

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 679**

[Docket No. 980826225-8296-02; I.D. 100499B]

Fisheries of the Exclusive Economic Zone off Alaska; Inseason Adjustment to Required Observer Coverage

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

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an interim inseason adjustment to observer coverage requirements for owners/operators of vessels used to participate in the North Pacific groundfish fisheries and that are required to have observers onboard their vessels 30 percent of the vessel's fishing days. This adjustment is necessary to respond to an unanticipated increase in the demand for observers and to avoid jeopardizing the amount and quality of observer data used by NMFS to manage the groundfish fisheries.

DATES: This adjustment is effective from October 8, 1999 through December 31, 1999. Comments must be received at the following address no later than 4:30 p.m., A.I.t., October 29, 1999.

ADDRESSES: Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Sue Salvesson, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the North Pacific groundfish fisheries in Federal waters off Alaska according to the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutians Islands Area (FMPs). The North Pacific Fishery Management Council, under authority of the Magnuson-Stevens Fishery Conservation and Management Act, prepared both FMPs. Regulations governing fishing by U.S. vessels in accordance with the FMPs appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

Observer coverage regulations at § 679.50(c)(1)(v)-(vii) require certain vessels to carry a NMFS-certified observer on board for 30-percent of the vessels' fishing days in each quarter of the year. Recent unanticipated events have increased industry demands for observer coverage, resulting in a shortage of observers necessary to meet regulatory requirements. According to observer contractors, the current shortage of observers can be attributed to several factors, including increased demand for observer coverage as a result of Alaska State Board of Fisheries actions affecting participation criteria in the Bristol Bay red king crab fishery and increased participation in the Pacific cod pot gear fishery by vessels primarily used to fish for crab due to unanticipated closures of several crab fisheries.

Insufficient observer availability generally affects the 30-percent vessels to a greater degree than vessels that are required to have an observer onboard at all times because (1) the number of 30-percent vessels is greater than the number of 100-percent vessels, (2) observer contractors generally have long-standing contracts with 100-percent vessels that are more amenable to long-range planning and deployment of observers, and (3) many 30-percent vessels are diversified into non-groundfish fisheries and operational planning and coordination with contractors for NMFS-certified observers often is on short notice due to the inseason uncertainty of when different fisheries will open or close.

The recent management actions and observer related qualifying criteria associated with the State-managed crab fisheries have resulted in a significant change in the interest of crab fishermen to participate in the 1999 Pacific cod fishery and have created an unprecedented demand for groundfish observers. The resultant shortage of observers to meet this increased demand has affected the short-term ability of contractors to meet industry observer needs, primarily for 30-percent vessels. NMFS believes that this situation jeopardizes observer data availability for the 30-percent fleet by forcing some fishermen to choose between foregoing participation in fisheries in a manner that threatens business solvency and fishing without required observer coverage in a manner that undermines the quality of information NMFS requires to manage the groundfish fisheries.

Therefore, in accordance with § 679.50(e), the Administrator, Alaska Region, NMFS (Regional Administrator), adjusts existing observer coverage

requirements set out at § 679.50(c)(v)-(vii), which are based on a calendar quarter compliance period, to be based on a 6-month compliance period during the period of July 1, 1999, through December 31, 1999. The Regional Administrator takes this action based on his finding that the recent and unanticipated increase in the demand for observer services and the concurrent shortage of observers to meet this demand could jeopardize compliance with observer coverage requirements and negatively affect the quality of the data NMFS depends on to manage the groundfish fisheries. This adjustment allows owners/operators of vessels required to have 30-percent observer coverage (i.e., vessels are used to participate for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter during the last half of 1999) to satisfy the coverage requirements at § 679.50(c)(v)-(vii) at any time during this 6-month period instead of being constrained to meet these coverage requirements on a quarterly basis. NMFS anticipates that this short-term adjustment will provide vessel owners/operators who require 30-percent coverage more flexibility in coordinating with observer contractor companies to obtain required observer coverage. While the overall level of current observer coverage will not decrease as a result of this adjustment, the adjustment could reduce the amount of observer data collected during the third calendar quarter of 1999 and potentially increase the amount collected during the final quarter of 1999. The impacts of this redistribution of coverage are not known, but are not believed to be significant relative to the benefits of encouraging compliance with the regulatory framework on which NMFS' data requirements are based.

NMFS-certified observer contractors assert that the existing shortage of observers will be alleviated after the first half of October 1999 because State of Alaska induced observer coverage requirements will expire on October 15, when the Bristol Bay red king crab fishery opens; fishermen will have had additional time to coordinate with contractors for required coverage; and the overall demand for observers is expected to diminish with anticipated closures of the inshore and offshore pollock fisheries. Therefore, this short-term adjustment terminates at 0001 hours A.I.t. on January 1, 2000, at which time all vessels will again be required to meet the requirements of § 679.50(c)(v)-(vii) on a quarterly basis.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this action is impracticable and contrary to the public interest. Without this interim adjustment, NMFS anticipates increased noncompliance with observer coverage requirements and an overall reduction in the level and quality of observer data collected during the last half of 1999.

This impact is undesirable and potentially detrimental to the management of the North Pacific groundfish fisheries. Further, the interim adjustment relieves a restriction on affected industry members and provides a reasonable opportunity for fishermen to coordinate with observer contractors to obtain the required coverage during a 6 month period instead of within a calendar quarter. Under §§ 679.50(e) and 679.25(c)(2), interested persons are invited to submit

written comments on this action to the above address until October 29, 1999.

This action is authorized by §§ 679.50 and 679.25 and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: October 7, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99-26811 Filed 10-8-99; 4:56 pm]

BILLING CODE 3510-22-F