**Federal Register / Vol. 51, No. 239 / Friday, December 12, 1986 / Proposed Rules**

**Action:** Proposed rule.

**Summary:** NOAA issues a proposed rule to implement Amendment 15 to the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP). Amendment 15 would revise the FMP’s management goals and objectives and (1) establish a single optimum yield (OY) range and an administrative framework procedure for setting annual harvest levels for each species category of groundfish; (2) establish an administrative procedure for setting prohibited species catch limits (PSCs) for fully utilized groundfish species applicable to joint venture and foreign fisheries; (3) revise an existing domestic reporting requirement for catcher/processor and mother ship vessels; (4) establish four time/area closures to nonpelagic trawling around Kodiak Island for a three-year period to protect king crab; and (5) modify the inseason authority to authorize the Secretary of Commerce (Secretary) to make certain inseason changes to gear regulations, seasons, and harvest quotas.

The intended effect of this action is to implement conservation and management measures that respond to the best available biological and socioeconomic information on the status of the groundfish and king crab fishery, while providing for full development and utilization of Gulf of Alaska groundfish resources.

**Date:** Written comments must be received on or before January 17, 1987.

**Addresses:** Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1688, Juneau, AK 99802. Copies of the amendment, the environmental assessment (EA), and the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) may be obtained by contacting the North Pacific Fishery Management Council (Council), P.O. Box 109136, Anchorage, AK 99510, 907-274-4563.

**Supplementary Information:** The domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) of the Gulf of Alaska are managed under the Fishery Management Plan for the Gulf of Alaska Groundfish Fishery (FMP). The FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act) and implemented December 1, 1978 (43 FR 52709, November 14, 1978).

Prior to 1984, the Council would receive proposals to amend the FMP at any meeting. During its April 1984 meeting, the Council adopted a policy whereby proposals for amendments would be received only once a year. By the December 7, 1984 deadline for the first amendment cycle, over thirty proposals to amend the FMP were submitted. Because the Council had received such a large number of proposals, only certain ones were selected for consideration at that time as part of Amendment 14. The remaining proposals were held for consideration for inclusion in a future amendment.

Normally, the Council would again have invited proposals at its December 1985 meeting. However, with so many proposals remaining, it elected to consider those remaining rather than invite new ones. The Council, therefore, directed its Plan Team to analyze the biological, ecological, and socioeconomic impacts of the six proposals now contained in Amendment 15, that the Council deemed of high priority. The Council’s Plan Team prepared drafts of an environmental assessment and a regulatory impact review, which analyzed each proposal and its alternatives as required by the National Environmental Policy Act of 1969, other Federal laws, and Executive Order 12291. The Council reviewed these documents at its June 1986 meeting and released them for public review. In response to comments received, the Plan Team revised the draft analyses for consideration by the Council at its September 24-26, 1986, meeting. At that meeting, the Council reviewed the analyses, heard further public comment, and approved the six parts of Amendment 15.

A description of each of the five parts of Amendment 15 that would be implemented by regulation follows. A
proposed management goals -and or species group -being managed framework procedure'for setting annual (OY) range and an administrative Amendment, EA, -and RIR/IRFA that are objectives, can be found in'the rule under-section.305(e) of the OYs have been adjusted-by emergency immediately. For the last three-years, overfishing, must often be implemented best available scientific information and OY changes, which are 'based:on the takes about a year. However, -proposed amended, a procedure that normally to be adjusted.on an annual basis. These changes annually,some OYs have had

Council has recommended that a single optimum yield (OY) for each species category of-groundfish includes those species currently of slight economic value and which generally are not targeted upon. This category, however, also contains species with economic potential or which have importance to the ecosystem, but sufficient data are lacking to allow separate management. Accordingly, a single TQ, equal to five percent of the combined TQs for other target species will apply to this category. This proposal is a significant improvement to the status quo but is not substantially different from other alternatives considered, which are described in the RIR/IRFA. Compared to the status quo, this measure would relieve NOAA from the administrative burden of preparing annual emergency rules and plan amendments, resulting in a savings of approximately $100,000. No measurable costs are imposed on the harvesting, processing, and marketing sectors, or on consumers. It will ensure that harvest quotas for each fishing year are established using the best available scientific information and will prevent overfishing.

1. Establish a single optimum yield (OY) range and an administrative framework procedure for setting annual harvest levels for each species category. Under the current FMP, OYs are established for every groundfish species or species group being managed by the FMP. Because the status of some stocks changes annually, some OYs have had to be adjusted on an annual basis. These adjustments require that the FMP be amended, a procedure that normally takes about a year. However, proposed OY changes, which are based on the best available scientific information and are often necessary to prevent overfishing, must often be implemented immediately. For the last three years, OYs have been adjusted by emergency rule under section.305(e) of the Magnuson Act, followed by an FMP amendment. If an amendment were not in place at the time the emergency rule expired, then the former OYs are reinstated until the amendment becomes effective. This situation is undesirable for several reasons. First, OYs that are not based on the best available scientific information come back into effect. Second, the current system is administratively inefficient because required documentation and review procedures for the emergency rule and the amendment are duplicative. Finally, it causes confusion within the fishing industry and risks potential economic losses if harvests were prematurely terminated or overfishing were to occur as a result of out-of-date OYs being reinstated.

To resolve this problem the Council has proposed a framework procedure that allows the setting of target quotas (TQs) for each species category on an annual basis without an FMP amendment. The Council has also proposed a change in the present concept of OY contained in the FMP, which prescribes a separate OY for each species. Twenty (20) percent of each OY is assigned to a species-specific reserve. The remaining 80 percent is then annually apportioned among domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF). The Council has recommended that a single OY range of 116,000–800,000 metric tons (mt) be established for all of the groundfish species for the Gulf of Alaska. The low end of the range, 116,000 mt, equals the lowest historical groundfish catch during the 21-year period from 1965 to 1985. The high end of the range, 800,000 mt, equals ninety-five percent of the average (845,670 mt) of the sums of the individual species maximum sustained yields (MSYs) over a period of five years from 1983 to 1987. Each year, the Council will recommend a TQ for each species category. The sum of the TQs must fall within the OY range. If the sum were to fall outside of this range, the TQs would be adjusted or an FMP amendment would be necessary. Twenty percent of each TQ will be set aside as a reserve for possible reapportionment among DAP, JVP, and TALFF during the year. The remaining 80 percent will be initially apportioned among DAP, JVP, and TALFF at the beginning of the year. In recommending TQs, the Council will follow procedures similar to those followed in previous years for apportioning species-specific OYs among DAP, JVP, and TALFF. The procedure, which is outlined below, will promote full public participation both prior to and during Council meetings, and will comply with notice and comment standards set forth by the Administrative Procedure Act.

(1) In September, the Council’s Plan Team prepares a draft Resource Assessment Document (RAD), which proposes preliminary TQs for all managed groundfish species. TQs will be specified for the regulatory areas and districts of the Gulf of Alaska and apportioned among DAP, JVP, and TALFF. The procedure, which is outlined below, will promote full public participation both prior to and during Council meetings, and will comply with notice and comment standards set forth by the Administrative Procedure Act.

(2) At the September Council meeting, the Council approves preliminary TQs and apportionments and proposes them with the RAD for a 30-day public review.

(3) As soon as practicable after October 1, the Secretary, upon receiving the Council’s recommendations, will publish a notice in the Federal Register specifying the proposed TQs and the apportionments thereof to DAP, JVP, and TALFF. Public comments on the proposed TQs and apportionments will be accepted by the Secretary for 30 days after the notice is filed with the Office of the Federal Register.

(4) In November, the Plan team prepares the final RAD.

(5) At its December meeting, the Council reviews the final RAD and any public comments received, takes public testimony, and then makes final recommendations on annual TQs and apportionments.

(6) As soon as practicable after receiving the Council’s final recommendations, the Secretary will publish a notice in the Federal Register that establishes final TQ limits for the new fishing year.

(7) On January 1, or as soon as practicable after that date, the TQs and apportionments will take effect for the new fishing year. With the exception of the “other species” management category, the framework procedure described above will be used to determine TQs for every groundfish species and species group managed by the FMP. The “other species” category of groundfish includes those species currently of slight economic value and which generally are not targeted upon. This category, however, also contains species with economic potential or which have importance to the ecosystem, but sufficient data are lacking to allow separate management. Accordingly, a single TQ, equal to five percent of the combined TQs for other target species will apply to this category.

This proposal is a significant improvement to the status quo but is not substantially different from other alternatives considered, which are described in the RIR/IRFA. Compared to the status quo, this measure would relieve NOAA from the administrative burden of preparing annual emergency rules and plan amendments, resulting in a savings of approximately $100,000. No measurable costs are imposed on the harvesting, processing, and marketing sectors, or on consumers. It will ensure that harvest quotas for each fishing year are established using the best available scientific information and will prevent overfishing.

2. Establish an administrative procedure for setting prohibited species catch limits (PSCs) for fully utilized species applicable to joint venture and foreign fisheries.

Certain species of groundfish are fully utilized by DAP fishermen. The Magnuson Act requires that all of such species be made available to DAP fishermen. Other fisheries (i.e., the joint venture and foreign fisheries) which target other groundfish species for which they have an allocation, will catch incidentally some of the species that are fully utilized by DAP fishermen. Under the current FMP, specifications of DAP must equal OY for those species that are fully utilized. Under Magnuson Act sections.201(d)(2) and 204(b)(6)(B)(ii), no amounts of the OY of fully utilized species can be made available for harvest in foreign fisheries or in joint ventures. In addition, any harvest of fully utilized species in excess of the OY is also inconsistent with the provisions of the FMI, which

provides only for a harvest equal to the specified OY for any species category.

Therefore, no foreign fishery in the Gulf of Alaska can be allowed and joint ventures could be terminated early, absent an amendment to the FMP or an emergency rule that would authorize the treatment of these species as a prohibited species under section 305(e) of the Magnuson Act. This action was required before foreign fisheries could legally take place.

Under this part of Amendment 15, the Council recommends a framework administrative procedure that allows the Council to recommend PSC limits on an annual basis without an FMP amendment. The procedure parallels almost exactly that recommended for the setting of annual TQs and the apportionments to DAP, JVP, and TALFF, discussed above under part 1 to this amendment.

This measure for administratively establishing PSC limits is an improvement over the status quo, because it also relieves NOAA of the administrative burden of preparing annual emergency rules or FMP amendments. No measurable costs are imposed on the harvesting, processing, and marketing sectors, or on the consumers as long as PSC limits are established when necessary. Failure, however, to establish PSC limits on joint venture fisheries could result in waste if groundfish, which could have been delivered product to a domestic processor, is discarded at sea. Failure to establish PSC limits on foreign fisheries would prevent them from legally taking place.

3. Revise an existing domestic reporting requirement for at-sea catcher/processor and mothership vessels.

The Council approved a proposal to revise an existing reporting requirement at § 672.5(a)(3) which requires that any catcher/processor vessel that freezes or dry-salts any part of its catch on board and retains it at sea for more than 14 days from the time it is caught, or any mothership which receives groundfish at sea from a domestic fishing vessel and retains it for more than 14 days from the time it is caught, submit to the Regional Director a weekly catch or receipt report for each weekly period during which groundfish were caught or received at sea. The Council has proposed that all catcher/processor and mothership processor vessels be required to submit weekly catch reports regardless of how long their catch is retained before landing. Weekly catch reports are necessary because the large amounts of catches that might be onboard vessels would not otherwise be reported.

Under the current regulation, catcher/processors and mothership/processors that land fish within 14 days are not required to submit a weekly catch report to the Regional Director. This exception to the weekly catch report requirement was allowed under the assumption that any catch landed within 14 days and reported on an Alaska Department of Fish and Game (ADF&G) fish ticket would be incorporated into the catch monitoring data base in a relatively short period of time. In practice, the catch information is not received quickly due to delays in submitting tickets to vessel operators or processors. Large, efficient catcher/processor vessels and other vessels that are fishing on small quotas can harvest those quotas over short time periods. Timely catch and effort information from these operations is necessary to foster effective fishery management.

When receipt of this information is delayed, fishery managers may have already had to make critical management decisions based on incomplete information. Incorrect management decisions, as a result of incomplete catch and effort information, could result in serious over- or underharvest and substantial inconvenience and cost to the fishing industry. Compounding this problem is the fact that recent ADF&G budget cuts have resulted in State of Alaska fish tickets being collected even more slowly.

The current reporting requirement has resulted in other problems as well. A lack of consistency of catch records has occurred for those vessels which report weekly catch information. Implementing a single reporting system which promotes more stable economic returns to the industry. Also, it reduces the risk of underharvesting fishery resources, which allows a larger economic return to the industry in any current fishing year.

4. Establish four time/area closures to non-pelagic trawling around Kodiak Island for a three-year period to protect king crab.

The numbers of red king crab in the area around Kodiak Island are at historically low levels. The directed commercial king crab fishery has been closed since 1983 in an attempt to rebuild king crab stocks. No significant recruitment has occurred during the past seven years. During this same period a developing domestic groundfish fishery, using a variety of gear, has displaced most foreign fisheries. While the cause for the decline of the resource is not known, most researchers believe that the decline can be attributed to a variety of environmental factors that independently or in combination led to the depressed condition of the resource. Whether the king crab decline is due in part to commercial fishing, either directed or incidental, is unknown.

Measures to protect concentrations of king crab, especially when they are in a soft shell condition, are needed to facilitate stock rebuilding. King crab are known to concentrate in certain areas around Kodiak Island during the year. In the spring they migrate inshore to molt and mate. Approximately 70 percent of the female red king crab stocks are...
estimated to congregate in two areas known as the Alitak/Towers and Marmot Flats. The Chirikof Island and Barnabas areas also possess concentrations of king crab but in lesser amounts. Past studies have shown that most king crab around Kodiak molt and mate from March through May, although some molting crab can be found during late January through mid-June. Adult female king crabs must molt to mate and late January through mid-June. Adult some molting crab-can be found during 

amounts. Past-studies have shown that Barnabas areas also possess Marmot Flats. The Chirikof Island—and known as the Alitak/Towers and while the crab are in their soft-shell grounds of king crab, the potential exists for substantial king crab mortality. The mortality inflicted on king crab by any gear type is assumed to be high while the crab are in their soft-shell condition. The mortality inflicted on king crab is not known while the crab are in their hard-shell condition. Trawl fishing can kill or injure king crab in two ways. First, crabs might be struck with parts of the gear (e.g., trawl doors, towing cables, groundlines, roller gear) as the trawl is towed along the bottom. In January 1986, the Council approved an emergency rule to close specified areas around Kodiak Island to bottom trawling where king crabs were in their soft-shell condition. This action was approved by the Secretary and implemented on March 7, 1986 (51 FR 8502, March 12, 1986). This action expired on June 8, 1986, when the crabs were no longer in their soft-shell condition. The Council assembled an industry workgroup to review recent actions taken by federal and state management agencies and to develop a long-term solution that would meet the needs of all interested fishing industry groups. Supporting the workgroup were fishery scientists and managers who presented the latest biological and fishery information on the status of the king crab stocks and on areas where commercial fishing operations for groundfish, crab, and shrimp are conducted. After reviewing the recommendations of the workgroup, the Council adopted a modified recommendation to close four areas around Kodiak Island to all trawling other than pelagic trawling for all or certain times of the year at § 672.24(c). This measure would be in effect for three years, until December 31, 1989. Before this date, the Council would review the need for the measure and recommend that either it be extended, revised, or allowed to terminate. Two types of time/area closures are defined on the basis of crab concentrations in the areas. Type I is an area where crab concentrations are high and maximum protection is necessary to promote rebuilding. Type I areas are closed year round to all trawling except with pelagic gear. Type II areas are those where crab are found but in smaller numbers than in Type I areas. Protection is necessary to promote rebuilding although rebuilding is not expected to occur as fast as in Type I areas. Type II areas are closed during February 15 through June 15 to all trawling except trawling with pelagic gear.

This proposal establishes the Alitak Flats/Towers and Marmot Flats, described in this notice under proposed § 672.24(c)(1), as Type I areas. In these areas, no person may fish with, or have on board a trawl other than a pelagic trawl vessel. The measure also establishes the Chirikof Island and Barnabas areas, described in this notice under proposed § 672.24(c)(2), as Type II areas. In these areas, no person may fish with, or have on board a trawl other than a pelagic trawl during the period from February 15 through June 15. Adoption of this alternative would protect about 85 percent of the Kodiak king crab resource from bottom trawling during their soft-shell period. It would also protect 70 percent of the king crab resource year around, while still providing bottom trawl fishing opportunities close to established processing and support facilities. A historical perspective implies that significant benefits could accrue should the king crabs recover to past levels of abundance. During the last five years (1978-1983), annual catch averaged 16 million pounds, which in 1986 dollars would be worth $83 million, ex-vessel. To the extent that this measure contributes to the full rebuilding of king crab, a benefit is conveyed to the fishing industry.

Modify the Regional Director's authority to make inseason adjustments in the fishery. The Regional Director is currently authorized by the FMP to make inseason time/area adjustments in the Gulf of Alaska groundfish fishery. These adjustments are accomplished by regulations published in the Federal Register. The FMP states that the Regional Director may issue "field orders" for conservation reasons only. His adjustments are to be based on the following considerations:

1. The effect of overall fishing effort within the area in comparison with preseason expectations;
2. Catch per unit of effort and rate of harvest;
3. Relative abundance of stocks within the area in comparison with preseason expectations;
4. The proportion of halibut or crab being handled;
5. General information on the condition of stocks within the area;
6. Information pertaining to the optimum yield for stocks within the statistical areas;
7. Any other factors necessary for the conservation and management of the groundfish resource.

Current regulations require the Regional Director to make adjustments on the basis of a determination that (1) the condition of any groundfish or halibut stock in any portion of the Gulf of Alaska is substantially different from the condition anticipated at the beginning of the year, and (2) such differences reasonably support the need for inseason conservation measures to protect groundfish or halibut stocks.

The Council concluded that such limited authority prevents the Secretary from using all relevant information on which to base inseason adjustments. The Council also concluded that authority should not be limited only to making time/area adjustments. The need for adjustment may be related to several factors and circumstances. For instance, certain target or bycatch groundfish species may have decreased in abundance. When new information indicates that a groundfish species has decreased in abundance, failure either to reduce the allowable harvest or to institute other measures designed to reduce the harvest of that species could result in overfishing. Likewise, new information relating to the stock status of incidentally-caught prohibited species (e.g., crab and halibut) may require the adjustment of PSC limits or season or gear modifications to prevent overfishing of those species.
unnecessarily forego economic benefits unless the TQ or PSC limit were increased and the fishery allowed to continue.

Therefore, the Council recommends that the Secretary be authorized to make inseason adjustments to prevent overfishing and adjust incorrectly specified TQs and PSC limits on the basis of all relevant information. Three possible types of adjustments are authorized. First, a fishing season may be closed, opened, or extended. Second, fishing gear that is allowed in all or part of a management area may be restricted or its usage modified. Third, specifications of TQs or PSC limits may be adjusted if the best available scientific information on biological stock status indicates they are incorrectly specified. For example, if the biological status of a groundfish target species indicated that stocks had decreased in abundance and further harvesting could increase the risk of overfishing, the TQ for that species could be adjusted downward. Conversely, if the biological status of a groundfish target species indicated that stocks had increased in abundance, and additional retention would not cause harm to the stocks, the TQ for that species could be adjusted upward.

The exercise of the Secretary’s authority to adjust TQs or PSC limits requires a determination, based on the best available scientific information, that the biological status or condition of a stock is different from that on which the currently-specified TQs or PSC limits were specified. Any adjustments to a specified TQ or PSC limit must be reasonably related to the change in stock status.

For example, a PSC limit for a crab stock derived from a specific level of the crab biomass could be adjusted upwards or downwards if the new stock status information showed that the crab biomass had changed. If, however, a TQ or PSC limit were based on factors other than the biological stock status of that species, the Regional Director would be unable to make the determination that the TQ or PSC limit was incorrectly specified. For example, the PSC limit for red king crab in Zone 1 of the eastern Bering Sea in 1986 was a negotiated level between representatives of the crab and trawl fishermen. In this instance, any change in the stock status of red king crab would not result in exercise of this authority, since the PSC limit was not directly related to the stock status of red king crab. The only exception would be if new stock status information indicated that a negotiated PSC limit would result in overfishing.

The Secretary will publish a notice of adjustments in the Federal Register for comment before they are made final, unless the Secretary finds good cause that such notice and comment is impractical or contrary to the public interest. If the Secretary determines that the prior opportunity for comment should be waived, he will still request comments for fifteen days after the notice is made effective. He will respond to any comments received by publishing a notice in the Federal Register that either continues, modifies, or rescinds the adjustment.

Under the Magnuson Act, the Secretary is required by law to prevent overfishing. One of the major underlying concerns this part addresses is that management not be so shortsighted as to allow short term benefits to accrue in a fishery at the expense of a continuing stream of benefits for future generations. Inseason measures adjusting a gear restriction or season or to reduce a TQ or PSC limit would be taken to preserve future benefits from the fishery by preventing overfishing. This would only occur in cases where FMP flexibility is inadequate to deal with the situation through normal processes. When inseason management authority would be required to adjust a TQ or PSC limit upward, immediate benefits would be realized by the fishery due to the increased potential harvest in the target fishery and the sale of that harvest.

Regulatory Changes

NOAA has made certain minor changes to the regulations submitted by the Council.

Sections 672.20(a)(1)(A) and (b)(2) are changed to remove the reference to the Resource Assessment Document as the definitive source for information on the biological condition of target groundfish species and prohibited groundfish species. The NOAA notes that the title of a document is not important. What is important is the information contained in that document or any other document that is available to the Council for review.

Section 672.24(c)(1)(ii) is changed by adding a fifth coordinate, 57°58’ N. latitude/152°00’ W. longitude, to complete the closure for the Marmot Flats area.

Section 672.5(a)(3)(iv) is changed to require catcher/processors and mothership/processors to submit a weekly catch or receipt report after fishing into a fishing area under § 672.5(a)(3)(ii), regardless of whether any groundfish were caught or received.

NOAA is also proposing certain technical changes to domestic reporting requirements to make reporting more efficient.

Section 672.5(a)(1) is revised to make it clear that landings in the State of Alaska include those landings made to floating processors within the territorial sea.

Section 1972.5(a)(1) is revised to make it clear that landings made outside of Alaska include at-sea landings in the EEZ off the State of Alaska.

Classification

This proposed rule is published under section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by Pub. L. 99-659, which requires the Secretary to publish regulations proposed by a Council within 15 days of receipt of the amendment and regulations. At this time...
the Magnuson Act, and other applicable law. The Secretary, in making these determinations, will take into account the data and comments received during the comment period.

The Council prepared an environmental assessment (EA) for this amendment and concluded that no significant impact on the environment will occur as a result of this rule. A copy of the EA may be obtained from the Council at the address above.

The Administrator of NOAA determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. This determination is based on the regulatory impact review/initial regulatory flexibility analysis (RIR/IRFA) prepared by the Council. A copy of the RIR/IRFA may be obtained from the Council at the address above.

The Council prepared an initial regulatory flexibility analysis as part of the regulatory impact review which concludes that this rule, if adopted, would have significant effects on small entities. These effects have been discussed earlier in this document relative to each specific action. You may obtain a copy of this analysis from the Council at the address listed above.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). A request to collect this information has been submitted to the Office of Management and Budget for review under section 3504(h) of the PRA.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

List of Subjects
50 CFR Part 611
Fisheries, Foreign fishing.
50 CFR Part 672
Fisheries, Reporting and recordkeeping requirements.

Dated: December 8, 1986.
Carmen J. Blondia,

For the reasons set out in the preamble, 50 CFR Parts 611 and 672 are proposed to be amended as follows:

**PART 611—[AMENDED]**

1. The authority citation for 50 CFR Part 611 continues to read as follows:

2. In § 611.92, paragraphs (c)(1) (i) and (ii); (c)(2)(i)(C); (c)(2)(ii)(A); and (g) are revised to read as follows:

   § 611.92 Gulf of Alaska groundfishery.
   • • • • • •
   .(c) • • • •
   (1) TQs, TALFFs, Reserves, and PSC limits.
   (i) See 50 CFR Part 672, Subpart B, for procedures to determine target quotas, domestic annual processing (DAP), joint venture processing (JVP), total allowable level of foreign fishing (TALFF), reserves, and prohibited species catch (PSC) limits. Species listed in paragraph (b)(1) and Table 1 of this section as "unallocated species" or species for which the TALFF is zero, including species for which a PSC limit has been specified, will be treated in the same manner as prohibited species under § 611.11.
   (ii) Apportionment of reserves and initial DAH, and adjustment of PSC limits. See 50 CFR Part 672, Subpart B, for procedures to apportion reserves, initial domestic annual harvest (DAH), and adjustment of PSC limits.
   (2) • • • •
   (i) • • • •
   (C) As otherwise prohibited by this section or 50 CFR Part 672, Subpart B.
   • • • • • • • •
   (ii) • • • •
   (A) TQ for any groundfish species, species group, or species category in a regulatory area or district: The Secretary will issue a notice prohibiting, through December 31, fishing using trawl gear for groundfish in that regulatory area or district by vessels subject to this section, except that if the TQ for sablefish or Pacific cod in a regulatory area or district will be reached, the Secretary will prohibit fishing for groundfish in that regulatory area or district by all vessels subject to this section.
   • • • • • • • •
   (g) Inseason Adjustments. See 50 CFR Part 672, Subpart B, for procedures to make inseason adjustments. It will be unlawful for any person to conduct any fishing contrary to a notice of inseason adjustment issued under 50 CFR 672.22(a).
   • • • • • • • •

**PART 672—[AMENDED]**

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

4. The Table of Contents is revised by removing the titles for §§ 672.20 and 672.22 and inserting new titles to read as follows:

Sec.
672.20 General limitations.
672.22 Inseason adjustments.

5. In § 672.2, the following definitions are added in proper alphabetical order to read:

§ 672.2 Definitions.
• • • • • •

Net-sonde device means a sensor used to determine the depth from the water surface at which a fishing net is operating.

Pelagic trawl means a trawl in which neither the net nor the trawl doors (or other trawl-spreading device) operate in contact with the seabed, and which does not have attached to it any protective device (such as chafing gear, rollers, or bobbins) that would make it suitable for fishing in contact with the seabed.

Processing, or to process, means the preparation of fish to render it suitable for human consumption, industrial uses, or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, freezing, and rendering into meal or oil, but does not mean heading, and gutting.

Regional Director means Director, Alaska Region, National Marine Fisheries Service, or a designee.

Trawl means a funnel-shaped net that is towed through the water for fish or other organisms. The net accumulates its catch in the closed, small end (usually called the cod end). This definition includes, but is not limited to, Danish and Scottish seines and otter trawls.

6. Section 672.5 is amended by revised paragraph (a)(1) introductory text; paragraph (a)(2)(ii); and paragraphs (a)(3) introductory text and (a)(3)(i) and (iv) to read as follows:

§ 672.5 Reporting requirements.

(a) • • • •
(1) Landing in Alaska. The operator of any fishing vessel regulated under this part that lands fish in the State of Alaska will, for each sale or delivery of groundfish caught in any Gulf of Alaska regulatory area, be responsible for the
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submission to ADF&G of an accurately completed State of Alaska fish ticket.

(2) Landing outside of Alaska.

(ii) The operator of any fishing vessel regulated under this Part who lands fish outside the State of Alaska, including the EEZ adjacent to the State of Alaska, must, for each sale or delivery of groundfish caught in any Gulf of Alaska regulatory area, submit a completed State of Alaska fish ticket, or an equivalent document containing all of the information required on an Alaska fish ticket, together with the additional information required by paragraph (a)(1)(iii) of this section, to the ADF&G within one week after the date of each such sale or delivery. Send these documents to the Director, Commercial Fish Division, Alaska Department of Fish and Game Headquarters, P.O. Box 3–2006, Juneau, Alaska 99802.

(3) Catcher/processor and mothership/processor vessels. The operator of any fishing vessel regulated under this part who processes, within the meaning of process under § 672.2, any groundfish on board that vessel must, in addition to the requirements of paragraphs (a)(1) and (a)(2) of this section, meet the following requirements:

(i) Twenty-four hours before starting and upon stopping fishing or receiving groundfish in any area, the operator of that vessel must notify the Regional Director of the date and hour in GMT and the position of such activity.

(iv) After notification of starting fishing by a vessel under paragraph (a)(3)(i) of this section, and continuing until that vessel’s entire catch or cargo of fish has been off-loaded, the operator of that vessel must submit a weekly catch or receipt report, including reports of zero tons caught or received, for each weekly period, Sunday through Saturday, GMT, or for each portion of such a period, during which groundfish were caught or received at sea. Catch or receipt reports must be sent to the Regional Director within one week of the end of the reporting period through such means as the Regional Director will prescribe upon issuing that vessel’s permit under § 672.2 of this part. These reports must contain the following information:

7. Section 672.7 is amended by redesignating paragraph (h) as paragraph (i) and adding a new paragraph (h) to read as follows:

§ 672.7 General prohibitions.

(h) Conduct any fishing contrary to a notice of inseason adjustment issued under § 672.22 (a) of this part;

8. Section 672.20 is amended, by removing the section heading “Optimum yield” and adding a new section heading “General limitations”, revising paragraphs (a) and (b) in their entirety, redesignating paragraphs (c), (d), and (e) as new paragraphs (d), (e), and (f), adding a new paragraph (c), and redesigning paragraph (d)(4) introduction text, (d)(4)(v) (D), (E), and (F) and paragraph (e)(4) to read as follows:

§ 672.20 General limitations.

(a) Harvest limits — (1) Optimum yield. The optimum yield (OY) for the fishery regulated by this section and by 50 CFR 611.92 is a range of 116,000 to 800,000 mt for target species and the “other species” category in the Gulf of Alaska management area, to the extent this amount can be harvested consistently with this part and 50 CFR Part 611, plus the amounts of “non-specified species” taken incidentally to the harvest of target species and the “other species” category. The species categories are defined in Table 1.

(ii) The annual determinations of the TQ for each target species and the “other species” category, the reapportionment of reserves, and the reapportionment of surplus DAH may be adjusted, based upon a review of the following:

(A) Assessments of the biological condition of each PSC species. Assessments will include where practicable updated estimates of maximum sustainable yield (MSY), and acceptable biological catch (ABC); estimates of groundfish species mortality from nongroundfish fisheries, subsistence fisheries, recreational fisheries, and the difference between groundfish mortality and catch. Assessments may include information on historical catch trends and current catch statistics; assessments of alternative harvesting strategies and related effects on component species and species groups; relevant information relating to changes in groundfish markets; and recommendations for PSC limits for species or species group fully utilized by the DAP fisheries.

(B) Socioeconomic considerations that are consistent with the goals and objectives of the FMP.

(c) Notices. (1) Notices of harvest limits and PSC limits. As soon as practicable after October 1 of each year, the Secretary, after consultation with the Council, will publish a notice in the Federal Register specifying preliminary annual TQs, DAPs, JVPs, TALFF, reserves, and PSCs for each target species, “other species” category, and species fully utilized by the DAP fisheries. The preliminary specifications of DAP and JVP will be the amounts harvested during the previous year plus any additional amounts the Secretary finds will be harvested by the U.S.
fishing industry. These additional amounts will reflect as accurately as possible the projected increases in U.S. processing and harvesting capacity and to the extent to which U.S. processing and harvesting will occur during the coming year. Public comment on these amounts will be accepted by the Secretary for a period of 30 days following publication. In light of comments received, the Secretary will, after consultation with the Council, specify the final PSC limits and annual TQ for each target species and apportionments thereof among DAP, JVP, TALFF, and reserves. These final amounts will be published as a notice in the Federal Register on or about January 1 of each year. These amounts will replace the corresponding amounts for the previous year.

(2) Notices of closure. (i) If the Regional Director determines that the TQ for any target species or of the "other species" category in any regulatory area or district in Table 1 has been or will be reached, the Secretary will publish a notice in the Federal Register prohibiting directed fishing for that species, as defined at §672.2, in all or part of that area or district, and declaring such species in all or part of that area or district a prohibited species for purposes of paragraph (e) of this section. During the time that such notice is in effect, the operator of every vessel regulated by this Part or Part 611 must minimize the catch of that species in the area or district, or portion thereof, to which the notice applies.

(ii) If, in making a determination under paragraph (b)(1) of this section, the Regional Director also determines that directed fishing for other groundfish species in the area or district, or portion thereof, to which the notice applies may lead to overfishing of the species for which the TQ has been or will be achieved, the Secretary will, in the notice required by that paragraph, also prohibit or limit such directed fishing for other groundfish species in a manner that will prevent overfishing of the species for which the TQ has been or will be taken.

(iii) If the Regional Director determines that a PSC limit applicable to a directed fishery in any regulatory area or district in Table 1 has been or will be reached, the Secretary will publish a notice of closure in the Federal Register closing that directed fishery in all or part of the area or district concerned.

(d) Apportionment of reserves, initial DAH, and adjustment of PSC limits.

(4) Adjustment of PSC limits resulting from apportionments. If the Secretary makes inseason apportionments of target species, the Secretary may proportionately increase any PSC limit amount of species fully utilized by the DAP fishery if such increase will not result in overfishing of that species. Any adjusted PSC limit may not exceed an amount determined to be that amount necessary to harvest target species.

(v) * * * * *

(D) Any adjustments in PSC limit amounts made under this section;

(E) The reasons for any apportionments or adjustments and their distribution; and

(F) Responses to any comments received.

(e) Prohibited species.

* * * * *

9. Section 672.22, is amended by removing the section heading "Time and area closures" and adding a new section heading to read "Inseason adjustments", and revising in their entirety paragraphs (a) and (b) to read as follows:

§ 672.22  Inseason adjustments.

(a) General. (1) Inseason adjustments issued by the Secretary under this paragraph include:

(i) The closure, extension, or opening of a season in all or part of a management area;

(ii) Modification of the allowable gear to be used in all or part of a management area; and

(iii) The adjustment of TQ and PSC limits.

(2) Determinations. (i) Any inseason adjustment under this paragraph must be based upon a determination that such adjustments are necessary to prevent:

(A) The overfishing of any species or stock of fish or shellfish; or

(B) The harvest of a TQ for any groundfish species, or the taking of a PSC limit for any prohibited species, which on the basis of the best available scientific information is found by the Secretary to be incorrectly specified.

(ii) The selection of the appropriate inseason management adjustments under paragraphs (a)(1)(i) and (a)(1)(ii) of this section must be from the following authorized management measures and must be based upon a determination by the Regional Director that the management adjustment selected is the least restrictive necessary to achieve the purpose of the adjustment:

(A) Any gear modification that would protect the species in need of conservation, but which would still allow other fisheries to continue;

(B) An inseason adjustment which would allow other fisheries to continue in noncritical areas and time periods; or

(C) Closure of a management area and season to all groundfish fishing.

(iii) The adjustment of a TQ or PSC limit for any species under paragraph (a)(1)(iii) of this section must be based upon a determination by the Regional Director that the adjustment is based upon the best available scientific information concerning the biological stock status of the species in question and that the currently specified TQ or PSC limit is incorrect. Any adjustment to a TQ or PSC limit must be reasonably related to the change in biological stock status.

(3) Data. All information relevant to one or more of the following factors may be considered in making the determinations required under paragraph (a)(2):

(i) The effect of overall fishing effort within a regulatory area; or

(ii) Catch per unit of effort and rate of harvest;

(iii) Relative abundance of stocks within the area;

(iv) The condition of the stock within all or part of a regulatory area; or

(v) Any other factor relevant to the conservation and management of groundfish species for which a TQ has been specified or incidentally caught species which are designated as prohibited species or for which a PSC limit has been specified.

(b) Procedure. (1) No inseason adjustment issued under this section will take effect until:

(i) The Secretary has filed the proposed adjustment for public inspection with the Office of the Federal Register, and

(ii) The Secretary has published the proposed adjustment in the Federal Register for public comment for a period of thirty (30) days before it is made final, unless the Secretary finds for good cause that such notice and public procedure is impracticable, unnecessary, or contrary to the public interest.

(2) If the Secretary decides, for good cause, that an 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 fifteen (15) days after the effective date of the notice.

(3) During any such 15-day period, the Regional Director will make available for public inspection, during business hours, the aggregate data upon which an adjustment was based.

(4) If written comments are received during any such 15-day period which oppose or protest an inseason adjustment issued under this section, the Secretary will reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, will either:

(i) Publish in the Federal Register a notice of continued effectiveness of the adjustment, responding to comments received; or

(ii) Modify or rescind the adjustment.

(5) Notices of inseason adjustments issued by the Secretary under paragraph (a) of this section will include the following information:

(i) A description of the management adjustment;

(ii) The reasons for the adjustment and the determinations required under paragraph (a)(2) of this section; and

(iii) The effective date and any termination date of such adjustment. If no termination date is specified, the adjustment will terminate on the last day of the fishing year.

10. Section 672.24 is amended by revising paragraph (b) and adding a new paragraph (c) to read as follows:

§672.24 Gear limitations.

(b) Sablefish gear restrictions and allocations—(1) Eastern Area. No person may use any gear other than hook and line gear when fishing for groundfish in the Eastern Area. No person may use any gear other than hook and line or trawl gear to engage in directed fishing for sablefish. When vessels using trawl gear have harvested 5 percent of the TQ for sablefish during any year in any district of the Eastern Area for which TQs are specified, the Regional Director will close that district to all fishing with trawl gear.

(2) Central and Western Areas. Hook and line gear may be used to take up to 80 percent of the sablefish TQ in the Central Area. During 1987 and 1988 in the Western Area, hook and line gear may be used to take up to 55 percent of the TQ for sablefish; pot gear may be used to take up to 25 percent of that TQ; and trawl gear may be used to take up to 20 percent of that TQ. After the year specified above, hook and line gear may be used to take up to 80 percent of the sablefish TQ in the Western Area and trawl gear may be used to take up to 20 percent of that TQ. When the share of the sablefish TQ assigned to any type of gear for any year and any area or district under this paragraph has been taken, the Regional Director will close that regulatory area or district to all fishing for groundfish with that type of gear, subject to §672.20(b) of this part. No person may use any gear other than hook and line gear, pot, or trawl gear in fishing for groundfish in these areas during the years specified above. After those years, no person may use any gear other than hook and line or trawl gear in fishing for groundfish in the Gulf of Alaska.

(c) Trawls other than pelagic trawls. (1) No person may fish in any of the following areas in the vicinity of Kodiak Island (see Figure 1, Area Type I) from a vessel having any trawl other than a pelagic trawl either attached or on board.

(i) Chirikof Island Area: All waters surrounding Chirikof Island enclosed by a line connecting the following four points in the counterclockwise order listed:

<table>
<thead>
<tr>
<th>Point</th>
<th>N. lat.</th>
<th>W. long.</th>
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<tbody>
<tr>
<td>a ....</td>
<td>56°07'0&quot;</td>
<td>156°00'0&quot;</td>
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<tr>
<td>b ....</td>
<td>55°41'0&quot;</td>
<td>156°00'0&quot;</td>
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<tr>
<td>c ....</td>
<td>56°07'0&quot;</td>
<td>156°00'0&quot;</td>
</tr>
<tr>
<td>d ....</td>
<td>56°07'0&quot;</td>
<td>156°00'0&quot;</td>
</tr>
</tbody>
</table>

(ii) Barnabas Area: All waters enclosed by a line connecting the following five points in the counterclockwise order listed:

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<thead>
<tr>
<th>Point</th>
<th>N. lat.</th>
<th>W. long.</th>
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<tbody>
<tr>
<td>a .....</td>
<td>56°58'5&quot;</td>
<td>153°18'0&quot;</td>
</tr>
<tr>
<td>b .....</td>
<td>56°58'0&quot;</td>
<td>153°09'0&quot;</td>
</tr>
<tr>
<td>c .....</td>
<td>57°22'0&quot;</td>
<td>152°18'5&quot;</td>
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<tr>
<td>d .....</td>
<td>57°23'5&quot;</td>
<td>152°17'5&quot;</td>
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<tr>
<td>e .....</td>
<td>57°26'0&quot;</td>
<td>152°19'0&quot;</td>
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</table>

(iii) Marmot Flats Area: All waters enclosed by a line connecting the following five points in the clockwise order listed:

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<tbody>
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<td>b .....</td>
<td>56°00'0&quot;</td>
<td>151°47'0&quot;</td>
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<tr>
<td>c .....</td>
<td>57°37'0&quot;</td>
<td>151°47'0&quot;</td>
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<tr>
<td>d .....</td>
<td>57°36'0&quot;</td>
<td>152°09'1&quot;</td>
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<tr>
<td>e .....</td>
<td>57°58'0&quot;</td>
<td>152°27'0&quot;</td>
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</tbody>
</table>

(2) From February 15 to June 15, no person may fish in any of the following areas in the vicinity of Kodiak Island (see Figure 1, Area Type II) from a vessel having any trawl other than a pelagic trawl either attached or on board.

(i) Chirikof Island Area: All waters surrounding Chirikof Island enclosed by a line connecting the following four points in the counterclockwise order listed:

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(iii) Marmot Flats Area: All waters enclosed by a line connecting the following five points in the clockwise order listed:

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<td>e .....</td>
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<td>152°27'0&quot;</td>
</tr>
</tbody>
</table>

(3) Each person using a trawl to fish in any area limited to pelagic trawling under paragraphs (c)(1) and (c)(2) of this section must maintain in working order on that trawl a properly functioning recording net-sonde device, and must retain all net-sonde recordings aboard the fishing vessel during the fishing year.

(4) No person using a trawl to fish in any area limited to pelagic trawling under paragraphs (c)(1) and (c)(2) of this section may allow the footrope of that trawl to be in contact with the seabed for more than 10 percent of the period of any tow, as indicated by the net-sonde device.
Figure 1. Areas around Kodiak Island closed to trawling, except withnelagic trawls. Type I areas are closed year round. Type II areas are closed February 15 to June 15. See Section 672.24, Gear Limitations for coordinate descriptions.