

SUMMARY: NMFS issues a final rule to amend regulations governing the North Pacific Groundfish Observer Program (observer program). This action is necessary to refine requirements for the facilitation of observer data transmission and improve support for observers. The final rule is necessary to improve the timely transmission of high quality observer data for a sector of catcher vessels in these fisheries. It is intended to support the management objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (groundfish FMPs).

DATES: Effective January 1, 2004.

ADDRESSES: Copies of the Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA) prepared for this regulatory action may be obtained from the Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Durall. Send comments on information collection requests to NMFS and to OMB, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

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SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska and the Bering Sea and Aleutian Islands management areas in the Exclusive Economic Zone (EEZ) under the groundfish FMPs. The North Pacific Fishery Management Council (Council) prepared the groundfish FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations at 50 CFR part 679 implement the FMPs. General regulations that also pertain to U.S. fisheries appear at subpart H of 50 CFR part 600. Regulations implementing the interim observer program were published November 1, 1996 (61 FR 56425), amended December 30, 1997 (62 FR 67755) and December 15, 1998 (63 FR 69024), extended through 2002 under a final rule published December 21, 2000 (65 FR 80381), and extended again through 2007 under a final rule published December 6, 2002 (67 FR 72595). The observer program provides for the collection of observer data necessary to manage the Alaska groundfish fisheries by providing information on total catch estimation,

discards, prohibited species catch (PSC) and biological samples that are used for stock assessment purposes. Observers also provide information related to compliance with regulatory requirements.

The regulations implementing the observer program at § 679.50 require observer coverage aboard fishing vessels, shoreside processors, and stationary floating processors that participate in the Alaska groundfish fisheries. Timely communication between the fishing industry and NMFS through catch reports submitted to NMFS by both industry and observers is crucial to the effective in-season monitoring of the groundfish quotas and PSC allowances. This final rule enhances timely communication by updating the hardware requirements for the observer communication system (OCS), requiring vessels to maintain OCS equipment functionality, clarifying shoreside processor requirements, and extending the OCS requirements to all catcher vessels required to have at least one NMFS certified observer on board at all times.

By extending the OCS program to catcher vessels who carry observers 100 percent of the time, several deficiencies with the current program are addressed. First, necessary timely monitoring for in-season management of PSC and discard data is not possible under the observer data reporting system currently used by catcher vessels delivering to inshore processors. Shoreside catcher vessel observers opportunistically transmit data via fax to NMFS from a shoreside processor, which can be between 5 and 14 days after a given haul was made. This delay is caused in part by the fact that an observer usually must return to sea immediately upon completion of the delivery to shoreside processors, leaving no time for the observer to compile data into a format appropriate for fax transmission to NMFS, most often several hours worth of work. Once received by NMFS, the faxed data subsequently must be hand entered into an electronic database, further delaying the availability to in-season managers.

Second, if a catcher vessel observer had time available to compile and transmit data from the shoreside processor, logistical problems remain. Shoreside processors do support OCS communication systems for transmission of observer data. However, OCS software on these systems is designed specifically for shoreside processor applications and does not support observer data collected at sea. While the shoreside system could be adapted to support data collected by

vessel observers, other logistical problems prevent reliable use of these systems by catcher vessel observers. These difficulties include vessel observers having to return to sea prior to data input and transmission via the OCS communications system, as well as the lack of access to shoreside computers and communications equipment that support the OCS system. Offices that house this equipment at the shoreside processors generally are not open 24 hours a day, while deliveries may be completed at any time during the day.

Installation of OCS software, in combination with point to point modem communication capability aboard shoreside catcher vessels, would allow daily electronic transmission of catch data. This would provide NMFS with observer data from catcher vessels within 24 hours of receiving their delivery reports from the shoreside processor. At-sea discards and PSC could then be accounted for together with the landings data in real-time for each OCS-equipped vessel. Such real-time in-season management would be expected to result in fishery closures that better approximate actual quotas.

Additionally, observer data quality problems can have a significant impact on PSC estimates and fishery closure projections. Resulting management errors can include early closure of a fishery, which results in direct lost revenue to the fleet, or over harvest of a PSC fishery allowance, which can impact other fisheries as the total annual PSC limit is reached.

The OCS program provides several advantages and improvements to NMFS' current management systems which result in higher quality data. These include:

Improved data recording efficiency. Observers using OCS initially record data on deck forms. These data are then entered into the vessel's computer and sent electronically to NMFS. Data received by NMFS are automatically screened for errors and may be accessed by users in a database in a timely manner. Without OCS, data are transcribed from deck forms to paper and faxed to NMFS for subsequent electronic entry. Less paperwork provides observers with more time to dedicate to sampling.

Consistent, secure communications with observer program staff and a reduction in the overall frequency of errors. OCS communications allow NMFS to assign to each deployed observer an in-season advisor who screens data for errors and advises the observer throughout their deployment, resulting in improved observer