

[Federal Register: January 19, 1994]

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DEPARTMENT OF COMMERCE 50 CFR Parts 672 and 675 [Docket No. 940102-4002, I.D. 122293D] RIN 0648-AF17 Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce. ACTION: Proposed rule; request for comments.  
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SUMMARY: NMFS proposes regulations that would implement Amendment 25 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI). This amendment proposes to eliminate the primary Pacific halibut prohibited species catch (PSC) limit that, when reached, requires NMFS to close Bycatch Limitation Zones 1 and 2H of the Bering Sea. NMFS also proposes regulations that would authorize the release of vessel-specific observer data on bycatch of prohibited species, and prohibit the discard of salmon taken as bycatch in the BSAI groundfish trawl fisheries until each salmon has been counted by a NMFS-certified observer. This action is necessary for effective management of the halibut PSC limit established for BSAI trawl fisheries and to provide better information on salmon and other prohibited species bycatch. This action is intended to promote management and conservation of groundfish and other fish resources and to further the goals and objectives contained in the FMP for the Groundfish Fishery of the BSAI and the FMP for Groundfish of the Gulf of Alaska (GOA).

DATES: Comments must be received by 4:30 p.m., Alaska local time, February 28, 1994.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel). Copies of the environmental assessment/ regulatory impact review (EA/RIR) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 (telephone 907-271-2809).

FOR FURTHER INFORMATION CONTACT: Susan J. Salvesson, Fisheries Management Division, Alaska Region, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Fishing for groundfish by U.S. vessels in the exclusive economic **zone** of the GOA and the BSAI is managed by the Secretary of Commerce (Secretary) according to the FMP for Groundfish of the GOA and the FMP for the Groundfish Fishery of the BSAI. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801, et seq.) (Magnuson Act), and are implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 672 and 675. General regulations that also pertain to U.S. fisheries are codified at 50 CFR part 620.

This action proposes regulations to implement Amendment 25 to the FMP for the Groundfish Fishery of the BSAI. If approved by the Secretary, this amendment would eliminate the primary halibut PSC limit established for BSAI trawl fisheries. This action also proposes two regulatory amendments that would (1) authorize the release of vessel-specific observer data on bycatch of prohibited species, and (2) prohibit the discard of salmon taken as bycatch in the BSAI groundfish trawl fisheries until each salmon has been counted by a NMFS-certified observer. A description of, and reasons for, each of the proposed measures is presented below.

Amendment 25 to the FMP for the Groundfish Fishery of the BSAI

A 4,400-mt primary halibut PSC limit was established for specified BSAI

trawl fisheries under Amendment 12a to the FMP for the Groundfish Fishery of the BSAI (54 FR 32642, August 9, 1989). When the primary halibut PSC limit was reached, Bycatch Limitation Zones 1 and 2H were closed to directed fishing for specified groundfish species. The intent of this closure was to reduce halibut bycatch rates experienced by the trawl fisheries without prohibiting the groundfish trawl fisheries access to the entire BSAI groundfish resource. When the secondary halibut bycatch limit established under Amendment 12a (5,333 mt) was reached, the entire BSAI was closed to directed fishing for specified groundfish species. A justification for and intent of the primary halibut PSC limit was discussed in the preamble to the final rule implementing Amendment 12a. Amendment 12a expired December 31, 1990, and was superseded by Amendment 16 to the FMP. Amendment 16 and its implementing regulations (56 FR 2700, January 24, 1991) maintained the primary and secondary halibut PSC limits at 4,400 mt and 5,333 mt, respectively. Amendment 19 to the FMP maintained the primary halibut PSC limit at 4,400 mt, but reduced the secondary limit to 5,033 mt. This adjustment was effective only for the 1992 fishing year (57 FR 43926, September 23, 1992).

Under Amendment 19, the smaller difference between the primary and secondary halibut PSC limits frustrated NMFS' ability to monitor the primary halibut PSC limit in a manner to allow closures before the secondary limit was reached. As a result, trawl closures ensuing from halibut bycatch restrictions increasingly were implemented under the secondary limit rather than the primary limit. This situation continues under Amendment 21 to the FMP, which superseded Amendment 19 and converted the primary and secondary halibut PSC limits established for trawl gear fisheries from catch limits to mortality limits (3,300 mt mortality and 3,775 mt mortality, respectively) (58 FR 14524, March 18, 1993). Questions have been raised regarding the effectiveness of the primary PSC mortality limit to reduce halibut bycatch rates for two reasons. First, the minor difference between the primary and secondary limits constrains NMFS' ability to implement fishery closures under the primary limit before the secondary limit is reached. Second, observer data on halibut bycatch rates do not indicate that closure of Bycatch Limitation Zones 1 and 2H under the primary limit necessarily reduces halibut bycatch rates to allow more groundfish to be harvested before the secondary limit is reached. To the contrary, closure of Zones 1 and 2H often increases bycatch rates by forcing fisheries to move to areas with lower groundfish catch per unit of effort and higher halibut bycatch rates. Once the secondary limit is reached, the entire BSAI is closed to directed fishing for specified groundfish species by vessels using non-pelagic trawl gear (50 CFR 675.21(c)(1)(iv)).

To respond to these concerns, NMFS prepared a draft analysis for a proposed FMP amendment to eliminate the primary halibut PSC limit. The draft analysis was reviewed by the Council and its Advisory Panel (AP) and Scientific and Statistical Committee (SSC) during the Council's September 1992 meeting and adopted for public review. At its December 1992 meeting, the Council considered the testimony and recommendations of the AP, SSC, fishing industry representatives, and the general public on the proposed action to eliminate the primary halibut PSC mortality limit. The Council adopted the proposed action under Amendment 25 to the FMP and requested NMFS to prepare a proposed rule to implement the action. The action would not affect the secondary halibut bycatch mortality limit established for the BSAI trawl fisheries (3,775 mt). Mandatory Retention of Salmon Until Counted by a NMFS-certified Observer

At its September 1993 meeting, the Council requested that NMFS prepare a proposed rule for review and approval that would prohibit the discard of

salmon taken in the BSAI groundfish trawl fisheries until a NMFS-certified observer has counted each fish and collected any scientific data or biological samples that the observer had been requested by NMFS to obtain. Regulations to prohibit the discard of all salmon taken in groundfish trawl operations until an observer has counted each salmon would provide the opportunity to collect better data on salmon bycatch. These data could be used to assess the quality of bycatch rate estimates derived from existing observer sampling procedures and provide additional information with which to assess the magnitude of salmon bycatch in the Alaska trawl fisheries. Additional data collected on salmon taken as bycatch in the BSAI trawl fisheries also could be used to assess long-term management measures that may be developed to address the salmon bycatch problem. Mandatory retention of salmon until counted by an observer also would support independent industry initiatives to explore factors that may be correlated with salmon bycatch and identify changes in fishing operations that could reduce salmon bycatch rates.

NMFS concurs that additional information on salmon bycatch would be desirable and is necessary to develop management actions to address the salmon bycatch problem in the Alaska groundfish trawl fisheries. Regulations implementing the Council's request would require operators of vessels carrying observers whose fishing operation allows for sorting of groundfish catch to sort all salmon from the groundfish catch and store the salmon in a separate bin or other location on the vessel that allows the observer free and unobstructed physical access to each salmon for observation and collection of scientific data or biological samples. Operators of vessels not carrying observers onboard or whose fishing operation does not allow for sorting of groundfish catch for salmon must ice, freeze, or store in a refrigerated saltwater tank all salmon taken as bycatch in trawl operations for delivery to the processor receiving the vessel's groundfish catch.

Processors receiving groundfish from trawl vessels participating in a directed fishery for BSAI groundfish would be required to retain all salmon delivered by each vessel during a weekly reporting period in separate bins marked with the vessel's name and Alaska Department of Fish and Game (ADF&G) fish ticket number(s) until a NMFS-certified observer has counted each salmon and collected any scientific data or biological samples that are requested by the NMFS Observer Program. Processors without observer coverage immediately available would be required to store all salmon until a NMFS-certified observer is available to count each fish. Salmon must be stored at a location that allows an observer free and unobstructed access to each salmon.

NMFS proposes to require vessel operators and managers of shoreside processing operations to designate a crew person or employee who would be responsible for proper sorting, retention, and storage of salmon until a NMFS-certified observer has notified the vessel operator or manager of the shoreside operation that the number of salmon and any biological samples have been obtained. Upon the request of the observer, the designated crew person or employee also would be responsible to help count salmon and take biological samples from retained salmon under the direction of the observer. The intent of this proposed requirement is to support industry initiatives to obtain better data on salmon bycatch and to facilitate the collection of these data in a manner that does not jeopardize the collection of other scientific or catch data that NMFS-certified observers currently are required to obtain.

Processors without observer coverage would be required to freeze salmon until such time as an observer is available to count retained fish. Some processors are never required to obtain an observer because their groundfish processing operation never exceeds 500 metric tons (mt) during a single month.

Mandatory retention would require these processing operations to freeze salmon carcasses for an unknown period of time until an observer is obtained to count the fish. Although not quantified, the associated costs to unobserved processing operations resulting from long-term storage of salmon likely are unreasonable relative to the amounts of groundfish processed and corresponding salmon bycatch that could be expected from the small amounts of groundfish delivered to these processing operations. Therefore, NMFS proposes to exempt processors from mandatory retention of salmon during those months that the processor is exempt from obtaining observer coverage under regulations implementing the Observer Program (50 CFR 672.27 and 675.25). Currently, this exemption applies to mothership processors and shoreside processing facilities that receive less than 500 mt of groundfish during a month.

All salmon, regardless of whether possessed at sea or at land-based processors, would be required to be returned to Federal waters immediately with a minimum of injury regardless of condition, following notice by a NMFS-certified observer that salmon have been counted and the collection of any scientific data or biological samples has been completed. The discard of any salmon prior to notification by a NMFS-certified observer that salmon have been counted would constitute a violation of regulations authorized under the Magnuson Act. Such violations would be subject to enforcement action under the Magnuson Act.

#### Release of Observer Data on Vessel Bycatch Amounts of Salmon and Bycatch Rates of Other Prohibited Species

Observer data may be protected from public disclosure under the Freedom of Information Act (FOIA) because it is considered commercial or financial information (5 U.S.C. 552(b)(4)). Release of such information may be facilitated by regulatory action.

At its September 1993 meeting, the Council requested NMFS to prepare a proposed rule that would authorize the release of certain weekly observer data: The name and Federal permit number of each vessel participating in a directed fishery for Alaska groundfish; the number of chinook salmon and other salmon species taken by each vessel; and the observed bycatch rates of Pacific halibut, Pacific herring, king crab, and *C. bairdi* Tanner crab of vessels participating in the BSAI or GOA groundfish fisheries. Members of the groundfish industry have requested that vessel bycatch amounts or rates be made available in as timely a manner as possible to support independent industry initiatives to address the bycatch problem.

To further support industry initiatives to reduce prohibited species bycatch rates in the groundfish trawl fisheries, members of the groundfish industry have submitted a separate request to NMFS for the release of additional observer data on prohibited species bycatch in most BSAI and GOA groundfish trawl fisheries. NMFS believes that disclosure of these observer data collected since 1992 could facilitate research by industry on salmon and other prohibited species bycatch that hopefully would lead to more informed decisions by vessel operators on alternative fishing practices to minimize bycatch rates of these species. These data would not be identified by vessel and would include the following data for observed hauls in the trawl fisheries: Date; Time of day gear is deployed; Latitude and longitude at beginning of haul; Bottom Depth; Fishing depth of trawl; Rate chinook salmon (number of salmon/mt groundfish); Rate other salmon (number of salmon/mt groundfish); Rate Pacific halibut (kilograms halibut/mt groundfish); Rate Pacific herring (kilograms herring/mt groundfish); Rate king crab (number of crab/mt groundfish); Rate *bairdi* Tanner crab (number of crab/mt groundfish); Sea surface temperature (where available); and Sea temperature at fishing

depth of trawl (where available). Representatives of the Alaska trawl industry have requested that the above observer data on specific hauls not be released for vessels participating in the rockfish, Greenland turbot, or Atka mackerel trawl fisheries because substantial competitive harm could result. These fisheries are conducted by a small number of vessels, involve relatively small amounts of quota, and are geographically specific in nature. Releasing observer data on individual hauls could effectively disclose commercial information of the current participants and cause them to suffer substantial competitive harm. The rockfish, Greenland turbot, and Atka mackerel fisheries generally have low salmon bycatch rates and contribute relatively little to the overall salmon bycatch amounts annually experienced in the Alaska trawl fisheries. Consequently, excluding from disclosure the observer data collected onboard vessels participating in the rockfish, Greenland turbot, or Atka mackerel fisheries is not anticipated to impair the effectiveness of industry initiatives to address the salmon bycatch problem.

Trawl industry representatives have not presented to NMFS concerns about the release of observer data that includes vessel name and prohibited species bycatch amounts or rates or haul-specific observer data for groundfish fisheries other than the rockfish, Greenland turbot, or Atka mackerel fisheries. Other participants in the groundfish fisheries may perceive that the release of these observer data may cause substantial competitive harm to vessel operators, owners, or other persons involved in the groundfish fishing industry because the disclosure of haul location and depth data for these fisheries involves the release of traditionally closely held commercial information. Therefore, the disclosure of observer data on prohibited species bycatch and associated haul location and depth information could possibly be expected to divulge information on specific fishing operations in a manner that would result in substantial competitive harm. Pursuant to a request for information under the FOIA, NMFS has determined that the disclosure of observer data for vessel haul location and depth in the BSAI pollock and cod fisheries collected during 1993 is not reasonably expected to result in competitive harm. This disclosure is based on the determination that trawl operations for pollock and cod in the BSAI occur within fairly well demarcated areas that have consistently supported historic foreign, joint venture, and domestic fisheries for these species. Given the established nature of these fisheries and the relative concentration of fishing effort to known fishing grounds, NMFS does not expect that the release of haul position and depth would result in the identification of unique fishing operations for pollock and cod that are not already known by the participants in these fisheries. However, NMFS still is concerned about whether the conditions allowing for the disclosure of observer data collected in the BSAI pollock and Pacific cod fisheries will continue in the future. Accordingly, NMFS has not exempted the BSAI pollock and Pacific cod fisheries from this proposed rule. This proposed rule is in accordance with Department of Commerce regulations relating to the disclosure of commercial or financial information (15 CFR 4.7(h)). Under these regulations, NMFS may disclose commercial or financial information if (1) a notice of intent to disclose such information is adopted by NMFS pursuant to notice and public comment, (2) NMFS specifies narrow classes of records submitted to it that are to be released under the FOIA, and (3) NMFS provides in exceptional circumstances for notice when the submitter provides written justification, at the time the information is submitted, that disclosure of the information could reasonably be expected to cause substantial competitive harm.

Consistent with 15 CFR 4.7(h), in exceptional circumstances, vessel owners

and operators may provide to the Regional Director written justification at the time the observer data are submitted, or within a reasonable time thereafter (such as 24 hours), that disclosure of the information could reasonably be expected to cause substantial competitive harm. The Regional Director would consider objections and specific grounds for nondisclosure prior to determining whether to release the observer data. An example of an exceptional circumstance that would warrant Regional Director consideration of observer data would be when fewer than three vessels participate in a particular trawl fishery during a weekly reporting period and release of location or depth data for individual hauls observed onboard those vessels would result in substantial competitive harm. Exceptional circumstances that would result in the nondisclosure of observer data on vessel name and weekly bycatch amounts or rates of prohibited species have not been identified by NMFS. Public comment is specifically encouraged on additional exceptional circumstances that may justify nondisclosure.

#### Classification

The Assistant Administrator for Fisheries, NOAA (AA), has initially determined that this proposed rule is necessary for the conservation and management of the groundfish fishery off Alaska and that, pending Secretarial approval of Amendment 25, it would be consistent with the Magnuson Act and other applicable laws.

The RIR prepared for the proposed action concludes that this proposed rule, if adopted, would not have significant impacts on a substantial number of small entities. A copy of this analysis is available from the Council (see ADDRESSES). Every vessel operator participating in the Alaska groundfish fisheries and every processor receiving BSAI groundfish would be affected by the proposed action. Most operators of catcher vessels harvesting groundfish off Alaska meet the definition of a small entity under the Regulatory Flexibility Act. In 1992, 180 catcher vessels landed groundfish from the BSAI. All these vessel operators would be affected by the preferred alternatives, particularly those that participate in the pollock fishery (about 123 vessels). The economic impact on small entities under the proposed action would not result in a reduction in annual gross revenues by more than 5 percent, annual compliance costs that increase total costs of production by more than 5 percent, or compliance costs for small entities that are at least 10 percent higher than compliance costs as a percent of sales for large entities. List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping.

Dated: January 12, 1994. Nancy Foster, Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows: PART 672--GROUND FISH OF THE GULF OF Alaska

1. The authority citation for 50 CFR part 672 continues to read as follows: Authority: 16 U.S.C. 1801, et seq.

2. In Sec. 672.7, paragraph (n) is added to read as follows:

Sec. 672.7 Prohibitions.

\* \* \* \* \*

(n) Discard any salmon taken as bycatch in a directed fishery for Bering Sea and Aleutian Islands Area groundfish by vessels using trawl gear until notified by a NMFS-certified observer that all salmon have been counted and the collection of any scientific data or biological samples has been completed as provided at 50 CFR 675.20(c)(6).

3. In Sec. 672.27, a new paragraph (g) is added to read as follows:  
Sec. 672.27 Observers.

\* \* \* \* \*

(g) Disclosure of observer data to the public.

(1) The following information collected by observers for each catcher processor and catcher vessel may be made available to the public:

(i) Vessel name and Federal permit number;

(ii) Number of chinook salmon and ``other salmon'' observed during a weekly reporting period;

(iii) The ratio of total round weight of halibut or Pacific herring to the total round weight of groundfish in sampled hauls during a weekly reporting period; and

(iv) The ratio of number of king crab or *C. bairdi* Tanner crab to the total round weight of groundfish in sampled hauls during a weekly reporting period.

(2) The following information for observed hauls collected by observers onboard vessels using trawl gear to participate in a directed fishery for groundfish other than rockfish, Greenland turbot, or Atka mackerel may be made available to the public:

(i) Date;

(ii) Time of day gear is deployed;

(iii) Latitude and longitude at beginning of haul;

(iv) Bottom depth;

(v) Fishing depth of trawl;

(vi) Rate chinook salmon (number of salmon/mt groundfish);

(vii) Rate other salmon (number of salmon/mt groundfish);

(viii) Rate Pacific halibut (kilograms halibut/mt groundfish);

(ix) Rate Pacific herring (kg herring/mt groundfish);

(x) Rate king crab (number of crab/mt groundfish);

(xi) Rate *C. bairdi* Tanner crab (number of crab/mt groundfish);

(xii) Sea surface temperature (where available); and

(xiii) Sea temperature at fishing depth of trawl (where available).

(3) In exceptional circumstances, the owners and operators of vessels may provide to the Regional Director written justification at the time observer data are submitted or within a reasonable time thereafter, that disclosure of the information listed in paragraphs (g)(1) or (g)(2) of this section could reasonably be expected to cause substantial competitive harm. The determination whether to disclose the information will be made pursuant to 15 CFR 4.7.

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

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

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

Sec. 675.2 [Amended]

5. In Sec. 675.2, the definition of Bycatch Limitation **Zone 2H** is removed.

6. In Sec. 675.7, paragraph (o) is added to read as follows:

Sec. 675.7 General prohibitions.

\* \* \* \* \*

(o) Discard any salmon taken as bycatch in a directed fishery for groundfish by vessels using trawl gear until notified by a NMFS- certified observer that all salmon have been counted and the collection of any scientific data or biological samples has been completed as provided at Sec. 675.20(c)(6) of this part.

7. In Sec. 675.20, paragraphs (c)(3) and (c)(4) are revised and new paragraph (c)(6) is added to read as follows:

Sec. 675.20 General limitations.

\* \* \* \* \*

(c) \* \* \*

(3) The operator of each vessel regulated under this part must sort its catch as soon as possible after retrieval of the gear and, except as provided under paragraph (c)(6) of this section, must return all prohibited species or parts thereof to the sea immediately with a minimum of injury, regardless of its condition, after allowing for sampling by an observer if an observer is onboard.

(4) Except as provided under paragraph (c)(6) of this section, it will be a rebuttable presumption that any prohibited species retained onboard a fishing vessel regulated under this part was caught and retained in violation of this section.

\* \* \* \* \*

(6) Retention of salmon.--

(i) Except as provided in paragraph (c)(6)(v) of this section, the operator of a vessel and the manager of a shoreside processing operation must not discard any Pacific salmon species taken incidental to any directed fishery for groundfish using trawl gear until all salmon have been counted by a NMFS-certified observer and the collection of any scientific data or biological samples from the salmon has been completed.

(ii) Operators of vessels carrying observers onboard and whose fishing operations allow for sorting of groundfish catch for salmon must retain all salmon bycatch in a separate bin or other location that allows an observer free and unobstructed physical access to the salmon to count each fish and collect any scientific data or biological samples.

(iii) Operators of vessels not carrying observers onboard or whose fishing operations do not allow for sorting of groundfish catch for salmon must ice, freeze, or store in a refrigerated saltwater tank all salmon taken as bycatch in trawl operations for delivery to the processor receiving the vessel's groundfish catch.

(iv) Processors receiving groundfish harvested in a directed fishery for groundfish using trawl gear must retain all salmon delivered by each trawl vessel during a weekly reporting period in separate bins marked with the vessel's name and ADF&G fish ticket number(s) for each delivery until a NMFS-certified observer has counted each salmon and collected any scientific data or biological samples from the salmon delivered to the processor by that vessel. Processors without an observer present must store whole salmon in an iced or frozen state until an observer is available to count each fish. Salmon must be stored at a location that allows an observer free and unobstructed physical access to each salmon.

(v) Mothership processor vessels and shoreside processing facilities that are exempt from obtaining observer coverage during a month under Sec. 675.25 of this part or 50 CFR part 672.27 are exempt from mandatory retention of salmon under this paragraph (c)(6).

(vi) Operators of vessels and managers of shoreside processing operations that are required to retain salmon under paragraph (c)(6)(i) of this section must designate and identify to the NMFS-certified observer onboard the vessel or at the shoreside operation a crew person or employee to be responsible for sorting, retention, and storage of salmon consistent with this paragraph (c)(6). Upon the request of the NMFS-certified observer, the designated crew person or employee also is responsible for counting salmon and taking biological samples from retained salmon under the direction of the observer.

(vii) Salmon must be returned to Federal waters immediately with a minimum of injury regardless of condition, following notice by a NMFS-certified observer that salmon have been counted and the collection of any scientific data or biological samples has been completed.

8. In Sec. 675.21, paragraphs (a)(4) and (c)(1)(iii) are removed; paragraphs (a)(5) through (a)(7) are redesignated paragraphs (a)(4) through (a)(6), respectively; paragraph (c)(1)(iv) is redesignated as paragraph (c)(1)(iii); and paragraphs (b)(1) introductory text, (b)(2)(i) and newly redesignated paragraphs (a)(4) and (c)(1)(iii) are revised to read as follows:

Sec. 675.21 Prohibited species catch (PSC) limitations.

(a) \* \* \*

(4) The PSC limit of Pacific halibut caught while conducting any trawl fishery for groundfish in the Bering Sea and Aleutian Islands Management Area during any fishing year is an amount of Pacific halibut equivalent to 3,775 mt of halibut mortality.

\* \* \* \* \*

(b) \* \* \*

(1) Apportionment to trawl fishery categories. NMFS, after consultation with the Council, will apportion each PSC limit set forth in paragraphs (a)(1) through (a)(5) of this section into bycatch allowances for fishery categories specified in paragraph (b)(1)(iii) of this section, based on each category's proportional share of the anticipated incidental catch during a fishing year of prohibited species for which a PSC limit is specified and the need to optimize the amount of total groundfish harvested under established PSC limits. The sum of all bycatch allowances of any prohibited species will equal its PSC limit.

\* \* \* \* \*

(2) \* \* \*

(i) The Secretary, after consultation with the Council, may apportion the halibut PSC limit for non-trawl gear set forth in paragraph (a)(6) of this section into bycatch allowances for fishery categories specified in paragraph (b)(2)(ii) of this section, based on each category's proportional share of the anticipated bycatch mortality of halibut during a fishing year and the need to optimize the amount of total groundfish harvested under the non-trawl halibut PSC limit. The sum of all halibut bycatch allowances will equal the halibut PSC limit specified at paragraph (a)(6) of this section.

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(iii) Halibut bycatch allowance. If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (b)(1)(iii)(B) through (F) of this section in the Bering Sea and Aleutian Islands Management Area will catch

the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b) of this section, NMFS will publish in the Federal Register the **closure** of the entire Bering Sea and Aleutian Islands Management Area to directed fishing for the species and/or species group that comprises that fishery category (which together constitute a species or species group for purposes of the directed fishing standards) for the remainder of the year or for the remainder of the season, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/``other species'' fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

\* \* \* \* \*

9. In Sec. 675.25, a new paragraph (g) is added to read as follows:  
Sec. 675.25 Observers.

\* \* \* \* \*

(g) Release of observer data to the public.

(1) The following information collected by observers for each catcher processor and catcher vessel may be made available to the public:

(i) Vessel name and Federal permit number;

(ii) Number of salmon observed during a weekly reporting period;

(iii) The ratio of total round weight of halibut or Pacific herring to the total round weight of groundfish in sampled hauls during a weekly reporting period; and

(iv) The ratio of the number of king crab or *C. bairdi* Tanner crab to the total round weight of groundfish in sampled hauls during a weekly reporting period.

(2) The following information for observed hauls collected by observers onboard vessels using trawl gear to participate in a directed fishery for groundfish other than rockfish, Greenland turbot, or Atka mackerel may be made available to the public:

(i) Date;

(ii) Time of day gear is deployed;

(iii) Latitude and longitude at beginning of haul;

(iv) Bottom depth;

(v) Fishing depth of trawl;

(vi) Rate chinook salmon (number of salmon/mt groundfish);

(vii) Rate other salmon (number of salmon/mt groundfish);

(viii) Rate Pacific halibut (kilograms halibut/mt groundfish);

(ix) Rate Pacific herring (kg herring/mt groundfish);

(x) Rate king crab (number of crab/mt groundfish);

(xi) Rate *C. bairdi* Tanner crab (number of crab/mt groundfish);

(xii) Sea surface temperature (where available); and

(xiii) Sea temperature at fishing depth of trawl (where available).

(3) In exceptional circumstances, the owners and operators of vessels may provide to the Regional Director written justification at the time observer data are submitted or within a reasonable time thereafter, that disclosure of the information listed in paragraphs (g)(1) or (g)(2) of this section could reasonably be expected to cause substantial competitive harm. The determination whether to disclose the information will be made pursuant to 15 CFR 4.7.

