



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
P.O. Box 21668
Juneau, Alaska 99802-1668

December 3, 2008

Eric Olson, Chairman
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, Alaska 99501

Dear Chairman Olson:

At its December 2008 meeting, the North Pacific Fishery Management Council (Council) will review a discussion paper about whether to reinitiate efforts to restructure the existing groundfish Observer Program. This letter provides NMFS's recommendations on this issue.

The Council last considered Observer Program restructuring in 2006. At that time, the Council decided to extend the current program because of two primary barriers to restructuring: (1) lack of statutory authority to implement any of the fee-based alternatives, and (2) inability to adequately estimate industry costs associated with changes in the observer service delivery model. As explained in the discussion paper, these two barriers have been resolved and the problems that lead the Council to consider restructuring remain relevant. Therefore, NMFS supports reinitiating an analysis of restructuring the Observer Program.

The current Observer Program is an integral part of the fisheries management system in Alaska, and it provides the best scientific information available to manage these fisheries. To the extent the quality of the observer information can be improved and the issues identified in the Council's problem statement can be addressed, NMFS supports efforts to do so, unless it is determined through this analysis that the costs of a restructured Observer Program outweigh the benefits.

Should the Council elect to reinitiate a restructuring analysis, NMFS recommends the following changes to the alternatives analyzed in 2006; we have enclosed a description of the alternatives analyzed in 2006 and NMFS's recommended revisions to these alternatives:

(i) Remove Alternative 2

Based on the Council's recommendations, the sunset date on the existing Observer Program was removed from NMFS regulations in 2007. Therefore, Alternative 2 is no longer distinct from Alternative 1. They both represent the status quo.



(ii) Remove Alternative 3 which provides for a restructured Observer Program in the (GOA) groundfish fisheries while leaving the existing Observer Program in the Bering Sea and Aleutian Islands management area (BSAI) groundfish fisheries.

The 2006 analysis contained two partial restructuring alternatives, Alternatives 3 and 4. Under these alternatives, some vessels would remain in the current observer system, while others would pay an ex-vessel value based fee, based either on location (Alternative 3) or coverage needs (Alternative 4). NMFS has identified several concerns with implementing a partially restructured or “hybrid” program.

Managing a hybrid program could present challenges to NMFS, contractors, and fishery participants primarily because of the potential for overlap for individual vessel owners who may come under both systems depending on where they are fishing or in which fishery they are participating. The 2006 analysis identified a number of these ‘crossover’ issues which could complicate a hybrid program, including logistical concerns; confidentiality requirements; a potential diversion between Observer Program rules and operating procedures in the restructured program and the existing program, as the new, contracted program would be more easily and quickly modified to meet changing data needs; agency costs; and the complexity for industry to comply with the rules of two separate programs. While both Alternative 3 and 4 include a hybrid program, Alternative 3 would not resolve the problem of not being able to control when and where observers are deployed in fisheries with less than 100 percent coverage in the BSAI. Therefore, we recommend eliminating Alternative 3 from further analyses, as it presents a hybrid program with the difficulties described above and would address fewer of the data quality objectives of restructuring relative to Alternative 4.

(iii) Analyze an alternative for a comprehensive fee-based system. This alternative was considered but removed from the 2006 analysis prior to final action.

This alternative would assess the same ex-vessel value based fee on all commercial halibut vessels and groundfish vessels and processors in the GOA and BSAI to fund the Observer Program. This would be similar to Alternative 5 in the 2006 analysis, in that all vessels and processors would be included in the new program. However, unlike Alternative 5 in the 2006 analysis, everyone would pay the same ex-vessel value based fee. One primary advantage of an ex-vessel value fee is that it may be the most equitable method of funding observer coverage, as it is based on the value of the resource each operation uses. This alternative was originally included in the previous restructuring analysis, but was removed by the Council in an effort to pare down the suite of alternatives at its June 2005 meeting.

Should the Council proceed with a restructuring analysis, NMFS would analyze additional agency responsibilities and costs to implement a new service delivery model as a first step in the analysis. This would allow NMFS and the Council to better understand the feasibility of implementing a new service delivery model before a significant amount of work is done to update the cost estimates and analysis of the impact of the alternatives on the industry.

Limited staff resources require that the Council consider the priority of the restructuring analysis relative to further exploration of potential revisions to existing observer regulations. A choice

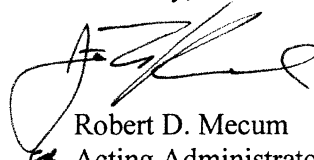
must be made between the two, and NMFS recommends that the resources be devoted to the restructuring analysis and the Council refrain from also pursuing alternatives to revise regulations under the existing program. One exception to this recommendation is a proposed rule NMFS offers to develop to better align observer coverage requirements in the Community Development Quota program with other quota share and cooperative fishery programs. This issue is addressed under agenda item C-5(b) and in a separate letter from NMFS. However, if the Council elects to pursue both the restructuring analysis and additional revisions to existing regulations, the Council must indicate the priority of those efforts so that staff can be properly assigned and tasked.

Finally, we recommend that if the Council elects to proceed with the restructuring analysis, that it wait to request review and input by its Observer Advisory Committee (OAC) until an initial draft analysis has been prepared by staff. The OAC was intimately involved in the development of the problem statement and alternatives for the 2006 analysis. Therefore, we do not believe it is necessary for the committee to again review these issues to make recommendations to the Council before reinitiating the analysis.

Significant staff time will be required to assess the programmatic and contractual facets of a restructured Observer Program and associated costs to the agency and industry. The associated issues are complex and this assessment and ensuing analysis could require several years of development and consideration by the Council, depending on the availability of analytical resources and other competing analytical and rulemaking projects. If the Council does proceed with the restructuring analysis, we intend to work with Council staff to assess options for completing a draft analysis as expeditiously as possible, hopefully by the end of 2009.

Thank you for consideration of our recommendations on the Observer Program restructuring issue. We are open to discussion with the Council on any of these recommendations, and we look forward to working with the Council and its staff on this analysis should the Council wish to pursue it.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Mecum', with a large, stylized flourish extending from the end of the signature.

Robert D. Mecum
Acting Administrator, Alaska Region

Enclosure

ENCLOSURE

Comparison of Alternatives for Observer Program Restructuring Alternatives in the June 2006 Analysis vs NMFS's December 2008 Recommendations

Alternatives included in the 2006 analysis

Alternative 1: Status quo; continue the current service delivery model.

Alternative 2: Extend current program indefinitely (remove the December 31, 2007 sunset date).

Alternative 3: GOA-based restructuring alternative: Restructure service delivery model in the GOA and include all halibut fisheries in GOA and BSAI. Vessels in the restructured program would pay an ex-vessel value based fee. Retain current service delivery model for the BSAI.

Alternative 4: Coverage-based restructuring alternative. Restructure program for all fisheries with coverage less than 100%. Vessels in the restructured program would pay an ex-vessel value based fee. Leave vessels and processors with 100% or more coverage under the existing service delivery model.

Alternative 5: Comprehensive restructuring alternative with hybrid fee system. Restructured program for all groundfish and halibut fisheries off Alaska. Vessels with 100% or greater coverage would pay a daily observer fee and vessels with less than 100% coverage would pay an ex-vessel value based fee.

NMFS's December 2008 Recommended Alternatives

Alternative 1: Status quo; continue the current service delivery model.

Alternative 2: Coverage-based restructuring alternative. Restructure program for all fisheries with coverage less than 100 percent. Vessels in the restructured program would pay an ex-vessel value based fee. Leave vessels and processors with 100 percent or more coverage under the existing service delivery model.
(Same as Alternative 4 in 2006 analysis)

Alternative 3: Comprehensive restructuring alternative with hybrid fee system. Restructure program for all groundfish and halibut fisheries off Alaska. Vessels with 100 percent or greater coverage would pay a daily observer fee and vessels with less than 100 percent coverage would pay an ex-vessel value based fee.
(Same as Alternative 5 in 2006 analysis)

Alternative 4: Comprehensive restructuring alternative that would assess the same ex-vessel value based fee on all vessels in the groundfish and halibut fisheries in the GOA and BSAI.
(Recommended addition for this analysis)