Therefore, the Regional Director is no longer requiring Daily Production Reports from processor vessels and shore-side processing facilities as of 12 noon, A.I.T., July 15, 1991.

Classification
This action is taken under § 672.5(c)(3) and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672
Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 et seq.
Richard H. Schaefer,
Director of Office of Fisheries, Conservation and Management, National Marine Fisheries Service.

FOR FURTHER INFORMATION CONTACT:

SUPPLEMENTARY INFORMATION: The domestic and foreign groundfish fisheries in the Exclusive Economic Zone (EEZ) of the Bering Sea and Aleutian Islands Area (BSAI) are managed by the Secretary of Commerce (Secretary) according to the FMP prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMP is implemented by regulations for the foreign fishery at 50 CFR part 611 and for the U.S. fishery at 50 CFR part 675. General regulations that also pertain to the U.S. fishery appear at 50 CFR part 620.

The Council approved Amendment 16a for review by the Secretary under section 304(b) of the Magnuson Act. The Secretary received Amendment 16a for review on March 7, 1991. The Magnuson Act requires the Secretary, or his designee, to approve, disapprove, or partially disapprove FMPs or FMP amendments before the close of the 65th day following receipt. Following receipt of Amendment 16a, the Regional Director immediately commenced a review of the amendment to determine whether it was consistent with the provisions of the Magnuson Act and other applicable law. A notice of availability of Amendment 16a was published in the Federal Register on March 13, 1991. It invited review of, and comment on, the amendment through May 6, 1991. A proposed rule was published in the Federal Register on April 15, 1991 (56 FR 10527; March 13, 1991). It invited review of, and comment on, the amendment through May 6, 1991. A proposed rule implementing Amendment 16a takes comments received into account. Comments received are summarized and responded to below (see Public Comments Received).

The preamble to the proposed rule described and presented the reasons for each measure contained in Amendment 16a. The Regional Director has reviewed each measure and the reasons for it. During his review, the Regional Director considered comments received from the public, including the fishing associations. He has determined that each measure is consistent with the Magnuson Act and other applicable law and has approved the measures contained in Amendment 16a as authorized under section 304 of the Magnuson Act.

The following is a summary of each approved measure under Amendment 16a:

(1) Management measures are implemented to reduce Pacific herring bycatch in the groundfish trawl fisheries. These measures include a prohibited species catch (PSC) limit framework and a series of timed area closures (Herring Savings Areas) that are triggered by the attainment of the herring PSC limit. The PSC limit is established at one percent of the established herring biomass. For the 1991 fishing year, the herring PSC limit is 834 metric tons (mt). The 1991 herring PSC limit is apportioned to the following domestic trawl fisheries based on each fishery’s anticipated bycatch of herring:

<table>
<thead>
<tr>
<th>Fishery category as defined in § 675.21(b)(4)</th>
<th>1991</th>
</tr>
</thead>
<tbody>
<tr>
<td>Midwater pollock</td>
<td>584</td>
</tr>
<tr>
<td>DAP Greenland turbot</td>
<td>8</td>
</tr>
<tr>
<td>DAP Rockfish</td>
<td>0</td>
</tr>
<tr>
<td>DAP Flatfish</td>
<td>83</td>
</tr>
<tr>
<td>DAP other fishery</td>
<td>159</td>
</tr>
<tr>
<td>Total</td>
<td>834</td>
</tr>
</tbody>
</table>

† Herring bycatch allowance (mt).

A fishery’s herring bycatch since the beginning of the 1991 fishing year is credited against its apportionment of the 1991 herring PSC limit. Fisheries that are apportioned a zero amount of the 1991 herring PSC limit are prohibited from fishing in the Herring Savings Areas. Two Summer Herring Savings Areas and one Winter Herring Savings Area are established to protect seasonal concentrations of herring from those fisheries that have attained their annual apportionment of the herring PSC limit. A description of Herring Savings Areas is found under § 675.2.

(2) "Hot-spot closure authority" is established that allows the Regional Director to close temporarily areas to directed groundfish fishing to avoid high bycatch rates of prohibited species specified under § 675.20(c).
(3) Regulatory authority is established that allows the Regional Director to limit the amount of pollock total allowable catch (TAC) that may be taken in the directed trawl fishery for pollock using non-pelagic trawl gear to reduce the amount of prohibited species taken in this fishery.

Changes From the Proposed Rule in the Final Rule

1. In § 675.21, paragraph (d)(1) of the proposed rule is revised so that when the midwater pollock fishery attains its herring bycatch allowance, directed fishing for pollock using trawl gear will be prohibited in the Herring Savings Areas. Under the proposed rule, once the midwater pollock fishery attained its herring bycatch allowance, only directed fishing for pollock with pelagic trawl gear would have been prohibited in the Herring Savings Areas. This closure language would have been unenforceable and easily circumvented by vessel operators by simple modifications to pelagic trawl gear (e.g., adding a single bobbin) that would enable continued midwater fishing for pollock with non-pelagic trawl gear once a closure was triggered. Such gear modifications would result in further herring bycatch being attributed to the "DAP other fishery," and undermine the intent of the Council to limit herring bycatch in the midwater pollock fishery once the herring PSC allowance specified for this fishery had been reached.

2. In § 675.21, paragraph (d)(4) of the proposed rule is revised to reflect changes to regulations made under revised Amendment 16 (56 FR 21818; May 10, 1991). Revised Amendment 16 changed the closure specifications for the "DAP other fishery" so that when a prohibited species bycatch allowance is reached, further directed fishing for Pacific cod with trawl gear and for pollock with non-pelagic trawl gear is prohibited.

3. In § 675.24, technical edits are made to paragraph (c) to clarify and separate gear limitations for sablefish and pollock fisheries. Specifically, paragraph (c)(3) of the proposed rule is redesignated as paragraph (c)(2), and paragraphs (c)(1), and (c)(2) are redesignated as paragraphs (c)(1), (c)(1)(i), and (c)(1)(ii), respectively.

Public Comments Received

Two letters containing comments were received during the comment period. Comments also were received from the North Pacific Fishery Management Council during its April 22-27, 1991, meeting. Comments focused on PSC limits, herring bycatch management measures, the "hot spot" authority, and the apportionment of the pollock TAC between pelagic and non-pelagic trawl gear. The comments received are summarized and responded to in the following paragraphs.

Comment 1. The proposed rule is flawed because it does not provide an opportunity for public comment on the PSC limits implicitly imposed by Amendment 16a. Specifically, neither the amendment nor its supporting documentation addresses alternatives to the existing fixed PSC caps for halibut and crab. Under NMFS's own guidelines, one of the purposes of the National Environmental Policy Act (NEPA) and Executive Order 12291 is to ensure that the public is provided adequate opportunity to review and comment on major Federal actions and that regulations not be implemented unless the potential benefits outweigh the potential costs to society. The process followed by the Council in adopting fixed halibut and crab PSC limits under Amendment 16a and 16a undermines NMFS's own guidelines as far as PSC limits are concerned because all reference to alternative limits and cost/benefit tradeoffs has been deleted from the EA/RIR/IRFA and from the Federal Register notice of proposed rulemaking for Amendment 16a. As a consequence, the Secretary and the Office of Management and Budget have no basis to make the findings required by Executive Order 12291 regarding costs and benefits of the proposed rule based on alternative PSC limits. This process is defective and the proposed rule should be rejected until an analysis of alternative PSC limits can be prepared and submitted for Secretarial review and public comment.

Response. The intent of variable PSC limits based on fluctuations of a prohibited species stock abundance is to adjust allowable bycatch levels in the groundfish fisheries with corresponding fluctuations in a prohibited species stock. Variable PSC limits will result in reduced PSC limits when herring biomass levels are low, providing protection to herring stocks that fixed PSC limits may not provide. Conversely, variable PSC limits allow more bycatch in groundfish fisheries when abundance levels of a prohibited species increase and a corresponding increase in incidental catch in the groundfish fisheries occurs. NMFS agrees that bycatch rates of prohibited species in groundfish operations should be reduced. Until a comprehensive incentive program is developed and implemented for all groundfish operations, management measures are restricted to less-effective bycatch controls. Once a comprehensive incentive program is implemented, a progressive decrease of PSC limits may be reasonable.

The "waste" associated with any discarded catch is of concern in all fisheries. The large volume of discards associated with the groundfish trawl fisheries has initiated Council consideration of management measures to limit such "waste." Although full utilization of fishery resources and a "minimization" of bycatch may be justifiable as a goal for fishery management, the economic and conservation aspects of unrestricted bycatch are less clear and must be fully analyzed prior to Council action to "minimize bycatch" or require full utilization of fishery resources.
Comment 3. Herring bycatch management measures should incorporate an individual incentive system, such as individual transferable quotas (ITQ), to allow bycatch to be handled more efficiently and to reduce the incidental take of herring. Without an individual incentive system, herring bycatch rates will remain high, bycatch allowances will be prematurely reached, and harvest shortfalls of the groundfish optimum yield will continue.

Response. NMFS acknowledges that individual accountability of bycatch under an ITQ program may be a long-term goal. An incentive program has been implemented for halibut and red king crab bycatch in selected groundfish fisheries. As NMFS gains experience with this program, and steps are taken to enhance the program, the expansion of the incentive program to other fisheries and bycatch species will be considered under subsequent regulatory action.

Comment 4. The sequence of time-area closures contemplated for herring bycatch management allows fishermen operating in one area of the Bering Sea to take disproportionate amounts of herring bycatch and trigger trawl closures in the Herring Savings Areas that affect trawl operations in a completely different area of the ocean. For example, inshore pollock fishermen may have a substantial herring bycatch, resulting in closure of the "Winter Herring Savings Area." This area is far removed from near-shore trawl operations, but important to offshore pollock operations. Such a system is inequitable and will result in tremendous economic costs.

Response. NMFS recognizes that increased costs could be incurred by operators of vessels who are forced to change fishing operations when the Herring Savings Areas are closed. Catcher/processor vessels that normally fish for pollock in the Winter Herring Savings Area would have to fish outside this area if it were closed due to attainment of the herring bycatch allowance by trawl vessels participating in the midwater pollock fishery. Alternatively, inshore vessels could be disproportionately affected from closures of the Summer Herring Savings Areas, especially if increased operating costs and distances to open fishing grounds prevent such vessels from fishing for groundfish during closures of these areas.

Comment 5. Proposed bycatch management regulations imposed on the pollock fishery should incorporate mortality-based incentives that provide credit for quick return of bycatch. For example, implementation of a program that credits trawl fishermen with halibut returned to sea within 30 minutes after coming on deck would lessen bycatch impact through increased bycatch survival and increased harvest of target species.

Response. NMFS and the International Pacific Halibut Commission (IPHC) are investigating methods to reduce halibut mortality from handling in the groundfish trawl and longline fisheries. Before regulatory action is taken, information must be collected on how prohibited species are handled by crew on board the domestic trawl fleet. Furthermore, quantitative data analysis and research must be undertaken: (1) To identify factors affecting prohibited species bycatch mortality and viability, (2) to derive an objective index of halibut or crab condition, and (3) to quantify the potential savings of halibut that would result from alternative actions taken by groundfish fishermen to reduce mortality. NMFS intends to work with the fishing industry and the IPHC to explore feasible, practical measures to reduce bycatch mortality in the groundfish fisheries. Regulatory action to implement such measures is unlikely before mid-1992.

Comment 6. The proposed rule for Amendment 16a will be too slow to have the desired effect if an impact analysis must be prepared for each closure action. Furthermore, closures of entire Federal statistical areas for 60 days, rather than some smaller portion of statistical areas for shorter periods of time, will unnecessarily constrain fishing operations in areas that may be fished with low bycatch rates.

Response. NMFS acknowledges that the "hot-spot" authority implemented under Amendment 16a will require that an impact analysis be prepared for the specific restriction(s) imposed under a "hot-spot" closure action. Hot-spot closures implemented under Amendment 16a would not necessarily be broad in scope if available information could support closures of portions of statistical areas for less than 60 days. The time to prepare, review, and implement a hot-spot closure could be of a duration that would make such action ineffective for purposes of reducing bycatch rates. However, there may be other cases when hot-spot closures could be implemented within a timeframe that would reduce bycatch rates.

Comment 7. The existing definition of pelagic trawl gear as a management tool to reduce bycatch of prohibited species is ineffective, as evidenced by the success of certain groundfish fishermen to modify their trawl gear, circumvent the definition of pelagic trawl gear, and continue trawl operations at high bycatch rates. Given this experience, further use of the pelagic trawl gear definition to limit prohibited species bycatch in the pollock fisheries will be a useless management tool, unless a valid distinction between pelagic and non-pelagic trawl gear is established and enforced.

Response. NMFS is aware of the problems associated with enforcing the existing definition of pelagic trawl gear with respect to limiting trawl bycatch of prohibited species. In response, NMFS has implemented rulemaking to prohibit all trawling for Pacific cod once a prohibited species bycatch allowance specified for the "DAP other fishery" has been attained (56 FR 21619; May 10, 1991). The proposed rule for Amendment 16a also has been revised to prohibit all trawling for pollock in the Herring Savings Areas once the herring bycatch allowance specified for the midwater pollock fishery has been reached. Additional emergency rulemaking is being considered by NMFS that would further restrict the use of non-pelagic trawl gear once a fishery's prohibited...
species bycatch allowance has been reached.

North Pacific Fishery Management Council Comments on Amendment 16a

Comment 9. The Council noted that 1991 harvests of pollock with non-pelagic trawl gear in the BSAI comprised 8 percent of the total pollock harvest taken with trawl gear through April, compared to 11 percent in 1990. Additional pollock harvests with non-pelagic trawl gear are expected to be minimal because of 1991 halibut bycatch constraints imposed on the directed fishery for pollock with non-pelagic trawl gear. Therefore, the Council recommended that quota constraints on the 1991 directed fishery for pollock using non-pelagic trawl gear are unnecessary for purposes of limiting halibut and crab bycatch in this fishery. Response. NMFS concurs in the Council’s recommendation and has not implemented a 1991 limitation of the amount of pollock that may be harvested in the directed fishery for pollock using non-pelagic trawl gear.

Comment 9. Recent (1985-1988) observer data indicate that the Winter Herring Savings Area may need adjustment to encompass areas of winter herring concentration. NMFS should review this information and develop recommendations for Council consideration.

Response. The Winter Herring Savings Area implemented under Amendment 16a incorporates the area of long-term, historical winter concentrations of herring. Over 80 percent of the commercial harvest of Bering Sea herring was taken from the Winter herring Savings Area during foreign directed fisheries; however, annual shifts of winter herring concentrations did occur. The 1983-1988 observer data on herring bycatch indicate that the midwinter fishing effort for pollock occurred primarily west and north of the Winter Herring Savings Area. To some extent, a shift in herring winter concentrations also could have accounted for relatively high bycatch rates outside historical areas of winter concentrations. An examination of 1989 and 1990 herring bycatch data shows that most of the winter herring bycatch occurred in the Winter Savings Area.

The Alaska Department of Fish and Game (ADF&G) manages commercial and subsistence herring fisheries in Alaska state waters. The Council has requested ADF&G to examine alternatives for an extended Summer Savings Area to provide further protection to migrating herring stocks. ADF&G has expressed an interest in expanding this analysis to examine the adequacy of the Winter Savings Area based on recent domestic observer data and to develop alternative configurations for the Winter Savings Area. However, with the information available at this time, the Secretary deems the Winter Savings Area defined under Amendment 16a as adequate for protecting winter concentrations of herring based on long-term historical data from directed foreign fisheries and recent (1989-1990) distribution patterns of herring bycatch. The configurations of the Herring Savings Areas may be revised through a subsequent FMP amendment, pending Council action on the expanded ADF&G analysis of the Herring Savings Areas.

The Secretary concurs in the Council’s adoption of Amendment 16a and has approved the amendment and its implementing regulations. The Secretary also concurs in the Council’s recommendations for 1991 herring bycatch allowances as set forth in the notice of proposed rulemaking for Amendment 16a. The Secretary further concurs in the Council’s recommendation to not limit the amount of 1991 pollock TAC available for harvest by the directed fishery for pollock using non-pelagic trawl gear. A regulatory limitation during 1991 is unnecessary because the directed fishery for pollock using non-pelagic trawl gear has taken only 8 percent of the total BSAI pollock catch to date and halibut PSC restrictions will prohibit significant harvests of pollock with non-pelagic trawl gear for the remainder of the year.

Classification

The Regional Director determined that Amendment 16a is necessary for the conservation and management of the groundfish fisheries in the BSAI and that is consistent with the Magnuson Act and other applicable law.

The Council prepared an environmental assessment (EA) for this amendment. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), found that no significant impact on the quality of the human environment will occur as a result of this rule. A copy of the EA may be obtained from the Council (see "ADDRESSES").

The Assistant Administrator determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the EA/RIR/FRFA prepared by the Council. A copy of the EA/RIR/FRFA may be obtained from the Council (see "ADDRESSES").

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

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of Alaska. This determination was submitted to the responsible State agency for review under section 307 of the Coastal Zone Management Act. Since the appropriate State agency did not reply within the statutory time period, consistency is automatically inferred.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 12812.

Sections 675.2 and 675.21 of this rule must be effective as soon as possible to protect herring concentrations within the Herring Savings Areas in the event that fishery herring bycatch allowances are attained. The Summer Savings Areas extend from June 15 through August 15, and closure of these areas once a fishery has reached its herring bycatch allowance is necessary if the council’s intent to limit 1991 herring bycatch is to be carried out. Consequently, the Assistant Administrator finds for good cause that it is contrary to the public interest to delay for 30 days the effective date of this rule under section 553(d) of the Administrative Procedure Act in order to implement the Summer Savings Areas as soon as possible. Sections 675.20 and 675.24 will be effective following a 30-day period of delayed effectiveness in accordance with section 553(d) of the Administrative Procedure Act.

List of Subjects in 50 CFR Part 675

Fisheries, Fishing vessels.


Michael F. Tillman,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 675 is amended as follows:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

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

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

2. In § 675.2, Figure 1 is redesignated as Figure 1 to part 675 and will appear at the end of the part and a definition for "Herring Savings Areas" is added in alphabetical order to areas as follows:
§ 675.2 Definitions

* * *

Herring Savings Areas means any of the following three areas:
(1) Summer Herring Savings Area 1 means that part of the Bering Sea subarea that is south of 57° N. latitude and between 162° and 164° W. longitude from 12:00 noon Alaska local time (A.1.t.) June 15 through 12:00 noon A.1.t. July 1 of a fishing year.

(2) Summer Herring Savings Area 2 means that part of the Bering Sea subarea that is south of 50°30’ N. latitude and between 158° and 167° W. longitude from 12:00 noon A.1.t. July 1 through 12:00 noon A.1.t. August 15 of a fishing year.

(3) Winter Herring Savings Area means that part of the Bering Sea subarea that is between 58° and 60° N. latitude and between 172° and 175° W. longitude from 12:00 noon A.1.t. September 1 of the current fishing year through 12:00 noon A.1.t. March 1 of the succeeding fishing year.

3. In § 675.20, paragraphs (e)(2) introductory text, and paragraph (f) are revised, paragraphs (e)(3) and (4) are redesignated as (e)(4) and (5), and new paragraphs (e)(1)(iv), (e)(3), and (e)(6) are added, to read as follows:

§ 675.20 General limitations.

* * *

(e) * * *

(1) * * *

(iv) Interim closures of statistical areas, or portions thereof, to directed fishing for specified groundfish species.

Any inseason adjustment taken under paragraphs (e)(1)(i), (ii), or (iii) must be based on a determination that such adjustments are necessary to prevent:

* * *

(3) Any inseason closure of a statistical area, or portion thereof, under paragraph (e)(1)(iv) of this section must be based upon a determination that such closures are necessary to prevent:

(i) A continuation of relatively high bycatch rates of prohibited species specified under § 675.20(c) of this part in a statistical area, or portion thereof;

(ii) The take of an excessive share of prohibited species or for which a catch is reported to the Regional Data office, as defined in § 675.21, results in a catch of pollock that is 5 percent or more of the total amount of groundfish caught during the week.

(iii) The condition of a stock in all or part of a statistical area or area that is south of 58° N. latitude and between 164° and 172° W. longitude from 12:00 noon A.1.t. May 15 of a fishing year.

(iv) The premature attainment of established limits or catch limits of groundfish or groundfish products retained, calculated in round weight equivalents, and (B) Does not qualify as a "DAP midwater pollock fishery." "DAP Greenland turbot fishery.

(iv) DAP flatfish fishery means DAP fishing with trawl gear during any weekly reporting period that

(A) Results in retained amounts of Greenland turbot and arrowtooth flounder, in the aggregate, that are 20 percent or more of the total amount of groundfish or groundfish products retained, calculated in round weight equivalents, and

(B) Does not qualify as a "DAP midwater pollock fishery" or "DAP Greenland turbot fishery.

(v) DAP other fishery means DAP fishing with trawl gear during any weekly reporting period that

(A) Results in retained amounts of yellowfin sole and "other flatfish," in the aggregate, that are 20 percent or more of the total amount of groundfish or groundfish products retained, calculated in round weight equivalents, and

(B) Does not qualify as a "DAP midwater pollock fishery," "DAP Greenland turbot fishery," or "DAP rock sole fishery.

(v) DAP other fishery means DAP fishing with trawl gear during any weekly reporting period that

(A) Results in retained amounts of any other combination of groundfish species.
calculated in round weight equivalents that would not qualify as a "DAP Greenland turbot fishery," "DAP rock sole fishery," or DAP flatfish fishery.

(c) Attainment of a PSC allowance for red king crab, C. bairdi, or Pacific halibut.

(d) Attainment of a PSC allowance for Pacific herring.

(1) By the midwater pollock fishery. If, during the fishing year, the Regional Director determines that U.S. fishing vessels using trawl gear will catch a PSC allowance or seasonal apportionment of the allowance, of Pacific herring while participating in the midwater pollock fishery as defined in paragraph (b)(4) of this section, the Secretary will publish a notice in the Federal Register closing the Herring Savings Areas to directed fishing with trawl gear for pollock with trawl gear.

(2) By the DAP rock sole, DAP Greenland turbot, or the JVP flatfish fisheries. If, during the fishing year, the Regional Director determines that U.S. fishing vessels using trawl gear will catch a PSC allowance or seasonal apportionment of a PSC allowance of Pacific herring while participating in either the DAP rock sole, DAP Greenland turbot, of JVP flatfish fisheries as defined in paragraph (b)(4) of this section, the Secretary will publish a notice in the Federal Register closing the Herring Savings Areas to directed fishing with trawl gear for rock sole, Greenland turbot, or JVP flatfish.

(3) By the DAP flatfish fishery. If, during the fishing year, the Regional Director determines that U.S. fishing vessels using trawl gear will catch a PSC allowance or seasonal apportionment of the PSC allowance of Pacific herring while participating in the DAP flatfish fishery as defined in paragraph (b)(4) of this section, the Secretary will publish a notice in the Federal Register closing the Herring Savings Areas to directed fishing with trawl gear for yellowfin sole and "other flatfish," in the aggregate.

(4) By the DAP other fishery. If, during the fishing year, the Regional Director determines that U.S. fishing vessels will catch the PSC allowance or seasonal apportionment of the PSC allowance of Pacific herring while participating in the "DAP other fishery" as defined in paragraph (b)(4) of this section, the Secretary will publish a notice in the Federal Register closing the Herring Savings Areas to directed fishing with trawl gear for yellowfin sole and "other flatfish," in the aggregate.

5. In § 675.24, paragraphs (c) introductory text, (c)(1), and (c)(2) are redesignated as paragraphs (c)(1) introductory text, (c)(1)(i), and (c)(1)(ii), newly redesignated paragraph (c)(1) introductory text is revised, and new paragraphs (c) introductory text, and (c)(2) are added to read as follows:

§ 675.24 Gear limitations.

(c) Gear allocations. (1) Vessels using gear types other than those specified in paragraphs (c)(1)(i) and (c)(1)(ii) of this section must treat sablefish as a prohibited species.

(2) The Secretary, in consultation with the Council, may limit the amount of pollock TAC that may be taken in the directed fishery for pollock using non-pelagic trawl gear. (i) The Regional Director must consider the following information when limiting the amount of pollock TAC that is apportioned to the directed fishery for pollock using non-pelagic trawl gear:

(A) The PSC limits and PSC bycatch allowances established under § 675.21 of this part;

(B) The projected bycatch of prohibited species that would occur with and without a limit in the amount of pollock TAC that may be taken in the directed fishery for pollock using non-pelagic trawl gear;

(C) The cost of a limit in terms of amounts of pollock TAC that may be taken with non-pelagic trawl gear on the non-pelagic and pelagic trawl fisheries; and

(D) Other factors pertaining to consistency with the goals and objectives of the FMP.

(ii) Proposed and final apportionment of pollock TAC to the directed fishery for pollock using non-pelagic trawl gear will be published in the Federal Register with the notices of proposed and final specifications defined in § 672.20(a)(7) of this part.

6. Figures 3 and 4 to part 675 are redesignated as Figures 4 and 5 and a new Figure 3 is added to read as follows:
FIGURE 3.—Herring Savings Areas (HSAs) in the Bering Sea and Aleutian Islands Area.