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Title 50 –Wildlife and Fisheries

Chapter VI –Fishery Conservation and Management, National Oceanic and Atmospheric Administration, Department of Commerce

Part 679 –Fisheries of the Exclusive Economic Zone off Alaska

Subpart A –General

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447; Pub. L. 111-281.

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§ 679.4 Permits.

(a) **Requirements.** Only persons who are U.S. citizens are authorized to receive or hold permits under this section, with the exception that an IFQ hired master permit or a CDQ hired master permit need not be held by a U.S. citizen.

(1) **What permits are available?** Various types of permits are issued for programs codified at 50 CFR parts 300 and 679. These permits are listed in the following table. The date of effectiveness for each permit is given along with certain reference paragraphs for further information.

If program permit or card type is:	Permit is in effect from issue date through the end of:	For more information, see . . .
(i) IFQ:		
(A) Registered buyer	Until expiration date shown on permit	Paragraph (d)(3)(ii) of this section
(B) Halibut & sablefish permits	Specified fishing year	Paragraph (d)(1) of this section
(C) Halibut & sablefish hired master permits	Specified fishing year	Paragraph (d)(2) of this section
(ii) CDQ Halibut		
(A) Halibut permit	Specified fishing year	Paragraph (e) of this section
(B) Halibut hired master permit	Specified fishing year	Paragraph (e) of this section
(iii) AFA:		
(A) Catcher/processor	Indefinite unless permit is revoked after vessel is replaced or permit is suspended after vessel is lost	Paragraph (l) of this section

If program permit or card type is:	Permit is in effect from issue date through the end of:	For more information, see . . .
(B) Catcher vessel	Indefinite unless permit is revoked after vessel is replaced or removed, or permit is suspended after vessel is lost	Paragraph (l) of this section
(C) Mothership	Indefinite unless permit is revoked after vessel is replaced or permit is suspended after vessel is lost	Paragraph (l) of this section
(D) Inshore processor	Indefinite	Paragraph (l) of this section
(E) Inshore cooperative	Calendar year	Paragraph (l) of this section
(iv) Groundfish:		
(A) Federal fisheries	Until expiration date shown on permit	Paragraph (b) of this section
(B) Federal processor	Until expiration date shown on permit	Paragraph (f) of this section
(v) [Reserved]		
(vi) High Seas Fishing Compliance Act (HSFCA)	5 years	§ 300.10 of this title
(vii) License Limitation Program (LLP):		
(A) Groundfish license	Specified fishing year or interim (active until further notice)	Paragraph (k) of this section
(B) Crab license	Specified fishing year or interim (active until further notice)	Paragraph (k) of this section
(C) Scallop license	Indefinite	Paragraph (g) of this section
(viii) Exempted fisheries	1 year or less	§ 679.6
(ix) Research	1 year or less	§ 600.745(a) of this chapter
(x) Prohibited species donation program:		
(A) Salmon	3 years	§ 679.26
(B) Halibut	3 years	§ 679.26
(xi) Special Subsistence Permits:		
(A) Community Harvest Permit	1 year	§ 300.65 of this title
(B) Ceremonial or Educational Permit	30 days	§ 300.65 of this title

If program permit or card type is:	Permit is in effect from issue date through the end of:	For more information, see . . .
(xii) Rockfish Program: (A) Rockfish QS (B) CQ	Indefinite Until expiration date shown on permit	§ 679.80(a). Paragraph (n) of this section.
(xiii) Amendment 80 Program: (A) Amendment 80 QS permit (B) CQ permit (C) Amendment 80 limited access fishery	Indefinite Specified fishing year Specified fishing year	§ 679.90(b). § 679.91(b). § 679.91(b).
(xiv) Crab Rationalization Program permits	see § 680.4 of this chapter	§ 680.4 of this chapter
(A) Crab Quota Share permit	Indefinite	§ 680.4(b) of this chapter
(B) Crab Processor Quota Share permit	Indefinite	§ 680.4(c) of this chapter
(C) Crab Individual Fishing Quota (IFQ) permit	Specified fishing year	§ 680.4(d) of this chapter
(D) Crab Individual Processor Quota (IPQ) permit	Specified fishing year	§ 680.4(e) of this chapter
(E) Crab IFQ hired master permit	Specified fishing year	§ 680.4(g) of this chapter
(F) Registered Crab receiver permit	Specified fishing year	§ 680.4(i) of this chapter
(G) Federal crab vessel permit	Specified fishing year	§ 680.4(k) of this chapter
(H) Crab harvesting cooperative IFQ permit	Specified fishing year	§ 680.21(b) of this chapter
(xv) Guided sport halibut fishery permits:		
(A) Charter halibut permit	Until expiration date shown on permit	§ 300.67 of this title.
(B) Community charter halibut permit	Indefinite	§ 300.67 of this title.
(C) Military charter halibut permit	Indefinite	§ 300.67 of this title.

If program permit or card type is:	Permit is in effect from issue date through the end of:	For more information, see . . .
(D) Guided Angler Fish (GAF) permit (xvi) PCTC Program: (A) PCTC Program QS permit (for processors) (B) PCTC Program CQ permit	Until expiration date shown on permit 10 Years Until expiration date shown on permit	§ 300.65 of this title. Paragraph (q) of this section. Paragraph (q) of this section

- (2) **Permit and logbook required by participant and fishery.** For the various types of permits issued, refer to § 679.5 for recordkeeping and reporting requirements. For subsistence and GAF permits, refer to § 300.65 of this title for recordkeeping and reporting requirements.
- (3) **Permit application** –
 - (i) **Obtain and submit an application.** A person may obtain an application for a new permit or for renewal or revision of an existing permit for any of the permits under this section and must submit forms to NMFS as instructed in application instructions. With appropriate software, all permit applications may be completed online and printed from the Alaska Region website at <http://alaskafisheries.noaa.gov>.
 - (ii) **Deficient application.** Upon receipt of an incomplete or improperly completed permit application, the Program Administrator, RAM, will notify the applicant of the deficiency in the permit application. If the applicant fails to correct the deficiency, the permit will not be issued. No permit will be issued to an applicant until a complete application is received.
 - (iii) **Separate permit.** The operator, manager, Registered Buyer, or Registered Crab Receiver must obtain a separate permit for each applicant, facility, or vessel, as appropriate to each Federal permit in this section.
 - (iv) The information requested on the application must be typed or printed legibly.
 - (v) All permits are issued free of charge.
- (4) [Reserved]
- (5) **Alteration.** No person may alter, erase, mutilate, or forge any permit or document issued under this section. Any such permit or document that is intentionally altered, erased, mutilated, or forged is invalid.
- (6) **Disclosure.** NMFS will maintain a list of permitted processors that may be disclosed for public inspection.
- (7) **Sanctions and denials.** Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904. Such procedures are required for enforcement purposes, not administrative purposes.

(8) **Harvesting privilege.** Quota shares, permits, or licenses issued pursuant to this part are neither a right to the resource nor any interest that is subject to the “takings” provision of the Fifth Amendment to the U.S. Constitution. Rather, such quota shares, permits, or licenses represent only a harvesting privilege that may be revoked or amended subject to the requirements of the Magnuson-Stevens Act and other applicable law.

(9) **Permit surrender.**

- (i) The Regional Administrator will recognize the voluntary surrender of a permit issued in this section, if a permit may be surrendered and if it is submitted by the person named on the permit, owner of record, or authorized representative.
- (ii) Submit the original permit, except for an FFP or an FPP, to NMFS, P.O. Box 21668, Juneau, AK 99802. For surrender of an FFP and FPP, respectively, refer to paragraphs (b)(3)(ii) and (f)(3)(ii) of this section.
- (iii) Objective written evidence is considered proof of a timely application. The responsibility remains with the sender to prove when the application to amend or to surrender a permit was received by NMFS (*i.e.*, by certified mail or other method that provides written evidence that NMFS Alaska Region received it).
- (iv) For applications delivered by hand delivery or carrier only, the receiving date of signature by NMFS staff is the date the application was received. If the application is submitted by fax or mail, the receiving date of the application is the date stamped received by NMFS.

(b) **Federal fisheries permit (FFP) –**

(1) **Requirements.**

- (i) No vessel of the United States may be used to retain groundfish in the GOA or BSAI or engage in any fishery in the GOA or BSAI that requires retention of groundfish, unless the owner or authorized representative first obtains an FFP for the vessel, issued under this part. An FFP is issued without charge. Only persons who are U.S. citizens are authorized to receive or hold an FFP.
- (ii) Each vessel within the GOA or BSAI that retains groundfish must have a legible copy of a valid FFP on board at all times.

(2) **Vessel operations categories.** An FFP authorizes a vessel owner or authorized representative to deploy a vessel to conduct operations in the GOA or BSAI under the following categories: Catcher vessel, catcher/processor, mothership, tender vessel, or support vessel. A vessel may not be operated in a category other than as specified on the FFP, except that a catcher vessel, catcher/processor, mothership, or tender vessel may be operated as a support vessel.

(3) **Duration –**

(i) **Length of permit effectiveness.** NMFS issues FFPs on a three-year cycle and an FFP is in effect from the effective date through the expiration date, as indicated on the FFP, unless the FFP is revoked, suspended, surrendered in accordance with paragraph (a)(9) of this section, or modified under § 600.735 or § 600.740 of this chapter.

(ii) **Surrendered permit –**

- (A) An FFP may be voluntarily surrendered in accordance with paragraph (a)(9) of this section. Except as provided under paragraphs (b)(3)(ii)(B) and (C) of this section, if surrendered, an FFP may be reissued in the same fishing year in which it was surrendered.
- (B) For the BSAI, NMFS will not reissue a surrendered FFP to the owner or authorized representative of a vessel named on an FFP that has been issued with endorsements for catcher/processor or catcher vessel operation type; trawl, pot, and/or hook-and-line gear type; and the BSAI area, until after the expiration date of the surrendered FFP as initially issued.
- (C) For the GOA, NMFS will not reissue a surrendered FFP to the owner or authorized representative of a vessel named on an FFP that has been issued a GOA area endorsement and any combination of endorsements for catcher/processor operation type, catcher vessel operation type, trawl gear type, hook-and-line gear type, pot gear type, and/or jig gear type, until after the expiration date of the surrendered FFP.
- (D) An owner or authorized representative, who applied for and received an FFP, must notify NMFS of the intention to surrender the FFP by submitting an FFP application found at the NMFS Web site at <http://www.alaskafisheries.noaa.gov> and indicating on the application that surrender of the permit is requested. Upon receipt and processing of an FFP surrender application, NMFS will withdraw the FFP from active status in the FFP data bases.

(iii) **Amended permit** –

- (A) An owner or authorized representative who applied for and received an FFP, must notify NMFS of any change in the permit information by submitting an FFP application found at the NMFS Web site at <http://alaskafisheries.noaa.gov>. The owner or authorized representative must submit the application form as instructed on the form. Except as provided under paragraphs (b)(3)(iii)(B) and (C) of this section, upon receipt and approval of an application form for permit amendment, NMFS will issue an amended FFP.
- (B) In the BSAI, NMFS will not approve an application to amend an FFP to remove a catcher/processor or catcher vessel operation type endorsement, trawl gear type endorsement, pot gear type endorsement, hook-and-line gear type endorsement, or BSAI area endorsement from an FFP that has been issued with endorsements for catcher/processor or catcher vessel operation type, trawl, pot, or hook-and-line gear type, and the BSAI area.
- (C) In the GOA, NMFS will not approve an application to amend an FFP to remove endorsements for catcher/processor operation type, catcher vessel operation type, trawl gear type, hook-and-line gear type, pot gear type, or jig gear type, and the GOA area.
- (D) If the application for an amended FFP required under this section designates a change or addition of a vessel operations category or any other endorsement, a legible copy of the valid, amended FFP must be on board the vessel before the new or modified type of operation begins.
- (E) Selections for species endorsements will remain valid until an FFP is amended to remove those endorsements or the FFP with these endorsements is surrendered or revoked.

(4) **Submittal of application.** NMFS will process a request for an FFP provided that the application form contains the information specified on the form, with all required fields accurately completed and all required documentation attached. This application form must be submitted to NMFS using the methods described on the form. The vessel owner must sign and date the application form certifying that all information is true, correct, and complete. If the owner is not an individual, the authorized representative must sign and date the application form. An application form for an FFP will be provided by NMFS or is available from NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>. The acceptable submittal methods will be described on the application form.

(5) **Issuance.**

(i) Except as provided in subpart D of 15 CFR part 904, upon receipt of a properly completed permit application, the Regional Administrator will issue an FFP required by this paragraph (b).

(ii) The Regional Administrator will send an FFP with the appropriate logbooks to the owner or authorized representative, as provided under § 679.5.

(iii) NMFS will reissue an FFP to the owner or authorized representative who holds an FFP issued for a vessel if that vessel is subject to sideboard provisions as described under § 679.82(d) through (f).

(iv) NMFS will reissue an FFP to the owner or authorized representative who holds an FFP issued to an Amendment 80 vessel.

(6) **Transfer.** An FFP issued under this paragraph (b) is not transferable or assignable and is valid only for the vessel for which it is issued.

(7) **Inspection.** A legible copy of a valid FFP issued under this paragraph (b) must be carried on board the vessel at all times operations are conducted under this type of permit and must be presented for inspection upon the request of any authorized officer.

(c) [Reserved]

(d) **IFQ permits, IFQ hired master permits, and Registered Buyer permits.** The permits described in this section are required in addition to the permit and licensing requirements prescribed in the annual management measures published in the FEDERAL REGISTER pursuant to § 300.62 of this title and in the permit requirements of this section.

(1) **IFQ permit.**

(i) An IFQ permit authorizes the person identified on the permit to harvest IFQ halibut or IFQ sablefish from a specified IFQ regulatory area at any time during an open fishing season during the fishing year for which the IFQ permit is issued until the amount harvested is equal to the amount specified under the permit, or until the permit is revoked, suspended, surrendered in accordance with paragraph (a)(9) of this section, or modified under 15 CFR part 904.

(ii) A legible copy of any IFQ permit that specifies the IFQ regulatory area and vessel length overall from which IFQ halibut or IFQ sablefish may be harvested by the IFQ permit holder must be carried on board the vessel used by the permitted person to harvest IFQ halibut or IFQ sablefish at all times that such fish are retained on board.

- (iii) An IFQ permit may be voluntarily surrendered in accordance with paragraph (a)(9) of this section. An annual IFQ permit will not be reissued in the same fishing year in which it was surrendered, but a new annual IFQ permit may be issued to the quota share holder of record in a subsequent fishing year.
- (iv) An RFQ permit account identifies the amount of RFQ authorized for use by charter vessel anglers in Area 2C or Area 3A. The number of pounds of RFQ allocated to the RFQ permit account will be added to the annual guided sport catch limit under the catch sharing plan (described at 50 CFR 300.65(c)) for the appropriate IFQ regulatory area, Area 2C or Area 3A.

(2) IFQ hired master permit.

- (i) An IFQ hired master permit authorizes the individual identified on the IFQ hired master permit to land IFQ halibut or IFQ sablefish for debit against the specified IFQ permit until the IFQ hired master permit expires, or is revoked, suspended, surrendered in accordance with paragraph (a)(9) of this section, or modified under 15 CFR part 904, or cancelled on request of the IFQ permit holder.
- (ii) A legible copy of an IFQ hired master permit issued to an eligible individual in accordance with § 679.42(i) and (j) by the Regional Administrator must be onboard the vessel that harvests IFQ halibut or IFQ sablefish at all times that such fish are retained onboard by a hired master. Except as specified in § 679.42(d), an individual that is issued an IFQ hired master permit must remain onboard the vessel used to harvest IFQ halibut or IFQ sablefish with that IFQ hired master permit during the IFQ fishing trip and at the landing site during all IFQ landings.
- (iii) Each IFQ hired master permit issued by the Regional Administrator will display an IFQ permit number and the name of the individual authorized by the IFQ permit holder to land IFQ halibut or IFQ sablefish for debit against the IFQ permit holder's IFQ. In addition, IFQ hired master permits will also display the ADF&G vessel identification number of the authorized vessel.
- (iv) An IFQ hired master permit may be voluntarily surrendered in accordance with paragraph (a)(9) of this section. An IFQ hired master permit may be reissued to the permit holder of record in the same fishing year in which it was surrendered.

(3) Registered Buyer permit.

- (i) A Registered Buyer permit authorizes the person identified on the permit to receive and make an IFQ landing by an IFQ permit holder or IFQ hired master permit holder or to receive and make a CDQ halibut landing by a CDQ permit holder or CDQ hired master permit holder at any time during the fishing year for which it is issued until the Registered Buyer permit expires, or is revoked, suspended, surrendered in accordance with paragraph (a)(9) of this section, or modified under 15 CFR part 904.
- (ii) A Registered Buyer permit is required of:
 - (A) Any person who receives IFQ halibut, CDQ halibut or IFQ sablefish from the person(s) who harvested the fish;
 - (B) Any person who harvests IFQ halibut, CDQ halibut or IFQ sablefish and transfers such fish in a dockside sale, outside of an IFQ regulatory area, or outside the State of Alaska.
 - (C) A vessel operator who submits a Departure Report (see § 679.5(l)(4)).

- (iii) A Registered Buyer permit is issued on an annual cycle defined as March 1 through the end of February of the next calendar year, to persons that have a Registered Buyer application approved by the Regional Administrator.
- (iv) For the Registered Buyer application to be considered complete, all fees due to NMFS under § 679.55 at the time of application must be paid.
- (v) A Registered Buyer permit is in effect from the first day of March in the year for which it is issued or from the date of issuance, whichever is later, through the end of the current annual cycle, unless it is revoked, suspended, surrendered in accordance with paragraph (a)(9) of this section, or modified under § 600.735 or § 600.740 of this chapter.
- (vi) A Registered Buyer permit may be voluntarily surrendered in accordance with paragraph (a)(9) of this section. A Registered Buyer permit may be reissued to the permit holder of record in the same fishing year in which it was surrendered.

(4) **Issuance.** The Regional Administrator will issue IFQ permits and IFQ hired master permits annually or at other times as needed to accommodate transfers, revocations, appeals resolution, and other changes in QS or IFQ holdings, and designation of masters under § 679.42.

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

(6) **Inspection —**

(i) **IFQ permit and IFQ hired master permit.**

(A) The IFQ permit holder must present a legible copy of the IFQ permit for inspection on request of any authorized officer or Registered Buyer receiving IFQ species.

(B) The IFQ hired master permit holder must present a legible copy of the IFQ permit and a legible copy of the IFQ hired master permit for inspection on request of any authorized officer or Registered Buyer receiving IFQ species.

(ii) **Registered Buyer permit.** A legible copy of the Registered Buyer permit must be present at the location of an IFQ landing or CDQ halibut landing and must be made available by an individual representing the Registered Buyer for inspection on request of any authorized officer.

(7) **Validity.** An IFQ permit issued under this part is valid only if the IFQ permit holder has paid all IFQ fees that are due as a result of final agency action as specified in §§ 679.45 and 679.5(l)(7)(ii).

(e) **Halibut CDQ permits and CDQ hired master permits —**

(1) **Requirements.**

(i) The CDQ group, the operator of the vessel, the manager of a shoreside processor or stationary floating processor, and the Registered Buyer must comply with the requirements of this paragraph (e) for the catch of CDQ halibut.

(ii) The CDQ group, vessel owner or operator, and Registered Buyer are subject to all of the IFQ prohibitions at § 679.7(f).

- (2) **Halibut CDQ permit.** The CDQ group must obtain a halibut CDQ permit issued by the Regional Administrator. The vessel operator must have a legible copy of a halibut CDQ permit on any fishing vessel operated by, or for, a CDQ group that will have halibut CDQ on board and must make the permit available for inspection by an authorized officer. A halibut CDQ permit is non-transferable and is issued annually until revoked, suspended, surrendered, or modified. A halibut CDQ permit may be voluntarily surrendered in accordance with paragraph (a)(9) of this section. A halibut CDQ permit will not be reissued in the same fishing year in which it was surrendered, but a new annual halibut CDQ permit may be issued in a subsequent fishing year to the CDQ group entitled to a CDQ halibut allocation.
 - (3) An individual must have on board the vessel a legible copy of his or her halibut CDQ hired master permit issued by the Regional Administrator while harvesting and landing any CDQ halibut. Each halibut CDQ hired master permit will identify a CDQ permit number and the individual authorized by the CDQ group to land halibut for debit against the CDQ group's halibut CDQ. A halibut CDQ hired master permit may be voluntarily surrendered in accordance with paragraph (a)(9) of this section. A halibut CDQ hired master permit may be reissued to the permit holder of record in the same fishing year in which it was surrendered.
 - (4) **Alteration.** No person may alter, erase, mutilate, or forge a halibut CDQ permit, hired master permit, Registered Buyer permit, or any valid or current permit or document issued under this part. Any such permit or document that has been intentionally altered, erased, mutilated, or forged is invalid.
 - (5) **Landings.** A person may land CDQ halibut only if he or she has a valid halibut CDQ hired master permit. The person(s) holding the halibut CDQ hired master permit and the Registered buyer must comply with the requirements of § 679.5(g) and (l)(1) through (6).
- (f) **Federal processor permit (FPP) –**
- (1) **Requirement.** No shoreside processor of the United States, SFP, or CQE floating processor defined at § 679.2 may receive, process, purchase, or arrange to purchase unprocessed groundfish harvested in the GOA or BSAI, unless the owner or authorized representative first obtains an FPP issued under this part. A processor may not be operated in a category other than as specified on the FPP. An FPP is issued without charge.
 - (2) **FPP application.** To obtain, amend, renew, or surrender an FPP, the owner or authorized representative must complete an FPP application form per the instructions at <http://alaskafisheries.noaa.gov>.
 - (i) **Fees.** For the FPP application to be considered complete, all fees due to NMFS from the owner or authorized representative of a shoreside processor or SFP or person named on a Registered Buyer permit subject to the observer fee as specified at § 679.55(c) at the time of application must be paid.
 - (ii) **Signature.** The owner or authorized representative of the shoreside processor, SFP, or CQE floating processor must sign and date the application form, certifying that all information is true, correct, and complete to the best of his/her knowledge and belief. If the application form is completed by an authorized representative, proof of authorization must accompany the application form.
 - (3) **Duration –**

- (i) **Length of effectiveness.** An FPP is in effect from the effective date through the date of permit expiration, unless it is revoked, suspended, surrendered in accordance with paragraph (a)(9) of this section, or modified under § 600.735 or § 600.740 of this chapter.
- (ii) **Surrendered permit.**
 - (A) An FPP may be voluntarily surrendered in accordance with paragraph (a)(9) of this section. An FPP may be reissued to the permit holder of record in the same fishing year in which it was surrendered.
 - (B) An owner or authorized representative, who applied for and received an FPP, must notify NMFS of the intention to surrender the FPP by submitting an FPP application form found at the NMFS Web site at <http://alaskafisheries.noaa.gov> and indicating on the application form that surrender of the FPP is requested. Upon receipt and processing of an FPP surrender application form, NMFS will withdraw the FPP from active status in permit data bases.
- (iii) **Amended permit –**
 - (A) **Requirement.** An owner or authorized representative, who applied for and received an FPP, must notify NMFS of any change in the permit information by submitting an FPP application form found at the NMFS Web site at <http://alaskafisheries.noaa.gov>. The owner or authorized representative must submit the application form as instructed on the form. Upon receipt and approval of an FPP amendment application form, NMFS will issue an amended FPP.
 - (B) **GOA Inshore Processing endorsement.** A GOA inshore processing endorsement is required in order to process GOA inshore pollock and Eastern GOA inshore Pacific cod. If an SFP owner or authorized representative holds an FPP with a GOA Inshore Processing endorsement, the SFP is prohibited from processing GOA pollock and GOA Pacific cod in more than one single geographic location during a fishing year and is also prohibited from operating as a catcher/processor in the BSAI. Once issued, a GOA Inshore Processing endorsement cannot be surrendered for the duration of a fishing year.
 - (C) **CQE Floating Processor endorsement.** If a vessel owner or authorized representative holds an FPP with a GOA Inshore Processing endorsement in order to process Pacific cod within the marine municipal boundaries of CQE communities in the Western or Central GOA, the vessel must not meet the definition of an SFP and must not have harvested groundfish off Alaska in the same calendar year.
 - (D) Vessels are prohibited from holding both a GOA CQE Floating Processor endorsement and a GOA SFP endorsement during the same calendar year.
- (4) **Transfer.** An FPP issued under this paragraph (f) is not transferable or assignable and is valid only for the processor for which it is issued.
- (5) **Inspection.** A legible copy of a valid FPP issued under this paragraph (f) must be on site at the shoreside processor, SFP, or CQE floating processor at all times and must be presented for inspection upon the request of any authorized officer.

(g) **Scallop LLP –**

- (1) **General requirements.**

- (i) In addition to the permit and licensing requirements prescribed in this part, each vessel within the EEZ off Alaska that is catching and retaining scallops, must have an original scallop LLP license onboard at all times it is catching and retaining scallops. This scallop LLP license, issued by NMFS, authorizes the person named on the license to catch and retain scallops in compliance with State of Alaska regulations and only with a vessel that does not exceed the maximum LOA specified on the license and the gear designation specified on the license.
 - (ii) A scallop LLP license may be voluntarily surrendered in accordance with paragraph (a)(9) of this section. A surrendered scallop LLP license will cease to exist and will not be subsequently reissued.
- (2) **Qualifications for a scallop LLP license.** A scallop LLP license will be issued to an eligible applicant who:
- (i) Is a qualified person;
 - (ii) Was named on a State of Alaska scallop moratorium permit or Federal scallop moratorium permit on February 8, 1999;
 - (iii) Used the moratorium permit held on February 8, 1999, to make legal landings of scallops in each of any 2 calendar years during the qualification period beginning January 1, 1996, through October 9, 1998; and
 - (iv) Submitted a complete application for a scallop license during the application period specified pursuant to paragraph (g)(4) of this section.
- (3) **Scallop license conditions and endorsements.** A scallop license authorizes the license holder to catch and retain scallops only if the vessel length and gear used do not exceed the vessel length and gear endorsements specified on the license. These endorsements will be determined as follows.
- (i) The MLOA specified on the scallop license is equal to the length overall on February 8, 1999, of the longest vessel that was authorized by a Federal or State of Alaska Scallop Moratorium Permit to harvest scallops and used by the eligible applicant to make legal landings of scallops during the scallop LLP qualification period, as specified at § 679.4(g)(2)(iii) of this part.
 - (ii) The gear specified on a scallop license will be restricted to two dredges with a combined width of no more than 20 feet (6.1 m) in all areas if the eligible applicant was a moratorium permit holder with a Scallop Registration Area H (Cook Inlet) endorsement and did not make a legal landing of scallops caught outside Area H during the qualification period specified in paragraph (g)(2)(iii) of this section.
- (4) **Application for a scallop license –**
- (i) **General.** The Regional Administrator will issue a scallop license to an applicant if a complete application is submitted by or on behalf of the applicant during the specified application period, and if that applicant meets all the criteria for eligibility in this part. An application that is postmarked or hand delivered after the ending date for the application period for the scallop LLP specified in paragraph § 679.4(g)(4)(ii) will be denied. An application form will be sent to the last known address of the person identified as an eligible applicant by the official LLP record. An application form may be requested from the Regional Administrator.
 - (ii) **Application Period.** January 16, 2001, through February 12, 2001.

- (iii) **Contents of application.** To be complete, an application for a scallop license must be signed and dated by the applicant, or the individual representing the applicant, and contain the following information, as applicable:
 - (A) Scallop Moratorium Permit number under which legal landings of scallops were made during the qualification period specified in paragraph (g)(2)(iii) of this section;
 - (B) Name, business address, telephone number, FAX number, and social security number or tax ID number of the applicant, and whether the applicant is a U.S. citizen or a U.S. business;
 - (C) Name of the managing company, if any;
 - (D) Evidence of legal landings in the qualifying years and registration areas;
 - (E) For the vessel(s) being used as the basis for eligibility for a license, the name, state registration number (e.g., ADF&G number), the USCG documentation number, and valid evidence of the LOA on February 8, 1999, of the longest vessel used by the applicant during the qualification period specified in paragraph (g)(2)(iii) of this section.
- (iv) **Successor-in-interest.** If an applicant is applying as the successor-in-interest to an eligible applicant, an application, to be complete, also must contain valid evidence proving the applicant's status as a successor-in-interest to that eligible applicant and:
 - (A) Valid evidence of the death of that eligible applicant at the time of application, if the eligible applicant was an individual; or
 - (B) Valid evidence that the eligible applicant is no longer in existence at the time of application, if the eligible applicant is not an individual.
- (v) **Application evaluation.** The Regional Administrator will evaluate an application submitted during the specified application period and compare all claims in the application with the information in the official LLP record. Claims in the application that are consistent with information in the official LLP record will be accepted by the Regional Administrator. Inconsistent claims in the application, unless verified by evidence, will not be accepted. An applicant who submits inconsistent claims, or an applicant who fails to submit the information specified in paragraphs (g)(4)(iii) and (g)(4)(iv) of this section, will be provided a 60-day evidentiary period pursuant to paragraph (g)(4)(vii) of this section to submit the specified information, submit evidence to verify his or her inconsistent claims, or submit a revised application with claims consistent with information in the official LLP record. An applicant who submits claims that are inconsistent with information in the official LLP record has the burden of proving that the submitted claims are correct.
- (vi) **Additional information or evidence.** The Regional Administrator will evaluate additional information or evidence to support an applicant's inconsistent claims submitted within the 60-day evidentiary period pursuant to paragraph (g)(4)(vii) of this section. If the Regional Administrator determines that the additional information or evidence meets the applicant's burden of proving that the inconsistent claims in his or her application are correct, the official LLP record will be amended and the information will be used in determining whether the applicant is eligible for a license. However, if the Regional Administrator determines that the additional information or evidence does not meet the applicant's burden of proving that the

inconsistent claims in his or her application is correct, the applicant will be notified by an initial administrative determination, pursuant to paragraph (g)(4)(viii) of this section, that the applicant did not meet the burden of proof to change the information in the official LLP record.

- (vii) **60-day evidentiary period.** The Regional Administrator will specify by letter a 60-day evidentiary period during which an applicant may provide additional information or evidence to support the claims made in his or her application, or to submit a revised application with claims consistent with information in the official LLP record, if the Regional Administrator determines that the applicant did not meet the burden of proving that the information on the application is correct through evidence provided with the application. Also, an applicant who fails to submit information as specified in paragraphs (g)(4)(iii) and (g)(4)(iv) of this section will have 60 days to provide that information. An applicant will be limited to one 60-day evidentiary period. Additional information or evidence, or a revised application, received after the 60-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination.
- (viii) **Initial administrative determinations (IAD).** The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 60-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the applicant fails to support the applicant's claims and is insufficient to rebut the presumption that the official LLP record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 60-day evidentiary period. The IAD will indicate the deficiencies in the application, including any deficiencies with the information, the evidence submitted in support of the information, or the revised application. The IAD will also indicate which claims cannot be approved based on the available information or evidence. An applicant who receives an IAD may appeal pursuant to § 679.43. An applicant who avails himself or herself of the opportunity to appeal an IAD will not receive a transferable license until after the final resolution of that appeal in the applicant's favor.
- (ix) **Issuance of a non-transferable license.** The Regional Administrator will issue a non-transferable license to the applicant at the same time notification is provided to the applicant of his or her 60-day evidentiary period if issuance is required by the license renewal provisions of 5 U.S.C. 558. A non-transferable license authorizes a person to catch and retain scallops as specified on the non-transferable license, and will have the specific endorsements and designations based on the claims in his or her application. A non-transferable license will expire upon final agency action.

(5) **Transfer of a Scallop License –**

- (i) **General.** The Regional Administrator will approve the transfer of a scallop license if a complete transfer application is submitted to Restricted Access Management, Alaska Region, NMFS, and if the transfer meets all the eligibility criteria as specified in paragraph (g)(5)(ii) of this section. An application form may be requested from the Regional Administrator.
- (ii) **Eligibility criteria for transfers.** A scallop license can be transferred if:
 - (A) The designated transferee is eligible to document a fishing vessel under Chapter 121, Title 46, U.S.C.;
 - (B) The parties to the transfer do not have any fines, civil penalties, other payments due and outstanding, or outstanding permit sanctions resulting from Federal fishing violations;

(C) The transfer will not cause the designated transferee to exceed the license limit in § 679.7(i); and

(D) The transfer does not violate any other provision specified in this part.

(iii) **Contents of transfer application.** To be complete, an application for a scallop license transfer must be signed by the license holder and the designated transferee, or the individuals representing them, and contain the following information, as applicable:

(A) Name, business address, telephone number, and FAX number of the license holder and of the designated transferee;

(B) License number and total price being paid for the license;

(C) Certification that the designated transferee is a U.S. citizen, or a U.S. corporation, partnership, or other association;

(D) A legible copy of a contract or sales agreement that specifies the license to be transferred, the license holder, the designated transferee, the monetary value or the terms of the license transfer; and

(E) Other information the Regional Administrator deems necessary for measuring program performance.

(iv) **Incomplete applications.** The Regional Administrator will return an incomplete transfer application to the applicant and identify any deficiencies if the Regional Administrator determines that the application does not meet all the criteria identified in paragraph (g)(5) of this section.

(v) **Transfer by court order, operation of law, or as part of a security agreement.** The Regional Administrator will transfer a scallop license based on a court order, operation of law, or a security agreement if the Regional Administrator determines that the transfer application is complete and the transfer will not violate any of the provisions of this section.

(h) [Reserved]

(i) **Exempted fisheries permits.** (See § 679.6.)

(j) **Prohibited species donation program permits.** (See § 679.26(a)(3).)

(k) **Licenses for license limitation (LLP) groundfish or crab species –**

(1) **General requirements.**

(i) In addition to the permit and licensing requirements of this part, and except as provided in paragraph (k)(2) of this section, each vessel within the GOA or the BSAI must have an LLP groundfish license on board at all times it is engaged in fishing activities defined in § 679.2 as directed fishing for license limitation groundfish. This groundfish license, issued by NMFS to a qualified person, authorizes a license holder to deploy a vessel to conduct directed fishing for license limitation groundfish only in accordance with the specific area and species endorsements, the vessel and gear designations, the MLOA specified on the license, and any exemption from the MLOA specified on the license.

- (ii) Each vessel must have a crab species license, defined in § 679.2, issued by NMFS on board at all times it is engaged in fishing activities for the crab fisheries identified in this paragraph. A crab species license may be used only to participate in the fisheries endorsed on the license and on a vessel that complies with the vessel designation and MLOA specified on the license. NMFS requires a crab species license endorsed for participation in the following crab fisheries:
 - (A) Aleutian Islands Area *C. opilio*.
 - (B) Norton Sound red king and Norton Sound blue king in waters of the EEZ with a western boundary of 168° W. long., a southern boundary of 62° N. lat., and a northern boundary of 65°36' N. lat.;
 - (C) Minor Species endorsement for Bering Sea golden king crab (*Lithodes aequispinus*).
- (2) **Exempt vessels.** Notwithstanding the requirements of paragraph (k)(1) of this section,
 - (i) A catcher vessel or catcher/processor vessel that does not exceed 26 ft (7.9 m) LOA may conduct directed fishing for license limitation groundfish in the GOA without a groundfish license;
 - (ii) A catcher vessel or catcher/processor vessel that does not exceed 32 ft (9.8 m) LOA may conduct directed fishing for license limitation groundfish in the BSAI without a groundfish license and may conduct directed fishing for crab species in the Bering Sea and Aleutian Islands Area without a crab species license;
 - (iii) A vessel may use a maximum of five jig machines, one line per jig machine, and a maximum of 30 hooks per line, to conduct directed fishing for license limitation groundfish in the GOA without a groundfish license;
 - (iv) A catcher vessel or catcher/processor vessel that does not exceed 60 ft (18.3 m) LOA may use a maximum of 5 jig machines, one line per jig machine, and a maximum of 15 hooks per line, to conduct directed fishing for license limitation groundfish in the BSAI without a groundfish license;
 - (v) A catcher vessel or catcher/processor vessel that does not exceed 125 ft (38.1 m) LOA, and during the period after November 18, 1992, through October 9, 1998, was specifically constructed for and used exclusively in accordance with a CDP approved by NMFS, and is designed and equipped to meet specific needs that are described in the CDP, is exempted from the requirement to have a LLP groundfish license to conduct directed fishing for license limitation groundfish in the GOA and in the BSAI area and a crab species license to fish for crab species in the Bering Sea and Aleutian Islands Area; or
 - (vi) The operator of a catcher vessel that is greater than 32 ft (9.8 m) LOA, that does not exceed 46 ft (14.0 m) LOA, and that is registered by a CDQ group following the procedures described in § 679.5(m) may use hook-and-line gear to conduct groundfish CDQ fishing without a groundfish license.
- (3) **Vessel and gear designations and vessel length categories—**
 - (i) **Vessel MLOA —**

- (A) **General.** A license may be used only on a vessel designated on the license, a vessel that complies with the vessel designation and gear designation specified on the license, and a vessel that has an LOA less than or equal to the MLOA specified on the license, unless the license specifies that the vessel is exempt from the MLOA on the license.
- (B) **Modification of license MLOA for groundfish licenses with a Pacific cod endorsement in the GOA.**
 - (1) A groundfish license with a specified MLOA less than or equal to 50 feet prior to April 21, 2011 that subsequently receives a Pacific cod endorsement in the GOA with a catcher vessel and pot gear designation as specified under paragraph (k)(10) of this section will be redesignated with an MLOA of 50 feet on the date that the Pacific cod endorsement is assigned to that groundfish license;
 - (2) A groundfish license with a specified MLOA greater than or equal to 60 feet:
 - (i) That was continuously assigned to a single vessel less than 60 feet LOA from January 1, 2002, through December 8, 2008; and
 - (ii) That met the landing thresholds applicable for a groundfish license with a specified MLOA of less than 60 feet for the specific gear designation(s) and regulatory area(s) applicable to that groundfish license as described in paragraph (k)(10) of this section, will be redesignated with an MLOA equal to the LOA of the vessel to which that groundfish license was assigned from January 1, 2002, through December 8, 2008, based on the LOA for that vessel in NMFS' non-trawl gear recent participation official record on April 21, 2011, or as specified by a marine survey conducted by an independent certified marine surveyor or naval architect provided that the license holder provides NMFS with a marine survey conducted by an independent certified marine surveyor or naval architect not later than 90 days after April 21, 2011 that specifies the LOA of the vessel to which that groundfish license was assigned.
 - (3) The MLOA specified on a groundfish license under paragraph (k)(3)(i)(B)(2) of this section may not exceed 60 feet.
- (C) **Modification of the MLOA on an Amendment 80 LLP license or an Amendment 80 LLP/QS license.** The MLOA designated on an Amendment 80 LLP license or an Amendment 80 LLP/QS license will be 295 ft. (89.9 m) if an Amendment 80 replacement vessel is designated on the license following the approval of a license transfer request under paragraph (k)(7) of this section.
- (D) **Modification of the MLOA on a groundfish LLP license listed in column A of Table 9 to this part.**
 - (1) Each groundfish LLP license endorsed to catch and process Pacific cod with hook-and-line gear in the BS or AI, or both, and designated in column B of Table 9 to this part will receive a 220-foot (67 m) MLOA following February 6, 2014.

- (2) Each groundfish LLP license endorsed to catch and process Pacific cod with hook-and-line gear in the BS or AI, or both, and designated in column C of Table 9 to this part is eligible to be assigned a 220-foot (67 m) MLOA if the LLP holder submits a timely written request to remove all pot gear Pacific cod endorsements on that LLP following the process established under paragraph (k)(6)(xi) of this section.
- (E) **Exemption from MLOA on an LLP license with a Bering Sea area endorsement or an Aleutian Islands area endorsement for AFA rebuilt or AFA replacement vessels.** An AFA rebuilt vessel or an AFA replacement vessel may exceed the MLOA on an LLP groundfish license with a Bering Sea area endorsement or an Aleutian Islands area endorsement when the vessel is conducting directed fishing for groundfish in the BSAI pursuant to that LLP groundfish license and when the exemption is specified on the LLP license.
- (ii) **Vessel designations –**
- (A) **Catcher/processor vessel.** A license will be assigned a catcher/processor vessel designation if:
 - (1) For license limitation groundfish, license limitation groundfish were processed on the vessel that qualified for the groundfish license under paragraph (k)(4) of this section during the period January 1, 1994, through June 17, 1995, or in the most recent calendar year of participation during the area endorsement qualifying period specified in paragraph (k)(4)(ii) of this section; or
 - (2) For crab species, crab species were processed on the vessel that qualified for the crab species license under paragraph (k)(5) of this section during the period January 1, 1994, through December 31, 1994, or in the most recent calendar year of participation during the area endorsement qualifying period specified in paragraph (k)(5)(ii) of this section.
 - (3) For purposes of paragraphs (k)(3)(ii)(A)(1) and (k)(3)(ii)(A)(2) of this section, evidence of processing must be demonstrated by production reports or other valid documentation demonstrating that processing occurred on the vessel during the relevant period.
 - (B) **Catcher vessel.** A license will be assigned a catcher vessel designation if it does not meet the criteria in paragraph (k)(3)(ii)(A)(1) or (k)(3)(ii)(A)(2) of this section to be assigned a catcher/processor vessel designation.
 - (C) **Changing a vessel designation.** A person who holds a groundfish license or a crab species license with a catcher/processor vessel designation may, upon request to the Regional Administrator, have the license reissued with a catcher vessel designation. The vessel designation change to a catcher vessel will be permanent, and that license will be valid for only those activities specified in the definition of catcher vessel designation at § 679.2.
 - (D) **Limited processing by catcher vessels.** Up to 1 mt of round weight equivalent of license limitation groundfish or crab species may be processed per day on a vessel less than or equal to 60 ft (18.3 m) LOA that is authorized to fish with an LLP license with a catcher vessel designation.

- (iii) **Vessel length categories.** A vessel's eligibility will be determined using the following three vessel length categories, which are based on the vessel's LOA on June 17, 1995, or, if the vessel was under reconstruction on June 17, 1995, the vessel's length on the date that reconstruction was completed.
 - (A) Vessel length category "A" if the LOA of the qualifying vessel on the relevant date was equal to or greater than 125 ft (38.1 m) LOA.
 - (B) Vessel length category "B" if the LOA of the qualifying vessel on the relevant date was equal to or greater than 60 ft (18.3 m) but less than 125 ft (38.1 m) LOA.
 - (C) Vessel length category "C" if the LOA of the qualifying vessel on the relevant date was less than 60 ft (18.3 m) LOA.
- (iv) **Gear designations for groundfish licenses –**
 - (A) **General.** A vessel may only use gear consistent with the gear designation on the LLP license authorizing the use of that vessel to fish for license limitation groundfish or crab species, except that a vessel fishing under authority of an LLP license endorsed only for trawl gear may fish for slope rockfish with non-trawl gear within the Gulf of Alaska Slope Habitat Conservation Areas, as described in Table 27 to this part.
 - (B) **Trawl/non-trawl.** A license will be assigned a trawl/non-trawl gear designation if trawl and non-trawl gear were used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.
 - (C) **Trawl.** A license will be assigned a trawl gear designation if only trawl gear was used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.
 - (D) **Non-trawl.** A license will be assigned a non-trawl gear designation if only non-trawl gear was used to harvest LLP species from the qualifying vessel during the period beginning January 1, 1988, through June 17, 1995.
 - (E) **Changing a gear designation.**
 - (1) An applicant may request a change of gear designation based on gear used from the vessel during the period beginning June 18, 1995, through February 7, 1998. Such a change would be permanent and may only be used for a change from trawl to non-trawl or from non-trawl to trawl.
 - (2) An applicant may request a change of gear designation based on a significant financial investment in converting a vessel or purchasing fishing gear on or before February 7, 1998, and making a documented harvest with that gear on or before December 31, 1998. Such a change would be permanent and may only be used for a change from trawl to non-trawl or from non-trawl to trawl.
 - (F) **Definitions of non-trawl gear and significant financial investment.**
 - (1) For purposes of paragraph (k)(3)(iv) of this section, non-trawl gear means any legal gear, other than trawl, used to harvest license limitation groundfish.

- (2) For purposes of paragraph (k)(3)(iv)(E)(2) of this section, “significant financial investment” means having spent at least \$100,000 toward vessel conversion and/or gear to change to trawl gear from non-trawl gear, or having acquired groundline, hooks, pots, jig machines, or hauling equipment to change to non-trawl gear from trawl gear.
- (4) **Qualifications for a groundfish license.** A groundfish license will be issued to an eligible applicant that meets the criteria in paragraphs (k)(4)(i) and (k)(4)(ii) of this section. For purposes of the license limitation program, evidence of a documented harvest must be demonstrated by a state catch report, a Federal catch report, or other valid documentation that indicates the amount of license limitation groundfish harvested, the groundfish reporting area in which the license limitation groundfish was harvested, the vessel and gear type used to harvest the license limitation groundfish, and the date of harvesting, landing, or reporting. State catch reports are Alaska, California, Oregon, or Washington fish tickets. Federal catch reports are production reports required under § 679.5.
 - (i) **General qualification periods (GQP).** This table provides the GQP documented harvest requirements for LLP groundfish licenses:

A groundfish license will be assigned...	if the requirements found in the table at § 679.4(k)(4)(ii) are met for the area endorsement and at least one documented harvest of license limitation groundfish was caught and retained in...	during the period...
(A) One or more area endorsements in the table at § 679.4(k)(4)(ii)(A) or (B)	the BSAI or waters shoreward of the BSAI	(1) Beginning January 1, 1988, through June 27, 1992; or (2) Beginning January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or (3) Beginning January 1, 1988, through June 17, 1995, provided that, during the period beginning January 1, 1988, through February 9, 1992, a documented harvest of crab species was made from the vessel, and, during the period beginning February 10, 1992, through December 11, 1994, a documented harvest of groundfish species, except sablefish landed using fixed gear, was made from the vessel in the GOA or the BSAI using trawl or longline gear.
(B) One or more area	the GOA or in waters shoreward of the GOA	(1) Beginning January 1, 1988, through June 27, 1992; or

<p>A groundfish license will be assigned...</p>	<p>if the requirements found in the table at § 679.4(k)(4)(ii) are met for the area endorsement and at least one documented harvest of license limitation groundfish was caught and retained in...</p>	<p>during the period...</p>
<p>endorsements in the table at § 679.4(k)(4)(ii)(C) through (O)</p>		<p>(2) Beginning January 1, 1988, through December 31, 1994, provided that the harvest was of license limitation groundfish using pot or jig gear from a vessel that was less than 60 ft (18.3 m) LOA; or (3) Beginning January 1, 1988, through June 17, 1995, provided that, during the period beginning January 1, 1988, through February 9, 1992, a documented harvest of crab species was made from the vessel, and, during the period beginning February 10, 1992, through December 11, 1994, a documented harvest landing of groundfish species, except sablefish landed using fixed gear, was made from the vessel in the GOA or the BSAI using trawl or longline gear.</p>

(ii) *Endorsement qualification periods (EQP)*. This table provides the documented harvest requirements for LLP groundfish license area endorsements:

A groundfish license will be assigned...	if...	during the period...	in...	from a vessel in vessel length category...	and that meets the requirements for a...
(A) An Aleutian Island area endorsement	at least one documented harvest of any amount of license limitation groundfish was made	beginning January 1, 1992, through June 17, 1995	the Aleutian Islands Subarea or in waters shoreward of that area	"A", "B", or "C"	catcher/processor designation or a catcher vessel designation.
(B) A Bering Sea area	at least one documented	beginning January	the Bering Sea Subarea or in waters	"A", "B", or "C"	catcher/processor

A groundfish license will be assigned...	if...	during the period...	in...	from a vessel in vessel length category...	and that meets the requirements for a...
endorsement	harvest of any amount of license limitation groundfish was made	1, 1992, through June 17, 1995	shoreward of that area		designation or a catcher vessel designation.
(C) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years	beginning January 1, 1992, through June 17, 1995	the Western GOA regulatory area or in waters shoreward of that area	"A"	catcher/ processor designation or a catcher vessel designation; or
(D) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made	beginning January 1, 1992, through June 17, 1995	the Western Area of the Gulf of Alaska or in waters shoreward of that area	"B"	catcher vessel designation; or
(E) A Western Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years	beginning January 1, 1992, through June 17, 1995	the Western Area of the Gulf of Alaska or in waters shoreward of that area	"B"	catcher/ processor vessel designation; or
(F) A Western Gulf area endorsement	at least four documented harvest of any amount of license limitation groundfish were made	beginning January 1, 1995, through June 17, 1995	the Western Area of the Gulf of Alaska or in waters shoreward of that area	"B"	catcher/ processor vessel designation; or
(G) A Western Gulf area	at least one documented harvest of any	beginning January 1, 1992,	the Western Area of the Gulf of Alaska or in waters shoreward	"C"	catcher/ processor designation

A groundfish license will be assigned...	if...	during the period...	in...	from a vessel in vessel length category...	and that meets the requirements for a...
endorsement	amount of license limitation groundfish was made	through June 17, 1995	of that area		or a catcher vessel designation.
(H) A Central Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years	beginning January 1, 1992, through June 17, 1995	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district	"A"	catcher/processor designation or a catcher vessel designation; or
(I) A Central Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years	beginning January 1, 1992, through June 17, 1995	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district	"B"	catcher/processor designation or a catcher vessel designation; or
(J) A Central Gulf area endorsement	at least four documented harvest of any amount of license limitation groundfish were made	beginning January 1, 1995, through June 17, 1995	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district	"B"	catcher/processor designation or a catcher vessel designation; or
(K) A Central Gulf area endorsement	at least one documented harvest of any amount of license limitation groundfish was made	beginning January 1, 1992, through June 17, 1995	the Central area of the Gulf of Alaska or in waters shoreward of that area, or in the West Yakutat District or in waters shoreward of that district	"C"	catcher/processor designation or a catcher vessel designation.
(L) A Southeast	at least one documented	beginning January	in the Southeast Outside District or in	"A"	catcher/processor

A groundfish license will be assigned...	if...	during the period...	in...	from a vessel in vessel length category...	and that meets the requirements for a...
Outside area endorsement	harvest of any amount of license limitation groundfish was made in each of any two calendar years	1, 1992, through June 17, 1995	waters shoreward of that district		designation or a catcher vessel designation; or
(M) A Southeast Outside area endorsement	at least one documented harvest of any amount of license limitation groundfish was made in each of any two calendar years	beginning January 1, 1992, through June 17, 1995	in the Southeast Outside District or in waters shoreward of that district	"B"	catcher/ processor designation or a catcher vessel designation; or
(N) A Southeast Outside area endorsement	at least four documented harvest of any amount of license limitation groundfish were made	beginning January 1, 1995, through June 17, 1995	in the Southeast Outside District or in waters shoreward of that district	"B"	catcher/ processor designation or a catcher vessel designation; or
(O) A Southeast Outside area endorsement	at least one documented harvest of any amount of license limitation groundfish was made	beginning January 1, 1992, through June 17, 1995	in the Southeast Outside District or in waters shoreward of that district	"C"	catcher/ processor designation or a catcher vessel designation.

(iii) An eligible applicant that is issued a groundfish license based on a vessel's qualifications in the table at paragraphs (k)(4)(i)(A)(2) or (k)(4)(i)(B)(2) of this section must choose only one area endorsement for that groundfish license even if documented harvests qualifies the eligible applicant for more than one area endorsement.

- (iv) Notwithstanding the provisions in paragraph (k)(4)(i) of this section, NMFS will issue a groundfish license with the appropriate area endorsements to an eligible applicant whose vessel meets the requirements in the table at paragraph (k)(4)(i)(A) of this section, and the requirements in the table at any of the paragraphs (k)(4)(ii)(C) through (O) of this section, except:
 - (A) From whose vessel no documented harvests were made in the GOA or waters shoreward of the GOA during the period beginning January 1, 1988, through June 27, 1992, and
 - (B) From whose vessel no documented harvests were made in the BSAI or waters shoreward of the BSAI during the period beginning January 1, 1992, through June 17, 1995.
- (v) Notwithstanding the provisions in paragraph (k)(4)(i) of this section, a groundfish license with the appropriate area endorsements will be issued to an eligible applicant whose vessel meets the requirements in the tables at paragraphs (k)(4)(i) and (k)(4)(ii) and (A) or (B) of this section, except:
 - (A) From whose vessel no documented harvests were made in the BSAI or waters shoreward of the BSAI during the period beginning January 1, 1988, through June 27, 1992, and
 - (B) From whose vessel no documented harvests were made in the GOA or waters shoreward of the GOA during the period beginning January 1, 1992, through June 17, 1995.
- (vi) ***Trawl gear designation recent participation requirements.***
 - (A) NMFS will revoke any trawl gear designation on a groundfish license with an Aleutian Island, Bering Sea, Central Gulf, or Western Gulf regulatory area unless one of the following conditions apply:
 - (1) A person made at least two legal landings using trawl gear under the authority of that groundfish license in that regulatory area during the period from January 1, 2000, through December 31, 2006; or
 - (2) That trawl gear designation endorsed in that area is exempt from the requirements of this paragraph (k)(4)(vi)(A) as described under paragraphs (k)(4)(vii) or (k)(4)(viii) of this section.
 - (B) NMFS shall assign a legal landing to a groundfish license for an area based only on information contained in the official record described in paragraph (k)(4)(x) of this section.
- (vii) ***Exemption to trawl gear recent participation requirements for the AFA, Amendment 80 Program, and Rockfish Program.***
 - (A) Trawl gear designations with Bering Sea or Aleutian Islands area endorsements on a groundfish license that was derived in whole or in part from the qualifying fishing history of an AFA vessel are exempt from the landing requirements in paragraph (k)(4)(vi) of this section.
 - (B) Trawl gear designations with Bering Sea or Aleutian Islands area endorsements on a groundfish license are exempt from the landing requirements in paragraph (k)(4)(vi) of this section provided that all of the following conditions apply:
 - (1) The groundfish license was not derived in whole or in part from the qualifying fishing history of an AFA vessel;

- (2) The groundfish license is assigned to an AFA vessel on August 14, 2009; and
 - (3) No other groundfish license with a Bering Sea or Aleutian Island area endorsement is assigned to that AFA vessel on August 14, 2009.
- (C) Trawl gear designations with Bering Sea or Aleutian Islands area endorsements on a groundfish license that is listed in Column C of Table 31 to this part are exempt from the landing requirements in paragraph (k)(4)(vi) of this section.
 - (D) A trawl gear designation with Central Gulf area endorsement on a groundfish license that is assigned Rockfish QS is exempt from the landing requirements in paragraph (k)(4)(vi) of this section.
- (viii) ***Exemption to trawl gear recent participation requirements for groundfish licenses with a Central Gulf or Western Gulf area endorsement.*** A trawl gear designation with a Central Gulf or Western Gulf area endorsement on a groundfish license is exempt from the landing requirements in paragraph (k)(4)(vi) of this section provided that a person made at least 20 legal landings under the authority of that groundfish license in either the Central Gulf or Western Gulf area using trawl gear during the period from January 1, 2005, through December 31, 2007.
- (ix) ***Aleutian Island area endorsements for non-AFA trawl catcher vessels.***
- (A) If a non-AFA catcher vessel that is less than 60 feet LOA was used to make at least 500 mt of legal landings of Pacific cod using trawl gear from the waters that were open by the State of Alaska for which it adopts a Federal fishing season adjacent to the Aleutian Islands Subarea during the period from January 1, 2000, through December 31, 2006, according to the official record, NMFS shall issue an Aleutian Island area endorsement with a trawl gear designation to a groundfish license assigned to the vessel owner according to the official record, provided that the groundfish license assigned to that non-AFA catcher vessel meets all of the following requirements:
 - (1) It was not derived in whole or in part from the qualifying fishing history of an AFA vessel;
 - (2) It has a trawl gear designation;
 - (3) It does not have a catcher/processor vessel designation; and
 - (4) That groundfish license has an MLOA of less than 60 feet.
 - (B) If a non-AFA catcher vessel that is equal to or greater than 60 feet LOA was used to make at least one legal landing in State of Alaska waters adjacent to the Aleutian Islands Subarea using trawl gear during the period from January 1, 2000, through December 31, 2006, or one landing of Pacific cod from the State of Alaska Pacific cod fishery during the period from January 1, 2000, through December 31, 2006, according to the official record, NMFS shall issue an Aleutian Island area endorsement with a trawl gear designation to a groundfish license assigned to the vessel owner according to the official record, provided that the groundfish license assigned to that non-AFA catcher vessel meets the following criteria:
 - (1) It was not derived in whole or in part from the qualifying fishing history of an AFA vessel;
 - (2) It has a trawl gear designation;

- (3) It does not have a catcher/processor vessel designation; and
 - (4) At least 1,000 mt of legal landings of Pacific cod using trawl gear in the BSAI were made under the authority of that groundfish license during the period from January 1, 2000, through December 31, 2006, according to the official record.
- (C) NMFS will assign the AI endorsement to an eligible groundfish license held and designated by the vessel owner beginning on August 14, 2009.
- (D) If the vessel owner does not hold a groundfish license to which an AI endorsement may be assigned on August 14, 2009 according to the official record, the vessel owner will have the opportunity to amend the official record as described in paragraph (k)(4)(x) of this section to designate an otherwise eligible groundfish license. If the official record is subsequently amended, NMFS will assign the AI endorsement to the groundfish license specified in the amended official record.
- (x) ***Trawl gear recent participation official record.***
- (A) The official record will contain all information used by the Regional Administrator to determine the following:
- (1) The number of legal landings assigned to a groundfish license for purposes of the trawl gear designation participation requirements described in paragraph (k)(4)(vi) of this section;
 - (2) The amount of legal landings assigned to a groundfish license for purposes of the AI endorsements described in paragraph (k)(4)(ix) of this section;
 - (3) The owner of a vessel that has made legal landings that may generate an AI endorsement as described in paragraph (k)(4)(ix) of this section; and
 - (4) All other relevant information necessary to administer the requirements described in paragraphs (k)(4)(vi) through (k)(4)(ix) of this section.
- (B) The official record is presumed to be correct. A groundfish license holder has the burden to prove otherwise. For the purposes of creating the official record, the Regional Administrator will presume the following:
- (1) A groundfish license is presumed to have been used onboard the same vessel from which that groundfish license was derived, the original qualifying vessel, during the calendar years 2000 and 2001, unless clear and unambiguous written documentation is provided that establishes otherwise;
 - (2) If more than one person is claiming the same legal landing, then each groundfish license for which the legal landing is being claimed will be credited with the legal landing;
 - (3) The groundfish license to which an AI endorsement described in paragraph (k)(4)(ix) of this section will be initially assigned.
- (C) Only legal landings as defined in § 679.2 and documented on State of Alaska fish tickets or NMFS weekly production reports will be used to assign legal landings to a groundfish license.

- (D) The Regional Administrator will specify by letter a 30-day evidentiary period during which an applicant may provide additional information or evidence to amend or challenge the information in the official record. A person will be limited to one 30-day evidentiary period. Additional information or evidence received after the 30-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination.
 - (E) The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the person fails to support a person's claims and is insufficient to rebut the presumption that the official record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies with the information, or the evidence submitted in support of the information. The IAD will also indicate which claims cannot be approved based on the available information or evidence. A person who receives an IAD may appeal pursuant to § 679.43. A person who avails himself or herself of the opportunity to appeal an IAD will receive a non-transferable license pending the final resolution of that appeal, notwithstanding the eligibility of that applicant for some claims based on consistent information in the official record.
- (5) **Qualification for a crab species license.** A crab species license will be issued to an eligible applicant who owned a vessel that meets the criteria in paragraphs (k)(5)(i), (k)(5)(ii), and (k)(5)(iii) of this section, except that vessels are exempt from the requirements in paragraph (k)(5)(i) of this section for area/species endorsements at paragraphs (A) and (G) in the table at paragraph (k)(5)(ii) of this section.
- (i) **General qualification period (GQP).** To qualify for one or more of the area/species endorsements in the table at paragraph (k)(5)(ii) of this section, the requirements of paragraph (k)(5)(iii) of this section must be met and:
 - (A) At least one documented harvest of any amount of crab species must have been made from a vessel between January 1, 1988, and June 27, 1992; or
 - (B) At least one documented harvest of any amount of crab species must have been made from a vessel between January 1, 1988, and December 31, 1994, providing that, during the period January 1, 1988, through February 9, 1992, the vessel for which the documented harvest was made also made a legal landing of any groundfish species harvested in the GOA or BSAI with any authorized gear, except sablefish caught with fixed gear, and, during the period February 10, 1992, through December 11, 1994, made a legal landing of any king or Tanner crab species harvested in the Bering Sea and Aleutian Islands Area.

(ii) **Area/species endorsements.** This table provides the documented harvest requirements for LLP crab license area/species endorsements:

A crab species license will be assigned...	if...	during the period...	in...
(A) A Pribilof red king and Pribilof blue king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1993, through December 31, 1994	the area described in the definition for a Pribilof red king and Pribilof blue king area/species endorsement at § 679.2.
(B) A Bering Sea and Aleutian Islands Area <i>C. opilio</i> and <i>C. bairdi</i> area/species endorsement	at least three documented harvests of <i>C. opilio</i> and <i>C. bairdi</i> were made by a vessel	beginning January 1, 1992, through December 31, 1994	the area described in the definition for a Bering Sea and Aleutian Islands Area <i>C. opilio</i> and <i>C. bairdi</i> area/species endorsement at § 679.2.
(C) A St. Matthew blue king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1992, through December 31, 1994	the area described in the definition for a St. Matthew blue king area/species endorsement at § 679.2.
(D) An Aleutian Islands brown king area/species endorsement	at least three documented harvests of brown king crab were made by a vessel	beginning January 1, 1992, through December 31, 1994	the area described in the definition for an Aleutian Islands brown king area/species endorsement at § 679.2.
(E) An Aleutian Islands red king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1992, through December 31, 1994	the area described in the definition for an Aleutian Islands red king area/species endorsement at § 679.2.
(F) A Bristol Bay red king area/species endorsement	at least one documented harvest of red king crab or blue king crab was made by a vessel	beginning January 1, 1991, through December 31, 1994	the area described in the definition for a Bristol Bay red king area/species endorsement at § 679.2.
(G) A Norton Sound red king and blue king area/species endorsement	at least one documented harvest of red king crab or blue king crab was	beginning January 1, 1993, through	the area described in the definition for a Norton Sound red king and blue king area/species endorsement at § 679.2.

A crab species license will be assigned...	if...	during the period...	in...
	made by a vessel	December 31, 1994	

(iii) Recent participation period (RPP).

(A) The RPP is the period from January 1, 1996, through February 7, 1998. To qualify for a crab species license, defined at § 679.2, a person must have made at least one documented harvest of any amount of LLP crab species from a vessel during the RPP and must have held a LLP qualifying fishing history at the time of that documented harvest. A LLP qualifying fishing history meets the documented harvest requirements at paragraphs (k)(5)(i) and (k)(5)(ii) of this section.

(B) **Exceptions to the RPP.** A person does not need to meet the documented harvest requirements in paragraph (k)(5)(iii)(A) of this section if he or she deployed a vessel that met the documented harvest requirements in paragraph (k)(5)(i) of this section, if applicable, paragraph (k)(5)(ii) of this section, and:

(1) Only qualifies area/species endorsement at paragraph (G) in the table at paragraph (k)(5)(ii).

(2) Those documented harvests were made from a vessel that meets the requirements for vessel length category "C".

(3) The vessel used to meet the document harvest requirements in paragraphs (k) (5) (i) and (k) (5) (ii) of this section was lost or destroyed, and he or she made a documented harvest of crab species any time during the period beginning after the vessel was lost or destroyed but before January 1, 2000.

(iv) Exception to allow purchase of LLP qualifying fishing history after the documented harvest in the RPP. To qualify for a LLP crab species license, a person who made a documented harvest of LLP crab species during the period from January 1, 1998, through February 7, 1998, must have obtained, or entered into a contract to obtain, the LLP qualifying fishing history by 8:36 a.m. Alaska local time on October 10, 1998,

(v) A qualified person who owned a vessel on June 17, 1995, that met the requirements in paragraphs (k)(5)(i) and (ii) of this section, but whose vessel was unable to meet requirements of paragraph (k)(5)(iii) of this section because of unavoidable circumstances (i.e., the vessel was lost damaged, or otherwise unable to participate in the license limitation crab fisheries) may receive a license if the qualified person is able to demonstrate that:

(A) The owner of the vessel at the time of the unavoidable circumstance held a specific intent to conduct fishing for license limitation crab species with that vessel during a specific time period in a specific area;

(B) The specific intent to conduct directed fishing for license limitation crab species was thwarted by a circumstance that was:

- (1) Unavoidable;
- (2) Unique to the owner of that vessel, or unique to that vessel; and
- (3) Unforeseen and reasonably unforeseeable to the owner of the vessel;
- (C) The circumstance that prevented the owner from conducting directed fishing for license limitation crab species actually occurred;
- (D) Under the circumstances, the owner of the vessel took all reasonable steps to overcome the circumstances that prevented the owner from conducting directed fishing for license limitation crab species; and
- (E) Any amount of license limitation crab species was harvested on the vessel after the vessel was prevented from participating but before January 1, 2000.
- (vi) A groundfish license or crab species license may be used on a vessel that is named on the license, that complies with the vessel designation, and that does not exceed the MLOA on the license.
- (6) **Application for a groundfish license or a crab species license** –
 - (i) **General.** The Regional Administrator will issue a groundfish license or a crab species license to an applicant if a complete application is submitted by or on behalf of the applicant during the specified application period, and if that applicant meets all the criteria for eligibility in paragraph (k) of this section. An application that is postmarked or delivered after the ending date for the application period for the License Limitation Program specified in the FEDERAL REGISTER will be denied. An application form will be sent to the last known address of a person identified as an eligible applicant by the official LLP record. An application form may be requested from the Regional Administrator.
 - (ii) **Application period.** An application period of no less than 90 days will be specified by notification in the FEDERAL REGISTER and other information sources deemed appropriate by the Regional Administrator.
 - (iii) **Contents of application.** To be complete, an application for a groundfish license or a crab species license must be signed by the applicant, or the individual representing the applicant, and contain the following, as applicable:
 - (A) Name, business address, telephone number, and FAX number of the applicant;
 - (B) Name, state registration number (e.g., ADF&G number), and, if applicable, the USCG documentation number of the vessel being used as the basis for eligibility for a license; and name, state registration number (e.g., ADF&G number), and, if applicable, the USCG documentation number of the vessel to be deployed with the license if different than the vessel used as the basis of eligibility for a license;
 - (C) Name of the managing company, if any;
 - (D) Valid evidence of the documented harvests that are the basis of eligibility for a license, including harvest area, gear used, date of landing, and, if applying for a crab species license, species;

- (E) Valid evidence of LOA on June 24, 1992, of the vessel used as the basis of eligibility for a license, except if that vessel was under reconstruction on that date, valid evidence of LOA on the date reconstruction was completed and valid evidence of when reconstruction began and ended;
 - (F) Valid evidence of LOA on June 17, 1995, of the vessel used as the basis of eligibility for a license, except if that vessel was under reconstruction on that date, valid evidence of LOA on the date reconstruction was completed, and valid evidence of when reconstruction began and ended;
 - (G) Valid evidence to support the applicant's claim for a vessel designation of catcher vessel or catcher/processor vessel;
 - (H) Valid evidence of ownership of the vessel being used as the basis for eligibility for a license (for USCG documented vessels, valid evidence must be the USCG Abstract of Title), or if eligibility is based on a fishing history that has been separated from a vessel, valid evidence of ownership of the fishing history being used as the basis of eligibility for a license; and
 - (I) Valid evidence of the LOA of the vessel to be deployed by the license if different than the vessel used as the basis for eligibility for a license.
- (iv) **Other information required for special circumstances.**
- (A) **Successor-in-interest.** If an applicant is applying as the successor-in-interest to an eligible applicant, an application, to be complete, also must contain valid evidence proving the applicant's status as a successor-in-interest to that eligible applicant and:
 - (1) Valid evidence of the death of that eligible applicant at the time of application, if the eligible applicant was or is an individual; or
 - (2) Valid evidence that the eligible applicant is no longer in existence at the time of application, if the eligible applicant is not an individual.
 - (B) **Norton Sound crab species license endorsement.** If an applicant is applying for a crab species license endorsement for Norton Sound and if the applicant is a person, an application, to be complete, must contain valid evidence that the applicant was a State of Alaska permit holder for the Norton Sound king crab summer fishery in 1993 or 1994. If the applicant is a corporation, an application, to be complete, must contain valid evidence that the corporation owned or had a lease for a vessel on June 17, 1995, that participated in the Norton Sound king crab summer fishery in 1993 or 1994.
 - (C) **Extended general qualification period.** If an applicant is applying for a license based on meeting the general qualification period requirements of paragraph (k)(4)(i)(A)(2) or (k)(4)(i)(B)(2) of this section, the application, to be complete, must indicate which single endorsement area the applicant has selected for license. A license cannot be endorsed for more than one area, notwithstanding the fact that the applicant may have the documented harvests to qualify for more than one endorsement area.
 - (D) **Unavoidable circumstances.** If a person is claiming that unavoidable circumstances prevented him or her from meeting certain eligibility requirements for a license under paragraph (k) of this section, he or she must provide the information required in the particular paragraph of this section authorizing such a claim, and include valid evidence of

the date the vessel was lost, damaged, or otherwise unable to participate in the fishery, and the date a documented harvest was made after the vessel was unable to participate in the fishery by the unavoidable circumstance.

- (v) **Application evaluation.** The Regional Administrator will evaluate an application submitted during the specified application period and compare all claims in the application with the information in the official LLP record. Claims in the application that are consistent with information in the official LLP record will be accepted by the Regional Administrator. Inconsistent claims in the application, unless verified by evidence, will not be accepted. Pursuant to paragraph (k)(6)(vii) of this section, an applicant who submits inconsistent claims, or an applicant who fails to submit the information specified in paragraphs (k)(6)(iii) and (k)(6)(iv) of this section, will be provided a 60-day evidentiary period pursuant to paragraph (k)(6)(vii) of this section to submit the specified information, submit evidence to verify his or her inconsistent claims, or submit a revised application with claims consistent with information in the official LLP record. An applicant who submits claims that are inconsistent with information in the official LLP record has the burden of proving that the submitted claims are correct.
- (vi) **Additional information or evidence.** The Regional Administrator will evaluate additional information or evidence to support an applicant's inconsistent claims submitted within the 60-day evidentiary period pursuant to paragraph (k)(6)(vii) of this section. If the Regional Administrator determines that the additional information or evidence meets the applicant's burden of proving that the inconsistent claims in his or her application is correct, the official LLP record will be amended and the information will be used in determining whether the applicant is eligible for a license. However, if the Regional Administrator determines that the additional information or evidence does not meet the applicant's burden of proving that the inconsistent claims in his or her application is correct, the applicant will be notified by an initial administrative determination, pursuant to paragraph (k)(6)(viii) of this section, that the applicant did not meet the burden of proof to change the information in the official LLP record.
- (vii) **60-day evidentiary period.** The Regional Administrator will specify by letter a 60-day evidentiary period during which an applicant may provide additional information or evidence to support the claims made in his or her application, or to submit a revised application with claims consistent with information in the official LLP record, if the Regional Administrator determines that the applicant did not meet the burden of proving that the information on the application is correct through evidence provided with the application. Also, an applicant who fails to submit information as specified in paragraphs (k)(6)(iii) and (k)(6)(iv) of this section will have 60 days to provide that information. An applicant will be limited to one 60-day evidentiary period. Additional information or evidence, or a revised application, received after the 60-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination.
- (viii) **Initial administrative determinations (IAD).** The Regional will prepare and send an IAD to the applicant following the expiration of the 60-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the applicant fails to support the applicant's claims and is insufficient to rebut the presumption that the official LLP record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 60-day evidentiary period. The IAD will indicate the deficiencies in the application, including any deficiencies with the information, the evidence submitted in support of the information, or the revised application. The IAD will also indicate which claims cannot be approved based on the available

information or evidence. An applicant who receives an IAD may appeal pursuant to § 679.43. An applicant who avails himself or herself of the opportunity to appeal an IAD will not receive a transferable license until after the final resolution of that appeal, notwithstanding the eligibility of that applicant for some claims based on consistent information in the application.

- (ix) **Issuance of a non-transferable license.** The Regional Administrator will issue a non-transferable license to the applicant on issuance of an IAD if required by the license renewal provisions of 5 U.S.C. 558. A non-transferable license authorizes a person to deploy a vessel to conduct directed fishing for license limitation groundfish or crab species as specified on the non-transferable license, and will have the specific endorsements and designations based on the claims in his or her application. A non-transferable license will expire upon final agency action.
 - (x) **Surrender of groundfish or crab LLP.** A groundfish or crab LLP license may be voluntarily surrendered in accordance with paragraph (a)(9) of this section. A surrendered groundfish or crab LLP license will cease to exist and will not be subsequently reissued.
 - (xi) **Surrender and extinguishment of a groundfish LLP endorsement.** Endorsements specified on a groundfish LLP license are not severable from a license and cannot be surrendered except that pot gear Pacific cod endorsements specified on groundfish LLP licenses listed in Column C of Table 9 to this part, can be permanently surrendered, removed, and extinguished if:
 - (A) The holder of the groundfish LLP license listed in Column C of Table 9 to this part requests, in writing, that NMFS permanently remove and extinguish all pot gear Pacific cod endorsements specified on that LLP license and acknowledges in that written request that the surrender and removal are permanent and irreversible and that all pot gear Pacific cod endorsements on that LLP license are extinguished;
 - (B) The holder of the groundfish LLP license listed in Column C of Table 9 to this part requests, in writing, that NMFS assign a 220-foot (67 m) MLOA on that LLP license;
 - (C) The holder of the eligible LLP license, or the authorized agent, signs the request;
 - (D) NMFS receives the written request to permanently remove and extinguish all pot gear Pacific cod endorsements specified on the LLP groundfish license by February 6, 2017; and
 - (E) The written request is submitted to NMFS using one of the following methods:
 - (1) Mail: Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802-1668;
 - (2) Fax: 907-586-7354; or
 - (3) Hand delivery or carrier: NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801.
- (7) **Transfer of a groundfish license or a crab species license –**
- (i) **General.** The Regional Administrator will transfer a groundfish license, Aleutian Island area endorsement as described under paragraph (k)(7)(viii)(A) of this section, or a crab species license if a complete transfer application is submitted to Restricted Access Management, Alaska Region, NMFS, and if the transfer meets the eligibility criteria as specified in paragraph (k)(7)(ii) of this section. A transfer application form may be requested from the Regional Administrator.

- (ii) **Eligibility criteria for transfers.** A groundfish license, Aleutian Island area endorsement as described under paragraph (k)(7)(viii)(A) of this section, or crab species license can be transferred if the following conditions are met:
 - (A) The designated transferee is eligible to document a fishing vessel under Chapter 121, Title 46, U.S.C.;
 - (B) The parties to the transfer do not have any fines, civil penalties, other payments due and outstanding, or outstanding permit sanctions resulting from Federal fishing violations;
 - (C) The transfer will not cause the designated transferee to exceed the license caps in § 679.7(i); and
 - (D) The transfer does not violate any other provision specified in this part.
- (iii) **Contents of application.** To be complete, an application for a groundfish license, Aleutian Island area endorsement as described under paragraph (k)(7)(viii)(A) of this section transfer, or a crab species license transfer must be legible, have dated signatures of the applicants, and the applicants must attest that, to the best of the applicant's knowledge, all statements in the application are true. An application to transfer will be provided by NMFS, or is available on the NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>. The acceptable submittal methods will be specified on the application form.
- (iv) **Incomplete applications.** The Regional Administrator will return an incomplete transfer application to the applicant and identify any deficiencies if the Regional Administrator determines that the application does not meet all the criteria identified in paragraph (k)(7) of this section.
- (v) **Transfer by court order, operation of law, or as part of a security agreement.** The Regional Administrator will transfer a groundfish license, Aleutian Island area endorsement as described under paragraph (k)(7)(viii)(A) of this section, or a crab species license based on a court order, operation of law, or a security agreement if the Regional Administrator determines that the transfer application is complete and the transfer will not violate any of the provisions of this section.
- (vi) **Voluntary transfer limitation.** A groundfish license, Aleutian Island area endorsement as described under paragraph (k)(7)(viii)(A) of this section, or a crab species license may be voluntarily transferred only once in any calendar year. A voluntary transfer is a transfer other than one pursuant to a court order, operation of law, or a security agreement. An application for transfer that would cause a person to exceed the transfer limit of this provision will not be approved. A transfer of an Aleutian Island area endorsement as described under paragraph (k)(7)(viii)(A) of this section to another LLP license, or the transfer of a groundfish license with an Aleutian Island area endorsement as described under paragraph (k)(7)(viii)(A) of this section attached to it will be considered to be a transfer of that Aleutian Island area endorsement.
- (vii) **Request to change the designated vessel.**
 - (A) A request to change the vessel designated on an LLP groundfish or crab species license must be made on a transfer application. If this request is approved and made separately from a license transfer, it will count towards the annual limit on voluntary transfers specified in paragraph (k)(7)(vi) of this section.

- (B) A request to change the vessel designated on an Amendment 80 LLP license or an Amendment 80 LLP/QS license must be made on an Application for Amendment 80 Replacement Vessel in accordance with § 679.4(o)(4)(ii). The MLOA modification specified at paragraph (k)(3)(i)(C) of this section will be effective when a complete application is submitted to NMFS in accordance with paragraph (k)(7) of this section, and the application is approved by the Regional Administrator.

(viii) **Severability of licenses.**

- (A) Area endorsements or area/species endorsements specified on a license are not severable from the license and must be transferred together, except that Aleutian Island area endorsements on a groundfish license with a trawl gear designation issued under the provisions of paragraph (k)(4)(ix)(A) of this section and that are assigned to a groundfish license with an MLOA of less than 60 feet LOA may be transferred separately from the groundfish license to which that Aleutian Island area endorsement was originally issued to another groundfish license provided that the groundfish license to which that Aleutian Island endorsement is transferred:
 - (1) Was not derived in whole or in part from the qualifying fishing history of an AFA vessel;
 - (2) Has a catcher vessel designation;
 - (3) Has a trawl gear designation;
 - (4) Has an MLOA of less than 60 feet LOA; and
 - (5) A complete transfer application is submitted to the Regional Administrator as described under this paragraph (k)(7), and that application is approved.
- (B) A groundfish license and a crab species license issued based on the legal landings of the same vessel and initially issued to the same qualified person are not severable and must be transferred together.

- (ix) **Other transfer restrictions.** The transfer of a LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, must be accompanied by the vessel from which the documented harvests were made or its replacement vessel, or if the LLP license and vessel were separated by transfer prior to February 7, 1998, then by the vessel that is currently being deployed by the license holder. The Regional Administrator will deny a transfer application that requests the transfer of a LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, if the appropriate vessel is not being transferred as part of the same transaction. A license holder of an LLP license that was issued based on the documented harvests from a vessel that did not have an FFP during the period beginning January 1, 1988, through October 8, 1998, may replace the vessel from which the documented harvests were made with another vessel that meets the vessel designation and MLOA requirements specified on the LLP license if the original qualifying vessel is lost or destroyed.

(8) **Other provisions.**

- (i) Any person committing, or a fishing vessel used in the commission of, a violation of the Magnuson-Stevens Fishery Conservation and Management Act or any regulations issued pursuant thereto, is subject to the civil and criminal penalty provisions and the civil forfeiture provisions of the Magnuson-Stevens Fishery Conservation and Management Act, part 621 of this chapter, 15 CFR part 904 (Civil Procedure), and other applicable law. Penalties include, but are not limited to, permanent or temporary sanctions to licenses.
- (ii) Notwithstanding the provisions of the license limitation program in this part, vessels fishing for species other than license limitation groundfish as defined in § 679.2 that were authorized under Federal regulations to incidentally catch license limitation groundfish without a Federal fisheries permit described at § 679.4(b) will continue to be authorized to catch the maximum retainable bycatch amounts of license limitation groundfish as provided in this part without a groundfish license.
- (iii) An eligible applicant, who qualifies for a groundfish license or crab species license but whose vessel on which the eligible applicant's qualification was based was lost or destroyed, will be issued a license. This license:
 - (A) Will have the vessel designation of the lost or destroyed vessel.
 - (B) Cannot be used to conduct directed fishing for license limitation groundfish or to conduct directed fishing for crab species on a vessel that has an LOA greater than the MLOA designated on the license.
- (iv) A qualified person who owned a vessel on June 17, 1995, that made a documented harvest of license limitation groundfish, or crab species if applicable, between January 1, 1988, and February 9, 1992, but whose vessel was unable to meet all the criteria in paragraph (k)(4) of this section for a groundfish license or paragraph (k)(5) of this section for a crab species license because of an unavoidable circumstance (*i.e.*, the vessel was lost, damaged, or otherwise unable to participate in the license limitation groundfish or crab fisheries) may receive a license if the qualified person is able to demonstrate that:
 - (A) The owner of the vessel at the time of the unavoidable circumstance held a specific intent to conduct directed fishing for license limitation groundfish or crab species with that vessel during a specific time period in a specific area.
 - (B) The specific intent to conduct directed fishing for license limitation groundfish or crab species with that vessel was thwarted by a circumstance that was:
 - (1) Unavoidable.
 - (2) Unique to the owner of that vessel, or unique to that vessel.
 - (3) Unforeseen and reasonably unforeseeable to the owner of the vessel.
 - (C) The circumstance that prevented the owner from conducting directed fishing for license limitation groundfish or crab species actually occurred.
 - (D) Under the circumstances, the owner of the vessel took all reasonable steps to overcome the circumstance that prevented the owner from conducting directed fishing for license limitation groundfish or crab species.

(E) Any amount of license limitation groundfish or appropriate crab species was harvested on the vessel in the specific area that corresponds to the area endorsement or area/species endorsement for which the qualified person who owned a vessel on June 17, 1995, is applying and that the license limitation groundfish or crab species was harvested after the vessel was prevented from participating by the unavoidable circumstance but before June 17, 1995.

(v) A groundfish license or a crab species license may be used on a vessel that complies with the vessel designation on the license and that does not exceed the MLOA on the license.

(9) *Pacific cod endorsements in the BSAI* –

(i) **General.** In addition to other requirements of this part, and unless specifically exempted in paragraph (k)(9)(iv) of this section, a license holder must have a Pacific cod endorsement on his or her groundfish license to conduct directed fishing for Pacific cod with hook-and-line or pot gear in the BSAI. A license holder can only use the specific non-trawl gear(s) indicated on his or her license to conduct directed fishing for Pacific cod in the BSAI.

(ii) **Eligibility requirements for a Pacific cod endorsement.** This table provides eligibility requirements for Pacific cod endorsements on an LLP groundfish license:

If a license holder's license has a . . .	And the license holder harvested Pacific cod in the BSAI with . . .	Then the license holder must demonstrate that he or she harvested at least . . .	In . . .	To receive a Pacific cod endorsement that authorizes harvest with . . .
(A) Catcher vessel designation.	Hook-and-line gear or jig gear	7.5 mt of Pacific cod in the BSAI.	In any one of the years 1995, 1996, 1997, 1998, or 1999	Hook-and-line gear.
(B) Catcher vessel designation.	Pot gear or jig gear	100,000 lb of Pacific cod in the BSAI.	In each of any two of the years 1995, 1996, 1997, 1998, or 1999	Pot gear.
(C) Catcher/processor vessel designation.	Hook-and-line gear	270 mt of Pacific cod in the BSAI.	In any one of the years 1996, 1997, 1998, or 1999	Hook-and-line gear.
(D) Catcher/processor vessel designation.	Pot gear	300,000 lb of Pacific cod in the BSAI.	In each of any two of the years 1995, 1996, 1997, or 1998	Pot gear.

(iii) *Explanations for Pacific cod endorsements.*

- (A) All eligibility amounts in the table at paragraph (k)(9)(ii) of this section will be determined based on round weight equivalents.
 - (B) Discards will not count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section.
 - (C) Pacific cod harvested for personal bait use will not count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section.
 - (D) A legal landing of Pacific cod in the BSAI for commercial bait will count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section.
 - (E) Harvests within the BSAI will count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section; however, a license holder will only be able to harvest Pacific cod in the specific areas in the BSAI for which he or she has an area endorsement.
 - (F) Harvests within the BSAI Would count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section if:
 - (1) Those harvests were made from the vessel that was used as the basis of eligibility for the license holder's LLP groundfish license, or
 - (2) Those harvests were made from a vessel that was not the vessel used as the basis of eligibility for the license holder's LLP groundfish license, provided that, at the time the endorsement-qualifying Pacific cod harvests were made, the person who owned such Pacific cod endorsement-qualifying fishing history also owned the fishing history of a vessel that satisfied the requirements for the LLP groundfish license.
 - (3) Notwithstanding the provisions of paragraph (k)(9)(iii)(F)(2) of this section, the LLP groundfish license qualifying history or the Pacific cod qualifying history of any one vessel may not be used to satisfy the requirements for issuance of more than one LLP groundfish license endorsed for the BSAI Pacific cod hook-and-line or pot gear fisheries.
 - (G) Except as provided in paragraph 679.4(k)(9)(iii)(D), only harvests of BSAI Pacific cod in the directed fishery will count toward eligibility amounts.
- (iv) ***Exemptions to Pacific cod endorsements.***
- (A) Any vessel exempted from the License Limitation Program at paragraph (k)(2) of this section.
 - (B) Any catcher vessel less than 60 ft (18.3 m) LOA.
 - (C) Any catch of Pacific cod for personal use bait.
- (v) ***Combination of landings and hardship provision.*** Notwithstanding the eligibility requirements in paragraph (k)(9)(ii) of this section, a license holder may be eligible for a Pacific cod endorsement by meeting the following criteria.

- (A) **Combination of landings.** A license holder may combine the landings of a sunken vessel and the landings of a vessel obtained to replace a sunken vessel to satisfy the eligibility amounts in the table at paragraph (k)(9)(ii) of this section only if he or she meets the requirements in paragraphs (k)(9)(v)(A)(1)-(4) of this section. No other combination of landings will satisfy the eligibility amounts in the table at paragraph (k)(9)(ii) of this section.
- (1) The sunken vessel was used as the basis of eligibility for the license holder's groundfish license;
 - (2) The sunken vessel sank after January 1, 1995;
 - (3) The vessel obtained to replace the sunken vessel was obtained by December 31 of the year 2 years after the sunken vessel sank; and
 - (4) The length of the vessel obtained to replace the sunken vessel does not exceed the MLOA specified on the license holder's groundfish license.
- (B) **Hardship provision.** A license holder may be eligible for a Pacific cod endorsement because of unavoidable circumstances if he or she meets the requirements in paragraphs (k)(9)(v)(B)(1)-(4) of this section. For purposes of this hardship provision, the term license holder includes the person whose landings were used to meet the eligibility requirements for the license holder's groundfish license, if not the same person.
- (1) The license holder at the time of the unavoidable circumstance held a specific intent to conduct directed fishing for BSAI Pacific cod in a manner sufficient to meet the landing requirements in the table at paragraph (k)(9)(ii) of this section but that this intent was thwarted by a circumstance that was:
 - (i) Unavoidable;
 - (ii) Unique to the license holder, or unique to the vessel that was used as the basis of eligibility for the license holder's groundfish license; and
 - (iii) Unforeseen and reasonably unforeseeable to the license holder.
 - (2) The circumstance that prevented the license holder from conducting directed fishing for BSAI Pacific cod in a manner sufficient to meet the landing requirements in paragraph (k)(9)(ii) actually occurred;
 - (3) The license holder took all reasonable steps to overcome the circumstance that prevented the license holder from conducting directed fishing for BSAI Pacific cod in a manner sufficient to meet the landing requirements in paragraph (k)(9)(ii) of this section; and
 - (4) Any amount of Pacific cod was harvested in the BSAI aboard the vessel that was used as the basis of eligibility for the license holder's groundfish license after the vessel was prevented from participating by the unavoidable circumstance but before April 16, 2000.

(10) **Pacific cod endorsements in the Western and Central GOA –**

- (i) **General.** In addition to other requirements of this part, and unless specifically exempted in paragraph (k)(10)(iv) of this section, a license holder must have a Pacific cod endorsement on his or her groundfish license to conduct directed fishing for Pacific cod in the Western Gulf of Alaska or Central Gulf of Alaska with hook-and-line gear, pot gear, or jig gear on a vessel using more than five jig machines, more than one line per machine, and more than 30 hooks per line. A license holder can only use the specific non-trawl gear(s) indicated on his or her license to conduct directed fishing for Pacific cod in the Western Gulf of Alaska or Central Gulf of Alaska.
- (ii) **Eligibility requirements for a Pacific cod endorsement.** This table provides eligibility requirements for Pacific cod endorsements on an LLP groundfish license:

If a license holder's license has a ***	And that license has an MLOA of ***	And the license holder harvested Pacific cod with ***	Then the license holder must demonstrate that he or she ***	From January 1, 2002, through December 8, 2008, in ***	To receive a Pacific cod endorsement that authorizes harvest in the directed Pacific cod fishery with * **
(A) Catcher vessel designation	<60 feet	hook-and-line gear	legally landed at least 10 mt of Pacific cod in the directed Pacific cod fishery	the Central Gulf of Alaska	hook-and-line gear in the Central Gulf of Alaska.
(B) Catcher vessel designation	≥60 feet	hook-and-line gear	legally landed at least 50 mt of Pacific cod in the directed Pacific cod fishery	the Central Gulf of Alaska	hook-and-line gear in the Central Gulf of Alaska.
(C) Catcher vessel designation	<60 feet	hook-and-line gear	legally landed at least 10 mt of Pacific cod in the directed Pacific cod fishery	the Western Gulf of Alaska	hook-and-line gear in the Western Gulf of Alaska.
(D) Catcher vessel designation	≥60 feet	hook-and-line gear	legally landed at least 50 mt of Pacific cod in the directed Pacific cod fishery	the Western Gulf of Alaska	hook-and-line gear in the Western Gulf of Alaska.
(E) Catcher vessel designation	<60 feet	pot gear	legally landed at least 10 mt of Pacific cod in the directed Pacific cod fishery	the Central Gulf of Alaska	pot gear in the Central Gulf of Alaska.
(F) Catcher vessel designation	≥60 feet	pot gear	legally landed at least 50 mt of Pacific cod in the directed Pacific cod fishery	the Central Gulf of Alaska	pot gear in the Central Gulf of Alaska.
(G) Catcher vessel	<60 feet	pot gear	legally landed at least 10 mt of Pacific cod in the	the Western	pot gear in the Western Gulf of

If a license holder's license has a ***	And that license has an MLOA of ***	And the license holder harvested Pacific cod with ***	Then the license holder must demonstrate that he or she ***	From January 1, 2002, through December 8, 2008, in ***	To receive a Pacific cod endorsement that authorizes harvest in the directed Pacific cod fishery with **
designation			directed Pacific cod fishery	Gulf of Alaska	Alaska.
(H) Catcher vessel designation	≥60 feet	pot gear	legally landed at least 50 mt of Pacific cod in the directed Pacific cod fishery	the Western Gulf of Alaska	pot gear in the Western Gulf of Alaska.
(I) Catcher vessel designation	any	jig gear	at least one legal landing of Pacific cod in the directed Pacific cod fishery	the Central Gulf of Alaska	jig gear in the Central Gulf of Alaska.
(J) Catcher vessel designation	any	jig gear	at least one legal landing of Pacific cod in the directed Pacific cod fishery	the Western Gulf of Alaska	jig gear in the Western Gulf of Alaska.
(K) Catcher/ Processor vessel designation	any	hook-and-line gear	legally landed at least 50 mt of Pacific cod in the directed Pacific cod fishery	the Central Gulf of Alaska	hook-and-line gear in the Central Gulf of Alaska.
(L) Catcher/ Processor vessel designation	any	hook-and-line gear	legally landed at least 50 mt of Pacific cod in the directed Pacific cod fishery	the Western Gulf of Alaska	hook-and-line gear in the Western Gulf of Alaska.
(M) Catcher/ Processor vessel designation	any	pot gear	legally landed at least 50 mt of Pacific cod in the directed Pacific cod fishery	the Central Gulf of Alaska	pot gear in the Central Gulf of Alaska.
(N) Catcher/ Processor vessel designation	any	pot gear	legally landed at least 50 mt of Pacific cod in the directed Pacific cod fishery	the Central Gulf of Alaska	pot gear in the Central Gulf of Alaska.
(O) Catcher/ Processor vessel designation	any	jig gear	at least one legal landing in the directed Pacific cod fishery	the Central Gulf of Alaska	jig gear in the Central Gulf of Alaska.
(P) Catcher/ Processor	any	jig gear	at least one legal landing in the directed Pacific cod	the Western	jig gear in the Western Gulf of

If a license holder's license has a ***	And that license has an MLOA of ***	And the license holder harvested Pacific cod with ***	Then the license holder must demonstrate that he or she ***	From January 1, 2002, through December 8, 2008, in ***	To receive a Pacific cod endorsement that authorizes harvest in the directed Pacific cod fishery with * **
vessel designation			fishery	Gulf of Alaska	Alaska.

(iii) **Explanations for Pacific cod endorsements.**

- (A) All eligibility amounts in the table at paragraph (k)(10)(ii) of this section will be determined based on round weight equivalents.
- (B) NMFS shall assign a legal landing to a groundfish license in an area based only on information contained in the official record described in paragraph (k)(10)(v) of this section.
- (C) Notwithstanding the eligibility amount in the table at paragraph (k)(10)(ii) of this section, NMFS shall assign a non-trawl Pacific cod endorsement with a catcher/processor and a hook-and-line gear designation in the regulatory areas specified to those groundfish licenses listed in Table 49 to part 679;
- (D) If a groundfish license meets the criteria described in paragraph (k)(3)(i)(B)(2) of this section and NMFS has redesignated the MLOA of that groundfish license based on those criteria, then NMFS may assign a non-trawl Pacific cod endorsement with the specific gear designation(s) and regulatory area(s) applicable to the redesignated MLOA of that groundfish license based on the eligibility criteria established in paragraph (k)(10)(ii) of this section; and
- (E) NMFS may issue groundfish licenses with non-trawl Pacific cod endorsements to CQEs as specified in paragraph (k)(10)(vi) of this section.

(iv) **Exemptions to Pacific cod endorsements.** Any vessel exempted from the License Limitation Program at paragraph (k)(2) of this section.

(v) **Non-trawl gear recent participation official record.**

- (A) The official record will contain all information used by the Regional Administrator to determine the following:
 - (1) The number of legal landings and amount of legal landings assigned to a groundfish license for purposes of the non-trawl gear designation participation requirements described in paragraph (k)(10)(ii) of this section;
 - (2) All other relevant information necessary to administer the requirements described in paragraphs (k)(3)(i)(B) and (k)(10) of this section.

- (B) The official record is presumed to be correct. A groundfish license holder has the burden to prove otherwise.
 - (C) Only legal landings as defined in § 679.2 and documented on State of Alaska fish tickets or NMFS weekly production reports will be used to assign legal landings to a groundfish license.
 - (D) If more than one groundfish license holder is claiming the same legal landing because their groundfish license designated the vessel at the time that the legal landing was made, then each groundfish license for which the legal landing is being claimed will be credited with the legal landing.
 - (E) The Regional Administrator will specify by letter a 30-day evidentiary period during which an applicant may provide additional information or evidence to amend or challenge the information in the official record. A person will be limited to one 30-day evidentiary period. Additional information or evidence received after the 30-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination (IAD).
 - (F) The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the person fails to support the person's claims and is insufficient to rebut the presumption that the official record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies with the information, or with the evidence submitted in support of the information. The IAD will also indicate which claims cannot be approved based on the available information or evidence. A person who receives an IAD may appeal pursuant to § 679.43. A person who avails himself or herself of the opportunity to appeal an IAD will receive a non-transferable license pending the final resolution of that appeal, notwithstanding the eligibility of that applicant for some claims based on consistent information in the official record.
- (vi) *Issuance of non-trawl groundfish licenses to CQEs.*
- (A) Each CQE that has been approved by the Regional Administrator under the requirements of § 679.41(l)(3) to represent a community listed in Table 21 to part 679 that is eligible for Pacific cod endorsed non-trawl groundfish licenses, may apply to receive the maximum number of groundfish licenses listed in Table 21 to part 679 on behalf of the eligible communities listed in Table 21 to part 679 that CQE is designated to represent. In order to receive a groundfish license, a CQE must submit a complete application for a groundfish license to the Regional Administrator. A CQE may not apply for, and may not receive more than the maximum number of groundfish licenses designated in the regulatory area specified for a community as listed in Table 21 to part 679.
 - (B) The application for a CQE to receive a groundfish license must include:
 - (1) Name of contact person(s) for the CQE, NMFS person number, permanent business mailing addresses, business phone, business e-mail, and business fax;
 - (2) A statement describing the procedures that will be used to determine the distribution of LLP licenses to residents of the community represented by that CQE;

- (3) Procedures used to solicit requests from residents to be assigned an LLP license;
 - (4) Criteria used to determine the distribution of the use of LLP licenses among qualified community residents and the relative weighting of those criteria; and
 - (5) The gear designation of groundfish license for which the CQE is applying provided that the community for which the CQE is applying is eligible to receive a groundfish license designated for the Central Gulf of Alaska and the application to receive a groundfish license has been received by NMFS not later than six months after April 21, 2011.
- (C) A groundfish license approved for issuance to a CQE by the Regional Administrator for a community listed in Table 21 to part 679:
- (1) May not be transferred to any person from the CQE;
 - (2) Will have only the regional designation specified for that community as listed in Table 21 to part 679;
 - (3) Will have an MLOA of 60 feet specified on the license;
 - (4) Will have only a catcher vessel designation;
 - (5) Will receive only a non-trawl gear endorsement;
 - (6) Will be assigned a Pacific cod endorsement with a non-trawl gear designation as specified in paragraph (k)(10)(vi)(D) of this section.
 - (7) May not be assigned to any vessel other than the vessel specified for that groundfish license in the annual CQE authorization letter;
 - (8) May not be assigned for use by any person(s) other than the person(s) specified for that groundfish license in the annual CQE authorization letter, or any subsequent amendment to that authorization letter that is made by the CQE provided that NMFS receives that amendment prior to that person using that groundfish license aboard a vessel; and
 - (9) May not be assigned to more than one vessel per calendar year.
- (D) The CQE must provide a copy of the annual CQE authorization letter, and any subsequent amendment to that authorization letter that is made by the CQE to NMFS and the vessel operator prior to the person(s) designated in the authorization letter using that groundfish license aboard a vessel. The vessel operator must maintain a copy of the annual CQE authorization letter, and any subsequent amendment to that authorization letter that is made by the CQE onboard the vessel when that vessel is directed fishing for Pacific cod under the authority of that groundfish license. The authorization letter, and any subsequent amendment to that authorization letter must be submitted to the Regional Administrator.
- (E) The CQE must attest in the annual CQE authorization letter, or any subsequent amendment to that authorization letter, that the person(s) using a groundfish license issued to a CQE:
- (1) Is a citizen of the United States;

- (2) Has maintained a domicile in a CQE community in the Central GOA or Western GOA eligible to receive an LLP license endorsed for Pacific cod for the 12 consecutive months immediately preceding the time when the assertion of residence is made; and
 - (3) Is not claiming residency in another community, state, territory, or country, except that residents of the Village of Seldovia shall be considered to be eligible community residents of the City of Seldovia for the purposes of eligibility to serve as an authorized person.
- (F) Non-trawl Pacific cod gear endorsements on groundfish licenses approved for issuance to CQEs by the Regional Administrator shall have the following gear designations:
- (1) NMFS will issue only pot gear Pacific cod endorsements for groundfish licenses with a Western Gulf of Alaska designation to CQEs on behalf of a community listed in Table 21 to part 679.
 - (2) NMFS will issue either a pot gear or a hook-and-line gear Pacific cod endorsement for a groundfish license with a Central Gulf of Alaska designation to CQEs on behalf of a community listed in Table 21 to part 679 based on the application for a groundfish license as described in paragraph (k)(10)(vi)(B) of this section provided that application is received by NMFS not later than six months after April 21, 2011. If an application to receive a groundfish license with a Central Gulf of Alaska designation on behalf of a community listed in Table 21 to part 679 is received later than six months after April 21, 2011, NMFS will issue an equal number of pot gear and hook-and-line gear Pacific cod endorsements for a groundfish license issued to the CQE on behalf of a community listed in Table 21 to part 679. In cases where the total number of groundfish licenses issued on behalf of a community listed in Table 21 to part 679 is not even, NMFS will issue one more groundfish license with a pot gear Pacific cod endorsement than the number of groundfish licenses with a hook-and-line gear Pacific cod endorsement.
- (G) An annual report on the use of Pacific cod endorsed non-trawl groundfish licenses shall be submitted by the CQE as required at § 679.5(t).
- (vii) *Additional endorsements for groundfish license holders eligible to participate in the Western and/or Central GOA Pacific cod fisheries –*
- (A) **Requirements.** A license limitation groundfish license holder can elect to permanently add a catcher vessel endorsement for Pacific cod for the same gears and areas for which the license is currently endorsed, for the Western and/or Central GOA if the license holder—
- (1) Is operating under the authority of a groundfish license endorsed for Pacific cod in Western and Central GOA, as described at paragraphs (k)(4)(vi) or (k)(10)(ii) of this section;
 - (2) Is endorsed to participate as a catcher/processor in the Western and/or Central GOA Pacific cod fishery; and,
 - (3) Made a minimum of one Pacific cod landing while operating as a catcher vessel under the authority of the catcher/processor license in Federal reporting areas 610, 620, or 630, from January 1, 2002, through December 31, 2008.

- (4) Or, is the holder of a license limitation groundfish license endorsed for trawl gear Western and/or Central GOA and made a minimum of one Pacific cod landing while operating as a catcher vessel under the authority of the catcher/processor license in Federal reporting areas 610, 620, or 630, from January 1, 2002 through December 31, 2008.
- (B) **Additional Central GOA and/or Western GOA catcher vessel endorsement.** Any holder of an LLP license that has a catcher vessel endorsement for the Western and/or Central GOA under paragraph (k)(10)(vii) of this section—
 - (1) Will have all directed catch of Pacific cod harvested under the authority of that groundfish license accrue against the respective GOA regulatory area catcher vessel allocations; and
 - (2) Will have all incidental catch of Pacific cod in the Western GOA or Central GOA Federal reporting areas 610, 620, or 630, harvested under the authority of that groundfish license accrue against the respective GOA regulatory area catcher vessel allocations.
- (C) **Eligible license holders not electing to add catcher vessel endorsement(s).** Any holder of an LLP license that does not have a catcher vessel endorsement for the Western and/or Central GOA under (k)(10)(vii) of this section may participate in the Western GOA or Central GOA directed Pacific cod fishery as a catcher/processor or a catcher vessel; however, direct and incidental catch of Pacific cod in the Western GOA and Central GOA will accrue against the respective catcher/processor allocation.
- (D) **Multiple or stacked LLP licenses.** For a vessel that does not meet the requirements at paragraph (k)(10)(vii) of this section but does have multiple, stacked, LLP licenses and one of those stacked licenses is endorsed as a catcher/processor eligible to harvest Pacific cod in the Western GOA or Central GOA Federal reporting areas 610, 620, or 630, all catch will accrue against the catcher/processor sector allocation for that gear type.
- (E) **Catch history.** NMFS will assign legal landings to each groundfish license for an area based only on information contained in the official record as described in paragraph (k)(10)(viii) of this section.
- (viii) **Catcher/processor participation in the Western GOA and Central GOA official record.**
 - (A) The official record will contain all information used by the Regional Administrator to determine the following:
 - (1) The number and amount of legal landings made under the authority of that license by gear type, and operational mode;
 - (2) All other relevant information necessary to administer the requirements described in paragraphs (k)(10)(vii)(A)(1) through (k)(10)(vii)(A)(3) of this section.
 - (B) The official record is presumed to be correct. A groundfish license holder has the burden to prove otherwise.
 - (C) For the purposes of creating the official record, the Regional Administrator will presume if more than one person is claiming the same legal landing, that each groundfish license for which the legal landing is being claimed will be credited with the legal landing;

- (D) Only legal landings as defined in § 679.2 and documented on State of Alaska Fish Tickets or NMFS weekly production reports will be used to assign legal landings to a groundfish license.
 - (E) The Regional Administrator will specify by letter a 30-day evidentiary period during which an applicant may provide additional information or evidence to amend or challenge the information in the official record. A person will be limited to one 30-day evidentiary period. Additional information or evidence received after the 30-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination.
 - (F) The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the person fails to support the person's claims and is insufficient to rebut the presumption that the official record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies with the information, or the evidence submitted in support of the information. The IAD will also indicate which claims cannot be approved based on the available information or evidence. A person who receives an IAD may appeal pursuant to § 679.43. A person who avails himself or herself of the opportunity to appeal an IAD that is accepted by the National Appeals Office will receive a non-transferable license pending the final resolution of that appeal, notwithstanding the eligibility of that applicant for some claims based on consistent information in the official record.
- (11) **Restrictions on licenses earned on AFA catcher vessels and listed AFA catcher/processors.** No person may use an LLP license that was derived in whole or in part from the qualifying fishing history of an AFA catcher vessel or a listed AFA catcher/processor to fish for groundfish or crab on a non-AFA catcher vessel or non-AFA catcher/processor. NMFS will identify all such licenses affected by this restriction and inform the holders of such licenses of this restriction through a restriction printed on the face of the license.
- (12) **Rockfish QS –**
- (i) **General.** In addition to other requirements of this part, a license holder must have rockfish QS assigned to his or her groundfish LLP license to conduct directed fishing for rockfish primary species and rockfish secondary species with trawl gear.
 - (ii) **Eligibility requirements for rockfish QS.** The eligibility requirements to receive rockfish QS are established in § 679.80(b).
- (13) **Amendment 80 Program.** In addition to other requirements of this part, a license holder must have an Amendment 80 LLP license to conduct fishing for an Amendment 80 species assigned to the Amendment 80 sector.
- (14) **Yellowfin sole trawl limited access sector (TLAS) directed fishery endorsement in the BSAI –**
- (i) **General.** In addition to other requirements of this part, and unless specifically exempted in paragraph (k)(2) of this section, a vessel must be designated on a groundfish LLP license that has a BSAI TLAS yellowfin sole directed fishery endorsement in order to conduct directed fishing for yellowfin sole with trawl gear in the BSAI Trawl Limited Access Sector fishery and

deliver the catch to a mothership. A vessel designated on a groundfish LLP license with trawl and catcher/processor vessel designations and a BSAI TLAS yellowfin sole directed fishery endorsement may operate as a catcher vessel and deliver its catch of yellowfin sole harvested in the directed BSAI TLAS fishery to a mothership, or operate as a catcher/processor and catch and process its own catch in this fishery.

(ii) **Eligibility requirements for a BSAI TLAS yellowfin sole directed fishery endorsement.**

- (A) A groundfish LLP license is eligible to receive a BSAI TLAS yellowfin sole directed fishery endorsement if the groundfish LLP license:
 - (1) Had a vessel designated on it, in any year from 2008 through 2015, that made at least one legal trip target landing of yellowfin sole in the BSAI TLAS directed fishery to a mothership in any one year from 2008 through 2015, inclusive, where a trip target is the groundfish species for which the retained amount of that groundfish species is greater than the retained amount of any other groundfish species for that trip;
 - (2) Has a Bering Sea area endorsement and a trawl gear designation; and
 - (3) Is credited by NMFS with a legal trip target landing specified in paragraph (k)(14)(ii)(A)(1) of this section.
- (B) If a vessel specified in paragraph (k)(14)(ii)(A)(1) of this section was designated on more than one groundfish LLP license from 2008 through 2015 and made at least one legal trip target landing in a BSAI TLAS directed fishery from 2008 through 2015, the vessel owner must specify to NMFS only one of those groundfish LLP licenses to receive credit with the legal trip target landing(s) specified in paragraph (k)(14)(ii)(A)(1) of this section.

(iii) **Explanations for BSAI TLAS yellowfin sole directed fishery endorsement.**

- (A) NMFS will determine whether a groundfish LLP license is eligible to receive a BSAI TLAS yellowfin sole directed fishery endorsement under paragraph (k)(14)(ii) of this section based only on information contained in the official record described in paragraph (k)(14)(v) of this section.
- (B) NMFS will credit a groundfish LLP license with a legal trip target landing specified in paragraph (k)(14)(ii)(A)(1) of this section if that groundfish LLP license was the only groundfish LLP license on which the vessel was designated from 2008 through 2015. If a vessel that made at least one legal trip target landing specified in paragraph (k)(14)(ii)(A)(1) of this section was designated on more than one groundfish LLP license from 2008 through 2015 and made at least one legal trip target landing in a BSAI TLAS directed fishery from 2008 through 2015, the vessel owner must notify NMFS which one of those groundfish LLP licenses NMFS is to credit with the legal trip target landing(s) specified in paragraph (k)(14)(ii)(A)(1) of this section.
- (C) Trip target landings will be determined based on round weight equivalents.

(iv) **Exemptions to BSAI TLAS yellowfin sole endorsements.** Any vessel exempted from the License Limitation Program at paragraph (k)(2) of this section is exempted from the requirement to have a BSAI TLAS yellowfin sole endorsement to deliver catch of BSAI TLAS yellowfin sole to a mothership for processing.

(v) **BSAI TLAS yellowfin sole participation official record.**

- (A) The official record will contain all information used by the Regional Administrator that is necessary to administer the requirements described in paragraph (k)(14) of this section.
 - (B) The official record is presumed to be correct. A groundfish LLP license holder has the burden to prove otherwise.
 - (C) Only legal landings as defined in § 679.2 and documented on State of Alaska fish tickets or NMFS weekly production reports will be used to determine legal trip target landings under paragraph (k)(14)(ii)(A)(1) of this section.
- (vi) **Process for issuing BSAI TLAS yellowfin sole endorsements.**
- (A) NMFS will issue to the holder of each groundfish LLP license endorsed to use trawl gear in the Bering Sea and designated in Column A of Table 52 to this part a notice of eligibility to receive a BSAI TLAS yellowfin sole directed fishery endorsement and a revised groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement.
 - (B) NMFS will issue to the holder of each groundfish LLP license endorsed to use trawl gear in the Bering Sea and designated in Column A of Table 53 to this part a notice of eligibility to be credited with a legal trip target landing specified in (k)(14)(ii)(A)(1) of this section.
 - (1) NMFS will also issue to the owner of the vessel designated on the groundfish LLP licenses in Column A of Table 53 a notice of eligibility for the two listed groundfish LLP licenses to be credited with a legal trip target landing specified in (k)(14)(ii)(A)(1) of this section. The notice to the vessel owner will provide instructions for the vessel owner to select the one groundfish LLP license that NMFS is to credit with the legal trip target landing specified in (k)(14)(ii)(A)(1) of this section.
 - (2) The holder of a groundfish LLP license in Column A of Table 53 will receive a revised groundfish LLP license with a BSAI TLAS yellowfin sole directed fishery endorsement if:
 - (i) The owner of the vessel designated on the groundfish LLP license requests in writing that NMFS credit that groundfish LLP license with the legal trip target landing specified in paragraph (k)(14)(ii)(A)(1) of this section;
 - (ii) The vessel owner, or the authorized agent, signs the request;
 - (iii) The written request is submitted to NMFS using one of the following methods: Mail at Regional Administrator, c/o Restricted Access Management Program, NMFS, P.O. Box 21668, Juneau, AK 99802-1668; fax at 907-586-7352; or hand delivery or carrier at NMFS, Room 713, 709 West 9th Street, Juneau, AK 99801; and
 - (iv) NMFS receives the written request and credits the groundfish LLP license with the legal trip target landing specified in paragraph (k)(14)(ii)(A)(1) of this section.
 - (3) The holder of a groundfish LLP license in Column A of Table 53 that is not selected by the vessel owner will receive a notice, using the address on record at the time the notification is sent, informing the holder that the groundfish LLP license was not selected by the vessel owner, will not be credited with a legal trip target landing, and will not receive a BSAI TLAS yellowfin sole endorsement. The notice will inform the

holder of the groundfish LLP license of the timing and process through which the holder can provide additional information or evidence to amend or challenge the information in the official record of this section as specified in paragraphs (k)(14)(vi)(D) and (E) of this section.

- (C) NMFS will issue to the holder of a groundfish LLP license with a Bering Sea trawl designation and that is not listed in either Table 52 or 53 a notice informing that holder that the groundfish LLP license is not eligible to be credited with a legal trip target landing or receive a BSAI TLAS yellowfin sole directed fishery endorsement based on the official record, using the address on record at the time the notification is sent. The notice will inform the holder of the groundfish LLP license of the timing and process through which the holder can provide additional information or evidence to amend or challenge the information in the official record of this section, as specified in paragraphs (k)(14)(vi)(D) and (E) of this section.
- (D) The Regional Administrator will specify by letter a 30-day evidentiary period during which an applicant may provide additional information or evidence to amend or challenge the information in the official record. A person will be limited to one 30-day evidentiary period. Additional information or evidence received after the 30-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination (IAD).
- (E) The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period, if the Regional Administrator determines that the information or evidence provided by the person fails to support the person's claims and is insufficient to rebut the presumption that the official record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies with the information or evidence submitted. The IAD will also indicate which claims cannot be approved based on the available information or evidence. A person who receives an IAD may appeal pursuant to 15 CFR part 906. NMFS will issue a non-transferable interim license that is effective until final agency action on the IAD to an applicant who avails himself or herself of the opportunity to appeal an IAD and who has a credible claim to eligibility for a BSAI TLAS yellowfin sole endorsement.

(15) ***BSAI Pacific cod trawl mothership endorsement*** –

- (i) ***General.*** In addition to other requirements of this part, a catcher/processor must be designated on a groundfish LLP license that has a BSAI Pacific cod trawl mothership endorsement in order to receive and process Pacific cod harvested and delivered by a catcher vessel directed fishing in the BSAI non-CDQ Pacific cod trawl catcher vessel fishery as specified in § 679.20(a)(7)(ii)(A). A catcher/processor designated on a groundfish LLP license with Bering Sea or Aleutian Islands area, catcher/processor operation, and BSAI Pacific cod trawl mothership endorsements may operate as a mothership, as defined at § 679.2, to receive and process Pacific cod harvested by a catcher vessel directed fishing in the BSAI non-CDQ Pacific cod trawl catcher vessel fishery as specified in § 679.20(a)(7)(ii)(A).
- (ii) ***Eligibility requirements for a BSAI Pacific cod trawl mothership endorsement.*** A groundfish LLP license is eligible to receive a BSAI Pacific cod trawl mothership endorsement if the groundfish LLP license:

- (A) Has Bering Sea or Aleutian Islands area and catcher/processor operation endorsements;
 - (B) Had a catcher/processor designated on it that received and processed at least one legal mothership trip target of Pacific cod delivered from a catcher vessel directed fishing in the BSAI non-CDQ Pacific cod trawl catcher vessel fishery as specified in § 679.20(a)(7)(ii)(A) in each of the three years of the qualifying period of 2015 through 2017, inclusive, where a mothership trip target is, in the aggregate, the groundfish species that is delivered by a catcher vessel to a given catcher/processor acting as a mothership in an amount greater than the retained amount of any other groundfish species delivered by the same catcher vessel to the same catcher/processor for a given week; and
 - (C) Is credited by NMFS with receiving a legal mothership trip target specified in paragraph (k)(15)(ii)(B) of this section.
- (iii) **Explanations for BSAI Pacific cod trawl mothership endorsement.**
- (A) NMFS will determine whether a groundfish LLP license is eligible to receive a BSAI Pacific cod trawl mothership endorsement under paragraph (k)(15)(ii) of this section based only on information contained in the official record described in paragraph (k)(15)(iv) of this section.
 - (B) NMFS will credit a groundfish LLP license with receipt of a legal mothership trip target specified in paragraph (k)(15)(ii)(B) of this section if that groundfish LLP license was the only groundfish LLP license on which the catcher/processor that received and processed legal mothership trip targets was designated from 2015 through 2017.
 - (C) Mothership trip targets will be determined based on round weight equivalents.
- (iv) **Official record of participation in the BSAI non-CDQ Pacific cod trawl catcher vessel fishery.**
- (A) The official record will contain all information used by the Regional Administrator that is necessary to administer the requirements described in paragraph (k)(15) of this section.
 - (B) The official record is presumed to be correct. A groundfish LLP license holder has the burden to prove otherwise.
 - (C) Only legal landings as defined in § 679.2 and documented on NMFS production reports will be used to determine legal mothership trip targets under paragraph (k)(15)(ii)(B) of this section.
- (v) **Process for issuing BSAI Pacific cod trawl mothership endorsements.**
- (A) NMFS will issue to the holder of each groundfish LLP license with Bering Sea or Aleutian Islands area and catcher/processor operation endorsements, and specified in Column A of Table 57 of this part, a notice of eligibility to receive a BSAI Pacific cod trawl mothership endorsement and a revised groundfish LLP license with a BSAI Pacific cod trawl mothership endorsement.
 - (B) NMFS will issue to the holder of a groundfish LLP license with Bering Sea or Aleutian Islands area and catcher/processor operation endorsements, and that is not listed in Table 57 of this part, a notice informing that holder that the groundfish LLP license is not eligible to be credited with at least one legal mothership trip target of Pacific cod in the BSAI non-CDQ Pacific cod trawl catcher vessel fishery for each year during the qualifying period or receive a BSAI Pacific cod trawl mothership endorsement based on the official

record, using the address on record at the time the notice is sent. The notice specified in this paragraph (k)(15)(v)(B) will inform the holder of the groundfish LLP license of the timing and process through which the holder can provide additional information or evidence to amend or challenge the information in the official record of this section, as specified in paragraphs (k)(15)(v)(C) and (D) of this section.

- (C) The Regional Administrator will specify by notice a 30-day evidentiary period during which an applicant may provide additional information or evidence to amend or challenge the information in the official record. A person will be limited to one 30-day evidentiary period. Additional information or evidence received after the 30-day evidentiary period specified in the letter has expired will not be considered for purposes of the initial administrative determination (IAD).
- (D) The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period, if the Regional Administrator determines that the information or evidence provided by the person fails to support the person's claims and is insufficient to rebut the presumption that the official record is correct, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies with the information or evidence submitted. The IAD will also indicate which claims cannot be approved based on the available information or evidence. A person who receives an IAD may appeal pursuant to 15 CFR part 906. NMFS will issue a non-transferable interim license that is effective until final agency action on the IAD to an applicant who avails himself or herself of the opportunity to appeal an IAD and who has a credible claim to eligibility for a BSAI Pacific cod trawl mothership endorsement.

(16) **PCTC Program.** In addition to other requirements of this part, an LLP license holder must have PCTC Program QS assigned to their groundfish LLP license to join a PCTC Program cooperative to harvest Pacific cod.

(l) **AFA permits** –

(1) **General** –

(i) **Applicability.** In addition to any other permit and licensing requirements set out in this part, any vessel used to engage in directed fishing for a non-CDQ allocation of pollock in the BS and any shoreside processor, stationary floating processor, or mothership that receives pollock harvested in a non-CDQ directed pollock fishery in the BS must have a valid AFA permit onboard the vessel or at the facility location at all times while non-CDQ pollock is being harvested or processed. In addition, the owner of any vessel that is a member of a pollock cooperative in the BS must also have a valid AFA permit for every vessel that is a member of the cooperative, regardless of whether or not the vessel actually engages in directed fishing for pollock in the BS. Finally, an AFA permit does not exempt a vessel operator, vessel, or processor from any other applicable permit or licensing requirement required under this part or in other state or Federal regulations.

(ii) **Duration** –

(A) **Expiration of interim AFA permits.** All interim AFA vessel and processor permits issued prior to January 1, 2002, will expire on December 31, 2002, unless extended or re-issued by NMFS.

(B) Duration of final AFA permits.

- (1) Except as provided in paragraphs (l)(1)(ii)(B)(2), (l)(1)(ii)(B)(3), (l)(5)(v)(B)(3), and (l)(6)(iii) of this section, AFA vessel and processor permits issued under this paragraph (l) are valid indefinitely unless the permit is suspended or revoked.
- (2) An AFA vessel permit is revoked when the vessel designated on the permit is replaced or removed under paragraph (l)(7) of this section.
- (3) In the event of a total loss or constructive loss of an AFA vessel,
 - (i) The AFA vessel permit that designates the lost AFA vessel will be valid from the date of the vessel loss up to 5 years from December 31 of the year in which the vessel was lost and will be suspended after that date, unless the AFA vessel permit for the lost vessel was revoked before that date because the lost vessel was replaced or removed under paragraph (l)(7) of this section. For example, if a vessel sinks on February 15, 2016, the AFA permit on the vessel will be valid until December 31, 2021, unless the owner of the vessel replaces or removes the vessel before December 31, 2021; after December 31, 2021, the AFA permit on the lost vessel will be suspended until the AFA vessel owner replaces or removes the lost vessel;
 - (ii) The owner of the lost AFA vessel must notify NMFS in writing of the vessel loss within 120 days of the date of the total loss or constructive loss of the vessel;
 - (iii) For purposes of paragraph (l)(1)(ii)(B)(3) of this section, an AFA lost vessel is a vessel that has been subject to a total loss or a constructive loss; a total loss means that the vessel is physically lost such as from sinking or a fire; a constructive loss means that the vessel suffered damage so that the cost of repairing the vessel exceeded the value of the vessel; the date of the total loss of a vessel is the date on which the physical loss occurred; the date of the constructive loss of a vessel is the date on which the damage to the vessel occurred.

(C) Surrender of AFA permits. Except for AFA inshore processor permits, AFA permits may not be surrendered.

- (iii) **Application for permit.** NMFS will issue AFA vessel and processor permits to the current owner(s) of a qualifying vessel or processor if the owner(s) submits to the Regional Administrator a completed AFA permit application that is subsequently approved.
- (iv) **Amended permits.** AFA vessel and processor permits may not be used on or transferred to any vessel or processor that is not listed on the permit. However, AFA permits may be amended by NMFS to reflect any change in the ownership of the vessel or processor after submittal of this information to NMFS in a written letter.

(2) AFA catcher/processor permits—

- (i) Listed AFA catcher/processors. NMFS will issue to an owner of a catcher/processor a listed AFA catcher/processor permit if the catcher/processor is one of the following (as listed in AFA paragraphs 208(e)(1) through (20)):

(A) AMERICAN DYNASTY (USCG documentation number 951307);

- (B) KATIE ANN (USCG documentation number 518441);
 - (C) AMERICAN TRIUMPH (USCG documentation number 646737);
 - (D) NORTHERN EAGLE (USCG documentation number 506694);
 - (E) NORTHERN HAWK (USCG documentation number 643771);
 - (F) NORTHERN JAEGER (USCG documentation number 521069);
 - (G) OCEAN ROVER (USCG documentation number 552100);
 - (H) ALASKA OCEAN (USCG documentation number 637856);
 - (I) ENDURANCE (USCG documentation number 592206);
 - (J) AMERICAN ENTERPRISE (USCG documentation number 594803);
 - (K) ISLAND ENTERPRISE (USCG documentation number 610290);
 - (L) KODIAK ENTERPRISE (USCG documentation number 579450);
 - (M) SEATTLE ENTERPRISE (USCG documentation number 904767);
 - (N) US ENTERPRISE (USCG documentation number 921112);
 - (O) ARCTIC STORM (USCG documentation number 903511);
 - (P) ARCTIC FJORD (USCG documentation number 940866);
 - (Q) NORTHERN GLACIER (USCG documentation number 663457);
 - (R) PACIFIC GLACIER (USCG documentation number 933627);
 - (S) HIGHLAND LIGHT (USCG documentation number 577044);
 - (T) STARBOUND (USCG documentation number 944658).
- (ii) **Unlisted AFA catcher/processors.** NMFS will issue to an owner of a catcher/processor an unlisted AFA catcher/processor permit if the catcher/processor is not listed in § 679.4(l)(2)(i) and is determined by the Regional Administrator to have harvested more than 2,000 mt of pollock in the 1997 BSAI directed pollock fishery.
- (iii) **AFA replacement vessels.**
- (A) NMFS will issue a listed AFA catcher/processor permit to the owner of a catcher/processor that is a replacement vessel for a vessel that was designated on a listed AFA catcher/processor permit.
 - (B) NMFS will issue an unlisted AFA catcher/processor permit to the owner of a catcher/processor that is a replacement vessel for a vessel that was designated on an unlisted AFA catcher/processor permit.
- (iv) **Application for AFA catcher/processor permit.** A completed application for an AFA catcher/processor permit must contain:
- (A) **Vessel information.** The vessel name, ADF&G registration number, USCG documentation number, vessel telephone number (if any), gross tons, shaft horsepower, and registered length (in feet);

- (B) **Ownership information.** The managing owner name(s), tax ID number(s), signature(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);
- (3) **AFA catcher vessel permits.** NMFS will issue to an owner of a catcher vessel an AFA catcher vessel permit containing sector endorsements and sideboard restrictions upon receipt and approval of a completed application for an AFA catcher vessel permit.
 - (i) **Qualifying criteria –**
 - (A) **Catcher vessels delivering to catcher/processors.** NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for delivery to a catcher/processor if the catcher vessel:
 - (1) Is one of the following (as listed in paragraphs 208(b)(1) through (7) of the AFA):
 - AMERICAN CHALLENGER (USCG documentation number 633219);
 - FORUM STAR (USCG documentation number 925863);
 - MUIR MILACH (USCG documentation number 611524);
 - NEAHKAHNIE (USCG documentation number 599534);
 - OCEAN HARVESTER (USCG documentation number 549892);
 - SEA STORM (USCG documentation number 628959);
 - TRACY ANNE (USCG documentation number 904859); or
 - (2) Is not listed in paragraph (l)(3)(i)(A)(1) of this section and is determined by the Regional Administrator to have delivered at least 250 mt and at least 75 percent of the pollock it harvested in the directed BSAI pollock fishery in 1997 to catcher/processors for processing by the offshore component; or
 - (3) Is an AFA replacement vessel for a vessel that was designated on an AFA catcher vessel permit with a catcher/processor endorsement.
 - (B) **Catcher vessels delivering to AFA motherships.** NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for delivery to an AFA mothership if the catcher vessel:
 - (1) Is one of the following (as listed in paragraphs 208(c)(1) through (20) and in subsection 211(e) of the AFA):
 - (i) ALEUTIAN CHALLENGER (USCG documentation number 603820);
 - (ii) ALYESKA (USCG documentation number 560237);
 - (iii) AMBER DAWN (USCG documentation number 529425);
 - (iv) AMERICAN BEAUTY (USCG documentation number 613847);

- (v) CALIFORNIA HORIZON (USCG documentation number 590758);
 - (vi) MAR-GUN (USCG documentation number 525608);
 - (vii) MARGARET LYN (USCG documentation number 615563);
 - (viii) MARK I (USCG documentation number 509552);
 - (ix) MISTY DAWN (USCG documentation number 926647);
 - (x) NORDIC FURY (USCG documentation number 542651);
 - (xi) OCEAN LEADER (USCG documentation number 561518);
 - (xii) OCEANIC (USCG documentation number 602279);
 - (xiii) PACIFIC ALLIANCE (USCG documentation number 612084);
 - (xiv) PACIFIC CHALLENGER (USCG documentation number 518937);
 - (xv) PACIFIC FURY (USCG documentation number 561934);
 - (xvi) PAPADO II (USCG documentation number 536161);
 - (xvii) TRAVELER (USCG documentation number 929356);
 - (xviii) VESTERAALEN (USCG documentation number 611642);
 - (xix) WESTERN DAWN (USCG documentation number 524423);
 - (xx) LISA MARIE (USCG documentation number 1038717); or
- (2) Is not listed in paragraph (l)(3)(i)(B)(1) of this section and is determined by the Regional Administrator to have delivered at least 250 mt of pollock for processing by motherships in the offshore component of the BSAI directed pollock fishery in any one of the years 1996 or 1997, or between January 1, 1998, and September 1, 1998, and is not eligible for an endorsement to deliver pollock to catcher/processors under paragraph (l)(3)(i)(A) of this section; or
- (3) Is an AFA replacement vessel for a vessel that was designated on an AFA catcher vessel permit with a mothership endorsement.
- (C) **Catcher vessels delivering to AFA inshore processors.** NMFS will endorse an AFA catcher vessel permit to authorize directed fishing for pollock for delivery to an AFA inshore processor if the catcher vessel is:
- (1) One of the following vessels authorized by statute to engage in directed fishing for inshore sector pollock:
 - HAZEL LORRAINE (USCG documentation number 592211),
 - LISA MARIE (USCG documentation number 1038717),
 - PROVIDIAN (USCG documentation number 1062183); or
 - (2) Is not listed in § 679.4(l)(3)(i)(A), and:

- (3) **AFA replacement vessel for a catcher vessel that qualified for an exemption.** A catcher vessel that is a replacement vessel for a vessel that was designated on an AFA catcher vessel permit with an exemption from a groundfish sideboard directed fishing closure will receive an AFA catcher vessel permit with the same exemption as the replaced vessel.
- (4) **AFA mothership permits.**

 - (i) NMFS will issue to an owner of a mothership an AFA mothership permit if the mothership:

 - (A) Is one of the following (as listed in paragraphs 208(d)(1) through (3) of the AFA):
EXCELLENCE (USCG documentation number 967502);
GOLDEN ALASKA (USCG documentation number 651041); and
OCEAN PHOENIX (USCG documentation number 296779); or
 - (B) Is an AFA replacement vessel for a vessel that was designated on an AFA mothership permit.
 - (ii) **Application for AFA mothership permit.** A completed application for an AFA mothership permit must contain:

 - (A) **Type of permit requested.** Type of processor and whether requesting an AFA cooperative endorsement.
 - (B) **Vessel information.** The mothership name, ADF&G processor code, USCG documentation number, Federal fisheries permit number, gross tons, shaft horsepower, and registered length (in feet).
 - (C) **Ownership information.** The managing owner name(s), tax ID number(s), signature(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);
- (5) **AFA inshore processor permits.** NMFS will issue to an owner of a shoreside processor or stationary floating processor an AFA inshore processor permit upon receipt and approval of a completed application.

 - (i) **Qualifying criteria –**

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

- (ii) **Surrender of permit.** An AFA inshore processor permit may be voluntarily surrendered in accordance with paragraph (a)(9) of this section. An AFA inshore processor permit will not be reissued in the same fishing year in which it was surrendered, but may be reapplied for and if approved, reissued to the permit holder of record in a subsequent fishing year.
- (iii) **Single geographic location requirement.** An AFA inshore processor permit authorizes the processing of pollock harvested in the BS subarea directed pollock fishery only in a single geographic location during a reporting week. For the purposes of this paragraph, single geographic location means:
 - (A) **Shoreside processors.** The physical location at which the land-based shoreside processor first processed pollock harvested from the BS subarea directed pollock fishery during a fishing year.
 - (B) **Stationary floating processors (SFP).** A geographic position within State of Alaska waters of the BS subarea and that is within a 5 nm radius of the latitude and longitude reported in the check-in and check-out reports at § 679.5(h)(5)(ix)(B). An AFA SFP cannot change its single geographic location more than four times within State of Alaska waters in the BS subarea to process pollock harvested in a BS subarea directed pollock fishery during a fishing year and cannot use more than one single geographic location during a reporting week.
- (iv) **Application for permit.** A completed application for an AFA inshore processor permit must contain:
 - (A) **Type of permit requested.** Type of processor, whether requesting an AFA cooperative endorsement, and amount of BSAI pollock processed in 1996 and 1997;
 - (B) **Stationary floating processor information.** The vessel name, ADF&G processor code, USCG documentation number, Federal processor permit number, gross tons, shaft horsepower, registered length (in feet), and business telephone number, business FAX number, and business e-mail address used on board the vessel.
 - (C) **Shoreside processor information.** The processor name, Federal processor permit number, ADF&G processor code, business street address; business telephone and FAX numbers, and business e-mail address.
 - (D) **Ownership information.** The managing owner name(s), tax ID number(s), signature(s), business mailing address(es), business telephone number(s), business fax number(s), business e-mail address(es), and managing company (if any);
- (v) **Authorization of new AFA inshore processors.** If the Council recommends and NMFS approves a combined BSAI pollock TAC that exceeds 1,274,900 mt for any fishing year, or in the event of the actual total loss or constructive loss of an existing AFA inshore processor, the Council may recommend that an additional inshore processor (or processors) be issued AFA inshore processing permits.
 - (A) **Timing of Council action.** At any time prior to or during a fishing year in which the combined BSAI pollock TAC exceeds 1,274,900 mt, or at any time after the actual total loss or constructive total loss of an existing AFA inshore processor, the Council may, after opportunity for public comment, recommend that an additional inshore processor (or processors) be issued AFA inshore processor permits.

- (B) **Required elements in Council recommendation.** Any recommendation from the Council to add an additional inshore processor (or processors) must include the following information:
- (1) **Identification of inshore processor(s).** The Council recommendation must identify by name the inshore processor(s) to which AFA inshore processor permits would be issued;
 - (2) **Type of AFA inshore processor permit(s).** The Council recommendation must specify whether the identified inshore processor(s) should be issued a restricted or unrestricted AFA inshore processor permit.
 - (3) **Duration of permit.** The Council recommendation must specify the recommended duration of the permit. Permit duration may be for any duration from a single fishing season to the duration of section 208 of the AFA. Alternatively, the Council may recommend that the permit be valid as long as the conditions that led to the permit remain in effect. For example, the Council could recommend that a permit issued under this paragraph remain valid as long as the combined annual BSAI pollock TAC remains above 1,274,900 mt. or a lost AFA inshore processor is not reconstructed.
 - (4) **Council procedures.** The Council may establish additional procedures for the review and approval of requests to authorize additional AFA inshore processors. However, such procedures must be consistent with the Magnuson-Stevens Act, the national standards, and other applicable law.
 - (5) **Action by NMFS.** Upon receipt of a recommendation from the Council to authorize additional AFA inshore processors, NMFS may issue an AFA inshore processor permit to the identified inshore processor(s) of the type and duration recommended by the Council, provided the Council has met the requirements identified in paragraphs (l)(5)(v)(B)(1) through (4) of this section, and the owner(s) of the identified inshore processor has submitted a completed application for an AFA inshore processor permit that is subsequently approved.

(6) **Inshore cooperative fishing permits –**

- (i) **General.** NMFS will issue to an inshore catcher vessel cooperative formed pursuant to 15 U.S.C. 521 for the purpose of cooperatively managing directed fishing for pollock for processing by an AFA inshore processor an AFA inshore cooperative fishing permit upon receipt and approval of a completed application.
- (ii) **Application for permit.** A completed application for an inshore cooperative fishing permit must contain the following information:
 - (A) **Cooperative contact information.** Name of cooperative; name of cooperative representative; and business mailing address, business telephone number, business fax number, and business e-mail address of the cooperative;
 - (B) **Designated cooperative processor.** The name and physical location of an AFA inshore processor that is designated in the cooperative contract as the processor to whom the cooperative has agreed to deliver at least 90 percent of its BS pollock catch;
 - (C) **Cooperative contract information.** A copy of the cooperative contract and a written certification that:

- (1) The contract was signed by the owners of at least 80 percent of the qualified catcher vessels;
 - (2) The cooperative contract requires that the cooperative deliver at least 90 percent of its BS pollock catch to its designated AFA processor; and
 - (3) Each catcher vessel in the cooperative is a qualified catcher vessel and is otherwise eligible to fish for groundfish in the BSAI, except that a lost vessel that retains an AFA permit pursuant to paragraph (l)(1)(ii)(B)(3) of this section need not be designated on a Federal Fisheries Permit or an LLP license; has an AFA catcher vessel permit with an inshore endorsement; and has no permit sanctions or other type of sanctions against it that would prevent it from fishing for groundfish in the BSAI.
- (D) **Qualified catcher vessels.** For the purpose of paragraph (l)(6)(ii)(C)(3) of this section, a catcher vessel is a qualified catcher vessel if the catcher vessel meets the permit and landing requirements in paragraphs (l)(6)(ii)(D)(1) and (l)(6)(ii)(D)(2) of this section; the catcher vessel is an AFA replacement catcher vessel that meets the requirements in paragraph (l)(6)(ii)(D)(3) of this section; or the catcher vessel is an AFA lost catcher vessel that meets the requirements in paragraph (l)(6)(ii)(D)(4) of this section.

(1) **Permit requirements** –

- (i) **AFA permit.** The vessel must have a valid AFA catcher vessel permit with an inshore endorsement;
- (ii) **LLP permit.** The vessel must be named on a valid LLP permit authorizing the vessel to engage in trawling for pollock in the Bering Sea subarea. If the vessel is more than 60 feet (18.3 m) LOA, the vessel must be named on a valid LLP permit endorsed for the AI to engage in trawling for pollock in the AI; and
- (iii) **Permit sanctions.** The vessel has no permit sanctions that otherwise make it ineligible to engage in fishing for pollock in the BSAI.

(2) **Landing requirements** –

- (i) **Active vessels.** The vessel delivered more pollock harvested in the BS inshore directed pollock fishery to the AFA inshore processor designated under paragraph (l)(6)(ii)(B) of this section than to any other shoreside processor or stationary floating processor during the year prior to the year in which the cooperative fishing permit will be in effect; or
- (ii) **Inactive vessels.** The vessel delivered more pollock harvested in the BS inshore directed pollock fishery to the AFA inshore processor designated under paragraph (l)(6)(ii)(B) of this section than to any other shoreside processor or stationary floating processor during the last year in which the vessel delivered BS pollock harvested in the BS directed pollock fishery to an AFA inshore processor.
- (iii) **Harvests under contract to a cooperative.** Any landings made by a vessel operating under contract to an inshore cooperative in which it was not a member will not be used to determine eligibility under paragraph (l)(6)(ii)(D)(2).

- (3) **AFA replacement catcher vessels.** The vessel is an AFA replacement vessel for a catcher vessel that met the permit and landing requirements in paragraphs (l)(6)(ii)(D)(1) and (l)(6)(ii)(D)(2) of this section;
 - (4) **AFA lost catcher vessels.** In the event of a total loss or constructive loss of an AFA catcher vessel with an inshore endorsement, the owner of the lost vessel has an AFA catcher vessel permit with an inshore endorsement for the lost vessel that is valid pursuant to paragraph (l)(1)(ii)(B)(3) of this section, and the inshore cooperative shows:
 - (i) The vessel was lost during a year when the vessel was designated on an AFA inshore cooperative fishing permit issued to the cooperative submitting the application; or
 - (ii) The vessel was lost during a year when the vessel was not designated on any AFA inshore cooperative fishing permit and when the vessel delivered more pollock to the AFA inshore processor designated by the inshore cooperative under paragraph (l)(6)(ii)(B) of this section than to any other processor; or
 - (iii) The vessel was lost during a year when the vessel was not designated on any AFA inshore cooperative fishing permit and when the vessel had made no deliveries of pollock and the owner of the lost vessel has assigned the catch history of the lost vessel to the inshore cooperative that submits the application.
 - (E) **Business review letter.** A copy of a letter from a party to the contract requesting a business review letter on the fishery cooperative from the Department of Justice and of any response to such request;
 - (F) **Vessel information.** For each cooperative catcher vessel member: Vessel name, ADF&G registration number, USCG documentation number, AFA permit number; and
 - (G) **Certification of notary and applicant.** Signature and printed name of cooperative representative, date of signature, and notary stamp or seal, signature and date commission expires of a notary public.
 - (iii) **Duration of cooperative fishing permits.** Inshore cooperative fishing permits are valid for 1 calendar year.
 - (iv) **Addition or subtraction of vessels.** The cooperative representative must submit a new application to add or subtract a catcher vessel to or from an inshore cooperative fishing permit to the Regional Administrator prior to the application deadline. Upon approval by the Regional Administrator, NMFS will issue an amended cooperative fishing permit.
 - (v) **Application deadline.** An inshore cooperative fishing permit application and any subsequent contract amendments that add or subtract vessels must be received by the Regional Administrator by December 1 prior to the year in which the inshore cooperative fishing permit will be in effect. Inshore cooperative fishing permit applications or amendments to inshore fishing cooperative permits received after December 1 will not be accepted by the Regional Administrator for the subsequent fishing year.
- (7) **AFA rebuilt vessels, AFA replacement vessels, and removal of inshore AFA catcher vessels –**

(i) *AFA rebuilt vessels.*

- (A) To improve vessel safety or to improve operational efficiency, including fuel efficiency, the owner of an AFA vessel may rebuild the vessel. If the owner of an AFA vessel rebuilds the vessel, the owner must notify NMFS within 30 days of the issuance of the vessel documentation for the AFA rebuilt vessel and must provide NMFS with a copy of the vessel documentation for the rebuilt vessel. If the owner of the AFA rebuilt vessel provides NMFS with information demonstrating that the AFA rebuilt vessel is documented with a fishery endorsement issued under 46 U.S.C. 12113, NMFS will acknowledge receipt of the notification and inform the owner that the AFA permit issued to the vessel before rebuilding is valid and can be used on the AFA rebuilt vessel.
- (B) Except as provided in paragraph (l)(7)(i)(C) and paragraph (l)(7)(i)(D) of this section, the owner of an AFA rebuilt vessel will be subject to the same requirements that applied to the vessel before rebuilding and will be eligible to use the AFA rebuilt vessel in the same manner as the vessel before rebuilding.
- (C) An AFA rebuilt vessel is exempt from the maximum length overall (MLOA) restriction on an LLP groundfish license with a Bering Sea area endorsement or an Aleutian Islands area endorsement when the AFA rebuilt vessel is conducting directed fishing for groundfish in the BSAI pursuant to that LLP groundfish license and the LLP groundfish license specifies the exemption.
- (D) If an AFA rebuilt catcher vessel is equal to or greater than 125 ft (38.1 m) LOA, the AFA rebuilt catcher vessel will be subject to the catcher vessel exclusive fishing seasons for pollock in 50 CFR 679.23(i) and will not be exempt from 50 CFR 679.23(i) even if the vessel before rebuilding was less than 125 ft (38.1 m) LOA and was exempt from 50 CFR 679.23(i).

(ii) *AFA replacement vessels.*

- (A) To improve vessel safety or to improve operational efficiency, including fuel efficiency, the owner of an AFA vessel may replace the AFA vessel with a vessel that is documented with a fishery endorsement issued under 46 U.S.C. 12113.
- (B) Upon approval of an application to replace an AFA vessel pursuant to paragraph (l)(7) of this section and except as provided in paragraph (l)(7)(ii)(C), paragraph (l)(7)(ii)(D), and paragraph (l)(7)(E) of this section, the owner of an AFA replacement vessel will be subject to the same requirements that applied to the replaced vessel and will be eligible to use the AFA replacement vessel in the same manner as the replaced vessel. If the AFA replacement vessel is not already designated on an AFA permit, the Regional Administrator will issue an AFA permit to the owner of the AFA replacement vessel. The AFA permit that designated the replaced, or former, AFA vessel will be revoked.
- (C) An AFA replacement vessel is exempt from the maximum length overall (MLOA) restriction on an LLP groundfish license with a Bering Sea area endorsement or an Aleutian Islands area endorsement when the AFA replacement vessel is conducting directed fishing for groundfish in the BSAI pursuant to that LLP groundfish license and the LLP groundfish license specifies an exemption from the MLOA restriction for the AFA replacement vessel.

- (D) If an AFA replacement catcher vessel is equal to or greater than 125 ft (38.1 m) LOA, the AFA replacement catcher vessel will be subject to the catcher vessel exclusive fishing seasons for pollock in 50 CFR 679.23(i) and will not be exempt from 50 CFR 679.23(i), even if the replaced vessel was less than 125 ft (38.1 m) LOA and was exempt from 50 CFR 679.23(i).
 - (E) An AFA replacement catcher vessel for an AFA catcher vessel will have the same sideboard exemptions, if any, as the replaced AFA catcher vessel, except that if the AFA replacement vessel was already designated on an AFA permit as exempt from sideboard limits, the AFA replacement vessel will maintain its exemption even if the replaced vessel was not exempt from sideboard limits.
- (iii) **Removal of AFA catcher vessel from the directed pollock fishery.**
- (A) The owner of a catcher vessel that is designated on an AFA catcher vessel permit with an inshore endorsement may remove the catcher vessel from the directed pollock fishery, subject to the requirements in paragraphs (B), (C), and (D) of this paragraph (l)(7)(iii).
 - (B) The owner of the removed catcher vessel must direct NMFS to assign the non-CDQ inshore pollock catch history in the BSAI of the removed vessel to one or more catcher vessels in the inshore fishery cooperative to which the removed vessel belonged at the time of the application for removal.
 - (C) Except for the assignment of the pollock catch history of the removed catcher vessel in paragraph (l)(7)(iii)(B) of this section, all claims relating to the catch history of the removed catcher vessel in the Exclusive Economic Zone off Alaska, including any claims to an exemption from AFA sideboard limitations, will be permanently extinguished upon NMFS' approval of the application to remove the catcher vessel and the AFA permit that was held by the owner of the removed catcher vessel will be revoked.
 - (D) The catcher vessel or vessels that are assigned the catch history of the removed catcher vessel cannot be removed from the fishery cooperative to which the removed catcher vessel belonged for a period of one year from the date that NMFS assigned the catch history of the removed catcher vessel to that vessel or vessels.
- (iv) **Replaced vessels and removed vessels.** An AFA vessel that is replaced or removed under paragraph (l)(7) of this section is permanently ineligible to receive any permit to participate in any fishery in the Exclusive Economic Zone off Alaska unless the replaced or removed vessel reenters the directed pollock fishery as a replacement vessel under paragraph (l)(7) of this section.
- (v) **Application.** To notify NMFS that the owner of an AFA vessel has rebuilt the AFA vessel, the owner of the AFA vessel must submit a complete application. To replace an AFA vessel with another vessel, NMFS must receive a complete application from the owner of the vessel that is being replaced. To remove an AFA catcher vessel from the directed pollock fishery, NMFS must receive a complete application from the owner of the vessel that is to be removed. An application must contain the information specified on the application form, with all required fields accurately completed and all required documentation attached. The application must be submitted to NMFS using the methods described on the application. The application referred to in this paragraph is "American Fisheries Act (AFA) Permit: Rebuilt, Replacement, or Removed Vessel Application."

(8) **Application evaluations and appeals** –

- (i) **Initial evaluation.** The Regional Administrator will evaluate an application submitted in accord with paragraph (l) of this section. If the Regional Administrator determines that the applicant meets the requirements for NMFS to take the action requested on the application, NMFS will approve the application. If the Regional Administrator determines that the applicant has submitted claims based on inconsistent information or fails to submit the information specified in the application, the applicant will be provided a single 30-day evidentiary period to submit evidence to establish that the applicant meets the requirements for NMFS to take the requested action. The burden is on the applicant to establish that the applicant meets the criteria in the regulation for NMFS to take the action requested by the applicant.
- (ii) **Additional information and evidence.** The Regional Administrator will evaluate the additional information or evidence submitted by the applicant within the 30-day evidentiary period. If the Regional Administrator determines that the additional information or evidence meets the applicant's burden of proof, the application will be approved. However, if the Regional Administrator determines that the applicant did not meet the applicant's burden of proof, the applicant will be notified by an initial administrative determination (IAD) that the application is denied.
- (iii) **Initial administrative determinations (IAD).** The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the applicant fails to support the applicant's claims and is insufficient to establish that the applicant meets the requirements for an AFA permit or for NMFS to approve the withdrawal of a catcher vessel, or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of the applicant's 30-day evidentiary period. The IAD will indicate the deficiencies in the application, including any deficiencies with the information, the evidence submitted in support of the information, or the revised application. An applicant who receives an IAD may appeal under the appeals procedures set out at 15 CFR part 906.
- (iv) **Effect of cooperative allocation appeals.** An AFA inshore cooperative may appeal the pollock quota share issued to the cooperative under § 679.62; however, final agency action on the appeal must occur prior to December 1 for the results of the appeal to take effect during the subsequent fishing year.

(m) **Participation in the AI directed pollock fishery** –

- (1) **Applicability.** Harvesting pollock in the AI directed pollock fishery and processing pollock taken in the AI directed pollock fishery is authorized only for those harvesters and processors that are selected by the Aleut Corporation and approved by the Regional Administrator to harvest pollock in the AI directed pollock fishery or to process pollock taken in the AI directed pollock fishery.
- (2) **Annual selection of participants by the Aleut Corporation.** Each year and at least 14 days before harvesting pollock in the AI directed pollock fishery or processing pollock harvested in the AI directed pollock fishery, a participant must be selected by the Aleut Corporation and the following information for each participant must be submitted by the designated contact to the Regional Administrator:
 - (i) Vessel or processor name;

- (ii) Federal fisheries permits number issued under paragraph (b) of this section or Federal processor permit issued under paragraph (f) of this section; and
- (iii) The fishing year which participation approval is requested.

(3) Participant approval.

- (i) Participants must have:
 - (A) A valid Federal fisheries permit or Federal processing permit, pursuant to paragraphs (b) and (f) of this section, respectively;
 - (B) A valid fishery endorsement on the vessel's U.S. Coast Guard documentation for the vessel's participation in the U. S. fishery; and
 - (C) A valid AFA permit under: paragraph (l)(2) of this section for all catcher/processors, paragraph (l)(3) of this section for all catcher vessels greater than 60 ft (18.3 m) LOA, or paragraph (l)(4) of this section for all motherships.
- (ii) Each participant selected by the Aleut Corporation that meets the conditions under paragraph (m)(3)(i) of this section will be approved by the Regional Administrator for participation in the AI directed pollock fishery.
- (iii) The Regional Administrator will provide to the designated contact for the Aleut Corporation the identity of each approved participant and the date upon which participation in the AI directed pollock fishery may commence. The Aleut Corporation shall forward to the approved participants a copy of NMFS's approval letter before harvesting or processing occurs.
- (iv) A copy of NMFS' approval letter for participating in the AI directed pollock fishery during the fishing year must be on site at the shoreside processor or stationary floating processor, or on board the vessel at all times and must be presented for inspection upon the request of any authorized officer.

(4) Participant disapproval.

- (i) The Regional Administrator shall disapprove any participant that does not meet the conditions under paragraph (m)(3)(i) of this section. The Regional Administrator will notify in writing the Aleut Corporation and the selected participant of the disapproval. The selected participant will have 30 days in which to submit proof of meeting the requirements to participate in the AI directed pollock fishery.
- (ii) The Regional Administrator will prepare and send an initial administrative determinations (IAD) to the selected participant following the expiration of the 30-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the selected participant fails to support the participant's claims and is insufficient to rebut the presumption that the disapproval for participation in the AI directed pollock fishery is correct or if the additional information or evidence is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies in the information required, including the evidence submitted in support of the information. The IAD also will indicate which claims cannot be approved based on the available information or evidence. A participant who receives an IAD may appeal under the appeals procedures set out at § 679.43. A participant who avails himself or herself of the opportunity to

appeal an IAD will receive an interim approval from NMFS authorizing participation in the AI directed pollock fishery. An interim approval based on claims contrary to the final determination will expire upon final agency determination.

(n) **Rockfish Program** –

(1) **Cooperative quota (CQ).**

- (i) A CQ permit is issued annually to a rockfish cooperative if the members of that rockfish cooperative have submitted a complete and timely application for CQ as described in § 679.81(f) that is approved by the Regional Administrator. A CQ permit authorizes a rockfish cooperative to participate in the Rockfish Program. The CQ permit will indicate the amount of rockfish primary species and rockfish secondary species that may be harvested by the rockfish cooperative, and the amount of rockfish halibut PSC that may be used by the rockfish cooperative. The CQ permit will list the members of the rockfish cooperative, the vessels that are authorized to fish under the CQ permit for that rockfish cooperative, and the rockfish processor with whom that rockfish cooperative is associated, if applicable.
- (ii) A CQ permit is valid only until the end of the calendar year for which the CQ permit is issued;
- (iii) A legible copy of the CQ permit must be carried on board the vessel(s) used by the rockfish cooperative.

(2) **Rockfish cooperative termination of fishing declaration.**

- (i) A rockfish cooperative may choose to terminate its CQ permit through a declaration submitted to NMFS.
- (ii) This declaration may only be submitted to NMFS electronically. The rockfish cooperative's designated representative must log into the online system and create a request for termination of fishing declaration as indicated on the computer screen. By using the rockfish cooperative's NMFS ID and password, and submitting the termination of fishing declaration request, the designated representative certifies that all information is true, correct, and complete.

(o) **Amendment 80 Program** –

(1) **Amendment 80 QS permit.**

- (i) An Amendment 80 QS permit is issued to a person who submits a timely and complete application for Amendment 80 QS that is approved by NMFS under § 679.90(b).
- (ii) An Amendment 80 QS permit is assigned to the owner of an Amendment 80 vessel that gave rise to that permit under the provisions of § 679.90(b), or its replacement under § 679.4(o)(4), unless the Amendment 80 QS permit is assigned to the holder of an LLP license originally assigned to an Amendment 80 vessel under the provisions of § 679.90(d) or § 679.90(e).
- (iii) If an Amendment 80 QS permit is assigned to the owner of an Amendment 80 vessel the Amendment 80 QS permit will designate the Amendment 80 vessel to which that permit is assigned.
- (iv) If an Amendment 80 QS permit is assigned to the holder of an LLP license originally assigned to an Amendment 80 vessel under the provisions of § 679.90(d)(2)(ii) or § 679.90(e)(4), the Amendment 80 QS permit will be permanently affixed to the LLP license originally assigned to an Amendment 80 vessel which will be designated as an Amendment 80 LLP/QS license.

- (v) Amendment 80 QS units assigned to an Amendment 80 QS permit are non-severable from that Amendment 80 QS permit and if transferred, the Amendment 80 QS permit must be transferred in its entirety to another person under the provisions of § 679.90(d) or § 679.90(e).
 - (vi) A person must hold an Amendment 80 LLP license to hold an Amendment 80 QS permit.
 - (vii) The owner of an Amendment 80 vessel must designate the Amendment 80 vessel on an Amendment 80 QS permit and on an Amendment 80 LLP license, or designate the Amendment 80 vessel on the Amendment 80 LLP/QS license to use that Amendment 80 vessel in an Amendment 80 fishery.
- (2) ***Amendment 80 Cooperative quota (CQ) permit.***
- (i) A CQ permit is issued annually to an Amendment 80 cooperative that submits a timely and complete application for CQ that is approved by NMFS as described at § 679.91(b)(4).
 - (ii) A CQ permit authorizes an Amendment 80 cooperative to catch a quantity of fish expressed as a portion of the ITAC and halibut and crab PSC that may be held for exclusive use by that Amendment 80 cooperative.
 - (iii) A CQ permit will indicate the amount of Amendment 80 species that may be caught by the Amendment 80 cooperative, and the amount of Amendment 80 crab and halibut PSC that may be used by the Amendment 80 cooperative. The CQ permit will list the members of the Amendment 80 cooperative, Amendment 80 LLP licenses, Amendment 80 QS permits, and Amendment 80 vessels that are assigned to that Amendment 80 cooperative.
 - (iv) The amount of CQ listed on the CQ permit will be based on:
 - (A) The amount of Amendment 80 QS units held by all members of the Amendment 80 cooperative designated on a timely and complete application for CQ as described under § 679.91(b) that is approved by NMFS;
 - (B) The Amendment 80 QS units derived from Amendment 80 QS permits held by members of the Amendment 80 cooperative who have submitted a timely and complete EDR for all Amendment 80 QS permits held by that member as described under § 679.94; and
 - (C) The amount of CQ as modified by an application for CQ transfer as described under § 679.91(g) that is approved by NMFS.
 - (v) A CQ permit is valid until whichever of the following occurs first:
 - (A) Until the end of the year for which the CQ permit is issued; or
 - (B) Until the permit is revoked, suspended, or modified pursuant to § 679.43 or under 15 CFR part 904.
 - (vi) A legible copy of the CQ permit must be carried onboard an Amendment 80 vessel assigned to an Amendment 80 cooperative when fishing in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.
- (3) ***Amendment 80 limited access fishery permit.***

- (i) An Amendment 80 limited access fishery permit is required for an Amendment 80 QS holder to catch, process, and receive Amendment 80 species assigned to the Amendment 80 limited access fishery, or use halibut and crab PSC assigned to the Amendment 80 limited access fishery. An Amendment 80 limited access fishery permit is issued annually to an Amendment 80 QS holder who:
 - (A) Has submitted a timely and complete application for the Amendment 80 limited access fishery as described at § 679.91(b)(4) that is approved by NMFS, or
 - (B) Is assigned to the Amendment 80 limited access fishery by NMFS as described at § 679.91(a)(3)(ii); and
 - (C) Has submitted a timely and complete EDR for all Amendment 80 QS permits held by that person as described under § 679.94.
- (ii) An Amendment 80 limited access fishery permit is valid until whichever of the following occurs first:
 - (A) Until the end of the year for which the Amendment 80 limited access fishery permit is issued; or
 - (B) Until the permit is revoked, suspended, or modified pursuant to § 679.43 or under 15 CFR part 904.
- (iii) A legible copy of the Amendment 80 limited access fishery permit must be carried onboard an Amendment 80 vessel assigned to the Amendment 80 limited access fishery when fishing in the BSAI or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season.

(4) Amendment 80 Replacement Vessel.

- (i) The owner of an Amendment 80 vessel may replace such vessel for any purpose. All Federal fishery regulations applicable to the replaced vessel apply to the replacement vessel, except as described at § 679.92(d)(2)(ii) if applicable. A vessel that replaces an Amendment 80 vessel will be approved by the Regional Administrator as an Amendment 80 vessel following the submission and approval of a completed application for an Amendment 80 Replacement Vessel, provided that:
 - (A) The replacement vessel does not exceed 295 ft. (89.9 m) LOA;
 - (B) The replacement vessel was built in the United States and, if ever rebuilt, rebuilt in the United States;
 - (C) The applicant provides documentation that the replacement vessel complies with U.S. Coast Guard safety requirements applicable to processing vessels operating in the Amendment 80 sector or, if unable to provide such documentation, the applicant provides documentation that the replacement vessel meets the requirements of the U.S. Coast Guard's Alternative Compliance and Safety Agreement; and
 - (D) The replacement vessel is not a vessel listed at section 208(e)(1) through (20) of the American Fisheries Act or permitted under paragraph (l)(2)(i) of this section; is not an AFA replacement vessel designated on a listed AFA catcher/processor permit under paragraph (l)(2) of this section; and is not an AFA catcher vessel permitted under paragraph (l)(3) of this section.

(ii) **Application for Amendment 80 Replacement Vessel.** A person who wishes to replace an Amendment 80 vessel must submit to NMFS a complete Application for Amendment 80 Replacement Vessel. An application must contain the information specified on the form, with all required fields accurately completed and all required documentation attached. This application must be submitted to NMFS using the methods described on the application.

(5) **Application evaluations and appeals –**

(i) **Initial evaluation.** The Regional Administrator will evaluate an application for an Amendment 80 replacement vessel submitted in accordance with paragraph (o)(4) of this section. If the vessel listed in the application does not meet the requirements for an Amendment 80 replacement vessel at § 679.4(o)(4), NMFS will not approve the application. An applicant who submits claims based on inconsistent information or fails to submit the information specified in the application for an Amendment 80 replacement vessel will be provided a single 30-day evidentiary period to submit evidence to establish that the vessel meets the requirements to be an Amendment 80 replacement vessel. The burden is on the applicant to establish that the vessel meets the criteria to become a replacement vessel.

(ii) **Additional information and evidence.** The Regional Administrator will evaluate the additional information or evidence to support an application for Amendment 80 replacement vessel submitted within the 30-day evidentiary period. If the Regional Administrator determines that the additional information or evidence meets the applicant's burden of proving that the vessel meets the requirements to become an Amendment 80 Replacement Vessel, the application will be approved. However, if the Regional Administrator determines that the vessel does not meet the requirements to become an Amendment 80 Replacement Vessel, the applicant will be notified by an initial administrative determination (IAD) that the application for replacement vessel is denied.

(iii) **Initial administrative determinations (IAD).** The Regional Administrator will prepare and send an IAD to the applicant following the expiration of the 30-day evidentiary period if the Regional Administrator determines that the information or evidence provided by the applicant fails to support the applicant's claims and is insufficient to establish that the vessel meets the requirements for an Amendment 80 replacement vessel or if the additional information, evidence, or revised application is not provided within the time period specified in the letter that notifies the applicant of his or her 30-day evidentiary period. The IAD will indicate the deficiencies in the application, including any deficiencies with the information, the evidence submitted in support of the information, or the revised application. An applicant who receives an IAD may appeal under the appeals procedures set out at § 679.43.

(p) **Flatfish Exchange Application –**

(1) **Completed application.** NMFS will process only completed Flatfish Exchange Applications submitted by CDQ groups or Amendment 80 cooperatives.

(2) **Certification.** The designated representative must log into the Alaska Region Online application Web site and complete an exchange application form provided on the Web site. By using the NMFS ID, password, and Transfer Key and submitting the Flatfish Exchange Application, the designated representative certifies that all information submitted is true, correct, and complete.

(3) **Approval.** A CDQ group or Amendment 80 cooperative must receive NMFS' approval of a Flatfish Exchange Application prior to using the CDQ or Amendment 80 CQ subject to the Flatfish Exchange. NMFS will approve the Flatfish Exchange Application if:

- (i) The CDQ group has sufficient CDQ ABC reserves of flathead sole, rock sole, or yellowfin sole;
- (ii) The Amendment 80 cooperative has sufficient Amendment 80 ABC reserves of flathead sole, rock sole, or yellowfin sole;
- (iii) The CDQ group receiving flathead sole, rock sole, or yellowfin sole from its CDQ ABC reserve exchanges an equal amount of unused CDQ of flathead sole, rock sole, or yellowfin sole, other than the species received from its CDQ ABC reserve;
- (iv) The Amendment 80 cooperative receiving flathead sole, rock sole, or yellowfin sole from its Amendment 80 ABC reserve exchanges an equal amount of unused Amendment 80 CQ of flathead sole, rock sole, or yellowfin sole, other than the species received from its Amendment 80 ABC reserve;
- (v) The CDQ group or Amendment 80 cooperative has not received at least three approved Flatfish Exchanges during that calendar year, as described at paragraph (p)(5) of this section;
- (vi) Approval of the Flatfish Exchange Application will not cause flathead sole, rock sole, or yellowfin sole to exceed an ABC or an ABC reserve for that species; and
- (vii) NMFS receives a completed Flatfish Exchange Application from a CDQ group or Amendment 80 cooperative during the calendar year for which the Flatfish Exchange would be effective, and NMFS can approve that Flatfish Exchange Application before the end of the calendar year in which the Flatfish Exchange would be effective.

(4) **Notification.**

- (i) No exchange, adjustment, or apportionment of flathead sole, rock sole, or yellowfin sole may take effect until a notice of adjustment or apportionment has been published in the FEDERAL REGISTER with a statement of the findings on which the apportionment or adjustment is based.
- (ii) Each NMFS approved Flatfish Exchange is debited as one Flatfish Exchange. An approved Flatfish Exchange is effective on the date of publication of the notice of adjustment or apportionment in the FEDERAL REGISTER.

(5) **CDQ ABC reserve and Amendment 80 ABC reserve exchange limitations.** Each CDQ group and each Amendment 80 cooperative is limited to no more than three Flatfish Exchanges per calendar year.

(q) **PCTC Program permits –**

(1) **PCTC Program cooperative quota permits.**

- (i) A CQ permit is issued annually to a PCTC Program cooperative that submits a complete and timely application for CQ as described at § 679.131 that is approved by the Regional Administrator. A CQ permit authorizes a PCTC Program cooperative to participate in the PCTC Program. The CQ permit will indicate the amount of Pacific cod that may be harvested by the PCTC Program cooperative, and the amount of halibut PSC and crab PSC that may be used by the PCTC Program cooperative. The CQ permit will list the members of the PCTC Program cooperative, the trawl catcher vessels that are authorized to fish under the CQ permit for that cooperative, and the PCTC Program processor(s) with whom that cooperative is associated.
- (ii) A CQ permit is valid only until the end of the BSAI Pacific cod B season for the year in which the CQ permit is issued;

(iii) A legible copy of a valid CQ permit must be carried on board the vessel(s) used by the PCTC Program cooperative.

(2) *PCTC Program quota share permits for processors.*

(i) NMFS will issue PCTC Program QS permits to eligible processors if the owner(s) submits to the Regional Administrator a completed application for PCTC Program QS as described at § 679.130 that is subsequently approved.

(ii) A processor may associate the QS assigned to the PCTC Program QS permit with a PCTC Program cooperative as described at § 679.131.

[61 FR 31230, June 19, 1996]

Editorial Note: For FEDERAL REGISTER citations affecting § 679.4, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and at www.govinfo.gov.