

Dated: November 13, 2000.

Penelope D. Dalton,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

Dated: November 8, 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 660

[Docket No. 000831250-0250-01; 102500C]

Fisheries off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Closure of Directed Fishery for Pacific Mackerel; Correction

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

ACTION: Correction to the action closing the directed fishery for Pacific mackerel.

SUMMARY: This document contains a correction to the Pacific mackerel closure which was published on November 1, 2000.

DATES: Effective November 17, 2000.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, Southwest Region, NMFS, 562-980-4036.

SUPPLEMENTARY INFORMATION:

Background

The directed fishery for Pacific mackerel was closed at 12:01 a.m. on October 27, 2000, by publication of a document in the **Federal Register** on November 1, 2000 (65 FR 65272). The document contains an error that requires correction.

Correction

In rule FR DOC. 00-28109, on page 65272, in the issue of Wednesday, November 1, 2000 (65 FR 65272), make the following correction:

On page 65272, in the third column, under the heading **SUPPLEMENTARY INFORMATION**, the last sentence is corrected to read as follows:

“For the reasons stated here and in accordance with the FMP and its implementing regulations at 50 CFR 660.509, the directed fishery for Pacific mackerel will be closed October 27, 2000, after which time no more than 20 percent by weight of a landing of Pacific sardine, northern anchovy, jack

mackerel, or market squid may consist of Pacific mackerel.”

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

Dated: November 9, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00-29415 Filed 11-16-00; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 679

[Docket No. 000714206-0307-02; I.D. 061400A]

RIN 0648-AM53

Fisheries of the Exclusive Economic Zone Off Alaska; Western Alaska Community Development Quota Program

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

ACTION: Final rule

SUMMARY: NMFS issues a final rule that reduces observer experience requirements for some catcher vessels and reduces observer coverage experience requirements for some shoreside processors participating in the Western Alaska Community Development Quota (CDQ) fisheries. This action is necessary to reduce costs associated with the observer coverage requirements in the CDQ fisheries. It is intended to further the objectives of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP).

DATES: Effective December 18, 2000.

ADDRESSES: Copies of the Regulatory Impact Review (RIR) prepared for this action may be obtained from Sue Salvesson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel, or by calling the Alaska Region, NMFS, at 907-586-7228. Send comments on any ambiguity or unnecessary complexity arising from the language used in this final rule to the Regional Administrator at the same address.

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 907-586-7228.

SUPPLEMENTARY INFORMATION: Background

NMFS manages fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) according to the 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.

Through the CDQ program, NMFS allocates a portion of the BSAI groundfish, prohibited species, halibut, and crab total allowable catch (TAC) to 65 eligible Western Alaska communities. Unlike open access fisheries, the program makes individual vessels, processors, and CDQ groups accountable for their catch of groundfish and prohibited species. Because of this, the catch monitoring observer coverage and observer training standards are more stringent as compared to many other fisheries. CDQ observers receive more training and must have more experience than regular NMFS-certified observers. Observer coverage levels in the CDQ fisheries are also higher than those for most of the non-CDQ fisheries. In most cases, at least one of the CDQ observers on a vessel or in a processing plant also must be qualified as a “lead” CDQ observer. Lead qualification is gear-specific and is gained by having prior experience with the same gear type as the CDQ vessel on which the lead observer is deployed, or prior experience in a shoreside plant if the lead CDQ observer is deployed at a shoreside plant.

NMFS has reviewed the observer coverage and experience requirements and determined that, in some cases, the observer coverage or training requirements could be reduced without affecting the ability of NMFS to collect the data necessary to monitor and manage the CDQ fishery.

On July 24, 2000, NMFS published a proposed rule to implement these reductions (65 FR 45579). The proposed rule included a full description of observer coverage and training requirements in the CDQ fisheries, and the rationale for reducing those requirements. The proposed rule also solicited public comment for 30 days. No comments were received, and NMFS is publishing this final rule without changing the regulatory text of the proposed rule.

This final rule implements the following reductions in observer coverage and experience requirements:

1. Elimination of the requirement for a lead CDQ observer on all catcher

vessels greater than or equal to 60 ft (18.3 m) LOA using trawl gear. A CDQ observer is still required. 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. Existing regulations require a lead CDQ observer on a vessel to estimate the at-sea discards of halibut PSQ and crab PSQ and monitor compliance with retention requirements. NMFS believes that these duties can be performed adequately by a CDQ observer who has prior experience as an observer, but not necessarily gear-specific experience required of a lead CDQ observer.

2. Elimination of the requirement for a lead CDQ observer on a catcher vessel greater than or equal to 60 ft (18.3 m) LOA using nontrawl gear that chooses to retain all groundfish CDQ species (option 1 defined at 50 CFR 679.32(c)(2)(ii)(A)). A CDQ observer is still required. NMFS believes the gear-

specific experience of a lead CDQ observer is unnecessary for vessels choosing catch accounting option 1. NMFS will continue to require a lead CDQ observer on catcher vessels using nontrawl gear that select option 2, which uses observer data as the basis for all CDQ catch accounting.

3. Elimination of the requirement that a shoreside processing plant provide a CDQ observer to monitor deliveries from catcher vessels that use nontrawl gear and select option 2. Under option 2, only data collected by the observer on the catcher vessel is used for CDQ catch accounting. Therefore, neither a lead CDQ observer nor a CDQ observer is necessary at the plant.

4. Elimination of the requirement that shoreside processors required to provide CDQ observers provide a lead CDQ observer when taking CDQ deliveries. A CDQ observer is still required. NMFS has determined that prior experience in a shoreside plant is not necessary for the observer to adequately monitor the sorting and weighing of CDQ deliveries.

5. Reduction of the observer coverage requirements for shoreside processors taking CDQ deliveries from catcher vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear and using option 1 (full retention) for CDQ catch accounting 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 regulatory working hour limits. Under this revision, the shoreside processor could still choose to provide an additional CDQ 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.

Table 1 shows all of the CDQ observer coverage requirements that will be in effect under 50 CFR 679.50 after this final rule becomes effective.

TABLE 1. REVISED CDQ OBSERVER COVERAGE REQUIREMENTS

Category	CDQ Observer Coverage Requirements (effective in 2000)
Catcher, < 60 ft, any gear	none
Catcher, ≥ 60 ft, trawl gear	1 CDQ observer
Catcher, ≥ 60 ft, nontrawl gear, Option 1 ¹	1 CDQ observer
Catcher, ≥ 60 ft, nontrawl gear, Option 2 ²	1 lead CDQ observer
Catcher/processor, trawl and motherships	1 lead CDQ observer and 1 CDQ observer
Catcher/processor, longline, pot	1 lead CDQ observer and 1 CDQ observer
Shoreside processor ³ , deliveries from vessels using trawl gear	1 CDQ observer for each CDQ delivery
Shoreside processor, deliveries from vessels <60 ft using nontrawl gear and groundfish CDQ fishing	1 CDQ observer for each CDQ delivery
Shoreside processor, deliveries from vessels <60 ft using nontrawl gear and halibut CDQ fishing	no observer required for delivery
Shoreside processor, deliveries from vessels using nontrawl gear, Option 1 ¹	1 CDQ observer for each CDQ delivery; may use vessel CDQ obs. under certain circumstances. ⁴
Shoreside processor, deliveries from vessels using nontrawl gear, Option 2 ²	no CDQ observer required for delivery

¹ Option 1 is a CDQ catch accounting option that requires the vessel operator to retain all groundfish CDQ and salmon PSQ and deliver it to a processor where it is sorted by species, weighed, and reported to NMFS.

² Option 2 is a CDQ catch accounting option where catch may be discarded at sea. Observer data is used for all catch accounting and the processor's reports of landed catch weight are not used as the basis for CDQ catch accounting.

³ Includes stationary floating processors.

⁴ Instead of having a separate observer for the shoreplant, the vessel observer may monitor sorting and weighing of CDQ delivery as long as working hour limitations for the vessel observer are not exceeded.

This final rule also makes a minor revision to the introductory paragraph of 50 CFR 679.50(c)(4). The current paragraph requires the owner or operator of a vessel engaged in CDQ fishing to comply with CDQ observer coverage requirements for each day the vessel is used to harvest, transport, process, deliver, or take deliveries of CDQ or PSQ species. NMFS is removing the requirement that CDQ observers be onboard catcher/processors or motherships when they are being used only to transport CDQ catch. In some cases, processor vessels and motherships continue to transport CDQ

catch onboard long after catching and/or processing of the CDQ catch has been completed. No need exists for a CDQ observer to be onboard solely to monitor the transport of processed product.

Classification

At the proposed rule stage, the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this action, if adopted, would not have a significant impact on a substantial number of small entities. A summary of that certification follows:

The final rule would apply to the 21 catcher vessels greater than or equal to 60 ft LOA (18.3 m) and 10 shoreplants that participate in the CDQ fishery. The action would remove the gear-specific experience requirements for CDQ observers deployed in shoreplants and on some types of vessels, which would increase the number of observers qualified to be deployed in the CDQ fisheries. This increased flexibility would reduce the possibility that a qualified observer would not be available when a vessel or processor wants to participate in a CDQ fishery. This action would also allow a

shoreside plant taking CDQ deliveries from some non-trawl catcher vessels to provide an observer without CDQ observer-training, rather than a CDQ observer, and would reduce observer coverage levels under certain circumstances.

Based on the analysis presented in the Regulatory Impact Review prepared for this rule, NMFS estimates that this action will have a positive impact on the vessels and processors that will be directly impacted by the action and will have no negative impact on observer contractors. As far as NMFS is able to determine, this final rulemaking will not have a significant impact on a substantial number of small entities.

No comments were received on that certification and the basis for it has not changed. Accordingly, a regulatory flexibility analysis has not been prepared for this rule.

A copy of the RIR can be obtained from NMFS (see **ADDRESSES**).

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

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with that directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this final rule. Such comments should be sent to the Alaska Regional Administrator (see **ADDRESSES**).

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: November 9, 2000.

William T. Hogarth,

Deputy Assistant Administrator for Fisheries National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 679 is amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*, and 3631 *et seq.*

2. In § 679.50, paragraph (h)(1)(i)(E)(4) is removed, the first sentence of the introductory text in paragraph (c)(4) is revised, paragraph (c)(4)(v) is added, and paragraphs, (c)(4)(iv), and (d)(4) are revised to read as follows:

§ 679.50 Groundfish Observer Program applicable through December 31, 2000.

* * * * *

(c) * * *

(4) *Groundfish and halibut CDQ fisheries.* The owner or operator of a vessel groundfish CDQ fishing or halibut CDQ fishing as defined at § 679.2 must comply with the following minimum observer coverage requirements each day that the vessel is used to transport (catcher vessels only), harvest, process, deliver or take delivery of CDQ or PSQ species. * * *

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(iv) *Catcher vessel using trawl gear.* A catcher vessel equal to or greater than 60 ft (18.3 m) LOA using trawl gear, except a catcher vessel that delivers only unsorted codends to a processor or another vessel, must have at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section aboard the vessel.

(v) *Catcher vessel using nontrawl gear.* A catcher vessel equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear must meet the following observer coverage requirements:

(A) *Option 1.* If the vessel operator selected Option 1 (as described at § 679.32(c)(2)(ii)(A)) for CDQ catch accounting, then at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section must be aboard the vessel.

(B) *Option 2.* If the vessel operator selected Option 2 (as described at § 679.32(c)(2)(ii)(B)) for CDQ catch accounting, then at least one lead CDQ observer as described at paragraph (h)(1)(i)(E) of this section must be aboard the vessel.

* * * * *

(d) * * *

(4) *Groundfish and halibut CDQ fisheries.*—(i) *CDQ deliveries requiring observer coverage.* Subject to paragraph (d)(4)(ii) of this section, each shoreside processor taking deliveries of groundfish or halibut CDQ must have at least one CDQ observer as described at paragraph (h)(1)(i)(D) of this section present at all times while CDQ is being received or processed.

(ii) *CDQ deliveries not requiring CDQ observer coverage.* A shoreside processor is not required to provide a CDQ observer for CDQ deliveries from the following vessels:

(A) Vessels less than 60 ft (18.3 m) LOA that are halibut CDQ fishing;

(B) Vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear that have selected Option 1 (as described at § 679.32(c)(2)(ii)(A)) for CDQ catch accounting, so long as the CDQ observer on the catcher vessel monitors the entire delivery without exceeding the working hour limitations described in paragraph (d)(4)(iii) of this section; and

(C) Vessels equal to or greater than 60 ft (18.3 m) LOA using nontrawl gear that have selected Option 2 (as described at § 679.32(c)(2)(ii)(B)) for CDQ catch accounting.

(iii) *Observer working hours.* The time required for the CDQ observer to complete sampling, data recording, and data communication duties may not exceed 12 hours in each 24-hour period, and the CDQ observer is required to sample no more than 9 hours in each 24-hour period.

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