AGENCY: Interstate Commerce Commission.

Final rule; Correction.

SUMMARY: On October 1, 1985, at 50 FR 40024, the Interstate Commerce Commission published final rules which updated the Commission's current cost of providing services and benefits. Corrections to those rules were published at 50 FR 41128 (10-9-85) and 50 FR 41899 (10-16-85). The purpose of this document is to make final corrections to the decision.


FOR FURTHER INFORMATION CONTACT: Kathleen M. King, (202) 275-7428 or Paul Meder, (202) 275-5360.

SUPPLEMENTARY INFORMATION: In this notice we are correcting several additional errors that appeared in the fee schedule announced at 50 FR 40024, on October 1, 1985.

The most significant correction involves Fee Item (74). The phrase “and contracts” was omitted from the description of that item. The correct description should read as follows: “The filing of tariffs, rate schedules, and contracts, including supplements.” There was never any intention to eliminate the filing fee for contracts. All other corrections are minor editorial changes.


By the Commission.

James H. Bayne, Secretary.

Appendix

The following corrections are made in the document that was published at 50 FR 40024 (10-01-85).

§ 1002.2 [Corrected]

1. In §1002.2 paragraph (f)(4), which appears at 50 FR 40026, the word “application” which appears in line four should be corrected to read “applicants.”

2. In §1002.2 paragraph (f)(17), which appears at 50 FR 40026, the word “of” should be corrected to read “or.”

3. In §1002.2 paragraphs (f)(46), 47, 48 and 49, which appear at 50 FR 40026, the cross reference to “49 CFR 1082.2” which appears in subparagraph (iv) of each of those paragraphs should be corrected to read “49 CFR 1180.2(3).”

4. In §1002.2 paragraph (f)(61), which appears at 50 FR 40026, the word “institution” should be corrected to read “institutions.”

5. In §1002.2 paragraph (f)(72), which appears at 50 FR 40027, a closing parenthesis should be added after the word “disaster.”

6. In §1002.2 paragraph (f)(74), which appears at 50 FR 40027, the item description should be corrected to read as follows: “The filing of tariffs, rate schedules, and contracts, including supplements.”

[FR Doc. 85-25318 Filed 10-23-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 50720-5154]

Groundfish of the Gulf of Alaska

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement all but one of the proposed parts of Amendment 14 to the Fishery Management Plan for Groundfish of the Gulf of Alaska. Part 7 of the proposed amendment, incorporation of the NMFS habitat conservation policy, is approved but not implemented at this time until required analysis is prepared. The measures implemented by this rule will (1) allocate the sablefish resource to prevent gear conflicts and ground preemptions, (2) establish a new starting date for the harvest of sablefish, (3) reduce optimum yield (OY) to prevent overfishing of certain groundfish species, (4) define a new regulatory district to manage rockfish stocks more discretely, (5) provide a flexible method for establishing prohibited species catch (PSC) limits for Pacific halibut, (6) revise the reporting system for catcher/perch processors, and (7) define directed fishing. This action is intended to implement measures that are necessary for conservation and management of the groundfish resources and for the orderly conduct of the fishery.

EFFECTIVE DATE: November 18, 1985.

ADDRESS: Copies of the amendment, the environmental assessment (EA), and the regulatory impact review (RIR)/final regulatory flexibility analysis (FRFA) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510, 907-274-4563.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Biologist, NMFS), 907-258-7230.

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fishery in the fishery conservation zone (FCZ) of the Gulf of Alaska is managed under the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and implemented by regulations appearing at 50 CFR Part 672.

The Council approved the seven parts of Amendment 14 at its May 21-24, 1985, meeting and submitted it to the Secretary of Commerce (Secretary) for Secretarial review. The Secretary is required by the Magnuson Act to approve, disapprove, or partially disapprove plans and plan amendments before the close of the 95th day following receipt. Following receipt of Amendment 14 on June 24, 1985, the Director, Alaska Region, (Regional Director) immediately commenced a review of the amendment to determine whether it was consistent with the National Standards, other provisions of the Magnuson Act, and any other applicable law. A Notice of Availability of the amendment was published in the Federal Register on June 28, 1985 (50 FR 26312), and the receipt date was announced. Proposed regulations were published in the Federal Register on July 28, 1985 (50 FR 30481). Public review and comment were invited until September 9, 1985. The decisions on Amendment 14 take these comments into account; they are summarized below according to subject.

The preamble to the proposed rule (50 FR 30481, July 26, 1985) described and presented the reasons for each part of Amendment 14. A summary from the proposed rule of what each part accomplishes follows:

1. Allocate sablefish among gear types. Legal commercial fishing gear used in the directed domestic sablefish fishery is limited to hook and line gear, pots, and trawls. Sablefish quotas are allocated among gear categories by regulatory area, and a schedule for phasing out pot gear is established.

This measure makes hook and line gear the only allowable gear type for the directed sablefish fishery in the Eastern regulatory area, starting in 1986 (Table I). It also makes hook and line and trawl
gear the only allowable gear types for the directed sablefish fishery in the Central regulatory area, starting in 1987, and in the Western regulatory area, starting in 1989. The measure establishes a schedule for phasing out the use of pot gear in the Central and Western regulatory areas, by which pot gear may harvest sablefish in the Central regulatory area in 1986 and in the Western regulatory area in 1986, 1987, and 1988.

The measure also allocates the sablefish OYs among the gear types. In the Eastern regulatory area, 95 percent of the OY is allocated to hook and line gear; the remaining 5 percent is allocated to trawl gear as a bycatch to support target fisheries for other species. In the Central regulatory area in 1986, 1987, and 1988, 55, 25, and 20 percent of the OY is allocated to hook and line, pot, and trawl gear, respectively. When pot gear is phased out of the Central regulatory area in 1987, the portion of the sablefish OY for that area that is allocated to pot gear in 1986 will be reallocated to hook and line gear; the share allocated to trawl vessels will remain at 20 percent. In the Western regulatory area in 1986, 1987, and 1988, 55, 25, and 20 percent of the OY is allocated to hook and line, pot, and trawl gear, respectively. When pot gear is phased out of the Western regulatory area in 1989, the portion of the sablefish OY for that area that is allocated to pot gear during those three years will be allocated to hook and line gear; the share allocated to trawl gear will remain at 20 percent.

Table 1—Percentages of Sablefish Allocated by Year Among Hook and Line (H&L), Pot, and Trawl Gear Users for Each Regulatory Area in the Gulf of Alaska

<table>
<thead>
<tr>
<th></th>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern: H&amp;L</td>
<td>95</td>
<td>0</td>
<td>0</td>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>Eastern: Pot</td>
<td>0</td>
<td>0</td>
<td>10</td>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>Eastern: Trawl</td>
<td>5</td>
<td>90</td>
<td>90</td>
<td>(1)</td>
<td></td>
</tr>
<tr>
<td>Central: H&amp;L</td>
<td>55</td>
<td>55</td>
<td>55</td>
<td>80</td>
<td>(1)</td>
</tr>
<tr>
<td>Central: Pot</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>0</td>
<td>(1)</td>
</tr>
<tr>
<td>Central: Trawl</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>(1)</td>
</tr>
<tr>
<td>Western: H&amp;L</td>
<td>55</td>
<td>55</td>
<td>55</td>
<td>80</td>
<td>(1)</td>
</tr>
<tr>
<td>Western: Pot</td>
<td>25</td>
<td>25</td>
<td>25</td>
<td>0</td>
<td>(1)</td>
</tr>
<tr>
<td>Western: Trawl</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>20</td>
<td>(1)</td>
</tr>
</tbody>
</table>

1. 1987 and subsequent years—same as 1986
2. 1988 and subsequent years—same as 1987
3. 1989 and subsequent years—same as 1988

2. Change the starting date for the directed sablefish fishery. This measure changes the starting date for the directed sablefish fishery from January 1 to April 1.

3. Establish lower optimum yields. New OYs by regulatory area are established for certain species as follows: pollock—Western/Central 305,000 metric tons (mt); Pacific ocean perch—Western 1,302 mt, Central 3,906 mt; Atka mackerel—Central 500 mt, Eastern 100 mt; “other rockfish”—Gulf-wide 5,000 mt; and “other species”—Gulf-wide 22,400 mt.

4. Define a new regulatory district. A new regulatory district—the Central Southeast District—between 56°00' and 57°30' N latitude is established for purposes of better managing demersal shelf rockfish, which are part of the “other rockfish” category. The harvest of “other rockfish” in this new district is limited to 600 mt. This quota will be subtracted from the “other rockfish” OY for the remainder of the Gulf of Alaska. Thus, the remainder of the “other rockfish” OY, or 4,400 mt, is available for harvest elsewhere in the management unit.

Also approved is language to be incorporated into the FMP that recognizes the State of Alaska’s management regime for demersal shelf rockfish which is directed at managing these rockfish stocks within smaller management units than are provided for by the FMP. Such State regulations are in addition to and stricter than Federal regulations and are authorized by the FMP as long as they are (1) not in conflict with the management objectives of the FMP, and (2) limited to establishing smaller areas and quotas, which would result in a harvest of demersal shelf rockfish in each FMP management area at levels no different from that provided for by the FMP. Such State regulations apply only to vessels registered under the laws of the State of Alaska.

5. Establish procedure for setting PSC limits for halibut. A framework procedure is established for setting the PSC limits for Pacific halibut in the joint venture and domestic trawl fisheries. The attainment of these limits will result in a ban on the use of bottom trawl gear for the remainder of the fishing year.

These measures include (1) the establishment of halibut PSC limits; (2) the apportionment of PSC limits among regulatory areas or parts thereof; (3) the apportionment of PSC limits among gear types and/or individual operations; and (4) the designation of gear types and modes of operation to be either prohibited or permitted after a PSC limit has been reached.

As soon as practicable after October 1 of each year and after consultation with the Council, the Secretary will publish in the Federal Register the proposed halibut PSC management measures for domestic and joint venture fisheries. The measures will be based on criteria contained in § 672.20(e) and comments will be invited on the proposed PSC measures for 30 days. The Secretary, after considering comments received, will publish final PSC measures in the Federal Register as soon as practicable after December 15 of each year. When the share of the PSC allocated to the domestic or joint venture fishery is reached, the Regional Director will, by notice published in the Federal Register, prohibit fishing with trawl gear other than off-bottom trawl gear for the rest of the year by the vessels and in the area to which the PSC limit applies, except that he may by such notice allow certain vessels to continue fishing with bottom trawl gear subject to the considerations listed in § 672.20(e)(2)(iv).

6. Establish a weekly catch reporting system. A reporting system is established whereby applicants are required to indicate on their Federal groundfish permit applications whether their vessels are to be used for (1) harvesting/processing, (2) mothership processing, (3) harvesting only, or (4) support only. If vessel usage fits (1) or (2), vessel operators will be required to check in and out of regulatory areas or districts. Such harvesting/processing vessels and motherships that catch and hold, or receive and hold, groundfish for periods of 14 days or more will be required to submit a weekly catch report to the NMFS Regional Director, Alaska Region. Vessels that freeze or dry-salt their catches are considered to be in these categories.

The first part of this new regulation requires the operators of catcher/processors and motherships to so indicate on their applications for Federal fishing permits, showing their capability and intent to preserve their catch at sea. The second part requires them to notify the Regional Director of the date, hour, and position, 24 hours before starting and upon stopping fishing in a regulatory area. The third part requires each operator of a catcher/processor or mothership that retains fish at sea for more than 14 days from the time it is caught or received to provide the Regional Director a weekly written report of the amounts of groundfish caught by species or species group in metric tons by fishing area.

A definition of “directed fishing” is also established. When any species, stock, or other aggregation of fish comprises 20 percent or more of the catch, take, or harvest that results from any fishing over any period or time, such fishing is rebuttably presumed to be directed fishing for such fish during that period.

In addition, NMFS proposed some minor changes to the information
required from applicants for a Federal permit to fish for groundfish in the Gulf of Alaska.

7. Approve the incorporation of the NMFS habitat conservation policy. This part of Amendment 14 is approved but not implemented by regulation at this time. It amends the FMP to address the habitat requirements of individual species in the Gulf of Alaska groundfishery. It describes the diverse types of habitat within the Gulf of Alaska, delineates the life stages of the groundfish species, identifies potential sources of habitat degradation and the potential risk to the groundfishery, and describes existing programs applicable to the area that are designed to protect, maintain, or restore the habitat of living marine resources. The amendment responds to the Habitat Conservation Policy of NMFS (48 FR 53142, November 25, 1983), which advocates consideration of habitat concerns in the development or amendment of FMPs and the strengthening of NMFS' partnerships with States and the councils on habitat issues.

It authorizes, but does not require, certain regulations specific to habitat conservation objectives. One such regulation would require vessel operators to retrieve their own fishing gear and to make a reasonable attempt to retrieve any abandoned or discarded fishing gear that they may encounter. While a regulation of this type was proposed in the notice of proposed rulemaking, it has not been included in the final rule because it has not yet been adequately analyzed under Executive Order 12291, the Regulatory Flexibility Act (RFA) and the National Environmental Policy Act (NEPA).

Changes in the Final Rule From the Proposed Rule

NOAA has made changes to cause this final rule to differ from the proposed rule. The definition of the Central Southeast District was inadvertently omitted in § 672.2 Definitions although it was included in the preamble to the proposed rule. It has been included in the final rule. In § 672.5(a)(3), paragraphs (a)(3)(i) and (a)(3)(ii), referring respectively to catching fish and receiving fish at sea but otherwise identical, are combined. The new § 672.25, Disposal of fishing gear and other articles, is held in reserve until additional analysis is provided. In addition, minor technical changes are made to regulatory text.

Public Comments Received

Seventy-three written responses were received, mostly from fishermen, fishing associations, or their representatives. Included among the comments were those from the Governor of the State of Alaska, the two Senators and the Congressman from the State of Alaska, and Congressmen from the State of Washington.

All comments addressed the issue of allocating sablefish among gear types and phasing out pot gear. Three comments addressed the new sablefish starting date, and one comment briefly addressed the catcher/processor reporting requirement. Of the individual letters received favoring the amendment, 38 were from the State of Washington and 11 were from Alaska. In addition, a petition was received from the Sitka-based Alaska Longline Fishermen's Association, containing 321 signatures, favoring approval of the amendment. Of the comments received against the amendment, 16 were from the State of Washington and 2 were from Alaska. Some of the letters were from fishing associations representing large numbers of fishermen; therefore the 78 letters represent a much larger number of constituents both for and against the amendment.

All of the unfavorable comments received are summarized, categorized, and responded to below. Most of these were balanced by comments that favored the sablefish allocations and phasing out of pot gear. Favorable comments are not published. Certain of the comments relate to the Magnuson Act's national standards and other applicable law. NOAA's guidelines (50 CFR Part 602), the national standards and Executive or Congressional intent of other applicable law were used as guidance in responding to comments.

Comments Against the Measure To Allocate Sablefish and Phase Out Pot Gear

Comment 1. The sablefish allocation measure violates National Standard 2, because the Council failed to take into account information readily available on the impact of this measure on the trawl fisheries.

Response. The Council did consider the effects of the allocation measure on the trawl industry. Representatives of the trawl industry testified that they needed not only a sablefish bycatch to support their other target fisheries, but a direct allocation of sablefish as well to help subsidize operations on species that provide only marginal profits. The Council recommended allocating to trawlers 20 percent of the available OYs in the Western Central Regulatory areas where the majority of trawl fisheries are conducted. This is about four times what is required for a bycatch, estimated from the NMFS' "best blend" catch data to be no greater than 5 percent (sablefish are mostly taken when fishing for flounder). The Council thus provided for a limited directed sablefish fishery. The Council's decision is consistent with National Standard 2.

Comment 2. The measure violates National Standard 4 in that (1) it discriminates in favor of Alaska residents of coastal communities in Alaska by eliminating Seattle-based, at-sea processors; (2) it is incapable of being analyzed regarding whether the allocation is fair and equitable, and therefore is unadoptable; and (3) it ultimately provides a single entity with an excessive share, over 87 percent, of the sablefish harvested.

Response. National Standard 4 requires that conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various fishermen, such allocations shall be (a) fair and equitable to all such fishermen, (b) reasonably calculated to promote conservation, and (c) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

Although many management measures have incidental allocative effects, only those that result in direct distributions of fishing privileges are judged against National Standard 4. This assignment of ocean areas and/or portions of available sablefish for harvest to particular gear users is such a direct allocation of fishing privileges. It is a direct and deliberate distribution of the opportunity to participate in the sablefish fishery. These measures do not differentiate either directly or indirectly among U.S. citizens on the basis of their States of residence; hook and line, pot, and trawl fishermen who participate in the fishery reside both outside and within the State of Alaska. These measures also do not discriminate against at-sea processing. At-sea processing is still permitted and may be conducted by both trawl and hook and line vessels.

Other factors to be considered in making allocations include whether allocations are fair and equitable, are reasonably calculated to promote conservation, and avoid excessive shares.

To allow pot vessels to continue to participate and to expand their efforts in the fishery indefinitely would be unfair to the hook and line fishermen. It is clear from the administrative record that pot gear preempts the fishing grounds
ultimately in economic hardship in a situation where it is currently occurring, would result in a disruption of a major resource base, Alaska, depend upon it. The sudden wholesale collapse of markets, and, in Southeast Alaska, would make it impossible for the fishery to be maintained and probably increased. It is reasonable to assume that these measures will be undertaken.

Another consideration is the availability of alternative fisheries. Many hook and line sablefish fishermen participate in the severely overcapitalized Pacific halibut fishery. Many are smaller vessels with few, if any, alternative fisheries to which they can turn if the sablefish fishery becomes economically unprofitable through evolution to a highly capitalized large boat fleet which takes the entire OY in a short time period. Whereas many hook and line vessels would be unable to convert to pot gear or any other gear type, that option is available under the proposed regime to the pot vessel operators. The pot vessel owners, with or without the financial support of a large boat fleet, can purchase vessels, re-fit them with longline gear, convert to other large-boat fisheries, to move to the Bering Sea to fish pots for sablefish. It is fair and equitable to exclude pot gear now while there are still only a small number of these vessels compared to several hundred hook and line vessels. Delaying action will only make it more difficult to remove pot gear in the future and will perpetuate hardships now being imposed on the hook and line fishery.

The national standards guidelines make it clear that the allocation of fishing privileges may impose a hardship on one group if it is outweighed by the total benefits received by another group or groups. An allocation need not preserve the status quo in a fishery to qualify as fair and equitable if a restructuring of fishing privileges would maximize overall benefits. NOAA accepts the Council's conclusion that these measures maximize overall benefits.

Catch statistics from the last three years of the sablefish fishery reveal an increasing transfer of the OY from hook and line vessels to pot vessels. It is reasonable to assume that this transfer will be maintained and probably increased unless these measures are undertaken.

The sablefish measures recognize that the hook and line fisherman and the processors to whom they sell have developed this fishery, including the wholesale markets, and, in Southeast Alaska, depend upon it. The sudden disruption of a major resource base, which is currently occurring, would result ultimately in economic hardship in a number of small communities that have few alternatives for employment. The Council has considered the dependence on the sablefish fishery by present participants and coastal communities in view of the fact that overall economic efficiency requires that such issues as employment impacts and community economic stability are taken into account in addition to production efficiency.

Another argument that has been made is that the allocation to trawl vessels is not fair and equitable because it constrains the ultimate full utilization of the multispecies groundfish complex in the Gulf of Alaska. NOAA doesn't agree with this allegation, at least with respect to the trawl fishery's present structure. As previously discussed, actual bycatch rates of sablefish by domestic trawlers fishing in a variety of joint venture operations in the Gulf in 1984 and 1985 are all less than 5 percent. The proposed allocation to trawlers of 20 percent of the sablefish OY in the Western and Central Gulf adequately provides for all bycatch needs plus some level of directed sablefish harvest to support marginally profitable operations on lower-valued species. Whether 20 percent of the sablefish is enough only time will tell. No quantitative evidence has been presented that it is not adequate.

For the reasons above, NOAA has concluded that the phase-out of pot gear and the allocations between gear types are fair and equitable in this particular instance. This should not be viewed as a precedent for other fisheries where circumstances may differ.

Comment 3. The measure violates National Standard 5, because it does not promote efficiency and was selected solely for economic reasons.

Response. National Standard 5 requires conservation and management measures, where practicable, to promote efficiency in the utilization of fishery resources, except that no such measure shall have economic allocation as its sole purpose. The term "utilization" encompasses harvesting, processing, and marketing, since management decisions affect all three sectors of the industry.

"Efficiency" is a complex term to define as it relates to fisheries. In the national standards guidelines, NOAA defines efficiency as the ability to produce a desired effect or product (or achieve an objective) with a minimum of effort, cost, or misuse of valuable biological and economic resources. In other words, management measures should be chosen that achieve the FMP's objectives with minimum cost and burdens on society. NOAA has concluded that the sablefish measures do promote efficiency, where practicable, principally by addressing real and potential inefficiencies which are created by and would be contributed to by continuing the status quo within the fishery.

By reducing the potential for grounds preemption and/or gear conflicts the phasing out of pot gear will reduce or eliminate the inefficiencies of lost income and productivity imposed on the hook and line fishery by having to replace lost gear or having to find new fishing grounds.

The RIR concludes that the existing hook and line fleet is fully capable of harvesting the entire OY in every regulatory area of the Gulf of Alaska. By phasing out pot gear, the rate of overcapitalization in the fishery is reduced. More importantly, however, the economic loss that would result from the inefficient utilization of capital and incompatible gear types competing for a limited resource is reduced or eliminated.

The allocation of the sablefish OY between the hook and line and trawl gear types will promote efficiency as well. Studies have shown that a significant amount of the trawl catch of a given species is discarded due to unsuitability of either its size or condition for the marketplace. These discards are both an economic and biological waste as they are usually juveniles which have not yet spawned. The hook and line fishery maximizes both the poundage yield and value from the sablefish resource with little waste. The sablefish allocation measures promote efficiency by ensuring that the fishery that maximizes the net benefits from the sablefish resource is the principal harvester of that resource.

Overall social efficiency is also promoted by these measures. Although it is difficult to quantify and analyze the social and economic impacts throughout the community infrastructure, the analysis that was conducted and the large amount of public testimony and debate on the issues create a record adequate to conclude that to continue the static status quo would be to condemn the disruption and dislocation of harvesting, processing, marketing, and employment patterns within several local communities.

In determining whether the sablefish measures have economic allocation as their sole purpose, NOAA considered whether the problems the Council was attempting to address were solely economic. The administrative record of the Council's deliberations, public
testimony, Amendment 14's supporting
documents, and comments received in
response to the proposed rulemaking
create a clear record of the problems
within the sablefish fishery. These
problems can be described in three
general categories: (1) Conservation
(2) grounds preemption and gear conflicts;
and (3) the inequities and inefficiencies
brought about by the rapid expansion of
two new gear types, trawls and pots, in
a fishery where the existing capital and
capacity is already sufficient to harvest
the full OY. A fourth category related to
(3) is to maximize the benefits to the
United States from the harvest of the
sablefish resource as part of the Gulf-
wide groundfish complex. Because of
the diversity and character of problems
the Council was attempting to address
by the sablefish measures, NOAA can
only conclude that the purpose of the
measures is not solely economic, but
biological and social as well.

NOAA also examined the argument
that the Council may have passed up
alternative measures with less
allocative consequence and that the
measures proposed are, therefore,
chosen solely for allocative purposes.
NOAA has concluded, as did the
Council, that only the direct allocation
of the sablefish resource between hook
and line and trawl gear will maximize
the yield and value (net benefits) from
the harvest of both the sablefish
resource and the entire groundfish
complex, prevent wastage of juvenile or
unmarketable sablefish, prevent
overfishing, and stabilize the erosion of
the harvesting, processing, marketing,
and cost structure
supporting the hook and line fishery.

Real alternatives do exist that might
address, to some degree, the problem of
incompatibility between pot and hook
and line gear. These alternatives were
extensively considered by the Council in
developing its proposals and are
discussed in the RIR. The most viable
alternatives are (1) to allocate the OY
among all three gear types, and (2) to
segregate the gear types either spatially
or temporally.

Allocating a portion of the OY to all
three gear types doesn't address to any
extent the incompatibility of gear types
on the same fishing grounds. It also
creates a greater monitoring burden
while increasing the costs of
management and enforcement.

Segregating the gear types, especially
pot and hook and line gear, spatially
or temporally might address the gear
incompatibility issue, but does little to
make the fishery more easily
manageable and thus prevent
overfishing or address any other
problems the Council was attempting to
solve. In fact, such a solution would
increase monitoring and enforcement
costs and impose operational
inefficiencies on all the participants in
the fishery violating both National
Standards 5 and 7.

The basis upon which gear types were
segregated in time or space could create
serious National Standard 4 questions
of fairness and equitability as each group
might be expected to perceive benefits
and disadvantages related to the various
areas or seasons. One gear group might
easily claim that the other was given
superior fishing grounds or a season that
was more favorable for product quality,
catchability, or marketing.

On the basis of the administrative
record, Council discussions, the
supporting documents, and comments on
the proposed rulemaking, NOAA has
concluded that the sablefish gear
allocations and allocative measures do
not have allocation as their sole purpose
and that they are consistent with
National Standard 5.

Comment 4. The measure violates
National Standard 7, because (1) the
measure was not the least burdensome
(2) elimination of directed trawl and pot
gear east of 147° W. longitude is overly
onerous, (3) phased elimination of pots
west of 147° W. longitude and the
reduction of the trawl catch to 20
percent is without any basis in the
record, and (4) it fails to address any
problem in the existing fishery.

Response. National Standard 7
requires conservation and management
measures, where practicable, to
minimize costs and avoid unnecessary
duplication. These guidelines provide the
overall test concerning this standard,
which is that only those regulations
which would serve some useful purpose,
and where the present or future benefits
of regulation would justify the costs,
should be implemented. Although the
comments contend that the measure
does not address any problem in the
existing fishery west of 140° W.
longitude, NOAA concluded potential
problems that are likely to become real
in the present or the future to be
appropriate candidates for Federal
regulation. The types of problems
intended for resolution by this measure
are already occurring west of 140° W.
longitude because the fishery is now
being conducted there throughout the
Gulf of Alaska.

The national standards guidelines' dissection of burdens as they relate to
minimal costs recognizes that
management measures should be
designed to give fishermen the greatest
possible freedom of action in conducting
business. Inherent in managing fisheries
where conflicts among user groups are
unavoidable without regulation is the
fact that the greatest possible freedom
of action is not practicable. Some
measures likely will be necessary which
will reduce freedom of action. The
Council heard and considered a wide
range of management alternatives
during public testimony at its February,
March, and May 1985 meetings,
including smaller areas in which to
prohibit pot gear and alternative OY
allocations for the trawlers. The
national standards guidelines state that
alternative management measures
should not impose unnecessary burdens
on the economy, on individuals, or on
the Federal, State, or local governments.
In light of the circumstances reflected in
the record, NOAA has concluded that
this rule is necessary and is not
unnecessarily burdensome. After
considering the intent of the national
standards guidelines, as they address
National Standard 7, and a review of the
Council action, NOAA finds these
measures to be consistent.

Comment 5. The Council did not
articulate its objectives for sablefish
management and the proposed
allocations are inconsistent with the
FMP's objectives.

Response. NOAA agrees that the
Council did not adopt new objectives for
the FMP and did not clearly articulate
its objectives in the RIR. Nevertheless,
NOAA has concluded that the proposed
measures are consistent with the FMP's
current objectives.

Under the national standards
guidelines, an allocation of fishing
privileges should rationalize further an
FMP objective. Two existing objectives
of the FMP are the (1) rational and
optimal use, in both the biological and
socioeconomic sense, of the region's
fishery resources as a whole, and (2)
provision for the orderly development of
domestic groundfish fisheries. These
measures further the rational and
optimal use of the fishery resources by
stabilizing and maintaining the existing
hook and line fishery, which is capable
of harvesting the entire sablefish OY.

These measures will counteract the
socioeconomic disruption to an
established industry that has already
began to occur as the result of
expansion of both pot and trawl gear in
the fishery. These measures provide a
regulatory regime in which the hook
and line fishery can function without fear of
gear conflicts and groundfish
preemptions by trawl fisheries that have
yet to fully utilize other groundfish
stocks throughout the Gulf of Alaska by
providing a reasonable sablefish

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bdoch in the Eastern area and a small
target allocation elsewhere in the Gulf
of Alaska to contribute to their
profitability.

Comment 8. The measure violates 16
U.S.C. 1853(b)(6), because the Council
failed to address this amendment in the
manner prescribed by this statute, which
requires that the public be put on notice
of intent to implement a limited access
system, since gear limitation is a form of
limited access system.

Response. The measure is not a
limited access system for purposes of 16
U.S.C. 1853(b)(6). Access to the sablefish
fishery in all parts of the Gulf of Alaska
is still open to all who desire such
access. It is only the type of gear that
can be used in the fishery that is
affected by the new measure.

Comment 7. Ground preemptions and
gear conflicts were used to justify the
allocation of the sablefish resource.

Response. Ground preemptions and
gear conflicts were a major
consideration of the Council when it
adopted the management measure.
However, the Council was also
responding to the issue of stabilizing the
infrastructure of the large hook and line
fleet in the face of expansion into the
fishery by pot and trawl gear types. The Council considered numerous factors when allocating the sablefish OY primarily to the hook and line fleet. These included providing the fleet alternatives to the Pacific halibut fishery, economic and social impediments to the hook and line fishery in the face of increased effort, risk of overfishing due to the effort, shorter seasons, reduced income, erosion of developed market channels, resource waste of small fish when discarded by trawlers, efficiency of hook and line gear, and the selectivity of that gear for large-size fish, which are high-valued in the market. NOAA is satisfied that factors other than ground preemptions and gear conflicts justify the sablefish allocation.

Comment 8. Other allocative meas ures were available which were
less destructive to extant investments.

Response. Comment noted. As was
discussed above, the Council and
NOAA has concluded that these
alternatives would not address all the
problems raised in the record as
completely as the measure that was
chosen.

Comment 9. The historical
dependence of hook and line gear on
sablefish is overstated.

Response. NOAA recognizes that the
hook and line fleet has fished for
sablefish in the area east of 140° W.
latitude and that domestication of the
entire sablefish fishery Gulf-wide has
occurred for the first time only in 1985.

Comment 10. The Administrative
Procedure Act precludes the adoption of
the policy formulated by the measure,
because, as a policy-making body, the
Council was predisposed to eliminate
pots, failed to take into account the
impact of the measure on trawlers,
failed to articulate its objective for
management, and failed to look at
reasonable alternatives.

Response. Section 706 of the
Administrative Procedure Act (APA)
sets standards for agency action,
findings, and conclusions, requiring
them to be set aside following judicial
review if they are found to be arbitrary,
capricious, an abuse of discretion, or
otherwise not in accordance with law.
Since the Council plays a primary role in
formulating policy regarding the conduct of fisheries in Federal waters off Alaska, and makes recommendations to the Secretary for the implementation of that policy, the process by which the Council makes such recommendations must be
governed by the standards set forth in the
APA.

NOAA is convinced that the Council
was not predisposed to eliminate pots. It
considered voluminous testimony at
several Council meetings from pot
fishermen with years of experience in
the sablefish fishery off the Pacific
cost. It considered testimony as to their
needs to expand into the Gulf of Alaska
sablefish fishery with pot gear as a
result of reduced fishing off the Pacific
cost, and the amount of effort, time,
and money invested in pots and vessels.
Trawl fishermen also testified that they
needed to harvest the more valuable
sablefish to subsidize their operations
for other groundfish species for which
their profit margin is small. Hook and
line fishermen testified about their
needs for an alternative to the severely
over-capitalized hook and line fishery
for Pacific halibut. The Council heard
many arguments for and against
variations of the Amendment concerning
efficiency, product quality, potential for
gear conflicts and ground preemptions,
reduced employment among the fishing,
processing, and transporting sectors,
and conservation of the sablefish
resource. Questions posed by Council
members to those testifying from among
all the user groups gave no indication
that the Council was predisposed to
eliminate pot gear, failed to take into
account the impact of the measure on
trawlers, failed to articulate its
objectives for management, or failed to
look at reasonable alternatives. NOAA
concludes that the Council's process
was consistent with the APA.

Comment 11. The RIR evidences a
basis in favor of hook and line interests
which is so pervasive as to render it
vulnerable to judicial intervention.

Response. The RIR is an analysis of the
potential problems of ground
preemptions, gear conflicts, and
socioeconomic disruption to the
predominant existing infrastructure
dependent on the sablefish resource, i.e.,
the problems highlighted to the Council
by public testimony. If the RIR appears
biased toward resolution of these
problems, it is because it contains
statements of the problems perceived by
the hook and line fishermen and Council
that justified resolution through Federal
regulation. It must be emphasized
strongly that the RIR is only one part of
the total record of the consideration of
the amendment by the Council and
NOAA. Neither the Council nor NOAA
necessarily concurs with all the
conclusions of the RIR, and they went
well beyond it in formulating their final
decisions on the amendment.

Comment 12. The record does not
clearly show that the Council
adequately considered alternatives to
the proposed amendment which would
be more fair and equitable.

Response. The Council considered,
and recorded on tape, voluminous public
testimony at its February, March, and
May 1985 meetings about possible
combinations of areas and sablefish
allocation shares. The subject of this
testimony concerned fairness and equity
as perceived by the fishermen or their
representatives who presented it, and
resulted in a vast range of alternatives
being presented to the Council.

Comment 13. The amendment is
inconsistent with the intent of the
Magnuson Act to encourage full
domestication of fisheries in U.S.
waters.

Response. Sablefish is now a fully
domesticated fishery in the Gulf of
Alaska. The Council considered the
effects that allocating sablefish to hook
and line gear and pot gear would have on U.S. fishermen who have been
fishing in the Gulf of Alaska. The
Council deliberately established hook
and line gear as the primary gear type in
the sablefish fishery partly to give users
of that gear an alternative fishery they
could depend upon during seasons when
the Pacific halibut fishery would not
support the hook and line fleet. Except
for a small part of the hook and line
fleet which is able to produce a little
income from rockfish landings, a
primary resource for the hook and line
fleet is sablefish. The 20 percent
allocation to U.S. trawlers is more than

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is needed to support a bycatch in other target fisheries. It is intended by the Council to provide for a directed trawl fishery to aid trawl operations that are dependent on small profit margins resulting from low-value groundfish species. The Council’s consideration of the needs of trawlers reflects its intent to foster the domestic harvest of all groundfish.

Comment 14. Panels in pots can be made of biodegradable material that would rot away, thus preventing "ghost" fishing.

Response. Current domestic regulations implementing the FMP at 50 CFR 672.24 require each sablefish pot to have a biodegradable panel of untreated cotton twine or natural fiber in the tunnel that will allow sablefish to escape. NOAA understands that this panel functions as intended.

Comment 15. Hooked undersized sablefish suffer mortality.

Response. Comment noted. Small fish often undergo physical trauma as a result of being hooked.

Comment 16. Large amounts of hook and line gear are lost annually.

Response. Comment noted. NOAA has no data to estimate how much hook and line gear is lost, but any type of fishing gear is subject to loss and this leads to costs in the fishery.

Comment 17. The RIR is inadequate under the RFA, Executive Order 12291, and NOAA guidelines.

Response. Requirements of the RFA, the Executive Order, and the national standards guidelines include the types of information that should be included when analyzing a regulation to determine whether it is “significant” under the RFA and/or whether it is “major” within the meaning of the Executive Order. NOAA has no rigid format to be followed in preparation of an analysis, but does set standards that the analysis must comply with to satisfy the requirements of the RFA and the Executive Order. Although NOAA recognizes that the RIR has certain shortcomings, it has concluded that it is adequate to satisfy the requirements of the RFA and Executive Order. NOAA emphasizes that the RIR is not the sole record of the Council’s consideration of alternatives and impacts of the proposed actions. The Council considered extensive testimony and comments which form the full administrative record and upon which it relied heavily in making its recommendations.

Comment 18. The environmental assessment is inadequate, because it fails to identify individuals contacted in the process of preparing the document, and because the agency failed to actively solicit public comments.

Response. The Council identified agencies, but not individuals, when it prepared the EA. Although NOAA did not use the words “invite comments” or similar words to actively solicit public comments, both the Notice of Availability and the Notice of Proposed Rulemaking (NPR) stated that the EA was available for public review at the Council’s office. NOAA considers the invitation for comments in the NPR to be an initiation for comments on all documents supporting the proposed rule. This is because the findings in the CLASSIFICATION section concerning “other applicable law” are based on the supporting documents, subjecting those documents also to comment during the comment period.

Comment 19. The decision not to prepare an environmental impact statement is substantively in error.

Response. The purpose of an EA is to determine whether significant impacts on the human environment could result from a proposed action. If the action is determined not to be significant, the EA and the resulting “finding of no significant impact” will be the environmental documents required under NEPA. NOAA believes the decision not to prepare an environmental impact statement on the basis of the EA is appropriate and complies fully with NEPA.

Comments on Other Issues

Comment 20. The April 1 starting date would promote resolution of problems associated with vessel safety and product quality.

Response. NOAA notes the comment and concurs that, on the basis of testimony on the season starting date issue, vessel safety will be enhanced, especially among those smaller vessels that would otherwise try to compete with larger pot and hook and line vessels during inclement late winter weather. NOAA has no information to take a position on product quality. Many fishermen and processors have stated that the occurrence of “jelly bellies” or fish which have soft, infirm flesh is common during the pre-April 1 spawning period.

Comment 21. Amendment 14 establishes a weekly catch reporting system for certain catcher/processor vessels. Initially, the Council considered requiring domestic observers on board such vessels, but problems of liability for the safety of such observers caused consideration of the catcher/reporting system instead. The commenter recommends approval of Amendment 14 as quickly as possible, including the reporting system.

Response. NOAA notes the comment.

Comment 22. The reporting requirements are not clear whether the statement at § 672.5(a)(3)(A), “no such operator may retain any part of the vessel’s catch on board that vessel for a period of more than 14 days from the time it is caught unless the Regional Director has been notified as required under this paragraph during that period” is intended to be simply, a means of defining vessels which are subject to the reporting requirement, or whether this is intended to be a penalty, mandating seizure of the catch from a vessel failing to comply with reporting requirements. The planning burden and cost of giving 24 hours advance notification of starting and stopping fishing activities is high.

The need for managers do not require such real-time information about the commencement of fishing.

Response. The purpose of this requirement is to define vessels that are subject to this reporting requirement. Prohibiting retention for more than 14 days does not mandate seizure of the catch from a vessel failing to comply with the requirement. Under the Magnuson Act, the vessel may receive a notice of warning or a citation. Depending on the gravity of the situation, further sanctions are possible. A catch may be seized, or the vessel may be seized. For serious infractions, even criminal penalties are possible.

This new reporting requirement is intended to collect information on catch from those catcher/processing vessels that remain at sea for lengthy periods and which do not otherwise land their catches frequently enough to provide managers information needed to make real-time management decisions. The Council discussed various ways by which catcher/processors could be defined and thus considered separately from the large number of vessels that make short trips, return to port, and report their catches within a time frame useful to managers. Experienced managers and processors suggested that catcher/ processors are likely to remain at sea for 14 days or more; 14 days, therefore, is a general guide to define the category of catcher/processors for which timely catch estimates have not been available in the past and which are subject to this requirement.

NOAA believes the benefits to the resource of requiring catcher/processors to give 24-hour notification before starting and stopping fishing in a regulatory area or district outweigh the costs to the industry. NMFS believes that effective fisheries management
requires effective enforcement; NMFS’ experience of regulating the foreign fisheries using the same standards has proved that fishing vessels are able to comply with the requirement without inordinate costs.

Comment 23. The text in § 672.25(b). Disposal of fishing gear and other articles, must include the word “floating” between the words “discarded” and “fishing” to be consistent with specific regulatory language approved by the North Pacific Fishery Management Council.

Response. Comment noted. This regulation being set aside at this time until further analysis is provided.

Classification

The Regional Director determined that this amendment is necessary for the conservation and management of the groundfish fishery and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared an EA for this amendment and concluded that there will be no significant impact on the human environment as a result of this rule. A copy of the EA may be obtained from the Council at the address above.

The Administrator of NOAA determined that this rule is not a “major rule” requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the RIR/FRFA prepared by the Council. A copy of the RIR/FRFA may be obtained from the Council at the address above.

The Council prepared a FRFA which describes the effects this rule will have on small entities. You may obtain a copy of the FRFA from the Council at the address above.

This rule contains collection of information requirements subject to the Paperwork Reduction Act. The collection of information has been approved by the Office of Management and Budget and continues under OMB Control Numbers 0648-0067 and -0018.

The Council 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 Alaska. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The State agencies agreed with this determination.

List of Subject in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Dated: October 18, 1985.

Carmen J. Blodin,

PART 672—GROUNDFISH OF THE GULF OF ALASKA

For the reasons set out in the preamble, Part 672 is amended to read as follows:

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

Authority: 16 U.S.C. 1901 et seq.

2. In the table of contents, new sections are added in numerical order to read as follows:

Subpart B—Management Measures

§ 672.22 Definitions.

Directed fishing, with respect to any species, stock or other aggregation of fish, means fishing that is intended or can reasonably be expected to result in the catching, taking, or harvesting of quantities of such fish that amount to 20 percent or more of the total amount of fish or fish products on board at any time. It will be a rebuttable presumption that, when any species, stock, or other aggregation of fish comprises 20 percent or more of the catch, take, or harvest, or 20 percent or more of the total amount of fish or fish products on board at any time, such fishing was directed to fishing for such fish.

Regulatory district

(1) Central Southeast Outside district—all waters of the FCZ between 56°00' N. latitude and 57°30' N. latitude and east of 137°00' W. longitude;

§ 672.24 Permits.

(b) Application. The vessel permit required under paragraph (a) of this section may be obtained by submitting to the Regional Director a written application containing the following information:

(1) The vessel owner's name, mailing address, and telephone number;
(2) The name of the vessel;
(3) The vessel’s U.S. Coast Guard documentation number or State registration number;
(4) The home port of the vessel;
(5) The type of fishing gear to be used;
(6) The length and net tonnage of the vessel;
(7) The hull color of the vessel;
(8) The names of all operators and/or lessees of the vessel;
(9) Whether the vessel is to be used in fish harvesting, in which case the type of fishing gear to be used must be specified; or for support operations, including the receipt of fish from U.S. vessels at sea; and
(10) The signature of the applicant.

(d) Notification of change. (1) Except as provided in paragraph (d)(2) of this section, any person who has applied for and received a permit under this section must give written notification of any change in the information provided under paragraph (b) of this section to the Regional Director within 30 days of the date of that change.

2. A permit issued under this section will authorize either harvesting or support operations, not both. The notification to the Regional Director under paragraph (d)(1) of this section of a change in the type of operations in which that vessel is to engage must be completed before that vessel begins the new type of operation.

(e) Duration. A permit will continue in full force and effect through December 31 of the year for which it was issued, or until it is revoked, suspended, or modified under Part 621 (Civil Procedures) of this chapter.

5. In § 672.25, a new paragraph (a)(3) is added to read as follows:

§ 672.25 Reporting requirements.

(a)

(3) Catcher/processor and mothership/processor vessels.

The operator of any fishing vessel regulated under this part who freezes or dry-salts any part of its catch of groundfish on board that vessel and retains that fish at sea for a period of more than 14 days from the time it is caught, or who receives groundfish at sea from a fishing vessel regulated under this part and retains that fish at sea for a period of more than 14 days from the time it is received, must, in
addition to the requirements of paragraphs (a)(1) and (a)(2) of this section, meet the following requirements:

(i) Twenty-four hours before starting and upon stopping fishing or receiving groundfish in any area, the operator of that vessel must notify the Regional Director of the date and hour in GMT and the area of such activity. No such operator may retain any part of that vessel's catch or cargo of fish on board that vessel for a period of more than 14 days from the time it was caught or received unless the Regional Director was notified as required under paragraph (a)(3)(iv) of this section during that period.

(ii) When shifting operations to a new area, the operator of that vessel must notify the Regional Director of the date and hour in GMT of beginning fishing or receiving groundfish in the new area and the position of the new activity. The notice must be sent to the Regional Director within 48 hours of shifting.

(iii) The notices required in paragraphs (a)(3)(i) and (ii) of this section should be sent by private or commercial communications facilities to the U.S. Coast Guard at Juneau, Alaska, who will relay them to the Regional Director. Only if adequate private or commercial communication facilities have not been successfully contacted may the required notices be delivered via the closest Coast Guard communications station.

(iv) After the first catch or receipt of groundfish at sea by that vessel during that period and continuing until that vessel's entire catch or cargo of fish has been unloaded, the operator of that vessel must submit a weekly catch or receipt report for each weekly period, Sunday through Saturday, GMT, or for each portion of such a period, during which groundfish were caught or received at sea. Catch or receipt reports must be sent to the Regional Director within one week of the end of the reporting period through such means as the Regional Director will prescribe upon issuing that vessel's permit under § 672.4 of this part. These reports must contain the following information:

(A) Name and radio call sign of vessel;

(B) Federal permit number for the Gulf of Alaska groundfish fisheries;

(C) Month and days fished or during which fish were received at sea;

(D) The estimated round weight of all fish caught or received at sea by that vessel during the reporting period by species or species group, rounded to the nearest one-tenth of a metric ton (0.1 mt), whether retained, discarded, or off-loaded;

(E) The area in which each species or species group was caught; and,

(F) If any species or species groups were caught in more than one area during a reporting period, the estimated round weight of each, to the nearest 0.1 mt, by area.

6. In § 672.20, Table 1 in paragraph (a) and paragraph (e) are revised to read as follows:

§ 672.20 Optimum yield.

(a) ...
(e) **Halibut** (1) If during any year, the Regional Director determines that the catch of halibut for that year by U.S. vessels delivering their catch to foreign vessels (JVP vessels) or U.S. vessels delivering their catch to U.S. fish processors (DAP vessels) will reach the applicable prohibited species catch (PSC) limit for halibut established under paragraph (e)(2) of this section, he will publish a notice in the Federal Register prohibiting fishing with trawl gear other than off-bottom trawl gear for the rest of the year by the vessels and in the area to which the PSC limit applies, subject to paragraph (e)(2)(iv) of this section.

(2) As soon as practicable after October 1 of each year the Secretary, after consultation with the Council, will publish a notice in the Federal Register specifying the proposed halibut PSC limits for JVP vessels and DAP vessels. Each halibut PSC may be apportioned among the regulatory areas and districts of the Gulf of Alaska. Public comments on the proposed halibut PSC limits will be accepted by the Secretary for 30 days after the notice is published in the Federal Register. The Secretary will consider all timely comments in determining, after consultation with the Council, the final halibut PSC limits for the next year. A notice of these final halibut PSC limits will be published in the Federal Register as soon as practicable after December 15 and will also be made available to the public by the Regional Director through other means.

(2)(i) The Secretary will base the annual halibut PSC limits upon the following types of information:

(A) Estimated halibut bycatch in prior years;

(B) Expected changes in groundfish catch;

(C) Expected changes in groundcatch biomass;

(D) Current estimates of halibut biomass and stock condition;

(E) Potential impacts of expected fishing for groundfish on halibut stocks and U.S. halibut fisheries;

(F) The methods available for and costs of reducing halibut bycatches in groundfish fisheries; and

(G) Other biological and socioeconomic information that affects the consistency of halibut PSC limits with the objectives of this part.

(iii) The Secretary may, by notice in the Federal Register, change the halibut PSC limits during the year for which they were specified, based on new information of the types set forth in paragraph (e)(2)(ii) of this section.

(iv) When the JVP or DAP vessels to which a halibut PSC limit applies have caught an amount of halibut equal to that PSC, the Regional Director may, by notice in the Federal Register, allow some or all of those vessels to continue to fish for groundfish using bottom-trawl gear under specified conditions, subject to the other provisions of this part. In authorizing and conditioning such continued fishing with bottom-trawl gear, the Regional Director will take into account the following considerations, and issue relevant findings:

(A) The risk of biological harm to halibut stocks and of socioeconomic harm to authorized halibut users posed by continued bottom trawling by these vessels;

(B) The extent to which these vessels have avoided incidental halibut catches up to that point in the year;

(C) The confidence of the Regional Director in the accuracy of the estimates of incidental halibut catches by these vessels up to that point in the year;

(D) Where observer coverage of these vessels is sufficient to assure adherence to the prescribed conditions and to alert the Regional Director to increase in their incidental halibut catches; and

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

7. A new §672.23 is added to read as follows:

§672.23 Seasons.

(a) Fishing for groundfish in the regulatory areas and districts of the Gulf of Alaska is authorized from January 1 to December 31, subject to the other provisions of this part, except as provided in paragraph (b) of this section.

(b) Directed fishing for sablefish with hook and line and pot gear in the regulatory areas and districts of the Gulf of Alaska is authorized from April 1 through December 31, subject to the other provisions of this part.

8. In §672.24, the text is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§672.24 Gear limitations.

(b) Sablefish gear restrictions and allocations.

(1) **Eastern Area.** No person may use any gear other than hook and line and trawl gear when fishing for groundfish in the Eastern Area. No person may use any gear other than hook and line gear to engage in directed fishing for sablefish. When vessels using trawl gear have harvested as bycatch 5 percent of the OY for sablefish during any year, the Regional Director will close the Eastern Area to all fishing with trawl gear.

(2) **Central and Western Areas.** During 1986 in the Central Area, and during 1986, 1987, and 1988 in the Western Area, hook and line gear may be used to take up to 55 percent of the OY for sablefish; pot gear may be used to take up to 25 percent of that OY; and trawl gear may be used to take up to 20 percent of that OY. After the years specified above, hook and line gear may be used to take up to 80 percent of the sablefish OY in each area and trawl gear may be used to take up to 20 percent of that OY. When the share of the sablefish OY assigned to any area or district under this paragraph has been taken, the Regional Director will close that regulatory area or district to all fishing for groundfish with that type of gear, subject to §672.20(b) of this part.
No person may use any gear other than hook and line, pot, or trawl gear in fishing for groundfish in these areas during the years specified above. After those years, no person may use any gear other than hook and line or trawl gear in fishing for groundfish in the Gulf of Alaska.

9. In addition to the above amendments, technical changes and corrections are made to read as follows:

§ 672.21 [Amended]
(a) In § 672.2, the definition “ADF” and “C” is changed to “ADF&G”.

§ 672.5 [Amended]
(b) In § 672.5(a)(1), (a)(1)(i)(A) and (B), and (a)(2)(ii), the acronym “ADF and G” is changed to “ADF&G”, and in § 672.5(a)(2)(i), the phrase “Alaska Department of Fish and Game” is changed to “ADF&G”.

§ 672.20 [Amended]
(c) In § 672.20(a)(1), the words “(OY), reserves, DAH, domestic annual processing (DAP), JVP, and the TALFF” are corrected to read “OY, reserves, DAH, domestic annual processing (DAP), joint venture processing (JVP), and TALFF”.

(d) In § 672.20(a)(2) and (c)(4)(v)(A)(3), the words “rule-related” are removed.

(e) In § 672.20(d)(4) and in § 672.22(b)(6), the designation “Table I” is changed to “Table 1”.

§ 672.22 [Amended]
(g) In § 672.22(a)(2), the phrase “field order” is changed to “notice of closure”; and in § 672.22(b)(6), the phrase “optimum yield” is changed to “OY”.

§ 672.25 [Amended]
(h) Section 672.25 Disposal of fishing gear and other articles is added and reserved.

§ 672.25 Disposal of fishing gear and other articles. [Reserved]
[FR Doc. 85-25143 Filed 10-18-85; 8:45 am] BILLING CODE 3510-22-M