caused at least in part by the way the current 72-hour closure before the regular season operates. The preseason closure affects the competing pot and longline operations in the following

ways:

1. Grounds preemption. The current regulation at 50 CFR 663.23(b)(2)(ii) (temporarily suspended) prohibits taking and retaining, possessing, or landing sablefish during the 72-hour period before the start of the regular season, but does not prohibit leaving gear in the water. Most pot vessels cannot carry all their gear on board at one time without increasing safety risks. Consequently, pots often are stored unbaited in the water for long periods of time to avoid the cost and lost fishing time from making multiple trips to the fishing grounds to deploy gear. When the 72-hour closure was first recommended, the Council felt it was unreasonable to require pot fishermen to pull all their gear out of the water. However, this gave pot fishermen a distinct advantage, because longline gear cannot be set and left for several days without risking extreme tangling. This allowed pot fishermen to preempt the best grounds before longline gear

could be deployed.

2. "Fair Start." A second issue is the different ability of the two gear types to start fishing before the beginning of the regular season. Baited pots can catch and hold live sablefish until the 72-hour closure has passed. This is legal under the current regulation as long as the pot has not been pulled and the fish retained. Hook-and-line gear, however, cannot be set much in advance of the regular season because sablefish caught with this gear are quickly attacked and destroyed by marine scavengers such as sand fleas. There is no simple solution without one gear type gaining an advantage over the other. According to the EA/RIR, pot vessels are slower in carrying and setting their gear, but thereafter have the potential to harvest more rapidly than most longline operations off WOC. If pot gear can be set and baited before the start of the regular season, however, the best grounds may be preempted and actual fishing started before longline gear can be deployed. If pot gear cannot be set before the start of the regular season, it may be preempted by longline gear that can be set more quickly.

3. Enforceability. In the past, the Council felt there was no point in prohibiting baiting gear during the 72hour closure because there was inadequate at-sea presence to enforce such a restriction. Enforcement of the closure was further complicated by implementation of the limited entry

program in 1994, which exempted openaccess nontrawl gear from the 72-hour closures. Limited entry vessels could circumvent the intent of the regulation by operating with nontrawl gear for which they had no limited entry endorsement (50 CFR 663.33(a)). Furthermore, enforcement agents could not easily discern by aerial surveillance which vessels and gear were open access and which were limited entry.

The above-described problems prompted the Council to rethink its approach to nontrawl sablefish management. The Council's recommendations to resolve these problems, and rationale to the solutions are summarized below.

Delaying the Regular Season to August

The August 6 date was selected for reasons of safety, price of fish, and alternative fishing opportunities. It was selected primarily for the best weather along the coast (see the EA/RIR). Rough weather in late February makes fishing unsafe along much of the coast. The best time of year varies by location. According to the EA/RIR, late summer is the least windy period coastwide, and perhaps provides the safest fishing conditions. Initially the Council recommended August 15, and then shifted it 1 week earlier to avoid the August 1995 Council meeting. The Council did not select the first of the month in order to avoid gear conflicts with the deepwater trawl fishery (for sablefish, Dover sole, and thornyheads), because trawl effort may be greater at the beginning of that fishery's cumulative monthly period. This delay in the regular season would not reduce effort by vessels able to operate in both the Alaska and WOC fisheries. In fact, an August date may increase effort, because vessels previously discouraged by bad winter weather may be able to operate in the summer. Also, in August larger sablefish would be available to the fishery; larger sablefish generally yield a higher price and therefore are more desirable to the fleet. Neither a late February opening of the regular season during the winter spawning period, nor an opening at any other time of year, would have more than a negligible impact on recruitment of sablefish.

August is also the preferred month from the standpoint of maximizing various fishing opportunities off WOC. Sablefish pot vessels may also participate in the Dungeness crab fishery, which usually occurs from December into March, and the shrimp fishery, which generally begins in April off WOC, and continues at a high level through June or July. Hook-and-line

vessels also may participate in salmon fisheries. Salmon fisheries traditionally start in May and peak in June and July; the status of these fisheries in 1995 is not yet known. Albacore fishing, also conducted by hook-and-line vessels, peaks in summer as well, and may coincide with the August regular season. The Pacific halibut fishery, also conducted by hook-and-line vessels, occurs in June/July.

New Season Structure with a "Mop-up" Fishery

Because projecting landings accurately during the regular season will be extremely difficult, particularly if effort increases substantially as expected, the Council recommended that the regular season end when approximately 70 percent of the nontrawl gear allocation has been harvested. The remaining 30 percent would be set aside as a buffer to keep landings from exceeding the nontrawl allocation and the sablefish harvest guideline.

The Council also recommended that about 3 weeks after the end of the regular season, when the amount of the landed catch has been confirmed, the remainder of the nontrawl allocation be released for harvest in a "mop-up" fishery of 1 month or less, with all limited entry vessels subject to the same cumulative trip limit. By applying a cumulative limit, each vessel would have the opportunity to take the same amount and the mop-up fishery would occur at a more orderly and manageable pace. This would make it more likely that the nontrawl allocation would not be exceeded. It also would accommodate those fishermen who prefer to operate at a slower pace without the rush of the "first come, first serve" competition that defines the regular season. Establishing a mop-up fishery is particularly supported by those fishermen who prefer receiving a guaranteed equal share rather than the open competition of the regular season. The reserve could be less than 30 percent of the nontrawl allocation, or the mop-up fishery may not occur at all, if landings during the regular season are higher than expected. Sablefish landings before and after both the regular season and mop-up fishery would be expected to be negligible under the small trip limits recommended by the Council (300 lb or 136 kg per day north of 36°00' N. lat. and 350 lb or 159 kg per day south of 36°00' N. lat.) in 1995 (60 FR 2331, January 9, 1995).

The actual level of the cumulative trip limit during the mop-up fishery would be determined in-season by NMFS, in consultation with the Council's