



## Chain of Custody and Catch Share Observers

MIRA Americas and the vessels we provide observer coverage for in the West Coast Trawl IFQ Observer Program are concerned about the wording and interpretation of the regulations regarding observers on the vessels and the requirement to stay onboard until all IFQ products are offloaded. The regulation sections of concern are listed below:

(xiii) 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. Once transfer of fish begins, all fish aboard the vessel are counted as part of the same landing as defined at § 660.111 If a vessel comes into port and does not immediately begin offloading, the observer must remain on the vessel until the offload starts at which point the catch monitor will take over.

5) Receives lodging, per diem, and any other services necessary to observers assigned to fishing vessels.  
(i) 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.  
(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.

MIRA Americas, the other observer providers, and multiple vessels owners raised concerns about the regulation requiring observers to stay on the vessel until all fish are offloaded in October. We received an official response from NMFS regarding those inquiries on January 20<sup>th</sup>. As per a notice sent by the observer program:

In order to ensure we're all on the same page regarding the regulatory requirements, please ensure that:

1. If a vessel comes into port and does not immediately begin offloading, the observer must remain on the vessel until the offload starts at which point the catch monitor will take over.
2. Any time an observer is on a vessel, at least one crew member must be present.
3. An observer (does not have to be the same observer who took the trip) must confirm that all catch has been offloaded by physically viewing the hold. The observer must report to the catch monitor that they confirmed the hold was empty.

MIRA Americas and the vessels on which we provide observer coverage have multiple concerns regarding the feasibility and objectives of these regulations. What is the goal of the regulation in regards to the observer staying with the catch? Is that goal accomplished by requiring the observer to remain onboard? Are there better options to achieve that goal than to have observers staying on vessels overnight in port? Many of these vessels have limited facilities; no showers, a bucket on deck for a bathroom, limited food and water available in port. Remaining on boat until offload requires a crew member or the captain to remain on the boat as well. The observer must be compensated for time spent on the vessel. The boat/government will be paying for this time. The vessel crew member staying onboard will require payment.

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. MRAAG 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(a)(ii) is taken out of context in regards to requiring an observer to stay onboard until all IFQ product is offloaded. MRAAG 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 shoreside 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.

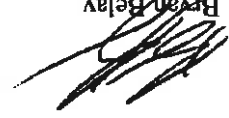
Many of these vessels have limited facilities; no showers, a bucket on deck in lieu of a functioning head, and potentially limited provisions available to the vessel while in port. Crews often eat away from the vessel while in port, following the regulations to the letter, would require the observer 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. MRAAG 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 MRAAG 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 1 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. MRAAG Americas estimates that our clients will average 1/3 of seaday per trip in additional cost. MRAAG 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

MRAAG Americas  
Observer Operations Manager  
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Thank you,

Ultimately, as we all know the goal within any observed fishery is to use observer data to make informed policy decisions on regulation that preserves and rebuilds viable stocks for future generations of fishers. But we need to be careful with our at-sea observers and create workable solutions that do not blur the lines between data gathering and enforcement, and all the while finding ways to objectively foster a relationship with industry where NMFS is seen more and more as a resource and ally that defends fishers and families.

sleeping in the forepeak.

mounting a camera on the vessel overlooking the hold access would do a much better job than an observer note the movement of the vessel or offloading of fish. If Electronic Monitoring (EM) gets funded in this program, using the bin board height upon landing and prior to offload and enlisting the help of the local Harbor Masters to evidence could be taken. Other ideas include a combination of observers measuring the ice and fish in the hold by hatch covers. One idea is to use a unique taper-proof tape. If the tape has been broken or damaged, additional some form of tagout/lockout device could be used, however, this may prove difficult or impossible with standard those fish are not onboard the vessel at offload the captain will be dealing with NMFS enforcement. In addition observer can record the number and weight of those species and both the observer and captain sign the form. If chain of custody form. The observers are weighing or estimating the weight of the eight species of concern. The What are some potential solutions? If chain of custody on the overfished stocks is the real concern, then create a

If the offload occurs within 4 hours of landing, it is not an issue for the observer to be aboard. In many cases the offload will not occur within 4 hours of docking, and may occur 24 to 48 or more later. MRAAG observers have spent upto 86.75 hours on the vessel between docking and offload, that is over 3 1/2 days! Weather, tide, size of catch, and changing offload schedules are just a few of the unknowns we all know define a trip.

higher costs to the vessel owners when they become responsible for the entire observer costs. subsidized by the federal government those are limited funds. Failure to create a reasonable solution will pass equates to \$6,102.80 additional cost to the program. While in this pilot year of the program that cost is greatly would be 75.54 or an average of 3.43 days per trip. The difference is .76 days per trip or \$277.40 per trip. That until the offload. If we had only billed the deployed time at sea on those same trips the total number of days