



July 31, 2015

MEMORANDUM FOR: A.I.S., Inc.
East West Technical Services (EWTS),
MRAG Americas,
At-Sea Monitors (ASMs),
Northeast Fisheries Observer Program (NEFOP) Observers

FROM: Amy Martins
Branch Chief, Fisheries Sampling Branch (FSB) *Sara Wecker*
For Amy Martins,
Branch Chief, FSB

SUBJECT: Observer Vessel Selection

During a recent industry meeting, it was brought to our attention that there are concerns about non-random selection of trips by service providers and/or observers. The industry cited concerns with vessel selection bias and the role observer preference plays in vessel selection. This memo serves as a reminder that observer and/or service provider preference in vessel selection is strictly prohibited. The industry's concern about preferential observer assignment or "cherry-picking" of trips jeopardizes the creditability and integrity of this program. Furthermore, random and equitable coverage is required and necessary to prevent incorporating bias into observer data. We take these concerns and misconceptions very seriously. We are taking this opportunity to reinforce the standards provided in the ASM and NEFOP contracts related to impartial vessel selection process and provider and observer performance standards.

NMFS is responsible for vessel selection for all notification fisheries. The Pre-Trip Notification System (PTNS) is designed by NMFS to provide an effective way to ensure fair and adequate coverage of all vessels fishing for northeast groundfish. Once a trip notification is entered, the PTNS goes through a mathematical selection process that randomly selects trips based on the coverage rate of trips in the same stratum. A stratum is a unique combination of sector, gear, and fishing area. Once a trip is selected for possible coverage, providers are chosen randomly by the system based on the proportion of observers each provider employs. The selected provider will receive an email containing limited details about the trip: the type of coverage the trip was selected for (NEFOP or ASM), the type of trip (day or multiday), the sail date and time, and the vessel's port. This is enough information for the provider to accurately coordinate coverage without having identifying information about a vessel. The selected provider finds out if they have an observer available in that area for that time and either accepts the trip or declines to cover it based on that information.

Once a trip is accepted by a service provider the contractor is contractually required to assign observers to vessels without regard to preference expressed by vessel owners or operators with respect to observer race, gender, age, religion, or sexual orientation nor shall the contractor consider observer's expressed preference. In addition, observer assignment should not incorporate industry preferences. A service provider's observer assignment must be fair, equitable, representative of fishing activities within the fishing fleet, and able to monitor fishing activity throughout the fishing year.

For those fleets without a notification requirement, vessels must be covered randomly, without repeated deployments on the same vessels by the same observer, unless waived by the Contracting Officer's Technical Representative (COTR). For trips outside closed areas and other special access fishing programs there shall be no more than two (2) back to back trips by the same observer on the same vessel AND there shall be no more than two (2) trips on the same boat within one month. Flexibility to these standards may be granted by the COTR if there is a justified need or if competing contract requirements necessitate adjustments. FSB will evaluate these needs on a case-by-case basis and will communicate any modifications to service providers directly.

Observer assignment is driven by homeport, observer certification, and observer availability, and should not be influenced by observer preference in accordance with contract requirements and the random selection process. Observer discretion in trip coverage is specific only to those vessels with safety deficiencies and in these cases, the observer is instructed to not deploy for safety concerns. Furthermore, observers should not be disclosing or engaging in inappropriate conversations with the industry regarding the selection or coverage of vessels. These conversations can be misconstrued and could adversely affect the confidence of the public and integrity of the observer program.

Observers are expected to behave professionally in all aspects of their job as federal NEFOP and ASM fisheries observers. At sea, observers work in a self-supervised capacity and are required to maintain high standards of conduct and maintain a professional, objective demeanor at all times. Observers are required to comply with these contract standards and those set forth in the Observer Standards of Conduct document signed during training. Standards of conduct include maintaining professional relations with fishing industry members. Observers should not engage in an activity that may call into question the observer's impartiality, fairness, or judgment.

NMFS has incorporated strong contract language to ensure both the manner by which trips are selected and covered by service providers is equitable and completely random. Industry concerns about non-random selection or coverage of vessels threatens to undermine the integrity and validity of our programs. These concerns can damage the relationship NMFS, service providers, and observers have with the industry and can create unproductive working environments for observers.

Service providers should review the sections of the contracts carefully and reinforce the

standards in regards to vessel selection, observer coverage, performance standards, and Observer Standards of Conduct with your monitors/observers.

If you have any questions, please direct those to Amy Martins at Amy.Martins@noaa.gov or 508-495-2266. Contract specific questions should be directed to Katherine McArdle at Katherine.McArdle@noaa.gov or 508-495-2377 for the ASM program or Nichole Rossi at Nichole.Rossi@noaa.gov or 508-495-2128 for the NEFOP program.

Thank you for your cooperation.