

§ 679.1

TABLE 5 TO PART 679—STELLER SEA LION PROTECTION AREAS PACIFIC COD FISHERIES RESTRICTIONS

TABLE 6 TO PART 679—STELLER SEA LION PROTECTION AREAS ATKA MACKEREL FISHERIES RESTRICTIONS

TABLE 7 TO PART 679—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS

TABLE 8 TO PART 679—HARVEST ZONE CODES FOR USE WITH VESSEL ACTIVITY REPORTS

TABLE 9 TO PART 679—REQUIRED LOGBOOKS, REPORTS, FORMS AND ELECTRONIC LOGBOOK AND REPORTS FROM PARTICIPANTS IN THE FEDERAL GROUND FISH FISHERIES

TABLE 10 TO PART 679—GULF OF ALASKA RETAINABLE PERCENTAGES

TABLE 11 TO PART 679—BSAI RETAINABLE PERCENTAGES

TABLE 12 TO PART 679—STELLER SEA LION PROTECTION AREAS 3NM NO GROUND FISH FISHING SITES

TABLE 13 TO PART 679—TRANSFER FORM SUMMARY

TABLE 14a TO PART 679—PORT OF LANDING CODES: ALASKA

TABLE 14b TO PART 679—PORT OF LANDING CODES: NON-ALASKA (CALIFORNIA, CANADA, OREGON, WASHINGTON)

TABLE 14c TO PART 679—AT-SEA OPERATION TYPE CODES TO BE USED AS PORT CODES FOR VESSELS MATCHING THIS TYPE OF OPERATION

TABLE 15 TO PART 679—GEAR CODES, DESCRIPTIONS, AND USE (X) INDICATES WHERE THIS CODE IS USED)

TABLE 16 TO PART 679—AREA CODES AND DESCRIPTIONS FOR USE WITH STATE OF ALASKA ADF&G COMMERCIAL OPERATOR'S ANNUAL REPORT (COAR)

TABLE 17 TO PART 679—PROCESS CODES FOR USE WITH STATE OF ALASKA COMMERCIAL OPERATOR'S ANNUAL REPORT (COAR)

TABLE 18 TO PART 679—REQUIRED BUYING AND PRODUCTION FORMS FOR USE WITH STATE OF ALASKA COMMERCIAL OPERATOR'S ANNUAL REPORT (COAR)

TABLE 19 TO PART 679—SEABIRD AVOIDANCE GEAR CODES

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)

TABLE 21 TO PART 679—ELIGIBLE GOA COMMUNITIES, HALIBUT IFQ REGULATORY USE AREAS, AND COMMUNITY GOVERNING BODY THAT RECOMMENDS THE COMMUNITY QUOTA ENTITY

TABLE 22 TO PART 679—ALASKA SEAMOUNT HABITAT PROTECTION AREAS

TABLE 23 TO PART 679—ALEUTIAN ISLANDS CORAL HABITAT PROTECTION AREAS

TABLE 24 TO PART 679—EXCEPT AS NOTED, LOCATIONS IN THE ALEUTIAN ISLANDS HABI-

50 CFR Ch. VI (10–1–06 Edition)

TAT CONSERVATION AREA OPEN TO NON-PELAGIC TRAWL FISHING

TABLE 25 TO PART 679—BOWERS RIDGE HABITAT CONSERVATION ZONE

TABLE 26 TO PART 679—GULF OF ALASKA CORAL HABITAT PROTECTION AREAS

TABLE 27 TO PART 679—GULF OF ALASKA SLOPE HABITAT CONSERVATION AREAS

AUTHORITY: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

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

EDITORIAL NOTE: Nomenclature changes to part 679 appear at 61 FR 56438, Nov. 1, 1996; 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 for fishing for demersal shelf rockfish in the Southeast Outside District, and which are registered under the laws of the State of Alaska: 5 AAC 28.110, fishing seasons; 5 AAC 28.130, gear; 5 AAC 28.160, harvest guidelines; 5 AAC 28.190, harvest of bait by commercial permit holders.

(b) *Fishery Management Plan for 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).

Fishery Conservation and Management

§ 679.1

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

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

(B) Using fixed gear in waters of the State of Alaska adjacent to the BSAI and the GOA, provided that aboard such vessels are persons who currently hold quota shares, IFQ permits, or IFQ cards.

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

(2) *Halibut*. Regulations in this part govern commercial fishing for halibut by vessels of the United States using fixed gear, as that term is defined in 50 CFR 679.2, in and off of Alaska.

(e) *Western Alaska CDQ Program*. The goals and purpose of the CDQ program are to allocate CDQ to eligible Western Alaska communities to provide the means for starting or supporting commercial fisheries business activities that will result in an ongoing, regionally based, fisheries-related economy.

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

§ 679.2

50 CFR Ch. VI (10–1–06 Edition)

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).

AFA catcher/processor means a catcher/processor permitted to harvest BS pollock under § 679.4(1)(2).

AFA catcher vessel means a catcher vessel permitted to harvest BS pollock under § 679.4(1)(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 shore-side processor or stationary floating processor permitted to process BS pollock under § 679.4(1)(5).

AFA mothership means a mothership permitted to process BS pollock under § 679.4(1)(5).

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