

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 10/31/2008

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Suzanne Hilding
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 09/24/2008

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200809-0648-001
AGENCY ICR TRACKING NUMBER:
TITLE: Alaska Region Logbook Family of Forms
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0213

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 10/31/2011

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	92,342	38,990	187,000
New	98,441	43,332	145,787
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	6,099	4,342	-41,213
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official:

Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Catcher vessel trawl gear daily fishing logbook	NA	Catcher vessel trawl gear logbook form and instructions	
Catcher vessel, longline or pot gear DFL	NA	Catcher vessel longline or potgear logbook form and instructions	
Catcher/processor trawl gear daily cumulative production logbooks	NA	Catcher processor trawl gear daily cumulative production logbook and instructions	
Catcher/processor longline and pot gear DCPL	NA	catcher processor longline or pot gear DCPL and instructions	
Mothership DCPL	NA	Mothership DCPL and instructions	
Shoreside processor DCPL	NA	shoreside processor DCPL and instructions	
Mothership or Catcher/processor Check-in/out Report	NA	Mothership or catcher processor check-in/check-out report and instructions	
Shoreside processor Check-in/out Report	NA	Shoreside processor check-in/check-out report and instructions	
Mothership or Catcher/processor Weekly production report	NA	Mothership or catcher processor weekly production report and instructions	
Shoreside Processor WPR	NA	Shoreside processor weekly production report and instructions	
Vessel Activity Report	NA	U.S. Vessel Activity Report	
Buying Station Report	NA	Buying station report	
Product transfer report (Registered Buyers for IFQ actions)	NA	Product transfer report	
Product transfer report (Operators or Managers for non-IFQ groundfish)	NA	Product transfer report	
Product Transfer Report ((Processors and Registered Crab Receivers)	NA	Product transfer report	
Weekly Cumulative Mothership ADF&G Fish Tickets	NA	Alaska Dept. of Fish and Game Cumulative Mothership Fish Ticket	

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	
10. Abstract	
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
ALASKA REGION LOGBOOK FAMILY OF FORMS
OMB CONTROL NO. 0648-0213**

INTRODUCTION

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) 16 U.S.C. 1801 *et seq.* authorizes the North Pacific Fishery Management Council to prepare and amend fishery management plans for any fishery in waters under its jurisdiction.

National Marine Fisheries Service (NMFS) manages groundfish in the exclusive economic zone off the coast of Alaska under the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska. Regulations implementing the groundfish FMP appear at 50 CFR part 679.

NMFS manages the crab fisheries in the waters off the coast of Alaska under the Fishery Management Plan for Bering Sea and Aleutian Islands Crab. Regulations implementing the Crab FMP appear at 50 CFR part 680. Regulations at part 679 also pertain.

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut (*Hippoglossus stenolepis*) through regulations established under the authority of the Convention between the United States Halibut Fishery of the Northern Pacific Ocean and Bering Sea and the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations pursuant to the Convention at 50 CFR 300.60 through 300.65. NMFS promulgates regulations for the Pacific halibut Individual Fishing Quota Program (IFQ) at 50 CFR 679.

This action is for the renewal of this collection.

This collection-of-information supports the collection of groundfish fishery data and supporting information from the fishing industry through the use of daily fishing logbooks (DFL) and daily cumulative production logbooks (DCPL). NMFS provides six different types of logbook for use by the fishing industry to record and report groundfish information. Catcher vessels under 60 ft length overall (LOA) are not required to maintain DFL.

- ◆ Catcher vessel trawl gear daily fishing logbook (DFL)
- ◆ Catcher vessel longline and pot gear DFL
- ◆ Mothership daily cumulative production logbook (DCPL)
- ◆ Shoreside processor DCPL
- ◆ Catcher/processor trawl gear DCPL
- ◆ Catcher/processor longline and pot gear DCPL.

The information collected is intended to enhance the effectiveness of analyses through data for which the industry is the best or only source, including: Fishing effort, retained groundfish catch, discard amounts, employment, and product information. To minimize the recordkeeping costs associated with fishery management requirements, NMFS designed the DFL and DCPL to provide a convenient method to enter information that serves both the business needs of the

fishing industry and the data base requirements of NMFS.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The Office of Management and Budget (OMB) Control No. 0648-0213 groundfish recordkeeping and reporting system incorporates and integrates information from the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands management area (BSAI) groundfish fisheries, the Western Alaska Community Development Quota (CDQ) Program (OMB Control No. 0648-0269), the Individual Fishing Quota (IFQ) Program for Pacific Halibut and Sablefish (OMB Control No. 0648-0272), Alaska Cooperatives in the BSAI (OMB Control No. 0648-0401), the Prohibited Species Donation Program (OMB Control No. 0648-0316), the License Limitation Groundfish Program (OMB Control No.: 0648-0334), the Aleutian Islands Pollock Fishery Requirements (OMB Control No. 0648-0513), the Crab Rationalization Program (OMB Control No.: 0648-0514 through 0518), the Rockfish Pilot Program (OMB Control No. 0648-0545), and the Amendment 80 Program (OMB Control No. 0648-0565).

Groundfish is regulated under 50 CFR part 679. Groundfish is recorded in DFL by catcher vessels and in DCPL by catcher/processors, motherships, shoreside processors, and stationary floating processors target species, as incidental species, discarded species, and as prohibited species, depending on the circumstances (OMB Control No. 0648-0213). The information recorded in the DCPL is summarized for each weekly reporting period on a weekly production report (WPR) submitted to NMFS. Shoreside processors and Stationary Floating Processor (SFP) are required to use or have the option to use (depending on circumstances) an electronic version of the DCPL. If the electronic version of the DCPL is used, the WPR is not required, and the yellow pages of the DCPL are not sent quarterly to Office of Law Enforcement (OLE). Catcher vessels using trawl gear have the option to use a commercially available, electronic version of the DFL called the electronic logbook (ELB). If the ELB is used, the yellow pages of the DFL are not sent quarterly to OLE.

Sablefish is regulated under 50 CFR part 679 as a groundfish. Sablefish is recorded in trawl DFL and DCPL as a prohibited species or as an incidental catch, depending on the circumstances (OMB Control No.: 0648-0213). Catch is recorded in the longline and pot gear DFL (for catcher vessels 60 ft or greater LOA, voluntarily recorded in the Alaska Region Science Center Sablefish logbook for catcher vessels (for catcher vessels less than 60 ft LOA), and in the longline and pot gear DCPL for catcher/processors. Sablefish is managed separately as an IFQ target species under the IFQ Program (OMB Control No. 0648-0272) by NMFS. Sablefish IFQ information is sent to NMFS by Internet access (OMB Control No. 0648-0272).

Pacific halibut is regulated under 50 CFR part 300 by the IPHC and under 50 CFR part 679 by NMFS. Pacific halibut is recorded as a target species in the catcher/processor longline and pot gear DCPL, in the longline and pot gear DFL (for catcher vessels 60 ft or greater LOA), or in one of the IPHC's three types of halibut catch logbook, and. Pacific halibut is recorded in the trawl gear DFL and DCPL as a prohibited species in the groundfish fisheries. Pacific halibut unintentionally caught as prohibited species may be retained and recorded in the DFL and DCPL using certain disposition codes. These Pacific halibut then are donated for distribution to needy persons when delivered to an authorized shoreside processor (OMB Control No. 0648-0316).

Pacific halibut is managed separately as an IFQ target species under the IFQ Program (OMB Control No. 0648-0272) by NMFS. Pacific halibut IFQ information is sent to NMFS, IPHC, and State of Alaska Department of Fish and Game (ADF&G) by Internet access (OMB Control No. 0648-0272).

Various species of crab are regulated by NMFS under 50 CFR part 680 and 50 CFR part 679 and under State regulations by ADF&G. Crab is recorded as a target species in the longline and pot gear DFL (for catcher vessels 60 ft or greater LOA) and in the longline and pot gear DCPL for catcher/processors. Crab IFQ information is sent to NMFS and ADF&G by Internet access (OMB Control No. 0648-0515).

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The data are used during boardings and site visits by NMFS Office for Law Enforcement (OLE) and United States Coast Guard (USCG) to ensure conservation of groundfish, compliance to regulations, and reporting accuracy by industry. The data are used by the Council and NMFS Alaska Fisheries Science Center for biological and economic evaluation of management measures and stock assessment. The NMFS Observer Program uses the data for vessel position coordinates and observer coverage information.

The NMFS Inseason Branch monitors and manages the fisheries for each calendar year (beginning January 1) through openings and closures, as well as reallocation of quotas. Quotas and allotments are designated by species, reporting area, gear type, season, inshore/offshore component, and by management program, such as the CDQ Program and IFQ Program. In addition, the NMFS Inseason Branch aggregates, analyzes, evaluates, and summarizes the groundfish data, and NMFS Restricted Access Program aggregates, analyzes, evaluates, and summarizes the IFQ halibut and IFQ sablefish data in response to public inquiries, agency requests, media requests, and submittals to national data archives, including the NMFS Statistics Division, for preparation of the Fisheries of the United States.

a. Catcher Vessel trawl gear DFL

The operator of a catcher vessel 60 ft or greater LOA, using trawl gear, and required to have a Federal fisheries permit must maintain a DFL for trawl gear.

An alternative method of recordkeeping and reporting is provided to the fishing industry through software for a catcher vessel trawl ELB. This method uses data entry into a computer and daily paper copies are printed from the computer and used by the operator and observer. Currently, a pilot program version of the ELB is in operation; the information is submitted to NMFS on a disc at the end of each fishing trip. An estimated 10 catcher vessels are voluntarily using this electronic method; however, the company no longer supports the software. The operator is not required to submit quarterly logsheets to NMFS.

The estimated numbers for the operator to complete the trawl catcher vessel ELB are estimated to be the same as completion of the DFL. When the envisioned trawl catcher vessel ELB is

available, the operator will electronically submit the information as a file to eLandings, and the DFL will remain onboard in case of Internet or computer breakdown. However, the operator will not be required to submit the yellow logsheets quarterly to NMFS.

Catcher Vessel trawl gear DFL

Identification

- Page number
- Date
- Vessel name and ADF&G vessel registration number
- Federal fisheries permit number
- Name and signature of operator
- If inactive, enter start and end dates and reason for inactivity
- Gear type
- Federal reporting area of catch
- Whether harvest occurred in *C. Opilio* Bycatch Limitation Zone (COBLZ) or Red King Crab Savings Area of the BSAI (RKCSA)
- Number of observers onboard
- Name and cruise number of each observer aboard
- Crew size
- If in a separate management program, enter identification number

Catch-by-haul information

- Haul number
- Time and begin position of gear deployment
- Date, time, and end position of gear retrieval
- Average sea depth and average gear depth
- Target species code
- Hail weight (lb or mt)

Discard/disposition information

- Whether deliveries are unsorted cod ends or presorted at sea
- If presorted at sea, enter discard/disposition species information
 - Whether records in pounds or metric tons
 - Daily total, balance forward, and cumulative total since last delivery
 - Species and product codes

Delivery information

- Delivery date
- ADF&G fish ticket number
- Recipient's name and ADF&G processor code

The number of respondents of catcher vessels, 60 ft or greater LOA, using trawl gear is changed from 355 to 159 to reflect 2008 permit counts.

Catcher vessel trawl gear DFL, Respondent	
Estimated number of respondents	159
Total annual responses (34 x 159) Average 34 fishing days/catcher vessel/year	5,406
Total Burden Hours (1621.8) Time per response (18 min = .30 hr)	1,622 hr
77Total personnel cost Cost to maintain DFL (\$25 x 1622 hr)	\$40,550
Total miscellaneous cost Cost to submit DFL logsheets by mail (\$2.50 x 4 qtr x 159)	\$1,590

Catcher Vessel trawl gear DFL, Federal Government	
Total annual responses	5,406
Total Burden Hours (111.3)	111 hr
Review, data entry, and filing quarterly (3 min = .05 hr)	
Handling all 4 quarters (159 x 4 x .05 = 31.8)	
Prepare and mail one DFL (30 min = .5 hr)	
Mailing all DFLs (159 x .5 = 79.50)	
Total Personnel cost (2782.5)	\$2,783
Handling (25 x 31.8 = 795)	
Mailing (25 x 79.5 = 1987.50)	
Total Miscellaneous Cost	\$2,703
(\$12 x 159 for printing of DFLs = \$1908)	
(\$5 x 159 for postage to mail DFLs = \$795)	

b. Catcher vessel, longline or pot gear DFL

The operator of a catcher vessel 60 ft or greater LOA, using longline or pot gear, and required to have a Federal fishery permit must maintain a DFL for longline or pot gear.

Catcher vessel, longline or pot gear DFL

Identification

- Page number
- Name and ADF&G vessel registration number of vessel
- Federal fisheries permit number or Federal crab vessel permit number of vessel
- Name and signature of operator
- If inactive, enter start date, end date, and reason for inactivity
- Federal reporting area of catch
- Number of observers onboard
- Name and cruise number of observer(s)
- Crew size
- Indicate type of harvest gear.
- If hook and line
 - Whether fixed hook (conventional or tub), autoline, or snap gear
 - Length of skate (ft)
 - Hook size, spacing (ft), and number of hooks per skate
 - Bird avoidance gear code
- Operator IFQ permit number
- Crew IFQ permit number(s)
- CDQ group number
- Halibut CDQ permit number
- If harvest in a special Management program, mark box and enter identification number

Catch-by-set information

- Set number
- Date and time gear set
- Date and time of gear hauled
- Location of set
 - Buoy or bag number (optional)
 - Begin and end position in latitude and longitude (to the nearest minute)
- Begin and end depth (fathoms)
- Enter gear ID from top of page
- Number of skates or pots set
- Number of skates or pots lost (if applicable)
- Target species code
- Weight of IFQ or CDQ halibut (pounds)
- Weight of IFQ sablefish in round weight, western cut or eastern cut
- Number of IFQ sablefish (optional)

Weight of CR crab in pounds and number of CR crab (if fishing in CR Program)
 Hail weight of catch (circle lb or mt)

Discard/disposition information

Date of discard/disposition
 Whether records in pounds or metric tons
 Daily total, balance forward, and cumulative total since last delivery
 Species and product codes

Delivery information

Date of delivery
 ADF&G fish ticket number
 Recipient's or IFQ registered buyer name
 Unloading port

The number of respondents of catcher vessels, 60 ft or greater LOA, using longline or pot gear is changed from 360 to 252 to reflect 2008 permit counts.

Catcher vessel longline or pot gear DFL, Respondent	
Total number of respondents	252
Total annual responses (34 x 252) Average 34 fishing days/catcher vessel/year	8,568
Total Burden Hours (4026.96) Time per response (28 min = .47 hr)	4,027 hr
Total personnel cost Cost to maintain DFL (\$25 x 4027 hr)	\$100,675
Total miscellaneous cost Cost to mail DFL logsheets (\$2.50 x 4 qtr x 252)	\$2,520

Catcher Vessel longline or pot gear DFL, Federal Government	
Total annual responses	8,568
Total Burden Hours (176.40) Review, data entry, and filing quarterly (3 min = .05 hr) Handling all 4 quarters (252 x 4 x .05 = 50.4) Prepare and mail one DFL (30 min = .5 hr) Mailing all DFLs (252 x .5 = 126)	176 hr
Total Personnel cost Handling (25 x 50.4 = 1260) Mailing (25 x 126 = 3150)	\$4,410
Total Miscellaneous Cost (\$12 x 252 for printing of DFLs = \$3024) (\$5 x 252 for postage to mail DFLs = \$1260)	\$4,284

c. Catcher/processor trawl gear DCPL

The operator of a catcher/processor using trawl gear and required to have a Federal fishery permit must daily maintain onboard a catcher/processor DCPL for trawl gear.

Certain catcher/processors must start a new logsheet in the DCPL while operating in the BSAI when they enter or leave a Steller sea lion (SSL) protection area that is closed to direct fishing for Atka mackerel in the Aleutian Islands, or Pacific cod in the BSAI. A new logsheet is necessary because the harvest data must be separated by location landed, whether inside or outside a SSL protection area. Information produced will provide additional data on how catch of some species change between offloads. This data will eventually be entered into eLandings when approvals of the PRA collections are all in place.

Information from this activity will aid OLE in monitoring maximum retainable amount (MRA) compliance in SSL protection areas. The officers of the U.S. Coast Guard and OLE may board a vessel anytime to inspect the DCPL, including audit of MRA accounting compliance. MRAs are the primary tool used by NMFS to regulate the incidental catch of species when directed fishing for that species is closed (for MRA percentages, see Tables 10 and 11 in 50 CFR part 679). The vessel operators must carefully track the points of entry and exit from SSL protection areas to conform to the instantaneous accounting requirement inside and outside of the SSL protection areas. Without this feature, and as currently exists, a catcher/processor could move in and out of a SSL protection area to accumulate the necessary basis species, thus evading the requirement to protect species inside the SSL protection areas.

Catcher/processor trawl gear DCPL

Identification

- Page number
- Date
- Vessel name and ADF&G processor code
- Federal fisheries permit number
- Name and signature of operator
- If inactive, enter start date, end date, and reason not active
- Gear type
- Federal reporting area and whether harvest occurred in COBLZ or RKCSA
- Number of observers onboard
- Name and cruise number of each observer aboard
- Crew size
- If in a separate management program, mark appropriate box and enter identification number

Catch-by-haul information

- Haul number
- Time and begin position of gear deployment
- Date, time, and end position of gear retrieval
- Average sea depth and average gear depth
- Target species code
- Hail weight of catch (lb or mt)
- Species code and estimated round catch weight of Improved Retention/Improved Utilization (IR/IU) species

Discard/disposition species information

- Whether records in pounds or metric tons
- Daily total, balance forward, and weekly cumulative total by species and product codes

Production information

- Whether records in pounds or metric tons
- Daily total, balance forward; and weekly cumulative total by species and product codes

The number of respondents of catcher/processors using trawl gear is changed from 32 to 52 to reflect 2008 permit counts.

Catcher/processor trawl gear DCPL, Respondent	
Total number of respondents	52
Total annual responses (52 x 200)	10,400
Average 200 fishing or processing days/processor/year	
Total Burden Hours	5,200
Time per response (30 min = .50 hr)	
Total personnel cost	130,000
Cost to maintain DCPL (\$25 x 5200)	
Total miscellaneous cost	520
Cost to submit DCPL logsheets by mail (\$2.50 x 4 qtr x 52)	

Catcher/processor trawl gear DCPL, Federal Government	
Total annual responses	10,400
Total Burden Hours (52 + 10.4)	62 hr
Review, data entry, and filing quarterly (3 min = .05 hr)	
Handle all responses (52 x 4 x .05 = 10.4)	
Prepare and mail one DCPL (30 min = .5 hr)	
Mail all DCPLs twice/year (52 x .5 x 2/yr = 52)	
Total Personnel cost	
(\$25 x 10.4 hr for receipt and data handling = \$260)	2,860
(\$25 x 52 x 2/yr for mailing = \$2600)	
Total Miscellaneous Cost	
(\$12 x 52 x 2/yr for printing of DCPLs = \$1248)	1,768
(\$5 x 52 x 2/yr for postage to mail DCPLs = \$520)	

d. Catcher/processor longline and pot gear DCPL

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. 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. The operator of a catcher/processor using pot gear to harvest CR crab from the BSAI, must maintain a longline and pot gear DCPL.

Catcher/processor, longline, or pot gear DCPL

Identification

Page number
Date
Name and ADF&G processor code of catcher/processor
Federal crab vessel permit number or Federal fisheries permit number
Operator name and signature
If inactive, mark box and enter start date, end date, and reason not active
Federal reporting area of catch
Number of observers onboard
Name and cruise number of each observer aboard
Crew size
Operator IFQ permit number
Crew IFQ permit number(s)
CDQ group number
Halibut CDQ permit number
If in a separate management program, mark appropriate box and enter identifying number
Gear type

Catch by set

Set number
Date and time gear set
Date and time gear hauled
Location of set
Buoy or bag number (optional)
Begin position of set; end position of haul
Begin and end depth
If gear type is hook and line
Whether fixed hook (conventional or tub), autoline, or snap gear
Length of skate (ft)
Hook size, spacing (ft), and number of hooks per skate
Bird avoidance gear code
Gear ID (transfer alpha letter from gear type box)
Number of skates or pots set

Number of skates or pots lost (if applicable)
 Species code and estimated round catch weight of IR/IU species
 Target species code
 Weight of CDQ or IFQ halibut (pounds)
 Number and weight of IFQ sablefish in round weight, western cut, or eastern cut
 Number and weight of CR crab
 Hail weight of catch

Production information

Whether records in pounds or numbers
 Daily total, balance forward, and weekly cumulative total of products by species and product codes

Discard/disposition information

Date of discard
 Whether records in pounds or numbers
 Daily total, balance forward and weekly cumulative total
 Species and product codes

The number of respondents of catcher/processors using longline or pot gear is changed from 78 to 118 to reflect 2008 permit counts.

Catcher/processor longline and pot gear DCPL, Respondent	
Total number of respondents	118
Total annual responses (200 x 118) Average 200 fishing or processing days/processor/year	23,600
Total Burden Hours for all responses Time per response (41 min = .68 hr)	16,048 hr
Total personnel cost Cost to maintain DCPL (\$25 x 16048)	401,200
Total miscellaneous cost Cost to submit DCPL logsheets by mail (\$2.50 x 4 qtr x 118)	1,180

Catcher/processor longline and pot gear DCPL, Federal Government	
Total annual responses	23,600
Total Burden Hours (106.2) Review, data entry, and filing quarterly (6 min = .1 hr) Handling all responses (118 x 4 x .1 = 47.2) Prepare and mail one DCPL (30 min = .5 hr) Mailing all DCPLs (118 x .5 = 59)	106 hr
Total Personnel cost	2,650
Total Miscellaneous Cost (\$12 x 118 for printing of DCPLs = \$1416) (\$5 x 118 for postage to mail DCPLs = \$590)	2,006

e. Mothership DCPL

The operator of a mothership required to have a Federal fisheries permit or that receives groundfish from vessels issued a Federal fisheries permit must maintain a mothership DCPL.

Mothership DCPL

Identification

Page number
 Date
 Mothership name and ADF&G processor code
 Name and signature of operator
 Federal fisheries permit number
 If inactive, enter start and end dates and reason for inactivity
 Crew size
 Gear type of harvester

Federal reporting area of catch
 If harvest with trawl gear, enter whether in COBLZ or RKCSA
 Number of observers onboard
 Name and cruise number of each observer aboard
 If in a separate management program, enter identification number

Delivery information

Whether records are in pounds or metric tons
 Whether catcher vessel or buying station delivery
 Whether received discard report
 Catcher vessel or buying station name and ADF&G vessel registration number
 Receipt time
 Receipt position in latitude and longitude
 Total hail weight of catch
 Species code and round catch weight of IR/IU species
 Fish ticket number issued to catcher vessel

Discard/disposition information

Whether records in pounds or metric tons
 Daily total, balance forward, and weekly cumulative total
 Species and product codes

Production information

Whether records in pounds or metric tons
 Daily total, balance forward, and weekly cumulative total of products
 Species and product codes

The number of motherships is changed from 37 to 34 to reflect 2008 permit counts.

Mothership DCPL, Respondent	
Estimated number of respondents	34
Total annual responses (34 x 200)	6,800
Average 200 receiving or processing days/mothership/year	
Total Burden Hours for all responses (6800 x .52)	3,536
Average recording time/mothership (31 min = .52 hr)	
Total personnel cost	88,400
Cost for maintenance of DCPL (\$25 x 3536)	
Total miscellaneous cost	340
Cost to submit DCPL logsheets by mail (\$2.50 x 4 qtr x 34)	

Mothership DCPL, Federal Government	
Total annual responses	6,800
Total Burden Hours (47.6)	48
Time requirement for review, data entry, and filing of each quarterly submittal (6 min = .1 hr)	
Time requirement for handling all responses (34 x 4 x .1=13.6)	
Time requirement to prepare and mail one DCPL (30 min = .5 hr)	
Time requirement for mailing all DCPLs (34 x .5 x 2=34)	
Total Personnel cost (\$25 x 48)	1,200
Total Miscellaneous Cost	
(\$12 x 34 x 2/yr for printing of DCPLs = \$816)	
(\$5 x 34 x 2/yr for postage to mail DCPLs = \$340)	
	1,156

f. Shoreside processor DCPL

The manager of a shoreside processor or stationary floating processor (SFP) required to have a Federal processor permit or that receives groundfish from vessels issued a Federal fisheries permit must maintain a shoreside processor DCPL, except those processors required to use

electronic version of the DCPL.

Shoreside processor DCPL

PART I

Identification

- Page number
- Week-ending date
- Processor name
- Name and signature of manager
- Alaska Department of Fish and Game (ADF&G) processor code
- Federal processor permit number
- If inactive, enter start and end dates and reason for inactivity
- Number of observers present and dates present
- Name and cruise number of each observer onsite
- Federal reporting area of harvest
- If harvested with trawl gear whether in COBLZ or RKCSA
- Gear type of harvester
- If in a separate management program, enter identification number

Delivery information

- Date of delivery
- Whether catcher vessel or buying station delivery
- Whether received discard report
- Catcher vessel or buying station name and ADF&G vessel registration number
- Receipt time when delivery completed
- Estimated groundfish delivery weight (hail weight)
- ADF&G fish ticket number issued to catcher vessel
 - 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.
 - 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.

Landings information

- Whether records in pounds or metric tons
- Daily total and weekly cumulative total of landings by species and product codes

Discard/disposition information

- Whether records in pounds or metric tons
- Daily total and weekly cumulative total by species and product codes

PART II--PRODUCTION INFORMATION

- Processor name and ADF&G processor code
- Federal processor permit number
- Name and signature of manager
- Whether records in pounds or metric tons
- Week-ending date
- Management area
- Daily total and weekly cumulative total of products by species and product codes

Shoreside processor DCPL, Respondent	
Total number of respondents	13
Total annual responses	2,600
Average 200 receiving and processing days/processor/year	
Total Burden Hours for all responses (2600 x .52)	1,352
Average recording time/processor (31 min = .52 hr)	
Total personnel cost	33,800
Cost for maintenance of DCPL (\$25 x 1352)	
Total miscellaneous cost	130
Cost to mail yellow logsheets (\$2.50 x 4 qtr x 13)	

Shoreside processor DCPL, Federal Government	
Total annual responses	2,600
Total Burden Hours (526.76)	527
Time requirement for review, data entry, and filing of each quarterly submittal (6 min = .1 hr)	
Time requirement for handling all responses (2 x 2600 x .1=520)	
Time requirement to prepare and mail one DCPL (31 min = .52 hr)	
Time requirement for mailing all DCPLs (13 x .52 =6.76)	
Total Personnel cost (\$25 x 527 hr)	13,175
Total Miscellaneous Cost	221
(\$12 x 13 for printing of DCPL = \$156)	
(\$5 x 13 for postage to mail DCPL = \$65)	

g. Check-in/check-out report.

The operator of a catcher/processor or mothership and the manager of a shoreside processor or SFP are required to submit a check-in report (BEGIN message) prior to participation, when active, in a groundfish fishery and to submit a check-out report (CEASE message) upon completion of that participation. When inactive, these processors are not required to submit a check-in/check-out report.

Current regulations at 50 CFR part 679.5 require operators of motherships and trawl, longline, and pot gear catcher/processors to record the occurrence of active and inactive periods in the DFLs and DCPLs. The definitions for “active” status for catcher/processors, motherships, shoreside processors, and SFPs are revised by removing “checked-in” as a reason for being active. “Active” status currently means “when checked-in or processing” for all of those processors. “Active” status is changed for motherships, shoreside processors, and SFPs to mean “when receiving or processing groundfish.” The definition for “active” for a catcher/processor using longline or pot gear is revised to mean “when all or part of the longline or pot gear is in the water or when processing.” For a catcher/processor using trawl gear, the definition for "active" status is revised to mean “when all or part of the trawl net is in the water or when processing.” In addition, an exception to the requirement for submittal of a check-in/check-out report is added when a catcher/processor using trawl gear has onboard an operating vessel monitoring system transmitter that meets the requirements of § 679.28(f).

A check-in report is used to determine participation in each fishery, to monitor fishing effort by species in a given reporting area, and to locate vessels for fisheries enforcement purposes. A check-out report is submitted by a processor upon completion of active status and triggers the fact that no more weekly production reports will be issued from this processor. Reasons to submit a check-in or check-out report are provided in the following table.

Submittal Requirements for a Check-in Report and a Check-out Report			
For ...	If you are a ...	Submit a BEGIN message	Submit a CEASE message
(i) Each reporting area, except area 300, 400, 550, or 690	(A) C/P using trawl gear	Before gear deployment.	Within 24 hours after departing a reporting area but prior to checking-in to another reporting area.
	(B) C/P using longline or pot gear	Before gear deployment. May be checked in to more than one area simultaneously.	Upon completion of gear retrieval and within 24 hours after departing each reporting area.

Submittal Requirements for a Check-in Report and a Check-out Report			
For ...	If you are a ...	Submit a BEGIN message	Submit a CEASE message
	(C) MS	Before receiving groundfish, must check-in to reporting area(s) where groundfish were harvested. May be checked in to more than one area simultaneously.	Within 24 hours after receipt of fish is complete from that reporting area. If receipt of groundfish from a reporting area is expected to stop for at least one month during the fishing year and then start up again, may submit check-out report for that reporting area.
(ii) <i>C. Opilio</i> Bycatch Limitation Zone (COBLZ) or Red King Crab Savings Area of the BSAI (RKCSA)	(A) 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.	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.
	(B) MS	Before receiving groundfish harvested with trawl gear that were harvested in the COBLZ or RKCSA, submit one check-in for the COBLZ or RKCSA and another check-in for the area outside the COBLZ or RKCSA.	Upon completion of groundfish receipt, submit a separate check-out for the COBLZ or RKCSA and another check-out for the area outside the COBLZ or RKCSA.
(iii) Gear Type	(A) 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.	Upon completion of gear retrieval for groundfish, submit a separate check-out for each gear type for which a check-in was submitted.
	(B) MS	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.	Upon completion of receipt of groundfish, submit a separate check-out for each gear type for which a check-in was submitted.
(iv) CDQ	(A) MS	Prior to receiving groundfish CDQ, if receiving groundfish under more than one CDQ number, use a separate check-in for each CDQ number.	Within 24 hours after receipt of groundfish CDQ has ceased for each CDQ number.
	(B) C/P	Prior to fishing, submit a separate check-in for each CDQ number.	Within 24 hours after groundfish CDQ fishing for each CDQ number has ceased.
(v) Exempted or Research Fishery	(A) C/P	Prior to fishing, submit a separate check-in for each type.	Upon completion of receipt of groundfish submit a separate check-out for each type for which a check-in was submitted.
	(B) MS	Prior to receiving groundfish, submit a separate check-in for each type.	Upon completion of receipt of groundfish submit a separate check-out for each type for which a check-in was submitted.
(vi) Aleutian Islands Pollock (AIP)	(A) C/P	Prior to AIP fishing.	Within 24 hours after completion of gear retrieval for AIP.
	(B) MS	Before receiving AIP.	Within 24 hours after receipt of AIP has ceased.

Submittal Requirements for a Check-in Report and a Check-out Report			
For ...	If you are a ...	Submit a BEGIN message	Submit a CEASE message
(vii) 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.	Upon completion of simultaneous activity as both catcher/processor and mothership, a separate check-out, one for catcher/processor and one for mothership.
(viii) Change of fishing year	(A) C/P, MS	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.	If a check-out report was not previously submitted during a fishing year for a reporting area, submit a check-out report for each reporting area on December 31.
	(B) 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 to start the year on January 1.	If a check-out report was not previously submitted during a fishing year, submit a check-out report on December 31.
(ix) Interruption of production	SS, SFP, MS	n/a	If receipt of groundfish is expected to stop for at least one month during the fishing year and then start up again, the manager or operator may choose to submit a check-out report.

NOTE: MS is mothership. SS is shoreside processor. SFP is stationary floating processor. C/P is catcher/processor

Mothership or Catcher/processor check-in/check-out report

Whether an original or revised report
Vessel name and ADF&G processor code
Federal fisheries permit number
If in a separate management program, enter identification number
Processor type
Gear type of harvester
Representative name, telephone number and FAX number
COMSAT number (if available)

BEGIN message

Date and time of check-in
Federal reporting area, latitude, and longitude of vessel position
If a catcher/processor, where gear is deployed
If a mothership, the position where harvest received
If caught with trawl gear, whether harvest was in COBLZ or RKCSA
Primary and secondary target species codes

CEASE message

Date and time of check-out
Federal reporting area, latitude, and longitude of vessel position
If a catcher/processor, where departed the reporting area
If a mothership, the position where the last harvest was received
If caught with trawl gear, whether harvest was in COBLZ or RKCSA

The number of mothership or catcher/processor check-in/check-out respondents is changed from 147 to 204 to reflect 2008 permit counts.

Mothership or Catcher/processor Check-in/out Report, Respondent	
Total number of respondents	204
34 motherships	
52 C/P trawl	
118 C/P longline	
Total annual responses (204 x 30)	6,120
No. responses per respondent = 30	
Total Burden Hours	734
Time per response (7 min = .12)	
Total personnel cost (\$25 x 734)	18,350
Total miscellaneous cost	10,926
Cost to copy form (.05 x 6120=306)	
Submit by fax (\$6 x 30 x 30 = 5400)	
Submit by e-mail (\$1 x 174 x 30 = 5220)	

Mothership or Catcher/processor Check-in/out Report, Federal Government	
Total annual responses	6,120
Total Burden Hours (1040.4)	1,040
Time per response (10 min = .17)	
Total personnel cost (\$25 x 1040)	26,000
Total miscellaneous cost	0

Shoreside processor check-in/check-out report

Whether an original or revised report

Processor name and ADF&G processor code

Federal processor permit number

If in special management program, enter identification number

Representative name, telephone number, and FAX number

If check-in report

Date when shoreside processor will begin to receive groundfish

Whether report is the first of a fishing year or a restart after plant check-out report

If check-out report

Date when shoreside processor will cease to receive or process groundfish.

If SFP, give latitude and longitude of position where receiving groundfish

Fish or fish product held at plant

Species codes, product codes, and product weight (lb or mt)

The combined number of shoreside processors and SFPs is changed from 58 to 127 to reflect 2008 permit counts.

Shoreside processor Check-in/out Report, Respondent	
Total number of respondents	127
Shoreside processors = 112	
Stationary floating processors = 15	
Total annual responses (127 x 30)	3,810
No. responses per respondent = 30	
Total Burden Hours (304.8)	495
Time per response (8 min = .13)	
Total personnel cost (\$25 x 305)	12,383
Total miscellaneous cost (7866.35)	7,866
Cost to copy form (.05 x 127 =6.35)	
Cost to submit by fax (\$6 x 27 x 30 = 4860)	
Cost to submit by e-mail (\$1 x 100 x 30 = 3000)	

Shoreside processor Check-in/out Report, Federal Government	
Total annual responses	3,810
Total Burden Hours (647.7) Time per response (10 min = .17)	648
Total personnel cost (\$25 x 648)	16,200
Total miscellaneous cost	0

h. Weekly Production Report (WPR)

The operator of a mothership or catcher/processor and the manager of a shoreside processor or SFP (except for those shoreside processors and SFPs using the electronic DCPL), are required to submit to NMFS a WPR on a weekly basis. A WPR summarizes one weekly reporting period of fishing in the GOA or BSAI that was recorded in the DCPL. NMFS uses the WPR information to monitor species quotas and prohibited species caps and to project fishery closure dates.

Mothership or catcher/processor WPR

- Whether an original or revised report
- Week-ending date
- Processor name and ADF&G processor code
- Federal fisheries permit number
- If in special management program, enter identification number
- Gear type of harvester
- Processor type
- Representative name, e-mail address, telephone number, FAX number, and date signed
- Federal reporting area where groundfish were harvested
- If caught with trawl gear, whether harvest was in COBLZ or RKCSA
- Product weight of fish product, described by species and product codes and product designations
- Weight or prohibited species catch (PSC) number of discards/dispositions, described by species and product codes
- If a mothership, ADF&G fish ticket numbers issued to catcher vessels

Mothership or Catcher/processor WPR, Respondent	
Total number of respondents (78 C/P longline/pot + 34 mothership + 32 C/P trawl)	144
Total annual responses No. responses per respondent = 36	5,184
Total Burden Hours (1451.52) Time per response (17 min = .28)	1,452
Total personnel cost (\$25 x 1452)	36,300
Total miscellaneous cost Cost to fax report (\$6 x 24 x 36 = 5184) Cost to e-mail report (\$1 x 120 x 36 = 4320)	9,504

Mothership or Catcher/processor WPR, Federal Government	
Total annual responses	5,184
Total Burden Hours for FAX responses Hours per response (30 min = .5)	2,592
Total personnel cost (\$25 x 2592)	64,800
Total miscellaneous cost	0

Shoreside processor WPR

- Whether an original or revised report
- Week-ending date
- Processor name and ADF&G processor code
- Federal processor permit number
- If in special management program, enter identification number

Representative name, e-mail address, telephone number, FAX number, and date signed

Part I

Gear type of harvester

Landings information

Reporting area where groundfish were harvested

If caught with trawl gear, whether harvest was in COBLZ or RKCSA

Weight of landings, described by species and product codes

Discard/disposition information

Reporting area where discard occurred

If caught with trawl gear, whether harvest was in COBLZ or RKCSA

Weight or PSC number of discards/disposition, described by species and product codes

Part II -- product information

Management area

Weight of fish product, described by species and product codes and product designations

ADF&G fish ticket numbers issued to catcher vessels.

Shoreside processor WPR, Respondent	
Total number of respondents (58 – 45 processors using electronic DCPL)	13
Total annual responses (13 x 36) No. responses per respondent = 36	468
Total Burden Hours (468 x .28) Time per response (17 min = .28)	131
Total personnel cost (\$25 x 131)	3,275
Total miscellaneous cost Cost to submit report	1,008
By FAX (\$6 x 3 x 36 = 648)	
By e-mail (\$1 x 10 x 36 = 360)	
Shoreside processor WPR, Federal Government	
Total annual responses	468
Total Burden Hours for FAX responses (3 x 36 x .5) Time per response (30 min = .5)	54
Total personnel cost (\$25 x 54)	1,350
Total miscellaneous cost	0

i. Vessel Activity Report (VAR).

A VAR is required only from a vessel if the vessel is 60 ft or greater LOA, has a Federal fisheries permit, crosses the seaward boundary of the EEZ or the boundary between Alaska and British Columbia, and has fish or fish product onboard the vessel.

When boarding a vessel, the OLE personnel or USCG boarding officers use VAR information to audit and separate product inventory. If a vessel does not file a VAR and has fish or fish product onboard when it enters the EEZ off Alaska, NMFS assumes the fish were harvested in U.S. waters. Without this requirement to submit a form prior to crossing, vessel operators may be more inclined to illegally fish in Federal waters and claim retained product was harvested from foreign or international waters.

Vessel Activity Report (VAR)

Whether an original or revised report

Vessel name and Federal fisheries permit number or Registered Crab Receiver permit number

Vessel type

Representative name, telephone number, FAX number, and COMSAT number (if available)

- If a “return report”
 - Intended Alaska port of landing
 - Date and time (Greenwich Mean Time) vessel will cross boundary
 - Latitude and longitude where vessel will cross
- If a “depart report”
 - Intended U.S. port of landing or country other than the United States
 - Date and time (Greenwich Mean Time) vessel will cross boundary
 - Latitude and longitude where vessel will cross
- Russian Zone
 - Whether vessel is returning from or departing to fish in the Russian zone
- Fish or fish product (including non-groundfish) onboard the vessel when crossing
 - Harvest zone code where groundfish were harvested
 - Species code
 - Product code
 - Total product weight of fish product onboard in pounds or to the nearest 0.001 mt

Vessel Activity Report, Respondent	
Total number of respondents	715
Total annual responses (715 x 2) No. responses per respondent = 2	1,430
Total Burden Hours (1430 x .23) Time per response (14 min = .23)	329
Total personnel cost (\$25 x 329)	8,225
Total miscellaneous cost Cost to fax report (\$6 x 1430)	8,580

Vessel Activity Report, Federal Government	
Total annual responses	1,430
Total Burden Hours for FAX responses (1430 x .5) Time per response (30 min = .5)	715
Total personnel cost (\$25 x 715)	17,875
Total miscellaneous cost	0

j. Buying station report (BSR)

A BSR is required whenever a shoreside processor, SFP, or mothership uses a tender vessel or shoreside buying station to take deliveries of groundfish on its behalf from catcher vessels. The buying station operator or manager receives the catch, records the catch information on a BSR, often issues ADF&G fish tickets, and sends or takes the fish, along with a copy of the BSR, to the associated processor. NMFS does not receive a copy of the BSR; however, a BSR must be available for inspection by authorized personnel.

Buying station report (BSR)

- Original or revised BSR
- Name of Buying Station
- Operator or Manager Name and Signature
- ADF&G No. if buying station is a vessel
- License No. and state of registration, if buying station is a vehicle
- If in special management program, enter identification number
- Date and time groundfish receipt completed
- Gear type of harvester
- Federal Reporting Area of catch
- If caught with trawl gear, indicate whether catch was harvested in the COBLZ or RKCSA.

Associated Processor

- If a mothership, enter the name, ADF&G processor code, and Federal fisheries permit number

If a shoreside processor or SFP, enter the name, AD&FG processor code, and Federal processor permit number

Catcher Vessel Delivery Information

Name and ADF&G vessel registration number

If did not receive Discard Report from catcher vessel, give code for reason not received

ADF&G fish ticket number

If using scales, optional:

Species code

Species weight (mt or lb)

Total Groundfish Delivery Weight

Discards and Disposition

Total discard amounts in whole fish weight for each groundfish species or species group and

PSC Pacific herring

Total PSC number of Pacific salmon, steelhead trout, Pacific halibut, king crab, and Tanner crab.

Buying Station Report, Respondent	
Total number of respondents	268
Total annual responses (268 x 10) No. responses per respondent = 10	2,680
Total Burden Hours (2680 x .38) Time per response (23 min = .38)	1,018
Total personnel cost (\$25 x 1018)	25,450
Total miscellaneous cost Cost to copy form (.05 x 2680)	134

Buying Station Report, Federal Government	
Total annual responses	0
Total burden hours	0
Total personnel cost	0
Total miscellaneous cost	0

k. Product Transfer Report (PTR).

The PTR information is used by OLE to verify the accuracy of reported shipments and to monitor movement of product in and out of the processor on a timely basis through physical inspections to verify proper accounting for fish landings.

- ◆ 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.
- ◆ IFQ Pacific halibut, IFQ sablefish, and CDQ Pacific halibut. A Registered Buyer must submit a separate PTR for each shipment of halibut or sablefish, other than those conducting dockside sales, for which the Registered Buyer submitted an IFQ landing report or was required to submit an IFQ landing report
- ◆ 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.

Exceptions to submittal requirements

- ◆ 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.
- ◆ Retail sales
 - 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.
 - 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.
- ◆ 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 the entire product are available for inspection by an authorized officer.

Product Transfer Report (PTR)

Whether an original or revised PTR

If revised PTR, confirmation number

Shipper information

If shipping non-IFQ groundfish, processor's name, Federal fisheries or Federal processor permit number.

If shipping IFQ halibut, CDQ halibut or IFQ sablefish, Registered Buyer name and permit number.

If shipping CR crab, RCR name and permit number

If shipping non-IFQ groundfish, IFQ halibut, CDQ halibut or IFQ sablefish, and CR crab on the same PTR

Processor name and Federal fisheries permit number or Federal processor permit number

Registered Buyer name and permit number

RCR name and permit number

Representative name, telephone number and fax number

Transfer information

Receiver name and Federal fisheries or Federal processor permit number.

Start date, start time and finish date, finish time of product transfer

Position of product transfer (mothership or catcher/processor only)

Port or location of transfer

Mode of transportation and intended route

Products shipping

Species and product code

Species weight (only if recording 2 or more species with 2 or more product types contained within the same production unit)

Number of units

Unit weight

Total weight

Offload information (mothership or catcher/processor only)

Whether the transfer is a total or partial offload

If a partial offload, for the products remaining on board after the transfer, enter for each product

Species code

Product code

Total product weight to the nearest kilogram or pound (indicate which)

The number of PTR respondents for IFQ Registered Buyers is changed from 800 to 475 to reflect 2008 permit counts.

PTR Respondent (Registered Buyers for IFQ actions)	
Total number of respondents	475
Total annual responses (5937.5) No. responses per respondent = 12.5	5,938
Total Burden Hours (1959.34) Time per response (20 min = .33)	1,960
Total personnel cost (\$25 x 1960)	49,000
Total miscellaneous cost (26234.9) Cost to copy form (.05 x 5938 = 296.9) Cost to send by fax (\$6 x 4000=24000) Cost to send by email (\$1 x 1938 = 1938)	26,235

The number of PTR respondents for non-IFQ groundfish is changed from 205 to 331 to reflect 2008 permit counts.

PTR Respondent (Operators or Managers for non-IFQ groundfish)	
Total number of respondents (34 MS + 52 C/P trw + 118 C/P lngl + 127 SS)	331
Total annual responses No. responses per respondent = 35	11,585
Total burden hours (3823.05) Time per response (20 min = .33)	3,823
Total personnel cost (\$25 x 3823)	95,575
Total miscellaneous cost Cost to copy form (.05 x 11585 = 579.25) Cost to send by fax (\$6 x 10000=60000) Cost to send by email (\$1 x 1585 = 1585)	62,164

The number of PTR respondents for CR crab Registered Crab Receivers (RCRs) is changed from 43 to 72 to reflect 2008 permit counts.

PTR Respondent (Processors and RCRs for CR crab)	
Total number of respondents	72
Total annual responses (35 x 72) No. of responses per respondent = 35	2,520
Total burden hours (831.6) Time per response (20/60 min = .33)	832
Total personnel cost (832 x \$25)	20,800
Total miscellaneous cost Cost to copy form (0.05 x 2505 = 126) Cost to submit by fax (\$6 x 2000 = 12000) Cost to submit by email (\$1 x 520 = 520)	12,646

Product Transfer Report, Federal Government	
Total annual responses (5938 + 11585 + 2520)	20,043
Total burden hours 3407.31 Hours per response (10 min = .17)	3,407
Total personnel costs (\$25 x 3407)	85,175
Total miscellaneous cost	0

I. Cumulative Mothership ADF&G Fish Tickets

The operator of a mothership must ensure that any groundfish catch received from a catcher vessel is recorded for each weekly reporting period on a minimum of one ADF&G groundfish fish tickets and that the fish ticket is submitted to ADF&G in a timely manner. The cumulative fish tickets are used to establish a fishing history for catcher vessels that deliver offshore.

Cumulative Mothership ADF&G Fish Tickets

- Mothership name and ADF&G processor code
- Enter "FLD" for port of landing or vessel to which trans-shipped
- Signature of the mothership operator
- Week-ending date mothership received the groundfish
- Species code for each species from Table 2 to Part 679, except species codes 120, 144, 168, 169, or 171
- Product code from Table 1 to Part 679
- ADF&G 6-digit statistical area where fish harvested
- Landed weight of each species to the nearest pound

Weekly Cumulative Mothership ADF&G Fish Tickets, Respondent	
Total number of respondents	37
Total annual responses	1,332
Number of responses per respondent = 36	
Total burden hours (772.56)	773 hr
Hours per response (35 min = .58 hr)	
Total personnel cost (\$25 x 772)	19,300
Total miscellaneous cost	444
Cost to mail each month (\$1 x 12 x 37)	

Weekly Cumulative Mothership ADF&G Fish Tickets, Federal Government	
Total annual responses	0
Total burden hours	0
Total personnel cost	0
Total miscellaneous cost	0

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (NOAA) standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

Shoreside processors and SFPs are afforded the option of using the electronic DCPL in place of the paper DCPL. Ninety-seven percent of these processors currently use the electronic DCPL. In 2009, a new inter-agency electronic reporting system (IERS) and its data-entry component,

eLandings (see OMB Control No.: 0648-0515), will be available on the Internet for use by shoreside processors, SFPs, catcher/processors, and motherships. Data will be entered directly into the database by participants through the Internet. In addition, when using eLandings, operators and managers will not be required to submit a WPR.

When eLandings becomes available, the shoreside processor DCPL would be removed as the primary data collection format for groundfish and IFQ fisheries. The mothership and catcher/processor DCPLs would be partially completed in conjunction with eLandings. Mothership cumulative fish tickets would be removed from this collection, because eLandings would create fish tickets as part of the procedure. The weekly production report would be removed, because eLandings also creates daily production reports as part of the normal procedure.

Catcher vessels using trawl gear are provided an option to use electronic software, available commercially, to produce and submit an electronic daily fishing logbook (DFL). Sixteen catcher vessels using trawl gear, representing five percent of the trawl catcher vessels, are currently using this method.

Some processors generate an electronic version of a check-in/check-out report and submit these reports to NMFS as an attachment to an e-mail. NMFS Sustainable Fisheries personnel enter this data into the database.

All forms and logsheets are available on the NMFS Alaska Region Home Page at <http://alaskafisheries.noaa.gov>. The forms are fillable for completion on screen, printing, and submitting to NMFS. The logsheets of the DFLs and DCPLs also may be downloaded and printed for informational purposes along with individual instructions for completion of each.

4. Describe efforts to identify duplication.

None of the information collected as part of this information collection duplicates other collections.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

This collection-of-information does not impose a significant impact on small entities.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Without this information collection, Federal management of the Alaskan groundfish fisheries would be severely hampered, resulting in adverse impacts on: (1) the long-term biological stability and economic yield of the groundfish resource; (2) the efficiency and economic viability of the domestic groundfish industry; and (3) the credibility of the fishery management process itself.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

This collection-of-information has various forms with different submittal time requirements that require recordkeeping and reporting more frequently than quarterly (see Question 2 for details).

8. Provide information on the PRA Federal Register Notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register Notice published on April 7, 2008 (73FR18780) solicited public comments on the information collection. No comments were received.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift will be provided under this program.

10. Describe any assurance of confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

The information collected is confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*); and also under NOAA Administrative Order (NAO) 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

This information collection does not involve information of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

Estimated total unique respondents: 899, down from 1,143. Estimated total responses: 98,441, up from 92,342. Estimated total burden: 43,332, up from 38,990. Estimated total personnel costs (average wage equivalent to a GS-7 employee in Alaska, including Cost-of-Living Adjustment (COLA), at \$25/hour): \$1,083,300, up from \$974,840.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

Total estimated miscellaneous costs (for copying, postage, faxing, emailing): \$145,787, down

from \$187,458. Note: in ROCIS, the decrease is shown as \$41,213, rather than \$41,761, as the system had rounded down the previous cost from \$187,458 to \$187,000.

14. Provide estimates of annualized cost to the Federal government.

Total estimated burden: 8,928, up from 8,578 hours. Total estimated personnel cost: \$224,528, up from \$217,025. Total estimated miscellaneous cost (for copying, postage, faxing, emailing): \$12,138, down from \$29,410.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

Adjustments are made in this collection, due in part to differences in numbers of participants, based on current permit counts. Net decrease of respondents: 294. Net increase of responses: 6,099. Net increase of burden hours: 4,342. Net decrease of costs: \$41,671 (this figure shows a net decrease – although responses increased - mainly because of increased emailing of responses, especially in the cases of the check-in/check-out reports).

Catcher vessel trawl gear daily fishing logbook (DFL)

- a decrease of 196 respondents, 159 instead of 355
- a decrease of 6,664 responses, 5,406 instead of 12,070
- a decrease of 1,955 hr burden, 1,622 instead of 3,577 hr
- a decrease of \$1,860 miscellaneous costs, \$1,590 instead of \$3,450

Catcher vessel longline or pot gear DFL

- a decrease of 108 respondents, 252 instead of 360
- a decrease of 3,672 responses, 8,568 instead of 12,240
- a decrease of 1,726 hr burden, 4,027 instead of 5,753 hr
- a decrease of \$1,080 miscellaneous costs, \$2,520 instead of \$3,600

Catcher/processor trawl gear daily cumulative fishing logbook (DCPL)

- an increase of 20 respondents, 52 instead of 32
- an increase of 4,000 responses, 10,400 instead of 6,400
- an increase of 2,000 hr burden, 5,200 instead of 3,200 hr
- an increase of \$200 miscellaneous costs, \$520 instead of \$320

Catcher/processor longline or pot gear DCPL

- an increase of 40 respondents, 118 instead of 78
- an increase of 8,000 responses, 23,600 instead of 15,600
- an increase of 5,440 hr burden, 16,048 instead of 10,608 hr
- an increase of \$400 miscellaneous costs, \$1,180 instead of \$780

Mothership DCPL

- a decrease of 3 respondents, 34 instead of 37
- a decrease of 600 responses, 6,800 instead of 7,400
- a decrease of 312 hr burden, 3,536 instead of 3,848 hr
- a decrease of \$30 miscellaneous costs, \$340 instead of \$370

Mothership and catcher/processor check-in/check-out report

an increase of 57 respondents, 204 instead of 147
an increase of 1,710 responses, 6,120 instead of 4,410
an increase of 205 hr burden, 734 instead of 529 hr
a decrease of \$10,655 miscellaneous costs, \$10,926 instead of \$21,581

Shoreside processor check-in/check-out report

an increase of 69 respondents, 127 instead of 58
an increase of 2,070 responses, 3,810 instead of 1,740
an increase of 269 hr burden, 495 instead of 226 hr
a decrease of \$624 miscellaneous costs, \$7,866 instead of \$8,490

Mothership and catcher/processor WPR

a decrease of 3 respondents, 144 instead of 147
a decrease of 108 responses, 5,184 instead of 5,292
a decrease of 30 hr burden, 1,452 instead of 1,482 hr
a decrease of \$16,128 miscellaneous costs, \$9,504 instead of \$25,632

PTR, IFQ

a decrease of 325 respondents, 475 instead of 800
a decrease of 4,062 responses, 5,938 instead of 10,000
a decrease of 1,340 hr burden, 1,960 instead of 3,300 hr
a decrease of \$34,265 miscellaneous costs, \$26,235 instead of \$60,500

PTR, Groundfish

an increase of 126 respondents, 331 instead of 205
an increase of 4,410 responses, 11,585 instead of 7,175
an increase of 1,455 hr burden, 3,823 instead of 2,368 hr
an increase of \$18,755 miscellaneous costs, \$62,164 instead of \$43,409

PTR, RCRs

an increase of 29 respondents, 72 instead of 43
an increase of 1,015 responses, 2,520 instead of 1,505
an increase of 335 hr burden, 832 instead of 497 hr
an increase of \$3,616 miscellaneous costs, \$12,646 instead of \$9,030

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information collected will not be published.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

In accordance with OMB requirements, the control number and the expiration date of OMB approval are shown on the forms and logbooks.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

No exceptions to the certification statement are requested.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

Revised: 10/28/05

WHITE - Vessel Copy: Keep in Logbook
GOLDENROD - Observer copy
BLUE - Discard Report: Submit to Processor
YELLOW - NMFS Copy: Remit

CATCHER VESSEL DFL GROUND FISH TRAWL GEAR	VESSEL NAME				Date (M - D - Y)		PAGE				
	OPERATOR NAME AND SIGNATURE				ADF&G Vessel No.						
					Federal Fisheries Permit No.						
IDENTIFI- CATION	MANAGEMENT PROGRAM <small>(Check if applicable and enter number)</small>		INACTIVE		START		END		REASON		
	CDQ <input type="checkbox"/> Exempted <input type="checkbox"/>										
	Research <input type="checkbox"/> AIP <input type="checkbox"/>										
No. _____		GEAR TYPE (circle one)		CREW SIZE		FEDERAL REPORTING AREA		TRAWL GEAR ONLY (Circle one)		OBSERVER INFORMATION	
		Non-pelagic trawl Pelagic trawl						COBLZ RKCSA			
								OBSERVER NAME AND CRUISE #		NO. OF OBSERVERS ONBOARD	
								OBSERVER NAME AND CRUISE #			

CATCH BY HAUL	HAUL NO.	TIME OF GEAR DEPLOYMENT	BEGIN POSITION OF HAUL		AVE. SEA DEPTH (Circle M or FM)	AVE. GEAR DEPTH (Circle M or FM)	DATE AND TIME OF GEAR RETRIEVAL	END POSITION OF HAUL		TARGET SPECIES CODE	TOTAL HAUL WEIGHT (lbs. or mt.)
			LATITUDE	LONGITUDE				LATITUDE	LONGITUDE		

CATCH DELIVERY INFORMATION	
	CHECK HERE IF DELIVERIES ARE UNSORTED COD ENDS
	CHECK HERE IF DELIVERIES ARE PRESORTED AT SEA. IF FISH PRESORTED, INDICATE WHOLE DISCARDS AND DISPOSITION

For groundfish and Pacific herring, circle: lbs. or nearest 0.001 mt.

For Pacific halibut, Pacific salmon, king crab, and Tanner crab, record in numbers

DELIVERY	DELIVERY DATE	RECIPIENT'S NAME
	ADF&G FISH TICKET #	ADF&G PROCESSOR CODE

DISCARD/DISPOSITION	SPECIES CODE																			
	PRODUCT CODE																			
	BALANCE FORWARD																			
	DAILY TOTAL																			
	CUMULATIVE TOTAL SINCE LAST DELIVERY																			

COMMENTS

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 18 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Instructions for
**GROUNDFISH DAILY FISHING LOGBOOK (DFL)
CATCHER VESSEL TRAWL GEAR**

REQUIREMENTS

Unless approved to use an electronic logbook, the operator of a catcher vessel with a length overall (LOA) greater than 60 feet (18.3 m), that is required to have a Federal fisheries permit (FFP) under § 679.4(b), that is using trawl gear to harvest groundfish, and that retains any groundfish from the Gulf of Alaska (GOA) or Bering Sea and Aleutian Islands Management Area (BSAI) must use the catcher vessel trawl gear DFL.

Account for each day of the fishing year.

The operator must account for each day of the fishing year, January 1 through December 31, in the DFL.

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.

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 one

DATA ENTRY TIME LIMITS

The operator of a catcher vessel using trawl gear must record in the DFL the information provided in the following table for each set within the specified time limit:

Required information	Record within this time limit	
Haul number, time and date gear set, time and date gear hauled, begin and end position, Western Alaska Community Development Quota (CDQ) group number (if applicable) FFP number, and estimated total haul weight for each haul	Within 2 hours after completion of gear retrieval	
Discard/disposition information	By noon each day to record the previous day's discard and disposition information	
All other required information	Within 2 hours after the vessel's catch is off-loaded, notwithstanding other time limits	
Submit the blue DFL to mothership, shoreside processor, stationary floating processor (SFP), or buying station receiving the catch	Within 2 hours after completion of catch delivery	
Operator sign the completed logsheets	Within 2 hours after completion of catch delivery	
Submit the goldenrod logsheet to the observer	After signature of operator and prior to departure of observer from the vessel	
Submit the yellow logsheets each quarter to: NOAA Fisheries Office for Law Enforcement P.O. Box 21767 Juneau, Alaska 99802-1767	<p style="text-align: center;">Quarter</p> 1 (Jan 1 - Mar 31) 2 (Apr 1 - Jun 30) 3 (Jul 1 - Sep 30) 4 (Oct 1 - Dec 31)	<p style="text-align: center;">Submit by</p> May 1 August 1 November 1 February 1 of the following year.

ACTIVE AND INACTIVE TIME PERIODS IN THE DFL

The operator must indicate whether the vessel was active or inactive during the time period. A catcher vessel using trawl gear is active when all or part of the trawl net is in the water. An inactive period is defined as a time period other than active.

Record January 1 on page 1.

The operator must record the first day of the fishing year, January 1, on page one of the DFL regardless of whether the vessel was active or inactive. The operator must record time periods consecutively.

Required information for inactive periods. If inactive, the operator must record the following information on one logsheet in the DFL:

Catcher vessel name, ADF&G vessel registration number, FFP number, operator printed name, operator signature, and page number.

Mark "inactive."

Record the date (mm/dd) of the first day when inactive under "Start date."

Write brief explanation why inactive, e.g., bad weather or equipment failure. If inactive due to surrender of a FFP, write "surrender of permit" as reason for inactivity.

Record the date (mm/dd) of the last day when inactive under "End date."

Inactive two or more quarters.

If the inactive time period extends across two or more successive quarters, the operator must complete a logsheet for each inactive quarter: 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.

REQUIRED INFORMATION, IF ACTIVE

If the catcher vessel is active, the operator must record in the DFL, for one or more days on each logsheet, the information listed below.

Use a separate logsheet	For each day of an active period
	For each reporting area in which harvest occurred
	For each separate management program (see below)
	If fishing under more than one management program of the same type, use a separate logsheet for each
	If fishing in COBLZ or RKCSA, use two separate logsheets: the first to record the information from the reporting area that includes the COBLZ or RKCSA and the second to record the information from the reporting area that does not include the COBLZ or RKCSA.

IDENTIFICATION INFORMATION

Date

Enter date of each day (mm/dd/yy). This date is also the date of gear deployment.

Page Numbering.

Number the pages in each logbook consecutively, beginning with page 1 and continuing throughout the logbook for the remainder of the fishing year.

Printed Name and Signature of Operator

Enter printed name and signature of operator. This signature verifies acceptance of the responsibility for accuracy and completeness of data on the logsheet. The operator's signature is due by noon of the day following the week-ending date of the weekly reporting period.

Vessel Identification.

Name of catcher vessel as displayed in official documentation; FFP number of the vessel; Alaska Department of Fish and Game (ADF&G) vessel registration number of the catcher vessel.

Federal Reporting Area.

Enter the reporting area code where gear retrieval was completed, regardless of where the majority of the set took place. Use a separate logsheet for each reporting area.

C. *Opilio* Crab Bycatch Limitation Zone (COBLZ) or Red King Crab Savings Area (RKCSA).

If gear retrieval occurred in the COBLZ (see Figure 13 to part 679) or RKCSA (see Figure 11 to part 679) area within a reporting area, 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.

Crew Size.

Record the number of crew members (including operator), excluding certified observer(s), on the last day of a trip.

Gear Type.

Use a separate logsheet for each gear type. Indicate whether pelagic trawl or non-pelagic trawl gear was used to harvest the fish.

Management Program.

Indicate whether harvest occurred under a special management program: CDQ Program, Research Fishery, Exempted Fishery, or Aleutian Islands Pollock Fishery (AIP) and add identifying number, if appropriate. Use a separate logsheet for each special management program. Use a separate logsheet for each identifying number of the same program type. If harvest is not under one of these management programs, leave blank.

Observer Information.

Record the number of observers aboard, the name of the observer, and the observer cruise number.

CATCH BY HAUL INFORMATION

Record the following information for each haul. If no catch occurred for a given day, write "no catch."

Haul Number.

Number the hauls sequentially by year.

Gear Deployment (Or To Set Gear)

Record the following information for trawl gear deployment:

The time (in military format, A.I.t.) when the trawl net enters the water.

The position (latitude and longitude to the nearest minute; indicate E or W for longitude) where the trawl net enters the water.

Gear Retrieval (Or To Haul Gear)

Record the following information for trawl gear retrieval:

The date (mm/dd) and time (in military format, A.I.t.) when retrieval of trawl gear cable begins.

The position (in latitude and longitude to the nearest minute; indicate E or W for longitude) where retrieval of trawl gear cable begins.

Average Sea Depth.

Average sea depth for the haul; indicate whether average is reported to the nearest meter or fathom. Use the same units to report sea depth throughout the year.

Average Gear Depth.

Average gear depth for the haul; indicate whether average is reported to the nearest meter or fathom. Use the same units to report gear depth throughout the year.

Target Species Code

List the species codes for the main species you intend to harvest this haul. Enter only a single target species code of the desired target.

Total Estimated Hail Weight.

If using trawl gear and not using NMFS-approved scales, the operator must record the hail weight of each haul. Total hail weight is an estimate of the total weight of the entire catch without regard to species. Indicate whether estimated weight is to the nearest pound or to the nearest 0.001 mt. Use the same units to report weight throughout the year.

CATCH DELIVERY INFORMATION

NOTE

If catch is delivered to more than one processor, use a separate page to record catch delivery information for each processor.

Check one of the following boxes:

Delivery is unsorted codend.

Check this box if no sorting of codend onboard or bleeding from a codend has occurred prior to delivery to a Mothership, Shoreside Processor, SFP, or Buying Station. If delivery is an unsorted codend, the catcher vessel is exempt from recording discards in the DFL and from submittal of the blue discard DFL copy for that delivery. Remove and discard the blue DFL copy.

Delivery is pre-sorted at sea.

Check this box if catch has been sorted onboard or a codend has been bled prior to delivery to a Mothership, Shoreside Processor, SFP, or Buying Station and complete the discard/disposition section. If fish are discarded (bled) from an unsorted codend, estimate and record the amount of each species discarded (use Code 98). The blue logsheet must be submitted to the recipient with catch delivery.

DISCARD/DISPOSITION INFORMATION.

The operator must record the discard or disposition that occurred prior to and during delivery to a buying station, mothership, shoreside processor, or SFP.

No Discards or Disposition

If no discards or disposition occurred on a given day, write "NO DISCARDS", "0", or "ZERO".

Discard And Disposition Weight.

Record the daily estimated total round weight of groundfish or Pacific herring PSC discards and disposition by species code and product code, balance forward weight from the previous day, and cumulative total weight since last delivery, calculated by adding the daily totals and balance carried forward from the day before; indicate whether estimated weight is to the nearest pound or nearest 0.001 mt. Check either lb or mt. Use the same units to report weight throughout the year.

PSC Discard Numbers.

Record the daily number of PSC discards and disposition by species code and product code, balance forward from the previous day, and cumulative total number since last delivery of PSC animals (Pacific salmon, steelhead trout, Pacific halibut, king crabs, and Tanner crabs).

Discard and Disposition Cumulative Total Since Last Delivery.

Summarize cumulative discard and disposition totals of groundfish and PSC animals separately by reporting area, COBLZ or RKCSA harvest, management program, and gear type.

Discard Zero Balance Forward.

After the offload or transfer of all fish or fish product onboard and prior to the beginning of each fishing trip, the operator must record the balance forward from the previous day as "zero" and start a new logsheet. At the beginning of each fishing trip, nothing shall be carried forward from the previous fishing trip.

DELIVERY INFORMATION.

Enter date that delivery of harvest was completed.

Enter name and ADF&G processor code of recipient that received catch and ADF&G fish ticket number provided.

WHITE - Vessel Copy; Keep in Logbook
 GREEN - IFQ Distribution
 GOLDENROD - Observer copy
 BLUE - Discard Report; Submit to Processor
 YELLOW - NMFS Copy; Remit

Revised: 10/28/0

CATCHER VESSEL DFL LONGLINE AND POT GEAR	VESSEL NAME	FEDERAL CRAB VESSEL PERMIT NO.	IPHC USE ONLY	PAGE
	OPERATOR NAME AND SIGNATURE		ADF&G VESSEL NO.	
			FEDERAL FISHERIES PERMIT NO.	

IDENTIFICATION	INACTIVE	START	END	REASON	FEDERAL REPORTING AREA	
	IFQ		CDQ		OBSERVER INFORMATION	
	Operator IFQ Permit #		IFQ Permit #		CDQ Group #	
	IFQ Permit #		IFQ Permit #		Halibut CDQ Permit #	
	IFQ Permit #		IFQ Permit #		OBSERVER NAME & CRUISE #	
MANAGEMENT PROGRAM (Check if applicable and enter number) <input type="checkbox"/> CDQ <input type="checkbox"/> Exempted <input type="checkbox"/> Research <input type="checkbox"/> AIP No. _____						

CREW SIZE	GEAR TYPE (check one)									
	<input type="checkbox"/> Pot <input type="checkbox"/> Jig <input type="checkbox"/> Troll <input type="checkbox"/> Handline <input type="checkbox"/> Hook & Line <input type="checkbox"/> Other									
	If Hook & Line, complete boxes immediately below.									
	GEAR TYPE									
	GEAR ID	FIXED HOOK		AUTOLINE		SNAP		LENGTH OF SKATE (feet)		HOOK
	CON	TUB	AUTO	LINE	SNAP			Size	Spacing (feet)	No. Per Skate
A										
B										
C										
D										

Complete these boxes once per delivery

CATCH BY SET	SET #	DATE SET	DATE HAULED	LOCATION OF SET		BEGIN & END DEPTH (Fath.)	IPHC OFFICE USE ONLY
		TIME SET	TIME HAULED	BEGIN POSITION	END POSITION		
				LATITUDE	LATITUDE		
				LONGITUDE	LONGITUDE		

GEAR ID	NUMBER OF SKATES OR POTS		TARGET SPECIES CODE	CDQ/IFQ HALIBUT (Pounds)	IFQ SABL (Pounds) RD Round wt. WC Western cut EC Eastern cut	CR CRAB	HAUL WEIGHT (lbs. or mt.)	BIRD AVOID GEAR
	Set	Lost						
					No.	No.		
					Wt.	Wt.		
					No.	No.		
					Wt.	Wt.		
					No.	No.		
					Wt.	Wt.		
					No.	No.		
					Wt.	Wt.		
					No.	No.		
					Wt.	Wt.		
					No.	No.		
					Wt.	Wt.		
					No.	No.		
					Wt.	Wt.		
					No.	No.		
					Wt.	Wt.		
					No.	No.		
					Wt.	Wt.		

DISCARD/DISPOSITION	For groundfish and Pacific herring, circle lbs. or nearest 0.001 mt. For Pacific halibut, Pacific salmon, king crab, and Tanner crab, record in numbers									
	DATE									
	SPECIES CODE									
	PRODUCT CODE									
	BALANCE FORWARD									
	DAILY TOTAL									
	CUMULATIVE TOTAL SINCE LAST DELIVERY									

DELIVERY	DATE	ADF&G FISH TICKET NO.	RECIPIENT'S NAME or IFO REGISTERED BUYER	UNLOADING PORT	IPHC USE ONLY

COMMENTS

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 28 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Instructions
**CATCHER VESSEL: LONGLINE & POT GEAR
 DAILY FISHING LOGBOOK (DFL)**

REQUIREMENTS

Groundfish Fisheries

Unless approved to use an electronic logbook, the operator of a catcher vessel with a length overall (LOA) greater than 60 ft (18.3 m), issued a Federal fisheries permit (FFP) under § 679.4(b), that is using longline or pot gear to harvest groundfish, and that retains any groundfish from the Gulf of Alaska (GOA) or Bering Sea and Aleutian Islands Management Area (BSAI) must use the catcher vessel longline or pot gear DFL.

IFQ Halibut, CDQ Halibut, and IFQ Sablefish Fisheries.

Unless approved to use an electronic logbook, the operator of a catcher vessel with an LOA greater than 60 ft (18.3 m), issued a FFP, and using fixed gear (NMFS), setline (IPHC), or pot gear to harvest Individual Fishing Quota (IFQ) sablefish, IFQ halibut, or CDQ halibut from the GOA or BSAI must maintain a longline and pot gear DFL.

Crab Rationalization (CR) Fisheries.

Unless approved to use an electronic logbook, the operator of a catcher vessel with LOA greater than 60 ft (18.3 m), issued a Federal crab vessel permit, and using pot gear to harvest Crab Rationalization Program (CR) crab from the BSAI, must maintain a longline and pot gear DFL.

Account for each day of the fishing year.

The operator must account for each day of the fishing year, January 1 through December 31, in the DFL.

DATA ENTRY TIME LIMITS

The operator of a catcher vessel using longline or pot gear must record in the DFL the information provided in the following table for each set within the specified time limit:

Required information	Record within this time limit
Set number, time and date gear set, time and date gear hauled, beginning and end positions, Western Alaska Community Development Quota (CDQ) group number, halibut CDQ permit number, halibut IFQ permit number, sablefish IFQ permit number, crab IFQ permit number, FFP number and/or Federal crab vessel permit number (if applicable), number of pots set, and estimated total haul weight for each set	Within 2 hours after completion of gear retrieval
Discard and disposition information	By noon each day to record the previous day's discard and disposition information
Submit the blue DFL to mothership, shoreside processor, SFP, or buying station receiving catch	Within 2 hours after completion of catch delivery
All other required information	Within 2 hours after the vessel's catch is off-loaded, notwithstanding other time limits

Required information	Record within this time limit	
Operator sign the completed logsheets	Within 2 hours after completion of catch delivery	
Submit goldenrod logsheet to the observer	After signature of operator and prior to departure of observer from the vessel.	
Submit the yellow logsheets each quarter to: NOAA Office for Law Enforcement (OLE) P.O. Box 21767 Juneau, Alaska 99802-1767	Quarter 1 (Jan 1 - Mar 31) 2 (Apr 1 - Jun 30) 3 (Jul 1 - Sep 30) 4 (Oct 1 - Dec 31)	Submit by May 1 August 1 November 1 February 1 of the following year.

ACTIVE AND INACTIVE TIME PERIODS IN THE DFL

The operator must indicate whether the vessel was active or inactive during the time period. A catcher vessel using longline or pot gear is active when gear remains on the grounds in a reporting area (except reporting areas 300, 400, 550, or 690), regardless of the vessel location. An inactive period is defined as a time period other than active.

Record January 1 on page 1.

The operator must record the first day of the fishing year, January 1, on page one of the DFL regardless of whether the vessel was active or inactive. The operator must record time periods consecutively.

Required information for inactive periods. If inactive, the operator must record the following information on one logsheet in the DFL:

Catcher vessel name, ADF&G vessel registration number, FFP number or Federal crab vessel permit number, operator printed name, operator signature, and page number.

Mark “inactive.”

Record the date (mm/dd) of the first day when inactive under “Start date.”

Write brief explanation why inactive, e.g., bad weather or equipment failure. If inactive due to surrender of a FFP, write “surrender of permit” as reason for inactivity.

Record the date (mm/dd) of the last day when inactive under “End date.”

Inactive two or more quarters.

If the inactive time period extends across two or more successive quarters, the operator must complete a logsheet for each inactive quarter: 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.

REQUIRED INFORMATION, IF ACTIVE

If the catcher vessel is active, the operator must record in the DFL, for one or more days on each logsheet, the information listed below.

Use a separate logsheet	For up to 7 days on one logsheet
	For each reporting area in which harvest occurred..
	For each gear type
	For each separate management program type
	If fishing under more than one management program of the same type, use a separate logsheet for each

Retain and Record Discard Quantities Over the MRA.

When a catcher vessel is fishing in an IFQ fishery and the fishery for Pacific cod or rockfish is closed to directed fishing but not in Prohibited Species Closure (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 (MRA) for Pacific cod or rockfish as defined in Table 10 or 11 to part 679. Quantities over this amount must be discarded and recorded as discard in the logbook.

IDENTIFICATION INFORMATION

Page Number.

Number the pages in each logbook consecutively, beginning on the first page of the DFL with page 1 for January 1 and continuing for the remainder of the fishing year.

Printed Name And Signature Of Operator.

The operator’s name must be printed in the DFL. The operator must sign each completed logsheet of the DFL as verification of acceptance of the responsibility noted above. The operator’s signature is due within two hours after completion of the catch delivery.

Vessel Identification.

Name of catcher vessel as displayed in official documentation; FFP number or Federal crab vessel permit number of the vessel; and ADF&G vessel registration number.

Other Permit Numbers (If Applicable). IFQ permit number of the operator, if any, and each permit number of any IFQ permit on which anyone aboard is authorized to fish; groundfish CDQ group number; and halibut CDQ permit number.

Reporting Area, Groundfish.

Record the Federal reporting area code (see Figures 1 and 3 to part 679) where gear retrieval was completed, regardless of where the majority of the set took place. Use a separate logsheet for each reporting area.

Reporting Area, IFQ Halibut and CDQ Halibut.

Record the IPHC regulatory area (see Figure 15 to part 679) where gear retrieval was completed, regardless of where the majority of the set took place.

Reporting Area, CR Crab. Leave this field blank.

Crew size.

Record the number of crew members (including operator), excluding certified observer(s), on the last day of a trip.

Gear type.

Use a separate logsheet for each gear type. From the following table, indicate the gear type used to harvest the fish and appropriate “gear ID.” In addition, if using hook-and-line gear, enter the alphabetical letter that coincides with the gear description. If gear information is the same on subsequent logsheets, mark the box instead of re-entering the gear type information on the next logsheet. If item is marked *optional*, refer to IPHC regulations (see §§ 50 CFR 300.60 through 300.65).

If gear type is ...	Then ...
Other gear	If gear is other than those listed within this table, indicate “Other” and describe
Pot gear	Enter the number of pots lost (optional, but may be required by IPHC) and number of pots set
Hook-and-line gear	Indicate: Whether gear is fixed hook (conventional or tub), autoline, or snap (optional, but may be required by IPHC). Length of skate to the nearest foot (optional, but may be required by IPHC), number of skates lost (optional, but may be required by IPHC), and number of skates set Number of hooks per skate (optional, but may be required by IPHC), size of hooks, and hook spacing in feet Seabird avoidance gear code(s) (see Table 19 to part 679)

Management program.

Indicate whether harvest occurred under a special management program: CDQ Program, Research Fishery, Exempted Fishery, or Aleutian Islands Pollock Fishery (AIP) and add identifying number, if appropriate. Use a separate logsheet for each special management program. Use a separate logsheet for each identifying number of the same program type. If harvest is not under one of these management programs, leave blank.

Observer information.

Record the number of observers aboard, the name of the observer(s), and the observer cruise number(s).

CATCH-BY-SET INFORMATION.

A set includes a test set, unsuccessful harvest, or when gear is not working and is pulled in, even if no fish are harvested. A 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.

The operator must record the following information for each set in the DFL. If no catch occurred for a given day, write “no catch.”

Set number. Sequentially by year.

Gear deployment (or to set gear)

Hook-and-line gear begin position. Record date (mm/dd), time (in military format, A.l.t.), and the begin position (in latitude and longitude to the nearest minute; indicate E or W for longitude) when the first hook-and-line gear of a set enters the water.

Jig or troll gear begin position. Record date (mm/dd), time (in military format, A.l.t.), and the begin position (latitude and longitude to the nearest minute; indicate E or W for longitude) when the jig or troll gear enters the water.

Pot gear begin position. Record date (mm/dd), time (in military format, A.l.t.), and the begin position (latitude and longitude to the nearest minute; indicate E or W for longitude) when the pot gear enters the water.

Begin and end buoy or bag numbers. (optional, but may be required by IPHC).

Gear retrieval (or to haul gear)

Hook-and-line gear end position. Date (mm/dd), time (in military format, A.l.t.), and end position coordinates (in latitude and longitude to the nearest minute; indicate E or W for longitude), where the last hook-and-line gear of a set leaves the water, regardless of where the majority of the set took place.

Jig or troll gear end position. Date (mm/dd), time (in military format, A.l.t.), and end position coordinates (in latitude and longitude to the nearest minute; indicate E or W for longitude) where the jig or troll gear leaves the water.

Pot gear end position. Date (mm/dd), time (in military format, A.l.t.), and end position coordinates (in latitude and longitude to the nearest minute; indicate E or W for longitude) where the last pot of a set is retrieved, regardless of where the majority of the set took place.

Begin and end gear depths. Recorded to the nearest fathom (optional, but may be required by IPHC).

Target species code.

Enter the species code of the species you intended to catch this set. Enter only a single target species code of the desired target (see Table 2a to part 679 – Species Codes: FMP Groundfish).

Estimated total hail weight. Enter the estimated hail weight, which is an estimate of the total weight of the entire catch without regard to species. Indicate whether weight is estimated to the nearest pound or to the nearest 0.001 mt;

IFQ halibut and CDQ halibut.

Estimated total net weight of IFQ halibut and CDQ halibut to the nearest pound.

IFQ sablefish.

Number and estimated total round weight of IFQ sablefish to the nearest pound. Indicate whether IFQ sablefish product is Western cut, Eastern cut, or round weight.

CR crab.

If in a CR crab fishery, record the number and scale weight of raw CR crab to the nearest pound.

DISCARD OR DISPOSITION INFORMATION

The operator must record in a DFL the discard or disposition information that occurred prior to and during delivery to a buying station, mothership, shoreside processor, or SFP. Discard or disposition information must include the daily weight of groundfish, daily weight of herring PSC, and daily number of PSC animals. If no discard or disposition occurred for a given day, the operator must write “no discards or disposition.”

Enter discard or disposition information by species codes and product codes as follows:

Date (mm/dd) of discard or disposition (day that discard or disposition occurred).

For whole fish discard or disposition of groundfish or Pacific herring PSC, daily estimated total weight, balance forward weight from the previous day, and cumulative total weight since last delivery for each species; indicate whether weight is estimated to the nearest pound or nearest 0.001 mt.

For whole fish discard or disposition of each prohibited species (Pacific salmon, steelhead trout, Pacific halibut, king crabs, and Tanner crabs) record the daily estimated total number, balance forward from the previous day, and cumulative total number since the last delivery.

Summarize the weekly cumulative discard and disposition totals of groundfish weights and number of PSC animals separately by reporting area, management program, and gear type. Determine the cumulative total since last delivery by adding daily totals and the balance carried forward from the day before.

Balance Forward

The operator must record “0” or zero balance forward and start a new logsheet after the offload or transfer of all fish or fish product onboard and prior to the beginning of each fishing trip. Nothing shall be carried forward from the previous fishing trip.

CATCHER VESSEL DELIVERY INFORMATION.

The operator must enter the following information for delivery to a buying station, mothership, shoreside processor, or SFP:

Date (mm/dd) that delivery of harvest was completed.

ADF&G fish ticket issued to operator by the recipient, Registered Buyer, or RCR receiving the delivery.

Name of recipient, Registered Buyer, or RCR.

Unloading port. Name of port or port code (see Tables 14a and 14b to part 679) of delivery location.

WHITE - Vessel Copy; Keep in Logbook
 GOLDENROD - Observer copy
 YELLOW - NMFS Copy; Remit

Revised: 10/28/05

CATCHER PROCESSOR DCPL GROUND FISH TRAWL GEAR	VESSEL NAME	Date (M - D - Y)	PAGE
	OPERATOR NAME AND SIGNATURE	ADF&G Vessel No.	
		Federal Fisheries Permit No.	

IDENTIFI- CATION	MANAGEMENT PROGRAM <small>(Check if applicable and enter number)</small> CDQ <input type="checkbox"/> Exempted <input type="checkbox"/> Research <input type="checkbox"/> AIP <input type="checkbox"/> No. _____	INACTIVE <input type="checkbox"/>	START _____	END _____	REASON _____	OBSERVER INFORMATION	NO. OF OBSER- VERS ONBOARD
	GEAR TYPE (circle one) Non-pelagic trawl Pelagic trawl	CREW SIZE _____	FEDERAL REPORTING AREA _____	TRAWL GEAR ONLY (Circle one) COBLZ RKCSA		OBSERVER NAME AND CRUISE # _____	
					OBSERVER NAME AND CRUISE # _____		

CATCH BY HAUL	HAUL NO.	TIME OF GEAR DEPLOYMENT	BEGIN POSITION OF HAUL		AVE. SEA DEPTH (Circle M or FM)	AVE. GEAR DEPTH (Circle M or FM)	DATE AND TIME OF GEAR RETRIEVAL	END POSITION OF HAUL		TARGET SPECIES CODE	ROUND CATCH WEIGHT		
			LATITUDE	LONGITUDE				LATITUDE	LONGITUDE		TOTAL HAUL WEIGHT (Circle one LB or MT)	SPECIES CODE	IR/IU SPECIES WT. (Circle one LB or MT)

DISCARD/ DISPOSITION	For groundfish and Pacific herring, circle: lbs. or nearest 0.001 mt. For Pacific halibut, Pacific salmon, king crab, and Tanner crab, record in numbers												
	SPECIES CODE												
	PRODUCT CODE												
	BALANCE FORWARD												
	DAILY TOTAL												
WEEKLY CUMULATIVE TOTAL													

PRODUCT <small>Indicate <input type="checkbox"/> lbs. or <input type="checkbox"/> mt.</small>	SPECIES CODE											
	PRODUCT CODE											
	BALANCE FORWARD											
	DAILY TOTAL											
	WEEKLY CUMULATIVE TOTAL											

COMMENTS

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 31 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Instructions for
**CATCHER/PROCESSOR TRAWL GEAR
DAILY CUMULATIVE PRODUCTION LOGBOOK (DCPL)**

REQUIREMENTS

Unless approved to use an electronic logbook, the operator of a catcher/processor that is required to have an Federal Fisheries permit (FFP) under § 679.4(b), that is using trawl gear to harvest groundfish, and that retains any groundfish from the Gulf of Alaska (GOA) or Bering Sea and Aleutian Islands Management Area (BSAI) is required to use a combination of catcher/processor trawl gear DCPL and eLandings to record and report daily processor identification information, catch-by-haul landings information, groundfish production data, and groundfish and prohibited species discard or disposition data.

Account for each day of the fishing year.

The operator must account for each day of the fishing year, January 1 through December 31, in the DCPL.

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.

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 one.

Two logbooks of different operation types.

If vessel functions as both a mothership and as a catcher/processor in a fishing year, a separate logbook of each type must be maintained. The page numbers in each logbook must start with page one.

DATA ENTRY TIME LIMITS

The operator of a catcher/processor using trawl gear must record in the DCPL or eLandings the information in the following table for each haul within the specified time limit:

DATA ENTRY TIME LIMITS, CATCHER/PROCESSOR TRAWL GEAR					
Required information	Record In		Record within this time limit		
	DCPL	eLandings			
Haul number, time and date gear set, time and date gear hauled, begin and end positions of gear, CDQ group number (if applicable), and total estimated haul weight for each haul, or if required to use a NMFS-approved scale, the scale weight for each haul	X	X	Except for Rockfish Pilot Program within 2 hours after completion of gear retrieval. For Rockfish Pilot Program, actual scale weight from the flow scale may be recorded within 24 hours after completion of gear retrieval.		
Discard and disposition information		X	By noon each day to record the previous day's discard and disposition information		
Record product information		X	By noon each day to record the previous day's production information		
Record all other required information	X	X	By noon of the day following completion of production to record all other required information		
Operator sign the completed logsheets	X	X	By noon of the day following the week-ending date of the weekly reporting period		
Submit the goldenrod logsheet to the observer	X		After signature of operator and prior to departure of observer from the vessel.		
Submit the yellow logsheets each quarter to: NOAA Office for Law Enforcement P.O. Box 21767 Juneau, Alaska 99802-1767	X		1	Jan 1 - Mar 31	May 1
			2	Apr 1 - Jun 30	August 1
			3	Jul 1 - Sep 30	November 1
			4	Oct 1 - Dec 31	February 1 of the following year.

ACTIVE AND INACTIVE TIME PERIODS IN THE DCPL

The operator must indicate whether the vessel was active or inactive during the time period. A catcher/processor using trawl gear is active when processing groundfish or when all or part of the trawl net is in the water. An inactive period is defined as a time period other than active.

Record January 1 on page 1.

The operator must record the first day of the year, January 1, on page one of the DCPL regardless of whether the vessel was active or inactive. The operator must record time periods consecutively.

Required information for inactive periods.

If inactive, the operator must record the following information on one logsheet in the DCPL:

Catcher/processor name, Alaska Department of Fish and Game (ADF&G) processor code, FFP number, operator printed name, operator signature, and page number.

Mark "inactive."

Record the date (mm/dd) of the first day when inactive under "Start date."

Write brief explanation why inactive, e.g., bad weather or equipment failure. If inactive due to surrender of a FFP, write "surrender of permit" as reason for inactivity.

Record the date (mm/dd) of the last day when inactive under “End date.”

Inactive two or more quarters.

If the inactive time period extends across two or more successive quarters, the operator must complete a logsheet for each inactive quarter: 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.

REQUIRED INFORMATION, IF ACTIVE

If the catcher/processor is active, the operator must record for one day per logsheet in the DCPL, the information described below:

IDENTIFICATION INFORMATION.

Date.

Enter date of each day (mm/dd/yy). This date is also the date of gear deployment. Use a separate logsheet for each day.

Page number.

Number the pages in each logbook consecutively, beginning on the first page of the DCPL with page 1 for January 1 and continuing for the remainder of the fishing year.

Printed name and signature of operator.

The operator’s name must be printed in the DCPL. The operator must sign each completed logsheet of the DCPL as verification of acceptance of the responsibility to provide accurate, complete, and timely data. The operator’s signature is due by noon of the day following the week-ending date of the weekly reporting period.

Vessel identification.

Name of vessel as displayed in official documentation; FFP number of the vessel; and ADF&G processor code.

Federal reporting area.

Record the Federal reporting area code where gear retrieval was completed, regardless of where the majority of the set took place. Use the reporting area codes presented in Figure 1 and Figure 3 to part 679. Use a separate logsheet for each reporting area.

C. *Opilio* Crab Bycatch Limitation Zone (COBLZ) or Red King Crab Savings Area (RKCSA).

If gear retrieval occurred in the COBLZ (see Figure 13 to part 679) or RKCSA (see Figure 11 to part 679) area within a reporting area, 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.

Crew size.

Record the number of crew members (including operator), excluding certified observer(s), on the last day of the weekly reporting period.

Gear type.

Use a separate logsheet for each gear type. Indicate whether pelagic trawl or non-pelagic trawl gear was used to harvest the fish.

Management program.

Indicate whether harvest occurred under a special management program: CDQ Program, Research Fishery, Exempted Fishery, or Aleutian Islands Pollock Fishery (AIP) and add identifying number, if appropriate. Use a separate logsheet for each management program. Use a separate logsheet for each identifying number of the same program type. If harvest is not under one of these management programs, leave blank.

Observer information.

Record the number of observers aboard, the name of the observer(s), and the observer cruise number(s).

CATCH-BY-HAUL INFORMATION.

The operator must record the following information for each haul. If no catch occurred for a given day, write "no catch."

Haul number. Number hauls sequentially by year.

Gear Deployment (Or To Set Gear).

Record the following information for trawl gear deployment:

The time (in military format, A.l.t.) when the trawl net enters the water, and

The position (latitude and longitude to the nearest minute; indicate E or W for longitude) where the trawl net enters the water.

Gear Retrieval (Or To Haul Gear).

Record the following information for trawl gear retrieval:

The date (mm/dd) and time (in military format, A.l.t.) when retrieval of trawl gear cable begins.

The position (in latitude and longitude to the nearest minute; indicate E or W for longitude) where retrieval of trawl gear cable begins.

Average sea depth and average gear depth.

Average sea depth and average gear depth; indicate whether average is reported to the nearest meter or fathom. Use the same units to report sea depth and gear depth throughout the year.

Target Species Code.

Enter the species code of the species you intended to catch this haul. Enter only a single target species code of the desired target.

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, if applicable; indicate whether estimated weight is to the nearest pound or the nearest 0.001 mt. Use one line to record information for each IR/IU species, including species code and amount of catch. If more than one IR/IU species are to be recorded, the operator should use a separate line for each species.

Total Estimated Hail Weight.

If not using NMFS-approved scales, the operator must record the hail weight of each haul. Total hail weight is an estimate of the total weight of the entire catch without regard to species. Indicate whether estimated weight is to the nearest pound or to the nearest 0.001 mt.

If required to use a NMFS-approved scale, the operator must record the scale weight of each haul without regard to species. Indicate whether weight is in pounds or to the nearest 0.001 mt.

PRODUCT INFORMATION

The operator of a catcher/processor using trawl gear must record all product information for all retained groundfish in eLandings (see § 679.5(e)(10)).

DISCARD/DISPOSITION INFORMATION.

The operator of a catcher/processor using trawl gear must record discard or disposition information in eLandings (see § 679.5(e)(10)).

WHITE - Vessel Copy; Keep in Logbook
 GREEN - IFQ Distribution
 GOLDENROD - Observer copy
 YELLOW - NMFS Copy; Remit

Revised: 10/28/05

CATCHER/PROCESSOR DCPL LONGLINE AND POT GEAR	VESSEL NAME	FEDERAL CRAB VESSEL PERMIT NO.	DATE (M-D-Y)	PAGE
	OPERATOR NAME AND SIGNATURE		ADF&G PROCESSOR CODE	
	FEDERAL FISHERIES PERMIT NO.			

IDENTIFICATION	INACTIVE	START	END	REASON	FEDERAL REPORTING AREA	CREW SIZE	GEAR TYPE (check one)						
							<input type="checkbox"/> Pot <input type="checkbox"/> Jig <input type="checkbox"/> Troll <input type="checkbox"/> Handline <input type="checkbox"/> Hook & Line <input type="checkbox"/> Other If Hook & Line, complete boxes immediately below.						
	IFQ		CDQ		OBSERVER INFORMATION		<i>If same as previous page check</i>	GEAR TYPE (check one)		LENGTH OF SKATE (feet)	HOOK		
	Operator IFQ Permit #		IFQ Permit #		CDQ Group #			<input checked="" type="checkbox"/> FIXED HOOK			Size	Spacing (feet)	No. Per Skate
	IFQ Permit #		IFQ Permit #		Halibut CDQ Permit #			<input type="checkbox"/> AUTO LINE	<input type="checkbox"/> SNAP				
IFQ Permit #		IFQ Permit #		OBSERVER NAME & CRUISE #		<input type="checkbox"/> CONN		<input type="checkbox"/> TUB	<input type="checkbox"/> SNAP				
MANAGEMENT PROGRAM (Check if applicable and enter number) <input type="checkbox"/> CDQ <input type="checkbox"/> Exempted <input type="checkbox"/> Research <input type="checkbox"/> AIP No. _____						Complete these boxes once per delivery							

CATCH BY SET	SET #	DATE SET	DATE HAILED	LOCATION OF SET				BEGIN & END DEPTH (Fath.)	IPHC OFFICE USE ONLY	GEAR ID	NUMBER OF SKATES OR POTS		IR/IU SPECIES Round Catch Weight	TARGET SPECIES CODE	CDQ/IFQ HALIBUT (Pounds)	IFQ SABL (Pounds) RD Round wt. WC Western cut EC Eastern cut	CR CRAB	HAUL WEIGHT (lbs. or mt.)	BIRD AVOID GEAR	
				Buoy or Bag #	BEGIN POSITION		END POSITION				Set	Lost								
					Latitude	Longitude	Latitude													Longitude

PRODUCT <small>Indicate <input type="checkbox"/> lb. or <input type="checkbox"/> mt.</small>	SPECIES CODE																		
	PRODUCT CODE																		
	BALANCE FORWARD																		
	DAILY TOTAL																		
	WEEKLY CUMULATIVE TOTAL																		
DISCARD/ DISPOSITION	<small>For groundfish and Pacific herring, circle: lbs. or nearest 0.001 mt. For Pacific halibut, Pacific salmon, king crab, and Tanner crab, record in numbers</small>																		
	DATE																		
	SPECIES CODE																		
	PRODUCT CODE																		
	BALANCE FORWARD																		
DAILY TOTAL																			
WEEKLY CUMULATIVE TOTAL																			

COMMENTS

PUBLIC REPORTING BURDEN STATEMENT

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ADDITIONAL INFORMATION

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Instructions
**CATCHER/PROCESSOR: LONGLINE & POT GEAR
DAILY CUMULATIVE PRODUCTION LOGBOOK (DCPL)**

REQUIREMENTS

Groundfish Fisheries

Unless approved to use an electronic logbook, the operator of a catcher/processor that is required to have an Federal fisheries permit (FFP) under § 679.4(b) and that is using longline or pot gear to harvest groundfish is required to use a combination of catcher/processor longline and pot gear DCPL and eLandings to record and report daily processor identification information, catch-by-set information, groundfish production data, and groundfish and prohibited species discard or disposition data.

IFQ Halibut, CDQ Halibut, and IFQ Sablefish Fisheries.

Unless approved to use an electronic logbook, the operator of a catcher/processor that is using longline or pot gear to harvest Individual Fishing Quota (IFQ) sablefish, IFQ halibut, or Western Alaska Community Development Quota (CDQ) halibut from the Gulf of Alaska (GOA) or Bering Sea and Aleutian Islands Management Area (BSAI) is required to use a combination of catcher/processor longline and pot gear DCPL and eLandings to record and report daily processor identification information, catch-by-set halibut and sablefish landings data, and halibut, sablefish, and prohibited species discard or disposition data.

Crab Rationalization (CR) Fisheries.

Unless approved to use an electronic logbook, the operator of a catcher/processor that is using pot gear to harvest Crab Rationalization Program (CR) crab from the BSAI is required to use a combination of catcher/processor longline and pot gear DCPL and eLandings to record and report daily processor identification information, CR crab landings data, and CR crab and prohibited species discard or disposition data.

Account for each day of the fishing year.

The operator must account for each day of the fishing year, January 1 through December 31, in the DCPL.

Two logbooks of different operation types.

If vessel functions as both a mothership and as a catcher/processor in a fishing year, a separate logbook of each type must be maintained. The page numbers in each logbook must start with page one.

DATA ENTRY TIME LIMITS

The operator of a catcher/processor using longline or pot gear must record in the DCPL or eLanding the information provided in the following table for each set within the specified time limit:

DATA ENTRY TIME LIMITS, CATCHER/PROCESSOR LONGLINE OR POT GEAR				
Required information	Record In		Record within this time limit	
	DCPL	eLandings		
Set number, time and date gear set, time and date gear hauled, beginning and end positions, CDQ group number, halibut CDQ permit number, halibut IFQ permit number, sablefish IFQ permit number, crab IFQ permit number, FFP number and/or Federal crab vessel permit number (if applicable), number of pots set, and estimated total hail weight for each set	X	X	Within 2 hours after completion of gear retrieval	
Discard and disposition information		X	By noon each day to record the previous day's discard and disposition information	
Product information		X	By noon each day to record the previous day's production information	
All other required information	X	X	By noon of the day following completion of production	
Operator sign the completed logsheets	X	X	By noon of the day following the week-ending date of the weekly reporting period	
Submit goldenrod logsheet to the observer	X		After signature of operator and prior to departure of observer from the vessel	
Submit the yellow logsheets each quarter to: NOAA Office for Law Enforcement (OLE) P.O. Box 21767 Juneau, Alaska 99802-1767	X		Quarter 1 (Jan 1 - Mar 31) 2 (Apr 1 - Jun 30) 3 (Jul 1 - Sep 30) 4 (Oct 1 - Dec 31)	Submit by May 1 August 1 November 1 February 1 of the following year

ACTIVE AND INACTIVE TIME PERIODS IN THE DCPL

The operator must indicate whether the vessel was active or inactive during the time period. A catcher/processor using longline or pot gear is active when processing or when all or part of the longline or pot gear is in the water. An inactive period is defined as a time period other than active.

Record January 1 on page 1.

The operator must record the first day of the year, January 1, on page one of the DCPL regardless of whether the vessel was active or inactive. The operator must record time periods consecutively.

Required information for inactive periods.

If inactive, the operator must record the following information on one logsheet in the DCPL:

Catcher/processor name, Alaska Department of Fish and Game (ADF&G) processor code, FFP number or Federal crab vessel permit number, operator printed name, operator signature, and page number.

Mark "inactive."

Record the date (mm/dd) of the first day when inactive under “Start date.”

Write brief explanation why inactive, e.g., bad weather or equipment failure. If inactive due to surrender of a FFP, write “surrender of permit” as reason for inactivity.

Record the date (mm/dd) of the last day when inactive under “End date.”

Inactive two or more quarters.

If the inactive time period extends across two or more successive quarters, the operator must complete a logsheet for each inactive quarter: 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.

REQUIRED INFORMATION, IF ACTIVE

If the catcher/processor is active, the operator must record in the DCPL, for one or more days on each logsheet, the information listed below.

Use a separate logsheet	For up to 7 days on one logsheet
	For each reporting area in which harvest occurred..
	For each gear type
	For each separate management program type
	If fishing under more than one management program of the same type, use a separate logsheet for each

Retain and Record Discard Quantities Over the MRA.

When a catcher vessel is fishing in an IFQ fishery and the fishery for Pacific cod or rockfish is closed to directed fishing but not in Prohibited Species Closure (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 (MRA) for Pacific cod or rockfish as defined in Table 10 or 11 to part 679. Quantities over this amount must be discarded and recorded as discard in the logbook.

IDENTIFICATION INFORMATION

Page Number.

Number the pages in each logbook consecutively, beginning on the first page of the DCPL with page 1 for January 1 and continuing for the remainder of the fishing year.

Printed Name and Signature of Operator.

The operator’s name must be printed in the DCPL. The operator must sign each completed logsheet of the DCPL as verification of acceptance of the responsibility noted above. The operator’s signature is due within two hours after completion of the catch delivery.

Vessel Identification.

Name of vessel as displayed in official documentation; FFP number or Federal crab vessel permit number of the vessel; and ADF&G processor code.

Other Permit Numbers (If Applicable). IFQ permit number of the operator, if any, and each permit number of any IFQ permit on which anyone aboard is authorized to fish; groundfish CDQ group number; and halibut CDQ permit number.

Reporting Area, Groundfish.

Record the Federal reporting area code (see Figures 1 and 3 to part 679) where gear retrieval was completed, regardless of where the majority of the set took place. Use a separate logsheet for each reporting area.

Reporting Area, IFQ Halibut and CDQ Halibut.

Record the IPHC regulatory area (see Figure 15 to part 679) where gear retrieval was completed, regardless of where the majority of the set took place.

Reporting Area, CR Crab. Leave this field blank.

Crew size.

Record the number of crew members (including operator), excluding certified observer(s), on the last day of the weekly reporting period.

Gear type.

Use a separate logsheet for each gear type. From the following table, indicate the gear type used to harvest the fish and appropriate “gear ID.” In addition, if using hook-and-line gear, enter the alphabetical letter that coincides with the gear description. If gear information is the same on subsequent logsheets, mark the box instead of re-entering the gear type information on the next logsheet. If item is marked *optional*, refer to IPHC regulations (see §§ 50 CFR 300.60 through 300.65).

If gear type is ...	Then ...
Other gear	If gear is other than those listed within this table, indicate “Other” and describe
Pot gear	Enter the number of pots lost (optional, but may be required by IPHC) and number of pots set
Hook-and-line gear	Indicate: Whether gear is fixed hook (conventional or tub), autoline, or snap (optional, but may be required by IPHC). Length of skate to the nearest foot (optional, but may be required by IPHC), number of skates lost (optional, but may be required by IPHC), and number of skates set Number of hooks per skate (optional, but may be required by IPHC), size of hooks, and hook spacing in feet Seabird avoidance gear code(s) (see Table 19 to part 679)

Management program.

Indicate whether harvest occurred under a special management program: CDQ Program, Research Fishery, Exempted Fishery, or Aleutian Islands Pollock Fishery (AIP) and add identifying number, if appropriate. Use a separate logsheet for each special management program. Use a separate logsheet for each identifying number of the same program type. If harvest is not under one of these management programs, leave blank.

Observer information.

Record the number of observers aboard, the name of the observer(s), and the observer cruise number(s).

CATCH-BY-SET INFORMATION.

A set includes a test set, unsuccessful harvest, or when gear is not working and is pulled in, even if no fish are harvested. A 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.

The operator must record the following information for each set in the DCPL. If no catch occurred for a given day, write “no catch.”

Set number. Sequentially by year.

Gear deployment (or to set gear)

Hook-and-line gear begin position. Record date (mm/dd), time (in military format, A.l.t.), and the begin position (in latitude and longitude to the nearest minute; indicate E or W for longitude) when the first hook-and-line gear of a set enters the water.

Jig or troll gear begin position. Record date (mm/dd), time (in military format, A.l.t.), and the begin position (latitude and longitude to the nearest minute; indicate E or W for longitude) when the jig or troll gear enters the water.

Pot gear begin position. Record date (mm/dd), time (in military format, A.l.t.), and the begin position (latitude and longitude to the nearest minute; indicate E or W for longitude) when the pot gear enters the water.

Begin and end buoy or bag numbers. (optional, but may be required by IPHC).

Gear retrieval (or to haul gear)

Hook-and-line gear end position. Date (mm/dd), time (in military format, A.l.t.), and end position coordinates (in latitude and longitude to the nearest minute; indicate E or W for longitude), where the last hook-and-line gear of a set leaves the water, regardless of where the majority of the set took place.

Jig or troll gear end position. Date (mm/dd), time (in military format, A.l.t.), and end position coordinates (in latitude and longitude to the nearest minute; indicate E or W for longitude) where the jig or troll gear leaves the water.

Pot gear end position. Date (mm/dd), time (in military format, A.I.t.), and end position coordinates (in latitude and longitude to the nearest minute; indicate E or W for longitude) where the last pot of a set is retrieved, regardless of where the majority of the set took place.

Begin and end gear depths. Recorded to the nearest fathom (optional, but may be required by IPHC).

IR/IU species (see § 679.27).

The operator must enter species code of IR/IU species and estimated total round weight for each IR/IU species, if applicable. Indicate whether weight is estimated to the nearest pound or the nearest 0.001 mt. If more than one IR/IU species are to be recorded, the operator should use a separate line for each species, including species code and amount of catch.

Target species code.

Enter the species code of the species you intended to catch this set. Enter only a single target species code of the desired target (see Table 2a to part 679 – Species Codes: FMP Groundfish).

IFQ halibut and CDQ halibut.

Estimated total net weight of IFQ halibut and CDQ halibut to the nearest pound.

IFQ sablefish.

Number and estimated total round weight of IFQ sablefish to the nearest pound. Indicate whether IFQ sablefish product is Western cut, Eastern cut, or round weight.

CR crab.

If in a CR crab fishery, record the number and scale weight of raw CR crab to the nearest pound.

Estimated total hail weight. Enter the estimated hail weight, which is an estimate of the total weight of the entire catch without regard to species. Indicate whether weight is estimated to the nearest pound or to the nearest 0.001 mt.

PRODUCT INFORMATION

The operator must record groundfish product information for all retained groundfish in eLandings (see § 679.5(e)(11)).

DISCARD OR DISPOSITION INFORMATION

The operator must record all discard or disposition information in eLandings (see § 679.5(e)(11)).

WHITE - Vessel Copy: Keep in Logbook
 GOLDENROD - Observer copy
 YELLOW - NMFS Copy: Remit

MOTHERSHIP DCPL	VESSEL NAME		Date (M - D - Y)	PAGE
	OPERATOR NAME AND SIGNATURE		ADF&G Vessel No.	
			Federal Fisheries Permit No.	

IDENTIFICATION	INACTIVE	START	END	REASON	CREW SIZE	OBSERVER INFORMATION		MANAGEMENT PROGRAM <small>(Check if applicable and enter number)</small>	
	GEAR TYPE (circle one) Hook & Line Pot Non-pelagic trawl Pelagic trawl Jig Troll Other		FEDERAL REPORTING AREA COBLZ RKCSA		TRAWL GEAR ONLY (Circle one)		NO. OF OBSERVERS ONBOARD	CDQ <input type="checkbox"/> Exempted <input type="checkbox"/>	
							OBSERVER NAME AND CRUISE #	Research <input type="checkbox"/> AIP <input type="checkbox"/>	

DELIVERY INFORMATION	CV or BS	RECEIVE DISCARD REPORT	NAME	ADF&G NO.	RECEIPT TIME	RECEIPT POSITION		ROUND CATCH WEIGHT			FISH TICKET NUMBER
						LATITUDE	LONGITUDE	TOTAL HAUL WEIGHT <small>(Circle one LB or MT)</small>	IR/II SPECIES		
									SPECIES CODE	<small>(Circle one LB or MT)</small>	

For groundfish and Pacific herring, circle: lbs. or nearest 0.001 mt.
 For Pacific halibut, Pacific salmon, king crab, and Tanner crab, record in numbers

DISCARD/ DISPOSITION	SPECIES CODE																				
	PRODUCT CODE																				
	BALANCE FORWARD																				
	DAILY TOTAL																				
	WEEKLY CUMULATIVE TOTAL																				

PRODUCT <small>Indicate <input type="checkbox"/> lb. or <input type="checkbox"/> mt.</small>	SPECIES CODE																				
	PRODUCT CODE																				
	BALANCE FORWARD																				
	DAILY TOTAL																				
	WEEKLY CUMULATIVE TOTAL																				

COMMENTS

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 31 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Instructions
MOTHERSHIP
DAILY CUMULATIVE PRODUCTION LOGBOOK (DCPL)

REQUIREMENTS

Unless approved to use an electronic logbook, the operator of a mothership that is required to have an Federal Fisheries permit (FFP) under § 679.4(b) and that receives or processes any groundfish from the Gulf of Alaska (GOA) or Bering Sea and Aleutian Islands Management Area (BSAI) from vessels issued an FFP under § 679.4(b) is required to use a combination of mothership DCPL and eLandings to record and report daily processor identification information, delivery information, groundfish production data, and groundfish and prohibited species discard or disposition data. The operator must enter into the DCPL any information for groundfish received from catcher vessel, groundfish received from processors for reprocessing or rehandling, and groundfish received from an associated buying station documented on a Buying Station Report.

Account for each day of the fishing year.

The operator must account for each day of the fishing year, January 1 through December 31, in the DCPL.

Two logbooks in same fishing year.

If more than one logbook is used in a fishing year, the page numbers must follow the consecutive order of the previous logbook.

Two logbooks of different operation types.

If vessel functions as both a mothership and as a catcher/processor in a fishing year, a separate logbook of each type must be maintained. The page numbers in each logbook must start with page one.

DATA ENTRY TIME LIMITS

The operator of a mothership must record in the DCPL or eLandings the information in the following table for each groundfish delivery within the specified time limit:

DATA ENTRY TIME LIMITS, MOTHERSHIP			
Required information	Record In		Record within this time limit
	DCPL	eLandings	
All catcher vessel or buying station delivery information	X	X	Within 2 hours after completion of receipt of each groundfish delivery
Product information		X	By noon each day to record the previous day's production
Discard or disposition information		X	By noon each day to record the previous day's discard/disposition
All other required information	X	X	By noon of the day following completion of production
Operator sign the completed logsheets	X	X	By noon of the day following the week-ending date of the weekly reporting period
Submit the goldenrod logsheet to the observer	X		After signed by the operator and prior to departure of observer from the mothership.

Submit the yellow logsheets each quarter to: NOAA Office for Law Enforcement P.O. Box 21767 Juneau, Alaska 99802-1767	X		1	Jan 1 - Mar 31	May 1
			2	Apr 1 - Jun 30	August 1
			3	Jul 1 - Sep 30	November 1
			4	Oct 1 - Dec 31	February 1 of the following year.

ACTIVE AND INACTIVE TIME PERIODS IN THE DCPL

The operator must indicate whether the vessel was active or inactive during the time period. A mothership is active when receiving or processing groundfish. An inactive period is defined as a time period other than active.

Record January 1 on page 1.

The operator must record the first day of the year, January 1, on page one of the DCPL regardless of whether the vessel was active or inactive. The operator must record time periods consecutively.

Required information for inactive periods.

If inactive, the operator must record the following information on one logsheet in the DCPL:

Mothership name, Alaska Department of Fish and Game (ADF&G) processor code, FFP number, operator printed name, operator signature, and page number.

Mark “inactive.”

Record the date (mm/dd) of the first day when inactive under “Start date.”

Write brief explanation why inactive, e.g., bad weather or equipment failure. If inactive due to surrender of a FFP, write “surrender of permit” as reason for inactivity.

Inactive two or more quarters.

If the inactive time period extends across two or more successive quarters, the operator must complete a logsheet for each inactive quarter: 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.

REQUIRED INFORMATION, IF ACTIVE

If the mothership is active, the operator must record for one day per logsheet in the DCPL, the information described below:

IDENTIFICATION INFORMATION.

Page number.

Number the pages in each logbook consecutively, beginning with page 1 for January 1 and continuing throughout the logbook for the remainder of the fishing year.

Printed name and signature of operator.

The operator’s name must be printed in the DCPL. The operator must sign each completed DCPL logsheet as verification of acceptance of the responsibility to provide accurate, complete, and timely data. The operator’s signature is due by noon of the day following the week-ending date of the weekly reporting period.

Vessel information.

Name of mothership as displayed in official documentation, FFP number, and ADF&G processor code.

Date. Enter date (mm/dd/yy) of each operating day.

Crew size.

Record the number of crew members (including operator), excluding certified observer(s), on the last day of the weekly reporting period.

Gear type.

Indicate the gear type of harvester. If gear type is other than those listed, circle "Other" and describe. Use a separate logsheet for each gear type.

Federal reporting areas.

Record Federal reporting area code (see Figures 1 and 3 to part 679) where harvest was completed. Use a separate logsheet for each reporting area.

C. *Opilio* Crab Bycatch Limitation Zone (COBLZ) or Red King Crab Savings Area (RKCSA).

If groundfish was harvested with trawl gear in the COBLZ (see Figure 13 to part 679) or RKCSA (see Figure 11 to part 679) area within a reporting area, 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.

Observer information.

Record the number of observers aboard, the name(s) of the observer(s), and the observer cruise number(s).

Management program.

Indicate whether harvest occurred under a special management program: CDQ Program, Research Fishery, Exempted Fishery, or Aleutian Islands Pollock Fishery (AIP) and add identifying number, if appropriate. Use a separate logsheet for each management program. Use a separate logsheet for each identifying number of the same program type. If harvest is not under one of these management programs, leave blank.

DELIVERY INFORMATION

The operator must record delivery information when unprocessed groundfish deliveries are received by the mothership from a buying station or a catcher vessel. If no deliveries are received for a given day, write "no deliveries."

Type Of Delivery.

"CV" or "BS" to indicate delivery was from catcher vessel or buying station, respectively.

Non-Submittal Of Discard Report.

Indicate whether the blue logsheet was received from the catcher vessel at the time of catch delivery. If the delivery was from a buying station, leave this column blank. If the blue logsheet is not received from the catcher vessel, enter "NO" and one of the response codes in the following table to describe the reason for non-submittal.

NON-SUBMITTAL OF DISCARD REPORT	CODE
The catcher vessel does not have an FFP	"P"
The catcher vessel is under 60 ft (18.3 m) LOA and does not have an FFP	"P"
The catcher vessel is under 60 ft (18.3 m) LOA and has an FFP	"L"
The catcher vessel delivered an unsorted codend	"U"
Another reason; describe circumstances	"O"

Vessel identification.

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

Receipt time. Record time (in military format, A.I.t.) when receipt of groundfish delivery was completed.

Beginning position of receipt.

Record the position coordinates (in latitude and longitude to the nearest minute; indicate E or W for longitude) where receipt of the groundfish delivery began.

Estimated total groundfish hail weight.

Enter the total estimated hail weight of the combined species of each delivery from a catcher vessel or buying station. Total hail weight is an estimate of the total weight of the entire catch without regard to species. Indicate whether estimated weight is to the nearest pound or to the nearest 0.001 mt. If a catcher vessel reported discards on a blue DFL but did not deliver groundfish, enter "0" in this column.

IR/IU species (see § 679.27).

Enter the species code of IR/IU species and the estimated total round weight for each IR/IU species, if applicable; indicate whether estimated weight is to the nearest pound or the nearest 0.001 mt. Use one line to record information for each IR/IU species, including species code and amount of catch. If more than one IR/IU species are to be recorded, the operator should use a separate line for each species.

ADF&G fish ticket numbers.

If receiving unprocessed groundfish from a catcher vessel, record the ADF&G fish ticket number that the mothership issued to each catcher vessel. If receiving unprocessed groundfish from an associated buying station, record the ADF&G fish ticket numbers issued by the buying station on behalf of the mothership to the catcher vessel.

PRODUCT INFORMATION.

The operator of a mothership must record all groundfish product information in eLandings (see §679.5(e)(10)), including products made from unprocessed groundfish deliveries received from a buying station or a catcher vessel; groundfish received from another processor or other source; and groundfish received for custom processing by you for another processor or business entity.

DISCARD OR DISPOSITION INFORMATION.

The operator of a mothership must record discard and disposition information in eLandings (see §679.5(e)(10)). The discard or disposition information must include:

- ◆ Discards and disposition that occurred onboard after receipt of groundfish from a catcher vessel or buying station;
- ◆ Discards and disposition that occurred prior to, during, and after processing of groundfish;
- ◆ Discards and disposition that were reported on a blue DFL received from a catcher vessel delivering groundfish;
- ◆ Discards and disposition that are recorded on a blue DFL received from a catcher vessel even though no groundfish are delivered; and
- ◆ Discards and disposition reported on a BSR received from a buying station delivering groundfish, if different from the blue DFL logsheets submitted by catcher vessels to the buying station.

Revised: 10/28/05

SHORESIDE PROCESSOR DCPL PART 1				SHORESIDE PROCESSOR OR STATIONARY FLOATING PROCESSOR NAME				MANAGEMENT PROGRAM <small>(Check if applicable and enter number)</small> CDQ <input type="checkbox"/> Exempted <input type="checkbox"/> Research <input type="checkbox"/> AIP <input type="checkbox"/> <small>No. _____</small>		WEEK ENDING DATE		PAGE	
				MANAGER NAME AND SIGNATURE						ADF&G PROCESSOR CODE			
										FEDERAL PROCESSOR NO.			

IDENTIFICATION	INACTIVE		START	END	REASON	OBSERVER INFORMATION						COMMENTS	
	GEAR TYPE (circle one)					FEDERAL REPORTING AREA	TRAWL GEAR ONLY (Circle one)		NO. OF OBSERVERS ONSITE	DATES PRESENT	OBSERVER NAME AND CRUISE #		
	Hook & Line Pot Non-pelagic trawl Pelagic trawl Jig Troll Other						COBLZ RKCSA						

DELIVERY INFORMATION	DATE OF DELIVERY	CV or BS	RECEIVE DISCARD REPORT	NAME	ADF&G NO.	RECEIPT TIME	GROUND FISH DELIVERY WEIGHT (LB or MT)	FISH TICKET #

LANDINGS Indicate <input type="checkbox"/> lb. or <input type="checkbox"/> nearest 0.001 mt.	Species Code												
	Product Code												
	SUN												
	MON												
	TUE												
	WED												
	THU												
	FRI												
SAT													
WEEKLY CUMULATIVE TOTAL													

For groundfish and Pacific herring, circle: lbs. or nearest 0.001 mt.
 For Pacific halibut, Pacific salmon, king crab, and Tanner crab, record in numbers

DISCARD/DISPOSITION	Species Code												
	Product Code												
	SUN												
	MON												
	TUE												
	WED												
	THU												
	FRI												
SAT													
WEEKLY CUMULATIVE TOTAL													

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 31 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

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Instructions for
SHORESIDE PROCESSOR
DAILY CUMULATIVE PRODUCTION LOGBOOK (DCPL)

RESPONSIBILITY

The owner or manager of a shoreside processor or stationary floating processor (SFP) that receives groundfish from vessels issued a Federal fisheries permit under 679.4 is responsible for compliance with the applicable recordkeeping and reporting requirements of 50 CFR part 679.5, including completion of a DCPL. The signature of the owner or manager on the DCPL is verification of acceptance of that responsibility.

Use a separate logsheet	For each day of an active period or use one logsheet for up to 7 days
	For each reporting area where harvest occurred
	Use two separate logsheets, the first to record the information from the reporting area that includes the COBLZ or RKCSA and the second to record the information from the reporting area that does not include the COBLZ or RKCSA
	For each separate management program (see below)
	If an inactive time period extends across two or more successive quarters, complete two logsheets: the one to indicate the last day of the first inactive quarter and the next page to indicate the first day of the second inactive quarter.

TIME LIMITS

The manager of a shoreside processor must	Within this Time Limit		
Record all catcher vessel or buying station "delivery information"	Within 2 hours after completion of receipt of each groundfish delivery		
Record landings information	By noon each day to record the previous day's landings		
Record product information	By noon each day to record the previous day's production		
Record discard/disposition information	By noon each day to record the previous day's discard/disposition that: (1) Occurred on site after receipt of groundfish from a catcher vessel or buying station and during processing of groundfish; (2) Was reported on a blue DFL received from a catcher vessel delivering groundfish; (3) Was reported on a BSR received from a buying station delivering groundfish		
Record all other information required in the DCPL	By noon each day for the previous day's production		
Sign the completed DCPL logsheets	By noon of the day following the week-ending date of the weekly reporting period.		
Submit the goldenrod logsheet to the observer	After signed by the manager		
Submit the yellow logsheets each quarter to: NOAA Fisheries Office for Law Enforcement P.O. Box 21767 Juneau, Alaska 99802-1767	Quarter		Submit by
	1	(Jan 1 - Mar 31)	May 1
	2	(Apr 1 - Jun 30)	Aug 1
	3	(Jul 1 - Sep 30)	Nov 1
	4	(Oct 1 - Dec 31)	Feb 1 of the following year.

INFORMATION REQUIRED ON ALL LOGSHEETS

Active/Inactive

The owner or manager must account for each day of the fishing year and indicate in the DCPL whether the shoreside processor or SFP is active or inactive throughout the year.

If a shoreside processor or SFP is	Then
Active. A period of time when the processor is checked-in or processing.	Part I. Complete a single Part I logsheet per day or up to 7 days on one logsheet. Part II. Use a separate Part II logsheet for each weekly reporting period or use one page for up to 3 weekly reporting periods.
Inactive. A period of time when the processor is not active.	Use one Part I logsheet to record inactivity. Not Part II. 1. Check "inactive". 2. Record the first and last day when inactive. 3. Indicate why inactive

Shoreside processor or SFP Name.

Enter complete name as displayed in official documentation.

Manager Name and Signature.

Enter the printed name of the manager. The owner or manager must sign the DCPL to verify accuracy and completeness of data on the logbook sheet.

Week-ending Date.

Enter week-ending date (month-day-year). Dates must be consecutive.

Page Numbering.

Number the pages within Part I of each logbook consecutively, beginning with page 1 for January 1 and continuing throughout the logbook for the remainder of the fishing year.

Page numbers must be consecutive within Part II, beginning with page one for the first day of processing operations after the start of the fishing year and continuing throughout the section for the remainder of the fishing year.

Logbook Numbering.

If more than one logbook is used in a fishing year, the page numbers should follow the consecutive order of the previous logbook.

ADF&G Processor Code.

Enter 5-digit State of Alaska Department of Fish & Game (ADF&G) processor code.

Federal Processor No.

Enter Federal processor permit number.

INFORMATION REQUIRED FOR EACH DAY THE PROCESSOR IS ACTIVE.

Gear Type.

Indicate the gear type of harvester. If gear type used to harvest fish is not listed, check OTHER and describe gear.

Federal Reporting Area.

Enter the reporting area code where groundfish were harvested.

Use the reporting area codes presented in Figure 1 and Figure 3.

COBLZ or RKCSA.

If groundfish were harvested using trawl gear, indicate whether catch was harvested in COBLZ or RKCSA.

Management Program.

Indicate whether harvest was made under a separate management program. If YES, enter identification number, if appropriate.

Observer Information.

Enter the number of NMFS-certified observers onsite at the processor. Enter the printed name, cruise number, and dates present of each observer onsite at the processor.

DELIVERY INFORMATION

Record the following information for all deliveries received from a catcher vessel or buying station.

Date of Delivery.

Enter the month and day landings were received from Catcher Vessel or Buying Station.

CV or BS.

Enter CV or BS to indicate delivery by a catcher vessel or buying station, respectively.

Receive Discard Report.

If catch received from a catcher vessel, indicate (YES or NO) whether Catcher Vessel submitted blue discard copy of DFL. If NO, enter code to describe reason.

If catch received from a buying station, leave this column blank.

Code	Reason for Non-submittal
P	Catcher vessel does not have a Federal fisheries permit
	Catcher vessel is under 60 ft LOA and also does not have a Federal fisheries permit
L	Catcher vessel is under 60 ft length overall
U	Catcher vessel delivered an unsorted codend
If blue discard copy of DFL is not submitted by catcher vessel, and no reason was given, enter NO without a code.	

Name.

Enter the name of the Catcher Vessel or Buying Station delivering the groundfish.

ADF&G No.

Enter the 5-digit ADF&G vessel registration number of the Catcher Vessel or Buying Station (if applicable) delivering the groundfish.

Receipt Time.

Record the time (to the nearest hour, A.I.t.) when receipt of groundfish catch was completed.

Groundfish Delivery Weight.

Circle either lb or mt. Use the same units to report weight throughout the year.

Enter the estimated total catch weight in pounds or to the nearest mt.

Fish Ticket Number.

If delivery is from a catcher vessel, enter the ADF&G fish ticket number issued to the Catcher Vessel.

If Shoreside Processor is located in a state other than Alaska, the manager should record the fish ticket number issued through that state.

If a state fish ticket system is unavailable, the manager should record the catch receipt number.

If delivery is from a Buying Station, leave this column blank.

No deliveries.

If there are no deliveries for a day, write "NO DELIVERIES", "0", or "ZERO" on the "daily total" line.

LANDINGS INFORMATION

Record the following information for all landings retained from deliveries by a catcher vessel or buying station.

Species Code.

Enter the species code for each landed species.

Product Code.

Enter the product code for each landed species.

Use species and product codes presented in Table 1 and Table 2.

Sorting

Reported weights for each groundfish species may be obtained either by:

(1) Sorting according to species code and weighing by sorted species, or;

(2) Weighing the entire delivery and then sorting and weighing some or all of the groundfish species individually to determine their weight. This method determines the weight of one of the groundfish species by subtracting the weight of some component of the catch from the total delivery weight.

The weight of the individual groundfish species cannot be estimated. Weight must be determined through either direct weighing of each species or through subtraction of the known weight of some component of the catch from the known weight of the entire delivery.

DESCRIPTION OF SORTING PROCEDURE	
Example 1 A vessel delivers only pollock and Pacific cod	Sort the pollock from the Pacific cod Weigh both separately OR
	Weigh the total delivery Sort the Pacific cod from the pollock Weigh the Pacific cod Determine the weight of pollock by subtracting the weight of Pacific cod from the total delivery weight.

<p>Example 2 A vessel delivers pollock, Pacific cod, Arrowtooth flounder, and jellyfish</p>	<p>Sort all of the species Weigh the pollock, Pacific cod, and Arrowtooth flounder separately Report an estimated weight of the jellyfish OR</p>
	<p>Sort out the jellyfish first Weigh the remaining groundfish species as a group Sort out the Pacific cod and Arrowtooth flounder and weigh them separately Subtract the weight of the Pacific cod and Arrowtooth flounder from the combined weight of the pollock, Pacific cod, and Arrowtooth flounder Determine the weight of the pollock</p>

Date.

Enter the date (month-day) next to the appropriate day of the week (SUN through SAT).

Daily Landings Weight.

Check either lb or mt. Use the same units to record weight throughout the year.

Enter the daily total scale weight of landings, by species and product codes, in pounds or to the nearest 0.001 mt.

Weekly Landings Cumulative Total.

At the end of each weekly reporting period, enter for each species/product code, the cumulative total scale weight of landings for that week.

Calculate cumulative landings totals for each reporting area, gear type, and management program.

No landings.

If there are no landings for a day, write "NO LANDINGS", "0", or "ZERO" on the "daily total" line.

DISCARD/DISPOSITION INFORMATION.

Record all discard/disposition information received from a Buying Station BSR, from a Catcher Vessel blue DFL, and discards/disposition that result from activities before, during, and after processing by the Processor.

Species Code.

Record the species code for each discard/disposition.

Product Code.

Record the discard product code for each discard/disposition.

Use species and product codes presented in Table 1 and Table 2.

Date.

Enter the date (month-day) of discard or disposition next to the appropriate day of the week (SUN through SAT).

If recording discard/disposition information received from a catcher vessel or buying station, enter the date of delivery to you, not the discard date recorded on the blue DFL logsheet or BSR.

Daily Total Discard/Disposition Weight.

Record daily the species code, product code, and the total estimated discard/disposition amounts in whole fish weight for each groundfish species or species group and Pacific herring in pounds or to at least the nearest 0.001 mt.

Daily Total Numbers of animals.

Record daily the species code, product code, and discard/disposition amounts by number of Pacific salmon, steelhead trout, Pacific halibut, king crab, and Tanner crab.

No discard/disposition.

If there are no discard/disposition for a day, write "NO DISCARDS", "0", or "ZERO" on the "daily total" line.

NOTE

At the beginning of each weekly reporting period, the discard/disposition amount is zero, and nothing shall be carried forward from the previous weekly reporting period.

Weekly Discard/Disposition Cumulative Total.

Enter the total discard/disposition amount by species and product codes, calculated by adding the relevant daily total and the total carried forward.

Calculate cumulative discard/disposition totals for each reporting area, gear type, IFQ, and management program.

QUESTIONS & ANSWERS

A shoreside processor normally receives and/or processes only salmon and halibut. The processor offloaded halibut and groundfish bycatch, listed the groundfish on an ADF&G fishticket, and gave the groundfish back to the catcher vessel for use as onboard bait. The vessel was less than 60 ft and not required to maintain a NMFS logbook.

Question: is the processor required to report the groundfish bycatch to NMFS because he "received" it?

Answer: the processor has no history of receiving groundfish and does not have a Federal groundfish processor permit. The processor in no way prepared the product for sales or barter and therefore did not "receive" it. He listed the groundfish on an ADF&G fish ticket as required by the State. Vessels under 60 ft have no way of reporting groundfish to NMFS, so NMFS would rely on routine cross checks comparing the ADF&G fishticket data base with NMFS processor reports to obtain this groundfish information.

If a processor has a Federal processor permit and has reported groundfish to NMFS, this processor does not have the option of giving the fish back to the fisherman without recording it in a Federal logbook.

PRODUCT INFORMATION (PART II).

Calculate and record the following information for each product made from fish delivered by a catcher vessel, buying station, or transferred from a groundfish processor. Check either pounds (lb) or metric tons (mt).

Use the species codes, product codes, and product designations presented in Table 1 and Table 2

Daily Production Total.

Enter the total amount of product – by species codes, product codes, and product designation – that was produced each day.

No Production.

If no production occurred for a day, write “NO PRODUCTION” on the “daily total” line.

Weekly Production Cumulative


At the end of each weekly reporting period, Enter the total amount of product – by species codes, product codes, and product designation, calculated by adding the relevant daily total and the total carried forward for that week.

Calculate cumulative production totals for each reporting area, gear type, and CDQ number.

COMMENTS (optional)

	Description	Species Code	Primary/ Ancillary	Product Code
Example 1 – describe a single product:	Pollock made into primary product, minced	270	P	31
Example 2 – describe two products from the same fish	Pollock made into primary product, fillets and ancillary product, roe	270	P	23
		270	A	14
Example 3 – describe multiple products	Starting with 100 mt of pollock -- 90 mt were processed [into 13.5 mt deep skin fillets and 2.7 mt roe] 10 mt small and damaged pollock were processed into meal along with 73.8 mt pollock parts 12% (10/83.8) of the meal = 1.68 mt is primary 88% (73.8/83.8) of the meal = 12.32 mt is ancillary	270	P	24
		270	A	14
		270	P	32
		270	A	32
Example 4 – describe an unlisted, ancillary product	Pollock livers made into ancillary product. Use product code 97, which means miscellaneous products, and write in the name of the product.	270	A	97 livers

Revised: 06/02/2008

CHECK-IN/CHECK-OUT REPORT MOTHERSHIP OR CATCHER/PROCESSOR		<input type="checkbox"/> Original Report <input type="checkbox"/> Revised Report	National Marine Fisheries Service P.O. Box 21668 Juneau, AK 99802 Fax: 907-586-7131 Telephone: 907-586-7269 E-Mail: erreports.fakr@noaa.gov	
Vessel Name		ADF&G Processor Code		
		Federal Processor Permit Number		
Representative Name		Telephone Number		
MANAGEMENT PROGRAM (Check if applicable and enter number) <input type="checkbox"/> CDQ <input type="checkbox"/> Exempted <input type="checkbox"/> Research <input type="checkbox"/> AIP No.		FAX Number		
		COMSAT Number		
Processor Type (check one) <input type="checkbox"/> Mothership <input type="checkbox"/> Catcher/Processor	Gear Type (check one) <input type="checkbox"/> Hook & Line <input type="checkbox"/> Pot <input type="checkbox"/> Pelagic Trawl <input type="checkbox"/> Non-Pelagic Trawl <input type="checkbox"/> Jig <input type="checkbox"/> Troll			
BEGIN Message	Latitude/Longitude			
	Date:	Federal Reporting Area <input type="checkbox"/> 508 <input type="checkbox"/> 509 <input type="checkbox"/> 512 <input type="checkbox"/> 513 <input type="checkbox"/> 514 <input type="checkbox"/> 516 <input type="checkbox"/> 517 <input type="checkbox"/> 518 <input type="checkbox"/> 519 <input type="checkbox"/> 521 <input type="checkbox"/> 523 <input type="checkbox"/> 524 <input type="checkbox"/> 530 <input type="checkbox"/> 541 <input type="checkbox"/> 542 <input type="checkbox"/> 543 <input type="checkbox"/> 610 <input type="checkbox"/> 620		
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	TRAWL GEAR ONLY <input type="checkbox"/> COBLZ <input type="checkbox"/> RKCSA		Primary and Secondary Target Species Codes	
CEASE Message	Latitude/Longitude			
	Date:	Federal Reporting Area <input type="checkbox"/> 508 <input type="checkbox"/> 509 <input type="checkbox"/> 512 <input type="checkbox"/> 513 <input type="checkbox"/> 514 <input type="checkbox"/> 516 <input type="checkbox"/> 517 <input type="checkbox"/> 518 <input type="checkbox"/> 519 <input type="checkbox"/> 521 <input type="checkbox"/> 523 <input type="checkbox"/> 524 <input type="checkbox"/> 530 <input type="checkbox"/> 541 <input type="checkbox"/> 542 <input type="checkbox"/> 543 <input type="checkbox"/> 610 <input type="checkbox"/> 620		
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CEASE Message	Latitude/Longitude			
	Date:	Federal Reporting Area <input type="checkbox"/> 508 <input type="checkbox"/> 509 <input type="checkbox"/> 512 <input type="checkbox"/> 513 <input type="checkbox"/> 514 <input type="checkbox"/> 516 <input type="checkbox"/> 517 <input type="checkbox"/> 518 <input type="checkbox"/> 519 <input type="checkbox"/> 521 <input type="checkbox"/> 523 <input type="checkbox"/> 524 <input type="checkbox"/> 530 <input type="checkbox"/> 541 <input type="checkbox"/> 542 <input type="checkbox"/> 543 <input type="checkbox"/> 610 <input type="checkbox"/> 620		
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	TRAWL GEAR ONLY <input type="checkbox"/> COBLZ <input type="checkbox"/> RKCSA		Primary and Secondary Target Species Codes	
CEASE Message	Latitude/Longitude			
	Date:	Federal Reporting Area <input type="checkbox"/> 508 <input type="checkbox"/> 509 <input type="checkbox"/> 512 <input type="checkbox"/> 513 <input type="checkbox"/> 514 <input type="checkbox"/> 516 <input type="checkbox"/> 517 <input type="checkbox"/> 518 <input type="checkbox"/> 519 <input type="checkbox"/> 521 <input type="checkbox"/> 523 <input type="checkbox"/> 524 <input type="checkbox"/> 530 <input type="checkbox"/> 541 <input type="checkbox"/> 542 <input type="checkbox"/> 543 <input type="checkbox"/> 610 <input type="checkbox"/> 620		
	Time (ALT)	<input type="checkbox"/> 630 <input type="checkbox"/> 640 <input type="checkbox"/> 649 <input type="checkbox"/> 650 <input type="checkbox"/> 659		
	TRAWL GEAR ONLY <input type="checkbox"/> COBLZ <input type="checkbox"/> RKCSA		Primary and Secondary Target Species Codes	

Instructions
CHECK-IN/CHECK-OUT REPORT
MOTHERSHIP OR CATCHER/PROCESSOR

REQUIREMENT.

Except as described below, the operator of a catcher/processor (C/P) or mothership (MS) 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 may be submitted by

Fax to 907-586-7131, or

e-mail to erreports.alaskafisheries@noaa.gov.

If you need assistance in completing this report or need additional information:

Call: 907-586-7269

Fax: 907-586-7131

e-mail your questions: erreports.fakr@noaa.gov

EXCEPTIONS

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).

Two Adjacent Reporting Areas, Catcher/Processor.

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:

1. Submit to NMFS a check-in report to the first area prior to entering the first reporting area, and
2. Submit to NMFS a check-in report to the second area prior to entering the second reporting area.
3. Remain within 10 nautical miles (18.5 km) of the boundary described in §679.5(h)(2)(i).
4. 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.

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.

TIME LIMITS AND SUBMITTAL.

Except as noted above, before a mothership (MS) commences receipt of groundfish or a catcher/processor (C/P) commences harvest of groundfish, the operator must submit a check-in report (BEGIN message) within the time limits given below. In addition, the operator must submit a check-out report (CEASE message) within the time limits given in the table.

To ...	If you are a ...	Submit a BEGIN message within this time limit	Submit a CEASE message within this time limit
Each reporting area, except area 300, 400, 550, or 690	C/P using trawl gear	Before gear deployment.	Within 24 hours after departing a reporting area but prior to checking-in another reporting area.
	C/P using longline or pot gear	Before gear deployment.	May be checked in to more than one area simultaneously. Upon completion of gear retrieval and within 24 hours after departing each reporting area.
	MS	Before receiving groundfish, must check-in to reporting area(s) where groundfish were harvested. May be checked in to more than one area simultaneously.	Within 24 hours after receipt of fish is complete from that reporting area.
COBLZ or RKCSA	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.	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.
	MS	Before receiving groundfish harvested with trawl gear that were harvested in the COBLZ or RKCSA, submit one check-in for the COBLZ or RKCSA and another check-in for the area outside the COBLZ or RKCSA.	Upon completion of groundfish receipt, submit a separate check-out for the COBLZ or RKCSA and another check-out for the area outside the COBLZ or RKCSA.
Gear Type	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.	Upon completion of gear retrieval for groundfish, submit a separate check-out for each gear type for which a check-in was submitted.
	MS	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	Upon completion of receipt of groundfish, submit a separate check-out for each gear type for which a check-in was submitted.
CDQ	MS	Prior to receiving groundfish CDQ, if receiving groundfish	Within 24 hours after receipt of groundfish CDQ has ceased for each

To ...	If you are a ...	Submit a BEGIN message within this time limit	Submit a CEASE message within this time limit
		under more than one CDQ number, use a separate check-in for each CDQ number.	CDQ number.
	C/P	Prior to fishing, submit a separate check-in for each CDQ number.	Within 24 hours after groundfish CDQ fishing for each CDQ number has ceased.
Exempted or Research Fishery	C/P	Prior to fishing, submit a separate check-in for each type.	Upon completion of receipt of groundfish submit a separate check-out for each type for which a check-in was submitted.
	MS	Prior to receiving groundfish, submit a separate check-in for each type.	Upon completion of receipt of groundfish submit a separate check-out for each type for which a check-in was submitted.
Aleutian Islands Pollock (AIP)	C/P	Prior to AIP fishing.	Within 24 hours after completion of gear retrieval for AIP.
	MS	Before receiving AIP.	Within 24 hours after receipt of AIP has ceased
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.	Upon completion of simultaneous activity as both catcher/processor and mothership, a separate check-out, one for catcher/processor and one for mothership.
Change of fishing year	C/P, MS	If continually active through the end of one fishing year and at the beginning of a second fishing year, submit a check-in to start the year on January 1.	If a check-out report was not previously submitted during a fishing year, submit on December 31, a check-out report.
Interruption of groundfish participation	C/P, MS		If a MS and receipt of groundfish from a reporting area is expected to stop for at least one month during the fishing year and then start up again, may submit check-out report for that reporting area.
Cease groundfish participation	C/P, MS		Within 48 hours after the end of the applicable weekly reporting period that a shoreside processor or SFP ceases to receive, process, purchase, or arrange to purchase groundfish for the fishing year.

REQUIRED INFORMATION.

The operator of a catcher/processor or mothership must record the following information on a check-in report and a check-out report, as appropriate.

FOR EACH MOTHERSHIP OR CATCHER/PROCESSOR CHECK-IN AND CHECK-OUT REPORT

Original/revised Report.

If Check-in/Check-out Report is the first one sent for this date and reporting area, check "ORIGINAL REPORT".

If Check-in/Check-out Report is a correction or addition to a previously sent report for this date and reporting area, check "REVISED REPORT."

Vessel Name.

Enter the name of Mothership or Catcher/Processor as listed on the Federal Fisheries Permit.

ADF&G Processor Code.

Enter State of Alaska Department of Fish & Game (ADF&G) processor code.

Federal Fisheries Permit Number.

Enter Federal Fisheries Permit number (AK9).

Representative Information.

Enter name, telephone number, and fax number of representative.

COMSAT No.

Enter the satellite communications number of the vessel (if available).

Management Program.

Circle to indicate whether fishing activity is under the CDQ Program, a Research Fishery, Exempted Fishery, or AIP and add identifying number, if appropriate.

Processor Type.

Circle to indicate Mothership or Catcher/Processor.

Gear Type.

Circle the gear type used to harvest the groundfish.

CHECK-IN REPORT (BEGIN MESSAGE).

Date and Time.

If a C/P -- Enter date (month-day-year) and time (A.l.t.) when gear deployment will begin.

If a MS -- Enter date (month-day-year) and time (A.l.t.) when receipt of groundfish will begin.

Position Coordinates.

If a C/P -- Enter latitude and longitude of vessel's position in degrees and minutes (e.g., 54 30' N, 167 45' W) where the gear is deployed.

If a MS -- Enter latitude and longitude of mothership position in degrees and minutes (e.g., 54 30' N, 167 45'W) where groundfish receipt begins.

Option: record to the nearest second or fraction of minute.

Federal Reporting Area.

Circle the reporting area code where groundfish were harvested.

COBLZ or RKCSA.

If harvest was caught using trawl gear, indicate whether catch was harvested in COBLZ or RKCSA.

Primary And Secondary Target Species Codes.

Record the two main species expected to harvest (if a C/P) or receive (if MS) in the following week. A change in intended target species within the same reporting area does not require a new BEGIN message.

CATCHER/PROCESSOR CHECK-OUT REPORT (CEASE MESSAGE).

Date and Time.

If a C/P -- Enter date (month-day-year) and time (A.l.t.) when the catcher/processor departed the reporting area.

If a MS -- Enter date (month-day-year) and time (A.l.t.) when the last receipt of groundfish was made

Position Coordinates.

If a C/P -- Enter latitude and longitude of vessel's position in degrees and minutes (e.g., 54° 30' N, 167° 45' W) where the catcher/processor departed the reporting area.

If MS -- Enter latitude and longitude of mothership position in degrees and minutes (e.g., 54° 30' N, 167° 45' W) where the last receipt of groundfish was completed.

Option: record to the nearest second or fraction of minute.

Federal Reporting Area.

If a C/P -- Circle the reporting area code where the catcher/processor departed.

If a MS -- Circle the reporting area code where last receipt of groundfish was completed.


PUBLIC REPORTING BURDEN STATEMENT

Public reporting for this collection of information is estimated to average 7 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) The information collected is confidential under section 402(b) of the Magnuson-Stevens Act, as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Revised: 06/02/2008

CHECK-IN/CHECK-OUT REPORT SHORESIDE PROCESSOR	<input type="checkbox"/> Original Report <input type="checkbox"/> Revised Report	National Marine Fisheries Service P.O. Box 21668 Juneau, AK 99802 Fax: 907-586-7131 Telephone: 907-586-7519 E-Mail: erreports.fakr@noaa.gov	
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Processor Name	ADF&G Processor Code
	Federal Processor Permit Number
Representative Name	Telephone Number
	FAX Number

Check One	Check-in:		Enter date facility will begin to receive groundfish	
	Check-out:		Enter date facility ceased to receive or process groundfish	
If this is a check-in report, check (a) or (b) <input type="checkbox"/> (a) Beginning of fishing year <input type="checkbox"/> (b) Restart after plant check-out report			If a stationary floating processor, give latitude and longitude of position where receiving groundfish:	

FISH OR FISH PRODUCT HELD AT PLANT (Check lbs or mt)					
SPECIES CODE	PRODUCT CODE	PRODUCT WEIGHT [] lb [] 0.001 mt	SPECIES CODE	PRODUCT CODE	PRODUCT WEIGHT [] lb [] 0.001 mt

Instructions
CHECK-IN/CHECK-OUT REPORT
SHORESIDE PROCESSOR

REQUIREMENT.

The manager of a shoreside processor or SFP 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 may be submitted by

Fax to 907-586-7131, or

e-mail to erreports.alaskafisheries@noaa.gov.

If you need assistance in completing this report or need additional information:

Call: 907-586-7219

Fax: 907-586-7131

e-mail your questions: erreports.fakr@noaa.gov

TIME LIMITS AND SUBMITTAL

The manager must submit a check-in report and a check-out report as follows:

To ...	Submit a BEGIN message within this time limit	Submit a CEASE message within this time limit
Begin groundfish participation	Prior to receipt of, processing of, purchase of, or arrange to purchase groundfish	
Change of fishing year	If continually active through the end of one fishing year and at the beginning of a second fishing year, submit a check-in to start the year on January 1.	If a check-out report was not previously submitted during a fishing year, submit on December 31, a check-out report.
Interruption of groundfish participation		If receipt of groundfish is expected to stop for at least one month during the fishing year and then start up again, the manager may choose to submit a check-out report.
Cease groundfish participation		Within 48 hours after the end of the applicable weekly reporting period that a shoreside processor or SFP ceases to receive, process, purchase, or arrange to purchase groundfish for the fishing year.

REQUIRED INFORMATION.

The manager must record the following information on a check-in report or a check-out report, as appropriate.

Required information	Check-in Report	Check-out Report
Whether an original or revised report	X	X
Processor name, ADF&G processor code, FPP number	X	X
Representative name, business telephone number, business fax number	X	X
Date (mm/dd/yy) and time (A.l.t., military format) will begin to receive groundfish	X	
Date ceased to receive or process groundfish		X
Position coordinates where receiving groundfish (if SFP)	X	
If this is a check-in report , indicate whether		
Checking-in for the first time this fishing year	X	
Checking-in to restart receipt and processing of groundfish after filing a check-out report	X	
If this is a check-out report , indicate 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. Indicate if recorded in pounds or to the nearest 0.001 mt.		X

PUBLIC REPORTING BURDEN STATEMENT

Public reporting for this collection of information is estimated to average 8 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) The information collected is confidential under section 402(b) of the Magnuson-Stevens Act, as amended in 2006. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 17 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Instructions for

**WEEKLY PRODUCTION REPORT (WPR)
MOTHERSHIP OR CATCHER/PROCESSOR**

The operator must submit a WPR for any week the mothership or catcher/processor is checked-in. The WPR summarizes information recorded in the Daily Cumulative Production Logbook (DCPL) on a weekly basis.

TIME LIMIT AND SUBMITTAL.

The operator or representative must submit a separate WPR to the Regional Administrator by 1200 hours, A.I.t. on Tuesday following the end of the applicable weekly reporting period **per the following table.**

by FAX (907-586-7131) or

by E-Mail: erreports.fakr@noaa.gov

Use a separate WPR	For each processor type
	For each gear type
	For each management program
	If still conducting fishing activity, at the end of each fishing year (midnight, December 31) regardless of where this date falls within the weekly reporting period
	If still conducting fishing activity, starting January 1 through the end of the weekly reporting period.
Each WPR may list information for two different reporting areas.	

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.

GENERAL INFORMATION.

Original/revised Report.

If WPR is the first one sent for a given weekly reporting period, check "ORIGINAL REPORT".

If WPR is a correction or addition to a previously sent WPR, check "REVISED REPORT."

Week Ending Date.

Enter the last day of the weekly reporting period (month-day-year), which ends on Saturday at 2400 A.I.t. (except during the last week of each year, when it ends on December 31).

Processor Name.

Enter the name of the Mothership or Catcher/processor, as listed on the Federal Fisheries Permit.

Federal Fisheries Permit No.

Enter Federal Fisheries Permit number.

ADF&G Processor Code.

Enter the State of Alaska Department of Fish & Game (ADF&G) processor code.

Management Program.

Circle to indicate whether fishing activity is under the CDQ Program, a Research Fishery, Exempted Fishery, **or AIP and add identifying number, if appropriate.**

Gear Type of Harvester.

Circle the type of gear that was used to harvest the groundfish.

Processor Type.

Indicate whether Mothership or Catcher/Processor.

Representative Information.

Enter the printed name, **e-mail address**, telephone number, and FAX number of representative.

Date.

Enter the date the WPR is completed.

Crew Size.

Enter number of personnel on last day of week-ending date.

Federal Reporting Area.

Enter the reporting area where gear retrieval was completed.

COBLZ or RKCSA.

If harvester used trawl gear, indicate whether catch was harvested in COBLZ or RKCSA.

PRODUCT INFORMATION.

Product Weight

From the DCPL, enter the **scale weights** or fish product weights of groundfish product by reporting area at the end of each weekly reporting period by species code, product code, and product designation, to at least the nearest 0.001 mt.

No Production

If there was no production during a weekly reporting period and the Mothership or Catcher/Processor was checked in, enter "NO PRODUCTION" on the first row of this section.

NOTE

If DCPL groundfish records are maintained in pounds, convert the amount to metric tons before entering onto the WPR.

(Divide the amount in pounds by 2204.6 to obtain metric tons.)

DISCARD/DISPOSITION INFORMATION.

Groundfish or Pacific herring Weight

From the DCPL, enter the cumulative amounts of discard/disposition of groundfish or Pacific herring by reporting area at the end of each weekly reporting period by species code and product code, to at least the nearest 0.001 mt.

Pacific salmon, steelhead trout, Pacific halibut, king crab, or Tanner crab PSC Number

From the DCPL, enter the cumulative PSC number of discard/disposition of Pacific salmon, steelhead trout, Pacific halibut, king crab, or Tanner crab by reporting area at the end of each weekly reporting period by species code and product code.

No Discard/disposition

If no discard/disposition occurred during the weekly reporting period, enter "NO DISCARDS" on the first row of this section. Do not leave this section blank.

CATCHER VESSEL DELIVERY INFORMATION.

If a mothership, list the fish ticket numbers issued to Catcher Vessels during the weekly reporting period. Include those fish tickets issued by a buying station on behalf of the mothership.

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 17 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Instructions for

**WEEKLY PRODUCTION REPORT (WPR)
SHORESIDE PROCESSOR**

Except if using the Shoreside Processor Electronic Logbook Report (SPELR) instead of the Daily Cumulative Production Logbook (DCPL), the manager must submit a WPR for any week the shoreside processor or stationary floating processor (SFP) is checked-in. The WPR summarizes information recorded in the Daily Cumulative Production Logbook (DCPL) on a weekly basis.

TIME LIMIT AND SUBMITTAL.

The manager or representative must submit a WPR to the Regional Administrator by 1200 hours, A.I.t. on Tuesday following the end of the applicable weekly reporting period **per the following table:**

by FAX: (907-586-7131) or

by E-Mail: erreports.fakr@noaa.gov

Use a separate WPR	For each gear type of harvester if groundfish are caught in the same reporting area using more than one gear type
	For each management program
	For each reporting area, except 300, 400, 550, or 690*
	End of the fishing year. If continually active through the end of one fishing year and at the beginning of a second fishing year, submit a WPR to end the year at midnight, December 31 , regardless of where this date falls within the weekly reporting period and submit another WPR to start the year on January 1 , regardless of where this date falls within the weekly reporting period.
*Each WPR may list information for two different reporting areas	

GENERAL INFORMATION.

Original/revised Report.

If WPR is the first one sent for a given weekly reporting period, check "ORIGINAL REPORT".

If WPR is a correction or addition to a previously sent WPR, check "REVISED REPORT."

Week Ending Date.

Enter the last day of the weekly reporting period (month-day-year), which ends on a Saturday at 2400 A.I.t. (except during the last week of each year, when it ends on December 31).

Processor Name.

Enter the name of the Shoreside Processor of SFP, as listed on the Federal Processor Permit.

Federal Processor Permit No.

Enter Federal Processor Permit number.

ADF&G Processor Code.

Enter the State of Alaska Department of Fish & Game (ADF&G) processor code.

Management Program.

Circle to indicate whether fishing activity is under the CDQ Program, a Research Fishery, Exempted Fishery, **or AIP and add identifying number, if appropriate.**

Representative Information.

Enter the printed name, **e-mail address**, telephone number, and FAX number of representative.

Date. Enter the date the WPR is completed.

Federal Reporting Area.

Enter the reporting area where groundfish were harvested.

COBLZ or RKCSA.

If harvested with trawl gear, indicate whether catch was harvested in COBLZ or RKCSA.

PART I INFORMATION

From Part I of the DCPL, enter the cumulative amounts of landings and discard/disposition by reporting area at the end of each weekly reporting period.

Gear Type of Harvester.

Circle the type of gear that was used to harvest the groundfish. If gear type not listed, circle OTHER and write a brief description of gear.

Landings Weight Information.

Enter landings weight by Federal reporting area, for each species code and product code, in metric tons to at least the nearest 0.001 mt.

No Landings

If no landings occurred during a weekly reporting period and the Shoreside Processor or SFP is checked in, enter "NO LANDINGS" on the first row of this section. Do not leave this section blank.

NOTE

If DCPL groundfish records are maintained in pounds, convert the amount to metric tons before entering onto the WPR.

(Divide the amount in pounds by 2204.6 to obtain metric tons.)

Discard/disposition Weight Information.

Enter discard/disposition weight by Federal reporting area for each species code and product code of groundfish or Pacific herring to at least the nearest 0.001 mt.

Discard/disposition PSC Number Information.

Enter by Federal reporting area, the number of discard/disposition for each species code and product code of Pacific salmon, steelhead trout, Pacific halibut, king crab, or Tanner crab.

No Discards/disposition.

If there are no discard/disposition, enter "NO DISCARDS" on the first row of this section. Do not leave this section blank.

PART II INFORMATION.

Product Weight.

From Part II of the DCPL, enter the cumulative amounts of product by management area (BSAI or GOA) at the end of each weekly reporting period by species code, product code, and product designation, to at least the nearest 0.001 mt.

No Production

If there was no production during a weekly reporting period and the Shoreside Processor or SFP was

checked in, enter "NO PRODUCTION" on the first row of this section. Do not leave this section blank.

CATCHER VESSEL DELIVERY INFORMATION.

List the fish ticket numbers issued to catcher vessels for the weekly reporting period. Include those fish tickets issued by a buying station on behalf of the Shoreside Processor or SFP.

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 14 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Instructions
U.S. VESSEL ACTIVITY REPORT (VAR)

REQUIREMENTS

Fish or Fish Product Other than Crab Onboard

Except as noted below, the operator of the following vessels carrying fish or fish product other than crab onboard must complete and submit a VAR to **OLE, Juneau, AK** by fax (907-586-7313) or electronic file enf.dataclerk@noaa.gov 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:

- ◆ A catcher vessel greater than 60 ft (18.3 m) LOA.
- ◆ A catcher/processor required to hold a Federal fisheries permit (FFP) issued under 50 CFR part 679, or
- ◆ A mothership required to hold a FFP issued under 50 CFR part 679.

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 § 679.5(1)(4).

Exception: 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 § 679.5(1)(4).

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.

If you need assistance in completing this report or need additional information:

Call: 800-304-4846 (option 1)

Fax: 907-586-7313

e-mail your questions: enf.dataclerk@noaa.gov

IDENTIFICATION

Whether original or revised VAR.

If VAR is the first one sent for a given day, check ORIGINAL REPORT. If VAR is a revision to a previously sent VAR, check REVISED REPORT.

Vessel Name.

Enter vessel name as it appears on the FFP.

Permit Number

Enter FFP number or RCR permit number.

Type of vessel (whether catcher vessel, catcher/processor, or mothership).

Representative name, daytime telephone number (including area code), fax number, and COMSAT number (if available).

TRIP INFORMATION

Return report.

“Return” 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:

Intended Alaska port of landing (see Table 14 to 50 CFR part 679).

Estimated date and time (hour and minute, Greenwich Mean Time) the vessel will cross the boundary.

Estimated position coordinates in latitude and longitude where the vessel will cross.

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:

Intended U.S. port of landing or country other than the United States.

Estimated date and time (hour and minute Greenwich Mean Time) the vessel will cross the boundary; and

Estimated position coordinates in latitude and longitude where the vessel will cross.

The Russian Zone.

Indicate (YES or NO) whether the vessel is returning from fishing in the Russian Zone or is departing to fish in the Russian Zone.

FISH OR FISH PRODUCTS.

For all fish or fish products (including non-groundfish) on board the vessel, enter:

Harvest Zone.

Enter the harvest zone where Fish were harvested.

A1	BSAI EEZ
A2	GOA EEZ
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

Species Code.

Enter the species code for each product. If no species code is listed for the landed fish, write in the "common" name for that fish species (e.g., swordfish, albacore).

Product Code.

Enter the product code for each product. Use the species and product codes presented in Table 1 and Table 2 to part 679

Product Weight.

Enter the fish product weight of products In pounds or to the nearest 0.001 mt (2.20 lb). Circle pounds or 0.001 mt.

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Instructions
BUYING STATION REPORT (BSR)

REQUIREMENT

The operator or manager of a buying station that receives or delivers groundfish harvested from the Gulf of Alaska (GOA) or Bering Sea and Aleutian Islands Management Area (BSAI) in association with a shoreside processor or SFP or a mothership, must complete and retain a separate BSR for each delivery of unprocessed groundfish or donated prohibited species received from a catcher vessel on behalf of an associated processor.

The buying station report is not submitted to NMFS. The BSR must accompany the delivery of fish:

Write a separate BSR	For each associated processor
	For each truck, if groundfish offloaded to a truck bound for an associated processor. BSR must accompany the shipment
	For each airline shipment, if groundfish offloaded to an airplane bound for an associated processor. BSR must accompany the shipment.
	For each reporting area, if receiving harvest from more than one reporting area
	If receiving harvest from a vessel using trawl gear, use two separate BSRs, the first to record the information from the reporting area that includes the COBLZ or RKCSA and the second to record the information from the reporting area that does not include the COBLZ or RKCSA
	For each gear type, if receiving harvest from more than one gear type
	For each special management program -- Western Alaska Community Development Quota (CDQ) Program, Research Fishery, Exempted Fishery, or AIP and add identifying number, if appropriate.
	If receiving halibut under a donated prohibited species program

If you need assistance in completing this report or need additional information:

Call: 907-586-7228

Fax: 907-586-7131

e-mail your questions: erreports.fakr@noaa.gov

BSR Attachments.

The operator or manager must ensure that the following accompanies each groundfish delivery from the landing site to the associated processor:

- ◆ A complete and accurate BSR that describes the delivery;
- ◆ Any blue DFL logsheets or equivalent printed ELB discard reports received from a catcher vessel; and
- ◆ Copies of all Alaska Department of Fish and Game (ADF&G) fish tickets issued to the catcher vessel on behalf of the associated processor.

Buying Station for Own Catch

The operator of a catcher vessel, by prior arrangement with an associated processor, may function as a buying station for his own catch as follows:

- ◆ 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.

DATA ENTRY TIME LIMITS.

The operator or manager of a buying station must record in the BSR all required information and sign the BSR within 2 hours of completion of delivery from a catcher vessel.

REQUIRED INFORMATION

The operator or manager of a buying station must record the following information on a BSR for each delivery:

Original/Revised Report.

If a BSR is the first submitted to the Regional Administrator for a given date, gear type, and reporting area, indicate "ORIGINAL REPORT."

If a BSR is a correction to a previously submitted BSR for a given date, gear type, and reporting area, indicate "REVISED REPORT."

Identification Of Buying Station.

Enter name and ADF&G vessel registration number if a vessel; or name, license number, and state of license issuance if a vehicle. The name should be recorded as it is displayed in official documentation.

Operator Or Manager Name And Signature.

The operator or manager must sign the completed BSR prior to delivery of harvest to a mothership, shoreside processor, or SFP. This signature is verification by the operator or manager of acceptance of the responsibility required in §679.5(d)(1) and (d)(2).

Management Program.

Indicate whether harvest occurred under a special management program (Western Alaska Community Development Quota (CDQ) Program, Research Fishery, Exempted Fishery, or Aleutian Islands Pollock (AIP)) and add identifying number, if appropriate. If harvest is not under one of these management programs, leave blank.

Gear Type. Indicate gear type of harvester. If gear type is not printed, circle OTHER and write description of gear.

Federal Reporting Area.

Indicate Federal reporting area (see Figures 1 and 3 to part 679) from which groundfish were harvested.

Crab Protection Areas.

If harvester gear type was trawl and gear retrieval occurred in the COBLZ or RKCSA (see Figures 11 and 13 to part 679), use two separate BSRs to record the information: one BSR for the reporting area that includes COBLZ or RKCSA, and a second BSR to record the information from the reporting area that does not include COBLZ or RKCSA.

Associated Processor

If associated processor is a mothership, enter the name, ADF&G processor code, and Federal fisheries permit number of the mothership. If associated processor is a shoreside processor or stationary floating processor, enter the name, AD&FG processor code, and Federal processor permit number of the processor. Enter date (mm/dd/yy) and time (A.I.t., military format) delivery was completed.

CATCHER VESSEL DELIVERY INFORMATION

Catcher Vessel Identification.

Name and ADF&G vessel registration number of catcher vessel making the delivery.

Non-Submittal of Discard Report.

Indicate whether the blue logsheet was received from the catcher vessel at the time of catch delivery. If the blue logsheet is not received from the catcher vessel, enter “NO” and the reason given for non-submittal as follows (example: NO-L):

NON-SUBMITTAL OF DISCARD REPORT	CODE
The catcher vessel does not have an FFP	“P”
The catcher vessel is under 60 ft (18.3 m) LOA and does not have an FFP	“P”
The catcher vessel is under 60 ft (18.3 m) LOA and has an FFP	“L”
The catcher vessel delivered an unsorted codend	“U”
Another reason; describe circumstances	“O”

ADF&G Fish Ticket Number. Enter ADF&G fish ticket number issued to catcher vessel.

Species Codes And Scale Weight.

In addition to recording the total estimated delivery weight or actual scale weight of a catcher vessel delivery, if the operator or manager of the buying station sorted the delivery prior to delivery to an associated processor, he or she may enter specific species code and scale weights of individual species to the BSR; indicate whether to the nearest pound or to 0.001 mt.

Groundfish Hail Weight.

Enter the estimated total groundfish hail weight or actual scale weight of delivery. Total hail weight is an estimate of the total weight of the entire catch without regard to species. Indicate whether to the nearest pound or to the nearest 0.001 mt.

Scale Weight.

Optional: in addition to recording the total estimated delivery weight or actual scale weight of a catcher vessel delivery, enter weight of individual species and record species codes and weights (in lb or mt).

DISCARD AND DISPOSITION INFORMATION

The operator or manager of a buying station must record in a BSR, discard or disposition information that:

1. Occurred on and was reported by a catcher vessel on a blue logsheet;
2. Occurred on the buying station prior to delivery to an associated processor; and

3. Was recorded on a blue logsheet submitted to the buying station by a catcher vessel when no groundfish were delivered by the catcher vessel (for example, disposition code 95 describes fish or fish products eaten onboard or taken off the vessel for personal use).


If no discards or disposition for a delivery, write “no discards.”

Discard Or Disposition Weight.

For each buying station delivery to an associated processor, record the total estimated discard and disposition amounts in whole fish weight for each groundfish species or species group and Pacific herring PSC in pounds or to at least the nearest 0.001 mt by species code and product code.

PSC Discard Or Disposition Numbers.

For each buying station delivery to an associated processor, record the total estimated numbers of PSC discard or disposition of Pacific salmon, steelhead trout, Pacific halibut, king crab, and Tanner crab by species code and product code.

<h1>PRODUCT TRANSFER REPORT</h1>		<input type="checkbox"/> Original Report <input type="checkbox"/> Revised Report	NOAA Fisheries Office for Law Enforcement P.O. Box 21767 Juneau, AK 99802 Submit by FAX to Data Clerks at: FAX: 907-586-7313 Telephone: 800-304-4846 (option 1) E-Mail: enf.dataclerk@noaa.gov	
Shipper	Federal Fisheries or Processor permit No. IFQ Registered Buyer Permit No. RCR Permit No.	Representative Name Telephone No. Fax No.	Date and Time of Product Transfer Start Finish	
Receiver	Federal Fisheries or Processor Permit No. (if any)	Position of Product Transfer (Lat/Long) <i>(Mothership or Catcher/processor Only)</i>	Port or Location of Transfer	
Mode of Transportation and Intended Route				

<h2>PRODUCTS SHIPPING</h2>						Is this a <input type="checkbox"/> TOTAL OFFLOAD or a <input type="checkbox"/> PARTIAL OFFLOAD <i>Mothership or Catcher/Processor ONLY</i> If partial offload, record amount and type of product remaining onboard after this transfer					
Species Code	Product Code	Species Weight*	No. of Units	Unit Wt. <input type="checkbox"/> lb or <input type="checkbox"/> kg	Total Weight <input type="checkbox"/> lb or <input type="checkbox"/> kg	Species Code	Product Code	Amount <input type="checkbox"/> lb or <input type="checkbox"/> kg	Species Code	Product Code	Amount <input type="checkbox"/> lb or <input type="checkbox"/> kg

*This column to be used only for scale weight of multiple species within one unit only

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 28 minutes per response, including the time for reviewing the instructions, searching the existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, NOAA National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668.

ADDITIONAL INFORMATION

Before completing this form, please note the following: 1) Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number; 2) This information is mandatory and is required to manage commercial fishing efforts under 50 CFR part 679 and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*); 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

Instructions for
PRODUCT TRANSFER REPORT (PTR)

REQUIREMENTS

Groundfish.

Except as noted below, the operator of a mothership or catcher/processor or the manager of a shoreside processor or stationary floating processor (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.**

IFQ Halibut, IFQ Sablefish, And CDQ Halibut.

Except as noted below, 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.**

CR crab.

Except as noted below, 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.**

EXCEPTIONS

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 a day recording the amount of such bait product shipped from a vessel or facility that day.

Retail sales

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.

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.

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 the entire product are available for inspection by an authorized officer.

Dockside sales

A person holding a valid IFQ permit, IFQ card, and 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 § 679.5(l).

A person holding a valid halibut CDQ permit, halibut CDQ card, 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 § 679.5(l).

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:

- Date of sale;
- Registered Buyer permit number;
- Weight by product of the IFQ halibut, CDQ halibut or IFQ sablefish transferred.

A Registered Buyer must maintain a copy of each dockside sales receipt as described in § 679.5(l).

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 copy of the IFQ landing report receipt (Internet or eLandings receipt) documenting the IFQ landing accompanies the offloaded IFQ halibut, IFQ sablefish, or CDQ halibut while in transit, or
- ◆ A copy of the CR crab landing report receipt (Internet or eLandings receipt) documenting the IFQ landing accompanies the offloaded CR crab while in transit, and
- ◆ A copy of the IFQ landing report or CR crab landing report receipt is available for inspection by an authorized officer.
- ◆ 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.

If you need assistance in completing this report or need additional information:

Call: 800-304-4846 (option 1)

Fax: 907-586-7313

e-mail your questions: enf.dataclerk@noaa.gov

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:

- ◆ Record all product transfer information on a PTR within 2 hours of the completion of the shipment.
- ◆ Within 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period in which the shipment occurred, submit a PTR by:

fax to: **OLE, Juneau, AK (907-586-7313)**

e-mail attachment to: **OLE, Juneau, AK** enf.dataclerk@noaa.gov

- ◆ If any information on the original PTR changes prior to the first destination of the shipment, submit a revised PTR by fax to **OLE, Juneau, AK (907-586-7313)** or electronic file to enf.dataclerk@noaa.gov by 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period in which the change occurred and indicate the confirmation number of the original PTR.

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:

Original or revised PTR.

Whether a submittal is an original or revised PTR. If revised, record the confirmation number of the original PTR.

SHIPPER INFORMATION.

Name, telephone number, and fax number of the representative, according to the following table:

If you are shipping ...	Enter under "Shipper"...
Non-IFQ groundfish	Your processor's name, Federal fisheries permit (FFP) or Federal processor permit (FPP) number.
IFQ halibut, CDQ halibut or IFQ sablefish	Your Registered Buyer name and permit number.
CR crab	Your RCR name and permit number.
Non-IFQ groundfish, IFQ halibut, CDQ halibut or IFQ sablefish, and CR crab on the same PTR	(1) Your processor's name and FFP number or FPP number. (2) Your Registered Buyer's name and permit number, and. (3) Your Registered Crab Receiver (RCR) name and permit number

RECEIVER 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
Receiver is on land and transfer involves one van, truck, or vehicle.	Receiver name and FFP or FPP 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.
Receiver is on land and transfer involves multiple vans, trucks, or vehicles.	Receiver name and FFP or FPP 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.
Receiver is on land and transfer involves one airline flight.	Receiver name and FFP or FPP 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.
Receiver is on land and transfer involves multiple airline flights.	Receiver name and FFP or FPP 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.
Receiver is a vessel and transfer takes 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.
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.
Receiver is an agent (buyer, distributor, or 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.
You are aggregating individual retail sales for human consumption. (see § 679.5(g)(2))	“RETAIL SALES”	Date of transfer.	Port or city of product transfer	n/a
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
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 the entire 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

PRODUCTS SHIPPED.

The operator, manager, Registered Buyer, or RCR must record the following information for each product shipped:

Species code and product code.

For non-IFQ groundfish, IFQ halibut, IFQ sablefish, and CDQ halibut, the species code and product code (Tables 1 and 2 to part 679).

For CR crab, the species code and product code (Tables 1 and 2 to 50 CFR part 680).

Do not record on PTR
Products identified by the
Product codes 41, 42, 98, or 99.

Species weight.

USE THIS COLUMN if you are shipping two or more species with two or more product types contained within the same production unit. This column is to be used only for recording 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.
- ◆ DO NOT USE THIS COLUMN if you are aggregating daily wholesale shipments onto one PTR.
- ◆ DO NOT USE THIS COLUMN if you are shipping the same kind of product made from the same kind of species to one customer.

Number of Units.

Total number of production units (blocks, trays, pans, individual fish, boxes, or cartons; if iced, enter number of totes or containers).

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).

Total Weight.

Total weight for each species and product code of shipment less packing materials in kilograms or pounds (indicate which).

Total or Partial Offload *Use only 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.

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.

NOTE:

To calculate metric tons from pounds, divide [number of cartons x average carton weight (lb)] by 2204.6.
To calculate metric tons from kilograms, divide [number of cartons x average carton weight (kg)] by 1,000.

ALASKA DEPARTMENT OF FISH AND GAME

GROUND FISH REPORTING REQUIREMENTS

= 2008 =

The following information is intended as a guide to aid the prospective fisher, buyer, processor, and/or exporter of groundfish with the reporting and permitting requirements of the state of Alaska. This is only a guide and not a complete summary of all applicable state regulations. For additional clarification, contact your nearest Alaska Department of Fish and Game (ADF&G) office.

BACKGROUND

A person, company, firm, or other organization who is the first purchaser of raw fish, or who catches and processes fish or byproducts of fish, or who catches and has fish or byproducts of fish processed by another person or company is required to annually complete and submit an ALASKA SEAFOOD PROCESSOR AND EXPORTER LICENSE AND PERMIT APPLICATION, INTENT TO OPERATE. Likewise, a person who transports an unprocessed seafood or fishery product outside of Alaska must also complete this application. Once submitted, a unique processor identification number is issued with a metal plate to be imprinted on all completed fish tickets at the point of sale or landing. The plate contains the processor code, the processor name, and the year the plate is valid.

Bait or dockside sellers (fishers who catch and sell unprocessed product, such as sales to the general public dockside or bait sales to other commercial fishers) must complete and submit the CATCHER/SELLER APPLICATION. Once submitted, a unique processor identification number and metal plate are issued.

Only licensed buyers (including independent and waived buyers), processors, exporters, or catcher/sellers may obtain ADF&G fish tickets or access to the eLandings Internet-based reporting system. Alaska Seafood Processor and Exporter License and Permit Applications are available from ADF&G. Requests should be made to Lorraine Mullins (907) 465-6131. The application is also available on the ADF&G website at www.cf.adfg.state.ak.us, under the title of INTENT TO OPERATE. The application provides information on obtaining fish tickets.

Fish tickets are forms to document the landing, harvest, and sale of fisheries resources. ADF&G has produced many fish ticket forms to meet the requirements of unique fisheries. *Figure 1* located on page 3, and *Figure 2* located on page 4; illustrate the two groundfish fish ticket forms. The information submitted to ADF&G on these forms is considered confidential and is protected from unauthorized disclosure under Alaska Statute (AS) 16.05.815. The fish ticket is considered a legal document and requires the signature of the permit holder (skipper or operator) and the receiver (buyer). **Selected Alaska Statute, Sec. 16.05.690 (b)** states: **A person may not knowingly enter false information on a fish ticket or supply false information to a person who is recording information on a fish ticket.**

Subject to confidentiality constraints, the information recorded on ADF&G fish tickets is used by fisheries managers, biologists, industry (both processors and fishers), and

economists. Managers use the information as a guide to harvest activities (extraction from the resource) and yield from those resources. Biologists use harvest data to assess stock viability and conditions for sustainable yield, while industry uses the information to determine the value of a fishery based on market conditions. Economists use pricing information to assess the value of a fishery and economic effects to communities and users of the resource. Fishers benefit from the fish ticket by being able to prove past participation in fisheries for limited entry/moratorium/quota allocation programs, if and when they arise.

The fish ticket may be completed using the eLandings System or the appropriate paper fish ticket forms. Irrespective of the reporting vehicle, all required elements of the fish ticket must be completed prior to submission to the nearest ADF&G office **within seven days of the landing date**. ADF&G office locations, addresses, and telephone numbers are provided in the attachment to this document.

**ADF&G GROUND FISH FISH TICKET
SERIES G
GROUND FISH
2007**

PURCHASER

Vessel Name _____

Fishery Name _____

Permit Number _____

Proc. Code _____

Company _____

Number of Observers: _____

**ALASKA DEPARTMENT OF FISH & GAME
GROUND FISH TICKET**

DO NOT WRITE IN THIS SPACE

DO NOT WRITE IN THIS SPACE

607

Stat. Area Worksheet

Stat. Area	%	Stat. Area	%

Partial Delivery

Multiple IFQ Permits Ticket No. _____

Partial Delivery Processor _____

Ticket No. _____

Processor _____

Date Fishing Began (Gear In Water) _____

Date Landed _____

Crew size (including skipper) _____

SPECIES	CODE	STAT. AREA	DELIV. CODE	DISP. CODE	POUNDS	PRICE	AMOUNT	SPECIES	CODE	STAT. AREA	DELIV. CODE	DISP. CODE	POUNDS	PRICE	AMOUNT
Sablefish	710							Rockfish (Specify)							
								Shorthead Rockfish	152						
								Rougheye Rockfish	151						
Flathead Sole	122							Pacific Ocean Perch	141						
Rock Sole	123														
Yellowfin Sole	127							Thornyhead Rockfish	143						
Arrowtooth Flounder	121														
Greenland Turbot	134							Lingcod	130						
								Squid	875						
Pacific Cod	110							Octopus	870						
								Skate (Specify)							
								Other (Specify)							
Discards/Personal Use/Not Sold: Deliv. Code, Disp. Code, and Pounds.															
Pollock	270														

Permit Holder's Signature _____

Fish Received by _____

Date _____

ADFG USE

Interview	
Observer	
Logbook	

Figure 1

**ADF&G GROUND FISH FISH TICKET
SERIES P
HALIBUT/SABLEFISH
2007**

**ALASKA DEPARTMENT OF FISH & GAME
HALIBUT/SABLEFISH TICKET**

PURCHASER

Vessel Name _____
 Fishery Name _____
 Permit Number _____

Proc. Code _____
 Company _____

GDQ No. if applicable _____
 ADF&G NO. _____

Date Fishing Began (Gear In Water) _____
 Date Landed _____

Off-lead (scale) weight of Halibut/Sablefish on this ticket includes ice/line deduction? Yes No

Crew size (including skipper) _____ Number of Observers _____

DO NOT WRITE IN THIS SPACE
 P07

Port of landing or off-shore operation type	STATISTICAL AREA WORKSHEET			
	Stat Area	%	Stat Area	%

PARTIAL DELIVERY

Multiple IFQ Permits Ticket No. _____
 Partial Delivery Processor _____

Ticket No. _____ Processor _____
 Ticket No. _____ Processor _____

SPECIES	CODE	STAT. AREA	DELIV. CODE	DISP. CODE	POUNDS	PRICE	AMOUNT	SPECIES	CODE	STAT. AREA	DELIV. CODE	DISP. CODE	POUNDS	PRICE	AMOUNT
Halibut	200							Rockfish (Specify)							
								Shortskiner Rockfish	152						
								Rougeye Rockfish	151						
								Pacific Ocean Perch	141						
								Thornyhead Rockfish	143						
Sablefish	710							Lingcod	130						
								Squid	875						
								Octopus	870						
								Skate (Specify)							
								Other (Specify)							
Discards/Personal Use/Not Sold: Deliv. Code, Disp. Code, and Pounds.															

ADF&G USE
 Interview _____
 Observer _____
 Logbook _____

Permit Holder's Signature _____ Fish Received by _____ Date _____

I HEREBY ATTEST THAT THESE FISH WERE CAUGHT IN COMPLIANCE WITH ADF&G REGULATIONS.

Figure 2

DOCUMENTATION OF HARVEST OF GROUND FISH

Groundfish harvest is reported via the Interagency Electronic Reporting System, eLandings. Harvest may also be recorded on a **G** ticket - Groundfish Fish Ticket (*Figure 1*). The **P** ticket – Pacific Halibut Fish Ticket (*Figure 2*), was developed specifically for halibut and should be utilized to document sablefish harvest.

As a general rule, fish tickets must be submitted for all sales and/or processing of fish within the state of Alaska. The state of Alaska boundary extends three nautical miles from shore. Additionally, the state maintains authority over groundfish harvested within the inside waters of Southeast Alaska - in Dixon Entrance. The state also maintains authority over certain fisheries in federal waters (Exclusive Economic Zone - EEZ). These fisheries include the harvest of:

- a) Lingcod
- b) Demersal Shelf Rockfish:
(Canary, China, Copper, Quillback, Rosethorn, Tiger, and Yelloweye) – Southeast Alaska, NMFS Reporting Areas 650 and 659
- c) Black, Dark, and Blue Rockfish (Gulf of Alaska only).

Upon completion of the off-load, all harvest, purchased, retained or discarded, must be recorded on a fish ticket and submitted **within seven days** to the nearest ADF&G office. Completion and submission of a fish ticket is required for:

- a) shorebased processing facilities within the state of Alaska (including Alaska state waters);
- b) catcher/sellers conducting sales to the general public dockside or bait sales to other commercial fishers;
- c) exporters of unprocessed fish (live or raw);
- d) catcher/processor vessels operating within Alaska state waters;
- e) catcher/processor vessels operating outside of 3-miles harvesting:
 - 1) Demersal Shelf Rockfish – Southeast Alaska, NMFS Reporting Areas 650 and 659
 - 2) Black, Dark, and/or Blue Rockfish (Gulf of Alaska only)
 - 3) Lingcod
 - 4) any groundfish in Dixon Entrance in Southeast Alaska.
- f) floating processor/buyer vessels operating within 3 miles;
- g) floating processor/buyer vessels operating outside of 3 miles as mentioned in e);
- h) all harvest in state or federal waters connection with a Community Development Quota (CDQ) Program fishery;
- i) mothership operators, per NMFS regulations, 50 CFR part 679.5 (m).

Additionally, all CDQ operators must complete and submit fish tickets at least once a week. (See the CDQ section of this document).

ADF&G also maintains records of harvest submitted on fish tickets where the reporting of harvest may not be required (voluntary reporting). For example, individuals, vessels, and processors operating in some fisheries solely in the EEZ (managed by NMFS) may wish to report harvest on fish tickets to document participation in these fisheries.

If you have questions regarding the Alaska Seafood Processor and Exporter License and Permit Application, contact Lorraine Mullins at (907) 465-6131, fax (907) 465-2604. Her email address is Lorraine.Mullins@alaska.gov. Questions regarding ADF&G fish tickets should be directed to Division of Commercial Fisheries at (907) 465-4210 or your local ADF&G office, Commercial Fisheries Division.

INSTRUCTIONS FOR COMPLETION OF THE ADF&G GROUND FISH FISH TICKET

Following are requirements for completion of an ADF&G Series **G** and **P** fish ticket as specified by Alaska Administrative Code 5 AAC 39.130. If you are unsure of correct procedures, contact the local ADF&G office commercial fishery representative. ADF&G office locations, addresses, and telephone numbers are provided in the attachment to this document. Tickets, which are not completed in the proper format, or are incomplete, are potentially subject to prosecution under non-compliance regulations.

The ADF&G fish ticket is to be completed at the time of landing and submitted within seven days to the ADF&G local office in the area where the fish were harvested. Fish tickets printed from the **eLandings** application must be handled in an identical manner as paper form fish tickets. They shall be signed by the CFEC permit holder and the processor agent. The CFEC permit shall be imprinted on the printed fish ticket. The completed fish ticket shall be submitted to the local office of ADF&G within seven days of the completion of the landing.

The diagram shows a rectangular form with the following fields and callouts:

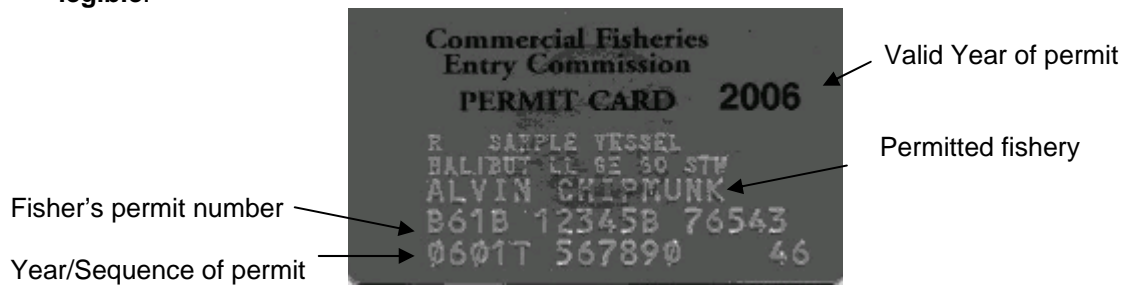
- 1.** Points to the **Vessel Name** field.
- 2.** Points to the **Fishery Name Permit Number** field.
- 3.** Points to the **CDQ No. if applicable** field.
- 4.** Points to the **ADF&G NO.** field.
- 5.** Points to the **Proc. Code** field.
- 6.** Points to the **Date Fishing Began (Gear in Water)** field.
- 7.** Points to the **Date Landed** field.
- 8.** Points to the **Crew size (including skipper):** field.
- 9.** Points to the **Number of Observers:** field.

*Figure 3
The upper left hand portion of the fish ticket.
Vessel, processor, CDQ No., and date information.*

The following information must be provided on each series **G** or **P** ADF&G fish ticket submitted:

1. **Vessel Name** (*Figure 3*) – the name of the vessel utilized to harvest the documented catch. The vessel utilized to harvest the catch must correspond to the ADF&G vessel name printed on the CFEC permit card as well as the ADF&G vessel number. If the vessel utilized for harvest is different from the vessel listed on the CFEC permit card, the correct vessel name and ADF&G vessel number must be hand written in the spaces provided (Item 4).
2. **Commercial Fisheries Entry Commission (CFEC) Permit Number** (*Figure 3*) – an imprint of this card is required by state regulation (5 ACC 39.130c(9)) for all tickets submitted. The card contains information regarding the fishery name, name of the licensee, fishery/permit number, and ADF&G vessel name and vessel number. It is **MANDATORY** that the permit card be imprinted onto the fish ticket. It may not be handwritten or typed. If you do not have an imprint machine, you can make the imprint by aligning the card in the appropriate area underneath the

ticket and then rub over the top of the ticket with a pencil. The permit information must be **legible**.



CFEC Permit Card

This permit is valid for the Halibut Longline fishery - statewide

Unique permit number in this example is B61B12345B

The valid year is 2006

The year and sequence number is 0601T

The permit card must be current for the calendar year and appropriate to the area, gear and harvest.

CFEC regulation (20 AAC 05.110) requires that **each** Individual Fishery Quota (IFQ) permit holder possess a valid interim-use permit. Each permit holder fishing IFQ quota shares must complete a separate fish ticket for his or her portion of the harvest. Therefore, for a single fishing trip, multiple fish tickets will be completed for each permit holder. When completing each fish ticket, check the box titled "Multiple IFQ Permits" to identify the tickets as representing a single landing. Please record the fish ticket number of the corresponding fish ticket(s) in the space provided below the partial delivery check box. The fish ticket number is located in the upper right hand corner of each fish ticket.

In order to document sablefish and halibut harvest from a single trip on separate CFEC interim-use permit cards, separate fish tickets must be completed and submitted, noting on each ticket that the record represents **a portion of the delivery** by checking the box titled **Partial Delivery** (Figure 7). Please record the fish ticket number on the corresponding fish ticket(s) in the space provided below the partial delivery check box.

3. **CDQ Number (if applicable)** (Figure 3) – the Community Development Quota (CDQ) number **must be provided** if the landing originates from a Community Development Quota fishery. A fish ticket must record only one CDQ harvest, in other words, more than one quota fished simultaneously requires separate fish ticket documentation. CDQ and non-CDQ harvest may not be recorded on the same fish ticket. CDQ harvest requires no unique species codes. Documentation of a partial delivery for CDQ is the same as outlined above for IFQ. See page 17 for a listing of all CDQ codes.
4. **ADF&G Vessel Number** (Figure 3) – the vessel identification number utilized to harvest the documented catch. The vessel number should correspond to the Vessel Name (item 1), and must be handwritten in the box provided when using a different vessel from that listed on the CFEC permit.
5. **ADF&G Processor Code and Company** (Figure 3) – an imprint of the processor identification code/company name and valid year plate issued upon the completion and submission on the Alaska Seafood Processor and Exporter License and Permit Application, Intent to Operate. The processor code must be imprinted on the ticket as described in Item 2, listed above. The processor code may not be handwritten on the fish ticket.

The processor identification code plate that indicates the **owner** (buyer) of the seafood should be recorded on the fish ticket. Processors providing custom processing services for the owner of the seafood should not use their processor identification code plate when completing a fish ticket. If the custom processor is completing the fish ticket, please write on this form, in any available space, the processor code and the name of the company or individual providing custom processing. Label this information with the term, 'Custom Processor'.

6. **Date Fishing Began** (*Figure 3*) – the month and day (and year) on which fishing began, **when the gear went into the water**.
7. **Date Landed** (*Figure 3*) – the month and day (and year) on which the fish were off-loaded or transshipped from the catcher vessel to the purchaser (i.e., mothership processor). If the off-load process takes more than 1 day, enter the day on which the off-load was completed.
8. **Crew Size** (*Figure 3*) – Number of Crew, including skipper – excluding the processing crew of at sea operations.
9. **Observers On Board** (*Figure 3*) – National Marine Fisheries Service certified groundfish or ADF&G certified crab observers only.

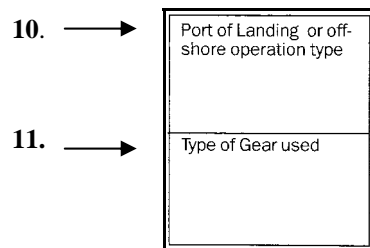


Figure 4
Upper center portion of the fish ticket.
Port and Gear Information

10. **Port of Landing or Offshore Operation Type** (*Figure 4*) – the location where the fish were offloaded from the catcher vessel to the shorebased plant location. The port of landing for tender operations is the location of the shorebased plant that received the fish from the tender. If at sea, the port is defined by the Offshore Operation Type:

- FLD** – Floating processor or mothership
- FCP** – Floating catcher processor
- IFP** – Inside Alaska state waters/ floating processor
(to be utilized when processing inside state waters)
- FLB** – Bait seller at sea

11. **Type of Gear Used** (*Figure 4*) – specify the type of gear utilized to harvest the catch being recorded. Each gear type requires the initiation of a new fish ticket. Utilize only ADF&G gear codes as provided by the department. The fish ticket gear codes are located on the front cover of each Groundfish Fish Ticket Booklet.

STATISTICAL AREA WORKSHEET			
Stat. Area	%	Stat. Area	%

Figure 5
Upper right hand portion of the fish ticket
Statistical Area Worksheet.

12. **Statistical Area** (Figures 5 & 6) – also referred to as the statarea, is the six-digit ADF&G groundfish statistical area denoting the actual area of catch. Groundfish statistical area charts may be obtained from your local ADF&G office. The National Marine Fisheries Service (NMFS) and the International Pacific Halibut Commission (IPHC) reporting area codes may not be utilized to substitute for ADF&G statistical area codes. You may enter the area of catch in one of two ways:

A) **Statistical Area Worksheet** (Figure 5) – in the top right corner of the **G** and **P** ticket, you will find a grid labeled “Statistical Area Worksheet.” This area may be utilized to document a single statistical area or multiple statistical areas. The recording of multiple statistical areas in the Worksheet requires that the following criteria be met:

- 1) the species that are caught and discarded are equally distributed across **all** statistical areas fished; and
- 2) all statistical areas fished are open to the species fished.

If the above criteria are met, enter all of the statistical areas that were fished in the boxes labeled **Stat. Area** and enter the estimated percentage of the catch taken in that area in the boxes labeled “%” that correspond to the appropriate statistical area. The sum of the itemized “%” column must equal 100%. If all of the species recorded on the ticket were from a single statistical area, enter that area as 100%.

If you utilize the **Statistical Area Worksheet**, there is no need to enter the statistical area code anywhere else on the fish ticket.

SPECIES	CODE	STAT. AREA
Halibut	200	

Figure 6
Product Purchase (itemized catch) portion of the fish ticket.
Stat Area Column

B) **Stat Area Column** (Figure 6) – within the body of the ticket (rows and columns to record catch) is an area to record statistical area. If the above criteria are not met, you **cannot utilize** the Statistical Area Worksheet method to record the area of catch. In this case, you must list all of the applicable statistical area codes in the corresponding column on the fish ticket for each species caught in that area.

At-sea processors frequently remain at sea for several days or weeks and may obtain harvest from several statistical areas. When the vessel has harvested fish from 10 statistical areas, a fish ticket must be completed. Each fish ticket may be utilized to document only 10 statistical areas of harvest. Document harvest from all additional statistical area(s) on a second fish ticket.

PARTIAL DELIVERY	
<input type="checkbox"/> Multiple IFQ Permits	Ticket No.
<input type="checkbox"/> Partial Delivery	Processor
Ticket No.	Ticket No.
Processor	Processor

Figure 7
Upper right hand portion of the fish ticket
Partial Delivery Information

13. **Partial or Split Delivery** (Figure 7) – The harvest from a single fishing trip can be documented on more than one fish ticket, either split among IFQ quota shareholders, divided for multiple fishery bycatch caps or permits, or delivered to more than one processor. To help ADF&G better understand fishing effort and for enforcement purposes, all tickets that represent only a portion of the fishing trip’s harvest **MUST** be identified as a partial delivery.

If the vessel’s harvest was divided among several IFQ shareholders’ permits, check the box labeled **Multiple IFQ permits**. If the fish ticket represents only a portion of the vessel’s trip catch (multiple deliveries to the same processing plant or more than one processor, or multiple permits other than IFQ), check the box labeled **Partial Delivery**.

Just below the check box, in the space labeled **Ticket #**, write the fish ticket number(s) of all other tickets representing the fishing trip’s harvest. The fish ticket number is located on the upper right hand corner of each ticket (begins with a **G** or **P**). As an example, the fish ticket number from the illustration on page 3, Figure 1, begins with G07. The fish ticket number in the illustration below is not completed. This image was generated from a prototype ticket. All fish ticket booklets contain fully numbered fish ticket forms.

DO NOT WRITE IN THIS SPACE
G07

The space provided for processor company name can be utilized for additional fish ticket numbers.

If the harvest was delivered to another processing plant, provide the full name of the other processing plant.

GENERAL COMMENTS
REPORTING POUNDS ON GROUND FISH FISH TICKETS

The ADF&G fish ticket is designed to record the LANDED weight of the catch. In other words, the processor should indicate the weight of the catch and the delivery condition of the fish at the point the catch is weighed. For example, if the catch is bled at the time of weight, indicate the pounds of catch and the appropriate delivery condition code, bled = 03. The delivery condition code identifies a rate utilized to compute from landed catch weight to whole weight. The delivery condition code is also used to convert to net weight (or IFQ weight) for halibut.

Many at-sea catcher-processors weigh catch after it has been processed into product and at the time of off-loading. Again, record the weight of the catch and the delivery condition of the fish at the point it is weighed. For example, if the catch has been processed and is in the form of deep skin fillets at the point it is weighed, indicate the pounds of the catch (the fillets) and the appropriate delivery condition code, deep skin fillets = 24.

Round (whole) weight will be calculated during ADF&G data entry from the landed pounds and the appropriate product recovery rate associated with the reported delivery condition code. In other words, landed pounds divided by the delivery condition code recovery rate = whole fish weight.

INCORRECT REPORTING OF ROUND WEIGHT WITH A PROCESSED PRODUCT DELIVERY CONDITION CODE MAY RESULT IN SIGNIFICANT **(OVER)** MISCALCULATION OF THE ACTUAL WEIGHT OF THE CATCH, WITH POSSIBLE IMPLICATIONS FOR SEASON CLOSURE AND TAX ASSESSMENT.

15. Delivery Condition Code

14.

SPECIES	CODE	STAT. AREA	DELIV. CODE	DISP. CODE	POUNDS	PRICE	AMOUNT
Sablefish	710						

Figure 8
Product Purchase (itemized catch) portion of the fish ticket.
Species Information

14. **Species** (*Figure 8*) – list the catch by species from the ADF&G Fish Ticket Groundfish Codes, dated **2007**. The specific species code must be indicated and is very important for management purposes. Group codes, such as, shallow or deep-water flatfish, general flounder, unspecified (demersal, pelagic, or shelf) rockfish, **may not** be utilized. All species – including landed harvest, discards at sea and at the dock, personal use, and retained bait -- must be specifically identified and recorded on the fish ticket.

In the internal state waters of the Southeast District (Northern Southeast Inside and Southern Southeast Inside) and the state waters of Prince William Sound and Cook Inlet, CFEC permit holders MUST retain, weigh and document by species on the fish ticket all rockfish taken.

All rockfish in excess of allowable bycatch limits shall be reported as bycatch overage on ADF&G fish tickets. All proceeds from the sale of excess rockfish bycatch shall be surrendered to the State.

In the Eastern Gulf of Alaska Area (state and federal waters), a CFEC permit holder fishing for groundfish or halibut must retain, weigh, and report all Demersal shelf rockfish and black rockfish taken on the fish ticket. Proceeds from the sale of any state overage must be paid to the State of Alaska. All DSR species taken in federal waters, that are in excess of allowable bycatch limits may NOT enter commerce, but may be retained for personal consumption or donation to charity.

Discards at sea and at the dock must also be recorded in pounds on the fish ticket.

Discards/Personal Use/Not Sold: Deliv. Code, Disp. Code, and Pounds.							

Figure 9
Lower right hand portion of the fish ticket.
Discard Information

Prohibited species must be identified, discarded at sea, and recorded on the fish ticket as **each animal** and if possible, as pounds, in the discard section of the form. (Figure 9) Please indicate or label the entry for Prohibited Species as “Each” or “Ea.” and “Pounds” or “LB.”

Prohibited Species and Codes

Finfish

Chinook Salmon	410
Sockeye Salmon	420
Coho Salmon	430
Pink Salmon	440
Chum Salmon	450
Pacific Herring	235

Crab

Bairdi Tanner Crab	931
Snow (Opilio) Crab	932
Red King Crab	921
Blue King Crab	922
Golden (Brown) King Crab	923
Scarlet (Couesi) King Crab	924

Harvest retained for personal use consumption (code 95) must be recorded in pounds on the fish ticket.

Harvest caught prior to directed fishing or incidentally caught throughout the fishing trip and retained or utilized for bait (code 92) must also be recorded in pounds on the fish ticket.

Contact ADF&G groundfish biologists at your local office for further clarification on an unknown species and the applicable code.

15. **Delivery Condition Code (Deliv. Code)** (Figure 10) – enter the ADF&G condition code that best describes the condition of the catch at the point it is weighed. Please reference the ADF&G Fish Ticket Groundfish Codes, dated **2007** for the appropriate code.

			15. Delivery Condition Code	16. Disposition Code			
SPECIES	CODE	STAT. AREA	DELIV. CODE	DISP. CODE	POUNDS	PRICE	AMOUNT
Sablefish	710						

Figure 10
Product Purchase (itemized catch) portion of the fish ticket.
Species Information

16. **Disposition Code** (Figure 10) – enter the new disposition code that best describes the *intended* use or disposal of the product. Examples of disposition codes include:

- 41 – For fish meal production
- 60 – Sold for human consumption
- 61 – Sold for bait
- 62 – Overage – specify overage type by code number
- 95 – Personal use
- 98 – Discard at sea
- 99 – Discard, on shore – after delivery/before processing – not sold.

At-Sea Processors:

The following condition codes are considered ancillary products (to the primary product) only and are not converted to whole weight:

- a) 14 – Roe only
- b) 15 – Pectoral Girdle only
- c) 16 – Heads only
- d) 17 – Cheeks
- e) 18 – Chins
- f) 19 – Belly
- g) 34 – Milt
- h) 35 – Stomachs
- i) 39 – Bones

The following condition codes **require** a product designation code of **Primary – P** indicating that this is the designated product made from each fish; or **Ancillary – A** indicating that this is the secondary product in addition to the Primary product from the same fish:

- a) 31 – Minced Fish
- b) 32 – Fish Meal
- c) 33 – Fish Oil

The **P** or **A** may be written next to the condition code.

- 17. **Pounds** – enter the LANDED weight (scale weight) in pounds. Harvest, sold or discarded, may **not** be entered on a fish ticket in metric tons.
- 18. **Price** – enter the price paid/received **per pound** for the recorded weight.
- 19. **Amount** – enter the monetary amount paid/received – the calculation of the pounds multiplied by the price per pound.

20. →

Permit Holder's Signature	
Fish Received by	Date

21. →

*Figure 11
Bottom portion of the fish ticket.
Signatures of seller and buyer.*

- 20. **Signature of the Permit Holder** (*Figure 11*)– the permit holder making the delivery must sign the fish ticket in the signature space provided.
- 21. **Fish Received By** (*Figure 11*) – the signature of the person authorized by the licensed purchaser and/or processor to receive the catch must sign the fish ticket in the signature space provided. No signature is required if the operation is exclusively in the EEZ (voluntary reporting - not required to submit fish tickets) and transshipped.
- 22. **Overages** – If a bycatch overage has been determined at the time of delivery, the overage must be documented as a separate item on the fish ticket. **The species, delivery condition, pounds, and price must be reported. Please identify the overage item with the disposition code – 62/and the overage code number.**

Overage codes include the following:

- 19 – Forfeited Catch – bycatch overage – State Managed Groundfish
- 20 – Forfeited Catch – trip/season limit overage – State Managed Groundfish
- 28 – Forfeited Catch – bycatch overage – State Managed Groundfish – Retained for Personal Use
- 29 – Forfeited Catch – bycatch only – Federally Managed Groundfish
- 30 – Forfeited Catch – trip/season limit overage – Federally Managed Groundfish
- 39 – Forfeited Catch – bycatch overage – Federally Managed Groundfish
- 40 – Forfeited Catch – IFQ beyond allowable overage
- 81 – Chatham/Clarence Sablefish Fishery only – Allowable Trip/Season Overage

Southeast Alaska Processors - if the overage relates to a state-managed fishery please contact the Sitka office of ADF&G for instruction - (907) 747-6688.

Central Gulf of Alaska Processors – if the overage relates to a state-managed fishery in the Prince William Sound/Cook Inlet areas, please contact the Homer office of ADF&G for instruction - (907) 235-1726 or 235-1728.

Kodiak Area – if the overage relates to a state-managed fishery in the Western Gulf of Alaska, please contact the Kodiak groundfish office of ADF&G for instructions – (907) 486-1840.

Dutch Harbor Area – if the overage relates to a state-managed fishery in the Aleutian Island or Bering Sea area, please contact the Dutch Harbor office of ADF&G for instructions – (907) 581-1219 or 581-1239.

Federally Managed Fisheries - Please contact your local office of the National Marine Fisheries Service – Enforcement Division

FISH TICKET REVISIONS AND OVERAGES

The processor must provide ADF&G with any revisions to previously submitted fish tickets, including overages. The revised fish ticket should be a photocopy of the original fish ticket. The photocopy should clearly indicate in the body of the fish ticket, “**Revision.**” The correction or revision should be highlighted.

All overage adjustments to ADF&G fish tickets must be revised and submitted to the ADF&G office of original submission. **The species, delivery condition, pounds, and price must be reported. The overage item(s) must be highlighted and marked with the word “overage.”**

REPORTING SPECIFIC TO HALIBUT FISHERIES

At the time of initial offload, the **scale weight** of the IFQ halibut harvest should be recorded on the fish ticket. In other words, the processor should indicate the weight of the halibut, the delivery condition code, and whether the weight includes an ice and slime deduction.

The IFQ halibut has to be offloaded from the vessel at one single offload site. Therefore, the halibut can be:

- a) sold at the initial processor,
- b) retained for personal use,
- c) retained future sale via dockside or to another processor.

Delivery condition codes for halibut:

The delivery condition code of the fish at the point it is weighed should be recorded on the fish ticket. The field to record the delivery condition code is titled, “Deliv. Code.” Delivery condition codes to be utilized with halibut are:

- a) 04 – gutted, head on (gutted only)
- b) 05 – gutted, head off (headed/gutted).

Ice and slime deduction for Halibut and Sablefish:

Off-load (scale) weight of Halibut/Sablefish on this ticket includes ice/slime deduction? <input type="checkbox"/> Yes <input type="checkbox"/> No
--

Please indicate if the halibut or sablefish – at the point of off-load and weighing - includes a 2% deduction for ice and slime. If yes is checked, this selection indicates that the recorded weight includes a 2% deduction. If no is checked, the vessel was not allowed a deduction, or the off-load weight was determined after the ice and slime were removed. Please check the appropriate box.

Personal use and discard section:

SPECIES	CODE	STAT. AREA	DELIV. CODE	DISP. CODE	POUNDS	PRICE	AMOUNT
Discards/Personal Use/Not Sold: Deliv. Code, Disp. Code, and Pounds.							

*Figure 12
Lower right hand portion of the halibut/sablefish fish ticket.
Personal Use Information*

If retained catch is for *personal use* and consumption, the harvested pounds, delivery condition code, and disposition code must be recorded on the ADF&G fish ticket in the space provided in the lower right-hand corner of the form (*Figure 12*). Please note beside this space if the personal use weight recorded has a different ice and slime deduction than check above.

Retained for future sale:

If a portion of the catch is *retained for future sale*, the catch should be recorded in the itemized catch portion of the fish ticket (non-personal use section). The species, pounds, and the *disposition code 87* (harvest retained for future sale) should be recorded.

The halibut only disposition code 87 – harvest retained for future sale – is reserved for halibut harvest only. The future sale may be via dockside sales or to another processor. Halibut retained for these purposes shall not be recorded on the fish ticket as personal use – disposition code 95. State law precludes the sale of personal use harvest.

When the retained harvest is sold to another processor or via dockside sales, a second fish ticket shall be completed. All information elements on the second fish ticket must be completed including the species, delivery condition code, the weight of the halibut and the price paid.

COMMUNITY DEVELOPMENT QUOTA SPECIFIC FISHERIES

Completion of an ADF&G fish ticket is **required** for all harvest in connection with a CDQ fishery. Tickets should be completed following the instructions provide in this document. Price per pound and amount **must** be provided for all purchased CDQ harvest. The following are additional requirements for completion of an ADF&G Series “**G**” and “**P**” fish ticket as required by 5 AAC 39.130 and 5 AAC 16.05.675. If you are unsure of proper procedures, contact the local ADF&G office representative. ADF&G office locations, addresses and telephone numbers are provided in

the attachment to this document. Tickets that are not completed in the proper format, or are incomplete, are subject to prosecution under non-compliance regulations.

1. CDQ AND NON-CDQ HARVEST MAY NOT BE REPORTED ON THE SAME FISH TICKET.
2. MULTIPLE CDQ CORPORATION HARVEST MAY NOT BE REPORTED ON THE SAME FISH TICKET.
3. The CDQ Corporation number **must** be provided in the labeled box. Please do not place AFA or IFQ codes in this box.
4. No unique CDQ species or delivery condition codes are required to document catch.
5. ADF&G fish tickets must be completed at least once a week or when harvest has occurred in 10 statistical areas.
6. All other requirements as listed above (items 1 through 19).

CDQ CODES

- 51 – APICDA – Aleutian Pribilof**
- 52 – BBEDC – Bristol Bay**
- 53 – CBSFA – Central Bering Sea**
- 54 – CVFC – Coastal Villages**
- 55 – NSEDC – Norton Sound**
- 56 – YDFDA – Yukon Delta**

MOTHERSHIP OPERATIONS

Mothership operators should follow NMFS regulations, **50 CFR part 679.5 (m)**, for direction on the completion of ADF&G fish tickets.

The Alaska Department of Fish and Game administers all programs and activities free from discrimination based on race, color, national origin, age, sex, religion, marital status, pregnancy, parenthood, or disability. The department administers all programs and activities in compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, and Title IX of the Education Amendments of 1972.

If you believe you have been discriminated against in any program, activity, or facility, or if you desire further information please write to ADF&G, P.O. Box 25526, Juneau, AK 99802-5526; U.S. Fish and Wildlife Service, 4040 N. Fairfield Drive, Suite 300, Arlington, VA 22203 or O.E.O., U.S. Department of the Interior, Washington DC 20240.

For information on alternative formats for this and other department publications, please contact the department ADA Coordinator at (voice) 907-465-4120, (TDD) 907-465-3646, or (FAX) 907-465-2440.

TITLE 16--CONSERVATION

CHAPTER 10--NORTHERN PACIFIC HALIBUT FISHING SUBCHAPTER

IV--NORTHERN PACIFIC HALIBUT ACT OF 1982

§ 773. — Definitions.

As used in this subchapter the term:

(a) ``Convention '' means the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea, signed at Ottawa, Canada on March 2, 1953, as amended by the Protocol Amending the Convention, signed at Washington March 29, 1979, and includes the regulations promulgated thereunder.

(b) ``Commission '' means the International Pacific Halibut Commission provided for by article III of the Convention.

(c) ``Fishery conservation zone '' means the fishery conservation zone of the United States established by section 1811 \1\ of this title.

\1\ See References in Text note below.

(d) ``Convention waters '' means the maritime areas off the west coast of the United States and Canada described in article I of the Convention.

(e) ``Halibut '' means fish of the species *Hippoglossus stenolepis* inhabiting Convention waters.

(f) ``Fishing vessel '' means--

(1) any vessel engaged in catching fish in Convention waters or in processing or transporting fish loaded in Convention waters;

(2) any vessel outfitted to engage in any activity described in paragraph (1); or

(3) any vessel in normal support of any vessel described in paragraph (1) or (2).

(g) ``Secretary '' means the Secretary of Commerce.

(Pub. L. 97-176, Sec. 2, May 17, 1982, 96 Stat. 78; Pub. L. 102-251, title III, Sec. 302(a), Mar. 9, 1992, 106 Stat. 64; Pub. L. 104-208, div. A, title I, Sec. 101(a) [title II, Sec. 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

Amendment of Section

Pub. L. 102-251, title III, Secs. 302(a), 308, Mar. 9, 1992, 106 Stat. 64, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, section is amended by amending subsection (c) generally and adding subsection (h) to read as follows:

(c) ``Exclusive economic zone '' means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this subchapter, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(h) ``Special areas '' means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.

References in Text

Section 1811 of this title, referred to in subsec. (c), which established the fishery conservation zone, was amended generally by Pub. L. 99-659, title I, Sec. 101(b), Nov. 14, 1986, 100 Stat. 3706, and now relates to United States sovereign rights to fish and fishery management authority within the exclusive economic zone.

Proclamation Numbered 5030, referred to in subsec. (c), is Proc. No. 5030, Mar. 10, 1983, 48 F.R. 10605, which is set out as a note under section 1453 of this title.

Amendments

1996--Subsec. (c). Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1811 of this title.

Effective Date of 1996 Amendment

Section 101(a) [title II, Sec. 211(b)] of div. A of Pub. L. 104-208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

Effective Date of 1992 Amendment

Section 308 of title III of Pub. L. 102-251 provided that:

``(a) In General.--The amendment made by section 301(e)(3) [amending section 1822 of this title] takes effect on the date of enactment of this Act [Mar. 9, 1992], and the amendments made by the other provisions of this title [amending this section and sections 773e, 1151, 1362, 1801, 1802, 1811, 1821, 1822, 1824, 1853, 1857, 1861, 3631, and 3636 of this title and sections 1122 and 1124a of Title 33, Navigation and Navigable Waters], except as provided in subsection (b), shall be effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States.

``(b) Authority To Prescribe Regulations.--The authority to prescribe regulations to implement the amendments made by this title shall be effective on the date of enactment of this Act [Mar. 9, 1992], but no such regulation may be effective until the date on which the Agreement described in subsection (a) enters into force for the United States. ''

Short Title

Section 1 of Pub. L. 97-176 provided: ``That this Act [enacting this subchapter and repealing subchapter III of this chapter] may be cited as the `Northern Pacific Halibut Act of 1982'. ''

§ 773a. — International Pacific Halibut Commission.

(a) United States Commissioners

The United States shall be represented on the Commission by three United States Commissioners to be appointed by the President and to serve at his pleasure. The Commissioners shall receive no compensation for their services as Commissioners. Each United States Commissioner shall be appointed for a term of office not to exceed 2 years, but is eligible for reappointment. Any United States Commissioner may be appointed for a term of less than 2 years if such appointment is necessary to ensure that the terms of office of not more than two Commissioners will expire in any 1 year. A vacancy among the United States Commissioners shall be filled by the President in the manner in which the original appointment was made, but any Commissioner appointed to fill a vacancy occurring before the expiration of the term for which the Commissioner's predecessor was appointed shall be appointed only for the remainder of such term. Of the Commissioners--

(1) one shall be an official of the National Oceanic and Atmospheric Administration; and
(2) two shall be knowledgeable or experienced concerning the Northern Pacific halibut fishery; of these, one shall be a resident of Alaska and the other shall be a nonresident of Alaska. Of the three commissioners described in paragraphs (1) and (2), one shall be a voting member of the North Pacific Fishery Management Council.

(3) Commissioners shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in section 8101 et seq. of title 5 and section 2671 et seq. of title 28. This subsection shall take effect on the 90th day after May 17, 1982.

(b) Alternate United States Commissioners

The Secretary of State, in consultation with the Secretary, may designate from time to time alternate United States Commissioners to the commission. An Alternate United States Commissioner may exercise, at any meeting of the Commission, all powers and duties of a United States Commissioner in the absence of a duly designated Commissioner for whatever reason. The number of such alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of authorized United States Commissioners that will not be present.

(Pub. L. 97-176, Sec. 3, May 17, 1982, 96 Stat. 78.)

§ 773b. — Acceptance or rejection of Commission recommendations.

The Secretary of State, with the concurrence of the Secretary, may accept or reject, on behalf of the United States, recommendations made by the Commission in accordance with article III of the Convention and paragraphs 14 and 15 of the annex to the Convention.

(Pub. L. 97-176, Sec. 4, May 17, 1982, 96 Stat. 79.)

§ 773c. — General responsibility.

(a) Secretary of Commerce

The Secretary shall have general responsibility to carry out the Convention and this subchapter.

(b) Adoption of regulations; cooperation with Canadian officials

In fulfilling this responsibility, the Secretary--

(1) shall, in consultation with the Secretary of the department in which the Coast Guard is operating, adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this subchapter; and

(2) may, with the concurrence of the Secretary of State, cooperate with the duly authorized officials of the Government of Canada.

(c) Regional Fishery Management Council involvement

The Regional Fishery Management Council having authority for the geographic area concerned may develop regulations governing the United States portion of Convention waters, including limited access regulations, applicable to nationals or vessels of the United States, or both, which are in addition to, and not in conflict with regulations adopted by the Commission. Such regulations shall only be implemented with the approval of the Secretary, shall not discriminate between residents of different States, and shall be consistent with the limited entry criteria set forth in section 1853(b)(6) of this title. If it becomes necessary to allocate or assign halibut fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen, based upon the rights and obligations in existing Federal law, reasonably calculated to promote conservation, and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of the halibut fishing privileges: Provided, That the Regional Council may provide for the rural coastal villages of Alaska the opportunity to establish a commercial halibut fishery in areas in the Bering Sea to the north of 56 degrees north latitude during a 3 year development period.

(Pub. L. 97-176, Sec. 5, May 17, 1982, 96 Stat. 79; Pub. L. 104-208, div. A, title I, Sec. 101(a) [title II, Sec. 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

Amendments

1996--Subsec. (c). Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1853 (b) (6) of this title.

Effective Date of 1996 Amendment

Section 101(a) [title II, Sec. 211(b)] of div. A of Pub. L. 104-208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 773d. — Cooperation of Federal agencies.

Any agency of the Federal Government is authorized upon request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish on a reimbursable basis, facilities and personnel for the purposes of assisting the Commission in carrying out its duties under the Convention. Such agency may accept reimbursement from the Commission.

(Pub. L. 97-176, Sec. 6, May 17, 1982, 96 Stat. 80.)

§ 773e. — Prohibited acts.

It is unlawful--

(a) for any person subject to the jurisdiction of the United States--

(1) to violate any provision of the Convention, this subchapter or any regulation adopted under this subchapter;

(2) to refuse to permit any enforcement officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this subchapter or any regulation adopted under this subchapter;

(3) to forcibly assault, resist, oppose, impede, intimidate or interfere with any enforcement officer in the conduct of any search or inspection described in paragraph (2);

(4) to resist a lawful arrest or detention for any act prohibited by this section;

(5) to ship, transport, offer for sale, sell, purchase, import, export or have custody, control or possession of, any fish taken or retained in violation of the Convention, this subchapter, or any regulation adopted under this subchapter; or

(6) to interfere with, delay or prevent, by any means, the apprehension, arrest or detention of another person, knowing that such person has committed

any act prohibited by this section.

(b) for any foreign fishing vessel, and for the owner or operator of any foreign fishing vessel, to engage in fishing for halibut in the fishery conservation zone, unless such fishing is authorized by, and conducted in accordance with the Convention, this subchapter and regulations adopted under this subchapter.

(Pub. L. 97-176, Sec. 7, May 17, 1982, 96 Stat. 80; Pub. L. 102-251, title III, Sec. 302(b), Mar. 9, 1992, 106 Stat. 65.)

Amendment of Subsection (b)

Pub. L. 102-251, title III, Secs. 302(b), 308, Mar. 9, 1992, 106 Stat. 65, 66, provided that, effective on the date on which the Agreement between the United States and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for the United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until the date on which the Agreement enters into force for the United States, subsection (b) is amended by substituting ``exclusive economic zone or special areas '' for ``fishery conservation zone ''.

Effective Date of 1992 Amendment

Amendment by Pub. L. 102-251 effective on date on which Agreement between United States and Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990, enters into force for United States, with authority to prescribe implementing regulations effective Mar. 9, 1992, but with no such regulation to be effective until date on which Agreement enters into force for United States, see section 308 of Pub. L. 102-251, set out as a note under section 773 of this title.

Section Referred to in Other Sections

This section is referred to in sections 773f, 773g, 773h, 773i of this title.

§ 773f. — Civil penalties.

(a) Liability; continuing violations; notice; determination of amount

Any person who is found by the Secretary, after notice and opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 773e of this title shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violation, the degree of culpability, and history of prior offenses, ability to pay, and such other matters as justice may require.

(b) Judicial review

Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the appropriate court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary and the Attorney General. The Secretary shall promptly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, in accordance with rules prescribed pursuant to section 2112 of title 28. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5.

(c) Recovery of assessed penalties by Attorney General

If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) Compromise, modification, and remission of penalties

The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(Pub. L. 97-176, Sec. 8, May 17, 1982, 96 Stat. 80.)

§ 773g. — Crimes and criminal penalties.

(a) Offenses

A person is guilty of any \1\ offense if he commits an act prohibited by section 773e(a)(2), (3), (4), or (6) of this title; or section 773e(b) of this title.

- \ 1\ So in original. Probably should be ``an''.

(b) Fines; imprisonment

Any offense described in subsection (a) of this section is punishable by a fine of not more than \$50,000 or imprisonment for not more than 6 months, or both; except that if in the commission of any offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any officer authorized to enforce the provisions of this subchapter, or places any such officer in fear of imminent bodily injury the offense is punishable by a fine of not more than \$100,000, or imprisonment for not more than 10 years or both.

(c) Federal jurisdiction

There is Federal jurisdiction over any offense described in this section.

(Pub. L. 97-176, Sec. 9, May 17, 1982, 96 Stat. 81.)

§ 773h. — Forfeitures.

(a) Civil forfeiture proceeding

Any fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used, and any fish taken or retained, in any manner, in connection with or as a result of the commission of any act prohibited by section 773e of this title shall be subject to forfeiture to the United States. All or part of such vessel may, and all such fish shall, be forfeited to the United States pursuant to a civil proceeding under this section.

(b) United States district court jurisdiction

Any district court of the United States shall have jurisdiction, upon application by the Attorney General on behalf of the United States, to order any forfeiture authorized under subsection (a) of this section and any action provided for under subsection (d) of this section.

(c) Seizure of forfeited property

If a judgment is entered for the United States in a civil forfeiture proceeding under this section, the Attorney General may seize any property or other interest declared forfeited to the United States, which has not previously been seized pursuant to this subchapter or for which security has not previously been obtained under subsection (d) of this section. The provisions of the customs laws relating to--

- (1) the disposition of forfeited property;
- (2) the proceeds from the sale of forfeited property;
- (3) the remission or mitigation of forfeitures; and
- (4) the compromise of claims;

shall apply to any forfeiture ordered, and to any case in which forfeiture is alleged to be authorized, under this section, unless such provisions are inconsistent with the purposes, policy, and provisions of this subchapter. The duties and powers imposed upon the Commissioner of Customs or other persons under such provisions shall, with respect to this subchapter, be performed by officers or other persons designated for such purpose by the Secretary.

(d) Bond or other security; disposal of seized fish

(1) Any officer authorized to serve any process in rem which is issued by a court having jurisdiction under section 773i(d) of this title shall--

- (A) stay the execution of such process; or
- (B) discharge any fish seized pursuant to such process;

upon the receipt of a satisfactory bond or other security from any person claiming such property. Such bond or other security shall be conditioned upon such person delivering such property to the appropriate court upon order thereof, without any impairment of its value, or paying the monetary value of such property pursuant to an order of such court. Judgment shall be recoverable on such bond or other security against both the principal and any sureties in the event that any condition thereof is breached, as determined by such court.

(2) Any fish seized pursuant to this subchapter may be disposed of pursuant to the order of a court of competent jurisdiction or, if perishable, in a manner prescribed by regulations of the Secretary or the Secretary of the department in which the Coast Guard is operating.

(e) Presumption of violation

For purposes of this section, it shall be a rebuttable presumption that all fish found on board a fishing vessel which is seized in connection with an act prohibited by section 773e of this title were taken or retained in violation of the Convention and this subchapter.

(Pub. L. 97-176, Sec. 10, May 17, 1982, 96 Stat. 81.) Transfer of Functions

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

§ 773i. — Administration and enforcement.

(a) Secretary of Commerce and Secretary of department in which Coast Guard is operating

The Convention, this subchapter, and any regulation adopted under this subchapter, shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, and of any State agency, in the performance of such duties.

(b) Arrest, search and inspection, seizure; execution of warrants or other process

Any officer who is authorized by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a) of this section to enforce the Convention, this subchapter or any regulation adopted under this subchapter may--

(1) with or without a warrant or other process--

(A) arrest any person, if he has reasonable cause to believe that such person has committed an act prohibited by section 773e of this title;

(B) board, and search or inspect, any fishing vessel which is subject to this subchapter;

(C) at reasonable times enter, and search or inspect, shoreside facilities in which fish taken subject to this subchapter are processed, packed or held;

(D) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, an act prohibited by section 773e of this title;

(E) seize any fish (wherever found) taken or retained in the course of an act prohibited by section 773e of this title, or the proceeds of the sale of such fish; and

(F) seize any other evidence related to an act prohibited by section 773e of this title;

(2) execute any warrant or other process issued by any court of competent jurisdiction; and

(3) exercise any other lawful authority.

(c) Citation of owner or operator of offending vessel

If any officer authorized to enforce this subchapter (as provided for in this section) finds that a fishing vessel is operating or has been operated in the commission of an act prohibited by section 773e of this title, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b) of this section. If a permit has been issued pursuant to this subchapter for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) United States district court jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under this subchapter. Any such court may, at any time--

(1) enter restraining orders or prohibitions;

(2) issue warrants, process in rem or other process;

(3) prescribe and accept satisfactory bonds or other security; and

(4) take such other actions as are in the interest of justice.

(e) Witnesses; records and files

When requested by the appropriate authorities of Canada, officers or employees of the Coast Guard, the National Oceanic and Atmospheric Administration or any other agency of the United States may be directed to attend as a witness, and to produce such available records and files or duly certified copies thereof as may be necessary for the prosecution in Canada of any violation of the Convention or any Canadian law relating to the enforcement thereof.

(f) Investigations by Secretary of Commerce; powers; process

(1) In cooperation with such other agencies as may be appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations as are deemed necessary to carry out the purposes of this subchapter.

(2) For the purpose of all investigations which, in the opinion of the Secretary, are necessary and proper for the enforcement of this subchapter, the Secretary or any officer designated by him is empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Secretary deems relevant or material to the inquiry. Such attendance of witnesses and the production of such documentary evidence may be required from any place in the United States at any designated place or hearing.

(3) Process of the Secretary may be served by anyone duly authorized by him either--

(A) by delivering a copy thereof to the individual to be served, or to a member of the partnership to be served, or the president, secretary, or other executive officer or a director of the corporation to be served; or the agent designated for service of process;

(B) by leaving a copy thereof at the residence or the principal office or place of business of such individual, partnership, or corporation; or

(C) by mailing a copy thereof by registered or certified mail addressed to such individual, partnership, or corporation at his or its residence or principal office or place of business. The verified return by the individual so serving such complaint, order, or other process setting forth the manner of service shall be proof of same, and the returned post office receipt for such complaint, order, or other process mailed by registered or certified mail shall be proof of the service of the same.

(Pub. L. 97-176, Sec. 11, May 17, 1982, 96 Stat. 82.) Transfer of Functions

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

Section Referred to in Other Sections

This section is referred to in section 773h of this title.

§ 773j. — Authorization of appropriations.

There is hereby authorized to be appropriated for fiscal year 1983 and beyond, such sums as may be necessary for carrying out the Convention and this subchapter, including--

(a) necessary travel expenses of the United States Commissioners or alternate Commissioners; and

(b) the United States share of the joint expenses of the Commission: Provided, That the Commissioners shall not, with respect to commitments concerning the United States share of the joint expenses of the Commission, be subject to section 262(b) \1\ of title 22 insofar as it limits the authority of United States representatives to international organizations with respect to such commitments.

\1\ So in original. Probably should be section ``262b '' .

(Pub. L. 97-176, Sec. 12, May 17, 1982, 96 Stat. 84.)

§ 773k. — Location of office space and other facilities on or near University of Washington campus in State of Washington.

There are hereby authorized to be appropriated such sums as may be necessary for the Secretary of State to provide for fiscal year 1983 and beyond, by contract, grant, or otherwise, facilities for office and any other necessary space for the Commission. Such facilities shall be located on or near the campus of the University of Washington in the State of Washington and shall be provided without regard to the costsharing provisions in the Convention.

(Pub. L. 97-176, Sec. 13, May 17, 1982, 96 Stat. 84.)

(a) FINDINGS.—The Congress finds and declares the following:

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

104-297

(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.

(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

104-297

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.

95-354

(7) A national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

16 U.S.C. 1801
MSA § 2

101-627

(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.

104-297

(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.

104-297

(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.

109-479

(11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this Act.

109-479

(12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.

(b) PURPOSES.—It is therefore declared to be the purposes of the Congress in this Act—

99-659, 101-627, 102-251

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources[, and fishery resources in the special areas]*;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

104-297

(3) to promote domestic commercial and recreational fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

101-627

(5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States;

95-354, 96-561, 104-297

(6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner; and

104-297

(7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.

(c) POLICY.—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act;

101-627, 104-297

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; considers efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this Act;

16 U.S.C. 1801-1802
MSA §§ 2-3

99-659, 101-627

(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation;

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(6) to foster and maintain the diversity of fisheries in the United States; and

104-297

(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States.

SEC. 3. DEFINITIONS

16 U.S.C. 1802

As used in this Act, unless the context otherwise requires—

(1) The term "anadromous species" means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

104-297

(2) The term "bycatch" means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

104-297

(3) The term "charter fishing" means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing.

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(4) The term "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.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

109-479

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

109-479

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

16 U.S.C. 1853
MSA § 303

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

109-479

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors;

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(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

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(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

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(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

- (A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);
- (B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and
- (C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

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(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

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(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

- (A) present participation in the fishery;
- (B) historical fishing practices in, and dependence on, the fishery;
- (C) the economics of the fishery;
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries;
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

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MSA § 303

(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

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(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[sic]¹⁵ prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

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(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

¹⁵ So in original.

P.L. 109-479, sec. 104(b), MSA § 303 note

16 U.S.C. 1853 note

EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)¹⁶—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

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SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

¹⁶ Section 104(a)(10) of P.L. 109-479 added section 303(a)(15).

(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and
- (IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

- (B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—
- (i) traditional fishing or processing practices in, and dependence on, the fishery;
 - (ii) the cultural and social framework relevant to the fishery;
 - (iii) economic barriers to access to fishery;
 - (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
 - (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
 - (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]¹⁷ members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

¹⁷ So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

16 U.S.C. 1853a
MSA § 303A

(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

16 U.S.C. 1853a note, 1854
MSA §§ 303A note, 304

P.L. 109-479, sec. 106(e), MSA § 303A note

16 U.S.C. 1853a note

APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

P.L. 104-297, sec. 108(i), MSA § 303 note

EXISTING QUOTA PLANS.—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 304. ACTION BY THE SECRETARY

16 U.S.C. 1854

104-297

(a) **REVIEW OF PLANS.**—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

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SEC. 402. INFORMATION COLLECTION

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

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(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

16 U.S.C. 1881a-1881b
MSA §§ 402-403

(d) **CONTRACTING AUTHORITY.**—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) **RESOURCE ASSESSMENTS.**—

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry--

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

104-297

SEC. 403. OBSERVERS

16 U.S.C. 1881b

(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

Title 50: Wildlife and Fisheries
PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E—Pacific Halibut Fisheries

Authority: 16 U.S.C. 773–773k.

§ 300.60 Purpose and scope.

This subpart implements the North Pacific Halibut Act of 1982 (Act) and is intended to supplement, not conflict with, the annual fishery management measures adopted by the International Pacific Halibut Commission (Commission) under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention).

§ 300.61 Definitions.

In addition to the terms defined in §300.2 and those in the Act and the Convention, the terms used in this subpart have the following meanings. If a term is defined differently in §300.2, the Act, or the Convention, the definition in this section shall apply.

Alaska Native tribe means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a Federally recognized Alaska Native tribe that has customary and traditional use of halibut and that is listed in §300.65(g)(2) of this part.

Area 2A includes all waters off the States of California, Oregon, and Washington.

Area 2C includes all waters off Alaska that are east of a line running 340° true from Cape Spencer Light (58° 11' 54" N. lat., 136° 38' 24" W. long.) and south and east of a line running 205° true from said light.

Charter vessel means a vessel used for hire in sport fishing for halibut, but not including a vessel without a hired operator.

Commercial fishing means fishing, the resulting catch of which either is, or is intended to be, sold or bartered but does not include subsistence fishing.

Commission means the International Pacific Halibut Commission.

Commission regulatory area means an area defined by the Commission for purposes of the Convention identified in 50 CFR 300.60 and prescribed in the annual management measures published pursuant to 50 CFR 300.62.

Customary trade means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, the non-commercial exchange of subsistence halibut for anything other than items of significant value.

Fishing means the taking, harvesting, or catching of fish, or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area.

Guideline harvest level (GHL) means a level of allowable halibut harvest by the charter vessel fishery.

Halibut harvest means the catching and retaining of any halibut.

Head-on length means a straight line measurement passing over the pectoral fin from the tip of the lower jaw with the mouth closed to the extreme end of the middle of the tail.

Individual Fishing Quota (IFQ), for purposes of this subpart, means the annual catch limit of halibut that may be harvested by a person who is lawfully allocated a harvest privilege for a specific portion of the TAC of halibut.

IFQ fishing trip, for purposes of the subpart, means the period beginning when a vessel operator commences harvesting IFQ halibut and ending when the vessel operator lands any species.

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 at §679.2 of this title.

Overall length of a vessel means the horizontal distance, rounded to the nearest ft/meter, 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).

Person includes an individual, corporation, firm, or association.

Rural means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a community or area of Alaska in which the non-commercial, customary and traditional use of fish and game for personal or family consumption is a principal characteristic of the economy or area and in which there is a long-term, customary and traditional use of halibut, and that is listed in §300.65(g)(1).

Rural resident means, for purposes of the subsistence fishery for Pacific halibut in waters in and off Alaska, a person domiciled in a rural community listed in the table in §300.65(g)(1) of this part and who has maintained a domicile in a rural community listed in the table in §300.65(g)(1) for the 12 consecutive months immediately preceding the time when the assertion of residence is made, and who is not claiming residency in another state, territory, or country.

Setline gear means one or more stationary, buoyed, and anchored lines with hooks attached.

Sport fishing means:

- (1) In regulatory area 2A, all fishing other than commercial fishing and treaty Indian ceremonial and subsistence fishing; and
- (2) In waters in and off Alaska, all fishing other than commercial fishing and subsistence fishing.

Subarea 2A-1 includes all U.S. waters off the coast of Washington that are north of 46°53'18" N. lat. and east of 125°44'00" W. long., and all inland marine waters of Washington.

Subsistence means, with respect to waters in and off Alaska, the non-commercial, long-term, customary and traditional use of halibut.

Subsistence halibut means halibut caught by a rural resident or a member of an Alaska Native tribe for direct personal or family consumption as food, sharing for personal or family consumption as food, or customary trade.

Treaty Indian tribes means the Hoh, Jamestown S'Klallam, Lower Elwha S'Klallam, Lummi, Makah, Port Gamble S'Klallam, Quileute, Quinault, Skokomish, Suquamish, Swinomish, and Tulalip tribes.

[61 FR 35550, July 5, 1996, as amended at 64 FR 52469, Sept. 29, 1999; 68 FR 18156, Apr. 15, 2003; 68 FR 47264, Aug. 8, 2003; 72 FR 30727, June 4, 2007; 72 FR 67669, Nov. 30, 2007]

§ 300.62 Annual management measures.

Annual management measures may be added and modified through adoption by the Commission and publication in the Federal Register by the Assistant Administrator, with immediate regulatory effect. Such measures may include, *inter alia*, provisions governing: Licensing of vessels, inseason actions, regulatory areas, fishing periods, closed periods, closed areas, catch limits (quotas), fishing period limits, size limits, careful release of halibut, vessel clearances, logs, receipt and possession of halibut, fishing gear, retention of tagged halibut, supervision of unloading and weighing, and sport fishing for halibut. The Assistant Administrator will publish the Commission's regulations setting forth annual management measures in the Federal Register by March 15 each year. Annual management measures may be adjusted inseason by the Commission.

§ 300.63 Catch sharing plan and domestic management measures in Area 2A.

(a) A catch sharing plan (CSP) may be developed by the Pacific Fishery Management Council and approved by NMFS for portions of the fishery. Any approved CSP may be obtained from the Administrator, Northwest Region, NMFS.

(b)(1) Each year, before January 1, NMFS will publish a proposal to govern the recreational fishery under the CSP for the following year and will seek public comment. The comment period will extend until after the Commission's annual meeting, so the public will have the opportunity to consider the final area 2A total allowable catch (TAC) before submitting comments. After the Commission's annual meeting and review of public comments, NMFS will publish in the Federal Register the final rule governing sport fishing in area 2A. Annual management measures may be adjusted inseason by NMFS.

(2) A portion of the commercial TAC is allocated as incidental catch in the salmon troll fishery in Area 2A. Each year the landing restrictions necessary to keep the fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the Federal Register along with the annual salmon management measures.

(3) A portion of the Area 2A Washington recreational TAC is allocated as incidental catch in the primary directed longline sablefish fishery north of 46°53.30' N. lat. (Pt. Chehalis, Washington), which is regulated under 50 CFR 660.372. This fishing opportunity is only available in years in which the Area 2A TAC is greater than 900,000 lb (408.2 mt,) provided that a minimum of 10,000 lb (4.5 mt) is available above a Washington recreational TAC of 214,100 lb (97.1 mt). Each year that this harvest is available, the landing restrictions necessary to keep this fishery within its allocation will be recommended by the Pacific Fishery Management Council at its spring meetings, and will be published in the Federal Register. These restrictions will be designed to ensure the halibut harvest is incidental to the sablefish harvest and will be based on the amounts of halibut and sablefish available to this fishery, and other pertinent factors. The restrictions may include catch or landing ratios, landing limits, or other means to control the rate of halibut landings.

(i) In years when this incidental harvest of halibut in the directed sablefish fishery north of 46°53.30' N. lat. is allowed, it is allowed

only for vessels using longline gear that are registered to groundfish limited entry permits with sablefish endorsements and that possess the appropriate incidental halibut harvest license issued by the Commission.

(ii) It is unlawful for any person to possess, land or purchase halibut south of 46°53.30' N. lat. that were taken and retained as incidental catch authorized by this section in the directed longline sablefish fishery.

(4) The commercial longline fishery in area 2A is governed by the annual management measures published pursuant to §§300.62 and 300.63.

(5) The treaty Indian fishery is governed by §300.64 and tribal regulations. The annual quota for the fishery will be announced with the Commission regulations under §300.62

(c) *Flexible Inseason Management Provisions for Sport Halibut Fisheries in Area 2A.*

(1) The Regional Administrator, NMFS Northwest Region, after consultation with the Chairman of the Pacific Fishery Management Council, the Commission Executive Director, and the Fisheries Director(s) of the affected state(s), or their designees, is authorized to modify regulations during the season after making the following determinations:

(i) The action is necessary to allow allocation objectives to be met.

(ii) The action will not result in exceeding the catch limit for the area.

(iii) If any of the sport fishery subareas north of Cape Falcon, Oregon are not projected to utilize their respective quotas by September 30, NMFS may take inseason action to transfer any projected unused quota to another Washington sport subarea.

(iv) If any of the sport fishery subareas south of Leadbetter Point, Washington, are not projected to utilize their respective quotas by their season ending dates, NMFS may take inseason action to transfer any projected unused quota to another Oregon sport subarea.

(2) Flexible inseason management provisions include, but are not limited to, the following:

(i) Modification of sport fishing periods;

(ii) Modification of sport fishing bag limits;

(iii) Modification of sport fishing size limits;

(iv) Modification of sport fishing days per calendar week; and

(v) Modification of subarea quotas north of Cape Falcon, Oregon.

(3) Notice procedures. (i) Actions taken under this section will be published in the Federal Register.

(ii) Actual notice of inseason management actions will be provided by a telephone hotline administered by the Northwest Region, NMFS, at 206-526-6667 or 800-662-9825 (May through October) and by U.S. Coast Guard broadcasts. These broadcasts are announced on Channel 16 VHF-FM and 2182 kHz at frequent intervals. The announcements designate the channel or frequency over which the notice to mariners will be immediately broadcast. Since provisions of these regulations may be altered by inseason actions, sport fishers should monitor either the telephone hotline or U.S. Coast Guard broadcasts for current information for the area in which they are fishing.

(4) Effective dates. (i) Any action issued under this section is effective on the date specified in the publication or at the time that the action is filed for public inspection with the Office of the Federal Register, whichever is later.

(ii) If time allows, NMFS will invite public comment prior to the effective date of any inseason action filed with the Federal Register. If the Regional Administrator determines, for good cause, that an inseason action must be filed without affording a prior opportunity for public comment, public comments will be received for a period of 15 days after publication of the action in the Federal Register.

(iii) Any inseason action issued under this section will remain in effect until the stated expiration date 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.

(5) 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 Regional Office, NMFS, Sustainable Fisheries Division, 7600 Sand Point Way NE, Seattle, Washington.

(d) *Fishery Election in Area 2A.* (1) A vessel that fishes in Area 2A may participate in only one of the following three fisheries in Area 2A:

(i) The sport fishery under Section 24 of the annual domestic management measures and IPHC regulations;

(ii) The commercial directed fishery for halibut during the fishing period(s) established in section 8 of the annual domestic management measures and IPHC regulations and/or the incidental retention of halibut during the primary sablefish fishery described at 50 CFR 660.372; or

(iii) The incidental catch fishery during the salmon troll fishery as authorized in section 8 of the annual domestic management measures and IPHC regulations.

(2) No person shall fish for halibut in the sport fishery in Area 2A under section 24 of the annual domestic management measures and IPHC regulations from a vessel that has been used during the same calendar year for commercial halibut fishing in Area 2A or that has been issued a permit for the same calendar year for the commercial halibut fishery in Area 2A.

(3) No person shall fish for halibut in the directed commercial halibut fishery during the fishing periods established in section 8 of the annual domestic management measures and IPHC regulations and/or retain halibut incidentally taken in the primary sablefish fishery in Area 2A from a vessel that has been used during the same calendar year for the incidental catch fishery during the salmon troll fishery as authorized in Section 8 of the annual domestic management measures and IPHC regulations.

(4) No person shall fish for halibut in the directed commercial halibut fishery and/or retain halibut incidentally taken in the primary sablefish fishery in Area 2A from a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A or that is licensed for the sport charter halibut fishery in Area 2A.

(5) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under section 8 of the annual domestic management measures and IPHC regulations taken on a vessel that, during the same calendar year, has been used in the sport halibut fishery in Area 2A, or that is licensed for the sport charter halibut fishery in Area 2A.

(6) No person shall retain halibut in the salmon troll fishery in Area 2A as authorized under section 8 of the annual domestic management measures and IPHC regulations taken on a vessel that, during the same calendar year, has been used in the directed commercial halibut fishery during the fishing periods established in Section 8 of the annual domestic management measures and IPHC regulations and/or retained halibut incidentally taken in the primary sablefish fishery for Area 2A or that is licensed to participate in these commercial fisheries during the fishing periods established in Section 8 of the annual domestic management measures and IPHC regulations in Area 2A.

(e) *Area 2A Non-Treaty Commercial Fishery Closed Areas.* (1) Non-treaty commercial vessels operating in the directed commercial fishery for halibut in Area 2A are required to fish outside of a closed area, known as the Rockfish Conservation Area (RCA), that extends along the coast from the U.S./Canada border south to 40°10' N. lat. Between the U.S./Canada border and 46°16' N. lat., the eastern boundary of the RCA is the shoreline. Between 46°16' N. lat. and 40°10' N. lat., the RCA is defined along an eastern boundary approximating the 30–fm (55–m) depth contour. Coordinates for the 30–fm (55–m) boundary are listed at §300.63 (f). Between the U.S./Canada border and 40°10' N. lat., the RCA is defined along a western boundary approximating the 100–fm (183–m) depth contour. Coordinates for the 100–fm (183–m) boundary are listed at §300.63 (g).

(2) Non-treaty commercial vessels operating in the incidental catch fishery during the sablefish fishery north of Pt. Chehalis, Washington, in Area 2A are required to fish outside of a closed area. Under Pacific Coast groundfish regulations at 50 CFR 660.382, fishing with limited entry fixed gear is prohibited within the North Coast Commercial Yelloweye Rockfish Conservation Area (YRCA). It is unlawful to take and retain, possess, or land halibut taken with limited entry fixed gear within the North Coast Commercial YRCA. The North Coast Commercial YRCA is an area off the northern Washington coast, overlapping the northern part of North Coast Recreational YRCA, and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the North Coast Commercial YRCA are specified in groundfish regulations at 50 CFR 660.390.

(3) Non-treaty commercial vessels operating in the incidental catch fishery during the salmon troll fishery in Area 2A are required to fish outside of a closed area. Under the Pacific Coast groundfish regulations at 50 CFR 660.383, 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 within the Salmon Troll YRCA. The Salmon Troll YRCA is an area off the northern Washington coast and is defined by straight lines connecting latitude and longitude coordinates. Coordinates for the Salmon Troll YRCA are specified in groundfish regulations at 50 CFR 660.390 and in salmon regulations at 50 CFR 660.405.

(f) The 30–fm (55–m) depth contour between 46°16' N. lat. and 40°10' N. lat. is defined by straight lines connecting all of the following points in the order stated:

- (1) 46°16.00' N. lat., 124°13.05' W. long.;
- (2) 46°16.00' N. lat., 124°13.04' W. long.;
- (2) 46°07.00' N. lat., 124°07.01' W. long.;
- (3) 45°55.95' N. lat., 124°02.23' W. long.;
- (4) 45°54.53' N. lat., 124°02.57' W. long.;
- (5) 45°50.65' N. lat., 124°01.62' W. long.;

- (6) 45°48.20' N. lat., 124°02.16' W. long.;
- (7) 45°46.00' N. lat., 124°01.86' W. long.;
- (8) 45°43.46' N. lat., 124°01.28' W. long.;
- (9) 45°40.48' N. lat., 124°01.03' W. long.;
- (10) 45°39.04' N. lat., 124°01.68' W. long.;
- (11) 45°35.48' N. lat., 124°01.90' W. long.;
- (12) 45°29.81' N. lat., 124°02.45' W. long.;
- (13) 45°27.97' N. lat., 124°01.90' W. long.;
- (14) 45°27.22' N. lat., 124°02.66' W. long.;
- (15) 45°24.20' N. lat., 124°02.94' W. long.;
- (16) 45°20.60' N. lat., 124°01.74' W. long.;
- (17) 45°20.25' N. lat., 124°01.85' W. long.;
- (18) 45°16.44' N. lat., 124°03.22' W. long.;
- (19) 45°13.63' N. lat., 124°02.69' W. long.;
- (20) 45°11.05' N. lat., 124°03.59' W. long.;
- (21) 45°08.55' N. lat., 124°03.47' W. long.;
- (22) 45°02.81' N. lat., 124°04.64' W. long.;
- (23) 44°58.06' N. lat., 124°05.03' W. long.;
- (24) 44°53.97' N. lat., 124°06.92' W. long.;
- (25) 44°48.89' N. lat., 124°07.04' W. long.;
- (26) 44°46.94' N. lat., 124°08.25' W. long.;
- (27) 44°42.72' N. lat., 124°08.98' W. long.;
- (28) 44°38.16' N. lat., 124°11.48' W. long.;
- (29) 44°33.38' N. lat., 124°11.54' W. long.;
- (31) 44°28.51' N. lat., 124°12.04' W. long.;
- (32) 44°27.65' N. lat., 124°12.56' W. long.;
- (33) 44°19.67' N. lat., 124°12.37' W. long.;
- (34) 44°10.79' N. lat., 124°12.22' W. long.;
- (35) 44°09.22' N. lat., 124°12.28' W. long.;
- (36) 44°08.30' N. lat., 124°12.30' W. long.;
- (37) 44°00.22' N. lat., 124°12.80' W. long.;
- (38) 43°51.56' N. lat., 124°13.18' W. long.;
- (39) 43°44.26' N. lat., 124°14.50' W. long.;
- (40) 43°33.82' N. lat., 124°16.28' W. long.;
- (41) 43°28.66' N. lat., 124°18.72' W. long.;
- (42) 43°23.12' N. lat., 124°24.04' W. long.;
- (43) 43°20.83' N. lat., 124°25.67' W. long.;
- (44) 43°20.48' N. lat., 124°25.90' W. long.;
- (45) 43°16.41' N. lat., 124°27.52' W. long.;
- (46) 43°14.23' N. lat., 124°29.28' W. long.;
- (47) 43°14.03' N. lat., 124°28.31' W. long.;
- (48) 43°11.92' N. lat., 124°28.26' W. long.;
- (49) 43°11.02' N. lat., 124°29.11' W. long.;
- (50) 43°10.13' N. lat., 124°29.15' W. long.;
- (51) 43°09.26' N. lat., 124°31.03' W. long.;
- (52) 43°07.73' N. lat., 124°30.92' W. long.;
- (53) 43°05.93' N. lat., 124°29.64' W. long.;
- (54) 43°01.59' N. lat., 124°30.64' W. long.;
- (55) 42°59.72' N. lat., 124°31.16' W. long.;
- (56) 42°53.75' N. lat., 124°36.09' W. long.;
- (57) 42°50.00' N. lat., 124°38.39' W. long.;
- (58) 42°49.37' N. lat., 124°38.81' W. long.;
- (59) 42°46.42' N. lat., 124°37.69' W. long.;
- (60) 42°46.07' N. lat., 124°38.56' W. long.;
- (61) 42°45.29' N. lat., 124°37.95' W. long.;
- (62) 42°45.61' N. lat., 124°36.87' W. long.;
- (63) 42°44.27' N. lat., 124°33.64' W. long.;
- (64) 42°42.75' N. lat., 124°31.84' W. long.;
- (65) 42°40.50' N. lat., 124°29.67' W. long.;
- (66) 42°40.04' N. lat., 124°29.20' W. long.;
- (67) 42°38.09' N. lat., 124°28.39' W. long.;
- (68) 42°36.73' N. lat., 124°27.54' W. long.;
- (69) 42°36.56' N. lat., 124°28.40' W. long.;
- (70) 42°35.77' N. lat., 124°28.79' W. long.;
- (71) 42°34.03' N. lat., 124°29.98' W. long.;
- (72) 42°34.19' N. lat., 124°30.58' W. long.;
- (73) 42°31.27' N. lat., 124°32.24' W. long.;
- (74) 42°27.07' N. lat., 124°32.53' W. long.;
- (75) 42°24.21' N. lat., 124°31.23' W. long.;
- (76) 42°20.47' N. lat., 124°28.87' W. long.;
- (77) 42°14.60' N. lat., 124°26.80' W. long.;
- (78) 42°13.67' N. lat., 124°26.25' W. long.;
- (79) 42°10.90' N. lat., 124°24.56' W. long.;
- (80) 42°07.04' N. lat., 124°23.35' W. long.;
- (81) 42°02.16' N. lat., 124°22.59' W. long.;
- (82) 42°00.00' N. lat., 124°21.81' W. long.;

- (83) 41 °55.75' N. lat., 124°20.72' W. long.;
- (84) 41 °50.93' N. lat., 124°23.76' W. long.;
- (85) 41°42.53' N. lat., 124°16.47' W. long.;
- (86) 41°37.20' N. lat., 124°17.05' W. long.;
- (87) 41°24.58' N. lat., 124°10.51' W. long.;
- (88) 41°20.73' N. lat., 124°11.73' W. long.;
- (89) 41°17.59' N. lat., 124°10.66' W. long.;
- (90) 41°04.54' N. lat., 124°14.47' W. long.;
- (91) 40°54.26' N. lat., 124°13.90' W. long.;
- (92) 40°40.31' N. lat., 124°26.24' W. long.;
- (93) 40°34.00' N. lat., 124°27.39' W. long.;
- (94) 40°30.00' N. lat., 124°31.32' W. long.;
- (95) 40°28.89' N. lat., 124°32.43' W. long.;
- (96) 40°24.77' N. lat., 124°29.51' W. long.;
- (97) 40°22.47' N. lat., 124°24.12' W. long.;
- (98) 40°19.73' N. lat., 124°23.59' W. long.;
- (99) 40°18.64' N. lat., 124°21.89' W. long.;
- (100) 40°17.67' N. lat., 124°23.07' W. long.;
- (101) 40°15.58' N. lat., 124°23.61' W. long.;
- (102) 40°13.42' N. lat., 124°22.94' W. long.; and
- (103) 40°10.00' N. lat., 124°16.65' W. long. (g) The 100–fm (183–m) depth contour used between the U.S. border with Canada and 40°10' N. lat. 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.; and
- (167) 40°10.00' N. lat., 124°21.12' W. long.

[61 FR 35550, July 5, 1996, as amended at 63 FR 13009, Mar. 17, 1998; 63 FR 24752, May 5, 1998; 64 FR 52469, Sept. 29, 1999; 65 FR 67308, Nov. 9, 2000; 65 FR 8373, Jan. 31, 2001; 66 FR 36208, July 11, 2001; 66 FR 42156, Aug. 10, 2001; 68 FR 11003, Mar. 7, 2003; 68 FR 18156, Apr. 15, 2003; 69 FR 24532, May 4, 2004; 70 FR 16751, Apr. 1, 2005; 71 FR 10863, Mar. 3, 2006; 72 FR 11807, Mar. 14, 2007]

§ 300.64 Fishing by U.S. treaty Indian tribes.

(a) Halibut fishing in subarea 2A–1 by members of U.S. treaty Indian tribes located in the State of Washington is governed by this section.

(b) Commercial fishing for halibut by treaty Indians is permitted only in subarea 2A–1 with hook-and-line gear in conformance with the season and quota established annually by the Commission.

(c) Commercial fishing periods and management measures to implement paragraph (b) of this section will be established by treaty Indian tribal regulations.

(d) Commercial fishing for halibut by treaty Indians shall comply with the Commission's management measures governing size limits, careful release of halibut, logs, and fishing gear (published pursuant to §300.62), except that the 72-hour fishing restriction preceding the opening of a halibut fishing period shall not apply to treaty Indian fishing.

(e) Ceremonial and subsistence fishing for halibut by treaty Indians in subarea 2A–1 is permitted with hook-and-line gear from January 1 to December 31.

(f) No size or bag limits shall apply to the ceremonial and subsistence fishery, except that when commercial halibut fishing is prohibited pursuant to paragraph (b) of this section, treaty Indians may take and retain not more than two halibut per person per day.

(g) Halibut taken for ceremonial and subsistence purposes shall not be offered for sale or sold.

(h) Any member of a U.S. treaty Indian tribe who is engaged in commercial or ceremonial and subsistence fishing under this section must have on his or her person a valid treaty Indian identification card issued pursuant to 25 CFR part 249, subpart A, and must comply with the treaty Indian vessel and gear identification requirements of Final Decision No. 1 and subsequent orders in *United States v. Washington* 384 F. Supp. 312 (W.D. Wash., 1974).

(i) The following table sets forth the fishing areas of each of the 12 treaty Indian tribes fishing pursuant to this section. Within subarea 2A-1, boundaries of a tribe's fishing area may be revised as ordered by a Federal Court.

Tribe	Boundaries
HOH	Between 47°54'18" N. lat. (Quillayute River) and 47°21'00" N. lat. (Quinault River), and east of 125°44'00" W. long.
JAMESTOWN S'KLALLAM	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1486, to be places at which the Jamestown S'Klallam Tribe may fish under rights secured by treaties with the United States.
LOWER ELWHA S'KLALLAM	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049 and 1066 and 626 F. Supp. 1443, to be places at which the Lower Elwha S'Klallam Tribe may fish under rights secured by treaties with the United States.
LUMMI	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 384 F. Supp. 360, as modified in Subproceeding No. 89-08 (W.D. Wash., February 13, 1990) (decision and order re: cross-motions for summary judgement), to be places at which the Lummi Tribe may fish under rights secured by treaties with the United States.
MAKAH	North of 48°02'15" N. lat. (Norwegian Memorial), west of 123°42'30" W. long., and east of 125°44'00" W. long.
PORT GAMBLE S'KLALLAM	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1442, to be places at which the Port Gamble S'Klallam Tribe may fish under rights secured by treaties with the United States.
QUILEUTE	Between 48°07'36" N. lat. (Sand Point) and 47°31'42" N. lat. (Queets River), and east of 125°44'00" W. long.
QUINAULT	Between 47°40'06" N. lat. (Destruction Island) and 46°53'18" N. lat. (Point Chehalis), and east of 125°44'00" W. long.
SKOKOMISH	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 384 F. Supp. 377, to be places at which the Skokomish Tribe may fish under rights secured by treaties with the United States.
SUQUAMISH	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049, to be places at which the Suquamish Tribe may fish under rights secured by treaties with the United States.
SWINOMISH	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 459 F. Supp. 1049, to be places at which the Swinomish Tribe may fish under rights secured by treaties with the United States.
TULALIP	Those locations in the Strait of Juan de Fuca and Puget Sound as determined in or in accordance with Final Decision No. 1 and subsequent orders in <i>United States v. Washington</i> , 384 F. Supp. 312 (W.D. Wash., 1974), and particularly at 626 F. Supp. 1531-1532, to be places at which the Tulalip Tribe may fish under rights secured by treaties with the United States.

§ 300.65 Catch sharing plan and domestic management measures in waters in and off Alaska.

(a) A catch sharing plan (CSP) may be developed by the North Pacific Fishery Management Council and approved by NMFS for portions of the fishery. Any approved CSP may be obtained from the Administrator, Alaska Region, NMFS.

(b) The catch sharing plan for Commission regulatory area 4 allocates the annual TAC among area 4 subareas and will be implemented by the Commission in annual management measures published pursuant to 50 CFR 300.62.

(c) *Guideline harvest level.* (1) The annual GHs for regulatory areas 2C and 3A are determined as follows:

If the Annual Total Constant Exploitation Yield for Halibut in Area 2C is More Than:	Then the GH for Area 2C will be:	If the Annual Total Constant Exploitation Yield for Halibut in Area 3A is More Than:	Then the GH for Area 3A will be:
(i) 9,027,000 lbs. (4094.5 mt)	1,432,000 lbs. (649.5 mt)	21,581,000 lbs. (9,788.9 mt)	3,650,000 lbs. (1655.6 mt)
(ii) 7,965,000 lbs. (3612.9 mt)	1,217,000 lbs. (552.0 mt)	19,042,000 lbs. (8637.3 mt)	3,103,000 lbs. (1407.0 mt)
(iii) 6,903,000 lbs. (3,131.2 mt)	1,074,000 lbs. (496.7 mt)	16,504,000 lbs. (7,485.9 mt)	2,734,000 lbs. (1266.4 mt)
(iv) 5,841,000 lbs. (2,649.4 mt)	931,000 lbs. (447.2 mt)	13,964,000 lbs. (6334.0 mt)	2,373,000 lbs. (1,139.9 mt)
(v) 4,779,000 lbs. (2,167.7 mt)	788,000 lbs. (357.4 mt)	11,425,000 lbs. (5,182.3 mt)	2,008,000 lbs. (910.8 mt)

(2) NMFS will publish a notice in the Federal Register on an annual basis establishing the GHL for Area 2C and Area 3A for that calendar year within 30 days of receiving information from the Commission which establishes the constant exploitation yield for that year.

(3) If the GHL in either Area 2C or 3A is exceeded, NMFS will notify the Council in writing that the GHL has been exceeded within 30 days of receiving information that the GHL has been exceeded.

(d) In Commission Regulatory Area 2C, halibut harvest on a charter vessel is limited to no more than two halibut per person per calendar day provided that at least one of the harvested halibut has a head-on length of no more than 32 inches (81.3 cm). If a person sport fishing on a charter vessel in Area 2C retains only one halibut in a calendar day, that halibut may be of any length.

(e) The Local Area Management Plan (LAMP) for Sitka Sound provides guidelines for participation in the halibut fishery in Sitka Sound.

(1) For purposes of this section, Sitka Sound means (See Figure 1 to subpart E):

(i) With respect to paragraph (e)(2) of this section, that part of the Commission regulatory area 2C that is enclosed on the north and east:

(A) By a line from Kruzof Island at 57°20'30" N. lat., 135°45'10" W. long. to Chichagof Island at 57°22'03" N. lat., 135°43'00" W. long., and

(B) By a line from Chichagof Island at 57°22'35" N. lat., 135°41'18" W. long. to Baranof Island at 57°22'17" N. lat., 135°40'57" W. long.; and

(C) That is enclosed on the south and west by a line from Cape Edgecumbe at 56°59'54" N. lat., 135°51'27" W. long. to Vasilief Rock at 56°48'56" N. lat., 135°32'30" W. long., and

(D) To the green day marker in Dorothy Narrows at 56°49'17" N. lat., 135°22'45" W. long. to Baranof Island at 56°49'17" N. lat., 135°22'36" W. long.

(ii) With respect to paragraphs (e)(3) and (e)(4) of this section, that part of the Commission regulatory area 2C that is enclosed on the north and east:

(A) By a line from Kruzof Island at 57°20'30" N. lat., 135°45'10" W. long. to Chichagof Island at 57°22'03" N. lat., 135°43'00" W. long., and

(B) A line from Chichagof Island at 57°22'35" N. lat., 135°41'18" W. long. to Baranof Island at 57°22'17" N. lat., 135°40'57" W. lat.; and

(C) That is enclosed on the south and west by a line from Sitka Point at 56°59'23" N. lat., 135°49'34" W. long., to Hanus Point at 56°51'55" N. lat., 135°30'30" W. long.,

(D) To the green day marker in Dorothy Narrows at 56°49'17" N. lat., 135°22'45" W. long. to Baranof Island at 56°49'17" N. lat., 135°22'36" W. long.

(2) A person using a vessel greater than 35 ft (10.7 m) in overall length, as defined at 50 CFR 300.61, is prohibited from fishing for IFQ halibut with setline gear, as defined at 50 CFR 300.61, within Sitka Sound as defined in paragraph (e)(1)(i) of this section.

(3) A person using a vessel less than or equal to 35 ft (10.7 m) in overall length, as defined at 50 CFR 300.61:

(i) Is prohibited from fishing for IFQ halibut with setline gear within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, from June 1 through August 31; and

(ii) Is prohibited, during the remainder of the designated IFQ season, from retaining more than 2,000 lb (0.91 mt) of IFQ halibut within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, per IFQ fishing trip, as defined in 50 CFR 300.61.

(4) No charter vessel shall engage in sport fishing, as defined at §300.61, for halibut within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, from June 1 through August 31.

(i) No charter vessel shall retain halibut caught while engaged in sport fishing, as defined at §300.61, for other species, within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, from June 1 through August 31.

(ii) Notwithstanding paragraphs (e)(4) and (e)(4)(i) of this section, halibut harvested outside Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, may be retained onboard a charter vessel engaged in sport fishing, as defined in §300.61, for other species within Sitka Sound, as defined in paragraph (e)(1)(ii) of this section, from June 1 through August 31.

(f) Sitka Pinnacles Marine Reserve. (1) For purposes of this paragraph (f), the Sitka Pinnacles Marine Reserve means 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.

(2) No person shall engage in commercial, sport or subsistence fishing, as defined at §300.61, for halibut within the Sitka Pinnacles Marine Reserve.

(3) No person shall anchor a vessel within the Sitka Pinnacles Marine Reserve if halibut is on board.

(g) *Subsistence fishing in and off Alaska*. No person shall engage in subsistence fishing for halibut unless that person meets the requirements in paragraphs (g)(1) or (g)(2) of this section.

(1) A person is eligible to harvest subsistence halibut if he or she is a rural resident of a community with customary and traditional uses of halibut listed in the following table:

Halibut Regulatory Area 2C

Rural Community	Organized Entity
Angoon	Municipality
Coffman Cove	Municipality
Craig	Municipality
Edna Bay	Census Designated Place
Elfin Cove	Census Designated Place
Gustavus	Census Designated Place
Haines	Municipality
Hollis	Census Designated Place
Hoonah	Municipality
Hydaburg	Municipality
Hyder	Census Designated Place
Kake	Municipality
Kasaan	Municipality
Klawock	Municipality
Klukwan	Census Designated Place
Metlakatla	Census Designated Place
Meyers Chuck	Census Designated Place
Pelican	Municipality
Petersburg	Municipality
Point Baker	Census Designated Place
Port Alexander	Municipality

Port Protection	Census Designated Place
Saxman	Municipality
Sitka	Municipality
Skagway	Municipality
Tenakee Springs	Municipality
Thorne Bay	Municipality
Whale Pass	Census Designated Place
Wrangell	Municipality

Halibut Regulatory Area 3A

Rural Community	Organized Entity
Akhiok	Municipality
Chenega Bay	Census Designated Place
Cordova	Municipality
Karluk	Census Designated Place
Kodiak City	Municipality
Larsen Bay	Municipality
Nanwalek	Census Designated Place
Old Harbor	Municipality
Ouzinkie	Municipality
Port Graham	Census Designated Place
Port Lions	Municipality
Seldovia	Municipality
Tatitlek	Census Designated Place
Yakutat	Municipality

Halibut Regulatory Area 3B

Rural Community	Organized Entity
Chignik Bay	Municipality
Chignik Lagoon	Census Designated Place
Chignik Lake	Census Designated Place
Cold Bay	Municipality
False Pass	Municipality
Ivanof Bay	Census Designated Place
King Cove	Municipality
Nelson Lagoon	Census Designated Place
Perryville	Census Designated Place
Sand Point	Municipality

Halibut Regulatory Area 4A

Rural Community	Organized Entity
Akutan	Municipality
Nikolski	Census Designated Place
Unalaska	Municipality

Halibut Regulatory Area 4B

Rural Community	Organized Entity
Adak	Census Designated Place
Atka	Municipality

Halibut Regulatory Area 4C

Rural Community	Organized Entity
St. George	Municipality
St. Paul	Municipality

Halibut Regulatory Area 4D

Rural Community	Organized Entity
Gambell	Municipality
Savoonga	Municipality
Diomede (Inalik)	Municipality

Halibut Regulatory Area 4E

Rural Community	Organized Entity
Alakanuk	Municipality
Aleknegik	Municipality
Bethel	Municipality
Brevig Mission	Municipality
Chefornak	Municipality
Chevak	Municipality
Clark's Point	Municipality
Council	Census Designated Place
Dillingham	Municipality
Eek	Municipality
Egegik	Municipality
Elim	Municipality
Emmonak	Municipality
Golovin	Municipality
Goodnews Bay	Municipality
Hooper Bay	Municipality
King Salmon	Census Designated Place
Kipnuk	Census Designated Place

Kongiganak	Census Designated Place
Kotlik	Municipality
Koyuk	Municipality
Kwigillingok	Census Designated Place
Levelock	Census Designated Place
Manokotak	Municipality
Mekoryak	Municipality
Naknek	Census Designated Place
Napakiak	Municipality
Napaskiak	Municipality
Newtok	Census Designated Place
Nightmute	Municipality
Nome	Municipality
Oscarville	Census Designated Place
Pilot Point	Municipality
Platinum	Municipality
Port Heiden	Municipality
Quinhagak	Municipality
Scammon Bay	Municipality
Shaktoolik	Municipality
Sheldon Point (Nunam Iqua)	Municipality
Shishmaref	Municipality
Solomon	Census Designated Place
South Naknek	Census Designated Place
St. Michael	Municipality
Stebbins	Municipality
Teller	Municipality
Togiak	Municipality
Toksook Bay	Municipality
Tuntutuliak	Census Designated Place
Tununak	Census Designated Place
Twin Hills	Census Designated Place
Ugashik	Census Designated Place
Unalakleet	Municipality
Wales	Municipality
White Mountain	Municipality

(2) A person is eligible to harvest subsistence halibut if he or she is a member of an Alaska Native tribe with customary and traditional uses of halibut listed in the following table:

Halibut Regulatory Area 2C

Place with Tribal Headquarters	Organized Tribal Entity
Angoon	Angoon Community Association

Craig	Craig Community Association
Haines	Chilkoot Indian Association
Hoonah	Hoonah Indian Association
Hydaburg	Hydaburg Cooperative Association
Juneau	Aukquan Traditional Council Central Council Tlingit and Haida Indian Tribes Douglas Indian Association
Kake	Organized Village of Kake
Kasaan	Organized Village of Kasaan
Ketchikan	Ketchikan Indian Corporation
Klawock	Klawock Cooperative Association
Klukwan	Chilkat Indian Village
Metlakatla	Metlakatla Indian Community, Annette Island Reserve
Petersburg	Petersburg Indian Association
Saxman	Organized Village of Saxman
Sitka	Sitka Tribe of Alaska
Skagway	Skagway Village
Wrangell	Wrangell Cooperative Association

Halibut Regulatory Area 3A

Place with Tribal Headquarters	Organized Tribal Entity
Akhiok	Native Village of Akhiok
Chenega Bay	Native Village of Chanega
Cordova	Native Village of Eyak
Karluk	Native Village of Karluk
Kenai-Soldotna	Kenaitze Indian Tribe Village of Salamatoff
Kodiak City	Lesnoi Village (Woody Island) Native Village of Afognak Shoonaq' Tribe of Kodiak
Larsen Bay	Native Village of Larsen Bay
Nanwalek	Native Village of Nanwalek
Ninilchik	Ninilchik Village
Old Harbor	Village of Old Harbor
Ouzinkie	Native Village of Ouzinkie
Port Graham	Native Village of Port Graham
Port Lions	Native Village of Port Lions
Seldovia	Seldovia Village Tribe
Tatitlek	Native Village of Tatitlek
Yakutat	Yakutat Tlingit Tribe

Halibut Regulatory Area 3B

Place with Tribal Headquarters	Organized Tribal Entity
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Chignik Bay	Native Village of Chignik
Chignik Lagoon	Native Village of Chignik Lagoon
Chignik Lake	Chignik Lake Village
False Pass	Native Village of False Pass
Ivanof Bay	Ivanoff Bay Village
King Cove	Agdaagux Tribe of King Cove Native Village of Belkofski
Nelson Lagoon	Native Village of Nelson Lagoon
Perryville	Native Village of Perryville
Sand Point	Pauloff Harbor Village Native Village of Unga Qagan Tayagungin Tribe of Sand Point Village

Halibut Regulatory Area 4A

Place with Tribal Headquarters	Organized Tribal Entity
Akutan	Native Village of Akutan
Nikolski	Native Village of Nikolski
Unalaska	Qawalingin Tribe of Unalaska

Halibut Regulatory Area 4B

Place with Tribal Headquarters	Organized Tribal Entity
Atka	Native Village of Atka

Halibut Regulatory Area 4C

Place with Tribal Headquarters	Organized Tribal Entity
St. George St. Paul	Pribilof Islands Aleut Communities of St. Paul Island and St. George Island

Halibut Regulatory Area 4D

Place with Tribal Headquarters	Organized Tribal Entity
Gambell	Native Village of Gambell
Savoonga	Native Village of Savoonga
Diomed (Inalik)	Native Village of Diomed (Inalik)

Halibut Regulatory Area 4E

Place with Tribal Headquarters	Organized Tribal Entity
Alakanuk	Village of Alakanuk
Aleknagik	Native Village of Aleknagik
Bethel	Orutsarmuit Native Village
Brevig Mission	Native Village of Brevig Mission

Chefornak	Village of Chefornak
Chevak	Chevak Native Village
Clark's Point	Village of Clark's Point
Council	Native Village of Council
Dillingham	Native Village of Dillingham Native Village of Ekuak Native Village of Kanakanak
Eek	Native Village of Eek
Egegik	Egegik Village Village of Kanatak
Elim	Native Village of Elim
Emmonak	Chuloonawick Native Village Emmonak Village
Golovin	Chinik Eskimo Community
Goodnews Bay	Native Village of Goodnews Bay
Hooper Bay	Native Village of Hooper Bay Native Village of Paimiut
King Salmon	King Salmon Tribal Council
Kipnuk	Native Village of Kipnuk
Kongiganak	Native Village of Kongiganak
Kotlik	Native Village of Hamilton Village of Bill Moore's Slough Village of Kotlik
Koyuk	Native Village of Koyuk
Kwigillingok	Native Village of Kwigillingok
Levelock	Levelock Village
Manokotak	Manokotak Village
Mekoryak	Native Village of Mekoryak
Naknek	Naknek Native Village
Napakiak	Native Village of Napakiak
Napaskiak	Native Village of Napaskiak
Newtok	Newtok Village
Nightmute	Native Village of Nightmute Umkumiute Native Village
Nome	King Island Native Community Nome Eskimo Community
Oscarville	Oscarville Traditional Village
Pilot Point	Native Village of Pilot Point
Platinum	Platinum Traditional Village
Port Heiden	Native Village of Port Heiden
Quinhagak	Native Village of Kwinhagak
Scammon Bay	Native Village of Scammon Bay
Shaktoolik	Native Village of Shaktoolik
Sheldon Point (Nuna Iqua)	Native Village of Sheldon's Point
Shishmaref	Native Village of Shishmaref
Solomon	Village of Solomon

South Naknek	South Naknek Village
St. Michael	Native Village of Saint Michael
Stebbins	Stebbins Community Association
Teller	Native Village of Mary's Igloo Native Village of Teller
Togiak	Traditional Village of Togiak
Toksook Bay	Native Village of Toksook Bay
Tuntutuliak	Native Village of Tuntutuliak
Tununak	Native Village of Tununak
Twin Hills	Twin Hills Village
Ugashik	Ugashik Village
Unalakleet	Native Village of Unalakleet
Wales	Native Village of Wales
White Mountain	Native Village of White Mountain

(h) *Limitations on subsistence fishing.* Subsistence fishing for halibut may be conducted only by persons who qualify for such fishing pursuant to paragraph (g) of this section and who hold a valid subsistence halibut registration certificate in that person's name issued by NMFS pursuant to paragraph (i) of this section, provided that such fishing is consistent with the following limitations.

(1) Subsistence fishing is limited to setline gear and hand-held gear, including longline, handline, rod and reel, spear, jig and hand-troll gear.

(i) Subsistence fishing gear set or retrieved from a vessel when fishing under a subsistence halibut registration certificate or a Community Harvest Permit (CHP) must not have more than 30 hooks per person registered in accordance with paragraph (i) of this section and on board the vessel and shall never exceed 3 times the per-person hook limit except that:

(A) No hook limit applies in Areas 4C, 4D, and 4E;

(B) In Area 2C, subsistence fishing gear set or retrieved from a vessel when persons are fishing under a subsistence halibut registration certificate must not have more than 30 hooks per vessel;

(C) In Area 2C, subsistence fishing gear set or retrieved from a vessel when fishing under a Ceremonial or Educational Permit pursuant to paragraph (k) of this section must not have more than 30 hooks per vessel; and

(D) In Area 2C within the Sitka LAMP from June 1 to August 31, setline gear may not be used in a 4 nautical mile radius extending south from Low Island at 57°00'42" N. lat., and 135°36'34" W. long. (see Figure 1 to Subpart E).

(ii) All setline gear marker buoys carried on board or used by any vessel regulated under this section shall be marked with the following: first initial, last name, and address (street, city, and state), followed by the letter "S" to indicate that it is used to harvest subsistence halibut.

(iii) Markings on setline marker buoys 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.

(2) The daily retention of subsistence halibut in rural areas is limited to no more than 20 fish per person eligible to conduct subsistence fishing for halibut under this paragraph (h) and on board the vessel, except that:

(i) No daily retention limit applies in Areas 4C, 4D, and 4E;

(ii) No daily retention limit applies to persons fishing under a community harvest permit (CHP) pursuant to paragraph (j) of this section;

(iii) The total allowable harvest for persons fishing under a Ceremonial or Educational Permit pursuant to paragraph (k) of this section is 25 fish per permit; and

(iv) In Area 2C the daily retention limit is 20 fish per vessel.

(3) Subsistence fishing may be conducted in any waters in and off Alaska except for the following four non-rural areas defined as follows:

(i) *Ketchikan non-subsistence marine waters area in Commission regulatory area 2C* (see Figure 2 to subpart E) is defined as those waters between a line from Caamano Point at 55°29.90' N. lat., 131°58.25' W. long. to Point Higgins at 55°27.42' N. lat., 131°50.00' W. long. and a point at 55°11.78' N. lat., 131°05.13' W. long., located on Point Sykes to a point at 55°12.22' N. lat., 131°05.70' W. long., located one-half mile northwest of Point Sykes to Point Alava at 55°11.54' N. lat., 131°11.00' W. long. and within one mile of the mainland and the Gravina and Revillagigedo Island shorelines, including within one mile of the Cleveland Peninsula shoreline and east of the longitude of Niblack Point at 132°07.23' W. long., and north of the latitude of the southernmost tip of Mary Island at 55°02.66' N. lat.;

(ii) *Juneau non-subsistence marine waters area in Commission regulatory area 2C* (see Figure 3 to subpart E) is defined as those waters of Stephens Passage and contiguous waters north of the latitude of Midway Island Light (57°50.21' N. lat.), including the waters of Taku Inlet, Port Snettisham, Saginaw Channel, and Favorite Channel, and those waters of Lynn Canal and contiguous waters south of the latitude of the northernmost entrance of Berners Bay (58°43.07' N. lat.), including the waters of Berners Bay and Echo Cove, and those waters of Chatham Strait and contiguous waters north of the latitude of Point Marsden (58°03.42' N. lat.), and east of a line from Point Couverden at 58°11.38' N. lat., 135°03.40' W. long., to Point Augusta at 58°02.38' N. lat., 134°57.11' W. long.;

(iii) The Anchorage-Matsu-Kenai non-subsistence marine waters area in Commission Regulatory Area 3A (see Figure 4 to subpart E) is defined as:

(A) All waters of Cook Inlet north of a line extending from the westernmost point of Hesketh Island at 59°30.40' N. lat., except those waters within mean lower low tide from a point one mile south of the southern edge of the Chuitna River (61°05.00' N. lat., 151°01.00' W. long.) south to the easternmost tip of Granite Point (61°01.00' N. lat., 151°23.00' W. long.) (Tyonek subdistrict); and

(B) All waters of Alaska south of 59°30.40' N. lat. on the western shore of Cook Inlet to Cape Douglas (58°51.10' N. lat.) and in the east to Cape Fairfield (148°50.25' W. long.), except those waters of Alaska west of a line from the easternmost point of Jakolof Bay (151°31.90' W. long.), and following the shore to a line extending south from the easternmost point of Rocky Bay (151°18.41' W. long.); and

(iv) *Valdez non-subsistence marine waters area Commission regulatory area 3A* (see Figure 5 to subpart E) is defined as the waters of Port Valdez and Valdez Arm located north of 61°02.24' N. lat., and east of 146°43.80' W. long.

(4) Waters in and off Alaska that are not specifically identified as non-rural in paragraph (h)(3) of this section are rural for purposes of subsistence fishing for halibut. Subsistence fishing may be conducted in any rural area by any person with a valid subsistence halibut registration certificate in his or her name issued by NMFS under paragraph (i) of this section, except that:

(i) A person who is not a rural resident but who is a member of an Alaska Native tribe that is located in a rural area and that is listed in the table in paragraph (g)(2) of this section is limited to conducting subsistence fishing for halibut only in his or her area of tribal membership.

(ii) A person who is a resident outside the State of Alaska but who is a member of an Alaska Native tribe that is located in a rural area and that is listed in the table in paragraph (g)(2) of this section is limited to conducting subsistence fishing for halibut only in his or her area of tribal membership.

(iii) For purposes of this paragraph, "area of tribal membership" means rural areas of the Commission regulatory area or the Bering Sea closed area in which the Alaska Native tribal headquarters is located.

(i) *Subsistence registration.* A person must register as a subsistence halibut fisher and possess a valid subsistence halibut registration certificate in his or her name issued by NMFS before he or she begins subsistence fishing for halibut in waters in and off Alaska.

(1) A subsistence halibut registration certificate will be issued to any person who registers according to paragraph (i)(2) of this section and who is qualified to conduct subsistence fishing for halibut according to paragraph (g) of this section. The Alaska Region, NMFS, may enter into cooperative agreements with Alaska Native tribal governments or their representative organizations for purposes of identifying persons qualified to conduct subsistence fishing for halibut according to paragraph (g) of this section.

(2) *Registration.* To register as a subsistence halibut fisher, a person may request a cooperating Alaska Native tribal government or other entity designated by NMFS to submit an application on his or her behalf to the Alaska Region, NMFS. Alternatively, a person may apply by submitting a completed application to the Alaska Region, NMFS. Applications must be mailed to: Restricted Access Management Program, NMFS, Alaska Region, PO Box 21668, Juneau, AK 99802-1668. The following information is required to be submitted with the application:

(i) For a Rural Resident Registration, the person must submit his or her full name, date of birth, mailing address (number and street, city and state, zip code), community of residence (the rural community or residence from 50 CFR 300.65(g)(1) that qualifies the fisher as eligible to fish for subsistence halibut), daytime telephone number, certification that he or she is a "rural resident" as that term is defined at §300.61, and signature and date of signature.

(ii) For an Alaska Native Tribal Registration, the person must submit his or her full name, date of birth, mailing address (number and street, city and state, zip code), Alaska Native tribe (the name of the Alaska Native Tribe from 50 CFR 300.65(g)(2) that qualifies the fisher as eligible to fish for subsistence halibut), daytime telephone number, certification that he or she is a member of an "Alaska Native tribe" as that term is defined at §300.61, and signature and date of signature.

(3) *Expiration of registration.* Each subsistence halibut registration certificate will be valid only for the period of time specified on the certificate. A person eligible to harvest subsistence halibut under paragraph (g) of this section may renew his or her registration certificate that is expired or will expire within 3 months by following the procedures described in paragraph (i)(2) of this section. A subsistence halibut registration certificate will expire:

(i) 2 years from the date of its issuance to a person eligible to harvest subsistence halibut under paragraph (g)(1) of this section, and

(ii) 4 years from the date of its issuance to a person eligible to harvest subsistence halibut under paragraph (g)(2) of this section.

(j) *Community Harvest Permit (CHP).* An Area 2C community or Alaska Native tribe listed in paragraphs (g)(1) or (g)(2) of this section may apply for a CHP, which allows a community or Alaska Native tribe to appoint one or more individuals from its respective community or Alaska Native tribe to harvest subsistence halibut from a single vessel under reduced gear and harvest restrictions. The CHP consists of a harvest log and up to five laminated permit cards. A CHP is a permit subject to regulation under §679.4(a) of this title.

(1) *Qualifications.* (i) NMFS may issue a CHP to any community or Alaska Native tribe that applies according to paragraph (j)(2) of this section and that is qualified to conduct subsistence fishing for halibut according to paragraph (g) of this section.

(ii) NMFS will issue a CHP to a community in Area 2C only if:

(A) The applying community is listed as eligible in Area 2C according to paragraph (g)(1) of this section; and

(B) No Alaska Native tribe listed in paragraph (g)(2) exists in that community.

(iii) NMFS will issue a CHP to an Alaska Native tribe in Area 2C only if the applying tribe is listed as eligible in Area 2C according to paragraph (g)(2) of this section.

(iv) Eligible communities or Alaska Native tribes may appoint only one CHP Coordinator per community or tribe.

(2) *Application.* A community or Alaska Native tribe may apply for a CHP by submitting an application to the Alaska Region, NMFS. 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:

(i) The name of the community or Alaska Native tribe requesting the CHP;

(ii) The full name of the person who is designated as the CHP Coordinator for each community or Alaska Native tribe, the designated CHP Coordinator's mailing address (number and street, city, state, and zip code), community of residence (the rural community or residence from paragraph (g)(1) of this section) or the Alaska Native tribe if applicable (as indicated in paragraph (g)(2) of this section), and the daytime telephone number; and

(iii) Any previously issued CHP harvest logs.

(3) *Restrictions.* Subsistence fishing for halibut under a CHP shall be valid only:

(i) In Area 2C, except that a CHP may not be used:

(A) Within the Sitka LAMP defined in paragraph (e) of this section (see Figure 1 to subpart E); or

(B) Within the Juneau and Ketchikan non-rural areas defined in paragraph (h) of this section (see Figures 2 and 3 to subpart E);

(ii) To persons in possession of a valid subsistence halibut registration certificate issued in accordance with paragraph (i) of this section for the same community or Alaska Native tribe listed on the CHP;

(iii) On a single vessel on which a CHP card is present; and

(iv) If subsistence fishing gear set or retrieved from a vessel on which the CHP card is present does not exceed the restrictions of paragraph (h) of this section.

(4) *Expiration of permit.* Each CHP will be valid only for the period of time specified on the permit. A CHP will expire one year from the date of issuance to a community or Alaska Native tribe eligible to harvest halibut under paragraph (g) of this section. A

community or Alaska Native tribe eligible to harvest subsistence halibut under paragraph (g) of this section may renew its CHP that is expired or will expire within three months by following the procedures described in paragraph (j)(2) of this section.

(5) *Duties of the CHP coordinator.* Each CHP Coordinator must ensure:

(i) The designated harvesters who may fish under the CHP are identified on the Community Harvest Permit harvest log when the CHP is issued to the designated harvesters;

(ii) The CHP remains in the possession of the CHP Coordinator or other tribal or government authority when not in use and is issued to the designated harvesters when necessary; and

(iii) All required recordkeeping and data reporting of subsistence harvests under the CHP are performed.

(6) *Harvest log submission.* Each Community Harvest Permit harvest log must be submitted to NMFS on or before the date of expiration by facsimile or mail. Harvest logs must be mailed to RAM at the address given in paragraph (j)(2) of this section or faxed to 907-586-7354. The log must provide information on:

(i) The subsistence fisher's identity including his or her full name, subsistence halibut registration certificate number, date of birth, mailing address (number and street, city, state, and zip code), community of residence, daytime phone number, and tribal identity (if appropriate); and

(ii) The subsistence halibut harvest including whether the participant fished for subsistence halibut during the period specified on the permit, and if so, the date harvest occurred, the number and weight (in pounds) of halibut harvested, the type of gear and number of hooks used, the Commission regulatory area and local water body from which the halibut were harvested, and the number of lingcod and rockfish caught while subsistence fishing for halibut.

(k) *Ceremonial Permit or Educational Permit.* An Area 2C or Area 3A Alaska Native tribe that is listed in paragraph (g)(2) of this section may apply for a Ceremonial or Educational Permit, allowing the tribe to harvest up to 25 halibut per permit issued. The Ceremonial and Educational Permits each consist of a harvest log and a single laminated permit card. Ceremonial and Educational Permits are permits subject to regulation under §679.4(a) of this title.

(1) *Qualifications.* (i) NMFS may issue a Ceremonial or Educational Permit to any Alaska Native tribe that completes an application according to paragraph (k)(2) of this section and that is qualified to conduct subsistence fishing for halibut according to paragraph (g)(2) of this section.

(ii) Eligible Alaska Native tribes may appoint only one Ceremonial Permit Coordinator per tribe.

(iii) Eligible educational programs may appoint only one authorized Instructor per Educational Permit.

(2) *Application.* An Alaska Native tribe may apply for a Ceremonial or Educational Permit by submitting an application to the Alaska Region, NMFS. Applications must be mailed to: Restricted Access Management Program, NMFS, Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668.

(i) A complete application must include:

(A) The name of the Alaska Native tribe requesting the Ceremonial or Educational Permit;

(B) The name of the person designated as the Ceremonial Permit Coordinator for each Alaska Native tribe or the name of the person designated as the Instructor for an Educational Permit, the Ceremonial Permit Coordinator or Instructor's mailing address (number and street, city, state, and zip code), and the daytime telephone number;

(C) Any previously issued Ceremonial Permit harvest logs from any expired Ceremonial Permit if applying for a Ceremonial Permit; and

(D) Any previously issued Educational Permit harvest logs from any expired Educational Permit if applying for an Educational Permit.

(ii) NMFS will issue a Ceremonial Permit for the harvest of halibut associated with traditional cultural events only if the application:

(A) Indicates the occasion of cultural or ceremonial significance; and

(B) Identifies the person designated by the eligible Alaska Native tribe as the Ceremonial Permit Coordinator.

(iii) NMFS will issue an Educational Permit only if the application:

(A) Includes the name and address of the educational institution or organization;

(B) Includes the instructor's name;

(C) Demonstrates the enrollment of qualified students;

(D) Describes minimum attendance requirements of the educational program; and

(E) Describes standards for the successful completion of the educational program.

(3) *Restrictions.* Subsistence fishing for halibut under Ceremonial or Educational Permits shall be valid only:

(i) In Area 3A, except in the Anchorage-Matsu-Kenai and Valdez non-rural areas defined in paragraph (h) of this section (see Figures 4 and 5 to subpart E);

(ii) In Area 2C, except in the Juneau and Ketchikan non-rural areas defined in paragraph (h) of this section (see Figures 2 and 3 to subpart E) and a Ceremonial Permit may not be used within the Sitka LAMP from June 1 through August 31;

(iii) On a single vessel on which the Ceremonial or Educational Permit card is present;

(iv) On the vessel on which the instructor is present for Educational Permits;

(v) To persons in possession of a valid subsistence halibut registration certificate issued in accordance with paragraph (i) of this section for the same Alaska Native tribe listed on the Ceremonial or Educational Permit, except that students enrolled in an educational program may fish under an Educational Permit without a subsistence halibut registration certificate; and

(vi) If subsistence fishing gear set or retrieved from a vessel on which the Ceremonial or Educational Permit card is present does not exceed the restrictions of paragraph (h) of this section.

(4) *Expiration of permits.* Each Ceremonial or Educational Permit will be valid only for the period of time specified on the permit. Ceremonial and Educational Permits will expire 30 days from the date of issuance to an Alaska Native tribe eligible to harvest halibut under paragraph (g)(2) of this section. A tribe eligible to harvest subsistence halibut under paragraph (g)(2) of this section may apply for additional Ceremonial or Educational Permits at any time.

(5) *Duties of Ceremonial Permit Coordinators and Instructors.* Each Ceremonial Permit Coordinator or Instructor must ensure:

(i) The designated harvesters or students who may fish under the Ceremonial or Educational Permit are identified on the Ceremonial/Educational Permit harvest log when the permit is used;

(ii) The Ceremonial Permit remains in the possession of the Ceremonial Permit Coordinator or other tribal authority when not in use and is issued to designated harvesters when necessary; and

(iii) All required recordkeeping and data reporting of subsistence harvests under the Ceremonial or Educational Permit are performed.

(6) *Harvest log submission.* Submission of a Ceremonial or Educational Permit log shall be required upon the expiration of each permit and must be received by Restricted Access Management within 15 days of the expiration by facsimile or mail. Harvest logs must be mailed to RAM at the address given in paragraph (k)(2) of this section or faxed to 907-586-7354. The log must provide information on:

(i) The subsistence fisher's identity including his or her full name, subsistence halibut registration certificate number if applicable (students do not need a SHARC), date of birth, mailing address (number and street, city, state, and zip code), community of residence, daytime phone number, and tribal identity;

(ii) The subsistence halibut harvest including whether the participant fished for subsistence halibut during the period indicated on the permit, and if so, the date when harvest occurred, the number and weight (in pounds) of halibut harvested, the type of gear and number of hooks used, the Commission regulatory area and local water body from which the halibut were harvested, and the number of lingcod and rockfish caught while subsistence fishing for halibut.

(l) *Appeals.* If Restricted Access Management (RAM) determines that an application is deficient, it will prepare and send an Initial Administrative Determination (IAD) to the applicant. The IAD will indicate the deficiencies in the application or any additional provided information. An applicant who receives an IAD may appeal RAM's findings pursuant to §679.43 of this title.

[68 FR 18156, Apr. 15, 2003, as amended at 68 FR 47264, Aug. 8, 2003; 70 FR 16751, Apr. 1, 2005; 70 FR 41160, July 18, 2005; 71 FR 38298, July 6, 2006; 72 FR 30727, June 4, 2007; 72 FR 67669, Nov. 30, 2007; 72 FR 68762, Dec. 6, 2007]

Title 50: Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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 Aleutian 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 Aleutian 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 Aleutian 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 Aleutian 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.

[Link to an amendment published at 73 FR 43369, July 25, 2008.](#)

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, non-buoyed, 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 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.I.T., until the following 2400 hours, A.I.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.I.T. through 2400 hours A.I.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 mothership, a weekly reporting period during which one or more fishing days occur.

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

Fishing year means 0001 hours, A.I.T., on January 1, through 2400 hours, A.I.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.I.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.I.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 *IRIU 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 than 125 ft (38.1 m), then the vessel's MLOA cannot exceed 124 ft (37.8 m).

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

Mothership means:

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

Nearshore Bristol Bay Trawl Closure Area of the BSAI (See §679.22(a)(9) and Figure 12 to this part.)

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

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

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

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

NMFS Person Identification Number means a unique number assigned by NMFS to any person who applied for, or who has been issued, a certificate, license, or permit under any fishery management program administered by the Alaska Region for purposes of the NMFS/Alaska Region Integrated Regional Data System.

Non-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.

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 pallasii*), 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.I.T., on the first day of each quarter, and end at 2400 hours, A.I.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 *Sebastes* except *Sebastes melanops*, (black rockfish), and *Sebastes mystinus*, (blue rockfish).
- (2) For the BSAI: Any species of the genera *Sebastes* or *Sebastes*.

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 (*Patinopecten 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.

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.I.T., Sunday morning (except during the first week of each year, when it starts on January 1) and ends at 2400 hours, A.I.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)
(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 (2) Beginning January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or (3) Beginning January 1, 1988, through June 17, 1995, provided that, during the period beginning January 1, 1988, through February 9, 1992, a documented harvest of crab species was made from the vessel, and, during the period beginning February 10, 1992, through December 11, 1994, a documented harvest of groundfish species, except sablefish landed using fixed gear, was made from the vessel in the GOA or the BSAI using trawl or longline gear.
(B) One or more area endorsements in the table at §679.4(k)(4)(ii)(C) through (O)	the GOA or in waters shoreward of the GOA	(1) Beginning January 1, 1988, through June 27, 1992; or (2) Beginning January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or (3) Beginning January 1, 1988, through June 17, 1995, provided that, during the period beginning January 1, 1988, through February 9, 1992, a documented harvest of crab species was made from the vessel, and, during the period beginning February 10, 1992, through December 11, 1994, a documented harvest landing of groundfish species, except sablefish landed using fixed gear, was made from the vessel in the GOA or the BSAI using trawl or longline gear.

(ii) *Endorsement qualification periods (EQP)*. This table provides the 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
(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 <i>C. opilio</i> and <i>C. bairdi</i> area/species endorsement	at least three documented harvests of <i>C. opilio</i> and <i>C. bairdi</i> were made by a vessel	beginning January 1, 1992, through December 31, 1994	the area described in the definition for a Bering Sea and Aleutian Islands Area <i>C. opilio</i> and <i>C. bairdi</i> area/species endorsement at §679.2.
(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 re-issued 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 (1)(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 (1)(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 (1)(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 (1)(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.I.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

¹CV = 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.I.T., Saturday night (except during the last week of each year, when it ends on December 31).

(C) *Time,* in military format, A.I.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.

¹CV = 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).
	(ii) Length of skate to the nearest foot (optional, but may be required by IPHC regulations).
	(iii) Size of hooks, hook spacing in feet, and number of hooks per skate (optional, but may be required by IPHC regulations).
	(iv) Number of skates set
	(v) Number of skates lost (if applicable) (optional, but may be required by IPHC regulations).
(3) Longline	Bird avoidance gear code (see Table 19 to this part)

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

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

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

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

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

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

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

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

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

(xiii) *Observer information.* Record the number of observers aboard or on site, 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:
	(1) Occurs on site after receipt of groundfish from a CV or BS;
	(2) Occurs during processing of groundfish received from a CV or BS.
	(3) Was reported on a blue DFL received from a CV delivering groundfish;
	(4) Was reported on a BSR received from a BS delivering groundfish, if different from blue DFL.
(B) CV, C/P	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:
	(1) Was reported on a blue DFL received from a CV delivering groundfish.
	(2) Occurs on BS after receipt of harvest from a CV.

(3) Occurs prior to delivery of harvest to a MS, SS, or SFP.

¹CV = 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.I.T.) when receipt of groundfish delivery was completed* ;

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

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

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

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

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

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

(v) *Catcher vessel using longline or pot gear.* If IFQ delivery, information required: the delivery date; the ADF&G fish ticket number(s) received at delivery; name of IFQ Registered Buyer receiving harvest; name of unloading port (see paragraph (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: NOAA Office of Enforcement, Alaska Region Logbook Program, P.O. Box 21767 Juneau, AK 99802-1767
	on the following schedule: 1st quarter by May 1 of that fishing year 2nd quarter by August 1 of that fishing year 3rd quarter by November 1 of that fishing year 4th quarter by February 1 of the following fishing year
(C) Blue	(1) <i>Catcher vessel.</i> Except when delivering an unsorted codend (see paragraph (a)(10)(vi) of this section), submit to the buying station, mothership, shoreside processor or stationary floating processor that receives the harvest.
	(2) <i>Buying station.</i> Submit upon delivery of catch to an associated mothership, shoreside processor, or stationary floating processor any blue DFL received from catcher vessels delivering groundfish to the buying station.
(D) Green	<i>Longline and pot gear DFL and DCPL.</i> To support a separate IFQ data collection by the IPHC under the joint NMFS/IPHC logbook program; check with the IPHC for submittal and retention requirements.
(E) Goldenrod	Submit to the observer onboard or onsite after the logsheet is signed by the operator or manager.

(iv) *Logbook time limits.* The following table displays the responsibilities of the operator or manager to submit the identified logsheet within a specified time limit:

IF or ...	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 signed 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.I.T.), and begin position coordinates (in lat and long to the nearest minute);

(4) Gear retrieval date (month-day), time (in military format, A.I.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.I.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.I.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.
(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) <i>Non-IFQ Groundfish only.</i> 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.I.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.I.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).
- (I) *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 (I)(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.I.t., and 2400 hours, A.I.t.
- (ii) *Revision to PNOL*. The operator of any vessel wishing to make an IFQ landing before the date and time (A.I.t.) reported in the PNOL or later than 2 hours after the date and time (A.I.t.) reported in the PNOL must submit a new PNOL as described in paragraphs (I)(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.I.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 (I)(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 (I)(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.I.t., and 1800 hours, A.I.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.I.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 (I)(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 (I) 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.I.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.I.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.I.T., and 2400 hours, A.I.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.I.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.I.T., and 2400 hours, A.I.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 (I) and as provided by NMFS for each reporting period, as described at §679.5(1)(7)(i)(E), in which the registered buyer receives IFQ fish.

(B) *Due date.* A complete IFQ Buyer Report must be postmarked or received by the Regional Administrator not later than October 15 following the reporting period in which the IFQ registered buyer receives the IFQ fish.

(C) *Information required.* A complete IFQ Buyer Report must include the following information:

(1) *IFQ registered buyer identification,* including:

(i) Name,

(ii) Registered buyer number,

(iii) Social Security number or tax identification number,

(iv) NMFS person identification number (if applicable),

(v) Business address,

(vi) Telephone number,

(vii) Facsimile telephone number,

(viii) Primary registered buyer activity,

(ix) Other registered buyer activity, and

(x) Landing port location;

(2) *Pounds purchased and values paid.* (i) The monthly total weights, represented in IFQ equivalent pounds by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;

(ii) The monthly total gross ex-vessel value, in U.S. dollars, of IFQ pounds, by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;

(3) *Value paid for price adjustments —(i) 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 (i)(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 transhipped to;

(iii) Signature of the mothership operator;

(iv) The week-ending date of the weekly reporting period during which the mothership received the groundfish from the catcher vessel;

(v) Species code for each species from Tables 2a through 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.I.T., on Tuesday following the end of the applicable weekly reporting period.

(ii) The operator of a mothership must ensure copy distribution within the indicated time limit or retention of the multiple copies of each consolidated weekly ADF&G groundfish fish ticket (G series) as follows:

If fish ticket color is ...	Distribute to ...	Time limit
(A) White	Retained by Mothership, see paragraph (a)(13)(ii)(D)(6) of this section	N/A
(B) Yellow	Alaska Commercial Fisheries Management & Development Division, Department of Fish & Game, 211 Mission Road, Kodiak, AK, 99615-6399	Within 45 days after landings are received
(C) Pink	Catcher vessel delivering groundfish to the mothership	1200 hours, A.I.T., on Tuesday following the end of the applicable weekly reporting period.
(D) Golden-rod	Extra copy	N/A

(n) *Groundfish CDQ fisheries* —

(1) *CDQ 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.I.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.I.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.I.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 weekend 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.I.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.

§ 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.

Title 50: Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**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 reappportionment 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 %
(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.

(B) *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.I.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.I.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.

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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 <i>C. bairdi</i> crabs is ...	The PSC limit will be ...
(1) 150 million animals or less	0.5 percent of the total abundance minus 20,000 animals
(2) Over 150 million to 270 million animals	730,000 animals
(3) Over 270 million to 400 million animals	830,000 animals
(4) Over 400 million animals	980,000 animals

(B) This table refers to the PSC limits for *C. bairdi* that you must follow in Zone 2.

When the total abundance of <i>C. bairdi</i> crabs is ...	The PSC limit will be ...
(1) 175 million animals or less	1.2 percent of the total abundance minus 30,000 animals
(2) Over 175 million to 290 million animals	2,070,000 animals

(4) Over 400 million animals	2,970,000 animals
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- (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 nonpelagic 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.

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.

[Link to an amendment published at 73 FR 43369, July 25, 2008.](#)

(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 closure 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.I.t., April 1 to 1200 hours A.I.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.
- (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.I.T., January 1, through 2400 hours, A.I.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.I.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.I.T., January 1, through 1200 hours, A.I.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.I.T., on the first day of the third quarterly reporting period of a fishing year through 2400 hours, A.I.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.I.T., January 20 through 1200 hours, A.I.T., March 10;

(ii) *B season.* From 1200 hours, A.I.T., March 10 through 1200 hours, A.I.T., May 31;

(iii) *C season.* From 1200 hours, A.I.T., August 25 through 1200 hours, A.I.T., October 1; and

(iv) *D season.* From 1200 hours, A.I.T., October 1 through 1200 hours, A.I.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.I.T., January 1 through 1200 hours, A.I.T., June 10; and

(B) *B season.* From 1200 hours, A.I.T., September 1 through 2400 hours, A.I.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.I.T., January 20 through 1200 hours, A.I.T., June 10; and

(B) *B season.* From 1200 hours, A.I.T., September 1 through 1200 hours, A.I.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.I.T., January 1 through 1200 hours, A.I.T., June 10; and

(B) *B season.* From 1200 hours, A.I.T., September 1 through 2400 hours, A.I.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.I.T., January 20 through 1200 hours, A.I.T., June 10; and

(B) *B season.* From 1200 hours, A.I.T., September 1 through 1200 hours, A.I.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.I.T., May 1, through 2400 hours, A.I.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.I.T., January 20 through 1200 hours, A.I.T., June 10; and

(ii) *B season.* From 1200 hours, A.I.T., June 10 through 1200 hours, A.I.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.I.T., January 20 through 1200 hours, A.I.T., April 15; and

(ii) *B season.* From 1200 hours, A.I.T., September 1 through 1200 hours, A.I.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.I.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.I.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.I.T., January 1 through 1200 hours, A.I.T., June 10; and

(B) *B season.* From 1200 hours, A.I.T., June 10 through 2400 hours, A.I.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.I.T., January 20 through 1200 hours, A.I.T., April 1;

(B) *B season*. From 1200 hours, A.I.t., April 1 through 1200 hours, A.I.t., June 10; and

(C) *C season*. From 1200 hours, A.I.t., June 10 through 1200 hours, A.I.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.I.t., January 1 through 1200 hours, A.I.t., June 10; and

(B) *B season*. From 1200 hours, A.I.t., September 1 through 2400 hours, A.I.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.I.t., January 1 through 1200 hours, A.I.t., April 30;

(B) *B season*. From 1200 hours, A.I.t., April 30 through 1200 hours, A.I.t., August 31;

(C) *C season*. From 1200 hours, A.I.t., August 31 through 2400 hours, A.I.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.I.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.I.t. on the third day after the date of landing or transfer of all groundfish on board the vessel harvested in the Western Regulatory Area of the GOA, unless you are participating in a CDQ fishery.
(3) Central GOA regulatory area while pollock or inshore Pacific cod is open to directed fishing in the Central GOA regulatory area	BSAI	1200 hours A.I.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.*

Notwithstanding 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:

$$GF_{\text{roundweight}} = \sum_{i=1}^n (PW_{\text{species}_i} / PRR_{\text{species}_i})$$

Substituting the value for GFroundweight into the following equation:

$$GFR\% = (GF_{\text{roundweight}} / \text{TotalGF}) \times 100$$

Where:

GFroundweight is the total annual round weight equivalent of all retained product weights for each IR/IU groundfish species.

PWspecies_i 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).

PRRspecies_i 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:

$$GF_{\text{roundweight}} = \sum_{i=1}^n (PW_{\text{species}_i} / PRR_{\text{species}_i})$$

Substituting the value for GFroundweight into the following equation:

$$GFR\% = (GF_{\text{roundweight}} / \text{TotalGF}) \times 100$$

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_i 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_i 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 conveyor 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 conveyor 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 weighing.
- (iii) *Requirements for all scale tests.* (A) Notify the observer at least 15 minutes before the time that the test will be conducted, and conduct the test while the observer is present.
- (B) Conduct the scale test by placing the test material or test weights on or across the scale and recording the following information on the at-sea scale test report form:
- (1) Vessel name;
- (2) Month, day, and year of test;
- (3) Time test started to the nearest minute;
- (4) Known weight of test material or test weights;
- (5) Weight of test material or test weights recorded by scale;
- (6) Percent error as determined by subtracting the known weight of the test material or test weights from the weight recorded on the scale, dividing that amount by the known weight of the test material or test weights, and multiplying by 100; and
- (7) Sea conditions at the time of the scale test.
- (C) Maintain the test report form on board the vessel until the end of the fishing year during which the tests were conducted, and make the report forms available to observers, NMFS personnel, or an authorized officer. In addition, the scale test report forms must be retained by the vessel owner for 3 years after the end of the fishing year during which the tests were performed. All scale test report forms must be signed by the vessel operator.
- (4) *Scale maintenance.* The vessel owner must ensure that the vessel operator maintains the scale in proper operating condition throughout its use; that adjustments made to the scale are made so as to bring the performance errors as close as practicable to a zero value; and that no adjustment is made that will cause the scale to weigh fish inaccurately.
- (5) *Printed reports from the scale* (not applicable to observer sampling scales). The vessel owner must ensure that the printed reports are provided as required by this paragraph. Printed reports from the scale must be maintained on board the vessel until the end of the year during which the reports were made and be made available to observers, NMFS personnel, or an authorized officer. In addition, printed reports must be retained by the vessel owner for 3 years after the end of the year during which the printouts were made.
- (i) *Reports of catch weight and cumulative weight.* Reports must be printed at least once every 24 hours when use of the scale is required. Reports must also be printed before any information stored in the scale computer memory is replaced. Scale weights must not be adjusted by the scale operator to account for the perceived weight of water, mud, debris, or other materials. Scale printouts must show:
- (A) The vessel name and Federal fisheries or processor permit number;
- (B) The haul or set number as recorded in the processor's DCPL (see §679.5);
- (C) The total weight of the haul or set;
- (D) The total cumulative weight of all fish or other material weighed on the scale.
- (ii) *Printed report from the audit trail.* The printed report must include the information specified in sections 2.3.1.8, 3.3.1.7, and 4.3.1.8 of appendix A to this part. The printed report must be provided to the authorized scale inspector at each scale inspection and must also be printed at any time upon request of the observer, the scale inspector, NMFS staff, or an authorized officer.
- (6) *Scale installation requirements.* The scale display must be readable from where the observer collects unsorted catch.
- (7) *Platform scales used as observer sampling scales or to determine the known weight of test materials.* Platform scales used only as observer sampling scales or to determine the known weight of fish for a material test of another scale are required to meet all of the requirements of paragraph (b) of this section and appendix A to this part except sections 4.3.1 and 4.3.1.5 of appendix A to this part (printer) or section 4.3.1.8 (audit trail) of appendix A to this part.
- (c) *Scales approved by the State of Alaska.* 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.

<i>Certified Test Weights</i>	<i>Other test material</i>
(1) Minimum weight or 10 kg (20 lb), whichever is greater	Minimum
(2) Maximum	Maximum

(B) Automatic hopper > 150 kg (300 lb) capacity.

<i>Certified Test Weights</i>	<i>Other test material</i>
(1) Minimum weight 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.

<i>Certified Test Weights</i>	<i>Other test material</i>
(1) 10 kg (20 lb)	Not Acceptable
(2) Midpoint	Not Acceptable
(3) Maximum	Not Acceptable

(D) Platform or flatbed > 150 kg (300 lb) capacity.

<i>Certified Test Weights</i>	<i>Other test material</i>
(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.

<i>Certified Test Weights</i>	<i>Other test material</i>
(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 vessel's 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.I.t., and 1630 hours, A.I.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 rationale 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]

Title 50: Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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 legal entities 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.

Title 50: Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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:

$$IFQ_{pa} = [(fixed\ gear\ TAC_a - CDQ\ reserve_a) \times (QS_{pp}/QS\ pool_a)] - overage\ of\ IFQ_{pa}.$$

(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.I.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(i), 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:

$$Q_N = (Q_C \times QSP_N \times RATE) / (SUM_{CDQ} - [RATE \times SUM_{TAC}] \cdot [(1 - RATE) \times TAC_{AVE}] \cdot (QSP_C \times [CDQ_{PCT} - RATE]))$$

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, then 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, then 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(l)(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 28737, 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) [Reserved]

(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.I.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:

$$100 \times (\text{DPC} / \text{V})$$

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]

Title 50: Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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 round-weight equivalent, will determine to which fishery category listed under paragraph (c)(2) of this section the vessel is assigned.

(i) *Catcher/processors*. A catcher/processor will be assigned to a fishery category based on the retained groundfish catch composition reported on the vessel's weekly production report submitted to the Regional Administrator under §679.5(i).

(ii) *Catcher vessel delivery in Federal waters*. A catcher vessel that delivers to a mothership in Federal waters will be assigned to a fishery category based on the retained groundfish catch composition reported on the weekly production report submitted to the Regional Administrator for that week by the mothership under §679.5(i).

(iii) *Catcher vessel delivery in Alaska State waters*. A catcher vessel that delivers groundfish to a shoreside processor or stationary floating processor will be assigned to a fishery category based on the retained groundfish catch composition reported on one or more ADF&G fish tickets as required under Alaska Statutes at A.S. 16.05.690.

(4) *Groundfish and halibut CDQ fisheries*. The owner or operator of a vessel groundfish CDQ fishing or halibut CDQ fishing as defined at §679.2 must comply with the following minimum observer coverage requirements each day that the vessel is used to transport (catcher vessels only), harvest, process, deliver or take delivery of CDQ or PSQ species. The time required for the 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 calendar 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, deck-bosses 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 pre-cruise 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.

Title 50: Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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 catch of that species 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)(i)(A) 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 27771, May 14, 2008]

§ 679.65 [Reserved]

Title 50: Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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.I.T., January 1 through 1200 hours, A.I.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.I.T., May 1 through 1200 hours, A.I.T., November 15.

(iii) *Rockfish cooperative.* Fishing by vessels participating in a rockfish cooperative is authorized from 1200 hours, A.I.T., May 1 through 1200 hours, A.I.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.I.T., July 1 through 1200 hours, A.I.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.I.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:

Highest Five Years/ \sum All Highest Five Years= Percentage of the Totals

The result (quotient) of this equation is the Percentage of the Totals.

(E) Multiply the Percentage of the Totals 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 (TACs) 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) $(TAC - ICA) \times 0.95 = TACs$.

(ii) $(TAC - ICA) \times 0.05 = TAC$ for the Rockfish Entry Level Fishery.

(3) *Primary rockfish species TACs assigned to the catcher/processor and catcher vessel sector.* TACs 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 TACs 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 TACs = $[(TACs) \times (\text{Rockfish QS Units in the Catcher/Processor Sectors/Rockfish QS Pools})]$.

(ii) Catcher Vessel Sector TACs = $[(TACs) \times (\text{Rockfish QS Units in the Catcher Vessel Sectors/Rockfish QS Pools})]$.

(4) *Use of primary rockfish species by an eligible rockfish harvester.* Once a TAC is assigned to a sector, the use of that TAC 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 TACs assigned as follows:

(i) Any TACs 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 TACs 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 TACs 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) TACs not assigned to an opt-out fishery. Any TAC 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.* TACs 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 TACs 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 TACs 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 TACs. Once TACs 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:

$CQ = [(Catcher Vessel Sector TACs) \times (\text{Rockfish QS assigned to that Cooperative/Rockfish QS Units in the Catcher Vessel Sectors})]$.

(B) *Rockfish limited access fishery.* The amount of TACs for each primary rockfish species assigned to the rockfish limited access fishery is equal to the catcher vessel sector TACs subtracting all CQ issued to rockfish cooperatives in the catcher vessel sector for that primary rockfish species. Expressed algebraically in the following equation:

$Catcher Vessel Sector Rockfish Limited Access Fishery TACs = Catcher Vessel Sector TACs - (\sum CQ \text{ issued to Rockfish Cooperatives in the Catcher Vessel Sector})$.

(ii) *Catcher/processor sector.* The assignment of TACs 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 TACs 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 TACs. Once TACs 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:

$CQ = [(Catcher/Processor Sector TACs) \times (\text{Rockfish QS Units assigned to that Cooperative} / \sum \text{Rockfish QS Units assigned to all rockfish cooperatives and the Limited Access Fishery in the Catcher/Processor Sector})]$.

(B) *Rockfish limited access fishery.* The amount of TACs for each primary rockfish species assigned to the limited access fishery is equal to the catcher/processor TACs subtracting all CQ issued to rockfish cooperatives in the catcher/processor sector for that primary rockfish species. Expressed algebraically in the following equation:

$Catcher/Processor Sector Rockfish Limited Access Fishery TACs = [(Catcher/Processor Sector TACs) - (\sum CQ \text{ issued to rockfish cooperatives in the Catcher/Processor Sector})]$.

(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 $(\sum \text{Rockfish QS Units assigned to that Rockfish cooperative} / \sum \text{Rockfish QS Units assigned to all rockfish cooperatives and the Limited Access Fishery in the Catcher/Processor Sector})$

(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 $(\sum \text{Rockfish QS Units assigned to that Rockfish Cooperative} / \text{Rockfish QS Pool in the Catcher Vessel Sector})$

(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 $(\sum \text{Rockfish QS Units assigned to that Rockfish Cooperative} / \sum \text{Rockfish QS Units assigned to all rockfish cooperatives and the Limited Access Fishery in the Catcher/Processor Sector})$

(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 $(\sum \text{Rockfish QS Units assigned to that Rockfish Cooperative/Rockfish QS Pool in the Catcher Vessel Sector})$

(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.I.T. on March 1 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 a designated representative, then explicit authorization signed by the applicant must accompany the application.

(ii) [Reserved]

(7) *Application for the rockfish entry level fishery.* A rockfish entry level harvester who wishes to participate in the rockfish entry level fishery must submit an application for the rockfish 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 a 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 roughey 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.	
(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.	
(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. (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:	
	(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;	
	(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;	
	(C) A description of the method used by the rockfish cooperative to monitor fisheries in which rockfish cooperative vessels participated;	
	(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 section.

(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, northern rockfish, or pelagic shelf rockfish that has not been harvested by 1200 hours, A.I.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]

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/IPQ 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) Transshipment 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(e).
(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) *Submission 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.I.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/craaq.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, NMFS, Alaska Region; 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.
		(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.
		(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.
		(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.
		(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	(/) 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	(/) 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.* (/) Indicate whether the person completing this report is the owner, leaseholder, or designated representative;

(/) 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

(/) 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.
(ii) The leaseholder described in paragraph (d)(1) of this section	(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.
	You processed BSAI crab in the described in vessel described at 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; 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 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.
	(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.
		(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.
		(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.

§ 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 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 reach 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.

[70 FR 10241, Mar. 2, 2005, as amended at 70 FR 33395, June 8, 2005; 70 FR 75421, Dec. 20, 2005; 71 FR 40033, July 14, 2006; 73 FR 35088, June 20, 2008]

§ 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 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

(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 weight 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 weight 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		

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:

$$(\sigma \text{ legal landings}_f / \text{AHD}_f) \times 100 = \text{Percentage of the AHD}_f$$

(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:

$$\sigma \text{ Percentages of the AHD}_f / \text{Subset of Qualifying Years}_f = \text{Average Percentage}_f$$

(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:

$$\text{Average Percentage}_f / \sigma \text{ Average Percentage}_f = \text{Percentage of the Total Percentages}_f$$

(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 "l" 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:

$$(\sigma \text{ legal landings}_f / \text{AHD}_f) \times 100 = \text{Percentage of the AHD}_f$$

(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:

σ Percentages of the AHD_#/Subset of Qualifying Years= Average Percentage_#

(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:

$Average\ Percentage_{\sigma} / \sigma\ Average\ Percentage_{\sigma} = Percentage\ of\ the\ Total\ Percentages_{\sigma}$

(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 to 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) $IFQ\ TAC_p = TAC_f - (CDQ\ reserve)_p$ Allocation for the Western Aleutian Island golden king crab fishery)

(ii) $IFQ_{pf} = IFQ\ TAC_r \times (QS_{pf}/QS\ pool)$.

(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) $TAC_a = \text{Class A/B IFQ TAC} \times 0.90$

(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, then 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:

$IPQ_{pf} = TAC_{aif} \times PQS_{pf} / PQS\ pool_f$

(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/IPQ 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(c)(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.
(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/IPQ 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/IPQ 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/IPQ 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/IPQ, 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/IPQ, 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/IPQ.* Indicate (YES or NO) whether this application is intended for a person who wishes to buy CVC or CPC QS/IPQ. 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 an 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 re-apply 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 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 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.
- (i) *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 (1)(3)(i) must notify the ECC entity designated by the City of Kodiak and Kodiak Island Borough under paragraph (1)(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.

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§ 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 (<i>Paralithodes camtschaticus</i>)	In waters of the EEZ with: (1) A northern boundary of 58°30' N. lat., (2) A southern boundary of 54°36' N. lat., and (3) A western boundary of 168° W. long. and including all waters of Bristol Bay.
BSS	Bering Sea Snow crab (<i>Chionoecetes opilio</i>)	In waters of the EEZ with: (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 (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 (<i>Lithodes aequispinus</i>)	In waters of the EEZ with: (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., (2) A western boundary of 174° W. long., and (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.
EBT	Eastern Bering Sea Tanner crab (<i>Chionoecetes bairdi</i>)	In waters of the EEZ with: (1) A western boundary the longitude of 166° W. long., (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 (3) A southern boundary of 54°30' N. lat.
PIK	Pribilof red king and blue king crab (<i>Paralithodes camtschaticus</i> and <i>P. platypus</i>)	In waters of the EEZ with: (1) A northern boundary of 58°30' N. lat., (2) An eastern boundary of 168° W. long., and (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 (<i>Paralithodes platypus</i>)	In waters of the EEZ with: (1) A northern boundary of 62° N. lat., (2) A southern boundary of 58°30' N. lat., and (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 (<i>Lithodes aequispinus</i>)	In waters of the EEZ with: (1) An eastern boundary the longitude 174° W. long., (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 (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 (<i>Paralithodes camtschaticus</i>)	In waters of the EEZ with: (1) An eastern boundary the longitude 179° W. long., (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 (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 (<i>Chionoecetes bairdi</i>)	In waters of the EEZ with: (1) An eastern boundary the longitude of 166° W. long., (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 (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	<i>Lopholithodes mandtii</i> .
910	Dungeness	<i>Cancer magister</i> .
921	Red king crab	<i>Paralithodes camshaticus</i> .
922	Blue king crab	<i>Paralithodes platypus</i> .
923	Golden (brown) king crab	<i>Lithodes aequispinus</i> .
924	Scarlet king crab	<i>Lithodes couesi</i> .
931	Tanner crab	<i>Chionoecetes bairdi</i> .
932	Snow crab	<i>Chionoecetes opilio</i> .
933	Grooved Tanner crab	<i>Chionoecetes tanneri</i> .
934	Triangle Tanner crab	<i>Chionoecetes angulatus</i> .
940	Korean horsehair crab	<i>Erimacrus isenbeckii</i> .
951	Multispinus crab	<i>Paralomis multispinus</i> .
953	Verrilli crab	<i>Paralomis verrilli</i> .

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.
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: (1) November 1–5, 1996; (2) November 1–5, 1997; (3) November 1–6, 1998; (4) October 15–20, 1999; (5) October 16–20, 2000.	3 years of the 5-year QS base period beginning on: (1) November 1–5, 1996; (2) November 1–5, 1997; (3) November 1–6, 1998; (4) October 15–20, 1999; (5) October 16–20, 2000.	(1) October 15–20, 1999. (2) October 16–20, 2000. (3) October 15–18, 2001.	4 years
2. Bering Sea snow crab (BSS)	4 years of the 5-year period beginning on: (1) January 15, 1996 through February 29, 1996; (2) January 15, 1997 through March 21, 1997; (3) January 15, 1998 through March 20, 1998; (4) January 15, 1999 through March 22, 1999; (5) April 1–8, 2000.	3 years of the 5-year period beginning on: (1) January 15, 1996 through February 29, 1996; (2) January 15, 1997 through March 21, 1997; (3) January 15, 1998 through March 20, 1998; (4) January 15, 1999 through March 22, 1999; (5) April 1–8, 2000.	(1) April 1–8, 2000. (2) January 15, 2001 through February 14, 2001. (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: (1) September 1, 1996 through December 25, 1996; (2) September 1, 1997 through November 24, 1997; (3) September 1, 1998 through November 7, 1998; (4) September 1, 1999 through October 25, 1999; (5) August 15, 2000 through September 24, 2000.	3 years of the 5-year base period beginning on: (1) September 1, 1996 through December 25, 1996; (2) September 1, 1997 through November 24, 1997; (3) September 1, 1998 through November 7, 1998; (4) September 1, 1999 through October 25, 1999; (5) August 15, 2000 through September 25, 2000.	(1) September 1 1999 through October 25, 1999. (2) August 15, 2000 through September 24, 2000. (3) August 15, 2001 through September 10, 2001.	5 years
4. Eastern Bering Sea Tanner crab (EBT)	4 of the 6 seasons beginning on: (1) November 15, 1991 through March 31, 1992; (2) November 15, 1992 through March 31, 1993; (3) November 1–10, 1993, and November 20, 1993 through January 1, 1994; (4) November 1–21, 1994; (5) November 1–16, 1995; (6) November 1–5, 1996 and November 15–27, 1996.	3 of the 6 seasons beginning on: (1) November 15, 1991 through March 31, 1992; (2) November 15, 1992 through March 31, 1993; (3) November 1–10, 1993, and November 20, 1993 through January 1, 1994; (4) November 1–21, 1994; (5) November 1–16, 1995; (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
5. Pribilof red king and blue king crab (PIK)	4 years of the 5-year period beginning on: (1) September 15–21, 1994; (2) September 15–22, 1995; (3) September 15–26, 1996; (4) September 15–29, 1997; (5) September 1–28, 1998.	3 years of the 5-year period beginning on: (1) September 15–21, 1994; (2) September 15–22, 1995; (3) September 15–26, 1996; (4) September 15–29, 1997; (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: (1) September 15–22, 1994; (2) September 15–20, 1995; (3) September 15–23, 1996; (4) September 15–22, 1997; (5) September 15–26, 1998.	3 years of the 5-year period beginning on: (1) September 15–22, 1994; (2) September 15–20, 1995; (3) September 15–23, 1996; (4) September 15–22, 1997; and (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: (1) September 1, 1996 through August 31, 1997;	3 of the 5 seasons beginning on: (1) September 1, 1996 through August 31, 1997; (2) September 1, 1997 through August	(1) September 1, 1999 through August 14, 2000. (2) August 15, 2000 through March 28, 2001. (3) August 15 2001 through March 30, 2002.	5 years

	(2) September 1, 1997 through August 21, 1998; (3) September 1, 1998 through August 31, 1999; (4) September 1, 1999 through August 14, 2000; (5) August 15, 2000 through March 28, 2001.	31, 1998; (3) September 1, 1998 through August 31, 1999; (4) September 1, 1999 through August 14, 2000; (5) August 15, 2000 through March 28, 2001.		
8. Western Aleutian Islands red king crab (WAI)	3 of the 4 seasons beginning on: (1) November 1, 1992 through January 15, 1993; (2) November 1, 1993 through February 15, 1994; (3) November 1–28, 1994; (4) November 1, 1995 through February 13, 1996.	3 of the 4 seasons beginning on: (1) November 1, 1992 through January 15, 1993; (2) November 1, 1993 through February 15, 1994; (3) November 1–28, 1994; (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: (1) November 15, 1991 through March 31, 1992; (2) November 15, 1992 through March 31, 1993; (3) November 1–10, 1993, and November 20, 1993 through January 1, 1994; (4) November 1–21, 1994; (5) November 1–16, 1995; (6) November 1–5, 1996 and November 15–27, 1996.	3 of the 6 seasons beginning on: (1) November 15, 1991 through March 31, 1992; (2) November 15, 1992 through March 31, 1993; (3) November 1–10, 1993, and November 20, 1993 through January 1, 1994; (4) November 1–21, 1994; (5) November 1–16, 1995; (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
BSS Bering Sea snow crab (<i>C. opilio</i>)	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 (<i>C. bairdi</i>)	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 (<i>C. bairdi</i>)	200,000,000	200,000,000

Table 9 to Part 680—Initial Issuance of Crab PQS by Crab QS Fishery

Column A: For each crab QS fishery:	Column B: 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)	<p><i>3 years of the 3-year QS base period beginning on:</i></p> <p>(1) November 1–5, 1997; (2) November 1–6, 1998; and (3) October 15–20, 1999.</p>
Bering Sea snow crab (BSS)	<p><i>3 years of the 3-year period beginning on:</i></p> <p>(1) January 15, 1997 through March 21, 1997; (2) January 15, 1998 through March 20, 1998; and (3) January 15, 1999 through March 22, 1999.</p>
Eastern Aleutian Island golden king crab (EAG)	<p><i>4 years of the 4-year base period beginning on:</i></p> <p>(1) September 1, 1996 through December 25, 1996; (2) September 1, 1997 through November 24, 1997; (3) September 1, 1998 through November 7, 1998; and (4) September 1, 1999 through October 25, 1999.</p>
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)	<p><i>3 years of the 3-year period beginning on:</i></p> <p>(1) September 15–26, 1996; (2) September 15–29, 1997; and (3) September 15–28, 1998.</p>
St. Matthew blue king crab (SMB)	<p><i>3 years of the 3-year period beginning on:</i></p> <p>(1) September 15–23, 1996; (2) September 15–22, 1997; and (3) September 15–26, 1998.</p>
Western Aleutian Island golden king crab (WAG)	<p><i>4 years of the 4-year base period beginning on:</i></p> <p>(1) September 1, 1996 through August 31, 1997; (2) September 1, 1997 through August 31, 1998; (3) September 1, 1998 through August 31, 1999; and (4) September 1, 1999 through August 14, 2000.</p>
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]

DATES: Written comments must be submitted on or before June 6, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Erik Zlokovitz, (301) 713-2328, or Erik.Zlokovitz@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The marine recreational anglers are surveyed for catch and effort data, fish biology data, and angler socioeconomic characteristics. These data are required to carry out provisions of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), as amended, regarding conservation and management of fishery resources.

II. Method of Collection

Information is collected by telephone interviews and on-site intercept interviews. A random-digit-dialing telephone survey of coastal zone households is used to collect data on the proportion of marine fishing households and the number of shore and private/rental boat fishing trips by residents of those households. Directory-based surveys of boat operators and licensed saltwater anglers collect data on the number of for-hire fishing trips and the number of fishing trips by licensed anglers, respectively. On-site intercept interviews of marine recreational anglers are conducted to collect data on the catch per trip by species. Data on fishing effort and number of trips from the telephone surveys are combined with the catch per unit effort data from the on-site intercept data to generate recreational catch estimates. Supplemental surveys collect economic data about marine recreational fishing.

III. Data

OMB Number: 0648-0052.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households, business or other for-profit organizations.

Estimated Number of Respondents: 838,193.

Estimated Time Per Response: 7 minutes for fishing households; 1 minute for non-fishing households; 30 seconds for non-households; 4 minutes,

30 seconds for intercepted anglers; 1 minute, 30 seconds for intercept survey verification calls; 3 minutes for supplemental economic data from fishing households; 8 minutes for supplemental economic data from intercepted anglers and Telephone Follow-Up survey; 15 minutes for Economic Intercept and Mail Follow-Up Survey; 7 minutes for For-Hire Telephone Survey of Angler Fishing; 60 minutes for Economic For-hire In-person survey; 8 minutes for Economic Telephone Survey of For-hire Businesses; and 1 minute for Biological Data Collection.

Estimated Total Annual Burden Hours: 46,296.

Estimated Total Annual Cost to Public: \$0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 1, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8-7109 Filed 4-4-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Region Logbook Family of Forms

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing

effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 6, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Patsy A. Bearden, (907) 586-7008 or patsy.bearden@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Marine Fisheries Service (NMFS), Alaska Region manages the U.S. groundfish fisheries of the Exclusive Economic Zone (EEZ) off Alaska under the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Management Area (FMP). The North Pacific Fishery Management Council prepared the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. The regulations implementing the FMP are at 50 CFR part 679.

The recordkeeping and reporting requirements at 50 CFR part 679 form the basis for this collection of information. NMFS, Alaska Region requests information from participating groundfish participants. This information, upon receipt, results in an increasingly more efficient and accurate database for management and monitoring of the groundfish fisheries of the EEZ off Alaska.

II. Method of Collection

Paper logbooks, electronic reports, and telephone calls are required from participants, and methods of submittal include the Internet and facsimile transmission of paper forms.

III. Data

OMB Number: 0648-0213.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,132.

Estimated Time Per Response: 18 minutes for Catcher Vessel trawl gear daily fishing logbook (DFL); 28 minutes for Catcher Vessel longline and pot gear DFL; 30 minutes for Catcher/processor trawl gear daily cumulative production logbook (DCPL); 41 minutes for Catcher/processor longline and pot gear DCPL; 31 minutes for Shoreside processor DCPL; 31 minutes for Mothership DCPL; 8 minutes for Shoreside Processor Check-in/Check-out Report; 7 minutes for Mothership or Catcher/processor Check-in/Check-out Report; 11 minutes for Product transfer report; 17 minutes for Weekly Production Report; 11 minutes for Daily Production Report; 5 minutes to electronically submit the Weekly Production Report; 5 minutes to electronically submit the Check-in/Check-out Report; 35 minutes for Weekly Cumulative Mothership ADF&G Fish Tickets; 14 minutes for U.S. Vessel Activity Report; and 23 minutes for buying station report.

Estimated Total Annual Burden Hours: 35,504.

Estimated Total Annual Cost to Public: \$187,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: April 1, 2008.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E8-7110 Filed 4-4-08; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Observer Notification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and the respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before June 6, 2008.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue NW., Washington DC 20230 (or via Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instruments and instructions should be directed to Craig Cockrell, (301) 713-2347 or craig.cockrell@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Under current regulations, the National Marine Fisheries Service (NMFS) may select for observer coverage any fishing trip by a vessel that has a permit for Atlantic Highly Migratory Species (HMS), notifies vessel owners, in writing, when their vessels have been selected. The owners of those vessels are then required to notify NMFS before commencing any fishing trip for Atlantic HMS. The notification allows NMFS to arrange for observer placements and assignments.

The vessels are selected randomly from a list of active vessels that have reported landings of targeted species during the previous year. Observers are placed aboard vessels to collect, among other things, information on species caught, catch disposition, gear, effort, and bycatch. The information is used in stock assessments to estimate rates of bycatch of non-targeted and protected species such as sea turtles, and to improve overall management of the fishery.

A Biological Opinion (BiOp) issued on June 1, 2004, under the Endangered

Species Act, requires a minimum of eight percent observer coverage in the pelagic longline fishery. In order to better monitor incidental landings of bluefin tuna in the Gulf of Mexico during bluefin tuna spawning season, pelagic longline vessels fishing in the gulf will be subject to 100 percent observer coverage from March 9–June 9 (41 vessels).

The shark bottom longline observer program has set a target of five percent observer coverage in the shark bottom longline fishery. A BiOp issued in October 2003 requires NMFS to maintain or increase this level of observer coverage. Additionally, upcoming management measures will establish a shark research fishery including approximately 10 vessels with 100 percent coverage throughout the year. Observer coverage for the shark gillnet fishery fluctuates from approximately 50 percent to 100 percent, depending on the time of year. Although technically not required, vessels operating in other HMS fisheries may be selected for observer coverage depending on factors including limited funding. The burden estimates include a ten percent adjustment upward from current levels to account for future expansion of observer coverage other fisheries.

II. Method of Collection

The notification may be made by phone, fax, or in writing prior to each trip for which a vessel is selected. A form is provided by NMFS for written responses.

III. Data

OMB Number: 0648-0374.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 241.

Estimated Time Per Response: 2 minutes.

Estimated Total Annual Burden Hours: 166 hours.

Estimated Total Annual Cost to Public: \$2,488.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be