

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679****[Docket No. 130710606–4972–02]****RIN 0648–BD48****Fisheries of the Exclusive Economic Zone Off Alaska; Chinook Salmon Bycatch Management in the Gulf of Alaska Non-Pollock Trawl Fisheries; Amendment 97**

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

ACTION: Final rule.

SUMMARY: NMFS adopts a final rule to implement Amendment 97 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). Amendment 97 limits Chinook salmon prohibited species catch (PSC) in Western and Central Gulf of Alaska (GOA) non-pollock trawl catcher/processor (C/P) and catcher vessel (CV) fisheries. This action establishes separate annual Chinook salmon PSC limits for three sectors fishing for groundfish species other than pollock: trawl C/Ps, trawl CVs participating in the Central GOA Rockfish Program, and trawl CVs not participating in the Central GOA Rockfish Program. If a sector reaches its Chinook salmon PSC limit, NMFS will prohibit further fishing for non-pollock groundfish by vessels in that sector. This action also establishes and clarifies Chinook salmon retention and discard requirements for vessels and processors participating in both the GOA pollock and non-pollock groundfish trawl fisheries. This action is necessary to minimize the catch of Chinook salmon to the extent practicable in the GOA non-pollock trawl fisheries. Amendment 97 is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMP, and other applicable laws.

DATES: Effective January 1, 2015.

ADDRESSES: An electronic copy of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/FRFA or Analysis) prepared for this action may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <https://alaskafisheries.noaa.gov/cm/analyses/>.

An electronic copy of the Biological Opinion on the effects of the Alaska

groundfish fisheries on Endangered Species Act (ESA)-listed species is available at <http://alaskafisheries.noaa.gov/protectedresources/stellers/plb/default.htm>.

An electronic copy of the proposed rule (79 FR 35971, June 25, 2014) may be obtained from <http://www.regulations.gov> or from the Alaska Region Web site at <https://alaskafisheries.noaa.gov/regs/summary.htm>.

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SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the U.S. exclusive economic zone 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 Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

NMFS published the Notice of Availability for Amendment 97 in the **Federal Register** on June 5, 2014 (79 FR 32525), with a 60-day comment period that ended on August 4, 2014. The Secretary of Commerce approved Amendment 97 on September 3, 2014, after taking into account public comments received on Amendment 97 and the proposed rule that would implement Amendment 97, and determining that Amendment 97 is consistent with the national standards in section 301 of the Magnuson-Stevens Act, other provisions of the Magnuson-Stevens Act, and other applicable laws.

NMFS published a proposed rule to implement Amendment 97 on June 25, 2014 (79 FR 35971). The 30-day comment period on the proposed rule ended July 25, 2014. A brief summary of this action is provided in the following paragraphs. A detailed description of this action is provided in the preamble to the proposed rule and is not repeated here.

Background

This final rule implements Amendment 97 to the FMP. Under this rule, NMFS establishes separate annual Chinook salmon PSC limits for trawl catcher/processors (Trawl C/P Sector), trawl CVs participating in the Central GOA Rockfish Program (Rockfish Program CV Sector), and trawl CVs not participating in the Central GOA Rockfish Program (Non-Rockfish Program CV Sector). These Chinook salmon PSC limits will apply to these three sectors when they are directed fishing for groundfish species other than

pollock in the Western and Central Regulatory Areas of the GOA. Existing regulations at § 679.2 define the term “directed fishing.” If a sector reaches its Chinook salmon PSC limit, NMFS will prohibit further directed fishing for non-pollock groundfish by vessels in that sector. This action also establishes and clarifies Chinook salmon retention and discard requirements for vessels, shoreside processors, and stationary floating processors (SFPs) participating in both the GOA pollock and non-pollock groundfish trawl fisheries. In the preamble to the proposed rule, NMFS provided a detailed review of Amendment 97 and its implementing regulations (79 FR 35971, June 25, 2014). The key components of Amendment 97 and its implementing regulations are briefly described in this preamble.

The Council and NMFS have adopted various measures intended to control the catch of species taken incidentally in groundfish fisheries. Certain species are designated as “prohibited species” in the FMP because they are the target of other, fully utilized domestic fisheries. The prohibited species include Pacific halibut, Pacific herring, Pacific salmon, steelhead trout, king crab, and Tanner crab. The FMP and regulations at § 679.21 require that catch of prohibited species, more commonly known as prohibited species catch, or PSC, must be minimized to the extent practicable while fishing for groundfish; and, when incidentally caught, these prohibited species must be immediately returned to the sea with a minimum of injury.

PSC must be either (1) not sold or kept for personal use and discarded (see regulations at § 679.21), or (2) retained but not sold under the Prohibited Species Donation (PSD) Program (see regulations at § 679.26). In an effort to minimize waste of salmon incidentally caught and killed, NMFS established the PSD Program for the donation of incidentally caught salmon. The PSD Program reduces the amount of edible protein discarded under PSC regulatory requirements (see regulations at § 679.21). The PSD Program allows permitted participants to retain salmon for distribution to economically disadvantaged individuals through tax-exempt hunger relief organizations.

One of the prohibited species of great concern to the Council and NMFS is Chinook salmon. Chinook salmon is a prohibited species in the groundfish fisheries because of its value in salmon 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 scarcity of Chinook salmon in some regions of the Pacific Northwest, including Washington, Oregon, and Idaho, has led to an endangered or threatened listing for a number of stocks under the Endangered Species Act (ESA). Small amounts of a few ESA-listed Chinook salmon are caught in GOA non-pollock trawl fisheries. The November 30, 2000, Biological Opinion on the effects of the Alaska groundfish fisheries on ESA-listed salmon of the Pacific Northwest established an incidental take statement (ITS) for an annual threshold amount of 40,000 Chinook salmon for the GOA groundfish fisheries. Exceeding the ITS for Chinook salmon triggers reinitiation of section 7 consultation under the ESA (see Section 3 of the Analysis) (see **ADDRESSES**).

The Council and NMFS have established a range of management measures to constrain the impact of groundfish fisheries in the Bering Sea and Aleutian Islands Management Area (BSAI) and the GOA on Chinook salmon. These management measures are intended to minimize Chinook salmon bycatch to the extent practicable. Section 1.5 of the Analysis summarizes the measures implemented in the GOA groundfish fisheries.

After reviewing the information in the Analysis and after consideration of public comment during the development of Amendment 97, the Council and NMFS developed three goals for this action (see Section 1 of the Analysis). The first goal is to avoid exceeding the annual Chinook salmon threshold of 40,000 Chinook salmon identified in the ITS. The second goal is to minimize Chinook salmon bycatch to the extent practicable, consistent with the Magnuson-Stevens Act and National Standard 9. The third goal is to increase the amount of Chinook salmon stock of origin information available to NMFS and the Council.

Regulations Implemented by This Action

This action amends regulations at §§ 679.7 and 679.21 to implement Chinook salmon PSC limits in the Western and Central GOA non-pollock groundfish trawl fisheries and meet the three goals of this action. Specifically, this action (1) establishes annual Chinook salmon PSC limits for the Trawl C/P, Rockfish Program CV, and Non-Rockfish Program CV Sectors; (2) establishes an “incentive buffer” that allows the annual Chinook salmon PSC limit for the Trawl C/P and Non-Rockfish Program CV Sectors to vary depending on the amount of Chinook salmon PSC taken by those sectors in

the previous year; (3) establishes a seasonal limit on the amount of Chinook salmon PSC that can be taken in the Trawl C/P Sector prior to June 1 of each year; (4) allows the reallocation of unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector on October 1 and November 15 of each year; and (5) establishes salmon retention requirements to improve the collection of biological samples that could aid in the determination of stock of origin of Chinook salmon PSC in the non-pollock trawl fisheries.

Of particular importance is the fact that this rule implements a long-term average annual Chinook salmon PSC limit of 7,500 Chinook salmon to non-pollock trawl fisheries in the Western and Central GOA. This rule does this by establishing separate, sector-level Chinook salmon PSC limits for GOA non-pollock Trawl C/Ps, Rockfish Program CVs, and Non-Rockfish Program CVs. A description of and rationale for these regulatory provisions is provided in the preamble to the proposed rule and is not repeated here (79 FR 35971, June 25, 2014).

Implementation

During the first year of implementation, (*i.e.*, 2015), this rule establishes an annual Chinook salmon PSC limit of 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. The total Chinook salmon PSC limit in the first year of implementation for all three sectors is 7,500 Chinook salmon. If a sector reaches or is projected to reach its Chinook salmon PSC limit, NMFS will close directed fishing for all non-pollock groundfish species by vessels in that sector for the remainder of the calendar year. Each sector is subject to its own annual Chinook salmon PSC limit, and NMFS will manage each sector separately.

Beginning in 2016 and for each subsequent year, NMFS will publish the annual Chinook salmon PSC limits for the Non-Rockfish Program CV Sector and Trawl C/P Sector in the proposed groundfish harvest specifications for the GOA after determining the amounts of Chinook salmon PSC used and whether the incentive buffer applies. Under the incentive buffer, if either Sector uses less than or equal to its proportional share of 6,500 Chinook salmon in one year, it will be able to access its base Chinook salmon PSC limit plus its proportional share of 1,000 additional Chinook salmon in the following year. The incentive buffer does not apply to

the Chinook salmon PSC limit of 1,200 salmon for the Rockfish Program CV Sector for reasons described in the preamble to the proposed rule that are not repeated here (79 FR 35971, June 25, 2014).

To illustrate the implementation of the incentive buffer, the base Chinook salmon PSC limit for the Trawl C/P Sector is 3,600 (48 percent of the average annual Chinook salmon PSC limit of 7,500), and this limit will be available to the Trawl C/P Sector during the first year of implementation of Amendment 97. If, during the first year, the Trawl C/P Sector is able to maintain its use of Chinook salmon PSC to no more than 3,120 salmon (48 percent of 6,500 Chinook salmon), the incentive buffer will apply to the sector in the following year. In the following year, the Trawl C/P Sector will receive a Chinook salmon PSC limit of 4,080 Chinook salmon, which represents the sum of the sector's base PSC limit (3,600) and its proportional share (48 percent) of 1,000 Chinook salmon (480). If, during the first year, the Trawl C/P Sector's Chinook salmon use exceeds 3,120 Chinook salmon, then the incentive buffer will not apply to the sector and its Chinook salmon PSC limit in the following year will be set at its base PSC limit of 3,600 Chinook salmon.

Similarly, the proposed base PSC limit for the Non-Rockfish Program CV Sector is 2,700 (36 percent of the proposed Chinook salmon limit of 7,500) and this limit will be available to the Non-Rockfish Program CV Sector during the first year of implementation. If, during the first year, the Non-Rockfish Program CV Sector is able to maintain its use of Chinook salmon PSC to no more than 2,340 salmon (36 percent of 6,500 Chinook salmon), the incentive buffer will apply to the sector in the following year. In the following year, the Non-Rockfish Program CV Sector will receive a Chinook salmon PSC limit of 3,060 salmon, which represents the sum of the sector's base PSC limit (2,700) and its proportional share (36 percent) of 1,000 Chinook salmon (360). If, during the first year, the Non-Rockfish Program CV Sector's Chinook salmon use exceeds 2,340 Chinook salmon, then the incentive buffer will not apply to the sector and its Chinook salmon PSC limit in the following year will be set at its base PSC limit of 2,700 Chinook salmon. Additional detail on implementation of this rule and the specific Chinook salmon PSC limit applicable to each sector is provided in the preamble to the proposed rule (79 FR 35971, June 25, 2014).

Changes From the Proposed Rule

This section explains the four editorial changes in the regulatory text from the proposed rule to the final rule. The changes make minor technical clarifications in the regulatory text. Each of these revisions are made to be consistent with the uses of each of these terms in the regulatory text and do not change the intent of the rule.

The first change revises the proposed regulatory text at § 679.21(i)(3)(i) by replacing the phrase “Central and Western” with “Western and Central.” This change mirrors the order in which these regulatory areas are referenced in other paragraphs in § 679.21(i). The second change adds the word “limit” and “PSC” to § 679.21(i)(3)(ii)(B); the third change adds the word “limit” to § 679.21(i)(4) and to § 679.21(i)(7)(ii); and the fourth change adds the word “salmon” to § 679.21(i)(4)(i) and (i)(4)(ii). These changes provide greater clarity to the regulations through a consistent use of terms.

Comments and Responses

NMFS received five comment letters on Amendment 97 and the proposed rule—three letters from conservation organizations and two letters from fishing industry representatives associated with GOA trawl fisheries. These letters included a total of 16 relevant comments on Amendment 97 and the proposed rule. A summary of the relevant comments, grouped by subject matter, and NMFS’ responses, follows.

Comment 1: Three commenters stated that Chinook salmon PSC limits are necessary in these fisheries, the amounts selected are appropriate, and they generally support the action.

Response: NMFS acknowledges the comment and agrees that the Chinook salmon PSC limits implemented under Amendment 97 are necessary and appropriate conservation and management measures.

Comment 2: One commenter recommended that the final rule be implemented as described in the proposed rule, but also identified the need to revisit Chinook salmon PSC limits that are more restrictive than the aggregate Chinook salmon PSC limit of 7,500 salmon.

Response: Based on a review of past fishery performance provided in Sections 4.7 and 4.9 of the Analysis, a Chinook salmon PSC limit of less than 7,500 salmon would result in considerable amounts of foregone harvest in the non-pollock trawl fisheries, and relatively high costs (in terms of foregone revenue) per salmon

saved. In selecting the long-term average annual Chinook salmon PSC limit of 7,500 salmon, the Council and NMFS considered a range of alternative Chinook salmon PSC limits, and selected the alternative that minimizes Chinook salmon PSC to the extent practicable. The Council and NMFS considered the management measures currently available to the GOA groundfish fleet, existing fishing patterns, the uncertainty about the extent to which the use of Chinook salmon PSC in the groundfish fisheries has an adverse effect on the Chinook salmon resource, the need to ensure that catch in the trawl fisheries contributes to the achievement of optimum yield in the groundfish fisheries, and the economic consequences of this action on Chinook salmon target fisheries and groundfish fisheries.

The Council reviews the status of Chinook salmon PSC on an annual basis, at a minimum. In addition, the Council and NMFS regularly receive information on the status of Chinook salmon stocks. The Council and NMFS will continue to review data on Chinook salmon PSC in the GOA and BSAI groundfish fisheries and the status of Chinook salmon stocks. This action does not preclude the Council and NMFS from considering new information and implementing revisions to Chinook salmon PSC limits to minimize Chinook salmon PSC in future years as necessary and appropriate.

Comment 3: One commenter noted that in the preamble to the proposed rule NMFS stated that harvests of non-pollock groundfish by trawl C/Ps in the Western and Central GOA are governed primarily by two management programs, the Amendment 80 Program and the Central GOA Rockfish Program. The commenter believed that this statement implies that trawl C/P fisheries in the GOA are managed under the cooperative management system implemented under the Amendment 80 Program. The commenter noted that trawl C/Ps operating in the GOA are subject to specific constraints, commonly known as sideboard limits, implemented by the Amendment 80 Program, but not under the cooperative management provisions implemented for the BSAI as part of the Amendment 80 Program. The commenter requested that NMFS clarify that trawl C/Ps operating in the GOA are impacted by sideboard limits established under the Amendment 80 Program, but are not directly managed by the cooperative provisions of the Amendment 80 Program that apply in the BSAI.

Response: In the proposed rule, NMFS provided extensive descriptions

of how sideboard limits apply in GOA trawl fisheries for participants subject to the Amendment 80 Program, the American Fisheries Act (AFA), and the Rockfish Program. These descriptions are provided on pages 35973, 35974, 35975, and 35978 of the proposed rule. NMFS agrees that the sideboard limits in the GOA implemented by the Amendment 80 Program are but one of several management measures applicable to trawl C/Ps in the Western and Central GOA groundfish fisheries. NMFS also agrees that the trawl C/Ps operating in the GOA are not operating under the cooperative management provisions established by the Amendment 80 Program for groundfish fishing in the BSAI. While NMFS did not intend to imply that trawl C/P fisheries in the GOA are managed under the cooperative management system implemented under the Amendment 80 Program, NMFS intended to convey the point that in practice, many of the trawl C/Ps in the Western and Central GOA can or do operate in a coordinated manner similar to their operations in the BSAI. This response and the information in the Analysis correctly clarify the role of Amendment 80 and AFA sideboards in the GOA trawl fisheries, and the potential for coordination of activities in the GOA for vessels that also operate under the authority of the Amendment 80 Program in the BSAI.

Comment 4: Two commenters stated that there were several errors in the preamble to the proposed rule. These errors are:

(1) Page 35972 of the preamble states that “The FMP and regulations at § 679.21 require that catch of prohibited species must be avoided while fishing for groundfish . . .” The commenter states that, in fact, both the FMP (Section 2.1) and the regulations (§ 679.21(b)(2)(i)) state that prohibited species catch must be “minimized.”

(2) Page 35973 of the preamble states that there is no directed Pacific cod fishery by trawl C/Ps in the GOA. The commenter suggests that while the amount of the Pacific cod allocation available to the Trawl C/P Sector is small, a small allocation does not preclude a Pacific cod directed fishery.

(3) Page 35974 of the preamble provides a list of Central GOA flatfish fisheries in which trawl CVs participate. The commenter states that this list is incomplete, and should include rex sole and deep-water flatfish. The commenter explains that trawl CVs retain a substantial proportion of the total retained catch of rex sole and deep-water flatfish.

(4) Page 35974 of the preamble incorrectly references specific groundfish species that are allocated to the CV sector under the Central GOA Rockfish Program. The commenter states that rougeye rockfish is not allocated to the Rockfish Program CV Sector and should not be listed, but thornyhead rockfish is allocated to the Rockfish Program CV Sector and should be listed.

(5) Page 35974 of the preamble incorrectly states that under the Central GOA Rockfish Program, directed rockfish fishing is permitted from May 1 to December 31. Directed rockfish fishing is permitted from May 1 to November 15.

(6) Page 35985 of the preamble incorrectly references the "Alaska PSD Program" as the "Alaska PSC Program."

Response: Each of these comments is addressed in order.

(1) While the commenter is correct that regulations at § 679.21(b)(2)(i) state that prohibited species catch must be "minimized to the extent practicable," other regulations within § 679.21 state that Chinook salmon PSC should be avoided. For example, § 679.21(f)(12)(ii)(B)(3)(i) requires approval of an Incentive Plan Agreement "to avoid Chinook salmon bycatch under any condition of pollock and Chinook salmon abundance in all years." The Executive Summary of the Analysis and section 3.3.8 highlight that the Council's intent for Amendment 97 is to provide incentives for Trawl CV and C/P sectors to avoid Chinook salmon PSC. This is because the primary method currently available for vessels to minimize Chinook salmon PSC is to avoid catching these species where possible. Amendment 97 is structured to be consistent with National Standard 9, which provides that ". . . measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch." Additionally, the regulatory guidelines for National Standard 9 at 50 CFR 600.350(d) state that: "The priority under this standard is first to avoid catching bycatch species where practicable."

(2) One commenter wrote that the preamble to the proposed rule states "Trawl C/Ps do not fish for Pacific cod in the Central or Western GOA." NMFS has opened Pacific cod directed fisheries for the Trawl C/P Sector in the Central GOA A and B seasons only a few times and for a limited duration of time since 2012. Typically, NMFS prohibits directed fishing for Pacific cod in the Central and Western GOA by the Trawl C/P Sector due to the small

amount of Pacific cod available for harvest by the Trawl C/P Sector and the high potential for fishing effort by trawl C/Ps. While the commenter is generally correct that small allocations do not always preclude directed fishing and that NMFS may permit the Trawl C/P Sector to conduct a directed fishery for Pacific cod in the future, it is unlikely that the number of GOA Pacific cod directed fishery openings will increase in future years given the sector's small Pacific cod harvest limits and the potential for substantial fishing effort within the Trawl C/P Sector.

(3) The preamble to the proposed rule states that "Trawl CVs primarily fish for Pacific cod in the Central and Western GOA." The preamble also lists other major fisheries that CVs participate in, but this list was not intended to list every directed Trawl CV Sector fishery in the GOA. NMFS agrees that rex sole and deep-water flatfish are caught and retained by trawl CVs.

(4) NMFS agrees that rougeye rockfish was incorrectly identified as a species allocated to the Rockfish Program CV Sector. NMFS also agrees that thornyhead rockfish is allocated to the Rockfish Program CV Sector, and should have been listed instead of rougeye rockfish.

(5) NMFS agrees. Directed rockfish fishing under the Central GOA Rockfish Program is permitted from May 1 through November 15. While NMFS acknowledges the error made on page 35974, NMFS correctly identified November 15 as the last date fishing is permitted under the Central GOA Rockfish Program several other places in the preamble and specifically on pages 35982 and 35984.

(6) NMFS agrees that the reference to the "Alaska PSC Program" on page 35985 should have been to the "Alaska PSD Program."

Comment 5: One commenter stated that the implementation of Amendment 97 should be postponed until the Council and NMFS finish developing the GOA trawl bycatch management action. The proposed Amendment 97 regulations are not practicable under the present "race for fish" management structure, especially in the Non-Rockfish Program CV Sector. In lieu of postponing implementation of Amendment 97, another option would be to partially approve Amendment 97 by disapproving the portion of the action that applies a Chinook salmon PSC limit on the Non-Rockfish Program CV Sector.

Response: NMFS approved Amendment 97 to the FMP on September 3, 2014. Section 304(a)(3) of the Magnuson-Stevens Act requires that

NMFS, acting on behalf of the Secretary of Commerce, disapprove a plan amendment only after specifying the applicable law with which the plan amendment is inconsistent; the nature of such inconsistencies; and recommendations concerning the actions that could be taken by the Council to conform such plan amendment to the requirements of applicable law. Before approving Amendment 97, NMFS considered these factors and concluded that Amendment 97, including the Chinook salmon PSC limit established for the Non-Rockfish Program CV Sector, is consistent with the Magnuson-Stevens Act and other applicable law.

NMFS determined that Amendment 97 minimizes Chinook salmon PSC to the extent practicable. In making this determination, NMFS considered the management measures currently applicable to the GOA groundfish fleet, including the "race for fish" that can occur in those portions of the fishery that are not managed under a form of catch share program with exclusive harvest privileges for specific participants. NMFS identified the potential impacts of this action in the Notice of Availability for Amendment 97 (79 FR 32525, June 5, 2014), the preamble to the proposed rule (79 FR 35971, June 25, 2014), and in detail in Sections 4.7, 4.8, and 4.9 of the Analysis prepared for this action. NMFS articulated its reasons for approval of Amendment 97 in the proposed rule, and provided the Council's and the agency's explanations for why it is consistent with the Magnuson-Stevens Act and other applicable law. NMFS considered the public comments received on the proposed rule and Amendment 97 prior to its approval of Amendment 97, and none of these comments caused NMFS to change the conclusions reached in the proposed rule. NMFS approved Amendment 97 because there is a rational basis for the Chinook salmon PSC limits for each Sector, the limits achieve the goals of the action by minimizing bycatch to the extent practicable, each Sector has the ability to comply with that Sector's PSC limit, and that new tools developed for this action would assist in achieving the PSC limits. The Council and NMFS recognized that Chinook salmon PSC limits may result in groundfish closures earlier in the season, attendant reductions in target groundfish catches when the seasonal PSC limit is reached, and foregone groundfish revenue for sectors that are unable to fully prosecute TAC limits. Participants in the groundfish fisheries could also incur

additional costs associated with actions taken to avoid catch of Chinook salmon PSC.

The Council and NMFS considered that although the proposed Chinook salmon PSC limits may result in closures earlier in the season and an attendant reduction in target groundfish catches if a Chinook salmon PSC limit is reached prior to the harvest of the TAC, the frequency and extent of early season closures and the effects of such closures will vary across the three sectors of the fleet. For example, participants in the Trawl C/P and Rockfish Program CV Sectors have experience in coordinating some of their activities through private cooperative agreements and may be willing to change fishing behavior in response to the imposition of Chinook salmon PSC limits. If sector participants are successful in taking action to control Chinook salmon PSC to avoid a closure, gross revenues may not be negatively impacted. NMFS' management experience in the trawl fisheries that operate under catch share programs, or under informal cooperation agreements developed without a regulated catch share program, indicates that PSC use in the groundfish trawl fisheries has been reduced through increased communication among industry participants and coordination of fishing activities and effort. Section 4.4 of the Analysis reviewed potential measures that could be adopted by participants to reduce Chinook salmon PSC and the factors that are likely to affect the willingness of participants to adopt these measures.

The Analysis in Sections 4.7 and 4.9 considered potential changes in trawl sector revenues, and changes in costs resulting from the fleets' altered fishing behavior to minimize Chinook salmon PSC. However, it is not possible to directly quantify these effects with available information. The effects on communities are summarized in Section 4.7.5 of the Analysis. The Chinook salmon PSC limits implemented by this final rule balance the potential financial effects of reduced groundfish harvests and increased costs to groundfish fleets, the benefits of minimizing Chinook salmon PSC to the extent practicable, the potential benefits that may occur from reducing a known source of mortality to the Chinook salmon stocks, and the potential additional harvest opportunities that may accrue to other users of the Chinook salmon resource.

As described in the preamble to the proposed rule and in Sections 4.7 and 4.9 of the Analysis, the Council and NMFS considered the potential impact to the Non-Rockfish Program CV Sector,

and determined that the Chinook salmon PSC limit for this sector is practicable. The base Chinook salmon PSC limit for this sector is slightly higher than the Sector's average Chinook salmon PSC between 2007 and 2013. Additionally, it is likely that in most years, the Non-Rockfish Program CV Sector will receive a roll over of Chinook salmon PSC from the Rockfish Program CV Sector. Also, this action includes two measures that may increase the annual amount of Chinook salmon PSC available for this sector, thereby improving the practicability of the Chinook salmon PSC limit for the Non-Rockfish Program CV Sector. First, this action establishes an incentive buffer. This acts as an incentive for the Non-Rockfish Program CV Sector to keep Chinook salmon bycatch well below its base PSC limit in order to provide it with a slightly higher Chinook salmon PSC limit that may be needed in an unusual year of Chinook salmon migration patterns or unanticipated higher abundance that may make it difficult to avoid Chinook salmon PSC. Second, this action provides for a reallocation of unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector. This reallocation recognizes that the Rockfish Program CV Sector will likely have unused Chinook salmon PSC available by October 1 in most years. Therefore, in most years, the reallocation of some Chinook salmon PSC limit from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector is expected to provide additional harvest opportunities. The Council and NMFS also recognized that most of the vessels in the Non-Rockfish Program Sector are in cooperatives formed under the Central GOA Rockfish Program, which mutually benefit from these potential reallocations. Many participants in the Non-Rockfish Program CV sector also participate in the Rockfish Program CV Sector, and routinely cooperate to manage allocations or minimize Chinook salmon bycatch. Recognizing that not all CVs making landings in the GOA participate in the Rockfish Program, NMFS believes it may be in the interest of the operations that are in the Rockfish Program CV Sector to continue some level of cooperation to minimize Chinook salmon bycatch even after checking out of the Rockfish Program. Thus, these sector reallocations enhance the practicability of Amendment 97 for the Non-Rockfish Program CV Sector. The reallocations between the Rockfish and Non-Rockfish Program CV Sectors are expected to reduce the possibility of

idling seafood processing capacity, which could have negative implications for harvesters, processors, and fishery-dependent communities.

For the foregoing reasons, NMFS approved Amendment 97 and found no basis for full or partial disapproval of the Amendment. The MSA does not provide NMFS with the authority to postpone implementation of an approved FMP amendment and postponing the implementation of Amendment 97 is not warranted given its consistency with the MSA. The Council considered delaying the implementation of Amendment 97 until the implementation of a GOA trawl bycatch management action currently under consideration by the Council. The GOA trawl bycatch management action under development by the Council could include the components of a catch share program. Based on past experience with trawl catch share programs (e.g., the Central GOA Rockfish Program), a catch share program could provide additional flexibility to the GOA trawl fleet, including vessels in the Western and Central GOA non-pollock trawl fishery, to adapt their operations to minimize the use of Chinook salmon PSC. (For an example of the ability for catch share programs to minimize PSC use, see Sections 4.7.1 and 4.9 of the Analysis.) The Council decided to not delay the implementation of Amendment 97 for several reasons. First, the Council determined that a catch share program is not necessary for the Sectors to harvest groundfish TACs under the Chinook salmon PSC limits. Second, the purpose and need for this action is to implement an annual Chinook salmon PSC limit for the non-pollock trawl fisheries, not to implement broader catch share management in the GOA trawl fisheries. Delaying this action to await another action with a separate and distinct purpose and need is contrary to the purpose and need for this action. Third, the GOA trawl catch share program currently under consideration by the Council may not be recommended by the Council or implemented by NMFS. Delaying this action in anticipation of another future action is inconsistent with the purpose and need for this action. Finally, even if a GOA trawl catch share program is recommended by the Council and approved and implemented by NMFS, it would not be effective until 2017 at the earliest. This action will be implemented in 2015, substantially sooner than if implementation were delayed until a GOA trawl catch share program became effective. This action

results in a more timely implementation of an annual Chinook salmon PSC limit for the non-pollock fisheries that is responsive to the purpose and need of this action. Overall, the Council considered and rejected delaying the implementation of this action because the analysis indicates that Chinook salmon PSC can be controlled and potentially reduced without the implementation of a GOA trawl catch share program.

Comment 6: One commenter stated that the goal of avoiding exceedance of the annual Chinook salmon ITS of 40,000 salmon has already been achieved without Amendment 97 due to the combination of the Chinook salmon PSC limit of 25,000 in place for the GOA pollock fishery under Amendment 93 and likely Chinook salmon PSC use in the non-pollock trawl fishery. When the highest recent use of Chinook salmon PSC of 10,877 salmon (in 2010) from the non-pollock trawl fishery is added to the Chinook salmon PSC limit of 25,000 for the GOA pollock fishery, the total Chinook salmon PSC could be as high as approximately 36,000 salmon. That amount is below the Chinook salmon ITS level of 40,000 Chinook salmon. Because Chinook salmon PSC is unlikely to exceed 40,000, the stringent Chinook salmon PSC limits established by this action are not necessary.

Response: As stated earlier in this preamble, and in the preamble to the proposed rule, this action has three goals. The first of these goals is to avoid exceeding the annual threshold of 40,000 Chinook salmon identified in the ITS. With implementation of this action, NMFS expects that the combined annual Chinook salmon PSC for non-pollock and pollock trawl fisheries in the Western and Central GOA together with Chinook salmon PSC in other areas of the GOA will not substantially exceed 32,500 Chinook salmon on a long-term average annual basis. The Western and Central GOA Chinook salmon PSC limits established for the pollock trawl fishery under Amendment 93 (77 FR 42629, July 20, 2012) and for the non-pollock trawl fisheries under this action will effectively limit Chinook salmon PSC to a long-term average annual amount of 32,500 Chinook salmon. An additional *de minimus* amount of Chinook salmon PSC occurs in trawl fisheries in the Eastern GOA and non-trawl fisheries in the GOA that are not subject to a Chinook salmon PSC limit (see Section 1.2 of the Analysis for additional detail). Therefore, upon implementation of this rule, the combined Chinook salmon PSC from all sources will be below 40,000 Chinook salmon in all future years and the first

goal of Amendment 97 will be achieved.

The Council and NMFS recognize that the Chinook salmon PSC limits established by Amendments 93 and 97 are below the ITS of 40,000 Chinook salmon and that Chinook salmon PSC may be less than 40,000 in most years, even if there were no Chinook salmon PSC limits established in the non-pollock trawl fisheries. However, without Chinook salmon PSC limits in the non-pollock trawl fisheries, NMFS could not ensure that the first goal of Amendment 97 would be met in all years, particularly during years of unusually high Chinook salmon PSC use in the non-pollock trawl fisheries. NMFS agrees that other Chinook salmon PSC caps could have been chosen, such as a long-term average annual Chinook salmon PSC limit of 10,000 salmon, which would maintain total Chinook salmon PSC in the GOA below 40,000 salmon. However, the Council did not recommend these alternative Chinook salmon PSC limits because the second goal of this action is “to minimize Chinook salmon bycatch to the extent practicable, consistent with the Magnuson-Stevens Act and National Standard 9.” This second goal of the action is intended to establish Chinook salmon PSC limits that are as low as practicable, not to implement regulations that allow up to 40,000 Chinook salmon to be used as PSC even if a lower Chinook salmon PSC limit is practicable. For the reasons explained in the response to Comment 5, the Council and NMFS have determined that the Chinook salmon PSC limits implemented by this action are practicable.

Comment 7: One commenter stated that unlike Bering Sea Chinook salmon bycatch, most of the Chinook salmon PSC in the Western and Central GOA non-pollock trawl fisheries originate outside the State of Alaska, are exploited at the juvenile life stage (not at the stage that they would be harvested by other users), and may be produced in hatcheries and are not from wild spawning systems. The commenter cited research that indicates that less than a third of the Chinook salmon taken as bycatch in GOA non-pollock fisheries are Alaskan, from Northwest GOA or Southeast Alaska coastal streams. The best available science suggests that there is no link between Chinook salmon PSC use in the non-pollock trawl fisheries in the GOA and the status of Alaskan Chinook salmon stocks.

Response: Genetic data from samples of Chinook salmon PSC taken in the GOA trawl fisheries reveal that this PSC

may include Chinook salmon that originate from British Columbia, the U.S. West Coast (*i.e.*, California, Idaho, Oregon, and Washington), Alaska, and Asia. Overall, the amount of Chinook salmon PSC used in the GOA non-trawl fisheries represents a small proportion of the known removals from the Chinook salmon populations in Alaska, British Columbia, and the U.S. West Coast, as described in Section 3.3 of the Analysis. Section 3.3 of the Analysis also indicates that there is uncertainty in the potential link between reductions in Chinook salmon mortality from the trawl fishery and potential beneficial impacts to spawning populations and recruitment of adult Chinook salmon originating in Alaska. Therefore, reductions in the amount of Chinook salmon PSC taken in the non-pollock groundfish trawl fisheries are not expected to result in substantial beneficial changes in the Chinook salmon populations or the amount available to other Chinook salmon resource users. Given the information available at this time, the Chinook salmon PSC limits imposed under this action may not have a quantifiable direct positive impact on Chinook salmon returns to river systems in Alaska. Additionally, the available data indicate that Chinook salmon PSC in the non-pollock fishery includes Chinook salmon from hatchery enhanced stocks from river systems in Alaska and outside of Alaska.

The presence of Chinook salmon originating from British Columbia and the U.S. West Coast, in addition to Alaska, does not alleviate the need for PSC limits in the GOA trawl groundfish fisheries. Alaska groundfish fisheries must comply with ITS requirements for ESA-listed Chinook salmon species and minimize Chinook salmon PSC in the non-pollock trawl fisheries to the extent practicable under the Magnuson-Stevens Act. The goal of Amendment 97 is not to have specific impacts on specific fishery stocks, but to meet the three goals described in the purpose and need for this action and earlier in this preamble. These goals are without regard for the origin of the stock. While the Chinook salmon PSC limits imposed by Amendment 97 may not have a significant beneficial impact on Chinook salmon stocks or spawning escapement, the Council and NMFS determined that these PSC limits will not have negative impacts on Chinook salmon populations or the amount of spawning escapement.

Comment 8: One commenter stated that the PSC limit of 7,500 Chinook salmon does not address the subdivision of the cap between the three sectors and its effect. Between 2007 and 2013, the

proposed limit of 2,700 salmon for the Non-Rockfish Program CV Sector has been exceeded three times in the last 7 years and the three times that the limit has been exceeded occurred in the last 4 years (2010, 2011, 2013). These higher years of PSC coincide with increased abundances of British Columbia and Pacific Northwest Chinook salmon. The limit for the Non-Rockfish Program CV Sector is too low and not responsive to changing conditions of Chinook salmon abundance.

Response: NMFS acknowledged in the proposed rule that in some years, the annual Chinook salmon PSC limits for the three Sectors could constrain groundfish harvests and impose costs on participants in the non-pollock trawl fisheries. However, the proposed rule also explained why the PSC limits for each Sector were reasonable and consistent with the Magnuson-Stevens Act. For example, on page 35983, the proposed rule explains that the Non-Rockfish Program CV Sector allocation of 2,700 Chinook salmon is set at an amount that is 8 percent greater than the 7-year average from 2007 to 2013 for that sector. In addition to an allocation that exceeds the 7-year average, this action establishes an incentive buffer and provides for a reallocation of unused Chinook salmon PSC from the Rockfish Program CV Sector to the Non-Rockfish Program CV Sector as described in response to Comment 5. Furthermore, the PSC limits imposed by the action were derived from annual average Chinook salmon PSC usage during a period when there were no regulatory incentives for the Sectors to minimize their catch of Chinook salmon.

Although the commenter draws a connection between the current high abundance of British Columbia and U.S. West Coast Chinook salmon and high Chinook salmon PSC use in the Non-Rockfish Program CV Sector, Section 3.3.2.2 of the Analysis indicates that a relatively high abundance of a specific stock or group of stocks does not necessarily result in higher Chinook salmon PSC. Therefore, the comment that the Chinook salmon PSC limit does not consider the abundance of Chinook salmon is not correct. The Council and NMFS considered Chinook salmon abundance when considering the Chinook salmon PSC limit, but the best available information does not indicate that establishing a higher Chinook salmon PSC limit based on abundance is necessary or appropriate.

Comment 9: One commenter stated that the proposed rule does not add any new tools for members of the fishing industry to achieve the new PSC limits.

Response: This action does provide additional tools for members of the industry to achieve the new PSC limits. This action includes regulatory provisions that establish an incentive buffer and allow reallocations of the unused portion of a Chinook salmon PSC limit to the Non-Rockfish Program CV Sector from the Rockfish Program CV Sector to provide flexibility for utilizing available PSC limits within or between these sectors. As previously discussed in this final rule, the Council and NMFS have determined that these tools, in addition to the other features of Amendment 97, are sufficient to minimize the catch of Chinook salmon to the extent practicable in the GOA non-pollock trawl fisheries. The ability of the three sectors to adapt to the PSC limits with the available tools and those tools that would be provided under this program are discussed further in the response to Comment 11.

Comment 10: One commenter noted that this action provides incentives for reducing PSC of Chinook salmon, particularly through application of an incentive buffer. Another commenter noted that the incentive buffer helps provide some means for adjusting to Chinook salmon PSC limits but provides limited relief.

Response: NMFS agrees that the incentive buffer incorporated as part of this action will provide incentives to minimize Chinook salmon PSC during all years. The incentive buffer is designed to provide some additional flexibility for dealing with variability in Chinook salmon PSC in certain years, but NMFS agrees that the incentive buffer has limitations and may not offset all potential costs of compliance with the Chinook salmon PSC limits established by this rule during years of high Chinook salmon encounters. For the reasons stated in the responses to Comments 5 and 11, not all costs of PSC limits were practicable to offset while achieving the desired PSC reductions.

Comment 11: One commenter stated that the amount of revenue loss for non-pollock groundfish trawl fisheries could be as much as \$14 million, as expressed at the wholesale level, and would have indirect impacts on the community of Kodiak. The amount of revenue loss for the C/P sector could be as much as \$28 million.

Response: Section 4.7 of the Analysis concludes that the potential economic impact on a sector, processor, or community that may result from this action will vary depending on the specific sector, time of closure, and other factors. The Analysis also provides a range of estimates for the maximum amount of revenue that may

be forgone from the Non-Rockfish Program CV and Trawl C/P Sectors under this action, and a discussion of the reasons that actual forgone revenues and costs under this alternative are likely to be less than these maximum amounts of forgone revenue. These forgone revenue estimates are based on retrospective amounts of groundfish harvest reduction for the Chinook salmon PSC limits as applied to fishery performance in each year from 2007 through 2011. The estimates of \$14 million for the Non-Rockfish Program CV Sector and \$28 million for the Trawl C/P Sector in wholesale value, as cited in public comment, are based on a single year where the difference between the PSC limit and observed catch (converted to average ex-vessel revenues) for the year is at the maximum that would have been observed during that time interval. The lower end of the range of maximum foregone wholesale revenue from the action for the Non-Rockfish Program CV Sector was \$5.9 million. The lower end of the range of maximum foregone wholesale revenue from the action for the Trawl C/P Sector was \$5 million. The Analysis also includes a qualitative discussion of how the lowest estimate of maximum forgone revenue for that year may be mitigated by actions that the Non-Rockfish Program CV, Rockfish Program CV, and Trawl C/P Sectors may take to avoid fishing locations with high Chinook salmon PSC and reduce potential losses in wholesale revenue.

The Council and NMFS recognized that, in some years, the PSC limits implemented by Amendment 97 could constrain non-pollock groundfish fishing opportunities, resulting in foregone harvest and revenue, but determined that the action also mitigates these costs to participants in the fishery to some extent. As described in the preamble to the proposed rule, this action implements Chinook salmon PSC limits that consider the historic use of Chinook salmon PSC by the three sectors during a period of time when no Chinook salmon PSC limits were in effect and no regulatory incentives existed for the sectors to minimize their Chinook salmon PSC. The Chinook salmon PSC limits established for all three sectors are larger than each sector's historic average Chinook salmon PSC, as explained in the preamble to the proposed rule on page 35979. The Council and NMFS determined that these higher-than-average Chinook salmon PSC limits, coupled with regulatory incentives to keep Chinook salmon PSC as low as possible so that the limits are not

reached before harvest of non-pollock groundfish allocations has occurred, should result in Chinook salmon PSC at levels below average historic use in most years.

Section 4.7 concludes that the potential impact of the Chinook salmon PSC limits can be mitigated by specific actions taken by participants in the sectors. For example, the Trawl C/P Sector and Rockfish Program CV Sector participants have experience in coordinating some of their activities through private cooperative agreements and may be willing to change fishing behavior in response to PSC limits. If sector participants are successful in taking action to control Chinook salmon PSC use to avoid a closure, gross revenues may not be negatively impacted. NMFS' management experience in the trawl fisheries that operate under catch share programs and voluntary agreements indicates that PSC use in the groundfish fisheries has been reduced through increased communication among industry participants and coordination of fishing activities and effort.

While participants in the Non-Rockfish Program CV Sector are not currently operating under cooperative agreements, participants in this sector are not precluded by regulation from forming voluntary agreements to minimize Chinook salmon or other PSC. Although voluntary agreements among all participants in a sector can be more difficult to establish than voluntary agreements among some participants in a sector under a catch share program, the Council and NMFS expect that vessels in the Non-Rockfish Program CV Sector will be able to modify fishing practices to minimize Chinook salmon PSC and mitigate the potential adverse economic impacts. As explained in the preamble to the proposed rule on page 35974 and in the Analysis at section 4.4.10, in 2014, 56 percent of the participants in the Non-Rockfish Program CV Sector who operate in the Central GOA are participants in the Rockfish Program CV Sector and have formed cooperative agreements under the Central GOA Rockfish Program.

Comment 12: One commenter stated that in the GOA pollock trawl fishery, Chinook salmon PSC estimates are derived from a census from observed vessels whereas in the non-pollock trawl fisheries, Chinook salmon PSC estimates will be based on samples taken by observers at sea. Due to the sampling design applied to the non-pollock fisheries, small samples from a small number of vessels could result in Chinook salmon PSC estimates for a sector that are derived from a single

vessel's Chinook salmon PSC which may not be representative of the Chinook salmon PSC by other vessels in that sector. The commenter asserted that NMFS should modify observer sampling protocols in the non-pollock trawl fisheries and employ a census method on all observed vessels.

Response: As explained in Section 5 of the Analysis, there are operational differences between the pollock and non-pollock fisheries that prevent the use of a census onboard observed vessels in the GOA non-pollock trawl fisheries. Currently, NMFS does not have the monitoring infrastructure needed to use a census for Chinook salmon PSC onboard observed CVs in the GOA non-pollock trawl fisheries. A census should account for all salmon caught by CVs in the non-pollock trawl fisheries and would require changes to observer coverage on GOA non-pollock trawl CVs, and additional infrastructure at processors receiving deliveries from these vessels. Without these infrastructure changes, using a census of Chinook salmon PSC for the GOA non-pollock trawl CV sectors is likely to produce biased counts of salmon PSC, including Chinook salmon PSC. Therefore, NMFS will use basket sampling at sea from a random selection of fishing trips to account for Chinook salmon PSC by GOA non-pollock trawl CVs.

NMFS acknowledges that Chinook salmon is a relatively uncommon species to be observed in trawl fisheries and is characterized by many small and zero counts encountered in at-sea samples with occasional large counts encountered in at-sea samples. NMFS has documented the possibility that small sample sizes could impact the estimates of the sector-level PSC used in a given season or year. This is discussed in detail in Section 5 of the Analysis and in the preamble to the proposed rule. NMFS agrees that there is a possibility that a Chinook salmon PSC limit could be reached based on an estimate derived from a few at-sea samples from a small number of vessels. The Council and NMFS considered all reasonable alternatives for producing in-season estimates of Chinook salmon PSC in non-pollock trawl fisheries for Amendment 97. The Analysis addresses each of these PSC accounting alternatives at Section 5.2.2. Each alternative included trade-offs in administrative and industry cost, practicality, and data quality. For example, increasing observer coverage in the Non-Rockfish CV Sector so that each trip is observed was considered to be impracticable at this time and without a catch share program that

included Chinook salmon PSC. It would also impose significant costs that could negatively impact a number of these operations. The analysis also considered accounting for retained catch at the point of delivery, but this approach may provide additional incentives for vessels to discard salmon PSC at sea. The selected approach of basket sampling at sea, from a random selection of fishing trips, represented the optimum balance of cost and data reliability for the CV sectors in the GOA trawl fishery.

Comment 13: Section 4.8 of the Analysis states that NMFS would not have in place the requisite capacity to take systematic genetic samples of retained salmon in accordance with sampling protocols that have been implemented in the Bering Sea pollock fishery, and that while a different sampling method could be considered for the non-pollock trawl fisheries in the GOA, such an approach has yet to be investigated. NMFS has revised the genetic sampling methods for the pollock fishery in the GOA since the Council recommended Amendment 97 in June 2013. A genetic sampling approach similar to that currently used in the GOA pollock fishery should be investigated and, if appropriate, adopted for the non-pollock trawl fisheries in the GOA.

Response: In the Bering Sea, all salmon caught by CVs are sampled through a census of each salmon delivered to a processor. For each Chinook salmon in the census, observers collect genetic samples from every 1 in 10 of those Chinook salmon. Section 5.3.1 of the Analysis describes the Bering Sea genetic sampling protocol in greater detail, and explains that it is not feasible to apply that census-based sampling to the non-pollock trawl fisheries in the GOA given the specific operational characteristics of the GOA non-pollock fishery, vessel layouts, and the lack of other monitoring requirements necessary to verify that a complete census of salmon PSC has occurred on these vessels. The same feasibility problems for use of a census for salmon PSC accounting in the GOA non-pollock groundfish fishery would also apply if the census data were to be used as a basis for collecting genetic data samples from the census. Any bias created in the salmon census data would also transfer to, and create accuracy issues with, the genetic data. These lessons have been applied to GOA pollock fishery.

The Alaska Fisheries Science Center has assessed biological samples from Chinook salmon collected by observers in the GOA trawl fisheries for several years, and the resolution of that data by

region of stock origin is steadily improving. In 2014, NMFS improved the sampling protocol in the GOA pollock fishery to address concerns about NMFS's ability to verify that salmon were retained on unobserved trips. One approach for accounting of all salmon caught on a trip is to conduct a census. A census for salmon in the trawl fishery would count each individual salmon caught by a vessel. NMFS replaced the method used in the GOA pollock fishery, which attempted to census salmon from all pollock deliveries, to a method that samples salmon only on deliveries from observed trips. This change is anticipated to improve data quality by reducing the risk of bias on unobserved trips and substantially increasing the number of genetic samples that can be collected. Section 5.3.1 of the Analysis describes the operational differences between the pollock and non-pollock fisheries that make the translation of sampling protocols from the pollock fishery to the non-pollock fishery challenging. However, NMFS will continue to investigate optimal methods for sampling Chinook salmon PSC in the non-pollock fishery and apply the best available techniques as practicable.

Comment 14: One commenter wrote that Section 5 of the Analysis states that if a sector's Chinook salmon PSC limit is less than approximately 1,500 Chinook salmon per week, it is difficult to adequately manage the Chinook salmon PSC limit. Given this, NMFS will not be able to effectively manage the Chinook salmon PSC limits, particularly for the Non-Rockfish Program CV Sector, or the small amount of Chinook salmon that may be reallocated to the Non-Rockfish Program CV Sector from the Rockfish Program CV Sector. Management is not adequately precise to manage the Non-Rockfish Program CV Sector to allow the sector to fully harvest its target species.

Response: Section 5.2.1.1 of the Analysis concludes that for some sectors, the timeliness and quality of the data available to detect small changes in the amount of Chinook salmon PSC during a weekly period constrain precision and accuracy for inseason PSC accounting. For the GOA non-pollock trawl fisheries, NMFS considers Chinook salmon PSC limits that are less than the historically highest weekly rate for the managed fishery to be too small to manage inseason because a PSC limit similar to that rate could be reached in one week. The Analysis states that for the GOA non-pollock trawl CV and C/P sectors, these amounts are about 1,500 Chinook salmon PSC a week for each sector in the Central GOA, and

1,000 Chinook salmon PSC a week for the C/P sector and 100 Chinook salmon PSC a week for the CV sector in the Western GOA. However, this action separates the CV sector into the Non-Rockfish Program CV Sector and the Rockfish Program CV Sector. Separate Chinook salmon PSC limits for these CV sectors decreases the weekly rate that NMFS would consider too small to manage. The Non-Rockfish Program CV Sector's annual Chinook salmon PSC limit is 2,700 salmon. From 2003 through 2013, the Non-Rockfish Program CV Sector has not reached a rate of 1,500 Chinook salmon PSC per week in the combined Western and Central GOA and the highest weekly Chinook salmon PSC use rate is 1,223 Chinook salmon in the combined Western and Central GOA. This highest weekly rate for the Non-Rockfish Program CV Sector is lower than the weekly rate for this sector in the combined Western and Central GOA. This rate is less than half of the 2,700 Chinook salmon limit and would allow time for NMFS management to respond with a closure notice if required. Also, from 2003 through 2012, this rate has only been reached once during 346 weeks of fishing by this sector. The next highest weekly rate is considerably lower at 824 Chinook salmon. The Amendment 97 PSC limits established for the three sectors are sufficient amounts for effective inseason management. NMFS also can effectively manage the PSC amounts that may be available to the Non-Rockfish Program CV Sector under the incentive buffer and the reallocation provisions.

Comment 15: One commenter stated that salmon retention requirements are useful, but could go further by requiring 100 percent observer coverage to avoid inaccurate estimates of Chinook salmon based on extrapolations from observed trips.

Response: Salmon retention requirements implemented by this action are not intended to and will not be used to estimate Chinook salmon PSC by NMFS, and therefore have no impact on how NMFS will manage the fishery. The salmon retention requirements are intended to assist industry efforts to track salmon delivered to shore, potentially for decision making within a sector, and for opportunistic collection of biological data for genetic analysis. One hundred percent, or full observer coverage for each haul or trip, is not necessary to obtain accurate PSC estimates of Chinook salmon within the non-pollock trawl sectors. As explained in Section 5.2 of the Analysis, NMFS has implemented 100 percent observer

coverage in catch share programs that include transferable PSC limits allocated to a specific entity such as a cooperative. Under these catch share programs, increased monitoring has been necessary to monitor the use of PSC and to enforce the regulatory provision that prohibits a specific entity with a transferable Chinook PSC limit from exceeding its limit. The Council and NMFS did consider an option to allocate Chinook salmon PSC limits to Rockfish Program entities, which would have resulted in NMFS recommending increased monitoring requirements. However, that alternative was rejected for reasons described in Section 2.6 of the Analysis.

Under this action, Chinook salmon PSC limits will not be allocated to a specific entity. Therefore, NMFS will monitor PSC limits using observer data collected under the restructured Observer Program (77 FR 70062, November 21, 2012). One of the primary goals of the restructured Observer Program was to reduce the potential for bias in observer data and therefore improve catch estimates of groundfish and PSC, including salmon PSC. The restructured Observer Program deploys observers through a scientific sampling plan and has resulted in observer data that is representative of the GOA groundfish fisheries, including the trawl fisheries.

Comment 16: One commenter stated that the preamble suggests that improvements in salmon reporting through the eLandings reporting system may assist in tracking and cooperatively managing Chinook salmon PSC limits for the trawl CV sectors delivering to shoreside processors or SFPs. This improved tracking and cooperative management is practicable only in the Rockfish Program CV Sector. The Non-Rockfish Program CV Sector is not likely to be able to voluntarily control or organize fleet behavior to adjust fishing patterns for avoiding Chinook salmon PSC, so improved eLanding data is irrelevant for this sector.

Response: While NMFS agrees that the Rockfish Program CV Sector is more likely than the Non-Rockfish Program CV Sector to be able to take advantage of information on Chinook salmon PSC from the eLandings reporting system to cooperatively manage its Chinook salmon PSC limit, the information provided by the eLandings reporting system also may have utility for the participants in the Non-Rockfish Program CV Sector regardless of whether all participants in that sector are fishing cooperatively under voluntary agreements. Many participants in the Non-Rockfish

Program CV Sector are also participants in the Rockfish Program CV Sector and participants in the Non-Rockfish Program CV Sector are not precluded from forming voluntary agreements to coordinate fishing patterns and use the data from the eLandings reporting system to minimize Chinook salmon or other PSC.

Classification

The Administrator, Alaska Region, NMFS, determined that this final rule is consistent with the FMP, including Amendment 97, the Magnuson-Stevens Act, the AFA, and other applicable laws. After considering the comments received on the amendment and the proposed rule, the Secretary of Commerce approved Amendment 97 on September 3, 2014.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a Final Regulatory Flexibility Analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as “small entity compliance guides.” The preamble to the proposed rule and this final rule serve as the small entity compliance guide. This action does not require any additional compliance from small entities that is not described in the preambles. Copies of the proposed rule and this final rule are available from NMFS at the following Web site: <http://alaskafisheries.noaa.gov>.

Executive Order 12866

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

Final Regulatory Flexibility Analysis

Section 604 of the Regulatory Flexibility Act requires that, when an agency promulgates a final rule under section 553 of Title 5 of the United States Code, after being required by that section, or any other law, to publish a general notice of proposed rulemaking, the agency shall prepare a final regulatory flexibility analysis (FRFA). Section 604 describes the required contents of a FRFA: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such

comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

Need for and Objectives of the Rule

A statement of the need for, and objectives of, the rule is contained in the preamble to this final rule and is not repeated here.

Public and Chief Counsel for Advocacy Comments on the Proposed Rule

NMFS published a proposed rule on June 25, 2014 (79 FR 35971). An initial regulatory flexibility analysis (IRFA) was prepared and summarized in the “Classification” section of the preamble to the proposed rule. The comment period closed on July 25, 2014. NMFS received five public comment letters, containing 16 separate comments on Amendment 97 and the proposed rule. These comments did not address the IRFA or the economic impacts of the rule upon small entities. The Chief Counsel for Advocacy of the Small Business Administration did not file any comments on the proposed rule.

Number and Description of Small Entities Regulated by the Action

This analysis considers the participants in the Western and Central GOA non-pollock trawl fisheries in 2012, which is the most recent year for which size, revenue, and affiliation data were available. The Small Business Administration (SBA) has defined a small entity in the finfish harvesting sector as an entity with annual gross receipts less than \$20.5 million.

In 2012, 19 trawl C/Ps participated in the Trawl C/P Sector. Only one of the C/Ps in the Trawl C/P Sector is classified as a small entity. All other members of the Trawl C/P Sector are affiliated through Amendment 80 and/or Central GOA Rockfish Program cooperatives. The combined annual gross receipts of these cooperatives total more than \$20.5 million. Therefore, the remaining participants in the Trawl C/P Sector are not classified as small entities due to their affiliations in cooperatives with annual gross receipts exceeding the small entity threshold of \$20.5 million.

In 2012, the Trawl CV Sector was composed of 70 active vessels. These 70 vessels include all participants in the Rockfish Program CV Sector and the Non-Rockfish Program CV Sector. Fifty-four of these trawl CVs are classified as small entities. These 54 vessels classified as small entities include 31 vessels that were not affiliated with any cooperative, and 23 vessels that were affiliated with cooperatives (*i.e.*, AFA, Amendment 80, Central GOA Rockfish Program) that generated less than \$20.5 million in combined annual gross revenues.

A total of 64 shoreside processors and SFPs may receive landings of groundfish from the GOA non-pollock trawl fisheries. Of these 64 processing operations, as many as 53 may be small entities. Seafood processors are categorized as small or large entities based upon estimated seafood employees by company. NMFS does not maintain records on seafood processing employment for each firm or company, thus, these estimates of small entities are based on the best commercially available data.

The estimate in the number of small entities reported in this FRFA have been updated from those in the IRFA to reflect recent revisions to SBA thresholds for identifying small entities businesses primarily involved in finfish harvesting from \$19 million to \$20.5 million (79 FR 33647, June 12, 2014). These revisions to SBA thresholds increased the estimated number of small entities by four compared to the estimate provided in the IRFA. The four additional small entities are trawl CVs.

Recordkeeping and Reporting Requirements

No new recordkeeping and reporting requirements have been identified for this action.

Description of Significant Alternatives to the Final Action That Minimize Adverse Impacts on Small Entities

A FRFA must describe the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency that affect the impact on small entities was rejected. This action is the Council's final preferred alternative, as defined in Section 2.4 of the Analysis.

No alternatives or options that were omitted from the preferred alternative, or alternatives that were considered but not advanced, would have accomplished the action's objectives while reducing the potential economic impact on small entities relative to the preferred alternative. These other alternatives considered included defining the GOA trawl sectors differently, applying a different historic time period for establishing Chinook salmon PSC limits instead of the time interval selected, establishing a different long-term average Chinook salmon PSC, and allocating the Chinook salmon PSC to the GOA trawl sectors by smaller management areas or in different proportions than those selected. The Council did not adopt a separate Chinook salmon PSC apportionment for small entities because a shared hard cap across all entities within each operational type sector promotes information sharing and collective action in avoiding Chinook salmon PSC, which is beneficial to all entities.

The economic impact on directly regulated small entities is the extent to which entities incur additional costs in the avoidance of Chinook salmon PSC, or are limited in their groundfish harvest by a closure due to the Chinook salmon PSC limit being reached. Operational costs could arise from changing the location of fishing or from suspending fishing when relatively high Chinook salmon PSC occurs. In addition, it is possible that some costs may be incurred in attempting to determine Chinook salmon PSC rates in order to decide whether Chinook salmon avoidance measures are needed. These potential impacts are not expected to more significantly and adversely impact small entities relative to non-small entities. It may be the case that entities with cooperative affiliations have access to a broader array of information where spatial salmon

avoidance is concerned, but many of the directly regulated small entities are also members of cooperatives. Moreover, under a shared Chinook salmon PSC limit, information sharing across the entire fleet is in the best interest of each entity, if the limit appears to be constraining. Finally, while non-small entities may have greater access to funds to invest in salmon excluding technologies—should they be developed and widely adopted—the small entities would benefit from the PSC reductions achieved by other vessels, as they would decrease the probability of fishery closure.

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 (ANCSA) 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.

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.

Tribal Summary Impact Statement

Pursuant to E.O. 13175 NMFS mailed letters to approximately 640 Alaska tribal governments, ANCSA corporations, and related organizations providing information about Amendment 97 and the proposed rule. The letter invited comments and requests for consultation on this action. One letter was received from Ahtna, Incorporated, an ANCSA corporation, expressing support for the action. NMFS received no requests for consultation. This final rule is needed to implement Amendment 97 to establish Chinook salmon PSC limits in the Western and Central GOA non-pollock trawl fisheries. Implementing Amendment 97 is consistent with the general support for this action expressed by tribal officials during testimony provided at the Council meeting in June 2013.

Collection-of-Information Requirements

This final rule contains references to collection-of-information requirements that have been reviewed and approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The collections are listed below by OMB control number.

OMB 0648–0316

The Alaska PSD Program is mentioned in this rule; however, the public reporting burden for this collection-of-information is not directly affected by this final rule.

OMB 0648–0515

The Alaska Interagency Electronic Report System is mentioned in this rule; however, the public reporting burden for this collection-of-information is not directly affected by this final rule.

In the proposed rule, NMFS requested public comments on the collection-of-information that are mentioned in this rule. No comments were received.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: November 21, 2014.

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 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, revise paragraph (b)(8) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(b) * * *

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

* * * * *

■ 3. In § 679.21:

■ a. Revise paragraphs (b)(2)(ii), paragraph (h) heading, and paragraphs (h)(1), (h)(4), and (h)(5); and

■ b. Add paragraph (i) 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 pollock fisheries and GOA groundfish fisheries under paragraphs (c), (h), or (i) of this section, or any prohibited species catch as provided (in permits issued) under the PSD program at § 679.26, return all prohibited species, or parts thereof, to the sea immediately, with a

minimum of injury, regardless of its condition.

* * * * *

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

* * * * *

(4) *Salmon retention.* (i) The operator of a vessel, including but not limited to a catcher vessel or tender, must retain all salmon until offload to a processing facility that takes the delivery.

(ii) The owner and the manager of a shoreside processor or SFP receiving pollock deliveries must retain all salmon until:

(A) The manager of a shoreside processor or SFP has accurately recorded the number of salmon by species in the eLandings groundfish landing report; and

(B) If an observer is present, the observer 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 after the requirements at paragraph (h)(4)(ii) of this section have been met.

* * * * *

(i) *GOA Chinook Salmon PSC Management for non-pollock trawl fisheries—(1) Applicability.* Regulations in this paragraph apply to vessels directed fishing for groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA and processors receiving deliveries of groundfish, other than pollock, from catcher vessels.

(2) *Non-pollock trawl sectors.* The sectors identified in this paragraph (i) are:

(i) *Rockfish Program catcher vessel Sector.* For the purpose of accounting for the Chinook salmon PSC limit at paragraph (i)(3)(i)(B) of this section, the Rockfish Program catcher vessel Sector is any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting areas of the GOA and operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector;

(ii) *Trawl catcher/processor Sector.* For the purpose of accounting for the Chinook salmon PSC limits at paragraphs (i)(3)(i)(A) and (i)(3)(ii) of this section, the Trawl catcher/processor Sector is any catcher processor vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central GOA reporting areas and processing that groundfish at sea; and

(iii) *Non-Rockfish Program catcher vessel Sector.* For the purpose of accounting for the Chinook salmon PSC limit at paragraph (i)(3)(i)(C) of this section, the Non-Rockfish Program catcher vessel Sector is any catcher vessel fishing for groundfish, other than pollock, with trawl gear in the Western or Central reporting areas of the GOA and not operating under the authority of a Central GOA Rockfish Program CQ permit assigned to the catcher vessel sector.

(3) *GOA non-pollock trawl Chinook salmon PSC limits.* (i) NMFS establishes annual Chinook salmon PSC limits in the Western and Central reporting areas of the GOA for the sectors defined in paragraph (i)(2) of this section as follows:

For the following sectors defined at § 679.21(i)(2) . . .	The total Chinook salmon PSC limit in each calendar year is . . .	Unless, the use of the Chinook salmon PSC limit for that sector in a calendar year does not exceed . . .	If so, in the following calendar year, the Chinook salmon PSC limit for that sector will be . . .
(A) Trawl catcher/processor sector	3,600	3,120	4,080
(B) Rockfish Program catcher vessel sector	1,200	N/A	
(C) Non-Rockfish Program catcher vessel sector	2,700	2,340	3,060

(ii) For the Trawl catcher/processor Sector defined at § 679.21(i)(2)(ii):

(A) NMFS establishes a seasonal limit within the sector's annual Chinook salmon PSC limit that is available to the sector prior to June 1. If the Trawl catcher/processor Sector defined at

§ 679.21(i)(2)(ii) has an annual Chinook salmon PSC limit of 3,600 Chinook salmon, then the sector's seasonal limit prior to June 1 is 2,376 Chinook salmon. If the Trawl catcher/processor Sector defined at § 679.21(i)(2)(ii) has an annual Chinook salmon PSC limit of

4,080 Chinook salmon, then the sector's seasonal limit prior to June 1 is 2,693 Chinook salmon.

(B) The amount of Chinook salmon PSC limit available to the Trawl catcher/processor Sector defined at § 679.21(i)(2) on June 1 through the

remainder of the calendar year will be the annual Chinook salmon PSC limit specified for the Trawl catcher/processor Sector minus the number of Chinook salmon PSC used by that sector prior to June 1.

(4) *Rockfish Program catcher vessel Sector reallocation of Chinook salmon PSC limit.* (i) If, on October 1 of each year, the Regional Administrator determines that more than 150 Chinook salmon are available in the Rockfish Program catcher vessel Sector Chinook salmon PSC limit specified at paragraph (i)(3)(i)(B) of this section, the Regional Administrator will reallocate all Chinook salmon PSC available to the Rockfish Program catcher vessel Sector except for 150 Chinook salmon to the Non-Rockfish Program catcher vessel Sector Chinook salmon PSC limit specified at paragraph (i)(3)(i)(C) of this section.

(ii) On November 15 of each year, the Regional Administrator will reallocate all of the remaining Chinook salmon available in the Rockfish Program catcher vessel Sector Chinook salmon PSC limit specified at paragraph (i)(3)(i)(B) of this section to the Non-Rockfish Program catcher vessel Sector Chinook salmon PSC limit specified at paragraph (i)(3)(i)(C) of this section.

(5) *Salmon retention.* (i) The operator of a catcher vessel or tender must retain all salmon until offload to a processing facility that takes the delivery.

(ii) The owner and manager of a shoreside processor or SFP receiving non-pollock fishery deliveries must retain all salmon until the number of salmon by species has been accurately recorded in the eLandings groundfish landing report.

(iii) The operator of a catcher/processor must retain all salmon until an observer is provided the opportunity to collect scientific data or biological samples, and the number of salmon by species has been accurately recorded in the eLandings At-sea production report.

(6) *Salmon discard.* Except for salmon under the PSD program defined at § 679.26, all salmon must be discarded after the requirements at paragraph (i)(5)(ii) or (i)(5)(iii) of this section have been met.

(7) *Chinook salmon PSC closures in non-pollock trawl gear fisheries.* If, during the fishing year, the Regional Administrator determines that:

(i) Vessels in a sector defined at § 679.21(i)(2) will catch the applicable Chinook salmon PSC limit specified at paragraph (i)(3)(i) of this section for that sector, NMFS will publish notification in the **Federal Register** closing directed

fishing for all groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for that sector; or

(ii) Vessels in the Trawl catcher/processor Sector defined at § 679.21(i)(2) will catch the seasonal Chinook salmon PSC limit specified under paragraph (i)(3)(ii)(A) of this section prior to June 1, NMFS will publish notification in the **Federal Register** closing directed fishing for groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for all vessels in the Trawl catcher/processor Sector defined at § 679.21(i)(2) until June 1. Directed fishing for groundfish species, other than pollock, with trawl gear in the Western and Central reporting areas of the GOA for vessels in the Trawl catcher/processor Sector defined at § 679.21(i)(2) will reopen on June 1 with the Chinook salmon PSC limit determined under paragraph (i)(3)(ii)(B) of this section unless NMFS determines that the amount of Chinook salmon PSC limit available to the sector is insufficient to allow the sector to fish and not exceed its annual Chinook salmon PSC limit.

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