

1998 interim total allowable catch (TAC) amounts.

DATES: Effective 0001 hrs, Alaska local time (A.l.t.), January 1, 1998, until superseded by the Final 1998 Harvest Specification for Groundfish, which will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

In accordance with § 679.20(d), if the Administrator, Alaska Region, NMFS (Regional Administrator) determines that the amount of a target species or "other species" category apportioned to a fishery or, with respect to pollock, to an inshore or offshore component allocation, will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (§ 679.20(d)(1)(iii)). Similarly, under § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, or *C. bairdi* Tanner crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

NMFS has published interim 1998 harvest specifications for these groundfish fisheries (62 FR 65626, December 15, 1997). The Regional Administrator has determined that the interim TAC amounts of pollock in the Bogoslof District; Pacific ocean perch, "other rockfish", and "other red rockfish" in the Bering Sea subarea; and sharpchin/northern rockfish, shortraker/rougeye rockfish, and "other rockfish" in the Aleutian Islands subarea, will be reached and will be necessary as incidental catch to support other anticipated groundfish fisheries prior to the time that final specifications for groundfish are likely to be in effect for the 1998 fishing year. Consequently, in accordance with § 679.20(d)(i), the

Regional Administrator establishes these interim TAC amounts as directed fishing allowances.

Further, the Regional Administrator finds that these directed fishing allowances will be reached before the end of the year. Therefore, in accordance with § 679.20(d) NMFS is prohibiting directed fishing for these species in the specified areas. In addition, the interim BSAI halibut bycatch allowance specified for the trawl rockfish fishery and the trawl Greenland turbot/arrowtooth flounder/sablefish fishery categories, defined at § 679.21(e)(3)(iv)(C) and (D), is 0 mt. In accordance with § 679.21(e)(7)(iv), NMFS is prohibiting directed fishing for rockfish by vessels using trawl gear in the BSAI and for Greenland turbot/arrowtooth flounder/sablefish by vessels using trawl gear in the BSAI.

These closures will be in effect beginning at 0001 hours, A.l.t., January 1, 1998, until superseded by the Final 1998 Harvest Specifications for Groundfish.

While these closures are in effect, the maximum retainable bycatch amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679. Refer to § 679.2 for definitions of areas. In the BSAI, "other rockfish" includes *Sebastes* and *Sebastolobus* species except for Pacific ocean perch and the "other red rockfish" species. "Other red rockfish" includes shortraker, rougeye, sharpchin, and northern rockfish.

NMFS may implement other closures at the time the Final 1998 Harvest Specifications are implemented or during the 1998 fishing year, as necessary for effective conservation and management.

Classification

This action is required by § 679.20 and is exempt from review under E.O. 12866.

This action responds to the interim TAC limitations and other restrictions on the fisheries established in the Interim 1998 harvest specifications for groundfish for the BSAI. It must be implemented immediately to prevent overharvesting the 1998 interim TAC of several groundfish species in the BSAI. A delay in the effective date is impracticable and contrary to the public interest. The fleet will begin to harvest groundfish on January 1, 1998. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly,

under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

Dated: December 22, 1997.

Gary C. Matlock,

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

[FR Doc. 97-33893 Filed 12-29-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 970829216-7305-02; I.D. 073097B]

RIN 0648-AK15

Fisheries of the Exclusive Economic Zone Off Alaska; Extension of the Interim Groundfish Observer Program through 1998

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to implement a regulatory amendment to extend with some minor revisions the current groundfish observer coverage requirements and implementing regulations for the North Pacific Groundfish Observer Program (Observer Program) that are in effect through December 31, 1997. This action is necessary to assure uninterrupted observer coverage requirements through 1998. This action also provides notice of changes to observer qualifications and observer training/briefing requirements, which are non-codified elements of the Observer Program.

This action is intended to accomplish the objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMPs).

DATES: Effective January 1, 1998.

ADDRESSES: Copies of the Regulatory Impact Review/Final Regulatory Flexibility Analysis (RIR/FRFA) prepared for this regulatory amendment and the Environmental Assessment (EA)/RIR/FRFA prepared for the 1997 Interim Groundfish Observer Program, dated August 27, 1996, may be obtained from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802; telephone: 907-586-7228. Copies of the non-codified

elements of the Observer Program may be obtained also from this address. Send comments regarding burden estimates or any other aspect of the data requirements, including suggestions for reducing the burdens, to NMFS and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503, Attn: NOAA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Kim S. Rivera, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

The U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area in the Exclusive Economic Zone are managed by NMFS under the FMPs. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and are implemented by regulations for the U.S. fisheries at 50 CFR part 679. General regulations that also pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

In 1996, the Council adopted and NMFS implemented the Interim Groundfish Observer Program. The Interim Groundfish Observer Program superseded the North Pacific Fisheries Research Plan and extended the 1996 mandatory groundfish observer requirements through 1997, unless superseded by a long-term program that addresses concerns about observer data integrity, equitable distribution of observer coverage costs, and observer compensation and working conditions. NMFS continues to pursue a long-term solution to concerns about observer morale and the quality of observer data. NMFS is jointly developing with the Pacific States Marine Fisheries Commission (PSMFC) an alternative observer program joint project agreement (JPA) that would address concerns about observer data integrity and observer compensation and working conditions. At its June 1997 meeting, the Council supported the concept of developing such a program. The Council is scheduled to take final action on this JPA at its February 1998 meeting. Given that this alternative could not be in place by January 1, 1998, the current interim program must be extended to assure uninterrupted observer coverage requirements.

At its June 1997 meeting, the Council unanimously requested NMFS to extend through 1998 the current interim program, with minor revisions. A proposed rule to implement the interim

program was published in the **Federal Register** on September 19, 1997 (62 FR 49198). Background information on the Interim Groundfish Observer Program may be found in the preamble to the proposed rule and in the RIR/FRFA prepared for this action. Comments on the proposed rule were invited through October 20, 1997. Three letters of comments were received. The comments are summarized and responded to in the Response to Comments section below.

Changes from the Proposed Rule

The following changes from the proposed rule are made in the final rule.

(1) Proposed regulations at § 679.50(i)(1)(i) exempt observer contractors certified prior to January 1, 1997, from the requirement to submit a certification application to NMFS. Comment received on the proposed rule questioned the situation whereby an observer contractor previously certified by NMFS but not actively providing observer services be allowed to perform the duties of an observer contractor without going through the NMFS certification process again. NMFS did not intend for this situation to be allowed and revises this final rule to specify that observer contractors certified prior to January 1, 1998, and providing observer services during 1997, are exempt from the requirement to submit an application.

(2) At its June 1997 meeting, the Council recommended an adjustment to the conflict-of-interest standard at § 679.50(h)(2)(i)(A)(4) that prohibits a person from serving as an observer if that person was employed in a North Pacific fishery during the previous 12-month period. The Council recommended a less restrictive standard that would prohibit an observer from working on any vessel or at any shoreside processor owned or operated by a person who previously employed the observer. The proposed regulation at § 679.50(h)(2)(i)(A)(4) is not necessary, because that the existing regulation at § 679.50(h)(2)(i)(A)(3) meets the criteria recommended by the Council. Through oversight, NMFS proposed to revise § 679.50(h)(2)(i)(A)(4) when actually, it should have proposed removing it. NMFS removes this regulation at § 679.50(h)(2)(i)(A)(4) and retains the conflict-of-interest standard at § 679.50(h)(2)(i)(A)(3) that states that observers may not serve as observers on any vessel or at any shoreside facility owned or operated by a person who previously employed the observers.

Regulatory Changes For The 1998 Interim Groundfish Observer Program

After considering the public comments received, NMFS is extending with some minor revisions the current groundfish observer coverage requirements and implementing regulations for the Observer Program. Except for the two changes from the proposed rule noted above, the other minor revisions were proposed in the proposed rule. The minor revisions are described below.

1. Extend the effective period of 50 CFR 679.50 through December 31, 1998.

2. Revise the 30-percent observer coverage requirement at § 679.50(c)(1)(vi) and (vii) to clarify that required coverage is specific to the gear type, meaning, for example, that observer coverage obtained for a vessel using hook-and-line gear cannot be used to comply with observer coverage requirements for the same vessel when it is used to fish with pot gear.

3. Expand the prohibition at § 679.7(g)(1) to include sexual harassment and bribery as unlawful interferences with an observer.

4. Remove the conflict-of-interest regulation at § 679.50(h)(2)(i)(A)(4). The existing conflict-of-interest regulation at § 679.50(h)(2)(i)(A)(3) that states that observers may not serve as an observer on any vessel or at any shoreside facility owned or operated by a person who previously employed the observers, fully implements the Council's recommendation at its June 1997 meeting to implement a less restrictive standard than the one at § 679.50(h)(2)(i)(A)(4).

5. Revise the regulation at § 679.50(i)(1)(i) to indicate that observer contractors certified prior to January 1, 1998, and that provided observer services during 1997, are exempt from the requirement to submit an application for certification.

6. Revise the regulation at § 679.50(i)(2)(xiv)(G) to alleviate confusion on what information observer contractors currently are required to submit to NMFS. The revision clarifies that an observer contractor must submit a completed and unaltered copy of each type of signed and valid contract an observer contractor has with those entities required to have observer services. Furthermore, upon NMFS's request, an observer contractor must submit completed and unaltered copies of signed and valid contracts that the contractor has with specific entities. Required copies of contracts must be submitted by mail or fax. Types of signed and valid contracts include the contracts an observer contractor has

with: (a) Vessels required to have 30-percent observer coverage, (b) vessels required to have 100-percent observer coverage, (c) shoreside processors required to have 30-percent observer coverage, (d) shoreside processors required to have 100-percent observer coverage, or (e) observers (to include contracts for the various compensation or salary levels of observers, the levels being based on observer experience).

7. Correct an erroneous cross-reference in the regulation at § 679.50(j)(7)(iv).

Changes to Non-codified Elements Of The Observer Program

Three elements of the 1997 Observer Program were not codified in regulation: (1) Observer qualifications, (2) observer training/briefing requirements, and (3) NMFS's selection criteria for observer contractors. NMFS's selection criteria for observer contractors remain unchanged. The observer contractor selection criteria were published in the **Federal Register** (61 FR 40380, August 2, 1996) and are available upon request (see ADDRESSES). Observer qualifications and observer training/briefing requirements are revised with the minor changes that were proposed in the preamble of the proposed rule. These non-codified elements will remain in effect until amended or rescinded. Although they will not be codified, they are viewed as a part of the rule and NMFS will publish a notification in the **Federal Register** and provide an opportunity for public comment prior to proposing future changes to these elements. The NMFS observer qualifications are as follows:

A. Prospective observers must have a bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences.

B. Candidates must have a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course. Candidates must also have successfully completed at least one undergraduate course in mathematics and one in statistics worth a combined total of at least 5 semester hours. In addition, all applicants are required to have computer skills that enable them to work competently with standard database software and computer hardware.

C. Prospective observers are also required to complete successfully any screening test(s) administered by NMFS. These tests would measure basic mathematics, algebra, and computer skills as well as other abilities necessary for successful job performance.

D. If a sufficient number of candidates meeting these educational prerequisites is not available, the observer contractor may seek approval from NMFS to substitute individuals with either a senior standing in an acceptable major, or with an Associate of Arts (A.A.) degree in fisheries, wildlife science, or an equivalent.

E. If a sufficient number of individuals meeting the above qualifications is not available, the observer contractor may seek approval from NMFS to hire individuals with other relevant experience or training.

F. To qualify for certification, all prospective observers must undergo safety and cold water survival training that requires the prospective observers to demonstrate their ability to properly put on an immersion suit in a specified time period, enter the water, travel approximately 50 m to a ladder, and climb out of the water.

The additional mathematics, statistics, and computer skills requirements reflect the increased responsibilities of observers and are similar to the observer qualifications that would have been required under the Research Plan, had it been fully implemented.

The NMFS observer training/briefing requirements are as follows:

A. Observers who have completed a deployment must be recertified prior to another deployment. All observers are required to complete a 4-day briefing prior to their first deployment in any calendar year. One-day briefings are required prior to subsequent deployments within a calendar year. Certification following 1- or 4-day briefings will expire after 1 month if deployment is delayed. Observers who have not been deployed for 18 months are required to complete a 3-week training course.

B. If an observer is not deployed within 1 month after completion of training, the individual must complete a 1-day briefing. If the observer is not deployed within 3 months after training, the individual must complete a 4-day briefing. If the observer is not deployed within 6 months after training, the individual must retake the full training course.

C. Observers may be required to attend an additional 4-day briefing based upon an evaluation of data collected during their most recent deployment.

Response to Comments

Comment 1. Previously certified observer contractors that have not been actively providing observer services should not be allowed to perform the

duties of an observer contractor without going through the NMFS certification process again.

Response. NMFS agrees. When NMFS promulgated regulations applying to observer contractor certification (61 FR 56425; November 1, 1996), the intent was that observer contractors already certified and providing observer services need not submit certification applications for 1997. NMFS clarifies this intent in this final rule and revises the regulation at § 679.50(i)(1)(i) to indicate that observer contractors certified prior to January 1, 1998, and providing observer services during 1997, are exempt from submitting an observer contractor certification application. Observer contractors that were certified prior to January 1, 1998, but did not provide observer services during 1997 must be recertified.

Comment 2. NMFS should require observer contractors to be certified on an annual basis such that their performance in providing observer services can be reviewed periodically. NMFS should also consider limiting the number of certified observer contractors to the suite of contractors supplying observers in 1997.

Response. At this time, NMFS declines making major changes to the observer contractor certification process because they are outside the scope of this rule. NMFS and the Pacific States Marine Fisheries Commission (PSMFC) are jointly developing an alternative observer program JPA that would better ensure the collection of quality observer data by relying on a third party organization to provide procurement services for required observer coverage. The observer contractor certification process will be considered in this JPA between NMFS and PSMFC as well as contractual arrangements between PSMFC and observer companies. NMFS believes that an annual review of the performance of observer contractor companies could be accommodated under this new infrastructure. The JPA could also include a process to determine what the optimum number of observer contractor companies may be. At this time, action by NMFS to revise the certification process would be premature.

Comment 3. The Association for Professional Observers (APO) supports the proposed conflict-of-interest standard that states that observers may not serve as an observer onboard a vessel or plant where they were previously employed. The previous conflict-of-interest standard [§ 679.50(h)(2)(i)(A)(4)] was far stricter than any conflict-of-interest standard in

the United States government or for any Council member.

Response. NMFS concurs in the APO's comment. The conflict-of-interest standard at § 679.50(h)(2)(i)(A)(4) has been removed. The less strict standard at § 679.50(h)(2)(i)(A)(3) remains, providing that observers may not serve as observers on any vessel or at any shoreside facility owned or operated by a person who previously employed the observers.

Comment 4. The APO supports the inclusion of sexual harassment and bribery as unlawful interference with the observer.

Response. NMFS concurs and revises the regulation at § 679.7(g)(1) accordingly.

Comment 5. The observer coverage levels on vessels fishing with certain types of gear, such as pots, that experience low bycatch is unnecessary and costly. NMFS should not revise the 30 percent observer coverage requirement by quarter and by gear type unless pot gear is excluded.

Response. NMFS disagrees. The revisions to observer coverage regulations at § 679.50(c)(1)(vi) and (vii) serve only to clarify the original intent that the coverage is gear-specific. NMFS acknowledges that pot fisheries experience relatively low bycatch as evidenced by the gear-specific observer coverage requirements for catcher/processors and catcher vessels that are longer than 125 ft (38.1 m) length overall (LOA). Vessels fishing with pot gear are only required to have 30 percent observer coverage, while those using other gear types must have 100 percent coverage [§ 679.50(c)(1)(iv)].

Comment 6. The APO understands why NMFS requires observer contractors to submit specified information. APO does not understand why certified contractors are allowed to withhold this information from NMFS. If observers were to withhold required information, observers have, and would be, decertified. How is it possible that NMFS has never decertified or suspended an observer contractor in the past 7 years?

Response. NMFS does not allow observer contractors to withhold required information. Some observer contractors have interpreted the information submission regulations at § 679.50(i)(2)(xiv)(G) differently than NMFS intended. That was the impetus for NMFS to revise the regulations in this final rule, thereby clarifying NMFS's intent.

NMFS acknowledges that the current regulations governing observer contractor certification do not include a periodic review process to evaluate the

ability of an observer contractor to satisfactorily perform their responsibilities and duties as required at § 679.50(i)(2). If NMFS became aware of evidence that an observer contractor failed to perform the necessary responsibilities and duties, NMFS would initiate an investigation under the suspension or decertification procedures.

Comment 7. The proposed requirement that observers have taken at least one course that used dichotomous keys extensively is ambiguous and subjective. The current observer requirements are too rigid and excessive given that observers are the most educated, yet lowest paid members of the fishing community.

Response. NMFS disagrees. When NMFS reviews observer candidates' transcripts, a course that used dichotomous keys extensively would be evidenced by a course in biological taxonomy or in a course description as provided with the transcript. NMFS observer training staff have noted that observer candidates with coursework in dichotomous keys are more successful in the portions of the observer training course where fish dichotomous keys are used.

Comment 8. The proposed changes that would increase the number of briefing days also increases the number of days that observers are not paid for their work. Until observers are paid a decent wage, the number of required briefing days should not be increased.

Response. NMFS disagrees. Although the proposed number of observer briefing days required in a 12-month period would increase from 2 to 4 under this rule, the number of observer briefing days required for subsequent deployments within a calendar year would decrease from 2 to 1. The total number of briefing days would be 4 for the first trip plus 1 for each subsequent deployment, compared to 2 briefing days for each trip as is currently required. The net change in annual number of observer briefing days is anticipated to be minimal. For instance, many observers are deployed twice per year. Under this final rule, they would be required to have 5 briefing days, as compared to 4 briefing days under the previous requirements. If an observer is deployed three times per year, the total number of briefing days would not change. NMFS believes any additional briefing days and the associated cost are warranted given the changes to observer sampling requirements and procedures that necessitate additional observer briefing time. NMFS does not anticipate that the training base for observers will change significantly in the near future

such that the additional briefing days would not be necessary. The majority of the current observer contractor companies do compensate observers to some extent for briefing days.

Comment 9. Currently, if observers have not been deployed for a 2-year period, they must repeat the complete 3-week training course prior to being deployed. NMFS has proposed that this time period be reduced to 18 months. The APO opposes this revised requirement and believes that the 4-day briefing requirement for an observer who has not worked recently as an observer is sufficient. APO opposes any increased provisions affecting the observer until NMFS overhauls the structure of the observer program. If observers are required to go through training after 18 months of not observing, this amounts to more volunteer work on the part of the observer as most companies do not compensate the observer during training.

Response. NMFS disagrees. New and future programs (e.g., observer electronic reporting and multispecies CDQ, respectively) will continue to create additional training requirements for observers, therefore necessitating additional training time. Given these circumstances, NMFS can no longer assure the best quality observer data possible if some observers are not adequately trained in new sampling techniques and procedures. NMFS believes this change in requirements will affect only a relatively low number of observers. The best available information indicates that approximately 5 percent of observers trained and briefed in 1996 and 1997 had not been deployed during the prior 18-month period. The majority of the current observer contractor companies do compensate observers to some extent for training days. Nonetheless, NMFS believes modified training and briefing requirements are necessary to address data quality concerns.

Classification

This final rule has been determined to be not significant for purposes of E.O. 12866.

The changes occurring through this regulatory action are largely within the scope of issues thoroughly analyzed in the EA/RIR/FRFA for the 1997 Interim Groundfish Observer Program (61 FR 56425, November 1, 1996). A copy is available from NMFS (see ADDRESSES). That EA/RIR/FRFA supplements the EA/RIR/FRFA prepared for this action.

NMFS prepared an FRFA, which consists of the EA/RIR/FRFA and the preambles to the proposed and final rule

implementing this action. Based on the analysis, it was determined that this rule could have a significant economic impact on a substantial number of small entities. A copy of this analysis is available from NMFS (see **ADDRESSES**). Observer costs borne by vessels and processors are based on whether an observer is aboard a vessel and on overall coverage needs. Higher costs are borne by those vessels and shoreside processors that require higher levels of coverage. Most of the catcher vessels participating in the groundfish fisheries off Alaska and required to carry observers (i.e., vessels 60 ft (18.3 m) LOA and longer) meet the definition of a small entity under the Regulatory Flexibility Act. In 1995, about 270 catcher vessels carried observers. The FRFA prepared for the 1997 Interim Groundfish Observer Program describes the degree to which these catcher vessels would be economically impacted by observer coverage levels. Because this rule would not implement any changes in required observer coverage levels and the underlying socioeconomic status of the fishery has remained stable, the basic observer coverage requirements are not expected to result in any economic impacts beyond those already analyzed.

Several minor changes are implemented for 1998 under this rule. First, an observer conflict-of-interest regulation would be removed, thereby potentially creating increased employment opportunities for observers. Five observer contractors are likely to be affected by this rule. All are considered small entities, and none are likely to experience significant economic impacts. Given that observers are employees of observer contractors, this change could increase the economic benefits realized by observer contractors.

Second, although the number of observer briefing days required in a 12-month period would increase from 2 to 4, the number of observer briefing days required for subsequent deployments within a calendar year would decrease from 2 to 1. The net change in number of observer briefing days is anticipated to be minimal. The briefing day costs (lodging, per diem) are approximately \$135–200 per day and are dependent on the briefing location (Alaska or Washington). The cost is borne by either the observer or the observer contractor and is dependent upon the specific employment arrangements between these entities. The briefing day costs are typically passed on from the observer or the observer contractor to the vessel or processor that is required to have the observer coverage. In 1996, 384

observers (employed by five observer contractors) were briefed for the North Pacific groundfish fisheries.

Third, additional training days will be required of observers that have not been deployed for 18 months. Previously, these observers were required to attend a 4-day briefing. This rule will require they attend a 3-week training course (15 working days). NMFS believes this change in requirements will affect only a relatively low number of observers. The best available information, through October 1997, indicates that approximately 5 percent of observers trained or briefed in 1996 and 1997 had not been deployed during the past 18-month period. From January 1996 through October 1997, 1,010 observers were trained or briefed. The majority of the current observer contractor companies do compensate observers to some extent for briefing/training days.

Alternatives that addressed modifying reporting requirements for small entities or the use of performance rather than design standards for small entities were not considered by the Council or in this analysis. Such alternatives are not relevant to this action and would not mitigate the impacts on small entities. Allowing exemptions for small entities from this proposed action would not be appropriate because the objective to assure uninterrupted and comprehensive observer coverage requirements through 1998 could not be achieved if small entities were exempted.

However, this action does include measures that will minimize the significant economic impacts of observer coverage requirements on at least some small entities. Vessels less than 60 ft (18.3 m) LOA are not required to carry an observer while fishing for groundfish. Similarly, vessels between 60 ft (18.3 m) and 125 ft (38.1 m) LOA have lower levels of observer coverage than those for vessels over 125 ft (38.1 m) LOA. These measures, which have been incorporated into the requirements of the North Pacific Groundfish Observer Program since its inception in 1989, effectively mitigate the economic impacts on some small entities without adversely affecting implementation of the conservation and management responsibilities imposed by the FMPs and the Magnuson-Stevens Act.

The EA/RIR/FRFA prepared for the 1997 Interim Groundfish Observer Program (61 FR 56425, November 1, 1996) included the North Pacific Fisheries Research Plan (Research Plan) as an alternative. However, the Research Plan is no longer a viable alternative to the proposed interim observer program. The political and economic concerns

that led the Council to repeal the Research Plan still exist. Furthermore, fees collected in 1995 were refunded in early 1996 and, if the Research Plan were pursued as the preferred alternative, start-up funding would have to be collected again. Regulations implementing the existing observer program will expire at the end of 1997. It is not feasible to implement a fee-based observer program by the end of this year, which would be necessary to provide observer coverage for the 1998 groundfish fisheries. The preferred alternative for an interim observer program is the only option that could be implemented by 1998 so that the groundfish fisheries could commence without interruption. Since the repeal of the Research Plan and at the direction of the Council, NMFS has been developing a long-term alternative program structure to address the problems identified with the current observer program structure. The Council is scheduled to take final action at its February 1998 meeting.

The proposed rule to implement regulatory changes to the Interim Groundfish Observer Program was published in the **Federal Register** on September 19, 1997 (62 FR 49198) and comments were invited on the IFRA. No comments were received on the IRFA.

This rule contains a revised collection-of-information requirement subject to the Paperwork Reduction Act (PRA). This collection-of-information requirement has been approved by the Office of Management and Budget (OMB) under OMB Control Number 0648–0318. The estimated current burden for submission of observer contractor information is 15 minutes. The proposed rule requested public comment on this revised collection-of-information requirement. No comments were received from OMB or the public.

Public comment is sought regarding: Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information has 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. (See **ADDRESSES**.)

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless

that collection- of-information displays a currently valid OMB control number.

Observer coverage provides quality data to monitor the fisheries, support resource management, and monitor compliance by vessels and shoreside processors with Federal fisheries regulations. Therefore, continuation of uninterrupted observer coverage requirements as intended by NMFS and the Council is essential to the conservation and management of the fisheries. In addition, insofar as the requirements of this observer program remain largely unchanged from those in effect during 1997, the affected public should be familiar with these requirements and should not need additional time to prepare for their renewed effectiveness at the beginning of the 1998 fisheries. Accordingly, for the reasons set forth above, the Assistant Administrator for Fisheries, NOAA finds for good cause namely, it is unnecessary and contrary to the public interest to delay the effectiveness of this rule for 30 days. In order to have no lapse in coverage, this rule is effective on January 1, 1998.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: December 22, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

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

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.7, paragraph (g)(1) is revised to read as follows:

§ 679.7 Prohibitions.

* * * * *

(g) * * *

(1) Forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with an observer.

* * * * *

3. In § 679.50, paragraph (h)(2)(i)(A)(4) is removed, paragraph (h)(2)(i)(A)(5) is redesignated as paragraph (h)(2)(i)(A)(4) and the section heading, paragraphs (c)(1)(vi) and (vii), (i)(1)(i) and (iii), introductory text of

(i)(2)(xiv), (i)(2)(xiv)(G), and (j)(7)(iv) are revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 1998.

* * * * *

(c) * * *

(1) * * *

(vi) A catcher/processor or catcher vessel fishing with hook-and-line gear that is required to carry an observer under paragraph (c)(1)(v) of this section must carry an observer during at least one entire fishing trip using hook-and-line gear in the Eastern Regulatory Area of the GOA during each calendar quarter in which the vessel participates in a directed fishery for groundfish in the Eastern Regulatory Area using hook-and-line gear.

(vii) A catcher/processor or catcher vessel equal to or greater than 60 ft (18.3 m) LOA fishing with pot gear that participates for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter must carry an observer during at least 30 percent of its fishing days while using pot gear in that calendar quarter and during at least one entire fishing trip using pot gear in a calendar quarter for each of the groundfish fishery categories defined under paragraph (c)(2) of this section in which the vessel participates.

* * * * *

(i) * * *

(1) * * *

(i) **Application.** An applicant seeking to become an observer contractor must submit an application to the Regional Administrator describing the applicant's ability to carry out the responsibilities and duties of an observer contractor as set out in paragraph (i)(2) of this section and the arrangements and methods to be used. Observer contractors certified prior to January 1, 1998, and that have provided observer services during 1997, are exempt from this requirement to submit an application and are certified for the term specified in paragraph (i)(1)(iii) of this section.

(ii) * * *

(iii) **Term.** Observer contractors will be certified through December 31, 1998. Observer contractors can be decertified or suspended by NMFS under paragraph (j) of this section.

(2) * * *

(xiv) Providing the following information to the Observer Program Office by electronic transmission (e-mail), fax, or other method specified by NMFS.

* * * * *

(G) A completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) an observer contractor has with those entities requiring observer services under paragraphs (c) and (d) of this section and with observers. Completed and unaltered copies of signed and valid contracts with specific entities requiring observer services or with specific observers must be submitted to the Observer Program Office upon request. Types of signed and valid contracts include the contracts an observer contractor has with:

(1) Vessels required to have observer coverage as specified at paragraphs (c)(1)(i) and (iv) of this section,

(2) Vessels required to have observer coverage as specified at paragraphs (c)(1)(ii), (v), and (vii) of this section,

(3) Shoreside processors required to have observer coverage as specified at paragraph (d)(1)(i) of this section,

(4) Shoreside processors required to have observer coverage as specified at paragraph (d)(1)(ii) of this section,

(5) Observers (to include contracts for the various compensation or salary levels of observers, the levels being based on observer experience).

(6) Required copies of contracts must be submitted by mail or faxed to: NMFS Observer Program Office, 7600 Sandpoint Way Northeast, Seattle, WA 98115-0070; fax number 206-526-4066.

* * * * *

(j) * * *

(7) * * *

(iv) If the appeals officer grants review based on the written petition, he or she may request further written explanation from observers, observer contractors, or the decertifying officer or suspending officer. The appeals officer will then render a written decision to affirm, modify, or terminate the suspension or decertification or return the matter to the suspending or decertifying official for further findings. The appeals officer must base the decision on the administrative records compiled under paragraphs (j)(5) or (j)(6) of this section, as appropriate. The appeals officer will serve the decision on observers or observer contractors and any affiliates involved, personally or by certified mail, return receipt requested, at the last known residence or place of business.

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