

SUMMARY: NMFS announces the cancellation of two public hearings that had dates and locations yet to be determined by the Atlantic States Marine Fisheries Commission (ASMFC) and held in the states of Massachusetts and Rhode Island on the public hearing draft of Amendment 13 to the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan. The intent to schedule these meetings was announced in the **Federal Register** on September 27, 2000.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director of the Mid-Atlantic Fishery Management Council (Council), 302-674-2331, ext. 19, or John Dunnigan, Executive Director, ASMFC, 202-289-6400, ext. 304.

SUPPLEMENTARY INFORMATION: NMFS, the Council, and ASMFC jointly manage the summer flounder fishery off the Atlantic coast. An earlier notice, published in the **Federal Register** (65 FR 58035, September 27, 2000) announced four public hearings with specific locations and dates to gather public comments on draft Amendment 13. The same notice also advised the public that two additional hearings (one in Massachusetts and one in Rhode Island) would be held at locations and times to be determined by the ASMFC and announced later through another notice in the **Federal Register**. The ASMFC has decided not to hold these hearings.

Dated: October 30, 2000.

Bruce C. Morehead,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic Atmospheric Administration

50 CFR Part 679

[Docket No. 001023289-0289-01; I.D. 083000C]

RIN 0648-AO25

Fisheries of the Exclusive Economic Zone Off Alaska; Extension of the Interim Groundfish Observer Program through December 31, 2002

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes a rule to extend through 2002 the existing regulations for the Interim North Pacific Groundfish Observer Program (Observer Program), which otherwise would expire December 31, 2000. This action is necessary to ensure uninterrupted observer coverage through December 31, 2002. The intention is to advance the management objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The proposed rule would not amend the existing regulations, except to extend the certifications of observer contractors who are currently certified by NMFS.

DATES: Comments on this proposed rule must be received by November 20, 2000.

ADDRESSES: Comments should be sent to Sue Salvesson, Assistant Regional Administrator for Sustainable Fisheries, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) prepared for the 1997 Interim Groundfish Observer Program, the RIR/FRFA prepared for the 1998 Interim Groundfish Observer Program, the RIR/FRFA prepared for the 1999-2000 Interim Groundfish Observer Program, and the RIR/Initial Regulatory Flexibility Analysis (IRFA) prepared for this proposed regulatory action may also be obtained from the same address. Send comments on any ambiguity or unnecessary complexity arising from the language used in this proposed rule to the Regional Administrator, Alaska Region, P.O. Box 21668, Juneau AK 99802.

FOR FURTHER INFORMATION CONTACT: Bridget Mansfield, 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

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

The Council adopted and NMFS implemented the Interim Groundfish Observer Program (Interim Program) in 1996, which superseded the North Pacific Fisheries Research Plan (Research Plan). The requirements of the 1996 Interim Program were extended through 1997 (61 FR 56425, November 1, 1996), again through 1998 (62 FR 67755, December 30, 1997), and again through 2000 (63 FR 69024, December 15, 1998). The Interim Program provides the framework for the collection of data by observers to obtain information necessary for the conservation and management of the groundfish fisheries managed under the FMPs. Further, it authorizes mandatory observer coverage requirements for vessels and shoreside processors and establishes vessel, processor and contractor responsibilities relating to the observer program. NMFS' intent is that the Interim Program be effective until a long-term program is developed and implemented that addresses several current concerns. These include data integrity, observer compensation, working conditions for observers, and equitable distribution of observer costs.

NMFS is working with the Council and the Council's Observer Advisory Committee (OAC) to address the concerns above and to develop new options for an alternative infrastructure for the Observer Program. A new infrastructure would be expected to ensure the continued collection of quality observer data and address observer coverage cost distribution issues through a fee system or alternate funding mechanism.

The development of a new infrastructure will require extensive time and coordination among NMFS staff, the OAC, and representatives of the industry sectors and observer interests. The intent of NMFS and the Council is to implement a replacement structure for the program prior to the proposed expiration of the current Interim Observer Program on December 31, 2002.

A description of the regulatory provisions of the Interim Groundfish Observer Program was provided in the proposed and final rules implementing this program (61 FR 40380, August 2, 1996; 61 FR 56425, November 1, 1996, respectively) as well as the proposed and final rules extending this program through 1998 and again through 2000 (62 FR 49198, September 19, 1997; 62 FR 67755, December 30, 1997; 63 FR 47462, September 8, 1998; 63 FR 69024, December 15, 1998, respectively). No changes to the existing regulations are proposed in this rulemaking, except to extend certification of observer

contractors who are currently certified by NMFS under the terms and conditions set forth in the regulations at § 679.50(i).

NMFS will continue efforts to enhance the existing Interim Program under separate rulemaking. At its June 2000 meeting, the Council recommended several changes to the regulations implementing the Observer Program to address concerns about observer coverage requirements and the adequacy of regulatory provisions supporting the working environment of observers. NMFS anticipates that a proposed rule to implement the Council's recommendation will be published in the **Federal Register** next year for public review and comment. These changes include the following: Revised coverage requirements for shoreside processors, shoreside observer housing, transportation and communication standards, revised coverage requirements for the groundfish pot fishery, and restrictions on distribution of personal information on individual observers.

Classification

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

This rule would extend without change existing collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The collection of this information has been approved by the Office of Management and Budget (OMB) under OMB control numbers 0648-0307 and 0648-0318.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

The extension of the existing regulations implementing the Interim Observer Program through December 31, 2002, is consistent with the intent and purpose of the Interim Observer Program. The extension will provide the same benefits as listed in the EA/RIR/FRFA for the Interim Observer Program dated August 27, 1996, the RIR/FRFA for the extension of the Interim Observer Program through 1998 dated October 28, 1997, and the RIR/FRFA for the extension of the Interim Observer Program through 2000, dated June 4, 1998. Copies of these analyses are available from NMFS (see **ADDRESSES**).

NMFS prepared an IRFA, which describes the impact this proposed rule would have on small entities, if

adopted. A copy of this analysis is also available from NMFS (see **ADDRESSES**).

Observer costs borne by vessels and processors are based on whether an observer is deployed aboard a vessel or at a shoreside processor, and on overall coverage needs. Higher costs are borne by those vessels and shoreside processors that require higher levels of coverage. Most of the catcher vessels participating in the groundfish fisheries off Alaska and that are required to carry an observer (i.e., vessels 60 ft (18.3 m) length overall (LOA) and longer) meet the definition of a small entity under the Regulatory Flexibility Act (RFA). Since 1995, about 270 catcher vessels annually carry observers. The FRFAs prepared for the 1998 and 2000 Interim Observer Program describe the degree to which these vessels would be economically impacted by observer coverage levels or other regulatory provisions of the Observer Program. The proposed action is not expected to result in any economic impacts beyond those already analyzed in these previous FRFAs because (1) this rule would not implement any changes in required coverage levels or other regulations implementing the Interim Observer Program, except for the extension of the effective date; and (2) the underlying socioeconomic conditions of the fishery and participating small entities has remained constant.

Although exact quantification of relative costs is not possible due to the unavailability of data, we can conclude that smaller vessels generally pay a proportionally larger share toward observer coverage than do larger vessels and shoreside processors when seen as a percentage of ex-vessel or product prices. Additionally, impacts of this action cannot be isolated from other factors, including price fluctuation. A fluctuation in ex-vessel or product value would likewise result in a fluctuation of cost of observer coverage as a percentage of the resulting revenues.

Costs borne by industry to meet observer coverage requirements under the Interim Observer Program are considerable (\$8-\$10 million) and would continue under the proposed action to extend the program. However, impacts of extending the current interim program would be expected to be minimal relative to the No Action alternative. These impacts include: (1) elimination of all observer jobs provided through the program; (2) elimination of earnings realized by observer providers, including the real potential for some companies to go out of business; and (3) potential lost revenue to industry in terms of inaccurate catch accounting and potential mis-allocation of Total

Allowable Catch (TAC) resulting in premature or delayed fishery closures. Premature closures cause forfeiture of valuable catch and could adversely impact product supply and prices paid by consumers. Delayed closures of the fishery cause resources to be less effectively managed, with adverse long-term implications for productivity and future catch levels. While these costs cannot be readily estimated, they do represent a real potential loss and would be relatively larger for smaller vessels that pay a higher proportional cost for observer coverage.

The RFA requires that the IRFA describe significant alternatives to the proposed rule that accomplish the stated objectives of the applicable statutes and minimize any impact on small entities. The IRFA must discuss significant alternatives to the proposed rule such as (1) establishing different reporting requirements for small entities that take into account the resources available to small entities, (2) consolidating or simplifying of reporting requirements, (3) using performance rather than design standards, and (4) allowing exemptions from coverage for small entities.

NMFS did not consider alternatives that address modifying reporting requirements for small entities or the use of performance standards. Such alternatives are not relevant to this proposed action and would not mitigate the impacts on small entities. Allowing for additional exemptions for small entities from this proposed action would undermine the collection of information needed to effectively manage the Alaska groundfish fisheries.

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

Regulations implementing the existing observer program will expire at the end of 2000 unless extended. Implementation of an alternative

program structure including an alternative funding mechanism is not feasible by the end of this year, which would be necessary to provide observer coverage for the 2001–2002 groundfish fisheries. The preferred alternative for an extension of the current interim observer program is the only option that could be implemented by January 1, 2001, and ensure the groundfish fisheries could commence without interruption.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule. Such comments should be sent to the Regional Administrator, Alaska Region (see **ADDRESSES**).

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: October 27, 2000

William T. Hogarth,

*Acting 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.*, and 3631 *et seq.*

2. In § 679.50, the section heading, and paragraphs (i)(1)(i) and (i)(1)(iii) are revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 2002.

* * * * *

(i) * * *

(1) * * *

(i) *Application.* An applicant seeking to become an observer contractor must

submit an application to the Regional Administrator describing the applicant's ability to carry out the responsibilities and duties of an observer contractor as set out in paragraph (i)(2) of this section and the arrangements to be used.

Observer contractors certified for the year 2000 to provide observers through the North Pacific Groundfish Observer Program, are exempt from this requirement to submit an application and are certified for the term specified in paragraph (i)(1)(iii) of this section.

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(iii) *Term.* Observer contractors will be certified through December 31, 2002. NMFS can decertify or suspend observer contractors pursuant to paragraph (j) of this section.

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