

sufficient to confirm that such applicant's or licensee's representations are, and remain, accurate. Such consent shall include inspection at all reasonable times of the facilities, or parts thereof, engaged in providing and transacting business, or keeping records regarding licensed IVDS and shall also include consent to the interview of principals, employees, customers and suppliers of the applicant or licensee.

* * * * *

[FR Doc. 96-23939 Filed 9-17-96; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 679

[Docket No. 960703187-6253-02; I.D. 062096B]

RIN 0648-A196

Fisheries of the Exclusive Economic Zone Off Alaska; Allow Longline Pot Gear

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to allow the use of longline pot gear by vessels engaged in directed fishing for sablefish in the Bering Sea subarea (BS). Sablefish hook-and-line fishermen in the BS have faced increasing predation of hooked sablefish by killer whales. The use of longline pot gear will effectively prevent such predation. This action is necessary to protect Bering Sea sablefish harvests and is intended to resolve a conflict between fishermen and a species protected under the Marine Mammal Protection Act of 1972 (MMPA).

EFFECTIVE DATE: September 12, 1996.

ADDRESSES: Copies of the final rule and the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) for this action may be obtained from Fisheries Management Division, Attn: Lori Gravel, Alaska Region, NMFS, Room 453, 709 West 9th Street, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: James Hale, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the Bering

Sea and Aleutian Islands management area (BSAI) according to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the authority of the Magnuson Fishery Conservation and Management Act. This FMP, implemented by regulations at 50 CFR parts 600 and 679, authorizes changes to gear restrictions without amendment to the FMP. The regulations at § 679.24 specify gear types that may be employed to harvest sablefish in the BS. Killer whales (*Orcinus orca*) are protected under the MMPA, which prohibits harassment of marine mammals and authorizes the Secretary of Commerce to consult with and assist regional fishery management councils to reduce takings of marine mammals incidental to commercial fishing operations.

BS sablefish quotas have been underharvested due in part to killer whale predation of hooked sablefish. Such predation causes conservation and economic concerns that can be resolved by allowing longline pot gear in this fishery. Further information on the history of and need for this action may be found in the preamble to the proposed rule published on July 16, 1996 (61 FR 37041).

One change has been made in the final rule from the proposed rule. At proposed § 679.24(c)(4)(i), the term "pot" may seem ambiguous; therefore, the sentence is revised to refer to "longline pot" and "pot-and-line" gear, which are terms defined in § 679.2, Definitions.

Comments on the Proposed Rule

Comment: NMFS received one letter of comment on this action. The comment supports the implementation of this change as improving the ability of fishermen to harvest sablefish more economically and efficiently. The comment also requests that the 30-day delayed effectiveness period be waived to provide fishermen more opportunity to take advantage of this action during the current Individual Fishing Quota (IFQ) season.

Response: NMFS concurs that this action will improve the efficiency and profitability of the BS sablefish fishery. NMFS notes the commenter's desire for expeditious implementation of this regulatory change.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

Because this final rule allows fishermen in the BS sablefish fishery the option of using longline pot gear to protect harvests from killer whale predation, it relieves a restriction. Thus, under 5 U.S.C. 553(d)(1) it is not subject to a delay in effective date.

The Council prepared an Initial Regulatory Flexibility Analysis (IRFA), supplemented by a FRFA prepared by NMFS. These documents provide a statement of the need for and objectives of the rule, which is also summarized in this preamble. In 1996, 140 persons were issued sablefish quota shares in the BS and may be affected by this rule. It is designed to relieve a restriction that negatively affects the ability of IFQ fishermen to harvest their full sablefish quotas. By protecting those harvests from killer whale predation, the rule is expected to have a positive economic impact on small entities.

Alternative 1 of the IRFA/FRFA (the status quo) was rejected in favor of Alternative 2, because Alternative 2 alone would reduce killer whale interactions with the fishery by allowing hook-and-line fishermen to switch to longline pot gear. Although switching from hook-and-line gear to longline pots would have direct costs, fishermen are expected to evaluate the balance of costs involved in switching gears with the profits of greater harvests obtained in the absence of killer whale predation. The preferred alternative also mitigates possible disadvantages to fishermen whose vessels may be unable to carry longline pot gear by establishing a 1-month closure to longline pot gear. During that time, hook-and-line fishermen will be able to fish without gear conflicts with longline pot gear or grounds preemption.

The Administrator, Alaska Region, NMFS, determined that fishing activities conducted under this rule will have no adverse impacts on marine mammals. The express purpose of this rule is to reduce the interactions of commercial fisheries in the BS with killer whales.

List of Subjects in 50 CFR Part 679

Fisheries, Reporting and recordkeeping requirements

Dated: September 12, 1996.

Gary Matlock,

Acting Deputy Assistant Administrator,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended to read as follows:

**PART 679—FISHERIES OF THE
EXCLUSIVE ECONOMIC ZONE OFF
ALASKA**

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*

2. In § 679.24, paragraphs (b)(1)(iii) and (c)(4) are revised to read as follows:

§ 679.24 Gear limitations.

* * * * *

(b) * * *

(1) * * *

(iii) *Longline pot gear.* Any person using longline pot gear must treat any catch of groundfish as a prohibited species, except:

(A) In the Aleutian Islands subarea.

(B) While directed fishing for sablefish in the Bering Sea subarea, except as provided in paragraph (c)(4)(ii) of this section.

* * * * *

(c) * * *

(4) *BSAI.* (i) Operators of vessels using gear types other than hook-and-line, longline pot, pot-and-line, or trawl gear in the BSAI must treat sablefish as a prohibited species as provided by § 679.21(b).

(ii) Longline pot gear is prohibited in directed fishing for sablefish from 0001 hrs, A.l.t., on June 1 until 1200 hrs, A.l.t., on June 30.

* * * * *

[FR Doc. 96-23852 Filed 9-12-96; 5:04 pm]

BILLING CODE 3510-22-F