

Council motion

Observer Restructuring (GOA Am. 76/BSAI Am. 86) Draft Proposed Rule and Regulations

October 2, 2011

The Council deems proposed final regulations, which clearly and directly flow from the Council's review of the draft regulatory package, to be necessary and appropriate in accordance with section 303(c), and therefore the Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions.

The Council also recommends that NMFS address the following issues from the September 15-16, 2011, Observer Advisory Committee (OAC) report, with identified changes:

- The OAC notes there is considerable flexibility in the draft regulations to develop an EM program as applicable. However, the preamble narrowly defines the use of EM to instances where vessels are incapable of carrying an observer. The OAC believes this is unnecessarily limiting and may create an undesirable precedent. There will likely be instances where EM could be a preferred tool for some uses and sectors. The OAC recommends the preamble be revised to reflect the potential integration of EM as an independent tool **in the long-run** in the research plan and not conditional on a vessel's ability or inability to carry an observer.
- The OAC recognizes that the scope of EM may be limited in the initial year, and NMFS will need to prioritize vessels in determining whether they receive EM (i.e., all small vessels that identify a preference to using EM in the deployment system may not receive EM). The preamble should highlight to the public that EM will not be available to all vessels; the priority, as identified by the OAC and Council, is to focus the initial effort on 40' to ~~57.5'~~ 60' IFQ vessels (those vessels that are not managed by real-time data and are not constrained by PSC). The committee supports dedicating funds from start-up funding and fee proceeds toward EM development.
- The OAC recommends adding language in the preamble that better describes the process and timing for receiving a 'release' from observer or EM requirements from the NMFS Regional Administrator.
- The regulations need to include a requirement that any IFQ vessel that fished in the previous year must register for the following year with the observer deployment system by the December 1 deadline. The regulations must also include a requirement that any IFQ vessel that did not register by December 1 of the preceding year, but decides to start fishing during the season, must register with the deployment system before fishing.

The Council also recommends the following (also OAC recommendations):

1. The Council recommends sending a letter to the AFSC, supporting internal observer program funding request for EM.
2. The Council recommends sending another letter to NOAA, requesting start-up funds for the restructured observer program (to fund year-1).

The Council also approves the following:

3. The Council requests NMFS to continue to work on making sure that a receipt of observer program fees is provided to fishermen for each trip.
4. The Council requests that the agency bring back a progress report on the program restructuring in April 2012, including that part of the deployment plan that addresses:
 - a) Vessel selection policy, for those in the vessel selection pool
 - b) Potential requirements for electronic monitoring (EM) use and logistical requirements
 - c) Deployment rate in the vessel selection pool
 - d) The release or un-select policy for both the trip selection pool and vessel selection pool
5. Finally, the Council urges the agency to make as many EM systems available as possible to vessels in the vessel selection pool in order to advance the Council's goal of integrating EM into the observer program as an alternative tool for meeting program requirements.