

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 09/14/2007

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

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 09/14/2007

ACTION REQUESTED: Revision of a currently approved collection  
TYPE OF REVIEW REQUESTED: Regular  
ICR REFERENCE NUMBER: 200709-0648-012  
AGENCY ICR TRACKING NUMBER:  
TITLE: Amendment 80 Economic Data Report for the Catcher/Processor Non-AFA Trawl Sector  
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change  
OMB CONTROL NUMBER: 0648-0564

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: 08/31/2010

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	0	0	0
New	56	1,204	602
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	56	1,204	602
Change due to Agency Adjustment	0	0	0
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
Economic Data Reports	NA	Non-AFA Trawl Gear Catcher/Processor Economic Data Report	
Verification of Data			50 CFR 679

# 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 <span style="float: right;">b. <input type="checkbox"/> None</span> 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**  
**AMENDMENT 80 ECONOMIC DATA REPORT FOR THE CATCHER/PROCESSOR**  
**NON-AFA TRAWL SECTOR**  
**OMB CONTROL NO.: 0648-xxxx**

**INTRODUCTION**

Amendment 80 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) primarily would allocate several Bering Sea and Aleutian Islands Management Area (BSAI) non-pollock trawl groundfish fisheries among fishing sectors, and facilitate the formation of harvesting cooperatives in the catcher/processor sector of the non-American Fisheries Act (non-AFA) Trawl Catcher/processor Cooperative Program (hereinafter the “Program”). The Program would establish a limited access privilege program (LAPP) for the non-AFA trawl catcher/processor sector. This proposed action is necessary to increase resource conservation and improve economic efficiency for harvesters who participate in the BSAI groundfish fisheries.

Participants in the non-AFA trawl catcher/processor sector have traditionally harvested the majority of the BSAI species allocated under this Program. During the more recent years, the participants in that sector have harvested over 90 percent of each of those species. Vessels in the non-AFA trawl catcher/processor sector have also traditionally contracted to harvest the Western Alaska Community Development Quota (CDQ) allocations of these species. The actions taken as part of Amendment 80 directly impact the participants in the BSAI flatfish fisheries, the CDQ groups, and CDQ communities.

This action is a request for a new collection-of-information. Implementing regulations may be found at [50 CFR part 679](#).

**A. JUSTIFICATION**

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

The Program would incorporate statutory mandates in section 219 of the Consolidated Appropriations Act of 2005 ([Public Law No. 108-447](#); December 8, 2004) which defines who is eligible to harvest fish in the non-AFA catcher/processor sector for a defined list of non-pollock groundfish species. The Program would define the “Amendment 80 sector” as non-AFA trawl catcher/processor harvesters eligible to fish under this statutory mandate. The defined list of non-AFA trawl catcher/processors that may be used to fish in the Amendment 80 sector are “Amendment 80 vessels.”

The Program would allocate a specific portion of six non-pollock groundfish species defined in Public Law No. 108-447 among trawl fishery sectors. These six species would be the “Amendment 80 species,” and include Aleutian Islands Pacific Ocean perch, BSAI Atka mackerel, BSAI flathead sole, BSAI Pacific cod, BSAI rock sole, and BSAI yellowfin sole. These Amendment 80 species would be allocated between the Amendment 80 sector and all other BSAI trawl fishery participants. These other trawl fishery participants include AFA catcher/processors, AFA catcher vessels, and non-AFA catcher vessels. Collectively, this group of trawl fishery participants comprises the “BSAI trawl limited access sector.”

Each year, the Program would allocate an amount of Amendment 80 species available for harvest, the initial total allowable catch (ITAC), and crab and halibut prohibited species catch (PSC) to two defined groups of trawl fishery participants:

- (1) The Amendment 80 sector; and
- (2) The BSAI trawl limited access sector.

Allocations made to one sector would not be subject to harvest by participants in the other fishery sector except under a specific condition. Fish that are allocated to the BSAI trawl limited access sector and projected to be unharvested could be reallocated to Amendment 80 cooperatives.

Amendment 80 QS holders would be able to form a cooperative with other Amendment 80 QS holders on an annual basis, provided they meet specific criteria. Each Amendment 80 cooperative would receive an annual cooperative quota (CQ), an amount of Amendment 80 species ITAC that would be for the exclusive use by that cooperative for harvest in a given year.

**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.**

An economic data collection report (EDR) would be implemented under the Program. The Program will collect cost, revenue, ownership, and employment data on an annual basis. The EDR would provide information unavailable through other means to review the Program. Data collected through the EDR would be mandatory for all Amendment 80 QS holders to ensure that the necessary information is collected.

The purpose of the EDR is to understand the economic effects of the Amendment 80 program on vessels or entities regulated by this action, and to inform future management actions. The data is needed to assess whether Amendment 80 addresses goals to mitigate the costs associated with reduced bycatch and improved utilization of groundfish.

Following is a brief description of the types of data to be collected in the EDR.

**(a) EDR**

**Ownership Data**

National Marine Fisheries Service, Alaska Region (NMFS) would need to collect detailed information on vessel ownership within the non-AFA trawl catcher/processor sector. A primary use of ownership data is to ensure individuals are complying with the proposed ownership caps. NMFS would not approve any ownership caps, unless they can be monitored and enforced. Collecting detailed ownership data is the only way for NMFS to ensure that the ownership caps are not being exceeded. Collection of this information would allow analysts to track consolidation and transfers that occur in the non-AFA trawl catcher/processor sector after cooperatives are implemented. Consolidation allows the fleet to operate more efficiently, but excessive consolidation could occur if an owner acquires a larger percentage of a fishery than is allowed under the program. NMFS will collect ownership data through Amendment 80 permit

applications and NMFS Alaska Fisheries Science Center (AFSC) will collect vessel ownership data through the Amendment 80 EDR.

### Employment Data

Limited employment data are available from catcher/processors operating in the BSAI. Through the weekly production reports (WPRs), NMFS collects information on the number of crew members on each vessel. However, the WPRs do not provide information on crew residence, compensation, or employment stability. Information on crew residence and compensation are necessary if community impact analyses are conducted.

Employment impacts are an important consideration in most rationalization programs in the North Pacific. Efficiency improvements that are expected under a cooperative program are a result of consolidation that reduces the number of jobs that are available in the fleet. Persons that live in communities that have relatively few employment opportunities can be negatively impacted if they are unable to find comparable employment elsewhere. This issue may be less of a concern than it has been for other rationalization programs (e.g., crab) developed by the North Pacific Fishery Management Council (Council); vessels in this fleet are typically operated from locations with more employment opportunities than exist for residents of rural Alaskan Communities. If crew members are hired from the local area where the vessel owner is located, then the economic impacts that result from the loss of jobs will likely have a smaller impact on the local economies than if the jobs were lost in an area with more economic dependence on this fleet. However, the impacts on specific individuals could be considered severe by those impacted.

### Revenue Data

Revenue data are collected from the non-AFA trawl catcher/processor fleet through State of Alaska Commercial Operator's Annual Report (see OMB 0648-0428) and are available to NMFS through a memorandum of agreement. Additional information would be collected through the Amendment 80 EDR.

### Cost Data

Cost data are not currently being collected from the non-AFA trawl catcher/processor sector, but would be collected through the Amendment 80 EDR.

To encourage compliance with the EDR regulations, NMFS would not issue CQ derived from QS holdings to a person who has not submitted a timely and complete EDR for each Amendment 80 QS permit held by that person. This requirement would not penalize members of an Amendment 80 cooperative who have submitted an EDR, but would limit the ability of a cooperative to use CQ derived from a QS holder who fails to comply with this provision.

For each calendar year, a completed EDR must be received by NMFS no later than 1700 hours A.l.t. on June 1 of the year following the calendar year during which the Amendment 80 QS permit was held, or if sent by U.S. mail, postmarked by that time to be considered timely. This timing would provide the Amendment 80 QS holder adequate time to gather and review records.



The EDR may be submitted to NMFS by mail to:

NMFS, Alaska Fisheries Science Center  
Economic Data Reports  
7600 Sand Point Way NE, F/AKC2  
Seattle, WA 98115

or by fax to: 206-526-6723

In addition, forms are available through the internet on the NMFS Alaska Region website at <http://www.fakr.noaa.gov>.

**Amendment 80 Trawl catcher/processor economic data report (EDR)**

Calendar year of EDR

Block A -- Amendment 80 QS holder certification

Name and signature of QS holder or representative and date signed  
If completed by a representative, written authorization must be attached

Block B -- Amendment 80 QS holder information

Name of company, partnership, or other business entity  
Business telephone number, business fax number, and e-mail address (if available)  
Amendment 80 QS permits held  
Name of Amendment 80 vessels owned (if applicable)

Block C -- Amendment 80 vessel operator information.

Name of company, partnership, other business entity  
Business telephone number, business fax number, and e-mail address (if available);

Block D -- Person completing this EDR

Indicate whether the Amendment 80 QS holder or a designated representative  
Name and title of the person completing the report  
Business telephone number, fax number, and e-mail address (if available)

Block E -- Amendment 80 vessel information

Amendment 80 QS permit number  
Vessel name, USCG Documentation number, and ADF&G vessel registration number  
ADF&G processor code  
Amendment 80 LLP license number(s)  
Amendment 80 limited access fishery permit number  
Name of Amendment 80 cooperative (if applicable)  
Home port  
U.S. gross registered tonnage, net tonnage, length overall  
Beam, shaft horsepower, fuel capacity, year built

Block F -- Vessel characteristics: survey value

Most recent survey value  
Date of last survey value  
Indicate whether survey reflects value of permits and processing equipment

Block G -- Vessel characteristics: freezer space

Amount of freezer space available at the beginning of the calendar year  
Maximum freezing capacity in pounds per hour

Block H -- Vessel characteristics: processing capacity

Type of product processed on the line in the Amendment 80 fishery  
Number of processing lines of similar type  
Maximum average throughput in pounds per hour under normal operating conditions

Block I -- Vessel characteristics: fuel consumption

Annual and average fuel consumption  
fishing and processing  
steaming fully loaded with product  
steaming empty

Block J -- Vessel characteristics: vessel activity

Number of days vessel was engaged

- Fishing
- Processing
- Traveling (steaming empty) or offloading
- Inactive in shipyard

**Block K – Revenues**

- Total fishery product sales volume and FOB Alaska revenue
- All other income derived from vessel operations
- Income and quantity of QS from sale or lease of fishery licenses, permits, harvesting or processing rights
- Royalties received from leasing allocations including metric tons and dollars for Amendment 80 yellowfin sole, rock sole, flathead sole, Atka mackerel, Pacific ocean perch, Pacific cod, Amendment 80 leased halibut PSC, Amendment 80 leased crab PSC, and any other species leased

**Block L – Capital expenditures and materials usage**

- Fishing gear (nets, net electronics, doors, cables, etc.)
- Expenditures on processing equipment
- Expenditures on vessel and onboard equipment (other than fishing, processing, or storage equipment)
- Purchase amount and cost in dollars of LLP license(s)

**Block M – Expenses**

- Fishing labor expenses (including bonuses and payroll taxes, but excluding benefits and insurance)
- Processing labor expenses (including bonuses and payroll taxes, but excluding benefits and insurance)
- Labor expenses for all other employees aboard the vessel
- Food and provisions not paid by crew
- Recruitment, travel, benefits, and other employee related costs
- Lease expense for this vessel and onboard equipment
- Fishing gear leases, repairs, and purchases (nets, net electronics, doors, cables, etc.)
- Repair and maintenance expenses for vessel and processing equipment
- Freight, storage, and other sales costs for non-FOB sales
- Freight and storage costs other than for products (e.g., gear, supplies, etc.)
- Product packaging materials
- Fuel and lubrication
- Observer fees and monitoring costs
- Cooperative costs including lawyer and accountant costs, association fees, and other fees charged by harvest cooperative
- General administrative costs including professional services and management fees
- Insurance
- Fisheries landing taxes
- Total raw fish purchases from other vessels
- Costs and quantity of QS for the purchase or acquisition of fishery licenses, permits, harvesting or processing rights
- Royalties paid for leases of catcher/processor quota, including metric tons, and dollars for Amendment 80 yellowfin sole, rock sole, flathead sole, Atka mackerel, Pacific ocean perch, Pacific cod, Amendment 80 leased halibut PSC, leased king crab PSC, and any other species leased;
- All other expenses related to vessel operations not included in the preceding list

**Block N -- Labor.**

- Average number and total number of employees for fishing, processing, and other activities on this vessel.
- Average number of hours worked per day by processing line employee
- Indicate whether crew revenue share system is used for some processing, all processing, some non-processing, and all non-processing crew

<b>Amendment 80 catcher/processor EDR, Respondent</b>	
<b>Number of respondents</b>	<b>28</b>
<b>Total annual responses</b>	<b>28</b>
Frequency of response annually	
<b>Total burden hours</b>	<b>1,120 hr</b>
Time per response (40 hr)	
<b>Total personnel cost (\$100 x 1,120)</b>	<b>\$112,000</b>
<b>Total miscellaneous costs</b>	
Photocopying (\$0.1 x 15 x 28)	<b>\$42</b>

<b>Amendment 80 catcher/processor EDR, Federal Government</b>	
<b>Total annual responses</b>	<b>28</b>
<b>Total burden hours</b>	<b>112</b>
Time per response = 4 hr	
<b>Total personnel cost (\$50 x 112)</b>	<b>5,600</b>
<b>Total miscellaneous costs</b>	<b>0</b>

**(b) Verification of data.**

Measures to verify the accuracy of the EDR data would be developed by NMFS economists and analysts to ascertain anomalies, outliers, and other deviations from averaged variables. The principle means to verify data would be consultation between NMFS and the submitter when questions arise regarding data. NMFS would request oral or written confirmation of data submissions and request copies of or review documents or statements that would substantiate data submissions. The person submitting the EDR would need to respond within 20 days of the inquiry for information. Responses after 20 days could be considered untimely and could result in a violation and enforcement action.

NMFS would amend data in the EDR through this audit verification. NMFS could choose to audit an EDR either through random selection or when circumstances require more thorough review of the submissions. In instances where a random audit occurs or an audit is otherwise justified, NMFS may retain a professional auditor/accounting specialist who would review and request financial documents substantiating economic data that is questioned.

<b>Amendment 80 EDR Verification of Data, Respondent</b>	
<b>Number of respondents</b>	<b>28</b>
<b>Total annual responses</b>	<b>28</b>
Frequency of response = annually	
<b>Total burden hours</b>	<b>84</b>
Time per response = 3 hr	
<b>Total personnel cost</b>	<b>\$2,100</b>
Cost per hour = \$25	
<b>Total miscellaneous costs</b>	<b>\$560</b>
Photocopy (\$15 x 28 = 420)	
Telephone calls (\$5 x 28 = 140)	

<b>Amendment 80 EDR Verification of Data, Federal Government</b>	
<b>Total annual responses</b>	<b>28</b>
<b>Total burden hours</b>	<b>84</b>
Time per response = 3 hr	
<b>Total personnel cost</b>	<b>\$2,100</b>
<b>Total miscellaneous cost</b>	<b>0</b>

It is anticipated that the information collected will be disseminated in aggregated and non-confidential form to the public or used to support publicly disseminated information about the Amendment 80 Program. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #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.**

The EDRs are fillable and may be downloaded from the NMFS web site at [www.fakr.noaa.gov](http://www.fakr.noaa.gov), printed, and submitted by mail or FAX to the Regional Administrator. NMFS plans to create an online form for the EDR in the near future.

**4. Describe efforts to identify duplication.**

None of the information collected as part of this information collection duplicates other collections. This information collection is part of a specialized and technical program that is unlike any other.

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

There are no small businesses involved in this collection.

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

The intent of this action is to monitor the progress and success of the LAPP established for the non-AFA trawl catcher/processor sector and to study the impacts of the Amendment 80 Program.

Several pieces of recent legislation affect various aspects of the Program.

- Section 219 of the Consolidated Appropriations Act of 2005 (Public Law No. 108-447; December 8, 2004) referred to as the Capacity Reduction Program (CRP). The elements of the CRP relevant to the Program: legislates who may participate in the non-AFA trawl catcher/processor sector in the BSAI for “non-pollock groundfish fisheries;” and defines the non-pollock groundfish fisheries in the BSAI as “target species of Atka mackerel, flathead sole, Pacific cod, Pacific ocean perch, rock sole, turbot, or yellowfin sole harvested in the BSAI.” Because all of the Amendment 80 species are included in the CRP’s definition of non-pollock groundfish fishery, the CRP’s eligibility requirements for the non-AFA trawl catcher/processor sector apply to the Program’s eligibility criteria for the Amendment 80 sector. Therefore, the Program would incorporate the CRP’s definition of a non-AFA trawl catcher/processor.

- Section 416 of the Coast Guard and Maritime Transportation Act of 2006 (Public Law No. 109-241; July 11, 2006) referred to as the Coast Guard Act. The elements of the Coast Guard Act relevant to the Program are the species or species groups allocated to the CDQ Program, the regulation of harvest of these allocations, and the percentage allocations of all of the groundfish species allocated to the CDQ Program, except pollock and sablefish.

- The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Public Law No. 109-479, January 12, 2007) referred to as the MSRA. Pertinent to the Program,

the MSRA includes amendments relating to LAPPs, the CDQ Program, and cost recovery and fee collection provisions. which modified provisions related to the CDQ Program and instituted other measures applicable to LAPPs.

The consequences of not collecting this information would be that NMFS could not fulfill the intent of the laws mentioned above and would be unable to provide data to the Council and the State of Alaska to evaluate the Program annually.

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

Each EDR is required to be submitted annually by June 1; after submission, response to requests for verification of data is required within 20 days of a question. The need for the 20-day response period is that there may be EDR verification questions that are sequential based on previous questions. The verification questions are likely to be small in number, and would often be addressed with a telephone call or other short communication. The 20-day response period should not place a significant burden on submitters.

**8. Provide a copy of 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.**

The NMFS Alaska Region will submit a proposed rule, RIN 0648-AU68, coincident with this submission, requesting comments from the public

**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.). It is also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics. Storage for the information will include a computerized data base in electronic storage media; paper records will be filed in folders in locked cabinets. Buildings where the records are maintained employ security systems with locks and access limits. Only those that have the need to know, to carry out the official duties of their job, have access to the information.

Computerized data base is password protected and access is limited. Paper records are maintained in secured file cabinets in areas that are accessible only to authorized personnel. These personnel of NMFS, Alaska Region and its contractors are instructed on the confidential nature of this information.

**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.**

Total estimated unique respondents: 28. Total estimated responses: 56. Total estimated time burden: 1,204 hr. Total estimated personnel cost: \$113,200.

**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: \$602.

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

Total estimated time burden: 196 hr. Total personnel cost: \$7,700. Total estimated miscellaneous costs: 0.

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

This is a new program.

**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 will be shown on the EDRs.

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

In accordance with OMB requirements, the certification statement will be shown on the EDRs.

## B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

**1. Describe (including a numerical estimate) the potential respondent universe and any sampling or other respondent selection method to be used. Data on the number of entities (e.g. establishments, State and local governmental units, households, or persons) in the universe and the corresponding sample are to be provided in tabular form. The tabulation must also include expected response rates for the collection as a whole. If the collection has been conducted before, provide the actual response rate achieved.**

The potential respondent universe will be a maximum of 28 non-AFA trawl catcher/processors (see Table 1) operating in the waters of the BSAI and GOA. Non-AFA trawl catcher/processors are a closed set that include those catcher/processors not listed as AFA catcher/processors at 50 CFR 679.4(l)(2)(i). Each catcher/processor would have one Amendment 80 QS permit and LLP license holder required to collect and report all data on an Amendment 80 EDR. While a maximum of 28 licensees could be required to report in this collection in the first year of the proposed Amendment 80 program, owners of multiple licenses and associated vessels will be required to submit one report for each license/vessel, reducing the respondent universe but not the overall reporting burden. In addition, in subsequent years some consolidation in this sector could occur, reducing the number of entities required to respond to the EDR.

This collection would require each QS holder for a non-AFA trawl catcher/processor to submit an annual EDR, which is a single form design with identical fields. If the final rule for this action is approved by the Secretary of Commerce in 2007, year 2008 would be the first full year of data that would be required for the Amendment 80 EDR. The data (EDR and responses to questions) for 2008 would be required by July 2009. Each subsequent year of catch and production would require a new EDR.

**Table 1. Non-AFA trawl catcher/processor sector, 2007**

Vessel Name	Vessel Name
F/V Alaskan Rose (Tremont)	F/V Arica
F/V Arctic Rose (Sunk 2001)*	F/V Cape Horn
F/V Seafisher	F/V Rebecca Irene
F/V Alaska Juris	F/V Unimak Enterprise
F/V Alaska Voyager	F/V Vaerdahl
F/V Alaska Victory	F/V Alliance
F/V Alaska Warrior	F/V Legacy
F/V Alaska Ranger	F/V Bering Enterprise
F/V Alaska Spirit	F/V Harvester Enterprise
F/V American #1	F/V Ocean Peace
F/V US Intrepid	F/V Seafreeze Alaska
F/V Defender	F/V Ocean Alaska (Beagle)
F/V Enterprise	F/V Golden Fleece
F/V Constellation	
F/V Prosperity	

\*The Arctic Rose may be replaced by one additional LLP that could be assigned to a new Vessel\*

The sample selection method is an annual census of all 28 vessels, as any other sampling methodology would produce too few observations to estimate representative levels of cost, earnings, and other outputs required for this collection.

As this program is a mandatory collection, and valuable fishing privileges will be withheld if an EDR is not submitted, we anticipate a 100% response rate from QS holders. Quota shares in this program will be issued to entities, rather than vessels, and specific provisions in the rule require that each QS holder is responsible for including data from any acquired vessel in this sector.

Also, each of these vessels is classified as a large entity with greater than \$4.0 million in annual gross earnings. The organizations owning and managing these vessels routinely provide NMFS extensive data on catch by location and weight as well as production data to both NMFS and the State of Alaska through logbooks, catch account reports, and other collections. The long history of this sector in providing mandatory data reinforces the expectation that this data will be provided by all vessels in this program.

**2. Describe the procedures for the collection, including: the statistical methodology for stratification and sample selection; the estimation procedure; the degree of accuracy needed for the purpose described in the justification; any unusual problems requiring specialized sampling procedures; and any use of periodic (less frequent than annual) data collection cycles to reduce burden.**

Given that only 28 vessels will be participating in this fishery, it is not feasible to generate enough observations on any one of the variables without applying this collection annually. And, as discussed above, random sampling from this population is not a viable option for statistical reasons. Based upon the degrees of freedom and number of observations required for estimating the statistical relationship among the variables in this collection, data in the Amendment 80 EDR may be pooled to create a time-series of cross-sectional data in order to generate sufficient observations for economic and statistical analysis. Although the strata to be utilized in preparing analyses (either deterministic or statistical) of management actions for this fleet will depend on the specific questions of interest, vessels are commonly stratified by vessel length and the distribution and amount of catch, by species.

**a. Potential dependent variables and models developed with EDR data**

Much of the data requested will be used to compute total or average quasi-rents (revenues less variable costs) based on a census of catcher/processors in the years following implementation of this rationalization program. To understand the relationships between the vessel quasi-rents and the variables we collect that affect total or average quasi-rents, econometric models will be required. Examples of some dependent and exogenous variables of interest are shown in the following table.



Examples of some dependent and exogenous variables of interest	
Estimating Dependent Variables that do not Require a Model	
a) Distribution of average catch and processed revenue by vessel length class, or type of operation (based on distribution and amount of catch by species)	<u>Data Required</u> Catch, production and revenue information, vessel information, and vessel owner information are required. COAR data would be used as the primary source for providing data on gross revenues paid by processing product and species.
b) Distribution of average variable vessel costs by vessel length class, or type of operation (based on distribution and amount of catch by species)	<u>Data Required</u> Total variable costs, by vessel, vessel characteristics, landings records  <u>Specific Measure</u> Annual Total Variable Costs = CDQ costs + QS costs + observer costs + fuel + lube and hydraulics + food and provisions + freight costs for landed fish + lube and hydraulic fluid + crew payment or share payment + processing materials + labor costs for processing + packaging + freezing + captain's share payment + fish taxes (including raw fish and local tax) + gear costs Seasonal Variable Harvesting Costs = fuel costs + captain and crew costs + gear costs Freight & Storage Costs = Freight costs of supplies to vessel + freight costs for landed fish + storage costs
c) Distribution of average quasi-rents by vessel length class, or type of operation (based on distribution and amount of catch by species)	<u>Data Required</u> Total variable costs, by vessel, vessel characteristics, landings records; COAR data would be the primary source for providing data on gross revenues paid by processing product and species <u>Specific Measure</u> Quasi-rents = Total revenue - (CDQ royalty payments + IFQ costs + fuel + lube and hydraulics + food and provisions + freight costs for landed fish + lube and hydraulic fluid + crew share payment + captain's share payment + fish taxes + processing materials + labor costs for processing + packaging + freezing) Quasi-rents / pounds landed = QR per pound Quasi-rents / days fished = QR per day
d) Seasonality of average catch and revenue by vessel class	<u>Data Required</u> Catch, processed revenue, vessel class and ownership.
e) Catcher processor vessel ownership & interest in QS	<u>Data Required</u> Processor, vessel and QS ownership data are required.
f) Level and distribution of harvesting and processing sector employment and payments to labor (number of individuals, hours/days worked, and income)	<u>Data Required</u> Harvesting and processing sector employment and payments to labor data are required.  <u>Specific Measures</u> Labor Income = Crew share payment + Captain's share payment + QS holder's payments (where applicable) + processing labor payment + all other labor payment or Labor Income = Crew share * (Total revenue - CDQ leases - QS leases - fuel - lube and hydraulics - bait - food and provisions - freight costs for supplies - freight costs for landed & processed fish - fish taxes) + processing labor payment + all other labor payment <u>Where applicable</u> Averaged daily Wage = Labor Payment / # of Processing Days \$ per Hour = Labor Payment / Total Man-hours Labor as % of Revenue = labor payment / value of product Labor as % of variable costs = labor payment / variable costs Labor Income Per Capita = Labor income / # of crew earning shares Average number of harvesting crew per vessel by season (by geographic region of employee residence) Average captain's share (%) & wages Average crew share (%) & wages Description of typical expenses deducted from crew wages
g) Degree of involvement of non-AFA trawl catcher/processor sector in other AK fisheries	<u>Data Required</u> Catcher Processor and vessel ownership data, as well as total catch, production, and revenue data are required.
h) Observer Costs in QS Fisheries (Impacts of Increased Observer Coverage)	<u>Data Required</u> Cost per day-at-sea by individual. Number of days purchased per season from data collected by the observer program.
i) Total fishing and processing taxes including fee collection	<u>Data Required/Specific Measures</u> Taxes, use fees paid by catcher/processers
j) Changes in Fleet Composition (comparison of cost, revenue and compensation structure of vessels exiting the fleet versus those staying, based on the measures given in this section)	<u>Data Required/Specific Measures</u> Cost, revenue, labor income, and compensation structure of vessels to construct the measures given in the above section.
k) Product Recovery Rates (PRR) by species	PRR = Finished Pounds / Raw Pounds
l) Production	Production per Day = Finished Pounds / # of Processing Days Production Per Employee = Finished Pounds / # catcher/processor positions
m) Consolidation	Avg. Production per catcher/processor = total processed pounds / # of catcher/ processors producing groundfish.
n) Observer costs	Observer cost as percent of revenue = Observer costs / revenue Observer cost per day = Observer cost / # of processing days

## **b. Estimating Dependent Variables that Require a Model**

AFSC analysts will use the data contained within the completed and verified EDRs to construct statistical models that characterize the determinants and factors affecting the costs and revenues of vessels within each stratum. The benefit of using statistical models to characterize the relationship between costs or revenues and the factors that influence them is that the models may initially be used to analyze the way in which economic performance changes after the immediate implementation of the program. If the Council makes adjustments to the program at a later date, analysts will be able to observe the changes in quasi-rents not attributable to the factors that have historically been the predominant statistical determinants to draw conclusions about the impact of the adjustments. That is, these statistical techniques can be used to disentangle the influence of particular economic variables on quasi-rents from “policy” or “management” variables that change directly as a result of managers’ choices over policies or regulations. Examples of economic variables would be the prices of fuel, materials, or other inputs used in fishing and processing. Variables that can be altered directly by fishery managers or regulation are the length of fishery openings by statistical area and species, the amount of allocation of a species to a sector, or individual vessels or persons in a sector.

The data collected in the EDRs will be used to develop cost and quasi-rent (i.e., restricted profit) functions that characterize the relationships between fishing and processing activities and their economic impacts. In order to estimate such functions one needs vessel-level information on variable costs of operation and gross earnings. These variables will form the basis for the dependent part of the statistical model, while the other data collected on input quantities, catch, and prices will be used as exogenous variables. The analysts will determine the exact specification of the cost and quasi-rent functions based upon the questions desired by fishery managers, the number of observations available, and the perceived quality or accuracy of the collected data.

Econometric Methods. The primary and most common approach for estimating and specifying cost and quasi-rent functions is with econometric methods. This approach examines the multivariate statistical relationships between short-run costs or quasi-rents and exogenous variables, using choices or decisions made by economic agents over target species and fishing location. Observed behavior over time and strata may be merged with other data to infer how management actions impact quasi-rents. This analysis would include data on catch by species and area, data on the value of retaining catch of a given species, and data on species with lower market value. Error and regression statistics may be generated from econometric models to indicate the level of statistical significance of estimated parameters. Given the number of variables that could be included in any of these models, we are not prepared at this time to provide quantitative standards of accuracy for each parameter included in the EDR. The level of accuracy required in any given independent data value for estimating a particular dependent variable may vary greatly from one dependent variable to another.

Mathematical Programming Model. A second approach that could be used to characterize the relationship between costs or quasi-rents and economic variables would be a mathematical programming model. In this approach one makes an assumption about the way in which the variables are related, and conducts non-parametric tests on how well it explains the variation in quasi-rents. Multilevel and multi-objective programming models have been used in fisheries to evaluate management policies. They may involve linear or non-linear programming, and would also generate uncertainty measures to evaluate the model accuracy.

**3. Describe the methods used to maximize response rates and to deal with non-response. The accuracy and reliability of the information collected must be shown to be adequate for the intended uses. For collections based on sampling, a special justification must be provided if they will not yield "reliable" data that can be generalized to the universe studied.**

Each of the QS holders operating a catcher/processor in this fishery will be required to submit an annual EDR. All of these respondents will be applying for one or more QS. Because this is a mandatory collection, and valuable fishing privileges will be withheld if an EDR is not submitted, we anticipate a 100% response rate from QS holders.

Measures to verify the accuracy of the EDR data would be developed by NMFS economists and analysts to ascertain anomalies, outliers, and other deviations from averaged variables. The principle means to verify data would be consultation between NMFS and the submitter when questions arise regarding data. NMFS would request oral or written confirmation of data submissions and request copies of or review documents or statements that would substantiate data submissions. The person submitting the EDR would need to respond within 20 days of the inquiry for information. Responses after 20 days could be considered untimely and could result in a violation and enforcement action.

NMFS would amend data in the EDR through this audit verification. NMFS could choose to audit an EDR either through random selection or when circumstances require more thorough review of the submissions. In instances where a random audit occurs or an audit is otherwise justified, NMFS may retain a professional auditor/accounting specialist who would review and request financial documents substantiating economic data that is questioned. NOAA guidelines for the Data Quality Act will be followed and estimates without an adequate statistical basis will not be used.

Enforcement of the data collection program will be different from enforcement programs used to ensure that accurate landings are reported. It is critical that landings data are reported in an accurate and timely manner, especially under a QS system, to properly monitor catch and remaining quota. However, because it is unlikely that the economic data will be used for in-season management, it is anticipated that persons submitting the data will have an opportunity to correct omissions and errors before any enforcement action would be taken. Giving the person submitting data a chance to correct problems is considered important because of the complexities associated with generating these data. Only if the agency and the person submitting the data cannot reach a solution would the enforcement agency be contacted. The intent of this program is to ensure that accurate data are collected without being overly burdensome on industry due to unintended errors.

A discussion of four scenarios will be presented to reflect the analysts' understanding of how the enforcement program would function. The four scenarios are:

1. No information is provided on an EDR;
2. Partial information is provided on an EDR;
3. NMFS has questions regarding the accuracy of the data that has been submitted on an EDR; and
4. A random audit to verify the data does not agree with data submitted in the EDR.

In the first two cases, the person would be contacted by NMFS (or a NMFS contractor) and asked to fulfill his/her obligation to provide the required information. If the problem is resolved and the requested data are provided, no other action would be taken. If that person does not comply with the request, the collecting agency would notify enforcement that the person is not complying with the requirement to provide the data. Enforcement would then use their discretion regarding the best method to achieve compliance. Those methods would likely include fines or loss of quota and could include criminal prosecution.

In the third case, questions may arise when, for example, information provided by one company is much different than that provided by similar companies. These data would only be called into question when obvious differences are encountered. Should these cases arise, the agency collecting the data would request that the person providing the data double check the information. Any reporting errors could be corrected at that time. If the person submitting the data indicates that the data are accurate and the agency still has questions regarding the data, that firm's data could be audited. It is anticipated that the review of data would be conducted by an accounting firm selected jointly by the agency and members of industry. Only when that firm refuses to comply with the collecting agency's attempts to verify the accuracy of the data would enforcement be contacted. Once contacted, enforcement would once again use their discretion on how to achieve compliance.

In the fourth case, a random audit reports different information than that contained in the EDR. The audit procedure being contemplated is a verification protocol similar to that which was envisioned for use in the pollock data collection program developed by NMFS and Pacific States Marine Fisheries Commission (PSMFC). During the design of this process, input from certified public accountants was solicited in order to develop a verification process that is less costly and cumbersome than a typical audit procedure. That protocol involves using an accounting firm, agreed upon by the agency and industry, to conduct a random review of certain elements of the data provided.

Since some of the information requested in the EDRs may not be maintained by companies and must be calculated, it is possible that differences between the audited data from financial statements and EDR data may arise. In that case the person filling out the form would be asked to show how his/her numbers were derived. If the explanation resolves the problem, there would be no further action needed. If questions remained, the agency would continue to work with the providers of the data. Only when an impasse is reached would enforcement be called upon to resolve the issue. It is hoped that this system would help to prevent abuse of the verification and enforcement authority.

In summary, members of the non-AFA trawl catcher/processor sector will be contacted and given the opportunity to explain and/or correct any problems with the data, which are not willful and intentional attempts to mislead, before enforcement actions are taken. Agency staff does not view enforcement of this program as they would a quota monitoring program. Because these data are not being collected in "real" time, there is the opportunity to resolve occasional problems as part of the data collection system. The program will be developed to collect the best information possible. Analyses of the Amendment 80 rationalization program will be conducted, to minimize the burden on industry and minimize the need for enforcement actions.

**4. Describe any tests of procedures or methods to be undertaken. Tests are encouraged as effective means to refine collections, but if ten or more test respondents are involved OMB must give prior approval.**

The Council held two industry meetings in 2006 to review and recommend data to be collected in the EDRs. While this did not result in a formal pretest of the data reports, several fields in the data forms were significantly revised. In addition, some members of the non-AFA trawl catcher/processor sector have voluntarily submitted individual comments on previous versions of this data form.

**5. Provide the name and telephone number of individuals consulted on the statistical aspects of the design, and the name of the agency unit, contractor(s), grantee(s), or other person(s) who will actually collect and/or analyze the information for the agency.**

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## **Amendment 80 Non-AFA Trawl Gear Catcher/Processor**

### **ECONOMIC DATA REPORT (EDR)**

CALENDAR YEAR 2008

This form can be downloaded from

<http://www.fakr.noaa.gov>



#### **PUBLIC REPORTING BURDEN STATEMENT**

Public reporting burden for this collection of information is estimated to average 7.5 hours per response, including time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this 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 for groundfish under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*) as amended by the Magnuson-Stevens Fishery Management and Conservation Reauthorization Act of 2006; 3) Responses to this information request are confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*). They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

## ANNUAL CATCHER/PROCESSOR EDR

You have received this form because our records show that you are the owner of a catcher/processor that participated in the Amendment 80 fishery in the past.

This report collects economic data on the Bering Sea and Aleutian Islands Management Area (BSAI) Non-American Fisheries Act (non-AFA) Trawl Catcher Processor Sector, including Western Alaska Community Development Quota Program (CDQ) non-Pollock groundfish fisheries. The fisheries are referred to as Amendment 80 fisheries (AM80 fishery). Pursuant to the legislation, the data and identifiers will also be used for program enforcement and determination of qualification for cooperative membership. Consequently, identifiers and data will be disclosed to NOAA Enforcement, NOAA General Counsel, the Antitrust Division of the Department of Justice, the Federal Trade Commission, and NOAA Restricted Access Management Program.

Each year, on or before 1700 hours A.l.t. on **June 1**, each person who held an Amendment 80 Quota Share (QS) permit during a calendar year must submit to NMFS, at the address provided on the form, an EDR for each Amendment 80 QS permit held by that person for annual data **for the previous calendar year**, or if sent by U.S. mail, postmarked by that time.

If YOUR label address is incorrect or missing, please correct the error on the label or print your permanent name and address here.

Catcher/processor Name	
Company Name	
Street address or P.O. Box Number	
City, State, and Zip Code	

Mail or fax EDR by **June 1** to:

**NMFS, Alaska Fisheries Science Center,  
Economic Data Reports,  
7600 Sand Point Way NE,  
F/AKC2,  
Seattle, WA 98115**

**FAX No. 206-526-6723**

<b><i>BLOCK A -- AMENDMENT 80 QS HOLDER CERTIFICATION</i></b>	
The Amendment 80 QS holder must complete this certification block to certify 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, attach authorization.	
Under penalties of perjury, I declare that I have examined this EDR, and to the best of my knowledge and belief, the information presented here is true, correct, and complete.	
1. Signature of Amendment 80 QS Holder (or Designated Representative)	2. Date signed
3. Printed Name of Amendment 80 QS Holder (or Designated Representative)	

**Amendment 80 Program  
Economic Data Report (EDR)**

NOAA/National Marine Fisheries Service  
Alaska Fisheries Science Center  
Economic Data Reports  
7600 Sand Point Way NE  
F/AKC2  
Seattle, WA 98115  
Telephone: 206-526-6414  
Fax: 206-526-6723



***BLOCK B -- AMENDMENT 80 QS HOLDER INFORMATION***

1. Name of company, partnership, or other business entity		
2. Amendment 80 QS permits held	3. Name of Amendment 80 vessels owned (if none, enter N/A)	
4. Business telephone number	5. Business fax number	6. e-mail address (if available)

***BLOCK C – AMENDMENT 80 VESSEL OPERATOR INFORMATION***

If a person, other than the Amendment 80 QS holder, operated an Amendment 80 vessel owned by that Amendment 80 QS holder during a calendar year provide the following information.

1. Name of company, partnership, or other business entity		
2. Business telephone number	3. Business fax number	4. e-mail address (if available)

***BLOCK D – PERSON COMPLETING THIS EDR***

1. Is the person completing this report:  <input type="checkbox"/> Amendment 80 QS holder <input type="checkbox"/> Designated representative for the Amendment 80 QS holder		
2. Name	3. Title	
4. Business telephone number	5. Business fax number	6. e-mail address (if available)



**BLOCK E – AMENDMENT 80 VESSEL IDENTIFICATION**

If you owned any part of an Amendment 80 vessel during a calendar year, provide the following information for each Amendment 80 vessel you owned. This questionnaire is designed to collect information on individual vessels even if the vessel is part of a larger company. The intent is to evaluate each vessel as a stand-alone entity. All of the following questions pertain to calendar year 2008.

Amendment 80 QS Permit No.	Amendment 80 Vessel Name
1. USCG Documentation No.	
2. ADF&G Vessel No.	
3. ADF&G processor code	
4. Amendment 80 LLP No(s).	
5. Amendment 80 limited access fishery permit No.	
6. Name of Amendment 80 cooperative (if applicable)	
7. Home port	
8. U.S. gross registered tonnage	
9. Net tonnage	
10. Length overall	
11. Beam	
12. Shaft horsepower	
13. Fuel capacity (U.S. gal.)	
14. Year Built	

**BLOCK F – AMENDMENT 80 VESSEL CHARACTERISTICS: SURVEY VALUE**

1. What was the most recent survey value, rounded to the nearest 100 dollars, of the vessel and equipment (fair market value)?

\$US \_\_\_\_\_ SURVEY VALUE (FAIR MARKET VALUE)

2. What was the date of this vessel's last value survey?

\_\_\_\_/\_\_\_\_/\_\_\_\_ DATE OF LAST VALUE SURVEY  
mm dd yyyy

3. Did the survey value given above include the value of permits associated with the vessel at the time of the value survey?

YES  NO

4. Did the survey value given above include the value of processing equipment on the vessel at the time of the value survey?

YES  NO

**BLOCK G – AMENDMENT 80 VESSEL CHARACTERISTICS: FREEZER SPACE**

1. How much freezer space (measured in pounds of product) did the vessel have at the beginning of calendar year 2008 (round to the nearest 100 pounds)?

\_\_\_\_\_ lbs.

2. What is the maximum freezing capacity of this vessel in pounds per hour?

\_\_\_\_\_ lbs/hour

**BLOCK H – AMENDMENT 80 VESSEL CHARACTERISTICS: PROCESSING CAPACITY**

Record each type of product processed on the line in the AM80 fishery, the number of processing lines of similar type (equipment and/or product mix), and the vessel’s maximum average throughput in pounds (round weight) per hour under normal operating conditions (assuming quantity of raw fish and other inputs is not limiting), totaled over all processing lines of this type.

Product processed	Number of processing lines	Maximum throughput per hour

**BLOCK I – AMENDMENT 80 VESSEL CHARACTERISTICS: FUEL CONSUMPTION**

For each of the following activities please give the vessel’s annual and average fuel consumption per hour during calendar year **2008**. If not applicable please write “NA”.

Activity	Average Gallons of Fuel per Hour	Annual Fuel Consumption
Fishing and processing		
Steaming - fully loaded with product		
Steaming – empty (transiting)		

**BLOCK J – AMENDMENT 80 VESSEL CHARACTERISTICS: VESSEL ACTIVITY**

For each of the following activities please record the number of days the vessel was engaged in each of the following activities. If not applicable please write “NA”.

Activity	AM80 Fishery	All other fisheries
Fishing		
Processing		
Traveling (steaming empty) or offloading		
Inactive in shipyard.		

**BLOCK K – 2008 REVENUES**

Please give the total amount of revenue received from all sources for each of the following categories during calendar year **2008** (rounded to the nearest 100 dollars).

Revenue Category	Units	\$Revenue
1. Total fishery product sales volume and FOB Alaska revenue (including custom processing and sales of inventory produced prior to this year)		\$
2. All other income derived from vessel operations (e.g., tendering, charters, cargo transport, etc.)		\$
3. Income from sale of LLP licenses normally associated with this vessel.		
	LLP No.	\$Revenue
4. Royalties from QS shares processed by other vessels	Quantity of QS	\$Revenue
yellowfin sole		
rock sole		
flathead sole		
Atka mackerel		
Pacific ocean perch		
Pacific cod		
Amendment 80 leased halibut PSC		
Amendment 80 leased crab PSC		
other species leased		

**BLOCK L – CAPITAL EXPENDITURES AND MATERIALS USAGE**

Please give the calendar year 2008 capital expenditures associated with each of the following categories for this vessel. Round all answers to the nearest 100 dollars.

Capital Expenditure Category	Total Capitalized Expenditure (US\$)	
a. Fishing gear (nets, net electronics, doors, cables, etc.)		
b. Expenditures on processing equipment		
c. Expenditures on vessel and onboard equipment (other than fishing, processing, or storage equipment)		
e. Other capital expenditures related to vessel operations		
f. Purchase of LLP license(s)	LLP No.	Cost

**BLOCK M – EXPENSES**

In the table below, please provide the total calendar year 2008 expenses (before income tax) associated with the following categories. Do not include expenditures that were capitalized. Round all answers to the nearest 100 dollars.

Expense Category		Total Cost
1. Fishing labor expenses (including bonuses and payroll taxes, but excluding benefits and insurance)		\$
2. Processing labor expenses (including bonuses and payroll taxes but excluding benefits and insurance)		\$
3. Labor expenses for all other employees aboard the vessel (including bonuses and payroll taxes but excluding benefits and insurance)		\$
4. Food and provisions (not paid by crew)		\$
5. Recruitment, travel, benefits and other employee related costs (excluding food and provisions and other employee costs already provided in items 1, 2, and 3)		\$
6. Lease expenses for this vessel and all onboard equipment		\$
7. Fishing gear leases, repairs, and purchases fully expensed in calendar year 2008 (e.g., nets, net electronics, doors, cables, etc.)		\$
8. Repair and maintenance expenses for vessel and processing equipment (including shipyard accrual and all purchases of parts and equipment that were expensed in calendar year 2008)		\$
9. Freight, storage, and other sales costs for non-FOB sales		\$
10. Freight and storage costs other than for products (e.g., gear, supplies, etc.)		\$
11. Product packaging materials		\$
12. Fuel and lubrication	\$	\$
13. Observer fees and other fishery monitoring and reporting costs		\$
14. Cooperative costs including lawyer and accountant costs, association fees, and other fees charged to you by the harvest cooperative		
15. General Administrative Cost including professional services and management fees (do not include costs reported in items 13 or 14)		\$
16. Insurance (vessel insurance, P&I, and other insurance associated with the operation of this vessel)		\$
17. Fisheries landings taxes		\$
18. Total raw fish purchases from other vessels	lbs	\$
19. Royalties paid to owners of QS shares processed by this vessel		\$
yellowfin sole	Quantity of QS	
rock sole		
flathead sole		
Atka mackerel		
Pacific ocean perch		
Pacific cod		
Amendment 80 leased halibut PSC		
Amendment 80 leased king crab PSC		
other species leased		
20. All other expenses not included in this table (excluding capitalized expenditures)		\$

**BLOCK N – CALENDAR YEAR 2008 LABOR**

1. Please provide the average number and the total number of employees for fishing, processing, and other activities on this vessel during the 2008 calendar year. The sum of the number of positions should equal the total number of employees aboard the vessel (on average).

Labor category	Average number of positions aboard	Number of employees in 2008
a. Fishing		
b. Processing		
c. All other employees onboard the vessel		

2. On average, how many hours per day did a typical processing line employee work during calendar year 2008?

\_\_\_\_\_ Hours

3. Did the vessel use a crew or revenue share system to pay processing or non-processing crew in calendar year 2008? (Circle one number for each)

	YES	NO
a. To pay some processing crew	1	2
b. To pay all processing crew	1	2
c. To pay some non-processing crew	1	2
d. To pay all non-processing crew	1	2

## Title 50: Wildlife and Fisheries

### PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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#### 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 quota shares, IFQ permits, or IFQ cards.

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

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

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

(f) *Groundfish Observer Program* (applicable through December 31, 2007). Regulations in this part govern elements of the Groundfish Observer Program for the BSAI groundfish and GOA groundfish fisheries under the Council's authority (see subpart E of this part).

(g) *Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs*. Regulations in this part govern commercial fishing for king and Tanner crab in the Bering Sea and Aleutian Islands Area by vessels of the United States, and supersede State of Alaska regulations applicable to the commercial king and Tanner crab fisheries in the Bering Sea and Aleutians Islands Area EEZ that are determined to

be inconsistent with the FMP (see subpart A, B, and E of this part). Additional regulations governing commercial fishing for, and processing of, king and Tanner crab managed pursuant to section 313(j) of the Magnuson-Stevens Act and the Crab Rationalization Program are codified at 50 CFR part 680.

(h) *Fishery Management Plan for the Scallop Fishery off Alaska*. (1) Regulations in this part govern commercial fishing for scallops in the Federal waters off Alaska by vessels of the United States (see subpart A of this part).

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

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

(1) Regulations in this part govern fishing for salmon by fishing vessels of the United States in the Salmon Management Area.

(2) State of Alaska laws and regulations that are consistent with the Salmon FMP and with the regulations in this part apply to vessels of the United States that are fishing for salmon in the Salmon Management Area.

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

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

(k) *American Fisheries Act and AI directed pollock fishery measures*. Regulations in this part were developed by NMFS and the Council under the Magnuson-Stevens Act, the American Fisheries Act (AFA), and the Consolidated Appropriations Act of 2004 to govern commercial fishing for BSAI pollock according to the requirements of the AFA and the Consolidated Appropriations Act of 2004. This part also governs payment and collection of the loan, under the AFA, the Magnuson-Stevens Act, and Title XI of the Merchant Marine Act, 1936, made to all those persons who harvest pollock from the directed fishing allowance allocated to 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 71 FR 17381, Apr. 6, 2006.](#)

In addition to the definitions in the Magnuson-Stevens Act and in part 600 of this chapter, the terms used in this part have the following meanings:

*Active/inactive periods* (see § 679.5(a)(7)(i)).

*Adequate evidence*, for purposes of subpart E of this part, means information sufficient to support the reasonable belief that a particular act or omission has occurred.

*ADF&G* means the State of Alaska Department of Fish and Game.

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

*ADF&G processor code* means State of Alaska Department of Fish & Game (ADF&G) Intent to operate processor license number (example: F12345).

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

*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).

*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 the Aleutian Islands subarea. See Table 23 to this part.

*Aleutian Islands Habitat Conservation Area* means a management area established for the protection of fish habitat in the Aleutian Islands subarea. 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).

*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., 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.

*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 a percentage of each groundfish TAC apportioned under §679.20(b)(1)(iii), a percentage of a catch limit for halibut, or a percentage of a guideline harvest level 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)* means:

- (1) The annual catch limit of a primary rockfish species or secondary species that may be harvested by a rockfish cooperative that may lawfully harvest an amount of the TAC for a primary rockfish species or secondary species while participating in the Rockfish Program;
- (2) The amount of annual halibut PSC that may be used by a rockfish cooperative in the Central GOA while participating in the Rockfish Program (see *rockfish halibut PSC* in this section).

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

*Council* means North Pacific Fishery Management Council.

*Crab species* means (see also king crab and tanner crab) all crab species covered by the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs, including, but not limited to, red king crab (*Paralithodes camtschatica*), blue king crab (

*Paralithodes platypus*), brown or golden king crab (*Lithodes aequispina*), scarlet or deep sea king crab (*Lithodes couesi*), Tanner or bairdi crab (*Chionoecetes bairdi*), opilio or snow crab (*Chionoecetes opilio*), grooved Tanner crab (*Chionoecetes tanneri*), and triangle Tanner crab (*Chionoecetes angulatus*).

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

*Daily reporting period or day* is the period from 0001 hours, A.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).

*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 *IR/IU species* of this section).

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

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

*Groundfish product or fish product* means any species product listed in Tables 1, 2a, 2c, and 2d to this part.

*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).

*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).

*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.

*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).

*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, prowfish, lingcod).

*NMFS investigator*, for purposes of subpart E of this part, means a designee authorized by the Regional Administrator to conduct investigations under this section.

*NMFS Person Identification Number* means a unique number assigned by NMFS to any person who applied for, or who has been issued, a certificate, license, or permit under any fishery management program administered by the Alaska Region for purposes of the NMFS/Alaska Region Integrated Regional Data System.

*Non-allocated secondary species* (see *Rockfish Program species* in this section).

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

*North Pacific fishery* means any commercial fishery in state or Federal waters off Alaska.

*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.

*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 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 Management Area* means the waters of the EEZ off the coast of Alaska (see Figure 23 to part 679), including parts of the North Pacific Ocean, Bering Sea, Chukchi Sea, and Beaufort Sea. The Salmon Management Area is divided into a West Area and an East Area with the border between the two at the longitude of Cape Suckling (143°53'36" W):

(1) The West Area is the area of the EEZ off the coast of Alaska west of the longitude of Cape Suckling (143°53'36" W). It includes the EEZ in the Bering Sea, Chukchi Sea, and Beaufort Sea, as well as the EEZ in the North Pacific Ocean west of Cape Suckling.

(2) The East Area is the area of the EEZ off the coast of Alaska east of the longitude of Cape Suckling (143°53'36" W).

*Scallop(s)* means any species of the family Pectinidae, including, without limitation, weathervane scallops (*Patinopectin caurinus*).

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

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

*Seabird* means those bird species that habitually obtain their food from the sea below the low water mark.

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

*Secondary species* (see *Rockfish Program species* in this section).

*Sector for purposes of the Rockfish Program* means:

(1) *Catcher/processor sector*: those eligible rockfish harvesters who hold an LLP license with a catcher/processor designation and who are eligible to receive rockfish QS that may result in CQ that may be harvested and processed at sea.

(2) *Catcher vessel sector*: those eligible rockfish harvesters who hold an LLP license who are eligible to receive rockfish QS that may result in CQ that may not be harvested and processed at sea.

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

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

*Shoreside processor* means any person or vessel that receives, purchases, or arranges to purchase, unprocessed groundfish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving groundfish for personal consumption or bait.

*Shucking machine* means any mechanical device that automatically removes the meat or the adductor muscle from the shell.

*Sideboard limit for purposes of the Rockfish Program* means:

(1) The maximum amount of northern rockfish, Pacific ocean perch, and pelagic shelf rockfish that may be harvested by all vessels in the Rockfish Program in all areas as specified under §679.82(d) through (h), as applicable;

(2) The maximum amount of BSAI Pacific cod that may be harvested by catcher vessels in all areas as specified under §679.82(d) through (h), as applicable; or

(3) The maximum amount of halibut PSC that may be used by all vessels in all areas as specified under §679.82(d) through (h), as applicable.

*Sideboard ratio for purposes of the Rockfish Program* means a portion of a sideboard limit for a groundfish fishery that is assigned to the catcher vessel sector or catcher/processor sector based on the catch history of vessels in that sector.

*Southeast Outside District* of the GOA means that part of the Eastern GOA Regulatory Area contained in Statistical Area 650 (see Figure 3 to this part).

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

*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 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 card issued to an individual person designated by a QS or IFQ permit holder as a master employed to fish his/her IFQ need not be held by a U.S. citizen.

(1) *What permits are available?* Various types of permits are issued for programs codified at 50 CFR 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)(ii) of this section.
(B) Halibut & sablefish permits	Specified fishing year	Paragraph (d)(3)(i)(B) of this section.
(C) Halibut & sablefish cards	Specified fishing year	Paragraph (d)(3)(i)(C) of this section.
(ii) CDQ Halibut:		

**Permit is in effect from issue For more information, date through the end of: see . . .**

(i) IFQ:  
 (A) Registered Buyer                      Until next renewal cycle Paragraph (d)(3)(ii) of this section.  
 (B) Halibut & sablefish permits      Specified fishing year                      Paragraph (d)(3)(i)(B) of this section.  
 (C) Halibut & sablefish cards      Specified fishing year Paragraph (d)(3)(i)(C) of this section.  
 (ii) CDQ Halibut:

(A) Halibut permit	Specified fishing year	Paragraph (e) of this section.
(B) Halibut card	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

(A) Halibut permit Specified-fishing year Paragraph (e) of this section.  
 (B) Halibut card      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 I

(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

(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 Paragraph (k) of this (active until further notice) section
- (B) Crab license Specified fishing year or interim Paragraph (k) of this (active until further notice) 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 1 year §300.65 of this title Permit

(B) Ceremonial or Educational 30 days §300.65 of this title Permit

(xii) Rockfish Program:

(A) CQ Specified fishing year §679.81(e)(4)

(B) Rockfish Limited Access Specified fishing year §679.81(e)(5) Fishery

(C) Optout Fishery Specified fishing year §679.81(e)(6)

(D) Rockfish Entry Level Specified fishing year §679.81(e)(7) Fishery

(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)
(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)

(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).

(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 cards, and Registered Buyer permits*. The permits and cards 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 chapter III 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 card*. (i) An IFQ card authorizes the individual identified on the card to land IFQ halibut or IFQ sablefish for debit against the specified IFQ permit until the card expires, or is revoked, suspended, or modified under 15 CFR part 904, or cancelled on request of the IFQ permit holder.

(ii) An original IFQ card issued by the Regional Administrator must be on board the vessel that harvests IFQ halibut or IFQ sablefish at all times that such fish are retained on board. Except as specified in §679.42(d), an individual that is issued an IFQ card must remain aboard the vessel used to harvest IFQ halibut or IFQ sablefish with that card during the IFQ fishing trip and at the landing site during all IFQ landings.

(iii) Each IFQ card 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 permit holder's IFQ. In addition, IFQ cards issued to hired masters representing permit holders in accordance with §679.42(i) and (j) 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 or cardholder or to receive and make a CDQ halibut landing by a CDQ permit or cardholder 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 renew IFQ permits and cards annually or at other times as needed to accommodate transfers, revocations, appeals resolution, and other changes in QS or IFQ holdings, and designation of masters under §679.42.

(5) *Transfer.* The quota shares and IFQ issued under this section are not transferable, except as provided under §679.41. IFQ cards and Registered Buyer permits issued under this paragraph (d) are not transferable.

(6) *Inspection* —(i) *IFQ permit and card.* The IFQ cardholder must present a copy of the IFQ permit and the original IFQ card 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) *CDQ Halibut permits and CDQ cards* —(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 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 card.* An individual must have onboard the vessel a valid halibut CDQ card issued by the Regional Administrator before landing any CDQ halibut. Each halibut CDQ card will identify a CDQ permit number and the individual authorized by the CDQ group to land halibut for debit against the CDQ group's halibut CDQ.

(4) *Alteration.* No person may alter, erase, mutilate, or forge a halibut CDQ permit, landing card, Registered Buyer permit, or any valid and current permit or document issued under this part. Any such permit, card, or document that has been intentionally altered, erased, mutilated, or forged is invalid.

(5) *Landings.* A person may land CDQ halibut only if he or she has a valid halibut CDQ card. The person

(s) holding the halibut CDQ card 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 nontransferable license authorizes a person to catch and retain scallops as specified on the nontransferable 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) An at least one beginning the Aleutian "A", "B", or Aleutian documented January 1, Islands "C" Island area harvest of any 1992, Subarea or in endorsement amount of through waters license June 17, shoreward of limitation 1995 that area groundfish was made

(B) A Bering at least one beginning the Bering Sea "A", "B", or Sea area documented January 1, Subarea or in "C" endorsement harvest of any 1992, waters amount of through shoreward of license June 17, that area limitation 1995 groundfish was made amount of through or in waters

(D) A Western Gulf area endorsement

(E) A Western Gulf area endorsement

(F) A Western Gulf area endorsement

(G) A Western Gulf area endorsement

(H) A Central Gulf area endorsement

(I) A Central Gulf area endorsement

(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:

license limitation groundfish was made in each of any two calendar years at least one documented harvest of any amount of license limitation groundfish was made

at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years at least four documented harvest of any amount of license limitation groundfish were made

at least one documented harvest of any amount of license limitation groundfish was made at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years

at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years June 17, 1995 shoreward of that area

beginning January 1, 1992, through June 17, 1995  
beginning January 1, 1992, through June 17, 1995  
beginning January 1, 1995, through June 17, 1995  
beginning January 1, 1992, through June 17, 1995  
beginning January 1, 1992, through June 17, 1995  
beginning January 1, 1992, through June 17, 1995

the Western "B" catcher vessel Area of the designation; or Gulf of Alaska or in waters shoreward of that area

the Western "B" catcher/processor Area of the vessel designation; Gulf of Alaska or in waters shoreward of that area

the Western "B" catcher/processor Area of the vessel designation; Gulf of Alaska or in waters shoreward of that area

the Western "C" catcher/processor Area of the designation or a Gulf of Alaska catcher vessel or in waters designation. shoreward of that area

the Central "A" catcher/processor area of the designation or a Gulf of Alaska catcher vessel or in waters designation; or shoreward of that area, or in the West Yakutat District or in waters shoreward of that district

the Central "B" catcher/processor area of the designation or a Gulf of Alaska catcher vessel or in waters designation; or shoreward of that area, or in the West Yakutat District or in waters shoreward of that district

	amount of license limitation groundfish were made	through June 17, 1995	or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district		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.

designation; or license June 17, shoreward of limitation 1995 that area, or in groundfish were the West made Yakutat District or in waters shoreward of that district

(K) A Central at least one beginning the Central "C" catcher/processor Gulf area documented January 1, area of the designation or an endorsement harvest of any 1992, Gulf of Alaska catcher vessel amount of through or in waters designation. license June 17, shoreward of limitation 1995 that area, or in groundfish was the West made Yakutat District or in waters shoreward of that district

(L) A at least one beginning in the "A" catcher/processor Southeast documented January 1, Southeast designation or a Outside area harvest of any 1992, Outside District catcher vessel endorsement amount of through or in waters designation; or license June 17, shoreward of limitation 1995 that district groundfish was made in each of any two calendar years

(M) A at least one beginning in the "B" catcher/processor Southeast documented January 1, Southeast designation or a Outside area harvest of any 1992, Outside District catcher vessel endorsement amount of through or in waters designation; or license June 17, shoreward of limitation 1995 that district groundfish was made in each of any two calendar years

(N) A at least four beginning in the "B" catcher/processor Southeast documented January 1, Southeast designation or a Outside area harvest of any 1995, Outside District catcher vessel endorsement amount of through or in waters designation; or license June 17, shoreward of limitation 1995 that district groundfish were made

(O) A at least one beginning in the "C" catcher/processor Southeast documented January 1, Southeast designation or a Outside area harvest of any 1992, Outside District catcher vessel endorsement amount of through or in waters designation. license June 17, shoreward of limitation 1995 that district groundfish was made

(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) A Pribilof red king at least one beginning the area described in the and Pribilof blue king documented harvest January 1, definition for a Pribilof red area/species of red king crab or 1993, through king and Pribilof blue king endorsement blue king crab was December 31, area/species endorsement at made by a vessel 1994 §679.2.

(B) A Bering Sea and at least three beginning the area described in the Aleutian Islands Area documented harvests January 1, definition for a Bering Sea

*C. opilio* and *C. bairdi* of *C. opilio* and *C.* 1992, through and Aleutian Islands Area *C.* area/species *bairdi* were made by a December 31, *opilio* and *C. bairdi* endorsement vessel 1994 area/species endorsement at §679.2.

(C) A St. Matthew blue at least one beginning the area described in the king area/species documented harvest January 1, definition for a St. Matthew endorsement of red king crab or 1992, through blue king area/species blue king crab was December 31, endorsement at §679.2. made by a vessel 1994

(D) An Aleutian Islands at least three beginning the area described in the brown king documented harvests January 1, definition for an Aleutian area/species of brown king crab 1992, through Islands brown king endorsement were made by a December 31, area/species endorsement at



	blue king crab was made by a vessel	December 31, 1994	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 nontransferable 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:

<b>If a license holder's license has a . . .</b>	<b>And the license holder harvested Pacific cod in the BSAI with . . .</b>	<b>Then the license holder must demonstrate that he or she harvested at least . . .</b>	<b>In . . .</b>	<b>To receive a Pacific cod endorsement that authorizes harvest with . . .</b>
(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.

<b>If a license holder's license has a . . .</b>	<b>And the license holder harvested Pacific cod in the BSAI with . . .</b>	<b>Then the license holder must demonstrate that he or she harvested at least . . .</b>	<b>In . . .</b>	<b>To receive a Pacific cod endorsement that authorizes harvest with . . .</b>
(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).

(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);  
NEAHKAHNE (USCG documentation number 599534);  
OCEAN HARVESTER (USCG documentation number 549892);  
SEA STORM (USCG documentation number 628959);  
TRACY ANNE (USCG documentation number 904859); or

( 2 ) Is not listed in §679.4(l)(3)(i)(A)( 1 ) and is determined by the Regional Administrator to have delivered at least 250 mt and at least 75 percent of the pollock it harvested in the directed BSAI pollock fishery in 1997 to catcher/processors for processing by the offshore component.

(B) *Catcher vessels delivering to AFA motherships.* NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for delivery to an AFA mothership if the catcher vessel:

( 1 ) Is one of the following (as listed in paragraphs 208(c)(1) through (20) and in subsection 211(e) of the AFA):

( i ) ALEUTIAN CHALLENGER (USCG documentation number 603820);  
( ii ) ALYESKA (USCG documentation number 560237);  
( iii ) AMBER DAWN (USCG documentation number 529425);  
( iv ) AMERICAN BEAUTY (USCG documentation number 613847);  
( v ) CALIFORNIA HORIZON (USCG documentation number 590758);  
( vi ) MAR-GUN (USCG documentation number 525608);  
( vii ) MARGARET LYN (USCG documentation number 615563);  
( viii ) MARK I (USCG documentation number 509552);  
( ix ) MISTY DAWN (USCG documentation number 926647);  
( x ) NORDIC FURY (USCG documentation number 542651);  
( xi ) OCEAN LEADER (USCG documentation number 561518);  
( xii ) OCEANIC (USCG documentation number 602279);  
( xiii ) PACIFIC ALLIANCE (USCG documentation number 612084);  
( xiv ) PACIFIC CHALLENGER (USCG documentation number 518937);  
( xv ) PACIFIC FURY (USCG documentation number 561934);  
( xvi ) PAPADO II (USCG documentation number 536161);  
( xvii ) TRAVELER (USCG documentation number 929356);  
( xviii ) VESTERAALEN (USCG documentation number 611642);  
( xix ) WESTERN DAWN (USCG documentation number 524423);  
( xx ) LISA MARIE (USCG documentation number 1038717); or

( 2 ) Is not listed in §679.4(l)(3)(i)(B)( 1 ) and is determined by the Regional Administrator to have delivered at least 250 mt of pollock for processing by motherships in the offshore component of the BSAI directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998, and September 1, 1998, and is not eligible for an endorsement to deliver pollock to catcher/processors under §679.4(l)(3)(i)(A).

(C) *Catcher vessels delivering to AFA inshore processors.* NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for delivery to an AFA inshore processor if the catcher vessel is:

( 1 ) One of the following vessels authorized by statute to engage in directed fishing for inshore sector

pollock:

HAZEL LORRAINE (USCG documentation number 592211),

LISA MARIE (USCG documentation number 1038717), PROVIDIAN (USCG documentation number 1062183); or

( 2 ) Is not listed in §679.4(l)(3)(i)(A), and:

( i ) Is determined by the Regional Administrator to have delivered at least 250 mt of pollock harvested in the directed BSAI pollock fishery for processing by the inshore component in any one of the years 1996 or 1997, or between January 1, 1998, and September 1, 1998; or

( ii ) Is less than 60 ft (18.1 meters) LOA and is determined by the Regional Administrator to have delivered at least 40 mt of pollock harvested in the directed BSAI pollock fishery for processing by the inshore component in any one of the years 1996 or 1997, or between January 1, 1998, and September 1, 1998.

(ii) *Application for AFA catcher vessel permit.* A completed application for an AFA catcher vessel permit must contain:

(A) *Vessel information.* The vessel name, ADF&G registration number, USCG documentation number, vessel telephone number (if any), gross tons, shaft horsepower, and registered length (in feet);

(B) *Ownership information.* The managing owner name(s), tax ID number(s), signature(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address (es), and managing company (if any);

(C) *Vessel AFA qualification information.* The AFA catcher vessel permit sector endorsement(s) requested.

(D) [Reserved]

(E) *Vessel exemptions from AFA catcher vessel groundfish sideboard directed fishing closures.* An AFA catcher vessel permit may contain exemptions from certain groundfish sideboard directed fishing closures. If a vessel owner is requesting such an exemption, the application must provide supporting documentation that the catcher vessel qualifies for the exemption based on the following criteria. The Regional Administrator will review the vessel's catch history according to the following criteria:

( 1 ) *BSAI Pacific cod.* For a catcher vessel to qualify for an exemption from AFA catcher vessel sideboards in the BSAI Pacific cod fishery, the catcher vessel must: Be less than 125 ft (38.1 m) LOA, have landed a combined total of less than 5,100 mt of BSAI pollock in the BSAI directed pollock fishery from 1995 through 1997, and have made 30 or more legal landings of Pacific cod in the BSAI directed fishery for Pacific cod from 1995 through 1997.

( 2 ) *GOA groundfish species*. For a catcher vessel to qualify for an exemption from AFA catcher vessel sideboards in the GOA groundfish fisheries, the catcher vessel must: Be less than 125 ft (38.1 m) LOA, have landed a combined total of less than 5,100 mt of BSAI pollock in the BSAI directed pollock fishery from 1995 through 1997, and made 40 or more legal landings of GOA groundfish in a directed fishery for GOA groundfish from 1995 through 1997.

(4) *AFA mothership permits*. NMFS will issue to an owner of a mothership an AFA mothership permit if the mothership is one of the following (as listed in paragraphs 208(d)(1) through (3) of the AFA):

EXCELLENCE (USCG documentation number 967502);  
GOLDEN ALASKA (USCG documentation number 651041); and  
OCEAN PHOENIX (USCG documentation number 296779).

(i) [Reserved]

(ii) *Application for AFA mothership permit*. A completed application for an AFA mothership permit must contain:

(A) *Type of permit requested*. Type of processor and whether requesting an AFA cooperative endorsement.

(B) *Vessel information*. The mothership name, ADF&G processor code, USCG documentation number, Federal fisheries permit number, gross tons, shaft horsepower, and registered length (in feet).

(C) *Ownership information*. The managing owner name(s), tax ID number(s), signature(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address (es), and managing company (if any);

(5) *AFA inshore processor permits*. NMFS will issue to an owner of a shoreside processor or stationary floating processor an AFA inshore processor permit upon receipt and approval of a completed application.

(i) *Qualifying criteria* —(A) *Unrestricted processors*. NMFS will issue an unrestricted AFA inshore processor permit to a shoreside processor or stationary floating processor if the Regional Administrator determines that the processor facility processed annually more than 2,000 mt round-weight of pollock harvested in the inshore component of the directed BSAI pollock fishery during each of 1996 and 1997.

(B) *Restricted processors*. NMFS will issue a restricted AFA inshore processor permit to a shoreside processor or stationary floating processor if the Regional Administrator determines that the facility processed pollock harvested in the inshore component of the directed BSAI pollock fishery during 1996 or 1997, but did not process annually more than 2,000 mt round-weight of BSAI pollock during each of 1996 and 1997.

(ii) [Reserved]

(iii) *Single geographic location requirement*. An AFA inshore processor permit authorizes the processing of pollock harvested in the BS directed pollock fishery only in a single geographic location during a fishing year. For the purpose of this paragraph, "single geographic location" means:

(A) *Shoreside processors*. The physical location at which the land-based shoreside processor first processed pollock harvested from the BS subarea directed pollock fishery during a fishing year.

(B) *Stationary floating processors*. A location within Alaska state waters that is within 5 nm of the position in which the stationary floating processor first processed pollock harvested in the BS subarea directed pollock fishery during a fishing year.

(iv) *Application for permit*. A completed application for an AFA inshore processor permit must contain:

(A) *Type of permit requested*. Type of processor, whether requesting an AFA cooperative endorsement, and amount of BSAI pollock processed in 1996 and 1997;

(B) *Stationary floating processor information*. The vessel name, ADF&G processor code, USCG documentation number, Federal processor permit number, gross tons, shaft horsepower, registered length (in feet), and business telephone number, business FAX number, and business e-mail address used on board the vessel.

(C) *Shoreside processor information*. The processor name, Federal processor permit number, ADF&G processor code, business street address; business telephone and FAX numbers, and business e-mail address.

(D) *Ownership information*. The managing owner name(s), tax ID number(s), signature(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address (es), and managing company (if any);

(v) *Authorization of new AFA inshore processors*. If the Council recommends and NMFS approves a combined BSAI pollock TAC that exceeds 1,274,900 mt for any fishing year, or in the event of the actual total loss or constructive loss of an existing AFA inshore processor, the Council may recommend that an additional inshore processor (or processors) be issued AFA inshore processing permits.

(A) *Timing of Council action*. At any time prior to or during a fishing year in which the combined BSAI pollock TAC exceeds 1,274,900 mt, or at any time after the actual total loss or constructive total loss of an existing AFA inshore processor, the Council may, after opportunity for public comment, recommend that an additional inshore processor (or processors) be issued AFA inshore processor permits.

(B) *Required elements in Council recommendation*. Any recommendation from the Council to add an additional inshore processor (or processors) must include the following information:

( 1 ) *Identification of inshore processor(s)*. The Council recommendation must identify by name the inshore processor(s) to which AFA inshore processor permits would be issued;

( 2 ) *Type of AFA inshore processor permit(s)*. The Council recommendation must specify whether the identified inshore processor(s) should be issued a restricted or unrestricted AFA inshore processor permit.

( 3 ) *Duration of permit*. The Council recommendation must specify the recommended duration of the permit. Permit duration may be for any duration from a single fishing season to the duration of section 208 of the AFA. Alternatively, the Council may recommend that the permit be valid as long as the conditions that led to the permit remain in effect. For example, the Council could recommend that a permit issued under this paragraph remain valid as long as the combined annual BSAI pollock TAC remains above 1,274,900 mt. or a lost AFA inshore processor is not reconstructed.

( 4 ) *Council procedures*. The Council may establish additional procedures for the review and approval of requests to authorize additional AFA inshore processors. However, such procedures must be consistent with the Magnuson-Stevens Act, the national standards, and other applicable law.

( 5 ) *Action by NMFS*. Upon receipt of a recommendation from the Council to authorize additional AFA inshore processors, NMFS may issue an AFA inshore processor permit to the identified inshore processor(s) of the type and duration recommended by the Council, provided the Council has met the requirements identified in paragraphs (l)(5)(v)(B)( 1 ) through ( 4 ) of this section, and the owner(s) of the identified inshore processor has submitted a completed application for an AFA inshore processor permit that is subsequently approved.

(6) *Inshore cooperative fishing permits* —(i) *General*. NMFS will issue to an inshore catcher vessel cooperative formed pursuant to 15 U.S.C. 521 for the purpose of cooperatively managing directed fishing for pollock for processing by an AFA inshore processor an AFA inshore cooperative fishing permit upon receipt and approval of a completed application.

(ii) *Application for permit*. A completed application for an inshore cooperative fishing permit must contain the following information:



(A) *Cooperative contact information.* Name of cooperative; name of cooperative representative; and business mailing address, business telephone number, business fax number, and business e-mail address of the cooperative;

(B) *Designated cooperative processor.* The name and physical location of an AFA inshore processor that is designated in the cooperative contract as the processor to whom the cooperative has agreed to deliver at least 90 percent of its BS pollock catch;

(C) *Cooperative contract information.* A copy of the cooperative contract and a written certification that:

( 1 ) The contract was signed by the owners of at least 80 percent of the qualified catcher vessels;

( 2 ) The cooperative contract requires that the cooperative deliver at least 90 percent of its BS pollock catch to its designated AFA processor; and

( 3 ) Each catcher vessel in the cooperative is a qualified catcher vessel and is otherwise eligible to fish for groundfish in the BSAI, has an AFA catcher vessel permit with an inshore endorsement, and has no permit sanctions or other type of sanctions against it that would prevent it from fishing for groundfish in the BSAI;

(D) *Qualified catcher vessels.* For the purpose of this paragraph, a catcher vessel is a qualified catcher vessel if it meets the following permit and landing requirements:

( 1 ) *Permit requirements* —( i ) *AFA permit.* The vessel must have a valid AFA catcher vessel permit with an inshore endorsement;

( ii ) *LLP permit.* The vessel must be named on a valid LLP permit authorizing the vessel to engage in trawling for pollock in the Bering Sea subarea. If the vessel is more than 60 feet (18.3 m) LOA, the vessel must be named on a valid LLP permit endorsed for the AI to engage in trawling for pollock in the AI; and

( iii ) *Permit sanctions.* The vessel has no permit sanctions that otherwise make it ineligible to engage in fishing for pollock in the BSAI.

( 2 ) *Landing requirements* —( i ) *Active vessels.* The vessel delivered more pollock harvested in the BS inshore directed pollock fishery to the AFA inshore processor designated under paragraph (I)(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 (I)(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 (I)(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/processers 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 (I)(7)(i)(A) of this section, the replacement vessel may be replaced according to the provisions of this paragraph (I)(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 determination (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 4<sup>th</sup> 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.

[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).**

[Link to an amendment published at 71 FR 17381, Apr. 6, 2006.](#)

(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 cardholder, 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 at paragraphs (g), (k), (l)(1) through (6), (n)(1), and (n)(2) 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.

<b>Date of</b>	<b>If a<sup>1</sup></b>	<b>Means the date when</b>	<b>In the</b>
( 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

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

(B) *Week-ending date*. The last day of the weekly reporting period: 2400 hours, A.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 <sup>1</sup>	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.

<sup>1</sup> CV = Catcher vessel; SS = Shoreside processor; SFP = stationary floating processor; MS = mothership; Catcher/processor = CP; BS = Buying station.

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

The operator or manager must enter:	In the ...	If ...
(A) No receipt	( 1 ) DCPL	No deliveries received for a day
	( 2 ) DCPL, WPR	No deliveries received during a weekly reporting period
(B) No landings	( 1 ) DCPL, DPR	No landings occurred for a day
	( 2 ) DCPL, WPR	No landings occurred during a weekly reporting period

(C) No production	( 1 ) DCPL, DPR	No production occurred for a day
	( 2 ) DCPL, WPR	No production occurred for a weekly reporting period
(D) No discard or Disposition	( 1 ) DCPL, DFL, BSR or DPR	No discards or dispositions occurred for a day
	( 2 ) DCPL, WPR	No discards or dispositions occurred for a weekly reporting period

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

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

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

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

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

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

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

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

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

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

(B) Record the weight of groundfish landings, groundfish product, and groundfish or prohibited species Pacific herring

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

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

- ( 1 ) Estimated total round catch weight of groundfish, listed by CV DCPL SS, or BS SFP
- ( 2 ) Estimated total round catch weight of groundfish by haul Trawl DFL CV
- ( 3 ) Estimated total round catch weight of groundfish by haul, Trawl DCPL C/P excluding pollock and Pacific cod
- ( 4 ) Estimated total round catch weight of groundfish listed by CV or DCPL MS BS, excluding pollock and Pacific cod
- ( 5 ) Estimated total round catch weight of groundfish by set,

excluding CDQ/IFQ Pacific halibut and IFQ sablefish	pot DFL	
( 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:

(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:

(G) *Balance brought forward.* The operator or manager must enter the balance brought forward per the following table:

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

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

(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.

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
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
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
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



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

(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 reentering the information.

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

(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.

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)

(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.

permit number(s)

(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.

<b>If harvest made under ... program</b>	<b>Indicate yes and record the...</b>	<b>Reference</b>
(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

  

<b>If harvest made under ... program</b>	<b>Indicate yes and record the...</b>	<b>Reference</b>
(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

( 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 <sup>1</sup> ...	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.

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

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

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

(B) In addition, a catcher vessel operator by prior arrangement with a processor may function as a buying station for his own catch by: Shipping his groundfish catch with a copy of the BSR directly to that processor via truck or airline in the event that the processor is not located where the harvest is offloaded; or by driving a truck that contains his catch and a copy of the BSR to the processor. When the shipment arrives at the processor, the information from the BSR must be incorporated by the manager of the shoreside processor or stationary floating processor into the DCPL.

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

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

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

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

(C) *Receive discard report*. Indicate whether the blue DFL was received from the catcher vessel at the time of catch delivery. If delivery from a buying station, leave this column blank. If the blue DFL is not received from the catcher vessel, enter NO and the response code (example: NO-L) to describe the reason for non-submittal as follows:

(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.

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.

( 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:

(B) [Reserved]

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

(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.

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:

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(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.

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

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

(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 predetermined 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, 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 paragraph (1) of this section.

(B) 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 paragraph (1) 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 (1) 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:

table:

(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 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.

(A) Receiver is on land Receiver name Date and Port or city of Name of the and transfer involves and Federal time when product shipping one van, truck, or fisheries, Federal shipment transfer company; vehicle processor, or leaves the destination city Federal crab plant and state or vessel permit foreign country. number (if any)

(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.
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(B)

Receiver is on land Receiver name Date and Port or city of Name of the and transfer involves and Federal time when product shipping multiple vans, trucks or fisheries, Federal loading of transfer company; vehicles processor, or vans or destination city Federal crab trucks, is and state or vessel permit completed foreign country. number (if any) each day

(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.
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(C)

Receiver is on land Receiver name Date and Port or city of Name of the and transfer involves and Federal time when product airline company; one airline flight fisheries, Federal shipment transfer destination airport processor, or leaves the city and state.

Federal crab plant vessel permit number (if any)

(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.
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(D)

Receiver is on land Receiver name Date and Port or city of Name of the and transfer involves and Federal time of product airline company multiple airline flights fisheries, Federal shipment transfer (s); destination processor, or when the last airport(s) city and Federal crab airline flight state. vessel permit of the day number (if any) leaves

(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
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(E) Receiver is a vessel

Vessel name and Start and Transfer The first and transfer occurs at call sign finish dates position destination of the sea and times of coordinates in vessel.

transfer latitude and longitude, in degrees and minutes

(F) Receiver is a vessel

Vessel name and Start and Port or The first and transfer takes place call sign finish dates position of destination of the in port and times of product vessel.

(G) Receiver is an agent Agent name and Transfer Port, city, or Name (if (buyer, distributor, location (city, start and position of available) of the shipping agent) and state) finish dates product vessel transfer is in a and times transfer transporting the containerized van(s) van; destination port.

(H) You are aggregating "RETAIL SALES" Date of Port or city of N/A. individual retail sales for transfer. Product human consumption. transfer (see paragraph (g)(2) of this section)

(I) You are aggregating "BAIT SALES" Date of Port or city of N/A. individual bait sales transfer. Product during a day onto one transfer PTR (non-IFQ groundfish only)

and transfer takes place in port	call sign	finish dates and times of transfer	position of product transfer	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.

and transfer takes place in port	call sign	finish dates and times of transfer	position of product transfer	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:

(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:

<b>Submit a separate BEGIN message for ...</b>	<b>If you are a ...</b>	<b>Within this time limit</b>
(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.

<b>Submit a separate CEASE message for ...</b>	<b>If you are a ...</b>	<b>Within this time limit</b>
(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 checkout 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).
- (l) *IFQ halibut, CDQ halibut, IFQ sablefish, or CR crab R&R*. In addition to the R&R requirements in this section, in 50 CFR part 680 with respect to CR crab, and as prescribed in the annual management measures published in the Federal Register pursuant to §300.62 of this title, the following reports and authorizations are required, when applicable: IFQ Prior Notice of Landing, Product Transfer Report ( see §679.5(g)), IFQ landing report, IFQ Transshipment Authorization, and IFQ Departure Report.
- (1) *IFQ Prior Notice of Landing (PNOL)* —(i) *Time limits and submittal*. (A) Except as provided in paragraph (l)(1)(iv) of this section, the operator of any vessel making an IFQ landing must notify OLE, Juneau, AK, no fewer than 3 hours before landing IFQ halibut, CDQ halibut, or IFQ sablefish, unless permission to commence an IFQ landing within 3 hours of notification is granted by a clearing officer.
- (B) A PNOL must be made to the toll-free telephone number 800-304-4846 or to 907-586-7163 between the hours of 0600 hours, A.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 (l)(1)(i) and (iii) of this section.
- (iii) *Information required*. A PNOL must include the following:

- (A) Vessel name and ADF&G vessel registration number;
- (B) Port of landing and port code from Tables 14a and 14b to this part;
- (C) Exact location of landing within the port ( *i.e.*, dock name, harbor name, facility name, or geographical coordinates);
- (D) The date and time (A.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 cardholder or CDQ cardholder and the harvesting vessel may not leave the landing site until the IFQ halibut, IFQ sablefish or CDQ halibut account is properly debited (as defined in paragraph (l)(2)(iv)(D) of this section).

(E) *No movement of IFQ halibut, CDQ halibut, or IFQ sablefish.* The offloaded IFQ halibut, CDQ halibut, or IFQ sablefish may not be moved from the landing site until the IFQ Landing Report is received by OLE, Juneau, AK, and the IFQ cardholder's or CDQ cardholder's account is properly debited (as defined in paragraph (l)(2)(iv)(D) of this section).

(ii) *Time limits.* (A) A landing of IFQ halibut, CDQ halibut, or IFQ sablefish may commence only between 0600 hours, A.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 cardholder or CDQ cardholder;
- (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 cardholder;
- (I) If ADF&G statistical area is bisected by a line dividing two IFQ regulatory areas, the IFQ regulatory area of harvest reported by the IFQ cardholder;
- (J) For each ADF&G statistical area of harvest:

( 1 ) Except as provided in paragraph (l)(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 cardholder or CDQ cardholder 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 cardholder or CDQ cardholder 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 both the Registered Buyer and cardholder constitutes confirmation that OLE received the landing report and that the cardholder's account is properly debited. A copy of each receipt must be maintained by the Registered Buyer as described in §679.5(l).

(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 cardholders 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 cardholders are on board with enough remaining CDQ halibut balance to harvest amounts of CDQ halibut equal to or greater than all CDQ halibut on board.

( 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 cardholders 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 cardholder or CDQ cardholder must retain a legible copy of all Landing Report receipts, and the Registered Buyer must retain a copy of all reports and receipts required by this section. All retained records must be available for inspection by an authorized officer:

(A) Until the end of the fishing year during which the records were made and for as long thereafter as fish or fish products recorded are retained onboard the vessel or at the facility; and

(B) Upon request of an authorized officer for 3 years after the end of the fishing year during which the records were made.

(6) *Sampling*—(i) Each IFQ landing and all fish retained onboard a vessel making an IFQ landing are subject to sampling by NMFS-authorized observers.

(ii) Each IFQ halibut landing or CDQ halibut landing is subject to sampling for biological information by persons authorized by the IPHC.

(7) *IFQ cost recovery program*—(i) *IFQ buyer report.* (A) *Applicability.* An IFQ registered buyer that also operates as a shoreside processor and receives and purchases IFQ landings of sablefish or halibut must submit annually to NMFS a complete IFQ Buyer Report as described in this paragraph (l) and as provided by NMFS for each reporting period, as described at §679.5(1)(7)(i)(E), in which the registered buyer receives IFQ fish.

(B) *Due date.* A complete IFQ Buyer Report must be postmarked or received by the Regional Administrator not later than October 15 following the reporting period in which the IFQ registered buyer receives the IFQ fish.

(C) *Information required.* A complete IFQ Buyer Report must include the following information:

( 1 ) *IFQ registered buyer identification*, including:

- ( i ) Name,
- ( ii ) Registered buyer number,
- ( iii ) Social Security number or tax identification number,
- ( iv ) NMFS person identification number (if applicable),
- ( v ) Business address,

- ( vi ) Telephone number,
- ( vii ) Facsimile telephone number,
- ( viii ) Primary registered buyer activity,
- ( ix ) Other registered buyer activity, and
- ( x ) Landing port location;
- ( 2 ) *Pounds purchased and values paid.* ( i ) The monthly total weights, represented in IFQ equivalent pounds by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;
- ( ii ) The monthly total gross ex-vessel value, in U.S. dollars, of IFQ pounds, by IFQ species, that were landed at the landing port location and purchased by the IFQ registered buyer;
- ( 3 ) *Value paid for price adjustments.* ( i ) The monthly total U.S. dollar amount of any IFQ retro-payments (correlated by IFQ species, landing month(s), and month of payment) made in the current year to IFQ permit holders for landings made during the previous calendar year;
- ( ii ) Certification, including the signature or electronic PIN of the individual authorized by the IFQ registered buyer to submit the IFQ Buyer Report, and date of signature or date of electronic submittal.

(D) *Submission address.* The registered buyer must complete an IFQ Buyer Report and submit by mail or FAX to: Administrator, Alaska Region, NMFS, Attn: RAM Program, P.O. Box 21668, Juneau, AK 99802-1668, FAX: (907) 586-7354 or electronically to NMFS via forms available from RAM or on the RAM area of the Alaska Region Home Page at <http://www.fakr.noaa.gov/ram>.

(E) *Reporting period.* The reporting period of the IFQ Buyer Report shall extend from October 1 through September 30 of the following year, inclusive.

( ii ) *IFQ permit holder Fee Submission Form*—(A) *Applicability.* An IFQ permit holder who holds an IFQ permit against which a landing was made must submit to NMFS a complete IFQ permit holder Fee Submission Form provided by NMFS.

(B) *Due date and submittal.* A complete IFQ permit holder Fee Submission Form must be postmarked or received by the Regional Administrator not later than January 31 following the calendar year in which any IFQ landing was made.

(C) *Contents of an IFQ Fee Submission Form.* For each of the sections described here, a permit holder must provide the specified information.

( 1 ) *Identification of the IFQ permit holder.* An IFQ permit holder with an IFQ landing must accurately record on the identification section of the IFQ Fee Submission Form the following information:

- ( i ) The printed name of the IFQ permit holder;
- ( ii ) The NMFS person identification number;
- ( iii ) The Social Security number or tax ID number of the IFQ permit holder;
- ( iv ) The business mailing address of the IFQ permit holder; and
- ( v ) The telephone and facsimile number (if available) of the IFQ permit holder.

( 2 ) *IFQ landing summary and estimated fee liability.* NMFS will provide to an IFQ permit holder an IFQ Landing Summary and Estimated Fee Liability page as required by §679.45(a)(2). The IFQ permit holder must either accept the accuracy of the NMFS estimated fee liability associated with his or her IFQ landings for each IFQ permit, or calculate a revised IFQ fee liability in accordance with paragraph (1)(7) (ii)(C)(2)(i) of this section. The IFQ permit holder may calculate a revised fee liability for all or part of his or her IFQ landings.

( i ) *Revised fee liability calculation.* To calculate a revised fee liability, an IFQ permit holder must multiply the IFQ percentage in effect by either the IFQ actual ex-vessel value or the IFQ standard ex-vessel of the IFQ landing. If parts of the landing have different values, the permit holder must apply the appropriate values to the different parts of the landings.

( ii ) *Documentation.* If NMFS requests in writing that a permit holder submit documentation establishing the factual basis for a revised IFQ fee liability, the permit holder must submit adequate documentation by the 30th day after the date of such request. Examples of such documentation regarding initial sales transactions of IFQ landings include valid fish tickets, sales receipts, or check stubs that clearly identify the IFQ landing amount, species, date, time, and ex-vessel value or price.

( 3 ) *Fee calculation section*—( i ) *Information required.* An IFQ permit holder with an IFQ landing must record the following information on the Fee Calculation page: The name of the IFQ permit holder; the NMFS person identification number; the fee liability amount due for each IFQ permit he or she may hold; the IFQ permit number corresponding to such fee liability amount(s) due; the total price adjustment payment value for all IFQ halibut and/or sablefish (e.g., IFQ retro-payments) received during the reporting period for the IFQ Fee Submission Form as described in §679.5(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.J.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:

(A) White	Retained by Mothership, see paragraph (a)(13)(ii)(D)( 6 ) of this section	Retained by Mothership, see paragraph (a)(13) N/A (ii)(D)( 6 ) of this section
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(B) Yellow	Alaska Commercial Fisheries Management & Development Division, Department of Fish & Game, 211 Mission Road, Kodiak, AK, 99615-6399	Alaska Commercial Fisheries Management & Development Division, Department of Fish & Game, 211 Mission Road, Kodiak, AK, 99615-6399
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(C) Pink	Catcher vessel delivering groundfish to the mothership	
(C) Pink	1200 hours, A.I.t., on Tuesday following the end of the applicable weekly reporting period.	Catcher vessel delivering
(D) Golden-rod	Extra copy	
(D) Golden-rod	1200 hours, A.I.t., on Tuesday following the end of the applicable weekly reporting period.	Extra copy N/A

rod  
 (n) *Groundfish CDQ fisheries* —(1) *CDQ delivery report* —(i) *Who must submit a CDQ delivery report?* The manager of each shoreside processor and stationary floating processor taking deliveries of groundfish CDQ or PSQ species from catcher vessels must submit for each delivery a CDQ delivery report, unless using the SPELR described at paragraph (e) of this section to submit the required CDQ information.

(ii) *Time limit and submittal.* The manager as defined at paragraph (n)(1)(i) of this section must submit to the Regional Administrator a CDQ delivery report within 24 hours of completion of each delivery of groundfish CDQ or PSQ species to the processor.

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

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

(iii) *Information required.* The manager as defined at paragraph (n)(1)(i) of this section must record whether the report is original or a revision and the following information on each CDQ delivery report:

(A) *CDQ group information.* CDQ group number as defined at §679.2 and CDQ group name or acronym.

(B) *Processor information.* ( 1 ) Name and federal processor permit number of the processor as defined at paragraph (n)(1)(i) of this section taking delivery of the CDQ catch.

( 2 ) Date delivery report submitted.

(C) *Vessel and catch information.* ( 1 ) Enter the name, Federal Fisheries Permit number if applicable, and ADF&G vessel registration number of the vessel delivering CDQ catch. Write “unnamed” if the vessel has no name;

( 2 ) Enter the delivery date, date fishing began, harvest gear type, and Federal reporting area of CDQ harvest. If caught with trawl gear, check appropriate box(es) to indicate if catch was made in the CVOA or the COBLZ.

(D) *Groundfish CDQ Species in this delivery.* Enter weight by species codes and product codes as defined in Tables 1 and 2 to this part, respectively, of groundfish CDQ species that were delivered. Report the weight of each CDQ species in metric tons to at least the nearest 0.001 mt.

(E) *Halibut CDQ, halibut IFQ and sablefish IFQ in this delivery.* For nontrawl vessels only, enter the product code and product weight for any halibut CDQ, halibut IFQ, and sablefish IFQ in this catch. Submit this same information to the Regional Administrator on an IFQ landing report (see paragraph (I)

(2) of this section).

(F) *PSQ information.* For halibut, enter the species code and the weight to the nearest 0.001 mt. For salmon or crab, enter the species code and the number of animals.

( 1 ) Enter PSQ species delivered and discarded from processor by species code and weight or numbers.

( 2 ) Enter at-sea discards of PSQ for vessels without observers by species code and weight or numbers.

(2) *CDQ catch report*—(i) *Who must submit a CDQ catch report?* The CDQ representative must submit a CDQ catch report for all groundfish catch made by vessels groundfish CDQ fishing as defined at §679.2 or for any groundfish harvested by vessels greater than or equal to 60 ft (18.3 m) LOA while halibut CDQ fishing and delivered to a shoreside processor, to a stationary floating processor, or to a mothership.

(ii) *Time limit and submittal.* Submit to the Regional Administrator a CDQ catch report:

(A) Within 7 days of the date CDQ catch was delivered by a catcher vessel to a shoreside processor, stationary floating processor, or mothership.

(B) Within 7 days of the date gear used to catch CDQ was retrieved by a catcher/processor.

(iii) *Information required, all CDQ catch reports.* Record whether an original or revised report and the following information on each CDQ catch report:

(A) *Vessel type.* Indicate one appropriate vessel/gear/delivery type.

(B) *Vessel catch information*—( 1 ) Enter the name, Federal fisheries permit number if applicable, and ADF&G vessel registration number of the vessel delivering CDQ catch. Write “unnamed” if the vessel has no name.

( 2 ) *Reporting area.* Enter reporting area in which CDQ catch occurred. If a set occurs in more than one area, record the area code where gear retrieval was completed.

( 3 ) *Gear type.* Circle gear type used to harvest CDQ catch. If caught with trawl gear, check appropriate box(es) to indicate if catch was made in the CVOA or the COBLZ.

( 4 ) Indicate the intended target species.

(C) *CDQ group information.* Enter CDQ number as defined at §679.2, CDQ group name or acronym, and date report submitted to NMFS.

(iv) *Catch and delivery information: catcher vessels retaining all groundfish CDQ and delivering to shoreside processors or stationary floating processors (Option 1 under §679.32(d)(2)(ii)).* Record the following information on each applicable CDQ catch report:

(A) *Delivery information.* Name and Federal processor permit number of the shoreside processor or the stationary floating processor taking delivery of the CDQ catch; date catch delivered to processor; and date fishing began on this trip.

(B) *Catch information, groundfish CDQ species.* Report the weight in metric tons to at least the nearest

0.001 mt for each groundfish CDQ species retrieved by a catcher/processor or delivered to a processor as defined in paragraph (n)(1)(i) of this section by product code and species code as defined in Tables 1 and 2 to this part, respectively.

(C) *Catch information, halibut CDQ, halibut IFQ and sablefish IFQ.* For non-trawl vessels only, enter the product code as defined in Table 1 to this part and product weight in metric tons to at least the nearest

0.001 mt for any halibut CDQ, halibut IFQ, and sablefish IFQ in the CDQ delivery. Submit this same information to the Regional Administrator on an IFQ landing report (see §679.5(l)(2)).

(D) *Mortality information, salmon and crab PSQ.* For salmon or crab, enter the species code, as defined in Table 2b to this part, and the number of animals.

(E) *Mortality information, halibut PSQ.* For halibut PSQ catch, enter the round weight to the nearest

0.001 mt, mortality rate, and overall halibut mortality in metric tons to the nearest 0.001 mt. Use the target fishery designations and halibut bycatch mortality rates in the annual final specifications published in the Federal Register under §679.20(c).

(v) *Catch and delivery information: catcher/processors, catcher vessels delivering unsorted codends to motherships, or catcher vessels (with observers) using nontrawl gear and discarding groundfish CDQ at sea (Option 2 under §679.32(d)(2)(ii)).* Record the following information on each applicable CDQ catch report.

(A) *Delivery information.* ( 1 ) If a catcher vessel (with observers) using nontrawl gear, discarding groundfish CDQ at sea, and delivering to a shoreside processor or stationary floating processor, enter name and Federal processor permit number of the shoreside processor or the stationary floating processor, date catch delivered, and date fishing began on this trip.

( 2 ) If a catcher vessel delivering unsorted codends to a mothership, enter the mothership name and Federal fisheries permit number, observer's haul number for this catch, and date codend is completely onboard the mothership as determined by the Level 2 observer.

( 3 ) If a catcher/processor, the observer's haul number for this catch, and the date on which the gear was retrieved as determined by the Level 2 observer.

(B) *Catch information, groundfish CDQ species.* (See paragraph (n)(2)(iv)(B) of this section).

(C) *Catch information, halibut IFQ/CDQ and sablefish IFQ* (See paragraph (n)(2)(iv)(C) of this section).

(D) *Mortality information, salmon and crab prohibited species.* (See paragraph (n)(2)(iv)(D) of this section).

(E) *Mortality information, halibut PSQ.* (See §679.5(n)(2)(iv)(E) of this section).

(3) *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.

(4) *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:

( ) Species name and code (see table 2 to this part).

( ) Area of processing (see table 16 to this part).

( ) Process 51 or 52. Enter conventional canned code (51) or smoked, conventional canned code (52).

( ) Total wholesale value (\$). Enter the total wholesale value of the finished product.

( ) 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 15<sup>th</sup> 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.

[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).
- (5) Provision for public release of all obtained information, and submission of interim and final reports.
- (6) 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).
- (7) Details for all coordinating parties engaged in the experiment and signatures of all representatives of all principal parties.
- (8) 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.
- (9) 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.**

[Link to an amendment published at 71 FR 17381, Apr. 6, 2006.](#)

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) *Prohibited species bycatch rate standard.* Exceed a bycatch rate standard specified for a vessel under §679.21(f).

(6) *Gear.* Deploy any trawl, longline, single pot-and-line, or jig gear in an area when directed fishing for, or retention of, all groundfish by operators of vessels using that gear type is prohibited in that area, except that this paragraph (a)(6) shall not prohibit:

(i) Deployment of hook-and-line gear by operators of vessels fishing for halibut during seasons prescribed in the annual management measures published in the Federal Register pursuant to §300.62 of chapter III of this title.

(ii) Deployment of pot gear by operators of vessels fishing for crab during seasons governed by the State of Alaska.

(iii) Deployment of jig gear by operators of vessels fishing for salmon during seasons governed by the State of Alaska.

(7) *Inshore/offshore*—(i) 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, card or document issued under §§679.4 or 679.5.

(iii) Fail to submit or submit inaccurate information on, any report, application, or statement required under this part.

(iv) Intentionally submit false information on any report, application, or statement required under this part.

(11) *Buying station*—(i) *Tender vessel.* Use a catcher vessel or catcher/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, halibut PSQ, or crab 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.

(10) For the operator of an eligible vessel, use trawl gear to harvest groundfish CDQ in the Chum Salmon Savings Area between September 1 and October 14 after the CDQ group's non-chinook salmon PSQ is attained.

(11) For the operator of a catcher vessel using trawl gear or any vessel less than 60 ft (18.3 m) LOA that is groundfish CDQ

fishing as defined at §679.2, discard any groundfish CDQ species or salmon PSQ before it is delivered to 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) For the operator of a catcher vessel, catch, retain on board, or deliver groundfish CDQ species together with license limitation groundfish.

(14) For the operator of a catcher/processor, catch groundfish CDQ species together with license limitation groundfish in the same haul, set, or pot.

(15) For the operator of a catcher/processor or a catcher vessel required to carry a level 2 observer, combine catch from two or more CDQ groups in the same haul or set.

(16) Use any groundfish accruing against a CDQ reserve as a basis species for calculating retainable amounts of non-CDQ species under §679.20.

(17) For the operator of a catcher/processor using trawl gear or a mothership, harvest or take deliveries of CDQ or PSQ species without a valid scale inspection report signed by an authorized scale inspector under §679.28(b)(2) on board the vessel.

(18) For the operator of a vessel required to have an observer sampling station described at §679.28(d), harvest or take deliveries of CDQ or PSQ species without a valid observer sampling station inspection report issued by NMFS under §679.28(d)(8) on board the vessel.

(19) For the operator of a catcher/processor using trawl gear or a mothership, sort, process, or discard CDQ or PSQ species before the total 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.

(e) [Reserved]

(f) *IFQ fisheries.* (1) Fail to submit, or submit inaccurate information on, any report, application, or statement required under this part.

(2) Intentionally submit false information on any report, application, or statement required under this part.

(3)(i) *Halibut.* Retain halibut caught with fixed gear without a valid IFQ or CDQ permit and without an IFQ or CDQ card in the name of an individual aboard.

(ii) *Sablefish.* Retain sablefish caught with fixed gear without a valid IFQ permit and without an IFQ card in the name of an individual aboard, 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 card holders aboard the vessel, unless the vessel has an observer aboard under subpart E of this part and maintains the applicable daily fishing log prescribed in the annual management measures published in the Federal Register pursuant to §300.62 of 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 or CDQ card.* Make an IFQ landing without an IFQ or CDQ card, as appropriate, in the name of the individual making the landing.

(ii) *Hired master, IFQ.* Make an IFQ landing without an IFQ card listing the name of the hired master and the name of the vessel making the landing.

(iii) *Hired master, CDQ halibut.* Make a CDQ halibut landing without a CDQ card 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 card holder aboard holds unused halibut or sablefish IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating, unless:

(i) Discard of halibut is required as prescribed in the annual management measures published in the Federal Register pursuant to §300.62 of chapter III of this title;

(ii) Discard of sablefish is required under §679.20 or, in waters within the State of Alaska, discard of sablefish is required under laws of the State of Alaska; or

(iii) Discard of halibut or sablefish is required under other provisions.

(12) 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) Possess processed and unprocessed IFQ species on board a vessel during the same trip except when fishing exclusively with IFQ derived from vessel category A QS;

(14) Violate any other provision under this part.

(15) Process fish on board a vessel on which a person aboard has unused IFQ derived from QS issued to vessel categories B, C, or D, except as provided in §679.42(k) of this part;

(16) Hire a master to fish for IFQ halibut or IFQ sablefish that is derived from QS held by a CQE.

(17) 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)[Reserved]

(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).

[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.

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Last updated: February 19, 2007



Public Law 108–447  
108th Congress

An Act

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2005, and for other purposes.

Dec. 8, 2004  
[H.R. 4818]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Consolidated  
Appropriations  
Act, 2005

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Consolidated Appropriations Act, 2005”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
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DIVISION K—SMALL BUSINESS

1 USC 1 note.

**SEC. 3. REFERENCES.**

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

**SEC. 4. STATEMENT OF APPROPRIATIONS.**

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005.

SEC. 426. (a) WAIVER OF REQUIREMENTS.—Subject to subsection (b), the limitation on the release of funds in section 104(g)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) shall not apply to the Village of Chickasaw Sewer Collection and Treatment System, located in the Village of Chickasaw, Mercer County, Ohio.

(b) APPLICABILITY.—Subsection (a) only applies to the grant that was awarded to the Village of Chickasaw (Ohio Small Cities CDBG Grant # C-W-03-283-1), for the period beginning September 1, 2003, and ending October 31, 2005, and in the amount of \$600,000.

(c) ENVIRONMENTAL REVIEWS.—Notwithstanding the provisions of this section, the Village of Chickasaw must complete all appropriate environment reviews in a timely manner and to the satisfaction of the State of Ohio.

This division may be cited as the “Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2005”.

## DIVISION J—OTHER MATTERS

### TITLE I—MISCELLANEOUS PROVISIONS AND OFFSETS

SEC. 101. For an additional amount for the Department of Energy for the weatherization assistance program pursuant to 42 U.S.C. 6861 et seq. and notwithstanding section 3003(d)(2) of Public Law 99-509, \$230,000,000, to remain available until expended.

SEC. 102. Section 1201(a) of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375) is amended by striking “\$300,000,000” in the matter preceding paragraph (1) and inserting “\$500,000,000”.

SEC. 103. (a) The District of Columbia Appropriations Act, 2005 (Public Law 108-335) is amended as follows:

(1) The paragraph under the heading “CAPITAL OUTLAY” is amended by striking “For construction projects, an increase of \$1,087,649,000, of which \$839,898,000 shall be from local funds, \$38,542,000 from Highway Trust funds, \$37,000,000 from the Rights-of-way funds, \$172,209,000 from Federal grant funds, and a rescission of \$361,763,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of \$725,886,000, to remain available until expended;” and inserting “For construction projects, an increase of \$1,102,039,000, of which \$839,898,000 shall be from local funds, \$38,542,000 from Highway Trust funds, \$51,390,000 from the Rights-of-way funds, \$172,209,000 from Federal grant funds, and a rescission of \$361,763,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of \$740,276,000, to remain available until expended;”.

(2) Section 340(a) is amended to read as follows:

“(a) Section 603(e)(3)(E) of the Student Loan Marketing Association Reorganization Act of 1996 (20 U.S.C. 1155(e)(3)(E)) is amended—

“(1) by striking ‘and’ at the end of subclause (II);

“(2) by striking the period at the end of subclause (III) and inserting ‘; and’; and

“(3) by adding at the end the following new subclause:

Miscellaneous  
Appropriations  
and Offsets Act,  
2005.

*Ante*, p. 2077.

*Ante*, p. 1338.

*Ante*, p. 1348.

“(IV) obtaining lease guarantees (in accordance with regulations promulgated by the Office of Public Charter School Financing).”.

*Ante*, p. 1348.

(3) Section 342 is amended to read as follows:

“SEC. 342. PUBLIC SCHOOL SERVICES TO CHARTER SCHOOLS. Section 2209(b) of the District of Columbia School Reform Act of 1995 (sec. 38-1802.09(b), D.C. Official Code) is amended as follows:

“(1) In paragraph (1)—

“(A) by amending subparagraph (A) to read as follows:

“(A) IN GENERAL.—Notwithstanding any other provision of law, regulation, or order relating to the disposition of a facility or property described in subparagraph (B), the Mayor and the District of Columbia government shall give a right of first offer with respect to any facility or property described in subparagraph (B) not previously purchased, leased, or transferred, or under contract to be purchased, leased, or transferred, or the subject of a previously proposed resolution submitted by the Mayor on or before December 1, 2004, to the Council of the District of Columbia seeking authority for disposition of such facility or property, or under an Exclusive Rights Agreement executed on or before December 1, 2004, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), or a Board of Trustees, with respect to the purchase, lease, transfer, or use of a facility or property described in subparagraph (B).”;

“(B) by amending subparagraph (B)(iii) to read as follows:

“(iii) with respect to which—

“(I) the Board of Education has transferred jurisdiction to the Mayor and over which the Mayor has jurisdiction on the effective date of this subclause; or

“(II) over which the Mayor or any successor agency gains jurisdiction after the effective date of this subclause.”; and

“(C) by adding at the end the following new subparagraph:

“(C) TERMS OF PURCHASE OR LEASE.—The terms of purchase or lease of a facility or property described in subparagraph (B) shall—

“(i) be negotiated by the Mayor in accordance with written rules or regulations as determined by the Mayor, and published in the District of Columbia Register;

“(ii) include rent or an acquisition price, as applicable, that is at the appraised value of the property based on use of the property for school purposes; and

“(iii) include a lease period, if the property is to be leased, of not less than 25 years, and renewable for additional 25-year periods as long as the eligible applicant or Board of Trustees maintains its charter.”.

“(2) In paragraph (2)(A), by striking ‘first preference’ and inserting ‘a right of first offer’.

“(3) By adding at the end the following new paragraph:

“(3) CONVERSION PUBLIC CHARTER SCHOOLS.—Any District of Columbia public school that was approved to become a conversion public charter school under section 2201 before the effective date of this subsection or is approved to become a conversion public charter school after the effective date of this subsection, shall have the right to exclusively occupy the facilities the school occupied as a District of Columbia public school under a lease for a period of not less than 25 years, renewable for additional 25-year periods as long as the school maintains its charter at the appraised value of the property based on use of the property for school purposes.’”.

(4) Section 347 is amended by striking paragraphs (1) and (2) and inserting the following: *Ante*, p. 1352.

“(1) by striking subsection (f) and inserting the following:

“(f) AUDIT.—The Board shall maintain its accounts according to Generally Accepted Accounting Principles. The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General. The findings and recommendations of any such audit shall be forwarded to the Mayor, the Council of the District of Columbia, and the Office of the Chief Financial Officer of the District of Columbia.’; and

“(2) by adding at the end the following new subsection:

“(h) CONTRACTING AND PROCUREMENT.—The Board shall have the authority to solicit, award, and execute contracts independently of the Office of Contracting and Procurement and the Chief Procurement Officer.’”.

(b) The amendments made by this section shall take effect as if included in the enactment of the District of Columbia Appropriations Act, 2005. *Effective date.*  
20 USC 1155  
note.

SEC. 104. The Secretary of the Department of Homeland Security shall transfer up to \$40,000,000 from funds appropriated to the Coast Guard’s “Acquisition, Construction, and Improvements” account in fiscal year 2005 from the Rescue 21 project to the HH-65 re-engining project, subject to 15-day advance notification to the House and Senate Committees on Appropriations.

SEC. 105. Section 203(m) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5133(m)) is amended by striking “December 31, 2004” and inserting “December 31, 2005”. *42 USC 5133.*

SEC. 106. Notwithstanding the amounts in the detailed funding table included in House Report 108-774, the appropriation for “Transportation Security Administration, Maritime and Land Security” shall include the following: “Credentialing, \$5,000,000; TWIC, \$15,000,000; Hazardous materials truck tracking, \$2,000,000; Hazardous materials safety, \$17,000,000; Enterprise staffing, \$24,000,000; Rail security, \$12,000,000; Offsetting collections, —\$27,000,000”.

SEC. 107. The matter under the heading “Military Construction, Navy and Marine Corps” in the Military Construction Appropriations Act, 2005 (division A of Public Law 108-324), is amended by striking “\$1,069,947,000” and inserting “\$1,065,597,000” and the matter under the heading “Military Construction, Naval Reserve” in such Act is amended by striking “\$44,246,000” and inserting “\$48,596,000”. *Ante*, p. 1221.  
*Ante*, p. 1222.

SEC. 108. Notwithstanding any other provision of law, in addition to amounts otherwise made available in the Department of Defense Appropriations Act, 2005 (Public Law 108-287), an additional \$2,000,000 is hereby appropriated and shall be made available under the heading “Shipbuilding and Conversion, Navy”, only for the Secretary of the Navy for the purpose of acquiring a vessel with the Coast Guard registration number 225115: *Provided*, That the Secretary of the Navy shall provide for the transportation of the vessel from its present location: *Provided further*, That the Secretary of the Navy may lend, give, or otherwise dispose of the vessel at his election pursuant to 10 U.S.C. 2572, 7545, or 7306, or using such procedures as the Secretary deems appropriate, and to such recipient as the Secretary deems appropriate, without regard to these provisions.

**SEC. 109. DESIGNATION OF NATIONAL TREE.**

(a) DESIGNATION.—Chapter 3 of title 36, United States Code, is amended by adding at the end the following:

**“§ 305. National tree**

“The tree genus *Quercus*, commonly known as the oak tree, is the national tree.”.

(b) CONFORMING AMENDMENTS.—Such title is amended—

(1) in the table of contents for part A of subtitle I, by striking “, **and March**” and inserting “**March, and Tree**”;

(2) in the chapter heading for chapter 3, by striking “, **AND MARCH**” and inserting “**MARCH, AND TREE**”; and

(3) in the table of sections for chapter 3, by adding at the end the following:

“305. National tree.”.

SEC. 110. Section 204(g) of the Employee Retirement Income Security Act of 1974, as amended (29 U.S.C. 1054(g)) shall not apply at any time, whether before or after the enactment of this section, to an amendment adopted prior to June 7, 2004, by a (multiemployer) pension plan covering primarily employees working in the State of Alaska, to the extent that such amendment—

(1) provides for the suspension of the payment of benefits, modifies the conditions under which the payment of benefits is suspended, or suspends actuarial adjustments in benefit payments in accordance with section 203(a)(3)(B) of said Act (29 U.S.C. 1053(a)(3)(B)) and applicable regulations; and

(2) applies to participants who have not retired before the adoption of such amendment.

SEC. 111. (a) The head of each Federal agency or department shall—

(1) provide each new employee of the agency or department with educational and training materials concerning the United States Constitution as part of the orientation materials provided to the new employee; and

(2) provide educational and training materials concerning the United States Constitution to each employee of the agency or department on September 17 of each year.

(b) Each educational institution that receives Federal funds for a fiscal year shall hold an educational program on the United States Constitution on September 17 of such year for the students served by the educational institution.

(c) Title 36 of the United States Code, is amended—

Government  
employees.  
36 USC 106 note.

(1) in section 106—

(A) in the heading, by inserting “Constitution Day and” before “Citizenship Day”;

(B) in subsection (a), by striking “is Citizenship Day.” and inserting “is designated as Constitution Day and Citizenship Day.”;

(C) in subsection (b)—

(i) by inserting “Constitution Day and” before “Citizenship Day”;

(ii) by striking “commemorates” and inserting “commemorate”; and

(iii) by striking “recognizes” and inserting “recognize”;

(D) in subsection (c), by inserting “Constitution Day and” before “Citizenship Day” both places such term appears; and

(E) in subsection (d), by inserting “Constitution Day and” before “Citizenship Day”; and

(2) in the item relating to section 106 of the table of contents, by inserting “Constitution Day and” before “Citizenship Day”.

(d) This section shall be without fiscal year limitation.

SEC. 112. (a) Notwithstanding any other provision of law or any contract: (1) the rates in effect on November 15, 2004, under the tariff (the “tariff”) required by FCC 94-116 (reduced three percent annually starting January 1, 2006) shall apply beginning 45 days after the date of enactment of this Act through December 31, 2009, to the sale and purchase of interstate switched wholesale service elements offered by any provider originating or terminating anywhere in the area (the “market”) described in section 4.7 of the tariff (collectively the “covered services”); (2) beginning April 1, 2005, through December 31, 2009, no provider of covered services may provide, and no purchaser of such services may obtain, covered services in the same contract with services other than those that originate or terminate in the market, if the covered services in the contract represent more than 5 percent of such contract’s total value; and (3) revenues collected hereunder (less costs) for calendar years 2005 through 2009 shall be used to support and expand the network in the market.

Applicability.  
Deadline.

(b) Effective on the date of enactment of this Act: (1) the conditions described in FCC 95-334 and the related conditions imposed in FCC 94-116, FCC 95-427, and FCC 96-485; and (2) all pending proceedings relating to the tariff, shall terminate. Thereafter, the State regulatory commission with jurisdiction over the market shall treat all interexchange carriers serving the market the same with respect to the provision of intrastate services, with the goal of reducing regulation, and shall not require such carriers to file reports based on the Uniform System of Accounts.

Effective date.

(c) Any provider may file to enforce this section (including damages and injunctive relief) before the FCC (whose final order may be appealed under 47 U.S.C. 402(a)) or under 47 U.S.C. 207 if the FCC fails to issue a final order within 90 days of a filing. Nothing herein shall affect rate integration, carrier-of-last-resort obligations of any carrier or its successor, or the purchase of covered services by any rural telephone company (as defined in 47 U.S.C. 153(37)), or an affiliate under its control, for its provision of retail interstate interexchange services originating in the market.

# Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006

## Public Law 109-479

### 109th Congress (2nd Session)

The following are excerpts, **highlighted in red**, from the final legislation and/or conference report which contain references to and studies for The National Academies. (Pound signs [##] between passages denote the deletion of unrelated text.)

HR5946 Pombo (R.-Calif.) 12/09/06  
Enrolled (finally passed both houses)

To amend the Magnuson-Stevens Fishery Conservation and Management Act to authorize activities to promote improved monitoring and compliance for high seas fisheries, or fisheries governed by international fishery management agreements, and for other purposes.

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### **SEC. 113. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.**

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is amended by adding at the end the following:

#### **“SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.**

“(a) IN GENERAL.—When there is a catastrophic regional fishery disaster the Secretary may, upon the request of, and in consultation with, the Governors of affected States, establish a regional economic transition program to provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.

“(b) PROGRAM COMPONENTS.—

“(1) IN GENERAL.—Subject to the availability of appropriations, the program shall provide funds or other economic assistance to affected entities, or to governmental entities for disbursement to affected entities, for—

“(A) meeting immediate regional shoreside fishery infrastructure needs, including processing facilities, cold storage facilities, ice houses, docks, including temporary docks and storage facilities, and other related shoreside fishery support facilities and infrastructure while ensuring that those projects will not result in an increase or replacement of fishing capacity;

“(B) financial assistance and job training assistance for fishermen who wish to remain in a fishery in the region that may be temporarily closed as a result of environmental or other effects associated with the disaster;

“(C) funding, pursuant to the requirements of section 312(b), to fishermen who are willing to scrap a fishing vessel and permanently surrender permits for fisheries named on that vessel; and

“(D) any other activities authorized under section 312 of this Act or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).

“(2) JOB TRAINING.—Any fisherman who decides to scrap a fishing vessel under the program shall be eligible for job training assistance.

“(3) STATE PARTICIPATION OBLIGATION.—The participation by a State in the program shall be conditioned upon a commitment by the appropriate State entity to ensure that the relevant State fishery meets the requirements of section 312(b) of this Act to ensure excess capacity does not re-enter the fishery.

“(4) NO MATCHING REQUIRED.—The Secretary may waive the matching requirements of section 312 of this Act, section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107), and any other provision of law under which the Federal share of the cost of any activity is limited to less than 100 percent if the Secretary determines that—

“(A) no reasonable means are available through which applicants can meet the matching requirement; and



“(B) the probable benefit of 100 percent Federal financing outweighs the public interest in imposition of the matching requirement.

“(5) NET REVENUE LIMIT INAPPLICABLE.—Section 308(d)(3) of the Interjurisdictional Fisheries Act (16 U.S.C. 4107(d)(3)) shall not apply to assistance under this section.

“(c) REGIONAL IMPACT EVALUATION.—Within 2 months after a catastrophic regional fishery disaster the Secretary shall provide the Governor of each State participating in the program a comprehensive economic and socio-economic evaluation of the affected region’s fisheries to assist the Governor in assessing the current and future economic viability of affected fisheries, including the economic impact of foreign fish imports and the direct, indirect, or environmental impact of the disaster on the fishery and coastal communities.

“(d) CATASTROPHIC REGIONAL FISHERY DISASTER DEFINED.—In this section the term ‘catastrophic regional fishery disaster’ means a natural disaster, including a hurricane or tsunami, or a regulatory closure (including regulatory closures resulting from judicial action) to protect human health or the marine environment, that—

“(1) results in economic losses to coastal or fishing communities;

“(2) affects more than 1 State or a major fishery managed by a Council or interstate fishery commission; and

“(3) is determined by the Secretary to be a commercial fishery failure under section 312(a) of this Act or a fishery resource disaster or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).”.

(b) SALMON PLAN AND STUDY.—

(1) RECOVERY PLAN.—Not later than 6 months after the date of enactment of this Act, the Secretary of Commerce shall complete a recovery plan for Klamath River Coho salmon and make it available to the public.

(2) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, and annually thereafter, the Secretary of Commerce shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on—

(A) the actions taken under the recovery plan and other law relating to recovery of Klamath River Coho salmon, and how those actions are specifically contributing to its recovery;

(B) the progress made on the restoration of salmon spawning habitat, including water conditions as they relate to salmon health and recovery, with emphasis on the Klamath River and its tributaries below Iron Gate Dam;

(C) the status of other Klamath River anadromous fish populations, particularly Chinook salmon; and

(D) the actions taken by the Secretary to address the calendar year 2003 National Research Council recommendations regarding monitoring and research on Klamath River Basin salmon stocks.

(c) OREGON AND CALIFORNIA SALMON FISHERY.—Federally recognized Indian tribes and small businesses, including fishermen, fish processors, and related businesses serving the fishing industry, adversely affected by Federal closures and fishing restrictions in the Oregon and California 2006 fall Chinook salmon fishery are eligible to receive direct assistance under section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) and section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)). The Secretary may use no more than 4 percent of any monetary assistance to pay for administrative costs.

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## **SEC. 201. RECREATIONAL FISHERIES INFORMATION.**

Section 401 (16 U.S.C. 1881) is amended by striking subsection (g) and inserting the following:

“(g) RECREATIONAL FISHERIES.—

“(1) FEDERAL PROGRAM.—The Secretary shall establish and implement a regionally based registry program for recreational fishermen in each of the 8 fishery management regions. The program, which shall not require a fee before January 1, 2011, shall provide for—

“(A) the registration (including identification and contact information) of individuals who engage in recreational fishing—

“(i) in the Exclusive Economic Zone;

“(ii) for anadromous species; or

“(iii) for Continental Shelf fishery resources beyond the Exclusive Economic Zone; and

“(B) if appropriate, the registration (including the ownership, operator, and identification of the vessel) of vessels used in such fishing.

“(2) STATE PROGRAMS.—The Secretary shall exempt from registration under the program recreational fishermen and charter fishing vessels licensed, permitted, or registered under the laws of a State if the Secretary determines that information from the State program is suitable for the Secretary’s use or is used to assist in completing marine recreational fisheries statistical surveys, or evaluating the effects of proposed conservation and management measures for marine recreational fisheries.

“(3) DATA COLLECTION.—

“(A) IMPROVEMENT OF THE MARINE RECREATIONAL FISHERY STATISTICS SURVEY.—Within 24 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with representatives of the recreational fishing industry and experts in statistics, technology, and other appropriate fields, shall establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving acceptable accuracy and utility for each individual fishery.

“(B) NRC REPORT RECOMMENDATIONS.—The program shall take into consideration and, to the extent feasible, implement the recommendations of the National Research Council in its report *Review of Recreational Fisheries Survey Methods (2006)*, including—

“(i) redesigning the Survey to improve the effectiveness and appropriateness of sampling and estimation procedures, its applicability to various kinds of management decisions, and its usefulness for social and economic analyses; and

“(ii) providing for ongoing technical evaluation and modification as needed to meet emerging management needs.

“(C) METHODOLOGY.—Unless the Secretary determines that alternate methods will achieve this goal efficiently and effectively, the program shall, to the extent possible, include—

“(i) an adequate number of intercepts to accurately estimate recreational catch and effort;

“(ii) use of surveys that target anglers registered or licensed at the State or Federal level to collect participation and effort data;

“(iii) collection and analysis of vessel trip report data from charter fishing vessels;

“(iv) development of a weather corrective factor that can be applied to recreational catch and effort estimates; and

“(v) an independent committee composed of recreational fishermen, fishery academics, persons with expertise in assessment and survey design, and other personnel from the National Marine Fisheries Service to evaluate the collection estimates, geographic, and other variables related to intercepts dockside and to identify deficiencies in recreational data collection, and possible correction measures.

“(D) DEADLINE.—The Secretary shall complete the program under this paragraph and implement the improved

Marine Recreational Fishery Statistics Survey not later than January 1, 2009.

“(4) REPORT.—Within 24 months after establishment of the program, the Secretary shall submit a report to Congress that describes the progress made toward achieving the goals and objectives of the program.”.

## **SEC. 212. IMPACT OF TURTLE EXCLUDER DEVICES ON SHRIMPING.**

(a) **IN GENERAL.**—The Undersecretary of Commerce for Oceans and Atmosphere shall execute an agreement with the National Academy of Sciences to conduct, jointly, a multi-year, comprehensive in-water study designed—

- (1) to measure accurately the efforts and effects of shrimp fishery efforts to utilize turtle excluder devices;
- (2) to analyze the impact of those efforts on sea turtle mortality, including interaction between turtles and shrimp trawlers in the inshore, nearshore, and offshore waters of the Gulf of Mexico and similar geographical locations in the waters of the Southeastern United States; and
- (3) to evaluate innovative technologies to increase shrimp retention in turtle excluder devices while ensuring the protection of endangered and threatened sea turtles.

(b) **OBSERVERS.**—In conducting the study, the Undersecretary shall ensure that observers are placed onboard commercial shrimp fishing vessels where appropriate or necessary.

(c) **INTERIM REPORTS.**—During the course of the study and until a final report is submitted to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources, the National Academy of Sciences shall transmit interim reports to the Committees biannually containing a summary of preliminary findings and conclusions from the study.

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## **SEC. 701. STUDY OF THE ACIDIFICATION OF THE OCEANS AND EFFECT ON FISHERIES.**

The Secretary of Commerce shall request the National Research Council to conduct a study of the acidification of the oceans and how this process affects the United States.

## **SEC. 804. TSUNAMI FORECASTING AND WARNING PROGRAM.**

(a) **In General.**—The Administrator, through the National Weather Service and in consultation with other relevant Administration offices, shall operate a program to provide tsunami detection, forecasting, and warnings for the Pacific and Arctic Ocean regions and for the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico region.

(b) **Components.**—The program under this section shall—

- (1) include the tsunami warning centers established under subsection (d);
- (2) utilize and maintain an array of robust tsunami detection technologies;
- (3) maintain detection equipment in operational condition to fulfill the detection, forecasting, and warning requirements of this title;
- (4) provide tsunami forecasting capability based on models and measurements, including tsunami inundation models and maps for use in increasing the preparedness of communities, including through the TsunamiReady program;
- (5) maintain data quality and management systems to support the requirements of the program;

(6) include a cooperative effort among the Administration, the United States Geological Survey, and the National Science Foundation under which the Geological Survey and the National Science Foundation shall provide rapid and reliable seismic information to the Administration from international and domestic seismic networks;

(7) provide a capability for the dissemination of warnings to at-risk States and tsunami communities through rapid and reliable notification to government officials and the public, including utilization of and coordination with existing Federal warning systems, including the National Oceanic and Atmospheric Administration Weather Radio All Hazards Program;

(8) allow, as practicable, for integration of tsunami detection technologies with other environmental observing technologies; and

(9) include any technology the Administrator considers appropriate to fulfill the objectives of the program under this section.

(c) System Areas.—The program under this section shall operate—

(1) a Pacific tsunami warning system capable of forecasting tsunami anywhere in the Pacific and Arctic Ocean regions and providing adequate warnings; and

(2) an Atlantic Ocean, Caribbean Sea, and Gulf of Mexico tsunami warning system capable of forecasting tsunami and providing adequate warnings in areas of the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico that are determined—

(A) to be geologically active, or to have significant potential for geological activity; and

(B) to pose significant risks of tsunami for States along the coastal areas of the Atlantic Ocean, Caribbean Sea, or Gulf of Mexico.

(d) Tsunami Warning Centers.—

(1) IN GENERAL.—The Administrator, through the National Weather Service, shall maintain or establish—

(A) a Pacific Tsunami Warning Center in Hawaii;

(B) a West Coast and Alaska Tsunami Warning Center in Alaska; and

(C) any additional forecast and warning centers determined by the National Weather Service to be necessary.

(2) RESPONSIBILITIES.—The responsibilities of each tsunami warning center shall include—

(A) continuously monitoring data from seismological, deep ocean, and tidal monitoring stations;

(B) evaluating earthquakes that have the potential to generate tsunami;

(C) evaluating deep ocean buoy data and tidal monitoring stations for indications of tsunami resulting from earthquakes and other sources;

(D) disseminating forecasts and tsunami warning bulletins to Federal, State, and local government officials and the public;

(E) coordinating with the tsunami hazard mitigation program described in section 805 to ensure ongoing sharing of information between forecasters and emergency management officials; and

(F) making data gathered under this title and post-warning analyses conducted by the National Weather Service or other relevant Administration offices available to researchers.

(e) Transfer of Technology; Maintenance and Upgrades.—

(1) IN GENERAL.—In carrying out this section, the National Weather Service, in consultation with other relevant Administration offices, shall—

(A) develop requirements for the equipment used to forecast tsunamis, which shall include provisions for multipurpose detection platforms, reliability and performance metrics, and to the maximum extent practicable how the equipment will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System;

(B) develop and execute a plan for the transfer of technology from ongoing research described in section 806 into the program under this section; and

(C) ensure that maintaining operational tsunami detection equipment is the highest priority within the program carried out under this title.

(2) REPORT TO CONGRESS.—

(A) Not later than 1 year after the date of enactment of this Act, the National Weather Service, in consultation with other relevant Administration offices, shall transmit to Congress a report on how the tsunami forecast system under this section will be integrated with other United States and global ocean and coastal observation systems, the global earth observing system of systems, global seismic networks, and the Advanced National Seismic System.

(B) Not later than 3 years after the date of enactment of this Act, the National Weather Service, in consultation with other relevant Administration offices, shall transmit a report to Congress on how technology developed under section 806 is being transferred into the program under this section.

(f) Federal Cooperation.—When deploying and maintaining tsunami detection technologies, the Administrator shall seek the assistance and assets of other appropriate Federal agencies.

(g) Annual Equipment Certification.—At the same time Congress receives the budget justification documents in support of the President's annual budget request for each fiscal year, the Administrator shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives a certification that—

(1) identifies the tsunami detection equipment deployed pursuant to this title, as of December 31 of the preceding calendar year;

(2) certifies which equipment is operational as of December 31 of the preceding calendar year;

(3) in the case of any piece of such equipment that is not operational as of such date, identifies that equipment and describes the mitigation strategy that is in place—

(A) to repair or replace that piece of equipment within a reasonable period of time; or

(B) to otherwise ensure adequate tsunami detection coverage;

(4) identifies any equipment that is being developed or constructed to carry out this title but which has not yet been deployed, if the Administration has entered into a contract for that equipment prior to December 31 of the preceding calendar year, and provides a schedule for the deployment of that equipment; and

(5) certifies that the Administrator expects the equipment described in paragraph (4) to meet the requirements, cost, and schedule provided in that contract.

(h) Congressional Notifications.—The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives within 30 days of—

(1) impaired regional forecasting capabilities due to equipment or system failures; and

(2) significant contractor failures or delays in completing work associated with the tsunami forecasting and warning system.

(i) Report.—Not later than January 31, 2010, the Comptroller General of the United States shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives that—

(1) evaluates the current status of the tsunami detection, forecasting, and warning system and the tsunami hazard mitigation program established under this title, including progress toward tsunami inundation mapping of all coastal areas vulnerable to tsunami and whether there has been any degradation of services as a result of the expansion of the program;

(2) evaluates the National Weather Service's ability to achieve continued improvements in the delivery of tsunami detection, forecasting, and warning services by assessing policies and plans for the evolution of modernization systems, models, and computational abilities (including the adoption of new technologies); and

(3) lists the contributions of funding or other resources to the program by other Federal agencies, particularly agencies participating in the program.

(j) External Review.—The Administrator shall enter into an arrangement with the National Academy of Sciences to review the tsunami detection, forecast, and warning program established under this title to assess further modernization and coverage needs, as well as long-term operational reliability issues, taking into account measures implemented under this title. The review shall also include an assessment of how well the forecast equipment has been integrated into other United States and global ocean and coastal observation systems and the global earth observing system of systems. Not later than 2 years after the date of enactment of this Act, the Administrator shall transmit a report containing the National Academy of Sciences' recommendations, the Administrator's responses to the recommendations, including those where the Administrator disagrees with the Academy, a timetable to implement the accepted recommendations, and the cost of implementing all the Academy's recommendations, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science of the House of Representatives.

(k) Report.—Not later than 3 months after the date of enactment of this Act, the Administrator shall establish a process for monitoring and certifying contractor performance in carrying out the requirements of any contract to construct or deploy tsunami detection equipment, including procedures and penalties to be imposed in cases of significant contractor failure or negligence.

COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2006

[[Page 120 STAT. 516]]

Public Law 109-241 109th Congress

An Act

To authorize appropriations for the Coast Guard for fiscal year 2006, to make technical corrections to various laws administered by the Coast Guard, and for other purposes. <<NOTE: July 11, 2006 - [H.R. 889] >>

Be it enacted by the Senate and House of Representatives of the United States of America in Congress <<NOTE: Coast Guard and Maritime Transportation Act of 2006. 14 USC 1 note.>> assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Coast Guard and Maritime Transportation Act of 2006''.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I--AUTHORIZATION

- Sec. 101. Authorization of appropriations.
- Sec. 102. Authorized levels of military strength and training.
- Sec. 103. Supplemental authorization of appropriations.
- Sec. 104. Web-based risk management data system.

TITLE II--COAST GUARD

- Sec. 201. Extension of Coast Guard vessel anchorage and movement authority.
- Sec. 202. International training and technical assistance.
- Sec. 203. Officer promotion.
- Sec. 204. Coast Guard band director.
- Sec. 205. Authority for one-step turnkey design-build contracting.
- Sec. 206. Reserve recall authority.
- Sec. 207. Reserve officer distribution.
- Sec. 208. Expansion of use of auxiliary equipment to support Coast Guard missions.
- Sec. 209. Coast Guard history fellowships.
- Sec. 210. Icebreakers.
- Sec. 211. Operation as a service in the Navy.
- Sec. 212. Limitation on moving assets to St. Elizabeth's Hospital.
- Sec. 213. Cooperative agreements.
- Sec. 214. Biodiesel feasibility study.
- Sec. 215. Boating safety director.
- Sec. 216. Hangar at Coast Guard Air Station Barbers Point.
- Sec. 217. Promotion of Coast Guard officers.
- Sec. 218. Redesignation of Coast Guard law specialists as judge advocates.

TITLE III--SHIPPING AND NAVIGATION

- Sec. 301. Treatment of ferries as passenger vessels.
- Sec. 302. Great Lakes pilotage annual ratemaking.
- Sec. 303. Certification of vessel nationality in drug smuggling cases.
- Sec. 304. LNG tankers.
- Sec. 305. Use of maritime safety and security teams.
- Sec. 306. Enhanced civil penalties for violations of provisions enacted by the Coast Guard and Maritime Transportation Act of 2004.

- Sec. 307. Training of cadets at United States Merchant Marine Academy.
  - Sec. 308. Reports from mortgagees of vessels.
  - Sec. 309. Determination of the Secretary.
  - Sec. 310. Setting, relocating, and recovering anchors.
  - Sec. 311. International tonnage measurement of vessels engaged in the Aleutian trade. Sec. 312.
- Riding gangs.

TITLE IV--MISCELLANEOUS

- Sec. 401. Authorization of junior reserve officers training program pilot program.
- Sec. 402. Transfer.
- Sec. 403. LORAN-C.
- Sec. 404. Long-range vessel tracking system.
- Sec. 405. Marine vessel and cold water safety education.
- Sec. 406. Reports.
- Sec. 407. Conveyance of decommissioned Coast Guard Cutter MACKINAW.
- Sec. 408. Deepwater reports.
- Sec. 409. Helicopters.
- Sec. 410. Newtown Creek, New York City, New York.
- Sec. 411. Report on technology.
- Sec. 412. Assessment and planning.
- Sec. 413. Homeport.
- Sec. 414. Navigational safety of certain facilities.
- Sec. 415. Port Richmond.
- Sec. 416. Western Alaska community development quota program.
- Sec. 417. Quota share allocation.
- Sec. 418. Maine fish tender vessels.
- Sec. 419. Automatic identification system.
- Sec. 420. Voyage data recorder study and report.
- Sec. 421. Distant water tuna fleet.

TITLE V--LIGHTHOUSES

- Sec. 501. Transfer.
- Sec. 502. Misty Fiords National Monument and Wilderness.
- Sec. 503. Miscellaneous Light Stations.
- Sec. 504. Inclusion of lighthouse in St. Marks National Wildlife Refuge, Florida.

TITLE VI--DELAWARE RIVER PROTECTION AND MISCELLANEOUS OIL PROVISIONS

- Sec. 601. Short title.
- Sec. 602. Requirement to notify Coast Guard of release of objects into the navigable waters of the United States.
- Sec. 603. Limits on liability.
- Sec. 604. Requirement to update Philadelphia Area Contingency Plan.
- Sec. 605. Submerged oil removal.
- Sec. 606. Assessment of oil spill costs.
- Sec. 607. Delaware River and Bay Oil Spill Advisory Committee.
- Sec. 608. Nontank vessels.

TITLE VII--HURRICANE RESPONSE

- Sec. 701. Homeowners assistance for Coast Guard personnel affected by Hurricanes Katrina or Rita.
- Sec. 702. Temporary authorization to extend the duration of licenses, certificates of registry, and merchant mariners' documents. Sec. 703. Temporary authorization to extend the duration of vessel certificates of inspection.
- Sec. 704. Preservation of leave lost due to Hurricane Katrina operations.
- Sec. 705. Reports on impact to Coast Guard.
- Sec. 706. Reports on impacts on navigable waterways.

TITLE VIII--OCEAN COMMISSION RECOMMENDATIONS

- Sec. 801. Implementation of international agreements.
- Sec. 802. Voluntary measures for reducing pollution from recreational boats.
- Sec. 803. Integration of vessel monitoring system data.
- Sec. 804. Foreign fishing incursions.



TITLE IX--TECHNICAL CORRECTIONS

Sec. 901. Miscellaneous technical corrections.

Sec. 902. Correction of references to Secretary of Transportation and Department of Transportation; related matters.

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TITLE I--AUTHORIZATION SEC. 101.

AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2006 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, \$5,633,900,000, of which \$24,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)).

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$1,903,821,000, of which--

(A) \$20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, to remain available until expended;

(B) \$1,316,300,000 is authorized for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater Systems; and

(C) \$284,369,000 is authorized for sustainment of legacy vessels and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater Systems.

(3) To the Commandant of the Coast Guard for research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, \$24,000,000, to remain available until expended, of which \$3,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$1,014,080,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, \$38,400,000.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operation and maintenance), \$12,000,000, to remain available until expended.

(7) For the Coast Guard Reserve program, including personnel and training costs, equipment, and services, \$119,000,000.

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SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.

(a) Active-Duty Strength.--The Coast Guard is authorized an end-of-year strength for active-duty personnel of 45,500 for the fiscal year ending on September 30, 2006.

(b) Military Training Student Loads.--For fiscal year 2006, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,500 student years.

(2) For flight training, 125 student years.

(3) For professional training in military and civilian institutions, 350 student years.

(4) For officer acquisition, 1,200 student years.

SEC. 103. SUPPLEMENTAL AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization of Appropriations.--In addition to amounts provided to the Coast Guard from another Federal agency for reimbursement of expenditures for Hurricane Katrina, there are authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating the following amounts for

nonreimbursed expenditures:

(1) For the operation and maintenance of the Coast Guard in responding to Hurricane Katrina, including search and rescue efforts, clearing channels, and emergency response to oil and chemical spills, and for increased costs of operation and maintenance of the Coast Guard due to higher than expected fuel costs, \$300,000,000.

(2) For the acquisition, construction, renovation, and improvement of aids to navigation, shore and offshore facilities, and vessels and aircraft, including equipment related thereto, related to damage caused by Hurricane Katrina, \$200,000,000.

(b) Construction With Other Funding.--The amounts authorized to be appropriated by subsection (a) are in addition to any other amounts authorized to be appropriated to the Secretary of the department in which the Coast Guard is operating under any other provision of law.

(c) Availability.--The amounts made available under subsection (a) shall remain available until expended.

#### SEC. 104. WEB-BASED RISK MANAGEMENT DATA SYSTEM.

There is authorized to be appropriated for each of fiscal years 2006 and 2007 to the Secretary of the department in which the Coast Guard is operating \$1,000,000 to continue deployment of a World Wide Web-based risk management system to help reduce accidents and fatalities.

### TITLE II--COAST GUARD

#### SEC. 201. EXTENSION OF COAST GUARD VESSEL ANCHORAGE AND MOVEMENT AUTHORITY.

Section 91 of title 14, United States Code, is amended by adding at the end the following new subsection:

``(d) As used in this section `navigable waters of the United States' includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988 . ''.

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#### SEC. 202. INTERNATIONAL TRAINING AND TECHNICAL ASSISTANCE.

(a) In General.--Section 149 of title 14, United States Code, is amended--

(1) by amending the section heading to read as follows:

``Sec. 149. Assistance to foreign governments and maritime authorities '';

(2) by inserting before the undesignated text the following:

``(a) Detail of Members to Assist Foreign Governments.-- ''; and

(3) by adding at the end the following new subsection:

``(b) Technical Assistance to Foreign Maritime Authorities.--The Commandant, in coordination with the Secretary of State, may provide, in conjunction with regular Coast Guard operations, technical assistance (including law enforcement and maritime safety and security training) to foreign navies, coast guards, and other maritime authorities. ''.

(b) Clerical Amendment.--The item relating to such section in the analysis at the beginning of chapter 7 of such title is amended to read as follows:

``149. Assistance to foreign governments and maritime authorities ''. SEC. 203. OFFICER

PROMOTION.

Section 257 of title 14, United States Code, is amended by adding at the end the following new subsection:

``(f) The Secretary may waive subsection (a) to the extent necessary to allow officers described therein to have at least two opportunities for consideration for promotion to the next higher grade as officers below the promotion zone.''. ''.

#### SEC. 204. COAST GUARD BAND DIRECTOR.

(a) Band Director Appointment and Grade.--Section 336 of title 14, United States Code, is amended--

(1) in subsection (b)--

(A) by striking the first sentence and inserting the following:

``The Secretary may designate as the director any individual determined by the Secretary to possess the necessary qualifications.''; and

(B) in the second sentence, by striking ``a member so designated '' and inserting ``an individual so designated'';

- (2) in subsection (c)--
  - (A) by striking ``of a member '' and inserting ``of an individual ''; and
  - (B) by striking ``of lieutenant (junior grade) or lieutenant '' and inserting ``determined by the Secretary to be most appropriate to the qualifications and experience of the appointed individual '';
- (3) in subsection (d) by striking ``A member '' and inserting ``An individual''; and
- (4) in subsection (e)--
  - (A) by striking ``When a member's designation is revoked, '' and inserting ``When an individual's designation is revoked, '';
  - (B) by striking ``option: '' and inserting ``option--''.

(b) <<NOTE: 14 USC 336 note.>> Current Director.--The individual serving as Coast Guard band director on the date of enactment of this Act may be immediately promoted to a commissioned grade, not to exceed captain,

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determined by the Secretary of the department in which the Coast Guard is operating to be most appropriate to the qualifications and experience of that individual.

#### SEC. 205. AUTHORITY FOR ONE-STEP TURNKEY DESIGN-BUILD CONTRACTING.

(a) In General.--Chapter 17 of title 14, United States Code, is amended by adding at the end the following new section:

##### ``Sec. 677. Turnkey selection procedures

``(a) Authority to Use.--The Secretary may use one-step turnkey selection procedures for the purpose of entering into contracts for construction projects.

``(b) Definitions.--In this section, the following definitions apply:

``(1) The term `one-step turnkey selection procedures' means procedures used for the selection of a contractor on the basis of price and other evaluation criteria to perform, in accordance with the provisions of a firm fixed-price contract, both the design and construction of a facility using performance specifications supplied by the Secretary.

``(2) The term `construction' includes the construction, procurement, development, conversion, or extension of any facility.

``(3) The term `facility' means a building, structure, or other improvement to real property. ''.

(b) Clerical Amendment.--The analysis at the beginning of such chapter is amended by inserting after the item relating to section 676 the following:

``677. Turnkey selection procedures''. SEC. 206.

#### RESERVE RECALL AUTHORITY.

Section 712 of title 14, United States Code, is amended--

(1) in subsection (a) by striking ``during a'' and inserting ``during a, or to aid in prevention of an imminent, '';

(2) in subsection (a) by striking ``or catastrophe, '' and inserting ``catastrophe, act of terrorism (as defined in section 2(15) of the Homeland Security Act of 2002 (6 U.S.C. 101(15))), or transportation security incident as defined in section 70101 of title 46, '';

(3) in subsection (a) by striking ``thirty days in any fourmonth period '' and inserting ``60 days in any 4-month period '';

(4) in subsection (a) by striking ``sixty days in any twoyear period '' and inserting ``120 days in any 2-year period '';

(5) by adding at the end the following:

``(e) For purposes of calculating the duration of active duty allowed pursuant to subsection (a), each period of active duty shall begin on the first day that a member reports to active duty, including for purposes of training.''. ''.

#### SEC. 207. RESERVE OFFICER DISTRIBUTION.

Section 724 of title 14, United States Code, is amended--

(1) in subsection (a) by inserting after the first sentence the following: ``Reserve officers on an active-duty list shall not be counted as part of the authorized number of officers in the Reserve. ''; and

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(2) in subsection (b) by striking all that precedes paragraph (2) and inserting the following:

``(b)(1) <<NOTE: Computation.>> The Secretary shall make, at least once each year, a computation to determine the number of Reserve officers in an active status authorized to be serving in each grade. The number in each grade shall be computed by applying the applicable percentage to the total number of such officers serving in an active status on the date the computation is made. The number of Reserve officers in an active status below the grade of rear admiral (lower half) shall be distributed by pay grade so as not to exceed percentages of commissioned officers authorized by section 42(b) of this title. When the actual number of Reserve officers in an active status in a particular pay grade is less than the maximum percentage authorized, the difference may be applied to the number in the next lower grade. A Reserve officer may not be reduced in rank or grade solely because of a reduction in an authorized number as provided for in this subsection, or because an excess results directly from the operation of law.''

SEC. 208. EXPANSION OF USE OF AUXILIARY EQUIPMENT TO SUPPORT COAST GUARD MISSIONS.

(a) Use of Motorized Vehicles.--Section 826 of title 14, United States Code, is amended--

(1) by inserting before the undesignated text the following:

``(a) Motor Boats, Yachts, Aircraft, and Radio Stations.-- '' and

(2) by adding at the end the following new subsection:

``(b) Motor Vehicles.--The Coast Guard may utilize to carry out its functions and duties as authorized by the Secretary any motor vehicle (as defined in section 154 of title 23, United States Code) placed at its disposition by any member of the Auxiliary, by any corporation, partnership, or association, or by any State or political subdivision thereof, to tow Federal Government property. ''

(b) Appropriations for Facilities.--Section 830(a) of such title is amended by striking ``or radio station '' each place it appears and inserting ``radio station, or motorized vehicle utilized under section 826 (b) ''.

SEC. 209. COAST GUARD HISTORY FELLOWSHIPS.

(a) Fellowships Authorized.--Chapter 9 of title 14, United States Code, is amended by adding at the end the following:

``Sec. 198. Coast Guard history fellowships

``(a) Fellowships.--The Commandant of the Coast Guard may prescribe regulations under which the Commandant may award fellowships in Coast Guard history to individuals who are eligible under subsection (b).

``(b) Eligible Individuals.--An individual shall be eligible under this subsection if the individual is a citizen or national of the United States and--

``(1) is a graduate student in United States history;

``(2) has completed all requirements for a doctoral degree other than preparation of a dissertation; and

``(3) agrees to prepare a dissertation in a subject area of Coast Guard history determined by the Commandant.

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``(c) Limitations.--The Commandant may award up to 2 fellowships annually. The Commandant may not award any fellowship under this section that exceeds \$25,000 in any year.

``(d) Regulations.--The regulations prescribed under this section shall include--

``(1) the criteria for award of fellowships;

``(2) the procedures for selecting recipients of fellowships;

``(3) the basis for determining the amount of a fellowship; and

``(4) subject to the availability of appropriations, the total amount that may be awarded as fellowships during an academic year. ''

(b) Clerical Amendment.--The analysis at the beginning of such chapter is amended by adding at the end the following:

``198. Coast Guard history fellowships ''.

SEC. 210. <<NOTE: 14 USC 93 note.>> ICEBREAKERS.

(a) Operation and Maintenance Plan.--Not <<NOTE: Deadline.>> later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a plan--

(1) for operation and maintenance after fiscal year 2006 of the Coast Guard polar icebreakers POLAR STAR, POLAR SEA, and HEALY, that does not rely on the transfer of funds to the Coast Guard by any other Federal agency; and

(2) for the long-term recapitalization of these assets.

(b) Necessary Measures.--The Secretary shall take all necessary measures to ensure that the Coast Guard maintains, at a minimum, its current vessel capacity for carrying out ice breaking in the Arctic and Antarctic, Great Lakes, and New England regions, including the necessary funding for operation and maintenance of such vessels, until it has implemented the long-term recapitalization of the Coast Guard polar icebreakers POLAR STAR, POLAR SEA, and HEALY in accordance with the plan submitted under subsection (a).

(c) Reimbursement.--Nothing in this section shall preclude the Secretary from seeking reimbursement for operation and maintenance costs of such polar icebreakers from other Federal agencies and entities, including foreign countries, that benefit from the use of the icebreakers.

(d) Authorization of Appropriations.--There is authorized to be appropriated for fiscal year 2006 to the Secretary of the department in which the Coast Guard is operating \$100,000,000 to carry out this section with respect to the polar icebreakers referred to in subsection (a).

#### SEC. 211. OPERATION AS A SERVICE IN THE NAVY.

Section 3 of title 14, United States Code, is amended by inserting ``if Congress so directs in the declaration '' after ``Upon the declaration of war ''.

#### SEC. 212. LIMITATION ON MOVING ASSETS TO ST. ELIZABETH'S HOSPITAL.

The Commandant of the Coast Guard may not move any Coast Guard personnel, property, or other assets to the West Campus

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of St. Elizabeth's Hospital until the Administrator of General Services submits to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate a plan--

- (1) to provide road access to the site from Interstate Route 295;
- (2) for the design of facilities for at least one Federal agency other than the Coast Guard that would house no fewer than 2,000 employees at such location;
- (3) to provide transportation of employees and visitors to and from sites in the District of Columbia metropolitan area that are located within close proximity to St. Elizabeth's Hospital;
- (4) for the construction, facade, and layout of the proposed structures, including security considerations, parking facilities, medical facilities, dining facilities, and physical exercise facilities on the West Campus;
- (5) that analyzes the costs of building restrictions, planning considerations, and permitting requirements of constructing new facilities on or near historic landmarks and historic buildings (especially those known to possess medical waste, lead paint, and asbestos);
- (6) that analyzes the feasibility of relocating Coast Guard Headquarters--
  - (A) to the Department of Transportation Headquarters located at L'Enfant Plaza;
  - (B) to the Waterfront Mall Complex in Southwest District of Columbia; and
  - (C) to 3 alternative sites requiring either new construction or leasing of current facilities (other than those referred to in subparagraphs (A) and (B)) within the District of Columbia metropolitan area that accommodate the Coast Guard's minimum square footage requirements; and
- (7) that analyzes how a potential move to the West Campus of St. Elizabeth's Hospital would impact--
  - (A) the Coast Guard's ability to access and cooperatively work with the Department of Homeland Security and the other Federal agencies of the Department; and
  - (B) plans under consideration for relocating all or parts of the headquarters of the Department of Homeland Security and other offices of the Department.

#### SEC. 213. COOPERATIVE AGREEMENTS.

Not <<NOTE: Deadline. Reports.>> later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall provide a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on opportunities for cost savings and operational efficiencies that can be achieved through and the feasibility of collocating Coast Guard assets and personnel at facilities of other armed forces throughout the United States. The report shall--

- (1) identify opportunities for cooperative agreements with respect to siting of assets or operations that may be established between the Coast Guard and any of the other armed forces; and [[Page 120

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(2) analyze anticipated costs and benefits, and operational impacts associated with each site and such agreements.

SEC. 214. BIODIESEL FEASIBILITY STUDY.

(a) Study.--The Secretary of the department in which the Coast Guard is operating shall conduct a study that examines the technical feasibility, costs, and potential cost savings of using biodiesel fuel in new and existing Coast Guard vehicles and vessels and that focuses on the use of biodiesel fuel in ports which have a high density of vessel traffic, including ports for which vessel traffic systems have been established.

(b) Report.--Not later than one year after the date of enactment of this Act, the Secretary shall submit a report containing the findings, conclusions, and recommendations (if any) from the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 215. BOATING SAFETY DIRECTOR.

(a) In General.--Subchapter A of chapter 11 of title 14, United States Code, is amended by adding at the end the following:

``Sec. 216. Director of Boating Safety Office

``The initial appointment of the Director of the Boating Safety Office shall be in the grade of Captain. ''.

(b) Clerical Amendment.--The analysis for such chapter is amended by inserting after the item relating to section 215 the following:

``216. Director of Boating Safety Office ''.

SEC. 216. <<NOTE: Hawaii. Deadline.>> HANGAR AT COAST GUARD AIR STATION BARBERS POINT.

Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a proposal and cost analysis for constructing an enclosed hangar at Air Station Barbers Point, Hawaii. The proposal should ensure that the hangar has the capacity to shelter current aircraft assets and those projected to be located at the station over the next 20 years.

SEC. 217. PROMOTION OF COAST GUARD OFFICERS.

(a) In General.--Section 211(a) of title 14, United States Code, is amended to read as follows:

``(a)(1) The President may appoint permanent commissioned officers in the Regular Coast Guard in grades appropriate to their qualification, experience, and length of service, as the needs of the Coast Guard may require, from among the following categories:

``(A) Graduates of the Coast Guard Academy.

``(B) Commissioned warrant officers, warrant officers, and enlisted members of the Regular Coast Guard.

``(C) Members of the Coast Guard Reserve who have served at least 2 years as such.

``(D) Licensed officers of the United States merchant marine who have served 2 or more years aboard a vessel of the United States in the capacity of a licensed officer.

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``(2) <<NOTE: President. Congress.>> Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate.

``(3) Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone.''

(b) Wartime Temporary Service Promotion.--Section 275(f) of such title is amended by striking the second and third sentences and inserting ``Original appointments under this section in the grades of lieutenant commander and above shall be made by the President by and with the advice and consent of the Senate. Original appointments under this section in the grades of ensign through lieutenant shall be made by the President alone. ''.

SEC. 218. REDESIGNATION OF COAST GUARD LAW SPECIALISTS AS JUDGE ADVOCATES.

(a) Definitions in Title 10.--Section 801 of title 10, United States Code, is amended--

(1) by striking paragraph (11); and

(2) in paragraph (13) by striking subparagraph (C) and inserting the following:

``(C) a commissioned officer of the Coast Guard designated for special duty (law).''.

(b) Conforming Amendments.--

(1) Title 14.--Section 727 of title 14, United States Code, is amended by striking ``law specialist '' and inserting ``judge advocate''.

(2) Social security act.--Section 465(a)(2) of the Social Security Act (42 U.S.C. 665(a)(2)) is amended by striking ``law specialist '' and inserting ``judge advocate ''.

TITLE III--SHIPPING AND NAVIGATION SEC. 301.

TREATMENT OF FERRIES AS PASSENGER VESSELS.

(a) Ferry Defined.--Section 2101 of title 46, United States Code, is amended by inserting after paragraph (10a) the following:

``(10b) `ferry' means a vessel that is used on a regular schedule--

``(A) to provide transportation only between places that are not more than 300 miles apart; and

``(B) to transport only--

``(i) passengers; or

``(ii) vehicles, or railroad cars, that are being used, or have been used, in transporting passengers or goods.''.

(b) Passenger Vessels That Are Ferries.--Section 2101(22) of title 46, United States Code, is amended--

(1) by striking ``or '' at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting ``; or ''; and

(3) by adding at the end the following:

``(D) that is a ferry carrying a passenger.''.

(c) Small Passenger Vessels That Are Ferries.--Section 2101(35) of title 46, United States Code, is amended--

(1) by striking ``or '' at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting ``; or ''; and

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(3) by adding at the end the following:

``(E) that is a ferry carrying more than 6 passengers.''.

SEC. 302. GREAT LAKES PILOTAGE ANNUAL RATEMAKING.

Section 9303 of title 46, United States Code, is amended--

(1) in subsection (f) by inserting at the end the following: ``The <<NOTE: Deadlines.>> Secretary shall establish new pilotage rates by March 1 of each year. The Secretary shall establish base pilotage rates by a full ratemaking at least once every 5 years and shall conduct annual reviews of such base pilotage rates, and make adjustments to such base rates, in each intervening year.''; and

(2) by adding at the end the following:

``(g) The Secretary shall ensure that a sufficient number of individuals are assigned to carrying out subsection (f).''.

SEC. 303. CERTIFICATION OF VESSEL NATIONALITY IN DRUG SMUGGLING CASES.

Section 3(c)(2) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)(2)) is amended by striking the last two sentences and inserting the following: ``The response of a foreign nation to a claim of registry under subparagraph (A) or (C) may be made by radio, telephone, or similar oral or electronic means, and is conclusively proved by certification of the Secretary of State or the Secretary's designee . ''.

SEC. 304. LNG TANKERS.

(a) <<NOTE: 33 USC 1503 note.>> Program.--The Secretary of Transportation shall develop and implement a program to promote the transportation of liquefied natural gas to the United States on United States flag vessels.

(b) Amendment to Deepwater Port Act.--Section 4 of the Deepwater Port Act of 1974 (33 U.S.C. 1503) is amended by adding at the end the following:

``(i) To promote the security of the United States, the Secretary shall give top priority to the processing of a license under this Act for liquefied natural gas facilities that will be supplied with liquefied natural gas by United States flag vessels.''.

(c) Public Notice of LNG Vessel's Registry and Crew.--

(1) Plan submitted with application for deepwater port license.--Section 5(c)(2) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)(2)) is amended--  
(A) by redesignating subparagraphs (K) and (L) as subparagraphs (L) and (M), respectively; and  
(B) by inserting after subparagraph (J) the following:  
``(K) the nation of registry for, and the nationality or citizenship of officers and crew serving on board, vessels transporting natural gas that are reasonably anticipated to be servicing the deepwater port; ''.

(2) <<NOTE: 33 USC 1504 note.>> Information to be provided.--When the Coast Guard is operating as a contributing agency in the Federal Energy Regulatory Commission's shoreside licensing process for a liquefied natural gas or liquefied petroleum gas terminal located on shore or within State seaward boundaries, the Coast Guard shall provide to the Commission the information described in section 5(c)(2)(K) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)(2)(K)) with respect to vessels reasonably anticipated to be servicing that port.

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(d) Report.--Not <<NOTE: Deadline.>> later than 6 months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report on the implementation of this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### SEC. 305. USE OF MARITIME SAFETY AND SECURITY TEAMS.

Section 70106(b)(8) of title 46, United States Code, is amended by striking ``other security missions'' and inserting ``any other missions of the Coast Guard ''.

#### SEC. 306. ENHANCED CIVIL PENALTIES FOR VIOLATIONS OF PROVISIONS ENACTED BY THE COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2004.

(a) Continuing Violations.--The section enumerated 70119 of title 46, United States Code, as redesignated and transferred by section 802(a)(1) of the Coast Guard and Maritime Transportation Security Act of 2004 (118 Stat. 1078), relating to civil penalty, is amended--

- (1) by inserting ``(a) In General.-- '' before ``Any '';
- (2) by striking ``violation.'' and inserting ``day during which the violation continues. ''; and
- (3) by adding at the end the following:

``(b) Continuing Violations.--The maximum amount of a civil penalty for a violation under this section shall not exceed \$50,000.''

(b) Application of Civil Penalty Procedures.--Section 2107 of title 46, United States Code, is amended by striking ``this subtitle '' each place it appears and inserting ``this subtitle or subtitle VII''.

#### SEC. 307. TRAINING OF CADETS AT UNITED STATES MERCHANT MARINE ACADEMY.

Section 1303(f) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295b(f)) is amended--

- (1) by striking ``and '' at the end of paragraph (2);
- (2) by striking the period at the end of paragraph (3) and inserting ``; and ''; and
- (3) by adding at the end the following:  
``(4) on any other vessel considered by the Secretary to be necessary or appropriate or in the national interest. ''.

#### SEC. 308. REPORTS FROM MORTGAGEES OF VESSELS.

Section 12120 of title 46, United States Code, is amended by striking ``owners, masters, and charterers'' and inserting ``owners, masters, charterers, and mortgagees ''.

#### SEC. 309. DETERMINATION OF THE SECRETARY.

Section 70105(c) of title 46, United States Code, is amended--

- (1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and
- (2) by inserting after paragraph (2) the following: ``(3) Denial of waiver review.--

``(A) In general.--The Secretary shall establish a review process before an administrative law judge for individuals denied a waiver under paragraph (2).

``(B) Scope of review.--In conducting a review under the process established pursuant to subparagraph (A), the



administrative law judge shall be governed by the standards of section 706 of title

5. <<NOTE: Applicability.>> The substantial evidence standard in section 706(2)(E) of title 5 shall apply whether or not there has been an agency hearing. The judge shall review all facts on the record of the agency.

``(C) Classified evidence.--

The <<NOTE: Regulations. Procedures.>> Secretary, in consultation with the National Intelligence Director, shall issue regulations to establish procedures by which the Secretary, as part of a review conducted under this paragraph, may provide to the individual adversely affected by the determination an unclassified summary of classified evidence upon which the denial of a waiver by the Secretary was based.

``(D) Review of classified evidence by administrative law judge.--

``(i) Review.--As part of a review conducted under this section, if the decision of the Secretary was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)), such information may be submitted by the Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge ex parte and in camera.

``(ii) Security clearances.--Pursuant to existing procedures and requirements, the Secretary, in coordination (as necessary) with the heads of other affected departments or agencies, shall ensure that administrative law judges reviewing negative waiver decisions of the Secretary under this paragraph possess security clearances appropriate for such review.

``(iii) Unclassified summaries of classified evidence.--As part of a review conducted under this paragraph and upon the request of the individual adversely affected by the decision of the Secretary not to grant a waiver, the Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under clause (i), an unclassified summary of any classified information upon which the decision of the Secretary was based.

``(E) New evidence.--The Secretary shall establish a process under which an individual may submit a new request for a waiver, notwithstanding confirmation by the administrative law judge of the Secretary's initial denial of the waiver, if the request is supported by substantial evidence that was not available to the Secretary at the time the initial waiver request was denied. ''.

SEC. 310. SETTING, RELOCATING, AND RECOVERING ANCHORS.

Section 12105 of title 46, United States Code, is amended by adding at the end the following:

``(c)(1) Only a vessel for which a certificate of documentation with a registry endorsement is issued may engage in--

``(A) the setting, relocation, or recovery of the anchors or other mooring equipment of a mobile offshore drilling unit that is located over the outer Continental Shelf (as defined

in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))); or

``(B) the transportation of merchandise or personnel to or from a point in the United States from or to a mobile offshore drilling unit located over the outer Continental Shelf that is not attached to the seabed.

``(2) Nothing in paragraph (1) authorizes the employment in the coastwise trade of a vessel that does not meet the requirements of section 12106 of this title. ''.

SEC. 311. INTERNATIONAL TONNAGE MEASUREMENT OF VESSELS ENGAGED IN THE ALEUTIAN TRADE.

(a) General Inspection Exemption.--Section 3302(c)(2) of title 46, United States Code, is amended to read as follows:

``(2) Except as provided in paragraphs (3) and (4) of this subsection, the following fish tender vessels are exempt from section 3301(1), (6), (7), (11), and (12) of this title:

``(A) A vessel of not more than 500 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this

title as prescribed by the Secretary under section 14104 of this title.

``(B) A vessel engaged in the Aleutian trade that is not more than 2,500 gross tons as measured under section 14302 of this title . ''.

(b) Other Inspection Exemption and Watch Requirement.--Paragraphs (3)(B) and (4) of section 3302(c) of title 46, United States Code, and section 8104(o) of that title are each amended by striking ``or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title '' and inserting ``or less than 500 gross tons as measured under section 14502 of this title, or is less than 2,500 gross tons as measured under section 14302 of this title ''.

#### SEC. 312. RIDING GANGS.

(a) In General.--Chapter 81 of title 46, United States Code, is amended by adding at the end the following:

``Sec. 8106. Riding gangs

``(a) In General.--The owner or managing operator of a freight vessel of the United States on voyages covered by the International Convention for Safety of Life at Sea, 1974 (32 UST 47m) shall--

``(1) ensure that--

``(A) subject to subsection (d), each riding gang member on the vessel--

``(i) is a United States citizen or an alien lawfully admitted to the United States for permanent residence; or

``(ii) possesses a United States nonimmigrant visa for individuals desiring to enter the United States temporarily for business, employment-related and personal identifying information, and any other documentation required by the Secretary;

``(B) all required documentation for such member is kept on the vessel and available for inspection by the Secretary; and

``(C) each riding gang member is identified on the vessel's crew list;

``(2) ensure that--

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``(A) the owner or managing operator attests in a certificate that the background of each riding gang member has been examined and found to be free of any credible information indicating a material risk to the security of the vessel, the vessel's cargo, the ports the vessel visits, or other individuals onboard the vessel;

``(B) the background check consisted of a search of all information reasonably available to the owner or managing operator in the riding gang member's country of citizenship and any other country in which the riding gang member works, receives employment referrals, or resides;

``(C) the certificate required under subparagraph (A) is kept on the vessel and available for inspection by the Secretary; and

``(D) the information derived from any such background check is made available to the Secretary upon request;

``(3) ensure that each riding gang member, while on board the vessel, is subject to the same random chemical testing and reporting regimes as crew members;

``(4) ensure that each such riding gang member receives basic safety familiarization and basic safety training approved by the Coast Guard as satisfying the requirements for such training under the International Convention of Training, Certification, and Watchkeeping for Seafarers, 1978;

``(5) prevent from boarding the vessel, or cause the removal from the vessel at the first available port, and disqualify from future service on board any other vessel owned or operated by that owner or operator, any riding gang member--

``(A) who has been convicted in any jurisdiction of an offense described in paragraph (2) or (3) of section 7703;

``(B) whose license, certificate of registry, or merchant mariner's document has been suspended or revoked under section 7704; or

``(C) who otherwise constitutes a threat to the safety of the vessel;

``(6) ensure and certify to the Secretary that the sum of--

``(A) the number of riding gang members on board a freight vessel, and

``(B) the number of individuals in addition to crew permitted under section 3304,

does not exceed 12;

``(7) ensure that every riding gang member is employed on board the vessel under conditions that meet or exceed the minimum international standards of all applicable international labor conventions to which the United States is a party,

including all of the merchant seamen protection and relief provided under United States law; and

``(8) ensure that each riding gang member--

``(A) is supervised by an individual who holds a license issued under chapter 71; and

``(B) only performs work in conjunction with individuals who hold merchant mariners documents issued under chapter 73 and who are part of the vessel's crew.

``(b) Permitted Work.--Subject to subsection (f), a riding gang member on board a vessel to which subsection (a) applies who is neither a United States citizen nor an alien lawfully admitted

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to the United States for permanent residence may not perform any work on board the vessel other than--

``(1) work in preparation of a vessel entering a shipyard located outside of the United States;

``(2) completion of the residual repairs after departing a shipyard located outside of the United States; or

``(3) technical in-voyage repairs, in excess of any repairs that can be performed by the vessel's crew, in order to advance the vessel's useful life without having to actually enter a shipyard.

``(c) Workday Limit.--

``(1) In general.--The maximum number of days in any calendar year that the owner or operator of a vessel to which subsection (a) applies may employ on board riding gang members who are neither United States citizens nor aliens lawfully admitted to the United States for permanent residence for work on board that vessel is 60 days. If the vessel is at sea on the 60th day, each riding gang member shall be discharged from the vessel at the next port of call reached by the vessel after the date on which the 60-workday limit is reached.

``(2) Calculation.--For the purpose of calculating the 60-workday limit under this subsection, each day worked by a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence shall be counted against the limitation.

``(d) Exceptions for Warranty Work.--

``(1) In general.--Subsections (b), (c), (e), and (f) do not apply to a riding gang member employed exclusively to perform, and who performs only, work that is--

``(A) customarily performed by original equipment manufacturers' technical representatives;

``(B) required by a manufacturer's warranty on specific machinery and equipment; or

``(C) required by a contractual guarantee or warranty on actual repairs performed in a shipyard located outside of the United States.

``(2) Citizenship requirement.--

Subsection <<NOTE: Applicability.>> (a)(1)(A) applies only to a riding gang member described in paragraph (1) who is on the vessel when it calls at a United States port.

``(e) Recordkeeping.--In addition to the requirements of subsection (a), the owner or managing operator of a vessel to which subsection (a) applies shall ensure that all information necessary to ensure compliance with this section, as determined by the Secretary, is entered into the vessel's official logbook required by chapter 113.

``(f) Failure to Employ Qualified Available U.S. Citizens or Residents.--

``(1) In general.--The owner or operator of a vessel to which subsection (a) applies may not employ a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence to perform work described in subsection (b) unless the owner or operator determines, in accordance with procedures established by the Secretary to carry out section 8103(b)(3)(C), that there is not a sufficient number of United States citizens or

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individuals lawfully admitted to the United States for permanent residence who are qualified and available for the work for which the riding gang member is to be employed.

``(2) Civil penalty.--A violation of paragraph (1) is punishable by a civil penalty of not more than \$10,000 for each day during which the violation continues.

``(3) Continuing violations.--The maximum amount of a civil penalty for a violation under this subsection shall not exceed--

``(A) \$50,000 if the violation occurs in fiscal year 2006;

``(B) \$75,000 if the violation occurs in fiscal year 2007; and

``(C) \$100,000 if the violation occurs after fiscal year 2007.  
``(4) Determination of amount.--In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, the history of prior offenses, the ability to pay, and such other matters as justice may require.  
``(5) Compromise, modification, and remittal.--The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.''.  
(b) Riding Gang Member Defined.--Section 2101 of such title is amended by inserting after paragraph (26) the following:

``(26a) `riding gang member' means an individual who--  
``(A) has not been issued a merchant mariner document under chapter 73;  
``(B) does not perform--  
``(i) watchstanding, automated engine room duty watch, or personnel safety functions; or  
``(ii) cargo handling functions, including any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go;  
``(C) does not serve as part of the crew complement required under section 8101;  
``(D) is not a member of the steward's department; and  
``(E) is not a citizen or temporary or permanent resident of a country designated by the United States as a sponsor of terrorism or any other country that the Secretary, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States.''.  
(c) Conforming Amendments.--  
(1) Citizenship requirement.--Section 8103 of such title is amended by adding at the end the following:

``(j) Riding Gang Member.--This section does not apply to an individual who is a riding gang member. ''.  
(2) Application of chapter 103.--Section 10301(b) of such title is amended by striking `voyage.' and inserting `voyage or to riding gang members.''.  
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(d) Clerical Amendment.--The analysis for chapter 81 of such title is amended by adding at the end the following:

``8106. Riding gangs ''.

#### TITLE IV--MISCELLANEOUS

##### SEC. 401. AUTHORIZATION OF JUNIOR RESERVE OFFICERS TRAINING PROGRAM PILOT PROGRAM.

(a) In General.--The Secretary of the department in which the Coast Guard is operating may carry out a pilot program to establish and maintain a junior reserve officers training program in cooperation with the Camden County High School in Camden County, North Carolina.

(b) Program Requirements.--The pilot program carried out by the Secretary under this section shall provide to students at Camden County High School--  
(1) instruction in subject areas relating to operations of the Coast Guard; and  
(2) training in skills which are useful and appropriate for a career in the Coast Guard.

(c) Provision of Additional Support.--To carry out the pilot program under this section, the Secretary may provide to Camden County High School--  
(1) assistance in course development, instruction, and other support activities; and  
(2) necessary and appropriate course materials, equipment, and uniforms.

(d) Employment of Retired Coast Guard Personnel.--  
(1) In general.--Subject to paragraph (2) of this subsection, the Secretary may authorize the Camden County High School to employ, as administrators and instructors for the pilot program, retired Coast Guard and Coast Guard Reserve commissioned, warrant, and petty officers not on active duty who request that employment and who are approved by the Secretary and Camden County High School.  
(2) Authorized pay.--

(A) In general.--Retired members employed under paragraph (1) of this subsection are entitled to receive their retired or retainer pay and an additional amount of not more than the difference between--

(i) the amount the individual would be paid as pay and allowance if the individual was considered to have been ordered to active duty during the period of employment; and

(ii) the amount of retired pay the individual is entitled to receive during that period.

(B) Payment to school.--The Secretary shall pay to Camden County High School an amount equal to one half of the amount described in subparagraph (A), from funds appropriated for such purpose.

(C) Not duty or duty training.--Notwithstanding any other law, while employed under this subsection, an individual is not considered to be on active-duty or inactive-duty training.

[[Page 120 STAT. 535]] SEC. 402.

TRANSFER.

Section 602 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1050) is amended--

(1) in subsection (b)(2) by striking ``to be conveyed '' and all that follows through the period and inserting ``to be conveyed to CAS Foundation, Inc. (a nonprofit corporation under the laws of the State of Indiana). ''; and

(2) in subsection (c)(1)(A) by inserting ``or, in the case of the vessel described in subsection (b)(2) only, for humanitarian purposes'' before the semicolon at the end.

SEC. 403. LORAN-C.

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN-C system, for capital expenses related to LORAN-C navigation infrastructure, \$25,000,000 for fiscal year 2006 and \$25,000,000 for fiscal year 2007. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

SEC. 404. <<NOTE: 46 USC 70115 note.>> LONG-RANGE VESSEL TRACKING SYSTEM.

(a) Pilot Project.--The Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, shall conduct a 3-year pilot program for long-range tracking of up to 2,000 vessels using satellite systems with a nonprofit maritime organization that has a demonstrated capability of operating a variety of satellite communications systems providing data to vessel tracking software and hardware that provides long-range vessel information to the Coast Guard to aid maritime security and response to maritime emergencies.

(b) Authorization of Appropriations.--There is authorized to be appropriated to the Secretary \$4,000,000 for each of fiscal years 2006, 2007, and 2008 to carry out subsection (a).

SEC. 405. <<NOTE: 14 USC 93 note.>> MARINE VESSEL AND COLD WATER SAFETY EDUCATION.

The Coast Guard shall continue cooperative agreements and partnerships with organizations in effect on the date of enactment of this Act that provide marine vessel safety training and cold water immersion education and outreach programs for fishermen and children.

SEC. 406. REPORTS.

(a) Adequacy of Assets.--

(1) Review.--The Commandant of the Coast Guard shall review the adequacy of assets and facilities described in subsection (b) to carry out the Coast Guard's missions, including search and rescue, illegal drug and migrant interdiction, aids to navigation, ports, waterways and coastal security, marine environmental protection, and fisheries law enforcement.

(2) Report.--Not later than 180 days after the date of enactment of this Act, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes the findings of the review and any recommendations to enhance

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mission capabilities in those areas referred to in paragraph (1) .

(b) Areas of Review.--The report under subsection (a) shall provide information and recommendations on the following assets:

- (1) Coast Guard vessels and aircraft stationed in the Commonwealth of Puerto Rico.
- (2) Coast Guard vessels and aircraft stationed in the State of Louisiana along the Lower Mississippi River between the Port of New Orleans and the Red River.
- (3) Coast Guard vessels and aircraft stationed in Coast Guard Sector Delaware Bay.
- (4) Physical infrastructure at Boat Station Cape May in the State of New Jersey.

(c) Adequacy of Active-Duty Strength.--

- (1) Review.--The Commandant of the Coast Guard shall review the adequacy of the strength of active-duty personnel authorized under section 102(a) of this Act to carry out the Coast Guard's missions, including search and rescue, illegal drug and migrant interdiction, aids to navigation, ports, waterways, and coastal security, marine environmental protection, and fisheries law enforcement.
- (2) Report.--Not later than 180 days after the date of enactment of this Act, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes the findings of the review.

SEC. 407. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTER MACKINAW.

(a) In General.--Upon <<NOTE: Icebreaker Mackinaw Maritime Museum, Inc.>> the scheduled decommissioning of the Coast Guard Cutter MACKINAW, the Commandant of the Coast Guard shall convey without consideration all right, title, and interest of the United States in and to that vessel to the Icebreaker Mackinaw Maritime Museum, Inc., located in the State of Michigan if--

- (1) the recipient agrees--
  - (A) to use the vessel for purposes of a museum;
  - (B) not to use the vessel for commercial transportation purposes;
  - (C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and
  - (D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from the use by the Government under subparagraph (C);
- (2) the recipient has funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment, and in an amount of at least \$700,000; and
- (3) the recipient agrees to any other conditions the Commandant considers appropriate.

(b) Maintenance and Delivery of Vessel.--[[Page 120

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- (1) Maintenance.--Before conveyance of the vessel under this section, the Commandant shall make, to the extent practical and subject to other Coast Guard mission requirements, every effort to maintain the integrity of the vessel and its equipment until the time of delivery.
- (2) Delivery.--If a conveyance is made under this section, the Commandant shall deliver the vessel to a suitable mooring in the local area, in its present condition, no sooner than June 15, 2006, and not later than 30 days after the date on which the vessel is decommissioned.
- (3) Treatment of conveyance.--The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94-469 (15 U.S.C. 2605(e)).

(c) Other Excess Equipment.--The Commandant may convey to the recipient any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function for purposes of a museum.

SEC. 408. <<NOTE: 14 USC 663 note.>> DEEPWATER REPORTS.

(a) Annual Deepwater Implementation Report.--Not later than 30 days after the date of enactment of this Act and in conjunction with the transmittal by the President of the budget of the United States for each fiscal year thereafter, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the implementation of the Integrated Deepwater Systems Program, as revised in 2005 (in this section referred to as the ``Deepwater program ''), that includes--

- (1) a justification for how the projected number and capabilities of each Deepwater program asset meets the revised mission needs statement delivered as

part of the Deepwater program and the performance goals of the Coast Guard;

(2) a projection of the remaining operational lifespan of each legacy asset;

(3) an identification of any changes to the Deepwater program, including--

(A) any changes to the timeline for the acquisition of each new asset and the phase out of legacy assets for the life of the Deepwater program; and

(B) any changes to the costs for that fiscal year or future fiscal years or the total costs of the Deepwater program, including the costs of new and legacy assets;

(4) a justification for how any change to the Deepwater program fulfills the mission needs statement for the Deepwater program and performance goals of the Coast Guard;

(5) an identification of how funds in that fiscal year's budget request will be allocated, including information on the purchase of specific assets;

(6) a detailed explanation of how the costs of the legacy assets are being accounted for within the Deepwater program;

(7) a description of how the Coast Guard is planning for the integration of Deepwater program assets into the Coast Guard, including needs related to shore-based infrastructure and human resources; and

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(8) a description of the competitive process conducted in all contracts and subcontracts exceeding \$2,500,000 awarded under the Deepwater program.

(b) Deepwater Acceleration Report.--Not later than 30 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the acceleration of the current Deepwater program acquisition timeline that reflects completion of the Deepwater program in each of 10 years and 15 years and includes--

(1) a detailed explanation of the number and type of each asset that would be procured for each fiscal year under each accelerated acquisition timeline;

(2) the required funding for such completion under each accelerated acquisition timeline;

(3) anticipated costs associated with legacy asset sustainment for the Deepwater program under each accelerated acquisition timeline;

(4) anticipated mission deficiencies, if any, associated with the continued degradation of legacy assets in combination with the procurement of new assets under each accelerated acquisition timeline; and

(5) an evaluation of the overall feasibility of achieving each accelerated acquisition timeline, including--

(A) contractor capacity;

(B) national shipbuilding capacity;

(C) asset integration into Coast Guard facilities;

(D) required personnel; and

(E) training infrastructure capacity on technology associated with new assets.

(c) Oversight Report.--Not later than 90 days after the date of enactment of this Act, the Commandant of the Coast Guard, in consultation with the Government Accountability Office, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the status of the Coast Guard's implementation of the Government Accountability Office's recommendations in its report, GAO-04-380, entitled ``Coast Guard Deepwater Program Needs Increased Attention to Management and Contractor Oversight'', including the dates by which the Coast Guard plans to complete implementation of such recommendations if any of such recommendations remain open as of the date the report is transmitted to the Committees.

(d) Independent Analysis of Revised Deepwater Plan.--The Secretary may periodically, either through an internal review process or a contract with an outside entity, conduct an analysis of all or part of the Deepwater program and assess whether--

(1) the choice of assets and capabilities selected as part of that program meets the Coast Guard's goals for performance and minimizing total ownership costs; or

(2) additional or different assets should be considered as part of that program.

#### SEC. 409. HELICOPTERS.

(a) Study.--The Secretary of the department in which the Coast Guard is operating shall conduct a study that analyses the

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potential impact on Coast Guard acquisitions of requiring that the Coast Guard acquire only helicopters, or any major component of a helicopter, that are constructed in the United States.

(b) Study Elements.--The study shall include--

- (1) identification of additional costs or added benefits that would result from the additional restrictions described in subsection (a) on acquisitions from nondomestic sources, including major components or subsystems;
- (2) industrial impact on the United States of such additional restrictions on acquisitions from nondomestic sources;
- (3) the contractual impact of such additional restrictions on the Integrated Deepwater Systems Program and its platform elements, including delivery interruptions in the program and the subsequent mission impact of these delays; and
- (4) identification of reasonable executive authorities to waive such additional restrictions that the Secretary considers essential in order to ensure continued mission performance of the United States Coast Guard.

(c) Report.--Not later than one year after the date of enactment of this Act, the Secretary shall submit a report on the results of the study and any recommendations of the Secretary regarding such results to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### SEC. 410. NEWTOWN CREEK, NEW YORK CITY, NEW YORK.

(a) Study.--Of the amounts provided under section 1012 of the Oil Pollution Act of 1990 (33 U.S.C. 2712), the Administrator of the Environmental Protection Agency shall conduct a study of public health and safety concerns related to the pollution of Newtown Creek, New York City, New York, caused by seepage of oil into Newtown Creek from 17,000,000 gallons of underground oil spills in Greenpoint, Brooklyn, New York.

(b) Report.--Not later than one year after the date of enactment of this Act, the Administrator shall submit a report containing the results of the study to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### SEC. 411. REPORT ON TECHNOLOGY.

Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes an assessment of--

- (1) the availability and effectiveness of software information technology systems for port security and the data evaluated, including data that has the ability to identify shippers, inbound vessels, and their cargo for potential threats to national security before it reaches United States ports, specifically the software already tested or being tested at Joint Harbor Operations Centers; and
- (2) the costs associated with implementing such technology at all Sector Command Centers, Joint Harbor Operations Centers, and strategic defense and energy dependent ports.

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#### SEC. 412. ASSESSMENT AND PLANNING.

There is authorized to be appropriated to the Maritime Administration \$400,000 to carry out an assessment of, and planning for, the impact of an Arctic Sea Route on the indigenous people of Alaska.

#### SEC. 413. HOMEPORT.

(a) Study.--The Commandant of the Coast Guard shall conduct a study to assess the current homeport arrangement of the Coast Guard polar icebreaker HEALY to determine whether an alternative arrangement would enhance the Coast Guard's capabilities to carry out the recommendation to maintain dedicated, year-round icebreaker capability for the Arctic that was included in the report prepared by the National Academy of Sciences and entitled: ``Polar Icebreaker Roles and U.S. Future Needs: A Preliminary Assessment (ISBN: 0-309-10069-0) ''.

(b) Report.--Not later than one year after the date of enactment of this Act, the Commandant shall report the findings of the study to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### SEC. 414. NAVIGATIONAL SAFETY OF CERTAIN FACILITIES.



(a) Consideration of Alternatives.--In <<NOTE: Deadline.>> reviewing a lease, easement, or right-of-way for an offshore wind energy facility in Nantucket Sound under section 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)), not later than 60 days before the date established by the Secretary of the Interior for publication of a draft environmental impact statement, the Commandant of the Coast Guard shall specify the reasonable terms and conditions the Commandant determines to be necessary to provide for navigational safety with respect to the proposed lease, easement, or right-of-way and each alternative to the proposed lease, easement, or right-of-way considered by the Secretary.

(b) Inclusion of Necessary Terms and Conditions.--In granting a lease, easement, or right-of-way for an offshore wind energy facility in Nantucket Sound under section 8(p) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(p)), the Secretary shall incorporate in the lease, easement, or right-of-way reasonable terms and conditions the Commandant determines to be necessary to provide for navigational safety.

SEC. 415. <<NOTE: Pennsylvania.>> PORT RICHMOND.

The Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, may not approve a security plan under section 70103(c) of title 46, United States Code, for a liquefied natural gas import facility at Port Richmond in Philadelphia, Pennsylvania, until the Secretary conducts a vulnerability assessment under section 70102(b) of such title.

SEC. 416. WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.

(a) Restatement of Existing Program Incorporating Certain Provisions of Regulations.--Section 305(i) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(i)) is amended by striking paragraph (1) and inserting the following:

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- ``(1) Western alaska community development quota program.--
  - ``(A) In general.--There is established the western Alaska community development quota program in order--
    - ``(i) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the Bering Sea and Aleutian Islands Management Area;
    - ``(ii) to support economic development in western Alaska;
    - ``(iii) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and
    - ``(iv) to achieve sustainable and diversified local economies in western Alaska.
  - ``(B) Program allocation.--
    - ``(i) In general.--Except as provided in clause (ii), the annual percentage of the total allowable catch, guideline harvest level, or other annual catch limit allocated to the program in each directed fishery of the Bering Sea and Aleutian Islands shall be the percentage approved by the Secretary, or established by Federal law, as of March 1, 2006, for the program. The percentage for each fishery shall be either a directed fishing allowance or include both directed fishing and nontarget needs based on existing practice with respect to the program as of March 1, 2006, for each fishery.
      - ``(ii) Exceptions.--Notwithstanding clause (i)--
        - ``(I) the allocation under the program for each directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) shall be a directed fishing allocation of 10 percent upon the establishment of a quota program, fishing cooperative, sector allocation, or other rationalization program in any sector of the fishery; and
        - ``(II) the allocation under the program in any directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) established after the date of enactment of this subclause shall be a directed fishing allocation of 10 percent.
      - ``(iii) Processing and other rights.--Allocations to the program include all processing rights and any other rights and privileges associated with such allocations as of March 1, 2006.
      - ``(iv) Regulation of harvest.--The harvest of allocations under the program for fisheries with individual quotas or fishing cooperatives shall be regulated by the Secretary in a manner no more restrictive than for other participants in the applicable sector, including with respect to the harvest of nontarget species.

``(C) Allocations to entities.--Each entity eligible to participate in the program shall be authorized under the program to harvest annually the same percentage of each species allocated to the program under subparagraph (B) that it was authorized by the Secretary to harvest

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of such species annually as of March 1, 2006, except to the extent that its allocation is adjusted under subparagraph (H). Such allocation shall include all processing rights and any other rights and privileges associated with such allocations as of March 1, 2006.

``(D) Eligible villages.--The following villages shall be eligible to participate in the program through the following entities:

``(i) The villages of Akutan, Atka, False Pass, Nelson Lagoon, Nikolski, and Saint George through the Aleutian Pribilof Island Community Development Association.

``(ii) The villages of Aleknagik, Clark's Point, Dillingham, Egegik, Ekuk, Ekwok, King Salmon/Savonoski, Levelock, Manokotak, Naknek, Pilot Point, Port Heiden, Portage Creek, South Naknek, Togiak, Twin Hills, and Ugashik through the Bristol Bay Economic Development Corporation.

``(iii) The village of Saint Paul through the Central Bering Sea Fishermen's Association.

``(iv) The villages of Chefornak, Chevak, Eek, Goodnews Bay, Hooper Bay, Kipnuk, Kongiganak, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Oscarville, Platinum, Quinhagak, Scammon Bay, Toksook Bay, Tuntutuliak, and Tununak through the Coastal Villages Region Fund.

``(v) The villages of Brevig Mission, Diomede, Elim, Gambell, Golovin, Koyuk, Nome, Saint Michael, Savoonga, Shaktoolik, Stebbins, Teller, Unalakleet, Wales, and White Mountain through the Norton Sound Economic Development Corporation.

``(vi) The villages of Alakanuk, Emmonak, Grayling, Kotlik, Mountain Village, and Nunam Iqua through the Yukon Delta Fisheries Development Association.

``(E) Eligibility requirements for participating entities.--To be eligible to participate in the program, an entity referred to in subparagraph (D) shall meet the following requirements:

``(i) <<NOTE: Establishment.>> Board of directors.--The entity shall be governed by a board of directors. At least 75 percent of the members of the board shall be resident fishermen from the entity's member villages. The board shall include at least one director selected by each such member village.

``(ii) Panel representative.--The entity shall elect a representative to serve on the panel established by subparagraph (G).

``(iii) Other investments.--The entity may make up to 20 percent of its annual investments in any combination of the following:

``(I) For projects that are not fishery-related and that are located in its region.

``(II) On a pooled or joint investment basis with one or more other entities participating in the program for projects that are not fishery-

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related and that are located in one or more of their regions.

``(III) For matching Federal or State grants for projects or programs in its member villages without regard to any limitation on the Federal or State share, or restriction on the source of any non-Federal or non-State matching funds, of any grant program under any other provision of law.

``(iv) Fishery-related investments.--The entity shall make the remainder percent of its annual investments in fisheries-related projects or for other purposes consistent with the practices of the entity prior to March 1, 2006.

``(v) Annual statement of compliance.--Each year the entity, following approval by its board of directors and signed by its chief executive officer, shall submit a written statement to the Secretary and the State of Alaska that summarizes the purposes for which it made investments under clauses (iii) and (iv) during the preceding year.

``(vi) Other panel requirements.--The entity shall comply with any other requirements established by the panel under

subparagraph (G).

``(F) Entity status, limitations, and regulation.--

The entity--

``(i) shall be subject to any excessive share ownership, harvesting, or processing limitations in the fisheries of the Bering Sea and Aleutian Islands Management Area only to the extent of the entity's proportional ownership, excluding any program allocations, and notwithstanding any other provision of law;

``(ii) shall comply with State of Alaska law requiring annual reports to the entity's member villages summarizing financial operations for the previous calendar year, including general and administrative costs and compensation levels of the top 5 highest paid personnel;

``(iii) shall comply with State of Alaska laws to prevent fraud that are administered by the Alaska Division of Banking and Securities, except that the entity and the State shall keep confidential from public disclosure any information if the disclosure would be harmful to the entity or its investments; and

``(iv) is exempt from compliance with any State law requiring approval of financial transactions, community development plans, or amendments thereto, except as required by

subparagraph (H).

``(G) Administrative panel.--

``(i) Establishment.--There is established a community development quota program panel.

``(ii) Membership.--The panel shall consist of 6 members. Each entity participating in the program shall select one member of the panel.

``(iii) Functions.--The panel shall--

``(I) administer those aspects of the program not otherwise addressed in this paragraph, either through private contractual arrangement or

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through recommendations to the North Pacific Council, the Secretary, or the State of Alaska, as the case may be; and

``(II) coordinate and facilitate activities of the entities under the program.

``(iv) Unanimity required.--The panel may act only by unanimous vote of all 6 members of the panel and may not act if there is a vacancy in the membership of the panel.

``(H) Decennial review and adjustment of entity allocations.--

``(i) In general.--During calendar year 2012 and every 10 years thereafter, the State of Alaska shall evaluate the performance of each entity participating in the program based on the criteria described in clause (ii).

``(ii) Criteria.--The panel shall establish a system to be applied under this subparagraph that allows each entity participating in the program to assign relative values to the following criteria to reflect the particular needs of its villages:

``(I) Changes during the preceding 10-year period in population, poverty level, and economic development in the entity's member villages.

``(II) The overall financial performance of the entity, including fishery and nonfishery investments by the entity.

``(III) Employment, scholarships, and training supported by the entity.

``(IV) Achieving of the goals of the entity's community development plan.

``(iii) Adjustment of allocations.--After the evaluation required by clause (i), the State of Alaska shall make a determination, on the record and after an opportunity for a hearing, with respect to the performance of each entity participating in the program for the criteria described in clause (ii). If the State determines that the entity has maintained or improved its overall performance with respect to the criteria, the allocation to such entity under the program shall be extended by the State for the next 10-year period. If the State determines that the entity has not maintained or improved its overall performance with respect to the criteria--

``(I) at least 90 percent of the entity's allocation for each species

under subparagraph (C) shall be extended by the State for the next 10-year period; and

``(II) the State may determine, or the Secretary may determine (if State law prevents the State from making the determination), and implement an appropriate reduction of up to 10 percent of the entity's allocation for each species under subparagraph (C) for

all or part of such 10-year period.

``(iv) Reallocation of reduced amount.--If the State or the Secretary reduces an entity's allocation

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under clause (iii), the reduction shall be reallocated among other entities participating in the program whose allocations are not reduced during the same period in proportion to each such entity's allocation of the applicable species under subparagraph (C).

``(I) Secretarial approval not required.--Notwithstanding any other provision of law or regulation thereunder, the approval by the Secretary of a community development plan, or an amendment thereof, under the program is not required.

``(J) Community development plan defined.--In this paragraph, the term 'community development plan' means a plan, prepared by an entity referred to in subparagraph (D), for the program that describes how the entity intends--

``(i) to harvest its share of fishery resources allocated to the program, or

``(ii) to use its share of fishery resources allocated to the program, and any revenue derived from such use, to assist its member villages with projects to advance economic development, but does not include a plan that allocates fishery resources to the program. ''.

(b) <<NOTE: 16 USC 1855 note.>> No Interruption of Existing Allocations.--The amendment made by subsection (a) shall not be construed or implemented in a way that causes any interruption in the allocations of fishery resources to the western Alaska community development quota program or in the opportunity of an entity participating in that program to harvest its share of such allocations.

(c) Loan Subsidies.--The last proviso under the heading ``National Oceanic and Atmospheric Administration--operations, research, and facilities '' in the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006 (Public Law 109-108; 119 Stat. 2311-2312) is amended--

(1) by striking ``for the cost of loans '' and inserting ``to subsidize gross obligations for the principal amount of direct loans, not to exceed a total of \$200,000,000, ''; and

(2) by striking ``use '' and inserting ``the purchase of all or part of ownership interests in fishing or processing vessels, shoreside fish processing facilities, permits, quota, and cooperative rights ''.

#### SEC. 417. QUOTA SHARE ALLOCATION.

(a) In General.-- The Secretary of Commerce shall modify the Voluntary Three-Pie Cooperative Program for crab fisheries of the Bering Sea and Aleutian Islands being implemented under section 313(j) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1862(j)) to require that Blue Dutch, LLC, receives processor quota shares units equal to 0.75 percent of the total number of processor quota share units for each of the following fisheries: the Bristol Bay red king crab fishery and the Bering Sea C. opilio crab fishery.

(b) Applicability.--The modification made under subsection (a) shall apply with respect to each fishery referred to in subsection (a) whenever the total allowable catch for that fishery is more than 2 percent higher than the most recent total allowable catch in effect for that fishery prior to September 15, 2005.

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(c) Savings Provision.--Nothing in this section affects the authority of the North Pacific Fishery Management Council to submit, and the Secretary of Commerce to implement, changes to or repeal of conservation and management measures under section 313(j)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1862 (j) (3) ) .

(d) Regulations.--Not <<NOTE: Deadline.>> later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall issue regulations to implement this section.

SEC. 418. MAINE FISH TENDER VESSELS.

The prohibition under section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) against transportation of fish or shellfish between places in the State of Maine by a vessel constructed in Canada shall not apply to a vessel of less than 5 net tons if--

(1) the vessel was engaged in the transportation of fish or shellfish between places in the State of Maine before January 1, 2005;

(2) before January 1, 2005, the owner of the vessel transported fish or shellfish pursuant to a valid wholesale seafood license issued under section 6851 of title 12 of the Maine Revised Statutes;

(3) the vessel is owned by a person that meets the citizenship requirements of section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802); and

(4) <<NOTE: Deadline.>> not later than 180 days after the date of enactment of this Act, the owner of the vessel submits to the Secretary of the department in which the Coast Guard is operating an affidavit certifying that the vessel and owner meet the requirements of this section.

SEC. 419. <<NOTE: Deadlines. Grants.>> AUTOMATIC IDENTIFICATION SYSTEM.

(a) Prevention of Harmful Interference.--Not later than 60 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, may transfer \$1,000,000 to the National Telecommunications and Information Administration of the Department of Commerce for the purposes of awarding, not later than 120 days after such date of enactment, a competitive grant to design and develop a prototype device that integrates a Class B Automatic Identification System transponder (International Electrotechnical Commission standard 62287) with a wireless maritime data device approved by the Federal Communications Commission with channel throughput greater than 19.2 kilobits per second to enable such wireless maritime data device to provide wireless maritime data services, concurrent with the operation of the transponder, on frequency channels adjacent to the frequency channels on which the transponder operates, while minimizing or eliminating the harmful interference between the transponder and such wireless maritime data device. The design of the device developed under this subsection shall be available for public use.

(b) Implementation of AIS.--It is the sense of the Senate, not later than 60 days after the date of enactment of this Act, that the Federal Communications Commission should resolve the disposition of its rulemaking on the Automatic Information System and licensee use of frequency bands 157.1875-157.4375 MHz and 161.7875-162.0375 MHz (RM-10821, WT Docket Number 04-344).

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The implementation of this section shall not delay the implementation of an Automatic Identification System as required by section 70114 of title 46, United States Code, and international convention.

SEC. 420. VOYAGE DATA RECORDER STUDY AND REPORT.

(a) Study.--The Secretary of the department in which the Coast Guard is operating shall study--

(1) the carriage of a voyage data recorder by a passenger vessel described in section 2101(22)(D) of title 46, United States Code, carrying more than 399 passengers; and

(2) standards for voyage data recorders, methods for approval of models of voyage data recorders, and procedures for annual performance testing of voyage data recorders.

(b) Consultation.--In conducting the study, the Secretary shall consult, at a minimum, with manufacturers of voyage data recorders and operators of potentially affected passenger vessels.

(c) Report.--Not later than one year after the date of enactment of this Act, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the study's findings, including a proposal for legislation if such a proposal is considered appropriate by the Secretary.

SEC. 421. DISTANT WATER TUNA FLEET.

(a) Manning Requirements.--Notwithstanding section 8103(a) of title 46, United States Code, United States purse seine fishing vessels fishing exclusively for highly migratory species in the treaty area under a fishing license issued pursuant to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Islands States and the Government of the United States of America, or transiting to or from the treaty area exclusively for such purpose, may engage foreign citizens to meet the manning requirement (except for the master) in the 48-month period beginning on the date of enactment of this Act if, after timely notice of a vacancy to meet the manning requirement, no United States citizen personnel are readily available to fill such vacancy.

(b) Licensing Restrictions.--

(1) In general.--Subsection (a)(1) only applies to a foreign citizen that holds a valid license or certificate issued--

(A) in accordance with the standards established by the 1995 amendments to the Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 95); and

(B) by an authority that the Secretary of the department in which the Coast Guard is operating recognizes as imposing competency and training standards equivalent to or exceeding those required for a United States license issued under chapter 71 of title 46, United States Code.

(2) Treatment of equivalent license.--An equivalent license or certificate as recognized by the Secretary under paragraph (1) shall be considered as meeting the requirements of section 8304 of title 46, United States Code, but only while a person holding the license or certificate is in the service of a vessel to which this section applies.

(c) Limitation.--Subsection (a) applies only to vessels operating in and out of American Samoa.

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(d) Expiration.--This section expires 48 months after the date of enactment of this Act.

(e) Reports.--On March 1, 2007, and annually thereafter until the date of expiration of this section, the Coast Guard and the National Marine Fisheries Service shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Resources of the House of Representatives, providing the following information on the United States purse seine fleet referred to in subsection (a):

(1) The number and identity of vessels in the fleet using foreign citizens to meet manning requirements pursuant to this section and any marine casualties involving such vessel.

(2) The number of vessels in the fishery under United States flag as of January 1 of the year in which the report is submitted, the percentage ownership or control of such vessels by non-United States citizens, and the nationality of such ownership or control.

(3) Description of any transfers or sales of United States flag vessels in the previous calendar year, and the disposition of such vessel, including whether the vessel was scrapped or sold, and, if sold, the nationality of the new owner and location of any fishery to which the vessel will be transferred.

(4) Landings of tuna by vessels under flag in the 2 previous calendar years, including an assessment of landing trends, and a description of landing percentages and totals--

(A) delivered to American Samoa and any other port in a State or territory of the United States; and

(B) delivered to ports outside of a State or territory of the United States, including the identity of the port.

(5) An evaluation of capacity and trends in the purse seine fleet fishing in the area covered by the South Pacific Regional Fisheries Treaty, and any transfer of capacity from such fleet or area to other fisheries, including those governed under the Western and Central Pacific Fisheries Convention and the Inter-American Tropical Tuna Convention.

TITLE V--LIGHTHOUSES SEC. 501.

TRANSFER.

(a) <<NOTE: Alaska.>> Jurisdictional Transfers.--Administrative jurisdiction over the National Forest System lands in the State of Alaska described in subsection (b) and improvements situated on such lands is transferred without consideration from the Secretary of Agriculture to the Secretary of the department in which the Coast Guard is operating.

(b) Areas Referred To.--The areas of lands referred to in subsection (a) are the following:

(1) Guard island light station.--The area described in the Guard Island Lighthouse reserve dated January 4, 1901, comprising approximately 8.0 acres of National Forest uplands.

(2) Eldred rock light station.--The area described in the December 30, 1975, listing of the Eldred Rock Light Station on the National Register of Historic Places, comprising approximately 2.4 acres.

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(3) Mary island light station.--The area described as the remaining National Forest System uplands in the Mary Island Lighthouse Reserve dated January 4, 1901, as amended by Public Land Order 6964, dated April 5, 1993, comprising approximately 1.07 acres.

(4) Cape hinchinbrook light station.--The area described in the survey dated

November 1, 1957, prepared for the Coast Guard for the Cape Hinchinbrook Light Station comprising approximately 57.4 acres.

(c) Maps.--The Commandant of the Coast Guard, in consultation with the Secretary of Agriculture, shall prepare and maintain maps of the lands transferred by subsection (a), and such maps shall be on file and available for public inspection in the Coast Guard District 17 office in Juneau, Alaska.

(d) Effect of Transfer.--The lands transferred to the Secretary of the department in which the Coast Guard is operating by subsection (a)--

(1) shall be administered by the Commandant of the Coast Guard;

(2) shall be considered to be transferred from, and no longer part of, the National Forest System; and

(3) shall be considered not suitable for return to the public domain for disposition under the general public land laws.

(e) Transfer of Land.--

(1) Requirement.--Subject to paragraph (2), the Administrator of General Services, upon request by the Secretary of Agriculture, shall transfer without consideration to the Secretary of Agriculture any land identified in subsection (b), together with the improvements thereon, for administration under the laws pertaining to the National Forest System if--

(A) <<NOTE: Deadline.>> the Secretary of the Interior cannot identify and select an eligible entity for such land and improvements in accordance with section 308(b)(2) of the National Historic Preservation Act (16 U.S.C. 470w-7(b)(2)) not later than 3 years after the date the Secretary of the department in which the Coast Guard is operating determines that the land is excess property, as that term is defined in section 102(3) of title 40, United States Code; or

(B) the land reverts to the United States pursuant to section 308(c)(3) of the National Historic Preservation Act (16 U.S.C. 470w-7(c)(3)).

(2) Reservations for aids to navigation.--Any action taken under this subsection by the Administrator of General Services shall be subject to any rights that may be reserved by the Commandant of the Coast Guard for the operation and maintenance of Federal aids to navigation.

(f) Notification; Disposal of Lands by the Administrator.--The Administrator of General Services shall promptly notify the Secretary of Agriculture upon the occurrence of any of the events described in subparagraphs (A) and (B) of subsection (e)(1). <<NOTE: Deadline.>> If the Secretary of Agriculture does not request a transfer as provided for in subsection (e) not later than 90 days after the date of receiving such notification from the Administrator, the Administrator may dispose of the property in accordance with section 309 of the National Historic Preservation Act (16 U.S.C. 470w-8) or other applicable surplus real property disposal authority.

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(g) Priority.--In selecting an eligible entity to which to convey under section 308(b) of the National Historic Preservation Act (16 U.S.C. 470w-7(b)) land referred to in subsection (b), the Secretary of the Interior shall give priority to an eligible entity (as defined in section 308(e) of that Act) that is the local government of the community in which the land is located.

#### SEC. 502. MISTY FIORDS NATIONAL MONUMENT AND WILDERNESS.

(a) Requirement to Transfer.--Notwithstanding section 308(b) of the National Historic Preservation Act (16 U.S.C. 470w-7(b)), if the Secretary of the department in which the Coast Guard is operating determines that the Tree Point Light Station is no longer needed for the purposes of the Coast Guard, the Secretary shall transfer without consideration to the Secretary of Agriculture all administrative jurisdiction over the Tree Point Light Station.

(b) Effectuation of Transfer.--The transfer pursuant to this section shall be effectuated by a letter from the Secretary of the department in which the Coast Guard is operating to the Secretary of Agriculture and, except as provided in subsection (g), without any further requirements for administrative or environmental analyses or examination. The transfer shall not be considered a conveyance to an eligible entity pursuant to section 308(b) of the National Historic Preservation Act (16 U.S.C. 470w-7(b)).

(c) Reservation for Aids to Navigation.--As part of the transfer pursuant to this section, the Commandant of the Coast Guard may reserve rights to operate and maintain Federal aids to navigation at the site of the light station.

(d) Easements and Special Use Authorizations.--Notwithstanding any other provision of law, including the Wilderness Act (16 U.S.C. 1131 et seq.) and section 703 of the Alaska National Interests Lands Conservation Act (16 U.S.C. 1132 note; 94 Stat. 2418), with respect to the light station transferred pursuant to this section, the Secretary of Agriculture--

(1) may identify an entity to be granted an easement or other special use authorization and, in identifying the entity, may consult with the Secretary of the Interior concerning the application of policies for eligible entities developed pursuant to subsection 308(b)(1) of the National Historic Preservation Act (16 U.S.C. 470w-7(b)(1)); and

(2) may grant an easement or other special use authorization to the entity, for no consideration, to approximately 31 acres as described in the map entitled ``Tree Point Light Station '', dated September 24, 2004, on terms and conditions that provide for--

- (A) maintenance and preservation of the structures and improvements;
- (B) the protection of wilderness and national monument resources;
- (C) public safety; and
- (D) such other terms and conditions considered appropriate by the Secretary of Agriculture.

(e) Actions Following Termination or Revocation.--The Secretary of Agriculture may take such actions as are authorized under section 110(b) of the National Historic Preservation Act (16 U.S.C. 470h-2(b)) with respect to Tree Point Light Station if--

- (1) <<NOTE: Deadline.>> no entity is identified under subsection (d) within 3 years after the date on which administrative jurisdiction is

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transferred to the Secretary of Agriculture pursuant to this section; or

- (2) any easement or other special use authorization granted under subsection (d) is terminated or revoked.

(f) Revocation of Withdrawals and Reservations.--Effective on the date of transfer of administrative jurisdiction pursuant to this section, the following public land withdrawals or reservations for light station and lighthouse purposes on lands in Alaska are revoked as to the lands transferred:

- (1) The unnumbered Executive Order dated January 4, 1901, as it affects the Tree Point Light Station site only.
- (2) Executive Order No. 4410 dated April 1, 1926, as it affects the Tree Point Light Station site only.

(g) Remediation Responsibilities not Affected.--Nothing in this section shall affect any responsibilities of the Commandant of the Coast Guard for the remediation of hazardous substances and petroleum contamination at the Tree Point Light Station consistent with existing law and regulations. The Commandant and the Secretary shall execute an agreement to provide for the remediation of the land and structures at the Tree Point Light Station.

#### SEC. 503. MISCELLANEOUS LIGHT STATIONS.

(a) Cape St. Elias Light Station.--For purposes of section 416(a)(2) of the Coast Guard Authorization Act of 1998 (112 Stat. 3435), the Cape St. Elias Light Station shall comprise approximately 10 acres in fee, along with additional access easements issued without consideration by the Secretary of Agriculture, as generally described in the map entitled ``Cape St. Elias Light Station '', dated September 14, 2004. The Secretary of the department in which the Coast Guard is operating shall keep such map on file and available for public inspection.

(b) Point Wilson Lighthouse.--Section 325(c)(3) of the Coast Guard Authorization Act of 1993 (107 Stat. 2432) is amended--

- (1) by striking ``and '' at the end of subparagraph (B);
- (2) by redesignating subparagraph (C) as subparagraph (D); and
- (3) by inserting after subparagraph (B) the following: ``(C) all housing units and related structures associated with the lighthouse; and ''.

#### SEC. 504. <<NOTE: 16 USC 668dd note.>> INCLUSION OF LIGHTHOUSE IN ST. MARKS NATIONAL WILDLIFE REFUGE, FLORIDA.

(a) Revocation of Executive Order Dated November 12, 1838.--Any reservation of public land described in subsection (b) for lighthouse purposes by the Executive Order dated November 12, 1838, as amended by Public Land Order 5655, dated January 9, 1979, is revoked.

(b) Description of Land.--The public land referred to in subsection (a) consists of approximately 8.0 acres within the external boundaries of St. Marks National Wildlife Refuge in Wakulla County, Florida, that is east of the Tallahassee Meridian, Florida, in Township 5 South, Range 1 East, Section 1 (fractional) and containing all that remaining portion of the unsurveyed fractional section, more particularly described as follows: A parcel of land, including submerged areas, beginning at a point which marks the center of the light structure, thence due North (magnetic) a distance of 350 feet to the point of beginning a strip of land 500 feet in width, the axial centerline of which runs from the point of



beginning due South (magnetic) a distance of 700 feet, more or less, to the shoreline of Apalachee Bay, comprising 8.0 acres, more or less, as shown on the plat dated January 2, 1902, by Office of L. H. Engineers, 7th and 8th District, Mobile, Alabama.

(c) Transfer of Administrative Jurisdiction.--

(1) In general.--Subject to subsection (f) and paragraph

(2), administrative jurisdiction over the public land described in subsection (b), and over all improvements located thereon, is transferred without reimbursement from the department in which the Coast Guard is operating to the Secretary of the Interior.

(2) Response and restoration.--The transfer under paragraph (1) may not be made to the Secretary of the Interior until the Coast Guard has completed any response and restoration action necessary under subsection (d)(1).

(d) Responsibility for Environmental Response Actions.--The Coast Guard shall have sole responsibility in the Federal Government to fund and conduct any response or restoration action required under any applicable Federal or State law or implementing regulation to address--

(1) a release or threatened release on or originating from public land described in subsection (b) of any hazardous substance, pollutant, contaminant, petroleum, or petroleum product or derivative that is located on such land on the date of enactment of this Act; or

(2) any other release or threatened release on or originating from public land described in subsection (b) of any hazardous substance, pollutant, contaminant, petroleum, or petroleum product or derivative, that results from any Coast Guard activity occurring after the date of enactment of this Act.

(e) Inclusion in Refuge.--

(1) Inclusion.--The public land described in subsection (b) shall be part of St. Marks National Wildlife Refuge.

(2) Administration.--Subject to this subsection, the Secretary of the Interior shall administer the public land described in subsection (b)--

(A) through the Director of the United States Fish and Wildlife Service; and

(B) in accordance with the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and such other laws as apply to Federal real property under the sole jurisdiction of the United States Fish and Wildlife Service.

(f) Maintenance of Navigation Functions.--The transfer by subsection (c), and the administration of the public land described in subsection (b), shall be subject to such conditions and restrictions as the Secretary of the department in which the Coast Guard is operating considers necessary to ensure that--

(1) the Federal aids to navigation located at St. Marks National Wildlife Refuge continue to be operated and maintained by the Coast Guard for as long as they are needed for navigational purposes;

(2) the Coast Guard may remove, replace, or install any Federal aid to navigation at the St. Marks National Wildlife Refuge as may be necessary for navigational purposes;

(3) the United States Fish and Wildlife Service will not interfere or allow interference in any manner with any Federal

aid to navigation, and will not hinder activities required for the operation and maintenance of any Federal aid to navigation, without express written approval by the Secretary of the department in which the Coast Guard is operating; and

(4) the Coast Guard may enter, at any time, the St. Marks National Wildlife Refuge, without notice, for purposes of operating, maintaining, and inspecting any Federal aid to navigation and ensuring compliance with this subsection, to the extent that it is not possible to provide advance notice.

TITLE <<NOTE: Delaware River Protection Act of 2006.>> VI--DELAWARE RIVER PROTECTION AND MISCELLANEOUS OIL PROVISIONS

SEC. 601. <<NOTE: 33 USC 2701 note.>> SHORT TITLE.

This title may be cited as the ``Delaware River Protection Act of 2006''.

SEC. 602. REQUIREMENT TO NOTIFY COAST GUARD OF RELEASE OF OBJECTS INTO THE NAVIGABLE WATERS OF THE UNITED STATES.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by adding at the end the following:

``SEC. 15. <<NOTE: 33 USC 1232b.>> REQUIREMENT TO NOTIFY COAST GUARD OF RELEASE OF OBJECTS

((a) Requirement.--As soon as a person has knowledge of any release from a vessel or facility into the navigable waters of the United States of any object that creates an obstruction prohibited under section 10 of the Act of March 3, 1899, popularly known as the Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. 403), such person shall notify the Secretary and the Secretary of the Army of such release.

((b) Restriction on Use of Notification.--Any notification provided by an individual in accordance with subsection (a) may not be used against such individual in any criminal case, except a prosecution for perjury or for giving a false statement.').

SEC. 603. LIMITS ON LIABILITY.

(a) Adjustment of Liability Limits.--

(1) Tank vessels.--Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended by striking subparagraphs (A) and (B) and inserting the following:

((A) with respect to a single-hull vessel, including a single-hull vessel fitted with double sides only or a double bottom only, \$3,000 per gross ton;

((B) with respect to a vessel other than a vessel referred to in subparagraph (A), \$1,900 per gross ton; or

((C)(i) with respect to a vessel greater than 3,000 gross tons that is--

((I) a vessel described in subparagraph (A), \$22,000,000;

or

((II) a vessel described in subparagraph (B), \$16,000,000;

or

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((ii) with respect to a vessel of 3,000 gross tons or less that is--

((I) a vessel described in subparagraph (A), \$6,000,000;

or

((II) a vessel described in subparagraph (B), \$4,000,000;

').

(2) Other vessels.--Section 1004(a)(2) of such <<NOTE: 33 USC 2704.>> Act (33 U.S.C. 2794(a)(2)) is amended--

(A) by striking ``\$600 per gross ton '' and inserting ``\$950 per gross ton''; and

(B) by striking ``\$500,000'' and inserting ``\$800, 000, ''.

(3) <<NOTE: 33 USC 2704 note.>> Limitation on application.--In the case of an incident occurring before the 90th day following the date of enactment of this Act, section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) shall apply as in effect immediately before the effective date of this subsection.

(b) Adjustment to Reflect Consumer Price Index.--Section 1004(d)(4) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(d)(4)) is amended to read as follows:

((4) Adjustment to reflect consumer price index.--

The <<NOTE: President. Regulations. Deadline.>> President, by regulations issued not later than 3 years after the date of enactment of the Delaware River Protection Act of 2006 and not less than every 3 years thereafter, shall adjust the limits on liability specified in subsection (a) to reflect significant increases in the Consumer Price Index. ''.

(c) <<NOTE: 33 USC 2704 note.>> Report.--

(1) Initial report.--Not later than 45 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report on liability limits described in paragraph (2) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) Contents.--The report shall include, at a minimum, the following:

(A) An analysis of the extent to which oil discharges from vessels and nonvessel sources have or are likely to result in removal costs and damages (as defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) for which no defense to liability exists under section 1003 of such Act and that exceed the liability limits established in section 1004 of such Act, as amended by this section.

(B) An analysis of the impacts that claims against the Oil Spill Liability Trust Fund for amounts exceeding such liability limits will have on the Fund.

(C) Based on analyses under this paragraph and taking into account other factors impacting the Fund, recommendations on whether the liability limits need to be adjusted in order to prevent the principal

of the Fund from declining to levels that are likely to be insufficient to cover expected claims.

(3) Annual updates.--The Secretary shall provide an update of the report to the Committees referred to in paragraph (1) on an annual basis.

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SEC. 604. <<NOTE: Deadline.>> REQUIREMENT TO UPDATE PHILADELPHIA AREA CONTINGENCY PLAN.

Not later than one year after the date of enactment of this Act and not less than annually thereafter, the Philadelphia Area Committee established under section 311(j)(4) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(4)) shall review and revise the Philadelphia Area Contingency Plan to include available data and biological information on environmentally sensitive areas of the Delaware River and Delaware Bay that has been collected by Federal and State surveys.

SEC. 605. SUBMERGED OIL REMOVAL.

(a) Amendments.--Title VII of the Oil Pollution Act of 1990 is amended--

(1) in section 7001 (c) (4) (B) (33 U.S.C. 2761 (c) (4) (B) ) by striking ``RIVERA, '' and inserting ``RIVERA and the T/V ATHOS I, ''; and

(2) by adding at the end the following:

``SEC. 7002. <<NOTE: 33 USC 2762.>> SUBMERGED OIL PROGRAM.

``(a) Program.--

``(1) Establishment.--The Under Secretary of Commerce for Oceans and Atmosphere, in conjunction with the Commandant of the Coast Guard, shall establish a program to detect, monitor, and evaluate the environmental effects of submerged oil in the Delaware River and Bay region. The program shall include the following elements:

``(A) The development of methods to remove, disperse, or otherwise diminish the persistence of submerged oil.

``(B) The development of improved models and capacities for predicting the environmental fate, transport, and effects of submerged oil.

``(C) The development of techniques to detect and monitor submerged oil.

``(2) Report.--Not later than 3 years after the date of enactment of the Delaware River Protection Act of 2006, the Secretary of Commerce shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the activities carried out under this subsection and activities proposed to be carried out under this subsection.

``(b) Demonstration Project.--

``(1) Removal of submerged oil.--The Commandant of the Coast Guard, in conjunction with the Under Secretary of Commerce for Oceans and Atmosphere, shall conduct a demonstration project for the purpose of developing and demonstrating technologies and management practices to remove submerged oil from the Delaware River and other navigable waters.

``(2) Funding.--There is authorized to be appropriated to the Commandant of the Coast Guard \$2,000,000 for each of fiscal years 2006 through 2010 to carry out this subsection.''

(b) Clerical Amendment.--The table of sections in section 2 of such Act is amended by inserting after the item relating to section 7001 the following:

``Sec. 7002. Submerged oil program ''. [[Page 120

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SEC. 606. ASSESSMENT OF OIL SPILL COSTS.

(a) Assessment.--The Comptroller General shall conduct an assessment of the cost of response activities and claims related to oil spills from vessels that have occurred since January 1, 1990, for which the total costs and claims paid was at least \$1,000,000 per spill.

(b) Report.--Not later than 18 months after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the assessment conducted under subsection (a). The report shall summarize the following:

(1) The costs and claims described in subsection (a) for each year covered by the report.

(2) The source, if known, of each spill described in subsection (a) for each such year.

SEC. 607. DELAWARE RIVER AND BAY OIL SPILL ADVISORY COMMITTEE.

(a) Establishment.--There is established the Delaware River and Bay Oil Spill Advisory Committee (in this section referred to as the ``Committee' ' ) .

(b) Membership.--

(1) In general.--The Committee shall consist of 27 members who are appointed by the Commandant of the Coast Guard and who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the Delaware River and Delaware Bay, as follows:

(A) Three members who are employed by port authorities that oversee operations on the Delaware River or have been selected to represent these port authorities, of whom--

(i) one member shall be an employee or representative of the Port of Wilmington;

(ii) one member shall be an employee or representative of the South Jersey Port Corporation; and

(iii) one member shall be an employee or representative of the Philadelphia Regional Port Authority.

(B) Two members who represent organizations that operate tugs or barges that utilize the port facilities on the Delaware River and Delaware Bay.

(C) Two members who represent shipping companies that transport cargo by vessel from ports on the Delaware River and Delaware Bay, of whom at least one may not be a representative of a shipping company that transports oil or petroleum products.

(D) Two members who represent operators of oil refineries adjacent to the Delaware River and Delaware Bay.

(E) Two members who represent State-licensed pilots who work on the Delaware River and Delaware Bay.

(F) One member who represents labor organizations whose members load and unload cargo at ports on the Delaware River and Delaware Bay.

(G) One member who represents local commercial fishing interests or an aquaculture organization the members of which organization depend on fisheries and

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resources in the waters of Delaware River or Delaware Bay.

(H) Three members who represent environmental organizations active with respect to the Delaware River and Delaware Bay, including a watershed advocacy group and a wildlife conservation advocacy group.

(I) One member who represents an organization affiliated with recreational fishing interests in the vicinity of Delaware River and Delaware Bay.

(J) Two members who are scientists or researchers associated with an academic institution and who have professional credentials in fields of research relevant to oil spill safety, oil spill response, or wildlife and ecological recovery.

(K) Two members who are municipal or county officials from Delaware.

(L) Two members who are municipal or county officials from New Jersey.

(M) Two members who are municipal or county officials from Pennsylvania.

(N) One member who represents an oil spill response organization located on the lower Delaware River and Delaware Bay.

(O) One member who represents the general public.

(2) Ex officio members.--The Committee may also consist of an appropriate number (as determined by the Commandant of the Coast Guard) of nonvoting members who represent Federal agencies and agencies of the States of New Jersey, Pennsylvania, and Delaware with an interest in oil spill prevention in the Delaware River and Delaware Bay.

(c) Responsibilities.--

(1) In general.--The Committee shall provide advice and recommendations on measures to improve the prevention of and response to future oil spills in the Delaware River and Delaware Bay to the Commandant, the Governors of the States of New Jersey, Pennsylvania, and Delaware, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) Report.--Not later than 18 months after the date that the Commandant completes appointment of the members of the Committee, the Committee shall provide a report to the entities referred to in paragraph (1) with the recommendations of the Committee, including a ranking of priorities, for measures to improve prevention and response to oil spills described in paragraph (1).

(d) Meetings.--The Committee--

(1) <<NOTE: Deadline.>> shall hold its first meeting not later than 60 days after the date on which the Commandant completes the appointment of members of the Committee; and

(2) shall meet thereafter at the call of the Chairman.

(e) Appointment of Members.--The <<NOTE: Federal Register, publication.>> Commandant shall appoint the members of the Committee after soliciting nominations by notice published in the Federal Register.

(f) Chairman and Vice Chairman.--The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the Chairman and one of the members as the Vice

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Chairman. The Vice Chairman shall act as Chairman in the absence of or incapacity of the Chairman or in the event of vacancy in the office of the Chairman.

(g) Pay and Expenses.--

(1) Prohibition on pay.--Members of the Committee who are not officers or employees of the United States shall serve without pay. Members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee.

(2) Expenses.--While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

(h) Funding.--There is authorized to be appropriated \$1,000,000 for each of fiscal years 2006 through 2007 to carry out this section.

(i) Termination.--The Committee shall terminate 18 months after the date on which the Commandant completes the appointment of members of the Committee.

#### SEC. 608. NONTANK VESSELS.

Section 311(a)(26) of the Federal Water Pollution Control Act (33 U.S.C. 1321(A)(26)) is amended to read as follows:

``(26) `nontank vessel' means a self-propelled vessel that--  
``(A) is at least 400 gross tons as measured under section 14302 of title 46, United States Code, or, for vessels not measured under that section, as measured under section 14502 of that title;  
``(B) is not a tank vessel;  
``(C) carries oil of any kind as fuel for main propulsion;  
and  
``(D) operates on the navigable waters of the United States, as defined in section 2101(17a) of that title. ''.

#### TITLE VII--HURRICANE RESPONSE

#### SEC. 701. HOMEOWNERS ASSISTANCE FOR COAST GUARD PERSONNEL AFFECTED BY HURRICANES KATRINA OR RITA.

(a) In General.--Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating may reimburse a person who is eligible for reimbursement under this section, for losses of qualified property owned by such person that result from damage caused by Hurricane Katrina or Hurricane Rita.

(b) Eligible Persons.--A person is eligible for reimbursement under this section if the person is a civilian employee of the Federal Government or member of the uniformed services who--

(1) was assigned to, or employed at or in connection with, a Coast Guard facility located in the State of Louisiana, Mississippi, Alabama, or Texas on or before August 28, 2005;

(2) incident to such assignment or employment, owned and occupied property that is qualified property under subsection (e); and

(3) as a result of the effects of Hurricane Katrina or Hurricane Rita, incurred damage to such qualified property such that--

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(A) the qualified property is unsalable (as determined by the Secretary); and

(B) the proceeds, if any, of insurance for such damage are less than an amount equal to the greater of--

(i) the fair market value of the qualified property on August 28, 2005 (as determined by the Secretary); or

(ii) the outstanding mortgage, if any, on the qualified property on that date.

(c) Reimbursement Amount.--The amount of the reimbursement that an eligible person may be paid under this section with respect to a qualified property shall be determined as follows:

(1) In the case of qualified property that is a dwelling (including a condominium unit but excluding a manufactured home), the amount shall be--

(A) the amount equal to the greater of--

(i) 85 percent of the fair market value of the dwelling on August 28, 2005 (as determined by the Secretary); or

(ii) the outstanding mortgage, if any, on the dwelling on that date; minus

(B) the proceeds, if any, of insurance referred to in subsection

(b) (3) (B) .

(2) In the case of qualified property that is a manufactured home, the amount shall be--

(A) if the owner also owns the real property underlying such home, the amount determined under paragraph (1); or

(B) if the owner leases such underlying property--

(i) the amount determined under paragraph (1); plus

(ii) the amount of rent payable under the lease of such property for the period beginning on August 28, 2005, and ending on the date of the reimbursement under this section.

(d) Transfer and Disposal of Property.--

(1) In general.--A person receiving reimbursement under this section shall transfer to the Administrator of General Services all right, title, and interest of the owner in and to the qualified property for which the owner receives such reimbursement. The Administrator shall hold, manage, and dispose of such right, title, and interest in the same manner that the Secretary of Defense holds, manages, and disposes of real property under section 1013 of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374).

(2) Treatment of proceeds.--Any amounts received by the United States as proceeds of management or disposal of property by the Administrator of General Services under this subsection shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(e) Qualified Property.--Property is qualified property for the purposes of this section if as of August 28, 2005, the property was a one- or two-family dwelling, manufactured home, or condominium unit in the State of Louisiana, Mississippi, Alabama, or

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Texas that was owned and occupied, as a principal residence, by a person who is eligible for reimbursement under this section.

(f) Subject to Appropriations.--The authority to pay reimbursement under this section is subject to the availability of appropriations.

#### SEC. 702. TEMPORARY AUTHORIZATION TO EXTEND THE DURATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS.

(a) Licenses and Certificates of Registry.--Notwithstanding section 7106 and 7107 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may temporarily extend the duration of a license or certificate of registry issued for an individual under chapter 71 of that title for up to one year if--

(1) the records of the individual are located at the Coast Guard facility in New Orleans that was damaged by Hurricane Katrina;

(2) the individual is a resident of Alabama, Mississippi, or Louisiana; or

(3) the records of an individual were damaged or lost as a result of Hurricane Katrina.

(b) Merchant Mariners' Documents.--Notwithstanding section 7302(g) of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may temporarily extend the duration of a merchant mariners' document issued for an individual under chapter 73 of that title for up to one year, if--

(1) the records of the individual are located at the Coast Guard facility in New Orleans that was damaged by Hurricane Katrina;

(2) the individual is a resident of Alabama, Mississippi, or Louisiana; or

(3) the records of an individual were damaged or lost as a result of Hurricane Katrina.

(c) Manner of Extension.--Any extensions granted under this section may be granted to individual seamen or a specifically identified group of seamen.

(d) Expiration of Authority.--The authorities provided under this section expire on April 1, 2007.

SEC. 703. TEMPORARY AUTHORIZATION TO EXTEND THE DURATION OF VESSEL CERTIFICATES OF INSPECTION.

(a) Authority to Extend.--Notwithstanding section 3307 and 3711(b) of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may temporarily extend the duration or the validity of a certificate of inspection or a certificate of compliance issued under chapter 33 or 37, respectively, of that title for up to 6 months for a vessel inspected by a Coast Guard Marine Safety Office located in Alabama, Mississippi, or Louisiana.

(b) Expiration of Authority.--The authority provided under this section expires on April 1, 2007.

SEC. 704. PRESERVATION OF LEAVE LOST DUE TO HURRICANE KATRINA OPERATIONS.

(a) Preservation of Leave.--Notwithstanding section 701(b) of title 10, United States Code, any member of the Coast Guard

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who served on active duty for a continuous period of 30 days, who was assigned to duty or otherwise detailed in support of units or operations in the Eighth Coast Guard District area of responsibility for activities to mitigate the consequences of, or assist in the recovery from, Hurricane Katrina during the period beginning on August 28, 2005, and ending on January 1, 2006, and who would have otherwise lost any accumulated leave in excess of 60 days as a consequence of such assignment, is authorized to retain an accumulated total of up to 120 days of leave.

(b) Excess Leave.--Leave in excess of 60 days accumulated under subsection (a) shall be lost unless used by the member before the commencement of the second fiscal year following the fiscal year in which the assignment commences, or in the case of a Reserve member, the year in which the period of active service is completed.

SEC. 705. REPORTS ON IMPACT TO COAST GUARD.

(a) Reports Required.--

(1) Interim report.--Not later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives an interim report on the impact of Hurricane Katrina and the response of the Coast Guard to such impact.

(2) Final report.--Not later than 180 days after the date of the submittal of the report under paragraph (1), the Secretary shall submit to the committees referred to in paragraph (1) a final report on the impact of Hurricane Katrina and the response of the Coast Guard to such impact.

(b) Elements.--Each report required by subsection (a) shall include the following:

(1) A discussion and assessment of the impact of Hurricane Katrina on the facilities, aircraft, vessels, and other assets of the Coast Guard, including an assessment of such impact on pending or proposed replacements or upgrades of facilities, aircraft, vessels, or other assets of the Coast Guard.

(2) A discussion and assessment of the impact of Hurricane Katrina on Coast Guard operations and strategic goals.

(3) A statement of the number of emergency drills held by the Coast Guard during the 5-year period ending on the date of the report with respect to natural disasters and with respect to security incidents.

(4) A description and assessment of--

(A) the lines of communication and reporting, during the response to Hurricane Katrina, within the Coast Guard and between the Coast Guard and other departments and agencies of the Federal Government and State and local governments; and

(B) the interoperability of such communications during the response to Hurricane Katrina.

(5) A discussion and assessment of the financial impact on Coast Guard operations during fiscal years 2005 and 2006 of unbudgeted increases in prices of fuel.

SEC. 706. REPORTS ON IMPACTS ON NAVIGABLE WATERWAYS.

(a) Reports Required.--[[Page 120

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(1) Interim report.--Not later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Commerce, shall submit to the Committee on

Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the impacts of Hurricane Katrina on navigable waterways and the response of the Coast Guard to such impacts.

(2) Final report.--Not later than 180 days after the date of the submittal of the report required by paragraph (1), the Secretary, in consultation with the Secretary of Commerce, shall submit to the committees referred to in paragraph (1) a report on the impacts of Hurricane Katrina on navigable waterways with respect to missions within the jurisdiction of the Coast Guard and the response of the Coast Guard to such impacts.

(b) Elements.--Each report required by subsection (a) shall include the following:

(1) A discussion and assessment of the impacts, and associated costs, of Hurricane Katrina on--

- (A) the navigable waterways of the United States;
- (B) facilities located in or on such waterways;
- (C) aids to navigation to maintain the safety of such waterways; and
- (D) any other equipment located in or on such waterways related to a mission of the Coast Guard.

(2) An estimate of the costs to the Coast Guard of restoring the resources described in paragraph (1) and an assessment of the vulnerability of such resources to natural disasters in the future.

(3) A discussion and assessment of the environmental impacts in areas within the Coast Guard's jurisdiction of Hurricane Katrina, with a particular emphasis on any releases of oil or hazardous chemicals into the navigable waterways of the United States.

(4) A discussion and assessment of the response of the Coast Guard to the impacts described in paragraph (3), including an assessment of environmental vulnerabilities in natural disasters in the future and an estimate of the costs of addressing such vulnerabilities.

(c) Navigable Waterways of the United States.--In this section, the term ``navigable waterways of the United States '' includes waters of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

#### TITLE VIII--OCEAN COMMISSION RECOMMENDATIONS

SEC. 801. <<NOTE: 14 USC 92 note.>> IMPLEMENTATION OF INTERNATIONAL AGREEMENTS.

In consultation with appropriate Federal agencies, the Secretary of the department in which the Coast Guard is operating shall work with the responsible officials and agencies of other nations to accelerate efforts at the International Maritime Organization to enhance oversight and enforcement of security, environmental, and other agreements adopted within the International [Page 120

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Maritime Organization by flag States on whom such agreements are binding, including implementation of--

- (1) a code outlining flag State responsibilities and obligations;
- (2) an audit regime for evaluating flag State performance;
- (3) measures to ensure that responsible organizations, acting on behalf of flag States, meet established performance standards; and
- (4) cooperative arrangements to improve enforcement on a bilateral, regional, or international basis.

SEC. 802. <<NOTE: 14 USC 92 note.>> VOLUNTARY MEASURES FOR REDUCING POLLUTION FROM RECREATIONAL BOATS.

In consultation with appropriate Federal, State, and local government agencies, the Secretary of the department in which the Coast Guard is operating shall undertake outreach programs for educating the owners and operators of boats using two-stroke engines about the pollution associated with such engines and support voluntary programs that reduce such pollution and encourage the early replacement of older two-stroke engines.

SEC. 803. <<NOTE: 16 USC 1861 note.>> INTEGRATION OF VESSEL MONITORING SYSTEM DATA.

The Secretary of the department in which the Coast Guard is operating shall integrate vessel monitoring system data into its maritime operations databases for the purpose of improving monitoring and enforcement of Federal fisheries laws and work with the Under Secretary of Commerce for Oceans and Atmosphere to ensure effective use of such data for monitoring and enforcement.

SEC. 804. <<NOTE: 16 USC 1828.>> FOREIGN FISHING INCURSIONS.

(a) In General.--Not <<NOTE: Deadline. Reports.>> later than 180 days after the date



of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on steps that the Coast Guard will take to significantly improve the Coast Guard's detection and interdiction of illegal incursions into the United States exclusive economic zone by foreign fishing vessels.

(b) Specific Issues to Be Addressed.--The report shall--

(1) focus on areas in the exclusive economic zone where the Coast Guard has failed to detect or interdict such incursions in the 4-fiscal-year period beginning with fiscal year 2000, including such areas in the Western/Central Pacific and the Bering Sea; and

(2) include an evaluation of the potential use of unmanned aircraft and offshore platforms for detecting or interdicting such incursions.

(c) Biennial Updates.--The Secretary shall provide biannual reports updating the Coast Guard's progress in detecting or interdicting such incursions to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

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TITLE IX--TECHNICAL CORRECTIONS SEC. 901.

MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) Requirements for Cooperative Agreements for Voluntary Services.--Section 93(a)(19) of title 14, United States Code, is amended by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

(b) Correction of Amendment to Chapter <<NOTE: Effective date.>> Analysis.--Effective August 9, 2004, section 212(b) of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1037) is amended by inserting ``of title 14 '' after ``chapter 17''.

(c) Recommendations to Congress by Commandant of the Coast Guard.--Section 93(a) of title 14, United States Code, is amended by redesignating paragraph (y) as paragraph (24).

(d) Correction of Reference to Ports and Waterways Safety Act.--Effective <<NOTE: Effective date. 33 USC 1223 and note.>> August 9, 2004, section 302 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1041) is amended by striking ``of 1972 ''.

(e) Technical Correction of Penalty.--Section 4311(b) of title 46, United States Code, is amended by striking ``4307(a)of '' and inserting ``4307 (a) of''.

(f) Determining Adequacy of Potable Water.--Section 3305(a) of title 46, United States Code, is amended by moving paragraph (2) two ems to the left, so that the material preceding subparagraph (A) of such paragraph aligns with the left-hand margin of paragraph (1) of such section.

(g) Renewal of Advisory Group.--Effective <<NOTE: Effective date. 46 USC 4508 and note.>> August 9, 2004, section 418(a) of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1049) is amended by striking ``of September 30, 2005 '' and inserting ``on September 30, 2005''.

(h) Technical Corrections Relating to References to National Driver Register.--

(1) Amendment instruction.--Effective <<NOTE: Effective date. 46 USC 7302 and note.>> August 9, 2004, section 609(1) of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1058) is amended in the matter preceding subparagraph (A) by striking ``7302'' and inserting ``7302 (c) ''.

(2) Omitted word.--Section 7302(c) of title 46, United States Code, is amended--

(A) by inserting ``section'' before ``30305 (b) (5) '';

(B) by inserting ``section '' before

``30304 (a) (3 ) (A) '' .

(3) Extraneous u.s.c. reference.--Section 7703(3) of title 46, United States Code, is amended by striking ``(23 U.S.C. 401 note) ''.

(i) Vessel Response Plans for Nontank Vessels.--

(1) Correction of vessel references.--Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended by striking ``non-tank '' each place it appears and inserting ``nontank''.

(2) Punctuation error.--Effective <<NOTE: Effective date. 33 USC 1321 and note.>> August 9, 2004, section 701(b)(9) of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1068) is amended by inserting closing quotation marks after ``each tank vessel''.

(j) Punctuation Error.--Section 5006(c) of the Oil Pollution Act of 1990 (33 U.S.C. 2736(c)) is amended by inserting a comma after ``October 1, 2012''.

(k) Correction to Subtitle Designation.--

(1) Redesignation.--Title 46, United States Code, is amended by redesignating subtitle VI <NOTE: 46 USC 70101.> as subtitle VII.

(2) Clerical amendment.--The table of subtitles at the beginning of title 46, United States Code, is amended by striking the item relating to subtitle VI and inserting the following:

``VII. MISCELLANEOUS .....70101 ''.

(1) Corrections to Chapter 701 of Title 46, United States Code.--Chapter 701 of title 46, United States Code, <NOTE: 46 USC 701013et seq.> is amended as follows:

(1) Sections 70118 and 70119, as added by section 801 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1078), relating to firearms, arrests, and seizure of property and to enforcement by State and local officers, are redesignated as sections 70117 and 70118, respectively, and moved to appear immediately after section 70116 of title 46, United States Code.

(2) Sections 70117 and 70118, as added by section 802 of such Act (118 Stat. 1078), relating to in rem liability for civil penalties and to certain costs and withholding of clearance, are redesignated as sections 70120 and 70121, respectively, and moved to appear immediately after section 70119 of title 46, United States Code.

(3) In section 70120(a), as redesignated by paragraph (2) of this section, by striking ``section 70120 '' and inserting ``section 70119''.

(4) In section 70121(a), as redesignated by paragraph (2) of this section, by striking ``section 70120 '' and inserting ``section 70119''.

(5) In the analysis at the beginning of the chapter by striking the items relating to sections 70117 through the second 70119 and inserting the following:

``70117. Firearms, arrests, and seizure of property.

``70118. Enforcement by State and local officers.

``70119. Civil penalty.

``70120. In rem liability for civil penalties and certain costs. ``70121. Withholding of clearance. ''.

(m) Area Maritime Security Advisory Committees; Margin Alignment.--Section 70112(b) of title 46, United States Code, is amended by moving paragraph (5) two ems to the left, so that the left-hand margin of paragraph (5) aligns with the left-hand margin of paragraph (4) of such section.

(n) Technical Correction Regarding Tank Vessel Environmental Equivalency Evaluation Index.--Section 4115(e)(3) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a note) is amended by striking ``hull '' the second place it appears.

(o) Corrections to Section 6101 of Title 46, United States Code.--Section 6101 of title 46, United States Code, is amended--

(1) by redesignating subsection (h) as subsection (i); and

(2) by redesignating the second subsection (g) as subsection (h) .

(p) Drug Interdiction Report.--

(1) In general.--Section 103 of the Coast Guard Authorization Act of 1996 (14 U.S.C. 89 note; 110 Stat. 3905) is amended to read as follows:

``SEC. 103. ANNUAL REPORT ON DRUG INTERDICTION.

``Not later than 30 days after the end of each fiscal year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on all expenditures related to drug interdiction activities of the Coast Guard on an annual basis. ''.

(2) Clerical amendment.--The table of contents in section 2 of such Act is amended by striking the item relating to section 103 and inserting the following:

``Sec. 103. Annual reports on drug interdiction. ''.

(q) Acts of Terrorism Report.--Section 905 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (46 U.S.C. App. 1802; 100 Stat. 890) is amended by striking ``Not later than February 28, 1987, and annually thereafter, the Secretary of Transportation shall report '' and inserting ``The Secretary of the department in which the Coast Guard is operating shall report annually ''.

(r) Corrections to Dingell-Johnson Sport Fish Restoration Act.--

(1) Section 4.--Section 4(c) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)) is amended by striking ``, for each of fiscal years 2006 through 2009, ''.

(2) Section 14.--Section 14(a)(1) of the Dingell-Johnson Sport Fish

Restoration Act (16 U.S.C. 777m(a)(1)) is amended by striking ``For each of the fiscal years 2006 through 2009, not more than '' and inserting ``Not more than ''.

SEC. 902. CORRECTION OF REFERENCES TO SECRETARY OF TRANSPORTATION AND DEPARTMENT OF TRANSPORTATION; RELATED MATTERS.

(a) Government Organization.--Title 5, United States Code, is amended--

(1) in section 101 by inserting ``The Department of Homeland Security. '' after and immediately below ``The Department of Veterans Affairs. '';

(2) in section 2902(b) by inserting ``the Secretary of Homeland Security, '' after ``Secretary of the Interior, ''; and

(3) in sections 5520a(k)(3), 5595(h)(5), 6308(b), and 9001(10) by striking ``of Transportation '' each place it appears and inserting ``of Homeland Security ''.

(b) Financial Management.--Title 31, United States Code, is amended--

(1) in section 3321(c)(3) by striking ``of Transportation '' and inserting ``of Homeland Security. '';

(2) in section 3325(b) by striking ``of Transportation '' and inserting ``of Homeland Security '';

(3) in section 3527(b)(1) by striking ``of Transportation '' each place it appears and inserting ``of Homeland Security ''; and

(4) in section 3711(f)(2) by striking ``of Transportation '' and inserting ``of Homeland Security ''.

(c) Public Contracts.--Section 3732 of the Revised Statutes (41 U.S.C. 11) is amended by striking ``of Transportation '' each place it appears and inserting ``of Homeland Security ''.

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(d) Public Printing and Documents.--Sections 1308 and 1309 of title 44, United States Code, are amended by striking ``Secretary of the Department of Transportation '' each place it appears and inserting ``Secretary of the department in which the Coast Guard is operating ''.

(e) Shipping.--Title 46, United State Code, is amended--

(1) in section 2109 by striking ``a Coast Guard or '';

(2) in section 6308--

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by striking subsection (a) and inserting the following:

``(a) Notwithstanding any other provision of law, no part of a report of a marine casualty investigation conducted under section 6301 of this title, including findings of fact, opinions, recommendations, deliberations, or conclusions, shall be admissible as evidence or subject to discovery in any civil or administrative proceedings, other than an administrative proceeding initiated by the United States.

``(b) Any member or employee of the Coast Guard investigating a marine casualty pursuant to section 6301 of this title shall not be subject to deposition or other discovery, or otherwise testify in such proceedings relevant to a marine casualty investigation, without the permission of the Secretary. The Secretary shall not withhold permission for such employee or member to testify, either orally or upon written questions, on solely factual matters at a time and place and in a manner acceptable to the Secretary if the information is not available elsewhere or is not obtainable by other means.'';

(3) in subsection (c), as redesignated by this section, by striking ``subsection (a) '' and inserting ``subsections (a) and (b) ''; and

(4) in subsection (d), as redesignated by this section, by striking ``subsections (a) and (b) '' and inserting ``subsections (a) , (b) , and (c) ' ' .

(f) Mortgage Insurance.--Section 222 of the National Housing Act of 1934 (12 U.S.C. 1715m) is amended by striking ``of Transportation '' each place it appears and inserting ``of Homeland Security ''.

(g) Arctic Research.--Section 107(b)(2) of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4106(b)(2)) is amended--

(1) by redesignating subparagraphs (I) through (K) as subparagraphs (J) through (L), respectively; and

(2) by inserting after subparagraph (H) the following: ``(I) the Department of Homeland Security; ''.

(h) Conservation.--

(1) Section 1029.--Section 1029(e)(2)(B) of the Bisti/De-Na-Zin Wilderness Expansion and Fossil Protection Act of 1996 (16 U.S.C. 460kkk(e)(2)(B)) is amended by striking ``Secretary of Transportation, to represent the United States Coast Guard. '' and inserting ``Commandant of the Coast Guard ''.

(2) Section 312.--Section 312(c) of the Antarctic Marine Living Resources Convention Act of 1984 (16 U.S.C. 2441(c)) is amended by striking ``of

Transportation ' ' and inserting ``of Homeland Security ' '.

(i) Internal Revenue Code of 1986.--Section 3122 of the Internal Revenue Code of 1986 (26 U.S.C. 3122) is amended by striking ``Secretary of Transportation ' ' each place it appears and

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inserting ``Secretary of the Department in which the Coast Guard is operating''.

(j) Anchorage Grounds.--Section 7 of the Rivers and Harbors Appropriations Act of 1915 (33 U.S.C. 471) is amended by striking ``of Transportation ' ' in each place it appears and inserting ``of Homeland Security''.

(k) Bridges.--Section 4 of the General Bridge Act of 1906 (33 U.S.C. 491) <<NOTE: 33 USC 494.>> is amended by striking ``of Transportation ' ' and inserting ``of Homeland Security ' '.

(1) Oil Pollution.--The Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) is amended--

(1) in section 5001 (c) (1) (B) (33 U.S.C. 2731 (c) (1) (B) ) by striking ``Commerce, the Interior, and Transportation, ' ' and inserting ``Commerce and the Interior and the Commandant of the Coast Guard, ' ';

(2) in section 5002(m)(4) (33 U.S.C. 2732(m)(4)) by striking ``of Transportation.' ' and inserting ``of the department in which the Coast Guard is operating.' ';

(3) in section 7001(a) (33 U.S.C. 2761(a)) by striking paragraph (3) and all that follows through the end of the subsection and inserting the following:

``(3) Membership.--The Interagency Committee shall include representatives from the Coast Guard, the Department of Commerce (including the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology), the Department of Energy, the Department of the Interior (including the Minerals Management Service and the United States Fish and Wildlife Service), the Department of Transportation (including the Maritime Administration and the Pipeline and Hazardous Materials Safety Administration), the Department of Defense (including the Army Corps of Engineers and the Navy), the Department of Homeland Security (including the United States Fire Administration in the Federal Emergency Management Agency), the Environmental Protection Agency, the National Aeronautics and Space Administration, and such other Federal agencies the President may designate.

``(4) Chairman.--A representative of the Coast Guard shall serve as Chairman. ' ';

(4) in section 7001(c)(6) (33 U.S.C. 2761(c)(6)) by striking ``other such agencies in the Department of Transportation as the Secretary of Transportation may designate, ' ' and inserting ``such agencies as the President may designate, ' '.

(m) Medical Care.--Section 1(g)(4)(B) of Public Law 87-693 (42 U.S.C. 2651(g)(4)(B)) is amended by striking ``of Transportation, ' ' and inserting ``of Homeland Security, ' '.

(n) Social Security Act.--Section 205(p)(3) of the Social Security Act (42 U.S.C. 405(p)(3)) is amended by striking ``of Transportation ' ' each place it appears and inserting ``of Homeland Security ' '.

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of the Merchant Marine Act, 1920 (46 U.S.C. App. 883) is amended in the matter following the ninth proviso (pertaining to transportation of a foreign-flag incineration vessel) by striking ``Satisfactory inspection shall be certified in writing by the Secretary of Transportation ' ' and inserting ``Satisfactory inspection shall be certified, in writing, by the Secretary of Homeland Security. ' '.

Approved July 11, 2006.

LEGISLATIVE HISTORY--H.R. 889 (S. 1280): -----