

Council Final Motion on Observer Restructuring

BSAI Amendment 86/GOA Amendment 76

October 8, 2010

The Council adopts Alternative 3, the “coverage-based” restructuring alternative as its preferred alternative, with the following components that include a modified version of Option 2:

Two tier system for general coverage categories: All vessels and processors in the groundfish and halibut fisheries off Alaska would be placed into one of two observer coverage categories. These categories would be established in regulation:

1. the “greater than or equal to 100%” ($\geq 100\%$) coverage category, and
2. the “less than 100 percent” ($< 100\%$) coverage category.

Vessels and processors in the $\geq 100\%$ coverage category would not be included under the ex-vessel fee-based program and would continue to obtain observers by contracting directly with observer providers (“status quo”).

Vessels and processors that would be placed in the $\geq 100\%$ include:

1. all catcher/processors and motherships participating in the groundfish and halibut fisheries,
2. all catcher vessels while fishing under a management system that uses prohibited species caps in conjunction with a catch share program, and
3. all shoreside and floating processors when taking deliveries of AFA or CDQ pollock.

100% coverage would not be mandated for vessels $< 60'$ with a history of CP and CV activity in a single year or any catcher processor vessel with an average daily production of less than 5,000 pounds¹, in the most recent full calendar year of operation prior to January 1, 2010. These vessels would make a one-time election as to whether they will be in the $< 100\%$ coverage and ex-vessel based fee structure or the $\geq 100\%$ coverage and (status quo) fee structure category.

All other catcher vessel landings in the groundfish and halibut fisheries, and processors taking deliveries of this catch, would fall into the $< 100\%$ coverage category. Observer coverage for vessels and processors in the $< 100\%$ coverage category would be managed under an ex-vessel fee based observer service delivery model with the following features:

Basis of the fee assessment: A fee would be assessed on the ex-vessel value of the landed catch weight of groundfish and halibut. The landed catch weight would be the weight equivalents used to debit quotas (e.g., round weight for groundfish and headed and gutted net weight for halibut) which are reported on the processor’s or registered buyer’s landing report submitted to NMFS.

Ex-vessel value fee percentage of 1.25%: The fee percentage would be set in regulation at 1.25% of the ex-vessel value of groundfish and halibut. The fee percentage will be reviewed annually by the Council after the second year of the program (see Option 2 annual reports, below).

Selection of vessels and processors for observer coverage: The selection of vessels and processors that must carry an observer under the restructured program would be determined through a sampling and deployment plan. Observer coverage rates (trips or vessels) would not be in regulation.

¹Staff note: The 5,000 pounds would be calculated as the round weight equivalent. The Council clarified that this would be calculated by dividing total annual production by the number of days of processing activity.

Standard ex-vessel prices to apply to (non-IFQ) groundfish landings to determine the ex-vessel value based fee liability would be based on standardized ex-vessel nominal prices calculated using data derived from COAR using the methodology developed by the CFEC for their gross earnings estimates.

Standard ex-vessel prices would be established for groundfish by species, port of landing, and gear. Three gear type categories would be established: pelagic trawl gear, non-pelagic trawl gear, and fixed gear (everything else besides trawl gear). Because of data confidentiality issues, standardized price data must be aggregated if there are fewer than 3 entities in a price category.

A 3-year rolling average would be used to calculate the standard ex-vessel prices for groundfish (excluding fixed gear IFQ/CDQ sablefish).

Standard annual ex-vessel prices for halibut and sablefish IFQ and CDQ: The most recent available standard annual ex-vessel price for IFQ halibut and IFQ sablefish developed for the IFQ cost recovery program would be applied to landings by:

- catcher vessels in the <100% observer coverage category of halibut IFQ,
- halibut CDQ,
- sablefish IFQ, and
- sablefish that accrues against the fixed gear sablefish CDQ allocation.

This standard ex-vessel price is established annually by port or port group from registered buyer reports.

How to define a catcher/processor: The determination of whether a vessel is a catcher/processor or a catcher vessel for assignment to an observer coverage category would be based on the designation that is on that vessel's Federal Fisheries Permit (FFP). Once established prior to the beginning of each fishing year, the designation as a catcher/processor or catcher vessel determines the vessel operation category assignment within the restructured observer program sampling and deployment plan for the calendar year. A different approach would be used for vessels that are included in the program, but not required to obtain an FFP. The appropriate approach would be determined during development of the proposed rule.

The following exclusions would be made:

State water GHL and state-managed fisheries: Vessels participating in GHL groundfish fisheries and other state managed non-groundfish fisheries (e.g., lingcod) would be excluded from Federal observer coverage requirements, but non-GHL groundfish incidentally caught in the State GHL and other non-groundfish managed fisheries that are landed by vessels with FFPs would be subject to the fee assessment.

Vessels with an FFP fishing in the State of Alaska parallel groundfish fisheries would be subject to the Federal observer coverage requirements and the ex-vessel fee assessment.

Catcher vessels delivering unsorted cod ends to a mothership: As is the case under status quo, observers would not be required on catcher vessels delivering groundfish in unsorted codends to a mothership. Because all motherships are in the $\geq 100\%$ observer coverage category, no fee would be assessed on these groundfish landings, and observer coverage of the catch would occur on the mothership under the status quo system of observer coverage requirements.

Landings from catcher vessels in the <100% coverage category that deliver groundfish or halibut catch that is retrieved onboard the catcher vessel before delivery to the mothership ("sorted catch") would be subject to the fee assessment and observer coverage under the restructured program.

Start-up funding: Funds must be collected prior to deployment of observers under the restructured portion of the program to initiate contracts for observer deployment. Alternative 3 is expected to provide start-up funding in one year. During the start-up period (“year-0”), vessels and processors subject to the 1.25% fee assessment would continue to pay for current observer coverage requirements. Processors would be billed at the end of the year. Vessels and processors will only be required to pay the difference between the fee assessment and the actual year-0 observer costs under the status quo deployment model.

Federal funding for start-up costs: The Alaska Region NMFS will continue to seek federal funding for start-up costs of implementation of the restructured observer program. If federal funding is available, it would be used towards the initial deployment of observers under a restructured program.

Modified Option 2: Annual Report and Review of the Sampling and Deployment Plan and the 1.25% fee assessment:

The following statement replaces the existing language for Option 2:

NMFS will release an observer report by September 1 of each year. The report will contain the proposed stratum and coverage rates for the deployment of observers in the following calendar year, as well as a detailed financial spreadsheet by budget category on the financial aspects of the program. The Council may request its Observer Advisory Committee, Groundfish Plan Teams and/or the SSC to review and comment on this draft plan. NMFS will consult with the Council each year on the draft plan for the upcoming year, at a meeting of the Council’s choosing that provides sufficient time for Council review and input to NMFS.

NMFS also would prepare an annual report on the observer program for presentation to the Council each year, including information on how industry participants have adapted to and been able to accommodate the new program. As part of this annual report, the 1.25% fee percentage would be reviewed by the Council after completion of the second year of observer deployment in the restructured program. The Council could revise the fee assessment percentage in the future through rulemaking after it had an opportunity to evaluate program revenues and costs, observer coverage levels, fishery management objectives, and future sampling and observer deployment plans. This report would be provided to the Council at the same time the annual deployment plan is being provided.

Development of regulations (deeming):

The Council requests to see the draft proposed regulations prior to their submission to the Secretary of Commerce.

Program review:

The Council approved a review of the observer program, to begin five years after implementation (i.e., first year of deployment is year one), to assess whether the goals and objectives of the problem statement to restructure the observer program have been achieved.