

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 935.15, a new paragraph (II) is added to read as follows:

**§ 935.15 Approval of regulatory program amendments.**

(II) With the exception noted herein, the following amendment, as submitted to OSM on January 26, 1989 and amended on December 13, 1989, is approved effective [January 31, 1990]: Revisions to the following paragraphs of Rule 13-9-15 of chapter 1501 of the Ohio Administrative Code: (A)(1)(a), (F), (G), (H), (I)(2)(c), (I)(4)(c), (I)(8), (I)(8)(b), (I)(8)(f)(i), and (I)(9) except for the phrase "and other locally accepted practices" in paragraph (I)(2)(c)(i) and (I)(2)(c)(ii) to the extent that rills and gullies will not be universally considered non-augmentative.

3. In § 935.16 paragraphs (c) and (d) are revised to read as follows:

**§ 935.16 Required regulatory program amendments.**

(c) By June 1, 1990, Ohio shall submit a proposed amendment to OAC 1501:13-9-15(I)(2)(c)(i) to remove the phrase "and other locally accepted practices" or otherwise propose to amend its program to clarify that all normal husbandry practices must be approved by OSM pursuant to 30 CFR 732.17.

(d) By June 1, 1990, Ohio shall submit a proposed amendment to OAC 1501:13-9-15(I)(2)(c)(ii) or otherwise propose to amend its program to clarify that the repair of rills and gullies will not be universally considered non-augmentative, and that this determination will be made based on the extent of repairs needed and the cause of the erosion.

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**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 154**

**Department of Defense Personnel Security Program Regulation**

**AGENCY:** Office of the Secretary, Department of Defense.

**ACTION:** Final rule.

**SUMMARY:** The provision of § 154.16(c) regarding citizenship and residency requirements for naturalized U.S. citizens from "designated" countries to be eligible for a DoD security clearance,

were rescinded February 12, 1988, pursuant to a preliminary injunction in the U.S. District Court for the District of Columbia.

**EFFECTIVE DATE:** January 31, 1990.

**FOR FURTHER INFORMATION CONTACT:** Mr. Peter Nelson, Office of the Deputy Under Secretary of Defense (Security Policy), Counterintelligence and Investigative Programs, Room 3C267, The Pentagon, Washington, DC 20301-2200, telephone (202) 697-3039.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects in 32 CFR Part 154**

Classified information; Government employees; Investigations; Security measures.

Accordingly, 32 CFR part 154 is amended as follows:

**PART 154—[AMENDED]**

1. The authority citation for part 154 continues to read as follows:

Authority: E.O. 10450; E.O. 12365; E.O. 10865; E.O. 12333.

**§ 154.16 [Amended]**

2. Section 154.16 is amended by removing § 154.16(c) and redesignating paragraph (d) through (i) as (c) through (h).

Dated: January 25, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 611 and 672**

[Docket No. 91050-0019]

**Foreign Fishing; Groundfish of the Gulf of Alaska**

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

**ACTION:** Final notice of 1990 initial specifications of groundfish; sablefish assignments; proposed apportionment of reserves; assumed Pacific halibut bycatch and mortality rates; information pertaining to prohibited species catch limits for fully utilized species; inseason adjustment relevant to the pollock fishery; and request for comments.

**SUMMARY:** The Secretary of Commerce (Secretary) announces initial specifications of groundfish in the Gulf of Alaska for the 1990 fishing year and

certain other measures that are being implemented to manage the 1990 groundfish fisheries in the Gulf of Alaska. This action is necessary to inform the public of the Secretary's determinations. The measures are intended to carry out management objectives contained in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

**DATES:** Effective: January 26, 1990; 10:37 a.m. Comments are invited on the proposed apportionments of reserves and on the inseason adjustment in the pollock fishery until February 12, 1990.

**ADDRESSES:** Comments should be sent to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 021668, Juneau, AK 99802.

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

**SUPPLEMENTARY INFORMATION:**

**Background**

This notice announces for the 1990 fishing year: (1) Total allowable catches (TACs) for each category of groundfish in the Gulf of Alaska and apportionments thereof among domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), and reserves; (2) assignments of the sablefish TAC to authorized fishing gear users; (3) apportionments of reserves to DAP; (4) assumed bycatch rates and mortality rates pertinent to prohibited species catch (PSC) limits of Pacific halibut that are applicable to the DAP fishery; (5) zero PSC limits relevant to fully utilized species; and (6) an inseason adjustment in the Gulf of Alaska pollock fishery.

(i) *Establishment of TACs and Apportionments Thereof Among DAP, JVP, TALFF, and Reserves*

The process for determining TACs for groundfish species in the Gulf of Alaska is established by the FMP. This FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Act and is implemented by regulations appearing at 50 CFR 611.92 and part 672. The sum of the TACs for all species must fall within the combined optimum yield (OY) range established for these species of 116,000-800,000 metric tons (mt).

TACs are apportioned initially among DAP, JVP, TALFF, and reserves for each species under § 611.92 and 672.20(a)(2). DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S.

fishermen typically delivery their catches to foreign processors at sea. TALFF amounts are intended for harvest by foreign fishermen. The reserves for the Gulf of Alaska are 20 percent of the TAC for pollock, Pacific cod, flatfish species, and "other species". If necessary, these reserve amounts may be set aside for possible reapportionment to DAP and/or to JVP if the initial apportionments prove inadequate. Reserves which are not reapportioned to DPA or JVP may be reapportioned to TALFF. Other groundfish target species, including sablefish, "other rockfish", pelagic shelf rockfish, demersal shelf rockfish, and thornyhead rockfish are fully utilized by DAP and no reserves are established.

Under 36 72.20(c)(1), the preliminary specifications of DAP were published in the *Federal Register* (54 FR 46743, November 7, 1989). No JVP amounts were specified. Comments were requested to be submitted to the Regional Director through December 1, 1989. One letter of comments was received by the Regional Director. It is summarized and responded to in the "Comments Received" section.

The Council met during December 5-8, 1989 to review the best available scientific information concerning groundfish stocks, intended harvest plans for 1990, and estimates made by NMFS concerning the extent to which U.S. fishermen would harvest amounts of groundfish. This information was contained in the Stock Assessment and Fishery Evaluation (SAFE) report, which was prepared and presented by the Gulf of Alaska Groundfish Plan Team to the Council and to the Council's Scientific and Statistical Committee (SSC) and Advisory Panel (AP). Information contained in the SAFE report included results obtained from the 1984 and 1987 triennial trawl survey of groundfish conducted in the Gulf of Alaska and the 1986 and 1988 hydroacoustic survey of pollock in Shelikof Strait, which lies between Kodiak Island and the Alaska Peninsula. Both surveys were conducted by the NMFS Alaska Fisheries Science Center. The Council's SSC reviewed the available information and recommended to the Council acceptable biological catches (ABCs) discussed below and shown in table 1 contained at § 672.20. Acceptable biological catches are estimated by multiplying exploitable biomass times the exploitable rate chosen by the Council. The AP also considered information contained in the SAFE report and recommended TACs for each species.

Most of the information considered by the Council was summarized in the preliminary notice. Any new information and subsequent actions by the Council for each species and species

complex are summarized below:

#### A. Total Allowable Catches

**Pollock**—The condition of pollock is depressed. Data from the hydroacoustic surveys and the 1984 and 1987 bottom trawl surveys were analyzed, using the Stock Synthesis Model. The Plan Team adopted a modeling approach, which emphasizes information from the bottom trawl surveys as being superior to that obtained from the hydroacoustic surveys. Potential yield was calculated on the assumption that the 1987 year class is either average or poor in strength. The Plan Team determined that the most correct assumption is that the strength of the 1987 year class is poor, based on a preliminary examination of a fall 1989 bottom trawl survey. The Plan Team recommended that the combined ABC in the Western/Central Regulatory Area and the Shelikof District should be 70,000 mt, which is the average of three projections of potential yield—79,000, 68,000, and 62,000 mt. The SSC adopted the Plan Team's recommendation with 6,250 mt of the ABC to be apportioned to the Shelikof District.

No new information for the Eastern Regulatory Area is available to change the 1990 ABC of 3,400 mt. The AP recommended that TACs for the Western/Central Regulatory Area, Shelikof District, and Eastern Regulatory Area should be set equal to the SSC's recommendation for ABC, and that DAP should equal TAC. The Council adopted the SSC recommendations for ABC, and the AP recommendations for TAC and DAP, respectively.

**Pacific cod**—Although Pacific cod stocks appear to be decreasing in size, stocks are still healthy. The best estimate of exploitable biomass Gulf of Alaska-wide is 498,044 mt. Although this value is about 11 percent less than the 1989 estimate, the difference resulted from the different assumptions used in the Stock Reduction Analysis employed to determine biomass. The Plan Team recommended an ABC of 60,500 mt, which was derived by applying the  $F_{msy}$  exploitation rate to exploitable biomass. The SSC believed this value underestimates the  $F_{msy}$  fishing mortality rate. Lacking a better  $F_{msy}$  estimate, the SSC recommended an exploitation of 25 percent, which is the  $F_{0.1}$  exploitation rate. This rate is less than the estimated rate of natural mortality and is believed to be less than  $F_{msy}$ . Using  $F_{0.1}$ , the SSC recommended an ABC of 120,000 mt. The AP adopted the SSC's recommendation but recommended that TAC should be 90,000 mt with DAP set equal to TAC. The Council recommended an ABC and TAC of 90,000 mt with TAC apportioned among the regulatory areas as follows:

Western—29,500 mt; Central—59,500 mt; and Eastern—1,000 mt.

**Flatfish**—Stocks of all flatfish species, including deepwater flatfish, shallow water flatfish, and arrowtooth flounder, are in good condition. The Plan Team recommended that respective ABCs should be set equal to 228,000 mt, 207,100 mt, and 343,300 mt, using an exploitation strategy that maximizes the yield per recruit for a given age in the fishery ( $F_{max}$ ). However, the SSC believes that  $F_{max}$  is not appropriate, because it assumes that recruitment is completely independent of spawning stock and ignores the effects of fishing on spawning stock and subsequent recruitment. The SSC instead recommended a  $F_{0.1}$  fishing mortality rate for all flatfish species, which results in the following ABCs for deepwater flatfish, shallow water flatfish, and arrowtooth flounder: 108,400 mt, 84,500 mt and 194,600 mt, respectively. In each case, the AP adopted the SSC's ABCs but reduced TACs substantially to reflect industry needs. The AP then recommended that DAP be set equal to TAC for each flatfish category. The Council adopted the SSC's recommendations for ABCs but set TACs equal to those recommended by the AP for deepwater flatfish, shallow water flatfish, and arrowtooth flounder. It then set each DAP equal to TAC with distributions among the regulatory areas as follows:

Deepwater flatfish—Western—3,650 mt; Central—15,300 mt; and Eastern—3,050 mt.

Shallow water flatfish—Western—3,570 mt; Central—6,180 mt; and Eastern—250 mt.

Arrowtooth flounder—Western—4,450 mt; Central—23,170 mt; and Eastern—4,380 mt.

**Sablefish**—Results of the 1989 Japan-U.S. cooperative longline survey and a domestic longline survey indicate the sablefish biomass may be declining. Using a pessimistic biomass estimate for sablefish, Gulf of Alaska-wide, the Plan Team recommended an ABC of 26,200 mt, which is a decrease from the 1989 level of 30,900 mt. This recommendation is conservative but compensates for lack of evidence of a strong 1984 year class that was expected to fully recruit to the fishery in 1990. The SSC concurred with the Plan Team's recommendation that the ABC is 26,200 mt. Because the 1989 TAC equaled 26,000 mt, the AP recommended that the 1990 TAC equal the 1989 TAC, or 26,000 mt. The Council adopted the SSC's and the AP's recommendations and set DAP equal to TAC, apportioned among the regulatory areas and districts as follows: Western—3,770 mt; Central—11,700 mt; West Yakutat—4,550 mt; and Southeast Outside/East Yakutat—5,980 mt.

**Rockfish assemblages**—The same three categories of rockfish in the genus *Sebastes* will be managed in 1990 as in 1989. These categories are "other rockfish", pelagic shelf rockfish, and demersal shelf rockfish. They are described as follows: "Other rockfish"—In the Western and Central Regulatory Areas and the Eastern Regulatory Area west of 137° W. longitude, "other rockfish" means the 18 species of slope rockfish and the 10 species of demersal shelf rockfish listed in the footnotes to Table 1 of this notice. TACs are established for these combined assemblages in these management areas. In the Southeast Outside District, "other rockfish" means the 18 species of slope rockfish only. A TAC is established for this assemblage of 18 species in the Southeast Outside District.

**Pelagic shelf rockfish**—In the Western, Central, and Eastern Regulatory Areas, pelagic shelf rockfish means the five rockfish species listed in the footnote to table 1 of this notice. A TAC is established for this assemblage in each of these regulatory areas.

**Demersal shelf rockfish**—In the Southeast Outside District, demersal shelf rockfish means the ten rockfish species listed in the footnote to table 1 of this notice. A TAC is established only in the Southeast Outside District.

The condition of, and Council action for, each of the rockfish assemblages that make up the three categories are as follows:

The condition of slope rockfish referred to as "other rockfish" in table 1, is good and stocks are believed to be increasing in abundance. Exploitable biomass is estimated to be about 702,200 mt. About 14 percent of this amount, or 99,700 mt, is composed of a subcategory called "deep slope" rockfish. The balance is composed of a subcategory called "shallow slope" rockfish. The Plan Team recommended a Gulf of Alaska-wide ABC of 17,700 mt, which is 50 percent of the sum of the individual species ABCs for this species complex. This conservative ABC affords some protection to two species in the complex, which are low in abundance. The SSC concurred with the Plan Team's recommendation. The AP recommended a TAC higher than the ABC for market reasons, and because the SSC's recommendation was conservative. The Council set TACs equal to the SSC's ABCs and set each DAP equal to TAC distributed among the regulatory areas as follows: Western—4,300 mt; Central—7,700 mt; and Eastern—5,700 mt.

For pelagic shelf rockfish, the Plan Team recommended a Gulf of Alaska-

wide ABC of 8,200 mt, which the SSC adopted. The AP recommended a TAC equal to ABC. The Council adopted the SSC's and the AP's recommendations and set DAP equal to TAC apportioned among the regulatory areas as follows: Western 1,400 mt; Central—5,800 mt; and Eastern—1,000 mt.

For demersal shelf rockfish, no biomass or yield estimates are available on which to base an ABC. This rockfish assemblage is the target of a hook-and-line fishery in the Southeast Outside District. Information from the Alaska Department of Fish and Game on this rockfish assemblage suggests that the population is declining. The Council adopted a TAC of 470 mt, based on a State of Alaska recommendation that no more than this amount should be harvested from the Southeast Outside District.

**Thornyhead rockfish**—The SSC adopted the Plan Team's recommendation that the ABC should be set equal to the 1989 amount of 3,800 mt. The Council adopted this number and recommended a Gulf of Alaska-wide TAC equal to ABC, and set DAP equal to TAC.

**Other species**—No recommendations were made by the Plan Team for this group. Under the FMP, the TAC for this species category is to be set at 5 percent of the sum of the TACs established for the other groundfish categories. Thus TAC is 14,179 mt.

The sum of the above TACs adopted by the Council is 297,749 mt, which falls within the OY range specified by the FMP. The Council, after adopting the TACs, then deliberated on the apportionment of the TACs for each species among DAP, JVP, TALFF, and reserve. The Council reviewed the results of the NMFS U.S. processor survey that was conducted prior to the Council's meeting. This survey queries the U.S. processing industry about its processing capacity and the extent to which that capacity will be used for groundfish species in 1990. This survey did not include sablefish and the rockfish species, which are known to be fully utilized as evidenced by prior years' harvests. The survey did include pollock, Pacific cod, and flatfish. When the Regional Director reviewed the survey results, he calculated the probability that those amounts would actually be processed, considering the amount of processing machinery that was available or which was planned for but not yet in place, both in shoreside processing facilities and on catcher/processor and mothership processor vessels.

In doing so, the Regional Director discounted some of the survey results as overly optimistic. The Regional Director

presented his analysis to the Council, which in turn considered its findings when making recommendations to the Secretary for initial DAP specifications. As a result of this process, TALFF and JVP are set at zero, because all species are expected to be fully utilized by U.S. fishermen in DAP fisheries. For pollock and Pacific cod, NMFS projections of DAP needs exceed TACs for these species. For flatfish, NMFS projections of DAP needs are less than TAC. The Council, however, received considerable information from the public that the flatfish fishery will expand substantially more than indicated by the NMFS survey needs, and that the DAP should equal TAC for each of the three flatfish categories. For sablefish and all the rockfish species, including thornyhead rockfish, all TACs are expected to be fully utilized by DAP, and no amount is available for JVP.

The Secretary has reviewed the Council's recommendations for TAC specifications and apportionments and hereby implements these specifications under § 672.20(c)(1).

#### B. Proposed Apportionment of Reserves to DAP

The FMP stipulates that 20 percent of each TAC for pollock, Pacific cod, flatfish species, and the "other species" category be set aside in a reserve for possible reapportionment at a later date. Because DAP is projected to need all reserves, the Secretary, at this time, under § 672.20(d)(1)(ii) and (d)(3) is proposing to reapportion reserves for each species category to DAP. By doing so, the Secretary is anticipating that the domestic industry will need all of the DAP amounts so specified. Specifications of DAP shown in table 1 of this notice reflect proposed DAP totals if the reserves are apportioned following a 15 day comment period. Under § 672.20(d)(5)(iv), comments should focus on whether, and the extent to which, vessels of the United States will harvest reserve or DAH amounts during the remainder of the year and whether, and the extent to which, U.S. harvested groundfish can or will be processed by U.S. fish processors or received at sea by foreign fishing vessels.

#### C. Assignments of the Sablefish TAC to Authorized Fishing Gear Users

Under § 672.24(b), sablefish TACs for each of the regulatory areas and districts are further assigned to hook-and-line and trawl gear. The Secretary publishes for the information of the public the following table that shows the assignments of sablefish TACs between the gear types:

**SABLEFISH TOTAL ALLOWABLE CATCH (TAC) AND AMOUNTS OF TAC, IN METRIC TONS, ALLOCATED TO AUTHORIZED GEAR IN THE REGULATORY AREAS AND DISTRICTS OF THE GULF OF ALASKA**

Area/District	TAC	Hook-and-line share	Trawl share
Western .....	3,770	3,020	750
Central .....	11,700	9,360	2,340
West Yakutat .....	4,550	4,320	230
Southeast Outside/ East Yakutat .....	5,980	5,680	300
Total .....	26,000	22,380	3,620

**D. PSC Limits Relevant to Fully Utilized Species**

Under § 672.20(b)(1), if the Secretary determines after consultation with the Council that the TAC for any species or species group will be fully utilized in the DAP fishery, he may specify the PSC limit applicable to the JVP fisheries for that species or species group. Any PSC limit specified shall be for bycatch only and cannot be retained. Under § 672.20(c)(iv), if the Regional Director determines that a PSC limit applicable to a directed JVP fishery has been or will be reached, the Secretary will publish a notice of closure in the *Federal Register* prohibiting all further JVP fishing in all or part of the regulatory area concerned.

The Council recommended that DAP equal TAC for each species category. Zero amounts are available for JVP. The Secretary concurs with the Council's recommendation, and has not established any JVP amounts. If future apportionments from DAP to JVP occur, the Secretary will also make the necessary determinations regarding PSC limits under § 672.20(c)(iv) at that time.

**E. Halibut Prohibited Species Catch Limits**

Pacific halibut PSC mortality limits are established and apportioned to trawl and fixed (hook-and-line and pot) gear that are equal to 2,000 mt and 750 mt mortality, respectively, by Amendment 18 to the FMP. The Secretary intends to use information that will be obtained from observers to extrapolate total bycatches of halibut by these two gear categories. Should this information prove inadequate for this purpose, the Secretary will project halibut bycatches using assumed rates, expressed as percentages in the tabulation below, for use in projecting when the 1990 halibut PSC limits might actually be reached during the fishing year. These bycatch

rates were used by the Council during its December 1989 meeting for purposes of examining effects of different groundfish harvest levels on halibut bycatch. These rates are subject to adjustment during the fishing year on the basis of the best available information, which might include actual rates during the fishery as observed and reported by NMFS-certified observers.

**ASSUMED HALIBUT BYCATCH RATES, AS PERCENT OF TOTAL CATCH, BY DAP GEAR TYPE IN THE GULF OF ALASKA FOR PURPOSES OF MANAGING HALIBUT BYCATCHES IN 1990**

	Bot-tom trawl	Mid-water trawl	Hook-and-line	Pot
Target species:				
Sablefish .....			8.0	0.4
Pacific cod .....			10.0	
Groundfish other than sablefish and Pacific cod .....	2.7	0.01		

Some halibut suffer mortality after being caught and discarded at sea. Rates of halibut mortality for the various DAP fisheries are assumed to be 50 percent of halibut caught with trawl gear, 13 percent of halibut caught with hook-and-line gear, and 12 percent caught with pot gear. The Secretary concurs with these estimates and hereby announces them for purposes of halibut management. Should new information become available during the year from the observer program or other sources, these rates may be revised. If so, new rates would be published in the *Federal Register*.

During the Council meeting, the representatives of fishermen using fixed gear and trawl gear expressed concern that the halibut PSC shares assigned to fixed and trawl gear could be taken prematurely in the 1990 fishing year, causing an early closure of the Gulf to either or both gear types. They requested the Council to recommend to the Secretary that an emergency rule be implemented under section 305(e) of the Magnuson Act that would allocate the PSC shares quarterly. If a gear type were to reach one-fourth of the assigned gear share early during a calendar quarter, further fishing by that gear would be prohibited for the remainder of the calendar quarter. In response, the Council recommended that the Secretary implement the emergency rule.

The Secretary has not yet taken action on the Council's recommendation. By way of this notice, fishermen are advised that any bycatches of halibut

caught since January 1, 1990 would be counted retroactively against quarterly allocations of halibut PSC should the Secretary implement an emergency rule to establish this measure.

**(2) Inseason Adjustment in the Pollock Fishery**

As indicated in the discussion, above, pollock stocks in the combined Western/Central Regulatory Area (W/C) are depressed. Stock assessments indicate a continued decline in pollock abundance during 1989 from peak abundance in 1981-1982. No significant recruitment has taken place since the strong 1978 and 1979 year classes entered the fishery as 3 year old fish in 1981 and 1982, respectively. Modeling results using bottom trawl survey data indicate the short term yields in 1990-1992 would range from about 74,000 to 84,000 mt, assuming that the strength of the 1987 year class is average. Most of the quota in 1989 was harvested from spawning populations located outside Shelikof Strait, which represents a change from prior years when roe pollock was harvested exclusively in Shelikof Strait. Considering uncertainties in stock condition, the Secretary has implemented for the 1990 fishing year an ABC of 70,000 mt for the W/C with a TAC equal to that amount.

The Council considered public testimony relevant to the status of pollock and its importance to local fishing communities as well as its importance to the groundfish fishing industry that depends economically on pollock in the Gulf of Alaska. The Council also considered the importance of pollock to northern sea lions, the abundance of which is low and believed to be declining. Because northern sea lions depend on pollock for food as a major part of their diet, the poor status of pollock might also be a contributing factor to the low abundance of northern sea lions.

The Council recommended that the Secretary implement an emergency rule under section 305(e) of the Magnuson Act to prevent overfishing pollock. The emergency rule, as recommended by the Council, would allocate quarterly the pollock TAC in the W/C such that no more than 25 percent of the pollock TAC in the W/C, including all of the Shelikof District TAC, would be available in the first quarter, and no more than 25 percent of the TAC, augmented by any portions that had not been harvested during preceding quarters, would be available during each of the subsequent three quarters. Any overruns of a quarterly apportionment would be subtracted from the subsequent

quarter's apportionment. The Eastern Regulatory Area TAC of 3,400 mt would not be allocated quarterly. Arithmetically, the following amounts will be allowed for harvest during each of the four quarters:

1st quarter = 11,250 (W/C) + 6,250 (Shelikof District); 2nd, 3rd, & 4th quarters = 17,500 (W/C) + uncaught amounts from previous quarters.

Quarterly apportionments would slow the fishery, because only 25 percent of the TAC would be available during the first quarter when the pollock roe fishery would normally occur. A smaller allowable harvest would attract fewer participants, especially as the much larger pollock fishery in the Bering Sea and Aleutian Islands area would occur at the same time. NMFS would be able to monitor harvest rates more accurately, and thus would be able to make better projections about when the four quarterly apportionments would be reached. The likelihood that any quarterly apportionments would be exceeded would be greatly reduced, and overfishing would be prevented. Not only would the status of pollock stocks be afforded more protection, but other marine life, including northern sea lions, that depend on pollock for food would also benefit. Finally, this action would allow fishery managers more time to evaluate pollock fishery data during the season; and to consider those data when determining whether additional protection must be afforded the pollock stocks.

The Secretary concurs with the need to prevent overfishing of pollock. Rather than implement an emergency rule, the Secretary is implementing an inseason adjustment of the fishing season for pollock under his authority at 50 CFR 672.22. Under paragraph (a) of this section, the Regional Director is authorized to close and open seasons in a management area if he determines that such action is necessary to prevent overfishing a stock of fish. The Regional Director will close the pollock directed fishing season in the W/C, including the Shelikof District, at 12:00 noon, Alaska local time, on a date during the first calendar quarter when the pollock harvest reaches 17,500 mt in the W/C and the Shelikof District combined.

Subsequently, he will reopen the fishing season for pollock at 12:00 noon Alaska local time during the second and third calendar quarters on April 1 and July 1, respectively. He will then close the pollock directed fishing season during each of these two quarters when the harvest reaches 25 percent of the TAC, or 17,500 mt, plus uncaught amounts from previous quarterly

apportionments, in the combined W/C, including the Shelikof District.

Because pollock bycatches will be counted against TAC, the Regional Director intends to manage the pollock harvest during the fourth quarter such that the total annual catch, including any bycatch amounts taken in other directed fisheries during the year, does not exceed TAC.

Under § 672.22(a)(2)(ii), the Regional Director has determined that the inseason adjustment selected is the least restrictive management measure necessary to prevent overfishing pollock stocks. Closures and openings of the pollock fishing season are the least restrictive management measure available, in that the entire TAC remains available for harvest without restricting other groundfish fisheries. Other measures he considered were (1) gear modifications that would protect pollock but still allow other fisheries to continue, and (2) closure of the W/C to all groundfish fishing.

The Regional Director rejected gear modifications as being impractical. No gear other than trawl gear is used in the pollock fishery. Trawl gear might be designed that would harvest only the very largest pollock, which are likely to succumb to natural mortality anyway. However, because medium sized pollock commingle with large pollock and are themselves a desirable part of the yield, all practical types of gear must effectively harvest mixed sizes. The Regional Director also rejected a total closure to all groundfish fishing. The sum of all TACs for all groundfish species in the W/C is about 268,000 mt, which would have an exvessel value of \$118 million at \$0.20 per pound if it is all harvested. To prohibit all groundfish fishing would cause severe economic harm.

The Regional Director considered all information relevant to the following factors in making the determinations required under paragraph (a)(2) of § 672.22:

1. *The effect of overall fishing effort within a regulatory area.* In 1989, the pollock fishery started about February 1, and ended on March 23 when the fishery was closed. The resulting harvest was 67,000 mt or 10 percent over TAC, and was harvested by 36 shorebased trawlers and 12 catcher/processor vessels. The fishery was directed at roe-bearing pollock, which had high exvessel value and attracted large amounts of harvesting and processing effort. Because so much effort is employed to harvest the pollock, even a day's fishing can result in gross overruns of the TAC. Slowing the fishing through quarterly apportionments will better

distribute the harvest, resulting in a more easily managed fishery and ensuring that overfishing is prevented.

2. *Relative abundance of stocks within the area.* Overall, pollock stocks are depressed. During the roe season, female roe-bearing pollock will concentrate in schools, which allows for fast, efficient harvests. Large amounts of pollock can be harvested within small areas. Exceeding TAC could occur, given the potential high rate of harvest.

3. *The condition of the stock within all or part of a regulatory area.* Information on the condition of pollock stocks is summarized above.

4. *Economic impacts on fishing businesses being affected.* As a result of this measure, only 25 percent of the TAC, or 17,500 mt, will be available for harvest in directed fisheries during the roe season that will occur in the first calendar quarter. The remaining pollock will be available for harvest in directed fisheries during the remaining three quarters. Although some vessel operators are able to target on female pollock, a 50/50 ratio between male and female pollock in the catch is assumed. Using this assumption, 8,750 mt of female pollock could be harvested. At a roe recovery rate of 7 percent, 612 mt of roe could be harvested. At a value of \$5 per pound, the industry could receive \$6.7 million, gross revenue, for this amount of roe. The balance of the quarterly apportionment resulting from male and female carcasses might be used in surimi production. If so, 3,850 mt of surimi could be produced from 17,500 mt of pollock at a recovery rate of 22 percent. At \$1 per pound, the industry could earn about \$8.5 million, gross revenue, for surimi. Under this action, the industry could earn a total of \$15.2 million during the first quarter from a combination of roe and surimi production. Other products could be produced during the period as well. Some roe production would occur during the first part of the second quarter as well.

Most of the remaining TAC, or 52,500 mt would be harvested during the non-roe season, mainly for surimi production when male and female pollock would be harvested. At a 22 percent recovery rate of surimi, this amount of pollock could be worth \$25 million gross revenue. The total value of roe and surimi production from the 70,000 mt TAC could be worth \$40.2 million.

Without this measure, the entire TAC would likely be harvested in a roe fishery. The extent that fishermen are able to target on schooling females affects the amount of roe that would be harvested. In a mixed fishery on males

and females together, only one-half the TAC would be females, or 35,000 mt. At a 7 percent recovery rate, 2,450 mt of roe might be harvested, which could be worth \$27 million to the fishermen.

Over the short term, the industry would earn additional gross revenue equal to the difference between \$40.2 and \$27 million, or \$13.2 million as a result of this inseason adjustment. Over the long term, pollock stocks are expected to increase in abundance, if overfishing is prevented, thereby increasing long term potential revenue.

Under § 672.22(b), if the Secretary decides for good cause that an inseason adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment will be received by the Regional Director for a period of 15 days after the effective date of this notice. Thus, public comments are invited on this inseason adjustment to allocate quarterly apportionments for pollock in the W/C for 15 days after January 26, 1990.

**Public Comments**

One letter of comments was received during the comment period on the

proposed specifications. Comments are summarized and responded to below.

*Comment 1.* Current PSC limits for Pacific halibut are adequate to constrain bycatches of Pacific halibut obviating the need to reduce available groundfish TACs.

*Response:* The Council did not recommend reductions in any of the groundfish species to reduce halibut bycatches. Any reductions of TAC from ABC are in response to domestic industry needs in directed fisheries.

*Comment 2.* Halibut bycatch rates should remain flexible to provide an incentive to fishermen to improve on the assumed rates.

*Response:* Information obtained from the observer program will be used inseason to upgrade halibut bycatch and mortality rates. Management dictated by these rates will be based on the best available information, including observer data.

*Comment 3.* The TAC for "other rockfish" should be 23,600 mt.

*Response:* The Council recommended, and the Secretary concurs, that the ABC should be no more than 17,700 mt. The Council did so to afford more protection to two components of the "other rockfish" species category, which are

rougheye and shortraker rockfish. Both species are low in abundance. Reducing the overall TAC will promote rebuilding of these two species.

**Other Matters**

This action is taken under § 611.92 and § 672.20 and complies with Executive Order 12291. The Secretary finds that implementing the inseason adjustment for pollock under § 672.22 without affording a prior opportunity for public comment or delaying its effective date is necessary to prevent overfishing of pollock stocks, which are in a depressed condition. This adjustment is effective January 26, 1990.

**List of Subjects**

50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

50 CFR Part 672.

Fisheries, Reporting and recordkeeping requirements.

Dated: January 25, 1990.

James E. Douglas, Jr.,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

TABLE 1.—ABCs, INITIAL TACs, DAPs, JVPs, RESERVES, AND TALFFs OF GROUND FISH (METRIC TONS) FOR THE WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE/EAST YAKUTAT (SEO/EYK), GULF-WIDE (GW), AND SOUTHEAST OUTSIDE (SEO) DISTRICTS OF THE GULF OF ALASKA

Species and Area <sup>1</sup>	ABC	TAC	Reserve	DAP	JVP	TALFF
<b>Pollock:</b>						
W/C.....	63,750	63,750	0	63,750	0	0
Shelikof.....	6,250	6,250	0	6,250	0	0
E.....	3,400	3,400	0	3,400	0	0
<b>Total.....</b>	<b>73,400</b>	<b>73,400</b>	<b>0</b>	<b>73,400</b>	<b>0</b>	<b>0</b>
<b>Pacific cod:</b>						
W.....	29,500	29,500	0	29,500	0	0
C.....	59,500	59,500	0	59,500	0	0
E.....	1,000	1,000	0	1,000	0	0
<b>Total.....</b>	<b>90,000</b>	<b>90,000</b>	<b>0</b>	<b>90,000</b>	<b>0</b>	<b>0</b>
<b>Flatfish <sup>2</sup> (deep-water):</b>						
W.....	16,300	3,650	0	3,650	0	0
C.....	77,700	15,300	0	15,300	0	0
E.....	14,400	3,050	0	3,050	0	0
<b>Total.....</b>	<b>108,400</b>	<b>22,000</b>	<b>0</b>	<b>22,000</b>	<b>0</b>	<b>0</b>
<b>Flatfish <sup>3</sup> (shallow water):</b>						
W.....	30,200	3,570	0	3,570	0	0
C.....	52,200	6,180	0	6,180	0	0
E.....	2,100	250	0	250	0	0
<b>Total.....</b>	<b>84,500</b>	<b>10,000</b>	<b>0</b>	<b>10,000</b>	<b>0</b>	<b>0</b>
<b>Arrowtooth flounder:</b>						
W.....	27,000	4,450	0	4,450	0	0
C.....	141,000	23,170	0	23,170	0	0
E.....	26,600	4,380	0	4,380	0	0
<b>Total.....</b>	<b>194,600</b>	<b>32,000</b>	<b>0</b>	<b>32,000</b>	<b>0</b>	<b>0</b>

TABLE 1.—ABCs, INITIAL TACs, DAPs, JVPs, RESERVES, AND TALFFS OF GROUND FISH (METRIC TONS) FOR THE WESTERN/CENTRAL (W/C), WESTERN (W), CENTRAL (C), AND EASTERN (E) REGULATORY AREAS AND IN THE WEST YAKUTAT (WYK), SOUTHEAST OUTSIDE/EAST YAKUTAT (SEO/EYK), GULF-WIDE (GW), AND SOUTHEAST OUTSIDE (SEO) DISTRICTS OF THE GULF OF ALASKA—Continued

Species and Area <sup>1</sup>	ABC	TAC	Reserve	DAP	JVP	TALFF
<b>Sablefish:</b>						
W.....	3,800	3,770	0	3,770	0	0
C.....	11,800	11,700	0	11,700	0	0
WYK.....	4,600	4,550	0	4,550	0	0
SEO/EYK.....	6,000	5,980	0	5,980	0	0
Total.....	26,200	26,000	0	26,000	0	0
<b>Other <sup>4,5</sup> rockfish:</b>						
W.....	4,300	4,300	0	4,300	0	0
C.....	7,700	7,700	0	7,700	0	0
E.....	5,700	5,700	0	5,700	0	0
Total.....	17,700	17,700	0	17,700	0	0
<b>Pelagic <sup>6</sup> shelf rockfish:</b>						
W.....	1,400	1,400	0	1,400	0	0
C.....	5,800	5,800	0	5,800	0	0
E.....	1,000	1,000	0	1,000	0	0
Total.....	8,200	8,200	0	8,200	0	0
<b>Demersal shelf rockfish <sup>7</sup>:</b>						
SEO.....	Unknown	470	0	470	0	0
<b>Thornyhead rockfish:</b>						
GW.....	3,800	3,800	0	3,800	0	0
<b>Other species <sup>8</sup>:</b>						
GW.....	N/A	14,179	0	14,179	0	0
Total.....	606,800	297,749	0	297,749	0	0

<sup>1</sup> See figure 1 of § 672.20 for description of regulatory areas/districts.  
<sup>2</sup> The category "deepwater flatfish" means rex sole, Dover sole, and flathead sole.  
<sup>3</sup> The category "shallow-water flatfish" means flatfish not including rex sole, Dover sole, flathead sole, or arrowtooth flounder.  
<sup>4</sup> The category "other rockfish" in the Western and Central Regulatory Areas and in the West Yakutat and East Yakutat Districts includes Slope rockfish and Demersal shelf rockfish. The category "other rockfish" in the Southeast Outside District includes Slope rockfish.  
<sup>5</sup> The category slope rockfish includes *Sebastes polyspinis* (Northern rockfish), *S. alutus* (Pacific ocean perch), *S. aleutianus* (Rougheye), *S. zacentrus* (Sharpchin), *S. borealis* (Shortraker), *S. aurora* (Aurora), *S. melanostomus* (Blackgill), *S. goodii* (Chilipepper), *S. crameri* (Darkblotch), *S. elongatus* (Greenstriped), *S. variegatus* (Hartequin), *S. wilsoni* (Pygmy), *S. babcocki* (Red banded), *S. jordani* (Shortbelly), *S. diploproa* (Splitnose), *S. saxicola* (Stripetail), *S. miniatus* (Vermilion), and *S. reedi* (Yellowmouth).  
<sup>6</sup> The category pelagic shelf rockfish includes *Sebastes melanops* (Black), *S. mystinus* (Blue), *S. ciliatus* (Dusky), *S. entomelas* (Widow), and *S. flavidus* (Yellowtail).  
<sup>7</sup> The category demersal shelf rockfish includes *Sebastes paucispinis* (Bocaccio), *S. nebulosus* (China), *S. caurinus* (Copper), *S. maliger* (Quillback), *S. proriger* (Redstripe), *S. helvomaculatus* (Rosethorn), *S. brevispinis* (Silvergray), *S. nigrocinctus* (Tiger), *S. ruberrimus* (Yelloweye), *S. pinningera* (Canary).  
<sup>8</sup> The category "other species" includes Atka mackerel, sculpins, sharks, skates, eulachon, smelts, capelin, squid, and octopus. The TAC is equal to 5 percent of the TACs, of the target species.

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**50 CFR Parts 611 and 675**

[Docket No. 91046-0006]

**Foreign Fishing; Groundfish of the Bering Sea and Aleutian Islands Area**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.  
**ACTION:** Notice of closure.

**SUMMARY:** The Director, Alaska Region, NMFS (Regional Director), has determined that the joint venture flatfish fisheries have attained their prohibited species catch (PSC) allowance of red king crab (50,000 crabs) in Zone 1 of the Bering Sea and Aleutian Islands (BSAI) area. Therefore, the Secretary of Commerce (Secretary) is prohibiting any further directed fishing for yellowfin sole, rock sole, and "other flatfish" in

Zone 1. This action is necessary to prevent excessive bycatch of red king crab in the trawl fishery for groundfish in an area of particular importance to the red king crab stock. This action is intended to carry out the objectives of the measures to control the bycatch of prohibited species in the trawl fishery for groundfish.

**EFFECTIVE DATES:** January 25, 1990 through December 31, 1990.

**FOR FURTHER INFORMATION CONTACT:** Janet E. Smoker (Fishery Management Biologist), NMFS, Alaska Region, P.O. Box 21668, Juneau, Alaska 99802-1668, telephone 907-586-7229.

**SUPPLEMENTARY INFORMATION:** The Secretary approved, on July 7, 1989, Amendment 12A to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Amendment 12A was implemented by the Secretary with a final rule promulgated August 9, 1989 (54 FR 32642) and effective September 3, 1989 through December 31, 1990.

The purpose of Amendment 12A is to limit incidental catches of the prohibited species Tanner crab, red king crab, and Pacific halibut by the groundfish fisheries in the BSAI area. Such incidental catches are referred to as bycatches in fisheries targeting other species. The amendment establishes five PSC limits, each of which are apportioned among four fisheries: the domestic annual processing (DAP) fisheries for flatfish and other species, and the joint venture processing (JVP) fisheries for flatfish and other species.

Each of the 20 PSC allowances prescribed for the 1990 groundfish fisheries appears in the initial specifications notice for 1990 for the BSAI area (55 FR 1434, January 16, 1990). The PSC allowances were based on the