

of this section, provided the vessel is in compliance with paragraphs (d) through (g) of this section.

(d) *Notification requirements.* Vessels fishing under the exemptions specified in paragraph (b) and/or (c) of this section must notify the Regional Administrator in accordance with the provisions of § 648.10(e).

* * * * *

(g) *Applicability of other provisions of this part.* A vessel fishing under the exemptions provided by paragraphs (b) and/or (c) of this section remains subject to all other requirements of this part.

[FR Doc. E9-8526 Filed 4-13-09; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071102641-9595-03]

RIN 0648-AR06

Fisheries of the Exclusive Economic Zone Off Alaska; Revision of Single Geographic Location Requirement in the Bering Sea Subarea

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to increase the number of times per year that a stationary floating processor (SFP) that is qualified under the American Fisheries Act (AFA) may move within State of Alaska waters in the Bering Sea (BS) subarea to process pollock harvested in the BS subarea directed pollock fishery. This action also would require AFA SFPs to process all Gulf of Alaska (GOA) pollock and GOA Pacific cod where they processed these species in 2002. This action is necessary to increase operational flexibility for AFA SFPs that process pollock caught in the BS subarea directed fishery while continuing to limit the competitive advantage of AFA SFPs in the GOA pollock and GOA Pacific cod fisheries. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Fishery Management Plans for Groundfish of the GOA and for Groundfish of the Bering Sea and Aleutian Islands Management Area, and other applicable laws.

DATES: Comments on the proposed rule must be received no later than the close of business on May 29, 2009.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by “RIN 0648-AR06” by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: <http://www.regulations.gov>.
- Fax: 907-586-7557.
- Mail: P. O. Box 21668, Juneau, AK 99802.
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, Alaska.

All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (e.g., name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe portable document file (pdf) formats only.

Copies of the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for this action are available from the NMFS Alaska Region website at <http://www.alaskafisheries.noaa.gov> or from the mailing and street addresses listed above.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS at the above address and by e-mail to David_Rostker@omb.eop.gov, or fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Becky Carls, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands Management Area (BSAI) and the GOA under the Fishery Management Plans (FMPs) for groundfish in the respective areas. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMPs under the authority of the Magnuson-Stevens Fishery

Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

Background and Need for Action

The current single geographic location provisions apply to SFPs, which can be AFA or non-AFA qualified. An SFP, as defined at § 679.2, is a vessel of the United States operating as a processor in State of Alaska (State) waters that remains anchored or otherwise remains stationary in a single geographic location while receiving or processing groundfish harvested in the GOA or BSAI. There are two AFA SFPs that are the two largest SFPs operating in Alaska, and six AFA onshore processors. It is unlikely that there will be more AFA SFPs because the regulatory requirements to qualify as an AFA SFP are unlikely to be met by other entities. The two AFA SFPs are semi-permanently moored in protected anchorages in the Aleutian Islands less than 45 nautical miles (nm) (83 km) apart. The F/V *Arctic Enterprise* is located in Akutan Bay, and the F/V *Northern Victor* is located in Beaver Inlet.

History of Single Geographic Location Provisions

In 1992, the final rule implementing Amendment 18 to the BSAI FMP and Amendment 23 to the GOA FMP was published (57 FR 61326, December 24, 1992). Under Amendments 18/23, the Council adopted resource allocations of BSAI and GOA pollock and GOA Pacific cod between inshore and offshore components in response to concerns of one component preempting another in harvesting the total allowable catch in those fisheries. Amendments 18/23 also established the single geographic location provisions for the inshore pollock processing sector to discourage offshore catcher/processors and motherships from entering the inshore sector. Any operational advantage over the shore-based processors due to the offshore processors' mobility would be lost by being limited to one location. The prohibition on processing fish in more than a single geographic location applied on a fishing-year basis and only to vessels processing catch from target pollock and GOA Pacific cod fisheries. A processing vessel could leave the specified inshore fixed geographic location within State waters to process other species of groundfish. If, later, the processor was needed to process catch from target BSAI or GOA pollock or GOA Pacific cod fisheries, the processing vessel would first have to

return to its original location. The processing vessel was not required to return to the original location to process pollock or GOA Pacific cod taken as incidental catch, or to participate in any other fishery. The SFPs were allowed to change locations for processing pollock or GOA Pacific cod between fishing years. These provisions initially were set to expire on December 31, 1995.

Subsequent extensions of the inshore/offshore regulations made no substantive changes to the single geographic location provisions. Amendments 38/40 to the FMPs (60 FR 63654, December 12, 1995) extended the single geographic location provisions to December 31, 1998. Amendments 51/51 extended the single geographic location provisions through 2001. While Amendments 61/61 (described below) were under development, the single geographic location provisions were extended on an interim basis through several emergency interim rules beginning January 28, 2000 (65 FR 4520).

In December 2002, AFA provisions were implemented by the final rule for Amendments 61/61 (67 FR 79692, December 30, 2002). That rule revised SFP regulations to restrict any AFA SFP to processing BSAI pollock to a single geographic location in State waters during a fishing year. While the proposed rule for Amendments 61/61 contained a December 31, 2004, sunset date for the AFA and inshore/offshore regulations, including the single geographic location provisions, that sunset date was removed under the final rule that implemented Amendments 61/61. The December 31, 2004, sunset date was removed due to the passage of the Department of Commerce and Related Agencies Appropriations Act, 2002 (Public Law 107-77, November 28, 2001), Section 211 of title II which removed the December 31, 2004, sunset date for the AFA.

Current and Proposed BS Subarea Single Geographic Location Provisions

Current regulations limit AFA inshore processors, including AFA SFPs, to a single geographic location during a fishing year when processing pollock harvested in the BS subarea directed pollock fishery. The regulations further specify that a single geographic location for an AFA SFP is the location within State waters that is within 5 nm of the position in which the SFP first processed pollock harvested in the subarea directed pollock fishery during a fishing year.

In conjunction with the Council's consideration of Amendments 62/62, the Council considered a regulatory

amendment submitted to the Council by industry in April 2001 to allow AFA SFPs to relocate in the BSAI during a fishing year for purposes of processing pollock in the BSAI. In April 2002, as part of its action under Amendments 62/62, the Council adopted the following problem statement regarding the industry proposal:

Existing regulations require AFA inshore floating processors to operate in a single geographic location, when processing BSAI targeted pollock. The result is a lack of flexibility and inefficient use of these facilities. The problem for the Council is to develop an FMP amendment to remove this restriction in the BSAI while providing continued protection for GOA groundfish processors. The Amendment should increase flexibility for these facilities to provide opportunities for reduced delivery costs and enhanced product quality while avoiding negative environmental impacts.

Originally, two alternatives were considered by the Council. The no action or status quo alternative would continue to restrict AFA SFPs to a single geographic location during a fishing year while processing targeted BSAI pollock. The second alternative would allow AFA SFPs to change locations for processing targeted BSAI pollock from reporting week to reporting week without any limits on the number of location changes. Alternative 2 would maintain the single geographic location requirement but would reduce the relocation waiting period from one year to one week.

None of the six onshore AFA processors expressed opposition to allowing the AFA SFPs to change location during the fishing year. However, representatives of some of the onshore processors expressed a preference that the number of location changes be kept to one or two per year. Most representatives of AFA onshore processors believe the AFA cooperative agreements have, by and large, addressed the concern over preemption of the BSAI pollock fishery, by assigning permanent allocations to each sector and participating cooperative. To address the concerns of AFA onshore processors, the Council added a third alternative that would limit the number of AFA SFP location changes to no more than four per fishing year. Additionally, the single geographic locations were limited to within State waters in only the BS subarea for the purpose of processing pollock harvested in a directed pollock fishery.

Originally, the single geographic location restriction was implemented in the inshore/offshore regulations to prevent floating processors, which have

some limited mobility and which operate in the inshore processing sector, from having an unfair economic advantage over operators of onshore processing plants. It was also intended to prevent offshore catcher/processors and motherships that have greater mobility, from entering the inshore sector. With the passage of the AFA, and the associated cooperative agreements, these concerns diminished in the BSAI pollock target fisheries.

In October 2002, the Council took final action on the single geographic location provisions and chose Alternative 3 as its preferred alternative. That alternative allows any AFA SFP to change its location within State waters, from reporting week to reporting week, up to four times during a fishing year for processing pollock harvested in the BS subarea directed pollock fishery. In addition, under the preferred alternative, AFA inshore processors would be required to process all GOA pollock and GOA Pacific cod delivered to them in the same location at which they processed these species in 2002. Note that in the EA/RIR and this proposed rule, the term "AFA inshore processors" refers only to the AFA SFPs with which the action is concerned, rather than all AFA inshore processors which would include onshore processors. The Council took this action after receiving public testimony that the AFA inshore pollock allocation and associated fishing cooperatives reduced the need for restricting movement in the BSAI of these AFA SFPs.

Rather than pertaining to the entire BSAI, the alternatives and analysis for the proposed action are limited to the BS subarea to reflect the Council's preferred alternative that was restricted to the BS, and to reflect following Congressional action. In January 2004, Congress passed the Consolidated Appropriations Act of 2004 (Public Law 108-199). Section 803 of the Act requires that future directed fishing allowances of pollock in the Aleutian Islands (AI) be allocated to the Aleut Corporation. The action states that only fishing vessels approved by the Aleut Corporation or its agents will be allowed to harvest this allowance. It is the Council's and NMFS's interpretation that Public Law 108-199 supersedes AFA provisions, including single geographic location requirements, in the AI. As a result, Amendment 82 (70 FR 9856, March 1, 2005) revised AFA regulations to reflect that they were effective only in the BS. This proposed rule is written to reflect this Congressional action and the Council's preferred alternative by limiting provisions to only the BS.

The proposed changes to regulations at § 679.4(l)(5)(iii) would limit AFA inshore processors to processing pollock harvested in the BS subarea directed pollock fishery to only a single geographic location during a fishing week instead of a single geographic location in a fishing year. The regulations at § 679.4(l)(5)(iii)(B) would be revised to further specify that a single geographic location for an AFA SFP is (1) a position identified by fixed location, within State waters in the BS subarea at which an AFA SFP may process BS subarea pollock harvested in a BS subarea directed pollock fishery if the SFP does not change its location to process such pollock more than four times during a fishing year and (2) that the location is a geographic position that is within 5 nautical miles (nm) of the latitude and longitude reported in check-in and check-out reports that are required under regulations at § 679.5(h)(5)(ix)(B). The regulations would no longer limit a single geographic location to the position where the AFA SFP first processed pollock harvested in a BS subarea directed pollock fishery during a fishing year.

The proposed changes to the regulations at § 679.7(k)(3)(iv)(B) would change the single geographic location restriction on AFA SFPs for purposes of processing pollock harvested in a BS subarea directed pollock fishery from a single geographic location per fishing year to no more than four location changes within State waters in the BS. The proposed regulations would specify that no more than a single geographic location would be able to be used during a reporting week, and specifies a single geographic location as the geographic position that is within 5 nm of the latitude and longitude reported in check-in and check-out reports that are required under regulations at § 679.5(h)(5)(ix)(B). As many as five different locations could be used, but the number of times that an AFA SFP may move to change its location for purposes of processing pollock harvested in a BS subarea directed pollock fishery would be limited to four.

Current and Proposed GOA Single Geographic Location Provisions

Current regulations at § 679.7(a)(7)(vi) prohibit all SFPs with a GOA inshore processing endorsement from processing pollock or GOA Pacific cod harvested in a directed fishery in more than a single geographic location during a fishing year. The proposed change to § 679.7(a)(7)(vi) would apply solely to AFA SFPs; the current requirements

would remain unchanged for non-AFA SFPs.

This action would require AFA SFPs to process all GOA pollock and all GOA Pacific cod in the same geographic location where they processed these species in 2002. These new regulations would appear at § 679.7(k)(3)(vii). This proposed restriction is intended to reduce the potential for these mobile AFA SFPs to take advantage of increased flexibility for processing locations in the BS subarea and receive and process a larger share of GOA pollock or GOA Pacific cod compared with the status quo in 2002, the year that Council action was taken. Pacific cod or pollock harvested in the GOA also are processed by other inshore processing operations. Without this restriction on AFA SFPs, other inshore processing operations would not be protected from the competitive advantage that could result from increased mobility of the AFA SFPs.

The Council did not intend to increase the operational flexibility of the AFA SFPs in the GOA pollock and GOA Pacific cod fisheries under this action. Therefore, the Council acted to restrict the AFA SFPs to processing GOA pollock and GOA Pacific cod to the location at which they processed these species in 2002. Without this restriction the AFA SFPs could have a significant competitive advantage over the non-AFA SFPs or other GOA inshore processors. For example, the AFA SFPs could process GOA pollock or GOA Pacific cod at a single geographic location in the GOA, move to the BS subarea to process BS subarea directed pollock in up to five locations, and then return to the GOA for further processing of GOA pollock or GOA Pacific cod. If a year later than 2002 were selected, the AFA SFPs could have moved to a potentially more advantageous location for processing GOA species. By selecting 2002, the Council would maintain the status quo for these fisheries that was in place when the Council took final action on these single geographic location provisions, enhancing stability in the GOA pollock and GOA Pacific cod fisheries. The Council's action would continue protection, currently provided under regulations at § 679.7(a)(7)(vi), for the other inshore processing operations in these regulated fisheries from the potentially improved access of AFA SFPs to GOA Pacific cod and GOA pollock.

Likely Effects of Single Geographic Location Changes

It is not possible to provide detailed cost of production data for the two

affected SFPs, due to federal and State confidentiality constraints. Accordingly, the likely effects of this proposed action are based primarily on qualitative information rather than quantitative data. The manner in which companies owning the two AFA SFPs may choose to change their operation, should this proposed rule be approved, is not known. A representative of one of these companies indicated that his firm had no current plans to move its processor. A representative from the other company indicated that company may consider moving the processor after the first BS subarea pollock fishing season, but that specific plans had not yet been determined. Thus, any future impacts are highly speculative.

The EA/RIR prepared for this action determined that this proposed rule has the potential to reduce an operational restriction on two AFA SFPs. Current AFA regulations requiring an SFP to operate in a single geographic location when processing BS subarea pollock restrict flexibility and efficient use of these facilities when receiving pollock from some BS subarea locations. Costs of transit time for the catcher vessels delivering to the two AFA SFPs and associated decline in pollock product quality over longer transit periods may be reduced if the existing restrictions were relaxed and those processors choose to operate in areas closer to possible concentrations of pollock than their current locations in Beaver Inlet and Akutan, Alaska. This proposed rule would likely increase operational flexibility for these facilities and for the associated catcher vessels, and provide opportunities for reduced delivery costs, potentially increased time available to fish, and enhanced product quality. This situation, should it occur, would most likely be during the second BS subarea pollock fishing season, and involve operations in St. Paul in the Pribilof Islands. It is not likely that either company would choose to operate away from the major concentrations of pollock near Unimak Pass during the first BS subarea pollock fishing season. The magnitude of these potentially reduced operating costs for catcher vessels cannot be estimated, but the round trip travel time between the current AFA SFP locations and St. Paul is estimated to be 50 hours.

Allowing the two AFA SFPs to relocate during the fishing season has the potential to add greater operational flexibility for their respective companies to deal with regulatory changes to protect Steller sea lions or other time/area closures that may occur in the future. Their respective cooperatives may benefit from this flexibility should

stocks of pollock move northward in the BS subarea due to changing environmental conditions in the BS. Relocating would impose a financial cost, but the moves would be entirely voluntary. In the time since the AFA was enacted, the F/V *Northern Victor* has been located in Beaver Inlet, south of Unalaska; the F/V *Arctic Enterprise* moved one time, in 2000, from Beaver Inlet to Akutan Bay. Because there have been few changes in processing locations by the AFA SFPs in the past, and because of the logistical and economic burden created by a relocation, it seems highly improbable that a maximum of four moves per year would pose a meaningful operational constraint in the foreseeable future.

There are potential benefits to restricting the AFA SFPs to processing GOA pollock and GOA Pacific cod to the location at which they processed these species in 2002. This restriction would maintain the status quo for these fisheries that was in place when the Council took final action in 2002, enhancing stability in the GOA pollock and GOA Pacific cod fisheries. This proposed restriction is intended to mitigate the potential for these mobile AFA SFPs to take advantage of the flexibility with processing locations in the BS subarea and receive and process a larger share of GOA pollock or GOA Pacific cod than would other inshore processing operations under the status quo. While there would be an expense involved if an AFA SFP chose to return to its 2002 location for processing, the amount of GOA pollock and GOA Pacific cod processed by the AFA SFPs historically has been very minor.

There are also potential impacts to entities beyond the AFA SFPs and their associated catcher vessels. There is the possibility that an AFA catcher vessel that is not a member of an AFA SFP's cooperative may choose to deliver part of its ten percent non-specified cooperative allocation to that AFA SFP to benefit from reduced running time to and from the fishing grounds and from the associated increase in fishing time. For example, pollock harvested near St. Paul and delivered to an AFA SFP located in St. Paul harbor would have a substantially reduced delivery time compared to deliveries to these same facilities located in Akutan or near Dutch Harbor.

There also may be regional impacts associated with AFA SFP location changes. Akutan would likely lose tax revenue generated from the local 1 percent raw fish tax on landings processed by the AFA SFP if the SFP relocated to another location outside the community. In addition, Aleutians East

Borough would likely lose a portion of the fish tax revenues they currently receive if either AFA SFP relocates to another location outside the Borough. However, communities near a new AFA SFP location may benefit from direct expenditures (e.g., food, fuel, transportation), indirect employment gains supported by an increased level of local economic activity, and an increase in fish tax revenues. Note that any localized increases in economic activity would not represent an overall net benefit to the Nation. Gains to the community to which the AFA SFP relocates would be offset by an equivalent reduction in economic activity in the community in which the SFP previously based its operation.

A potential benefit to the BS subarea region would be the redirection of effluent from processing operations to other areas of State waters adjacent to the BS. This would reduce the impacts from fish processing effluent in any one particular area in which the AFA SFPs might operate.

Benefits to the nation as a whole would include fresher, higher quality product for consumers and a reduction in fuel consumed by catcher vessels running between the AFA SFPs and the fishing grounds. Both of these benefits are attributable to the AFA SFPs being able to relocate closer to the fishing grounds. According to the EA/RIR analysis, this action would successfully avoid negative environmental impacts, fulfilling part of the problem statement as stated above.

Recordkeeping and Reporting

Existing regulations at § 679.5(h)(1) require the manager of an SFP to submit check-in and check-out reports prior to receiving or ceasing to receive or process groundfish. Check-in and check-out reports must be submitted to the Regional Administrator within the appropriate time limits when beginning and when ceasing processing activities. Under the proposed regulations, no more than a single geographic location could be used by an AFA SFP in a weekly reporting period. To monitor this provision, the current check-in report and check-out report table at § 679.5(h)(4) would be amended by adding requirements for the manager of an AFA SFP to notify NMFS of a change in location by submitting a complete check-out report before changing location and a check-in report before receiving groundfish at the new location. The new location would be reported on the check-in report as currently required at § 679.5(h)(5)(ix)(B).

Classification

Pursuant to the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the BSAI and GOA FMPs, 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 purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as those terms are defined in the Regulatory Flexibility Act.

Basis and purpose of rule

The groundfish fisheries in the Exclusive Economic Zone off Alaska are managed under the Fishery Management Plan for Groundfish of the Gulf of Alaska Management Area (GOA FMP), and the Fishery Management Plan for Groundfish in the Bering Sea and Aleutian Islands Management Area (BSAI FMP). The North Pacific Fishery Management Council (Council) prepared the FMPs, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801, *et seq.* Regulations implementing the FMPs appear at 50 CFR part 679.

Under regulations implementing the American Fisheries Act (AFA), only two specific vessels may participate as SFPs in the BSAI pollock target fisheries. Under current regulations, these two SFPs are precluded from operating in more than one location (which must be within State of Alaska waters) during a fishing year while processing targeted pollock. The purpose of the proposed rule is to redefine the single geographic location rule for these two AFA SFPs. The proposed rule would restrict these AFA SFPs to a single geographic location, within State of Alaska waters, during each reporting week; but would allow the processors to change location from reporting week to reporting week, up to a maximum of four changes per calendar year. In addition, the two AFA SFPs would be required to process any GOA pollock, or GOA Pacific cod, or both, delivered to them, in the same location at which they processed these species in 2002.

This action is necessary to increase the operational flexibility of AFA SFPs that process pollock caught in the Bering Sea subarea directed fishery while restricting them to the location in which they processed GOA pollock or GOA Pacific cod in 2002. The intended effect of this action is to reduce the cost of transporting Bering Sea subarea pollock from distant fishing grounds to an AFA SFP, and to improve the product quality resulting from reduced transit times.

Factual Basis for the Certification

Description and estimate of the number of small entities to which the rule applies

No small entities would be directly regulated by the proposed rule. Only two AFA SFPs potentially would be directly regulated by the proposed change in the single geographic location regulations. Both of these processors would be considered "large entities," because they are part of AFA cooperatives (see NMFS Alaska Region website at <http://www.fakr.noaa.gov/ram>). Each AFA cooperative is considered to be a large entity under Small Business Administration (SBA) criteria, because each entity is believed to employ 500 or more persons, on a full-time, part-time, temporary, or other basis; and when each is taken in combination with all its affiliated operations, worldwide, has combined annual gross receipts in excess of \$4.0 million.

Description and estimate of economic impacts on small entities by entity size and industry

Based upon the attached Regulatory Impact Review, the proposed action would not result in imposition of any adverse economic effects on any directly regulated small entities. The American Fishery Act Final Environmental Impact Statement/Regulatory Impact Review/ Final Regulatory Flexibility Analysis, under Section 4.6, provides an extensive treatment of the potential impacts to small entities, from a range of alternatives that fully encompasses this action. Amending the regulations to allow AFA SFPs to process BSAI target pollock in more than one location during a single fishing year, would impose no known costs on any directly regulated small entities. Indeed, the only entities that are "directly regulated" by this action are "large", based on SBA criteria.

Criteria used to evaluate whether the rule would impose impacts on a substantial number of small entities

The SBA has established size criteria for all major industry sectors in the United States, including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual gross receipts not in excess of \$4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

Only two entities, both AFA SFPs, are directly regulated by the proposed rule. Each

AFA SFP is considered to be a large entity, because each employs 500 or more persons, on a full-time, part-time, temporary, or other basis when each is taken in combination with all its affiliated operations worldwide. Therefore, no small entities would be directly regulated by this proposed rule.

Criteria used to evaluate whether the rule would impose "significant economic impacts"

Because no small entities are directly regulated by the proposed rule, no criteria were applied.

Description of, and an explanation of the basis for, assumptions used

SFP size determinations were based on known cooperative affiliations, ownership structure, and anecdotal information about each SFP's employee numbers.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

This proposed rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under Control Number 0648-0213. Public reporting burden for the shoreside processor check-in and check-out reports is estimated to average ten minutes per response.

This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and by e-mail to David_Rostker@omb.eop.gov, or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: April 8, 2009.

John Oliver,

Deputy Assistant Administrator for Operations, 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 50 CFR 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 § 679.4, revise paragraphs (l)(5)(iii) introductory text and (l)(5)(iii)(B) to read as follows:

§ 679.4 Permits.

* * * * *

(l) * * *

(5) * * *

(iii) *Single geographic location requirement.* An AFA inshore processor permit authorizes the processing of pollock harvested in the BS subarea directed pollock fishery only in a single geographic location during a reporting week. For the purposes of this paragraph, single geographic location means:

* * * * *

(B) *Stationary floating processors (SFP).* A geographic position within State of Alaska waters of the BS subarea and that is within a 5 nm radius of the latitude and longitude reported in the check-in and check-out reports at § 679.5(h)(5)(ix)(B). An AFA SFP cannot change its single geographic location more than four times within State of Alaska waters in the BS subarea to process pollock harvested in a BS subarea directed pollock fishery during a fishing year and cannot use more than one single geographic location during a reporting week.

* * * * *

3. In § 679.5, add paragraph (h)(4)(x) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

* * * * *

(h) * * *

(4) * * *

For ...	If you are a ...	Submit a BEGIN message	Submit a CEASE message

(x) Change of location	AFA SFP	Before receiving groundfish.	Upon completion of receipt of groundfish from a position and before movement from that position.

* * * * *

4. In § 679.7, revise paragraphs (a)(7)(vi) and (k)(3)(iv)(B) and add paragraph (k)(3)(vii) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(a) * * *

(7) * * *

(vi) Except as provided in paragraph (k)(3)(iv) of this section, use a stationary floating processor with a GOA inshore processing endorsement to process pollock or GOA Pacific cod harvested in a directed fishery for those species in

more than one single geographic location during a fishing year.

* * * * *

(k) * * *

(3) * * *

(iv) * * *

(B) *Stationary floating processor (SFP)*. A geographic position within State of Alaska waters of the BS subarea and that is within a 5 nm radius of the latitude and longitude reported in the check-in and check-out reports at § 679.5(h)(5)(ix)(B). An AFA SFP cannot change its single geographic location more than four times within State of Alaska waters in the BS subarea to

process pollock harvested in a BS subarea directed pollock fishery during a fishing year and cannot use more than one single geographic location during a reporting week.

* * * * *

(vii) *Restrictions for GOA Pacific cod and GOA pollock*. Use an AFA SFP to process GOA pollock or GOA Pacific cod in any location other than the location at which either GOA pollock or GOA Pacific cod were first processed in the year 2002.

* * * * *

[FR Doc. E9-8528 Filed 4-13-09; 8:45 am]

BILLING CODE 3510-22-S