

# Discussion Paper: Observer Provider and Small CP Reporting Changes

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## 1 Introduction

NMFS has identified two potential changes to existing reporting requirements related to the Observer Program that could streamline information collection requirements. These include a revision to the request process and deadline for small catcher/processors to request placement in the partial coverage category and a revision to the observer provider reporting requirements.

## 2 Authority

Under the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*), the United States has exclusive fishery management authority over all marine fishery resources found within its exclusive economic zone. The management of these marine resources is vested in the Secretary of Commerce (Secretary) and in the regional fishery management councils. In the Alaska Region, the North Pacific Fishery Management Council (Council) has the responsibility for preparing fishery management plans (FMPs) and FMP amendments for the marine fisheries that require conservation and management, and for submitting its recommendations to the Secretary. Upon approval by the Secretary, NMFS is charged with carrying out the Federal mandates of the Department of Commerce with regard to marine and anadromous fish.

Section 305(d) of the Magnuson-Stevens Act authorizes the Secretary of Commerce to develop regulations necessary to implement fishery management plans (FMPs). The Observer Program is authorized by Sections 3.2.4.1 of the BSAI FMP and the GOA FMP. Sections 3.9.1 of the BSAI FMP and the GOA FMP authorize the Secretary to implement and amend regulations requiring segments of the fishing industry to keep and report certain records as necessary to provide the Council and NMFS with the needed information to accomplish the goals and objectives of the FMPs. The reporting requirements for observer providers and the process for small catcher/processors to request placement in the partial coverage category are specified in regulation and not specifically identified in the FMPs.

## 3 Background the Observer Provider Reporting Requirements

Observer provider companies permitted to provide observer services under the North Pacific Observer Program are required to submit a variety of information to NMFS as specified at 679.52. These reporting requirements are necessary to ensure that NMFS has the information needed to track observer training,

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<sup>1</sup> Prepared by: Alicia Miller, NMFS Alaska Region with input from Jennifer Ferdinand, NMFS AFSC, and Pam Gale, Alaska Observers Inc.

deployment, and debriefings. NMFS has developed an electronic online application that allows electronic submission of much of this information to NMFS.

**Table 1 Summary of method of submission for observer provider information submission requirements.**

Information Collection		Paper, fax, mail, or email	Electronic Submission	Regulation Citation
<b>OBSERVER PROVIDER REQUIREMENTS</b>				
1	Observer Provider Permit Application	◆		§ 679.52(a)(2)
2	Candidate College Transcripts	◆		§ 679.52(b)(1)(ii)
3.a	Observer training registration	◆		§ 679.52(b)(11)(i)(A)
3.b	Observer briefing registration	◆		§ 679.52(b)(11)(i)(B)
4	Projected observer assignments	◆		§ 679.52(b)(11)(ii)
5	Physical examination verification	◆		§ 679.52(b)(11)(iii)
6	Observer deployment/logistics report	◆	◆	§ 679.52(b)(11)(iv)
7	Observer debriefing registration	◆	◆	§ 679.52(b)(11)(v)
8	Certificates of Insurance	◆		§ 679.52(b)(11)(vi)
9	Observer provider contracts	◆		§ 679.52(b)(11)(vii)
10	Other Reports	◆		§ 679.52(b)(11)(x)
11	Update to provider information	◆		§ 679.52(b)(11)(ix)
12	Observer provider invoices	◆		§ 679.52(b)(11)(viii)

### 3.1 Proposed Regulatory Change

NMFS proposes changes to regulations at § 679.52(b)(11) that would add the Observer Provider Portal as a method for submitting information to the Observer Program electronically and revise the frequency and timing of submitting observer deployment and logistics reports at 679.52(b)(11)(iv).

Observer deployment/logistics report must currently be submitted by Wednesday, 4:30 pm, Pacific local time, of each week for to each observer deployed by the observer provider during that week. These reports are used for routine recordkeeping in the NMFS observer database. Accurate and timely observer deployment information is important for fisheries management because logistics information is a critical component of the data flow. Inaccurate or delayed logistics information stops observer data from being made available to the Catch Accounting System and to industry members reliant on it for monitoring catch share quotas. Knowing where observers are at all times is also extremely important should emergencies arise while an observer is deployed at sea. If the observer is currently not assigned to a vessel, shoreside processor, or SFP, the observer's location must be included in the report. Use of the Observer Provider Portal web application would allow observer providers to submit this information via a secure, online web interface that is accessible 24 hours a day. This would improve observer safety and timeliness of observer data availability to the fleet.

Tables 2 and 3 summarize the annual estimated personnel costs for observer providers and the public to submit the required information through existing methods.

**Table 2 Summary of total annual burden hours and estimated personnel costs for respondents**

	<b>Information Collection</b>	<b>Number of entities</b>	<b>Frequency of annual responses per entity</b>	<b>Total annual responses</b>	<b>Estimated time per response</b>	<b>Total annual burden hours</b>	<b>Total labor cost (\$37/hr)</b>
1	Observer Provider Permit Application	1	1	1	60 hours	60	\$2,220
2	Candidate College Transcripts	4	Varies	120	8 hours	960	\$35,520
3.a	Observer training registration	4	8	32	1 hour	32	\$1,184
3.b	Observer briefing registration	4	80	320	7 min	37	\$1,381
4	Projected observer assignments	4	Varies	900	7 min	105	\$3,885
5	Physical examination verification	4	Varies	425	5 min	35	\$1,310
6	Observer deployment/logistics report	4	52	208	7 min	24	\$898
7	Observer debriefing registration	4	Varies	900	30 min	450	\$16,650
8	Certificates of Insurance	4	1	4	12 min	1	\$30
9	Observer provider contracts	4	1	4	30 min	2	\$74
10	Other Reports	4	Varies	900	2 hours	1,800	\$66,600
11	Update to provider information	1	1	1	5 min	0	\$3
12	Observer provider invoices	4	12	48	30 min	24	\$888

**Table 3 Summary of total annual burden hours and estimated personnel costs for Federal Government**

	<b>Information Collection</b>	<b>Total annual responses</b>	<b>Estimated time per response</b>	<b>Total annual burden hours</b>	<b>Total labor cost (\$37/hr)</b>
1	Observer Provider Permit Application	1	30 hours	30	\$1,110
2	Candidate College Transcripts	120	2 hours	240	\$8,880
3.a	Observer training registration	32	1 hour	32	\$1,184
3.b	Observer briefing registration	320	30 min	16	\$592
4	Projected observer assignments	900	10 min	150	\$5,550
5	Physical examination verification	425	2 min	14	\$524
6	Observer deployment/logistics report	208	75 min	260	\$9,620
7	Observer debriefing registration	900	30 min	450	\$16,650
8	Certificates of Insurance	4	3 hours	12	\$444
9	Observer provider contracts	4	20 hours	80	\$2,960
10	Other Reports	900	1 hour	900	\$33,300
11	Update to provider information	1	30 min	1	\$19
12	Observer provider invoices	48	30 min	24	\$888

### 3.2 Impacts

NMFS estimates that the proposed change to require observer providers to submit information to the Observer Program using the observer provider portal instead of by email or fax would reduce reporting

duplication, improve timely availability of observer data, and improve observer safety at sea. This change would also reduce the estimated time burden for the Federal Government by streamlining information submissions directly to the database and reducing the need for manual data entry by staff. This would remove the requirement for observer providers to submit a weekly deployment/logistics report to the Observer Program and replace that with more frequent electronic updates. This would shift the data entry burden from NMFS Staff to Observer Providers. Currently the proposed frequency would be to require providers. Since the development of the online application, observer providers have voluntarily entered deployment/logistics reports into the Provider Portal and have continued to compile the weekly reports to comply with the regulatory reporting requirements. This has resulted in duplication of effort and depending on the number of observers deployed or moved in a given week, by an observer provider, this could be more or less burdensome depending on the size of the company.

NMFS is seeking feedback on how the burden estimate for the deployment/logistics report might presented in Table 2 might change if the regulations are modified as described in this document.

If the deployment/logistics report frequency were changed to once daily instead of the currently required weekly report, providers would be required to update any deployment/logistic changes within 24 hours of the change. Though the Provider Portal would be available 24 hours a day, observer providers would not be required to access the portal at all hours of the day. Changes could take up to 24 hours to be reflected in the online system.

#### **4 Background on Small Catcher/Processor Request Process**

Section 679.51(a)(3) allows the owner of a qualifying catcher/processor to annually request placement in the partial observer coverage category. Absent a request by the owner of a qualifying vessel, that catcher/processor will be in the full observer coverage category in the upcoming fishing year.

If a request is submitted by a vessel owner, NMFS reviews the vessel's production history to determine if the vessel is eligible to be placed in the partial coverage category and provide written notification to the vessel owner. All qualifying vessels that submit a request by the deadline are placed in the partial observer coverage category. If approved, the applicant will receive instructions and necessary information to log trips in ODDS.

The request form is provided by NMFS on the NMFS Alaska Region Web site (<https://alaskafisheries.noaa.gov/fisheries-applications>).

A vessel owner must request placement in the partial observer coverage category before July 1 of the year prior to fishing activity. The July 1 deadline does not apply to vessels with no production from 2009 through the standard basis year.

NMFS must know which vessels will be in the partial coverage category to prepare the Annual Deployment Plan. The ADP describes how observer coverage and EM will be assigned to vessels and processors in the partial observer coverage category in the upcoming year. NMFS develops a draft ADP each year beginning in June and consults with the Council and advisory committees at its October meeting. Two other groups of vessels may request to be in a specific coverage or monitoring category that may affect the development of the ADP. Trawl catcher vessels operating in the BSAI may request to be placed in the full coverage category each year and catcher vessels using fixed gear in the partial coverage category may request to be in the EM selection pool. NMFS reviews the vessel's production history to determine if the vessel is eligible to be placed in the partial coverage category and provide written notification to the vessel owner. All qualifying vessels that submit a request by the deadline are placed in the partial observer coverage category. A vessel owner must request placement in the partial observer

coverage category before July 1 of the year prior to fishing activity. The July 1 deadline does not apply to vessels with no production from 2009 through the standard basis year.

#### **4.1 Problem**

A *Federal Register* notice was published on July 6, 2018 (83 FR 31527), to solicit public comments on the renewal of Observer program information collections in collection number 0648-01318. Additionally, NMFS also solicited comments from fishery participants that submit information through this collection. Six comment letters were received from representatives of fishing vessels and processing plants subject to these information collection requirements.

One commenter suggested that the annual request to place a qualifying small catcher/processor in the partial coverage category be replaced by a one-time request with annual review of the eligibility criteria. This change would reduce the burden on qualifying vessels that wish to remain in the partial coverage category each year unless they notify NMFS that they wish to opt out of the partial coverage category. To make this change, regulations would need to be modified through proposed and final rulemaking. NMFS agrees that this is a good suggestion and would result in a reduction in the burden of this information collection. However, this would be a relatively minor reduction in burden and likely would not justify the cost of a standalone rulemaking just to make this revision. Therefore, NMFS will add this suggestion to the list of Observer Program related regulatory amendments that could be incorporated into a future rulemaking package.

NMFS received another request from industry participants prior to the July 1, 2019 deadline for submission of their request to be placed in partial coverage for the upcoming 2020 fishing year. Changing the annual request processes to an annual review would improve efficiency for both industry participants and NMFS administration of the program and improve the consistency of this request process with the process used for vessels to request to be in the EM selection pool until a request is submitted to opt out or until NMFS determines the vessel no longer meets the eligibility criteria.

#### **4.2 Proposed Regulatory Change**

Revising this request process to be a one-time request with annual verification of eligibility would be consistent with the request process for fixed gear vessels to request to be in the EM selection pool under the partial coverage category. That process allows a vessel approved to be in the EM selection pool remain in the pool until the vessel owner requests for the vessel to be removed or if NMFS removes the vessel from the EM pool because of disapproval of the vessel's Vessel Monitoring Plan, or the vessel no longer meets the criteria to be in the EM selection pool.

#### **4.3 Impacts**

NMFS estimates that approximately 5 to 10 vessel owners submit a request to be placed in the partial coverage category annually and that all of these vessels are small entities. The estimated annual time burden to submit these requests at approximately 3 hours for the industry participants and approximately 1 hour for the federal government. Revising this regulatory requirement would streamline the annual process to determine which small CP vessels are in the partial coverage category with minor cost savings to both the industry and NMFS. This revisions could also reduce the likelihood that a vessel might miss the existing July 1 deadline and be disapproved to be in the partial coverage category potentially resulting in significant costs to the vessel owner if the vessel must then pay for its own full observer coverage under the pay-as-you-go observer procurement model in the full coverage category.