

previously addressed, the direct final rule will be withdrawn and the public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA does not plan a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by October 22, 1997.

ADDRESSES: Copies of the revision request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone John Paskevicz at (312) 886-6084 before visiting the Region 5 Office.)

Written comments should be sent to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: John Paskevicz, at (312) 886-6084.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

Authority: 42 U.S.C. 7401-7671q.

Dated: September 9, 1997.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 97-25096 Filed 9-19-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 600

[Docket No. 970829214-7214-01; I.D. 082097B]

RIN 0648-AJ76

Magnuson-Stevens Act Provisions; Observer Health and Safety

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing regulations that pertain to fishery observers and the vessels that carry them. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) as amended

October 11, 1996, requires that the Secretary of Commerce (Secretary) promulgate regulations for ensuring the adequacy and safety of fishing vessels that carry observers. Owners and operators of fishing vessels that carry observers would be required to comply with guidelines, regulations, and conditions in order to ensure that their vessels are adequate and safe for the purposes of carrying an observer and allowing operation of normal observer functions.

DATES: Comments must be received by October 22, 1997.

ADDRESSES: Send comments to Gary Matlock, Director, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: William J. Bellows, 301-713-2341.

SUPPLEMENTARY INFORMATION:

Background

The Magnuson-Stevens Act, as amended (16 U.S.C. 1801 *et seq.*), the Marine Mammal Protection Act, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), and the Atlantic Tunas Convention Act, as amended (ATCA; 16 U.S.C. 971 *et seq.*) authorize the Secretary to station observers aboard commercial fishing vessels to collect required scientific data for the purposes of fishery and protected species conservation and management, monitoring incidental mortality and serious injury to marine mammals and to other species listed under the Endangered Species Act (ESA), and monitoring compliance with existing Federal regulations. In addition, pursuant to the South Pacific Tuna Act of 1988 (SPTA; 16 U.S.C. 973 *et seq.*) observers may be required in the South Pacific Tuna Fishery.

The majority of U.S. observer programs are mandatory under the MMPA, or have mandatory coverage authorized by fishery management plans developed under the Magnuson-Stevens Act. Under mandatory programs, observer coverage levels are either prescribed by legislation or there is a mandate to carry an observer if requested to do so by NMFS. Vessels fishing under one of these mandatory programs must have an observer(s) aboard in order to fish legally. Should such a vessel fail to meet the safety requirements as described in this rule, the vessel would not be permitted to fish until the safety requirements are met and the required observer(s) is/are aboard.

While the majority of the observer programs are mandatory, a substantial amount of fishery data is collected

through voluntary observer programs. Under these voluntary programs, vessel owners and operators have no legal obligation or requirement to carry an observer but voluntarily carry observers to collect data essential for making fishery conservation and management decisions. The safety, health, and well-being of observers while stationed aboard fishing vessels participating in both mandatory and voluntary programs are of great priority.

The Magnuson-Stevens Act directs that

***the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

This rule would apply to any vessel designated to carry an observer as part of a mandatory or a voluntary observer program under the Magnuson-Stevens Act, the MMPA, ATCA, SPTA, or any other U.S. law.

This proposed rule would adopt U.S. Coast Guard (USCG) safety inspection standards as minimum requirements a vessel must meet to be deemed safe and adequate for the purposes of carrying observers. Vessels that carry observers would be required to undergo USCG safety inspections, display valid USCG inspection decals or certificates, and maintain safe conditions at all times an observer is aboard as well as during an observer's boarding and disembarking. In addition, vessels would be required to comply with applicable regional requirements governing observer accommodations which may address adequacy, health, and safety concerns beyond the scope of USCG standards.

Classification

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce made the following certification to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The National Marine Fisheries Service estimates that there are a total of 1,600 vessels carrying observers in NMFS-regulated fisheries. Of these, approximately 1,200 (75%) fit the Small Business Administration's definition of small entity,

and none would be significantly affected by this rule. The proposed rule's requirements that a vessel submit to dockside safety inspections and display a decal or certificate demonstrating compliance with U.S. Coast Guard (USCG) safety regulations merely provide evidence that the vessel is in compliance with existing mandatory USCG safety regulations. The safety inspection would be performed at the dock at no cost to the vessel owner and would take approximately 4 hours. The vessel owner/operator would be able to schedule the inspection at a time that is convenient for the owner/operator, such as when the vessel is at dock. Thus, this rule is not expected to result in any economic loss associated with lost days at sea or any other significant economic impacts on a substantial number of small entities.

This action has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: September 15, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service

For the reasons set forth in the preamble, 50 CFR part 600 is proposed to be amended as follows:

PART 600—MAGNUSON-STEVENSON ACT PROVISIONS

1. The authority citation for 50 CFR part 600 continues to read as follows:

Authority: 5 U.S.C. 561 and 16 U.S.C. 1801 *et seq.*

2. Section 600.725 is amended by redesignating (p) as (t), adding new paragraphs (p), (q), (r), (s), and (u) and revising newly redesignated paragraph (t) to read as follows:

§ 600.725 General prohibitions.

* * * * *

(p) Fail to submit to a USCG safety inspection when required by NMFS pursuant to § 600.746.

(q) Fail to display a Commercial Fishing Vessel Safety decal or a valid certificate of compliance or inspection pursuant to § 600.746.

(r) Fail to provide to an observer, a NMFS employee, or a designated observer provider information that has been requested pursuant to § 600.746, or fail to allow an observer, a NMFS employee, or a designated observer provider to inspect any item described at § 600.746.

(s) To fish without an observer when the vessel is required to carry an observer.

(t) Assault, resist, oppose, impede, intimidate, or interfere with a NMFS-approved observer aboard a vessel.

(u) Prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer from conducting his or her duties aboard a vessel.

3. In subpart H, § 600.746 is added to read as follows:

§ 600.746 Observers.

(a) *Applicability.* This section applies to any fishing vessel required to carry an observer as part of a mandatory observer program or carrying an observer as part of a voluntary observer program under the Magnuson-Stevens Act, MMPA (16 U.S.C. 1361 *et seq.*), the ATCA (16 U.S.C. 971 *et seq.*), the South Pacific Tuna Act of 1988 (SPTA; 16 U.S.C. 973 *et seq.*), or any other U.S. law.

(b) *Observer requirement.* An observer is not required to board, or stay aboard, a vessel that is unsafe or inadequate as described in paragraph (c).

(c) *Inadequate or unsafe vessels.* (1) A vessel is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions if it does not comply with the applicable regulations regarding observer accommodations (see 50 CFR parts 229, 285, 300, 600, 622, 648, 660, 678, and 679) or if it has not passed a USCG safety inspection. A vessel that has passed a USCG safety inspection must display one of the following:

(i) A current Commercial Fishing Vessel Safety Decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR Chapter I and 46 CFR Chapter I;

(ii) A certificate of compliance issued pursuant to 46 CFR 28.710; or

(iii) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

(2) Upon request by an observer, a NMFS employee, or a designated observer provider, a vessel owner/operator must provide correct information concerning any item relating to any safety or accommodation requirement prescribed by law or regulation. A vessel owner or operator must also allow an observer, a NMFS employee, or a designated observer provider to visually inspect any such item.

(d) *Corrective measures.* If a vessel is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions, NMFS may require the vessel owner or operator either to:

(1) Submit to and pass a USCG safety inspection; or

(2) Correct the deficiency that is rendering the vessel inadequate or unsafe (e.g., if the vessel is missing one personal flotation device (PFD), the owner or operator could be required to obtain an additional one), before that vessel is authorized to fish in fisheries with mandatory observer coverage requirements.

(e) *Timing.* The requirements of this section apply both at the time of the observer's boarding, at all times the observer is aboard, and at the time the observer is disembarking from the vessel.

(f) *Effect of inadequate or unsafe status.* A vessel that would otherwise be required to carry an observer but is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions is prohibited from fishing without observer coverage unless NMFS waives the observer requirement.

[FR Doc. 97-25013 Filed 9-19-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 970829212-7212-01; I.D. 080597F]

RIN 0648-AK14

Fisheries of the Exclusive Economic Zone Off Alaska; Allocation of Atka Mackerel to Vessels Using Jig Gear

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 34 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). Amendment 34 would authorize an allocation of Atka mackerel to vessels using jig gear. Annually, up to 2 percent of the total allowable catch (TAC) specified for this species in the eastern Aleutian Islands District (AI)/Bering Sea subarea (BS) could be allocated to the jig gear fleet fishing in this area. This action is necessary to provide an opportunity to a localized, small-vessel jig gear fleet to fish for Atka mackerel in summer months. The large-scale trawl fisheries typically harvest the