

October 11, 2002

Sue Salveson
Assistant Administrator for Sustainable Fisheries
Alaska Region
National Marine Fisheries Service
P.O. Box 21668
Juneau, AK 99802
Attn: Lori Gravel



P.O. Box 30167
Seattle, WA 98103

RE: Comments on Proposed Rule to extend the North Pacific Groundfish Observer Program through 2007

Dear Ms. Salveson:

The Association for Professional Observers (APO) fully supports the extension of the North Pacific Groundfish Observer Program through 2007 as well as the placement of NMFS staff or NMFS authorized personnel on groundfish vessels (67 FR 58452-58477). We agree with NMFS that “high quality observer data are a cornerstone of Alaska groundfish fisheries management.”

However, we have the following concerns about the language in the Proposed Rule:

- The permit process for the observer service providers needs to include annual performance evaluations that are available to observers and include observer input as part of the evaluation process. In our opinion, the permit is analogous to a federal contract and services provided under such contracts are evaluated at regular intervals. We do not feel that a permitted provider should be exempt from similar evaluations.
- Previously, the regulations included a caveat to lower hiring standards if an insufficient number of applications were submitted from candidates with bachelor degrees. Is this regulation no longer applicable?
- At 50 CFR 679.5 (i)(2)(vii), the proposed rule states, “Unless alternative arrangements are approved by the Observer Program Office, an observer provider must not: ..(B) deploy an observer for more than 90 days;” It would be useful to define when deployment time starts and stops. Our current understanding is that the countdown begins the day the observer boards their first vessel and ends the day the observer disembarks their last vessel. With the current wording deployment time could be defined as starting when an observer leaves the site of their briefing for the field and continuing until they leave the field to debrief.
- The Proposed Rule states, “Vessels carrying observers are required under regulations at 679.5(f)(1)(ii) to have on board a valid commercial fishing vessel safety decal issued by the Coast Guard. However, obtaining this decal through a Coast Guard inspection is a voluntary program and vessels are not prevented from operating without one.” This language is somewhat confusing since many vessels

operating in Alaska waters have 100% mandatory coverage requirements and the General prohibitions of the Magnuson-Stevens Act at 600.725(s) states that vessels may not “fish without an observer when the vessel is required to carry an observer.” The current language and the previous rule seem to be in conflict.

- During the EA/RIR process, the APO requested safety training for prior observers be modified to coincide with requirements of sea-going RACE staff, other survey staff such as IPHC, or other observer programs. This request does not appear to be addressed in this proposed rule. We would like to see this policy modified within the Observer Program regardless of whether it appears in the Final Rule.
- Page 58468, paragraph 1 states, “The proposed regulation would require that observers complete a NMFS electronic vessel and/or processor survey prior to their final debriefing”. Did you mean “prior to being deployed in a non-groundfish fishery”?
- The proposed rule states development and implementation of research projects as a component to justify NMFS to place staff on board vessels. The APO supports this justification but requests the agency publish an annual report or summary of these projects. The Observer Advisory Committee (OAC) has requested specific information on data needs and priorities from NMFS for almost a decade to no avail. A few of the OAC members (myself included) feel the lack of agency articulation regarding data needs is a major stumbling block in redesigning/restructuring the observer program.

We also view this regulatory package as yet another short-term Band-Aid for problems that require a long-term solution. The background statement indicates the Observer Advisory Committee (OAC) and North Pacific Council have **failed** to develop a new plan. The problems and issues with the program have not changed. The agency needs to take the lead to revamp the Observer Program by instituting the Research Plan (or something similar) with or without the Council’s approval. The Council process hasn’t produced a solution in over a decade, why should we expect this to change within the next five years.

The APO appreciates the work that has gone into producing this regulatory package and the outreach to observers and the APO regarding some of the policy language. Thank you for your time and effort.

Sincerely,

Kimberly S. Dietrich
Vice-President

cc: Dan Ito, Task Leader, North Pacific Groundfish Observer Program
Doug DeMaster, Director, Alaska Fisheries Science Center