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Title 50 —Wildlife and Fisheries

Chapter III —International Fishing and Related Activities

Part 300 —International Fisheries Regulations

Subpart G —Antarctic Marine Living Resources

Authority: 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*, 16 U.S.C. 1801 *et seq.*

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Authority: 16 U.S.C. 951 *et seq.*, 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 5501 *et seq.*, 16 U.S.C. 2431 *et seq.*, 31 U.S.C. 9701 *et seq.*

Source: 61 FR 35550, July 5, 1996, unless otherwise noted.

Editorial Note: Nomenclature changes to part 300 appear at 64 FR 44431, Aug. 16, 1999, and at 76 FR 59305, Sept. 26, 2011.

§ 300.111 Scientific observers.

- (a) Except as otherwise specified, this section applies to both national observers and international observers, as well as to vessels of the United States carrying, or required to carry, such observers.
- (b) All vessels of the United States fishing in the Convention Area must carry one or more scientific observers as required by CCAMLR conservation measures or as specified in a vessel permit issued under this subpart.
- (c) All vessels of the United States conducting longline sink rate testing outside the Convention Area and pursuant to CCAMLR protocols must carry one or more scientific observers as specified in the vessel permit issued under this subpart.
- (d) **Procurement of observers by vessel.** Owners of vessels required to carry scientific observers under this section must arrange for observer services in coordination with the NMFS Southwest Fisheries Science Center Antarctic Ecosystem Research Division. The vessel owner is required to pay for observer services through an observer service provider who has provided observer services to the Federal government within the past year. In situations where no qualified observer is available through a qualified observer provider, the Secretary may authorize a vessel owner to arrange for an observer by alternative methods. An observer may not be paid directly by the vessel owner.
- (e) **Vessel responsibilities.** An operator of a vessel required to carry one or more scientific observers must:
 - (1) **Accommodations and food.** Provide, at no cost to the observers or the United States, accommodations and food on the vessel for the observer or observers that are equivalent to those provided for officers of the vessel; and
 - (2) **Safe conditions.** 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 and have on board:
 - (i) 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;
 - (ii) A certificate of compliance issued pursuant to 46 CFR 28.710; or
 - (iii) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

- (3) **Health and safety regulations.** Comply with the observer health and safety regulations at part 600 of this title.
- (4) **Transmission of data.** Facilitate transmission of observer data by allowing observers, on request, to use the vessel's communications equipment and personnel for the confidential entry, transmission, and receipt of work-related messages.
- (5) **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, course and speed.
- (6) **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.
- (7) **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.
- (8) **Records.** Allow observers to inspect and copy the vessel's DCD, product transfer forms, any other logbook or document required by regulations or CCAMLR conservation measures, printouts or tallies of scale weights, scale calibration records, bin sensor readouts, and production records.
- (9) **Assistance.** Provide all other reasonable assistance to enable observers to carry out their duties, including, but not limited to:
 - (i) Measuring decks, codends, and holding bins;
 - (ii) Providing the observers with a safe work area adjacent to the sample collection site;
 - (iii) Collecting bycatch when requested by the observers;
 - (iv) Collecting and carrying baskets of fish when requested by observers; and
 - (v) Allowing observers to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch.
- (10) **Transfer at sea.**
 - (i) Ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.
 - (ii) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.
 - (iii) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.
 - (iv) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.
- (f) **Insurance.** The observer service provider or vessel owner must provide insurance for national observers that provides compensation in the event of an injury or death during the entire deployment, from the point of hire location to return, equivalent to the standards of the North Pacific Groundfish Observer Program set forth in § 679.50 of this title.
- (g) **Educational requirements.** National observer candidates must:

- (1) Have a Bachelor's degree or higher from an accredited college or university with a major in one of the natural sciences; or
- (2) Have successfully completed a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course.

(h) **Health requirements.** National observers, and U.S. observers deployed as international observers, must have a signed and dated statement from a licensed physician that he or she has physically examined the observer. The statement must confirm that, based upon the physical examination, the observer does not have any health problems or conditions that would jeopardize that individual's safety or the safety of others while deployed, or prevent the observer from performing his or her duties satisfactorily. The statement must declare that, prior to the examination, the physician was made aware of the duties of an observer and the dangerous, remote and rigorous nature of the work. The physician's statement must be submitted to the NMFS Southwest Fisheries Science Center Antarctic Ecosystem Research Division program office prior to approval of an observer. The physical exam must have occurred during the 12 months prior to the observer's deployment. The physician's statement will expire 12 months after the physical exam occurred. A new physical exam must be performed, and accompanying statement submitted, prior to any deployment occurring after the expiration of the statement.

(i) **Standards of observer conduct.**

(1) Observers:

- (i) Must not have a direct financial interest in the fishery being observed, including but not limited to:
 - (A) Any ownership, mortgage holder, or other secured interest in a vessel, shoreside or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish;
 - (B) Any business involved with selling supplies or services to any vessel, shoreside or floating stationary processing facility; or
 - (C) Any business involved with purchasing raw or processed products from any vessel, shoreside or floating stationary processing facilities.
- (ii) Must not solicit or accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from anyone who either conducts activities that are regulated by NMFS or has interests that may be substantially affected by the performance or nonperformance of the observers' official duties.
- (iii) Must not serve as observers on any vessel or at any shoreside or floating stationary processing facility owned or operated by a person who previously employed the observers.
- (iv) Must not solicit or accept employment as a crew member or an employee of a vessel, shoreside processor, or stationary floating processor while employed by an observer provider.

(2) Provisions for remuneration of observers under this section do not constitute a conflict of interest.

(j) **Standards of observer behavior.** Observers must:

- (1) Avoid any behavior that could adversely affect the confidence of the public in the integrity of the CCAMLR Scheme of International Scientific Observation or of the government, including but not limited to the following:

- (2) Perform their assigned duties as described in the CCAMLR Scientific Observers Manual and must complete the CCAMLR Scientific Observer Logbooks and submit them to the CCAMLR Data Manager at the intervals specified by the Data Manager.
- (3) Accurately record their sampling data, write complete reports, and report accurately any observations of suspected violations of regulations relevant to conservation of marine resources or their environment.
- (4) Not disclose collected data and observations made on board the vessel or in the processing facility to any person, except the owner or operator of the observed vessel or processing facility or NMFS.
- (5) Refrain from engaging in any illegal actions or any other activities that would reflect negatively on their image as professional scientists, on other observers, or on the CCAMLR Scheme of International Scientific Observation as a whole. This includes, but is not limited to:
 - (i) Refrain from engaging in the use, possession, or distribution of illegal drugs; or
 - (ii) Refrain from engaging in physical sexual contact with personnel of the vessel or processing facility to which the observer is assigned, or with any vessel or processing plant personnel who may be substantially affected by the performance or non-performance of the observer's official duties.

(k) **Sampling station –**

- (1) **Minimum work space aboard at sea processing vessels.** The observer must have a working area of 4.5 square meters, including the observer's sampling table, for sampling and storage of fish to be sampled. The observer must be able to stand upright and have a work area at least 0.9 meter (m) deep in the area in front of the table and scale.
- (2) **Table aboard at-sea processing vessels.** The observer sampling station must include a table at least 0.6 m deep, 1.2 m wide and 0.9 m high and no more than 1.1 m high. The entire surface area of the table must be available for use by the observer. Any area for the observer sampling scale is in addition to the minimum space requirements for the table. The observer's sampling table must be secured to the floor or wall.
- (3) **Other requirement for at-sea processing vessels.** The sampling station must be in a well-drained area that includes floor grating (or other material that prevents slipping), lighting adequate for day or night sampling, and a hose that supplies fresh or sea water to the observer.

Public Burden Statement

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with an information collection subject to the requirements of the Paperwork Reduction Act of 1995 unless the information collection has a currently valid OMB Control Number. The approved OMB Control Number for this information collection is 0648-0194. Without this approval, we could not fulfill our obligations as a Member of the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) or ensure the legality of any harvesting activities. Public reporting for the Request of an Observer is estimated at 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. All responses to this information collection are mandatory. U.S. regulations require U.S. individuals engaged in AMLR harvesting, transshipping, and importing or entering and/or conducting activities in a CEMP site to apply for and hold a permit for such activities. Members of CCAMLR are required to provide information about harvesting activities, including fishing areas and vessels, so as to enable reliable catch and effort statistics to be compiled. The collection is necessary in order for the United States to meet its treaty obligations as a contracting party to the Convention. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden to the Office of International Affairs, Trade, and Commerce, 1315 East-West Hwy, Silver Spring, MD, 20910; Attn: Lauren Fields, lauren.fields@noaa.gov.