

processor, and contractor responsibilities relating to the Observer Program. NMFS intends the Interim Program to be effective until a long-term program is developed and implemented that addresses several current concerns. These concerns include data integrity, observer compensation, working conditions for observers, and equitable distribution of observer costs.

NMFS is working with the Council and the Council's Observer Advisory Committee (OAC) to address the above concerns and others through development of new options for an alternative infrastructure for the Observer Program.

A description of the regulatory provisions of the Interim Groundfish Observer Program was provided in the proposed and final rules implementing this program (61 FR 40380, August 2, 1996; 61 FR 56425, November 1, 1996, respectively) as well as the proposed and final rules extending this program through 1998 and again through 2000 (62 FR 49198, September 19, 1997; 62 FR 67755, December 30, 1997; 63 FR 47462, September 8, 1998; and 63 FR 69024, December 15, 1998, respectively).

A proposed 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 April 2, 2002 (67 FR 15517), for a 30-day public review and comment period that ended on May 1, 2002. NMFS received 2 letters of comment on the proposed rule which are summarized and responded to in Response to Comments, below.

This final rule addresses concerns about (1) shoreside and stationary floating processor observer coverage; (2) shoreside processor observer logistics; (3) observer coverage requirements for vessels fishing for groundfish with pot gear; and (4) confidentiality of observer personal information.

**Shoreside or stationary floating processor observer coverage.** New regulations will maintain the current monthly observer coverage periods at shoreside or stationary floating processors based on monthly landings projections. However, during a month when a directed fishery for pollock or Pacific cod closes, a shoreside or stationary floating processor with 100-percent coverage requirements that received pollock or Pacific cod from the fishery that closed in that given month would have the option to reduce observer coverage to 30-percent coverage requirements for the remainder of that month under certain conditions. These conditions are: (1) the shoreside

or stationary floating processor must maintain observer coverage for 30 percent of all days that groundfish are received or processed for the remainder of that month; and (2) groundfish landings received by the shoreside or stationary floating processor may not exceed 250 mt/calendar week for the remainder of that month. If a shoreside or stationary floating processor is expected to receive greater than 250 mt/wk during any calendar week of that month, the shoreside or stationary floating processor would be required to return to 100-percent observer coverage for the days fish are received or processed during that week until all groundfish received during that week is processed.

The reduced observer coverage period for a given shoreside or stationary floating processor would be authorized beginning on the fourth calendar day following the day that a pollock or cod fishery closes, allowing for observation of the delivery and processing of fish received prior to the closure, and would end on the last day of that month. Observer coverage for the month following would be based on monthly landings projections and thresholds as specified under current regulations at § 679.50, but also may be reduced for that month under the conditions of this action.

The Community Development Quota (CDQ) and American Fisheries Act (AFA) programs' observer coverage requirements found at § 679.50(d)(4) and (5), respectively, currently supersede general observer coverage requirements for shoreside or stationary floating processors, and will continue to take precedence over this allowance for reduced coverage.

**Shoreside or stationary floating processor observer logistics.** This final rule amends the observer regulations to require the observer provider company to provide the following logistical support to observers deployed at shoreside or stationary floating processors: Adequate housing meeting certain standards; reliable communication equipment such as an individually assigned phone or pager for notification of upcoming deliveries or other necessary communication; and, if the observer's accommodations are greater than 1 mile away from the processing facility, reliable motorized transportation to the shoreside processor that ensures timely arrival to allow the observer to complete assigned duties.

**Groundfish pot fishery observer coverage requirements.** This final rule also amends regulations governing coverage requirements for the

groundfish pot gear fishery to require a vessel equal to or longer than 60 ft (18.3 m) length overall (LOA), fishing with pot gear that participates more than 3 days in a directed fishery for groundfish in a calendar quarter, to carry an observer during at least 30 percent of the total number of pot retrievals for that calendar quarter. Such vessels would also need to continue to carry an observer for at least one entire fishing trip using pot gear in a calendar quarter, for each of the groundfish fishery categories in which the vessel participates during that calendar quarter. Groundfish will still be required to be retained each day the observer is on board and gear is retrieved, in order for the gear retrieved on that day to count toward observer coverage requirements.

**Confidentiality of observer personal information.** Observer providers are required to ensure that all records on individual observer performance received from NMFS under the routine use provision of the Privacy Act remain confidential and are not further released to anyone outside the employ of the observer provider company to whom the observer was contracted except with written permission of the observer.

## Response to Comments

Two letters on the April 2, 2002, proposed rule (67 FR 15517) were received that contained a total of 15 unique comments. Comments are summarized and responded to here.

**Comment 1:** Observer coverage should be flexible before a fishery opens as well as when it closes. Many of the directed fisheries in the Gulf of Alaska start mid-month. The way the regulations are written, a shoreside processor is required to have an observer 100 percent of the time during that month even though the fishery which will trigger the coverage will not occur until many days into the month. The regulation change regarding the step down in coverage needs to be a two-way door, prior to a fishery season opening date and after a fishery closure date.

**Response:** NMFS considered both options in the analysis prepared for the proposed rule and continues to support the revised coverage regulations as proposed. The analysis showed that if shoreside processors were given the leeway to reduce coverage based on some landings criteria both before and after fishery closures, observer coverage for shoreside plants would essentially shift to a system of weekly observer coverage based on weekly landings projections. The analysis concluded that such a change would result in an observer coverage system for shoreside