

## § 679.8

(v) Begin a fishing trip for any Amendment 80 species with any vessel assigned to an Amendment 80 cooperative if the total amount of unharvested CQ that is currently held by that Amendment 80 cooperative is zero or less for any species for which CQ is assigned.

(vi) Have a negative balance in a CQ account for any species for which CQ is assigned after the end of the calendar year for which a CQ permit was issued.

(vii) Fail to submit a timely and complete Amendment 80 cost recovery fee submission form and fee as required under § 679.95.

### (5) *Amendment 80 limited access fishery.*

(i) Use an Amendment 80 vessel, Amendment 80 LLP license, or Amendment 80 QS permit not assigned to the Amendment 80 limited access fishery for a calendar year to catch any Amendment 80 species, crab PSC, or halibut PSC assigned to the Amendment 80 limited access sector during that calendar year;

(ii) Use an Amendment 80 vessel assigned to the Amendment 80 limited access fishery for a calendar year to receive or process catch from any Amendment 80 vessel not assigned to the Amendment 80 limited access fishery for that calendar year;

(iii) Catch, process, or receive Amendment 80 species assigned to the Amendment 80 limited access fishery in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season without a copy of a valid Amendment 80 limited access fishery permit onboard unless that Amendment 80 vessel is using dredge gear while directed fishing for scallops.

(6) *Catch monitoring.* (i) Operate an Amendment 80 vessel using any gear but dredge gear while directed fishing for scallops or a catcher/processor not listed in § 679.4(1)(2)(i) and using trawl gear, to catch, process, or receive fish in the BSAI or adjacent waters opened by the State of Alaska for which it adopts a Federal fishing season and fail to follow the catch monitoring requirements detailed at § 679.93(a), (b), and (c).

(ii) Operate an Amendment 80 vessel using any gear but dredge gear while directed fishing for scallops that is subject to a sideboard limit detailed at

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§ 679.92(b) and (c), as applicable, in the GOA or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season, and fail to follow the catch monitoring requirements detailed at § 679.93(a), (b), and (d).

(7) *Use caps.* Exceed the use caps that apply under § 679.92(a).

(8) *Economic data report (EDR).* Fail to submit a timely and complete EDR as described under § 679.94.

(9) *First Wholesale Volume and Value Report.* For an Amendment 80 vessel owner to fail to submit a timely and complete First Wholesale Volume and Value Report as required under § 679.5(u)(2).

(p) *Arctic Management Area.* Conduct commercial fishing for any Arctic fish in the Arctic Management Area.

[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 at [www.govinfo.gov](http://www.govinfo.gov).

## § 679.8 Facilitation of enforcement.

See § 600.730 of this chapter.

## § 679.9 Penalties.

See § 600.735 of this chapter.

## Subpart B—Management Measures

### § 679.20 General limitations.

This section applies to vessels engaged in directed fishing for groundfish in the GOA and/or the BSAI and to vessels engaged in commercial fishing for Arctic fish in the Arctic Management Area.

(a) *Harvest limits*—(1) *OY*—(i) *BSAI and GOA.* The OY for BSAI and GOA target species is a range or specific amount that can be harvested consistently with this part, plus the amounts of “nonspecified species” taken incidentally to the harvest of target species. The species categories are defined in Table 1 of the specifications as provided in paragraph (c) of this section.

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

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

(ii) *Arctic Management Area.* The OY for each target fish species identified in the Fishery Management Plan for Fish Resources of the Arctic Management Area regulated by this section and by part 600 of this chapter is 0 mt.

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

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

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

(ii) *Socioeconomic considerations.* Socioeconomic considerations that are consistent with the goals of the fishery management plans for the groundfish fisheries of the BSAI and the GOA, including the need to promote efficiency in the utilization of fishery resources, including minimizing costs; the need to manage for the optimum marketable size of a species; the impact of groundfish harvests on prohibited species and the domestic target fisheries that utilize these species; the desire to enhance depleted stocks; the seasonal access to the groundfish fishery by domestic fishing vessels; the commercial impor-

tance of a fishery to local communities; the importance of a fishery to subsistence users; and the need to promote utilization of certain species.

(4) *Sablefish TAC*—(i) *Eastern GOA regulatory area*—(A) *Fixed gear.* Vessels in the Eastern GOA regulatory area using fixed gear will be allocated 95 percent of the sablefish TAC.

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

(ii) *Central and Western GOA regulatory areas*—(A) *Fixed gear.* Vessels in the Central and Western GOA regulatory areas using fixed gear will be allocated 80 percent of the sablefish TAC in each of the Central and Western GOA regulatory areas.

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

(iii) *Bering Sea subarea*—(A) *Fixed gear.* Vessels in the Bering Sea subarea using fixed gear will be allocated 50 percent of each TAC for sablefish.

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

(iv) *Aleutian Islands subarea*—(A) *Fixed gear.* Vessels in the Aleutian Islands subarea using fixed gear will be allocated 75 percent of each TAC for sablefish.

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

(5) *Pollock TAC*—(i) *Bering Sea Subarea*—(A) *AFA allocations.* The pollock TAC apportioned to the Bering Sea Subarea, after subtraction of the 10 percent CDQ reserve under § 679.31(a), will be allocated as follows:

(I) *Incidental catch allowance.* The Regional Administrator will establish an incidental catch allowance to account for projected incidental catch of pollock by vessels engaged in directed fishing for groundfish other than pollock and by vessels harvesting non-pollock CDQ. If during a fishing year, the Regional Administrator determines that the incidental catch allowance has been set too high or too low, he/she may issue inseason notification in the

FEDERAL REGISTER that reallocates incidental catch allowance to the directed fishing allowance, or vice versa, according to the proportions established under paragraph (a)(5)(i)(A) of this section.

(2) *Directed fishing allowance.* The remaining pollock TAC apportioned to the Bering Sea subarea is established as a directed fishing allowance.

(3) *Inshore sector allocation.* Fifty percent of the directed fishing allowance will be allocated to AFA catcher vessels harvesting pollock for processing by AFA inshore processors. The inshore allocation will be further divided into separate allocations for cooperative and open access fishing.

(i) *Inshore cooperatives.* The inshore cooperative allocation will be equal to the aggregate annual allocations of all AFA inshore catcher vessel cooperatives that receive pollock allocations under § 679.62(a).

(ii) *Inshore open access.* The inshore open access allocation will equal that portion of the inshore sector allocation that is not allocated to inshore cooperatives.

(4) *Catcher/processor sector allocation.* Forty percent of the directed fishing allowance will be allocated to AFA catcher/processors and AFA catcher vessels delivering to catcher processors.

(i) *Catcher/processor and catcher vessel cooperatives.* If by December 1 of the year prior to the year when fishing under the cooperative agreement will begin, NMFS receives filing of cooperative contracts and/or an inter-cooperative agreement entered into by listed AFA catcher/processors and all AFA catcher vessels with catcher/processor sector endorsements, and the Regional Administrator determines that such contracts provide for the distribution of harvest between catcher/processors and catcher vessels in a manner agreed to by all members of the catcher/processor sector cooperative(s), then NMFS will not subdivide the catcher/processor sector allocation between catcher vessels and catcher/processors.

(ii) *Catcher vessel allocation.* If such contract is not filed with NMFS by December 1 of the preceding year, then NMFS will allocate 91.5 percent of the catcher/processor sector allocation to

AFA catcher/processors engaged in directed fishing for pollock and 8.5 percent of the catcher/processor sector allocation to AFA catcher vessels delivering to catcher/processors.

(iii) *Unlisted AFA catcher processors.* Unlisted AFA catcher/processors will be limited to harvesting not more than 0.5 percent of catcher/processor sector allocation.

(5) *Mothership sector allocation.* Ten percent of the directed fishing allowance will be allocated to AFA catcher vessels harvesting pollock for processing by AFA motherships.

(6) *Excessive harvesting share.* NMFS will establish an excessive harvesting share limit equal to 17.5 percent of the sum of the directed fishing allowances established under paragraphs (a)(5)(i) and (a)(5)(ii) of this section. The excessive harvesting share limit will be published in the annual harvest specifications and is subject to revision on an inseason basis if NMFS reallocates unharvested amounts of the incidental catch allowance to the directed fishing allowance, or vice versa.

(7) *Excessive processing share.* NMFS will establish an excessive processing share limit equal to 30.0 percent of the sum of the directed fishing allowances established under paragraphs (a)(5)(i) and (a)(5)(ii) of this section. The excessive processing share limit will be published in the annual harvest specifications and is subject to revision on an inseason basis if NMFS reallocates unharvested amounts of the incidental catch allowance to the directed fishing allowance, or vice versa.

(B) *BSAI seasonal allowances for AFA and CDQ—(1) Inshore, catcher/processor, mothership, and CDQ sectors.* The portions of the BS subarea pollock directed fishing allowances allocated to each sector under sections 206(a) and 206(b) of the AFA and the CDQ allowance in the BSAI will be divided into two seasonal allowances corresponding to the two fishing seasons set out at § 679.23(e)(2), as follows:

(i) A Season, 45 percent;

(ii) B Season, 55 percent.

(2) *Inseason adjustments.* Within any fishing year, the Regional Administrator may add or subtract any under harvest or over harvest of a seasonal

allowance for a component to the subsequent seasonal allowance for the component through notification published in the FEDERAL REGISTER.

(C) *Steller sea lion conservation area (SCA) harvest limit.* For each component under Sections 206(a) and 206(b) of the AFA and for the open access fishery, no more than 28 percent of the annual pollock directed fishery allowance may be taken from the SCA before April 1. The SCA is defined at § 679.22(a)(7)(vii).

(ii) *Bogoslof District.* If the Bogoslof District is open to directed fishing for pollock by regulation, then the pollock TAC for this district will be allocated according to the same procedure established for the Bering Sea subarea at paragraph (a)(5)(i) of this section. If the Bogoslof District is closed to directed fishing for pollock by regulation, then the entire TAC for this district will be allocated as an incidental catch allowance.

(iii) *AI.* (A) If a directed fishery for pollock in the AI is not specified under paragraph (c) of this section, then the entire TAC for this subarea will be allocated as an incidental catch allowance.

(B) If the AI is open to directed fishing for pollock under paragraph (c) of this section, then the pollock TAC for this subarea will be specified, allocated, seasonally apportioned, and reallocated as follows:

(1) *AI annual TAC limitations.* When the AI pollock ABC is less than 19,000 mt, the annual TAC will be no greater than the ABC. When the AI pollock ABC equals or exceeds 19,000 mt, the annual TAC will be equal to 19,000 mt.

(2) *Allocations—(i) CDQ Directed fishing allowance.* 10 percent of the annual TAC will be allocated to the CDQ pollock reserve established under § 679.31(a)(2).

(ii) *Incidental catch allowance.* The Regional Administrator will determine the amount of the pollock incidental catch necessary to support an incidental catch allowance in the AI during the fishing year for each season. This amount of pollock will be deducted from the annual TAC. If during a fishing year, the Regional Administrator determines that the incidental catch allowance is excessive or inadequate, the Regional Administrator

may reallocate the excess of the incidental catch allowance to the directed pollock fishery, or may reallocate pollock from the directed pollock fishery to the incidental catch allowance as necessary to support incidental catch of pollock in AI groundfish fisheries, by publication in the FEDERAL REGISTER.

(iii) *Directed Pollock Fishery.* The amount of the TAC remaining after subtraction of the CDQ directed fishing allowance and the incidental catch allowance will be allocated to the Aleut Corporation as a directed pollock fishery allocation.

(3) *Seasonal apportionment.* The seasonal harvest of pollock in the AI directed pollock fishery shall be:

(i) *A season.* No greater than the lesser of the annual initial TAC plus any A season CDQ pollock directed fishery allowance or 40 percent of the AI pollock ABC. The total A season apportionment, including the AI directed pollock fishery allocation, the CDQ pollock directed fishery seasonal allowance, and the incidental catch amount, shall not exceed 40 percent of the ABC.

(ii) *B season.* The B season apportionment of the AI directed pollock fishery shall equal the annual initial TAC minus the A season directed pollock fishery apportionment under paragraph (a)(5)(iii)(B)(3)(i) of this section and minus the incidental catch amount under paragraph (a)(5)(iii)(B)(2)(ii) of this section.

(iii) *Inseason adjustments for the directed pollock fishery.* During any fishing year, the Regional Administrator may add any under harvest of the A season directed pollock fishery apportionment to the B season directed pollock fishery apportionment by inseason notification published in the FEDERAL REGISTER if the Regional Administrator determines that the harvest capacity in the B season is sufficient to harvest the adjusted B season apportionment.

(iv) *Inseason adjustments for the incidental catch allowance.* During any fishing year, the Regional Administrator may add any under harvest of the A season incidental catch allowance apportionment to the B season incidental catch allowance apportionment by publication in the FEDERAL REGISTER if the Regional Administrator determines

that the additional B season incidental catch allowance is necessary to support other groundfish fisheries.

(4) *Reallocation of the annual AI directed pollock fishery and AI CDQ allocations.* As soon as practicable, if the Regional Administrator determines that vessels participating in either the AI directed pollock fishery or the AI CDQ directed pollock fishery likely will not harvest the entire AI directed pollock fishery or CDQ pollock directed fishing allowance, the Regional Administrator may reallocate some or all of the projected unused directed pollock fishery allocation to the Bering Sea subarea directed pollock fishery or AI CDQ pollock directed fishing allowance to the Bering Sea subarea CDQ pollock directed fishing allowance by inseason notification published in the FEDERAL REGISTER.

(5) *Allocations to small vessels.* The annual allocation for vessels 60 feet (18.3 m) LOA or less participating in the AI directed pollock fishery will be:

(i) No more than 25 percent of the AI directed pollock fishery allocation through 2008;

(ii) No more than 50 percent of the AI directed pollock fishery allocation from 2009 through 2012; and

(iii) 50 percent of the AI directed pollock fishery allocation in 2013 and beyond.

(6) *Pollock harvest limitations.* Pollock harvests during the A season as defined at § 679.23(e)(2) are limited to:

(i) No more than 5 percent of the Aleutian Islands pollock ABC in Area 543.

(ii) No more than 15 percent of the Aleutian Islands pollock ABC in Area 542.

(iii) No more than 30 percent of the Aleutian Islands pollock ABC in Area 541.

(iv) *GOA—(A) Apportionment by area.* The TAC for pollock in the combined GOA Western and Central Regulatory Areas will be apportioned among statistical areas 610, 620, and 630 in proportion to the distribution of the pollock biomass as determined by the most recent NMFS surveys.

(B) *GOA Western and Central Regulatory Areas seasonal apportionments.* Each apportionment established under paragraph (a)(5)(iv)(A) of this section

will be divided into two seasonal apportionments corresponding to the two fishing seasons specified in § 679.23(d)(2) as follows: A Season, 50 percent; and B Season, 50 percent. Within any fishing year, underharvest or overharvest of a seasonal apportionment may be added to or subtracted from remaining seasonal apportionments in a manner to be determined by the Regional Administrator, provided that any revised seasonal apportionment does not exceed 20 percent of the seasonal TAC apportionment for the statistical area. The re-apportionment of underharvest will be applied to the subsequent season within the same statistical area up to the 20 percent limit specified in this paragraph. Any underharvest remaining beyond the 20 percent limit may be further apportioned to the subsequent season in the other statistical areas, in proportion to estimated biomass and in an amount no more than 20 percent of the seasonal TAC apportionment for the statistical area.

(6) *GOA inshore/offshore allocations—*

(i) *GOA pollock.* The apportionment of pollock in all GOA regulatory areas for each seasonal allowance described in paragraph (a)(5)(iv) of this section will be allocated entirely to vessels harvesting pollock for processing by the inshore component in the GOA after subtraction of an amount that is projected by the Regional Administrator to be caught by, or delivered to, the offshore component in the GOA incidental to directed fishing for other groundfish species.

(ii) *Eastern GOA Regulatory Area Pacific cod.* The apportionment of Pacific cod in the Eastern GOA Regulatory Area will be allocated 90 percent to vessels harvesting Pacific cod for processing by the inshore component and 10 percent to vessels harvesting Pacific cod for processing by the offshore component.

(7) *Pacific cod TAC, BSAI—(i) CDQ reserve and seasonal allowances.* (A) A total of 10.7 percent of the annual Pacific cod TAC will be allocated to the CDQ Program in the annual harvest specifications required under paragraph (c) of this section. The Pacific cod CDQ allocation will be deducted from the annual Pacific cod TAC before allocations to the non-CDQ sectors are

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made under paragraph (a)(7)(ii) of this section.

(B) The BSAI Pacific cod CDQ gear allowances by season, as those seasons

are specified under § 679.23(e)(5), are as follows:

Gear Type	A season	B season	C season
(1) Trawl	60%	20%	20%
(i) Trawl CV	70%	10%	20%
(ii) Trawl CP	50%	30%	20%
(2) Hook-and-line CP and hook-and-line CV ≥60 ft (18.3 m) LOA	60%	40%	no C season
(3) Jig	40%	20%	40%
(4) All other non-trawl gear	no seasonal allowance	no seasonal allowance	no seasonal allowance

(ii) *Non-CDQ allocations*—(A) *Sector allocations*. The remainder of the BSAI Pacific cod TAC after subtraction of the CDQ reserve for Pacific cod will be allocated to non-CDQ sectors as follows:

Sector	% Allocation
(1) Jig vessels	1.4
(2) Hook-and-line/pot CV <60 ft (18.3 m) LOA	2
(3) Hook-and-line CV ≥60 ft (18.3 m) LOA	0.2
(4) Hook-and-line CP	48.7
(5) Pot CV ≥60 ft (18.3 m) LOA	8.4
(6) Pot CP	1.5
(7) AFA trawl CP	2.3
(8) Amendment 80 sector	13.4
(9) Trawl CV	22.1

(B) *Incidental catch allowance*. During the annual harvest specifications process set forth at paragraph (c) of this section, the Regional Administrator will specify an amount of Pacific cod that NMFS estimates will be taken as incidental catch in directed fisheries for groundfish other than Pacific cod by the hook-and-line and pot gear sectors. This amount will be the incidental catch allowance and will be deducted from the aggregate portion of Pacific cod TAC annually allocated to the hook-and-line and pot gear sectors before the allocations under paragraph (a)(7)(ii)(A) of this section are made to these sectors.

(iii) *Reallocation among non-CDQ sectors*. If, during a fishing year, the Regional Administrator determines that a non-CDQ sector will be unable to harvest the entire amount of Pacific cod allocated to that sector under paragraph (a)(7)(ii)(A) of this section, the Regional Administrator will reallocate the projected unused amount of Pacific cod to other sectors through notification in the FEDERAL REGISTER. Any reallocation decision by the Regional Administrator will take into account the capability of a sector to harvest the reallocated amount of Pacific cod, and the following reallocation hierarchy:

(A) *Catcher vessel sectors*. The Regional Administrator will reallocate projected unharvested amounts of Pacific cod TAC from a catcher vessel sector as follows: first to the jig sector, or to the less than 60 ft (18.3 m) LOA hook-and-line or pot catcher vessel sector, or to both of these sectors; second, to the greater than or equal to 60 ft (18.3 m) LOA hook-and-line or to the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sectors; and third to the trawl catcher vessel sector. If the Regional Administrator determines that a projected unharvested amount from the jig sector allocation, the less than 60 ft (18.3 m) LOA hook-and-line or pot catcher vessel sector allocation, or the greater than or equal to 60 ft (18.3 m) LOA hook-and-line catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the hook-and-line catcher/processor sector.

If the Regional Administrator determines that a projected unharvested amount from a greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the pot catcher/processor sector in accordance with the hierarchy set forth in paragraph (a)(7)(iii)(C) of this section. If the Regional Administrator determines that a projected unharvested amount from a trawl catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the other trawl sectors in accordance with the hierarchy set forth in paragraph (a)(7)(iii)(B) of this section.

(B) *Trawl gear sectors.* The Regional Administrator will reallocate any projected unharvested amounts of Pacific cod TAC from the trawl catcher vessel or AFA catcher/processor sectors to other trawl sectors before unharvested amounts are reallocated and apportioned to specified gear sectors as follows:

(1) 83.1 percent to the hook-and-line catcher/processor sector,

(2) 2.6 percent to the pot catcher/processor sector, and

(3) 14.3 percent to the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector.

(C) *Pot gear sectors.* The Regional Administrator will reallocate any projected unharvested amounts of Pacific cod TAC from the pot catcher/processor sector to the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector, and from the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector to the pot catcher/processor sector before reallocating it to the hook-and-line catcher/processor sector.

(iv) *Non-CDQ seasonal allowances—(A) Seasonal allowances by sector.* The BSAI Pacific cod sector allowances are apportioned by season, as those seasons are specified at § 679.23(e)(5), as follows:

Sector	Seasonal Allowances		
	A season	B season	C season
(1) Trawl			
(i) Trawl CV	74 %	11 %	15 %
(ii) Trawl CP	75 %	25 %	0 %
(2) Hook-and-line CP, hook-and-line CV ≥60 ft (18.3 m) LOA, and pot gear vessels ≥60 ft (18.3 m) LOA	51 %	49 %	no C season
(3) Jig vessels	60 %	20 %	20 %
(4) All other nontrawl vessels	no seasonal allowance	no seasonal allowance	no seasonal allowance

(B) *Unused seasonal allowances.* Any unused portion of a seasonal allowance of Pacific cod from any sector except the jig sector will be reallocated to that sector's next season during the current fishing year unless the Regional Administrator makes a determination under paragraph (a)(7)(iii) of this section that the sector will be unable to harvest its allocation.

(C) *Jig sector.* The Regional Administrator will reallocate any projected unused portion of a seasonal allowance of Pacific cod for the jig sector under this section to the less than 60 ft (18.3 m) LOA hook-and-line or pot catcher vessel sector.

The Regional Administrator will reallocate the projected unused portion of the jig sector's C season allowance on or about September 1 of each year.

(v) *ITAC allocation to the Amendment 80 sector.* A percentage of the Pacific cod TAC, after subtraction of the CDQ reserve, will be allocated as ITAC to the Amendment 80 sector as described in Table 33 to this part. Separate allocations for each Amendment 80 cooperative and the Amendment 80 limited access fishery are described under § 679.91. The allocation of Pacific cod to

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the Amendment 80 sector will be further divided into seasonal apportionments as described under paragraph (a)(7)(iv)(A)(I)(ii) of this section.

(A) *Use of seasonal apportionments by Amendment 80 cooperatives.* (1) The amount of Pacific cod listed on a CQ permit that is assigned for use in the A season may be used in the B or C season.

(2) The amount of Pacific cod that is listed on a CQ permit that is assigned for use in the B season may not be used in the A season.

(3) The amount of Pacific cod listed on a CQ permit that is assigned for use in the C season may not be used in the A or B seasons.

(B) *Harvest of seasonal apportionments in the Amendment 80 limited access fishery.* (1) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B or C seasons.

(2) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the B season may not be harvested in the A season.

(3) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the C season may not be harvested in the A or B seasons.

(vi) *ITAC rollover to Amendment 80 cooperatives.* If during a fishing year, the Regional Administrator determines that a portion of the Pacific cod TAC is unlikely to be harvested and is made available for reallocation to the Amendment 80 sector according to the provisions under paragraph (a)(7)(iii) of this section, the Regional Administrator may issue inseason notification in the FEDERAL REGISTER that reallocates that remaining amount of Pacific cod to Amendment 80 cooperatives, according to the procedures established under § 679.91(f).

(vii) *Pacific cod harvest limitations.* During the annual harvest specifications process, the Regional Administrator will establish an Area 543 Pacific cod harvest limit based on Pacific cod abundance in Area 543 as determined by the annual stock assessment process. NMFS will first subtract the State GHL Pacific cod amount from the AI Pacific cod ABC. Then NMFS will determine the harvest limit in Area 543 by multiplying the percentage of Pa-

cific cod estimated in Area 543 by the remaining ABC for AI Pacific cod.

(viii) *Aleutian Islands CQ set-aside provisions.* During the annual harvest specifications process, the Regional Administrator will establish the PCTC Program Aleutian Islands CQ set-aside through the process set forth at § 679.132.

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

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

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

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

(ii) *ITAC allocation to Amendment 80 and BSAI trawl limited access sectors.* The remainder of the Atka mackerel TAC, after subtraction of the jig gear allocation, CDQ reserve, and incidental catch allowance for the BSAI trawl limited access sector and vessels using non-trawl gear, will be allocated as ITAC to the Amendment 80 and BSAI trawl limited access sectors.

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

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

(C) *Atka mackerel harvest limitations.* (1) Atka mackerel catch within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to this part and located west of 178° W longitude is:



(i) Limited to no more than 60 percent of the annual TACs in Areas 542 and 543; and

(ii) Equally divided between the A and B seasons as defined at § 679.23(e)(3).

(2) The annual TAC in Area 543 will be no more than 65 percent of the ABC in Area 543.

(D) Any unharvested Atka mackerel A season allowance that is added to the B season is prohibited from being harvested within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to this part and located in Areas 541, 542, and 543.

(iii) [Reserved]

(iv) *Amendment 80 sector allocation.* The allocation of Atka mackerel ITAC to the Amendment 80 sector is established in Table 33 to this part. The allocation of Atka mackerel ITAC to the Amendment 80 sector will be further divided into seasonal apportionments under § 679.23(e)(3), and separate allocations for each Amendment 80 cooperative and the Amendment 80 limited access fishery as described under § 679.91.

(A) *Use of seasonal apportionments by Amendment 80 cooperatives.* (1) The amount of Atka mackerel listed on a CQ permit that is assigned for use in the A season may be used in the B season.

(2) The amount of Atka mackerel listed on a CQ permit that is assigned for use in the B season may not be used in the A season.

(B) *Harvest of seasonal apportionments in the Amendment 80 limited access fishery.* (1) Atka mackerel ITAC assigned for harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B season.

(2) Atka mackerel ITAC assigned for harvest by the Amendment 80 limited access fishery in the B season may not be harvested in the A season.

(v) *BSAI trawl limited access sector allocation—(A) BSAI trawl limited access sector directed fishing allowance.* The amount of Atka mackerel ITAC assigned as a directed fishing allowance to the BSAI trawl limited access sector is established in Table 33 to this part.

(B) *BSAI trawl limited access sector incidental catch allowance and ITAC rollover.* If, during a fishing year, the Regional Administrator determines that

a portion of the Atka mackerel incidental catch allowance or ITAC assigned to the BSAI trawl limited access sector is unlikely to be harvested, the Regional Administrator may issue inseason notification in the FEDERAL REGISTER that reallocates that remaining amount of Atka mackerel directed fishing allowance to Amendment 80 cooperatives, according to the procedures established under § 679.91(f).

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

(10) *Amendment 80 species except Pacific cod and Atka mackerel—(i) ITAC allocation to the Amendment 80 and BSAI trawl limited access sectors.* The remainder of the TACs for each Amendment 80 species other than Atka mackerel and Pacific cod, after subtraction of the CDQ reserve and incidental catch allowance for the BSAI trawl limited access sector and vessels using non-trawl gear, will be allocated as ITAC to the Amendment 80 and BSAI trawl limited access sectors.

(ii) *Amendment 80 sector ITAC.* The allocation of ITAC for each Amendment 80 species other than Atka mackerel and Pacific cod to the Amendment 80 sector is established in Tables 33 and 34 to this part. The allocation of these species to the Amendment 80 sector will be further divided into separate allocations for each Amendment 80 cooperative and the Amendment 80 limited access fishery as described under § 679.91.

(iii) *BSAI trawl limited access sector allocation—(A) BSAI trawl limited access sector directed fishing allowance.* The amount of ITAC for each Amendment 80 species other than Atka mackerel and Pacific cod assigned as a directed fishing allowance to the BSAI trawl limited access sector is established in Tables 33 and 34 to this part.

(B) *BSAI trawl limited access sector ITAC rollover.* If, during a fishing year, the Regional Administrator determines that a portion of the incidental catch allowance or ITAC assigned to the BSAI trawl limited access sector for

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each Amendment 80 species other than Atka mackerel and Pacific cod is unlikely to be harvested, the Regional Administrator may issue inseason notification in the FEDERAL REGISTER that reallocates that remaining amount to Amendment 80 cooperatives, according to the procedures established under § 679.91(f).

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

(12) *GOA Pacific cod TAC—(i) Seasonal allowances by sector.* The Western and Central GOA Pacific cod TACs will be seasonally apportioned to the jig sector such that 60 percent of the TAC is apportioned to the A season and 40 percent of the TAC is apportioned to the B season, as specified in § 679.23(d)(3), before TAC is apportioned among other non-jig sectors. The Western and Cen-

tral GOA Pacific cod TACs will be seasonally apportioned among the non-jig sectors such that 63.84 percent of the Western GOA TAC is apportioned to the A season and 36.16 percent of the Western GOA TAC is apportioned to the B season, and 64.16 percent of the Central GOA TAC is apportioned to the A season and 35.84 percent of the Central GOA TAC is apportioned to the B season, as specified in § 679.23(d)(3).

(A) *Western GOA Regulatory Area—Jig sector.* A portion of the annual Pacific cod TAC will be allocated to vessels with an FFP that use jig gear, as determined in the annual harvest specification under paragraph (c)(7) of this section, before TAC is apportioned among other non-jig sectors. Other Pacific cod sector allowances are apportioned after allocation to the jig sector based on gear type and operation type as follows:

Sector	Gear type	Operation type	Seasonal allowances	
			A season (in percent)	B season (in percent)
(1) .....	Hook-and-Line .....	Catcher vessel .....	0.70	0.70
(2) .....	Hook-and-Line .....	Catcher/Processor .....	10.90	8.90
(3) .....	Trawl .....	Catcher vessel .....	31.54	6.86
(4) .....	Trawl .....	Catcher/Processor .....	0.90	1.50
(5) .....	Pot .....	Catcher Vessel and Catcher/Processor.	19.80	18.20
(6) .....	Nontrawl .....	Any .....	0.00	0.00

(B) *Central GOA Regulatory Area—Jig sector.* A portion of the annual Pacific cod TAC will be allocated to vessels with an FFP that use jig gear, as determined in the annual harvest specification under paragraph (c)(7) of this sec-

tion, before TAC is apportioned among other non-jig sectors. Other Pacific cod sector allowances are apportioned after allocation to the jig sector based on gear type, operation type, and length overall as follows:

Sector	Gear type	Operation type	Length overall in feet	Seasonal allowances	
				A season (in percent)	B season (in percent)
(1) .....	Hook-and-Line .....	Catcher vessel .....	<50 .....	9.31552	5.28678
(2) .....	Hook-and-Line .....	Catcher vessel .....	≥50 .....	5.60935	1.09726
(3) .....	Hook-and-Line .....	Catcher/Processor .....	Any .....	4.10684	0.99751
(4) .....	Trawl .....	Catcher vessel .....	Any .....	25.29364	16.29047
(5) .....	Trawl .....	Catcher/Processor .....	Any .....	2.00334	2.19451
(6) .....	Pot .....	Catcher Vessel and Catcher/Processor.	Any .....	17.82972	9.97506
(7) .....	Nontrawl .....	Any .....	Any .....	0.00	0.00

(ii) *Reapportionment of TAC—(A)* The Regional Administrator may apply any underage or overage of Pacific cod harvest by each sector from one season to

the subsequent season. In adding or subtracting any underages or overages to the subsequent season, the Regional

Administrator shall consider the incidental catch and any catch in the directed fishery by each sector.

(B) If, during a fishing year, the Regional Administrator determines that a sector will be unable to harvest the entire amount of Pacific cod allocated to that sector under (a)(12)(i)(A) or (B) of this section, the Regional Administrator will reallocate the projected unused amount of Pacific cod to other sectors through notification in the FEDERAL REGISTER. Any reallocation decision by the Regional Administrator would consider a reallocation of the projected unused allocation to the CV sectors first, then to the combined CV and C/P pot sector, and then to all other C/P sectors, taking into account the capability of a sector, as determined by the NMFS Alaska Regional Administrator, to harvest the remaining Pacific cod TAC.

(iii) *Catch accounting*—(A) Incidental Pacific cod harvested between the closure of the A season and opening of the B season shall be deducted from the B season TAC apportionment for that sector.

(B) Each license holder that is assigned an LLP license with a catcher/processor operation type endorsement that is not assigned a catcher vessel operation type endorsement under the provisions at § 679.4(k)(10)(vii)(A) and (B) shall have all incidental and direct catch of Pacific cod deducted from the catcher/processor sector allocation and gear type designation corresponding to the gear used by that vessel.

(C) Holders of catcher/processor licenses assigned a Western GOA CV endorsement, under the provisions at § 679.4(k)(10)(vii)(A) and (B), shall have all incidental and direct catch of Pacific cod in the Western GOA deducted from the CV sector's allocation and gear type designation corresponding to the gear used by that vessel in the Western GOA.

(D) Holders of C/P licenses eligible to, and electing to receive a Central CV endorsement, under the provisions at § 679.4(k)(10)(vii)(A) and (B), shall have all incidental and direct catch of Pacific cod in the Central GOA deducted from the CV sector's allocation and gear type designation corresponding to

the gear used by that vessel in the Central GOA.

(E) NMFS shall determine the length overall of a vessel operating in the Central GOA based on the length overall designated on the FFP assigned to that vessel.

(iv) *Processing caps for FFP licensed vessels*. In the Western GOA, no more than 2 percent of the total Pacific cod TAC allocated to the Western GOA regulatory area can be delivered for processing to vessels operating under the authority of an FFP.

(v) *Processing caps for FFP licensed vessels operating as CQE floating processors*. Harvesting vessels may deliver Pacific cod harvested in the directed Pacific cod TAC fishery, if the processing vessel receiving the Pacific cod—

(A) Does not meet the definition of a stationary floating processor at § 679.2;

(B) Is operating under the authority of an FFP license endorsed as a CQE floating processor;

(C) Is located within the marine municipal boundaries of a CQE community in the State waters adjacent to the Central or Western GOA as described in Table 21 to this part; and

(D) The total amount of Pacific cod received or processed by all CQE floating processors does not exceed—

(1) 3 percent of the total Western GOA Pacific cod TAC; or

(2) 3 percent of the total Central GOA Pacific cod TAC.

(b) *Reserves*—(1) *BSAI*—(i) *Nonspecified reserve*. Fifteen percent of the BSAI TAC for each target species, except pollock, the fixed gear allocation for sablefish, and the Amendment 80 species, which includes Pacific cod, is automatically placed in the nonspecified reserve before allocation to any sector. The remaining 85 percent of each TAC is apportioned to the initial TAC for each target species that contributed to the nonspecified reserve. The nonspecified reserve is not designated by species or species group. Any amount of the nonspecified reserve may be apportioned to target species that contributed to the nonspecified reserve, provided that such apportionments are consistent with paragraph (a)(3) of this section and do not result in overfishing of a target species.

(ii) *CDQ reserves*—(A) *Pollock CDQ reserves*—(1) *Bering Sea*. In the annual harvest specifications required by paragraph (c) of this section, 10 percent of the Bering Sea subarea pollock TAC will be allocated to a CDQ reserve as a directed fishing allowance.

(2) *Aleutian Islands subarea and Bogoslof District*. In the annual harvest specifications required by paragraph (c) of this section, 10 percent of the Aleutian Islands subarea and Bogoslof District pollock TACs will be allocated to a CDQ reserve as a directed fishing allowance unless the Aleutian Islands subarea or Bogoslof District is closed to directed fishing for pollock by regulation. If the Aleutian Islands subarea and/or Bogoslof District is closed to directed fishing for pollock by regulation, then no pollock CDQ reserve will be established for those areas and incidental harvest of pollock by CDQ groups will accrue against the incidental catch allowance for pollock established under paragraph (a)(5)(i)(A)(1) of this section.

(B) *Fixed gear sablefish CDQ reserves*. Twenty percent of the fixed gear allocation of sablefish established under paragraphs (a)(4)(iii)(A) and (a)(4)(iv)(A) of this section will be allocated to a CDQ reserve for each subarea.

(C) *CDQ reserves for Amendment 80 species*. An amount equal to 10.7 percent of the BSAI TACs for Atka mackerel, Aleutian Islands Pacific ocean perch, yellowfin sole, rock sole, flathead sole, and Pacific cod will be allocated to a CDQ reserve for each of these species by management area, subarea, or district.

(D) *CDQ reserves for other groundfish species*. (1) An amount equal to 10.7 percent of the BSAI TACs for Bering Sea Greenland turbot and arrowtooth flounder, and 7.5 percent of the trawl gear allocation of sablefish in the BS and AI is apportioned from the non-specified reserve established under paragraph (b)(1)(i) of this section to a CDQ reserve for each of these species by management area, subarea, or district.

(2) For all other groundfish species not specifically listed in paragraphs (b)(1)(ii)(A) through (b)(1)(ii)(D)(1) of this section, an amount equal to 10.7

percent of the BSAI TAC will be apportioned to a CDQ reserve if NMFS, after consultation with the Council and in consideration of public comment, determines in the annual harvest specifications process under paragraph (c) of this section that a directed fishery in the BSAI exists for this species under section 305(i)(1)(B)(i) of the Magnuson-Stevens Act. In making this determination, the Council and NMFS shall consider whether sufficient TAC exists to open a directed fishery for that species in the BSAI and that this species or species group is economically viable for the CDQ group to target.

(iii) *ABC reserves*. (A) ABC reserves are annually established for flathead sole, rock sole, and yellowfin sole. For each flatfish species, the ABC reserve is calculated as an amount less than or equal to the ABC surplus. NMFS, after consultation with the Council, may set the ABC reserve for flathead sole, rock sole, or yellowfin sole below the ABC surplus for that species based on social, economic, or ecological considerations.

(B) *CDQ ABC reserves*. An amount equal to 10.7 percent of the ABC reserves for flathead sole, rock sole, and yellowfin sole will be allocated to a CDQ ABC reserve. The CDQ ABC reserves will be:

(1) Calculated during the annual harvest specifications described at paragraph (c) of this section, as allocations to CDQ groups; and

(2) Allocated to each CDQ group as described under § 679.31(b)(4).

(C) *Amendment 80 ABC reserves*. Amendment 80 ABC reserves shall be calculated as the ABC reserves described under paragraph (b)(1)(iii)(A) of this section as reduced by the CDQ ABC reserves under paragraph (b)(1)(iii)(B) of this section. The Amendment 80 ABC reserves will be:

(1) Calculated during the annual harvest specifications described at paragraph (c) of this section, as allocations to Amendment 80 cooperatives; and

(2) Allocated to each Amendment 80 cooperative as described under § 679.91(i)(2).

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

(i) *Pollock inshore-offshore reapportionment.* Any amounts of the GOA reserve that are reapportioned to pollock as provided by paragraph (b) of this section must be apportioned for processing by the inshore component in the GOA and the offshore component in the GOA in the same proportions specified in paragraph (a)(6)(i) of this section.

(ii) *Pacific cod reapportionment.* Any amounts of the GOA reserve that are reapportioned to the GOA Pacific cod fishery as provided by paragraph (b) of this section must be apportioned in the same proportion specified in paragraphs (a)(6)(ii) and (a)(12)(i) of this section.

(3) *Apportionment of reserves*—(i) *Notification.* (A) As soon as practicable after April 1, June 1, and August 1, and on such other dates as NMFS determines appropriate, NMFS will, by notification in the FEDERAL REGISTER, apportion all or part of the BSAI or GOA reserve in accordance with this paragraph (b).

(B) No apportionment, retention, or PSC limit adjustment may take effect until notification has been published in the FEDERAL REGISTER with a statement of the findings upon which the apportionment, retention, or adjustment is based.

(ii) *Apportionment*—(A) *General.* Except as provided in paragraph (b)(3)(ii)(B) of this section, NMFS will apportion the amount of BSAI or GOA reserve that will be harvested by U.S. vessels during the remainder of the year.

(B) *Exception.* Part or all of the BSAI or GOA reserve may be withheld if an apportionment would adversely affect the conservation of groundfish resources or prohibited species.

(iii) *Public comment*—(A) *Prior comment.* NMFS will provide all interested persons an opportunity to comment on the proposed apportionments, retentions, or PSC limit adjustments under this paragraph (b) before such apportionments, retentions, or adjustments are made, unless NMFS finds that there is good cause for not providing a prior comment opportunity, and publishes the reasons therefor in the notification of apportionment, retention, or adjustment.

(B) *Submittal dates.* Comments provided for in this paragraph (b)(3)(iii) must be received by NMFS not later than 5 days before April 1, June 1, and August 1, or other dates that may be specified.

(C) *Subsequent comment.* If NMFS determines for good cause that notification of apportionment, retention or PSC limit adjustment must be issued without providing interested persons a prior opportunity for public comment, comments on the apportionment, retention or adjustment will be received for a period of 15 days after its effective date.

(D) *Response to comments.* NMFS will consider all timely comments in deciding whether to make a proposed apportionment, retention, or PSC limit adjustment or to modify an apportionment, retention, or adjustment that previously has been made, and shall publish responses to those comments in the FEDERAL REGISTER as soon as practicable.

(E) *Data available.* The Regional Administrator will make available to the public during business hours the aggregate data upon which any preliminary TAC or PSC limit figure is based or the data upon which any apportionment or retention of surplus or reserve, or PSC limit adjustment was or is proposed to be based. These data will be available for a sufficient period to facilitate informed comment by interested persons.

(c) *Annual specifications*—(1) *Proposed specifications*—(i) *Notification.* As soon as practicable after consultation with the Council, NMFS will publish proposed specifications for the groundfish fisheries in the BSAI and the GOA.

(ii) *Public comment.* NMFS will accept public comment on the proposed specifications established by this section and by § 679.21 for a period specified in the notice of proposed specifications published in the FEDERAL REGISTER.

(iii) *GOA.* The proposed specifications will specify for up to two fishing years the annual TAC for each target species and apportionments thereof, halibut prohibited species catch amounts, and seasonal allowances of pollock and Pacific cod.

(iv) *BSAI.* (A) The proposed harvest specifications will specify for up to two fishing years the annual TAC for each

target species and apportionments thereof, PSQ reserves and prohibited species catch allowances, seasonal allowances of pollock, Pacific cod, and Atka mackerel TAC (including pollock, Pacific cod, and Atka mackerel CDQ), and CDQ reserves.

(B) The proposed harvest specifications will specify for up to two fishing years the ABC surpluses, ABC reserves, CDQ ABC reserves, CDQ ABC reserves for each CDQ group, Amendment 80 ABC reserves, and Amendment 80 ABC reserves for each Amendment 80 cooperative for flathead sole, rock sole, and yellowfin sole.

(2) [Reserved]

(3) *Final specifications*—(i) *Procedure and notification*. NMFS will consider comments received on the proposed specifications and, after consultation with the Council, will publish a notice of final specifications in the FEDERAL REGISTER unless NMFS determines that the final specifications would not be a logical outgrowth of the notice of proposed specifications. In that event, NMFS will either:

(A) Publish a revised notice of proposed specifications in the FEDERAL REGISTER for public comment, and after considering comments received on the revised proposed specifications, publish a notice of final specifications in the FEDERAL REGISTER; or

(B) Publish a notice of final specifications in the FEDERAL REGISTER without an additional opportunity for public comment based on a finding that good cause pursuant to the Administrative Procedure Act justifies waiver of the requirement for a revised notice of proposed specifications and opportunity for public comment thereon.

(ii) *GOA*. The final specifications will specify for up to two fishing years the annual TAC for each target species and apportionments thereof, halibut prohibited species catch amounts, and seasonal allowances of pollock and Pacific cod.

(iii) *BSAI*. (A) The final harvest specifications will specify for up to two fishing years the annual TAC for each target species and apportionments thereof, PSQ reserves and prohibited species catch allowances, seasonal allowances of pollock (including pollock,

Pacific cod, and Atka mackerel CDQ), and CDQ reserves.

(B) The final harvest specifications will specify for up to two fishing years the annual ABC surpluses, ABC reserves, CDQ ABC reserves, CDQ ABC reserves for each CDQ group, Amendment 80 ABC reserves, and Amendment 80 ABC reserves for each Amendment 80 cooperative for flathead sole, rock sole, and yellowfin sole.

(4) *AFA and inshore/offshore allocations*—(i) *BSAI pollock*. The annual harvest specifications will specify the allocation of pollock for processing by each AFA industry component in the BSAI, and any seasonal allowances thereof, as authorized under paragraph (a)(5) of this section.

(ii) *GOA pollock*. The annual harvest specifications will specify the allocation of GOA pollock for processing by the inshore component in the GOA and the offshore component in the GOA, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(6) of this section.

(iii) *Eastern GOA Pacific cod*. The annual harvest specifications will specify the allocation of Eastern GOA Pacific cod for processing by the inshore component and the offshore component, and any seasonal allowances thereof, as authorized under paragraph (a)(6) of this section.

(5) *BSAI Pacific cod gear allocations*. The proposed and final specifications will specify the allocation of BSAI Pacific cod among gear types as authorized under paragraph (a)(7) of this section.

(6) *BSAI Atka mackerel allocations*. The proposed and final harvest specifications will specify the allocation of BSAI Atka mackerel among gear types as authorized under paragraph (a)(8) of this section.

(7) *Western and Central GOA Pacific cod allocations*. The proposed and final harvest specifications will specify the allocation of GOA Pacific cod among gear types and any seasonal allowances thereof, as authorized under paragraph (a)(12) of this section.

(d) *Fishery closures*—(1) *Directed fishing allowance*—(i) *General*. If the Regional Administrator determines that any allocation or apportionment of a

target species specified under paragraph (c) of this section has been or will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group.

(ii) *Specified fishery amounts*—(A) *Inseason adjustments*. The category allocations or apportionments established under paragraph (c) of this section may be revised by inseason adjustments, as defined at § 679.25, for a given species or species group or pollock allowance, as identified by regulatory area, subarea, or district, and, if applicable, as further identified by gear type.

(B) *Incidental catch*. In establishing a directed fishing allowance, the Regional Administrator shall consider the amount of the allocation or apportionment established under paragraph (c) of this section that will be taken as incidental catch in directed fishing for other species in the same subarea, regulatory area, or district.

(iii) *Directed fishing closure*—(A) *Notification*. If the Regional Administrator establishes a directed fishing allowance for a fishery allocation or apportionment under this paragraph (d), and that allowance has been or will be reached before the end of the fishing season or year, NMFS will publish notification in the FEDERAL REGISTER prohibiting directed fishing in the specified subarea, regulatory area, or district.

(B) *Retention of incidental species*. Except as described in § 679.20(e)(3)(iii) and § 679.20(j), if directed fishing for a target species or species group is prohibited, a vessel may not retain that incidental species in an amount that exceeds the maximum retainable amount, as calculated under paragraphs (e) and (f) of this section, at any time during a fishing trip.

(iv) *AFA sideboard limitations*—(A) If the Regional Administrator determines that any sideboard harvest limit for a group of AFA vessels established under § 679.64 has been or will be reached, the Regional Administrator may establish a sideboard directed fishing allowance for the species or species group applicable only to the identified group of AFA vessels.

(B) In establishing a directed fishing allowance under paragraph (d)(1)(iv)(A)

of this section, the Regional Administrator will consider the amount of the sideboard limit established for a group of AFA vessels under § 679.64 that will be taken as incidental catch by those vessels in directed fishing for other species.

(C) If the Regional Administrator determines that a sideboard amount is insufficient to support a directed fishery for that species then the Regional Administrator may set the sideboard directed fishing allowance at zero for that species or species group.

(D) Species or species groups for which directed fishing for sideboard limits by AFA vessels is prohibited are listed in Tables 54, 55, and 56 to this part.

(v) *Amendment 80 GOA sideboard limits—GOA groundfish*. (A) If the Regional Administrator determines that a GOA sideboard limit for a GOA groundfish species as described under Table 37 to this part is sufficient to support a directed fishing allowance for that species, the Regional Administrator may establish a directed fishing allowance for the species applicable only to Amendment 80 vessels subject to the GOA groundfish sideboard limit.

(B) If the Regional Administrator determines that a GOA groundfish sideboard limit as described under Table 37 to this part is insufficient to support a directed fishing allowance by Amendment 80 vessels for that species, then the Regional Administrator may set the directed fishing allowance to zero for that species for Amendment 80 vessels.

(C) Upon determining that a GOA sideboard limit as described under Table 37 to this part for a species is or will be reached, the Regional Administrator will publish notification in the FEDERAL REGISTER prohibiting directed fishing for that species by the Amendment 80 vessels to which the GOA sideboard limit applies.

(vi) *Amendment 80 GOA sideboard limits—halibut PSC*. (A) If the Regional Administrator determines that a GOA sideboard limit for halibut PSC is sufficient to support a directed fishery for a species or species group, management area, and season specified in Table 38 to this part, then the Regional Administrator may establish a halibut PSC

sideboard limit for that species or species group, management area, and season applicable to the Amendment 80 vessels to which the halibut PSC limit applies.

(B) If the Regional Administrator determines that a halibut PSC sideboard limit is insufficient to support a directed fishery for a species or species group, management area, and season as specified in Table 38 to this part then the Regional Administrator may set the halibut PSC sideboard limit for that species or species group to zero for the Amendment 80 vessels to which the halibut PSC limit applies.

(C) Upon determining that a halibut PSC sideboard limit for a species or species group, management area, and season as specified in Table 38 to this part is or will be reached, the Regional Administrator will publish notification in the FEDERAL REGISTER prohibiting directed fishing for a specific species or species group by the Amendment 80 vessels to which the halibut PSC limit applies as follows:

(1) If the halibut PSC sideboard limit is reached for the deep-water species fishery as defined in § 679.21(d)(3)(iii)(B) for a season, then NMFS will close directed fishing in the GOA for all species in the deep-water species fishery except northern rockfish, Pacific ocean perch, and dusky rockfish in the Central GOA for that season.

(2) If the halibut PSC sideboard limit is reached for the shallow-water species fishery as defined in § 679.21(d)(3)(iii)(A) for a season, then NMFS will close directed fishing in the GOA for all species in the shallow-water species fishery for that season.

(2) *Groundfish as prohibited species closure.* When the Regional Administrator determines that the TAC of any target species specified under paragraph (c) of this section, or the share of any TAC assigned to any type of gear, has been or will be achieved prior to the end of a year, NMFS will publish notification in the FEDERAL REGISTER requiring that target species be treated in the same manner as a prohibited species, as described under § 679.21(a), for the remainder of the year, except rockfish species caught by catcher vessels using hook-and-line, pot, or jig gear as described in § 679.20(j).

(3) *Overfishing closure—(i) Notification.* If, in making a determination under paragraph (d)(2) of this section, the Regional Administrator also determines that fishing for other target species or species groups in the area, district or part thereof where the notification applies, may lead to the overfishing of the species or species group for which the allocation or apportionment has been or will be reached, NMFS will publish notification in the FEDERAL REGISTER specifying limitations or prohibitions designed to prevent overfishing of that species or species group.

(ii) *Limitations and prohibitions.* These limitations and prohibitions may prohibit directed fishing for other species or species groups in the area, district, or part thereof where the notification applies, or may limit time, area, or gear types that may be used in directed fishing for the other species or species groups.

(iii) *Factors to be considered.* When making the determinations specified under paragraphs (d)(1), (d)(2), and (d)(3) of this section, the Regional Administrator may consider allowing fishing to continue or resume with certain gear types or in certain areas and times based on findings of:

(A) The risk of biological harm to a groundfish species or species group for which the TAC or PSC limit is or will be reached.

(B) The risk of socioeconomic harm to authorized users of the groundfish for which the TAC or PSC limit will be or has been reached.

(C) The impact that the continued closure might have on the socioeconomic well-being of other domestic fisheries.

(4) *Harvest control for pollock, Atka mackerel, and Pacific cod.* If a biological assessment of stock condition for pollock, Pacific cod, or Atka mackerel within an area projects that the spawning biomass in that area will be equal to or below 20 percent of the projected unfished spawning biomass during a fishing year, the Regional Administrator will prohibit the directed fishery for the relevant species within the area. The Regional Administrator will prohibit the directed fishery under this paragraph by notification published in the FEDERAL REGISTER. The directed



fishery will remain closed until a subsequent biological assessment projects that the spawning biomass for the species in the area will exceed 20 percent of the projected unfished spawning biomass during a fishing year.

(e) *Maximum retainable amounts (MRA)*—(1) *Proportion of basis species.* The maximum retainable amount of an incidental catch species is calculated as a proportion of the basis species retained on board the vessel using:

(i) The retainable percentages in Table 10 to this part for the GOA species categories (except the Rockfish Program fisheries, which are described in Table 30 to this part for the Rockfish Program fisheries); and

(ii) Table 11 to this part for the BSAI species categories.

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

(ii) To obtain these individual retainable amounts, multiply the appropriate retainable percentage for the incidental catch species/basis species combination, set forth in Table 10 to this part for the GOA species categories (except the Rockfish Program fisheries, which are described in Table 30 to this part for the Rockfish Program fisheries), and Table 11 to this part for the BSAI species categories, by the amount of that basis species, in round-weight equivalents.

(iii) The maximum retainable amount for that specific incidental catch species is the sum of the individual retainable amount.

(3) *Application.* (i) For catcher vessels, the maximum retainable amount for vessels fishing during a fishing trip in areas closed to directed fishing is the lowest maximum retainable amount applicable in any area, and this maximum retainable amount must be applied at any time and to all areas for the duration of the fishing trip.

(ii) For catcher/processors fishing in an area closed to directed fishing for a species or species group, the maximum retainable amount for that species or species group applies at any time for the duration of the fishing trip.

(iii) For all vessels not listed in subpart F of this section, the maximum retainable amount for pollock harvested in the BSAI is calculated at the end of each offload and is based on the basis species harvested since the previous offload. For purposes of this paragraph, offload means the removal of any fish or fish product from the vessel that harvested the fish or fish product to any other vessel or to shore.

(iv) The maximum retainable amount for groundfish harvested in the Central GOA by a catcher/processor vessel fishing under a rockfish CQ permit is calculated at the end of each weekly reporting period, and is based on the basis species defined in Table 30 harvested since the previous weekly reporting period, or for any portion of a weekly reporting period that vessel was designated under a vessel check-in as specified in § 679.5(r)(8).

(v) For all vessels not listed in subpart F of this section, the maximum retainable amount for Atka mackerel harvested in the Bering Sea subarea is calculated at the end of each offload and is based on the basis species harvested since the previous offload. For purposes of this paragraph, offload means the removal of any fish or fish product from the vessel that harvested the fish or fish product to any other vessel or to shore.

(vi) For a catcher/processor with a BSAI Pacific cod trawl mothership endorsement that receives an unsorted codend delivered by a catcher vessel authorized to harvest and that is assigned to PCTC Program Pacific cod, the maximum retainable amount for each species or species group applies at any time for the duration of the fishing trip and must be applied to only the PCTC Program hauls during a fishing trip.

(f) *Directed fishing calculations and determinations*—(1) *Round-weight equivalents.* Any determination concerning directed fishing, the amount or percentage of any species, species group, or any fish or fish products must be calculated in round-weight equivalents.

(2) *Retainable amounts.* Any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish species. Only fish harvested under the

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

(g) *Allowable retention of pollock roe*—(1) *Percentage of pollock roe*. (i) Pollock roe retained on board a vessel at any time during a fishing trip must not exceed the following percentages of the total round-weight equivalent of pollock, as calculated from the primary pollock product on board the vessel during the same fishing trip:

(A) 7 percent in the Gulf of Alaska, and

(B) 9 percent in the Bering Sea and Aleutian Islands.

(ii) Determinations of allowable retention of pollock roe will be based on amounts of pollock harvested, received, or processed during a single fishing trip.

(iii) Pollock or pollock products from previous fishing trips that are retained on board a vessel may not be used to determine the allowable retention of pollock roe for that vessel.

(2) *Primary product*. (i) For purposes of this paragraph (g), only one primary pollock product per fish, other than roe, may be used to calculate the round-weight equivalent.

(ii) A primary pollock product that contains roe (such as headed and gutted pollock with roe) may not be used to calculate the round-weight equivalent of pollock.

(iii) The primary pollock product must be distinguished from ancillary pollock products in eLandings required under § 679.5(e)(9)(i)(D) and § 679.5(e)(10)(iii)(H) (see also Table 1c to this part).

(3) *Pollock product recovery rates (PRRs)*. Use the product types and standard PRRs for pollock found in Table 3 to this part to calculate round-weight equivalents for pollock for purposes of this paragraph (g).

(4) *Calculation of retainable pollock roe*—(i) *Round-weight equivalent*. (A) To calculate the amount of pollock roe that can be retained on board during a fishing trip, first calculate the round-weight equivalent by dividing the total amount of primary product on board by the appropriate PRR.

(B) To determine the maximum amount of pollock roe that can be retained on board a vessel during the

same fishing trip, multiply the round-weight equivalent by 0.07 in the Gulf of Alaska or 0.09 in the Bering Sea and Aleutian Islands.

(C) Pollock roe retained on board from previous fishing trips will not be counted.

(ii) *Two or more products from different fish*. (A) If two or more products, other than roe, are made from different fish, round-weight equivalents are calculated separately for each product.

(B) To determine the maximum amount of pollock roe that can be retained on board a vessel during a fishing trip, add the round-weight equivalents together; then, multiply the sum by 0.07 in the Gulf of Alaska or 0.09 in the Bering Sea and Aleutian Islands.

(iii) *Two or more products from same fish*. If two or more products, other than roe, are made from the same fish, the maximum amount of pollock roe that can be retained during a fishing trip is determined from the primary product.

(5) *Primary pollock product*—(i) *Process prior to transfer*. Any primary pollock product used to calculate retainable amounts of pollock roe must be frozen, canned, or reduced to meal by the vessel retaining the pollock roe prior to any transfer of the product to another vessel.

(ii) *No discard of processed product*. Any pollock product that has been processed may not be discarded at sea unless such discarding is necessary to meet other requirements of this part.

(h) *Standard product types and standard PRRs*—(1) *Calculating round-weight equivalents from standard PRRs*. Round-weight equivalents for groundfish products are calculated using the product codes and standard PRRs specified in Table 3 to this part.

(2) *Adjustments*. The Regional Administrator may adjust standard PRRs and product types specified in Table 3 to this part if he or she determines that existing standard PRRs are inaccurate or if new product types are developed.

(i) Adjustments to any standard PRR listed in Table 3 to this part that are within and including 15 percent of that standard PRR may be made without providing notification and opportunity for prior public comment.

(ii) Adjustments of any standard PRR during a calendar year, when aggregated with all other adjustments made during that year, will not exceed 15 percent of the standard PRR listed in Table 3 to this part at the beginning of that calendar year.

(iii) No new product type will be announced until NMFS publishes the proposed adjustment and/or new product type in the FEDERAL REGISTER and provides the public with at least 30 days opportunity for public comment.

(iv) Any adjustment of a PRR that acts to further restrict the fishery will not be effective until 30 days after the date of publication in the FEDERAL REGISTER.

(v) If NMFS makes any adjustment or announcement without providing a prior notification and opportunity for prior public comment, the Regional Administrator will receive public comments on the adjustment or announcement for a period of 15 days from the date of publication in the FEDERAL REGISTER.

(i) *Forage fish, grenadiers, squids, and sculpins*—(1) *Definition*. See Table 2c to this part.

(2) *Applicability*. The provisions of this paragraph (i) apply to all vessels fishing for groundfish in the BSAI or GOA, and to all vessels processing groundfish harvested in the BSAI or GOA.

(3) *Closure to directed fishing*. Directed fishing for forage fish, grenadiers, squids, and sculpins is prohibited at all times in the BSAI and GOA.

(4) *Limits on sale, barter, trade, and processing of forage fish and grenadiers*. The sale, barter, trade, or processing of forage fish and grenadiers is prohibited, except as provided in paragraph (i)(5) of this section.

(5) *Allowable fishmeal production of forage fish and grenadiers*. Retained catch of forage fish or grenadiers not exceeding the maximum retainable amount may be processed into fishmeal for sale, barter, or trade.

(6) *Allowable fish products for squids and sculpins*. Retained catch of squids and sculpins not exceeding the maximum retainable amount may be sold to a processor or processed into any product form, including (but not lim-

ited to) fishmeal, bait, and whole fish/food fish, for sale, barter, or trade.

(j) *Full retention of rockfish by catcher vessels using hook-and-line, pot, or jig gear*—(1) *Retention and landing requirements*. The operator of a catcher vessel that is required to have a Federal fisheries permit using hook-and-line, pot, or jig gear, must retain and land all rockfish that is caught while fishing for groundfish or IFQ or CDQ halibut in the BSAI or GOA.

(2) *Maximum commerce allowance (MCA) for rockfish in the BSAI and GOA*. Except as described in §§ 679.20(j)(3) and (4), when rockfish is closed to directed fishing, the operator of a catcher vessel that is required to have a Federal fisheries permit under § 679.4(b), or the manager of a shoreside processor that is required to have a Federal processor permit under § 679.4(f), must dispose of rockfish retained and landed in accordance with paragraph (j)(1) of this section as follows:

(i) A person may sell, barter, or trade a round weight equivalent amount of rockfish that is less than or equal to 15 percent of the aggregate round weight equivalent of IFQ halibut and groundfish species, other than rockfish, that are landed during the same fishing trip.

(ii) A person may sell, barter, or trade a round weight equivalent amount of yelloweye rockfish that is less than or equal to 5 percent of the aggregate round weight equivalent of IFQ halibut and groundfish species, other than rockfish, that are landed during the same fishing trip. The aggregate amount of all rockfish species sold, bartered, or traded cannot exceed the MCA established under paragraph (j)(2)(i) of this section.

(iii) Amounts of rockfish retained by catcher vessels under paragraphs (j)(2)(i) and (ii) of this section that are in excess of the limits specified in paragraphs (j)(2)(i) and (ii) of this section may be put to any use, including but not limited to personal consumption or donation, but must not enter commerce through sale, barter, or trade except as fish meal.

(3) *MCA of DSR in Southeast Outside District of the GOA (SEO) when closed to directed fishing*. When DSR is closed to directed fishing in the SEO, the operator of a catcher vessel that is required

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to have a Federal fisheries permit under § 679.4(b), or the manager of a shoreside processor that is required to have a Federal processor permit under § 679.4(f), must dispose of DSR retained and landed in accordance with paragraph (j)(1) of this section as follows:

(i) A person may sell, barter, or trade a round weight equivalent amount of DSR that is less than or equal to 10 percent of the aggregate round weight equivalent of IFQ halibut and groundfish species, other than sablefish, that are landed during the same fishing trip. The aggregate amount of all rockfish species sold, bartered, or traded cannot exceed the MCA established under paragraph (j)(2)(i) of this section.

(ii) A person may sell, barter, or trade a round weight equivalent amount of DSR that is less than or equal to 1 percent of the aggregate round weight equivalent of IFQ sablefish that are landed during the same fishing trip. The aggregate amount of all rockfish species sold, bartered, or traded cannot exceed the MCA established under paragraph (j)(2)(i) of this section.

(iii) Amounts of DSR retained by catcher vessels under paragraph (j)(1) of this section that are in excess of the limits specified in paragraphs (j)(3)(i) and (ii) of this section may be put to any use, including but not limited to personal consumption or donation, but must not enter commerce through sale, barter, or trade except as fish meal.

(4) *MCA for rockfish when on prohibited species status.* When a rockfish species is placed on prohibited species status under § 679.20(d)(2), the MCA is set to 0 percent and no amount of that rockfish species may enter commerce through sale, barter, or trade except as fish meal. The operator of a catcher vessel that is required to have a Federal fisheries permit under § 679.4(b), or the manager of a shoreside processor that is required to have a Federal processor permit under § 679.4(f), may put rockfish retained and landed in excess of the MCA specified in this paragraph to any use, including but not limited to personal consumption or donation, but such rockfish must not enter commerce through sale, barter, or trade except as fish meal.

[61 FR 31230, June 19, 1996]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 679.20, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at [www.govinfo.gov](http://www.govinfo.gov).

### § 679.21 Prohibited species bycatch management.

(a) *General.* (1) See § 679.2 and Table 2b to this part for definition of prohibited species.

(2) *Prohibited species catch restrictions.* The operator of each vessel engaged in directed fishing for groundfish in the GOA or BSAI must:

(i) Minimize its catch of prohibited species.

(ii) After allowing for sampling by an observer, if an observer is aboard, sort its catch immediately after retrieval of the gear and, except for salmon prohibited species catch in the BS pollock fisheries and GOA groundfish fisheries under paragraph (f) or (h) of this section, or any prohibited species catch as provided (in permits issued) under the PSD program at § 679.26, return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition.

(3) *Rebuttable presumption.* Except as provided under paragraphs (f) and (h) of this section and § 679.26, there will be a rebuttable presumption that any prohibited species retained on board a fishing vessel regulated under this part was caught and retained in violation of this section.

(4) *Prohibited species taken seaward of the EEZ off Alaska.* No vessel fishing for groundfish in the GOA or BSAI may have on board any species listed in this paragraph (a) that was taken in waters seaward of these management areas, regardless of whether retention of such species was authorized by other applicable laws.

(5) *Sablefish as a prohibited species.* (See § 679.24(c) for gear restrictions for sablefish.)

(6) *Addresses.* Unless otherwise specified, submit information required under this section to NMFS as follows: by mail to the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802; by courier to the Office of the Regional Administrator, 709 West 9th St., Juneau, AK 99801; or by fax to 907-586-7465. Forms are available on the