

AGENDA #13
March 1979

North Pacific Fishery Management Council

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March 13, 1979

MEMORANDUM

To : Council, Scientific and Statistical Committee, and Advisory Panel

From : Jim H. Branson
Executive Director

Subject: Bering Sea and Aleutian Islands Groundfish FMP Decision Paper

A decision should be made at the Juneau Council meeting to approve the Bering Sea and Aleutian Islands Groundfish FMP for submission to the Secretary of Commerce to begin her 60-day review. As you will recall at the January Council meeting, we postponed this decision pending further study by the Plan Drafting Team and review in February by the SSC. These results have now been incorporated and are found in Attachment B.

We have also summarized the public comments received on the plan, the proposed domestic regulations and the options proposed for the foreign fisheries.

ATTACHMENT A - summarizes the proposed domestic management regime.

Should be adopted or modified where appropriate.

ATTACHMENT B - summarizes the foreign management options.

A foreign management regime should be selected from among the options presented.

ATTACHMENT C - summarizes OY, DAH, and TALFF of all species.

Should be considered for adoption.

ATTACHMENT D - summarizes all public comments to date (D-1), the comments of the SSC (D-2), and of the management plan drafting team (D-3).

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ATTACHMENT A

DOMESTIC MANAGEMENT MEASURES

Section 14.3 of the Plan discusses domestic management measures and their rationale.

PERMIT REQUIREMENTS

All U.S. vessels operating in the Bering Sea/Aleutian Island groundfish area in the Fishery Conservation Zone must have aboard a permit issued annually by the Secretary of Commerce, or (if considered acceptable) a State of Alaska vessel license.

AREA CLOSURES

General: There are no time, area, or gear restrictions for domestic fishermen except as follows:

Bristol Bay Pot Sanctuary (See attached Chartlet)

Trawl - Trawling is permitted only during the open season for Bering Sea crab fisheries.

Winter Halibut Savings Area (See attached Chartlet)

Trawl - Trawling is permitted from May 1 to December 31, or until the 2,000 metric ton quota is reached.

Longline - December 1 to May 31 - Longlining will be permitted landward of the 500 meter isobath only until the catch from this area exceeds 2,000 metric tons (excluding halibut).

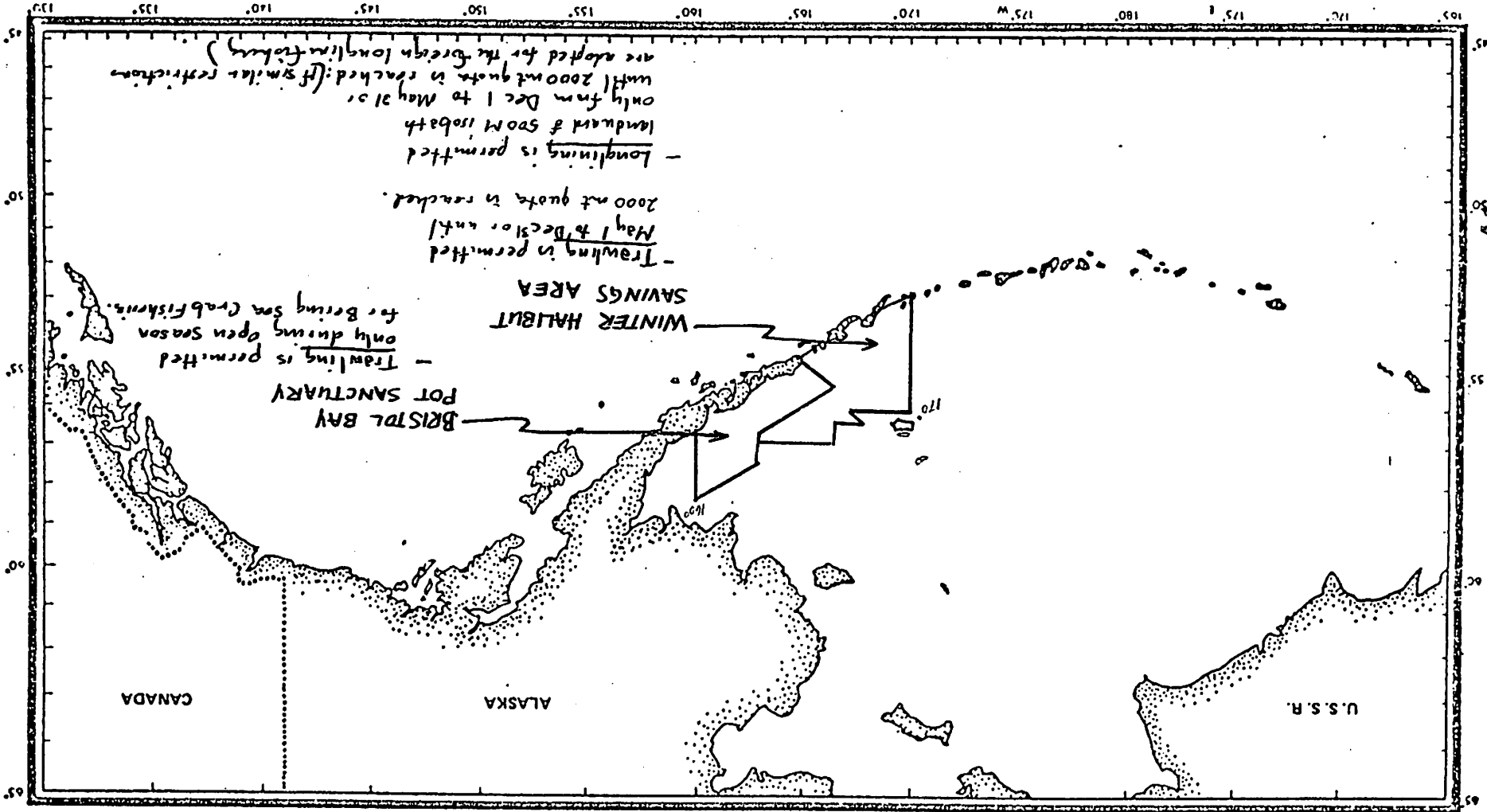
NOTE: If no foreign longline restrictions are adopted for this area, there will be no domestic longline restrictions.

STATISTICAL REPORTING REQUIREMENTS

Fishery data compiled for the domestic fishery will be of the same general degree of precision as required of foreign fishermen. In addition to fish sales tickets, this could include logbooks, port sampling, and/or interviews with fishermen.

LIMITED ENTRY

No program of limited entry is proposed for 1980, however, the MPDT feels a program should be developed for the fishery and implemented before the development of the U.S. fishery is complete.



DOMESTIC REGULATIONS: THERE ARE NO DOMESTIC TIME, AREA OR GEAR RESTRICTIONS -- EXCEPT AS SHOWN ABOVE.

ATTACHMENT B

FOREIGN MANAGEMENT OPTIONS

Five Chartlets are attached of different foreign, time-and-area closures, and gear restrictions.

- Chartlet 1. *shows one of two options proposed for longlining in the winter halibut savings area.*
- Chartlet 2 *is the latest (February 79) plan drafting team recommendation regarding these foreign regulations.*
- Chartlets 3 & 4 *are options from the plan dealing with foreign trawling and longlining in the Aleutian Islands area.*
- Chartlet 5 *is an alternative option dealing with another aspect of these regulations: a special longline sanctuary proposed between 172° W. longitude and 179° E. longitude.*

AREA CLOSURES

The Bering Sea management unit and/or its individual sub areas (where specific quotas apply) will be closed to all fishermen of a nation for the remainder of the calendar year when that nation's allocation of any species or species group listed in Attachment C (Annex II in the FMP) is exceeded.

STATISTICAL REPORTING REQUIREMENTS

The Plan proposes the same reporting requirements as those required by 1978 Foreign Fishing Regulations, 50 CFR Part 611.9, Reports and Record Keeping.

PERMIT REQUIREMENTS

All foreign vessels operating in this management unit must have on board a permit issued by the Secretary of Commerce.

PROHIBITED SPECIES

No retention of salmon, (especially) steelhead trout, halibut, or continental shelf fishery resources.

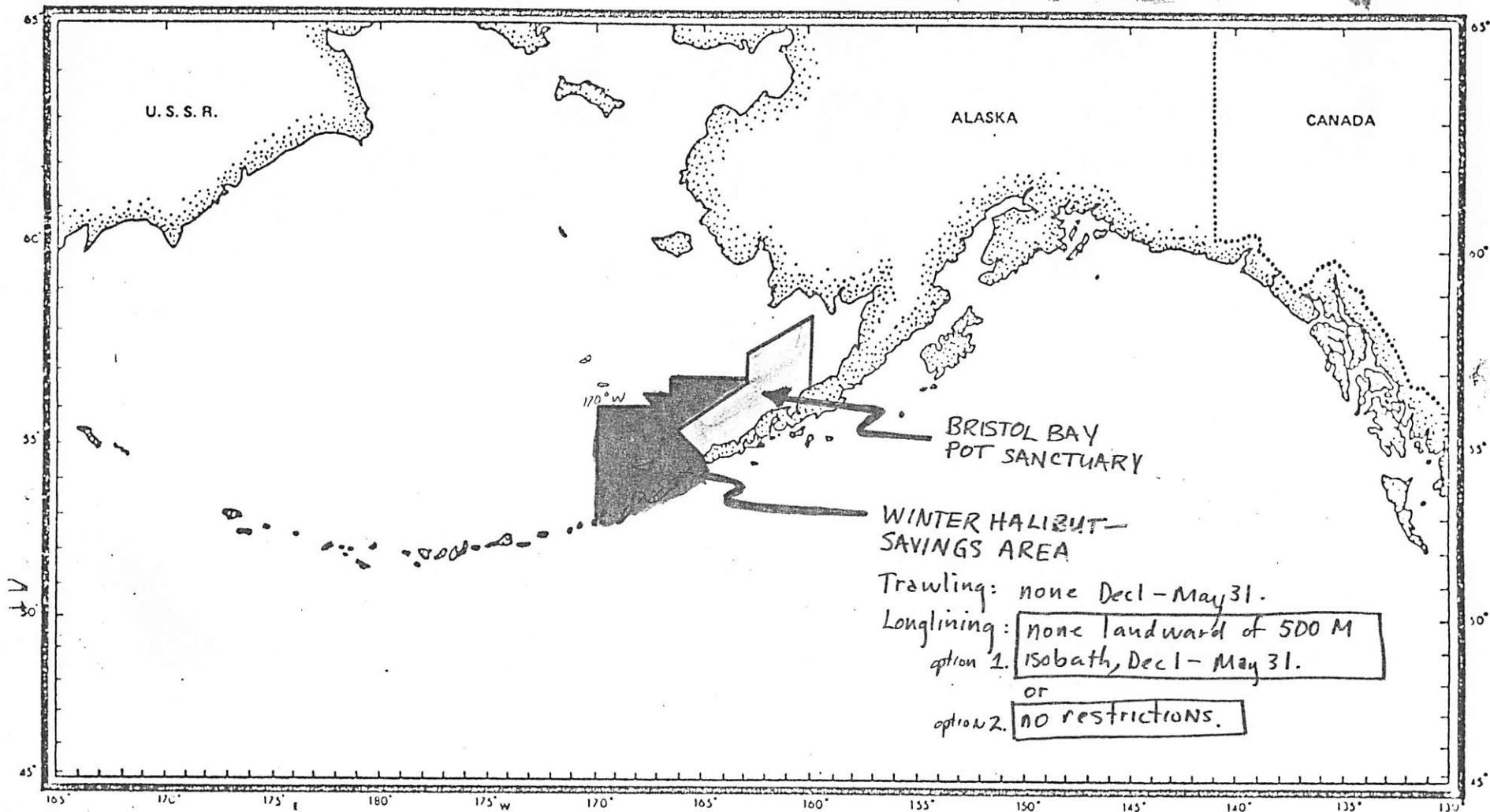
AREA CLOSURES - General

No fishing year round within 12 miles of the baseline used to measure the territorial sea, except in the Aleutian Islands Area as described in Chartlets 1 thru 5 (Annex III, of the FMP).

GEAR RESTRICTIONS

None.

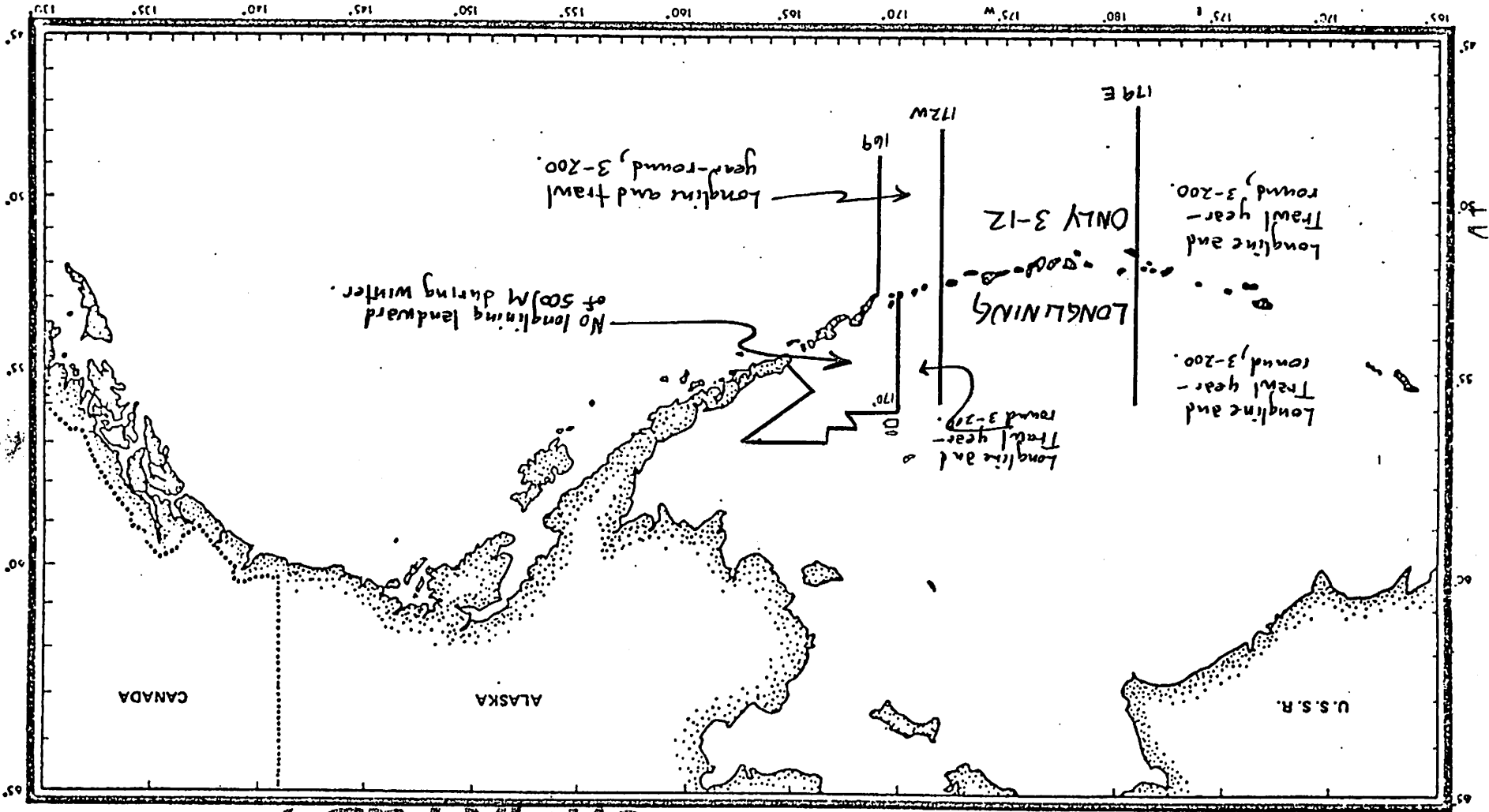
CHARTLET I



OPTION: NO FOREIGN FISHING IN THE WINTER HALIBUT-SAVINGS AREA EXCEPT AS SHOWN ABOVE IN OPTION 1 OR 2.

CHARTLET 2

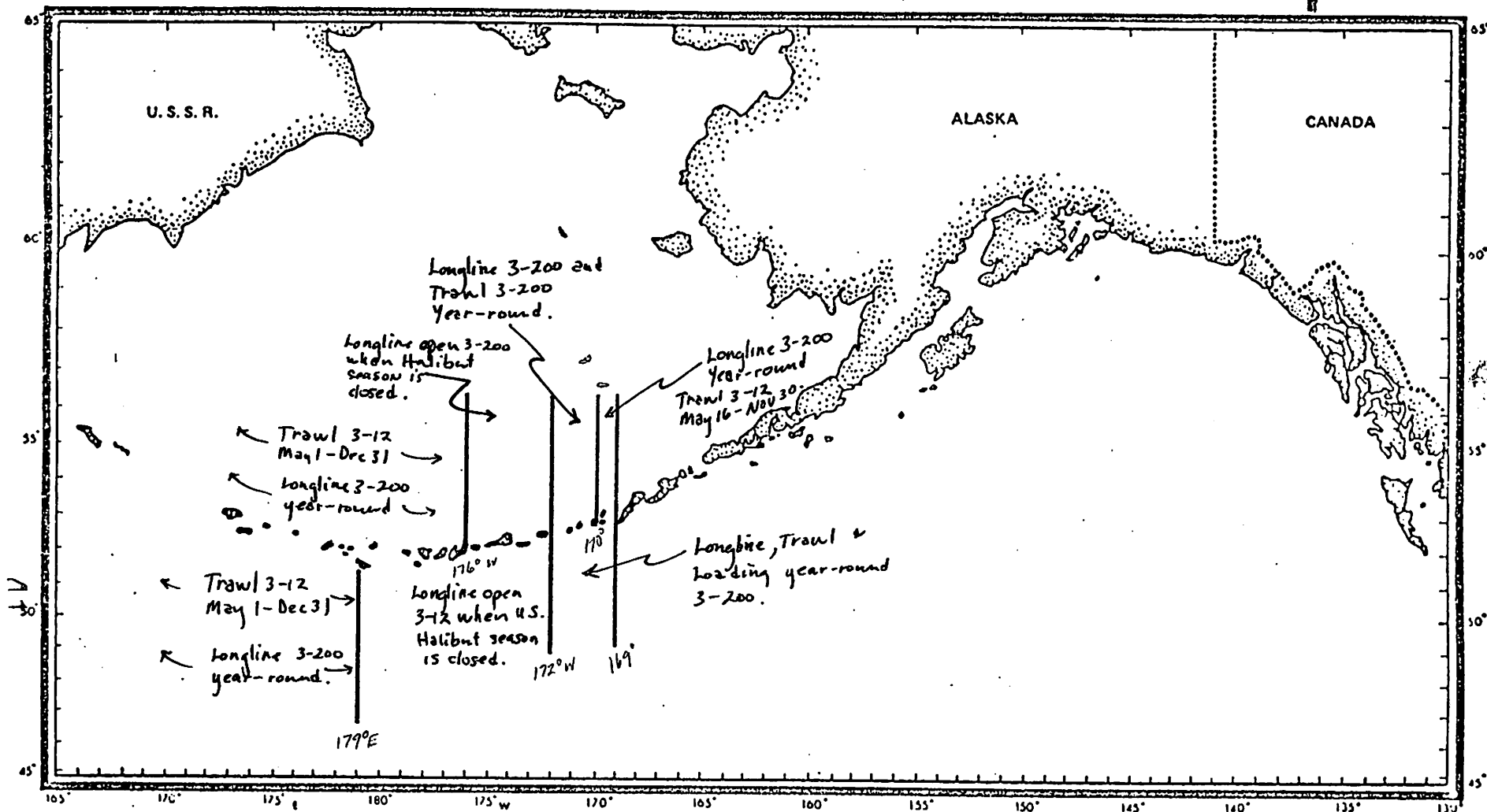
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LATEST MANAGEMENT PLAN DRAFTING TEAM

FOREIGN REGULATIONS: NO FOREIGN FISHING LANDWARD OF 12 MILES EXCEPT AS SHOWN ABOVE.

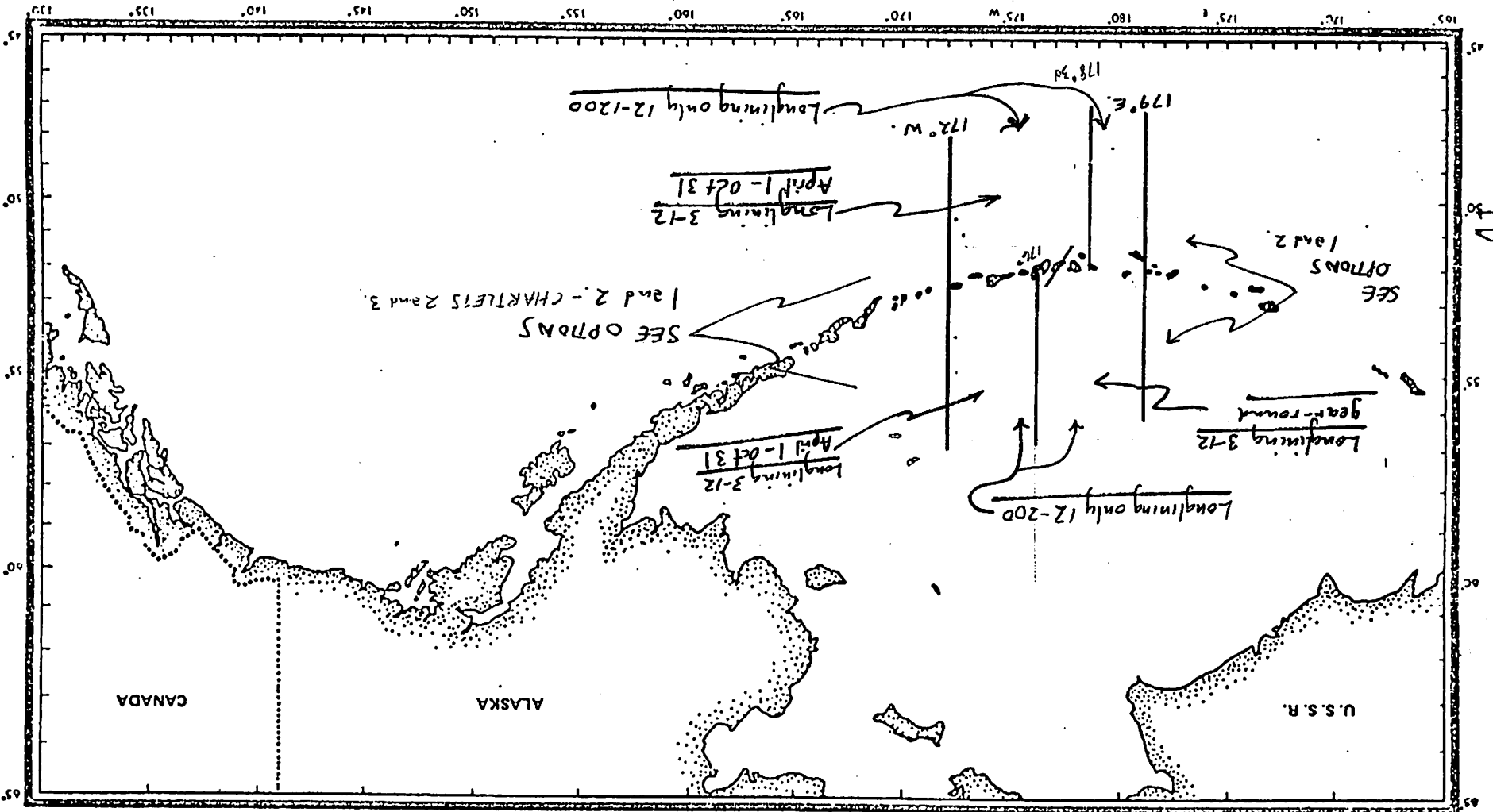
CHARTLET 4



OPTION TWO (2) IN PLAN: NO FOREIGN FISHING LANDWARD OF 12 MILES
EXCEPT AS SHOWN ABOVE.

CHARTLET 5

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ALTERNATIVE OPTION: NO FOREIGN FISHING LANDWARD OF 12 MILES EXCEPT AS SHOWN ABOVE.

ANNEX III--Derivation of total allowable level of foreign fishing (TALFF), metric ton.

Reference:		Annex I	Section 13.1	Annex II	
Species Group	Sub-area ^{1/}	ABC =OY	Reserve	Initial DAH/DAP	Initial TALFF
Pollock		1,000,000	50,000	10,000	940,000
Yellowfin sole		117,000	5,850	1,000	110,150
Turbots		90,000	4,500	1,000	84,500
Other flatfishes ^{2/}		61,000	3,050	1,000	56,950
Pacific cod		58,700	2,935	7,000	48,765
All rockfishes ^{3/}	BS	6,500	325	1,100	5,075
	AL	15,000	750	1,100	13,150
Sablefish	BS	3,500	350	500	2,650
	Al	1,500	150	500	850
Atka mackerel		24,800	1,240	0	23,560
Squid		10,000	500	0	9,500
Others		55,500	5,775	1,400	51,325
Total		1,443,500	72,425	24,600	1,346,475

^{1/} BS = Bering Sea (Statistical Areas I, II, III combined)

Al = Aleutians (Statistical Area IV)

^{2/} Excluding Pacific halibut

^{3/} Including Pacific ocean perch

North Pacific Fishery Management Council

D-1

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ATTACHMENT D-1

BERING SEA/ALEUTIAN GROUND FISH FMP COMMENT SUMMARY

COMMENTS - I - AREA CLOSURES

a. Fishing Vessel Owners Association, Seattle -

- (1) General trawling restrictions in effect in the BS/A area should be continued.
- (2) Prohibit trawling in the Bristol Bay Pot Sanctuary - as per plan.
- (3) The FVOA supports the Winter Halibut savings area proposals as follows:
 - a. A restriction to 2,000 mt for domestic trawlers between December 1 - May 31 in the proposed halibut savings areas.
 - b. Trawl closure from December 1 - May 31 (foreign) in the winter halibut savings area.
 - c. The restriction from fishing by foreign longliners from December 1 - May 31 landward of the 500 m isobath.

- (4) The FVOA objects to the suggested restrictions on domestic longlining in the halibut savings areas.
- b. Robert Ely for KMIDC, Anchorage -
- (1) Maximize the opportunity in the FMP for the BS/A groundfish for the harvest of groundfish without the interference of halibut protection provisions.
- c. Mr. Nakamura, NPL-GA -
- (1) Objection is to the 500 m depth restriction on longlining in the "Winter Halibut Savings Area."
- d. Japan Fisheries Association
- (1) Requests open winter halibut savings area to longlining.
- e. Comments received from Mundt, et al, (Seattle) on behalf of the NPL-GA
- (1) Opposes the prohibition of foreign longlining in the halibut savings area inside the 500 m isobath.
- f. Comments by Mr. Sano, Director, Oceanic Fisheries Department, Japan Fisheries Agency
- (1) Remove the prohibition against foreign longlining in the winter halibut savings area landward of the 500 m isobath from December 1 - May 31.

COMMENTS - II REPORTING REQUIREMENTS

A. Ben Paz, Unalaska -

- (1) Fish tickets should be mandatory on board all trawlers in the BS/A fishing area for the purpose of reporting trawl catches for bait deliveries to crab boats. The estimate for bait requirements for the crab fleet varies between 1000 and 5000 tons.

COMMENTS - III LIMITED ENTRY

None

COMMENTS IV CLOSURES ALONG THE ALEUTIANS - MAINLY IN 3-12 MILE ZONE

- A. Japan Deep Sea Trawlers Association -
- (1) (3) Request to maintain the area between 172°W and 179° E open to trawling the year around.
- B. Comments from the Hokuten Mission (trawlers)
- (1) Open area between 172°W and 179°E to trawling.
- C. Fishing Vessel Owners Association
- (1) Supports the trawl closure (foreign) in the area from 172°W to 179°E. (Also requested by the Japanese longliners.)
- D. Comments from the Japan Fisheries Association
- (1) Requests trawl area between 172° W and 179° E to be open year around
- E. Mundt, ET AL, ON BEHALF OF NPL-GA
- (1) Agrees with the establishment of longline sanctuary between 172° W and 179° E. (14.3.2.3.B.(iii)).
- (2) Relax the 12-mile closure provision.
- F. S. Stafne, representing the Alaska Longline Fishermen's Association and the International Longline Association supporting the establishment of the longline sanctuary between 172° W and 179° E. (14.3.2.3.B.(iii)).

G. Comments by Mr. Sano, Director, Oceanic Fisheries Department, Japan Fisheries Agency

(1) Relax the closed area within 12 miles.

H. Mr. Endo, Japanese Medium Trawlers, Chairman of the Hokutensen Trawlers Association

(1) His ships cannot operate economically if the Aleutian area is closed. The area between 179° E and 172° W is very important to them and has a much higher yield than the data shows.

COMMENTS - V Close area to all of a countries fishermen when quota is reached for any one species.

A. Mundt, et al for NPL-GA

(1) Exempt foreign longliners from that provision

COMMENTS - VI FOREIGN LONGLINE CLOSURES

A. Mr. Nakamura, NPL-GA

- (1) Objection is to the 500 m depth restriction on longling in the "Winter Halibut Savings Area."

B. Japan Fisheries Association

- (1) Requests open winter halibut savings area to longlining

C. Comments received from Mundt, et al, (Seattle) on behalf of the NPL-GA

- (1) Opposes the prohibition of foreign longlining in the halibut savings area inside the 500 m isobath

D. Comments by Mr. Sano, Director, Oceanic Fisheries Department, Japan Fisheries Agency

- (1) Remove the prohibition against foreign longlining in the winter halibut savings area landward of the 500 m isobath from December 1 - May 31.

E. Mundt, et al, on behalf of the NPL-GA

- (1) Agrees with the establishment of longline sanctuary between 172° W and 179° E (14.3.2.3.B.(iii)).

- (2) Relax the 12-mile closure provision

F. S. Stafne, representing the Alaska Longline Fishermen's Association and the International Longline Association supporting the establishment of the longline sanctuary between 172° W and 179° E. (14.3.2.3.B(iii)).

COMMENTS VII OY, DAH, RESERVES, ETC.

A. Comments from the Japan Deep Sea Trawlers Association with requests for:

- (1) Reassessment of OY for Pollock in the BS/A
- (2) Increase OY for all rockfishes to 37,245 mt
- (3) Release of reserves (30% release every 2 months)

B. Comments from the Hokuten Mission (Trawlers) with requests for:

- (1) Designate a shrimp allotment for Hokuten trawlers of 600 mt, in the northern portion of the eastern Bering Sea for the period June through August.

C. Fishing Vessel Owners Association, Seattle

- (1) Do not set OY equal to EY for sablefish and Pacific ocean perch. The balance between OY and EY does not allow for stock rebuilding.

D. Japan Fisheries Association

- (1) Requests DAH be adjusted to realistic levels, if not nil.
- (2) Removal of the reserve (500 mt or 5% of OY) of each species.
- (3) Carry-over of unused portions of quotas to the next year.

- (4) Set OY for pollock at 1.3 million mt in BS/A area.
- (5) Maintain at 1978 level the OY for Pacific ocean perch and other rockfishes be treated as part of the "other groundfish" category.
- (6) Sablefish OY be set at 4,100 mt in the Bering Sea and 3,200 mt in the Aleutian area.

E. Mundt, et al, on behalf of the NPL-GA

- (1) Recommends DAH and reserves for Pacific cod and sablefish be set as follows:

	<u>DAH</u>	<u>Reserve</u>
Pacific cod	2,000 mt	7,900 mt
Sablefish (Bering Sea)	50 mt	800 mt
Sablefish (Aleutians)	50 mt	600 mt

F. Mr. Sano, Director, Oceanic Fisheries Department, Japan Fisheries Agency, requesting:

- (1) Removal of reserve of each species.
- (2) Adjustment of DAH. (Downward)
- (3) Increase the ABC of POP and other species.
- (4) Increase the allocations for pollock, sablefish, Pacific cod, flounders and Pacific herring.

COMMENTS VIII KING SALMON INCIDENTAL CATCH BY TRAWLERS

- A. Request from Joe DeMantle Jr., and Jessie Foster asking for a specific section to be placed in the FMP treating the interception of king salmon by Russian and Japan. They suggest time/area closures.

88% of the Japanese mothership catch of chinook is composed of western Alaska and AYK stocks. The average annual take (interception) is 246,000 fish. Two-thirds of these fish are estimated to be bound for the Yukon and Kuskokwim River spawning areas. No other North American salmon stock sustains a greater interception rate on the high seas. The 1978 mothership fishery probably did not take anywhere near this number of chinook.

Recent AYK commercial harvests average 117,000 fish per year.

The FMP estimates the 1977 incidental catch of chinooks by trawlers of Japan, USSR and the ROK at 47,730 fish.

COMMENTS IX ALLOCATE TALEFF TO GEAR TYPES

A. Mundt, et al, on behalf of the NPL-GA

(1) Divide TALEFF between trawl and set-line fisheries.

COMMENTS X EPA CONCERNS

The following comments were received on the EIS for the BSA FMP from the U.S. Department of the Interior, Regional Environmental Office, Anchorage: (FYI only - no action needed)

1. Pages 94-95 - explain changes in environmental conditions mentioned as restraints on fish population and growth.
2. Page 105 - Use rising costs of all things associated with fishing to determine economic viability of the fishing.
3. Page 154 - Discuss the effects of the Endangered Species Act.
4. Page 221 - Expand the description of the changes to the physical environment.
5. Revise 1st sentence, page 22, Sec. 22.3.2.

COMMENTS XI - U.S. Coast Guard Concerns

The following comments were received March 1, 1979, from U.S. Coast Guard Officer of Marine Environmental Systems, Washington, D.C.

The comments will be handled as comments on the Regulations but are summarized here as follows:

1. Recommend that the 500 meter isobath concept be expressed in fathoms.
2. Recommend that a standard log format be used by fishermen.
3. Recommend that a section on sanctions be expanded to include U. S. nationals.
4. Recommend that the vessel identification system be expanded.

SSC Report
February 21, 1979

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ATTACHMENT D-2

BERING SEA/ALEUTIAN GROUND FISH PLAN COMMENTS

The SSC reviewed the PDT recommendations and responses to public comments on the plan received during the public review process.

1. Winter halibut savings area--no foreign longlining landward of 500 m during the winter.

Longlines experience high catch rates of halibut during the winter (24.17 halibut per ton of catch) and low rates (0.13) during summer months. The Committee supports the PDT recommendation that no foreign longlining be allowed in the winter halibut savings area. Currently there is no trawl fishery allowed in this time/area so the longlining is an additional mortality on halibut.

2. Foreign closures in the 3-12 mile zone.

The PDT presented a comprehensive proposal for foreign fishery closures in the 3-12 mile zone of the Aleutian area. The proposal is an attempt to overcome the hodge-podge of existing closures which have accumulated over the years and for which the justification is questionable, unclear or unknown.

The SSC compliments the PDT on its approach and believes that this proposal is better than previous suggestions. However, we reserve final judgment until data from other sources are received and carefully reviewed.

3. Exempting concept of foreign longliners from national closures when certain allocations are reached.

The Committee and the PDT have differing views on this proposal. The PDT is against an exemption and suggests that foreign nations are responsible to divide allocations of all species including those individually taken between gears and fleets and that enforcement of the sub-allocations is the responsibility of foreign nations which receive allocations.

The SSC recommends that the foreign longline fishery not be closed unless the catch of the following longline target species exceed the total national allocation. The longline fishery should be closed if the total nation's catch of sablefish, Pacific cod and turbot exceed the nation's allocation for those species.

The concept of exemptions is a complex issue. The SSC may reconsider its proposal in the future after SSC and PDT members work together to develop a solution or better approach to this complicated problem.

4. Salmon savings closure

The SSC recognizes the potential impact of incidental salmon trawl catches on the western Alaska salmon fisheries. Very little data will be available until late March when detailed incidence data by $1/2^{\circ} \times 1^{\circ}$ blocks is due. The SSC, PDT and Alaska Department of Fish and Game personnel will work together to provide recommendations after analyses of these data are complete.

5. Domestic catch reporting

Need to establish time and place for meeting between AP, SSC and PDT at March Council meeting. ADF&G will circulate options with charts for various data collection and reporting systems.

6. Limited entry to the domestic groundfish fisheries

The SSC appointed Drs. Miles and Crutchfield to help the PDT revise and expand this section of the plan. The new section will be submitted to the SSC and Council as soon as it is completed.

7. Response to the Marine Mammal Commission comments on the Bering Sea/Aleutian Groundfish FMP.

The Committee recommends the Council request from the Marine Mammal Commission estimates of Optimum Sustainable Population size of the marine mammals which may be impacted by the FMP and the rationale for how these are derived. The SSC has little information on the current status of stocks or population trends of mammals in the Bering Sea.

The Committee generally supports the team contention that a direct adverse impact on marine mammals as a result of the plan is unlikely since the proposed total allowable catch of groundfish for 1980 is 25 percent below the 1969-76 average catch.

ATTACHMENT D-3

PDT Recommendations Re Bering Sea/Aleutian
Groundfish FMP 1/

I. Area closures

- A. Pot sanctuary -- add "Pot Storage Area" year-round trawl closure to the north of the "Pot Sanctuary"
- B. Winter halibut savings area -- no foreign longlining landward of 500 m during winter. During 1978, foreign longliners had a total catch in Area I during winter of 4015 mt and an incidental halibut catch rate in shallow water 24.17 halibut/mt. of total catch. Therefore, total halibut catch would have been 97,000 halibut and, with a 50 percent mortality, the total kill would have been about 48,500 halibut. The incidence rate during summer is 0.13; therefore, that same amount of total catch taken during the summer would result in a halibut kill of only $4015 \times 0.13 \times 0.5 = 261$ halibut. Consistent with restriction on trawling.
- C&D. Aleutian Islands -- see attached figure and table,
- E. Exempt longliners from national closure when any allocation is reached -- NO; should be up to each foreign government to look after its various fleets. Otherwise, landbased dragnet fleet should not be affected by mothership catches, etc.

1/
Items I-VII keyed to attached summary.

- F. Salmon-savings closure -- greatest salmon incidence is during January-April in Area II but detailed incidence data by $\frac{1}{2}^{\circ} \times 1^{\circ}$ areas will not be available until mid-March. This might mesh with Herring PDT's recommendation for herring-savings closure.
- II. OY -- no changes.
- III. Reserve -- no changes.
- IV. DAH -- Regional Office resurvey of processors should allow reevaluation of all DAH's (the team questions especially the 10,000 mt DAH for pollock)
- V. Allocate TALFF among gear types -- no comment
- VI. Domestic reporting -- the PDT agrees that crab-bait trawlers and any other catcherboat that does not deliver its catch to a processor, should be required to submit completed fish tickets. With regard to statistical reporting areas, the PDT recommends that foreign fishermen continue reporting by $\frac{1}{2}^{\circ} \times 1^{\circ}$ units but, if domestic fishermen will cooperate, they report by ADFG depth-based areas (this affects only the Aleutians and Alaska Peninsula as the ADFG areas in the remainder of the Bering Sea are $\frac{1}{2}^{\circ} \times 1^{\circ}$ units. This will give extra percision in the inshore areas where domestic fishermen will likely operate and where small area-to-area differences may be significant.

VII. Limited entry -- the PDT agrees that this section should be changed to say that while no limited entry need be applied in 1980, a plan for limited entry should be developed and implemented during the period of domestic fishery development rather than after such development is complete (or "overcomplete").

Summary of Public Comments on BS/AI Groundfish FMP

I. Area closures.

A. Pot sanctuary

1. As in FMP - FVOA

B. Winter halibut-savings area

1. Trawling, foreign

- a. As in FMP - FVOA

~~b. Less restrictive - KMIDG/DeVanny~~

2. Trawling, domestic

- a. As in FMP-FVOA

b. Less restrictive - KMIOC/DeVanny

3. Longlining, foreign

- a. As in FMP-FVOA

- b. Less restrictive - NPLGA, JFAssoc., JFA

4. Longlining, domestic

- a. Less restrictive - FVOA

C. Aleutian longline sanctuary

1. In favor - FVOA, NPLGA, ALFA, ILA

2. Against - Japan Trawlers Ass'n, Japan Hokuten Ass'n,
Japan Fish. Ass'n

D. Aleutian 3-12 zone

1. Open to foreign fishing - NPLGA, JFA

E. Area closed to all fishing when any species quota taken

1. Exempt foreign longlines - NPLGA

F. Establish salmon-savings trawl closure(s) - DeMantle & Foster

II. OY

- A. Pollock, increase -- Japan Fish. Ass'n., Japan Trawlers Ass'n, JFA
- B. POP and rockfishes
 - 1. Increase - Japan Trawlers Ass'n, Japan Fish. Ass'n, JFA
 - 2. Set less than EY - FVOA
- C. Sablefish
 - 1. Increase - Japan Fish. Ass'n, JFA
 - 2. Set less than EY - FVOA
- D. Cod & flounders, increase - JFA
- E. Shrimp, establish OY of 600 mt - Japan Hakuten Ass'n
- F. Carry over unused portion to following year - Japan Fish. Ass'n.

III. Reserve

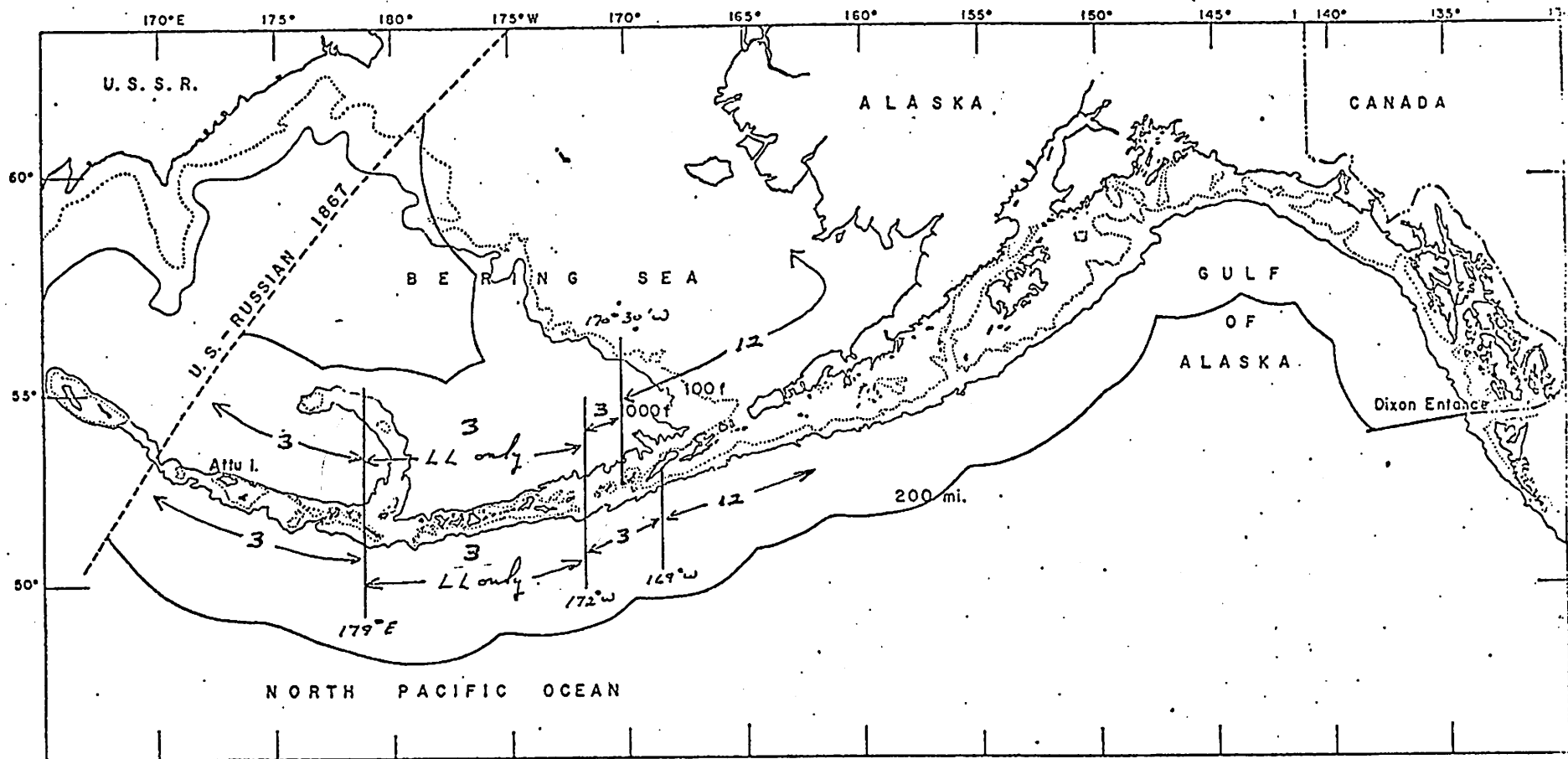
- A. Remove for all species - JFA
- B. Release 30% every 2 months - Japan Trawlers Ass'n
- C. Cod, increase at expense of DAH - NPLGA
- D. Sablefish, increase at expense of DAH - NPLGA

IV. DAH, reduce - JFA, NPLGA

V. TALFF, allocate among gear types - NPLGA

VI. Domestic reporting; require fish tickets for domestic crab-bait trawlers - Paz

VII. Limited entry; change to say not necessary in 1980 but a plan should be developed and implemented well before all foreign fishing is displaced - SSC



*Distance offshore closed to foreign fishing
and longline sanctuary closed to foreign trawling
(proposed by PDT 2/16/79)*

Aleutian Island groundfish catches (mt) within and outside proposed
longline sanctuary -- 1977

Species	West of 179°E	179°E - 172°W	172°W - 170°W	Total
POP	3372	1558	1439	6369
Other rockfish	3974	1654	1324	6952
Pollock	3035	2056	2708	7799
Atka mackerel	18221	2686	13	20920
Cod	860	1296	1096	3252
Black cod	316	312	1217	1845
Greenland turbot	446	1378	603	2427
Arrowtooth flounder	1046	666	308	2020
Yellowfin sole	14	15	3	32
Rock sole	67	7	1	75
Flathead sole	5	4	23	32
Other flounders	466	247	219	932
Herring	4	3	6	13
Squid	881	560	627	2068
Other fish	8506	4621	3598	16725
 TOTAL	 41213	 17063	 13185	 71461
 % Aleutian Total of BS/Al Total	 57.7 4.3	 23.9 1.8	 18.5 1.4	 100.1 7.5



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
OFFICE OF GENERAL COUNSEL
P.O. Box 1668, Juneau, Alaska 99802

March 20, 1979

Mr. Jim Branson
Executive Director
North Pacific Fishery Management Council
P.O. Box 3136DT
Anchorage, Alaska 99510

Dear Jim:

Attached is a draft of regulations to implement the domestic management provisions of the Bering Sea and Aleutian Groundfish Plan, which you requested for the March Council meeting. The regulations are written to implement the March 23, 1979 draft of the FMP, without consideration of any of the proposed amendments. Regulations for the foreign management provisions should be rather easy to prepare after the Plan is adopted by the Council, since there will be relatively few changes from the current foreign fishing provisions under the PMP.

Sincerely,

James K. White
Alaska Regional Counsel

Attachment: As noted



Title 50 - Wildlife and Fisheries

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

PART 675 - GROUND FISH OF THE BERING SEA

Subpart A - General

Section

- 672.1 Purpose and scope.
- 675.2 Definitions.
- 675.3 Relation to other laws.
- 675.4 Permits.
- 675.5 Reporting requirements.
- 675.6 [Reserved].
- 675.7 General prohibitions.
- 675.8 Enforcement.
- 675.9 Penalties.

Subpart B - Management Measures

- 675.20 General limitations.
- 675.21 [Reserved].
- 675.22 Time and area closures.
- 675.23 Time and area limitations.
- 675.24 [Reserved].
- 675.25 [Reserved].
- 675.26 [Reserved].

AUTHORITY: 16 USC 1801, et seq.

Subpart A - General

675.1 Purpose and Scope

(a) The regulations in this Part govern fishing for groundfish species by fishing vessels of the United States within that portion of the Bering Sea and North Pacific Ocean over which the United States exercises exclusive fishery management authority, under the Act.

(b) For regulations governing fishing in the Bering Sea Groundfish fishery by fishing vessels other than vessels of the United States see 50 CFR §611.93.

675.2 Definitions

In addition to the definitions in the Act, and unless the context requires otherwise, the terms used in this Part shall have the following meanings. (Some definitions in the Act have been repeated here to aid understanding of the regulations):

Act means the Fishery Conservation and Management Act of 1976, 16 USC §§1801-1882, as amended.

Assistant Administrator means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, or an individual to whom appropriate authority has been delegated.

Authorized Officer means:

(a) any commissioned, warrant, or petty officer of the United States Coast Guard;

(b) any certified enforcement or special agent of the National Marine Fisheries Service;

(c) any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the Coast Guard to enforce the provisions of the Act; or

(d) any Coast Guard personnel accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Bering Sea and Aleutian Islands Management Area means the fishery conservation zone (FCZ) in the Bering Sea, and that portion of the FCZ in the North Pacific Ocean that

is south of the Aleutian Islands chain west of 170° W. longitude.

Fishery Conservation Zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal States to a line on which each point is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishing means any activity, other than scientific research, which involves:

- (a) the catching, taking or harvesting of fish;
- (b) the attempted catching, taking or harvesting of fish;
- (c) any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish; or
- (d) any operations at sea in support of, or in preparation for, any activity described in paragraph (a),

(b), or (c) above.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for: (a) fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation or processing.

Groundfish means pollock, cod, any species of flounder and sole, Pacific Ocean perch, other rockfish, sablefish, Atka mackerel, squid, and other finfish, except salmon, steelhead trout, and Pacific halibut. The scientific names of these species are as follows:

Pollock means Theragra chalcogrammus;

Cod means Gadus macrocephalus;

Arrowtooth flounder means Atheresthes stomias;

Other flounder means Pleuronectiformes (order) not specifically defined;

Rock sole means Lepidopsetta bilineata;

Flathead sole means Hippoglossoides elassodon;

Pacific ocean perch means Sebastes alutus;

Atka mackerel means Pleurogrammus monopterygius;

Other rockfish means Scorpaenidae (family) not specifically defined;

Sablefish means Anoplopoma fimbria;

Squid means sepioid and teuthoid squid;

Salmon means of the family Salmonidae;

Pacific halibut means Hipoglossus styenolepis;

Steelhead trout means Salmo gairdneri.

Landing means off-loading fish.

Longline means a stationary, buoyed, and anchored line with hooks or pots attached, or the taking of fish by means of such a device.

Off-bottom trawl means a trawl in which the otter boards may be in contact with the seabed but the ground rope of the net remains above the seabed.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) any person who owns that vessel in whole or

in part;

(b) any charterer of the vessel, whether bareboat, time or voyage; or

(c) any person who acts in the capacity of a charterer, 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;

(d) any agent designated as such by any person in (a), (b), or (c).

Person means any individual (whether or not a citizen or national 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, local, or foreign government or any entity of any such government.

Regional Director means Harry L. Rietze, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802.

Vessel of the United States means:

(a) A vessel documented or numbered by the Coast Guard under United States law; or

(b) a vessel, under five net tons, which is registered under the laws of any State.

United States fish processors means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.

United States harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated by a fishery management plan or preliminary fishery management plan implemented under the Act.

675.3 Relation to Other Laws

(a) Federal law. For other regulations governing fishing by vessels of the United States for halibut see regulations of the International Pacific Halibut Commission. For regulations governing fishing for Tanner crab see 50 CFR

671; for groundfish in the Gulf of Alaska see 672; for salmon see 673.

(b) State level. Certain responsibilities relating to the issuance of permits, data collection, and enforcement may be performed by personnel of the State of Alaska under an agreement with NOAA/NMFS and the U.S. Coast Guard.

(c) Delegations. The Assistant Administrator has delegated to the Regional Director authority to take actions pursuant to 675.20(b) and 675.22 of this Part, and to apportion reserves pursuant to 675.20(c) of this Part.

675.4 Permits

(a) General. No vessel of the United States may fish for groundfish in the Bering Sea without first obtaining a permit issued under this Part. Permits shall be issued without charge.

(b) Application. An applicant may obtain a permit by submitting to the Regional Director a written request containing the following information:

(1) The applicant's name, mailing address, and telephone number;

(2) The name of the vessel;

(3) The vessel's U.S. Coast Guard documentation number or State registration number;

(4) The home port of the vessel;

(5) The type of fishing gear to be used; and

(6) The signature of the applicant.

(c) Issuance.

(1) Upon receipt of a properly completed application, the Regional Director shall issue a permit.

(2) Upon receipt of an incomplete or improperly completed application, the Regional Director shall notify the applicant of the deficiency in the application. If the applicant fails to correct the deficiency within 10 days following the date of notification, the application shall be considered abandoned.

(d) Notification of change. Any person who has applied for and received a permit under this section shall give written notification of any change in the information provided under paragraph (b) of this section to the Regional Director within 30 days of the date of that change.

(e) Duration. A permit shall continue in full force and effect until it is revoked, suspended, or modified pursuant to 50 CFR Part 621 (Civil procedures).

(f) Alteration. No person shall alter, erase, or mutilate any permit. Any permit that has been intentionally altered, erased, or mutilated shall be invalid.

(g) Transfer. Permits issued under this Part are not transferable or assignable. A permit shall be valid only for the vessel for which it is issued.

(h) Inspection. Any permit issued under this part must be carried aboard the vessel whenever the vessel is fishing for groundfish. The permit shall be presented for inspection upon request of any authorized officer.

(i) Sanctions. Subpart D of 50 CFR 621 (Civil

procedures) shall govern the imposition of permit sanctions against a permit issued under this part. As specified in that subpart D, a permit may be revoked, modified, or suspended if the permitted vessel is used in the commission of an offense prohibited by the Act or these regulations; or if a civil penalty or criminal fine imposed under the Act and pertaining to a permitted vessel is not paid.

675.5 Reporting Requirements

(a) The operator of any fishing vessel regulated by this part whose port of landing is in the State of Alaska shall, for each sale or delivery of groundfish, be responsible for the submission of an accurately completed State of Alaska fish ticket.

(b) At the election of the vessel operator, the fish ticket shall be either:

(1) Submitted by the vessel operator directly to the ADF&G within one week after such fish are sold or delivered; or

(2) prepared, at the request of the operator, by the purchaser (i.e., any person who receives fish for a

commercial purpose from a fishing vessel subject to this Part) and submitted by the purchaser to the ADF&G within one week after such fish are received by the purchaser. (ADF&G address: Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, Subport Building, Juneau, Alaska 99801).

(c) In addition to the requirements of paragraphs (a) and (b) of this section, each operator (or purchaser, if the fish ticket is submitted in accordance with paragraph (b)(2) shall also accurately state on each such fish ticket:

- (1) Total time fished;
- (2) total number of hauls; and
- (3) quantity and type of gear used.

(d) The operator of any vessel of the United States subject to this part whose port of landing is in the United States but outside the State of Alaska shall comply with the provisions of this section by submitting a completed Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket, to the ADF&G within one week after the date of each

sale or delivery of any species of fish covered by these regulations. (For the address of the ADF&G see §675.5(b)). (Sample alternative document reserved).

675.6 [Reserved]

675.7 General Prohibitions

It shall be unlawful for any person to:

(a) Fish for groundfish with a vessel of the United States which does not have aboard a valid permit issued pursuant to this part;

(b) Possess, have custody or control of, ship, transport, import, export, offer for sale, sell, or purchase any fish taken or retained in violation of the Act, this Part, or any other regulation or permit issued under the Act;

(c) Refuse to permit an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, this Part, or

any other regulation or permit issued under the Act;

(d) Forcibly assault, resist, oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any search or inspection described in paragraph (c) of this section;

(e) Resist a lawful arrest for any act prohibited by this Part;

(f) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any act prohibited by this Part; or

(g) Violate any other provision of this Part, the Act, or any regulation or permit issued under the Act.

675.8 Enforcement

(a) General. The owner or operator of any fishing vessel subject to these regulations shall immediately comply with instructions issued by an authorized officer to facilitate safe boarding and inspection of the fishing vessel, its gear, equipment, and catch for purposes

of enforcing the Act and this Part.

(b) Boarding. A vessel signaled to stop or heave to for boarding shall:

(1) Stop immediately and lay to or maneuver in such a way as to permit the authorized officer and his party to come aboard;

(2) If requested, provide a safe ladder for the authorized officer and his party;

(3) When necessary to facilitate the boarding, provide a man rope, safety line, and illumination for any ladder, and

(4) Take such other actions as necessary to insure the safety of the authorized officer and his party and to facilitate the boarding.

675.9 Penalties

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions

prescribed in the Act, and 50 CFR Parts 620 (Citations) and 621 (Civil procedures), and other applicable law.

Subpart B - Management Measures

672.20 General limitations

(a) Optimum yield.

(1) The optimum yield (OY) and reserves for species regulated under this Part are set forth in table I. These specifications of OY and reserves are effective for a fishing year beginning on January 1 and ending on December 31. The OY of each species in table I is the maximum amount of that species which may be caught or harvested during the fishing year by vessels of the United States and foreign nations in each fishing area.

(b) Winter Halibut Savings Areas catch limit.

(1) Area defined. The Winter Halibut-Saving Areas consist of all waters encompassed by straight lines connecting the following points, in the order listed:

54°36'N - 164°55'42"W (Cape Sarichef Light)
52°40'N - 170°00'W
55°30'N - 170°00'W
55°30'N - 166°47'W
56°00'N - 167°45'W
56°00'N - 166°00'W
56°30'N - 166°00'W
56°30'N - 163°00'W
56°20'N - 163°00'W
55°16'N - 166°10'W
55°16'N - 166°10'W
54°36'N - 164°55'42"W (Cape Sarichef Light)

and

56°18'N - 170°24'W
56°20'N - 169°03'W
56°12'N - 168°46'W
55°56'N - 169°10'W
55°56'N - 170°24'W
56°18'N - 170°24'W

(c) Field orders.

(1) If the Regional Director determines that the

OY for any species in table I of paragraph (a) will be reached, he shall issue a field order pursuant to §675.22(b) prohibiting fishing for all species in that fishing area, except that the Regional Director shall not prohibit, under this section, fishing for sablefish by fishing vessels using longline gear unless he determines that the OY for sablefish will be reached.

(2) If the Regional Director determines that the catch limit specified in section 675.20(b)(2) will be reached, he shall issue a field order pursuant to section 675.22(b) prohibiting trawling in the Winter Halibut-Savings Areas until June 1.

(3) If the Regional Director determines that the catch limit specified in section 675.20(b)(3) will be reached he shall issue a field order pursuant to section 675.22(b) prohibiting longlining landward of the 500 meter isobath in the Winter Halibut-Saving Areas until June 1.

(4) Fishing for species of groundfish by vessels of the United States in the applicable fishing area contrary to any field order issued under this paragraph is prohibited from the effective date of such field order except that fishing for sablefish with longline gear is not prohibited

until the effective date of a field order prohibiting longline fishing for sablefish in that fishing area.

(c) Reserves.

(1) Apportionment Reserve Amounts. As soon as practicable after each of the following dates, the Regional Director shall apportion to Total Allowable Level of Foreign Fishing (TALFF) twenty-five (25) percent of the reserve amount, set out in Table I of this section, for each species in each fishing area: January 2, March 2, May 2, and July 2.

(2) Determination.

(i) General. Before making the apportionment described in paragraph (c)(1) of this section, the Regional Director shall determine whether or not to apportion to the TALFF's all or part of the amounts described in paragraph (c)(1). The Regional Director may withhold all or part of the 25 percent reserve amount if he determines that the amount concerned, when added to unapportioned reserve amounts, will be harvested by vessels of the United States during the remainder of the fishing year.

(ii) Factors The determination whether or not to withhold all or part of the reserve amounts described in paragraph (2) shall be based upon consideration of the following factors:

(A) Reported U.S. catch and effort by species and area compared to previously projected U.S. harvesting capacity;

(B) Projected U.S. catch and effort by species and areas for the remainder of the fishing year;

(C) Amounts of fish already purchased or processed by U.S. processors during the fishing year, compared to previously projected processing capacity of U.S. processors; and

(D) Projected processing capacity, and utilization of capacity, by U.S. processors for the remainder of the fishing year.

(iii) Public comment.

(A) Comments may be submitted to the Regional Director concerning whether or not, and the extent to which,

vessels of the United States will harvest reserve amounts during the remainder of the fishing year. (Address: NMFS, P.O. Box 1668, Juneau, Alaska 99802).

(B) Comments must be submitted no later than 15 days prior to the dates specified in paragraph (c)(1) of this section.

(C) The Regional Director shall consider any timely comments filed in accordance with this subsection, in making the determinations specified in paragraph (c)(2)(i) of this section.

(D) The Regional Director shall compile, in aggregate form, the most recent available reports on: (1) level of catch and effort by vessels of the United States fishing subject to this Part; and (2) amounts of fish processed by U.S. fish processors. This data shall be available for public inspection during business hours at the National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802, during the last 15 days of each comment period.

(iv) Procedure.

As soon as practicable after each of the dates stated in paragraph (c)(1) of this section, the Regional Director shall publish in the Federal Register: (1) the final amounts of reserves to be apportioned to the TALFF's; (2) the reasons for the determination that vessels of the United States will, or will not, harvest the amounts available for apportionment to the TALFF's; and (3) responses to any comments received.

(v) Add-on. If vessels of the United States fail to harvest any part of a 25 percent apportionment which has been withheld by the Regional Director pursuant to paragraph (c)(2) of this section, the unharvested amount shall be added to the amount of reserves available for apportionment to the TALFF's on the next apportionment date.

(d) Prohibited species.

(1) Prohibited species, for the purpose of this Part, means any species of fish caught while fishing for groundfish, the retention of which is prohibited by other applicable law, including regulations implementing any fishery management plan for that species.

(i) Any catch of halibut by fishing vessels regulated by this part is catch of a prohibited species, unless retention is authorized by the regulations of the International Pacific Halibut Commission.

(ii) Any catch of Tanner crab (*C. bairdi* or *C. opilio*) by fishing vessels regulated by this Part is catch of a prohibited species after the effective date of regulations implementing the Fishery Management Plan for Tanner crab off Alaska (see 50 CFR 671).

(2) Each vessel subject to this Part shall minimize its catch of prohibited species.

(3) Each vessel shall sort its catch as soon as possible after retrieval of the catch and, after allowing for sampling by an observer (of any), shall return any catch of prohibited species or parts thereof to the sea immediately with a minimum of injury regardless of its condition.

(4) It shall be a rebuttable presumption that any prohibited species found onboard a fishing vessel regulated by this Part was caught and retained in violation of this Part.

675.21 [Reserved].

675.22 Time and area closures.

(a) In-Season Adjustments.

(1) The Regional Director may, following consultation with the ADF&G, adjust season opening or closing dates for any species regulated by this Part, in any portion of the management areas during the fishing year by, issuance of a field order in accordance with 5 USC 553 and the procedures set out in section 674.23(b).

(2) Any such adjustment shall be based upon a determination by the Regional Director that (i) the condition of any salmon stock in any portion of a management area is substantially different from the condition anticipated at the beginning of the fishing year, and (ii) such differences reasonably support the need for in-season conservation measures to protect salmon stocks.

(3) Fishery and observer data reported in-season which relates to one or more of the following factors may be considered in making this determination:

- (i) the effect of overall fishing effort within a management area;
- (ii) catch per unit of effort and rate of harvest;
- (iii) relative abundance of stocks within the area;
- (iv) amount of halibut being caught;
- (v) condition of stocks within the area; and
- (vi) any other factors relevant to the conservation of the salmon resource.

(b) Field orders.

(1) Contents. Field Orders issued by the Regional Director under this Part shall include the following information: (i) the reason for the opening or closure; (ii) a description of the area to be opened or closed; and (iii) the effective date of such opening or closure.

(2) Public Notice. No field order issued under this section shall be effective until:

(i) it is published in the Federal Register;

(ii) it has been posted for 48 hours, and otherwise made available to the public, in accordance with procedures customarily used by the ADF&G for posting and publicizing of similar notices of closure; and

(iii) it has been broadcast for 48 hours at those time intervals, channels and frequencies customarily used by the ADF&G to broadcast similar notices of closure.

(3) Public Comment.

(i) If the Regional Director decides, for good cause, that such a closure is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the closure will be received by the Regional Director for a period of 15 days after the effective date of the field order. (Address: Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802).

(ii) During any such 15 day period, the Regional Director shall make available for public inspection, during business hours, the aggregate data upon which the field order was based. (Address: National Marine Fisheries Service, Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska 99802).

(iii) As soon as practicable after the expiration of the 15 day period, the Regional Director shall reconsider the necessity for the field order and shall either (a) publish in the Federal Register a notice of continued effectiveness of the field order, responding to comments received; or (b) modify or rescind the field order in accordance with the procedures of section 675._____.

(4) Effectiveness. A field order issued pursuant to this subsection shall remain in effect until (i) any expiration date stated in a field order or a notice published by the Regional Director pursuant to this section; or (ii) December 31, whichever is earlier.

675.23 Time and Area Limitations

(a) Closed areas.

(1) Trawling is prohibited in the Bristol Bay Pot Sanctuary, except during the open seasons of the U.S. Bering Sea crab fisheries.

(2) The Bristol Bay Pot Sanctuary consists of all waters encompassed by straight lines connecting the following points, in the order listed:

54°36'N - 164°55'42"W (Cape Sarichef Light)

55°16'N - 166°10'W

56°20'N - 163°00'W

57°10'N - 163°00'W

58°10'N - 160°00'W

Intersection of 160°00'W with the Alaska Peninsula.

(b) Open area. Except as provided in 675.23(a), the Bering Sea and Aleutian management area is open to fishing for groundfish yearround.

675.24 [Reserved].

675.25 [Reserved].

675.26 [Reserved].