

Table 9. Five-class mixing proportion estimates of age 7 herring in the 1984 Dutch Harbor food and bait fishery.

Sample date	Sample size	Mixing proportion estimates (%) and 90% confidence intervals				
		Norton Sound	Nelson Island	Togiak	Port Moller	Simeonof Island
7/20-21	56	0(0-14)	56.3(24-89)	43.7(8- 80)	0 (0-23)	0(0-1)
7/22-23	96	0(0- 8)	17.2(0-38)	77.3(46-100)	5.5(0-31)	0(0-1)
7/24-25	101	0(0- 7)	9.8(0-28)	75.3(44-100)	14.8(0-42)	0(0-1)
7/26-27	183	0(0- 4)	0 (0-11)	87.7(61-100)	12.3(0-36)	0(0-1)
7/20-27	436	0(0- 4)	9.6(0-21)	78.9(59- 99)	11.6(0-28)	0(0-1)

FEASIBILITY OF USING SCALE ANALYSIS METHODS
TO IDENTIFY BERING SEA HERRING STOCKS

by

Donald E. Rogers and Kenneth N. Schnepf

Annual Report

to

North Pacific Fisheries Management Council
Contract No. 83-ABC-00165



UNIVERSITY OF WASHINGTON
SCHOOL OF FISHERIES
FISHERIES RESEARCH INSTITUTE



REQUEST FOR EMERGENCY ACTION TO CONTROL BERING SEA HERRING BYCATCH

The Alaska Board of Fisheries in its December 18, 1989 letter to Chairman Collinsworth requested that the Council take emergency action this spring to implement bycatch controls on herring in Bering Sea trawl fisheries beginning in the summer of 1990. In this letter the Board emphasized their concern over the conservation of the Nelson Island and Nunivak Island herring resources and the important subsistence fisheries that they support.

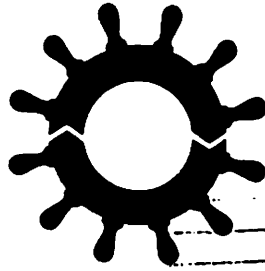
The Council received a report from the Alaska Department of Fish and Game (ADF&G) at the January 1990 meeting which elaborated the Board of Fisheries' conservation concerns. The report described the Department's estimates that the Nelson and Nunivak Island herring stocks were below the levels that could support commercial harvests under the Board of Fisheries' harvest policy and the concerns that subsistence herring harvests might be reduced. At this time ADF&G continues to estimate that the Nelson and Nunivak herring stocks are below threshold levels.

ADF&G presented data to the Council at the January and April 1990 meetings demonstrating that herring stocks that spawn along the southwestern coast of Alaska migrate clockwise around Bristol Bay after spawning. A stock identification study conducted by the University of Washington Fisheries Research Institute (FRI) under contract to the Council (Rogers and Schnepf 1985) indicated that the Nelson Island herring stock was present in the Dutch Harbor area in late July. Although 56.3% of one small sample of 56 fish from the Dutch Harbor area was estimated to be of Nelson Island origin, ADF&G advises that the results of the 1985 FRI study be interpreted with caution. While 5 of 10 samples collected at other times also indicated the presence of low (2.4%-29%) percentages of Nelson Island stocks, most of the 90% confidence on the point estimates included zero as a lower bound. This means that it is not possible to conclusively state that Nelson Island stocks were present. The Council's SSC reviewed the FRI report on completion of the FRI contract in 1985.

Although the SSC reviewed herring stock status and migration information during the January and April 1990 Council meetings they did not have the opportunity to discuss the information in the context of an emergency rule. If the Council were to take emergency action at the April 1990 meeting, the Alaska Department of Fish and Game (ADF&G) understands that NMFS would provide a scientific determination of the basis for emergency action during the emergency rule review period and that NMFS would consult with other agencies as necessary to ensure a thorough scientific review. Because the herring stock identification study conducted by FRI under contract to the Council (Rogers and Schnepf 1985) is part of the existing Council record and was reviewed by the SSC in 1985, ADF&G requests NMFS to include a further review of the FRI study during the emergency rule preparation and review period.

ADF&G records document a delay of approximately 2-3 weeks between the time of the spawning of the Togiak and Nelson-Nunivak herring stocks. Therefore it is likely that there is a definite segregation of stocks by area of origin early in the clockwise migration around Bristol Bay. The segregation of the herring stocks early in the migration increases the risk that trawl bycatches could result in overharvesting of the smaller stocks such as those of Nelson Island and Nunivak Island.

For these reasons, ADF&G believes that emergency action to control trawl herring bycatch for 1990 is justified. The time-area measures adopted by the Advisory Panel will provide some protection to herring stocks. In order to further address the herring conservation concerns, ADF&G urges that herring bycatch caps be established at rates below 2% of the Bering Sea herring biomass. A herring bycatch exploitation rate of 2% was successfully achieved by foreign and joint venture fleets in 1983-84.



U.S. MARINE CORPORATION

FEB 26

February 20, 1990

Clarence Pautzke
Executive Director, N.P.F.M.C.
P.O. Box 103136
Anchorage, AK 99510

Dear Mr. Pautzke:

I write to encourage the council to find some means within its authority to allow a cod pot fishery in the Gulf of Alaska after the fixed Gear Halibut P.S.C. is taken. I understand that presently there is a 180 day emergency order which excluded the catch of cod with pots from contributing to the halibut bycatch of fixed gear. It is our understanding that N.M.F.S. believes that pots will contribute an inconsequential amount to halibut bycatch and that it is only a technical gap in the law which ties pots and longline together under the same halibut P.S.C. in fixed gear.

Our company had purchased pots in the fall of 1989 to see if they would be a viable alternate for the catching of cod. We regret that we were unable to try them at that time because of their late delivery. It is our hope that the council will find some way to allow a pot fishery for cod this fall 1990. Our fleet which consists of four vessels was shut down last year from September-December. We believe that this fishery could be critical to our and many others survival if either the longline or trawl fisheries close this fall, as the trawl fishery did in 1989.

Thank you for your time.
Sincerely,

Matthew J. Doherty

Matthew J. Doherty
General Manager
Vice-President of Operations

Dated: February 13, 1990.
 James E. Douglas, Jr.,
 Deputy Assistant Administrator for Fisheries,
 National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 672 is amended as follows:

PART 672—[AMENDED]

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

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

2. In § 672.20, paragraphs (f)(1), (f)(3) (ii), and (f)(3)(iii) are temporarily suspended and new paragraphs (f)(4) and (f)(5), are temporarily added from February 15, 1990 through May 15, 1990 to read as follows:

§ 672.20 General limitations.

(f) . . .

(4) *Gear closures*—(i) *Trawl gear*. If during the fishing year, the Regional Director determines that the catch of halibut by operators of vessels using trawl gear and delivering their catch to foreign vessels (JVP vessels) or operators of vessels using trawl gear and delivering their catch to U.S. fish processors or processing their catch on board (DAP vessels) will reach their proportional share of the quarterly allocation of the halibut PSC limit provided for under paragraph (f)(5) of this section, the Regional Director will publish a notice in the *Federal Register* prohibiting fishing by JVP or DAP vessels, as appropriate, with trawl gear other than pelagic trawl gear for the remainder of the quarter to which the PSC allocation applies.

(ii) *Hook-and-line gear*. If during the year, the Regional Director determines that the catch of halibut by operators of vessels using hook-and-line gear and delivering their catch to foreign vessels

(JVP vessels) or operators of vessels using hook-and-line gear and delivering their catch to U.S. fish processors or processing their catch on board (DAP vessels) will reach their proportional share of the quarterly allocation of the halibut PSC limit provided for under paragraph (f)(5) of this section, the Regional Director will publish a notice in the *Federal Register* prohibiting fishing by JVP or DAP vessels, as appropriate, with hook-and-line gear for the remainder of the quarter to which the PSC allocation applies.

(5)(i) A PSC limit of 750 mt of Pacific halibut for hook-and-line gear is established.

(ii) The PSC limits established for trawl and hook-and-line gear are allocated on a quarterly basis in the following manner, subject to modification under paragraphs (f)(5) (iii) and (iv) of this section:

	Trawl gear		Fixed gear	
	Percent	(PSC allocation)	Percent	(PSC allocation)
January 1—March 31	30	(600 mt)	20	(150 mt)
April 1—June 30	30	(600 mt)	60	(450 mt)
July 1—remainder of 1990	40	(900 mt)	20	(150 mt)
Total	100	(2,000 mt)	100	(750 mt)

(iii) Unused PSC allocated to JVP trawl, DAP trawl, JVP hook-and-line or DAP hook-and-line will be added to its respective PSC allocation for the next quarter.

(iv) If a quarterly allocation for JVP trawl, DAP trawl, JVP hook-and-line or

DAP hook-and-line is exceeded, the amount by which the quarterly allocation is exceeded will be deducted from its respective allocation for the next quarter.

(v) The quarterly allocations of Pacific halibut PSC limits established for trawl

gear and for hook-and-line gear are allocated to DAP and JVP in proportion to the specified DAP and JVP amounts of groundfish apportionments.

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 BILLING CODE 3510-22-M

	Trawl gear	Percent (PSC allocation)	Fixed gear	Percent (PSC allocation)
Total.....	100	(2,000 mt)	100	(750 mt)

The above allocation scheme is based on industry recommendations made to the Council at its December 1989 meeting. When a quarterly allocation of halibut PSC is reached by either trawl or fixed gear, the Gulf of Alaska will be closed to further fishing with bottom trawl or hook-and-line gear until the beginning of the following quarter. Unused PSC from any quarter will be added to the next quarter's PSC allocation. Observer data will be used to monitor bycatch amounts unless such data is considered inadequate. Lacking sufficient observer information, the assumed bycatch and mortality rates discussed above will be used to estimate Pacific halibut bycatch mortality.

The Pacific cod pot fisheries are exempt from any fishery closures that occur as a result of hook-and-line fisheries attaining a quarterly allocation of the halibut PSC limit established for fixed gear. Fishermen using pot gear in the Gulf of Alaska claim that incidental catches of halibut in pots reduce the fishing efficiency of their gear. As a result, fishermen have modified their pots with "halibut exclusion" devices that prevent the entry of most halibut. In 1990, the total halibut bycatch mortality in the Pacific cod pot fishery is expected to be less than 0.1 mt, based on assumed halibut bycatch and mortality rates and the small amount of Pacific cod that is anticipated to be taken by this fishery.

The Secretary expects that the action taken under this emergency rule will constrain the bycatch of Pacific halibut to reasonable levels during the first half of 1990. Sufficient portions of the halibut PSC limits established for 1990 will then be left over to provide for subsequent groundfish fisheries later in the year. Providing for a year-round groundfish fishery during 1990 will allow a greater opportunity to harvest the optimum yield established for the Gulf of Alaska groundfish resource and will extend the time during which observer information may be collected from groundfish operations. Observer information collected during 1990 will provide the basis for management of the groundfish fisheries in 1990 and beyond. The collection of observer data throughout an entire year is imperative to obtain seasonal information needed to manage specific concerns within the fishery.

This action will maintain halibut bycatch mortality at reasonable levels

each quarter if observer information indicates that bycatch rates are higher than anticipated. In 1989, the Gulf of Alaska was closed to bottom trawl gear on September 2, when the estimated bycatch mortality of halibut in all groundfish operations reached 2,000 mt. During 1990, data collected by observers on actual bycatch and mortality rates are expected to lead to premature closures of the Gulf of Alaska, given the lack of incentives to reduce halibut bycatch rates, together with increasing incentives to harvest as much groundfish in as short a period of time as possible.

The closure of the Gulf of Alaska to bottom trawl fisheries on September 2, 1989, notwithstanding the subsequent closure modification for the deep water flatfish fishery, resulted in a loss of opportunity to harvest nearly 56,000 mt of groundfish. This amount of groundfish might have had an exvessel value of \$32.1 million at an average value of \$0.26 per pound if it had all been harvested. Losses of this nature will be mitigated under this emergency rule to the extent that this action provides for greater opportunity to harvest the groundfish optimum yield. The potential for a premature closure of the hook-and-line fishery for sablefish in 1990 due to excessive halibut bycatch in the increasingly lucrative hook-and-line fishery for Pacific cod is of special concern to fishermen and processors involved in the directed sablefish fishery. Last year this fishery harvested 20,500 mt of sablefish. At \$0.87 per pound, this harvest had an estimated exvessel value of \$39.3 million. Representatives for the directed sablefish industry supported the quarterly allocation of halibut PSC under this emergency rule as a management action that will provide a reasonable opportunity to harvest the total allowable catch for sablefish.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable law.

The Assistant Administrator also finds that reasons justifying promulgation of this rule on an emergency basis make it impracticable

and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days its effective date under section 553 (b) and (d) of the Administrative Procedure Act.

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

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget with an explanation of why following the usual procedures of that order is not possible.

The Alaska Region, NMFS prepared an environmental assessment for this rule and the Assistant Administrator concluded that no significant impact on the human environment will occur. A copy of the EA is available from the Regional Director at the above address.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

The Regulatory Flexibility Act does not apply to this rule because, as an emergency rule, it is not required to be promulgated as a proposed rule and the rule is issued without opportunity for prior public comment. Because notice and opportunity for comment are not required to be given under section 553 of the Administrative Procedure Act, and because no other law requires that notice and opportunity for comment be given for this rule, no initial or final regulatory flexibility analysis has been or will be prepared under sections 603(a) and 604(a) of the Regulatory Flexibility Act.

List of Subjects in 50 CFR Part 672
Fisheries.

Further groundfish fishing in the Gulf of Alaska for the remainder of the year. Furthermore, some of the management measures from Amendment 18 may increase the probability of early closures of the groundfish fisheries. The bycatch management actions implemented under Amendment 18 include: (1) A mandatory domestic observer program that will generate more accurate estimates of halibut bycatch; (2) separate halibut PSC limits for trawl and fixed gear that will hold each gear type individually accountable for its halibut bycatch mortality; (3) the establishment of 1990 PSC limits in the FMP that cannot be exceeded; and (4) the curtailing of the flexibility of inseason management of groundfish during 1990 compared to 1989, because PSC limits are separated now into two gear type categories, rather than being one PSC limit for all gear types.

Prior to Amendment 18, fixed gear was exempted from restrictions associated with halibut PSC limits. This gear category includes both hook-and-line and pot gear. During 1990, the total Pacific halibut mortality associated with fixed gear operations in the Gulf of Alaska may not exceed 750 mt. When halibut mortality reaches this limit, the Gulf of Alaska will be closed to further groundfish fishing with fixed gear.

The total halibut PSC mortality limit established for trawl gear during 1990 is 2,000 mt. This PSC limit was also established for the 1989 groundfish fishery and was reached September 2, 1989, resulting in the Gulf of Alaska being closed to further bottom trawl fishing (54 FR 37110, September 7, 1989). The Gulf of Alaska was later reopened to the deep water flatfish fishery provided that vessels fishing in this fishery carried observers, maintained

acceptably low bycatch rates, and did not exceed an additional total halibut mortality of 36 mt (54 FR 47212, November 13, 1989). Amendment 18 to the FMP suspended the management authority to make similar inseason adjustments of established PSC amounts under § 672.20(f)(2)(iv) during 1990.

During 1990, the Secretary intends to use observer data to extrapolate total bycatches of halibut by trawl and fixed gear. Should observer data prove inadequate for this purpose, the Secretary will project halibut bycatch and mortality rates set forth in the final notice of 1990 initial specifications of Gulf of Alaska groundfish (55 FR 3223, January 31, 1990). The assumed values are summarized in the following tabulation:

ASSUMED HALIBUT BYCATCH RATES, AS PERCENT OF TOTAL CATCH, AND MORTALITY RATES, BY DAP GEAR TYPE IN THE GULF OF ALASKA FOR PURPOSES OF MANAGING HALIBUT BYCATCHES IN 1990

	Bottom trawl	Mid-water trawl	Hook-and-line	Pot
I. Bycatch Rates (mt halibut/total mt groundfish)				
Target species:				
Groundfish.....	2.7%	0.01%	8.0%	0.4%
Sablefish.....			10.0%	12%
Pacific cod.....			13%	
II. Mortality Rates (number dead halibut/total halibut caught)	50%	50%		

During the December 1989 Council meeting, representatives for fishermen using fixed and trawl gear expressed concern that the halibut PSC limits established for fixed and trawl gear would be taken prematurely in the 1990 fishing year, causing an early closure of the Gulf of Alaska to either or both gear types. They petitioned the Council to allocate the 1990 halibut PSC limits on a quarterly basis to provide sufficient amounts of PSC to fall and winter fisheries and avoid the premature closure of the Gulf of Alaska to groundfish fishing during the last half of the fishing year.

If action is not taken, groundfish fisheries operating during the first half of 1990 will probably reach the allowable PSC amounts, preventing fall and winter fisheries. The continuing expansion of the groundfish fishery, and an incentive for each participant in the

fishery to harvest as much groundfish as is individually possible before PSC limits or groundfish quotas are reached, will further contribute to higher than normal bycatch rates and premature attainment of PSC limits. At its December 1989 meeting, the Council recommended that the Secretary implement an emergency rule that would allocate the halibut PSCs established for trawl and fixed gear on a quarterly basis and in amounts that would accommodate the needs of specific fisheries throughout the year.

Section 305(e)(2)(B) of the Magnuson Act provides authority to the Secretary to promulgate temporary emergency regulations to resolve emergency problems in any fishery. Under this section, the Secretary may implement an emergency rule in response to recommendations made by the Council.

For the reasons stated above, the Secretary concurs with the Council's recommendation that the premature attainment of halibut PSC limits will create an emergency in the Gulf of Alaska groundfish fisheries. Because the existing management regime encourages a disregard for halibut bycatch rates in favor of maximizing groundfish harvests, he further concurs that halibut bycatch should be restricted by quarterly allocations of established PSC limits to spread the PSC limits over the year to the greatest extent possible.

Description of Emergency Interim Measure

The Pacific halibut PSC limits established for trawl and fixed gear in the Gulf of Alaska will be allocated on a quarterly basis in the manner shown below:

	Trawl gear	Percent (PSC allocation)	Fixed gear	Percent (PSC allocation)
January 1-March 31.....	30	(600 mt)	20	(150 mt)
April 1-June 30.....	30	(600 mt)	30	(450 mt)
July 1-remainder of 1990.....	40	(800 mt)	20	(150 mt)

- ...aginar Rivers." prepared for the Alkyl Phenols and Ethoxylates (APE) Program Panel. (February 1989).
- (3) CMA. Letter with attached nonylphenol report on CAS numbers and structures, from Henry J. Sauer (APE Program Panel Manager) to Yvette Hellyer (Test Rules Development Branch), EPA. (May 11, 1988).
- (4) CMA. July 5, 1988, cover letter from Schenectady Chemicals, Inc., from Henry J. Sauer (APE Program Panel Manager) to Henry P. Lau (Chemical Inventory Section), EPA. (July 13, 1988).
- (5) EPA. Letter with attached draft testing Consent Order from Yvette P. Hellyer (Test Rules Development Branch) to Henry J. Sauer, CMA. (February 3, 1989).
- (6) Monsanto Industrial Chemicals Company. Static Acute Bioassay Report #26822. Analytical Bio Chemistry Laboratories. (February 3, 1981).
- (7) Calvert, C., and Adams, W. J. "Acute toxicity of nonylphenol* to *Daphnia magna*." Monsanto Industrial Chemicals Company. Report No. ES-81-SS-19. (June 8, 1981).
- (8) Yunick, R. Technical Data Report for para-nonylphenol, CAS No. 64852-15-3, presented at EPA Headquarters, Washington, DC. (June 14, 1988).

Confidential Business Information (CBI). while part of the record, is not available for public review. A public version of the record, from which CBI

has been deleted, is available for inspection in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

VIII. Other Regulatory Requirements
Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB Control number 2070-0033.

Public reporting burden for this collection of information is estimated to average 900 hours per response. The estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Chief, Information Policy Branch, PM-223, US Environmental Protection Agency, 401 M St., SW., Washington, DC

20460; and the Office of Management and Budget, Paperwork Reduction Project (2070-0033), Washington, DC 20503.

List of Subjects in 40 CFR Part 799

Chemicals, Chemical export, Chemical fate, Environmental effects, Environmental protection, Hazardous substances, Laboratories, Recordkeeping and reporting requirements, Testing.

Dated: February 3, 1990.

Linda J. Fisher,
Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 799 is amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding 4-NP to the table in CAS Number order, to read as follows:

§ 799.5000 Testing consent orders.

CAS No.	Substance or mixture name	Testing	FR citation
52-15-3*	4-Nonylphenol, branched	Environmental effects Chemical fate	2/21/1990 2/21/1990

[FR Doc. 90-2965 Filed 2-20-90; 8:45 am]
BILLING CODE 6560-50-D

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

50 CFR Part 672
(Docket No. 900239-0039)

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.
ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce (Secretary) has determined that an emergency exists in the Gulf of Alaska groundfish fisheries. Without this rulemaking, operators of domestic fishing vessels would reach 1990 prohibited species catch (PSC) mortality limits established for Pacific halibut early in the season, resulting in the premature closure of either or both trawl and fixed gear fisheries, with a loss of opportunity to harvest the groundfish

optimum yield. The Secretary is allocating the halibut PSC limits established for trawl and fixed gear on a quarterly basis as recommended by the North Pacific Fishery Management Council (Council). This action is necessary to spread the PSC limits over the year and minimize economic hardship that would result from premature fishery closures.

The intended effect of this action is to promote the fishery management objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

EFFECTIVE DATES: February 15, 1990 through May 15, 1990.

ADDRESSES: Copies of the environmental assessment may be obtained from Steven Peanoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the Gulf of Alaska are managed by the Secretary according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the Council under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP is implemented by regulations for the foreign fisheries at 50 CFR 611.92 and for the U.S. fisheries at 50 CFR part 672. General regulations that also pertain to the U.S. fisheries are codified at 50 CFR part 620.

Amendment 18 to the FMP (54 FR 50386, December 8, 1989) established separate 1990 Pacific halibut PSC mortality limits for trawl gear and fixed gear in the Gulf of Alaska that are equal to 2,000 mt and 750 mt, respectively. Unless constraints on halibut bycatch are implemented early in the fishing year, the 1990 halibut mortality limits will be reached prematurely, preventing

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12612.

The Regulatory Flexibility Act does not apply to this rule because, as an emergency rule, it is not required to be promulgated as a proposed rule and the rule is issued without opportunity for prior public comment. Because notice and opportunity for comment are not required to be given under section 553 of the Administrative Procedure Act, and because no other law requires that notice and opportunity for comment be given for this rule, no initial or final regulatory flexibility analysis has been or will be prepared under sections 603(a) and 604(a) of the Regulatory Flexibility Act.

List of Subjects

50 CFR Part 611

Fisheries, Foreign fishing.

50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: February 16, 1990.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 611, 672 and 675 are amended as follows:

PART 611—[AMENDED]

1. The authority citation for part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. In § 611.92, paragraph (c) is amended by adding paragraph (c)(3) from February 16, 1990 through May 16, 1990 to read as follows:

§ 611.92 Gulf of Alaska Groundfish Fishery.

(c)

(3) *Allowable retention of pollock roe.* See 50 CFR 672.20(i) for procedures used to determine the allowable amount of pollock roe that may be retained onboard a foreign processor vessel at any time during a fishing trip.

3. In § 611.93, paragraph (c) is amended by adding paragraph (c)(6) from February 16, 1990 through May 16, 1990 to read as follows:

§ 611.93 Bering Sea and Aleutian Islands groundfish fishery.

(c)

(6) *Allowable retention of pollock roe.* See 50 CFR 675.20(j) for procedures used to determine the allowable amount of pollock roe that may be retained onboard a foreign processor vessel at any time during a fishing trip.

PART 672—GROUND FISH OF THE GULF OF ALASKA

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

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

5. In § 672.20, a new paragraph (i) is added from February 16, 1990 through May 16, 1990 to read as follows:

§ 672.20 General limitations.

(i) *Allowable retention of pollock roe.* Pollock roe may comprise no more than seven percent of the total round weight equivalent of pollock and other pollock products retained onboard a vessel at any time during a fishing trip.

(1) *Assumed product recovery rates used to extrapolate round weight equivalents.* The following product recovery rates will be used to calculate round weight equivalents:

- (i) Pollock surimi—22 percent;
- (ii) Pollock fillets—25 percent;
- (iii) Pollock minced product—25 percent;
- (iv) Pollock meal—17 percent;
- (v) Pollock headed and gutted—55 percent; and
- (vi) Pollock roe—7 percent

(2) *Other product recovery rates.* Round weight equivalents for products not listed under paragraph 672.20(i)(1) will be based on the best available information, including recovery rates reported by observers or vessel operators.

(3) *Fishing trip.* For purposes of this paragraph (i), a vessel is engaged in a single fishing trip when commencing or continuing fishing during the period of time from February 16, 1990 until any transfer or offload of any pollock or

pollock product or until the vessel leaves the regulatory area where fishing activity commenced, whichever comes first.

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

6. The authority citation for part 675 continues to read as follows:

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

7. In Section 675.20, a new paragraph (j) is added from February 16, 1990 through May 16, 1990 to read as follows:

§ 675.20 General limitations.

(j) *Allowable retention of pollock roe.* Pollock roe may comprise no more than seven percent of the total round weight equivalent of other pollock and pollock products retained onboard a vessel at any time during a fishing trip.

(1) *Product recovery rates used to extrapolate round weight equivalents.* The following product recovery rates will be used to calculate round weight equivalents:

- (i) Pollock surimi—22 percent;
- (ii) Pollock fillets—25 percent;
- (iii) Pollock minced product—25 percent;
- (iv) Pollock meal—17 percent;
- (v) Pollock headed and gutted—55 percent; and
- (vi) Pollock roe—7 percent

(2) *Other product recovery rates.* Round weight equivalents for products not listed under paragraph 675.20(j)(1) will be based on the best available information, including recovery rates reported by observers or vessel operators.

(3) *Fishing trip.* For purposes of paragraph (j), a vessel is engaged in a single fishing trip when commencing or continuing fishing during the period of time from February 16, 1990 until any transfer or offload of any pollock or pollock product or until the vessel leaves the subarea where fishing activity commenced, whichever comes first.

[FR Doc. 90-4080 Filed 2-16-90; 3:37 pm]

BILLING CODE 3510-22-01

These values may differ from average annual recovery rates for the same products due to seasonal variation in flesh quality. If pollock are processed into products other than those listed above, extrapolated round weight equivalents will be based on the best available information, including observer or vessel operator reported product recovery rates.

Additional data on product recovery rates will be collected by domestic observers during 1990. This information will contribute towards a more long-term solution to issues surrounding the pollock roe fishery under amendments to the groundfish FMPs that are being developed by the Council.

Examples of the procedure that will be used to derive allowable pollock roe retention during the 1990 roe fishery follow:

Allowable roe in a fillet or minced production operation—If the total pollock fillet and/or minced product onboard a vessel is 200 metric tons (mt), the allowable roe retention is calculated as follows: $(200 \text{ mt product weight}) / (.25 \text{ product recovery rate}) = 800 \text{ mt extrapolated round weight}$. The allowable roe retention is $(800 \text{ mt round weight}) \times (.07 \text{ roe recovery rate}) = 56 \text{ mt roe product}$.

Allowable roe in a headed and gutted (H&G) operation—If the total pollock H&G product on board a vessel is 200 mt, the allowable roe retention is calculated as follows: $(200 \text{ mt product weight}) / (.55 \text{ product recovery rate}) = 363.6 \text{ mt extrapolated round weight}$. The allowable roe retention is $(363.6 \text{ mt round weight}) \times (.07 \text{ roe recovery rate}) = 25.5 \text{ mt roe product}$.

Allowable roe in a surimi and meat operation—If large pollock are processed into a surimi product (total surimi product onboard equals 250 mt) and additional pollock are processed into meal (total pollock meal on board, excluding that produced from by-products of surimi production, equals 50 mt), the allowable roe retention is calculated as follows: $[(250 \text{ mt surimi product weight}) / (.22 \text{ surimi recovery rate})] + [(50 \text{ mt pollock meal}) / (.17 \text{ meal recovery rate})] = 1,430 \text{ mt extrapolated round weight}$. Allowable roe retention is $(1,430 \text{ mt round weight}) \times (.07 \text{ roe recovery rate}) = 100.1 \text{ mt roe product}$.

The mandatory logbook program implemented under Amendment 13/18 to the groundfish FMPs (54 FR 50386, December 6, 1989) requires that species product types and product weights be recorded on a daily basis and that primary and additional products from the same fish be identified. Enforcement of this roe-stripping limitation will rely on pollock product information recorded

in the required daily cumulative production logbooks, weekly production reports that provide cumulative weekly production information from the logbooks, product transfer logs, and on-site inspection of product inventory.

The Secretary expects that the action taken under this emergency rule will (1) discourage targeting on the female component of spawning pollock stocks and make roe stripping operations less attractive; (2) reduce the rate at which allowable pollock quotas are harvested in the roe season and provide a more equitable distribution of the pollock resource to all sectors of the groundfish industry; (3) curb the burgeoning development of the pollock roe fishery and mitigate the potential adverse impact of this fishery on pollock populations and on marine resources that depend on pollock for food; and (4) provide fuller utilization of the pollock resource and reduce wastage of useable fish protein.

This action will reduce the pace and curb development of the roe fishery because it may eliminate some operations from the fishery and reduce the processing capacity of others. Reducing the pace of the fishery will allow for better monitoring of fishing effort and reduce the possibility of overharvesting TAC amounts. This action alone, however, will not guarantee the opportunity for directed pollock fisheries after the roe season, particularly in the Gulf of Alaska. In the Gulf, the pollock TAC is small and the harvesting and processing capacity of operations that can process products other than just roe is sufficient to harvest the entire pollock TAC within the roe season. NMFS survey information indicates that approximately nine on-shore processors in the Kodiak area expect to undertake pollock surimi and fillet operations during the last half of 1990. If pollock is not available to these summer and fall operations due to accelerated harvests during the roe season, they will encounter severe economic hardship. In response to this and other conservation concerns, the Secretary has implemented a seasonal apportionment of the pollock TAC in the Gulf of Alaska (55 FR 3223, January 31, 1990) that further limits the allowable harvest of pollock during the 1990 roe fishery.

The situation is different in the Bering Sea and Aleutian Islands Area because domestic harvesting and processing capacity is not sufficient to take the combined TAC in that area by the end of the roe fishery. Therefore, for 1990, the restriction on pollock roe-stripping operations will tend to reduce the Bering

Sea/Aleutians area pollock catch during the roe fishery.

Vessels not equipped to process pollock beyond roe extraction (head and gut processors) will be negatively impacted by this action and could be eliminated from the pollock fishery if they are unwilling to process male and female pollock carcasses into headed and gutted product. During 1989, about 25 vessels fell into this category. Roe production might subsidize the production of headed and gutted product, enabling these vessels to remain in the fishery, albeit at a lower level of profit.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary to respond to an emergency situation and that it is consistent with the Magnuson Act and other applicable law. The rule is implemented for 90 days under section 305(e) of the Magnuson Act and may be extended for an additional 90 days with the agreement of the Council.

The Assistant Administrator also finds that reasons justifying promulgation of this rule on an emergency basis also make it impracticable and contrary to the public interest to provide notice and opportunity for prior comment or to delay for 30 days its effective date under section 553 (b) and (d) of the Administrative Procedure Act.

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

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow the usual procedures of that order.

The Regional Director prepared an EA for this rule and the Assistant Administrator concluded that no significant impact on the human environment will occur. A copy of the EA is available from the Regional Director at the above address.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act.

relationships indicate the existing number of spawning fish is probably greater than that required for the production of maximum recruits at this time. Therefore, the current roe fishery in the Bering Sea and Aleutian Islands would not likely have a negative impact on expected future recruit abundance. However, the continuing moderate decline in abundance of Bering Sea pollock, together with an increasing effort on spawning concentrations during the roe fishery, will, at some point, adversely affect future productivity of Bering Sea pollock stocks.

Another impact of increasing fishing effort on spawning concentrations of pollock is the localized depletion of discrete stocks. Although insufficient information exists to define localized stock boundaries, a concern exists that localized depletion of a pollock stock, even if short-lived, could adversely affect those species that feed on pollock, especially if such species are dependent on pollock as a food source. Marine mammals feed on pollock and distressed populations of northern sea lions and fur seals could be placed at additional risk if local prey availability were suddenly reduced.

The Council is developing amendments to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and to the Fishery Management Plan for Groundfish of the Gulf of Alaska (groundfish FMPs) that address the issue of roe-stripping. The Council, at its April 1990 meeting, will consider whether these amendments should be submitted to the Secretary for review. Pending Secretarial approval, the amendments would not go into effect until the 1991 roe season. At its December 1989 meeting, therefore, the Council recommended that the Secretary implement an emergency rule that would prohibit the extraction of roe from pollock during 1990, unless male and female carcasses are further processed into commercial products.

The Council recommended this action for several reasons. First roe-stripping is wasteful of commercially useful fish protein. The discard of female carcasses and male pollock without further processing results in lower recovery rates. Secondly roe stripping allows for rapid processing of pollock catches, which accelerates the harvest of the total allowable pollock catch, thereby compressing the pollock fishery in time and preempting other pollock fisheries later in the year. During 1989, this preemption caused socioeconomic hardship for on-shore processing

operations that had anticipated the opportunity to harvest and process Gulf of Alaska pollock during the last half of the year. Finally, the Council is concerned that targeting on spawning concentrations of pollock may adversely affect the future abundance of declining stocks of pollock and predators of pollock, such as northern sea lions. Although the Council's Scientific and Statistical Committee advised the Council of the lack of evidence at this time to indicate that current roe-stripping operations have a negative impact on pollock stocks, the Council recommended a conservative management approach for the pollock roe fishery until more information is available on the effects of this fishery on pollock populations and on northern sea lions and other marine mammals and birds that depend on pollock for food.

The Council was unable to establish criteria to define "wasteful processing" operations; however, it took the position that the average discard waste associated with roe stripping operations is unacceptable. The Council is considering an amendment to the FMPs that will establish Council policy on "waste" in groundfish processing operations and appropriate utilization of the groundfish resource. The Council views its recommendation to the Secretary to ban roe stripping during the 1990 roe fishery as an initial step towards expressing its intent on future policy development on proper utilization of fishery resources.

Section 305(e)(2)(B) of the Magnuson Act provides authority to the Secretary to promulgate temporary emergency regulations to resolve emergency problems in any fishery. Under this section, the Secretary may implement an emergency rule in response to recommendations made by the Council.

For the reasons stated above, the Secretary concurs with the Council's recommendation that pollock roe stripping creates an emergency in the Alaskan groundfish fisheries and should be constrained during the 1990 pollock roe season. Although the Council had explicitly expressed its desire to prohibit roe stripping in at-sea and on-shore processing operations, the Secretary's legal counsel has advised that the Magnuson Act does not provide the authority to directly regulate processing by on-shore processing facilities. Nonetheless, the Secretary encourages on-shore operations to avoid the practice of roe stripping in furtherance of Council objectives. The Secretary and the Council will consider the extent to which on-shore operations comply with the Council's intent during

the development of future amendments that address roe-stripping and the impact of this practice on other groundfish fisheries, including on-shore operations. The Alaska State legislature is currently considering a ban on roe stripping with State waters in support of the Council's December recommendation to the Secretary.

This emergency rule and any subsequent regulatory action by the Secretary do not prejudice the Council's amendments being developed to address the issue of roe stripping. The Secretary may approve, disapprove, or partially disapprove that amendment as provided under the Magnuson Act.

Description of Emergency Interim Measure

The weight of the amount of pollock roe retained by an at-sea processor may not exceed seven percent of the round weight equivalent of pollock and other pollock product retained on board the processor vessel at any time during a fishing trip. This value is slightly higher than the overall average pollock roe recovery rate of 6.7 percent (total weight of roe divided by total weight of pollock landed) derived by NMFS from 1983-1985 foreign observer data. The pollock roe fishery does, however, experience a wide variance in roe recovery rates (rates may range from 3 to 17 percent depending on male to female catch ratio, size and maturity of fish, area, time of year, hydration of roe sac, size of catch etc.).

A seven percent pollock roe recovery rate assumes that the pollock sex ratio is about equal, thus discouraging targeting on only the female component of the spawning stock. This rate will, however, allow for the discard of small pollock unsuitable for processing into products other than meal.

The product recovery rates that will be used to extrapolate round weight equivalents from product weights are as follows:

Pollock product type	Pollock product recovery rate (percent)
Fillet (no skin or ribs)	25
Minced	25
Surimi	22
Meal	17
Headed and gutted	55
Roe	7

The above rates are based on product recovery rates reported by observers on board foreign processor vessels during the 1983-1985 pollock roe seasons.

Federal Communications Commission.

Karl A. Kensinger,

Chief, Allocations Branch, Policy and Rules
Division, Mass Media Bureau.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration

50 CFR Parts 611, 672 and 675

[Docket No. 900244-0044]

Foreign Fishing; Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands

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

ACTION: Emergency interim rule.

SUMMARY: The Secretary of Commerce (Secretary) has determined that an emergency exists in the groundfish fisheries off Alaska. This emergency results from the burgeoning practice of stripping roe from female pollock and discarding female and male pollock carcasses without further processing. Pollock roe stripping is a wasteful practice that allows for an accelerated harvest of pollock and an inequitable distribution of pollock total allowable catch (TAC) in favor of the roe fishery. The continued expansion of pollock roe-stripping operations and the accompanying increase in the amount of pollock harvested during the spawning season will, at some point that cannot now be specified, adversely impact declining pollock stocks. The Secretary, therefore, is limiting the practice of roe-stripping as recommended by the North Pacific Fishery Management Council (Council). This action is necessary to curb the harvesting and processing capacity in the pollock roe fishery, reduce wastage of the pollock resource, and provide for a more equitable distribution of the pollock resource to all sectors of the groundfish industry.

The intended effect of this action is to promote the fishery management objectives of the fishery management plans for the Groundfish Fishery of the Gulf of Alaska and the Groundfish Fishery of the Bering Sea and Aleutian Islands Area.

DATES: Effective February 16, 1990 through May 16, 1990. Comments are invited on the environmental assessment until March 19, 1990.

ADDRESSES: Copies of the environmental assessment may be obtained from Steven Pennoyer, Regional Director, National Marine

Fisheries Service, P.O. Box 21665,
Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT:
Susan J. Salvesson (Fishery Management
Biologist NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the Gulf of Alaska and Bering Sea and Aleutian Islands areas are managed by the Secretary according to fishery management plans (FMPs) prepared by the Council under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations for the foreign fisheries at 50 CFR 611.92 and 611.93 and for the U.S. fisheries at 50 CFR parts 672 and 675. General regulations that also pertain to the U.S. fisheries are codified at 50 CFR part 620.

Currently, types of processing that occur in the Alaskan groundfish fisheries are not restricted. During winter and early spring (January-April), portions of the trawl fleet target on pre-spawning aggregations of pollock. Female pollock taken during this period contain eggs or roe, which is a valuable product in Asian markets. Although some groundfish processors do not utilize the roe, most do. Some processors extract the roe from the females, and further process the female carcasses (and the males) into products such as fillets, surimi, or fish meal. Other processors extract only roe, discarding the female carcasses and males. This practice is called roe-stripping. Extraction of only the roe results in a lower physical yield (recovery rate) than other processing techniques such as fillet or surimi production. Roe-stripping, however, is economically attractive because the roe product is relatively more valuable than other pollock products, and some processors can process more tons of pollock per day by foregoing further processing.

Factory trawlers that are equipped to produce headed and gutted products, but not fillets, surimi, or meal, comprise the bulk of the operations that extract only roe during the entire roe fishery. Some fillet, surimi, or meal operations may only practice roe-stripping for short periods of time when harvesting capacity exceeds processing capacity. This may occur due to either intense fisheries at the height of the spawning season or to processing equipment failure. Other operations that are capable of producing other products may choose to roe strip because it is more profitable for them to do so given the current management regime.

The expansion of the domestic harvesting and processing capacity for pollock has created intense competition for a limited resource between domestic at-sea processors and the shoreside processing industry. This is particularly true in the Gulf of Alaska, where the pollock TAC has declined from 285,000 mt in 1985 to the current TAC of about 70,000 mt. In 1988, at-sea processing operations harvested a total 8,000 mt of pollock or 14.4 percent of the 55,724 mt domestic harvest. During 1989, however, pollock harvest by at-sea processors increased to 32,000 mt during the January-April roe fishery alone, or approximately 53 percent of the initial Gulf of Alaska pollock TAC.

Unless action is taken, the rapid expansion of the pollock roe fishery in the Gulf of Alaska is expected to continue, along with an increase in the proportion of the pollock TAC that is taken during the spawning season and used solely to produce roe. During the remainder of the year, decreasing amounts of pollock will be available to directed pollock fisheries and for bycatch in other groundfish fisheries, leading to economic and social upheaval within that portion of the groundfish industry that depends on fuller access to the pollock resource. The same may be true for the Bering Sea/Aleutian Islands area in 1990.

An increasing fishing effort on spawning pollock concentrations will, at some point that cannot now be specified, adversely affect the future productivity and sustainable yield of the pollock resource. An effect of roe harvests might be the alteration of the reproductive capacity of the fished stock. The harvest of fish for roe removes a portion of the reproductive potential. The effect of fishery removals on future recruitment depends on the relationship between spawning populations and subsequent recruitment to the fishable population; unfortunately, this relationship is not clearly evident in pollock populations. Without a well-defined pollock stock-recruitment relationship and an understanding of all the factors affecting recruitment, definite conclusions regarding the impacts of targeting on spawning pollock cannot be made. However, present estimated relationships for Gulf of Alaska pollock do indicate that the existing number of spawners may be less than that required to maximize recruits and that targeting on females during the roe fishery could have a negative impact on the abundance of expected future recruits. The situation for Bering Sea pollock may be different, in that estimated stock-recruit

paragraph (a)(8) of this section until any offload or transfer of any fish or fish product from that vessel or until the vessel leaves the subarea where fishing activities commenced, whichever occurs first.

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making any determination concerning directed fishing, the amount or percentage of any species, species group or any fish or fish products will be calculated in round weight equivalents.

(2) *Trip.* For purposes of this paragraph, a vessel is engaged in a single fishing trip:

(i) From the commencement of or the continuation of fishing for any groundfish other than sablefish, after the effective date of a notice under paragraph (c)(2) of this section prohibiting directed fishing, until any offload or transfer of any fish or fish product from that vessel or until the vessel leaves the regulatory area where fishing activities commenced, whichever occurs first.

(ii) From the commencement of or continuation of fishing for sablefish after the effective date of a notice under paragraph (c)(2) of this section prohibiting directed fishing until any offload or transfer of any fish or fish product from that vessel or until the vessel leaves the regulatory area or district where fishing activities commenced, whichever occurs first.

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

7. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1902 *et seq.*

8. In § 675.2, the definition of directed fishing is revised to read as follows:

§ 675.2 Definitions.

Directed fishing means any fishing activity which constitutes directed fishing under the standards specified in § 675.20(h) of this Part.

9. In § 675.20, paragraph (x)(3) is revised, and new paragraphs (h) and (i) are added to read as follows:

§ 675.20 General limitations.

(a) . . .

(8) If the Regional Director determines that the amount of a target species or "other species" category apportioned to a fishery is likely to be reached, the Regional Director may establish a directed fishing allowance for that species or species group. The amount of a species or species group apportioned to a fishery is the amount under Table 1, as revised by inseason adjustments, for that species or species group, as identified by subarea and as further identified according to any allocation

for TALEF, the apportionment for JVP, the apportionment for DAP and, if applicable, as further identified by gear type. In establishing a directed fishing allowance, the Regional Director shall consider the amount of that species or species group which will be taken as incidental catch in directed fishing for other species in the same subarea. If the Regional Director establishes a directed fishing allowance and that allowance is or will be reached, he will prohibit directed fishing for that species or species group in the specified subarea. No person may engage in directed fishing in violation of an applicable notice. If directed fishing is prohibited, the amount of any catch of that species or species group equal to or greater than the amount which constitutes directed fishing may not be retained and must be treated as a prohibited species under paragraph (c) of this section.

(h) *Standards for directed fishing.*—

(1) *Using trawl gear for pollock, yellowfin sole, rock sole, "other flatfish", or Pacific cod.* The operator of a vessel is engaged in directed fishing for pollock, yellowfin sole, rock sole, "other flatfish", or Pacific cod if he retains at any particular time during a trip an amount of any one of these species caught using trawl gear that is equal to or greater than 20 percent of the aggregate catch of the other fish or fish products retained at the same time on the vessel during the same trip.

(2) *Using trawl gear for sablefish, Greenland turbot, and rockfish of the genera *Sebastes* and *Sebastolobus*.* The operator of a vessel is engaged in directed fishing for sablefish, Greenland turbot, or rockfish if he retains at any particular time during a trip an amount of any one of these species caught using trawl gear equal to or greater than the following:

(i) For sablefish, 10 percent of the amount of all Greenland turbot and rockfish retained at the same time on the vessel during the same trip; plus 1 percent of the total amount of other fish species retained at the same time by the vessel during the same trip.

(ii) For Greenland turbot, 10 percent of the total amount of all sablefish and rockfish retained at the same time on the vessel during the same trip; plus 1 percent of the total amount of other fish species retained at the same time by the vessel during the same trip.

(iii) For rockfish, 10 percent of the total amount of all sablefish and Greenland turbot retained at the same time on the vessel during the same trip

plus 1 percent of the total amount of other fish species retained at the same time on the vessel during the same trip.

(3) *Using hook-and-line gear for sablefish, Pacific cod, or Greenland turbot.* The operator of a vessel is engaged in directed fishing for sablefish, Pacific cod, or Greenland turbot if he retains at any particular time during a trip an amount of these species caught using hook-and-line gear in an amount equal to or greater than the following:

(i) For sablefish, 10 percent of the amount of all Greenland turbot and rockfish retained at the same time on the vessel during the same trip; plus 1 percent of the total amount of other fish species retained at the same time on the vessel during the same trip.

(ii) For Pacific cod, 1 percent of the total amount of all other fish species retained at the same time on the vessel during the same trip.

(iii) For Greenland turbot, 20 percent of the amount of all sablefish retained at the same time on the vessel during the same trip; plus 1 percent of the total amount of other fish species retained at the same time on the vessel during the same trip.

(4) *Using pot gear for sablefish or Pacific cod.* The operator of a vessel is engaged in the directed fishing for sablefish or Pacific cod if he retains at any particular time during a trip an amount of any one of these species caught using pot gear in an amount equal to or greater than 1 percent of the total amount of other fish species retained at the same time on the vessel during the same trip.

(5) *Other.* Except as provided under paragraphs (h)(1) through (4), the operator of a vessel is engaged in the directed fishing for a specific species or species group if he retains at any particular time during a trip that species or species group in an amount equal to or greater than 20 percent of the amount of all other fish species retained at the same time on the vessel during the same trip.

(1) *Directed fishing—calculations and determinations.*—(1) *Calculations.* In making any determination concerning directed fishing the amount or percentage of any species, species group or any fish or fish products will be calculated in round weight equivalents.

(2) *Trip.* For purposes of this paragraph, the operator of a vessel is engaged in a single fishing trip from the commencement of or continuation of fishing after the effective date of a notice prohibiting directed fishing under

species group, as identified by subarea and as further identified according to any allocation for TALFF and the apportionment for JVP. In establishing a directed fishing allowance, the Regional Director shall consider the amount of that species or species group which will be taken as incidental catch in directed fishing for other species in the same subarea which is attributable to any TALFF allocation or JVP apportionment. If the Regional Director establishes a directed fishing allowance and that allowance is or will be reached, he will prohibit directed fishing for that species or species group in the specified subarea. The fishery closure procedures of § 611.13(c) of this part apply to the closure of a subarea to directed fishing under this paragraph. No person may engage in directed fishing in violation of a subarea closure. If directed fishing is prohibited, the amount of any catch of that species or species group equal to or greater than the amount which constitutes directed fishing may not be retained and must be treated in the same manner as a prohibited species under § 611.11 of this part.

PART 672—GROUND FISH OF THE GULF OF ALASKA

4. The authority citation for 50 CFR part 672 continues to read as follows:

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

5. In § 672.2, the definition of *directed fishing* is revised to read as follows:

§ 672.2 Definitions.

Directed fishing means any fishing activity which constitutes directed fishing under the standards specified in § 672.20(g) of this part.

6. In § 672.20, paragraph (c)(2) is revised and paragraphs (c)(3) through (c)(6), (g) and (h) are added to read as follows:

§ 672.20 General limitations.

(c) * * *

(2) *Notices prohibiting directed fishing.* If the Regional Director determines that the amount of a target species or "other species" category apportioned to a fishery is likely to be reached, the Regional Director may establish a directed fishing allowance for that species or species group. The amount of a species or species group apportioned to a fishery is the amount in Table 1 or, if applicable, Table 2, as these amounts are revised by inseason adjustments, for that species or species group as identified by regulatory areas

or district and as further identified according to any allocation for TALFF, the apportionment for JVP, the apportionment for DAP and, if applicable, as further identified by gear type. In establishing a directed fishing allowance, the Regional Director shall consider the amount of that species or species group which will be taken as incidental catch in directed fishing for other species in the same regulatory area or district. If the Regional Director establishes a directed fishing allowance and that allowance is or will be reached, he will prohibit directed fishing for that species or species group in the specified regulatory area or district. No person may engage in directed fishing in violation of an applicable notice. If directed fishing is prohibited, the amount of any catch of that species or species group equal to or greater than the amount which constitutes directed fishing may not be retained and must be treated as a prohibited species under paragraph (e) of this section.

(3) *Notices of closure.* If the Regional Director determines that the TAC for any target species or of the "other species" category in a regulatory area or district in Table 1 has been or will be reached, the Secretary will publish a notice in the Federal Register declaring that the species or species group is to be treated as a prohibited species under § 672.20(e) of this section in all or part of that area or district. During the time that this notice is in effect, the operator of every vessel regulated by this part must minimize the catch of that species in the area or district, or part thereof where the notice is applicable.

(4) *Notice of prohibitions or limitations.* If, in making a determination under paragraph (c)(3) of this section, the Regional Director also determines that fishing for other target species or species groups in the area, district or part thereof where the notice applies, may lead to the overfishing of the species or species group for which the TAC is or will be reached, then the Secretary will publish a notice in the Federal Register specifying limitations or prohibitions designed to prevent overfishing of the species or species group for which the TAC is or will be reached. These limitations and prohibitions may prohibit directed fishing for other species or species groups in the area, district, or part thereof where the notice applies, or may limit time, area, or gear types which may be used in the directed fishing for the other species or species groups.

(5) *Factors to be considered.* In making a determination under paragraphs (c) (3) or (4) of this section, the Secretary may allow fishing with

certain gear types to continue after taking into account and issuing findings relevant to the following considerations:

(i) The risk of biological harm to a groundfish species or species group for which the TAC is or will be reached;

(ii) The risk of socioeconomic harm to authorized users of the groundfish species or species group for which the TAC is or will be reached; and

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

(6) *Prohibition of JVP or TALFF fishing if PSC limit is or will be reached.* If the Regional Director determines that a PSC limit applicable to a directed JVP or TALFF fishery in a regulatory area or district in table 1 is or will be reached, the Secretary will publish a notice of closure in the Federal Register prohibiting all further JVP or TALFF fishing in all or part of the regulatory area or district concerned.

(g) *Standards for directed fishing.—(1) Using trawl gear for sablefish.* The operator of a vessel is engaged in the directed fishing for sablefish if he retains at any particular time during a trip sablefish caught using trawl gear in an amount equal to or greater than:

(i) 15 percent of the aggregate amount of deepwater flatfish species, including Dover sole, rex sole, and flathead sole, and rockfish species of the genera *Sebastes* and *Sebastolobus* retained at the same time by the vessel during the same trip; plus

(ii) 5 percent of the total amount of all fish species not identified under paragraph (g)(1)(i) of this section retained at the same time by the vessel during the same trip.

(2) *Using hook-and-line gear for sablefish.* The operator of a vessel is engaged in the directed fishing for sablefish if he retains at any particular time during a trip sablefish caught using hook-and-line gear in an amount equal to or greater than 4 percent of the total amount of all other fish species retained at the same time by the vessel during the same trip.

(3) *Other.* Except as provided under paragraphs (g) (1) and (2) of this section, the operator of a vessel is engaged in the directed fishing for a specific species or species group if he retains at any particular time during a trip that species or species group in an amount equal to or greater than 20 percent of the amount of all other fish species retained at the same time by the vessel during the same trip.

(h) *Directed fishing—calculations and determinations.—(1) Calculations.* In

directed fishery for Greenland turbot. Because sablefish, Greenland turbot, and the rockfish are commonly caught together in trawls in certain parts of the management area, the Secretary has implemented in the final rule a directed fishing standard for Greenland turbot equal to 10 percent of both sablefish and the rockfish species in the aggregate, and a directed fishing standard for rockfish equal to 10 percent of sablefish and Greenland turbot in the aggregate.

(5) In addition to the changes stated above, paragraphs (h)(5), (h)(6), and (h)(7) have been combined into a single paragraph (h)(2) to make the regulations easier to read. Paragraphs (h)(8), (h)(9), and (h)(10) have been combined into a single paragraph (h)(3). Paragraphs (h)(11) and (h)(12) have been combined into a single paragraph (h)(4). Paragraph (h)(13) has been redesignated as (h)(5).

Response to Comments Received

Four letters of comments were received by the end of the comment period. Comments are summarized and responded to as follows:

Comment 1. An industry-government agreement arrived at during the April 1989 Council meeting should be adopted which included the following aspects: (1) Percentages would be calculated on the basis of quantities of fish aboard at any time; (2) quantities of fish aboard from a previous trip would not be included when calculating percentages; and (3) unsorted fish on deck would not be included when calculating percentages.

Response. With respect to item: (1) Of this comment, the Secretary agrees that such accounting is superior to calculating percentages at the end of a trip for reasons given in "Changes in the Final Rule From the Proposed Rule," above. The Secretary has changed the final rule accordingly. With respect to items (2) and (3) of this comment, both items were part of the proposed rule and are also implemented in the final rule.

Comment 2. The percentages are (1) too complicated, detailed and complex; and (2) a standard percentage should be used for all species with the exception of a species which has so small a TAC, it can only be taken as bycatch.

Response. With respect to item (1) in the comment, the Secretary has approved a final rule at § 675.20 that simplifies the percentages for some species. See item (4) in the "Changes in the Final Rule From the Proposed Rule" section.

With respect to item (2) of this comment, other species such as sablefish, Greenland turbot, and the rockfish species in the genera *Sebastes* and *Sebastolobus* are typically low in abundance and have small TACs, which

justifies a small percentage when caught as bycatch in fisheries for abundant species like pollock. However, they are often caught in proportionately larger percentages when caught in mixes of each other, which warrants a larger percentage. The final rule continues to use variable percentages to account for these differences. The Secretary concurs that the final rule's definition is more detailed and complex than the current definition. However, the different fisheries and bycatch rates necessitate such detail.

Comment 3. Some sort of sunset provision or mandatory review date should be established so that the workability of the regulation can be reviewed after the first year or so of time.

Response. Regulations may be reviewed at any time and amended if necessary.

Comment 4. The definition of a trip under the proposed rule should not be based upon the commencement of any fishing activity until any offload or transfer of any fish or until a vessel leaves a regulatory area or district where fishing commenced. Rather, a trip should be based upon commencement of any fishing activity following a notice prohibiting directed fishing pursuant to existing regulations.

Response. For purposes of making determinations and calculations to define directed fishing, the final rule is changed to define a trip as being the period of time from the commencement or continuation of fishing, after the effective date of a notice prohibiting directed fishing, until any offload or transfer of any fish or fish product from that vessel or until that vessel leaves the subarea where fishing activities commenced, whichever occurs first.

Comment 5. A bycatch percentage should not be set so low that it results in waste or so high that it results in targeting.

Response. The Secretary believes this comment expresses the intent of the Council. Percentages used in the directed fishing standards are set accordingly.

Comment 6. A default percentage of 20 percent should be used to simplify interpretation, with exceptions for deepwater species, including sablefish, rockfish, Greenland turbot in the GOA and BSAI, and deepwater flatfish in the GOA. Bycatch allowances for rockfish, Greenland turbot, and deepwater flatfish should be set at 20 percent when measured against other deepwater species. Sablefish should be 1 percent when measured against shelf species and 15 percent when measured against deepwater species.

Response. Default definitions were used (see 50 CFR 672.20(g)(3) and 50 CFR 675.20(h)(13)), which stipulated that amounts of a species not listed in the proposed regulations that were equal to 20 percent or more of the amount of fish or fish products retained on the vessel during the same trip would be considered to be the result of directed fishing for that species.

Based on available information, the Secretary concurs with the Council recommendation that sablefish trawl bycatches of up to 10 percent of Greenland turbot should be allowed. Similarly, rockfish or Greenland turbot bycatches of up to 10 percent of sablefish should be allowed.

Comment 7. Enforcement should not be at the point of last off-load, as proposed, because such a standard would invite abuse. Instead, enforcement should occur at any point during a trip up to the point of boarding.

Response. The Secretary concurs that enforcement should not be at the point of the last offload, and changed the final rule to allow enforcement at any time during a trip. See the discussion pertaining to this aspect in the section "Changes in the Final Rule From the Proposed Rule", above.

Comment 8. The percentage for Pacific cod bycatch in the Bering Sea of 1 percent in the yellowfin sole and other flatfish fisheries is not adequate.

Response. The proposed rule had provided for 20 percent bycatch of Pacific cod in the flatfish trawl fisheries, not 1 percent. The commenter may have been referring to hook-and-line bycatches of Pacific cod up to 1 percent of other hook-and-line caught species.

Comment 9. The following bycatch percentages should be used:

Bering Sea/Aleutians

When trawling for pollock, amounts up to 10-20 percent rock sole and other flatfish and amounts up to 1 percent rockfish should be allowed.

When trawling for yellowfin sole, amounts up to 20 percent rock sole, other flatfish, Pacific cod, and pollock, and 1 percent rockfish should be allowed.

When trawling for other flatfish, amounts up to 20 percent Pacific cod, rock sole, and pollock should be allowed.

When trawling for Pacific cod, amounts up to 20 percent of rock sole should be allowed.

When trawling for sablefish, Greenland turbot, or rockfish, amounts up to 20 percent sablefish, Greenland turbot, or rockfish should be allowed for these respective species.

depending on whether a single percentage or two percentages are used in the directed fishing standard for a particular species. For example, one percentage is used to define directed fishing for pollock, based on the Secretary's determination that this species is relatively abundant. Two percentages are used to define directed fishing for certain species with relatively small TAC amounts, such as sablefish, to account for small or large bycatches in different fisheries and to support the Secretary's determination that rigorous accounting of these species is necessary.

Example of method 1, using a single percentage: If directed fishing for pollock is prohibited in a particular area, then a boarding officer would calculate the round weight equivalents for all species other than pollock recorded to have been caught so far during the trip conducted in that area, and multiply the total by 20 percent. If the amount of pollock retained onboard so far during that trip was equal to or exceeded the result, the operator of the vessel would have violated the directed fishing closure for pollock.

Example of method 2, using two percentages. If directed fishing for sablefish is prohibited in a particular area, then a boarding officer would calculate the round weight equivalents for all other species except Greenland turbot and rockfish in the genera *Sebastes* and *Sebastolobus* recorded to have been caught so far during the trip conducted in that area, and multiply that total by 1 percent. Then, the boarding officer would calculate the sum of the round weight of Greenland turbot and rockfish caught so far during that trip and multiply that sum by 10 percent. The sum of the two results would be compared to the amount of sablefish retained onboard that vessel so far during that trip. If the amount of sablefish exceeded the sum, that vessel would have violated the directed fishing closure for sablefish.

Changes in the Final Rule From the Proposed Rule

(1) In § 672.20, paragraph (g)(1)(i), the proposed rule had stipulated that for trawl gear, sablefish equal to, or more than, 15 percent of rockfish in the genera *Sabastes* and *Sebastolobus* would be considered to be directed fishing. The final rule includes Dover sole, rex sole, and flathead sole in addition to the rockfish species for purposes of calculating the percentage of sablefish. Dover sole, rex sole, and flathead sole are considered to be deepwater flatfish species. The Council had recommended Dover sole and rex sole be included in the proposed rule. The Secretary had declined to include these species in the proposed rule, because at the time only a single definition for all the species in the flatfish complex was being used.

For the 1990 fishing year, the Council has recommended, and the Secretary has proposed, that a separate total

allowable catch (TAC) for the deepwater flatfish complex be established (see 54 FR 46743, November 7, 1989). In the Council's recommendation, "deepwater flatfish" means rex sole, Dover sole, and flathead sole. The Secretary has determined that sablefish bycatches up to 15 percent of the rockfish species, as well as the aggregate catches of Dover sole, rex sole, and flathead sole, are necessary.

(2) Each subparagraph under paragraph (g) of § 672.20 and paragraph (h) of § 675.20 is rewritten to allow enforcement of the directed fishing standard at any time during a trip. In the proposed rule, enforcement would not have occurred until a trip had been completed. A vessel operator would have been able to target on bycatch, and retain substantial amounts at sea without being in violation of the directed fishing definition. If boarded, a vessel operator could inform the enforcement officers that he intended to target on other species, retaining enough such species until the proportion of his retained bycatch was less than the percentage used in the directed fishing standard. The Secretary has determined that the regulatory amendment, as proposed, would have encouraged targeting on bycatch species. For example, a vessel operator could retain the targeted bycatch species in amounts that would be in violation of the directed fishing standard, thereby accepting a risk that he could unload or transfer the bycatch species without being detected. If the vessel operator determined that he would be inspected prior to an offloading or transfer, he could simply discard enough of the bycatch species prior to the inspection until the proportion remaining at the end of trip fell within the directed fishing standard. An enforcement officer would have to wait until the offloading or transfer had occurred before he could make a case against the vessel operator. Such opportunities could lead to considerable overharvests of species for which conservative harvests were intended, whether they were retained and offloaded or transferred illegally or wasted at sea legally.

The Secretary has determined that allowing enforcement at any time during a trip will discourage covert targeting on species for which directed fishing has been prohibited. If a vessel operator does target on bycatch species at the beginning of a trip, he would risk being cited if his vessel was boarded. The Secretary has further determined that targeting on bycatch species after other species have already been caught and retained is acceptable. In this case, a vessel operator would have caught and

retained sufficiently large proportions of other species, and then could calculate how much bycatch species he might catch without violating the directed fishing standard. In establishing these directed fishing standards, the Secretary expects that the bycatch percentages for certain high-valued species are small enough to remove economic incentives to target on those species.

(3) In § 672.20(h)(2), the definition of trip is changed to separate sablefish from other groundfish species for purposes of calculating round weight equivalents. Sablefish are allocated among districts as well as regulatory areas. Because rigorous accounting of sablefish is necessary, a fishing trip ends when a vessel leaves a district within the Eastern Regulatory Area as well as when a vessel leaves any of the regulatory area. With respect to pollock, which has a TAC established for the Shelikof District within the Central Regulatory Area, rigorous accounting is not necessary, and a fishing trip ends when a vessel leaves a regulatory area, but not when it leaves the Shelikof Strait District.

Additionally, in the final rule § 672.20(h)(2) and § 675.20(i)(2) change the definition of a single fishing trip as being the period of time from the commencement or continuation of a fishing after the effective date of a notice prohibiting directed fishing until any offload or transfer of any fish or fish product from that vessel or until the vessel leaves the district (for sablefish) or subarea where fishing activities commenced, whichever occurs first.

(4) In § 675.20(h), the proposed standard specified separate directed fishing standards for Pacific cod, pollock, yellowfin sole, and "other flatfish." The final rule uses the same directed fishing standard for each of these species/groups and also includes rock sole, which was a default species in the proposed rule. In doing so, paragraphs (h)(1), (h)(2), (h)(3), and (h)(4) in the proposed rule have been combined into a single paragraph (h)(1) in the final rule. In these paragraphs, the directed fishing standard has been changed to one value, 20 percent, to simplify the structure of the regulation.

Also in this section, the proposed standard had included amounts of trawl-caught Greenland turbot to compare in a directed fishery for sablefish, but not compared to a directed fishery for rockfish species in the genera *Sabastes* and *Sebastolobus*.

Similarly, the proposed standard had included amounts of trawl-caught rockfish to compare in a directed fishery for sablefish, but not compared to a

Dated: March 9, 1990.
 Richard H. Hopf III,
 Associate Administrator for Acquisition
 Policy.
 [FR Doc. 90-6112 Filed 3-15-90; 8:45 am]
 BILLING CODE 6020-61-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 90370-0016]

RIN 0648-AC68

Foreign Fishing; Groundfish of the Gulf of Alaska, Groundfish Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Final rule.

SUMMARY: NOAA announces approval of a regulatory amendment that redefines directed fishing using directed fishing standards for various groundfish species in the Gulf of Alaska and in the Bering Sea and Aleutian Islands area. This action is necessary to promote conservation and management of groundfish. It is intended to further the goals and objectives contained in fishery management plans that govern these fisheries.

DATES: Effective April 12, 1990.

ADDRESSES: Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) may be obtained by writing to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907-588-7230.

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the Exclusive Economic Zone (EEZ) of the Gulf of Alaska and Bering Sea and Aleutian Islands area are managed by the Secretary under the Fishery Management Plans (FMPs) for the Groundfish Fishery of the Gulf of Alaska and the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and are implemented by regulations for the foreign fisheries at 50 CFR 611.92 and

611.93 and for the U.S. fisheries at 50 CFR parts 672 and 675.

At its April 11-14, 1989, meeting, the Council requested that the Secretary prepare a regulatory amendment to modify regulations that define directed fishing in the domestic groundfish fishery at 50 CFR 672.2 and 50 CFR 675.2 for the Gulf of Alaska (GOA) and Bering Sea/Aleutian Islands (BSAI) management areas, respectively, and in the foreign groundfish fishery at 50 CFR 611.2. The Secretary prepared the regulatory amendment, and it was published as a proposed rule in the Federal Register (54 FR 40716, October 3, 1989). Comments were invited until November 1, 1989. Four letters of comments were received. They are summarized and responded to in the "Response to Comments Received" section, below. A description of, and reasons for, the new definition of directed fishing are contained in the preamble to the proposed rule.

The proposed regulatory amendment established standards for determining whether directed fishing had occurred based on the relation of the amount of a particular groundfish species or species groups to the total amount of fish and fish products, and in certain cases to the amount of other specified groundfish species, retained onboard a fishing vessel upon completion of a fishing trip. The Secretary proposed that amounts of a groundfish species or species group onboard a fishing vessel that equaled or exceeded these standards would constitute directed fishing for that species or species group. In the GOA management area, a directed fishing standard was proposed for sablefish; no changes were proposed for the other species. In the BSAI management area, directed fishing standards were proposed for pollock, Pacific cod, yellowfin sole, "other flatfish", rockfish species, and Greenland turbot. In both management areas, a default directed fishing standard was proposed for species not particularly specified. For management purposes, if directed fishing was prohibited for a species in all or part of the GOA or BSAI management areas, and a vessel operator operated in an area of prohibited direct fishing, and retained at the end of a trip an amount of that species that equaled or exceeded the directed fishing standard, the vessel operator would have violated the directed fishing prohibition.

For accounting purposes, the Council had recommended, and the Secretary had proposed, that amounts of fish retained would not be measured until the end of a trip. A trip was considered to be the period of time from

commencement of fishing activity until an offload or transfer of fish or fish products occurred, or until the vessel left a regulatory area or district in the GOA management area or a subarea in the BSAI management area. The Council had recommended that accounting on the basis of a trip was necessary to allow a vessel operator enough time to catch enough other fish to reduce the proportion for a species for which directed fishing was prohibited below that which would have been a violation. Otherwise, the vessel operator would have to discard at sea amounts of a species until the retained amount was less than that provided by the directed fishing standard. The Council considered such discarding to be unacceptable waste.

The Secretary has determined that a definition of directed fishing is necessary for fishery conservation and management. He has approved the final rule for both the GOA and BSAI groundfish fisheries which is based upon the proposed rule. After reviewing comments received from the fishing industry, as well as informal comments from individual Council members and NMFS staff, the Secretary has made certain changes in the final rule from the proposed rule described above. In particular, as is explained below, he has determined that the directed fishing standard should apply throughout a trip, rather than only at the end of a trip (See "Changes in the Final Rule From the Proposed Rule"). With some modifications, the Secretary has retained the concept that an individual trip ends when a vessel leaves a specified regulatory jurisdiction; thus, a vessel may make several trips before returning to port, and the catch during each trip will be analyzed separately in applying this rule.

The final rule establishes directed fishing standards, which are the amounts of a groundfish species or species group compared to total amounts of fish and fish products, and in certain cases to one amount of another specified groundfish species, which, when retained onboard a vessel at any time during a trip, constitute directed fishing. Compliance with the directed fishing standards will be monitored through a review of the amounts of fish and fish products onboard a vessel. Part of this latter review will be accomplished by reviewing those catch, production, and offloading records of a vessel that are required by Federal regulations. Although a number of specific percentages are used in the directed fishing standards, accounting is done by either of two methods,



UNITED STATES DEPARTMENT OF COMMERCE
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NEWS RELEASE
Steven Pennoyer
907-586-7221
April 10, 1990
For Immediate Release

**DIRECTED GROUND FISH FISHING DEFINITIONS ARE IMPLEMENTED
IN BERING SEA AND ALEUTIAN ISLANDS AREA**

Regulations implementing definitions of directed fishing in the Bering Sea and Aleutian Islands area are effective April 12, 1990, according to Steven Pennoyer, Director, National Marine Fisheries Service (NMFS), Alaska Region. Each of the definitions are based on amounts of fish and fish products, calculated as round weight equivalents, retained on board a vessel at any particular time during the same fishing trip. Round weight equivalents will be calculated from the product recovery rates (PRRs) NMFS is using to monitor groundfish quotas. The PRRs are available from the Regional Office upon request.

For purposes of the directed fishing definition, a vessel is engaged in a single fishing trip from start or continuation of fishing after the effective date of a Federal Register notice prohibiting directed fishing, until the vessel offloads or transfers fish or fish product, or until it leaves either the Bering Sea or Aleutian Islands subarea.

All determinations of directed fishing are calculated the same way. For example, a vessel is engaged in directed fishing for pollock, if pollock is retained at any particular time during a trip in an amount equal to or greater than 20 percent of the aggregate catch of all other fish or fish products retained during the same trip. If a trawl vessel operator, therefore, retains 100 metric tons (mt) of all other species, and also retains pollock in amounts of 20 mt or more, the operator is directed fishing for pollock. If the directed fishery for pollock had been closed, the vessel would be in violation of the closure.

Definitions of directed fishing are as follows:

Trawl directed fishing

For pollock, yellowfin sole, rock sole, "other flatfish", or Pacific cod: 20 percent of the amount of the other species.

For sablefish, 10 percent of the amount of all Greenland turbot and rockfish; plus 1 percent of the total amount of other fish species.

For example, if a trawl vessel operator retains 100 tons mt of an aggregate amount of Greenland turbot and rockfish of 100 mt and 200 mt of other species, and also retains an amount of sablefish that amounts to 12 mt or more during the





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration

National Marine Fisheries Service

P.O. Box 21663

Juneau, Alaska 99802-1663

NEWS RELEASE Steven Pennoyer 907-586-7221	April 10, 1990 For Immediate Release
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**DIRECTED GROUND FISH FISHING DEFINITIONS ARE IMPLEMENTED
IN THE GULF OF ALASKA**

Regulations implementing definitions of directed fishing in the Gulf of Alaska are effective April 12, 1990, according to Steven Pennoyer, Director, National Marine Fisheries Service, Alaska Region. Each of the definitions are based on amounts of fish and fish products, calculated as round weight equivalents, retained on board a vessel at any particular time during the same fishing trip. Round weight equivalents will be calculated from the product recovery rates (PRRs) NMFS is using to monitor groundfish quotas. The PRRs are available from the Regional Office upon request.

For purposes of the directed fishing definition, a vessel is engaged in a single fishing trip from start or continuation of fishing after the effective date of a Federal Register notice prohibiting directed fishing, until the vessel offloads or transfers fish or fish product, or (1) until it leaves either the Western, Central, or Eastern Regulatory Areas, or, with respect to sablefish, either the Western or Central Regulatory Areas, or the West Yakutat or Southeast Outside/East Yakutat Regulatory Districts for which quotas are specified.

During a trip in a Gulf of Alaska area or district, a vessel is engaged in directed trawl fishing for sablefish if sablefish is retained in an amount equal to or greater than 15 percent of the aggregate amount of deepwater flatfish species, including Dover sole, rex sole, and flathead sole, and rockfish species of the genera Sebastes and Sebastolobus, plus 5 percent of the total amount of other fish species.

For example, if a trawl vessel operator retains 100 metric tons (mt) of an aggregate amount of Dover sole, rex sole, and flathead sole and 200 mt of other species, and also retains an amount of sablefish that amounts to 25 mt or more during the same trip, the operator would be directed fishing for sablefish ($0.15 \times 100 + 0.05 \times 200 = 15 + 10 = 25$). If the directed fishery for sablefish had been closed, the vessel would be in violation of the closure.

A vessel is engaged in directed hook-and-line fishing for sablefish if sablefish is retained in an amount equal to or greater than 4 percent of the total amount of all other fish species.

For further information, contact Ron Berg, Fishery Management Biologist, phone 907-586-7230.



The halibut PSC apportionments are:

Trawl gear: 30% first quarter (600 mt)
30% second quarter (600 mt)
40% remainder (800 mt)

Fixed gear: 20% first quarter (150 mt)
60% second quarter (450 mt)
20% remainder quarter (150 mt)

Unused PSC from one time period will be rolled into the next quarter. A copy of the rule is included as item D-3(c)(3).

Item D-3(c)(4) is a copy of a letter sent to you earlier from Matt Doherty requesting an exemption for pot gear from the fixed gear halibut PSC. The emergency rule exempts him, but upon expiration, pot gear will again fall under the 750 mt halibut PSC.

MEMORANDUM

TO: Council, AP and SSC Members

FROM: Clarence G. Pautzke
Executive Director



DATE: April 16, 1990

SUBJECT: Emergency Rules

ACTION REQUIRED

Receive status report on regulatory amendments and emergency rules; take further action as necessary.

BACKGROUND

Regulatory Amendments

The final rule implementing revised directed fishing definitions for the GOA and BSAI was published in the Federal Register on March 16 and went into effect on April 12. A copy of the rule is included as item D-3(c)(1).

Emergency Rules

At its December 1989 meeting, the Council requested emergency action on the following two issues:

1. Pollock roe stripping

NMFS published an emergency rule on February 23, 1990 to limit the amount of pollock roe which may be retained on board relative to other pollock products. The rule will expire on May 16, and may be extended for one additional 90 day period. A copy of the rule is included as item D-3(c)(2).

2. Quarterly apportionment of halibut PSC in the GOA

NMFS published an emergency rule on February 21 which apportions the GOA halibut PSC by quarter. The rule expires on May 15, and may be extended for one additional 90 day period. The Council may want to go on record recommending extension of the rule through August 15.

Chapter 7 / **Change fishing gear restrictions in the GOA and BSAI**

Alternative 1: Maintain the status quo - do nothing

Alternative 2: Specify legal fishing gear in the GOA and BSAI FMPs and provide specific gear restrictions in the regulations

Option A: biodegradable panels

Option B: halibut exclusion devices

Option C: definition of pelagic trawl gear

Chapter 8 / **Expand halibut bycatch management measures in the GOA**

Alternative 1: Maintain the status quo - do nothing

Alternative 2: More fully implement and clarify the existing halibut PSC framework

Option A: Apportion halibut PSC limits by season

Option B: Set separate halibut PSC limits for each fixed gear group (e.g. longline and pot) or omit pot gear fisheries from the PSC framework

Alternative 3: Implement a halibut PSC incentive program

Option A: Establish a PSC reserve system

Option B: Establish a bycatch credit system

GOA AMENDMENT 21 AND BSAI AMENDMENT 16 SUMMARY

✓ Chapter 2 Revise bycatch management measures (crab and halibut) in the BSAI

Alternative 1: Allow Amendment 12a to expire - do nothing

Alternative 2: Continue Amendment 12a provisions for one year

Alternative 3: Continue Amendment 12a provisions and implement a vessel incentive program to reduce bycatch rates

✓ Chapter 3 Define overfishing in the GOA and BSAI

Alternative 1: Maintain the status quo - no definition

Alternative 2: Threshold spawning biomass level

Alternative 3: Constant fishing mortality rate

Alternative 4: Variable fishing mortality rate for levels of biomass below B_{msy}

Alternative 5: Threshold with constant fishing mortality rate

Alternative 6: Threshold with variable fishing mortality rate for levels of biomass below B_{msy}

Alternative 7: Threshold with variable fishing mortality rate for all levels of biomass

Chapter 4 ✓ Establish Procedures for Interim TAC Specifications in the GOA and BSAI

Alternative 1: Maintain the status quo - do nothing

Alternative 2: Extend proposed (September) TAC specifications into the new fishing year as interim specifications, until changed

Alternative 3: Extend 25% of proposed (September) TAC specifications into the new fishing year on an interim basis

Chapter 5 ✓ *gone* Modify the authorization language for demersal shelf rockfish management in the GOA

Alternative 1: Maintain the status quo - do nothing

Alternative 2: Modify the authorization language of the FMP to allow full implementation of state regulations in those Federal waters of the eastern Gulf of Alaska where demersal shelf rockfish are recognized as an FMP species group


Chapter 6 ✓ Develop herring bycatch management measures in the BSAI

The Council needs to approve the draft amendments for public review. A minimum 30 day public comment period on the amendment package will commence soon after the Council meeting. The Council will review public comments and take final action in June. Approved amendments would constitute Amendment 21 and 16 to the Gulf of Alaska and Bering Sea/Aleutian Islands groundfish fishery management plans, respectively, and would be implemented by November or December 1990.

Note that the Council's Ad Hoc Bycatch Committee is considering recommendations to the Council that additional amendment action be taken during 1990 regarding crab and halibut bycatch management in the BSAI. The Council could choose to postpone the release of chapter 2 until June and reconstitute it as its own amendment (Amendment 16a). If so, the BSAI Plan Team would likely be tasked with developing the necessary additional analyses during May and early June.

MEMORANDUM

TO: Council, AP and SSC Members

FROM: Clarence G. Pautzke 
Executive Director

DATE: April 18, 1990

SUBJECT: Gulf of Alaska and Bering Sea/Aleutian Islands Groundfish Fishery Management Plans

ACTION REQUIRED

Approve proposed groundfish amendments for public review.

BACKGROUND

The Council adopted the Plan Amendment Advisory Group recommendations of priority amendment topics in January and further prioritized the topics in recognition of staff, plan team and time constraints for the analyses. The groundfish plan teams reviewed the Council's list of priorities and have addressed the following topics:

- o Revise bycatch management measures (crab and halibut) in the BSAI
- o Define overfishing in the GOA and BSAI
- o Establish procedures for interim TAC specifications in the GOA and BSAI
- o Modify demersal shelf rockfish management in the GOA
- o Implement herring bycatch management measures in the BSAI
- o Change fishing gear restrictions in the GOA and BSAI
- o Expand halibut bycatch management measures in the GOA

The plan teams have incorporated these topics, with several alternatives, into a draft amendment package that includes an Environmental Assessment (EA) and a Regulatory Impact Review (RIR). The proposed alternatives are summarized in item D-3(b)(1). The draft EA/RIR sent to you on April 11 (Chapter 6 was sent out under separate cover on April 18; Chapter 2 should be available by meeting time) contains the presentation of amendment topics and environmental and economic analyses of the alternatives.