



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 120706220-4693-01]

RIN 0648-BC34

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Pot Gear Fishing Closure in the Pribilof Islands Habitat Conservation Zone in the Bering Sea

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would implement Amendment 103 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) to close year-round the Pribilof Islands Habitat Conservation Zone (PIHCZ) to directed fishing for Pacific cod with pot gear to minimize bycatch and prevent overfishing of Pribilof Islands blue king crab (PIBKC). This action would promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and other applicable law.

DATES: Submit comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2012-0141, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2012-0141>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

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 without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

Electronic copies of the BSAI FMP, Amendment 103 to the BSAI FMP, the Environmental Assessment (EA), and the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) 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: Sarah Ellgen, 907-586-7228.

SUPPLEMENTARY INFORMATION:

NMFS manages the BSAI groundfish fisheries under the FMP for groundfish in the BSAI management area (BSAI FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. Regulations implementing the BSAI FMP appear at 50 CFR part 679.

The Council submitted Amendment 103 to the BSAI FMP for review by the Secretary of Commerce, and a notice of availability was published in the Federal Register on August 21, 2014 (79 FR 49487), with comments invited through October 20, 2014. Comments may address Amendment 103 to the BSAI FMP, or this proposed rule, but must be received by October 20, 2014, to be considered in the approval/disapproval decision on Amendment 103 to the BSAI FMP. All comments received by that date, whether specifically directed to Amendment 103 to the BSAI FMP or to this proposed rule will be considered in the approval/disapproval decision on Amendment 103.

Background

The Pribilof Islands blue king crab (PIBKC) stock is managed as a distinct stock and occurs around the islands of Saint Paul and Saint George in the Bering Sea. The PIBKC stock is currently overfished and under a rebuilding plan (69 FR 17651, April 5, 2004). NMFS and the Alaska Department of Fish and Game (ADF&G) have implemented a number of increasingly conservative management measures to limit potentially adverse fishery effects on PIBKC.

In 1999, as part of the joint management of the crab stocks under the Crab FMP, the ADF&G closed the directed PIBKC fishery due to the declining trend in PIBKC abundance. ADF&G also closed the directed Pribilof Islands red king crab fishery to minimize the bycatch

of PIBKC in that fishery. Based on NMFS annual trawl survey data, ADF&G continues to annually close specific State statistical areas where PIBKC are known to occur during the Bristol Bay red king crab, snow crab, and Tanner crab fisheries to minimize PIBKC bycatch in those crab fisheries.

NMFS closed the Pribilof Islands Habitat Conservation Zone (PIHCZ) to groundfish trawl gear to protect blue king crab under Amendment 21a to the BSAI FMP (60 FR 4110, January 20, 1995). The PIHCZ was established based on the distribution of the blue king crab recorded in the NMFS annual trawl surveys and on observer data (see proposed Figure 10 to 50 CFR part 679).

NMFS classified the PIBKC stock as a prohibited species in Table 2b to 50 CFR part 679. The BSAI FMP and implementing regulations at § 679.21 require that the incidental catch of prohibited species be avoided while fishing for groundfish. Regulations at § 679.7(a)(12) prohibit retaining or possessing prohibited species unless permitted to do so under the Prohibited Species Donation program as provided by § 679.26 of this part, or as authorized by other applicable law. Pursuant to these regulations, directed groundfish fisheries must immediately return PIBKC bycatch to the sea with a minimum of injury.

Due to chronic low abundance, this stock remains overfished despite these measures to minimize catch of blue king crab. The cause of the continued low PIBKC stock abundance and failure to recover is not well understood. Information included in recent Stock Assessment and Fishery Evaluation (SAFE) reports suggest that environmental conditions such as changing ocean currents, changing water temperatures, and changing spatial distributions among king crab stocks may contribute to the failure of this stock to recover (see 2010, 2011, 2012 SAFE reports for the PIBKC). While there are no apparent physical barriers to adult dispersal, crab larval

dispersal may be affected by local oceanography, which may in turn affect recruitment of the PIBKC stock (see Table 4-4 of the EA). Environmental conditions may also play a role in female crab reproduction and growth; however this relationship is poorly understood (Section 4.5.2 of the EA).

The continuing low abundance of PIBKC underscores the need to implement additional measures to minimize PIBKC bycatch in the groundfish fisheries to the extent practicable. The Council considered additional conservation and management measures to further minimize bycatch and prevent overfishing with the goal to rebuild PIBKC. The Council recommended Amendment 103 to address the remaining significant source of PIBKC mortality by prohibiting Pacific cod directed fishing with pot gear in the PIHCZ. The Pacific cod pot fishery occurs within the PIHCZ and had the highest observed bycatch rates of PIBKC across all gear types from 2005 to 2011 (see Section 4.5.4 of the EA). This action is consistent with the PIBKC rebuilding plan, but reduces PIBKC bycatch in the groundfish fishery to address the potential for PIBKC bycatch in the groundfish fishery to exceed the annual PIBKC overfishing limit.

The Council recommended closing the PIHCZ to directed fishing for Pacific cod with pot gear based on 1) the high rate of PIBKC bycatch in the PIHCZ relative to other areas outside of the PIHCZ, 2) the high concentration of PIBKC in the PIHCZ, 3) the occurrence of known PIBKC habitat within the PIHCZ, 4) the high rate of PIBKC bycatch in the Pacific cod pot fishery relative to other groundfish fisheries, and 5) the limited impact the Pacific cod pot gear closure in the PIHCZ would have on the Pacific cod pot fishery relative to other groundfish fisheries closures. This proposed action ensures that the reduction of bycatch is focused on the fishery that is most likely to achieve the bycatch reduction with the least economic impacts overall for the groundfish fisheries.

In recommending this proposed action, the Council considered a number of management measures designed to reduce PIBKC bycatch in the groundfish fisheries. The Council considered expanding the year-round PIHCZ closure to apply not only to vessels using trawl gear, but also to groundfish fisheries that have contributed to a designated percentage threshold of PIBKC bycatch from 2003 to 2010. The Council also considered implementing groundfish closure areas that would mirror the current ADF&G crab closure areas or that would cover the entire distribution of the PIBKC stock. Such closures would apply to groundfish fisheries that have contributed to greater than a designated percentage threshold of PIBKC bycatch. Finally, the Council considered establishing PIBKC prohibited species catch (PSC) limits. All PIBKC bycatch in all groundfish fisheries would accrue toward the PIBKC PSC limit. Once reached, the PIBKC PSC limit would trigger fishery closures that would apply only to those groundfish fisheries that had contributed to a greater than designated threshold of PIBKC bycatch (triggered closures) (see Section 2 of the EA).

The Council evaluated the alternatives based on the best scientific information available, including survey data on location and concentration of PIBKC, historical distribution of PIBKC, environmental conditions and biology of the PIBKC stock, observed PIBKC bycatch rates in all the groundfish fisheries, information on key habitat components for the PIBKC stock, the potential displacement of fishing effort from the alternative closure areas to other fishing grounds, and the economic impact of PIBKC bycatch reductions and closure areas on fishing communities.

The Council noted that the best scientific information on PIBKC location, observed catch rates, and habitat type indicates that the PIHCZ contains the highest concentration of PIBKC as well as PIBKC habitat. The Pacific cod pot gear fishery had the highest observed bycatch rates

of PIBKC across all gear types from 2005 to 2011. During this time period, the average observed PIBKC bycatch rate in Pacific cod fisheries using pot gear within the PIHCZ was 0.052 crab per metric ton of groundfish. In the BSAI, the highest and second-highest PIBKC bycatch rates by Pacific cod pot gear are located within the PIHCZ to the northeast and east of St. Paul Island, respectively. Nearly all of the observed PIBKC bycatch was within the PIHCZ. In recommending the prohibition on directed fishing for Pacific cod with pot gear in the PIHCZ, the Council focused on the groundfish sector with the highest observed bycatch rate in an area where the PIBKC stock and habitat are concentrated (see Sections 2.2 and 4.5.5 of the EA).

This action would prevent the BSAI groundfish fisheries from exceeding the overfishing level established for the PIBKC stock. Although the PIBKC bycatch in all groundfish fisheries has been below the overfishing level, the Council acknowledged that recent trends in crab bycatch suggest that groundfish fisheries occurring near the Pribilof Islands have the potential to exceed the overfishing level and acceptable biological catch for this stock (see Section 1.1 of the EA). Prohibiting Pacific cod pot fishing in the habitat conservation zone would remove a significant source of crab bycatch mortality and prevent exceeding the PIBKC overfishing level.

This proposed action would minimize PIBKC bycatch in the groundfish fisheries to the extent practicable, consistent with National Standard 9. Prohibiting directed fishing for Pacific cod with pot gear in the PIHCZ would prevent PIBKC bycatch in an area of known PIBKC habitat. In recommending the proposed action, the Council noted that Pacific cod catches by vessels using pot gear that occur within the PIHCZ could be effectively harvested outside of the boundary of the PIHCZ; thus, the overall catch of Pacific cod would not be reduced. In addition, in more recent years, Pacific cod pot sector harvests within the PIHCZ have declined considerably to approximately 125 tons with a value of about \$200,000, which represents less

than one percent of Pacific cod pot fleet total revenue in 2010 (see Sections 1.4.2.1 and 1.4.2.2 of the RIR). According to the RIR, prohibiting fishing for Pacific cod with pot gear in the PIHCZ is practicable for the Pacific cod pot sector because this measure is not expected to result in increased operational costs or reduced harvest for this sector.

As noted above, the Council evaluated a number of additional alternatives that would further reduce PIBKC bycatch in other groundfish fisheries. The Council did not recommend imposing prohibitions on directed groundfish fishing within the PIHCZ beyond the directed fishing for groundfish using trawl gear and directed fishing for Pacific cod using pot gear. Additional prohibitions were not projected to result in PIBKC bycatch savings, but would likely have serious adverse economic impacts on fishing communities, as the groundfish fisheries attempt to avoid PIBKC bycatch through foregone groundfish catch or increased operating costs.

For example, prohibiting directed fishing for Pacific cod with hook-and-line gear would have closed the PIHCZ to the groundfish sector having the second highest PIBKC bycatch rate in this area. The observed PIBKC bycatch in the PIHCZ taken by the Pacific cod hook-and-line sector was 347 crabs from 2005 to 2011, amounting to 0.2 percent of the PIBKC stock abundance (see Section 4.5.5.1 of the EA, Table 4-12). However, based on the retrospective analysis, extending the PIHCZ closure to this sector could result in foregone groundfish catch, increased operating costs, and potentially serious negative economic impacts. The Pacific cod hook-and-line sector annually harvests 1,500 tons with a value of \$2 million, or about 1.7 percent of this sector's total revenue, within the PIHCZ. In contrast to the Pacific cod pot sector's estimated pattern of redeployment outside of the PIHCZ, the retrospective analysis in the RIR indicates that the Pacific cod hook-and-line fleet will experience increased operational costs because this sector may need to make up foregone catch by altering fishing patterns in widely

dispersed areas outside the PIHCZ that have a history of smaller catches (see Sections 4.5.5.1 of the EA and 1.4.2 of the RIR). In addition, the Pacific cod hook-and-line fishery is managed almost entirely under a voluntary cooperative management structure and can respond to PIBKC bycatch through cooperative management measures in order to avoid bycatch (see Section 4.5.5.1 of the EA).

Similarly, the Council did not extend the closure to non-Pacific cod hook-and-line and pot fisheries within the PIHCZ because those sectors only had an average PIBKC bycatch rate of 0.0176 per metric ton of groundfish from 2005 to 2011 (see Section 4.5.5.1 of the EA). Based on the much lower observed PIBKC bycatch rate, the bycatch savings from extending the closure in the PIHCZ to those fisheries would likely be negligible and did not outweigh the costs that would be imposed on these fisheries.

Although additional closures or extended closure configurations may further reduce PIBKC bycatch in the groundfish fisheries, as contemplated by Alternatives 3, 4, 5, and 6, the Council noted numerous stock distribution and observer coverage issues with respect to these alternatives. Area closures outside the PIHCZ and area closures triggered by fishery-wide PIBKC PSC limits would not be viable at this time because of the difficulty in establishing the PIBKC stock boundary, the current limitations in distinguishing and accounting for bycatch of PIBKC from bycatch of St. Matthew Island blue king crab in the groundfish fisheries, and the resulting limitations in the methodology for estimated mortality of PIBKC relative to stock distribution.

For example, the PIBKC stock is located in Federal reporting area 513. However, portions of this stock are also located in Federal reporting areas 521 and 524, areas that are occupied primarily by the St. Matthew Island blue king crab stock. Because the catch

accounting system (CAS) is designed to estimate catch across the entire Bering Sea in terms of catch per species, rather than catch per stock, the CAS does not have the resolution to distinguish between crab mortality of St. Matthew and Pribilof Islands blue king crab stocks in these areas. Further, the Council ultimately did not consider trigger cap closures (Alternatives 2c, 5, and 6) viable alternatives due to uncertainty in appropriate definition of the stock area and the resulting current limitations in the methodology for estimating mortality of PIBKC relative to the stock distribution (see Section 4.2.2 of the EA). The potential costs of the various alternatives are shown as tonnage and gross revenue at risk in Tables 1-6 to 1-15 of the RIR. Because of the added administrative costs associated with these closures and because NMFS would be unable to effectively manage these PIBKC bycatch reduction measures at this time, the Council and NMFS believe these alternatives would not be practicable.

The Council considered but did not ultimately choose an option available under any of the alternatives to apply increased observer coverage. Observer coverage requirements were modified in 2013 under the restructured Observer Program (77 FR 70062, November 21, 2012), which now requires full observer coverage on catcher/processors, some of which were under 30 percent coverage requirements prior to 2013. This change in observer coverage will improve estimation for hook-and-line catcher/processors operating in the PIHCZ. Catcher vessels, which harvest a very small proportion of the groundfish relative to catcher/processors, are under partial coverage under the restructured Observer Program. Randomized deployment under the restructured Observer Program will improve the quality of data available from the catcher vessel sector and provide additional information on relative catch rates by all fleets (see Section 3.4.1 of the EA).

Proposed Regulatory Revisions Required by the Actions

NMFS proposes to revise § 679.22(a)(6) to prohibit directed fishing for Pacific cod using pot gear in the PIHCZ. The existing prohibition on the use of trawl gear in the PIHCZ would be retained. In addition, Figure 10 to part 679 would be revised by changing the name from “Pribilof Islands Habitat Conservation Area in the Bering Sea” to read “Pribilof Islands Habitat Conservation Zone in the Bering Sea” to be consistent with the definition of the PIHCZ at § 679.2. The map for Figure 10 would be reformatted for greater accuracy and improved appearance. These format changes are non-substantive. See proposed Figure 10 to part 679.

Classification

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

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

Initial Regulatory Flexibility Analysis

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble and are not repeated here. A summary of the analysis follows. A copy of this analysis is available from NMFS (see ADDRESSES).

On June 12, 2014, the Small Business Administration issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33647,

June 12, 2014). The rule increased the size standard for Finfish Fishing from \$19.0 million to \$20.5 million, Shellfish Fishing from \$ 5.0 million to \$5.5 million, and Other Marine Fishing from \$7.0 million to \$7.5 million. The new size standards were used to prepare the IRFA for this action.

Number and Description of Small Entities Regulated by the Proposed Action

The entities directly regulated by this proposed action are the owners and operators of vessels directed fishing for Pacific cod using pot gear in the PIHCZ. Earnings from all Alaska fisheries for 2010, the most recent year of complete earnings data, were matched with the vessels that participated in the BSAI groundfish fisheries for that year. Based on the known affiliations and joint ownership of the vessels, a total of 114 vessels caught, or caught and processed, less than \$20.5 million ex-vessel value or product value of groundfish and other species in the BSAI. These 114 vessels are considered small entities because they all have annual ex-vessel revenues less than the \$20.5 million standard for small finifish fishing vessels under the RFA. Of these 114 vessels, 34 directed fish for Pacific cod using pot gear, and all of these vessels could be regulated by this action.

The six Western Alaska Community Development Quota (CDQ) groups and the 65 communities they represent are small entities under the RFA. Each of the CDQ groups receives annual allocations of Pacific cod in the BSAI. The CDQ groups harvest these allocations with vessels they own and vessels they contract with. The vessels owned by the CDQ groups and used to target Pacific cod are primarily large catcher/processors using hook-and-line or trawl gear. In 2012, the CDQ groups harvested 24,402 metric tons of Pacific cod. Less than 15 percent of this catch was made by vessels using pot gear, none of which were owned by the CDQ groups (actual catch using pot gear is confidential). None of the Pacific cod caught by the CDQ

groups was harvested within the proposed closure areas. As CDQ groups have never used pot gear to harvest Pacific cod within the proposed closure area, the proposed action is not expected to impact the CDQ groups, the CDQ communities, or the vessels that fish on their behalf.

The impacts of the proposed action on directly regulated small entities are analyzed in the IRFA. In recent years, many of the vessels identified in this analysis as having potential small entity impacts have become members of fishing cooperatives. Increased affiliation with the BSAI Freezer-Longline Cooperative, as well as various crab cooperatives, has resulted in many vessels now being classified as large entities due to these affiliations. This analysis has incorporated cooperative affiliation information to adjust the numbers of potentially directly regulated small entities and, thereby, the estimate of revenue at risk specific to small entities. The result is evident in the declining small entity impact estimates in 2010, where estimated impacts are near zero for many alternatives with the exception of potential CDQ impacts, which are, by definition, small although the vessels that harvest for CDQ organizations are themselves now large via affiliations. Thus, with increased membership in cooperatives, nearly all of the potentially directly regulated vessels are presently classified as large entities and the potential effects of the proposed action on small entities appears to be de-minimis.

Duplicate, Overlapping, or Conflicting Federal Rules

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

Description of Significant Alternatives that Minimize Adverse Impacts on Small Entities

An IRFA requires a description of any significant alternatives to the preferred alternative that would minimize any significant adverse economic impact of the proposed rule on small entities. The suite of potential actions includes six alternatives with components and options for

closures in the Bering Sea to minimize the bycatch of PIBKC and reduce the risk of overfishing.

The Council's preferred alternative, Alternative 2b, was selected as the action alternative. Alternative 2b would close year round the PIHCZ to directed fishing for Pacific cod with pot gear to prevent overfishing of PIBKC and minimize bycatch of PIBKC in groundfish fisheries. Alternative 2b would further reduce PIBKC bycatch mortality in groundfish fisheries, enhancing the likelihood of a successful rebuilding effort.

Alternative 1 is the status quo or no action alternative, which would not change the closure to all trawl gear in the PIHCZ. This alternative does not meet the goals and objectives of the action to minimize bycatch of PIBKC, and would not provide further protection to PIBKC from the potential effects of the groundfish fisheries.

Alternatives 2 through 6 would retain all of the current protection measures in place for the PIBKC stock and apply additional measures. These alternatives would establish closure areas for specific groundfish fisheries that are described in the following paragraphs for each alternative.

Alternative 2 included three specific methods for closing the PIHCZ to directed fishing for a variety of groundfish fisheries. Alternative 2a would close the PIHCZ on an annual basis to groundfish fisheries that met a threshold of PIBKC bycatch from 2003 to 2010 that is greater than 5 percent of the ABC of PIBKC. Fisheries that met the 5-percent threshold are the Pacific cod hook-and-line fishery, Pacific cod pot fishery, yellowfin sole trawl fishery, and other flatfish trawl fishery. Alternative 2b, the preferred alternative proposed to be implemented by this action, would close the PIHCZ year round to Pacific cod pot fishing. Alternative 2c would close the PIHCZ to directed fishing for Pacific cod by vessels using pot gear if the total PIBKC bycatch in all groundfish fisheries in the BSAI reached 20 percent, 30 percent, or 50 percent of

the overall trigger closure cap of 75 percent of the ABC. Alternative 2c would also require vessels directed fishing for Pacific cod with pot gear in the PIHCZ to maintain 100 percent observer coverage. Alternatives 2a and 2c would have a greater impact on small entities than Alternative 2b because more vessels would be subject to potential closures in the PIHCZ. Alternative 2c would also increase the potential costs on small entities by increasing observer coverage requirements for these vessels.

Alternative 3 would close the existing ADF&G crab closure area between 168° and 170° West longitude, and between 57° and 58° North latitude to additional fishing effort, in addition to the status quo groundfish trawl closure. Under Alternative 3, Option 3a, this closure would apply to all groundfish fisheries that have contributed greater than a designated threshold to bycatch of PIBKC since 2003. The closure would apply to any fishery that had bycatch of PIBKC between 2003 and 2010 of greater than 5 percent of ABC. Under the 5 percent threshold, the closure would apply to the following fisheries: yellowfin sole trawl, other flatfish trawl, Pacific cod pot, and Pacific cod hook-and-line. Alternative 3b would close the area to directed fishing for Pacific cod only. Alternative 3a would have a greater impact on small entities than Alternative 3b because more vessels would be subject to potential closures in the PIHCZ. While Alternative 3b could potentially have less of an impact on small entities than the other alternatives (data is confidential for all years except 2005), the Alternative 3 closure boundaries exclude southern parts of the PIHCZ where PIBKC bycatch by Pacific cod pot fishing has occurred (see Figure 5-25 in the EA).

Alternative 4 would establish a closure throughout the range of the PIBKC based on either the distribution of the PIBKC stock aggregated from 1975 to 2009, or from 1984 to 2009. This range of data represented recent trends of the known distribution of PIBKC based on

current stock survey methodologies and is greater than the area closure in the PIHCZ and the ADF&G closures defined under Alternative 3. Alternatives 4a and 4b would establish closures consistent with the same criteria established for Alternatives 2a and 2b, and 3a and 3b, respectively. Alternative 4 would have a greater impact on small entities due to the greater size of the closure.

Alternative 5 would establish a PSC limit equal to either the overfishing limit (OFL), the ABC, or a proportion of the ABC for the PIBKC stock. All bycatch of the PIBKC in all groundfish fisheries would accrue toward this PSC limit, and those groundfish fisheries that contributed to greater than a designated threshold of PIBKC bycatch since 2003 would be closed once the fishery-wide PSC limit was reached.

Alternative 5 would have four closure area options: Options 5a, 5b, 5c, and 5d, which correspond to the closure areas defined under Alternatives 1, 3, and 4 (1975 to 2009 PIBKC stock distribution and 1984 to 2009 PIBKC stock distribution), respectively. Under each of these options, the closure would be triggered by attainment of a fishery-wide PIBKC PSC limit set at the following options: PSC limit equal to the OFL, PSC limit equal to the ABC, PSC limit equal to 90 percent of the ABC, or PSC limit equal to 75 percent of the ABC. Under Option 5d, under the PSC limit equal to 90 percent of the ABC and the PSC limit equal to 75 percent of the ABC, there would be an additional option for allocation of the PSC limit by gear type: 40 percent trawl gear, 40 percent pot gear, and 20 percent hook-and-line gear.

Alternative 6 would have two components: 1) establish a year-round closure of the PIHCZ to directed fishing for Pacific cod using pot gear, and 2) establish a triggered closure of the area representing the distribution of the PIBKC stock from 1984 to 2009. The PSC limit associated with the triggered closure would be established as a fishery-wide level at 75 percent

of the ABC. The PSC limit would be set either in the numbers of crab based on the average weight in the previous season or in numbers of crab based on a rolling 5-year average weight. The PSC limit would be further allocated to sectors either by gear type or to all groundfish fisheries in the aggregate by seasons.

In addition, each of the alternatives included options to increase observer coverage that could be applied to all fisheries or a specific fishery.

The Council ultimately did not consider trigger cap closures (Alternatives 2c, 5, and 6) viable alternatives, due to uncertainty in appropriate definition of the stock area and the resulting current limitations in the methodology for estimating mortality of PIBKC relative to the stock distribution (see discussion in Section 5.2.2 of the EA). These alternatives would not have a measurable impact that would minimize the bycatch of PIBKC relative to status quo. These alternatives could reduce the risk of overfishing, but they would not effectively prevent overfishing, consistent with the goals and objectives of this action.

None of the viable alternatives (Alternative 2a, Alternatives 3a and 3b, and Alternatives 4a and 4b) could potentially have less of an impact on fisheries than the Council's recommended alternative, 2b. Table 1-34 in the IRFA (see ADDRESSES) provides a comparison of the potential impacts on directly regulated small entities, in terms of gross revenue at risk, under each of the alternatives. Based on the best available scientific data and information, there are no alternatives to the proposed action that have the potential to accomplish the stated objectives of the Magnuson-Stevens Act and any other applicable statutes and that have the potential to minimize any significant adverse economic impact of the proposed rule on directly regulated small entities.

Reporting, Recordkeeping, and Other Compliance Requirements

This proposed action does not contain reporting, recordkeeping, or other compliance requirements.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries.

Dated: August 26, 2014.

Eileen Sobeck,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

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

PART 679-FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

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

2. In § 679.22, revise paragraph (a)(6) to read as follows:

§ 679.22 Closures

(a) * * *

(6) Pribilof Islands Habitat Conservation Zone. Directed fishing for groundfish using trawl gear and directed fishing for Pacific cod using pot gear is prohibited at all times in the area defined in Figure 10 to this part as the Pribilof Islands Habitat Conservation Zone.

3. Revise Figure 10 to part 679—including the Figure heading—to read as follows:

Figure 10 to Part 679—Pribilof Islands Habitat Conservation Zone (PIHCZ) in the Bering Sea.



