Rules and Regulations

Federal Register
Vol. 82, No. 151
Tuesday, August 8, 2017

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Doc. No. AMS–SC–16–0041; SC16–929–1]

Cranberries Grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York; Order Amending Marketing Order 929

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notification of disposition.

SUMMARY: Notice is hereby given that a referendum to amend Marketing Order and Agreement No. 929 (order), which regulates the handling of cranberries grown in the states of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, did not meet the minimum voting requirements for approval. The Agricultural Marketing Agreement Act of 1937, as amended, hereinafter referred to as the ''Act'' requires, in part, that a proposed amendment to the cranberries order must be approved by two-thirds of producers voting, or by those voting in the referendum representing at least two-thirds of the volume of cranberries, as well as by processors who have frozen or canned more than 50 percent of the volume of cranberries within the production area. Processors representing only 18 percent of the volume of cranberries within the production area voted in the referendum. Because a minimum of 50 percent of the volume of cranberries processed within the production area is required in order to pass, the referendum did not pass and the proposed amendment will not be implemented. The amendment, which was proposed by the Cranberry Marketing Committee (Committee), would have authorized the Committee to receive and expend voluntary contributions from domestic sources.

DATES: This action is effective August 8, 2017.

FOR FURTHER INFORMATION CONTACT: Geronimo Quinones, Marketing Specialist, or Julie Santoboni, Rulemaking Branch Chief, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Geronimo.Quinones@ams.usda.gov* or *Julie.Santoboni@ams.usda.gov.*

ADDRESSES: Small businesses may request information on complying with this regulation by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or Email: *Richard.Lower@ams.usda.gov.*

SUPPLEMENTARY INFORMATION: Marketing Order and Agreement No. 929 (order) regulates the handling of cranberries grown in the states of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act''. Section 608c(17) of the Act and the applicable rules of practice and procedure (7 CFR part 900) authorize the use of informal rulemaking to amend the order.

A proposed rule and referendum order was issued on December 14, 2016, and published in the **Federal Register** on December 21, 2016 (81 FR 93642). This document directed that a referendum among cranberry producers and processors be conducted during the period of January 23, 2017 through February 13, 2017, to determine whether they favored the proposed amendment to the order. The proposed amendment would authorize the Cranberry Marketing Committee (Committee) to receive and expend voluntary contributions from domestic sources. To become effective, the Act requires that the amendment be approved by two-thirds of producers voting, or by those voting in the referendum representing at least two-thirds of the volume of cranberries. Processors who have processed over 50 percent of the total volume of cranberries processed during a representative period must also approve the amendment.

After tabulation of the ballots, the amendment was approved by 89 percent of the number of producers voting and by 96 percent of the volume voted in the referendum, which exceeds the required two-thirds approval of the producers voting in the referendum or two-thirds of the volume represented in the referendum. Of the processors voting, 89 percent voted in favor of the proposed amendment. However, those processors only represented 18 percent of the total 2015–16 processed production volume. Because a minimum of 50 percent of the total volume of cranberries processed must be represented by the processors voting to approve an amendment, the referendum did not pass. Consequently, the proposed amendment will not be implemented.

Authority: 7 U.S.C. 601–674.

Dated: August 2, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–16656 Filed 8–7–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 161219999–7708–02]

RIN 0648–BG54

Fisheries of the Exclusive Economic Zone Off Alaska; Integrating Electronic Monitoring Into the North Pacific Observer Program

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

ACTION: Final rule.

SUMMARY: NMFS hereby issues regulations to implement Amendment 114 to the Fishery Management Plan for

Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 104 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (collectively referred to as the FMPs). Amendments 114/104 and this final rule integrate electronic monitoring (EM) into the North Pacific Observer Program (Observer Program). This final rule establishes a process for owners or operators of vessels using nontrawl gear to request to participate in the EM selection pool and the requirements for vessel owners or operators while in the EM selection pool. This action is necessary to improve the collection of data needed for the conservation, management, and scientific understanding of managed fisheries. Amendments 114/104 are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMPs, and other applicable laws.

DATES: Effective September 7, 2017.

ADDRESSES: Electronic copies of Amendments 114/104 and the Environmental Assessment/Regulatory Impact Review prepared for this action (collectively the ''Analysis'') may be obtained from *www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* All public comment letters submitted during the comment periods may be obtained from *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0154.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Ellen Sebastian, Records Officer; in person at NMFS Alaska Region, 709 West 9th Street, Room 420A, Juneau, AK; by email to *OIRA_Submission@omb.eop.gov;* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington or Jennifer Watson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

Management of the Pacific halibut fisheries in and off Alaska is governed by an international agreement, the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), which was signed in Ottawa, Canada, on March 2, 1953, and was amended by the Protocol Amending the Convention, signed in Washington, DC, on March 29, 1979. The Convention is implemented in the United States by the Northern Pacific Halibut Act of 1982.

This final rule implements Amendments 114/104 to the FMPs. The Council submitted Amendments 114/104 for review by the Secretary of Commerce, and NMFS published the Notice of Availability of these amendments in the **Federal Register** on March 10, 2017, with comments invited through May 9, 2017 (82 FR 13302). The Secretary of Commerce approved Amendments 114/104 on June 5, 2017.

NMFS published the proposed rule to implement Amendments 114/104 on March 23, 2017 (82 FR 14853), with comments invited through May 22, 2017. The proposed rule and Amendments 114/104 to the FMPs amend the Council's fisheries research plan prepared under the authority of section 313 of the Magnuson-Stevens Act. The Secretary implemented the fisheries research plan through the North Pacific Observer Program. Its purpose is to collect data necessary for the conservation, management, and scientific understanding of the groundfish and halibut fisheries off Alaska. Magnuson-Stevens Act section 313 requires NMFS to provide a 60-day public comment period on the proposed rule and conduct a public hearing in each state represented on the Council for the purpose of receiving public comment on the proposed regulations. The states represented on the Council are Alaska, Oregon, and Washington.

Per section 313 of the Magnuson-Stevens Act, NMFS conducted public hearings to accept oral and written comments on the proposed rule in Oregon, Washington, and Alaska during the public comment period. The first public hearing was held in conjunction with the April meeting of the Council on April 6, 2017, in Anchorage, AK. The second public hearing was on April 18, 2017, in Seattle, WA. The third public hearing was held on April 19, 2017, in Newport, OR.

NMFS received seven unique relevant comment letters. NMFS received one comment that was outside the scope of this action. NMFS considered 18 unique relevant written and oral comments received by the end of the applicable comment period or at a public hearing, whether specifically directed to the FMP amendments, this proposed rule, or both, in the approval decision for Amendments 114/104 and in this final rule. NMFS summarizes and responds to each comment under the heading Response to Comments below.

A detailed review of the provisions of Amendments 114/104, the proposed regulations to implement Amendments 114/104, and the rationale for these regulations is provided in the preamble to the proposed rule (82 FR 14853, March 23, 2017) and are briefly summarized in this final rule.

Integrating Electronic Monitoring Into the North Pacific Observer Program

The Observer Program is an integral component in the management of North Pacific fisheries. In 2013, the Council and NMFS restructured the Observer Program to address longstanding concerns about statistical bias of observer-collected data and cost inequality among fishery participants with the funding and deployment structure under the previous Observer Program (77 FR 70062, November 21, 2012). The restructured Observer Program established two observer coverage categories: Partial and full. This final rule applies to the partial coverage category and will not change the full coverage category.

The partial coverage category includes fishing sectors (vessels and processors) that are not required to have an observer at all times. The partial coverage category includes catcher vessels, shoreside processors, and stationary floating processors when they are not participating in a catch share program with a transferrable bycatch limit, referred to in regulations as a prohibited species catch limit. Small catcher/processors that meet certain criteria may also be assigned to the partial coverage category.

The restructured Observer Program expanded the vessels subject to observer coverage to include groundfish vessels less than 60 ft in length overall (LOA) and halibut vessels that had not been previously required to carry an observer. Expanding observer coverage to the approximately 950 previously unobserved vessels improved NMFS' ability to estimate total catch in all Federal fisheries in the North Pacific.

The restructured Observer Program created a new system of fees to pay for the cost of implementing observer coverage in the partial coverage category. Vessels and processors included in the partial coverage category pay a fee of 1.25 percent of the ex-vessel value of fishery landings to NMFS to fund the deployment of observers in the partial coverage category. Under section 313 of the

Magnuson-Stevens Act, the fees shall not exceed 2 percent of the fishery ex-vessel value.

Even before implementing the restructured Observer Program, many vessel owners and operators new to the Observer Program were opposed to carrying an observer (77 FR 70062, November 21, 2012). Vessel owners and operators explained that there is limited space on board for an additional person or limited space in the vessel's life raft. Some vessel owners, operators, and industry representatives, particularly those active in nontrawl fisheries (*i.e.,* hook-and-line and pot fisheries), advocated for the use of EM instead of having an observer on board their vessels (77 FR 70062, November 21, 2012).

To address their concerns, the Council and NMFS have been actively engaged in developing EM as a tool to collect fishery data in the nontrawl fisheries. Over the past several years, NMFS and industry participants have undertaken cooperative research to test the applicability and reliability of EM systems. An EM system uses cameras, video storage devices, and associated sensors to record and monitor fishing activities.

This final rule establishes the process and structure for owners and operators of vessels using nontrawl gear in the partial coverage category of the Observer Program to choose to be in the EM selection pool and to use an EM system to monitor catch and bycatch. EM data will supplement observer data from other nontrawl gear vessels. Some data necessary for catch estimation, fishery management, and stock assessment that observers collect cannot be collected from EM systems. NMFS will obtain this data from observers on board other nontrawl gear vessels that are fishing in similar areas and at similar time periods.

To implement EM, NMFS will contract with one or multiple EM service providers to install and service EM equipment, and to collect and review EM data. The contract will specify hardware and field service specifications, EM data review requirements, and data and archiving requirements. ''EM service provider'' means any person, including their employees or agents, that NMFS contracts with to provide EM services, or to review, interpret, or analyze EM data.

Annual Deployment Plan and Annual Report

Each year, NMFS develops an annual deployment plan (ADP) that describes how NMFS plans to deploy observers to vessels and processors in the partial coverage category in the upcoming year. The ADP describes the scientific sampling design NMFS uses to randomly deploy observers to generate unbiased estimates of total and retained catch, and catch composition in the groundfish and halibut fisheries. The ADP provides flexibility to improve deployment to meet scientifically based estimation needs while accommodating the realities of a dynamic fiscal environment. Each year, NMFS conducts a scientific evaluation of observer data collected to understand the impact of changes in observer deployment and to identify areas where improvements are needed to collect the data necessary to conserve and manage the groundfish and halibut fisheries. NMFS adjusts the ADP in response to this evaluation.

After consultation with the Council, NMFS will make EM system and observer deployment decisions following the sampling design in the ADP. Through this scientific process for EM system deployment, NMFS will gather reliable data necessary for the conservation, management, and scientific understanding of the fisheries covered by the fisheries research plan.

In the ADP, NMFS and the Council will define the criteria for vessels to be eligible to participate in EM. The criteria for placement in the EM selection pool may include, but are not limited to, gear type, vessel length, area fished, number of fishing trips or total catch, sector, target fishery, home or landing port, and availability of EM systems. The ADP will specify the EM selection rate—the portion of trips that are sampled—for each calendar year. NMFS and the Council may change the EM selection rate from one calendar year to the next to achieve efficiency, cost savings, and data collection goals. NMFS may adjust the EM selection rate set in the ADP to respond to new information inseason. NMFS posts the ADP on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*).

NMFS will use the fees collected under section 313 of the Magnuson-Stevens Act to deploy EM systems. The amount of fee revenues NMFS collects will determine the level of costs that NMFS could incur to deploy EM systems and to deploy observers. In consultation with the Council, NMFS will allocate funds between EM and observers to achieve the most precision for the least cost. Since the fee is based on the ex-vessel value of harvested fish, which fluctuates annually, the amount of funding available for deploying observers and EM systems will also fluctuate. NMFS will need to adjust observer coverage and EM coverage levels to align anticipated annual costs with available fee revenues.

The Analysis provides a detailed discussion of the potential costs of EM system deployment (see **ADDRESSES**). NMFS, in consultation with the Council, may also modify the criteria for participating or limit the number of participants in the EM selection pool to control costs. The specific deployment decisions, including the eligibility criteria for vessels to participate in EM, could vary from year to year based on the analysis conducted through the ADP process.

An important part of the ADP analysis will be identifying and understanding gaps in observer data when a portion of the partial coverage vessels participates in the EM selection pool. Appendix 1 of the Analysis (see **ADDRESSES**) provides an example of the type of analysis that will be conducted annually to ensure that sufficient observers are deployed to maintain representative data (such as biological samples and average weights) that cannot be collected with an EM system.

Each year, NMFS also develops an annual report that evaluates how well various aspects of the program are achieving program goals, identifies areas where improvements are needed, and includes preliminary recommendations regarding the upcoming ADP. The Council and its Scientific and Statistical Committee review the annual report in June. This timing allows NMFS and the Council to consider the results of past performance in developing the ADP for the following year. NMFS posts the annual report on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*).

New Requirements for EM Participants

This final rule implements the requirements to allow an owner or operator of a vessel using nontrawl gear to choose to use an EM system in place of an observer.

Participation in the EM program and entry into the EM selection pool will be voluntary. Any owner or operator of a vessel that meets the EM selection pool criteria could annually request to be in the EM selection pool using the process established in this rule if they are willing to comply with the provisions established under this rule. While there are additional responsibilities for the owner or operator of a vessel in the EM selection pool to install and maintain the EM system, NMFS' intent is to allow the vessel to continue its normal fishing practice and allow the cameras to capture data observations that an EM

service provider then extracts onshore through video review.

The vessel owner or operator will work with the EM service provider to develop a vessel monitoring plan (VMP). The VMP will describe how fishing operations on the vessel are conducted, including how gear is set, how catch is brought on board, and where catch is retained and discarded. The VMP will also describe how the EM system and associated equipment will be configured to meet the data collection objectives and purpose of the EM program, including camera locations to cover all fishing activities, any sensors to detect fishing activities, and any special catch handling requirements to ensure the data collection objectives can be met. The VMP will also include methods to troubleshoot the EM system and instructions for ensuring the EM system is functioning properly. These required components of the VMP will be detailed in the VMP template and in the contract between NMFS and the EM service provider. Once the VMP is complete and the vessel owner or operator agrees to comply with the components of the VMP, the vessel owner or operator must sign and submit the VMP to NMFS for approval.

NMFS will provide a VMP template for guidance to the EM service provider and the vessel owner or operator on the elements NMFS will require in the final approved VMP. NMFS will make this VMP template available on the NMFS Alaska Region Web site at *https://alaskafisheries.noaa.gov/* to allow vessel owners and operators an opportunity to review the VMP requirements and components for the upcoming year.

Once in the EM selection pool and after the vessel has an approved VMP, the vessel operator will register fishing trips in the Observer Declare and Deploy System (ODDS). ODDS will notify the vessel operator when the vessel is selected to use the EM system and guide the vessel operator to the requirements for using an EM system.

Vessel owners or operators will be required to maintain the EM system in working order, including ensuring the EM system is powered and functioning throughout the trip, keeping cameras clean and unobstructed, and ensuring the system is not tampered with. The vessel owner or operator will also need to ensure that power is maintained to the EM system at all times when the vessel is underway or the engine is operating. The vessel operator will also be required to conduct a system function test before each trip to ensure the EM system is working properly before departing.

At the end of the fishing trip selected for EM coverage, the vessel operator will close the trip in ODDS and submit the video data storage device to NMFS.

Previously, a vessel was prohibited from retaining halibut or sablefish in excess of the total amount of unharvested individual fishing quota (IFQ) or community development quota (CDQ) applicable to that vessel for the IFQ regulatory area in which the vessel was operating and that was currently held by all IFQ or CDQ permit holders aboard the vessel, unless that vessel had an observer aboard and maintained the applicable daily logbook. This final rule expands this exception to the prohibition to include when a vessel is in the EM selection pool and complies with the applicable requirements. This final rule provides that the owner or operator of a vessel in the EM selection pool, who complies with the regulations and maintains the applicable daily logbook, can retain halibut or sablefish in excess of the total amount of unharvested IFQ or CDQ applicable to that vessel for the IFQ regulatory area in which the vessel is operating and that is currently held by all IFQ or CDQ permit holders aboard the vessel. If a vessel is not part of the EM selection pool and is not selected for observer coverage for that fishing trip, the vessel owner or operator will continue to be prohibited from retaining halibut or sablefish in excess of the total amount of unharvested IFQ or CDQ applicable to that vessel for the IFQ regulatory area in which the vessel is operating.

If a vessel owner or operator in the EM selection pool intends to use this expanded exception to fish in multiple IFQ/CDQ areas, the vessel owner or operator will use ODDS to identify when he or she intends to fish in multiple areas and to commit to using a functioning EM system on the whole trip, even if the vessel was not selected for EM coverage. The vessel owner or operator will be required to meet all the same responsibilities as if the vessel's fishing trip had been selected for EM coverage in ODDS. These include having a copy of a valid NMFS-approved VMP on board before the vessel starts a fishing trip, maintaining the EM system in working order, and submitting the required information at the end of the trip. Because the EM system in this instance will be used as a compliance monitoring tool, some additional regulatory requirements will also apply to the vessel owner and operator (see § 679.51(f)(6)).

Changes From Proposed to Final Rule

NMFS made the following changes to this final rule in response to comments received on the proposed rule. All of the specific regulation changes, and the reasons for making these changes, are explained under Response to Comments, below. NMFS revised:

- The definition of a fishing trip at § 679.2, paragraph (3)(iv), for a vessel in the EM selection pool of the partial coverage category to include delivery to a tender vessel;
- § 679.7(j)(2) and § 679.51(f)(5)(iii) to clarify that these paragraphs only apply to vessels when directed fishing in a fishery subject to EM coverage;
- § 679.7(j)(9) to clarify that it applies only to vessels when directed fishing in a fishery subject to EM coverage, and it applies unless the vessel operator is directed to make changes to the EM system by NMFS, the EM service provider, or as directed in the troubleshooting guide of the VMP;
- § 679.51(f)(2)(i) to remove the 72-hour requirement to register each fishing trip in ODDS;
- § 679.51(f)(3)(ii) to remove the requirement for fishing trips to be closed within 24 hours of the end of a trip and add the requirement that, at the end of a fishing trip selected for EM coverage, the vessel operator must use ODDS to close the fishing trip following the instructions in the VMP; and
- § 679.51(f)(5)(vii) to add that, if the fishing trip ends in a remote port with limited postal service or at a tender vessel, the vessel operator must ensure the video data storage device and associated documentation is postmarked as soon as possible but no later than two weeks after the end of the fishing trip.

Response to Comments

NMFS received 18 unique substantive comments, which are summarized and responded to below. The commenters consisted of individuals, representatives of vessels using hook-and-line and pot gear, and the Council.

Comment 1: We support integrating electronic monitoring into the Observer Program. This action provides flexibility to the Observer Program particularly for the small boats that for a variety of reasons have difficulty in carrying an observer.

Response: NMFS acknowledges the comment.

Comment 2: We appreciate the provisions of the proposed rule to accommodate a vessel with an existing EM system. A vessel that already has an EM system from another NMFS EM program should not have the added burden of installing a new, substantially similar system for use in Alaska, nor should the Observer Program purchase a new EM system for a vessel if its

existing EM system meets management needs.

Response: NMFS acknowledges the comment.

Comment 3: The proposed rule preamble states that a vessel can use an EM system it already has on board or it could modify that EM system as necessary to meet the specifications in the VMP. To ensure that management needs are met, clarify that the EM system must also meet the specifications for data quality and data output required in the EM service provider contract.

Response: NMFS agrees that all EM systems must meet the required specifications for data quality and data output in the EM service provider contract. NMFS will provide these EM specifications to fishery participants on our Web site (*http://alaskafisheries.noaa.gov*). The EM specifications will contain the same specifications for an EM system as the EM service provider contract.

Comment 4: Clarify (1) how the development and vetting process outlined in the Analysis will be integrated into the contracting process to ensure that any EM equipment installed on a vessel has been properly tested and vetted, (2) how existing EM systems that have not undergone this vetting process will be vetted and integrated into the EM program, and (3) how future research and development work on EM systems will be integrated into the program.

The Analysis identified a clear process for EM technology development, maturation, and vetting prior to being deployed in the operational EM program. This process is necessary to ensure that the EM hardware and software meet reliability standards, are compatible with normal operating procedures on board fishing vessels, and provide data of sufficient reliability, quality, and formats capable of meeting management needs.

From an industry perspective, it is critical that any EM system be thoroughly vetted prior to being installed on a vessel in the EM program. During pre-implementation, several volunteer vessels experienced costly damage to hydraulic systems, VHF radio interference, and significant delays due to EM systems under development. The proposed rule preamble indicates the EM service provider, not the vessel owner, determines which EM hardware to install on a vessel. However, the vessel operator bears the cost of malfunctioning EM systems because a malfunction may require trips to be delayed for up to 72 hours, a malfunction may cause damage to the vessel systems, or a vessel operator may be required to terminate a fishing trip if that vessel is fishing IFQ in multiple areas. This proposed EM service provider based approach is only workable if the EM systems have undergone a thorough vetting process.

Response: The EM service provider will install an EM system that meets the EM specifications that NMFS includes in the contract. NMFS will follow the process for EM technology development, maturation, and vetting described in Section 3.5 of the Analysis for substantive changes in EM technology. Once the specifications and requirements for new technology are developed and vetted, these changes will be included in the EM service provider contract and in the EM specifications provided to EM participants.

Comment 5: Clearly articulate how NMFS envisions funding future research and development work for EM systems. The cost of new EM system research and development should not be paid for through the use of fees. The allocation of fees between EM deployment and observer deployment should be focused on maximizing data quality and meeting management objectives.

Response: As explained in Section 3.5 of the Analysis, NMFS will not use fees to fund EM system development. The Council did not explicitly include EM development as a component of its research plan when it recommended this action to integrate EM into the Observer Program.

Future EM development may be funded with NMFS funds or through grants, such as from the National Fish and Wildlife Foundation, similar to how the EM system development under pre-implementation has been funded since 2014.

Comment 6: Consider allowing a vessel that enters a fishery in the partial coverage category for the first time mid-year to join the EM selection pool if it meets the criteria and does not have sufficient raft space or bunk space on board for an observer.

Response: NMFS will place a vessel entering a nontrawl fishery mid-year in the observer selection pool for the remainder of that year. A vessel cannot enter the EM selection pool mid-year because prior to the fishing year NMFS needs to have an accurate count of the number of new vessels in the EM selection pool to determine the budget and number of vessels that will be equipped with EM systems. It is expensive to equip a vessel with an EM system for the first time and that money would not be available mid-year because it would have already been allocated to EM deployment for that year. The vessel owner or operator will have the opportunity to volunteer for the EM selection pool in the following year.

Comment 7: Electronic monitoring must be accompanied by a plan to detect fraud and other abuse of the EM system. Misuse of the EM system should carry significant penalties designed to proactively discourage fraud and misuse. The EM program should (1) be designed to prevent fraud or tampering with the EM system; (2) carefully consider vessel logistics, including consideration of the placement of cameras, lighting, and camera quality; (3) ensure that the EM system can detect the same violations that an observer may uncover; (4) provide sufficient time and training for analysts to review EM data; (5) ensure adequate protocols to back up EM data in the event of technical failures; (6) ensure protection of the integrity of fishery data; and (7) potential costs savings should not be primary consideration when weighing decisions to use an EM system or an observer.

Response: The Analysis provides detailed discussions of the issues raised in this comment. This final rule includes regulations to prevent fraud or tampering with the EM systems, as described in response to comment 9.

NMFS, the Council, and the fishing industry spent four years on the careful implementation of EM, called ''pre-implementation.'' This work is discussed in detail in the Analysis, is reflected in this final rule, and will be reflected in the EM service provider contract and in the VMP prepared for each vessel.

In 2014, the Council appointed the EM Workgroup to develop an EM program to integrate into the Observer Program. The EM Workgroup provides a forum for stakeholders, including the commercial fishery participants, NMFS, Alaska Department of Fish and Game, and EM service providers to cooperatively and collaboratively design, test, and develop EM systems, and to identify key decision points related to operationalizing and integrating EM systems into the Observer Program in a strategic manner.

The EM Workgroup developed a cooperative research program to inform evaluation of multiple EM program design options and consider various EM integration approaches to achieve management needs. The cooperative research includes analytical and fieldwork components to address the following four elements: deployment of EM systems for operational testing, research and development of EM

technologies, development of infrastructure to support EM implementation, and analyses to support EM implementation. This approach enabled the EM Workgroup to identify and resolve implementation issues associated with integrating EM into the Observer Program. Data and analysis produced on costs, data quality, risks, operational procedures, and vessel compatibility informed decisions on implementation phases, future investments in technology, and the tools that will best meet NMFS, Council, and stakeholder management objectives. The cooperative research program was implemented through research projects and pre-implementation plans in 2015, 2016, and 2017. The cooperative research to date has shown that data from EM systems can effectively identify almost all of the species or species groupings required for management, that the systems are sufficiently reliable, and that image quality is generally high. Additional information on the work of the EM Workgroup is provided in the Analysis (see **ADDRESSES**).

An important part of pre-implementation was determining the types of compliance actions that can be detected by the EM system, including compliance with seabird avoidance regulations. Also during pre-implementation, NMFS worked with the Pacific States Marine Fisheries Commission on the video review and extracting the necessary data from the video. All the work done during pre-implementation and to integrate EM into the Observer Program protects the integrity of fishery data.

Additionally, the ADP analysis will identify and evaluate gaps in observer data when a portion of the partial coverage vessels participates in the EM selection pool. Appendix 1 of the Analysis (see **ADDRESSES**) provides an example of the type of analysis that will be conducted annually to ensure that sufficient observers are deployed to maintain representative data (such as biological samples and average weights) that cannot be collected with an EM system.

Comment 8: The proposed rule at § 679.2, includes the definition of a ''fishing trip.'' Paragraph (3)(iv) of that definition defines a fishing trip for a vessel in the EM selection pool as beginning and ending in a shore-based port. This means that if a vessel participates in the EM selection pool, a ''fishing trip'' could include multiple deliveries to a tender vessel. The proposed definition of a fishing trip for purposes of the EM selection pool appears to mirror the definition of a fishing trip for vessels in the observer pool. However, the same conditions that apply to observers do not apply to EM systems. NMFS has indicated that transferring observers to a tender vessel to begin or end a fishing trip was a potential safety concern.

Change the definition of a ''fishing trip'' for vessels in the EM selection pool so that a fishing trip begins when the vessel leaves a port or tender vessel with an empty hold and ends when the vessel returns to a port or tender vessel and all fish are delivered. When the vessel is delivering to a tender, the vessel operator can provide the video storage device to crew on the tender that can then submit the storage device. This change would result in more timely submission of EM data. The safety concerns of transferring a person do not apply to video storage devices.

Response: Based on this comment, NMFS revised the definition of a fishing trip for a vessel in the EM selection pool of the partial coverage category. NMFS revised the definition of ''fishing trip'' at § 679.2, paragraph (3)(iv) to state that fishing trip means the period of time that begins when the vessel leaves a shore-based port or tender vessel with an empty hold until the vessel returns to a shore-based port or tender vessel and all fish are delivered. A vessel operator delivering to a tender vessel will still need to close the trip in ODDS and will be responsible for ensuring the video storage device is submitted to NMFS, even when a tender vessel operator is mailing the device on the vessel's behalf.

Vessels participating in the pre-implementation program that delivered to tender vessels were required to submit their video storage devices when they returned to a shore-based port. Most of these vessels fished for the duration of the season without returning to a shore-based port. The season was closed before these vessels submitted their video storage devices. This decreased the timeliness and value of the data collected for inseason management. Additionally, the EM video reviewers were challenged with long hours of review and were unable to provide vessels or the EM service providers with timely feedback to modify the EM system to improve data quality.

Changing the definition of a fishing trip to allow vessels in the EM selection pool to begin or end a trip at a tender vessel could increase the timeliness of data collection data for in-season management, provide the opportunity for timely feedback to vessels to reconfigure the EM system to improve data quality, and potentially decrease costs by reducing the length of the trip to be reviewed.

As the commenter states, there are no safety concerns with transferring a video storage device between a vessel and a tender vessel. There is the potential for a video storage device to be lost during a transfer, but transferring mail, groceries, and other goods to and from a tender is a common practice, and the potential to lose a video storage device is low.

Comment 9: The proposed rule at § 679.7(j)(9) states that a person may not tamper with, bias, disconnect, damage, destroy, alter, or in any other way distort, render useless, inoperative, ineffective, or inaccurate any component of the EM system, associated equipment, or data recorded by the EM system. Add a provision in the regulations or the VMP to allow a vessel owner or operator to reconfigure the vessel's deck (for example, for participation in salmon fisheries) or make vessel repairs without triggering a violation.

Response: NMFS agrees that a vessel owner or operator may need to disconnect or change the EM system configuration during the fishing season as the commenter states. However, these changes will be limited to when a vessel operator is reconfiguring the vessel to enter a fishery that is not subject to EM coverage, such as salmon fisheries; or when directed to make changes by the EM service provider, NMFS, or as directed in the troubleshooting guide of the VMP.

Based on this comment, NMFS revised § 679.7(j)(9) to state that a vessel operator may not tamper with, bias, disconnect, damage, destroy, alter, or in any other way distort, render useless, inoperative, ineffective, or inaccurate any component of the EM system, associated equipment, or data recorded by the EM system when the vessel is directed fishing in a fishery subject to EM coverage, unless the vessel operator is directed to make changes to the EM system by NMFS, the EM service provider, or as directed in the troubleshooting guide of the VMP.

Comment 10: The proposed rule at § 679.7(j)(2) and § 679.51(f)(5)(iii) states that to use an EM system, the vessel owner or operator must maintain a copy of a NMFS-approved VMP on board the vessel at all times when the vessel is fishing. Clarify that the VMP is only required on board when the vessel is fishing in fisheries that are subject to observer regulations, and not, for example, when fishing in State of Alaska fisheries. A vessel owner or operator may reconfigure their vessel, for operations in salmon fisheries or

other fisheries that do not require the use of an EM system, in which case it could be out of compliance with the VMP.

Response: The intent of requiring a VMP aboard the vessel is to ensure the vessel owner and operator understand the requirements and procedures to follow when an EM system is required aboard the vessel. In cases where an EM system is not required, such as when the vessel is not directed fishing for halibut with hook-and-line gear or directed fishing in a federally managed or parallel groundfish fishery, requiring a VMP aboard the vessel is not needed.

Based on this comment, NMFS revised § 679.7(j)(2) to prohibit vessels from fishing without an approved VMP when directed fishing in a fishery subject to EM coverage. NMFS also revised § 679.51(f)(5)(iii) to clarify that a VMP must be aboard while the vessel is directed fishing in a fishery subject to EM coverage.

Comment 11: The proposed rule at § 679.51(f)(1)(x) establishes a November 1 deadline each year for vessel owners or operators to notify NMFS of their intent to leave the EM pool and be returned to the observer selection pool. Major considerations in the decision to stay or leave the EM pool are the selection rate in the ADP and the catch handling requirements that will be contained in the VMP. The draft ADP is released early October each year providing sufficient time for a vessel operator to review proposed changes to the selection rate and make a decision by the November 1 deadline.

NMFS did not identify a similar timeline for changes to the VMP template and catch handling procedures. In order for a vessel operator to make an informed decision about remaining in the EM pool, NMFS must make the major catch handling procedures for EM vessels public with sufficient time for vessel operators to evaluate them prior to the November 1 opt-out date. NMFS should not make major changes to the VMP template after November 1 because the vessel operator will no longer have the opportunity to evaluate them and opt-out if needed. It is NMFS' responsibility to finalize major provisions of the VMP template with sufficient advance notice for vessel operators to make an informed decision by the November 1 deadline.

Response: NMFS intends to provide the public with a final VMP template in early October of each year when the draft ADP for the upcoming year is available. Vessel operators will be able to review both documents to inform their decision on whether to participate in the EM selection pool for the upcoming fishing year. NMFS will also inform the public of the agency's recommendations for potential changes to the VMP template for the upcoming year in the annual report presented to the Council each June.

NMFS agrees that it is important to allow vessel owners and EM service providers the opportunity to review the provisions required in the VMP for the upcoming year. As stated by the commenter, vessel owners may wish to review the requirements of the VMP template prior to determining if they will participate in the EM selection pool. EM service providers will want to review the requirements of the VMP template and the draft ADP to plan their equipment and installation services for the upcoming year.

Comment 12: The proposed rule at § 679.51(f)(2)(i) states that the operator of a vessel must register their anticipated trip in ODDS a minimum of 72 hours prior to embarking on the fishing trip. The proposed regulations separately specify the conditions that must be met for EM vessels to leave on an EM selected trip, and as long as these are clear, the additional 72-hour notice requirement seems unnecessary and onerous.

Response: NMFS revised § 679.51(f)(2)(i) to remove the requirement to register a fishing trip a minimum of 72 hours prior to embarking on each fishing trip. A vessel will not be required to wait 72 hours to embark on a fishing trip after registering the fishing trip in ODDS. For EM, the vessel will be unable to log a trip in ODDS unless the vessel has allowed the EM service provider to install the EM system and the vessel owner or operator has reviewed, signed, and received the NMFS-approved VMP. The EM system consists of cameras, recording devices, sensors, and associated wiring. All these components must be installed and functioning prior to disembarking on a fishing trip. The vessel operator is required to complete a system function test prior to departing on a fishing trip to ensure the system is functioning properly. If a high priority malfunction is detected, the vessel operator will be required to remain in port for up to 72 hours to allow an EM service provider time to conduct repairs.

Comment 13: The proposed rule at § 679.51(f)(3)(ii) requires a vessel operator to close the EM selected trip in ODDS within 24 hours of the end of the fishing trip. This is a new requirement that was not analyzed in the Analysis and has not been field tested to determine if it is feasible. Discussions with NMFS staff indicate that there may be future video review sampling methods that need a rapid trip closure provision to work best, but these video review methods are speculative and have not been recommended by the EM workgroup, the Council, or considered in the Analysis. If a future video review methodology requires rapid trip closure in ODDS, that requirement could be included in the VMP.

The proposed 24-hour requirement would also create different standards for trip closure on EM vessels vs. observed vessels. If the need for timely trip closing in ODDS applies to both observed and EM vessels, NMFS should address the issue and find a solution for both observed vessels and EM vessels.

Response: Based on this comment, NMFS removed the requirement for fishing trips to be closed within 24 hours of the end of a trip. Instead, as suggested by the commenter, NMFS revised § 679.51(f)(3)(ii) to state that at the end of a fishing trip selected for EM coverage, the vessel operator must use ODDS to close the fishing trip following the instructions in the VMP. For the first year of EM, NMFS anticipates that the VMP would specify that vessel operators are required to close their trips prior to logging another trip or within 2 weeks of the end of the trip, whichever is sooner. This modification to the regulation retains the requirement to close the trip but allows flexibility in the time limit to be determined in the VMP.

There is currently no requirement for an operator of a vessel carrying an observer to close the fishing trip in ODDS. However, there are inherent differences between the EM pool and the observer pool, and it is reasonable that there are regulatory requirements that are specific to each monitoring approach.

The requirement to close a trip in ODDS is unique to EM and provides the ability to instruct the vessel to send the video storage device after the trip to ensure the timeliness of EM data for inseason management. Also, requiring a vessel operator to close the trip will give NMFS a mechanism to avoid monitoring bias by allowing NMFS to require 100 percent recording of trips and use a post-trip selection process through ODDS to randomly select trips for video review. If NMFS, in consultation with the Council, modifies the timeframe for closing a trip when using an EM system, NMFS would make the change through the ADP process and in the annual VMP template.

The overall burden on a vessel operator to close a trip when using an EM system would be minimal. Section 5.5 of the Analysis describes the demographics of fixed-gear vessels and

found that over 70 percent of the vessels operating out of the 10 largest ports take less than 6 fishing trips per year, and the average number of fishing trips per year is 5.8. Using this information, NMFS calculated the burden of requiring a vessel to log into ODDS to close a fishing trip under the Paperwork Reduction Act (see the Classification heading in this preamble). NMFS estimated that it will take 5 minutes for a vessel to close the trip, thus the average burden for a vessel to close all fishing trips in ODDS will be less than 30 minutes per year.

Comment 14: Remove the requirement in the proposed rule at § 679.51(f)(4)(i) which states that a vessel owner or operator is required to sign and submit the VMP to NMFS each year. We anticipate that after a short initial period, a vessel's VMP will remain largely unchanged from year to year once workable procedures and camera views have been established. The requirement for an annual signature for an unchanging document for 100 to 200 vessels each year has the potential to add unnecessary costs and administrative burden to NMFS, vessel operators, and EM service providers. If NMFS modifies the VMP template, then and only then should the vessel owner or operator be required to sign and submit a new VMP.

A more streamlined approach would be to have the EM service provider submit to NMFS an electronic copy of all current VMPs by November 15 each year. NMFS could then review and approve them prior to the start of the season on January 1. The fisherman could then review and digitally sign an electronic copy when logging the first trip into ODDS to certify that he or she has read the VMP and it is consistent with the VMP carried on the vessel per the proposed rule at § 679.51(f)(5)(iii) and § 679.7(j)(2). This provision would apply only to renewing an existing VMP as a new vessel would go through the VMP process upon initial install.

Response: NMFS disagrees. Annual submission of a VMP is essential to ensure vessel owners or operators understand and comply with the requirements for the upcoming year. The VMP template may be adjusted annually, and it will be important for vessels to understand and agree to these changes, even if they are only minor modifications. If the VMP template modifications are minor, the vessel owner or operator may electronically submit a signed copy of the VMP as early as the commenter suggests. Section 679.51(f)(4) allows the vessel owner or operator to work with the EM service provider to develop the VMP once the vessel is in the EM selection pool.

Digital signatures are currently accepted by NMFS. NMFS currently does not have the ability to create digital signatures on its Web site. However, digital signatures created from an outside Web site or other program, like Adobe, can be accepted. NMFS envisions that the EM service provider could email the vessel owner or operator an electronic copy of the vessel's VMP that could be digitally signed. The vessel owner or operator could email this digitally signed VMP to NMFS for approval. Once NMFS approves the VMP, the approval will be sent via email to the vessel owner or operator. This will reduce the need for an EM service provider to physically visit each boat to provide copies of VMPs and obtain signatures.

NMFS agrees that the process should be streamlined in the future to increase efficiency and is actively pursuing electronic solutions to streamline the process that would meet the needs of the vessel operator and minimize the administrative burden for NMFS and the EM service provider, but these solutions may not be available in the first year of the program. Once these electronic solutions have been developed, changing the method for submitting a VMP would not require a regulatory change. NMFS would notify the public as part of the ADP process and provide updated instructions in the annual VMP template.

Comment 15: The proposed rule at § 679.51(f)(5)(vii) requires the video data storage device from an EM selected trip to be postmarked no later than 2 business days after the end of the fishing trip. We understand the principle that data needs to get to NMFS as quickly as possible for in-season management, but we are concerned about the burden it would place on vessels operating in areas with very limited post office hours, no resident postmaster, or delivering to tender vessels. For example, some communities only have postal service a few days per week when the mail plane flies. Tender vessels may stay on the grounds for two to three days buying fish before returning to port. Also, the proposed rule covers a broad range of fisheries and fixed-gear vessels. Some new applications of EM may not require a 2-day data submission, and the inclusion of this as a regulation will drive up costs unnecessarily.

The video data storage device submission requirement is better addressed as a provision of the VMP rather than in regulation. The VMP can consider the specifics of a vessel's delivery pattern, local infrastructure, and the need for data timeliness to develop specific procedures for each vessel that meets management needs.

Response: NMFS understands that there may delays in postmarking a video storage device when a vessel ends a fishing trip in a remote port, such as limited post office hours, the availability of a postmaster, or when a trip ends at a tender vessel. However, timely data is essential and extensive delays could result in delayed fishery closures and openings. Delays in submitting video storage devices could also result in lost or overwritten data, if the vessel does not send in a video storage device prior to embarking on another fishing trip selected for EM coverage and forgets to replace the video storage device.

Moving this requirement to the VMP would not be appropriate because requiring a vessel owner or operator to record each location the vessel may deliver to during the year would be onerous. Also, tracking and verifying the location of delivery and whether the time frame for submission was appropriate for that location, would be a large administrative burden to NMFS.

Therefore, NMFS will continue to require submission of video storage devices no later than 2 business days after the end of a fishing trip, but will provide flexibility for circumstances outside the vessel owner's or operator's control that do not allow for postmarking the video storage devices within the time frame. NMFS revised § 679.51(f)(5)(vii) to add that, if the fishing trip ends in a remote port with limited postal service or at a tender vessel, the vessel operator must ensure the video data storage device and associated documentation is postmarked as soon as possible but no later than two weeks after the end of the fishing trip.

Comment 16: The proposed rule at § 679.51(f)(6)(iv) states that when a vessel is fishing IFQ in multiple areas, the vessel must cease fishing and contact the NOAA Office of Law Enforcement (OLE) immediately if an EM system malfunction occurs during that fishing trip.

Clarify in the regulations or the VMP that (1) if the vessel operator is unable to contact OLE (for example, because they are not in range of communication), the vessel operator is not required to abandon gear before proceeding to a location from which they can contact OLE; and (2) vessel operators are prohibited from deploying any additional fishing gear until they contact OLE, but would be allowed to retrieve deployed gear before proceeding to a location from which

they can contact OLE for further instructions. Include information on the ways to contact OLE in the VMP template.

Response: NMFS requires the vessel operator to cease fishing immediately and to contact OLE when an EM system malfunction occurs that does not allow recording of essential information about where the vessel was fishing and what amount of halibut or sablefish catch was coming aboard in this final rule at § 679.51(f)(6)(iv). This requirement is necessary because information about the location of fishing and the amount caught in each area is paramount to allowing vessels to fish in multiple areas using the exception at § 679.7(f)(4). However, these regulations do not require that a vessel abandon its gear to contact OLE.

The VMP template will provide instructions about how and when to contact OLE as well as the procedures to follow if the vessel is unable to contact OLE if an EM system malfunction occurs that does not allow the recording of essential information about catch and fishing location. The VMP template will also provide guidance on what type of malfunctions will require the vessel operator to cease fishing and contact OLE. For example, failure of a camera that showed catch coming aboard will require a vessel operator to cease fishing and contact OLE. Conversely, failure of a camera that showed the streamer line being set will not require the vessel operator to cease fishing and contact OLE.

The VMP template will also include methods to troubleshoot the EM system while at sea that may repair the problem and allow the vessel to continue fishing without the need to contact OLE. If an EM system malfunction occurs that does not allow the recording of catch and fishing location information and the vessel operator has used the troubleshooting guide in the VMP but the problem persists, the vessel operator must cease fishing and contact OLE immediately.

There are several methods a vessel operator could use to contact OLE while at sea. The vessel operator could use a cell phone or satellite phone. The vessel operator could also contact the U.S. Coast Guard via VHF or single side band radio to request the Coast Guard to contact OLE. The vessel operator should make every effort available to contact OLE, but if the vessel operator is unable to reach OLE while at sea, NMFS will not require a vessel operator to abandon fishing gear to return to port to contact OLE. The vessel operator must not set additional gear once an EM system malfunction is detected and must return to port immediately if unable to contact OLE at sea.

Comment 17: Please do not change any regulations that have been written to protect our fragile environment.

Response: This final rule will not change any regulations that protect the environment. NMFS analyzed the environmental impacts of this action to integrate EM into the Observer Program in the Analysis (see **ADDRESSES**).

Comment 18: Weather is a major factor in a fishing vessel being able fish. Weather can change with very little notice, creating safety issues for the observer if NMFS is requiring a human observer on every vessel and every fishing trip.

Response: NMFS does not require an observer on every vessel and every fishing trip in the partial coverage category. NMFS uses a random selection process to select which fishing trips will carry an observer. Per section 313(b)(1)(D) of the Magnuson-Stevens Act, the Council and NMFS have taken into consideration the operating requirements of the fisheries and the safety of observers and fishermen in developing this action to integrate EM into the Observer Program.

Classification

The Administrator, Alaska Region, NMFS, has determined that Amendments 114/104 to the FMPs and this rule are necessary for the conservation and management of the groundfish fishery and that they are consistent with the Magnuson-Stevens Act and other applicable law.

This rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a final regulatory flexibility analysis, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The preambles to the proposed rule and this final rule serve as the small entity compliance guide. This action does not require any additional compliance from small entities that is not described in the preambles. Copies of the proposed rule and this final rule are available from the NMFS Web site at *http://alaskafisheries.noaa.gov.*

Final Regulatory Flexibility Analysis (FRFA)

This FRFA incorporates the initial regulatory flexibility analysis (IRFA), a summary of the significant issues raised by the public comments, NMFS' responses to those comments, and a summary of the analyses completed to support this action.

Section 604 of the Regulatory Flexibility Act (RFA) requires that, when an agency promulgates a final rule under section 553 of Title 5 of the U.S. Code, after being required by that section or any other law to publish a general notice of proposed rulemaking, the agency shall prepare a FRFA. Section 604 describes the required contents of a FRFA: (1) A statement of the need for, and objectives of, the rule; (2) a statement of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a statement of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments; (3) the response of the agency to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA) in response to the proposed rule, and a detailed statement of any change made to the proposed rule in the final rule as a result of the comments; (4) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available; (5) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and (6) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

Descriptions of this action, its purpose, and the legal basis are contained in the preamble to the proposed rule (82 FR 14853, March 23, 2017) and are not repeated here.

Public and Chief Counsel for Advocacy Comments on the Proposed Rule

NMFS published the proposed rule on March 23, 2017 (82 FR 14853). An IRFA was prepared and summarized in the ''Classification'' section of the preamble to the proposed rule. The comment period closed on May 22, 2017. NMFS received 7 letters of public comment on the proposed rule and Amendments 114/1104. The Chief Counsel for Advocacy of the SBA did not file any comments on the proposed rule.

Summary of Significant Issues Raised During Public Comment

NMFS received no comments on the IRFA.

Number and Description of Small Entities Regulated by Action

This action directly regulates those entities that harvest groundfish and halibut using nontrawl gear and are subject to observer coverage in the partial coverage category of the Observer Program. These directly regulated entities include vessels that fish with nontrawl gear in State waters only if those vessels have a Federal Fisheries Permit (FFP), which makes them subject to Federal observer regulations. Since participation in the EM selection pool is voluntary, only those vessels that choose to participate in the EM selection pool will be directly regulated by this rule.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

The estimated number of vessels that use nontrawl gear in the partial coverage category that are small entities might be overstated. Conversely, the number of non-small entities might be understated. The RFA requires a consideration of affiliations between entities for the purpose of assessing whether an entity is classified as small. The estimates below do not take into account all affiliations between entities. There is not a strict one-to-one correlation between vessels and entities; many persons and firms are known to have ownership interests in more than one vessel, and many of these vessels with different ownership are otherwise affiliated with each other. Vessels that have types of affiliation that are not tracked in available data (*i.e.,* ownership of multiple vessels or affiliation with processors) may be misclassified as a small entity.

In 2015, the most recent data available at the time of the analysis, 981 vessels (*i.e.,* harvesting entities) participated in the groundfish and halibut fisheries directly regulated by this action. Those 981 catcher vessels include 255 vessels that only operated in State waters and possessed an FFP; all of those 255 vessels are classified as small entities. According to data provided by the Alaska Fisheries Information Network, the analysts estimate that 950 of the 981 harvesting entities are classified as small entities. All 31 vessels that are classified as non-small entities were members of harvesting cooperatives whose combined gross receipts were greater than $11.0 million in 2015, the most recent year for which complete revenue data is available. Each of the 31 vessels classified as non-small entities is affiliated with a crab cooperative, six are affiliated with a Central Gulf of Alaska Rockfish Program cooperative, two are affiliated with an American Fisheries Act cooperative, and one is affiliated through ownership with the freezer longline cooperative (some entities are affiliated with more than one cooperative across different North Pacific fisheries).

Table 1 provides a count of small and non-small entities (*i.e.,* vessels). The first row shows all vessels with FFPs that fished with nontrawl gear in 2015. The second row is limited to vessels that fished in Federal waters. Rows three through six show the number of entities by gear type and area fished. Those rows should not be summed vertically to avoid double counting vessels that fished with both gear types or in both management areas. No vessel less than 40 ft LOA is classified as a non-small entity, and only one vessel less than 57.5 ft LOA is classified as a non-small entity.

TABLE 1—COUNT OF SMALL AND NON-SMALL ENTITIES IN THE UNIVERSE OF DIRECTLY REGULATED VESSELS IN 2015

	Small entity	Non-small entity	Total
Nontrawl catcher vessels (Federal and State waters)	950	31	981
Nontrawl catcher vessels (Federal waters only)	695	31	726
Hook-and-line catcher vessels in Federal waters in the Gulf of Alaska	584	7	591
Hook-and-line catcher vessels in Federal waters in the Bering Sea/Aleutian Islands	114	7	121
Pot catcher vessels in Federal waters in the Gulf of Alaska	86	4	90
Pot catcher vessels in Federal waters in the Bering Sea/Aleutian Islands	22	21	43

Recordkeeping, Reporting, and Other Compliance Requirements

This final rule adds additional reporting, recordkeeping, and other compliance requirements for vessels that request to participate in the EM selection pool and vessels that use the exemption in § 679.7(f)(4) to harvest IFQ or CDQ halibut and sablefish. No small entity is subject to reporting requirements that are in addition to or different from the requirements that apply to all directly regulated entities.

No unique professional skills are needed for the vessel owners or operators to comply with the reporting and recordkeeping requirements associated with this final rule. Vessel owners or operators will request to be placed in the EM selection pool using ODDS, a tool already used by directly regulated small entities. If they choose to participate in the EM selection pool, vessel owners and operators will be required to assist with the installation of the EM system and conduct basic maintenance to ensure the EM equipment remains functional. Vessel operators would meet with the EM service provider to develop a VMP for their vessel, in which the operator's responsibilities will be clearly defined. These responsibilities can generally be fulfilled by a crewmember of the vessel who already is fulfilling similar functions during fishing activity. The vessel owner or operator will be required to submit the VMP to NMFS for approval.

Vessel owners or operators in the EM selection pool that choose to use the

exemption in § 679.7(f)(4) will need to notify NMFS using ODDS when they intend to fish in multiple areas and commit to using a functioning EM system on the whole trip, even if the vessel was not selected for EM coverage. The vessel owner or operator will be required to meet the same responsibilities as if the vessel had been selected for EM system coverage for that trip in ODDS. Because the EM system in this instance will be used as a compliance monitoring tool, some additional requirements will apply. If an EM system malfunction occurs during a fishing trip in a manner that does not allow essential information about where the vessel was fishing and what amount of IFQ or CDQ catch was coming aboard to be recorded, the vessel operator will be required to cease fishing immediately and to contact NOAA OLE. Information about the locations fished and the amount caught in each area is paramount to allowing vessels to fish in multiple areas using this exception; therefore, such a requirement is necessary.

Description of Significant Alternatives Considered to the Final Action That Minimize Adverse Impacts on Small Entities

No significant alternatives were identified that would accomplish the stated objectives, are consistent with applicable statutes, and that would minimize any significant economic impact of this rule on small entities.

Collection-of-Information Requirements

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by the Office of Management and Budget (OMB) under OMB control number 0648–0318 (North Pacific Observer Program).

The public reporting burden for these collection-of-information requirements includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This rule will allow vessel owners or operators to use the existing ODDS to submit a request to be placed in the EM selection pool. In addition, this rule will allow vessel owners or operators in the EM selection pool to submit a request to be removed from the EM selection pool. Public reporting burden per response for these new options in ODDS is estimated to average 5 minutes. If NMFS denies a request to place a vessel in the EM selection pool, the vessel owner may submit an administrative appeal to NMFS. Public reporting burden per response for an administrative appeal is estimated to average 4 hours.

This rule will require all vessel owners or operators in the EM selection pool to register a fishing trip in ODDS. Public reporting burden per response to register a fishing trip in ODDS if a vessel is assigned to the EM selection pool is estimated to average 15 minutes.

This rule will require vessel owners or operators who request to be placed in the EM selection pool to submit a VMP to NMFS. Public reporting burden per response for the VMP is estimated to average 48 hours.

This rule will require a vessel operator in the EM selection pool to close the fishing trip in ODDS. Public reporting burden per response to close a fishing trip in ODDS is estimated to average 5 minutes.

This rule will require vessel owners or operators selected to carry EM to submit video data storage devices and associated documentation to the EM data reviewer within 2 business days of the end of the fishing trip. Public reporting burden per response is estimated to average 1 hour.

Vessel owners or operators wanting to use EM to fish under the exception in § 679.7(f)(4) will be required to notify NMFS through ODDS under § 679.51(f)(6). Public reporting burden per response to register a fishing trip in ODDS is estimated to average 15 minutes. The addition of the option to indicate that the vessel will use EM to fish under the exception in § 679.7(f)(4) during an upcoming fishing trip is not expected to increase the average response time to register a trip in ODDS.

Send comments on this data collection, including suggestions for reducing the burden, to NMFS Alaska Region (see **ADDRESSES**), or by email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at *http://www.cio.noaa.gov/services_programs/prasubs.html.*

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: August 3, 2017.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 679 as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR,'' revise the entry for ''679.51'' to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648–)
* * * * *	
50 CFR:	
* * * * *	
679.51	–0206, –0269, –0272, –0318, –0401, –0513, –0545, –0565.
* * * * *	

Title 50—Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108–447; Pub. L. 111–281.

■ 4. In § 679.2:

■ a. Add in alphabetical order definitions for ''Electronic Monitoring system or EM system,'' ''EM selection pool,'' and ''EM service provider'';

■ a. In the definition of ''Fishing trip,'' revise paragraph (3) heading and add paragraph (3)(iv); and

■ b. Add in alphabetical order a definitions for ''Vessel Monitoring Plan (VMP)''.

The additions and revsion read as follows:

§ 679.2 Definitions.

* * * * *

Electronic Monitoring system or EM system means a network of equipment that uses a software operating system connected to one or more technology components, including, but not limited to, cameras and recording devices to collect data on catch and vessel operations.

* * * * *

EM selection pool means the defined group of vessels from which NMFS will randomly select the vessels required to use an EM system under § 679.51(f).

EM service provider means any person, including their employees or agents, that NMFS contracts with to provide EM services, or to review, interpret, or analyze EM data, as required under § 679.51(f).

* * * * *

Fishing trip means: * * *

* * * * *

(3) *North Pacific Observer Program.*

* * *

* * * * *

(iv) *For a vessel in the EM selection pool of the partial coverage category,* the period of time that begins when the vessel leaves a shore-based port or tender vessel with an empty hold until the vessel returns to a shore-based port or tender vessel and all fish are delivered.

* * * * *

Vessel Monitoring Plan (VMP) means the document that describes how fishing operations on the vessel will be conducted and how the EM system and associated equipment will be configured to meet the data collection objectives and purpose of the EM program. VMPs are required under § 679.51(f).

* * * * *

■ 5. In § 679.7, revise paragraph (f)(4), the paragraph (g) heading, and paragraph (j) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(f) * * *

(4) Except as provided in § 679.40(d), retain IFQ or CDQ halibut or IFQ or CDQ sablefish on a vessel in excess of the total amount of unharvested IFQ or CDQ, applicable to the vessel category and IFQ or CDQ regulatory area(s) in which the vessel is deploying fixed gear, and that is currently held by all IFQ or CDQ permit holders aboard the vessel, unless the vessel has an observer aboard under subpart E of this part or the vessel participates in the EM selection pool and complies with the requirements at § 679.51(f), and maintains the applicable daily fishing log prescribed in the annual management measures published in the **Federal Register** pursuant to § 300.62 of this title and § 679.5.

* * * * *

(g) *North Pacific Observer Program—Observers.* * * *

* * * * *

(j) *North Pacific Observer Program—EM Systems.* (1) Fish without an EM system when a vessel is required to carry an EM system under § 679.51(f).

(2) Fish with an EM system without a copy of a valid NMFS-approved VMP on board when directed fishing in a fishery subject to EM coverage.

(3) Fail to comply with a NMFS-approved VMP.

(4) Fail to conduct a function test prior to departing port on a fishing trip as required at § 679.51(f)(5)(vi)(A).

(5) Depart on a fishing trip selected for EM coverage without a functional EM system, unless procedures at § 679.51(f)(5)(vi)(A)(*1*) and § 679.51(f)(5)(vi)(A)(*2*) have been followed.

(6) Fail to follow procedures at § 679.51(f)(5)(vi)(B) prior to each set on a fishing trip selected for EM coverage.

(7) Fail to make the EM system, associated equipment, logbooks, and other records available for inspection upon request by NMFS, OLE, or other NMFS-authorized officer.

(8) Fail to submit a video data storage device as specified under § 679.51(f)(5)(vii).

(9) Tamper with, bias, disconnect, damage, destroy, alter, or in any other way distort, render useless, inoperative, ineffective, or inaccurate any component of the EM system, associated equipment, or data recorded by the EM system when the vessel is directed fishing in a fishery subject to EM coverage, unless the vessel operator is directed to make changes to the EM system by NMFS, the EM service provider, or as directed in the troubleshooting guide of the VMP.

(10) Assault, impede, intimidate, harass, sexually harass, bribe, or interfere with an EM service provider.

(11) Interfere or bias the sampling procedure employed in the EM selection pool, including either mechanically or manually sorting or discarding catch outside of the camera view or inconsistent with the NMFS-approved VMP.

(12) Fail to meet vessel owner and operator responsibilities specified at § 679.51(f)(5).

* * * * *

■ 6. In § 679.21, revise paragraphs (a)(2)(ii) and (a)(3) to read as follows:

§ 679.21 Prohibited species bycatch management.

(a) * * *

(2) * * *

(ii) After allowing for sampling by an observer, if an observer is aboard, sort its catch immediately after retrieval of the gear and, except for salmon prohibited species catch in the BS pollock fisheries and GOA groundfish fisheries under paragraph (f) or (h) of this section, or any prohibited species catch as provided (in permits issued) under the PSD program at § 679.26, return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition.

(3) *Rebuttable presumption.* Except as provided under paragraphs (f) and (h) of this section and § 679.26, there will be a rebuttable presumption that any prohibited species retained on board a fishing vessel regulated under this part was caught and retained in violation of this section.

* * * * *

§ 679.23 [Amended]

■ 7. In § 679.23 remove paragraphs (d)(4) and (5).

■ 8. In § 679.51:

■ a. Revise the section heading, the paragraph (a)(1) heading, and paragraphs (a)(1)(i) introductory text, (a)(1)(i)(C), (a)(1)(ii) introductory text, (a)(1)(ii)(B), (a)(1)(ii)(D), and (a)(4)(iii); and

■ b. Add paragraph (f).

The revisions and addition read as follows:

§ 679.51 Observer and Electronic Monitoring System requirements for vessels and plants.

(a) * * *

(1) *Groundfish and halibut fishery partial coverage category*—(i) *Vessel classes in partial coverage category.* Unless otherwise specified in paragraph (a)(2) of this section, the following catcher vessels and catcher/processors are in the partial coverage category when fishing for halibut with hook-and-line gear or when directed fishing for groundfish in a federally managed or parallel groundfish fishery, as defined at § 679.2:

* * * * *

(C) A catcher/processor placed in the partial coverage category under paragraph (a)(3) of this section; or

* * * * *

(ii) *Registration and notification of observer deployment.* The Observer Declare and Deploy System (ODDS) is the communication platform for the partial coverage category by which NMFS receives information about

fishing plans subject to randomized observer deployment. Vessel operators provide fishing plan and contact information to NMFS and receive instructions through ODDS for coordinating with an observer provider for any required observer coverage. Access to ODDS is available through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

* * * * *

(B) *Notification.* Upon entry into ODDS, NMFS will notify the owner or operator of his or her vessel's selection pool. Owners and operators must comply with all further instructions set forth by ODDS.

* * * * *

(D) *Vessel selection pool.* A vessel selected for observer coverage is required to have an observer on board for all groundfish and halibut fishing trips specified at paragraph (a)(1)(i) of this section for the time period indicated by ODDS.

* * * * *

(4) * * *

(iii) *Deadline to request full observer coverage.* A full observer coverage request must be submitted by October 15 of the year prior to the calendar year in which the catcher vessel would be placed in the full observer coverage category.

* * * * *

(f) *Electronic monitoring system requirements for vessels that use nontrawl gear.* Vessels that use nontrawl gear in the partial coverage category in paragraph (a)(1)(i) of this section may be eligible for EM coverage instead of observer coverage.

(1) *Vessel placement in the EM selection pool*—(i) *Applicability.* The owner or operator of a vessel that uses nontrawl gear in the partial coverage category under paragraph (a)(1)(i) of this section may request to be placed in the EM selection pool.

(ii) *How to request placement in the EM selection pool.* A vessel owner or operator must complete an EM request and submit it to NMFS using ODDS. Access to ODDS is available through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* ODDS is described in paragraph (a)(1)(ii) of this section.

(iii) *Deadline to submit an EM request.* A vessel owner or operator must submit an EM request in ODDS by November 1 of the year prior to the calendar year in which the catcher vessel would be placed in the EM selection pool.

(iv) *Approval for placement in the EM selection pool.* NMFS will approve a nontrawl gear vessel for placement in the EM selection pool based on criteria specified in NMFS' Annual Deployment Plan, available through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* Criteria may include, but are not limited to, availability of EM systems, vessel gear type, vessel length, area fished, number of trips or total catch, sector, target fishery, and home or landing port.

(v) *Notification of approval for placement in the EM selection pool.* (A) NMFS will notify the vessel owner or operator through ODDS of approval for the EM selection pool for the next calendar year. The vessel remains subject to observer coverage under paragraph (a)(1)(i) of this section unless NMFS approves the request for placement of the vessel in the EM selection pool.

(B) Once the vessel owner or operator receives notification of approval from NMFS, the vessel owner or operator must comply with the vessel owner or operator responsibilities in paragraphs (f)(4) and (5) of this section and all further instructions set forth by ODDS.

(vi) *Initial Administrative Determination (IAD).* If NMFS denies a request to place a vessel in the EM selection pool, NMFS will provide an IAD to the vessel owner, which will explain the basis for the denial.

(vii) *Appeal.* If the vessel owner wishes to appeal NMFS' denial of a request to place the vessel in the EM selection pool, the owner may appeal the determination under the appeals procedure set out at 15 CFR part 906.

(viii) *Duration.* Once NMFS approves a vessel for the EM selection pool, that vessel will remain in the EM selection pool until—

(A) NMFS disapproves the VMP under paragraph (f)(4) of this section;

(B) The vessel owner or operator notifies NMFS that the vessel intends to leave the EM selection pool in the following fishing year under paragraph (f)(1)(ix) of this section; or

(C) The vessel no longer meets the EM selection pool criteria specified by NMFS.

(ix) *How to leave the EM selection pool.* A vessel owner must complete a request to leave the EM selection pool and submit it to NMFS using ODDS. ODDS is described in paragraph (a)(1)(ii) of this section.

(x) *Deadline to submit a request to leave the EM selection pool.* A vessel owner or operator must submit a request to leave the EM selection pool by November 1 of the year prior to the calendar year in which the vessel would be placed in observer coverage.

(2) *Notification of EM selection*—(i) Prior to embarking on each fishing trip, the operator of a vessel in the EM selection pool with a NMFS-approved VMP must register the anticipated trip with ODDS.

(ii) ODDS will notify the vessel operator whether the trip is selected for EM coverage and provide a receipt number corresponding to this notification. Trip registration is complete when the vessel operator receives the receipt number.

(iii) An operator may embark on a fishing trip registered with ODDS:

(A) *Not selected trip.* At any time if ODDS indicates that the fishing trip is not selected for EM coverage.

(B) *Selected trip.* After the vessel operator follows the instructions in ODDS and complies with the responsibilities under paragraphs (f)(4) and (5) of this section, if ODDS indicates that the fishing trip is selected for EM coverage.

(3) *EM coverage duration.* If selected, a vessel is required to use the EM system for the entire fishing trip.

(i) A fishing trip selected for EM coverage may not begin until all previously harvested fish have been offloaded.

(ii) At the end of the fishing trip selected for EM coverage, the vessel operator must use ODDS to close the fishing trip following the instructions in the VMP and submit the video data storage devices and associated documentation as outlined in paragraph (f)(5)(vii) of this section.

(4) *Vessel Monitoring Plan (VMP).* Once approved for the EM selection pool and prior to registering a fishing trip in ODDS under paragraph (f)(2) of this section, the vessel owner or operator must develop a VMP with the EM service provider following the VMP template available through the NMFS Alaska Region Web site at *https://alaskafisheries.noaa.gov/.*

(i) The vessel owner or operator must sign and submit the VMP to NMFS each calendar year.

(ii) NMFS will approve the VMP for the calendar year if it meets all the requirements specified in the VMP template available through the NMFS Alaska Region Web site *https://alaskafisheries.noaa.gov/.*

(iii) If the VMP does not meet all the requirements specified in the VMP template, NMFS will provide the vessel owner or operator the opportunity to submit a revised VMP that meets all the requirements specified in the VMP template.

(iv) If NMFS does not approve the revised VMP, NMFS will issue an IAD to the vessel owner or operator that will explain the basis for the disapproval. The vessel owner or operator may file

an administrative appeal under the administrative appeals procedures set out at 15 CFR part 906.

(v) If changes are required to the VMP to improve the data collection of the EM system or address fishing operation changes, the vessel owner or operator must work with NMFS and the EM service provider to alter the VMP. The vessel owner or operator must sign the updated VMP and submit these changes to the VMP to NMFS prior to departing on the next fishing trip selected for EM coverage.

(5) *Vessel owner or operator responsibilities.* To use an EM system under this section, the vessel owner or operator must:

(i) Make the vessel available for the installation of EM equipment by an EM service provider.

(ii) Provide access to the vessel's systems and reasonable assistance to the EM service provider.

(iii) Maintain a copy of a NMFS-approved VMP aboard the vessel at all times when the vessel is directed fishing in a fishery subject to EM coverage.

(iv) Comply with all elements of the VMP when selected for EM coverage in ODDS.

(v) Maintain the EM system, including the following:

(A) Ensure power is maintained to the EM system at all times when the vessel is underway.

(B) Ensure the system is functioning for the entire fishing trip, camera views are unobstructed and clear in quality, and catch and discards may be completely viewed, identified, and quantified.

(C) Ensure EM system components are not tampered with, disabled, destroyed, or operated or maintained improperly.

(vi) Complete pre-departure function test and daily verification of EM system.

(A) Prior to departing port, the vessel operator must conduct a system function test following the instructions from the EM service provider. The vessel operator must verify that the EM system has adequate memory to record the entire fishing trip.

(*1*) If the EM system function test detects a malfunction identified as a high priority in the vessel's VMP or does not allow the data collection objectives to be achieved, the vessel must remain in port for up to 72 hours to allow an EM service provider time to conduct repairs. If the repairs cannot be completed within the 72-hour time frame, the vessel is released from EM coverage for that fishing trip and may depart on the scheduled fishing trip. A malfunction must be repaired prior to departing on a subsequent fishing trip. The vessel will automatically be selected for EM coverage for the subsequent fishing trip after the malfunction has been repaired.

(*2*) If the EM system function test detects a malfunction identified as a low priority in the vessel's VMP, the vessel operator may depart on the scheduled fishing trip following the procedures for low priority malfunctions described in the vessel's VMP. At the end of the trip the vessel operator must work with the EM service provider to repair the malfunction. The vessel operator may not depart on another fishing trip selected for EM coverage with this system malfunction unless the vessel operator has contacted the EM service provider.

(B) During a fishing trip selected for EM coverage, before each set is retrieved the vessel operator must verify all cameras are recording and all sensors and other required EM system components are functioning as instructed in the vessel's VMP.

(*1*) If a malfunction is detected, prior to retrieving the set the vessel operator must attempt to correct the problem using the instructions in the vessel's VMP.

(*2*) If the malfunction cannot be repaired at sea, the vessel operator must notify the EM service provider of the malfunction at the end of the fishing trip. The malfunction must be repaired prior to departing on a subsequent fishing trip selected for EM coverage.

(vii) At the end of a fishing trip selected for EM coverage, the vessel operator must submit the video data storage device and associated documentation identified in the vessel's VMP to NMFS using a method that requires a signature for delivery and provides a return receipt or delivery notification to the sender. The vessel operator must postmark the video data storage device and associated documentation no later than 2 business days after the end of the fishing trip. If the fishing trip ends in a remote port with limited postal service or at a tender vessel, the vessel operator must ensure the video data storage device and associated documentation is postmarked as soon as possible but no later than two weeks after the end of the fishing trip.

(viii) Make the EM system and associated equipment available for inspection upon request by OLE, a NMFS-authorized officer, or other NMFS-authorized personnel.

(6) *EM for fishing in multiple regulatory areas.* If a vessel owner or operator intends to fish in multiple regulatory areas using an EM system under the exception provided at § 679.7(f)(4), the vessel owner or operator must:

(i) Meet the requirements described in paragraph (f) of this section.

(ii) Register in ODDS that he or she intends to fish in multiple regulatory areas using the exception in § 679.7(f)(4).

(iii) Ensure the EM system is powered continuously during the fishing trip. If the EM system is powered down during periods of non-fishing, the VMP must describe alternate methods to ensure location information about the vessel is available for the entire fishing trip, as specified in the VMP template available through the NMFS Alaska Region Web site *https://alaskafisheries.noaa.gov/.*

(iv) If an EM system malfunction occurs during a fishing trip that does not allow the recording of retrieval location information and imagery of catch as described in the vessel's VMP, the vessel operator must cease fishing and contact OLE immediately.

[FR Doc. 2017–16703 Filed 8–7–17; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1015

[Docket No. CPSC–2016–0030]

Procedures for Disclosure or Production of Information Under the Freedom of Information Act

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission (Commission, CPSC, or we) is issuing a final rule to update its Freedom of Information Act (FOIA) rule. The final rule revises the rule to conform to the amendments of the FOIA Improvement Act of 2016 (the 2016 FOIA) to the FOIA. The final rule is also updated to reflect changes in Commission procedures; updates Commission contact information, including current methods of submitting requests for records to the Commission; revises employee titles; and makes various technical changes and corrections.

DATES: The rule is effective on September 7, 2017.

FOR FURTHER INFORMATION CONTACT: Renee McCune, Office of the General Counsel, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7673; or Todd A. Stevenson, Chief Freedom of Information Officer, Consumer Product Safety Commission, 4330 East West