

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

Dated: September 11, 1995.

Richard W. Surdi,

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

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50 CFR Part 675

RIN 0648-AH69

[Docket No. 950414105-5227-03;I.D.
082495D]

**Groundfish of the Bering Sea and
Aleutian Islands; Observer
Requirements**

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

ACTION: Final rule; technical
amendment.

SUMMARY: NMFS issues a technical
amendment to the final rule
implementing Amendment 35 to the
Fishery Management Plan for the
Groundfish Fishery of the Bering Sea
and Aleutian Islands (FMP). This action
clarifies observer coverage requirements
established for shoreside processing
facilities and mothership processor
vessels during the second pollock
season.

EFFECTIVE DATE: September 18, 1995.

FOR FURTHER INFORMATION CONTACT: Kaja
Brix, 907-586-7228.

SUPPLEMENTARY INFORMATION: The final
rule implementing Amendment 35 to
the FMP was published in the **Federal**

Register on July 5, 1995 (60 FR 34904).
The preamble to that rule explains that
regulatory amendments were
implemented that "would increase 1995
observer coverage for mothership
processor vessels and for some
shoreside processors receiving pollock
harvested in the catcher vessel
operational area (CVOA)* * *." This
technical amendment clarifies the
regulatory language of that final rule to
more accurately reflect the original
purpose and intent of that rule.

The final rule requires a second
NMFS-certified observer for mothership
processor vessels and certain shoreside
processing facilities during the second
pollock season, which begins August 15.
The intent of the rule is to ensure that
processors receiving pollock harvested
from the CVOA have adequate observer
coverage in order to count accurately
the number of nonchinook salmon taken
as bycatch in the pollock fishery.
Amendment 35 established a bycatch
limit of 42,000 nonchinook salmon for
the second pollock season.

The preamble to the final rule
explains that shoreside processing
plants that "receive pollock harvested
from the CVOA during the 1995 nonroe
season and that offload fish at two
locations on the same dock and have
distinct and separate equipment to
process those fish will also be required
to have an extra observer" (60 FR
34905). A second observer is necessary
because of the large volume of pollock
that could be offloaded at these facilities
and the additional time required by
observers to count salmon bycatch.
While the regulation uses the term
"fish," the intent was to require an
additional observer only for those

shoreside processors that offload and
process pollock at more than one
location.

NMFS is clarifying the regulation at
§ 675.25(b)(2) by changing the word
"fish" in § 675.25(b)(2) to "pollock."
Thus, it will now be clear that two
observers are required only at facilities
that meet all three of the following
criteria: (1) Receive pollock harvested
by catcher vessels in the CVOA during
the second pollock season, (2) offload
pollock at more than one location on the
same dock of that facility, and (3) have
distinct and separate equipment at each
location to process those pollock.
Regulations at § 675.25(b)(1) also require
an additional observer on mothership
processor vessels that receive pollock
from catcher vessels harvesting in the
CVOA during the second pollock
season. The second observer at
shoreside processor facilities and on
mothership processor vessels is required
until the chum salmon savings area
(CSSA) is closed due to attainment of
the 42,000 nonchinook bycatch limit.
The intent of the regulation is to have
the additional observer present at the
processor to count the salmon to be
counted toward the salmon bycatch
limit.

Under the final rule, salmon bycatch
during the second pollock season is
counted through October 14 or until the
bycatch limit is reached, whichever
occurs first. The additional observer is
not necessary once the bycatch limit is
reached or after October 14. NMFS is
clarifying the intent of the regulations to
require the additional observer to be
present until either the CSSA is closed
(i.e., the bycatch limit has been reached)
or October 15, whichever occurs first.

Classification

This technical amendment clarifies the regulations requiring observer coverage in shoreside processing facilities and on mothership processor vessels and relieves a regulatory restriction. The requirement for additional observers to monitor the offloading or processing of fish other than pollock during the second pollock season does not provide accurate salmon bycatch data for the pollock fishery and does not provide any other significant benefits. Similarly, additional observers are not needed once the nonchinook bycatch limit has been reached. These requirements impose a burden that is unnecessary and additional delay in removing that requirement would result in additional observer expense without providing any significant public benefit. Consequently, the Assistant Administrator for Fisheries, NOAA, finds that there is good cause to waive prior notice and opportunity to comment on this action. Because this action relieves a restriction, under U.S.C. 533(d)(1), a delay in the effective date is not necessary.

This rule is exempt from procedures of the Regulatory Flexibility Act to prepare a regulatory flexibility analysis

because the rule is issued without opportunity for prior public comment. No analysis has been prepared.

This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: September 11, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For reasons set out in the preamble 50 CFR part 675 is amended to read as follows:

PART 675—GROUND FISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for part 675 continues to read as follows:

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

2. In § 675.25, paragraph (b) is revised to read as follows:

§ 675.25 Observer requirements.

* * * * *

(b) Additional observer coverage requirements applicable through December 31, 1995. (1) Each mothership processor vessel that receives pollock

harvested by catcher vessels in the catcher vessel operational area, defined at § 675.22(g), during the second pollock season that starts on August 15 under § 675.23(e), is required to have a second NMFS-certified observer aboard, in addition to the observer required under § 677.10(a)(1)(i) of this chapter, for each day of the second pollock season until the chum salmon savings area is closed under § 675.22(h)(2) or October 15, whichever occurs first.

(2) Each shoreside processor that offloads pollock at more than one location on the same dock and has distinct and separate equipment at each location to process those pollock and that receives pollock harvested by catcher vessels in the catcher vessel operational area, defined at § 675.22(g), during the second pollock season that starts on August 15, under § 675.23(e), is required to have a NMFS-certified observer, in addition to the observer required under § 677.10(a)(1)(i) of this chapter, at each location where pollock is offloaded, for each day of the second pollock season until the chum salmon savings area is closed under § 675.22(h)(2) of this chapter, or until October 15, whichever occurs first.

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