Dated: March 17, 2017.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES

■ 1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.* and 16 U.S.C. 773 *et seq.,* and 16 U.S.C. 7001 *et seq.*

■ 2. In § 660.50, revise paragraph (f)(4) to read as follows:

§ 660.50 Pacific Coast treaty Indian fisheries.

* * * * *

(f) * * *

(4) *Pacific whiting.* The tribal allocation for 2017 will be 17.5 percent of the U.S. TAC.

* * * * *

[FR Doc. 2017–05758 Filed 3–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161219999–7250–01]

RIN 0648–BG54

Fisheries of the Exclusive Economic Zone Off Alaska; Integrating Electronic Monitoring Into the North Pacific Observer Program

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 114 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 104 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA), (collectively referred to as the FMPs). If approved, Amendments 114/104 and this proposed rule would integrate electronic monitoring (EM) into the North Pacific Observer Program. The proposed rule would establish a process for owners or operators of vessels using nontrawl gear to request to participate in the EM selection pool and the requirements for vessel owners or operators while in the EM selection pool. This action is necessary to improve the collection of data needed for the conservation, management, and scientific understanding of managed fisheries. Amendments 114/104 are intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the FMPs, and other applicable laws.

DATES: Comments must be received no later than May 22, 2017.

Per section 313 of the Magnuson-Stevens Act, NMFS will conduct public hearings to accept oral and written comments on the proposed rule in Oregon, Washington, and Alaska during the public comment period.

The first public hearing will be held in conjunction with the April meeting of the North Pacific Fishery Management Council on April 6, 2017, 6 p.m. to 8 p.m., Alaska local time, at the Hilton Hotel, 500 W. 3rd. Ave., Anchorage, AK 99501.

The second public hearing will be on April 18, 2017, 10 a.m. to 12 p.m., Pacific daylight time, at the International Pacific Halibut Commission Office, 2320 West Commodore Way, Suite 300, Seattle, WA 98199.

The third public hearing will be held on April 19, 2017, 1 p.m. to 3 p.m., Pacific daylight time, at the Hatfield Marine Science Center, Lavern Weber Room, 2030 SE. Marine Science Drive, Newport, OR 97365.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2016–0154 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0154,* 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.
- Submit oral or written comments to NMFS at the public hearings listed in this proposed rule under **DATES**.

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* 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 Amendments 114/104 and the Draft Environmental Assessment/Regulatory Impact Review prepared for this action (collectively the ''Analysis'') may be obtained from *www.regulations.gov.*

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted by mail to NMFS at the above address; by email to *OIRA_Submission@omb.eop.gov;* or by fax to 202–395–5806.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington or Jennifer Watson, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone under the FMPs. The North Pacific Fishery Management Council (Council) prepared the FMPs under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

Management of the Pacific halibut fisheries in and off Alaska is governed by an international agreement, the Convention Between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention), which was signed in Ottawa, Canada, on March 2, 1953, and was amended by the Protocol Amending the Convention, signed in Washington, DC, on March 29, 1979. The Convention is implemented in the United States by the Northern Pacific Halibut Act of 1982.

This proposed rule would implement Amendments 114/104 to the FMPs. The Council has submitted Amendments 114/104 for review by the Secretary of Commerce, and a Notice of Availability (NOA) of these amendments was published in the **Federal Register** on March 10, 2017, with comments invited through May 9, 2017 (82 FR 13302).

This proposed rule and Amendments 114/104 to the FMPs amend the Council's fisheries research plan prepared under the authority of section 313 of the Magnuson-Stevens Act. NMFS published regulations

implementing the plan on November 21, 2012 (77 FR 70062). The Secretary implemented the fisheries research plan through the North Pacific Observer Program. Its purpose is to collect data necessary for the conservation, management, and scientific understanding of the groundfish and halibut fisheries off Alaska. Magnuson-Stevens Act section 313 requires NMFS to provide a 60-day public comment period on the proposed rule and conduct a public hearing in each state represented on the Council for the purpose of receiving public comment on the proposed regulations. The states represented on the Council are Alaska, Oregon, and Washington. NMFS will conduct a public hearing in each of these states (see **DATES**).

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

Respondents do not need to submit the same comments on the NOA, this proposed rule, and at a public hearing. All relevant written and oral comments received by the end of the applicable comment period, whether specifically directed to the FMP amendments, this proposed rule, or both, will be considered by NMFS in the approval/disapproval decision for Amendments 114/104 and addressed in the response to comments in the final decision.

North Pacific Observer Program

The North Pacific Observer Program (Observer Program) is an integral component in the management of North Pacific fisheries. The Observer Program was created with the implementation of the Magnuson-Stevens Act in the mid-1970s and has evolved from primarily observing foreign fleets to observing domestic fleets. The Observer Program provides the regulatory framework for NMFS-certified observers (observers) to be deployed on board vessels to obtain information necessary for the conservation and management of the groundfish and halibut fisheries. The information collected by observers contributes to the best available scientific information used to manage the fisheries in furtherance of the purposes and national standards of the Magnuson-Stevens Act. Observers collect biological samples and information on total catch, including bycatch, and interactions with protected species. Managers use data collected by observers to manage groundfish catch and bycatch limits established in regulation and to document fishery interactions with protected resources. Managers also use data collected by observers to inform the development of management measures that minimize bycatch and reduce fishery interactions with protected resources. Scientists use observer-collected data for stock assessments and marine ecosystem research.

In 2013, the Council and NMFS restructured the Observer Program to address longstanding concerns about statistical bias of observer-collected data and cost inequality among fishery participants with the funding and deployment structure under the previous Observer Program (77 FR 70062, November 21, 2012). The restructured Observer Program established two observer coverage categories: Partial and full. All groundfish and halibut vessels and processors are included in one of these two categories. NMFS requires fishing sectors in the full coverage category to have all operations observed. The full coverage category includes most catcher/processors, all motherships, and those catcher vessels participating in a catch share program with a transferrable prohibited species catch (PSC) limit. Owners of vessels or processors in the full coverage category must arrange and pay for required observer coverage from a permitted observer provider. This proposed rule would not change the full coverage category.

The partial coverage category includes fishing sectors (vessels and processors) that are not required to have an observer at all times. The partial coverage category includes catcher vessels, shoreside processors, and stationary floating processors when they are not participating in a catch share program with a transferrable PSC limit. Small catcher/processors that meet certain criteria are also in the partial coverage category.

NMFS contracts with an observer provider and determines when and where observers are deployed, based on a scientific sampling design, in the partial coverage category. Each year, NMFS develops an annual deployment plan (ADP) that describes how NMFS plans to deploy observers to vessels and processors in the partial coverage category in the upcoming year.

The ADP describes the scientific sampling design NMFS uses to generate unbiased estimates of total and retained catch, and catch composition in the groundfish and halibut fisheries. The ADP provides flexibility to improve deployment to meet scientifically based estimation needs while accommodating the realities of a dynamic fiscal environment. NMFS's goal is to achieve a representative sample of fishing events, and to do this without exceeding funds collected through the observer fee. This is accomplished by the random deployment of observers in the partial coverage category. NMFS adjusts the ADP each year after a scientific evaluation of data collected under the Observer Program to evaluate the impact of changes in observer deployment and to identify areas where improvements are needed to collect the data necessary to conserve and manage the groundfish and halibut fisheries.

To summarize the ADP process, each year in October, NMFS develops a draft ADP that describes how NMFS plans to deploy observers to vessels in the partial coverage category in the upcoming year. The draft ADP describes the deployment methods NMFS plans to use to collect observer data on discarded and retained catch, including the information used to estimate catch composition and marine mammal and seabird interactions in the groundfish and halibut fisheries. The draft ADP also describes how NMFS will deploy observers to shoreside processing plants or stationary floating processors in the partial coverage category. The Council reviews the draft ADP and considers public comment when developing its recommendations about the draft ADP. The Council may recommend adjustments to observer deployment to prioritize data collection based on conservation and management needs. After NMFS conducts a scientific evaluation of the Council's recommendations, NMFS adjusts the draft ADP as appropriate and finalizes the ADP in December for release prior to the start of the fishing year. NMFS posts the ADP on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*).

Each year, NMFS also develops an Annual Report that evaluates how well various aspects of the program are achieving program goals, identifies areas where improvements are needed, and includes preliminary recommendations regarding the upcoming ADP. The Council and its Scientific and Statistical Committee (SSC) review the Annual Report in June. This timing allows NMFS and the Council to consider the results of past performance in developing the ADP for the following year. NMFS posts the Annual Report on the NMFS Alaska Region Web site (*http://alaskafisheries.noaa.gov*).

The Observer Declare and Deploy System (ODDS) is an Internet-based

interface that provides information about observer deployment on vessels in the partial coverage category and facilitates communication among the owner or operator of a vessel in the partial coverage category, NMFS, and NMFS' contracted observer provider. Owners and operators of vessels in the partial coverage category enter information about upcoming fishing trips into ODDS and receive information about whether a trip has been selected for observer coverage.

The restructured Observer Program created a new system of fees to pay for the cost of implementing observer coverage in the partial coverage category. Vessels and processors included in the partial coverage category pay a fee of 1.25 percent of the ex-vessel value of fishery landings to NMFS to fund the deployment of observers in the partial coverage category. Under section 313 of the Magnuson-Stevens Act, the fees shall not exceed 2 percent of the fishery ex-vessel value.

The restructured Observer Program expanded the vessels subject to observer coverage to include groundfish vessels less than 60 ft LOA and halibut vessels that had not been previously required to carry an observer. Expanding observer coverage to the approximately 950 previously unobserved vessels improved NMFS' ability to estimate total catch in all Federal fisheries in the North Pacific.

Even before implementing the restructured Observer Program, many vessel owners and operators new to the Observer Program were opposed to carrying an observer (77 FR 70062, November 21, 2012). Vessel owners and operators explained that there is limited space on board for an additional person or limited space in the vessel's life raft.

Some vessel owners, operators, and industry representatives advocated for the use of EM instead of having an observer on board their vessels (77 FR 70062, November 21, 2012). To address their concerns, the Council and NMFS have been actively engaged in developing EM as a tool to collect fishery data in the nontrawl fisheries. Over the past several years, NMFS and industry participants have undertaken cooperative research to test the applicability and reliability of EM systems. An EM system uses cameras, video storage devices, and associated sensors to record and monitor fishing activities.

In 2013, NMFS developed, and the Council adopted, the Strategic Plan for Electronic Monitoring and Electronic Reporting in the North Pacific to guide integration of monitoring technologies into North Pacific fisheries management and provide goals and benchmarks to evaluate attainment of goals (available on the Alaska Fisheries Science Center Web site at *http://www.afsc.noaa.gov/Publications/AFSC-TM/NOAA-TM-AFSC-276.pdf*).

In 2014, the Council appointed the EM Workgroup to develop an EM program to integrate into the Observer Program. The EM Workgroup provides a forum for stakeholders, including the commercial fishery participants, NMFS, Alaska Department of Fish and Game, and EM service providers, to cooperatively and collaboratively design, test, and develop EM systems, and to identify key decision points related to operationalizing and integrating EM systems into the Observer Program in a strategic manner. The EM Workgroup developed a cooperative research program to inform evaluation of multiple EM program design options and consider various EM integration approaches to achieve management needs.

The cooperative research includes analytical and fieldwork components to address the following four elements: Deployment of EM systems for operational testing, research and development of EM technologies, development of infrastructure to support EM implementation, and analyses to support EM implementation. This approach enabled the EM Workgroup to identify and resolve implementation issues associated with integrating EM into the Observer Program. Data and analysis produced on costs, data quality, risks, operational procedures, and vessel compatibility informed decisions on implementation phases, future investments in technology, and the tools that will best meet NMFS, Council, and stakeholder management objectives. The cooperative research program was implemented through research projects and pre-implementation plans in 2015, 2016, and 2017. The cooperative research to date has shown that data from EM systems can effectively identify almost all of the species or species groupings required for management, that the systems are sufficiently reliable, and that image quality is generally high. Additional information on the work of the EM Workgroup is provided in the Analysis (see **ADDRESSES**).

Based on input received from the EM Workgroup, and through the Council process, the Council and NMFS developed this proposed action to provide an option for participants in the partial coverage category using nontrawl gear to choose to be in the EM selection pool instead of an observer selection pool. EM selection pool means the defined group of vessels from which NMFS will randomly select the vessels required to use an EM system.

In recommending this action, the Council used the term ''fixed gear'' to describe vessels using pot or longline gear. The Council's use of this term is broader than the definition of fixed gear in Federal regulations at § 679.2, which defines fixed gear as including only hook-and-line gear and pot gear in the halibut or sablefish fishery. The Council intended for EM to be an option available to vessels using any type of gear other than trawl gear, and not to limit the potential use of EM to only those vessels using hook-and-line gear or pot gear in the halibut or sablefish fishery. To meet the intent of the Council, this proposed rule uses ''nontrawl gear'' except when quoting the Council in this preamble, or when specifically referring to fixed gear used in the halibut and sablefish fisheries. Federal regulations at § 679.2 define nontrawl gear as pot and longline gear. Longline gear is defined at § 679.2 as including hook-and-line, jig, troll, and handline or the taking of fish by means of such a device. The Council focused the cooperative research on hook-and-line gear and pot gear. Additional cooperative research would be necessary to expand EM to other gear types, as explained in section 3.5 of the Analysis (see **ADDRESSES**).

Objectives of and Rationale for Amendments 114/104 and This Proposed Rule

In December 2016, the Council adopted Amendments 114/104. The Council and NMFS developed EM for data collection for the nontrawl gear fisheries to address their desire for an alternative way to collect fisheries data in consideration of the operating requirements in these fisheries. EM systems can collect at-sea data for NMFS to estimate discards of fish, including halibut, and mortality of seabirds. EM has the potential to reduce economic and operational costs associated with deploying human observers throughout coastal Alaska. EM has the potential to reduce monitoring costs relative to observer coverage because it does not require deploying a person on the vessel and eliminates the logistical and travel expenses that this deployment generates. Through the use of EM, it may be possible to cost effectively obtain at-sea data from a broader cross-section of the nontrawl gear fleet and increase NMFS' and the Council's flexibility to respond to the scientific and management needs of

these fisheries. The Council's statement of purpose and need follows:

To carry out their responsibilities for conserving and managing groundfish resources, the Council and NMFS must have high quality, timely, and cost-effective data to support management and scientific information needs. In part, this information is collected through a comprehensive fishery monitoring program for the groundfish and halibut fisheries off Alaska, with the goals of verifying catch composition and quantity, including of those species discarded at sea, and collecting biological information on marine resources. While a large component of this monitoring program relies on the use of human observers, the Council and NMFS have been on the path of integrating technology into our fisheries monitoring systems for many years, with electronic reporting systems in place, and operational EM in a compliance capacity in some fisheries. More recently, research and development has focused on being able to use EM as a direct catch estimation tool in fixed gear fisheries.

The fixed gear fisheries are diverse in their fishing practices and vessel and operational characteristics, and they operate over a large and frequently remote geographical distribution. The Council recognizes the benefit of having access to an assorted set of monitoring tools in order to be able to balance the need for high-quality data with the costs of monitoring and the ability of fishery participants, particularly those on small vessels, to accommodate human observers on board. EM technology has the potential to allow discard estimation of fish, including halibut PSC and mortality of seabirds, onboard vessels that have difficulty carrying an observer or where deploying an observer is impracticable. EM technology may also reduce economic, operational and/or social costs associated with deploying human observers throughout coastal Alaska. Through the use of EM, it may be possible to affordably obtain at-sea data from a broader cross-section of the fixed gear groundfish and halibut fleet.

The integration of EM into the Council's fisheries research plan is not intended to supplant the need for human observers. There is a continuing need for human observers as part of the monitoring suite, and there will continue to be human observer coverage at some level in the fixed gear fisheries, to provide data that cannot be collected via EM (*e.g.,* biological samples).

The Council and NMFS have considerable annual flexibility to provide observer coverage to respond to the scientific and management needs of the fisheries. By integrating EM as a tool in the fisheries monitoring suite, the Council seeks to preserve and increase this flexibility. Regulatory change is needed to specify vessel operator responsibilities for using EM technologies, after which the Council and NMFS will be able to deploy human observer and EM monitoring tools tailored to the needs of different fishery sectors through the Annual Deployment Plan.

Integrating Electronic Monitoring Into the Observer Program

This proposed rule would establish the process and structure for use of an EM system to monitor catch and bycatch on those vessels using nontrawl gear in the partial coverage category of the Observer Program that choose to be in the EM selection pool. An EM system uses cameras, video storage devices, and associated sensors to record and monitor fishing activities. To implement EM, NMFS would set up a contract or grant with one or multiple EM service providers to install and service EM equipment, and to collect and review EM data. The contract or grant would specify hardware and field service specifications, EM data review requirements, and data and archiving requirements. ''EM service provider'' means any person, including their employees or agents, that NMFS contracts with to provide EM services, or to review, interpret, or analyze EM data.

EM data would supplement observer data from other nontrawl gear vessels. Some data necessary for catch estimation, fishery management, and stock assessment cannot be collected from EM systems. NMFS would obtain this data from observers on board other nontrawl gear vessels that are fishing in similar areas and at similar time periods. The Council and NMFS would make EM system and observer deployment decisions following the sampling design in the ADP, and subsequently analyze the deployment data in the Annual Report.

NMFS and the Council would define the criteria in the ADP for vessels to be eligible to participate in EM. The criteria for being in the EM selection pool may include, but are not limited to, gear type, vessel length, area fished, number of trips or total catch, sector, target fishery, and home or landing port.

Participation in the EM selection pool would be voluntary. Any owner or operator of a vessel that meets the EM selection pool criteria could annually request to be in the EM selection pool using the process established in this proposed rule if they are willing to comply with the provisions established under this proposed rule. While there are additional responsibilities for the owner or operator of a vessel in the EM selection pool to install and maintain the EM system, NMFS' intent is largely to allow the vessel to continue its normal fishing practice and allow the cameras to capture data observations that an EM service provider then extracts onshore through video review.

NMFS intends to use discretionary appropriated funds from its budget for EM system deployment until observer fees are available to fund EM system deployment and NMFS issues a contract with one or more EM service providers. Once observer fee proceeds are available and the contract is issued, NMFS would use the observer fee proceeds collected from partial coverage category participants to pay for both EM system deployment and observer deployment in the partial coverage category. Section 313 of the Magnuson-Stevens Act authorizes the Council to use the fees collected under that section to pay for the cost of implementing the fisheries research plan, including stationing EM systems on vessels and for inputting collected data. The annual decision to apportion fees between observer deployment and EM system deployment would be made by the Council and NMFS during the ADP process.

Through the ADP process, the Council and NMFS will consider how to optimize observer and EM system deployment for fisheries in the partial coverage category each year, based on an analysis of the costs, budget, monitoring goals, and fishing effort in the partial coverage category. The ADP process is explained above under North Pacific Observer Program. Work is ongoing to develop the necessary annual analysis for determining the criteria for the EM selection pool and balancing EM system deployment with deployment of observers within budget limits.

The amount of fee revenues collected would determine the level of costs that NMFS could incur to deploy EM systems and to deploy observers. The Analysis provides a detailed discussion of the potential costs of EM system deployment (see **ADDRESSES**). Since the fee is based on the ex-vessel value of harvested fish, which fluctuates annually, the amount of funding available for deploying observers and EM systems will also fluctuate. NMFS would need to adjust observer coverage and EM coverage levels to align anticipated annual costs with available fee revenue. NMFS and the Council may also modify the criteria for participating in the EM selection pool to control costs. In consultation with the Council, NMFS would allocate funds between EM and observers to achieve the most precision for the least cost. The specific deployment decisions, including the eligibility criteria for vessels to participate in EM, could vary from year to year based on the analysis conducted through the ADP process. Through using this existing scientific process for EM system deployment, NMFS would gather reliable data necessary for the

conservation, management, and scientific understanding of the fisheries covered by the fisheries research plan.

Because it is likely that NMFS would establish a contract for multiple years and some of the deployment decisions have a significant impact on EM service provider costs (for example, the number and location of primary service ports), NMFS and the Council may make some deployment decisions for the duration of the contract, rather than annually in the ADP. Similarly, NMFS anticipates that the EM system will change over time as technological improvements are made. These technological changes could be accommodated in the contract or grant.

An important part of the ADP analysis will be identifying and understanding gaps in observer data when a portion of the partial coverage vessels participates in the EM selection pool. Appendix 1 of the Analysis (see **ADDRESSES**) provides an example of the type of analysis that would be conducted annually to ensure that sufficient observers are deployed to maintain representative data (such as biological samples and average weights) that cannot be collected with an EM system.

Proposed Regulations

This proposed rule would implement the requirements described below to allow owners or operators of vessels using nontrawl gear to choose to use an EM system in place of an observer.

How would a vessel join the EM selection pool?

This proposed rule would establish the process by which vessel owners or operators could join the EM selection pool (see proposed § 679.51(f)(1)). Owners or operators of vessels that use nontrawl gear and are in the partial coverage category could request to be in the EM selection pool. Each year, vessel owners would have the opportunity to join or leave the EM selection pool through an application available through ODDS. Vessel owners that want to be in the EM selection pool would need to request in ODDS to participate in EM by November 1 to use EM in the following calendar year. NMFS would notify the vessel owner through ODDS whether that vessel has been approved or denied for the EM selection pool. NMFS would deny vessels if those vessels did not meet the EM selection pool criteria specified in the regulations and described in the ADP. Vessel owners would have the opportunity to appeal NMFS' decision denying the request to be in the EM selection pool (see proposed § 679.51(f)(1)(vii)).

The November 1 deadline would balance the interest of potential EM participants to have an opportunity to review the draft ADP available in October and its description of the EM selection pool before joining the EM selection pool with NMFS' interest in determining the number and types of vessels assigned to the EM selection pool before finalizing the ADP in December.

NMFS would approve a request for placement in the EM selection pool based on criteria specified in the regulations and described in the ADP. Criteria may include, but are not limited to, availability of EM systems, vessel gear type, vessel length, area fished, number of trips or total catch, sector, target fishery, and home or landing port. NMFS, in consultation with the Council, will establish the EM selection pool criteria based on the scientific sampling design, budget and cost considerations, and data collection goals.

Once NMFS has approved a vessel for participation in the EM selection pool, that vessel would be in the EM selection pool for the entire calendar year following the November 1 application deadline. The vessel would remain in the EM selection pool each subsequent year until the vessel owner or operator requests to leave or NMFS removes the vessel from the EM selection pool because it no longer meets the EM selection pool criteria or NMFS disapproves the vessel monitoring plan (VMP). A VMP is the document that describes how fishing operations on the vessel will be conducted and how the EM system and associated equipment will be configured to meet the data collection objectives and purpose.

Vessels would either be in the EM selection pool or in an observer selection pool. Vessels would not be subject to both EM coverage and observer coverage.

How would a vessel leave the EM selection pool?

The vessel owner or operator would use ODDS to submit a request to leave the EM selection pool by November 1 for the following calendar year (see proposed § 679.51(f)(1)(ix)).

NMFS may also remove a vessel from the EM selection pool for the following calendar year. NMFS would remove a vessel if NMFS disapproves the vessel's VMP or if the vessel no longer meets the EM selection pool criteria. Vessels would not be able to leave the EM selection pool during a calendar year in order to maintain the sampling design used for that year.

How would a vessel owner or operator install the EM system?

Once a vessel is approved for the EM selection pool, the vessel owner or operator would make the vessel available to the NMFS-contracted EM service provider for installation of all required EM system components. During the installation, it would be the vessel owner's responsibility to assist the EM service provider with planning the best wiring routes and installing sensors that interface with the vessel's equipment, such as hydraulic oil pressure and engine oil pressure. The specifications for the EM components that would be installed would be defined in the contract between NMFS and the EM service provider. The EM service provider would install cameras in locations that meet the catch accounting objectives annually specified in the ADP.

If a vessel already has an EM system, it could use that EM system or it could modify that EM system as necessary to meet the specifications in the VMP. That vessel owner or operator would need to work with the EM service provider to develop and submit a VMP to NMFS Alaska Region. For example, a vessel may have an existing EM system on board because that vessel participates in another federally managed fishery that has an EM program.

How would a vessel owner or operator develop a Vessel Monitoring Plan (VMP)?

Once approved for the EM selection pool and prior to registering a fishing trip in ODDS, the vessel owner or operator must develop a VMP with the EM service provider and submit it to NMFS for approval (see proposed § 679.51(f)(4)). A vessel in the EM selection pool would be required to have a copy of a valid NMFS-approved VMP on board before that vessel goes fishing. If NMFS does not approve the VMP, NMFS will issue an IAD to the vessel owner or operator that will explain the basis for the disapproval. The vessel owner or operator may file an administrative appeal under the administrative appeals procedures set out at 15 CFR part 906.

The vessel owner or operator would work with the EM service provider to develop a VMP. The VMP would describe how fishing operations on the vessel are conducted, including how gear is set, how catch is brought on board, and where catch is retained and discarded. The VMP would also describe how the EM system and associated equipment would be

configured to meet the data collection objectives and purpose of the EM program, including camera locations to cover all fishing activities, any sensors to detect fishing activities, and any special catch handling requirements to ensure the data collection objectives can be met. The VMP would also include methods to troubleshoot the EM system and instructions for ensuring the EM system is functioning properly. These required components of the VMP would be detailed in the VMP template and in the contract between NMFS and the EM service provider.

NMFS would provide a VMP template for guidance to the EM service provider and the vessel owner or operator on the elements NMFS would require in the final approved VMP. NMFS would make this VMP template available on the NMFS Alaska Region Web site at *https://alaskafisheries.noaa.gov/.* This VMP template would be available annually prior to the November 1 deadline to participate in the EM selection pool to allow vessel owners and operators an opportunity to review the requirements for the upcoming year. For informational purposes, the 2017 pre-implementation VMP is available on the North Pacific Fishery Management Council Web site at *https://npfmc.org/.*

Once the VMP is complete and the vessel owner or operator agrees to comply with the components of the VMP, the vessel owner or operator must sign and submit the VMP to NMFS via email or other electronic means. NMFS would review the VMP for completeness and may request additional clarification. If the VMP meets the requirements established in the VMP template, NMFS would approve the VMP for the calendar year. The vessel owner or operator would be required to keep a copy of the VMP aboard the vessel and make it available to NOAA Office of Law Enforcement (NOAA OLE) or other NMFS-authorized officer or personnel upon request.

After reviewing the data from a fishing trip selected for EM coverage, NMFS may determine that the approved camera location(s) in the VMP or fishing activities conducted by the vessel crew outlined in the VMP do not allow for the data collection necessary for catch accounting. Additionally, the vessel operator may want to have a camera moved if it impedes his or her ability to fish, or the operator may reconfigure the vessel to change fishing activities during the season that would warrant changes to the VMP. Whether requested by the vessel owner or operator or by NMFS, the vessel owner or operator would be required to make any changes to the VMP with the assistance of the EM service provider. The NMFS contract with the EM service provider would describe the permissible changes. These permissible changes would likely be limited to actions that enhanced data collection or maintained the same quality of data in cases where camera locations impede the ability to fish or vessel reconfigurations occur. These amendments to the VMP would be signed and submitted to NMFS. The vessel would be allowed to begin another fishing trip, provided that NMFS has received the VMP amendments in writing. If the amended VMP did not meet the data collection needs, NMFS would inform the EM service provider and the vessel owner or operator that the VMP would need to be updated before another trip selected for EM coverage could begin.

How would NMFS select a vessel to use an EM system on a fishing trip?

Once in the EM selection pool and after the vessel has an approved VMP, the vessel operator would register fishing trips in ODDS (see proposed § 679.51(f)(2)). ODDS would notify the vessel operator when the vessel is selected to use the EM system and instructions would be provided in ODDS. The ADP would specify the EM selection rate—the portion of trips that are sampled—for each calendar year. NMFS and the Council may change the EM selection rate from one calendar year to the next to achieve efficiency, cost savings, and data collection goals. EM selection rates would not change during a calendar year.

What are a vessel owner's or operator's responsibilities?

Vessel owners or operators would be required to maintain the EM system in working order, including ensuring the EM system is powered and functioning throughout the trip, keeping cameras clean and unobstructed, and ensuring the system is not tampered with (see proposed § 679.51(f)(5)). The vessel owner or operator would also need to ensure that power is maintained to the EM system at all times when the vessel is underway or the engine is operating. The vessel operator would also be required to conduct a system function test before each trip to ensure the EM system is working properly before departing.

Before each set is retrieved the vessel operator would need to verify that all components of the EM system are functioning. Instructions for completing this verification would be provided in the vessel's VMP.

Vessel owners or operators would be prohibited from tampering with the EM system or harassing the EM service provider. Additional prohibitions exist to ensure the EM system functions and the data from the systems is usable for fisheries management (see proposed § 679.7(j)).

What happens if an EM system malfunctions?

The VMP would list EM system malfunctions that are considered high priority to the data collection objectives and those malfunctions that are considered low priority to the data collection objectives. The VMP would also provide guidance about the procedures to follow if either of these types of malfunctions were detected. The proposed regulations describe the responsibilities of the vessel owner or operator in case an EM system malfunctions (see proposed § 679.51(f)(5)(vi)).

If a high priority malfunction were detected during the pre-departure function test, the vessel would be required to remain in port for up to 72 hours to allow an EM service provider time to conduct repairs. Remaining in port for up to 72 hours would allow time for an EM service provider to travel to most remote ports in Alaska and give him or her the necessary time needed to conduct repairs. If the repairs could not be completed within this time frame, NMFS would release the vessel from EM coverage for that trip and the vessel operator would be allowed to depart. However, the vessel owner or operator would be required to repair the malfunction prior to departing on a subsequent fishing trip, and the vessel would automatically be selected for EM coverage for that fishing trip.

If a low priority malfunction were detected during the pre-departure function test, the vessel operator would be allowed to depart on the selected trip as long as the procedures for low priority malfunctions described in the vessel's VMP were followed. At the end of the trip the vessel operator would be required to work with the EM service provider to repair the malfunction. The vessel operator could not depart on another trip selected for EM coverage with this malfunction unless the vessel operator had contacted the EM service provider.

If an EM system malfunction were to occur during a fishing trip selected for EM coverage, prior to retrieving the set the vessel operator would be required to attempt to correct the problem using the provisions described in the vessel's VMP. If the malfunction could not be repaired at sea, the vessel operator would be required to contact the EM service provider at the end of the trip.

The malfunction would need to be repaired before the vessel could depart on another fishing trip selected for EM coverage (see proposed § 679.51(f)(5)). This requirement mirrors the pre-departure function test requirements.

What happens when the fishing trip ends?

At the end of the fishing trip selected for EM coverage, the vessel owner or operator would close the trip in ODDS and follow the instructions in ODDS. The vessel owner or operator would be required to submit the video data storage devices to NMFS within 2 business days of completing the fishing trip selected for EM coverage, using a method that requires a signature for delivery and provides notification of delivery. Additional documentation described in the vessel's VMP would need to be submitted along with the video data storage devices. Specific instructions for shipping video data storage devices would be included in the vessel's VMP (see proposed § 679.51(f)(5)(vii)). The video storage devices would need to be submitted within 2 business days so that timely review of the data could occur and be provided for the management of the fishery.

How would a vessel use EM for fishing Individual Fishing Quota (IFQ) or Community Development Quota (CDQ) under the exception in Proposed § 679.7(f)(4)?

Currently, under § 679.7(f)(4), unless a vessel has an observer aboard and maintains the applicable daily logbook, the vessel cannot retain halibut or sablefish in excess of the total amount of unharvested IFQ or CDQ applicable to that vessel for the IFQ regulatory area in which the vessel is operating and that is currently held by all IFQ or CDQ permit holders aboard the vessel. This proposed rule would expand the exception to a vessel in the EM selection pool. This proposed rule provides that the owner or operator of a vessel in the EM selection pool, that complies with the requirements of § 679.51(f)(6) and maintains the applicable daily logbook, could retain halibut or sablefish in excess of the total amount of unharvested IFQ or CDQ applicable to that vessel for the IFQ regulatory area in which the vessel is operating and that is currently held by all IFQ or CDQ permit holders aboard the vessel. If a vessel is not part of the EM selection pool and is not selected for observer coverage for that fishing trip, the vessel owner or operator would continue to be prohibited from retaining halibut or sablefish in excess of the total amount of unharvested IFQ or CDQ applicable to that vessel for the IFQ regulatory area in which the vessel is operating.

Under proposed § 679.51(f)(6), a vessel owner or operator in the EM selection pool would use ODDS to identify when he or she intends to fish in multiple areas and to commit to using a functioning EM system on the whole trip, even if the vessel was not selected for EM coverage. The vessel owner or operator would be required to meet all the same responsibilities as if the vessel's fishing trip had been selected for EM coverage in ODDS. These include having a copy of a valid NMFS-approved VMP on board before the vessel goes fishing, maintaining the EM system in working order, and submitting the required information at the end of the trip. All these requirements are described in more detail above.

Because the EM system in this instance would be used as a compliance monitoring tool, some additional regulatory requirements would apply to the vessel owner and operator. The EM system would be required to be powered continuously during the entire fishing trip. The vessel owner or operator would need to describe in the VMP the alternative methods the vessel would use to show that the vessel had not moved or fished if the vessel owner or operator intends to power down the EM system during periods of non-fishing, such as at night when the vessel crew is sleeping. These alternative methods could include using VMS or installing a sensor that records when the engine is powered down.

Additionally, if during a fishing trip an EM system malfunction occurred that did not allow recording of essential information about where the vessel was fishing and what amount of halibut or sablefish catch was coming aboard, the vessel operator would be required to cease fishing immediately and to contact NOAA OLE. This requirement is necessary because information about the location of fishing and the amount caught in each area is paramount to allowing vessels to fish in multiple areas using the EM system exception at § 679.7(f)(4).

Other Regulatory Changes

NMFS proposes to revise regulations for clarity and efficiency, as follows—

- Remove expired regulations at §§ 679.7(j) and 679.23(d)(5), and remove § 679.23(d)(4), which was previously removed and reserved. Section 679.7(j) was only applicable through December 31, 2002 (67 FR 64315; October 18, 2002). Section 679.23(d)(5) was only applicable through July 17, 2001 (66 FR 31845; June 13, 2001). This proposed rule would revise § 679.7(j) to list prohibitions to ensure the EM system functions and the data from the systems are usable for fisheries management.
- Correct regulation citations in § 679.21(a)(2)(ii) and (a)(3) that cross reference paragraphs that NMFS moved in previous rulemaking.
- Remove the word ''observer'' from the phrase ''partial observer coverage category'' in § 679.51(a)(1) because, with this proposed rule, the partial coverage category would include EM and observers.
- Revise § 679.51(a)(1)(ii)(B) to remove reference to vessel and trip selection pools because, with this proposed rule, NMFS is adding the EM selection pool.
- Remove § 679.51(a)(1)(iii)(D)(*2*) because this proposed rule would replace that EM provision.
- Remove the expired deadline for the Bering Sea and Aleutian Islands (BSAI) trawl catcher vessel placement in the full observer coverage category at § 679.51(a)(4)(iii).

Classification

Pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration of comments received during the public comment period.

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

Regulatory Impact Review (RIR)

An RIR was prepared to assess all costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended Amendments 114/104 based on those measures that maximized net benefits to the Nation. Specific aspects of the economic analysis are discussed below in the Initial Regulatory Flexibility Analysis section.

Initial Regulatory Flexibility Analysis (IRFA)

This IRFA was prepared for this proposed rule, as required by section 603 of the Regulatory Flexibility Act (RFA), to describe why this action is being proposed; the objectives and legal basis for the proposed rule; the number of small entities to which the proposed rule would apply; any projected reporting, recordkeeping, or other compliance requirements of the proposed rule; any overlapping, duplicative, or conflicting Federal rules;

and any significant alternatives to the proposed rule that would accomplish the stated objectives, consistent with applicable statutes, and that would minimize any significant adverse economic 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.

Number and Description of Small Entities Regulated by the Proposed Action

The entities directly regulated by this action are those entities that harvest groundfish and halibut using nontrawl gear and are subject to observer coverage in the partial coverage category of the Observer Program. These directly regulated entities include vessels that fished with nontrawl gear in State waters only if those vessels had an Federal Fisheries Permit (FFP), which makes them subject to Federal observer regulations. Since participation in the EM selection pool is voluntary, only those vessels that choose to participate in the EM selection pool would be directly regulated by this proposed rule.

For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

The estimated number of vessels that use nontrawl gear in the partial coverage category that are small entities might be overstated. Conversely, the number of non-small entities might be understated. The RFA requires a consideration of affiliations between entities for the purpose of assessing whether an entity is classified as small. The estimates below do not take into account all affiliations between entities. There is not a strict one-to-one correlation between vessels and entities; many persons and firms are known to have ownership interests in more than one vessel, and many of these vessels with different ownership are otherwise affiliated with each other. Vessels that have types of affiliation that are not tracked in available data (*i.e.,* ownership of multiple vessels or affiliation with processors) may be misclassified as a small entity.

In 2015, 981 vessels (*i.e.,* harvesting entities) participated in the groundfish and halibut fisheries directly regulated by the proposed action. Those 981 catcher vessels include 255 vessels that only operated in State waters and possessed an FFP; all of those 255 vessels are classified as small entities. According to data provided by the Alaska Fisheries Information Network, the analysts estimate that 950 of the 981 harvesting entities are classified as small entities. All of the 31 vessels that are classified as non-small entities were members of harvesting cooperatives whose combined gross receipts were greater than $11.0 million in 2015, the most recent year for which complete revenue data is available. Each of the 31 vessels classified as non-small entities is affiliated with a crab cooperative, six are affiliated with a Central GOA Rockfish Program cooperative, two are affiliated with an American Fisheries Act cooperative, and one is affiliated through ownership with the freezer longline cooperative (some entities are affiliated with more than one cooperative across different North Pacific fisheries).

Table 1 provides a count of small and non-small entities (*i.e.,* vessels). The first row shows all vessels with FFPs that fished with nontrawl gear in 2015. The second row is limited to vessels that fished in Federal waters. The bottom four rows shows the number of entities by gear type and area fished. Those rows should not be summed vertically because vessels that fished with both gear types or in both management areas would be double-counted. No vessel less than 40 ft LOA is classified as a non-small entity, and only one vessel less than 57.5 ft LOA is classified as a non-small entity.

TABLE 1—COUNT OF SMALL AND NON-SMALL ENTITIES IN THE UNIVERSE OF DIRECTLY REGULATED VESSELS IN 2015

	Small Entity	Non-Small Entity	Total
Nontrawl catcher vessels (Federal and State waters)	950	31	981
Nontrawl catcher vessels (Federal waters only)	695	31	726
Hook-and-line catcher vessels in Federal waters in the GOA	584	7	591
Hook-and-line catcher vessels in Federal waters in the BSAI	114	7	121
Pot catcher vessels in Federal waters in the GOA	86	4	90
Pot catcher vessels in Federal waters in the BSAI	22	21	43

Recordkeeping, Reporting, and Other Compliance Requirements

This proposed rule adds additional reporting, recordkeeping, and other compliance requirements for vessels that choose to participate in the EM selection pool and vessels that choose to use the exemption in § 679.7(f)(4) to harvest IFQ or CDQ halibut and sablefish. No small entity is subject to reporting requirements that are in addition to or different from the requirements that apply to all directly regulated entities.

No unique professional skills are needed for the vessel owners or operators to comply with the reporting and recordkeeping requirements associated with this proposed rule. Vessel owners or operators would request to be placed in the EM selection pool using ODDS, a tool already used by directly regulated small entities. If they choose to participate in the EM selection pool, vessel owners and operators would be required to assist with the installation of the EM system and conduct basic maintenance to ensure the EM equipment remains functional. Vessel operators would meet with an EM service technician to develop a VMP for their vessel, in which the operator's responsibilities will be clearly defined. These responsibilities can generally be fulfilled by a crewmember of the vessel who already is fulfilling similar functions during fishing activity. The vessel owner or operator would be required to submit the VMP to NMFS for approval.

Vessel owners or operators in the EM selection pool that choose to use the proposed exemption in § 679.7(f)(4) would need to notify NMFS using ODDS when they intend to fish in multiple areas and commit to using a functioning EM system on the whole trip, even if the vessel was not selected for EM coverage. The vessel owner or operator would be required to meet all

of the same responsibilities as if the vessel had been selected for EM system coverage for that trip in ODDS. Because the EM system in this instance would be used as a compliance monitoring tool, some additional requirements would apply. If an EM system malfunction occurs during a fishing trip in a manner that does not allow essential information about where the vessel was fishing and what amount of IFQ or CDQ catch was coming aboard to be recorded, the vessel operator would be required to cease fishing immediately and to contact NOAA OLE. Information about the locations fished and the amount caught in each area is paramount to allowing vessels to fish in multiple areas using this exception; therefore, such a requirement is necessary.

Duplicate, Overlapping, or Conflicting Federal Rules

No duplication, overlap, or conflict between this proposed action and existing Federal rules has been identified.

Description of Significant Alternatives That Minimize Adverse Impacts on Small Entities

No significant alternatives were identified that would accomplish the stated objectives, are consistent with applicable statutes, and that would minimize any significant economic impact of the proposed rule on small entities. The Council and NMFS considered three alternatives. Alternative 1, the no action alternative, would not allow vessels to use an EM system instead of an observer. Alternative 2 would allow the use of EM for catch estimation on vessels in the EM selection pool and allow EM as a monitoring tool when fishing IFQ in multiple areas. Alternative 3 would allow the use of EM for compliance monitoring of vessel operator logbooks used for catch estimation.

The preferred alternative, Alternative 2, was designed to minimize the impacts to small entities from the status quo requirement to carry an observer when selected under the partial coverage category. Alternative 2 provides vessels that meet specific criteria the choice to join the EM selection pool instead of observer selection. Vessels in the EM selection pool would be required to use EM when randomly selected. Relative to Alternative 1 (no action), Alternative 2 provides nontrawl gear catcher vessel operators with the opportunity to participate in fishery monitoring and comply with the Observer Program regulations without carrying a human observer. Alternative 2 could also open new avenues to improve fishery data by collecting at-sea discard information from vessels less than 40 ft LOA, which is not currently gathered.

This proposed rule would not increase the fees that NMFS collects from directly regulated entities. The Analysis prepared for this action identifies the operational costs of participating in the EM program (see **ADDRESSES**). Directly regulated small entities that individually judge the operational costs of participating in the EM program to be burdensome could continue fishing under the existing human observer selection protocols, with no change in the amount of fees that they would be assessed.

Relative to Alternative 2, Alternative 3 would increase recordkeeping burdens on small entities by requiring skippers to fill out catch logbooks while operating their vessels and could also necessitate expanded dockside monitoring to verify logbooks, which could slow down shoreside operations and potentially increase overall costs at the programmatic level.

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. These requirements have been submitted to OMB for approval under OMB control number 0648–0318 (North Pacific Observer Program). The public reporting burden for the collection-of-information requirements in this proposed rule includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The proposed rule would allow vessel owners or operators to use the existing ODDS to submit a request to be placed in the EM selection pool. In addition, the proposed rule would allow vessel owners or operators in the EM selection pool to submit a request to be removed from the EM selection pool. Public reporting burden per response for these new options in ODDS is estimated to average 5 minutes. If NMFS denies a request to place a vessel in the EM selection pool, the vessel owner may submit an administrative appeal to NMFS. Public reporting burden per response for an administrative appeal is estimated to average 4 hours.

The proposed rule would require all vessel owners and operators in the EM selection pool to register a fishing trip in ODDS. Public reporting burden per response to register a fishing trip in ODDS if a vessel is assigned to the EM selection pool is estimated to average 15 minutes.

The proposed rule would require vessels owners who request to be placed in the EM selection pool to submit a VMP to NMFS. Public reporting burden per response for the VMP is estimated to average 48 hours.

The proposed rule would require all vessel owners and operators in the EM selection pool to close the fishing trip in ODDS. Public reporting burden per response to close a fishing trip in ODDS is estimated to average 5 minutes.

The proposed rule also would require vessel owners selected to carry EM to submit video data storage devices and associated documentation to the EM data reviewer within 2 business days of the end of the fishing trip. Public reporting burden per response is estimated to average 1 hour.

Vessel owners or operators wanting to use EM to fish under the proposed exception in § 679.7(f)(4) would be required to notify NMFS through ODDS. Public reporting burden per response to register a fishing trip in ODDS is estimated to average 15 minutes. The addition of the option to indicate that the vessel will to use EM to fish under the exception in § 679.7(f)(4) during an upcoming fishing trip is not expected to increase the average response time to register a trip in ODDS.

Public comment is sought regarding (1) 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; (2) the accuracy of the burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) 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 Alaska Region at the **ADDRESSES** above, email to *OIRA_Submission@omb.eop.gov,* or fax to (202) 395–5806.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: March 17, 2017.

Alan D. Risenhoover,

Acting 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.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

■ 2. In § 679.2:

■ a. In the definition of ''Fishing trip,'' revise paragraph (3) heading and add paragraph (3)(iv); and

■ b. Add the definitions for ''Electronic Monitoring system or EM system,'' ''EM selection pool'', ''EM service provider,'' and ''Vessel Monitoring Plan (VMP)'' in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

Electronic Monitoring system or EM system means a network of equipment that uses a software operating system connected to one or more technology components, including, but not limited to, cameras and recording devices to collect data on catch and vessel operations.

EM selection pool means the defined group of vessels from which NMFS will randomly select the vessels required to use an EM system under § 679.51(f).

EM service provider means any person, including their employees or agents, that NMFS contracts with to provide EM services, or to review, interpret, or analyze EM data, as required under § 679.51(f).

* * * * *

Fishing trip means: * * *

* * * * *

(3) *North Pacific Observer Program.*

* * * * *

(iv) *For a vessel in the EM selection pool of the partial coverage category,* the period of time that begins when the vessel leaves a shore-based port with an empty hold until the vessel returns to a shore-based port, regardless of when or where caught fish were offloaded.

* * * * *

Vessel Monitoring Plan (VMP) means the document that describes how fishing operations on the vessel will be conducted and how the EM system and associated equipment will be configured to meet the data collection objectives and purpose of the EM program. VMPs are required under § 679.51(f).

* * * * *

■ 3. In § 679.7, revise paragraphs (f)(4), (g) heading, and (j) to read as follows:

§ 679.7 Prohibitions.

* * * * *

(f) * * *

(4) Except as provided in § 679.40(d), retain IFQ or CDQ halibut or IFQ or CDQ sablefish on a vessel in excess of the total amount of unharvested IFQ or CDQ, applicable to the vessel category and IFQ or CDQ regulatory area(s) in which the vessel is deploying fixed gear, and that is currently held by all IFQ or CDQ permit holders aboard the vessel, unless the vessel has an observer aboard under subpart E of this part or the vessel participates in the EM selection pool and complies with the requirements at § 679.51(f), and maintains the applicable daily fishing log prescribed in the annual management measures published in the **Federal Register** pursuant to § 300.62 of this title and § 679.5.

* * * * *

(g) *North Pacific Observer Program—Observers.* * * *

* * * * *

(j) *North Pacific Observer Program—EM Systems.* (1) Fish without an EM system when a vessel is required to carry an EM system under § 679.51(f).

(2) Fish with an EM system without a copy of a valid NMFS-approved VMP on board.

(3) Fail to comply with a NMFS-approved VMP.

(4) Fail to conduct a function test prior to departing port on a fishing trip as required at § 679.51(f)(5)(vi)(A).

(5) Depart on a fishing trip selected for EM coverage without a functional EM system, unless procedures at § 679.51(f)(5)(vi)(A)(*1*) and § 679.51(f)(5)(vi)(A)(*2*) have been followed.

(6) Fail to follow procedures at § 679.51(f)(5)(vi)(B) prior to each set on a fishing trip selected for EM coverage.

(7) Fail to make the EM system, associated equipment, logbooks and other records available for inspection upon request by NMFS, OLE, or other NMFS-authorized officer.

(8) Fail to submit a video data storage device as specified under § 679.51(f)(5)(vii).

(9) Tamper with, bias, disconnect, damage, destroy, alter, or in any other way distort, render useless, inoperative, ineffective, or inaccurate any component of the EM system, associated equipment, or data recorded by the EM system.

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

(11) Interfere or bias the sampling procedure employed in the EM selection pool including either mechanically or manually sorting or discarding catch outside of the camera view or inconsistent with the NMFS-approved VMP.

(12) Fail to meet vessel owner and operator responsibilities specified at § 679.51 (f)(5).

* * * * *

■ 4. In § 679.21, revise paragraphs (a)(2)(ii) and (a)(3) to read as follows:

§ 679.21 Prohibited species bycatch management.

(a) * * *

(2) * * *

(ii) After allowing for sampling by an observer, if an observer is aboard, sort its catch immediately after retrieval of the gear and, except for salmon prohibited species catch in the BS pollock fisheries and GOA groundfish fisheries under paragraph (f) or (h) of this section, or any prohibited species catch as provided (in permits issued) under the PSD program at § 679.26, return all prohibited species, or parts thereof, to the sea immediately, with a minimum of injury, regardless of its condition.

(3) *Rebuttable presumption.* Except as provided under paragraphs (f) and (h) of this section and § 679.26, there will be a rebuttable presumption that any prohibited species retained on board a fishing vessel regulated under this part was caught and retained in violation of this section.

* * * * *

§ 679.23 [Amended]

■ 5. In § 679.23 remove paragraphs (d)(4) and (d)(5).

■ 6. In § 679.51:

■ a. Revise section heading and paragraphs (a)(1) heading, (a)(1)(i) introductory text, (a)(1)(i)(C), (a)(1)(ii) introductory text, (a)(1)(ii)(B), (a)(1)(ii)(D), and (a)(4)(iii); and

■ b. Add paragraph (f) to read as follows:

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

(a) * * *

(1) *Groundfish and halibut fishery partial coverage category*—(i) *Vessel classes in partial coverage category.* Unless otherwise specified in paragraph (a)(2) of this section, the following catcher vessels and catcher/processors are in the partial coverage category when fishing for halibut with hook-and-line gear or when directed fishing for groundfish in a federally managed or parallel groundfish fishery, as defined at § 679.2:

* * * * *

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

* * * * *

(ii) *Registration and notification of observer deployment.* The Observer Declare and Deploy System (ODDS) is the communication platform for the partial coverage category by which NMFS receives information about fishing plans subject to randomized observer deployment. Vessel operators provide fishing plan and contact information to NMFS and receive instructions through ODDS for coordinating with an observer provider for any required observer coverage. Access to ODDS is available through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.*

* * * * *

(B) *Notification.* Upon entry into ODDS, NMFS will notify the owner or operator of his or her vessel's selection pool. Owners and operators must comply with all further instructions set forth by ODDS.

* * * * *

(D) *Vessel selection pool.* A vessel selected for observer coverage is required to have an observer on board for all groundfish and halibut fishing trips specified at paragraph (a)(1)(i) of this section for the time period indicated by ODDS.

* * * * *

(4) * * *

(iii) *Deadline to request full observer coverage.* A full observer coverage request must be submitted by October 15 of the year prior to the calendar year in which the catcher vessel would be placed in the full observer coverage category.

* * * * *

(f) *Electronic monitoring system requirements for vessels that use nontrawl gear*—Vessels that use nontrawl gear in the partial coverage category in paragraph (a)(1)(i) of this section may be eligible for EM coverage instead of observer coverage.

(1) *Vessel placement in the EM selection pool*—(i) *Applicability.* The owner or operator of a vessel that uses nontrawl gear in the partial coverage category under paragraph (a)(1)(i) of this section may request to be placed in the EM selection pool.

(ii) *How to request placement in the EM selection pool.* A vessel owner or operator must complete an EM request and submit it to NMFS using ODDS. Access to ODDS is available through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* ODDS is described in paragraph (a)(1)(ii) of this section.

(iii) *Deadline to submit an EM request.* A vessel owner or operator must submit an EM request in ODDS by November 1 of the year prior to the calendar year in which the catcher vessel would be placed in the EM selection pool.

(iv) *Approval for placement in the EM selection pool.* NMFS will approve a nontrawl gear vessel for placement in the EM selection pool based on criteria specified in NMFS' Annual Deployment Plan, available through the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov.* Criteria may include, but are not limited to, availability of EM systems, vessel gear type, vessel length, area fished, number of trips or total catch, sector, target fishery, and home or landing port.

(v) *Notification of approval for placement in the EM selection pool*—(A) NMFS will notify the vessel owner or operator through ODDS of approval for the EM selection pool for the next calendar year. The vessel remains subject to observer coverage under paragraph (a)(1)(i) of this section unless NMFS approves the request for placement of the vessel in the EM selection pool.

(B) Once the vessel owner or operator receives notification of approval from NMFS, the vessel owner or operator must comply with the vessel owner or operator responsibilities in paragraphs (f)(4) and (f)(5) of this section and all further instructions set forth by ODDS.

(vi) *Initial Administrative Determination (IAD).* If NMFS denies a request to place a vessel in the EM selection pool, NMFS will provide an IAD to the vessel owner, which will explain the basis for the denial.

(vii) *Appeal.* If the vessel owner wishes to appeal NMFS' denial of a request to place the vessel in the EM selection pool, the owner may appeal the determination under the appeals procedure set out at 15 CFR part 906.

(viii) *Duration.* Once NMFS approves a vessel for the EM selection pool, that vessel will remain in the EM selection pool until—

(A) NMFS disapproves the VMP under paragraph (f)(4) of this section;

(B) The vessel owner or operator notifies NMFS that the vessel intends to leave the EM selection pool in the following fishing year under paragraph (f)(1)(ix) of this section; or

(C) The vessel no longer meets the EM selection pool criteria specified by NMFS.

(ix) *How to leave the EM selection pool.* A vessel owner must complete a request to leave the EM selection pool and submit it to NMFS using ODDS. ODDS is described in paragraph (a)(1)(ii) of this section.

(x) *Deadline to submit a request to leave the EM selection pool.* A vessel owner or operator must submit a request to leave the EM selection pool by November 1 of the year prior to the calendar year in which the vessel would be placed in observer coverage.

(2) *Notification of EM selection*—(i) A minimum of 72 hours prior to embarking on each fishing trip, the operator of a vessel in the EM selection pool with a NMFS-approved VMP must register the anticipated trip with ODDS.

(ii) ODDS will notify the vessel operator whether the trip is selected for EM coverage and provide a receipt number corresponding to this notification. Trip registration is complete when the vessel operator receives the receipt number.

(iii) An operator may embark on a fishing trip registered with ODDS:

(A) *Not selected trip.* At any time if ODDS indicates that the fishing trip is not selected for EM coverage.

(B) *Selected trip.* After the vessel operator follows the instructions in ODDS and complies with the responsibilities under paragraphs (f)(4) and (f)(5) of this section, if ODDS indicates that the fishing trip is selected for EM coverage.

(3) *EM coverage duration.* If selected, a vessel is required to use the EM system for the entire fishing trip.

(i) A fishing trip selected for EM coverage may not begin until all previously harvested fish have been offloaded.

(ii) Within 24 hours of the end of the fishing trip selected for EM coverage, the vessel operator must use ODDS to close the fishing trip and follow the instructions in ODDS for submitting the video data storage devices and associated documentation as outlined in paragraph (5)(vii) of this section.

(4) *Vessel Monitoring Plan (VMP).* Once approved for the EM selection pool and prior to registering a fishing trip in ODDS under paragraph (f)(2) of this section, the vessel owner or operator must develop a VMP with the EM service provider following the VMP template available through the NMFS Alaska Region Web site at *https://alaskafisheries.noaa.gov/.*

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

(ii) NMFS will approve the VMP for the calendar year if it meets all the requirements specified in the VMP template available through the NMFS Alaska Region Web site *https://alaskafisheries.noaa.gov/.*

(iii) If the VMP does not meet all the requirements specified in the VMP template, NMFS will provide the vessel owner or operator the opportunity to submit a revised VMP that meets all the

requirements specified in the VMP template.

(iv) If NMFS does not approve the revised VMP, NMFS will issue an IAD to the vessel owner or operator that will explain the basis for the disapproval. The vessel owner or operator may file an administrative appeal under the administrative appeals procedures set out at 15 CFR part 906.

(v) If changes are required to the VMP to improve the data collection of the EM system or address fishing operation changes, the vessel owner or operator must work with NMFS and the EM service provider to alter the VMP. The vessel owner or operator must sign the updated VMP and submit these changes to the VMP to NMFS prior to departing on the next fishing trip selected for EM coverage.

(5) *Vessel owner or operator responsibilities.* To use an EM system under this section, the vessel owner or operator must:

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

(ii) Provide access to the vessel's systems and reasonable assistance to the EM service provider.

(iii) Maintain a copy of a NMFS-approved VMP aboard the vessel at all times when the vessel is fishing.

(iv) Comply with all elements of the VMP when selected for EM coverage in ODDS.

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

(A) Ensure power is maintained to the EM system at all times when the vessel is underway.

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

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

(vi) Complete pre-departure function test and daily verification of EM system.

(A) Prior to departing port, the vessel operator must conduct a system function test following the instructions from the EM service provider. The vessel operator must verify that the EM system has adequate memory to record the entire fishing trip.

(*1*) If the EM system function test detects a malfunction identified as a high priority in the vessel's VMP or does not allow the data collection objectives to be achieved, the vessel must remain in port for up to 72 hours to allow an EM service provider time to conduct repairs. If the repairs cannot be completed within the 72-hour time frame, the vessel is released from EM coverage for that fishing trip and may depart on the scheduled fishing trip. A malfunction must be repaired prior to departing on a subsequent fishing trip. The vessel will automatically be selected for EM coverage for the subsequent fishing trip after the malfunction has been repaired.

(*2*) If the EM system function test detects a malfunction identified as a low priority in the vessel's VMP, the vessel operator may depart on the scheduled fishing trip following the procedures for low priority malfunctions described in the vessel's VMP. At the end of the trip the vessel operator must work with the EM service provider to repair the malfunction. The vessel operator may not depart on another fishing trip selected for EM coverage with this system malfunction unless the vessel operator has contacted the EM service provider.

(B) During a fishing trip selected for EM coverage, before each set is retrieved the vessel operator must verify all cameras are recording and all sensors and other required EM system components are functioning as instructed in the vessel's VMP.

(*1*) If a malfunction is detected, prior to retrieving the set the vessel operator must attempt to correct the problem using the instructions in the vessel's VMP.

(*2*) If the malfunction cannot be repaired at sea, the vessel operator must notify the EM service provider of the malfunction at the end of the fishing trip. The malfunction must be repaired prior to departing on a subsequent fishing trip selected for EM coverage.

(vii) When instructed by ODDS after closing a fishing trip selected for EM coverage, the vessel operator must submit video data storage devices and associated documentation identified in the vessel's VMP to NMFS using a method that requires a signature for delivery and provides a return receipt or delivery notification to the sender. The video data storage devices and associated documentation described in the vessel's VMP must be postmarked no later than 2 business days after the end of the fishing trip.

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

(6) *EM for fishing in multiple regulatory areas.* If a vessel owner or operator intends to fish in multiple regulatory areas using an EM system under the exception provided at § 679.7(f)(4), the vessel owner or operator must:

(i) Meet the requirements described in paragraph (f) of this section.

(ii) Register in ODDS that he or she intends to fish in multiple regulatory areas using the exception in § 679.7(f)(4).

(iii) Ensure the EM system is powered continuously during the fishing trip. If the EM system is powered down during periods of non-fishing, the VMP must describe alternate methods to ensure location information about the vessel is available for the entire fishing trip, as specified in the VMP template available through the NMFS Alaska Region Web site *https://alaskafisheries.noaa.gov/.*

(iv) If an EM system malfunction occurs during a fishing trip that does not allow the recording of retrieval location information and imagery of catch as described in the vessel's VMP, the vessel operator must cease fishing and contact OLE immediately.

[FR Doc. 2017–05753 Filed 3–22–17; 8:45 am]

BILLING CODE 3510–22–P