| 27. Buldir | 52 | 6.00 | N | 177 | 12.00 | E | |
| | 52 | 6.00 | N | 177 | 0.00 | E | |
| | 52 | 12.00 | N | 177 | 0.00 | E | |
| | 52 | 12.00 | N | 176 | 54.00 | E | |
| | 52 | 9.00 | N | 176 | 54.00 | E | |
| | 52 | 9.00 | N | 176 | 48.00 | E | |
| | 52 | 0.00 | N | 176 | 48.00 | E | |
| | 52 | 0.00 | N | 176 | 36.00 | E | |
| | 52 | 6.00 | N | 176 | 36.00 | E | |
| | 52 | 6.00 | N | 176 | 24.00 | E | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 52 | 12.00 | N | 176 | 24.00 | E | |
| | 52 | 12.00 | N | 176 | 12.00 | E | |
| | 52 | 18.00 | N | 176 | 12.00 | E | |
| | 52 | 18.00 | N | 176 | 30.00 | E | |
| | 52 | 24.00 | N | 176 | 30.00 | E | |
| | 52 | 24.00 | N | 176 | 0.00 | E | |
| | 52 | 18.00 | N | 176 | 0.00 | E | |
| | 52 | 18.00 | N | 175 | 54.00 | E | |
| | 52 | 6.00 | N | 175 | 54.00 | E | |
| | 52 | 6.00 | N | 175 | 48.00 | E | |
| | 52 | 0.00 | N | 175 | 48.00 | E | |
| | 52 | 0.00 | N | 175 | 54.00 | E | |
| | 51 | 54.00 | N | 175 | 54.00 | E | |
| | 51 | 54.00 | N | 175 | 36.00 | E | |
| | 51 | 42.00 | N | 175 | 36.00 | E | |
| | 51 | 42.00 | N | 175 | 30.00 | E | |
| | 51 | 36.00 | N | 175 | 30.00 | E | |
| | 51 | 36.00 | N | 175 | 36.00 | E | |
| | 51 | 30.00 | N | 175 | 36.00 | E | |
| | 51 | 30.00 | N | 175 | 42.00 | E | |
| | 51 | 36.00 | N | 175 | 42.00 | E | |
| | 51 | 36.00 | N | 176 | 0.00 | E | |
| | 52 | 0.00 | N | 176 | 0.00 | E | |
| | 52 | 0.00 | N | 176 | 6.00 | E | |
| | 52 | 6.00 | N | 176 | 6.00 | E | |
| | 52 | 6.00 | N | 176 | 12.00 | E | |
| | 52 | 0.00 | N | 176 | 12.00 | E | |
| | 52 | 0.00 | N | 176 | 30.00 | E | |
| | 51 | 54.00 | N | 176 | 30.00 | E | |
| | 51 | 54.00 | N | 177 | 0.00 | E | |
| | 52 | 0.00 | N | 177 | 0.00 | E | |
| | 52 | 0.00 | N | 177 | 12.00 | E | |
| 28. Buldir donut | 51 | 48.00 | N | 175 | 48.00 | E | 5 |
| | 51 | 48.00 | N | 175 | 42.00 | E | 5 |
| | 51 | 45.00 | N | 175 | 42.00 | E | 5 |
| | 51 | 45.00 | N | 175 | 48.00 | E | 5,7 |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| 29. Buldir Mound | 51 | 54.00 | N | 176 | 24.00 | E | |
| | 51 | 54.00 | N | 176 | 18.00 | E | |
| | 51 | 48.00 | N | 176 | 18.00 | E | |
| | 51 | 48.00 | N | 176 | 24.00 | E | |
| 30. Buldir West | 52 | 30.00 | N | 175 | 48.00 | E | |
| | 52 | 30.00 | N | 175 | 36.00 | E | |
| | 52 | 36.00 | N | 175 | 36.00 | E | |
| | 52 | 36.00 | N | 175 | 24.00 | E | |
| | 52 | 24.00 | N | 175 | 24.00 | E | |
| | 52 | 24.00 | N | 175 | 30.00 | E | |
| | 52 | 18.00 | N | 175 | 30.00 | E | |
| | 52 | 18.00 | N | 175 | 36.00 | E | |
| | 52 | 24.00 | N | 175 | 36.00 | E | |
| | 52 | 24.00 | N | 175 | 48.00 | E | |
| 31. Tahoma Canyon | 52 | 0.00 | N | 175 | 18.00 | E | |
| | 52 | 0.00 | N | 175 | 12.00 | E | |
| | 51 | 42.00 | N | 175 | 12.00 | E | |
| | 51 | 42.00 | N | 175 | 24.00 | E | |
| | 51 | 54.00 | N | 175 | 24.00 | E | |
| | 51 | 54.00 | N | 175 | 18.00 | E | |
| 32. Walls Plateau | 52 | 24.00 | N | 175 | 24.00 | E | |
| | 52 | 24.00 | N | 175 | 12.00 | E | |
| | 52 | 18.00 | N | 175 | 12.00 | E | |
| | 52 | 18.00 | N | 175 | 0.00 | E | |
| | 52 | 12.00 | N | 175 | 0.00 | E | |
| | 52 | 12.00 | N | 174 | 42.00 | E | |
| | 52 | 6.00 | N | 174 | 42.00 | E | |
| | 52 | 6.00 | N | 174 | 36.00 | E | |
| | 52 | 0.00 | N | 174 | 36.00 | E | |
| | 52 | 0.00 | N | 174 | 42.00 | E | |
| | 51 | 54.00 | N | 174 | 42.00 | E | |
| | 51 | 54.00 | N | 174 | 48.00 | E | |
| | 52 | 0.00 | N | 174 | 48.00 | E | |
| | 52 | 0.00 | N | 174 | 54.00 | E | |
| | 52 | 6.00 | N | 174 | 54.00 | E | |
| | 52 | 6.00 | N | 175 | 18.00 | E | |
| | 52 | 12.00 | N | 175 | 24.00 | E | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| 33. Semichi I. | 52 | 30.00 | N | 175 | 6.00 | E | |
| | 52 | 30.00 | N | 175 | 0.00 | E | |
| | 52 | 36.00 | N | 175 | 0.00 | E | |
| | 52 | 36.00 | N | 174 | 48.00 | E | |
| | 52 | 42.00 | N | 174 | 48.00 | E | |
| | 52 | 42.00 | N | 174 | 33.00 | E | |
| | 52 | 36.00 | N | 174 | 33.00 | E | |
| | 52 | 36.00 | N | 174 | 24.00 | E | |
| | 52 | 39.00 | N | 174 | 24.00 | E | |
| | 52 | 39.00 | N | 174 | 0.00 | E | |
| | 52 | 42.00 | N | 173 | 54.00 | E | |
| | 52 | 45.16 | N | 173 | 54.00 | E | 1 |
| | 52 | 46.35 | N | 173 | 54.00 | E | |
| | 52 | 54.00 | N | 173 | 54.00 | E | |
| | 52 | 54.00 | N | 173 | 30.00 | E | |
| | 52 | 48.00 | N | 173 | 30.00 | E | |
| | 52 | 48.00 | N | 173 | 36.00 | E | |
| | 52 | 40.00 | N | 173 | 36.00 | E | |
| | 52 | 40.00 | N | 173 | 25.00 | E | |
| | 52 | 30.00 | N | 173 | 25.00 | E | |
| | 52 | 33.00 | N | 173 | 40.00 | E | |
| | 52 | 33.00 | N | 173 | 54.00 | E | |
| | 52 | 18.00 | N | 173 | 54.00 | E | |
| | 52 | 18.00 | N | 174 | 30.00 | E | |
| | 52 | 30.00 | N | 174 | 30.00 | E | |
| | 52 | 30.00 | N | 174 | 48.00 | E | |
| | 52 | 24.00 | N | 174 | 48.00 | E | |
| | 52 | 24.00 | N | 175 | 6.00 | E | |
| 34. Agattu South | 52 | 18.00 | N | 173 | 54.00 | E | |
| | 52 | 18.00 | N | 173 | 24.00 | E | |
| | 52 | 9.00 | N | 173 | 24.00 | E | |
| | 52 | 9.00 | N | 173 | 36.00 | E | |
| | 52 | 6.00 | N | 173 | 36.00 | E | |
| | 52 | 6.00 | N | 173 | 54.00 | E | |
| 35. Attu I. North | 53 | 3.00 | N | 173 | 24.00 | E | |
| | 53 | 3.00 | N | 173 | 6.00 | E | |
| | 53 | 0.00 | N | 173 | 6.00 | E | |

| Name | Latitude | | | Longitude | | | Footnotes |
|---|---|---|---|---|---|---|---|
| | 53 | 0.00 | N | 173 | 24.00 | E | |
| 36. Attu I. West | 52 | 54.00 | N | 172 | 12.00 | E | |
| | 52 | 54.00 | N | 172 | 0.00 | E | |
| | 52 | 48.00 | N | 172 | 0.00 | E | |
| | 52 | 48.00 | N | 172 | 12.00 | E | |
| 37. Stalemate Bank | 53 | 0.00 | N | 171 | 6.00 | E | |
| | 53 | 0.00 | N | 170 | 42.00 | E | |
| | 52 | 54.00 | N | 170 | 42.00 | E | |
| | 52 | 54.00 | N | 171 | 6.00 | E | |

**Note**: Unless otherwise footnoted, each area is delineated by connecting in order the coordinates listed by straight lines. Except for the Amlia North/Seguam donut and the Buldir donut, each area delineated in the table is open to nonpelagic trawl gear fishing. The remainder of the entire Aleutian Islands subarea and the areas delineated by the coordinates for the Amlia North/Seguam and Buldir donuts are closed to nonpelagic trawl gear fishing, as specified at § 679.22. Unless otherwise noted, the last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

[1]The connection of these coordinates to the next set of coordinates is by a line extending in a clockwise direction from these coordinates along the shoreline at mean lower-low water to the next set of coordinates.

[2]The connection of these coordinates to the next set of coordinates is by a line extending in a counter clockwise direction from these coordinates along the shoreline at mean lower-low water to the next set of coordinates.

[3]The connection of these coordinates to the first set of coordinates for this area is by a line extending in a clockwise direction from these coordinates along the shoreline at mean lower-low water to the first set of coordinates.

[4]The connection of these coordinates to the first set of coordinates for this area is by a line extending in a counter clockwise direction from these coordinates along the shoreline at mean lower-low water to the first set of coordinates.

[5] The area specified by this set of coordinates is closed to fishing with non-pelagic trawl gear.

[6] This set of coordinates is connected to the first set of coordinates listed for the area by a straight line.

[7]The last coordinate for the donut is connected to the first set of coordinates for the donut by a straight line.

[73 FR 9037, Feb. 19, 2008]

TABLE 25 TO PART 679—BOWERS RIDGE HABITAT CONSERVATION ZONE

| Area number | Name | Latitude | Longitude |
|---|---|---|---|
| 1 | Bowers Ridge | 55 10.50 N<br>54 54.50 N<br>54 5.83 N<br>52 40.50 N<br>52 44.50 N<br>54 15.50 N | 178 27.25 E<br>177 55.75 E<br>179 20.75 E<br>179 55.00 W<br>179 26.50 W<br>179 54.00 W |
| 2 | Ulm Plateau | 55 5.00 N<br>55 5.00 N<br>54 34.00 N<br>54 34.00 N | 177 15.00 E<br>175 60.00 E<br>175 60.00 E<br>177 15.00 E |

**Note:** Each area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. Projected coordinate system is North American Datum 1983, Albers.

[71 FR 36703, June 28, 2006]

TABLE 26 TO PART 679—GULF OF ALASKA CORAL HABITAT PROTECTION AREAS

| Area number | Name | Latitude | Longitude |
|---|---|---|---|
| 1 | Cape Ommaney 1 | 56 10.85 N<br>56 11.18 N<br>56 9.53 N<br>56 9.52 N | 135 5.83 W<br>135 7.17 W<br>135 7.68 W<br>135 7.20 W |
| 2 | Fairweather FS2 | 58 15.00 N<br>58 15.00 N<br>58 13.92 N<br>58 13.92 N | 138 52.58 W<br>138 54.08 W<br>138 54.08 W<br>138 52.58 W |
| 3 | Fairweather FS1 | 58 16.00 N<br>58 16.00 N<br>58 13.17 N | 138 59.25 W<br>139 9.75 W<br>138 59.25 W |
| 4 | Fairweather FN2 | 58 24.10 N<br>58 24.10 N<br>58 22.55 N<br>58 22.55 N | 139 14.58 W<br>139 18.50 W<br>139 18.50 W<br>139 14.58 W |
| 5 | Fairweather FN1 | 58 27.42 N<br>58 27.42 N<br>58 26.32 N<br>58 26.32 N | 139 17.75 W<br>139 19.08 W<br>139 19.08 W<br>139 17.75 W |

**Note:** Each area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. Projected coordinate system is North American Datum 1983, Albers.

[71 FR 36703, June 28, 2006]

TABLE 27 TO PART 679—GULF OF ALASKA SLOPE HABITAT CONSERVATION AREAS

| Area number | Name | Latitude | Longitude |
|---|---|---|---|
| 1 | Yakutat | 58 47.00 N<br>58 47.00 N<br>58 37.00 N<br>58 36.97 N | 139 55.00 W<br>140 32.00 W<br>140 32.00 W<br>139 54.99 W |
| 2 | Cape Suckling | 59 50.00 N<br>59 50.00 N<br>59 40.00 N<br>59 40.00 N | 143 20.00 W<br>143 30.00 W<br>143 30.00 W<br>143 20.00 W |
| 3 | Kayak I. | 59 35.00 N<br>59 40.00 N<br>59 30.00 N<br>59 25.00 N<br>59 25.00 N | 144 0.00 W<br>144 25.00 W<br>144 50.00 W<br>144 50.00 W<br>144 2.00 W |
| 4 | Middleton I. east | 59 32.31 N<br>59 32.13 N<br>59 20.00 N<br>59 18.85 N | 145 29.09 W<br>145 51.14 W<br>145 51.00 W<br>145 29.39 W |
| 5 | Middleton I. west | 59 14.64 N<br>59 15.00 N<br>59 10.00 N<br>59 8.74 N | 146 29.63 W<br>147 0.00 W<br>147 0.00 W<br>146 30.16 W |
| 6 | Cable | 58 40.00 N<br>59 6.28 N<br>59 0.00 N<br>58 34.91 N | 148 0.00 W<br>149 0.28 W<br>149 0.00 W<br>147 59.85 W |
| 7 | Albatross Bank | 56 16.00 N<br>56 16.00 N<br>56 11.00 N<br>56 10.00 N | 152 40.00 W<br>153 20.00 W<br>153 20.00 W<br>152 40.00 W |
| 8 | Shumagin I. | 54 51.49 N<br>54 40.00 N<br>54 35.00 N | 157 42.52 W<br>158 10.00 W<br>158 10.00 W |

| Area number | Name | Latitude | Longitude |
|---|---|---|---|
| | | 54 36.00 N | 157 42.00 W |
| 9 | Sanak I. | 54 12.86 N<br>54 0.00 N<br>53 53.00 N<br>54 5.00 N | 162 13.54 W<br>163 15.00 W<br>163 15.00 W<br>162 12.00 W |
| 10 | Unalaska I. | 53 26.05 N<br>53 6.92 N<br>52 55.71 N<br>53 13.05 N | 165 55.55 W<br>167 19.40 W<br>167 18.20 W<br>165 55.55 W |

**Note:** Each area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. Projected coordinate system is North American Datum 1983, Albers.

[71 FR 36703, June 28, 2006]

## Table 28 to Part 679—Qualifying Season Dates in the Central GOA Primary Rockfish Species

| A Legal Rockfish Landing includes | Year | | | | | | |
|---|---|---|---|---|---|---|---|
| | 1996 | 1997 | 1998 | 1999 | 2000 | 2001 | 2002 |
| Northern rockfish that were harvested between... | July 1 July 20 | July 1 July 10 | July 1 July 14 | July 1 19 and Aug. 6 10 | July 4 26 | July 1 23 and Oct. 1 21 | June 30 July 21 |
| and landed by ... | July 27 | July 17 | July 21 | July 26 and Aug. 17, respectively | August 2 | July 30 and Oct. 28, respectively | July 28 |
| Pelagic shelf rockfish that were harvested between... | July 1 Aug. 7 and Oct. 1 Dec. 2 | July 1 July 20 | July 1 July 19 | July 4 Sept. 3 | July 4 26 | July 1 23 and Oct. 1 21 | June 30 July 21 |
| and landed by ... | Aug. 14 and Dec. 9, respectively | July 27 | July 26 | Sept. 10 | Aug. 2 | July 30 and Oct. 28, respectively | July 28 |
| Pacific ocean perch that were harvested between ... | July 1 July 11 | July 1 July 7 | July 1 July 6 and July 12 14 | July 4 11 and Aug. 6 8 | July 4 15 | July 1 12 | June 30 July 8 |
| and landed by ... | July 18 | July 14 | July 13 and July 21, respectively | July 18 and Aug. 15, respectively | July 22 | July 19 | July 15 |

[71 FR 67271, Nov. 20, 2006]

## Table 29 to Part 679—Initial Rockfish QS Pools

| Initial Rockfish QS Pool | Northern Rockfish | Pelagic Shelf Rockfish | Pacific ocean perch | Aggregate Primary Species Initial Rockfish QS Pool |
|---|---|---|---|---|
| Initial Rockfish QS Pool | 9,193,183 units | 7,672,008 units | 18,121,812 units | 34,987,002 units |
| Initial Rockfish QS Pool for the Catcher/Process or Sector | Based on the Official Rockfish Program Record on January 31, 2007. | | | |
| Initial Rockfish QS Pool for the Catcher Vessel Sector | Based on the Official Rockfish Program Record on January 31, 2007. | | | |

[71 FR 67271, Nov. 20, 2006]

TABLE 30 TO PART 679—ROCKFISH PROGRAM RETAINABLE PERCENTAGES (IN ROUND WT. EQUIVALENT)

| Fishery | Incidental Catch Species | Sector | MRA as a percentage of total retained primary rockfish species |
|---|---|---|---|
| Rockfish Cooperative Fishery for vessels fishing under a CQ permit. | Pacific Cod | Catcher/Processor | 4.0 percent |
| | Shortraker/Rougheye aggregate catch | Catcher Vessel | 2.0 percent |
| | See NonAllocated Secondary species for ''other species'' | | |
| Rockfish Limited Access Fishery. | Pacific Cod | Catcher Vessel | 8.0 percent |
| | Pacific Cod | Catcher/Processor | 4.0 percent |
| | Sablefish (trawl gear) | Catcher/Processor and Catcher Vessel | 3.0 percent |
| | Shortraker/Rougheye aggregate catch | Catcher/Processor and Catcher Vessel | 2.0 percent |
| | Northern Rockfish | Catcher/Processor and Catcher Vessel | 4.0 percent |
| | Pelagic Shelf Rockfish | Catcher/Processor and Catcher Vessel | 4.0 percent |
| | Pacific ocean perch, | Catcher/Processor and Catcher Vessel | 4.0 percent |
| | Thornyhead rockfish | Catcher/Processor and Catcher Vessel | 4.0 percent |
| | See NonAllocated Secondary species for other species | | |
| Non-Allocated Secondary Species for vessels fishing under a CQ permit in Rockfish Cooperatives and Rockfish Limited Access Fisheries. | Pollock | Catcher/Processor and Catcher Vessel | 20.0 percent |
| | DeepWater flatfish | Catcher/Processor and Catcher Vessel | 20.0 percent |
| | Rex Sole | Catcher/Processor and Catcher Vessel | 20.0 percent |
| | Flathead Sole | Catcher/Processor and Catcher Vessel | 20.0 percent |
| | Shallowwater flatfish | Catcher/Processor and Catcher Vessel | 20.0 percent |
| | Arrowtooth | Catcher/Processor and Catcher Vessel | 35.0 percent |
| | Other Rockfish | Catcher/Processor and Catcher Vessel | 15.0 percent |
| | Atka Mackerel | Catcher/Processor and Catcher Vessel | 20.0 percent |
| | Aggregated forage fish | Catcher/Processor and Catcher Vessel | 2.0 percent |
| | Skates | Catcher/Processor and Catcher Vessel | 20.0 percent |
| | Other Species | Catcher/Processor and Catcher Vessel | 20.0 percent |

| Fishery | Incidental Catch Species | Sector | MRA as a percentage of total retained primary rockfish species |
|---|---|---|---|
| Longline gear Rockfish Entry Level Fishery. | See Table 10 to this part. | | |
| Trawl Rockfish Entry Level Fishery. | See Table 10 to this part. | | |
| Optout Fishery. | See Table 10 to this part. | | |
| Rockfish Cooperative Vessels not fishing under a CQ permit | See Table 10 to this part. | | |

[71 FR 67272, Nov. 20, 2006]

TABLE 31 TO PART 679— LIST OF AMENDMENT 80 VESSELS AND LLP LICENSES ORIGINALLY ASSIGNED TO AN AMENDMENT 80 VESSEL

| *Column A:* Name of amendment 80 vessel | *Column B:* USCG Documentation No. | *Column C:* LLP license number originally assigned to the Amendment 80 vessel |
|---|---|---|
| ALASKA JURIS | 569276 | LLG 2082 |
| ALASKA RANGER | 550138 | LLG 2118 |
| ALASKA SPIRIT | 554913 | LLG 3043 |
| ALASKA VOYAGER | 536484 | LLG 2084 |
| ALASKA VICTORY | 569752 | LLG 2080 |
| ALASKA WARRIOR | 590350 | LLG 2083 |
| ALLIANCE | 622750 | LLG 2905 |
| AMERICAN NO I | 610654 | LLG 2028 |
| ARCTIC ROSE | 931446 | LLG 3895 |
| ARICA | 550139 | LLG 2429 |
| BERING ENTERPRISE | 610869 | LLG 3744 |
| CAPE HORN | 653806 | LLG 2432 |
| CONSTELLATION | 640364 | LLG 1147 |
| DEFENDER | 665983 | LLG 3217 |
| ENTERPRISE | 657383 | [1] LLG 4831 |
| GOLDEN FLEECE | 609951 | LLG 2524 |
| HARVESTER ENTERPRISE | 584902 | LLG 3741 |
| LEGACY | 664882 | LLG 3714 |
| OCEAN ALASKA | 623210 | LLG 4360 |
| OCEAN PEACE | 677399 | LLG 2138 |
| PROSPERITY | 615485 | LLG 1802 |
| REBECCA IRENE | 697637 | LLG 3958 |
| SEAFISHER | 575587 | LLG 2014 |
| SEAFREEZE ALASKA | 517242 | LLG 4692 |
| TREMONT | 529154 | LLG 2785 |
| U.S. INTREPID | 604439 | LLG 3662 |
| UNIMAK | 637693 | LLG 3957 |
| VAERDAL | 611225 | LLG 1402 |

[1] LLG 4831 is the LLP license originally assigned to the F/V ENTERPRISE, USCG Documentation Number 657383 for all relevant purposes of this part.

[72 FR 52739, Sept. 14, 2007]

TABLE 32 TO PART 679— AMENDMENT 80 INITIAL QS POOL

| Amendment 80 species | Management area | Amendment 80 initial QS pool in units |
|---|---|---|
| Atka mackerel | BS/541<br>542<br>543 | Σ Highest Five Years in metric tons in the Amendment 80 official record as of December 31, 2007, for that Amendment 80 species in that management area. |

| Amendment 80 species | Management area | Amendment 80 initial QS pool in units |
|---|---|---|
| AI Pacific ocean perch | 541<br>542<br>543. | |
| Flathead sole<br>Pacific cod<br>Rock sole<br>Yellowfin sole | BSAI.<br>BSAI.<br>BSAI.<br>BSAI. | |

[72 FR 52739, Sept. 14, 2007]

TABLE 33 TO PART 679— ANNUAL APPORTION OF AMENDMENT 80 SPECIES ITAC BETWEEN THE AMENDMENT 80 AND BSAI TRAWL LIMITED ACCESS SECTORS (EXCEPT YELLOWFIN SOLE)

| Fishery | Management area | Year | Percentage of ITAC allocated to the Amendment 80 sector | Percentage of ITAC allocated to the BSAI trawl limited access sector |
|---|---|---|---|---|
| Atka Mackerel | 543 | All years | 100 | 0 |
| | 542 | 2008<br>2009<br>2010<br>2011<br>2012 and all future years | 98<br>96<br>94<br>93<br>90 | 2<br>4<br>6<br>8<br>10 |
| | 541/EBS | 2008<br>2009<br>2010<br>2011<br>2012 and all future years | 98<br>96<br>94<br>92<br>90 | 2<br>4<br>6<br>8<br>10 |
| Aleutian Islands Pacific ocean perch | 543 | All years | 98 | 2 |
| | 542 | 2008<br>2009 and all future years | 95<br>90 | 5<br>10 |
| | 541 | 2008<br>2009 and all future years | 95<br>90 | 5<br>10 |
| Pacific cod | BSAI | All years | 13.4 | N/A |
| Rock sole | BSAI | All years | 100 | 0 |
| Flathead sole | BSAI | All years | 100 | 0 |

[72 FR 52739, Sept. 14, 2007; 72 FR 61214, Oct. 29, 2007]

TABLE 34 TO PART 679— ANNUAL APPORTIONMENT OF BSAI YELLOWFIN SOLE BETWEEN THE AMENDMENT 80 AND BSAI TRAWL LIMITED ACCESS SECTORS

| Row No. | If the yellowfin sole ITAC is between . . . | and . . . | then the yellowfin sole ITAC rate for the Amendment 80 sector is . . . | and the amount of yellowfin sole ITAC allocated to Amendment 80 Sector is . . . | and the amount of yellowfin sole ITAC allocated to the BSAI trawl limited access sector is . . . |
|---|---|---|---|---|---|
| | Column A | Column B | Column C | Column D | Column E |
| Row 1 | 0 mt | 87,499 mt | 0.93 | ITAC × Row 1, Column C | ITAC—Row 1, Column E. |
| Row 2 | 87,500 mt | 94,999 mt | 0.875 | (Amount of ITAC greater than 87,499 mt and less than 95,000 mt × Row 2, Column C) + Row 1, Column D. | ITAC—Row 2, Column D. |

| Row No. | If the yellowfin sole ITAC is between . . . | and . . . | then the yellowfin sole ITAC rate for the Amendment 80 sector is . . . | and the amount of yellowfin sole ITAC allocated to Amendment 80 Sector is . . . | and the amount of yellowfin sole ITAC allocated to the BSAI trawl limited access sector is . . . |
|---|---|---|---|---|---|
| | Column A | Column B | Column C | Column D | Column E |
| Row 3 ..... | 95,000 mt ..... | 102,499 mt ..... | 0.82 | (Amount of ITAC greater than 94,999 mt and less than 102,500 mt × Row 3, Column C) + Column D, Row 2. | ITAC—Row 3, Column D. |
| Row 4 ..... | 102,500 mt ..... | 109,999 mt ..... | 0.765 | (Amount of ITAC greater than 102,499 mt and less than 110,000 mt × Row 4, Column C) + Column D, Row 3. | ITAC—Row 4, Column D. |
| Row 5 ..... | 110,000 mt ..... | 117,499 mt ..... | 0.71 | (Amount of ITAC greater than 109,999 mt and less than 117,500 mt × Row 5, Column C) + Column D, Row 4. | ITAC—Row 5, Column D. |
| Row 6 ..... | 117,500 mt ..... | 124,999 mt ..... | 0.655 | (Amount of ITAC greater than 117,499 mt and less than 125,000 mt × Row 6, Column C) + Column D, Row 5). | ITAC—Row 6, Column D. |
| Row 7 ..... | 125,000 mt and greater | | 0.6 | (Amount of ITAC greater than 124,999 mt × Row 7, Column C) + Column D, Row 6. | ITAC—Row 7, Column D. |

[72 FR 52739, Sept. 14, 2007]

TABLE 35 TO PART 679—APPORTIONMENT OF CRAB PSC AND HALIBUT PSC BETWEEN THE AMENDMENT 80 AND BSAI TRAWL LIMITED ACCESS SECTORS

| Fishery | Year | Halibut PSC limit in the BSAI | Zone 1 Red king crab PSC limit . . . | *C. opilio* crab PSC limit (COBLZ) . . . | Zone 1 *C. bairdi* crab PSC limit . . . | Zone 2 *C. bairdi* crab PSC limit . . . |
|---|---|---|---|---|---|---|
| | | | as a percentage of the total BSAI trawl PSC limit after allocation as PSQ | | | |
| Amendment 80 sector ..... | 2008 | 2,525 mt | 62.48 | 61.44 | 52.64 | 29.59 |
| | 2009 | 2,475 mt | 59.36 | 58.37 | 50.01 | 28.11 |
| | 2010 | 2,425 mt | 56.23 | 55.3 | 47.38 | 26.63 |
| | 2011 | 2,375 mt | 53.11 | 52.22 | 44.74 | 25.15 |
| | 2012 and all future years | 2,325 mt | 49.98 | 49.15 | 42.11 | 23.67 |
| BSAI trawl limited access ..... | All years | 875 mt | 30.58 | 32.14 | 46.99 | 46.81 |

[72 FR 52739, Sept. 14, 2007]

TABLE 36 TO PART 679— PERCENTAGE OF CRAB AND HALIBUT PSC LIMIT ASSIGNED TO EACH AMENDMENT 80 SPECIES

| For the following PSC species . . . | The percentage of the Amendment 80 sector PSC limit assigned to each Amendment 80 species is . . . | | | | | |
|---|---|---|---|---|---|---|
| | Atka mackerel | AI Pacific ocean perch | Pacific cod | Flathead sole | Rock sole | Yellowfin sole |
| Halibut ..... | 3.96 | 1.87 | 24.79 | 13.47 | 24.19 | 31.72 |
| Zone 1 Red king crab ..... | 0.14% | 0.56% | 6.88% | 0.48% | 61.79% | 30.16% |
| *C. opilio* crab (COBLZ) ..... | 0% | 0.06% | 6.28% | 17.91% | 9.84% | 65.91% |
| Zone 1 *C. bairdi* crab ..... | 0% | 0% | 17.01% | 3.13% | 56.15% | 23.71% |
| Zone 2 *C. bairdi* crab ..... | 0.01% | 0.03% | 7.92% | 37.31% | 7.03% | 47.70% |

[72 FR 52739, Sept. 14, 2007]

TABLE 37 TO PART 679— GOA AMENDMENT 80 SIDEBOARD LIMIT FOR GROUNDFISH FOR THE AMENDMENT 80 SECTOR

| In the following management areas in the GOA and in adjacent waters open by the State of Alaska for which it adopts a Federal fishing season . . . | The sideboard limit for . . . | Is . . . |
|---|---|---|
| Area 610 | Pollock | 0.3% of the TAC. |
| Area 620 | Pollock | 0.2% of the TAC. |
| Area 630 | Pollock | 0.2% of the TAC. |
| Area 640 | Pollock | 0.2% of the TAC. |
| West Yakutat District | Pacific cod | 3.4% of the TAC. |
| | Pacific ocean perch | 96.1% of the TAC. |
| | Pelagic shelf rockfish | 89.6% of the TAC. |
| Central GOA | Pacific cod | 4.4% of the TAC. |
| | Pacific ocean perch | Subject to regulations in subpart G to this part. |
| | Pelagic shelf rockfish | Subject to regulations in subpart G to this part. |
| | Northern rockfish | Subject to regulations in subpart G to this part. |
| Western GOA | Pacific cod | 2.0% of the TAC. |
| | Pacific ocean perch | 99.4% of the TAC. |
| | Pelagic shelf rockfish | 76.4% of the TAC. |
| | Northern rockfish | 100% of the TAC. |

[72 FR 52739, Sept. 14, 2007]

TABLE 38 TO PART 679— GOA AMENDMENT 80 SIDEBOARD LIMIT FOR HALIBUT PSC FOR THE AMENDMENT 80 SECTOR

| In the . . . | The maximum percentage of the total GOA halibut PSC limit that may be used by all Amendment 80 qualified vessels subject to the halibut PSC sideboard limit in each season as those seasons are established in the annual harvest specifications is . . . | | | | |
|---|---|---|---|---|---|
| | Season 1 | Season 2 | Season 3 | Season 4 | Season 5 |
| Shallow-water species fishery as defined in §679.21(d)(3)(iii)(A) in the GOA or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. | 0.48% | 1.89% | 1.46% | 0.74% | 2.27% |
| Deep-water species fishery as defined in §679.21(d)(3)(iii)(B) in the GOA or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season. | 1.15% | 10.72% | 5.21% | 0.14% | 3.71% |

[72 FR 52739, Sept. 14, 2007]

TABLE 39 TO PART 679— AMENDMENT 80 VESSELS THAT MAY BE USED TO DIRECTED FISH FOR FLATFISH IN THE GOA

| *Column A:* Name of Amendment 80 vessel | *Column B:* USCG Documentation No. |
|---|---|
| ALLIANCE | 622750 |
| AMERICAN NO I | 610654 |
| DEFENDER | 665983 |
| GOLDEN FLEECE | 609951 |
| LEGACY | 664882 |
| OCEAN ALASKA | 623210 |

| *Column A:* Name of Amendment 80 vessel | *Column B:* USCG Documentation No. |
|---|---|
| OCEAN PEACE | 677399 |
| SEAFREEZE ALASKA | 517242 |
| U.S. INTREPID | 604439 |
| UNIMAK | 637693 |
| VAERDAL | 611225 |

[72 FR 52739, Sept. 14, 2007]

## TABLE 40 TO PART 679—BSAI HALIBUT PSC SIDEBOARD LIMITS FOR AFA CATCHER/PROCESSORS AND AFA CATCHER VESSELS

| In the following target species categories as defined in § 679.21(e)(3)(iv) . . . | The AFA catcher/processor halibut PSC sideboard limit in metric tons is . . . | The AFA catcher vessel halibut PSC sideboard limit in metric tons is . . . |
|---|---|---|
| All target species categories | 286 | N/A |
| Pacific cod trawl | N/A | 887 |
| Pacific cod hook-and-line or pot | N/A | 2 |
| Yellowfin sole | N/A | 101 |
| Rock sole/flathead sole/other flatfish [1] | N/A | 228 |
| Turbot/Arrowtooth/Sablefish | N/A | 0 |
| Rockfish [2] | N/A | 2 |
| Pollock/Atka mackerel/other species | N/A | 5 |

[1] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Greenland turbot, rock sole, flathead sole, yellowfin sole, and arrowtooth flounder.
[2] Applicable from July 1 through December 31.

[72 FR 52739, Sept. 14, 2007]

## TABLE 41 TO PART 679—BSAI CRAB PSC SIDEBOARD LIMITS FOR AFA CATCHER/PROCESSORS AND AFA CATCHER VESSELS

| For the following crab species in the following areas . . . | The AFA catcher/processor crab PSC sideboard limit is equal to the following ratio . . . | The AFA catcher vessel crab PSC sideboard limit is equal to the following ratio . . . | Multiplied by . . . |
|---|---|---|---|
| Red king crab Zone 1 | 0.007 | 0.299 | The PSC amount in number of animals available to trawl vessels in the BSAI after allocation of PSQ established in the annual harvest specifications for that calendar year. |
| *C. opilio* crab (COBLZ) | 0.153 | 0.168 | |
| Zone 1 *C. bairdi* crab | 0.14 | 0.33 | |
| Zone 2 *C. bairdi* crab | 0.05 | 0.186 | |

[72 FR 52739, Sept. 14, 2007]

## TABLE 42 TO PART 679—BERING SEA HABITAT CONSERVATION AREA

| Longitude | Latitude |
|---|---|
| 179 19.95W | 59 25.15N |
| 177 51.76W | 58 28.85N |
| 175 36.52W | 58 11.78N |
| 174 32.36W | 58 8.37N |
| 174 26.33W | 57 31.31N |
| 174 0.82W | 56 52.83N |
| 173 0.71W | 56 24.05N |
| 170 40.32W | 56 1.97N |
| 168 56.63W | 55 19.30N |
| 168 0.08W | 54 5.95N |

| Longitude | | Latitude | |
|---|---|---|---|
| 170 | 0.00W | 53 | 18.24N |
| 170 | 0.00W | 55 | 0.00N |
| 178 | 46.69E | 55 | 0.00N |
| 178 | 27.25E | 55 | 10.50N |
| 178 | 6.48E | 55 | 0.00N |
| 177 | 15.00E | 55 | 0.00N |
| 177 | 15.00E | 55 | 5.00N |
| 176 | 0.00E | 55 | 5.00N |
| 176 | 0.00E | 55 | 0.00N |
| 172 | 6.35E | 55 | 0.00N |
| 173 | 59.70E | 56 | 16.96N |

Note: The area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

[73 FR 43370, July 25, 2008]

TABLE 43 TO PART 679—NORTHERN BERING SEA RESEARCH AREA

| Longitude | | Latitude | |
|---|---|---|---|
| 168 | 7.48W | 65 | 37.48N* |
| 165 | 1.54W | 60 | 45.54N |
| 167 | 59.98W | 60 | 45.55N |
| 171 | 59.92W | 60 | 3.52N |
| 172 | 0.00W | 60 | 54.00N |
| 174 | 1.24W | 60 | 54.00N |
| 176 | 13.51W | 62 | 6.56N |
| 172 | 24.00W | 63 | 57.03N |
| 172 | 24.00W | 62 | 42.00N |
| 168 | 24.00W | 62 | 42.00N |
| 168 | 24.00W | 64 | 0.00N |
| 172 | 17.42W | 64 | 0.01N |
| 168 | 58.62W | 65 | 30.00N |
| 168 | 58.62W | 65 | 37.48N |

Note: The area is delineated by connecting the coordinates in the order listed by straight lines except as noted by * below. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

* This boundary extends in a clockwise direction from this set of geographic coordinates along the shoreline at mean lower-low tide line to the next set of coordinates.

[73 FR 43370, July 25, 2008]

TABLE 44 TO PART 679—NUNIVAK ISLAND, ETOLIN STRAIT, AND KUSKOKWIM BAY HABITAT CONSERVATION AREA

| Longitude | | Latitude | |
|---|---|---|---|
| 165 | 1.54W | 60 | 45.54N* |
| 162 | 7.01W | 58 | 38.27N |
| 162 | 10.51W | 58 | 38.35N |
| 162 | 34.31W | 58 | 38.36N |
| 162 | 34.32W | 58 | 39.16N |
| 162 | 34.23W | 58 | 40.48N |
| 162 | 34.09W | 58 | 41.79N |
| 162 | 33.91W | 58 | 43.08N |
| 162 | 33.63W | 58 | 44.41N |
| 162 | 33.32W | 58 | 45.62N |
| 162 | 32.93W | 58 | 46.80N |
| 162 | 32.44W | 58 | 48.11N |
| 162 | 31.95W | 58 | 49.22N |
| 162 | 31.33W | 58 | 50.43N |
| 162 | 30.83W | 58 | 51.42N |
| 162 | 30.57W | 58 | 51.97N |
| 163 | 17.72W | 59 | 20.16N |
| 164 | 11.01W | 59 | 34.15N |
| 164 | 42.00W | 59 | 41.80N |
| 165 | 0.00W | 59 | 42.60N |
| 165 | 1.45W | 59 | 37.39N |
| 167 | 40.20W | 59 | 24.47N |
| 168 | 0.00W | 59 | 49.13N |
| 167 | 59.98W | 60 | 45.55N |

Note: The area is delineated by connecting the coordinates in the order listed by straight lines, except as noted by * below. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

* This boundary extends in a clockwise direction from this set of geographic coordinates along the shoreline at mean lower-low tide line to the next set of coordinates.

[73 FR 43370, July 25, 2008]

TABLE 45 TO PART 679—ST. LAWRENCE ISLAND HABITAT CONSERVATION AREA

| Longitude | | Latitude | |
|---|---|---|---|
| 168 | 24.00W | 64 | 0.00N |
| 168 | 24.00W | 62 | 42.00N |

| Longitude | | Latitude | |
|---|---|---|---|
| 172 | 24.00W | 62 | 42.00N |
| 172 | 24.00W | 63 | 57.03N |
| 172 | 17.42W | 64 | 0.01N |

Note: The area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

[73 FR 43370, July 25, 2008]

TABLE 46 TO PART 679—ST. MATTHEW ISLAND HABITAT CONSERVATION AREA

| Longitude | | Latitude | |
|---|---|---|---|
| 172 | 0.00W | 60 | 54.00N |
| 171 | 59.92W | 60 | 3.52N |
| 174 | 0.50W | 59 | 42.26N |
| 174 | 24.98W | 60 | 9.98N |
| 174 | 1.24W | 60 | 54.00N |

Note: The area is delineated by connecting the coordinates in the order listed by straight lines. The last set of coordinates for each area is connected to the first set of coordinates for the area by a straight line. The projected coordinate system is North American Datum 1983, Albers.

[73 FR 43370, July 25, 2008]

# PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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AUTHORITY: 16 U.S.C. 1862; Pub. L. 109–241; Pub. L. 109–479.

SOURCE: 70 FR 10241, Mar. 2, 2005, unless otherwise noted.

## Subpart A—General

### § 680.1 Purpose and scope.

Regulations in this part implement policies developed by the North Pacific Fishery Management Council and approved by the Secretary of Commerce in accordance with the Magnuson-Stevens Fishery Conservation and Management Act. In addition to part 600 of this chapter, these regulations implement the following:

(a) *Fishery Management Plan (FMP) for Bering Sea and Aleutian Islands King and Tanner Crabs.* Regulations in this part govern commercial fishing for, and processing of, king and Tanner crabs in the Bering Sea and Aleutian Islands Area pursuant to section 313(j) of the Magnuson-Stevens Act, including regulations implementing the Crab Rationalization Program for crab fisheries in the Bering Sea and Aleutian Islands Area, and supersede State of Alaska regulations applicable to the commercial king and Tanner crab fisheries in the Exclusive Economic Zone (EEZ) of the Bering Sea and Aleutian Islands Area that are determined to be inconsistent with the FMP.

(b) *License Limitation Program.* Commercial fishing for crab species not included in the Crab Rationalization Program for crab fisheries of the Bering Sea and Aleutian Islands Area remains subject to the License Limitation Program for the commercial crab fisheries in the Bering Sea and Aleutian Islands Area under part 679 of this chapter.

**§ 680.2 Definitions.**

In addition to the definitions in the Magnuson-Stevens Act, in 50 CFR part 600, and § 679.2 of this chapter, the terms used in this part have the following meanings:

*Adak community entity* means the non-profit entity incorporated under the laws of the state of Alaska that represents the community of Adak and has a board of directors elected by the residents of Adak.

*Affiliation* means a relationship between two or more entities in which one directly or indirectly owns or controls a 10 percent or greater interest in, or otherwise controls, another, or a third entity directly or indirectly owns or controls a 10 percent or greater interest in, or otherwise controls, both. For the purpose of this definition, the following terms are further defined:

(1) *Entity.* An entity may be an individual, corporation, association, partnership, joint-stock company, trust, or any other type of legal entity, any receiver, trustee in bankruptcy or similar official or liquidating agent, or any organized group of persons whether incorporated or not, that holds direct or indirect interest in:

(i) Quota share (QS), processor quota share (PQS), individual fishing quota (IFQ), or individual processing quota (IPQ); or,

(ii) For purposes of the economic data report (EDR), a vessel or processing plant operating in CR fisheries.

(2) *Indirect interest.* An indirect interest is one that passes through one or more intermediate entities. An entity's percentage of indirect interest in a second entity is equal to the entity's percentage of direct interest in an intermediate entity multiplied by the intermediate entity's direct or indirect interest in the second entity.

(3) *Controls a 10 percent or greater interest.* An entity controls a 10 percent or greater interest in a second entity if the first entity:

(i) Controls a 10 percent ownership share of the second entity, or

(ii) Controls 10 percent or more of the voting stock of the second entity.

(4) *Otherwise controls.* (i) A PQS or IPQ holder otherwise controls QS or IFQ, or a QS or IPQ holder, if it has:

(A) The right to direct, or does direct, the business of the entity which holds the QS or IFQ;

(B) The right in the ordinary course of business to limit the actions of or replace, or does limit or replace, the chief executive officer, a majority of the board of directors, any general partner or any person serving in a management capacity of the entity which holds the QS or IFQ;

(C) The right to direct, or does direct, the transfer of QS or IFQ;

(D) The right to restrict, or does restrict, the day-to-day business activities and management policies of the entity holding the QS or IFQ through loan covenants;

(E) The right to derive, or does derive, either directly, or through a minority shareholder or partner, and in favor of a PQS or IPQ holder, a significantly disproportionate amount of the economic benefit from the holding of QS or IFQ;

(F) The right to control, or does control, the management of, or to be a controlling factor in, the entity holding QS or IFQ;

(G) The right to cause, or does cause, the sale of QS or IFQ;

(H) Absorbs all of the costs and normal business risks associated with ownership and operation of the entity holding QS or IFQ; and

(I) Has the ability through any other means whatsoever to control the entity that holds QS or IFQ.

(ii) Other factors that may be indica of control include, but are not limited to the following:

(A) If a PQS or IPQ holder or employee takes the leading role in establishing an entity that will hold QS or IFQ;

(B) If a PQS or IPQ holder has the right to preclude the holder of QS or IFQ from engaging in other business activities;

(C) If a PQS or IPQ holder and QS or IFQ holder use the same law firm, accounting firm, etc.;

(D) If a PQS or IPQ holder and QS or IFQ holder share the same office space, phones, administrative support, etc.;

(E) If a PQS or IPQ holder absorbs considerable costs and normal business risks associated with ownership and operation of the QS or IFQ holdings;

(F) If a PQS or IPQ holder provides the start up capital for the QS or IFQ holder on less than an arm's-length basis;

(G) If a PQS or IPQ holder has the general right to inspect the books and records of the QS or IFQ holder; and

(H) If the PQS or IPQ holder and QS or IFQ holder use the same insurance agent, law firm, accounting firm, or broker of any PQS or IPQ holder with whom the QS or IFQ holder has entered into a mortgage, long-term or exclusive sales or marketing agreement, unsecured loan agreement, or management agreement.

*Arbitration IFQ* means:

(1) Class A catcher vessel owner (CVO) IFQ held by a person who is not a holder of PQS or IPQ and who is not affiliated with any holder of PQS or IPQ, and

(2) IFQ held by an FCMA cooperative.

*Arbitration QS* means CVO QS held by a person who is not a holder of PQS or IPQ and is not affiliated with any holder of PQS or IPQ.

*Arbitration System* means the system established by the contracts required by § 680.20, including the process by which the Market Report and Non-Binding Price Formula are produced, the negotiation approaches, the Binding Arbitration process, and fee collection.

*Assessed value* means the most recent value for a vessel and gear provided in a marine survey.

*Auditor* means an examiner employed by, or under contract to, the data collection agent to verify data submitted in an economic data report.

*Blind data* means any data collected from the economic data report by the data collection agent that are subsequently amended by removing personal identifiers, including, but not limited to social security numbers, crew permit numbers, names and addresses, Federal fisheries permit numbers, Federal processor permit numbers, Federal tax identification numbers, State of Alaska vessel registration and permit numbers, and by adding in their place a nonspecific identifier.

*Box size* means the capacity of a crab-packing container in kilograms or pounds.

*BSAI crab* means those crab species governed under the Fishery Management Plan (FMP) for Bering Sea/Aleutian Islands King and Tanner Crabs.

*BSAI Crab Capacity Reduction Program* means the program authorized by Public Law 106–554, as Amended by Public Law 107–20 and Public Law 107–117.

*BSAI crab fisheries* means those crab fisheries governed under the Fishery Management Plan (FMP) for Bering Sea/Aleutian Islands King and Tanner Crabs.

*Captain* means, for the purposes of the EDR, a vessel operator.

*Catcher/processor (CP)* means a vessel that is used for catching crab and processing that crab.

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

*CDQ community* means a community eligible to participate in the Western Alaska Community Development Program under subpart C of 50 CFR part 679.

*CDQ group* means a CDQ group as that term is defined at 50 CFR 679.2.

*Committed IFQ* means:

(1) Any Arbitration IFQ for which the holder of such IFQ has agreed or committed to delivery of crab harvested with the IFQ to the holder of previously uncommitted IPQ and for which the holder of the IPQ has agreed to accept delivery of that crab, regardless of whether such agreement specifies the price or other terms for delivery, or

(2) Any Arbitration IFQ for which, on or after the date which is 25 days prior to the opening of the first crab fishing season in the crab QS fishery for such IFQ, the holder of the IFQ has unilaterally committed to delivery of crab harvested with the IFQ to the holder of previously uncommitted IPQ, regardless of whether the IFQ and IPQ holders have reached an agreement that

specifies the price or other terms for delivery.

*Committed IPQ* means any IPQ for which the holder of such IPQ has received a commitment of delivery from a holder of Arbitration IFQ such that the Arbitration IFQ is committed IFQ, regardless of whether the Arbitration IFQ and IPQ holders have reached an agreement that specifies the price or other terms for delivery.

*Converted CPO QS* means CPO QS for the BBR and BSS crab QS fisheries that is issued to the entities defined in § 680.40(c)(5)(ii), (c)(5)(iii), or (c)(5)(iv) based on the procedures established in § 680.40(c)(5).

*CP standard price* means price, expressed in U.S. dollars per raw crab pound, for all CR crab landed by a CP as determined for each crab fishing year by the Regional Administrator and documented in a CP standard price list published by NMFS.

*Crab cost recovery fee liability* means that amount of money, in U.S. dollars, owed to NMFS by a CR allocation holder or RCR as determined by multiplying the appropriate ex-vessel value of the amount of CR crab debited from a CR allocation by the appropriate crab fee percentage.

*Crab fee percentage* means that positive number no greater than 3 percent determined for each crab fishing year by the Regional Administrator and used to calculate the crab cost recovery fee liability for a CR allocation holder or RCR under the Crab Rationalization Program.

*Crab fishing year* means the period from July 1 of one calendar year through June 30 of the following calendar year.

*Crab grade* means a grading system to describe the quality of crab.

(1) Grade 1 means standard or premium quality crab, and

(2) Grade 2 means below standard quality crab.

*Crab harvesting cooperative*, for the purposes of this part 680, means a group of crab QS holders who have chosen to form a crab harvesting cooperative, under the requirements of § 680.21, in order to combine and collectively harvest their crab IFQ through a crab harvesting cooperative IFQ permit issued by NMFS.

*Crab harvesting cooperative IFQ* means the annual catch limit of IFQ crab that may be harvested by a crab harvesting cooperative that is lawfully allocated a harvest privilege for a specific portion of the TAC of a crab QS fishery.

*Crab individual fishing quota (crab IFQ)* means the annual catch limit of a crab QS fishery that may be harvested by a person who is lawfully allocated a harvest privilege for a specific portion of the TAC of a crab QS fishery with the following designations or with the designation as a crab IFQ hired master:

(1) *Catcher vessel crew (CVC) IFQ* means a permit to annually harvest, but not process, a CR crab on board a vessel.

(2) *Catcher vessel owner (CVO) IFQ* means a permit to annually harvest, but not process, a CR crab on board a vessel.

(i) *Class A IFQ* means IFQ that is required to be delivered to a processor holding unused IPQ.

(ii) *Class B IFQ* means IFQ that is not required to be delivered to a processor holding unused IPQ.

(3) *Catcher/processor owner (CPO) IFQ* means a permit to annually harvest and process a CR crab on a catcher/processor.

(4) *Catcher/processor crew (CPC) IFQ* means a permit to annually harvest and process a CR crab on a catcher/processor.

*Crab IFQ hired master* means a person who holds a crab IFQ hired master permit issued under § 680.4.

*Crab IFQ permit holder* means the person identified on an IFQ permit.

*Crab LLP license history* means, for any particular crab LLP license, the legal landings made on the vessel(s) that was used to qualify for that LLP license and any legal landings made under the authority of that LLP license.

*Crab quota share (crab QS)* means a permit the face amount of which is used as the basis for the annual calculation and allocation of a person's crab IFQ with the following designations:

(1) *Catcher vessel crew (CVC) QS* means a permit that yields CVC IFQ.

(2) *Catcher vessel owner (CVO) QS* means a permit that yields CVO IFQ.

(3) *Catcher/processor owner (CPO) QS* means a permit that yields CPO IFQ.

(4) *Catcher/processor crew (CPC) QS* means a permit that yields CPC IFQ.

*Crab QS fishery* means those CR fisheries under Table 1 to this part that require the use of QS and PQS, and their resulting IFQ and IPQ, to harvest and receive IFQ crab.

*Crab QS program* means the program that allocates QS and PQS, and their resulting IFQ and IPQ, for CR crab of the BSAI off Alaska and governed by regulations under this part.

*Crab QS regional designation* means the designation of QS or PQS and their resulting IFQ and IPQ subject to regional delivery requirements in this part.

*Crab Rationalization (CR) allocation* means any allocation of CR crab authorized under the CR Program.

*Crab Rationalization (CR) crab* means those crab species in the crab fisheries subject to management under the Crab Rationalization Program described in Table 1 to this part.

*Crab Rationalization (CR) fisheries* means those fisheries defined in Table 1 to part 680.

*Crab Rationalization (CR) Program* means the crab QS program plus the CDQ and the Adak community allocation programs, including all management, monitoring, and enforcement components, for BSAI king and Tanner crabs governed by the regulations of this part.

*Crew* means:

(1) Any individual, other than the fisheries observers, working on a vessel that is engaged in fishing.

(2) For the purposes of the EDR, each employee on a vessel, excluding the captain and fisheries observers, that participated in any CR fishery.

*Custom processing* means processing of crab by a person undertaken on behalf of another person.

*Data collection agent (DCA)* means the entity selected by the Regional Administrator to distribute an EDR to a person required to complete it, to receive the completed EDR, to review and verify the accuracy of the data in the EDR, and to provide those data to authorized recipients.

*Days at sea* means, for the purposes of the EDR, the number of days spent at sea while fishing for crab, including travel time to and from fishing grounds.

*Economic data report (EDR)* means the report of cost, labor, earnings, and revenue data for catcher vessels, catcher/processors, shoreside crab processors, and stationary floating crab processors participating in CR fisheries.

*Eligible community resident* means, for purposes of the Crab QS program, any individual who:

(1) Is a citizen of the United States;

(2) Has maintained a domicile in the ECC, from which the individual requests to lease crab IFQ, for at least 12 consecutive months immediately preceding the time when the assertion of residence is made and who is not claiming residency in another community, state, territory, or country; and

(3) Is otherwise eligible to receive crab QS or IFQ by transfer.

*Eligible crab community (ECC)* means a community in which at least 3 percent of the initial allocation of processor quota share of any crab fishery is allocated. The specific communities are:

(1) CDQ Communities.

(i) Akutan;

(ii) False Pass;

(iii) St. George; and

(iv) St. Paul.

(2) Non-CDQ Communities.

(i) Unalaska/Dutch Harbor;

(ii) Kodiak;

(iii) King Cove;

(iv) Port Moller; and

(v) Adak.

*Eligible crab community (ECC) entity* means a non-profit organization specified under § 680.41(j)(2) that is designated by the governing body of an ECC, other than Adak, to represent it for the purposes of engaging in the right of first refusal of transfer of crab PQS or IPQ outside the ECC under contract provisions set forth under section 313(j) of the Magnuson-Stevens Act. For those ECCs that also are CDQ communities, the ECC entity is the CDQ group to which the ECC is a member.

*Eligible crab community organization (ECCO)* means a non-profit organization that represents at least one ECC, as defined in this part, and that has been approved by the Regional Administrator to obtain by transfer and hold

crab QS and to lease the resulting IFQ on behalf of an ECC.

*Ex-vessel value* means:

(1) *For the shoreside processing sector*. The total U.S. dollar amount of all compensation, monetary and non-monetary, including any retroactive payments, received by a CR allocation holder for the purchase of any CR crab debited from the CR allocation described in terms of raw crab pounds.

(2) *For the catcher/processor sector*. The total U.S. dollar amount of CR crab landings as calculated by multiplying the number of raw crab pounds debited from the CR allocation by the appropriate CP standard price determined by the Regional Administrator.

*FCMA cooperative*, for the purposes of this part 680, means a cooperative formed in accordance with the Fishermen's Collective Marketing Act of 1934 (15 U.S.C. 521).

*Finished pounds* means the total weight, in pounds, of processed product, not including the container.

*IFQ account* means the amount of crab IFQ in raw crab pounds that is held by a person at any particular time for a crab QS fishery, sector, region, and class.

*IFQ crab* means crab species listed in Table 1 to this part subject to management under the crab QS program.

*Individual processor quota (IPQ)* means the annual amount of crab, in pounds, representing a specific portion of the TAC for a crab QS fishery, that may be received for processing by a person who is lawfully allocated PQS or IPQ.

*Initial processor quota share (PQS) pool* means the total number of PQS units for each crab QS fishery which is the basis of initial PQS allocations.

*Initial quota share (QS) pool* means the total number of non-processor QS units for each crab QS fishery which is the basis of initial QS allocations.

*IPQ account* means the amount of crab IPQ in raw crab pounds that is held by a person at any particular time for a crab QS fishery and region.

*Landing* means the transfer of raw crab harvested by a vessel prior to that crab being reported on a CR crab landing report.

(1) For catcher/processors, the amount of crab retained during a reporting period constitutes a landing.

(2) For catcher vessels, the amount of crab removed from the boat at a single location/time constitutes a landing.

*Lease of QS/IFQ or PQS/IPQ* means a temporary, annual transfer of crab IFQ or IPQ without the underlying QS or PQS.

*Leaseholder* means, for purposes of the EDR, a person who:

(1) Is identified as the leaseholder in a written lease of a catcher vessel, catcher/processor, shoreside crab processor, or stationary floating crab processor, or

(2) Pays the expenses of a catcher vessel, catcher/processor, shoreside crab processor, or stationary floating crab processor, or

(3) Claims expenses for the catcher vessel, catcher/processor, shoreside crab processor, or stationary floating crab processor as a business expense on schedule C of his/her Federal income tax return or on a state income tax return.

*Magnuson-Stevens Act* means the Magnuson-Stevens Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*).

*Mutual Agreement* means, for purposes of the Arbitration System, the consent and agreement of Arbitration Organizations that represent an amount of Arbitration QS equal to more than 50 percent of all the Arbitration QS in a fishery, and an amount of PQS equal to more than 50 percent of all the PQS in a fishery based upon the Annual Arbitration Organization Reports.

*Newly constructed vessel* means, for the purposes of initial QS issuance, a vessel on which the keel was laid by June 10, 2002.

*Official crab rationalization record* means the information prepared by the Regional Administrator about the legal landings and legal processing by vessels and persons in the BSAI crab fisheries during the qualifying periods specified at § 680.40.

*Processing, or to process* means the preparation of, or to prepare, crab to render it suitable for human consumption or storage. This includes, but is not limited to: Cooking, canning, butchering, sectioning, freezing or icing.

*Processor quota share (PQS)* means a permit the face amount of which is

used as the basis for the annual calculation and allocation of IPQ.

*Raw crab pounds* means the weight of raw crab in pounds when landed.

*Registered crab receiver (RCR)* means a person holding an RCR Permit issued by the Regional Administrator.

*Retain* means to fail to return crab to the sea after a reasonable opportunity to sort the catch.

*Right of First Refusal (ROFR)* means the civil contract provisions set forth under section 313(j) of the Magnuson-Stevens Act between the holders of PQS and IPQ and ECC entities, other than Adak, for the opportunity of ECCs to exercise the right to purchase or lease PQS or IPQ proposed to be transferred by a holder of PQS or IPQ in an ECC.

*Seafood Marketing Association Assessment (SMAA)* means the seafood processing assessment collected by processing firms and buyers from fishery harvesters for the State of Alaska.

*Share payment* means an amount of monetary compensation (not salary or wages) based on gross or net earnings of a BSAI crab fishing vessel.

*Shoreside crab processor* means any person or vessel that receives, purchases, or arranges to purchase unprocessed crab, except a catcher/processor or a stationary floating crab processor.

*Stationary floating crab processor (SFCP)* means a vessel of the United States that remains anchored or otherwise remains stationary while receiving or processing crab in the waters of the State of Alaska.

*Uncommitted IFQ* means any Arbitration IFQ that is not Committed IFQ.

*Uncommitted IPQ* means any IPQ that is not Committed IPQ.

*U.S. Citizen means:*

(1) Any individual who is a citizen of the United States; or

(2) Any corporation, partnership, association, or other entity that is organized under Federal, state, or local laws of the United States or that may legally operate in the United States.

[70 FR 10241, Mar. 2, 2005, as amended at 73 FR 29982, May 23, 2008; 73 FR 35088, June 20, 2008]

### § 680.3 Relation to other laws.

(a) *King and Tanner crab*. (1) Additional laws and regulations governing the conservation and management of king crab and Tanner crab in the BSAI area are contained in 50 CFR part 679, Alaska Statutes at A.S. 16, and Alaska Administrative Code at 5 AAC Chapters 34, 35, and 39.

(2) The Alaska Administrative Code (at 5 AAC 39.130) governs reporting and permitting requirements using the ADF&G ''Intent to Operate'' registration form and ''Fish Tickets.''

(b) *Sport, personal use, and subsistence*. (1) For State of Alaska statutes and regulations governing sport and personal use crab fishing other than subsistence fishing, see Alaska Statutes, Title 16—Fish and Game; 5 AAC Chapters 47 through 77.

(2) For State of Alaska statutes and regulations governing subsistence fishing for crab, see Alaska Statutes, Title 16—Fish and Game; 5 AAC 02.001 through 02.625.

### § 680.4 Permits.

(a) *General information*. Persons participating in the CR fisheries are required to possess the permits described in this section.

(1) *Approval*. Approval of applications under this part may be conditioned on the payment of fees under § 680.44 or the submission of an EDR as described under § 680.6.

(2) *Issuance*. The Regional Administrator may issue or amend any permits under this section or under § 680.21 annually or at other times as needed under this part.

(3) *Transfer*. Crab QS and PQS permits issued under § 680.40 and Crab IFQ and IPQ permits issued under this section are transferable, as provided under § 680.41. Crab IFQ hired master permits, Federal crab vessel permits, and RCR permits issued under this section are not transferable.

(4) *Inspection*. The holder of a Federal crab vessel permit, crab IFQ permit, crab IPQ permit, or crab IFQ hired master permit, must present a legible copy of the permit on request of any authorized officer or RCR receiving a crab IFQ landing. A legible copy of the RCR permit must be present at the location of a crab IFQ landing and an individual representing the RCR must

make the RCR permit available for inspection on request of any authorized officer.

(b) *Crab QS permit.* (1) Crab QS is issued by the Regional Administrator to persons who qualify for an initial allocation under §680.40 or receive QS by transfer under §680.41. Once issued, a crab QS permit is valid until modified under paragraph (b)(2) or (b)(3) of this section, or by transfer under §680.41; or until the permit is revoked, suspended, or modified pursuant to §679.43 of this chapter or under 15 CFR part 904. To qualify for a crab QS permit, the applicant must be a U.S. citizen.

(2) Each unit of Crab QS initially issued under §680.40 for the Bering Sea Tanner crab (*Chionoecetes bairdi*) CR fishery shall be reissued as one unit of Eastern Bering Sea Tanner crab (EBT) QS and one unit of Western Bering Sea Tanner crab (WBT) QS.

(3) A converted CPO QS permit is valid until the end of the crab fishing year for which the permit is issued.

(c) *Crab PQS permit.* (1) Crab PQS is issued by the Regional Administrator to persons who successfully apply for an initial allocation under §680.40 or receive PQS by transfer under §680.41. Once issued, a crab PQS permit is valid until modified under paragraph (c)(2) of this section, or by transfer under §680.41; or until the permit is revoked, suspended, or modified pursuant to §679.43 of this chapter or under 15 CFR part 904.

(2) Each unit of Crab PQS initially issued under §680.40 for the Bering Sea Tanner crab (*Chionoecetes bairdi*) CR fishery shall be reissued as one unit of Eastern Bering Sea Tanner crab (EBT) PQS and one unit of Western Bering Sea Tanner crab (WBT) PQS.

(d) *Crab IFQ permit.* (1) A crab IFQ permit authorizes the person identified on the permit to harvest crab in the fishery identified on the permit at any time the fishery is open during the crab fishing year for which the permit is issued, subject to conditions of the permit. A crab IFQ permit is valid under the following circumstances:

(i) Until the end of the crab fishing year for which the permit is issued;

(ii) Until the amount harvested is equal to the amount specified on the permit;

(iii) Until the permit is modified by transfers under §680.41; or

(iv) Until the permit is revoked, suspended, or modified pursuant to §679.43 or under 15 CFR part 904.

(2) A legible copy of the crab IFQ permit must be carried on board the vessel used by the permitted person at all times that IFQ crab are retained on board.

(3) A crab IFQ permit is issued on an annual basis by the Regional Administrator to persons who hold crab QS, of the type specified on the crab QS permit, and who have submitted a complete annual application for crab IFQ/IPQ permit, described at paragraph (f) of this section, that is subsequently approved by the Regional Administrator.

(4) To qualify for a crab IFQ permit, the applicant must be a U.S. Citizen.

(e) *Crab IPQ permit.* (1) A crab IPQ permit authorizes the person identified on the permit to receive/process the IFQ crab identified on the permit during the crab fishing year for which the permit is issued, subject to conditions of the permit. A crab IPQ permit is valid under the following circumstances:

(i) Until the end of the crab fishing year for which the permit is issued;

(ii) Until the amount received/processed is equal to the amount specified on the permit;

(iii) Until the permit is modified by transfers under §680.41; or

(iv) Until the permit is revoked, suspended, or modified pursuant to §679.43 or under 15 CFR part 904.

(2) A legible copy of the crab IPQ permit authorizing receiving/processing of IFQ crab must be retained on the premises or vessel used by the permitted person to process the IFQ crab at all times that IFQ crab are retained on the premises or vessel.

(3) A crab IPQ permit is issued on an annual basis by the Regional Administrator to persons who hold crab PQS, and who have submitted a complete annual application for crab IFQ/IPQ permit, described at paragraph (f) of this section, that is subsequently approved by the Regional Administrator.

(f) *Contents of annual application for crab IFQ/IPQ permit.* (1) A complete application must be received by NMFS no later than August 1 of the crab fishing

year for which a person is applying to receive IFQ or IPQ. If a complete application is not received by NMFS by this date, that person will not receive IFQ or IPQ for that crab fishing year.

(2) For the application to be considered complete, all fees required by NMFS must be paid, and any EDR required under § 680.6 must be submitted to the DCA. In addition, the applicant must include the following information:

(i) *Applicant information*. Enter applicant's name and NMFS Person ID; applicant's date of birth or, if a non-individual, date of incorporation; applicant's social security number (optional) or tax identification number; applicant's permanent business mailing address and any temporary mailing address the applicant wishes to use; and applicant's business telephone number, facsimile number, and e-mail address.

(ii) *Crab IFQ or IPQ permit identification*. Indicate the type of crab IFQ or IPQ permit for which applicant is applying by QS fishery(ies) and indicate (YES or NO) whether applicant has joined a crab harvesting cooperative. If YES, indicate cooperative's name and ensure that this application is submitted by the applicant's cooperative with its completed application for an annual crab harvesting cooperative IFQ permit.

(iii) *Identification of ownership interests*. If the applicant is not an individual, provide the names of all persons, to the individual level, holding an ownership interest in the entity and the percentage ownership each person and individual holds in the applicant.

(iv) *Documentation of affiliation*. Complete a documentation of affiliation declaring any and all affiliations, as the term ''affiliation'' is defined at § 680.2. A documentation of affiliation includes affirmations by the applicant pertaining to relationships that may involve direct or indirect ownership or control of the delivery of IFQ crab and any supplemental documentation deemed necessary by NMFS to determine whether an affiliation exists. Indicate whether any entity that holds PQS or IPQ is affiliated with the applicant, as affiliation is defined in § 680.2. If the applicant is considered affiliated, the applicant must provide a list of all PQS or IPQ holders with which he/she is affiliated, including full name, business mailing address, and business telephone number.

(v) *Certification of applicant*. The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. Print the name of the applicant. If the application is completed by an authorized representative, proof of authorization must accompany the application.

(g) *Crab IFQ hired master permit*. (1) A crab IFQ hired master permit is issued on an annual basis and authorizes the individual identified on the permit to harvest and land IFQ crab for debit against the specified crab IFQ permit until the crab IFQ hired master permit expires or is revoked, suspended, or modified pursuant to § 679.43 or under 15 CFR part 904, or on request of the crab IFQ permit holder.

(2) A legible copy of the crab IFQ hired master permit must be on board the vessel used by the hired master to harvest IFQ crab at all times IFQ crab are retained on board. Except as specified in § 680.42, an individual who is issued a crab IFQ hired master permit must remain aboard the vessel used to harvest IFQ crab, specified under that permit, during the crab fishing trip and at the landing site until all crab harvested under that permit are offloaded and the landing report for IFQ crab is completed.

(h) *Contents of application for crab IFQ hired master permit*. In order for the application to be considered complete, a copy of the USCG *Abstract Of Title* or *Certificate Of Documentation* must be included with this application to demonstrate percent of vessel ownership by the IFQ permit holder. A complete application for a crab IFQ hired master permit must include the following information:

(1) *Purpose of application*. Indicate whether the application is to add or to delete a hired master and identification of crab IFQ permit(s) for which this application is submitted.

(2) *IFQ permit holder information*. Enter permit holder's name, NMFS Person ID, and social security number

(optional) or tax identification number; permit holder's permanent or temporary business mailing address; and permit holder's business telephone number, facsimile number, and e-mail address (if available).

(3) *Identification of vessel upon which crab IFQ will be harvested.* Enter the vessel's name, ADF&G vessel registration number, and USCG documentation number. Indicate whether (YES or NO) the permit holder has at least a 10 percent ownership interest in the vessel the crab IFQ hired master will use to fish permit holder's IFQ crab. If YES, provide documentation of IFQ permit holder's 10 percent ownership interest.

(4) *IFQ hired master permit holder information.* Complete a separate section for each crab IFQ hired master. Enter the hired master's name, NMFS Person ID, social security number (optional) or tax identification number, and date of birth; hired master's permanent or temporary business mailing address; and hired master's business telephone number, facsimile number, and e-mail address (if available).

(5) *Applicant certification.* The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an authorized representative, then authorization must accompany the application.

(i) *RCR permit.* (1) An RCR permit is issued on an annual basis. An RCR permit is valid during the crab fishing year for which it is issued until the RCR permit expires or is revoked, suspended, or modified pursuant to § 679.43 or under 15 CFR part 904.

(2) An RCR permit is required for any person who receives unprocessed CR crab from the person(s) who harvested the crab, the owner or operator of a vessel that processes CR crab at sea, any person holding IPQ, and any person required to submit a Departure Report under 50 CFR 679.5(l)(4).

(j) *Contents of application for RCR permit.* For the application to be considered complete, all fees required by NMFS must be paid, and any EDR required under § 680.6 must be submitted to the DCA. In addition, the applicant must include the following information:

(1) *Purpose of application.* Indicate whether the application is a request for a new RCR permit, a renewal of an existing RCR permit, or an amendment to an existing RCR permit. If a renewal of or amendment to an existing RCR permit, include the applicant's RCR permit number.

(2) *Applicant identification.* Enter applicant's name and NMFS Person ID; applicant's social security number or tax ID number (required); name of contact person for the applicant, if applicant is not an individual; applicant's permanent business mailing address; and business telephone number, facsimile number, and e-mail address (if available).

(3) *Type of activity.* Select type of receiving or processing activity and whether catcher/processor or shoreside processor.

(4) *Individual responsible for submission of EDR.* Enter the name of the designated representative submitting the EDR on behalf of the RCR, if an EDR is required at § 680.6. If different from the RCR's contact information, also enter the designated representative's business mailing address, telephone number, facsimile number, and e-mail address (if available).

(5) *Application certification.* The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an authorized representative, then proof of authorization must accompany the application.

(k) *Federal crab vessel permit.* The owner of a vessel must have a Federal crab vessel permit on board that vessel when used to fish for CR crab.

(1) A Federal crab vessel permit is issued on an annual basis to the owner of the vessel and is in effect from the date of issuance through the end of the crab fishing year for which the permit was issued, unless it is revoked, suspended, or modified under § 600.735 or § 600.740.

(2) A Federal crab vessel permit may not be surrendered at any time during the crab fishing year for which it was issued.

(3) A Federal crab vessel permit issued under this paragraph is not

transferable or assignable and is valid only for the vessel for which it is issued.

(4) To qualify for a Federal crab vessel permit, the applicant must be a U.S. Citizen.

(5) The holder of a Federal crab vessel permit must submit an amended application for a Federal crab vessel permit within 10 days of the date of change in: the ownership of the vessel (a copy of the current USCG documentation for the vessel showing the change in ownership must accompany the amended application), or the individual responsible for submission of the EDR on behalf of the vessel's owner(s).

(l) *Contents of application for federal crab vessel permit.* For the application to be considered complete, all fees required by NMFS must be paid, and any EDR required under § 680.6 must be submitted to the DCA. Also, if ownership of the vessel has changed or if the permit application for a vessel to which a Federal crab vessel permit has never been issued, a copy of the USCG *Abstract Of Title* or *Certificate Of Documentation.* In addition the applicant must include the following information:

(1) *Purpose of application.* Indicate whether the application is a request for a new permit, a renewal of an existing permit, or an amendment to an existing permit. If a renewal of or amendment to an existing permit, include the current Federal crab vessel permit number.

(2) *Contact owner information.* The name(s), permanent business mailing address, social security number (voluntary) or tax ID number, business telephone number, business facsimile number, business e-mail address (if available) of all vessel owners, and the name of any person or company (other than the owner) that manages the operation of the vessel.

(3) *Vessel information.* Enter the vessel's name and home port (city and state); ADF&G processor code, if vessel is a catcher/processor or stationary floating crab processor; whether a vessel of the United States; USCG documentation number; ADF&G vessel registration number; and vessel's LOA (in feet), registered length (in feet), gross tonnage, net tonnage, and shaft horsepower. Indicate all types of operations the vessel may conduct during a crab fishing year.

(4) *Designated representative for EDR.* Enter the name of the designated representative who is responsible for completion and submission of the EDR, and the representative's business mailing address, telephone number, facsimile number, and e-mail address (if available).

(5) *Applicant certification.* The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. Print the applicant name. If the application is completed by an authorized representative, then authorization must accompany the application.

(m) *Annual crab harvesting cooperative IFQ permit.* See § 680.21.

(n) *Contents of annual application for converted CPO QS/IFQ permit.* (1)(i) A complete application must be received by NMFS no later than August 1 of the crab fishing year for which a person or crab harvesting cooperative is applying to receive converted CPO QS and the IFQ derived from that converted CPO QS. If a complete application is not received by NMFS by this date, that person or crab harvesting cooperative will not receive converted CPO QS and the IFQ derived from that converted CPO QS for that crab fishing year.

(ii) To receive converted CPO QS/IFQ this application must be accompanied by a timely and complete application for crab IFQ/IPQ described at paragraph (f) of this section or a timely and complete application for a crab harvesting cooperative IFQ permit described at paragraph (m) of this section.

(2) For the application to be considered complete, all fees required by NMFS must be paid, and any EDR required under § 680.6 must be submitted to the DCA. In addition, the applicant must include the following information (see paragraphs (n)(2)(i) through (v) of this section):

(i) *Entity identification.* Indicate the entity (Entity A, B, or C) described in § 680.40(c)(5)(ii) through (c)(5)(iv) for which you are applying to receive converted CPO QS.

(ii) *Applicant information*. Enter applicant's name and NMFS Person ID; applicant's permanent business mailing address and any temporary mailing address the applicant wishes to use; and applicant's business telephone number, facsimile number, and e-mail address.

(A) For Entity A or B:

(*1*) Identify the amount of CVO QS in either the BBR or BSS crab QS fishery with a North Region designation for issuance as converted CPO QS; and

(*2*) Identify the amount of PQS in either the BBR or BSS crab QS fishery initially issued to you by NMFS with a North Region designation for issuance as converted CPO QS.

(B) For Entity C:

(*1*) Identify the amount of CVO QS in either the BBR or BSS crab QS fishery initially issued to you by NMFS with a North Region designation for issuance as converted CPO QS; and

(*2*) Identify the amount of PQS in either the BBR or BSS crab QS fishery with a North Region designation for issuance as converted CPO QS.

(iii) *Affiliate information for Entities A and B*. (A) For Entities A and B described in § 680.40(c)(5)(ii) and (c)(5)(iii), indicate the permanent business mailing address and any temporary mailing address, business telephone number, facsimile number, and e-mail address of any person who is affiliated with you based on information provided in an annual application for IFQ/IPQ that is approved by the Regional Administrator for that crab fishing year

(B) Indicate the amount of PQS in either the BBR or BSS crab QS fishery initially issued to that person with a North Region designation for issuance as converted CPO QS.

(C) Indicate the amount of CVO QS in either the BBR or BSS crab QS fishery with a North Region designation held by the affiliate for issuance as converted CPO QS.

(iv) *Affiliate information for Entity C*. (A) For Entity C described in § 680.40(c)(5)(iv), indicate the permanent business mailing address and any temporary mailing address, business telephone number, facsimile number, and e-mail address of any person who is affiliated with you based on information provided in an annual application for IFQ/IPQ that is approved by the Regional Administrator for that crab fishing year.

(B) Indicate the amount of PQS in either the BBR or BSS crab QS fishery with a North Region designation for issuance as converted CPO QS.

(C) Indicate the amount of CVO QS in either the BBR or BSS crab QS fishery initially issued to the affiliate with a North Region designation for issuance as converted CPO QS.

(v) *Certification of applicant and affiliates*. The applicant and any persons who are affiliated with the applicant and named on the application must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an authorized representative, proof of authorization must accompany the application.

[70 FR 10241, Mar. 2, 2005, as amended at 71 FR 32864, June 7, 2006; 73 FR 29982, May 23, 2008]

## § 680.5 Recordkeeping and reporting (R&R).

(a) *General requirements*—(1) *Recording and reporting crab*. Any CR crab harvested that is retained must be recorded and reported.

(2) *Responsibility*. (i) The participants in the CR fisheries are responsible for complying with the following R&R requirements:

| Recordkeeping and reporting report | Person responsible | Reference |
|---|---|---|
| (A) Longline and pot gear catcher vessel daily fishing logbook. | Owner and operator of vessel | § 679.5(c)(1). |
| (B) Longline and pot gear catcher/processor daily cumulative production logbook. | Owner and operator of vessel | § 679.5(c)(1). |
| (C) Product Transfer Report (PTR) | Owner and operator of catcher/processor; Owner and manager of shoreside processor or SFCP; RCR. | § 679.5(g). |
| (D) U.S. Vessel Activity Report (VAR) | Owner and operator of vessel | § 679.5(k). |
| (E) Transhipment Authorization | Owner and operator of a catcher/processor; RCR | § 679.5(l)(3). |
| (F) IFQ Departure Report | Owner and operator of vessel | § 679.5(l)(4). |
| (G) CR crab Landing Report | RCR | § 680.5(c). |

| Recordkeeping and reporting report | Person responsible | Reference |
|---|---|---|
| (H) Catcher/processor offload report | Owner and operator of a catcher/processor | § 680.5(e). |
| (I) Eligible Crab Community Organization (ECCO) Annual Report for an Eligible Crab Community (ECC). | ECCO | § 680.5(f). |
| (J) RCR Fee Submission Form | RCR | § 680.5(g). |
| (K) Crab Economic Data Report (EDR) | Owners or leaseholders of a catcher vessel, catcher/processor, shoreside processor, or SFCP. | § 680.6. |

(3) *Representative*. Designation of a representative to complete R&R requirements does not relieve the person(s) responsible for compliance from ensuring compliance with this section.

(4) *Submittal of information*. A person must submit to NMFS all information, records, and reports required in this section in English and in a legible, timely, and accurate manner, based on A.l.t.; if handwritten or typed, in indelible ink.

(5) *Alteration of records*. A person may not alter or change any entry or record submitted to NMFS, except that an inaccurate, incomplete, or incorrect entry or record may be corrected after notifying the Regional Administrator at the address and facsimile number listed on each form, or as provided the opportunity on the Internet.

(6) *Inspection of records*. A person responsible for R&R under paragraph (a)(2) of this section must make available for inspection all reports, forms, scale receipts, and CR crab landing report receipts upon the request of an authorized officer for the time periods indicated in paragraph (a)(7) of this section.

(7) *Retention of records*. A person responsible for R&R under paragraph (a)(2) of this section must retain all reports and receipts as follows:

(i) *On site*. Until the end of the crab fishing year during which the records were made and for as long thereafter as crab or crab products recorded in the records are retained onboard the vessel or on site at the facility; and

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

(8) *Landing verification and inspection*. Each CR crab landing and all crab retained on board the vessel making a CR crab landing are subject to verification and inspection by authorized officers.

(9) *Sampling*. Each CR crab landing and all crab retained onboard a vessel making a CR crab landing are subject to sampling by authorized officers and observers.

(b) *CR landing report procedure*—(1) *Properly debited landing*. All retained crab catch must be weighed, reported, and debited from the appropriate IFQ or IPQ account under which the catch was harvested, as appropriate.

(2) An RCR and his or her designee(s) must enter his or her authorized user ID and password to access the IERS.

(3) [Reserved]

(4) The RCR must enter the landing and/or processing data specified under paragraphs (d)(7), (d)(8) or (d)(9) of this section in the Internet submission form(s) or other NMFS-approved method.

(5) Deadloss and personal use crab must be debited from the appropriate CR allocation under which the catch was harvested.

(6) Deadloss and personal use crab that an IPQ holder did not purchase are not required to be debited from the IPQ holder's account.

(7) A properly debited, printed receipt from the IERS or other NMFS-approved reporting method constitutes confirmation that NMFS received the CR crab landing report and that the permit holder's account is properly debited.

(8) The RCR and the crab IFQ permit holder, crab IFQ hired master, IPQ permit holder, or person who harvested Adak or CDQ crab must each sign the printed receipt(s) to indicate that the landing reports are accurate and must enter date signed.

(9) The receipt must be retained as specified under paragraph (a)(7) of this section.

(10) A person who for any reason is unable to properly submit an electronic CR crab landing report or debit a landing as required under paragraph (d) of this section must telephone NMFS (800–304–4846).

(11) The address of the NMFS Alaska Region Internet site will be provided to all RCRs receiving crab.

(c) *Interagency electronic reporting system (IERS).* Unless an alternative reporting method has been approved by NMFS, an RCR must obtain at his or her own expense: hardware, software, and Internet connectivity to support Internet submissions of the CR crab landing report on the IERS. The IERS will provide a web page where the applicant will enter information.

(1) *IERS processor registration.* (i) Before an RCR and his or her designee(s) can use the eLandings system to report landings, he/she must request authorization to use the system, reserve a particular user ID, and receive a password. Each RCR and his or her designee(s) must provide information needed to process account access into the IERS by completing an IERS Processor Registration at *http://www.fakr.noaa.gov/sustainablefisheries/crab/crfaq.htm.* Upon receiving the signed registration, the IERS will validate that all required information is submitted, that the information entered is in correct format, and that the requested user ID is not already in use. The IERS will generate a PDF document from the information entered by the applicant.

(ii) The user must print, sign, and submit the application to the address provided on the registration form. A user ID will be activated after a signed registration form is received. The signature of an applicant on the form means that the applicant agrees to use access privileges to the IERS for purposes of submitting legitimate fishery landing reports and to safeguard the user ID and password to prevent their use by unauthorized persons. In addition, signature of the RCR ensures that the applicant is authorized to submit landing reports for the processor permit number(s) listed.

(iii) Agency staff will review the form, confirm that the user should be authorized for the system, and will activate the user on the IERS. The IERS will then send the user an e-mail informing the user that his or her new user ID is ready for use.

(2) *Contents of the IERS processor registration.* The application for IERS processor registration must contain the following information: Date of application, name of applicant (user), processor name and location (city and state) or vessel name, if applicable, business telephone number, business facsimile number, business e-mail address (if available), requested user ID, initial password, security question, security answer, ADF&G processor code(s), Federal processor permit number, if applicable, and RCR permit number(s).

(d) *CR crab landings*—(1) *Joint and several liability.* The RCR and the crab IFQ permit holder, crab IFQ hired master, IPQ permit holder, or person who harvested Adak or CDQ crab are required to provide accurate information to the RCR to complete the CR crab landing report.

(2) *Reporting.* All CR crab must be reported by the receiving RCR unless the crab has been previously reported.

(i) *Reporting by all except catcher/processors.* Crab must be reported using the IERS system described in paragraph (c) of this section.

(ii) *Reporting by catcher/processors.* Catcher/processors may submit CR crab landings by e-mail attachment in a format approved by NMFS.

(3) *Submittal requirement.* An RCR is required to submit a CR crab landing report to the Regional Administrator for each catcher vessel landing or catcher/processor landing.

(4) *Time limits.* (i) For CR crab harvested on a catcher/processor, the owner or operator is required to submit a CR crab landing report to NMFS by Tuesday noon after the end of each weekly reporting period in which CR crab was harvested.

(ii) For CR crab landed to an RCR that is not a catcher/processor, the owner or manager is required to submit a CR crab landing report to NMFS within 6 hours after all crab is offloaded from a specific vessel.

(5) *Remain at landing site.* Except for landings of CR crab processed at sea, once the landing has commenced, neither the harvesting vessel nor the crab IFQ permit holder, crab IFQ hired master, or person who harvested Adak or

CDQ crab may leave the landing facility until the CR crab account is properly debited (as described in paragraph (b)(7) of this section).

(6) *No movement of CR crab.* The landed crab may not be moved from the facility where it was landed until the CR crab landing report is received by the Regional Administrator, and the IFQ permit holder's or IPQ permit holder's account is properly debited (as described in paragraph (b)(7) of this section).

(7) *Contents of CR crab landing report.* The RCR must accurately enter the following information in a CR crab landing report:

(i) RCR permit number, IFQ permit number, and IPQ permit number, as appropriate;

(ii) ADF&G processor code of first purchaser;

(iii) State of Alaska Interim Use Permit (IUP) number;

(iv) Commercial Fisheries Entry Commission year sequence number;

(v) Indicate (YES or NO) whether a portion of the harvested CR crab was or will be delivered to another RCR (partial delivery);

(vi) Indicate (YES or NO) whether this is the last delivery for the trip;

(vii) Management program: IFQ, CDQ, or Adak. (If CDQ or Adak, see paragraph (d)(9) of this section);

(viii) ADF&G vessel registration number of the delivering vessel;

(ix) Date fishing began;

(x) Date of the CR crab landing;

(xi) Number of pot lifts in each ADF&G statistical area;

(xii) Number of crew, including operator and excluding observer(s);

(xiii) Number of observers;

(xiv) ADF&G fish ticket number (if not automatically supplied);

(xv) If a shoreside processor, type of processing operation; enter port code from Tables 14a or 14b to part 679. If a catcher/processor, enter operation type from Table 14c to part 679;

(xvi) ADF&G statistical area of harvest reported by the IFQ permit holder;

(xvii) Species code of catch from Table 2 to this part;

(xviii) Delivery-condition codes of catch from Table 3a to this part;

(xix) Number of crab retained (optional);

(xx) Price per pound;

(xxi) Sold weight of live crab in pounds;

(xxii) Scale weight of deadloss in pounds;

(xxiii) Scale weight of crab retained for personal use in pounds; and

(xxiv) Gear code to describe gear used to harvest CR crab (see Table 15 to 50 CFR part 679).

(8) *Custom processing.* In addition to the information required in paragraph (d)(7) of this section, if custom processing CR crab, enter the ADF&G processor code of the person for which the CR crab was custom processed;

(9) *CDQ and Adak landings.* Instead of the information described in paragraph (d)(7) of this section, an RCR who receives a landing of CR crab harvested under the CDQ or Adak community allocation programs must submit for each landing the following information for each CR fishery and species:

(i) RCR permit number;

(ii) Crab species code from Table 2 to this part;

(iii) Type of crab, either CDQ or Adak community allocation;

(iv) If CDQ, enter CDQ group number;

(v) Crab species amount. Enter the scale weight(s) in raw crab pounds landed or processed at sea; and

(vi) Price per pound.

(e) *Catcher/processor offload report.* The owner or operator of a catcher/processor that harvested and processed CR crab must complete a catcher/processor offload report at the time of offload of CR crab and attach a scale printout showing gross product offload weight.

(1) *Contents of catcher/processor offload report.* The catcher/processor offload report must include the following: Name, ADF&G processor code, and Federal crab vessel permit number of the catcher/processor; fishing start date and time; fishing stop date and time; product code from Table 3b to this part; total gross weight of product offload, including glaze and packaging (specify lb or kg); estimated glaze percentage; case count and average box weight (specify lb or kg); net weight of crab product (specify lb or kg); completion date and time of catcher/processor offload; location (port) of catcher/processor offload (see Tables 14a and 14b to

part 679); and ADF&G fish ticket numbers.

(2) *Submittal*. The RCR must submit electronically or by facsimile (907–586–7465) the catcher/processor offload report and a copy of the scale printout within 2 hours of completion of offload to the Regional Administrator.

(f) *ECCO Annual Report*. (1) Annually by June 30, each ECCO must submit a complete annual report on its crab QS activity for the prior crab fishing year for each ECC represented by the ECCO. The ECCO must submit a copy of the annual report to the governing body of each community represented by the ECCO and to the Regional Administrator, NMFS, Alaska Region; P.O. Box 21668; Juneau, AK 99802.

(2) *Contents of ECCO Annual Report*. A complete annual report must include the following information for the crab IFQ derived from the QS held by the ECCO:

(i) Name, ADF&G vessel registration number, USCG documentation number, and Federal crab vessel permit of each vessel from which the crab IFQ was harvested;

(ii) Name and business addresses of individuals employed as crew members when fishing the crab IFQ;

(iii) Criteria used by the ECCO to distribute crab IFQ leases among eligible community residents;

(iv) Description of efforts made to ensure that crab IFQ lessees employ crew members who are eligible community residents of the ECC aboard vessels on which crab IFQ derived from QS held by a ECCO is being fished;

(v) Description of the process used to solicit lease applications from eligible community residents of the ECC on whose behalf the ECCO is holding QS;

(vi) Names and business addresses and amount of crab IFQ requested by each individual applying to receive crab IFQ from the ECCO;

(vii) Any changes in the bylaws of the ECCO, board of directors, or other key management personnel;

(viii) Copies of minutes, bylaw changes, motions, and other relevant decision making documents from ECCO board meetings.

(g) *RCR fee submission form* (See § 680.44). (1) *Applicability*. An RCR who receives any CR crab pursuant to § 680.44 or the RCR's authorized representative, must submit a complete RCR fee submission form electronically, by mail, or by facsimile to the Regional Administrator. Mail to: Regional Administrator, NMFS, Alaska Region; Attn: OMI; P.O. Box 21668; Juneau, AK 99802–1668; Facsimile (907–586–7354). Fee submission forms are available from RAM or on the Alaska Region Home Page at *http://www.fakr.noaa.gov/*.

(2) *Due date and submittal*. The reporting period of the RCR fee submission form shall be the crab fishing year. An RCR must submit any crab cost recovery fee liability payment(s) and the RCR fee submission form to NMFS electronically or to the address provided at paragraph (g)(1) of this section not later than July 31 following the crab fishing year in which the CR crab landings were made.

(3) *Required information*. An RCR must accurately record on the RCR fee submission form the following information:

(i) *Identification of the RCR*. Enter the printed full name, NMFS person ID, RCR permit number, social security number or Federal tax identification number of the RCR. Enter the permanent or temporary business mailing address (indicate whether permanent or temporary), and the business telephone number, facsimile number, and e-mail address (if available).

(ii) *Signature of applicant*. Enter printed name and signature of applicant and date signed. If authorized representative, attach authorization to application.

(iii) *Method of Payment (see § 680.44 (a)(4))*. The RCR must select the method of payment for fees; whether by personal check, bank certified check (cashier's check), money order, or credit card. If by credit card, the RCR must select the type of credit card and enter the card number, expiration date, amount of payment, name as printed on the card, signature of the card holder, and date of signature.

(h) *Product transfer report*. (See § 679.5(g).)

(i) *U.S. Vessel activity report (VAR)*. (*See* § 679.5(k).)

(j) *Transshipment authorization*. (*See* § 679.5(l)(3).)

(k) *IFQ departure report.* (*See* § 679.5(l)(4).)

(l) *Catcher vessel longline and pot daily fishing logbook (DFL) and catcher/processor daily cumulative production logbook (DCPL).* (*See* § 679.5 (c)).

[70 FR 10241, Mar. 2, 2005, as amended at 70 FR 33395, June 8, 2005; 70 FR 75421, Dec. 20, 2005]

## § 680.6 Crab economic data report (EDR).

Persons participating in the CR crab fisheries are required to submit the EDRs described in this section for various permit applications to be considered complete. Use these tables to complete the EDRs described in this section: Table 1, Crab Rationalization (CR) Fisheries; Table 2, Crab Species Codes; Table 3c, Crab Product Codes for the EDRs; Table 4, Crab Process Codes; Table 5, Crab Size Codes; and Table 6, Crab Grade Codes.

(a) *Catcher vessel historical EDR.* (1) NMFS will select catcher vessels from a list of known catcher vessels, as determined by NMFS, that made at least one landing from fisheries listed in Table 1 to this part between January 1, 1998, through December 31, 2004, and will publish a FEDERAL REGISTER notice identifying vessels whose existing or former owners and leaseholders are required to submit an EDR, as follows:

(i) Owners or leaseholders of catcher vessels that participated in the BSAI crab fisheries between January 1, 1998, through December 31, 2004, and have received an allocation of QS, PQS, IFQ, or IPQ.

(ii) Owners or leaseholders of catcher vessels that participated in the BSAI crab fisheries between January 1, 1998, through December 31, 2004, that did not qualify for and receive QS, PQS, IFQ, or IPQ, but were participants at any time since January 23, 2004, in the BSAI crab fisheries.

(2) *Time limit.* The owner or leaseholder of the identified vessels must submit the historical EDR to the DCA 90 days after the FEDERAL REGISTER notice notifying owners or leaseholders, to the address provided on the form.

(3) *Instructions.* Instructions for submitting a catcher vessel historical EDR and certification page are specified in the following table:

| If you were . . . | And . . . | You must complete and submit . . . |
|---|---|---|
| (i) The catcher vessel owner as described in paragraph (a)(1) of this section. | (A) You harvested BSAI crab in the vessel described at paragraph (a)(4)(ii)(B) of this section and were notified by NMFS to submit an EDR for selected years. | Entire EDR for each year that BSAI crab was harvested. |
| | (B) No one harvested BSAI crab in the vessel described at paragraph (a)(4)(ii)(B) of this section and you were notified by NMFS to submit an EDR for selected years. | EDR certification pages. |
| | (C) You leased the vessel to another party, and harvested no BSAI crab in the vessel described at paragraph (a)(4)(ii)(B) of this section and were notified by NMFS to submit an EDR for selected years. | (*1*) EDR certification pages.<br>(*2*) Provide the name, business address, and telephone number of the person to whom you leased the vessel during the NMFS-selected years. |
| | (D) You leased the vessel for a portion of the year to another party, but harvested some BSAI crab in the vessel described at paragraph (a)(4)(ii)(B) of this section and were notified by NMFS to submit an EDR for selected years. | (*1*) Entire EDR for each year that BSAI crab was harvested.<br>(*2*) Provide the name, business address, and telephone number of the person to whom you leased the vessel during the NMFS-selected years. |
| (ii) The leaseholder as described in paragraph (a)(1) of this section. | You harvested BSAI crab in the vessel described at paragraph (a)(4)(ii)(B) of this section vessel and were notified by NMFS to submit an EDR for selected years. | Entire EDR for each year that BSAI crab was harvested. |

(4) *EDR certification pages.* (i) The owner or leaseholder must submit the EDR certification pages either:

(A) *As part of the entire EDR.* The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) *As a separate document.* The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages (see paragraph (a)(3) of this section).

(ii) The owner, leaseholder, or designated representative must submit the following information on the certification pages:

(A) *Calendar year of EDR.* Calendar year for which the vessel must submit the EDR;

(B) *Catcher vessel information.* Vessel name, USCG documentation number, ADF&G vessel registration number, crab LLP license number(s), current estimated market value of vessel and equipment, and replacement value of vessel and equipment.

(C) *Owner information.* Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available).

(D) *Designated representative.* Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) *Person completing this report.* (*1*) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(*2*) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (a)(4)(ii)(C) of this section is the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(*3*) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(5) *EDR.* The owner or leaseholder must record the following information on an EDR:

(i) *BSAI Crab activity chart.* Complete a crab activity chart by entering the following information: CR fishery code, ADF&G Fish ticket number(s), number of days at sea, average crew size (including captain), and number of pots lost (if applicable).

(ii) *Crab sales gross revenue.* CR fishery code, pounds sold, and gross revenue.

(iii) *CDQ crab lease costs.* CR fishery code, pounds leased, and total cost of lease. If you did not participate in CDQ fisheries, indicate N/A.

(iv) *Crab harvesting labor costs.* CR fishery code, number of crew earning shares (excluding captain), total crew share payment, and captain's share payment.

(v) *BSAI crab crew residence.* For employees that participated in BSAI crab harvesting, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence.

(B) If state other than Alaska, enter primary state of residence.

(C) If country other than United States, enter primary country of residence.

(vi) *BSAI crab-specific vessel costs.* For the fishing year being reported, record insurance premiums (for hull, property and indemnity, and pollution), insurance deductible fees, quantity and cost of pots purchased, line, and other crab fishing gear purchases, pounds and cost of bait by species, gallons and cost of fuel, cost of lubrication and hydraulic fluids, cost of food and provisions for crew, other crew costs, freight costs of supplies shipped to you for the vessel, freight costs for landed crab, storage, observer costs, fish taxes, and other crab-specific costs.

(vii) *Vessel-specific costs.* Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an ''X'' in the COST RELATED TO MORE THAN JUST CRAB FISHING

column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate capitalized expenditures for vessel, gear and equipment; repair and maintenance (R&M) expenses for vessel, gear and equipment; and other vessel-specific costs (specify).

(viii) *Labor payment details.* (A) Indicate with an ''X'' in the appropriate column whether the following expenses were deducted, directly charged, or not deducted or directly charged from the total revenue before calculating the crew payments in BSAI fisheries: fuel and lubrication, food and provisions, bait, fish tax, observer costs, CDQ fish, freight, gear loss, and other (specify).

(B) Indicate percentage of the net share that was applied to boat share and crew share (including captain).

(ix) *Annual totals for all fisheries.* For the calendar year, record the total days at sea, gross revenue, round pounds caught (excluding discards), and labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(b) *Catcher vessel annual EDR*—(1) *Requirement.* On or before June 28 of each year, any owner or leaseholder of a catcher vessel that landed crab from a CR fishery must submit to the DCA, at the address provided on the form, an EDR for annual data for the previous calendar year. For the year 2005, the annual EDR is due on or before June 28, 2006.

(2) *Instructions.* Instructions for submitting a catcher vessel annual EDR and certification page are specified in the following table:

| If you are . . . | And . . . | You must complete and submit . . . |
|---|---|---|
| (i) The catcher vessel owner. | (A) You harvested BSAI crab in the vessel described at paragraph (b)(3)(ii)(B) of this section during this calendar year. | Entire EDR. |
| | (B) No one harvested BSAI crab in the vessel described at paragraph (b)(3)(ii)(B) of this section during this year. | EDR certification pages. |
| | (C) You leased the vessel to another party, and harvested no BSAI crab in the vessel described at paragraph (b)(3)(ii)(B) of this section during this calendar year. | (*1*) EDR certification pages.<br>(*2*) Provide the name, address, and telephone number of the person to whom you leased the vessel during this calendar year. |
| | (D) You leased the vessel for a portion of the year to another party, but harvested some BSAI crab in the vessel described at paragraph (b)(3)(ii)(B) of this section during this calendar year. | (*1*) Entire EDR.<br>(*2*) Provide the name, address, and telephone number of the person to whom you leased the vessel during this calendar year. |
| (ii) The leaseholder | You harvested BSAI crab in the vessel described at paragraph (b)(3)(ii)(B) of this section vessel during this calendar year. | Entire EDR. |

(3) *EDR certification pages.* (i) The owner or leaseholder must submit the EDR certification pages either:

(A) *As part of the entire EDR.* The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) *As a separate document.* The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages.

(ii) The owner or leaseholder must submit the following information on the certification pages:

(A) *Calendar year of EDR.* Calendar year of reporting year;

(B) *Catcher vessel information.* Catcher vessel name, USCG documentation number, ADF&G vessel registration number, Federal crab vessel permit number, crab LLP license number(s), current estimated market value of vessel and equipment, and replacement value of vessel and equipment;

(C) *Owner information.* Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available);

(D) *Designated representative.* Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) *Person completing this report.* (*1*) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(*2*) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (b)(3)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(*3*) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(4) *EDR.* The owner or leaseholder must record the following information on an EDR.

(i) *BSAI Crab activity chart.* Complete a crab activity chart by entering the following information: CR fishery code, ADF&G Fish ticket number(s), number of days at sea, average crew size (including captain), and number of pots lost (if applicable).

(ii) *Crab sales, gross revenue.* CR fishery code, species code, pounds sold, and gross revenue;

(iii) *CDQ and IFQ crab leases.* CR fishery code, species code, pounds leased, and total cost of leasing the quota. If you did not participate in CDQ or IFQ fisheries, indicate N/A.

(iv) *Crab harvesting labor costs*—(A) *Standard crew payment (shares) for non-IFQ crew and/or captains.* CR fishery code, number of crew earning shares, total crew share payment, and captain's share payment;

(B) *Payments to IFQ-holding crew and/or captains.* CR fishery code, number of crew contributing IFQ shares, pounds of IFQ contributed by crew, total payment to crew for IFQ and shares (for all crab caught, and residual profit on their IFQ), pounds of IFQ contributed by captain, and payment to captain for IFQ and shares (for all fish caught, and residual profit on their IFQ);

(v) *BSAI crab crew residence*—(A) *Employees with crew license.* Record the Alaska Commercial Crew license number or the State of Alaska Commercial Fisheries Entry Commission (CFEC) gear operator permit number, and location of crew residence (city and state);

(B) *Employees without crew license.* Record the locations where they reside and the number of employees that are from each residential location as follows:

(*1*) If Alaska, enter primary city of residence;

(*2*) If state other than Alaska, enter primary state of residence; or

(*3*) If country other than United States, enter primary country of residence.

(vi) *BSAI crab-specific vessel costs.* Insurance premiums (hull, property and indemnity, and pollution), insurance deductible fees, pots purchased, line and other gear purchases, pounds and cost of bait by species, gallons and cost of fuel, lubrication and hydraulic fluids, food and provisions for crew, other crew costs, freight costs of supplies shipped to you for the vessel, freight costs for landed crab, storage, observer costs, fish taxes, other crab-specific costs (specify), and fishing cooperative costs.

(vii) *Vessel-specific costs.* Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an ''X'' in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate capitalized expenditures for vessel, gear and equipment (city and state where purchased); R&M expenses for vessel, gear and equipment (city and state where repairs were made); and other vessel-specific costs (specify).

(viii) *Labor payment details.* (A) Indicate with an ''X'' in the appropriate column whether the following expenses were deducted, directly charged, or not deducted or directly charged from the total revenue before calculating the

crew payments in BSAI crab fisheries: fuel and lubrication, food and provisions, bait, fish tax, observer costs, CDQ fish, IFQ leases, freight, gear loss, and other (specify);

(B) Indicate percentage of the net share that is applied to boat share and crew share (including captain).

(ix) *Annual totals for all fisheries*. For the calendar year, record the total days at sea, gross revenue, round pounds caught (excluding discards), and labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(c) *Catcher/processor historical EDR*—(1) *Requirement*. Any owner or leaseholder of a catcher/processor that harvested or processed BSAI crab in the calendar years 1998, 2001, or 2004 must submit to the DCA, at the address provided on the form, an EDR for historical data for each of the specified calendar years, if they:

(i) Received an allocation of QS, PQS, IFQ, or IPQ under this program;

(ii) Did not qualify for and receive QS, PQS, IFQ, or IPQ, but are participants at any time since January 23, 2004, in the BSAI crab fisheries.

(2) *Time limit*. Any owner or leaseholder of the catcher/processor described in paragraph (c)(4)(ii)(B) of this section must submit the historical EDR to the DCA by June 30, 2005, at the address provided on the form.

(3) *Instructions*. Instructions for submitting a catcher/processor historical EDR and certification page are specified in the following table:

| If you were . . . | And . . . | You must complete and submit . . . |
|---|---|---|
| (i) The catcher/processor owner described in paragraph of this section. | (A) You processed BSAI crab in the vessel described at paragraph (c)(4)(ii)(B) of this section during 1998, 2001, or 2004. | Entire EDR for each year that BSAI crab was processed. |
| | (B) No one processed BSAI crab in the vessel described at paragraph (c)(4)(ii)(B) of this section during 1998, 2001, or 2004. | EDR certification pages for each year that no one processed BSAI crab. |
| | (C) You leased your catcher/processor to another party, and processed no BSAI crab in the vessel described at paragraph (c)(4)(ii)(B) of this section during 1998, 2001, or 2004. | (*1*) EDR certification pages. |
| | | (*2*) Provide the name, business address, and telephone number of the person to whom you leased the catcher/processor during 1998, 2001, or 2004. |
| | (D) You leased your catcher/processor for a portion of the year to another party, but processed some BSAI crab in the vessel described at paragraph (c)(4)(ii)(B) of this section during 1998, 2001, or 2004. | (*1*) Entire EDR for each year that BSAI crab was processed. |
| | | (*2*) Provide the name, business address, and telephone number of the person to whom you leased the catcher/processor during 1998, 2001, or 2004. |
| (ii) The leaseholder described in paragraph (c)(1) of this section. | You processed BSAI crab in the vessel described at paragraph (c)(4)(ii)(B) of this section during 1998, 2001, or 2004. | Entire EDR for each year that BSAI crab was processed. |

(4) *EDR certification pages*. (i) The owner or leaseholder must submit the EDR certification page either:

(A) *As part of the entire EDR*. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) *As a separate document*. If the owner or leaseholder did not process BSAI crab in 1998, 2001, or 2004, he or she must submit the completed EDR certification pages only, and must attest that he or she meets the conditions exempting him or her from submitting the EDR, by signing and dating the certification pages, for each year of 1998, 2001, or 2004 that this applies.

(ii) The owner or leaseholder must submit the following information on the certification pages;

(A) *Calendar year of EDR.* Calendar year corresponding to 1998, 2001, or 2004;

(B) *Catcher/processor information.* Catcher/processor name, USCG documentation number, ADF&G processor code, crab LLP license number(s), current estimated market value of vessel and equipment, and replacement value of vessel and equipment.

(C) *Owner information.* Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available).

(D) *Designated representative.* Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) *Person completing this report.* (*1*) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(*2*) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (c)(4)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(*3*) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(5) *EDR.* The owner or leaseholder must record the following information on an EDR.

(i) *BSAI crab activity chart.* Complete a crab activity chart by entering the following information: CR fishery code; dates covered (beginning and ending day, month and year); number of days at sea; number of crab processing days, and number of pots lost (if applicable).

(ii) *BSAI crab production.* CR fishery code, raw crab pounds, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (yes or no).

(iii) *Crab harvesting labor costs.* CR fishery code, number of crew earning shares, total crew share payment, and captain's share payment.

(iv) *Crab processing labor costs.* CR fishery code, number of crew with pay determined by processing work, average number of crab processing positions, and total processing labor payment.

(v) *BSAI crab crew residence.* For employees that participated in BSAI crab harvesting and processing, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence;

(B) If state other than Alaska, enter primary state of residence;

(C) If country other than United States, enter primary country of residence;

(vi) *BSAI crab custom processing done for you.* CR fishery code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(vii) *Raw crab purchases from delivering vessels.* CR fishery code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(viii) *CDQ Crab Costs (leases).* CR fishery code, pounds leased, and total cost. If you did not participate in CDQ or IFQ fisheries, indicate N/A.

(ix) *Annual BSAI crab sales.* Record the following information on crab sales to affiliated entities and to unaffiliated entities: species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(x) *BSAI crab-specific vessel costs.* Insurance premiums (hull, property and indemnity, and pollution); insurance deductible fees; total of fisheries taxes which includes the Alaska fisheries business tax, Alaska fisheries resource landing tax, SMAA taxes, and other local sales tax on raw fish; pots purchased (quantity and cost); line and other crab fishing gear purchases; bait (by each CR fishery code, species, pounds and cost); fuel (by CR fishery code, gallons and cost); lubrication and hydraulic fluids; food and provisions for crew; other crew costs; processing and packaging materials, equipment and supplies; re-packing costs, broker fees and promotions for BSAI crab

sales (by CR fishery code); observer costs (by CR fishery code); freight costs for supplies to the vessel; freight and handling costs for processed crab products from the vessel; product storage; gear storage; and other crab-specific costs (specify).

(xi) *Vessel-specific costs*. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an ''X'' in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate capitalized expenditures for vessel, gear and equipment; R&M expenses for vessel, gear and equipment (city and state where repairs were made); number of employees and salaries for foremen, managers, and other employees not included in direct labor costs; and other vessel-specific costs (specify).

(xii) *BSAI crab custom processing performed for others*. CR Fishery code, product code, process code, and processing revenue.

(xiii) *Annual totals for all fisheries*. For the calendar year, record the total processing days, total days at sea, gross revenue, finished pounds processed, round pounds caught (excluding discards), and labor costs for your fishing and processing activities in all fisheries in which you participated (crab, groundfish, etc.).

(xiv) *Labor payment details*. (A) Indicate with an ''X'' in the appropriate column whether the following expenses were deducted, directly charged, or not deducted or directly charged from the total revenue before calculating the crew payments in BSAI fisheries: fuel and lubrication, food and provisions, bait, fish tax, observer costs, CDQ fish, freight, gear loss, and other (specify).

(B) Indicate percentage of the net share that was applied to boat share and harvesting crew share (including captain).

(C) If processing workers were paid on a share system, indicate percentage of the net share (if applicable) that was applied to processing workers based on product value or net share.

(d) *Catcher/processor annual EDR*—(1) *Requirement*. On or before June 28 of each year, any owner or leaseholder of a catcher/processor that landed or processed crab from a CR fishery must submit to the DCA, at the address provided on the form, an EDR for annual data for the previous calendar year. For the year 2005, the annual EDR is due on or before June 28, 2006.

(2) *Instructions*. Instructions for submitting a catcher/processor annual EDR and certification page are specified in the following table:

| If you are . . . | And . . . | You must complete and submit . . . |
|---|---|---|
| (i) The catcher/processor owner. | (A) You processed BSAI crab in the vessel described at paragraph (d)(3)(ii)(B) of this section during this calendar year. | Entire EDR. |
| | (B) No one processed BSAI crab in the vessel described at paragraph (d)(3)(ii)(B) of this section during this calendar year. | EDR certification pages. |
| | (C) You leased all of your IPQ to another party, and processed no BSAI crab in the vessel described at paragraph (d)(3)(ii)(B) of this section during this calendar year. | (*1*) EDR certification pages. |
| | | (*2*) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year. |
| | (D) You leased portions of your IPQ to another party, but processed some BSAI crab in the vessel described at paragraph (d)(3)(ii)(B) of this section during this calendar year. | (1) Entire EDR. |
| | | (*2*) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year. |
| (ii) The leaseholder described in paragraph (d)(1) of this section. | You processed BSAI crab in the described in vessel described at paragraph paragraph (d)(3)(ii)(B) of this section this section during this calendar year. | Entire EDR. |

(3) *EDR certification pages.* (i) The owner or leaseholder must submit the EDR certification pages either:

(A) *As part of the entire EDR.* The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) *As a separate document.* The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages.

(ii) The owner or leaseholder must submit the following information on the certification pages:

(A) *Calendar year of EDR.* Calendar year for the reporting year;

(B) *Catcher/processor information.* Catcher/processor name, USCG documentation number, ADF&G processor code, RCR permit number, crab LLP license number(s), current estimated market value of vessel and equipment, and replacement value of vessel and equipment.

(C) *Owner information.* Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available).

(D) *Designated representative.* Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) *Person completing this report.* (*1*) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(*2*) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (d)(3)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(*3*) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(4) *EDR.* The owner or leaseholder must record the following information on an EDR.

(i) *BSAI Crab activity chart.* Complete a crab activity chart by entering the following information: CR fishery code, dates covered (beginning and ending day, month and year), number of days at sea, number of crab processing days, and number of pots lost (if applicable).

(ii) *BSAI crab production.* CR fishery code, species code, raw crab pounds, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (Yes or No).

(iii) *Harvesting labor costs.* Record the following information for crew if they harvest crab only, or harvest and process crab.

(A) *Standard crew payment (shares) for non-IFQ contributing crew and/or captains.* CR fishery code, number of crew earning shares, total crew share payment, and captain's share payment.

(B) *Payments to IFQ-holding crew and/or captains.* CR fishery code, number of crew contributing IFQ shares, pounds of IFQ contributed by crew, total payment to crew for IFQ and shares, pounds of IFQ contributed by captain, and payment to captain for IFQ and shares.

(iv) *Crab processing labor costs.* CR fishery code, number of crew with pay determined by processing work, average number of crab processing positions, and total processing labor payment.

(v) *BSAI crab crew residence*—(A) *Employees with crew license.* Record the Alaska Commercial Crew license number or the State of Alaska Commercial Fisheries Entry Commission (CFEC) gear operator permit number, and location of crew residence (city and state);

(B) *Employees without crew license.* Record the locations where they reside and the number of employees that are from each residential location as follows:

(*1*) If Alaska, enter primary city of residence;

(*2*) If state other than Alaska, enter primary state of residence; or

(*3*) If country other than United States, enter primary country of residence.

(vi) *BSAI crab custom processing done for you*. CR fishery code, species code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(vii) *Raw crab purchases from delivering vessels*. CR fishery code, species code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(viii) *CDQ and IFQ crab costs (leases)*. For CDQ and IFQ leases enter CR fishery code, species code, pounds leased, and total cost. If you did not participate in CDQ or IFQ fisheries, indicate N/A.

(ix) *Annual BSAI crab sales*. For affiliated entities and unaffiliated entities enter species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(x) *BSAI crab-specific vessel costs*. Insurance premiums (hull, property and indemnity, and pollution); insurance deductible fees; total of fisheries taxes which include the Alaska fisheries business tax, Alaska fisheries resource landing tax, SMAA taxes, and other local sales tax on raw fish; pots purchased by city and state (quantity and cost); line and other crab fishing gear purchases by city, state, and cost; bait (by each CR fishery code by city and state, species, pounds, and cost); fuel in gallons and cost by CR fishery code, city and state; lubrication and hydraulic fluids by city and state; food and provisions for crew; other crew costs; processing and packaging materials, equipment and supplies by city and state; re-packing costs; broker fees and promotions for BSAI crab sales (by CR fishery code); observer costs (by CR fishery code); freight costs for products to the vessel; freight and handling costs for processed crab products from the vessel; product storage; gear storage; other crab-specific costs (specify), and fishing cooperative costs.

(xi) *Vessel-specific costs*. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an ''X'' in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate capitalized expenditures for vessel, gear and equipment (city and state where purchased); R&M expenses for vessel, gear and equipment (city and state where repairs were made); number of employees and salaries for foremen, managers and other employees not included in direct labor costs; and other vessel-specific costs (specify).

(xii) *BSAI crab custom processing performed for others*. CR fishery code, species code, product code, process code, and processing revenue.

(xiii) *Annual totals for all fisheries*. For the calendar year, record the total processing days, total days at sea, gross revenue, finished pounds processed, round pounds caught (excluding discards), and labor costs for your fishing and processing activities in all fisheries in which you participated (crab, groundfish, etc.).

(xiv) *Labor payment details*. (A) Indicate with an ''X'' in the appropriate column whether the following expenses were deducted, directly charged, or not deducted or directly charged from the total revenue before calculating the crew payments in BSAI fisheries: fuel and lubrication, food and provisions, bait, fish tax, observer costs, CDQ fish, IFQ leases, freight, gear loss, and other (specify).

(B) Indicate percentage of the net share that is applied to boat share and harvesting crew share (including captain).

(C) If processing workers are paid on a share system, indicate percentage of the net share (if applicable) that is applied to processing workers based on product value or net share.

(e) *Stationary floating crab processor (SFCP) historical EDR*—(1) *Requirement*. Any owner or leaseholder of an SFCP that processed CR crab in the calendar years 1998, 2001, or 2004 must submit to the DCA, at the address provided on the form, an EDR for historical data for each of the specified calendar years, if they:

(i) Received an allocation of QS, PQS, IFQ, or IPQ under this program;

(ii) Did not qualify for and receive QS, PQS, IFQ, or IPQ, but are participants at any time since January 23, 2004, in the BSAI crab fisheries.

(2) *Time limit*. Any owner or leaseholder of the SFCP described in paragraph (e)(4)(ii)(B) of this section must submit the historical EDR to the DCA by June 30, 2005, at the address provided on the form.

(3) *Instructions*. Instructions for submitting an SFCP historical EDR and certification page are specified in the following table:

| If you were . . . | And . . . | You must complete and submit . . . |
|---|---|---|
| (i) The SFCP owner described in paragraph (e)(1) of this section. | (A) You processed BSAI crab in the SFCP described at paragraph (e)(4)(ii)(B) of this section during 1998, 2001, or 2004. | Entire EDR for each year that BSAI crab was processed. |
| | (B) No one processed BSAI crab in the SFCP described at paragraph (e)(4)(ii)(B) of this section during 1998, 2001, 2004. | EDR certification pages for each year that no one processed BSAI crab. |
| | (C) You leased your SFCP to another party, and processed no BSAI crab in the SFCP described at paragraph (e)(4)(ii)(B) of this section during 1998, 2001, or 2004. | (*1*) EDR certification pages. |
| | | (*2*) Provide the name, address, and telephone number of the person to whom you leased the SFCP during 1998, 2001, or 2004. |
| | (D) You leased your SFCP a portion of the time to another party, but processed some BSAI crab in the SFCP described at paragraph (e)(4)(ii)(B) of this section during 1998, 2001, or 2004. | (*1*) Entire EDR for each year that BSAI crab was processed. |
| | | (*2*) Provide the name, address, and telephone number of the person to whom you leased the SFCP during 1998, 2001, or 2004. |
| (ii) The leaseholder described in paragraph (e)(1) of this section. | You operated the SFCP described at paragraph (e)(4)(ii)(B) of this section and processed some BSAI crab during 1998, 2001, or 2004. | Entire EDR for each year that BSAI crab was processed. |

(4) *EDR certification pages*. (i) The owner or leaseholder must submit the EDR certification pages either:

(A) *As part of the entire EDR*. The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) *As a separate document*. If the owner or leaseholder did not process BSAI crab in 1998, 2001, or 2004, he or she must submit the completed EDR certification pages only, and must attest that he or she meets the conditions exempting him or her from submitting the EDR, by signing and dating the certification pages, for each year of 1998, 2001, or 2004 that this applies.

(ii) The owner or leaseholder must submit the following information on the certification pages:

(A) *Calendar year of EDR*. Calendar years corresponding to 1998, 2001, or 2004;

(B) *SFCP information*. SFCP name, USCG documentation number, ADF&G processor code, current estimated market value of vessel and equipment, and replacement value of vessel and equipment.

(C) *Owner information*. Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available).

(D) *Designated representative*. Any owner or leaseholder may appoint a designated representative, who is an individual for responding to questions on the EDR, and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) *Person completing this report*. (1) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(*2*) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (e)(4)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(*3*) Name of person, title, business telephone number, facsimile number, and e-mail address (if available).

(5) *EDR*. The owner or leaseholder must record the following information on an EDR.

(i) *BSAI Crab activity chart*. Complete a crab activity chart by entering the following information: CR fishery code, number of crab processing days, dates covered (beginning and ending day, month and year), raw crab pounds purchased, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (Yes or No).

(ii) *Crab processing labor costs*. CR fishery code, average number of crab positions, total man-hours, and total labor payment.

(iii) *BSAI Crab crew residence*. For employees that participated in BSAI crab processing, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence.

(B) If state other than Alaska, enter primary state of residence.

(C) If country other than United States, enter primary country of residence.

(iv) *BSAI crab custom processing done for you*. CR fishery code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(v) *Raw crab purchases from delivering vessels*. CR fishery code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(vi) *Annual BSAI crab sales*. Record the following information on crab sales to affiliated entities and to unaffiliated entities: species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(vii) *BSAI crab-specific vessel data*. Total of fisheries taxes which include the Alaska fisheries business tax, SMAA taxes, and other local sales tax on raw fish; processing and packaging materials, equipment, and supplies; food and provisions; other costs for direct crab labor; insurance deductible fees; re-packing costs; broker fees and promotions for BSAI crab sales (by CR fishery code); observer costs (by CR fishery code); freight costs for supplies to the vessel; freight and handling costs for processed crab products from the vessel; product storage; and other crab-specific costs (specify).

(viii) *Vessel-specific costs*. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an ''X'' in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate capitalized expenditures for vessel, gear and equipment; R&M expenses for vessel, gear and equipment (city and state where repairs were made); number of employees and salaries for foremen, managers and other employees not included in direct labor costs; and other vessel-specific costs (specify).

(ix) *BSAI crab custom processing performed for others*. CR fishery code, product code, process code, and processing revenue.

(x) *Annual totals for all fisheries*. For the calendar year, record the total processing days, gross revenue, finished pounds processed, and processing labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(f) *Stationary floating crab processor (SFCP) annual EDR*—(1) *Requirement*. On or before June 28 of each year, any owner or leaseholder of an SFCP that processed crab from a CR fishery must submit to the DCA, at the address provided on the form, an EDR for annual data for the previous calendar year. For the year 2005, the annual EDR is due on or before June 28, 2006.

(2) *Instructions*. Instructions for submitting an SFCP annual EDR and certification page are specified in the following table:

| If you are . . . | And . . . | You must complete and submit . . . |
|---|---|---|
| (i) The SFCP owner. | (A) You processed BSAI crab in the SFCP described at paragraph (f)(3)(ii)(B) of this section during this calendar year. | Entire EDR. |
| | (B) No one processed BSAI crab in the SFCP described at paragraph (f)(3)(ii)(B) of this section during this calendar year. | EDR certification pages. |
| | (C) You leased all of your IPQ to another party and processed no BSAI crab in the SFCP described at paragraph (f)(3)(ii)(B) of this section during this calendar year. | (*1*) EDR certification pages. |
| | | (*2*) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year. |
| | (D) You leased a portion of your IPQ to another party, but processed some BSAI crab in the SFCP described at paragraph (f)(3)(ii)(B) of this section during this calendar year. | (*1*) Entire EDR. |
| | | (2) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year. |
| (ii) The leaseholder described in paragraph (f)(1) of this section. | You operated the SFCP described at paragraph (f)(3)(ii)(B) of this section and processed some BSAI crab during this paragraph calendar year. | Entire EDR. |

(3) *EDR certification pages.* (i) The owner or leaseholder must submit the EDR certification pages either:

(A) *As part of the entire EDR.* The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) *As a separate document.* The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages (see paragraph (e)(2) of this section).

(ii) The owner or leaseholder must submit the following information on the certification pages:

(A) *Calendar year of EDR.* Calendar year of the reporting year;

(B) *SFCP information.* SFCP name, USCG documentation number, ADF&G processor code, RCR permit number, current estimated market value of vessel and equipment, and replacement value of vessel and equipment.

(C) *Owner information.* Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available).

(D) *Designated representative.* Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) *Person completing the report.* (*1*) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(*2*) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (f)(3)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(*3*) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(4) *EDR.* The owner or leaseholder must record the following information on an EDR.

(i) *BSAI Crab activity chart.* Complete a crab activity chart by entering the following information: CR fishery code, number of crab processing days, dates covered (beginning and ending day, month and year), raw crab pounds purchased, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (Yes or No).

(ii) *Crab processing labor costs.* CR fishery code, average number of crab processing positions, total man-hours, and total processing labor payment.

(iii) *BSAI Crab employee residence.* For employees that participated in BSAI crab processing, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence.

(B) If state other than Alaska, enter primary state of residence.

(C) If country other than United States, enter primary country of residence.

(iv) *BSAI crab custom processing done for you.* CR fishery code, species code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(v) *Raw crab purchases from delivering vessels.* CR fishery code, species code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(vi) *Annual BSAI crab sales.* For affiliated entities and unaffiliated entities enter species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(vii) *BSAI crab-specific vessel costs.* Total of fisheries taxes which includes the Alaska fisheries business tax, SMAA taxes, and other local sales tax on raw fish; processing and packaging materials, equipment and supplies by city and state; food and provisions; other costs for direct crab labor; insurance deductible fees; re-packing costs; broker fees and promotions for BSAI crab sales (by CR fishery code); observer costs (by CR fishery code); freight costs for supplies to the vessel; freight and handling costs for processed crab products from the vessel; product storage; and other crab-specific costs (specify).

(viii) *Vessel-specific costs.* Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an ''X'' in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all fishing activities. Indicate fuel, electricity, lubrication and hydraulic fluids; capitalized expenditures for vessel, gear and equipment (city and state where purchased); R&M for vessel, gear and equipment (city and state where repairs were made); number of employees and salaries for foremen, managers and other employees not included in direct labor costs; and other vessel-specific costs (specify).

(ix) *BSAI crab custom processing performed for others.* CR fishery code, species code, product code, process code, and processing revenue.

(x) *Annual totals for all fisheries.* For the calendar year, record the total processing days, gross revenue, finished pounds processed, and labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(g) *Shoreside processor historical EDR*—(1) *Requirement.* Any owner or leaseholder of a shoreside processor who processed CR crab in the calendar years 1998, 2001, or 2004 must submit to the DCA, at the address provided on the form, an EDR for historical data for each of the specified calendar years, if they:

(i) Received an allocation of QS, PQS, IFQ, or IPQ under this Program;

(ii) Did not qualify for and receive QS, PQS, IFQ, or IPQ, but are participants at any time since January 23, 2004, in the BSAI crab fisheries.

(2) *Time limit.* Any owner or leaseholder of the shoreside processor described in paragraph (g)(4)(ii)(B) of this section must submit the historical EDR to the DCA by June 30, 2005, at the address provided on the form.

(3) *Instructions.* Instructions for submitting a shoreside processor historical EDR and certification page are specified in the following table:

| If you are . . . | And . . . | You must complete and submit . . . |
|---|---|---|
| (i) The shoreside processor owner described in paragraph (g)(1) of this section. | (A) You processed BSAI crab in the plant described at paragraph (g)(4)(ii)(B) of this section during 1998, 2001, or 2004. | Entire EDR for each year that BSAI crab was processed. |
| | (B) No one processed BSAI crab in the plant described at paragraph (g)(4)(ii)(B) of this section during 1998, 2001, or 2004. | EDR certification pages for each year that no one processed BSAI crab. |
| | (C) You leased your shoreside processor to another party, and processed no BSAI crab in the plant described at paragraph (g)(4)(ii)(B) of this section during 1998, 2001, or 2004. | (*1*) EDR certification pages. |
| | | (*2*) Provide the name, address, and telephone number of the person to whom you leased the shoreside processor during 1998, 2001, or 2004. |
| | (D) You leased your shoreside processor for a portion of the time to another party, but processed some BSAI crab in the plant described at paragraph (g)(4)(ii)(B) of this section during 1998, 2001, or 2004. | (*1*) Entire EDR for each year that BSAI crab was processed. |
| | | (*2*) Provide the name, address, and telephone number of the person to whom you leased the shoreside processor during 1998, 2001, or 2004. |
| (ii) The leaseholder described in paragraph (g)(1) of this section. | You operated the plant described at (g)(4)(ii)(B) of this section and processed some BSAI crab during 1998, 2001, or 2004. | Entire EDR for each year that BSAI crab was processed. |

(4) *EDR certification pages.* (i) The owner or leaseholder must submit the EDR certification pages either:

(A) *As part of the entire EDR.* The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) *As a separate document.* If the owner or leaseholder did not process BSAI crab in 1998, 2001, or 2004, he or she must submit the completed EDR certification pages only, and must attest that he or she meets the conditions exempting him or her from submitting the EDR, by signing and dating the certification pages for each year of 1998, 2001, or 2004 that this applies;

(ii) *Required information.* The owner or leaseholder must submit the following information on the certification pages:

(A) *Calendar year of EDR.* Calendar years corresponding to 1998, 2001, or 2004;

(B) *Shoreside processor information.* Shoreside processor name, ADF&G processor code, physical location of land-based plant (street address, city, state, zip code), borough assessed value of plant and equipment, year assessed, and current estimated market value of plant and equipment;

(C) *Owner information.* Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available);

(D) *Designated representative.* Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) *Person completing the report.* (1) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(*2*) If the owner is the person completing the report, check the correct box. If the name and address of the owner provided in paragraph (g)(4)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(*3*) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(5) *EDR*. The owner or leaseholder must record the following information on an EDR.

(i) *BSAI crab activity chart*. Complete a crab activity chart by entering the following information: CR fishery code, number of crab processing days, dates covered (beginning and ending day, month and year), raw crab pounds purchased, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (Yes or No).

(ii) *Crab processing labor costs*. CR fishery code, average number of crab processing positions, total man-hours, and total processing labor payment.

(iii) *BSAI Crab crew residence*. For employees that participated in BSAI crab processing, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence.

(B) If state other than Alaska, enter primary state of residence.

(C) If country other than United States, enter primary country of residence.

(iv) *BSAI crab custom processing done for you*. CR fishery code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(v) *Raw crab purchases from delivering vessels*. CR fishery code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(vi) *Annual BSAI crab sales*. For affiliated entities and unaffiliated entities enter species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(vii) *BSAI crab-specific plant costs*. Total fisheries taxes which include the Alaska fisheries business tax, SMAA taxes, and other local sales tax on raw fish; processing and packaging materials, equipment and supplies; food and provisions; other costs for direct crab labor; insurance deductible fees; repacking costs, broker fees and promotions for BSAI crab sales by CR fishery code; observer costs by CR fishery code; freight costs for supplies to the plant; freight and handling costs for processed crab products from the plant; product storage; water, sewer, and waste disposal; and other crab specific costs (specify).

(viii) *Plant-specific costs*. Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an ''X'' in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all vessel activities: fuel, electricity, lubrication, and hydraulic fluids; capitalized expenditures for plant, and equipment; R&M for existing plant and equipment; number of employees and salaries for foremen, managers and other employees not included in direct labor costs; and other plant-specific costs (specify).

(ix) *BSAI crab custom processing done for others*. CR fishery code, product code, process code, and processing revenue.

(x) *Annual totals for all fisheries*. For the calendar year, record the total processing days, gross revenue, finished pounds processed, and labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(h) *Shoreside processor annual EDR*—(1) *Requirement*. On or before June 28 of each year, any owner or leaseholder of a shoreside processor that processed crab from a CR fishery must submit to the DCA, at the address provided on the form, an EDR for annual data for the previous year. For the year 2005, the annual EDR is due on or before June 28, 2006.

(2) *Instructions*. Instructions for submitting a shoreside processor annual EDR and certification page are specified in the following table:

| If you are . . . | And . . . | You must complete and submit . . . |
|---|---|---|
| (i) The shoreside processor owner. | (A) You processed BSAI crab in the plant described at paragraph (h)(3)(ii)(B) of this section during this calendar year. | Entire EDR. |

| If you are . . . | And . . . | You must complete and submit . . . |
|---|---|---|
| | (B) No one processed BSAI crab in the plant described at paragraph (h)(3)(ii)(B) of this section during this calendar year. | EDR certification pages. |
| | (C) You leased all of your IPQ to another party, and processed no BSAI crab in the plant described at paragraph (h)(3)(ii)(B) of this section during this calendar year. | (*1*) EDR certification pages.<br>(*2*) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year. |
| | (D) You leased portions of your IPQ to another party, but processed some BSAI crab in the plant described at paragraph (h)(3)(ii)(B) of this section during this calendar year. | (*1*) Entire EDR.<br>(*2*) Provide the name, address, and telephone number of the person to whom you leased the IPQ during this calendar year. |
| (ii) The leaseholder described in paragraph (h)(1) of this section. | You operated the plant described at paragraph (h)(3)(ii)(B) of this section and processed some BSAI crab during this calendar year. | Entire EDR. |

(3) *EDR certification pages.* (i) The owner or leaseholder must submit the EDR certification pages either:

(A) *As part of the entire EDR.* The owner or leaseholder must submit the completed EDR certification pages as part of the entire EDR and must attest to the accuracy and completion of the EDR by signing and dating the certification pages; or

(B) *As a separate document.* The owner or leaseholder must submit the completed EDR certification pages only, and must attest that they meet the conditions exempting them from submitting the EDR, by signing and dating the certification pages.

(ii) The owner or leaseholder must submit the following information on the certification pages:

(A) *Calendar year of EDR.* Calendar year for the reporting year;

(B) *Shoreside processor information.* Shoreside processor name, RCR permit number, ADF&G processor code, physical location of land-based plant (street address, city, state, zip code), borough assessed value of plant and equipment, current estimated market value of plant and equipment, and year assessed.

(C) *Owner information.* Name of company, partnership, or sole proprietorship and business telephone number, facsimile number, and e-mail address (if available);

(D) *Designated representative.* Any owner or leaseholder may appoint a designated representative who is an individual for responding to questions on the EDR and must ensure that the designated representative complies with the regulations in this part. The designated representative is the primary contact person for the DCA on issues relating to data required in the EDR.

(E) *Person completing the report.* (*1*) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(*2*) If the owner is the person completing this report, check the correct box. If the name and address of the owner provided in paragraph (h)(3)(ii)(C) of this section are the same as the name and address of the person completing the EDR, the information does not need to be repeated here; and

(*3*) Name of person, title, and business telephone number, facsimile number, and e-mail address (if available).

(4) *EDR.*The owner or leaseholder must record the following information on an EDR.

(i) *BSAI Crab activity chart.* Complete a crab activity chart by entering the following information: CR fishery code, number of crab processing days, dates covered (beginning and ending day, month and year), raw crab pounds purchased, product code, process code, crab size, crab grade, box size, finished pounds, and whether custom processed (Yes or No).

(ii) *Crab processing labor costs.* CR fishery code, average number of crab processing positions, total man-hours, and total processing labor payment.

(iii) *BSAI Crab employee residence.* For employees that participated in BSAI crab processing, record the locations where they reside and the number of employees that are from each residential location, as follows:

(A) If Alaska, enter primary city of residence.

(B) If state other than Alaska, enter primary state of residence.

(C) If country other than United States, enter primary country of residence.

(iv) *BSAI crab custom processing done for you.* CR fishery code, species code, raw crab pounds supplied to custom processors, raw crab pounds purchased from custom processors, product code, process code, crab size, crab grade, box size, finished pounds, and processing fee.

(v) *Raw crab purchases from delivering vessels.* CR fishery code, species code, crab size, crab grade, raw crab pounds purchased, and gross payment.

(vi) *Annual BSAI crab sales.* For affiliated entities and unaffiliated entities enter species code, product code, process code, crab size, crab grade, box size, finished pounds, and FOB Alaska Revenues.

(vii) *BSAI crab-specific plant costs.* Total of fisheries taxes which include the Alaska fisheries business tax, SMAA taxes, and other local sales tax on raw fish; processing and packaging materials, equipment and supplies by city and state; food and provisions; other costs for direct crab labor; insurance deductible fees; re-packing costs; broker fees and promotions for BSAI crab sales by CR fishery code; observer costs by CR fishery code; freight costs for supplies to the plant; freight and handling costs for processed crab products from the plant; product storage; water, sewer, and waste disposal; and other crab specific costs (specify).

(viii) *Plant-specific costs.* Record the total annual costs for each category. If the reported total cost is not exclusively for BSAI crab operations, place an ''X'' in the COST RELATED TO MORE THAN JUST CRAB FISHING column. The agency or contracted analyst will prorate this amount over all plant activities: fuel, electricity, lubrication, and hydraulic fluids; capitalized expenditures for plant and equipment by city and state; R&M for existing plant and equipment by city and state; number of employees and salaries for foremen, managers and other employees not included in direct labor costs; and other plant-specific costs (specify).

(ix) *BSAI crab custom processing performed for others.* CR fishery code, species code, product code, process code, and processing revenue.

(x) *Annual totals for all fisheries.* For the calendar year, record the total processing days, gross revenue, finished pounds processed, and labor costs for your fishing activities in all fisheries in which you participated (crab, groundfish, etc.).

(i) *Verification of data.* (1) The DCA shall conduct verification of information with the owner or leaseholder.

(2) The owner or leaseholder must respond to inquiries by the DCA within 20 days of the date of issuance of the inquiry.

(3) The owner or leaseholder must provide copies of additional data to facilitate verification by the DCA. The DCA auditor may review and request copies of additional data provided by the owner or leaseholder, including but not limited to: previously audited or reviewed financial statements, worksheets, tax returns, invoices, receipts, and other original documents substantiating the data.

(j) *DCA authorization.* The DCA is authorized to request voluntary submission of economic data specified in this section from persons who are not required to submit an EDR under this section.

[70 FR 10241, Mar. 2, 2005, as amended at 70 FR 33395, June 8, 2005; 71 FR 38114, July 5, 2006]

## § 680.7 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) *Receiving and processing CR crab.* (1) Process any CR crab that has not been weighed by an RCR on:

(i) A scale approved by the State in which the RCR is located and that meets the requirements described in § 680.23(f); or

(ii) Onboard a catcher/processor RCR on a scale approved by NMFS as described in § 680.23(e).

(2) Receive CR crab harvested under an IFQ permit in any region other than the region for which the IFQ permit is designated.

(3) Use IPQ on board a vessel outside of the territorial sea or internal waters of the State of Alaska.

(4) Use IPQ in any region other than the region for which the IPQ is designated.

(5) Receive any crab harvested under a Class A IFQ permit in excess of the total amount of unused IPQ held by the RCR.

(6) Receive crab harvested under a Class B IFQ permit on a vessel if that vessel was used to harvest and process any crab in that crab QS fishery during the same crab fishing season.

(7) For an IPQ holder to use more IPQ crab than the maximum amount of IPQ that may be held by that person. Use of IPQ includes all IPQ held by that person and all IPQ crab that are received by any RCR at any shoreside crab processor or stationary floating crab processor in which that IPQ holder has a 10 percent or greater direct or indirect ownership interest.

(8) For a shoreside crab processor or stationary floating crab processor that does not have at least one owner with a 10 percent or greater direct or indirect ownership who also holds IPQ in that crab QS fishery, to be used to receive in excess of 30 percent of the IPQ issued for that crab fishery.

(b) *Landing CR crab*. (1) Remove retained and unprocessed CR crab from a vessel at any location other than to an RCR operating under an approved catch monitoring plan as described in § 680.23(g) unless that crab is accompanied by a signed landing receipt showing the crab was properly landed.

(2) Remove any CR crab processed at sea from any vessel before completing a landing report, as defined at § 680.5(c), for all such CR crab onboard.

(3) Resume fishing for CR crab or take CR crab on board a vessel once a landing has commenced and until all CR crab are landed.

(4) Fail to remove all processed crab harvested under a CPO or a CPC IFQ permit to an onshore location within the United States, accessible by road or regularly scheduled air service, and to weigh that crab product on a scale approved by the State in which the crab is weighed.

(5) Make an IFQ crab landing except by an individual who holds either a crab IFQ permit or a crab IFQ hired master permit issued under § 680.4 in his or her name.

(6) Make an IFQ crab landing without the following on board: a copy of the crab IFQ permit to be debited for the landing; and, if applicable, a copy of the crab IFQ hired master permit issued under § 680.4 in the name of the person making the landing.

(7) For a Crab IFQ hired master to make an IFQ crab landing on any vessel other than the vessel named on the Crab IFQ hired master permit.

(c) *Harvest crab*. (1) Harvest any CR crab with any vessel not named on a valid Federal crab vessel permit.

(2) Harvest CR crab with any vessel that does not use functioning VMS equipment as required by § 680.23.

(3) Harvest on any vessel more IFQ crab than are authorized under § 680.42.

(4) Harvest crab under a CVC or a CPC IFQ permit unless the person named on the IFQ permit is on board that vessel.

(5) Harvest crab under a CPO or CPC permit unless all scales used to weigh crab, or used by an observer for sampling crab, have passed an inseason scale test according to § 680.23(e)(1).

(6) For any person who is not an entity defined in § 680.40(c)(5)(ii), (c)(5)(iii), or (c)(5)(iv) to:

(i) Hold converted CPO QS.

(ii) Use the CPO IFQ derived from that converted CPO QS outside of a crab harvesting cooperative.

(d) *Recordkeeping and reporting*. (1) Fail to submit information on any report, application, or statement required under this part.

(2) Submit false information on any report, application, or statement required under this part.

(e) *Permits*. (1) Retain IFQ crab without a valid crab IFQ permit for that fishery on board the vessel.

(2) Retain IFQ crab on a vessel in excess of the total amount of unharvested crab IFQ, for a crab QS fishery, that is currently held by all

crab IFQ permit holders or Crab IFQ Hired Masters aboard that vessel.

(f) *IPQ*. Use IPQ as collateral or otherwise leverage IPQ to acquire an ownership interest in Class B IFQ.

(g) *General*. (1) Possess, buy, sell, or transport any crab harvested or landed in violation of any provision of this part.

(2) Violate any other provision under this part.

(h) *Inseason action*. Conduct any fishing contrary to notification of inseason action closure, or adjustment issued under § 680.22.

[70 FR 10241, Mar. 2, 2005, as amended at 70 FR 33395, June 8, 2005; 73 FR 29982, May 23, 2008]

### § 680.8 Facilitation of enforcement.

See § 600.730 of this chapter.

### § 680.9 Penalties.

(a) Any person committing, or a fishing vessel used in the commission of, a violation of the Magnuson-Stevens Act, or any regulation issued under the Magnuson-Stevens Act, is subject to the civil and criminal penalty provisions, permit sanctions, and civil forfeiture provisions of the Magnuson-Stevens 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 PQS, QS, IPQ, IFQ, Crab IFQ hired master, Federal crab vessel permit, or RCR permits.

(b) In the event a holder of any IPQ is found by a court of competent jurisdiction, either in an original action in that court or in a proceeding to enforce or review the findings or orders of any Government agency having jurisdiction under the antitrust laws, to have violated any of the provisions of antitrust laws in the conduct of the licensed activity, the Secretary of Commerce may revoke all or a portion of such IPQ. The antitrust laws of the United States include, but are not limited to, the following Acts:

(1) The Sherman Act, 15 U.S.C. 1–7;

(2) The Wilson Tariff Act, 15 U.S.C. 8–11;

(3) The Clayton Act, 15 U.S.C. 12–27; and

(4) The Federal Trade Commission Act, 15 U.S.C. 12 and 45(a).

## Subpart B—Management Measures

### § 680.20 Arbitration System.

(a) *Applicability*—(1) *Arbitration System*. All CVO QS, Arbitration IFQ, Class A IFQ holders, PQS and IPQ holders must enter the contracts as prescribed in this section that establish the Arbitration System. Certain parts of the Arbitration System are voluntary for some parties, as specified in this section. All contract provisions will be enforced by parties to those contracts.

(2) *Open negotiation*. Any holder of uncommitted IFQ may negotiate with any holder of uncommitted IPQ, the price and delivery terms for that season or for future seasons for any uncommitted IFQ and uncommitted IPQ. Uncommitted IFQ holders and uncommitted IPQ holders may freely contact each other and initiate open negotiations.

(b) *Eligibility for Arbitration System*—(1) *Arbitration Organization*. The following persons are the only persons eligible to join an Arbitration Organization:

(i) Holders of CVO QS,

(ii) Holders of PQS,

(iii) Holders of Arbitration IFQ,

(iv) Holders of Class A IFQ affiliated with a PQS or IPQ holder, and

(v) Holders of IPQ.

(2) *Persons eligible to use negotiation and Binding Arbitration procedures*. The following persons are the only persons eligible to enter contracts with a Contract Arbitrator to use the negotiation and Binding Arbitration procedures described in paragraph (h) of this section to resolve price and delivery disputes or negotiate remaining contract terms not previously agreed to by IFQ and IPQ holders under other negotiation approaches:

(i) Holders of Arbitration IFQ, and

(ii) Holders of IPQ.

(3) *Persons ineligible to use negotiation and Binding Arbitration procedures*. Holders of IFQ that are affiliated with holders of PQS or IPQ are ineligible to

enter contracts with a Contract Arbitrator to use the negotiation and Binding Arbitration procedures described in paragraph (h) of this section to resolve price and delivery disputes or negotiate remaining contract terms not previously agreed to by IFQ and IPQ holders under other negotiation approaches.

(c) *Preseason requirements for joining an Arbitration Organization*. All holders of CVO QS, PQS, Arbitration IFQ, Class A IFQ affiliated with a PQS or IPQ holder, and IPQ must join and maintain a membership in an Arbitration Organization as specified in paragraph (d) of this section. All holders of QS, PQS, IFQ, or IPQ identified in the preceding sentence must join an Arbitration Organization at the following times:

(1) For QS holders and PQS holders except as provided for in paragraph (c)(3) of this section, not later than May 1 of each year for the crab fishing year that begins on July 1 of that year.

(2) For IFQ holders and IPQ holders, not later than 15 days after the issuance of IFQ and IPQ for that crab QS fishery if that IFQ or IPQ holder does not also hold QS or PQS.

(3) During 2005, QS and PQS holders must join an Arbitration Organization as described in paragraph (d) of this section not later than August 15, 2005.

(4) Persons receiving QS, PQS, IFQ, or IPQ by transfer after these dates must join an Arbitration Organization at the time of receiving the QS, PQS, IFQ, or IPQ by transfer.

(d) *Formation process for an Arbitration Organization*. (1) Arbitration Organizations must be formed to select and contract a Market Analyst, Formula Arbitrator, Contract Arbitrator(s), and establish the Arbitration System, including the payment of costs of arbitration, described in this section for each crab QS fishery. All persons defined in paragraph (a)(1) of this section must join an Arbitration Organization.

(i) *Arbitration QS/IFQ Arbitration Organization*. Holders of Arbitration QS and Arbitration IFQ must join an Arbitration QS/IFQ Arbitration Organization. This Arbitration Organization may not have members who are not holders of Arbitration QS or Arbitration IFQ. Arbitration QS holders and Arbitration IFQ holders may join separate Arbitration QS/IFQ Arbitration Organizations. The mechanism for forming an Arbitration Organization is determined by the members of the organization.

(ii) *PQS/IPQ Arbitration Organization*. Holders of PQS or IPQ must join a PQS/IPQ Arbitration Organization. This Arbitration Organization may not have members who are not holders of PQS or IPQ. PQS holders and IPQ holders may join separate PQS/IPQ Arbitration Organizations. The mechanism for forming an Arbitration Organization is determined by the members of the organization.

(iii) *Affiliated QS/IFQ Arbitration Organization*. Holders of CVO QS or Class A IFQ affiliated with a PQS or IPQ holder must join an Affiliated QS/IFQ Arbitration Organization. This Arbitration Organization may not have members who are not holders of QS or IFQ affiliated with a PQS or IPQ holder. CVO QS holders and Class A IFQ holders may join separate Affiliated QS/IFQ Arbitration Organizations. The mechanism for forming an Arbitration Organization is determined by the members of the organization.

(iv) *Limitation on joining an Arbitration Organization*. For a crab QS fishery during a crab fishing year, a person who holds:

(A) PQS/IPQ may join only one PQS/IPQ Arbitration Organization;

(B) Affiliated QS/IFQ may join only one Affiliated QS/IFQ Arbitration Organization; and

(C) Arbitration QS/IFQ may join only one Arbitration QS/IFQ Organization.

(2) Each Arbitration Organization must submit a complete Annual Arbitration Organization report to NMFS. A complete report must include:

(i) A copy of the business license of the Arbitration Organization;

(ii) A statement identifying the members of the organization and the amount of Arbitration QS and Arbitration IFQ, Non-Arbitration QS and Non-Arbitration IFQ, or PQS and IPQ held by each member and represented by that Arbitration Organization;

(iii) QS, PQS, IFQ, and IPQ ownership information on the members of the organization;

(iv) Management organization information, including:

(A) The bylaws of the Arbitration Organization;

(B) A list of key personnel of the management organization including, but not limited to, the board of directors, officers, representatives, and any managers;

(v) The name of the Arbitration Organization, permanent business mailing addresses, name of contact persons and additional contact information of the managing personnel for the Arbitration Organization, resumes of management personnel; and

(vi) A copy of all minutes of any meeting held by the Arbitration Organization or any members of the Arbitration Organization.

(3) An Arbitration Organization, with members who are QS or PQS holders, must submit a complete Annual Arbitration Organization Report to NMFS by electronic mail to the Regional Administrator, NMFS, or by mail addressed to the Regional Administrator, NMFS, Post Office Box 21668, Juneau, Alaska 99802 by:

(i) August 20, 2005 for the crab fishing year beginning on July 1, 2005.

(ii) May 1 of each subsequent year for the crab fishing year beginning on July 1 of that year.

(4) An Arbitration Organization, with members who are IFQ or IPQ holders, must submit a complete Annual Arbitration Organization Report to NMFS by electronic mail to the Regional Administrator, NMFS, or by mail addressed to the Regional Administrator, NMFS, Post Office Box 21668, Juneau, Alaska 99802 by not later than 15 days after the issuance of IFQ and IPQ for that crab QS fishery.

(e) *Role of Arbitration Organization(s) and annual requirements*—(1) *General.* The members of each Arbitration Organization must enter into a contract that specifies the terms and conditions of participation in the organization.

(i) The contract among members of an Arbitration QS/IFQ Arbitration Organization, or a PQS/IPQ Arbitration Organization shall include the terms, conditions, and provisions specified in paragraph (e)(2) of this section.

(ii) The contract among members of an Affiliated QS/IFQ Arbitration Organization shall include the terms, conditions, and provisions in paragraph (e)(3) of this section.

(2) *Provisions for Arbitration QS/IFQ Arbitration Organizations, and PQS/IPQ Arbitration Organizations*—(i) *Selection of Market Analyst, Formula Arbitrator, and Contract Arbitrator(s).* A provision authorizing the Arbitration Organization to act on behalf of its members in the selection of and contracting with the Market Analyst, Formula Arbitrator, and Contract Arbitrator(s) under paragraph (e)(4) of this section.

(ii) *Confidentiality of information.* A provision that a member that is a party to a Binding Arbitration proceeding shall sign a confidentiality agreement with the party with whom it is arbitrating stating they will not disclose at any time to any person any information received from the Contract Arbitrator or any other party in the course of the arbitration. That confidentiality agreement shall specify the potential sanctions for violating the agreement.

(iii) *Provision of information to members.* A provision requiring the Arbitration Organization to provide to its members:

(A) A copy of the contracts for the Market Analyst, Formula Arbitrator, and Contract Arbitrator for each fishery in which the member participates; and

(B) A copy of the Market Report and the Non-Binding Price Formula for each fishery in which the member participates within 5 days of its release.

(iv) *Information release.* (A) A provision requiring that the Arbitration Organization deliver to NMFS any data, information, and documents generated pursuant to this section.

(B) In the case of a PQS/IPQ Arbitration Organization(s):

(*1*) A provision that requires the PQS/IPQ Arbitration Organization to provide for the delivery of the names of and contact information for its members who hold uncommitted IPQ, and to identify the regional designations and amounts of such uncommitted IPQ, to Arbitration QS/IFQ Arbitration Organizations either directly or through

a third-party data provider so the information may be provided to any persons that hold uncommitted Arbitration IFQ for purposes of Share Matching, Binding Arbitration, and Post Arbitration Opt-in;

(*2*) A provision that prohibits the disclosure of any information received under this provision to any person except those Arbitration QS/IFQ Arbitration Organizations, or their third-party data provider so that information may be provided to holders of uncommitted Arbitration IFQ. The provision will require that information concerning uncommitted IPQ be updated within 24 hours of a change of any such information, including any commitment of IPQ, and that information be provided to those persons that hold uncommitted Arbitration IFQ. This provision may include a mechanism to provide information to uncommitted Arbitration IFQ holders through a secure Web site, or through other electronic means;

(*3*) A provision that requires the PQS/IPQ Arbitration Organization to arrange for the delivery to all holders of uncommitted Arbitration IFQ through the Arbitration QS/IFQ Arbitration Organizations holders or their third-party data provider the terms of a decision of a Contract Arbitrator in a Binding Arbitration proceeding involving a member that holds uncommitted IPQ within 24 hours of notice of that decision. This provision may include a mechanism to provide information to uncommitted Arbitration IFQ holders through a secure Web site, or through other electronic means; and

(*4*) A provision that requires the holders of uncommitted IPQ to provide information concerning such uncommitted IPQ as necessary for the PQS/IPQ Arbitration Organization to comply with this paragraph and prohibits the disclosure of any such information by such holder to any person, except as directed in this paragraph.

(C) In the case of a Arbitration QS/IFQ Organization(s):

(*1*) A provision that requires Arbitration QS/IFQ Arbitration Organizations holders, or their third-party data provider to provide information concerning uncommitted IPQ from PQS/IPQ Arbitration Organization(s) as necessary for the Arbitration IFQ holder to use that information in a timely manner.

(*2*) A provision that prohibits the disclosure of any such information concerning uncommitted IPQ from PQS/IPQ Arbitration Organization to any person, except as directed therein.

(D) Third-party Data Provider provision. Notwithstanding any provision in this section, an Arbitration Organization required to supply or receive information under this section must hire administrative personnel or may contract with a person who will arrange for the receipt and delivery of information as required. Any such third party that receives such information cannot be affiliated with or employed by or related to any QS, PQS, IFQ, or IPQ holder in any crab QS fishery and must enter a contract that:

(*1*) Prohibits such third person from releasing any information received to any person except as specifically provided by this section; and

(*2*) Prohibits such third person from entering taking any employment from or establishing any relationship, except under a contract meeting the requirements of this section for a period of 3 years after the termination of the contract.

(v) *Costs*. A provision that authorizes the Arbitration Organization to enter into a contract with all other Arbitration Organizations for the payment of the costs of arbitration as specified under this section.

(A) The Arbitration Organizations must establish a contract that requires the payment of all costs of the Market Analyst, Formula Arbitrator, and Contract Arbitrator(s), dissemination of information concerning uncommitted IPQ to holders of uncommitted Arbitration IFQ, and the costs of such persons associated with lengthy season approach, share matching approach, Binding Arbitration, quality and performance disputes, to be shared equally so that IPQ holders pay 50 percent of the costs and Arbitration IFQ holders and Class A IFQ holders pay 50 percent of the costs.

(B) Each person shall pay an amount of the cost based on the amount of IPQ or IFQ held by that person at the time

of application to an Arbitration Organization.

(C) PQS holders shall advance all costs and shall collect the contribution of IFQ holders at landing subject to terms mutually agreed to by the Arbitration Organizations.

(vi) *Negotiation methods.* A provision that prohibits the Arbitration Organization from engaging in any contract negotiations on behalf of its members, except for those necessary to hire the Market Analyst, Formula Arbitrator, and Contract Arbitrator(s).

(vii) *Enforcement of the contract.* Violations of the contract shall be enforced under civil law.

(3) *Provisions applying to Affiliated QS/IFQ Arbitration Organizations.* The provisions that allow for the provision of information to members, payment of costs, limits on the transfer of QS, PQS, IFQ, and IPQ, and enforcement of the contract as described under paragraphs (e)(2)(iv), (v), (vii), and (viii) will apply to the contract among members of an Affiliated QS/IFQ Arbitration Organization(s).

(4) *Process for selection of Market Analyst, Formula Arbitrator, and Contract Arbitrator(s).* (i) For each crab fishing year, QS holders who are members of Arbitration QS/IFQ Arbitration Organization(s) and PQS holders who are members of PQS/IPQ Arbitration Organization(s), by mutual agreement, will select one Market Analyst, one Formula Arbitrator, and Contract Arbitrator(s) for each crab QS fishery. The number of Contract Arbitrators selected for each fishery will be subject to the mutual agreement of those Arbitration Organizations. The selection of the Market Analyst and the Formula Arbitrator must occur in time to ensure the Market Report and non-binding price formula are produced within the time line established in paragraph (e)(4)(ii) of this section.

(ii) The Arbitration Organizations representing Arbitration QS holders and PQS holders in a crab fishery shall establish by mutual agreement the contractual obligations of the Market Analyst, Formula Arbitrator, and Contract Arbitrator(s) for each fishery, which shall provide that the Market Report and Non-Binding Price Formula are produced not later than 50 days prior to the first crab fishing season for that crab QS fishery in that crab fishing year except as provided in paragraph (e)(6) of this section. The contractual obligations of the Market Analyst, the Formula Arbitrator and Contract Arbitrators will be enforced by the parties to the contract.

(iii) The same person may be chosen for the positions of Market Analyst and Formula Arbitrator for a fishery.

(iv) A person selected to be a Contract Arbitrator may not be the Market Analyst or Formula Arbitrator, and shall not be affiliated with, employed by, or otherwise associated with, the Market Analyst or Formula Arbitrator, for that fishery.

(5) *Notification to NMFS.* Not later than June 1 for that crab fishing year, except as provided in paragraph (e)(6) of this section, the Arbitration Organizations representing the holders of Arbitration QS and PQS in each fishery shall notify NMFS of the persons selected as the Market Analyst, Formula Arbitrator, and Contract Arbitrator(s) for the fishery by electronic mail addressed to the Regional Administrator, NMFS, or by mail addressed to the Regional Administrator, NMFS, Post Office Box 21668, Juneau, Alaska 99802. The Arbitration Organizations shall include a list of Arbitration Organizations that mutually agreed to the selection of the Market Analyst, Formula Arbitrator, and Contract Arbitrator(s) and signatures of representatives of those Arbitration Organizations and a copy of the contract with Market Analyst, the Formula Arbitrator, and each Contract Arbitrator. The notification must include a curriculum vitae and other relevant biographical material for each of these individuals.

(6) *First-year implementation.* During 2005, the selection of and establishment of the contractual obligations of the Market Analyst, Formula Arbitrator, and Contract Arbitrator(s) as required under this section shall occur not later than September 1, 2005.

(7) *IFQ and IPQ issuance and selection of the Market Analyst, Formula Arbitrator, and Contract Arbitrator(s).* NMFS will not issue CVO IFQ and IPQ for a

crab QS fishery until Arbitration Organizations establish by mutual agreement contracts with a Market Analyst, Formula Arbitrator, and Contract Arbitrator(s) for that fishery and notify NMFS.

(f) *Roles and standards for the Market Analyst and process for producing the Market Report.* (1) For each crab QS fishery, the Arbitration QS/IFQ Arbitration Organizations and the PQS/IPQ Arbitration Organizations shall establish a contract with the Market Analyst to produce a Market Report for the fishery. The terms of this contract must specify that the Market Analyst must produce a Market Report that shall provide an analysis of the market for products of that fishery.

(2) The contract with the Market Analyst must specify that:

(i) The Market Analyst shall base the Market Report on:

(A) A survey of the market for crab products produced by the fishery; and

(B) Information provided by the IPQ and IFQ holders regarding market conditions and expectations.

(ii) To the extent IPQ and IFQ holders provide information requested by the Market Analyst, they must provide such information directly to the Market Analyst and not to any other IPQ holder or IFQ holder, except that IFQ holders that are members of any single FCMA cooperative may share such information with other members of the same FCMA cooperative who are authorized to participate in the arbitration system.

(iii) The Market Analyst:

(A) May meet with IFQ holders who are members of any single FCMA cooperative collectively;

(B) Shall meet with IPQ holders individually;

(C) Shall meet with distinct crab FCMA cooperatives individually; and

(D) Shall meet with IFQ holders who are not members of the same FCMA cooperatives individually.

(iv) The information provided to the Market Analyst by IPQ and IFQ holders must be historical information based on activities occurring more than three months prior to the generation of the Market Report.

(v) The Market Analyst shall keep confidential the identity of the source of any particular information contained in the report. The Market Analyst may note generally the sources from which it gathered information. The report shall:

(A) Include only data that is based on information regarding activities occurring more than three months prior to the generation of the Market Report;

(B) Include only statistics for which there are at least five providers reporting data upon which each statistic is based and for which no single provider's data represents more than 25 percent of a weighted basis of that statistic; and

(C) Sufficiently aggregate any information disseminated in the report such that it would not identify specific price information by an individual provider of information.

(vi) The Market Report shall consider the following factors:

(A) Current ex-vessel prices, including ex-vessel prices received for crab harvested under Class A IFQ, Class B IFQ, and CVC IFQ permits;

(B) Consumer and wholesale product prices for the processing sector and the participants in the arbitration (recognizing the impact of sales to affiliates on wholesale pricing);

(C) Innovations and developments of the harvesting and processing sectors and the participants in the arbitration (including new product forms);

(D) Efficiency and productivity of the harvesting and processing sectors (recognizing the limitations on efficiency and productivity arising out of the management program structure);

(E) Quality (including quality standards of markets served by the fishery and recognizing the influence of harvest strategies on the quality of landings);

(F) The interest of maintaining financially healthy and stable harvesting and processing sectors;

(G) Safety and expenditures for ensuring adequate safety;

(H) Timing and location of deliveries; and

(I) The cost of harvesting and processing less than the full IFQ or IPQ allocation (underages) to avoid penalties for overharvesting IFQ and a mechanism for reasonably accounting for deadloss.

(vii) There shall only be one annual Market Report for each fishery.

(viii) The Market Analyst shall not issue interim or supplemental reports for each fishery.

(3) The Market Analyst shall not disclose any information to any person not required under this section.

(4) In 2005, the Market Report shall be produced not later than September 30, 2005 or 25 days prior to the first crab fishing season for that crab QS fishery whichever is later in that crab fishing year as required under this section.

(i) In all subsequent years, the Market Report shall be produced not later than 50 days prior to the first crab fishing season for that crab QS fishery.

(ii) The contract with the Market Analyst must specify that the Market Analyst will provide in that crab fishing year to:

(A) Each Arbitration Organization in that fishery;

(B) NMFS by electronic mail to the Regional Administrator, NMFS, or addressed to the Regional Administrator, NMFS, Post Office Box 21668, Juneau, Alaska 99802; and

(C) The Formula Arbitrator and any Contract Arbitrator(s) for the fishery.

(g) *Roles and standards for the Formula Arbitrator*. (1) For each crab QS fishery, the Arbitration QS/IFQ Arbitration Organizations and the PQS/IPQ Arbitration Organizations shall establish a contract with the Formula Arbitrator to develop a Non-Binding Price Formula.

(2) The contract with the Formula Arbitrator must specify that:

(i) The Formula Arbitrator will conduct a single annual fleet-wide analysis of the markets for crab to establish a Non-Binding Price Formula under which a fraction of the weighted average first wholesale prices for crab products from the fishery may be used to set an ex-vessel price; and

(ii) The Non-Binding Price Formula shall:

(A) Be based on the historical distribution of first wholesale revenues between fishermen and processors in the aggregate based on arm's length first wholesale prices and ex-vessel prices, taking into consideration the size of the harvest in each year; and

(B) Establish a price that preserves the historical division of revenues in the fishery while considering the following:

(*1*) Current ex-vessel prices, including ex-vessel prices received for crab harvested under Class A, Class B, and CVC IFQ permits;

(*2*) Consumer and wholesale product prices for the processing sector and the participants in arbitrations (recognizing the impact of sales to affiliates on wholesale pricing);

(*3*) Innovations and developments of the harvesting and processing sectors and the participants in arbitrations (including new product forms);

(*4*) Efficiency and productivity of the harvesting and processing sectors (recognizing the limitations on efficiency and productivity arising out of the management program structure);

(*5*) Quality (including quality standards of markets served by the fishery and recognizing the influence of harvest strategies on the quality of landings);

(*6*) The interest of maintaining financially healthy and stable harvesting and processing sectors;

(*7*) Safety and expenditures for ensuring adequate safety;

(*8*) Timing and location of deliveries; and

(*9*) The cost of harvesting and processing less than the full IFQ or IPQ allocation (underages) to avoid penalties for overharvesting IFQ and a mechanism for reasonably accounting for deadloss.

(C) Include identification of various relevant factors such as product form, delivery time, and delivery location.

(D) Consider the ''highest arbitrated price'' for the fishery from the previous crab fishing season, where the ''highest arbitrated price'' means the highest arbitrated price for arbitrations of IPQ and Arbitration IFQ which represent a minimum of at least 7 percent of the IPQ resulting from the PQS in that fishery. For purposes of this process, the Formula Arbitrator may aggregate up to three arbitration findings to collectively equal a minimum of 7 percent of the IPQ. When arbitration findings are aggregated with 2 or more entities, the lesser of the arbitrated prices of

the arbitrated entities included to attain the 7 percent minimum be considered for the highest arbitrated price.

(iii) The Non-Binding Price Formula may rely on any relevant information available to the Formula Arbitrator, including, but not limited to,

(A) Information provided by the QS, PQS, IPQ and IFQ holders in the fishery, and

(B) The Market Report for the fishery.

(iv) The Formula Arbitrator:

(A) May meet with IFQ holders who are members of any single FCMA cooperative collectively;

(B) Shall meet with IPQ holders individually;

(C) Shall meet with distinct FCMA cooperatives individually; and

(D) Shall meet with IFQ holders who are not members of the same FCMA cooperative individually.

(v) The Formula Arbitrator may request any relevant information from QS, PQS, IPQ, and IFQ holders in the fishery, but the Formula Arbitrator shall not have subpoena power.

(vi) The Formula Arbitrator may obtain information from persons other than QS, PQS, IPQ, and IFQ holders in the fishery, if those persons agree to provide such data. Any information that is provided must be based on activities occurring more than three months prior to the date of submission to the Formula Arbitrator.

(vii) The Formula Arbitrator shall keep confidential the information that is not publicly available and not disclose the identity of the persons providing specific information.

(viii) (A) In 2005, the non-binding price formula shall be produced not later than September 30, 2005 or 25 days prior to the first crab fishing season for that crab QS fishery whichever is later in that crab fishing year as required under this section.

(B) In all subsequent years, the non-binding price formula shall be produced not later than 50 days prior to the first crab fishing season for that crab QS fishery.

(C) The contract with the Formula Arbitrator must specify that the Formula Arbitrator will provide the non-binding price formula in that crab fishing year to:

(*1*) Each Arbitration Organization in that fishery;

(*2*) NMFS by electronic mail to the Regional Administrator, NMFS, or addressed to the Regional Administrator, NMFS, Post Office Box 21668, Juneau, Alaska 99802; and

(*3*) The Market Analyst and all Contract Arbitrators in the fishery.

(ix) The Formula Arbitrator shall not disclose any information to any person not required under this section, except as permitted by paragraph (j) of this section.

(h) *Roles and standards for the Contract Arbitrator(s)*—(1) *General*. For each crab QS fishery, the Arbitration QS/IFQ Arbitration Organizations and PQS/IPQ Arbitration Organizations shall establish a contract with all Contract Arbitrators in that fishery that specifies that each Contract Arbitrator may be selected to resolve a dispute concerning the terms of delivery, price, or other factors in the fishery.

(2) *Selection of Contract Arbitrators*. The contract with the Contract Arbitrator shall specify the means by which the Contract Arbitrator will be selected to resolve specific disputes. This contract must specify that for any dispute for which the Contract Arbitrator is selected, the Contract Arbitrator will comply with the last best offer arbitration method as set forth in this section.

(3) *Negotiation and Binding Arbitration Procedure*. The contract with the Contract Arbitrator(s) shall specify the following approaches for negotiation and Binding Arbitration among members of the Arbitration Organizations:

(i) *Restrictions on collective negotiation*. An IFQ and an IPQ holder may negotiate individually. Groups of IFQ holders may negotiate collectively with an IPQ holder only under the following provisions:

(A) Members of an FCMA cooperatives may participate collectively with other members of the same FCMA cooperative in Binding Arbitration except as otherwise provided under this section.

(B) Members of different FCMA cooperatives shall not participate collectively in Binding Arbitration.

(C) IPQ holders shall not participate collectively. Only one IPQ holder shall

enter into Binding Arbitration with any IFQ holder or IFQ holder(s).

(D) An Arbitration Organization must not negotiate on behalf of a member. This shall not prohibit the members of an Arbitration IFQ Arbitration Organization from negotiation if the Arbitration Organization qualifies as an FCMA cooperative.

(ii) *Open negotiations.* At any time prior to the date of the first crab fishing season of a crab fishing year for that crab QS fishery, any holder of uncommitted Arbitration IFQ may negotiate with any holder of uncommitted IPQ, the price and delivery terms for that season for any uncommitted IFQ and uncommitted IPQ.

(A) Uncommitted Arbitration IFQ holders and Uncommitted IPQ holders may freely contact each other and initiate open negotiations.

(B) If Arbitration IFQ holders and IPQ holders do not reach an agreement on price, delivery terms, or other terms after committing shares, an Arbitration IFQ holder may initiate Binding Arbitration in accordance with the procedures specified in this section in order to resolve disputes in those price, delivery terms, or other terms.

(C) Once IFQ or IPQ has been committed, the IFQ holder and IPQ holder cannot engage in open negotiation using those shares.

(iii) *Lengthy season approach.* (A) Prior to the date of the first crab fishing season for that crab QS fishery in that crab fishing year a committed IPQ holder and one or more committed Arbitration IFQ holders may choose to adopt a Lengthy Season approach. The Lengthy Season approach is an alternative method to the Binding Arbitration proceedings.

(B) A Lengthy Season approach allows a committed IPQ holder and a committed Arbitration IFQ holder to agree to postpone negotiation of specific contract terms until a time during the crab fishing year as agreed upon by the Arbitration IFQ holder and IPQ holder participating in the negotiation. The Lengthy Season approach allows the Arbitration IFQ holders and IPQ holder involved in the negotiation to postpone Binding Arbitration, if necessary, until a time during the crab fishing year. If the parties ready a final agreement on the contract terms, Binding Arbitration is not necessary.

(C) If a committed IPQ holder and one or more committed Arbitration IFQ holder(s) are unable to reach an agreement on whether to adopt a Lengthy Season approach, they may request mediation to assist the parties in determining whether to adopt a Lengthy Season approach. The parties may request a Contract Arbitrator to act as a mediator. If the mediation proves unsuccessful or is not selected, the Arbitration IFQ holder may initiate enter Binding Arbitration to determine whether to adopt a lengthy season approach.

(*1*) Binding Arbitration may begin immediately with the same Contract Arbitrator.

(*2*) If the Contract Arbitrator serves as a mediator in an unsuccessful mediation, either party may request another Contract Arbitrator for the Binding Arbitration.

(iv) *Share matching.* (A) At any time 120 hours (five days) after NMFS issues IFQ and IPQ for that crab QS fishery in that crab fishing year, holders of uncommitted Arbitration IFQ may choose to commit the delivery of harvests of crab to be made with that uncommitted Arbitration IFQ to an uncommitted IPQ holder. The issuance of IFQ and IPQ for a crab QS fishery occurs on the time and date that IFQ and IPQ amounts for that crab QS fishery are posted on the NMFS, Alaska Region website at *http://www.fakr.noaa.gov*.

(B) To commit Arbitration IFQ, the holder of uncommitted IFQ must offer an amount of Arbitration IFQ:

(*1*) Not less than 50 percent of the Arbitration IFQ holder's total uncommitted Arbitration IFQ, or an amount of uncommitted Arbitration IFQ equal to the total amount of uncommitted IPQ available, whichever is less, if the Arbitration IFQ holder is not an FCMA cooperative; and

(*2*) Not less than 25 percent of the Arbitration IFQ holder's total uncommitted Arbitration IFQ, or an amount of uncommitted Arbitration IFQ equal to the total amount of uncommitted IPQ available, whichever is less, if the Arbitration IFQ holder is an FCMA cooperative.

(C) Any holder of uncommitted IPQ must accept all proposed Arbitration IFQ commitments, up to the amount of its uncommitted IPQ. The commitment of IPQ will take place on receipt of notice from the holder of uncommitted Arbitration IFQ of the intention to commit that IFQ.

(D) After matching, an Arbitration IFQ holder and an IPQ holder may decide to enter mediation to reach agreement on contract terms. The Arbitration IFQ holder and IPQ holder may request a Contract Arbitrator to act as a mediator to facilitate an agreement.

(*1*) If the mediation proves unsuccessful, or if mediation is not selected, the Arbitration IFQ holder may initiate Binding Arbitration which may begin immediately with the same Contract Arbitrator.

(*2*) If the Contract Arbitrator serves as a mediator in an unsuccessful mediation, the Arbitration IFQ holder may request another Contract Arbitrator for the Binding Arbitration.

(v) *Initiation of Binding Arbitration*. If an Arbitration IFQ holder intends to initiate Binding Arbitration, the Arbitration IFQ holder must initiate the Binding Arbitration procedure not later than 360 hours (15 days) after NMFS issues IFQ and IPQ for that crab QS fishery in that crab fishing year. Binding Arbitration is initiated after the committed Arbitration IFQ holder notifies a committed IPQ holder and selects a Contract Arbitrator. Binding Arbitration may be initiated to resolve price, terms of delivery, and other disputes. There will be only one Binding Arbitration Proceeding for an IPQ holder but multiple Arbitration IFQ holders may participate in this proceeding. This limitation on the timing of Binding Arbitration proceedings does not include proceedings that arise due to:

(A) The lengthy season approach;

(B) Performance disputes; and

(C) Quality disputes.

(vi) *Joining a Binding Arbitration proceeding*. Any uncommitted Arbitration IFQ holder may join a Binding Arbitration proceeding as a party by committing the shares to the arbitration and providing notice to the IPQ holder and the Contract Arbitrator(s). An Arbitration IFQ holder may join a Binding Arbitration proceeding only if uncommitted IPQ is available. Once shares are committed to a Binding Arbitration Proceeding they cannot be uncommitted. The contract with the Contract Arbitrator may specify the terms and timing of joining the proceedings.

(vii) *Arbitration schedule meeting*. The Contract Arbitrator shall meet with all parties to a Binding Arbitration proceeding as soon as possible once a Binding Arbitration proceeding has been initiated for the sole purpose of establishing a schedule for the Binding Arbitration. This schedule shall include the date by which the IPQ holder and Arbitration IFQ holder(s) must submit their last best offer and any supporting materials, and any additional meetings or mediation if agreed to by all parties. This meeting will discuss the schedule of the Binding Arbitration proceedings and not address terms of last best offers.

(viii) *Terms of last best offers*. The Contract Arbitrator will meet with the parties to the Binding Arbitration proceeding to determine the matters that must be included in the last best offer, which may include a fixed price or a price over a time period specified by the parties, a method for adjusting prices over a crab fishing year, or an advance price paid at the time of delivery.

(ix) *Submission of last best offers*. The parties to a Binding Arbitration proceeding shall each submit to the Contract Arbitrator(s) a last best offer defining all the terms specified for inclusion in a last best offer by the Contract Arbitrator. An Arbitration IFQ holder that is an FCMA cooperative may submit a last best offer that defines terms for the delivery of crab harvested by members of that FCMA cooperative with IFQ held by the cooperative. An Arbitration IFQ holder that is not an FCMA cooperative may submit a last best offer that defines the term of delivery of crab harvested with IFQ held by that person. The IPQ holder that is a party to the proceeding shall submit a single offer that defines terms for delivery of crab harvested with all IFQ that are subject to the proceedings.

(x) *Arbitration decisions*. The Contract Arbitrator(s) shall decide among each offer received from an Arbitration IFQ

holder and the offer received from the IPQ holder. Each arbitration decision shall result in a binding contract between the IPQ holder and the Arbitration IFQ holder defined by the terms of the offer selected by Contract Arbitrator(s). An arbitration decision applies to all committed IFQ and committed IPQ in that arbitration.

(xi) *Announcement of decisions.* (A) If last best offers are submitted at least 15 days before the first crab fishing season for that crab fishing year for that crab QS fishery, arbitration decisions shall be issued no later than 10 days before the first crab fishing season for that crab fishing year for that crab QS fishery. Otherwise, the Contract Arbitrator will notify the parties of the arbitration decision within 5 days of the parties submitting their last best offers.

(B) The Contract Arbitrator will notify the parties by providing each Arbitration IFQ holder and IPQ holder that is a party to the Binding Arbitration proceeding, a copy of any decision. The decision is binding on the parties to the Binding Arbitration proceeding.

(4) *Basis for the Arbitration decision.* The contract with the Contract Arbitrator shall specify that the Contract Arbitrator will be subject to the following provisions when deciding which last best offer to select.

(i) The Contract Arbitrator's decision shall:

(A) Be based on the historical distribution of first wholesale revenues between fishermen and processors in the aggregate based on arm's length first wholesale prices and ex-vessel prices, taking into consideration the size of the harvest in each year; and

(B) Establish a price that preserves the historical division of revenues in the fishery while considering the following:

(*1*) Current ex-vessel prices, including ex-vessel prices received for crab harvested under Class A IFQ, Class B IFQ, and CVC IFQ permits;

(*2*) Consumer and wholesale product prices for the processing sector and the participants in the arbitration (recognizing the impact of sales to affiliates on wholesale pricing);

(*3*) Innovations and developments of the harvesting and processing sectors and the participants in the arbitration (including new product forms);

(*4*) Efficiency and productivity of the harvesting and processing sectors (recognizing the limitations on efficiency and productivity arising out of the management program structure);

(*5*) Quality (including quality standards of markets served by the fishery and recognizing the influence of harvest strategies on the quality of landings);

(*6*) The interest of maintaining financially healthy and stable harvesting and processing sectors;

(*7*) Safety and expenditures for ensuring adequate safety;

(*8*) Timing and location of deliveries; and

(*9*) The cost of harvesting and processing less than the full IFQ or IPQ allocation (underages) to avoid penalties for overharvesting IFQ and a mechanism for reasonably accounting for deadloss.

(C) Consider the Non-Binding Price Formula established in the fishery by the Formula Arbitrator.

(ii) The Contract Arbitrator's decision may rely on any relevant information available to the Contract Arbitrator, including, but not limited to:

(A) Information provided by the QS, PQS, IPQ and IFQ holders in the fishery regarding the factors identified in paragraph (h)(4)(i) of this section; and

(B) The Market Report for the fishery.

(iii) Each of the Arbitration IFQ holders and the IPQ holders that is party to the proceeding may provide the Contract Arbitrator with additional information to support its last best offer. The Contract Arbitrator must receive and consider all data submitted by the parties.

(iv) The Contract Arbitrator may request specific information from the Arbitration IFQ holder(s) and IPQ holder that will be useful in reaching a final decision. The Contract Arbitrator will not have subpoena power and it is in the sole discretion of the person from whom information is requested as to whether to provide the requested information.

(5) *Limits on the release of data.* The parties to a Binding Arbitration proceeding shall be precluded from full access to the information provided to the Contract Arbitrator.

(i) Arbitration IFQ holders that are party to an arbitration proceeding shall have access only to information provided directly by the IPQ holder to the Contract Arbitrator for that Binding Arbitration proceeding.

(ii) IPQ holders that are party to an arbitration proceeding shall have access only to information provided directly by an Arbitration IFQ holder to the Contract Arbitrator for that Binding Arbitration proceeding.

(iii) The Contract Arbitrator shall keep confidential the information provided by any QS, PQS, IFQ, or IPQ holders in the fishery and not disclose the identity of the persons providing specific information except as provided in paragraph (h)(6) of this section.

(iv) The Arbitration IFQ holders and IPQ holders shall not release information received in a Binding Arbitration proceeding to persons who were not party to that Binding Arbitration proceeding other than the final result of that arbitration proceeding except as provided for in paragraph (h)(6) of this section.

(6) *Information provided to NMFS.* The Contract Arbitrator must provide any information, documents, or data required under this paragraph to NMFS via mail to the Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, or electronically not later than 30 days prior to the end of the crab fishing year for which the open negotiation or arbitration applied. The contract with the Contract Arbitrator must specify that the Contract Arbitrator provide NMFS with:

(i) A copy of any minutes from any meeting attended by that Contract Arbitrator between or among any PQS or IPQ holders concerning any negotiations under this section;

(ii) Any last-best offers made during the Binding Arbitration process, including all contract details, the names of other participants in the arbitration, and whether the bid was accepted by the Contract Arbitrator; and

(iii) A copy of any information, data, or documents given by the Contract Arbitrator to any person who is not a party to the particular arbitration for which that information was provided. The Contract Arbitrator must identify the arbitration to which the information, data, or documents apply, and the person to whom those information, data, or documents were provided.

(7) *Enforcement of Binding Arbitration decisions.* The decision of the Contract Arbitrator for Binding Arbitration shall be enforced among the parties to that arbitration.

(8) *Failure of Contract Arbitrator(s).* Except as provided for in paragraph (h)(6) of this section, the failure of a Contract Arbitrator to perform shall be enforced by the Arbitration Organizations.

(9) *Post Binding Arbitration opt-in.* (i) An Arbitration IFQ holder with uncommitted IFQ, may opt-in to any contract that results from a completed a Binding Arbitration procedure with any IPQ holder that has uncommitted IPQ.

(A) All the terms from the arbitrated contract will apply. The Contract Arbitrator may determine fees and a time frame by which a Post Binding Arbitration opt-in may occur if those terms are not specified in the arbitrated contract.

(B) Once exercised, the opt-in results in a contract that is binding on both the Arbitration IFQ and IPQ holder.

(ii) To initiate the opt-in process, the holder of uncommitted Arbitration IFQ will notify the holder of uncommitted IPQ in writing of its intent to opt-in.

(iii) Holders of uncommitted Arbitration IFQ may opt-in to a contract resulting from a completed Binding Arbitration procedure with a person that holds uncommitted IPQ for that fishery.

(iv) If the IPQ holder and the Arbitration IFQ holder are unable to resolve a dispute regarding whether the opt-in offer is consistent with the original contract from the completed Binding Arbitration procedure, the dispute may be decided by the Contract Arbitrator to the original arbitration that resulted in the contract to which the Arbitration IFQ holder is seeking to opt-in. The Contract Arbitrator will decide only whether the proposed opt-in terms are consistent with the original contract.

(10) *Performance disputes.* If an IPQ holder and an Arbitration IFQ holder are unable to resolve disputes regarding the obligations to perform specific contract provisions after substantial negotiations or when time is of the essence, the issues of that dispute shall be submitted for Binding Arbitration before a Contract Arbitrator for that fishery.

(i) Binding Arbitration resulting from a performance dispute can occur at any point during or after the crab fishing year. The dispute must be raised by the IPQ holder or the Arbitration IFQ holder. Arbitration of that performance dispute must be initiated prior to the date of the first crab fishing season for the following crab fishing year in that crab QS fishery.

(ii) Performance dispute arbitration shall follow the applicable procedures described for a Binding Arbitration in paragraph (h)(3) of this section, except that the time frame for the procedure applicable to a performance dispute will be determined by the Contract Arbitrator once the dispute has been raised.

(iii) If a party fails to abide by the arbitration decision, a party may pursue available contract remedies.

(iv) The costs of arbitrating performance disputes shall be provided from the general fees collected by the Arbitration Organizations pursuant to paragraph (e) of this section.

(v) The Contract Arbitrator may assign fees to any party bringing frivolous complaints. Any such fees shall be paid by the party and not from the fees collected under paragraph (e)(2)(vi) of this section.

(11) *Quality disputes.* When disputes regarding the quality of the harvested crab arise within the context of an existing contract, the parties may settle the disputes within the context of the arbitration system according to the following:

(i) In cases where the IPQ holder and Arbitration IFQ holder(s) have agreed to a formula-based price for crab but where they cannot reach an agreement on the quality and price of the crab, the IPQ holder and Arbitration IFQ holder(s) will receive their share of the value of the amount of crab delivered based on the provisions of the contract.

(ii) In quality disputes where the Arbitration IFQ holders prefer to use actual ex-vessel price and not a formula-based price and a dispute arises regarding crab quality and price, the dispute should be referred to a mutually agreeable independent quality specialist firm. This independent quality specialist firm will determine the quality of the crab. This information will be used as the basis for subsequent price determinations. The IPQ holder and Arbitration IFQ holder(s) with this quality dispute shall share the cost of hiring the specialist firm and agree to abide by its findings according to the terms of their agreement.

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### § 680.21 Crab harvesting cooperatives.

This section governs the formation and operation of crab harvesting cooperatives. The regulations in this section apply only to crab harvesting cooperatives that have formed for the purpose of applying for and fishing under a crab harvesting cooperative IFQ permit issued by NMFS. Members of crab harvesting cooperatives that are not FCMA cooperatives should consult counsel before commencing any activity if the members are uncertain about the legality under the antitrust laws of the crab harvesting cooperative's proposed conduct.

(a) *Formation of crab harvesting cooperatives.* The following requirements apply to the formation of crab harvesting cooperatives.

(1) *Membership requirements.* A crab harvesting cooperative is limited to QS holders that hold any amount of CPO, CVO, CPC, or CVC QS, and that NMFS has determined are eligible to receive crab IFQ.

(i) *Minimum number of members.* Each crab harvesting cooperative must include at least four unique QS holding entities. A unique QS holding entity is a QS holder or group of affiliated QS holders that are not affiliated with any other QS holders or QS holding entities in the crab harvesting cooperative. For the purpose of this paragraph, the term ''affiliation'' is defined at § 680.2.

(ii) *Voluntary nature of membership.* Membership in a crab harvesting cooperative is voluntary. No person may be required to join a crab harvesting cooperative, and no crab harvesting cooperative may be required to accept a member who the crab harvesting cooperative chooses not to accept.

(iii) *Membership in more than one crab harvesting cooperative.* (A) A QS holder may join one crab harvesting cooperative per CR fishery.

(B) Upon joining a crab harvesting cooperative for a CR fishery, NMFS will convert all of a QS holder's QS holdings for that CR fishery to crab harvesting cooperative IFQ.

(2) *Legal and organizational requirements.* A crab harvesting cooperative must meet the following legal and organizational requirements before it is eligible to apply for a crab harvesting cooperative IFQ permit:

(i) *Registered business entity.* Each crab harvesting cooperative must be formed as a partnership, corporation, or other legal business entity that is registered under the laws of one of the 50 states or the District of Columbia.

(ii) *Appointment of a designated representative.* Each crab harvesting cooperative must appoint an individual as designated representative to act on the crab harvesting cooperative's behalf and serve as contact point for NMFS for questions regarding the operation of the crab harvesting cooperative. The designated representative may be a member of the crab harvesting cooperative or some other individual authorized by the crab harvesting cooperative to act on its behalf.

(b) *Application for annual crab harvesting cooperative IFQ permits.* A crab harvesting cooperative IFQ permit is an annual permit issued to a crab harvesting cooperative that establishes an annual catch limit of crab that is based on the collective QS holdings of the members of the crab harvesting cooperative that have been contributed by the members. A crab harvesting cooperative IFQ permit will list the IFQ amount, by fishery, held by the crab harvesting cooperative and identify the members of the crab harvesting cooperative. Each crab harvesting cooperative will be issued a separate IFQ permit for each type of QS held by a member (or members) of the crab harvesting cooperative.

(1) *August 1 application deadline.* A completed application for an annual crab harvesting cooperative IFQ permit must be submitted annually by each crab harvesting cooperative and received by NMFS no later than August 1, together with the signed annual application for crab IFQ/IPQ permit forms of all the members of the crab harvesting cooperative.

(2) *Contents of application for annual crab harvesting cooperative IFQ permit.* A completed application also must contain the following information:

(i) *Cooperative identification.* Enter the crab harvesting cooperative's legal name; type of business entity under which the crab harvesting cooperative is organized; state in which the crab harvesting cooperative is legally registered as a business entity; printed name of the crab harvesting cooperative's designated representative; the permanent business address, telephone number, facsimile number, and e-mail address (if available) of the crab harvesting cooperative or its designated representative; and the signature of the crab harvesting cooperative's designated representative and date signed.

(ii) *Members of the cooperative.* Full name and NMFS Person ID of each member of the crab harvesting cooperative.

(iii) *Additional documentation.* For the application to be considered complete, the following documents must be attached to the application: the completed and signed annual application for crab IFQ/IPQ permit for all members of the crab harvesting cooperative, a copy of the business license issued by the state in which the crab harvesting cooperative is registered as a business entity, a copy of the articles of incorporation or partnership agreement of the crab harvesting cooperative, and a copy of the crab harvesting cooperative agreement signed by the members of the crab harvesting cooperative (if different from the articles of incorporation or partnership agreement of the crab harvesting cooperative).

(3) *Issuance of crab harvesting cooperative IFQ permits.* Upon receipt of a completed application for an annual crab harvesting cooperative IFQ permit that

is subsequently approved, NMFS will issue one-year crab harvesting cooperative IFQ permits to the crab harvesting cooperative. The crab harvesting cooperative IFQ permits will list the crab IFQ amounts that are generated by the aggregate QS holdings of all members of the crab harvesting cooperative for each fishery, region, sector, and Class A/B IFQ categories. Issuance by NMFS of a crab harvesting cooperative IFQ permit is not a determination that the crab harvesting cooperative is formed or is operating in compliance with antitrust law.

(4) *Appeals*. A crab harvesting cooperative or person that is adversely affected by an initial administrative determination (IAD) that is associated with the issuance of a crab harvesting cooperative IFQ permit may appeal the IAD using the appeals procedures described in § 680.43.

(c) *Restrictions on fishing under a crab harvesting cooperative IFQ permit*. The following restrictions govern fishing for IFQ crab under a crab harvesting cooperative IFQ permit:

(1) *Maintenance of permit on board*. A copy of a crab harvesting cooperative IFQ permit must be maintained on board any vessel that is being used to harvest crab under the permit.

(2) *Persons eligible to harvest crab under a crab harvesting cooperative IFQ permit*. The only person eligible to harvest crab under a crab harvesting cooperative IFQ permit is the crab IFQ hired master under § 680.4(g) who is operating a vessel in which at least a 10 percent ownership share is held by a member of the crab harvesting cooperative to whom the IFQ permit is issued.

(3) *Liability*. Each member of a crab harvesting cooperative is responsible for ensuring that members of the crab harvesting cooperative and crab IFQ hired masters of the crab harvesting cooperative comply with all regulations applicable to fishing for CR crab.

(d) *Transfers by members of a crab harvesting cooperative*. The following requirements address transfers of QS and IFQ by members of a crab harvesting cooperative.

(1) *Transfer of QS*. A member of a crab harvesting cooperative may acquire or divest QS at any time using the transfer procedures described in § 680.41. However, transfers of QS that occur after the August 1 deadline for crab harvesting cooperative IFQ permit applications will not be reflected in the type or amount of IFQ permit issued to the crab harvesting cooperative for the current fishing season.

(2) *Transfer of individually held IFQ*. A member of a crab harvesting cooperative may acquire or divest individually held IFQ using the transfer procedures described in § 680.41. However, any vessel used to harvest IFQ not held by a crab harvesting cooperative loses the vessel use cap exemption.

(3) *Transfer of crab harvesting cooperative IFQ prohibited*. A member of a crab harvesting cooperative may not acquire or divest crab harvesting cooperative IFQ. Crab harvesting cooperative IFQ may only be transferred between two crab harvesting cooperatives.

(e) *Transfers by crab harvesting cooperatives*. The following requirements address transfers of QS, IFQ, PQS, and IPQ by crab harvesting cooperatives that have been issued crab harvesting cooperative IFQ permits.

(1) *Acquisition of QS, PQS, and IPQ prohibited*. A crab harvesting cooperative that has been issued a crab harvesting cooperative IFQ permit is prohibited from acquiring any amount of QS, PQS, or IPQ for the valid duration of the crab harvesting cooperative IFQ permit. A crab harvesting cooperative that acquires any amount of QS, PQS, or IPQ becomes ineligible to receive a crab harvesting cooperative IFQ permit.

(2) *Transfer of crab harvesting cooperative IFQ*. A crab harvesting cooperative may transfer its IFQ only to another crab harvesting cooperative. Crab harvesting cooperatives wishing to engage in an inter-cooperative transfer must complete an application for inter-cooperative transfer to transfer crab IFQ between crab harvesting cooperatives. A crab harvesting cooperative is prohibited from transferring any amount of crab harvesting cooperative IFQ to any entity that is not a crab harvesting cooperative operating under a crab harvesting cooperative IFQ permit.

(3) *Use caps*. Inter-cooperative transfers of IFQ will apply to the individual

use caps of crab harvesting cooperative members through the designation of the crab harvesting cooperative members conducting the transfer.

(f) *Application for inter-cooperative transfer*. An application for inter-cooperative transfer is to be used only to apply for a transfer of crab harvesting cooperative IFQ from one crab harvesting cooperative to another crab harvesting cooperative. A complete application must also contain the following information:

(1) *Identification of transferor*. Enter the name; NMFS Person ID; date of incorporation; Tax ID number; name of crab harvesting cooperative's designated representative; permanent business mailing address; and business telephone number, facsimile number, and e-mail address (if available) of the crab harvesting cooperative transferor. A temporary mailing address for each transaction may also be provided in addition to the permanent business mailing address.

(2) *Identification of crab harvesting cooperative member*. Enter the name and NMFS Person ID of the member to whose use cap the crab harvesting cooperative IFQ will be applied.

(3) *Identification of transferee*. Enter the name; NMFS Person ID; date of incorporation; Tax ID number; name of crab harvesting cooperative's designated representative; permanent business mailing address; and business telephone number, facsimile number, and e-mail address (if available) of the crab harvesting cooperative transferee. A temporary mailing address for each transaction may also be provided in addition to the permanent business mailing address.

(4) *Identification of crab harvesting cooperative member*. Enter the name and NMFS person ID of the member from whose use cap the crab harvesting cooperative IFQ will be removed.

(5) *Crab harvesting cooperative IFQ to be transferred*. Identify the crab harvesting cooperative IFQ being transferred, including the type of crab harvesting cooperative IFQ being transferred, crab harvesting cooperative permit number and year that permit was issued. Indicate (YES or NO) whether all remaining pounds for the current fishing year are to be transferred; if NO, specify number of pounds to be transferred.

(6) *Transferor information*. Indicate (YES or NO) whether a broker is being used for this transaction. If YES, indicate the dollar amount to be paid in brokerage fees or percentage of total price. Enter the total amount being paid for the IFQ in this transaction, including all fees, and the price per pound of IFQ.

(7) *Certification of transferor*. The crab harvesting cooperative transferor's designated representative must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. Only an application with an original, notarized signature will be accepted. Also enter the printed name of the crab harvesting cooperative transferor's representative or authorized representative. If the application is completed by an authorized representative, proof of authorization to act on behalf of the transferor must accompany the application. A Notary Public must sign the application, enter the date commission expires, and affix notary stamp or seal.

(8) *Certification of transferee*. The crab harvesting cooperative transferee's representative must sign and date the application certifying that all information is true, correct, and complete to the best of his or her knowledge and belief. Only an application with an original, notarized signature will be accepted. Also enter the printed name of the crab harvesting cooperative transferee's representative or authorized representative. If the application is completed by an authorized representative, proof of authorization to act on behalf of the transferee must accompany the application. A Notary Public must sign the application, enter the date commission expires, and affix notary stamp or seal.

(g) *Inseason changes to crab harvesting cooperative membership*. The following requirements address inseason changes to crab harvesting cooperative membership.

(1) *Eligible membership changes*. A crab harvesting cooperative may add a new member if that person becomes eligible to join the crab harvesting cooperative through the acquisition of any amount

of the QS upon which the crab harvesting cooperative's annual IFQ permit was based, provided that the person acquiring the QS in question has been determined by NMFS to be eligible to hold IFQ. Likewise, a crab harvesting cooperative may remove a member if that person no longer holds any of the QS upon which the crab harvesting cooperative's annual IFQ permit was based.

(2) *Inseason membership changes are voluntary*. A crab harvesting cooperative is not required to add or remove members during the fishing season to reflect inseason transfers of QS. Each crab harvesting cooperative is free to establish its own process for deciding whether or not to admit new members or to remove existing members during the fishing season to reflect changes in the QS holdings. No crab harvesting cooperative is required to admit a new QS holder that the crab harvesting cooperative chooses not to admit, regardless of whether the person in question has acquired any amount of QS upon which the crab harvesting cooperative's annual IFQ is based. If a crab harvesting cooperative chooses to make inseason membership changes, then it must comply with paragraph (g)(3) of this section.

(3) *Application for an inseason change in cooperative membership*. To change crab harvesting cooperative membership, a crab harvesting cooperative must submit to NMFS a revised application for an annual crab harvesting cooperative IFQ permit together with any revised supporting documents that are required to be submitted with the application. The revised application for an annual crab harvesting cooperative IFQ permit must be accompanied by a cover letter that indicates the revisions that have been made. Upon approval of the membership change, NMFS will issue a revised crab harvesting cooperative IFQ permit that reflects the change. A new member may not fish on behalf of a cooperative except as a crab IFQ hired master until NMFS issues a revised crab harvesting cooperative IFQ permit that reflects the change in membership.

(4) *Successors-in-interest*. If a member of a crab harvesting cooperative dies (in the case of an individual) or dissolves (in the case of a business entity), the QS held by that person will be transferred to the legal successor-in-interest. However, the crab harvesting cooperative IFQs generated by that person's QS holdings remain under the control of the crab harvesting cooperative for the valid duration of the crab harvesting cooperative IFQ permit. Each crab harvesting cooperative is free to establish its own internal procedures for admitting a successor-in-interest during the fishing season to reflect the transfer of QS due to the death or dissolution of a QS holder. The regulations in this section do not require any crab harvesting cooperative to admit a successor-in-interest that the cooperative chooses not to admit. If a crab harvesting cooperative chooses to admit the successor-in-interest for membership, then the crab harvesting cooperative must comply with paragraph (g)(3) of this section.

[70 FR 10241, Mar. 2, 2005, as amended at 70 FR 33395, June 8, 2005; 73 FR 35088, June 20, 2008]

### § 680.22 Sideboard protections for GOA groundfish fisheries.

The regulations in this section restrict the owners of vessels with a history of participation in the Bering Sea snow crab fishery from using the increased flexibility provided by the CR Program to expand their level of participation in GOA groundfish fisheries. These restrictions are commonly known as ''sideboards.''

(a) *Vessels and LLP licenses subject to sideboard restrictions*. The sideboard fishing restrictions described in this section are based on a vessel's fishing history and apply both to the fishing vessel itself and to any LLP license generated by that vessel's fishing history. The criteria used to determine which vessels and LLP licenses are subject to GOA groundfish sideboard fishing restrictions are as follows:

(1) *Vessels subject to GOA groundfish sideboard directed fishing closures*. Any vessel that NMFS has determined meets one or both of the following criteria is subject to GOA groundfish sideboard directed fishing closures issued under paragraph (e) of this section.

(i) Any non-AFA vessel that made a legal landing of Bering Sea snow crab (*C. opilio*) between January 1, 1996, and December 31, 2000, that generated any amount of Bering Sea snow crab (*C. opilio*) fishery QS; and

(ii) Any vessel named on an LLP license that was generated in whole or in part by the fishing history of a vessel meeting the criteria in paragraph (a)(1)(i) of this section.

(2) *Vessels prohibited from directed fishing for Pacific cod in the GOA.* Any vessel that NMFS has determined meets either of the following two criteria is prohibited from directed fishing for Pacific cod in the GOA:

(i) Any vessel subject to GOA groundfish sideboard closures under paragraph (a)(1)(i) of this section that landed less than 50 mt (110,231 lb), in round weight equivalents, of groundfish harvested from the GOA between January 1, 1996, and December 31, 2000, or

(ii) Any vessel named on an LLP license that was generated in whole or in part by the fishing history of a vessel meeting the criteria in paragraph (a)(2)(i) of this section.

(3) *Vessels exempt from Pacific cod sideboard closures in the GOA.* Any vessel that NMFS has determined meets one or both of the following criteria is exempt from sideboard directed fishing closures for Pacific cod in the GOA:

(i) Any vessel subject to GOA groundfish closures under paragraph (a)(1)(i) of this section that landed less than 100,000 lb (45,359 kg), in raw weight equivalents, of Bering Sea snow crab and more than 500 mt (1,102,311 lb), in round weight equivalents, of Pacific cod from the GOA between January 1, 1996, and December 31, 2000; and

(ii) Any vessel named on an LLP license that was generated in whole or in part by the fishing history of a vessel meeting the criteria in paragraph (a)(3)(i) of this section.

(b) *Notification of affected vessel owners and LLP license holders.* After NMFS determines which vessels and LLP licenses meet the criteria described in paragraph (a) of this section, NMFS will inform each vessel owner and LLP license holder in writing of the type of sideboard restriction and issue a revised Federal Fisheries Permit and/or LLP license that displays the restriction on the face of the permit or license.

(c) *Appeals.* A vessel owner or LLP license holder who believes that NMFS has incorrectly identified his or her vessel or LLP license as meeting the criteria for a GOA groundfish sideboard restriction may request reconsideration. All requests for reconsideration must be submitted in writing to the RAM Division, Alaska Region, NMFS, together with any documentation or evidence supporting the request. If the request for reconsideration is denied, affected persons may appeal using the procedures described at § 680.43.

(d) *Determination of GOA groundfish sideboard ratios.* Sideboard ratios for each GOA groundfish species other than fixed-gear sablefish, species group, season, and area for which annual specifications are made, are established according to the following formulas:

(1) *Pacific cod.* The sideboard ratios for Pacific cod are calculated by dividing the aggregate retained catch of Pacific cod by vessels that are subject to sideboard directed fishing closures under paragraph (a)(1) of this section and that do not meet the criteria in paragraphs (a)(2) or (a)(3) of this section by the total retained catch of Pacific cod by all groundfish vessels between 1996 and 2000.

(2) *Groundfish other than Pacific cod.* The sideboard ratios for groundfish species and species groups other than Pacific cod and fixed-gear sablefish are calculated by dividing the aggregate landed catch by vessels subject to sideboard directed fishing closures under paragraph (a)(1) of this section by the total landed catch of that species by all groundfish vessels between 1996 and 2000.

(e) *Conversion of sideboard ratios into annual harvest limits.* NMFS will convert sideboard ratios into annual harvest limits according to the following procedures.

(1) *Annual harvest limits.* Annual harvest limits for each groundfish species, except fixed-gear sablefish, will be established by multiplying the sideboard ratios calculated under paragraph (d) of this section by the interim and final TACs in each area for which a TAC is

specified. If a TAC is further apportioned by season, the sideboard harvest limit also will be apportioned by season in the same ratio as the overall TAC. The resulting harvest limits expressed in metric tons will be published in the annual GOA groundfish harvest specification notices.

(2) *Sideboard directed fishing allowance.* (i) If the Regional Administrator determines that a harvest limit for a species or species group has been or will be reached, the Regional Administrator may establish a sideboard directed fishing allowance for the species or species group applicable only to the group of crab vessels to which the sideboard limit applies.

(ii) If the Regional Administrator determines that a harvest limit is insufficient to support a directed fishery for that species or species group, then the Regional Administrator may set the sideboard directed fishing allowance at zero for that species or species group.

(3) *Directed fishing closures.* Upon attainment of a sideboard directed fishing allowance, the Regional Administrator will publish notification in the FEDERAL REGISTER prohibiting directed fishing for the species or species group in the specified subarea, regulatory area, or district. A directed fishing closure is effective for the duration of the fishing year or season.

(f) *Sideboard protections in the State of Alaska parallel groundfish fisheries.* Vessels subject to the sideboard restrictions under paragraph (a) of this section, with a Federal Fisheries Permit or LLP license, shall be subject to the regulations of this section while participating in any groundfish fishery in State waters adjacent to the GOA opened by the State of Alaska and for which the State of Alaska adopts a Federal fishing season.

[70 FR 10241, Mar. 2, 2005, as amended at 71 FR 38301, July 6, 2006]

### § 680.23 Equipment and operational requirements.

(a) *Catcher vessel requirements.* A catcher vessel used to harvest CR crab must:

(1) Carry and use a VMS as described in paragraph (d) of this section;

(2) Land all retained crab to an RCR operating under an approved catch monitoring plan as described in paragraph (g) of this section;

(b) *Catcher/processor requirements.* A catcher/processor used to harvest CR crab must:

(1) Carry and use a VMS as described in paragraph (d) of this section;

(2) Weigh all retained crab to be processed on board, in its raw form, on a scale approved by NMFS as described in paragraph (e) of this section;

(3) Land all retained crab not processed on board at an RCR;

(4) Land all product processed on board at a shoreside location in the United States accessible by road or regularly scheduled air service and weigh that product on a scale approved by a state in which CR crab is landed; and

(5) Provide an approved observer platform scale and test weights that meet the requirements in paragraph (e) of this section.

(c) *RCR requirements.* An RCR must:

(1) Ensure that all CR crab landings are weighed on a scale approved by the State in which the landing takes place.

(2) Ensure that all crab landing and weighing be conducted as specified in an approved crab monitoring plan as described in paragraph (g) of this section, and that a copy of the crab monitoring plan is made available to NMFS personnel or authorized officer upon demand.

(d) *Vessel Monitoring System (VMS) requirements*—(1) *General requirements.* General VMS requirements concerning the approval and installation of VMS components and the responsibilities of vessel owners and operators are detailed at § 679.28(f)(1) through (5).

(2) *VMS transmission requirements.* A vessel's transmitter must be transmitting if:

(i) The vessel is operating in any reporting area (see definitions at § 679.2) off Alaska;

(ii) The vessel has crab pots or crab pot hauling equipment, or a crab pot launcher onboard; and

(iii) The vessel has or is required to have a Federal crab vessel permit for that crab fishing year.

(e) *Scales approved by NMFS.* To be approved by NMFS, a scale used to weigh crab at sea must meet the type

evaluation and initial inspection requirements set forth in § 679.28(b)(1) and (2). Once a scale is installed on a vessel and approved by NMFS for use, it must be reinspected annually as described in § 679.28(b) by requesting a scale inspection from NMFS. Each scale must be tested daily and meet the maximum permissible error (MPE) requirements described in paragraph (e)(1) of this section.

(1) *At-sea scale tests.* To verify that the scale meets the MPEs specified in this paragraph, the vessel operator must test each scale or scale system used to weigh CR crab 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.* The MPE for the daily at-sea scale tests is plus or minus 3 percent of the known weight of the test material. The scale must be tested by weighing at least 400 kg (882 lb) of crab 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 § 679.28 (b)(7).

(ii) *Automatic hopper scales.* An automatic hopper scale must be tested at its minimum and maximum capacity with approved test weights. Test weights must be placed in the bottom of the hopper unless an alternative testing method is approved by NMFS. The MPE for the daily at-sea scale tests is plus or minus 2 percent of the weight of the approved test weights.

(iii) *Platform scales used for observer sampling.* A platform scale used for observer sampling must be tested at 10, 25, and 50 kg (or 20, 50, and 100 lb if the scale is denominated in pounds) using approved test weights. The MPE for the daily at-sea scale test is plus or minus 0.5 percent if the scale is used to determine the known weight of test material for the purpose of testing a belt scale. If the scale is not used for that purpose, the MPE for the daily at-sea scale test is plus or minus 1 percent.

(iv) *Approved 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.

(v) *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 and record 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 weights;

(*5*) Weight of test weights recorded by scale;

(*6*) Percent error as determined by subtracting the known weight of the test weights from the weight recorded on the scale, dividing that amount by the known weight of the 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 crab 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 vessel owner must retain the scale test report forms for 3 years after the end of the crab fishing year during which the tests were performed. All scale test report forms must be signed by the vessel operator.

(2) *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 inaccurately.

(3) *Printed reports from the scale.* 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 NMFS or NMFS authorized personnel. In addition, the vessel owner must retain printed reports 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 prior to submitting a CR crab landing report as described in § 680.5. 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 crab vessel permit number;

(B) The weight of each load in the weighing cycle (hopper scales only);

(C) The date and time the information was printed;

(D) The total amount weighed since the last printout was made; and

(E) The total cumulative weight of all crab 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 50 CFR part 679. 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 NMFS staff or other NMFS-authorized personnel.

(iii) *Platform scales used for observer sampling.* A platform scale used for observer sampling is not required to produce a printed record unless that scale is also used to obtain raw weight for a CR crab landing report.

(4) *Scale installation requirements.* Unless otherwise approved by NMFS, a scale used to obtain raw weight for a CR crab landing report must be installed such that:

(i) From the location where the observer samples unsorted crab, the observer can ensure that all crab are being weighed;

(ii) The scale may not be installed in a manner that facilitates bypassing. It must not be possible for the scale inspector and an assistant to bypass the scale with 100 kg (220 lb) of test material in less than 20 seconds.

(f) *Scales approved by the state.* Scale requirements in this paragraph are in addition to those requirements set forth by the State in which the scale is approved, and nothing in this paragraph may be construed to reduce or supersede the authority of the State to regulate, test, or approve scales within the State. Scales used to weigh CR crab that are also required to be approved by the State must meet the following requirements:

(1) *Verification of approval.* The scale must display a valid State sticker indicating that the scale was inspected and approved within the previous 12 months.

(2) *Visibility.* An RCR must ensure that the scale and scale display are visible simultaneously. NMFS personnel or NMFS authorized personnel, including observers, must be allowed to observe the weighing of crab on the scale and be allowed to read the scale display at all times.

(3) *Printed scale weights.* (i) An RCR must ensure that printouts of the scale weight of each delivery or offload are made available to NMFS personnel or to NMFS authorized personnel, including observers, at the time printouts are generated. An RCR must maintain printouts on site until the end of the fishing year during which the printouts were made and make them available upon request by an authorized officer for 3 years after the end of the fishing year during which the printout was made.

(ii) A scale used to weigh any portion of a landing of CR crab or an offload of CR crab product must produce a printed record for each landing, or portion of each landing, weighed on that scale. The printed record must include:

(A) The RCR's name;

(B) The weight of each load in the weighing cycle;

(C) The total weight of crab in each landing, or portion of the landing that was weighed on that scale;

(D) The date and time the information is printed; and

(E) The name and ADF&G vessel registration number of the vessel making the delivery. The scale operator may

write this information on the scale printout in ink at the time of landing.

(4) *Inseason scale testing*. Scales used to weigh CR crab must be tested by RCR personnel when testing is requested by NMFS-staff or by NMFS-authorized personnel.

(i) *Inseason testing criteria*. To pass an inseason test, NMFS staff or NMFS-authorized personnel will verify that the scale display and printed information are clear and easily read under all conditions of normal operation, that weight values are visible on the display until the value is printed, and that the scale does not exceed the maximum permissible errors specified in the following table:

| Test load in scale divisions | Maximum error in scale divisions |
|---|---|
| (A) 0–500 | 1 |
| (B) 501–2,000 | 2 |
| (C) 2,001–4,000 | 3 |
| (D) > 4,000 | 4 |

(ii) *Test weight requirements*. Scales must be tested with the amount and type of weight specified for each scale type in the following tables under paragraphs (f)(4)(ii)(A) through (f)(4)(ii)(D) of this section:

(A) Automatic hopper 0 to 150 kg (0 to 300 lb) capacity.

| Certified test weights | Other test material |
|---|---|
| (*1*) Minimum weighment or 10 kg (20 lb), whichever is greater. | Minimum. |
| (*2*) Maximum | Maximum. |

(B) Automatic hopper > 150 kg (300 lb) capacity.

| Certified test weights | Other test material |
|---|---|
| (*1*) Minimum weighment or 10 kg (20 lb), whichever is greater. | Minimum. |
| (*2*) 25 percent of maximum of 150 kg (300 lb), whichever is greater. | Maximum. |

(C) Platform, flatbed or hanging scales less than 150 kg (300 lb) capacity.

| Certified test weights | Other test material |
|---|---|
| (*1*) 10 kg (20 lb) | Not Acceptable. |
| (*2*) Midpoint | Not Acceptable. |
| (*3*) Maximum | Not Acceptable. |

(D) Platform, flatbed or hanging scales > 150 kg (300 lb) capacity.

| Certified test weights | Other test material |
|---|---|
| (*1*) 10 kg (20 lb) | Not Acceptable. |
| (*2*) 12.5 percent of maximum or 75 kg (150 lb), whichever is greater. | 50 percent of maximum or 75 kg (150 lb), whichever is greater. |
| (*3*) 25 percent of maximum or 150 kg (300 lb), whichever is greater. | 75 percent of maximum or 150 kg (300 lb), whichever is greater. |

(iii) *Certified test weights*. An RCR must ensure that there are sufficient test weights on-site to test each scale used to weigh CR crab. Each test weight used for inseason scale testing must have its weight stamped on or otherwise permanently affixed to it. The weight of each test weight must be certified by a National Institute of Standards and Technology approved metrology laboratory every 2 years.

(iv) *Other test material*. When permitted in paragraph (f)(4)(ii) of this section, a scale may be tested with test material other than certified test weights.

(g) *Crab Monitoring Plans (CMP)*. A CMP is a plan submitted by an RCR for each location or processing vessel where the RCR wishes to take deliveries of CR crab. The CMP must detail how the RCR will meet the catch monitoring standards detailed in paragraph (g)(5) of this section. An RCR that processes only CR crab harvested under a CPO or CPC IFQ permit is not required to prepare a CMP.

(1) *CMP Approval*. NMFS will approve a CMP if it meets all the performance standards specified in paragraph (g)(5) of this section. The location or vessel identified in the CMP may be inspected by NMFS prior to approval of the CMP to ensure that the location conforms to the elements addressed in the CMP. If NMFS disapproves a CMP, the plant owner or manager may resubmit a revised CMP or file an administrative appeal as set forth under the administrative appeals procedures described in § 679.43.

(2) *Inspection scheduling*. The time and place of a CMP inspection may be arranged by submitting a written request for an inspection to NMFS, Alaska Region. An inspection must be requested no less than 10 working days before the requested inspection date. NMFS staff will conduct CMP inspections in any port located in the United

States that can be reached by regularly scheduled commercial air service. The inspection request must include:

(i) Name and signature of the person submitting the application and the date of the application;

(ii) Address, telephone number, facsimile number, and e-mail address (if available) of the person submitting the application; and

(iii) A proposed CMP detailing how the RCR will meet each of the standards in paragraph (g)(5) of this section.

(3) *Approval period.* NMFS will approve a CMP for 1 year if it meets the performance standards specified in paragraph (e)(2) of this section. An owner or manager must notify NMFS in writing if changes are made in plant operations or layout that do not conform to the CMP.

(4) *Changing an approved CMP.* An RCR may change an approved CMP by submitting a CMP addendum to NMFS. Depending on the nature and magnitude of the change requested, NMFS may require a CMP inspection as described in paragraph (g)(2) of this section. A CMP addendum must contain:

(i) Name and signature of the person submitting the addendum;

(ii) Address, telephone number, facsimile number and e-mail address (if available) of the person submitting the addendum; and

(iii) A complete description of the proposed CMP change.

(5) *CMP standards*—(i) *Crab sorting and weighing requirements.* All crab, including crab parts and crab that are dead or otherwise unmarketable, delivered to the RCR must be sorted and weighed by species. The CMP must detail how and where crab are sorted and weighed.

(ii) *Scales used for weighing crab.* The CMP must identify by serial number each scale used to weigh crab and describe the rationale for its use.

(iii) *Scale testing procedures.* Scales identified in the CMP must be accurate within the limits specified in paragraph (f)(4)(i) of this section. For each scale identified in the CMP a testing plan must be developed that:

(A) Describes the procedure the plant will use to test the scale;

(B) Lists the test weights and equipment required to test the scale;

(C) Lists where the test weights and equipment will be stored; and

(D) Lists the names of the personnel responsible for conducting the scale testing.

(iv) *Printed record.* An RCR must ensure that the scale produces a complete and accurate printed record of the weight of each species in a landing. All of the crab in a delivery must be weighed on a scale capable of producing a complete printed record as described in paragraph (e)(3) of this section. A printed record of each landing must be printed before the RCR submits a CR crab landing report.

(v) *Observation area.* Each CMP must designate an observation area. The observation area is a location designated on the CMP where an individual may monitor the offloading and weighing of crab. The observation area must meet the following standards:

(A) *Access to the observation area.* The observation area must be freely accessible to observer, NMFS staff or enforcement aides at any time during the effective period of the CMP.

(B) *Monitoring the offloading and weighing of crab.* From the observation area, an individual must have an unobstructed view or otherwise be able to monitor the entire offload of crab between the first location where crab are removed from the boat and a location where all sorting has taken place and each species has been weighed.

(C) *Other requirements.* The observation area must be sheltered from the weather and not exposed to unreasonable safety hazards.

(vi) *Plant liaison.* The CMP must designate a plant liaison. The plant liaison is responsible for:

(A) Orienting new observers, NMFS staff and enforcement aides to the plant;

(B) Assisting in the resolution of observer concerns; and

(C) Informing NMFS if changes must be made to the CMP.

(vii) *Drawing to scale of delivery location.* The CMP must be accompanied by a drawing to scale of the delivery location or vessel showing:

(A) Where and how crab are removed from the delivering vessel;

(B) The observation area;

(C) The location of each scale used to weigh crab; and

(D) Each location where crab is sorted.

(viii) *Single geographic location.* All offload and weighing locations detailed in a CMP must be located on the same vessel or in the same geographic location. If a CMP describes facilities for the offloading of vessels at more than one location, it must be possible to see all locations simultaneously.

[70 FR 10241, Mar. 2, 2005, as amended at 70 FR 75421, Dec. 20, 2005]

**§ 680.30 [Reserved]**

## Subpart C—Quota Management Measures

### § 680.40 Quota Share (QS), Processor QS (PQS), Individual Fishing Quota (IFQ), and Individual Processor Quota (IPQ) issuance.

(a) *Crab QS and Crab QS fisheries.* The Regional Administrator will issue crab QS for the crab QS fisheries defined in paragraph (a)(1) of this section. The Regional Administrator will annually issue IFQ based on the amount of QS a person holds. Crab harvested and retained in each crab QS fishery may be harvested and retained only by persons holding the appropriate crab IFQ for that crab QS fishery.

(1) *Allocations.* With the exception of the WAI golden king crab fishery, the Regional Administrator shall annually apportion 10 percent of the TAC specified by the State of Alaska for each of the fisheries described in Table 1 to this part to the Western Alaska CDQ program. Ten percent of the TAC in the Western Aleutian Islands golden king crab fishery will be allocated to the Adak community entity. The remaining TACs for the crab QS fisheries will be apportioned for use by QS holders in each fishery.

(2) *Official crab rationalization record.* The official crab rationalization record will be used to determine the amount of QS that is to be allocated for each crab QS fishery. The official crab rationalization record is presumed to be correct. An applicant for QS has the burden to prove otherwise. For the purposes of creating the official crab rationalization record the Regional Administrator will presume the following:

(i) An LLP license is presumed to have been used onboard the same vessel from which that LLP is derived, unless documentation is provided establishing otherwise.

(ii) If more than one person is claiming the same legal landings or legal processing activities, then each person eligible to receive QS or PQS based on those activities will receive an equal share of any resulting QS or PQS unless the applicants can provide written documentation establishing an alternative means for distributing the QS or PQS.

(iii) For the purposes of determining eligibility for CPO QS, a person is presumed to have processed BSAI crab in 1998 or 1999 if the vessel on which the applicant's LLP license is based processed such crab in those years.

(b) *QS sectors and regional designations*—(1) *General.* The Regional Administrator shall initially assign to qualified persons, crab QS that are specific to the crab QS fisheries defined in paragraph (a)(1) of this section. The crab QS amount issued will be based on legal landings made on vessels authorized to participate in those fisheries in four QS sectors:

(i) *Catcher Vessel Owner (CVO) QS* shall be initially issued to qualified persons defined in paragraph (b)(3) of this section based on legal landings of unprocessed crab.

(ii) *Catcher Vessel Crew (CVC) QS* shall be initially issued to qualified persons defined in paragraph (b)(3) of this section based on legal landings of unprocessed crab.

(iii) *Catcher/Processor Owner (CPO) QS* shall be initially issued to qualified persons defined in paragraph (b)(3) of this section based on legal landings of crab that were harvested and processed on the same vessel.

(iv) *Catcher/Processor Crew (CPC) QS* shall be initially issued to qualified persons defined in paragraph (b)(3) of this section based on legal landings of crab that were harvested and processed on the same vessel.

(2) *Regional designations.* (i) Regional designations apply to:

(A) *North QS* if the legal landings that gave rise to the QS for a crab QS

fishery were landed in the Bering Sea subarea north of 56°20′ N. lat.; or

(B) *South QS* if the legal landings that gave rise to the QS for a crab QS fishery were not landed in the North Region, and all CVO QS allocated to the WAI crab QS fishery; or

(C) *West QS* for a portion of the QS allocated to the WAG crab QS fishery subject to the provisions under § 680.40(c)(4).

(ii) Regional designations do not apply (Undesignated QS) to:

(A) Crab QS for the EBT or WBT crab QS fishery;

(B) Crab QS for that portion of the WAG QS fishery not regionally designated for the West region;

(C) CVC QS;

(D) CPO QS unless that QS is transferred to the CVO QS sector, in which case the regional designation is made by the recipient of the resulting CVO QS at the time of transfer; and

(E) CPC QS.

(iii) The regional designations that apply to each of the crab QS fisheries are specified in the following table:

| Crab QS Fishery | North Region | South Region | West Region | Undesignated Region |
|---|---|---|---|---|
| (A) EAG | X | X | | |
| (B) WAG | | | X | X |
| (C) EBT | | | | X |
| (D) WBT | | | | X |
| (E) BSS | X | X | | |
| (F) BBR | X | X | | |
| (G) PIK | X | X | | |
| (H) SMB | X | X | | |
| (I) WAI | | X | | |

(iv) The regional designation ratios applied to QS and PQS for each crab QS fishery will be established based on the regional designations determined on August 1, 2005. QS or PQS issued after this date will be issued in the same ratio.

(3) *Qualified person* means, for the purposes of QS issuance, a person, as defined in § 679.2, who at the time of application for QS meets the following criteria for each of the QS sectors:

(i) *CVO QS*. Holds one or more permanent, fully transferable crab LLP licenses and is a citizen of the United States;

(ii) *CPO QS*. (A) Holds one or more permanent, fully transferable crab LLP licenses with a Catcher/Processor designation and is a citizen of the United States; and

(B) Harvested and processed at sea any crab species in any BSAI crab fishery during the years 1998 or 1999.

(iii) *CVC QS and CPC QS*. (A) Is an individual who is a citizen of the United States, or his or her successor-in-interest if that individual is deceased;

(B) Has historical participation in the fishery demonstrated by being the individual named on a State of Alaska Interim Use Permit for a QS crab fishery and made at least one legal landing per year for any 3 eligibility years under that permit based on data from fish tickets maintained by the State of Alaska. The qualifying years are described in Column C of Table 7 to this part.

(C) Has recent participation in the fishery demonstrated by being the individual named on a State of Alaska Interim Use Permit for a QS crab fishery and made at least one legal landing under that permit in any 2 of 3 seasons based on data from fish tickets maintained by the State of Alaska. Those seasons are defined in Column D of Table 7 to this part; except that the requirement for recent participation does not apply if:

(*1*) The legal landings that qualify the individual for QS in the PIK crab QS fishery were made from a vessel that was less than 60 feet length overall; or

(*2*) If the individual who is otherwise eligible to receive an initial issuance of QS died while working as part of a harvesting crew in any U.S. commercial fishery.

(4) *Qualification for initial allocation of QS*—(i) *Qualifying year*. The qualifying years for each crab QS fishery are described in Column B of Table 7 to this part.

(ii) *Legal landing of crab* means, for the purpose of initial allocation of QS, crab harvested during the qualifying years specified in Column B of Table 7 to this part and landed in compliance with state and Federal permitting, landing, and reporting regulations in effect at the time of the landing.

(A) Legal landings exclude any deadloss, test fishing, fishing conducted under an experimental, exploratory, or scientific activity permit, or the fishery conducted under the Western Alaska CDQ Program.

(B) Landings made onboard a vessel that gave rise to a crab LLP license or made under the authority of an LLP license are non-severable from the crab LLP license until QS has been issued for those legal landings, except as provided for in paragraph (c)(2)(vii) of this section.

(C) Landings may only be used once for each QS sector for the purposes of allocating QS.

(D) Landings made from vessels which are used for purposes of receiving compensation through the BSAI Crab Capacity Reduction Program may not be used for the allocation of CVO QS or CPO QS.

(E) Legal landings for purposes of allocating QS for a crab QS fishery only include those landings that resulted in the issuance of an LLP license endorsed for that crab QS fishery, or landings that were made in that crab QS fishery under the authority of an LLP license endorsed for that crab QS fishery, except as provided for in paragraph (c)(2)(vii) of this section.

(iii) *Documentation*. Evidence of legal landings shall be limited to State of Alaska fish tickets.

(c) *Calculation of QS allocation*—(1) *General*. (i) For each permanent, fully transferable crab LLP license under which an applicant applies, CVO and CPO QS will be based on legal landings that resulted in the issuance of that license or from legal landings that were made under the authority of that license.

(ii) For each State of Alaska Interim Use Permit under which an applicant applies for CVC QS or CPC QS, the initial allocation of QS will be based on the legal landings that were made under the authority of that permit.

(2) *Computation for initial issuance of QS*. (i) Based on the official crab rationalization record the Regional Administrator shall derive the annual harvest denominator (AHD) that represents the amount of legally landed crab in each crab QS fishery in each qualifying year as established in Column B of Table 7 to this part.

(ii) The initial QS pool is described in Table 8 to this part.

(iii) A person's initial allocation of QS shall be based on a percentage of the legal landings for the applicable sector in each crab QS fishery:

(A) Associated with crab LLP licenses held by the applicant for CVO or CPO QS; or

(B) Authorized under a State of Alaska Interim Use Permit held by the applicant for CVC or CPC QS.

(iv) The Regional Administrator shall calculate the allocation of CVO and CPO QS for each crab QS fishery ''f'' based on each fully transferable LLP license ''l'' held by a qualified person by the following formulas:

(A) Sum legal landings for each qualifying year, as described in Column B of Table 7 to this part, and divide that amount by the AHD for that year as follows:

$(\sigma \text{ legal landings}_{lf}/\text{AHD}_f) \times 100 = \text{Percentage of the AHD}_{lf}$

(B) In those fisheries where only a subset of the qualifying years are applied, the Regional Administrator will use the years that yield the highest percentages of each AHD as calculated in paragraph (c)(2)(iv)(A) of this section.

(C) Sum the highest percentages of the AHD's for that license as calculated under paragraph (c)(2)(iv)(B) of this section and divide by the number in Column E of Table 7 to this part (Subset of Qualifying Years). This yields the Average Percentage as presented in the following equation:

$\sigma$ Percentages of the $AHD_{lf}$/Subset of Qualifying $Years_f$ = Average $Percentage_{lf}$

(D) Divide the Average percentage in paragraph (c)(2)(iv)(C) of this section for a license and fishery by the Sum of all Average Percentages for all licenses for that fishery as presented in the following equation:

Average $Percentage_{lf}/\sigma$ Average $Percentage_{sf}$ = Percentage of the Total $Percentages_{lf}$

(E) Multiply the Percentage of the Total Percentages in paragraph (c)(2)(iv)(D) of this section by the Initial QS Pool as described in Table 8 to this part. This yields the unadjusted number of QS units derived from a license for a fishery.

(F) Multiply the unadjusted number of QS units in paragraph (c)(2)(iv)(E) of this section by 97 percent. This yields the number of QS units to be allocated.

(G) Determine the percentage of legal landings in the subset of qualifying years associated with a LLP license with a catcher/processor designation that were processed on that vessel and multiply the amount calculated in paragraph (c)(2)(iv)(F) of this section by this percentage. This yields the amount of CPO QS to be allocated.

(H) Determine the percentage of legal landings in the subset of qualifying years associated with a LLP license that were not processed on that vessel and multiply the amount calculated in paragraph (c)(2)(iv)(F) of this section by this percentage. This yields the amount of CVO QS to be allocated.

(I) Determine the percentage of legal landings associated with an LLP license in the subset of qualifying years that were delivered in each region as defined in paragraph (b)(2) of this section. The amount calculated in paragraph (c)(2)(iv)(H) of this section is multiplied by the percentage for each region.

(J) The percentage calculated in paragraph (c)(2)(iv)(I) of this section may be adjusted according to the provisions at paragraphs (c)(3) and (c)(4) of this section.

(v) As shown in the formulas under this paragraph (c)(2)(v), the allocation of CVC and CPC QS for each crab QS fishery ''f'' based on each State of Alaska Interim Use Permit ''i'' held by each qualified person shall be calculated by the Regional Administrator as follows:

(A) Sum legal landings for each qualifying year as described in Column B of Table 7 to this part and divide that amount by the AHD for that year using the following equation:

($\sigma$ legal $landings_{if}/AHD_f$) $\times$ 100 = Percentage of the $AHD_{if}$

(B) In those fisheries where only a subset of the qualifying years are applied, the Regional Administrator will use the years that yield the highest percentages of the AHD as calculated in paragraph (c)(2)(v)(A) of this section.

(C) Sum the highest percentages of the AHDs for that license calculated under paragraph (c)(2)(v)(B) of this section and divide by the number in Column E of Table 7 to this part (Subset of Qualifying Years). This yields the Average Percentage as presented in the following equation:

$\sigma$ Percentages of the $AHD_{lf}$/Subset of Qualifying $Years_f$ = Average $Percentage_{if}$

(D) Divide the Average Percentage in paragraph (c)(2)(v)(C) of this section for a permit and fishery by the Sum of all Average Percentages for all permits for that fishery as presented in the following equation:

Average $Percentage_{if}/\sigma$ Average $Percentage_{sf}$ = Percentage of the Total $Percentages_{if}$

(E) Multiply the Percentage of the Total Percentages in paragraph (c)(2)(v)(E) of this section by the Initial QS Pool as described in Table 8 to this part. This yields the unadjusted number of QS units derived from a permit for a fishery.

(F) Multiply the unadjusted number of QS units in paragraph (c)(2)(v)(E) of this section by 3 percent. This yields the number of QS units to be allocated.

(G) Determine the percentage of legal landings in the subset of qualifying years associated with a permit that were processed on that vessel and multiply the amount calculated in paragraph (c)(2)(v)(F) of this section by this percentage. This yields the amount of CPC QS to be allocated.

(H) Determine the percentage of legal landings in the subset of qualifying years associated with a permit that were not processed on that vessel and multiply the amount calculated in paragraph (c)(2)(v)(F) of this section by this percentage. This yields the amount of CVC QS to be allocated.

(I) Determine the percentage of legal landings associated with a permit in the subset of qualifying years that were delivered in each region as defined in paragraph (b)(2) of this section. The amount calculated in paragraph (c)(2)(v)(H) of this section is multiplied by the percentage for each region.

(J) The percentage calculated in paragraph (c)(2)(v)(I) of this section may be adjusted according to the provisions at paragraphs (c)(3) and (c)(4) of this section. The amount calculated in paragraph (c)(2)(v)(H) of this section is multiplied by the percentage for each region. These regional QS designations do not apply to CVC QS.

(vi) *Sunken vessel provisions.* (A) If a person applies for CVO QS or CPO QS based, in whole or in part, on the activities of a vessel that sank, the Regional Administrator shall presume landings for that vessel for the crab fishing years between the time of vessel loss and the replacement of the vessel under § 679.40(k)(5)(v). These presumed landings shall be equivalent to 50 percent of the average legal landings for the qualifying years established in Column B of Table 7 to this part unaffected by the sinking. If the vessel sank during a qualifying year, the legal landings for that year will not be used as the basis for presumed landings;

(B) If a person applies for CVO QS or CPO QS based, in whole or in part, on the activities of a vessel that sank and:

(*1*) The person who owned the vessel that sank would have been denied eligibility to replace a sunken vessel under the provisions of Public Law 106–554; and

(*2*) The vessel that sank was replaced with a newly constructed vessel, with that vessel under construction no later than June 10, 2002. For purposes of this section a vessel is considered under construction once the keel for that vessel has been laid; and

(*3*) The newly constructed vessel participated in any Bering Sea crab fishery no later than October 31, 2002;

(*4*) Then the Regional Administrator shall presume landings for that vessel for the crab fishing years between the time of vessel loss and the replacement of the vessel. These presumed landings shall be equivalent to 50 percent of the average legal landings for the qualifying years established in Column B of Table 7 to this part unaffected by the sinking. If the vessel sank during a qualifying year, the legal landings for that year will not be used as the basis for presumed landings.

(vii) *LLP license history exemption.* An applicant for CVO or CPO QS who:

(A) Deployed a vessel in a crab QS fishery under the authority of an interim or permanent fully transferable LLP license; and

(B) Prior to January 1, 2002, received by transfer, as authorized by NMFS, a permanent fully transferable LLP license for use in that crab QS fishery to insure that a vessel would remain authorized to participate in the fishery, may choose to use as the legal landings which are the basis for QS allocation on his or her application for crab QS or PQS either:

(*1*) The legal landings made on that vessel for that crab QS fishery prior to the transfer of the permanent fully transferable LLP license for use on that vessel; or

(*2*) The legal landings made on the vessel that gave rise to the permanent fully transferable LLP license and the legal landings made under the authority of that same LLP license in that crab QS fishery prior to January 1, 2002.

(C) If the history described in paragraph (c)(2)(vii)(B)(*1*) of this section is being used by another person for an allocation with an LLP license, then the allocation in paragraph (c)(2)(vii) will be based on the legal landings as described under paragraph (c)(2)(vii)(B)(*2*) of this section.

(3) *Adjustment of CVO and CVC QS allocation for North and South regional designation.* The Regional Administrator may adjust the regional designation of QS to ensure that it is initially allocated in the same proportion as the regional designation of PQS for that crab QS fishery. A person who would receive QS based on the legal landings in only one region, will receive QS with only that regional designation. A person who would receive QS with more than one regional designation for that crab QS fishery would have his or her QS holdings regionally adjusted on a pro rata basis as follows:

(i) Determine the ratio of the Initial PQS pool in the North and South regions.

(ii) Multiply the Initial QS pool by the ratio of North and South PQS. This will yield the target QS pool for each region.

(iii) Sum the QS for all persons who are eligible to receive North QS yielding the unadjusted North QS pool, and sum the QS for all persons who are eligible to receive South QS yielding the unadjusted South QS pool.

(iv) To calculate the amount of QS available for adjustment, subtract the amount of QS for persons receiving North only QS from the unadjusted North QS pool and subtract the amount of QS for persons receiving South only QS from the unadjusted South QS pool, as presented in the following equations:

(A) Unadj. North QS − North QS only = North QS for [North & South] QS holders.

(B) Unadj. South QS − South QS only = South QS for [North & South] QS holders.

(v) Determine which region becomes the gaining region if the target QS pool is greater than the unadjusted QS pool.

(vi) Subtract the gaining region unadjusted QS pool from the gaining region target QS pool to calculate the number of QS units that need to be applied to the gaining region. This amount is the Adjustment Amount as presented in the following equation:

Unadj. gaining region QS − Target gaining region QS pool = Adjustment Amount

(vii) Divide the Adjustment Amount by the unadjusted losing region QS pool for North and South QS holders. This yields the regional adjustment factor (RAF) for each person as presented in the following equation:

Adj. Amount/unadjusted losing region QS pool for [North & South] QS holders = RAF

(viii) For each person (p) who holds both North and South Region QS, the QS adjustment (QS Adj. (p)) to that person's Unadjusted losing region QS is expressed in the following equation as:

QS adj. p = Unadjusted losing region QS p × RAF

(ix) The QS adjustment for person (p) is made by subtracting the QS adjustment from that person's unadjusted losing region QS amount and added to that person's unadjusted gaining region QS. These adjustments will yield the regional adjustment QS amounts for that person.

(4) *Regional designation of Western Aleutian Islands golden king crab.* Fifty percent of the CVO QS that is issued in the WAG crab QS fishery will be initially issued with a West regional designation. The West regional designation applies to QS for delivery west of 174° W. longitude. The remaining 50 percent of the CVO QS initially issued for this fishery is not subject to regional designation (Undesignated QS). A person (p) who would receive QS based on the legal landings in only one region will receive QS with only that regional designation. A person who would receive QS with more than one regional designation for that crab QS fishery would have his or her QS holdings regionally adjusted on a pro rata basis as follows:

(i) The West QS pool is equal to 50 percent of the initial QS pool.

(ii) The Undesignated QS pool is equal to 50 percent of the initial QS pool.

(iii) Sum the QS for all persons who are eligible to receive West QS yielding the unadjusted West QS pool, and sum the QS for all persons who are eligible to receive undesignated QS yielding the unadjusted undesignated QS pool.

(iv) To calculate the amount of QS available for adjustment, subtract the

amount of QS for persons receiving West only QS from the unadjusted West QS pool and subtract the amount of QS for persons receiving undesignated only QS from the unadjusted undesignated QS pool, as presented in the following equation:

(A) Unadj. West QS − West QS only = West QS for [West & Undesignated] QS holders.

(B) Unadj. Undesignated QS − Undesignated QS only = Undesignated QS for [West & Undesignated] QS holders.

(v) Subtract the gaining region Unadjusted QS pool from the gaining region Target QS pool to calculate the number of QS units that will need to be applied to the gaining region. This amount is the Adjustment Amount as presented in the following equation:

Target gaining region QS pool − unadjusted region QS = Adjustment Amount

(vi) Divide the Adjustment Amount by the unadjusted losing region QS pool for West and Undesignated QS holders. This yields the regional adjustment factor (RAF) for each person as presented in the following equation:

Adj. Amount/unadjusted losing region QS pool for West & Undesignated QS holders = RAF

(vii) For each person (p) who holds both unadjusted West and Undesignated Region QS, the QS adjustment (QS Adj. p) to that person's Unadjusted West QS is expressed in the following equation as:

QS adj. p = Unadjusted West QS p × RAF

(viii) The QS adjustment for person (p) is made by subtracting the QS adjustment for that person's unadjusted losing region QS amount and subtracted from that person's unadjusted gaining region QS. These adjustments will yield the regional adjustment QS amounts for that person.

(5) *Issuance of converted CPO QS.* (i) For each crab fishing year, the Regional Administrator may issue converted CPO QS for the BBR or BSS crab QS fishery with a North Region designation to an entity described in paragraph (c)(5)(ii), (c)(5)(iii), or (c)(5)(iv) of this section if NMFS has approved an application for converted CPO QS/IFQ for that crab fishing year.

(ii) Entity A is comprised only of Yardarm Knot, Inc. (NMFS ID # 675).

(iii) Entity B is comprised only of Blue Dutch, LLC (NMFS ID # 3163).

(iv) Entity C is comprised only of Trident Seafoods, Inc. (NMFS ID # 8184).

(v) NMFS will issue Entity A, B, or C, described in paragraphs (c)(5)(ii) through (c)(5)(iv) of this section, one unit of converted CPO for each unit of CVO QS and 0.9 units of PQS indicated in an approved application for converted CPO QS/IFQ.

(vi) For each crab fishing year, the Regional Administrator will not issue CPO QS for the BBR or BSS crab QS fishery:

(A) To Entity A described in paragraph (c)(5)(ii) of this section that is greater than the amount of converted CPO QS that may be derived from the amount of PQS units with a North Region designation initially issued by NMFS to Yardarm Knot, Inc. (NMFS ID # 675), and any affiliates of Yardarm Knot, Inc., as listed on an annual application for converted CPO QS/IFQ for that crab fishing year;

(B) To Entity B described in paragraph (c)(5)(iii) of this section that is greater than the amount of converted CPO QS that may be derived from the amount of PQS units with a North Region designation initially issued by NMFS to Blue Dutch, LLC, (NMFS ID # 3163) under paragraph (e)(3) of this section and any affiliates of Blue Dutch, LLC, as listed on an annual application for annual application for converted CPO QS/IFQ for that crab fishing year; and

(C) To Entity C described in paragraph (c)(5)(iv) of this section that is greater than the amount of converted CPO QS that may be derived from the amount of CVO QS units with a North Region designation initially issued by NMFS to Trident Seafoods, Inc. (NMFS ID # 8184), and any affiliates of Trident Seafoods, Inc., as listed on an annual application for converted CPO QS/IFQ for that crab fishing year;

(vii) CPO IFQ derived from converted CPO QS may be issued to a crab harvesting cooperative only if the entity described in paragraph (c)(5)(ii),

(c)(5)(iii), or (c)(5)(iv) of this section holding the converted CPO QS is a member of that crab harvesting cooperative.

(6) *Offloading requirements for CPO IFQ derived from converted CPO QS.* Any crab harvested under a CPO IFQ permit derived from converted CPO QS must be offloaded in the Bering Sea subarea north of 56°20′ N. lat.

(d) *Crab PQS and Crab PQS Fisheries*—(1) *General.* The Regional Administrator shall initially assign to qualified persons defined in paragraph (d)(3) of this section crab PQS specific to crab QS fisheries defined in paragraph (a)(1) of this section. The crab PQS amount issued will be based on total legal processing of crab made in those crab QS fisheries. PQS shall yield annual IPQ as defined under paragraph (j) of this section.

(2) *Regional designations.* For each crab QS fishery, PQS shall be initially regionally designated based on the legal processing that gave rise to the PQS as follows:

(i) *North PQS* if the processing that gave rise to the PQS for a crab QS fishery occurred in the Bering Sea subarea north of 56°20′ N. lat.; or

(ii) *South PQS* if the processing that gave rise the PQS for a crab QS fishery did not occur in the North Region, and PQS allocated to the WAI crab QS fishery; or

(iii) *West PQS* for a portion of the PQS allocated to the WAG crab QS fishery subject to the provisions under paragraph (e)(2) of this section; or

(iv) *Undesignated.* Regional designations do not apply to:

(A) That portion of the WAG crab QS fishery that is not regionally designated as West Region PQS; and

(B) The EBT or WBT crab QS fishery.

(v) The specific regional designations that apply to PQS in each of the crab QS fisheries are described in paragraph (b)(2)(iii) of this section.

(3) *Qualified person,* for the purposes of PQS issuance, means a person, as defined at § 679.2, who at the time of application for PQS is a U.S. citizen, or a U.S. corporation, partnership, association, or other entity, and who:

(i) Legally processed any crab QS species established in paragraph (a)(1) of this section during 1998 or 1999 as demonstrated on the official crab rationalization record; or

(ii) Did not legally process any crab QS species during 1998 or 1999 according to the official crab rationalization record, but who:

(A) Processed BSS crab QS species in each crab season for that fishery during the period from 1988 through 1997; and

(B) From January 1, 1996, through June 10, 2002, invested in a processing facility, processing equipment, or a vessel for use in processing operations, including any improvements made to existing facilities with a total expenditure in excess of $1,000,000; or

(C) Is the person to whom the history of legal processing of crab has been transferred by the express terms of a written contract that clearly and unambiguously provides that such legal processing of crab has been transferred. This provision would apply only if that applicant for PQS:

(*1*) Legally processed any crab QS species established in paragraph (a)(1) of this section during 1998 or 1999, as demonstrated on the official crab rationalization record; or

(*2*) Received history of crab processing that was legally processed during 1998 or 1999, as demonstrated on the official crab rationalization record.

(iii) Qualified persons, or their successors-in-interest, must exist at the time of application for PQS.

(iv) A former partner of a dissolved partnership or a former shareholder of a dissolved corporation who would otherwise be a qualified person may apply for PQS in proportion to his or her ownership interest in the dissolved partnership or corporation.

(v) A person who has acquired a processing corporation, partnership, or other entity that has a history of legal processing of crab is presumed to have received by transfer all of that history of legal processing of crab unless a clear and unambiguous written contract establishes otherwise.

(4) *Qualification for initial allocation of PQS*—(i) *Years.* The qualifying years for each crab QS fishery are designated in Table 9 to this part.

(ii) *Ownership interest.* Documentation of ownership interest in a dissolved partnership or corporation, association, or other entity 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.

(iii) *Legal processing of crab* means, for the purpose of initial allocation of PQS, raw crab pounds processed in the crab QS fisheries designated under paragraph (a)(1) of this section in compliance with state and Federal permitting, landing, and reporting regulations in effect at the time of the landing. Legal processing excludes any deadloss, processing of crab harvested in a test fishery or under a scientific, education, exploratory, or experimental permit, or under the Western Alaska CDQ Program.

(iv) *Documentation.* Evidence of legal processing shall be limited to State of Alaska fish tickets, except that:

(A) NMFS may use information from a State of Alaska Commercial Operators Annual Report, State of Alaska fishery tax records, or evidence of direct payment from a receiver of crab to a harvester if that information indicates that the buyer of crab differs from the receiver indicated on State of Alaska fish ticket records; however:

(B) Information on State of Alaska fish tickets shall be presumed to be correct for the purpose of determining evidence of legal processing of crab. An applicant will have the burden of proving the validity of information submitted in an application that is inconsistent with the information on the State of Alaska fish ticket.

(e) *Calculation of PQS allocation*—(1) *Computation for initial issuance of PQS.* (i) The Regional Administrator shall establish the Total Processing Denominator (TPD) which represents the amount of legally processed raw crab pounds in each crab QS fishery in all qualifying years.

(ii) For each crab QS fishery, the percentage of the initial PQS pool that will be distributed to each qualified person shall be based on their percentage of the TPD according to the following procedure:

(A) Sum the raw crab pounds purchased for each person for all qualifying years.

(B) Divide the sum calculated in paragraph (e)(1)(ii)(A) of this section by the TPD. Multiply by 100. This yields a person's percentage of the TPD.

(C) Sum the TPD percentages of all persons.

(D) Divide the percentage for a person calculated in paragraph (e)(1)(ii)(B) of this section by the sum calculated in paragraph (e)(1)(ii)(C) of this section for all persons. This yields a person's percentage of the TPD.

(E) Multiply the amount calculated in paragraph (e)(1)(ii)(D) of this section by the PQS pool for that crab QS fishery as that amount is defined in Table 8 to this part.

(F) Determine the percentages of legally processed crab that were processed in each region. The percentages calculated in paragraph (e)(1)(ii)(E) of this section are multiplied by the amount determined within each regional designation. Regional designations will apply to that PQS according to the provisions established in paragraphs (d)(2) and (e)(2) of this section.

(2) *Regional designation of Western Aleutian Islands golden king crab.* (i) Fifty percent of the PQS that is issued in the WAG crab QS fishery will be issued with a West regional designation. The West regional designation applies to PQS for processing west of 174° N. long. The remaining 50 percent of the PQS issued for this fishery is Undesignated region PQS.

(ii) A person will receive only West PQS if, at the time of application, that person owns a crab processing facility that is located in the West region. A person will receive West region and Undesignated Region PQS if, at the time of application, that person does not own a crab processing facility located in the West region. Expressed algebraically, for any person (p) allocated both West region PQS and undesignated region PQS the formula is as follows:

(A) $PQS_{West} = PQS \times 0.50$

(B) $PQS_{Und.} = PQS \times 0.50$

(C) $PQS_{West}$ for $PQS_{West\ \&\ Und.}$ holders = $PQS_{West} - PQS_{West\ only}$

(D) $PQS_{West}$ for $Person_{p\ West\ \&\ Und.}$ = $PQS_p \times PQS_{West}$ for $PQS_{West\ \&\ Und.}$ holders/($PQS_{West}$ for $PQS_{West\ \&\ Und.}$ holders + $PQS_{Und.}$)

(E) $PQS_{Und.}$ for $Person_p$ = $PQS_p - PQS_{West}$ for $Person_p$

(iii) For purposes of the allocation of PQS in the WAG crab fishery:

(A) Ownership of a processing facility is defined as:

(*1*) A sole proprietor; or

(*2*) A relationship between two or more entities in which a person directly or indirectly owns a 10 percent or greater interest in another, or a third entity directly or indirectly owns a 10 percent or greater interest in both.

(B) A processing facility is a shoreside crab processor or a stationary floating crab processor.

(3) *PQS issued to Blue Dutch, LLC.* (i) Pursuant to Public Law 109–241, NMFS issued 3,015,229 units of PQS for the BBR crab QS fishery and 7,516,253 units of PQS for the BSS crab QS fishery.

(ii) PQS units issued to Blue Dutch, LLC, under paragraph (e)(3)(i) of this section were assigned a regional designation according to the procedures established in paragraph (b)(2)(iv) of this section.

(iii) PQS units issued to Blue Dutch, LLC, under paragraph (e)(3)(i) of this section may not be transferred to any other person.

(f) *Application for crab QS or PQS process*—(1) *General.* The Regional Administrator will issue QS and/or PQS to an applicant if a complete application for crab QS or PQS is submitted by or on behalf of the applicant during the specified application period, and if the applicant meets all criteria for eligibility as specified at paragraphs (b)(3) and (d)(3) of this section.

(i) The Regional Administrator will send application materials to the person identified by NMFS as an eligible applicant based on the official crab rationalization record. An application form may also be obtained from the Internet or requested from the Regional Administrator.

(ii) An application for crab QS or PQS may be submitted by mail to NMFS, Alaska Region, Restricted Access Management, P.O. Box 21668, Juneau, AK 99802, by facsimile (907–586–7354), or by hand delivery to the NMFS, 709 West 9th Street, room 713, Juneau, AK.

(iii) An application that is postmarked, faxed, or hand delivered after the ending date for the application period for the Crab QS Program specified in the FEDERAL REGISTER will be denied.

(2) *Contents of application.* A complete application for crab QS or PQS must be signed by the applicant, or the individual representing the applicant, and include the following, as applicable:

(i) *Type of QS or PQS for which the person is applying.* Select the type of QS or PQS for which the applicant is applying.

(A) If applying for CVO QS or CPO QS, submit information required in paragraphs (f)(2)(ii) through (f)(2)(iv) of this section;

(B) If applying for CVC QS or CPC QS, submit information required in paragraphs (f)(2)(ii), (f)(2)(iii) and (f)(2)(v) of this section;

(C) If applying for PQS, submit information required in paragraphs (f)(2)(ii), (f)(2)(iii) and (f)(2)(vi) of this section.

(ii) *Applicant information.* (A) Enter the applicant's name, NMFS person ID (if applicable), tax ID or social security number (required), permanent business mailing address, business telephone number, facsimile number, and e-mail (if available);

(B) Indicate (YES or NO) whether applicant is a U.S. citizen; if YES, enter his or her date of birth. You must be a U.S. citizen or U.S. corporation, partnership, or other business entity to obtain CVO, CPO, CVC, or CPC QS.

(C) Indicate (YES or NO) whether applicant is a U.S. corporation, partnership, association, or other business entity; if YES, enter the date of incorporation;

(D) Indicate (YES or NO) whether applicant is deceased; if YES, enter date of death. A copy of the death certificate must be attached to the application;

(E) Indicate (YES or NO) whether applicant described in paragraph (f)(2)(ii)(C) of this section is no longer in existence; if YES, enter date of dissolution and attach evidence of dissolution to the application;

(iii) *Fishery and QS/PQS type*. Indicate the crab QS fishery and type of QS/PQS for which applying.

(iv) *CVO or CPO QS*. (A) For vessels whose catch histories are being claimed for purposes of the crab QS program, enter the following information: name of the vessel, ADF&G vessel registration number, USCG documentation number, moratorium crab permit number(s), and crab LLP license number(s) held by the applicant and used on that vessel, qualifying years or seasons fished by fishery, and dates during which those permits were used on that vessel.

(B) Indicate (YES or NO) whether applicant is applying for QS for any crab QS fishery for which the applicant purchased an LLP license prior to January 1, 2002, in order to remain in that fishery. If YES, include LLP crab license number, and the vessel's name, ADF&G vessel registration number, and USCG documentation number.

(C) Indicate (YES or NO) whether QS is being claimed based on the fishing history of a vessel that was lost or destroyed. If YES, include the name, ADF&G registration number, and USCG documentation number of the lost or destroyed vessel, the date the vessel was lost or destroyed, and evidence of the loss or destruction.

(D) Indicate (YES or NO) whether the lost or destroyed vessel described in paragraph (f)(2)(iv)(C) of this section was replaced with a newly constructed vessel. If YES, include the name, ADF&G vessel registration number, and USCG documentation number of the replacement vessel, date of vessel construction, and date vessel entered fishery(ies). Indicate (YES or NO) if the replacement vessel participated in a Bering Sea crab fishery by October 31, 2002. If YES, provide documentation of the replacement vessel's participation by October 31, 2002, in a Bering Sea crab fishery.

(E) If the applicant is applying for CPO QS, indicate (YES or NO) whether the applicant processed crab from any of the crab QS fisheries listed on Table 1 to this part on board a vessel authorized by one of the LLP licenses listed in paragraph (f)(2)(iv)(A) of this section in 1998 or 1999. If YES, enter information for the processed crab, including harvest area, date of landing, and crab species.

(v) *CVC or CPC QS*. (A) Indicate (YES or NO) whether applicant had at least one landing in three of the qualifying years for each crab species for which the applicant is applying for QS (see Table 7 to this part).

(B) Indicate (YES or NO) whether applicant has recent participation in a crab QS fishery as defined in Table 7 to this part.

(C) If the answer to paragraph (f)(2)(v)(A) or paragraph (f)(2)(v)(B) of this section is YES, enter State of Alaska Interim Use Permit number and the name, ADF&G vessel registration number, and USCG documentation number of vessel on which harvesting occurred. Select the qualifying years or seasons fished by QS fishery, and the dates during which those permits were used on that vessel;

(D) Indicate (YES or NO) whether a person is applying as the successor-in-interest to an eligible applicant. If YES, attach to the application documentation proving the person's status as a successor-in-interest and evidence of the death of the eligible applicant.

(vi) *Processor QS*. (A) Indicate (YES or NO) whether applicant processed any of the crab species included in the Crab QS program (see Table 1 to this part) in 1998 or 1999.

(B) If answer to paragraph (f)(2)(vi)(A) of this section is YES, enter the facility name and ADF&G processor code for each processing facility where crab, from any of the crab QS fisheries listed in Table 1 of this part, were processed and the qualifying years or seasons by fishery for which applicant is claiming eligibility for PQS.

(C) If answer to paragraph (f)(2)(vi)(A) of this section is NO, indicate (YES or NO) whether applicant is claiming eligibility under hardship provisions;

(D) If answer to paragraph (f)(2)(vi)(C) of this section is YES, both of the following provisions must apply to a processor to obtain hardship provisions. Attach documentation of the following circumstances:

(*1*) Applicant processed QS crab during 1998 or 1999, or processed BSS crab

in each season between 1988 and 1997; and

(*2*) Applicant invested a total expenditure in excess of $1,000,000 for any processing facility, processing equipment, or a vessel for use in processing operations, including any improvements made to existing facilities from January 1, 1996, to June 10, 2002;

(E) Indicate (YES or NO) whether applicant has entered into a Community Right of First Refusal (ROFR) contract consistent with paragraph (f)(3) of this section pertaining to the transfer of any PQS and/or IPQ subject to ROFR and issued as a result of this application.

(F) Contract that the legal processing history and rights to apply for and receive PQS based on that legal processing history have been transferred or retained; and

(G) Any other information deemed necessary by the Regional Administrator.

(H) If applicant is applying to receive PQS for the WAG crab QS fishery, indicate (YES or NO) whether applicant owns a crab processing facility in the West region (*see* paragraph (b)(2) (iii) of this section).

(vii) *Applicant signature and certification*. The applicant must sign and date the application certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application is completed by an authorized representative, then authorization must accompany the application.

(3) *Notice and contract provisions for community right of first refusal (ROFR) for initial issuance of PQS*. (i) To be complete, an application for PQS from a person based on legal processing that occurred in an ECC, other than Adak, must also include an affidavit signed by the applicant stating that notice has been provided to the ECC of the applicant's intent to apply for PQS. If the ECC designates an entity to represent it in the exercise of ROFR under § 680.41(l), then the application also must include an affidavit of completion of a contract for ROFR that includes the terms enacted under section 313(j) of the Magnuson-Stevens Act. The affidavit must be signed by the applicant for initial allocation of PQS and the ECC entity designated under § 680.41(l)(2). A list of contract terms is available from the NMFS Alaska Region Web site at *http://www.fakr.noaa.gov*. A copy of these contract terms also will be made available by mail or facsimile by contacting the Regional Administrator at 907–586–7221.

(ii) To be complete, an application for crab QS or PQS from a person based on legal processing that occurred in the GOA north of a line at 56°20′ N. lat. must also include an affidavit signed by the applicant stating that notice has been provided to the City of Kodiak and Kodiak Island Borough of the applicant's intent to apply for PQS. If the City of Kodiak and Kodiak Island Borough designate an entity to represent it in the exercise of ROFR under § 680.41(l), then the application also must include an affidavit of completion of a contract for ROFR that includes the terms enacted under the Consolidated Appropriations Act of 2004 (Pub. L. 108–199) and that is signed by the applicant for initial allocation of PQS and the ECC entity designated by the City of Kodiak and Kodiak Island Borough under § 680.41(l)(2). A list of contract terms is available from the NMFS Alaska Region Web site at *http://www.fakr.noaa.gov*. A copy of these contract terms also will be made available by mail or facsimile by contacting the Regional Administrator at (907) 586–7221.

(4) *Application evaluation*. The Regional Administrator will evaluate Applications for Crab QS or PQS submitted during the specified application period and compare all claims in an application with the information in the official crab rationalization record. Claims in an application that are consistent with information in the official crab rationalization record will be accepted by the Regional Administrator. Inconsistent claims in the Applications for Crab QS or PQS, unless verified by documentation, will not be accepted. An applicant who submits inconsistent claims, or an applicant who fails to submit the information specified in paragraph (f)(2) of this section, will be provided a single 30-day evidentiary period as provided in paragraph (f)(5) 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 crab rationalization record. An applicant who submits claims that are inconsistent with information in the official crab rationalization record has the burden of proving that the submitted claims are correct.

(5) *Additional information or evidence.* The Regional Administrator will evaluate additional information or evidence to support an applicant's inconsistent claims submitted prior to or within the 30-day evidentiary period. 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 crab rationalization record will be amended and the information will be used in determining whether the applicant is eligible for QS or PQS. 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 are correct, the applicant will be notified by an IAD, that the applicant did not meet the burden of proof to change the information in the official crab rationalization record.

(6) *30-day evidentiary period.* The Regional Administrator will specify by letter a single 30-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 crab rationalization 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 (b)(3)(iii) and (b)(3)(iv) of this section will have 30 days to provide that information. An applicant will be limited to one 30-day evidentiary period per application. Additional information or evidence, or a revised application, received after the 30-day evidentiary period specified in the letter has expired will not be considered for purposes of the IAD.

(7) *Right of First Refusal (ROFR) contract provisions.* If an ECC designates an entity to represent it in the exercise of ROFR under § 680.41(l), then the Regional Administrator will not prepare an IAD on unverified claims or issue PQS until an affidavit is received from the applicant confirming the completion of a civil contract for ROFR as required under section 313(j) of the Magnuson-Stevens Act.

(8) *Initial administrative determinations (IAD).* The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-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 crab rationalization 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 30-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 crab QS or PQS until after the final resolution of that appeal in the applicant's favor.

(g) *Annual allocation of IFQ.* IFQ is assigned based on the underlying QS. The Regional Administrator shall assign crab IFQs to each person who holds QS and submits a complete annual application for crab IFQ/IPQ permit as described under § 680.4. IFQ will be assigned to a crab QS fishery with the appropriate regional designation, QS sector, and IFQ class. This amount will represent the maximum amount of crab that may be harvested from the specified crab QS fishery by the person

to whom it is assigned during the specified crab fishing year, unless the IFQ assignment is changed by the Regional Administrator because of an approved transfer, revoked, suspended, or modified under 15 CFR part 904.

(h) *Calculation of annual IFQ allocation*—(1) *General*. The annual allocation of IFQ to any person (p) in any crab QS fishery (f) will be based on the TAC of crab for that crab QS fishery less the allocation to the Western Alaska CDQ Program (''CDQ Reserve'') and Western Aleutian Islands golden king crab fishery. Expressed algebraically, the annual IFQ allocation formula is as follows:

(i) IFQ $TAC_f = TAC_f - (CDQ\ reserve_f +$ Allocation for the Western Aleutian Island golden king crab fishery)

(ii) $IFQ_{pf} = IFQ\ TAC_f \times (QS_{pf}/QS\ pool_f)$.

(2) *Class A/B IFQ*. (i) QS shall yield Class A or Class B IFQ if:

(A) Initially assigned to the CVO QS sector; or

(B) Transferred to the CVO QS sector from the CPO QS sector.

(ii) The Class A/B IFQ TAC is the portion of the TAC assigned as Class A/B IFQ under paragraphs (h)(2)(i)(A) and (B) of this section.

(3) *Class A/B IFQ issuance ratio*. (i) Class A and Class B IFQ shall be assigned on an annual basis such that the total amount of Class A and B IFQ assigned in a crab fishing year in each crab QS fishery for each region will be in a ratio of 90 percent Class A IFQ and 10 percent Class B IFQ.

(ii) The Regional Administrator will determine the amount of Class A and Class B IFQ that is assigned to each QS holder. The Class A IFQ is calculated by allocating 90 percent of the Class A/B IFQ TAC (TAC a) to Class A IFQ. A portion of the IFQ TAC a is allocated to persons eligible to hold only Class A IFQ (TAC a only), the remaining IFQ TAC (TAC r) is allocated for harvest by a person (p) eligible to receive both Class A IFQ and Class B IFQ. Expressed algebraically, for an individual person (p) eligible to hold both Class A and Class B IFQ the annual allocation formula is as follows:

(A) $TAC_a$ = Class A/B IFQ TAC $\times$ 0.90

(B) $TAC_r = TAC_a - TAC_{a\ only}$

(C) $IFQ_{ap} = TAC_r/(\text{Class A/B IFQ TAC} - TAC_{a\ only}) \times IFQ_p$

(D) $IFQ_{bp} = IFQ_p - IFQ_{ap}$

(4) *Class A IFQ and Class B IFQ issuance to IPQ holders*. If a person holds IPQ and IFQ, than that person will be issued Class A IFQ only for the amount of IFQ equal to the amount of IPQ held by that person. Any remaining IFQ held by that person will be issued as Class A and Class B IFQ in a ratio so that the total Class A and Class B IFQ issued in that crab QS fishery is issued as 90 percent Class A IFQ and 10 percent Class B IFQ;

(5) *Class A IFQ and Class B IFQ issuance to persons affiliated with IPQ holders*. If an IPQ holder holds IPQ in excess of the amount of IFQ held by that person, all IFQ holders affiliated with that IPQ holder will receive only Class A IFQ in proportion to the amount of IFQ held by those affiliated persons relative to that amount of IPQ held by that IPQ holder. Any remaining IFQ held by persons affiliated with the IPQ holder will be issued as Class A and Class B IFQ in a ratio so that the total Class A and Class B IFQ issued in that fishery is issued as 90 percent Class A IFQ and 10 percent Class B IFQ.

(6) *CVC IFQ*. (i) QS that is initially allocated to the CVC QS sector shall yield CVC IFQ.

(ii) CVC IFQ is not subject to regional designation.

(7) *CPO IFQ*. (i) QS that is initially allocated to the CPO QS sector shall yield CPO IFQ.

(ii) CPO IFQ is not subject to regional designation.

(8) *CPC IFQ*. (i) QS that is initially allocated to the CPC QS sector shall yield CPC IFQ.

(ii) CPC IFQ is not subject to regional designation.

(9) *QS amounts for IFQ calculation*. For purposes of calculating IFQ for any crab fishing year, the amount of a person's QS and the amount of the QS pool for any crab QS fishery will be the amounts on record with the Alaska Region, NMFS, at the time of calculation.

(10) *Class A IFQ*. (i)The amount of Class A IFQ issued in excess of the IPQ issuance limits for the BSS or BBR crab QS fisheries, as described in paragraph (j)(3) of this section, will be issued to all Class A IFQ recipients on a pro rata basis in proportion to the

amount of Class A IFQ held by each person.

(ii) Any amount of Class A IFQ that is issued in excess of the IPQ issuance limits for the BSS or BBR crab QS fisheries, as described in paragraph (j)(3) of this section, is not required to be delivered to an RCR with unused IPQ.

(i) *Annual allocation of IPQ*. IPQ is assigned based on the underlying PQS. The Regional Administrator shall assign crab IPQs to each person who submits a complete annual application for crab IFQ/IPQ permit as described under § 680.4. Each assigned IPQ will be specific to a crab QS fishery with the appropriate regional designation. This amount will represent the maximum amount of crab that may be received from the specified crab QS fishery by the person to whom it is assigned during the specified crab fishing year, unless the IPQ assignment is changed by the Regional Administrator because of an approved transfer, revoked, suspended, or modified under 15 CFR part 904.

(j) *Calculation of annual IPQ allocation*—(1) *General*. The annual allocation of TAC to PQS and the resulting IPQ in any crab QS fishery (f) is the Class A IFQ TAC ($TAC_a$). A person's annual IPQ is based on the amount of PQS held by a person (PQS p) divided by the PQS pool for that crab QS fishery for all PQS holders (PQS pool f). Expressed algebraically, the annual IPQ allocation formula is as follows:

$$IPQ_{pf} = TAC_{af} \times PQS_{pf}/PQS\ pool_f.$$

(2) *PQS amounts for IPQ calculation*. For purposes of calculating IPQs for any crab fishing year, the amount of a person's PQS and the amount of the PQS pool for any crab PQS fishery will be the amounts on record with the Alaska Region, NMFS, at the time of calculation.

(3) *IPQ issuance limits*. The amount of IPQ issued in any crab fishing year shall not exceed:

(i) 157,500,000 raw crab pounds (71,441.5 mt) in the BSS crab QS fishery; and

(ii) 18,000,000 raw crab pounds (8,164.7 mt) in the BBR crab QS fishery.

(4) *IPQ issued to Blue Dutch, LLC*—(i) *BBR IPQ*. For each crab fishing year that the total allowable catch for BBR CR crab is greater than 15,732,480 lb (7,136.2 mt), NMFS will issue IPQ for the 3,015,229 units of PQS issued to Blue Dutch, LLC, pursuant to Public Law 109–241.

(ii) *BSS IPQ*. For each crab fishing year that the total allowable catch for BSS CR crab is greater than 21,350,640 lb (9,684.6 mt), NMFS will issue IPQ for the 7,516,253 units of PQS issued to Blue Dutch, LLC, pursuant to Public Law 109–241.

(k) *Timing for issuance of IFQ or IPQ*. IFQ and IPQ will be issued once the TAC for that crab QS fishery in that crab fishing year has been specified by the State of Alaska. All IFQ and IPQ for all persons will be issued once for a crab fishing year for a crab QS fishery. QS issued after NMFS has issued annual IFQ for a crab QS fishery for a crab fishing year will not result in IFQ for that crab QS fishery for that crab fishing year.

(l) *Harvesting and processing privilege*. QS and PQS 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 QS, PQS, or permits represent only a harvesting or processing privilege that may be revoked or amended pursuant to the Magnuson-Stevens Act and other applicable law. IPQs do not create a right, title, or interest in any crab until that crab is purchased from a fisherman.

[70 FR 10241, Mar. 2, 2005, as amended at 70 FR 33395, June 8, 2005; 70 FR 75421, Dec. 20, 2005; 71 FR 32864, June 7, 2006; 73 FR 29983, May 23, 2008; 73 FR 30320, May 27, 2008; 73 FR 35088, June 20, 2008]

### § 680.41 Transfer of QS, PQS, IFQ and IPQ.

(a) *General*. (1) Transfer of crab QS, PQS, IFQ, or IPQ means any transaction, approved by NMFS, requiring QS or PQS, or the use thereof in the form of IFQ or IPQ, to pass from one person to another, permanently or for a fixed period of time, except that:

(2) A crab IFQ hired master permit issued by NMFS, as described in § 680.4, is not a transfer of crab QS or IFQ; and

(3) The use of IFQ assigned to a crab harvesting cooperative and used within

that cooperative is not a transfer of IFQ.

(b) *Transfer applications*. An application is required to transfer any amount of QS, PQS, IFQ, or IPQ. The Regional Administrator shall provide applications to any person on request or on the Internet at *http://www.fakr.noaa.gov/*. Any transfer application will not be approved until the necessary eligibility application in paragraph (c) of this section has been submitted and approved by NMFS.

(1) *Application for transfer of crab QS/IFQ or PQS/IPQ*. This application, as described in paragraph (h) of this section, is required to transfer any amount of QS, PQS, IFQ, or IPQ from an entity that is not an ECCO or a crab harvesting cooperative.

(2) *Application for transfer of crab QS/IFQ to or from an ECCO*. This application, as described in paragraph (k) of this section, is required to transfer any amount of QS or IFQ to or from an entity that is an ECCO.

(3) *Application for inter-cooperative transfer*. This application, as described in § 680.21, is required to transfer any amount of IFQ from an entity that is a crab harvesting cooperative to another crab harvesting cooperative.

(4) *Application deadline*. The Regional Administrator will not approve any transfers of QS, PQS, IFQ, or IPQ in any crab QS fishery from August 1 until the date of the issuance of IFQ or IPQ for that crab QS fishery.

(5) *Notification of approval or disapproval of applications*. (i) Applicants submitting any application under this section will be notified by mail of the Regional Administrator's approval of an application. The Regional Administrator will notify applicants if an application submitted under this section is disapproved. This notification of disapproval will include an explanation why the application was not approved.

(ii) *Reasons for disapproval*. Reasons for disapproval of an application include, but are not limited to:

(A) Lack of U.S. citizenship, where U.S. citizenship is required.;

(B) Failure to meet minimum requirements for sea time as a member of a harvesting crew;

(C) An incomplete application, including fees and an EDR, if required;

(D) An untimely application; or

(E) Fines, civil penalties, or other payments due and owing, or outstanding permit sanctions resulting from Federal fishery violations.

(6) *QS, PQS, IFQ, or IPQ accounts*. QS, PQS, IFQ, or IPQ accounts affected by a transfer approved by the Regional Administrator will change on the date of approval. Any necessary IFQ or IPQ permits will be sent with the notification of approval if the receiver of the IFQ or IPQ permit has completed an annual application for crab IFQ/IPQ permit for the current fishing year as required under § 680.4.

(c) *Eligibility to receive QS, PQS, IFQ, or IPQ by transfer*. Persons, other than persons initially issued QS or PQS, must establish eligibility to receive QS, PQS, IFQ, or IPQ by transfer.

(1) To be eligible to receive QS, PQS, IFQ, or IPQ by transfer, a person must first meet the requirements specified in the following table:

| Quota type | Eligible person | Eligibility requirements |
|---|---|---|
| (i) PQS not issued under § 680.40(e)(3)(i). | Any person ..... | None. |
| (ii) IPQ ..... | Any person ..... | None. |
| (iii) CVO or CPO QS. | (A) A person initially issued QS. | No other eligibility requirements. |
| | (B) An individual. | who is a U.S. citizen with at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery. |
| | (C) A corporation, partnership, or other entity. | with at least one individual member who is a U.S. citizen and who: (*1*) owns at least 20 percent of the corporation, partnership, or other entity; and (*2*) has at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery. |
| | (D) An ECCO | that meets the eligibility requirements described under paragraph (j) of this section. |
| | (E) A CDQ group. | No other eligibility requirements. |
| (iv) Converted CPO QS. | N/A ..... | Converted CPO QS may not be transferred. |
| (v) CPO IFQ derived from Converted CPO QS. | N/A ..... | CPO IFQ derived from Converted CPO may not be transferred. |

| Quota type | Eligible person | Eligibility requirements |
|---|---|---|
| (vi) CVO or CPO IFQ. | All eligible persons for CVO or CPO QS. | according to the requirements in paragraph (c)(1)(iii) of this section. |
| (vii) CVC or CPC QS. | An individual .. | who is a U.S. citizen with: (A) at least 150 days of sea time as part of a harvesting crew in any U.S. commercial fishery; and (B) recent participation in a CR crab fishery in the 365 days prior to submission of the application for eligibility. |
| (viii) CVC or CPC IFQ. | All eligible persons for CVC or CPC QS. | according to the requirements in paragraph (c)(1)(v) of this section. |

(2) *Application for eligibility to receive QS/IFQ and PQS/IPQ by transfer*. (i) This application is required to establish a person's eligibility to receive QS, PQS, IFQ, or IPQ by transfer, if the person is not an ECCO. See paragraph (j) of this section for eligibility to transfer of QS/IFQ to or from an ECCO. The Regional Administrator shall provide an application to any person on request or on the Internet at *http://www.fakr.noaa.gov/*.

(ii) *Contents*. A complete Application for Eligibility to Receive QS/IFQ or PQS/IPQ by Transfer must include the following:

(A) Type of QS, IFQ, PQS, or IPQ for which the applicant is seeking eligibility. Indicate type of QS, IFQ, PQS, IPQ for which applicant is seeking eligibility.

(*1*) If seeking CVO or CPO QS/IFQ, complete paragraphs (c)(2)(ii)(B), (c)(2)(ii)(D) if applicable, (c)(2)(ii)(E), and (c)(2)(ii)(F) of this section;

(*2*) If seeking CVC or CPC QS/IFQ, complete paragraphs (c)(2)(ii)(B), (c)(2)(ii)(C), (c)(2)(ii)(E), and (c)(2)(ii)(F) of this section;

(*3*) If seeking PQS/IPQ, complete paragraphs (c)(2)(ii)(B) and (c)(2)(ii)(F) of this section;

(B) *Applicant information*. (*1*) Enter applicant's name and NMFS Person ID, applicant's date of birth or, if not an individual, date of incorporation; applicant's social security number or tax ID number; applicant's permanent business mailing address and any temporary business mailing address the applicant wishes to use, and the applicant's business telephone number, business facsimile number, and e-mail address (if available).

(*2*) Indicate (YES or NO) whether the applicant is a U.S. citizen or U.S. corporation, partnership or other business entity. Applicants for CVO, CPO, CVC or CPC QS (and associated IFQ) must be U.S. Citizens or U.S. Corporations, Partnerships or Other Business Entity. Applicants for PQS (and associated IPQ) are not required to be U.S. Citizens.

(C) *Eligibility for CVC or CPC QS/IFQ*. Indicate (YES or NO) whether this application is intended for a person who wishes to buy CVC or CPC QS/IFQ. If YES, provide evidence of at least one delivery of a crab species in any CR crab fishery in the 365 days prior to submission of this application. Acceptable evidence of such delivery shall be limited to an ADF&G fish ticket imprinted with applicant's State of Alaska permit card and signed by the applicant, an affidavit from the vessel owner, or a signed receipt for an IFQ crab landing on which applicant was acting as the permit holder's crab IFQ hired master.

(D) *U.S. Corporations, partnerships, or business entities*. (*1*) Indicate (YES or NO) whether this application is submitted by a CDQ Group. If YES, complete paragraph (c)(2)(ii)(F) of this section;

(*2*) Indicate (YES or NO) whether this application is submitted on behalf of a corporation, partnership or other business entity (not including CDQ groups). If YES: At least one member of the corporation, partnership or other business entity must submit documentation showing at least 20 percent interest in the corporation, partnership, or other entity and must provide evidence of at least 150 days as part of a harvesting crew in any U.S. commercial fishery. Identify the individual member and provide this individual's commercial fishing experience, name, NMFS person ID, and social security number, and business mailing address, business telephone number, and business facsimile number.

(E) *Commercial fishing experience*. (*1*) Species; enter any targeted species in a U.S. commercial fishery;

(*2*) Gear Type; enter any gear type used to legally harvest in a U.S. commercial fishery;

(*3*) Location; enter actual regulatory, statistical, or geographic harvesting location;

(*4*) Starting date and ending date of claimed fishing period (MMYY);

(*5*) Number of actual days spent harvesting;

(*6*) Duties performed while directly involved in the harvesting of (be specific):

(*7*) Name and ADF&G vessel registration number or USCG documentation number of the vessel upon which above duties were performed;

(*8*) Name of vessel owner;

(*9*) Name of vessel operator;

(*10*) Reference name. Enter the name of a person (other than applicant) who is able to verify the above experience;

(*11*) Reference's relationship to applicant;

(*12*) Reference's business mailing address and telephone number.

(F) *Applicant certification*. (*1*) Printed name and signature of applicant and date signed;

(*2*) Notary Public signature, date commission expires, and notary stamp or seal.

(G) Verification that the applicant applying for eligibility to receive crab QS/IFQ or PQS/IPQ by transfer has submitted an EDR, if required to do so under § 680.6;

(H) A non-profit entity seeking approval to receive crab QS or IFQ by transfer on behalf of a ECC must first complete an Application to Become an ECCO under paragraph (j) of this section.

(d) *Transfer of CVO, CPO, CVC, CPC QS or PQS*—(1) *General*. PQS or QS may be transferred, with approval of the Regional Administrator, to persons qualified to receive PQS or QS by transfer. However, the Regional Administrator will not approve a transfer of any type of PQS or QS that would cause a person to exceed the maximum amount of PQS or QS allowable under the use limits provided for in § 680.42, except as provided for under paragraph (f) of this section.

(2) *CVO QS*. CVO QS may be transferred to any person eligible to receive CVO or CPO QS as defined under paragraph (c) of this section.

(3) *CPO QS*. Persons holding CPO QS may transfer CPO QS as CVO QS and PQS to eligible recipients under the following provisions:

(i) Each unit of CPO QS shall yield 1 unit of CVO QS, and 0.9 units of PQS; and

(ii) The CVO QS and PQS derived from the transfer of CPO QS may be transferred separately, except that these shares must receive the same regional designation. The regional designation shall be determined at the time of transfer by the person receiving the CVO QS.

(4) *CVC or CPC QS*. CVC or CPC QS may be transferred to any person eligible to receive CVC or CPC QS as defined under paragraph (c) of this section. CVC and CPC QS may only be used in the sector for which it is originally designated.

(e) *Transfer of IFQ or IPQ by Lease*—(1) *IFQ derived from CVO or CPO QS*. IFQ derived from CVO or CPO QS may be transferred by lease until June 30, 2010. IFQ derived from CVO or CPO QS must be leased:

(i) If the IFQ will be used on a vessel on which the QS holder has less than a 10 percent ownership interest; or

(ii) If the IFQ will be used on a vessel on which the QS holder or the holder of a crab IFQ hired master permit, under § 680.4, is not present.

(2) Ownership of a vessel, for the purposes of this section, means:

(i) A sole proprietor; or

(ii) A relationship between 2 or more entities in which one directly or indirectly owns a 10 percent or greater interest in a vessel.

(3) *IFQ derived from CVC QS or CPC QS*. (i) IFQ derived from CVC or CPC QS may be transferred by lease only until June 30, 2008, unless the IFQ permit holder demonstrates a hardship.

(ii) In the event of a hardship, as described at paragraph (e)(2)(iii) in this section, a holder of CVC or CPC QS may lease the IFQ derived from this QS for the term of the hardship. However, the holder of CVC or CPC QS may not lease the IFQ under this provision for more than 2 crab fishing years total in any 10 crab fishing year period. Such transfers are valid only during the crab

fishing year for which the IFQ permit is issued and the QS holder must reapply for any subsequent transfers.

(iii) NMFS will not approve transfers of IFQ under this provision unless the QS holder can demonstrate a hardship by an inability to participate in the crab QS fisheries because:

(A) Of a medical condition of the QS holder. The QS holder is required to provide documentation of the medical condition from a licensed medical doctor who verifies that the QS holder cannot participate in the fishery because of the medical condition.

(B) Of a medical condition involving an individual who requires the QS holder's care. The QS holder is required to provide documentation of the individual's medical condition from a licensed medical doctor. The QS holder must verify that he or she provides care for that individual and that the QS holder cannot participate in the fishery because of the medical condition of that individual.

(C) Of the total or constructive physical loss of a vessel. The QS holder must provide evidence that the vessel was lost and could not be replaced in time to participate in the fishery for which the person is claiming a hardship.

(4) *IPQ derived from PQS.* IPQ derived from PQS may be leased.

(f) *Transfer of QS, PQS, IFQ or IPQ with restrictions.* If QS, PQS, IFQ or IPQ 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, PQS, IFQ or IPQ by transfer does not meet the eligibility requirements of this section, the Regional Administrator will approve, with restrictions, an Application for transfer of crab QS/IFQ or PQS/IPQ. The Regional Administrator will not assign IFQ or IPQ resulting from the restricted QS or PQS to any person. IFQ or IPQ with restrictions may not be used for harvesting or processing species covered under the CR program. The QS, PQS, IFQ or IPQ will remain restricted until:

(1) The person who received the QS, PQS, IFQ or IPQ 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, PQS, IFQ or IPQ with restrictions to a person who meets the eligibility requirements of this section.

(g) *Survivorship transfer privileges.* (1) On the death of an individual who holds QS or PQS, the surviving spouse or, in the absence of a surviving spouse, a beneficiary designated pursuant to paragraph (g)(3) of this section, receives all QS, PQS and IFQ or IPQ 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) A QS or PQS holder may provide the Regional Administrator with the name of the designated beneficiary from the QS or PQS holder's immediate family to receive survivorship transfer privileges in the event of the QS or PQS holders death and in the absence of a surviving spouse.

(3) The Regional Administrator will approve, for 3 calendar years following the date of the death of an individual, an Application for transfer of crab QS/IFQ or PQS/IPQ from the surviving spouse or, in the absence of a surviving spouse, a beneficiary from the QS or PQS holder's immediate family designated pursuant to this section, to a person eligible to receive IFQ or IPQ under the provisions of this section, notwithstanding the limitations on transfers of IFQ and IPQ in this section and the use limitations under § 680.42.

(h) *Application for transfer of crab QS/IFQ or PQS/IPQ*—(1) *General.* (i) An Application for transfer of crab QS/IFQ or PQS/IPQ must be approved by the Regional Administrator before the transferee may use the IFQ or IPQ to harvest or process crab QS species.

(ii) Persons who submit an Application for transfer of crab QS/IFQ or PQS/IPQ for approval will receive notification of the Regional Administrator's decision to approve or disapprove the application, and if applicable, the

reason(s) for disapproval, by mail, unless another communication mode is requested on the application.

(2) *Contents*. A complete Application for transfer of crab QS/IFQ or PQS/IPQ must include the following information:

(i) *Type of transfer*. (A) Indicate type of transfer requesting.

(B) Indicate (YES or NO) whether this is a transfer of IFQ or IPQ only due to a hardship (medical emergency, etc.). If YES, provide documentation supporting the need for such transfer (doctor's statement, etc.).

(C) If requesting transfer of PQS/IPQ for use outside an ECC that has designated an entity to represent it in exercise of ROFR under paragraph (l), the application must include an affidavit signed by the applicant stating that notice of the desired transfer has been provided to the ECC entity under civil contract terms referenced under § 680.40(f)(3) for the transfer of any PQS or IPQ subject to ROFR.

(ii) *Transferor information*. (A) The transferor is the person currently holding the QS, PQS, IFQ, or IPQ.

(B) Enter the transferor's name and NMFS Person ID, social security number or tax ID number, transferor's permanent business mailing address and any temporary mailing address the transferor wishes to use, business telephone, business facsimile, and business e-mail address (if available).

(iii) *Transferee information*. (A) The transferee is person receiving QS, PQS or IFQ, IPQ by transfer.

(B) Enter the transferee's name and NMFS Person ID, social security number or tax ID number, transferee's permanent business mailing address and any temporary mailing address the transferee wishes to use, business telephone, business facsimile, and business e-mail address (if available);

(iv) *Transfer of QS or PQS and IFQ or IPQ*. Complete the following information if QS or PQS and IFQ or IPQ are to be transferred together or if transferring only QS or PQS:

(A) QS species;

(B) QS type;

(C) Range of serial numbers to be transferred (shown on QS certificate) numbered to and from;

(D) Number of QS units to be transferred;

(E) Transferor (seller) IFQ or IPQ permit number;

(F) Indicate (YES or NO) whether remaining IFQ or IPQ pounds for the current fishing year should be transferred; if NO, specify the number of pounds to be transferred;

(G) If this is a transfer of CPO QS, indicate whether being transferred as CPO QS or CVO QS and PQS;

(H) If CPO QS is being transferred as both CVO QS and PQS, specify number of units of each; and

(I) If CPO QS is being transferred as CVO QS, select region for which the QS is designated.

(v) *Transfer of IFQ or IPQ only*. Complete the following information if transferring IFQ or IPQ only:

(A) QS species;

(B) IFQ/IPQ type;

(C) Range of serial numbers shown on QS certificate, numbered to and from;

(D) Number of IFQ or IPQ pounds to be transferred;

(E) Transferor (seller) IFQ or IPQ permit number; and

(F) Crab fishing year of the transfer.

(vi) *Price paid for the QS, PQS and/or IFQ, IPQ*. The transferor must provide the following information.

(A) Indicate whether (YES or NO) a broker was used for this transaction; If YES, provide dollar amount paid in brokerage fees or percentage of total price.

(B) Provide the total amount paid for the QS/IFQ or PQS/IPQ in this transaction, including all fees.

(C) Provide the price per unit of QS (price divided by QS units) and the price per pound (price divided by IFQ or IPQ pounds) of IFQ or IPQ.

(D) Indicate all reasons that apply for transferring the QS/IFQ or PQS/IPQ.

(vii) *Method of financing for the QS, PQS and/or IFQ, IPQ*. The transferee must provide the following information.

(A) Indicate (YES or NO) whether QS/IFQ or PQS/IPQ purchase will have a lien attached; if YES, provide the name of lien holder.

(B) Indicate one primary source of financing for this transfer.

(C) Indicate the sources used to locate the QS, PQS and/or IFQ, IPQ being transferred.

(D) Indicate the relationship, if any, between the transferor and the transferee.

(E) Indicate (YES or NO) whether an agreement exists to return the QS/IFQ or PQS/IPQ to the transferor or any other person, or with a condition placed on resale; If YES, provide written explanation.

(F) Attach a copy of the terms of agreement for the transfer, the bill of sale for QS or PQS, or lease agreement for IFQ or IPQ.

(G) Indicate whether an EDR was submitted, if required by § 680.6, and whether all fees have been paid, as required under § 680.44.

(viii) *Notary information*—(A) *Certification of transferor*. (*1*) Printed name and signature of transferor or authorized agent and date signed. If authorized agent, proof of authorization to act on behalf of the transferor must be provided with the application; and

(*2*) Notary Public signature, date commission expires, and notary stamp or seal

(B) *Certification of transferee*. (*1*) Printed name and signature of transferee or authorized agent and date signed. If authorized agent, proof of authorization to act on behalf of the transferee must be provided with the application; and

(*2*) Notary Public signature, date commission expires, and notary stamp or seal.

(ix) *Attachments to the application and other conditions to be met*. (A) Indicate whether the person applying to make or receive the QS, PQS, IFQ or IPQ transfer has submitted an EDR, if required to do so under § 680.6, and has paid all fees, as required by § 680.44; and

(B) All individuals applying to receive CVC QS or IFQ or CPC QS or IFQ by transfer must submit proof of at least one delivery of a crab species in any CR crab fishery in the 365 days prior to submission to NMFS of the Application for Transfer of QS/IFQ or PQS/IPQ. Proof of this landing is:

(*1*) Signature of the applicant on an ADF&G Fish Ticket; or

(*2*) An affidavit from the vessel owner attesting to that individual's participation as a member of a fish harvesting crew on board a vessel during a landing of a crab QS species within the 365 days prior to submission of an Application for transfer of crab QS/IFQ or PQS/IPQ.

(i) *Approval criteria for an Application for transfer of crab QS/IFQ or PQS/IPQ*. Except as provided in paragraph (f) of this section, an application for transfer of QS/IFQ or PQS/IPQ will not be approved until the Regional Administrator has determined that:

(1) The person applying to receive the QS, PQS, IFQ or IPQ meets the requirements of eligibility in paragraph (c) of this section;

(2) The person applying for transfer and the person applying to receive QS or IFQ/IPQ have their original notarized signatures on the application;

(3) No fines, civil penalties, or other payments due and owing, or outstanding permit sanctions, resulting from Federal fishery violations involving either party exist;

(4) The person applying to receive QS, PQS, IFQ or IPQ currently exists;

(5) The transfer would not cause the person applying to receive the QS, PQS, IFQ or IPQ to exceed the use limits in § 680.42;

(6) The person applying to make or receive the QS, PQS, IFQ or IPQ transfer has paid all IFQ or IPQ fees described under § 680.44; or has timely appealed the IAD of underpayment as described under § 680.44;

(7) The person applying to make or receive the QS, PQS, IFQ or IPQ transfer has submitted an EDR, if required to do so under § 680.6;

(8) In the case of an application for transfer of PQS or IPQ for use outside an ECC that has designated an entity to represent it in exercise of ROFR under paragraph (l), the Regional Administrator will not act upon the application for a period of 10 days. At the end of that time period, the application will be approved pending meeting the criteria set forth in this paragraph (i).

(9) In the case of an application for transfer of PQS for use within an ECC that has designated an entity to represent it in exercise of ROFR under paragraph (l), The Regional Administrator will not approve the application unless either the ECC entity provides

an affidavit to the Regional Administrator that the ECC wishes to permanently waive ROFR for the PQS or the proposed recipient of the PQS provides an affidavit affirming the completion of a contract for ROFR that includes the terms enacted under section 313(j) of the Magnuson-Stevens Act and referenced under § 680.40(f)(3).

(10) Other pertinent information requested on the application for transfer has been supplied to the satisfaction of the Regional Administrator.

(j) *Transfer of crab QS/IFQ to or from and ECCO*—(1) *Designation of an ECCO.* (i) The appropriate governing body of each ECC may designate a non-profit organization to serve as the ECCO for that ECC. To transfer and hold QS on the behalf of that ECC, this designation must be submitted by the non-profit organization in its Application to Become an ECCO.

(ii) If the non-profit entity is approved by NMFS to serve as the ECCO, then the appropriate governing body of the ECC must authorize the transfer of any QS from the ECCO.

(iii) The appropriate governing body for purposes of designating a non-profit organization for the Application to Become an ECCO, or acknowledging the transfer of any QS from an ECCO in each ECC is as follows:

(A) If the ECC is also a community eligible to participate in the Western Alaska CDQ Program, then the CDQ group is the appropriate governing body;

(B) If the ECC is not a CDQ community and is incorporated as a municipality and is not within an incorporated borough, then the municipal government is the appropriate governing body;

(C) If the ECC is not a CDQ community and is incorporated as a municipality and also within an incorporated borough, then the municipality and borough jointly serve as the appropriate governing body and both must agree to designate the same non-profit organization to serve as the ECCO or acknowledge the transfer of QS from the ECCO; and

(D) If the ECC is not a CDQ community and is not incorporated as a municipality and is in a borough, then the borough in which the ECC is located is the appropriate governing body.

(iv) The appropriate governing body in each ECC may designate only one non-profit organization to serve as the ECCO for that community at any one time.

(2) *Application to become an ECCO.* Prior to initially receiving QS or IFQ by transfer on behalf of a specific ECC, a non-profit organization that intends to represent that ECC as a ECCO must submit an application to become an ECCO and have that application approved by the Regional Administrator. The Regional Administrator shall provide an application to become an ECCO to any person on request or on the Internet at *http://www.fakr.noaa.gov/.*

(i) *Contents of application*—(A) *Applicant identification.* (*1*) Enter the name of the non-profit organization, taxpayer ID number, and NMFS Person ID, applicant's permanent business mailing address and any temporary business mailing address the applicant wishes to use, and the name of contact person, business telephone number, business facsimile number, and e-mail address (if available);

(*2*) Name of community or communities represented by the non-profit organization; and

(*3*) Name of contact person for the governing body of each community represented.

(B) Required attachments to the application. (*1*) The articles of incorporation under the laws of the State of Alaska for that non-profit organization;

(*2*) A statement indicating the ECC(s) represented by that non-profit organization for purposes of holding QS;

(*3*) The bylaws of the non-profit organization;

(*4*) A list of key personnel of the management organization including, but not limited to, the board of directors, officers, representatives, and any managers;

(*5*) Additional contact information of the managing personnel for the non-profit organization and resumes of management personnel;

(*6*) A description of how the non-profit organization is qualified to manage

QS on behalf of the ECC it is designated to represent, and a demonstration that the non-profit organization has the management skills and technical expertise to manage QS and IFQ; and

(*7*) A statement describing the procedures that will be used to determine the distribution of IFQ to residents of the ECC represented by that non-profit organization, including procedures used to solicit requests from residents to lease IFQ and criteria used to determine the distribution of IFQ leases among qualified community residents and the relative weighting of those criteria.

(C) *Applicant certification.* (*1*) Printed name of applicant or authorized agent, notarized signature, and date signed. If authorized agent, proof of authorization to act on behalf of the applicant must be provided with the application.

(*2*) Notary Public signature and date when commission expires, and notary seal or stamp.

(ii) [Reserved]

(k) *Application for transfer of crab QS/IFQ to or from an ECCO.* (1) An application for transfer of crab QS/IFQ to or from an ECCO must be approved by the Regional Administrator before the transferee may use the IFQ to harvest crab QS species.

(2) An application for transfer of crab QS/IFQ to or from an ECCO will not be approved until the Regional Administrator has reviewed and approved the transfer agreement signed by the parties to the transaction. Persons who submit an application for transfer of crab QS/IFQ to or from an ECCO for approval will receive notification of the Regional Administrator's decision to approve or disapprove the application, and if applicable, the reason(s) for disapproval, by mail, unless another communication mode is requested on the application.

(3) *Contents.* A complete application for transfer of crab QS/IFQ to or from an ECCO includes the following:

(i) *General requirements.* (A) This form may only be used if an ECCO is the proposed transferor or the proposed transferee of the QS or IFQ.

(B) The party to whom an ECCO is seeking to transfer the QS/IFQ must be eligible to receive QS/IFQ by transfer.

(C) If the ECCO is applying to permanently transfer QS, a representative of the community on whose behalf the QS is held must sign the application.

(D) If authorized representative represents either the transferor or transferee, proof of authorization to act on behalf of transferor or transferee must be attached to the application.

(ii) *Transferor information.* Enter the transferor's (person currently holding the QS or IFQ) name, NMFS Person ID, social security number or Tax ID, permanent business mailing address, business telephone, business facsimile, and business e-mail address. If transferor is an ECCO, enter the name of ECC represented by the ECCO. The transferor may also provide a temporary address for each transaction in addition to the permanent business mailing address.

(iii) *Transferee information.* Enter the transferee's (person receiving QS or IFQ by transfer) name, NMFS Person ID, social security number or Tax ID, permanent business mailing address, business telephone, business facsimile, and business e-mail. If transferee is an ECCO, name of the community (ECC) represented by the ECCO. The transferee may also provide a temporary address for each transaction in addition to the permanent business mailing address.

(iv) *Identification* of QS/IFQ to be transferred. Complete the following information if QS and IFQ are to be transferred together or if transferring only QS:

(A) QS species;

(B) QS type;

(C) Number of QS or IFQ units to be transferred;

(D) Total QS units;

(E) Number of IFQ pounds;

(F) Range of serial numbers to be transferred (shown on QS certificate) numbered to and from;

(G) Name of community to which QS are currently assigned; and

(H) Indicate (YES or NO) whether remaining IFQ pounds for the current fishing year should be transferred; if NO, specify the number of pounds to be transferred.

(v) *Transfer of IFQ only.* (A) IFQ permit number and year of permit, and

(B) Actual number of IFQ pounds to be transferred.

(vi) *Transferor Information, if an ECCO*. Reason(s) for transfer:

(A) ECCO management and administration;

(B) Fund additional QS purchase;

(C) Participation by community residents;

(D) Dissolution of ECCO; and

(E) Other (specify).

(vii) *Price paid for QS, PQS, and/or IFQ, IPQ (Transferor)*. The transferor must provide the following information:

(A) Whether (YES or NO) a broker was used for this transaction; If YES, provide dollar amount paid in brokerage fees or percentage of total price;

(B) Provide the total amount paid for the QS/IFQ in this transaction, including all fees;

(C) Provide the price per unit of QS (price divided by QS units) and the price per pound (price divided by IFQ) of IFQ; and

(D) Indicate all reasons that apply for transferring the QS/IFQ.

(viii) *Price paid for QS, PQS, and/or IFQ, IPQ (Transferee)*. The transferee must provide the following information:

(A) Indicate (YES or NO) whether QS/IFQ purchase will have a lien attached; if YES, provide the name of lien holder;

(B) Indicate one primary source of financing for this transfer;

(C) Indicate the sources used to locate the QS or IFQ being transferred;

(D) Indicate the relationship, if any, between the transferor and the transferee;

(E) Indicate (YES or NO) whether an agreement exists to return the QS or IFQ to the transferor or any other person, or with a condition placed on resale; If YES, explain; and

(F) Attach a copy of the terms of agreement for the transfer, the bill of sale for QS, or lease agreement for IFQ.

(ix) *Notary information*—(A) *Certification of transferor*. (*1*) Printed name and signature of transferor or authorized agent and date signed. If authorized agent, proof of authorization to act on behalf of the transferor must be provided with the application.

(*2*) Notary Public signature, date commission expires, and notary stamp or seal.

(B) *Certification of transferee*. (*1*) Printed name and signature of transferor or authorized agent and date signed. If authorized agent, proof of authorization to act on behalf of the transferee must be provided with the application.

(*2*) Notary Public signature, date commission expires, and notary stamp or seal.

(C) *Certification of authorized representative of community*. (*1*) Printed name, title and signature of authorized community representative, date signed, and printed name of community.

(*2*) Notary Public signature, date commission expires, and notary stamp or seal;

(4) *Attachments to the application and other conditions to be met*. (i) Indicate whether the person applying to make or receive the QS, PQS, IFQ or IPQ transfer has submitted an EDR, if required to do so under § 680.6, and paid all fees, as required by § 680.44.

(ii) A copy of the terms of agreement for the transfer, the bill of sale for QS or PQS, or lease agreement for IFQ or IPQ.

(iii) An affirmation that the individual receiving IFQ from an ECCO has been a permanent resident in the ECC for a period of 12 months prior to the submission of the Application for Transfer QS/IFQ to or from an ECCO on whose behalf the ECCO holds QS.

(5) *Approval criteria for an application for transfer of crab QS/IFQ to or from an ECCO*. In addition to the criteria required for approval under paragraph (i) of this section, the following criteria are also required:

(i) The ECCO applying to receive or transfer crab QS has submitted a complete annual report(s) required by § 680.5;

(ii) The ECCO applying to transfer crab QS has provided information on the reasons for the transfer as described in paragraph (e) of this section; and

(iii) An individual applying to receive IFQ from an ECCO is a permanent resident of the ECC in whose name the ECCO is holding QS.

(l) *Eligible crab community right of first refusal (ROFR)*—(1) *Applicability*—(i) *Exempt Fisheries*. PQS and IPQ issued for

the EBT, WBT, WAG, or WAI crab QS fisheries are exempt from ROFR provisions.

(ii) *Eligible Crab Communities (ECCs).* The ROFR extends to the ECCs, other than Adak, and their associated governing bodies. The ROFR may be exercised by the ECC entity representing that ECC.

(2) *Community representation*—(i) *CDQ Communities.* ECC entity for purposes of exercise of ROFR for any ECC that is also a CDQ community shall be the CDQ group to which the ECC is a member.

(ii) *Non-CDQ communities.* (A) Any ECC, other than Adak, that is a non-CDQ community may designate an ECC entity that will represent the community in the exercise of ROFR at least 30 days prior to the ending date for the initial application period for the crab QS program specified in the FEDERAL REGISTER.

(B) The ECC entity eligible to exercise the right of first refusal on behalf of an ECC will be identified by the governing body(s) of the ECC. If the ECC is incorporated under the laws of the State of Alaska, and not within an incorporated borough, then the municipality is the governing body; if the ECC is incorporated and within an incorporated borough, then the municipality and borough are the governing bodies and must agree to designate the same ECC entity; if the ECC is not incorporated and in an incorporated borough, then the borough is the governing body.

(C) Each ECC may designate only one ECC entity to represent that community in the exercise of ROFR at any one time through a statement of support from the governing body of the ECC. That statement of support identifying the ECC entity must be submitted to the Regional Administrator, NMFS, Post Office Box 21668, Juneau, Alaska 99802, at least 30 days prior to the ending date of the initial application period for the crab QS program under § 680.40.

(D) The ECC ROFR is not assignable by the ECC entity.

(3) *Restrictions on transfer of PQS or IPQ out of North Gulf of Alaska communities*—(i) *Applicability.* Any community in the Gulf of Alaska north of a line at 56°20′ N. lat.

(ii) *Notification of PQS or IPQ transfer.* A PQS holder submitting an application to transfer PQS or IPQ for use in processing outside any community identified under paragraph (l)(3)(i) must notify the ECC entity designated by the City of Kodiak and Kodiak Island Borough under paragraph (l)(2) of this section 10 days prior to the intended transfer of PQS or IPQ for use outside the community. At the end of that time period, the application will be approved pending meeting the criteria set forth in paragraph (i) of this section.

[70 FR 10241, Mar. 2, 2005, as amended at 71 FR 32864, June 7, 2006; 73 FR 29983, May 23, 2008]

### § 680.42 Limitations on use of QS, PQS, IFQ, and IPQ.

(a) *QS and IFQ use caps*—(1) *General.* Separate and distinct QS and IFQ use caps apply to all QS and IFQ categories pertaining to a given crab QS fishery with the following provisions:

(i) A person who receives an initial allocation of QS that exceeds the use cap listed in paragraph (a)(2) of this section may not receive QS by transfer unless and until that person's holdings are reduced to an amount below the use cap.

(ii) A person will not be issued QS in excess of the use cap established in this section based on QS derived from landings attributed to an LLP license obtained via transfer after June 10, 2002 unless;

(A) The person applies to receive QS based on an LLP transferred after June 10, 2002 but prior to November 24, 2004, and

(B) The person will receive the amount of QS associated with that transferred LLP in excess of the use cap established in this section for a crab QS fishery solely because of the adjustment to legal landings available for QS allocation resulting from the BSAI Crab Capacity Reduction Program.

(iii) QS and IFQ use caps shall be based on the initial QS pools used to determine initial allocations of QS.

(2) Except for non-individual persons who hold PQS, as provided for in paragraph (a)(1)(ii) of this section, or a CDQ group, as provided for in paragraph (a)(3) of this section, a person, individually or collectively, may not:

(i) Hold QS in amounts in excess of the amounts specified in the following table, unless that person's QS was received in the initial allocation:

| Fishery | CVO/CPO Use Cap in QS Units | CVC/CPC Use Cap in QS Units |
|---|---|---|
| (A) Percent of the initial QS pool for BBR | 1.0% = 3,880,000. | 2.0% = 240,000 |
| (B) Percent of the initial QS pool for BSS | 1.0% = 9,700,000. | 2.0% = 600,000 |
| (C) Percent of the initial QS pool for EBT | 1.0% = 1,940,000. | 2.0% = 120,000 |
| (D) Percent of the initial QS pool for WBT | 1.0% = 1,940,000. | 2.0% = 120,000 |
| (E) Percent of the initial QS pool for PIK | 2.0% = 582,000 | 4.0% = 36,000 |
| (F) Percent of the initial QS pool for SMB | 2.0% = 582,000 | 4.0% = 36,000 |
| (G) Percent of the initial QS pool for EAG | 10.0% = 970,000. | 20.0% = 60,000 |
| (H) Percent of the initial QS pool for WAG | 10.0% = 3,880,000. | 20.0% = 240,000 |
| (I) Percent of the initial QS pool for WAI | 10.0% = 5,820,000. | 20.0% = 360,000 |

(ii) Use IFQ in excess of the amount of IFQ that results from the QS caps in paragraph (a)(2)(i) of this section, unless that IFQ results from QS that was received by that person in the initial allocation of QS for that crab QS fishery.

(3) A CDQ Group, individually or collectively, may not:

(i) Hold QS in excess of more than the amounts of QS specified in the following table:

| Fishery | CDQ CVO/CPO Use Cap in QS Units |
|---|---|
| (A) 5.0 percent of the initial QS pool for BBR | 19,400,000 |
| (B) 5.0 percent of the initial QS pool for BSS | 48,500,000 |
| (C) 5.0 percent of the initial QS pool for EBT | 9,700,000 |
| (D) 5.0 percent of the initial QS pool for WBT | 9,700,000 |
| (E) 10.0 percent of the initial QS pool for PIK | 2,910,000 |
| (F) 10.0 percent of the initial QS pool for SMB | 2,910,000 |
| (G) 20.0 percent of the initial QS pool for EAG | 1,940,000 |
| (H) 20.0 percent of the initial QS pool for WAG | 7,760,000 |
| (I) 20.0 percent of the initial QS pool for WAI | 11,640,000 |

(ii) Use IFQ in excess of the amount of IFQ that results from the QS caps in paragraph (a)(3)(i) of this section, unless that IFQ results from QS that was received by that person in the initial allocation of QS for that crab QS fishery.

(4) A person who is not an individual and who holds PQS may not:

(i) Hold QS in excess of the amounts specified in the following table:

| Fishery | CVO/CPO Use Cap in QS Units |
|---|---|
| (A) 5.0 percent of the initial QS pool for BBR | 19,400,000 |
| (B) 5.0 percent of the initial QS pool for BSS | 48,500,000 |
| (C) 5.0 percent of the initial QS pool for EBT | 9,700,000 |
| (D) 5.0 percent of the initial QS pool for WBT | 9,700,000 |
| (E) 5.0 percent of the initial QS pool for PIK | 1,455,000 |
| (F) 5.0 percent of the initial QS pool for SMB | 1,455,000 |
| (G) 5.0 percent of the initial QS pool for EAG | 485,000 |
| (H) 5.0 percent of the initial QS pool for WAG | 1,940,000 |
| (I) 5.0 percent of the initial QS pool for WAI | 2,910,000 |

(ii) Use IFQ in excess of the amount of IFQ that results from the QS caps in paragraph (a)(4)(i) of this section, unless that IFQ results from QS that was received by that person in the initial allocation of QS for that crab QS fishery.

(iii) A non-individual person that holds PQS, and all affiliates of that person, is limited to a QS and IFQ use

cap that is calculated based on the sum of all QS or IFQ held by that PQS holder and all QS or IFQ held by any affiliate of the PQS holder.

(5) IFQ that is used by a crab harvesting cooperative is not subject to the use caps in this paragraph (a) except as provided for in paragraph (a)(7) of this section.

(6) Non-individual persons holding QS will be required to provide, on an annual basis, a list of persons with an ownership interest in the non-individual QS holder. This list of owners shall be provided to the individual level and will include the percentage of ownership held by each individual. This annual submission of information must be submitted as part of the complete annual application for crab IFQ/IPQ permit.

(7) In a calendar year, an entity as described in § 680.40(c)(5)(ii), (c)(5)(iii), or (c)(5)(iv), may not use more than 1,000,000 lb (453.6 mt) of IFQ derived from converted CPO QS in the BBR or BSS crab QS fisheries.

(b) *PQS and IPQ Use Caps.* (1) A person may not:

(i) Hold more than 30 percent of the initial PQS pool in any crab QS fishery unless that person received an initial allocation of PQS in excess of this limit. A person will not be issued PQS in excess of the use caps established in this section based on PQS derived from the transfer of legal processing history after June 10, 2002.

(ii) Use IPQ in excess of the amount of IPQ that results from the PQS caps in paragraph (b)(1)(i) of this section unless that IPQ is yielded from PQS that was received by that person in the initial allocation of PQS for that crab QS fishery.

(2) A person may not use more than 60 percent of the IPQ issued in the BSS crab QS fishery with a North region designation during a crab fishing year.

(3) Non-individual persons holding PQS will be required to provide, on an annual basis, a list of persons with an ownership interest in the non-individual PQS holder. This list of owners shall be provided to the individual level and will include the percentage of ownership held by each individual. This annual submission of information must be submitted as part of the complete annual application for crab IFQ/IPQ permit. A person will be considered to be a holder of PQS for purposes of applying the PQS use caps in this paragraph if that person:

(i) Is the sole proprietor of an entity that holds PQS; or

(ii) Directly or indirectly owns a 10 percent or greater interest in an entity that holds PQS.

(iii) A person that holds PQS is limited to a PQS use cap that is calculated based on the sum of all PQS held by that PQS holder and all PQS held by any affiliate of the PQS holder.

(iv) A person that holds IPQ is limited to an IPQ use cap that is calculated based on the sum of all IPQ held by that IPQ holder and all IPQ held by any affiliate of the IPQ holder.

(4) Before July 1, 2007, IPQ for the BSS, BBR, PIK, SMB, and EAG crab QS fisheries may not be used to process crab derived from PQS based on activities in an ECC, except in the geographic boundaries established in paragraph (b)(4)(iv) of this section, except that, before July 1, 2007:

(i) Ten percent of the IPQs that are issued for a crab QS fishery or an amount of IPQ that yields up to 500,000 raw crab pounds (226.7 mt) on an annual basis, whichever is less, may be leased for use in processing crab outside that ECC. The amount of IPQ that is issued on an annual basis for use in that ECC and the amount that may be leased outside that ECC will be established annually and will be divided on a pro rata basis among all PQS permit holders issued IPQ for use in that ECC for that year.

(ii) IPQ in excess of the amounts specified in paragraph (c)(7)(i) of this section may be used outside the ECC for which that IPQ is designated if an unavoidable circumstance prevents crab processing within that ECC. For purposes of this section, an unavoidable circumstance exists if the specific intent to conduct processing for a crab QS species in that ECC was thwarted by a circumstance that was:

(A) Unavoidable;

(B) Unique to the IPQ permit holder, or to the processing facility used by the IPQ permit holder in that ECC;

(C) Unforeseen and reasonably unforeseeable to the IPQ permit holder;

(D) The circumstance that prevented the IPQ permit holder from processing crab in that ECC actually occurred; and

(E) The IPQ permit holder took all reasonable steps to overcome the circumstance that prevented the IPQ permit holder from conducting processing for that crab QS fishery in that ECC.

(iii) This provision does not exempt any IPQ permit holder from any regional designation that may apply to that IPQ.

(iv) Geographic boundaries for use of IPQ outside ECCs for purposes of paragraph (b)(4) of this section:

(A) Akutan, False Pass, King Cove, or Port Moller: IPQ may not be used outside of the boundaries of the Aleutians East Borough as those boundaries are established by the State of Alaska;

(B) Kodiak: IPQ may not be used outside of the boundaries of the Kodiak Island Borough as those boundaries are established by the State of Alaska;

(C) Adak: IPQ may not be used outside of the boundaries of the City of Adak as those boundaries are established by the State of Alaska;

(D) Unalaska/Dutch Harbor: IPQ may not be used outside of the boundaries of the City of Unalaska as those boundaries are established by the State of Alaska.

(E) St. George: IPQ may not be used outside of the boundaries of the City of St. George as those boundaries are established by the State of Alaska.

(F) St. Paul: IPQ may not be used outside of the boundaries of the City of St. Paul as those boundaries are established by the State of Alaska.

(5) Any person harvesting crab under a Class A CVO or Class A CVC IFQ Permit, except as provided under paragraph (b)(4) of this section, must deliver that crab:

(i) Only to RCRs with unused IPQ for the same crab QS fishery; and

(ii) Only to an RCR in the region for which the QS and IFQ is designated.

(6) Any person harvesting crab under a Class B IFQ, CPO IFQ, CVC IFQ, or CPC IFQ permit may deliver that crab to any RCR.

(c) *Vessel limitations.* (1) Except for vessels that participate solely in a crab harvesting cooperative as described under § 680.21 and under the provisions described in paragraph (c)(4) of this section, no vessel may be used to harvest CVO or CPO IFQ in excess of the following percentages of the TAC for that crab QS fishery for that crab fishing year:

(i) 2.0 percent for BSS;

(ii) 2.0 percent for BBR;

(iii) 2.0 percent for EBT;

(iv) 2.0 percent for WBT;

(v) 4.0 percent for PIK;

(vi) 4.0 percent for SMB;

(vii) 20.0 percent for EAG;

(viii) 20.0 percent for WAG; or

(ix) 20.0 percent for the WAI crab QS fishery west of 179° W. long.

(2) CVC or CPC IFQ used on a vessel will not be included in determining whether a vessel use cap is met.

(3) A single person who receives an initial allocation of QS that results in IFQ that is in excess of the vessel use caps, in paragraph (c)(1) of this section, that person may catch and retain crab harvested with the resulting IFQ with a single vessel. However, this provision does not apply to IFQ resulting from QS derived from transfer of an LLP crab license that occurred after June 10, 2002. Two or more persons may not catch and retain their IFQ with one vessel in excess of these limitations.

(4) A vessel use cap would not apply to a vessel if all of the CVO or CPO IFQ used on that vessel in a crab fishing year is held by a crab harvesting cooperative. This exemption is forfeited if that vessel is used to harvest any amount of CVO or CPO IFQ not held by a crab harvesting cooperative during the same crab fishing year.

(5) A person holding a CVC or CPC IFQ permit is required to be aboard the vessel upon which their IFQ is being harvested.

(6) A person holding CVO or CPO QS does not have to be aboard the vessel being used to harvest their IFQ if they hold at least a 10 percent ownership interest in the vessel upon which the IFQ is to be harvested and are represented on board the vessel by a crab IFQ hired master employed by that QS holder as authorized under § 680.4.

(7) Ownership of a vessel means, for purposes of this section:

(i) A sole proprietor; or

(ii) A person that directly or indirectly owns a 10 percent or greater interest in an entity that owns a vessel.

[70 FR 10241, Mar. 2, 2005, as amended at 70 FR 33395, June 8, 2005; 70 FR 75421, 75422, Dec. 20, 2005; 71 FR 32865, June 7, 2006; 73 FR 29983, May 23, 2008; 73 FR 35088, June 20, 2008]

### § 680.43 Determinations and appeals.

See § 679.43 of this chapter.

### § 680.44 Cost recovery.

(a) *Cost recovery fees*—(1) *Responsibility*. The person documented on the IFQ, IPQ, CDQ, RCR, Commercial Fisheries Entry Commission (CFEC), or State of Alaska Commissioner's permit as the permit holder at the time of a CR crab landing must comply with the requirements of this section.

(i) Subsequent transfer of IFQ, IPQ, CDQ, or QS does not affect the permit holder's liability for noncompliance with this section.

(ii) Non-renewal of an RCR permit does not affect the permit holder's liability for noncompliance with this section.

(2) *Fee liability determination*. (i) All CR allocation holders and RCR permit holders will be subject to a fee liability for any CR crab debited from a CR allocation during a crab fishing year.

(ii) Fee liability must be calculated by multiplying the applicable fee percentage by the ex-vessel value of the CR crab received by the RCR at the time of receipt, except as provided by paragraph (b)(3) of this section.

(iii) NMFS will provide a summary to all RCR permit holders during the last quarter of the crab fishing year. The summary will explain the fee liability determination including the current fee percentage, details of raw crab pounds debited from CR allocations by permit, port or port-group, species, date, and prices.

(3) *Fee collection*. (i) All RCRs who receive CR crab are responsible for submitting the cost recovery payment for all CR crab received.

(ii) All RCRs who receive CR crab in a crab fishing year must maintain and submit records for any crab cost recovery fees collected under the corresponding RCR permit.

(4) *Payment*—(i) *Payment due date*. An RCR permit holder must submit any crab cost recovery fee liability payment(s) to NMFS at the address provided in paragraph (a)(4)(iii) of this section no later than July 31 of the crab fishing year following the crab fishing year in which the payment for a CR crab landing was made.

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

(iii) *Payment address*. Mail payment and related documents to the Administrator, Alaska Region, NMFS, Attn: Operations, Management, & Information Division (OMI), P.O. Box 21668, Juneau, AK 99802–1668, Facsimile (907–586–7354). Payments may also be submitted 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) *Ex-vessel value determination and use*—(1) *General*. An RCR permit holder must use either the ex-vessel value determined for shoreside processors or the ex-vessel value determined for at-sea Catcher/Processors (CP), depending on their activity. Ex-vessel value includes all cash, services, or other goods-in-kind exchanged for CR crab.

(2) *Shoreside ex-vessel value*. Shoreside processing facilities must use the price paid at the time of purchase as ex-vessel value for the purposes of calculating fee liability. Shoreside processing facilities must include any subsequent retroactive payments as adjustments to the initial calculation of fee liability.

(3) *Catcher/processor ex-vessel value*—(i) *General*. Catcher/processors must use the corresponding CP standard price(s) for the purposes of calculating fee liability.

(ii) *CP standard prices*. As part of the summary described in paragraph (a)(2)(iii) of this section, the Regional Administrator will provide CP standard prices calculated for the current year during the last quarter of each crab fishing year. The CP standard prices will be described in U.S. dollars per raw crab pound, for CR crab debited from CR allocations during the current crab fishing year.

(iii) *Effective period*. CP standard prices established by NMFS shall apply to all landings made in the same crab fishing year as the CP standard price provided for that year and shall replace any CP standard prices previously provided by NMFS.

(iv) *Determination*. NMFS will calculate the CP standard prices to reflect, as closely as possible, the current crab fishing year's average shoreside processor price by fishery and by species, and any variations in reported shoreside ex-vessel values of CR crab. The Regional Administrator will base CP standard prices on the following types of information:

(A) Landed pounds by CR crab, port-group, and month;

(B) Total shoreside ex-vessel value by CR crab, port-group, and month; and

(C) Price adjustments, including retroactive payments.

(4) *Fee liability calculation*. All RCRs must base all fee liability calculations on the ex-vessel value that correlates to CR crab that is debited from a CR allocation and recorded in raw crab pounds.

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

(i) The calculated crab fee percentage will be divided equally between the harvesting and processing sectors.

(ii) Catcher/Processors must pay the full crab fee percentage determined by the fee percentage calculation for all CR crab debited from a CR allocation.

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

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

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

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

(C) The costs directly related to the management and enforcement of the Crab Rationalization Program.

(ii) *Methodology*. NMFS must use the following equations to determine the fee percentage:

Harvesting and Processing Sectors: [100 (DPC/ V)] 0.5

Catcher/Processors: 100 (DPC /V)

where:

''DPC'' is the direct program costs for the Crab Rationalization Program for the previous fiscal year, and

''V'' is the ex-vessel value of the catch subject to the crab cost recovery fee liability for the current year.

(3) *Publication*—(i) *General*. During the first quarter of each crab fishing year, NMFS shall calculate the crab fee percentage based on the calculations described in paragraph (c)(2) of this section.

(ii) *Effective period*. The calculated IFQ fee percentage remains in effect through the end of the crab fishing year in which it was determined.

(4) *Applicable percentage*. The RCR permit holder must use the crab fee percentage in effect at the time a CR crab is debited from a CR allocation to calculate the crab cost recovery fee liability for such CR crab. The RCR permit holder must use the crab fee percentage in effect at the time a CR crab is debited from a CR allocation to calculate the crab cost recovery fee liability for any retroactive payments for that CR crab.

(d) *Underpayment of fee liability*. (1) Under § 680.4, an applicant will not receive new IFQ, IPQ, or RCR permits until he or she submits a complete application. A complete application shall include full payment of an applicant's complete crab cost recovery fee liability as reported by the RCR.

(2) If an RCR fails to submit full payment for crab cost recovery fee liability by the date described in paragraph (a)(4) of this section, the Regional Administrator may:

(i) At any time thereafter send an IAD to the RCR permit holder stating that the RCR permit holder's estimated fee liability, as indicated by his or her own submitted information, is the crab cost recovery fee liability due from the RCR permit holder.

(ii) Disapprove any transfer of IFQ, IPQ, QS, or PQS to or from the RCR permit holder in accordance with § 680.41.

(3) If an RCR fails to submit full payment by the application deadline described at § 680.4, no IFQ or IPQ permit will be issued to that RCR for that crab fishing year.

(4) Upon final agency action determining that an RCR permit holder has not paid his or her crab cost recovery fee liability, the Regional Administrator may continue to withhold issuance of any new IFQ, IPQ, or RCR permit for any subsequent crab fishing years. If payment is not received by the 30th day after the final agency action, the matter will be referred to the appropriate authorities for purposes of collection.

(e) *Over payment*. Upon issuance of final agency action, any amount submitted to NMFS in excess of the crab cost recovery fee liability determined to be due by the final agency action will be returned to the RCR permit holder unless the permit holder requests the agency to credit the excess amount against the permit holder's future crab cost recovery fee liability.

(f) *Appeals and requests for reconsideration*. An RCR permit holder who receives an IAD may either appeal the IAD pursuant to 50 CFR 679.43 or request reconsideration. Within 60 days from the date of issuance of the IAD, the Regional Administrator may undertake reconsideration of the IAD on his or her own initiative. If a request for reconsideration is submitted or the Regional Administrator initiates reconsideration, the 60-day period for appeal under 50 CFR 679.43 will begin anew upon issuance of the Regional Administrator's reconsidered IAD. The Regional Administrator may undertake only one reconsideration of the IAD, if any. If an RCR permit holder fails to file an appeal of the IAD pursuant to 50 CFR 679.43 or request reconsideration within the time period provided, the IAD will become the final agency action. In any appeal or reconsideration of an IAD made under this section, an RCR permit holder has the burden of proving his or her claim.

(g) *Fee submission form*. An RCR must submit an RCR permit holder fee submission form according to § 680.5(g).

[70 FR 10241, Mar. 2, 2005, as amended at 71 FR 44232, Aug. 4, 2006]

TABLE 1 TO PART 680—CRAB RATIONALIZATION (CR) FISHERIES

| Fishery Code | CR Fishery | Geographic Area |
|---|---|---|
| BBR | Bristol Bay red king crab (*Paralithodes camtshaticus*). | In waters of the EEZ with:<br>(1) *A northern boundary* of 58°30′ N. lat.,<br>(2) *A southern boundary* of 54°36′ N. lat., and<br>(3) *A western boundary* of 168° W. long. and including all waters of Bristol Bay. |
| BSS | Bering Sea Snow crab (*Chionoecetes opilio*). | In waters of the EEZ with:<br>(1) *A northern and western boundary* of the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991), and<br>(2) *A southern boundary* of 54°30′ N. lat. to 171° W. long., and then south to 54°36′ N. lat. |
| EAG | Eastern Aleutian Islands golden king crab (*Lithodes aequispinus*). | In waters of the EEZ with:<br>(1) *An eastern boundary* the longitude of Scotch Cap Light (164°44′ W. long.) to 53°30′ N. lat., then West to 165° W. long.,<br>(2) *A western boundary* of 174° W. long., and<br>(3) *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 174° W. long. |

| Fishery Code | CR Fishery | Geographic Area |
|---|---|---|
| EBT | Eastern Bering Sea Tanner crab (*Chionoecetes bairdi*). | In waters of the EEZ with:<br>(1) *A western boundary* the longitude of 166° W. long.,<br>(2) *A northern boundary* of the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991), and<br>(3) *A southern boundary* of 54°30'N. lat. |
| PIK | Pribilof red king and blue king crab (*Paralithodes camtshaticus* and *P. platypus*). | In waters of the EEZ with:<br>(1) *A northern boundary* of 58°30′ N. lat.,<br>(2) *An eastern boundary* of 168° W. long., and<br>(3) *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 Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991). |
| SMB | St. Matthew blue king crab (*Paralithodes platypus*). | In waters of the EEZ with:<br>(1) *A northern boundary* of 62° N. lat.,<br>(2) *A southern boundary* of 58°30′ N. lat., and<br>(3) *A western boundary* of the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991). |
| WAG | Western Aleutian Islands golden king crab (*Lithodes aequispinus*). | In waters of the EEZ with:<br>(1) *An eastern boundary* the longitude 174° W. long.,<br>(2) *A western boundary* the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991), and<br>(3) *A northern boundary* of a line from the latitude of 55°30′ N. lat., then west to the U.S.-Russian Convention line of 1867. |
| WAI | Western Aleutian Islands red king crab (*Paralithodes camtshaticus*). | In waters of the EEZ with:<br>(1) *An eastern boundary* the longitude 179° W. long.,<br>(2) *A western boundary* of the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991), and<br>(3) *A northern boundary* of a line from the latitude of 55°30′ N. lat., then west to the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991). |
| WBT | Western Bering Sea Tanner crab (*Chionoecetes bairdi*). | In waters of the EEZ with:<br>(1) *An eastern boundary* the longitude of 166° W. long.,<br>(2) *A northern and western boundary* of the Maritime Boundary Agreement Line as that line is described in the text of and depicted in the annex to the Maritime Boundary Agreement between the United States and the Union of Soviet Socialist Republics signed in Washington, June 1, 1990, and as the Maritime Boundary Agreement Line as depicted on NOAA Chart No. 513 (6th edition, February 23, 1991) and NOAA Chart No. 514 (6th edition, February 16, 1991), and<br>(3) *A southern boundary* of 54°30′ N. lat. to 171° W. long., and then south to 54°36′ N. lat. |

[71 FR 32866, June 7, 2006]

TABLE 2 TO PART 680—CRAB SPECIES CODE

| Species code | Common name | Scientific name |
|---|---|---|
| 900 | Box | *Lopholithodes mandtii.* |
| 910 | Dungeness | *Cancer magister.* |
| 921 | Red king crab | *Paralithodes camtshaticus.* |
| 922 | Blue king crab | *Paralithodes platypus.* |
| 923 | Golden (brown) king crab | *Lithodes aequispinus.* |
| 924 | Scarlet king crab | *Lithodes couesi.* |
| 931 | Tanner crab | *Chionoecetes bairdi.* |
| 932 | Snow crab | *Chionoecetes opilio.* |
| 933 | Grooved Tanner crab | *Chionoecetes tanneri.* |
| 934 | Triangle Tanner crab | *Chionoecetes angulatus.* |
| 940 | Korean horsehair crab | *Erimacrus isenbeckii.* |
| 951 | Multispinus crab | *Paralomis multispinus.* |
| 953 | Verrilli crab | *Paralomis verrilli.* |

TABLE 3A TO PART 680—CRAB DELIVERY CONDITION CODES

[The condition of the fish or shellfish at the point it is weighed and recorded on the ADF&G fish ticket]

| Code | Description |
|---|---|
| 01 | Whole crab, live. |
| 79 | Deadloss. |

TABLE 3B TO PART 680—CRAB DISPOSITION OR PRODUCT CODES

| Code | Description |
|---|---|
| 80 | Sections. |
| 95 | Personal use—not sold. |
| 97 | Other retained product (specify condition). |

TABLE 3C TO PART 680—CRAB PRODUCT CODES FOR ECONOMIC DATA REPORTS

| Code | Description |
|---|---|
| 01 | Whole crab. |
| 80 | Sections. |
| 81 | Meats. |
| 97 | Other (specify). |

TABLE 4 TO PART 680—CRAB PROCESS CODES

| Process code | Description |
|---|---|
| 0 | Other (specify). |
| 1 | Fresh. |
| 2 | Frozen. |
| 3 | Salted/brined. |
| 6 | Cooked. |
| 7 | Live. |
| 18 | Fresh/vacuum pack. |
| 21 | Frozen/block. |
| 22 | Frozen/shatter pack. |
| 28 | Frozen/vacuum pack. |

TABLE 5 TO PART 680—CRAB SIZE CODES

| Size code | Description |
|---|---|
| 1 | Standard or large sized crab or crab sections. |
| 2 | Smaller size crab or crab sections, *e.g.*, snow crab less than 4 inches. |

TABLE 6 TO PART 680—CRAB GRADE CODES

| Grade/code | Description |
|---|---|
| 1 | Standard or premium quality crab or crab sections. |

| Grade/code | Description |
|---|---|
| 2 ..... | Lower quality product, *e.g.*, dirty shelled crab or a pack that is of lower quality than No. 1 crab. |

TABLE 7 TO PART 680—INITIAL ISSUANCE OF CRAB QS BY CRAB QS FISHERY

| **Column A:** Crab QS Fisheries | **Column B:** Qualifying Years for QS | **Column C:** Eligibility Years for CVC and CPC QS | **Column D:** Recent Participation Seasons for CVC and CPC QS | **Column E:** Subset of Qualifying Years |
|---|---|---|---|---|
| For each crab QS fishery the Regional Administrator shall calculate (see § 680.40(c)(2): | QS for any qualified person based on that person's total legal landings of crab in each of the crab QS fisheries for any: | In addition, each person receiving CVC and CPC QS must have made at least one landing per year, as recorded on a State of Alaska fish ticket, in any three years during the base period described below: | In addition, each person receiving CVC or CPC QS, must have made at least one landing, as recorded on a State of Alaska fish ticket, in at least 2 of the last 3 fishing seasons in each of the crab QS fisheries as those seasons are described below: | The maximum number of qualifying years that can be used to calculate QS for each QS fishery is: |
| 1. Bristol Bay red king crab (BBR) | 4 years of the 5-year QS base period beginning on:<br>(1) November 1–5, 1996;<br>(2) November 1–5, 1997;<br>(3) November 1–6, 1998;<br>(4) October 15–20, 1999;<br>(5) October 16–20, 2000. | 3 years of the 5-year QS base period beginning on:<br>(1) November 1–5, 1996;<br>(2) November 1–5, 1997;<br>(3) November 1–6, 1998;<br>(4) October 15–20, 1999;<br>(5) October 16–20, 2000. | (1) October 15–20, 1999.<br>(2) October 16–20, 2000.<br>(3) October 15–18, 2001. | 4 years |
| 2. Bering Sea snow crab (BSS) | 4 years of the 5-year period beginning on:<br>(1) January 15, 1996 through February 29, 1996;<br>(2) January 15, 1997 through March 21, 1997;<br>(3) January 15, 1998 through March 20, 1998;<br>(4) January 15, 1999 through March 22, 1999;<br>(5) April 1–8, 2000. | 3 years of the 5-year period beginning on:<br>(1) January 15, 1996 through February 29, 1996;<br>(2) January 15, 1997 through March 21, 1997;<br>(3) January 15, 1998 through March 20, 1998;<br>(4) January 15, 1999 through March 22, 1999;<br>(5) April 1–8, 2000. | (1) April 1–8, 2000.<br>(2) January 15, 2001 through February 14, 2001.<br>(3) January 15, 2002 through February 8, 2002. | 4 years |
| 3. Eastern Aleutian Islands golden king crab (EAG) | 5 years of the 5-year base period beginning on:<br>(1) September 1, 1996 through December 25, 1996;<br>(2) September 1, 1997 though November 24, 1997;<br>(3) September 1, 1998 through November 7, 1998;<br>(4) September 1, 1999 through October 25, 1999;<br>(5) August 15, 2000 through September 24, 2000. | 3 years of the 5-year base period beginning on:<br>(1) September 1, 1996 through December 25, 1996;<br>(2) September 1, 1997 though November 24, 1997;<br>(3) September 1, 1998 through November 7, 1998;<br>(4) September 1, 1999 through October 25, 1999;<br>(5) August 15, 2000 through September 25, 2000. | (1) September 1 1999 through October 25, 1999.<br>(2) August 15, 2000 through September 24, 2000.<br>(3) August 15, 2001 through September 10, 2001. | 5 years |
| 4. Eastern Bering Sea Tanner crab (EBT) | 4 of the 6 seasons beginning on:<br>(1) November 15, 1991 through March 31, 1992;<br>(2) November 15, 1992 through March 31, 1993;<br>(3) November 1–10, 1993, and November 20, 1993 through January 1, 1994;<br>(4) November 1–21, 1994;<br>(5) November 1–16, 1995;<br>(6) November 1–5, 1996 and November 15–27, 1996. | 3 of the 6 seasons beginning on:<br>(1) November 15, 1991 through March 31, 1992;<br>(2) November 15, 1992 through March 31, 1993;<br>(3) November 1–10, 1993, and November 20, 1993 through January 1, 1994;<br>(4) November 1–21, 1994;<br>(5) November 1–16, 1995;<br>(6) November 1–5, 1996 and November 15–27, 1996. | In any 2 of the last 3 seasons prior to June 10, 2002 in the Eastern Aleutian Island golden (brown) king crab, Western Aleutian Island golden (brown) king crab, Bering Sea snow crab, or Bristol Bay red king crab fisheries. | 4 years |

| **Column A:** Crab QS Fisheries | **Column B:** Qualifying Years for QS | **Column C:** Eligibility Years for CVC and CPC QS | **Column D:** Recent Participation Seasons for CVC and CPC QS | **Column E:** Subset of Qualifying Years |
|---|---|---|---|---|
| 5. Pribilof red king and blue king crab (PIK) | 4 years of the 5-year period beginning on:<br>(1) September 15–21, 1994;<br>(2) September 15–22, 1995;<br>(3) September 15–26, 1996;<br>(4) September 15–29, 1997;<br>(5) September 1–28, 1998. | 3 years of the 5-year period beginning on:<br>(1) September 15–21, 1994;<br>(2) September 15–22, 1995;<br>(3) September 15–26, 1996;<br>(4) September 15–29, 1997;<br>(5) September 15–28, 1998. | In any 2 of the last 3 seasons prior to June 10, 2002 in the Eastern Aleutian Island golden (brown) king crab, Western Aleutian Island golden (brown) king crab, Bering Sea snow crab, or Bristol Bay red king crab fisheries, except that persons applying for an allocation to receive QS based on legal landings made aboard a vessel less than 60 feet (18.3 m) LOA at the time of harvest are exempt from this requirement. | 4 years |
| 6. St. Matthew blue king crab (SMB) | 4 years of the 5-year period beginning on:<br>(1) September 15–22, 1994;<br>(2) September 15–20, 1995;<br>(3) September 15–23, 1996;<br>(4) September 15–22, 1997;<br>(5) September 15–26, 1998. | 3 years of the 5-year period beginning on:<br>(1) September 15–22, 1994;<br>(2) September 15–20, 1995;<br>(3) September 15–23, 1996;<br>(4) September 15–22, 1997; and<br>(5) September 15–26, 1998. | In any 2 of the last 3 seasons prior to June 10, 2002 in the Eastern Aleutian Island golden (brown) king crab, Western Aleutian Island golden (brown) king crab, Bering Sea snow crab, or Bristol Bay red king crab fisheries. | 4 years |
| 7. Western Aleutian Islands brown king crab (WAG) | 5 of the 5 seasons beginning on:<br>(1) September 1, 1996 through August 31, 1997;<br>(2) September 1, 1997 though August 21, 1998;<br>(3) September 1, 1998 through August 31, 1999;<br>(4) September 1, 1999 through August 14, 2000;<br>(5) August 15, 2000 through March 28, 2001. | 3 of the 5 seasons beginning on:<br>(1) September 1, 1996 through August 31, 1997;<br>(2) September 1, 1997 though August 31, 1998;<br>(3) September 1, 1998 through August 31, 1999;<br>(4) September 1, 1999 through August 14, 2000;<br>(5) August 15, 2000 through March 28, 2001. | (1) September 1, 1999 through August 14, 2000.<br>(2) August 15, 2000 through March 28, 2001.<br>(3) August 15 2001 through March 30, 2002. | 5 years |
| 8. Western Aleutian Islands red king crab (WAI) | 3 of the 4 seasons beginning on:<br>(1) November 1, 1992 through January 15, 1993;<br>(2) November 1, 1993 through February 15, 1994;<br>(3) November 1–28, 1994;<br>(4) November 1, 1995 through February 13, 1996. | 3 of the 4 seasons beginning on:<br>(1) November 1, 1992 through January 15, 1993;<br>(2) November 1, 1993 through February 15, 1994;<br>(3) November 1–28, 1994;<br>(4) November 1, 1995 through February 13, 1996. | In any 2 of the last 3 seasons prior to June 10, 2002 in the Eastern Aleutian Island golden (brown) king crab, Western Aleutian Island golden (brown) king crab, Bering Sea snow crab, or Bristol Bay red king crab fisheries. | 3 years |
| 9. Western Bering Sea Tanner crab (WBT) | 4 of the 6 seasons beginning on:<br>(1) November 15, 1991 through March 31, 1992;<br>(2) November 15, 1992 through March 31, 1993;<br>(3) November 1–10, 1993, and November 20, 1993 through January 1, 1994;<br>(4) November 1–21, 1994;<br>(5) November 1–16, 1995;<br>(6) November 1–5, 1996 and November 15–27, 1996. | 3 of the 6 seasons beginning on:<br>(1) November 15, 1991 through March 31, 1992;<br>(2) November 15, 1992 through March 31, 1993;<br>(3) November 1–10, 1993, and November 20, 1993 through January 1, 1994;<br>(4) November 1–21, 1994;<br>(5) November 1–16, 1995;<br>(6) November 1–5, 1996 and November 15–27, 1996. | In any 2 of the last 3 seasons prior to June 10, 2002 in the Eastern Aleutian Island golden (brown) king crab, Western Aleutian Island golden (brown) king crab, Bering Sea snow crab, or Bristol Bay red king crab fisheries. | 4 years |

[71 FR 32867, June 7, 2006]

TABLE 8 TO PART 680—INITIAL QS AND PQS POOL FOR EACH CRAB QS FISHERY

| Crab QS Fishery | Initial QS Pool | Initial PQS Pool |
|---|---|---|
| BBR Bristol Bay red king crab | 400,000,000 | 400,000,000 |

| Crab QS Fishery | Initial QS Pool | Initial PQS Pool |
|---|---|---|
| BSS Bering Sea snow crab (*C. opilio*) | 1,000,000,000 | 1,000,000,000 |
| EAG Eastern Aleutian Islands golden king crab | 10,000,000 | 10,000,000 |
| EBT Eastern Bering Sea Tanner crab (*C. bairdi*) | 200,000,000 | 200,000,000 |
| PIK Pribilof Islands red and blue king crab | 30,000,000 | 30,000,000 |
| SMB St. Matthew blue king crab | 30,000,000 | 30,000,000 |
| WAG Western Aleutian Islands golden king crab | 40,000,000 | 40,000,000 |
| WAI Western Aleutian Islands red king crab | 60,000,000 | 60,000,000 |
| WBT Western Bering Sea Tanner crab (*C. bairdi*) | 200,000,000 | 200,000,000 |

TABLE 9 TO PART 680—INITIAL ISSUANCE OF CRAB PQS BY CRAB QS FISHERY

| Column A:<br>For each crab QS fishery: | Column B:<br>The Regional Administrator shall calculate PQS for any qualified person based on that person's total legal purchase of crab in each of the crab QS fisheries for any... |
|---|---|
| Bristol Bay red king crab (BBR) | *3 years of the 3-year QS base period beginning on:*<br>(1) November 1–5, 1997;<br>(2) November 1–6, 1998; and<br>(3) October 15–20, 1999. |
| Bering Sea snow crab (BSS) | *3 years of the 3-year period beginning on:*<br>(1) January 15, 1997 through March 21, 1997;<br>(2) January 15, 1998 through March 20, 1998; and<br>(3) January 15, 1999 through March 22, 1999. |
| Eastern Aleutian Island golden king crab (EAG) | *4 years of the 4-year base period beginning on:*<br>(1) September 1, 1996 through December 25, 1996;<br>(2) September 1, 1997 though November 24, 1997;<br>(3) September 1, 1998 through November 7, 1998; and<br>(4) September 1, 1999 through October 25, 1999. |
| Eastern Bering Sea Tanner crab (EBT) | Equivalent to 50 percent of the total legally processed crab in the Bering Sea snow crab fishery during the qualifying years established for that fishery, and 50 percent of the total legally processed crab in the Bristol Bay red king crab fishery during the qualifying years established for that fishery. |
| Pribilof Islands red and blue king crab (PIK) | *3 years of the 3-year period beginning on:*<br>(1) September 15–26, 1996;<br>(2) September 15–29, 1997; and<br>(3) September 15–28, 1998. |
| St. Matthew blue king crab (SMB) | *3 years of the 3-year period beginning on:*<br>(1) September 15–23, 1996;<br>(2) September 15–22, 1997; and<br>(3) September 15–26, 1998. |
| Western Aleutian Island golden king crab (WAG) | *4 years of the 4-year base period beginning on:*<br>(1) September 1, 1996 through August 31, 1997;<br>(2) September 1, 1997 though August 31, 1998;<br>(3) September 1, 1998 through August 31, 1999; and<br>(4) September 1, 1999 through August 14, 2000. |
| Western Aleutian Islands red king crab (WAI) | Equivalent to the total legally processed crab in the Western Aleutian Islands golden (brown) king crab fishery during the qualifying years established for that fishery. |
| Western Bering Sea Tanner crab (WBT) | Equivalent to 50 percent of the total legally processed crab in the Bering Sea snow crab fishery during the qualifying years established for that fishery, and 50 percent of the total legally processed crab in the Bristol Bay red king crab fishery during the qualifying years established for that fishery. |

[71 FR 32867, June 7, 2006]

# PART 697—ATLANTIC COASTAL FISHERIES COOPERATIVE MANAGEMENT

## Subpart A—General Provisions

Sec.
697.1 Purpose and scope.
697.2 Definitions.
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697.10 Penalties.
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## Subpart B—Management Measures

697.17 Non-trap harvest restrictions.
697.18 Lobster management areas.
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697.21 Gear identification and marking, escape vent, maximum trap size, and ghost panel requirements.
697.22 Exempted fishing.
697.23 Restricted gear areas.
697.24 Exempted waters for Maine State American lobster permits.
697.25 Adjustment to management measures.
697.26 EEZ Nearshore Management Area 5 Trap Waiver.
TABLE 1 TO PART 697—AREA 3 TRAP REDUCTION SCHEDULE

AUTHORITY: 16 U.S.C. 5101 *et seq.*

SOURCE: 64 FR 68248, Dec. 6, 1999, unless otherwise noted.

## Subpart A—General Provisions

### §697.1 Purpose and scope.

The regulations in this part are issued under the authority of section 804(b) of the Atlantic Coastal Fisheries Cooperative Management Act, 16 U.S.C. 5101 *et seq.*, and section 6 of the Atlantic Striped Bass Conservation Act Appropriations Authorization, 16 U.S.C. 1851 note, and govern fishing in the EEZ on the Atlantic Coast for species covered by those acts.

### §697.2 Definitions.

(a) In addition to the definitions in the Magnuson-Stevens Act and in §§600.10 and 648.2 of this chapter, for the purposes of this part, the following terms have the following meanings:

*American lobster* or lobster means *Homarus americanus*.

*Approved TED* means any approved TED as defined at §217.12 of this title.

*Atlantic Coastal Act* means the Atlantic Coastal Fisheries Cooperative Management Act, as amended (16 U.S.C. 5101 *et seq.*).

*Atlantic striped bass* means members of stocks or populations of the species *Morone saxatilis* found in the waters of the Atlantic Ocean north of Key West, FL.

*Atlantic sturgeon* means members of stocks or populations of the species *Acipenser oxyrhynchus*.

*Berried female* means a female American lobster bearing eggs attached to the abdominal appendages.

*Block Island Southeast Light* means the aid to navigation light located at Southeast Point, Block Island, RI, and defined as follows: Located at 40°09.2′ N. lat., 71°33.1′ W. long; is 201 ft (61.3 m) above the water; and is shown from a brick octagonal tower 67 ft (20.4 m) high attached to a dwelling on the southeast point of Block Island, RI.

*BRD* means bycatch reduction device.

*Carapace length* is the straight line measurement from the rear of the eye socket parallel to the center line of the carapace to the posterior edge of the carapace. The carapace is the unsegmented body shell of the American lobster.

*Certified BRD* means any BRD, as defined in part 622, Appendix D of this chapter: Specifications for Certified BRDs.

*Charter or head boat* means any vessel carrying fishing persons or parties for a per capita fee, for a charter fee, or any other type of fee.

*Commercial dive vessel* means any vessel carrying divers for a per capita fee, a charter fee, or any other type of fee.

*Commercial purposes* means for the purpose of selling, trading, transferring, or bartering all or part of the fish harvested.

*Commission* means the Atlantic States Marine Fisheries Commission

established under the interstate compact consented to and approved by Congress in Pub. L. 77–539 and Pub. L. 81–721.

*Conservation equivalency* means a measure adopted by a state that differs from the specific requirements of an interstate fishery management plan, but achieves the same level of conservation for the resource under management.

*Continuous transit* means that a vessel does not have fishing gear in the water and remains continuously underway.

*CPH* means Confirmation of Permit History.

*Crab trawl* means any trawl net that is rigged for fishing and has a mesh size of 3.0 inches (7.62 cm), as measured between the centers of opposite knots when pulled taut.

*Cull American lobster* means a whole American lobster that is missing one or both claws.

*Dealer* means any person who receives, for a commercial purpose (other than solely for transport on land), any species of fish, the harvest of which is managed by this part, from the owner or operator of a vessel issued a valid permit under this part, or any person who receives, for a commercial purpose (other than solely for transport on land), any species of fish managed under this part.

*De minimis state* means any state where the landings are so low that the Commission's Fisheries Management Board has exempted that state from some of its regulatory responsibilities under an Interstate Fishery Management Plan.

*Director* means the Director of the Office of Sustainable Fisheries, 1315 East-West Highway, Silver Spring, MD 20910.

*Dredge* means a gear consisting of a mouth frame attached to a holding bag constructed of metal rings or mesh.

*Egg Production Rebuilding Schedule* means the schedule identified in section 2.5 of Amendment 3 to the Commission's ISFMP.

*Escape vent* means an opening in a lobster trap designed to allow lobster smaller than the legal minimum size to escape from the trap.

*Fishing trip or trip* means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel returns to port.

*Fishing year* means, for the American lobster fishery, from May 1 through April 30 of the following year.

*Flynet* means any trawl net, except shrimp trawl nets containing certified BRDs and approved TEDs, when required under § 227.72(e)(2) of this title, and except trawl nets that comply with the gear restrictions specified at § 648.104 of this chapter for the summer flounder fishery and contain an approved TED, when required under § 227.72 (e)(2) of this title.

*Ghost panel* means a panel, or other mechanism, designed to allow for the escapement of lobster after a period of time if the trap has been abandoned or lost.

*Horseshoe crab* means members of stocks or populations of the species *Limulus polyphemus*.

*ISFMP* means the Commission's Interstate Fishery Management Plan for American Lobster, as amended.

*Land* means to begin offloading fish, to offload fish, or to enter port with fish.

*Lobster day-at-sea* with respect to the American lobster fishery means each 24-hour period of time during which a fishing vessel is absent from port in which the vessel intends to fish for, possess, or land, or fishes for, possesses, or lands American lobster.

*Lobster permit* means a Federal limited access American lobster permit.

*Lobster trap* means any structure or other device, other than a net, that is placed, or designed to be placed, on the ocean bottom and is designed for or is capable of, catching lobsters. Red crab fishing gear, fished deeper than 200 fathoms (365.8 m), and fishing gear fished by a vessel not issued a limited access lobster permit under § 697.4(a), are gear deemed not to be lobster traps for the purpose of this part, and are not subject to the provisions of this part.

*Lobster trap trawl* means 2 or more lobster traps, all attached to a single ground line.

*Management area* means each of the geographical areas identified in this part for management purposes under the lobster ISFMP.

*Montauk light* means the aid to navigation light located at Montauk Point, NY, and defined as follows: Located at 41°04.3′ N. lat., 71°51.5′ W. long.; is shown from an octagonal, pyramidal tower, 108 ft (32.9 m) high; and has a covered way to a dwelling.

*Natural Atlantic sturgeon* means any Atlantic sturgeon that is not the result of a commercial aquaculture operation, and includes any naturally occurring Atlantic sturgeon (those Atlantic sturgeon naturally spawned and grown in rivers and ocean waters of the Atlantic Coast).

*Parts thereof* means any part of an American lobster. A part of a lobster counts as one lobster.

*Point Judith Light* means the aid to navigation light located at Point Judith, RI, and defined as follows: Located at 41°21.7′ N. lat., 71°28.9′ W. long.; is 65 ft (19.8 m) above the water; and is shown from an octagonal tower 51 ft (15.5 m) high.

*Qualifying year* means any calendar year during the period from March 25, 1991, through September 1, 1999, excluding the time periods in calendar years 1991 and 1999 that are outside the qualification period (i.e., January 1, 1991 through March 24, 1991, and September 2, 1999, through December 31, 1999), and refers to the specific year selected by the applicant for the purposes of qualifying for access to the lobster trap fishery in Areas 3, 4 and/or 5 under the requirements set forth in 697.4(a)(7)(vi-x).

*Recreational fishing* means fishing that is not intended to, nor results in the barter, trade, or sale of fish.

*Recreational fishing vessel* means any vessel from which no fishing other than recreational fishing is conducted. Charter and head boats and commercial dive vessels are not considered recreational fishing vessels.

*Regional Administrator* means the Regional Administrator, Northeast Region, NMFS, or a designee.

*Retain* means to fail to return any species specified under § 697.7 of this chapter to the sea immediately after the hook has been removed or after the species has otherwise been released from the capture gear.

*Sea sampler/observer* means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits.

*Shrimp trawl net* means any trawl net that is rigged for fishing and has a mesh size less than 2.50 inches (6.35 cm), as measured between the centers of opposite knots when pulled taut, and each try net, as defined in § 622.2 of this chapter, that is rigged for fishing and has a headrope length longer than 16 ft (4.9 m).

*Standard V-shaped notch* means a straight-sided triangular cut, without setal hairs, at least ¼ inch (0.64 cm) in depth and tapering to a point.

*Stocked Atlantic sturgeon* means any Atlantic sturgeon cultured in a hatchery that is placed in rivers and ocean waters of the Atlantic Coast to enhance the Atlantic sturgeon spawning stocks.

*TED* means Turtle Excluder Device, which is a device designed to be installed in a trawl net forward of the codend for the purpose of excluding sea turtles from the net.

*Trawl* means a cone or funnel-shaped net that is towed through the water, and can include a pair trawl that is towed simultaneously by two boats.

*V-notched American lobster* means any female American lobster bearing a V-shaped notch in the flipper next to and to the right of the center flipper as viewed from the rear of the lobster (underside of the lobster down and tail toward the viewer), or any female American lobster that is mutilated in a manner that could hide or obliterate such a mark.

*Weakfish* means members of the stock or population of the species *Cynoscion regalis,* found along the Atlantic Coast from southern Florida to Massachusetts Bay.

*Whole American lobster* means a lobster with an intact and measurable body (tail and carapace). An American lobster with an intact and measurable body that is missing one or both claws, i.e., a cull lobster, is considered to be a whole American lobster.

*Zero tolerance V-shaped notch* means a v-shaped notch of any size, with or without straight sides, with or without setal hairs.

(b) [Reserved]

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001; 66 FR 14501, Mar. 13, 2001; 68 FR 14925, Mar. 27, 2003; 68 FR 56790, Oct. 2, 2003; 71 FR 13037, Mar. 14, 2006]

### § 697.3 Relation to other Federal and state laws.

(a) The provisions of sections 307 through 311 of the Magnuson-Stevens Act, as amended, regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement apply with respect to the regulations in this part, as if the regulations in this part were issued under the Magnuson-Stevens Act.

(b) The relation of this part to other laws is further set forth in § 600.705 of this chapter and would include all regulations and statues administered by the National Oceanic and Atmospheric Administration (NOAA), including, but not limited to the regulations in this part issued pursuant to the ACFCMA, the regulations at 50 CFR part 229 issued pursuant to the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA) , and the regulations at 50 CFR part 648 issued pursuant to the Magnuson-Stevens Act.

(c) The regulations in this part do not preempt more restrictive state laws, or state enforcement of more restrictive state laws, with respect to weakfish fishing and American lobster fishing. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement or measure.

[64 FR 68248, Dec. 6, 1999, as amended at 71 FR 13037, Mar. 14, 2006]

### § 697.4 Vessel permits and trap tags.

(a) *Limited access American lobster permit*. Any vessel of the United States that fishes for, possesses, or lands American lobster in or harvested from the EEZ must have been issued and carry on board a valid Federal limited access lobster permit. This requirement does not apply to: charter, head, and commercial dive vessels that possess six or fewer American lobsters per person aboard the vessel if such lobsters are not intended for, nor used, in trade, barter or sale; recreational fishing vessels; and vessels that fish exclusively in state waters for American lobster.

(1) *Eligibility in 1999 and thereafter*. To be eligible for issuance or renewal of a Federal limited access lobster permit for fishing year 1999 and thereafter, a vessel must:

(i) Have been issued a Federal limited access lobster permit for the preceding fishing year by the last day of such fishing year unless a CPH has been issued as specified in paragraph (a)(5) of this section or unless otherwise authorized by the Regional Administrator;

(ii) Be replacing a vessel that was issued a Federal limited access lobster permit for the preceding year; or

(iii) Be replacing a vessel issued a CPH.

(2) *Qualification restriction*. Unless the Regional Administrator determines otherwise, no more than one vessel may qualify, at any one time, for a Federal limited access lobster permit based on that or another vessel's fishing and permit history. If more than one vessel owner claims eligibility for a limited access permit, based on one vessel's fishing and permit history, the Regional Administrator will determine who is eligible for the permit or a CPH under paragraph (a)(3) of this section.

(3) *Change in ownership*. The fishing and permit history, and management area designation, when required of a vessel, is presumed to transfer with the vessel whenever it is bought, sold or otherwise transferred, unless there is a written agreement, signed by the transferor/seller and transferee/buyer, or other credible written evidence, verifying that the transferor/seller is retaining the vessel's fishing and permit history, and management area designation, for the purposes of replacing the vessel.

(4) *Consolidation restriction*. Federal limited access American lobster permits, and any rights or privileges associated thereto, may not be combined or consolidated.

(5) *Confirmation of permit history*. Notwithstanding any other provisions of this part, a person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has

sunk, been destroyed, or transferred to another person, must apply for and receive a CPH if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a CPH, the applicant must show that the qualifying vessel meets the eligibility requirements, as applicable, in this part. Issuance of a valid CPH preserves the eligibility of the applicant to apply for a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time, subject to the replacement provisions specified in this section. If fishing privileges have been assigned or allocated previously under this part, based on the qualifying vessel's fishing and permit history, the CPH also preserves such fishing privileges. A CPH must be applied for in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel. An application for a CPH must be received by the Regional Administrator no later than 30 days prior to the end of the first full fishing year in which a vessel permit cannot be issued. Failure to do so is considered abandonment of the permit as described in paragraph (o) of this section. A CPH issued under this part will remain valid until the fishing and permit history preserved by the CPH is used to qualify a replacement vessel for a limited access permit. Any decision regarding the issuance of a CPH for a qualifying vessel that has been applied for or been issued previously a limited access permit is a final agency action subject to judicial review under 5 U.S.C. 704. Information requirements for the CPH application are the same as those for a limited access permit. Any request for information about the vessel on the CPH application form means the qualifying vessel that has been sunk, destroyed, or transferred. Vessel permit applicants who have been issued a CPH and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant to paragraph (c) of this section.

(6) *Restriction on permit splitting*. A Federal limited access lobster permit will not be issued to a vessel or its replacement, or remain valid, if the vessels' permit or fishing history has been used to qualify another vessel for another Federal fishery.

(7) *Management area designations for vessels fishing with traps*. (i) For fishing year 2000 and beyond, it is unlawful for vessels issued a limited access American lobster permit fishing with traps, to retain on board, land, or possess American lobster in or from the management areas specified in §697.18, unless such fishing vessel has been issued a valid management area designation certificate or valid limited access American lobster permit specifying such management area(s).

(ii) Each owner of a fishing vessel that fishes with traps capable of catching American lobster must declare to NMFS in his/her annual application for permit renewal which management areas, as described in §697.18, the vessel will fish in for lobster with trap gear during that fishing season. The ability to declare into Lobster Conservation Management Areas 3, 4 and/or 5, however, will be first contingent upon a one time initial qualification as set forth in paragraphs (a)(7)(vi) through (a)(7)(viii).

(iii) A lobster management area designation certificate or limited access American lobster permit shall specify in which lobster management area or areas the vessel may fish.

(iv) Once a vessel has been issued a lobster management area designation certificate or limited access American lobster permit specifying the lobster EEZ management areas in which the vessel may fish, no changes to the EEZ management areas specified may be made for such vessel for the remainder of the fishing year. There are two exceptions to this re-designation restriction:

(A) Vessels that have been bought, transferred, or become a replacement vessel for another qualified vessel may request re-designation of the EEZ management areas within 45 days of the effective date of the vessel's permit; and

(B) All vessels will have one opportunity to request a correction in permit category, if such request is made in writing to the Regional Administrator within 45 days of the effective date of the vessel's permit.

(v) A vessel issued a lobster management area designation certificate or

limited access American lobster permit specifying more than one EEZ management area must abide by the most restrictive management measures in effect for any one of the specified areas, regardless of the area being fished, for the entire fishing year.

(vi) *Participation requirements for EEZ Offshore Management Area 3 (Area 3)*. To fish for lobster with traps in Area 3, a Federal lobster permit holder must initially qualify into the area. To qualify, the permit holder seeking initial qualification must satisfy the following requirements in an application to the Regional Administrator:

(A) *Qualification criteria*. To initially qualify into Area 3, the applicant must establish with documenting proof the following:

(*1*) That the applicant possesses a current Federal lobster permit;

(*2*) That at least 200 lobster traps were set, allowed to soak, hauled back, and re-set in Area 3 by the qualifying vessel during a period of two consecutive calendar months in any calendar year during the period from March 25, 1991, through September 1, 1999, excluding the time period in calendar years 1991 and 1999 that are outside the qualification period (i.e., January 1, 1991 through March 24, 1991 and September 2, 1999 through December 31, 1999);

(*3*) That at least 25,000 lb (11,340 kg) of lobster were landed by the qualifying vessel from any location during the qualifying year selected in paragraph (9)(7)(vi)(A)(*2*).

(B) *Trap allocation criteria*. A qualified applicant must also establish with documentary proof the number of lobster traps fished by the qualifying vessel in Area 3 during the qualifying year. To the extent that the documentation so establishes, the Regional Administrator will then allocate a maximum number of lobster traps with which to fish in Area 3 as it relates to the sliding scale set forth in § 697.19.

(C) *Documentary proof*. To satisfy the Area 3 Initial Qualification and Trap Allocation Criteria set forth in paragraphs (9)(7)(vi)(A) and (B) of this section, the applicants will be limited to the following documentary proof:

(*1*) As proof of a valid Federal lobster permit, the applicant must provide a copy of the vessel's current Federal lobster permit. The potential qualifier may, in lieu of providing a copy, provide NMFS with such data that would allow NMFS to identify the current permit holder in its data base, which would at a minimum include: the applicant's name and address, vessel name and permit number;

(*2*) As proof of 200 trap/two consecutive month criterion, the applicant must provide - to the extent that the document(s) clearly and credibly establishes this criterion - one or more of the following types of documentation: copies of Federal Fishing Vessel Trip Reports (NOAA Form 88–30), Federal Port Agent Vessel Interview forms (NOAA Form 88–30), Federal Sea Sampling Observer Reports or a Federal Fishing Vessel and Gear Damage Compensation Fund Report (NOAA Form 88–176); personal vessel logbooks; state permit applications; and/or official state reporting documentation showing the number of lobster traps fished, including, but not limited to, state report cards, state vessel interview forms, license application forms, state sea sampling observer reports, and catch reports. These documents must have been created on or about the time of activity stated in the document. NMFS will not accept recent vessel log book entries or other recently created documents identified in this part as proof of fishing activity that occurred in prior years;

(*3*) As proof that 25,000 lb (11,340 kg) of lobster were landed the applicant must provide - to the extent that the document(s) clearly and credibly establishes this criterion - one or more of the following types of documentation:copies of Federal Fishing Vessel Trip Reports (NOAA Form 88–30), Federal Port Agent Vessel Interview forms (NOAA Form 88–30) or Federal Sea Sampling Observer Reports; personal vessel logbooks; official state reporting documentation showing the pounds of lobster landed, including, but not limited to, state report cards, state vessel interview forms, state sea sampling observer reports, and catch reports; and/or sales receipts or landing slips. These documents must have been created on or about the time of activity stated in the document. NMFS will not accept recent vessel log book entries or other

recently created documents identified in this part as proof of fishing activity that occurred in prior years;

(*4*) As proof of the number of traps fished during the qualifying year, NOAA Fisheries will accept to the extent that the document(s) clearly and credibly establishes this criterion one or more of the following types of documentation:copies of Federal Fishing Vessel Trip Reports (NOAA Form 88–30); Federal Port Agent Vessel Interview Forms (NOAA Form 88–30); Federal Sea Sampling Observer Reports; Federal Fishing Vessel and Gear Damage Compensation Fund Reports (NOAA Form 88–176); personal vessel logbooks; tax returns and sales receipts; state permit applications; and/or official state reporting documentation showing the number of traps fished, including, but not limited to, state report cards, state vessel interview forms, license application forms, state sea sampling observer reports, and catch reports. Documentation may represent the number of traps fished during any point in the qualifying year and does not necessarily need to represent the 2–consecutive month period used in paragraph (a)(7)(vi)(C)(*2*) of this section. These documents must have been created on or about the time of the activity stated in the document. NMFS will not accept recent vessel log book entries or other recently created documents identified in this part as proof of fishing activity that occurred in prior years;

(*5*) All applicants must further provide a signed cover letter that identifies the documents provided and which qualifying and trap allocation criteria the documents are being used to establish;

(*6*) All applicants must further provide an affidavit attesting under the penalties of perjury that each aspect of each of the qualification and trap allocation criteria has been met and the submitted supporting documentation is truthful, accurate and created contemporaneously with the dates identified on the documents. Specifically, each affidavit must attest in separate and specific paragraphs:

(*i*) The name, address, lobster permit number and vessel of the applicant;

(*ii*) That at least 200 lobster traps were set, allowed to soak, hauled back and re-set during the 2–month period in the qualifying year in the area being selected by the applicant, identifying those months and that year and further identifying which documents are being offered as proof of such;

(*iii*) That at least 25,000 lb (11,340 kg) of lobster were landed during the qualifying year by the vessel, identifying that year and further identifying which documents are being offered as proof of such;

(*iv*) The total number of traps set in the qualifying area during the qualifying year, identifying that area and year, and further identifying which documents are being offered as proof of such; and

(*v*) That the submitted documents in support of these claims are truthful, accurate and created during the qualifying year.

(*7*) All documents and submissions must be legible. Illegible documents or submissions will not be considered;

(*8*) The Regional Administrator may, at his or her discretion, waive documentary obligations for certain elements of the qualification criteria for an applicant if NMFS itself has clear and credible evidence that would satisfy that qualification criteria for the applicant;

(*9*) At the discretion of the Regional Administrator, all submitted documentation must be accompanied by a completed NMFS Lobster Historical Participation Application Form.

(*10*) Applicants must retain copies of all the application materials and documentation submitted to NMFS while the application is pending.

(D) *Application period*. The time period for submitting a historical qualification and trap allocation application begins on the date 30 days after publication of this final rule (application period start date) and ends December 31, 2003.

(*1*) *Earlier submissions*. Applicants who submit their applications to the Regional Administrator by July 31, 2003 (or in less than 60 days after the application period start date, whichever is later) will be eligible to receive a temporary interim permit that would allow the vessel to continue fishing

with traps in Area 3 at existing levels during the 2003 fishing season while NMFS processes the application. After processing and reaching a decision on this earlier submitted application, the Regional Administrator may then issue a revised permit that will indicate the vessel's Area 3 eligibility and trap allocation. This revised permit will supersede the temporary interim permit and be effective immediately.

(*2*) *Later submissions*. Applicants who submit their applications to the Regional Administrator after July 31, 2003 (or more than 60 days after the application period start date, whichever is later), will not be eligible to receive a temporary interim permit that would allow continued fishing in Area 3 while NMFS processes the application. Even though they may be deemed qualified, applicants submitting applications in this later time period will not be eligible to fish in Area 3 until the 2004 fishing season.

(vii) *Participation requirements for EEZ Nearshore Management Area 4 (Area 4)*. To fish for lobster with traps in Area 4, a Federal lobster permit holder must initially qualify into the area. To qualify, the permit holder seeking initial qualification must satisfy the following requirements in an application to the Regional Administrator:

(A) *Qualification criteria*. To initially qualify into Area 4, the applicant must establish with documenting proof the following:

(*1*) That the applicant possesses a current Federal lobster permit;

(*2*) That at least 200 lobster traps were set, allowed to soak, hauled back, and re-set in Area 4 by the qualifying vessel during a period of two consecutive calendar months in any calendar year during the period from March 25, 1991, through September 1, 1999, excluding the time period in calendar years 1991 and 1999 that are outside the qualification period (i.e., January 1, 1991 through March 24, 1991 and September 2, 1999 through December 31, 1999).

(B) *Trap allocation criteria*. A qualified applicant must also establish with documentary proof the number of lobster traps fished by the qualifying vessel in Area 4 during the qualifying year. To the extent that the documentation so establishes, the Regional Administrator will then allocate a maximum number of lobster traps with which to fish in Area 4, not to exceed 1,440 traps.

(C) *Documentary proof*. To satisfy the Area 4 Initial Qualification and Trap Allocation Criteria set forth in paragraphs (A) and (B) of this section, the applicants will be limited to the following documentary proof:

(*1*) As proof of a valid Federal lobster permit, the applicant must provide a copy of the vessel's current Federal lobster permit. The potential qualifier may, in lieu of providing a copy, provide NMFS with such data that would allow NMFS to identify the current permit holder in its data base, which would at a minimum include: the applicant's name and address, vessel name and permit number;

(*2*) As proof of 200 trap/two consecutive month criterion, the applicant must provide - to the extent that the document(s) clearly and credibly establishes this criterion - one or more of the following types of documentation:Copies of Federal Fishing Vessel Trip Reports (NOAA Form 88–30), Federal Port Agent Vessel Interview forms (NOAA Form 88–30), Federal Sea Sampling Observer Reports or a Federal Fishing Vessel and Gear Damage Compensation Fund Report (NOAA Form 88–176); personal vessel logbooks; state permit applications; and/or official state reporting documentation showing the number of lobster traps fished, including, but not limited to, state report cards, state vessel interview forms, license application forms, state sea sampling observer reports, and catch reports. These documents must have been created on or about the time of activity stated in the document. NMFS will not accept recent vessel log book entries or other recently created documents identified in this part as proof of fishing activity that occurred in prior years;

(*3*) As proof of the number of traps fished during the qualifying year, NOAA Fisheries will accept to the extent that the document(s) clearly and credibly establishes this criterion - one or more of the following types of documentation:Copies of Federal Fishing Vessel Trip Reports (NOAA Form 88–

30); Federal Port Agent Vessel Interview Forms (NOAA Form 88–30); Federal Sea Sampling Observer Reports; Federal Fishing Vessel and Gear Damage Compensation Fund Reports (NOAA Form 88–176); personal vessel logbooks; tax returns and sales receipts; state permit applications; and/or official state reporting documentation showing the number of traps fished, including, but not limited to, state report cards, state vessel interview forms, license application forms, state sea sampling observer reports, and catch reports. Documentation may represent the number of traps fished during any point in the qualifying year and does not necessarily need to represent the 2–consecutive month period used in paragraph (a)(7)(vii)(C)(2) of this section. These documents must have been created on or about the time of the activity stated in the document. NMFS will not accept recent vessel log book entries or other recently created documents identified in this part as proof of fishing activity that occurred in prior years;

(*4*) All applicants must further provide a signed cover letter that identifies the documents provided and which qualifying and trap allocation criteria the documents are being used to establish;

(*5*) All applicants must further provide an affidavit attesting under the penalties of perjury that each aspect of each of the qualification and trap allocation criteria has been met and the submitted supporting documentation is truthful, accurate and created contemporaneously with the dates identified on the documents. Specifically, each affidavit must attest in separate and specific paragraphs:

(*i*) The name, address, lobster permit number and vessel of the applicant;

(*ii*) That at least 200 lobster traps were set, allowed to soak, hauled back and re-set during the two month period in the qualifying year in the area being selected by the applicant, identifying those months and that year and further identifying which documents are being offered as proof of such;

(*iii*) The total number of traps set in the qualifying area during the qualifying year, identifying that area and year, and further identifying which documents are being offered as proof of such; and

(*iv*) That the submitted documents in support of these claims are truthful, accurate and created during the qualifying year.

(*6*) All documents and submissions must be legible. Illegible documents or submissions will not be considered;

(*7*) The Regional Administrator may, at his or her discretion, waive documentary obligations for certain elements of the qualification criteria for an applicant if NMFS itself has clear and credible evidence that would satisfy that qualification criteria for the applicant;

(*8*) At the discretion of the Regional Administrator, all submitted documentation must be accompanied by a completed NMFS Lobster Historical Participation Application Form.

(*9*) Applicants must retain copies of all the application materials and documentation submitted to NMFS while the application is pending.

(D) *Application period*. The time period for submitting a historical qualification and trap allocation application begins on the date 30 days after publication of this final rule (application period start date) and ends December 31, 2003.

(*1*) *Earlier submissions*. Applicants who submit their applications to the Regional Administrator by July 31, 2003 (or in less than 60 days after the application period start date, whichever is later) will be eligible to receive a temporary interim permit that would allow the vessel to continue fishing in Area 4 at existing levels during the 2003 fishing season while NMFS processes the application. After processing and reaching a decision on this earlier submitted application, the Regional Administrator may then issue a revised permit that will indicate the vessel's Area 4 eligibility and trap allocation. This revised permit will supercede the temporary interim permit and be effective immediately.

(*2*) *Later submissions*. Applicants who submit their applications to the Regional Administrator after July 31, 2003 (or more than 60 days after the application period start date, whichever is later), will not be eligible to receive a temporary interim permit that would

allow continued fishing in Area 4 while NMFS processes the application. Even though they may be deemed qualified, applicants submitting applications in this later time period will not be eligible to fish in Area 4 until the 2004 fishing season.

(viii) Participation requirements for EEZ Nearshore Management Area 5 (Area 5). To fish for lobster with traps in Area 5, a Federal lobster permit holder must initially qualify into the area. To qualify, the permit holder seeking initial qualification must satisfy the following requirements in an application to the Regional Administrator:

(A) *Qualification criteria.* To initially qualify into Area 5, the applicant must establish the following:

(*1*) That the applicant possesses a current Federal lobster permit;

(*2*) That at least 200 lobster traps were set, allowed to soak, hauled back, and re-set in Area 5 by the qualifying vessel during a two consecutive calendar month period in any calendar year during the period from March 25, 1991, through September 1, 1999, excluding the time period in calendar years 1991 and 1999 that are outside the qualification period (i.e., January 1, 1991 through March 24, 1991 and September 2, 1999 through December 31, 1999).

(B) *Trap allocation criteria.* A qualified applicant must also establish with documentary proof the number of lobster traps fished by the qualifying vessel in Area 5 during the qualifying year. To the extent that the documentation so establishes, the Regional Administrator will then allocate a maximum number of lobster traps with which to fish in Area 5, not to exceed 1,440 traps.

(C) *Documentary proof.* To satisfy the Area 5 Initial Qualification and Trap Allocation Criteria set forth in paragraphs (9)(7)(viii)(A) and (B) of this section, the applicants will be limited to the following documentary proof:

(*1*) As proof of a valid Federal lobster permit, the applicant must provide a copy of the vessel's current Federal lobster permit. The potential qualifier may, in lieu of providing a copy, provide NMFS with such data that would allow NMFS to identify the current permit holder in its data base, which would at a minimum include: the applicant's name and address, vessel name and permit number.

(*2*) As proof of 200–trap/2–consecutive month criterion, the applicant must provide - to the extent that the document(s) clearly and credibly establishes this criterion - one or more of the following types of documentation:copies of Federal Fishing Vessel Trip Reports (NOAA Form 88–30), Federal Port Agent Vessel Interview forms (NOAA Form 88–30), Federal Sea Sampling Observer Reports or a Federal Fishing Vessel and Gear Damage Compensation Fund Report (NOAA Form 88–176); personal vessel logbooks; state permit applications; and/or official state reporting documentation showing the number of lobster traps fished, including, but not limited to, state report cards, state vessel interview forms, license application forms, state sea sampling observer reports, and catch reports. These documents must have been created on or about the time of activity stated in the document. NMFS will not accept recent vessel log book entries or other recently created documents identified in this part as proof of fishing activity that occurred in prior years.

(*3*) As proof of the number of traps fished during the qualifying year, NOAA Fisheries will accept to the extent that the document(s) clearly and credibly establishes this criterion - one or more of the following types of documentation:copies of Federal Fishing Vessel Trip Reports (NOAA Form 88–30); Federal Port Agent Vessel Interview Forms (NOAA Form 88–30); Federal Sea Sampling Observer Reports; Federal Fishing Vessel and Gear Damage Compensation Fund Reports (NOAA Form 88–176); personal vessel logbooks; tax returns and sales receipts; state permit applications; and/or official state reporting documentation showing the number of traps fished, including, but not limited to, state report cards, state vessel interview forms, license application forms, state sea sampling observer reports, and catch reports. Documentation may represent the number of traps fished during any point in the qualifying year and does not necessarily need to represent the 2–consecutive month period used in paragraph (a)(7)(viii)(C)(2) of

this section. These documents must have been created on or about the time of the activity stated in the document. NMFS will not accept recent vessel log book entries or other recently created documents identified in this part as proof of fishing activity that occurred in prior years;

(*4*) All applicants must further provide a signed cover letter that identifies the documents provided and which qualifying and trap allocation criteria the documents are being used to establish;

(*5*) All applicants must further provide an affidavit attesting under the penalties of perjury that each aspect of each of the qualification and trap allocation criteria has been met and the submitted supporting documentation is truthful, accurate and created contemporaneously with the dates identified on the documents. Specifically, each affidavit must attest in separate and specific paragraphs:

(*i*) The name, address, lobster permit number and vessel of the applicant;

(*ii*) That at least 200 lobster traps were set, allowed to soak, hauled back and re-set during the two month period in the qualifying year in the area being selected by the applicant, identifying those months and that year and further identifying which documents are being offered as proof of such;

(*iii*) The total number of traps set in the qualifying area during the qualifying year, identifying that area and year, and further identifying which documents are being offered as proof of such; and

(*iv*) That the submitted documents in support of these claims are truthful, accurate and created during the qualifying year.

(*6*) All documents and submissions must be legible. Illegible documents or submissions will not be considered;

(*7*) The Regional Administrator may, at his or her discretion, waive documentary obligations for certain elements of the qualification criteria for an applicant if NMFS itself has clear and credible evidence that would satisfy that qualification criteria for the applicant;

(*8*) At the discretion of the Regional Administrator, all submitted documentation must be accompanied by a completed NMFS Lobster Historical Participation Application Form.

(*9*) Applicants must retain copies of all the application materials and documentation submitted to NMFS while the application is pending.

(D) *Application period*. The time period for submitting a historical qualification and trap allocation application begins on the date 30 days after publication of this Final Rule (application period start date) and ends December 31, 2003.

(*1*) *Earlier submissions*. Applicants who submit their applications to the Regional Administrator by July 31, 2003 (or in less than 60 days after the application period start date, whichever is later) will be eligible to receive a temporary interim permit that would allow the vessel to continue fishing in Area 5 at existing levels during the 2003 fishing season while NMFS processes the application. After processing and reaching a decision on this earlier submitted application, the Regional Administrator may then issue a revised permit that will indicate the vessel's Area 5 eligibility and trap allocation. This revised permit will supercede the temporary interim permit and be effective immediately.

(*2*) *Later submissions*. Applicants who submit their applications to the Regional Administrator after July 31, 2003 (or more than 60 days after the application period start date, whichever is later), will not be eligible to receive a temporary interim permit that would allow continued fishing in Area 5 while NMFS processes the application. Even though they may be deemed qualified, applicants submitting applications in this later time period will not be eligible to fish in Area 5 until the 2004 fishing season.

(ix) *Qualifying year for vessels seeking to fish for lobster with traps in more than one area of Areas 3, 4, and 5*. Any Federal lobster permit holder applying for a lobster trap allocation in more than one area amongst Areas 3, 4 and 5 must use the same qualifying year for all areas.

(x) *Appeal of denial of permit*. Any applicant having first applied for initial qualification pursuant to § 6 paragraphs (a)(7)(vi), (a)(7)(vii) and/or (a)(7)(viii) of this section, but having been denied a

limited access American lobster permit for Areas 3, 4, and/or 5, may appeal to the Regional Administrator within 45 days of the date indicated on the notice of denial. Any such appeal must be in writing.

(A) *Grounds for appeal.* There shall be two grounds for appeal:

(*1*) *Clerical error.* It shall be grounds for appeal that the Regional Administrator erred clerically in concluding that the vessel did not meet the criteria in paragraphs (a)(7)(vi), (a)(7)(vii), and/or (a)(7)(viii) of this section. Errors arising from oversight or omission such as ministerial, mathematical or typographical mistakes would form the basis of such an appeal. Alleged errors in substance or judgment do not form a sufficient basis of appeal under this paragraph. The appeal must set forth the basis for the applicant's belief that the Regional Administrator's decision was made in error.

(*2*) *Documentary hardship.* It shall be grounds for appeal that an otherwise qualified applicant is unable to produce qualification evidence due to documentary hardship. The hardship must have been caused by factors beyond the applicant's control, such as documents lost in a flood or fire. Failure to create the documents in the first instance, or simple loss of the document, or the intentional destruction or discarding of the document in the past by the appellant, or lacking the appropriate qualification documents due to inadvertence, carelessness or excusable neglect, do not constitute grounds for hardship under this paragraph. Appeals based on documentary hardship must establish the following:

(*i*) *Nature of the hardship.* The appellant must identify the hardship and submit to the Regional Administrator a document corroborating the hardship, such as by insurance claims forms or police and fire reports; and

(*ii*) *Affidavits.* The appellant must submit affidavits from current Federal permit holders so that three affidavits corroborate each of the qualification criteria for Area 3 as indicated in paragraph (a)(7)(vi) of this section, Area 4 as indicated in paragraph (a)(7)(vii) of this section, and/or for Area 5 as indicated in paragraph (a)(7)(viii) of this section. Each affidavit must clearly specify in separate and specific paragraphs:The name, address, Federal permit number and vessel name of the affiant; that the affiant can attest to by personal first-hand knowledge that the qualifying vessel set, allowed to soak, hauled back and re-set at least 200 lobster traps during the 2–month period in the qualifying year in the area being selected by the applicant, identifying those months and that year and further identifying the nature of that knowledge; for Area 3 only, that the affiant can attest to by personal first-hand knowledge that the qualifying vessel landed at least 25,000 lb (11,340 kg) oflobster during the qualifying year, identifying that year and further identifying the nature of that knowledge; that the affiant can attest to by personal first-hand knowledge to the total number of traps that the applicant claims his or her vessel fished in the area in question during the qualifying year and further identifying the nature of that knowledge; that the affiant also fished in the area being claimed by theapplicant during the months in the qualifying year chosen by the applicant; and be signed under the penaltiesof perjury. The requirement that each qualification criteria must be independently affirmed by three Federal permit holders does not restrict the appellant to using the same three affiants for each qualification criterion, although the appellant is encouraged to do so. The term personal first-hand knowledge in this paragraph means information directly gained by the affiant and would not include information gained from word of mouth or hearsay.

(B) *Appellate timing and review.* All appeals must be in writing and must be submitted to the Regional Administrator postmarked no later than 45 days after the date on NMFS' Notice of Denial of Initial Qualification application. Failure to register an appeal within 45 days of the date of the Notice of Denial will preclude any further appeal. The appellant may notify the Regional Administrator of his or her intent to appeal within the 45 days and request a time extension to procure the necessary affidavits and documentation. Time extensions shall be limited

to 30 days and shall be calculated as extending 30 days beyond the initial 45–day period that begins on the original date on the Notice of Denial. Appeals submitted beyond the deadlines stated herein will not be accepted. Upon receipt of a complete written appeal with supporting documentation in the time frame allowable, the Regional Administrator will then appoint an appeals officer who will review the appellate documentation. After completing a review of the appeal, the appeals officer will make findings and a recommendation, which shall be advisory only, to the Regional Administrator, who shall make the final agency decision whether to qualify the applicant.

(C) *Status of vessels pending appeal.* The Regional Administrator may authorize a vessel to fish in Areas 3, 4 or 5 during an appeal. The Regional Administrator may do so by issuing a letter authorizing the appellant to fish up to 800 traps in Areas 4 or 5, or up to 1,800 traps in Area 3 during the pendency of the appeal. The Regional Administrator's letter must be present onboard the vessel while it is engaged in such fishing in order for the vessel to be authorized. If the appeal is ultimately denied, the Regional Administrator's letter authorizing fishing during the appeal will become invalid 5 days after receipt of the notice of appellate denial or 15 days after the date on the notice of appellate denial, whichever occurs first.

(b) *Condition.* Vessel owners who apply for a Federal limited access American lobster permit under this section must agree, as a condition of the permit, that the vessel and vessel's fishing, catch, and pertinent gear (without regard to whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part, as well as gear, time, and area restrictions issued or set forth in other parts, including, but not limited to, 50 CFR parts 229 and 648. The vessel and all such fishing, catch, and gear shall remain subject to all applicable state or local requirements. If a requirement of this part and a management measure required by state or local law differ, any vessel owner permitted to fish in the EEZ must comply with the more restrictive requirement.

(c) *Vessel permit application.* Applicants for a Federal limited access American lobster permit under this section must submit a completed application on an appropriate form obtained from the Regional Administrator. To be complete, an application for a Federal limited access American lobster permit must contain at least the following information, and any other information specified on the application form or otherwise required by the Regional Administrator: Vessel name; owner name, mailing address, and telephone number; U.S. Coast Guard documentation number and a copy of the vessel's U.S. Coast Guard documentation or, if undocumented, state registration number and a copy of the state registration; lobster management area designation the vessel will fish in, as specified in §697.18, if fishing with traps capable of catching American lobster; home port and principal port of landing; overall length; gross tonnage; net tonnage; engine horsepower; year the vessel was built; type of construction; type of propulsion; approximate fish-hold capacity; type of fishing gear used by the vessel; number of crew; permit category; if the owner is a corporation, a copy of the Certificate of Incorporation; and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares; if the owner is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one owner, names of all owners having more than a 25 percent interest; and name and signature of the owner or the owner's authorized representative. The application must be signed by the owner of the vessel, or the owner's authorized representative, and be submitted to the Regional Administrator at least 30 days prior to the date on which the permit is needed by the applicant. The Regional Administrator shall notify the applicant of any deficiency in the application.

(d) *Trap tag application, lost and replacement tags.* (1) Beginning fishing year 2000, any lobster trap fished in

Federal waters must have a valid Federal lobster trap tag permanently attached to the trap bridge or central cross-member, unless exempt under § 697.26.

(2) Trap tags shall be issued by the Regional Administrator, or, by state agencies, by agreement with the Regional Administrator, provided that such state tagging programs accurately identify the Federal limited access American lobster permit holder. NMFS will provide notice to American lobster permit holders as to the procedure for applying for trap tags and any required fees.

(3) Vessel owners or operators are required to report to the Regional Administrator lost, destroyed, and missing tags as soon as feasible within 7 days after the tags have been discovered lost, destroyed, or missing, by letter or fax to the Regional Administrator.

(4) Requests for replacement of lost tags in excess of the tag limit specified in § 697.19(c) must be submitted in writing to the Regional Administrator on an appropriate form obtained from the Regional Administrator and signed by the permit holder or authorized representative. The form and request for replacement tags will be reviewed by the Regional Administrator on a case-by-case basis and a decision will be reached on the number of replacement tags to be issued, if any. A check for the cost of the replacement tags must be received before tags will be reissued.

(e) *Fees*. The Regional Administrator may charge a fee to recover the administrative expenses of issuing a permit or trap tags required under this section. Fee amounts shall be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining administrative costs of each special product or service. Fees may not exceed such costs and shall be specified with each application form. The applicable fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (f) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(f) *Issuance*. (1) Except as provided in subpart D of 15 CFR part 904, the Regional Administrator shall issue a permit or tags, as applicable, within 30 days of receipt of the application unless:

(i) The applicant has failed to submit a completed application. An application is complete when all requested forms, information, documentation, and fees, if applicable, have been received;

(ii) The application was not received by the Regional Administrator by any applicable deadline set forth in this section;

(iii) The applicant and applicant's vessel failed to meet all applicable eligibility requirements set forth in this section or the number of tags requested exceeds the applicable tag limit specified in § 697.19(c);

(iv) The applicant has failed to meet any other application or tag requirements stated in this part.

(v) The application is for initial qualification for access to Area 3, 4 or 5 pursuant to the historical participation process in paragraphs (a)(7)(vi)(D), (a)(vii)(D), and (a)(viii)(D) of this section.

(2) *Incomplete applications*. Upon receipt of an incomplete or improperly executed application for any permit under this part, the Regional Administrator shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(g) *Expiration*. A permit expires annually upon the renewal date specified in the permit.

(h) *Duration*. A permit will continue in effect until the renewal date unless it is revoked, suspended, or modified under 15 CFR part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Administrator as specified in paragraph (k) of this section.

(i) *Reissuance*. A vessel permit may be reissued by the Regional Administrator when requested in writing by the owner

or authorized representative, stating the need for reissuance, the name of the vessel, and the number of the permit requested to be reissued. An application for a reissued permit is not considered a new application. The fee for a reissued permit shall be the same as for an initial permit.

(j) *Transfer*. A permit issued under this part is not transferable or assignable. A permit will be valid only for the fishing vessel, owner and/or person for which it is issued.

(k) *Change in application information*. Within 15 days after a change in the information contained in an application submitted under this section, a written notice of the change must be submitted to the Regional Administrator. If the written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(l) *Alteration*. Any permit that has been altered, erased, or mutilated is invalid.

(m) *Display*. A vessel permit must be carried, at all times, on board the vessel for which it is issued and shall be subject to inspection upon request by any authorized officer. Any permit issued under this part must be maintained in legible condition.

(n) *Sanctions*. Permits issued or sought under this section may be suspended, revoked, or modified, by procedures governing enforcement-related permit sanctions and denials, found at subpart D of 15 CFR part 904.

(o) *Abandonment or voluntary relinquishment of limited access American lobster permits*. Failure to renew a limited access permit in any fishing year bars the renewal of the permit in subsequent years. If a vessel's Federal limited access American lobster permit or CPH is voluntarily relinquished to the Regional Administrator, or abandoned through failure to renew or otherwise, no Federal limited access American lobster permit or CPH may be reissued or renewed based on the qualifying vessel's history.

(p) *Permit category change*. A vessel permit category change (for individuals who possess a dual Federal limited access permit for American lobster and black sea bass and who restrict fishing operations to Area 5) may be issued by the Regional Administrator when requested in writing by the owner or by an authorized representative of a vessel meeting the eligibility requirements under § 697.26(a).

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 14501, Mar. 13, 2001; 68 FR 14925, Mar. 27, 2003; 71 FR 13037, Mar. 14, 2006]

### § 697.5 Operator permits.

(a) *General*. Any operator of a vessel issued a Federal limited access American lobster permit under § 697.4(a), or any operator of a vessel of the United States that fishes for, possesses, or lands American lobsters, harvested in or from the EEZ must have been issued and carry on board a valid operator's permit issued under this section. This requirement does not apply to: Charter, head, and commercial dive vessels that possess six or fewer American lobsters per person aboard the vessel if said lobsters are not intended for nor used in trade, barter or sale; recreational fishing vessels; and vessels that fish exclusively in state waters for American lobster.

(b) *Operator application*. Applicants for a permit under this section must submit a completed permit application on an appropriate form obtained from the Regional Administrator. To be complete, an application must contain at least the following information, and any other information specified on the application form or otherwise required by the Regional Administrator: Name, mailing address, and telephone number; date of birth; hair color; eye color; height; weight; social security number (optional) and signature of the applicant. The applicant must also provide two recent (no more than 1 year old) color passport-size photographs. The application must be signed by the applicant and submitted to the Regional Administrator at least 30 days prior to the date on which the applicant desires to have the permit made effective. The Regional Administrator will notify the applicant of any deficiency in the application.

(c) *Condition*. Vessel operators who apply for an operator's permit under this section must agree, as a condition of this permit, that the operator and vessels fishing, catch, crew size, and pertinent gear (without regard to

whether such fishing occurs in the EEZ or landward of the EEZ, and without regard to where such fish or gear are possessed, taken, or landed), are subject to all requirements of this part while fishing in the EEZ or on board a vessel permitted under § 697.4. The vessel and all such fishing, catch, and gear will remain subject to all applicable state or local requirements. Further, such operators must agree, as a condition of this permit, that if the permit is suspended or revoked pursuant to 15 CFR part 904, the operator cannot be on board any fishing vessel issued a Federal fisheries permit or any vessel subject to Federal fishing regulations while the vessel is at sea or engaged in off loading. If a requirement of this part and a management measure required by state or local law differ, any operator issued a permit under this part must comply with the more restrictive requirement or measure.

(d) *Fees*. The Regional Administrator may charge a fee to recover the administrative expenses of issuing a permit required under this section. The amount of the fee shall be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining administrative costs of each special product or service. The fee may not exceed such costs and shall be specified with each application form. The applicable fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (e) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(e) *Issuance*. Except as provided in subpart D of 15 CFR part 904, the Regional Administrator shall issue an operator's permit within 30 days of receipt of the application if the criteria specified herein are met. Upon receipt of an incomplete or improperly executed application, the Regional Administrator will notify the applicant of the deficiency in the application. If the application fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(f) *Expiration*. A permit expires upon the renewal date specified in the permit.

(g) *Duration*. An operator permit is valid until it is revoked, suspended, or modified under subpart D of 15 CFR part 904, or otherwise expires, or the applicant has failed to report a change in the information on the permit application to the Regional Administrator as specified in paragraph (j) of this section.

(h) *Reissuance*. An operator permit may be reissued by the Regional Administrator when requested in writing by the applicant, stating the need for reissuance and the number of the permit requested to be reissued. An applicant for a reissued operator permit must also provide two recent (no more than 1 year old) color passport-size photos of the applicant. An application for a reissued permit is not considered a new application. An appropriate fee may be charged.

(i) *Transfer*. Permits issued under this section are not transferable or assignable. A permit is valid only for the person to whom it is issued.

(j) *Change in application information*. Notice of a change in the permit holder's name, address, or telephone number must be submitted in writing to, and received by, the Regional Administrator within 15 days of the change in information. If written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(k) *Alteration*. Any permit that has been altered, erased, or mutilated is invalid.

(l) *Display*. Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(m) *Sanctions*. Vessel operators with suspended or revoked permits may not be on board a federally permitted fishing vessel in any capacity while the vessel is at sea or engaged in offloading. Permits issued or sought under this section may be suspended, revoked, or modified, by procedures governing enforcement-related permit sanctions and denials, found at subpart D of 15 CFR part 904.

(n) *Vessel owner responsibility*. Vessel owners are responsible for ensuring

that their vessels are operated by an individual with a valid operator's permit issued under this section.

**§ 697.6 Dealer permits.**

(a) Any person who receives, for a commercial purpose (other than solely for transport on land), American lobster from the owner or operator of a vessel issued a valid permit under this part, or any person who receives, for a commercial purpose (other than solely for transport on land), American lobster, managed by this part, must have been issued, and have in his/her possession, a valid permit issued under this section.

(b) *Dealer application*. Applicants for a dealer permit under this section must submit a completed permit application on an appropriate form obtained from the Regional Administrator. To be complete, an application must contain at least the following information, and any other information specified on the application form or otherwise required by the Regional Administrator: Company name, place(s) of business, mailing address(es) and telephone number(s); owner's name; dealer permit number (if a renewal); and name and signature of the person responsible for the truth and accuracy of the report. If the dealer is a corporation, a copy of the Certificate of Incorporation; and the names and addresses of all shareholders owning 25 percent or more of the corporation's shares, must be included with the application. If the dealer is a partnership, a copy of the Partnership Agreement and the names and addresses of all partners; if there is more than one partner, names of all partners having more than a 25 percent interest; and name and signature of all partner or partners authorized must be included with the application. The application must be signed by the applicant and submitted to the Regional Administrator at least 30 days prior to the date on which the applicant needs the permit. The Regional Administrator will notify the applicant of any deficiency in the application.

(c) *Fees*. The Regional Administrator may charge a fee to recover the administrative expenses of issuing a permit required under this section. The amount of the fee shall be calculated in accordance with the procedures of the NOAA Finance Handbook, available from the Regional Administrator, for determining administrative costs of each special product or service. The fee may not exceed such costs and shall be specified with each application form. The applicable fee must accompany each application; if it does not, the application will be considered incomplete for purposes of paragraph (e) of this section. Any fee paid by an insufficiently funded commercial instrument shall render any permit issued on the basis thereof null and void.

(d) *Issuance*. Except as provided in subpart D of 15 CFR part 904, the Regional Administrator will issue a permit at any time during the fishing year to an applicant, unless the applicant has failed to submit a completed application. An application is complete when all requested forms, information, and documentation have been received. Upon receipt of an incomplete or improperly executed application, the Regional Administrator will notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(e) *Expiration*. A permit expires upon the renewal date specified in the permit.

(f) *Duration*. A permit is valid until it is revoked, suspended, or modified under 15 CFR part 904, or otherwise expires, or ownership changes, or the applicant has failed to report any change in the information on the permit application to the Regional Administrator as required by paragraph (i) of this section.

(g) *Reissuance*. A dealer permit may be reissued by the Regional Administrator when requested in writing by the applicant, stating the need for reissuance and the number of the permit requested to be reissued. An application for a reissued permit is not considered a new application. An appropriate fee may be charged.

(h) *Transfer*. Permits issued under this section are not transferable or assignable. A permit is valid only for the person, or other business entity, to which it is issued.

(i) *Change in application information.* Notice of a change in the dealers name, address, or telephone number must be submitted in writing to, and received by, the Regional Administrator within 15 days of the change in information. If written notice of the change in information is not received by the Regional Administrator within 15 days, the permit is void.

(j) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(k) *Display.* Any permit issued under this part must be maintained in legible condition and displayed for inspection upon request by any authorized officer.

(l) *Federal versus state requirements.* If a requirement of this part differs from a fisheries management measure required by state law, any dealer issued a Federal dealer permit under this part must comply with the more restrictive requirement.

(m) *Sanctions.* Permits issued or sought under this section may be suspended, revoked, or modified, by procedures governing enforcement-related permit sanctions and denials, found at subpart D of 15 CFR part 904.

### § 697.7 Prohibitions.

(a) *Atlantic Coast weakfish fishery.* In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Fish for, harvest, or possess any weakfish less than 12 inches (30.5 cm) in total length (measured as a straight line along the bottom of the fish from the tip of the lower jaw with the mouth closed to the end of the lower tip of the tail) from the EEZ.

(2) Retain any weakfish less than 12 inches (30.5 cm) in total length taken in or from the EEZ.

(3) Fish for weakfish in the EEZ with a minimum mesh size less than 3¼-inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3¾-inch (9.5 cm) diamond stretch mesh for trawls and 2⅞-inch (7.3 cm) stretch mesh for gillnets.

(4) Possess more than 150 lb (67 kg) of weakfish during any one day or trip, whichever is longer, in the EEZ when using a mesh size less than 3 1/4–inch (8.3 cm) square stretch mesh (as measured between the centers of opposite knots when stretched taut) or 3 3/4–inch (9.5cm) diamond stretch mesh for finfish trawls and 2 7/8–inch (7.3 cm) stretch mesh for gillnets.

(5) Fish using a flynet in the EEZ off North Carolina in the area bounded as follows:

(i) On the north by a straight line connecting points 35°10.8′ N. lat., 75°29.2′ W. long. (3 nm off Cape Hatteras) and 35°03.5′ N. lat., 75°11.8′ W. long. (20 nm off Cape Hatteras).

(ii) The east by a straight line connecting points 35°03.5′ N. lat., 75°11.8′ W. long. (20 nm off Cape Hatteras) and 33°21.1′ N. lat., 77°57.5′ W. long., (about 30 nm off Cape Fear on the extension of the North Carolina/South Carolina state line into the EEZ).

(iii) On the south by a straight line connecting points 33°21.1′ N. lat., 77°57.5′ W. long., and 33°48.8′ N. lat., 78°29.7′ W. long. (3 nm off Little River Inlet on the North Carolina/South Carolina state line).

(iv) On the west by state waters.

(6) Possess any weakfish in the closed area of the EEZ, as described in paragraph (a)(5) of this section, when fishing with shrimp trawls or crab trawls.

(7) Land weakfish for commercial purposes caught in the EEZ in any state other than Massachusetts, Rhode Island, New York, New Jersey, Delaware, Maryland, Virginia, or North Carolina.

(b) *Atlantic striped bass fishery.* In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Fish for Atlantic striped bass in the EEZ.

(2) Harvest any Atlantic striped bass from the EEZ.

(3) Possess any Atlantic striped bass in or from the EEZ, except in the following area: The EEZ within Block Island Sound, north of a line connecting Montauk Light, Montauk Point, NY, and Block Island Southeast Light, Block Island, RI; and west of a line connecting Point Judith Light, Point Judith, RI, and Block Island Southeast Light, Block Island, RI. Within this area, possession of Atlantic striped bass is permitted, provided no fishing

takes place from the vessel while in the EEZ and the vessel is in continuous transit.

(4) Retain any Atlantic striped bass taken in or from the EEZ.

(c) *American lobster*. (1) In addition to the prohibitions specified in § 600.725 of this chapter, it is unlawful for any person owning or operating a vessel issued a Federal limited access American lobster permit under § 697.4 or a vessel or person holding a valid State of Maine American lobster permit or license and fishing under the provisions of and under the areas designated in § 697.24 to do any of the following:

(i) Retain on board, land, or possess at or after landing, whole American lobsters that fail to meet the minimum carapace length standard specified in § 697.20(a). All American lobsters will be subject to inspection and enforcement action, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

(ii) Retain on board, land, or possess, up to the time when a dealer first receives or possesses American lobster for a commercial purpose, any American lobster or parts thereof in violation of the mutilation standards specified in § 697.20(c).

(iii) Retain on board, land, or possess any berried female American lobster specified in § 697.20(d).

(iv) Remove eggs from any berried female American lobster, land, or possess any such lobster from which eggs have been removed. No person owning or operating a vessel issued a Federal limited access American lobster permit under § 697.4 or a vessel or person holding a State of Maine American lobster permit or license and fishing under the provisions of and under the areas designated in § 697.24 may land or possess any lobster that has come in contact with any substance capable of removing lobster eggs.

(v) *V-notch*. (A) Retain on board, land, or possess any zero tolerance v-notched female American lobster when fishing in or electing to fish in EEZ Nearshore Lobster Management Area 1.

(B) Retain on board, land, or possess any standard v-notched female American lobster when fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, 6, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3.

(vi) Spear any American lobster, or land or possess any American lobster which has been speared.

(vii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel trap gear in excess of the trap limits specified in § 697.19 unless exempted pursuant to § 697.26

(viii) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any trap gear that does not satisfy the requirements on gear identification and marking, escape vents, ghost panel and maximum trap size specified in § 697.21, unless such gear has been rendered unfishable, or unless exempted pursuant to § 697.26.

(ix) Possess, deploy, haul, harvest lobster from, or carry aboard a vessel any trap gear not tagged in accordance with the requirements in § 697.19, unless such gear has been rendered unfishable, or unless exempted pursuant to § 697.26.

(x) Fail to produce, or cause to be produced, lobster trap tags when requested by an authorized officer, unless exempted pursuant to § 697.26.

(xi) Beginning May 1, 2000, reproduce, or cause to be reproduced, lobster trap tags without the written consent of the Regional Administrator.

(xii) Beginning May 1, 2000, possess a lobster trap tag, tag a lobster trap with, or use, a lobster trap tag that has been reported lost, missing, destroyed, or issued to another vessel.

(xiii) Beginning May 1, 2000, sell, transfer, or give away lobster trap tags that have been reported lost, missing, destroyed, or issued to another vessel.

(xiv) Fail to affix and maintain permanent markings, as required by § 697.8.

(xv) Fish for, retain on board, land, or possess American lobsters, unless the operator of the vessel has been issued an operator's permit under § 697.5, and the permit is on board the vessel and is valid.

(xvi) Fail to report to the Regional Administrator within 15 days any change in the information contained in the permit application as required under § 697.4(k) or § 697.5(j).

(xvii) Make any false statement in connection with an application under § 697.4, § 697.5, or § 697.6.

(xviii) Sell, transfer, or barter or attempt to sell, transfer, or barter to a dealer any American lobsters, unless the dealer has a valid Federal Dealer's Permit issued under § 697.6.

(xix) Refuse or fail to carry a sea sampler/observer if requested to do so by the Regional Administrator.

(xx) Fail to provide a sea sampler/observer with required food, accommodations, access, and assistance, as specified in § 697.12.

(xxi) Violate any terms of a letter authorizing exempted fishing pursuant to § 697.22 or to fail to keep such letter aboard the vessel during the time period of the exempted fishing.

(xxii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any trap gear on a fishing trip in the EEZ from a vessel that fishes for, takes, catches, or harvests lobster by a method other than traps.

(xxiii) Fish for, take, catch, or harvest lobster on a fishing trip in or from the EEZ by a method other than traps, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xxiv) Possess, retain on board, or land lobster by a vessel with any non-trap gear on board capable of catching lobsters, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xxv) Transfer or attempt to transfer American lobster from one vessel to another vessel.

(xxvi) Beginning May 1, 2000, possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any trap gear in or from the management areas specified in § 697.18, unless such fishing vessel has been issued a valid management area designation certificate or valid limited access American lobster permit specifying such management area(s) as required under § 697.4(a)(7).

(xxvii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel trap gear issued to another vessel.

(xxviii) Fail to comply with any gear, time, or area restriction in this part or, as is explained in § 697.3 and § 697.4(b), fail to comply with any gear, time, or area regulation set forth in any other regulatory part, including part 229 and part 648.

(xxix) Retain on board, land, or possess at or after landing, whole American lobsters that exceed the maximum carapace length standard specified in § 697.20(b). All American lobsters will be subject to inspection and enforcement action, up to and including the time when a dealer receives or possesses American lobsters for a commercial purpose.

(2) In addition to the prohibitions specified in § 600.725 of this chapter and the prohibitions specified in paragraph (c)(1) of this section, it is unlawful for any person to do any of the following:

(i) Retain on board, land, or possess American lobsters unless:

(A) The American lobsters were harvested by a vessel that has been issued and carries on board a valid Federal limited access American lobster permit under § 697.4; or

(B) The American lobsters were harvested by a vessel without a valid Federal limited access American lobster permit and that fishes for American lobsters exclusively in state waters; or

(C) The American lobsters were harvested by a charter boat, head boat, or commercial dive vessel that possesses six or fewer American lobsters per person on board the vessel and the lobsters are not intended to be, or are not, traded, bartered, or sold; or

(D) The American lobsters were harvested by a recreational fishing vessel; or

(E) The American lobsters were harvested by a vessel or person holding a valid State of Maine American lobster permit or license and is fishing under the provisions of and in the areas designated in § 697.24.

(ii) Sell, barter, or trade, or otherwise transfer, or attempt to sell, barter, or trade, or otherwise transfer, for a commercial purpose, any American lobsters from a vessel, unless the vessel has been issued a valid Federal limited access American lobster permit under § 697.4, or the American lobsters were harvested by a vessel without a valid Federal limited access American lobster permit that fishes for American lobsters exclusively in state waters or unless the vessel or person holds a valid State of Maine American lobster permit or license and that is fishing under the provisions of and in the areas designated in § 697.24.

(iii) To be, or act as, an operator of a vessel fishing for or possessing American lobsters in or from the EEZ, or issued a Federal limited access American lobster permit under § 697.4, without having been issued and possessing a valid operator's permit under § 697.5.

(iv) Purchase, possess, or receive for a commercial purpose, or attempt to purchase, possess, or receive for a commercial purpose, as, or in the capacity of, a dealer, American lobsters taken from or harvested by a fishing vessel issued a Federal limited access American lobster permit, unless in possession of a valid dealer's permit issued under § 697.6.

(v) Purchase, possess, or receive for commercial purposes, or attempt to purchase or receive for commercial purposes, as, or in the capacity of, a dealer, American lobsters caught by a vessel other than one issued a valid Federal limited access American lobster permit under § 697.4, or one holding or owned or operated by one holding a valid State of Maine American lobster permit or license and fishing under the provisions of and in the areas designated in § 697.24, unless the American lobsters were harvested by a vessel without a Federal limited access American lobster permit and that fishes for American lobsters exclusively in state waters.

(vi) Assault, resist, oppose, impede, harass, intimidate, or interfere with or bar by command, impediment, threat, or coercion any NMFS-approved sea sampler/observer aboard a vessel conducting his or her duties aboard a vessel, or any authorized officer conducting any search, inspection, investigation, or seizure in connection with enforcement of this part, or any official designee of the Regional Administrator conducting his or her duties.

(vii) Refuse to carry a sea sampler/observer if requested to do so by the Regional Administrator.

(viii) Refuse reasonable assistance to either a NMFS-approved sea sampler/observer conducting his or her duties aboard a vessel.

(ix) Make any false statement, oral or written, to an authorized officer, concerning the taking, catching, harvesting, landing, purchase, sale, or transfer of any American lobster.

(x) Violate any provision of this part, the ACFCMA, the Magnuson-Stevens Act, or any regulation, permit, or notification issued under the ACFCMA, the Magnuson-Stevens Act, or these regulations.

(xi) Retain on board, land, or possess any American lobsters harvested in or from the EEZ in violation of § 697.20.

(xii) Ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster in violation of § 697.20.

(xiii) Fish, or be in the areas described in § 697.23(b)(2), (c)(2), (d)(2), and (e)(2) on a fishing vessel with mobile gear during the time periods specified in § 697.23(b)(1), (c)(1), (d)(1), and (e)(1), except as provided in § 697.23(b)(1), (c)(1), (d)(1), and (e)(1).

(xiv) Fish, or be in the areas described in § 697.23(b)(2), (c)(2), and (d)(2) on a fishing vessel with lobster trap gear on board during the time periods specified in § 697.23(b)(1), (c)(1), and (d)(1).

(xv) Deploy or fail to remove lobster trap gear in the areas described in § 697.23(b)(2), (c)(2), and (d)(2) during the time periods specified in § 697.23(b)(1), (c)(1), and (d)(1).

(xvi) Violate any terms of a letter authorizing exempted fishing pursuant to § 697.22 or to fail to keep such letter aboard the vessel during the time period of the exempted fishing.

(xvii) Possess, deploy, fish with, haul, harvest lobster from, or carry aboard a vessel any trap gear on a fishing trip in the EEZ on a vessel that fishes for, takes, catches, or harvests lobster by a method other than traps.

(xviii) Fish for, take, catch, or harvest lobster on a fishing trip in the EEZ by a method other than traps, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xix) Possess, retain on board, or land lobster by a vessel with any non-trap gear on board capable of catching lobsters, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(xx) Transfer or attempt to transfer American lobster from one vessel to another vessel.

(3) *Presumptions*. (i) Any person possessing, or landing American lobsters or parts thereof at or prior to the time when those American lobsters are landed, or are received or possessed by a dealer for the first time, is subject to all of the prohibitions specified in paragraph (c) of this section, unless the American lobsters were harvested by a vessel without a Federal limited access American lobster permit and that fishes for American lobsters exclusively in state waters; or are from a charter, head, or commercial dive vessel that possesses or possessed six or fewer American lobsters per person aboard the vessel and the lobsters are not intended for sale, trade, or barter; or are from a recreational fishing vessel.

(ii) American lobsters or parts thereof that are possessed, or landed at or prior to the time when the American lobsters are received by a dealer, or whole American lobsters that are possessed by a dealer, are presumed to have been harvested from the EEZ or by a vessel with a Federal limited access American lobster permit. A preponderance of all submitted evidence that such American lobsters were harvested by a vessel without a Federal limited access American lobster permit and fishing exclusively for American lobsters in state or foreign waters will be sufficient to rebut this presumption.

(iii) The possession of egg-bearing female American lobsters, V-notched female American lobsters, American lobsters that are smaller than the minimum size set forth in § 697.20(b), or lobster parts, possessed at or prior to the time when the aforementioned lobsters or parts are received by a dealer, will be *prima facie* evidence that such American lobsters or parts were taken or imported in violation of these regulations. A preponderance of all submitted evidence that such American lobsters were harvested by a vessel not holding a permit under this part and fishing exclusively within state or foreign waters will be sufficient to rebut the presumption.

(d) *Atlantic sturgeon fishery*. In addition to the prohibitions set forth in § 600.725, it is unlawful for any person to do any of the following:

(1) Fish for Atlantic sturgeon in the EEZ.

(2) Harvest any Atlantic sturgeon from the EEZ.

(3) Possess any natural or stocked Atlantic sturgeon in or from the EEZ.

(4) Retain any Atlantic sturgeon taken in or from the EEZ.

(5) Possess any natural Atlantic sturgeon parts, including Atlantic sturgeon eggs, in the EEZ.

(e) *Atlantic Coast Horseshoe Crab fishery*. In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(1) Fish for horseshoe crabs in the Carl N. Shuster Jr. Horseshoe Crab Reserve described in § 697.23(f)(1).

(2) Possess horseshoe crabs on a vessel with a trawl or dredge in the closed area described in § 697.23(f)(1).

(3) Fail to return to the water immediately without further harm, all horseshoe crabs caught in the closed area described in § 697.23(f)(1).

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001; 66 FR 14502, Mar. 13, 2001; 68 FR 56790, Oct. 2, 2003; 71 FR 13037, Mar. 14, 2006; 73 FR 11563, Mar. 4, 2008]

**§ 697.8 Vessel identification.**

(a) *Vessel name and official number.* Each fishing vessel issued a limited access American lobster permit and over 25 ft (7.6 m) in registered length must:

(1) Have affixed permanently its name on the port and starboard sides of the bow and, if possible, on its stern.

(2) Have its official number displayed on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be clearly visible from enforcement vessels and aircraft. The official number is the USCG documentation number or the vessel's state registration number for vessels not required to be documented under title 46 U.S.C.

(b) *Numerals.* Except as provided in paragraph (d) of this section, each fishing vessel issued a limited access American lobster permit must display its official number in block arabic numerals in contrasting color at least 18 inches (45.7 cm) in height for fishing vessels over 65 ft (19.8 m) in registered length, and at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in registered length. The registered length of a vessel, for purposes of this section, is that registered length set forth in USCG or state records.

(c) *Duties of owner.* The owner of each vessel issued a limited access American lobster permit shall ensure that—

(1) The vessel's name and official number are kept clearly legible and in good repair.

(2) No part of the vessel, its rigging, its fishing gear, or any other object obstructs the view of the official number from any enforcement vessel or aircraft.

(d) *Non-permanent marking.* Vessels over 25 ft (7.6 m) in registered length, fishing in the EEZ and carrying recreational fishing parties on a per capita basis or by charter must use markings that meet the above requirements, except for the requirement that they be affixed permanently to the vessel. The non-permanent markings must be displayed in conformity with the aforementioned requirements.

**§ 697.9 Facilitation of enforcement.**

(a) *General.* See § 600.504 of this chapter.

(b) *Radio hails.* Permit holders, while underway, must be alert for communication conveying enforcement instructions and immediately answer via VHF-FM radio, channel 16, when hailed by an enforcement officer. Vessels not required to have VHF-FM radios by the Coast Guard are exempt from this requirement.

**§ 697.10 Penalties.**

See § 600.735 of this chapter.

**§ 697.11 Civil procedures.**

The civil procedure regulations at 15 CFR part 904 apply to civil penalties, permit sanctions, seizures, and forfeitures under the Atlantic Striped Bass Conservation Act and the ACFCMA, and to the regulations of this part.

**§ 697.12 At-sea sea sampler/observer coverage.**

(a) The Regional Administrator may request any vessel issued a Federal limited access American lobster permit to carry a NMFS-approved sea sampler/observer. If requested by the Regional Administrator to carry a sea sampler/observer, a vessel may not engage in any fishing operations in the respective fishery unless a sea sampler/observer is on board, or unless the requirement is waived, as specified in paragraph (c) of this section.

(b) If requested in writing by the Regional Administrator to carry a sea sampler/observer, it is the responsibility of the vessel owner to arrange for and facilitate sea sampler/observer placement. Owners of vessels selected for sea sampler/observer coverage must notify the appropriate Regional or Science and Research Administrator, as specified by the Regional Administrator, before commencing any fishing trip that may result in the harvest of resources of the respective fishery. Notification procedures will be specified in election letters to vessel owners.

(c) The Regional Administrator may waive in writing the requirement to carry a sea sampler/observer if the facilities on a vessel for housing the sea sampler/observer, or for carrying out sea sampler/observer functions, are so inadequate or unsafe that the health or safety of the sea sampler/observer, or

the safe operation of the vessel, would be jeopardized.

(d) An owner or operator of a vessel on which a NMFS-approved sea sampler/observer is embarked must:

(1) Provide accommodations and food that are equivalent to those provided to the crew.

(2) Allow the sea sampler/observer access to and use of the vessel's communications equipment and personnel upon request for the transmission and receipt of messages related to the sea sampler's/observer's duties.

(3) Provide true vessel locations, by latitude and longitude or loran coordinates, as requested by the sea sampler/observer, and allow the sea sampler/observer access to and use of the vessel's navigation equipment and personnel upon request to determine the vessel's position.

(4) Notify the sea sampler/observer in a timely fashion of when fishing operations are to begin and end.

(5) Allow for the embarking and debarking of the sea sampler/observer, as specified by the Regional Administrator, ensuring that transfers of sea samplers/observers at sea are accomplished in a safe manner, via small boat or raft, during daylight hours as weather and sea conditions allow, and with the agreement of the sea samplers/observers involved.

(6) Allow the sea sampler/observer free and unobstructed access to the vessel's bridge, working decks, holding bins, weight scales, holds, and any other space used to hold, process, weigh, or store fish.

(7) Allow the sea sampler/observer to inspect and copy the vessel's log, communications log, and records associated with the catch and distribution of fish for that trip.

(e) The owner or operator of a vessel issued a Federal limited access American lobster permit, if requested by the sea sampler/observer also must:

(1) Notify the sea sampler/observer of any sea turtles, marine mammals, or other specimens taken by the vessel.

(2) Provide the sea sampler/observer with sea turtles, marine mammals, or other specimens taken by the vessel.

(f) NMFS may accept sea sampler/observer coverage funded by outside sources if:

(1) All coverage conducted by such sea samplers/observers is determined by NMFS to be in compliance with NMFS' sea sampler/observer guidelines and procedures.

(2) The owner or operator of the vessel complies with all other provisions of this part.

(3) The sea sampler/observer is approved by the Regional Administrator.

## Subpart B—Management Measures

### § 697.17 Non-trap harvest restrictions.

(a) *Non-trap landing limits*. In addition to the prohibitions set forth in § 600.725 of this chapter, it is unlawful for a vessel with any non-trap gear on board capable of catching lobsters, or, that fishes for, takes, catches, or harvests lobster on a fishing trip in or from the EEZ by a method other than traps, to possess, retain on board, or land, in excess of 100 lobsters (or parts thereof), for each lobster day-at-sea or part of a lobster day-at-sea, up to a maximum of 500 lobsters (or parts thereof) for any one trip, unless otherwise restricted by § 648.80(a)(3)(i), (a)(4)(i)(A), (a)(8)(i), (a)(9)(i)(D), (a)(12)(i)(A), (a)(13)(i)(A), (b)(3)(ii) or § 697.7(c)(2)(i)(C) of this chapter.

(b) All persons that fish for, take, catch, or harvest lobsters on a fishing trip in or from the EEZ are prohibited from transferring or attempting to transfer American lobster from one vessel to another vessel.

(c) Any vessel on a fishing trip in the EEZ that fishes for, takes, catches, or harvests lobster by a method other than traps may not possess on board, deploy, fish with, or haul back traps.

### § 697.18 Lobster management areas.

The following lobster management areas are established for purposes of implementing the management measures specified in this part. (A copy of a chart showing the American lobster EEZ management areas is available upon request to the Office of the Regional Administrator, NMFS, 1 Blackburn Drive, Gloucester, MA 01930.)

(a) *EEZ Nearshore Management Area 1*. EEZ Nearshore Management Area 1 is defined by the area, including state and

Federal waters that are nearshore in the Gulf of Maine, bounded by straight lines connecting the following points, in the order stated, and the coastline of Maine, New Hampshire, and Massachusetts to the northernmost point of Cape Cod:

| Point | Latitude | Longitude |
|---|---|---|
| A | 43°58′N. | 67°22′W. |
| B | 43°41′N. | 68°00′N. |
| C | 43°12′N. | 69°00′W. |
| D | 42°49′N. | 69°40′W. |
| E | 42°15.5′N. | 70°40′W. |
| F | 42°10′N. | 69°56′W. |
| G | 42°05.5′N. | 70°14′W. |
| G1 | 42°04.25′N. | 70°17.22′W. |
| G2 | 42°02.84′N. | 70°16.1′W. |
| G3 | 42°03.35′N. | 70°14.2′W. |

(1) From point ''G3'' along the coastline of Massachusetts, including the southwestern end of the Cape Cod Canal, continuing along the coastlines of Massachusetts, New Hampshire, Maine, and the seaward EEZ boundary back to Point A.

(2) [Reserved]

(b) *EEZ Nearshore Management Area 2*. EEZ Nearshore Management Area 2 is defined by the area, including state and Federal waters that are nearshore in Southern New England, bounded by straight lines connecting the following points, in the order stated:

| Point | Latitude | Longitude |
|---|---|---|
| H | 41°40′N. | 70°05′W. |
| I | 41°15′N. | 70°05′N. |
| J | 41°21.5′N. | 69°16.5′W. |
| K | 41°10′N. | 69°06.5′W. |
| L | 40°55′N. | 68°54′W. |
| M | 40°27.5′N. | 71°14′W. |
| N | 40°45.5′N. | 71°34′W. |
| O | 41°07′N. | 71°43′W. |
| P | 41°06.5′N. | 71°47′W. |
| Q | 41°11.5′N. | 71°47.25′W. |
| R | 41°18.5′N. | 71°54.5′W |

(1) From point ''R'' along the maritime boundary between Connecticut and Rhode Island to the coastal Connecticut/Rhode Island boundary and then back to point ''H'' along the Rhode Island and Massachusetts coast, including the northeastern end of the Cape Cod Canal.

(2) [Reserved]

(c) *Area 2/3 Overlap*. The Area 2/3 Overlap is defined by the area, comprised entirely of Federal waters, bounded by straight lines connecting the following points, in the order stated:

| Point | Latitude | Longitude |
|---|---|---|
| K | 41°10′ N. | 69°06.5′ W. |
| L | 40°55′ N. | 68°54′ W. |
| M | 40°27.5′ N. | 72°14′ W. |
| N | 40°45.5′ N. | 71°34′ W. |

(d) *EEZ Offshore Management Area 3*. EEZ Offshore Management Area 3 is defined by the area, comprised entirely of Federal waters, bounded by straight lines connecting the following points, in the order stated:

| Point | Latitude | Longitude |
|---|---|---|
| A | 43°58′ N. | 67°22′ W. |
| B | 43°41′ N. | 68°00′ W. |
| C | 43°12′ N. | 69°00′ W. |
| D | 42°49′ N. | 69°40′ W. |
| E | 42°15.5′ N. | 69°40′ W. |
| F | 42°10′ N. | 69°56′ W. |
| K | 41°10′ N. | 69°06.5′ W. |
| N | 40°45.5′ N. | 71°34′ W. |
| M | 40°27.5′ N. | 72°14′ W. |
| U | 40°12.5′ N. | 72°48.5′ W. |
| V | 39°50′ N. | 73°01′ W. |
| X | 38°39.5′ N. | 73°40′ W. |
| Y | 38°12′ N. | 73°55′ W. |
| Z | 37°12′ N. | 74°44′ W. |
| ZA | 35°34′ N. | 74°51′ W. |
| ZB | 35°14.5′ N. | 75°31′ W. |
| ZC | 35°14.5′ N. | 71°24′ W. |
| From point ''ZC'' along the seaward EEZ boundary to point ''A''. | | |

(e) *EEZ Nearshore Management Area 4*. EEZ Nearshore Management Area 4 is defined by the area, including state and Federal waters that are near-shore in the northern Mid-Atlantic, bounded by straight lines connecting the following points, in the order stated:

| Point | Latitude | Longitude |
|---|---|---|
| M | 40°27.5′N. | 72°14′ W. |
| N | 40°45.5′ N. | 71°34′ W. |
| O | 41°07′ N. | 71°43′ W. |
| P | 41°06.5′ N. | 71°47′ W. |
| S | 40°58′ N. | 72°00′ W. |
| T | 41°00.5′ N. | 72°00′ W. |
| From Point ''T'', along the New York/New Jersey coast to Point ''W'' | | |
| W | 39°50′ N. | 74°09′ W. |
| V | 39°50′ N. | 73°01′ W. |
| U | 40°12.5′ N. | 72°48.5′ W. |
| From Point ''U'' back to Point ''M''. | | |

(f) EEZ Nearshore Management Area 5. EEZ Nearshore Management Area 5 is defined by the area, including state and Federal waters that are near-shore in the southern Mid-Atlantic, bounded by straight lines connecting the following points, in the order stated:

| Point | Latitude | Longitude |
|---|---|---|
| W | 39°50′N. | 74°09′W. |

| Point | Latitude | Longitude |
|---|---|---|
| V1 | 39°50′N. | 72°55′W. |
| X1 | 38°38.2′N. | 73°33.8′W. |
| Y1 | 38°10.4′N. | 73°49′W. |
| Z1 | 37°10.6′N. | 74°38′W. |
| ZA1 | 35°31.9′N. | 74°45.5′W. |
| ZB1 | 35°14.5′N. | 75°19.3′W. |
| ZB | 35°14.5′N. | 75°31′W. |
| From Point "ZB", along the coasts of North Carolina, Virginia, Maryland, Delaware, New Jersey back to Point "W". | | |

(g) *Nearshore Management Area 6*. The Nearshore Management Area 6 is defined by the area, including New York and Connecticut state waters, bounded by straight lines connecting the following points, in the order stated:

| Point | Latitude | Longitude |
|---|---|---|
| T | 41°00.5′ N. | 72°00′ W. |
| S | 40°58′ N. | 72°00′ W. |
| From Point "S", boundary follows the 3 mile limit of New York as it curves around Montauk Point to Point "P" | | |
| P | 41°06.5′ N. | 71°47′ W. |
| Q | 41°11′30″ N. | 71°47′15″ W. |
| R | 41°18′30″ N. | 71°5′30″W. |
| From point "R", along the maritime boundary between Connecticut and Rhode Island to the coast; then west along the coast of Connecticut to the western entrance of Long Island Sound; then east along the New York coast of Long Island Sound and back to Point "T". | | |

(h) *EEZ Nearshore Outer Cape Lobster Management Area*. EEZ Nearshore Outer Cape Lobster Management Area is defined by the area, including state and Federal waters off Cape Cod, bounded by straight lines connecting the following points, in the order stated:

| Point | Latitude | Longitude |
|---|---|---|
| F | 42°10′N. | 69°56′W. |
| G | 42°05.5′N. | 70°14′W. |
| G1 | 42°04.25′N. | 70°17.22′W. |
| G2 | 42°02.84′N. | 70°16.1′W. |
| G4 | 41°52.′N. | 70°07.49′W. |
| G5 | 41°54.46′N. | 70°03.99′W. |

(1) From Point "G5" along the outer Cape Cod coast to Point "H":

| Point | Latitude | Longitude |
|---|---|---|
| H | 41°40′N. | 70°05′W. |
| H1 | 41°18′N. | 70°05′W. |

(2) From Point "H1" along the eastern coast of Nantucket Island to Point "I":

| Point | Latitude | Longitude |
|---|---|---|
| I | 41°15′N. | 70°00′W. |
| J | 41°21.5′N. | 69°16′W. |

(3) From Point "J" back to Point "F".

(i) NMFS may, consistent with § 697.25, implement management measures necessary for each management area, in order to end overfishing and rebuild stocks of American lobster.

[64 FR 68248, Dec. 6, 1999, as amended at 68 FR 14930, Mar. 27, 2003; 71 FR 13037, Mar. 14, 2006]

### § 697.19 Trap limits and trap tag requirements for vessels fishing with lobster traps.

(a) *Trap limits for vessels fishing or authorized to fish in any Nearshore Management Area*. (1) Through August 31, 2003, vessels fishing in or issued a management area designation certificate or valid limited access American lobster permit specifying one or more EEZ Nearshore Management Area(s), whether or not in combination with the Area 2/3 Overlap, shall not fish with, deploy in, possess in, or haul back from such area more than 800 lobster traps.

(2) Beginning September 1, 2003, vessels fishing in or issued a valid limited access American lobster permit specifying one or more of EEZ Nearshore Management Areas 1, 2, or the Outer Cape Management Area, regardless of whether it is in combination with the Area 2/3 Overlap, shall not fish with, deploy in, possess in, or haul back from such area(s) more than 800 lobster traps, except as noted in paragraph (d) of this section.

(3) Beginning September 1, 2003, vessels fishing in or issued a management area designation certificate or valid limited access American lobster permit specifying EEZ Management Area 4 may not fish with, deploy in, possess in, or haul back from such areas more than the number of lobster traps allocated by the Regional Administrator pursuant to the qualification process set forth at § 697.4(a)(7)(vii), which will not exceed 1,440 lobster traps, except as noted in paragraphs (c) and (e) of this section.

(4) Beginning September 1, 2003, vessels fishing in or issued a management area designation certificate or valid limited access American lobster permit specifying EEZ Management Area 5 may not fish with, deploy in, possess in, or haul back from such areas more

than the number of lobster traps allocated by the Regional Administrator pursuant to the qualification process set forth at § 697.4(a)(7)(viii), which will not exceed 1,440 lobster traps, except as noted in paragraphs (c) and (e) of this section unless the vessel is operating under an Area 5 Trap Waiver permit issued under § 697.26.

(b) *Trap limits for vessels fishing or authorized to fish in the EEZ Offshore Management Area.* (1) Effective through November 3, 2007, vessels fishing only in or issued a management area designation certificate or valid limited access American lobster permit specifying only EEZ Offshore Management Area 3, or, specifying only EEZ Offshore Management Area 3 and the Area 2/3 Overlap, may not fish with, deploy in, possess in, or haul back from such areas more than the number of lobster traps allocated by the Regional Administrator pursuant to the qualification process set forth at § 697.4(a)(7)(vi) and the maximum trap limits identified in Table 1, Column 2 to this part, except as noted in paragraphs (c) and (e) of this section.

(2) Beginning November 4, 2007, vessels fishing only in or issued a management area designation certificate or valid limited access American lobster permit specifying only EEZ Offshore Management Area 3, or, specifying only EEZ Offshore Management Area 3 and the Area 2/3 Overlap, may not fish with, deploy in, possess in, or haul back from such areas more than the number of lobster traps allocated by the Regional Administrator pursuant to the qualification process set forth at § 697.4(a)(7)(vi) and the maximum trap limits identified in Table 1, Column 3, to this part, except as noted in paragraphs (c) and (e) of this section.

(3) Beginning July 1, 2008, vessels fishing only in or issued a management area designation certificate or valid limited access American lobster permit specifying only EEZ Offshore Management Area 3, or, specifying only EEZ Offshore Management Area 3 and the Area 2/3 Overlap, may not fish with, deploy in, possess in, or haul back from such areas more than the number of lobster traps allocated by the Regional Administrator pursuant to the qualification process set forth at § 697.4(a)(7)(vi) and the maximum trap limits identified in Table 1, Column 4, to this part, except as noted in paragraphs (c) and (e) of this section.

(4) Beginning July 1, 2009, vessels fishing only in or issued a management area designation certificate or valid limited access American lobster permit specifying only EEZ Offshore Management Area 3, or, specifying only EEZ Offshore Management Area 3 and the Area 2/3 Overlap, may not fish with, deploy in, possess in, or haul back from such areas more than the number of lobster traps allocated by the Regional Administrator pursuant to the qualification process set forth at § 697.4(a)(7)(vi) and the maximum trap limits identified in Table 1, Column 5, to this part, except as noted in paragraphs (c) and (e) of this section.

(5) Beginning July 1, 2010, and beyond, vessels fishing only in or issued a management area designation certificate or valid limited access American lobster permit specifying only EEZ Offshore Management Area 3, or, specifying only EEZ Offshore Management Area 3 and the Area 2/3 Overlap, may not fish with, deploy in, possess in, or haul back from such areas more than the number of lobster traps allocated by the Regional Administrator pursuant to the qualification process set forth at § 697.4(a)(7)(vi) and the maximum trap limits identified in Table 1, Column 6, to this part, except as noted in paragraphs (c) and (e) of this section.

(c) *Lobster trap limits for vessels fishing or authorized to fish in more than one EEZ Management Area.* A vessel owner who elects to fish in more than one EEZ Management Area may not fish with, deploy in, possess in, or haul back from any of those elected management areas more lobster traps than the lowest number of lobster traps allocated to that vessel for any one elected management area.

(d) *Conservation equivalent trap limits in New Hampshire state waters.* Notwithstanding any other provision, any vessel with a Federal lobster permit and a New Hampshire Full Commercial Lobster license may fish up to a maximum of 1,200 lobster traps in New Hampshire state waters, to the extent authorized

by New Hampshire lobster fishery regulations. However, such vessel may not fish, possess, deploy, or haul back more than 800 lobster traps in the Federal waters of EEZ Nearshore Management Area 1, and may not fish more than a combined total of 1,200 lobster traps in the Federal and New Hampshire state waters portions of EEZ Nearshore Management Area 1.

(e) *Potential Modifications to Area 3, Area 4, and/or Area 5 Trap Limits in Fishing Year 2003.* The Regional Administrator may issue temporary interim Federal American lobster trap fishing permits pursuant to § 697.4 for Areas 3, 4 and/or 5 prior to completion of NMFS' review of the Area 3, Area 4 and/or Area 5 qualification applications, if the applicant has designated one or more of those areas on their 2003 Federal lobster permit. These temporary permits will become effective on September 1, 2003, for those applicants who have applied in the manner set forth in § 697.4(a)(7)(vi)(D)(*1*), (a)(7)(vii)(D)(*1*), and/or (a)(7)(viii)(D)(*1*). Any vessel issued a temporary trap fishing permit for Area 3 may fish up to 1,800 lobster traps, except as noted in paragraph (c) of this section. Any vessel issued a temporary trap fishing permit for Area 4 and/or 5 shall not fish more than 800 traps. The temporary interim permit will remain valid during fishing year 2003 until such time the Regional Administrator has reviewed and either approved or denied the temporary permitee's historical participation application. If approved, the Regional Administrator may issue a revised permit and/or management area designation certificate, depending on whether the applicant designated that area on his or her 2003 Federal permit at the beginning of the year. Any traps being fished, deployed, or possessed by the qualified Federal permit holder in excess of the number of traps as described in paragraphs (a)(3), (a)(4), and (b)(2) of this section must be removed from the water within 14 days after receipt of the revised permit, or 30 days after the date it is sent, whichever comes first. Revised Federal lobster permits must be retained aboard the fishing vessel at all times.

(f) *Trap tag requirements for vessels fishing with lobster traps.* Any lobster trap fished in Federal waters must have a valid Federal lobster trap tag permanently attached to the trap bridge or central cross-member. Any vessel with a Federal lobster permit may not possess, deploy, or haul back lobster traps in any portion of any management area that do not have a valid, federally recognized lobster trap tag permanently attached to the trap bridge or central cross-member.

(g) *Maximum lobster trap tags authorized for direct purchase.* In any fishing year, the maximum number of tags authorized for direct purchase by each permit holder is the applicable trap limit specified in paragraphs (a) and (b) of this section plus an additional 10 percent to cover trap loss.

(h) *EEZ Management area 5 trap waiver exemption.* Any vessel issued an Area 5 Trap Waiver permit under § 697.4(p) is exempt from the provisions of this section.

[68 FR 14930, Mar. 27, 2003, as amended at 72 FR 56942, Oct. 5, 2007]

### § 697.20 Size, harvesting and landing requirements.

(a) *Minimum carapace length.* (1) The minimum carapace length for all American lobsters harvested in or from the EEZ Nearshore Management Area 1or the EEZ Nearshore Management Area 6 is 3 ¼ inches (8.26 cm).

(2) The minimum carapace length for all American lobsters landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the Nearshore Management Area 1 or the EEZ Nearshore Management Area 6 is 3 ¼ inches (8.26 cm).

(3) The minimum carapace length for all American lobsters harvested in or from the EEZ Nearshore Management Area 2, 4, 5 and the Outer Cape Lobster Management Area is 3 3/8 inches (8.57 cm).

(4) The minimum carapace length for all American lobsters landed, harvested or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Nearshore Management Area 2, 4, 5 and the Outer Cape Lobster Management Area is 3 3/8 inches (8.57 cm).

(5) Through June 30, 2008, the minimum carapace length for all American

lobsters harvested in or from the Offshore Management Area 3 is 3 15/32 inches (8.81 cm).

(6) Through June 30, 2008, the minimum carapace length for all American lobsters landed, harvested or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Offshore Management Area 3 is 3 15/32 inches (8.81 cm).

(7) Effective July 1, 2008, the minimum carapace length for all American lobsters harvested in or from the Offshore Management Area 3 is 3 1/2 inches (8.89 cm).

(8) Effective July 1, 2008, the minimum carapace length for all American lobsters landed, harvested or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Offshore Management Area 3 is 3 1/2 inches (8.89 cm).

(9) No person may ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that is smaller than the minimum size specified in paragraph (a) of this section.

(b) *Maximum carapace length.* (1) The maximum carapace length for all American lobster harvested in or from the EEZ Nearshore Management Area 1 is 5 inches (12.7 cm).

(2) The maximum carapace length for all American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 1 is 5 inches (12.7 cm).

(3) The maximum carapace length for all female American lobster harvested in or from the EEZ Nearshore Management Area 4 is 5 ¼ inches (13.34 cm), except as provided in paragraph (b)(7) of this section.

(4) The maximum carapace length for all female American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 4 is 5 ¼ inches (13.34 cm), except as provided in paragraph (b)(7) of this section.

(5) The maximum carapace length for all female American lobster harvested in or from the EEZ Nearshore Management Area 5 is 5 ½ inches (13.97 cm), except as provided in paragraph (b)(7) of this section.

(6) The maximum carapace length for all female American lobster landed, harvested, or possessed by vessels issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 5 is 5 ½ inches (13.97 cm), except as provided in paragraph (b)(7) of this section.

(7) In the EEZ Nearshore Management Area 4 and EEZ Nearshore Management Area 5, recreational fishing vessels and divers engaged in recreational fishing, regardless of the platform from which they dive, are allowed to possess one female American lobster per fishing trip in excess of the maximum carapace length specified in paragraphs (b)(3) through (b)(6) of this section.

(c) *Mutilation.* (1) Subject to the rebuttable presumption in § 697.7(c)(3), no person may remove meat or any body appendage from any American lobster harvested in or from the EEZ before, or at the time of landing, or have in possession any American lobster part other than whole lobsters, up to the time when a dealer first receives or possesses American lobster.

(2) Subject to the rebuttable presumption in § 697.7(c)(3), no owner, operator or person aboard a vessel issued a Federal American lobster permit may remove meat or any body appendage from any American lobster before or at the time of landing, or have in possession any American lobster part other than whole lobsters, up to the time when a dealer first receives or possesses American lobster.

(d) *Berried females.* (1) Any berried female harvested in or from the EEZ must be returned to the sea immediately. If any berried female is harvested in or from the EEZ Nearshore Management Area 1, or in or from the EEZ Offshore Management Area 3 above 42°30′, it must be v-notched before being returned to the sea immediately.

(2) Any berried female harvested or possessed by a vessel issued a Federal limited access American lobster permit

must be returned to the sea immediately. If any berried female is harvested in or from the EEZ Nearshore Management Area 1, or in or from the EEZ Offshore Management Area 3 above 42°30′, it must be v-notched before being returned to the sea immediately.

(3) No vessel, or owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may possess any berried female.

(4) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any berried female as specified in paragraph (d) of this section.

(e) *Removal of eggs*. (1) No person may remove, including, but not limited to, the forcible removal and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female American lobster.

(2) No owner, operator or person aboard a vessel issued a Federal limited access American lobster permit may remove, including but not limited to, the forcible removal, and removal by chemicals or other substances or liquids, extruded eggs attached to the abdominal appendages from any female American lobster.

(3) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live American lobster that bears evidence of the removal of extruded eggs from its abdominal appendages as specified in paragraph (e) of this section.

(f) *Spearing*. (1) No person may spear any American lobster in the EEZ.

(2) No person on a vessel issued a Federal lobster license may spear a lobster.

(3) No person may harvest or possess any American lobster which has been speared in the EEZ.

(4) No person on a vessel issued a Federal lobster license may harvest or possess any American lobster which has been speared.

(5) No person may possess, ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any American lobster which has been speared.

(g) *V-notched females*. (1) No person may possess any female lobster possessing a zero tolerance v-shaped notch harvested in or from the EEZ Nearshore Management Area 1.

(2) No vessel, owner, or operator issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Nearshore Management Area 1 may land, harvest, or possess any female lobster possessing a zero tolerance v-shaped notch.

(3) No person may possess any female lobster possessing a standard v-shaped notch harvested in or from the EEZ Nearshore Management Area 2, 4, 5, 6, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3 may possess.

(4) No vessel, owner, or operator issued a Federal limited access American lobster permit fishing in or electing to fish in EEZ Nearshore Management Area 2, 4, 5, 6, and the Outer Cape Lobster Management Area or the EEZ Offshore Management Area 3 may land, harvest, or possess any female lobster possessing a standard v-shaped notch.

[71 FR 13038, Mar. 14, 2006, as amended at 72 FR 56942, Oct. 5, 2007]

### § 697.21 Gear identification and marking, escape vent, maximum trap size, and ghost panel requirements.

(a) *Gear identification and marking*. All lobster gear deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit, and not permanently attached to the vessel must be legibly and indelibly marked with the following:

(1) *Identification*. Effective through April 30, 2000, all lobster gear must be marked with the following code of identification:

(i) A number assigned by the Regional Administrator; or

(ii) Whatever positive identification marking is required by the vessel's home-port state.

(2) *Identification and trap tagging*. Beginning May 1, 2000, lobster gear must be marked with a trap tag (as specified in § 697.19) with the following code of identification:

(i) A number assigned by the Regional Administrator; or

(ii) Whatever positive identification marking is required by the vessel's home-port state.

(b) *Deployment and gear configuration.* In the areas of the EEZ described in paragraph (b)(4) of this section, lobster trap trawls are to be displayed and configured as follows:

(1) Lobster trap trawls of three or fewer traps deployed in the EEZ must be attached to and marked with a single buoy.

(2) Lobster trap trawls consisting of more than three traps must have a radar reflector and a single flag or pennant on the westernmost end (marking the half compass circle from magnetic south through west, to and including north), while the easternmost end (meaning the half compass circle from magnetic north through east, to and including south) of an American lobster trap trawl must be configured with a radar reflector only. Standard tetrahedral corner radar reflectors of at least 8 inches (20.32 cm) (both in height and width, and made from metal) must be employed. (A copy of a diagram showing a standard tetrahedral corner radar reflector is available upon request to the Office of the Regional Administrator.)

(3) No American lobster trap trawl shall exceed 1.5 nautical miles (2.78 km) in length, as measured from radar reflector to radar reflector.

(4) Gear deployment and configuration requirements specified in paragraphs (b)(1) through (b)(3) of this section apply in the following areas:

(i) *Gulf of Maine gear area.* Gulf of Maine gear area is defined as all waters of the EEZ north of 42°20′ N. lat. seaward of a line drawn 12 nautical miles (22.2 km) from the baseline of the territorial sea;

(ii) *Georges Bank gear area.* Georges Bank gear area is defined as all waters of the EEZ south of 42°20′ N. lat. and east of 70°00′ W. long. or the outer boundary of the territorial sea, whichever lies farther east;

(iii) *Southern New England gear area.* Southern New England gear area is defined as all waters of the EEZ west of 70°00′ W. long., east of 71°30′ W. long. at a depth greater than 25 fathoms (45.72 m); and

(iv) *Mid-Atlantic gear area.* Mid-Atlantic gear area is defined as all waters of the EEZ, west of 71°30′ W. long. and north of 36°33′ N. lat. at a depth greater than 40 fathoms (73.15 m).

(c) *Escape vents.* (1) All American lobster traps deployed or possessed in the EEZ Nearshore Management Area 1 or the EEZ Nearshore Management Area 6 or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 1 or the EEZ Nearshore Management Area 6, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 1 15/16 inches (4.92 cm) by 5 3/4 inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 7/16 inches (6.19 cm) in diameter.

(2) All American lobster traps deployed or possessed in the EEZ Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Nearshore Management Area 2, 4, 5, and the Outer Cape Lobster Management Area, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 2 inches (5.08 cm) 5 3/4 inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 5/8 inches (6.67 cm) in diameter.

(3) Effective through June 30, 2010, all American lobster traps deployed or possessed in the EEZ Offshore Management Area 3, or deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish the EEZ Offshore Management

Area 3, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 2 inches (5.08 cm) 5 3/4 inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 5/8 inches (6.67 cm) in diameter.

(4) Effective July 1, 2010, all American lobster traps deployed or possessed in the EEZ Offshore Management Area 3, or deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit fishing in or electing to fish in the EEZ Offshore Management Area 3, must include either of the following escape vents in the parlor section of the trap, located in such a manner that it will not be blocked or obstructed by any portion of the trap, associated gear, or the sea floor in normal use:

(i) A rectangular portal with an unobstructed opening not less than 2 1/16 inches (5.24 cm) X 5 3/4 inches (14.61 cm);

(ii) Two circular portals with unobstructed openings not less than 2 11/16 inches (6.82 cm) in diameter.

(5) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment of this final rule, any other type of acceptable escape vent that the Regional Administrator finds to be consistent with paragraph (c) of this section.

(d) *Ghost panel.* (1) Lobster traps not constructed entirely of wood (excluding heading or parlor twine and the escape vent) must contain a ghost panel located in the outer parlor(s) of the trap and not in the bottom of the trap constructed of, or fastened to the trap with, one of the following untreated materials: Wood lath, cotton, hemp, sisal or jute twine not greater than 3/16 inch (0.48 cm) in diameter, or nonstainless, uncoated ferrous metal not greater than 3/32 inch (0.24 cm) in diameter and covering a rectangular opening not less than 3¾ inches (9.53 cm) by 3¾ inches (9.53 cm). The door of the trap may serve as the ghost panel, if fastened with one of these materials.

(2) The Regional Administrator may, at the request of, or after consultation with, the Commission, approve and specify, through a technical amendment of this rule, any other design, mechanism, material, or other parameter that serves to create an escape portal not less than 3¾ inches (9.53 cm) by 3¾ inches (9.53 cm).

(e) *Maximum trap size*—(1) *EEZ Nearshore Management Area maximum trap size.* (i) Beginning January 5, 2000, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish in any EEZ Nearshore Management Area (Area 1, Outer Cape, Area 2, Area 4, Area 5, or Area 6) and the Area 2/3 Overlap, or only in the Area 2/3 Overlap shall not exceed 25,245 cubic inches (413,690 cubic centimeters) in volume, as measured on the outside portion of the trap, exclusive of the runners;

(ii) Beginning May 1, 2003, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish in any EEZ Nearshore Management Area (Area 1, Outer Cape, Area 2, Area 4, Area 5, or Area 6) and the Area 2/3 Overlap, or only in the Area 2/3 Overlap, shall not exceed 22,950 cubic inches (376,081 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners.

(2) *EEZ Offshore Management Area maximum trap size.* (i) Beginning January 5, 2000, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish only in EEZ Offshore Management Area 3 or only in EEZ Offshore Management Area 3 and the Area

2/3 Overlap, shall not exceed 33,110 cubic inches (542,573 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners;

(ii) Beginning May 1, 2003, American lobster traps deployed or possessed in the EEZ, or, deployed or possessed by a person on or from a vessel issued a Federal limited access American lobster permit as specified under § 697.4, if deployed or possessed by a person or vessel permitted to fish only in EEZ Offshore Management Area 3 or only in EEZ Offshore Management Area 3 and the Area 2/3 Overlap, shall not exceed 30,100 cubic inches (493,249 cubic centimeters) in volume as measured on the outside portion of the trap, exclusive of the runners.

(f) *Enforcement action*. Unidentified, unmarked, unvented, improperly vented American lobster traps, or, beginning May 1, 2000, any untagged American lobster traps, or any lobster traps subject to the requirements and specifications of § 697.21, which fail to meet such requirements and specifications may be seized and disposed of in accordance with the provisions of 15 CFR part 904.

(g) *Exemption*. Any vessel issued an Area 5 Trap Waiver permit under § 697.4(p) is exempt from the provisions of this section.

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 14502, Mar. 13, 2001; 71 FR 13039, Mar. 14, 2006; 72 FR 56942, Oct. 5, 2007]

### § 697.22 Exempted fishing.

The Regional Administrator or Director may exempt any person or vessel from the requirements of this part for the conduct of exempted fishing beneficial to the management of the American lobster, weakfish, Atlantic striped bass, Atlantic sturgeon, or horseshoe crab resource or fishery, pursuant to the provisions of ' 600.745 of this chapter.

(a) The Regional Administrator or Director may not grant such exemption unless it is determined that the purpose, design, and administration of the exemption is consistent with the objectives of any applicable stock rebuilding program, the provisions of the Atlantic Coastal Act, the Magnuson-Stevens Act, and other applicable law, and that granting the exemption will not:

(1) Have a detrimental effect on the American lobster, Atlantic striped bass, weakfish, Atlantic sturgeon, or horseshoe crab resource or fishery; or

(2) Create significant enforcement problems.

(b) Each vessel participating in any exempted fishing activity is subject to all provisions of this part, except those explicitly relating to the purpose and nature of the exemption. The exemption will be specified in a letter issued by the Regional Administrator or Director to each vessel participating in the exempted activity. This letter must be carried aboard the vessel seeking the benefit of such exemption. Exempted fishing activity shall be authorized pursuant to and consistent with § 600.745 of this chapter.

(c) The Regional Administrator, or the Director, as appropriate, may authorize a substitute vessel to haul ashore the lobster trap gear of an inoperable or mechanically-impaired federally permitted lobster vessel without having to engage in the exempted fishing process as specified in this section.

[68 FR 56791, Oct. 2, 2003, as amended at 71 FR 13039, Mar. 14, 2006]

### § 697.23 Restricted gear areas.

(a) Resolution of lobster gear conflicts with fisheries managed under the Magnuson-Stevens Act shall be done under provisions of § 648.55 of this chapter.

(b) *Restricted Gear Area I*—(1) *Duration*—(i) *Mobile Gear*. From October 1 through June 15 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area I, as defined in paragraph (b)(2) of this section, unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear*. From June 16 through September 30 of each fishing year, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area I as defined in paragraph (b)(2) of this section.

(2) *Definition of Restricted Gear Area I.* Restricted Gear Area I is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

| Point to | Latitude | Longitude |
|---|---|---|
| 120 | 40°06.4′ N. | 68°35.8′ W. |
| 69 | 40°07.9′ N. | 68°36.0′ W. |
| 70 | 40°07.2′ N. | 68°38.4′ W. |
| 71 | 40°06.9′ N. | 68°46.5′ W. |
| 72 | 40°08.7′ N. | 68°49.6′ W. |
| 73 | 40°08.1′ N. | 68°51.0′ W. |
| 74 | 40°05.7′ N. | 68°52.4′ W. |
| 75 | 40°03.6′ N. | 68°57.2′ W. |
| 76 | 40°03.65′ N. | 69°00.0′ W. |
| 77 | 40°04.35′ N. | 69°00.5′ W. |
| 78 | 40°05.2′ N. | 69°00.5′ W. |
| 79 | 40°05.3′ N. | 69°01.1′ W. |
| 80 | 40°08.9′ N. | 69°01.75′ W. |
| 81 | 40°11.0′ N. | 69°03.8′ W. |
| 82 | 40°11.6′ N. | 69°05.4′ W. |
| 83 | 40°10.25′ N. | 69°04.4′ W. |
| 84 | 40°09.75′ N. | 69°04.15′ W. |
| 85 | 40°08.45′ N. | 69°03.6′ W. |
| 86 | 40°05.65′ N. | 69°03.55′ W. |
| 87 | 40°04.1′ N. | 69°03.9′ W. |
| 88 | 40°02.65′ N. | 69°05.6′ W. |
| 89 | 40°02.00′ N. | 69°08.35′ W. |
| 90 | 40°02.65′ N. | 69°11.15′ W. |
| 91 | 40°00.05′ N. | 69°14.6′ W. |
| 92 | 39°57.8′ N. | 69°20.35′ W. |
| 93 | 39°56.65′ N. | 69°24.4′ W. |
| 94 | 39°56.1′ N. | 69°26.35′ W. |
| 95 | 39°56.55′ N. | 69°34.1′ W. |
| 96 | 39°57.85′ N. | 69°35.5′ W. |
| 97 | 40°00.65′ N. | 69°36.5′ W. |
| 98 | 40°00.9′ N. | 69°37.3′ W. |
| 99 | 39°59.15′ N. | 69°37.3′ W. |
| 100 | 39°58.8′ N. | 69°38.45′ W. |
| 102 | 39°56.2′ N. | 69°40.2′ W. |
| 103 | 39°55.75′ N. | 69°41.4′ W. |
| 104 | 39°56.7′ N. | 69°53.6′ W. |
| 105 | 39°57.55′ N. | 69°54.05′ W. |
| 106 | 39°57.4′ N. | 69°55.9′ W. |
| 107 | 39°56.9′ N. | 69°57.45′ W. |
| 108 | 39°58.25′ N. | 70°03.0′ W. |
| 110 | 39°59.2′ N. | 70°04.9′ W. |
| 111 | 40°00.7′ N. | 70°08.7′ W. |
| 112 | 40°03.75′ N. | 70°10.15′ W. |
| 115 | 40°05.2′ N. | 70°10.9′ W. |
| 116 | 40°02.45′ N. | 70°14.1′ W. |
| 119 | 40°02.75′ N. | 70°16.1′ W. |
| to 181 | 39°59.3′ N. | 70°14.0′ W. |

OFFSHORE BOUNDARY

| Point to | Latitude | Longitude |
|---|---|---|
| 69 | 40°07.9′ N. | 68°36.0′ W. |
| 120 | 40°06.4′ N. | 68°35.8′ W. |
| 121 | 40°05.25′ N. | 68°39.3′ W. |
| 122 | 40°05.4′ N. | 68°44.5′ W. |
| 123 | 40°06.0′ N. | 68°46.5′ W. |
| 124 | 40°07.4′ N. | 68°49.6′ W. |
| 125 | 40°05.55′ N. | 68°49.8′ W. |
| 126 | 40°03.9′ N. | 68°51.7′ W. |
| 127 | 40°02.25′ N. | 68°55.4′ W. |
| 128 | 40°02.6′ N. | 69°00.0′ W. |
| 129 | 40°02.75′ N. | 69°00.75′ W. |
| 130 | 40°04.2′ N. | 69°01.75′ W. |
| 131 | 40°06.15′ N. | 69°01.95′ W. |

OFFSHORE BOUNDARY—Continued

| Point to | Latitude | Longitude |
|---|---|---|
| 132 | 40°07.25′ N. | 69°02.0′ W. |
| 133 | 40°08.5′ N. | 69°02.25′ W. |
| 134 | 40°09.2′ N. | 69°02.95′ W. |
| 135 | 40°09.75′ N. | 69°03.3′ W. |
| 136 | 40°09.55′ N. | 69°03.85′ W. |
| 137 | 40°08.4′ N. | 69°03.4′ W. |
| 138 | 40°07.2′ N. | 69°03.3′ W. |
| 139 | 40°06.0′ N. | 69°03.1′ W. |
| 140 | 40°05.4′ N. | 69°03.05′ W. |
| 141 | 40°04.8′ N. | 69°03.05′ W. |
| 142 | 40°03.55′ N. | 69°03.55′ W. |
| 143 | 40°01.9′ N. | 69°03.95′ W. |
| 144 | 40°01.0′ N. | 69°04.4′ W. |
| 146 | 39°59.9′ N. | 69°06.25′ W. |
| 147 | 40°00.6′ N. | 69°10.05′ W. |
| 148 | 39°59.25′ N. | 69°11.15′ W. |
| 149 | 39°57.45′ N. | 69°16.05′ W. |
| 150 | 39°56.1′ N. | 69°20.1′ W. |
| 151 | 39°54.6′ N. | 69°25.65′ W. |
| 152 | 39°54.65′ N. | 69°26.9′ W. |
| 153 | 39°54.8′ N. | 69°30.95′ W. |
| 154 | 39°54.35′ N. | 69°33.4′ W. |
| 155 | 39°55.0′ N. | 69°34.9′ W. |
| 156 | 39°56.55′ N. | 69°36.0′ W. |
| 157 | 39°57.95′ N. | 69°36.45′ W. |
| 158 | 39°58.75′ N. | 69°36.3′ W. |
| 159 | 39°58.8′ N. | 69°36.95′ W. |
| 160 | 39°57.95′ N. | 69°38.1′ W. |
| 161 | 39°54.5′ N. | 69°38.25′ W. |
| 162 | 39°53.6′ N. | 69°46.5′ W. |
| 163 | 39°54.7′ N. | 69°50.0′ W. |
| 164 | 39°55.25′ N. | 69°51.4′ W. |
| 165 | 39°55.2′ N. | 69°53.1′ W. |
| 166 | 39°54.85′ N. | 69°53.9′ W. |
| 167 | 39°55.7′ N. | 69°54.9′ W. |
| 168 | 39°56.15′ N. | 69°55.35′ W. |
| 169 | 39°56.05′ N. | 69°56.25′ W. |
| 170 | 39°55.3′ N. | 69°57.1′ W. |
| 171 | 39°54.8′ N. | 69°58.6′ W. |
| 172 | 39°56.05′ N. | 70°00.65′ W. |
| 173 | 39°55.3′ N. | 70°02.95′ W. |
| 174 | 39°56.9′ N. | 70°11.3′ W. |
| 175 | 39°58.9′ N. | 70°11.5′ W. |
| 176 | 39°59.6′ N. | 70°11.1′ W. |
| 177 | 40°01.35′ N. | 70°11.2′ W. |
| 178 | 40°02.6′ N. | 70°12.0′ W. |
| 179 | 40°00.4′ N. | 70°12.3′ W. |
| 180 | 39°59.7′ N. | 70°13.05′ W. |
| 181 | 39°59.3′ N. | 70°14.0′ W. |
| | | to |
| 119 | 40°02.75′ N. | 70°16.1′ W. |

(c) *Restricted Gear Area II*—(1) *Duration*—(i) *Mobile Gear.* From November 27 through June 15 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area II (as defined in paragraph (c)(2) of this section) unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear.* From June 16 through November 26 of each fishing year, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or

remain, in Restricted Gear Area II as defined in paragraph (c)(2) of this section.

(2) *Definition of Restricted Gear Area II*. Restricted Gear Area II is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

| Point to | Latitude | Longitude |
|---|---|---|
| 1 | 39°59.3′ N. | 70°14.0′ W. |
| 49 | 40°02.75′ N. | 70°16.1′ W. |
| 50 | 40°00.7′ N. | 70°18.6′ W. |
| 51 | 39°59.8′ N. | 70°21.75′ W. |
| 52 | 39°59.75′ N. | 70°25.5′ W. |
| 53 | 40°03.85′ N. | 70°28.75′ W. |
| 54 | 40°00.55′ N. | 70°32.1′ W. |
| 55 | 39°59.15′ N. | 70°34.45′ W. |
| 56 | 39°58.9′ N. | 70°38.65′ W. |
| 57 | 40°00.1′ N. | 70°45.1′ W. |
| 58 | 40°00.5′ N. | 70°57.6′ W. |
| 59 | 40°02.0′ N. | 71°01.3′ W. |
| 60 | 39°59.3′ N. | 71°18.4′ W. |
| 61 | 40°00.7′ N. | 71°19.8′ W. |
| 62 | 39°57.5′ N. | 71°20.6′ W. |
| 63 | 39°53.1′ N. | 71°36.1′ W. |
| 64 | 39°52.6′ N. | 71°40.35′ W. |
| 65 | 39°53.1′ N. | 71°42.7 W. |
| 66 | 39°46.95′ N. | 71°49.0′ W. |
| 67 | 39°41.15′ N. | 71°57.1′ W. |
| 68 | 39°35.45′ N. | 72°02.0′ W. |
| 69 | 39°32.65′ N. | 72°06.1′ W. |
| 70 | 39°29.75′ N. | 72°09.8′ W. |
| to 48 | 39°29.0′ N. | 72°09.25′ W. |

OFFSHORE BOUNDARY

| Point to | Latitude | Longitude |
|---|---|---|
| 49 | 40°02.75′ N. | 70°16.1′ W. |
| 1 | 39°59.3′ N. | 70°14.0′ W. |
| 2 | 39°58.85′ N. | 70°15.2′ W. |
| 3 | 39°59.3′ N. | 70°18.4′ W. |
| 4 | 39°58.1′ N. | 70°19.4′ W. |
| 5 | 39°57.0′ N. | 70°19.85′ W. |
| 6 | 39°57.55′ N. | 70°21.25′ W. |
| 7 | 39°57.5′ N. | 70°22.8′ W. |
| 8 | 39°57.1′ N. | 70°25.4′ W. |
| 9 | 39°57.65′ N. | 70°27.05′ W. |
| 10 | 39°58.58′ N. | 70°27.7′ W. |
| 11 | 40°00.65′ N. | 70°28.8′ W. |
| 12 | 40°02.2′ N. | 70°29.15′ W. |
| 13 | 40°01.0′ N. | 70°30.2′ W. |
| 14 | 39°58.58′ N. | 70°31.85′ W. |
| 15 | 39°57.05′ N. | 70°34.35′ W. |
| 16 | 39°56.42′ N. | 70°36.8′ W. |
| 21 | 39°58.15′ N. | 70°48.0′ W. |
| 24 | 39°58.3′ N. | 70°51.1′ W. |
| 25 | 39°58.1′ N. | 70°52.25′ W. |
| 26 | 39°58.05′ N. | 70°53.55′ W. |
| 27 | 39°58.4′ N. | 70°59.6′ W. |
| 28 | 39°59.8′ N. | 71°01.05′ W. |
| 29 | 39°58.2′ N. | 71°05.85′ W. |
| 30 | 39°57.45′ N. | 71°12.15′ W. |
| 31 | 39°57.2′ N. | 71°15.0′ W. |
| 32 | 39°56.3′ N. | 71°18.95′ W. |
| 33 | 39°51.4′ N. | 71°36.1′ W. |
| 34 | 39°51.75′ N. | 71°41.5′ W. |
| 35 | 39°50.05′ N. | 71°42.5′ W. |
| 36 | 39°50.0′ N. | 71°45.0′ W. |
| 37 | 39°48.95′ N. | 71°46.05′ W. |

OFFSHORE BOUNDARY—Continued

| Point to | Latitude | Longitude |
|---|---|---|
| 38 | 39°46.6′ N. | 71°46.1′ W. |
| 39 | 39°43.5′ N. | 71°49.4′ W. |
| 40 | 39°41.3′ N. | 71°55.0′ W. |
| 41 | 39°39.0′ N. | 71°55.6′ W. |
| 42 | 39°36.72′ N. | 71°58.25′ W. |
| 43 | 39°35.15′ N. | 71°58.55′ W. |
| 44 | 39°34.5′ N. | 72°00.75′ W. |
| 45 | 39°32.2′ N. | 72°02.25′ W. |
| 46 | 39°32.15′ N. | 72°04.1′ W. |
| 47 | 39°28.5′ N. | 72°06.5′ W. |
| 48 | 39°29.0′ N. | 72°09.25′ W. |
| to 70 | 39°29.75′ N. | 72°09.8′ W. |

(d) *Restricted Gear Area III*—(1) *Duration*—(i) *Mobile Gear*. From June 16 through November 26 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area III (as defined in paragraph (d)(2) of this section) unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(ii) *Lobster trap gear*. From January 1 through April 30 of each fishing year, no fishing vessel with lobster trap gear or person on a fishing vessel with lobster trap gear may fish, and no lobster trap gear may be deployed or remain, in Restricted Gear Area III as defined in paragraph (d)(2) of this section.

(2) *Definition of Restricted Gear Area III*. Restricted Gear Area III is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

| Point to | Latitude | Longitude |
|---|---|---|
| 49 | 40°02.75′ N. | 70°16.1′ W. |
| 182 | 40°05.6′ N. | 70°17.7′ W. |
| 183 | 40°06.5′ N. | 70°40.05′ W. |
| 184 | 40°11.05′ N. | 70°45.8′ W. |
| 185 | 40°12.75′ N. | 70°55.05′ W. |
| 186 | 40°10.7′ N. | 71°10.25′ W. |
| 187 | 39°57.9′ N. | 71°28.7′ W. |
| 188 | 39°55.6′ N. | 71°41.2′ W. |
| 189 | 39°55.85′ N. | 71°45.0′ W. |
| 190 | 39°53.75′ N. | 71°52.25′ W. |
| 191 | 39°47.2′ N. | 72°01.6′ W. |
| 192 | 39°33.65′ N. | 72°15.0′ W. |
| to 70 | 39°29.75′ N. | 72°09.8′ W. |

OFFSHORE BOUNDARY

| Point to | Latitude | Longitude |
|---|---|---|
| 182 | 40°05.6′ N. | 70°17.7′ W. |
| 49 | 40°02.75′ N. | 70°16.1′ W. |
| 50 | 40°00.7′ N. | 70°18.6′ W. |
| 51 | 39°59.8′ N. | 70°21.75′ W. |
| 52 | 39°59.75′ N. | 70°25.5′ W. |

OFFSHORE BOUNDARY—Continued

| Point to | Latitude | Longitude |
|---|---|---|
| 53 | 40°03.85′ N. | 70°28.75′ W. |
| 54 | 40°00.55′ N. | 70°32.1′ W. |
| 55 | 39°59.15′ N. | 70°34.45′ W. |
| 56 | 39°58.9′ N. | 70°38.6′ W. |
| 57 | 40°00.1′ N. | 70°45.1′ W. |
| 58 | 40°00.5′ N. | 70°57.6′ W. |
| 59 | 40°02.0′ N. | 71°01.3′ W. |
| 60 | 39°59.3′ N. | 71°18.4′ W. |
| 61 | 40°00.7′ N. | 71°19.8′ W. |
| 62 | 39°57.5′ N. | 71°20.6′ W. |
| 63 | 39°53.1′ N. | 71°36.1′ W. |
| 64 | 39°52.6′ N. | 71°40.35′ W. |
| 65 | 39°53.1′ N. | 71°42.7′ W. |
| 66 | 39°46.95′ N. | 71°49.0′ W. |
| 67 | 39°41.15′ N. | 71°57.1′ W. |
| 68 | 39°35.45′ N. | 72°02.0 W. |
| 69 | 39°32.65′ N. | 72°06.1′ W. |
| 70 | 39°29.75′ N. | 72°09.8′ W. |
| to 192 | 39°33.65′ N. | 72°15.0′ W. |

(e) *Restricted Gear Area IV*—(1) *Duration for Mobile Gear*. From June 16 through September 30 of each fishing year, no fishing vessel with mobile gear or person on a fishing vessel with mobile gear may fish, or be, in Restricted Gear Area IV (as defined in paragraph (e)(2) of this section) unless transiting only, provided that all mobile gear is on board the vessel while inside the area.

(2) *Definition of Restricted Gear Area IV*. Restricted Gear Area IV is defined by straight lines connecting the following points in the order stated:

INSHORE BOUNDARY

| Point | Latitude | Longitude |
|---|---|---|
| 193 | 40°13.60′ N. | 68°40.60′ W. |
| 194 | 40°11.60′ N. | 68°53.00′ W. |
| 195 | 40°14.00′ N. | 69°04.70′ W. |
| 196 | 40°14.30′ N. | 69°05.80′ W. |
| 197 | 40°05.50′ N. | 69°09.00′ W. |
| 198 | 39°57.30′ N. | 69°25.10′ W. |
| 199 | 40°00.40′ N. | 69°35.20′ W. |
| 200 | 40°01.70′ N. | 69°35.40′ W. |
| 201 | 40°01.70′ N. | 69°37.40′ W. |
| 202 | 40°00.50′ N. | 69°38.80′ W. |
| 203 | 40°01.30′ N. | 69°45.00′ W. |
| 204 | 40°02.10′ N. | 70°45.00′ W. |
| 205 | 40°07.60′ N. | 70°04.50′ W. |
| 206 | 40°07.80′ N. | 70°09.20′ W. |
| to 119 | 40°02.75′ N. | 70°16.1′ W. |

OFFSHORE BOUNDARY

| Point to | Latitude | Longitude |
|---|---|---|
| 193 | 40°13.60′ N. | 68°40.60′ W. |
| 69 | 40°07.90′ N. | 68°36.00′ W. |
| 70 | 40°07.20′ N. | 68°38.40′ W. |
| 71 | 40°06.90′ N. | 68°46.50′ W. |
| 72 | 40°08.70′ N. | 68°49.60′ W. |
| 73 | 40°08.10′ N. | 68°51.00′ W. |
| 74 | 40°05.70′ N. | 68°52.40′ W. |

OFFSHORE BOUNDARY—Continued

| Point to | Latitude | Longitude |
|---|---|---|
| 75 | 40°03.60′ N. | 68°57.20′ W. |
| 76 | 40°03.65′ N. | 69°00.00′ W. |
| 77 | 40°04.35′ N. | 69°00.50′ W. |
| 78 | 40°05.20′ N. | 69°00.50′ W. |
| 79 | 40°05.30′ N. | 69°01.10′ W. |
| 80 | 40°08.90′ N. | 69°01.75′ W. |
| 81 | 40°11.00′ N. | 69°03.80′ W. |
| 82 | 40°11.60′ N. | 69°05.40′ W. |
| 83 | 40°10.25′ N. | 69°04.40′ W. |
| 84 | 40°09.75′ N. | 69°04.15′ W. |
| 85 | 40°08.45′ N. | 69°03.60′ W. |
| 86 | 40°05.65′ N. | 69°03.55′ W. |
| 87 | 40°04.10′ N. | 69°03.90′ W. |
| 88 | 40°02.65′ N. | 69°05.60′ W. |
| 89 | 40°02.00′ N. | 69°08.35′ W. |
| 90 | 40°02.65′ N. | 69°11.15′ W. |
| 91 | 40°00.05′ N. | 69°14.60′ W. |
| 92 | 39°57.80′ N. | 69°20.35′ W. |
| 93 | 39°56.75′ N. | 69°24.40′ W. |
| 94 | 39°56.50′ N. | 69°26.35′ W. |
| 95 | 39°56.80′ N. | 69°34.10′W. |
| 96 | 39°57.85′ N. | 69°35.05′W. |
| 97 | 40°00.65′ N. | 69°36.50′W. |
| 98 | 40°00.90′ N. | 69°37.30′W. |
| 99 | 39°59.15 N. | 69°37.30′W. |
| 100 | 39°58.80′ N. | 69°38.45′W. |
| 102 | 39°56.20′ N. | 69°40.20′W. |
| 103 | 39°55.75′ N. | 69°41.40′W. |
| 104 | 39°56.70′ N. | 69°53.60′W. |
| 105 | 39°57.55′ N. | 69°54.05′W. |
| 106 | 39°57.40′ N. | 69°55.90′W. |
| 107 | 39°56.90′ N. | 69°57.45′W. |
| 108 | 39°58.25′ N. | 70°03.00′W. |
| 110 | 39°59.20′ N. | 70°04.90′W. |
| 111 | 40°00.70′ N. | 70°08.70′W. |
| 112 | 40°03.75′ N. | 70°10.15′W. |
| 115 | 40°05.20′ N. | 70°10.90′W. |
| 116 | 40°02.45′ N. | 70°14.1′W. |
| 119 | 40°02.75′ N. | 70°16.1′ W. |
| to 206 | 40°07.80′ N. | 70°09.20′ W. |

(f) *Carl N. Shuster Jr. Horseshoe Crab Reserve*. (1) No vessel or person may fish for horseshoe crabs in the area known as the Carl N. Shuster Jr. Horseshoe Crab Reserve bounded as follows:

(i) On the north by a straight line connecting points 39°14.6′N. lat., 74°30.9′W. long. (3 nm off of Peck Beach, NJ) and 39°14.6′N lat., 74°22.5′W. long.

(ii) On the east by a straight line connecting points 39°14.6′N. lat., 74°22.5′W. long. and 38°22.0′N. lat., 74°22.5′W. long.

(iii) On the south by a straight line connecting points 38°22.0′N. lat., 74°22.5′W. long. and 38°22.0′N. lat., 75°00.4′W. long. (3 nm off of Ocean City, MD).

(iv) On the west by the outermost boundary of state waters.

(2) No vessel or person on a vessel with a trawl or dredge may possess

horseshoe crabs in the area described in paragraph (f)(1) of this section.

(3) Horseshoe crabs caught in the area described in paragraph (f)(1) of this section must be returned immediately to the water without further harm.

[64 FR 68248, Dec. 6, 1999, as amended at 66 FR 8911, Feb. 5, 2001]

### § 697.24 Exempted waters for Maine State American lobster permits.

A person or vessel holding a valid permit or license issued by the State of Maine that lawfully permits that person to engage in commercial fishing for American lobster may, with the approval of the State of Maine, engage in commercial fishing for American lobsters in the following areas designated as EEZ, if such fishing is conducted in such waters in accordance with all other applicable Federal and State regulations:

(a) West of Monhegan Island in the area located north of the line 43.5 deg.42′08″ N. lat., 69.5 deg.34′18″ W. long., and 43.5 deg.42′15″ N. lat., 69.5 deg.19′18″ W. long.

(b) East of Monhegan Island in the area located west of the line 43.5 deg.44′00″ N. lat., 69.5 deg.15′05″ W. long., and 43.5 deg.48′10″ N. lat., 69.5 deg.08′01″ W. long.

(c) South of Vinalhaven in the area located west of the line 43.5 deg.521″ N. lat., 68.5 deg.39′54″ W. long., and 43.5 deg.48′10″ N. lat., 67.5 deg.40′33″ W. long.

(d) South of Boris Bubert Island in the area located north of the line 44.5 deg.19′15″ N. lat, 67.5 deg.49′30″ W. long. and 44.5 deg.23′45″ N. lat., 67.5 deg.40′33″ W. long.

### § 697.25 Adjustment to management measures.

(a) On or before February 15, 2001, and annually on or before February 15, thereafter, NMFS may, after consultation with the Commission, publish a proposed rule to implement additional or different management measures for Federal waters in any of the management areas specified in § 697.18 if it is determined such measures are necessary to achieve or be compatible with ISFMP objectives, or the ISFMP, to be consistent with the national standards of the Magnuson-Stevens Act, or to meet overfishing and rebuilding requirements of the Magnuson-Stevens Act. These management measures may include, but are not limited to, continued reductions of fishing effort or numbers of traps, increases in minimum or decreases in maximum size, increases in the escape vent size, decreases in the lobster trap size, closed areas, closed seasons, landing limits, trip limits and other management area-specific measures as may be identified and recommended by the Commission prior to December 1 of the previous year. After considering public comment, NMFS may publish a final rule to implement any such measures.

(b) *Conservation equivalency measures.* The Regional Administrator may consider future recommendations for modifications to Federal regulations based on conservation equivalency for American lobster that are formally submitted to him/her in writing by the ASMFC. These recommendations must, for consideration by the Regional Administrator, contain the following supporting information:

(1) A description of how Federal regulations should be modified;

(2) An explanation of how the recommended measure(s) would achieve a level of conservation benefits for the resource equivalent to the applicable Federal regulations;

(3) An explanation of how Federal implementation of the conservation equivalent measure(s) would achieve ISFMP objectives, be consistent with the Magnuson-Stevens Act national standards, and be compatible with the effective implementation of the ISFMP; and

(4) A detailed analysis of the biological, economic, and social impacts of the recommended conservation equivalent measure(s). After considering the recommendation and the necessary supporting information, NMFS may issue a proposed rule to implement the conservation equivalent measures. After considering public comment, NMFS may issue a final rule to implement such measures.

(c) At any other time, NMFS may publish a proposed rule, after consultation with the Commission, to implement any additional or different management measures in order to achieve

ISFMP objectives or be compatible with Commission measures or recommendations or to be consistent with the national standards of the Magnuson-Stevens Act, or to meet overfishing and rebuilding requirements of the Magnuson-Stevens Act. After considering public comments, NMFS may publish a final rule to implement any such measures.

(d) Notwithstanding other provisions of this part, NMFS may publish any additional or different management measures as described herein without prior public comment, pursuant to and consistent with 5 U.S.C. 553.

[64 FR 68248, Dec. 6, 1999, as amended at 68 FR 14931, Mar. 27, 2003]

### § 697.26 EEZ Nearshore Management Area 5 Trap Waiver.

(a) *Eligibility*. Vessels eligible for limited access lobster permits under § 697.4(a)(1) and limited access black sea bass permits under § 648.4(a)(7)(i) of this chapter may request an Area 5 Trap Waiver Permit, under the procedures described in § 697.4.

(b) *Restrictions*. A vessel issued an Area 5 Trap Waiver permit under this section may engage in trap fishing for black sea bass in EEZ Nearshore Management Area 5 and is exempt from the provisions of § 697.19 and § 697.21 if such fishing is conducted in accordance with all other provisions of this section and all other Federal and state laws and regulations applicable to lobster and black sea bass fishing.

(1) A vessel issued a permit under this section may retain, land and sell an incidental allowance of lobster equal to the non-trap harvest restrictions specified in § 697.17(a).

(2) A vessel issued a permit under this section may not possess on board or deploy bait or baited traps.

[66 FR 14502, Mar. 13, 2001]

TABLE 1 TO PART 697—AREA 3 TRAP REDUCTION SCHEDULE

| HISTORIC Trap Allocation | Year 2006 Trap Allocation | Year 1 - 5% Trap Reduction Effective November 2007 | Year 2 - 5% Trap Reduction Effective July 1, 2008 | Year 3- 2.5% Trap Reduction Effective July 1, 2009 | Year 4 - 2.5% Trap Reduction Effective July 1, 2010 |
|---|---|---|---|---|---|
| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
| 200 | 200 | 190 | 181 | 176 | 172 |
| 240 | 240 | 228 | 217 | 211 | 206 |
| 250 | 250 | 238 | 226 | 220 | 214 |
| 264 | 264 | 251 | 238 | 232 | 226 |
| 300 | 300 | 285 | 271 | 264 | 257 |
| 320 | 320 | 304 | 289 | 282 | 275 |
| 325 | 325 | 309 | 293 | 286 | 279 |
| 360 | 360 | 342 | 325 | 317 | 309 |
| 370 | 370 | 352 | 334 | 326 | 317 |
| 400 | 400 | 380 | 361 | 352 | 343 |
| 450 | 450 | 428 | 406 | 396 | 386 |
| 480 | 480 | 456 | 433 | 422 | 412 |
| 500 | 500 | 475 | 451 | 440 | 429 |
| 590 | 590 | 561 | 532 | 519 | 506 |
| 600 | 600 | 570 | 542 | 528 | 515 |
| 700 | 700 | 665 | 632 | 616 | 601 |
| 720 | 720 | 684 | 650 | 634 | 618 |

| HISTORIC Trap Allocation | Year 2006 Trap Allocation | Year 1 - 5% Trap Reduction Effective November 2007 | Year 2 - 5% Trap Reduction Effective July 1, 2008 | Year 3- 2.5% Trap Reduction Effective July 1, 2009 | Year 4 - 2.5% Trap Reduction Effective July 1, 2010 |
|---|---|---|---|---|---|
| Column 1 | Column 2 | Column 3 | Column 4 | Column 5 | Column 6 |
| 768 | 768 | 730 | 693 | 676 | 659 |
| 800 | 800 | 760 | 722 | 704 | 686 |
| 883 | 883 | 839 | 797 | 777 | 758 |
| 900 | 900 | 855 | 812 | 792 | 772 |
| 930 | 930 | 884 | 839 | 818 | 798 |
| 1000 | 1000 | 950 | 903 | 880 | 858 |
| 1004 | 1004 | 954 | 906 | 883 | 861 |
| 1020 | 1020 | 969 | 921 | 898 | 875 |
| 1100 | 1100 | 1045 | 993 | 968 | 944 |
| 1150 | 1150 | 1093 | 1038 | 1012 | 987 |
| 1170 | 1170 | 1112 | 1056 | 1030 | 1004 |
| 1200-1299 | 1200 | 1140 | 1083 | 1056 | 1030 |
| 1300-1399 | 1200 | 1140 | 1083 | 1056 | 1030 |
| 1400-1499 | 1200 | 1140 | 1083 | 1056 | 1030 |
| 1500-1599 | 1276 | 1212 | 1152 | 1123 | 1095 |
| 1600-1699 | 1352 | 1284 | 1220 | 1190 | 1160 |
| 1700-1799 | 1417 | 1346 | 1279 | 1247 | 1216 |
| 1800-1899 | 1482 | 1408 | 1338 | 1304 | 1271 |
| 1900-1999 | 1549 | 1472 | 1398 | 1363 | 1329 |
| 2000-2099 | 1616 | 1535 | 1458 | 1422 | 1386 |
| 2100-2199 | 1674 | 1590 | 1511 | 1473 | 1436 |
| 2200-2299 | 1732 | 1645 | 1563 | 1524 | 1486 |
| 2300-2399 | 1789 | 1700 | 1615 | 1574 | 1535 |
| 2400-2499 | 1845 | 1845 | 1753 | 1623 | 1583 |
| 2500-2599 | 1897 | 1802 | 1712 | 1669 | 1628 |
| 2600-2699 | 1949 | 1852 | 1759 | 1715 | 1672 |
| 2700-2799 | 2000 | 1900 | 1805 | 1760 | 1716 |
| 2800-2899 | 2050 | 1948 | 1850 | 1804 | 1759 |
| 2900-2999 | 2100 | 1995 | 1895 | 1848 | 1802 |
| 3000-3099 | 2150 | 2043 | 1940 | 1892 | 1845 |
| 3100-3199 | 2209 | 2099 | 1994 | 1944 | 1895 |
| >3199 | 2267 | 2154 | 2046 | 1995 | 1945 |

[72 FR 56943, Oct. 5, 2007]