

regulations, except that the Suk Carney Pool in Area 8 is open only from December 15 through September 15.

(2) Fishing is permitted in all waters of Area 3 that are located south of the Turkey Track Road and north of the Sprague-Matbar Road including the Goose and Sprague Pools from December 15 through March 15 and from June 1 through September 15.

(3) Non-motorized boats are permitted in all areas that are open at the time of fishing.

15. Section 83.55 is amended by adding new paragraph (a)(3) as follows:

§ 83.55 Pacific Islands Territory.

(a) *Johnston Atoll National Wildlife Refuge.*

(3) Taking of fish by the use of spear "guns" is prohibited. Hand-propelled spears or "Hawaiian Slings" consisting of a single shaft propelled by a rubber tube are permitted for underwater taking of fish.

Dated: March 12, 1991.

Bruce Blanchard,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 91-12887 Filed 5-29-91; 8:45 am]

BILLING CODE 4310-46-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 901184-1042]

Groundfish of the Gulf of Alaska

Agency: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure; request for comments.

SUMMARY: The Director, Alaska Region, U.S. (Regional Director), has

determined that the remaining share of total allowable catch amounts

(TACs) for sablefish allocated to hook-and-line gear in the combined Southeast Alaska/East Yakutat District of the

Eastern Regulatory Area (SEO/EYK) of the Gulf of Alaska for the 1991 fishing

year is needed as a bycatch amount to support directed fisheries in that area

and remaining groundfish species. The Secretary of Commerce is prohibiting

directed fishing for sablefish by using hook-and-line gear in the

SEO/EYK. This action is necessary to

maintain the hook-and-line share of TAC in that area from being

exceeded before the end of the fishing

year. The intent of this action is to promote optimum use of groundfish while conserving sablefish stocks.

DATES: Effective from 12 noon, Alaska local time (A.L.T.), on May 25, 1991, through December 31, 1991. Comments are invited for 15 days following the effective date of this notice.

ADDRESSES: Comments should be mailed to Dale R. Evans, Chief, Fisheries Management Division, National Marine Fisheries Service, P.O. Box 21666, Juneau, Alaska 99802-1666, or be delivered to 9109 Mendenhall Mall Road, Federal Building Annex, Suite 6, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone within the Gulf of Alaska (GOA) management area under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and was implemented by regulations appearing at 50 CFR 611.82 and parts 620 and 672.

Section 672.20(a)(1) of the implementing regulations establishes an optimum yield (OY) range of 116,000 to 800,000 metric tons (mt) for all groundfish species in the GOA management area. The TAC for target species and the "other species" category are specified annually within the OY range and are apportioned among the regulatory areas and districts.

The 1991 TAC specified for sablefish in the SEO/EYK District is 4,960 mt (March 1, 1991, 56 FR 6723). The portion of that TAC assigned to hook-and-line gear is 4,700 mt.

Under §§ 672.20(c)(2) and 672.24(c)(3)(i), if the Regional Director determines that the share of the sablefish TAC assigned to any type of gear in any regulatory area or district is likely to be reached, the Regional Director may establish a directed fishing allowance. In establishing a directed fishing allowance, the Regional Director shall consider the amount of sablefish that will be taken as incidental catch in directed fishing for other species in the same regulatory area or district. If the Regional Director establishes a directed fishing allowance and that allowance is or will be reached, he will prohibit directed fishing for sablefish in the specified regulatory area or district by that gear type.

The Regional Director has determined that the remaining hook-and-line gear

share of sablefish in the SEO/EYK District of the Eastern Regulatory Area, 235 mt, will be necessary as bycatch to support remaining groundfish fisheries in that district. With this action the Regional Director is establishing a directed fishing allowance of 4,465 mt for the SEO/EYK and is prohibiting directed fishing for sablefish taken with hook-and-line gear in the SEO/EYK District of the Eastern Regulatory Area, effective 12:00 noon, A.L.T., May 25, 1991. After the closure, in accordance with § 672.20(g)(2), amounts of sablefish retained on board hook-and-line vessels in the SEO/EYK District of the Eastern Regulatory Area at any time during a trip must be less than 4 percent of the total amount of all other fish species retained at the same time by the vessel during the same trip.

Classification

This action is taken under §§ 672.20 and 672.24 and is in compliance with Executive Order 12291.

Immediate effectiveness of this notice is necessary to prevent excessive harvest of sablefish by hook-and-line gear that will occur if amounts of the sablefish TACs that are allocated to hook-and-line gear are exceeded and retention of sablefish is prohibited. Therefore, the Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay its effective date. However, interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 672

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: May 24, 1991.

David S. Crestine,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 91-12773 Filed 5-24-91; 2:55 pm]

BILLING CODE 3510-22-M

50 CFR Part 683

[Docket No. 910354-1111]

RIN 0648-AD74

Western Pacific Bottomfish and Seamount Groundfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment 4 to the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP). This rule requires bottomfish vessel operators intending to fish within 50 nautical miles (nm) of certain islands in the Northwestern Hawaiian Islands (NWHI) to notify NMFS prior to such fishing and to carry observers aboard their vessels if directed to do so by the Director, Southwest Region, NMFS (Regional Director). This rule also authorizes the Regional Director to change the size of the area in which observers might be required after consultation with the Western Pacific Fishery Management Council (Council). This action is intended to ensure adequate collection of data on interactions between the bottomfish fishery and marine mammals or endangered and threatened species in the NWHI. This rule also standardizes the fishing permit application process and contains a technical revision to clarify the restriction against overlapping permits for the Ho'omaluu and Mau Zones in the NWHI.

EFFECTIVE DATE: This action becomes effective at 0000 hours local time May 28, 1991.

ADDRESSES: Copies of the amendment are available from Kitty B. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1405, Honolulu, HI 96813 (808-523-1368).

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California (213) 614-6660, or Alvin Katakara, Pacific Area Office, Southwest Region, NMFS, Honolulu, Hawaii (808) 955-8831.

SUPPLEMENTARY INFORMATION: This rule implements Amendment 4 to the FMP, which was prepared by the Council and approved by the Secretary of Commerce in 1985. This amendment is intended to ensure that fishing under the FMP will not result in adverse impacts on endangered and threatened animals in the NWHI.

Prior to implementation of the FMP, NMFS issued a biological opinion pursuant to section 7(b) of the Endangered Species Act (ESA) concerning the potential impacts on threatened and endangered species associated with the bottomfish and seamount groundfish fishery. The opinion stated that the proposed FMP would not likely jeopardize any threatened or endangered species nor

adversely affect any critical habitat for such species, and the opinion recommended that NMFS and the Council document marine mammal and sea turtle interactions with the fishery. Criteria also were established for reinitiating consultation under the ESA. The main concern with regard to the bottomfish fishery has been entanglement of Hawaiian monk seals and turtles with fishing gear; therefore, the FMP prohibits the use of bottom set gill nets and bottom trawls in the NWHI.

However, concerns about the impact of the fishery on monk seals were deepened as a result of reports received in April 1990 that monk seals were being hooked by pelagic longline fishermen in the NWHI. The NMFS Honolulu Laboratory sent a field party to French Frigate Shoals in May to conduct a survey of the monk seals and turtles on the beaches for evidence of interaction with the pelagic fishery. Nine dead monk seals were found, well within the range for numbers of carcasses normally reported each year, but injuries were observed on several animals ranging from gaping wounds to abrasions that could not be attributed to shark attack, male monk seal harassment, or other natural causes.

NMFS Special Agents interviewed captains and crews of 28 vessels returning from the NWHI. Insufficient information was received for agents to take enforcement action; however, there was enough consistency in the reports to raise concern that measures were needed to obtain definitive information on possible impacts from the longline fishery as well as the bottomfish fishery.

At a meeting on June 20, 1990, the Council heard reports from its Pelagic Plan Monitoring Team and its Scientific and Statistical Committee on the dramatic increase in the number of vessels in the Hawaiian pelagic longline fishery. The reports indicated the possible effects this increase might have on the harvest and stocks of pelagic resources and discussed the potential for interactions between the pelagic longline and bottomfish fisheries and protected species, primarily the Hawaiian monk seal.

The Council voted to propose that NMFS implement the following emergency actions: (1) A permit and logbook reporting system for the pelagic longline fishery; and (2) a program to place observers on selected longline and bottomfish vessels operating within a 50-nm study zone around certain islands in the NWHI. Permit requirements were already in effect for the bottomfish fishery. The Council indicated it would follow up with an FMP amendment to

institute these measures on a permanent basis.

NMFS concurred with the Council's request and promulgated emergency regulations for the NWHI bottomfish fishery effective for a 90-day period beginning November 27, 1990 (56 FR 49050, November 28, 1990). The regulations were extended for a second 90-day period ending May 25, 1991 (56 FR 5159, February 8, 1991). The regulations stipulate that no bottomfish vessel can fish within 50-nm of certain islands in the NWHI (French Frigate Shoals, Gardner Pinnacles, Laysan Island, Lisianski Island, Pearl and Hermes Reef, Midway Islands, and Kure Island), unless the operator of the vessel has provided the Regional Director with an opportunity to place an observer aboard the vessel for that trip to document whether there are any interactions with protected species and if so, the particulars of the interactions. The estimated cost to NMFS for placing observers on selected bottomfish vessels was \$60,000 per year, based on an estimate of 15 observer trips per year using staff in Honolulu.

The primary reason the Council proposed this observer requirement on an emergency basis was the precarious condition of the Hawaiian monk seal, listed as an endangered species under the Endangered Species Act, which made it imperative that accurate and site-specific data on interactions be collected immediately. If interactions were in fact occurring, then the effects of such interactions could be evaluated and solutions to any problems could be identified quickly. Therefore, in the Council's and NMFS' view, it was crucial that the rule go into effect on an emergency basis. This concern deepened after further reports, in January 1991, of monk seals observed with hooks embedded in their bodies and severe injuries that appear to be the result of interactions with longline fishing operations.

Amendment 4 implements these emergency measures for the bottomfish fishery on a permanent basis. In the Council's view, the conditions that generated the need for emergency action continue to exist, and implementation of Amendment 4 will provide for continuation of data collection necessary to arrive at long-term solutions to conservation problems facing the bottomfish fishery.

The proposed rule to implement Amendment 4 was published at 56 FR 11166 (March 15, 1991). With the Council's concurrence, the proposed rule varied from the emergency rule in several ways. In addition to continuing

the requirement of notifying the Regional Director before fishing within 50-nm of the islands listed in the emergency rule, the proposed rule would extend this requirement to include the waters within 50-nm of Nihoa Island, Necker Island, and Maro Reef. These areas are referred to as protected species study zones. These regulations would also authorize the Regional Director to adjust the size of the protected species study zones after consultation with the Council, if the Regional Director determines that the fishery is not adversely affecting any threatened or endangered species. The final rule adds a definition of protected species study zones for clarification throughout the rule.

The proposed rule also proposed revision of certain permit application requirements, consistent with the streamlining of the permit process for federally permitted fisheries in the western Pacific region. In addition, it proposed a technical correction to § 683.21(a)(4). In that paragraph, the word "groundfish" was proposed to be revised to read "bottomfish," making the paragraph consistent with the original intent and language of the bottomfish fishery limited access program, which was established by Amendment 2 to the FMP. This revision would not affect the stocks or the fishery.

This final rule differs from the proposed rule in one respect. The protected species study zones have been defined as the waters within 50-nm of certain islands of the NWHI, measured from the midpoints of those islands. Coordinates are listed for each island. No other changes in the rule were deemed necessary following public review and comment.

Public Comments Received and Responses

Comment

The Marine Mammal Commission (Commission) recommended that the proposed measure be revised to require annual observer coverage of at least 30 percent of the bottomfish fishing trips to the NWHI to assure that interactions avoid lethal takings of monk seals. The Commission noted that the environmental assessment (EA) for this action suggested that, at 1989 fishing levels, this would be an appropriate level of coverage. The Commission also recommended that the EA for this action be revised to describe evidence of interactions between monk seals and bottomfish fishing vessels that had been observed on bottomfish fishing vessels in the 1990 emergency regulations.

Response

The final rule does not specify a target level of observer coverage due to uncertainty about the level of fishing in the NWHI and the inflexibility that would result if the regulations set forth a specific target. In 1990, there were 15 active vessels in the NWHI, which made 82 trips. However, only four vessels were active in the Ho'omalau Zone (i.e., the limited entry zone) and only 23 trips were made. This is considerably below the 1989 activity level, and NMFS estimates that the 1991 fishery will not be substantially greater than 1990. The Ho'omalau Zone encompasses most of the monk seal habitat in the NWHI. It is quite possible that NMFS will arrange for observer coverage on more than 30 percent of all bottomfishing trips to this area given the relatively low level of fishing activity. On the other hand, if observer reports indicate there is no interaction occurring, it may not be necessary to maintain a 30 percent rate of coverage indefinitely. It would be unnecessarily cumbersome if NMFS were required to amend the regulations whenever it adjusted the rate of observer coverage.

With respect to observer coverage under the emergency rule, two complete bottomfish fishing trips have been observed with no documented interactions to date. It can also be noted that there have been no additional reports since January of monk seals with hooks in them or with injuries suggesting interaction with either the bottomfish fishery or the pelagic longline fishery.

Comment

The U.S. Fish and Wildlife Service (FWS) commented that the process for changing the size of the protected species study zone was predisposed to reducing the size of the zone. FWS also urged that NMFS fully fund and staff the observer program to ensure adequate coverage.

Response

The final rule does not preclude enlargement of the study zone. However, because there is virtually no bottomfish habitat beyond the 50-nm radii of the protected species study zones, it is unlikely there could be any interactions between the bottomfish fishery and monk seals or other protected animals beyond the study zones. With respect to funding of the observer coverage, longline fishing within a new protected species zone in the NWHI has been prohibited by an emergency rule (56 FR 15842, April 18, 1991). Observers who might have been

assigned to longline vessels will be available for assignment to bottomfish fishing vessels. NMFS is committed to placing a sufficient number of observers to ensure a sound basis for future actions if needed to protect monk seals from interactions with the bottomfish fishery.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) has determined that Amendment 4 to the FMP and its implementing rule are necessary for the conservation and management of the bottomfish resources of the Western Pacific Region and are consistent with the Magnuson Fishery Conservation and Management Act (Magnuson Act) and other applicable law.

The Council prepared an EA for this amendment. The Assistant Administrator has determined that there will not be a significant impact on the environment. A copy of the amendment containing the EA may be obtained from the Council (see ADDRESSES).

The Assistant Administrator has determined that this is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. The final rule will not have a cumulative effect on the economy of \$100 million or more, nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. No significant adverse impacts are anticipated on competition, employment, investments, productivity, innovation, or competitiveness of U.S.-based enterprises.

The General Counsel of the Department of Commerce has certified to the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small entities. The reason for this conclusion is that the rule will not impose significant costs on the fishery. The observer program costs generally are borne by NMFS. Observer salaries, provisions, and supplies are paid for by NMFS, and a vessel owner or operator can be reimbursed for insurance costs associated with coverage of the observer. Also, if a vessel is forced to curtail operations due to observer illness or injury, there is a process to reimburse the vessel for lost fishing time. It is recognized that displacement of a crew member by an observer could adversely affect revenues and profits from a particular trip, and the capability of the vessel to carry an observer without severe economic impacts will be among the factors considered in deciding whether an observer should be

required for that trip. In NMFS' view, the impacts on the fishery will be less than if more conservative management (e.g., area closures) were required to ensure that no adverse impacts would occur to monk seals. In summary, no significant impacts are expected. Therefore, a regulatory flexibility analysis was not prepared.

This final rule contains a collection-of-information requirement subject to the provisions of the Paperwork Reduction Act. This requirement was established by the emergency rule as a result of the observer program. Vessel owners or operators who intend to fish within the protected species study zones around the NWHI must notify the Regional Director so that NMFS has the opportunity to place an observer aboard their vessels. Placing observers aboard bottomfish vessels in the NWHI ensures the collection and processing and analysis of data needed for sound management decisions. Observers will ensure the collection of data and document whether there are adverse interactions with protected species and the particulars of the interactions. The public reporting burden for this collection-of-information is 2 minutes for the pre-trip notification. This collection-of-information has been approved by the Office of Management and Budget, OMB Control Number 0648-0214.

This rule also contains a revised reporting requirement whereby information requested from bottomfish permit applicants would be standardized as part of an effort by NMFS to consolidate into one form the different application forms now being used for fisheries permits in the western Pacific region. An applicant for a NWHI bottomfishing permit would use the same application form and provide the same information on vessel owner, vessel operator, and vessel, as a person who applies for a precious corals, crustaceans, or pelagic longline fishing permit. The public reporting burden for this collection-of-information is estimated to average 15 minutes per application. The permit requirement has been approved by the Office of Management and Budget under the title Southwest Region Federal Fisheries Permits (OMB Control Number 0648-0204).

Comments on the collections of information and/or suggestions on how to reduce the burden can be sent to the Regional Director, Southwest Region, NMFS, (see ADDRESSES) and to the Office of Information and Regulatory Affairs, Office of Management and Budget, ATTN: Paperwork Reduction

Projects 0648-0204 and 0648-0214, Washington, DC 20503.

The Assistant Administrator has determined that the final rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of the State of Hawaii. This determination was submitted for review by the responsible state agency under section 307 of the Coastal Zone Management Act. The State of Hawaii agreed with the determination.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12812.

Fishery operations under this rule are not likely to jeopardize the continued existence of any endangered or threatened species or result in destruction or adverse modification of any critical habitat. This conclusion is based on a biological opinion issued by NMFS in May 1991.

Amendment 4 and its implementing regulations will not have an adverse impact on marine mammals.

In order to afford maximum opportunity for public comment and participation, the Administrative Procedure Act (5 U.S.C. 553) requires that, generally, final rules be published not less than 30 days before they become effective. This 30-day period may be shortened or waived if the rulemaking agency publishes with the rule an explanation of what good cause justifies an earlier date. This rule, implementing Amendment 4 to the FMP, makes permanent certain management measures that were promulgated, with a request for public comments, by emergency rule on November 27, 1990. The public has had opportunities to comment on that emergency rule as well as to participate in the development of Amendment 4. The emergency rule is effective through May 25, 1991. To prevent a lapse in the management regime, which includes urgent measures necessary to protect the endangered Hawaiian monk seals, this rule should be effective when the emergency rule expires. However, the public comment period on the proposed rule ended on April 28, 1991, and, although this rule has been published as expeditiously as possible, it is not possible to provide a full 30 days before the emergency measures will expire. Accordingly, good cause is found for making this rule effective on May 28, 1991.

List of Subjects in 50 CFR Part 683

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 23, 1991.

Samuel W. McKean,
Acting Assistant Administrator for Fisheries
National Marine Fisheries Service.

For the reasons stated in the preamble, 50 CFR part 683 is amended as follows:

PART 683—WESTERN PACIFIC BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES

1. The authority citation for part 683 continues to read as follows:

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

2. In § 683.2, the following definitions are added in alphabetical order, to read as follows:

§ 683.2 Definitions.

Pacific Area Office means the Pacific Area Office, Southwest Region, National Marine Fisheries Service, 2570 Dole Street, Honolulu, HI 96822.

Protected species study zones means the waters within a specified distance, designated by the Regional Director pursuant to § 683.29(d) of this part, around the following islands of the NWHI and as measured from the following coordinates: Nihoa Island 23°05' N. 161°55' W., Necker Island 23°35' N. 164°40' W., French Frigate Shoals 23°45' N. 166°18' W., Gardner Pinnacles 25°00' N. 168°00' W., Maro Reef 25°25' N. 170°35' W., Laysan Island 25°45' N. 171°45' W., Lisianski Island 26°00' N. 173°55' W., Pearl and Hermes Reef 27°50' N. 175°50' W., Midway Island 28°14' N. 177°22' W., and Kure Island 28°25' N. 178°20' W. Until further notice by the Regional Director the protected species study zones will encompass waters within 50 nautical miles of the geographical coordinates listed above.

Sexual harassment means any unwelcome sexual advance, request for sexual favors, or other verbal and physical conduct of a sexual nature which has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

3. In § 683.6, new paragraphs (i), (j), and (k) are added to read as follows:

§ 683.6 Prohibitions

(i) Fishing within any protected species study zone in the Northwest Hawaiian Islands without notifying the Regional Director of the intent to fish these zones as required under § 683.29

(j) Fishing without an observer after having been directed to do so by the Regional Director as required under § 683.29.

(k) Forcibly assault, impede, intimidate, interfere with, influence, attempt to influence, or harass (including sexual harassment) an observer by conduct that has the purpose or effect of unreasonably interfering with the observer's work performance, or that creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

4. In § 683.21 paragraphs (a)(4), (b), (d), (e)(2), and (g) are revised to read as follows:

§ 683.21 Permit requirements for the Northwestern Hawaiian Islands.

(a) . . .

(4) No vessel owner may have permits for a single vessel to harvest bottomfish in the Ho'omalau Zone and the Mau Zone at the same time.

(b) *Applications.* (1) An application for a permit under this section must be submitted to the Pacific Area Office by the vessel owner, or a designee of the owner, at least 15 days before the date the applicant desires to have the permit be effective.

(2) Each application must be submitted on a form that is obtained from the Pacific Area Office and contains at least the following information:

(i) Type of application: whether the application is for a new permit or a renewal; and whether it is for the Mau Zone or the Ho'omalau Zone;

(ii) Owner's name, social security number, mailing address, and telephone numbers (business and home);

(iii) Name of the partnership or corporation, if the vessel is owned by such an entity;

(iv) Primary operator's name, social security number, mailing address, and telephone numbers (business and home);

(v) Relief operator's name;

(vi) Name of the vessel;

- (vii) Official number of the vessel;
- (viii) Radio call sign of the vessel;
- (ix) Principal port of the vessel;
- (x) Length of the vessel;
- (xi) Engine horse power;
- (xii) Approximate fish hold capacity;
- (xiii) Number of crew;
- (xiv) Construction date;
- (xv) Date vessel purchased;
- (xvi) Purchase price;
- (xvii) Type and amount of fishing gear carried on board the vessel;
- (xviii) Position of the applicant in the corporation, if the vessel is owned by such an entity;
- (xix) Signature of the applicant; and
- (xx) Date of signature.

(d) Change in application information.

Any change in the information specified in paragraph (b)(2) of this section must be reported to the Pacific Area Office 10 days before the effective date of the change. Failure to report such changes may result in termination of the permit.

(e) . . .

(2) If an incomplete or improperly completed permit application is filed, the Regional Director will notify the applicant in writing of the deficiency. If the applicant fails to correct the deficiency within 15 days following the date of notification, the application will be considered abandoned.

(g) *Renewal.* An application for renewal must be submitted to the Pacific Area Office in the same manner as described in paragraph (b) of this section.

5. A new § 683.29 is added to read as follows:

§ 683.29 Observers.

(a) The owner or operator of a fishing vessel subject to this part shall inform the Pacific Area Office by telephone, (808) 955-8831, at least 72 hours (not including weekends and holidays) before leaving port, of his or her intent to fish within the protected species study zones defined in § 683.2 of this part. The notice must include the name of the vessel, name of the operator, intended departure and return date, and a telephone number at which the owner or operator may be contacted during the business day (8 a.m. to 5 p.m.) to

indicate whether an observer will be required on the subject fishing trip.

(b) The Pacific Area Office will advise the vessel owner or operator of any observer requirement within 72 hours (not including weekends or holidays) of receipt of the notice. If an observer is required, the owner or operator will be informed of the terms and conditions of observer coverage, and the time and place of embarkation of the observer.

(c) All fishing vessels subject to this part must carry an observer when directed to do so by the Regional Director.

(d) The Regional Director may change the size of the protected species study zones defined in § 683.2 of this part:

(1) If the Regional Director determines that a change in the size of the study zones would not result in fishing for bottomfish in the NWHI that would adversely affect any species listed as threatened or endangered under the Endangered Species Act.

(2) After consulting with the Council; and

(3) Through a notice in the Federal Register published at least thirty (30) days prior to the effective date or through actual notice to the permit holders.

(e) All observers must be provided with sleeping, toilet, and eating accommodations at least equal to that provided to a full crew member. A mattress or futon on the floor or a cot is not acceptable in place of a regular bunk. Meal and other galley privileges must be the same for the observer as for other crew members.

(f) Female observers on a vessel with an all-male crew must be accommodated either in a single-person cabin or, if reasonable privacy can be ensured by installing a curtain or other temporary divider, in a two-person cabin shared with a licensed officer of the vessel. If the cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, then a schedule for time-sharing of common facilities must be established and approved by the Regional Director prior to the vessel's departure from port.

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