

9. Section 73.202(b), the Table of FM Allotments under New Hampshire, is amended by removing Channel 252A and adding Channel 252C3 at Laconia.

10. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Channel 241A and adding Channel 241C3 at Norwood.

11. Section 73.202(b), the Table of FM Allotments under Oklahoma, is amended by removing Channel 288C2 and adding Channel 288C3 at Coalgate and by removing Channel 292A and adding Channel 292C3 at Durant.

12. Section 73.202(b), the Table of FM Allotments under Oregon, is amended by removing Channel 281C1 and adding Channel 281C2 at Sisters.

13. Section 73.202(b), the Table of FM Allotments under Tennessee, is amended by removing Channel 255C and adding Channel 255C1 at Munford.

14. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 228C3 and adding Channel 228A at Greenville, by removing Channel 268C2 and adding Channel 268C1 at Snyder, and by removing Channel 223A and adding Channel 223C3 at Wake Village.

15. Section 73.202(b), the Table of FM Allotments under Vermont, is amended by removing Channel 265C2 and adding Channel 265C3 at Berlin.<sup>1</sup>

16. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by removing Channel 244A and adding Channel 244C3 at Laramie and by removing Channel 300A and adding Channel 299C at Midwest.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 000301054-1054; I.D. 053000D]

RIN 0648-AN27

#### Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Groundfish Observer Program

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to amend the regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) to provide for an at-sea observation program on all limited entry and open access catcher vessels. This final rule requires vessels in the groundfish fishery to carry observers when notified by NMFS or its designated agent; establishes notification requirements for vessels that may be required to carry observers; and establishes responsibilities and defines prohibited actions for vessels that are required to carry observers. The at-sea observation program is intended to improve estimates of total catch and fishing mortality.

**DATES:** Effective May 24, 2001.

**ADDRESSES:** Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/FRFA) may be obtained from the Pacific Fishery Management Council (Council) by writing to the Council at 2130 SW Fifth Avenue, Suite 224, Portland OR 97201, or by contacting Don McIsaac at 503-326-6352, or may be obtained from William L. Robinson, Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115-0070. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this final rule, including suggestions for reducing the burden, to one of the NMFS addresses and to the Office of Management and Budget (OMB), Washington, D.C. 20503 (ATTN: NOAA Desk Officer).

**FOR FURTHER INFORMATION CONTACT:** William L. Robinson, Northwest Region, NMFS, 206-526-6140; fax: 206-526-6736 and e-mail: bill.robinson@noaa.gov or Svein Fougner, Southwest Region, NMFS, 562-980-4000; fax: 562-980-

4047 and e-mail: svein.fougner@noaa.gov.

#### SUPPLEMENTARY INFORMATION:

##### Electronic Access

This Federal Register document is also accessible via the Internet at the Office of the Federal Register's website at <http://www.access.gpo.gov/su-docs/aces/aces140.html>.

##### Background

The U.S. groundfish fisheries off the Washington, Oregon, and California coasts are managed pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C. 1801-1883) and the Pacific Coast Groundfish FMP. Regulations implementing the FMP appear at 50 CFR Part 660, Subpart G. The Magnuson-Stevens Act at 16 U.S.C. 1853(b)(8) provides that an FMP may require that one or more observers be carried on-board a vessel of the United States engaged in fishing for species that are subject to the FMP, for the purpose of collecting data necessary for the conservation and management of the fishery. The Pacific Coast Groundfish FMP provides that all fishing vessels operating in the groundfish fishery may be required to accommodate on-board observers for purposes of collecting scientific data. Under the Magnuson-Stevens Act at 16 U.S.C. 1855(d), the Secretary of Commerce, acting through NMFS, has general responsibility to carry out any fishery management plan, and may promulgate such regulations as may be necessary to carry out this responsibility.

With the exception of the mid-water trawl fishery for Pacific whiting, most groundfish vessels sort their catch at sea and discard species that are in excess of cumulative trip limits, unmarketable, in excess of annual allocations, or incidentally caught non-groundfish species. Landed or retained catch is monitored by individual state fish ticket programs in Washington, Oregon, and California. However, because a portion of the catch is discarded at sea, there is no opportunity for NMFS or the states to monitor total catch (retained plus discarded catch) at onshore processing facilities. This lack of information on at-sea discards has resulted in imprecise estimates of total catch and fishing mortality.

Discard information is needed to assess and account for total fishing mortality and to evaluate management measures, including rebuilding plans for overfished stocks. Discard estimates based on limited studies conducted in

<sup>1</sup> Station WGTK was modified in MM Docket No. 98-72 by substituting Channel 265C2 for Channel 265A. The license was further modified by granting a request to reallocate Channel 265C2 from Middlebury, Vermont, to Berlin, Vermont, as the new community of license. See 65 FR 3150, January 20, 2000.

the mid-1980's, and information on species compositions in landings, are available for some groundfish species. For other species, there is little or no discard information. During the past decade, there have been significant reductions in cumulative trip limits, and trip limits have been applied to increasing numbers of species. In light of these changes in the regulatory regime, doubt has been raised by the Council, NMFS, and the industry about the old discard estimates, which were based on data collected in the 1980's. Accurate estimates of discards are essential to computing total catch, and thus are an important component of any fishery conservation and management program. If the discard estimates are too high, harvest allocations may be set too low; if discard estimates are too low, then harvest allocations may be set too high, and the long-term health of the stock may be jeopardized.

Observers are a uniformly trained group of qualified technicians. They are stationed aboard vessels to gather conservation and management data that are too burdensome for vessel personnel to collect, and which would otherwise not be available for managing the fisheries or assessing interactions with non-groundfish species. The purposes of this final rulemaking are to establish the obligations of vessels that will be required to carry observers; to safeguard the observers' well-being; and to provide for sampling conditions necessary for an observer to follow scientific sampling protocols and thereby maintain the integrity of observer data collections. Nationwide regulations addressing vessels with conditions that are unsafe or inadequate for purposes of carrying an observer are found at 50 CFR 600.746. Nationwide regulations applicable to observers are also found under "General Prohibitions" at 50 CFR 600.725 (o), (r), (s), (t), and (u).

A proposed rule was published on September 14, 2000 (65 FR 55495). Further background information was presented in the preamble of the proposed rule. Public comment on the proposed rule was invited through October 16, 2000. NMFS received three letters containing comments. Two of the three letters, one from the United States Coast Guard and one from the United States Fish and Wildlife Service, expressed support for the proposed observer program. The third letter expressed support, but also expressed concern about funding mechanisms. At its June 2000 Council meeting, the Council reviewed the observer program and encouraged the public to comment on the proposed rulemaking. One

individual provided comment during public hearing at the June Council meeting. The comments are summarized below followed by NMFS' responses to those comments.

#### Changes to the Final Rule From the Proposed Rule

The final rule includes the following changes from the proposed rule:

1. Section 660.360 (a) was revised for clarity.

2. In Section 660.360 (c)(2) language was added to clarify that vessels using exempted gear types could be required to carry an observer under this rulemaking.

3. Section 660.360 (c)(2)(i) was revised for clarity.

4. Section 660.360 (c)(2)(i)(A), addressing departure reports, is revised from the proposed rule to include language that is intended to provide greater flexibility to vessels that are in port less than 24 hours from the time offloading of catch from one fishing trip begins until the time the vessel departs on the following fishing trip. Because such vessels expect to be on the fishing grounds at the time that they are required to submit the next departure report, the owner, operator, or manager of a vessel is given the option of providing notification to NMFS or its designated agent before departing on the trip prior to that which the observer coverage may be needed and again at the time offloading of the catch from the previous fishing trip begins.

5. Section 660.360 (c)(2)(i)(B), addressing departure reports, is revised from the proposed rule to include language that is intended to provide greater flexibility to vessels that intend to depart on a fishing trip less than 24 hours after weather or sea conditions allow for departure. This change was made in response to comment 3 (below). The West Coast groundfish fleet is composed of many small vessels, whose fishing schedules are heavily influenced by weather and sea conditions. To avoid departure delays, the owner, operator, or manager of a vessel who intends to depart on a fishing trip less than 24 hours after weather or sea conditions become favorable, may choose to inform NMFS or its agent of his/her intentions at least 24 hours before the expected departure time. After the initial notification, only an update 4 hours before the expected departure time would be required.

#### Comments and Responses

*Comment 1:* The rulemaking is too narrow; it focuses only on observers as a means for collecting the necessary data at sea.

*Response:* Other approaches for obtaining total catch data include full retention and data sampling by vessel personnel. NMFS believes that data collected under these approaches would not meet the defined management need without adequate verification, such as video systems for monitoring full retention or observer data to compare to vessel-collected data. Video surveillance systems connected to global positioning systems are useful in tracking activity by area fished, but do not provide the necessary total catch data. New digital camera technology has improved the ability to provide species-specific catch information in particular situations (e.g., fixed gear fisheries with a small variety of species). The technology is still early in development and is generally considered to be supplemental to an observer program.

*Comment 2:* Some boats may not have the ability to carry an observer. Page 19 of the EA notes that if it is determined that a vessel is simply too small to accommodate an observer alternative methods of sampling may need to be considered. Under these rules, some sectors of the fishery are opted right out of any observer program or any meaningful observation without alternatives such as cameras, or somebody in a zodiac, or full retention, or something like that. Moving forward with an observer program does not preclude further development of other approaches for obtaining the necessary total catch data.

*Response:* Vessel safety and accommodations are individual vessel issues and are not ones that can be easily addressed. NMFS recognizes that it is likely that some, particularly the smallest groundfish vessels, may not be safe or adequate for carrying observers. Page 19 of the EA notes that if it is determined that a vessel cannot safely accommodate an observer, alternative methods of sampling may need to be considered. This final rulemaking does not preclude further development of alternative sampling methods for vessels that are determined to be unsuitable for observers.

*Comment 3:* If you are one of those that is required to have an observer and you do not know 24 hours in advance when you are going, because you are looking for the weather to break, that means a lot of times in the winter that you won't go fishing because you cannot get an observer.

*Response:* A departure report is necessary for NMFS or its designated agent to identify which vessels need to carry observers and to coordinate the placement of observers aboard vessels. It is necessary for vessel owners, operators

or representatives to submit these reports because only they can make statements about their future intent. NMFS recognizes that vessels need to wait for favorable weather and sea conditions before departing on fishing trips. Language has been added to the rule in section 660.360(c)(2)(i)(B) to obtain the necessary information to ensure that an observer is available while allowing for possible delays in vessel schedules as a result of poor weather or sea condition. The initial contact between NMFS and the individual representing the vessel is still necessary to identify that the vessel intends to depart for fishing, when the weather or sea conditions are favorable. As conditions improve, the individual representing the vessel need only provide 4 hours notice before the anticipated departure.

*Comment 4:* In various places in the EA, it suggests that the program is contingent on Federal funding. If a program is contingent on Federal funding, it would violate the Magnuson Stevens Fishery Conservation and Management Act.

*Response:* NMFS disagrees with this comment. Nowhere in the rulemaking documents or in the EA does it state that an observer program is contingent on Federal funding. This final rulemaking establishes the framework necessary to support an at-sea observer program. It includes regulations that require vessels to carry observers when notified, provide notification of fishing schedules, provide food and accommodations, and a suitable location for observers to safely collect sample data according to scientific sampling protocols. The analysis examined the impacts resulting from a federally funded program because no additional rulemaking would be required before a program could be implemented if it were federally funded. Therefore, Federal funding was analyzed to facilitate the implementation of an observer program should Federal funding become available. This final rulemaking does not preclude NMFS or the Council from exploring alternative funding options or from providing fishermen with greater compensation for all or a portion of the costs of carrying an observer. Such measures would build upon this final rulemaking and would require additional rulemaking and analysis before implementation.

#### Classification

NMFS prepared an EA for this final rule and concluded that there will be no significant impact on the human environment as a result of this final

rule. This final rulemaking will have no direct biological or physical impacts on the environment. It is NMFS's intention, to provide for observer training and the direct costs of deploying observers including salaries, payroll taxes, employment insurance, medical insurance, pension, and travel costs. The observers' employer will provide protection and indemnity insurance to cover bodily injury or property damage claims that may result from actions of the observer. Vessels will be responsible for providing information regarding their fishing schedule, and food and accommodations, for the observers. Some of the smallest groundfish vessels may find that crew members are displaced because limited bunk space must be allocated to the observer. Vessels will also need to provide adequate sampling facilities and unobstructed access to catch. This may result in increased handling time if sorting of the catch needs to be slowed or centralized to allow an observer to collect samples. Space requirements for analyzing and storing samples may reduce the available work and storage space for vessel activities. It is likely that the smallest groundfish vessels would be most affected by space requirements for analyzing and storing samples. However, without minimal sample space, data quality cannot be assured. The safety, health, and well-being of observers while stationed aboard fishing vessels is of the utmost importance. When this final rule is implemented, observer health and safety provisions at 50 CFR 600.725 and 600.746 will apply. A copy of the EA is available from NMFS (see **ADDRESSES**).

NMFS prepared a FRFA describing the impact of the action on small entities. For the purposes of the analysis, all catcher vessels were considered small entities.

This final rulemaking creates the regulatory framework needed to support an on-board observer program and is not predicated on a particular funding mechanism. Federal funding is available for 2001 and NMFS intends to provide for observer training and the direct costs of deploying observers including: salaries, payroll taxes, employment insurance, medical insurance, and travel costs. Observers would be employed directly by NMFS or through a contractor approved by NMFS. The observer's employer will provide protection and indemnity insurance to cover property damage claims that may result from actions of the observer. The individual vessel will be responsible for observer subsistence costs. Costs to the vessel that are analyzed in conjunction with this final rule are costs other than

those that would be paid by NMFS. If NMFS chooses to use other funding mechanisms in the future, including shifting costs to the vessels, additional rulemaking would be required.

The costs to industry to deploy observers will vary depending on the coverage strategy that is selected. Three approaches that could be taken in developing a coverage plan include: random selection of trips from a large pool of vessels; complete sampling of all trips taken by a small number of vessels over a specific period; or sampling a portion of trips by an intermediate number of vessels over a specific period. The FRFA states that the impacts of the rule on individual vessels would depend on the nature and size of the program and the coverage approach that is chosen - all vessels in the groundfish fleet or a small portion of the vessels.

Of the 2,116 vessels in the open access and limited entry (LE) fisheries, the number of vessels that could be required to carry an observer annually ranges from 60 (if each observer samples one LE vessel over an entire cumulative trip limit period) to 967 (if observers sample vessel trips at random, no vessel is sampled more than once, and each vessel requires two observers to have all days sampled), depending on the coverage strategy that is employed. The FRFA indicates that the costs to the individual vessel are expected to range between \$157 and \$3334, depending on the coverage strategy and the number of days fished per year. An upper value of \$11,044 per vessel is an extreme that would only occur if a vessel fished every day of the year and carried an observer at all times.

It is most likely that the open access and limited entry groundfish fleets would be divided into sampling sectors based on criteria such as gear type, fishing period, geographical location, or fishing strategy. Each sector may be required to have a different level of observer coverage. Sectors with the greatest annual catch of groundfish or those that most frequently interact with priority species, for which there is a serious need for information, could be required to have a substantially higher proportion of observer coverage than the other sectors. The analysis assumes that only vessels that carry an observer would bear the burden. Among the 2,116 vessels in the open access and limited entry groundfish fisheries that could be selected to bear the cost to carry an observer, there are substantial differences in terms of the annual ex-vessel value of their catch, and therefore in the burden imposed.

There were two alternatives considered in this final rulemaking:

Status quo, and adoption of regulations to support an observer program. Under the status quo alternative, a program could be designed where vessels carry observers on a voluntary basis. However, this would be a voluntary program with no way to ensure that a specific coverage plan could be followed or the integrity of the data collections maintained. Discard information needed to assess and account for total fishing mortality and to evaluate management measures is considered by NMFS to be deficient under a status quo alternative. Adopting regulations for an at-sea observer program on all limited entry and open access catcher vessels establishes the framework for a mandatory observer program, i.e., obligations of vessels that will be required to carry observers; safeguarding the observers' well-being; and providing for sampling conditions necessary for an observer to follow scientific sampling protocols and thereby maintain the integrity of observer data collections.

The Magnuson-Stevens Act at 16 U.S.C. 1853(b)(8) provides that an FMP may require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery. On March 3, 1999, NMFS determined that the bycatch provisions in Amendment 11 failed to respond meaningfully to the bycatch requirements at Section 303 (a)(11) of the Magnuson-Stevens Act, which state that an FMP must "establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—(A) minimize bycatch; and (B) minimize the mortality of bycatch which cannot be avoided." Establishing an observer program to collect total catch data would bring the Pacific coast groundfish FMP closer to the Magnuson-Stevens Act bycatch requirements for a standardized reporting methodology on bycatch. A copy of this analysis is available from NMFS (see **ADDRESSES**).

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). This collection of information requirement has been approved by OMB under control number 0648-0423. Public reporting burden for these collections of information is estimated to average 5 minutes for making a toll-free call to provide either notification of departure on a fishing trip or

notification of intent to cease participating in the fishery. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates or any other aspect of the data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to OMB, Washington, DC 20503 (ATTN: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall a 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.

NMFS issued Biological Opinions (BOs) under the Endangered Species Act on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the groundfish fishery on chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal, Oregon coastal), chum salmon (Hood Canal, Columbia River), sockeye salmon (Snake River, Ozette Lake), steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south-central California, southern California), and cutthroat trout (Umpqua River, southwest Washington/Columbia River). NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or to result in the destruction or adverse modification of critical habitat.

NMFS has re-initiated consultation on the Pacific whiting fishery associated with the BO issued on December 15, 1999. During the 2000 whiting season, the whiting fisheries exceeded the chinook bycatch amount specified in the BO's incidental take statement's incidental take estimates (11,000 fish) by approximately 500 fish. The re-initiation will focus primarily on additional actions that the whiting fisheries would take to reduce chinook interception, such as time/area management. NMFS expects that the re-

initiated BO will be completed by May 2001. During the reinitiation, fishing under the FMP is within the scope of the December 15, 1999, BO, so long as the annual incidental take of chinook stays under the 11,000 fish bycatch limit. NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. This final rule implements a data collection program and is within the scope of these consultations. Because the impacts of this action fall within the scope of the impacts considered in these BOs, additional consultations on these species are not required for this action.

This action implements a data collection program and is not expected to result in any adverse effects on marine mammals.

This final rule has been determined to be significant for purposes of Executive Order 12866.

#### List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: April 18, 2001.

**John Oliver,**

*Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.*

For the reasons set out in the preamble, NMFS amends 50 CFR part 660 to read as follows:

#### **PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC**

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

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

2. In § 660.302, the definitions for "Active sampling unit," and "Vessel manager" are added in alphabetical order to read as follows:

#### **§ 660.302 Definitions.**

*Active sampling unit* means a portion of the groundfish fleet in which an observer coverage plan is being applied.

\* \* \* \* \*

*Vessel manager* means a person or group of persons whom the vessel owner has given authority to oversee all or a portion of groundfish fishing activities aboard the vessel.

3. In § 660.306, paragraph (y) is added to read as follows:

**§ 660.306 Prohibitions.**

\* \* \* \* \*

(y) *Groundfish observer program.* (1) Forcibly assault, resist, oppose, impede, intimidate, harass, sexually harass, bribe, or interfere with an observer.

(2) Interfere with or bias the sampling procedure employed by an observer, including either mechanically or physically sorting or discarding catch before sampling.

(3) Tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.

(4) Harass an observer by conduct that:

(i) Has sexual connotations,  
 (ii) Has the purpose or effect of interfering with the observer's work performance, and/or  
 (iii) Otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(5) Fish for, land, or process fish without observer coverage when a vessel is required to carry an observer under § 660.360(c).

(6) Require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.

(7) Fail to provide departure or cease fishing reports specified at § 660.360(c)(2).

(8) Fail to meet the vessel responsibilities specified at § 660.360(d).

4. Section 660.360 is added to subpart G to read as follows:

**§ 660.360 Groundfish observer program.**

(a) *General.* Vessel owners, operators, and managers are jointly and severally responsible for their vessel's compliance with this section.

(b) *Purpose.* The purpose of the Groundfish Observer Program is to allow observers to collect fisheries data deemed by the Northwest Regional Administrator, NMFS, to be necessary

and appropriate for management, compliance monitoring, and research in the groundfish fisheries and for the conservation of living marine resources and their habitat.

(c) *Observer coverage requirements—*

(1) *At-sea processors.* [Reserved]  
 (2) *Catcher vessels.* For the purposes of this section, catcher vessels include all vessels, using open access or limited entry gear (including exempted gear types) that take and retain, possess or land groundfish at a processor(s) as defined at § 660.302. When NMFS notifies the vessel owner, operator, permit holder, or the vessel manager of any requirement to carry an observer, the vessel may not take and retain, possess, or land any groundfish without carrying an observer.

(i) *Notice of departure—Basic rule.* At least 24 hours (but not more than 36 hours) before departing on a fishing trip, a vessel that has been notified by NMFS that it is required to carry an observer, or that is operating in an active sampling unit, must notify NMFS (or its designated agent) of the vessel's intended time of departure. Notice will be given in a form to be specified by NMFS.

(A) *Optional notice—Weather delays.* A vessel that anticipates a delayed departure due to weather or sea conditions may advise NMFS of the anticipated delay when providing the basic notice described in paragraph (c)(2)(i) of this section. If departure is delayed beyond 36 hours from the time the original notice is given, the vessel must provide an additional notice of departure not less than 4 hours prior to departure, in order to enable NMFS to place an observer.

(B) *Optional notice—Back-to-back fishing trips.* A vessel that intends to make back-to-back fishing trips (i.e., trips with less than 24 hours between offloading from one trip and beginning another), may provide the basic notice described in paragraph (c)(2)(i) of this section for both trips, prior to making the first trip. A vessel that has given such notice is not required to give additional notice of the second trip.

(ii) *Cease fishing report.* Not more than 24 hours after ceasing the taking and retaining of groundfish with limited entry or open access gear in order to leave the fishery management area or to fish for species not managed under the Pacific Coast Groundfish Fishery Management Plan, the owner, operator, or vessel manager of each vessel that is required to carry an observer or that is operating in a segment of the fleet that NMFS has identified as an active sampling unit must provide NMFS or its

designated agent with notification as specified by NMFS.

(3) *Vessels engaged in recreational fishing.* [Reserved]

(4) *Waiver.* The Northwest Regional Administrator may provide written notification to the vessel owner stating that a determination has been made to temporarily waive coverage requirements because of circumstances that are deemed to be beyond the vessel's control.

(d) *Vessel responsibilities.* An operator of a vessel required to carry one or more observer(s) must provide:

(1) *Accommodations and food.* Provide accommodations and food that are:

(i) *At-sea processors.* [Reserved]  
 (ii) *Catcher vessels.* Equivalent to those provided to the crew.

(2) *Safe conditions.* Maintain safe conditions on the vessel for the protection of observer(s) including adherence to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel, and provisions at §§ 600.725 and 600.746 of this chapter.

(3) *Observer communications.* Facilitate observer communications by:

(i) *Observer use of equipment.* Allowing observer(s) to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observer(s) or the United States or designated agent.

(ii) *Communication equipment requirements for at-sea processing vessels.* [Reserved]

(4) *Vessel position.* Allow observer(s) access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(5) *Access.* Allow observer(s) free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(6) *Prior notification.* Notify observer(s) at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer, unless the observer specifically requests not to be notified.

(7) *Records.* Allow observer(s) to inspect and copy any state or Federal logbook maintained voluntarily or as required by regulation.

(8) *Assistance.* Provide all other reasonable assistance to enable

observer(s) to carry out their duties, including, but not limited to:

- (i) Measuring decks, codends, and holding bins.
- (ii) Providing the observer(s) with a safe work area.
- (iii) Collecting bycatch when requested by the observer(s).
- (iv) Collecting and carrying baskets of fish when requested by the observer(s).
- (v) Allowing the observer(s) to collect biological data and samples.
- (vi) Providing adequate space for storage of biological samples.
- (9) *At-sea transfers to or from processing vessels.* [Reserved]
- (e) *Procurement of observers services by at-sea processing vessels.* [Reserved]
- (f) *Certification of observers in the at-sea processing vessels.* [Reserved]
- (g) *Certification of observer contractors for at-sea processing vessels.* [Reserved]

(h) *Suspension and decertification process for observers and observer contractors in the at-sea processing vessels.* [Reserved]

(i) *Release of observer data in the at-sea processing vessels.* [Reserved]

(j) *Sample station and operational requirements—(1) Observer sampling station.* This paragraph contains the requirements for observer sampling stations. The vessel owner must provide an observer sampling station that complies with this section so that the observer can carry out required duties.

(i) *Accessibility.* The observer sampling station must be available to the observer at all times.

(ii) *Location.* The observer sampling station must be located within 4 m of the location from which the observer samples unsorted catch. Unobstructed passage must be provided between the

observer sampling station and the location where the observer collects sample catch.

(iii) *Minimum work space aboard at-sea processing vessels.* [Reserved]

(iv) *Table aboard at-sea processing vessels.* [Reserved]

(v) *Scale hanger aboard at-sea processing vessels.* [Reserved]

(vi) *Diverter board aboard at-sea processing vessels.* [Reserved]

(vii) *Other requirements for at-sea processing vessels.* [Reserved]

(2) *Requirements for bins used to make volumetric estimates on at-sea processing vessels.* [Reserved]

(3) *Operational requirements for at-sea processing vessels.* [Reserved]

[FR Doc. 01-10150 Filed 4-23-01; 8:45 am]

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