ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement Amendment 21a to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI), which prohibits the use of trawl gear in specified areas surrounding the Pribilof Islands. This action is necessary to protect areas that are biologically important to certain crab stocks and to reduce potential interference with seabird and marine mammal populations. This action is intended to promote the goals and objectives of the FMP.

EFFECTIVE DATE: January 20, 1995.

ADDRESSES: Copies of Amendment 21a and the Environmental Assessment/
Regulatory Impact Review (EA/RIR) are available from the North Pacific Fishery

Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Ellen R. Varosi, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the BSAI are managed by NMFS in accordance with the FMP. The FMP was prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). Regulations authorized under the FMP that pertain to the U.S. groundfish fisheries appear at 50 CFR parts 620, 675, and 676.

This action implements Amendment 21a to the FMP. It establishes a trawl closure around the Pribilof Islands to protect sensitive habitat areas for crab, seabird, and marine mammal populations.

A notice of availability of Amendment 21a was published on October 6, 1994 (59 FR 50893), and invited comment on the amendment through November 29, 1994. A proposed rule was published in the **Federal Register** on October 17, 1994 (59 FR 52277); a correction to the proposed rule was published in the **Federal Register** on November 3, 1994 (59 FR 55076). Comments on the proposed rule were invited through November 28, 1994. Written comments are summarized in the "Response to Comments" section, below.

After reviewing the reasons for Amendment 21a and the comments on the proposed rule to implement it, NMFS approved Amendment 21a on December 30, 1994, under section 304(b) of the Magnuson Act. Amendment 21a, and this final rule implementing it, prohibits fishing with trawl gear in the area bounded by a

straight line connecting the following pairs of coordinates in the following order:

Latitude	Longitude
57°57.0′ N.	168°30.0′ W.
56°55.2′ N.	168°30.0′ W.
56°48.0′ N.	169°2.4′ W.
56°34.2′ N.	169°2.4′ W.
56°30.0′ N.	169°25.2′ W.
56°30.0′ N.	169°44.1′ W.
56°55.8′ N.	170°21.6′ W.
57°13.8′ N.	171°0.0′ W.
57°57.0′ N.	171°0.0′ W.
57°57.0′ N.	168°30.0′ W.

The reasons for this action are explained further in the preamble to the proposed rule.

Changes From the Proposed Rule

The proposed rule would have amended § 675.22 by adding the proposed trawl closure as paragraph (i). The final rule amends § 675.24 by adding paragraph (h) to include the trawl closure as the Pribilof Island Area Habitat Conservation Zone.

Response to Comments

Seven letters of comment were received within the comment period. Of these, one letter was submitted by another government agency that acknowledged the action but provided no comment, three letters supported the action, and three letters of comment opposed the action. A summary of comments and NMFS' response follows:

Comment 1: The proposed closure in the specified area around the Pribilof Islands should be disapproved because it includes all trawling, as opposed to bottom trawling, which will cause unnecessary impacts to the midwater pollock fishery. Also, the rock sole and flatfish fisheries will be seriously affected as a result of this closure. Finally, the rationale of protecting seabirds and marine mammals has not been analyzed thoroughly and fails to provide adequate justification for flatfish fisheries.

Response: The inclusion of all trawl gear types provides additional protection for seabirds and marine mammals because all trawl gear is retrieved at the surface. Trawl gear interaction with these species at or near the ocean surface would be eliminated because the incidental takings of these species primarily occur near the surface. In addition, the inclusion of all trawl gear promotes enforcement and, by prohibiting the directed fishing for rock sole and flatfish with trawl gear, eliminates the source of the highest by catch rates of crab and prohibited species categories. The amount of groundfish caught inside the habitat

conservation area is minimal compared to the groundfish caught in the remaining Bering Sea areas. The EA/RIR provides a detailed analysis, which concludes that additional conservation benefits would be achieved with the prohibition of all trawl gear types from the habitat conservation area, which will have minimal adverse impact on the trawl fisheries.

Comment 2: Combined effects of the proposed closure and other closures under consideration by the Council, which directly affect the rock sole fishery, were not adequately considered. An adequate analysis should be developed to determine: (1) The increased bycatch rate of prohibited species catch (halibut and Tanner crab) and other groundfish species due to the necessity for vessels participating in the rock sole fishery to change traditional fishing grounds; (2) the increased probability of a closure of the rock sole fishery before available TAC is harvested due to the attainment of *C*. bairdi Tanner crab or halibut bycatch allowances; (3) the combined effect of other trawl closures, which have made the rock sole fishery dependent on the Pribilof Islands area for higher catch rates, such that a redistribution of fishing effort from this area will result in lower catch rates and poorer utilization of groundfish stocks; and (4) whether a plausible link exists between the flatfish fisheries and seabirds or marine mammals.

Response: The problem statement for this action addressed the habitat concerns for crabs, marine mammals, and seabirds in the ecosystem around the Pribilof Islands. Groundfish fisheries have bycatch, which were predominately blue king crab, in the Pribilof Islands area. Blue king crab exist as isolated populations off the Pribilof Islands, St. Matthew Island, and St. Lawrence Island.

In addition, the northern fur seal population in the Pribilof Islands area comprises nearly two-thirds of the world population; although the population is currently stable, it is listed as depleted under the Marine Mammal Protection Act. Other seabirds and marine mammals that forage and breed in the area off the Pribilof Islands are Steller sea lions, Pacific harbor seals, and red-faced cormorants, murres species, auklets, and horned puffins. Therefore, the area surrounding the Pribilof Islands provides the potential for a marine sanctuary, if all trawling were prohibited. Any fishing with trawl gear, including flatfish, would increase the potential for interaction between the species needing protection and trawl gear, which has the potential to affect