


MEMORANDUM

TO: Council and AP Members
FROM: Chris Oliver 
Executive Director
DATE: September 26, 2011
SUBJECT: Observer Program

ESTIMATED TIME 4 HOURS

ACTION REQUIRED

- (a) Review OAC report; action as necessary
- (b) Review draft regulations for Observer Restructuring; action as necessary

BACKGROUND

- (a) Review Observer Advisory Committee report

The Observer Advisory Committee (OAC) met September 15 – 16 in Seattle, with the primary task of reviewing the draft proposed rule for restructuring the North Pacific observer program. Upon final action on restructuring in October 2010, the Council delayed approval of the Federal regulations necessary to implement the Council's action until both the OAC and Council could review a draft version. The OAC was tasked to focus its review and feedback on implementation issues that were not detailed in the analysis. As recommended by the Council in April 2011, OAC members were solicited individually for their input on a list of implementation issues prior to the development of the draft proposed rule, and then met as a committee in September to review the completed draft. The OAC received the draft rule on September 2.

Examples of the implementation issues about which NMFS was soliciting specific feedback include, but are not limited to:

- how to designate vessels' operating type (catcher processor vs catcher vessel) that are not required to carry an FFP but are still included in the restructured program (i.e., halibut and sablefish IFQ only vessels that fish in State waters)
- the duration of selection for vessels in the 'vessel selection' pool (i.e., fixed gear catcher vessels <57.5' LOA are in the vessel selection pool; if selected, how long would they carry an observer)
- the vessel notification requirements for vessels in the 'call-in (trip) selection' pool (i.e., fixed gear catcher vessels ≥57.5' LOA and all trawl catcher vessels would need to provide advance notification of a fishing trip to see if they are selected for coverage)
- whether NMFS can consolidate the observer fee liability with the IFQ cost-recovery invoice and bill the individual halibut/sablefish quota share holder, as opposed to the processor or registered buyer

At its September meeting, the OAC also discussed electronic monitoring (EM), including how it was addressed in the draft proposed rule as an alternative for the small boat sectors. The committee also received an update on an EM pilot project being conducted by and on the IFQ sector, in coordination with NMFS.

The September OAC agenda is provided as Item C-4(a). The OAC report, which includes the committee's recommendations to the Council on the draft proposed rule for observer restructuring, will be provided at the Council meeting.

(b) Review draft regulations for Observer Restructuring; action as necessary

As described above under (a), NMFS has been working on the draft proposed rule to implement the Council's action on observer restructuring for the past year (BSAI Am. 86/ GOA Am. 76). The proposed rule would implement a two tier system for general observer coverage categories, and includes a table and description of the groundfish and halibut fisheries off Alaska (vessels and processors) that will be placed in one of the two categories. The two categories are: $\geq 100\%$ coverage and $< 100\%$ coverage. Those vessels and processors in the $\geq 100\%$ coverage category would operate under the 'status quo' service delivery model, in which they would obtain observers by contracting directly with observer providers to meet either 100% or 200% coverage requirements in regulations. Those vessels and processors in the $< 100\%$ coverage category would pay a 1.25% ex-vessel value based fee on their landings included under the new program, and NMFS would determine observer coverage under an annual sampling and deployment plan. The Council's October 2010 motion on this issue is provided as Item C-4(b), and outlines which vessels and processors are included under each category.

The schedule for completion of the proposed and final rulemaking and implementation of the new program is provided below. Included in this schedule is the Council's review of the draft proposed regulations, for potential approval. Should the Council require changes and a second review of a revised draft proposed rule at a subsequent meeting prior to approval, the schedule would need to be revised and final rulemaking potentially delayed.

Sept 2	Send draft proposed rule to OAC and Council (Sept 8) for review
Sept 15 – 16	OAC meeting to develop recommendations for the Council on the draft proposed rule
Sept 26 – Oct 4	Council review of draft proposed rule (Dutch Harbor); action as necessary
Jan 2012	Publication of proposed rule
Jan/Feb 2012	45 day comment period and public hearings on proposed rule (estimate)
July 2012	Deadline to receive Federal funds to fund year-1 contracts under new system
Aug 2012	Publication of final rule
Jan 2013	Effective date of new program (deployment begins under new system)

The draft preamble and proposed regulations implementing the restructured observer program were posted on the Council website and sent to you the week of September 6. At this meeting, the Council is scheduled to review the draft proposed rule and determine whether it is sufficient to 'deem' or 'approve' the final development of the regulations, for potential publication in the Federal Register in early 2012.