

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 150817730–5730–01]

RIN 0648–BF29

**Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Management Area; American Fisheries Act; Amendment 111**

**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 111 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The proposed rule would reduce bycatch limits, also known as prohibited species catch (PSC) limits, for Pacific halibut in the Bering Sea and Aleutian Islands (BSAI) groundfish fisheries by specific amounts in four groundfish sectors: The Amendment 80 sector (non-pollock trawl catcher/processors); the BSAI trawl limited access sector (all non-Amendment 80 trawl fishery participants); the non-trawl sector (primarily hook-and-line catcher/processors); and the Western Alaska Community Development Quota Program (CDQ Program, also referred to as the CDQ sector). This action is necessary to minimize halibut bycatch in the BSAI groundfish fisheries to the extent practicable and to achieve, on a continuing basis, optimum yield from the BSAI groundfish fisheries. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

**DATES:** Submit comments on or before December 16, 2015.

**ADDRESSES:** You may submit comments, identified by NOAA–NMFS–2015–0092, by any one 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-2015-0092](http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0092), click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address 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.

*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 voluntarily submitted by the commenter will be publicly accessible. NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted by mail to NMFS at the above address; emailed to [OIRA\\_submission@omb.eop.gov](mailto:OIRA_submission@omb.eop.gov); or faxed to 202–395–5806.

Electronic copies of Amendment 111 to the FMP and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Analysis) for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Mary Alice McKeen, 907–586–7228.

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**I. Authority for Action**

NMFS manages the groundfish fisheries in the Exclusive Economic Zone (EEZ) of the BSAI under the FMP. The North Pacific Fishery Management Council (Council) prepared, and the Secretary of Commerce approved, the FMP pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws. Regulations implementing the FMP appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at 50 CFR part 600.

The Council submitted Amendment 111 for review by the Secretary of Commerce. A notice of availability of Amendment 111 was published in the **Federal Register** on October 29, 2015, with comments invited through December 28, 2015. All relevant written comments received by that time, whether specifically directed to Amendment 111, or to the proposed rule, will be considered in the approval/disapproval decision on Amendment 111.

**II. Background**

Pacific halibut (*Hippoglossus stenolepis*) is fully utilized in Alaska as a target species in subsistence, personal use, recreational (sport), and commercial halibut fisheries. Halibut has significant social, cultural, and economic importance to fishery

participants and fishing communities throughout the geographical range of the resource. Halibut is also incidentally taken as bycatch in groundfish fisheries. 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).

The International Pacific Halibut Commission (IPHC) and NMFS manage Pacific halibut fisheries through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act) (16 U.S.C. 773–773k). The IPHC adopts regulations governing the target fishery for Pacific halibut under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea (Convention), signed at Ottawa, Ontario, on March 2, 1953, as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979). For the United States, regulations governing the fishery for Pacific halibut developed by the IPHC are subject to acceptance by the Secretary of State with concurrence from the Secretary of Commerce. After acceptance by the Secretary of State and the Secretary of Commerce, NMFS publishes the IPHC regulations in the **Federal Register** as annual management measures pursuant to 50 CFR 300.62. The final rule implementing IPHC regulations for 2015 published on March 17, 2015 (80 FR 13771).

Section 773c(c) of the Halibut Act 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 the halibut fishery 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.

In recent years, catch limits for the commercial halibut fishery in the BSAI have declined in response to changing halibut stock conditions while limits on the maximum amount of halibut bycatch allowed in the groundfish fisheries have remained constant. The

proposed rule would reduce halibut bycatch limits, also referred to as halibut PSC limits, in the BSAI groundfish fisheries. This proposed reduction in halibut PSC limits is consistent with the requirements of the Magnuson-Stevens Act to minimize bycatch to the extent practicable while achieving, on a continuing basis, optimum yield from the groundfish fisheries. This section of the preamble provides background on the halibut resource, halibut management, the halibut fisheries, and halibut bycatch in the groundfish fisheries in the BSAI. The following two sections describe the rationale and impacts of Amendment 111 and the proposed rule.

This preamble cites the most recent available data consistent with the Analysis prepared to support this action. The most recent data available varies depending on the specific data source. The Analysis and this preamble use (1) data through 2015 for information on commercial halibut fishery catch limits, (2) data through 2014 for information on the halibut stock and halibut PSC use, and (3) data through 2013 for information on commercial halibut harvests and revenue and groundfish fisheries harvests and revenue.

The Analysis and this preamble describe the potential impacts on the halibut stock and commercial, personal use, sport, and subsistence halibut fisheries in terms of net pounds instead of metric tons. This is a long-standing practice by the IPHC because the IPHC measures biomass and directed fishery removals in terms of net weight in pounds (*i.e.*, halibut that is headed and gutted) and not metric tons. The calculation of net pounds used by the IPHC adjusts the total weight of removals in pounds by reducing the total weight by 25 percent to calculate net weight in pounds. The Analysis uses metric tons when describing groundfish catch, halibut PSC limits, and the amount of halibut bycatch (PSC) used in the groundfish fisheries. This is consistent with a long-standing practice by NMFS.

#### A. *The Halibut Resource*

##### 1. Status of the Halibut Stock

The IPHC assesses the status of the Pacific halibut stock at a coastwide level from California to the Bering Sea. Each year, the IPHC estimates the amount of exploitable biomass. Exploitable biomass is composed of halibut that are 26 inches in length or greater (O26), the size of fish that are accessible to fishing gear used in the IPHC halibut stock survey and in the halibut fisheries.

From 2000 through 2010, exploitable biomass declined primarily as a result of decreasing size at age and smaller recruitments than those observed through the 1980s and 1990s. Since 2011, the exploitable biomass has been increasing slightly from a recent low of approximately 175 million pounds in 2011 to approximately 180 million pounds in 2015 (see Table 3–1 in Section 3.1.1.1 of the Analysis).

Annually, the IPHC also assesses female spawning biomass, another important indicator of the status of the halibut stock. Female spawning biomass is composed of female halibut of reproductive size. Generally, this includes female halibut that are O26, but a small proportion of the female spawning biomass includes female halibut less than 26 inches in length (U26). Female spawning biomass is considered an important indicator of the long-term reproductive health of the halibut resource. Since 2013, the estimated female spawning biomass appears to have stabilized near 200 million pounds. The stock assessment models used by the IPHC in 2015 project a stable or slightly increasing female spawning biomass over the next 3 years assuming current removal rates from all sources (see Table 3–4 in Section 3.1.2.1 of the Analysis).

Collectively, the current status of exploitable biomass and female spawning biomass indicate that the halibut stock is stable or potentially increasing slightly in overall abundance. Section 3.1.1 of the Analysis provides additional detail on the current and projected status of halibut exploitable biomass and female spawning biomass.

It is important to note that halibut is not a groundfish species under the FMP and therefore is not subject to the provisions of the Magnuson-Stevens Act requiring the establishment of an annual overfishing limit (OFL), an acceptable biological catch (ABC), or a total allowable catch (TAC) limit. The OFL represents a level of removals that cannot be exceeded without jeopardizing the sustainability of the stock. The ABC represents the maximum permissible harvest and is less than the OFL. The TAC represents the actual permissible catch limit. The TAC may be set equal to or less than the ABC; the TAC cannot exceed the ABC. The OFL and ABC are biologically-based harvest limits that are not to be exceeded. After the OFLs and ABCs are established, the Council recommends and NMFS implements annual TACs (see Section 3.2.3 of the FMP for a description of the process for specifying OFLs, ABCs, and TACs for groundfish fisheries in the BSAI).

Although halibut is not managed under an OFL, ABC, or TAC, the IPHC has developed policy to control removals during conditions of declining or poor stock abundance. The IPHC harvest policy includes a harvest control rule that reduces commercial harvest rates linearly if the stock is estimated to have fallen below established thresholds for female spawning biomass. These harvest control rules would severely curtail removals during times of particularly poor stock conditions. These harvest control rules have not been triggered, even during the most recent years of relatively low exploitable biomass (see Section 3.1.1.1 and Section 3.1.2.1 of the Analysis).

The best available information from the most recent halibut stock assessment indicates that the halibut female spawning biomass (SB) is estimated to be 42 percent of the equilibrium condition in the absence of fishing (SB<sub>42%</sub>). A female spawning biomass of SB<sub>42%</sub> represents a 1 out of 10 chance that the stock is below 42 percent of the equilibrium condition in the absence of fishing. Removals at this level of female spawning biomass are generally considered to represent a conservative and risk-averse level of removals in federally-managed groundfish fisheries in the BSAI off Alaska (see Section 3.1.1.1 of the Analysis). A level of SB<sub>42%</sub>, is significantly above the IPHC's harvest control rule thresholds that trigger additional restrictions on the commercial halibut fishery during times of poor stock status. IPHC's harvest control rules trigger reductions in halibut harvest rates at thresholds of SB<sub>30%</sub> and SB<sub>20%</sub>. The best available data indicate that at current levels of removals, the halibut biomass would be expected to be stable, and well above the thresholds established by the IPHC. Additional information on the anticipated impacts of the proposed rule on the status of halibut stock is provided in Sections 3.1.1.1 and 3.1.5.3 of the Analysis.

## 2. Halibut Removals

Total annual removals of halibut from all sources at the coastwide level have been low in recent years compared to historical total annual removals. Total annual halibut removals include harvests in the commercial, personal use, sport, and subsistence fisheries, as well as bycatch and wastage (*i.e.*, bycatch in the commercial halibut fishery). From 2000 through 2010, total halibut removals averaged 90 million pounds and were as high as almost 100 million pounds in 2004 and 2005. Total annual removals averaged 50 million pounds from 2011 through 2014. The

relatively low levels of total removals in recent years (*i.e.*, from 2011 through 2014) of approximately 50 million pounds correspond with declining exploitable biomass, from the late 1990s to around 2010. See Section 3.1.3 and 3.1.4 in the Analysis for additional information on halibut removals.

The commercial fisheries for halibut are the largest source of coastwide removals, accounting for an average of 62 percent (31 million pounds) of total removals from 2011 through 2014. Removals from personal use, sport and subsistence fisheries are a much smaller component of total coastwide removals, collectively averaging 16 percent of total removals from 2011 through 2014. Overall, the total amount and proportion of commercial removals has varied with exploitable biomass, increasing as exploitable biomass increases and decreasing as exploitable biomass decreases. The total amount of personal use, sport, and subsistence removals has been relatively constant since 2011, but the proportion of personal use, sport and subsistence removals has increased as the exploitable biomass and commercial removals have decreased.

Bycatch is the second largest component of total coastwide removals and averaged 19 percent of total removals from 2011 through 2014. Bycatch of halibut in groundfish fisheries averaged 9.4 million pounds coastwide from 2011 through 2014. Although bycatch represents the second largest source of halibut removals, the total tonnage of bycatch removals in recent years (*i.e.*, 2011 through 2014) is at its lowest level since 1990 (see Figure 3–11 in Section 3.1.3 and Table 3–18 in Section 3.1.4 of the Analysis). From 2011 through 2014, halibut bycatch removals ranged from a high of 10.1 million pounds in 2012 to a low of 8.9 million pounds in 2013. The majority of halibut bycatch coastwide is taken in groundfish fisheries in the Alaska EEZ, mostly in the BSAI groundfish fisheries. From 2011 through 2014, halibut bycatch in the BSAI represented on average 58 percent of the total coastwide halibut bycatch, and 10 percent of the total coastwide removals of halibut (see Table 3–10 in Section 3.1.3.3 and Table 3–18 in Section 3.1.4 of the Analysis).

## 3. Allocation of Halibut Among Fisheries

Pacific halibut is allocated among fisheries by a combination of management actions taken by the IPHC, the Council, and NMFS. The IPHC annually completes a halibut stock assessment and makes recommendations for annual

management measures for the halibut fishery within Convention waters. These annual management measures include specific regulations governing the commercial halibut fishery, including area-specific catch limits, authorized gear, and fishing season dates. In the United States, the IPHC recommendations are subject to acceptance by the Secretary of State and the Secretary of Commerce, as described above in the “Authority for Action” section of this preamble. See Section 3.1.2 of the Analysis and the 2015 annual management measures for additional information on the process for establishing commercial halibut fishery catch limits (80 FR 13771, March 17, 2015).

Although the halibut stock is assessed at a coastwide level, commercial catch limits are established for each IPHC regulatory area (Area). Area 2 is composed of Area 2A (Washington, Oregon, and California); Area 2B (British Columbia); and Area 2C (Southeast Alaska). Area 3 is composed of Area 3A (Central Gulf of Alaska); Area 3B (Western Gulf of Alaska); and Area 4 (BSAI) composed of Areas 4A, 4B, 4C, 4D and 4E. The IPHC combines Areas 4C, 4D, and 4E into Area 4CDE for purposes of establishing a commercial fishery catch limit. Areas 4A and 4C, 4D, and 4E roughly correspond to the Bering Sea Subarea defined in the FMP. Area 4B roughly corresponds to the Aleutian Islands Subarea in the FMP. Area 4CDE encompasses most of the Bering Sea Subarea in the FMP. See Figure 15 in Part 679 and Table 1–1 in Section 1.5 of the Analysis for Area maps and additional information on halibut and groundfish management areas in the BSAI.

The IPHC has developed a harvest policy and area apportionment model for determining commercial halibut fishery catch limits in all Areas. Under the harvest policy and area apportionment model, the total amount of allowable halibut harvest (called the Total Constant Exploitation Yield) is designated for each Area. The IPHC deducts all removals other than commercial fishery harvests (*i.e.*, bycatch, personal use, sport, subsistence, and wastage) that are greater than 26 inches in length (O26) from the Total Constant Exploitation Yield. The resulting amount of halibut is called the Fishery Constant Exploitation Yield. The Fishery Constant Exploitation Yield is more commonly known as the “blue line catch limit.” However, the IPHC is not required to select the blue line catch limit as the annual commercial catch limit for an Area. The IPHC has the

discretion on an annual basis to select a commercial catch limit that is greater than or less than the blue line catch limit (*i.e.*, the Fishery Constant Exploitation Yield).

The IPHC considers the blue line catch limit along with information on different levels of harvest above and below the blue line catch limit to accommodate greater flexibility when selecting commercial catch limits. The IPHC utilizes a decision table that estimates the consequences to halibut stock, fishery status, and trends from a range of commercial catch limits at, above, and below the blue line catch limit (see Table 3–4 in Section 3.1.2.2 of the Analysis). This decision table accommodates uncertainty in the stock status and allows the IPHC to weigh the risk and benefits of management choices as it sets the annual commercial catch limits. For example, the IPHC consistently considers the socioeconomic impacts of different commercial catch limits in an Area on fishery participants. In some instances, the IPHC has recommended an area-specific commercial catch limit that is greater than the blue line catch limit to prevent adverse economic impacts from reduced harvest levels for fishery participants and fishing communities dependent on the fishery.

The flexibility that the IPHC has in setting commercial catch limits is demonstrated in the difference between the commercial catch limits relative to the blue line catch limits derived from application of its harvest policy. From 2006 (the first year the IPHC adopted its harvest policy) through 2015, the IPHC coastwide commercial catch limit recommendation exceeded the combined blue line catch limits for all Areas in 7 of the 10 years; and Area-specific commercial catch limits have exceeded blue line catch limits in all Areas at least once, and for some Areas, in most years over the past 10 years (see Table 3–5 in Section 3.1.2.2 of the Analysis).

Although the IPHC has adopted commercial catch limits greater than the blue line catch limit in most years, the halibut stock has not fallen to levels that reach the harvest control rule thresholds described in the “Status of the Halibut Stock” section of this preamble. Although neither the blue line catch limit derived from the IPHC’s harvest policy, nor any commercial catch limit adopted by the IPHC is the same as an OFL, ABC, or TAC used for management of groundfish fisheries in Alaska, Section 3.1.1.1 of the Analysis notes that “in the last four years, there is no information to suggest that halibut is subject to ‘overfishing’ as that term is

commonly applied to stocks managed under the Magnuson-Stevens Act.” For a more complete description of the IPHC process for establishing commercial catch limits, see Section 3.1.2.2 of the Analysis.

Under IPHC harvest policy, the amount of bycatch (including wastage in the commercial fishery) in an Area can affect the amounts of halibut available for harvest in commercial, personal use, sport, and subsistence fisheries in future years. Bycatch includes O26 and U26 halibut. The proportion of bycatch comprised of O26 and U26 halibut varies by Area. Under the current IPHC harvest policy, halibut bycatch in an Area that is O26 is deducted from the amount of halibut available for the commercial fishery. Therefore, reductions in the amount of O26 bycatch could provide an opportunity to increase the commercial catch limits for that Area in the year following the reduction.

The amount of U26 bycatch in the groundfish fishery or U26 wastage in the commercial halibut fishery could impact future harvests in commercial halibut fisheries and in personal use, sport, and subsistence use fisheries in all Areas coastwide. This is due to the migration of U26 halibut among Areas. Although information on the migration of U26 halibut on a coastwide basis is limited, the best available information indicates that a portion of the U26 halibut in Area 4 migrate in a southward pattern through the Gulf of Alaska (Areas 3B and 3A), Southeast Alaska (Area 2C), British Columbia (Area 2B), and ultimately to the west coast of the United States (Area 2A). Therefore, reducing U26 halibut removed as bycatch in Area 4 would be expected to contribute to the exploitable biomass in various Areas as these halibut grow to a size where they can reproduce and become available for harvest in halibut fisheries in future years in Area 4 and elsewhere along the coast. Section 3.1.3.5 of the Analysis contains additional information on the proportions of halibut bycatch that are O26 and U26 by Area. Section 3.1.1.2 of the Analysis contains additional information on the distribution and migration of halibut among Areas.

#### *B. Halibut Fisheries in the BSAI*

IPHC and NMFS regulations authorize the harvest of halibut in commercial, personal use, sport and subsistence fisheries only by hook-and-line gear. In the BSAI (Area 4), halibut is harvested primarily in commercial fisheries and secondarily in personal use, subsistence, and sport fisheries. Based on recent harvest data from 2011

through 2014, the sport fishery operating out of ports in the BSAI harvests approximately 20,000 pounds in Area 4 compared to approximately 40,000 pounds of personal use and subsistence harvest from Area 4, and more than 3,000,000 pounds in the Area 4 commercial fishery. Given the limited sport harvest in Area 4 and that this action is not likely to impact the sport fishery, this preamble does not address the sport fishery in additional detail. See Sections 3.1.2 and 3.1.4 of the Analysis for additional detail on personal use, sport, subsistence, and commercial halibut harvests in Area 4.

Subsistence halibut is caught by a rural resident or a member of a federally-recognized Alaska Native tribe for direct personal or family consumption as food, sharing for personal or family consumption as food, or customary trade. Pursuant to section 773c(c) of the Halibut Act, the Council developed, and NMFS implemented, the Subsistence Halibut Program to manage subsistence harvests in Alaska. Persons fishing for subsistence halibut must obtain a Subsistence Halibut Registration Certificate. Special permits for community harvest, ceremonial, and educational purposes also are available to qualified Alaska communities and federally-recognized Alaska Native tribes. A complete description of the Subsistence Halibut Program is provided in the final rule to implement the program (68 FR 18145, April 15, 2003).

In addition to subsistence harvest, IPHC annual management measures allow halibut caught in the commercial halibut fishery that are less than the legal size limit of 32 inches to be retained for personal use in the Area 4D and 4E CDQ halibut fishery as long as the fish are not sold or bartered. The CDQ groups are required to report the amount of personal use halibut retained during the CDQ halibut fishery to the IPHC. Section 3.1.4.4 of the Analysis contains a description of the personal use fishery.

The commercial halibut fishery in the BSAI is managed under the IFQ and CDQ Programs that allocate exclusive harvest privileges. The IFQ Program was implemented in 1995 (58 FR 59375, November 9, 1993). The Council and NMFS designed the IFQ Program to end a wasteful and unsafe “race for fish,” and maintain the social and economic character of the fixed-gear fisheries and the coastal fishing communities where many of these fisheries are based. Access to the halibut and sablefish fisheries is limited to those persons holding quota share (QS). Quota shares equate to exclusive harvesting privileges

that are given effect on an annual basis through the issuance of IFQ permits. An annual IFQ permit authorizes the permit holder to harvest a specified amount of IFQ halibut or sablefish in a regulatory area.

The CDQ Program was established in 1992 and amended substantially in 2006 (57 FR 54936, November 23, 1992). Under Section 305(i)(1)(D) of the Magnuson-Stevens Act, a total of 65 villages are authorized to participate in the CDQ Program. Six CDQ groups represent these villages. CDQ groups manage and administer allocations of crab, groundfish, and halibut and use the revenue derived from the harvest of these CDQ allocations to fund economic development activities and provide employment opportunities on behalf of the villages they represent.

Section 305(i)(B) of the Magnuson-Stevens Act specifies the proportion of crab, groundfish, and halibut in the BSAI allocated to the CDQ Program. Section 305(i)(C) of the Magnuson-Stevens Act specifies the proportion of the overall CDQ Program allocations assigned to each CDQ group. Each year, NMFS publishes the specific annual allocations to each CDQ group on the Alaska Region Web site at: [http://www.alaskafisheries.noaa.gov/cdq/current\\_historical.htm](http://www.alaskafisheries.noaa.gov/cdq/current_historical.htm). The amount of halibut for commercial harvest allocated to the CDQ Program varies by halibut management area and ranges from 20 to 100 percent of the commercial catch limits assigned to Areas 4B, 4C, 4D, and 4E. See Section 3.1.4.1 and Section 4.4.6 of the Analysis for additional information on the CDQ Program.

The combined CDQ and IFQ halibut fisheries in Area 4 were harvested by, on average, approximately 330 vessels from 2008 through 2013 (see Table 4–93 in Section 4.5.2 of the Analysis). The majority of these 330 vessels participate in the CDQ halibut fishery. Most vessels participating in the CDQ halibut fishery use small vessels that make relatively small harvests of several hundred or several thousand pounds. Fewer vessels participate in the IFQ fishery, but approximately 80 percent of the overall halibut harvest in Area 4 comes from vessels participating in the IFQ fishery (see Section 4.5.1 of the Analysis for additional detail).

The CDQ and IFQ halibut fisheries provide revenue to vessel owners and crew members that harvest halibut. These fisheries also provide economic benefits to shorebased halibut processors and socioeconomic benefits to BSAI fishing communities that provide support services to the halibut harvesting and processing sectors. The Analysis estimates that halibut harvests

in the Area 4 CDQ and IFQ fisheries averaged 6.8 million pounds and generated an average of \$32 million in ex-vessel revenues annually from 2008 through 2013. Area 4 halibut harvests and ex-vessel revenues declined over this period, resulting in negative economic impacts for fishery participants and affected fishing communities.

Since 2008, the Area 4 catch limit has declined by 63 percent from the peak catch limit of 8.85 million pounds in 2008 to a low of 3.28 million pounds in 2014. The 2015 Area 4 commercial catch limit has increased slightly from the recent low in 2014 to 3.82 million pounds. In 2008, the Area 4 commercial ex-vessel value peaked at \$38 million. In 2013, Area 4 commercial ex-vessel value was at its lowest at \$18 million. The declines in commercial catch limits have been greatest in Area 4CDE. In Area 4CDE, the commercial halibut fishery catch limit declined by 67 percent from the peak catch limit of 3.89 million pounds in 2008 to a low of 1.285 million pounds in 2014 and 2015. During this period, the IPHC decided to provide additional harvest opportunity in Area 4CDE by adopting higher commercial catch limits than would have resulted if the IPHC's blue line harvest policy recommendations were actually implemented. See Section 3.1.4.1, Section 4.5, and Appendix C of the Analysis for a complete description of the Area 4 commercial halibut fishery and the fishery participants. Additional detail on the IPHC's harvest policy and catch limits is provided in Section 3.1.2.1 of the Analysis.

#### *C. Comparing Commercial Halibut Catch and Halibut Bycatch (PSC) in the Groundfish Fisheries in the BSAI*

In Area 4, the specific proportion of removals that are taken as bycatch in the groundfish fisheries or as catch in the commercial halibut fishery has shifted over time. From 1990 to 1996 (the period prior to the recent peak and decline in removals in the halibut fishery), the commercial halibut fisheries averaged 37 percent and bycatch averaged 60 percent of total halibut removals in Area 4. From 1997 to 2011 (the period of the greatest increase and subsequent decline in the total removals of halibut), the commercial halibut fishery removals increased as a portion of total removals; the commercial halibut fisheries averaged 57 percent and bycatch averaged 41 percent of total halibut removals. In more recent years, the proportion of halibut removals from the commercial halibut fishery has declined. From 2012 through 2014 (the

period of recent stability in the halibut exploitable biomass), the commercial halibut fishery averaged 41 percent and bycatch averaged 55 percent of total removals. See Figure 3–12 and Section 3.1.3 of the Analysis for additional detail.

Area 4CDE comprises most of the Bering Sea subarea and historically is the portion of Area 4 where the greatest removals of halibut from commercial fisheries and bycatch occur (see Figure 3–14 in Section 3.1.3.3 of the Analysis). From 1990 to 1996, the commercial halibut fisheries averaged 23 percent and bycatch averaged 77 percent of total halibut removals in Area 4CDE. From 1997 to 2011, commercial halibut fishery removals in Area 4CDE increased as a portion of total removals; the commercial halibut fisheries averaged 44 percent and bycatch averaged 56 percent of total halibut removals in Area 4CDE. In recent years, proportion of halibut removals from the commercial halibut fishery has declined. From 2012 through 2014, the commercial halibut fishery averaged 31 percent and bycatch averaged 68 percent of removals in Area 4CDE. See Figure 3–12 in Section 3.1.3.3 of the Analysis.

#### *D. Halibut Bycatch Management in the BSAI Groundfish Fisheries*

The Magnuson-Stevens Act authorizes the Council and NMFS to manage groundfish fisheries in the Alaska EEZ that take halibut as bycatch. The groundfish fisheries cannot be prosecuted without some level of halibut bycatch because groundfish and halibut occur in the same areas at the same times and no fishing gear or technique has been developed that can avoid all halibut bycatch. However, the Council and NMFS have taken a number of management actions over the past several decades to minimize halibut bycatch in the BSAI groundfish fisheries.

Most importantly, the Council has designated Pacific halibut and several other species (herring, salmon and steelhead, king crab, and Tanner crab) as “prohibited species” (Section 3.6.1 of the FMP). By regulation, the operator of any vessel fishing for groundfish in the BSAI must minimize the catch of prohibited species (§ 679.21(b)(2)(i)).

Although halibut is taken as bycatch by vessels using all types of gear (trawl, hook-and-line, pot, and jig gear), halibut bycatch primarily occurs in the trawl and hook-and-line groundfish fisheries. NMFS manages halibut bycatch in the BSAI by (1) establishing halibut PSC limits for trawl and non-trawl fisheries; (2) apportioning those halibut PSC

limits to groundfish sectors, fishery categories, and seasons; and (3) managing groundfish fisheries to prevent PSC from exceeding the established limits. The following sections provide additional information on the process NMFS uses to establish, apportion, and manage halibut PSC limits in the BSAI.

Consistent with National Standard 1 and National Standard 9 of the Magnuson-Stevens Act, the Council and NMFS use halibut PSC limits in the BSAI groundfish fisheries to minimize bycatch to the extent practicable while achieving, on a continuing basis, optimum yield from the groundfish fisheries. Halibut PSC limits in the groundfish fisheries provide an additional constraint on halibut PSC mortality and promote conservation of the halibut resource. With one limited exception described later in this preamble, groundfish fishing is prohibited once a halibut PSC limit has been reached for a particular sector or season. Therefore, halibut PSC limits must be set to balance the needs of fishermen, fishing communities, and U.S. consumers that depend on both halibut and groundfish resources.

#### 1. Annual Halibut Bycatch (PSC) Limits and Apportionments of PSC Limits

The total annual halibut PSC limit in the BSAI is 4,575 metric tons (mt) (10.1 million pounds). Of this amount, 3,675 mt is apportioned to trawl gear and 900 mt is apportioned to non-trawl gear as specified at § 679.21(e). Trawl gear in the BSAI groundfish fisheries includes pelagic (midwater) trawl gear and non-pelagic (bottom) trawl gear. Non-trawl gear in the BSAI groundfish fisheries includes pot, hook-and-line, and jig gear.

The halibut PSC limit for trawl gear of 3,675 mt has been unchanged since 2000 (65 FR 31105, May 16, 2000). Section 3.6.4 of the FMP and § 679.21(e) specify that the halibut PSC limit for trawl gear will be apportioned among three groundfish sectors: (1) The CDQ Program (also called the CDQ sector in the proposed rule preamble), (2) the Amendment 80 sector, and (3) the BSAI trawl limited access sector.

A portion of the BSAI halibut PSC limit for trawl gear is first apportioned for use by the CDQ sector. The CDQ sector comprises all trawl and non-trawl vessels that harvest groundfish under the CDQ Program. The CDQ sector receives its halibut PSC apportionment as a Prohibited Species Quota (PSQ) Reserve (§ 679.2). Section 3.7.4.6 of the FMP and regulations at § 679.21(e) allocate 393 mt of the BSAI halibut PSC

limit to the groundfish CDQ sector as PSQ Reserve. NMFS further apportions the halibut PSQ Reserve to each CDQ group as PSQ (§ 679.2) in proportion to the percentages specified by NMFS (71 FR 51804, August 31, 2006). PSQ serves as a halibut PSC limit for BSAI groundfish harvests by each CDQ group.

Under § 679.21(e)(3)(i)(A) and (e)(4)(i)(A), the halibut PSQ Reserve of 393 mt is deducted from the PSC limits established for both the trawl sector and the non-trawl sector: 326 mt is deducted from the trawl gear halibut PSC limit of 3,675 mt and 67 mt is deducted from the non-trawl gear halibut PSC limit of 900 mt. Sections 679.21(e)(3)(i)(A) and (e)(4)(i)(A) specify that the PSQ reserve is not further apportioned by gear or fishery or season. Therefore, the CDQ groups may use their halibut PSQ in any trawl or non-trawl gear groundfish CDQ fishery, subject to other requirements in regulation.

Following the deduction of the halibut PSQ reserve, the BSAI halibut PSC limit for trawl gear is further divided between the Amendment 80 and BSAI trawl limited access sectors as specified in Table 35 to part 679. The Amendment 80 sector is apportioned 2,325 mt. This amount is further apportioned to Amendment 80 cooperatives and the Amendment 80 limited access fishery, if any vessels elect to participate in the limited access fishery for that year. The apportionment of halibut PSC to an Amendment 80 cooperative is for exclusive use by the vessels participating in that cooperative. The method for apportioning halibut PSC between Amendment 80 cooperatives and the Amendment 80 limited access fishery is described at § 679.91(d)(2) and (3). Beginning in 2011, all participants in the Amendment 80 sector have participated in Amendment 80 cooperatives. Therefore, this preamble describes the harvesting and apportionment of halibut PSC to Amendment 80 cooperatives in greater detail.

The BSAI trawl limited access sector is assigned 875 mt of halibut PSC. This amount is further apportioned into PSC allowances among fishery categories through the annual harvest specifications process for those fishery categories in which BSAI trawl limited access fishery vessels participate. These fishery categories are (1) pollock/Atka mackerel/"other species" fishery, (2) Pacific cod fishery, (3) rockfish fishery, and the (4) yellowfin sole fishery (80 FR 11919, March 5, 2015).

The Amendment 80 Program established provisions that do not make

the full amount of the halibut PSC limit available to the trawl sector (see Table 35 to part 679). A portion of the PSC limit is left "in the water" and is not available for use as halibut PSC in the groundfish fisheries. Since 2013, the annual amount of halibut PSC limit left in the water has been 150 mt.

Additional description of the impacts of implementation of the Amendment 80 Program on BSAI halibut PSC apportionment is provided in the following "Overview of the BSAI Groundfish Sectors" section of the preamble.

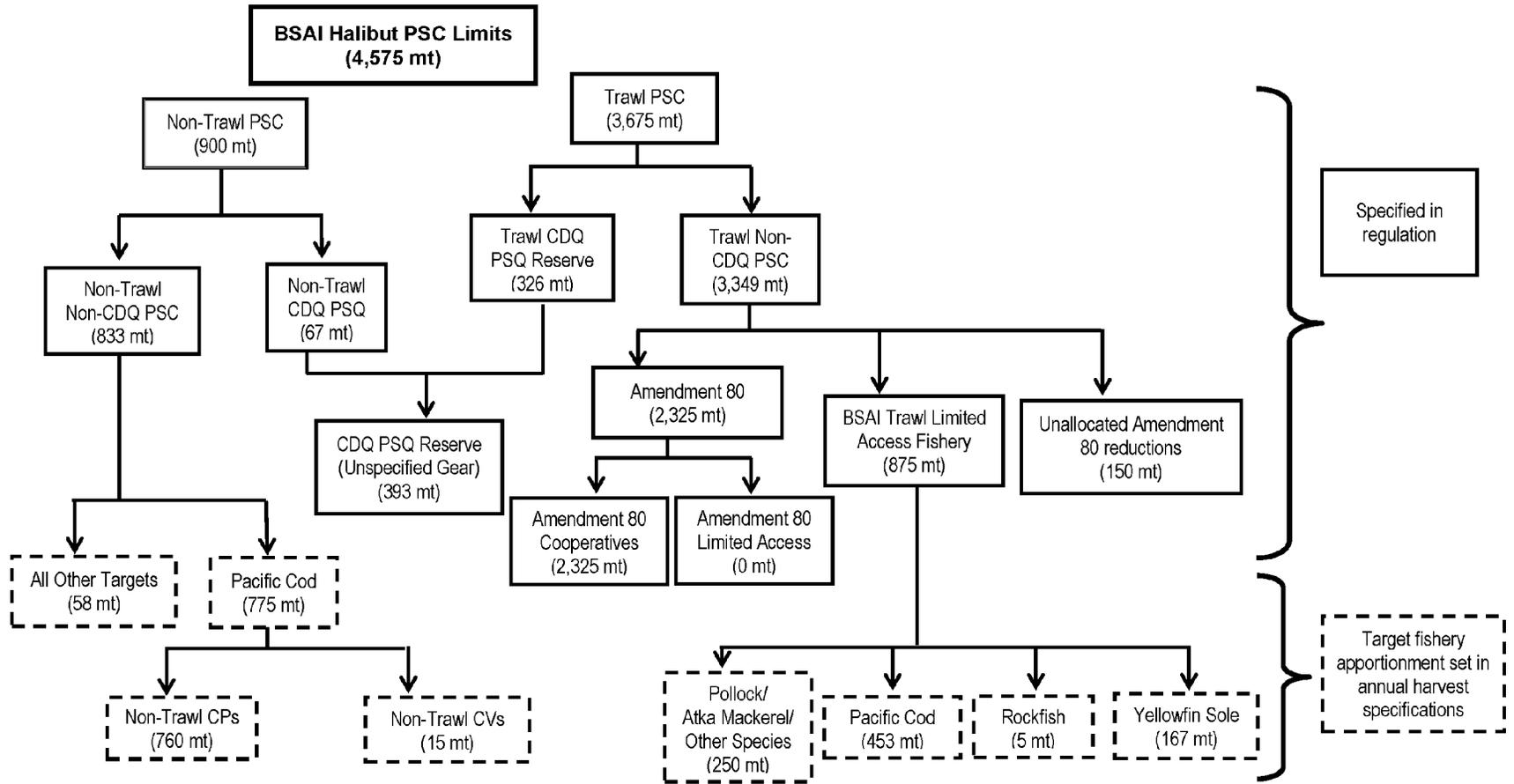
The BSAI halibut PSC limit for non-trawl gear of 900 mt has been in effect since 1993 (58 FR 14524, March 18, 1993). After assigning 67 mt for use by the CDQ sector as PSQ Reserve as described above, the remaining 833 mt of the non-trawl limit is further apportioned into PSC allowances among fishery categories through the annual harvest specifications process (80 FR 11919, March 5, 2015). These fishery categories are specified in § 679.21(e)(4)(ii) as: (1) Pacific cod hook-and-line catcher vessel fishery, (2) Pacific cod hook-and-line catcher/processor fishery, (3) sablefish hook-and-line fishery, (4) groundfish jig gear fishery, (5) groundfish pot gear fishery, and (6) other non-trawl fisheries.

Section 3.6 of the FMP authorizes the Council to exempt specific gear types from the non-trawl 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 Council and NMFS have exempted these gear types from halibut PSC limits, given the limited amount of halibut bycatch that is known to occur by pot and jig gear compared to the total halibut PSC use by other gear types. The sablefish IFQ hook-and-line fishery has not been included based on limited halibut PSC use, particularly in the BSAI. Additional rationale for exempting these gear types from halibut PSC limits is contained in the final 2015 and 2016 harvest specifications (80 FR 11919, March 5, 2015).

Figure 1 shows the process for establishing BSAI annual halibut PSC limits for each groundfish sector and the associated halibut PSC limits established for 2015 (see Section 2.1 of the Analysis for additional information).

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Figure 1. Flow Chart of the BSAI Halibut PSC Limit Apportionment Process and the Established Limits for 2015



## BILLING CODE 3510-22-C

## 2. Overview of the BSAI Groundfish Sectors

## a. Amendment 80 Sector

The Amendment 80 sector comprises trawl catcher/processors in the BSAI active in groundfish fisheries other than Bering Sea pollock (*i.e.*, the head-and-gut fleet or Amendment 80 vessels). The Amendment 80 species are the following six species: BSAI Atka mackerel, Aleutian Islands Pacific ocean perch, BSAI flathead sole, BSAI Pacific cod, BSAI rock sole, and BSAI yellowfin sole (§ 679.2). The Amendment 80 Program allocates a portion of the TACs of the Amendment 80 species between the Amendment 80 Program and other trawl fishery participants (72 FR 52668, September 14, 2007). The Amendment 80 Program also allocates crab and halibut PSC limits to constrain bycatch of these species while Amendment 80 vessels harvest groundfish. Fishing under the Amendment 80 Program began in 2008.

The Amendment 80 Program allocated QS for Amendment 80 species based on the historical catch of these species by Amendment 80 vessels. The Amendment 80 Program allows and facilitates the formation of Amendment 80 cooperatives among QS holders who receive an exclusive harvest privilege. This exclusive harvest privilege allows Amendment 80 cooperative participants to collaboratively manage their fishing operations and more efficiently harvest groundfish and PSC allocations.

The Amendment 80 sector can be divided between vessels that focus primarily on flatfish (*i.e.*, Alaska plaice, arrowtooth flounder, flathead sole, rock sole, and yellowfin sole) and those vessels that focus on Atka mackerel. In 2013, eleven Amendment 80 vessels focused on flatfish targets. Eight vessels focused on targeting Atka mackerel. The flatfish-focused vessels have higher rates of halibut bycatch than the Atka mackerel vessels. Section 4.4.2 of the Analysis provides detailed information on Amendment 80 sector participants, harvests, and revenues in the BSAI groundfish fisheries.

Annually, each Amendment 80 QS holder elects to participate either in a cooperative or the limited access fishery. Participants in the limited access fishery do not receive an exclusive harvest privilege for a portion of the TACs allocated to the Amendment 80 Program. Beginning in 2011, all QS holders have participated in one of two Amendment 80 cooperatives. For additional detail see Amendment 80 Cooperative Reports available on the NMFS Alaska Region

Web site, <http://alaskafisheries.noaa.gov/sustainablefisheries/amds/80/default.htm>.

As specified in Section 3.7.5.2.1 of the FMP and at § 679.91, NMFS annually establishes a halibut PSC limit of 2,325 mt for the Amendment 80 sector. This halibut PSC limit is apportioned between Amendment 80 cooperatives and the limited access fishery according to § 679.91. Amendment 80 cooperatives are responsible for coordinating fishing activities to ensure the cooperative halibut PSC allocation is not exceeded. Section 679.91(h)(3)(xvi) prohibit each Amendment 80 cooperative from using halibut PSC in excess of the amount specified on its annual Amendment 80 Cooperative Quota permit. The regulations further specify that each member of the Amendment 80 cooperative is jointly and severally liable for any violations of the Amendment 80 Program regulations while fishing under the authority of an Amendment 80 Cooperative Quota permit.

In a year when there are vessels participating in the Amendment 80 limited access fishery, NMFS apportions the halibut PSC limit for the Amendment 80 limited access fishery into PSC allowances for the following six trawl fishery categories in which the vessels could participate: (1) Yellowfin sole fishery, (2) rock sole/flathead sole/“other flatfish” fishery, (3) Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish fishery, (4) rockfish fishery, (5) Pacific cod fishery, and (6) pollock/Atka mackerel/“other species” fishery, which includes the midwater pollock fishery (see § 679.21(e)(3)(i)(B), (e)(3)(ii)(C), and (e)(3)(iv)).

NMFS manages the Amendment 80 limited access fishery halibut PSC allowances because participants in the Amendment 80 limited access fishery do not have exclusive privileges to use a specific amount of halibut PSC. To manage halibut PSC, NMFS monitors participation and PSC use in the Amendment 80 limited access fishery categories. Except for the pollock/Atka mackerel/“other species” fishery, NMFS has the authority to close a trawl fishery category in the Amendment 80 limited access fishery if NMFS concludes that the fishery category will, or has, exceeded its halibut PSC allowance. A halibut PSC allowance is enforced through the prohibition against conducting any fishing contrary to notification of inseason action, closure, or adjustment (§ 679.7(a)(2)). The regulations establishing the exception for the pollock/Atka mackerel/“other species” fishery are explained below in

the section “BSAI Trawl Limited Access Sector.”

Section 2.2.1 of the Analysis and the final rule implementing the Amendment 80 Program provide more detailed information on the process NMFS uses to assign Amendment 80 species and halibut PSC to each Amendment 80 cooperative and the Amendment 80 limited access fishery (72 FR 52668, September 14, 2007). The allocations of Amendment 80 species TACs and apportionments of halibut PSC to each of the Amendment 80 cooperatives are provided in the final 2014 and 2015 harvest specifications for the BSAI groundfish fisheries (80 FR 11919, March 05, 2015).

The Amendment 80 groundfish fisheries provide revenue to Amendment 80 vessel owners and crew members that harvest and process groundfish. In addition, the fisheries provide socioeconomic benefits to fishing communities that provide support services for Amendment 80 vessel operations. Amendment 80 groundfish harvests in the BSAI averaged 328,000 mt and generated \$325 million in wholesale revenues annually from 2008 through 2013. Three groundfish species provided over three-quarters of the wholesale revenue for the Amendment 80 fleet from 2008 through 2013: yellowfin sole (38 percent of total revenue), Atka mackerel (20 percent), and rock sole (19 percent).

## b. BSAI Trawl Limited Access Sector

The BSAI trawl limited access sector comprises all the trawl vessels in the BSAI except Amendment 80 catcher/processors. From 2008 to 2013, 141 vessels participated in the BSAI trawl limited access sector: 99 American Fisheries Act (AFA) catcher vessels that primarily target pollock and also fish for Pacific cod; 17 AFA catcher/processors that primarily target pollock and also fish for yellowfin sole and Pacific cod; and 25 non-AFA catcher vessels that primarily target Pacific cod and yellowfin sole, with some also targeting Atka mackerel and Pacific ocean perch (see Section 4.4.3 of the Analysis for additional detail).

The AFA is a limited access program for Bering Sea pollock implemented by statute in 1998 (Public Law 105-277, 16 U.S.C.A. statutory note). The AFA specified eligible vessels, established sector allocations of pollock, and allowed vessels to form cooperatives. All AFA catcher vessels and catcher/processors participate in the pollock fishery through cooperatives. The pollock fishery accounts for 64 percent of all groundfish harvests in the BSAI but takes a relatively small proportion of

halibut bycatch, averaging only 8 percent of total halibut bycatch in the BSAI from 2008 through 2013.

The BSAI trawl limited access sector is a limited access sector because vessels must have a License Limitation Program (LLP) groundfish license to conduct directed fishing for any groundfish in BSAI (see § 679.4(k)(1)). The LLP is a limited access program because a limited number of licenses are issued and a person only received an LLP license if that person met specific eligibility requirements. However, the LLP does not allocate exclusive harvest privileges for a specific portion of a fishery TAC like the Amendment 80 Program does for the six Amendment 80 species or like the AFA does for Bering Sea pollock. Thus, for all species but pollock, vessels in the BSAI trawl limited access sector are in competition with other participants to maximize their harvest of target species before they reach either their halibut PSC limits, or in the case of Bering Sea pollock, Chinook salmon PSC limits.

As specified in Section 3.7.5.2.1 of the FMP and at § 679.91, NMFS annually establishes a halibut PSC limit of 875 mt for the BSAI trawl limited access sector. This halibut PSC limit of 875 mt is apportioned to fishery categories through the annual harvest specification process. NMFS apportions this sector's PSC limit into PSC allowances among the following trawl fishery categories: (1) Yellowfin sole fishery, (2) rock sole/flathead sole/"other flatfish" fishery, (3) Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish fishery, (4) rockfish fishery, (5) Pacific cod fishery, and (6) pollock/Atka mackerel/"other species" fishery, which includes the midwater pollock fishery. For additional detail see Table 16 in the 2015 and 2015 final harvest specifications (80 FR 11919, March 5, 2015) and § 679.21(e)(3)(i)(B), (e)(3)(ii)(C), and (e)(3)(iv)).

After NMFS establishes PSC allowances for these trawl fishery categories, NMFS may, through the annual harvest specification process, further apportion the allowances by season, according to criteria specified in regulation (§ 679.21(e)(5)). NMFS apportions some halibut PSC allowances in specific groundfish fisheries by season to ensure that a portion of the halibut PSC allowance for that fishery is available for use earlier in the year and a portion of the halibut PSC allowance remains to support groundfish fishing in that fishery that occurs later in the year. The limits assigned to each season for a groundfish fishery reflect halibut PSC likely to be taken during that season in that fishery.

In general, the PSC regulations state that if NMFS determines that any of these trawl fisheries will reach the PSC allowance for that fishery (or a seasonal apportionment of an allowance), NMFS closes that trawl fishery in the BSAI for the rest of the year, or, if applicable, for the rest of the season (§ 679.21(e)(7)(v)). NMFS has authority under current regulations to close the following trawl fisheries if they will reach their halibut PSC allowance: (1) Yellowfin sole fishery, (2) rock sole/flathead sole/"other flatfish" fishery, (3) Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish fishery, (4) rockfish fishery, and (5) Pacific cod fishery (§ 679.21(e)(7)(v)). For example, in May 2014, NMFS closed the yellowfin sole fishery throughout the BSAI to prevent that fishery from exceeding its halibut PSC allowance (79 FR 29136, May 21, 2014). The Pacific cod and yellowfin sole fisheries are the primary fisheries that can be constrained by halibut PSC limits in the BSAI trawl limited access sector.

The regulations include an exception for the pollock/Atka mackerel/"other species" fishery category. If the pollock/Atka mackerel/"other species" fishery category will reach its halibut PSC allowance, NMFS does not have the authority to close the pollock/Atka mackerel/"other species" fishery category. This is the result of the interaction of several regulations. As noted previously, NMFS must count all halibut PSC in the midwater pollock fishery category against the PSC allowance for the pollock/Atka mackerel/"other species" fishery category (§ 679.21(e)(3)(ii)(C)). By a regulation adopted in 1992, if the PSC allowance for the pollock/Atka mackerel/"other species" category will be reached, NMFS only has authority to close directed fishing for pollock to trawl vessels using nonpelagic trawl gear (57 FR 43926, 43935, September 23, 1992; § 679.21(e)(7)(i)). However, in 2000, NMFS prohibited directed fishing for pollock in the BSAI with nonpelagic trawl gear at all times and extended that prohibition to CDQ sector vessels in 2006 (65 FR 31105, May 16, 2000; 71 FR 36694, June 28, 2006; § 679.24(b)(4)). Thus, if the halibut PSC allowance for the trawl fishery category of pollock/Atka mackerel/"other species" will be reached, NMFS does not have authority to take additional action. The Council did not recommend, and NMFS did not propose, changes in the management of the pollock/Atka mackerel/"other species" fishery.

Even though NMFS does not have authority to close this fishery, halibut PSC use in the pollock/Atka mackerel/

"other species" fishery category recently (*i.e.*, 2013 and 2014) was below the amount the PSC allowance for this fishery category. Based on recent halibut PSC use, NMFS anticipates that halibut PSC in this trawl fishery category would not exceed the PSC allowance that would be established for this fishery category under this proposed rule in future years. However, if this fishery did exceed its PSC allowance, NMFS considers recent halibut PSC use each year when it establishes PSC allowances and could increase the PSC allowance for this fishery category. But because the regulation establishes an overall halibut PSC limit for the BSAI trawl limited access sector of 710 mt, an increase in the halibut PSC allowance for one fishery category in this sector would be matched by a corresponding decrease in the halibut PSC allowance for other fishery category or categories in this sector.

The BSAI trawl limited access fisheries provide revenue to vessel owners and crew members that harvest and process groundfish. In addition, the fisheries provide socioeconomic benefits to fishing communities that provide support services for BSAI trawl limited access vessel operations. Groundfish harvests in the BSAI trawl limited access fisheries averaged 1 million mt and generated \$1.3 billion in wholesale revenues from 2008 through 2013. During this period, the pollock fishery was 93 percent of the groundfish harvest and wholesale revenue for the BSAI trawl limited access sector. The Pacific cod fishery was 4 percent and the yellowfin sole fishery was 2 percent of the groundfish harvest and wholesale revenue for the BSAI trawl limited access sector. Section 4.4.3 of the Analysis provides detailed information on participants, harvests, and revenues in the BSAI trawl limited access sector fisheries.

#### c. BSAI Non-trawl Sector

The BSAI non-trawl sector comprises all the non-trawl vessels in the BSAI except vessels fishing for groundfish in the CDQ sector. Non-trawl vessels participating in the CDQ sector are addressed in the following section of the preamble. As described in the "Annual Halibut Bycatch (PSC) Limits and Apportionments of PSC Limits" section of the preamble above, the Council and NMFS have exempted pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut PSC limits. Because these three fishery categories are currently exempted from halibut PSC limits, this section of the preamble does not address these fishery categories (see Section 3.1.3.1 of the

Analysis for additional detail on the pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories).

From 2008 to 2013, an average of 47 vessels participated in the portion of the BSAI non-trawl sector subject to halibut PSC limits: 35 hook-and-line catcher/processor vessels that primarily targeted Pacific cod and to a lesser extent Greenland turbot; and 12 hook-and-line catcher vessels that targeted only Pacific cod.

Hook-and-line catcher/processor vessels that target Pacific cod comprise the greatest number of vessels and amount of harvests in the non-trawl sector. The Analysis shows that from 2008 through 2013, hook-and-line catcher/processers harvested more than 98 percent of all of the fish harvested by the non-trawl sector. Most of this harvest was from the BSAI Pacific cod fishery. The BSAI hook-and-line catcher/processers harvested 99 percent of the total amount of Pacific cod harvested in the BSAI by non-trawl vessels. The BSAI Pacific cod fishery comprised 98 percent of total harvests for the hook-and-line catcher/processers from 2008 through 2013 (see Sections 4.4.4 and 4.4.5 of the Analysis). All but one hook-and-line catcher/processor fishing in the BSAI participates in a voluntary cooperative, the Freezer Longline Conservation Cooperative (FLCC). The FLCC has allowed hook-and-line catcher/processers to fish as a coordinated group and has allowed less efficient vessels to decrease fishing or stop entirely. Additional details about the FLCC are provided in Section 4.4.4.8 of the Analysis.

The BSAI non-trawl sector also includes hook-and-line catcher vessels that exclusively target Pacific cod. Data from 2008 through 2013 show that harvests of BSAI Pacific cod comprised 100 percent of the total harvests and total revenue for these vessels. The BSAI hook-and-line catcher vessels targeting Pacific cod harvested 1 percent of the total amount of Pacific cod harvested in the BSAI by non-trawl vessels from 2008 through 2013. During this period, 42 unique vessels participated in the hook-and-line catcher vessel fishery, although the number of vessels participating in this fishery has declined from 20 in 2008 to 11 in 2013 (see Section 4.4.5.1 of the Analysis).

Some non-trawl vessels also harvest groundfish other than Pacific cod, but harvests of these other species are limited. Over the past decade, only hook-and-line catcher/processers have participated in the other non-trawl fisheries, specifically targeting Greenland turbot. Hook-and-line

catcher/processor harvested approximately 40 percent of the total amount of Greenland turbot harvested in the BSAI from 2008 through 2013 (see Table 4–10 in Section 4.4.1.6 and Table 4–50 in Section 4.4.4.2 of the Analysis). During this time period, 20 unique vessels participated in the hook-and-line catcher/processor fishery for Greenland turbot, although the number of vessels participating in recent years (from 2010 through 2013) has ranged between 13 and 7 each year (see Section 4.4.4.1 of the Analysis).

Under current regulations, the non-trawl sector's PSC limit of 833 mt is apportioned under the annual harvest specification process. Section 679.21(e)(4)(i)(C) specifies that NMFS will apportion the BSAI non-trawl sector's PSC limit into PSC allowances "based on each category's proportional share of the anticipated bycatch mortality of halibut during a fishing year and the need to optimize the amount of total groundfish harvested under the non-trawl halibut PSC limit." As explained above in "Annual Halibut Bycatch (PSC) limits and Apportionment of PSC limits," NMFS has apportioned the PSC limit for the BSAI non-trawl sector among three non-trawl fishery categories: (1) Pacific cod hook-and-line catcher vessel fishery, (2) Pacific cod hook-and-line catcher/processor fishery, and (3) other non-trawl fisheries. NMFS has the same authority to apportion, by season, the halibut PSC allowances among the non-trawl fisheries as it has for the trawl fisheries (§ 679.21(e)(5)).

As with trawl fisheries, NMFS manages the halibut PSC allowances for the non-trawl fisheries through fishery closures. Section 679.21(e)(8) specifies that if NMFS concludes that a non-trawl fishery will reach its halibut PSC allowance (or a seasonal apportionment of an allowance), it will close that non-trawl fishery in the entire BSAI for the rest of the year (or the rest of the season).

The non-trawl fisheries provide revenue to vessel owners and crew members that harvest and process groundfish on catcher vessels and catcher/processers. In addition, the fisheries provide economic benefits to shorebased processors that receive landings of Pacific cod from catcher vessels and to fishing communities that provide support services for BSAI non-trawl vessel operations. Groundfish harvests in the BSAI non-trawl fisheries averaged 116,000 mt and generated \$160 million in wholesale revenues annually from 2008 through 2013. Sections 4.4.4 and 4.4.5 of the Analysis provides detailed information on participants,

harvests, and revenues in the BSAI trawl limited access groundfish fisheries.

#### d. CDQ Sector

The CDQ sector includes all trawl and non-trawl vessels that harvest groundfish under the CDQ Program. CDQ vessels primarily target pollock using trawl gear and target Pacific cod using hook-and-line gear. Other species such as yellowfin sole, several flatfish species, Atka mackerel and Pacific ocean perch allocated to the CDQ sector are targeted by vessels using trawl gear.

From 2008 to 2013, 56 vessels participated in the CDQ sector using trawl and non-trawl gear to harvest BSAI groundfish, with nearly 60 percent of the vessels operating in the pollock and Pacific cod target fisheries. The pollock fishery accounted for 73 percent of the total groundfish harvest in the CDQ sector from 2008 through 2013. Vessels participating in the CDQ sector fully harvest the sector's pollock and Pacific cod allocations. Vessels participating in the CDQ sector have not fully harvested other allocations of groundfish species due to a variety of operational factors and choices described in Section 4.4.6 of the Analysis.

As specified in Section 3.7.4.6 of the FMP and at § 679.21(e), NMFS annually establishes a halibut PSC limit of 393 mt for the CDQ sector. The halibut PSC limit is divided among the six CDQ groups by established percentages (71 FR 51804 (August 31, 2006)). Each CDQ group receives an apportionment of this halibut PSC limit as halibut prohibited species quota (PSQ), which is a specific amount of halibut that vessels fishing for that CDQ group may use in a year. The apportionment of halibut PSQ to each CDQ group is similar to the apportionment of halibut PSC Cooperative Quota to an Amendment 80 cooperative. The CDQ group manages the use of its halibut PSQ apportionment. The CDQ group has the responsibility to ensure that the vessels fishing its CDQ groundfish allocation do not use halibut PSQ in excess of the amount of the CDQ group's halibut PSQ. This limit is enforced at § 679.7(d)(3), which prohibits a CDQ group from exceeding its apportionment of halibut PSQ.

The CDQ groundfish fisheries provide revenue to CDQ groups that receive royalties from leasing their groundfish allocations for harvest by vessels that participate in non-CDQ groundfish fisheries. In addition, CDQ groundfish harvests provide revenue to vessel owners and crew members that harvest and process groundfish on catcher

vessels and catcher/processors, to shorebased processors that receive landings of CDQ groundfish, and to fishing communities that provide support services for vessels fishing in CDQ groundfish fisheries. By species, the CDQ groundfish allocations that generate revenue for the CDQ groups are as follows: 75 percent of wholesale revenue from pollock; 15 percent from Pacific cod; 6 percent from yellowfin sole; and 4 percent from all other species. Section 4.4.6.1 of the Analysis describes the vessels that participate in harvesting the CDQ allocations of groundfish.

From 2008 through 2013, the CDQ sector has consistently harvested almost 100 percent of its pollock allocations. The average annual pollock harvests from 2008 through 2014 are 112,000 mt resulting in \$150 million in wholesale revenues. From 2008 through 2013, the CDQ sector harvested an average of 60

percent of its non-pollock species allocations. During this period, vessels in the CDQ sector averaged annual non-pollock groundfish harvests of 42,000 mt and \$50 million in wholesale revenues. Section 4.4.6 of the Analysis provides detailed information on participants, harvests, and revenues in the CDQ groundfish fisheries.

As described in the “Halibut Fisheries in the BSAI” section of the preamble above, CDQ groups also receive an annual allocation of the commercial halibut fishery catch limit recommended by the IPHC. CDQ halibut allocations provide revenue to vessel owners and crew members that harvest and process halibut, to shorebased processors that receive landings of CDQ halibut, and to fishing communities that provide support services for vessels fishing in CDQ halibut fisheries. Sections 4.5.1 and 4.5.2 of the Analysis provide detailed information on

participants, harvests, and revenues in the CDQ halibut fisheries.

3. Halibut Bycatch (PSC) Use in the BSAI Groundfish Sectors

The annual halibut PSC limit established for each BSAI groundfish sector is an upper limit on halibut PSC in that sector for that year. However, the amount of halibut PSC used by a BSAI groundfish sector is almost always less than its halibut PSC limit. Halibut PSC use is less than the halibut PSC limit due to a wide range of operational factors such as the need to avoid a closure or an enforcement action if a PSC allocation or allowance is reached. Table 1 shows the halibut PSC limit and average halibut PSC use for the Amendment 80, BSAI trawl limited access, BSAI non-trawl, and CDQ sectors from 2008 through 2014.

TABLE 1—CURRENT BSAI HALIBUT PSC LIMITS AND USE BY BSAI GROUNDFISH SECTOR FROM 2008 THROUGH 2014

BSAI Groundfish sector	Current annual BSAI halibut PSC limit (mt)	Current annual BSAI halibut PSC limit as a % of the total annual BSAI halibut PSC limit	Average annual BSAI halibut PSC use from 2008–2014 (mt)	Average annual BSAI halibut PSC use from 2008–2014 as a % of total annual BSAI halibut PSC use	Average annual BSAI halibut PSC use from 2008–2014 as % of the sector’s BSAI halibut PSC limit
Amendment 80 sector .....	2,325	53	2,047	59	88
BSAI trawl limited access sector .....	875	20	710	20	81
BSAI non-trawl sector .....	833	19	505	15	61
CDQ sector .....	393	9	215	6	55
Total for all sectors .....	4,426	100	3,477	100	79

Table 1 shows that the Amendment 80 sector used the largest portion of halibut PSC in recent years. The Amendment 80 sector used, on average, approximately 60 percent of the total amount of halibut PSC used by all BSAI groundfish sectors from 2008 through 2014. The BSAI trawl limited access sector used 20 percent, the BSAI non-trawl sector used 15 percent, and the CDQ sector used 6 percent of the total amount of halibut PSC.

Table 3–14 in Section 3.1.3.3 of the Analysis shows halibut PSC annually for each sector from 2008 through 2014. The Amendment 80 sector used, on average, 88 percent of its annual halibut PSC limit from 2008 through 2014. Halibut PSC use in the Amendment 80 sector varies annually, and the sector’s use as a percentage of the limit from 2008 through 2014 ranged from 78 percent in 2011 to 97 percent in 2010.

The BSAI trawl limited access sector used, on average, 81 percent of its annual halibut PSC limit from 2008

through 2014, varying from 55 percent of the sector limit in 2010 to 110 percent of the sector limit in 2012.

The BSAI non-trawl sector used, on average, 61 percent of its annual halibut PSC limit from 2008 through 2014. Like the trawl sectors, halibut PSC use in the non-trawl sector varied substantially on an annual basis. Almost all of the halibut PSC in the non-trawl sector is used by hook-and-line catcher/processors targeting Pacific cod. These vessels averaged 98 percent of the total non-trawl halibut PSC use from 2008 through 2014. Halibut PSC use in the Pacific cod hook-and-line catcher/processor sector has declined since 2010 following formation of the FLCC. From 2008 through 2014, halibut PSC use by the non-trawl sector ranged from 52 percent of the sector limit in 2014 to 74 percent of the sector limit in 2008.

The CDQ sector used, on average, 55 percent of its annual halibut PSC limit from 2008 through 2014, varying from 38 percent of the sector limit in 2009 to

67 percent of the sector limit in 2013. Halibut PSC use in the CDQ sector has typically been much lower than the PSC limit due to a variety of operational choices to limit catch of some groundfish species, and the methods used by CDQ groups to assign halibut PSC when fishing jointly for CDQ and non-CDQ species. Section 4.4.6.2 of the Analysis describes these factors in greater detail.

For all sectors, Section 3.1.3.3 of the Analysis describes the annual variations in halibut PSC use resulting from changes in groundfish TACs and changes in weather, environmental conditions, and other factors. Historical halibut PSC use information shows that each sector’s PSC use has varied annually in response to these changing conditions. NMFS anticipates that these annual variations in halibut PSC use would continue under the proposed rule.

### III. Rationale and Impacts of Amendment 111 and the Proposed Rule

Amendment 111 and the proposed rule would reduce the current halibut PSC limits for the BSAI groundfish fisheries. Amendment 111 and the proposed rule are necessary to minimize halibut bycatch to the extent practicable in the BSAI groundfish fisheries, while at the same time providing for the long-term sustainable optimum yield from the groundfish fisheries. By reducing halibut PSC in the groundfish fisheries from current levels, the proposed rule may provide additional harvest opportunities in halibut fisheries in the BSAI and, ultimately, in other Areas (Areas 2 and 3). This section describes the rationale for and the anticipated impacts of the halibut PSC limit reductions that would be implemented by the proposed rule.

In recommending the proposed rule, the Council considered the fact that the halibut resource is fully allocated. Recent declines in halibut exploitable biomass, particularly in Area 4 in the BSAI, underscore the need to minimize bycatch of halibut in the groundfish fisheries to the extent practicable. Since the existing BSAI halibut PSC limits were established in 2000, the exploitable biomass has declined and the commercial halibut sector has experienced decreased catch limits as a result (see Section 2.4 of the Analysis).

Since 2008, the commercial halibut fishery catch limit in the BSAI in Area 4 has declined, although the 2015 commercial catch limit in Area 4 has increased slightly from the recent low in 2014. The Council determined that the proposed rule is necessary because catch limits for the commercial halibut fisheries in the BSAI have declined in recent years and because the halibut PSC used in the BSAI groundfish fisheries has increased as a proportion of total halibut removals.

In recommending the proposed rule, the Council and NMFS considered alternatives that ranged from a 10 percent to a 50 percent reduction in halibut PSC limits for each of the four BSAI groundfish sectors: the Amendment 80, the BSAI trawl limited access, the non-trawl, and the CDQ sectors. The Council and NMFS determined that it was appropriate to recommend a PSC limit reduction for each sector to recognize differences among the sectors in halibut PSC use and management as well as differences in fishery participation, gear and operation type, and available tools to further reduce halibut PSC use.

In making its recommendation, the Council and NMFS also considered the

national standards in section 301(a) of the Magnuson-Stevens Act. This preamble has already described the consideration of National Standard 1 (prevent overfishing while ensuring, on a continuing basis, optimum yield from the fisheries), and National Standard 9 (minimize bycatch, to the extent practicable, and where bycatch cannot be avoided, minimize bycatch mortality). Two other national standards were particularly relevant to the Council and NMFS in developing Amendment 111 and the proposed rule: National Standard 8 (provide for the sustained participation of fishing communities and to the extent practicable, minimize adverse economic impacts on such communities) and National Standard 4 (allocation of fishing privileges shall be fair and equitable). Section 6.1 of the Analysis provides additional detail on the consideration of the national standards. The Council believes, and NMFS agrees, that the proposed PSC limit reductions are consistent with the national standards.

The Council and NMFS considered the impacts of alternative ranges of halibut PSC limit reductions on (1) the halibut stock, (2) the halibut fishery participants and fishing communities that are engaged in directed halibut fisheries in the BSAI and in other Areas, and (3) the BSAI groundfish fishery participants and fishing communities that are engaged in the BSAI groundfish fisheries. The Analysis provides detailed information that the Council and NMFS considered for the proposed rule.

After considering these factors, the Council recommended, and NMFS proposes, to reduce halibut PSC limits by 25 percent in the Amendment 80 sector, 15 percent in the BSAI trawl limited access sector, 15 percent in the non-trawl sector, and 20 percent in the CDQ sector. The resulting halibut PSC limits from this proposed reduction would be 1,745 mt for the Amendment 80 sector; 745 mt for the BSAI trawl limited access sector; 710 mt for the BSAI non-trawl sector; and 315 mt for the CDQ sector. The following sections of the preamble describe the rationale for and impacts of the proposed rule on the halibut stock, the directed halibut fishery and fishing communities, and the BSAI groundfish fishery participants and fishing communities.

#### A. Methods for Analysis of Impacts

In order to analyze the impact of the proposed rule and other alternatives considered, the Analysis made two broad assumptions. First, the Analysis assumed the IPHC would (1) differentiate halibut that are over 26

inches in length (O26) from halibut that are under 26 inches in length (U26) for purposes of the annual stock assessment and for establishing commercial fishery catch limits, and (2) establish the blue line catch limit as the commercial fishery catch limit for all IPHC areas. The Analysis assumes application of the IPHC harvest policy because it represents the stated policies of the IPHC and because possible changes in this policy, or the specific commercial catch limits that will actually be adopted by the IPHC, cannot be known or predicted. As described above in the "Allocation of Halibut Among Fisheries" section above, the IPHC is not required to apply its harvest policy and frequently has deviated from it when adopting annual catch limits. However, for purposes of this analysis, assuming application of the IPHC harvest policy is the best available method for analyzing the effects of Amendment 111 and the proposed rule.

Second, based on this assumption, the Analysis provides a prospective evaluation of the economic impacts of halibut PSC limit reductions on halibut fisheries and the groundfish fisheries for ten years (2014 through 2023) under two scenarios with different assumptions about the ability of fishery participants to coordinate harvesting activities to minimize halibut PSC. The "low impact" scenario assumes that fishery participants are able to coordinate harvesting activities to achieve almost optimal efficiency in the use of PSC across all sectors. In other words, the impact of halibut PSC reductions can be mitigated to the maximum extent practicable through well-coordinated sector-wide efforts. The "high impact" scenario assumes significantly less coordination across the sector and models each company operating individually to optimize its PSC use. In other words, each company within a sector will attempt to mitigate the impact of halibut PSC reductions on their operations, but with less well-coordinated sector-wide efforts. Section 4.6 of the Analysis details the methods used. Based on the Analysis and information provided to the Council in public testimony, NMFS determined that the BSAI groundfish sectors have varying abilities to optimize efficient use of halibut PSC, and it is likely that the actual economic impacts of the proposed rule will fall within the range between the low impact and high impact scenarios presented in the Analysis.

#### B. Impacts on the Halibut Stock

The Council determined, and NMFS agrees, that the proposed rule would

reduce halibut PSC relative to current halibut PSC use. This reduction in halibut PSC use is expected to increase the total amount of halibut exploitable biomass, and potentially the female spawning biomass. Reductions in halibut PSC would be expected to provide additional harvest opportunities to commercial, personal use, sport, and subsistence halibut fisheries in the BSAI and in other Areas.

Overall, the Council's recommendation is expected to result in a decrease of approximately 361 mt in halibut PSC relative to current levels of halibut PSC use (see Section 4.13 of the Analysis). A decrease of 361 mt represents approximately a 10 percent decrease in total halibut PSC relative to current use. This estimate is based on the assumption that the Amendment 80 sector, which is the sector most constrained by the proposed halibut PSC limit, would fully use its halibut PSC limit of 1,745 mt in each year. As Table 1 of this preamble and Section 3.1.3.3 of the Analysis show, the BSAI groundfish sectors have consistently used less than their halibut PSC allocations due to regulatory and operational limits. Therefore, the actual PSC reduction would likely be higher than this estimate.

The best available information estimates that approximately 64 percent of the halibut PSC mortality in the BSAI is O26 halibut (see Table 4–219 in Section 4.14.1.4 of the Analysis). Assuming that the IPHC were to apply its current harvest policy when adopting annual catch limits and the proportion of O26 and U26 bycatch remains constant, the halibut “savings” from reductions in halibut PSC use under the proposed rule would be expected to provide an additional commercial harvest opportunity in the year following the halibut PSC reduction. Therefore, the primary impact of the proposed rule would be to provide additional harvest opportunity to the Area 4 commercial fishery because most (64 percent) of the bycatch is O26. This result would be expected under all of the alternatives to reduce halibut PSC limits (from 10 to 50 percent) considered by the Council and NMFS.

The best available information estimates that approximately 36 percent of halibut PSC mortality in the BSAI is U26 halibut (see Table 4–219 in Section 4.14.1.4 of the Analysis). The proposed reductions in halibut PSC use would decrease mortality of U26 halibut, which could benefit the halibut stock by contributing to the long-term abundance of the halibut resource. Ultimately, reductions in U26 bycatch could result in additional halibut that can grow and

reproduce and then ultimately be harvested in the commercial, personal use, sport and subsistence fisheries on a coastwide basis. The extent to which a decrease in U26 halibut PSC may affect the coastwide female spawning biomass is not well-known based on the best available information (see Section 3.1.1.2 of the Analysis for additional detail).

While the impacts of a decrease in U26 halibut mortality on the coastwide halibut stock are not well-known, the best available information suggests that reductions in U26 halibut PSC under the proposed rule are unlikely to impact the long-term abundance of the halibut stock. The Analysis estimates that even under the most conservative halibut PSC reductions considered by the Council, a 50 percent reduction of the PSC limits in all four BSAI groundfish sectors, the reduction in the amount of U26 halibut PSC would likely range from 690,000 pounds to 740,000 pounds. Therefore, even under the greatest PSC limit reduction alternatives considered, this reduction would represent less than 1 percent of the 2015 coastwide female spawning halibut biomass (see Table 3–1 in Section 3.1.1 of the Analysis).

The Council determined, and NMFS agrees, that under the reduction in U26 halibut mortality estimated from the proposed rule, a reduction estimated to range from 188,000 to 210,000 pounds, the proposed rule could result in some conservation benefit compared to the status quo. The conservation benefit would be limited because it comprises a small proportion of the total female spawning biomass (less than 1 percent of the total female spawning biomass). The specific long-term impacts of reduced U26 bycatch on potential long-term commercial, personal use, sport, or subsistence harvests in a specific Area cannot be predicted with certainty given the available information. Some of the factors affecting the ability to determine impacts are the variable time required for U26 bycatch to grow, reproduce, and become available for harvest; changes in halibut stock abundance on a coastwide basis; and changes in the distribution of harvestable biomass by area in the future. Section 4.14.1.2 of the Analysis reviewed the potential long-term halibut stock impacts of halibut bycatch reduction measures throughout all Areas under a range of assumptions and concluded that the overall impact of these reductions was limited on an annual and 10-year basis. Therefore, under the proposed rule, overall halibut mortality would not be expected to change significantly.

### *C. Impacts on Halibut Fishery Participants and Fishing Communities*

In recommending the proposed rule, the Council and NMFS considered the impacts of reducing halibut PSC limits on fishermen and fishing communities that depend on the halibut resources in the BSAI and in other Areas in Alaska, British Columbia, and the U.S. West Coast, including the commercial, personal use, sport, and subsistence fisheries (see Section 4.13.3 and 4.14.1 of the Analysis).

Specifically, the Analysis estimates the potential increases in halibut fishery harvests and revenues in Area 4 and in other Areas from reduced halibut PSC limits. The proposed reduction in halibut PSC limits could benefit participants in the commercial halibut fisheries if it results in increased levels of harvestable halibut and increased catch limits. Catch limits are not established for the personal use, sport, and subsistence halibut fisheries in Area 4, and the proposed reduction in halibut PSC limits is not expected to impact halibut harvests in those fisheries in the near term, because harvests in personal use, sport, and subsistence fisheries are deducted before commercial catch limits are established.

The Analysis estimates that the proposed rule could result in increased commercial fishery harvests in Area 4 ranging from 315,000 pounds to 353,000 pounds each year compared to current levels of harvests over the 10-year period used for the Analysis. This increased harvest is estimated to provide additional commercial halibut fishery revenues ranging from \$3.4 million to \$3.5 million each year, which would total \$34 million to \$38 million over the 10-year period (see Table 4–210 in Section 4.14 of the Analysis). This increased revenue is due to the increased availability of O26 and U26 to the commercial halibut fishery from the halibut PSC reductions.

The Analysis estimates that the proposed rule could reduce U26 bycatch that may provide an additional 64,000 pounds to 72,000 pounds of directed halibut harvest annually in Areas outside of Area 4 (*i.e.*, Areas 2 and 3). These savings are estimated to provide additional halibut revenues to fishery participants ranging from \$2.7 million to \$3 million annually over a 10-year period once the proposed rule is implemented. The Analysis notes that these potential benefits would not accrue until the halibut have reached a size where they could be harvested. The Analysis assumes this will occur from 6 through 10 years after the halibut PSC

savings occur (see Table 4–211 in Section 4.14 of the Analysis).

The Analysis describes the potential impacts of the proposed rule on BSAI coastal fishing communities that participate in the halibut fishery, especially in Area 4CDE. Section 4.14.1.3 of the Analysis states that the proposed action is likely to provide the greatest benefit to fishing communities in the BSAI that are highly dependent on halibut as a primary source of revenue for local vessels that participate in the commercial fishery. Appendix C to the Analysis includes a detailed description of the fishing communities most dependent on the halibut resource in the BSAI. Relative to the status quo, the proposed rule may provide additional opportunities for fishing community residents to harvest halibut by reducing the maximum amount of halibut PSC that can be taken in the groundfish fisheries. Although additional reductions in halibut PSC limits may provide additional harvest opportunities to residents participating in the commercial halibut fishery, the benefit to any one community would be limited by the distribution of harvest privileges among participants in the IFQ and CDQ Programs (see Section 4.14.1.4 of the Analysis for additional detail).

#### *D. Impacts on BSAI Groundfish Fishery Participants and Fishing Communities*

The Council and NMFS considered the impacts of reduced halibut PSC limits on BSAI groundfish sector participants. As discussed in Section 4.14.2.2 of the Analysis, the Council and NMFS considered a number of factors in making the proposed reductions to halibut PSC limits for each BSAI groundfish sector. First, the Council and NMFS considered the relative amount of halibut PSC in each of the BSAI groundfish sectors. Second, the Council and NMFS considered whether a groundfish sector had been able to harvest groundfish TACs with lower amounts of halibut PSC use than the sector's current limit. Third, the Council and NMFS considered the "tools" (*i.e.*, changes in fishery operations) available to each groundfish sector to adapt to halibut PSC limit reductions. Fourth, the Council and NMFS considered the potential socioeconomic impacts of reduced halibut PSC limits. As part of this last consideration, the Council and NMFS considered both the adverse socioeconomic impacts of halibut PSC limit reductions from reduced groundfish harvests on BSAI groundfish harvesters and fishing communities that participate in groundfish fisheries, as well as the potential benefits to the halibut harvesters and fishing

communities that participate in the halibut fishery. The Analysis provides detailed information for each of these factors.

#### **1. Amendment 80 Sector Halibut Bycatch (PSC) Limit Reduction**

The Council recommended, and NMFS proposes, a minimum 25 percent reduction in the halibut PSC limit for the Amendment 80 sector. The reduction in the halibut PSC limit for the Amendment 80 sector from 2,325 mt to 1,745 mt is a reduction of 580 mt. The proposed halibut PSC limit of 1,745 mt would be a 15 percent reduction from the amount of halibut PSC used, on average, by the Amendment 80 sector from 2008 through 2014. The proposed halibut PSC limit would be a 17 percent reduction from Amendment 80 sector halibut PSC use in 2014 (see Section 3.1.3.3 of the Analysis). This is the largest reduction for any of the four groundfish sectors subject to the proposed rule.

This 1,745 halibut PSC limit would apply to all Amendment 80 vessels participating in an Amendment 80 cooperative. The Council also considered a more restrictive halibut PSC limit that would apply to any participants in the Amendment 80 limited access fishery. Because all Amendment 80 vessels are assigned to Amendment 80 cooperatives currently, and are likely to continue to participate in Amendment 80 cooperatives in the future, the Council and NMFS anticipate that the 1,745 mt halibut PSC limit will apply to the entire Amendment 80 sector. The halibut PSC limit that would apply to participants in the Amendment 80 limited access fishery is described later in this preamble.

The Amendment 80 sector uses the largest portion of halibut PSC in the BSAI groundfish fisheries: 59 percent from 2008 through 2014 as shown in Table 1 in this preamble and in Section 3.1.3.3 of the Analysis. Therefore, the proposed halibut PSC limit would be expected to have the greatest impact on the Amendment 80 sector relative to the other BSAI groundfish sectors.

The Council and NMFS considered the use of halibut PSC by the Amendment 80 sector. On average, the Amendment 80 sector has not used the full amount of its halibut PSC allocation as shown above in Table 1 in this preamble and in Table 3–14 in Section 3.1.3.3 of the Analysis. The Analysis shows that total groundfish harvests by the Amendment 80 sector in the years of lowest and highest halibut PSC use were not substantially different from the average total amount of groundfish

harvested by the Amendment 80 sector from 2008 through 2014. The Amendment 80 sector averaged 324,000 mt of groundfish harvest from 2008 through 2014. The Amendment 80 sector harvested 325,000 mt of groundfish in 2011, the year of lowest PSC use, and 337,000 mt in 2010, the year of highest PSC use (see Table 4–1 in Section 4.4.1.1 of the Analysis). The Council determined, and NMFS agrees, that the best available information indicates that the proposed halibut PSC limit for the Amendment 80 sector would be below its lowest use of halibut PSC in any year.

The Council and NMFS recognize that some of the patterns of halibut PSC use observed in the Amendment 80 sector are due to a range of biological, oceanographic, and operational factors, but the Analysis indicates that halibut PSC rates could be reduced through additional changes in fishery operations (*i.e.*, the expanded use of tools). Although the Analysis does not specifically quantify how easily or how much improvement can be made with limited impact on groundfish harvests, the Analysis indicates that limiting harvests or modifying fishery operations could reduce PSC use considerably. Although the Analysis indicates that the Amendment 80 sector could lower its use of halibut PSC through changes in fishery operations, the Council and NMFS agree that the proposed rule would likely result in reduced groundfish harvests for the Amendment 80 sector.

The Council and NMFS considered the tools available to the Amendment 80 sector to reduce halibut PSC under the proposed rule. First, the Council and NMFS considered recently implemented regulatory provisions that could aid the Amendment 80 sector's ability to adapt to reduced halibut PSC limits. Section 3.1.3.6 and Appendices A and B of the Analysis describe that implementation of the flatfish flexibility program in 2014 allows the sector to increase or decrease harvests of yellowfin sole, rock sole, or flathead sole throughout the season to respond to changing bycatch and market conditions (79 FR 56671, September 23, 2014). Additional Atka mackerel opportunities became available to the Amendment 80 fleet with the implementation of revised Steller sea lion protection measures in 2015 (79 FR 70286, November 25, 2014). Although Atka mackerel is not evenly allocated among all Amendment 80 vessels, it provides additional harvest opportunity for a high value groundfish species with a low rate of halibut PSC that could offset other halibut PSC use

in a cooperative and that could reduce overall halibut PSC use for the sector.

Second, the Council and NMFS considered the tools that have, in whole or in part, been voluntarily adopted by the Amendment 80 sector. Public testimony from representatives of the Amendment 80 sector indicated that some of these tools have not been fully used by all fishery participants in recent years. This indicates additional reductions in halibut PSC through the expanded use of these tools are achievable and practicable.

These tools are described in detail in Section 3.1.3.6 and Appendix B of the Analysis and are summarized here:

- Expanding the use of gear modifications known as excluders to reduce the bycatch of halibut;
- Improving communication on the fishing grounds within and between Amendment 80 cooperatives;
- Using modified pelagic trawl gear to harvest groundfish instead of non-pelagic gear. Generally, pelagic trawl gear has a lower incidental rate of halibut bycatch and it has shown promise in the Central Gulf of Alaska rockfish fisheries, and other fisheries nationally in harvesting a number of groundfish species;
- Using test hauls to gauge halibut rates and considering the use of night-time hauls that tend to have lower halibut PSC rates;
- Modifying the timing of fishing to reduce halibut PSC rates toward the end of the year;
- Defining a threshold halibut PSC rate (*e.g.*, when the halibut PSC rate is greater than 80 percent of the average halibut PSC rate) that would lead to fishery management actions such as stopping fishing in an area or moving fishing operations. Requiring vessels to react to these rates through Amendment 80 cooperative contracts could significantly reduce halibut PSC limits;
- Shifting the composition of species that are harvested to focus on species that appear to have a lower intrinsic rate of halibut PSC than other species (*e.g.*, shifting away from arrowtooth flounder to yellowfin sole); and
- Establishing measures to shift fishing effort away from specific geographic locations with higher halibut PSC rates relative to other areas.

Although the proposed rule would establish a halibut PSC limit of 1,745 mt, NMFS believes it is likely that the Amendment 80 sector, specifically participants in the Amendment 80 cooperatives, would use less halibut PSC than the proposed limit. Testimony before the Council indicated that Amendment 80 participants typically manage their halibut PSC allocations

with a 5 percent buffer, meaning that an Amendment 80 cooperative would plan to use at least 5 percent less halibut PSC than the Cooperative Quota allocation it receives. NMFS believes that Amendment 80 vessels are likely to establish a buffer as described in public testimony to the Council because the consequences of a cooperative exceeding its halibut PSC allocation can be significant: Financial penalties by the cooperative against the vessel or vessels that resulted in the cooperative exceeding its allocation of halibut PSC; an enforcement action against the cooperative pursuant to § 679.91(h)(3)(xvi); and a prohibition against fishing for all Amendment 80 species pursuant to § 679.7(o)(4)(v).

The Council and NMFS considered the socioeconomic impact of the proposed rule on the Amendment 80 sector and fishing communities participating in the Amendment 80 fisheries. Table 4–187 in Section 4.13.1 of the Analysis estimates that the proposed rule would result in BSAI groundfish harvest reductions in the Amendment 80 sector between 9,500 mt to 25,700 mt each year during the 10-year analytical period, for a total of 95,000 mt to 257,000 mt for the full 10-year period. The Analysis estimates that the reduction in Amendment 80 groundfish harvests would reduce wholesale revenues for fishery participants from \$6.2 million to \$18.7 million for each year during the 10-year analytical period. The total wholesale revenue reduction is estimated to range from \$62 million to \$187 million for the full 10-year period. The Analysis describes that reduced groundfish harvests and revenues would also negatively impact fishing communities that are engaged in the BSAI groundfish fisheries (see Section 4.14.2 and Appendix C of the Analysis). Section 4.4.2.5 describes that the economic value of the use of halibut as PSC in the Amendment 80 sector is substantial as measured by average groundfish wholesale revenue generated per mt of halibut used as PSC to support the Amendment 80 sector.

The Council and NMFS considered a range of alternatives that would have resulted in halibut PSC reductions to Amendment 80 cooperatives ranging from a 10 percent to a 50 percent reduction relative to the current limit. As shown in Table 1 of this preamble, the average halibut PSC used in the Amendment 80 sector from 2008 through 2014 was 2,047 mt, which is less than the 10 percent reduction alternative (*i.e.*, 2,093 mt). The Amendment 80 sector has demonstrated that it can maintain a high level of

groundfish harvests in some years and use an amount of halibut PSC that is equivalent to a 20 percent reduction in its halibut PSC limit. At the upper end, alternatives that would have reduced the halibut PSC limit by 50, 45, 40, 35, or 30 percent would have come at significant economic cost to the Amendment 80 sector and fishing communities participating in the Amendment 80 sector fisheries. The best available information suggests it is not clear that additional changes in fishery operations could accommodate these high levels of reductions other than foregoing substantial harvest and revenue.

Overall, alternatives that would have imposed a 50, 45, 40, 35, or 30 percent reduction would have been expected to reduce net benefits to the Nation because the socioeconomic benefits from the potential increase in harvest opportunities would be less than the negative socioeconomic impacts from foregone BSAI groundfish harvests. Section 4.8.1 of the Analysis describes the relative impacts of alternatives that would have further reduced halibut PSC limits for Amendment 80 cooperatives. The proposed rule would implement a halibut PSC reduction that balances the need to minimize bycatch to the extent practicable while considering the net benefits to the Nation, the impacts to fishing communities, and the long-term objective of providing for a sustained groundfish harvest by Amendment 80 cooperatives.

Ultimately, the Council determined, and NMFS agrees, that the proposed rule would minimize halibut bycatch to the extent practicable in the Amendment 80 sector after considering information on the sector's use of halibut PSC in recent years, the availability of a number of tools for Amendment 80 cooperatives and vessels to reduce halibut PSC use, the likely impact on net benefits to the Nation, and potential additional harvest opportunities to halibut fishery participants in Area 4 and elsewhere.

Under the status quo and the proposed rule, if all Amendment 80 vessels participate in a cooperative, the Amendment 80 cooperatives will be allocated the total proposed Amendment 80 sector halibut PSC limit of 1,745 mt. If any Amendment 80 vessels elect to participate in the limited access fishery, the proposed rule would reduce the halibut PSC limit for that fishery by 40 percent from the status quo. This reduction of 40 percent of the halibut PSC limit would only apply to the proportional amount of Amendment 80 QS assigned to the Amendment 80 limited access fishery. For example, if

100 percent of the Amendment 80 QS (*i.e.*, 100 percent of the Amendment 80 vessels) are assigned to the Amendment 80 limited access fishery in a particular year, and none is assigned to Amendment 80 cooperatives, the Amendment 80 limited access fishery would collectively be assigned a PSC limit of 1,395 mt, an amount that is 40 percent less than the current Amendment 80 sector halibut PSC limit of 2,325 mt.

If only a portion of the Amendment 80 QS and vessels are assigned to the Amendment 80 limited access fishery, NMFS would use the process described in Section 2.2.1 of the Analysis to allocate PSC limits between the Amendment 80 cooperatives and vessels in the limited access fishery. A brief summary of that process is provided here. NMFS would first determine the amount of halibut PSC that would be assigned to the Amendment 80 cooperatives. For example, if 80 percent of the Amendment 80 QS were assigned to cooperatives, NMFS would allocate 1,396 mt of halibut PSC (80 percent of the proposed Amendment 80 sector halibut PSC limit of 1,745 mt) to the cooperative ( $1,745 \text{ mt} \times 0.8 = 1,396$ ). To calculate the amount of halibut PSC assigned for use in the Amendment 80 limited access fishery, NMFS would subtract the amount of halibut PSC allocated to Amendment 80 cooperatives from the total Amendment 80 sector PSC limit. In this example, this amount would be 349 mt ( $1,745 \text{ mt} - 1,396 \text{ mt} = 349 \text{ mt}$ ). NMFS would apply an additional 20 percent reduction by multiplying the remaining amount of halibut PSC remaining by 0.8 or 80 percent ( $349 \text{ mt} \times 0.8 = 279 \text{ mt}$ ). Therefore, this assignment of 279 mt would represent a 40 percent reduction compared to the status quo assignment to the Amendment 80 limited access fishery.

Under the proposed rule, some halibut PSC available to the Amendment 80 sector will be left unallocated and remain in the water if a portion of the Amendment 80 sector participates in the Amendment 80 limited access fishery. Using the example above, 1,396 mt is allocated to the Amendment 80 cooperatives, and 279 mt is assigned to the Amendment 80 limited access fishery. This adds up to 1,675 mt, an amount that is 70 mt less than the amount of halibut PSC (1,745 mt) that could have been allocated if all Amendment 80 sector participants were members of a cooperative.

The Council and NMFS considered the same factors for the halibut PSC limit applicable to the Amendment 80 cooperatives for the Amendment 80

limited access fishery. However, the Council recommended, and NMFS proposes, the more restrictive halibut PSC limit for the Amendment 80 limited access fishery to encourage cooperative management. Cooperative management is likely to provide a sustainable long-term approach to bycatch management. A fast-paced Amendment 80 limited access fishery could result in PSC that exceeds its halibut PSC limit. Therefore, a larger PSC limit reduction is appropriate to recognize management uncertainty and encourage cooperative formation as described in Section 4.8.2 of the Analysis.

The Council recommended and NMFS proposes a halibut PSC limit reduction of 40 percent for the Amendment 80 limited access fishery after considering the fact that although it is likely that all participants in the Amendment 80 sector will continue to fish in cooperatives, there are a range of factors that could create conditions that result in a participant ending up in the Amendment 80 limited access fishery. These factors include specific cooperative structure and participation requirements, and an individual's operating conditions. Therefore, the Council determined, and NMFS agrees, that a halibut PSC limit more restrictive than a 40 percent reduction would not be consistent with the purpose and need for this action because it could create incentives for members of a cooperative to purposefully exclude a specific Amendment 80 QS holder from cooperative membership. This exclusion could force that QS holder to participate in the limited access fishery and diminish their competitiveness within the sector to the potential benefit of other Amendment 80 QS holders. Similarly, a halibut PSC limit less restrictive than 40 percent may not provide sufficient incentives to encourage and maintain cooperative formation. A less restrictive halibut PSC limit could result in a PSC limit for the Amendment 80 limited access fishery that would encourage entry in the fishery and result in a difficult to manage "race for fish" that could result in halibut PSC limits being exceeded. See Section 2.2.1 of the Analysis for additional details on the proposed reduction to the Amendment 80 sector halibut PSC limit.

## 2. BSAI Trawl Limited Access Sector Halibut Bycatch (PSC) Limit Reduction

The proposed rule would establish a 15 percent reduction in the halibut PSC limit for the BSAI trawl limited access sector. The reduction in the PSC limit for the BSAI trawl limited access sector from 875 mt to 745 mt is a reduction of

130 mt. The BSAI trawl limited access sector used the second largest portion of halibut PSC in the BSAI groundfish fisheries from 2008 through 2014 (20 percent, as shown in Table 1 in this preamble and in Section 3.1.3.3 of the Analysis).

The Council and NMFS considered halibut PSC use in the BSAI trawl limited access sector. The BSAI trawl limited access sector, on average, has not used the full amount of halibut PSC assigned to the sector. As shown in Table 1 in this preamble and in Table 3–14 in Section 3.1.3.3 of the Analysis, on average the BSAI trawl limited access sector used 81 percent of the BSAI trawl limited access sector halibut PSC limit from 2008 through 2014.

As described in the "Overview of the BSAI Groundfish Sectors" section above, the Pacific cod and yellowfin sole fisheries are the primary fisheries that would be constrained by the proposed halibut PSC limits in the BSAI trawl limited access sector. Overall PSC used in the Pacific cod and yellowfin sole fisheries from 2008 through 2014 averaged 64 percent of the sector's annual apportionments (see Tables 4–38 and 4–39 in Section 4.4.3.4 of the Analysis).

From 2008 through 2014, the BSAI trawl limited access sector did not exceed the PSC apportioned to the Pacific cod fishery, used only 36 percent of its apportionment in one year (2009), and has used less than 60 percent of its apportionment in 3 years (2008, 2010, and 2011) (see Tables 4–38 and 4–39 in Section 4.4.3.4 of the Analysis for more detail). From 2008 through 2014, the BSAI trawl limited access sector exceeded the PSC apportioned to the yellowfin sole fishery in one year (2013), but has used only 16 percent of its apportionment in one year (2010), and has used less than 50 percent of its apportionment in 2 years (2009 and 2011) [see Tables 4–38 and 4–39 in Section 4.4.3.4 of the Analysis for more detail]. The Analysis and public testimony indicate that there are a variety of factors that contributed to lower PSC use in these years including changing oceanographic conditions, the amount of TAC available for harvests, and operational choices by vessel operators to fish in different areas or fisheries. However, the best available data on halibut PSC use indicate that in most years it is reasonable to expect that both Pacific cod and yellowfin sole can be harvested under the halibut PSC limits established by the proposed rule.

The Council and NMFS considered the tools that could be adopted by the BSAI trawl limited access sector. The Analysis describes a number of tools

that are currently available to the BSAI trawl limited sector to achieve overall bycatch levels similar to those in 2009, 2010, and 2011. First, the pollock fishery could undertake, and has undertaken measures to minimize bycatch, even though it would not be directly limited by this proposed action. Those measures are important because the pollock fishery comprises roughly 41 percent of the PSC use in the BSAI trawl limited access sector (see Figure 4–28 in Section 4.4.3.4 of the Analysis). The pollock fleet is fully managed under a catch share program, the AFA, and has demonstrated a well-established ability to constrain and reduce bycatch below established limits. Section 4.6.3 of the Analysis describes that the AFA sector has demonstrated an ability to consistently maintain bycatch of Chinook salmon below the PSC limits established in Amendment 91 to the FMP (75 FR 53026, August 30, 2010). The best available information indicates that the recent lower amount of halibut PSC use in the pollock fishery is not likely to increase given increased scrutiny by the AFA sector on halibut PSC. Second, additional opportunities, though limited, are available to harvest Pacific cod and pollock in the Aleutian Islands and later in the year under revised Steller sea lion protection measures that were implemented in 2015 (79 FR 70286, November 25, 2014). The opportunity to harvest Pacific cod and pollock later in the year and in the Aleutian Islands provides additional flexibility for vessels in the BSAI trawl limited access sector to fish when and where halibut PSC rates may be lower.

Section 4.9 of the Analysis notes that a “race for fish” exists in the BSAI trawl limited access sector, specifically in the Pacific cod and yellowfin sole fisheries. Appendix B of the Analysis examined the operations of catcher/processors in the yellowfin sole fishery and notes that several changes in fishery behavior could be undertaken by this fleet to minimize halibut PSC. Because the yellowfin sole fishery is not managed under a catch share program, there may be some limitations on the ability of participants to coordinate efforts to establish threshold PSC rates and adopt measures to react to those rates by shifting geographic locations, but some level of coordination seems practicable among the participants in this fishery.

The Council and NMFS considered the socioeconomic impact of the proposed rule on the BSAI trawl limited access sector and fishing communities that participate in the fisheries. Reductions in halibut PSC limits greater than actual halibut PSC use could be expected to impose a substantial

socioeconomic cost on some BSAI trawl limited access sector participants. Under the two economic scenarios considered, and summarized in Table 4–210 in Section 4.14 of the Analysis, reduced revenue to the BSAI trawl limited access sector from the proposed halibut PSC limit reduction ranges from \$14 million to \$31 million dollars over a 10-year period, or \$1.4 million to \$3.2 million dollars annually, of the first wholesale value to the BSAI trawl limited access sector for non-pollock harvests. Section 4.4.3.5 of the Analysis describes that the economic value of the use of halibut as PSC in the BSAI trawl limited access sector is substantial as measured by the average groundfish wholesale revenue generated per metric ton of halibut used as PSC to support BSAI trawl limited access sector.

The proposed rule establishes a halibut PSC limit reduction that recognizes there are more limited tools for the BSAI trawl limited access sector than the Amendment 80 sector, but that the BSAI trawl limited sector has demonstrated an ability, on average, to maintain existing harvests at the level of the proposed reduction. Under the proposed rule, the BSAI trawl limited access sector would have to reduce its halibut PSC use relative to several recent years of halibut PSC use. As described in Appendix B of the Analysis, the BSAI trawl limited access sector has some tools available to reduce halibut PSC use. Reducing groundfish fishing or changing behavior during time periods with higher halibut rates may result in some mitigation of the impacts of a reduction in halibut PSC limits. Fishing earlier in the year would appear to result in lower halibut PSC rates. The proposed rule would result in halibut PSC limits that could be restrictive in some years relative to current management. However, the halibut PSC reduction implemented by the proposed rule would be expected to result in limited reductions in groundfish harvests in most years.

The Council and NMFS considered a range of alternative halibut PSC reductions for the BSAI trawl limited access sector. Less restrictive halibut PSC limit reductions (*i.e.*, a 10 percent reduction) would not be expected to have an impact on current or likely future halibut PSC use because the BSAI trawl limited access sector has demonstrated an ability to maintain halibut PSC limits below this level. The Council and NMFS also considered more restrictive halibut PSC limits. Ultimately, the Council recommended, and NMFS proposes the 15 percent reduction after considering the relatively limited impact of the BSAI

trawl limited access sector on halibut PSC use, the more limited tools available to the sector to practically reduce its halibut PSC use, and the overall socioeconomic cost to the sector, communities participating in the sector, and the Nation resulting from more restrictive halibut PSC limits. The Council and NMFS also considered the limited benefits that further reductions in halibut PSC limits may provide to halibut fishery users and communities participating in the halibut fishery. The Council and NMFS determined that the proposed halibut PSC limit is likely to provide incentives for the BSAI trawl limited access sector to more fully develop and use tools that improve on the reduced halibut PSC use achieved in 2010 and 2011.

### 3. BSAI Non-Trawl Sector Halibut Bycatch (PSC) Limit Reduction

The BSAI non-trawl sector has the third greatest amount of halibut PSC use among the BSAI groundfish fishery sectors. As Table 1 in this preamble and Table 4–209 in Section 4.14 of the Analysis show, the non-trawl sector is assigned 833 mt, or approximately 19 percent of the current halibut PSC limit in the BSAI, and used approximately 15 percent of the average amount of halibut PSC used in the BSAI from 2008 through 2014.

The Council and NMFS considered halibut PSC use in the non-trawl sector. The non-trawl sector has clearly used far less than its current PSC apportionment, particularly in recent years. Table 1 in this preamble shows that from 2008 through 2014, the combined non-trawl sectors have used an average of 61 percent of the total non-trawl halibut PSC apportionment. Pacific cod hook-and-line catcher/processors have used 99.4 percent of the non-trawl halibut PSC on average from 2008 through 2014. Because of the overwhelming use of halibut PSC by Pacific cod hook-and-line catcher/processors relative to other non-trawl fishery participants, this section is focused primarily on the impacts of the proposed action on Pacific cod hook-and-line catcher/processors.

The Council and NMFS also considered the tools that could be adopted by the non-trawl sector. The Analysis and public testimony have described the efforts by hook-and-line catcher/processors to minimize their halibut PSC use in recent years. Appendix B of the Analysis describes a range of performance metrics for this fleet. The data in Appendix B show a consistent trend of lower halibut PSC rates year-over-year, particularly beginning in 2011 (see Table 7 in

Appendix B of the Analysis). Appendix B does not show a clear signal of increasing halibut PSC use by Pacific cod hook-and-line catcher/processors toward the end of the year as shown for the Amendment 80 and BSAI trawl limited access sectors (see Figure 11 in Appendix B of the Analysis). This suggests that the Pacific cod hook-and-line catcher/processors are likely employing some operational tools that have led to lower halibut PSC use in recent years (see Tables 4 and 5 in Appendix B of the Analysis).

Table 4–210 in Section 4.14 of the Analysis shows that reductions in halibut PSC would not be expected to limit groundfish harvest in the non-trawl sector until reductions reach a level 30 percent lower than the current halibut PSC limit. Therefore, the proposed reduction in the current halibut PSC limit by 15 percent would not be expected to result in reduced groundfish harvests and revenues. Based on the best available information, the proposed action would not likely have a negative economic impact on the non-trawl sector because all harvests could be accommodated under the reduced limit.

The Council and NMFS considered the socioeconomic impact of the proposed rule on the non-trawl sector and communities participating in the non-trawl fisheries. Reductions in halibut PSC limits would have to be greater than actual halibut PSC use to impose a substantial socioeconomic cost on the non-trawl sector participants. Under the two economic scenarios considered, and summarized in Table 4–210 in Section 4.14 of the Analysis, the impacts of reduced halibut PSC limits to the non-trawl sector would not be expected to have an economic cost from reduced groundfish revenues until the halibut PSC limit is reduced by at least 30 percent. Section 4.4.4.5 describes that the economic value of the use of halibut as PSC is substantial in the non-trawl fishery, as measured by the average wholesale groundfish revenue generated per mt of halibut used as PSC to support the non-trawl sector.

The Council and NMFS considered more restrictive halibut PSC reductions for the non-trawl sector. The Analysis shows that halibut PSC limit reductions would need to be extremely high relative to the current halibut PSC limit to yield actual reductions from current use. For example, a 50 percent reduction in the PSC limit for the non-trawl sector to a PSC limit of 380 mt would yield only 96 mt of savings compared to the 2008 through 2014 average, or only 10 mt relative to 2014

use (See Table 1 of this preamble and Table 4–209 in Section 4.14 of the Analysis). The Council did not recommend, and NMFS does not propose, more restrictive halibut PSC limits for the non-trawl sector given the relatively limited use of halibut PSC by the non-trawl sector, the consistent trend of halibut PSC use that is well below current halibut PSC limits, and the limited benefit that additional reductions would be likely to provide to the halibut fishery and communities participating in the halibut fishery relative to the negative socioeconomic impacts to participants in the non-trawl sector. Given these factors, the Council and NMFS determined that the proposed reduction is consistent with the purpose and need for this action and additional reductions in the non-trawl halibut PSC limit would not be practicable.

#### 4. CDQ Sector Halibut Bycatch (PSC) Limit Reduction

The CDQ sector has the fourth greatest impact on PSC of the BSAI groundfish sectors. As Table 1 in this preamble and Table 4–209 in Section 4.14 of the Analysis show, the CDQ sector is assigned approximately 9 percent of the current halibut PSC limit in the BSAI, and uses approximately 6 percent of the average amount of halibut PSC in the BSAI from 2008 through 2014.

The Council and NMFS considered halibut PSC use in the CDQ sector. The CDQ sector has consistently used far less halibut PSC than its current PSC limit, particularly in recent years. Table 1 of this preamble shows that from 2008 through 2014, the sector has used an average of 55 percent of its halibut PSC limit. PSC use has not exceeded 70 percent of the CDQ sector halibut PSC limit, and no CDQ group has exceeded its halibut PSC limit during this time.

The Council and NMFS also considered the tools that could be adopted by the CDQ sector. The CDQ sector clearly has, and uses, many of the tools that are available to the Amendment 80, AFA, and Pacific cod hook-and-line catcher/processor sectors because CDQ groups harvest their allocations in conjunction with vessels operating in those fisheries (Section 3.1.3.6 of the Analysis). The data on the use of halibut PSC indicates that these tools are being effectively used to minimize halibut PSC use in the CDQ sector.

The Council and NMFS considered the socioeconomic impact of the proposed rule on the CDQ sector and communities participating in the CDQ fisheries. The proposed rule would not be expected to have an adverse

economic impact on the CDQ groups and would not be expected to constrain groundfish harvests. Table 4–210 in Section 4.14 of the Analysis shows that until halibut PSC reductions reach a level of 35 percent, there does not appear to be an economic impact on the CDQ sector from reduced groundfish harvests and revenues. Section 4.4.6 of the Analysis contains additional information on the economic impacts of the proposed rule for the CDQ sector.

As Table 4–210 in Section 4.14 of the Analysis shows, the proposed halibut PSC reduction of 20 percent relative to current limits would not materially impact the CDQ participants, but would prevent the potential increase of halibut PSC use in future years. It is clear that the level of halibut PSC reduction proposed in this rule is practicable because in all years analyzed, halibut PSC use by the CDQ sector has been less than this limit.

The Council and NMFS considered whether additional halibut PSC limit reductions would be appropriate given the substantial gap between actual halibut PSC use and the current halibut PSC limit in the CDQ sector. The Analysis shows that halibut PSC limit reductions would need to be extremely high relative to the current halibut PSC limit to yield actual deductions. For example, a 50 percent reduction in the CDQ sector halibut PSC limit to 197 mt would yield only 18 mt of savings compared to the average use from 2008 through 2014 average, or only 47 mt relative to 2014 use. Neither the Analysis nor public testimony indicated that it is reasonable to expect that halibut PSC use in the CDQ sector will increase relative to current use. Therefore, the Council and NMFS determined that it is impracticable to establish a reduction that would be expected to substantially constrain the CDQ sector given the limited amount of halibut PSC used by the sector and the limited potential harvest opportunity to the commercial halibut fishery that a more restrictive halibut PSC limit would provide.

#### E. Summary of Impacts

During public testimony to the Council, some participants in halibut fisheries and members of the public recommended greater reductions of halibut PSC limits than the proposed rule would implement. However, halibut bycatch cannot be avoided completely, unless groundfish fishing is completely stopped. The Council and NMFS believe that more stringent PSC limit reductions are not practicable for the groundfish sectors.

As described above, the Council and NMFS considered impacts on the halibut stock and concluded that under all the alternatives considered, the impact on exploitable biomass and the halibut female spawning biomass was not likely to be significant. The Council and NMFS considered the impact on the halibut fishery and fishing communities participating in the halibut fishery and concluded that larger halibut PSC reductions in some sectors, particularly the Amendment 80 and BSAI trawl limited access sectors, would be expected to provide greater harvest opportunities in the halibut fisheries than would be realized under the proposed reductions. However, the Council and NMFS considered that larger halibut PSC reductions in these two sectors would be expected to have an adverse impact from foregone groundfish harvests and revenues. The adverse socioeconomic impact on fishing communities participating in the groundfish fisheries would be greater with larger halibut PSC reductions.

Based on the best available information, the Council and NMFS anticipate that participants in the Amendment 80 and BSAI trawl limited access sectors will need to modify their fishing behavior in response to lower halibut PSC limits. Based on the Analysis and public testimony received from groundfish 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 would minimize halibut bycatch to the extent practicable.

#### IV. The Proposed Rule

The proposed rule would implement Amendment 111 to the FMP primarily by revising § 679.21 to reduce BSAI halibut PSC limits for the Amendment 80 sector, BSAI trawl limited access sector, BSAI non-trawl sector, and the CDQ Program. The proposed rule would also make minor changes in terminology, reorganize regulatory text, and make other technical changes.

##### A. Reduction in Halibut PSC Limits

The proposed rule would establish the following halibut PSC limits at § 679.21(b): 1,745 mt for the Amendment 80 sector; 745 mt for the BSAI trawl limited access sector; 710 mt for the BSAI non-trawl sector; and 315 mt for the CDQ Program. These limits result in an overall BSAI halibut PSC limit of 3,515 mt.

##### 1. Amendment 80 Sector

The proposed rule would establish at § 679.21(b)(1)(i) a maximum halibut PSC limit of 1,745 mt for the Amendment 80 sector. If no vessels participate in the Amendment 80 limited access fishery in a year, NMFS will allocate the entire Amendment 80 halibut PSC limit of 1,745 mt among the Amendment 80 cooperatives that submitted a timely application for an Amendment 80 cooperative permit for that year.

If any Amendment 80 vessels chose to fish in the Amendment 80 limited access fishery, the proposed rule would establish the amount of PSC assigned to the Amendment 80 limited access fishery. The proposed rule would revise § 679.91(d)(1) and (d)(3), so that the Amendment 80 limited access fishery would be assigned only 80 percent of the halibut PSC that is remaining after halibut PSC has been assigned to Amendment 80 cooperatives. This regulatory change would result in an overall reduction of the halibut PSC limit to the Amendment 80 limited access sector of 40 percent compared to existing regulations. With these proposed regulatory changes, it is important to note that the combined halibut PSC limit for Amendment 80 cooperatives and the Amendment 80 limited access fishery would not sum to 1,745 mt. As described earlier in this preamble, the Amendment 80 limited access fishery would be assigned an amount of PSC that is 20 percent less than what the vessels in the Amendment 80 limited access fishery would receive if they had participated in a cooperative for that year.

##### 2. BSAI Trawl Limited Access Sector

The proposed rule would establish at § 679.21(b)(1)(ii) a halibut PSC limit of 745 mt for the BSAI trawl limited access sector. The proposed rule would make no change in the annual harvest specification process whereby NMFS apportions the overall sector PSC limit of the BSAI trawl limited access sector into PSC allowances for these trawl fishery categories. The proposed rule would make no change in the process whereby NMFS may make seasonal apportionments of the trawl PSC allowances.

##### 3. BSAI Non-Trawl Sector

The proposed rule would establish at § 679.21(b)(1)(iii) a halibut PSC limit of 710 mt for the BSAI non-trawl sector. The proposed rule would make no change in the annual harvest specification process whereby NMFS has authority to apportion the overall sector PSC limit into non-trawl fishery

categories. The proposed rule would make no change in the annual harvest specification process whereby NMFS has authority to make seasonal apportionments of the non-trawl PSC allowances. NMFS will 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 as described in the “Annual Halibut Bycatch (PSC) Limits and Apportionments of PSC Limits” section of this preamble.

##### 4. CDQ Sector

The proposed rule would establish at § 679.21(b)(1)(iv) a halibut PSC limit of 315 mt for the CDQ Program (*i.e.*, CDQ sector). This amount would not be deducted from the trawl PSC limit or the non-trawl PSC limit. The proposed rule would not modify the designation of this PSC limit as a PSQ Reserve.

The proposed rule would remove provisions at § 679.21(e)(3)(i)(A)(2)(ii) and § 679.21(e)(4)(i)(A) that allocate a portion of the halibut PSQ reserve from the trawl sector and a portion from the non-trawl sector. These regulatory provisions are no longer necessary with the establishment of a separate halibut PSC limit for the CDQ Program at § 679.21(b)(1)(iv).

The proposed rule would make no other changes in the process for the establishment and use of the halibut PSQ Reserve under the CDQ Program.

##### B. Minor Change in Terminology

The proposed rule would make a minor change in terminology and use “halibut PSC allowances” rather than “halibut bycatch allowances” to describe the apportionment of a halibut PSC sector limit into fishery categories. Section 679.21(e) currently uses “bycatch allowances” to describe the subdivision of a halibut PSC sector limit into fishery categories. NMFS believes that the term “PSC allowance” is more accurate than “bycatch allowance” because bycatch is broader than PSC. NMFS acknowledges that bycatch is often, or even typically, used to refer to the unintended catch of halibut by the groundfish fisheries. However, NMFS concluded that the regulatory text should use the accurate term, PSC, in regulations governing the catch of halibut by the BSAI groundfish fisheries.

The proposed rule also changes the term “incidental catch” to “PSC” at § 679.21(e)(3)(ii)(C). The current regulations at § 679.21(e)(3)(ii)(C) direct NMFS to count incidental catch of all halibut taken by the midwater pollock fishery against the bycatch allowance

for the pollock/Atka mackerel/“other species” category. The definition of “incidental catch” in § 679.2 excludes fish that are discarded and returned to the sea. The proposed rule uses the correct term, halibut PSC, in § 679.21(b)(1)(ii)(C) to describe halibut caught by the midwater pollock fishery.

### C. Reorganization and Other Technical Changes

The proposed rule would reorganize § 679.21 by creating a new § 679.21(b) that will contain all the provisions that are specific to BSAI halibut PSC limits. In the current regulations, § 679.21(a) is reserved, § 679.21(b) contains general provisions regarding PSC management, and § 679.21(e) contains provisions for BSAI PSC limits for all prohibited species: halibut, salmon, crab, and herring. The proposed rule would move the general provisions from § 679.21(b) to § 679.21(a). The proposed rule would place all provisions in § 679.21(e) that are specific to BSAI halibut PSC limits into § 679.21(b). The proposed rule would specify the BSAI halibut PSC

limits for each of the four groundfish sectors in § 679.21(b) and would note that the total of all the BSAI halibut PSC limits is 3,515 mt. This consolidation of BSAI halibut PSC regulations into § 679.21(b) would clarify the regulations for the public.

The proposed reorganization of halibut PSC regulations at § 679.21(b) would have four sections. Section 679.21(b)(1) would establish the halibut PSC limits for the four groundfish sectors: the Amendment 80 sector; the BSAI trawl limited access sector; the BSAI non-trawl sector; and the CDQ Program. Section 679.21(b)(2) would maintain NMFS’s authority to make seasonal apportionments of PSC allowances, which is currently at § 679.21(e)(5). Section 679.21(b)(3) would maintain the provisions regarding notification of PSC allowances, which is currently at § 679.21(e)(6). Section 679.21(b)(4) would maintain the management of BSAI halibut PSC allowances through directed fishery closures, which is currently at § 679.21(e)(7)(i) and (v).

The proposed rule would also revise Table 35 to part 679. Table 35 currently specifies the BSAI halibut PSC limits for the Amendment 80 sector and BSAI trawl limited access sector. The proposed rule would change Table 35 to include the revised halibut PSC limits.

Because halibut PSC regulations at § 679.21(e) are cross-referenced in other regulations, the proposed rule would change all cross-references to the halibut-specific provisions in § 679.21(e) throughout part 679 to the new halibut-specific regulations at § 679.21(b). The proposed rule would also change all cross-references in current regulations to the general PSC provisions that are now in § 679.21(b) to the new location for the general provisions in § 679.21(a). For each revised paragraph, this proposed rule includes the revised cross-references in the regulatory text and repeats the text that is not otherwise modified. Table 2 lists the location of regulations with cross-references that would be revised by the proposed rule.

TABLE 2—LIST OF PROPOSED CHANGES IN CROSS-REFERENCES

Location of revised cross-references
§ 679.2, definitions of definitions of “Directed fishing”, “Herring Savings Area”, “PSQ reserve”, and “Sablefish”. § 679.7(a)(12), § 679.7(k)(1)(v), and § 679.7(k)(4)(iii). § 679.20(d)(2). § 679.23(f), and § 679.23(g)(3). § 679.24(c)(2)(ii)(A), § 679.24(c)(2)(ii)(B), § 679.24(c)(3), § 679.24(c)(4), and § 679.24(a)(2)(ii)(A). § 679.26(d)(2). § 679.31(a)(4). § 679.64(a)(3).

## V. Classification

Pursuant to Section 304(b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that the proposed rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration of comments received during the public comment period.

The proposed rule has been determined to be not significant for purposes of Executive Order 12866.

### A. 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 (RFA). The IRFA describes the economic impact the 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 and

description of small entities directly regulated by the proposed action; 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**).

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

The proposed action would directly regulate those entities that participate in

harvesting groundfish from the Federal or parallel groundfish fisheries of the BSAI subject to a halibut PSC limit. The RFA recognizes and defines three kinds of small entities that could be regulated by this proposed action: (1) Small businesses, (2) small non-profit organizations, and (3) small government jurisdictions. This proposed action would directly regulate small businesses that participate in the harvesting of groundfish, and small non-profit organizations.

The IFRA estimates the number of directly regulated small entities based on size criteria established for industry sectors defined by the Small Business Administration (SBA). According to the SBA criteria, the groundfish fishery is defined as a finfish harvesting sector. An entity primarily involved in finfish harvesting is a small entity if it is independently owned and operated and not dominant in its field of operation (including its affiliates), and if it has combined annual gross receipts not in

excess of \$20.5 million for all its affiliated operations worldwide. Based on the best available and most recent data from 2014, the IRFA estimates that a maximum of up to 178 vessels could be directly regulated by this action. The IRFA assumes that each vessel is a unique entity. The IRFA states that this likely overestimates the total number of directly regulated entities because some vessels are likely affiliated through common ownership. However, these potential affiliations are not known with the best available data and cannot be predicted.

Only 19 of these directly regulated entities are estimated to be small entities based on the best available data on the gross receipts from these entities and their known affiliates. Seventeen of these small entities are hook-and-line catcher vessels that participate in the non-trawl sector, and two are trawl catcher vessels that participate in the BSAI trawl limited access sector, specifically the Pacific cod target fishery.

The IRFA states that all six of the CDQ groups would be directly regulated by this proposed action. The six CDQ groups are: The Aleutian Pribilof Island Community Development Association, the Bristol Bay Economic Development Corporation, the Central Bering Sea Fishermen's Association, the Coastal Villages Region Fund, the Norton Sound Economic Development Corporation, and the Yukon Delta Fisheries Development Association. Each of the six CDQ groups receives an exclusive allocation of halibut PSC that would be reduced (*i.e.*, regulated) under this proposed action. The six CDQ groups are non-profit organizations and none is dominant in its field; consequently each is defined as a small entity under the RFA.

## 2. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Action

NMFS has not identified any duplication, overlap, or conflict between this proposed action and existing Federal rules.

## 3. Impacts of the Action on Small Entities

The proposed action is intended to reduce halibut PSC mortality by decreasing halibut PSC limits available for use in the BSAI groundfish fisheries. Any reductions in harvest by groundfish harvesters would impact revenue generated from the BSAI groundfish fisheries. The 17 hook-and-line catcher vessels that participate in the non-trawl sector are not likely to be affected by the proposed reduction in the halibut PSC

limit for the non-trawl sector because current and anticipated halibut PSC use in this sector is substantially less than the proposed halibut PSC limit that would be established. The 2 trawl catcher vessels that participate in the BSAI trawl limited access sector may be limited by the proposed reduction in the halibut PSC limit for the BSAI trawl limited access sector (15 percent) in some years because halibut PSC use by the BSAI trawl limited access sector has exceeded the halibut PSC limit that would be established by the proposed action.

The six CDQ groups are not likely to be affected by the proposed reduction in the halibut PSC limit for the CDQ sector (20 percent) because current and anticipated halibut PSC use in the CDQ sector is substantially less than the proposed halibut PSC limit that would be established. However, some CDQ groups will experience an adverse impact from PSC reductions in the Amendment 80 and BSAI trawl limited access sectors, to the extent that they have ownership interests in vessels operating in those sectors, and the proposed halibut PSC limits constrain harvest and resulting revenue. The CDQ groups' ownership interests are described in Section 4.12 of the Analysis.

## 4. Description of Significant Alternatives Considered

The Council considered an extensive series of alternatives, options, and suboptions to reduce halibut PSC limits in the BSAI, 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 current BSAI halibut PSC limits in the FMP and in regulations. Alternative 2 would amend the FMP and regulations to reduce BSAI halibut PSC limits for six groundfish sectors. Alternative 2 includes six options. Each of the options under Alternative 2 contained seven suboptions analyzing halibut PSC limit reductions ranging from 10 percent to 50 percent for each sector. Option 1 would reduce halibut PSC limits for the Amendment 80 sector. The reductions would range from 232 mt to 1,162 mt. Option 2 would reduce halibut PSC limits for the BSAI trawl limited access sector. The reductions would range from 87 mt to 437 mt. Option 3 would reduce halibut PSC limits for the Pacific cod hook-and-line catcher/processor sector. The reductions would range from 76 mt to 380 mt. Option 4 would reduce halibut PSC limits for hook-and-line vessels participating in target fisheries other

than Pacific cod or sablefish. The reductions would range from 6 mt to 29 mt. Option 5 would reduce halibut PSC limits for the Pacific cod hook-and-line catcher vessel sector. The reductions would range from 1 mt to 7 mt. Option 6 would reduce halibut PSC limits for the CDQ sector. The reductions would range from 39 mt to 196 mt.

Section 2.5 of the Analysis describes other significant alternatives to the proposed rule that the Council considered but did not advance for further analysis: (1) Apportioning the halibut PSC limit for the BSAI trawl limited access sector between AFA trawl catcher vessels and non-AFA trawl catch vessels based on the halibut PSC by these vessel categories from 2009 through 2013; (2) implementing permanent measures in the Amendment 80 sector for deck sorting of halibut; (3) establishing a seasonal apportionment of the halibut PSC limit for the BSAI trawl limited access sector. Each of these alternatives would have changed the current management structure for regulating halibut PSC limits in BSAI. The Council's preferred alternative is a straightforward reduction in halibut PSC limits by sector. The Council's preferred alternative leaves the current management structure intact and most expeditiously achieves the Council's objective of reducing halibut PSC limit to the extent practicable in accord with National Standard 9.

Based on the best available scientific data and information, none of the alternatives except 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 with existing management tools. Thus, the proposed action would minimize the impacts on small entities in the BSAI groundfish fisheries and promote more efficient use of the available halibut PSC limits.

## 5. Recordkeeping and Reporting Requirements

This action does not modify recordkeeping or reporting requirements.

### B. Tribal Consultation

Executive Order (E.O.) 13175 of November 6, 2000 (25 U.S.C. 450 note), the Executive Memorandum of April 29, 1994 (25 U.S.C. 450 note), the American Indian and Alaska Native Policy of the

U.S. Department of Commerce (March 30, 1995), and the Department of Commerce Tribal Consultation and Coordination policy (78 FR 33331, June 4, 2013) outline the responsibilities of NMFS for Federal policies that have tribal implications. Section 161 of Public Law 108–199 (188 Stat. 452), as amended by section 518 of Public Law 109–447 (118 Stat. 3267), extends the consultation requirements of E.O. 13175 to Alaska Native corporations. Under the E.O. and agency policies, NMFS must ensure meaningful and timely input by tribal officials and representatives of Alaska Native corporations in the development of regulatory policies that have tribal implications. NMFS will provide a copy of this proposed rule to all federally recognized tribal governments and Alaska Native corporations to notify them of the opportunity to comment or request a consultation on this proposed action.

Section 5(b)(2)(B) of E.O. 13175 requires NMFS to prepare a “tribal summary impact statement” for any regulation that has tribal implications, that imposes substantial direct compliance costs on Indian tribal governments, and is not required by statute. The tribal summary impact statement must contain (1) a description of the extent of the agency’s prior consultation with tribal officials, (2) a summary of the nature of their concerns, (3) the agency’s position supporting the need to issue the regulation, and (4) a statement of the extent to which the concerns of tribal officials have been met. If the Secretary of Commerce approves this proposed action, a tribal impact summary statement that addresses the four questions above will be included in the final rule.

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

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: November 9, 2015.

**Samuel D. Rauch III,**

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 50 CFR part 679 continues to read as follows:

**Authority:** 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.2, revise the definitions for paragraph (5) of “Directed fishing”, “Herring Savings Area”, “PSQ reserve”, and “Sablefish (black cod)” to read as follows:

#### § 679.2 Definitions.

\* \* \* \* \*  
Directed fishing means:

\* \* \* \* \*  
(5) *With respect to the harvest of flatfish in the Bering Sea subarea*, for purposes of nonpelagic trawl restrictions under § 679.22(a) and modified nonpelagic trawl gear requirements under §§ 679.7(c)(5) and 679.24(f), fishing with nonpelagic trawl gear during any fishing trip that results in a retained aggregate amount of yellowfin sole, rock sole, Greenland turbot, arrowtooth flounder, flathead sole, Alaska plaice, and other flatfish that is greater than the retained amount of any other fishery category defined under § 679.21(b)(1)(ii) or of sablefish.

\* \* \* \* \*  
*Herring Savings Area* means any of three areas in the BSAI presented in Figure 4 to this part (see also § 679.21(b)(4) for additional closure information).

\* \* \* \* \*  
*PSQ reserve* means the amount of a prohibited species catch limit established under § 679.21 that has been allocated to the CDQ Program under § 679.21.

\* \* \* \* \*  
*Sablefish (black cod)* means *Anoplopoma fimbria*. (See also *IFQ sablefish*; *sablefish as a prohibited species* at § 679.21(a)(5); and *sablefish as a prohibited species* at § 679.24(c)(2)(ii)).

\* \* \* \* \*  
■ 3. In § 679.7, revise paragraphs (a)(12), (k)(1)(v), and (k)(4)(iii) to read as follows:

#### § 679.7 Prohibitions.

\* \* \* \* \*  
(a) \* \* \*  
(12) *Prohibited species donation program*. Retain or possess prohibited species, defined at § 679.21(a)(1), except as permitted to do so under the PSD program as provided by § 679.26, or as authorized by other applicable law.

\* \* \* \* \*  
(k) \* \* \*  
(1) \* \* \*

(v) *Directed fishing after a sideboard closure*. Use a listed AFA catcher/processor or a catcher/processor designated on a listed AFA catcher/processor permit to engage in directed fishing for a groundfish species or species group in the BSAI after the

Regional Administrator has issued an AFA catcher/processor sideboard directed fishing closure for that groundfish species or species group under §§ 679.20(d)(1)(iv), 679.21(b)(4)(iii), or 679.21(e)(3)(v).

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

(iii) *Groundfish sideboard closures*. Use an AFA catcher vessel to engage in directed fishing for a groundfish species or species group in the BSAI or GOA after the Regional Administrator has issued an AFA catcher vessel sideboard directed fishing closure for that groundfish species or species group under § 679.20(d)(1)(iv), 679.21(b)(4)(iii), or 679.21(e)(3)(iv), if the vessel’s AFA permit does not contain a sideboard exemption for that groundfish species or species group.

\* \* \* \* \*

■ 4. In § 679.21,

■ a. Redesignate paragraph (b) as paragraph (a);

■ b. Revise newly redesignated paragraph (a)(4);

■ c. Add a new paragraph (b);

■ d. Revise paragraph (e) heading;

■ e. Remove and reserve paragraphs (e)(1)(iv), (e)(2), and (e)(3)(i)(A)(2);

■ f. Revise paragraph (e)(3)(ii) heading, paragraphs (e)(3)(ii)(A) and (C), (e)(3)(iv), paragraph (e)(3)(iv)(B)(2) heading, (e)(3)(v), and (e)(3)(vi)(A) and (B);

■ g. Remove and reserve paragraph (e)(4);

■ h. Remove paragraph (e)(5)(iv);

■ i. Revise paragraphs (e)(6)(i) and (ii), and (e)(7)(i);

■ j. Remove and reserve paragraph (e)(7)(v); and

■ k. Remove paragraph (e)(8).

The revisions and additions read as follows:

#### § 679.21 Prohibited species by catch management.

(a) \* \* \*

(4) *Prohibited species taken seaward of the EEZ off Alaska*. No vessel fishing for groundfish in the GOA or BSAI may have on board any species listed in this paragraph (a) that was taken in waters seaward of these management areas, regardless of whether retention of such species was authorized by other applicable laws.

\* \* \* \* \*

(b) *BSAI halibut PSC limits—(1) Establishment of BSAI halibut PSC limits*. Subject to the provisions in paragraphs (b)(1)(i) through (iv) of this section, the following four BSAI halibut PSC limits are established, which total 3,515 mt: Amendment 80 sector—1,745 mt; BSAI trawl limited access sector—

745 mt; BSAI non-trawl sector—710 mt; and CDQ Program—315 mt (established as a PSQ reserve).

(i) *Amendment 80 sector.* The PSC limit of halibut caught while conducting any fishery in the Amendment 80 sector is an amount of halibut equivalent to 1,745 mt of halibut mortality. Halibut PSC limits within the Amendment 80 sector will be established for Amendment 80 cooperatives and the Amendment 80 limited access fishery according to the procedure and formulae in § 679.91(d) and (f). If halibut PSC is assigned to the Amendment 80 limited access fishery, it will be apportioned into PSC allowances for trawl fishery categories according to the procedure in paragraphs (b)(1)(ii)(A)(2) and (3) of this section.

(ii) *BSAI trawl limited access sector—(A) General.* (1) The PSC limit of halibut caught while conducting any fishery in the BSAI trawl limited access sector is an amount of halibut equivalent to 745 mt of halibut mortality.

(2) NMFS, after consultation with the Council, will apportion the PSC limit set forth under paragraph (b)(1)(ii)(A)(1) of this section into PSC allowances for the trawl fishery categories defined in paragraphs (b)(1)(ii)(B)(1) through (6) of this section.

(3) Apportionment of the trawl halibut PSC limit set forth under paragraph (b)(1)(ii)(A)(1) of this section among the trawl fishery categories will be based on each category's proportional share of the anticipated halibut PSC during a fishing year and the need to optimize the amount of total groundfish harvested under the halibut PSC limit for this sector.

(4) The sum of all PSC allowances for this sector will equal the PSC limit set forth under paragraph (b)(1)(ii)(A)(1) of this section.

(B) *Trawl fishery categories.* For purposes of apportioning the trawl PSC limit set forth under paragraph (b)(1)(ii)(A)(1) of this section among trawl fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those groundfish species or species groups for which a TAC has been specified under § 679.20.

(1) *Midwater pollock fishery.* Fishing with trawl gear during any weekly reporting period that results in a catch of pollock that is 95 percent or more of the total amount of groundfish caught during the week.

(2) *Flatfish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rock sole, "other flatfish," and yellowfin sole that is greater than

the retained amount of any other fishery category defined under this paragraph (b)(1)(ii)(B).

(i) *Yellowfin sole fishery.* Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under this paragraph (b)(1)(ii)(B)(2) and results in a retained amount of yellowfin sole that is 70 percent or more of the retained aggregate amount of rock sole, "other flatfish," and yellowfin sole.

(ii) *Rock sole/flathead sole/Alaska plaice/"other flatfish" fishery.* Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under this paragraph (b)(1)(ii)(B)(2) and is not a yellowfin sole fishery as defined under paragraph (b)(1)(ii)(B)(2)(i) of this section.

(3) *Greenland turbot/arrowtooth flounder/Kamchatka flounder/sablefish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Greenland turbot, arrowtooth flounder, Kamchatka flounder, and sablefish that is greater than the retained amount of any other fishery category defined under this paragraph (b)(1)(ii)(B).

(4) *Rockfish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rockfish species that is greater than the retained amount of any other fishery category defined under this paragraph (b)(1)(ii)(B).

(5) *Pacific cod fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Pacific cod that is greater than the retained amount of any other groundfish fishery category defined under this paragraph (b)(1)(ii)(B).

(6) *Pollock/Atka mackerel/"other species."* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of pollock other than pollock harvested in the midwater pollock fishery defined under paragraph (b)(1)(ii)(B)(1) of this section, Atka mackerel, and "other species" that is greater than the retained amount of any other fishery category defined under this paragraph (b)(1)(ii)(B).

(C) *Halibut PSC in midwater pollock fishery.* Any amount of halibut that is incidentally taken in the midwater pollock fishery, as defined in paragraph (b)(1)(ii)(B)(1) of this section, will be counted against the halibut PSC allowance specified for the pollock/Atka mackerel/"other species" category, as defined in paragraph (b)(1)(ii)(B)(6) of this section.

(iii) *BSAI Non-trawl Sector—(A) General.* (1) The PSC limit of halibut

caught while conducting any fishery in the BSAI non-trawl sector is an amount of halibut equivalent to 710 mt of halibut mortality.

(2) NMFS, after consultation with the Council, will apportion the PSC limit set forth under paragraph (b)(1)(iii)(A)(1) into PSC allowances for the non-trawl fishery categories defined under paragraph (b)(1)(iii)(B) of this section.

(3) Apportionment of the non-trawl halibut PSC limit of 710 mt among the non-trawl fishery categories will be based on each category's proportional share of the anticipated halibut PSC during a fishing year and the need to optimize the amount of total groundfish harvested under the halibut PSC limit for this sector.

(4) The sum of all PSC allowances for this sector will equal the PSC limit set forth under paragraph (b)(1)(iii)(A)(1) of this section.

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

(1) *Pacific cod hook-and-line catcher vessel fishery.* Catcher vessels fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of Pacific cod that is greater than the retained amount of any other groundfish species.

(2) *Pacific cod hook-and-line catcher/processor fishery.* Catcher/processors fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of Pacific cod that is greater than the retained amount of any other groundfish species.

(3) *Sablefish hook-and-line fishery.* Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of sablefish that is greater than the retained amount of any other groundfish species.

(4) *Groundfish jig gear fishery.* Fishing with jig gear during any weekly reporting period that results in a retained catch of groundfish.

(5) *Groundfish pot gear fishery.* Fishing with pot gear under restrictions set forth in § 679.24(b) during any weekly reporting period that results in a retained catch of groundfish.

(6) *Other non-trawl fisheries.* Fishing for groundfish with non-trawl gear during any weekly reporting period that results in a retained catch of groundfish and does not qualify as a Pacific cod hook-and-line catcher vessel fishery, a Pacific cod hook-and-line catcher/processor fishery, a sablefish hook-and-

line fishery, a jig gear fishery, or a groundfish pot gear fishery as defined under paragraphs (b)(1)(iii)(B)(1) through (5) of this section.

(iv) *CDQ Program*. The PSC limit of halibut caught while conducting any fishery in the CDQ Program is an amount of halibut equivalent to 315 mt of halibut mortality. The PSC limit to the CDQ Program will be treated as a Prohibited Species Quota (PSQ) reserve to the CDQ Program for all purposes under 50 CFR part 679 including §§ 679.31 and 679.7(d)(3). The PSQ limit is not apportioned by gear, fishery, or season.

(2) *Seasonal apportionments of BSAI halibut PSC allowances*—(i) *General*. NMFS, after consultation with the Council, may apportion a halibut PSC allowance on a seasonal basis.

(ii) *Factors to be considered*. NMFS will base any seasonal apportionment of a PSC allowance on the following types of information:

(A) Seasonal distribution of prohibited species;

(B) Seasonal distribution of target groundfish species relative to prohibited species distribution;

(C) Expected PSC needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;

(D) Expected variations in PSC rates throughout the fishing year;

(E) Expected changes in directed groundfish fishing seasons;

(F) Expected start of fishing effort; or

(G) Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

(iii) *Seasonal trawl fishery PSC allowances*—(A) *Unused seasonal apportionments*. Unused seasonal apportionments of trawl fishery PSC allowances made under paragraph (b)(2) of this section will be added to its respective fishery PSC allowance for the next season during a current fishing year.

(B) *Seasonal apportionment exceeded*. If a seasonal apportionment of a trawl fishery PSC allowance made under paragraph (b)(2) of this section is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from its respective apportionment for the next season during a current fishing year.

(iv) *Seasonal non-trawl fishery PSC allowances*—(A) *Unused seasonal apportionments*. Any unused portion of a seasonal non-trawl fishery PSC allowance made under paragraph (b)(2) of this section will be reapportioned to the fishery's remaining seasonal PSC allowances during a current fishing year

in a manner determined by NMFS, after consultation with the Council, based on the types of information listed under paragraph (b)(2)(ii) of this section.

(B) *Seasonal apportionment exceeded*. If a seasonal apportionment of a non-trawl fishery PSC allowance made under paragraph (b)(2) of this section is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the fishery's remaining seasonal PSC allowances during a current fishing year in a manner determined by NMFS, after consultation with the Council, based on the types of information listed under paragraph (b)(2)(ii) of this section.

(3) *Notification of allowances*—(i) *General*. NMFS will publish in the **Federal Register**, for up to two fishing years, the proposed and final BSAI halibut PSC allowances, the seasonal apportionments thereof, and the manner in which seasonal apportionments of non-trawl fishery PSC allowances will be managed.

(ii) *Public comment*. Public comment will be accepted by NMFS on the proposed PSC allowances seasonal apportionments thereof, and the manner in which seasonal apportionments of non-trawl fishery PSC allowances will be managed, for a period specified in the notice of proposed specifications published in the **Federal Register**.

(4) *Management of BSAI halibut PSC allowances*—(i) *Trawl sector—Amendment 80 limited access fishery and BSAI trawl limited access sector: Closures*—(A) *Exception*. When a PSC allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/“other species” fishery category, as defined in § 679.21(b)(1)(ii)(B)(6) is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(B) *Closures*. Except as provided in paragraph (b)(4)(i)(A) of this section, if, during the fishing year, the Regional Administrator determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (b)(1)(ii)(B)(2) through (6) of this section will catch the halibut PSC allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b)(1)(i) or (b)(1)(ii) of this section, NMFS will publish in the **Federal Register** the closure of the entire BSAI to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(ii) *BSAI non-trawl sector: Closures*. If, during the fishing year, the Regional Administrator determines that U.S.

fishing vessels participating in any of the non-trawl fishery categories listed under paragraph (b)(1)(iii) of this section will catch the halibut PSC allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (b)(1)(iii) of this section, NMFS will publish in the **Federal Register** the closure of the entire BSAI to directed fishing with the relevant gear type for each species and/or species group in that fishery category.

(iii) *AFA PSC sideboard limits*. Halibut PSC limits for the AFA catcher/processor sector and the AFA trawl catcher vessel sector will be established pursuant to § 679.64(a) and (b) and managed through directed fishing closures for the AFA catcher/processor sector and the AFA trawl catcher vessel sector in the groundfish fisheries for which the PSC limit applies.

\* \* \* \* \*  
(e) *BSAI PSC limits for crab, salmon, herring*—

\* \* \* \* \*

(3) \* \* \*  
(ii) *Red king crab, C. bairdi, and C. opilio*—(A) *General*. For vessels engaged in directed fishing for groundfish in the BSAI, other than vessels fishing under a CQ permit assigned to an Amendment 80 cooperative, the PSC limits for red king crab, *C. bairdi*, and *C. opilio* will be apportioned to the trawl fishery categories defined in paragraphs (e)(3)(iv)(B) through (F) of this section.

\* \* \* \* \*  
(C) *Incidental catch in midwater pollock fishery*. Any amount of red king crab, *C. bairdi*, or *C. opilio* that is incidentally taken in the midwater pollock fishery as defined in paragraph (e)(3)(iv)(A) of this section will be counted against the bycatch allowances specified for the pollock/Atka mackerel/“other species” category defined in paragraph (e)(3)(iv)(F) of this section.

\* \* \* \* \*  
(iv) *Trawl fishery categories*. For purposes of apportioning trawl PSC limits for crab and herring among fisheries, other than crab PSC CQ assigned to an Amendment 80 cooperative, the following fishery categories are specified and defined in terms of round-weight equivalents of those groundfish species or species groups for which a TAC has been specified under § 679.20.

(B) \* \* \*  
(2) *Rock sole/flathead sole/Alaska plaice/“other flatfish” fishery*. \* \* \*

\* \* \* \* \*  
(v) *AFA prohibited species catch limitations*. Crab PSC limits for the AFA catcher/processor sector and the AFA trawl catcher vessel sector will be

established according to the procedures and formulas set out in § 679.64(a) and (b) and managed through directed fishing closures for the AFA catcher/processor sector and the AFA trawl catcher vessel sector in the groundfish fisheries for which the PSC limit applies.

(vi) \* \* \*  
 (A) Crab PSC limits for the Amendment 80 sector in the BSAI will be established according to the procedure and formulae set out in § 679.91(d) through (f); and

(B) Crab PSC assigned to the Amendment 80 limited access fishery will be managed through directed fishing closures for Amendment 80 vessels to which the crab bycatch limits apply.

\* \* \* \* \*

(6) \* \* \*  
 (i) *General.* NMFS will publish in the **Federal Register**, for up to two fishing years, the annual red king crab PSC limit, and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the annual *C. opilio* PSC limit, the proposed and final PSQ reserve amounts, the proposed and final bycatch allowances, and the seasonal apportionments thereof, as required by paragraph (e) of this section.

(ii) *Public comment.* Public comment will be accepted by NMFS on the proposed annual red king crab PSC limit and, if applicable, the amount of this PSC limit specified for the RKCSS, the annual *C. bairdi* PSC limit, the annual *C. opilio* PSC limit, the proposed and final bycatch allowances, seasonal apportionments thereof, and the manner in which seasonal apportionments of non-trawl fishery bycatch allowances

will be managed, for a period specified in the notice of proposed specifications published in the **Federal Register**.

(7) \* \* \*  
 (i) *Exception.* When a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/“other species” fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

\* \* \* \* \*  
 ■ 5. In § 679.31, revise paragraph (a)(4) to read as follows:

**§ 679.31 CDQ and PSQ reserves, allocations, and transfers.**

(a) \* \* \*  
 (4) *PSQ reserve.* (See §§ 679.21(e)(3)(i)(A) and 679.21(b)(1)(iv))

\* \* \* \* \*  
 ■ 6. In § 679.64, revise paragraph (a)(3) to read as follows:

**§ 679.64 Harvesting sideboard limits in other fisheries.**

(a) \* \* \*  
 (3) *How will AFA catcher/processor sideboard limits be managed?* The Regional Administrator will manage groundfish harvest limits and PSC bycatch limits for AFA catcher/processors through directed fishing closures in fisheries established under paragraph (a)(1) of this section in accordance with the procedures set out in §§ 679.20(d)(1)(iv) and 679.21(b)(4)(iii).

\* \* \* \* \*  
 ■ 7. In § 679.91, revise paragraphs (d)(1) and (3) to read as follows:

**§ 679.91 Amendment 80 Program annual harvester privileges.**

\* \* \* \* \*

(d) \* \* \*

(1) *Amount of Amendment 80 halibut PSC for the Amendment 80 sector.* The amount of halibut PSC limit for the Amendment 80 sector for each calendar year is specified in Table 35 to this part. That halibut PSC is then assigned to Amendment 80 cooperatives and the Amendment 80 limited access fishery pursuant to paragraphs (d)(2) and (3) of this section. If one or more Amendment 80 vessels participate in the Amendment 80 limited access fishery, the halibut PSC limit assigned to the Amendment 80 sector will be reduced pursuant to paragraph (d)(3) of this section.

\* \* \* \* \*

(3) *Amount of Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery.* The amount of Amendment 80 halibut PSC assigned to the Amendment 80 limited access fishery is equal to the amount of halibut PSC assigned to the Amendment 80 sector, as specified in Table 35 to this part, subtracting the amount of Amendment 80 halibut PSC assigned as CQ to all Amendment 80 cooperatives as determined in paragraph (d)(2)(iv) of this section, multiplied by 80 percent.

\* \* \* \* \*

**§§ 679.20, 679.23, 679.24, and 679.26 [Amended]**

■ 8. At each of the locations shown in the “Location” column, remove the phrase indicated in the “Remove” column and replace it with the phrase indicated in the “Add” column for the number of times indicated in the “Frequency” column.

Location	Remove	Add	Frequency
§ 679.20(d)(2) .....	§ 679.21(b)	§ 679.21(a)	1
§ 679.23(f) .....	§ 679.21(b)	§ 679.21(a)	1
§ 679.23(g)(3) .....	§ 679.21(b)	§ 679.21(a)	1
§ 679.24(c)(2)(ii)(A) .....	§ 679.21(b)	§ 679.21(a)	1
§ 679.24(c)(2)(ii)(B) .....	§ 679.21(b)	§ 679.21(a)	1
§ 679.24(c)(3) .....	§ 679.21(b)	§ 679.21(a)	1
§ 679.24(c)(4) .....	§ 679.21(b)	§ 679.21(a)	1
§ 679.25(a)(2)(ii)(A) .....	§ 679.21(b)	§ 679.21(a)	1
§ 679.26(d)(2) .....	§ 679.21(b)	§ 679.21(a)	1

■ 9. Revise table 35 to part 679 to read as follows:

TABLE 35 TO PART 679—APPORTIONMENT OF CRAB PSC AND HALIBUT PSC BETWEEN THE AMENDMENT 80 AND BSAI TRAWL LIMITED ACCESS SECTORS

Fishery	Halibut PSC limit in the BSAI	Zone 1 Red king crab PSC limit . . .	<i>C. opilio</i> crab PSC limit (COBLZ) . . .	Zone 1 <i>C. bairdi</i> crab PSC limit . . .	Zone 2 <i>C. bairdi</i> crab PSC limit . . .
.....		as a percentage of the total BSAI trawl PSC limit after allocation as PSQ			
Amendment 80 sector .....	1,745mt .....	49.98	49.15	42.11	23.67
BSAI trawl limited access .....	745 mt .....	30.58	32.14	46.99	46.81

■ 10. Revise table 40 to part 679 to read as follows:

TABLE 40 TO PART 679—BSAI HALIBUT PSC SIDEBOARD LIMITS FOR AFA CATCHER/PROCESSORS AND AFA CATCHER VESSELS

In the following target species categories as defined in § 679.21(b)(1)(iii) and (e)(3)(iv) . . .	The AFA catcher/processor halibut PSC sideboard limit in metric tons is . . .	The AFA catcher vessel halibut PSC sideboard limit in metric tons is . . .
All target species categories .....	286	N/A
Pacific cod trawl .....	N/A	887
Pacific cod hook-and-line or pot .....	N/A	2
Yellowfin sole .....	N/A	101
Rock sole/flathead sole/"other flatfish" <sup>1</sup> .....	N/A	228
Turbot/Arrowtooth/Sablefish .....	N/A	0
Rockfish <sup>2</sup> .....	N/A	2
Pollock/Atka mackerel/"other species" .....	N/A	5

<sup>1</sup> "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Greenland turbot, rock sole, flathead sole, yellowfin sole, and arrowtooth flounder.

<sup>2</sup> Applicable from July 1 through December 31.