

§679.51 Observer requirements for vessels and plants. (Effective January 1, 2013)

The table in paragraph (f) of this section provides a reference to the paragraphs in this section that contain observer coverage requirements for vessels, shoreside processors, and stationary floating processors participating in certain fishery programs.

(a) Observer requirements for vessels

(1) Groundfish and halibut fishery partial observer coverage category

(i) Vessel classes in partial coverage category. Unless otherwise specified in paragraph (a)(2) of this section, the following catcher vessels are in the partial observer coverage category when fishing for halibut with hook-and-line gear or when directed fishing for groundfish in a federally managed or parallel groundfish fishery, as defined at § 679.2:

(A) A catcher vessel designated on an FFP under § 679.4(b)(1); or

(B) A catcher vessel when fishing for halibut with hook-and-line gear and while carrying a person named on a permit issued under § 679.4(d)(1)(i), § 679.4(d)(2)(i), or § 679.4(e)(2), or for sablefish IFQ with hook-and-line or pot gear and while carrying a person named on a permit issued under § 679.4(d)(1)(i) or § 679.4(d)(2)(i).

(ii) Registration and notification of observer deployment. The Observer Declare and Deploy System (ODDS) is the communication platform for the partial observer coverage category by which NMFS receives information about fishing plans subject to randomized observer deployment. Vessel operators provide fishing plan and contact information to NMFS and receive instructions through ODDS for coordinating with an observer provider for any required observer coverage. Access to ODDS is available through the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>.

(A) **Registration.** NMFS will enter information into ODDS about all partial coverage category vessels that are designated on an FFP and all catcher vessels that are not designated on an FFP but that landed sablefish IFQ or halibut IFQ or CDQ in the previous or current year. Owners or operators are not responsible for initial registration of their vessel in ODDS.

(B) Notification. Upon entry into ODDS, NMFS will notify the owner or operator as to whether his or her vessel is entered in either a “vessel” or “trip” selection pool. Owners and operators must comply with all further instructions set forth by ODDS.

(C) Trip selection pool.

(1) A minimum of 72 hours prior to embarking on each fishing trip, the operator of a vessel in the trip selection pool must register the anticipated trip with ODDS.

(2) When a fishing trip is registered with ODDS per paragraph (a)(1)(ii)(C)(1) of this section, the vessel operator will be notified by ODDS whether the trip is selected for observer coverage and a receipt number corresponding to this notification will be provided by ODDS. Trip registration is complete when the vessel operator receives a receipt number.

(3) An operator may embark on a fishing trip registered with ODDS:

(i) Not selected trip. At any time if ODDS indicates that the fishing trip is not selected for observer coverage.

(ii) Selected trip. When an observer is aboard the vessel if ODDS indicates that the fishing trip is selected for observer coverage.

(4) Delayed trip. A selected fishing trip not embarked upon within 48 hours of the time specified in the registration with ODDS is invalidated. The operator must register any new trip in accordance with paragraph (a)(1)(ii)(C)(1) of this section.

(5) Observer coverage duration. If selected, a vessel is required to carry an observer for the entire fishing trip.

(i) A fishing trip selected for observer coverage may not begin until all previously harvested fish has been offloaded and an observer is aboard the vessel.

(ii) An observer may not be transferred off a catcher vessel until the observer confirms that all fish from the observed fishing trip are offloaded.

(iii) A vessel must make a minimum of one delivery to a tender vessel to be subject to paragraph (3)(ii) of the fishing trip definition at § 679.2.

(D) Vessel selection pool.

(1) A vessel selected for observer coverage is required to have an observer on board for all groundfish and halibut fishing trips specified at paragraph (a)(1)(i) of this section for the time period indicated by ODDS.

(2) At its discretion, NMFS may provide electronic monitoring equipment to a vessel owner or operator to use on a vessel. A vessel owner or operator must coordinate with NMFS to make the vessel available for evaluation and installation of electronic monitoring equipment if NMFS determines that electronic monitoring is appropriate.

(iii) Release from observer coverage. The Observer Program may release a selected trip per paragraph (a)(1)(ii)(C) of this section or a selected vessel per paragraph (a)(1)(ii)(D) of this section, from observer coverage on a case-by-case basis.

(2) Groundfish and halibut fishery full observer coverage category

(i) Vessel classes in the full coverage category. The following classes of vessels are in the full observer coverage category when harvesting halibut or when harvesting, receiving, or processing groundfish in a federally managed or parallel groundfish fishery, as defined at § 679.2:

(A) Catcher/processors;

(B) Motherships; and

(C) Catcher vessels **while:**

(1) Directed fishing for pollock in the BS;

(2) Using trawl gear or hook-and-line gear while groundfish CDQ fishing (see § 679.2); or

(3) Participating in the Rockfish Program.

(ii) Observer coverage requirements. Unless subject to the partial observer coverage category per paragraph (a)(1)(i) of this section, a vessel listed in paragraphs (a)(2)(i)(A) through (C) of this section must have at least one observer aboard the vessel at all times. Some fisheries require additional observer coverage in accordance with paragraph (a)(2)(vi) of this section.

(iii) Observer workload. The time required for an observer to complete sampling, data recording, and data communication duties per paragraph (a)(2) of

this section may not exceed 12 consecutive hours in each 24-hour period.

(iv) Catcher/processor classification.

(A) For purposes of this subpart, a vessel is classified as a catcher/processor according to the operation designation on its FFP. A vessel designated as a catcher/processor at any time during the calendar year is classified as a catcher/processor for the remainder of the calendar year.

(B) An owner or operator of a catcher/processor that processes no more than one metric ton round weight of groundfish on any day, may be included in the partial observer coverage category in lieu of the full coverage category for the following calendar year.

(v) One-time election of observer coverage category. The owner of a vessel less than 60 ft. LOA with a history of catcher/processor and catcher vessel activity in a single year from January 1, 2003, through January 1, 2010; or any catcher/processor with an average daily groundfish production of less than 5,000 pounds round weight equivalent in the most recent full calendar year of operation from January 1, 2003, to January 1, 2010, may make a one-time election as to whether the vessel will be in the partial observer coverage category at paragraph (a)(1) of this section, or the full observer coverage category at paragraph (a)(2) of this section. The daily groundfish production average is based on the number of days the vessel operated each year from January 1, 2003, through January 1, 2010.

(A) Notification of election. The person named on the FFP for a vessel eligible for the one-time election must notify the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802, of their election in writing, at least 30 days prior to embarking on his or her first fishing trip.

(B) Default coverage category. If an owner forgoes the opportunity for the one-time election, the vessel will be assigned to the partial or full observer coverage category per paragraphs (a)(1)(i) or (a)(2)(i) of this section.

(C) Effective duration. The one-time election is effective for:

(1) The duration that both the catcher/processor and catcher vessel designations are listed on the FFP for vessels less than 60 ft. LOA; or

(2) The duration the FFP is issued to the person named on the FFP at the time of the election for catcher/processors with an average daily production of less than 5,000 pounds round weight equivalent in the most recent full calendar year of operation from January 1, 2003, through January 1, 2010.

(vi) Additional observer requirements

(A) CDQ fisheries. The owner or operator of a vessel must comply with the following requirements each day that the vessel is used to catch, process, deliver, or receive CDQ groundfish.

(1) Catcher/processors using trawl gear and directed fishing for pollock CDQ in the BSAI and motherships taking deliveries from catcher vessels directed fishing for pollock CDQ in the BSAI. See paragraph (a)(2)(vi)(B)(2) of this section.

(2) Catcher/processors using trawl gear and groundfish CDQ fishing. See paragraph (a)(2)(vi)(C) of this section.

(3) Catcher/processors using hook-and-line gear and groundfish CDQ fishing. See paragraph (a)(2)(vi)(E) of this section.

(4) Catcher/processors using pot gear for groundfish CDQ fishing. A catcher/processor using pot gear must have at least one lead level 2 observer aboard the vessel. **More than one observer must be aboard if the observer workload restriction would otherwise preclude sampling as required.**

(5) Motherships. A mothership that receives unsorted codends from catcher vessels groundfish CDQ fishing must have at least two level 2 observers aboard the mothership, at least one of whom must be certified as a lead level 2 observer. **More than two observers must be aboard if the observer workload restriction would otherwise preclude sampling as required.**

(B) BSAI pollock fisheries

(1) Listed AFA catcher/processors and AFA motherships. The owner or operator of a listed AFA catcher/processor or AFA mothership must **have aboard** at least two observers, at least one of which must be certified as a lead level 2 observer, for each day that the vessel is used to **catch**, process, or **receive** groundfish. **More than two observers must be aboard if the observer workload restriction would otherwise preclude sampling as required.**

(2) Pollock CDQ catcher/processors and motherships. The owner or operator of a

catcher/processor or mothership used to catch, process, or receive pollock CDQ must comply with the observer coverage requirements in paragraph (a)(2)(vi)(B)(1) of this section for each day that the vessel is used to catch, process, or receive pollock CDQ.

(3) Unlisted AFA catcher/processors. The owner or operator of an unlisted AFA catcher/processor must **have aboard** at least two observers for each day that the vessel is used to engage in directed fishing for pollock in the BSAI, or **receive** pollock harvested in the BSAI. At least one observer must be certified as a lead level 2 observer. When an unlisted AFA catcher/processor is not engaged in directed fishing for BSAI pollock and is not receiving pollock harvested in the BSAI, the observer coverage requirements at paragraph (a)(2)(ii) of this section apply.

(4) AI directed pollock fishery catcher/processors and motherships. A catcher/processor participating in the AI directed pollock fishery or a mothership processing pollock harvested in the AI directed pollock fishery must have **aboard** at least two observers, at least one of which must be certified as a lead level 2 observer, for each day that the vessel is used to **catch**, process, or **receive** groundfish. **More than two observers must be aboard if the observer workload restriction would otherwise preclude sampling as required.**

(C) Amendment 80 vessels and catcher/processors not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI. All Amendment 80 vessels using any gear but dredge gear while directed fishing for scallops and catcher/processors not listed in § 679.4(1)(2)(i) and using trawl gear in the BSAI must **have aboard** at least two observers for each day that the vessel is used to **catch**, process, or receive groundfish **harvested in a federally managed or parallel groundfish fishery**. **At least one observer must be certified as a lead level 2 observer. More than two observers are required if the observer workload restriction would otherwise preclude sampling as required.**

(D) Catcher/processors participating in the Rockfish Program

(1) Rockfish cooperative. A catcher/processor that is named on an LLP license that is assigned to a rockfish cooperative and is fishing **under** a CQ permit must have at least two observers **aboard** for each day that the vessel is used to **catch** or process **fish** in the Central GOA from May 1 through the earlier of November 15 or the effective date and time of an approved rockfish cooperative termination of fishing declaration. **At least one observer must be certified as a lead level 2 observer. More than two observers**

must be aboard if the observer workload restriction would otherwise preclude sampling as required.

(2) Rockfish sideboard fishery for catcher/processors in a rockfish cooperative. A catcher/processor that is subject to a sideboard limit as described under § 679.82(e) must have at least two observers **aboard** for each day that the vessel is used to harvest or process fish in the West Yakutat District, Central GOA, or Western GOA management areas from July 1 through July 31. At least one observer must be **certified** as a lead level 2 observer. More than two observers **must be aboard** if the observer workload restriction would otherwise preclude sampling as required.

(E) Longline catcher/processor subsector. The owner and operator of a catcher/processor subject to § 679.100(b) must comply with the following observer coverage requirements:

(1) Increased observer coverage option. If the vessel owner selects the increased observer coverage option under § 679.100(b)(1), at least two observers must be aboard the vessel at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing. At least one of the observers must be certified as a lead level 2 observer. More than two observers are required if the observer workload restriction would otherwise preclude sampling as required.

(2) Scales option. If the vessel owner selects the scales option under § 679.100(b)(2), one lead level 2 observer must be aboard the vessel at all times when the vessel is operating in either the BSAI or GOA groundfish fisheries when directed fishing for Pacific cod is open in the BSAI, or while the vessel is groundfish CDQ fishing.

(b) Observer requirements for shoreside processors and stationary floating processors

(1) Shoreside processor and stationary floating processor partial observer coverage category.

(i) Unless otherwise specified in paragraph (b)(2) of this section, a shoreside processor or a stationary floating processor designated or required to be designated on an FPP under § 679.4(f)(1) is in the partial observer coverage category when receiving or processing groundfish harvested in federally managed or parallel groundfish fisheries, as defined at § 679.2.

(ii) Coverage. The manager of a shoreside processor or stationary floating processor must provide observers access to unsorted and sorted catch any time an observer is present at the facility.

(2) Shoreside processor and stationary floating processor full observer coverage category.

An AFA inshore processor is in the full observer coverage category.

(i) Coverage level. An AFA inshore processor must provide an observer for each 12 consecutive-hour period of each calendar day during which the processor takes delivery of, or processes, groundfish harvested by a vessel engaged in a directed pollock fishery in the **BS. An AFA inshore processor that, for more than 12 consecutive hours in a calendar day, takes delivery of or processes pollock harvested in the **BS** directed pollock fishery **must provide** two observers for each such day.**

(ii) Multiple processors. An observer deployed to an AFA inshore processor may not be assigned to cover more than one processor during a calendar day in which the processor receives or processes pollock harvested in the **BS directed pollock fishery.**

(iii) Observers transferring between vessels and processors. An observer transferring from an AFA catcher vessel to an AFA inshore processor may not be assigned to cover the AFA inshore processor until at least 12 hours after offload and sampling of the catcher vessel's delivery is completed.

(c) NMFS employee observers.

(1) Any vessel, shoreside processor, or stationary floating processor required to comply with observer coverage requirements under paragraphs (a) or (b) of this section or under § 679.7(f)(4) **must use, upon written notification by the Regional Administrator, a **NMFS employee** to satisfy observer coverage requirements as specified in paragraphs (a) and (b) of this section or for other conservation and management purposes **as specified by the Regional Administrator.****

(2) Prior to deployment of a **NMFS employee, the agency will provide written notification to the owner or operator of a vessel, shoreside processor, or stationary floating processor whether observer coverage credit will be granted for that deployment.**

(3) Vessel, shoreside processor, and stationary floating processor owners and operators, as well as observers and observer providers, may contact NMFS in writing to request assistance in improving observer data quality and resolving observer sampling issues.

Requests may be submitted to: NMFS Observer Program Office, **7600 Sand Point Way NE.**, Seattle, WA 98115-0070 or transmitted by facsimile to 206-526-4066.

(d) Procurement of observer services

(1) Full coverage category.

(i) The owner of a vessel, shoreside processor, or stationary floating processor required to have full observer coverage under paragraphs **(a)(2)** and **(b)(2)** of this section must arrange and pay for observer services from a permitted observer provider.

(ii) The owner of a vessel, shoreside processor, or stationary floating processor is required to arrange and pay for observer services directly from NMFS when the agency has determined and notified them under paragraph **(c)** of this section that **the** vessel, shoreside processor, or stationary floating processor **shall** use **a NMFS employee** or individual authorized by NMFS in lieu of, **or in addition to**, an observer provided through a permitted observer provider to satisfy requirements under paragraphs **(a)(2)** and **(b)(2)** of this section or for other conservation and management purposes.

(2) Partial coverage category.

The owner of a vessel in the partial observer coverage category per paragraph (a)(1) of this section must comply with instructions provided by ODDS to procure observer coverage for the required duration.

(e) Responsibilities

(1) Vessel responsibilities.

An operator of a vessel required to carry one or more observers must:

(i) Accommodations and food. Provide, at no cost to observers or the United States, accommodations and food on the vessel for the observer or observers that are equivalent to those provided for officers, engineers, foremen, deck-bosses, or other management level personnel of the vessel.

(ii) Safe conditions.

(A) Maintain safe conditions on the vessel for the protection of observers including adherence to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel.

(B) Have on board:

(1) A valid Commercial Fishing Vessel Safety Decal issued within the past 2 years that certifies compliance with regulations found in 33 CFR Chapter I and 46 CFR Chapter I;

(2) A certificate of compliance issued pursuant to 46 CFR 28.710; or

(3) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

(iii) Transmission of data. Facilitate transmission of observer data by:

(A) Observer use of equipment. Allowing observers to use the vessel's communications equipment and personnel, on request, for the confidential entry, transmission, and receipt of work-related messages, at no cost to the observers or the **United States.**

(B) Communication equipment requirements. In the case of an operator of a catcher/processor, mothership, a catcher vessel **125 ft. LOA or longer (except for a vessel fishing for groundfish with pot gear), or a catcher vessel participating in the Rockfish Program:**

(1) Observer access to computer. Making a computer available for use by the observer. This computer must be connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(2) NMFS-supplied software. Ensuring that the catcher/processor, mothership, or catcher vessel specified in paragraph **(e)(1) of this section** has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software.

(3) Functional and operational equipment. Ensuring that the communication equipment required in paragraph **(e)(1)(iii)(B) of this section** and that is used by observers to enter and transmit data, is fully functional and operational. "Functional" means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph **(e)(1)(iii)(B)(2)** of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

(iv) Vessel position. Allow observers access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(v) Access. Allow observers free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(vi) Prior notification. Notify observers at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer, unless the observers specifically request not to be notified.

(vii) Records. Allow observers to inspect and copy the vessel's DFL, DCPL, product transfer forms, any other logbook or document required by regulations, printouts or tallies of scale weights, scale calibration records, bin sensor readouts, and production records.

(viii) Assistance. Provide all other reasonable assistance to enable observers to carry out their duties, including, but not limited to:

(A) Measuring decks, codends, and holding bins.

(B) Providing the observers with a safe work area adjacent to the sample collection site.

(C) Collecting bycatch when requested by the observers.

(D) Collecting and carrying baskets of fish when requested by observers.

(E) Allowing observers to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch.

(F) Collecting all seabirds that are incidentally taken on the observer sampled portions of hauls using hook-and-line gear or as requested by an observer during non-sampled portions of hauls.

(ix) Transfer at sea.

(A) Ensure that transfers of observers at sea are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(B) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.

(C) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(D) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(2) Shoreside processor and stationary floating processor responsibilities.

A manager of a shoreside processor or a stationary floating processor that is required to maintain observer coverage as specified under paragraph (d) of this section must:

(i) Safe conditions. Maintain safe conditions at the shoreside processing facility for the protection of observers by adhering to all applicable rules, regulations, or statutes pertaining to safe operation and maintenance of the processing facility.

(ii) Operations information. Notify the observers, as requested, of the planned facility operations and expected receipt of groundfish prior to receipt of those fish.

(iii) Transmission of data. Facilitate transmission of observer data by:

(A) Observer use of equipment. Allowing observers to use the shoreside processor's or stationary floating processor's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers or the United States.

(B) Communication equipment requirements

(1) Observer access to computer. Making a computer available for use by the observer. This computer must be connected to a communication device that provides a point-to-point connection to the NMFS host computer

(2) NMFS-supplied software. Ensuring that the shoreside or stationary floating processor specified in paragraph (e)(2) of this section has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software.

(3) Functional and operational equipment. Ensuring that the communication equipment required in paragraph (e)(2)(iii)(B) of this section and that is used by observers to enter and transmit data, is fully functional and operational. "Functional" means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (e)(2)(iii)(B)(2) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

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(iv) Access. Allow observers free and unobstructed access to the shoreside processor's or stationary floating processor's holding bins, processing areas, freezer spaces, weight scales, warehouses, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(v) Document access. Allow observers to inspect and copy the shoreside processor's or stationary floating processor's **landing report**, product transfer forms, any other logbook or document required by regulations; printouts or tallies of scale weights; scale calibration records; bin sensor readouts; and production records.

(vi) Assistance. Provide all other reasonable assistance to enable the observer to carry out his or her duties, including, but not limited to:

(A) Assisting the observer in moving and weighing totes of fish.

(B) Providing a secure place to store sampling gear.

(3) The owner of a vessel, shoreside processor, stationary floating processor, or buying station is responsible for compliance and must ensure that the operator or manager **of a vessel, shoreside processor, or stationary floating processor required to maintain observer coverage under paragraphs (a) or (b) of this section** complies with **the requirements given in paragraphs (e)(1) and (e)(2) of this section.**

(f) Reference table for observer coverage requirements.

Program	Catcher/Processors	Catcher vessels	Motherships	Shoreside And stationary floating processors
(1) Groundfish CDQ—Nontrawl Gear	(a)(2)(vi)(E) hook-and-line; (a)(2)(vi)(A)(4) pot.	(a)(2)(i)(C) hook-and-line; (a)(1)(i) pot.	(a)(2)(vi)(A)(5)	(b)(1)
(2) Groundfish CDQ—Trawl Gear	(a)(2)(vi)(A)(1)	(a)(2)(i)(C)	(a)(2)(vi)(A)(5)	(b)(1)
(3) Halibut—CDQ and IFQ	(a)(2)(i)(A) or (a)(2)(iv)	(a)(1)(i)(A) and (B)	(a)(2)(i)(B)	(b)(1)
(4) Sablefish—CDQ and IFQ	(a)(2)(i)(A) or (a)(2)(iv)	(a)(1)(i)(A) and (B)	(a)(2)(i)(B)	(b)(1)
(5) BS pollock—AFA and CDQ	(a)(2)(vi)(B)(1) and (2)	(a)(2)(i)(C)	(a)(2)(vi)(B)(1) and (2)	(b)(2)
(6) Aleutian Islands pollock	(a)(2)(vi)(B)(3) through (4)	(a)(1)(i)(A)	(a)(2)(vi)(B)(4)	(b)(1)
(7) Rockfish Program	(a)(2)(vi)(D)	(a)(2)(i)(C)	N/A	(b)(1)
(8) Amendment 80 vessels and Non-AFA trawl catcher/processors fishing in the BSAI.	(a)(2)(vi)(C)	N/A	N/A	N/A
(9) Vessels and processors participating in all other BSAI and GOA groundfish fisheries.	(a)(2)(i) or (iv)	(a)(1)(i)(A) and (B)	(a)(2)(i)(B)	(b)(1)