

## **FINAL REGULATORY FLEXIBILITY ANALYSIS**

### **to Amend Regulations for Observer At-Sea Electronic Communication Equipment Requirements for Vessels and Shoreside Processors in the North Pacific Groundfish Fisheries**

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Abstract: This Final Regulatory Flexibility Analysis (FRFA) evaluates the small entity impacts of a regulatory amendment to require upgrades in and increased functionality for hardware and software designed to facilitate groundfish fishery observer reporting from catcher-processors, motherships, and shoreside processors in the BSAI and GOA. The regulatory amendment would also clarify regulations so that the requirements would be extended to catcher vessels required to have 100% observer coverage. This FRFA addresses the requirements of the Regulatory Flexibility Act at 5 U.S.C. 604(a).

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## Executive Summary

This Final Regulatory Flexibility Analysis (FRFA) examines a final rule to require upgrades to, and improved maintenance of, certain data processing and communications technology carried by groundfish catcher/processors, motherships, and on-shore processors which are required to maintain fishery observers. The action also clarifies regulation to extend this requirement to catcher vessels required to carry observers on 100% of fishing days. The objectives of this action are to reduce the time taken for data collected at sea by observers to reach in-season fishery managers, and to increase its accuracy. This FRFA addresses the requirements of the Regulatory Flexibility Act at section 604(a).

The proposed rule was published in the *Federal Register* on July 25, 2002 (67 FR 48604). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed rule, and described in the classifications section of the preamble to the rule. The public comment period ended on August 26, 2002. No comments were received on the proposed rule.

The entities that would be regulated by the proposals are the BSAI and GOA entities operating catcher-processors, motherships, shoreside processors, required to maintain one or more observers, and catcher vessels required to have 100% observer coverage. Fishing operations grossing \$3.5 million or less are considered to be small entities for the purposes of the RFA. Data available for 2000 indicate that 34 of the 91 catcher/processors active that year, and that all of the catcher vessels active that year, grossed less than \$3.5 million. The data indicate that all 31 of the affected catcher vessels were small. All three of the motherships were assumed to be large entities. Small shoreside processors are those that have fewer than 500 employees. Five processors were identified as small. The six CDQ groups are non-profits and are therefore small by definition.

This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities. Although the proposed changes in the OCS communications requirements require some new expenditures by small entities, they contain no new or revised record keeping or reporting requirements for those entities. The OCS requirements will not affect private sector record keeping requirements; they will facilitate communication of reports that are already required from observers.

Four alternatives to the proposed action were considered. The status quo was rejected because it would not meet the objectives of the action for more timely and more accurate data. An alternative that would have restricted the regulations to catcher-processors, motherships, and shoreside processors would have had a smaller impact on directly regulated small entities, because it would not have regulated catcher vessels that were required to have 100% observer coverage. This alternative was rejected because it would not have provided faster or more accurate observer data on this important fleet sector. An alternative that would have extended the requirements to catcher vessels with 30% required coverage, in addition to catcher-processors, motherships, shoreside processors, and catcher vessels with 100% observer coverage, was also rejected. This would have involved extending coverage to several hundred additional catcher vessels, all of which were estimated to be small entities. Concerns were also raised over the security of the OCS software on computers during periods of time when observers were not present on the vessels. A final alternative would have required OCS coverage on catcher-processors, motherships, and shoreside processors, but not catcher vessels. This alternative would have increased resources devoted to observer program data processing in order to reduce the time it took to get catcher vessel data to in-season managers for management purposes. This alternative would have reduced the impact on small catcher vessel entities, however, while it would have reduced the time to process data and provide it to in-season managers, it would not have affected the important time lag between at-sea

observation by the observer and delivery to observer program data processors. In addition, it would not have addressed concerns over data quality.

## 1 Introduction

This Final Regulatory Flexibility Analysis (FRFA) examines a final rule to require upgrades to, and improved maintenance of, certain data processing and communications technology carried by groundfish catcher/processors, motherships, and on-shore processors required to carry one or more observers. The action also clarifies regulations to extend this requirement to catcher vessels required to carry observers on 100% of fishing days. This FRFA addresses the requirements of the Regulatory Flexibility Act at section 604(a).

The proposed rule was published in the *Federal Register* on July 25, 2002 (67 FR 48604). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed rule, and described in the classifications section of the preamble to the rule. The public comment period ended on August 26, 2002. No comments were received on the proposed rule.

## 2 The purpose of a FRFA

The Regulatory Flexibility Act (RFA), first enacted in 1980, was designed to place the burden on the government to review all regulations to ensure that, while accomplishing their intended purposes, they do not unduly inhibit the ability of small entities to compete. The RFA recognizes that the size of a business, unit of government, or nonprofit organization frequently has a bearing on its ability to comply with a Federal regulation. Major goals of the RFA are: (1) to increase agency awareness and understanding of the impact of their regulations on small business, (2) to require that agencies communicate and explain their findings to the public, and (3) to encourage agencies to use flexibility and to provide regulatory relief to small entities. The RFA emphasizes predicting impacts on small entities as a group distinct from other entities and on the consideration of alternatives that may minimize the impacts while still achieving the stated objective of the action.

On March 29, 1996, President Clinton signed the Small Business Regulatory Enforcement Fairness Act. Among other things, the new law amended the RFA to allow judicial review of an agency's compliance with the RFA. The 1996 amendments also updated the requirements for a final regulatory flexibility analysis, including a description of the steps an agency must take to minimize the significant economic impact on small entities. Finally, the 1996 amendments expanded the authority of the Chief Counsel for Advocacy of the Small Business Administration (SBA) to file *amicus* briefs in court proceedings involving an agency's violation of the RFA.

In determining the scope, or 'universe', of the entities to be considered in a FRFA, NMFS generally includes only those entities that can reasonably be expected to be directly regulated by the proposed action. If the effects of the rule fall primarily on a distinct segment, or portion thereof, of the industry (e.g., user group, gear type, geographic area), that segment would be considered the universe for the purpose of this analysis. NMFS interprets the intent of the RFA to address negative economic impacts, not beneficial impacts, and thus such a focus exists in analyses that are designed to address RFA compliance.

Data on cost structure, affiliation, and operational procedures and strategies in the fishing sectors subject to the proposed regulatory action are insufficient, at present, to permit preparation of a "factual basis"

upon which to certify that the preferred alternative does not have the potential to result in “significant adverse impacts on a substantial number of small entities” (as those terms are defined under RFA).

Because, based on all available information, it is not possible to ‘certify’ this outcome, should the proposed action be adopted, a formal FRFA has been prepared and is included in this package for Secretarial review.

### **3 What is required in a FRFA?**

Under 5 U.S.C., Section 604(a) of the RFA, each FRFA is required to contain:

- (1) a succinct statement of the need for, and objectives of, the rule;
- (2) a summary of the significant issues raised by the public comments in response to the initial regulatory flexibility analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such comments;
- (3) a description of and an estimate of the number of small entities to which the rule will apply or an explanation of why no such estimate is available;
- (4) a description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; and
- (5) a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.

### **4 What is a small entity?**

The RFA recognizes and defines three kinds of small entities: (1) small businesses, (2) small non-profit organizations, and (3) small government jurisdictions.

Small businesses. Section 601(3) of the RFA defines a ‘small business’ as having the same meaning as ‘small business concern’ which is defined under Section 3 of the Small Business Act. ‘Small business’ or ‘small business concern’ includes any firm that is independently owned and operated and not dominant in its field of operation. The SBA has further defined a “small business concern” as one “organized for profit, with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the U.S. economy through payment of taxes or use of American products, materials or labor...A small business concern may be in the legal form of an individual proprietorship, partnership, limited liability company, corporation, joint venture, association, trust or cooperative, except that where the firm is a joint venture there can be no more than 49 percent participation by foreign business entities in the joint venture.”

The SBA has established size criteria for all major industry sectors in the U.S., including fish harvesting and fish processing businesses. A business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual receipts not in excess of \$3.5 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide. A business involved in both the harvesting and processing of seafood products is a small business if it meets the \$3.5 million criterion for fish harvesting operations. Finally a wholesale business servicing the fishing industry is a small business if it employs 100 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

The SBA has established “principles of affiliation” to determine whether a business concern is “independently owned and operated.” In general, business concerns are affiliates of each other when one concern controls or has the power to control the other, or a third party controls or has the power to control both. The SBA considers factors such as ownership, management, previous relationships with or ties to another concern, and contractual relationships, in determining whether affiliation exists. Individuals or firms that have identical or substantially identical business or economic interests, such as family members, persons with common investments, or firms that are economically dependent through contractual or other relationships, are treated as one party with such interests aggregated when measuring the size of the concern in question. The SBA counts the receipts or employees of the concern whose size is at issue and those of all its domestic and foreign affiliates, regardless of whether the affiliates are organized for profit, in determining the concern’s size. However, business concerns owned and controlled by Indian Tribes, Alaska Regional or Village Corporations organized pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601), Native Hawaiian Organizations, or Community Development Corporations authorized by 42 U.S.C. 9805 are not considered affiliates of such entities, or with other concerns owned by these entities solely because of their common ownership.

Affiliation may be based on stock ownership when (1) A person is an affiliate of a concern if the person owns or controls, or has the power to control 50 percent or more of its voting stock, or a block of stock which affords control because it is large compared to other outstanding blocks of stock, or (2) If two or more persons each owns, controls or has the power to control less than 50 percent of the voting stock of a concern, with minority holdings that are equal or approximately equal in size, but the aggregate of these minority holdings is large as compared with any other stock holding, each such person is presumed to be an affiliate of the concern.

Affiliation may be based on common management or joint venture arrangements. Affiliation arises where one or more officers, directors or general partners controls the board of directors and/or the management of another concern. Parties to a joint venture also may be affiliates. A contractor or subcontractor is treated as a participant in a joint venture if the ostensible subcontractor will perform primary and vital requirements of a contract or if the prime contractor is unusually reliant upon the ostensible subcontractor. All requirements of the contract are considered in reviewing such relationship, including contract management, technical responsibilities, and the percentage of subcontracted work.

Small organizations. The RFA defines “small organizations” as any not-for-profit enterprise that is independently owned and operated and is not dominant in its field.

Small governmental jurisdictions. The RFA defines small governmental jurisdictions as governments of cities, counties, towns, townships, villages, school districts, or special districts with populations of less than 50,000.

## **5      What is this action?**

The observer communications system (OCS) is a combination of computer hardware and software and communications equipment carried on fishing vessels to facilitate communications between fishing observers and the observer program. By this action, operations already subject to OCS requirements will be required to adopt hardware upgrades to meet current technology standards necessary to support the OCS software and to maintain hardware installed in vessels in a functional mode. Some catcher vessels will be excluded from the requirements, thereby amending an error in the final rule implementing the 1995 OCS requirements, which erroneously included all catcher vessels. This proposed rule would, however, require all catcher vessels required to carry observers during 100 percent of their fishing days to comply with the regulations at 679.50(f) governing the installation and maintenance of necessary equipment supporting the OCS system.

## **6      Need for and objectives of the rule**

The objectives of this action are to reduce the time taken for data collected at sea by observers to reach in-season fishery managers, and to increase its accuracy.

The regulations implementing the Observer Program require observer coverage aboard fishing vessels and shoreside processors that participate in the Alaska groundfish fisheries. Timely communication between the fishing industry and NMFS through catch reports submitted to NMFS by both industry and observers is crucial to the effective in-season monitoring of the groundfish quotas and PSC allowances. The Observer Program collects total catch estimates, and discard, prohibited species catch (PSC) and biological samples that are used for stock assessment purposes. This data is necessary to manage the Alaska groundfish fisheries. The observers also provide information related to compliance with regulatory requirements.

At its June 1995 meeting the Council recommended that NMFS issue regulations to require all catcher/processors, motherships, and shoreside processors that process groundfish to have computer hardware and software that would enable observers to send electronic data to NMFS. Catcher/processors and motherships were recommended to have satellite communications technology to allow transmission of the data from the vessel.

Regulations requiring electronic submission of observer reports were implemented in 1995 at 679.50(f) for catcher/processors, motherships and shoreside processors through the application of an observer communications system (OCS), previously referred to as the "ATLAS" system. This system is comprised of specified electronic hardware supplied by the vessel or shoreside processor and dedicated software provided by NMFS which together allow observers to communicate daily with NMFS, including transmitting data. This permits real-time data processing, improves the timeliness of data available to managers, and allows managers to assess daily activities of the fishing fleet. Industry, and the Nation as a whole, has benefitted from this through fishery closures that more accurately reflect actual catch levels,

and which facilitate conservation and optimal management of this valuable living marine resource.

In a letter dated February 7, 2000, NMFS informed the Council that the agency intended to initiate rulemaking that would implement upgrades in the specifications for required hardware and software that support the OCS, and would extend these requirements to some catcher vessels. At its February 2000 meeting, the Council noted its support for this initiative.

Hardware Upgrades. Current regulations stipulate that any vessel required to carry one or more observers must facilitate transmission of observer data to NMFS by providing computer and communications equipment which meet certain specifications. Hardware requirements specified in these regulations to support OCS were considered state of the art at the time they were implemented in 1995. Computer technology has advanced at a rapid rate since then. As a result, the current minimum hardware requirements are technologically out of date and are difficult to maintain or even obtain. The OCS software application developed by NMFS for at-sea communication with observers has been updated recently to be more effective and now requires more powerful computers on which to run. Requiring the updated hardware is necessary to meet current technology standards.

Included in this hardware update is a requirement that allowable communications equipment provide point-to-point communications. This is necessary to support all the operations that OCS requires. A point-to-point communications system allows a computer with OCS software to connect directly to the NMFS host computer and modem. Point-to-point communication connections would allow direct confidential communication between NMFS and observers, which has been shown to be necessary for effective problem solving in various at sea situations. Examples of communication systems which provide point to point communications are INMARSAT Standard-A, Standard-B, mini-M, and Iridium. Vessels using INMARSAT Standard C terminals and associated software to transmit data, which are allowed under current regulations, do not provide point-to-point communication connections. The inability of INMARSAT Standard C to allow observers and NMFS to maintain secure communications without interfacing with vessel personnel is of particular concern.

Functionality. Current regulations requiring the communications equipment aboard vessels to support OCS do not require that the hardware be functional. The equipment would be considered functional when specified equipment aboard a vessel can initiate a data transmission to a device, such as a satellite, that provides a point-to-point communication connection with minimum specifications outlined in the regulations. The vessel would not be responsible for ensuring the actual reception of the data by the satellite or other device. Regulations for shoreside processor communication equipment do require the equipment to be maintained in a functional mode.

The inadvertent omission of an equipment functionality requirement for vessels has resulted in NMFS' inability to receive electronic observer data from up to nine catcher processors (approximately 10 percent of all catcher processors required to have this equipment) which have not properly installed or maintained the communications equipment. Additionally, other vessels have taken up to seven months to repair or complete initial installation of functional equipment. This has compromised in-season monitoring of harvest quotas and has resulted in or contributed to events leading to quotas being exceeded.

Catcher Vessel Requirements. Current regulations stipulate that any vessel required to carry one or more observers must facilitate transmission of observer data to NMFS by providing equipment meeting specifications outlined by regulations cited above. The original intent of the regulations was to apply

these requirements to all catcher/processors, motherships, and shoreside processors subject to observer coverage requirements. Catcher-only vessels were not intended to be included in these requirements. The proposed rule for implementing these regulations (60 FR 45393, August 31, 1995) and the preamble to the final rule (61 FR 63759, December 2, 1996) correctly reflect the original intent to restrict the requirements to catcher/processor vessels, motherships, and shoreside processors.

However, the regulatory language in the final rule incorrectly extends the regulations to all vessels subject to observer coverage, including all catcher vessels. This proposed rule would correct that error by amending the requirement so that it does not include indiscriminately all catcher vessels, but would require all catcher vessels that are required to maintain 100 percent observer coverage as specified in regulations at §679.50(c)(1)(iv) to install and maintain hardware and software supporting the OCS communications system as amended in this proposed rule. This requirement would improve the timeliness, and the quality, of data collected from the observer program and used for fisheries management.

Prior to 2000, all shoreside harvest data from processors were faxed to NMFS in a weekly production report. Weekly submission of these reports roughly matched the availability of observer data from shoreside processors. In 2000, an electronic reporting system (distinct from OCS) was implemented to replace the weekly production report. Daily electronic reports from shoreside processors of shoreside deliveries provide NMFS with landings information within one day of a delivery. This allows for partial real-time management of the groundfish species such as pollock, that are specifically allocated to the inshore sector or of harvest restrictions specific to catcher vessels under the American Fisheries Act sideboard provisions. However, availability to NMFS of observer PSC and discard data for a given delivery does not match the timeliness of the landings data.

The necessary timely monitoring for in-season management of PSC and discard data is not possible under the observer data reporting system currently used by catcher vessels delivering to inshore processors. Shoreside catcher vessel observers opportunistically transmit data via fax to NMFS from a shoreside processor, which can be between 5 and 14 days after a given haul was made. This delay is caused in part by the fact that an observer usually must return to sea immediately upon completion of the delivery, leaving no time for the observer to compile data into a format appropriate for fax transmission to NMFS, most often several hours worth of work. Once received by NMFS, the faxed data subsequently must be hand entered into an electronic database, further delaying the availability to in-season managers. Even if a catcher vessel observer had time available for data compilation and transmission from the shoreside processor, logistical problems remain. Shoreside processors do support OCS communication systems for transmission of observer data. However, OCS software on these systems is designed specifically for shoreside processor applications and does not support observer data collected at sea. While the shoreside system could be adapted to support data collected by vessel observers, other logistical problems prevent reliable use of these systems by catcher vessel observers. For example, offices that house this equipment at the shoreside processors generally are not open 24 hours a day, while deliveries may be completed at any time during the day.

Installation of OCS software aboard catcher vessels, in combination with point to point modem communication capability, would allow daily electronic transmission of catch data. This would provide NMFS with observer data from catcher vessels within 24 hours of receiving their delivery reports from the shoreside processor. At-sea discards and PSC could then be accounted for together with the landings data in real-time for each OCS-equipped vessel. Such real-time in-season management would be expected to result in fisheries closures that better approximate actual quotas.

Availability of timely data on PSC by this sector of the fleet, which is largely made up of AFA-qualified catcher vessels that are members of inshore cooperatives, would improve the in-season management of the BSAI pollock and Pacific cod trawl fisheries. In the BSAI pollock trawl fishery, salmon and herring PSC are of concern, and in the BSAI Pacific cod trawl fishery, halibut bycatch is of concern. Although the few Pacific cod trawl fishery closures that have occurred since 1998 have been based primarily on TACs being reached, prior to 1998, BSAI Pacific cod trawl fishery closures were based on halibut bycatch allowances being caught before the TAC was reached. Improved timeliness of PSC data transmission would allow NMFS resources to be reallocated to processing faxed data received from observers aboard vessels that are subject to 30 percent coverage requirements. Overall this would result in expedited availability to managers and improved quality of all in-season data from all catcher vessels in the BSAI and the GOA. This timely information is also of benefit to industry through access via NMFS web sites. Fleets coordinate their activity to avoid by-catch hot spots, reducing costly PSC closures. This can only work where rapid access to the information is available.

Additional need for more timely harvest data from catcher vessels comes from management measures implemented to temporally and spatially disperse some groundfish fisheries in near shore areas of the EEZ off Alaska (68 FR 204, January 2, 2003). These measures were developed in response to a Biological Opinion initiated as part of a formal consultation under Section 7 of the Endangered Species Act on the impact of Federally-managed groundfish fisheries on endangered Steller sea lions in Alaska. The measures involve some time-area restrictions for the pollock, Pacific cod and Atka mackerel fisheries including harvest limits in Steller sea lion critical habitat. To ensure compliance with these measures, levels of groundfish harvest must be monitored on a real-time basis.

In addition to timeliness, data quality is important for management. Observer data quality problems can have a significant impact on PSC estimates and fishery closure projections. Resulting management errors can include early closure of a fishery, which results in direct lost revenue to the fleet, or over harvest of a PSC fishery allowance, which can impact other fisheries as the total annual PSC limit is reached. The OCS program provides several advantages and improvements to NMFS' current management systems which result in higher quality data. These include:

- Improved data recording efficiency. Observers using OCS initially record data on deck forms. These data are then entered into the vessel's computer and sent electronically to NMFS. Data received by NMFS are automatically screened for errors and may be accessed by users in a database in a timely manner. Without OCS, data are transcribed from deck forms to paper and faxed to NMFS for subsequent electronic entry. Less paperwork provides observers with more time to dedicate to sampling.
- Consistent, secure communications with observer program staff and a reduction in the overall frequency of errors. OCS communications allow NMFS to assign to each deployed observer an in-season advisor who screens data for errors and advises the observer throughout their deployment, resulting in improved observer performance and a reduction in errors. The quality of timely data available for in-season management decisions is thus greatly improved.
- Faster, more efficient, and higher quality debriefing. The OCS application automatically screens out many potential data errors at the point of entry. These data are further screened by the in-season advisor, and all data are again screened by computer programs and corrected at the point of debriefing. These processes eliminate hand checking of paper data forms, further reducing debriefing time and allowing for faster availability of the final data.

## 7      **Public Comments**

The proposed rule was published in the *Federal Register* on July 25, 2002 (67 FR 48604). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed rule, and described in the classifications section of the preamble to the rule. The public comment period ended on August 26, 2002. No comments were received on the proposed rule.

## **8 Number and description of small entities affected by the proposed action**

### ***What are the directly regulated entities?***

The entities that would be regulated by the proposals are the BSAI and GOA entities operating catcher-processors, motherships, shoreside processors, required to maintain one or more observers, and catcher vessels required to have 100% observer coverage.

### ***Number of small directly regulated entities***

Estimates of the number of small directly regulated entities, by category, are summarized in the following table. As noted in Section 4, fishing operations grossing \$3.5 million or less are considered to be small entities for the purposes of the RFA. Data available for 2000 indicate that 34 of the 91 catcher/processors active that year, and that all of the catcher vessels active that year, grossed less than \$3.5 million (Hiatt, pers. comm.). All of the motherships were assumed to be large entities. Small shoreside processors are those that have fewer than 500 employees. Information that would allow the categorization of shoreside processors as large and small is not as readily available, partly because of the very complicated network of relationships among firms. The numbers of large and small shoreside processors were estimated on the basis of information from phone calls to selected plants, data from State of Alaska Department of Employment reports on employment in large Alaska business firms, and information from NMFS staff familiar with the industry. CDQ groups are non-profits and are therefore small by definition. Small and large vessel estimates are summarized in the table below.

### **Estimated numbers of small entities**

Fleet segment	Number small	Number large	Total
Catcher/processors	34	57	98
Motherships	0	3	3
Processing plants	5	22	27

Catcher vessels (100%)	31	0	31
Catcher vessels (30%)	389	0	389
CDQ groups	6	0	6

Note: These estimates probably overstate the numbers of small entities. They are based on gross revenues from groundfish fishing off of Alaska only. Revenues from fishing for other species inside of Alaska, or fishing outside of Alaska, or from non-fishing activity are not included. Moreover, the estimates do not take account of affiliations among vessels or between fishing vessels and shore based processing plants.

## 9 Recordkeeping and reporting requirements

The FRFA should include “a description of the projected reporting, record keeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record...”

This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities. Although the proposed changes in the OCS communications requirements require some new expenditures by small entities, they contain no new or revised record keeping or reporting requirements for those entities. The OCS requirements will not affect private sector record keeping requirements; they will facilitate communication of reports that are already required from observers.

## 10 Description of significant alternatives

A FRFA should include “a description of the steps the agency has taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the impact on small entities was rejected.”

Four alternatives to the proposed action were considered. Their impacts on small entities, and the reasons they were not chosen, are described in the following table.

### Alternatives considered for this action

Alternative	Description	Impact on directly regulated small entities	Why not chosen if better for directly regulated small entities?
Alt A	Status quo	No impact on small entities	Does not meet the objectives of this action

Alt B	<b>Catcher/processors, motherships, shoreside processors</b>	This would require upgrades and functionality. While many operations appear to meet the requirements, others may not. 37 catcher processors and five shoreside processors are small. The burden on small entities is less than that for the preferred alternative, because the requirements are not applied to any catcher vessels.	This alternative would have had a smaller impact on small entities, because it doesn't regulate the catcher vessels. However, this alternative was rejected because it failed to meet objectives for more timely and accurate data from the catcher vessels. This alternative does nothing to speed up data transmission from catcher vessels. This alternative doesn't address data quality concerns. Catcher vessel data would continue to be collected by fax, and would have to be entered by hand at the observer program creating opportunities for errors. Opportunities for in-season advisor data screening and debriefing would remain limited. Because of this it did not meet the objectives of the action.
Alt C	<b>All categories covered by Alt. B and 100% observed catcher vessels</b>	This would have imposed the upgrade and functionality requirements on catcher processors, motherships and shoreside processors. Moreover, it would have clarified that these requirements applied to catcher vessels required to have 100% observer coverage (vessels over 125 feet, unless they used pot gear).	This is the preferred alternative.
Alt D	<b>All categories covered by Alt. C and 30% observed catcher vessels</b>	This alternative would have had greater impacts on small entities than the preferred alternative. It included the coverage requirements of the preferred alternative, but it extended them to catcher vessels requiring only 30% observer coverage. This would have included vessels between 60 and 125 feet length overall, and pot fishing vessels.	This alternative would have had greater adverse impacts on small entities. It was not chosen for this reason, and because of difficulties in keeping equipment in working order during the 70% of fishing days when observers would not be on board.
Alt E	<b>All categories covered by Alt. B and additional data processing resources to speed up data processing for catcher vessels</b>	This alternative has a smaller impact on small entities than the preferred alternative because it does not extend any OCS requirements to catcher vessels. Instead, it depends on an additional commitment of data processing resources to reduce the time taken for data processing and delivery of the data to in-season managers.	This alternative would have had a smaller impact on small entities, because it doesn't regulate the catcher vessels. However, this alternative was rejected because it failed to meet objectives for more timely and accurate data from the catcher vessel sector. While this alternative speeds the processing of catcher vessel data by the observer program and reduces the time for its transmission to in-season managers, it was unable to speed up the transmission of data from the observers in the field to the program data processing staff. This alternative doesn't address data quality concerns. Catcher vessel data would continue to be collected by fax, and would have to be entered by hand at the observer program creating opportunities for errors. Opportunities for in-season advisor data screening and debriefing would remain limited. Because of this it did not meet the objectives of the action.

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## **Literature cited** (during preparation of the EA/RIR/IRFA and FRFA)

Fried, Neal. (2001) "Alaska's largest private sector employers in 2000." *Alaska Economic Trends*. August 2001.

Hiatt, Terry and Joe Terry. (2000). "Stock Assessment and Fishery Evaluation Report for the Groundfish Fisheries of the Gulf of Alaska and Bering Sea/Aleutian Island Area: Economic Status of the Groundfish Fisheries Off Alaska, 1999. (Groundfish Economic SAFE report). Resource Ecology and Fisheries Management Division, Alaska Fisheries Science Center, NMFS. November 10, 2000.

Karpoff, Jonathan M. (1984) "Insights from the Markets for Limited Entry Permits in Alaska." *Canadian Journal of Fisheries and Aquatic Sciences*. 41(8):1160-1166. 1984.

NMFS. (2001a). *Alaska Groundfish Fisheries. Draft Programmatic Supplemental Environmental Impact Statement.* January, 2001. Available at <http://www.fakr.noaa.gov/sustainablefisheries/seis/intro.htm>. Accessed December 3, 2001.

NMFS. (2001b). “Fisheries Management and Enforcement Issues Related to Proposals for a Steller Sea Lion Reasonable and Prudent Alternative.” Draft Discussion Paper Prepared by NMFS, Alaska Region, Sustainable Fisheries Division for the Council’s SSL RPA Committee, May 9, 2001 meeting. Juneau: May 4, 2001.

Rosen, Harvey S. (1988) *Public Finance*. 2<sup>nd</sup> edition. Irwin. Homewood, ILL: 1988.

Smoker, Janet. (2001). Owner of *Fisheries Information Services*, a fisheries consulting firm located in Juneau, Alaska. October 23, 2001.

Terry, Joe. (2000) Economist. National Marine Fisheries Service. Alaska Fisheries Science Center. Personal communication. November 21, 2000.

U.S. Office of Management and Budget. (1992) “Circular A-94 Revised. Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs.” With January 2001 revisions to Appendix C, “Discount rates for cost-effectiveness, lease purchase, and related analyses.” Available from <http://www.whitehouse.gov/omb/circulars/a094/a094.html> on March 30, 2001.