

DATES: Additional hearings will be held on July 6 and 7, 2000, 8:30 a.m. to 4:30 p.m. in Washington, DC.

FOR FURTHER INFORMATION CONTACT: *General Information.* To request time to be heard and for other general information about the session, contact Mr. Stanley Hamilton, Office of Regulatory Development, (202) 366-0665. *Specific Information.* For information concerning the rulemaking, contact Mr. David Miller, Office of Bus and Truck Standards, (202) 366-1790, or Mr. Charles Medalen, Office of the Chief Counsel, Federal Highway Administration, (202) 366-1354. Office hours are from 7:45 a.m. to 4:15 p.m., et, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401, by using the universal resource locator (URL): <http://dms.dot.gov>. It is available 24 hours each day, 365 days a year. Please follow the instructions online for more information and help.

An electronic copy of this document may be downloaded by using a computer, modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512-1661. Internet users may reach the Office of the Federal Register's web page at <http://www.access.gpo.gov/nara>. Internet users may also find this document at the FMCSA's Motor Carrier Regulatory Information Service (MCREGIS) web site for notices at <http://www.fmcsa.dot.gov/rulesregs/fmcsr/rulemakings.htm>.

Background

The earlier hearings, each of two days' duration, took place between May 31 and June 30 in Washington, DC; Ontario, CA; Golden, CO; Kansas City, MO; Indianapolis, IN; Vernon, CT; and Jackson, GA.

The additional hearing will be held Thursday and Friday, July 6 and 7, 2000, from 8:30 a.m. to 4:30 p.m. in Room 4200 of the DOT headquarters building, 400 Seventh Street, SW., Washington, DC 20590. Speakers must limit their oral presentations to not more than 10 minutes duration. Presenters may submit additional written documentation to be placed in the public docket.

All persons who would like to participate must request to do so by telephoning Mr. Stanley Hamilton at (202) 366-0665 by 4 p.m., et., on Friday, July 7, 2000.

All persons participating will be subject to Federal and DOT workplace security measures. All persons will need identification with a picture on it and must display the identification to DOT security officers. All persons will be required to sign in at the guard desk and walk through metal detectors. All visitors will be required to wear a "Visitor" badge at all times while in the DOT building.

The DOT security office will limit and monitor the public's access and movement through the DOT building. All persons requesting to participate in the sessions, but failing to satisfy DOT security requirements, will be denied entry into the building and will forfeit the opportunity to participate. Such persons will be allowed to submit written comments to the docket, at the above address, by the close of business on July 31, 2000.

Authority: 49 U.S.C. 504, 14122, 31133, 31136, and 31502; sec. 113, Pub. L. 103-311, 108 Stat. 1673, 1676; and 49 CFR 1.73.

Issued on: June 1, 2000.

Julie Anna Cirillo,

Acting Assistant Administrator.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 679

[Docket No. 000524152-0152-01; I.D. 030100C]

RIN 0648-AM34

Fisheries of the Exclusive Economic Zone Off Alaska; Requirement to Use Vessel Monitoring System Transmitter for Atka Mackerel in Aleutian Islands Subarea

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS publishes a proposed rule to require vessels participating in the directed fishery for Atka mackerel in the Aleutian Islands subarea (AI) of the Bering Sea and Aleutian Islands Area to carry and use a Vessel Monitoring System (VMS) transmitter. This action is necessary to enhance monitoring of fishery activities within critical habitat areas. It is intended to further the conservation goals and objectives of the

Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Comments must be received by June 26, 2000.

ADDRESSES: Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Comments will not be accepted if submitted via e-mail or Internet. Hand or courier delivered comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801. Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action may be obtained from the same address or by calling the Alaska Region, NMFS, at 907-586-7228. Send comments on collection-of information requirements to the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The number of Steller sea lions (*Eumetopias jubatus*) in the Bering Sea and Aleutian Islands Management Area has declined significantly during the past several decades and in 1997 NMFS listed the western stock of Steller sea lions as an endangered species. A requirement of the Endangered Species Act is that Federal actions affecting the critical habitat of a listed species must not jeopardize the continued existence of the populations of those species or adversely affect or modify their critical habitat. Atka mackerel is an important prey species for Steller sea lions and stocks adequate for the food needs of Steller sea lions must remain available in Steller sea lion critical habitat. Hence, the Atka mackerel fishery must be managed to provide for the food needs of Steller sea lions and avoid potential jeopardy to them.

On January 22, 1999, NMFS published a final rule that reduces the percentage of Atka mackerel taken from Steller sea lion critical habitat over a 4-year period in the Western and Central Districts of the AI (64 FR 3446). The final rule also prohibits all trawling for groundfish within areas designated as Steller sea lion critical habitat when NMFS determines that the harvest of Atka mackerel has reached the applicable limits specified in the

regulations for the year and district. A critical habitat trawl closure remains in effect until NMFS closes the Atka mackerel fishery in that area.

The Atka mackerel fishery is a high-volume, low-value fishery pursued by a small group of large factory trawlers, mostly greater than 200 feet (61 m) in length. In 1997, for example, 12 factory trawlers participated in the AI Atka mackerel fishery, with 8 of these vessels accounting for over 80 percent of the retained catch in the fishery. The fishery is highly localized and occurs at depths between 100 and 200 meters in the same few locations each year, most commonly in island passes. Important Atka mackerel fishing locations in the AI include Seguam Pass, Tanaga Pass, Petrel Bank, and the seamounds and reefs near Buldir Island. All of these locations are in or near Steller sea lion critical habitat.

When critical habitat areas are closed, continued Atka mackerel fishing takes place very close or adjacent to the closed critical habitat areas. The boundaries of these areas are complex, the areas are remote, and the weather is frequently poor. Ensuring that no fishing is taking place inside critical habitat using traditional methods of enforcement, such as aerial surveillance, is difficult. Effective enforcement of these closures will be greatly enhanced if vessels participating in the fishery use a VMS transmitter that automatically and frequently transmits vessel position to NMFS so that vessels fishing near critical habitat can be monitored closely.

NMFS' intent to implement a VMS in 1999 before the Atka mackerel "B" season, beginning September 1, 1999, was noted in the final rule that established the protective measures (64 FR 3446, January 22, 1999). The North Pacific Fishery Management Council determined that the additional information provided by a VMS program would assist in the management of the Atka mackerel fishery and requested that NMFS develop regulations to implement such a system.

Under this action, a vessel participating in a directed fishery for Atka mackerel in the AI would be required to have an operating NMFS-approved VMS transmitter on board. These transmitters automatically determine the vessel's location several times per hour using Global Positioning System satellites and send the position information to NMFS via a mobile communication service provider. The VMS transmitters are designed to be tamper-resistant and automatic. In most cases, the vessel owner would be

unaware of exactly when the unit was transmitting and would be unable to alter the signal or the time of transmission. NMFS estimates that a NMFS-approved VMS transmitter would cost approximately \$1,800 per unit and the charge to the vessel owner for the transmission of VMS position data would be \$5 per day.

The VMS Approval Process

A VMS consists of a NMFS-approved VMS transmitter that automatically determines the vessel's position and transmits it to a NMFS-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS. On March 31, 1994, NMFS published standards for the use of VMS (59 FR 15180). NMFS will use the criteria described below, which are based on the 1994 standards, to approve VMS transmitters and communication service providers.

1. The VMS transmitter must be tamper-proof and it must be impossible for the vessel operator to input false position information;
2. The VMS transmitter must be able to determine, store and transmit vessel position;
3. The VMS transmitter must allow for regular as well as random automatically generated position reporting. The interval between position reports must be programmable;
4. Each position report must include: (a) the vessel location, accurate within 400 m; (b) a transmitter identifier that is unique to that transmitter; and (c) the date and time that the vessel position was taken;
5. The VMS transmitter must be equipped with an onboard alarm system that will alert the vessel crew if the unit malfunctions or is not able to transmit;
6. The VMS transmitter, in conjunction with the VMS communication service provider, must provide seamless and transparent communications from any location within the exclusive economic zone off Alaska;
7. The transmitter must be able to fix the vessel's position at least once every 20 minutes and be able to store those positions in local, non-volatile memory until they can be transmitted to, and received by, the communication service provider;
8. In addition to regular position reports, the VMS transmitter must be capable of transmitting a specially identified status report giving the vessel position whenever the transmitter is powered-up, powered-down, is unable to determine vessel position or has its antenna disconnected;

9. It must not be possible for the vessel operator to determine when the VMS transmitter is transmitting or taking a position for later transmission;

10. Transmissions from the VMS transmitter and the communication service provider must be secure, and it must not be possible for unauthorized parties to intercept vessel location information.

NMFS will publish notice in the **Federal Register** as VMS components are approved for use. At this time, NMFS believes that only the Argos system is suitable for use in all areas off Alaska. The Argos system uses the ArgoNet Mar GE transmitter in conjunction with the Argos system of polar-orbiting satellites. While there are other space-based communications service providers that provide coverage for waters off Alaska, such as Inmarsat-C, only the Argos system has demonstrated that it offers 100 percent coverage of all areas off Alaska.

However, because of the rapid pace of technological change in the field of satellite-based vessel monitoring, NMFS anticipates that other vendors will produce VMS components that meet all NMFS standards in the near future.

NMFS will contact the owners of all vessels that participated in the AI Atka mackerel fishery in 1998 or 1999 and ensure that they are aware of which VMS transmitters have been approved by NMFS and have received installation instructions. Owners of vessels that wish to participate in AI Atka mackerel fisheries that did not do so in 1997 or 1998 would need to contact the Sustainable Fisheries Division (see ADDRESSES) and request a list of NMFS-approved VMS transmitters. In most instances, NMFS anticipates that the installation of the VMS transmitter would take less than 6 hours. Installation would be the responsibility of the vessel owners.

This regulatory amendment would require that the owner or operator of a vessel participating in the AI Atka mackerel fishery carry and use a NMFS-approved VMS transmitter at all times when engaging in directed fishing for Atka mackerel. Trawl vessels not carrying properly installed and operating VMS units would be prohibited from retaining Atka mackerel at more than the maximum retainable amount of 20 percent established in regulations at § 679.20(e) and (f) while fishing in the AI subarea.

This proposed rule would also revise regulations governing Atka mackerel harvest in the Community Development Quota (CDQ) fisheries. Current regulations prohibit any trawling by a CDQ group in the critical habitat areas

after the specified percent of the group's annual Atka mackerel CDQ has been reached. These regulations do not allow the CDQ groups to account separately for Atka mackerel catch inside and outside the critical habitat areas, but rather assume that all catch of Atka mackerel is made within the critical habitat areas until the maximum percent is reached and the critical habitat area closes. NMFS proposes to change these requirements so that each CDQ group would be prohibited from catching more than the specified percentage of its Atka mackerel CDQ inside the critical habitat areas. The CDQ groups and NMFS would use catch location data for each haul collected by observers onboard the vessels to determine whether the Atka mackerel was caught inside the critical habitat area. This action will provide greater flexibility to the CDQ groups for management of their Atka mackerel CDQs. Further, these proposed revisions would create a management structure for the CDQ Atka mackerel fishery consistent with the management structure that NMFS intends to propose later in 2000 for management of pollock CDQ fishing in the Bering Sea critical habitat areas.

Classification

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

This proposed rule contains a new collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This collection-of-information requirement has been submitted to OMB for approval. The new information requirements include the requirement to install, maintain, and use a NMFS-approved VMS unit. The public reporting burden for this collection of information is estimated to average 6 hours to install the unit, 4 hours per year to maintain the unit, and 5 seconds per response to transmit data. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity

of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology.

Send comments regarding this burden estimate or any other aspect of the collection of information to NMFS at the previously listed ADDRESS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Att: NOAA Desk Officer).

NMFS prepared an IRFA for this proposed rule pursuant to the requirements of 5 U.S.C. 603, without first determining whether the proposal would have a significant impact on a substantial number of small entities. The following is a summary of the IRFA:

This action would require that factory trawlers participating in the Aleutian Islands Atka mackerel fishery carry and use a VMS unit. It is intended to facilitate NMFS' ability to ensure that federally managed fisheries not adversely affect designated critical habitat, and it is being promulgated under the authority of the Magnuson-Stevens Act. This action will have a small but negative impact on the approximately 13 factory trawlers that fish for Atka mackerel in the Aleutian Islands. NMFS believes that none of the vessels that fish for Atka mackerel in the Aleutian Islands would qualify as small entities. The preferred alternative would impose a new reporting and recordkeeping requirement on these vessels of approximately 12.1 hours per year per vessel. It would not duplicate, overlap, or conflict with existing Federal rules. In addition to the preferred alternative, NMFS considered a "no action" alternative that would not require the use of VMS units for vessels engaged in directed fishing for Atka mackerel in the Aleutian Islands. This alternative was rejected because it would fail to relieve an unnecessary restriction on vessels participating in other fisheries, and because it would fail to meet NMFS' need to facilitate monitoring and enforcement of Steller sea lion protective measures.

A copy of the RIR/IRFA can be obtained from NMFS (see ADDRESSES).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 6, 2000.

Bruce C. Morehead,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth 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.* and 3631 *et seq.*

2. In § 679.7, paragraph (a)(2) is revised and a new paragraph (c)(3) is added to read as follows:

§ 679.7 Prohibitions.

(a) * * *

(2) Conduct any fishing contrary to notification of inseason action, closure, or adjustment issued under §§ 679.20, 679.21, 679.22 or 679.25.

* * * * *

(c) * * *

(3) Use a vessel to participate in a directed fishery for Atka mackerel in the Aleutian Islands subarea unless that vessel carries a NMFS-approved Vessel Monitoring System (VMS) transmitter and complies with the requirements described at § 679.28(f).

* * * * *

3. In § 679.22, paragraph (a)(8)(iii)(D) is revised to read as follows:

§ 679.22 Closures.

(a) * * *

(8) * * *

(iii) * * *

(D) *CDQ fishing.* Harvesting groundfish CDQ with trawl gear is prohibited within areas designated as Steller sea lion critical habitat in the Western and/or Central Districts of the AI (see Table 1, Table 2, and Figure 4 to part 226 of this title) for the duration of the year when the Regional Administrator announces, by notification in the **Federal Register**, that the harvest of Atka mackerel within the critical habitat areas by vessels fishing for CDQ groups has reached the applicable percentage specified for the year and district at paragraph (a)(8)(iii)(B) of this section.

* * * * *

4. In § 679.28, the section heading and paragraph (a) are revised and a new paragraph (f) is added to read as follows:

§ 679.28 Equipment and operational requirements.

(a) *Applicability.* This section contains the requirements for scales, observer sampling stations, bins for volumetric estimates, and vessel monitoring system hardware. This section does not require any vessel or processor to provide this equipment. Such requirements appear elsewhere in this part.

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(f) *Vessel Monitoring System (VMS) Requirements.* (1) *What is a VMS?* A VMS consists of a NMFS-approved VMS transmitter that automatically determines the vessel's position and transmits it to a NMFS-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS.

(2) *How are VMS transmitters and communications service providers approved by NMFS?* (i) NMFS publishes

type approval specifications for VMS components in the **Federal Register**.

(ii) Transmitter manufacturers or communication service providers may submit products or services to NMFS for evaluation based on the published specifications.

(iii) NMFS will publish a list of NMFS-approved transmitters and communication service providers in the **Federal Register**. As necessary, NMFS will publish amendments to the list of approved components in the **Federal Register**.

(3) *What are the vessel owner's responsibilities?* If you are a vessel owner that must participate in a VMS, you or your crew must:

(i) Obtain a NMFS-approved VMS transmitter and have it installed onboard your vessel in accordance with the instructions provided by NMFS. You may get a copy of the VMS installation and operation instructions from the Regional Administrator upon request.

(ii) Activate the VMS transmitter and receive confirmation from NMFS that the VMS transmissions are being received before participating in a fishery requiring the VMS;

(iii) Continue the VMS transmissions until the fishery requiring VMS has closed or until notified by NMFS staff that you may stop transmissions;

(iv) Stop fishing immediately if informed by NMFS staff or an authorized officer that NMFS is not receiving position reports from the VMS transmitter;

(v) Make the VMS transmitter available for inspection by NMFS personnel, observers, or an authorized officer;

(vi) Ensure that the VMS transmitter is not tampered with, disabled, destroyed, or operated improperly;

(vii) Pay all charges levied by the communication service provider.

(2) [Reserved]

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