

## Fishery Conservation and Management

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(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).

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.7, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

EFFECTIVE DATE NOTE: At 71 FR 17381, Apr. 6, 2006, § 679.7 was amended by adding paragraph (m), effective Jan. 20, 2008. For the convenience of the user the added text follows:

### § 679.7 Prohibitions.

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(m) *Prohibitions specific to GRS.* It is unlawful for the owner or operator of a catcher/processor that is 125 ft (38.1 m) LOA or longer and not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI 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 program 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)(3) if the vessel is required to comply with § 679.27(j)(1) at any time during the same fishing year.

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### § 679.8 Facilitation of enforcement.

See § 600.730 of this chapter.

### § 679.9 Penalties.

See § 600.735 of this chapter.

## Subpart B—Management Measures

### § 679.20 General limitations.

This section applies to vessels engaged in directed fishing for groundfish in the GOA and BSAI.

(a) *Harvest limits*—(1) *OY.* The OY for BSAI and GOA target species and the "other species" category is a range that can be harvested consistently

with this part, plus the amounts of “nonspecified species” taken incidentally to the harvest of target species and the “other species” category. The species categories are defined in Table 1 of the specifications as provided in paragraph (c) of this section.

(i) *BSAI*. The OY for groundfish in the BSAI regulated by this section and by part 600 of this chapter is 1.4 to 2.0 million mt.

(ii) *GOA*. The OY for groundfish in the GOA regulated by this section and by part 600 of this chapter is 116,000 to 800,000 mt.

(2) *TAC*. NMFS, after consultation with the Council, will specify and apportion the annual TAC and reserves for each calendar year among the GOA and BSAI target species and the “other species” categories. TACs in the target species category may be split or combined for purposes of establishing new TACs with apportionments thereof under paragraph (c) of this section. The sum of the TACs so specified must be within the OY range specified in paragraph (a)(1) of this section.

(3) *Annual TAC determination*. The annual determinations of TAC for each target species and the “other species” category, and the reapportionment of reserves may be adjusted, based upon a review of the following:

(i) *Biological condition of groundfish stocks*. Resource assessment documents prepared annually for the Council that provide information on historical catch trend; updated estimates of the MSY of the groundfish complex and its component species groups; assessments of the stock condition of each target species and the “other species” category; assessments of the multispecies and ecosystem impacts of harvesting the groundfish complex at current levels, given the assessed condition of stocks, including consideration of rebuilding depressed stocks; and alternative harvesting strategies and related effects on the component species group.

(ii) *Socioeconomic considerations*. Socioeconomic considerations that are consistent with the goals of the fishery management plans for the groundfish fisheries of the BSAI and the GOA, including the need to promote efficiency in the utilization of fishery resources, including minimizing costs; the need to

manage for the optimum marketable size of a species; the impact of groundfish harvests on prohibited species and the domestic target fisheries that utilize these species; the desire to enhance depleted stocks; the seasonal access to the groundfish fishery by domestic fishing vessels; the commercial importance of a fishery to local communities; the importance of a fishery to subsistence users; and the need to promote utilization of certain species.

(4) *Sablefish TAC*—(i) *Eastern GOA regulatory area*. Vessels in the Eastern GOA regulatory area of the GOA using trawl gear will be allocated 5 percent of the sablefish TAC for bycatch in other trawl fisheries.

(ii) *Central and western GOA regulatory areas*—(A) *Hook-and-line gear*. Vessels in the Central and western GOA regulatory areas using hook-and-line gear will be allocated 80 percent of the sablefish TAC in each of the Central and Western GOA regulatory areas.

(B) *Trawl gear*. Vessels using trawl gear will be allocated 20 percent of the sablefish TAC in these areas.

(iii) *Bering Sea subarea*—(A) *Hook-and-line or pot gear*. Vessels in the Bering Sea subarea using hook-and-line or pot gear will be allocated 50 percent of each TAC for sablefish.

(B) *Trawl gear*. Vessels in the Bering Sea subarea using trawl gear will be allocated 50 percent of each TAC for sablefish.

(iv) *Aleutian Islands subarea*—(A) *Hook-and-line or pot gear*. Vessels in the Aleutian Islands subarea using hook-and-line or pot gear will be allocated 75 percent of each TAC for sablefish.

(B) *Trawl gear*. Vessels in the Aleutian Islands subarea using trawl gear will be allocated 25 percent of each TAC for sablefish.

(5) *Pollock TAC*—(i) *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/proc-

essor 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, allo-

cated, 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

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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) *TAC by gear*. (A) The BSAI TAC of Pacific cod, after subtraction of reserves, will be allocated 2 percent to vessels using jig gear, 51 percent to vessels using hook-and-line or pot gear, and 47 percent to vessels using trawl gear.

(B) The portion of Pacific cod TAC allocated to trawl gear under paragraph (a)(7)(i)(A) of this section will be further allocated 50 percent to catcher vessels and 50 percent to catcher/processors as defined for the purposes of recordkeeping and reporting at § 679.2.

(C) *Allocations among vessels using hook-and-line or pot gear*. (1) The Regional Administrator annually will estimate the amount of Pacific cod taken as incidental catch in directed fisheries for groundfish other than Pacific cod by vessels using hook-and-line or pot gear and deduct that amount from the portion of Pacific cod TAC annually allocated to hook-and-line or pot gear under paragraph (a)(7)(i)(A) of this section. The remainder will be further allocated as directed fishing allowances as follows:

(i) 80.0 percent to catcher/processor vessels using hook-and-line gear;

(ii) 0.3 percent to catcher vessels using hook-and-line gear;

(iii) 3.3 percent to catcher/processor vessels using pot gear;

(iv) 15.0 percent to catcher vessels using pot gear; and

(v) 1.4 percent to catcher vessels less than 60 ft (18.3 m) LOA that use either hook-and-line or pot gear.

(2) Harvest of Pacific cod by catcher vessels less than 60 ft (18.3 m) LOA using pot gear:

(i) Will accrue against the 15 percent specified in paragraph (a)(7)(i)(C)(I)(iv) of this section when the directed fishery for Pacific cod by catcher vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear is open.

(ii) Will accrue against the 1.4 percent specified in paragraph (a)(7)(i)(C)(I)(v) of this section when the directed fishery for Pacific cod by catcher vessels equal to or greater than 60 ft (18.3 m) LOA using pot gear is closed.

(D) The Regional Administrator may establish separate directed fishing allowances and prohibitions authorized under paragraph (d) of this section for vessels harvesting Pacific cod using trawl gear, jig gear, hook-and-line gear, or pot gear.

(ii) *Unused gear allocations*—

(A) *Reallocation within the trawl sector*. If, during a fishing season, the Regional Administrator determines that either component of catcher vessels using trawl gear or catcher/processors using trawl gear will not be able to harvest the entire amount of Pacific cod in the BSAI allocated to those vessels under paragraph (a)(7)(i), (a)(7)(ii)(C), or (a)(7)(iii)(A) of this section, he/she may reallocate the projected unused amount of Pacific cod to vessels using trawl gear in the other component through notification in the FEDERAL REGISTER before any reallocation to vessels using other gear type(s).

(B) *Reallocation among vessels using hook-and-line or pot gear*. If, during a fishing year, the Regional Administrator determines that catcher vessels using hook-and-line gear or vessels less than 60 ft (18.3 m) LOA using hook-and-line or pot gear will not be able to harvest the directed fishing allowance of Pacific cod allocated to those vessels under paragraphs (a)(7)(i)(C)(I)(ii),

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(a)(7)(i)(C)(I)(iv), or (a)(7)(ii)(C)(I) of this section, NMFS may reallocate the projected unused amount of Pacific cod as a directed fishing allowance to catcher/processor vessels using hook-and-line gear through notification in the FEDERAL REGISTER.

(C) *Reallocation among vessels using trawl or non-trawl gear.* If, during a fishing year, the Regional Administrator determines that vessels using trawl gear, hook-and-line gear, pot gear or jig gear will not be able to harvest the entire amount of Pacific cod in the BSAI allocated to those vessels under paragraphs (a)(7)(i)(A), (a)(7)(i)(B) or (a)(7)(i)(C) of this section, NMFS will reallocate the projected unused amount of Pacific cod to vessels harvesting Pacific cod using the other gear type(s) through notification in the FEDERAL REGISTER, subject to the provisions below:

(1) *Reallocation of TAC specified for jig gear.* The Regional Administrator will reallocate any projected unused portion of a seasonal allowance of Pacific cod for vessels using jig gear under paragraphs (a)(7)(i)(A) and (a)(7)(iii)(A) of this section to catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line or pot gear.

(2) *Reallocation of TAC specified for trawl gear.* The Regional Administrator

will reallocate any projected unharvested amounts of Pacific cod TAC allocated to trawl gear under paragraph (a)(7)(i) of this section: 95 percent to catcher/processor vessels using hook-and-line gear, 0.9 percent to catcher/processor vessels using pot gear, and 4.1 percent to catcher vessels using pot gear.

(D) *Unused seasonal allowance for trawl.* Any unused portion of a seasonal allowance of Pacific cod for vessels using trawl gear under paragraph (a)(7)(ii) or (a)(7)(iii)(A) of this section may be reapportioned by the Regional Administrator to the subsequent seasonal allocations for vessels using trawl gear.

(E) *Unused seasonal allowance for trawl* (applicable through December 31, 2002). Any unused portion of a seasonal allowance of Pacific cod for vessels using trawl gear under paragraphs (a)(7)(ii)(D) and (a)(7)(iii)(D) of this section may be reapportioned by the Regional Administrator, through notification in the FEDERAL REGISTER, to the subsequent seasonal allocations for vessels using trawl gear.

(iii) *Seasonal allowances—(A) Seasonal apportionment and gear allocations.* The BSAI Pacific cod gear allocations and apportionments by seasons, as specified in § 679.23 (e)(5), are as follows:

Gear Type	A season	B season	C season
(1) trawl	60 percent	20 percent	20 percent
(i) trawl CV	70 percent	10 percent	20 percent
(ii) trawl CP	50 percent	30 percent	20 percent
(2) hook-and-line processors, hook-and-line ≥60 ft (18.3 m) LOA, and non-CDQ pot vessels ≥60 ft (18.3 m) LOA.	60 percent	40 percent.	
(3) jig vessels	40 percent	20 percent	40 percent
(4) all other nontrawl vessels	no seasonal apportionment.	no seasonal apportionment.	no seasonal apportionment

(B) *Unused seasonal allowances.* Any unused portion of a seasonal allowance of Pacific cod allocated to vessels using hook-and-line or pot gear under paragraph (a)(7)(i)(C) of this section will be reallocated to the remaining seasons during the current fishing year in a manner determined by NMFS, after consultation with the Council.

(C) *Seasonal apportionment and gear allocations* (applicable through December 31, 2002). The Pacific cod BSAI gear allocations and apportionments by sea-

sons, as specified in § 679.23 (e)(6), are as follows:

Gear type	A season (percent)	B season (percent)	C season (percent)
Trawl	60	20	20
Trawl CV	70	10	20
Trawl CP	50	30	20
Hook-and-line ≥60 ft (18.3 m) LOA, non-CDQ pot vessels ≥60 ft (18.3 m) LOA, and jig vessels	60	40	

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Gear type	A season (percent)	B season (percent)	C season (percent)
All other nontrawl vessels .....	No seasonal apportionment.		

CV = catcher vessels.  
CP = catcher/processor vessels.

(8) *BSAI Atka mackerel*—(i) *Jig gear*. Vessels using jig gear will be allocated up to 2 percent of the TAC of Atka mackerel specified for the Eastern Aleutian Islands District and Bering Sea subarea, after subtraction of reserves, based on the following criteria:

(A) The amount of Atka mackerel harvested by vessels using jig gear during recent fishing years;

(B) The anticipated harvest of Atka mackerel by vessels using jig gear during the upcoming fishing year; and

(C) The extent to which the jig-gear allocation will support the development of a jig-gear fishery for Atka mackerel while minimizing the amount of Atka mackerel TAC annually allocated to vessels using jig gear that remains unharvested at the end of the fishing year.

(ii) *Other gears*. The remainder of the Atka mackerel TAC, after subtraction of the jig gear allocation and reserves, will be allocated to vessels using other authorized gear types.

(A) *Seasonal allowances*. The Atka mackerel TAC specified for each subarea or district of the BSAI will be divided equally, after subtraction of the jig gear allocation and reserves, into two seasonal allowances corresponding to the A and B seasons defined at §679.23(e)(3).

(B) *Overages and underages*. Within any fishing year, unharvested amounts of the A season allowance will be added to the B season allowance and harvests in excess of the A season allowance will be deducted from the B season allowance.

(C) *Harvest limit area (HLA) limits*. Atka mackerel harvest is limited in the HLA, as defined in §679.2, as follows:

(1) The Regional Administrator will establish an HLA harvest limit of no more than 60 percent of the seasonal TAC as specified in paragraph (a)(8)(ii)(A) of this section.

(2) *CDQ fishing*. A CDQ group is prohibited from exceeding the CDQ portion of the percentage of annual Atka

mackerel in areas 542 and/or 543 specified in paragraph (a)(8)(ii)(C)(1) of this section for the HLA.

(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.



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(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).

(9) *BSAI shortraker rockfish and rougheye rockfish.* After subtraction of reserves, the TAC of shortraker rockfish and rougheye rockfish specified for the Aleutian Islands subarea will be allocated 30 percent to vessels using non-trawl gear and 70 percent to vessels using trawl gear.

(10) *All other groundfish TAC.* The initial TAC for each target species and the “other species” category will be 85 percent of the TAC as provided under paragraph (b) of this section.

(11) *GOA Pacific cod TAC—(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) General.* Fifteen percent of the BSAI TAC for each target species and the “other species” category, except pollock and the hook-and-line and pot gear allocation for sablefish, is automatically placed in a reserve, and the remaining 85 percent of the TAC is apportioned for each target species and the “other species” category, except pollock and the hook-and-line and pot gear allocation for sablefish.

(ii) *Nonspecified reserve.* The reserve is not designated by species or species group, and any amount of the reserve may be apportioned to a target species, except the hook-and-line gear and pot gear allocation for sablefish, or the “other species” category, provided that such apportionments are consistent with paragraph (a)(3) of this section and do not result in overfishing of a target species or the “other species” category.

(iii) *CDQ reserve—(A) Groundfish CDQ Reserve.* Except as limited by §679.31(a), one half of the nonspecified reserve established by paragraph (b)(1)(i) of this section for all species except squid is apportioned to the groundfish CDQ reserve.

(B) *Fixed gear sablefish CDQ reserves.* Twenty percent of the fixed gear allocation of sablefish established by paragraph (a)(4)(iii) of this section for each subarea or district of the BSAI is apportioned to a CDQ reserve for each subarea or district.

(C) *Apportionment of groundfish CDQ reserve by TAC category.* (1) Except for the fixed gear sablefish CDQ reserves, the groundfish CDQ reserve is apportioned among TAC categories in amounts equal to 7.5 percent of each TAC category for which a reserve is established.

(2) If the final harvest specifications required by paragraph (c) of this section change the groundfish species comprising a species category or change a TAC by combining management areas or splitting a TAC into two or more TACs by management area, then any CDQ allocations based on those TACs change proportionally.

(iv) *Pacific cod.* Any amounts of the BSAI nonspecific reserve that are apportioned to Pacific cod as provided by paragraph (b)(1)(ii) of this section must be apportioned among vessels using jig, hook-and-line or pot, and trawl gear in the same proportion specified in paragraph (a)(7)(i) of this section, unless the Regional Administrator determines under paragraph (a)(7)(ii) of this section that vessels using a certain gear type will not be able to harvest the additional amount of Pacific cod. In this case, the nonspecific reserve will be apportioned to vessels using the other gear type(s).

(2) *GOA.* Initial reserves are established for pollock, Pacific cod, flatfish, and “other species,” which are equal to 20 percent of the TACs for these species or species groups.

(i) *Pollock inshore-offshore reapportionment.* 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—(1) 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 Janu-

ary 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” cat-

egory 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)

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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.

(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 cer-

tain 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 for an incidental catch species is calculated as a proportion of the basis species retained on board the vessel using the retainable percentages in Table 10 to this part for the GOA species categories and in Table 11 to this part for the BSAI species categories.

(2) *Calculation.* (i) To calculate the maximum retainable amount for a specific incidental catch species, an individual retainable amount must be calculated with respect to each basis species that is retained on board that vessel.

(ii) To obtain these individual retainable amounts, multiply the appropriate retainable percentage for the incidental catch species/basis species combination, set forth in Table 10 to this part for the GOA species categories and Table 11 to this part for the

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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. CDQ species may only be used to calculate retainable amounts of other CDQ species.

(g) *Allowable retention of pollock roe—*(1) *Percentage of pollock roe.* (i) Pollock roe retained on board a vessel at any time during a fishing trip must not exceed 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.

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(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

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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,