

Dated: January 31, 2000.
Jamie Rappaport Clark,
Director, U.S. Fish and Wildlife Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 981221311-9096-02; I.D. 021400F]

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to Required Observer Coverage

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.
ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment to reduce certain observer coverage requirements for some catcher vessels and shoreside processors participating in the Western Alaska Community Development Quota (CDQ) fisheries. This action is necessary to increase the availability of experienced and trained observers to effectively manage the CDQ fisheries in the Bering

Sea and Aleutian Islands Area. It is intended to increase the flexibility of observer contractors in deploying CDQ observers and to decrease costs to the vessels and processors participating in the CDQ fisheries.

DATES: Effective March 6, 2000, through December 31, 2000. Comments must be received at the following address no later than 4:30 p.m., A.I.T., March 9, 2000.

ADDRESSES: Comments may be mailed to Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel. Hand delivery or courier delivery of comments may be sent to the Federal Building, 709 West 9th Street, Room 453, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907-586-7389.

SUPPLEMENTARY INFORMATION: NMFS manages fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The North Pacific Fishery Management Council (Council) prepared the FMP under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Regulations

governing fishing by U.S. vessels and implementing the FMP appear at 50 CFR parts 600 and 679.

On June 4, 1998 (63 FR 30381), NMFS published a final rule implementing catch monitoring and observer coverage requirements for all vessels and processors participating in the multispecies (MS) CDQ fisheries. On April 26, 1999 (64 FR 20210), NMFS extended these requirements to vessels equal to or greater than 60 ft (18.3 m) length overall (LOA) that participate in the halibut CDQ fishery. These regulations were implemented because in the CDQ fisheries, all groundfish and prohibited species catch by vessels fishing for CDQ groups accrue against the CDQ groups' individual allocations. Because individual vessels, processors, and CDQ groups are accountable for the catch of groundfish and prohibited species, the catch monitoring standards must be more stringent than in many other fisheries. These final rules also implemented experience and training requirements for observers that, in most cases, exceeded the requirements in the non-CDQ fisheries.

Table 1 summarizes the current observer coverage requirements for the CDQ fisheries at 50 CFR 679.50(c) and (d). Table 2 summarizes the experience requirements necessary for a CDQ observer and a lead CDQ observer at 50 CFR 679.50(h).

Table 1. Current Observer Coverage Requirements for the CDQ Fisheries.

Category	CDQ Observer Requirements
Catcher vessel, < 60 ft	none
Catcher vessel, ≥ 60 ft	1 lead CDQ observer (obs.)
Catcher/processor, mothership	2 total (1 lead CDQ obs., 1 CDQ obs.)
Shoreside processor	1 lead CDQ obs. for each CDQ delivery, except deliveries from catcher vessels < 60 ft LOA fishing halibut CDQ

Table 2. Requirements for CDQ Observer and "Lead" CDQ Observer in 50 CFR 679.50

CDQ Observer Classification	Experience Requirements
All CDQ observers	Prior experience as an observer with 60 days observer data collection, - Minimum evaluation rating of 1 or 2, - Successfully complete CDQ observer training course
ADDITIONAL REQUIREMENTS FOR "LEAD" CDQ OBSERVERS	
Lead observer on a factory trawler or a mothership	At least 2 cruises (contracts) and sampled at least 100 hauls on a factory trawler or a mothership.
Lead on catcher vessel using trawl gear	At least 2 cruises (contracts) and sampled at least 50 hauls on a catcher vessel using trawl gear.
Lead on vessel using nontrawl gear	At least 2 cruises (contracts) of at least 10 days each and sampled at least 60 sets on a vessel using nontrawl gear.
Lead in shoreside plant	Observed at least 30 days in a shoreside processing plant.

At the time of initial implementation of the MS CDQ Program, lead CDQ observers were required on all vessels and in the shoreside processing plants because NMFS believed that the CDQ

observers needed prior experience on a vessel using the same gear type or in a shoreside plant in order to collect the data needed to manage the CDQ fisheries. However, after reviewing the

first year of the MS CDQ fisheries in December 1999, NMFS believes that reductions in some CDQ observer coverage requirements could be made without reducing the quality or quantity

of data collected by observers to manage the CDQ fisheries. This action would remove the requirement for a CDQ observer in some shoreside processing plants; reduce the requirement from a lead CDQ observer to a CDQ observer at other shoreside processing plants and on some catcher vessels; and allow the CDQ observer on some catcher vessels to monitor the delivery in the shoreside processing plant.

These reductions in observer coverage requirements for the CDQ fisheries are being made under an inseason adjustment allowed under 50 CFR 679.50(e). This regulation allows the Administrator, Alaska Region, NMFS (Regional Administrator), to adjust the observer coverage requirements in 50 CFR 679.50(c) and (d) to improve the accuracy, reliability, and availability of observer data as long as changes are based on a finding that: (1) fishing methods, times, areas, or catch or bycatch composition for a specific fishery or fleet component have changed significantly, or are likely to change significantly; or (2) such modifications are necessary to improve data availability or quality in order to meet specific fishery management objectives.

NMFS finds that the second condition is applicable in this case. These reductions in observer coverage requirements are necessary to improve data availability in order to meet specific fishery management objectives for the CDQ Program for the following reasons. 1999 was the first full year of fishing under new requirements for CDQ observers who have prior experience and additional training, and for lead CDQ observers who have prior experience on vessels with specific gear types or in shoreside processing plants. Some vessels and processors had difficulty obtaining CDQ observers that met the criteria as a lead CDQ observer for the particular vessel or processor type. When an observer is not available, the vessel operator or processing plant manager must decide between not fishing or taking a delivery when they want to, or not complying with the observer coverage requirements. An inseason adjustment to observer coverage requirements in the CDQ fisheries will reduce the need for lead CDQ observers for some vessels and processors, thereby increasing the availability of CDQ observers for all CDQ fisheries and increasing the flexibility of the observer contractors in selecting observers for deployment in the CDQ fisheries. Also, this action will reduce the possibility that vessels and processors participating in the CDQ fisheries will do so without the required observer coverage.

NMFS is developing proposed rulemaking that would permanently implement these reductions in future years. However, it is unlikely that this rulemaking would be implemented until late in 2000. An inseason adjustment would accomplish the recommended reductions in observer coverage and improve the chances of obtaining quality data to manage the CDQ fisheries in 2000. Therefore, in accordance with § 679.50(e), the Regional Administrator makes the following adjustments in observer coverage and experience requirements:

1. The requirement for a lead CDQ observer on all catcher vessels using trawl gear will be reduced to require only a CDQ observer. This reduction is justified because the vessel must retain all groundfish CDQ and salmon prohibited species quota (PSQ) and deliver it to a shoreside processor, where it is sorted by species, weighed, and reported to NMFS. The observer on the vessel estimates the at-sea discards of halibut PSQ and crab PSQ and monitors compliance with retention requirements. NMFS believes that these duties can be performed adequately by a CDQ observer who has prior observing experience and that the vessel-specific experience is not necessary.

2. The requirement for a lead CDQ observer on a catcher vessel using nontrawl gear and choosing to retain all groundfish CDQ species (Option 1 defined at 50 CFR 679.32(c)(2)(ii)(A)) will be reduced to require only a CDQ observer. Catcher vessels ≥ 60 ft (18.3 m) LOA using nontrawl gear may select one of two options as the basis for CDQ catch accounting. Option 1 requires the vessel operator to retain all CDQ species and deliver them to a processor where they are sorted by species, weighed, and reported to NMFS. Under this option, CDQ catch accounting is based on the processor's reports for groundfish CDQ on the observer data for halibut PSQ. NMFS believes the gear specific experience of a lead-CDQ observer is unnecessary. NMFS will continue to require a lead CDQ observer on catcher vessels using nontrawl gear that choose to use observer data as the basis for all CDQ catch accounting (Option 2 defined at 50 CFR 679.32(c)(2)(ii)(B)).

3. The requirement for a CDQ observer of any type at the shoreside plant to monitor deliveries from catcher vessels using nontrawl gear and selecting Option 2 would be removed entirely. Under Option 2, only data collected by the observer on the catcher vessel is used for CDQ catch accounting. Therefore, a lead CDQ observer or a CDQ observer is not necessary at the

plant to monitor the sorting and weighing of the CDQ delivery.

4. The requirement for a lead CDQ observer in a shoreside processing plant to monitor CDQ deliveries, except deliveries from catcher vessels using nontrawl gear and selecting Option 2, would be reduced to require only a CDQ observer. NMFS has determined that experience in a shoreside plant is not necessary for the observer to adequately monitor the sorting and weighing of CDQ deliveries.

5. The observer coverage requirements for shoreside processors taking CDQ deliveries from catcher vessels equal to or greater than 60 feet (18.3 m) length overall (LOA) using nontrawl gear and using Option 1 (full retention) for CDQ catch accounting will be reduced to allow the vessel observer to monitor the CDQ delivery in the processing plant. A separate CDQ observer for the shoreside processor is not necessary if the vessel observer can monitor the sorting and weighing of catch at the shoreside processor without exceeding the statutory working hour limits. Under this revision, the shoreside processor could still choose to provide an additional observer at the processing plant if the shoreside processor did not want its activities to be limited by the working hour limits for the vessel observer.

Classification

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment of this action is impracticable and contrary to the public interest. Without this inseason adjustment, NMFS anticipates increased noncompliance with observer coverage requirements and an overall reduction in the level and quality of observer data. This impact is undesirable and potentially detrimental to the management of the North Pacific groundfish fisheries. Further, the interim adjustment relieves a restriction on affected industry members. Under §§ 679.50(e) and 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 9, 2000. This action is authorized by §§ 679.50 and 679.25 and is exempt from review under Executive Order 12866.

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

Dated: February 16, 2000.

Bruce C. Morehead,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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