

will not be accepted if submitted by email or the Internet. Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this proposed regulatory action and the Environmental Assessment (EA) prepared for the Extension of the Interim North Pacific Groundfish Observer Program beyond 2002 are available from NMFS at the above address, or by calling the Alaska Region, NMFS, at (907) 586-7228.

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**SUPPLEMENTARY INFORMATION:** NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands Management Area (BSAI) in the Exclusive Economic Zone under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens 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The Council adopted and NMFS implemented the Interim Groundfish Observer Program (Interim Program) in 1996, which superseded the North Pacific Fisheries Research Plan (Research Plan). The requirements of the Interim Program were extended through 1997 (61 FR 56425, November 1, 1996), again through 1998 (62 FR 67755, December 30, 1997), again through 2000 (63 FR 69024, December 15, 1998), again through 2002 (65 FR 80381, December 21, 2000), and again through 2007 (67 FR 72595, December 6, 2002). The Interim Program provides the 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. Further, it authorizes mandatory observer coverage requirements for vessels and shoreside processors and establishes vessel, processor, and contractor responsibilities relating to the Observer Program.

A final rule to amend regulations governing observer coverage requirements for vessels and shoreside processors in the North Pacific Groundfish Fisheries was published in the **Federal Register** on January 7, 2003 (68 FR 715). The intent of the final rule was to address concerns about: (1) Shoreside processor observer coverage; (2) shoreside processor observer logistics; (3) observer coverage requirements for vessels fishing with

groundfish pot gear; and (4) confidentiality of observer personal information. This proposed rule is intended to correct and clarify specific provisions of the January 7, 2003, final rule.

This proposed rule would amend the current regulations to allow an observer to be housed: (1) On a stationary floating processor; (2) on a vessel he or she will be assigned to for a time period prior to the vessel's departure from port necessary to coordinate the vessel observer's deployment logistics and vessel departure plans; (3) on a vessel for 24 hours following the completion of an offload where the observer has duties and is scheduled to disembark; and (4) on a vessel for 24 hours following the vessel's arrival in port when the observer is scheduled to disembark.

Subsequent to publication of the January 7, 2003, final rule, Observer Program staff received comments from two separate observer providers concerned with their ability to effectively deploy observers under the current regulations at § 679.50 (i)(2)(vi). In order to account for potential logistics problems, both observer providers described a common practice whereby observers are flown to their port of departure 3 or 4 days before the vessel is scheduled to depart. Flight cancellations and delays due to weather are common so fishing companies often request that observers arrive prior to their anticipated departure date.

Observers often arrive at their assigned vessel and encounter delays in the vessel's departure. Vessel operators are often unable to predict exactly when they will be able to leave port for a fishing trip due to weather, mechanical failure, labor disputes, and other unanticipated problems. These delays result in periods of time where an observer may be housed on an assigned vessel that is not traveling to fishing grounds or actively involved in fishing.

As observers arrive, they move onto their assigned vessels and await departure. Under current regulations, observers may not be housed on vessels they are assigned to until 24 hours prior to their departure time. In their attempt to mitigate potential logistical problems and expenses, observer providers may, at times, be in violation of current regulations. This action is meant to provide fishing operations with planning flexibility to deal with these uncertainties, and give observer providers improved opportunities to serve their customers.

The action would have an effect on observers equivalent to the lengthening of a fishing trip. Observers would receive normal contracted compensation

for the additional days spent on vessels. Moreover, fishing operations would pay for the extra days of observer availability. This would provide an incentive to the fishing operation to only contract for the additional days that were absolutely necessary to deal with the departure uncertainty.

The proposed regulations also provide for housing aboard stationary floating processors. Current regulations at 679.50(i)(2)(vi)(B) govern the housing requirements for observers assigned to shoreside processing facilities and for observers between vessel or shoreside assignments while still under contract to an observer provider. Observers are commonly deployed to stationary floating processors and catcher vessels delivering to stationary floating processors. Stationary floating processors are often in remote locations and observers are commonly housed on these stationary floating processors before, after, and in between catcher vessel assignments and while assigned to a stationary floating processor. During review of current regulations at 679.50(i)(2)(vi)(B) and (C), NMFS realized stationary floating processors were not accounted for as possible accommodations for observers deployed to catcher vessels delivering to these stationary floating processors. This action would extend the requirements to observers being deployed in these circumstances. Given the remoteness of these stationary floating processors, NMFS considers the practice of housing observers deployed to catcher vessels delivering to stationary floating processors reasonable. Accommodation requirements at 679.50(i)(2)(vi)(B) for observers being housed on stationary floating processors are the same as those for a licensed hotel, motel, bed and breakfast, or other shoreside accommodations.

Regulations at 679.50(i)(2)(vi)(C) would be amended to clarify that these housing requirements apply to observers under contract.

Further, during review of these regulations, NMFS noticed that 679.50(i)(2)(vi)(C)(2) and (3) were the same. The proposed amendment to the regulations would clarify NMFS intent by accounting for two housing situations where the observer is scheduled to disembark the vessel. First, the observer could be housed on a vessel for up to 24 hours following the completion of an offload where the observer has duties and is scheduled to disembark. This accounts for assignments to catcher boats which target pollock and the observer is required to monitor the offload for prohibited species. Second, the observer