

effective means (e.g., inclusion of call-out cards or other media, revisions to packaging materials, supplying of information on Web sites), that the handset does not meet the relevant rating or ratings with respect to such operation(s).

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 110627357-1409-01]

RIN 0648-BB24

#### Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch Management in the Gulf of Alaska Pollock Fishery; Amendment 93

**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 93 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). The proposed regulations would apply exclusively to the directed pollock trawl fisheries in the Central and Western Reporting Areas of the Gulf of Alaska (GOA) (Central and Western GOA). If approved, Amendment 93 would establish separate prohibited species catch (PSC) limits in the Central and Western GOA for Chinook salmon (*Oncorhynchus tshawytscha*), which would cause NMFS to close the directed pollock fishery in the Central or Western regulatory areas of the Gulf of Alaska, if the applicable limit is reached. This action also would require retention of salmon by all vessels in the Central and Western GOA pollock fisheries until the catch is delivered to a processing facility where an observer is provided the opportunity to count the number of salmon and to collect scientific data or biological samples from the salmon. Amendment 93 would increase observer coverage on vessels less than 60 feet (18.3 m) length overall that participate in the directed pollock fishery in the Central or Western regulatory areas of the GOA by January 2013, unless the restructured North Pacific Groundfish Observer Program is in place by this time. Amendment 93 is

intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

**DATES:** Written comments must be received no later than 5 p.m. Alaska local time (A.l.t.) January 30, 2012.

**ADDRESSES:** Send comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by FDMS Docket Number NOAA-NMFS-2011-0156, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal at <http://www.regulations.gov>. To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter NOAA-NMFS-2011-0156 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on the right of that line.

- **Mail:** Submit written comments to P.O. Box 21668, Juneau, AK 99802.
- **Fax:** (907) 586-7557.
- **Hand delivery to the Federal Building:** 709 West 9th Street, Room 420A, Juneau, AK.

Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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.

All comments received are a part of the public record and will generally be posted without change. All Personal Identifying Information (for example, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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

Written comments regarding the burden-hour estimates or other aspects

of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address, emailed to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov), or faxed to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Mary Grady, (907) 586-7228.

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

The Council has submitted Amendment 93 for review by the Secretary of Commerce, and a notice of availability of the FMP amendment was published in the **Federal Register** (76 FR 72384) on November 23, 2011, with written comments on the FMP amendment invited through January 23, 2012. Comments may address the FMP amendment, the proposed rule, or both, but must be received by NMFS, not just postmarked or otherwise transmitted, by 5 p.m. Alaska local time (A.l.t.) on January 23, 2012, to be considered in the approval/disapproval decision on the FMP amendment. All comments received by that time, whether specifically directed to the amendment or the proposed rule, will be considered in the decision to approve, partially approve, or disapprove the proposed amendment. Comments received after the comment period for the amendment will not be considered in that decision.

#### The Application of This Action to the GOA Pollock Fishery and Current Management

This proposed rule would apply to owners and operators of catcher vessels, catcher/processors, and inshore processors participating in the pollock (*Theragra chalcogramma*) trawl fisheries in the Central and Western Reporting Areas of the GOA. The Central and Western Reporting Areas, defined at § 679.2 and shown in Figure 3 to 50 CFR part 679, include the Central and Western Regulatory Areas (Statistical Areas 610, 620, and 630), and the adjacent State of Alaska (State) waters.

The Council and NMFS annually establish biological thresholds and annual total allowable catch limits (TACs) for groundfish species to sustainably manage the groundfish

fisheries in the GOA. To achieve these objectives, NMFS requires vessel operators participating in groundfish fisheries in the GOA to comply with various restrictions, such as fishery closures, to maintain catch within specified TACs and associated sector and seasonal allocations and apportionments, and PSC limits for species that are generally required to be discarded.

NMFS manages GOA pollock as a single stock independently of pollock in the Bering Sea and Aleutian Islands management area. In 2011, the Central and Western GOA pollock TAC is 84,631 metric tons (mt). Additional information about the pollock fishery is in Section 3.5 of the EA (see **ADDRESSES**), and in the final 2011 and 2012 harvest specifications for the GOA groundfish fisheries (76 FR 11111, March 1, 2011). Pollock is harvested with fishing vessels using trawl gear, which consists of nets towed through the water by the vessel.

NMFS apportions the GOA pollock TAC spatially and temporally in the GOA. Regulations at § 679.21 establish four seasons in the Central and Western GOA beginning January 20 (“A” season), March 10 (“B” season), August 25 (“C” season), and October 1 (“D” season), with 25 percent of the annual TAC allocated to each season. Allocations to the Western and Central GOA are based on the seasonal pollock biomass distribution as estimated by NMFS groundfish surveys. In addition, a harvest control rule requires suspension of directed pollock fishing when female spawning biomass is equal to or below 20 percent of the reference unfished level (§ 679.20(d)(4)).

This proposed rule would apply only to the management of the pollock trawl directed fisheries in the Central and Western Reporting Areas of the GOA (Central GOA and Western GOA), which includes the Federal fisheries in the waters of the EEZ (3 nm to 200 nm), and the waters of the State of Alaska (State) (0 to 3 nm) that are managed under a parallel fishery. These fisheries in State waters, referred to as the parallel fisheries, are opened and closed by the State of Alaska and are prosecuted under rules similar to those which apply in the Federal fisheries, with catch accrued against the Federal TAC. The fisheries that would be affected by this action include the GOA State parallel fisheries for pollock that take place in State waters around Kodiak Island, in the Chignik Area, and along the South Alaska Peninsula. Pollock harvests in parallel fisheries that occur in State waters are typically opened and closed concurrently with Federal

fisheries. This proposed rule would deduct salmon taken in the EEZ and the State parallel pollock fishery against the Central GOA and Western GOA Chinook salmon PSC limits.

Under this proposed rule NMFS would not deduct salmon taken during a pollock State-managed guideline harvest level (GHL) fishery in the Central or Western GOA against the Central GOA and Western GOA Chinook salmon PSC limits. For these fisheries, the State of Alaska establishes a GHL that the Council and NMFS deduct before NMFS sets the Federal ABC during the harvest specifications process. The State manages the GHL, which is available for harvest exclusively within State waters. The State deducts the GHL groundfish caught in a GHL fishery from the State GHL. Currently, the only pollock GHL fishery in those areas is the Prince William Sound pollock fishery.

#### **Chinook Salmon Bycatch in the GOA Pollock Fishery**

Chinook salmon and pollock occur in the same locations in the GOA. Chinook salmon is a prohibited species incidentally taken during the directed harvest of pollock in the GOA. The directed pollock fishery in the Central and Western GOA takes the majority of Chinook salmon PSC in the GOA groundfish fisheries. Additional details on Chinook salmon PSC among GOA groundfish fisheries are available in the (EA/RIR/IRFA) prepared for this action at <http://alaskafisheries.noaa.gov>.

The MSA defines bycatch as fish that are harvested in a fishery that are not sold or kept for personal use. Because of its value in non-groundfish fisheries, Chinook salmon are prohibited species in the groundfish fisheries and currently NMFS regulations require that catch must be minimized and discarded in the GOA groundfish fisheries (§ 679.21(b)). Therefore, Chinook salmon caught in the GOA pollock fishery are considered bycatch under the MSA, the FMP, and NMFS regulations at 50 CFR part 679. The Council and NMFS are concerned about bycatch of any species, including discard or other mortality caused by fishing. National Standard 9 of the MSA requires the Council to recommend, and NMFS to implement, conservation and management measures, that to the extent practicable, minimize bycatch and bycatch mortality.

In the GOA groundfish fisheries, PSC limits have been set for halibut, which close specific groundfish target fisheries after the limits are reached. Seasonal and permanent area closures have been established to protect red king crab and Tanner crab. There are currently no

specific management measures to address Chinook salmon PSC in the GOA groundfish fisheries. This action would establish PSC limits for Chinook salmon and PSC management measures for the Central and Western GOA pollock fisheries.

Chinook salmon is a culturally and economically valuable species that is fully allocated and for which State and Federal managers seek to conservatively manage harvests. The FMP categorizes Chinook salmon as prohibited species, one of the most regulated and closely managed categories of bycatch in Alaska fisheries. Chinook salmon, all other species of salmon (a category called “non-Chinook salmon”), steelhead trout, Pacific halibut, king crab, Tanner crab, and Pacific herring are classified as prohibited species in the groundfish fisheries off Alaska (§ 679.2). Fishermen must avoid PSC when possible and return PSC to the water immediately, with a minimum of injury, after an observer has collected catch counts and any scientific data or biological samples. One reason for discarding prohibited species is that some PSC species may live if they are returned to the sea with a minimum of injury and delay. However, salmon caught incidentally in trawl nets often die as a result of that capture.

In an effort to minimize waste of salmon incidentally caught and killed, NMFS has established a prohibited species donation (PSD) program under § 679.26. Participants in the program may donate incidentally caught salmon to the PSD program. The PSD program was initiated to reduce the amount of edible protein discarded under PSC regulatory requirements (§ 679.21). The PSD program allows permitted participants to retain salmon for distribution to economically disadvantaged individuals through tax exempt hunger relief organizations.

NMFS tracks the harvest of pollock and incidental catch of salmon in the Catch Accounting System, which uses observer data to estimate PSC and groundfish harvest amounts for participants in the GOA pollock fishery. Vessels participating in the Central GOA pollock fishery averaged 36,051 metric tons (mt) of pollock catch per year from 2003 to 2010. During these years, the pollock catch in the Central GOA was greatest in 2005, when 46,802 mt were caught and smallest in 2009 when 22,700 mt were taken. From 2003 to 2010, vessels participating in the Central GOA pollock fishery took as few as 2,123 Chinook salmon (2009), and as many as 31,647 Chinook salmon (2007). Over those years the fleet caught an average of 12,607 Chinook salmon per

year. When the Council and NMFS compared the Chinook salmon catch to the pollock catch, the number of Chinook salmon per mt ranged from 0.09 Chinook salmon/mt of pollock in 2009 to 0.98 Chinook salmon/mt of pollock in 2007. NMFS estimates that, on average, 0.35 Chinook salmon/mt of pollock was taken from 2003 to 2010 in the Central GOA pollock fishery.

In the Western GOA, the pollock fleet caught between 14,010 mt (2009) and 30,756 mt (2005) of pollock, while averaging 20,773 mt per year of pollock catch from 2003 to 2010. Over that same period of time, the fleet caught between 441 Chinook salmon (2009) and 31,581 Chinook salmon (2010) annually. NMFS estimates the fleet took an average of 6,380 Chinook salmon per year from 2003 to 2010. NMFS estimates that from 2003 to 2010, the smallest ratio of Chinook salmon PSC to the pollock catch was 0.03 Chinook salmon/mt of pollock in 2009 and the largest was 1.23 Chinook salmon/mt of pollock in 2010. NMFS estimates that on average, 0.31 Chinook salmon/mt of pollock was taken from 2003 to 2010 in the Western GOA pollock fishery.

#### **Objectives of and Rationale for Amendment 93 and This Proposed Rule**

Although all species of Pacific salmon are taken incidentally in the groundfish fisheries within the GOA, the Council focused Amendment 93 specifically on Chinook salmon in the Central and Western GOA. The Council decided not to include the Eastern Regulatory Area of the GOA in Amendment 93 because it includes a large area closed to trawling, and Chinook salmon PSC in the Eastern Regulatory Area of the GOA accounts for less than 2 percent of total GOA Chinook salmon PSC.

In June 2011, the Council recommended Amendment 93, which would establish separate Chinook salmon PSC limits for the Central GOA and Western GOA pollock fisheries. Of all salmon species caught, Chinook salmon is the highest catch in the GOA groundfish fisheries in recent years. The Central and Western GOA pollock fisheries intercept the majority of Chinook salmon caught as bycatch in the GOA groundfish fisheries. The implementation of Chinook salmon PSC limits would likely prevent unusually high levels of bycatch of this prohibited species, such as occurred in 2010, from occurring in the fishery in the future. The Council acknowledged that the selection of a Chinook salmon PSC limit for the GOA pollock fishery requires a balance both of obligations under the MSA National Standards, and the needs of different user groups. The Council

intends for the Chinook salmon PSC limits to allow the full prosecution of the pollock fishery in the Central and Western GOA in most years, while truncating the fishery in some years if necessary to prevent events of relatively high Chinook salmon PSC in these areas, such as occurred in 2010 (44,813 Chinook salmon). The Council also acknowledged that the implementation of Chinook salmon PSC limits proposed in this action may be followed by subsequent recommendations to address Chinook salmon PSC in other GOA groundfish fisheries.

The principal objective of Chinook salmon bycatch management in the GOA pollock fishery is to minimize Chinook salmon bycatch to the extent practicable while allowing the pollock fishery to contribute to the achievement of optimum yield in the groundfish fishery. Minimizing Chinook salmon bycatch while achieving optimum yield is necessary to maintain a healthy marine ecosystem, ensure long-term conservation and abundance of Chinook salmon, provide maximum benefit to fishermen and communities that depend on Chinook salmon and pollock resources, and comply with the MSA and other applicable federal law.

In developing Amendment 93, the Council sought to ensure maximum consistency with the MSA's 10 National Standards. The Council designed Amendment 93 to balance the competing demands of the National Standards. Specifically, the Council recognized the need to balance and be consistent with both National Standard 9 and National Standard 1. National Standard 9 requires that conservation and management measures shall, to the extent practicable, minimize bycatch. National Standard 1 requires that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the U.S. fishing industry. The ability to harvest the entire pollock TAC in any given year is not determinative of whether the GOA groundfish fishery achieves optimum yield. Providing the opportunity for the fleet to harvest its TAC is one aspect of achieving optimum yield in the long term.

The Council also considered the importance of equity among user groups in recommending Amendment 93. In addition to providing an equitable apportionment of the total GOA-wide PSC limit between the Central and Western GOA pollock fisheries, the Council also considered the needs of Chinook salmon users. Information is currently unavailable for NMFS to assess the stock of origin of the Chinook

salmon that are incidentally caught in the GOA pollock fisheries. A component of Amendment 93 would require full retention of salmon species incidentally caught in the Central or Western GOA pollock fisheries, which is a necessary step to facilitate future stock of origin analyses. The Council also noted that the Chinook salmon resource is of value to many stakeholders, including but not limited to commercial, recreational, and cultural user groups; and it is a resource that is currently fully utilized. By instituting a PSC limit that would reduce Chinook salmon bycatch, the Council and NMFS also are considering the needs of these other user groups and recommending this proposed action to promote their access to the Chinook salmon resource.

NMFS proposes Chinook salmon PSC limits that are based on the Council's recommended GOA-wide goal of limiting Chinook salmon bycatch to no more than 25,000 salmon in the Central and Western GOA pollock fisheries. In selecting this overall limit on Chinook salmon PSC, the Council considered a range of alternatives to assess the impacts of minimizing Chinook salmon bycatch to the extent practicable while preserving the potential for the full harvest of the pollock TAC. The Council considered the trade-offs between Chinook salmon saved and the forgone pollock catch. The EA and RIR include a description of the alternatives and a comparative analysis of the potential impacts of the alternative PSC limits (see **ADDRESSES**).

The Council noted that the pollock fishery accounts for approximately 75 percent of Chinook salmon PSC in the GOA groundfish fisheries, based on Catch Accounting System data regarding the average Chinook salmon PSC levels from 2001 to 2010. The Council recommended, and the rule proposes, to apportion the selected GOA-wide Chinook salmon PSC limit between the Central and Western GOA on the basis of annual Chinook salmon PSC levels and pollock harvests in each area during 2001 to 2010 excluding 2007 and 2010. The Council recommended excluding bycatch amounts from 2007 and 2010 from consideration because of specific conditions in the Central and Western GOA during those years. In the Central GOA, 2007 was a year of particularly high Chinook salmon PSC, as was 2010 in the Western GOA. The Council considered the conditions that contributed to these high levels of PSC during these years and did not include them for assigning Chinook salmon PSC. The Council considered and rejected those years because the conditions that contributed to the high levels of bycatch

were not representative for specific reasons detailed in section 2.1.2 of the Analysis. Inclusion of these years, which represent the highest levels of Chinook salmon PSC in each area, would increase the apportionment of PSC in that area, effectively rewarding the fleet in that area for its high levels of Chinook salmon PSC. The Council did not feel it was appropriate to reward the fleets for unacceptably high levels of Chinook salmon PSC.

Under this proposed rule, the Central and Western GOA pollock fisheries should be able to harvest the full pollock TAC in each area based on the lower, long-term (17 year) average Chinook salmon bycatch rate, although they would be unable to harvest the full TAC based on the recent (8 year), higher average Chinook salmon bycatch rate (see EA/RIR/IRFA in **ADDRESSES**). The proposed rule would maintain a constraint on the fleet to reduce bycatch, while still allowing for optimum yield from the GOA groundfish fishery. The proposed Chinook salmon PSC limits would require the fleet to work together to come up with mechanisms to reduce Chinook salmon bycatch in order to prevent an early closure to the pollock fishery. The Council acknowledged, and NMFS concurs, that bycatch rates are highly variable, and in years of high Chinook salmon encounters, the proposed PSC limit would prevent amounts of bycatch similar to or more than amounts that occurred in past high bycatch years. Based upon historical fishing activity and salmon bycatch rates, higher Chinook salmon PSC limits would not meet the intent of the Council to minimize bycatch to the extent practicable, as expressed in the problem statement.

Under the proposed rule, the Chinook salmon PSC limit would be divided into annual PSC limits of 18,316 (73 percent of the GOA-wide PSC limit) Chinook salmon for the Central GOA, and 6,684 Chinook salmon (27 percent of the GOA-wide PSC limit) for the Western GOA. As described further in the Notice of Availability for Amendment 93, the Council recommended the split of 73 percent for the Central GOA and 27 percent for the Western GOA because it balances the economic impacts to fishery participants in the Central GOA and fishery participants in the Western GOA. The Council based this apportionment of the GOA-wide Chinook salmon PSC limit between the Central and Western GOA on the pollock TAC for each area and the average number of salmon caught as bycatch in each area, set at an equal ratio, from 2001 through 2010,

excluding 2007 and 2010, with an adjustment intended to prevent either area from bearing a disproportionate share of the economic impact of the GOA-wide PSC limit. The analysis indicated that a lower Chinook salmon PSC limit in the Central GOA, strictly based on historic catch in the two areas with no adjustment, was likely to be more constraining to the pollock fishery in the Central GOA than the selected Chinook salmon PSC limit in the Western GOA would be to the pollock fishery in the Western GOA.

The Council recommended that NMFS implement the PSC limits in mid-2012. If the Secretary approves Amendment 93 and the final rule, the reduced PSC limits could apply for the C and D seasons only (August 25 through November 1). The Council recommended the PSC limits for the 2012 C and D seasons to be 8,929 Chinook salmon in the Central GOA and 5,598 Chinook salmon in the Western GOA. These PSC limits were calculated by multiplying the annual PSC limit in each area by the average percentage of annual Chinook salmon PSC taken in the C and D seasons within each area, over the same time series of 2001 to 2010 but excluding 2007 and 2010, and adjusting upward by 25 percent. The Council adjusted the amount upward by 25 percent the first year to provide a buffer and reduce the constraint of mid-year implementation limits on the pollock fisheries.

The Council recommended that the GOA-wide Chinook salmon PSC limit be apportioned to the Central and Western GOA to prevent incidental catch of Chinook salmon in one area from triggering the closure of the pollock fishery throughout the GOA. Under the proposed rule, NMFS would manage all provisions of the PSC limits on a reporting area basis, except for NMFS's authority to close fisheries when the limits are reached, which would only extend to the Central and Western Regulatory Areas of the GOA. If the PSC limit in either the Central GOA or Western GOA were reached, NMFS would close the directed pollock fishery in the applicable regulatory area. The State of Alaska would be responsible for closing the adjacent state waters in the applicable reporting area.

In order to effectively monitor Chinook salmon PSC, the Council also recommended requiring observer coverage on vessels less than 60 feet (18.3 m) length overall (LOA) by January 2013. Chinook salmon PSC estimates for this portion of the fleet have a high degree of uncertainty, as observers are currently not required on this vessel class. Much of the Western GOA pollock

fleet consists of vessels less than 60 feet (18.3 m) LOA. Observer coverage on this portion of the fleet would improve the accuracy of Chinook salmon PSC estimates. Currently, § 679.50(c)(1)(v) requires that a catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) LOA, but less than 125 ft (38.1 m) LOA, that participates for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter must carry an observer during at least 30 percent of its fishing days in that calendar quarter and at all times during at least one fishing trip in that calendar quarter for each of the groundfish fishery categories defined under paragraph (c)(2) of § 679.50 in which the vessel participates. The proposed rule would require trawl vessels less than 60 feet (18.3 m) LOA that are directed fishing for pollock in the Central or Western GOA to also meet these observer coverage requirements.

In 2010, the Council approved a restructured observer program, and NMFS is currently drafting proposed regulations that will be sent out for public notice and comment. The Council's intent is that if the restructured observer program were approved by the Secretary and implemented by January 2013, the increased observer coverage that would be required under this proposed rule would not be extended to vessels less than 60 feet (18.3 m) LOA for the C and D seasons of 2012. The Council weighed the benefit of more accurate bycatch estimates that would accrue from expanding observer coverage for this portion of the fleet against the potential for confusion as vessel operators would be required to conform to the requirements of two new and different observer programs within a six month period. The Council determined, however, that 18 months (mid-2012 through 2014) without observer coverage in the less than 60 feet (18.3 m) LOA fleet was not acceptable if the observer program restructuring were delayed or otherwise not approved by the Secretary. If the implementation of the restructured observer program were delayed until 2014, then this proposed action would require vessels less than 60 ft (18.3 m) LOA to have 30 percent coverage while directed fishing for pollock in the Central GOA and Western GOA no later than January 1, 2013.

The majority of the fleet that would be affected by increased coverage would be vessels less than 60 feet (18.3 m) LOA in the Western GOA. Some of these vessels deliver their catch to tender vessels instead of shoreside processing facilities. Increased observer coverage on the less than 60 feet (18.3 m) LOA

fleet would result in more trips being observed, which may provide increased coverage in the Western GOA. However, the additional coverage in the Western GOA may improve only marginally the accuracy of salmon PSC estimates, since the PSC estimates for vessels delivering to tenders would be based on observer at-sea sampling for Chinook salmon, which is a relatively uncommon species. The increased observer coverage on vessels less than 60 feet (18.3 m) LOA under this action would only be effective until the restructured Observer Program is implemented. NMFS anticipates that, if the Secretary approves the restructured observer program, the program could be implemented by January 1, 2014.

This proposed action would require full retention of all salmon species in the Central and Western GOA pollock fisheries for both observed and unobserved vessels until the salmon are delivered to a shoreside processing plant and an observer at the plant has been given the opportunity to count the number of salmon and to collect biological samples. The retention requirement does not focus specifically on Chinook salmon because it can be difficult to differentiate among salmon species unless the fish is examined. Current regulations under § 679.21(b)(2)(ii) require vessel operators to discard salmon when an observer is not on board. When an observer is aboard, they are required to allow for sampling by an observer before discarding prohibited species. This proposed rule would revise the requirements at § 679.21(b), to require the operators of all vessels engaged in directed fishing for pollock in the Central and Western GOA, and all processors taking deliveries from these vessels, to retain all salmon until an observer at a processing plant has been given the opportunity to count the number of salmon and to collect biological samples, before discarding.

The proposed rule would require the operators of all vessels to retain all salmon caught in the pollock fishery in the Central and Western Gulf until those salmon are delivered to a processing plant, where an observer would be provided the opportunities to count and sample the salmon. Under the proposed rule, all salmon must then be discarded or donated to the PSD program. The full retention requirement would not modify the observer duties or the method by which NMFS calculates fleet-wide Chinook salmon PSC estimates. Observer sampling protocols would not be changed, other than the potential that there may be an increase in biological sampling at the plants. NMFS would

continue to calculate Chinook salmon PSC numbers, and would manage PSC limits for Chinook salmon, using the existing system of extrapolating catch rates from observed vessels to the unobserved portion of the pollock fleet.

Salmon retained under this action may not be kept for sale or personal use, and must be discarded or donated to the prohibited species donation program, following collection of any scientific data or biological samples. This proposed rule would provide an exception to mandatory discard requirements if the Chinook salmon were delivered to a participant in the PSD program. Once salmon are counted and sampled at the processing plant, they may be donated to the PSD program, or they must be discarded. A list of participants in the PSD program in the GOA is available from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov/ram/psd/salmon072011.pdf>.

#### Proposed Regulatory Amendments

Several regulatory amendments would be necessary to implement Chinook salmon PSC limits in the Central and Western GOA pollock fishery under Amendment 93. The proposed rule would (1) Set PSC limits for Chinook salmon in the Central and Western GOA Reporting Areas, (2) increase observer coverage for all trawl vessels less than 60 feet (18.3 m) LOA directed fishing for pollock in the Central and Western GOA, and (3) revise retention requirements for all species of salmon in the Central and Western GOA pollock trawl fisheries. This proposed rule also would make minor changes to the regulations for the PSD program to be consistent with Amendment 93 and to provide updates to the reporting requirement and decision criteria for PSD program permitting.

#### Prohibitions

The proposed rule would add prohibitions under § 679.7(b)(8) to regulate discard in the Central and Western GOA directed pollock fisheries. Paragraph (b)(8) would be added to expressly prohibit any action that does not comply with the regulations described below for § 679.21(h). This is necessary to expressly inform fishery participants that certain activities are prohibited.

#### PSC Management

The proposed rule would revise PSC management measures under § 679.21 to establish Chinook salmon PSC limits and management measures for directed pollock trawl fishing in the Central and

Western Reporting Areas of the GOA. Paragraph (b)(2)(ii) would be revised to add GOA pollock fisheries described under paragraph (h) and PSD program clarifications to the exception for immediate sorting and returning to the sea of salmon PSC. This is necessary to ensure participants in the PSD program may retain salmon for donation purposes and to facilitate observer sampling and counting of all salmon. Paragraph (b)(3) would be revised to establish that there will not be a rebuttable presumption that any salmon retained on board during a directed pollock fishery in the Central or Western GOA was caught and retained in violation of § 679.21. This is necessary to ensure that vessels that comply with the requirement to retain salmon are not presumed to violate § 679.21. In addition, this is necessary to maintain the existing rebuttable presumption that any Chinook salmon retained on board during a directed pollock fishery in the GOA outside of the Western and Central reporting areas was caught and retained in violation of this section.

The proposed rule would add PSC management measures under § 679.21(h) to establish Chinook salmon PSC limits for the pollock trawl fisheries in the Central and Western GOA. Paragraph (h)(1) would specify applicability of regulations in this paragraph to federally permitted vessels directed fishing for pollock in the Central and Western GOA reporting areas and processors taking deliveries from such vessels. Paragraph (h)(2) would establish GOA Chinook salmon PSC limits. Paragraph (h)(2)(i) would specify an annual PSC limit of 18,316 Chinook salmon for vessels engaged in directed fishing for pollock in the Central reporting area of the GOA. Paragraph (h)(2)(ii) would specify an annual limit of 6,684 Chinook salmon for vessels engaged in directed fishing for pollock in the Central reporting area of the GOA. Paragraph (h)(3) would set Chinook salmon PSC limits and allocations for the Central and Western GOA pollock fisheries C and D seasons in 2012. The 2012 annual PSC limits would be effective until January 1, 2013. If the Chinook salmon PSC limits come into effect for only the C and D seasons in 2012, paragraphs (h)(3)(i) and (ii) would specify a PSC limit of 8,929 Chinook salmon for vessels engaged in directed fishing for pollock in the Central reporting area of the GOA and a PSC limit of 5,598 Chinook salmon for vessels engaged in directed fishing for pollock in the Western reporting area of the GOA for the C and D seasons in

2012. These revisions would be necessary to establish the annual Chinook salmon PSC limits and the 2012 C and D season limits recommended by the Council and approved by the Secretary.

Paragraph (h)(4) of § 679.21 would require temporary salmon retention in the Central and Western GOA directed pollock fisheries. The operator of a vessel and the manager of a shoreside processor or stationary floating processor would be prohibited from discarding any salmon or transferring or processing any salmon under the PSD program at § 679.26, if the salmon were taken incidental to a Central or Western GOA directed pollock fishery, until an observer at the processing facility is provided the opportunity to estimate the number of salmon and to collect any scientific data or biological samples from the salmon.

Paragraph (h)(5) of § 679.21 would require that all salmon, except for salmon under the PSD program at § 679.26, must be discarded following notification by an observer that the number of salmon has been estimated and the collection of scientific data or biological samples has been completed. This requirement is necessary to ensure observers are provided the opportunity to count salmon and to take biological samples and to ensure that the salmon not donated is discarded, as required of all PSC.

Proposed new paragraph (h)(6) of § 679.21 would establish Chinook salmon PSC closure management. Closures for pollock fisheries using trawl gear would be established, if, during the fishing year, the Regional Administrator determines that vessels engaged in directed fishing for pollock in the Central or Western GOA will catch the Chinook salmon PSC limits specified for that area. NMFS would publish notification in the **Federal Register** closing the applicable regulatory area to directed fishing for pollock. This is necessary to allow NMFS to manage area closures for the pollock fisheries in the Central and Western Regulatory Areas of the GOA based on Chinook salmon PSC reaching the Chinook salmon PSC limits for the Central and Western Reporting Areas. The State of Alaska would manage the closure of the parallel pollock fishery based on the federal closure.

#### *Prohibited Species Donation Program*

This proposed rule would revise § 679.26(c)(1) reporting and recordkeeping requirements for the PSD program to add the Central and Western GOA pollock fishery to ensure observer sampling of donated fish. This is

necessary to facilitate the counting and biological sampling of donated salmon and to ensure NMFS applies the Chinook salmon donated to the PSD program to the PSC limits.

In addition, the proposed rule would modify the PSD program regulations to implement the intent of the program to allow participation by all types of near shore, stationary processors for halibut donations. It also would revise paragraph (a)(2) of § 679.26 to include stationary floating processors as eligible to receive and process donated halibut. Stationary floating processors are generally located near shore and remain in one location and are therefore similar to a shoreside processor for purposes of the halibut donation program. This proposed revision is necessary to meet the Council's intent that halibut that cannot be sorted at sea and delivered to a processor located in one location in a near shore area may be donated to the PSD program.

The proposed rule would revise paragraph (b)(1)(xi) of § 679.26 to clarify information required for the application process to become an authorized PSD distributor. This proposed rule would remove the requirement that the vessel or processor provide a fax number, as faxes are no longer used for communication between NMFS and the vessels or processors for the purposes of this program. This revision would reduce the reporting burden for the PSD applicant.

Paragraph (b)(2)(iv) of § 679.26 would be revised to change the selection criteria considered by the Regional Administrator in issuing a PSD permit. The revision would change the consideration of the potential number of groundfish trawl vessels and processors in the fishery to the potential number of vessels and processors participating in the PSD program. The number of vessels and processors in the groundfish fishery is not an important consideration to determine who should participate in the program. The number of vessels and processors in the PSD program and the capacity of that program for a number of participants is a more meaningful consideration for determining participation in the program. This revision would focus the considerations for issuing a permit on pertinent vessel and processor information.

#### *Groundfish Observer Program*

This proposed rule would revise the groundfish observer program under § 679.50 to establish observer coverage for pollock vessels under 60 feet (18.3 m) LOA in the Central and Western GOA. Paragraph (c)(1)(x) would be added to require a catcher/processor or

catcher vessel less than 60 feet (18.3 m) LOA that participates for more than three fishing days in a directed pollock fishery in the Central or Western reporting areas of the GOA in a calendar quarter to carry an observer during at least 30 percent of its fishing days in that calendar quarter and at all times during at least one fishing trip in that calendar quarter in the directed pollock fishery in the applicable area(s). Vessels less than 60 feet (18.3 m) LOA therefore would be required to comply with the 30 percent observer coverage requirements while directed fishing for pollock in the Central or Western GOA. This would only be effective if the Secretary does not approve and implement the restructured observer program recommended by the Council by 2013, and would only remain effective until an approved restructured observer program is implemented. NMFS anticipates that, if the Secretary approves the restructured observer program, the program would not be implemented any later than January 1, 2014.

#### **Classification**

Pursuant to sections 304(b) and 305(d) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the MSA, and other applicable law, subject to further considerations received during the public comment period.

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

#### *IRFA*

An Initial Regulatory Flexibility Analysis (IRFA) was prepared for this action, as required by section 603 of the Regulatory Flexibility Act. The IRFA for this proposed action describes the reasons why this action is being proposed; the objectives and legal basis for the proposed rule; the number of small entities to which the proposed rule would apply; any projected reporting, recordkeeping, or other compliance requirements of the proposed rule; any overlapping, duplicative, or conflicting Federal rules; impacts of the action on small entities; and any significant alternatives to the proposed rule that would accomplish the stated objectives of the MSA, 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).

The entities directly regulated by this proposed action are those Federally-permitted or licensed entities that participate in harvesting groundfish from the Federal or parallel pollock target fisheries of the Central or Western GOA. Fishing vessels are considered small entities if their total annual gross receipts, from all their activities combined, are less than \$4.0 million. The analysis identified 63 vessels in 2010 that would be affected by this action, 37 catcher vessels of which fished for pollock in the Central or Western GOA pollock fisheries and are members of a cooperative. These vessels are members of an American Fisheries Act cooperative for Bering Sea pollock, a rockfish program cooperative in the GOA, a Bering Sea crab cooperative, or members of two or more of these cooperatives. The remaining 26 vessels are not part of a cooperative and are considered to be small entities.

An IRFA requires a description of any significant alternatives to the proposed action(s) that accomplish the stated objectives, are consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. The preferred alternative chosen by the Council and proposed by NMFS has several elements: (1) A GOA-wide Chinook salmon PSC limit of 25,000 fish with closure of directed fishing for pollock if the PSC limit is reached; (2) allocation of this limit between the Central and Western GOA Reporting Areas considering the historical pollock TACs in the two areas, and historical Chinook salmon PSC in the two areas; (3) retention of all salmon; and (4) a requirement that pollock trawlers less than 60 feet (18.3 m) LOA carry 30 percent observer coverage after January 1, 2013. This observer requirement is likely to be moot, or at most temporary, if the Secretary approves and NMFS implements a requirement for this coverage by January 2013 under the restructured observer program.

During consideration of this action, the Council evaluated a number of alternatives to the preferred alternative, including: (1) No action, (2) GOA-wide PSC limits of 15,000, 22,500, and 30,000 Chinook salmon, (3) alternative ways of allocating the PSC limits between the Central and Western Reporting Areas, (4) a 25-percent buffer for the PSC limit in one out of three consecutive years, and (5) mandatory bycatch reduction cooperatives. None of these alternatives both met the objectives of the action,

and had a smaller impact on small entities.

No action would have left the Chinook salmon PSC unlimited, which would have failed to meet the objective of the action. The 30,000 GOA-wide Chinook salmon PSC limit would likewise have failed to significantly control Chinook salmon PSC, and therefore failed to balance the benefits of the action to the targeted Chinook salmon fisheries with the needs of pollock trawlers in the way sought by the Council. A Chinook salmon PSC limit of 15,000 would have imposed a greater burden on small entities by resulting in constraints on pollock fishing beyond the preferred alternative. The Chinook salmon PSC limit of 22,500 would be constraining in more years for the Central GOA in comparison to the recommended 25,000 PSC limit. The option for a 25-percent buffer to the PSC limits did not meet the intended objectives of reducing Chinook salmon PSC to the extent practicable. Under the apportionment options, the Central GOA's proportion of the GOA-wide PSC limit ranges from 61 percent to 77 percent, or 9,122 Chinook salmon to 23,224 Chinook salmon, depending on the overall PSC limit. For the Western GOA, the range is from 23 percent to 39 percent, which results in a range of 3,388 Chinook salmon to 11,757 Chinook salmon. The Council determined lower percentages were unnecessarily constraining to the pollock fisheries while larger percentages did not provide the incentive to minimize PSC to the extent practicable. The Council considered an alternative for the administration of mandatory cooperatives, including approval of annual cooperative contracts and any penalties for violation of the cooperative agreement. This alternative would have needed to be implemented in a manner that maintains NMFS' management authority over the fishery. The Council did not recommend mandatory cooperatives because the Council was uncertain whether NMFS could maintain ultimate management authority over the fishery under a system where mandatory cooperatives must develop agreements that would effectively limit cooperative members' harvest of Chinook salmon PSC, and establish penalties for violations of the cooperative agreement.

The Council developed Chinook salmon PSC limits based on the ability of the Central and Western GOA pollock fisheries to harvest the full pollock TAC in each reporting area in most years while being constrained in years of relatively high Chinook salmon bycatch. In this way, the Council would maintain

a constraint on the fleet as an incentive to reduce bycatch while still allowing for optimum yield from the groundfish fishery. The Council's recommended apportionment (73 percent of the limit for the Central GOA and 27 percent of the limit for the Western GOA) divides the total GOA-wide Chinook salmon PSC limit between the Central and Western GOA proportional to the historical pollock TAC for each reporting area and the average number of salmon caught as bycatch in each reporting area, set at an equal ratio, with an adjustment intended to prevent either area from bearing a disproportionate share of the economic impact of the PSC limit.

The proposed observer coverage is necessary to monitor the Chinook salmon PSC in a way that meets the objectives of the action, and is in any event, at most a temporary measure. This would only be effective if the Secretary does not approve and implement the restructured observer program recommended by the Council by 2013, and would only remain effective until an approved restructured observer program is implemented. NMFS anticipates that, if the Secretary approves the restructured observer program, the program would not be implemented any later than January 1, 2014.

No duplication, overlap, or conflict between this proposed action and existing Federal rules has been identified.

#### *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), and the American Indian and Alaska Native Policy of the U.S. Department of Commerce (March 30, 1995) outline the responsibilities of NMFS in matters affecting tribal interests. 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.

NMFS is obligated to consult and coordinate with federally recognized tribal governments and Alaska Native Claims Settlement Act regional and village corporations on a government-to-government basis pursuant to E.O. 13175 which establishes several requirements for NMFS, including: (1) To provide regular and meaningful consultation and collaboration with Indian tribal governments and Alaska Native corporations in the development of Federal regulatory practices that significantly or uniquely affect their

communities; (2) to reduce the imposition of unfunded mandates on Indian tribal governments; and (3) to streamline the applications process for and increase the availability of waivers to Indian tribal governments. This Executive Order requires Federal agencies to have an effective process to involve and consult with representatives of Indian tribal governments in developing regulatory policies and prohibits regulations that impose substantial, direct compliance costs on Indian tribal communities.

Due to the expedited time frame of this action to implement Chinook salmon PSC management measures in the GOA, NMFS will consult on this action by mailing letters to all Alaska tribal governments, Alaska Native corporations, and related organizations ("Alaska Native representatives") by notifying them of the opportunity to comment when the Notice of Availability for Amendment 93 and this proposed rule are published in the Federal Register.

Section 5(b)(2)(B) of E.O. 13175 requires NMFS to prepare a tribal summary impact statement as part of the final rule. This 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 Amendment 93, a tribal impact summary statement that summarizes and responds to issues raised on the proposed action—and describes the extent to which the concerns of tribal officials have been met—will be included in the final rule for Amendment 93.

Collection-of-Information Requirements

This proposed rule includes a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval, OMB No. 0648-0316, PSD program. Public reporting burden for Application to become a NMFS Authorized Distributor in the PSD program is estimated to average 13 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

NMFS seeks public comment regarding: whether this proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS at the ADDRESSES above, and by email to

OIRA\_Submission@omb.eop.gov, or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: December 7, 2011.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

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

2. In § 679.7, add paragraph (b)(8) to read as follows:

§ 679.7 Prohibitions.

\* \* \* \* \*

(b) \* \* \*

(8) Prohibitions specific to salmon discard in the Central and Western Reporting Areas of the GOA directed fisheries for pollock. Fail to comply with any requirement of § 679.21(h).

\* \* \* \* \*

3. In § 679.21,

A. Revise paragraphs (b)(2)(ii) and (b)(3); and

B. Add paragraph (h) to read as follows:

§ 679.21 Prohibited species bycatch management.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(ii) After allowing for sampling by an observer, if an observer is aboard, sort its catch immediately after retrieval of the gear and, except for salmon prohibited species catch in the BS and GOA pollock fisheries under paragraph (c) or (h) of this section, or any prohibited species catch as provided (in permits issued) under § 679.26, return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition.

(3) Rebuttable presumption. Except as provided under paragraph (c) and (h) of this section and § 679.26, there will be a rebuttable presumption that any prohibited species retained on board a fishing vessel regulated under this part was caught and retained in violation of this section.

\* \* \* \* \*

(h) GOA Chinook Salmon PSC Management—(1) Applicability. Regulations in this paragraph apply to vessels directed fishing for pollock with trawl gear in the Central and Western reporting areas of the GOA and processors taking deliveries from these vessels.

(2) GOA Chinook salmon prohibited species catch (PSC) limits (effective January 1, 2013).

(i) NMFS establishes an annual PSC limit of 18,316 Chinook salmon for vessels engaged in directed fishing for pollock in the Central reporting area of the GOA.

(ii) NMFS establishes an annual PSC limit of 6,684 Chinook salmon for vessels engaged in directed fishing for pollock in the Western reporting area of the GOA.

(3) Chinook salmon PSC limit for the GOA pollock fishery C and D seasons in 2012. (Effective from August 25, 2012 until November 1, 2012). NMFS establishes the GOA Chinook salmon PSC limits for the Central and Western GOA pollock fisheries during the 2012 C and D seasons as follows:

(i) A PSC limit of 8,929 Chinook salmon for vessels engaged in directed fishing for pollock in the Central reporting area of the GOA; and

(ii) A PSC limit of 5,598 Chinook salmon for vessels engaged in directed fishing for pollock in the Western reporting area of the GOA.

(4) Salmon retention. The operator of a vessel and the manager of a shoreside processor or SFP must not discard any salmon or transfer or process any salmon under the PSD program at § 679.26, if the salmon were taken incidental to a Central or Western GOA directed pollock fishery, until an observer at the processing facility that takes delivery of the catch is provided



the opportunity to count the number of salmon and to collect any scientific data or biological samples from the salmon.

(5) *Salmon discard*. Except for salmon under the PSD program at § 679.26, all salmon must be discarded, following notification by an observer that the number of salmon has been estimated and the collection of scientific data or biological samples has been completed.

(6) *Chinook salmon PSC closures in Pollock trawl gear fisheries*. If, during the fishing year, the Regional Administrator determines that vessels engaged in directed fishing for pollock in the Central reporting area or Western reporting area of the GOA will catch the applicable Chinook salmon PSC limit specified for that reporting area under paragraph (h)(2) of this section, NMFS will publish notification in the **Federal Register** closing the applicable regulatory area to directed fishing for pollock.

4. In § 679.26, revise paragraphs (a)(2), (b)(1)(xi) introductory text, (b)(1)(xi)(C), (b)(2)(iv), and (c)(1) to read as follows:

**§ 679.26 Prohibited Species Donation Program.**

(a) \* \* \*

(2) Halibut delivered by catcher vessels using trawl gear to shoreside

processors and stationary floating processors.

(b) \* \* \*

(1) \* \* \*

(xi) A list of all vessels and processors, and food bank networks or food bank distributors participating in the PSD program. The list of vessels and processors must include:

\* \* \* \* \*

(C) The vessel's or processor's telephone number.

\* \* \* \* \*

(2) \* \* \*

(iv) The potential number of vessels and processors participating in the PSD program.

\* \* \* \* \*

(c) \* \* \*

(1) A vessel or processor retaining prohibited species under the PSD program must comply with all applicable recordkeeping and reporting requirements, including allowing the collection of data and biological sampling by an observer prior to processing any fish under the PSD program. A vessel or processor participating in the PSD program:

(i) In the BS pollock fishery must comply with applicable regulations at

§§ 679.7(d) and (k), 679.21(c), and 679.28; and

(ii) In the Central or Western GOA pollock fishery must comply with applicable regulations at §§ 679.7(b), 679.21(h) and 679.28.

\* \* \* \* \*

5. In § 679.50, add paragraph (c)(1)(x) to read as follows:

**§ 679.50 Groundfish Observer Program.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(x) A catcher/processor or catcher vessel less than 60 ft (18.3 m) LOA that participates for more than 3 fishing days in a directed pollock fishery (as defined in paragraph (c)(2)(i) of this section) in the Central or Western reporting areas of the GOA in a calendar quarter must carry an observer during at least 30 percent of its fishing days in that calendar quarter in that directed pollock fishery and at all times during at least one fishing trip in that calendar quarter in that directed pollock fishery.

\* \* \* \* \*

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