

applies, and not counted towards the U.S. bigeye tuna limit established by NMFS under a separate authority in 50 CFR part 300, subpart O.

In accordance with Federal regulations at 50 CFR part 300, subpart O, vessels that possess both an American Samoa and Hawaii longline permit are not subject to the U.S. bigeye tuna limit. Therefore, these vessels may retain bigeye tuna and land fish in Hawaii after the date that NMFS projects the fishery would reach that limit. Further, catches of bigeye tuna made by such vessels are attributed to American Samoa, provided the fish was not caught in the U.S. EEZ around Hawaii. In 2015, all dual American Samoa/Hawaii longline permitted vessels were included in the fishing agreement with CNMI. Therefore, NMFS attributed bigeye catches by those vessels to the CNMI.

The 2016 U.S. bigeye tuna catch limit established in 50 CFR 300, Subpart O is 3,554 mt, which is about 1.5% higher than the 2015 limit. In 2015, the U.S. longline fishery was subject to a catch limit of 3,502 mt (WCPFC limit of 3,554 mt less the 2014 catch overage of 52 mt). NMFS closed the fishery on August 5, 2015, because the fishery reached the limit (80 FR 46515, July 28, 2015). However, effective October 9, 2015, NMFS specified the 2015 catch and allocation limits for the CNMI and all vessels in the Hawaii longline fleet immediately entered into a specified fishing agreement with the CNMI. NMFS forecasted vessels listed in the CNMI specified fishing agreement would reach the 1,000-mt allocation limit on November 30, 2015 and issued a notice that it would restrict retention of bigeye tuna by vessels identified in that agreement on that date (80 FR 74002, November 27, 2015). Effective November 25, 2015, NMFS specified the 2015 catch and allocation limit for Guam and all Hawaii longline vessels immediately entered into a second specified fishing agreement with Guam on that date. Preliminary data from PIFSC indicate that Hawaii longline vessels caught the entire 1,000-mt bigeye tuna allocation provided by the CNMI specified fishing agreement, but did not reach the 1,000 mt allocation limit provided by the Guam specified fishing agreement before the 2015 fishing year ended on December 31, 2015 (NMFS PIFSC unpublished data; Preliminary 2015 U.S. Part 1 annual report to the WCPFC).

Through this action, Hawaii-based longline vessels could again potentially enter into one or more fishing agreements with participating territories. This would enhance the

ability of these vessels to extend fishing effort in the Western and Central Pacific Ocean and provide more bigeye tuna for markets in Hawaii. Providing opportunity to land bigeye tuna in Hawaii in the last quarter of the year when market demand is high will result in positive economic benefits for fishery participants and net benefits to the nation. Allowing participating territories to enter into specified fishing agreements under this action, provides benefits to the territories by providing funds for territorial fisheries development projects. In terms of the impacts of reducing the limits of bigeye tuna catch by longline vessels based in the territories from an unlimited amount to 2,000 mt, this is not likely to adversely affect vessels based in the territories.

Historical catch of bigeye tuna by the American Samoa longline fleet has been less than 2,000 mt, even including the catch of vessels based in American Samoa, catch by dual permitted vessels that land their catch in Hawaii, and catch attributed to American Samoa from U.S. vessels under specified fishing agreements (which occurred in 2011 and 2012). With regard to Guam and CNMI, no longline fishing has occurred since 2011.

Under the proposed action, longline fisheries managed under the Pelagic FEP are not expected to expand substantially nor change the manner in which they are currently conducted, (*i.e.*, area fished, number of vessels longline fishing, number of trips taken per year, number of hooks set per vessel during a trip, depth of hooks, or deployment techniques in setting longline gear), due to existing operational constraints in the fleet, the limited entry permit programs, and protected species mitigation requirements. The proposed rule does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small organizations or government jurisdictions. Furthermore, there would be little, if any, disproportionate adverse economic impacts from the proposed rule based on gear type, or relative vessel size. The proposed rule also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities.

For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As such, an initial regulatory flexibility analysis is not required and none has been prepared.

This action is exempt from review under the procedures of E.O. 12866

because this action contains no implementing regulations.

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

Dated: June 30, 2016.

**Samuel D. Rauch III,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No.: 160225146-6146-01]

RIN 0648-BF80

#### Fisheries of the Exclusive Economic Zone Off Alaska; Observer Coverage Requirements for Bering Sea and Aleutian Islands Management Area Trawl Catcher Vessels

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

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

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**SUMMARY:** NMFS is proposing regulations to modify observer coverage requirements for catcher vessels participating in the trawl limited access fisheries in the Bering Sea and Aleutian Islands management area (BSAI). If approved, this proposed rule would allow the owner of a trawl catcher vessel to request, on an annual basis, that NMFS place the vessel in the full observer coverage category for all directed fishing for groundfish using trawl gear in the BSAI in the following calendar year. This action is necessary to relieve vessel owners who request full observer coverage of the reporting requirements and observer fee liability associated with the partial observer coverage category. In addition, this proposed rule makes minor technical corrections to observer program regulations. This proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (BSAI FMP), and other applicable laws.

**DATES:** Submit comments on or before August 8, 2016.

**ADDRESSES:** You may submit comments on this document, identified by NOAA-

NMFS-2016-0020, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov](http://www.regulations.gov)/`#!docketDetail;D=NOAA-NMFS-2016-0020`, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the Regulatory Impact Review/Initial Regulatory Flexibility Analysis (Analysis) and the Categorical Exclusion prepared for this action are available from <http://www.regulations.gov> or from the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

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

**FOR FURTHER INFORMATION CONTACT:**

Alicia M Miller, 907-586-7228.

**SUPPLEMENTARY INFORMATION:**

**Authority for Action**

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

This proposed rule is consistent with Section 3.2.4.1 of the BSAI FMP. Section 3.2.4.1 requires observer coverage for trawl catcher vessels in the BSAI groundfish fisheries and describes which vessels and processors are in the

full observer coverage category and which are in the partial observer coverage category. Section 3.2.4.1 also authorizes that exceptions to these classifications may be implemented through regulations. The Council recommended and NMFS concurs that this proposed rule would authorize an exception to allow the owner of a trawl catcher vessel in the partial observer coverage category to request placement in the full observer coverage category, and that this exception could be implemented through a regulatory amendment without the need to amend the BSAI FMP.

**Background**

If approved, this proposed rule would amend North Pacific Groundfish and Halibut Observer Program (Observer Program) regulations to allow the owner of a trawl catcher vessel to request, on an annual basis, that NMFS place the vessel in the full observer coverage category for all directed fishing for groundfish using trawl gear in the BSAI in the following calendar year. This proposed rule would relieve trawl catcher vessel owners who request full observer coverage of the observer fee liability and reporting requirements associated with the partial observer coverage category. This proposed rule would establish a regulatory process to allow a trawl catcher vessel owner, on an annual basis, to request that NMFS place the vessel in the full observer coverage category for all directed fishing for groundfish using trawl gear in the BSAI in the following calendar year. This proposed rule is intended to provide flexibility to the owner of a trawl catcher vessel by allowing a vessel owner to request, on an annual basis, placement in the full observer coverage category; doing so would provide additional observer data. Implementation of this proposed rule would benefit the owners and operators of trawl catcher vessels that participate in the BSAI limited access fisheries while continuing to allow NMFS to collect the data necessary to conserve and manage the BSAI groundfish fisheries.

The following sections describe (1) the Observer Program, (2) the need for the proposed action, and (3) this proposed rule.

**The Observer Program**

Regulations implementing the Observer Program require observer coverage on fishing vessels and at processing plants to allow NMFS-certified observers (observers) to obtain information necessary for the conservation and management of the

BSAI and Gulf of Alaska groundfish and halibut fisheries. Observers collect biological samples and fishery-dependent information on total catch and fishing vessel interactions with protected species. Managers use data collected by observers to monitor quotas, manage groundfish catch and bycatch, and document and reduce fishery interactions with protected resources. Scientists use observer-collected data for stock assessments and marine ecosystem research.

The Observer Program was implemented in 1990 (55 FR 4839, February 12, 1990). In 2013, NMFS restructured the funding and deployment systems of the Observer Program (77 FR 70062, November 21, 2012). Under the restructured Observer Program, all vessels and processors in the groundfish and halibut fisheries off Alaska are placed into one of two categories: (1) The full observer coverage category, where vessels and processors obtain observer coverage by contracting directly with observer providers; and (2) the partial observer coverage category, where NMFS has the flexibility to deploy observers when and where they are needed, as described in the annual deployment plan that is developed by NMFS in consultation with the Council. As explained below, the deployment of observers in the partial observer coverage category is funded through a fee.

NMFS funds observer deployment in the partial observer coverage category by assessing a 1.25 percent fee on the ex-vessel value of retained groundfish and halibut from vessels that are not in the full observer coverage category. This observer fee is based on the total ex-vessel value of landed catch and calculated using a standardized price from the prior year's landings. NMFS intends that the fee be split equally between the processor receiving landed catch and the vessel harvesting the catch. The processor collects the vessel owner's portion of the observer fee and submits full payment to NMFS after the end of the year. More information about the observer fee for the partial observer coverage category is provided in the most recent annual notice of the standard ex-vessel prices for the observer fee (80 FR 77606; December 15, 2015), and in the final rule implementing the restructured observer program (77 FR 70062, November 21, 2012).

When the Observer Program was restructured, the Council and NMFS decided, based on data needs and costs, which vessels and processors to place in the full and partial observer coverage categories. Regulations implementing

the restructured observer program in 2013 placed all trawl catcher vessels in the full observer coverage category when participating in a catch share program with transferable prohibited species catch (PSC) limits (77 FR 70062, November 21, 2012). For trawl catcher vessels in the BSAI, the catch share programs with transferable PSC limits are the American Fisheries Act (AFA) pollock fisheries in the Bering Sea and the Western Alaska Community Development Quota (CDQ) groundfish fisheries. All other trawl catcher vessels subject to observer coverage requirements in the BSAI are in the partial observer coverage category and participate in the BSAI trawl limited access fisheries.

Throughout this proposed rule, the trawl fisheries in the BSAI that are not part of a catch share program mentioned in the previous paragraph are referred to collectively as “the BSAI trawl limited access fisheries”. Vessels participating in the BSAI trawl limited access fisheries primarily target Pacific cod or yellowfin sole. NMFS does not allocate transferable PSC limits to trawl catcher vessels in the BSAI trawl limited access fisheries; therefore, trawl catcher vessels are placed in the partial observer coverage category when participating in these fisheries. The BSAI trawl limited access fisheries are managed with halibut and crab PSC limits that apply to the directed fishery as a whole or to operational category and gear type. Section 3.5 in the Analysis provides additional information about the BSAI trawl limited access fisheries, the Observer Program, and observer coverage categories.

#### **Need for the Proposed Action**

The Council initiated this proposed action in response to comments on the proposed rule to restructure the Observer Program (77 FR 23326, April 18, 2012), and testimony to the Council. As detailed in the final rule for the restructured program, (77 FR 70062, November 21, 2012), some participants in the BSAI trawl limited access fisheries commented that their catcher vessels needed full (100 percent) observer coverage while directed fishing for Pacific cod. Full observer coverage, according to the participants, was necessary to comply with private contractual arrangements contained in their voluntary AFA agreements to manage halibut PSC at the vessel and cooperative level. Specifically, trawl catcher vessel owners expressed concern that if their vessels were placed in the partial observer coverage category and not randomly selected for observer coverage, a vessel owner would have to

use halibut PSC rates extrapolated from other observed vessels for its halibut PSC accounting within the cooperative. Some vessel owners wanted the option to carry an observer on all fishing trips (*i.e.*, full observer coverage) so that observer data from the vessel could be used to provide vessel-specific halibut PSC accounting.

Participants in the BSAI trawl limited access fisheries also testified that allowing trawl catcher vessels to continue to carry an observer on all trips, as they had prior to Observer Program restructuring in 2013, would allow them to shift seamlessly between the AFA pollock trawl fishery where full observer coverage is required and other fisheries such as the BSAI Pacific cod limited access trawl fishery where only partial observer coverage is required. Participants in the BSAI trawl limited access fisheries testified that under the full observer coverage category requirements, a trawl catcher vessel owner could contract with the same observer provider in both the AFA pollock trawl and other BSAI trawl limited access fisheries. This operational efficiency would allow vessel owners and operators to coordinate with a single observer provider when moving between the AFA pollock fishery and the BSAI trawl limited access fisheries.

In a response to these comments on the restructured program, NMFS stated that neither the Council’s motion nor the proposed rule for restructuring the Observer Program addressed an allowance for voluntary participation in the full observer coverage category (77 FR 70062, November 21, 2012). Therefore, this type of change could not be made in the final rule for the Observer Program restructuring. NMFS described that further analysis and a subsequent rulemaking would be needed to revise regulations to authorize vessel owners to request placement in the full observer coverage category and to relieve these vessel owners and associated processors from the observer fee liability for landings by trawl catcher vessels in the partial observer coverage category. NMFS highlighted the need to analyze the placement of vessels in a particular coverage category not only in terms of the economic impacts on a vessel owner, but also in terms of impacts on the fee base for the partial observer coverage category.

Since 2013, and with the concurrence of the Council, NMFS has allowed the owner of a BSAI trawl catcher vessels to request, on an annual basis, full observer coverage by submitting a letter of request to NMFS. Under this interim policy, a vessel owner could request, by

December 1, to have a trawl catcher vessel comply with full observer coverage requirements in the following calendar year. Vessel owners then contract with a full coverage observer provider for all directed fishing for groundfish using trawl gear in the BSAI in the following year.

By regulation, catcher vessels participating in the BSAI trawl limited access fisheries are in the partial observer coverage category, and those landings are subject to the partial observer coverage fee liability as well as the requirement to log fishing trips in the Observer Declare and Deploy System (ODDS). ODDS is the internet-based communication platform that NMFS uses to receive information about fishing plans by vessels in the partial observer coverage category and to notify vessel owners if a fishing trip has been randomly selected for observer coverage. The owner and operator of a catcher vessel placed in the full observer coverage category are not required to log fishing trips in ODDS.

Under the interim policy, the owner of a trawl catcher vessel complies with full observer coverage requirements, but is not placed in the full observer coverage category by regulation and therefore, is required to comply with the partial observer coverage category reporting requirements and associated observer fee liability. This results in duplicative observer coverage costs and additional reporting requirements for those vessel owners that requested full observer coverage under the interim policy.

In February 2016, the Council unanimously recommended that NMFS revise regulations to allow the owner of a BSAI trawl catcher vessel in the partial observer coverage category to request, on an annual basis, that NMFS place the catcher vessel in the full observer coverage category for all directed fishing for groundfish using trawl gear in the BSAI for the following year. Any trawl catcher vessel that NMFS did not place in the full observer coverage category would remain in the partial observer coverage category under existing regulations at §§ 679.50 and 679.51. Once NMFS notifies a catcher vessel owner that the catcher vessel has been placed in the full observer coverage category, the catcher vessel operator would then be subject to full observer coverage requirements described at § 679.51(a)(2) for all directed fishing for groundfish using trawl gear in the BSAI in the following year.

The rationale for the two major provisions of the proposed rule follows below. Alternatives, options, and

suboptions considered but not selected by the Council are explained in more detail in the "Classification" section of this preamble.

### *1. Annual Request for Full Observer Coverage*

This proposed rule would allow the owner of a trawl catcher vessel to annually request full observer coverage in lieu of partial observer coverage for directed fishing for groundfish using trawl gear in the BSAI in the following year. This closely aligns with the interim policy, in place since 2013, under which NMFS allows the owner of a BSAI trawl catcher vessel to annually request full observer coverage for all directed fishing for groundfish using trawl gear in the BSAI in the following year. This proposed rule would establish a regulatory process to allow the owner of a trawl catcher vessel to submit a request for full observer coverage to NMFS by October 15 of the year prior to the year in which the catcher vessel would be placed in the full observer coverage category. NMFS would then place the vessel in the full observer coverage category for all directed fishing for groundfish using trawl gear in the following year. This annual request is consistent with the Council's and NMFS' previous decision to require full observer coverage on catcher vessels only in fisheries with transferable PSC limits. The owner of a trawl catcher vessel could request the appropriate observer coverage category that would meet their private contractual agreements.

This proposed rule would not restrict which trawl catcher vessel owners could request full observer coverage, allowing the owner of any trawl catcher vessel to request full observer coverage for all directed fishing for groundfish using trawl gear in the BSAI in the following year. The Council considered restricting the option to AFA trawl catcher vessels because those are the vessels that have, thus far, requested full observer coverage under the interim policy. However, the Analysis did not identify any reason to restrict which BSAI trawl catcher vessel owners may request to increase their observer coverage requirements (see Section 3.7.3 and Section 3.7.4 of the Analysis for additional detail).

Section 3.7 of the Analysis describes the potential impact of the proposed rule on the costs of observer coverage, fee receipts, and observer deployment rates in the partial observer coverage category if NMFS approves trawl catcher vessel owners' requests and places the vessels in the full observer coverage category. Section 3.7 of the

Analysis describes that this proposed rule could result in some cost savings and reduced administrative burden for trawl catcher vessel owners and operators, some slightly reduced fee receipts for the partial observer coverage category, and some potential for a limited decrease in observer deployment rates in the partial observer coverage category relative to current management. Observer deployment for vessels and processors in the partial observer coverage category will continue to be analyzed and evaluated in the Observer Program annual deployment plan and the Observer Program Annual Report.

This proposed rule would not alter existing observer coverage requirements for trawl catcher vessels delivering unsorted codends to a mothership in the BSAI. A trawl catcher vessel delivering unsorted codends to a mothership is not required to carry an observer because the catch is not brought onboard the catcher vessel, but is sorted aboard the mothership with full observer coverage.

### *2. Annual Deadline*

This proposed rule would establish an annual deadline of October 15 for a trawl catcher vessel owner to request placement in the full observer coverage category for the following year. This deadline is earlier than the current deadline of December 1 under the interim policy. The October 15 deadline is necessary to balance the need to improve information available to analysts during the final preparations of the partial observer coverage annual deployment plan with the need to allow vessel owners the time to make business decisions for the following year. The October 15 deadline also provides full coverage observer providers adequate time to coordinate observer availability for the following year. Sections 3.6 and 3.7.1.2 of the Analysis provide additional detail on the rationale for the October 15 deadline and describe alternative deadlines that were considered but not proposed.

### **This Proposed Rule**

This proposed rule would revise regulations at 50 CFR part 679 to establish a process to allow the owner of a trawl catcher vessel to request, on an annual basis, that NMFS place the vessel in the full observer coverage category for all directed fishing for groundfish using trawl gear in the BSAI in the following calendar year. This proposed rule would add a paragraph at § 679.51(a)(2)(i)(C)(4) describing a new vessel type under the list of catcher vessels in the full observer coverage category to allow this annual request for

placement in the full observer coverage category for one year. This proposed rule adds a new paragraph at § 679.51(a)(4) to describe the requirements for this annual process.

The owner of a trawl catcher vessel that requests full observer coverage in lieu of partial observer coverage for all directed fishing for groundfish in the BSAI trawl limited access fisheries in the following year would submit a request to NMFS using ODDS, which is described at § 679.51(a)(1)(ii). Once a request is received, NMFS would consider the request and would notify the vessel owner whether the request has been approved or denied. This notification would occur through ODDS. Once NMFS has notified the vessel owner that a request to be placed in the full observer coverage category for the following year has been approved, the owner and operator of the trawl catcher vessel would be subject to full observer coverage requirements as described at § 679.51(a)(2) for all directed fishing for groundfish using trawl gear in the BSAI in the following year. Once approved by NMFS for placement in the full observer coverage category, a trawl catcher vessel could not be placed in the partial observer coverage category until the next year. Until NMFS provides notification of approval, a catcher vessel would remain in the partial observer coverage category as described at § 679.51(a)(1)(i).

The owner of a trawl catcher vessel placed in the full observer coverage category would contract directly with a permitted full coverage observer provider to procure observer services as described at § 679.51(d). The owner of a trawl catcher vessel in the full observer coverage category would not be required to log fishing trips in ODDS under § 679.51(a)(1), and landings made by a vessel in the full observer coverage category would not be subject to the 1.25 percent partial observer coverage fee under § 679.55.

This proposed rule would establish an annual deadline of October 15 for a trawl catcher vessel owner to request that a trawl catcher vessel operating in the BSAI be placed in the full observer coverage category for the following year as described in proposed regulations at § 679.51(a)(4)(iii). A vessel owner would be required to submit a request for full observer coverage by the October 15 annual deadline. NMFS would approve all requests that contained the information required by ODDS and were submitted on or before October 15. If NMFS disapproves a request to place a catcher vessel in the full observer coverage category, the catcher vessel would remain in the partial observer

coverage category as described at § 679.51(a)(1)(i).

The proposed rule specifies at proposed § 679.51(a)(4)(v) that if NMFS denies a request for placement in the full observer coverage category, NMFS would issue an Initial Administrative Determination, which would explain in writing the reasons for the denial. Under proposed § 679.51(a)(3)(vi), the vessel owner could appeal a denial to the National Appeals Office according to the procedures in 15 CFR part 906.

This proposed rule would make minor technical corrections to Observer Program regulations. This proposed rule would correct inaccurate cross references in §§ 679.84 and 679.93 to observer coverage requirements in § 679.51. This proposed rule would also standardize references to the observer sampling station and the Observer Sampling Manual throughout part 679, and update check-in/check-out report submission methods by removing a discontinued email address in § 679.5.

#### Classification

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

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

#### Initial Regulatory Flexibility Analysis

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A further description of the action, why it is being considered, and the legal basis for this action are explained earlier in the preamble to this proposed rule. A copy of the IRFA is available from NMFS (see ADDRESSES). A summary of the analysis follows.

This proposed rule would directly regulate the owners of trawl catcher vessels that participate in the BSAI groundfish limited access fisheries. The Small Business Administration has established size standards for all major industry sectors in the United States.

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.

This proposed rule would provide the owners of BSAI trawl catcher vessels that currently are placed in the partial observer coverage category the opportunity for placement in the full observer coverage category. One-hundred catcher vessels used trawl gear in the BSAI in 2014. NMFS estimates that 13 of these trawl catcher vessels would be directly regulated small entities. The owners of three of these catcher vessels requested to be placed in the full observer coverage category for all their BSAI groundfish fishing during at least one year from 2013 through 2015.

This proposed rule proposes one new reporting requirement and eliminates one reporting requirement for a vessel owner who requests placement of their vessel in the full observer coverage category for a year. Any trawl catcher vessel owner who requests placement of their trawl catcher vessel in the full observer coverage category would be required to submit a request to NMFS. This request would be a new reporting requirement, and would only apply to those catcher vessel owners who request placement of their vessel in the full observer coverage category. The reporting requirement to log fishing trips in ODDS does not apply to vessels in the full observer coverage category; therefore, this proposed rule would remove a reporting requirement for these directly regulated small entities to log fishing trips in ODDS.

The RFA requires identification of any significant alternatives to this proposed rule that accomplish the stated objectives, consistent with applicable statutes, and that would minimize any significant economic impact of this proposed rule on small entities. As noted in the IRFA, this proposed rule is expected to create a net benefit for the directly regulated small entities because it offers trawl catcher vessel owners an opportunity to change their observer coverage category. The benefits of this proposed rule to trawl catcher vessel owners are expected to outweigh the costs of paying for an observer to be on board the vessel during all groundfish fishing in the BSAI, and the cost of the annual request to NMFS. If the benefits to a catcher vessel owner do not outweigh the costs, a catcher vessel owner can choose not to request that their vessel be placed in

the full observer coverage category, and so would not be impacted by this proposed rule.

The Council considered the status quo (Alternative 1), and two action alternatives (Alternative 2 and Alternative 3). Alternative 3 included one option and three suboptions. The preferred alternative (Alternative 3 with Suboption 3) described in this proposed rule would provide the owners of BSAI trawl catcher vessels an option of requesting, on an annual basis, placement in the full observer coverage category rather than remaining in the partial observer coverage category. No new requirements would be imposed under the preferred alternative unless the catcher vessel owner requested the full observer coverage category. Of the action alternatives analyzed, the preferred alternative provides the most flexibility for the owner of a trawl catcher vessel to request full observer coverage in lieu of partial observer coverage.

Alternative 1 (status quo) would have continued to offer catcher vessel owners the option of carrying full observer coverage under the interim policy, but would not remove the requirement in regulations for continued payment of the partial observer coverage fee in addition to the cost of full observer coverage. Alternative 2 is more restrictive than the preferred alternative because it would have permanently placed AFA trawl catcher vessels in the full observer coverage category rather than offering the vessel owners an option to request full observer coverage on an annual basis. Alternative 3 Option 1 would have allowed only the owners of AFA trawl catcher vessels to request placement in the full observer coverage category, rather than providing the opportunity to the owners of all BSAI trawl catcher vessels. Alternative 3 Suboption 1 would have established an earlier deadline to submit the request for full observer coverage than under the preferred alternative. Directly regulated small entities opposed the earlier deadline because they wanted more time to make business decisions about observer coverage in the following year. Alternative 3 Suboption 2 would have established a one-time request to be placed in the full observer coverage category rather than an annual request as is the case under the preferred alternative. In summary, the preferred alternative of Alternative 3, Suboption 3 (this proposed rule) offers the widest range of options to the widest range of directly regulated small entities, as compared to all other alternatives.

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

*Collection-of-Information Requirements*

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval under OMB Control No. 0648-0318. The public reporting burden for Request for Full Observer Coverage Category is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS at the ADDRESSES above, by email to *OIRA\_Submission@omb.eop.gov*, or fax to (202) 395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at [http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

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

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 28, 2016.

**Samuel D. Rauch III,**  
*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 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 § 679.51:

■ a. Revise paragraphs (a)(2)(i)(C)(2) and (3); and

■ b. Add paragraphs (a)(2)(i)(C)(4) and (a)(4).

The revisions and additions read as follows:

**§ 679.51 Observer requirements for vessels and plants.**

\* \* \* \* \*

(a) \* \* \*

(2) \* \* \*

(i) \* \* \*

(C) \* \* \*

(2) Using trawl gear or hook-and-line gear while groundfish CDQ fishing (see § 679.2), except for catcher vessels less than or equal to 46 ft LOA using hook-and-line gear while groundfish CDQ fishing under § 679.32(c)(3)(iii);

(3) Participating in the Rockfish Program; or

(4) Using trawl gear in the BSAI if the vessel has been placed in the full observer coverage category under paragraph (a)(4) of this section.

\* \* \* \* \*

(4) *BSAI trawl catcher vessel placement in the full observer coverage category for one year—(i) Applicability.* The owner of a catcher vessel in the partial observer coverage category under paragraph (a)(1)(i) of this section may request to be placed in the full observer coverage category for all directed fishing for groundfish using trawl gear in the BSAI for a calendar year.

(ii) *How to request full observer coverage for one year.* A trawl catcher vessel owner must complete a full observer coverage request and submit it to NMFS using ODDS. ODDS is described in paragraph (a)(1)(ii) of this section.

(iii) *Deadline.* 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.

(iv) *Notification.* NMFS will notify the vessel owner through ODDS of approval or denial to place a trawl catcher vessel in the full observer coverage category. Unless otherwise specified in paragraph (a)(2) of this section, a trawl catcher vessel remains in the partial observer coverage category under paragraph (a)(1)(i) of this section until a request to place a trawl catcher vessel in the full observer coverage category has been approved by NMFS. Once placement in the full observer coverage category is approved by NMFS, a trawl catcher vessel cannot be placed in the partial observer coverage category until the following year.

(v) *Initial Administrative Determination (IAD).* If NMFS denies a request to place a trawl catcher vessel in the full observer coverage category, NMFS will provide an IAD, which will explain the basis for the denial.

(vi) *Appeal.* If the owner of a trawl catcher vessel wishes to appeal NMFS' denial of a request to place a trawl catcher vessel in the full observer coverage category, the owner may appeal the determination under the appeals procedure set out at 15 CFR part 906.

\* \* \* \* \*

**§§ 679.5, 679.21, 679.28, 679.52, 679.53, 679.84, and 679.93 [Amended]**

■ 3. At each of the locations shown in the "Location" column, remove the phrase indicated in the "Remove" column and add in its place the phrase indicated in the "Add" column.

Location	Remove	Add
§ 679.5(h)(1) .....	, or by e-mail to <i>erreports.alaskafisheries@noaa.gov</i> .....	.
§ 679.21(c)(2)(i)(D) .....	observer sample station .....	observer sampling station
§ 679.28(d)(9)(ii) .....	observer sample station .....	observer sampling station
§ 679.52(b)(1)(iii)(B)(2) .....	observer manual .....	Observer Sampling Manual
§ 679.52(b)(2)(i) .....	Observer Manual .....	Observer Sampling Manual
§ 679.52(b)(11)(x)(A)(4) .....	observer manual .....	Observer Sampling Manual
§ 679.53(b)(2)(i) .....	Observer Manual .....	Observer Sampling Manual
§ 679.84(c)(3) .....	§ 679.50(c)(7)(i) .....	§ 679.51(a)(2)
§ 679.84(e) .....	§ 679.50(c)(7)(ii) .....	§ 679.51(a)(2)
§ 679.84(f)(1) .....	§ 679.50(c)(7)(ii) .....	§ 679.51(a)(2)

Location	Remove	Add
§ 679.84(f)(2) .....	§ 679.50(c)(7)(ii) .....	§ 679.51(a)(2)
§ 679.93(c)(3) .....	§ 679.50(c)(6) .....	§ 679.51(a)(2)
§ 679.93(c)(6) .....	observer sample station .....	observer sampling station
§ 679.93(d)(2) .....	§ 679.50(c)(6)(ii) .....	§ 679.51(a)(2)

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