

within 30 days, the permit is void as of the 30th day after such change.

(l) *Renewal.* Persons must apply annually for an IFTP issued under this section. A renewal application must be submitted via a Web site designated by NMFS, at least 15 days before the permit expiration date to avoid a lapse in permitted status. NMFS will renew a permit provided that: the application for the requested permit renewal is complete; all documentation and reports required under this subpart and: the Magnuson-Stevens Act, Atlantic Tuna Conventions Act, the Tuna Conventions Act, the Marine Mammal Protection Act, the Dolphin Consumer Protection Information Act, and the Antarctic Marine Living Resources Act have been submitted, including those required under §§ 216.24, 216.93, 300.114, 300.183, 300.185, 300.186, 300.187 and 635.5 of this title; and the applicant is not subject to a permit sanction or denial under paragraph (i) of this section.

#### **§ 300.323 Reporting requirements.**

A person importing for consumption or non-consumption, exporting, or re-exporting fish or fish products regulated under this subpart from any ocean area must file all reports and documentation required under the AMLR trade program, HMS ITP, and TTVP, and under other regulations that incorporate by reference the requirements of this subpart.

#### **§ 300.324 Prohibitions.**

In addition to the prohibitions specified in §§ 300.4, 300.117, 300.189, 600.725 and 635.71 of this title, it is unlawful for any person subject to the jurisdiction of the United States to:

(a) violate any provision of this subpart, or any IFTP issued under this subpart,

(b) Import fish or fish products regulated under this subpart without a valid IFTP or without submitting complete and accurate information.

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No.:150904827-5827-01]

RIN 0648-BF36

#### **Fisheries of the Exclusive Economic Zone Off of Alaska; Observer Coverage Requirements for Small Catcher/Processors in the Gulf of Alaska and Bering Sea and Aleutian Islands Groundfish Fisheries**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations that would implement Amendment 112 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP) and Amendment 102 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) and revise regulations for observer coverage requirements for certain small catcher/processors in the Gulf of Alaska (GOA) and Bering Sea and Aleutian Islands Management Area (BSAI). If approved, this proposed rule would modify the criteria for NMFS to place small catcher/processors in the partial observer coverage category under the North Pacific Groundfish and Halibut Observer Program (Observer Program). Under this proposed rule, the owner of a non-trawl catcher/processor could choose to be in the partial observer coverage category, on an annual basis, if the vessel processed less than 79,000 lb (35.8 mt) of groundfish on an average weekly basis in a particular prior year, as specified in this proposed rule. This proposed rule would not alter observer coverage requirements for a catcher/processor using trawl gear or for a catcher/processor when participating in a catch share program; these catcher/processores would continue to be required to be in the full observer coverage category. This proposed rule would provide a relatively limited exception to the general requirement that all catcher/processores are in the full observer coverage category, and maintain the full observer coverage requirement for all trawl catcher/processores and catcher/processores participating in a catch share program that requires full coverage. The net impact of this proposed rule on the

information available for fisheries management is expected to be small due, in part, to the small amount of fishing activity that would be impacted. This proposed rule is intended to promote the goals of the BSAI and GOA FMPs, and to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other applicable laws.

**DATES:** Submit comments on or before January 28, 2016.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-NMFS-2015-0114, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal eRulemaking Portal. Go to [www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2015-0114](http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2015-0114), click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. 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 [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), 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 112 to the BSAI FMP and Amendment 102 to the GOA FMP, the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Analysis), and the Categorical Exclusion prepared for this action are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to NMFS at the above address; by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov); or by fax to 202-395-5806.

**FOR FURTHER INFORMATION CONTACT:** Anne Marie Eich, 907-586-7228.

**SUPPLEMENTARY INFORMATION:****Authority for Action**

NMFS manages the groundfish fisheries of the GOA under the GOA FMP. NMFS manages the groundfish fisheries of the BSAI under the BSAI FMP. The North Pacific Fishery Management Council (Council) prepared the GOA FMP and the BSAI FMP pursuant to the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*). Regulations implementing the GOA FMP and BSAI FMP appear at 50 CFR part 679.

The Council submitted Amendment 112 to the BSAI FMP and Amendment 102 to the GOA FMP (collectively referred to as Amendment 112/102) for review by the Secretary of Commerce, and a notice of availability of Amendment 112/102 was published in the **Federal Register** on February 29, 2016, with comments invited through February 29, 2016. Comments may address Amendment 112/102 or this proposed rule, but must be received by February 29, 2016 to be considered in the approval/disapproval decision on Amendment 112/102. All comments received by that time, whether specifically directed to Amendment 112/102, or to this proposed rule, will be considered in the approval/disapproval decision on Amendment 112/102.

**Background**

This proposed rule would modify the criteria used by NMFS to place small catcher/processors in the partial observer coverage category in the Observer Program. Under this proposed rule, the owners of non-trawl catcher/processors could choose to be in the partial observer coverage category for the upcoming fishing year if their vessels processed less than 79,000 lb (35.8 mt) of groundfish on an average weekly basis in a particular prior year, as specified in this rule. This proposed rule does not alter observer coverage requirements for a catcher/processor using trawl gear or for a catcher/processor when participating in a catch share program; these catcher/processors would continue to be required to be in the full observer coverage category. The terms “production” and “processing” are used synonymously in this proposed rule. The following sections describe: (1) The Observer Program, (2) the Need for the Proposed Action, (3) the Rationale for Major Provisions of the Proposed Rule, and (4) the Proposed Rule.

**The Observer Program**

Regulations implementing the Observer Program allow NMFS-certified observers (observers) to obtain information necessary for the conservation and management of the BSAI and GOA groundfish and halibut fisheries. Observers collect biological samples and fishery-dependent information on total catch and fishing vessel interactions with protected species. Managers use data collected by observers to monitor quotas, manage groundfish catch and bycatch, and document and reduce fishery interactions with protected resources. Scientists use observer-collected data for stock assessments and marine ecosystem research.

The Observer Program was implemented in 1990 (55 FR 4839, February 12, 1990). In 2012, NMFS restructured the funding and deployment systems of the Observer Program (77 FR 70062, November 21, 2012). Since implementation of the restructured Observer Program in 2013, vessels, shoreside processors and stationary floating processors participating in the groundfish and halibut fisheries off of Alaska are placed in one of two observer coverage categories: (1) Partial observer coverage category, or (2) full observer coverage category.

An observer must be on board a vessel in the full observer coverage category any time the vessel is harvesting, receiving, or processing groundfish in a federally managed or parallel groundfish fishery, as specified at § 679.51(a)(2)(i). In the full observer coverage category, vessel operators obtain observers by contracting directly with observer providers. Operators of vessels in the full observer coverage category pay the observer provider for each day the observer is on board the vessel, including days that the vessel is travelling to or from the fishing grounds but not fishing.

NMFS deploys observers on vessels in the partial observer coverage category according to a statistical sample design based on an annual deployment plan developed in consultation with the Council. Vessels in the partial observer coverage category are required to carry observers on fishing trips selected at random per the statistical sample design. Instead of paying for each day an observer is on board, NMFS assesses a fee equal to 1.25 percent of the ex-vessel value of the retained groundfish and halibut landed by vessels in the partial observer coverage category. NMFS uses these fees to establish a Federal contract with an observer

service provider to deploy observers in the partial observer coverage category. Under this structure, observer coverage funding is based on the number of days a vessel operates (full observer coverage category) or on the ex-vessel value of a vessel's retained catch regardless of the amount of time the vessel is covered by an observer (partial observer coverage category).

Before the Observer Program was restructured, most catcher/processors were required to have one or two observers on board at all times to generate vessel-specific estimates of retained and discarded catch needed to manage catch share programs. Observer coverage requirements on catcher/processors that were not in a catch share program were based on vessel length and gear type and included coverage levels equal to zero or no coverage, 30 percent of fishing trips, and 100 percent of fishing trips or full observer coverage. To monitor catch on unobserved catcher/processors, NMFS used the vessel-reported processed weight to estimate retained catch and data from observed vessels to estimate at-sea discards, including PSC, for each vessel. Under the restructured Observer Program, almost all catcher/processors were assigned to the full observer coverage category to obtain independent estimates of catch, at-sea discards, and PSC to reduce the potential for introducing error into NMFS' catch accounting system (as described in the proposed rule: 77 FR 23326, April 18, 2012).

The restructured Observer Program provided three limited exceptions for catcher/processors to be placed in the partial observer coverage category. The restructured Observer Program provided these exceptions in recognition that the cost of full observer coverage would be disproportionate to total revenues for some small catcher/processors.

First, the restructured Observer Program provided an exception (specified at the current § 679.51(a)(2)(v)) that applies to a hybrid vessel less than 60 feet length overall (LOA) that acted as both a catcher vessel and a catcher/processor in the same year in any year from 2003 through 2009. This exception to the full coverage requirement applies only if the vessel owner elected to participate in the partial observer coverage category at least 30 days prior to the vessel's first trip logged under Observer Declare and Deploy System (ODDS). ODDS is the system for assigning observers to trips by vessels in the partial observer coverage category (§ 679.51(a)(1)(ii)). All but two of the vessels that were eligible

for this exception elected to participate in the partial coverage category.

Second, the restructured Observer Program provided an exception from full coverage (specified at the current § 679.5(a)(2)(v)) if a catcher/processor had an average daily production of less than 5,000 lb (2.3 mt) round weight equivalent in its most recent full calendar year of operation from 2003 through 2009. This exception applied only if the owner of a catcher/processor made a one-time election to be placed in the partial observer coverage category before the catcher/processor's first fishing trip logged under ODDS. All but one of the vessels that were eligible for this exception elected to be placed in the partial observer coverage category.

Third, the restructured Observer Program provided an exception from full coverage (specified at § 679.5(a)(2)(iv)(B)) if a catcher/processor did not process more than one metric ton round weight of groundfish on any day in the immediately preceding year. This exception is based on the catcher/processor's production in any year after implementation of the restructured Observer Program (*i.e.*, in any year after 2012). Under this exception, a catcher/processor is placed in the partial observer coverage category for one year based on its production in the prior year, and this exception ends the year after the year in which the catcher/processor processes more than one metric ton on any day of the year.

The first two exceptions are based on a vessel's activity between 2003 and 2009. A vessel that started processing after 2009 could never qualify to be placed in the partial observer coverage category under either of these exceptions. Also, the first two exceptions permanently placed a vessel in the partial observer coverage category. These exceptions have no provision to review the production of a catcher/processor placed in the partial observer coverage category on an ongoing basis and remove them from the partial observer coverage category if their production increases. Out of approximately seventy catcher/processors in the Observer Program, three catcher/processors have qualified for, and elected to be assigned permanently to, the partial observer coverage category under these two exceptions (Section 2.1.1 and Table 2 of the Analysis).

The third exception, the one metric ton exception, is theoretically open to any catcher/processor that began production after 2009. However, in reviewing production data from 2008 through 2014 for this action, NMFS found no active catcher/processor (*i.e.*,

a catcher/processor which did any processing in a year) that processed one metric ton or less on every day during a year (Section 2.1.1 of the Analysis).

#### Need for the Proposed Action

Beginning with comments on the proposed rule for the restructured Observer Program, industry participants asked that the final rule for the restructured Observer Program allow NMFS to place catcher/processors with limited production in the partial observer coverage category. In response to these comments, NMFS stated in the final rule for the restructured Observer Program (77 FR 70062, November 21, 2012) that neither the Council nor NMFS had analyzed the situation of small catcher/processors that began production after 2009. NMFS explained that if these industry participants wished to be considered for placement in the partial observer coverage category, the Council and NMFS would need to make these changes through a separate rulemaking process.

Members of industry subsequently sought a change in the rules for placement of catcher/processors in the partial observer coverage category. Members of industry stated that the cost of full observer coverage for vessels that began processing, or wished to begin processing, relatively small amounts of groundfish after 2009, was disproportionate to the revenues they could receive. The Council and NMFS reviewed and developed a series of analyses that resulted in this proposed action. The history of this action is described in detail in Section 1.2 of the Analysis.

Data on past production identified a small number of catcher/processors that processed a small amount of groundfish relative to the rest of the fleet. The Council and NMFS concluded that these vessels were paying, or would pay, a disproportionate amount for full observer coverage relative to the amount these vessels had processed, or would be likely to process. The Council and NMFS concluded that the cost of full observer coverage might be discouraging beneficial activity, such as processing sablefish in remote fishing grounds in the Aleutian Islands or processing by small jig gear vessels.

The Council and NMFS concluded that the placement of catcher/processors in the partial observer coverage category should not be a closed category but should be open to all catcher/processors based on an ongoing measure of their groundfish production in a year, except for catcher/processors where information needs compel full observer coverage regardless of the amount of

production. Specifically, this proposed rule would not revise observer coverage requirements for trawl catcher/processors or catcher/processors while they are participating in a catch share program (Section 2.4.1 of the Analysis), even when these catcher/processors meet the production requirement.

The objectives for this proposed rule are to (1) refine the balance between observer data quality from the fishery and cost of observer coverage to catcher/processors with limited groundfish production relative to the rest of the catcher/processor fleet by allowing those catcher/processors with limited production to be placed in the partial observer coverage category based on contemporary groundfish production amounts; and (2) implement this exception without altering the full observer coverage requirements for all trawl catcher/processors and catcher/processors in a catch share program.

#### Rationale for Major Provisions of the Proposed Rule

This discussion relies on the description provided in Section 2 of the Analysis.

##### 1. The Production Threshold for Placement in the Partial Observer Coverage Category

This proposed rule would establish a production threshold for placement in the partial observer coverage category of average weekly groundfish production of 79,000 lb (35.8 mt) or less in a standard basis year or an alternate basis year (as defined below). The Council and NMFS considered five possible measures of groundfish production that could be used to establish the eligibility for catcher/processors to be assigned to the partial observer coverage category: Average daily production; average weekly production; maximum daily production; maximum weekly production; and overall annual production. For each measure of groundfish production, the Council and NMFS examined a range of production amounts and analyzed the effects of those alternatives.

The Council and NMFS selected a weekly production measure because it would include catcher/processors that engage in intense bursts of processing activity during a year but may not process throughout the whole year. A weekly reporting period is the standard measure of production for a trip by a catcher/processor under the current regulation (see definition of "Fishing trip" in § 679.2). Using an average weekly production measure is less sensitive to variations in processing activity that can occur by using an

average daily production measure. Additionally, unlike a maximum measure, an average measure of production does not unduly weight a single day or week of high production (Section 2.2.1 and Section 4.9 of the Analysis).

The Council and NMFS considered a range of average weekly production measures as a threshold for partial coverage. The Council and NMFS considered a lower average weekly production threshold of 42,000 lb (19.1 mt) and a higher average weekly production threshold of 79,000 lb (35.8 mt). The three catcher/processors that are currently eligible for placement in the partial observer coverage category would still be eligible under the higher production threshold considered, and would generally be eligible for placement in the partial observer coverage category at the lower production threshold (see Table 7, Section 3.7.2 of the Analysis). The Council and NMFS selected the higher production standard to ensure that catcher/processors that are currently eligible for placement in the partial observer coverage category would continue to be eligible if these vessels maintain their current levels of production.

The Council and NMFS concluded that this production threshold would maintain a limited exception to the general requirement that catcher/processors are in the full observer coverage category. Based on historical production data, approximately 3 percent of non-trawl catcher/processors have production that would allow them to be eligible for placement in the partial observer coverage category under this proposed rule. Based on historical production data, this would represent less than 1 percent of the aggregate groundfish production in the GOA and the BSAI. The Council does not anticipate that this action would impair data quality because the overwhelming amount of groundfish production would remain subject to full observer coverage (Section 3.6.7 of the Analysis). NMFS expects that up to 11 vessels would be eligible for placement in the partial observer coverage category based on estimated production data of all catcher/processors (Table 17 in Section 3.7.12 of the Analysis). The catcher/processors eligible for partial coverage under this proposed rule are engaged primarily in the hook-and-line and Pacific cod and sablefish fisheries (see Section 3.7.12 of the Analysis).

## *2. The Basis Year for Placing a Catcher/Processor in the Partial Observer Coverage Category*

The Council and NMFS realize that it would be impossible for NMFS to place a catcher/processor in the partial observer coverage category for a fishing year beginning January 1 based on data from the fishing year that had just ended on December 31 (*i.e.*, the fishing year minus one year) because there is not adequate time to compile and assess all of the production data relative to the production thresholds. Therefore, this proposed rule would establish the fishing year minus two years as the standard basis year for determining whether a catcher/processor was eligible for placement in the partial observer coverage category, as it is the most recent year for which NMFS would have full production data. As an example, NMFS would assess production data from 2015 to determine if a catcher/processor would be eligible for partial coverage in the fishing year that begins on January 1, 2017, (*i.e.*, the fishing year minus two years).

If a catcher/processor had no production in the standard basis year, (*i.e.*, two years before the current fishing year), but that catcher/processor had production before the standard basis year, the Council and NMFS recommended using the vessel's most recent year of production, but not earlier than 2009 (referred to as the alternate basis year) (Section 2.4 of the Analysis). For example, if this proposed rule was effective for the fishing year beginning January 1, 2017, and the most recent fishing year prior to 2015 a catcher/processor had production was 2011, the production from 2011 would be used to assess whether that catcher/processor met the threshold production amount to be eligible for placement in the partial observer coverage category. This proposed rule would not consider production data prior to 2009 because that is the first year that NMFS collected daily production reports (73 FR 76139), permitting calculation of average daily production (see Appendix D of the Analysis).

## *3. A Catcher/Processor With No History of Production*

The Council and NMFS also considered the initial type of observer coverage (*i.e.*, full or partial) that should apply to a catcher/processor with no production in either the standard basis year or an alternate basis year, *e.g.*, a new catcher/processor. Three options were considered: placing the catcher/processor in the full observer coverage category in its first year of operation;

placing the catcher/processor in the partial observer coverage category in its first year of operation; or placing any trawl catcher/processors in the full observer coverage category until it had production history and placing any non-trawl catcher/processors in the partial observer coverage category.

The Council and NMFS recommended placing any new non-trawl catcher/processor without production history in the partial coverage category in its first year of operation. The Council and NMFS selected this option after analyzing the potential impact on data quality and costs of assigning new non-trawl catcher/processors to both the full or partial observer coverage categories. The Council and NMFS realize that the costs of full observer coverage could prevent some non-trawl catcher/processors from starting processing, particularly processing of sablefish in remote fishing grounds in the Aleutian Islands, and processing of Pacific cod by catcher/processors using jig gear. If non-trawl catcher/processors had to operate for their first two years in the full observer coverage category, it might defeat one of the objectives of this action, namely encouraging beneficial activity that is being prevented by the cost of full observer coverage.

The Council and NMFS decided to exclude all trawl catcher/processors, regardless of their amount of production, from eligibility to participate in the partial observer coverage category. The unchanged observer requirements for trawl catcher/processors and catcher/processors that participate in a catch share program section of this preamble provides additional detail on trawl catcher/processor observer coverage requirements. Section 3.7.4 of the Analysis contains additional detail on the rationale for placing catcher/processors with no production in their appropriate observer coverage categories.

## *4. Owner Choice by an Annual Deadline*

The Council and NMFS considered whether the owner of an eligible catcher/processor should have the option to be placed in the partial observer coverage category for the upcoming fishing year, or if NMFS would automatically place the qualifying vessel in the partial observer coverage category for the upcoming fishing year based on production data without any action by the vessel owner. The Council and NMFS decided that providing the vessel owner with the option to remain in the full observer coverage category best met the purposes

of this action. Therefore, under this proposed rule, the owner of a qualifying vessel could choose to be placed in the partial observer coverage category by an annual deadline. If the owner of a qualifying vessel does not select to be placed in the partial observer coverage category by the annual deadline, that catcher/processor would be placed in the full observer coverage category for the upcoming fishing year. This annual selection process would be a new requirement for the three catcher/processors that are currently permanently placed in the partial observer coverage category.

This proposed rule would establish two deadlines for a vessel owner to choose placement in the partial observer coverage category. First, NMFS anticipated that this proposed rule could be approved, be published, and become effective in spring of 2016. To achieve the benefits of this proposed rule in a timely manner, NMFS would establish a deadline in 2016 for a vessel owner of an eligible catcher/processor to request placement in the partial observer coverage category within 15 days after the effective date of the final rule, if approved. The effective date of the final rule would be 30 days after its publication in the **Federal Register**. This deadline would provide a vessel owner 45 days to consider and submit a timely request for placement in the partial coverage category after the date of publication of the final rule. This deadline would require this request to be submitted in as timely a manner as practicable after the effective date of the final rule (*i.e.*, within 15 days).

This proposed rule would also establish a deadline applicable for the 2017 fishing year, and for all future fishing years. In the Analysis, NMFS stated that a July 1 deadline for choosing to be placed in the partial observer coverage would give vessel owners adequate time to choose partial observer coverage and would give NMFS adequate time to incorporate that information into its development of the Observer Program annual deployment plan for the upcoming fishing year (Section 2.2.4 of the Analysis). For the 2017 fishing year, a vessel owner would have to request placement in the partial observer coverage category by July 1, 2016.

##### *5. Unchanged Observer Requirements for Trawl Catcher/Processors and Catcher/Processors That Participate in a Catch Share Program*

While it is possible that a vessel may meet the production threshold to request to be in the partial observer coverage category, this proposed rule

does not alter existing observer coverage requirements for a catcher/processor using trawl gear or a catcher/processor when participating in a catch share program; these catcher/processors would continue to be required to be in the full observer coverage category. The rationale for each is described below.

During the development of this proposed rule, the Council and NMFS consistently stated that this proposed rule would not supersede any requirements for full observer coverage when a catcher/processor is participating in a catch share program (Section 2.4 of the Analysis). The requirements for full, or greater than full, coverage in these programs show a special need for verified individual accounting of catch by the catcher/processors in these programs.

Therefore, the proposed rule would not provide exceptions for a catcher/processor subject to additional observer requirements specified in § 679.51(a)(2)(vi) to be placed in the partial observer coverage category. The existing additional observer requirements would continue to apply to catcher/processors participating in the following catch share programs: Community Development Quota (CDQ) Program (except catcher/processors sablefish CDQ fishing); American Fisheries Act; Aleutian Islands directed pollock fishery; Amendment 80 trawl catcher/processors in the BSAI non-pollock fisheries; catcher/processors in the Central GOA Rockfish Program; and the longline catcher/processor subsector. Section 2.2 of the Analysis describes each of these catch share programs and the catcher/processors fishing under those programs in greater detail.

Trawl catcher/processors, regardless of production level, would continue to be placed in the full observer coverage category. Trawl catcher/processors are subject to multiple bycatch, or prohibited species catch (PSC), limits for salmon, halibut, crab and herring (see § 679.21(d)(3), (e)(1), (f)(2), (h)(2), and (i)(3)). Therefore, NMFS has identified a heightened need for data from these vessels best achieved under full observer coverage. In addition, Section 2.4.1 of the Analysis states that most trawl catcher/processors are currently operating under the provisions of either the Amendment 80 or American Fisheries Act catch share programs and would be ineligible for placement in the partial observer coverage category because of the requirements for additional observer coverage under those catch share programs. Finally, NMFS analyzed production data from trawl catcher/

processors relative to the 79,000 lb (35.8 mt) average weekly production threshold. No active trawl catcher/processors met this threshold to be eligible for placement in the partial observer coverage category during the years analyzed (2009 through 2014). Given these factors, and even if a trawl catcher/processor met the production requirement in the future, this proposed rule would not alter the existing requirements that a catcher/processor using trawl gear would continue to be required to be in the full observer coverage category.

##### **The Proposed Rule**

The proposed rule would revise regulations at 50 CFR part 679 to modify the criteria for NMFS to place small catcher/processors in the partial observer coverage category in the Observer Program. The primary provision of the proposed rule is to establish a new paragraph in § 679.51, namely § 679.51(a)(3), "Catcher/processor placement in the partial observer coverage category for a year."

At § 679.51(a)(3)(i), this proposed rule would define the following terms for purposes of the new § 679.51(a)(3): A "fishing year" as the year during which a catcher/processor might be placed in the partial observer coverage category; the "standard basis year" as the fishing year minus two years; and the "alternate basis year" as the most recent year before the standard basis year in which a catcher/processor had any groundfish production but not earlier than 2009.

The proposed rule at § 679.51(a)(3)(i) also defines a vessel's "average weekly groundfish production," as the annual groundfish round weight production estimate for a catcher/processor, divided by the number of separate weeks during which production occurred, as determined by production reports, but excluding any groundfish that was caught with trawl gear. Thus, if a vessel has groundfish production any day in a week, excluding trawl production, that would be considered as a week of production.

The proposed rule would specify at § 679.51(a)(3)(ii) the annual deadline for requesting placement in the partial observer coverage category as 15 days after the effective date of the final rule in 2016, and July 1 of the year before the year that the vessel owner would like to be placed in the partial observer coverage category, for 2017 and all future years. NMFS will make a determination within 30 days of receipt of the request for placement in the partial observer coverage category.

The proposed rule would specify at § 679.51(a)(3)(iii) the requirements for

NMFS to place a catcher/processor in the partial observer coverage category, namely if the vessel owner requests placement by the annual deadline specified and the vessel meets the production threshold of 79,000 lb (35.8 mt) of average weekly groundfish production (excluding groundfish caught with trawl gear).

To determine eligibility for placement in the partial observer coverage category, NMFS will first examine the catcher/processor's production in the standard basis year, namely two years before the fishing year. If a catcher/processor produced at or below the production threshold (79,000 lb (35.8 mt) average weekly groundfish production) in the standard basis year, but more than zero pounds, the vessel would meet the production threshold for placement in the partial observer coverage category in the upcoming fishing year. If a catcher/processor exceeded that production threshold, the vessel would not be eligible for placement in the partial observer coverage category in the upcoming fishing year.

If a catcher/processor had no production in the standard basis year, NMFS would examine the vessel's production in the alternative basis year, namely the first year that the vessel had any production before the standard basis year not earlier than 2009. If a catcher/processor had average groundfish weekly production of 79,000 lb (35.8 mt) or less in the alternate basis year, the vessel would meet the production threshold requirement for placement in the partial observer coverage category for the upcoming fishing year. If a catcher/processor exceeded the production threshold in the alternate basis year, the vessel would not be eligible for placement in the partial observer coverage category. If a catcher/processor had no production from 2009 through the standard basis year or an alternate basis year, the vessel would meet the production threshold requirement for placement in the partial observer coverage category.

If a catcher/processor meets the production threshold requirement for placement in the partial observer coverage category and is not a vessel using trawl gear or otherwise required to have full observer coverage by participation in a catch share program, the catcher/processor would be placed in partial observer coverage only if the owner of the vessel makes the request by the specified deadline. The proposed rule specifies at § 679.51(a)(3)(iv) how the vessel owner would request placement in the partial observer coverage category. A vessel owner

would need to submit a request form to NMFS, which NMFS would make available on the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

The proposed rule specifies at § 679.51(a)(3)(v) that NMFS will notify a vessel owner in writing if NMFS has placed the vessel in the partial observer coverage category once a request form has been submitted. Until NMFS provides this notice, the catcher/processor would remain in the full observer coverage category.

The proposed rule specifies at § 679.51(a)(3)(vi) that if NMFS denies a request for placement in the partial observer coverage category, NMFS would issue an Initial Administrative Determination, which will explain in writing the reasons for the denial. If the vessel owner wishes to appeal the denial, the proposed rule provides at § 679.51(a)(3)(vii) that the vessel owner would be able to appeal to the National Appeals Office according to the procedures in 15 CFR part 906.

In addition to the proposed new paragraph at § 679.51(a)(3), the proposed rule has several additional provisions. The proposed rule would add regulations at § 679.51(a)(1)(i)(C) to clarify that a catcher/processor placed in the partial observer coverage category under § 679.51(a)(3) is in the partial observer coverage category. The proposed rule would revise § 679.51(a)(2)(i)(A) to clarify that catcher/processors are placed in the full observer coverage category unless they are placed in the partial observer coverage category using criteria specified at § 679.51(a)(3). The proposed rule also removes the regulations detailing the current exceptions to the full observer coverage category for catcher/processors at § 679.51(a)(2)(iv)(B).

The proposed rule would add a new category to the definition of fishing trip for purposes of the Observer Program in § 679.2. Section 679.2 currently defines a fishing trip for a catcher vessel delivering to a shoreside or stationary floating processor and for a catcher vessel delivering to a tender vessel. The new definition would define a fishing trip for a catcher/processor in the partial observer coverage category, namely the period of time that begins when the vessel departs a port to harvest fish until the vessel returns to port and offloads all processed product. This definition would be necessary because the current definition of a fishing trip does not accurately apply to a catcher/processor in the partial coverage category.

This proposed rule would add a new requirement at § 679.5(e)(13) for a catcher/processor landing report. The

operator of a catcher/processor placed in the partial observer coverage category would be required to submit a catcher/processor landing report by 2400 hours, A.l.t., on the day after the end of the fishing trip. This would be a new reporting requirement created for this program. The landing report would be generated through eLandings or other NMFS-approved software by consolidating the daily production reports for the period the vessel operator defines as the fishing trip for purposes of observer coverage. NMFS would use information from the catcher/processor landing report to link catch data with observer data, to determine how to appropriately assign at-sea discard rates and PSC rates to unobserved catcher/processors in the partial observer coverage category, and to monitor compliance with the requirement for catcher/processors placed in the partial observer coverage category to log all fishing trips in ODDS.

The proposed rule would revise § 679.51(e)(1)(iii)(B) to remove requirements from catcher/processors placed in the partial observer coverage category to provide equipment for the purpose of observer data entry and transmission. Currently, all catcher/processors are required to provide an observer with a computer, NMFS-supplied software, and the ability to transmit data to NMFS using a point-to-point connection from the vessel. Removing this requirement would reduce the financial burden on small catcher/processors placed in the partial observer coverage category, especially for vessels mentioned in Section 3.7.4 of the Analysis that may begin to operate as a catcher/processor (e.g., catcher/processors using jig gear). Currently, observers deployed in the partial observer coverage category enter and transmit data without equipment provided by the industry. Maintaining the current equipment requirements for catcher/processors in partial coverage may result in duplicative and unnecessary equipment being available on the vessel. NMFS typically receives data from observers deployed in the partial observer coverage category at the end of each trip and that timeline would be sufficient for catcher/processors in partial coverage under this proposed rule. NMFS notes that even with this proposed change, more frequent data transmission could be achieved on some vessels if the observer is allowed to use existing communication equipment.

The proposed rule would revise § 679.55(a) and (c) to clarify that all catcher/processors named on a Federal Fishing Permit (FFP) and not in the full

observer coverage category are responsible for paying the observer fee.

The proposed rule includes corrections to fix two cross reference errors in § 679.2 and replace language in § 679.5 that refer to old terminology of "100 percent observer coverage". That terminology would be replaced with "full observer coverage"; this is the terminology used under the restructured Observer Program.

### Classification

Pursuant to section 304 (b)(1)(A) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with Amendments 112 and 102, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

### Initial Regulatory Flexibility Analysis

The objectives for this proposed rule are to (1) refine the balance between observer data quality from the fishery and cost of observer coverage to catcher/processors with limited production relative to the rest of the catcher/processor fleet by allowing those catcher/processors with limited production the opportunity to be placed in the partial observer coverage category based on contemporary groundfish production amounts; and (2) maintain the full observer coverage requirement for all trawl catcher/processors and catcher/processors in a catch share program regardless whether these catcher/processors meet the groundfish production requirement for placement in the partial observer coverage category.

An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA describes the reasons why this action is being proposed; the objectives and legal basis for the proposed rule; the number and description of small entities directly regulated by the proposed action; any projected reporting, recordkeeping, or other compliance requirements of the proposed rule; any overlapping, duplicative, or conflicting Federal rules; impacts of the action on small entities; and any significant alternatives to the proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act, and any other applicable statutes, and would minimize any

significant adverse impacts of the proposed rule on small entities. Descriptions of the proposed action, its purpose, and the legal basis are contained earlier in this preamble and are not repeated here. A summary of the IRFA follows. A copy of the IRFA is available from NMFS (see **ADDRESSES**).

The RFA recognizes and defines three kinds of small entities: (1) Small businesses, (2) small non-profit organizations, and (3) small government jurisdictions. The proposed action would directly regulate small businesses.

The Small Business Administration has established size standards for all major industry sectors in the United States. A business primarily involved in finfish harvesting 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 gross receipts not in excess of \$20.5 million, for all its affiliated operations worldwide.

Under the preferred alternative that would be implemented by this proposed rule, NMFS expects that up to 11 vessels may qualify for placement in the partial observer coverage category (See Section 3.4 and Section 4.6 of the Analysis for additional detail). NMFS estimates that these 11 vessels may be separated into four groups of entities.

The first group of vessels consists of three catcher/processors that currently qualify for placement in the partial observer coverage category under the existing program rules. These were discussed in detail in Section 3.7.2 of the Analysis. These three vessels are estimated to be small entities based on estimates of their gross revenues, and of their known affiliations.

The second group consists of three catcher/processors that currently operate as catcher/processors and are in the full observer coverage category, but that may be eligible to operate in the partial observer coverage category as a result of this proposed rule. These three catcher/processors are described in Section 3.7.3 of the Analysis. Two of these vessels are estimated to be small entities on the basis of estimates of their gross revenues, and of their known affiliations. One vessel is estimated to be a large entity on the basis of its gross revenue and its known affiliations.

The third group consists of catcher vessels that may begin to operate as catcher/processors if this action is taken. As discussed in Section 3.7.4 of the Analysis, NMFS could not identify vessels in this group on the basis of historical information. However, NMFS noted that at least one jig vessel operator

has indicated that he may begin catcher/processor operations using jig gear in Federal waters if that vessel could be eligible for placement in the partial observer coverage category. NMFS estimates that this one known jig vessel would be estimated to be a small entity on the basis of gross revenues and affiliations of all known vessels currently using jig gear.

Finally, the analysis determined that fishing operations using sablefish "A" quota shares in the Aleutian Islands may begin processing at-sea and operating as catcher/processors in the Aleutian Islands if those vessels are eligible for placement in the partial observer coverage category. Section 3.7.5 of the Analysis provides additional detail on these vessels. NMFS identified that up to four vessels could operate as catcher/processors for sablefish. NMFS estimates that, with one exception, these vessels would be estimated to be small entities on the basis of estimates of their gross revenues, and of their known affiliations. Collectively, NMFS estimates that up to 9 of the 11 vessels identified in these four groups would be considered directly regulated small entities.

The proposed action contains one new reporting and recordkeeping requirement that affects the small entities. Vessel owners or operators desiring to be placed in the partial observer coverage category for a fishing year will have to submit a simple form expressing that choice by July 1 (except for the 2016 fishing year, as described previously). This information is needed for preparation of the Observer Program annual deployment plan.

This form will use production data that will be available to the owner or operator on the eLandings Web site. Given the simplicity of the form, and the accessibility of the data needed to complete it, NMFS estimates that it will take no more than 30 minutes to complete and file the form. For Paperwork Reduction Act estimation purposes, NMFS values this type of effort at \$37 per hour. Approximately 9 small entities could be affected by this requirement. Thus, the total public time required to complete 9 forms a year x 30 minutes is 4.5 hours. At a cost of \$37 per hour, the estimated cost would be about \$167.

The RFA requires identification of any significant alternatives to the proposed rule that accomplish the stated objectives of the proposed action, consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. As noted in the IRFA, the proposed action is expected to

create a net benefit for the directly regulated small entities. In other words, the benefits of the proposed action are expected to outweigh the reporting, recordkeeping, and other compliance costs described above.

The Council and NMFS adopted the average weekly production threshold of 79,000 lb (35.8 mt) as its preferred alternative. This production threshold would allow a catcher/processor to qualify for placement in the partial observer coverage category for a year, if its round weight equivalent of their processed product, two years previous, averaged less than 79,000 lb (35.8 mt) a week. If the vessel had not operated two years previously, NMFS would use its production in the first year with production since 2009, inclusive of 2009. If the vessel has not produced in this period, NMFS would allow the vessel to be placed in the partial observer coverage category in the year in which application is made, unless it is a trawl vessel, in which case it would be in the full observer coverage category.

This action is meant to reduce the relative burden on directly regulated small catcher/processors in comparison with the status quo. For vessels that qualify, this action would allow them to forego full observer coverage and operate with less expensive partial observer coverage, should they choose to do so. There are three catcher/processors that enjoy permanent placement in the partial observer coverage category under the status quo. These vessels would, under the action alternative, now have to qualify for placement in the partial observer coverage category each year. The Council and NMFS chose the 79,000-lb average weekly threshold, rather than an alternative 42,000-lb average weekly threshold, to maximize the potential for these three vessels to qualify for the option to be placed in the partial observer coverage category in future years. Moreover, one of the objectives of this action was to end the permanent placement in the partial observer coverage category for catcher/processor vessels and create a flexible system that could respond if a vessel increased production.

The Council and NMFS considered multiple elements and options under Alternative 2 that would qualify more vessels or fewer vessels for placement in the partial observer coverage category. In addition to the two average weekly production thresholds, a low and a high average daily, maximum weekly, and annual production measures were considered.

The production thresholds analyzed under Element 1 Option 4B (high maximum weekly production) and Option 5B (high annual production) could have qualified one more small catcher/processor for partial observer coverage than is expected to qualify under the Council's preferred alternative (Option 2B: average weekly production threshold of 79,000 lb). The Council did not select Option 4B because basing a threshold on maximum weekly production could have excluded some catcher/processors that had one week of relatively high production, but had relatively low average production over the remainder of the year. The Council did not select Option 5B because it could allow catcher/processors with relatively high production levels over the course of several weeks or months during the year into the partial observer coverage category. NMFS recommended that catcher/processors with these high intensity production periods during the year should remain in the full observer coverage category so that all of their fishing activity is observed.

The average weekly measure was chosen, because it provided a measure of production intensity, which the annual, maximum daily, and maximum weekly measures, did not provide; it was readily measurable; and it was less prone to manipulation or unusually high levels of production than the other options considered. A week is also the standard measure of production for a catcher/processor trip in current regulation (Section 2.2.1 and Section 4.9 of the Analysis).

No relevant Federal rules have been identified that would duplicate or overlap with the proposed action.

#### Collection-of-Information Requirements

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). These requirements have been submitted to OMB for approval. The information collections are presented by OMB control number.

OMB Control No. 0648-0318

Public reporting burden for Catcher/Processor Observer Partial Coverage Request is estimated to average 30 minutes per response.

OMB Control No. 0648-0515

Public reporting burden for Catcher/Processor Landing Report through eLandings is estimated to average one minute per response.

OMB Control No. 0648-0711

Public reporting burden for submittal of Observer Fee through eFISH is

estimated to average 1 minute per response.

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. Send comments on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above, and email to *OIRA\_Submission@omb.eop.gov*, or fax to (202) 395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, 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. All currently approved NOAA collections of information may be viewed at: [http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

#### List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: December 23, 2015.

**Eileen Sobeck,**

*Assistant Administrator for Fisheries, 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.*; 3631 *et seq.*; Pub. L. 108-447; Pub. L. 111-281

■ 2. In § 679.2, add paragraph (3)(iii) to the definition of "Fishing trip" to read as follows:

#### **§ 679.2 Definitions.**

\* \* \* \* \*

*Fishing trip* means: \* \* \*

(3) \* \* \*

(iii) For a catcher/processor in the partial observer coverage category, the period of time that begins when the vessel departs a port to harvest fish until

the vessel returns to port and offloads all processed product.

\* \* \* \* \*

■ 3. In § 679.5, add paragraph (e)(13) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

\* \* \* \* \*

(e) \* \* \*

(13) Catcher/processor landing report.

(i) The operator of a catcher/processor placed in the partial observer coverage category under § 679.51(a)(3) must use eLandings or other NMFS-approved software to submit a catcher/processor landing report to NMFS for each fishing trip conducted while that catcher/processor is in the partial observer coverage category.

(ii) The vessel operator must log into eLandings or other NMFS-approved software and provide the information required on the computer screen. Additional instructions for submitting a catcher/processor landing report is on the Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

(iii) For purposes of this landing report requirement, the end of a fishing trip is defined in § 679.2, paragraph (3)(iii) of the definition of a fishing trip.

(iv) The vessel operator must submit the catcher/processor landing report to NMFS by 2400 hours, A.l.t., on the day after the end of the fishing trip.

\* \* \* \* \*

■ 4. In § 679.51,

- a. Revise paragraph (a)(1)(i)(B);
■ b. Add paragraph (a)(1)(i)(C);
■ c. Revise paragraph (a)(2)(i)(A);
■ d. Remove and reserve paragraphs (a)(2)(iv)(B) and (a)(2)(v);
■ e. Add paragraph (a)(3); and
■ f. Revise paragraph (e)(1)(iii)(B) introductory text to read as follows:

§ 679.51 Observer requirements for vessels and plants.

\* \* \* \* \*

(a) \* \* \*

(1) \* \* \*

(i) \* \* \*

(B) A catcher vessel when fishing for halibut with hook-and-line gear and while carrying a person named on a permit issued under § 679.4(d)(1)(i), § 679.4(d)(2)(i), or § 679.4(e)(2), or for sablefish IFQ with hook-and-line or pot gear and while carrying a person named on a permit issued under § 679.4(d)(1)(i) or § 679.4(d)(2)(i); or

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

\* \* \* \* \*

(2) \* \* \*

(i) \* \* \*

(A) Catcher/processors, except a catcher/processor placed in the partial

observer coverage category under paragraph (a)(3) of this section;

\* \* \* \* \*

(3) Catcher/processor placement in the partial observer coverage category for a year—(i) Definitions. For purposes of this paragraph (a)(3), these terms are defined as follows:

(A) Average weekly groundfish production means the annual groundfish round weight production estimate for a catcher/processor, divided by the number of separate weeks during which production occurred, as determined by production reports, excluding any groundfish caught using trawl gear.

(B) Fishing year means the year during which a catcher/processor might be placed in partial observer coverage.

(C) Standard basis year means the fishing year minus two years.

(D) Alternate basis year means the most recent year before the standard basis year in which a catcher/processor had any groundfish production but not earlier than 2009.

(ii) Deadline for requesting partial observer coverage. For the 2016 fishing year, the deadline for requesting partial observer coverage is [DATE 15 DAYS AFTER THE EFFECTIVE DATE OF THE FINAL RULE]. For the 2017 fishing year and every fishing year after 2017, the deadline for requesting partial observer coverage is July 1 of the year prior to the fishing year.

(iii) Requirements for placing a catcher/processor in the partial observer coverage category. NMFS will place a catcher/processor in the partial observer coverage category for a fishing year if the owner of the catcher/processor requests placement in partial observer coverage by the deadline for requesting partial observer coverage for that fishing year and the catcher/processor meets the following requirements:

(A) An average weekly groundfish production of:

(1) 79,000 lb (35.8 mt) or less, but more than zero lb, in the standard basis year; or

(2) Zero lb in the standard basis year and 79,000 lb (35.8 mt) or less, but more than zero lb, in the alternate basis year; or

(3) Had no production from 2009 through the standard basis year; and

(B) Is not a catcher/processor using trawl gear; and

(C) Is not subject to additional observer coverage requirements in paragraph (a)(2)(vi) of this section.

(iv) How to request placement of a catcher/processor in partial observer coverage. A vessel owner must submit a request form to NMFS. The request form

must be completed with all required fields accurately completed. The request form is provided by NMFS and is available on the NMFS Alaska Region Web site (<http://alaskafisheries.noaa.gov>). The submittal methods are described on the form.

(v) Notification of placement in the partial observer coverage category. NMFS will notify the owner if the catcher/processor has been placed in the partial observer coverage category in writing. Until NMFS provides notification, the catcher/processor is in the full observer coverage category for that fishing year.

(vi) Initial Administrative Determination (IAD). If NMFS denies a request to place a catcher/processor in the partial observer coverage category, NMFS will provide an IAD, which will explain the basis for the denial.

(vii) Appeal. If the owner of a catcher/processor wishes to appeal NMFS' denial of a request to place a catcher/processor in the partial observer coverage category, the owner may appeal the determination under the appeals procedure set out at 15 CFR part 906.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iii) \* \* \*

(B) Communication equipment requirements. In the case of an operator of a catcher/processor (except for a catcher/processor placed in the partial observer coverage category under paragraph (a)(3) of this section), a mothership, a catcher vessel 125 ft. LOA or longer (except for a vessel fishing for groundfish with pot gear), or a catcher vessel participating in the Rockfish Program:

\* \* \* \* \*

■ 5. In § 679.55, revise paragraphs (a) and (c) to read as follows:

§ 679.55 Observer fees.

(a) Responsibility. The owner of a shoreside processor or stationary floating processor named on a Federal Processing Permit (FPP), a catcher/processor named on a Federal Fisheries Permit (FFP), or a person named on a Registered Buyer permit at the time of the landing subject to the observer fee as specified at § 679.55(c) must comply with the requirements of this section. Subsequent non-renewal of an FPP, FFP, or a Registered Buyer permit does not affect the permit holder's liability for noncompliance with this section.

\* \* \* \* \*

(c) Landings subject to the observer fee. The observer fee is assessed on landings by vessels not in the full

observer coverage category described at § 679.51(a)(2) according to the following table:

If fish in the landing by a catcher vessel or production by a catcher/processor is from the following fishery or species:	Is fish from the landing subject to the observer fee?	
	If the vessel is not designated on an FFP or required to be designated on an FFP:	If the vessel is designated on an FFP or required to be designated on an FFP:
(1) Groundfish listed in Table 2a to this part that are harvested in the EEZ and subtracted from a total allowable catch limit specified under § 679.20(a).	Not applicable, an FFP is required to harvest these groundfish in the EEZ.	Yes.
(2) Groundfish listed in Table 2a to this part that are harvested in Alaska State waters, including in a parallel groundfish fishery, and subtracted from a total allowable catch limit specified under § 679.20(a).	No .....	Yes.
(3) Sablefish IFQ, regardless of where harvested .....	Yes .....	Yes.
(4) Halibut IFQ or halibut CDQ, regardless of where harvested	Yes .....	Yes.
(5) Groundfish listed in Table 2a to this part that are harvested in Alaska State waters, but is not subtracted from a total allowable catch limit under § 679.20(a).	No .....	No.
(6) Any groundfish or other species not listed in Table 2a to part 679, except halibut IFQ or CDQ halibut, regardless of where harvested.	No .....	No.

\* \* \* \* \*

**§§ 679.2 and 679.5 [Amended]**

■ 6. At each of the locations shown in the “Location” column, remove the phrase indicated in the “Remove”

column and replace it with the phrase indicated in the “Add” column for the number of times indicated in the “Frequency” column.

Location	Remove	Add	Frequency
§ 679.2 Definition of “Suspension” .....	§ 679.50 .....	§ 679.53 .....	1
§ 679.2 Definition of “Suspension” .....	§ 679.50(j) .....	§ 679.53(c) .....	1
§ 679.5(e)(10)(iv)(B) .....	required to have 100 percent observer coverage or more,.	in the groundfish and halibut fishery full observer coverage category described at § 679.51(a)(2),.	1