

transportation of the hazardous material originates and terminates outside the United States and the hazardous material—

- (i) Is not offloaded from the vessel; or
- (ii) Is offloaded between ocean vessels at a U.S. port facility without being transported by public highway.

21. In § 176.30, paragraph (a)(3)(i) is republished to read as follows:

§ 176.30 Dangerous cargo manifest

(a) *****

(3) * * *

(i) An emergency response telephone number as prescribed in subpart G of part 172 of this subchapter.

Issued in Washington, DC on August 10, 1990 under the authority delegated in 49 CFR part 1.

Travis P. Dungan,
Administrator, Research and Special
Programs Administration.

[FR Doc. 90-19265 Filed 8-16-90; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 900511-0111]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of inseason adjustment.

SUMMARY: NOAA announces a modification of the fishing season in the commercial fishery for all salmon species except coho salmon in the exclusive economic zone (EEZ) from Sisters Rocks, Oregon, to Punta Gorda, California. In accordance with the preseason notice of 1990 management measures, this fishery closed at 2400 hours local time, August 6, and was scheduled to reopen at 0001 hours local time, August 15. The Director, Northwest Region, NMFS (Regional Director), has determined that due to low catch rates, this fishery should be reopened at 0001 hours local time, August 8, to provide commercial fishermen additional harvest opportunity. This action is intended to maximize the harvest of chinook salmon in this subarea without exceeding the ocean share of salmon allocated to the commercial fishery.

DATES: Effective: Reopening of the EEZ from Sisters Rocks, Oregon, to Punta Gorda, California, to commercial salmon

fishing is effective at 0001 hours local time, August 8, 1990. Actual notice to affected fishermen was given prior to that time through a special telephone hotline and U.S. Coast Guard Notice to Mariners broadcasts as provided by 50 CFR 661.20, 661.21, and 661.23 (as amended May 1, 1989). Comments: Public comments are invited until August 28, 1990.

ADDRESSES: Comments may be mailed to Rolland A. Schmitt, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115-0070; or E. Charles Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, California 90731-7415. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the office of the NMFS Northwest Regional Director.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at 206-526-6140, or Rodney R. McInnis at 213-514-6199.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries are published at 50 CFR part 661. In its preseason notice of 1990 management measures (55 FR 18894, May 7, 1990), NOAA announced that the 1990 commercial fishery for all salmon species in the subarea from Sisters Rock, Oregon, to Punta Gorda, California, will open August 1-6 and August 15-31 subject to a subarea chinook salmon quota, a coho salmon ceiling south of Cascade Head, Oregon, and an overall coho salmon quota south of Cape Falcon, Oregon. Upon attainment of the coho salmon ceiling or quota, the fishery will reopen for all salmon species except coho salmon.

Inseason management actions taken to date which affect the commercial fishery from Sisters Rocks to Punta Gorda are as follows. The coho salmon catch ceiling south of Cascade Head, Oregon, was projected to be reached on July 31, resulting in closure of the commercial fishery for all salmon species from Cascade Head, Oregon, to Horse Mountain, California, effective 2400 hours local time, July 31, and reopening of regularly scheduled commercial fisheries from Cascade Head to Horse Mountain for all salmon species except coho salmon effective 0001 hours local time, August 1. In addition, the chinook salmon quota for the fishery from Sisters Rocks to Punta Gorda was increased from 12,200 to 18,300 fish on August 1, 1990.

Based on the best available information on August 7, the commercial fishery catch in the subarea is not

expected to reach the 18,300 chinook salmon quota by the scheduled closure date of August 31 if the reopening is delayed until August 15. The Regional Director has determined that commercial fishermen should be provided additional opportunity to fully harvest the quota by modifying the August 15 scheduled opening date and reopening the fishery on August 8. Therefore, the fishery in this subarea is reopened to commercial fishing for all salmon species except coho salmon effective 0001 hours local time, August 8, 1990.

In accordance with the revised inseason notice procedures of 50 CFR 661.20, 661.21, and 661.23, actual notice to fishermen of this reopening was given prior to 0001 hours local time, August 8, 1990, by telephone hotline number (206) 526-6667 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 KHz. NOAA issues this notice of reopening of the commercial salmon fishery in the EEZ from Sisters Rocks, Oregon, to Punta Gorda, California, which is effective 0001 hours local time, August 8, 1990.

The Regional Director consulted with representatives of the Pacific Fishery Management Council, the Oregon Department of Fish and Wildlife, and the California Department of Fish and Game regarding a reopening of the commercial fishery between Sisters Rocks, Oregon, and Punta Gorda, California. The States of Oregon and California will manage the commercial fishery in State waters adjacent to this area of the EEZ in accordance with this federal action. This notice does not apply to other fisheries which may be operating in other areas.

Because of the need for immediate action, the Secretary of Commerce has determined that good cause exists for this notice to be issued without affording a prior opportunity for public comment. Therefore, public comments on this notice will be accepted for 15 days after filing with the Office of the Federal Register, through August 28, 1990.

Other Matters

This action is authorized by 50 CFR 661.21 and 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

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

Dated: August 13, 1990.

Richard H. Schaefer,

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

[FR Doc. 90-19335 Filed 8-13-90; 4:38 pm]

BILLING CODE 3510-22-M

50 CFR Parts 672 and 675

[Docket No. 900813-0213]

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

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

ACTION: Emergency interim rule; request for comments.

SUMMARY: The Secretary of Commerce (Secretary) has determined that an emergency exists in the groundfish fisheries in the Gulf of Alaska and in the Bering Sea/Aleutian Islands area. First, in the Gulf of Alaska, regulations requiring the closure of the Gulf of Alaska to fixed gear as a result of this gear type reaching its established halibut bycatch limit, has unnecessarily restricted some fixed gear fisheries that have little or no halibut bycatch mortality. In the absence of this emergency rulemaking, these fisheries will incur unjustified economic loss. Further, closure of these fisheries will halt the collection of important halibut bycatch data which would provide the basis for halibut bycatch allocations in the 1991 fixed gear fishery. Finally, closure of the pot gear fishery in the exclusive economic zone would redirect effort from that fishery into State waters causing increased gear conflicts with small trawler vessels. Therefore, the Secretary is implementing by emergency rule certain exceptions to the closure to allow fisheries with minimal halibut bycatch mortality to continue. This action is necessary to limit the effects of the closures to just those fisheries that have significant bycatch mortality of halibut. Second, the closure of the Bering Sea/Aleutian Islands area to fishing for Pacific cod and pollock with bottom trawl gear has been rendered ineffective by a faulty gear definition as a means to reduce halibut bycatch mortality. The Secretary is implementing a new definition to further reduce halibut bycatch in both the Bering Sea and Aleutian Islands area and in the Gulf of Alaska. The intended effect of both of these actions is to promote the fishery management objectives of the Fishery Management Plans For Groundfish of the Gulf of Alaska and for

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

EFFECTIVE DATE: August 14, 1990.

Comments are invited on this action, and particularly on the environmental assessment, until September 13, 1990.

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

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

SUPPLEMENTARY INFORMATION:

Background

The domestic and foreign groundfish fisheries in the Gulf of Alaska (GOA) and in the Bering Sea and Aleutian Islands Area (BSAI) are managed by the Secretary under fishery management plans (FMPs) which were prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Magnuson Act (Magnuson Act). The FMPs are implemented by regulations for the foreign fisheries at 50 CFR 611.92 and 611.93 and for the U.S. fisheries at 50 CFR parts 672 and 675. General regulations that also pertain to the U.S. fisheries are codified at 50 CFR part 620. The FMPs and their implementing regulations are amended as necessary for conservation and management of the GOA and BSAI groundfish fisheries. Normally, such amendments take a year or more to be developed and implemented. When new information or circumstances arise that require more rapid implementation of management measures, emergency interim rules may be implemented under authority of section 305(e) of the Magnuson Act. This emergency rule (1) exempts certain fisheries in the GOA from the general closure to fishing with fixed gear, and (2) implements a new definition of a pelagic trawl to limit certain trawling in the BSAI and the GOA.

Gulf of Alaska Gear and Fishery Exemptions to Current Fishery Closures

The groundfish fisheries in the GOA result in annual harvests between 116,000 metric tons (mt) and 800,000 mt. Gear types used in these fisheries include pots, hook-and-line, and trawls. NOAA considers jigs, which include rod-and-reel gear, troll gear, and jigging machines (mechanical devices supporting jigs) to be hook-and-line gear.

Pacific halibut, which are commercially important to other U.S. fishermen, are caught as bycatch in the

groundfish fisheries. To control the amount of Pacific halibut bycatch mortality, regulations implementing the FMP have established prohibited species catch mortality limits (PSC limits) for halibut that apply to trawl gear and fixed gear (hook-and-line and pot gear). For the 1990 fishing year, the GOA FMP and its implementing regulations established a 750-mt PSC limit for fixed gear (54 FR 50386, December 6, 1989). These regulations require closure of the Gulf of Alaska to further fishing by fixed gear for the remainder of the fishing year when the aggregate halibut bycatch mortality by this gear type reaches 750 mt.

An emergency rule was published February 21, 1990 that addressed halibut bycatch mortality (55 FR 5994). In part, it assigned all of the 750 mt halibut PSC limit to hook-and-line gear and exempted pot gear from PSC limit restrictions and closures. It also apportioned amounts of the halibut PSC allocated to hook-and-line gear on the basis of calendar quarters so that halibut bycatch was limited to 150 mt the first quarter, 450 mt the second quarter, and 150 mt the third quarter. The emergency rule was extended from May 16, 1990, through August 13, 1990, under section 305(e)(3)(B) of the Magnuson Act (55 FR 20465, May 17, 1990). On May 29, 1990, the PSC limit assigned to hook-and-line gear was reached, and further fishing with hook-and-line gear was prohibited for the remainder of the year (55 FR 22794, June 4, 1990 and 55 FR 26693, June 29, 1990). When the extended emergency rule expires, pre-existing regulations come into effect that will continue the closure of the GOA to groundfish fishing with hook-and-line gear. Without further action, groundfish fishing with pot gear will also be prohibited beginning August 14, 1990, through the remainder of the year.

Depending on the gear type being used, or the fishery being conducted, halibut bycatch and mortality can be significant in the groundfish fisheries. Conversely, certain gear types and fisheries result in insignificant amounts of halibut bycatch mortality. With respect to the latter, the industry petitioned the Council, during its June 25-30, 1990 meeting, to recommend that fishing for groundfish with pot gear be allowed when the current emergency rule expires. The industry also petitioned the Council to make two exceptions to the general closure to hook-and-line gear as well. These two exceptions would allow fishing for (1) groundfish, primarily Pacific cod, by means of jigs (including rod-and-reel,

and troll gear), and (2) demersal shelf rockfish in the Southeast Outside District of the Eastern Regulatory Area in the Gulf of Alaska. The Council considered information from the industry as well as from NMFS and the Alaska Department of Fish and Game (ADF&G) concerning these exceptions.

Because halibut that gain entry into a pot injure fish that might already be in a pot, reduce the catching capacity of the pot, and increase sorting and discard fishing costs, fishermen take active measures to reduce halibut bycatch. Most fishermen in the Gulf of Alaska fishery are configuring their pots so that the tunnel openings are no more than 9 inches wide and 9 inches high. The purpose of the narrow opening is to reduce entry by halibut.

Information from the NMFS Observer Program shows that the halibut bycatch is low in the pot fisheries. Observer data through June 16, 1990, indicate that the bycatch rate is about 27 percent. The NMFS estimates approximately 4 metric tons of halibut mortality might result if pots continue fishing for groundfish, primarily Pacific cod, assuming 12 percent mortality and a remaining pot gear harvest of groundfish equalling about 11 percent of the remaining TAC for Pacific cod. Given the above, the Council recommended that pot gear be excluded from the Gulf of Alaska halibut PSC limit restrictions for the remainder of the year after the current emergency rule expires on August 13, 1990. The Council also recommended that pots be modified to include halibut exclusion devices that will result in pot openings no wider or higher than nine inches to reduce halibut bycatch.

In the absence of this rulemaking, it is anticipated that fishermen using pot gear would move from the exclusive economic zone into State waters and increase the incidence of gear conflicts with small trawlers.

Industry testimony indicated that halibut bycatch is low in groundfish fisheries using jigs. Because jigs are not baited with protein bait as are hooks used with hook-and-longline gear and because most fishing occurs about 1 fathom off bottom, few halibut are caught as bycatch. The NMFS has no information to suggest otherwise. In ADF&G experimental fisheries, no halibut were caught when mechanical jigs were used to catch 888 rockfish or when hand-troll gear was used to catch 2,392 rockfish. Given the experimental nature of this gear in the Gulf of Alaska, and information available from the

ADF&G, the Council recommended that the use of jigs be separated from hook-and-longline gear, and their use be allowed to continue for the remainder of the fishing year.

With respect to the demersal shelf rockfish fishery, ADF&G staff who have conducted indexing surveys in the Southeast Outside District and who are otherwise familiar with the execution of this fishery cite reasons why halibut mortality is less than that encountered in the other hook-and-line fisheries. First, fishermen who participate in this fishery use snap-on gear, which are hook-and-knee assemblies that snap onto the groundline, rather than hook-and-line assemblies that are tied into the groundline. As fishermen retrieve their snap-on gear, they take the time to unsnap the assembly from the groundline before it travels through the pulley wheel. Fishermen reportedly use the additional time to remove the hook from each halibut that is caught and to return it to the sea with a minimum amount of injury. Second, soak time is short because the market for demersal shelf rockfish demands a high-quality product that is satisfied by fish in a non-mutilated condition. Fish that are soaked too long are often attacked by sand fleas or other predators, which mutilate the fish and render them less desirable for the market. Third, fishermen bring demersal shelf rockfish slowly to the surface to minimize physical distortions resulting from embolisms. Therefore, each halibut reportedly undergoes less stress as it is brought to the surface where it is then released to the sea.

Fishermen usually commence fishing in the demersal shelf rockfish fishery late in the fishing year (e.g., in October). Because an FMP amendment could not be implemented in time to exempt the demersal shelf rockfish fishery, the Council recommended that the Secretary accomplish the exemption by emergency rule.

Action by the Secretary of Commerce

Upon reviewing the Council's recommendation and available information, the Secretary concurs that an emergency exists with respect to unnecessary economic loss that would be incurred by fishermen participating in the pot and jig fisheries or in the demersal shelf rockfish fishery.

The Secretary has also noted that observer data to date represents bycatch rates for only a limited time. No observer data would be obtained from

the pot fishery if pot gear were prohibited after August 13, 1990. Loss of observer data will confound future decision making by the Council. Part of the Council's Amendment 21 to the FMP, which is being reviewed by the Secretary, includes authority to establish a PSC limit on pot gear for the 1991 fishing year. The Council had intended that the NMFS Observer Program would furnish necessary data on which to make recommendations on this PSC limit. An entire year of data is necessary to account for seasonal variation of halibut movements that affect bycatch rates in pot gear. To date, most data were collected in the summer and include data from pots that do not have halibut-exclusion devices; therefore, no data are available to determine bycatch rates during several months at the end of the year when all pots would be equipped with halibut-exclusion devices. The Secretary is concerned that the Council will have access to incomplete and unsatisfactory information when making recommendations for PSC allocations among gear types for the 1991 fishing year. Because the Council's recommendations will result in millions of dollars of redistributed revenue within the industry, the Council must have the best available information. The Secretary also notes that continued fishing for cod with pot gear, with its low halibut bycatch rate, promotes achieving the optimum yield. This results from halibut saved to support fishing for other species categories by other gear types to the extent that pot gear harvests part of that TAC which otherwise would be harvested by trawl gear at a higher halibut bycatch rate. The Secretary notes that excessive gear conflict would occur between fishermen using pots and trawl gear in State waters if pot gear fishing is prohibited in the exclusive economic zone for the remainder of the year. Therefore, the Secretary implements the Council recommendations.

Upon the effective date of this emergency rule, pots used in the directed groundfish fishery that have rigid tunnel openings must be equipped with openings no wider or higher than 9 inches (Figure 1). Those pots that have soft tunnel openings must be equipped with openings no wider than 9 inches in diameter (Figure 2). These maximum dimensions in the pot openings will reduce halibut bycatch in the directed groundfish fisheries.

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Maximum dimensions
of a groundfish pot
with a rigid tunnel opening

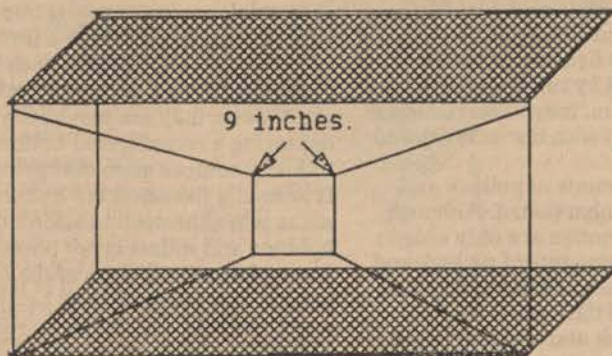


Figure 1. Maximum openings of a groundfish pot with rigid tunnel openings.

Maximum diameter opening
of a groundfish pot
with a soft tunnel opening

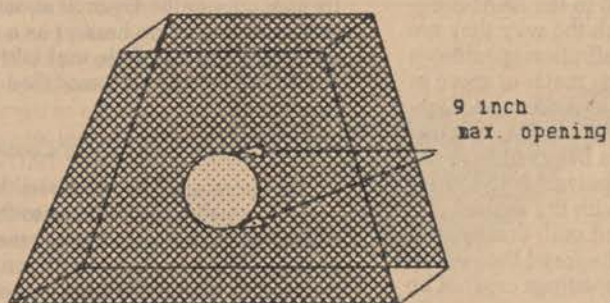


Figure 2. Maximum opening of a of a groundfish pot with a soft tunnel opening.

New Definition of Pelagic Trawl Gear and Its Application to the Current BSAI Closure of the "DAP Other Fisheries"

On June 30, 1990 (55 FR 27643, July 5, 1990), the Secretary closed the BSAI to further direct fishing for pollock and Pacific cod in the aggregate with bottom trawl gear. The closure was required by regulations at 50 CFR 675.21(c)(2)(iv) because U.S. fishermen participating in the "DAP other fishery" had reached their secondary halibut PSC allowance of 3,968 mt. The closure was intended to restrict the bycatch of halibut in the "DAP other fishery" to the PSC allowance.

In response to industry inquiries concerning the closure, the Regional Director has become aware of an enforcement loophole in the regulations implementing the closure, a loophole resulting from the definition of a bottom trawl. A bottom trawl is defined in § 675.2 as a trawl in which the ground rope of the net is equipped with bobbins or roller gear. It is used while trawling on the seabed for Pacific cod and pollock, as well as other groundfish species categories. Bobbins and rollers raise the trawl slightly off bottom, allow more efficient trawling, and reduce amounts of fuel needed.

Attainment of the secondary PSC allowance for Pacific halibut under § 675.21(c)(2)(iv) has triggered a prohibition of the use of bottom trawl gear when fishing for Pacific cod and pollock for the rest of 1990. The intent of this prohibition is to reduce halibut bycatches that result from bottom trawling once the halibut bycatch allowance established for the "DAP other fishery" has been reached. However, by simply removing the bobbins or rollers, a fisherman can modify trawl gear so that it is no longer a bottom trawl by definition. A fisherman can still keep the trawl on the bottom by attaching chains to the foot rope, operating the trawl in direct contact with the bottom instead of being lifted 12-18 inches by the radius of the bobbins and rollers. Although a vessel operator would likely fish less efficiently, he might still accrue a profit in terms of additional Pacific cod and pollock harvested. A bottom trawl with bobbins and rollers removed conceivably could catch even more halibut than when it had bobbins and rollers attached. With bobbins and rollers attached, some smaller halibut probably escape capture by swimming between the bobbins and rollers, thence under the footrope and away from the bottom trawl.

Industry sources report that fishermen are actually removing bobbins and rollers, attaching chains, and then continuing to trawl on the sea bed. The Regional Director has received many phone calls inquiring about possible enforcement action if a trawl were so configured. These fishermen have been told correctly that by removing the bobbins and rollers, they would be able to continue to fish with the reconfigured trawl.

Substantial amounts of pollock and cod still remain unharvested. Although bottom trawl fishermen are only able to retain aggregate amounts of pollock and cod up to 20 percent of other groundfish retained on board during a week, the amounts of pollock and cod that could be retained as measured against total amounts of unharvested groundfish could be substantial. While conducting such trawl operations on the seabed with reconfigured bottom trawl gear, substantial halibut bycatches could occur. Additional halibut bycatches by reconfigured bottom trawls thwart the intent of the closure to reduce halibut bycatch in trawl operations.

At its June 25-30, 1990 meeting, the Council adopted a proposed regulation redefining a pelagic trawl as part of Amendments 16 and 21 to the BSAI and GOA FMPs, respectively. The current definition is inconsistent with how most pelagic trawls used in the BSAI are configured and with the way they are fished. The new definition specifies a large mesh size, one meter or more in width, or parallel lines one meter apart just behind the footrope. Most halibut, as well as crab, are believed to escape capture by such a pelagic trawl if it is fished in contact with the seabed, because halibut and crab that pass over the footrope into the trawl then escape through the large openings created by the mesh dimensions or spacing of the parallel lines. Specifically, the proposed definition as adopted by the Council reads as follows:

Pelagic trawl means a trawl which has stretched mesh size openings of at least 1 meter, or parallel lines with spaces of at least 1 meter, starting at the fishing line and extending aft for a distance of at least 10 meshes and going around the entire circumference of the trawl, and which is tied to the fishing line with no less than 0.3 meter (12 inches) between knots around the circumference of the net, and which does not have plastic discs, bobbins, rollers, or other chafe-protection gear attached to the foot rope.

The current definition is different from that proposed by the Council, because it

does not specify minimum dimensions for trawl meshes or parallel line spacings. The current definition does prohibit the use of bobbins or roller gear. It also prohibits any part of the net or trawl doors from coming into contact with the seabed, but such a prohibition is not enforceable. If fishermen deploy a pelagic trawl as it is currently defined in regulations, they are essentially deploying a reconfigured bottom trawl. Industry sources state that pelagic gear is normally fished on the bottom in areas where protection afforded by bobbins and rollers is not necessary. Recognizing the failings of the current pelagic trawl definition as being unenforceable and unable to reduce bycatches of halibut or crab, the Council adopted the new definition.

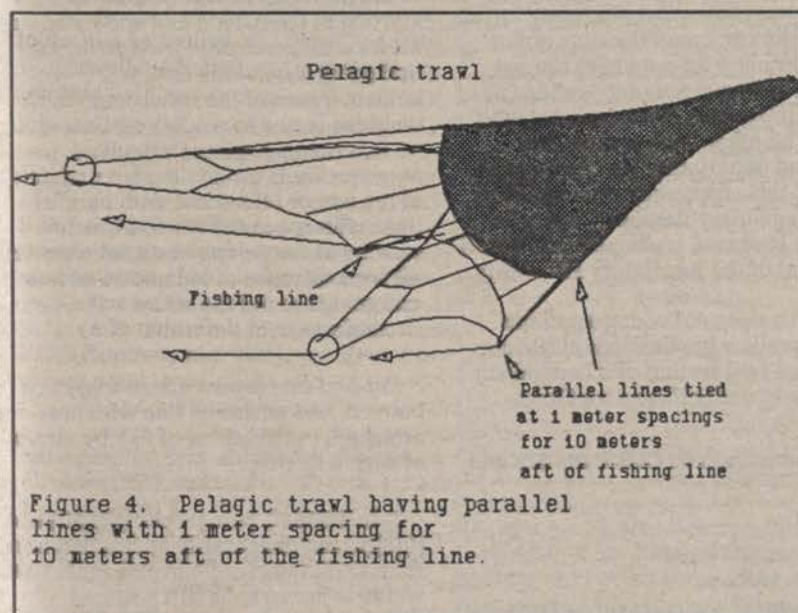
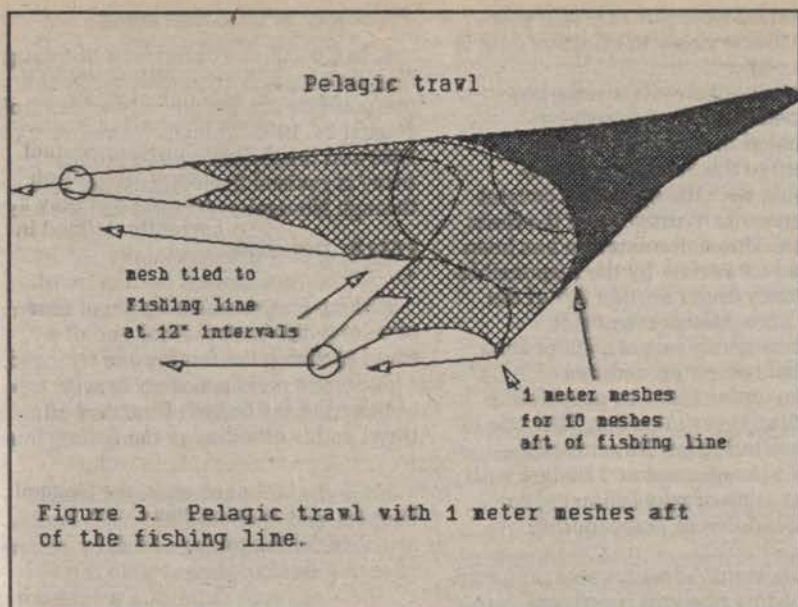
Under the current schedule for implementing Amendment 16 to the BSAI FMP, the new definition would not become effective until January 1, 1991. Recognizing that fishermen are continuing to use reconfigured bottom trawl gear to fish for Pacific cod and pollock, some industry trawl representatives have recommended to the Regional Director that further fishing for these species be restricted during 1990 to the new pelagic trawl definition adopted by the Council under BSAI Amendment 16. The industry expressed its concerns to the Council about the potential impact on halibut as a result of the regulatory loophole that allows continued fishing with modified bottom trawl gear.

Action by the Secretary of Commerce

The Secretary has reviewed the existing closure of the BSAI to the "DAP other fishery." In considering the extent of the loophole explained above, he has decided to implement the Council's recommended new definition of a pelagic trawl with one exception by emergency rule at this time. In reviewing the definition, the Secretary has determined that prohibiting the use of plastic discs, bobbins, and rollers on the foot rope is not necessary. Fishermen do not use these devices with large-meshed pelagic trawls, because such devices tangle with the trawl when it is taken up with the reel on the vessel.

Pelagic trawls must have one meter meshes (stretched dimension) for a distance of ten meshes in back of the fishing line (Figure 3) or parallel lines spaced one meter apart for a distance of ten meters in back of the fishing line (Figure 4).

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Further, because many fishermen fish in both the BSAI and the GOA, and because reaching the halibut bycatch allowance in the GOA is likely before year's end, which would create a similar loophole problem in the GOA, the Secretary is also making the amended definition of pelagic trawl applicable to the GOA at this time. Consistency in gear definitions between these areas will minimize confusion and facilitate enforcement. The Secretary's action does not prejudice his decision to approve, disapprove, or partially disapprove this part of Amendment 16 under his review and decision authority provided by section 304 of the Magnuson Act.

To make use of the new definition to resolve the management problem described above, the Secretary is also amending by emergency rule the current regulation at § 675.21(c)(2)(iv) closing the "DAP other fishery" by prohibiting the directed fishery for Pacific cod and pollock, in the aggregate, with other than pelagic trawls, rather than prohibiting the use of bottom trawls in the directed fishery. Implementation of the new pelagic trawl definition may promote harvests of pollock, which can be harvested on- as well as off-bottom. This amendment prohibits for the remainder of the fishing year, directed fishing for pollock and Pacific cod in the aggregate with trawl gear other than pelagic trawls in Zones 1 and 2H and also in the BSAI by U.S. fishing vessels that process their catch on board or deliver it to U.S. processors.

By this action, the Secretary is also amending the closure notices of the "DAP other fishery" when the secondary halibut PSC was reached on May 30, 1990 (55 FR 22919, June 5, 1990), and when the primary halibut PSC was reached on June 30, 1990 (55 FR 27643, July 5, 1990), respectively.

Classification

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

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

restriction by exempting certain gear types, a 30-day delay in effective date is not required.

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

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

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

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

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

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

List of Subjects in 50 CFR Parts 672 and 675

Fisheries.

Dated: August 13, 1990.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

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

PART 672—GROUND FISH OF THE GULF OF ALASKA

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

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

2. In § 672.2, the definitions of fishing line, foot rope, hook-and-line, jig, and pot-and-line are temporarily added from August 14, 1990 through November 10, 1990 and the definition of a pelagic trawl is revised from August 14, 1990 through November 10, 1990 as follows:

§ 672.2 Definitions.

Fishing line means a length of chain or wire in the bottom front end of a trawl to which the footrope is attached.

Foot rope means a chain or wire rope attached to the bottom front end of a trawl and is attached to the fishing line.

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

Jig means rod-and-reel gear, troll gear, or jigging machines with a single non-buoyed, non-anchored line with hooks attached, or the taking of fish by means of such a device.

Pelagic trawl means (1) a trawl which has stretched mesh size openings of at least 1 meter, as measured diagonally from knot to knot when opposite sides of the mesh are brought together, starting at the fishing line and extending aft for a distance of at least 10 meshes and going around the entire circumference of the trawl, and which webbing is tied to the fishing line with no less than 0.3 meter (12 inches) between knots around the circumference of the net; or (2) a trawl with parallel lines with spaces of at least 1 meter, starting at the fishing line and extending aft for a distance of at least 10 meters and going around the entire circumference of the trawl.

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

3. In § 672.20, paragraphs (f)(1)(ii) and (f)(3)(ii) are temporarily suspended from August 13, 1990 until November 10, 1990, and new paragraphs (f)(1)(iii) and (f)(3)(iv) are temporarily added from August 13, 1990 through November 10, 1990 to read as follows:

§ 672.20 General limitations.

(f) * * *

(i) * * *

(iii) ~~Hook-and-line gear.~~ If during the year, the Regional Director determines that the catch of halibut by vessels using

hook-and-line gear in directed fisheries for groundfish, other than directed fisheries for demersal shelf rockfish in the Southeast District, will result in mortality of 750 mt of halibut provided by paragraph (f)(3) of this section, the Regional Director will publish a notice in the Federal Register prohibiting directed fishing for groundfish, other than, demersal shelf rockfish in the Southeast Outside District, with hook-and-line gear for the remainder of the year in the Gulf of Alaska.

(a) * * *

(iv) A PSC mortality limit of 750 m.t. of Pacific halibut for hook-and-line gear is established.

4. Section 672.24 Gear limitations is temporarily changed from August 14, 1990 through November 10, 1990, by redesignating paragraph (c) as paragraph (d), by redesignating paragraph (b) as (c) and retitling it to read Gear allocations, and adding a new paragraph (b) to read as follows:

§ 672.24 Gear limitations.

(f) Gear restrictions. All pots used in directed fishing for groundfish must have rigid tunnel openings that are no wider than 9 inches and no higher than 9 inches, or soft tunnel openings that are no wider than 9 inches in diameter.

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

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

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

6. In § 675.2, the definitions of fishing line and foot rope are temporarily added from August 14, 1990 through November 10, 1990, and the definition of a pelagic trawl is revised from August 14, 1990 through November 10, 1990, as follows:

§ 675.2 Definitions.

Fishing line means a length of chain or wire in the bottom front end of a trawl to which the footrope is attached.

Foot rope means a chain or wire rope attached to the bottom front end of a trawl and is attached to the fishing line.

Pelagic trawl means (a) a trawl which has stretched mesh size openings of at least 1 meter, as measured diagonally from knot to knot when opposite sides of the mesh are brought together, starting at the fishing line and extending aft for a distance of at least 10 meshes and going around the entire circumference of the trawl, and which

webbing is tied to the fishing line with no less than 0.3 meter (12 inches) between knots around the circumference of the net; or (b) a trawl with parallel lines with spaces of at least 1 meter, starting at the fishing line and extending aft for a distance of at least 10 meters and going around the entire circumference of the trawl.

7. In § 675.21 paragraph (c)(2) is suspended from August 14, 1990 until November 10, 1990, and a new paragraph (c)(5) is added from August 14, 1990 until November 10, 1990 to read as follows:

§ 675.21 Prohibited species catch (PSC) limitations.

(c) * * *

(5) By the "DAP other fisheries."

(i) If, during the fishing year, the Regional Director determines that U.S. fishing vessels will catch either of the PSC allowances of red king crab or C. bairdi in Zone 1 while participating in the "DAP other fishery," the Secretary will publish a notice in the Federal Register prohibiting, for the remainder of the fishing year, directed fishing for pollock and Pacific cod in the aggregate with trawl gear other than pelagic trawls in Zone 1 by U.S. fishing vessels that process their catch on board or deliver it to U.S. processors.

(ii) If, during the fishing year, the Regional Director determines that U.S. fishing vessels will catch the PSC allowance of C. bairdi in Zone 2 while participating in the "DAP other fishery," the Secretary will publish a notice in the Federal Register prohibiting, for the remainder of the fishing year, directed fishing for pollock and Pacific cod in the aggregate with trawls other than pelagic trawls in Zone 2 by U.S. fishing vessels that process their catch on board or deliver it to U.S. processors.

(iii) If, during the fishing year, the Regional Director determines that U.S. fishing vessels will catch the primary PSC allowance of Pacific halibut in the Bering Sea and Aleutian Islands Management Area while participating in the "DAP other fishery," the Secretary will publish a notice in the Federal Register prohibiting, for the remainder of the fishing year, directed fishing for pollock and Pacific cod in the aggregate with trawls other than pelagic trawls in Zones 1 and 2H by U.S. fishing vessels that process their catch on board or deliver it to U.S. processors.

(iv) If, during the fishing year, the Regional Director determines that U.S. fishing vessels will catch the secondary PSC allowance of Pacific halibut in the Bering Sea and Aleutian Islands Management Area while participating in

the "DAP other fishery," the Secretary will publish a notice in the Federal Register prohibiting, for the remainder of the fishing year, directed fishing for pollock and Pacific cod in the aggregate with trawls other than pelagic trawls in the entire Bering Sea and Aleutian Islands Management Area by U.S. fishing vessels that process their catch on board or deliver it to U.S. processors.

[FR Doc. 90-19354 Filed 8-14-90; 8:45 a.m.]

BILLING CODE 3510-22-01

56 CFR Part 674

[Docket No. 900790-01901]

High Seas Salmon Fishery off Alaska

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

ACTION: Notice of closure.

SUMMARY: NOAA issues this notice closing for 10 days the U.S. Exclusive Economic Zone off Southeast Alaska to commercial fishing for all salmon species. This action is necessary to stop the harvest of coho salmon by the troll fishery and is intended to ensure that the coho salmon stocks are not overharvested and the various groups of fishermen share the harvest equitably.

DATES: Effective: This notice is effective at 0001 hours Alaska Daylight Time (ADT), Monday, August 13, 1990, and will expire at 2400 hours ADT, Wednesday, August 22, 1990. Comments: Public comments are invited until September 13, 1990.

ADDRESSES: Send comments to Steven Petmoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21666, Juneau, Alaska 99602-1668. During the 30-day public comment period, the data upon which this notice is based will be available for public inspection from 0800 through 1630 hours ADT Monday through Friday at the NMFS Regional Office, Room 453, Federal Building, 705 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Aven M. Anderson (Fishery Management Biologist; NMFS) 907-586-7228.

SUPPLEMENTARY INFORMATION: Salmon fishing in the U.S. Exclusive Economic Zone (EEZ) off Alaska is managed under the Fishery Management Plan for the High Seas Salmon Fishery off the Coast of Alaska East of 175 Degrees East Longitude (FMP). This FMP was developed and amended by the North Pacific Fishery Management Council (Council) and is implemented by NOAA