

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), October 4, 2003, through 2400 hrs, A.l.t., December 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The pollock TAC in Statistical Area 610 of the GOA is 16,788 metric tons (mt) as established by the final 2003 harvest specifications for groundfish of the GOA (68 FR 9924, March 3, 2003).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the pollock TAC in Statistical Area 610 has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 16,738 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA. Maximum retainable amounts may be found in the regulations at § 679.20(e) and (f).

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the TAC in Statistical Area 610, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: October 2, 2003.

**Bruce C. Morehead,**

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

[FR Doc. 03-25509 Filed 10-3-03; 2:00 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 021122286-3036-02; I.D. 100203A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the pollock total allowable catch (TAC) for Statistical Area 620 of the GOA.

**DATES:** Effective 1200 hrs., Alaska local time (A.l.t.), October 3, 2003, through 2400 hrs., A.l.t., December 31, 2003.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The pollock TAC in Statistical Area 620 of the GOA is 19,685 metric tons (mt) as established by the final 2003 harvest specifications for groundfish of the GOA (68 FR 9924, March 3, 2003).

In accordance with § 679.20(d)(1)(i), the Regional Administrator, has determined that the pollock TAC in Statistical Area 620 has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 19,635 mt, and is setting aside the remaining 50 mt as bycatch to

support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the GOA.

Maximum retainable amounts may be found in the regulations at § 679.20(e) and (f).

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the pollock TAC in Statistical Area 620, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: October 2, 2003.

**Bruce C. Morehead,**

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

[FR Doc. 03-25508 Filed 10-3-03; 2:00 pm]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 020412085-3189-02; I.D. 022102B]

**RIN 0648-AP66**

#### Fisheries of the Exclusive Economic Zone Off Alaska; Electronic Reporting Requirements

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

**ACTION:** Final rule.

**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).

**FOR FURTHER INFORMATION CONTACT:** Jason Anderson, 907-586-7228 or e-mail at [jason.anderson@noaa.gov](mailto:jason.anderson@noaa.gov).

**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

performance and a reduction in errors. The quality of timely data available for in-season management decisions is thus greatly improved.

*Faster, more efficient, and higher quality debriefing.* The OCS application automatically screens out many potential data errors at the point of entry. These data are further screened by the in-season advisor, and all data are again screened by computer programs and corrected at the point of debriefing. These processes eliminate hand checking of paper data forms, further reducing debriefing time and allowing for faster availability of the final data. Installation and maintenance of OCS aboard catcher vessels requiring 100 percent observer coverage would eliminate 1,100 faxed observer reports and the associated processing per year. Availability of timely data on PSC by this sector of the fleet, which is largely made up of American Fisheries Act-qualified catcher vessels that are members of inshore cooperatives, would improve the in-season management of the BSAI pollock and Pacific cod trawl fisheries. In the BSAI pollock trawl fishery, salmon and herring PSC are of concern, and in the BSAI Pacific cod trawl fishery, halibut bycatch is of concern. Although the few Pacific cod trawl fishery closures that have occurred since 1998 have been based primarily on TACs being reached, prior to 1998, BSAI Pacific cod trawl fishery closures were based on halibut bycatch allowances being caught before the TAC was reached. Improved timeliness of PSC data transmission would allow NMFS resources to be reallocated to processing faxed data received from observers aboard vessels that are subject to 30 percent coverage requirements. Overall this would result in the expedited availability to managers and improved quality of all in-season data from all catcher vessels in the BSAI and the GOA. This timely information also benefits industry through access via NMFS web sites. Fleets coordinate their activity to avoid areas of high incidental catch of prohibited species, thus delaying or eliminating costly PSC closures. This coordination can only work where information is available quickly.

More timely harvest data from catcher vessels is also needed for management measures that temporally and spatially disperse some groundfish fisheries in near shore areas of the EEZ off Alaska (67 FR 956, January 8, 2002). These measures were developed as Steller Sea Lion protection measures and involve some time-area restrictions for the pollock, Pacific cod and Atka mackerel fisheries, including harvest limits in

Steller sea lion critical habitat. To ensure compliance with these measures, levels of groundfish harvest must be monitored on a real-time basis.

Further background for the development of the regulatory amendments contained in this final rule and the detailed descriptions of the hardware upgrades, catcher vessel requirements and functionality of communication systems are in the proposed rule (67 FR 48604, July 25, 2002).

Comments on the proposed rule were invited for a 30-day period that ended August 26, 2002. No written comments on the proposed rule were received.

#### Changes From the Proposed Rule

NMFS identified four necessary changes from the proposed rule to the final rule. Each is a technical, non-substantive correction to the proposed regulation language. The technical changes to the final rule are made as follows:

1. The paragraph designations for the regulatory amendments in the proposed rule (67 FR 48604, July 25, 2002) are revised from (f) to (g) in this final rule to ensure consistency with recent revisions to § 679.50 (67 FR 72595, December 6, 2002).

2. Regulatory text in § 679.50(g)(2) and (3) is changed from the proposed rule to clarify that OCS provisions apply to stationary floating processors. Stationary floating processors provide the same function as shoreside processors and nearly all observer program regulations that apply to shoreside processors also apply to stationary floating processors. Therefore, the regulations in paragraphs (g)(2) and (g)(3) apply to both shoreside processors and stationary floating processors. The proposed rule identified only shoreside processors in the revised language for these paragraphs. However, the Regulatory Impact Review and Initial Regulatory Flexibility Analysis (RIR/IRFA) thoroughly analyzed the effects of this action on stationary floating processors. The regulatory language for § 679.50(g)(2) and (3) is changed in the final rule from the proposed rule to apply to both shoreside processors and stationary floating processors.

3. The term "processors" in § 679.50(g)(1)(iii)(B)(1) is changed to "personal computers" to clarify potential confusion between fish processing operations and computer hardware.

4. The title to § 679.50 is revised from the proposed rule to reflect the extension of the observer program through December 31, 2007.

#### Classification

This final rule has been determined to be significant for purposes of Executive Order 12866.

NMFS has prepared a Final Regulatory Flexibility Analysis (FRFA) for this action, pursuant to the requirements of the Regulatory Flexibility Act at section 604(a). The objectives of and the legal basis for this action are described earlier in the preamble.

The proposed rule was published in the **Federal Register** on July 25, 2002 (67 FR 48604). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed rule, and described in the classifications section of the preamble to the rule. The public comment period ended on August 26, 2002. No comments were received on the proposed rule.

The entities that would be regulated by the proposals are the BSAI and GOA entities operating catcher-processors, motherships, shoreside processors, required to maintain one or more observers, and catcher vessels required to have 100 percent observer coverage. Data available for 2000 indicate that there were 34 small (according to Small Business Administration criteria) catcher-processors active that year, and 31 small catcher vessels. All three of the motherships were assumed to be large entities. Five directly regulated processors were identified as small. The six CDQ groups are non-profits and are therefore small by definition.

This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities.

Although the proposed changes in the OCS communications requirements require some new expenditures by small entities, they contain no new or revised record keeping or reporting requirements for those entities. The OCS requirements will not affect private sector record keeping requirements; they will facilitate communication of reports that are already required from observers.

Four alternatives to the proposed action were considered. The status quo was rejected because it would not meet the objectives of the action for more timely and more accurate data. An alternative that would have restricted the regulations to catcher-processors, motherships, and shoreside processors would have had a smaller impact on directly regulated small entities, because it would not have regulated catcher vessels that were required to have 100 percent observer coverage. This alternative was rejected because it would not have provided faster or more

accurate observer data on this important fleet sector. An alternative that would have extended the requirements to catcher vessels with 30 percent required coverage, in addition to catcher-processors, motherships, shoreside processors, and catcher vessels with 100 percent observer coverage, was also rejected. This would have involved extending coverage to several hundred additional catcher vessels, all of which were estimated to be small entities. Concerns were also raised over the security of the OCS software on computers during periods of time when observers were not present on the vessels. A final alternative would have required OCS coverage on catcher-processors, motherships, and shoreside processors, but not catcher vessels. This alternative would have increased resources devoted to observer program data processing in order to reduce the time it took to get catcher vessel data to in-season managers for management purposes. This alternative would have reduced the impact on small catcher vessel entities, however, while it would have reduced the time to process data and provide it to in-season managers, it would not have affected the important time lag between at-sea observation by the observer and delivery to observer program data processors. In addition, it would not have addressed concerns over data quality.

**List of Subjects in 50 CFR Part 679**

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 2, 2003.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 50 CFR part 679 is 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.*, 1801 *et seq.*, and 3631 *et seq.*

■ 2. In § 679.50, paragraphs (g)(1)(iii)(A), (g)(1)(iii)(B), (g)(1)(iii)(C), (g)(2), (g)(2)(iii)(B), and (g)(2)(iii)(C) are revised and paragraph (g)(3) is added to read as follows:

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

\* \* \* \* \*

- (g) \* \* \*
- (1) \* \* \*
- (iii) \* \* \*

(A) *Observer use of equipment.*

Allowing NMFS-certified observers to use the vessel's communications equipment and personnel, on request, for the confidential entry, transmission, and receipt of work-related messages, at no cost to the NMFS-certified observers or the nation.

(B) *Communication equipment requirements.* In the case of an operator of a catcher/processor or mothership that is required to carry one or more observers, or a catcher vessel required to carry an observer as specified in paragraph (c)(1)(iv) of this section:

(1) *Hardware and software.* Making available for use by the observer a personal computer in working condition that contains a full Pentium 120 Mhz or greater capacity processing chip, at least 32 megabytes of RAM, at least 75 megabytes of free hard disk storage, a Windows 9x or NT compatible operating system, an operating mouse, and a 3.5-inch (8.9 cm) floppy disk drive. The associated computer monitor must have a viewable screen size of at least 14.1 inches (35.8 cm) and minimum display settings of 600 x 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 28.8kbs Hayes-compatible modem.

(2) *NMFS-Supplied software.* Ensuring that the catcher/processor, mothership, or catcher vessel specified in paragraph (g)(1)(iii)(B) of this section obtains and has installed the data entry software provided by the Regional Administrator for use by the observer.

(C) *Functional and operational equipment.* Ensuring that the communications equipment required at paragraph (g)(1)(iii)(B) of this section, and that is used by observers to enter and transmit data, is fully functional and operational, where "functional" means that data transmissions to NMFS can be initiated effectively aboard the vessel by such communications equipment.

\* \* \* \* \*

(2) *Shoreside processor and stationary floating processor responsibilities.* A manager of a shoreside processor or a

stationary floating processor that is required to maintain observer coverage as specified under paragraph (d) of this section must:

\* \* \* \* \*

- (iii) \* \* \*

(B) *Communication equipment requirements—(1) Hardware and software.* Making available for use by the observer a personal computer, in working condition, with a full Pentium 120 Mhz or greater capacity processing chip, at least 32 megabytes of RAM, at least 75 megabytes of free hard disk storage, a Windows 9x or NT compatible operating system, an operating mouse, and a 3.5-inch (8.9 cm) floppy disk drive. The associated computer monitor must have a viewable screen size of at least 14.1 inches (35.8 cm) and minimum display settings of 600 x 800 pixels. The computer equipment specified in this paragraph 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. Processors utilizing a modem must have at least a 28.8kbs Hayes-compatible modem.

(2) *NMFS-supplied software.* Ensuring that the shoreside processor or stationary floating processor obtains and installs the data entry software provided by the Regional Administrator for use by the observer.

(C) *Functional and operational equipment.* Ensuring that the communications equipment required at paragraph (g)(2)(iii)(B) of this section and that is used by observers to enter and transmit data, is fully functional and operational, where functional means that data transmissions to NMFS can be initiated effectively by that equipment.

\* \* \* \* \*

(3) The owner of a vessel, shoreside processor, stationary floating processor, or buying station is responsible for compliance and must ensure that the operator or manager of a vessel, shoreside processor, or stationary floating processor required to maintain observer coverage under paragraphs (c) or (d) of this section complies with the requirements given in paragraphs (g)(1) and (g)(2) of this section.

\* \* \* \* \*

[FR Doc. 03-25514 Filed 10-7-03; 8:45 am]

BILLING CODE 3510-22-S