



NORTH PACIFIC FISHERY MANAGEMENT COUNCIL

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Action Memo

File Number: Cons 16-003

Agenda Date 2/1/2016

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Dan Hull, Chairman
Chris Oliver, Executive Director

SUBJECT:
Observer Tendering - Discussion Paper

STAFF CONTACT: Matt Robinson and Diana Evans

ACTION REQUIRED:
Review discussion paper, including purpose and need statement and alternatives.

BACKGROUND:

The Council has initiated an analysis to address potential bias in observer data from vessels delivering to tenders, by requiring each delivery to a tender to constitute a separate fishing trip for purposes of observer coverage selection, and changing the regulations to allow observers to be deployed directly from tender vessels rather than only from port. There has been no definitive indication of bias in the data provided in the Observer Program annual reports for 2013 and 2014. However, the Council and NMFS continue to receive anecdotal information that CV operators are purposely taking longer trips (and making more deliveries) when unobserved and delivering to tenders, in order to avoid ending the fishing trip and becoming eligible again for selection for observer coverage.

The purpose of this discussion paper is to provide the Council with the opportunity to reconsider the purpose and need and suite of alternatives for moving forward with a formal analysis of this amendment package, in light of new thinking on this issue, and other Council amendment analyses that overlap with the purpose and need. Staff is requesting feedback on the following issues:

1. Is the Council interested in exploring a non-regulatory approach to addressing the purpose and need, to create a separate stratum in the ADP, before proceeding with the amendment analysis?

The Council could choose to move forward with non-regulatory approach independently of the remainder of the amendment package, as it does not require regulatory action. If so, the Council would request that NMFS prepare an analysis creating a separate stratum in the 2017 ADP for catcher vessels delivering to tenders, and request preliminary analysis of this concept as part of the June presentation of the Observer Annual Report.

2. If the Council opts to proceed with the regulatory analysis, staff recommends the Council consider revised alternatives presented by staff.

Staff have proposed two new alternatives: the non-regulatory approach described above, and implementation of a regulatory requirement for all tender vessels to use tLandings. Additionally, three components have been added to the Council's existing alternative, to clearly delineate participant responsibilities. However, the Observer Program has recommended against authorizing an observer deployment model that relies on at-sea transfers of observers. If the Council continues to prioritize this regulatory amendment package, staff could proceed with further analysis of the components of Alternative 3 that do not rely on at-sea transfers of observers (i.e., catcher vessels would need to return to port to pick up and return the observer). If the Council

disagrees with the Observer Program's recommendations, the Council could request further review of this decision by NMFS, with specific additional questions or issues it wishes NMFS to address.

3. If the Council chooses to proceed with an analysis, staff recommends the Council consider whether revisions to the purpose and need statement are warranted.

Council staff have proposed a housekeeping change to the purpose and need statement, but the Council has also heard testimony about the current definition of a fishing trip representing a disproportionate cost to small catcher vessels, and it would be helpful to know the Council's position on the testimony relative to the purpose and need.

4. Should the tLandings alternative remain in the amendment package, or be separated out for expedited implementation?

Staff recommend that the tLandings alternative go forward regardless of the Council's action on other alternatives within the amendment package, as tLandings has been identified as a key component to gather the data necessary to understand tender activity. Especially if the Council chooses to proceed with the ADP approach in advance of the amendment analysis, the Council may wish to request that Council staff work with NMFS to prepare an RIR/IRFA separate from this amendment package for the tLandings requirement, and request NMFS to proceed with development of a proposed rule through its authority under Section 305(d) of the Magnuson-Stevens Act.