Agenda Item H.5.c
Supplemental Public Comment 3
March 2011

Amendments

Agenda Item Number: H.5.c

March 2011

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member states of observer will require permission to board vessels for the purpose of conducting research.

Supplemental Public Comment 3 is hereby adopted. The vesselObserver, with the consent of the Captain, will conduct research on the vessel.

Member states are hereby notified of the adoption of this Supplemental Public Comment 3.

Name of Vessel: America

American

Partner

March 2011

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NMFS enforcement has stated that the primary goal of the chain of custody regulation, in regards to the observer staying with the catch until offload begins, is to deter the removal of the eight species of concern prior to the offload. In our opinion places the observer in a very dangerous spot, in a direct enforcement roll without proper training to handle the potential problems that can arise. This issue was not discussed in the initial training class in December and observers were not prepared to “guard the catch.”

Observers are filling an enforcement/deterrent role under this regulation. MRAG Americas holds that observer data and unbiased observations provide critical information to enforcement officers, however, by placing observers in a direct role of enforcing regulations or acting as a deterrent is a very slippery slope. Enforcement is an entirely different position and requires additional training and skills. The observer’s enforcement responsibility is to record who, when, where, why, and how when they see a violation occur. Requiring observers to do more than record their observations creates additional antipathy; industry vs. government trust issues and observer vs. crew trust issues. The observers’ job is difficult enough without these additional tensions.

The regulation 5(i&ii) is taken out of context in regards to requiring an observer to stay onboard until all IFQ product is offloaded. MRAG understands that this regulation was put in place as a compromise to concerns about housing observers on vessels and mitigating costs to the vessels. The cost of housing observers in ports can get expensive and the vessels and government are indirectly responsible for those costs through a daily rate per deployed day.

In some fisheries, observers are assigned to a vessel for multiple trips and stay onboard when the vessel is in port, the North Pacific Groundfish Observer Program (NPGFOP) is the best example of this. In the NPGFOP, however, the crew and captain typically reside on the vessel and observers are not placed on vessels under 60 feet. Observers in the NPGFOP are also allowed to leave the vessel in port. In most shore-side fisheries crews do not live on the vessels, if they do the environment may not be suitable to require an observer to stay aboard. Most national programs such as the Northeast Fisheries Observer Program, Hawaii Longline Observer Program, and the California Drift Gillnet Observer Program prohibit observers from staying aboard the vessels overnight unless the vessel is at sea.

Many of these vessels have limited facilities; no showers, a bucket on deck in lieu of a functioning head, and potentially limited provisions available to the vessel while in port. Crews often eat away from the vessel while in port, following the regulations to the letter, would require the observer to physically get off of the vessel and stand as sentry until the crew or a crew member returns. If observers are not allowed to leave the vessel, additional provisions will need to be made to ensure observers have sufficient food and potable water. The last thing an observer and crew wants to do after returning from a fishing trip is sit on the boat and wait, especially overnight if they haven’t showered in 3-4 days. If the vessel does not have a functioning head, this creates a legal issue concerning proper waste disposal. MRAG Americas raises the question of what is prudent and what is reasonable?

Remaining on boat until the offload requires a crew member or the captain to remain on the boat as well. This creates a potentially uncomfortable dynamic between boat crew and observers. Crews typically leave boat to see family, do laundry, and get food/drink, etc., after returning to dock. Resentment has arisen; some crew members see it as “babysitting the observer”. Crews may bring alcohol back to the vessel and MRAG Americas is concerned with the very real potential for increased harassment and conflict of interest issues.

The observer will have to be compensated for time spent on the vessel. If an observer spends more than eight hours in port on the boat prior to offload, it becomes more cost effective to pay them an additional seaday. As a result if a vessel lands at 11 pm at night and offloads at 6 am the following day, a common occurrence, the vessel would incur an additional seaday, as opposed to the First Receiver paying for several hours of dockside monitoring.

The boat/government will be paying for this time. MRAG Americas estimates that our clients will average ¾ of seaday per trip in additional cost. MRAG Americas observers have completed 22 trips to date. Vessels and the government have been billed for 92.1 days for an average of 4.19 days per trip when the observer stays onboard.
We know that the goal will be to provide observer training and understand the requirements and processes involved in developing and implementing an observer training program. The goal is to ensure that the observers are well-prepared and knowledgeable. The program will include a comprehensive training module that covers all aspects of the program, including the role of the observer, the responsibilities, and the expectations. The training will be delivered in a way that ensures that the observers are well-equipped to carry out their duties effectively.

Observations are critical in ensuring compliance with regulations and improving the integrity of the fisheries. However, they should be conducted in a way that minimizes the impact on the vessels and the fishing industry. The program will be designed to achieve the right balance between compliance and the needs of the industry.

The program will also include a feedback mechanism that allows for continuous improvement. The feedback will be collected from the observers and stakeholders, and the results will be used to refine the program and ensure its effectiveness. The program will be reviewed annually to assess its impact and make any necessary adjustments.

Finally, the program will be integrated with the broader management framework to ensure coherence and consistency. The program will be part of a larger effort to improve the management of the fishery, and it will be aligned with the goals of the national and international management authorities.