

of the Social Security Act (42 U.S.C. 1302, 1320b-6, 1338, 1395f(a)(6), 1395x (e), (f), (k), (r), (v)(1)(G), (z), and (ee), 1395aa, 1395hh, 1395it, 1395ww, 1396a(a)(30), and 1396(a)).

B. In § 482.52, the introductory text of paragraph (a) is republished and paragraphs (a)(4) and (a)(5) are revised to read as follows:

§ 482.52 Condition of participation: Anesthesia services.

(a) Standard: Organization and staffing. The organization of anesthesia services must be appropriate to the scope of the services offered. Anesthesia must be administered by only—

(4) A certified registered nurse anesthetist

(CRNA), as defined in § 410.69(b) of this chapter, who is under the supervision of the operating practitioner or of an anesthesiologist who is immediately available if needed; or

(5) An anesthesiologist's assistant, as defined in § 410.69(b) of this chapter, who is under the supervision of an anesthesiologist who is immediately available if needed.

IX. Part 489 is amended as follows:

PART 489—PROVIDER AND SUPPLIER AGREEMENTS

A. The authority citation for part 489 continues to read as follows:

Authority: Secs. 1102, 1861, 1864, 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395x, 1395aa, 1395cc, and 1395hh).

B. In § 489.20, the introductory text is republished and paragraph (d) is revised to read as follows:

§ 489.20 Basic commitments.

The provider agrees—

(d) In the case of a hospital that furnishes inpatient hospital services to a beneficiary, to either furnish directly or make arrangements for all items and services (other than physicians' services as described in § 405.550(b) of this chapter and services of an anesthetist, as defined in § 410.69 of this chapter) for which the beneficiary is entitled to have payment made under Medicare; and

(Catalog of Federal Domestic Assistance Programs No. 93.773, Medicare—Hospital Insurance; and No. 93.774, Medicare—Supplementary Medical Insurance)

Dated: March 24, 1991.

Gail R. Wilensky,
Administrator, Health Care Financing
Administration.

Approved: September 24, 1991.

Louis W. Sullivan,
Secretary.

Editorial Note: This document was received by the Office of the Federal Register on July 14, 1992.

[FR Doc. 92-16943 Filed 7-30-92; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF COMMERCE

**National Oceanic and Atmospheric
Administration**

50 CFR Part 215

[Docket No. 920526-2126]

**Marine Mammals; Fur Seal Act
Regulations**

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

ACTION: Final rule.

SUMMARY: This rule eliminates the option, currently available in the Fur Seal Act regulations, for the Secretary to extend the subsistence harvest of fur seals on the Pribilof Islands beyond August 8 each year. The option is being eliminated to provide protection for female fur seals, which begin arriving on the beaches of the Pribilof Islands after the first week in August. This rule also changes the earliest possible start date of the subsistence harvest from June 30 to June 23. This change is made at the request of the Pribilof Aleuts to provide an additional week of potential harvesting in the face of the removal of the extension option.

EFFECTIVE DATE: July 31, 1992.

FOR FURTHER INFORMATION CONTACT: Michael Payne, Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910 at 301-713-2332.

SUPPLEMENTARY INFORMATION: The northern fur seal (*Callorhinus ursinus*) population is considered depleted under the Marine Mammal Protection Act (MMPA) (51 FR 47156, December 30, 1986). The subsistence harvest of northern fur seals on the Pribilof Islands, Alaska, is governed by regulations found in 50 CFR part 215 subpart D—Taking for Subsistence Purposes. These regulations were published under the authority of the Fur Seal Act, 15 U.S.C. 1151 *et seq.*, and the MMPA, 16 U.S.C. 1316 *et seq.* (at 51 FR 24828, July 9, 1986). The purpose of these regulations is to limit the take of fur

seals to a level providing for the subsistence needs of the Pribilof Islands communities of St. Paul and St. George using humane harvesting methods. The subsistence harvest has been regulated to minimize negative effects on the population by limiting the harvest to a 40-day harvest season (June 30–August 8) and limiting the age and sex of seals to be harvested to sub-adult males. The August 8 deadline was chosen to avoid an unacceptable taking of female fur seals. In early August, immature female seals begin arriving at the rookeries in large numbers and the immature females and males, which are not easily distinguished, become intermixed.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is required to terminate the harvest when it is determined that the subsistence demands of the Pribilof Aleuts have been met, or on August 8 of each year, whichever comes first. However, the regulations also establish criteria for extending the harvest period if the subsistence needs of the Pribilof Aleuts have not been met. Section 215.32(f)(2) authorized the Assistant Administrator to extend the harvest period until September 30 if, by August 8, the subsistence needs of the Pribilof Aleuts were not fulfilled, and the number of female seals taken during the harvest is low. With regard to the latter requirement, two standards of unacceptable levels of female take trigger termination of any harvest extension:

(1) If the total number of female seals taken during the harvest exceeds one half of one percent of the total number of seals taken; and

(2) If, during the extension period, five female seals are taken within 7 consecutive days.

Background

Between 1985 and 1991, extensions to the harvest season were requested and granted in 1986 and 1987. Extension of the harvest beyond the first week of August has resulted in an increase in the number of female seals taken. The harvest was suspended following the first day of the extension each time an extension was granted because of the unacceptable number of female seals taken. In response to the level of females taken during each of the extended harvest periods, NMFS announced its intent to amend 50 CFR 215.32(f) to eliminate the extension option for 1989 and subsequent years (53 FR 28887, August 1, 1988), although no further action was taken by NMFS at that time.

Following the August 1, 1988, notice by NMFS, the Aleut Community of St. Paul Island requested a change in the Fur Seal Act regulations to allow the subsistence harvest to begin June 23, 1 week earlier than the June 30 start date dictated by 50 CFR 215.32(c)(1). They cited a desire for seal meat by community members before June 30, a lack of meat remaining from the previous year's take, and the possible inability to harvest their quota of seals in the absence of the harvest extension option.

On June 3, 1991, NMFS published a proposed rule to eliminate the extension option and to begin the harvest 1 week earlier (on June 23 instead of June 30) (56 FR 25066). Because only sub-adult males dominate the harvest areas at that time, and all other mandatory controls upon the harvest still apply, no adverse impact on the seal population as a result of starting the harvest 1 week earlier is anticipated by NMFS. Because of the apparent inability of harvesters to distinguish subadult males from females despite best efforts, and because of the increased probability and demonstrated risk of taking females after August 8, NMFS proposed to eliminate the harvest extension option (50 CFR 215.32(f)(2)) of the Assistant Administrator (56 FR 25066, June 3, 1991).

This final rule adopts all changes proposed on June 3, 1991 (at 56 FR 25066).

Response to Comments

Comments on the proposed rule were to be postmarked on or before July 18, 1991. NMFS received one set of comments on this proposed rulemaking. That commenter agreed with NMFS proposal to eliminate the harvest extension option, but disagreed with NMFS suggestion of allowing the harvest to begin 1 week earlier. The commenter pointed to NMFS' own statements in the Federal Register notice announcing the emergency final rule to regulate the subsistence fur seal harvest to support its argument against an earlier start date.

In the July 9, 1988, Federal Register notice, NMFS explained its decision to open the harvest no earlier than June 30 by stating that an earlier start date would: (1) Focus harvesting on the wrong age group, (2) disrupt research data collection, and (3) be more costly to monitor (51 FR 24836). At that time, NMFS also observed that very few harvestable seals are present in the haul-out areas prior to the end of June; therefore, an earlier start date would not significantly increase the availability of seal meat.

The commenter felt that the reasons now advanced by NMFS to justify the earlier start date (the Pribilof Aleuts desire for seal meat before June 30, the inability to harvest the number of seals needed during the limited season, and the lack of meat left from the previous years harvest) were inadequate. In response to NMFS reasoning, the commenter responded that the record reflects that the fur seal harvest frequently does not begin until the 2nd week of July, and, pointing to the 1991 harvest as an example, the restricted time frame of the harvest has not been an obstacle to obtaining enough seals.

NMFS acknowledges both of these comments. Although the harvest has not started until well into July on some occasions, it must be understood that the subsistence harvest on the Pribilofs is conducted entirely by experienced volunteers. Because of this, it can be difficult to coordinate harvest personnel, equipment and weather conditions precisely on June 30 every year. On several occasions the start of the seal harvest season has coincided with halibut season and various construction projects, both of which otherwise employed many of the experienced sealers, making them unavailable for certain periods of time. Establishing the start date for the seal harvest 1 week earlier would merely make additional time available to conduct the harvest. It would of course not guarantee that all other factors would cooperate to allow the harvest to actually begin on June 23.

It is true that an earlier harvest start date would generally allow the taking of older animals, but the seals present in the haul-out areas by mid-June (3- and 4-year-old males) are still within the harvestable category of sub-adult males. And, although it is also true that an earlier start date will not significantly increase the availability of seal meat to the Pribilovians, even the small amounts that could be obtained would provide an important source of fresh meat, especially since by June there is generally little meat left from the previous year's harvest.

In the July 9, 1988, notice (51 FR 24828), NMFS did state that beginning the harvest before June 30 would increase the costs of monitoring, especially given the potential for harvest extensions requiring NMFS personnel to be present on the island for longer periods of time and perhaps having to make return trips to the islands to accommodate the additional harvesting. However, with the removal of the harvest extension option, NMFS believes the costs should approximately balance.

NMFS also established the June 30 start date in 1988 after considering the effect earlier harvesting would have on some continuing harvest research data collection taking place on the islands. However, the data now collected from the harvested animals is different from that collected during the commercial harvest and, as a result, this is no longer a valid concern.

Classification

For reasons discussed in previous environmental impact statements (EIS), it is hereby determined that the approval and implementation of this rule will not significantly affect the human environment, and that preparation of an EIS on this action is not required by section 102(2) of the National Environmental Policy Act or its implementing regulations.

The Under Secretary for Oceans and Atmosphere has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The present action will not have a cumulative effect on the economy of \$100 million or more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse effects on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises are anticipated.

The General Counsel, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. The only impact will be on individual native Alaskan residents of the Pribilof Islands in the form of a revised schedule for the annual fur seal harvest. Therefore, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

This final 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 Part 215

Administrative practice and procedure, Marine mammals, Penalties, Pribilof Islands, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 50 CFR part 215 is amended as follows:

PART 215—PRIBILOF ISLANDS

1. The authority citation for 50 CFR part 215 continues to read as follows:

Authority: 16 U.S.C. 1151-1175, 16 U.S.C. 1361-1384.

2. Section 215.32 is amended by removing paragraph (f)(2) and redesignating paragraph (f)(1) as paragraph (f), and by revising paragraph (c)(1) to read as follows:

§ 215.32 Restrictions on taking.

(c)(1) No fur seal may be taken on the Pribilof Islands before June 23 of each year.

Dated: July 24, 1992.

Samuel W. McKeen,
Program Management Officer.

[FR Doc. 92-18063 Filed 7-30-92; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 911176-2018]

Groundfish of the Gulf of Alaska

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of sablefish for vessels using hook-and-line gear in the West Yakutat District of the Gulf of Alaska (GOA) and is requiring that catches of sablefish be treated in the same manner as prohibited species and discarded. This action is necessary because the share of the sablefish total allowable catch (TAC) assigned to hook-and-line gear in the West Yakutat District has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 27, 1992, through 12 midnight, A.l.t., December 31, 1992.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, Fisheries Management Division, NMFS, (907) 586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the U.S. GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery

Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The share of the sablefish TAC assigned to hook-and-line gear in the West Yakutat District was established by the final notice of specifications (57 FR 2844, January 24, 1992) as 3,553 metric tons.

The Director of the Alaska Region, NMFS, has determined that the share of the sablefish TAC assigned to hook-and-line gear in the West Yakutat District has been reached. Therefore, NMFS, in accordance with § 672.24(c)(3)(ii), is requiring that further catches of sablefish must be treated as a prohibited species by persons using that type of gear, effective from 12 noon, Alaska local time (A.l.t.), July 27, 1992, through 12 midnight, A.l.t., December 31, 1992.

Classification

This action is taken under 50 CFR 672.20 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

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

Dated: July 27, 1992.

Joe P. Clem,

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

[FR Doc. 92-18052 Filed 7-27-92; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Parts 672 and 675

[Docket No. 920402-2102]

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

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule prohibiting federally permitted U.S. vessels from fishing in the international waters of the Central Bering Sea in an area called the "Donut Hole" and from retaining on board fish harvested from the Donut Hole as long as that vessel is in the exclusive economic zone (EEZ) of the Bering Sea and Aleutian Islands (BSAI) and the Gulf of Alaska (GOA). This rulemaking is necessary to reduce the further exploitation of the Aleutian Basin pollock stock (*Theragra chalcogramma*), which is found in both

the Donut Hole and in the EEZ. The rulemaking will:

(1) Promote the goals and objectives of the North Pacific pollock stocks off Alaska; and

(2) Further U.S. efforts regarding the negotiations with Japan, Poland, China, Korea, and the Russian Republic to establish an international conservation regime on the living resources of the Central Bering Sea.

EFFECTIVE DATE: August 14, 1992.

FOR FURTHER INFORMATION CONTACT:

Steven Pennoyer, Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 21668, Juneau, AK 99802, telephone 907-586-7221.

SUPPLEMENTARY INFORMATION: The domestic and foreign ground fish fisheries in the EEZ of the GOA and the BSAI are managed by the Secretary of Commerce (Secretary) according to the Fishery Management Plans (FMPs) for Groundfish of the GOA and the BSAI. These FMPs were prepared by the Council under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act; 16 U.S.C. *et seq.*) and are implemented by regulations at 50 CFR parts 611, 620, 672 and 675.

Two measures are implemented by this final rule. First, §§ 672.4 and 675.4, which govern the issuance of Federal fishing permits, are amended by prohibiting fishing in the Donut Hole by a federally permitted fishing vessel. Second, §§ 672.7 and 675.7, which govern general prohibitions, are amended to prohibit the entry of a U.S. fishing vessel into the EEZ if that vessel has fished in, or has on board any fish harvested from, the Donut Hole.

U.S. fishermen, who displaced foreign fleets of those nations that had a traditional fishery presence in the EEZ off Alaska, now fully utilize the groundfish resources of the EEZ off Alaska. Foreign fishermen have redirected their fishing effort to other fishing grounds, specifically the Donut Hole, and likely other such waters. By the mid-1980's, catches in the Donut Hole were reported to exceed catches in both the U.S. EEZ or the economic zone (EZ) of Russia. (Table 1).

TABLE 1.—REPORTED POLLOCK CATCHES IN THE DONUT HOLE AND IN THE U.S. EEZ AND THE EZ OF RUSSIA

[1,000s metric tons (mt)]			
Year	Donut Hole	U.S. EEZ	Russian Federation
1985	336	1,179	662
1986	1,061	1,189	871