

initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 665

Accountability measures, Annual catch limits, Fisheries, Fishing, Hawaii, Kona crab, Pacific Islands.

Dated: January 30, 2024.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 665 as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

- 1. The authority citation for 50 CFR part 665 continues to read as follows:

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

- 2. In § 665.253, revise paragraph (b)(1) to read as follows:

§ 665.253 Annual Catch Limits (ACL) and Annual Catch Targets (ACT).

* * * * *

(b) * * *

(1) In accordance with § 665.4, the ACLs for each fishing year are as follows:

TABLE 1 TO PARAGRAPH (b)(1)

Fishing year	2024	2025	2026
ACL (lb)	30,802	30,802	30,802
ACT (lb)	25,491	25,491	25,491

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 240126-0024]

RIN 0648-BM40

Fisheries of the Exclusive Economic Zone Off Alaska; Amendment 126 to the Fishery Management Plans for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 114 to the Fishery Management Plan for Groundfish of the Gulf of Alaska To Expand Electronic Monitoring To the Pollock Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) submitted Amendment 126 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI) and Amendment 114 to the FMP for Groundfish of the Gulf of Alaska (GOA). If approved, Amendments 126/114 would implement an electronic monitoring (EM) program for pelagic trawl pollock catcher vessels and tender vessels delivering to shoreside processors and stationary floating processors in the Bering Sea (BS), Aleutian Islands (AI), and GOA. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Amendments 126/114, the BSAI FMP, and the GOA FMP.

DATES: Comments must be received no later than April 5, 2024.

Public Meetings:

1. February 28, 2024, 6 p.m. Alaska local time, Kodiak, AK.
2. March 12, 2024, 6 p.m. Pacific time, Virtual (see **ADDRESSES** for link).

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2023-0125, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and type NOAA-NMFS-2023-0125 in the Search box (*note:* copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Gretchen Harrington, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (e.g., name, address, *etc.*), confidential business information, or otherwise sensitive information

submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 126 to the BSAI FMP and Amendment 114 to the GOA FMP (collectively, the FMPs), the Environmental Assessment/Regulatory Impact Review prepared for this action (the analysis), and the Finding of No Significant Impact prepared for this action may be obtained from <https://www.regulations.gov> and the NMFS Alaska Region website at <https://www.fisheries.noaa.gov/region/alaska>.

Per section 313 of the Magnuson-Stevens Act, NMFS will also be conducting public hearings to accept oral and written comments on the proposed rule during the public comment period. The first public hearing will be held at the Kodiak Fisheries Research Center, 301 Research Court, Kodiak, Alaska 99615. The second public hearing will be held virtually, available at <https://meet.google.com/gcz-emgh-kkw>.

FOR FURTHER INFORMATION CONTACT: Joel Kraski, 907-586-7228, joel.kraski@noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority for Action

NMFS manages the groundfish fisheries in the exclusive economic zone under the FMPs. The 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.

This proposed rule would implement Amendments 126/114 to the FMPs. The Council submitted Amendments 126/114 for review by the Secretary of Commerce, and a Notice of Availability of these amendments was published in the **Federal Register** on January 22, 2024, with comments invited through March 22, 2024 (88 FR 3902).

This proposed rule and Amendments 126/114 amend the Council’s fisheries research plan prepared under the authority of section 313 of the Magnuson-Stevens Act. NMFS published regulations implementing the plan on November 21, 2012 (77 FR 70062) and integrated EM into the plan on August 8, 2017 (82 FR 36991). The Secretary implements the fisheries research plan through the North Pacific Observer Program (Observer Program). Its purpose is to establish a research plan for the collection of data necessary for the conservation, management, and scientific understanding of the

groundfish and halibut fisheries off Alaska.

Section 313 of the Magnuson-Stevens Act 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. NMFS will conduct a public hearing at a physical location in Alaska and a virtual public hearing will be held for Oregon and Washington (see **DATES**).

People wanting to make an oral statement for the record at a public hearing are encouraged to submit a written copy of their statement to NMFS using one of the methods identified under **ADDRESSES**. If attendance at the public hearing is large, the time allotted for individual oral statements may be limited. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to NMFS.

Respondents do not need to submit the same comments on Amendments 126/114 and the proposed rule. All relevant written comments received by the end of the applicable comment period, whether specifically directed to the FMP amendments or this proposed rule, will be considered by NMFS in the approval/disapproval decision for Amendments 126/114 and addressed in the response to comments in the final decision. Comments received after the end of the comment period may not be considered in the approval/disapproval decision on Amendment 126/114. To be certain of consideration, comments would need to be received, not just postmarked or otherwise transmitted, by the last day of the comment period (see **DATES**).

North Pacific Observer Program

The Observer Program is an integral component in the management of North Pacific fisheries. The Observer Program was created with the implementation of the Magnuson-Stevens Act in the mid-1970s and has evolved from primarily observing foreign fleets to observing domestic fleets. The Observer Program provides the regulatory framework for NMFS-certified observers (observers) and EM systems to be deployed on board vessels to obtain information necessary for the conservation and management of the groundfish and halibut fisheries.

The information collected by observers and EM systems is entered into databases and then is used to manage the fisheries in furtherance of the purposes and national standards of

the Magnuson-Stevens Act. Observers and EM systems collect fishery-dependent information used to estimate total catch and interactions with protected species. Managers use these data to manage groundfish and prohibited species catch (PSC) within established limits and to document and reduce fishery interactions with protected species. Scientists use fishery-dependent data to assess fish stocks, provide data for fisheries and ecosystem research and fishing fleet behavior, assess marine mammal and seabird interactions with fishing gear, and characterize fishing impacts on habitat.

In 2013, the Council and NMFS restructured the Observer Program to address long-standing concerns about statistical bias of observer-collected data and cost inequity 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. All groundfish and halibut vessels and processors are included in one of these two categories. NMFS requires fishing sectors in the full coverage category to have all operations observed. The full coverage category is specified at 50 CFR 679.51(a)(2) and includes most catcher/processors, all motherships, and those catcher vessels participating in a catch share program with a transferrable PSC limit. Owners of vessels and processors in the full coverage category arrange and pay for required observer coverage from a permitted observer provider. The shoreside processors and stationary floating processors in the full coverage category are currently required to maintain observer coverage.

The partial coverage category is described at § 679.51(a)(1) and 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 PSC limit. Small catcher/processors that meet criteria in § 679.51(a)(3) may request to be in the partial coverage category.

In the partial coverage category, NMFS contracts with an observer provider and EM providers and determines when and where observers and EM systems are deployed, based on a scientific sampling design. Each year, NMFS develops an Annual Deployment Plan (ADP) that describes how NMFS plans to deploy observers and EM systems to vessels and processors in the

partial coverage category in the upcoming year. The ADP also specifies the scientific sampling design NMFS uses to generate estimates of total and retained catch and catch composition in the groundfish and halibut fisheries. The ADP process provides flexibility to improve deployment to meet scientifically based estimation needs while accommodating the realities of dynamic fiscal and harvesting environments. NMFS's goal is to achieve a representative sample of fishing events and to do this without exceeding funds collected through the observer fee. This is accomplished by the random selection of trips for deployment of observers, placement of EM systems, and shoreside sampling in the partial coverage category. NMFS adjusts the ADP after conducting a scientific evaluation of data collected under the Observer Program to assess the impact of changes in observer and EM deployment and improvements in data collection methods necessary to conserve and manage the groundfish and halibut fisheries.

To summarize the ADP process, each fall, NMFS develops a draft ADP for the next fishing year that describes how NMFS plans to deploy observers and EM systems to vessels in the partial coverage category. The draft ADP describes the deployment methods NMFS plans to use to collect EM data on discarded and retained catch, including the information used to estimate catch composition and marine mammal and seabird interactions in the groundfish and halibut fisheries. The draft ADP also describes how NMFS would deploy observers to shoreside processors in the partial coverage category. In October, the Council reviews the draft ADP and considers public comment when developing its recommendations about the draft ADP. The Council may recommend adjustments to observer and EM deployment to prioritize data collection based on conservation and management needs. After NMFS conducts a scientific evaluation and considers operational issues of the Council's recommendations, NMFS adjusts the draft ADP as appropriate and finalizes the ADP in December for release prior to the start of the fishing year. NMFS posts the ADP on the NMFS Alaska Region website.

NMFS conducts its scientific evaluation of data collected under the Observer Program in 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 website.

The Observer Declare and Deploy System (ODDS) is a web application that provides information about observer and EM deployment on catcher vessels in the partial coverage category. ODDS facilitates communication among the operator of a catcher vessel in the partial coverage category, NMFS, NMFS's contracted observer provider, and NMFS-approved EM providers. Operators of catcher vessels in the partial coverage category enter information about upcoming fishing trips into ODDS and receive information about whether a trip has been selected for observer or EM coverage.

The restructured Observer Program established a system of fees that is used to pay for the cost of implementing observer and EM coverage in the partial coverage category. As specified at § 679.55, catcher vessels and processors included in the partial coverage category pay a fee of 1.65 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.

Integrating Electronic Monitoring Into the Observer Program

Since the restructuring of the Observer Program, the Council and NMFS have been actively engaged in developing EM, a system using cameras, video storage devices, and associated sensors to record and monitor fishing activities, as a tool to collect fishery data. The restructured Observer Program expanded the types of vessels required to carry observers to include nontrawl vessels that had not previously been subject to observer requirements. Even before implementing the restructured Observer Program, many nontrawl vessel owners and operators new to the Observer Program opposed carrying an observer. Nontrawl vessel owners and operators explained that there was limited space on their vessels for an additional person and limited space in the vessel's life raft. Some vessel owners, operators, and industry representatives advocated for the use of EM instead of having an observer on board their smaller nontrawl vessels. To address their concerns, the Council and

NMFS developed EM as a tool to collect fishery data in the nontrawl fisheries.

In 2014, the Council appointed the EM Workgroup to develop an EM program for nontrawl vessels—that is, those vessels using jig, pot, and longline gear—and integrate EM into the Observer Program. The EM Workgroup provided 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.

Starting in 2015, NMFS developed with Council input the Electronic Technologies Implementation Plan for the Alaska Region to guide integration of monitoring technologies, including EM, into North Pacific fisheries management and provide goals and benchmarks to evaluate attainment of those goals (Plan and updates are available at <https://www.fisheries.noaa.gov/national/fisheries-observers/electronic-technologies-implementation-plans>). This plan was completed in 2021.

The EM Workgroup developed a collaborative research program to inform evaluation of multiple EM program design options and consider various EM integration approaches to achieve management needs identified in the Electronic Technologies Implementation Plan. Through the use of an exempted fishing permit (EFP), the research model resulted in the testing of, and subsequent implementation of EM for nontrawl vessels in the partial coverage category pursuant to Amendment 114 to the BSAI FMP and Amendment 104 to the GOA FMP (82 FR 36991, August 8, 2017).

In February 2018, after the implementation of EM on nontrawl catcher vessels, the Council directed its EM Workgroup to focus on developing EM as a tool for meeting monitoring objectives on trawl catcher vessels in the BS, AI, and GOA pelagic pollock fisheries, reconstituting the committee as the Trawl EM Committee. In April 2018, the Trawl EM Committee was modified to include industry representatives, fishery participants, and other stakeholders in the catcher vessel pelagic trawl pollock fisheries along with NMFS and EM service providers. The Council adopted three monitoring objectives proposed by the Trawl EM Committee after its May 2018 meeting: (1) improve salmon accounting; (2) reduce monitoring costs; and (3) improve the quality of

monitoring data. A fourth objective was added by the Trawl EM Committee at their meeting in August 2018: (4) modify current retention and/or discard requirements as necessary to achieve objectives 1–3. While EM development for pelagic trawl catcher vessels was not identical to that for nontrawl, the Trawl EM Committee relied on the collaborative lessons learned, including creating a workgroup/committee, creating a research plan, pre-implementation testing of EM, and developing regulations.

The development of the trawl EM category has evolved through pilot projects in 2018 and 2019 and under EFP 2019–03 from 2020 through 2024. Each phase of program development benefitted from a collaborative process and open communication between project partners, which includes NMFS, EFP permit holders, EM service providers, video reviewers, and observer providers. Lessons learned through this process were incorporated into the development of the trawl EM category proposed in this action.

In the 2018 and 2019 pilot projects, prior to applying for an EFP, the pollock trawl fishery voluntarily operated video cameras on a subset of catcher vessels to test EM systems, while maintaining observer coverage. The trawl EM category developed further through EFP 2019–03, which involved multiple phases as part of a research plan developed by the Trawl EM Committee.

The Trawl EM Committee guided the research plan and EFP modifications and identified that there was adequate information on the use of EM to collect data for management purposes. The Council and its monitoring committees were kept informed of industry-led pilot projects through regular updates such as in December 2018 as part of the Trawl EM 2019 Cooperative Research Plan and in a March 2019 update to the Cooperative Research Plan. Results from pilot projects comparing discard estimates by EM reviewers and on-board observers were presented to the Trawl EM Committee in August 2019. Results identified that, while further refinement was needed, EM was able to capture discard activity onboard pelagic trawl pollock catcher vessels. NMFS approved EFP 2019–03 in 2020 and renewed modified versions of the EFP for fishing conducted in 2021 through 2024. EFPs in Alaska can be viewed on the NMFS Alaska Region website.

Observers played a key role in the collaborative process, providing real time feedback via inseason messaging and post deployment surveys. The information that observers provided helped the project partners make

decisions impacting communication and data quality through the project. Regularly scheduled check-in meetings between NMFS and project partners played an integral role during the EFP and began on January 15, 2020, and occurred every two weeks during the directed pollock seasons and as requested by the project partners. Check-in meetings provided an opportunity for each project partner to give updates on how operations under the EFP were progressing and identify any issues or concerns. NMFS has made a collaborative effort to make this situation work under unique circumstances, including staffing issues, quarantine challenges, and equipment shortages.

Several years of EFP data has shown that the objectives for trawl EM were met by: (1) improved salmon bycatch accounting, specifically in the western GOA pollock fishery that currently relies on estimates with large variances under status quo methods; (2) reduced monitoring costs; (3) improved quality of monitoring data; and (4) improved retention with limited changes in catcher vessel activities. In addition, it was also clear that EM is effective in capturing at-sea discard events to support catch accounting and may capture marine mammal incidents. Finally, EFP data showed some biological sampling can be accomplished at processing plants by observers with effective communication from vessels and processors.

The Council and NMFS developed this proposed action based on input received from the Trawl EM Committee, three years of data gathered through the EFP process, and public input through the Council process. This proposed action would provide an option for participants in the partial and full coverage categories using pelagic trawl gear to directed fish for pollock, as well as tender vessels delivering pollock to shoreside processors or stationary floating processors to choose to be in the trawl EM category.

Other trawl fisheries operate differently, have different monitoring and compliance requirements, and would require a lengthy development process prior to being able to have a functioning EM program. EM programs must be designed for the unique characteristics of each fishery or group of similar fisheries (such as the nontrawl fisheries and the pollock trawl fisheries). The Council and NMFS first prioritized nontrawl EM and then pollock trawl EM. The next priority that is under development is EM for vessels participating in the Rockfish Program, which will require a separate

rulemaking if the Council recommends EM for that Program.

Objectives of and Rationale for Amendments 126/114 and This Proposed Rule

In October 2022, the Council recommended Amendment 126 to the BSAI FMP and Amendment 114 to the GOA FMP. The FMP amendments and this proposed rule would implement EM for catcher vessels targeting pollock with pelagic trawl gear in the BS, AI, or GOA fisheries (hereinafter “catcher vessels” or “CVs”) and tender vessels delivering pollock to shoreside processors or stationary floating processors in the BS, AI, and GOA.

The Council and NMFS developed EM for the pelagic trawl gear pollock fisheries to explore an alternative way to collect fisheries data given the unique operating requirements in these fisheries. The pollock trawl fisheries have low rates of incidental catch of non-pollock species, leading to the ability to improve the retention of all catch, thus allowing for collection of biological data from unsorted catch at processors. Improved retention of catch means the vessel is operated in such a way that catch is retained to the greatest extent practicable. Under this proposed rule, EM systems would collect at-sea data for NMFS to determine if discards at sea occurred and subsequent video review would verify vessel discard estimates for accuracy. The use of EM on vessels in the trawl EM category would allow for monitoring of compliance with Federal regulations and catch handling requirements. The implementation of EM has the potential to reduce economic and operational costs associated with deploying observers on catcher vessels. Through the use of EM, it may continue to be feasible to obtain fishery-dependent data from catcher vessels, improve data quality, and increase NMFS’s and the Council’s flexibility to respond to the scientific and management needs of these fisheries. The Council’s intent in recommending Amendments 126/114 is to improve salmon accounting for all species, reduce monitoring costs, and improve the quality of monitoring data.

The Council adopted the following purpose and need statement to originate this action in June 2021:

“To carry out their responsibilities for conserving and managing groundfish resources, the Council and NMFS must have high quality, timely, and cost-effective data to support management and scientific information needs. In part, this information is collected through a fishery monitoring program for the groundfish fisheries off Alaska.

While a large component of this monitoring program relies on the use of human observers, the Council supports integrating electronic monitoring and reporting technologies into NMFS North Pacific fisheries-dependent data collection program, where applicable, to ensure that scientists, managers, policy makers, and industry are informed with fishery-dependent information that is relevant to policy priorities, of high quality, and available when needed, and obtained in a cost-effective manner. The Council and NMFS have been on the path of integrating technology into the fisheries monitoring systems for many years, with electronic reporting systems in place, and operational EM in some fisheries. An EM program for compliance purposes on pelagic pollock trawl catcher vessels and tenders both delivering to shoreside processors will obtain necessary information for quality accounting for catch including bycatch and salmon PSC in a cost-effective manner, and provide reliable data for compliance monitoring of a no discard requirement for salmon PSC. This trawl EM program has the potential to advance cost efficiency and compliance monitoring, through improved salmon accounting and reduced monitoring costs. Regulatory change is needed to modify the current retention and discard requirements to allow participating CVs to maximize retention of all species caught (*i.e.*, minimize discards to the greatest extent practicable) for the use of EM as a compliance tool on trawl catcher vessels in both the full and partial coverage categories of the Observer Program and meet monitoring objectives on trawl catcher vessels in the Bering Sea (BS) and Gulf of Alaska (GOA) pelagic pollock fisheries.”

In consultation with the Council, NMFS has considerable annual flexibility to provide observer coverage to respond to the scientific and management needs of the fisheries. By integrating EM on catcher vessels targeting pollock with pelagic trawl gear as a tool in the fisheries monitoring suite, the Council seeks to preserve and increase this flexibility. Regulatory change would be needed to specify vessel operator and processor responsibilities for using EM technologies, after which NMFS, in consultation with the Council would be able to deploy observer and EM monitoring tools tailored to the needs of different fishery sectors through the ADP.

Amendments 126/114 would add new language to section 3.9.2 of the BSAI and GOA FMPs to allow the use of EM systems to meet observer coverage

requirements for catcher vessels under the Observer Program.

This proposed rule to implement Amendments 126/114 would establish regulations for an EM option for catcher vessels and tender vessels delivering pollock to shoreside processors and stationary floating processors in the BS, AI, and the GOA. While the Council's purpose and need statement did not specify that EM could be used by catcher vessels fishing in the AI, the Council motion at final action clarified that should an AI pollock fishery be open, participating catcher vessels would have the opportunity to participate in trawl EM.

Trawl EM Category

This proposed rule would implement the requirements described below to allow owners or operators of catcher vessels and tender vessels to choose to use an EM system in place of an observer. Participation in trawl EM would be voluntary and a vessel owner or operator could choose on an annual basis to request a vessel's placement in the trawl EM category.

This proposed rule would establish the process and structure for use of an EM video system to monitor whether discards at sea occur. Further, it would establish video review to verify vessel discard estimates submitted by those catcher vessels using pelagic trawl gear and tender vessels that choose to be in the trawl EM category. NMFS's intent is largely to allow trawl EM category vessels to continue their normal operations and allow the cameras to capture data observations that an EM reviewer would then extract onshore. For fishing trips by vessels in the trawl EM category, the data collection previously conducted by at-sea observers would be completed by observers stationed at the processor receiving the catch. This is possible because EM systems would monitor all points of discard on the catcher vessel and tender vessel (if used) from the time the catch is brought onboard the catcher vessel or tender vessel to the point of delivery. This will ensure all catch is monitored by EM systems at sea and allow the collection of statistically robust fishery data at the point of delivery at the processor. Data collected at the processor could include the collection of species composition samples, PSC data, biological samples, and other sampling assigned by NMFS. One of the Council's objectives for this action is to achieve the most efficient use of observer resources. By shifting observer sampling duties from at-sea vessels to shoreside processors and stationary floating processors, each

observer would be able to monitor more catch with greater accuracy.

In the event NMFS identifies additional data that cannot be collected at the processor, NMFS retains the authority to deploy at-sea observers on catcher vessels in the trawl EM category. Additionally, some level of at-sea data collection in the pollock fisheries will continue to be necessary to collect certain spatial and biological data. This data is currently being collected on vessels that remain in the observer coverage categories; however, if the number of vessels remaining in the observer coverage categories drops to low levels, additional at-sea observer coverage could be necessary in the full coverage or the partial coverage trawl EM category. NMFS would make these observer coverage decisions through the ADP process.

Currently, catcher vessels in the partial coverage category are required to have an observer at-sea on each selected trip and full coverage vessels carry an observer every trip. When vessels deliver trawl-caught pollock, the at-sea observer follows the fish into the processing plant and completes the enumeration and sampling of salmon during the vessel's delivery. Under this proposed rule, these at-sea observers would no longer be a resource available for sampling these vessels' catch. Instead, shoreside processors or stationary floating processors would be responsible for ensuring that all salmon are placed in a designated storage container until the observers have the opportunity to sample them consistent with proposed regulations at § 679.28(g)(9)(ii).

In addition to observers stationed at shoreside processors and stationary floating processors, Catch Monitoring Control Plans (CMCPs) and vessel monitoring plans (VMPs) would be used to determine and achieve the sampling objectives outlined by NMFS in the ADP. The EM systems onboard vessels would ensure that compliance monitoring objectives are met while providing a chain of custody for PSC. Observers at shoreside processors or stationary floating processors would then collect species composition, PSC, and biological samples as determined by the Alaska Fisheries Science Center, Fisheries Monitoring and Analysis Division. The flexibility offered by the ADP allows NMFS and the Council to achieve transparency, accountability, and efficiency from the Observer Program to meet its various objectives. The ADP process ensures that the best available information is used to evaluate deployment, including scientific review

and Council input, to annually determine deployment methods.

Due to these changes, a "one size fits all" approach to deploying observer resources would be an inefficient use of observer resources. For example, a processor receiving deliveries 24 hours a day, 7 days a week from catcher vessels in the trawl EM category would require more observer resources than a processor receiving only one or two such deliveries each day. NMFS is proposing that the number of observers required at each processing plant receiving deliveries from vessels approved to operate in the trawl EM category be tailored to each processor based on metrics specified in the ADP and consistent with proposed regulations at § 679.51(b)(2)(i). Observers stationed at processors would collect data as requested by the Alaska Fisheries Science Center, Fisheries Monitoring and Analysis Division. NMFS would continue to work with data users, including stock assessors and other scientists, to evaluate the trawl EM category and monitor for data gaps.

All fishing trips for each vessel operating in the trawl EM category would be required to improve retention (*i.e.*, minimize discards to the greatest extent practicable) and record all catch handling. All EM data would be submitted as required to NMFS for review to ensure the program elements are followed. Failure to meet the program objectives, as outlined in the ADP and VMP, may result in disapproval of further participation in the trawl EM category and potential enforcement action.

This proposed rule would implement requirements applicable to: (1) catcher vessels in the trawl EM category; (2) tender vessels, shoreside processors, and stationary floating processors receiving deliveries from catcher vessels in the trawl EM category; (3) observer providers; and (4) EM service providers for vessels in the trawl EM category.

Under this proposed rule, a catcher vessel would remain subject to observer coverage, currently described at § 679.51(a)(1) or § 679.51(a)(2), unless NMFS approves a request for placement of the catcher vessel in the trawl EM category. Tender vessels are not currently subject to observer coverage requirements under subpart E to part 679 and this proposed rule would establish monitoring requirements for tender vessels that receive deliveries from a catcher vessel in the trawl EM category. Shoreside processors and stationary floating processors are subject to observer coverage requirements at § 679.51(b)(1) or § 679.51(b)(2). This

proposed rule would establish additional observer sampling station and monitoring requirements at § 679.28(g)(7) through (10) for shoreside processors and stationary floating processors. These observer sampling station and monitoring requirements previously existed for shoreside processors and stationary floating processors receiving American Fisheries Act (AFA) deliveries. Under this proposed rule, those requirements would be expanded to any plant receiving trawl EM deliveries to support shoreside observers and include additional requirements, such as updating spatial requirements to allow for new data collections. Additionally, under this proposed rule, entities intending to provide EM hardware to vessels in the full coverage EM category would be required to apply, and be approved, for an EM hardware service provider permit as specified at § 679.52(d) and (e).

Annual Request for Placement in the Trawl EM Category and Compliance Responsibilities

Under this proposed rule, eligible vessel owners or operators of catcher vessels would voluntarily request to participate in the trawl EM category annually through ODDS by November 1 and, if approved, would be subject to coverage requirements as specified by NMFS. Specifically, any owner or operator of a catcher vessel—that is, a catcher vessel with a pollock pelagic trawl endorsement on their Federal Fisheries Permit (FFP)—or a tender vessel receiving deliveries from these catcher vessels, may request to be in the trawl EM category. Shoreside processors or stationary floating processors would indicate annually during their CMCP process whether they intend to receive deliveries, or use tenders to receive deliveries, from vessels in a trawl EM category. This process consists of a shoreside processor or stationary floating processor submitting a CMCP to the NMFS CMCP specialist.

The November 1 deadline for catcher vessels would allow potential participants to review the draft ADP, which would be available in October, prior to deciding whether to request to join the trawl EM category. The draft ADP would contain NMFS's criteria for determining how catcher vessels would be assigned to the partial coverage trawl EM category. The ADP would be finalized in December.

This proposed rule establishes responsibilities for the operator of a catcher vessel or tender vessel in the trawl EM category to install and maintain the EM system. Vessels in the

trawl EM category would be required to comply with all provisions of the trawl EM category, including those specified in regulations, the ADP, and in individual VMPs. This proposed rule would add regulations at § 679.51(g) to specify the EM system requirements for vessels using pelagic trawl gear. A catcher vessel would remain in the trawl EM category for all directed fishing for pollock with pelagic trawl gear for the entirety of the fishing year, in order to maintain the sampling design outlined in the ADP. A tender vessel would remain in the trawl EM category at all times when receiving catch from a catcher vessel in the trawl EM category during the fishing year. Vessels would not be able to leave the trawl EM category during a fishing year in order to maintain the sampling design used for that year.

Trawl EM Coverage

This proposed rule would establish two coverage categories within the trawl EM category: (1) full coverage; and (2) partial coverage. Unless otherwise specified in this proposed rule, the trawl EM category encompasses both the full coverage and partial coverage trawl EM categories.

Full Coverage Trawl EM Category

Proposed regulations at § 679.51(g)(1)(i)(A)(2) define the full coverage trawl EM category for catcher vessel operating in the BS or Community Development Quota (CDQ) fisheries. These vessels are currently in the Observer Program's full coverage category. For the fishing year, if a catcher vessel is approved to be in the full coverage trawl EM category, that vessel would be subject to this proposed rule for every fishing trip in which the vessel deploys pelagic trawl gear. This would mean, in addition to other requirements, these vessels must ensure their EM systems are operating and actively recording for the duration of every pelagic trawl gear fishing trip and associated offload. The CDQ pollock fishery is not currently prosecuted by catcher vessels delivering to shoreside processors or stationary floating processors, but if this activity does occur in the future, and the catcher vessels meet the eligibility requirements of the trawl EM category, they would be included in the full coverage category.

The owner or operator of a vessel in the full coverage trawl EM category would be responsible for contracting with a permitted EM hardware service provider, as specified at 679.51(g)(1)(ix), to procure, install, and maintain EM equipment on their vessel. To pay for video review services for vessels in the

full coverage trawl EM category, this proposed rule would establish a new full coverage EM review fee in proposed regulations at § 679.56.

Partial Coverage Trawl EM Category

Proposed regulations at § 679.51(g)(1)(i)(A)(1) define the partial coverage trawl EM category for catcher vessels operating in the GOA or AI. These vessels are currently in the Observer Program's partial coverage category.

Catcher vessels approved to be in the partial coverage trawl EM category must continue to log all trips in ODDS. Access to ODDS is available through the NMFS Alaska Region website. For the fishing year, every fishing trip in which a partial coverage catcher vessel deploys solely pelagic trawl gear is considered a part of the trawl EM category and is subject to this proposed rule (proposed rule at § 679.51(g)). This would mean, these vessels must, in addition to other requirements, ensure their EM system is operating and actively recording for the duration of every fishing trip and associated offload. Vessels in the partial coverage trawl EM category would be prohibited from deploying non-pelagic trawl gear while on a fishing trip subject to EM coverage. Catcher vessels in the partial coverage trawl EM category would be required to deliver catch only to tender vessels or processors in the trawl EM category having a NMFS-approved VMP or CMCP. Vessels in the partial coverage trawl EM category will use NMFS's contracted EM hardware service provider that has been procured through the partial coverage fee program. EM equipment for vessels in the partial coverage trawl EM category would be paid for by the observer fees as specified at § 679.55.

The AI pollock fishery is not currently prosecuted by catcher vessels delivering to shoreside processors or stationary floating processors, but if this activity were to occur, and the catcher vessels meet the eligibility requirements of the trawl EM category, they would be included in the partial coverage trawl EM category.

Tender Vessels

The proposed rule adds EM requirements for tender vessels that are used to transport unprocessed groundfish received from a catcher vessel in the trawl EM category to an associated processor. As part of the unprocessed groundfish chain of custody, it is necessary for tender vessels to comply with EM requirements to ensure no sorting of catch occurs between the catcher vessel and the processor. Proposed regulations at

§ 679.51(g)(1)(i)(B) allow the owner or operator of a tender vessel to request to be placed in the trawl EM category before receiving any delivery from a catcher vessel in the trawl EM category. A tender vessel that is approved to be in the trawl EM category must comply with applicable vessel responsibilities specified at § 679.51(g)(3) for every delivery received and offload subject to the trawl EM category, including ensuring their EM system is operating and actively recording for the duration of every trip and associated offload.

Tender vessels are primarily used by small catcher vessels in the Western GOA that fish in locations that make it inefficient for these catcher vessels to deliver their catch directly to a shoreside or stationary floating processor.

Shoreside Processors and Stationary Floating Processors

For shoreside processors or stationary floating processors to receive deliveries from vessels in the trawl EM category, the proposed rule includes additional catch handling requirements. Shoreside processors or stationary floating processors would indicate their intent to receive EM deliveries in the upcoming fishing year during the annual CMCP process. Under proposed regulations at § 679.28(g)(7), (9), and (10) shoreside processors or stationary floating processors receiving deliveries from vessels in the trawl EM category would be required to follow specified salmon sorting and handling procedures to ensure shoreside observers have full access to salmon bycatch. The proposed rule at § 679.28(g)(9) would allow observers at these processors to collect full salmon and Pacific halibut retention data and necessary biological samples, which are vital in monitoring the health and status of those stocks in Alaska.

Current regulations at § 679.21(f)(15)(ii)(C) require salmon retention and storage for processors in the BS pollock fishery. This proposed rule would move these existing regulations to § 679.28(g)(9)(ii) and (g)(10), and extend those regulations to shoreside processors and stationary floating processors receiving deliveries from vessels in the trawl EM category in the GOA. Each year NMFS publishes an Observer Sampling Manual, which contains the comprehensive sampling procedures and methods to be used by observers to collect fishery-dependent data, but does not establish the sampling rate. The criteria used to determine the sampling rate required at shoreside processors and stationary floating processors receiving deliveries from vessels in the trawl EM category

will be determined annually and published in the ADP.

EM Service Providers

There are currently two types of EM service providers: (1) EM hardware service providers that equip and maintain EM systems aboard vessels, and (2) EM review service providers that receive and review EM data from EM systems. This proposed rule would add a regulation at § 679.2 to define an EM service provider as “any person, including their employees or agents, that NMFS contracts with, or grants an EM hardware service provider permit to under § 679.52(d), to provide EM services, or to review, interpret, or analyze EM data as required under § 679.51.” NMFS may contract with, or grant a permit to, a prospective EM hardware service provider if their data are readily accessible by the current EM service provider NMFS has selected for reviewing EM data.

EM Hardware Service Provider Permit

Alaskan fishing vessels operate in a challenging environment and endure harsh conditions, making it necessary to ensure that an EM hardware service provider is properly equipped to deploy and service EM hardware onboard vessels in the trawl EM category. This proposed rule would add regulations at § 679.52 specifying the procedures for applying to NMFS for and NMFS’ issuance of, an EM hardware service provider permit, responsibilities of EM hardware service providers, and issuance of permits to existing EM hardware service providers upon implementation of this proposed rule. Prospective EM hardware service providers will need to apply to NMFS, and be approved, for an EM hardware service provider permit. Once approved and issued by NMFS, the EM hardware service provider permit is valid until the provider becomes inactive, providing no EM services for a period of 12 consecutive months. Performance of the EM hardware service provider will be assessed annually on the ability of the provider to meet program objectives.

EM Review Service Providers

An EM data review service provider is a provider that NMFS contracts with, or otherwise has an established business relationship with, to review, interpret, or analyze EM data as required under § 679.51. An EM data review service provider is selected by NMFS to avoid any conflicts of interest caused by vessels in the trawl EM category having a direct financial relationship with the independent EM data review service providers. This model reflects the same

system that is currently in place for observers.

EM Equipment and VMPs

The operator of each catcher vessel or tender vessel approved by NMFS to be in the trawl EM category, must make their vessel available to an EM hardware service provider for installation and servicing of all required EM system components according to proposed regulations at § 679.51(g)(1)(ix). The EM hardware service provider would install the EM system and cameras in locations that meet the monitoring objectives annually specified in the ADP. Full coverage vessels would choose their permitted EM hardware service provider, while partial coverage catcher vessels or tender vessels would be assigned a NMFS-permitted EM hardware service provider by NMFS.

If a vessel already has an EM system installed from a non-permitted EM hardware service provider, the catcher vessel or tender vessel operator would work with a NMFS-permitted EM hardware service provider to modify the EM system as necessary to meet the specifications in the trawl EM category. For example, a catcher vessel or tender vessel may have an existing EM system on board because that catcher vessel or tender vessel participates in another federally managed fishery that has an EM program.

After EM equipment has been installed or serviced, the catcher vessel or tender vessel operator would develop a VMP with the EM hardware service provider and submit it to NMFS for approval according to proposed regulations at § 679.51(g)(2). A VMP is a document that includes operator responsibilities for the trawl EM category, including requirements for sending EM data to the EM data review service provider for review, restrictions should EM equipment malfunction, and how feedback from NMFS or the EM data review service provider would be communicated to vessel operators.

The catcher vessel or tender vessel operator agrees to comply with the components of the VMP and would submit a signed VMP to NMFS. NMFS would review the VMP for completeness and may request additional clarification. If the VMP meets the requirements established in the VMP template, NMFS would approve the VMP and place the vessel in a trawl EM category for the fishing year.

A catcher vessel or tender vessel in the trawl EM category would be required to maintain a copy of their current NMFS-approved VMP onboard at all times while that catcher vessel conducts fishing activities, or tender

vessel receives EM deliveries, as part of the trawl EM category. If NMFS does not approve the 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.

The catcher vessel or tender vessel operator would be required to make the NMFS-approved VMP available to NOAA Office of Law Enforcement (OLE) or other NMFS-authorized officer or personnel upon request (see § 679.51(g)(4)(iv)).

If NMFS determines that a catcher vessel or tender vessel is out of compliance with the VMP, the catcher vessel or tender vessel's application for placement in the trawl EM category may not be approved the following year. For example, repeated discarding of PSC, repeated failure to ensure the entirety of the trip is recorded due to negligence of the crew, or failure to make the changes necessary to achieve monitoring goals may be grounds for NMFS to disapprove a VMP.

Catcher Vessel and Tender Vessel Operator Responsibilities

Catcher vessel and tender vessel operators would be required to maintain the EM system in working order, including ensuring the EM system is powered and functioning throughout the fishing trip, keeping cameras clean and unobstructed, and ensuring the system is not tampered with, consistent with proposed regulations at

§ 679.51(g)(3). Catcher vessel or tender vessel operators would also be required to ensure that power is maintained to the EM system at all times when the vessel is underway or the engine is operating on such fishing trips. Additionally, catcher vessel or tender vessel operators would be required to ensure the EM system is fully functional prior to deploying gear during the fishing trip or prior to receiving a delivery, as applicable.

Before fishing gear is retrieved or an offload is received, the catcher vessel or tender vessel operator would need to verify that all components of the EM system are functioning. Instructions for completing this verification would be provided in the vessel's VMP consistent with proposed regulations at

§ 679.51(g)(2)(vi).

Catcher vessel and tender vessel operators would also be required to follow landing notice procedures specified in the VMP, consistent with proposed regulations at § 679.51(g)(3). The landing notice would be transmitted by the catcher vessel or

tender vessel to the intended shoreside processor or stationary floating processor, consistent with the timeline specified in the VMP prior to returning to port. After receiving the landing notice from the vessel, the processor will relay that information to shoreside observers. The landing notice would also provide shoreside observers in the BSAI and GOA the information necessary to meet the objectives specified by NMFS in the ADP.

Catcher vessel or tender vessel operators would be prohibited from tampering with the EM system or harassing their EM service provider, EM reviewers, or any other monitoring personnel who may be working with operators to enact this program. Additional prohibitions would be added to existing EM prohibitions at § 679.7(j) to ensure the EM system functions and the data from these systems is usable for fisheries management. Other operator responsibilities would be identified in the VMP to meet data needs for EM monitoring.

Catcher vessel or tender vessel operators would submit the EM data to the EM data review provider using a method specified in the approved VMP. Operators of vessels in the trawl EM category would submit EM data after a specified number of trips, consistent with the vessel's approved VMP. This frequency would be defined in the VMP and could change based on data needs identified by NMFS, consistent with proposed regulations at § 679.51(g).

EM System Malfunctions

The EM system must be fully operational as described in the VMP. The VMP would list EM system malfunctions that would be considered contrary to the data collection objectives. The VMP would also describe the procedures to follow if malfunctions were detected, including contacting the EM service provider and OLE. The proposed regulations at § 679.51(g)(4) describe the responsibilities of the catcher vessel or tender vessel operator in case of an EM system malfunction.

Improved Retention of Catch

With trawl EM, catcher vessel operators would retain all catch except for where safety and stability of the vessel would be compromised (see proposed regulations at § 679.7(j)(2)). Improved retention of catch is necessary to provide observers stationed at shoreside processor and stationary floating processors receiving deliveries from vessels in the trawl EM category with unsorted catch for collection of biological samples and to minimize

potential biases in data collection. Improved retention would greatly reduce at-sea discards and improve catch accounting, resulting in improved estimates of catch and bycatch in the pollock fisheries.

For all fishing trips, catcher vessels would be expected to avoid sorting and discarding catch to the greatest extent practicable. The term "sort," "sorting," or "sorted" means removing any "fish" from the unsorted catch. "Discard" means to release or return fish to the sea, whether or not such fish are brought fully on board a fishing vessel (see § 600.10). The term "fish", when used as a noun, means any finfish, mollusk, crustacean, or parts thereof, and all other forms of marine animal and plant life other than marine mammals and birds (see § 600.10). Unsorted catch would be delivered to a tender vessel, shoreside processor, or a stationary floating processor to ensure observers have access to all catch. The most common instances of discards at-sea are related to spillage events, discards needed for safety or stability, and large organisms that are challenging to accommodate on board a catcher vessel, such as sharks.

Operators of catcher vessels less than 60 feet (18.3 meters) length overall (LOA) in the trawl EM category would now be required to report any at-sea discards in their logbook, and operators would also report this information to NMFS and shoreside processors in eLanding reports (see proposed regulations at § 679.5(a)(1) and (4)). Catcher vessel logbook estimates of discards would be verified in the video review process by an EM review service provider. Additionally, EM reviewers make independent estimates of any discard events and that data would be used to verify catcher vessel compliance to ensure catcher vessels are following improved retention rules under this program.

Removing Requirements for Regulatory Discards

This proposed rule includes particular exceptions to regulations that require discarding catch at sea in specific circumstances to promote retention of catch for catcher vessels in the trawl EM category. Catcher vessels in the trawl EM category would not be subject to the prohibition against exceeding Maximum Retainable Amounts (MRAs) in the BS, AI, and GOA, the prohibition against vessels having on board, at any particular time, 20 or more crabs of any species, and the prohibition against exceeding the pollock trip limit in the GOA.

This proposed rule exempts vessels in the trawl EM category from the regulations at § 679.20(e) pertaining to MRAs that limit retention of incidentally caught species so that total harvest can be managed up to, but not over, the Total Allowable Catch (TAC) by the end of the year. The MRA regulations at § 679.20(e) result in at-sea discards of fish above the MRA amount for each species. While the prohibition on exceeding the MRAs would be removed for vessels participating in the trawl EM category, NMFS would continue to use MRA calculations to determine whether a vessel is “directed fishing” for a particular species and gauge whether vessel behavior has changed, in conjunction with the Trawl EM Incentive Plan Agreement (TEM IPA) discussed below.

This proposed rule would also add an exception for vessels participating in the trawl EM category from the regulation at § 679.7(a)(14)(i) that prohibits vessels in the BSAI and GOA from having on board, at any particular time, 20 or more crabs of any species with a carapace width of more than 1.5 inches (38 millimeters) at the widest dimension. Catcher vessels would retain all crabs for enumeration by shoreside observers at the processor, as described below in the PSC Retention section of this preamble. This change would improve NMFS's ability to estimate crab bycatch in the pollock fisheries.

Additionally, this proposed rule would also exempt vessels in the trawl EM category from the regulations at § 679.7(b)(2) that limit catcher vessels' harvest of pollock in the GOA (commonly referred to as the pollock trip limit). Currently, catcher vessels are subject to a 300,000 pound onboard retention limit on pollock, requiring vessels to discard any pollock in excess of 300,000 pounds.

Trawl EM Incentive Plan Agreements for Partial Coverage Catcher Vessels

To maintain the controls on the pollock fisheries that the MRAs, crab retention limit, and the GOA pollock trip limit provide, this proposed rule includes provisions for a Trawl EM Incentive Plan Agreement (TEM IPA) to limit changes in partial coverage category vessel behavior notwithstanding these proposed regulatory changes. Namely, the TEM IPAs would aim to prevent catcher vessels from targeting species other than pollock, failing to avoid bycatch, and exceeding trip limits or MRAs, when in the trawl EM category. With the TEM IPA, NMFS does not anticipate that the proposed action would change how catcher vessels in the partial coverage

trawl EM category operate, their harvest limits, or their amount of bycatch.

Under this proposed rule, in order to be qualified to participate in the trawl EM category, partial coverage catcher vessels would be required to become a party to a trawl EM Incentive Plan Agreement (TEM IPA). The TEM IPA was modeled on the Salmon bycatch IPAs (see § 679.21(f)(12)), which have proven to be a successful method for the BS pollock fleet to modify its behavior to meet NMFS management goals.

An IPA is an industry-developed contractual arrangement that is approved by NMFS. For the trawl EM category, NMFS would approve an IPA if the IPA meets the criteria specified in proposed regulations at § 679.57. To ensure IPAs are effective, IPA parties would be required to demonstrate to the Council through annual reports that the IPA is accomplishing the Council's intent that each vessel limit changes in behavior. Under proposed rule regulations at § 679.57, TEM IPAs would be structured to limit changes in vessel behavior as a result of this proposed rule. For instance, the IPAs would aim to encourage catcher vessels to avoid targeting non-pollock species, avoid bycatch, and avoid exceeding trip limits or MRAs, when in the trawl EM category and to meet specific goals to avoid exceeding MRAs and the GOA pollock trip limit.

Currently, all full coverage vessels are AFA vessels that have these measures incorporated into existing cooperative agreements and there is little to no incentive to retain species other than pollock. Additionally, all potential EM trawl full coverage participants are party to a Salmon bycatch IPA, therefore a TEM IPA would not be required for full coverage trawl EM category catcher vessels.

NMFS inseason management staff would track trawl EM category bycatch and pollock harvest and provide updates in the Annual Inseason Report to the Council. In addition, the representative of each approved TEM IPA would submit a written annual report to the Council, which would be available to the public. Upon receipt of the Annual Reports on the TEM IPA, the Council may re-evaluate the goals of the TEM IPA and make adjustments as necessary. Each year NMFS will publish on the NMFS Alaska Region website the approved list of TEM IPAs and NMFS Approval Memos, the list of parties to each IPA, approved modifications to the TEM IPAs, and the list of catcher vessels that, on average, catch more than 300,000 pounds of pollock per fishing trip in the GOA and or harvest bycatch in quantities that would exceed MRAs.

For the sake of clarity, each TEM IPA will define how these averages will be calculated over the fishing year.

PSC Retention

Currently, vessels are required to retain all salmon for enumeration at the processing plant, but not other PSC species or groundfish species placed on PSC status when the TAC is reached. Under this proposed rule, catcher vessels fishing in the trawl EM category would be required to retain all species, including crab, categorized as PSC so that they can be fully enumerated by shoreside observers at the processing plant as specified at § 679.21(a)(2). This requirement to retain PSC would result in more precise enumeration at the shoreside plant and is unlikely to change the rate at which these catcher vessels harvest these PSC species.

Logbooks

Logbooks are necessary for trawl EM data flow, and the trawl EM category would not work without this component. Logbooks would be required for all participants in the trawl EM category. While location and effort are collected by the EM systems, logbooks collect other data necessary for catch accounting and stock assessments. Catcher vessels in the trawl EM category would be able to use NMFS-approved paper or electronic logbooks and follow the logbook-related regulations at § 679.5(a).

Discard information is reported in the logbook and would be provided to the shoreside processor during offload and recorded in the eLandings report. Under this proposed rule, the video reviewer would verify compliance with reporting at-sea discard information in the logbook for all vessels in the trawl EM category.

Catcher vessels less than 60 feet (18.3 meters) LOA that participate in the Western GOA do not currently have a logbook requirement and, indeed, are exempt from logbook requirements under § 679.5(a)(4). Under this proposed rule, these catcher vessels in the trawl EM category would be required to maintain a logbook to participate in the trawl EM category. This proposed rule would also add catcher vessels in the trawl EM category to the list of exceptions to the exemption at § 679.5(a)(4).

CMCP

Under this proposed rule, catcher vessels and tender vessels in the trawl EM category would only deliver fish to a shoreside processor or stationary floating processor that has a NMFS-approved CMCP in place. Processors

would be prohibited from receiving deliveries from a catcher vessel, or tender vessel, in the trawl EM category without a NMFS-approved CMCP.

For pollock, CMCPs are currently required for AFA shoreside processors and stationary floating processors and any shoreside processors or stationary floating processors receiving AI directed pollock deliveries. Currently, not all potential trawl EM processors currently receive AFA pollock deliveries. CMCPs provide a framework for how a shoreside processor or stationary floating processor operates when receiving fish from catcher vessels and tender vessels and how landing information is communicated to necessary personnel. In this proposed rule, CMCPs would be required for all shoreside processors and stationary floating processors receiving deliveries from vessels in the trawl EM category. CMCPs include provisions that ensure observers stationed at processors have the necessary tools, such as enhanced sample station requirements, to collect fishery data and biological information related to catch and PSC. Additionally, CMCPs facilitate communication between the processors and the observers collecting data related to the pollock fishery. NMFS reviews these plans annually and may adjust them inseason to enhance their effectiveness as necessary.

Currently, each shoreside processor and stationary floating processor receiving AFA, CDQ, or AI directed pollock are required to develop and operate under a NMFS-approved CMCP. The procedures were established under the regulation at § 679.28(g). CMCPs were designed to monitor the weighing of pollock, sorting and weighing of bycatch to species, and proper sorting and storage of salmon at the shoreside processors. Under the proposed rule, all shoreside processors and stationary floating processors receiving pollock from vessels in the trawl EM category would be required to have approved CMCPs in place. This proposed rule would also change wording to clarify that NMFS “may,” not “will,” inspect these processors, as external factors may prevent an in-person inspection of each processor in a given year.

The current CMCP regulations require that processors meet minimum observer sampling station area requirements. Observer sampling stations are crucial for ensuring data quality in fisheries monitoring due to their standardized environments. These standards allow trained observers to accurately record catch details, species identification, and other critical data points by minimizing the challenges posed by the dynamic

setting of shoreside processors and stationary floating processors. This proposed rule modifies existing regulations at § 679.28(g) to reorganize CMCP requirements to improve clarity and consistency and to add provisions necessary to facilitate observer data collection for trawl EM category deliveries.

For example, this proposed rule clarifies and improves current requirements for observer sampling stations for processors at § 679.28(g)(7)(ix). This proposed rule includes requirements for the location of the observer station, platform scale, minimum workspace, table size, etc., to more closely align with observer sample station requirements applicable to at-sea catcher/processor vessels. Modifications to the pre-existing requirements create a more consistent working environment for observers stationed at processors while also enhancing data collection.

NMFS would define the criteria in the ADP for determining the necessary number of observers. The criteria for determining the necessary amount of observers for a given processor may include tonnage processed, number of deliveries, or processing hours. These criteria would apply to all processors receiving deliveries from vessels in the trawl EM category. The specific number of observers necessary to meet sampling objectives would be listed in the CMCP, which could be updated throughout the year to ensure that the necessary number of observers are present, as processing effort may change seasonally. For example, a processor may need four observers during “A season” to meet sampling objectives, but during “B season”, the same processor may need additional observers to fully account for chum salmon.

Observer Providers

Shoreside processors and stationary floating processors receiving deliveries from vessels in the full coverage trawl EM category would procure observer services by arranging and paying for observer services directly from a permitted observer provider consistent with existing regulations at § 679.51(d). This proposed rule would modify regulations governing observer provider permitting and responsibilities at § 679.52 to remove fax as an electronic communication method, update how often specific information must be submitted to NMFS (see Observer Program Fees section), and clarify the requirements for observer providers to monitor observer conduct and address observer misconduct. The latter clarifies requirements for provider action to rectify observer misconduct.

Observer Program Fees

NMFS is authorized under section 313 of the Magnuson-Stevens Act to require observer program participants in any North Pacific fishery to pay a fee for observer and EM monitoring provided the fee does not exceed 2 percent of the fishery ex-vessel value. To pay for video review services for vessels in the full coverage trawl EM category, this proposed rule would establish a new full coverage EM review fee in proposed regulations at § 679.56.

This new fee would be used by NMFS to pay for the costs of data review, storage, and transmission of EM data for vessels in the full coverage trawl EM category. The annual cost of EM review, data storage, and transmission would then be divided among full coverage vessels in the trawl EM category. NMFS would use the pollock catch history (i.e., actual harvest amount) from the previous year to divide the cost equitably among full coverage participants in the trawl EM category that year. Invoices would be sent to vessel owners and payment would be required by May 31. Failure to pay the full coverage trawl EM fee would prevent a catcher vessel or tender vessel from being selected for the trawl EM category in the following year as specified at § 679.51(g)(1)(4).

Consistent with regulations at § 679.55, NMFS would use funds from the existing observer fees to pay for EM hardware and review services for vessels in the partial coverage category. Catcher vessels and tender vessels in the partial coverage category (vessels operating in the GOA and AI pollock fisheries) would continue to pay the existing observer fee as specified at § 679.55. The partial coverage observer category is funded through a system of fees collected from fishery participants (vessels and processors) under authority of section 313 of the Magnuson-Stevens Act. NMFS would use partial coverage fees to procure shoreside observers, deploy and support EM equipment on selected vessels, and pay for EM video review and data storage.

Other Regulatory Changes

In addition to the regulations necessary to implement the trawl EM category, NMFS proposes revising the following regulations for clarity and efficiency:

- Remove the expired prohibition at § 679.7(a)(17), specifying that neither catcher vessels nor catcher processors could act as a tender vessel until all groundfish or groundfish product was offloaded and that they could not harvest groundfish while operating as a

tender vessel. That prohibition was added as part of an emergency rule (66 FR 7276, January 22, 2001), which expired on July 17, 2001. To date, the regulation has not been removed. This proposed rule would remove the expired prohibition at § 679.7(a)(17) to prevent confusion, especially as § 679.7(a)(11) contains a similar prohibition.

- Regulations implementing EM for nontrawl vessels in the partial coverage category of the Observer Program are modified to remove the phrase “*EM selection pool*” and to add in its place “*Nontrawl EM selection pool*” to clearly identify regulations applicable to the different EM categories. Multiple gear types, excluding trawl, participate in the nontrawl EM selection pool, while only trawl vessels are eligible for the trawl EM category.

- This proposed rule would move regulations specifying salmon sorting and handling practice from § 679.21(f)(15)(ii)(C)(2) through (6) to proposed regulations at § 679.28(g)(9) and (10). This move is necessary to consolidate all CMCP related regulations into a single location. This does not change the salmon sorting and handling requirements currently applicable to processors accepting AFA deliveries and it will allow the public to more easily locate all applicable CMCP regulations.

- Replace all instances of “video data storage device” with “EM data” in § 679.51(f) to broaden the language to allow for future data formats.

- Remove fax numbers in §§ 679.28(g) and 679.51(g) to match current practice that has abandoned fax usage. These numbers were for industry or observers to communicate with, and make requests of, the Observer Program. As technology has advanced, fax has fallen out of use and the proposed language should be more inclusive of new forms of communication.

Classification

Pursuant to section 304(b) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration of comments received during the public comment period.

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

Regulatory Impact Review

A Regulatory Impact Review was prepared to assess the costs and benefits of available regulatory alternatives. A

copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended and NMFS proposes these regulations based on those measures that maximize net benefits to the Nation.

Certification Under the Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

This proposed rule would directly regulate the owners and operators of catcher vessels and tender vessels in the trawl EM category, shoreside processors or stationary floating processors that receive EM deliveries, EM service providers and observer providers.

Observers may also be indirectly impacted. Observers are individuals so they do not meet the Small Business Administration definition of a small entity. Therefore, observers are not considered directly regulated entities.

For Regulatory Flexibility Act (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. Tender vessels, if owned by a processor, are considered together with the processor. Independently owned tender vessels (NAICS 424460) do not harvest or process fish and have a 100 employee small entity threshold (81 FR 4469, January 26, 2016). Shoreside processors and stationary floating processors fall under “seafood product preparation and packaging” (NAICS 31170) and have a small entity threshold of combined annual employment of fewer than 750 (81 FR 4469, January 26, 2016). Observer providers and EM service providers (NAICS 541990, “other professional, scientific, and technical services”) have a threshold of \$19.5 million in total annual revenue (87 FR 69118, November 17, 2022).

Based on the thresholds defined above, and considering known cooperative affiliations, 26 catcher vessels, and 9 of the 12 tender vessels that participated in the pollock fishery during 2020, 2021, or 2022 would be considered small entities. A total of 121

catcher vessels participated in the fishery during 2020 and 2021, or 2022. Of these, 73 were AFA cooperative affiliated vessels considered to be large entities via their AFA affiliations. Three of these vessels participated in the whiting fishery and are cooperative affiliated large entities. Additionally, 2 vessels participated in the whiting and Rockfish Program, and 41 vessels participated in Rockfish Program cooperatives. A total of 26 vessels were not part of a cooperative and are classified as small entities. Based on the 750 employee threshold, 3 of the 11 processors that took deliveries of pollock from catcher vessels from 2020 through 2022 that are directly regulated would be considered small entities. Catcher/processors and motherships are not directly regulated by this action.

Presently, there are two recognized EM service providers and three recognized observer providers operating in the North Pacific pollock fishery. One entity provides both observer and EM service. Thus, there are four unique entities within this category. There is not presently an information collection that documents revenue of these entities, thus, for purposes of the RFA, they are considered directly regulated small entities.

Six CDQ entities receive allocations in the BS pollock fishery. Historically, these allocations have been harvested exclusively by catcher/processors that are not directly regulated by this action. However, the analysis contained in the Regulatory Impact Review acknowledges that these CDQ entities could choose to have their pollock allocations harvested by catcher vessels that would be directly regulated by this action. Some of the catcher vessels that could be used to harvest CDQ allocations are wholly owned by for-profit subsidiaries of these CDQ entities and are not considered to be small entities solely based on their CDQ affiliations. The analysis of revenue discussed above includes such vessels and the small entity count is based on estimated revenue versus the appropriate small entity threshold.

NMFS anticipates that the trawl EM category would realize cost-efficiencies in the monitoring program, particularly for the BS, and that cost efficiencies could be realized in the GOA as well. The Council recognized that this action will shift some impacts, costs, and responsibilities from the harvest sector to the shoreside processors and stationary floating processors, and will expand the use of CMCPs at processors. However, these potential shifts in cost are expected to be de minimis, and, further, the process for requesting to

participate in the trawl EM category is voluntary and development of the program was requested and supported by industry. As a voluntary program, entities would participate, and thus be directly regulated, only if there is a net benefit to them in doing so. This proposed rule would not increase the fees that NMFS collects from directly regulated entities in the partial coverage category. This proposed rule will implement a new fee for full coverage category. This new fee would be used by NMFS to pay for the costs of data review, storage, and transmission of EM data for vessels in the full coverage trawl EM category. The Analysis prepared for this action identifies the operational costs of participating in the trawl EM category (see **ADDRESSES**). Directly regulated small entities that individually judge the operational costs of participating in the trawl EM category to be burdensome could continue fishing under the existing human observer selection protocols, with no change in the amount of fees that they would be assessed. Therefore, this proposed rule would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

Paperwork Reduction Act

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This proposed rule would revise existing collection-of-information requirements for OMB Control Numbers 0648–0213 (Alaska Region Logbook and Activity Family of Forms); 0648–0330 (NMFS Alaska Region Scale and Catch Weighing Requirements); 0648–0515 (Alaska Interagency Electronic Reporting System); and 0648–0711 (Alaska Cost Recovery and Fee Programs); and revise and extend 0648–0318 (North Pacific Observer Program). Because of a concurrent action for 0648–0213, the revision to that collection of information for this proposed rule will be assigned a temporary control number that will later be merged into 0648–0213. OMB Control Numbers 0648–0812 (Electronic Logbook: Pacific Cod Trawl Cooperative Program Catcher Vessels Less Than 60 Ft. LOA) and 0648–0815 (Bering Sea/Aleutian Islands Pot Gear Catcher/Processor Monitoring) are being merged into –0515 and –0318, respectively, and –0812 and –0815 will be discontinued upon issuance of the final rule. The public reporting burden estimates provided below for the

collections of information include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

OMB Control Number 0648–TEMPORARY

This proposed rule would revise the collection of information under OMB Control Number 0648–0213, associated with paper logbooks. Due to a concurrent action for that collection, the collection-of-information requirements will be assigned a temporary control number that will later be merged into OMB Control Number 0648–0213. This proposed rule would require logbooks to be submitted by all catcher vessels in the trawl EM category. Catcher vessels in the trawl EM category may use either NMFS-approved paper logbooks (OMB Control Number 0648–0213) or electronic logbooks (OMB Control Number 0648–0515). Catcher vessels greater than 60 feet (18.3 meters) LOA already are required to maintain logbooks. Some catcher vessels less than 60 feet (18.3 meters) LOA that are not currently required to submit a logbook would need to begin doing so to participate in the trawl EM category; therefore, this proposed rule would increase the number of vessels required to submit a logbook. The temporary control number would cover the revisions necessary to –0213 for the catcher vessels that choose to submit paper logbooks. The public reporting burden per response is estimated to average 18 minutes for the Catcher Vessel Trawl Daily Fishing Logbook.

OMB Control Number 0648–0318

NMFS proposes to revise and extend for three years the existing requirements for OMB Control Number 0648–0318, which is associated with the North Pacific Observer Program. Additionally, OMB Control Number 0648–0815 is being merged into –0318 and will be discontinued upon issuance of the final rule. OMB Control Number 0648–0815 was established as a temporary collection (88 FR 77228, November 9, 2023) because –0318 was being revised by a concurrent action and was intended to be merged into –0318 following the completion of that action. OMB Control Number –0318 would be revised to include the following due to this proposed rule.

The owner or operator of a catcher vessel or tender vessel would be required to use ODDS to request placement in the trawl EM category. Catcher vessels in the trawl EM category would be required to log all fishing trips

in ODDS. The public reporting burden per response is estimated to average 5 minutes to submit the request through ODDS and 15 minutes to log a fishing trip in ODDS.

The vessel owner or operator of a catcher vessel or tender vessel in the trawl EM category would be required to submit a VMP to NMFS. The public reporting burden per response for the VMP is estimated to average 48 hours.

Vessel operators in the trawl EM category would be required to submit EM data and associated documentation identified in their vessel's VMP to NMFS. The public reporting burden per response is estimated to average 1 hour.

A catcher vessel owner or operator would be required to be a member of a TEM IPA to be approved for the trawl EM partial coverage category. The TEM IPA representative would submit the proposed TEM IPA to NMFS. The representative of each approved TEM IPA would be required to submit a written annual report to the Council. The public reporting burden per response is estimated to average 40 hours for the TEM IPA and 40 hours for the TEM IPA annual report.

Prospective EM hardware service providers would need to apply, and be approved, for an EM hardware service provider permit. The public reporting burden per response for this permit is estimated to average 8 hours.

An administrative appeal may be submitted if NMFS would issue an IAD to deny a request to place a vessel in the trawl EM category, an IAD to disapprove a proposed TEM IPA, or an IAD for expiration of an EM hardware services provider permit. The public reporting burden per response for an administrative appeal is estimated to average 4 hours.

The submission time of the observer deployment/logistics report would be changed to within 24 hours of the observer assignment or daily by 4:30 p.m., Pacific Time, each business day with regard to each observer. Fax would be removed as a submission method for this report, and this proposed rule would allow any other method specified by NMFS. This report would no longer be required to include the location of any observer employed by the observer provider who is not assigned to a vessel, shoreside processor, or stationary floating processor. These changes are not expected to change the average response time for this report. The public reporting burden per response is estimated to average 7 minutes.

This proposed rule would allow for electronic submission of the reports that are submitted by an observer provider and used by NMFS to monitor and

enforce standards of observer conduct and identify problems on deployments that may compromise the observer's health or well-being otherwise. This proposed rule would also require the provider's responses to the violation in the report submitted by an observer provider for an observer who violated the observer provider's policy on conduct and behavior. These changes are not expected to change the average response time for these reports. The public reporting burden per response is estimated to average 2 hours.

This proposed rule would remove fax as an electronic communication method and allow other methods specified by NMFS for other observer provider responsibilities. The public reporting burden per response to these requirements is estimated to average 60 hours for the observer provider permit application; 8 hours for college transcripts; 1 hour for observer training registration; 7 minutes each for observer briefing registration and projected observer assignments; 5 minutes each for physical examination verification and updates to observer provider information; 12 minutes for certificates of insurance; and 30 minutes each for observer debriefing registration, observer provider contracts, and observer provider invoices.

OMB Control Number 0648–0330

The information collection for 0648–0330 would be revised because this proposed rule would require all shoreside processors and stationary floating processors receiving pollock from vessels in the trawl EM category to have NMFS-approved CMCPs in place before receiving deliveries from catcher vessels or tender vessels in the trawl EM category. Some processors that do not currently submit a CMCP would need to begin doing so; therefore, this would increase the number of respondents that submit a CMCP. The public reporting burden per response is estimated to average 40 hours for the new participants required to submit a CMCP and initially in the first two years after implementation for existing CMCPs, but in the following years the burden would be reduced.

OMB Control Number 0648–0515

The information collection for 0648–0515 would be revised due to this proposed rule. Additionally, OMB Control Number 0648–0812 is being merged into –0515 and will be discontinued upon issuance of the final rule. OMB Control Number 0648–0812 was established as a temporary collection (88 FR 53704, August 8, 2023) because –0515 was being revised by

concurrent actions and was intended to be merged into –0515 following the completion of those actions. This proposed rule would require logbooks to be submitted by all catcher vessels in the trawl EM category. Catcher vessels in the trawl EM category may use either NMFS-approved electronic logbooks (OMB Control Number 0648–0515) or paper logbooks (OMB Control Number 0648–0213). Catcher vessels greater than 60 feet (18.3 meters) LOA already are required to maintain logbooks. Some catcher vessels less than 60 feet (18.3 meters) LOA that are not currently required to submit a logbook would need to begin doing so to participate in the trawl EM category; therefore, this proposed rule would increase the number of vessels required to submit a logbook. The revision to this collection of information due to the rule adds the catcher vessels less than 60 feet (18.3 meters) LOA that choose to submit electronic logbooks. The public reporting burden per response is estimated to average 15 minutes for the Catcher Vessel Electronic Logbook.

OMB Control Number 0648–0711

The information collection for 0648–0711 would be revised because this proposed rule would require the owner of a catcher vessel in the full coverage trawl EM category to submit the new full coverage trawl EM fee. The public reporting burden per response is estimated to average 1 minute for the fee payment.

Public Comment

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Submit comments on these or any other aspects of the collection of information at <https://www.reginfo.gov/public/do/PRAMain>.

Notwithstanding any other provisions of the law, no person is required to respond or, 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.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: January 26, 2024.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

- 1. The authority citation for part 679 continues to read as follows:

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

- 2. Amend § 679.2 by:
 - a. Removing the definition of “EM selection pool”;
 - b. Revising the definition of “EM service provider” and paragraph (3)(iv) of the definition of “Fishing trip”; and
 - c. Adding in alphabetical order definitions of “Nontrawl EM selection pool”, “Trawl EM category”, and “Trawl EM Incentive Plan Agreement (TEM IPA)”.

The revisions and additions read as follows:

§ 679.2 Definitions.

* * * * *

EM service provider means any person, including their employees or agents, that NMFS contracts with, or grants an EM hardware service provider permit to under § 679.52(d), to provide EM services, or to collect, review, interpret, or analyze EM data, as required under § 679.51. The two types of EM service providers are as follows:

(1) *EM hardware service provider* is a provider that NMFS grants a permit under § 679.52(d) and is authorized to deploy and service EM hardware aboard vessels in an EM category as specified in § 679.51.

(2) *EM data review service provider* is a provider that NMFS contracts with, or otherwise has an established business relationship with, to review, interpret, or analyze EM data as required under § 679.51.

* * * * *

Fishing trip means:

* * * * *

(3) * * *

(iv) *For a vessel in any EM category*, the period of time that begins when the vessel with an empty hold departs a port or tender vessel until the vessel

returns to a port or tender vessel and offloads or delivers all fish.

* * * * *

Nontrawl 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).

* * * * *

Trawl EM category means the defined group of catcher vessels and tender vessels with a NMFS-approved VMP

that are required to use an EM system as specified under § 679.51(g)(1).

Trawl EM Incentive Plan Agreement (TEM IPA) means a voluntary private contract in writing, approved by NMFS under § 679.57, that establishes incentives for partial coverage catcher vessels in the trawl EM category to keep catch within the limits to which vessels not in the trawl EM category are subject. These limits include the catcher vessel harvest limit for pollock in the Gulf of

Alaska (§ 679.7(b)(2)) and MRAs (§ 679.20(e)).

* * * * *

■ 3. Amend § 679.5 by adding paragraph (a)(1)(iii)(H) and revising paragraph (a)(4)(i) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

(a) * * *
(1) * * *
(iii) * * *

If harvest made under . . . program

Record the . . .

For more information, see . . .

(H) Trawl EM Category (TEM) Management program modifier as TEM § 679.51

* * * * *

(4) * * *
(i) *Catcher vessels less than 60 ft (18.3 m) LOA.* The owner and operator of a catcher vessel less than 60 ft (18.3 m) LOA are required to comply with the vessel activity report described at paragraph (k) of this section, but otherwise are not required to comply with the R&R requirements of this section, except for:

(A) Vessels using pot gear as described in paragraph (c)(3)(i)(B)(1) of this section;

(B) Vessels participating in the PCTC Program as described in paragraph (x) of this section; and

(C) Catcher vessels in the trawl EM category as described in § 679.51(g).

* * * * *

■ 4. Amend § 679.7 by adding paragraph (a)(11)(iii), revising paragraphs (a)(14) and (a)(16), removing and reserving paragraph (a)(17), and revising paragraphs (b)(2)(i) through (iii), and (j).

The addition and revisions read as follows:

§ 679.7 Prohibitions.

(a) * * *
(11) * * *

(iii) *Tender vessel.* Use a catcher vessel or catcher/processor to harvest groundfish while operating as a tender vessel.

* * * * *

(14) *Trawl gear performance standard*—(i) *BSAI.* Except for catcher vessels in the trawl EM category, use a vessel to participate in a directed fishery for pollock using trawl gear and have on board the vessel, at any particular time, 20 or more crabs of any species that have a carapace width of more than 1.5 inches (38 mm) at the widest dimension.

(ii) *GOA.* Except for catcher vessels in the trawl EM category, use a vessel to participate in a directed fishery for pollock using trawl gear when directed fishing for pollock with nonpelagic trawl gear is closed and have on board the vessel, at any particular time, 20 or more crabs of any species that have a carapace width of more than 1.5 inches (38 mm) at the widest dimension.

(16) *Retention of groundfish bycatch species.* Except for catcher vessels in the trawl EM category, exceed the maximum retainable amount established under § 679.20(e).

* * * * *

(b) * * *
(2) * * *

(i) Except for catcher vessels in the trawl EM category, retain more than 300,000 lb (136 mt) of unprocessed pollock on board a catcher vessel issued a FFP at any time during a fishing trip as defined at § 679.2;

(ii) Except for catcher vessels in the trawl EM category, land more than 300,000 lb (136 mt) of unprocessed pollock harvested in any GOA reporting area from a catcher vessel issued a FFP to any processor or tender vessel during a calendar day as defined at § 679.2; and

(iii) Except for catcher vessels in the trawl EM category, land a cumulative amount of unprocessed pollock harvested from any GOA reporting area from a catcher vessel issued a FFP during a directed fishery that exceeds the amount in paragraph (b)(2)(ii) of this section multiplied by the number of calendar days that occur during the time period the directed fishery is open in that reporting area.

* * * * *

(j) *North Pacific Observer Program—Electronic Monitoring*—(1) *General.* (i) Fish without an EM system when a

vessel is required to carry an EM system under § 679.51.

(ii) 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.

(iii) Fail to comply with a NMFS-approved VMP when directed fishing in a fishery subject to EM coverage.

(iv) Fail to ensure an EM system is functioning prior to departing port on a fishing trip as specified at § 679.51(f)(5)(vi)(A).

(v) Fail to ensure an EM system is functional prior to departing on a fishing trip as specified at § 679.51(g)(3)(v).

(vi) Depart on a fishing trip without a functional EM system, per the VMP, unless approved to do so by NMFS, after the procedures at § 679.51(f)(5)(vi)(A)(1), or § 679.51(g), have been followed.

(vii) Fail to follow procedures related to EM system malfunctions as described at § 679.51(f)(5)(vi)(B) or § 679.51(g) prior to deploying each set of gear on a fishing trip selected for EM coverage.

(viii) 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.

(ix) Fail to submit EM data as specified under § 679.51(f)(5)(vii) or § 679.51(g).

(x) 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.

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

(xii) Interfere with 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.

(xiii) Fail to meet the vessel owner and operator responsibilities when using an EM system as specified at § 679.51(f)(5) or § 679.51(g)(5).

(2) **Trawl EM category**—(i) **Catcher vessels in the trawl EM category.** (A) Use a catcher vessel in the partial coverage trawl EM category to fish without being party to an approved trawl EM incentive plan agreement established under § 679.57;

(B) Use a catcher vessel in the trawl EM category to discard catch from the codend before it is brought on board the vessel unless required to maintain the safety and stability of the vessel. This includes “codend dumping” or “codend bleeding”;

(C) Use a catcher vessel in the trawl EM category to deploy nonpelagic trawl gear;

(D) Use a catcher vessel in the trawl EM category to land catch to a tender vessel that is not in the trawl EM category or does not have a NMFS-approved VMP; or

(E) Use a catcher vessel in the trawl EM category to land catch to a shoreside processor or stationary floating processor that does not have a NMFS-approved CMCP.

(ii) **Shoreside processors and stationary floating processors.** (A) Receive any delivery from a vessel in the trawl EM category without being issued and following a NMFS-approved Catch Monitoring Control Plan as described in § 679.28(g).

(B) Store any non-salmon species in a designated salmon storage container as described in a NMFS-approved Catch Monitoring Control Plan per § 679.28(g).

(C) Allow any salmon species to be placed into any location other than the designated salmon storage container described in a NMFS-approved Catch Monitoring Control Plan per § 679.28(g) at a shoreside processor or stationary floating processor.

(D) Begin sorting a trawl EM category offload before an observer has completed the count of all salmon and the collection of scientific data and biological samples from the previous offload.

(E) Continue to sort trawl EM category catch if the salmon storage container

described in a NMFS-approved Catch Monitoring Control Plan per § 679.28(g) is full.

(F) Allow any PSC harvested or delivered by a vessel in the trawl EM category to be sold, purchased, bartered, or traded.

(iii) **Tender vessels.** (A) Operate a tender vessel in the trawl EM category and receive a delivery from a catcher vessel in the trawl EM category and a catcher vessel not in the trawl EM category during the same fishing trip.

(B) Operate a tender vessel in the trawl EM category and receive a delivery from a catcher vessel in the trawl EM category without an approved VMP.

* * * * *

■ 5. Amend § 679.20 by revising paragraph (d)(2) to read as follows:

§ 679.20 General limitations.

* * * * *

(d) * * *

(2) **Groundfish as prohibited species closure.** When the Regional Administrator determines that the TAC of any target species specified under paragraph (c) of this section, or the share of any TAC assigned to any type of gear, has been or will be achieved prior to the end of a year, NMFS will publish notification in the **Federal Register** requiring that target species be treated in the same manner as a prohibited species, as described under § 679.21(a), for the remainder of the year, except:

(i) Rockfish species caught by catcher vessels using hook-and-line, pot, or jig gear as described in paragraph (j) of this section; and

(ii) Catcher vessels in the trawl EM category.

* * * * *

■ 6. Amend § 679.21 by adding paragraph (a)(2)(ii)(A), adding reserved paragraph (a)(2)(ii)(B), and revising paragraph (f)(15)(ii)(C) to read as follows:

§ 679.21 Prohibited species bycatch management.

(a) * * *

(2) * * *

(ii) * * *

(A) Vessels in the trawl EM category must retain all prohibited species catch for sampling by an observer.

* * * * *

(f) * * *

(15) * * *

(ii) * * *

(C) Shoreside processors and stationary floating processors must comply with the requirements in § 679.28(g)(9) and (10) for the receipt, sorting, and storage of salmon from

deliveries of catch from the BS pollock fishery.

* * * * *

- 7. Amend § 679.28 by:
 - a. Revising paragraphs (d)(10)(i) and (g)(1);
 - b. Adding paragraph (g)(2)(iv);
 - c. Revising paragraphs (g)(3) through (6), (g)(7) introductory text, and (g)(7)(v);
 - d. Removing paragraph (g)(7)(vi)(C);
 - e. Revising paragraphs (g)(7)(vii) through (xi); and
 - f. Adding paragraphs (g)(8) through (10).

The revisions and additions read as follows:

§ 679.28 Equipment and operational requirements.

* * * * *

(d) * * *

(10) * * *

(i) **How does a vessel owner arrange for an observer sampling station inspection?** The vessel owner must submit an Inspection Request for Observer Sampling Station with all the information fields accurately filled in to NMFS by emailing (station.inspections@noaa.gov), or completing the online request form, at least 10 working days in advance of the requested date of inspection. The request form is available on the NMFS Alaska Region website.

* * * * *

(g) * * *

(1) **What is a CMCP?** A CMCP is a plan submitted by the owner and manager of a processing plant, and approved by NMFS, detailing how the processor will meet the applicable catch monitoring and control standards detailed in paragraphs (g)(7) through (10) of this section.

(2) * * *

(iv) Any shoreside or stationary floating processor receiving any delivery from catcher vessels or tender vessels in the trawl EM category as defined at § 679.2.

(3) **How is a CMCP approved by NMFS?** NMFS will approve a CMCP if it meets all the applicable requirements specified in paragraphs (g)(7) through (10) of this section. The processor may be inspected by NMFS prior to approval of the CMCP to ensure that the processor conforms to the elements addressed in the CMCP. NMFS will complete its review of the CMCP within 14 working days of receipt. If NMFS disapproves a CMCP, the plant owner or manager may resubmit a revised CMCP or file an administrative appeal as set forth under the administrative appeals procedures described at § 679.43.

(4) **How is a CMCP inspection arranged?** The processor must submit a request for a CMCP inspection. The time

and place of a CMCP inspection may be arranged by submitting a written request to NMFS, Alaska Region, or other method of electronic communication designated by NMFS. NMFS will review the inspection request within 10 working days after receiving a complete application for an inspection. The inspection request must include:

(i) Name of the person submitting the application and the date of the application;

(ii) Address, telephone number, and email address of the person submitting the application;

(iii) A proposed CMCP detailing how the processor will meet each of the applicable performance standards in paragraphs (g)(7) through (10) of this section.

(5) *For how long is a CMCP approved?* NMFS will approve a CMCP for 1 year if it meets the applicable performance standards specified in paragraphs (g)(7) through (10) of this section. An owner or manager must notify NMFS in writing if changes are made in plant operations or layout that do not conform to the CMCP.

(6) *How do I make changes to my CMCP?* An owner and manager may change an approved CMCP by submitting a CMCP addendum to NMFS. NMFS will approve the modified CMCP if it continues to meet the applicable performance standards specified in paragraphs (g)(7) through (10) of this section. Depending on the nature and magnitude of the change requested, NMFS may require a CMCP inspection as described in paragraph (g)(3) of this section. A CMCP addendum must contain:

(i) Name of the person submitting the addendum;

(ii) Address, telephone number, and email address of the person submitting the addendum; and

(iii) A complete description of the proposed CMCP change.

(7) *Catch monitoring and control standards.* For all shoreside processors or stationary floating processors accepting any delivery from the fisheries listed in paragraph (g)(2) of this section:

* * * * *

(v) *Delivery point.* Each CMCP must identify a single delivery point. The delivery point is the first location where fish removed from a delivering catcher vessel can be sorted or diverted to more than one location. If the catch is pumped from the hold of a catcher vessel or a codend, the delivery point normally will be the location where the pump first discharges the catch. If catch is removed from a vessel by brailing, the

delivery point normally will be the bin or belt where the brailer discharges the catch. The CMCP must describe how the catch will be offloaded at the delivery point.

* * * * *

(vii) *Scale Drawing of the Plant.* The CMCP must be accompanied by a scale drawing of the plant showing:

(A) The delivery point;
(B) Flow of fish;

(C) The observation area;

(D) The observer sampling station described in paragraph (g)(7)(ix) of this section;

(E) The location of each scale used to weigh catch;

(F) Each location where catch is sorted including the last location where sorting could occur; and

(G) Information to meet other requirements of this part, if requested by NMFS.

(viii) *Reasonable assistance.*

Shoreside processors and stationary floating processors must provide reasonable assistance as described in § 679.51(e)(2)(vi), to observer(s) and to the Rockfish CMCP specialist. The CMCP must identify staff responsible for ensuring reasonable assistance is provided.

(ix) *Observer sampling station.* Each CMCP, except for the Rockfish Program, must identify and include an observer(s) sampling station for the exclusive use of observer(s). Unless otherwise approved by NMFS, the sampling station must meet the following criteria:

(A) *Location of observer sampling station.* (1) The observer sampling station must be located in an area protected from the weather where the observer has access to unsorted catch.

(2) The observer sampling station must be adjacent to the location where salmon will be counted and biological samples or scientific data are collected.

(3) Clear, unobstructed passage must be provided between the observer sampling station and observer sample collection point. The observer(s) must be able to monitor the collection and transport of unsorted catch to the observer sampling station.

(B) *Proximity of observer sampling station.* The observer sampling station must be located within 4 meters of the observer sample collection point without encountering safety hazards, or reasonable assistance must be given to move samples into the observer sampling station upon request.

(C) *Minimum workspace requirements.* The observer sampling station must include: A working area of at least 4.5 square meters. The observer(s) must be able to stand upright

and have a sampling area at least 0.9 meters deep in front of the table and scale.

(D) *Clear, unobstructed passage.* A clear and unobstructed passage is required between the observer sample collection point and sampling station, and within the observer sampling station. Passageways must be at least 65 centimeters wide at their narrowest point, and be free of tripping or head bumping hazards.

(E) *Table.* The observer sampling station must include a table at least 0.6 meters deep, 1.2 meters wide, 0.9 meters high, and no more than 1.1 meters high. The entire surface area of the table must be available for use by the observer(s). Any area used for the observer sampling scale is in addition to the minimum space requirements for the table specified at paragraph (g)(7)(ix)(B) of this section. The observer sampling table must be secure, and stable.

(F) *Observer Platform scale.* The observer sampling station must include a platform scale as described in paragraph (c)(4) of this section, and must meet the requirements specified in paragraph (c)(3)(v) of this section when tested by the observer. The platform scale must be located within 1 meter of the observer sampling table. The scale must be mounted so that the weighing surface is no more than 0.7 meters above the floor.

(G) *Lockable cabinet.* The observer work station must include a secure and lockable cabinet or locker of at least 0.5 cubic meters, and must be for the exclusive use of the observer(s).

(x) *Communication with observer.* The CMCP, except for the Rockfish Program, must describe what communication equipment such as radios or cellular phones is used to facilitate communications within the plant. The plant owner must ensure that the plant manager provides the observer(s) with the same communications equipment used by plant staff. The plant owner or plant manager must communicate the following information to the observer(s), including:

(A) Daily schedule of expected landings;

(B) Vessel name;

(C) Identify which management areas the vessel was operating in;

(D) If the delivering vessel is operating under the trawl EM category;

(E) Estimated tonnage onboard the vessel;

(F) If there is a deckload;

(G) Estimated time of arrival;

(H) Estimated time to complete the offload;

(I) If the vessel offload will be interrupted for any reason; and

(j) Any other information required by the applicable CMCP or VMP.

(xi) *Plant liaison.* The CMCP must designate a plant liaison. The plant liaison is responsible for:

(A) Orienting new observer(s) to the plant and providing a copy of the NMFS-approved CMCP and any subsequent addendums or revisions; and

(B) Assisting in the resolution of observer(s) concerns.

* * * * *

(8) *Rockfish Program.* In addition to compliance with requirements set forth at paragraph (g)(7) of this section, all shoreside processors or stationary floating processors receiving deliveries of groundfish harvested under the authority of a rockfish CQ permit must:

(i) *Rockfish CMCP specialist notification.* Describe how the Rockfish CMCP specialist will be notified of deliveries of groundfish harvested under the authority of a rockfish CQ permit.

(ii) [Reserved]

(9) *Processors receiving AFA pollock, CDQ pollock, and trawl EM category deliveries.* In addition to compliance with requirements set forth at paragraph (g)(7) of this section, all shoreside processors and stationary floating processors receiving deliveries from the fisheries described in paragraphs (g)(2)(i), (ii), and (iv) of this section, must comply with the following:

(i) *Salmon storage container.* (A) A salmon storage container must be designated for the exclusive purpose of storing salmon during an offload;

(B) The observer(s) must have a clear, unobstructed view of the salmon storage container to ensure no salmon of any species are removed without the observer's knowledge;

(C) The CMCP must describe the process of sorting and storing salmon; and

(D) The scale drawing of the plant must include the location of the salmon storage container.

(ii) *Salmon sorting and handling practices.* (A) Sort and transport all salmon to the salmon storage container identified in the CMCP (see paragraphs (g)(7)(vi)(C) and (g)(7)(x)(F) of this section). The salmon must remain in that salmon storage container and within the view of the observer(s) at all times during the offload;

(B) If, at any point during the offload, salmon are too numerous to be contained in the salmon storage container, cease the offload and all sorting and give the observer(s) the opportunity to count and collect scientific data or biological samples from all salmon in the storage bin. The

counted salmon then must be removed from the area by plant personnel in the presence of the observer(s);

(C) At the completion of the offload, give the observer(s) the opportunity to count the salmon and collect scientific data or biological samples; and

(D) Before sorting of the next offload of any catch may begin, give the observer(s) the opportunity to complete the count of salmon and the collection of scientific data or biological samples from the previous offload of catch. When the observer(s) has completed all counting and sampling duties for the offload, plant personnel must remove the salmon in the presence of the observer(s), from the salmon storage container and location where salmon are counted and biological samples or scientific data are collected.

(iii) *Observer sample collection point.* The observer sample collection point is the location where the observer collects unsorted catch.

(A) The observer sample collection point (see paragraph (g)(7)(ix)(A)(3) of this section) must have a diverter mechanism to allow fish to be diverted from the belt directly into the observer's sampling baskets. The location and design of the diverter mechanism must be described in the CMCP; and

(B) The scale drawing of the plant, specified at paragraph (g)(7)(vii) of this section, must include the location of the observer sample collection point.

(iv) *Observer sampling scales and test weights.* (A) Identify by serial number each observer sampling scale in the CMCP;

(B) Provide observer sampling scales that are accurate and within the limits specified in paragraph (c)(4)(v) of this section;

(C) Test weights must be made available for the observer(s) use, be kept in good condition, be made of stainless steel or other corrosion-resistant material, and must meet requirements specified in paragraph (C)(4)(iii) of this section;

(D) List the serial numbers of the test weights to be used to test the observer sampling scale in the CMCP; and

(E) The CMCP must identify where the test weights will be stored. Test weights must be stored within the observer sampling station or reasonable assistance must be provided upon observer(s) request to move the weights from the storage location to the observer sampling scale.

(10) *AFA pollock and CDQ pollock.* In addition to paragraphs (g)(7) and (9) of this section, all shoreside processors and stationary floating processors accepting deliveries described in

paragraph (g)(2)(i) of this section have the following additional requirements:

(i) Ensure no salmon of any species pass beyond the last point where sorting of fish occurs, as identified in the scale drawing of the plant, paragraph (g)(7)(vii) of this section, in the CMCP; and

(ii) The CMCP must describe the process that will be used to sort salmon, including the procedures for handling salmon that have passed beyond the last point where sorting of fish occurs;

(iii) Meet all salmon handling requirements as described in (g)(9) of this section.

* * * * *

■ 8. Amend § 679.51 by:

■ a. Removing the words "NMFS Alaska Region website at <https://alaskafisheries.noaa.gov/>", "NMFS Alaska Region website <https://alaskafisheries.noaa.gov/>", "NMFS Alaska Region website at <http://alaskafisheries.noaa.gov/>", "NMFS Alaska Region website <http://alaskafisheries.noaa.gov/>", and "NMFS Alaska Region website (<http://alaskafisheries.noaa.gov/>)" wherever they appear, and adding, in their place, the words "NMFS Alaska Region website";

■ b. Adding paragraph (a)(1)(iv);

■ c. Revising paragraphs (a)(2)(ii) and (b)(2)(i);

■ d. Adding paragraph (b)(3);

■ e. In paragraph (c)(3), removing the phrase "transmitted by facsimile to 206-526-4066" and adding, in its place, the phrase "other method specified by NMFS on the NMFS Observer Program website";

■ f. In paragraph (f), removing the words "EM selection pool" wherever they appear and adding, in their place, the words "nontrawl EM selection pool";

■ g. Revising paragraph (f)(2) introductory text;

■ h. In paragraph (f)(3)(ii), removing the phrase "the video data storage devices" and adding in its place the phrase "EM data";

■ i. Revising paragraph (f)(4)(v);

■ j. Adding paragraph (f)(4)(vi);

■ k. In paragraph (f)(5)(vii), removing the phrase "the video data storage device" and adding, in its place, the words "EM data"; and

■ l. Adding paragraph (g).

The additions and revisions read as follows:

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

(a) * * *

(1) * * *

(iv) *Observer workload at shoreside processors and stationary floating*

processors. Regarding shoreside processors and stationary floating processors, the time required for an observer to complete sampling, data recording, and data communication duties, per this paragraph (a)(1), may not exceed 12 hours in each 24-hour period.

(2) * * *

(ii) *Observer coverage requirements.* A vessel listed in paragraphs (a)(2)(i)(A) through (C) of this section must have at least one observer aboard the vessel at all times. Some fisheries require additional observer coverage in accordance with paragraph (a)(2)(vi) of this section. The following exceptions apply:

(A) A vessel subject to the partial observer coverage category as per paragraph (a)(1)(i) of this section;

(B) A vessel approved to be in the full coverage trawl EM category; vessels in the full coverage trawl EM category are subject to observer coverage if NMFS determines that at-sea coverage is necessary in the Annual Deployment Plan.

* * * * *

(b) * * *

(2) * * *

(i) *Coverage level.* (A) An AFA inshore processor must provide an observer for each 12-consecutive-hour period of each calendar day during which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in a directed pollock fishery in the BS. An AFA inshore processor that, for more than 12 consecutive hours in a calendar day, takes delivery of or processes pollock harvested in the BS directed pollock fishery must provide two observers for each such day.

(B) The owner and operator of an AFA shoreside or stationary floating processor receiving deliveries from a catcher vessel in the trawl EM category must provide the necessary number of observers to meet the criteria prescribed by NMFS in the Annual Deployment Plan for each calendar day during which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in a directed pollock fishery in the BS.

* * * * *

(3) *Shoreside processor and stationary floating processor receiving a delivery from catcher or tender vessels in the trawl EM category—(i) Deadline to submit a request to receive trawl EM deliveries.* A shoreside processor and stationary floating processor must submit a request to NMFS by November 1 of the year prior to the fishing year in which they intend to receive deliveries

from catcher vessels or tender vessels in the trawl EM category.

(ii) [Reserved]

* * * * *

(f) * * *

(2) *Notification of nontrawl EM trip selection.*

* * * * *

(4) * * *

(v) If, at any time, 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 amend the VMP. The vessel owner or operator must sign the amended VMP and submit these changes to the VMP to NMFS prior to departing on the next fishing trip selected for EM coverage.

(vi) The VMP will require information regarding:

(A) Vessel and contact information;

(B) Gear used;

(C) EM hardware functionality requirements;

(D) Requirements for meeting program objectives as specified in the Annual Deployment Plan;

(E) List of potential solutions for hardware malfunctions;

(F) Images of camera locations and camera views;

(G) EM hardware service provider information;

(H) Valid signatures from the EM hardware service provider and vessel owner or operator; and

(I) Any other information required by the applicable VMP.

* * * * *

(g) *Trawl EM category—(1) Vessel placement in the trawl EM category—(i) Applicability.* (A) The owner or operator of a catcher vessel with a pollock trawl endorsement (PTW) on their FFP in the partial coverage category under paragraph (a)(1)(i) of this section, or in the full coverage category in paragraph (a)(2)(i) of this section, may request to be placed in the trawl EM category.

(1) *Partial coverage trawl EM category.*

Catcher vessels targeting pollock with pelagic trawl gear in the GOA or AI fisheries.

(2) *Full coverage trawl EM category.*

Catcher vessels targeting pollock with pelagic trawl gear in the BS or CDQ fisheries.

(B) The owner or operator of a tender vessel must request to be placed in the trawl EM category before receiving a delivery from a catcher vessel in the trawl EM category.

(ii) *How to request placement in the trawl EM category.* The owner or operator of a vessel must complete the trawl EM category request and submit it

to NMFS using ODDS. Access to ODDS is available through the NMFS Alaska Region website. ODDS is described in paragraph (a)(1)(ii) of this section.

(iii) *Deadline to submit a trawl EM category request.* A vessel owner or operator must submit an annual trawl EM category request in ODDS by November 1 of the year prior to the fishing year in which the vessel would be placed in the trawl EM category.

(iv) *Approval for placement in the trawl EM category.* NMFS may approve a vessel for placement in the trawl EM category based on criteria specified by NMFS in the Annual Deployment Plan, available through the NMFS Alaska Region website. Criteria for disapproval may include actions by the vessel leading to data gaps, noncompliance with program elements such as discarding of catch, vessel configuration or fishing practices that cannot provide the necessary camera views to meet data collection goals, failure to follow the trawl EM category VMP, and/or failure to adhere to an incentive plan agreement as specified in § 679.57 for partial coverage catcher vessels, or § 679.21(f)(12) for full coverage catcher vessels. For the trawl EM application to be considered complete, all fees due to NMFS from the owner or authorized representative of a catcher vessel subject to the fees specified at § 679.56 at the time of application must be paid.

(v) *Notification of approval for placement in the trawl EM category.* (A) NMFS will notify the owner or operator through ODDS of approval for the trawl EM category for the following fishing year. Catcher vessels remain subject to observer coverage under paragraphs (a)(1)(i) or (a)(2)(i) of this section unless and until NMFS approves the request for placement of the catcher vessel in the trawl EM category.

(B) Once NMFS notifies the vessel owner or operator that their request to be placed in the trawl EM category has been approved, the vessel owner or operator must comply with the responsibilities in paragraphs (g)(2) and (3) of this section and all further instructions set forth in ODDS.

(vi) *Initial Administrative Determination (IAD).* If NMFS denies a request to place a vessel in the trawl EM category, 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's denial of a request to place the vessel in the trawl EM category, 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 placement in the trawl EM

category, that vessel will remain in the trawl EM category for the following upcoming fishing year or until:

(A) NMFS disapproves the vessel's VMP under paragraph (g)(2) of this section; or

(B) The vessel no longer meets the trawl EM category criteria specified by NMFS.

(ix) *Procurement of EM services—(A) Partial coverage category.* The owner or operator of a vessel approved for the trawl EM category must use the EM hardware service provider as outlined by NMFS in the Annual Deployment Plan.

(B) *Full coverage category.* The owner or operator of a vessel approved for the trawl EM category must arrange and pay for EM service provider services from a permitted EM hardware service provider.

(2) *Vessel Monitoring Plan (VMP).* Once approved for the trawl EM category, and prior to the first trawl EM fishing trip in the fishing year, the vessel owner or operator must develop a VMP with the EM hardware service provider following the VMP template available through the NMFS Alaska Region website.

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

(ii) NMFS may approve the VMP for the fishing year if it meets all the requirements specified in the VMP template available through the NMFS Alaska Region website.

(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, at any time, changes must be made 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 hardware service provider to amend the VMP. The vessel owner or operator must sign the updated VMP and submit those changes to NMFS. NMFS must approve the amended VMP prior to departing on the next fishing trip selected for EM coverage.

(vi) The VMP will require information regarding:

(A) Vessel and contact information;
(B) Gear used;
(C) EM hardware functionality requirements;

(D) Requirements for meeting program objectives as specified in the Annual Deployment Plan;

(E) List of potential solutions for hardware malfunctions;

(F) Images of camera locations and camera views;

(G) EM hardware service provider information;

(H) Valid signatures from the EM hardware service provider and either the vessel owner or operator; and

(I) Any other information required by the applicable VMP.

(3) *Responsibilities.* To use an EM system under this section the vessel owner and operator must:

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

(ii) Provide access to the vessel's EM system and reasonable assistance to the EM hardware service provider;

(iii) Maintain a copy of a NMFS-approved VMP onboard 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 during fishing trips conducted under paragraph (g)(5) of this section;

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

(A) Ensure the EM system is functioning before departing on a fishing trip.

(B) Ensure power is maintained to the EM system for the duration of a trawl EM category fishing trip;

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

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

(vi) Communicate catch information to the shoreside processor or stationary floating processor receiving catch through a NMFS approved system. The following information must be transmitted as outlined in the VMP:

(A) Vessel name;

(B) Identify which Management areas the vessel was operating in;

(C) Most precise estimate available of tonnage aboard the vessel;

(D) Estimated deckload size, if present;

(E) Estimated time of arrival at shoreside processor or stationary floating processor; and

(F) Information to meet other requirements of this part, if requested by NMFS.

(4) *EM coverage duration and duties.*

(i) A fishing trip in the trawl EM category may not begin until all previously harvested fish have been landed.

(ii) At the end of the fishing trip in the trawl EM category, the vessel operator must follow the instructions in the VMP and submit the EM data and associated documentation identified in the VMP.

(iii) The vessel operator must complete daily tests of equipment functionality as instructed in the vessel's VMP.

(A) During a fishing trip in the trawl EM category, before each haul 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 haul 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 hardware service provider of the malfunction at the end of the fishing trip. The malfunction must be repaired prior to departing on the next fishing trip in the trawl EM category.

(B) [Reserved]

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

(5) *ODDS requirements for trawl EM category catcher vessels in the partial coverage category.* (i) *EM trips.* Prior to embarking on each fishing trip, the operator of a catcher vessel in the partial coverage trawl EM category with a NMFS-approved VMP must register the anticipated trip with ODDS. The owner or operator must specify the use of pelagic trawl gear to determine trawl EM category participation for the upcoming fishing trip.

(ii) [Reserved]

* * * * *

■ 9. Amend § 679.52 by:

■ a. Revising paragraphs (b)(1)(iii)(A) and (b)(1)(iii)(B)(2), and (b)(3)(i) introductory text;

■ b. In paragraph (b)(11) introductory text, removing “, fax.”;

■ c. Revising paragraphs (b)(11)(iv) and (b)(11)(vii) introductory text;

■ d. In paragraph (b)(11)(ix), removing the word “fax” and adding, in its place, the phrase “electronic submission (email, or online through NMFS-designated electronic system).”;

■ e. In paragraph (b)(11)(x) introductory text, removing the phrase “fax or email”

and adding, in its place, the phrase “electronic submission (email, or online through NMFS-designated electronic system)”;

- f. Revising paragraph (b)(11)(x)(B); and
- g. Adding paragraphs (d) and (e).

The revisions and additions read as follows:

§ 679.52 Observer provider permitting and responsibilities.

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(A) That all of the observer's in-season catch messages (data) between the observer and NMFS are submitted to the Observer Program as outlined in the current Observer Sampling Manual.

(B) * * *

(2) The observer does not at any time during his or her deployment travel through a location where an Observer Program employee is available for an in-person data review and the observer completes a phone, email, or other NMFS-specified method for mid-deployment data review, as described in the Observer Sampling Manual; and

* * * * *

(3) * * *

(i) An observer provider must develop, maintain, implement, and enforce a policy addressing observer conduct and behavior for their employees that serve as observers. The policy shall address the following behavior and conduct regarding:

* * * * *

(11) * * *

(iv) *Observer deployment/logistics report.* An accurate deployment/logistics report must be submitted within 24 hours of the observer assignment, or daily by 4:30 p.m., Pacific time, each business day with regard to each observer. The deployment/logistics report must include the observer's name, cruise number, current vessel, shoreside processor, or stationary floating processor assignment and vessel/processor code, embarkation date, and estimated or actual disembarkation dates.

* * * * *

(vii) *Observer provider contracts.* Observer providers must submit to the Observer Program a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under § 679.51(a)(2) and (b)(2),

by February 1 of each year. Observer providers must also submit to the Observer Program upon request, a completed and unaltered copy of the current or most recent signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract and any agreements or policies with regard to observer compensation or salary levels) between the observer provider and the particular entity identified by the Observer Program or with specific observers. The copies must be submitted by electronic transmission (email or through an electronic system as designated by NMFS), or other method specified by NMFS within 5 business days of the request for the contract at the address listed in § 679.51(c)(3). Signed and valid contracts include the contracts an observer provider has with:

* * * * *

(x) * * *

(B) Within 72 hours after the observer provider determines that an observer violated the observer provider's conduct and behavior policy described at paragraph (b)(3)(i) of this section; these reports shall include the underlying facts, circumstances, and provider responses to the violation, including the steps taken to enforce the provider's conduct and behavior policy.

* * * * *

(d) *EM hardware service provider permit*—(1) *Permit.* The Regional Administrator may issue a permit authorizing a person's participation as an EM hardware service provider for operations requiring EM system coverage per § 679.51(f) and (g). Persons seeking to provide EM services under this section must obtain an EM hardware service provider permit from the NMFS Alaska Region.

(2) *EM hardware service provider.* An applicant seeking an EM hardware service provider permit must submit a completed application to the Regional Administrator for review. This application can be found on the NMFS Alaska Region website.

(3) *Contents of application.* An application for an EM hardware service provider permit must contain the following:

(i) *Contact information.* (A) The permanent phone number and email address of the owner(s) of the EM hardware service provider.

(B) Current physical location, business mailing address, business telephone, and business email address for each office of the EM hardware service provider.

(ii) *Hardware testing.* Description of testing conducted to ensure that the EM

hardware is capable of withstanding environmental conditions in the North Pacific Ocean. NMFS will provide specifications for EM hardware upon request.

(iii) *Data review.* Provide a sample of EM data to NMFS that can be reviewed by NMFS EM data review software for compliance with program objectives as specified in § 679.51(f) and (g).

(iv) *Conflict of interest.* A statement signed under penalty of perjury from each owner or, if the owner is an entity, each board member and officer, that they have no conflict of interest as described in paragraph (c) of this section.

(v) *Criminal convictions and Federal contracts.* A statement signed under penalty of perjury from each owner or, if the owner is an entity, each board member officer, if a corporation, describing:

(A) Any criminal convictions; and

(B) Any Federal contracts they have had and the performance rating they received for each such contract.

(vi) *Prior experience.* A description of any prior experience the EM hardware service provider may have in placing individuals in remote field and/or marine work environments. This includes recruiting, hiring, deployment, working with fishing fleets, and operations in remote areas.

(vii) *Responsibilities and Duties.* A description of the EM hardware service provider's ability to carry out the responsibilities and duties of an EM hardware service provider as set out under paragraph (e) of this section, and the arrangements to be used.

(4) *Application evaluation.* NMFS staff will evaluate the completeness of the application, the application's consistency with needs and objectives of the EM program, and other relevant factors. NMFS will provide specifications for EM hardware upon request.

(5) *Agency determination on an application.* NMFS will send the Agency's determination on the application to the EM hardware service provider. If an application is approved, NMFS will issue an EM hardware service provider permit to the applicant. If an application is denied, the reason for denial will be explained in the electronic determination.

(6) *Transferability.* An EM hardware service provider permit is not transferable. To prevent a lapse in authority to provide EM hardware services, a provider that experiences a change in ownership that involves a new person may submit a new permit application prior to sale and ask to have

the application approved under this paragraph (a) prior to date of sale.

(7) *Expiration of EM hardware service provider permit*—(i) *Permit duration*. An EM hardware service provider permit will expire after a period of 12 continuous months during which no EM services are provided to vessels in an EM category.

(ii) *Permit expiration*. The Regional Administrator will provide a written initial administrative determination (IAD) of permit expiration to a provider if NMFS records indicate that the provider has not provided EM services to vessels in an EM category during a period of 12 continuous months. A provider who receives an IAD of permit expiration may appeal the IAD under § 679.43. A provider that appeals an IAD will be issued an extension of the expiration date of the permit until after the final resolution of the appeal.

(8) *Removal of permit*. Performance of the EM hardware service provider will be assessed annually on the ability of the provider to meet program objectives as outlined in § 679.51 and the Annual Deployment Plan. If the EM hardware service provider is unable to meet program objectives, the permit will be removed.

(e) *Responsibilities of EM hardware service providers*. Responsibilities of EM hardware service providers are specified in section § 679.51(f) and (g).

■ 10. Add §§ 679.56 and 679.57 to subpart E to read as follows:

§ 679.56 Full coverage trawl Electronic Monitoring fee.

(a) *Full coverage trawl Electronic Monitoring (EM) category fee*—(1) *Responsibility*. The owner of a catcher vessel in the full coverage trawl EM category must comply with the requirements of this section. Subsequent opting out of the trawl EM category does not affect the FFP permit holder's liability for paying the full coverage trawl EM category fee for any fishing year in which the vessel was approved to be in the full coverage trawl EM category and made pollock landings. Subsequent transfer of an AFA catcher vessel or AFA permit does not affect the catcher vessel owner's liability for non-compliance with this section.

(2) *Landings subject to the observer fee*. The full coverage trawl EM fee is assessed on pollock landings by catcher vessels in the full coverage trawl EM category as specified in § 679.51(g).

(3) *Fee collection*. The owner of a catcher vessel (as identified under paragraph (a)(1) of this section) is responsible for paying the full coverage trawl EM fee for all pollock landings.

(4) *Payment*—(i) *Payment due date*. The owner of a catcher vessel (as identified under paragraph (a)(1) of this section) must submit all full coverage trawl EM fee payments to NMFS no later than May 31 of the fishing year following the year in which the pollock landings occurred.

(ii) *Payment recipient and method*. The owner of a catcher vessel (as identified under paragraph (a)(1) of this section) must make electronic payment to NMFS. Submit payment and related documents as instructed on the fee submission form. Payments must be made electronically through the NMFS Alaska Region website. Instructions for electronic payment will be made available on both the payment website and a fee liability summary letter mailed to each permit holder.

(b) *Full coverage standard ex-vessel value determination and use*. NMFS will use the standard prices calculated for AFA cost recovery per § 679.66(b).

(c) *Full coverage fee percentages*—(1) *Established percentages*. The trawl EM fee percentage is the amount as determined by the factors and methodology described in paragraph (c)(2) of this section. These amounts will be announced by publication in the **Federal Register** in accordance with paragraph (c)(3) of this section.

(2) *Calculating fee percentage value*. Each year NMFS will calculate and publish the trawl EM fee percentage for the full coverage trawl EM category catcher vessels according to the following factors and methodology:

(i) *Factors*. NMFS will use the following factors to determine the fee percentages:

(A) The catch to which the full coverage trawl EM fee will apply;

(B) The ex-vessel value of that catch; and

(C) The costs directly related to the EM data collection, EM data review, VMP approval, and trawl EM category data.

(ii) *Methodology*. NMFS will use the following equations to determine the trawl EM fee percentage: $100 \times DPC \div V$, where:

(A) *DPC* equals the trawl EM category costs for the directed full coverage pollock fisheries for the most recent fiscal year (October 1 through September 30) with any adjustments to the account from payments received in the previous year.

(B) *V* equals the total of the standard ex-vessel value of the catch subject to the trawl EM fee liability for the current year.

(iii) *Program costs*. Trawl EM category costs will be calculated only for catcher

vessels that NMFS approves to be in the full coverage trawl EM category.

(3) *Publication*—(i) *General*. NMFS will calculate and announce the trawl EM fee percentage in a **Federal Register** notice by December 1 of the year following the year in which the full coverage pollock landings were made. NMFS will calculate the trawl EM fee percentage based on the calculations described in paragraph (c)(2) of this section.

(ii) *Effective period*. Effective period. NMFS will apply the calculated trawl EM fee percentage to all full coverage trawl EM category directed pollock landings made by vessels in the trawl EM category between January 1 and December 31 of the previous year.

(4) *Applicable percentage*. A designated representative must use the AFA fee percentage applicable at the time a Bering Sea directed pollock landing is debited from an AFA pollock fishery allocation to calculate the AFA fee liability for any retroactive payments for that landing.

§ 679.57 Trawl EM incentive plan agreements.

(a) *Parties to a trawl EM Incentive Plan Agreement (TEM IPA)*. (1) A catcher vessel owner or operator must be a party to a TEM IPA to be approved for the trawl EM partial coverage category.

(2) Once a party to a TEM IPA, a catcher vessel owner or operator cannot withdraw from the TEM IPA, and must comply with the terms of the TEM IPA for the duration of the fishing year.

(b) *Request for approval of a proposed TEM IPA*. The TEM IPA representative must submit a proposed TEM IPA to NMFS. The proposed TEM IPA must contain the following information:

(1) *Affidavit*. The TEM IPA must include an affidavit affirming that each party to the TEM IPA is subject to the same terms and conditions.

(2) *Name*. Name of the TEM IPA.

(3) *Representative*. The TEM IPA must include the name, telephone number, and email address of the TEM IPA representative who is responsible for submitting the proposed TEM IPA on behalf of the TEM IPA parties, any proposed amendments to the TEM IPA, and the annual report required under paragraph (f) of this section.

(4) *Incentive plan*. The TEM IPA must contain provisions that address or contain the following:

(i) Restrictions, penalties, or performance criteria that will limit changes in fishing behavior.

(ii) Incentive measures to ensure that catcher vessels do not retain or land pollock catch in excess of 300,000

pounds per fishing trip, on average in the GOA and an explanation of how the incentive(s) encourage vessel operators to limit landings in excess of 300,000 pounds of pollock per fishing trip in the GOA.

(iii) Incentive measures to prevent catcher vessels from exceeding the MRAs established in § 679.21(e) and how the incentives encourage vessel operators to avoid bycatch and avoid exceeding the maximum retainable amounts established in § 679.20(e).

(iv) Acknowledgment by the parties that NMFS will disclose to the public their vessels' performance under the TEM IPA and any restrictions, penalties, or performance criteria imposed under the TEM IPA by vessel name.

(5) *Compliance agreement.* The TEM IPA must include a provision that all parties to the TEM IPA agree to comply with all provisions of the TEM IPA.

(6) *Signatures.* The name and signature of the owner or operator for each vessel that is a party to the TEM IPA.

(c) *Deadline and duration—(1) Deadline for proposed TEM IPA.* A proposed TEM IPA must be received by NMFS no later than 1700 hours, A.l.t., on December 1 of the year prior to the fishing year for which the TEM IPA is proposed to be effective.

(2) *Duration.* Once approved, a TEM IPA is effective starting January 1 of the fishing year following the year in which NMFS approves the IPA, unless the TEM IPA is approved between January 1 and January 19, in which case the TEM IPA is effective starting in the year in which it is approved. Once approved, a TEM IPA is effective until December 31 of the first year in which it is effective or until December 31 of the year in which the TEM IPA representative notifies NMFS in writing that the TEM IPA is no longer in effect, whichever is later. A TEM IPA may not expire mid-year. No party may leave a TEM IPA once it is approved, except as allowed under paragraph (d)(3) of this section.

(d) *NMFS review of a proposed TEM IPA—(1) Approval.* A TEM IPA will be approved by NMFS if the TEM IPA meets the following requirements:

(i) Complies with the submission requirements of paragraphs (b) and (c) of this section; and

(ii) Contains the information required in paragraph (b) of this section.

(2) *Amendments to a TEM IPA.*

Amendments in writing to an approved TEM IPA may be submitted to NMFS at any time and will be reviewed under the requirements of paragraph (b) of this section. An amendment to an approved TEM IPA is effective when NMFS

notifies the TEM IPA representative in writing of NMFS approval.

(3) *Disapproval.* (i) NMFS will disapprove a proposed TEM IPA or a proposed amendment to a TEM IPA:

(A) If the proposed TEM IPA fails to meet any of the requirements of paragraph (b) of this section; or

(B) If a proposed amendment to a TEM IPA would cause the TEM IPA to no longer comply with the requirements of paragraph (b) of this section.

(ii) [Reserved]

(4) *Initial Administrative Determination (IAD).* If NMFS identifies deficiencies in the proposed TEM IPA, NMFS will notify the applicant in writing that the proposed TEM IPA will not be approved. The TEM IPA representative will be provided one 30-day period to address, in writing, all deficiencies identified by NMFS. Additional information or a revised TEM IPA received by NMFS after the expiration of the 30-day period specified by NMFS will not be considered. NMFS will evaluate any additional information submitted by the TEM IPA representative within the 30-day period. If the Regional Administrator determines that the additional information addresses the deficiencies in the proposed TEM IPA, the Regional Administrator will approve the proposed TEM IPA under paragraph (d) of this section. However, if NMFS determines that the proposed TEM IPA does not comply with the requirements of paragraph (b) of this section, NMFS will issue an IAD providing the reasons for disapproving the proposed TEM IPA.

(5) *Appeal.* A TEM IPA representative who receives an IAD disapproving a proposed TEM IPA may appeal under the procedures set forth at 15 CFR part 906. If the TEM IPA representative fails to timely file an appeal of the IAD pursuant to 15 CFR part 906, the IAD will become the final agency action. If the IAD is appealed and the final agency action approves the proposed TEM IPA, the TEM IPA will be effective as described in paragraph (c) of this section.

(6) *Pending approval.* While appeal of an IAD disapproving a proposed TEM IPA is pending, proposed parties to the TEM IPA subject to the IAD, which are not currently parties to an approved TEM IPA, are not authorized to participate in trawl EM category.

(e) *Public release of a TEM IPA and performance metrics.* Each fishing year NMFS will release to the public and publish on the NMFS Alaska Region website:

(1) Approved TEM IPAs and Approval Memos;

(2) List of parties to each approved TEM IPA; and

(3) Names of vessels covered by each approved TEM IPA that:

(i) On average, retain or land pollock catch in excess of 300,000 pounds per fishing trip in the GOA; and

(ii) Harvest bycatch in quantities that exceed MRAs.

(iii) Vessels' performance under the TEM IPA and any restrictions, penalties, or performance criteria imposed under the TEM IPA by vessel name.

(f) *TEM IPA Annual Report.* The representative of each approved TEM IPA must submit a written annual report to the Council at the address specified in § 679.61(f). The Council will make the annual report available to the public.

(1) *Submission deadline.* The TEM IPA Annual Report must be received by the Council no later than May 15 of the following fishing year.

(2) *Information requirements.* The TEM IPA Annual Report must contain the following information:

(i) A comprehensive description of the incentive measures in effect in the previous year;

(ii) A description of how these incentive measures affected individual vessels;

(iii) An evaluation of whether incentive measures were effective in limiting changes in vessel behavior including the effectiveness of:

(A) Measures to ensure that trips by participating vessels, on average, do not retain or land pollock catch in excess of 300,000 pounds per fishing trip in the GOA;

(B) Measures that incentivize participating vessels to avoid exceeding MRAs established in § 679.20(e) applicable to non-EM vessels;

(C) Restrictions, penalties, or performance criteria that were imposed to prevent vessels from consistently exceeding catcher vessel harvest limit for pollock in the GOA or MRAs relative to non-EM vessels by vessel name (see §§ 679.7(b)(2) and 679.20(e)); and

(D) The frequency of vessels exceeding the catcher vessel harvest limit for pollock in the GOA and MRA limit relative to non-EM vessels (see §§ 679.7(b)(2) and 679.20(e)).

(iv) A description of any amendments to the TEM IPA that were approved by NMFS since the last annual report and the reasons that the amendments to the TEM IPA were requested.