

entities for the purposes of the Regulatory Flexibility Act. Based on this determination, no initial regulatory flexibility analysis has been prepared.

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. The public reporting burden for these requirements is estimated to be 30 min for a new permit application, and 20 min for completing a fishing logbook each day. Each estimate includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether (a) 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, (b) the accuracy of the burden estimates, (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to William L. Robinson (see **ADDRESSES**), and email to David_Rostker@omb.eop.gov or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to 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 665

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaii, Hawaiian natives, Northern Mariana Islands, Pacific Remote Island Areas, Reporting and recordkeeping requirements.

Dated: March 23, 2007.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 665 is proposed to be amended as follows:

PART 665—FISHERIES IN THE WESTERN PACIFIC

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

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

2. In § 665.12, add the definition of “Hawaii non-longline pelagic permit” to read as follows:

§ 665.12 Definitions.

* * * * *

Hawaii non-longline pelagic permit means the permit required by § 665.21 to use non-longline fishing gear to fish for Pacific pelagic management unit species in EEZ waters around Hawaii, the resulting catch of which either is, or is intended to be, sold, bartered, or traded.

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3. In § 665.21, add a new paragraph (o) to read as follows:

§ 665.21 Permits.

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(o) The owner of any vessel used to fish for Pacific pelagic management unit species using non-longline gear in EEZ waters around Hawaii, the resulting catch of which either is, or is intended to be, sold, bartered, or traded, must have a valid Hawaii non-longline pelagic permit issued for the vessel.

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5. In § 665.22, add new paragraph (uu) to read as follows:

§ 665.22 Prohibitions.

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(uu) Engage in fishing using non-longline gear for Pacific pelagic management unit species in EEZ waters around Hawaii without a valid Hawaii non-longline pelagic permit as required under § 665.21(o).

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070316061-7061-01; I.D. 031907B]

RIN 0648-AV13

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 issues a proposed rule to amend regulations supporting the

North Pacific Groundfish Observer Program (Observer Program). This action is necessary to revise requirements for the facilitation of observer data transmission and improve inseason support for observers. The proposed rule would promote the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs).

DATES: Written comments must be received by April 27, 2007.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. Comments may be submitted by any of the following methods:

- E-mail: 0648-AV13-PR-OCS@noaa.gov. Include in the subject line the following identifier: “OCS proposed rule.” E-mail comments, with or without attachments, are limited to 5 megabytes;

- Mail: P.O. Box 21668, Juneau, AK 99802;

- Fax: (907) 586-7557;

- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK; or

- Webform at the Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions at that site for submitting comments.

Copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) prepared for this action may be obtained from the mailing address above or from the NMFS Alaska Region website at <http://www.fakr.noaa.gov>.

FOR FURTHER INFORMATION CONTACT:

Jason Anderson, 907-586-7228, or jason.anderson@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

NMFS manages the U.S. groundfish fisheries of the Bering Sea and Aleutian Islands Management Area (BSAI) and Gulf of Alaska (GOA) in the Exclusive Economic Zone under the FMPs. The North Pacific Fishery Management Council (Council) has prepared the FMPs pursuant to the Magnuson-Stevens Fishery Conservation and Management 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 originally adopted and NMFS approved and implemented the

current "interim" Observer Program (Observer Program) in 1996 (61 FR 56425, November 1, 1996). Through interim extensions, Observer Program regulatory requirements have been extended through 2007 (62 FR 67755, December 30, 1997; 63 FR 69024, December 15, 1998; 65 FR 80381, December 21, 2000; and 67 FR 72595, December 6, 2002). A proposed rule that would extend regulations implementing the Observer Program indefinitely was published on February 22, 2007 (72 FR 7948).

The Observer Program provides the regulatory 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. Regulations implementing the Observer Program at § 679.50 require observer coverage aboard catcher vessels, catcher/processors, motherships, and shoreside and stationary floating processors that participate in the groundfish fisheries off Alaska, as well as establish vessel, processor, and observer provider responsibilities relating to the Observer Program.

Timely electronic communication of catch reports submitted to NMFS by industry and observers is crucial for groundfish quota and prohibited species catch allowance monitoring. In July 1995, NMFS issued a final rule (60 FR 34904, July 5, 1995) that required computer hardware and software that enabled observers to send NMFS electronic data on all catcher/processors, motherships, and shoreside processors that process groundfish. In October 2003, a final rule was published (68 FR 58038, October 8, 2003) that extended these requirements to all catcher vessels that are required to carry an observer at all times during fishing operations. In April 2006, a final rule (71 FR 20346, April 20, 2006) was issued that, in part, revised hardware requirements to allow software upgrades installation. These rulemakings referred to the electronic data submission and communications system as "Atlas."

Regulations describing hardware and software requirements for electronic submission of observer reports on all catcher/processors, motherships, catcher vessels required to carry an observer at all times, and from shoreside and stationary floating processors are found at § 679.50(g)(1) and (g)(2). This electronic data submission and communications system is now called the "observer communications system (OCS)." The OCS is comprised of computers and communications equipment supplied by catcher vessels,

catcher/processors, motherships, and shoreside and stationary floating processors, as well as custom software provided by NMFS. The OCS allows observers to rapidly process and report the data they collect to NMFS. Its use on catcher vessels, catcher/processors, motherships, and shoreside and stationary floating processors has enhanced timely and accurate fisheries data reporting.

Regulations at § 679.50(g)(1) and (g)(2) require each OCS-use computer to meet processing chip, memory, operating system, disk drives, and modem minimum specifications. Since its implementation, OCS requirements have been periodically revised through proposed and final rulemaking to require necessary upgrades as commercially available software became obsolete or unsupported by its manufacturer, or as NMFS upgraded the OCS software component to increase data quality and efficiency.

Rather than propose necessary hardware and software component upgrades to support new OCS software, NMFS proposes to remove these specific requirements. NMFS proposes to require that each catcher vessel, catcher/processor, mothership, and shoreside and stationary floating processor already subject to OCS requirements provide hardware and software that is fully functional and operational with the NMFS-supplied software. The term "functional" would mean that all the tasks and components of the NMFS supplied software and data transmissions to NMFS could be executed effectively by the computer equipment. NMFS would no longer revise OCS hardware and software requirements through rulemaking. As changes to the software component of the OCS become necessary to support electronic communications of observer data, Observer Program staff would communicate in writing with vessel and plant personnel to describe those changes. Catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors subject to OCS requirements would be required to ensure their computer hardware and software components continued to meet the functionality and operational requirements.

Observer Program staff are currently upgrading the OCS software component. One reason for the upgrade is that the commercial database software used to store observer-collected information and interface with the OCS software is no longer supported by the manufacturer. The new OCS software should increase overall data quality by increasing the functionality and efficiency of the OCS,

and interface with new, supported commercial database software. The new OCS software is expected to be available for installation for the 2008 fishing year. If this proposed regulation is adopted, catcher vessels, catcher/processors, motherships, and shoreside or stationary floating processors must ensure the OCS computer meets the minimum specifications necessary for the software to execute all of its tasks, including communication with NMFS computers to transmit data for the 2008 fishing year.

Changes to OCS Regulations

Presently, § 679.50(g)(1)(iii)(B)(1) and (g)(2)(iii)(B)(1) describe the minimum hardware and software requirements for the computer provided for an observer's use. This action proposes to remove these requirements except that the computer would still be required to be connected to a communication device that provides a point-to-point modem NMFS host computer connection.

Proposed regulations at § 679.50(g)(1)(iii)(B)(2) and (g)(2)(iii)(B)(2) would require catcher vessel, catcher/processor, mothership, and shoreside or stationary floating processor operators to install the most recent NMFS-provided OCS software version or other NMFS-approved, commercially available software. While no commercially available software has been approved at this time, NMFS would consider approving commercially available software in the future.

Regulations at § 679.50(g)(1)(iii)(C) and (g)(2)(iii)(C) currently require all OCS hardware to be fully functional and operational. According to these regulations, "functional" means that the hardware can initiate and transmit data to NMFS. Under this action, "functional" would be defined so that all of the NMFS-supplied, or other approved, software's tasks and components must also be fully functional and operational on the computer equipment. Additionally, NMFS proposes to redesignate these paragraphs as § 679.50(g)(1)(iii)(B)(3) and (g)(2)(iii)(B)(3), respectively, to clarify that both software and hardware OCS components must be functional.

The revisions described above are necessary to accommodate the larger, more sophisticated software and database programs provided, or other approved, by NMFS.

Classification

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

NMFS prepared an initial regulatory flexibility analysis (IRFA) as required by

section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. An action description, why it is being considered, and the legal basis for this action are contained at the beginning of the preamble and in the SUMMARY section of the preamble. An IRFA copy is available from NMFS (see ADDRESSES) and is not repeated here. An analysis summary follows.

This proposed rule would require vessels and shoreside or stationary floating processors to meet current technology standards necessary to support OCS software changes as they occur. Entities subject to OCS requirements include all motherships, catcher/processors, shoreside or stationary floating processors and catcher vessels required to carry an observer at all times. These proposed actions would revise requirements for the facilitation of observer data transmission and improve support for observers.

All motherships have gross revenues in excess of \$4 million and are considered large entities. Data available for 2005 indicate that 17 of the 83 catcher/processors active in the groundfish fisheries that year would be considered small entities. Confidentiality restrictions require NMFS to report gross revenue information in aggregate of four or more entities. These restrictions prevent NMFS from reporting the number of catcher vessels and shoreside or stationary floating processors regulated under this proposed action as small entities because each group is no larger than four.

Alternative 1 described in the EA/RIR/IRFA is the status quo alternative. Current regulations regarding computing and communications equipment would remain in effect.

Alternative 2 would remove current hardware and software specifications for all vessels and shoreside or stationary floating processors currently subject to OCS requirements, and instead require them to ensure the computer provided for use by an observer meets the minimum specifications necessary for the NMFS-provided OCS software to execute all of its tasks, including communicate with NMFS computers to transmit data.

Alternative 3 would revise current regulations to upgrade minimum hardware and software specifications for all vessels and shoreside or stationary floating processors currently subject to OCS requirements. Future changes to

OCS software that would require hardware and software upgrades would require additional rulemaking.

Upgrade costs to accommodate anticipated changes to OCS software are estimated to average \$93 for all catcher/processors, \$200 for all motherships, \$315 for all shoreside and stationary floating processors, and \$438 for all catcher vessels required to carry an observer at all times under the proposed action. For the 17 catcher/processors considered small entities, the cost is estimated at about 0.004 percent of one year's gross revenues. As noted above, NMFS is unable to report gross revenues for catcher vessels and shoreside or stationary floating processors considered small entities under this action. Therefore, OCS upgrade costs cannot be reported as a percentage of gross revenues for these entities.

No additional recordkeeping, reporting, or compliance requirements are associated with this action.

The 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: March 23, 2007.

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. 108–199, 118 Stat. 110.

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

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

* * * * *

- (g) * * *
- (1) * * *
- (iii) * * *
- (B) * * *

(1) *Observer access to computer.*

Making a computer available for use by

the observer. This computer must be connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(2) *NMFS-supplied software.* Ensuring that the catcher/processor, mothership, or catcher vessel specified in paragraph (g)(1) of this section has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software.

(3) *Functional and operational equipment.* Ensuring that the communication equipment required in paragraph (g)(1)(iii)(B) of this section and that is used by observers to enter and transmit data, is fully functional and operational. "Functional" means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (g)(1)(iii)(B)(2) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

* * * * *

- (2) * * *
- (iii) * * *
- (B) * * *

(1) *Observer access to computer.* Making a computer available for use by the observer. This computer must be connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(2) *NMFS-supplied software.* Ensuring that the shoreside or stationary floating processor specified in paragraph (g)(2) of this section has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software.

(3) *Functional and operational equipment.* Ensuring that the communication equipment required in paragraph (g)(2)(iii)(B) of this section and that is used by observers to enter and transmit data, is fully functional and operational. "Functional" means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (g)(2)(iii)(B)(2) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

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