To whom it may concern:

This letter addresses some specific issues in the Shorebased Individual Fishing Quota (IFQ) Program associated with the observer monitoring requirements of the recently enacted Pacific coast groundfish fishery’s trawl rationalization program, and is written in response to numerous questions recently received by National Marine Fisheries Service (NMFS). As you may know, the trawl rationalization program requires 100% monitoring of catch (landings and discards) via observers on the vessels and catch monitors shoreside at the first receivers. It has been brought to the attention of NMFS that there is some concern about observer, observer provider, and vessel requirements once a vessel has returned to port to offload an IFQ landing. There has been some confusion regarding the requirement that an observer remain on board a vessel that has docked, until all IFQ species have been offloaded from the vessel. There have also been a number of questions regarding whether a crew member must stay on board the vessel as well.

This letter seeks to clarify the Federal regulations concerning these requirements.

Federal regulations at 50 CFR part 660 for the new Shorebased IFQ Program require the following:

1) The observer must remain onboard the vessel until all IFQ species have been offloaded, as specified at §660.112(b)(1)(xiii), Trawl fishery - prohibitions.
   
   It is unlawful for any person or vessel to “Retain any IFQ species/species group onboard a vessel unless the vessel has observer coverage during the entire trip and until all IFQ species from the trip are offloaded. A vessel may deliver IFQ species/species groups to more than one IFQ first receiver, but must maintain observer coverage until all IFQ species from the trip are offloaded...”

   The intent of this regulation is to maintain the 100% monitoring of fish until all IFQ species are off the vessel. This is particularly important for overfished species and IFQ species where a vessel may be approaching a deficit in their vessel account.

2) At least one crew member or the operator must remain onboard the vessel while the observer is onboard, as specified at §660.140(h)(5)(vii)(A)(5)(ii), Shorebased IFQ Program.
“(ii) During all periods an observer is housed on a vessel, the observer provider must ensure that the vessel operator or at least one crew member is aboard.”

The intent of this regulation is to ensure safe conditions for the observer in the unlikely event there is an emergency on the vessel (i.e., bilge pump alarm goes off, etc.) If the observer feels they are placed in an unsafe condition they may depart the vessel and refuse re-boarding until the situation is corrected. However, they must call the Office of Law Enforcement, which will be required to initiate an investigation.

3) Vessels are required to provide reasonable assistance to the observer, as specified at §660.140(h)(2)(viii), Shorebased IFQ Program. In this case, the operator and/or crew of a vessel are required to ensure that at least one crew member or the operator remain on the vessel while in port until the offload of IFQ species is complete.

“(viii) Assistance. Provide all other reasonable assistance to enable observer(s) to carry out their duties,...”

The intent of this regulation is to ensure that the assigned observer receives the necessary support from vessel personnel that will allow them to complete their required responsibilities.

NMFS was also asked to clarify how the “24-hour” observer provider requirement relates to the above cited regulations.

The regulations at §660.140(h)(5)(vii)(A)(5)(j) make the observer provider responsible for observer deployment logistics including restrictions on housing an observer on a vessel to which the observer is assigned.

“(j) An observer under contract may be housed on a vessel to which he or she is assigned: Prior to their vessel’s initial departure from port; for a period not to exceed twenty-four hours following the completion of an offload when the observer has duties and is scheduled to disembark; or for a period not to exceed twenty-four hours following the vessel’s arrival in port when the observer is scheduled to disembark.”

The purpose of these regulations are to increase efficiency and decrease expenses for industry and providers by allowing observers to be housed on vessels to which they have been assigned duties. There are three distinct criteria:

a) Prior to departure from port,

b) For a period of up to 24 hours after completion of an offload when the observer has duties. This criterion allows observers that have in-port monitoring duties the ability to stay onboard a vessel in port, for as long as IFQ species remain on board the vessel and up to 24 hours following completion of the offload of all IFQ species. This is the applicable criteria for IFQ observers who have the responsibility to monitor IFQ
species until final offload. Observers are not required to stay onboard a vessel that retains non-IFQ species onboard for delivery at another location.

c) For a period of up to 24 hours after arrival in port. This criterion is for observers onboard vessels that do not have any in port monitoring duties. Observers without inport monitoring duties include those assigned to Limited Entry or Open Access vessels fishing in a non-IFQ fishery that have received notification from the West Coast Groundfish Observer Program requiring the vessel to obtain observer coverage for a specific fishery (OA Groundfish, OA shrimp, LE fixed gear) during a specified time period.

These new regulations under the Shorebased IFQ Program represent a departure from prior practice. In order to minimize costs, improved communication and advanced planning between vessel operators and processors/first receivers will be necessary. NMFS understands that some observers, observer providers, and industry are frustrated with these requirements because they limit the flexibility of the observer and crew once in port, especially during times when a vessel must wait to offload their fish. NMFS also understands the industry concern over observer costs and observer providers’ concern over the role of observers while waiting on a vessel in port. However, these are the regulations that were recommended by the Pacific Fishery Management Council (Council) and implemented by NMFS.

Through Amendment 20 to the Pacific Coast Groundfish Fishery Management Plan in 2010, the Council recommended and NMFS implemented 100% monitoring of the trawl catch share program, including the Shorebased IFQ Program. The Council was clear on this requirement. In addition, the regulations cited above were deemed as necessary or appropriate through the Council process and were also available for public comment during the rulemaking process in 2010. Any changes to the regulations cited above would need to be addressed through the Council process followed by a Federal rulemaking. Contact the Council for ways to bring this issue to the Council’s attention (phone: 866-806-7204).

NMFS acknowledges the need to continue to work with the industry, the observer providers, the observers, and the Council to refine the Shorebased IFQ Program as we gain experience under this new program and as new information arises. NMFS looks forward to continuing to work with interested parties to make the Shorebased IFQ Program as efficient as possible within the goals and intent of the Program.

Sincerely,

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