

the name of that person is less than the numbers specified in paragraphs (j)(1)(i) and (j)(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 (j)(1)(i) and (j)(1)(ii) of this section;

(2) Conduct directed fishing for license limitation groundfish without an original valid groundfish license, except as provided in § 679.4(i)(2);

(3) Conduct directed fishing for crab species without an original valid crab species license, except as provided in § 679.4(i)(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 license on a vessel that has an LOA that exceeds the MLOA specified on the license;

(7) Lease a groundfish or crab species license.

[61 FR 31230, June 19, 1996, as amended at 61 FR 33385, June 27, 1996; 61 FR 35578 July 5, 1996; 61 FR 38104, July 23, 1996; 61 FR 38359, July 24, 1996; 61 FR 41525, Aug. 9, 1996; 61 FR 56431, Nov. 1, 1996; 61 FR 65987, Dec. 16, 1996; 62 FR 2046, Jan. 15, 1997; 62 FR 19690, Apr. 23, 1997; 62 FR 67760, Dec. 30, 1997; 63 FR 8360, Feb. 19, 1998; 63 FR 30400, June 4, 1998; 63 FR 32145, June 12, 1998; 63 FR 38502, July 17, 1998; 63 FR 47367, Sept. 4, 1998; 63 FR 52657, Oct. 1, 1998; 63 FR 54753, Oct. 13, 1998]

EFFECTIVE DATE NOTES: 1. At 63 FR 47367, Sept. 4, 1998, § 679.7 was amended by revising paragraphs (a)(1) and (a)(2) and the heading of paragraph (a)(5); and by adding paragraphs (a)(15) and (a)(16), effective Oct. 5, 1998.

2. At 63 FR 52657, Oct. 1, 1998, § 679.7 was amended by adding paragraph (j), effective Jan. 1, 2000. At 63 FR 54753, Oct. 13, 1998, paragraph (j) was correctly designated as paragraph (i).

§ 679.8 Facilitation of enforcement.

See § 600.740 of this chapter.

§ 679.9 Penalties.

See § 600.735 of this chapter.

Subpart B—Management Measures

§ 679.20 General limitations.

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

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

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

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

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

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

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

depressed stocks; and alternative harvesting strategies and related effects on the component species group.

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

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

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

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

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

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

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

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

(5) *Pollock TAC*—(i) *BSAI*—(A) *Seasonal allowances.* The TAC of pollock in each subarea or district of the BSAI will be divided, after subtraction of re-

serves, into two allowances. The first allowance will be available for directed fishing from 0001 hours Alaska local time (A.l.t.) January 1 through 1200 hours, A.l.t., April 15. The second allowance will be available for directed fishing from 1200 hours, A.l.t., September 1 through 1200 hours A.l.t., November 1, of each fishing year. Within any fishing year, unharvested amounts of the first allowance will be added to the second allowance, and harvests in excess of the first allowance will be deducted from the second allowance.

(B) *Apportionment to vessels using nonpelagic trawl gear*—(1) *General.* NMFS, in consultation with the Council, may limit the amount of pollock TAC that may be taken in the directed fishery for pollock using nonpelagic trawl gear.

(2) *Factors to be considered.* The Regional Administrator must consider the following information when limiting the amount of pollock TAC that is apportioned to the directed fishery for pollock using nonpelagic trawl gear:

(i) The PSC limits and PSC bycatch allowances established under §679.21.

(ii) The projected bycatch of prohibited species that would occur with and without a limit in the amount of pollock TAC that may be taken in the directed fishery for pollock using nonpelagic trawl gear.

(iii) The cost of a limit in terms of amounts of pollock TAC that may be taken with nonpelagic trawl gear on the nonpelagic and pelagic trawl fisheries.

(iv) Other factors pertaining to consistency with the goals and objectives of the FMP.

(3) *Notification.* NMFS will publish proposed and final apportionment of pollock TAC to the directed fishery for pollock using nonpelagic trawl gear in the FEDERAL REGISTER with notification of proposed and final specifications defined in §679.20.

(ii) *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) *Seasonal allowances.* Each apportionment will be divided into three seasonal allowances of 25 percent, 35 percent, and 40 percent of the apportionment, respectively, corresponding to the three fishing seasons defined at § 679.23(d)(2).

(6) *Inshore/offshore apportionments (Applicable through December 31, 1998)—*

(i) *BSAI pollock.* The apportionment of pollock in each BSAI subarea or district, and for each seasonal allowance defined in paragraph (a)(5)(i) of this section, will be allocated 35 percent to vessels catching pollock for processing by the inshore component and 65 percent to vessels catching pollock for processing by the offshore component.

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

(iii) *GOA Pacific cod.* The apportionment of Pacific cod in all GOA regulatory areas will be allocated 90 percent to vessels catching Pacific cod for processing by the inshore component and 10 percent to vessels catching Pacific cod for processing by the offshore component.

(iv) *Directed fishing allowances and prohibitions.* The Regional Administrator may establish separate directed fishing allowances and prohibitions authorized under paragraph (d) of this section for:

(A) *BSAI pollock.* Vessels catching pollock in the BSAI for processing by the inshore component and for vessels catching pollock for processing by the offshore component.

(B) *GOA pollock.* Vessels catching pollock in the GOA for processing by the inshore component and for vessels catching pollock for processing by the offshore component.

(C) *GOA Pacific cod.* Vessels catching Pacific cod in the GOA for processing by the inshore component and for vessels catching Pacific cod for processing by the offshore component.

(v) *Reallocation—(A) BSAI pollock.* If, during a fishing year, the Regional Administrator determines that either the inshore or offshore component will not be able to process the entire amount of pollock in the BSAI allocated to vessels catching pollock for processing by that component, NMFS will publish notification in the FEDERAL REGISTER that reallocates the projected unused amount of pollock to vessels catching pollock for processing by the other component.

(B) *GOA pollock.* If the Regional Administrator determines that the inshore component will not be able to process the entire amount of pollock in the GOA allocated to vessels catching pollock for processing by the inshore component during a fishing year, NMFS will publish notification in the FEDERAL REGISTER that reallocates the projected unused amount of pollock to vessels catching pollock for processing by the offshore component.

(C) *GOA Pacific cod.* If, during a fishing year, the Regional Administrator determines that either the inshore or offshore component will not be able to process the entire amount of Pacific cod in the GOA allocated to vessels catching Pacific cod for processing by that component, NMFS will publish notification in the FEDERAL REGISTER that reallocates the projected unused amount of Pacific cod to vessels catching Pacific cod for processing by the other component.

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

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

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

(ii) *Unused gear allocations*—(A) *Reallocation within the trawl sector.* If, during a fishing year, the Regional Administrator determines that either trawl catcher vessels or trawl catcher/processors will not be able to harvest the entire amount of Pacific cod in the BSAI allocated to those vessels under paragraph (a)(7)(i) or (a)(7)(ii)(B) of this section, NMFS will first make the projected unused amount of Pacific cod available to the other trawl vessel sector before any reallocation to vessels using other gear types.

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

(iii) *Reallocation of TAC specified for jig gear.* On September 15 of each year, the Regional Administrator will reallocate any projected unused amount of Pacific cod in the BSAI allocated to vessels using jig gear to vessels using hook-and-line or pot gear through notification in the FEDERAL REGISTER.

(iv) *Seasonal allowances*—(A) *Time periods.* NMFS, after consultation with the Council, may divide the TAC allocated to vessels using hook-and-line or pot gear under paragraph (a)(7)(i) of this section among the following three periods: January 1 through April 30, May 1 through August 31, and September 1 through December 31.

(B) *Factors to be considered.* NMFS will base any seasonal allowance of the Pacific cod allocation to vessels using hook-and-line and pot gear on the following information:

(1) Seasonal distribution of Pacific cod relative to prohibited species distribution.

(2) Variations in prohibited species bycatch rates in the Pacific cod fisheries throughout the fishing year.

(3) Economic effects of any seasonal allowance of Pacific cod on the hook-and-line and pot-gear fisheries.

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

(8) *BSAI Atka mackerel*—(i) *TAC by 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 criteria specified at paragraph (a)(8)(ii) of this section. The remainder of the TAC, after subtraction of reserves, will be allocated to vessels using other authorized gear types.

(ii) *Annual specification.* The percentage of the Atka mackerel TAC specified for the Eastern Aleutian Islands District and Bering Sea subarea that is allocated annually to vessels using jig gear will be published in the FEDERAL REGISTER as part of the proposed and final annual specifications under paragraph (c) of this section. The jig gear allocation will be 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.

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

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

(b) *Reserves*—(1) *BSAI*—(i) *General*. Fifteen percent of the BSAI TAC for each target species and the “other species” category, except the hook-and-line and pot gear allocation for sablefish, is automatically placed in a reserve, and the remaining 85 percent of the TAC is apportioned for each target species and the “other species” category, except the hook-and-line and pot gear allocation for sablefish.

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

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

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

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

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

(iv) *Inshore/offshore reapportionment (Applicable through December 31, 1998)*. Any amounts of the BSAI nonspecific reserve that are reapportioned to pollock as provided by this paragraph (b) must be apportioned between inshore

and offshore components in the same proportion specified in paragraph (a)(6)(i) of this section.

(v) *Pacific cod (Applicable through December 31, 1996)*. Any amounts of the BSAI nonspecific reserve that are apportioned to Pacific cod as provided by this paragraph (b) must be apportioned between vessels using jig, hook-and-line or pot, and trawl gear in the same proportion specified in paragraph (a)(7)(i) of this section, unless the Regional Administrator determines under paragraph (a)(7)(ii) or (iii) of this section that vessels using a certain gear type will not be able to harvest the additional amount of Pacific cod. In this case, the nonspecific reserve will be apportioned to vessels using the other gear type(s).

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

(i) *Pollock inshore/offshore reapportionment (Applicable through December 31, 1998)*. Any amounts of the GOA reserve that are reapportioned to pollock as provided by this paragraph (b) must be apportioned between inshore and offshore components in the same proportion specified in paragraph (a)(6)(ii) of this section.

(ii) *Pacific cod inshore/offshore reapportionment (Applicable through December 31, 1998)*. Any amounts of the GOA reserve that are reapportioned to Pacific cod as provided by this paragraph (b) must be apportioned between inshore and offshore components in the same proportion specified in paragraph (a)(6)(iii) 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) *General—(A) Notification.* As soon as practicable after consultation with the Council, NMFS will publish proposed specifications for the succeeding fishing year. The proposed specifications will reflect as accurately as possible the projected changes in U.S. harvesting and processing capacity and the extent to which U.S. harvesting and processing will occur during the coming year.

(B) *Public comment.* NMFS will accept public comment on the proposed specifications for 30 days from the date of publication in the FEDERAL REGISTER.

(ii) *GOA.* The GOA proposed specifications will specify annual TAC amounts for each target species and the “other species” category and apportionments thereof established under §679.20(a)(2), halibut prohibited species catch amounts established under §679.21, seasonal allowances of pollock, and inshore/offshore Pacific cod.

(iii) *BSAI.* The BSAI proposed specifications will specify the annual TAC and initial TAC amounts for each target species and the “other species” category and apportionments thereof established by paragraph (a)(2) of this section, PSQ reserves and prohibited species catch allowances established by §679.21, seasonal allowances of pollock TAC (including pollock CDQ), and CDQ reserve amounts established by paragraph (b)(1)(iii) of this section.

(2) *Interim specifications.* Interim harvest specifications will be in effect on January 1 and will remain in effect until superseded by the filing of the final specifications by the Office of the Federal Register. Interim specifications will be established as follows:

(i) *GOA.* One-fourth of each proposed TAC and apportionment thereof (not including the reserves or the first seasonal allowance of pollock), one-fourth of the proposed halibut prohibited species catch amounts, and the proposed first seasonal allowance of pollock.

(ii) *BSAI.* Except for pollock and the hook and line and pot gear allocation of sablefish, one quarter of each proposed initial TAC and apportionment

thereof, one quarter of each CDQ reserve established by paragraph (b)(1)(iii) of this section, and one quarter of the proposed PSQ reserve and prohibited species catch allowances established by §679.21.

(A) The interim specifications for pollock will be equal to the first seasonal allowance under paragraph (a)(5)(i)(A) of this section that is published in the proposed specifications under paragraph (c)(1) of this section.

(B) The interim specifications for CDQ pollock will be equal to the first seasonal allowance that is published in the proposed specifications under paragraph (c)(1) of this section.

(3) *Final specifications*—(i) *Notification*. NMFS will consider comments on the proposed specifications received during the comment period and, after consultation with the Council, will publish final specifications in the FEDERAL REGISTER. The final specifications will supersede the interim specifications.

(ii) *GOA*. The final specifications will specify the annual TAC for each target species and the “other species” category and apportionments thereof, halibut prohibited species catch amounts, and seasonal allowances of pollock.

(iii) *BSAI*. The final specifications will specify the annual TAC for each target species and the “other species” category and apportionments thereof, PSQ reserves and prohibited species catch allowances, seasonal allowances of the pollock TAC (including pollock CDQ), and CDQ reserve amounts.

(4) *Inshore/offshore allocations (Applicable through December 31, 1998)*. The proposed, interim, and final specifications will specify the allocation of GOA Pacific cod, GOA pollock, and BSAI pollock for processing by the inshore and offshore components, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(7) of this section.

(5) *BSAI Pacific cod gear allocations*. The proposed, interim, 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, interim, and final specifications will specify the allocation of BSAI Atka mackerel among gear types

as authorized under paragraph (a)(8) of this section.

(d) *Fishery closures*—(1) *Directed fishing allowance*—(i) *General*. If the Regional Administrator determines that any allocation or apportionment of a target species or “other species” category specified under paragraph (c) of this section has been or will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group.

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

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

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

(B) *Retention of bycatch species*. If directed fishing for a target species or the “other species” category is prohibited, a vessel may not retain that bycatch species in an amount that exceeds the maximum retainable bycatch amount, as calculated under paragraphs (e) and (f) of this section, at any time during a fishing trip.

(2) *Groundfish as prohibited species closure*. When the Regional Administrator determines that the TAC of any target species or the “other species” category specified under paragraph (c) of this section, or the share of any TAC assigned to any type of gear, has been or

will be achieved prior to the end of a year, NMFS will publish notification in the FEDERAL REGISTER requiring that target species or the “other species” be treated in the same manner as a prohibited species, as described under § 679.21(b), for the remainder of the year.

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

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

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

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

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

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

(e) *Maximum retainable bycatch amounts*—(1) *Proportion of basis species*. The maximum retainable bycatch amount for a bycatch species or species group is calculated as a proportion of the basis species retained on board the vessel using the retainable percentages

in Table 10 to this part for the GOA species categories and in Table 11 to this part for the BSAI species categories.

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

(ii) To obtain these individual retainable bycatch amounts, multiply the appropriate retainable percentage for the bycatch species/basis species combination, set forth in Table 10 to this part for the GOA species categories and Table 11 to this part for the BSAI species categories, by the amount of that basis species, in round-weight equivalents.

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

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

(2) *Retainable amounts*. Except as provided in Table 10 to this part, arrowtooth flounder, retained CDQ species, or any groundfish species for which directed fishing is closed may not be used to calculate retainable amounts of other groundfish 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 7 percent of the total round-weight equivalent of pollock, as calculated from the primary pollock product on board the vessel during the same fishing trip.

(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.

Fishery Conservation and Management

§ 679.20

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

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

(iii) The primary pollock product must be distinguished from ancillary pollock products in the DCPL required under §679.5(a)(9).

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

Product code	Product description	Standard product recovery rate
07	Headed and gutted, western cut	0.65
08	Headed and gutted, eastern cut	0.56
10	Headed and gutted, without tail	0.50
20	Fillets with skin & ribs	0.35
21	Fillets with skin on, no ribs	0.30
22	Fillets with ribs, no skin	0.30
23	Fillets, skinless, boneless	0.21
24	Deep skin fillets	0.16
30	Surimi	0.16
31	Mince	0.22
32	Meal	0.17

(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.

(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.

(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 of this part.

(2) *Adjustments.* The Regional Administrator may adjust standard PRRs and product types specified in Table 3 of 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 of 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 of this part at the beginning of that calendar year.

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

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

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

(i) *Forage fish*—(1) *Definition*. See § 679.2.

(2) *Applicability*. The provisions of § 679.20(i) apply to all vessels fishing for groundfish in the BSAI or GOA, and to all vessels processing groundfish harvested in the BSAI or GOA.

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

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

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

[61 FR 31230, June 19, 1996, as amended at 61 FR 39602, July 30, 1996; 61 FR 59030, Nov. 20, 1996; 62 FR 2046, Jan. 15, 1997; 62 FR 11110, Mar. 11, 1997; 62 FR 15127, Mar. 31, 1997; 62 FR 63890, Dec. 3, 1997; 62 FR 68228, Dec. 31, 1997; 63 FR 8360, Feb. 19, 1998; 63 FR 13011, Mar. 17, 1998; 63 FR 31941, June 11, 1998; 63 FR 40192, July 28, 1998; 63 FR 47367, Sept. 4, 1998; 63 FR 54610, Oct. 13, 1998]

EFFECTIVE DATE NOTES: 1. At 63 FR 47367, Sept. 4, 1998, § 679.20 was amended by revising paragraphs (d)(1)(ii)(A), (g)(2)(iii), and (g)(3) introductory text, effective Oct. 5, 1998.

2. At 63 FR 54610, Oct. 13, 1998, in § 679.20, in paragraph (g)(3), in the last line “paragraph (g):” was corrected to read “paragraph (g).”, effective Oct. 5, 1998.

§ 679.21 Prohibited species bycatch management.

(a) *Applicability*.(1) This section applies to all vessels required to have a Federal fisheries permit under § 679.4.

(2) Except as otherwise provided, this section also applies to all motherships and shoreside processors that receive groundfish from vessels required to have a Federal fisheries permit under § 679.4.

(b) *General*—(1) *Definition*. Prohibited species, for the purpose of this part, means any of the species of Pacific salmon (*Oncorhynchus* spp.), steelhead trout (*Oncorhynchus mykiss*), halibut, Pacific herring (*Clupea harengus pallasii*), king crab, and Tanner crab 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.

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

(i) Minimize its catch of prohibited species.

(ii) After allowing for sampling by an observer, if an observer is aboard, sort its catch immediately after retrieval of the gear and, except as provided below, return all prohibited species or parts thereof to the sea immediately, with a minimum of injury, regardless of its condition. The following exceptions are made:

(A) Salmon prohibited species catch in the BSAI groundfish fisheries under paragraph (c) of this section and § 679.26; and

(B) Salmon PSQ caught by catcher vessels using trawl gear in the CDQ fisheries under subpart C of this part.

(3) *Rebuttable presumption*. Except as provided under paragraph (c) of this section, § 679.26, or for salmon PSQ retained by catcher vessels using trawl gear in the CDQ fisheries, there will be a rebuttable presumption that any prohibited species retained on board a fishing vessel regulated under this part