

Observer Provider Insurance Requirements

9/15/2015

On May 28, 2015, NMFS sent a letter to the North Pacific Fishery Management Council (Council) responding to a request for review of observer provider insurance requirements. NMFS advised the Council that some of the insurance coverage requirements at § 679.52(b)(11)(vi) are inapplicable and should be removed or revised.

Current regulations:¹

§ 679.52 Observer provider permitting and responsibilities.

(b) *Responsibilities of observer providers.* An observer provider that supplies observers for operations requiring full observer coverage per §679.51(a)(2) and (b)(2) must:

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(11) *Provide information to the Observer Program Office.* An observer provider must provide all the following information to the Observer Program Office by electronic transmission (email), fax, or other method specified by NMFS within the specified timeframes.

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(vi) *Certificates of insurance.* Copies of “certificates of insurance” that name the NMFS Observer Program leader as the “certificate holder” shall be submitted to the Observer Program Office by February 1 of each year. The certificates of insurance shall state that the insurance company will notify the certificate holder if insurance coverage is changed or canceled and verify the following coverage provisions:

- (A) Maritime Liability to cover “seamen's” claims under the Merchant Marine Act (Jones Act) and General Maritime Law (\$1 million minimum);
- (B) Coverage under the U.S. Longshore and Harbor Workers' Compensation Act (\$1 million minimum);
- (C) States Worker's Compensation, as required; and
- (D) Commercial General Liability.

The specific requirements NMFS identified as inapplicable are those for insurance coverage under the following:

- Merchant Marine Act of 1920 (Jones Act)
- General Maritime Law
- U.S. Longshore and Harbor Workers Compensation Act

Next steps

The recommendations in NMFS’s letter affect observer provider insurance coverage requirements implemented in the Alaska Region, West Coast Region and by the Greater Atlantic Regional Fisheries

¹ These regulations were implemented in 1996 (61 FR 56425; November 1, 1996) based on the recommendations of the Council’s Insurance Technical Committee.

Offices (GARFO). Representatives of the National Observer Program (NOP), NOAA General Counsel, the North Pacific Groundfish and Halibut Observer Program (AFSC FMA), and GARFO discussed this issue in August 2015. Because this issue affects multiple regions and observer programs, participants proposed that the issue of appropriate next steps be discussed by the National Observer Program Advisory Team (NOPAT) at its October 2015 meeting. NMFS will continue to report progress on this issue to the Council in future meetings. No additional analysis by Alaska Region or Council staff is necessary at this time.