

the distribution of power and responsibilities between the Federal government and Indian tribes.”

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Today’s action does not have any direct effects on Indian tribes. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045: “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be “economically significant” as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

While this proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, EPA has reason to believe that ozone has a disproportionate effect on active children who play outdoors (62 FR 38856; 38859 July 18, 1997). The EPA has not identified any specific studies on whether or to what extent the four above listed chemical compounds affect children’s health. The EPA has placed the available data regarding the health effects of these four chemical compounds in docket no. A–2002–03. The EPA invites the public to submit or identify peer-reviewed studies and data, of which EPA may not be aware, that assess results of early life exposure to any of the four above listed chemical compounds.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (“NTTAA”), Public Law 104–113, section 12(d), (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

List of Subjects in 40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 27, 2003.

Marianne Lamont Horinko,
Acting Administrator.

For reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

1. The authority citation for part 51 continues to read as follows:

Authority: 42 U.S.C. 7401–7641q.

2. Section 51.100 is proposed to be amended by adding paragraph (s)(5) as follows:

§ 51.100 Definitions.

* * * * *

(s) * * *

(5) The following compounds are VOC for purposes of all recordkeeping,

emissions reporting, and inventory requirements which apply to VOC, but are not VOC for purposes of VOC emissions limitations or VOC content requirements:

1,1,1,2,2,3,3-heptafluoro-3-methoxypropane (n-C₃F₇OCH₃), 3-ethoxy-1,1,1,2,3,4,4,5,5,6,6-dodecafluoro-2-(trifluoromethyl) hexane (HFE–7500), 1,1,1,2,3,3,3-heptafluoropropane (HFC 227ea), and methyl formate (HCOOCH₃).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 030818203–3203–01; I.D. 071503D]

RIN 0648–AR32

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Observer Program

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes to amend regulations governing the North Pacific Groundfish Observer Program (Observer Program). This action is necessary to amend current regulations to provide flexibility in the deployment of observers in the Exclusive Economic Zone (EEZ) off the coast of Alaska. This action is intended to ensure continued collection of high quality observer data to support the management objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs) and to promote the goals and objectives contained in those FMPs.

DATES: Comments must be received by October 3, 2003.

ADDRESSES: Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Durall. Hand delivery or courier delivery of comments may be sent to NMFS, 709 West 9th Street, Room 420, Juneau, AK 99801. Comments may also be sent via facsimile to 907–586–7557. Comments

will not be accepted if submitted by email or the Internet. Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this proposed regulatory action and the Environmental Assessment (EA) prepared for the Extension of the Interim North Pacific Groundfish Observer Program beyond 2002 are available from NMFS at the above address, or by calling the Alaska Region, NMFS, at (907) 586-7228.

FOR FURTHER INFORMATION CONTACT: Jason Anderson, 907-586-7228 or jason.anderson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the U.S. groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands Management Area (BSAI) in the Exclusive Economic Zone under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations implementing the FMPs appear at 50 CFR part 679. General regulations that pertain to U.S. fisheries appear at subpart H of 50 CFR part 600.

The Council adopted and NMFS implemented the Interim Groundfish Observer Program (Interim Program) in 1996, which superseded the North Pacific Fisheries Research Plan (Research Plan). The requirements of the Interim Program were extended through 1997 (61 FR 56425, November 1, 1996), again through 1998 (62 FR 67755, December 30, 1997), again through 2000 (63 FR 69024, December 15, 1998), again through 2002 (65 FR 80381, December 21, 2000), and again through 2007 (67 FR 72595, December 6, 2002). The Interim Program provides the framework for the collection of data by observers to obtain information necessary for the conservation and management of the groundfish fisheries managed under the FMPs. Further, it authorizes mandatory observer coverage requirements for vessels and shoreside processors and establishes vessel, processor, and contractor responsibilities relating to the Observer Program.

A final rule to amend regulations governing observer coverage requirements for vessels and shoreside processors in the North Pacific Groundfish Fisheries was published in the **Federal Register** on January 7, 2003 (68 FR 715). The intent of the final rule was to address concerns about: (1) Shoreside processor observer coverage; (2) shoreside processor observer logistics; (3) observer coverage requirements for vessels fishing with

groundfish pot gear; and (4) confidentiality of observer personal information. This proposed rule is intended to correct and clarify specific provisions of the January 7, 2003, final rule.

This proposed rule would amend the current regulations to allow an observer to be housed: (1) On a stationary floating processor; (2) on a vessel he or she will be assigned to for a time period prior to the vessel's departure from port necessary to coordinate the vessel observer's deployment logistics and vessel departure plans; (3) on a vessel for 24 hours following the completion of an offload where the observer has duties and is scheduled to disembark; and (4) on a vessel for 24 hours following the vessel's arrival in port when the observer is scheduled to disembark.

Subsequent to publication of the January 7, 2003, final rule, Observer Program staff received comments from two separate observer providers concerned with their ability to effectively deploy observers under the current regulations at § 679.50 (i)(2)(vi). In order to account for potential logistics problems, both observer providers described a common practice whereby observers are flown to their port of departure 3 or 4 days before the vessel is scheduled to depart. Flight cancellations and delays due to weather are common so fishing companies often request that observers arrive prior to their anticipated departure date.

Observers often arrive at their assigned vessel and encounter delays in the vessel's departure. Vessel operators are often unable to predict exactly when they will be able to leave port for a fishing trip due to weather, mechanical failure, labor disputes, and other unanticipated problems. These delays result in periods of time where an observer may be housed on an assigned vessel that is not traveling to fishing grounds or actively involved in fishing.

As observers arrive, they move onto their assigned vessels and await departure. Under current regulations, observers may not be housed on vessels they are assigned to until 24 hours prior to their departure time. In their attempt to mitigate potential logistical problems and expenses, observer providers may, at times, be in violation of current regulations. This action is meant to provide fishing operations with planning flexibility to deal with these uncertainties, and give observer providers improved opportunities to serve their customers.

The action would have an effect on observers equivalent to the lengthening of a fishing trip. Observers would receive normal contracted compensation

for the additional days spent on vessels. Moreover, fishing operations would pay for the extra days of observer availability. This would provide an incentive to the fishing operation to only contract for the additional days that were absolutely necessary to deal with the departure uncertainty.

The proposed regulations also provide for housing aboard stationary floating processors. Current regulations at 679.50(i)(2)(vi)(B) govern the housing requirements for observers assigned to shoreside processing facilities and for observers between vessel or shoreside assignments while still under contract to an observer provider. Observers are commonly deployed to stationary floating processors and catcher vessels delivering to stationary floating processors. Stationary floating processors are often in remote locations and observers are commonly housed on these stationary floating processors before, after, and in between catcher vessel assignments and while assigned to a stationary floating processor. During review of current regulations at 679.50(i)(2)(vi)(B) and (C), NMFS realized stationary floating processors were not accounted for as possible accommodations for observers deployed to catcher vessels delivering to these stationary floating processors. This action would extend the requirements to observers being deployed in these circumstances. Given the remoteness of these stationary floating processors, NMFS considers the practice of housing observers deployed to catcher vessels delivering to stationary floating processors reasonable. Accommodation requirements at 679.50(i)(2)(vi)(B) for observers being housed on stationary floating processors are the same as those for a licensed hotel, motel, bed and breakfast, or other shoreside accommodations.

Regulations at 679.50(i)(2)(vi)(C) would be amended to clarify that these housing requirements apply to observers under contract.

Further, during review of these regulations, NMFS noticed that 679.50(i)(2)(vi)(C)(2) and (3) were the same. The proposed amendment to the regulations would clarify NMFS intent by accounting for two housing situations where the observer is scheduled to disembark the vessel. First, the observer could be housed on a vessel for up to 24 hours following the completion of an offload where the observer has duties and is scheduled to disembark. This accounts for assignments to catcher boats which target pollock and the observer is required to monitor the offload for prohibited species. Second, the observer

could be housed on a vessel for 24 hours following the vessel's arrival in port where the observer is scheduled to disembark. This accounts for assignments to all other vessels where the observer's duties are complete upon arrival to port.

This proposed rule would amend regulations at 679.50(i)(2)(vi)(D) by moving text to the preamble. It is a requirement that observers are provided housing within the standards outlined in the regulations. Therefore, it is implied that alternative housing must be arranged if the conditions in paragraph D are not met. This statement is interpretive and does not change the intent of NMFS.

Classification

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

An Initial Regulatory Flexibility Analysis (IRFA) was prepared to evaluate the impacts of this action on directly regulated small entities in compliance with the requirements of Section 603 of the Regulatory Flexibility Act (RFA). The reasons for the action, its objectives, and its legal basis have been described earlier in the preamble. A copy of this analysis is available from NMFS (*see ADDRESSES*).

For the proposed actions, the small regulated entities include: (1) Fishing vessels with observer coverage requirements and total annual gross revenues of less than \$3.5 million from all the operation's commercial activity taken together; (2) processing facilities with observer coverage requirements and fewer than 500 employees, when all their affiliated operations, worldwide, are combined; (3) the CDQ groups; and (4) observer providers. Therefore about 330 small regulated entities could be affected by the proposed rule, or about 215 if the catcher vessels in the AFA pollock cooperatives are excluded.

The preferred alternative does not appear to have adverse impacts on small entities. The alternative would amend the current regulations to allow an observer to be housed: (1) On a stationary floating processor; (2) on a vessel he or she will be assigned to for

a time period prior to the vessel's departure from port necessary to coordinate the vessel observer's deployment logistics and vessel departure plans; (3) on a vessel for 24 hours following the completion of an offload where the observer has duties and is scheduled to disembark; and (4) on a vessel for 24 hours following the vessel's arrival in port when the observer is scheduled to disembark. This alternative provides better opportunities to deal with the uncertainties associated with vessel operations and subsequent placement of the observer.

The status quo is the alternative to the preferred action. The status quo would not clarify the regulations or provide fishing operations with additional flexibility to deal with the uncertainties associated with the deployment of observers. The status quo was rejected because it would not accomplish the objectives of the action, and because it would have a relatively adverse impact on small entities.

This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities. This analysis did not reveal any Federal rules that duplicate, overlap or conflict with the proposed action.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: August 27, 2003.

Rebecca Lent,

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

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be 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 § 679.50, paragraphs (i)(2)(vi)(B), (C), and (D) are revised to read as follows:

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

* * * * *

(i) * * *

(2) * * *

(vi) * * *

(B) Except as provided in paragraphs (i)(2)(vi)(C) and (i)(2)(vi)(D) of this section, each observer deployed to a shoreside processing facility or stationary floating processor, and each observer between vessel, stationary floating processor or shoreside assignments while still under contract with a permitted observer provider, shall be provided with accommodations at a licensed hotel, motel, bed and breakfast, stationary floating processor, or other shoreside accommodations for the duration of each shoreside assignment or period between vessel or shoreside assignments. Such accommodations must include an assigned bed for each observer and no other person may be assigned that bed for the duration of that observer's stay. Additionally, no more than four beds may be in any room housing observers at accommodations meeting the requirements of this section.

(C) An observer under contract may be housed on a vessel he or she will be, or currently is, assigned to for a period not to exceed:

(1) The time period prior to the vessel's departure from port necessary to coordinate the vessel observer's deployment logistics and vessel departure plans;

(2) Twenty-four hours following the completion of an offload when the observer has duties and is scheduled to disembark; or

(3) Twenty-four hours following the vessel's arrival in port when the observer is scheduled to disembark.

(D) During all periods an observer is housed on a vessel, the observer provider must ensure that the vessel operator or at least one crew member is aboard.

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