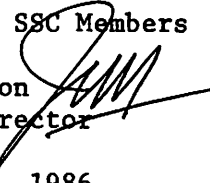


MEMORANDUM

TO: Council, AP, SSC Members

FROM: Jim H. Branson 
Executive Director

DATE: September 18, 1986

SUBJECT: Domestic Observer Program

ACTION REQUIRED

Receive report from Domestic Observer Committee and act on Committee recommendations.

BACKGROUND

The Council's Domestic Observer Committee will meet at 7:00 a.m. on September 24, 1986 to discuss funding of domestic observer programs, draft observer guidelines and NOAA's proposed observer discussion paper. The draft guidelines are included as Attachment A, with the Council's observer policy as it appears to date, and a draft outline of the discussion paper is Attachment B. The Committee may bring recommendations to the Council for its consideration on September 25, 1986.

Domestic Observer Policy

1. The North Pacific Fishery Management Council should have the lead in determining observer placement;
2. Observer placement should not be punitive and should be on all gear types;
3. Observers should be used to verify bycatches, handling mortalities and to gather data for use in determining equilibrium yield levels;
4. The observer program should not be an enforcement program.
5. When the Council decides domestic observers are needed in a fishery, an ad hoc committee will be established consisting of participants in the relevant fishery and SSC members. The ad hoc committee will set specific observer duties and the level of observer coverage. The percentage of vessels required to carry observers will vary by fishery but may be at a level less than 100% for all fisheries.

A. Draft Observer Guidelines

I. OBSERVER DUTIES

Primarily, an observer's duty is to determine the incidence of various species and biological sampling as listed below:

1. Determine the species composition of the catch according to specified instruction.
2. Record daily catch rates of the vessel. Special instructions will be issued regarding obtaining your estimates of catch for comparison with estimates made by the vessel.
3. Record the numbers, weights, and sizes of certain incidentally-caught species in the catch as per instructions. These species may include halibut, crab, salmon, and other species.
4. Send a summary of this information (items 1, 2, & 3) by radio message to Seattle/Juneau weekly.
5. Obtain biological data and samples on target and other species as directed. This may include length frequencies, otoliths or scales for ageing, stomach content samples, and other information as requested.

6. Record species, numbers, and viability of incidentally-caught marine mammals and occurrence of marine mammals in the fishing areas.
7. As an observer you will abide by all rules and regulations relating to the conduct of the host vessel. You shall not utilize, for any purpose other than obtaining required data, any species which may not be legally retained as part of the vessel's catch. (This includes eating them in the ship's mess, if served.)
8. If your host vessel is boarded by the Coast Guard, do not attempt to interfere with their activities, or those of NMFS enforcement agents, in any way. You can let them know that you are aboard, then stand by. If they wish assistance from you they will ask you.
9. Do not accept gifts from the vessel owner, skipper or crew.
10. Consider safety first in everything you do.

II. OBSERVER DEPARTMENT

As a guest of the vessel:

1. Fisheries observers should expect to be treated courteously, and in turn you should show the same respect to the vessel and everyone on board.
2. Observers should make a conscious effort to remain clean and neat, particularly at mealtimes, while aboard vessels.
3. Accommodations and food may be different from what you are used to at home. Adaptable observers with an easygoing attitude in this regard are apt to receive more consideration than those who constantly criticize and make demands.

As a fisheries observer:

1. When conflicts or sampling problems occur which affect your attempts to get unbiased samples of the catch (presorting of fish, for example), promptly call them to the attention of the skipper.
2. Do not offer, even if asked, any advice on what a vessel can and cannot do under the regulations under which they are operating. All such questions should be sent via message to the NMFS Regional Director in Juneau.

3. Log suspected violations in your private notebook for inclusion in your final report. It is not your responsibility to confront the ship's personnel with violation complaints. You are not an enforcement officer. Your job is simply to observe.

III. INTERACTION WITH VESSEL PERSONNEL CONCERNING SAMPLING

In most cases, observers are treated very well by both skippers and crew, and are provided work space, sampling table, and assistance when needed. At times, however, observers are faced with situations in which their sampling data could be biased (either unintentionally or on purpose) due to requests from ship officers or assistance from helpers. Common sense, good judgement, and diplomacy are needed when dealing with such situations, but the observer should be insistent in efforts to avoid data bias. The following are some situations you may face and suggested ways of dealing with them:

1. Skippers or crew may request that you not sample at a particular time. In this case, evaluate the request by finding out the reason they do not want you to sample, and if your data might be biased if you complied with their request. Some possible reasons:
 - a) Helpers not available--observers should be able to figure out ways to do all of their sampling duties by themselves, without any assistance or supervision, so this is not a valid reason for not sampling.
 - b) Concern for observer safety--During rough weather the skipper may not want observers to watch the landing of catch on deck. Evaluate the safety hazard (some skippers give this excuse during a flat calm), and see if you can satisfy the concern for your safety without affecting the validity of your data. You must be able to at least observe the taking of your basket of samples to insure that they constitute random representative samples and insure that the incidence data you obtain is accurate.
 - c) High incidence of prohibited species--This is not a valid reason for not sampling; you should decide whether or not to

sample a particular catch before it comes on board. Do not allow yourself to be swayed by the desires of the officers.

- d) Skippers may want your completed data by a certain time, so they may urge you not to sample at night--The observer is under no obligation to provide data to vessel personnel; data are provided as a courtesy only. The observer should not let the provision of data to vessel personnel interfere with obtaining representative samples throughout the day.
2. Observers may have sampling problems due to actions of crew members. Crew members often provide invaluable assistance in sorting out prohibited species and carrying basket samples, but the observer should always oversee their actions. Watch the catch being brought aboard to be certain that presorting does not bias the sampling data, and that incidence data are accurate. If there is a problem caused by vessel personnel and you are unable to deal with it directly, speak to the skipper. If this problem continues, inform the skipper of the problem in writing and document the situation in your logbook. Do what you can to circumvent the problem and get good sampling data.
 3. As a courtesy, observers are asked to provide vessel personnel with copies of completed data forms. The provision of these data should be made at the convenience of the observer, and should not interfere with the daily sampling routine. The observer is under no obligation to explain to skippers any discrepancies between observer sampling data and vessel catch figures. Note in your logbook, and later in your report:
 - a) any refusal to send observer radio messages as originally written;
 - b) attempts to make observer data and vessel data agree by forcing you to change your data or vice versa. Do not sign any statement which you do not know to be true or of which you have inadequate knowledge of all of the circumstances involved.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Washington, D.C. 20230

THE ADMINISTRATOR

AUG 29 1986

Honorable Don Young
House of Representatives
Washington, D.C. 20515

Dear Mr. Young:

Thank you for your letter to William G. Gordon regarding development and implementation of a domestic observer policy. The questions you raised in your letter of a year ago regarding costs and payment remain unanswered in a generic sense. As we and the Councils have begun to address these and other issues, we are more and more aware that many of the answers are dependent on the fishery in question--on purpose, criticality of need, level of observer coverage, and regional industry attitudes.

Because of these and other complexities we have put together a work group of regional and Washington office people from the management, science, and legal perspectives to address the issues. I enclose a draft outline of a discussion paper designed to provide the basis for decisions affecting the establishment of a domestic observer program under the Magnuson Fishery Conservation and Management Act. We have established a completion date of January 1987. The paper will also propose implementation structures, including organization, staffing, and sources of funding. As you suggest, this effort will be coordinated with Congress and the Regional Councils.

Sincerely,

A handwritten signature in dark ink, appearing to read "Anthony J. Calio". The signature is written in a cursive style with a large initial "A".

Anthony J. Calio

Enclosure



Draft Outline

Domestic Observer Discussion Paper July 1986

- I. Purpose of the Paper: To provide the basis for decisions affecting the implementation of a domestic observer program under the Magnuson Fishery Conservation and Management Act.
- II. Basic Issues
 - a. Objectives and functions of a domestic observer program;
 - b. Role of the domestic observer;
 - c. Legal and constitutional basis for a domestic observer program;
 - d. Economic, social and management impact of a domestic observer program; liability and insurance; cost of domestic observer program to fishermen, consumers, and the nation;
 - e. Criteria for selecting domestic observers as a management tool; criteria for selecting a fishery for domestic observer coverage;
 - f. Methods of implementing a prototype or pilot domestic observer program.
- III. Background
 - a. Survey of existing management tools (e.g., foreign vessel observer program, at-sea boardings, dockside inspections, landing tickets, etc.), for both domestic and foreign fisheries; determine current effectiveness and as present foreign fishing effort diminishes and U.S. effort increases;
 - b. Survey experience with domestic observer program to date, at both Federal and State levels;
 - c. Consider alternatives to the domestic observer program taking into consideration the following:
 1. Effectiveness;
 2. Cost;
 3. Degree of disruption to traditional fishing life-style.

IV. Recommendation and conclusions

- a. Under what conditions should a domestic observer program be implemented? Criteria for selecting a fishery for domestic observer coverage;
- b. How should a domestic observer program be structured? Include recommendaions on organizational structure, relationship of a domestic observer program to other NMFS elements, particularly enforcement, and the role of the observer (i.e., scientific, enforcement/both);
- c. How should a domestic observer program be funded? ;