

for lead in synthetic iron oxide for human food use.

**DATES:** The color additive petition was filed on July 16, 2013.

**FOR FURTHER INFORMATION CONTACT:** Laura A. Dye, Center for Food Safety and Applied Nutrition (HFS-265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740-3835, 240-402-1275.

**SUPPLEMENTARY INFORMATION:** Under section 721(d)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379e(d)(1)), notice is given that we have filed a color additive petition (CAP 3C0298) submitted by the Wm. Wrigley Jr. Company, c/o Exponent Inc., 1150 Connecticut Ave. NW., Suite 1100, Washington, DC 20036. The petition proposes to amend the color additive regulations in § 73.200 *Synthetic iron oxide* (21 CFR 73.200) to expand the use of synthetic iron oxide to include soft and hard candy, mints, and chewing gum. The petition also proposes to lower the specification limit for lead in synthetic iron oxide for human food use from 10 milligrams per kilogram (mg/kg; 10 parts per million (ppm)) to 5 mg/kg (5 ppm).

We have determined under 21 CFR 25.32(k) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: September 11, 2013.

**Dennis M. Keefe,**

*Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 120723270-3765-01]

RIN 0648-BC39

#### Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Gulf of Alaska; Amendment 95 to the Fishery Management Plan for Groundfish

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations to implement Amendment 95 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP).

This proposed action would modify halibut prohibited species catch (PSC) management in the Gulf of Alaska (GOA) to establish halibut PSC limits for the GOA in Federal regulation; reduce the GOA halibut PSC limits for trawl and hook-and-line gear; proportionately reduce a subset of trawl halibut PSC limits (also called "sideboards") for American Fisheries Act, Amendment 80, and Central GOA Rockfish Program vessels; and adjust the accounting methods for halibut PSC sideboard limits for Amendment 80 vessels, as well as halibut PSC used by trawl vessels from May 15 through June 30. This action is necessary to reduce halibut bycatch in the GOA, and is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

**DATES:** Comments must be received no later than October 17, 2013.

**ADDRESSES:** You may submit comments on this document, identified by FDMS Docket Number NOAA-NMFS-2012-0151, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e Rulemaking Portal. Go to [www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0151](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0151), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.
- **Fax:** Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to

remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of Amendment 95 to the FMP, and the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Initial Regulatory Flexibility Analysis (IRFA) (collectively, Analysis) prepared for this action are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address and by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Rachel Baker or Obren Davis, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fisheries in the exclusive economic zone of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared this FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations implementing the FMP appear at 50 CFR part 679. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The Council has submitted Amendment 95 for review by the Secretary of Commerce, and a Notice of Availability of this amendment was published in the **Federal Register** on August 29, 2013 (78 FR 53419) with comments invited through October 28, 2013. All relevant written comments received by the end of the applicable comment period, whether specifically directed to the FMP amendment, this proposed rule, or both, will be considered in the approval/disapproval decision for Amendment 95 and addressed in the response to comments in the final decision.

#### Background

Pacific halibut (*Hippoglossus stenolepis*) is fully utilized in the directed sport, subsistence, and commercial fisheries off Alaska and is of significant social, cultural, and economic importance to communities throughout the geographical range of the resource. The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under authority of the Northern Pacific Halibut

Act of 1982 (Halibut Act). The Halibut Act, at section 773c(c), also provides the Council with authority to develop regulations that are in addition to, and not in conflict with, approved IPHC regulations. The Council has exercised this authority in the development of Federal regulations for halibut such as (1) subsistence halibut fishery management measures, codified at § 300.65; (2) the limited access program for charter vessels in the guided sport fishery, codified at § 300.67; and (3) the Individual Fishing Quota (IFQ) Program for the commercial halibut and sablefish fisheries, codified at 50 CFR part 679, under the authority of section 773 of the Halibut Act and section 303(b) of the Magnuson-Stevens Act. NMFS manages halibut PSC in groundfish fisheries under the authority of the Magnuson-Stevens Act. The FMP and implementing regulations currently authorize the Council to recommend, and NMFS to approve, annual halibut PSC limits as a component of the proposed and final groundfish harvest specifications.

Consistent with the Magnuson-Stevens Act's National Standard 1 and National Standard 9, NMFS uses halibut PSC limits to minimize halibut bycatch in the groundfish fisheries to the extent practicable, while achieving, on a continuing basis, the optimum yield from the groundfish fisheries. The use of halibut PSC limits in the groundfish fisheries reduces halibut bycatch and promotes conservation of the halibut resource. This provides the maximum benefit to fishermen and communities that depend on both halibut and groundfish resources, as well as U.S. consumers.

#### *Current Management of Halibut PSC in the GOA Groundfish Fisheries*

Prohibited species catch in the GOA is catch that may not be retained unless required under section 3.6 of the FMP. A PSC limit is an apportioned, non-retainable amount of fish provided to a groundfish fishery to limit the bycatch of that prohibited species (i.e., halibut) in a fishery. The Magnuson-Stevens Act defines bycatch as "fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. The term does not include fish released alive under a recreational catch and release fishery management program." 16 U.S.C 1802 3(2). NMFS establishes halibut PSC limits to constrain the amount of halibut bycatch in the groundfish fishery. As described in section 3.6 of the FMP, when a halibut PSC limit is reached in an area, further fishing with specific

types of gear or modes of operation is prohibited by those who take their halibut PSC limit in that area. In other words, halibut PSC limits impose an upper-limit on bycatch.

Although halibut bycatch is incurred by vessels using trawl, hook-and-line, pot, and jig gear, halibut bycatch primarily occurs in the trawl and hook-and-line groundfish fisheries. Halibut bycatch in the groundfish fisheries may affect commercial, sport, and subsistence halibut fishing opportunities by decreasing the amount of halibut available for those fisheries.

NMFS manages halibut bycatch in the GOA by (1) establishing annual halibut PSC limits, and (2) apportioning those limits to fishery categories and seasons to accommodate halibut PSC needs in specific groundfish fisheries.

#### *GOA Annual Halibut PSC Limits, Fishery Categories, and Seasonal Apportionments*

The Council recommends groundfish harvest specifications in October each year for the subsequent 2-year period. A 2-year harvest specification cycle allows harvest limits to be specified for a sufficient duration to ensure that catch limits are in place at the start of the second year. This allows fisheries to begin on January 1, pending the final publication of the subsequent set of harvest specifications. The proposed harvest specifications are published in the **Federal Register** for a 30-day comment period and final harvest specifications are published between mid-February and March of each year. The total annual halibut PSC limit in the GOA was set at 2,273 mt in the final 2013 and 2014 harvest specifications for the GOA (78 FR 13162, February 26, 2013). Of this amount, 1,973 mt is apportioned to trawl gear and 300 mt is apportioned to hook-and-line gear.

The FMP authorizes the Council to exempt specific gear types from the halibut PSC limits that are established through the annual harvest specifications process. In past annual consultations with the Council, NMFS has exempted pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from the non-trawl halibut PSC limit. The rationale for exempting these gear types from halibut PSC limits is contained in the final 2013 and 2014 harvest specifications (78 FR 13162, February 26, 2013). NMFS proposes to continue annual consultations with the Council to determine whether the pot gear, jig gear, and the sablefish IFQ hook-and-line gear fisheries will be exempt from the non-trawl halibut PSC limit. Therefore, this rule does not propose changes to current regulations

authorizing NMFS to establish PSC limits for these fisheries through the harvest specifications process.

From 1989 through 2012, the annual harvest specifications process established a 2,000 mt trawl halibut PSC limit. Beginning in 2013, the annual harvest specifications established a 1,973 mt trawl halibut PSC limit. This reduction of 27 mt from the 2,000 mt annual halibut PSC limit was made in conjunction with the implementation of the Central GOA Rockfish Program in 2011 (76 FR 81248, December 27, 2011). Under the Central GOA Rockfish Program, a portion of the trawl halibut PSC limit was specifically reserved and not assigned for use by any person, effectively conserving that halibut biomass for future stock abundance (see Table 28d to part 679). NMFS has accommodated this regulatory provision by decreasing the annual trawl halibut PSC limit as part of the annual harvest specifications (78 FR 13162, February 26, 2013). Additional detail on the Central GOA Rockfish Program is provided in this preamble under the heading "Allocations of Halibut PSC to the Central GOA Rockfish Program".

Section 679.21(d)(5) authorizes NMFS to seasonally apportion the annual trawl and hook-and-line halibut PSC limits after consultation with the Council. The FMP and these regulations require that the Council and NMFS consider the following information in seasonally apportioning halibut PSC limits: (1) seasonal distribution of halibut; (2) seasonal distribution of target groundfish species relative to halibut distribution; (3) expected halibut bycatch needs on a seasonal basis relative to changes in halibut biomass and expected catch of target groundfish species; (4) expected bycatch rates on a seasonal basis; (5) expected changes in directed groundfish fishing seasons; (6) expected actual start of fishing effort; and (7) economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry. Under the final 2013 and 2014 harvest specifications for the GOA (78 FR 13162, February 26, 2013), the halibut PSC limits have been seasonally apportioned into five seasons for trawl gear and three seasons for the other hook-and-line fishery. During the annual harvest specifications process the specific amount of halibut PSC limit is assigned to each of these seasons. The halibut PSC limit established for the demersal shelf rockfish (DSR) fishery is not subject to seasonal apportionment.

Section 679.21(d)(3) and (4) establishes the annual halibut PSC limit apportionments to trawl and hook-and-line gear in the GOA through the annual

groundfish harvest specification process. The apportionment of halibut PSC limits by gear, fishery category, and seasons under the annual harvest specifications process provides the opportunity for groundfish harvests in specific fisheries. This apportionment process ensures that halibut PSC limit is available for use in groundfish fisheries earlier in the year (e.g., the trawl deep-water fisheries in the first season), but limits that use so that halibut PSC limit remains to support other groundfish fisheries that occur later in the year (e.g., the trawl shallow-water fisheries in the fourth season). The limits assigned to each season reflect halibut PSC likely to be taken during specific seasons by specific fisheries. For example, a larger seasonal apportionment is provided for the first season trawl shallow-water fisheries than deep-water fisheries to provide halibut PSC limit to support Pacific cod and pollock fisheries that occur at the start of the year. Any underages or overages of a seasonal apportionment of a halibut PSC limit are added to, or deducted from, the next respective seasonal apportionment within the fishing year. Additional detail on the annual apportionment of halibut PSC limit by season and fishery is provided in the final 2013 and 2014 harvest specifications for the GOA (78 FR 13162, February 26, 2013).

Reaching an annual trawl or hook-and-line halibut PSC limit results in closure of groundfish directed fisheries using that gear in the GOA for the remainder of the year, even if some of the groundfish TAC assigned to that gear for that fishery remains unharvested. If a seasonal halibut PSC limit is reached for a fishery category in that season, then groundfish directed fishing is closed for the remainder of that season for that fishery category (e.g., if the second season deep-water fishery halibut PSC limit is reached during the second season, then trawl vessels may not directed fish for species in the deep-water fishery until the third season deep-water fishery halibut PSC limit becomes available). Some target fisheries close before the attainment of the TAC, and other target fisheries do

not fully utilize the halibut PSC limits. Since 2000, NMFS has routinely closed directed fisheries for hook-and-line and trawl gear because a seasonal or annual halibut PSC limit was reached.

Regulations at § 679.21(d) further apportion the annual trawl PSC limit to deep-water and shallow-water species fishery categories that are made available seasonally throughout the year. The deep-water species fishery (deep-water fishery) includes sablefish, rockfish, deep-water flatfish, rex sole, and arrowtooth flounder. The shallow-water species fishery (shallow-water fishery) includes pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates, and “other species” (see § 679.21(d)(3)(iii)). The regulations define halibut PSC apportionment for these two categories because these two groups of fisheries have differing halibut PSC rates. Apportioning specific limits to these fisheries allows NMFS to establish specific limits in one fishery (e.g., the deep-water fishery) that would not result in closures in the other fishery (e.g., the shallow-water fishery) if the halibut PSC limit for one category is reached.

Of the 300 mt of halibut PSC limit currently assigned to hook-and-line gear, this amount is further apportioned between the DSR fishery in the Southeast Outside District, and all other hook-and-line groundfish fisheries in the GOA (i.e., the non-DSR hook-and-line fisheries). Existing regulations at § 679.21(d)(4)(iii) use the term “other hook-and-line fishery” to describe the non-DSR hook-and-line fishery, and the term “other hook-and-line fishery” will be used in this preamble for consistency. The final 2013 and 2014 annual harvest specifications for the GOA apportion 290 mt of the halibut PSC limit to the other hook-and-line fishery and 10 mt of the halibut PSC limit to the DSR hook-and-line fishery (78 FR 13162, February 26, 2013).

Regulations at § 679.21(d)(4)(iii)(B) further apportion the annual halibut PSC limit for the other hook-and-line fishery between catcher/processors and catcher vessels. The method for apportioning halibut PSC limits between catcher/processors and catcher

vessels was established in regulations implementing Amendment 83 to the FMP (76 FR 74670, December 1, 2011). Amendment 83 established gear and sector apportionments for the GOA Pacific cod fisheries. It also implemented formulas to annually divide the other hook-and-line halibut PSC limit between catcher/processors and catcher vessels based on their respective Pacific cod allocations and the annual Pacific cod TACs in the Western GOA and Central GOA. A comprehensive description and example of the calculations necessary to apportion the other hook-and-line halibut PSC limit between catcher/processors and catcher vessels were included in the proposed rule to implement Amendment 83 (76 FR 44700, July 26, 2011) and are not repeated here.

The DSR fishery is defined at § 679.21(d)(4)(iii)(A). The DSR species group is comprised of seven species of nearshore bottom dwelling rockfishes. The DSR fishery has been apportioned 10 mt in recognition of its small-scale of harvests and expected low rates of halibut PSC use. NMFS estimates low halibut PSC bycatch in the DSR fishery because (1) the duration of the DSR fisheries and the gear soak times are short; (2) the DSR fishery occurs in the winter when less overlap occurs in the distribution of DSR and halibut; and (3) the commercial DSR directed fishery has a low total allowable catch (TAC).

Table 1 lists the 2013 and 2014 Pacific halibut PSC limits and apportionments published in the final 2013 and 2014 harvest specifications for the GOA (78 FR 13162, February 26, 2013). Table 2 lists the current seasonal apportionment between the trawl deep-water and shallow-water fisheries. As noted in Table 2, under the current harvest specifications, there is not a specific apportionment of halibut PSC to the fourth season deep-water fishery; instead, vessels are limited to any halibut PSC that may remain after the end of the third season deep-water fishery. The fifth season halibut PSC apportionment to trawl gear is available for use by vessels fishing in either the deep-water or shallow-water fisheries.

TABLE 1—FINAL 2013 AND 2014 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS  
[Values are in metric tons]

Trawl gear			Hook-and-line gear				
Season	Percent	Amount	Other than DSR			DSR	
			Season	Percent	Amount	Season	Amount
January 20–April 1 .....	27.5	543	January 1–June 10 .....	86	250	January 1–December 31 ....	10
April 1–July 1 .....	20	395	June 10–September 1 .....	2	5	.....	.....

TABLE 1—FINAL 2013 AND 2014 PACIFIC HALIBUT PSC LIMITS, ALLOWANCES, AND APPORTIONMENTS—Continued  
[Values are in metric tons]

Trawl gear			Hook-and-line gear				
Season	Percent	Amount	Other than DSR			DSR	
			Season	Percent	Amount	Season	Amount
July 1–September 1 .....	30	592	September 1–December 31	12	35	.....	.....
September 1–October 1 .....	7.5	148	.....	.....	.....	.....	.....
October 1–December 31 .....	15	296	.....	.....	.....	.....	.....
Total .....	.....	1,973	.....	.....	290	.....	10

TABLE 2—FINAL 2013 AND 2014 APPORTIONMENT OF PACIFIC HALIBUT PSC TRAWL LIMITS BETWEEN THE TRAWL GEAR DEEP-WATER SPECIES FISHERY AND THE SHALLOW-WATER SPECIES FISHERY CATEGORIES  
[Values are in metric tons]

Season	Shallow-water fishery	Deep-water fishery	Total
January 20–April 1 .....	444	99 .....	543
April 1–July 1 .....	99	296 .....	395
July 1–September 1 .....	197	395 .....	592
September 1–October 1 .....	148	Any remainder .....	148
Subtotal January 20–October 1 .....	888	789 .....	1,677
October 1–December 31 .....	.....	.....	296
Total .....	.....	.....	1,973

*Allocations of Halibut PSC Limit to the Central GOA Rockfish Program*

The Central GOA Rockfish Program (76 FR 81248, December 27, 2011) requires NMFS to assign 191.4 mt of the deep-water fishery’s halibut PSC limit apportionment to participants in the Central GOA Rockfish Program. This fixed amount is used to support fishing for specific allocations of groundfish species under that program. Of that, 117.3 mt of the annual trawl halibut PSC limit is assigned to the catcher vessel sector, and 74.1 mt is allocated to the catcher/processor sector (see Table 28d to part 679). Under the Central GOA Rockfish Program, 27.4 mt of the halibut PSC limit that could have been assigned to the deep-water fishery was instead reserved and is no longer annually apportioned for use by any fisheries in the GOA. Under the annual harvest specifications process, halibut PSC limit assigned to the Central GOA Rockfish Program has been debited from the third season deep-water trawl PSC limit apportionment because halibut PSC used in the Central GOA rockfish fisheries has historically occurred in the third season.

Regulations implementing the Central GOA Rockfish Program allow NMFS to reapportion some of the halibut PSC limit assigned to that program to the general, non-Rockfish Program GOA trawl fisheries if it has not been used to fish for groundfish species allocated under the Central GOA Rockfish

Program (see § 679.21(d)(5)(iii)(B)). In recent years, not all of the halibut PSC limit assigned for exclusive use in the Central GOA Rockfish Program has been used to fully harvest the program’s groundfish allocations. Therefore, reapportioning the unused halibut PSC limit from the Central GOA Rockfish Program allows for additional harvest opportunities in other trawl fisheries. No more than 55 percent of the unused annual halibut PSC limit apportioned to Central GOA Rockfish can be reapportioned for use by other non-Rockfish Program trawl fisheries during the last season (i.e., the fifth season) of the year (see § 679.21(d)(5)(iii)(B)). The remaining 45 percent of the unused Central GOA Rockfish Program halibut PSC limit is unavailable for use by vessels directed fishing with any gear for the remainder of the fishing year, effectively conserving that halibut biomass for future stock abundance.

*Halibut PSC Sideboard Limits*

Over time, a variety of halibut PSC use limits, commonly known as sideboard limits, have been implemented to limit the amount of halibut PSC available to specific participants in GOA groundfish fisheries. Sideboard limits serve as fishery-specific limits that require participants subject to the sideboard limit to stop fishing for specific groundfish once that sideboard limit is reached. Sideboard limits were adopted as part of the AFA, Amendment 80, and

Central GOA Rockfish catch share programs to prevent program participants from using the flexibility provided by catch share allocations to increase their harvests in fisheries not subject to exclusive allocations. Additional detail on the rationale and calculation for specific sideboard limits in these catch share programs is available in the final rules implementing these catch share programs and is not repeated here (for the AFA see 67 FR 79692, December 30, 2002; for the Amendment 80 Program see 72 FR 52668, September 14, 2007; and for the Central GOA Rockfish Program, see 76 FR 81248, December 27, 2011).

In the GOA, AFA catcher vessels are split into two categories: those subject to halibut PSC sideboard limits and those exempt from halibut PSC sideboard limits. Sideboard limits for AFA catcher vessels subject to sideboard limits (non-exempt AFA catcher vessels) are calculated based on the catch histories of the non-exempt AFA catcher vessels (see § 679.64(b)(4)). Halibut PSC sideboard limits for non-exempt AFA catcher vessels are established as a percentage of each seasonal apportionment assigned to trawl gear deep-water and shallow-water fisheries, rather than as a percentage of the annual trawl PSC limit. There is no seasonal apportionment for trawl gear deep-water fishery in the fourth season, so there is no AFA halibut PSC sideboard limit.

Instead, non-exempt AFA catcher vessels are limited in the fourth season to any AFA halibut PSC sideboard limit that may remain after the end of the third season deep-water fishery. Additionally, the deep-water and shallow-water fisheries are combined for trawl gear in the fifth season; therefore, there is a combined halibut PSC sideboard limit for deep-water and shallow-water fisheries for non-exempt AFA catcher vessels. If AFA halibut PSC sideboard limits in one season are not fully used then the remaining amount of that sideboard limit may be added to the next seasonal sideboard limit. Conversely, if a seasonal AFA halibut PSC sideboard limit is exceeded then the overage amount is deducted from the next season's AFA halibut PSC sideboard limit. AFA catcher/processors are not assigned a halibut PSC sideboard limit because they are prohibited from fishing any species of groundfish in the GOA (see § 679.7(k)(1)(ii)).

Halibut PSC sideboard limits are established for vessels fishing under the Amendment 80 Program, which includes only trawl catcher/processor vessels (see the definition of

“Amendment 80 vessels” at § 679.2). Halibut PSC sideboard limits for the Amendment 80 Program are based on a percentage of the annual halibut PSC limit for trawl gear. This halibut PSC sideboard limit is further apportioned by deep-water and shallow-water fishery, and among the five trawl seasons (see Table 31 to part 679). Unlike the AFA halibut PSC sideboard limits, there are specific sideboard limits established for the deep-water and shallow-water fisheries in the fourth and fifth seasons. Any remaining amount of an Amendment 80 halibut PSC sideboard limit is not added to the next seasonal sideboard limit.

Catcher/processors participating in the Central GOA Rockfish Program are also subject to halibut PSC sideboard limitations. Catcher/processors are subject to halibut PSC sideboard limits for the trawl deep-water and shallow-water fisheries from July 1 through July 31 (see § 679.84(e)(5)). These halibut PSC sideboard limits only apply when a catcher/processor is not fishing under the authority of a Central GOA Rockfish Program cooperative quota permit in the Central GOA (see § 679.84(e)). Halibut

PSC sideboard limits for the Central GOA Rockfish Program are established as a percentage of the annual trawl halibut PSC limit. Halibut PSC sideboard limits are not established for catcher vessels in the Central GOA Rockfish Program because those vessels are prohibited in July from fishing for specific flatfish species that typically have higher rates of halibut PSC use (see § 679.84(d)).

Table 3 summarizes the halibut PSC sideboard limits assigned to the AFA, Amendment 80, and Central GOA Rockfish Programs. Table 3 lists the percentage of the trawl halibut PSC limit assigned as Amendment 80 and Central GOA Rockfish Program sideboard limits, the percentage of the seasonal trawl apportionment assigned as an AFA halibut PSC sideboard limit, and the specific amount of the limit. The amount of the halibut PSC sideboard limit assigned to each of these fisheries is calculated using an annual trawl halibut PSC limit of 1,973 mt as specified in the final 2013 and 2014 harvest specifications for the GOA (78 FR 13162, February 26, 2013).

TABLE 3—FINAL 2013 AND 2014 PACIFIC HALIBUT PSC SIDEBOARD LIMITS  
[Values are in metric tons]

	AFA (Non-exempt catcher vessels only)		Amendment 80 program (catcher/processors only)		Central GOA rockfish program (catcher/processors only)	
	Deep-water fishery	Shallow-water fishery	Deep-water fishery	Shallow-water fishery	Deep-water fishery	Shallow-water fishery
January 20–April 1 .....	34.0% of 444 mt (151 mt)	7.0% of 99 mt (7 mt)	1.15% (23 mt)	0.48% (9 mt)	N/A.	
April 1–July 1 .....	34.0% of 99 mt (34 mt)	7.0% of 296 mt (21 mt)	10.72% (212 mt)	1.89% (37 mt)	N/A.	
July 1–July 30 (Central GOA Rockfish Pro- gram only).	N/A		N/A		2.5% (49 mt)	0.1% (2 mt).
July 1–September 1 ....	34.0% of 197 mt (67 mt)	7.0% of 395 mt (28 mt)	5.21% (103 mt)	1.46% (29 mt)	N/A.	
September 1–October 1.	34.0% of 0 mt (0 mt)	7.0% of 148 mt (21 mt)	0.14% (3 mt)	0.74% (15 mt)	N/A.	
October 1–December 31.	20.5% of 296 mt (61 mt)		3.71% (73 mt)	2.27% (45 mt)	N/A.	

**Objectives of and Rationale for Amendment 95 and This Proposed Rule**

The following objective was adopted by the Council with respect to this proposed action:

The Council has long been cognizant of, and continues to recognize the extreme importance of halibut to all resource user groups. The Council also acknowledges that, for a wide variety of reasons, the dynamics of the directed and non-directed halibut fisheries have changed significantly since

halibut PSC limits were first established. Given concerns with the current halibut PSC limits in the GOA, and the effect this PSC has on both directed fishing opportunities and productivity of the stock, there is a need to evaluate existing halibut PSC limits and the way in which these limits are established.

The objective of the proposed action is to reduce halibut PSC limits for the GOA groundfish fisheries. In years of low halibut PSC use, the PSC limit reduction may not be a constraint. In those years the groundfish sectors would not be affected by the proposed changes. Reductions in the halibut PSC limit will generate halibut savings in years of relatively high halibut PSC. In years that halibut PSC savings occur, they will benefit the halibut resource and the halibut directed fisheries dependent on the GOA halibut resource. Conversely, groundfish harvesters will have their harvest constrained in those years. The reductions in groundfish harvest will impact revenue generated from the fisheries. The magnitude of the revenue change will depend on the quantity of groundfish harvest foregone and the price flexibility of those groundfish species.

The proposed halibut PSC limit reductions are necessary to minimize halibut bycatch to the extent practicable in the GOA groundfish fishery, while at the same time achieving optimum yield from the groundfish fishery. The Council considered a range of alternatives to assess the impacts of minimizing halibut bycatch to the extent practicable while preserving the potential for the full harvest of the TACs assigned to the trawl and hook-and-line sectors. The Council considered changes in groundfish and halibut management programs and fishing patterns, environmental conditions, fishing technology, and knowledge of halibut and groundfish stocks. The Council considered the potential trade-offs between the halibut saved and the forgone groundfish catch. The Council believes, and NMFS agrees, that the proposed PSC limit reductions minimize halibut bycatch to the extent practicable given the management measures currently available to the fleet, the derby-style prosecution of some components of the groundfish fishery, the uncertainty about the extent to which halibut bycatch in the groundfish fishery has adverse effects on the halibut resource, and the need to ensure that catch in the trawl and hook and line fisheries contributes to the achievement of optimum yield in the groundfish fisheries.

The Council considered changes to the halibut resource, and the needs of the directed halibut fishery user groups, including the commercial, charter, subsistence, personal use, and unguided sport sectors. The halibut resource is fully allocated. Recent declines in halibut exploitable biomass, particularly in the GOA, underscore the need to minimize bycatch of halibut in the groundfish fisheries to the extent practicable. Since the existing GOA halibut PSC limits were established, the total biomass and abundance of halibut

has varied, and in recent years the stock is experiencing an ongoing decline in size-at-age for all ages in all areas. Although the cause of this decline in size-at-age is not fully understood, the commercial halibut sector has experienced decreased catch limits as a result. The IPHC accounts for incidental halibut catches in the groundfish fisheries, recreational and subsistence catches, and other sources of halibut mortality before setting commercial halibut catch limits each year. From 2002 to 2011 the commercial catch limit for halibut in the GOA in combined IFQ Regulatory Areas 2C (Southeast Alaska), 3A (South central Alaska), and 3B (Southwest Alaska) declined by almost 50 percent. In addition, the guideline harvest level, which establishes a benchmark for harvests in the charter halibut fishery, has been reduced, particularly in IPHC Regulatory Area 2C. Further, the charter halibut sector has experienced increased catch restrictions in the GOA in recent years. Additional detail on the status of halibut stocks, commercial catch limits, and the guideline harvest level, is provided in the final rule establishing IPHC annual management measures for the Pacific halibut fishery in 2013 (see 78 FR 16423, March 15, 2013 and 78 FR 18323, March 26, 2013).

Although catch limits for the commercial and charter halibut fisheries have declined in recent years, GOA halibut PSC limits have remained relatively constant. The proposed action would require trawl and hook-and-line sectors to minimize halibut bycatch during the prosecution of their respective groundfish fisheries. The Council balanced a number of competing objectives for fishery conservation and management in its selection of its Preferred Alternative. These include (1) achieving the optimum yield from each groundfish fishery without overfishing the stocks, (2) considering the importance of fishery resources to fishing communities and minimizing adverse economic impacts on such communities, and (3) minimizing bycatch to the extent practicable. As discussed in section 4.6.4 of the Analysis, the Council considered the ability of trawl and hook-and-line groundfish fisheries to reduce halibut PSC use, how much of the halibut PSC limit had been left unused by each sector in the past, and the potential effects of reduced PSC limits on GOA groundfish catch and revenue.

The Analysis included a retrospective evaluation of the impacts of PSC limit reductions on GOA ground fish catches from 2003 through 2010. This

evaluation provided estimates of groundfish catch and revenue that would have been foregone in the GOA groundfish fisheries if halibut PSC limits had been reduced from current levels from 2003–2010. However, while historical catch and halibut PSC information can be used to assess whether and when fisheries would close if reduced PSC limits had been in place in previous years, the Council and NMFS believe groundfish trawl and hook-and-line fishery participants can modify their behavior to avoid a closure. The Analysis reviewed potential measures that could be adopted by participants to reduce halibut PSC use and factors that are likely to affect the willingness of participants to adopt those measures. Although the proposed halibut PSC limit reductions may result in earlier season closures and an attendant reduction in target groundfish catches when the lower seasonal PSC limit is reached, the frequency and extent of early season closures and effects of such closures will vary across gear types and segments of the fleets to the extent that fleets are willing to change fishing behavior in response to lower PSC limits. If sector participants are successful in taking action to control halibut PSC use to avoid a closure, additional gross revenues may be gained.

Notwithstanding measures that the trawl and hook-and-line sectors can take to avoid halibut PSC use and potential fishery closures, the Council and NMFS recognize that reducing halibut PSC limits will likely come at a cost to individual participants and to the hook-and-line and trawl sectors as a whole. The proposed action could potentially impact revenue generated from the groundfish fisheries and some groundfish fisheries may not harvest their full TAC. The Analysis considered not only changes in gross revenues, but also changes in costs resulting from the fleets' altered fishing behavior to minimize halibut bycatch. The Council and NMFS balanced these potential financial effects of reduced groundfish harvests and increased costs to groundfish fleets with the benefits of maintaining a healthy marine ecosystem for fishermen and communities that depend on the halibut resources. The proposed reduction in halibut PSC limits could benefit participants in the directed halibut fisheries, such as the commercial and charter sport fisheries, if it results in increased levels of harvestable halibut and increased catch limits for directed halibut fisheries. Halibut processors might also benefit from this proposed action, along with

halibut charter clients, and consumers of halibut harvested in the directed fisheries. As described later in the preamble, the proposed action minimizes adverse economic impacts to the extent practicable for groundfish sectors that will experience the greatest halibut PSC reductions through measures such as phasing-in reductions over three years, allowing for roll-overs of halibut PSC sideboard limits from one season to the subsequent season, and allowing for the aggregation of halibut PSC limits during the second season deep-water and shallow-water fisheries.

During public testimony, some members of the public recommended greater reductions of halibut PSC limits. However, halibut bycatch cannot be avoided completely, and the Council and NMFS believe that even more stringent PSC limit reductions would severely limit the groundfish fleet. Currently, most of the groundfish fleet in the GOA is involved in competitive fisheries and does not have available tools, such as catch share programs or fishery cooperatives, that have been demonstrated to successfully reduce halibut PSC and still maintain current harvest levels of groundfish (for an example see the discussion of the Central GOA Rockfish Program in section 4.5.5 of the Analysis). As noted above, the Council and NMFS anticipate that participants in the GOA trawl and hook-and-line groundfish fisheries will need to modify their fishing behavior in response to lower PSC limits. Based on public testimony received from industry participants on the extent to which individual vessels are able to change their fishing behavior to reduce PSC use, the Council and NMFS believe that the proposed halibut PSC reductions minimize halibut bycatch to the extent practicable.

### The Proposed Action

This proposed action would: (1) Establish GOA halibut PSC limits in Federal regulation; (2) reduce the GOA halibut PSC limits for vessels using trawl and hook-and-line gear; (3) proportionately reduce trawl halibut PSC sideboard limits for American Fisheries Act (AFA), Amendment 80, and Central GOA Rockfish Program vessels; and (4) modify the accounting for halibut PSC sideboard limits for Amendment 80 vessels, and halibut PSC used by trawl vessels from May 15 through June 30 to maintain groundfish harvest while achieving the halibut PSC limit reductions intended by this action. This action would reduce halibut PSC limits to the extent practicable consistent with National Standard 9,

while at the same time achieving, on a continual basis, the optimum yield from the groundfish fishery. The preceding four actions are discussed in detail in the following sections of this preamble.

#### *Action 1: Establishing the GOA Halibut PSC Limits in Federal Regulation*

This proposed action would modify the process by which the GOA halibut PSC limits are set. As previously discussed, the GOA halibut PSC limits currently are established through the annual GOA groundfish harvest specifications process. This action proposes including the overall annual GOA halibut PSC limits for the trawl and hook-and-line sectors in Federal regulations, a process that would mirror the current process for the Bering Sea and Aleutian Islands halibut PSC limits. Once the GOA halibut PSC limits are published as Federal regulations, those limits could then be modified only by amending those regulations. The Council acknowledged, and NMFS agrees, that publishing the annual halibut PSC limits in Federal regulation will streamline the harvest specifications process and provide greater certainty about what annual PSC limits would be for those sectors subject to such limits. The groundfish harvest specifications process is complex and time-sensitive, as the final harvest specifications have to be in place as soon as possible each year. Addressing potential changes to GOA halibut PSC limits during the harvest specifications process carries the risk of delaying the harvest specification of annual groundfish harvest limits, which is the primary objective of the harvest specifications process.

Publishing the annual halibut PSC limits in Federal regulation is expected to:

- Resolve implementation and timing issues inherent in the current two-year harvest specification schedule. The first season to which NMFS applies halibut PSC limits on the trawl groundfish fishery occurs from January 20 to April 1, and the first season to which NMFS applies halibut PSC limit occurs from January 1 to June 10 of each year. Currently, GOA halibut PSC limits are set for two consecutive years (as are groundfish catch limits), so that groundfish fishing begins on January 1 based on groundfish TACs and PSC limits that were approved by the Council over a year earlier. Once the next 2-year set of harvest specifications are finalized in February or March, the initial annual groundfish TACs are superseded by new catch limits. For example, the final 2013 and 2014

harvest specifications for the GOA published on February 26, 2013, well after the opening of the hook-and-line groundfish fishery season on January 1, 2013. Establishing the GOA halibut PSC limits for trawl and hook-and-line gear sectors in Federal regulation would ensure the halibut PSC limits are in place at the start of the fishing year. This would eliminate the potential that NMFS would have to modify a halibut PSC limit once fishing has already begun for a year should there be changes to that limit during the development of the annual harvest specifications.

- Facilitate potential development of long term PSC management tools for the groundfish fisheries. Such development would benefit from a stable regulatory environment, rather than annual halibut PSC limits that could be subject to change during the annual harvest specification process. Should it become apparent that further halibut bycatch reductions are practicable, regulations could be amended to further revise halibut PSC limits.

NMFS notes that once the annual halibut PSC limits are established in Federal regulation as proposed by this action, the Council and NMFS will continue to use the harvest specification process to apportion annual halibut PSC limits between fisheries and gear categories. The Council will consider the best available information when recommending these apportionments of halibut PSC limits consistent with existing regulations at § 679.21(d)(5).

#### *Action 2: Reducing the GOA Halibut PSC Limits for Trawl and Hook-and-Line Sectors*

This proposed action would reduce the GOA halibut PSC limits for vessels harvesting groundfish in the GOA. The proposed GOA halibut PSC limit for each gear and fishery category would be reduced from the current annual halibut PSC limits specified in the final 2013 and 2014 harvest specifications in the GOA (78 FR 13162, February 26, 2013) and established in regulation as follows:

- Hook-and-line catcher/processor: 7 percent reduction.
- Hook-and-line catcher vessel: 15-percent reduction, phased in over 3 years with a 7 percent reduction the first year, an additional 5 percent reduction the second year, and a final 3 percent reduction in the third year.
- Hook-and-line demersal shelf rockfish Southeast Outside District: 1 metric ton reduction.
- Trawl: 15-percent reduction, phased-in over 3 years with a 7 percent reduction the first year, an additional 5 percent reduction the second year, and

a final 3 percent reduction in the third year.

The following sections describe the proposed halibut PSC limit reductions for the trawl and hook-and-line gears.

*Phase-in Schedule for the Proposed Halibut PSC Limit Reductions for the Trawl and Hook-and-Line Sectors*

The Council recognized that giving the groundfish fleets additional time to individually and collectively adapt to the newly reduced halibut PSC limits under this proposed action would minimize some of the adverse consequences for sectors with the largest halibut PSC limit reductions. This phased-in approach would mitigate the impact the halibut PSC limit reductions have on groundfish fishery revenue and, as a result, mitigate the loss to communities reliant on groundfish resources. For this reason, the Council recommended phasing-in the reductions of halibut PSC limits for the trawl and catcher vessel hook-and-line sectors because these sectors will experience the largest halibut PSC limit reductions. The phased-in implementation would allow additional time for these sectors to develop management tools and modify their fishing practices. As described below, NMFS intends that the phased-in approach to halibut PSC limit reductions would provide the groundfish sectors subject to the largest halibut PSC limit reductions with

continued participation in the groundfish fisheries as they adapt to the lower halibut PSC limits, and would, to the extent practicable, minimize adverse economic impacts of the halibut PSC limit reductions.

The specific annual amounts of the phased-in reductions are intended to reduce halibut PSC while also taking account of the needs of affected groundfish fisheries to efficiently adapt to the reductions. The Council considered a broad range of potential reductions to halibut PSC limits, including no reduction relative to the current halibut PSC limits and a 15-percent reduction for all trawl and hook-and-line fisheries in the first year of implementation. The phase-in approach and timeline proposed under this rule would result in the largest percentage reduction in the first year, a slightly smaller percentage reduction in the second year, and the smallest percentage reduction in the third year, to provide meaningful reductions in halibut PSC limits as quickly as possible. This approach would allow groundfish fisheries to adapt to the proposed changes by, for example, improving on-the-ground communication of halibut PSC rates to reduce groundfish harvests in areas of high halibut PSC, developing and using halibut excluder devices, or developing other measures that could reduce halibut bycatch in the GOA groundfish fisheries.

The Council intended for the initial halibut PSC limit reductions to be in effect for the 2014 fishing year. This preamble assumes that 2014 will be the first year the proposed reductions would be effective for purposes of the examples provided. Table 4 portrays the proposed halibut PSC limit reductions for the trawl gear sector and the hook-and-line gear catcher vessel sector. NMFS would implement the 7-percent reduction in the first year of implementation of this proposed action, and then take the second and third phase of reductions relative to the 2013 annual halibut PSC limits. NMFS would not take the additional percentages of the second and third year off of the already reduced PSC limits from the first year. Examples of the amounts associated with each percentage reduction are depicted in subsequent tables.

Table 4 also shows that the 7-percent proposed halibut PSC limit reduction for the hook-and-line catcher/processor sector and the 1 mt reduction for the hook-and-line DSR fishery would be effective in the 2014 fishing year, or the first year of implementation of a final rule for this action. The Council elected to reduce the halibut PSC limit for the DSR fishery by 1 mt instead of a percentage that would increase over time. The rationale for this fixed reduction in the halibut PSC limit for the DSR fishery is described in the following section of this preamble.

TABLE 4—PROPOSED PHASE-IN SCHEDULE OF HALIBUT PSC REDUCTIONS

Sector or fishery	Total proposed reduction relative to 2013	Reduction first year (2014)	Reduction second year (2015)	Reduction third year (2016 and each year thereafter)
Hook-and-line demersal shelf rockfish Southeast Outside District.	1 mt	1 mt	*	*
Hook-and-line catcher/processor sector .....	7 percent	7 percent	*	*
Hook-and-line catcher vessel sector .....	15 percent	7 percent	5 percent	3 percent
Trawl sector .....	15 percent	7 percent	5 percent	3 percent

*Hook-and-Line DSR Fishery Proposed Reduction*

This action would reduce the halibut PSC limit for the hook-and-line DSR fishery in the Southeast Outside District by 1 mt, from 10 mt in 2013, to 9 mt in 2014 and each year thereafter. The 1 mt reduction in the halibut PSC limit for the DSR fishery would accommodate the purpose of this action, i.e., reduce halibut PSC limits in the commercial groundfish fisheries to the extent practicable. The Council believed that it was necessary to apply the halibut PSC limit reductions to all components of the hook-and-line fisheries, including

the commercial DSR fishery. A 1 mt reduction in the halibut PSC limit apportioned to the DSR fishery should not have an adverse impact on the directed fishery for DSR, given the decreasing participation in this fishery in recent years. In consideration of the small amount of halibut PSC limit assigned to the DSR fishery, and the relatively low estimated amount of halibut PSC use in the DSR fishery, the Council did not recommend phasing-in reductions over a period of time, or establishing a percentage of a reduction. Reducing halibut PSC limits beyond 1 mt for the directed DSR fishery could

potentially curtail harvest of the annual DSR TAC. Given the estimated low amount of halibut PSC use in the DSR fishery, the Council and NMFS believe that the benefits of further halibut PSC reductions in the DSR fishery would not justify the potential costs of greater reductions for this fishery.

The State of Alaska and NMFS jointly manage DSR. DSR is also caught incidentally in other commercial fisheries, such as the IFQ halibut fishery, and in sport fisheries. Since 2004, the majority of annual DSR landings were taken as incidental catch in other fisheries. For example, of the

293 mt TAC for DSR in 2012, 128 mt were available for the DSR commercial directed fishery, of which 105 mt were harvested. Because harvesters may use much of the available DSR as incidental catch in the halibut IFQ fishery, reducing the DSR directed fishery's halibut PSC limit should not result in changes in the management of the DSR directed fishery.

#### *Other Hook-and-Line Fisheries Proposed Reductions*

This action proposes to reduce the other hook-and-line catcher/processor and catcher vessel sectors' current overall halibut PSC limits, but by different percentage amounts. As depicted in Table 4, the other hook-and-line catcher/processor sector would be subject to a total halibut PSC limit reduction of 7 percent, with the reduction fully implemented in 2014. The other hook-and-line catcher vessel sector would be subject to a phased-in halibut PSC limit reduction of 15 percent, beginning with a 7 percent reduction in 2014. These percentage reductions would be specified in regulations at § 679.21. The reductions would be made in conjunction with the existing method used to annually apportion the other hook-and-line PSC limit between the hook-and-line catcher vessel and catcher/processor sectors.

#### *A. Other Hook-and-Line Annual PSC Limit Apportionments to the Catcher Vessel and Catcher/Processor Sectors*

Section 679.21(d)(4)(iii) contains formulas that NMFS uses to apportion the annual other hook-and-line halibut PSC limit between the catcher vessel and catcher/processor sectors. This approach was designed to integrate annual differences in how the combined Western and Central Pacific cod biomass is apportioned between the Western GOA and Central GOA, based on the findings of the annual Pacific cod stock assessment. This stock assessment calculates, among various other biological factors, how the overall Pacific cod biomass is distributed between these two management areas. The formulas set forth in regulation provide a means to annually adjust the apportionment of the other hook-and-line halibut PSC limit based on annual Pacific cod distribution. The hook-and-line catcher/processor sector receives a larger annual share of the total Pacific cod TAC in the Western GOA than the hook-and-line catcher vessel sector. Conversely, the hook-and-line catcher vessel sector receives a larger annual share of the total Pacific cod TAC in the Central GOA.

The Council recommended, and NMFS agrees, that NMFS should continue to use this methodology to apportion the Pacific cod TAC between the other hook-and-line catcher vessel and catcher/processor sectors before the proposed halibut PSC limit reductions are calculated under the proposed action. The formulaic distribution of the other hook-and-line halibut PSC limit would allow the reduced other hook-and-line PSC limit to be apportioned differently each year to better match the potential halibut PSC use by each sector. This change is intended to align the annual allocations of Pacific cod between the two hook-and-line sectors with their respective allotments of the other hook-and-line halibut PSC limit, which is consistent with National Standard 1 to achieve optimum yield from the GOA groundfish fisheries. For example, if the annual stock assessment determines that there is a greater proportion of Pacific cod in the Central GOA than the Western GOA (based on the average biomass distribution estimated in the stock assessment), then the hook-and-line catcher vessel sector would receive more of the other hook-and-line halibut PSC limit than the hook-and-line catcher/processor sector. This methodology is described in the final rule implementing Amendment 83 to the FMP, which established Pacific cod sector splits in the GOA (76 FR 74670, December 1, 2011).

To implement this component of the action, NMFS proposes to place in regulation the existing other hook-and-line halibut PSC limit of 290 mt. This amount would be integrated into the formulas that apportion this limit between the hook-and-line catcher vessel and catcher/processor sectors, consistent with the intent of Amendment 83 to the FMP and its implementing regulations. This formula would then be used to annually apportion the other hook-and-line halibut PSC limit between sectors prior to making the actual percentage reductions also proposed in this action. Applying the proposed other hook-and-line halibut PSC limit reductions to the current 290 mt halibut PSC limit prior to apportioning it between the other hook-and-line sectors is not possible because (1) the division of this limit varies according to the annual apportionment of the Western GOA and Central GOA Pacific cod TACs, and (2) the catcher vessel and catcher/processor sectors would operate under different PSC limit percentage reductions after the first year of the reduction phase-in. This methodology is also described in detail in Section 4.6.3.2 of the Analysis.

Once the other hook-and-line halibut PSC limit is divided between the hook-and-line catcher vessels and catcher/processors, the halibut PSC limit percentage reductions proposed in this action would then be applied to each individual sector's halibut PSC limit. These reduced limits would then be annually specified as halibut PSC limit apportionments by fishery category and season in the annual harvest specifications.

#### *B. Applying the Proposed Halibut PSC Limit Reductions to the Other Hook- and-Line Catcher/Processor Sector*

This action proposes to reduce the halibut PSC limit for the hook-and-line catcher/processor sector by 7 percent the first year of implementation under this proposed action, and retain that level thereafter. For example, using the 2013 Pacific cod apportionment in conjunction with the other hook-and-line halibut PSC limit apportionment formulas in § 679.21(d), the proposed hook-and-line catcher/processor halibut PSC limit would be reduced to 115 mt in 2014 from 124 mt in 2013.

The Council recommended different percentage reductions for other hook-and-line catcher/processors (7 percent) versus other hook-and-line catcher vessels (15 percent) because the catcher/processor sector already received a halibut PSC limit reduction under regulations implementing Amendment 83 to the FMP (76 FR 74670, December 1, 2011), and has collectively taken measures to reduce its halibut PSC usage in recent years. The hook-and-line catcher/processor sector has been able to reduce its PSC use with management tools not available to the trawl gear sector or hook-and-line catcher vessel sector. Specifically, the hook-and-line catcher/processor sector decreased its halibut PSC use by forming a voluntary cooperative in 2010. The voluntary hook-and-line catcher/processor cooperative members agreed to divide the available halibut PSC limit, and to a variety of other measures (e.g., avoid fishing in areas with known concentrations of halibut and at times of relatively high halibut PSC rates). These measures are intended to reduce the chance that this sector's halibut PSC would result in a fishery closure.

The Council recommended reducing the hook-and-line catcher/processor sector by 7 percent for this proposed action to acknowledge the PSC limit reductions implemented under Amendment 83, and the voluntary steps already taken to decrease the sector's halibut PSC use in recent years. A reduction greater than 7 percent could further reduce halibut bycatch by the

hook-and-line catcher/processor sector, but at increased potential for adverse economic impacts on this sector, either through foregone groundfish catch or increased operating costs as this fleet attempts to avoid halibut bycatch. As discussed in section 4.6 of the Analysis, the informal hook-and-line catcher/processor sector cooperative in the GOA have undertaken measures to reduce halibut PSC use in that sector since 2010. Additional measures to further reduce halibut bycatch could result in increased operating cost for this sector and forgone groundfish catch. The Council and NMFS believe that a 7 percent reduction from current halibut PSC limits in addition to this sector's previous halibut bycatch use reductions will minimize halibut bycatch in the hook-and-line-sector to the extent practicable.

*C. Applying the Proposed Halibut PSC Limit Reductions to the Other Hook-and-Line Catcher Vessel Sector*

The proposed halibut PSC limit reduction for the other hook-and-line catcher vessel sector would be phased-in over 3 years at 7 percent in 2014, or the first year of implementation of this action, an additional 5 percent in 2015,

or the second year, and an additional 3 percent in 2016, or the third year, for a total reduction of 15 percent from the 2013 levels effective beginning 2016 and remaining effective thereafter. Table 5 shows how the other hook-and-line PSC limit would be apportioned between the catcher vessel and catcher/processor sectors, as well as by season. Using the 2013 Pacific cod apportionments as an example, the proposed hook-and-line catcher vessel halibut PSC limits would decrease from 166 mt in 2013, to 154 mt in 2014, to 146 mt in 2015, and to 141 mt in 2016 and each year thereafter under this action. The 15 percent reduction of the halibut PSC limit apportioned to the other hook-and-line catcher vessel sector would achieve this action's objective of minimizing halibut bycatch in the GOA groundfish fisheries to the extent practicable. The Council and NMFS determined that the proposed PSC limit reduction would provide the hook-and-line catcher vessel sector with incentives to reduce PSC use by modifying fishing behavior to avoid groundfish fishery closures. As discussed in section 4.6.4 of the Analysis, some catcher vessels currently undertake efforts to avoid halibut through informal arrangements, in

which vessels share on-the-grounds information concerning halibut encounter rates, helping vessels to avoid areas with relatively high halibut PSC. The Council and NMFS expect participants in the hook-and-line catcher vessel sector to modify fishing behavior and increase coordination to expand their use of these types of bycatch avoidance tools to reduce halibut PSC use.

Table 5 provides an example of the 2013 apportionment of Pacific cod TACs in the Western and Central GOA to demonstrate how the proposed other hook-and-line halibut PSC limit reduction would be applied to the hook-and-line catcher vessel and catcher/processor sectors. The amount of halibut PSC that could be used by the other hook-and-line fishery after implementation of this action is also shown in Table 5. Effectively, the amount of halibut PSC that could be used would decrease under this action to 269 mt in 2014, to 261 mt in 2015, and finally to 256 mt in 2016. These amounts are based on the premise that there is no change in the apportionment of the Pacific cod biomass between the Western and Central GOA during those years.

TABLE 5—EXAMPLE OF THE OTHER HOOK-AND-LINE HALIBUT PSC LIMITS (IN mt) UNDER THIS PROPOSED ACTION BASED ON THE 2013 APPORTIONMENT OF THE WESTERN AND CENTRAL GOA PACIFIC COD TACs AND ASSOCIATED DISTRIBUTION OF THE ANNUAL OTHER HOOK-AND-LINE HALIBUT PSC LIMIT

Year	Sectors	Proposed reduction (percent)	Total allowance <sup>1</sup>	1st season January 1 to June 10 (86%)	2nd season June 10 to September 1 (2%)	3rd season September 1 to December 31 (12%)
2013	Total Allowance		290	249	6	35
	Catcher vessel	N/A	166	143	3	20
	Catcher/processor	N/A	124	106	2	15
2014	Total Allowance		269	232	5	32
	Catcher vessel	7	154	133	3	19
	Catcher/processor	7	115	99	2	14
2015	Total Allowance		261	225	5	32
	Catcher vessel	12	146	126	3	18
	Catcher/processor	7	115	99	2	14
2016 and each year thereafter.	Total Allowance		256	220	5	31
	Catcher vessel	15	141	121	3	17
	Catcher/processor	7	115	99	2	14

<sup>1</sup> The total allowance reflects the sum of the amount available to each sector. After 2013, the 290 mt limit would remain in regulation at §679.21(d) as part of the formulas that provide the basis for apportioning the annual halibut PSC limit between the hook-and-line catcher/processor and catcher vessel sectors. The actual annual PSC limit would decrease (in this example) to 256 mt in 2016.

*Trawl Sector Proposed Reduction*

The amount of the proposed trawl halibut PSC limit reduction would be based on reductions from the current trawl halibut PSC limit of 1,973 mt as established in the final 2013 and 2014 harvest specifications for the GOA (78 FR 13162, February 26, 2013). This base amount includes a reduction of 27.4 mt from the trawl halibut PSC limit

implemented under the Central GOA Rockfish Program (76 FR 81248, December 27, 2011). Similar to the other hook-and-line catcher vessel sector, the proposed halibut PSC limit reduction for the trawl sector would be 15 percent and phased-in over 3 years. The halibut PSC limit would be reduced by 7 percent in 2014, or the first year of implementation, an additional 5 percent

in 2015, or the second year, and a final 3 percent in 2016, or the third year, for a total reduction of 15 percent from the status quo. This new PSC limit in 2016 would remain in effect each year thereafter. In selecting trawl halibut PSC limit reduction, the Council balanced the broad goal of minimizing halibut bycatch to the extent practicable with trawl fishery participants' need for a

sufficient amount of halibut PSC to harvest available GOA groundfish TACs, and thereby support the achievement of optimum yield from the GOA groundfish fishery.

*A. Rockfish Program Halibut PSC Apportionment*

The trawl halibut PSC limit of 191.4 mt apportioned to the Central GOA Rockfish Program would not be reduced by this action. The Rockfish Program was exempted from the proposed halibut PSC limit reductions because participants in the Rockfish Program already had their apportionment of halibut PSC limit reduced relative to historic use of halibut PSC in the Central GOA rockfish fisheries when the Council adopted the program. NMFS implemented the Rockfish Program on December 27, 2011 (76 FR 81248) and reduced the halibut PSC limit apportionment by 12.5 percent of the fishery’s historical annual use (during the 2000 through 2006 qualifying period). The 12.5-percent reduction resulted in 27.4 mt of halibut PSC limit that is not allocated for use annually, leaving 191.4 mt to support the Central GOA Rockfish Program.

In addition, the Central GOA Rockfish Program limits the maximum amount of any unused halibut PSC limit from Central GOA Rockfish Program participants that may be made available to the non-Rockfish Program trawl fisheries. This reallocation of unused halibut PSC limit is commonly known as a reapportionment. The annual reapportionment of any unused portion of the 191.4 mt Rockfish Program halibut PSC limit is reduced by 45 percent, and as a result only 55 percent of the annual, unused halibut PSC limit may be available for reapportionment to non-Central GOA Rockfish Program fisheries during the fifth season.

The halibut PSC reductions already implemented through the Rockfish

Program minimize halibut bycatch in the rockfish fishery to the extent practicable. These reductions limit halibut mortality both by limiting the amount of halibut PSC that is initially allocated as halibut PSC CQ and by limiting the amount of halibut PSC that may be reassigned. In developing the Rockfish Program, the Council sought to balance the need to provide adequate halibut PSC for use by rockfish cooperatives, recognize patterns of reduced halibut PSC use once exclusive harvest privileges were established, and meet broader goals to reduce halibut mortality. The Analysis supporting the current proposed action projects that the 45-percent reduction of unused halibut PSC limit would be equal to, or greater than, the 15-percent reduction applied to the general trawl halibut PSC limit under this action based on a review of the amount of unused halibut PSC limit in the Central GOA Rockfish Program (see Section 4.5.5 of the Analysis for additional detail). Additional details on the specific rationale and methods for halibut PSC limit allocations and reapportionments in the Central GOA Rockfish Program are provided in the final rule implementing that program and are not repeated here (see 76 FR 81248, December 27, 2011).

*B. Applying the Proposed Halibut PSC Limit Reductions to the Trawl Sector*

The proposed reductions to the annual trawl halibut PSC limits do not include a reduction to the current amount of trawl halibut PSC apportioned to the Rockfish Program. NMFS proposes to subtract 191.4 mt of the halibut PSC limit that is apportioned to the Rockfish Program from the overall trawl halibut PSC limit before calculating the percentage reduction to the trawl halibut PSC limit. The 191.4 mt amount would be added back to the trawl halibut PSC limit after calculating the 7, 12, and 15 percent annual

reduction during the phased-in implementation of the trawl halibut PSC limit reductions. This would prevent the percentage reductions being proposed for overall annual GOA trawl halibut PSC limit from being applied to the halibut PSC limit apportioned to the Central GOA Rockfish Program.

The total trawl halibut PSC limit would be calculated using the following formula:

$$\text{Trawl Halibut PSC Limit} = ((1,973 \text{ mt} - 191.4 \text{ mt}) * X) + 191.4 \text{ mt}$$

In this formula, X is the percentage of the original allocation the trawl gear sector would receive of the phased-in percentage PSC limit reductions (7 percent the first year, 12 percent the second year, and 15 percent the third and each year thereafter). In the first year of implementation of this action, the trawl gear sector would receive 1,848 mt, or 93 percent (0.93) of the 2013 trawl PSC limit of 1,973 mt. In the second year, the trawl gear sector would receive 1,759 mt, or 88 percent (0.88) of the 2013 trawl PSC limit of 1,973 mt. Finally, in the third and each year thereafter, the trawl gear sector would receive 1,706 mt, or 85 percent (0.85) of the 2013 trawl PSC limit of 1,973 mt. The annual halibut PSC limits for the deep-water fishery, shallow-water fishery, and each of those fisheries respective seasonal apportionments would continue to be recommended by the Council and published in the annual harvest specifications, rather than in Federal regulations. The proposed halibut PSC limit reductions also would result in changes to the trawl sector’s seasonal apportionments of halibut PSC limits. Those changes are discussed below. Table 6 shows the proposed halibut PSC limits for the trawl sector each year for the implementation of this action, if this proposed action is implemented in 2014.

TABLE 6—PROPOSED HALIBUT PSC LIMITS FOR THE TRAWL SECTOR

Effective dates	Annual trawl gear PSC limit (mt) *	Percent reduction
2013 (status quo) .....	1,973	N/A
2014 .....	1,848	7
2015 .....	1,759	12
2016 and each year thereafter .....	1,706	15

\* This amount retains the existing 191.4 mt annual halibut PSC limit allocated to the Rockfish Program without any reduction to this allocation.

*C. Changes in Trawl Seasonal Apportionments*

As discussed earlier in this preamble in the “Background” section under “GOA Annual Halibut PSC Limits, Fishery Categories, and Seasonal

Apportionments,” section 679.21(d)(5) authorizes NMFS to seasonally apportion the annual trawl halibut PSC limits after consulting with the Council. During the annual harvest specifications process the Council recommends and

NMFS assigns the specific amount of halibut PSC limit to each of these seasons. Section 679.21(d)(3) and (4) establishes the annual halibut PSC limit apportionments to trawl gear in the

GOA through the annual groundfish harvest specification process.

Table 7 portrays the proposed reduction of annual halibut PSC limit to the trawl sector and the resulting changes to apportionments to the deep-water fishery and shallow-water fishery in each season. Table 7 assumes that the apportionments to the deep-water and shallow-water fishery categories and

seasons specified in the final 2013 and 2014 harvest specifications for the GOA (78 FR 13162, February 26, 2013) would be retained in future annual harvest specifications. As shown in Table 7, halibut PSC limit reductions for the trawl sector would result in the deep-water species fishery allowance decreasing from 789 mt in 2013, to 682 mt in 2016 and each year thereafter

under this action. The shallow-water species fishery allowance would be reduced from 888 mt in 2013, to 767 mt in 2016 and each year thereafter under this action. The undesignated fifth season allowance would be reduced from 296 mt in 2013, to 256 mt in 2016 and each year thereafter under this action.

**TABLE 7—TRAWL FISHERY AND SEASONAL HALIBUT PSC LIMITS BASED ON 2013 APPORTIONMENTS OF THE OVERALL HALIBUT PSC LIMITS**

[All values are metric tons, except where noted as percentages]

Total Trawl Halibut PSC limit		1st season January 20 to April 1	2nd season April 1 to July 1	3rd season July 1 to September 1	4th season September 1 to October 1	5th season October 1 through December 31
Annual limit, all categories		Seasonal share				
		27.5%	20%	30%	7.5%	15%
2013 (status quo) .....	1,973	543	395	592	148	296
2014 (7% reduction) .....	1,848	508	370	554	139	277
2015 (12% reduction) .....	1,759	484	352	528	132	264
2016 and each year thereafter (15% reduction)	1,706	469	341	512	128	256
Deep-water species fishery		Seasonal share				
		12.5%	37.5%	50%*	0%	
2013 (status quo) .....	789	99	296	395	.....	.....
2014 (7% reduction) .....	739	92	277	178 [370]	.....	.....
2015 (12% reduction) .....	704	88	264	160 [352]	.....	.....
2016 and each year thereafter (15% reduction)	682	85	256	150 [341]	.....	.....
Shallow-water species fishery		Seasonal share				
		50%	11.1%	22.2%	16.7%	
2013 (status quo) .....	888	444	99	197	148	.....
2014 (7% reduction) .....	832	416	92	185	139	.....
2015 (12% reduction) .....	791	396	88	176	132	.....
2016 and each year thereafter (15% reduction)	767	384	85	170	128	.....
Undesignated by deep-water or shallow-water species fishery		Seasonal share				
						100%
2013 (status quo) .....	296	.....	.....	.....	.....	296
2014 (7% reduction) .....	277	.....	.....	.....	.....	277
2015 (12% reduction) .....	264	.....	.....	.....	.....	264
2016 and each year thereafter (15% reduction)	256	.....	.....	.....	.....	256

\* Number in bracket includes the 191.4 mt Rockfish Program halibut PSC limit.

The Council noted that between 2006 and 2011 (the most recent years available for the Analysis), the deep-water fishery used, on average, about 85 percent of its available halibut PSC limit over the first through fourth seasons. The shallow-water fishery used about 89 percent of its available halibut PSC limit over the same time period. For all five seasons, the entire trawl sector used about 93 percent of its available halibut PSC limit. Although the proposed reductions would likely constrain the trawl sector in the second and third year after implementation, NMFS believes

the trawl fisheries could potentially operate longer and produce larger volumes of fish if this sector changes its fishing practices. Historical records and NMFS' management experience in the trawl fisheries indicates that the amount of halibut PSC in the GOA groundfish fisheries can be reduced by increased communication among industry participants and coordination of fishing activities and effort (see section 4.6.4 of the Analysis for additional detail).

*Action 3: Reducing Halibut PSC Sideboard Limits for AFA, Amendment 80, and Rockfish Program Vessels*

As described above in the section titled "Halibut PSC Sideboard Limits," a variety of halibut PSC use limits (commonly known as sideboard limits) have been implemented to restrict the amount of halibut PSC available to specific participants in GOA groundfish fisheries. This proposed rule would not revise the current regulations that establish the methodology for calculating the specific percentage of the annual trawl halibut PSC limit

apportioned to the AFA Program, Amendment 80 sector, or Central GOA Rockfish Program as halibut PSC sideboard limits. Rather, the AFA Program, Amendment 80 sector, and Rockfish Program halibut PSC sideboard limits would continue to be calculated during the annual harvest specifications process as percentages of the GOA halibut PSC limit. However, because the annual trawl PSC limit would be reduced under this proposed action, the amount (in metric tons) of each of these management program’s halibut PSC sideboard limit would also be reduced. Regulations that establish halibut PSC sideboard limits are at § 679.64(b)(4) for non-exempt AFA catcher vessels subject to GOA halibut PSC sideboard limits, § 679.92(b)(2) for the Amendment 80 sector, and § 679.82(e) for catcher/processors that opt-out of a Rockfish Program cooperative and are subject to GOA halibut PSC sideboard limits.

The Council considered but rejected an option to specify the sideboard limits in Federal regulation as a fixed limit in metric tons, rather than as percentages of the GOA trawl halibut PSC limit. The Council recommended that applying the sideboard limits as a percentage in Federal regulations would allow the proposed reductions to the annual trawl halibut PSC limit to carry through to those respective sideboard limits. Applying the current methodology prescribed in regulation for establishing halibut PSC sideboard limits against a lower trawl halibut PSC limit proportionately reduces the sideboard limits available to the AFA Program, Amendment 80 sector, and Rockfish Program. The Council and NMFS therefore determined that the proposed

halibut PSC sideboard limit reductions minimize halibut bycatch to the extent practicable. Participants in the AFA Program, Amendment 80 sector, and the Rockfish Program have the ability to reduce halibut PSC use through halibut avoidance methods similar to those described above for other participants in the GOA trawl sector, including increased communication among industry participants, coordinated fishing activities and effort, and improved fishing technology (see section 4.6.4 of the Analysis for additional detail).

The following sections explain how the proposed halibut PSC sideboard limit reductions in this action would be applied to the AFA, Amendment 80, and Rockfish Programs. Additional detail on the potential impacts of the halibut PSC sideboard limits is available in section 4.3.2 of the Analysis. The examples provided in the following sections assume that the apportionments to the deep-water and shallow-water fishery categories and seasons specified in the final 2013 and 2014 harvest specifications for the GOA (78 FR 13162, February 26, 2013) are retained in future annual harvest specifications. If the Council recommends a different range of apportionments for those fishery categories, the actual amounts in the following examples would likewise change.

NMFS determined that these apportionments are appropriate for purposes of this action because they are consistent with the objective to apportion halibut PSC to ensure that it is available for use in groundfish fisheries earlier in the year (e.g., the

trawl deep-water fisheries in the first season), but limits that use so that the halibut PSC limit remains to support other groundfish fisheries that occur later in the year (e.g., the trawl shallow-water fisheries in the fourth season). The limits assigned to each season reflect that halibut PSC likely to be taken during specific seasons by specific fisheries. This approach is consistent with the FMP and regulations at § 679.21(d)(5), which require that the Council and NMFS consider a number of factors in seasonally apportioning halibut PSC limits (see “GOA Annual Halibut PSC Limits, Fishery Categories, and Seasonal Apportionments” section above). Any future changes to apportionments during the harvest specifications process would be evaluated consistent with § 679.21(d)(5). The following sections use 2014 as the first year of implementation of halibut PSC sideboard limit reductions.

*A. Amendment 80 Halibut PSC Sideboard Limit*

Table 8 provides estimates of the proposed annual, fishery category, and seasonal halibut PSC sideboard limit reductions for the Amendment 80 sector. The phased-in 15-percent reduction in the deep-water fishery would result in a 61 mt annual reduction in the halibut PSC sideboard limit, from 418 mt in 2013, to 357 mt in 2016 and each year thereafter. The same reduction in the shallow-water fishery sideboard limits would result in a 20 mt annual reduction in the halibut PSC sideboard limit, from 137 mt in 2013, to 117 mt in 2016 and each year thereafter.

TABLE 8—PROPOSED HALIBUT PSC SIDEBOARD LIMITS FOR THE AMENDMENT 80 SECTOR

Amendment 80 sideboard limits	Total sideboard limit	1st season January 20 to April 1	2nd season April 1 to July 1	3rd season July 1 to September 1	4th season September 1 to October 1	5th season October 1 through December 31
Deep-water species fishery:						
2013 (Status Quo) ....	418	23	214	104	3	74
2014 (7% Reduction)	387	21	198	96	3	69
2015 (12% Reduction) .....	368	20	189	92	2	65
2016 and each year thereafter .....						
(15% Reduction) .....	357	20	183	89	2	63
Shallow-water species fishery:						
2013 (Status Quo) ....	137	10	38	29	15	45
2014 (7% Reduction)	127	9	35	27	14	42
2015 (12% Reduction) .....	120	8	33	26	13	40
2016 and each year thereafter (15% Reduction) .....	117	8	32	25	13	39

Amendment 80 vessels subject to the halibut PSC sideboard limits are most active in the deep-water fishery, where they primarily fish for arrowtooth flounder, rex sole, and rockfish. The third season has the largest number of participating Amendment 80 vessels, because that is the season most vessels fish in the rockfish fishery. Participation in the shallow-water fisheries by Amendment 80 vessels is much smaller, with only one to three vessels targeting these fisheries. Historical data indicates that only during the third season of the 2008 deep-water species fishery did halibut PSC sideboard limit use exceed 89 mt, which, according to Table 8, is the amount available under the 15-percent proposed reduction of the halibut PSC limit. That year was the first year of the Amendment 80 Program and the most active year for

Amendment 80 vessels in the GOA. The Amendment 80 sector is expected to have a sufficient deep-water fishery halibut PSC limit to harvest rockfish in the third season. Under this proposed action, the decision of when to fish for groundfish under the halibut PSC limit remains with the Amendment 80 sector as it continues to monitor its halibut PSC under its existing cooperative agreements.

*B. Rockfish Program Catcher/Processor Opt-Out Sideboard Limits*

Table 9 shows the proposed July Rockfish Program catcher/processor halibut PSC sideboard limit reductions for those catcher/processors that choose to opt-out of participating in a Rockfish Program cooperative. These sideboard limits are separate and distinct from the Rockfish Program halibut PSC limit

apportionment of 191.4 mt. The proposed phased-in 15-percent reduction would result in a 7 mt reduction for the deep-water fishery Rockfish Program catcher/processor opt-out halibut PSC sideboard limit, from 50 mt in 2013, to 43 mt in 2016 and each year thereafter. The shallow-water fishery Rockfish Program catcher/processor opt-out halibut PSC sideboard limit would remain at 2 mt during the 3 years of phased-in reductions. The reason that the shallow-water fishery PSC sideboard limit would not change is due to the fact that regulations establish the sideboard limit as 0.1 percent of the annual trawl halibut PSC limit (see regulations at § 679.84(e)). Once a 15-percent reduction is applied the resulting amount does not change due to rounding to the nearest metric ton.

TABLE 9—PROPOSED ROCKFISH PROGRAM CATCHER/PROCESSOR HALIBUT PSC SIDEBOARD LIMITS FOR JULY  
[Values are in metric tons]

Rockfish sideboard limits	July sideboard limits	
	Deep-water species fishery	Shallow-water species fishery
2013 (Status Quo) .....	50	2
2014 (7% Reduction) .....	46	2
2015 (12% Reduction) .....	44	2
2016 and each year thereafter (15% Reduction) .....	43	2

The Council and NMFS believe that these halibut PSC limit reductions minimize halibut bycatch to the extent practicable taken by catcher/processors choosing to opt-out of participating in a Rockfish Program cooperative. Any reduction from the current 50 mt sideboard limit for the Rockfish Program catcher/processor opt-out halibut PSC sideboard limit in the deep-water fishery will likely constrain the catcher/processors subject to the sideboard limit. During 2007, 2008, and 2009, halibut PSC by the catcher/processors in the Central GOA Rockfish Program would have exceeded the 50 mt halibut PSC sideboard limit. Given that the halibut PSC for the deep-water fishery exceeded the status quo halibut PSC sideboard limit in those three years, there is a high likelihood that the deep-water fishery would be constrained by the reduced halibut PSC sideboard limit

during July, particularly as the halibut PSC sideboard limit is reduced. However, in more recent years the Rockfish Program halibut PSC sideboard limits have not been exceeded, as catcher/processors that have opted-out of joining a Rockfish Program cooperative have either changed their fishing practices or decreased their participation in the fisheries subject to these halibut PSC sideboard limits. The fleet's altered fishing practices and improved communications about halibut bycatch among vessels and managing companies have resulted in decreases in halibut bycatch.

*C. Non-Exempt AFA Catcher Vessel Halibut PSC Sideboard Limits*

The proposed 15-percent reduction to the trawl halibut PSC limit would proportionately reduce the halibut PSC sideboard limits established for non-

exempt AFA catcher vessels during the annual harvest specifications process. Table 10 shows the proposed non-exempt AFA catcher vessel halibut PSC sideboard limit reductions. The total reduction, once applied to the deep-water fishery, would result in an 8 mt AFA halibut PSC sideboard limit reduction, from 56 mt in 2013, to 48 mt in 2016 and each year thereafter. The same 15-percent halibut PSC limit reduction applied to the shallow-water fishery would result in a 45 mt AFA halibut PSC sideboard limit reduction, from 306 mt in 2013, to 261 mt in 2016 and each year thereafter. The 15-percent halibut PSC limit reduction applied to the fifth season (undesignated by species fishery) would decrease 10 mt, from 62 mt in 2013, to 52 mt in 2016 and each year thereafter.

TABLE 10—NON-EXEMPT AFA CATCHER VESSEL HALIBUT PSC SIDEBOARD LIMITS

Non-exempt AFA catcher vessel sideboard limits	Total sideboard	1st season January 20 to April 1	2nd season April 1 to July 1	3rd season July 1 to September 1	4th season September 1 to October 1	5th season October 1 through December 31
<b>Deep-water species fishery:</b>						
2013 (Status Quo) ....	56	7	21	28	0	.....
2014 (7% Reduction) .....	50	6	19	25	0	.....
2015 (12% Reduction) .....	49	6	18	25	0	.....
2016 and each year thereafter (15% Reduction) .....	48	6	18	24	0	.....
<b>Shallow-water species fishery:</b>						
2013 (Status quo) .....	306	153	34	68	51	.....
2014 (7% Reduction) .....	282	141	31	63	47	.....
2015 (12% Reduction) .....	270	135	30	60	45	.....
2016 and each year thereafter (15% Reduction) .....	261	130	29	58	44	.....
<b>Undesignated by species fishery:</b>						
2013 (Status quo) .....	62	.....	.....	.....	.....	62
2014 (7% Reduction) .....	57	.....	.....	.....	.....	57
2015 (12% Reduction) .....	54	.....	.....	.....	.....	54
2016 and each year thereafter (15% Reduction) .....	52	.....	.....	.....	.....	52

In recent years, non-exempt AFA catcher vessels have been the most active in the shallow-water fishery, with up to 10 vessels participating, particularly in the first, third, and fourth seasons. Participation in the deep-water fishery is more limited, with only two vessels targeting these fisheries in recent years. Only the deep-water fishery exceeded a current seasonal sideboard limit; this happened three times from 2003 through April 2012. For this reason, the proposed halibut PSC sideboard limit reductions are expected to minimally constrain the non-exempt AFA catcher vessels if current fishing practices continue. The reductions would still allow the vessels subject to these halibut PSC sideboard limits to continue to fish, rather than be subject to fishery closures due to reaching the decreased halibut PSC limits proposed by this action. Most of the participation in the shallow-water fishery occurs in the pollock and Pacific cod fisheries. The pollock fishery has relatively low halibut PSC use compared to other shallow-water fisheries. A large amount of the halibut PSC limit is apportioned to seasons when Pacific cod target fishery apportionments are issued, which attempts to match potential halibut bycatch needs with the amount of Pacific cod available. In addition, given that NMFS is authorized to roll

over unused halibut PSC sideboard limits for the non-exempt AFA catcher vessel from season to season, the proposed reductions appear to pose little constraint for these deep-water or shallow-water fisheries. Thus, even with the application of the maximum percent reduction considered as part of this action (15 percent), the corresponding reductions to the non-exempt AFA halibut PSC sideboard limits would still allow the vessels subject to these sideboard limits to operate in the deep-water and shallow-water fisheries.

*Action 4: Adjusting the Accounting for Halibut PSC Sideboard Limits for Amendment 80 Vessels, and Halibut PSC Apportionments Used by Trawl Vessels From May 15 Through June 30*

This proposed action also includes two management measures that are intended to provide relief to trawl sectors that are constrained by current regulatory restrictions associated with halibut PSC sideboard limits and the segregation of trawl halibut PSC apportionments between the deep-water and shallow-water fisheries. These measures would (1) allow the Amendment 80 sector to roll over unused halibut PSC sideboard limits from one season to the next season, and (2) allow available trawl halibut PSC limit apportionments in the second

season deep-water and shallow-water fisheries to be combined and made available for use in either fishery from May 15 through June 30. These management measures are meant to help maintain groundfish harvest while minimizing halibut bycatch by these sectors to the extent practicable. They also are meant to provide additional flexibility as an incentive to participate in fisheries at times of the year that may have lower halibut PSC rates relative to other times of the year. Both proposed measures are described in detail below.

*A. Allow the Amendment 80 Sector To Roll Over Unused Halibut PSC Sideboard Limits From One Season to the Next Season*

This management measure would allow the Amendment 80 sector to roll over unused halibut PSC sideboard limits from one season to the next season so that the Amendment 80 sector could maximize their groundfish catch by using their reduced halibut PSC sideboard limits more efficiently. Non-exempt AFA catcher vessels, Central GOA Rockfish Program vessels, and vessels not operating under sideboard limits already have this flexibility. Currently, NMFS monitors halibut PSC by species fishery and seasons. Regulations at § 679.92(b)(2) prevent Amendment 80 vessels from using more

halibut PSC sideboard limit than is available in each deep-water or shallow-water fishery and season. If the Amendment 80 deep-water or shallow-water seasonal halibut PSC sideboard limit is reached, then all directed fishing for all species in that fishery close in the GOA for that season. If an Amendment 80 seasonal halibut PSC sideboard limit is exceeded then the amount over the limit is deducted from the next season's halibut PSC sideboard limit. NMFS reopens a species fishery in the following season with the halibut PSC sideboard limit applicable for that season.

Allowing the Amendment 80 sector to roll over unused halibut PSC sideboard limits from one season to the next

season may allow for an increased availability of halibut PSC sideboard limits in some seasons. Any unused seasonal deep-water or shallow-water fishery halibut PSC sideboard limit available to roll over to the next season would remain in the same fishery category to which the limit was originally assigned during the harvest specifications process. This would preclude such roll overs from affecting the overall halibut PSC limit seasonal apportionments that are established for the GOA trawl sector as whole.

Table 11 uses data that was presented in the Analysis from the 2009 through 2010 fishing years to provide an example of how this measure would have been applied to the Amendment 80

sector fisheries in those years. Table 11 indicates that 132 mt of deep-water fishery and 86 mt of shallow-water fishery halibut PSC sideboard limits would have been available to roll over during the 2010 fishing year under this proposed option. However, the amount of the sideboard limit available to roll over from season to season in future years would be reduced under this proposed rule with the proposed phase-in of halibut PSC limit reductions. Under the 15-percent halibut PSC limit reduction proposed in this action, the amount of halibut PSC sideboard limits established for the Amendment 80 sector that would have been available for roll over in 2010 decreases from 132 mt to 112 mt for the deep-water fishery.

TABLE 11—AMENDMENT 80 HALIBUT PSC SIDEBOARD LIMIT (mt) THAT WOULD HAVE BEEN AVAILABLE TO ROLL OVER TO THE NEXT SEASON UNDER THIS PROPOSED ACTION DURING THE 2009 AND 2010 FISHING YEARS

	Total sideboard available to roll over	1st season January 20 to April 1	2nd season April 1 to July 1	3rd season* July 1 to September 1	4th season September 1 to October 1	5th season October 1 through December 31
Deep-water fishery		2010				
Status Quo .....	132	13	52	64	3	N/A
7% Reduction .....	123	12	48	60	3	N/A
12% Reduction .....	116	11	46	57	3	N/A
15% Reduction .....	112	11	44	55	3	N/A
Shallow-water fishery		2010				
Status Quo .....	86	9	33	29	15	N/A
7% Reduction .....	80	8	30	27	14	N/A
12% Reduction .....	75	8	29	26	13	N/A
15% Reduction .....	73	8	28	25	13	N/A
Deep-water fishery		2009				
Status Quo .....	135	23	73	36	3	N/A
7% Reduction .....	126	21	68	34	3	N/A
12% Reduction .....	119	20	65	32	2	N/A
15% Reduction .....	115	20	62	31	2	N/A
Shallow-water fishery		2009				
Status Quo .....	64	0	20	29	14	N/A
7% Reduction .....	59	0	19	27	13	N/A
12% Reduction .....	56	0	18	25	13	N/A
15% Reduction .....	54	0	17	24	12	N/A

\* Excludes Rockfish Program halibut PSC limit.

The ability to roll over unused halibut PSC limits from one season to the next season would likely benefit the Amendment 80 sector. This management measure offers the Amendment 80 sector the ability to more efficiently use its halibut PSC sideboard limit. The inability to roll over halibut PSC limits from one season to the next season currently may create an incentive for the Amendment 80 sector to incur more halibut PSC during a given season, absent the flexibility to roll over unused limits of the sector's

halibut PSC sideboard limit apportionments to the next season. The Amendment 80 sector traditionally fishes early in the season until the entire halibut PSC limit is reached because all trawl sectors are competing with each other for groundfish while the halibut PSC limit is available, and other sectors' catch could cause the deep-water (primarily) or shallow-water halibut limit to be reached before the Amendment 80 sector reaches its halibut PSC sideboard limit. The Amendment 80 sector's current inability

to roll over unused halibut PSC, and the race to catch as much of their groundfish halibut PSC sideboard limit and non-sideboarded flatfish species as possible may create economic incentives that do not allow the best use of their halibut PSC sideboards. A rollover provision may help provide positive incentives to maximize Amendment 80 sector groundfish harvests with available halibut PSC. The Council included this management measure to the flexibility of proposed Measure 1 to provide the Amendment

80 sector with the ability to respond more efficiently to the proposed halibut PSC limit reductions in this proposed rule and other recent changes in GOA groundfish management. These changes include the regulations implementing Amendment 83 to establish GOA Pacific cod sector allocations, and the Central GOA Rockfish Program. The ability to roll over seasonal halibut PSC would provide the Amendment 80 sector with the opportunity to take advantage of available halibut PSC sideboard limits later in the year if halibut PSC is avoided in previous seasons. The Amendment 80 sector could develop methods to avoid halibut PSC or modify its fishing patterns, which could result in more target groundfish catch.

However, the flexibility to roll over halibut PSC sideboard limits to subsequent seasons does not guarantee the halibut PSC limit will be available to the Amendment 80 sector for future seasons. Under this management measure, all sectors would continue to compete for groundfish while the overall trawl halibut PSC limit is available. Use of halibut PSC by other non-Amendment 80 trawl vessels could cause the deep-water or shallow-water fisheries halibut PSC limit to be reached. This would result in a closure for all trawl gear before the Amendment 80 sector reaches its halibut PSC sideboard limit. Also, it is possible that the Amendment 80 sector could reach its halibut PSC sideboard limit early in the year, which would reduce the amount of the halibut PSC sideboard limit available to roll over to the next season.

*B. Combine Management of the Deep-Water and Shallow-Water Halibut PSC Limits From May 15 to June 30 To Allow Available Trawl Halibut PSC Limit in the Second Season Deep-Water and Shallow-Water Fisheries To Be Made Available for Use in Either Fishery Category*

This management measure would allow all GOA trawl participants to access remaining halibut PSC limits in either the deep-water fishery or shallow-water fishery during the second season from May 15 through June 30. Currently, NMFS manages the deep-water and shallow-water fishery complexes separately in the second season by closing directed fishing for the deep-water and shallow-water fishery complexes when the respective second season fishery halibut PSC limit is reached. Once a particular fishery complex is closed, vessels may not directed fish for species in their respective deep-water or shallow-water fishery complex until the third season

deep-water fishery halibut PSC limit becomes available on July 1.

Historically, the deep-water trawl fishery reached its second season halibut PSC limit in April. The shallow-water trawl fishery halibut PSC limit has remained untouched in the second season because members of the trawl sector have not targeted shallow-water complex species due to the low economic value of these species. Combining management of the deep-water and shallow-water halibut PSC limits from May 15 to June 30 would allow the trawl sector to use remaining second season halibut PSC limits in either fishery complex and would provide the trawl sector with greater opportunity to fully harvest TAC for more economically valuable species.

Under combined management of halibut PSC limits from May 15 through June 30, GOA trawl gear vessels could use halibut PSC limits that remain in the deep-water complex or shallow-water complex in either the deep-water or shallow-water fisheries. The second season would remain open under combined management as long as halibut PSC is available. Once the total second season halibut PSC limit is reached, NMFS would close all directed fishing for groundfish using trawl gear in the GOA until the third season deep-water fishery halibut PSC limit becomes available on July 1 (except Rockfish Program cooperative quota and vessels directed fishing for pollock using pelagic trawl gear, which are exempt from halibut PSC limit closure notices under existing regulations at § 679.21(d)(7)(i)). Closure notices would not be separately issued to deep-water or shallow-water fisheries, since they would be managed as a combined trawl halibut PSC limit from May 15 through June 30.

Halibut PSC sideboard limits for the Amendment 80 and AFA vessels would continue to be defined for deep-water and shallow-water fisheries in the second season. Since shallow-water flatfish is primarily targeted by catcher vessels, much of the benefit derived from this management measure would result if catcher vessels minimize their use of halibut PSC while fishing in the shallow-water fishery. For the trawl fleets to benefit from this measure it would be necessary for some amount of the shallow-water halibut PSC limit to remain in the second season. As currently allowed for other trawl sectors, if the Amendment 80 sector were allowed to roll over unused deep-water halibut PSC sideboard limit from the first season, as proposed above, then it also may benefit from this proposed change.

After the second season is complete, NMFS would re-specify halibut PSC limits for the third season, and would resume separate management of halibut PSC limits in the deep-water and shallow-water fishery complexes. NMFS would reduce the halibut PSC limit in the third season to account for any overage of the original apportionment of deep-water or shallow-water halibut PSC limits in the second season. An overage of the second season halibut PSC limit would decrease the halibut PSC limit available for the third season fisheries.

For example, the deep-water fishery could close in mid-April because it reached that fishery's second season halibut PSC apportionment. The shallow-water fishery may have 100 mt of halibut PSC limit remaining, which would be available for use by either the deep-water or shallow-water fishery beginning on May 15 under this management measure. In this case, the trawl sector could start fishing for deep-water species on May 15 and use the halibut PSC limit of 100 mt that was available from the shallow-water fishery's seasonal halibut PSC apportionment instead of waiting until July 1 for the third season deep-water fishery halibut PSC limit to become available. However, if the deep-water fishery used this extra amount, NMFS would issue an inseason action to reduce the third season deep-water fishery halibut PSC limit available on July 1 from 181 mt to 81 mt to account for the 100 mt used by that fishery during May 15 through June 30. This methodology would also apply to the shallow-water fishery's seasonal halibut PSC limit. This measure is not expected to result in closure of the third season deep-water or shallow-water fisheries based on the current halibut PSC seasonal apportionments. If there is unused second season halibut PSC limit available after June 30, then it would be rolled over to the same species fishery from which it was initially assigned (e.g., if 50 mt of halibut PSC derived from the shallow-water fishery remained after June 30, that 50 mt would be added to the amount available at the start of the third season shallow-water fishery halibut PSC limit).

The Council selected May 15 as the date to remove the deep-water and shallow-water restrictions in order to allow for a period without potential fishing effort. Historically, the second season deep-water fishery has closed during the third week in April. Delaying the re-opening of the deep-water fishery, even if some amount of the shallow-water halibut PSC limit was available for the deep-water fishery, may provide

two benefits. First, the groundfish species in the deep-water fishery could re-aggregate if they had dispersed during the beginning of the second season deep-water fishery. Second, Pacific halibut migrate to shallower waters during the spring and summer months. Thus, opening the deep-water fishery on May 15 may allow for greater groundfish catch per unit of fishing effort (i.e., increased fishing efficiency for target species), as well as potentially decreasing halibut bycatch (since there has been additional time for halibut to move into shallower waters).

The flexibility created from this management measure could potentially provide sectors with the ability to reduce halibut PSC rates by fishing at times of the year when halibut PSC rates are lower and the halibut PSC limit has not typically been available. Allowing fishing during times of lower halibut PSC rates would provide the trawl sector with greater opportunity to access groundfish TACs despite the reduction in halibut PSC limits. Also, allowing shallow-water fishery halibut PSC limits to be used in the deep-water fishery after May 15 each year during the second season should extend the deep-water fishery during that season. Increasing the overall amount of deep-water fishery halibut PSC limit available may extend fishing for arrowtooth flounder and rex sole for both catcher vessels and catcher/processors.

The Council considered but rejected an option to account for halibut PSC from May 15 through June 30 by deducting the halibut PSC from the fishery category where it was initially available. The Council rejected this option because NMFS would have been required to revise its catch accounting system, and those revisions could have resulted in substantial costs to NMFS. Measure 2 as recommended by the Council, and proposed in this rule, would not require substantial revisions to NMFS' catch accounting system to re-specify halibut PSC limits.

### Summary of Regulatory Changes

This action proposes the following changes to the existing regulatory text at 50 CFR part 679:

- Revise § 679.21, prohibited species bycatch management, to incorporate explicit annual GOA halibut PSC limits for the trawl and hook-and-line fisheries, add the incremental reduction of the annual PSC limit over a 3-year period, and provide NMFS the ability to re-specify halibut PSC limits in the second season deep-water and shallow-water species fishery categories to aggregate available halibut PSC limits for use in either fishery.

- Revise § 679.92, Amendment 80 Program halibut PSC use caps and sideboard limits, to remove restrictions on the roll over of seasonal halibut PSC sideboard limits from one season to the next season.

- Revise Table 38 to 50 CFR part 679 to incorporate in this table the seasonal halibut PSC sideboard limit roll over provisions made in § 679.92.

### Classification

Pursuant to section 304(b) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

### Initial Regulatory Flexibility Analysis

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this action, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA describes the reasons why this action is being proposed; the objectives and legal basis for the proposed rule; the number of small entities to which the proposed rule would apply; any projected reporting, recordkeeping, or other compliance requirements of the proposed rule; any overlapping, duplicative, or conflicting Federal rules; impacts of the action on small entities; and any significant alternatives to the proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act, and any other applicable statutes, and would minimize any significant adverse impacts of the proposed rule on small entities. Descriptions of the proposed action, its purpose, and the legal basis are contained earlier in this preamble and are not repeated here. A summary of the IRFA follows. A copy of the IRFA is available from NMFS (see **ADDRESSES**).

On June 20, 2013, the Small Business Administration (SBA) issued a final rule revising the small business size standards for several industries effective July 22, 2013. 78 FR 37398 (June 20, 2013). The rule increased the size standard for Finfish Fishing from \$4.0 to 19.0 million, Shellfish Fishing from \$4.0 to 5.0 million, and Other Marine Fishing from \$4.0 to 7.0 million. *Id.* at 37400 (Table 1). The new size standards were used to prepare the IRFA for this action.

### Number and Description of Small Entities Directly Regulated by the Proposed Action

The entities directly regulated by this proposed action are those entities that participate in harvesting groundfish from the Federal or parallel groundfish fisheries of the GOA with trawl gear or hook-and-line gear (excluding sablefish). These directly regulated entities include the groundfish catcher vessels and groundfish catcher/processor vessels active in the GOA. Also considered directly regulated are those entities with halibut PSC sideboard limits, which include non-exempt AFA catcher vessels that operate in AFA inshore cooperatives, catcher/processors operating in Amendment 80 cooperatives, and catcher/processors operating in Central GOA Rockfish Program cooperatives. Fishing vessels are considered small entities if their total annual gross receipts, from all their activities combined, are less than \$19.0 million. The IRFA estimates the number of harvesting vessels that are considered small entities, but these estimates may overstate the number of small entities because (1) some vessels may also be active as tender vessels in the salmon fishery, fish in areas other than Alaska and the West Coast, or generate revenue from other non-fishing sources; and (2) all affiliations are not taken into account, especially if the vessel has affiliations not tracked in available data (i.e., ownership of multiple vessel or affiliation with processors) and may be misclassified as a small entity. The Analysis for this proposed action identified an estimated 486 total vessels considered directly regulated small entities in 2012, the most recent year of available data on the size of regulated entities.

There are 65 Western Alaska communities that work through six non-profit Community Development Quota (CDQ) groups that are considered small entities for Regulatory Flexibility Act purposes. The CDQ groups' ownership of harvesting vessels that operate in the GOA means that some of the CDQ groups' activities could be directly regulated in the same manner as other small entities that own vessels harvesting groundfish in the GOA.

The AFA, Amendment 80, and Central GOA Rockfish fisheries cooperatives receive sideboard limits of halibut PSC and are therefore, directly regulated. These cooperative entities are structured to increase the joint profits to their members. In 2012, there were seven inshore AFA cooperatives, two Amendment 80 cooperatives, and two Central GOA Rockfish cooperatives that

are considered large entities for this proposed action.

**Impacts of the Action on Small Entities**

This proposed rule is meant to reduce halibut PSC mortality by decreasing halibut PSC limits available for use in the GOA groundfish fisheries. Publishing the halibut PSC limits in Federal regulation would reduce regulatory uncertainty as to what the final halibut PSC limit would be each year and may benefit small entities as they plan their annual fishing strategy. Any reductions in harvest by groundfish harvesters would impact revenue generated from the GOA groundfish fisheries. The small entities regulated under this proposed action may or may not be constrained by the halibut PSC limit and generate less revenue than under the status quo alternative, depending on the halibut PSC used in the groundfish fisheries each year. The GOA trawl and hook-and-line vessels regulated by this action would need to use their halibut PSC limits more efficiently to mitigate the impacts of this proposed action. The extent to which the regulated fleets are successful in limiting halibut PSC use in the near and longer terms will determine the constraints this proposed action has on small entities. Given variations in the amount of available groundfish resources on an annual basis, and the amount of halibut PSC that may be used harvesting these resources, the impacts of the alternatives are assessed relative to historic rates of halibut PSC use.

**Description of Significant Alternatives Considered**

The Council considered an extensive series of alternatives, options, and suboptions to reduce halibut PSC limits in the GOA, including the “no action” alternative. The RIR presents the complete set of alternatives (see ADDRESSES). Alternative 1 is Status Quo/No Action alternative, which would retain the process of changing GOA halibut PSC limits through the annual groundfish harvest specification process. Alternative 2 would amend the FMP to remove setting GOA halibut PSC limits from the annual harvest specification process and instead establish the limits in Federal regulation. Alternative 2 includes two options. Option 1, Status Quo/No Action would retain the existing 1,973 mt trawl and 300 mt hook-and-line gear halibut PSC limits provided in the final 2013 and 2014 annual harvest specifications for the GOA and place them in Federal regulation. Option 2 would revise the current GOA halibut PSC limits and write the new limits into

Federal regulation. Alternative 2, Option 2, contained a number of suboptions for the amount of halibut PSC limit reduction by trawl and the hook-and-line fisheries, and additional measures. Other significant alternatives to the proposed rule that were considered are discussed in Section 2.1.4 of the Analysis. The preferred alternative includes a suite of options and suboptions that considered a range of different halibut PSC limit reductions and modifications to halibut PSC sideboard limit management (Alternative 3).

All of the alternatives and options that were considered, other than the Status Quo, including the Council’s preferred alternative, would implement the halibut PSC limits through Federal regulation to reduce uncertainty about the final annual halibut PSC limit, which may benefit small entities. Based on the best available scientific data and information, none of the alternatives to the preferred alternative appear to have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and other applicable statutes (as reflected in the proposed action), while minimizing any significant adverse economic impact on small entities beyond those achieved under the proposed action. The proposed action would minimize bycatch to the extent practicable while providing mechanisms to reduce the impacts on small entities in the GOA groundfish fisheries by phasing-in reductions to these halibut PSC limit reduction measures over several years and establishing other measures described in this proposed rule to ensure more efficient use of the available halibut PSC limits.

**Recordkeeping and Recording Requirements**

This action does not modify recordkeeping or reporting requirements. Federal Rules that may Duplicate, Overlap, or Conflict with the Proposed Action.

The Analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the proposed action.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: September 9, 2013.

**Alan D. Risenhoover,**

*Director, Office of Sustainable Fisheries, performing the functions and duties of the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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

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

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

**Authority:** 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, 3631 *et seq.*; and Pub. L. 108–447.

■ 2. In § 679.21,

■ a. Remove paragraph (d)(2);

■ b. Redesignate paragraphs according to the following table;

Redesignate paragraph	As paragraph
(d)(4)	(d)(2)
(d)(5)	(d)(4)
(d)(6)	(d)(5)
(d)(7)	(d)(6)
(d)(8)	(d)(7)

■ c. Revise newly redesignated paragraphs (d)(2) (d)(4)(iii)(C) and (d)(6)(ii);

■ d. Revise paragraphs (d)(1), (d)(3) heading, (d)(3)(i), (d)(3)(ii); and

■ e. Add paragraph (d)(4)(iii)(D) to read as follows:

**§ 679.21 Prohibited species bycatch management.**

\* \* \* \* \*

(d) \* \* \*

(1) *Notification and public comment*—(i) *Proposed and final apportionments.* NMFS will publish in the **Federal Register** proposed and final apportionments of the halibut PSC limits in paragraphs (d)(2) and (3) of this section in the notification required under § 679.20.

(ii) *Modification of apportionments.* NMFS, by notification in the **Federal Register**, may change the halibut PSC apportionments during the year for which they were specified, based on new information of the types set forth in this paragraph (d).

(iii) *Public comment.* NMFS will accept public comment on the proposed halibut PSC apportionments for a period specified in the notice of proposed halibut PSC apportionments published in the **Federal Register**. NMFS will consider comments received on proposed halibut PSC apportionments and, after consultation with the Council, will publish notification in the **Federal**

**Register** specifying the final halibut PSC apportionments.

(2) *Hook-and-line gear and pot gear annual halibut PSC limit.* (i) The annual total PSC limit of halibut caught while conducting any hook-and-line gear fishery for groundfish in the GOA is an amount of halibut equivalent to the amount of halibut mortality established for each of the fishery categories in paragraphs (d)(2)(i)(A) and (B) of this section. The notification at paragraph (d)(1) of this section also may specify a halibut PSC limit for the pot gear fisheries.

(A) *Demersal shelf rockfish, Southeast Outside (SEO) District.* The halibut PSC limit in the demersal shelf rockfish fishery in the SEO District is 9 mt.

(B) *Other hook-and-line fishery.* The halibut PSC limit in the other hook-and-

line gear fishery is established according to the provisions of paragraphs (d)(2)(iii) and (d)(2)(iv) of this section.

(ii) *Hook-and-line fishery categories.* For purposes of apportioning the hook-and-line halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those GOA groundfish species for which a TAC has been specified under § 679.20.

(A) *Demersal shelf rockfish, SEO District.* Fishing with hook-and-line gear in the SEO District of the Eastern GOA regulatory area during any weekly reporting period that results in a retained catch of demersal shelf rockfish that is greater than the retained amount of any other fishery category defined under this paragraph (d)(2)(ii).

(B) *Other hook-and-line fishery.* Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of groundfish and is not a demersal shelf rockfish fishery defined under paragraph (d)(2)(ii)(A) of this section.

(iii) Apportionment of the GOA halibut PSC limit among other hook-and-line catcher vessels and catcher/processors.

(A) Catcher vessels using hook-and-line gear in the other hook-and-line fishery will be apportioned part of the GOA halibut PSC limit in proportion to the total Western and Central GOA Pacific cod allocations, where X is equal to annual TAC, as follows:

$$290 \text{ mt} * \frac{(1.4\%(X_{WGOA}) + 21.3\%(X_{CGOA}))}{((19.8\% + 1.4\%)(X_{WGOA}) + ((5.1\% + 21.3\%)(X_{CGOA}))}$$

(B) Catcher/processors using hook-and-line gear in the other hook-and-line fishery will be apportioned part of the

GOA halibut PSC limit in proportion to the total Western and Central GOA

Pacific cod allocations, where X is equal to annual TAC, as follows:

$$290 \text{ mt} * \frac{(19.8\%(X_{WGOA}) + 5.1\%(X_{CGOA}))}{((19.8\% + 1.4\%)(X_{WGOA}) + ((5.1\% + 21.3\%)(X_{CGOA}))}$$

(C) No later than November 1, any halibut PSC limit allocated under paragraph (d)(2)(ii)(B) of this section not projected by the Regional Administrator to be used by one of the hook-and-line

sectors during the remainder of the fishing year will be made available to the other sector.

(iv) *Other hook-and-line fishery annual PSC limit reductions.* The

annual halibut PSC limits established for the other hook-and-line fishery under paragraph (d)(2)(iii) of this section are reduced, as follows:

Vessel category	Annual PSC limit percent reduction from the annual halibut PSC limit established under paragraph (d)(2)(iii) of this section (percent)	Effective years
(A) Catcher vessel .....	7 12 15	2014. 2015. 2016 and each year thereafter.
(B) Catcher/processor .....	7	2014 and each year thereafter.

(3) *Trawl gear annual halibut PSC limit.* (i) The annual total PSC limit of halibut caught while conducting any

trawl gear fishery for groundfish in the GOA is an amount of halibut equivalent

to 1,973 mt of halibut mortality. This amount is reduced as follows:

Percent reduction from 1,973 mt	Annual trawl gear PSC limit (mt) <sup>1</sup>	Effective years
7 .....	1,848	2014.
12 .....	1,759	2015.

Percent reduction from 1,973 mt	Annual trawl gear PSC limit (mt) <sup>1</sup>	Effective years
15 .....	1,705	2016 and each year thereafter.

<sup>1</sup> This amount maintains the 191 mt annual allocation to the Rockfish Program (see Table 28d to this part) from the 1,973 mt halibut PSC limit, while reducing the remainder of the annual trawl gear halibut PSC limit by the percentage listed in the first column.

(ii) *PSC allowance.* The halibut PSC limit specified for vessels using trawl gear may be further apportioned as PSC allowances to the fishery categories listed in paragraph (d)(3)(iii) of this section, based on each category's proportional share of the anticipated halibut PSC mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all PSC allowances will equal the halibut PSC limit established under paragraph (d)(3)(i) of this section.

(4) \* \* \*  
(iii) \* \* \*

(C) The amount of unused halibut PSC not reapportioned under the provisions described in § 679.21(d)(4)(iii)(B) will not be available for use as halibut PSC by any person for the remainder of that calendar year.

(D) *Combined management of trawl halibut PSC limits from May 15 through June 30.* NMFS will combine management of available trawl halibut PSC limits in the second season deep-water and shallow-water species fishery categories for use in either fishery from May 15 through June 30 during the

current fishery year. Halibut PSC sideboard limits for the Amendment 80 and AFA sectors will continue to be defined as deep-water and shallow-water species fisheries from May 15 through June 30. NMFS will reapportion the halibut PSC limit between the deep-water and shallow-water species fisheries after June 30 to account for actual halibut PSC use by each fishery category during May 15 through June 30. The Regional Administrator will issue a **Federal Register** notice to reapportion the amounts of trawl halibut PSC to each species fishery category.

(6) \* \* \*

(ii) *Hook-and-line fisheries.* If, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the three hook-and-line gear and operational type fishery categories listed under paragraph (d)(2) of this section will catch the halibut PSC allowance, or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification in the **Federal Register** closing the entire GOA or the applicable

regulatory area, district, or operation type to directed fishing with hook-and-line gear for each species and/or species group that composes that fishing category.

\* \* \* \* \*

■ 3. In § 679.92, revise paragraph (b)(2) to read as follows:

**§ 679.92 Amendment 80 Program use caps and sideboard limits.**

\* \* \* \* \*

(b) \* \* \*

(2) *GOA halibut PSC sideboard limits.* All Amendment 80 vessels, other than the fishing vessel GOLDEN FLEECE as specified in paragraph (d) of this section, may not use halibut PSC in the fishery categories and management areas, greater than the amounts specified in Table 38 to this part during January 1 through December 31 of each year. Any residual amount of a seasonal sideboard halibut PSC limit may carry forward to the next season limit. This restriction on halibut PSC usage does not apply to the following two exceptions:

\* \* \* \* \*

■ 4. Revise Table 38 to 50 CFR part 679 to read as follows:

TABLE 38 TO PART 679—GOA AMENDMENT 80 SIDEBOARD LIMIT FOR HALIBUT PSC FOR THE AMENDMENT 80 SECTOR

In the . . .	The maximum percentage of the total GOA halibut PSC limit that may be used by all Amendment 80 qualified vessels subject to the halibut PSC sideboard limit as those seasons <sup>1</sup> are established in the annual harvest specifications is . . .				
	Season 1 (percent)	Season 2 (percent)	Season 3 (percent)	Season 4 (percent)	Season 5 (percent)
Shallow-water species fishery as defined in § 679.21(d)(3)(iii)(A) in the GOA or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season .....	0.48	1.89	1.46	0.74	2.27
Deep-water species fishery as defined in § 679.21(d)(3)(iii)(B) in the GOA or adjacent waters open by the State of Alaska for which it adopts a Federal fishing season .....	1.15	10.72	5.21	0.14	3.71

<sup>1</sup> Any residual amount of a seasonal sideboard halibut PSC limit may carry forward to the next season limit (see § 679.92(b)(2)).