

action are the vessels that fish for Pacific sardine as part of the West Coast CPS small purse seine fleet. As stated above, the U.S. Small Business Administration now defines small businesses engaged in finfish fishing as those vessels with annual revenues of \$20.5 million or less. Under the former, lower standards, all entities subject to this action in previous years were considered small entities, and under the new standards they continue to be considered small. In 2015, there were approximately 81 vessels permitted to operate in the directed sardine fishery component of the CPS fishery off the U.S. West Coast; 58 vessels in the Federal CPS limited entry fishery off California (south of 39 N. lat.), and a combined 23 vessels in Oregon and Washington's state Pacific sardine fisheries. The total ex-vessel revenue from the harvest of CPS finfish in 2015 was approximately \$4.7 million, making the average annual per vessel revenue in 2015 for the West Coast CPS finfish fleet well below \$20.5 million; therefore, all of these vessels are considered small businesses under the RFA. Because each affected vessel is a small business, this proposed rule has an equal effect on all of these small entities and will impact a substantial number of these small entities in the same manner. Therefore, this rule would not create disproportionate costs between small and large vessels/businesses.

The CPS FMP and its implementing regulations require NMFS to annually set an OFL, ABC, ACL and HG or ACT for the Pacific sardine fishery based on the specified harvest control rules in the FMP applied to the current stock biomass estimate for that year. The derived annual HG is the level typically used to manage the principal commercial sardine fishery and is the harvest level typically used by NMFS for profitability analysis each year. As stated above, the FMP dictates that when the estimated biomass drops below a certain level (150,000 mt) there is no HG. Therefore, for the purposes of profitability analysis, this action is essentially proposing an HG of zero for the 2016–2017 Pacific sardine fishing season (July 1, 2016 through June 30, 2017). The estimated biomass used for management during the preceding fishing year (2015–2016) was also below 150,000 mt, therefore NMFS did not implement a HG, thereby disallowing a commercial directed sardine fishery. Since there is again no directed fishing for the 2016–2017 fishing year, this proposed rule will not change the potential profitability as compared to the previous fishing year.

The revenue derived from harvesting Pacific sardine is typically only one source of fishing revenue for many of the vessels that harvest Pacific sardine; as a result, the economic impact to the fleet from the proposed action cannot be viewed in isolation. From year to year, depending on market conditions and availability of fish, most CPS/sardine vessels supplement their income by harvesting other species. Many vessels in California also harvest anchovy, mackerel, and in particular squid, making Pacific sardine only one component of a multi-species CPS fishery. Additionally, some sardine vessels that operate off of Oregon and Washington also fish for salmon in Alaska or squid in California during times of the year when sardine are not available. The purpose of the proposed incidental allowances under this action are to ensure the vessels impacted by this sardine action can still access these other profitable fisheries while still limiting the harvest of sardine. These proposed incidental allowances are similar to those implemented last year and should not restrict access to those other fisheries.

CPS vessels typically rely on multiple species for profitability because abundance of sardine, like the other CPS stocks, is highly associated with ocean conditions and seasonality, and therefore are harvested at various times and areas throughout the year. Because each species responds to ocean conditions in its own way, not all CPS stocks are likely to be abundant at the same time; therefore, as abundance levels and markets fluctuate, it has necessitated that the CPS fishery as a whole rely on a group of species for its annual revenues.

Pursuant to the Regulatory Flexibility Act and the SBA's June 20, 2013, and June 14, 2014, final rules (78 FR 37398 and 79 FR 33647, respectively), this certification was developed for this action using the SBA's revised size standards. NMFS considers all entities subject to this action to be small entities as defined by both the former, lower size standards and the revised size standards. Based on the disproportionality and profitability analysis above, the proposed action, if adopted, will not have a significant economic impact on a substantial number of small entities. As a result, an Initial Regulatory Flexibility Analysis is not required, and none has been prepared.

This action does not contain a collection-of-information requirement for purposes of the Paper Reduction Act.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 19, 2016.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

RIN 0648–BF84

#### Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch Management in the Gulf of Alaska Trawl Fisheries; Amendment 103

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

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** The North Pacific Fishery Management Council has submitted Amendment 103 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). If approved, Amendment 103 would allow NMFS to reapportion unused Chinook salmon prohibited species catch (PSC) within and among specific trawl sectors in the Central and Western Gulf of Alaska (GOA), based on specific criteria and within specified limits. Amendment 103 would not increase the current combined annual PSC limit of 32,500 Chinook salmon that applies to Central and Western GOA trawl sectors under the FMP. Amendment 103 would provide for more flexible management of GOA trawl Chinook salmon PSC, increase the likelihood that groundfish resources are more fully harvested, reduce the potential for fishery closures, and maintain overall Chinook salmon PSC use in the Central and Western GOA within limits established under the FMP. Amendment 103 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable laws.

**DATES:** Comments on the amendment must be received on or before July 25, 2016.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2016–0023 by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov](http://www.regulations.gov) /#!docketDetail;D=NOAA-NMFS-2016-0023, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

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

Electronic copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (collectively, Analysis) prepared for this action are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

**FOR FURTHER INFORMATION CONTACT:** Jeff Hartman, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fisheries in the Exclusive Economic Zone (EEZ) of the GOA under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801, *et seq.*). Regulations implementing the FMP appear at 50 CFR 679.

The Magnuson-Stevens Act requires that each regional fishery management council submit any fishery management plan amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary of Commerce. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment. This notice announces that proposed Amendment 103 to the FMP is available for public review and comment.

Amendment 103 would apply to federally permitted vessels fishing for pollock and non-pollock groundfish (non-pollock trawl fisheries) with trawl gear in the Central and Western Reporting Areas of the GOA (Central and Western GOA). The Western and Central Reporting Areas, defined at § 679.2 and shown in Figure 3 to 50 CFR part 679, consist of the Central and Western Regulatory Areas in the EEZ (Statistical Areas 610, 620, and 630) and the adjacent waters of the State of Alaska (0 to 3 nm).

The Council designated Pacific salmon and several other species (Pacific halibut Pacific herring, steelhead trout, king crab, and Tanner crab) as prohibited species in the Gulf of Alaska (Section 3.6.1 of the FMP). Prohibited species catch are species taken incidentally in the groundfish trawl fisheries designated “prohibited species” because they are targets of other, fully utilized domestic fisheries. If approved, Amendment 103 would (1) establish the authority for NMFS to reapportion a limited amount of unused Chinook salmon PSC among Central and Western GOA trawl catcher vessel (CV) sectors and from the Trawl catcher/processor (C/P) sector to trawl CV sectors; (2) exclude the Trawl C/P sector from receiving a reapportionment of Chinook salmon PSC from any other sector; and (3) provide additional flexibility to adjust fall reapportionments of Chinook salmon PSC from the current mandatory sector reapportionments.

NMFS has implemented two FMP amendments to limit Chinook salmon bycatch in the GOA trawl fisheries to an annual aggregate amount of 32,500 Chinook salmon PSC. In August 2012, NMFS implemented Amendment 93 to the FMP to establish separate Chinook salmon PSC limits for the directed pollock trawl fisheries in the Central GOA and Western GOA (77 FR 42629, July 20, 2012). These limits require NMFS to close the directed pollock fishery in the Central GOA or Western GOA if the applicable PSC limit is reached. Since Amendment 93 was implemented, the directed pollock fishery has not been closed due to reaching a Chinook salmon PSC limit, and in some years nearly half of the annual Central or Western GOA PSC limit is unused.

In January 2015, NMFS implemented Amendment 97 to the FMP (79 FR 71350, December 2, 2014) to establish Chinook salmon PSC limits for non-pollock trawl fisheries in the Central and Western GOA. Non-pollock trawl fisheries in the Central and Western GOA include fisheries for sablefish,

several rockfish species, arrowtooth flounder, Pacific cod, shallow-water flatfish, rex sole, flathead sole, deep-water flatfish, and other groundfish except pollock. Many of the non-pollock trawl fisheries are multi-species fisheries, in that vessels catch and retain multiple groundfish species in a single fishing trip. Any of these non-pollock trawl fisheries may be closed when the applicable Chinook salmon PSC limit is reached.

Amendment 97 established separate annual Chinook salmon PSC limits for three non-pollock trawl sectors: 3,600 Chinook salmon for the Trawl C/P sector; 1,200 Chinook salmon for the Rockfish Program CV sector; and 2,700 Chinook salmon for the Non-Rockfish Program CV sector. Amendment 97 implemented a seasonal limit on Chinook salmon PSC for the Trawl C/P sector, an October and November reapportionment of Chinook salmon PSC between Rockfish Program and Non-Rockfish Program CV sectors, and an “incentive buffer.” The incentive buffer for the Trawl C/P and Non-Rockfish Program CV sectors allows each sector to increase its annual Chinook salmon PSC limit if the amount of Chinook salmon PSC taken in the sector in the previous year is less than a specified amount of the sector’s limit.

In December 2015, the Council proposed Amendment 103 to allow more flexible reapportionments of unused Chinook salmon PSC. Amendment 103 would amend Section 3.6.2.2 and add Section 3.6.2.2.1 of the FMP, and make minor editorial revisions to the Table of Contents, the Executive Summary, and Appendix A of the FMP to list and describe Amendment 103.

Amendment 103 would amend Table ES-2, Prohibited Species Catch (PSC) Limits, by adding the authority for NMFS to reapportion unused Chinook salmon PSC among Central and Western GOA trawl CV sectors and from the Trawl C/P sector to trawl CV sectors. Amendment 103 would add Section 3.6.2.2.1 to specify the maximum amount of unused Chinook salmon PSC that NMFS may reapportion from any pollock fishery or non-pollock trawl sector PSC limit to catcher vessels participating in the directed pollock fishery and non-pollock trawl catcher vessel sectors. Amendment 103 would amend Section 3.6.2.2 of the FMP to provide NMFS (the Regional Administrator of NMFS) discretion to annually reapportion the amount that is in excess of 150 Chinook salmon that currently must be reapportioned from the Rockfish Program CV sector to the Non-Rockfish Program CV sector, or the

amount that may be apportioned from and to these same two sectors after November 15.

Amendment 103 would limit the amount of Chinook salmon PSC that may be received by a fishery or sector to 50 percent of that sector's annual Chinook salmon PSC limit. As such, reapportionments of unused Chinook salmon PSC would be limited to the following amounts:

- 3,342 Chinook salmon to the Western GOA pollock sector;
- 9,158 Chinook salmon to the Central GOA pollock sector;
- 600 Chinook salmon to the Rockfish Program CV sector;
- 1,350 Chinook salmon to the Non-Rockfish Program CV sector; or
- No Chinook salmon to the Trawl C/P sector

Amendment 103 would also increase NMFS' flexibility to reapportion the October and November Chinook salmon PSC from the Rockfish Program CV sector to the Non-Rockfish Program CV sector. If more than 150 Chinook salmon PSC are available to the Rockfish Program CV sector on October 1, NMFS would be authorized to reapportion Chinook salmon PSC to the Non-Rockfish Program CV sector as long as at least 150 Chinook salmon PSC remains available to the Rockfish Program CV sector on that date. Amendment 103 also provides that on November 15, NMFS may reapportion to the Non-Rockfish Program CV sector, any Chinook salmon PSC that remains available to the Rockfish Program CV sector on that date.

The Council recommended Amendment 103 because flexibility to

reapportionment has been a successful tool for managing allocations and PSC limits in other fisheries. The Analysis for Amendment 103 indicates that allowing NMFS to reapportion the above listed amounts of Chinook salmon PSC among the GOA pollock and non-pollock fisheries could prevent or limit fishery closures. Amendment 103 would (1) increase the likelihood that groundfish resources will be more fully harvested; (2) minimize adverse socioeconomic impacts of fishery closures on groundfish harvesters, processors and communities; (3) ensure that the GOA trawl fisheries stay within existing PSC limits implemented by Amendments 93 and 97; and (4) balance competing interests of the National Standards.

Amendment 103 would improve the opportunities for NMFS to make unused Chinook salmon PSC available to a fishery or sector based on need and availability. The additional opportunity may prevent sectors from reaching their respective Chinook salmon PSC limits and therefore reduce fishery closures. Because there is a lower probability of a closure, there is greater chance of harvesting the TAC and reducing the frequency of adverse socioeconomic effects of fishery closures. The reliable supply of groundfish may decrease the likelihood that harvesters, processors, and communities are adversely affected by fishery closures.

Amendment 103 minimizes bycatch to the extent practicable because it (1) does not authorize any increase to the current combined annual PSC limit of 32,500 Chinook salmon; (2) provides a

continuing incentive for participants in the trawl fisheries to minimize bycatch of Chinook PSC because it would be uncertain whether or when NMFS would reapportion Chinook salmon PSC; and (3) does not alter the incentives under Amendment 97 (such as the annual incentive buffer) that encourage non-pollock trawl sectors to minimize Chinook salmon PSC use.

NMFS is soliciting public comments on proposed Amendment 103 through the end of the comment period (see **DATES**). NMFS intends to publish in the **Federal Register** and seek public comment on a proposed rule that implements Amendment 103 following NMFS' evaluation of the proposed rule under the Magnuson-Stevens Act. NMFS will consider all comments received by the end of the comment period on Amendment 103, whether specifically directed to the FMP amendment or the proposed rule, in the FMP amendment approval/disapproval decision. NMFS will not consider comments received after the date in the approval/disapproval decision on the amendment. To be considered, comments must be received, not just postmarked or otherwise transmitted, by the close of business on the last day of the comment period.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 23, 2016.

**Emily H. Menashes,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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