

Appendix J to Part 50—Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors

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Option A—Prescriptive Requirements

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III. \* \* \*

D. \* \* \* 1. \* \* \*

(a) After the preoperational leakage rate tests, a set of three Type A tests shall be performed, at approximately equal intervals during each inservice inspection interval, as defined in § 50.55a(y). The third test of each set shall be conducted when the plant is shut down for the final plant inservice inspections of the inservice inspection interval.<sup>[2]</sup>

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[2] See footnote 1.

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Dated: July 22, 2024.

For the Nuclear Regulatory Commission.

Helen Chang,

Acting Chief, Regulatory Analysis and Rulemaking Support Branch, Division of Rulemaking, Environmental, and Financial Support, Office of Nuclear Material Safety and Safeguards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 240715-0195]

RIN 0648-BM40

Fisheries of the Exclusive Economic Zone Off Alaska; Amendment 126 to the Fishery Management Plans for Groundfish of the Bering Sea and Aleutian Islands Management Area and Amendment 114 to the Fishery Management Plan for Groundfish of the Gulf of Alaska To Expand Electronic Monitoring to the Pollock Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement amendment 126 to the Fishery Management Plan (FMP) for Groundfish of the Bering Sea and Aleutian Islands Management Area

(BSAI) and amendment 114 to the FMP for Groundfish of the Gulf of Alaska (GOA). Amendments 126/114 implement an electronic monitoring (EM) program for pelagic trawl pollock catcher vessels and tender vessels delivering to shoreside processors and stationary floating processors in the Bering Sea (BS), Aleutian Islands (AI), and GOA. This final rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), amendments 126/114, the BSAI FMP, the GOA FMP, and other applicable laws.

DATES: Effective August 28, 2024.

ADDRESSES: Electronic copies of amendment 126 to the BSAI FMP and amendment 114 to the GOA FMP (collectively, the FMPs) and the Environmental Assessment/Regulatory Impact Review prepared for this action (the analysis), and the Finding of No Significant Impact prepared for this action may be obtained from https://www.regulations.gov and the NMFS Alaska Region website at https://www.fisheries.noaa.gov/region/alaska.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to NMFS Alaska Region, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Gretchen Harrington; and to www.reginfo.gov/public/do/PRAMain. Find the particular information collection by using the search function.

FOR FURTHER INFORMATION CONTACT: Joel Kraski, 907-586-7228, joel.kraski@noaa.gov.

SUPPLEMENTARY INFORMATION: This final rule implements amendments 126/114 to the FMPs. NMFS published a Notice of Availability for amendments 126/114 in the Federal Register on January 22, 2024 (89 FR 3902), with public comments invited through March 22, 2024. NMFS published a proposed rule to implement amendments 126/114 in the Federal Register on February 5, 2024 (89 FR 7660), with public comments invited through April 5, 2024. The Secretary of Commerce approved amendments 126/114 on April 15, 2024, after considering information from the public and determining that amendments 126/114 are consistent with the BSAI and GOA FMPs, the Magnuson-Stevens Act, and other applicable laws.

Per section 313 of the Magnuson-Stevens Act, NMFS conducted public hearings to accept oral and written comments on the proposed rule in-person for Alaska and virtually for

Oregon and Washington. The first public hearing was held on February 28, 2024, in Kodiak, Alaska. The second virtual public hearing took place on March 12, 2024.

NMFS received 17 comment letters on the proposed rule. NMFS considered 25 unique relevant written and oral comments received by the end of the applicable comment period and at a public hearing, whether specifically directed to the FMP amendments or the proposed rule. NMFS considered the 25 unique comments in reaching the approval decision for amendments 126/114. A summary of the comments and NMFS' responses are provided under the heading Comments and Responses section below. NMFS received one comment that was outside the scope of this action.

North Pacific Observer Program

The Observer Program, part of the Fisheries Monitoring and Analysis Division of the Alaska Fisheries Science Center, implements a suite of requirements for observation and reporting of fishing activities that plays an integral role in the management of North Pacific fisheries. The Observer Program was created with the implementation of the Magnuson-Stevens Act in the mid-1970s and has evolved from primarily observing foreign fleets to observing domestic fleets. The Observer Program provides the regulatory framework for NMFS-certified observers (observers) and EM systems to be deployed on board vessels to obtain information necessary for the conservation and management of the groundfish and halibut fisheries.

Integrating Electronic Monitoring Into the Observer Program

The North Pacific Fishery Management Council (Council) and NMFS developed this final action based on input received from the Council's Trawl EM Committee, 3 years of data gathered through the exempted fishing permit (EFP) process, and public input through the Council process and the hearings and comment periods associated with this final rule. The rule provides an option for participants in the partial and full coverage observer categories using pelagic trawl gear to directed fish for pollock, as well as tender vessels delivering pollock to shoreside processors or stationary floating processors, to choose to be in a new category: the trawl EM category.

This final rule makes EM an option for catcher vessels directed fishing for pollock with pelagic trawl gear in the BS, AI, or GOA fisheries (hereinafter "catcher vessels") and associated tender

vessels delivering pollock to shoreside processors or stationary floating processors in the BS, AI, and GOA. The preamble to the proposed rule to implement amendments 126/114 (89 FR 7660, February 5, 2024) contains a detailed description of the background for this action, which is not repeated here.

Under this final rule, EM systems installed aboard the catcher vessels and tenders will collect at-sea data that NMFS will use to monitor vessels' compliance with Federal regulations and catch handling requirements. The implementation of EM has the potential to reduce economic and operational costs associated with deploying observers on catcher vessels. EM will improve salmon accounting for all associated species, reduce monitoring costs, and improve the quality of monitoring data.

In consultation with the Council, NMFS has flexibility to provide observer coverage to respond to the scientific and management needs of the fisheries. By integrating EM on catcher vessels directed fishing for pollock with pelagic trawl gear, the Council and NMFS seek to preserve and increase this flexibility by implementing adaptable monitoring plans. With this final rule, NMFS, in consultation with the Council, is able to deploy EM tools tailored to the needs of different fishery sectors, just as it does with observers, through the Annual Deployment Plan (ADP).

### **Trawl EM Category**

This final rule establishes the process to allow owners or operators of catcher vessels and tender vessels in the pelagic pollock fisheries to choose to be in the trawl EM category and, therein, to use an EM system in place of an observer in most cases. Participation in the trawl EM category is voluntary, and a vessel owner or operator could choose on an annual basis to request a vessel's placement in the trawl EM category.

This final rule also establishes the requirements for use of an EM system to monitor whether discards at sea occur. Furthermore, review of EM video footage will be used to verify vessel discard estimates submitted by those catcher vessels using pelagic trawl gear and tender vessels that choose to be in the trawl EM category. For vessels in the trawl EM category, the data collection previously conducted by at-sea observers will be completed by observers stationed at the processor receiving the catch.

In the event NMFS identifies additional data that cannot be collected at the processor when this program is

implemented, NMFS retains the authority to deploy at-sea observers on catcher vessels in the trawl EM category. Additionally, some level of in-person at-sea data collection in the pollock fisheries will continue to be necessary to collect certain spatial and biological data. NMFS will make these observer coverage decisions through the ADP process.

In addition to observers stationed at shoreside processors and stationary floating processors, Catch Monitoring Control Plans (CMCPs) and Vessel Monitoring Plans (VMPs) will be used to determine and achieve the sampling objectives NMFS outlines in the ADP. The onboard EM systems will ensure that vessels meet compliance monitoring objectives while also establishing a chain of custody for prohibited species catch (PSC). Observers at shoreside processors or stationary floating processors will then collect species composition, PSC, and biological samples as determined by the Alaska Fisheries Science Center, Fisheries Monitoring and Analysis Division. The flexibility offered by the ADP allows NMFS to achieve transparency, accountability, and efficiency from the Observer Program to meet its various objectives. The ADP process ensures that the best available information is used to evaluate deployment, including scientific review and Council input, to annually determine deployment methods.

For all fishing trips in the trawl EM category, all vessels will be required to improve retention (*i.e.*, minimize discards to the greatest extent practicable) and record all catch handling. All EM data will be submitted as required to NMFS for review to ensure the trawl EM category elements are followed. Failure to meet the program objectives, as outlined in the ADP and VMP, may result in disapproval of further participation in the trawl EM category and enforcement action.

This final rule implements requirements applicable to the following: (1) catcher vessels in the trawl EM category; (2) tender vessels, shoreside processors, and stationary floating processors receiving deliveries from catcher vessels in the trawl EM category; (3) observer providers; and (4) EM service providers for vessels in the trawl EM category.

Under this final rule, a catcher vessel remains subject to observer coverage, described at § 679.51(a)(1) or § 679.51(a)(2), unless NMFS approves a request for placement of the catcher vessel in the trawl EM category. This final rule establishes monitoring

requirements for tender vessels that receive deliveries from a catcher vessel in the trawl EM category. Shoreside processors and stationary floating processors are subject to observer coverage requirements at § 679.51(b)(1) or § 679.51(b)(2). This final rule establishes additional observer sampling station and monitoring requirements at § 679.28(g)(7) through (10) for shoreside processors and stationary floating processors. These observer sampling station and monitoring requirements previously existed for shoreside processors and stationary floating processors receiving American Fisheries Act (AFA) deliveries. Under this final rule, those requirements are expanded to any plant receiving trawl EM deliveries to support shoreside observers and include additional requirements, such as updating spatial requirements to allow for new data collections. Additionally, under this final rule, entities intending to provide EM hardware to vessels in the trawl EM category are required to obtain an EM hardware service provider permit as specified at § 679.52(d) and (e).

### *Annual Request for Placement in the Trawl EM Category and Compliance*

Under this final rule, eligible vessel owners or operators of catcher and tender vessels may voluntarily request to participate in the trawl EM category annually through the Observer Declare and Deploy System (ODDS) by November 1 and, if approved, will be subject to coverage requirements as specified by NMFS. Specifically, any owner or operator of a catcher vessel with a pollock pelagic trawl endorsement on their Federal Fisheries Permit (FFP) or a tender vessel receiving deliveries from these catcher vessels may request to be in the trawl EM category.

This final rule establishes responsibilities for the owner or operator of a catcher vessel or tender vessel in the trawl EM category to install and maintain an EM system. Vessels in the trawl EM category are to comply with all provisions of the trawl EM category, including those specified in regulations, the ADP, and in their individual VMPs. This final rule also adds regulations at § 679.51(g) to specify the EM system requirements for vessels using pelagic trawl gear.

A vessel will remain in the trawl EM category for all directed fishing for pollock with pelagic trawl gear for the entirety of the fishing year for which they request to participate in the trawl EM category. This requirement is needed to maintain the sampling design outlined in the ADP. A tender vessel

will remain in the trawl EM category at all times when receiving catch from a catcher vessel in the trawl EM category during the fishing year. A catcher vessel in the trawl EM category must deliver catch only to a tender vessel, shoreside processor, or stationary floating processor that is also approved to participate in the trawl EM category.

#### *Trawl EM Coverage*

This final rule establishes two coverage categories within the trawl EM category: (1) full coverage; and (2) partial coverage. Unless otherwise specified, the trawl EM category encompasses both the full coverage and partial coverage trawl EM categories.

#### *Full Coverage Trawl EM Category*

The final rule at § 679.51(g)(1)(i)(A)(2) defines the full coverage trawl EM category for catcher vessels operating in the BS or Community Development Quota (CDQ) fisheries. These vessels are currently in the Observer Program's full coverage category. For the fishing year, if a catcher vessel is approved to be in the full coverage trawl EM category, that vessel will be subject to this final rule for every fishing trip in which the vessel deploys pelagic trawl gear. This means, in addition to other requirements, that these vessels must ensure their EM systems are operating and actively recording for the duration of every pelagic trawl gear fishing trip and associated offload. The owner or operator of a vessel in the full coverage trawl EM category will be responsible for contracting with a permitted EM hardware service provider, as specified at § 679.51(g)(1)(ix)(B), to procure, install, and maintain EM equipment on their vessel. To pay for video review services for vessels in the full coverage trawl EM category, this final rule establishes a new full coverage EM review fee at § 679.56.

#### *Partial Coverage Trawl EM Category*

The final rule at § 679.51(g)(1)(i)(A)(1) defines the partial coverage trawl EM category for catcher vessels operating in the GOA or AI. These vessels are currently in the Observer Program's partial coverage category.

Catcher vessels approved to be in the partial coverage trawl EM category must continue to log all trips in ODDS. Access to ODDS is available through the NMFS Alaska Region website (see **ADDRESSES**). For the fishing year, every fishing trip in which a partial coverage catcher vessel deploys solely pelagic trawl gear is considered a part of the trawl EM category. This means that these vessels must, in addition to other requirements, ensure their EM systems

are operating and actively recording for the duration of every fishing trip and associated offload. Vessels in the partial coverage trawl EM category are prohibited from deploying non-pelagic trawl gear while on a fishing trip subject to EM coverage. Catcher vessels in the partial coverage trawl EM category are required to deliver catch only to tender vessels or processors in the trawl EM category having a NMFS-approved VMP or CMCP. Vessels in the partial coverage trawl EM category will use NMFS' contracted EM hardware service provider that has been procured through the partial coverage fee program. EM equipment for vessels in the partial coverage trawl EM category are paid for by the observer fees as specified at § 679.55.

#### *Tender Vessels*

This final rule adds EM requirements for tender vessels that are used to transport unprocessed groundfish received from a catcher vessel in the trawl EM category to an associated processor. As part of the unprocessed groundfish chain of custody, it is necessary for tender vessels to comply with EM requirements to ensure no sorting of catch occurs before the catch reaches the processor. This final rule at § 679.51(g)(1)(i)(B) allows the owner or operator of a tender vessel to request to be placed in the trawl EM category before receiving any delivery from a catcher vessel in the trawl EM category. A tender vessel that is approved to be in the trawl EM category must comply with applicable vessel responsibilities specified at § 679.51(g)(3) for every delivery received and offloaded subject to the trawl EM category, including ensuring their EM system is operating and actively recording for the duration of every such trip and associated offload.

#### *Shoreside Processors and Stationary Floating Processors*

For shoreside processors or stationary floating processors to receive deliveries from vessels in the trawl EM category, this final rule includes additional catch handling requirements. Shoreside processors or stationary floating processors indicate their intent to receive trawl EM category deliveries in the upcoming fishing year during the annual CMCP process. Under this final rule at § 679.28(g)(7), (9), and (10), shoreside processors or stationary floating processors receiving deliveries from vessels in the trawl EM category are required to follow specified salmon sorting and handling procedures to ensure shoreside observers have full access to salmon bycatch. This final rule

at § 679.28(g)(9) allows observers at these processors to collect full salmon and Pacific halibut data and necessary biological samples, which are vital in monitoring the health and status of those stocks in Alaska.

Current regulations at § 679.21(f)(15)(ii)(C) require salmon retention and storage for processors in the BS pollock fishery. This final rule moves these existing regulations to § 679.28(g)(9)(ii) and (g)(10) and extends those regulations to shoreside processors and stationary floating processors receiving deliveries from vessels in the trawl EM category in the GOA. Each year, NMFS publishes an Observer Sampling Manual, which contains the comprehensive sampling procedures and methods to be used by observers to collect fishery-dependent data but does not establish the sampling rate. The criteria used to determine the sampling rate required at shoreside processors and stationary floating processors receiving deliveries from vessels in the trawl EM category will be determined annually and published in the ADP.

#### *EM Service Providers*

There are currently two types of EM service providers: (1) EM hardware service providers that equip and maintain EM systems aboard vessels; and (2) EM review service providers that receive and review EM data from EM systems. This final rule adds a regulation at § 679.2 to define both kinds of EM service providers. NMFS may contract with or grant a permit to a prospective EM hardware service provider if their data are able to be reviewed by the current EM service provider NMFS has selected for reviewing EM data.

#### *EM Hardware Service Provider Permit*

This final rule at § 679.52(d) adds the procedures for EM hardware service providers to obtain an EM hardware service provider permit and the responsibilities of EM hardware service providers. Prospective EM hardware service providers need to obtain an EM hardware service provider permit. Once approved and issued by NMFS, the EM hardware service provider permit is valid until the provider does not provide EM services for a period of 12 consecutive months to vessels in the trawl EM category or until NMFS removes the permit. Performance of the EM hardware service provider will be assessed annually on the ability of the provider to meet program objectives as outlined in § 679.51 and the ADP.

### *EM Review Service Providers*

An EM data review service provider is a provider that NMFS contracts with, or otherwise has an established business relationship with, to review, interpret, or analyze EM data as required under this final rule at § 679.51. To avoid conflicts of interest, NMFS will select EM data review service providers that do not have a direct financial relationship with vessels in the trawl EM category.

### **EM Equipment and VMPs**

The operator of each catcher vessel or tender vessel approved by NMFS to be in the trawl EM category must make their vessel available to an EM hardware service provider for installation and servicing of all required EM system components according to this final rule at § 679.51(g)(1)(ix). The EM hardware service provider will install the EM system and cameras in locations that meet the monitoring objectives annually specified in the ADP. Full coverage vessels will choose their permitted EM hardware service provider, while NMFS will assign partial coverage catcher vessels or tender vessels a NMFS-permitted EM hardware service provider.

If a vessel already has an EM system installed from a non-permitted EM hardware service provider, the catcher vessel or tender vessel operator will work with a NMFS-permitted EM hardware service provider to modify the EM system as necessary to meet the specifications in the trawl EM category.

After EM equipment has been installed or serviced, the catcher vessel or tender vessel operator will develop a VMP with the EM hardware service provider and submit it to NMFS for approval according to this final rule at § 679.51(g)(2). A VMP is a document that outlines operator responsibilities for the trawl EM category, including requirements for sending EM data to the EM data review service provider for review, restrictions should EM equipment malfunction, and how feedback from NMFS or the EM data review service provider will be communicated to vessel operators. NMFS provides a VMP template for guidance to the EM service provider and the vessel operator on the elements NMFS requires in a final NMFS-approved VMP.

The catcher vessel or tender vessel operator must agree to comply with the components of the VMP, acknowledge as much by signing the VMP, and submit the signed VMP to NMFS. NMFS reviews the VMP for completeness and may request additional clarification. If

the VMP meets the requirements established in the VMP template, NMFS will approve the VMP and place the vessel in a trawl EM category for the upcoming fishing year.

A catcher vessel or tender vessel in the trawl EM category is required to maintain a copy of their current NMFS-approved VMP onboard at all times while that catcher vessel conducts fishing activities, or tender vessel receives EM deliveries, as part of the trawl EM category. If NMFS does not approve the VMP, NMFS will issue an initial administrative decision (IAD) to the vessel owner or operator that will explain the basis for the disapproval. The vessel owner or operator may file an administrative appeal under the administrative appeals procedures set out at 15 CFR part 906.

The catcher vessel or tender vessel operator must make the NMFS-approved VMP available upon request by NOAA Office of Law Enforcement (OLE), a NMFS-authorized officer, or other NMFS-authorized personnel (see this final rule § 679.51(g)(4)(iv)).

If NMFS determines that a catcher vessel or tender vessel failed to comply with its VMP, the catcher vessel or tender vessel's application for placement in the trawl EM category may not be approved the following year(s).

### *Catcher Vessel and Tender Vessel Owner and Operator Responsibilities*

Catcher vessel and tender vessel operators and owners in the trawl EM category must comply with all elements of the NMFS-approved VMP and maintain the EM system in working order, including ensuring the EM system is powered and functioning throughout the fishing trip, keeping cameras clean and unobstructed, and ensuring the system is not tampered with, consistent with this final rule at § 679.51(g)(3). Catcher vessel and tender vessel owners and operators are also required to ensure that power is maintained to the EM system at all times when the vessel is under way or the engine is operating on trips monitored using EM. Catcher vessel operators are required to follow EM system procedures prior to deploying gear as specified in this final rule at § 679.7(j)(1). Additionally, catcher vessel and tender vessel operators are required to ensure the EM system is fully functional prior to retrieving gear during the fishing trip or prior to receiving a delivery, consistent with this final rule at § 679.51(g)(4)(iii).

Before fishing gear is retrieved or an offload is received, as applicable, the catcher vessel and tender vessel operators need to verify that all

components of the EM system are functioning. Instructions for completing this verification will be provided in the vessel's VMP consistent with this final rule at § 679.51(g)(2)(vi).

Catcher vessel and tender vessel operators will be required to follow landing notice procedures specified in the VMP, consistent with this final rule at § 679.51(g)(3). The landing notice is transmitted by the catcher vessel or tender vessel to the intended shoreside processor or stationary floating processor, consistent with the timeline specified in the VMP prior to returning to port. After receiving the landing notice from the vessel, the processor will relay that information to shoreside observers.

Catcher vessel and tender vessel operators are prohibited from tampering with the EM system and from harassing their EM service provider, EM reviewers, or any other monitoring personnel who may be working with vessel operators in this program. This final rule adds to existing EM prohibitions at § 679.7(j) to ensure EM system functionality and the data from these systems are usable for fisheries management. Other operator responsibilities are identified in the VMP to meet data needs for EM monitoring.

Catcher vessel and tender vessel operators must submit the EM data to the EM data review provider using a method specified in the NMFS-approved VMP. Operators of vessels in the trawl EM category must submit EM data after a specified number of trips, consistent with the vessel's NMFS-approved VMP. The frequency of data submittal will be defined in the VMP and could change based on data needs identified by NMFS, consistent with this final rule at § 679.51(g).

### *EM System Malfunctions*

The EM system must be fully operational as described in the VMP. The VMP will list EM system malfunctions considered contrary to the Observer Program's data collection objectives. The VMP will also describe the procedures to follow if malfunctions occur, including when to contact the EM service provider and OLE. This final rule at § 679.51(g)(4) describes the responsibilities of the catcher vessel and tender vessel operator in case of an EM system malfunction.

### **Improved Retention of Catch**

With trawl EM, catcher vessel operators retain all catch except when doing so would compromise the safety and stability of the vessel (see this final rule at § 679.7(j)(2)).

For all fishing trips, catcher vessels will be expected to avoid sorting and discarding catch to the greatest extent practicable. Unsorted catch must be delivered to a tender vessel, shoreside processor, or a stationary floating processor to ensure observers have access to all catch.

#### *Removing Requirements for Regulatory Discards*

To promote retention of catch for catcher vessels in the trawl EM category, this final rule includes exceptions to regulations that otherwise require discarding catch at sea. Namely, under the final rule, catcher vessels in the trawl EM category will not be subject to the prohibition against exceeding Maximum Retainable Amounts (MRAs) in the BS, AI, and GOA; the prohibition against vessels having on board, at any particular time, 20 or more crabs of any species; and the pollock trip limit in the GOA.

This final rule exempts vessels in the trawl EM category from the prohibition at § 679.7(a)(16) pertaining to MRAs that limit retention of incidentally caught species so that total harvest can be managed up to, but not over, the Total Allowable Catch (TAC) by the end of the year. The MRA prohibition at § 679.7(a)(16) requires at-sea discarding of fish above the MRA amount for each species. While the prohibition on exceeding the MRAs is removed for vessels participating in the trawl EM category, under this final rule, NMFS will continue to use MRA regulations at § 679.20(e) to determine whether a vessel is “directed fishing,” (see § 679.2 for definition) for a particular species for various purposes (*e.g.*, compliance with § 679.22) and to gauge whether the vessel’s behavior has changed, in conjunction with the Trawl EM Incentive Plan Agreement (TEM IPA) discussed below. If NMFS determines an IPA is not effective in preventing vessel behavior changes, NMFS may not allow a vessel to participate in the trawl EM category program in the following year(s).

This final rule also adds an exception for vessels participating in the trawl EM category from the regulation at § 679.7(a)(14) that prohibits vessels in the BSAI and GOA from having on board, at any particular time, 20 or more crabs of any species with a carapace width of more than 1.5 inches (38 millimeters) at the widest dimension. Rather than discarding such crab, the final rule requires catcher vessels to retain all crabs for enumeration by shoreside observers at the processor, as described below in the PSC Retention section of this preamble.

Additionally, this final rule exempts vessels in the trawl EM category from the prohibitions at § 679.7(b)(2) that limit catcher vessels’ harvest of pollock in the GOA (commonly referred to as the pollock trip limit). Currently, catcher vessels are subject to a 300,000 lb (136 mt) on-board retention limit on pollock, requiring vessels to discard at sea any pollock in excess of 300,000 lbs (136 mt). The final rule will require catcher vessels in the trawl EM category to retain all such catch.

#### *PSC Retention*

Under this final rule, catcher vessels fishing in the trawl EM category are required to retain all species categorized as PSC, including salmon and crab, so that they can be fully enumerated by shoreside observers at the shoreside processor or stationary floating processor as specified at § 679.21(a)(2).

#### **Trawl EM Incentive Plan Agreements (TEM IPA) for Partial Coverage Catcher Vessels**

To maintain the controls on the behavior of catcher vessels in the pollock fishery that the MRAs, crab retention limits, and the GOA pollock trip limits provide, this final rule includes provisions for a TEM IPA. An IPA is an industry-developed contractual arrangement that is approved by NMFS.

Under this final rule, in order to be qualified to participate in the trawl EM category, catcher vessels in the partial coverage category will be required to become a party to a TEM IPA. Under this final rule at § 679.57, TEM IPAs are structured to limit changes in vessel behavior as a result of this final rule.

To ensure IPAs are effective, IPA parties will be required to demonstrate to the Council through annual reports that the IPA is accomplishing the Council’s intent that each vessel in the trawl EM category limit changes in behavior. The representative of each approved TEM IPA will submit a written annual report to the Council, which will be available to the public. Additionally, NMFS inseason management staff will continue to track bycatch and pollock harvest by vessels in the trawl EM category and provide updates in the Annual Inseason Report to the Council. Upon receipt of the TEM IPA Annual Report and the NMFS Annual Inseason Report, the Council may re-evaluate the goals for the TEM IPA and make adjustments as necessary subject to NMFS’ approval.

NMFS will approve a TEM IPA if the IPA meets the criteria specified in this final rule at § 679.57. Each year, NMFS will publish on the NMFS Alaska

Region website the approved list of TEM IPAs and NMFS Approval Memorandums, the list of parties to each IPA, approved modifications to the TEM IPAs, and the list of catcher vessels that, on average, harvest bycatch in quantities that would exceed MRAs and catch more than 300,000 lbs (136 mt) of pollock per fishing trip in the GOA. For the sake of clarity, each TEM IPA will define how these averages will be calculated over the fishing year.

#### **Logbooks**

Logbooks are necessary for trawl EM data flow, and the trawl EM category does not work without this component. Under this final rule, logbooks are required for all participants in the trawl EM category. Catcher vessels in the trawl EM category may use NMFS-approved paper or electronic logbooks and follow the logbook-related regulations at § 679.5(a).

#### **CMCP**

Under this final rule, catcher vessels and tender vessels in the trawl EM category may only deliver fish to a shoreside processor or stationary floating processor that has a NMFS-approved CMCP. Furthermore, processors are prohibited from receiving deliveries from a catcher vessel or tender vessel in the trawl EM category without a NMFS-approved CMCP.

This final rule modifies § 679.28(g) to reorganize CMCP requirements to improve clarity and consistency and to add provisions necessary to facilitate observer data collection for deliveries from vessels in the trawl EM category.

In the ADP, NMFS defines the criteria for determining the necessary number of observers at shoreside processors and stationary floating processors. The criteria for determining the necessary number of observers for a given processor may include tonnage processed, number of deliveries, or processing hours. These criteria apply to all processors receiving deliveries from vessels in the trawl EM category. The specific number of observers necessary to meet sampling objectives are listed in the CMCP, which NMFS may update throughout the year to ensure that the necessary number of observers are present, as processing effort may change seasonally.

#### **Observer Providers**

Shoreside processors and stationary floating processors receiving deliveries from vessels in the full coverage trawl EM category procure observer services by arranging and paying for observer services directly from a permitted observer provider consistent with

existing regulations at § 679.51(d). This final rule modifies regulations governing observer provider permitting and responsibilities at § 679.52 to remove fax as an electronic communication method, update how often specific information must be submitted to NMFS (see Observer Program Fees section), and clarify the requirements for observer providers to monitor observer conduct and address observer misconduct.

### Observer Program Fees

NMFS is authorized under section 313 of the Magnuson-Stevens Act to require Observer Program participants in any North Pacific fishery to pay a fee for observer and EM monitoring provided the fee does not exceed 2 percent of the fishery's ex-vessel value.

To pay for video review services for vessels in the full coverage trawl EM category, this final rule establishes a new full coverage EM review fee at § 679.56. This new fee will be used by NMFS to pay for the costs of data review, storage, and transmission of EM data for vessels in the full coverage trawl EM category. The annual cost of EM review, data storage, and transmission will be divided among full coverage vessels in the trawl EM category. NMFS will use the pollock catch history (*i.e.*, actual harvest amount) from the previous year to divide the cost equitably among full coverage participants in the trawl EM category for that year. NMFS will send invoices to vessel owners and payment will be required by May 31 each year. Failure to pay the full coverage trawl EM fee will prevent a catcher vessel or tender vessel from being selected for the trawl EM category in the following year as specified in this final rule at § 679.51(g)(1)(4).

Consistent with regulations at § 679.55, NMFS uses funds from the existing observer fees to pay for EM hardware and review services for vessels in the partial coverage category. Catcher vessels and tender vessels in the partial coverage trawl EM category (vessels operating in the GOA and AI pollock fisheries) will continue to pay the existing observer fee as specified at § 679.55. The partial coverage category is funded through a system of fees collected from fishery participants (vessels and processors) under authority of section 313 of the Magnuson-Stevens Act. NMFS uses partial coverage fees to procure shoreside observers, deploy and support EM equipment on selected vessels, and pay for EM video review and data storage.

### Other Regulatory Changes

In addition to the regulations necessary to implement the trawl EM category, NMFS revises the following regulations for clarity and efficiency:

- Remove the expired prohibition at § 679.7(a)(17), specifying that neither catcher vessels nor catcher processors could act as a tender vessel until all groundfish or groundfish product was offloaded and that they could not harvest groundfish while operating as a tender vessel. That prohibition was added as part of an emergency rule (66 FR 7276, January 22, 2001), which expired on July 17, 2001. To date, the regulation has not been removed. This final rule removes the expired prohibition at § 679.7(a)(17) to prevent confusion, especially as § 679.7(a)(11) contains a similar prohibition.

- Regulations implementing EM for nontrawl vessels in the partial coverage category of the Observer Program are modified to remove the phrase “*EM selection pool*” and to add in its place “*Nontrawl EM selection pool*” to clearly identify regulations applicable to the different EM categories. Multiple gear types, excluding trawl, participate in the nontrawl EM selection pool, while only trawl vessels are eligible for the trawl EM category.

- This final rule moves regulations specifying salmon sorting and handling practice from § 679.21(f)(15)(ii)(C)(2) through (6) to § 679.28(g)(9) and (10). This move is necessary to consolidate all CMCP-related regulations into a single location.

- Replace all instances of “video data storage device” with “EM data” in § 679.51(f) to broaden the language to allow for future data formats.

- Remove fax numbers in §§ 679.28(g) and 679.51(g) to match current practice that has abandoned fax usage.

### Comments and Responses

NMFS received 17 comment letters on the Notice of Availability and the proposed rule. At the public hearings and through the NOA and proposed rule comment periods, NMFS received comments from individuals, fishery observers, and pollock fishery participants including harvesters and processors. NMFS has summarized and responded to the 25 unique comments below.

#### Indigenous Peoples

*Comment 1:* Indigenous peoples and other affected parties should be involved in the development of future EM actions.

*Response:* NMFS acknowledges the comment. This rule was developed

through a public process at the Council (<https://www.npfmc.org/>). The Council held multiple meetings over several years to discuss stages of the EFP and this rule as it was developed. All meetings held by the Council are open to the public, announced on the Council's web page, and accept comments and testimony by the public. NMFS seeks to include diverse viewpoints on the development of future EM actions and will continue to improve outreach to notify and engage all interested parties, including Alaska Native Tribes, of actions under development.

#### Trawl EM Rule Process

*Comment 2:* Collaborative efforts that are inclusive of agency, industry, scientific, and vendor personnel are essential for addressing the complex topic of implementing EM programs that meet management needs.

*Response:* NMFS agrees that collaborative efforts were integral to the success of the EFP and development of this rule.

#### Annual Request

*Comment 3:* The proposed rule does not allow vessels to return to observer coverage during a fishing year. Vessels should be provided this flexibility in the case of EM system issues and malfunctions that cannot be repaired in a timely manner.

*Response:* The EM program is voluntary and vessels can opt-in on an annual basis. In order to maintain the sampling design outlined in the ADP, a catcher vessel must remain in the trawl EM category for all directed fishing for pollock with pelagic trawl gear for the entirety of the fishing year and would not be able to leave the trawl EM category during that fishing year. Based on the experience of participants in the EFP, EM systems are reliable and NMFS does not anticipate that malfunctions would limit a vessel's participation in a pollock fishery.

*Comment 4:* The proposed rule states that NMFS retains the authority to deploy at-sea observers aboard vessels in the EM category, which could be seen as punitive.

*Response:* NMFS envisions that at-sea observers will be deployed through the established ADP process, which includes a public process through the Council and its associated monitoring committees. The ability for NMFS to deploy at-sea observers for the purpose of collecting biological data necessary for the conservation and management of the fishery is necessary to allow the maximum number of EM vessels to participate in the program each year.

Without this flexibility, NMFS would need to reduce the number of vessels allowed to participate in the trawl EM category and require some vessels to carry observers every year, rather than deploying observers on vessels only as needed to target specific data needs.

*Comment 5:* The proposed rule at § 679.51(g)(1)(iv) does not specify a date when vessels will receive notification of approval for the trawl EM category. This timeframe is critical to both vessels and EM service providers for planning EM system installations, upgrades, or repairs that must occur prior to the season start.

*Response:* NMFS agrees that vessels need to be notified in a timely manner. Generally, vessels can expect to receive notification of approval within a month of the November 1 deadline to request to join the trawl EM category.

#### Catcher Vessels

*Comment 6:* Please clarify what happens if a vessel indicates that they intend to deploy nonpelagic gear, which puts them into the observer coverage pool, but ultimately only deploys pelagic trawl gear.

*Response:* A vessel in the trawl EM category that indicates they intend to deploy nonpelagic trawl gear on a trip, but instead deploys only pelagic gear during the trip, would be in violation of the requirement to use EM on all pelagic trawl trips, as specified in the definition of “Trawl EM category” at § 679.2. NMFS would view this behavior as a vessel not providing accurate data and therefore not complying with the trawl EM regulations.

*Comment 7:* Can video data be used to identify vessel personnel for non-fisheries related enforcement action?

*Response:* No. The video recorded by the vessel EM system is covered by the Magnuson-Stevens Act’s confidentiality provisions. NMFS is not authorized to release EM footage unless an exception set forth in section 402(b) of the Magnuson-Stevens Act applies.

*Comment 8:* Vessels participating in the trawl EM category should be allowed to carry nonpelagic trawl gear while fishing in Type I and II crab closure areas for both trawl EM category and non-trawl EM category trips, where they are currently prohibited to do so. During the EFP, vessels in the trawl EM category were allowed to carry nonpelagic gear when trawling in these areas on trawl EM category trips to test the capabilities of EM for monitoring whether nonpelagic gear was deployed, and no issues were encountered.

*Response:* NMFS agrees that, on trawl EM category fishing trips, EM will monitor whether a nonpelagic trawl is

deployed in a Type I or II crab closure area. NMFS detected no issues during the EFP with participating vessels deploying nonpelagic trawls. Based on this comment, NMFS revised regulations at § 679.22(b)(1)(i) and (ii) to allow vessels in the trawl EM category during trawl EM category fishing trips to carry, but not deploy, nonpelagic trawl gear in these areas. Under this final rule, all EM footage captured by catcher vessels in the EM category will be reviewed. Vessels will be required to indicate in their VMP which of its net reels contain nonpelagic trawl gear, as they did during the EFP. Revising regulations to allow nonpelagic trawl gear to be on board vessels during fishing trips that fall outside of the trawl EM category is beyond the scope of this action.

#### Tender Vessels

*Comment 9:* Catcher vessels are required to indicate whether they would like to participate in the trawl EM category by November 1 of each year. This requirement creates difficulties for tender vessels as the associated shoreside processor likely will not know which vessels will be available to participate in the trawl EM category until February of the upcoming fishing year.

*Response:* The November 1 deadline does not extend to tender vessels. NMFS will specify the anticipated number of tender vessels each year in the ADP based on available funds in the partial coverage category. While the November 1 deadline does not apply, tender vessels must have a NMFS-approved VMP in place prior to receiving catch from trawl EM category catcher vessels.

#### Shoreside Processors

*Comment 10:* Under the proposed rule at § 679.7(j)(2)(ii), shoreside processors are prohibited from (1) beginning to sort a trawl EM category offload before an observer has completed biological sampling of all salmon and (2) continuing to sort trawl EM category catch if the salmon storage container is full. These requirements impact current fishery operations associated with open access fisheries, where there is a race to fish. These open access offloads are currently sampled at a 33 percent rate under the EFP, and, as such, the regulations should not prevent further offloading of catch. In the rare instance of conflicting sampling of offloads, the subsequent offload could be selected by the observers.

*Response:* Based on this comment, NMFS revised this final rule at §§ 679.7(j)(2)(ii)(D), 679.7(j)(2)(ii)(E), and 679.28(g)(9)(ii)(D) to specify these

regulations are applicable only to offloads of catch from the BS or CDQ pollock fisheries. This will not change salmon accounting in the partial coverage pollock fisheries in the GOA and AI.

Additionally, for the GOA and AI open access pollock fisheries, NMFS added § 679.28(g)(9)(ii)(E) to this final rule to state: “Regarding deliveries of pollock from the Gulf of Alaska or Aleutian Islands, observer(s) must be given the opportunity to complete the count of salmon and the collection of scientific data or biological samples from all offloads selected for monitoring. When the observer(s) has completed all counting and sampling duties for the offload, plant personnel must remove the salmon in the presence of the observer(s) from the salmon storage container and location where salmon are counted and biological samples or scientific data are collected.” This additional requirement does not prevent processors from sorting the next GOA or AI offload if the observer(s) are sampling the previous offload.

*Comment 11:* Processors providing hardware to support Observer Program software is inefficient as it often requires technology support skills that are outside the scope of a processor’s abilities. These required communications could be more efficient if the Observer Program provided the required hardware with the desired technical specifications to processors.

*Response:* Shoreside processors and stationary floating processors will remain subject to existing regulations requiring them to provide hardware for observers. Any changes to these regulations are outside the scope of this action. Shoreside processors and stationary floating processors receiving pollock from vessels in the trawl EM category fall into either the full or partial coverage categories for observer coverage. Depending on the coverage category of the processor, the observer provider or the processor may be required to supply observers with communication devices. Under the full coverage category, the shoreside processor or stationary floating processor is required to supply communication devices (*i.e.*, phones, computers, etc.). Under the partial coverage category, the observer provider will be required to supply communication devices as outlined in its contract with NMFS.

*Comment 12:* The workload at shoreside processors will change drastically under the trawl EM category. With the increases to daily workload, there will be an increased chance for observers to experience illness and

physical injuries while working 12 hours a day for the duration of a 90 day contract. Previously, observers with minor injuries were able to be placed at a shoreside processor due to the light amount of physical work.

*Response:* Observer safety is the top priority of this final rule. The trawl EM category shifts observer sampling duties from at-sea catcher vessels to shoreside processors and stationary floating processors, thereby reducing risks to observers associated with working on commercial fishing vessel decks, where they are exposed to many of the same hazards as commercial harvesters. NMFS encourages observers to work directly with their employer on full coverage deployment assignments to best match their physical, mental, and professional needs. For example, an extended deployment to an AFA shoreside processor or stationary floating processor may not suit all observers at all times.

NMFS encourages observers to report injuries and illnesses that may impact their ability to carry out their sampling duties, including the need to take time off for health reasons. Such incidents are not uncommon given that observing is often mentally and physically challenging. In the event that an observer is unable to work, NMFS staff will communicate with observers through inseason advisors and field office staff to reassess and, if necessary, alter or reduce sampling requirements for the processor at issue. The expectation is not to increase the workload of other observers at that processor, but rather to guide the remaining observers to assess the workload and determine which sampling priorities can be completed in the absence of an injured or ill observer. Completing the full suite of sampling duties may not be possible. The health and wellbeing of observers takes precedence over sampling duties at all times. This action does not alter the ability for observer provider companies to re-assign observers to accommodate health conditions.

#### *EM Service Providers*

*Comment 13:* There needs to be oversight for when EM hardware service providers introduce new hardware and technology for monitoring to ensure that the dependability and monitoring needs of this program are met.

*Response:* NMFS agrees that substantive changes to approved EM hardware or software would necessitate approval by NMFS. Based on this comment, NMFS revised this final rule at § 679.52(d)(3)(ii) to include the following: “At any time after initial

approval of the EM hardware service provider permit, this testing requirement must be applied to and met by any EM system requiring new, or significantly updated, hardware or software installed onboard the vessel.”

#### *EM Equipment and VMPs*

*Comment 14:* The proposed rule states that a vessel operator must verify all cameras are recording and that all sensors and other EM system components are functional prior to hauling back. Clarify the extent to which a vessel should troubleshoot the EM system in situations that may necessitate immediate haulback.

*Response:* Vessel owners and operators are required to ensure their EM systems are fully functional, regardless of fishing activities, as specified in this final rule at § 679.51(g)(3). The VMP indicates the actions a vessel must take if a malfunction occurs.

*Comment 15:* A vessel operator may not be aware of some EM system malfunctions that occur and should not be responsible or subject to enforcement action in the event of a malfunction. The EM hardware service provider may be aware of issues that the vessel is unaware of. Please clarify how this information will be communicated to vessels, service providers, and OLE when feedback from the EM review provider occurs.

*Response:* Vessels are obligated to actively monitor their EM systems as specified in this final rule at § 679.51(g)(3). If an issue is discovered during the EM review process, OLE will assess, among other things, whether the vessel had the ability to address it by following their VMP.

Vessels should work with their EM hardware service provider to ensure that they have all the information necessary to meet regulatory requirements. EM hardware service providers and vessels will receive EM review feedback as review is completed throughout a fishing year by NMFS’s chosen EM review service provider. In any case, ultimately, it is the responsibility of the vessel owner and vessel operator to understand and comply with the regulations governing their participation in the trawl EM program.

#### *Improved Retention*

*Comment 16:* The proposed rule at § 679.7(j)(2)(i)(B) states that there is a prohibition on “codend dumping” and “codend bleeding.” Under the EFP, vessels were allowed to “bleed” their codends if necessary to maintain the safety and stability of the vessel. This prohibition will compromise a vessel’s

ability to use salmon excluders and methods to control catch for vessel safety.

*Response:* The intent of § 679.7(j)(2)(i)(B) is to not allow discards except for those necessary to maintain the safety and stability of the vessel. Codend dumping or bleeding are commonly used to maintain vessel safety and stability. Based on this comment, NMFS removed the phrase “This includes ‘codend dumping’ or ‘codend bleeding’” from this final rule at § 679.7(j)(2)(i)(B) for clarity.

#### *Removing Requirements for Discards*

*Comment 17:* Remove any reference to “directed fishing” as a metric to evaluate and penalize a vessel for its fishing behavior and instead require the IPAs to monitor this.

*Response:* NMFS disagrees and is choosing to retain the references to “directed fishing.” Directed fishing is defined in § 679.2 to mean “unless indicated otherwise, any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable amount for that species or species group as calculated under § 679.20.” The term directed fishing is used in various NMFS Alaska regulations that are not affected by this final rule (e.g., closure areas under § 679.22).

Furthermore, under this final rule, whether a trawl EM category vessel is directed fishing for a species other than pollock—that is, whether a vessel conducts fishing activity that exceeds the MRA for a non-pollock species—will be used to gauge whether, alongside the TEM IPA, there have been changes in vessel behavior, even though the vessel is exempt from the MRA prohibition at § 679.7(a)(16). And, for clarity, exceeding an MRA does not necessarily indicate a change in behavior for purposes of the TEM IPA. For example, if all vessels directed fishing for pollock in a given area exceed the MRA for Pacific ocean perch, that would not necessarily be seen as a change in behavior. If potential changes of behavior, such as directed fishing for non-pollock species, are indicated by MRA calculations, NMFS will contact the TEM IPA representative. This is a collaborative process that seeks to identify the cause of concern and effect changes to fishing behavior to address the concern. If NMFS determines that an IPA is not effective in preventing vessel behavior changes, NMFS may elect not to allow a vessel to participate in the trawl EM category in the following year(s).



*Comment 18:* Exemptions from the prohibitions regarding exceeding MRAs at § 679.7(a)(16), the GOA catcher vessel harvest limit for pollock at § 679.7(b)(2), and the trawl gear performance standard at § 679.7(a)(14) enable participating vessels to exceed established limits without consequences and incentivize fishing for species that are closed to pelagic trawl gear. Catch that exceeds MRAs should be prohibited from entering commerce, as industry-managed IPAs are not effective at protecting closed stocks. Catch that exceeds MRAs will impact the closure of seasons and areas for the protection of endangered Steller sea lions.

*Response:* Improved retention of catch is necessary to provide observers stationed at shoreside processors with unsorted catch for collection of biological samples and to minimize potential biases in data collection. Improved retention greatly reduces at-sea discards and improves catch accounting, resulting in improved estimates of catch and bycatch in the pollock fisheries.

It is necessary to remove prohibitions regarding discards, such as MRAs, GOA pollock trip limit, and the crab standard, in order to improve retention. Vessels in the trawl EM category will deliver catch to processors that would otherwise be discarded at sea, thereby reducing the overall waste in the fishery while improving catch accounting of PSC due to sampling at shoreside processors and stationary floating processors. As discussed above, NMFS will still calculate MRAs to determine whether a vessel is directed fishing for non-pollock species and whether their behavior has changed under this final rule.

The TEM IPA was modeled on the current salmon bycatch IPAs (§ 679.21(f)(12)), which have proven to be a successful method for the BS pollock fleet to modify its behavior to meet NMFS management goals. In addition, the TEM IPAs were implemented as part of the EFP process and proved effective at controlling changes in vessel behavior. If NMFS or the Council determines that an IPA is not effective in preventing vessel behavior changes, NMFS may not allow a vessel to participate in the trawl EM category in the following year(s).

This final rule does not affect the harvest limits, season dates, areas fished, or fishing gear requirements that trawl EM vessels must comply with. Therefore, this action is not expected to change fishery activities in a way that would negatively affect any Endangered Species Act-listed species through

increased potential for competition for prey, disturbance, or incidental takes.

Nevertheless, in response to this comment, NMFS added two new regulations for greater clarity. First, in this final rule at § 679.7(j)(2)(i)(F), NMFS added the following prohibition to make clear that it is unlawful for any person to “Use a catcher vessel in the trawl EM category to deploy trawl gear in an area that is closed, for any reason, to directed fishing for pollock.” This additional provision will ensure that vessels in the trawl EM category will remain prohibited from fishing in closure areas they otherwise would not be eligible to fish in if they were not participating in the trawl EM category. Second, at § 679.57(f)(2)(iii)(E), this final rule adds the following to the list of information the TEM IPA Annual Report must contain: “Identification of and the TEM IPA’s response to vessels directed fishing in conflict with harvest specifications or directed fishing for Steller Sea Lion forage species within closed Steller Sea Lion protection areas.”

#### TEM IPAs

*Comment 19:* The IPA representative for the GOA will need the aggregated non-confidential data to perform the analysis for the annual IPA report.

*Response:* NMFS is committed to working with the TEM IPA representatives in the formation of the TEM IPA Annual Reports.

#### PSC Retention

*Comment 20:* Accounting for PSC both at-sea and shoreside is important. Cameras aboard the vessel may not be able to identify the species of crab aboard a vessel in the event of an at-sea discard.

*Response:* NMFS agrees that accounting for catch of all species, including crab, is important. While the EM system aboard these vessels is not able to identify crab to a species level, since all crab will be retained, any crab catch will be accounted for at the shoreside processor. Participation in the trawl EM category requires vessels to minimize discards to the greatest extent practicable, including PSC, except where doing so would compromise the safety and stability of the vessel. This requirement will ensure that all catch, with the exception of jellyfish and large organisms (e.g., sharks and marine mammals), will be delivered to the shoreside processor where they will be subject to shoreside observer sampling. At-sea discards of species that may be PSC will be reported during the EM review process and through shoreside processor landing reports.

#### CMCP

*Comment 21:* Sample station requirements at shoreside processors should be clearly defined to ensure the observer’s safety and ability to collect samples. Details of the sample station requirements should be specifically listed and easily comparable to other sample station requirements. Communication expectations of shoreside processors should be clearly outlined and should utilize current technology to ensure the observer receives all necessary information.

*Response:* The CMCP is a flexible tool that can be adjusted throughout the year through an amendment process. This mechanism allows NMFS to work with the shoreside processor to alter sampling stations to meet observer sampling needs. Additionally, NMFS will review CMCPs on an annual basis and amend them as necessary. Each shoreside processor is unique, requiring a flexible tool to address each situation. This action includes requirements for the location of the observer sampling station, platform scale, minimum workspace, table size, and diverter board. The CMCP will clearly outline PSC handling requirements, specifically for salmon and halibut.

The CMCP will also facilitate communication between the vessels, shoreside processors, and the observers by requiring that all necessary information be supplied to the observers.

#### Observer Program Fees

*Comment 22:* Full coverage vessels will be responsible for paying costs associated with EM video review. Therefore, they should be able to choose between EM review service providers similar to how EM hardware service providers are selected. This would require NMFS to contract with more than one EM review service provider.

*Response:* NMFS has not received any new resources to establish EM programs and does not have the additional staff capacity to administer multiple EM review service provider contracts. The trawl EM program is voluntary; there is no requirement for a vessel to participate in the program if they prefer a different EM review provider.

*Comment 23:* The Council deliberations during the development of this program made clear that observer fees should cover the GOA processors’ observer costs. Please clarify that the partial coverage fee will cover these additional costs.

*Response:* The partial coverage fee will be used to pay for observers stationed at non-AFA shoreside

processors and stationary floating processors.

*Comment 24:* Please define how trawl EM category costs would be covered for vessels participating in both the full and partial coverage pollock fisheries.

*Response:* Vessels participating in the AFA pollock fishery, for any number of trips, are considered to be full coverage vessels and are subject to the EM service requirements for full coverage vessels as specified in this final rule at § 679.51(g)(1)(ix)(B). Full coverage catcher vessels and tender vessels will procure their EM hardware service provider and pay the EM review fee.

Vessels participating only in the partial coverage pollock fishery are considered to be partial coverage vessels and are subject to the EM service requirements for partial coverage vessels as specified at § 679.51(g)(1)(ix)(A). Partial coverage catcher vessels and tender vessels will be covered by the existing observer fee.

#### *Unrelated to This Rule*

*Comment 25:* Close salmon fisheries to protect Southern Resident killer whales.

*Response:* This rule pertains to the BS, AI, GOA, and CDQ pollock fisheries, which do not overlap with any salmon fishery. In any event, this action improves salmon bycatch accounting in the pollock fisheries.

#### **Changes From Proposed to Final Rule**

This final rule includes the following substantive changes from the proposed rule to address public comments and clarify regulatory language. Throughout the regulatory text, NMFS also made technical and grammar edits to correct regulatory cross references, use consistent terms, remove redundancy, and promote clarity.

At § 679.2 NMFS revised the definition for “Trawl EM category” by removing the phrase “the defined group of” and adding the phrase “when those vessels are directed fishing for, or receiving deliveries of, pollock.” This revision was necessary to ensure that catcher vessels in the trawl EM category are only subject to the trawl EM category regulations when they are directed fishing for pollock with pelagic trawl gear.

At § 679.7(j)(2)(i)(B), and as explained in more detail in response to comment 16, NMFS removed the phrase “This includes ‘codend dumping’ or ‘codend bleeding’” to clarify that bled codends are not prohibited if necessary to maintain the safety and stability of the vessel.

As explained in more detail in response to comment 18, NMFS added

§ 679.7(j)(2)(i)(F) to make it unlawful for any person to “Use a catcher vessel in the trawl EM category to deploy trawl gear in an area that is closed, for any reason, to directed fishing for pollock.”

At § 679.7(j)(2)(iii)(B), NMFS moved the words “without an approved VMP” within the sentence for clarity.

At § 679.7(j)(2)(ii)(D) and (E), and as explained in more detail in response to comment 10, NMFS added language to clarify that the prohibitions on stopping or delaying offloads due to observer salmon sampling duties would not apply to the GOA or AI pollock fisheries. The GOA and AI pollock fisheries are open access and delaying offloads may cause economic inefficiencies. Instead,

§ 679.7(j)(2)(ii)(D) and (E) apply to the BS and CDQ full coverage pollock fisheries where all offloads are sampled.

At § 679.22(b)(1)(i) and (ii), and as explained in more detail in response to comment 8, NMFS added language that allows vessels in the trawl EM category to have nonpelagic trawl gear aboard the vessel on trawl EM category fishing trips while fishing in Type I and Type II areas in Figure 5 to part 679. The EM system aboard the vessel allows the EM review service provider to monitor whether nonpelagic gear is deployed in these areas. Vessels will indicate in their VMP which net reel contains the nonpelagic trawl gear. NMFS used this approach during the EFP, during which vessels were allowed to fish in these areas with a nonpelagic trawl aboard the vessel, and detected no issues. This clarification is consistent with the Analysis and fishery operations under the EFP.

NMFS revised § 679.28(g)(5) added the words “up to” to state that the CMCP may be approved for up to 1 year. This change was made to reflect the current state of CMCPs, which may be temporarily approved for less than one year while required changes are being made.

NMFS revised § 679.28(g)(7)(ix)(C) to include the phrase “The workspace must include flooring that prevents slipping and drains well, adequate lighting, and a hose that supplies fresh or sea water to the observer.” This phrase was previously required under § 679.28(d)(6) and was inadvertently removed in the proposed rule.

NMFS revised § 679.28(g)(7)(x)(G) to read, “Estimated start time of each vessel offload;” to clarify intent. This regulation is intended to provide observers with the anticipated start time for each trawl EM category offload.

At § 679.28(g)(9)(ii)(D), NMFS revised wording for consistency with the changes at § 679.7(j)(2)(ii)(D) and (E).

As explained in more detail in response to comment 10, NMFS added § 679.28(g)(9)(ii)(E), which states “Regarding the deliveries of pollock from the Gulf of Alaska or Aleutian Islands, the observer(s) must be given the opportunity to complete the count of salmon and the collection of scientific data or biological samples from all offloads selected for monitoring. When the observer(s) has or have completed all counting and sampling duties for the offload, plant personnel must remove the salmon in the presence of the observer(s) from the salmon storage container and location where salmon are counted and biological samples or scientific data are collected.” This revision will not affect salmon accounting in the GOA and AI pollock fisheries and is consistent with the Analysis and fishery operations under the EFP.

At § 679.51(g)(1)(i)(A)(1) and (2), NMFS removed the word “targeting” and added in its place the phrase “directed fishing for” to clarify that vessels must be “directed fishing,” as defined at § 679.2, for pollock to operate in the trawl EM category.

At § 679.51(g)(1)(v)(B), NMFS added wording to clarify that vessels that are not operating in the trawl EM category on a particular fishing trip will remain subject to observer coverage as specified at § 679.51(a)(1)(i) and (a)(2)(i).

At § 679.51(g)(3)(iv), NMFS removed the phrase “conducted under paragraph (g)(5) of this section” and added the phrase “trawl EM category” to clarify that all vessels must comply with their VMP regardless of their coverage category.

At § 679.52(d)(3)(ii), and as explained in more detail in response to comment 13, NMFS added the phrase “At any time after initial approval of the EM hardware service provider permit, this testing requirement must be applied to and met by any EM system requiring new, or significantly updated, hardware or software is installed onboard a vessel.” to clarify that approval of one system does not transfer to significant variations of that system or to a new EM system.

At § 679.52(d)(3)(iv), NMFS added the phrase “if a corporation” to be consistent with (d)(3)(v).

At § 679.52(d)(3)(vii), NMFS added the phrase “to do so” for additional clarity.

At § 679.56(a)(4)(ii), NMFS removed the phrase “make electronic payment to NMFS”, leaving the words “submit payment.” This is to clarify that the method of payment may change as technology advances.

NMFS revised wording at § 679.57(b)(4)(ii), (f)(2)(iii)(A), and (e)(3)(i) for consistency replacing the words “retain” and “land” with “harvesting.” At § 679.57(b)(4)(ii) and (f)(2)(iii)(A), NMFS also replaced the word “ensure” with “discourage” to better clarify the intent of incentive measures.

As explained in more detail in response to comment 18, NMFS added § 679.57(f)(2)(iii)(E), which states “Identification of, and the TEM IPA’s response to, vessels directed fishing in conflict with harvest specifications or directed fishing for Steller Sea Lion forage species within closed Steller Sea Lion protection areas.”

### Classification

NMFS is issuing this rule pursuant to sections 304(b) and 305(d) of the Magnuson-Stevens Act, which provides the specific authority for implementing this action. Pursuant to Magnuson-Stevens Act section 305(d), this action is necessary to carry out amendment 126 to the BSAI FMP, amendment 114 to the GOA FMP, other provisions of the Magnuson-Stevens Act, and other applicable law and to revise regulations associated with the Observer Program for clarity and technical consistency. The NMFS Assistant Administrator has determined that this final rule is consistent with the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

### Regulatory Impact Review

A Regulatory Impact Review was prepared to assess the costs and benefits of available regulatory alternatives. A copy of this analysis is available from NMFS (see **ADDRESSES**). The Council recommended and NMFS approved these regulations based on those measures that maximize net benefits to the Nation.

### Certification Under the Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

### Paperwork Reduction Act

This final rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). This final rule revises existing collection-of-information requirements for OMB Control Numbers 0648–0213 (Alaska Region Logbook and Activity Family of Forms); 0648–0330 (NMFS Alaska Region Scale and Catch Weighing Requirements); 0648–0515 (Alaska Interagency Electronic Reporting System); and 0648–0711 (Alaska Cost Recovery and Fee Programs) and revises and extends 0648–0318 (North Pacific Observer Program). Because of a concurrent action for 0648–0213, the revision to that collection of information for this final rule has been assigned a temporary control number, OMB Control Number 0648–0819, that will later be merged into 0648–0213. OMB Control Numbers 0648–0812 (Electronic Logbook: Pacific Cod Trawl Cooperative Program Catcher Vessels Less Than 60 Ft. LOA) and 0648–0815 (Bering Sea/Aleutian Islands Pot Gear Catcher/Processor Monitoring) are being merged into 0648–0515 and 0648–0318, respectively, and 0648–0812 and 0648–0815 will be discontinued upon issuance of this final rule. The public reporting burden estimates provided below for the collections of information include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

### OMB Control Number 0648–0819

This final rule revises the collection of information under OMB Control Number 0648–0213, associated with paper logbooks. Due to a concurrent action for that collection, the collection-of-information requirements have been assigned a temporary control number, OMB Control Number 0648–0819, that will later be merged into OMB Control Number 0648–0213. This final rule requires logbooks to be submitted by all catcher vessels in the trawl EM category. Catcher vessels in the trawl EM category may use either NMFS-approved paper logbooks (OMB Control Number 0648–0213) or electronic logbooks (OMB Control Number 0648–0515). Catcher vessels greater than 60 feet (18.3 meters) LOA already are required to maintain logbooks. Some catcher vessels less than 60 feet (18.3 meters) LOA that are not currently required to submit a logbook will need to begin doing so to participate in the trawl EM category;

therefore, this final rule will increase the number of vessels required to submit a logbook. The temporary control number covers the revisions necessary to 0648–0213 for the catcher vessels that choose to submit paper logbooks. The public reporting burden per response is estimated to average 18 minutes for the Catcher Vessel Trawl Daily Fishing Logbook.

### OMB Control Number 0648–0318

NMFS revises and extends for three years the existing requirements for OMB Control Number 0648–0318, which is associated with the North Pacific Observer Program. Additionally, OMB Control Number 0648–0815 is being merged into 0648–0318 and will be discontinued upon issuance of this final rule. OMB Control Number 0648–0815 was established as a temporary collection (88 FR 77228, November 9, 2023) because 0648–0318 was being revised by a concurrent action and was intended to be merged into 0648–0318 following the completion of that action. OMB Control Number 0648–0318 will be revised to include the following due to this final rule.

The owner or operator of a catcher vessel or tender vessel is required to use ODDS to request placement in the trawl EM category. Catcher vessels in the trawl EM category are required to log all fishing trips in ODDS. The public reporting burden per response is estimated to average 5 minutes to submit the request through ODDS and 15 minutes to log a fishing trip in ODDS.

The vessel owner or operator of a catcher vessel or tender vessel in the trawl EM category is required to submit a VMP to NMFS. The public reporting burden per response for the VMP is estimated to average 48 hours.

Vessel operators in the trawl EM category are required to submit EM data and associated documentation identified in their vessel’s VMP to NMFS. The public reporting burden per response is estimated to average 1 hour.

Vessels in the trawl EM category are required to communicate catch information to the shoreside processor or stationary floating processor that would be receiving the catch. The public reporting burden per response is estimated to average 5 minutes for the landing notice for EM pollock trawl offloads.

A catcher vessel owner or operator is required to be a party of a TEM IPA to be approved for the trawl EM partial coverage category. The TEM IPA representative submits the final TEM IPA to NMFS. The representative of

each approved TEM IPA is required to submit a written annual report to the Council. The public reporting burden per response is estimated to average 40 hours for the TEM IPA and 40 hours for the TEM IPA annual report.

Prospective EM hardware service providers need to apply, and be approved, for an EM hardware service provider permit. The public reporting burden to obtain this permit is estimated to average 8 hours.

An administrative appeal may be submitted if NMFS issues an IAD to deny a request to place a vessel in the trawl EM category, an IAD to disapprove a final TEM IPA, or an IAD for expiration of an EM hardware services provider permit. The public reporting burden per response for an administrative appeal is estimated to average 4 hours.

The submission time of the observer deployment/logistics report is changed to within 24 hours of the observer assignment or daily by 4:30 p.m., Pacific Time, each business day with regard to each observer. Fax is removed as a submission method for this report, and this final rule will continue to allow submission by email or any other methods specified by NMFS. This report is no longer required to include the location of any observer employed by the observer provider who is not assigned to a vessel, shoreside processor, or stationary floating processor. These changes are not expected to change the average response time for this report. The public reporting burden per response is estimated to average 7 minutes.

This final rule allows for electronic submission of the reports that are submitted by an observer provider and used by NMFS to monitor and enforce standards of observer conduct and identify problems on deployments that may compromise the observer's health or well-being. This final rule also requires the provider's responses to the violation in the report. These changes are not expected to change the average response time for these reports. The public reporting burden per response is estimated to average 2 hours.

This final rule removes fax as an electronic communication method and continues to allow submission by email or other methods specified by NMFS for other observer provider responsibilities. The public reporting burden per response to these requirements is estimated to average 60 hours for the observer provider permit application; 8 hours for college transcripts; 1 hour for observer training registration; 7 minutes each for observer briefing registration and projected observer assignments; 5

minutes each for physical examination verification and updates to observer provider information; 12 minutes for certificates of insurance; and 30 minutes each for observer debriefing registration, observer provider contracts, and observer provider invoices.

OMB Control Number 0648–0330

The information collection for 0648–0330 is revised because this final rule requires all shoreside processors and stationary floating processors receiving pollock from vessels in the trawl EM category to have NMFS-approved CMCPs in place before receiving deliveries from catcher vessels or tender vessels in the trawl EM category. Some processors that do not currently submit a CMCP will need to begin doing so; therefore, this requirement will increase the number of respondents that submit a CMCP. The public reporting burden per response is estimated to average 40 hours for the new participants required to submit a CMCP and initially in the first 2 years after implementation for existing CMCPs, but in the following years the burden will be reduced.

OMB Control Number 0648–0515

The information collection for 0648–0515 is revised due to this final rule. Additionally, OMB Control Number 0648–0812 is being merged into 0648–0515 and will be discontinued upon issuance of this final rule. OMB Control Number 0648–0812 was established as a temporary collection (88 FR 53704, August 8, 2023) because 0648–0515 was being revised by concurrent actions and was intended to be merged into 0648–0515 following the completion of those actions. This final rule requires logbooks to be submitted by all catcher vessels in the trawl EM category. Catcher vessels in the trawl EM category may use either NMFS-approved electronic logbooks (OMB Control Number 0648–0515) or paper logbooks (OMB Control Number 0648–0213). Catcher vessels greater than 60 feet (18.3 meters) LOA already are required to maintain logbooks. Some catcher vessels less than 60 feet (18.3 meters) LOA that are not currently required to submit a logbook will need to begin doing so to participate in the trawl EM category; therefore, this final rule will increase the number of vessels required to submit a logbook. The revision to this collection of information due to the rule adds the catcher vessels less than 60 feet (18.3 meters) LOA that choose to submit electronic logbooks. The public reporting burden per response is estimated to average 15 minutes per day into the Catcher Vessel Electronic Logbook.

OMB Control Number 0648–0711

The information collection for 0648–0711 is revised because this final rule requires the owner of a catcher vessel in the full coverage trawl EM category to submit the new full coverage trawl EM fee. The public reporting burden per response is estimated to average 1 minute for the fee payment.

#### Public Comment

We invite the general public and other Federal agencies to comment on proposed and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Written comments are recommendations for this information collection should be submitted at the following website [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find these particular information collections by using the search function and entering either the title of the collection or the OMB Control Number.

Notwithstanding any other provisions of the law, no person is required to respond or, 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.

#### List of Subjects

##### 15 CFR Part 902

Reporting and recordkeeping requirements.

##### 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: July 15, 2024.

**Samuel D. Rauch, III,**

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

For the reasons set out in the preamble, NMFS amends 15 CFR part 902 and 50 CFR part 679 as follows:

#### **PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS**

■ 1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 3501 *et seq.*

- 2. Amend § 902.1, in the table in paragraph (b), under “50 CFR”, by:
- a. Revising the entry for “679.5(a)”; and
  - b. Adding in numerical order entries for “679.28(g)(2)(iv)”, “679.56”, and “679.57”.

The revision and additions read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

Table with 2 columns: CFR part or section where the information collection requirement is located, Current OMB control No. (all numbers begin with 0648-)

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 3. The authority citation for 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.

■ 4. Amend § 679.2 by:

■ a. Removing the definition of “EM selection pool”;

■ b. Revising the definition of “EM service provider” and paragraph (3)(iv) of the definition “Fishing trip”; and

■ c. Adding in alphabetical order the definition of “Nontrawl EM selection pool”, “Trawl EM category”, and “Trawl EM Incentive Plan Agreement (TEM IPA)”

The revisions and additions read as follows:

§ 679.2 Definitions.

EM service provider means any person, including their employees or agents, that NMFS contracts with, or grants an EM hardware service provider permit to under § 679.52(d), to provide EM services, or to collect, review, interpret, or analyze EM data, as required under § 679.51. The two types of EM service providers are as follows:

(1) EM hardware service provider is a provider that NMFS grants a permit under § 679.52(d) and is authorized to deploy and service EM hardware aboard vessels in an EM category as specified in § 679.51.

(2) EM data review service provider is a provider that NMFS contracts with, or otherwise has an established business relationship with, to review, interpret, or analyze EM data as required under § 679.51.

\* \* \* \* \*

Fishing trip means:

\* \* \* \* \*

(3) \* \* \*

(iv) For a vessel in any EM category, the period of time that begins when the vessel with an empty hold departs a port or tender vessel until the vessel

returns to a port or tender vessel and offloads or delivers all fish.

\* \* \* \* \*

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

\* \* \* \* \*

Trawl EM category means catcher vessels and tender vessels with a NMFS-approved VMP that are required to use an EM system as specified under § 679.51(g)(1) when those vessels are directed fishing for, or receiving deliveries of, pollock.

Trawl EM Incentive Plan Agreement (TEM IPA) means a voluntary private contract in writing, approved by NMFS under § 679.57, that establishes incentives for partial coverage catcher vessels in the trawl EM category to keep catch within the limits to which vessels not in the trawl EM category are subject. These limits include the catcher vessel harvest limit for pollock in the Gulf of Alaska (§ 679.7(b)(2)) and MRAs (§ 679.20(e)).

\* \* \* \* \*

■ 5. Amend § 679.5 by adding paragraph (a)(1)(iii)(H) and revising paragraph (a)(4)(i) to read as follows:

§ 679.5 Recordkeeping and reporting (R&R).

(a) \* \* \*

(1) \* \* \*

(iii) \* \* \*

If harvest made under . . . program

Record the . . .

For more information, see . . .

Table with 3 columns: (H) Trawl EM Category (TEM), Management program modifier as TEM, § 679.51.

\* \* \* \* \*

(4) \* \* \*

(i) Catcher vessels less than 60 ft (18.3 m) LOA. The owner and operator of a catcher vessel less than 60 ft (18.3 m) LOA are required to comply with the vessel activity report described at paragraph (k) of this section, but otherwise are not required to comply with the R&R requirements of this section, except for:

(A) Vessels using pot gear as described in paragraph (c)(3)(i)(B)(1) of this section;

(B) Vessels participating in the PCTC Program as described in paragraph (x) of this section; and

(C) Catcher vessels in the trawl EM category as described in § 679.51(g).

\* \* \* \* \*

■ 6. Amend § 679.7 by:

■ a. Adding paragraph (a)(11)(iii);

■ b. Revising paragraphs (a)(14) and (a)(16);

■ c. Removing and reserving paragraph (a)(17); and

■ d. Revising paragraphs (b)(2)(i) through (iii), and (j).

The addition and revisions read as follows:

§ 679.7 Prohibitions.

(a) \* \* \*

(11) \* \* \*

(iii) Tender vessel. Use a catcher vessel or catcher/processor to harvest

groundfish while operating as a tender vessel.

\* \* \* \* \*

(14) Trawl gear performance standard—(i) BSAI. Except for catcher vessels in the trawl EM category, use a vessel to participate in a directed fishery for pollock using trawl gear and have on board the vessel, at any particular time, 20 or more crabs of any species that have a carapace width of more than 1.5 inches (38 mm) at the widest dimension.

(ii) GOA. Except for catcher vessels in the trawl EM category, use a vessel to participate in a directed fishery for pollock using trawl gear when directed fishing for pollock with nonpelagic trawl gear is closed and have on board

the vessel, at any particular time, 20 or more crabs of any species that have a carapace width of more than 1.5 inches (38 mm) at the widest dimension.

\* \* \* \* \*

(16) *Retention of groundfish bycatch species.* Except for catcher vessels in the trawl EM category, exceed the maximum retainable amount established under § 679.20(e).

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) Except for catcher vessels in the trawl EM category, retain more than 300,000 lb (136 mt) of unprocessed pollock on board a catcher vessel issued a FFP at any time during a fishing trip as defined at § 679.2;

(ii) Except for catcher vessels in the trawl EM category, land more than 300,000 lb (136 mt) of unprocessed pollock harvested in any GOA reporting area from a catcher vessel issued a FFP to any processor or tender vessel during a calendar day as defined at § 679.2; and

(iii) Except for catcher vessels in the trawl EM category, land a cumulative amount of unprocessed pollock harvested from any GOA reporting area from a catcher vessel issued a FFP during a directed fishery that exceeds the amount in paragraph (b)(2)(ii) of this section multiplied by the number of calendar days that occur during the time period the directed fishery is open in that reporting area.

\* \* \* \* \*

(j) *North Pacific Observer Program—Electronic Monitoring.*—(1) *General.*

(i) Fish without an EM system when a vessel is required to carry an EM system under § 679.51.

(ii) Fish with an EM system without a copy of a valid NMFS-approved VMP on board when directed fishing in a fishery subject to EM coverage.

(iii) Fail to comply with a NMFS-approved VMP when directed fishing in a fishery subject to EM coverage.

(iv) Fail to ensure an EM system is functioning prior to departing port on a fishing trip as specified at § 679.51(f)(5)(vi)(A).

(v) Fail to ensure an EM system is functional prior to departing on a fishing trip as specified at § 679.51(g)(3)(v).

(vi) Depart on a fishing trip without a functional EM system, per the VMP, unless approved to do so by NMFS, after the procedures at § 679.51(f)(5)(vi)(A)(1), or § 679.51(g), have been followed.

(vii) Fail to follow procedures related to EM system malfunctions as described at § 679.51(f)(5)(vi)(B) or § 679.51(g) prior to deploying each set of gear on a fishing trip selected for EM coverage.

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

(ix) Fail to submit EM data as specified under § 679.51(f)(5)(vii) or § 679.51(g).

(x) Tamper with, bias, disconnect, damage, destroy, alter, or in any other way distort, render useless, inoperative, ineffective, or inaccurate any component of the EM system, associated equipment, or data recorded by the EM system when the vessel is directed fishing in a fishery subject to EM coverage, unless the vessel operator is directed to make changes to the EM system by NMFS, the EM service provider, or as directed in the troubleshooting guide of the VMP.

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

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

(xiii) Fail to meet the vessel owner and operator responsibilities when using an EM system as specified at § 679.51(f)(5) or § 679.51(g)(5).

(2) *Trawl EM category*—(i) *Catcher vessels in the trawl EM category.* (A) Use a catcher vessel in the partial coverage trawl EM category to fish without being party to an approved trawl EM incentive plan agreement established under § 679.57;

(B) Use a catcher vessel in the trawl EM category to discard catch from the codend before it is brought on board the vessel unless required to maintain the safety and stability of the vessel;

(C) Use a catcher vessel in the trawl EM category to deploy a nonpelagic trawl;

(D) Use a catcher vessel in the trawl EM category to land catch to a tender vessel that is not in the trawl EM category or does not have a NMFS-approved VMP;

(E) Use a catcher vessel in the trawl EM category to land catch to a shoreside processor or stationary floating processor that does not have a NMFS-approved CMCP; or

(F) Use a catcher vessel in the trawl EM category to deploy trawl gear in an area that is closed, for any reason, to directed fishing for pollock.

(ii) *Shoreside processors and stationary floating processors.* (A) Receive any delivery from a vessel in the trawl EM category without being issued and following a NMFS-approved

Catch Monitoring Control Plan as described in § 679.28(g).

(B) Store any non-salmon species in a designated salmon storage container as described in a NMFS-approved Catch Monitoring Control Plan per § 679.28(g).

(C) Allow any salmon species to be placed into any location other than the designated salmon storage container described in a NMFS-approved Catch Monitoring Control Plan per § 679.28(g) at a shoreside processor or stationary floating processor.

(D) Begin sorting a trawl EM category offload from the Bering Sea or CDQ pollock fisheries before an observer has completed the count of all salmon and the collection of scientific data and biological samples from the previous offload.

(E) Continue to sort trawl EM category catch from the Bering Sea or CDQ pollock fisheries if the salmon storage container described in a NMFS-approved Catch Monitoring Control Plan per § 679.28(g) is full.

(F) Allow any PSC harvested or delivered by a vessel in the trawl EM category to be sold, purchased, bartered, or traded.

(iii) *Tender vessels.* (A) Operate a tender vessel in the trawl EM category and receive a delivery from a catcher vessel in the trawl EM category and a catcher vessel not in the trawl EM category during the same fishing trip.

(B) Operate a tender vessel in the trawl EM category without an approved VMP and receive a delivery from a catcher vessel in the trawl EM category.

\* \* \* \* \*

■ 7. Amend § 679.20 by revising paragraph (d)(2) to read as follows:

**§ 679.20 General limitations.**

\* \* \* \* \*

(d) \* \* \*

(2) *Groundfish as prohibited species closure.* When the Regional Administrator determines that the TAC of any target species specified under paragraph (c) of this section, or the share of any TAC assigned to any type of gear, has been or will be achieved prior to the end of a year, NMFS will publish notification in the **Federal Register** requiring that target species be treated in the same manner as a prohibited species, as described under § 679.21(a), for the remainder of the year, except:

(i) Rockfish species caught by catcher vessels using hook-and-line, pot, or jig gear as described in paragraph (j) of this section; and

(ii) Catcher vessels in the trawl EM category.

\* \* \* \* \*

■ 8. Amend § 679.21 by adding paragraphs (a)(2)(ii)(A) and (B), and revising paragraph (f)(15)(ii)(C) to read as follows:

§ 679.21 Prohibited species bycatch management.

- (a) \* \* \*
(2) \* \* \*
(ii) \* \* \*

(A) Vessels in the trawl EM category must retain all prohibited species catch for sampling by an observer.

(B) [Reserved]

\* \* \* \* \*

- (f) \* \* \*
(15) \* \* \*
(ii) \* \* \*

(C) Shoreside processors and stationary floating processors must comply with the requirements in § 679.28(g)(9) and (10) for the receipt, sorting, and storage of salmon from deliveries of catch from the BS pollock fishery.

\* \* \* \* \*

■ 9. Amend § 679.22 by revising paragraph (b)(1)(i) and (ii) to read as follows:

§ 679.22 Closures.

\* \* \* \* \*

- (b) \* \* \*
(1) \* \* \*

(i) Type I closures. No person may trawl in waters of the EEZ within the vicinity of Kodiak Island, as shown in Figure 5 to this part as Type I areas, from a vessel having any trawl other than a pelagic trawl either attached or on board, except as follows. Vessels in the trawl EM category may have a trawl other than a pelagic trawl either attached or on board, but may not deploy a trawl other than a pelagic trawl in a Type I area.

(ii) Type II closures. From February 15 to June 15, no person may trawl in waters of the EEZ within the vicinity of Kodiak Island, as shown in Figure 5 to this part as Type II areas, from a vessel having any trawl other than a pelagic trawl either attached or on board, except as follows. Vessels in the trawl EM category may have a trawl other than a pelagic trawl either attached or on board, but may not deploy a trawl other than a pelagic trawl in a Type II area.

\* \* \* \* \*

■ 10. Amend § 679.28 by:

- a. Revising paragraphs (d)(10)(i) and (g)(1);
■ b. Adding paragraph (g)(2)(iv);
■ c. Revising paragraphs (g)(3) through (6);
■ d. Adding (g)(7) introductory text;
■ e. Revising (g)(7)(v);
■ f. Removing paragraph (g)(7)(vi)(C);

- g. Revising paragraphs (g)(7)(vii) through (xi); and
■ h. Adding paragraphs (g)(8) through (10).

The revisions and additions read as follows:

§ 679.28 Equipment and operational requirements.

\* \* \* \* \*

- (d) \* \* \*
(10) \* \* \*

(i) How does a vessel owner arrange for an observer sampling station inspection? The vessel owner must submit an Inspection Request for Observer Sampling Station with all the information fields accurately filled in to NMFS by emailing (station.inspections@noaa.gov), or completing the online request form, at least 10 working days in advance of the requested date of inspection. The request form is available on the NMFS Alaska Region website.

\* \* \* \* \*

- (g) \* \* \*

(1) What is a CMCP? A CMCP is a plan submitted by the owner and manager of a processing plant, and approved by NMFS, detailing how the processor will meet the applicable catch monitoring and control standards detailed in paragraphs (g)(7) through (10) of this section.

- (2) \* \* \*

(iv) Any shoreside processor or stationary floating processor receiving any delivery from catcher vessels or tender vessels in the trawl EM category as defined at § 679.2.

(3) How is a CMCP approved by NMFS? NMFS will approve a CMCP if it meets all the applicable requirements specified in paragraphs (g)(7) through (10) of this section. The processor may be inspected by NMFS prior to approval of the CMCP to ensure that the processor conforms to the elements addressed in the CMCP. NMFS will complete its review of the CMCP within 14 working days of receipt. If NMFS disapproves a CMCP, the processor owner or manager may resubmit a revised CMCP or file an administrative appeal as set forth under the administrative appeals procedures described at § 679.43.

(4) How is a CMCP inspection arranged? The processor must submit a request for a CMCP inspection. The time and place of a CMCP inspection may be arranged by submitting a written request to NMFS, Alaska Region, or other method of electronic communication designated by NMFS. NMFS will review the inspection request within 10 working days after receiving a complete application for an inspection. The inspection request must include:

(i) Name of the person submitting the application and the date of the application;

(ii) Address, telephone number, and email address of the person submitting the application; and

(iii) A proposed CMCP detailing how the processor will meet each of the applicable performance standards in paragraphs (g)(7) through (10) of this section.

(5) For how long is a CMCP approved? NMFS will approve a CMCP for up to 1 year if it meets the applicable performance standards specified in paragraphs (g)(7) through (10) of this section. An owner or manager must notify NMFS in writing if changes are made in plant operations or layout that do not conform to the CMCP.

(6) How do I make changes to my CMCP? An owner and manager may change an approved CMCP by submitting a CMCP addendum to NMFS. NMFS will approve the modified CMCP if it continues to meet the applicable performance standards specified in paragraphs (g)(7) through (10) of this section. Depending on the nature and magnitude of the change requested, NMFS may require a CMCP inspection as described in paragraph (g)(3) of this section. A CMCP addendum must contain:

(i) Name of the person submitting the addendum;

(ii) Address, telephone number, and email address of the person submitting the addendum; and

(iii) A complete description of the proposed CMCP change.

(7) Catch monitoring and control standards. For all shoreside processors or stationary floating processors accepting any delivery from the fisheries listed in paragraph (g)(2) of this section:

\* \* \* \* \*

(v) Delivery point. Each CMCP must identify a single delivery point. The delivery point is the first location where fish removed from a delivering catcher vessel can be sorted or diverted to more than one location. If the catch is pumped from the hold of a catcher vessel or a codend, the delivery point normally will be the location where the pump first discharges the catch. If catch is removed from a vessel by brailing, the delivery point normally will be the bin or belt where the brailer discharges the catch. The CMCP must describe how the catch will be offloaded at the delivery point.

\* \* \* \* \*

(vii) Scale Drawing of the Plant. The CMCP must be accompanied by a scale drawing of the plant showing:

(A) The delivery point;  
 (B) Flow of fish;  
 (C) The observation area;  
 (D) The observer sampling station described in paragraph (g)(7)(ix) of this section;

(E) The location of each scale used to weigh catch;

(F) Each location where catch is sorted including the last location where sorting could occur; and

(G) Information to meet other requirements of this part, if requested by NMFS.

(viii) *Reasonable assistance.* Shoreside processors and stationary floating processors must provide reasonable assistance as described in § 679.51(e)(2)(vi), to observer(s) and to the Rockfish CMCP specialist. The CMCP must identify staff responsible for ensuring reasonable assistance is provided.

(ix) *Observer sampling station.* Each CMCP, except for the Rockfish Program, must identify and include an observer(s) sampling station for the exclusive use of observer(s). Unless otherwise approved by NMFS, the sampling station must meet the following criteria:

(A) *Location of observer sampling station.* (1) The observer sampling station must be located in an area protected from the weather where the observer has access to unsorted catch.

(2) The observer sampling station must be adjacent to the location where salmon will be counted and biological samples or scientific data are collected.

(3) Clear, unobstructed passage must be provided between the observer sampling station and observer sample collection point. The observer(s) must be able to monitor the collection and transport of unsorted catch to the observer sampling station.

(B) *Proximity of observer sampling station.* The observer sampling station must be located within 4 meters of the observer sample collection point without encountering safety hazards, or, reasonable assistance must be given to move samples into the observer sampling station upon request.

(C) *Minimum workspace requirements.* The observer sampling station must include: A working area of at least 4.5 square meters. The observer(s) must be able to stand upright and have a sampling area at least 0.9 meters deep in front of the table and scale. The workspace must include flooring that prevents slipping and drains well, adequate lighting, and a hose that supplies fresh or sea water to the observer.

(D) *Clear, unobstructed passage.* A clear and unobstructed passage is required between the observer sample

collection point and sampling station, and within the observer sampling station. Passageways must be at least 65 centimeters wide at their narrowest point, and be free of tripping or head bumping hazards.

(E) *Table.* The observer sampling station must include a table at least 0.6 meters deep, 1.2 meters wide, 0.9 meters high, and no more than 1.1 meters high. The entire surface area of the table must be available for use by the observer(s).

Any area used for the observer sampling scale is in addition to the minimum space requirements for the table specified at paragraph (g)(7)(ix)(B) of this section. The observer sampling table must be secure, and stable.

(F) *Observer Platform scale.* The observer sampling station must include a platform scale as described in paragraph (c)(4) of this section, and must meet the requirements specified in paragraph (c)(3)(v) of this section when tested by the observer. The platform scale must be located within 1 meter of the observer sampling table. The scale must be mounted so that the weighing surface is no more than 0.7 meters above the floor.

(G) *Lockable cabinet.* The observer work station must include a secure and lockable cabinet or locker of at least 0.5 cubic meters, and must be for the exclusive use of the observer(s).

(x) *Communication with observer.* The CMCP, except for the Rockfish Program, must describe what communication equipment such as radios or cellular phones is used to facilitate communications within the plant. The plant owner must ensure that the plant manager provides the observer(s) with the same communications equipment used by plant staff. The plant owner or plant manager must communicate the following information to the observer(s), including:

(A) Daily schedule of expected landings;

(B) Vessel name;

(C) Identify which management areas the vessel was operating in;

(D) If the delivering vessel is operating under the trawl EM category;

(E) Estimated tonnage onboard the vessel;

(F) If there is a deckload;

(G) Estimated start time of each vessel offload;

(H) Estimated time to complete the offload;

(I) If the vessel offload will be interrupted for any reason; and

(J) Any other information required by the applicable CMCP or VMP.

(xi) *Processor liaison.* The CMCP must designate a processor liaison. The processor liaison is responsible for:

(A) Orienting new observer(s) to the plant and providing a copy of the NMFS-approved CMCP and any subsequent addendums or revisions; and

(B) Assisting in the resolution of observer(s) concerns.

(8) *Rockfish Program.* In addition to compliance with requirements set forth at paragraph (g)(7) of this section, all shoreside processors or stationary floating processors receiving deliveries of groundfish harvested under the authority of a rockfish CQ permit must:

(i) *Rockfish CMCP specialist notification.* Describe how the Rockfish CMCP specialist will be notified of deliveries of groundfish harvested under the authority of a rockfish CQ permit.

(ii) [Reserved]

(9) *Processors receiving AFA pollock, CDQ pollock, and trawl EM category deliveries.* In addition to compliance with requirements set forth at paragraph (g)(7) of this section, all shoreside processors and stationary floating processors receiving deliveries from the fisheries described in paragraphs (g)(2)(i),(ii), and (iv) of this section, must comply with the following:

(i) *Salmon storage container.* (A) A salmon storage container must be designated for the exclusive purpose of storing salmon during an offload;

(B) The observer(s) must have a clear, unobstructed view of the salmon storage container to ensure no salmon of any species are removed without the observer's knowledge;

(C) The CMCP must describe the process of sorting and storing salmon; and

(D) The scale drawing of the plant must include the location of the salmon storage container.

(ii) *Salmon sorting and handling practices.* (A) Sort and transport all salmon to the salmon storage container identified in the CMCP (see paragraphs (g)(7)(vi)(C) and (g)(7)(x)(F) of this section). The salmon must remain in that salmon storage container and within the view of the observer(s) at all times during the offload;

(B) If, at any point during the offload, salmon are too numerous to be contained in the salmon storage container, cease the offload and all sorting and give the observer(s) the opportunity to count and collect scientific data or biological samples from all salmon in the storage bin. The counted salmon then must be removed from the area by plant personnel in the presence of the observer(s);

(C) At the completion of the offload, give the observer(s) the opportunity to count the salmon and collect scientific data or biological samples;



(D) When receiving deliveries of pollock from the Bering Sea or CDQ pollock fisheries, give the observer(s) the opportunity to complete the count of salmon and the collection of scientific data or biological samples from the previous offload of catch before sorting of the next offload of any catch may begin. When the observer(s) has completed all counting and sampling duties for the offload, plant personnel must remove the salmon in the presence of the observer(s), from the salmon storage container and location where salmon are counted and biological samples or scientific data are collected; and

(E) Regarding deliveries of pollock from the Gulf of Alaska or Aleutian Islands, the observer(s) must be given the opportunity to complete the count of salmon and the collection of scientific data or biological samples from all offloads selected for monitoring. When the observer(s) has completed all counting and sampling duties for the offload, plant personnel must remove the salmon in the presence of the observer(s), from the salmon storage container and location where salmon are counted and biological samples or scientific data are collected.

(iii) *Observer sample collection point.* The observer sample collection point is the location where the observer collects unsorted catch.

(A) The observer sample collection point (see paragraph (g)(7)(ix)(A)(3) of this section) must have a diverter mechanism to allow fish to be diverted from the belt directly into the observer's sampling baskets. The location and design of the diverter mechanism must be described in the CMCP; and

(B) The scale drawing of the plant, specified at paragraph (g)(7)(vii) of this section, must include the location of the observer sample collection point.

(iv) *Observer sampling scales and test weights.* (A) Identify by serial number each observer sampling scale in the CMCP;

(B) Provide observer sampling scales that are accurate and within the limits specified in paragraph (c)(4)(v) of this section;

(C) Test weights must be made available for the observer(s) use, be kept in good condition, be made of stainless steel or other corrosion-resistant material, and must meet requirements specified in paragraph (c)(4)(iii) of this section;

(D) List the serial numbers of the test weights to be used to test the observer sampling scale in the CMCP; and

(E) The CMCP must identify where the test weights will be stored. Test weights must be stored within the

observer sampling station or reasonable assistance must be provided upon observer(s) request to move the weights from the storage location to the observer sampling scale.

(10) *AFA pollock and CDQ pollock.* In addition to paragraphs (g)(7) and (9) of this section, all shoreside processors and stationary floating processors accepting deliveries described in paragraph (g)(2)(i) of this section have the following additional requirements:

(i) Ensure no salmon of any species pass beyond the last point where sorting of fish occurs, as identified in the scale drawing of the plant, paragraph (g)(7)(vii) of this section, in the CMCP;

(ii) The CMCP must describe the process that will be used to sort salmon, including the procedures for handling salmon that have passed beyond the last point where sorting of fish occurs; and

(iii) Meet all salmon handling requirements as described in (g)(9) of this section.

\* \* \* \* \*

■ 11. Amend § 679.51 by:

■ a. Removing the words "NMFS Alaska Region website at <https://alaskafisheries.noaa.gov>", "NMFS Alaska Region website <https://alaskafisheries.noaa.gov>", "NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>", "NMFS Alaska Region website at <http://alaskafisheries.noaa.gov>", and "NMFS Alaska Region website (<http://alaskafisheries.noaa.gov>)" wherever they appear, and, adding in their place, the words "NMFS Alaska Region website";

■ b. Adding paragraph (a)(1)(iv);

■ c. Revising paragraphs (a)(2)(ii) and (b)(2)(i);

■ d. Adding paragraph (b)(3);

■ e. In paragraph (c)(3), removing the phrase "transmitted by facsimile to 206-526-4066" and adding in its place the phrase "other method specified by NMFS on the NMFS Observer Program website";

■ f. In paragraph (f), removing the words "EM selection pool" wherever they appear and adding in their place the words "nontrawl EM selection pool";

■ g. Revising paragraph (f)(2) paragraph heading;

■ h. In paragraph (f)(3)(ii), removing the phrase "the video data storage devices" and adding in its place the phrase "EM data";

■ i. Revising paragraph (f)(4)(v);

■ j. Adding paragraph (f)(4)(vi);

■ k. In paragraph (f)(5)(vii), removing the phrase "the video data storage device" and adding in its place the words "EM data"; and

■ l. Adding paragraph (g).

The additions and revisions read as follows:

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

(a) \* \* \*

(1) \* \* \*

(iv) *Observer workload at shoreside processors and stationary floating processors.* Regarding shoreside processors and stationary floating processors, the time required for an observer to complete sampling, data recording, and data communication duties, per this paragraph (a)(1), may not exceed 12 hours in each 24-hour period.

(2) \* \* \*

(ii) *Observer coverage requirements.* A vessel listed in paragraphs (a)(2)(i)(A) through (C) of this section must have at least one observer aboard the vessel at all times. Some fisheries require additional observer coverage in accordance with paragraph (a)(2)(vi) of this section. The following exceptions apply:

(A) A vessel subject to the partial observer coverage category as per paragraph (a)(1)(i) of this section;

(B) A vessel approved to be in the full coverage trawl EM category; vessels in the full coverage trawl EM category are subject to observer coverage if NMFS determines that at-sea coverage is necessary in the Annual Deployment Plan.

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) *Coverage level.* (A) An AFA inshore processor must provide an observer for each 12-consecutive-hour period of each calendar day during which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in a directed pollock fishery in the BS. An AFA inshore processor that, for more than 12 consecutive hours in a calendar day, takes delivery of or processes pollock harvested in the BS directed pollock fishery must provide two observers for each such day.

(B) The owner and operator of an AFA shoreside or stationary floating processor receiving deliveries from a catcher vessel in the trawl EM category must provide the necessary number of observers to meet the criteria prescribed by NMFS in the Annual Deployment Plan for each calendar day during which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in a directed pollock fishery in the BS.

\* \* \* \* \*

(3) *Shoreside processor and stationary floating processor receiving a delivery from catcher or tender vessels in the trawl EM category*—(i) *Deadline to submit a request to receive trawl EM deliveries.* A shoreside processor and stationary floating processor must submit a request to NMFS by November 1 of the year prior to the fishing year in which they intend to receive deliveries from catcher vessels or tender vessels in the trawl EM category.

(ii) [Reserved]

\* \* \* \* \*

(f) \* \* \*

(2) *Notification of nontrawl EM trip selection.*

\* \* \* \* \*

(4) \* \* \*

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

(vi) The VMP will require information regarding:

(A) Vessel and contact information;

(B) Gear used;

(C) EM hardware functionality requirements;

(D) Requirements for meeting program objectives as specified in the Annual Deployment Plan;

(E) List of potential solutions for hardware malfunctions;

(F) Images of camera locations and camera views;

(G) EM hardware service provider information;

(H) Valid signatures from the EM hardware service provider and vessel owner or operator; and

(I) Any other information required by the applicable VMP.

\* \* \* \* \*

(g) *Trawl EM category*—(1) *Vessel placement in the trawl EM category*—(i) *Applicability.* (A) The owner or operator of a catcher vessel with a pollock trawl endorsement (PTW) on their FFP in the partial coverage category under paragraph (a)(1)(i) of this section, or in the full coverage category in paragraph (a)(2)(i) of this section, may request to be placed in the trawl EM category.

(1) *Partial coverage trawl EM category.* Catcher vessels directed fishing for pollock with pelagic trawl gear in the GOA or AI fisheries.

(2) *Full coverage trawl EM category.* Catcher vessels directed fishing for pollock with pelagic trawl gear in the BS or CDQ fisheries.

(B) The owner or operator of a tender vessel must request to be placed in the trawl EM category before receiving a delivery from a catcher vessel in the trawl EM category.

(ii) *How to request placement in the trawl EM category.* The owner or operator of a vessel must complete the trawl EM category request and submit it to NMFS using ODDS. Access to ODDS is available through the NMFS Alaska Region website. ODDS is described in paragraph (a)(1)(ii) of this section.

(iii) *Deadline to submit a trawl EM category request.* A vessel owner or operator must submit an annual trawl EM category request in ODDS by November 1 of the year prior to the fishing year in which the vessel would be placed in the trawl EM category.

(iv) *Approval for placement in the trawl EM category.* NMFS may approve a vessel for placement in the trawl EM category based on criteria specified by NMFS in the Annual Deployment Plan, available through the NMFS Alaska Region website. Criteria for disapproval may include actions by the vessel leading to data gaps, noncompliance with program elements such as discarding of catch, vessel configuration or fishing practices that cannot provide the necessary camera views to meet data collection goals, failure to follow the trawl EM category VMP, and/or failure to adhere to an incentive plan agreement as specified in § 679.57 for partial coverage catcher vessels or § 679.21(f)(12) for full coverage catcher vessels. For the trawl EM application to be considered complete, all fees due to NMFS from the owner or authorized representative of a catcher vessel subject to the fees specified at § 679.56 at the time of application must be paid.

(v) *Notification of approval for placement in the trawl EM category.* (A) NMFS will notify the owner or operator through ODDS of approval for the trawl EM category for the following fishing year. Catcher vessels remain subject to observer coverage under paragraphs (a)(1)(i) or (a)(2)(i) of this section unless and until NMFS approves the request for placement of the catcher vessel in the trawl EM category.

(B) Once NMFS notifies the catcher vessel owner or operator that their request to be placed in the trawl EM category has been approved, the vessel owner or operator must comply with the responsibilities in paragraphs (g)(2) and (3) of this section and all further instructions set forth in ODDS when they operate in the trawl EM category. When a catcher vessel approved for placement in the trawl EM category does not operate in the trawl EM category on a particular fishing trip, the

vessel remains subject to observer coverage under paragraphs (a)(1)(i) or (a)(2)(i) of this section.

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

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

(viii) *Duration.* Once NMFS approves a vessel for placement in the trawl EM category, that vessel will remain in the trawl EM category for the following upcoming fishing year or until:

(A) NMFS disapproves the vessel's VMP under paragraph (g)(2) of this section; or

(B) The vessel no longer meets the trawl EM category criteria specified by NMFS.

(ix) *Procurement of EM services.* (A) In the partial coverage category, the owner or operator of a vessel approved for the trawl EM category must use the EM hardware service provider as outlined by NMFS in the Annual Deployment Plan.

(B) In the full coverage category, the owner or operator of a vessel approved for the trawl EM category must arrange and pay for EM service provider services from a permitted EM hardware service provider.

(2) *Vessel Monitoring Plan (VMP).* Once approved for the trawl EM category, and prior to the first trawl EM fishing trip in the fishing year, the vessel owner or operator must develop a VMP with the EM hardware service provider following the VMP template available through the NMFS Alaska Region website.

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

(ii) *VMP Approval.* NMFS may approve the VMP for the fishing year if it meets all the requirements specified in the VMP template available through the NMFS Alaska Region website.

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

(iv) *VMP Disapproval.* If NMFS does not approve the revised VMP, NMFS will issue an IAD to the vessel owner or operator that will explain the basis for the disapproval. The vessel owner or

operator may file an administrative appeal under the administrative appeals procedures set out at 15 CFR part 906.

(v) *VMP Revision*. If, at any time, changes must be made to the VMP to improve the data collection of the EM system or address fishing operation changes, the vessel owner or operator must work with NMFS and the EM hardware service provider to amend the VMP. The vessel owner or operator must sign the updated VMP and submit those changes to NMFS. NMFS must approve the amended VMP prior to departing on the next fishing trip selected for EM coverage.

(vi) *VMP Components*. The VMP will require information regarding:

- (A) Vessel and contact information;
- (B) Gear used;
- (C) EM hardware functionality requirements;
- (D) Requirements for meeting program objectives as specified in the Annual Deployment Plan;
- (E) List of potential solutions for hardware malfunctions;
- (F) Images of camera locations and camera views;
- (G) EM hardware service provider information;
- (H) Valid signatures from the EM hardware service provider and either the vessel owner or operator; and
- (I) Any other information required by the applicable VMP.

(3) *Responsibilities*. To use an EM system under this section the vessel owner and operator must:

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

(ii) *Access*. Provide access to the vessel's EM system and reasonable assistance to the EM hardware service provider;

(iii) *Copy*. Maintain a copy of a NMFS-approved VMP onboard the vessel at all times when the vessel is directed fishing in a fishery subject to EM coverage;

(iv) *Compliance*. Comply with all elements of the VMP during trawl EM category fishing trips;

(v) *Maintenance*. Maintain the EM system, including by doing the following:

(A) Ensure the EM system is functioning before departing on a fishing trip.

(B) Ensure power is maintained to the EM system for the duration of a trawl EM category fishing trip;

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

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

(vi) *Communication*. Communicate catch information to the shoreside processor or stationary floating processor receiving catch through a NMFS approved system. The following information must be transmitted as outlined in the VMP:

- (A) Vessel name;
- (B) Identify which Management areas the vessel was operating in;
- (C) Most precise estimate available of tonnage aboard the vessel;
- (D) Estimated deckload size, if present;
- (E) Estimated time of arrival at shoreside processor or stationary floating processor; and
- (F) Information to meet other requirements of this part, if requested by NMFS.

(4) *EM coverage duration and duties*. (i) *Beginning a Fishing Trip*. A fishing trip in the trawl EM category may not begin until all previously harvested fish have been landed.

(ii) *Ending a Fishing Trip*. At the end of the fishing trip in the trawl EM category, the vessel operator must follow the instructions in the VMP and submit the EM data and associated documentation identified in the VMP.

(iii) *Daily Tests*. The vessel operator must complete daily tests of equipment functionality as instructed in the vessel's VMP.

(A) During a fishing trip in the trawl EM category, before each haul is retrieved, the vessel operator must verify all cameras are recording and all sensors and other required EM system components are functioning as instructed in the vessel's VMP.

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

(2) If the malfunction cannot be repaired at sea, the vessel operator must notify the EM hardware service provider of the malfunction at the end of the fishing trip. The malfunction must be repaired prior to departing on the next fishing trip in the trawl EM category.

(B) [Reserved]

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

(5) *ODDS requirements for trawl EM category catcher vessels in the partial coverage category*—(i) *EM trips*. Prior to embarking on each fishing trip, the operator of a catcher vessel in the partial coverage trawl EM category with a

NMFS-approved VMP must register the anticipated trip with ODDS. The owner or operator must specify the use of pelagic trawl gear to determine trawl EM category participation for the upcoming fishing trip.

(ii) [Reserved]

\* \* \* \* \*

- 12. Amend § 679.52 by:
  - a. Revising paragraphs (b)(1)(iii)(A), (b)(1)(iii)(B)(2), and (b)(3)(i) introductory text;
  - b. In paragraph (b)(11) introductory text removing “, fax”;
  - c. Revising paragraphs (b)(11)(iv) and (b)(11)(vii) introductory text;
  - d. In paragraph (b)(11)(ix), removing the word “fax” and adding in its place the phrase “electronic submission (email or online through NMFS-designated electronic system)”;
  - e. In paragraph (b)(11)(x) introductory text, removing the phrase “fax or email” and adding in its place the phrase “electronic submission (email or online through NMFS-designated electronic system)”;
  - f. Revising paragraph (b)(11)(x)(B); and
  - g. Adding paragraphs (d) and (e).
 The revisions and additions read as follows:

**§ 679.52 Observer provider permitting and responsibilities.**

\* \* \* \* \*

- (b) \* \* \*
- (1) \* \* \*
- (iii) \* \* \*

(A) That all of the observer's in-season catch messages (data) between the observer and NMFS are submitted to the Observer Program as outlined in the current Observer Sampling Manual.

(B) \* \* \*

(2) The observer does not at any time during his or her deployment travel through a location where an Observer Program employee is available for an in-person data review and the observer completes a phone, email, or other NMFS-specified method for mid-deployment data review, as described in the Observer Sampling Manual; and

\* \* \* \* \*

(3) \* \* \*

(i) An observer provider must develop, maintain, implement, and enforce a policy addressing observer conduct and behavior for their employees that serve as observers. The policy shall address the following behavior and conduct regarding:

\* \* \* \* \*

(11) \* \* \*

(iv) *Observer deployment/logistics report*. An accurate deployment/logistics report must be submitted

within 24 hours of the observer assignment, or daily by 4:30 p.m., Pacific time, each business day with regard to each observer. The deployment/logistics report must include the observer's name, cruise number, current vessel, shoreside processor or stationary floating processor assignment and vessel/processor code, embarkation date, and estimated or actual disembarkation dates.

\* \* \* \* \*

(vii) *Observer provider contracts.* Observer providers must submit to the Observer Program a completed and unaltered copy of each type of signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the observer provider and those entities requiring observer services under § 679.51(a)(2) and (b)(2), by February 1 of each year. Observer providers must also submit to the Observer Program, upon request, a completed and unaltered copy of the current or most recent signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract and any agreements or policies with regard to observer compensation or salary levels) between the observer provider and the particular entity identified by the Observer Program or with specific observers. The copies must be submitted by electronic transmission (email or through an electronic system as designated by NMFS) or other method specified by NMFS within 5 business days of the request for the contract at the address listed in § 679.51(c)(3). Signed and valid contracts include the contracts an observer provider has with:

\* \* \* \* \*

(x) \* \* \*

(B) Within 72 hours after the observer provider determines that an observer violated the observer provider's conduct and behavior policy described at paragraph (b)(3)(i) of this section; these reports shall include the underlying facts, circumstances, and provider responses to the violation, including the steps taken to enforce the provider's conduct and behavior policy.

\* \* \* \* \*

(d) *EM hardware service provider permit.*—(1) *Permit.* The Regional Administrator may issue a permit authorizing a person's participation as an EM hardware service provider for operations requiring EM system coverage per § 679.51(f) and (g). Persons seeking to provide EM services under this section must obtain an EM

hardware service provider permit from the NMFS Alaska Region.

(2) *EM hardware service provider.* An applicant seeking an EM hardware service provider permit must submit a completed application to the Regional Administrator for review. This application can be found on the NMFS Alaska Region website.

(3) *Contents of application.* An application for an EM hardware service provider permit must contain the following:

(i) *Contact information.* (A) The permanent phone number and email address of the owner(s) of the EM hardware service provider.

(B) Current physical location, business mailing address, business telephone, and business email address for each office of the EM hardware service provider.

(ii) *Hardware and software testing.* Description of testing conducted to ensure that the EM hardware is capable of withstanding environmental conditions in the North Pacific Ocean. NMFS will provide specifications for EM hardware upon request. At any time after initial approval of the EM hardware service provider permit, this testing requirement must be applied to and met by any EM system requiring new, or significantly updated, hardware or software installed onboard a vessel.

(iii) *Data review.* Provide a sample of EM data to NMFS that can be reviewed by NMFS EM data review software for compliance with program objectives as specified in § 679.51(f) and (g).

(iv) *Conflict of interest.* A statement signed under penalty of perjury from each owner or, if the owner is an entity, each board member and officer, if a corporation, that they have no conflict of interest as described in paragraph (c) of this section.

(v) *Criminal convictions and Federal contracts.* A statement signed under penalty of perjury from each owner or, if the owner is an entity, each board member and officer, if a corporation, describing:

(A) Any criminal convictions; and

(B) Any Federal contracts they have had and the performance rating they received for each such contract.

(vi) *Prior experience.* A description of any prior experience the EM hardware service provider may have in placing individuals in remote field and/or marine work environments. This includes recruiting, hiring, deployment, working with fishing fleets, and operations in remote areas.

(vii) *Responsibilities and duties.* A description of the EM hardware service provider's ability to carry out the responsibilities and duties of an EM

hardware service provider as set out under paragraph (e) of this section and the arrangements to be used to do so.

(4) *Application evaluation.* NMFS staff will evaluate the completeness of the application, the application's consistency with needs and objectives of the EM program, and other relevant factors. NMFS will provide specifications for EM hardware upon request.

(5) *Agency determination on an application.* NMFS will send the Agency's determination on the application to the EM hardware service provider. If an application is approved, NMFS will issue an EM hardware service provider permit to the applicant. If an application is denied, the reason for denial will be explained in the electronic determination.

(6) *Transferability.* An EM hardware service provider permit is not transferable. To prevent a lapse in authority to provide EM hardware services, a provider that experiences a change in ownership that involves a new person may submit a new permit application prior to sale and ask to have the application approved under this paragraph (a) prior to date of sale.

(7) *Expiration of EM hardware service provider permit.*—(i) *Permit duration.* An EM hardware service provider permit will expire after a period of 12 continuous months during which no EM services are provided to vessels in an EM category.

(ii) *Permit expiration.* The Regional Administrator will provide a written initial administrative determination (IAD) of permit expiration to a provider if NMFS records indicate that the provider has not provided EM services to vessels in an EM category during a period of 12 continuous months. A provider who receives an IAD of permit expiration may appeal the IAD under § 679.43. A provider that appeals an IAD will be issued an extension of the expiration date of the permit until after the final resolution of the appeal.

(8) *Removal of permit.* Performance of the EM hardware service provider will be assessed annually on the ability of the provider to meet program objectives as outlined in § 679.51 and the Annual Deployment Plan. If the EM hardware service provider is unable to meet program objectives, the permit will be removed.

(e) *Responsibilities of EM hardware service providers.* Responsibilities of EM hardware service providers are specified in section § 679.51(f) and (g).

■ 13. Add §§ 679.56 and 679.57 to subpart E to read as follows:

**§ 679.56 Full coverage trawl Electronic Monitoring category fee.**

(a) *Full coverage trawl electronic monitoring (EM) category fee*—(1) *Responsibility.* The owner of a catcher vessel in the full coverage trawl EM category must comply with the requirements of this section. Subsequent opting out of the trawl EM category does not affect the FFP permit holder's liability for paying the full coverage trawl EM category fee for any fishing year in which the vessel was approved to be in the full coverage trawl EM category and made pollock landings. Subsequent transfer of an AFA catcher vessel or AFA permit does not affect the catcher vessel owner's liability for non-compliance with this section.

(2) *Landings subject to the observer fee.* The full coverage trawl EM fee is assessed on pollock landings by catcher vessels in the full coverage trawl EM category as specified in § 679.51(g).

(3) *Fee collection.* The owner of a catcher vessel (as identified under paragraph (a)(1) of this section) is responsible for paying the full coverage trawl EM fee for all pollock landings.

(4) *Payment.*—(i) *Payment due date.* The owner of a catcher vessel (as identified under paragraph (a)(1) of this section) must submit all full coverage trawl EM fee payments to NMFS no later than May 31 of the fishing year following the year in which the pollock landings occurred.

(ii) *Payment recipient and method.* The owner of a catcher vessel (as identified under paragraph (a)(1) of this section) must submit payment and related documents as instructed on the fee submission form. Payments must be made electronically through the NMFS Alaska Region website. Instructions for electronic payment will be made available on both the payment website and a fee liability summary letter mailed to each permit holder.

(b) *Full coverage standard ex-vessel value determination and use.* NMFS will use the standard prices calculated for AFA cost recovery per § 679.66(b).

(c) *Full coverage fee percentages.*—(1) *Established percentages.* The trawl EM fee percentage is the amount as determined by the factors and methodology described in paragraph (c)(2) of this section. These amounts will be announced by publication in the **Federal Register** in accordance with paragraph (c)(3) of this section.

(2) *Calculating fee percentage value.* Each year NMFS will calculate and publish the trawl EM fee percentage for the full coverage trawl EM category catcher vessels according to the following factors and methodology:

(i) *Factors.* NMFS will use the following factors to determine the fee percentages:

(A) The catch to which the full coverage trawl EM fee will apply;

(B) The ex-vessel value of that catch; and

(C) The costs directly related to the EM data collection, EM data review, VMP approval, and trawl EM category data.

(ii) *Methodology.* NMFS will use the following equations to determine the trawl EM fee percentage:  $100 \times DPC \div V$ , where:

(A) *DPC* equals the trawl EM category costs for the directed full coverage pollock fisheries for the most recent fiscal year (October 1 through September 30) with any adjustments to the account from payments received in the previous year.

(B) *V* equals the total of the standard ex-vessel value of the catch subject to the trawl EM fee liability for the current year.

(iii) *Program costs.* Trawl EM category costs will be calculated only for catcher vessels that NMFS approves to be in the full coverage trawl EM category.

(3) *Publication.*—(i) *General.* NMFS will calculate and announce the trawl EM fee percentage in a **Federal Register** notice by December 1 of the year following the year in which the full coverage pollock landings were made. NMFS will calculate the trawl EM fee percentage based on the calculations described in paragraph (c)(2) of this section.

(ii) *Effective period.* NMFS will apply the calculated trawl EM fee percentage to all full coverage trawl EM category directed pollock landings made by vessels in the trawl EM category between January 1 and December 31 of the previous year.

(4) *Applicable percentage.* A designated representative must use the AFA fee percentage applicable at the time a Bering Sea directed pollock landing is debited from an AFA pollock fishery allocation to calculate the AFA fee liability for any retroactive payments for that landing.

**§ 679.57 Trawl EM incentive plan agreements.**

(a) *Parties to a trawl EM Incentive Plan Agreement (TEM IPA)*—(1) *TEM IPA.* A catcher vessel owner or operator must be a party to a TEM IPA to be approved for the trawl EM partial coverage category.

(2) *Compliance.* Once a party to a TEM IPA, a catcher vessel owner or operator cannot withdraw from the TEM IPA and must comply with the terms of the TEM IPA for the duration of the fishing year.

(b) *Request for approval of a proposed TEM IPA.* The TEM IPA representative must submit a proposed TEM IPA to NMFS. The proposed TEM IPA must contain the following information:

(1) *Affidavit.* The TEM IPA must include an affidavit affirming that each party to the TEM IPA is subject to the same terms and conditions.

(2) *Name of the TEM IPA*—(3) *Representative.* The TEM IPA must include the name, telephone number, and email address of the TEM IPA representative who is responsible for submitting the proposed TEM IPA on behalf of the TEM IPA parties, any proposed amendments to the TEM IPA, and the annual report required under paragraph (f) of this section.

(4) *Incentive plan.* The TEM IPA must contain provisions that address or contain the following:

(i) Restrictions, penalties, or performance criteria that will limit changes in fishing behavior.

(ii) Incentive measures to discourage catcher vessels from harvesting pollock catch in excess of 300,000 (136 mt) pounds during a fishing trip, on average in the GOA, and an explanation of how the incentive(s) encourage vessel operators to limit harvest in excess of 300,000 (136 mt) pounds of pollock per fishing trip in the GOA.

(iii) Incentive measures to prevent catcher vessels from exceeding the MRAs established in § 679.21(e) and how the incentives encourage vessel operators to avoid bycatch and avoid exceeding the maximum retainable amounts established in § 679.20(e).

(iv) Acknowledgment by the parties that NMFS will disclose to the public their vessels' performance under the TEM IPA and any restrictions, penalties, or performance criteria imposed under the TEM IPA by vessel name.

(5) *Compliance agreement.* The TEM IPA must include a provision that all parties to the TEM IPA agree to comply with all provisions of the TEM IPA.

(6) *Signatures.* The name and signature of the owner or operator for each vessel that is a party to the TEM IPA.

(c) *Deadline and duration.*—(1) *Deadline for proposed TEM IPA.* A proposed TEM IPA must be received by NMFS no later than 1700 hours, A.l.t., on December 1 of the year prior to the fishing year for which the TEM IPA is proposed to be effective.

(2) *Duration.* Once approved, a TEM IPA is effective starting January 1 of the fishing year following the year in which NMFS approves the IPA, unless the TEM IPA is approved between January 1 and January 19, in which case the TEM IPA is effective starting in the year

in which it is approved. Once approved, a TEM IPA is effective until December 31 of the first year in which it is effective or until December 31 of the year in which the TEM IPA representative notifies NMFS in writing that the TEM IPA is no longer in effect, whichever is later. A TEM IPA may not expire mid-year. No party may leave a TEM IPA once it is approved, except as allowed under paragraph (d)(3) of this section.

(d) *NMFS review of a proposed TEM IPA.*—(1) *Approval.* A TEM IPA will be approved by NMFS if the TEM IPA meets the following requirements:

(i) Complies with the submission requirements of paragraphs (b) and (c) of this section; and

(ii) Contains the information required in paragraph (b) of this section.

(2) *Amendments to a TEM IPA.*

Amendments in writing to an approved TEM IPA may be submitted to NMFS at any time and will be reviewed under the requirements of paragraph (b) of this section. An amendment to an approved TEM IPA is effective when NMFS notifies the TEM IPA representative in writing of NMFS approval.

(3) *Disapproval.* (i) NMFS will disapprove a proposed TEM IPA or a proposed amendment to a TEM IPA:

(A) If the proposed TEM IPA fails to meet any of the requirements of paragraph (b) of this section; or

(B) If a proposed amendment to a TEM IPA would cause the TEM IPA to no longer comply with the requirements of paragraph (b) of this section.

(ii) [Reserved]

(4) *Initial Administrative Determination (IAD).* If NMFS identifies deficiencies in the proposed TEM IPA, NMFS will notify the applicant in writing that the proposed TEM IPA will not be approved. The TEM IPA representative will be provided one 30-day period to address, in writing, all deficiencies identified by NMFS. Additional information or a revised TEM IPA received by NMFS after the expiration of the 30-day period specified by NMFS will not be considered. NMFS will evaluate any additional information submitted by the TEM IPA representative within the 30-day period. If the Regional Administrator determines that the additional information addresses the deficiencies in the proposed TEM IPA, the Regional Administrator will approve the proposed TEM IPA under paragraph (d) of this section. However, if NMFS determines that the proposed TEM IPA does not comply with the requirements of paragraph (b) of this section, NMFS will issue an IAD providing the reasons for disapproving the proposed TEM IPA.

(5) *Appeal.* A TEM IPA representative who receives an IAD disapproving a proposed TEM IPA may appeal under the procedures set forth at 15 CFR part 906. If the TEM IPA representative fails to timely file an appeal of the IAD pursuant to 15 CFR part 906, the IAD will become the final agency action. If the IAD is appealed and the final agency action approves the proposed TEM IPA, the TEM IPA will be effective as described in paragraph (c) of this section.

(6) *Pending approval.* While appeal of an IAD disapproving a proposed TEM IPA is pending, proposed parties to the TEM IPA subject to the IAD, which are not currently parties to an approved TEM IPA, are not authorized to participate in trawl EM category.

(e) *Public release of a TEM IPA and performance metrics.* Each fishing year NMFS will release to the public and publish on the NMFS Alaska Region website:

(1) *Approvals.* Approved TEM IPAs and Approval Memos;

(2) *Parties.* List of parties to each approved TEM IPA; and

(3) *Names.* Names of vessels covered by each approved TEM IPA that:

(i) On average, harvesting pollock catch in excess of 300,000 pounds (136 mt) per fishing trip in the GOA;

(ii) Harvest bycatch in quantities that exceed MRAs; and

(iii) Vessels' performance under the TEM IPA and any restrictions, penalties, or performance criteria imposed under the TEM IPA by vessel name.

(f) *TEM IPA Annual Report.* The representative of each approved TEM IPA must submit a written annual report to the Council at the address specified in § 679.61(f). The Council will make the annual report available to the public.

(1) *Submission deadline.* The TEM IPA Annual Report must be received by the Council no later than May 15 of the following fishing year.

(2) *Information requirements.* The TEM IPA Annual Report must contain the following information:

(i) A comprehensive description of the incentive measures in effect in the previous year;

(ii) A description of how these incentive measures affected individual vessels;

(iii) An evaluation of whether incentive measures were effective in limiting changes in vessel behavior including the effectiveness of:

(A) Measures to discourage participating vessels, on average, from harvesting pollock catch in excess of 300,000 pounds (136 mt) per fishing trip in the GOA;

(B) Measures that incentivize participating vessels to avoid exceeding MRAs established in § 679.20(e) applicable to non-EM vessels;

(C) Restrictions, penalties, or performance criteria that were imposed to prevent vessels from consistently exceeding catcher vessel harvest limit for pollock in the GOA or MRAs relative to non-EM vessels by vessel name (see §§ 679.7(b)(2) and 679.20(e));

(D) The frequency of vessels exceeding the catcher vessel harvest limit for pollock in the GOA and MRA limits relative to non-EM vessels (see §§ 679.7(b)(2) and 679.20(e)); and

(E) Identification of, and the TEM IPA's response to, vessels directed fishing in conflict with harvest specifications or directed fishing for Steller Sea Lion forage species within closed Steller Sea Lion protection areas.

(iv) A description of any amendments to the TEM IPA that were approved by NMFS since the last annual report and the reasons that the amendments to the TEM IPA were requested.

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## DEPARTMENT OF JUSTICE

### Drug Enforcement Administration

#### 21 CFR Part 1308

[Docket No. DEA–1143]

#### Schedules of Controlled Substances: Temporary Placement of N-Desethyl Isotonitazene and N-Piperidinyl Etonitazene in Schedule I

**AGENCY:** Drug Enforcement Administration, Department of Justice.

**ACTION:** Temporary amendment; temporary scheduling order.

**SUMMARY:** The Administrator of the Drug Enforcement Administration is issuing this temporary order to schedule two synthetic benzimidazole-opioid substances, as identified in this order, in schedule I of the Controlled Substances Act. This action is based on a finding by the Administrator that the placement of these two substances in schedule I is necessary to avoid imminent hazard to the public safety. This order imposes the regulatory controls and administrative, civil, and criminal sanctions applicable to schedule I controlled substances on persons who handle (manufacture, distribute, reverse distribute, import, export, engage in research, conduct instructional activities or chemical analysis with, or possess) or propose to handle these two specified controlled substances.