(a)(7)(iii)(A), (a)(7)(iii)(B), (f)(2), and (f)(3), effective Jan. 1, 2002 until July 8, 2002. At 67 FR 34860, May 16, 2002, the effective date was extended through Dec. 31, 2002. Paragraphs (a)(6)(ii), (a)(6)(iii), (b)(2)(i), and (b)(2)(ii), were added, effective Jan. 1, 2002. For the convenience of the user the added text follows:

§ 679.20 General limitations.

* * * * *

(6) * * *

(ii) *GOA pollock* (applicable through July 8, 2002). The apportionment of pollock in all GOA regulatory areas and for each seasonal apportionment described in paragraph (a)(5)(ii) of this section will be allocated entirely to vessels catching 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.

(iii) *GOA Pacific cod* (applicable through July 8, 2002). 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 in the GOA and 10 percent to vessels catching Pacific cod for processing by the offshore component in the GOA.

(b) * * *

(2) * * *

(i) *Pollock inshore-offshore reapportionment* (applicable through July 8, 2002). Any amounts of the GOA reserve that are reapportioned to pollock as provided by paragraph (b) of this section must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportions specified in paragraph (a)(6)(ii) of this section.

(ii) *Pacific Cod inshore-offshore reapportionment* (applicable through July 8, 2002). Any amounts of the GOA reserve that are reapportioned to Pacific cod as provided by paragraph (b) of this section must be apportioned between the inshore component in the GOA and the offshore component in the GOA in the same proportion specified in paragraph (a)(6)(iii) of this section.

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2. At 67 FR 18139, Apr. 15, 2002, § 679.20 was amended by removing paragraph (f)(4) and revising paragraph (f)(2), effective May 15, 2002.

§ 679.21 Prohibited species bycatch management.

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

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

(b) *General*. (1) See § 679.2 for definition of prohibited species.

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

(i) Minimize its catch of prohibited species.

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

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

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

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

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

(5) *Sablefish as a prohibited species*. (See § 679.24(c)(2)(ii).)

(c) *Salmon taken in BSAI trawl fishery*—(1) *Salmon discard*. Except as provided in paragraph (c)(3) of this section, the operator of a vessel and the manager of a shoreside processor must not discard any salmon or transfer or process any salmon under the PSD Program at § 679.26, if the salmon were taken incidental to a directed fishery for BSAI groundfish by vessels using trawl gear until the number of salmon has been determined by an observer and the collection of any scientific data or biological samples from the salmon has been completed.

(2) *Salmon retention and storage*. (i) Operators of vessels carrying observers aboard and whose fishing operations allow for sorting of BSAI groundfish catch for salmon must retain all salmon bycatch from each haul in a separate bin or other location that allows an observer free and unobstructed physical access to the salmon to count each fish and collect any scientific data or biological samples. Salmon from different hauls must be retained separately in a manner that identifies the haul from which the salmon were taken.

(ii) Operators of vessels not carrying observers aboard or whose fishing operations do not allow for sorting of BSAI groundfish catch for salmon must ice, freeze, or store in a refrigerated saltwater tank all salmon taken as bycatch in trawl operations for delivery to the processor receiving the vessel's BSAI groundfish catch.

(iii) Processors receiving BSAI groundfish harvested in a directed fishery for groundfish using trawl gear must retain all salmon delivered by each trawl vessel during a weekly reporting period in separate bins marked with the vessel's name and ADF&G fish ticket number(s) for each delivery until an observer has counted each salmon and collected any scientific data or biological samples from the salmon delivered to the processor by that vessel. Processors without an observer present must store whole salmon in an iced or frozen state until an observer is available to count each fish. Salmon must be stored at a location that allows an observer free and unobstructed physical access to each salmon.

(3) *Exemption*. Motherships and shoreside processors that are not required to obtain observer coverage during a month under § 679.50(c) and (d) are not required to retain salmon.

(4) *Assignment of crew to assist observer*. Operators of vessels and managers of shoreside processors that are required to retain salmon under paragraph (c)(1) of this section must designate and identify to the observer aboard the vessel or at the shoreside processor a crew person or employee to be responsible for sorting, retention, and storage of salmon. Upon request of the observer, the designated crew person or employee also is responsible for counting salmon and taking biological samples from retained salmon under the direction of the observer.

(5) *Release of salmon*. Salmon must be returned to Federal waters as soon as is practicable, with a minimum of injury, regardless of condition, following notification by an observer that the number of salmon has been determined and the collection of any scientific data or biological samples has been completed.

(d) *GOA halibut PSC limits*. This section is applicable for vessels engaged in directed fishing for groundfish in the GOA.

(1) *Notification*—(i) *Proposed and final limits and apportionments*. NMFS will publish annually in the FEDERAL REGISTER proposed and final halibut PSC limits and apportionments thereof in the notification required under § 679.20.

(ii) *Modification of limits*. NMFS, by notification in the FEDERAL REGISTER, may change the halibut PSC limits during the year for which they were specified, based on new information of the types set forth in this paragraph (d)(1).

(2) *Public comment*. NMFS will accept public comment on the proposed halibut PSC limits, and apportionments thereof, for a period of 30 days from the date of publication in the FEDERAL REGISTER. NMFS will consider comments received on proposed halibut limits and, after consultation with the Council, will publish notification in the FEDERAL REGISTER specifying the final halibut PSC limits and apportionments thereof.

(3) *Trawl gear proposed halibut limit*—(i) *Notification*. After consultation with the Council, NMFS will publish notification in the FEDERAL REGISTER specifying the proposed halibut PSC limit for vessels using trawl gear.

(ii) *Bycatch allowance*. The halibut PSC limit specified for vessels using trawl gear may be further apportioned as bycatch allowances to the fishery categories listed in paragraph (d)(3)(iii) of this section, based on each category's proportional share of the anticipated halibut bycatch mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all bycatch allowances will equal the halibut PSC limit established under this paragraph (d).

(iii) *Trawl fishery categories*. For purposes of apportioning the trawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round–weight equivalents of these GOA groundfish species for which a TAC has been specified under § 679.20:

(A) *Shallow–water species fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate catch of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and ''other species'' that is greater than the retained aggregate amount of other GOA groundfish species or species group.

(B) *Deep–water species fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained catch of groundfish and is not a shallow-water species fishery as defined under paragraph (d)(3)(iii)(A) of this section.

(4) *Hook-and-line and pot gear fisheries*—(i) *Notification*. After consultation with the Council, NMFS will publish notification in the FEDERAL REGISTER specifying the proposed and final halibut PSC limits for vessels using hook-and-line gear. The notification also may specify a halibut PSC limit for the pot gear fisheries.

(ii) *Halibut bycatch allowance*. The halibut PSC limit specified for vessels using hook-and-line gear may be further apportioned, as bycatch allowances, to the fishery categories listed in paragraph (d)(4)(iii) of this section, based on each category's proportional share of the anticipated halibut bycatch mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all bycatch allowances will equal the halibut PSC limit established under this paragraph (d).

(iii) *Hook-and-line fishery categories*. For purposes of apportioning the hook-and-line halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those GOA groundfish species for which a TAC has been specified under § 679.20.

(A) *Demersal shelf rockfish in the Southeast Outside District*. Fishing with hook-and-line gear in the Southeast Outside District of the Eastern GOA regulatory area (SEEO) during any weekly reporting period that results in a retained catch of demersal shelf rockfish that is greater than the retained amount of any other fishery category defined under this paragraph (d)(4)(iii).

(B) *Sablefish fishery*. Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of sablefish that is greater than the retained amount of any other fishery category defined under this paragraph (d)(4)(iii).

(C) *Other hook-and-line fishery*. Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of groundfish and is not a demersal shelf rockfish fishery or a sablefish fishery defined under paragraphs (d)(4)(iii)(A) and (B) of this section.

(5) *Seasonal apportionments*—(i) *General*. NMFS, after consultation with the Council, may apportion each halibut PSC limit or bycatch allowance specified under this paragraph (d) on a seasonal basis.

(ii) *Factors to be considered*. NMFS will base any seasonal apportionment of a halibut PSC limit or bycatch allowance on the following types of information:

(A) Seasonal distribution of halibut.

(B) Seasonal distribution of target groundfish species relative to halibut distribution.

(C) Expected halibut bycatch needs, on a seasonal basis, relative to changes in halibut biomass and expected catches of target groundfish species.

(D) Expected variations in bycatch rates throughout the fishing year.

(E) Expected changes in directed groundfish fishing seasons.

(F) Expected start of fishing effort.

(G) Economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

(iii) *Unused seasonal apportionments.* Unused seasonal apportionments of halibut PSC limits specified for trawl, hook-and-line, or pot gear will be added to the respective seasonal apportionment for the next season during a current fishing year.

(iv) *Seasonal apportionment exceeded.* If a seasonal apportionment of a halibut PSC limit specified for trawl, hook-and-line, or pot gear is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the respective apportionment for the next season during a current fishing year.

(6) *Apportionment among regulatory areas and districts.* Each halibut PSC limit specified under this paragraph (d) also may be apportioned among the GOA regulatory areas and districts.

(7) *Halibut PSC closures*—(i) *Trawl gear fisheries.* If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in either of the trawl fishery categories listed in paragraph (d)(3)(iii) (A) or (B) of this section will catch the halibut bycatch allowance, or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification in the FEDERAL REGISTER closing the entire GOA or the applicable regulatory area or district to directed fishing with trawl gear for each species and/or species group that comprises that fishing category; provided, however, that when the halibut bycatch allowance, or seasonal apportionment thereof, specified for the shallow-water species fishery is reached, fishing for pollock by vessels using pelagic trawl gear may continue, consistent with other provisions of this part.

(ii) *Hook-and-line fisheries.* If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the three hook-and-line gear fishery categories listed under paragraph (d)(4)(iii) of this section will catch the halibut bycatch allowance, or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification in the FEDERAL REGISTER closing the entire GOA or the applicable regulatory area or district to directed fishing with hook-and-line gear for each species and/or species group that comprises that fishing category.

(iii) *Pot gear fisheries.* If, during the fishing year, the Regional Administrator determines that the catch of halibut by operators of vessels using pot gear to participate in a directed fishery for groundfish will reach the halibut PSC limit, or seasonal apportionment thereof, NMFS will publish notification in the FEDERAL REGISTER prohibiting directed fishing for groundfish by vessels using pot gear for the remainder of the season to which the halibut PSC limit or seasonal apportionment applies.

(iv) *Nonpelagic trawl gear fisheries*—(A) *Continued fishing under specified conditions.* When the vessels to which a halibut PSC limit applies have caught an amount of halibut equal to that PSC, the Regional Administrator may, by notification in the FEDERAL REGISTER, allow some or all of those vessels to continue to fish for groundfish using nonpelagic trawl gear under specified conditions, subject to the other provisions of this part.

(B) *Factors to be considered.* In authorizing and conditioning such continued fishing with bottom-trawl gear, the Regional Administrator will take into account the following considerations, and issue relevant findings:

(*1*) The risk of biological harm to halibut stocks and of socio-economic harm to authorized halibut users posed by continued bottom trawling by these vessels.

(*2*) The extent to which these vessels have avoided incidental halibut catches up to that point in the year.

(*3*) The confidence of the Regional Administrator in the accuracy of the

estimates of incidental halibut catches by these vessels up to that point in the year.

(*4*) Whether observer coverage of these vessels is sufficient to assure adherence to the prescribed conditions and to alert the Regional Administrator to increases in their incidental halibut catches.

(*5*) The enforcement record of owners and operators of these vessels, and the confidence of the Regional Administrator that adherence to the prescribed conditions can be assured in light of available enforcement resources.

(e) *BSAI PSC limits*—(1) *Trawl gear*—(i) *PSQ reserve*. 7.5 percent of each PSC limit set forth in paragraphs (e)(1) (ii) through (v), (e)(1)(vii), and (e)(1)(viii) of this section is allocated to the groundfish CDQ program as PSQ reserve. The PSQ reserve is not apportioned by gear or fishery.

(ii) *Red king crab in Zone 1*. The PSC limit of red king crab caught by trawl vessels while engaged in directed fishing for groundfish in Zone 1 during any fishing year will be specified annually by NMFS, after consultation with the Council, based on abundance and spawning biomass of red king crab using the criteria set out under paragraphs (e)(1)(iii)(A) through (C) of this section. The following table refers to the PSC limits for red king crab that you must follow in Zone 1:

When the number of mature female red king crab is ...	The zone 1 PSC limit will be ...
(A) At or below the threshold of 8.4 million mature crab or the effective spawning biomass is less than or equal to 14.5 million lb (6,577 mt)	32,000 red king crab.
(B) Above the threshold of 8.4 million mature crab and the effective spawning biomass is greater than 14.5 but less than 55 million lb (24,948 mt)	97,000 red king crab.
(C) Above the threshold of 8.4 million mature crab and the effective spawning biomass is equal to or greater than 55 million lb	197,000 red king crab.

(iii) *Tanner crab (C. bairdi)*. The PSC limit of C. bairdi crabs caught by trawl vessels while engaged in directed fishing for groundfish in Zones 1 and 2 during any fishing year will be specified annually by NMFS under paragraph (e)(6) of this section, based on total abundance of C. bairdi crabs as indicated by the NMFS annual bottom trawl survey, using the criteria set out under paragraphs (e)(1)(iii)(A) and (B) of this section.

(A) The following table refers to the PSC limits for C. bairdi that you must follow in Zone 1:

When the total abundance of *C. bairdi* crabs is ...	The PSC limit will be ...
(*1*) 150 million animals or less	0.5 percent of the total abundance minus 20,000 animals
(*2*) Over 150 million to 270 million animals	730,000 animals
(*3*) Over 270 million to 400 million animals	830,000 animals
(*4*) Over 400 million animals	980,000 animals

(B) This table refers to the PSC limits for *C. bairdi* that you must follow in Zone 2.

When the total abundance of C. bairdi crabs is ...	The PSC limit will be ...
(*1*) 175 million animals or less	1.2 percent of the total abundance minus 30,000 animals
(*2*) Over 175 million to 290 million animals	2,070,000 animals
(*3*) Over 290 million to 400 million animals	2,520,000 animals
(*4*) Over 400 million animals	2,970,000 animals

(iv) *C. opilio*. The PSC limit of *C. opilio* caught by trawl vessels while engaged in directed fishing for groundfish in the COBLZ will be specified annually by NMFS under paragraph (e)(6) of this section, based on total abundance of *C. opilio* as indicated by the NMFS annual bottom trawl survey using the following criteria:

(A) *PSC Limit*. The PSC limit will be 0.1133 percent of the total abundance, minus 150,000 *C. opilio* crabs, unless;

(B) *Minimum PSC Limit*. If 0.1133 percent multiplied by the total abundance is less than 4.5 million, then the minimum PSC limit will be 4.350 million animals; or

(C) *Maximum PSC Limit*. If 0.1133 percent multiplied by the total abundance is greater than 13 million, then the maximum PSC limit will be 12.850 million animals.

(v) *Halibut*. The PSC limit of halibut caught while conducting any trawl fishery for groundfish in the BSAI during any fishing year is an amount of halibut equivalent to 3,675 mt of halibut mortality.

(vi) *Pacific herring*. The PSC limit of Pacific herring caught while conducting any domestic trawl fishery for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. The PSC limit will be apportioned into annual herring PSC allowances, by target fishery, and will be published along with the annual herring PSC limit in the FEDERAL REGISTER with the proposed and final groundfish specifications defined in § 679.20.

(vii) *Chinook salmon*. The trawl closures identified in paragraph (e)(7)(viii) of this section will take effect when the Regional Administrator determines that the PSC limit of chinook salmon caught while harvesting pollock in the BSAI between January 1 and December 31 is attained according to the following amounts identified for each year:

Year	Chinook Salmon Limit
2001	41,000
2002	37,000
2003	33,000
2004 and after	29,000

(viii) *Non-chinook salmon*. The PSC limit of non-chinook salmon caught by vessels using trawl gear during August 15 through October 14 in the CVOA is 42,000 fish.

(2) *Nontrawl gear, halibut*. (i) The PSC limit of halibut caught while conducting any nontrawl fishery for groundfish in the BSAI during any fishing year is the amount of halibut equivalent to 900 mt of halibut mortality.

(ii) The amount of 7.5 percent of the non-trawl gear halibut PSC limit set forth in paragraph (e)(2)(i) of this section is allocated to the groundfish CDQ program as PSQ reserve. The PSQ reserve is not apportioned by gear or fishery.

(3) *PSC apportionment to trawl fisheries*—(i) *General*. NMFS, after consultation with the Council and after subtraction of PSQ reserve, will apportion each PSC limit set forth in paragraphs (e)(1) (ii) through (viii) of this section into bycatch allowances for fishery categories defined in paragraph (e)(3)(iv) of this section, based on each category's proportional share of the anticipated incidental catch during a fishing year of prohibited species for which a PSC limit is specified and the need to optimize the amount of total groundfish harvested under established PSC limits.

(ii) *Red king crab, C. bairdi Tanner crab, and halibut*—(A) *General*. For vessels engaged in directed fishing for groundfish in the GOA or BSAI, the PSC limits for red king crab, *C. bairdi*, *C. opilio*, and halibut will be apportioned to the trawl fishery categories defined in paragraphs (e)(3)(iv) (B) through (F) of this section.

(B) *Red King Crab Savings Subarea* (RKCSS). (*1*) The RKCSS is the portion of the RKCSA between 56°00′ and 56°10′ N. lat. Notwithstanding other provisions of this part, vessels using non-pelagic trawl gear in the RKCSS may engage in directed fishing for groundfish in a given year, if the ADF&G had established a guideline harvest level the previous year for the red king crab fishery in the Bristol Bay area.

(*2*) When the RKCSS is open to vessels fishing for groundfish with non-pelagic trawl gear under (e)(3)(ii)(B)(*1*) of this section, NMFS, after consultation with the Council, will specify an amount of the red king crab bycatch limit annually established under paragraph (e)(1)(ii) of this section for the RKCSS. The amount of the red king crab bycatch limit specified for the RKCSS will not exceed an amount equivalent to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/''other flatfish'' fishery category under this paragraph (e)(3) and will be based on the need to optimize the groundfish harvest relative to red king crab bycatch.

(C) *Incidental catch in midwater pollock fishery*. Any amount of red king crab, *C. bairdi*, *C. opilio*, or halibut that is incidentally taken in the midwater pollock fishery as defined in paragraph (e)(3)(iv)(A) of this section will be counted against the bycatch allowances specified for the pollock/Atka

mackerel/''other species'' category defined in paragraph (e)(3)(iv)(F) of this section.

(iii) *Pacific herring*. The PSC limit for Pacific herring will be apportioned to the BSAI trawl fishery categories defined in paragraphs (e)(3)(iv) (A) through (F) of this section.

(iv) *Trawl fishery categories*. For purposes of apportioning trawl PSC limits among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those groundfish species or species groups for which a TAC has been specified under § 679.20.

(A) *Midwater pollock fishery*. Fishing with trawl gear during any weekly reporting period that results in a catch of pollock that is 95 percent or more of the total amount of groundfish caught during the week.

(B) *Flatfish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rock sole, ''other flatfish,'' and yellowfin sole that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(*1*) *Yellowfin sole fishery*. Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under this paragraph (e)(3)(iv)(B) and results in a retained amount of yellowfin sole that is 70 percent or more of the retained aggregate amount of rock sole, ''other flatfish,'' and yellowfin sole.

(*2*) *Rock sole/flathead sole/''other flatfish'' fishery*. Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under this paragraph (e)(3)(iv)(B) and is not a yellowfin sole fishery as defined under paragraph (e)(3)(iv)(B)(*1*) of this section.

(C) *Greenland turbot/arrowtooth flounder/sablefish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Greenland turbot, arrowtooth flounder, and sablefish that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(D) *Rockfish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rockfish species that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(E) Pacific cod fishery. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Pacific cod that is greater than the retained amount of any other groundfish fishery category defined under this paragraph (e)(3)(iv).

(F) *Pollock/Atka mackerel/''other species.''* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of pollock other than pollock harvested in the midwater pollock fishery defined under paragraph (e)(3)(iv)(A) of this section, Atka mackerel, and ''other species'' that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(4) *Halibut apportionment to nontrawl fishery categories*—(i) *General*. NMFS, after consultation with the Council and after subtraction of PSQ reserve, may apportion the halibut PSC limit for nontrawl gear set forth under paragraph (e)(2)(i) of this section into bycatch allowances for nontrawl fishery categories defined under paragraph (e)(4)(ii) of this section based on each category's proportional share of the anticipated bycatch mortality of halibut during a fishing year and the need to optimize the amount of total groundfish harvested under the nontrawl halibut PSC limit. The sum of all bycatch allowances of any prohibited species will equal its PSC limit.

(ii) *Nontrawl fishery categories*. For purposes of apportioning the nontrawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those BSAI groundfish species for which a TAC has been specified under § 679.20.

(A) *Pacific cod hook-and-line fishery*. Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of Pacific cod that is greater than the retained amount of any other groundfish species.

(B) *Sablefish hook-and-line fishery*. Fishing with hook-and-line gear during

any weekly reporting period that results in a retained catch of sablefish that is greater than the retained amount of any other groundfish species.

(C) *Groundfish jig gear fishery*. Fishing with jig gear during any weekly reporting period that results in a retained catch of groundfish.

(D) *Groundfish pot gear fishery*. Fishing with pot gear under restrictions set forth in § 679.24(b) during any weekly reporting period that results in a retained catch of groundfish.

(E) *Other nontrawl fisheries*. Fishing for groundfish with nontrawl gear during any weekly reporting period that results in a retained catch of groundfish and does not qualify as a Pacific cod hook-and-line fishery, a sablefish hook-and-line fishery, a jig gear fishery, or a groundfish pot gear fishery as defined under paragraph (e)(4)(ii) of this section.

(5) *Seasonal apportionments of bycatch allowances*—(i) *General*. NMFS, after consultation with the Council, may apportion fishery bycatch allowances on a seasonal basis.

(ii) *Factors to be considered*. NMFS will base any seasonal apportionment of a bycatch allowance on the following types of information:

(A) Seasonal distribution of prohibited species;

(B) Seasonal distribution of target groundfish species relative to prohibited species distribution;

(C) Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;

(D) Expected variations in bycatch rates throughout the fishing year;

(E) Expected changes in directed groundfish fishing seasons;

(F) Expected start of fishing effort; or

(G) Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

(iii) *Seasonal trawl fishery bycatch allowances*—(A) *Unused seasonal apportionments*. Unused seasonal apportionments of trawl fishery bycatch allowances made under this paragraph (e)(5) will be added to its respective fishery bycatch allowance for the next season during a current fishing year.

(B) *Seasonal apportionment exceeded*. If a seasonal apportionment of a trawl fishery bycatch allowance made under paragraph (d)(5) of this section is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from its respective apportionment for the next season during a current fishing year.

(iv) *Seasonal nontrawl fishery bycatch allowances*—(A) *Unused seasonal apportionments*. Any unused portion of a seasonal nontrawl fishery bycatch allowance made under this paragraph (e)(5) will be reapportioned to the fishery's remaining seasonal bycatch allowances during a current fishing year in a manner determined by NMFS, after consultation with the Council, based on the types of information listed under paragraph (e)(5)(ii) of this section.

(B) *Seasonal apportionment exceeded*. If a seasonal apportionment of a nontrawl fishery bycatch allowance made under this paragraph (e)(5) is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the fishery's remaining seasonal bycatch allowances during a current fishing year in a manner determined by NMFS, after consultation with the Council, based on the types of information listed under paragraph (e)(5)(ii) of this section.

(6) *Notification*—(i) *General*. NMFS will publish annually in the FEDERAL REGISTER the annual red king crab PSC limit, and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the annual *C. opilio* PSC limit, the proposed and final PSQ reserve amounts, the proposed and final bycatch allowances, the seasonal apportionments thereof and the manner in which seasonal apportionments of non-trawl fishery bycatch allowances will be managed as required by paragraph (e) of this section.

(ii) *Public comment*. Public comment will be accepted by NMFS on the proposed annual red king crab PSC limit and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the annual *C. opilio* PSC limit, the proposed and

final bycatch allowances, seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, for a period of 30 days from the date of publication in the FEDERAL REGISTER.

(7) *Trawl PSC closures*—(i) *Exception*. When a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/''other species'' fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(ii) *Red king crab or C. bairdi Tanner crab, Zone 1, closure*—(A) *General*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv) (B) through (F) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of Zone 1, including the RKCSS, to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(B) *RKCSS*. If, during the fishing year the Regional Administrator determines that the amount of the red king crab PSC limit that is specified for the RKCSS under § 679.21(e)(3)(ii)(B) of this section will be caught, NMFS will publish in the FEDERAL REGISTER the closure of the RKCSS to directed fishing for groundfish with nonpelagic trawl gear for the remainder of the year.

(iii) *C. bairdi Tanner crab, Zone 2, closure*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv) (B) through (F) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of Zone 2 to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(iv) *COBLZ*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section will catch the COBLZ bycatch allowance, or seasonal apportionment thereof, of *C. opilio* specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of the COBLZ, as defined in Figure 13 to this part, to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(v) *Halibut closure*. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section in the BSAI will catch the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of the entire BSAI to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(vi) *Pacific herring*—(A) *Closure*. Except as provided in paragraph (e)(7)(vi)(B) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(A) through (F) of this section in the BSAI will catch the herring bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the FEDERAL REGISTER the closure of the Herring Savings Area as defined in Figure 4 to this part to directed fishing for

each species and/or species group in that fishery category.

(B) *Exceptions—(1) Midwater pollock.* When the midwater pollock fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock with trawl gear.

(2) Pollock/Atka mackerel/ ''other species''. When the pollock/Atka mackerel/ ''other species'' fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock by trawl vessels using nonpelagic trawl gear.

(vii) *Chum salmon.* If the Regional Administrator determines that 42,000 nonchinook salmon have been caught by vessels using trawl gear during August 15 through October 14 in the CVOA, defined under § 679.22(a)(5) and in Figure 2 to this part, NMFS will prohibit fishing with trawl gear for the remainder of the period September 1 through October 14 in the Chum Salmon Savings Area as defined in Figure 9, to this part.

(viii) *Chinook salmon.* If, during the fishing year, the Regional Administrator determines that catch of chinook salmon, by vessels using trawl gear while directed fishing for pollock in the BSAI, will reach the annual limit as identified in paragraph (e)(1)(vii) of this section, NMFS, by notification in the FEDERAL REGISTER will close the Chinook Salmon Savings Area, as defined in Figure 8 to this part, to directed fishing for pollock with trawl gear consistent with the following dates:

(A) From the effective date of the closure until April 15, and from September 1 through December 31, if the Regional Administrator determines that the annual limit of chinook salmon will be attained before April 15.

(B) From September 1 through December 31, if the Regional Administrator determines that the annual limit of chinook salmon will be attained after April 15.

(8) *Nontrawl halibut closures.* If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the nontrawl fishery categories listed under paragraph (e)(4) of this section will catch the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(4)(ii) of this section, NMFS will publish in the FEDERAL REGISTER the closure of the entire BSAI to directed fishing with the relevant gear type for each species and/or species group in that fishery category.

(f) *Program to reduce prohibited species bycatch rates*—(1) *Requirements*—(i) *General.* A vessel's bycatch rate, as calculated at the end of a fishing month under paragraph (f)(8)(ii) of this section, while participating in the fisheries identified in paragraph (f)(2) of this section, shall not exceed bycatch rate standards referenced in paragraph (f)(3) of this section.

(ii) *Applicability.* A vessel is subject to this paragraph (f) if the groundfish catch of the vessel is observed on board the vessel, or on board a mothership that receives unsorted codends from the vessel, at any time during a weekly reporting period, and the vessel is assigned to one of the fisheries defined under paragraph (f)(2) of this section.

(2) *Assigned fisheries.* During any weekly reporting period, a vessel's observed catch composition of groundfish species for which a TAC has been specified in the GOA or BSAI will determine the fishery to which the vessel is assigned, as follows:

(i) *GOA midwater pollock fishery* means fishing with trawl gear in the GOA that results in an observed catch of groundfish from the GOA during any weekly reporting period that is composed of 95 percent or more of pollock when the directed fishery for pollock by vessels using trawl gear other than pelagic trawl gear is closed.

(ii) *GOA other trawl fishery* means fishing with trawl gear in the GOA that results in an observed catch of groundfish from the GOA during any weekly reporting period that does not qualify as a midwater pollock fishery under paragraph (f)(2)(i) of this section.

(iii) *BSAI midwater pollock fishery* means fishing with trawl gear in the BSAI that results in an observed catch of groundfish from the BSAI during any weekly reporting period that is

composed of 95 percent or more of pollock when the directed fishery for pollock by vessels using trawl gear other than pelagic trawl gear is closed.

(iv) *BSAI yellowfin sole fishery* means fishing with trawl gear in the BSAI that results in a retained aggregate amount of rock sole, ''other flatfish,'' and yellowfin sole caught in the BSAI during any weekly reporting period that is greater than the retained amount of any other fishery under this paragraph (f)(2) and results in a retained amount of BSAI yellowfin sole that is 70 percent or more of the retained aggregate amount of BSAI rock sole, ''other flatfish,'' and yellowfin sole.

(v) *BSAI bottom pollock fishery* means fishing with trawl gear in the BSAI that results in a retained amount of pollock caught in the BSAI during any weekly reporting period other than pollock harvested in the midwater pollock fishery in the BSAI defined in paragraph (f)(2)(iii) of this section, that is greater than the retained amount of any other fishery defined under this paragraph (f)(2).

(vi) *BSAI other trawl fishery* means fishing with trawl gear in the BSAI that results in a retained amount of groundfish caught in the BSAI during any weekly reporting period that does not qualify as a midwater pollock, yellowfin sole, or bottom pollock fishery.

(3) *Notification of bycatch rate standards*—(i) *Prior notice.* Prior to January 1 and July 1 of each year, the Regional Administrator will publish notification in the FEDERAL REGISTER specifying bycatch rate standards for the fisheries identified in this paragraph (f) that will be in effect for specified seasons within the 6-month periods of January 1 through June 30 and July 1 through December 31, respectively.

(ii) *Adjustments.* The Regional Administrator may adjust bycatch rate standards as frequently as he or she considers appropriate.

(4) *Factors upon which bycatch rate standards are based.* Bycatch rate standards for a fishery and adjustments to such standards will be based on the following information and considerations:

(i) Previous years' average observed bycatch rates for that fishery.

(ii) Immediately preceding season's average observed bycatch rates for that fishery.

(iii) The bycatch allowances and associated fishery closures specified under paragraphs (d) and (e) of this section.

(iv) Anticipated groundfish harvests for that fishery.

(v) Anticipated seasonal distribution of fishing effort for groundfish.

(vi) Other information and criteria deemed relevant by the Regional Administrator.

(5) *Public comment*—(i) *Prior comment.* Bycatch rate standards or adjustments to such standards specified under this section will not take effect until NMFS has published the proposed bycatch rate standards or adjustments to such standards in the FEDERAL REGISTER for public comment for a period of 30 days, unless NMFS finds for good cause that such notification and public comment are impracticable, unnecessary, or contrary to the public interest.

(ii) *Comment after notification.* If NMFS decides, for good cause, that bycatch rate standards or adjustments to such standards are to be made effective without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, bycatch rate standards or adjustments to such standards will be received by the Regional Administrator for a period of 15 days after the effective date of notification.

(iii) *Public inspection of data.* During any such 15-day period, the Regional Administrator will make available for public inspection, during business hours, the aggregate data upon which bycatch rate standards or adjustments to such standards were based.

(iv) *Written comments.* If written comments are received during any such 15-day period that oppose or protest bycatch rate standards or adjustments to such standards issued under this section, NMFS will reconsider the necessity for the bycatch standards or adjustment to such standards and, as soon as practicable after that reconsideration, will either—

(A) Publish in the FEDERAL REGISTER notification of continued effectiveness

of bycatch rate standards or adjustment to such standards, responding to comments received; or

(B) Modify or rescind bycatch rate standards or adjustment to such standards.

(6) *Notification of adjustment to bycatch rate standards.* Notification of adjustments to bycatch rate standards issued by NMFS under paragraph (f)(3) of this section will include the following information:

(i) A description of the adjustment to one or more bycatch rate standards specified for a fishery.

(ii) The reasons for the adjustment and the determinations required under paragraph (f)(4) of this section.

(iii) The effective date and any termination date of such adjustment. If no termination date is specified, the adjustment will remain in effect until revised by subsequent notification in the FEDERAL REGISTER.

(7) *Vessel bycatch rates*—(i) *Observed data.* For purposes of this section, observed data collected for each haul sampled during a day will include: Date; Federal reporting area where trawl gear for the haul was retrieved; total round weight of groundfish, in metric tons in the portion of the haul sampled by groundfish species or species group for which a TAC has been specified under § 679.20; and total round weight of halibut, in kilograms, in the portion of the haul sampled. Observer data from the BSAI trawl fisheries also will include the total number of red king crab in the portion of the haul sampled.

(ii) *Observer sampling procedures.* (A) NMFS will randomly predetermine the hauls to be sampled by an observer during the time the observer is on a vessel.

(B) An observer will take samples at random from throughout the haul, and take samples prior to sorting of the haul by the crew for processing or discarding of the catch.

(C) An observer will sample a minimum of 100 kg of fish from each haul sampled.

(D) While an observer is at sea, the observer will report to NMFS, on at least a weekly basis, the data for sampled hauls.

(E) Upon request, the observer will allow the vessel operator to see all observed data set forth under paragraph (f)(7)(i) of this section that the observer submits to NMFS.

(8) *Determination of individual vessel bycatch rates.* For each vessel, the Regional Administrator will aggregate from sampled hauls the observed data collected during a weekly reporting period on the total round weight, in metric tons, of each groundfish species or species group for which a TAC has been specified under § 679.20 to determine to which of the fisheries described in paragraph (f)(8)(i) of this section the vessel should be assigned for that week.

(i) *Vessel assignment to fisheries*—(A) *BSAI catcher/processors.* Catcher/processors will be assigned to fisheries at the end of each weekly reporting period based on the round-weight equivalent of the retained groundfish catch composition reported on a vessel's WPR that is submitted to the Regional Administrator under § 679.5.

(B) *BSAI catcher vessel delivery in Federal waters.* Catcher vessels that deliver to motherships in Federal waters during a weekly reporting period will be assigned to fisheries based on the round-weight equivalent of the retained groundfish catch composition reported on the WPR submitted to the Regional Administrator for that week by the mothership under § 679.5.

(C) *BSAI catcher vessel delivery in Alaska State waters.* Catcher vessels delivering groundfish to shoreside processors or to motherships in Alaska State waters during a weekly reporting period will be assigned to fisheries based on the round-weight equivalent of the groundfish retained by the processor and reported on an ADF&G fish ticket as required under Alaska State regulations at A.S. 16.05.690.

(ii) *Calculation of monthly bycatch rates*—(A) *Assigned fishery.* At the end of each fishing month during which an observer sampled at least 50 percent of a vessel's total number of trawl hauls retrieved while an observer was aboard (as recorded in the vessel's DFL), the Regional Administrator will calculate the vessel's bycatch rate based on observed data for each fishery to which the vessel was assigned for any weekly reporting period during that fishing month.

(B) *Verified observer data*. Only observed data that have been checked, verified, and analyzed by NMFS will be used to calculate vessel bycatch rates for purposes of this section.

(C) *Calculation*. The bycatch rate of a vessel for a fishery defined under paragraph (f)(2) of this section during a fishing month is a ratio of halibut to groundfish that is calculated by using the total round weight of halibut (in kilograms), or total number of red king crab, in samples during all weekly reporting periods in which the vessel was assigned to that fishery and the total round weight of the groundfish (in metric tons) for which a TAC has been specified under § 679.20 in samples taken during all such periods.

(9) *Compliance with bycatch rate standards*. A vessel has exceeded a bycatch rate standard for a fishery if the vessel's bycatch rate for a fishing month, as calculated under paragraph (f)(8)(ii) of this section exceeds the bycatch rate standard established for that fishery under paragraph (f)(2) of this section.

[61 FR 31230, June 19, 1996, as amended at 61 FR 35579, July 5, 1996; 61 FR 38359, July 24, 1996; 61 FR 56431, Nov. 1, 1996; 61 FR 65988, Dec. 16, 1996; 62 FR 13841, Mar. 24, 1997; 62 FR 66831, Dec. 22, 1997; 63 FR 8361, Feb. 19, 1998; 63 FR 11168, Mar. 6, 1998; 63 FR 30401, June 4, 1998; 63 FR 32145, June 12, 1998; 63 FR 47367, Sept. 4, 1998; 63 FR 50801, Sept. 23, 1998; 64 FR 20214, Apr. 26, 1999; 64 FR 61981, Nov. 15, 1999; 65 FR 31107, May 16, 2000; 65 FR 60588, Oct. 12, 2000; 65 FR 64896, Oct. 31, 2000; 67 FR 4132, 4148, Jan. 28, 2002]

§ 679.22 Closures.

(a) *BSAI*—(1) *Zone 1 (512) closure to trawl gear*. No fishing with trawl gear is allowed at any time in reporting Area 512 of Zone 1 in the Bering Sea subarea.

(2) *Zone 1 (516) closure to trawl gear*. No fishing with trawl gear is allowed at any time in reporting Area 516 of Zone 1 in the Bering Sea Subarea during the period March 15 through June 15.

(3) *Red King Crab Savings Area (RKCSA)*. Directed fishing for groundfish by vessels using trawl gear other than pelagic trawl gear is prohibited at all times, except as provided at § 679.21(e)(3)(ii)(B), in that part of the Bering Sea subarea defined as RKCSA in Figure 11 to this part.

(4) *Walrus protection areas*. From April 1 through September 30 of any fishing year, vessels with a Federal fisheries permit under § 679.4 are prohibited in that part of the Bering Sea subarea between 3 and 12 nm seaward of the baseline used to measure the territorial sea around islands named Round Island and The Twins, as shown on National Ocean Survey Chart 16315, and around Cape Pierce (58°33′ N. lat., 161°43′ W. long.).

(5) *Catcher Vessel Operational Area (CVOA)*. The CVOA is defined as that part of the BSAI that is south of 56°00' N. lat. and between 163°00' W. long. and 167°30' W. long. (Figure 2 to part 679).

(i) *Effective time period*. The CVOA is established annually during the B season, defined at § 679.23(e)(2)(I)(B), from September 1 until the date that NMFS closes the B season allocation for the inshore component in the BSAI to directed fishing.

(ii) *Offshore component in the BSAI restrictions*. A catcher/processor vessel in the offshore component is prohibited from conducting directed fishing for pollock in the CVOA unless it is operating under a CDP approved by NMFS.

(iii) *Fisheries other than pollock*. A vessel that harvests or processes groundfish in directed fisheries for species other than pollock may operate within the CVOA consistent with the other provisions of this part.

(iv) *AFA catcher/processor restrictions (applicable through December 31, 2001)*. A catcher/processor or vessel authorized to fish for BSAI pollock under § 679.4(l)(2) is prohibited from conducting directed fishing for pollock in the CVOA during the C/D pollock season defined at § 679.23(e)(5)(i)(B).

(6) *Pribilof Island Area Habitat Conservation Zone*. Trawling is prohibited at all times in the area defined in Figure 10 to this part as the Pribilof Island Area Habitat Conservation Zone.

(7) *Steller sea lion protection areas, Bering Sea Subarea and Bogoslof District*—(i) *Year-round closures*. Trawling is prohibited within 10 nm of each of the eight Steller sea lion rookeries shown in Table 4a to this part.

(ii) *Seasonal closures*. During January 1 through April 15, or a date earlier than April 15, if adjusted under § 679.20, trawling is prohibited within 20 nm of each of the six Steller sea lion rookeries shown in Table 4b to this part.