

(d) * * *
(1) * * *

(i) GB Cod Hook Sector Area (GBCHSA). The GBCHSA is defined by straight lines connecting the following points in the order stated (copies of a map depicting the area are available from the Regional Administrator upon request):

GEORGES BANK COD HOOK SECTOR AREA

Table with 3 columns: Point, N. Lat., W. Long. Rows include HS1, HS2, HS3, HS4, HS5, HS6 with coordinates and boundary descriptions.

1 The east facing shoreline of Cape Cod, MA.
2 The south facing shoreline of Rhode Island.

11. In § 648.90, paragraph (a)(2)(iv) is revised to read as follows:

§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.

(a) * * *
(2) * * *
(iv) The Council shall review the target TACs recommended by the PDT and all of the options developed by the PDT and other relevant information; consider public comment; and develop a recommendation to meet the FMP objective pertaining to regulated species, Atlantic halibut, and ocean pout that is consistent with other applicable law. If the Council does not submit a recommendation that meets the FMP objectives and is consistent with other applicable law, the Regional Administrator may adopt any option developed by the PDT, unless rejected by the Council, as specified in paragraph (a)(2)(vii) of this section, provided the option meets the FMP objectives and is consistent with other applicable law.

12. In § 648.92, paragraph (b)(1)(i) is revised to read as follows:

§ 648.92 Effort-control program for monkfish limited access vessels.

(b) * * *
(1) * * *

(i) General provision. All limited access monkfish permit holders shall be allocated monkfish DAS each fishing year to be used in accordance with the restrictions of this paragraph (b), unless modified by paragraph (b)(1)(ii) of this section according to the provisions specified at § 648.96(b)(3). The number of monkfish DAS to be allocated, before accounting for any such modification, is 40 DAS minus the amount calculated in paragraph (b)(1)(iv) of this section, unless the vessel is enrolled in the Offshore Fishery Program in the SFMA, as specified in paragraph (b)(1)(iii) of this section. Limited access NE multispecies and limited access sea scallop DAS permit holders who also possess a valid limited access monkfish permit must use a NE multispecies or sea scallop DAS concurrently with their monkfish DAS, except as provided in paragraph (b)(2) of this section, unless otherwise specified under this subpart F.

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[FR Doc. 05-15644 Filed 8-5-05; 8:45 am]
BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 050722198-5198-01; I.D. 071805B]

RIN 0648-AS93

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Observer Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to amend regulations supporting the North Pacific Groundfish Observer Program (Observer Program). This action is necessary to revise requirements for the facilitation of observer data transmission, improve support for observers, and provide consistency with current regulations. The proposed rule is intended to promote the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs).

DATES: Comments must be received on or before September 7, 2005.

ADDRESSES: Send comments to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Lori Durall. Comments may be submitted by any of the following methods:

- E-mail: OCS-0648-AS93@noaa.gov.
Include in the subject line the following identifier: OCS proposed rule. E-mail comments, with or without attachments, are limited to 5 megabytes.
Federal e-Rulemaking Portal: http://www.regulations.gov.
Mail: P.O. Box 21668, Juneau, AK 99802.
Fax: (907) 586-7557.
Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, AK.

Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action may be obtained from the same mailing address above or from the NMFS Alaska Region website at http://www.fakr.noaa.gov.

Send comments on these or any other aspects of the collection of information to NMFS at the addresses above, and to OMB via e-mail at David.Rostker@omb.eop.gov, or fax (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Jason Anderson, 907-586-7228, or jason.anderson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA) in the Exclusive Economic Zone under their respective FMPs. The North Pacific Fishery Management Council (Council) has prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act. Regulations implementing the FMPs appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

The Council adopted and NMFS approved and implemented the current "interim" Observer Program (Observer Program) in 1996 (61 FR 56425, November 1, 1996). The requirements of the Observer Program were extended through 1998 (62 FR 67755, December 30, 1997), then through 2000 (63 FR 69024, December 15, 1998), through 2002 (65 FR 80381, December 21, 2000), and again through 2007 (67 FR 72595, December 6, 2002). The Observer Program provides the regulatory

framework for the collection of data by observers to obtain information necessary for the conservation and management of the groundfish fisheries managed under the FMPs. Regulations implementing the Observer Program at § 679.50 require observer coverage aboard catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors that participate in the groundfish fisheries off Alaska and establish vessel, processor, and observer provider responsibilities relating to the Observer Program.

Timely electronic communication between the fishing industry and NMFS of catch reports submitted to NMFS by industry and observers is crucial to the effective in-season monitoring of groundfish quotas and protected species catch allowances. In July 1995, NMFS issued a final rule that required all catcher/processors, motherships, and shoreside processors that process groundfish to have computer hardware and software that would enable observers to send electronic data to NMFS (60 FR 34904, July 5, 1995). In October 2003, a final rule was published (68 FR 58038, October 8, 2003) that extended these requirements to all catcher vessels that are required to carry an observer at all times during fishing operations.

Regulations describing hardware and software requirements for electronic submission of observer reports on all catcher/processors, motherships, catcher vessels required to carry an observer at all times, and shoreside or stationary floating processors are found at § 679.50(g)(1) and (g)(2). This electronic data submission and communications system is called the observer communications system (OCS, previously referred to as "ATLAS)." This system is comprised of computers and communications equipment supplied by catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors, and custom software provided by NMFS. The OCS system allows observers to rapidly process and report the data they collect to NMFS. Its use on catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors has led to more timely and accurate fisheries data.

Revisions to OCS Regulations

Observer Program staff are engaged in upgrading the software component of the OCS. The upgraded OCS software is intended to increase overall data quality by increasing the functionality and efficiency of the OCS system. In this action, NMFS proposes to require

catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors already subject to OCS requirements to install hardware upgrades to meet current technology standards necessary to support OCS software and facilitate its installation. Presently, regulations at § 679.50(g)(1)(iii)(B)(1) and (g)(2)(iii)(B)(1) require a minimum of a Windows 9x or NT compatible operating system, both of which are older, now unsupported operating systems. This action would amend those regulations to require a Windows 98 or more recent operating system such as Windows 2000, Millennium, or XP. Only Windows-based operating systems would be acceptable because the upgraded software component would only be compatible with Windows-based operating systems. These regulations also would be revised to require catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors subject to OCS requirements to ensure that the personal computer provided for use by the observer contains a functioning compact disc (CD) drive. Additionally, the minimum random access memory (RAM) requirement would be upgraded to 256 megabytes.

The revisions described above are necessary to accommodate the larger, more sophisticated software and database programs provided by NMFS. The new software would require an upgraded operating system to function and would be stored on CDs to avoid storage on multiple floppy discs and facilitate installation. Additionally, Windows 95 is no longer supported by the manufacturer.

Other Revisions

Regulations at § 679.2 contain definitions for terms used elsewhere in part 679. Regulations at § 679.50(c) describe observer coverage requirements for catcher vessels, catcher/processors, and motherships engaged in directed fishing for groundfish. However, the first paragraph of the current definition of "directed fishing" is contained under the heading, "With respect to groundfish recordkeeping and reporting." This action proposes to revise the heading of the first paragraph of the definition for "directed fishing" to read, "Unless otherwise indicated" to clarify that the definition also applies to observer coverage regulations.

Regulations at § 679.28 describe requirements for scales, observer sampling stations, bins for volumetric estimates, and vessel monitoring system hardware. Section 679.28(g)(1) describes catch monitoring control plans (CMCPs)

generally and § 679.28(g)(4)(iii) describes a component of the inspection process for CMCPs. However, these sections incorrectly cross reference performance standards in § 679.28(g)(6). This action proposes to correct this error and replace the reference to (g)(6) in § 679.28(g)(1) and (g)(4)(iii) with (g)(7).

Regulations at § 679.50(i)(2)(vi)(A)(1) describe travel and logistics requirements for observer providers when deploying observers. For a variety of reasons, including incorrect routing of luggage or weight restrictions on airplanes, observers occasionally become separated from their personal belongings and gear necessary to conduct sampling duties during travel to an assignment. If this occurs, luggage normally will be delivered on a subsequent flight. However, an observer provider recently encouraged an observer who had become separated from personal belongings and gear necessary to conduct sampling duties to borrow personal belongings from other observers so the observer could be deployed in a timely manner. The observer was deployed to a vessel without the observer's personal belongings or gear necessary to conduct sampling duties. Such a failure compromises an observer's safety, comfort, and ability to complete the observer's duties. This action proposes to require an observer provider to provide all necessary transportation, including arrangements and logistics, to ensure the observer and the observer's gear and personal belongings arrive at the initial location of deployment and to all subsequent vessel and shoreside or stationary floating processor assignments during that deployment.

Classification

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

NMFS prepared an initial regulatory flexibility analysis (IRFA) as required by section 603 of the Regulatory Flexibility Act. 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 the preamble and in the **SUMMARY** section of this document. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the analysis follows.

This proposed rule would require vessels and shoreside or stationary floating processors already subject to OCS requirements to adopt hardware upgrades to meet current technology standards necessary to support the OCS

software. This includes all motherships, catcher/processors, shoreside or stationary floating processors and catcher vessels required to carry an observer at all times. Additionally, the proposed rule includes several clarifications and corrections to current regulations. These proposed actions are intended to revise requirements for the facilitation of observer data transmission, improve support for observers, and provide consistency with current regulations.

All motherships have gross revenues in excess of \$3.5 million and are considered large entities. Data available for 2003, indicate that 22 of the 82 catcher/processors active in the groundfish fisheries that year would be considered small entities. All four permitted observer provider companies would be considered small entities. Confidentiality restrictions require NMFS to report gross revenue information in aggregate of four or more entities. These restrictions prevent NMFS from reporting the number of catcher vessels and shoreside or stationary floating processors regulated under this proposed action for small entities.

Alternative 1 described in the EA/RIR/IRFA is the status quo alternative. Current regulations regarding retention and discards would remain in effect.

Alternative 2 would: (1) require all catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors currently subject to OCS requirements to upgrade their computing hardware to a minimum operating system of Windows 98 and 256k of RAM; (2) require observer providers to ensure observers are deployed with their personal belongings and gear; and (3) provide other non-substantive administrative changes to current regulations.

In addition to the requirements in Alternative 2, Alternative 3 would also require all catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors currently subject to OCS requirements to upgrade their computer hardware to a CD drive.

The one-time upgrade cost for OCS equipment that would be required for all catcher/processors, motherships, shoreside and stationary floating processors, and catcher vessels required to carry an observer at all times under the proposed action would be about \$500 for each of these affected small entities. For the 22 catcher/processors considered small entities, the cost is estimated at about .02 percent of one year's gross revenues. As noted above, NMFS is unable to report gross revenues

for catcher vessels and shoreside or stationary floating processors considered small entities under this action. Therefore, OCS upgrade costs cannot be reported as a percentage of gross revenues for these entities.

Under the proposed action, observer provider companies would be responsible for ensuring that observers are deployed with their gear and personal belongings. While proposed regulations would require observer providers to be responsible for transportation, logistics and arrangements, observer providers typically pass these costs on to the vessel or shoreside or stationary floating processor. However, arrangements (and subsequent costs) between these entities and observer providers, where the observer is separated from his or her gear and personal belongings, are not known. Additionally, vessels may be required to remain in port until an observer's gear and personal belongings arrive, and the vessel may incur costs associated with missed fishing opportunity. Instances where observers have not been deployed with their gear and personal belongings are rare, and the frequency of these occurrences is impossible to estimate. However, these costs are expected to be small.

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by OMB under control number OMB 0648-0330. Public reporting burden for Catch Monitoring and Control Plan (CMCP) is estimated to average 40 hours per response, including 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 ADDRESSEES) and to OMB.

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.

The analysis did not reveal any Federal rules that duplicate, overlap, or conflict with the proposed action.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: August 2, 2005.

William T. Hogarth

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.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

2. In § 679.2, the definition of “directed fishing”, paragraph (1), is revised to read as follows:

§ 679.2 Definitions.

* * * * *

Directed fishing means:

(1) Unless indicated otherwise, any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable amount for that species or species group as calculated under § 679.20.

* * * * *

3. In § 679.28, paragraphs (g)(1) and (g)(4)(iii) are revised to read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

(g) * * *

(1) *What is a CMCP?* A CMCP is a plan submitted by the owner and manager of a processing plant, and approved by NMFS, detailing how the processing plant will meet the catch monitoring and control standards detailed in paragraph (g)(7) of this section.

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(4) * * *

(iii) A proposed CMCP detailing how the processor will meet each of the performance standards in paragraph (g)(7) of this section.

* * * * *

4. In § 679.50, paragraphs (g)(1)(iii)(B)(1), (g)(2)(iii)(B)(1), and (i)(2)(vi)(A)(1) are revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 2007.

* * * * *

(g) * * *

(1) * * *

(iii) * * *

(B) * * *

(1) *Hardware and software.* Making available for use by the observer a personal computer in working condition that contains: a full Pentium 120Mhz or

greater capacity processing chip, at least 256 megabytes of RAM, at least 75 megabytes of free hard disk storage, a Windows 98 (or more recent) compatible operating system, an operating mouse, a 3.5-inch (8.9 cm) floppy disk drive, and a readable CD ROM disk drive. The associated computer monitor must have a viewable screen size of at least 14.1 inches (35.8cm) and minimum display settings of 600 × 800 pixels. The computer equipment specified in paragraph (g)(1)(iii)(B) of this section must be connected to a communication device that provides a point-to-point modem connection to the NMFS host computer and supports one or more of the following protocols: ITU V.22, ITU V.22bis, ITU V.32, ITU V.32bis, or ITU V.34. Personal computers utilizing a

modem must have at least a 28.8 kbs Hayes-compatible modem.

* * * * *

(2) * * *
 (1) *Hardware and software.* Making available for use by the observer a personal computer in working condition that contains: a full Pentium 120Mhz or greater capacity processing chip, at least 256 megabytes of RAM, at least 75 megabytes of free hard disk storage, a Windows 98 (or more recent) compatible operating system, an operating mouse, a 3.5-inch (8.9 cm) floppy disk drive, and a readable CD ROM disk drive. The associated computer monitor must have a viewable screen size of at least 14.1 inches (35.8cm) and minimum display settings of 600 × 800 pixels. The computer equipment specified in paragraph (g)(2)(iii)(B) of this section must be connected to a communication device

that provides a point-to-point modem connection to the NMFS host computer and supports one or more of the following protocols: ITU V.22, ITU V.22bis, ITU V.32, ITU V.32bis, or ITU V.34. Personal computers utilizing a modem must have at least a 28.8 kbs Hayes-compatible modem.

* * * * *

(i) * * *

(1) All arrangements and logistics necessary for transporting observers and their gear and belongings to the initial location of deployment, to all subsequent vessel and shoreside or stationary floating processor assignments during that deployment, and to the debriefing location when a deployment ends for any reason; and

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[FR Doc. 05-15646 Filed 8-5-05; 8:45 am]

BILLING CODE 3510-22-S