

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke  
Executive Director



DATE: September 18, 1992

SUBJECT: International Fisheries

**ACTION REQUIRED**

- (a) Recap of Moscow International Conference on Central Bering Sea Pollock Management.
- (b) Regulations affecting U.S. operations in the Russian EEZ and Donut Hole.
- (c) Legislative disincentives to foreign Donut Hole and driftnet fisheries.

**BACKGROUND**

Donut Hole Conference. Item C-3(a) recaps the August 1992 meeting in Moscow where countries agreed not to fish in the Donut Hole in 1993 and 1994. We had several delegates there who can report further on the importance of the agreement. The next meeting is tentatively scheduled for January 11 in Washington, D.C.

The end of INPFC. The U.S. has served notice of its intent to terminate the International Convention for the High Seas Fisheries of the North Pacific Ocean which has played a central role since 1953 in the international exchange of scientific information and management of the high seas salmon fisheries. The Convention will be replaced with the new Convention for the Conservation of Anadromous Stocks in the North Pacific Ocean. The new Convention will include all major salmon countries of origin in the North Pacific. In addition to prohibiting directed fishing for salmon on the high seas, it contains provisions to minimize the incidental taking of such salmon, and allows for the cooperative review of scientific research programs involving directed or incidental taking of salmon. Several Council members are on the Commission, Chairman Lauber, Clem Tillion, and Steve Pennoyer, who may want to comment on the end of INPFC and what's ahead. Item C-3(b) notes that the Standing Committee on Biology and Research will meet in October to ensure the continued exchange of information.

Reports required from U.S. operations in Russian EEZ. A final rule effective September 2, 1992 implements the following reporting requirements for owners and operators of U.S. vessels fishing in the Russian EEZ (item C-3(c)):

1. Vessel owners must apply for Russian permits through NMFS, submit revisions to NMFS, and provide permit copies to NMFS with any conditions and restrictions.
2. U.S. vessel owners and operators must report before departing the EEZ for Russia and before reentering the U.S. EEZ to fish or deliver fish.

3. U.S. vessel owners and operators must report fish and fish production carried onboard when departing the U.S. for Russia and additional production from the Russian EEZ when reentering the U.S. EEZ and before conducting any fishing operations in the EEZ.

Prohibition on U.S. fisheries in the Donut Hole. Item C-3(d) is the final rule prohibiting federally permitted U.S. vessels from fishing in the Donut Hole and from possessing on board fish harvested in the Donut Hole when that vessel is in the U.S. EEZ, effective August 24, 1992.

Offloading prohibited species. A Proposed Rule has been drafted to require the offloading of crab, halibut, salmon, and herring from outside the U.S. EEZ before a U.S. vessel can fish in the U.S. EEZ, and to prohibit the landing of halibut under 32 inches, regardless of origin. The proposed rule is being reviewed by NOAA-GC.

Legislative disincentives to foreign Donut and driftnet fisheries. The driftnet bill pending final action by Congress has the following provisions:

1. Makes it the policy of the United States to:

a) implement the UN resolution 46-215 which calls for 50% reduction in driftnet fishing effort by 6/30/92 and total moratorium effective 12/31/92.

b) bring about a moratorium on fishing in the Central Bering Sea (Donut Hole) or an international conservation and management agreement to which the U.S. and Russia are both parties which would regulate any fishing in the Central Bering Sea.

2. Driftnet Provisions

a) Secretary to publish list of nations which have driftnet fishing vessels operating outside 200-mile zones after 12/31/92.

b) Requires denial of port privileges to any driftnet fishing vessel from a nation which is operating a high seas driftnet fishery outside 200 miles after 12/31/92.

c) Requires a prohibition of imports of fish, fish products, sport fishing equipment, from a nation identified on the list of nations which are violating the UN moratorium.

d) allows the President to impose other economic sanctions by revising the Fishermen's Protective Act to allow for the prohibition of "any products from the offending nation."

3. Enforcement

Requires the Coast Guard and Dept. of Defense to enter into a cooperative agreement to improve fisheries enforcement by improving surveillance and communications, etc.

4. Trade and the Environment

Sets the stage to enter into negotiations to reconcile GATT with environmental laws and make GATT more responsive to environmental concerns.

**5. Central Bering Sea Donut Hole**

- a) Prohibits U.S. vessels from fishing in the Donut Hole for seven years unless such fishing is conducted under an international fishing agreement to which the U.S. and Russia are both parties.
- b) Denies U.S. port privileges to any fishing vessel from a nation which has vessels fishing in the Donut Hole.
- c) Prohibits issuing a permit to any vessel or processing plant for harvesting, delivering, or receiving any fish taken from the U.S. EEZ off Alaska if that vessel or plant is owned either in whole or in part by any person who owns or controls a vessel fishing in the Donut Hole.

**6. Other**

- a) Contains an embargo on intermediary nations importing tuna.
- b) Amends the term limitations for Council members from 1/1/86 to 12/31/87.

**Joint Resolution of the Fifth Conference  
on the Conservation and Management of the  
Living Marine Resources of the Central Bering Sea  
(August 14, 1992)**

Delegations from the People's Republic of China, Japan, the Republic of Korea, the Republic of Poland, the Russian Federation, and the United States of America, which participated in the Fifth Conference on the Conservation and Management of the Living Marine Resources of the Central Bering Sea held in Moscow August 12-14, 1992;

Taking into account the drastic decline of the Aleutian Basin pollock stock and the need to conserve, manage and restore this stock;  
Have reached the following understanding:

1. A temporary suspension of fishing for pollock, on a voluntary basis, will be introduced in the high seas area of the Bering Sea. The same measures relating to this stock will be taken by the coastal states in their respective exclusive economic zones in the Bering Sea.

2. The suspension will be effective from the beginning of 1993 and will expire at the end of 1994.

3. During the period of the suspension, a resource monitoring program will be conducted and the information obtained will be shared among the states concerned. The program will take into account other understandings reached previously and will include the following:

(a) Scientific survey by research vessels

Those research vessels will conduct acoustic surveys, midwater trawl surveys, biological sampling, egg surveys, oceanographic surveys, and other appropriate data collection.

(b) Trial fishing by a limited number of fishing vessels

No more than two vessels from each country at any time may conduct trial fishing for pollock. Information on the vessels that will engage in the trial fishing will be notified to all states concerned before the trial fishing begins. Such vessels will have scientific observers of the flag state on board and will accept scientific observers from states concerned in accordance with arrangements to be made between the flag state and other state concerned. Such vessels will be equipped with satellite transmitter devices.

(c) Other scientific activities

Scientists from each country will study the stock structure and will continue to improve models for stock assessments.

4. These arrangements will be kept under review, paying attention to the principles of the international law of the sea. During the period of suspension, the states concerned will strive to conclude a long term arrangement before the beginning of 1995.

5. In view of this resolution the six countries will continue to discourage fishing for pollock in the area by vessels of other countries. As well, they will continue to discourage the reflagging of fishing vessels for entry into this fishery.



**United States Department of State**

*Bureau of Oceans and International  
Environmental and Scientific Affairs*

*Washington, D.C. 20520*

**August 17, 1992**

**Mr. Clarence G. Pautzke  
Executive Director  
North Pacific Fishery Management Council  
P.O. Box 103136  
Anchorage, Alaska 99510**

**Mr. Lawrence D. Six  
Executive Director  
Pacific Fishery Management Council  
Metro Center, Suite 420  
2000 SW First Avenue  
Portland, Oregon 97201**

**Dear Clarence and Larry:**

I am writing to you about the results of the Fifth Conference on the Conservation and Management of the Living Marine Resources of the Central Bering Sea that was held in Moscow, August 12-14, 1992.

The U.S. delegation at the Conference was able to score a major breakthrough, in cooperation with the other delegations (especially Japan and Russia), in securing agreement on a voluntary suspension of pollock fishing in the central Bering Sea "donut hole" for a two-year period (1993 and 1994).

A Joint Press Release and Joint Resolution prepared at the meeting on Friday, August 14 (attached), provide greater details on the voluntary suspension and other measures that have been cooperatively agreed to during the next two years.

NPFMC Chairman Rick Lauber and NMFS Alaska Regional Director Steve Pennoyer served on the U.S. delegation.

Call me if you have any questions regarding the agreement that has been reached. In addition, please feel free to share this information with your respective Council families.

Sincerely,

A handwritten signature in cursive script that reads "George".

**George Herrfurth  
Office of Fisheries Affairs**

**Attachments:  
As stated.**

## JOINT PRESS RELEASE

Delegations from the People's Republic of China, Japan, the Republic of Korea, the Republic of Poland, the Russian Federation, and the United States of America met at the "Fifth Conference on the Conservation and Management of the Living Marine Resources of the Central Bering Sea", held August 12-14, 1992, in Moscow, to discuss issues pertaining to the living marine resources of the central Bering Sea especially the pollock resource. Four previous conferences were held on this issue (in Washington, D.C., February 19-21, 1991, November 18-20, 1991, and April 13-15, 1992; and in Tokyo, July 31-August 2, 1991).

The delegations expressed concern about the drastic decline of the pollock resource in the high seas area of the central Bering Sea and noted substantial catch declines from the peak of more than 1.4 million metric tons in 1989. The reported total catch for pollock in the area during the first six months of 1992 amounted to less than 11,000 metric tons, compared to approximately 173,000 metric tons and 503,000 metric tons during comparable time periods in 1991 and 1990, respectively. It was also noted that the fishing efforts in the area have been significantly reduced. In light of this drastic decline, all delegations agreed to a voluntary suspension of fishing for pollock in the high seas area of the central Bering Sea and the coastal States will take the same measures relating to this stock in their respective EEZs in the Bering Sea during 1993 and 1994 and a number of other measures described in the attached "Joint Resolution of the Fifth Conference on the Conservation and Management of the Living Marine Resources of the Central Bering Sea".

A working group established by the delegations continued to elaborate a draft agreement for a long-term conservation regime for the area on the basis of a composite negotiating text that had been produced at a drafting group of experts meeting in Washington, D.C., on January 28-29, 1992.

Due to the urgent nature of the problem, the delegations agreed that they would meet again at a Sixth Conference to be hosted by the United States and tentatively scheduled to begin January, 11, 1993 in Washington D.C., reserving the possibility of an earlier meeting hosted by another country to be arranged [by] diplomatic channels.

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**COMMENTARY ON THE TENTATIVE AGENDA  
for the meeting of the STANDING COMMITTEE ON BIOLOGY AND RESEARCH**

**GENERAL**

The U.S. Government has served notice of its intention of terminating the Convention on February 21, 1993. Therefore, INPFC is expected to cease on February 21, 1993. At the 1991 Annual Meeting, no formal annual meeting was planned for 1992. However, the Standing Committee on Biology and Research recommended the following:

The Committee is concerned that during the transition from one organization to another, data series will be lost or interrupted. The Committee, therefore, **RECOMMENDS** the continuation of the annual exchange of scientific data, the exchange and discussion of research results, the continuation of cooperative research projects, including the exchange of scientists, and continuation of the annual meetings involving biology and research until all of the essential functions of the Committee are transferred and are in operation in the new research and management organizations.

The 1992 meeting of the Standing Committee on Biology and Research will be convened at 0930, October 20, in meeting rooms at NOAA, 7600 Sand Point Way NE, Seattle, Washington. (Membership of the committee is limited by Rule of Procedure 11 to one Commissioner and two scientists from each national section. The Executive Director and Assistant Director are *ex officio* members, without vote. Any Commissioner, *ex officio*, may attend meetings of any committee. All advisers and experts attached to each national section may attend sessions of the committee.)

**AGENDA ITEM 1.      OPENING REMARKS**

A spokesman for each national section will make brief informal remarks and introduce advisers.

**AGENDA ITEM 2.      MEETING PROCEDURE**

1.      Scheduling of Sessions

The Standing Committee on Biology and Research will meet on Tuesday, October 20 and Wednesday, October 21. The tentative agenda prepared by the Secretariat may be discussed and an approved agenda will be adopted.

2.      Selection of Chairman, Scientific Convener, Steering Committee, Recorder, and Editor

(a)      Selection of Chairman

Mr. Steven Pennoyer, Chairman of the Standing Committee on Biology and Research, or his representative will be selected as chairman of the meeting.

(b)      Selection of Convener

The committee will select a member scientist from the host country to act as convener for its technical sessions.

(c) Steering Committee

The Chairman will announce that the Steering Committee will be composed of one Senior Scientist (or his representative) from each national section and the Executive Director and Assistant Director from the Secretariat.

(d) Selection of Recorder and Editors

The committee may select the Secretariat to act as recorder and member scientists from the three National Sections to act as editors.

The recorder will prepare the report of the meeting, incorporating summaries on three topics of agenda item 4, which are prepared by rapporteurs prior to the meeting.

**AGENDA ITEM 3. REVIEW OF TERMS OF REFERENCE AND ORGANIZATION**

The terms of reference for the committee adopted by the Commission at the 1978 Annual Meeting, and as amended in 1987, are as follows:

The committee is required "...to investigate matters of biology and research and such other matters as may be referred to it by the Commission and to submit reports and recommendations to the Commission concerning such matters".

The following is a current list of the committee's specific assignments.

1. Terms of Reference

- (a) Review and coordinate scientific studies and the collection, exchange, and analysis of scientific data (including data regarding continent of origin) on anadromous salmonids as provided for under Articles III 1(a) and X of the Convention, the Amended Annex to the Convention, and Memoranda of Understanding on Research.
- (b) Review and coordinate scientific studies to determine the continent of origin of anadromous species migrating in the waters south of 46° north latitude.
- (c) Study, analyze, and exchange scientific information and views relating to stocks of mutual interest of non-anadromous species in the Convention area (including information and views relating to all relevant factors affecting these stocks) and to marine debris in the Convention area, recommend scientific research to fill gaps in knowledge, and recommend the compilation and dissemination of statistics and records.
- (d) Review and coordinate scientific studies and the collection, exchange, and analysis of scientific data on marine mammals with respect to Article X of the Convention and the Memorandum of Understanding on Marine Mammals between Japan and the United States. Such marine mammals incidentally caught in the squid driftnet fishery may be included to assist the above-mentioned scientific studies.
- (e) Review and approve reports submitted for publication and make recommendations regarding other reports to be published.
- (f) Prepare a report annually for the Commission on the above matters.



Three sub-committees will not be organized at this time.

**AGENDA ITEM 4. REVIEW OF RESEARCH, STATISTICS AND RESEARCH PLANS**

The document list prepared by the Secretariat will be reviewed.

1. Salmonids and Oceanography
2. Marine Mammals
3. Non-Anadromous Species (including marine debris)

The summaries prepared by the rapporteurs will be reviewed.

**AGENDA ITEM 5. CONSIDERATION OF MATTERS RELATED TO PUBLICATION, FUTURE MEETING, AND OTHER BUSINESS**

1. Statistical Yearbook
2. Bulletin Series

The Secretariat will submit a document summarizing the status of publications. Progress in publications will be reviewed. The convenor may suggest referring this matter to the Steering Committee for comment.

3. Future Meetings

The Committee may wish to comment on the subject.

4. Other Business

The committee may wish to comment on the subject of material and data exchanges, a report on which will have been submitted by the Secretariat (INPFC Doc. 3749).

**AGENDA ITEM 6. RECOMMENDATIONS**

The committee may make recommendations for the transition from INPFC to new organizations.

**AGENDA ITEM 7. REPORT OF THE B&R MEETING**

With the Chairman presiding, the committee will consider, amend, and approve a report of its deliberations and recommendations.

However, due to the limited schedule, if the report is not adopted at the end of the meeting, the adoption of the report could be made by correspondence after the adjournment of the meeting.

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**Driving time** means all time spent at the driving controls of a commercial motor vehicle in operation.

**Eight consecutive days** means the period of 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

**Multiple stops** means all stops made in any one village, town, or city may be computed as one.

**On duty time** means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. **On-duty time** shall include:

(1) All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier;

(2) All time inspecting equipment as required by §§ 392.7 and 392.8 of this chapter or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

(3) All driving time as defined in the term *driving time* in this section;

(4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth as defined by the term *sleeper berth* of this section;

(5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;

(6) All time spent performing the driver requirements of §§ 392.40 and 392.41 of this chapter relating to accidents;

(7) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;

(8) Performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier; and

(9) Performing any compensated work for any nonmotor carrier entity.

**Seven consecutive days** means the period of 7 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

**Sleeper berth** means a berth conforming to the requirements of § 393.76 of this chapter.

**Twenty-four-hour period** means any 24-consecutive-hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

8. Section 395.3 is revised to read as follows:

§ 395.3 ~~Maximum fishing and on-duty time.~~

(a) Except as provided in §§ 395.1(b)(1), 395.1(f), and 395.1(g), no motor carrier shall permit or require any driver used by it to drive nor shall any such driver drive:

(1) More than 10 hours following 6 consecutive hours off duty; or  
(2) For any period after having been on duty 15 hours following 8 consecutive hours off duty.

(b) No motor carrier shall permit or require a driver of a commercial motor vehicle, regardless of the number of motor carriers using the driver's services, to drive for any period after—

(1) Having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate every day in the week; or

(2) Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates motor vehicles every day of the week.

§ 395.7 [Removed]

9. Section 395.7 is removed and reserved.

§ 395.8 [Amended]

10. Section 395.8 is amended by removing paragraph (k)(2); by redesignating paragraph (k)(3) as (k)(2); and removing paragraph (l).

§ 395.10 [Removed]

11. Section 395.10 is removed and reserved.

§ 395.11 [Removed]

12. Section 395.11 is removed and reserved.

§ 395.12 [Removed]

13. Section 395.12 is removed and reserved.

[FR Doc. 92-18038 Filed 7-29-92; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 299

[Docket No. 920649-2149]

RIN 0648-AD29

### U.S. Nationals Fishing in the Russian Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Interim final rule; request for comments.

**SUMMARY:** NMFS issues an interim final rule that revises the procedures for owners and operators of U.S. vessels to conduct fishing operations for fishery resources over which the Government of the Russian Federation exercises sovereign rights or fishery management authority. These revisions will improve U.S. fisheries management in the U.S. exclusive economic zone (EEZ).

**DATES:** This rule is effective July 29, 1992 except § 299.5 (b), (c) and (d) which contain information collection requirements subject to OMB approval under the Paperwork Reduction Act. These sections will be made effective 9/2/92 upon OMB approval of the requirements. Comments on this interim final rule must be received by September 14, 1992.

**ADDRESSES:** Send comments to the Operations Support and Analysis Division, F/CM1, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, MD 20910. Telex 467856 (US CGM FISH CD); FAX (301) 588-4967.

Comments regarding the estimate of the paperwork burden or any other aspect of the information collection requirements under §§ 299.3(a)(2), and 299.5 (b), (c) and (d) should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20235, Attention: NOAA Desk Officer.

**FOR FURTHER INFORMATION CONTACT:** John D. Kefly, (301) 713-2337.

**SUPPLEMENTARY INFORMATION:** U.S. nationals have been eligible to engage in fishing operations in the Russian economic zone (EZ) since the United States and the former Union of Soviet Socialist Republics (U.S.S.R.) signed the Agreement on Mutual Fisheries Relations on May 31, 1988. On July 17, 1989, NMFS issued an interim final rule that specified the procedures for U.S. nationals to conduct fishing operations for fishery resources over which the former U.S.S.R. exercised sovereign rights or fishery management authority (54 FR 29896). Since that date, and owing to significant political changes within that country, new governments have been established in the Republics making up the former Soviet Union. The Department of State has determined that all rights and obligations due under the Mutual Fisheries Agreement (Agreement) with the former Soviet Union have now been assumed by the Russian Federation. Therefore, this interim final rule replaces references to "the Union of Soviet Socialist Republics" or "Soviet(s)" or "U.S.S.R." in 50 CFR part 299 with "Russian Federation" or "Russia" in most places.

During the years since the Agreement was signed, U.S. activity has significantly increased in the Russian EZ. However, NMFS has received very little information concerning U.S. fishing activities in the Russian EZ. At the same time, NMFS has observed increased landings of undocumented fish in U.S. ports, allegedly harvested from the Russian EZ in joint ventures. Some of these species or product types would have been unlawful if harvested or processed in the EEZ. NMFS is concerned that some portion of these landings may actually consist of fish illegally harvested and processed in the EEZ. In order to obtain better information concerning U.S. fishing activities in the Russian EZ and to document the origin and quantity of fish that are harvested in fishing operations in the Russian EZ and brought into the EEZ, NMFS is amending 50 CFR part 299 to:

1. Require the responsible U.S. vessel owner to apply for Russian fishing permits through NMFS and to send all revisions to any such applications to NMFS;
2. Require the responsible U.S. vessel owner to provide a copy of the permit issued by the Russian authorities for that vessel together with any conditions or restrictions imposed subsequent to the application to NMFS; and
3. Establish certain reporting and recordkeeping requirements which must be met by the U.S. vessel owner and operator prior to the vessel departing the EEZ for the Russian EZ and prior to reentering the EEZ either to fish, or to land in a U.S. port fish taken in the Russian EZ. The rule requires copies of such reports to be maintained for 3 years.

In addition, the rule revises part 299 to require U.S. vessel owners and operators to report fish and fish production carried onboard when departing the EEZ for operations in the Russian EZ and to report additional production derived from the Russian EZ when reentering the EEZ and prior to conducting any fishing operations in the EEZ following reentry.

#### Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), determined that this rule is necessary for the conservation and management of fisheries off the West Coast and Alaska and that it is consistent with the Magnuson Fishery Conservation and Management Act (Magnuson Act) and other applicable law.

This rule is authorized under the Magnuson Act, 16 U.S.C. 1822(a)(4)(A),

which authorizes the Secretary of State in cooperation with the Secretary of Commerce to enter into reciprocal fishing agreements; and 16 U.S.C. 1855(g), which authorizes the Secretary of Commerce to promulgate regulations necessary to carry out the provisions of the Magnuson Act.

This action is exempt from the provisions of E.O. 12291 under section 1(a)(2), because the regulations are issued with respect to a foreign affairs function of the United States and because it implements certain provisions of the Agreement with the Russian Federation that govern the activities of U.S. vessels and their owners when operating in the Russian EZ and when exiting and reentering the EEZ in association with operations in the Russian EZ.

This action is not subject to section 553 of the Administrative Procedure Act (APA) because it involves a foreign affairs function of the United States. Although not required by law to do so, the Assistant Administrator is soliciting public comments on this rule, and will consider them to the extent discretion exists to make modifications consistent with national law and the Agreement. Because neither the APA nor any other statute requires public notice and opportunity to comment upon this rule, no regulatory flexibility analysis is required.

This rule contains information collection requirements subject to the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). The application requirements found at § 299.3(a)(2) have been previously approved by OMB under control number 0648-0228. The public reporting burden of the requirements is 30 minutes per response. A request for the new requirements has been submitted to the Office of Management and Budget. The public reporting burden of the new requirements is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing, reviewing, and recording the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Operations Support and Analysis Division, NMFS, and OMB (see ADDRESSES).

This rule is categorically excluded from the requirement to prepare an environmental assessment by NOAA Administrative Order 216-6. The Assistant Administrator has determined that this action does not pose significant

threats to the human environment and is unlikely to result in any additional effect on the human environment not already analyzed in the environmental assessment prepared for the 1989 interim final rule (54 FR 29896; July 17, 1989).

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

#### List of Subjects in 50 CFR Part 299

Fisheries, Foreign fishing, Reporting and recordkeeping requirements, Russian Federation, Treaties, U.S.-Russia Agreement.

Dated: July 22, 1992.

Michael F. Tillman,

Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 299 is revised to read as follows:

#### PART 299—U.S. NATIONALS FISHING IN THE RUSSIAN FISHERIES

Sec.	
299.1	Purpose.
299.2	Definitions.
299.3	Procedures.
299.4	Permit issuance.
299.5	Recordkeeping and reporting.
299.6	Requirements.
299.7	Prohibited acts.
299.8	Penalties.

Authority: 16 U.S.C. 1801 *et seq.*

#### § 299.1 Purpose.

This part regulates U.S. nationals fishing in the Russian fisheries and implements the Agreement between the Government of the United States of America and the Government of the Union of Soviet Socialist Republics on Mutual Fisheries Relations, signed May 31, 1988.

#### § 299.2 Definitions.

The terms used in this part have the following meanings:

*Affiliates* mean two persons (including individuals and entities) related in such a way that—

- (1) One indirectly or directly controls or has power to control the other; or
- (2) A third party controls or has power to control both.

Indicia of control include, but are not limited to, interlocking management or ownership, identity of interests among family members, shared facilities and equipment, common use of employees, or a reorganized entity having the same or similar management, ownership, or employees as a former entity.

*Agreement* means the Agreement Between the Government of the United

States of America and the Government of the Union of Soviet Socialist Republics on Mutual Fisheries Relations, signed May 31, 1988.

**Assistant Administrator** means the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration (NOAA) or a designee.

**Exclusive Economic Zone or EEZ** means the zone established by Presidential Proclamation 5030, dated March 10, 1983, as defined in 16 U.S.C. 1802(6).

**Fishery resource** means any fish, any stock of fish, any species of fish, and any habitat of fish.

**Fishing or to fish** means any activity that does, is intended to, or can reasonably be expected to result in catching or removing from the water fishery resources. Fishing also includes the acts of scouting, processing, and support.

**Fishing vessel** means any boat, ship, or other craft that is used for, equipped to be used for, or of a type normally used for, fishing.

**Magnuson Act** means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

**NMFS** means the National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

**National of the United States or U.S. national** means any person subject to the jurisdiction of the United States, including, but not limited to, a citizen or resident of the United States, or a person employed on a vessel of the United States. In the case of a corporation, partnership or other non-natural person, this includes, but is not limited to, any entity that is the owner of a vessel of the United States.

**Operator**, with respect to any vessel, means the master or other individual on board and in charge of either the vessel, the vessel's fishing operation, or both.

**Owner**, with respect to any vessel, means any person who owns that vessel in whole or in part, whether or not it is leased or chartered to or managed by another person, or any charterer, whether bareboat, time, or voyage, and any person who acts in the capacity of a charterer, or manager, including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel, any officer, director, manager, controlling shareholder of any entity described in this paragraph, any agent designated as such by any person described in this paragraph, and any affiliate of any person described in this paragraph.

**Person** means any individual (whether or not a citizen of the United States), corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of such government.

**Processing** means any operation by a vessel to receive fish from a fishing vessel and/or the preparation of fish, including but not limited to cleaning, cooking, canning, smoking, salting, drying, or freezing, either on the vessel's behalf or to assist another vessel.

**Relevant laws and regulations of the Russian Federation** means those Russian laws and regulations that concern fishing for fishery resources over which Russia exercises sovereign rights or fishery management authority.

**Russian and Federation** mean the Russian Federation, its government, or any organ or entity of its government.

**Russian continental shelf** and the phrase *continental shelf of Russia* mean the seabed and subsoil of the submarine areas over which, consistent with international law, Russia exercises sovereign rights.

**Russian Economic Zone and Russian EZ** mean a zone of waters off the coast of Russia beyond and adjacent to the Russian territorial sea extending a distance of up to 200 nautical miles from the baseline from which the territorial sea is measured, within which, consistent with international law, Russia has sovereign rights over the fishery resources.

**Russian Federation or Russia** means the governing entity that succeeded the Union of Soviet Socialist Republics, and that is the successor party to the Agreement of May 31, 1988.

**Russian fisheries, Russian fishery resources, and fishery resources over which Russia exercises sovereign rights or fishery management authority** mean fishery resources within the Russian EZ, fishery resources of the Russian continental shelf, and anadromous species that originate in the waters of Russia, whether found in the Russian EZ or beyond any exclusive economic zone or its equivalent.

**Scouting** means any operation by a vessel exploring (on behalf of the vessel or another vessel) for the presence of fish by any means that do not involve the catching of fish.

**Support** means any operation by a vessel assisting fishing by another vessel, including—

(1) Transferring or transporting fish or fish products; or

(2) Supplying a fishing vessel with water, fuel, provisions, fishing

equipment, fish processing equipment, or other supplies.

**Vessel of the United States, U.S. vessel, fishing vessel of the United States, or U.S. fishing vessel**, as the context requires, means a vessel or a fishing vessel that is documented or numbered under the laws of the United States or of any state, or otherwise subject to the jurisdiction of the United States.

### § 299.3 Procedures.

(a) **Application for annual permits.** (1) **General.** U.S. vessel owners and operators must have a valid permit issued by the Russian Federation obtained pursuant to a complete application submitted through NMFS before fishing in the Russian EZ or for Russian fishery resources. Application forms and copies of applicable laws and regulations of the Russian Federation may be obtained from NMFS, 1335 East-West Highway, Silver Spring, MD 20910. Attention: Office of Fisheries Conservation and Management, F/CM1. Application for a permit must be made by submitting a complete application to NMFS at the same address.

(2) **Application information.** Applications must include the following information:

- (i) The vessel name;
- (ii) The vessel type;
- (iii) The vessel's U.S. Coast Guard documentation number or state registration number;
- (iv) The vessel's port of registration;
- (v) The name of the vessel owner;
- (vi) The type of fishing operation being proposed, i.e., fishing, exploration connected with the fishing operation, transport or support operations;
- (vii) The objects of fishing operations i.e., the requested species and tonnage amounts involved in the operation;
- (viii) The type of fishing gear to be employed unless the application is for a mothership, processing, or transport vessel which has not received a quota as result of prior negotiations or agreements;
- (ix) The vessel's registered net tonnage;
- (x) The vessel's cargo capacity, i.e., type of storage capacity (freezer or dry storage), number of holds and actual hold capacity in metric tonnage of fishery products;
- (xi) The vessel's engine power (h.p.) and maximum speed (in knots);
- (xii) The vessel's gross registered tonnage, its overall length (in meters), and the depth (in meters);
- (xiii) The vessel's International Radio Call Sign (IRCS);

- (xiv) The vessel's radio control frequencies;
- (xv) The vessel's radio-telephone frequencies;
- (xvi) The master's name and address;
- (xvii) The number of crew members; and

(xviii) Any other information requested by the application form or otherwise required by the competent authorities of the Russian Federation.

(b) *Other application information.* Applications for motherships, processing or transport vessels must identify the type of fishing gear to be employed or the fishing quotas if the vessel has received or is requesting a quota. To facilitate processing, NMFS requests that permit applications for more than ten vessels be grouped by type and fishing area, and provide the name, address, telephone, and FAX number(s) of an individual who will be the official point of contact for an application.

(c) *Review of Applications.* NMFS will review each application, and if it is complete, forward it to the Department of State for submission to the competent authorities of the Russian Federation. NMFS will notify the permit applicant when the permit is submitted to the Russian Federation. NMFS will return incomplete applications to the applicant.

(d) *Action by Russian Federation.* The competent authorities of the Russian Federation will review each application, determine whether to issue a permit, establish such conditions and restrictions related to fishery management and conservation as may be needed, and determine any fees. Those authorities will inform the U.S. Fisheries Attache in Moscow of such determinations and the proposed conditions and restrictions and fees, the attache will then inform the Assistant Administrator and the Department of State. The Department of State, after consulting with the Assistant Administrator, will then notify the competent authorities of the Russian Federation of the acceptance or rejection of the conditions and restrictions and, in the case of a rejection, the State Department's objections. In the event the Department of State notifies the competent authorities of the Russian Federation of its objections to a decision not to issue a permit, or to specific conditions and restrictions, the two governments may consult with respect to these issues. The Department of State, after consulting with the Assistant Administrator, may submit a revised application.

(e) *Direct Communication.* U.S. applicants may communicate directly with the Russian Federation with regard

to the status of their applications or permits and are encouraged to do so. Owners and operators should make direct contact and work with Russian industry and government authorities.

#### § 299.4 Permit issuance.

(a) *Acceptance.* Once the Department of State has accepted the conditions and restrictions proposed by the Russian Federation and all fees have been paid, the competent authorities of the Russian Federation will approve the application. The Russian Federation will issue a permit to the vessel owner for each fishing vessel for which it has approved an application. That vessel will thereupon be authorized by the Russian Federation to fish in accordance with the Agreement and the terms and conditions set forth in the permit. The vessel owner may not transfer the permit to any other vessel or person. Any such transfer, or the sale or other transfer of the vessel, will immediately invalidate the permit. The vessel owner must notify NMFS of any change in the permit application information submitted to NMFS under § 299.3, at the address specified in § 299.3(a), within 7 calendar days of the change.

(b) *Copies.* The vessel owner and operator must mail a copy of each permit and any conditions and restrictions issued for that vessel by the Russian Federation within 7 calendar days of its receipt to NMFS at the address specified in § 299.3(a).

(c) *Validity.* Any permit issued by the Russian Federation with respect to a vessel subject to this part will be deemed to be a valid permit only if:

(1) A completed permit application has been forwarded to the competent authorities of the Russian Federation as provided in § 299.3(b)(1);

(2) Such application has been approved and a permit issued by the competent authorities of the Russian Federation as provided in paragraph (a) of this section; and

(3) The U.S. Department of State has notified the competent authorities of the Russian Federation that it has accepted the conditions and restrictions as provided in paragraph (a) of this section. The permit will be rendered invalid by: The transfer or sale of the permit specified in paragraph (a) of this section; the failure to submit to NMFS any changes in permit application information as required by paragraph (a) of this section; failure to submit to NMFS any permit copy required by paragraph (b) of this section or any other information or report required by any other provision of this part; or the failure to pay required permit fees.

(d) *Port calls.* U.S. fishing vessels that have been issued permits pursuant to the Agreement are authorized to enter the ports of Murmansk, Korf, Oktyabrski, and Provideniya in Russia to purchase bait, to replenish ship's stores or fresh water, to obtain bunkers, to provide rest for or make changes in their crews, to obtain repairs and other services normally provided in these ports, and, as necessary, to receive permits. Authorized vessels en route to one of the designated ports to receive a permit will be treated as non-fishing vessels, so long as such vessels observe the provisions of the Agreement. All such entries are subject to the applicable laws and regulations of the Russian Federation. U.S. nationals making port calls in Russia or entering the Russian territory must comply with the laws and regulations of Russia applicable to persons within the territorial jurisdiction of the Russian Federation. Entry of U.S. fishing vessels to ports of the Russian Federation will be permitted subject to notice to INFLOT, forwarded by the vessel's agent or owner using Telex, teletype, or telegram so as to be received 4 days in advance of the port entry. Information concerning communication procedures may be obtained from the Fisheries Attache, Embassy of the Russian Federation, 1809 Decatur Street, NW., Washington, DC 20011.

(e) *Visas.* Multiple entry visas valid for 6 months for entry into the ports specified in paragraph (d) of this section may be obtained by submitting crew lists to the Fisheries Attache, Embassy of the Russian Federation, at the address listed in paragraph (d) of this section. The crew list must be submitted at least 14 days prior to the first entry of the vessel into a port of Russia. An amended (supplemental) crew list may be submitted subsequent to the departure of a vessel from a U.S. port, subject to these provisions, provided that any visa issued thereunder will be valid only for 6 months from the date of issuance of the original crew list visa. Notification of entry to a port of Russia pursuant to paragraph (d) of this section must specify if shore leave is requested under such multiple entry visa.

(f) *Emergency medical treatment.* In cases where a U.S. seaman is evacuated from his vessel to Russia for emergency medical treatment, authorities of the United States will ensure that the seaman departs from Russia within 14 days after release from the hospital.

(g) *Exchange of crews.* The exchange of crews of U.S. fishing vessels in a port in Russia specified in paragraph (d) of this section will be permitted subject

submission to the Embassy of the Russian Federation, Washington, DC, at the address listed in paragraph (d) of this section, of applications for individual transit and crewman visas for replacement crewmen. Applications must be submitted 14 days in advance of the arrival of the crewmen at a port of Russia and must indicate the names, dates, and places of birth, the purpose of the visit, the vessel to which assigned, and the modes and dates of arrival of all replacement crewmen. Individual passports or seamen's documents must accompany each application. Subject to its national laws and regulations, the Embassy of the Russian Federation will affix transit and crewman visas to each passport or seaman's document before it is returned. In addition to the above requirements, the Fisheries Attache, Embassy of the Russian Federation, must receive, 14 days in advance of arrival, the name of the vessel and date of its expected arrival, a list of names, dates and places of birth for those crewmen who will be admitted to a port of Russia, and the dates and manner of their departure from the port of Russia.

(h) *Research vessels.* Special provisions will be made as necessary regarding the entry into ports of the United States or Russia of research vessels of the two countries that are engaged in a mutually agreed upon research program in accordance with the Agreement. Requests for entries of such research vessels should be forwarded to the competent authorities of the relevant government through diplomatic channels.

(i) *Russian-imposed sanctions.* (1) The Russian Federation will impose appropriate fines, penalties, or forfeitures in accordance with its laws, for violations of its relevant laws or regulations.

(2) In the case of arrest and seizure of a U.S. vessel by Russian authorities, notification will be given promptly through diplomatic channels informing the United States of the facts and actions taken.

(3) The Russian Federation will release U.S. vessels and their crews promptly, subject to the posting of reasonable bond or other security.

(4) The sanctions for violations of limitations or restrictions on fishing operations will be appropriate fines, penalties, forfeitures, or revocations or suspensions of fishing privileges.

#### § 299.5 Recordkeeping and reporting.

(a) *General.* The owner and operator of a vessel subject to this part are responsible for complying with all recordkeeping and reporting requirements in this part in a timely and

accurate manner. Reports and records required by this part must be in English, in the formats specified, and unless otherwise specified, based on Greenwich mean time (GMT).

(b) *Vessel permit abstract report.* (1) The owner and operator of a vessel subject to this part must submit to NMFS Headquarters, Silver Spring, Maryland, a permit abstract report containing the following information:

(i) Vessel name;  
(ii) Russian Federation permit number;  
(iii) Duration of permit (e.g., 1/1/91–12/31/91);

(iv) Authorized areas of fishing operations in geographic coordinates;

(v) Authorized catch quota in tons;

(vi) Authorized fishing gear; and

(vii) Type of permit (e.g., catcher).

(2) The report must be telefaxed to (301) 588-4967 or telexed to 487856 (US COM FISH CI) within 5 calendar days of receipt of the Russian permit.

(c) *Activity reports.* The owner and operator of a vessel subject to this part must submit to NMFS Alaska Region, Juneau, by telefax to (907) 588-7013, the following reports:

(1) *Depart Report (Action code DEPART).* At least 24 hours before the vessel departs from the EEZ for the Russian EZ, NMFS must receive the following information:

(i) The date (month and day), and time (hour and minute GMT), and position (latitude and longitude to the nearest degree and minute), at which the vessel will depart the EEZ for the Russian EZ; and

(ii) The weight in metric tons (to the nearest hundredth of a metric ton) of all fish and fish product (listed by species and product codes) on board the vessel at the time it will depart the EEZ.

(2) *Return Report (Action code RETURN).* At least 24 hours before a vessel that has been in the Russian EZ enters the EEZ, NMFS must receive the following information:

(i) The date (month and day), time (hour and minute GMT), and position (latitude and longitude to the nearest degree and minute), at which the vessel will enter the EEZ; and

(ii) The weight in metric tons (to the nearest hundredth of a metric ton) of all fish and fish products (listed by species and product codes) on board the vessel at the time it will enter the EEZ, and the areas (Russian EZ, U.S. EEZ, or other) in which such fish products were harvested or received.

(3) All reports must specify: The appropriate action code ("DEPART" or "RETURN"); the vessel's name and international radio call sign (IRCS); the sender's name and telephone number, and FAX, TELEX, and COMSAT

numbers; the date (month and day) and time (hour and minute GMT) that the report is submitted to NMFS; and the intended date and U.S. port of landing. See tables 1 and 2 of this section for product and species codes.

(d) *Recordkeeping.* The owner and operator of a vessel subject to this part must retain all copies of all reports required by this part on board the vessel for 1 year after the end of the calendar year in which the report was generated. The owner and operator must retain and make such records available for inspection upon the request of an authorized officer at any time for 3 years after the end of the calendar year in which the report was generated, whether or not such records are aboard the vessel.

TABLE 1—NMFS SPECIES CODES

Species Code	Species Name
110	Pacific cod
120	Other flatfish (all flatfish except yellowfin sole, rock sole, arrowtooth flounder, and Greenland turbot)
121	Arrowtooth and/or Kamchatka flounder ( <i>Atheresthes stomias</i> and/or <i>Atheresthes evermanni</i> )
123	Rock sole
127	Yellowfin sole
130	Ling cod
134	Greenland turbot
139	Other rockfish (all rockfish and thornyheads except POP, sharpchin, northern shorttraker, and rougheye)
141	Pacific ocean perch ( <i>Sebastes alutus</i> only)
160	Sculpins
171	Shorttraker/rougheye rockfish ( <i>Sebastes borealis</i> / <i>S. aleutianus</i> )
172	Sharpchin/northern rockfish ( <i>Sebastes zacentrus</i> / <i>S. polyspinis</i> )
193	Atka mackerel
213	Grenadier
270	Pollock
510	Smelt
511	Eulachon
516	Capelin
689	Sharks
700	Skates
710	Sablefish
870	Octopus
875	Squid
000	Salmon
001	Crab, unspecified
200	Pacific halibut
235	Pacific herring
410	Salmon, chinook
420	Salmon, Sockeye
430	Salmon, coho
450	Salmon, chum
540	Trout, steelhead
920	Unspecified king crab
921	Red king crab
922	Blue king crab
923	Gold/Brown king crab
930	Unspecified Tanner crab
931	Baiardi Tanner crab
932	Opilio Tanner crab

TABLE 2—NMFS PRODUCT CODES

## Product Code and Product Type

1. Whole fish/food fish
2. Whole fish/bait
3. Bled only (throat, or isthmus, slit to allow blood to drain)
4. Gutted only (belly slit and viscera removed)
6. Head and gutted, with roe
7. Headed and gutted, Western cut (head removed just in front of the collarbone, and viscera removed)
8. Headed and gutted, Eastern cut (head removed just behind the collarbone, and viscera removed)
10. Headed and gutted, tail removed (head removed usually in front of the collarbone, and viscera and tail removed)
11. Kirimi (head removed either in front or behind the collarbone, viscera removed, and tail removed by cuts perpendicular to the spine, resulting in a steak)
12. Salted and split (head removed, belly slit, viscera removed, fillets cut from head to tail but remaining attached near tail: product salted)
13. Wings (on skates, side fins are cut off next to body)
14. Roe (eggs, either loose or in sacs, or skeins)
15. Pectoral girdle (collarbone and associated bones, cartilage and flesh)
16. Heads (heads only, regardless where severed from body)
17. Cheeks (muscles on sides of head)
18. Chins (lower jaw, muscles, and flesh)
19. Belly (flesh in region of pelvic and pectoral fins and behind head)
20. Fillets with skin and ribs (meat and skin with ribs attached, from sides of body behind head and in front of tail)
21. Fillets with skin, no ribs (meat and skin with ribs removed, from sides of body behind head and in front of tail)
22. Fillets with ribs and no skin (meat and skin with ribs removed, from sides of body behind head and in front of tail)
23. Fillets, skinless/bone removed (meat with ribs and skin removed, from sides of body behind and in front of tail)
30. Surimi (paste from fish flesh and additives)
31. Minced (ground flesh)
32. Fish meal (ground fish and fish parts, including bone meal)
33. Fish oil (rendered oil)

## § 299.6 Requirements.

(a) *Compliance with permit requirements.* (1) U.S. nationals and vessels subject to this part must have a valid permit, as specified in § 299.4(c) in order to fish for Russian fishery resources.

(2) U.S. nationals and vessels subject to this part that are fishing for Russian fishery resources must comply with all provisions, conditions, and restrictions of any applicable permit.

(b) *Compliance with Russian law.* U.S. nationals and vessels fishing for Russian fishery resources must comply with the relevant laws and regulations of the Russian Federation.

(c) *Protection of marine mammals.* U.S. nationals and vessels fishing for Russian fishery resources may not harass, hunt, capture, or kill any marine mammal within the Russian EZ, attempt to do so, except as may be provided for by an international agreement to which both the United States and Russia are parties, or in accordance with specific authorization and controls established by the Russian Federation. The provisions of the Marine Mammal Protection Act (MMPA), 16 U.S.C. 1361 *et seq.* also apply to any person or vessel subject to the jurisdiction of the United States while in the Russian EZ, and it shall not be a defense to any violation of the MMPA that the person or vessel was acting in accordance with any permit or authorization issued by the Russian Federation.

(d) *Cooperation with enforcement procedures.* (1) The operator of, or any person aboard, any U.S. vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer of the Russian Federation to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record, and catch for purposes of enforcing the relevant laws and regulations of Russia.

(2) The operator of, and any person aboard, any U.S. vessel subject to this part, must comply with directions issued by authorized officers of the Russian Federation in connection with the seizure of the vessel for violation of the relevant laws or regulations of the Russian Federation.

(3) U.S. nationals and vessels subject to this part must pay all fines and penalties and comply with forfeiture sanctions imposed by the Russian Federation for violations of its relevant laws and regulations.

(4) The operator of, and any person aboard, any U.S. vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer of the United States to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing records, and catch for purposes of enforcing the Magnuson Act, the Agreement, and this part.

(e) *Compliance with observer requirements.* The owner of, operator of, and any person aboard, any U.S. vessel fishing in the Russian EZ or for Russian fishery resources to which a Russian observer is assigned must—

(1) Allow and facilitate, on request, boarding of a U.S. vessel by the observer.

(2) Provide to the observer, at no cost to the observer or the Russian Federation, the courtesies and accommodations provided to ship's officers;

(3) Cooperate with the observer in the conduct of his or her official duties; and

(4) Reimburse the Russian Federation for the costs of providing an observer aboard the vessel.

## § 299.7 Prohibited acts.

It shall be unlawful for any U.S. national or vessel, or the owner or operator of any such vessel:

(a) To fish for Russian fishery resources without a valid permit issued by the competent authorities of the Russian Federation;

(b) To violate the provisions, conditions, and restrictions of an applicable permit;

(c) To violate the relevant laws and regulations of Russia;

(d) To harass, hunt, capture, or kill any marine mammal within the Russian EZ, or while fishing for Russian fishery resources, except as provided in § 299.6(c);

(e) To fail to comply immediately with enforcement and boarding procedures specified in § 299.6(d);

(f) To refuse to allow an authorized officer of the Russian Federation to board and inspect a vessel subject to this part for purposes of conducting any search, inspection, arrest, or seizure in connection with the enforcement of the relevant laws and regulations of the Russian Federation;

(g) To assault, resist, oppose, impede, intimidate, threaten, or interfere with, in any manner, any authorized officer of the Russian Federation in the conduct of any search, inspection, seizure, or arrest in connection with enforcement of the relevant laws and regulations of the Russian Federation;

(h) To fail to pay fines or penalties or comply with forfeitures imposed for a violation of the relevant laws and regulations of the Russian Federation;

(i) While fishing in the Russian EZ, or for Russian fishery resources, to refuse or fail to allow a Russian observer to board a vessel subject to this part;

(j) To fail to provide to a Russian observer on board a vessel fishing in the Russian EZ or for Russian fishery resources, the courtesies and accommodations provided to ship's officers;

(k) To assault, resist, oppose, impede, intimidate, threaten, interfere with, harass, or fail to cooperate, in any manner, with a Russian observer placed aboard a vessel subject to this part;

(l) To fail to reimburse the Russian Federation for the costs incurred in the utilization of Russian observers placed aboard such vessel;

(m) To refuse to allow an authorized officer of the United States to board and inspect a vessel subject to this part for purposes of conducting any search, inspection, arrest, or seizure in connection with the enforcement of the Magnuson Act or this part;

(n) To assault, resist, oppose, impede, intimidate, threaten, or interfere with, in any manner, any authorized officer of the United States in the conduct of any search, inspection, seizure, or arrest in connection with enforcement of the Magnuson Act or this part;

(o) To resist a lawful arrest for any act prohibited under the Magnuson Act or this part;

(p) To interfere with, delay, or prevent by any means, the apprehension of another person, knowing that such person has committed any act prohibited by the Magnuson Act or this part;

(q) To possess, have custody or control of, ship, transport, offer for sale, sell, purchase, transship, import, export, or traffic in any manner, any fish or parts thereof taken or retained, landed, purchased, sold, traded, acquired, or possessed, in any manner, in violation of the relevant laws and regulations of

the Russian Federation, the Magnuson Act, or this part;

(r) For a vessel subject to this part to enter the Russian EZ to fish unless a permit application has been submitted through NMFS to the competent authorities of the Russian Federation by the U.S. Department of State for such vessel as provided in this part;

(s) To refuse to allow an authorized officer to inspect any report or record required to be made or kept under the Magnuson Act, the Agreement, or any provision of this part;

(t) To refuse, or to fail, to submit fishing gear, fish, proceeds, fishing permit, fish-related records (such as reports, logs, tally sheets, fish tickets, and charts), or other property, subject to such person's control, to inspection, detention, or seizure by an authorized officer, or to interfere with or prevent by any means, such inspection;

(u) To make or use any false statement or representation, oral or written, to an authorized officer, or to conceal any material fact (including by omission), concerning any matter subject to investigation by that officer under the Magnuson Act, the Agreement, or this part;

(v) To falsify or fail to make, keep, or submit, any report or record required to be made, kept, or submitted under the Magnuson Act, the Agreement or this

part in the manner, and within the time, required by this part;

(w) To fish for Russian fisheries or to possess fish taken in Russian fisheries on board a vessel subject to this part without a valid permit or other valid form of authorization issued by the competent authorities of the Russian Federation on board the vessel;

(x) To make a false statement in an application for a permit subject to this part;

(y) To falsify, or fail to report to NMFS, any change in the information contained in a permit application subject to this part within 7 calendar days of such change;

(z) To attempt to do, cause to be done, or aid and abet in doing, any of the foregoing; or

(aa) To violate any other provision of this part.

#### § 299.8 Penalties.

In addition to any fine, penalty, or forfeiture imposed by the Russian Federation, nationals and vessels of the United States violating the prohibitions of § 299.7 are subject to the fines, penalties, and forfeitures and the adjudicative procedures provided in the Magnuson Act, 16 U.S.C. 1858, 1860, 1861, and any other applicable laws and regulations of the United States.

[FR Doc. 92-17780 Filed 7-29-92; 8:45 am]

SALING CODE 3510-22-M



## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Parts 672 and 675

[Docket No. 920402-2102]

Groundfish of the Gulf of Alaska;  
Groundfish of the Bering Sea and  
Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Withdrawal of rule and issuance of new final rule.

**SUMMARY:** NMFS withdraws the rule published at 57 FR 33902 on July 31, 1992, and issues a new final rule prohibiting federally permitted U.S. vessels from fishing in the Central Bering Sea in an area called the "Donut Hole," and from possessing on board fish harvested from the Donut Hole as long as that vessel is in the exclusive economic zone (EEZ) of the Bering Sea and Aleutian Islands (BSAI) and the Gulf of Alaska (GOA). This rulemaking is necessary to reduce the further exploitation of the Aleutian Basin pollock stock (*Theragra chalcogramma*), which is found in both the Donut Hole and in the EEZ. The rulemaking will:

(1) Promote the goals and objectives of the North Pacific Fishery Management Council (Council) regarding the management of pollock stocks off Alaska, and (2) Further U.S. efforts regarding the negotiations with Japan, Poland, China, Korea, and the Russian Federation to establish an international conservation regime on the living resources of the Central Bering Sea.

**EFFECTIVE DATES:** The withdrawal of the rule published on July 31, 1992, beginning at 57 FR 33902 is effective August 10, 1992. The amendments made by this final rule are effective August 24, 1992.

**FOR FURTHER INFORMATION CONTACT:** Steven Pennoyer, Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 21668, Juneau, AK, 99802, telephone 907-588-7221.

**SUPPLEMENTARY INFORMATION:** On July 31, 1992, NMFS issued a rule at 57 FR 33902 to amend parts 672 and 675. That rule was to become effective on August 14, 1992. The rule as published at 57 FR 33902 was incorrect. It is therefore withdrawn and replaced by the issuance of a new rule.

The domestic and foreign groundfish fisheries in the EEZ of the GOA and the BSAI are managed by the Secretary of Commerce (Secretary) according to the

Fishery Management Plans (FMPs) for Groundfish of the GOA and the BSAI. These FMPs were prepared by the Council under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act; 16 U.S.C. *et seq.*) and are implemented by regulations at 50 CFR parts 611, 620, 672, and 675.

Two measures are implemented by this final rule. First, §§ 672.4 and 675.4, which govern the issuance of Federal fishing permits, are amended by prohibiting fishing in the Donut Hole by a federally permitted fishing vessel. Second, §§ 672.7 and 675.7, which govern general prohibitions, are amended to prohibit fishing in the Donut Hole by a U.S. fishing vessel and possession by such a permitted vessel in the EEZ of fish that were caught in the Donut Hole.

U.S. fishermen, who displaced foreign fleets of those nations that had a traditional fishery presence in the EEZ off Alaska, now fully utilize the groundfish resources of the EEZ off Alaska. Foreign fishermen have redirected their fishing effort to other fishing grounds, namely the Donut Hole. By the mid-1980s, catches in the Donut Hole were reported to exceed catches in the U.S. EEZ or the economic zone (EZ) of Russia. (Table 1.)

TABLE 1.—REPORTED POLLOCK CATCHES (1,000 S METRIC TONS (MT) IN THE DONUT HOLE AND IN THE U.S. EEZ AND THE EZ OF RUSSIA

Year	Donut hole	U.S. EEZ	Russian federation
1985.....	338	1,179	662
1986.....	1,061	1,189	871
1987.....	1,325	1,253	812
1988.....	1,396	1,229	1,327
1989.....	1,399	1,386	1,119
1990.....	876	1,353	814

The Donut Hole encompasses deep waters of the Aleutian Basin. The Aleutian Basin extends south into that part of the U.S. EEZ known as the Bogoslof District, defined at 50 CFR 675.2 as statistical area 518. Commercial fisheries data and scientific investigations on comparisons of age, size composition, size-at-age and genetic structure demonstrate that pollock found in the Donut Hole and the Bogoslof District are from the same Aleutian Basin stock.

The status of the Aleutian Basin pollock stock is depressed. Even though the abundance of this stock was estimated at about 5 million mt in 1987, it has declined to a low of about 0.5 million mt in 1990. The current low level

of pollock abundance is consistent with catch per unit of effort (CPUE) information obtained from the commercial fishery, as well as from NMFS stock survey data.

The Secretary implemented specifications for acceptable biological catch and total allowable catch (TAC) amounts for pollock in the Bogoslof District for 1992 equal to 25,000 mt and 1,000 mt, respectively at 57 FR 3952 (February 3, 1992). The Secretary implemented these specifications as recommended by the Council at its December 1991 meeting in response to the decline in the Aleutian Basin pollock stock.

Notwithstanding this action in the U.S. EEZ to conserve the Aleutian Basin pollock stock, U.S. vessels might continue to over-exploit this stock by fishing in the Donut Hole. Because the Aleutian Basin pollock stock moves between the EEZ and the Donut Hole, fishing in both areas will expose this stock to greater fishing effort and result in overfishing. To protect the Aleutian Basin pollock stock from over-exploitation, the Council recommended that the Secretary prohibit federally permitted U.S. fishing vessels from (1) fishing in the Donut Hole and (2) possessing or retaining on board in the EEZ off Alaska, fish caught in the Donut Hole. Even though pollock comprise more than 90 percent of the total harvests in the Donut Hole, NMFS decided that to promote efficient enforcement, a federally permitted U.S. vessel should be prohibited from fishing in the Donut Hole.

On November 18, 1991, the Third Conference on the Central Bering Sea was held in Washington, DC. At that conference, delegations from the United States, the Russian Federation, the People's Republic of China, the Republic of Korea, Poland and Japan discussed measures relating to the conservation and management of living marine resources of the Central Bering Sea, and specifically the pollock resources. The United States indicated that it would take strict measures in 1992 to conserve the depressed Aleutian Basin pollock stock.

Unbridled exploitation in the Alaska pollock fishery in the "Donut Hole" by foreign vessels during the past few years has raised serious concerns about overfishing. Overfishing of the pollock resource not only adversely affects the U.S. commercial fishing industry, but also has far-reaching consequences for other valuable species that interact with pollock in the Bering Sea ecosystem. Because of the serious conservation and environmental problems posed by the

Donut Hole pollock fishery, Presidents Bush and Gorbachev issued a joint statement during the summit meeting held in June 1990 on behalf of the United States and the Soviet Union. This statement called for cooperative efforts in the development of international conservation and management measures for the Donut Hole area. In line with this statement, the United States and Russia are seeking agreement from the other fishing nations to a moratorium on such fishing. However, there are known to be U.S. vessels that have transferred, or will transfer, fishing effort to the "Donut Hole." In order to preserve its credibility during its negotiations with foreign nations on the joint U.S./Russian proposal for a moratorium, the United States must take appropriate action as quickly as possible to ensure that its vessels do not engage in fishing in the "Donut Hole." The United States reiterated its strong support for a proposal made at the Second Conference by the Soviet delegation that all countries agree to a moratorium on pollock fishing in the Central Bering Sea in 1992. At the Third Conference, the Soviet Union contended once again that a moratorium on further pollock fishing in the Donut Hole is urgently needed to conserve the Aleutian Basin pollock stock and indicated its readiness to reduce substantially the fishing effort on pollock in its EZ. Also noted at the Third Conference was the fact that continuation of the pollock fishery in the Central Bering Sea would lead to a further disastrous decline of the resource.

In keeping with the U.S. policy of a moratorium on Donut Hole fishing, NMFS is issuing this final rule. The delayed effective date is to provide time for a vessel with a 1992 Federal fisheries permit (permit) for the EEZ off Alaska to surrender it to NMFS if that vessel will continue or if it plans to fish in the Donut Hole, or to carry or transship Donut Hole resources in the EEZ off Alaska. Permit holders that surrender permits to NMFS prior to or on August 24, 1992, in order to (1) continue fishing operations in the Donut Hole, (2) begin fishing operations in the Donut Hole or (3) carry or transship Donut Hole resources in the EEZ, will be permitted to do so. However, that vessel will not be permitted to fish in the EEZ groundfish fisheries off Alaska for the remainder of the 1992 fishing year. Permit holders who do not surrender their permit but continue or begin to conduct fishing operations in the Donut Hole or carry or transship Donut Hole resources in the EEZ after August 24, 1992, will be in violation of these

regulations and subject to penalties authorized by the Magnuson Act.

Permits may be surrendered only during the time and in the manner specified in §§ 672.4(j) and 675.4(j). For the remainder of 1992 and subsequent fishing years, a U.S. fishing vessel that wishes to fish in, or possess in the EEZ fish harvested from, the Donut Hole must not apply for a permit for the Alaska groundfish fisheries.

NMFS anticipates that U.S. fishing vessels will fish for pollock in the Donut Hole during 1992 following the closure of the directed pollock fishery in the EEZ. Such U.S. vessels will be subject to the provisions of this rule.

#### Classification

This action is exempt from the provisions of Executive Order 12291 under section 1(a)(2) because these regulations are issued with respect to a foreign affairs functions of the United States. This action is not subject to section 553 of the Administrative Procedure Act because it involves a foreign affairs function, and is, therefore, not subject to the provisions respecting a 30-day delay of its effective date.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary for the conservation and management of the groundfish fisheries off Alaska and that it is consistent with the Magnuson Act and other applicable law.

The Alaska Region, NMFS, prepared an environmental assessment (EA) for this rule and concluded that no significant impact on the environment will result from its implementation. The public may obtain a copy of the EA from the Regional Director (see **FOR FURTHER INFORMATION CONTACT**).

NMFS has determined that implementation of this rule is not likely to affect listed species in a manner or to an extent not already considered in formal consultations on these fisheries completed on April 19, 1991, June 5, 1991, and September 20, 1991. This rule does not contain a collection-of-information requirement subject to the Paperwork Reduction Act.

NMFS has determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism

assessment under Executive Order 12612.

#### List of Subjects in 50 CFR Parts 672 and 675

Fisheries, and Recordkeeping requirements.

Dated: July 31, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

For the reasons set out in the preamble, the amendments to 50 CFR parts 672 and 675 published on July 31, 1992, beginning at 57 FR 33902 are withdrawn effective August 10, 1992; and parts 672 and 675 are amended effective August 24, 1992, as follows:

#### PART 672—GROUND FISH OF THE GULF OF ALASKA

1. The authority citation for part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.2 the definition of "Donut Hole" is added in alphabetical order to read as follows:

#### § 672.2 Definitions.

\* \* \* \* \*

*Donut Hole* means the waters of the Central Bering Sea seaward of the outer boundary of the EEZ of the United States, and seaward of the outer boundary of the economic zone of the Russian Federation.

\* \* \* \* \*

3. In § 672.4, paragraph (j) is added to read as follows:

#### § 672.4 Permits.

\* \* \* \* \*

(j) *Condition*. No person may use a vessel for which the Regional Director has issued a permit under paragraph (c)(1) of this section to fish in the Donut Hole, or to possess fish in the EEZ that were caught in the Donut Hole, during the fishing year for which the permit was issued. However, if a permit issued to a vessel in 1992 is surrendered in accordance with this section, that vessel may be used to fish in, or possess fish caught from, the Donut Hole. A permit issued in 1992 will be deemed to be surrendered only if all copies of it are mailed to, and received by, the Alaska Regional Director, NMFS, P.O. Box 21668, Juneau, AK 99802, on or before August 24, 1992. To surrender a vessel's 1992 permit prevents participation by that vessel in the groundfish fisheries in the EEZ off Alaska for the remainder of 1992.

4. In § 672.7, paragraphs (h) and (i) are added to read as follows:

**§ 672.7 Prohibitions.**

(h) Fish in the Donut Hole while on board a vessel for which a permit has been issued under § 672.4 of this part during any fishing year for which the permit was issued, except that during 1992 a vessel may be used for such fishing if its 1992 permit has been surrendered to NMFS in accordance with § 672.4(j).

(i) Possess fish harvested from the Donut Hole while in the EEZ on board a vessel for which a permit has been issued under § 672.4 of this part during any fishing year for which the permit was issued, except that during 1992 a vessel may be used for such possession if its 1992 permit has been surrendered to NMFS in accordance with § 672.4(j).

**PART 675—GROUND FISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA**

5. The authority citation for 50 CFR part 675 continues to read as follows:

Authority: 16 U.S.C. 11801 *et seq.*

6. In § 675.2 the definition of "Donut Hole" is added in alphabetical order to read as follows:

**§ 675.2 Definitions.**

*Donut Hole* means the waters of the Central Bering Sea seaward of the outer boundary of the EEZ of the United States, and seaward of the outer boundary of the economic zone of the Russian Federation.

7. In § 675.4, paragraph (j) is added to read as follows:

**§ 675.4 Definitions.**

(j) *Condition*. No person may use a vessel for which the Regional Director has issued a permit under paragraph (c)(1) of this section to fish in the Donut Hole, or to possess fish in the EEZ that were caught in the Donut Hole, during the fishing year for which the permit was issued. However, if a permit issued to a vessel in 1992 is surrendered in accordance with this section, that vessel may be used to fish in, or possess fish caught from, the Donut Hole. A permit issued in 1992 will be deemed to be surrendered only if all copies of it are mailed to, and received by, the Alaska Regional Director, NMFS, P.O. Box 21668, Juneau, AK 99802, on or before August 24, 1992. To surrender a vessel's 1992 permit prevents participation by that vessel in the groundfish fisheries in the EEZ off Alaska for the remainder of 1992.

8. In § 675.7, paragraphs (1) and (j) are added to read as follows:

**§ 675.7 Prohibitions.**

(i) Fish in the Donut Hole while on board a vessel for which a permit has been issued under § 675.4 of this part during any fishing year for which the permit was issued, except that during 1992 a vessel may be used for such fishing if its 1992 permit has been surrendered to NMFS in accordance with § 675.4(j).

(j) Possess fish harvested from the Donut Hole while in the EEZ on board a vessel for which a permit has been issued under § 675.4 of this part during any fishing year for which the permit was issued, except that during 1992 a vessel may be used for such possession if its 1992 permit has been surrendered to NMFS in accordance with § 675.4(j).

[FR Doc. 92-18704 Filed 8-7-92; 8:45 am]

BILLING CODE 3510-22-M

**50 CFR Part 672**

[Docket No. 911176-2018]

**Groundfish of the Gulf of Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is closing the directed fishery for sablefish by vessels using hook-and-line gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the share of the sablefish total allowable catch (TAC) assigned to hook-and-line gear in this area.

**DATES:** Effective 12 noon, Alaska local time (A.l.t.), August 5, 1992, through 12 midnight, A.l.t., December 31, 1992.

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** The groundfish fishery in the exclusive economic zone within the GOA is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The share of the sablefish TAC assigned to hook-and-line gear in the

Western Regulatory Area, which is defined at § 672.2, is established by the final notice of specifications (57 FR 2844, January 24, 1992) as 2,000 metric tons.

Under § 672.24(c)(3)(i), the Director of the Alaska Region, NMFS, has determined that the share of the sablefish TAC assigned to hook-and-line gear in the Western Regulatory Area will be taken before the end of the year. Therefore, to provide adequate bycatch amounts of sablefish to ensure continued groundfish fishing activity by hook-and-line gear, NMFS is prohibiting directed fishing for sablefish by operators of vessels using hook-and-line gear in the Western Regulatory Area, effective from 12 noon, A.l.t., August 5, 1992, through 12 midnight, A.l.t., December 31, 1992.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

**Classification**

This action is taken under 50 CFR 672.24 and is in compliance with Executive Order 12291.

**List of Subjects in 50 CFR Part 672**

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 4, 1992.

Joe P. Clem,

Acting Director of Office Fisheries, Conservation and Management, National Marine Fisheries Service.

[FR Doc. 92-18877 Filed 8-5-92; 1:03 pm]

BILLING CODE 3510-22-M

**50 CFR Part 675**

[Docket No. 911172-2021]

**Groundfish Fishery of the Bering Sea and Aleutian Islands Area**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Inseason adjustment, rescission of closure, request for comments.

**SUMMARY:** The Director, Alaska Region, NMFS (Regional Director), has determined that amounts of Pacific herring (herring) designated as the prohibited species catch (PSC) limit, and as fishery allowances specified for trawl fisheries of the Bering Sea and Aleutian Islands Area (BSAI), have been misspecified. NMFS is adjusting the size of the herring PSC limit, and redistributing the additional amounts among trawl fisheries, as needed. Revision of the herring allowance for the