



# Alaska Longline

## FISHERMEN'S ASSOCIATION

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March 23, 2013

Eric Olsen, Chairman  
605 West 4<sup>th</sup> Street, Anchorage, AK 99501

**RECEIVED**  
MAY 28 2013

### Agenda Item C-1 Observers

Dear Chairman Olsen,

At the April Council meeting, NMFS will present an outline of the scope and elements of the strategic plan for integrating electronic monitoring into the restructured North Pacific Observer Program. On behalf of ALFA members, I would like to submit the following comments on key elements of the strategic plan and our recommendations for Council action in April to facilitate the strategic planning process and EM development.

Specifically, ALFA members request that four critical elements be identified and analyzed as part of the April and June Council actions. These are:

1. Fishery specific, at-sea monitoring objectives and priorities for Council identified EM candidate fisheries (IFQ halibut, sablefish, and fixed gear P cod)
2. Alternatives describing how human observers, EM, dockside monitoring, logbooks and resource surveys can be integrated to meet these objectives. The alternatives should have clearly defined decision points that minimize cost and impact to the natural and human environment.
3. Target funding levels and sources
4. Regulatory options and timelines

Additional detail on each of these elements is provided below.

**Monitoring Objectives**— The Council and the OAC have identified the sablefish/halibut fisheries as the first candidate fisheries for EM, with the fixed gear pacific cod fishery as the secondary candidate. The Council also identified at-sea discards as their priority; however, NMFS has identified multiple general objectives for at-sea monitoring including biological samples, sea bird monitoring, marine mammal monitoring, as well as catch and discards estimation. In order to advance EM, the differences between the Council's specific objective and NMFS general objectives must be reconciled.

The EM roadmap recently released by NMFS states "*once monitoring objectives are clearly established, only then can an appropriate combination of monitoring activities and tools be identified to successfully achieve these goals.*" Given the information already available and the known capabilities of EM, ALFA members believe that monitoring catch and catch composition, including discards, is the correct objective for an EM program in these fisheries. We ask that the Council reaffirm these objectives to focus the EM portion of the strategic plan in June.

Because NMFS repeatedly states that EM cannot collect biological data nor affirm proper deployment of seabird deterrents, these issues are addressed briefly below.

**Biological data**-- Both sablefish and halibut fisheries have annual, resource-funded surveys that collect most of the information needed for stock assessments. The Sablefish stock is managed with an age structured model that uses approximately 1,200 otoliths collected from the commercial fishery each year. Observers at-sea and in shore based processing plants collect 3,000 to 5,000 sablefish otoliths each year, but only 1,100 to 1,200 are actually aged and used in the assessment (see <http://access.afsc.noaa.gov/al/searchform.cfm> .) The IPHC uses dock side samplers to collect biological information from the commercial fishery for the halibut stock assessment. This collection program is funded and conducted independent of the observer program. Of the bycatch species taken in these fisheries, only rougheye rockfish has an age structured model; this model uses approximately 300 to 400 otoliths combined, which are currently collected from the fixed gear and trawl fisheries. All other rockfish species taken as bycatch have Tier 5 stock assessments that do not rely on biological samples from the commercial fisheries. In short, NMFS and the IPHC currently secure "biological samples" from the sablefish and halibut stock assessment surveys, and from the commercial fishery from at sea and/or dockside samplers to meet identified stock assessment needs. The Council recommendation to provide EM as an alternative for the "vessel selected" fleet (under 57.5 ' LOA) will not change these on-going collection programs.

**Sea bird deterrents:** Compliance with seabird avoidance regulations is currently monitored by inspection of the deterrent gear during at-sea and dockside boarding's. The analysis for the research plan did not identify any deficiencies with the current approach which would warrant the cost of increased at-sea monitoring. However, as Saltwater, Inc. (the EM contractor) is mounting one camera on each EM monitored boat with a 360 degree view of the deck and aft areas, the deployment of seabird deterrent gear can be monitored on EM boats. The cameras are programmable to capture an image periodically even when the hydraulic pressure sensors are not active. Currently they are recording a frame every few minutes when not active. The view from the 360 degree camera is sufficient to see if the vessel is using sea bird deterrents when setting. A simple requirement to keep any seabird that comes up on the line would allow accurate species identification shore side to determine seabird takes.

For marine mammals, the two species that interact with longline gear are killer and sperm whales. Likely a photo from a Polaroid, let alone a sophisticated digital EM camera image, would allow species identification between these two whale species.

In summary, while EM cannot collect biological samples, the fisheries and small vessels the Council prioritized for EM coverage have minimal need for additional biological samples all of which can be met. Seabird deterrent deployment can continue to be monitored during boarding's or enhanced using EM cameras. Requirements to retain any seabird caught can ensure identification and support any enforcement action. Marine mammal entanglement can also be documented using EM.

That leaves catch and catch composition as the priorities for at-sea monitoring for the IFQ fleet and halibut PSC catch for the fixed gear Pacific cod fleet. If NMFS has other monitoring goals for the sablefish/halibut fishery, these should be clarified and brought to the fleet and Council's attention.

**Alternatives:** Once the data needs and specific monitoring objectives are identified by fishery, there will be several decision points on integrating the various monitoring tools, (human observers, EM, dockside sampling, logbooks etc.) to achieve the identified objectives. Given the socioeconomic impact of at-sea of monitoring on these fisheries, it is important to identify discrete alternatives so the cost, impact, and ability to meet identified priorities can be openly and transparently evaluated.

**Funding:** The EM roadmap also notes that long-term funding strategies for EM need to be developed during the “pre-implementation phase.” The strategic plan should identify a target amount of funding for EM monitoring in each of the next five years so the program can be appropriately scaled. In 2013, NMFS is spending \$200,000 on EM and in excess of \$1.5 million to deploy human observers on small boats. Future funding for EM is opportunistic, relying on grants and other funding sources outside the fees collected for the observer program. Stakeholders are very concerned with this lack of commitment to EM and disproportionate spending on human observers. We ask that the Council ensure that the June document contain specific funding alternatives for stakeholder input and Council action.

**Regulatory Options—**The EM roadmap notes that during the initial implementation, *“as new logistical challenges are resolved and industry and managers adapt to the new monitoring program, this phase will include a period of initial program refinements.”* There are several regulatory options of how to structure this initial implementation and these should be identified as explicit decision points in the strategic plan. Currently, NMFS is developing EM under a voluntary program without specific objectives or an outside review of the experimental design. After an unspecific period of testing, NMFS will begin the regulatory process to define performance standards and operator responsibilities. Once regulations are in place, EM may be provided as an alternative to human observers. Presentations at the October 2012 Council meeting and in other forums indicate that this process will take 4 to 6 years before the regulations are in place. Once in place, the regulations would need to be revised as the initial implementation phase identifies initial program refinements—another lengthy process.

An alternative to this approach would be to initiate an **exempted fishing permit (EFP)** process similar to that used to deploy EM in the West Coast Hake fishery from 2003 to 2010. A 3<sup>rd</sup> party such as Pacific States Marine Fisheries Commission (PSMFC) could sponsor the EFP and manage the development and field testing of an operational EM program in coordination with NMFS. As envisioned, the EFP would clearly identify performance standards, operator responsibilities, and research objectives for vessels selected to carry EM equipment as an alternative to human observers. Because an EFP requires Council and SSC review, these standards and research objectives would be subject to annual review to ensure feasibility, alignment with Council objectives, and input from stakeholders. The advantages of an EFP are that:

- It can be implemented by 2014 to provide the regulatory environment allowing vessels to carry EM as an alternative to human observers. This is consistent with the Councils June 2010 motion and May 14, 2012 comments on the proposed rule.
- It provides an adaptive framework within which performance standards and potential regulations can be identified, tested and rapidly refined.
- It allows operational procedures and handling practices to be standardized thus yielding reliable results. Voluntary programs by their nature cannot require vessel operators to implement handling procedures, fill out logbooks, or maintain the EM equipment.
- It allows retention requirements for rockfish, seabirds and other species to be evaluated without burdensome regulatory changes. Full retention of some difficult to identify species, like rockfish, has been identified as potential component of an EM program which needs to be considered. Without an EFP, this would require a multi-year regulatory process to change.
- It can be superseded by permanent regulations once the field testing and initial implementation phases are complete.

In sum, an EFP process involving a 3<sup>rd</sup> party such as PSMFC would develop the necessary performance standards and operational requirements for an ongoing integrated EM alternative much quicker than the current 4 to 6 year track. The EFP approach has many advantages over the current voluntary approach and should be integral to the strategic plan.

In closing, ALFA members would like to express a sense of urgency to implement an at-sea monitoring program that integrates human observers, EM and dockside monitoring for the fixed gear fleet. Based on our understanding of the social, economic, and biological needs of the fixed gear fisheries, and our experience with EM systems, ALFA remains convinced that EM is the most cost effective and least disruptive at-sea monitoring strategy for the fixed gear sablefish/halibut fleet. We are equally convinced that EM, as an integrated component of the restructured observer program, provides fishery managers with the necessary data to conserve and manage these fisheries. In forming the strategic plan to implement EM, we urge the Council to identify clear objectives, alternative strategies for achieving the objectives, an adequate and dedicated funding stream, and an aggressive timeline to achieve EM implementation. We believe expeditious development of EM demands an EFP process and engagement of an experienced third party such as PSMFC and we urge you to explore this option. Finally, we remind the Council that the fleet worked hard to develop an implementable EM program and, based on Council action, supporting analysis and the proposed rule, fully expected EM to be available as an alternative to human observer coverage when the restructured observer program was implemented. In short—2014 implementation of EM would not be soon enough.

Thank you for your attention to these lengthy comments.

Sincerely,



Linda Behnken, Director

# FGA

fixed gear alliance

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907.224.5584 | fixedgearalliance@gmail.com

Eric A. Olson, Chairman  
North Pacific Fisheries Management Council  
605 W. 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

May 28, 2013

## RE: Item C-3 Observer Program

Dear Mr. Chairman and Corresponding Council Members

The Fixed Gear Alliance (FGA) represents three industry organizations and over 60 fishermen who harvest Halibut and Groundfish from Southeast Alaska to the Aleutian Island and Bering Sea with pot, longline and / or jig gear. The FGA formed in response to implementation of the re-structured Observer Program and the 2013 Deployment Plan.

While members support data gathering and recognize its importance to science-based management, we are disappointed by how NMFS and the Council ignored input by the fixed gear stakeholders most adversely impacted by the new observer program and deployment plan. Identified below are changes that FGA requests the Council address by directing alterations to future deployment plans, amendments to the rule and/or requests for additional analysis:

**1) Expedite implementation of EM for the <57.5' class of vessels.** Defer observers deployment in the vessel selection pool until EM is available as an alternative or relieve these vessels of human observers if a vessel participates in the EM pilot program.

**2) Allow fixed gear vessels under 57.5' feet to select between trip or vessel selected**

**3) Change how the observer fee is administered on IFQ caught fish so it is consistent with current year prices.**

**4) Address excessive cost of program from its original estimate of \$467/day to over \$1000/day.** Analyze a 3<sup>rd</sup> party administrator or how sectors may directly contract observers while maintaining the random selection process for observer deployment.

**5) Re-direct program and deployment plan to be more gear or sector specific and modify fee schedule so each sector pays its fair share.** Alternatives should include pro-rated coverage levels based on catch volumes among the sectors.

**6). Expand exceptions and provide an annual, instead of a "one time", choice for observer coverage on hybrid class vessels** (those vessels that may engage in only harvesting and/or CP activity at various times throughout a fishing year). Without such changes, vessels choosing to operate in this capacity from one year to the next are unnecessarily limited, observer costs become overly burdensome and vessels are allowed little to no flexibility in how they manage their annual fishing operations.

We request amendments to include:

- a). Eliminate control date of 2010 on allowing observer choice and exceptions for vessels of certain size vessels and production limits.
- b). Change the one-time choice of participating in 100% Observer Coverage or the fee based system to an annual choice.

Exception alternatives should include:

- a) Increased range of finished daily production limits 3K, 5K, or 7K lbs per day
- b) Assign hybrid vessels to partial coverage pool when operating as catcher vessels and to 100% "pay as you go" system when processing.

**7). Enhance or re-organize the Observer Advisory Committee so that it is representative of those only included in the Re-structured Observer program and that it consist of sub-groups specific to each gear type or working sector.**

This is important for the following reasons:

a). There is an obvious conflict of interest when one sector is requesting an EM alternative while another stakeholder sector, i.e., observer representative, is advocating against it for fear of losing their newly held position as an observer on small vessels. This is purely counter-productive to the original program goal of having EM available as it was included as an alternative to human observers in the draft observer program rule reviewed by the public and "deemed" by the Council.

b). A strategic plan for implementing an EM program for trawlers could look much different than an EM program implemented for the sablefish/halibut IFQ longline fleet.

c). Since final rule making, owners operating in the 100% or 200% observer coverage category have maintained no change to their existing observer program and continue to self-contract their observer coverage needs as before. Therefore such OAC representatives are less likely to care or take interest in those operations impacted by the newer re-structured program.

e). Stakeholders of a common sector can identify their needs more readily, accurately address problem areas unique to their operations, and advise Council and Agency in tailoring deployment and monitoring plans specific to how such gear groups may function.

**8). "Compliance" has been expressed as one of the goals of the re-structured Observer program. Therefore FGA requests that Council direct the Enforcement Committee to meet with stakeholders to address how compliance issues will be handled when reported by human observers.**

This Observer program greatly impacts small businesses that do not have large resources of time, money and/or staff available to refute or appeal excessive charges and fines for minor violations. While harvesters make every effort to abide by the numerous and evolving regulations that come with new fishery programs, it is difficult and challenging for many operations.

Following are specific questions and concerns stakeholders wish to discuss with the corresponding enforcement entities of this program:

- a). Does the vessel operator get prompt access to the Observer de-briefing report? Having access would help fishermen adjust harvest behavior where needed as they learn more about expectations.
- b). If a potential violation is realized or reported by an Observer, depending on its "harmful effects", will the operator be given time to correct the issue? Stakeholders cannot stay in business while trying to endure heavy handed fines for unintended mistakes, or those that can be immediately corrected.
- c). Who or what entity has the power to judge or determine degrees of "harmful effects"? FGA seeks some understanding of what/when certain activities will result in legal actions against fishermen.
- d). Is there a system of warnings and fine schedules in place for certain violations or is this at the volition of a prosecuting officer or Attorney General of that division?

While FGA can appreciate the enormity of staff and Council effort that has gone into developing the Re-structured Observer Program, we believe a number of issues were overlooked or misunderstood in the rush to implement the new program. These issues, and the program itself, pose significant challenges to the fixed gear industry. We ask that Council address the issues we have raised to minimize impacts of this program to Alaska's fishing industry and coastal fishing communities

Sincerely yours,  
Fixed Gear Alliance

Rhonda A. Hubbard,  
Official Board Member

March 27, 2013

Mr. Glenn Merrill  
Assistant Regional Administrator  
Sustainable Fisheries Division  
NMFS Alaska Region  
PO Box 21668  
Juneau, AK 99802-1668

Attn: Ellen Sebastian

Re: Docket Number: NOAA-NMFS-2011-0210

My name is Oystein Lone and I am the operator and manager of the Pacific Sounder, a hybrid vessel. The vessel is based out of Dutch Harbor, Alaska. We do a combination of fisheries in the Aleutian Islands and Bering Sea. As a C/V we catch king crab, snow crab, pot cod, and halibut. As a C/P we catch sablefish and turbot.

We do not qualify for the partial observer coverage under the new plan because of the cut off dates of 2003-2010 to comply under the 5,000 lb. per day if you are operating as a C/P. Our business was started in 2011.

Yearly cost for observer coverage is about \$30,000. Under the new program the cost would jump to over \$110,000 per year. With the new plan, we would be spending almost 10% of our gross just on observer fees. This increase will severely impact our ability to stay in this fishery.

We are asking for the following changes to be made to the new observer program:

1. Eliminate control date of 2010 on allowing observer choice and exceptions for vessels of certain size and production limits.
2. Change the one-time choice of participating in 100% Observer Coverage or the fee based system to an annual choice.

Exception alternatives should include:

1. Increased range of finished daily production limits 3K, 5K, or 7K lbs. per day
2. Assign hybrid vessels to partial coverage pool when operating as catcher vessels and to 100% "pay as you go" system when processing.

Sincerely,



Oystein Lone  
Pacific Sounder  
206-769-8008 or oysteinlone@frontier.com



**Subject:** Comments

**From:** Greg Cushing <flagship1@hotmail.com>

**Date:** 5/27/2013 8:23 AM

**To:** "npfmc.comments@noaa.gov" <npfmc.comments@noaa.gov>, "alfastaff@gmail.com" <alfastaff@gmail.com>

I had over 20 years experience as a deckhand and as a vessel owner in Gulf of Alaska halibut and black cod fisheries. It is my strong opinion that requiring observers on vessels under 60' is a stupid idea and a perfect example of government over-reach.

But- too late now. If it *must* happen, the option of electronic monitoring makes more sense than forcing small vessels to take observers. This should be implemented as soon as possible, as much as I hate even saying it.

Also keep the cap on trawl bycatch to 5000 fish.

Also I'd like someone on the council to ask the NOAA representatives (and any other federal government employees in the room) how they would like us being observers in their workplace.? So we can monitor how well they utilize our shared resource - tax dollars. It's only fair.

Would they prefer humans or cameras in their offices?

Greg Cushing  
Sitka Alaska  
907-738-5435



*healthy oceans ... healthy communities*

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May 28, 2013

North Pacific Fishery Management Council  
605 West 4th Avenue, Suite 306  
Anchorage, AK 99501-2252

**Re: Agenda Item C-3: Observer Program**

Dear Chairman Olson and members of the Council:

The Alaska Marine Conservation Council (AMCC) is a non-profit dedicated to protecting Alaska's marine ecosystems and promoting healthy, ocean-dependent communities. A robust observer program which gives us accurate information about catch and bycatch in all of our fisheries is critical to the sustainable management of our fisheries. We continue to have significant concerns with the equal probability sampling approach in the 2013 Annual Deployment Plan (ADP) for the partial coverage fleet and the lack of EM as a viable alternative to a human observer for at sea monitoring.

Without the opportunity to review the initial draft ADP for 2014 prior to submission of comments, our input is limited to the information provided in the AFSC quarterly report.<sup>1</sup> According to this report, observer coverage rates for trips that have been realized for the first 12 weeks of 2013 was near 17% for trawl and approximately 14% for non-trawl trips. Given the high volume of the trawl fisheries, we believe the current observer rates do not provide adequate coverage to manage PSC with confidence and accuracy.

The challenges to manage a fishery in-season with minimal observer coverage are illustrated in the EA/RIR/IRFA on GOA Chinook PSC limits for non-pollock trawl fisheries, which the Council is also considering at this meeting.<sup>2</sup> The analysis states that NMFS' ability to manage Chinook salmon PSC limits in the GOA non-pollock trawl fisheries is likely to be difficult due in part to high pulsed fisheries, time delays in getting data to derive PSC estimates and high variance in the Chinook salmon PSC estimates that are derived from at sea samples and extrapolated (see p. 223). These management and enforcement concerns raise significant questions about the accuracy of PSC estimates under the status quo fishery.

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<sup>1</sup> Craig Faunce, *The Restructured North Pacific Groundfish and Halibut Observer Program*, Alaska Fisheries Science Center Quarterly Report, January-February-March 2013, available at <http://www.afsc.noaa.gov/Quarterly/jfin2013/JFM2013-QuarterlyRpt.pdf>.

<sup>2</sup> North Pacific Fishery Management Council, Public Review Draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis: Chinook Salmon Prohibited Species Catch in the Gulf of Alaska Non-Pollock Trawl Fisheries, May 15, 2013.

**We ask the Council to provide direction to the agency at this meeting to prioritize coverage on the Gulf of Alaska (GOA) trawl fleet in the 2014 Annual Deployment Plan to achieve a level of coverage which will provide confidence in PSC estimates and reduce the opportunity for observer bias. While 100% coverage would be ideal, 60% coverage at a minimum would begin to address this issue.**

AMCC and many other groups supported the Council's October 2010 action to restructure the observer program. The Council's action was specifically focused on addressing the issue of needing additional information from some fisheries to address specific management needs. Specifically, the issue of prohibited species catch (PSC) in the Gulf of Alaska (GOA) trawl fisheries was a guiding force behind the need for a restructured program. In numerous Council decisions, notably Amendments addressing Tanner crab bycatch, Chinook salmon bycatch and halibut bycatch, all in the Gulf of Alaska, the inaccuracies of the data available from the current observer program has been a central point of discussion. In the past, concerns with available data have been addressed throughout the Council debate on these topics with the promise that things would be better under the restructured observer program. However, it is apparent from the application of an "equal probability sampling" plan that the fisheries that have higher interaction rates with species of concern do not have significantly higher coverage rates. With serious declines in Chinook salmon and halibut in the Gulf of Alaska, and huge impacts to those who fish directly for these species, accurate data on PSC is even more important now than when the Council took final action on the observer program.

The 2013 Annual Deployment Plan held fast with the concept that equal probability sampling was preferable as an initial year approach. While the restructured program will eliminate the bias associated with picking when to carry an observer, a low coverage rate will still allow for a significant ability to fish differently with an observer on board. Logically, the higher the observer coverage rate, the less ability to create non-representative samples by fishing differently with an observer on board, because proportionally more of the catch will be harvested when an observer is on board.

A particular problem with the equal probability deployment occurs in relation to Tanner crab bycatch. In October 2010 the Council took action to create two areas in which 100% observer coverage would be required to gain better data about what the bycatch really is in those areas and design future management measures. The intent of this action was to get at least a full year of 100% coverage in these areas before the new observer program came on-line. Due to delays in regulation writing and implementation, this increased coverage requirement is not yet in place. At the time of Council action, getting additional data via 100% observer coverage was intended to gain a better understanding of the impacts of groundfish trawl fisheries on the rebuilding Tanner crab stocks in these specific areas. **Under the restructured program, the fleet of concern is in the partial coverage category, so the intent of this Council action has been completely lost.** Collecting this data is still important, particularly as Tanner crab stocks continue to struggle to rebuild, and is yet another reason that equal probability sampling does not meet the management needs of this fishery. **At a minimum, the fisheries of most**

**concern, non-pelagic trawl fisheries, should be subject to a high level of observer coverage.**

Getting better data on PSC in the Gulf of Alaska trawl fleet was a major goal of the restructured program, as amply expressed both by the public and by the Council in the problem statement and in deliberations on this action. The 2014 Deployment Plan must strive to meet this objective with the flexibility provided in the restructured program. **We therefore ask the Council to provide direction to the agency to prioritize coverage on the Gulf of Alaska trawl fleet to achieve a level of coverage that will provide accurate PSC estimates.**

Sincerely,

A handwritten signature in cursive script that reads "Kelly Harrell". The signature is written in black ink and is positioned above the typed name and title.

Kelly Harrell  
Executive Director

#### Discussion of specific proposals:

UCB proposal to allow them to be in 100% coverage – they could continue to sign a compliance agreement and not need reg amendment in short term. But, enforcement wants reg requirement for 100% coverage. Payment of fee, in addition to direct-pay, implies cost equity issue (250k approximately at 1.25%). Request is to be exempt from fee, which would require reg amendment. OAC supports moving forward with this proposal.

Vessels that act as both CVs and CPs – raises cost equity issue, likely inadvertent impact. OAC supports moving forward with this reg amendment change, looking at changing control date, and an option to choose on annual basis.

Allow choice between trip and vessel selection pool – already requested by Council in 2014 ADP, and supported by OAC for future consideration. In June 2014 there should be more information to inform this issue. Noting that under the ADP there is a recommendation to consider changing from two month to one month deployment obligation.

Changing method of fee collection for IFQ fleet (i.e. use standardized, current-year price rather than standardized price based on previous year; and bill vessel (rather than processors/registered buyers) for entire fee) – raises cost equity issue, was analyzed in original restructuring analysis. OAC supports moving forward for additional consideration as reg amendment.

EM performance measures – no action, being addressed through existing channels.

AGDB proposals – tendering being addressed (potentially) through the 2014 ADP. May require reg amendment in future. Regarding the 72 hour issue, it is not a priority problem at this point, so not necessary to pursue a fix yet.

Proposal to use tonnage as basis for observer coverage selection: raises a data quality/bias issue. To be addressed through information in 2014 performance review.

#### Review of 3<sup>rd</sup> Party Issue:

Chris provided overview of previous 3<sup>rd</sup> party efforts, and the range of possibility for the role and responsibilities of a 3<sup>rd</sup> party entity, and requested further clarity on what we mean today when we say ‘3<sup>rd</sup> party’, prior to devoting additional staff resources to this issue. The type of 3<sup>rd</sup> party construct currently envisioned will affect liability and contracting questions, as well as potential cost savings.

From the perspective of the OAC, the 3<sup>rd</sup> party concept has particular potential for implementation of the EM component specifically (perhaps through the EFP vehicle), which could potentially integrate all aspects of EM implementation under a single operational and administrative structure. The OAC would like to see further consideration of this concept within the work of the EM workgroup. Potential cost savings (application of federal procurement rules, labor law, etc) could still be explored within this more refined 3<sup>rd</sup> party construct.

Work group should focus on developing a catch estimation based program for the IFQ fisheries rather than a logbook audit approach;5) Regarding composition, the workgroup should be a subgroup of OAC along with a couple other industry members with technical expertise and broad outreach connections, and include appropriate agency personnel. Broad outreach connections could help to increase interest and participation in the EM pilot projects, which are necessary to develop performance standards in regulation and move EM forward as a regulatory alternative. The workgroup members could also include vessels greater than 57.5' and representatives of other fixed gear types (pot and jig). Regarding timing, the workgroup should meet this fall (perhaps in conjunction with October Council meeting) and again prior to the beginning of the 2014 season.

Regarding the lack of participation in the current voluntary program, the OAC encourages the Council to consider vehicles to effect this implementation (perhaps through an EFP process, including a process for specifically testing system operations, as well as incentives for vessels to participate (such as a waiver/release from observer coverage when carrying EM). Offering a release from carrying an observer might be a different question if under an EFP vs under the current pilot project structure (which would be a specific regulatory change and guidance to date has suggested performance standards are necessary in regulation). Other incentives to carry EM should also be considered if release from the observer requirement is not possible. These could include financial incentives, such as direct compensation.

Regarding timing and urgency, most OAC members reiterated their desire to see some form of EM implemented ASAP. Other members were more concerned with making sure we 'get it right', and resolve data quality issues, and receive at least some observer data from the previously unobserved fleets prior to implementation.

Two committee members were concerned that we are not discussing VMS specifically in the context of potential EM applications. It was noted that the Council intends to revisit the overall VMS issue once the EM Strategic Plan is more fully realized.

At least one member expressed concern with the possible management tool of crew collecting data, and with statements in the strategic plan about EM replacing observers.

Regarding the potential use of an EFP (appendix H), one advantage could be that vessels would be more eager to join a voluntary program, particularly if they would have an incentive...i.e., be exempt from carrying a human observer. An EFP could also include a clear way to test equipment and attainment of objectives, but an application for an EFP would have to be received in order for the specific design to be evaluated.

#### Review of Regulatory Amendment Proposals:

##### Major Discussion Points:

Chris summarizes proposals received to date, noting that some are regulatory proposals, some could be addressed through the ADP, and some are separate initiatives.

OAC consensus is that criteria of highest importance by which to evaluate regulatory proposals are: bias in data quality, cost equity, cost savings, and enforcement. Then ask "can this be addressed through ADP rather than reg amendment process?". Examples: tendering issue may be addressed through ADP. Cost equity related to the method of fee collection for IFQ fleet. Council has already asked for discussion (in ADP) about allowing vessels to choose to be in either trip selection or vessel selection pool.

other fisheries, such as the salmon troll fishery and any state waters pacific cod fishery, if it is possible they will land IFQ species.

#### Review of EM Strategic Plan:

Martin provided an overview of national EM initiatives and the recent NMFS Policy Directive. Major highlights include further work at national level to finalize white papers, coordinate with specific regional efforts, and interact with Council Coordination Committee (Dan Hull is member of CCC subcommittee for EM). The Council's work is well aligned with the Policy Directive, which is enabling rather than prescriptive.

Farron Wallace and Martin provided the OAC with the EM Strategic Plan. Farron noted low rate of volunteers for pilot project – this is an issue the agency and industry will continue to address (see further discussion below).

OAC identified SWOT aspects of the operational environment in which the EM Plan is being developed and implemented. Weaknesses identified are that the Plan does not adequately reflect the objectives and priorities already expressed by the Council, and is focused more on capacity building than on actual implementation. Some members felt that opportunities which are not adequately detailed in the Plan include existing outside expertise from previous EM projects, including the Canadian program and others. Regarding costs, rather than be passive (measuring costs) the Plan should attempt to identify a more specific cost target and identify measures to achieve it, including how to balance costs with objectives and priorities. The OAC did acknowledge that the pending EM workgroup can work further on those issues.

OAC members provided a variety of over arching comments about the Strategic Plan that indicated an understanding that it is a big picture view of developing and integrating EM into the Observer Program across fisheries, and that this is appropriate. However, the connection between the big picture view and the specific steps to achieve the initial EM priority (to develop EM for the small boat IFQ fleet) of the Council are not as clear. The Strategic Plan should include specific discussion of how to prioritize among various (potentially competing) monitoring objectives and specify timelines for each; i.e., more specific information on 'where the rubber meets the road', and a clearly defined funding stream for the EM component. **The OAC believes catch estimation should be the EM priority, at least for sablefish and halibut fisheries, noting that the Canadian (logbook) model might be more appropriate for fixed gear cod fisheries and other (more PSC driven) fisheries.** This is likely to be an iterative implementation process, with decision points along the way. Plan ideally should have a more specific 'phase-in' component to allow initial, limited, on-the-water implementation which would allow for resolution of incremental aspects rather than wait until everything is deemed workable. For example, it is difficult to discern a specific definition of the 2013 pilot project, although it is discussed in the text and appendices of the Strategic Plan. This could also be a primary task for the EM workgroup.

Regarding the EM Workgroup – 1) OAC supports the Council's original focus for the workgroup to evaluate alternative EM approaches, with a consideration of tradeoffs between achieving monitoring objectives, timelines, and other factors (e.g. costs, disruption to fishing practices) (see April 2013 council motion); 2) Work group should identify performance standards, operational procedures, sampling and deployment plan appropriate for these vessels (for QS vessels) and also look at implementation vehicles and potential phase-in approaches; 3) Sections of the strategic plan that can guide the workgroup are shown on page 14 (Goal II, Objective 1, Strategy C) and page 16 (Goal III, Objective 1, Strategy A); 4)

processed, or get repeated when a vessel is selected multiple times. There should be some way to store this information, recognizing that changes could have occurred changing the vessel's status. Need to consider allowing 'de minimus catch' as a criterion to receive a release, for very small 'cleanup' trips. Should consider allowing EM as a condition for release (though guidance to date has suggested this would be a regulatory change – see further discussion under EM Strategic Plan).

RE departures from intended sampling design (bias) the OAC would like to get agency recommendations on how significant each of them are and how best to proceed in addressing them.

Regarding program costs, a number of issues were raised which could inform future iterations of the deployment plan and/or coverage levels, and inform relative to cost efficiencies/priorities. These include: more specific information on why the current program costs twice as much per day as direct-pay observers; number of vessels which were repeat selected; how much volume or how many sets were sampled relative to overall vessel activity (what percentage); how much catch was actually observed; how many stand by days are included in billable days vs actual days observing at sea for vessel selected pool; what were the reasons for the stand by days; regarding the two month deployment for vessel selection, consider shortening to one month; consider logistics/location of debriefing process. The OAC hopes to have further discussion of these cost issues, and overall program costs, as previously requested by the Council in December 2012, during the annual performance review in June 2014.

As a longer term project, the OAC would like to consider that it may be useful to tease out potential observer effect between trip and vessel selection pools and help determine whether there really is the need for two pools. The OAC would like the Council, at some point, to consider whether and how to base coverage on tonnage of catch (or anticipated catch). The full year's data provided in the annual performance review in June 2014 will further inform these issues and assist the Council in understanding whether the current deployment sufficiently tracks effort and volume.

Other information requests or recommendations include the following: (1) Include in a questionnaire, or voluntary post-trip report by skippers information on the impacts/costs of having an observer onboard (logistical issues/challenges and in terms of cost); (2) consider, in the 2014 ADP, that the vessel selection timeframe be 1 month instead of 2 months. However, there was some concern with vessels being more easily able to avoid coverage by not fishing during the one month period. So perhaps there is a way to address the observer effect of vessels choosing not to fish in the shorter time period, if you get automatically selected for next time period? (3) Figures 5 and 6 (the heat maps) should be broken out by BSAI and GOA separately; (4) what/where is the information from halibut vessels being used and is IPHC using the basic discard info in any way yet? (5) comparison of shoreside monitoring pre and post implementation; (6) identification of any contracting issues with current contractor; (7) number and nature of violations being pursued by OLE; (8) how many observers available for each pool; (9) how many trips to tenders in 610 and 620 (pre restructure vs after); (10) 'stranding' of observers if trip canceled; (11) non-compliance issues should be further specified; (12) projection of total observer fees being collected in 2013.

OAC members reiterated that the conditional release from the observer requirement is important and that the conditions for release should not change in the 2014. Two additional conditions for release were requested to be considered: 1) release for vessels fishing very small amounts of quota held by an IFQ holder; and 2) release for participating in the voluntary EM projects (see EM Strategic Plan discussion below). In the first case, vessels holding IFQ are required to carry an observer when they participate in



## Observer Advisory Committee

June 3-4 2013 Juneau, Alaska

Committee members present: Dan Hull (Chair), Bob Alverson, Julie Bonney, Michael Lake, Dan Falvey, Kathy Hansen, Stacey Hansen, Anne Vanderhoeven, Paul MacGregor, Jerry Bongon, Joel Reyfuss, Todd Loomis, Brent Paine

Agency Staff: Chris Oliver, Glenn Merrill, Martin Loeffled, Craig Fonce, Jennifer Modragon, Megan Peterson, Nicole Kimball, Jim Balsiger, Tom Meyer, Mary Furuness, Gretchen Harrington, Gregg Williams, Diana Evans, Michael Camacho, Nathan Logerway, Frank Bonadona, Jason Gasper

Others attending: Liz Mitchell, Linda Behnken, George Hutchings, Peggy Parker, Jeff Farvour, Brian Lynch, Luke Szymanski, Dale Kelly, Megan Pasternack

### Review of first year implementation (and annual deployment plan)

Overall, the OAC recognized that the restructured program was functioning largely as intended in the 2013 ADP. While some specific concerns were raised (see more detail below), full coverage was achieved for all full coverage vessels, nearly all non-AFA pollock deliveries, and coverage rates were as expected.

The OAC recognizes that major changes for 2014 are not practical, including changes in coverage rates for specific fisheries, and there is a need to continue to collect information on newly observed sectors. However, there might be minor changes to the deployment plan that we could make for 2014, which could be pursued this fall (based on issues raised in this report and/or information we may receive this fall). This report focuses on deployment of coverage in the first 4 months of the program, rather than the data resulting from that deployment (which could be used in the future for informing changes to coverage rates by fishery).

The program review raised concerns with regard to tendering and the 'observer effect' which may be occurring. There appear to be differential effects by area. Addressing the concern raised about tenders may require a regulatory amendment or may be addressed to some extent through the 2014 deployment plan. There was a request to identify both trips (leave port- return to port) and deliveries (offloads to tenders) in future presentations about tenders. The agency will consider ways to address tenders over the summer, collect more information, and may have recommendations in this regard for the 2014 annual deployment plan (ADP).

The OAC recommended that future annual performance reports about the observer program include information on the volume of catch observed in both vessel and trip selection pools, recognizing we need to be clear as to the definition of observed catch (catching vs delivering). Also, the OAC would like to know in trip selection how many vessels were picked for sequential trips and how many trips they took.

Regarding the vessel release process, the OAC noted that more than half of the vessels selected in the vessel selection pool were 'released' (most of these due to crew size problems), highlighting difficulty for small vessels to carry observers. Once released, need to clarify how long the release is good for (just the trip or the quarter?). Need to clarify that vessel modification is not a requirement (some vessels seem to be getting conflicting information in this regard from NMFS). Regarding releases for life raft capacity, we should monitor how big a problem this is or becomes. Some release requests are taking too long to get

DS

**FISHING VESSEL OWNERS' ASSOCIATION  
INCORPORATED**

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SEATTLE, WASHINGTON 98199-1290  
PHONE (206) 284-4720 • FAX (206) 283-3341

SINCE 1914

January 14, 2013

**RECEIVED**  
JAN 18 2013

Mr. Eric Olson, Chairman  
North Pacific Fishery Management Council  
605 West 4<sup>th</sup>, Suite 306  
Anchorage, AK 99501-2252

RE: Observer Program

Dear Chairman Olson:

The members of the Fishing Vessel Owners' Association (FVOA) would like to provide a suggested design change for the 2014 Observer Program. The members supported the Council process in developing the original observer program as well as the recent amendments which activated the funding mechanism in the Magnuson-Stevens Fishery Conservation and Management Act. The members have concerns that the current design falls to provide meaningful observations of the harvesting impacts from the various fleets. These vessels of concern are principally those that were not covered at 100%.

FVOA members are concerned that the recent design will likely not produce more than 13%, and could be less than 10% overall coverage of harvesting impacts. The Association requests that the Council ask for an analysis of the design changes, set forth below, for potential use in the 2014 season. These changes are predicated on the following information provided to us from NMFS relative to the amount of fish taken by top producing vessels that account for 80% of the harvest. For example, for halibut in 2012, a total of 967 vessels participated, 287 being the top vessels that harvested 80% of the halibut. For the hook and line catcher vessel fleet that targeted sablefish, there were 279 in 2012, 112 of which accounted for 80% of that harvest. For trawl catcher vessels targeting Pacific cod in the Gulf of Alaska (GOA) there were 69, 30 of which accounted for 80% of the harvest. Similar information is readily available for the other sectors.

FVOA proposes that the fleet be divided into two observer categories of vessels. Category 1 would be those vessels that fall into the delivery of 80% of the harvest measured by highest producing vessels by sector. Category 2 would be the vessels that fall in the landing of 20% of the harvest by sector.

<b>Category 1</b>	<b>Category 2</b>	
<b>80 Percentile</b>	<b>20 Percentile</b>	
278 halibut vessels (CV)	689 vessels	Halibut 2012
112 sablefish vessels (CV)	158 vessels	Sablefish 2012
69 cod CV trawl	39 vessels	Trawl Pacific Cod CVs

FVOA requests that the Council have analyzed a deployment design that would dedicate 65%, 75%, or 85% of the available observer dollars for coverage of those vessels in the 80 percentile. This analysis would also look at 35%, 25%, and 15% of the observer dollars dedicated for coverage of Category 2 vessels. This analysis would aid the Council in determining how much harvesting impacts can be covered with different financial allocation schemes based on funding availability. We would suggest that all vessels be subject to the trip-by-trip call in of less than 72 hours. FVOA would suggest dropping the requirement of having an observer on a vessel for 60 days in the <57.5' group of vessels. There is no persuasive rationale that has been presented as to why this requirement on vessels <57.5' produces a better observer result than the trip-by-trip requirements for vessels >57.5'. The random choice of choosing a vessel would remain the same, except that the vessels in Category 1 would be subject to a more aggressive level of probability of being chosen than vessels in Category 2.

FVOA requests the Council have this option analyzed based on the existing problem statement adopted for amendment of the previous observer program. It is the opinion of the FVOA members that the option proposed for analysis will provide a more effective, efficient, and fair observation of the various fleet sectors. The above options will not only put observers where significant amounts of fish are actually being caught, but also provide information on the lesser producers of fish.

Sincerely,



Robert D. Alverson  
Manager

RDA:cmb

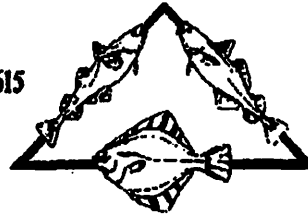
Cc: Dan Hull, Chairman, Observer Committee

# Groundfish Data Bank

Alaska

PH: 907-486-3033 FAX: 907-486-3461 P.O. BOX 788 - KODIAK, AK. 99615

Julie Bonney, Executive Director jbonney@gei.net  
Katy McGauley, Fisheries Biologist agdb@gei.net



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April 3, 2013

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Eric Olson, Chairman  
605 W. 4<sup>th</sup> Avenue, Suite 306  
Anchorage, AK 99501-2252

Re: Agenda item C-1 Observer Program

Chairman Olson,  
Alaska Groundfish Data Bank members, both shorebased processors and trawl catcher vessels, would like to take this opportunity to complement the Council, observer program and NMFS AK region for the successful implementation of the newly restructured observer program. This was a huge undertaking: change is always difficult but the change wasn't nearly as bumpy as we thought it would be. We would especially like to thank Glenn Campbell, with the observer program, for providing us as close to real time Chinook salmon retention data which we use to help monitor Chinook bycatch in the CGOA fast-paced and very short pollock seasons.

The Council will begin evaluating the observer deployment plan in June of 2013. AGDB members feel that the following issues should be added to the list for investigation as the process begins:

1. Trip definition for vessels that deliver to tenders: In the present deployment plan, a trip ends when a vessel returns to port. Thus, if a vessel is delivering to a tender, the observer can remain on the vessel for weeks at a time for multiple tender deliveries since the vessel has not returned to port. The difference in delivery treatment sets up perverse incentives where vessels may choose to deliver to port when required to carry an observer and deliver to tenders when no observer is required. This may affect the randomized deployments and quality of the observer data.

We suggest that you examine a different model where observers are transported to and from the fishing grounds by tenders to be deployed on fishing vessels. This way a trip can be defined for each deliver whether to a tender or a shoreside processor. Transferring observers between tenders and fishing vessels can be accomplished safely since these transfers can occur during daylight hours and in protected waters such as bays. In many instances getting on and off vessels is safer and easier in this mode than at the docks in the different ports. This practice has been used in the past under the old pay-as-you-go observer system.

2. Delay for reopening fisheries due to the 72 hour check in requirement for ODDS: At the start of 2013, NMFS Alaska Region stated that they would need to give a 3 day (72 hour) notice prior to re-opening a fishery due to the 72 hour log-in requirement for the Observer Declare and Deploy

System (ODDS). Now, apparently, there is a "more than" 72-hour notice requirement (i.e. 4 days).

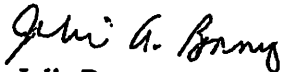
The trawl fisheries in the GOA are fast paced fisheries that are difficult to manage and in many cases result in multiple closures and reopeners. The four day delay creates inefficiencies and loss of revenue for the trawl industry. We believe that the Council and NMFS should investigate ways that would allow for reopeners in less than four days.

AGDB also recommends that written documentation be provided to improve communication in future years. For shoreside processors a description of the annual shoreside monitoring and observer requirements needs to be available at the beginning of each calendar year. Presently the annual deployment plan allows the Council and the observer program to prioritize new monitoring objectives each year for the sector. To prevent confusion written documentation of shoreside processing monitoring objectives and observer requirements need to be provided every year.

For vessels there has been some confusion about how the ODDS system functions and flexibility that is inherent in the system. Providing written examples of how the system functions and the flexibility within the system would better inform vessel operators/owners on how best to manage their logged trips. Understanding the flexibility allows the observer deployments to best meet the vessel's fishing plan versus having the observer deployments dictating when a vessel can fish. Better understanding by both vessel owners/operators could facilitate meeting this objective.

Thank you for the opportunity to comment.

Sincerely,



Julie Bonney  
Executive Director  
Alaska Groundfish Data Bank



P.O. Box 3302, Seward, Ak 99664  
(907) 224-5584 [Kruzof@ak.net](mailto:Kruzof@ak.net)

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Attn: Eric Olsen, Chairman and Corresponding Council Members  
605 West 4<sup>th</sup> Street, Anchorage, Ak 99501

3/26/2013

Dear Chairman Olsen and Council Members,

**Re: Agenda Item C-1 Observers**

As council receives reports on the Re-structured observer program, please consider the following changes to the rule as soon as the Council process allows.

**A. Observer Coverage Requirements for certain classes of Catcher Processors (CP's).**

Certain CP's are provided a choice of receiving 100% observer coverage or participating in the partially observed program based on the following exceptions;

1. If production is no more than 1 MT of Round wt /day, such CP can go w/partial observer coverage for the following year.
2. CP's of <60'LOA in operation between 2003 and 2010 to be allowed a one-time decision of participating in the partial delivery category and pay an observer fee on their catch, or be 100% observed and pay as they go.
3. CP's who historically processed less than 5,000 lbs of round weight equivalent between 2003 and 2010 to be allowed a one-time decision of participating in the partial delivery category and pay an observer fee on their catch, or be 100% observed and pay as they go.

Requested changes;

On item 1, raise production volume to 5MT of Round wt/day of the target species only.

On item 2, change the one time selection to an "annual" decision and eliminate control dates.

Eliminate Item 3, as it would default to change in item 1.

The production limit of 1 MT of round wt/day might seem feasible for a freezer troller operation in Southeast, but hardly viable for larger scale vessels that are more conducive to the fishing regions of Western Alaska, Aluetian Is and Bering Sea.

The one-time selection is unreasonable. Such selection would supersede the vessel's future years of operations and expectant change of ownership. Consequently flexibility in how a vessel could respond or adjust to fishery demands and markets in the future would be limited.

Eliminating control dates provides opportunity for vessels to do CP work on a small scale now or in the future. This proves worthy in certain fisheries where catch quantities may be limited, delivery points distant and/or where the quality of products can be preserved better. CDQ fisheries could also benefit since such quota can be harvested and delivered unprocessed or processed, therefore providing choice in how a vessel may fully utilize and market such harvest.

Amendments to these exceptions are needed for such operations to remain viable in their business. Depending on how a vessel operates from one year to the next, the type of observer coverage decided upon initially could significantly impede on the fiscal success of a vessel's operations.

Without amendments to the rule the observer program discriminates and adds costs to new entrants and vessels that may have the capacity for diverse operations.

When this part of the rule was deliberated and determined at the council level in October of 2010, industry had minimum input on the development or outcome of the motion. Furthermore no economic review or assessment was given on those vessels potentially impacted. Council is urged to re-consider this part of the rule as soon as possible.

**B. Base Observer Fee on current year prices for IFQ fisheries.**

For purpose of administrative ease and reducing potential duplicative reporting or invoicing, agency encouraged using previous year's price for the current year IFQ catch. Such notions can be refuted if agency made effort to correspond their collection of observer fees with the current NMFS fee billing system.

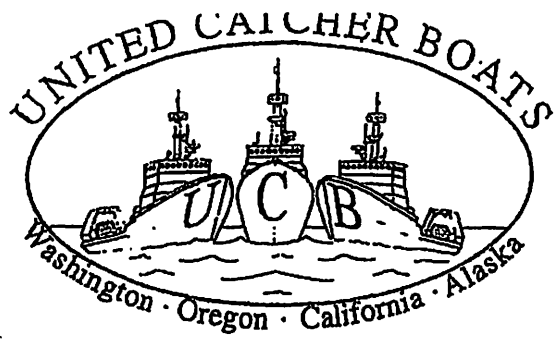
1. The NMFS fee billing illustrates the same landings that the observer fees are to be based on.
2. Prices would be more accurate since they would be regionally and seasonally based.
3. Collection of fee would be timely since it is presented in December and expected to be paid by January 31<sup>st</sup>. This is sooner than when the Observer fee is required to be paid by the processors.
4. No duplicative report or additional invoicing would be necessary other than a separate line item on the NMFS fee notice illustrating a separate value to be paid for observer coverage.

Please consider this change to the rule so the IFQ fleet can pay real time prices for current catch.

Thank you for your timely attention to these items as they move through the council process.

Sincerely,

Rhonda A. Hubbard



June 18, 2012

Glenn Merrill, Assistant Regional Administrator  
National Marine Fisheries Service, Alaska Region  
P.O. Box 21668  
Juneau, Alaska 99802  
Attn: Ellen Sebastian

RE: FDMS Docket Number NOAA-NMFS-2011-0210  
Amendment 86 to FMP for Bering Sea Groundfish Observer  
Program

Dear Mr. Merrill:

Thank you for the opportunity to provide comments on the proposed changes to the North Pacific Fishery Observer Program. These comments represent the interests of the members of United Catcher Boats (UCB). UCB has 67 vessels that participate in the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska groundfish trawl fisheries. Our primary fishery is the Bering Sea Mothership and Shoreside CV AFA Pollock fishery, followed by the BSAI Pacific Cod CV trawl fishery.

Throughout the North Pacific Fishery Management Council's (NPFMC) development of a new hybrid Observer Program, UCB has expressed its support of improved collection and use of harvest data collected by observers onboard vessels and processing facilities. We also supported the continuation of the "Pay-As-You-Go" deployment system for vessels that are currently 100% observed and/or are governed by Catch Share regulations. What follows are a few concerns we have with the proposed fee-based system and how it interacts with the existing Pay-As-You-Go program.

**1. Observers Crossing Between the Two Programs**

We understand NMFS will not allow observers to cross between the two programs without first debriefing from one program and briefing for the other. Because of this requirement, movement in and out of the BSAI Pollock fishery will require multiple changes of observers. The Consequences of this



requirement will be increased costs, both to the government in their operating the fee-based program, as well as to the boat owner operating in the Pay-As-You-Go program. Additional airfare for observers, loss of observer time and less availability of observers in Dutch Harbor will occur. We suggest considering a regulation that allows observers to remain in a port and be allowed to switch between the two programs without having to fly out to attend a debriefing session.

## **2. Allow BSAI Trawl CVs Fishing P. Cod to Choose Between Programs**

Use of the new fee-based system for vessels targeting P. Cod in the BSAI CV trawl fishery will possibly result in poorer quality of harvest data, especially Halibut PSC data at the individual vessel level. We have serious concerns that this poor data will result in assigning halibut PSC rates to our vessels that are not accurate or correct.

Over the past couple of years, the AFA CV fleet involved in the BSAI P. Cod trawl fishery has used the AFA CV Intercooperative Agreement to help reduce halibut bycatch rates for the AFA CV fleet when targeting P. Cod, thereby obtaining our P. Cod harvest allocation. Our efforts require the accurate accounting of bycatch at the individual vessel level. Through the AFA cooperative management program, the BSAI P. Cod fishery is mostly rationalized. Annual Halibut PSC and P. cod harvest amounts are assigned to the coop members at the individual vessel level and vessels have to stay within their individual PSC and P. Cod harvest allocations. Thus, we developed a system with individual incentives for fishermen to reduce the encounter rate of halibut. However, this system requires 100% observer coverage.

Applying a fleet-wide Halibut PSC rate, or amount, to individual vessels participating in the BSAI P. Cod trawl CV fishery is problematic. Assigning accurate bycatch rates at the individual vessel level is not possible. Those vessel operators employing bycatch avoidance measures like halibut excluder devices or avoiding areas and times of high halibut abundance would not receive the benefits of their actions when they are applied a fleet-wide average bycatch rate. Individual accountability is required which requires 100% observer coverage. With this system, vessel operators who avoid halibut are rewarded.

The proposed regulations would inadvertently destroy that system if an option for these vessels to carry observers on a 100% basis is not allowed. This is a step backwards for both the fishing industry and NMFS in achieving the goal of better accounting of PSC bycatch, and more importantly, achieving meaningful reductions in PSC rates.

In reading the actual motion passed by the NPFMC on Amendment 86/76, we believe the intent of the NPFMC is to allow catcher vessels governed by a catch

share program that involves assignment of individual PSC and target species allocations to fall under the 100% Pay-As-You-Go program.

Therefore, we request NMFS modify the Proposed Rule and allow an AFA trawl CV operator the choice of participating in the 100% coverage program, or the fee-based program.

Regarding the catcher vessels that are non-AFA qualified that participate in the BSAI P. Cod fishery, we request that you consider an option for their owners to also select which of the two programs to participate in on an annual basis. Providing incentives to minimize bycatch also benefits the Non-AFA CVs too and this requires 100% observer coverage to obtain accurate PCS rates at the individual vessel level.

### **3. Partial Coverage Observer Deployment**

Under the proposed program, if an observer does not arrive by the end of a 72-hour period, the vessel assigned to that observer can be held at the dock for up to 24 hours to wait for that observer to arrive. We believe that this requirement is harmful to the catcher vessel owners and will result in loss of key fishing time. The BSAI P. Cod fishery is a fairly short fishery and the lose of one or two days of fishing time on the fishing grounds can result in losses exceeding \$50,000 per day per vessel. We suggest modifying the 24-hour wait time and allow a vessel to go fishing and on its subsequent trip have the observer come on board and begin their assigned duties.

Thank you for consideration of our suggested comments.

Sincerely,



Brent Paine



MTC

## **MIDWATER TRAWLERS COOPERATIVE**

P.O. Box 2352

NEWPORT, OREGON

PHONE: 541-265-9317 FAX: 541-265-4557

June 17, 2012

Glenn Merrill, Assistant Regional Administrator  
Sustainable Fisheries Division  
Alaska Region NMFS  
Attn: Ellen Sebastian

VIA FAX: (907) 586-7557

RE: FDMS Docket Number NOAA-NMFS-2011-0210  
Amendment 86 to FMP for Bering Sea Groundfish Observer Program

Dear Mr. Merrill:

Midwater Trawlers Cooperative (MTC) is a Trade Association that represents thirteen of the smaller class AFA catcher vessels that also participate in the Bering Sea cod fishery. Five of these AFA catcher vessels participate in the Bering Sea cod fishery as exempt vessels and eight participate in the cod fishery as non-exempt AFA vessels.

We wish to comment on the proposed regulations to implement Amendment 86 to the FMP for Bering Sea Groundfish as it relates to the Observer Program because we are fearful that the regulations as currently written will adversely affect our members by reducing their ability to harvest cod and at the same time drastically increase the bycatch of halibut in the cod fishery.

By virtue of AFA and the Sideboard regulations that were adopted pursuant thereto, the Bering Sea cod fishery is at least partially rationalized. The vast majority of the Bering Sea catcher vessel cod fishery is harvested by AFA vessels and is done so pursuant to an Intercooperative Agreement. That Intercooperative Agreement assigns to all non-exempt AFA cod vessels an individual share of the Bering Sea cod cap and also a corresponding individual share of the halibut bycatch assigned to that fishery. If a non-exempt AFA cod vessel exceeds its harvest of either its cod cap or halibut bycatch it is subject to severe penalties. The Intercooperative Agreement treats the exempt AFA cod vessels somewhat differently. It assigns to each Coop a historical share of cod along with a corresponding amount of halibut bycatch for that Coop's exempt fleet. The Intercooperative Agreement provides that if the exempt vessels, in their respective Coop, successfully harvest their cod without exceeding the originally assigned halibut that it will receive more cod and more halibut so that the exempt vessels are able to fish unconstrained as respects to limits on the amount of cod they harvest as long as they do not exceed their proportional share of the halibut.

Pursuant to existing regulations the cod fleet is required to carry observers 30% of the time. Early on it became apparent that the individual incentives that were built into the Intercooperative Agreement did not work very well under that system because everyone fishing was assigned the fleet halibut bycatch rate so that those that practiced bycatch avoidance techniques did not receive individual benefits for

their extra effort and expense. Finally, after considerable effort by the Intercooperative Administrator, Sea State and NMFS, a system was developed whereby vessels carrying observers were able to be assigned their individual halibut bycatch thus creating an incentive to carry observers 100% of the time. Individual accountability was achieved which rewards those who avoid halibut while pursuing cod.

As a result, more and more of the non-exempt cod vessels are electing to pay the additional costs to carry observers 100% of the time while participating in the cod fishery. These vessels then use the best known conservation techniques for avoiding halibut including use of expensive halibut excluders and have been able to achieve reduced halibut bycatch rates so as to assure the full harvest of their cod caps. In addition, the MTC AFA exempt cod vessels have begun carrying observers 100% of the time so as to assure that as a group within their Coop that the halibut rates are kept as low as possible and below the threshold so that they can continue to receive the benefits of their exemption.

Bottom line, that by virtue of AFA regulations, Intercooperative Agreement and the efforts of NMFS staff and others we have been able to achieve a system of individual accountability as it relates to halibut bycatch in the Bering Sea AFA cod fishery. The proposed regulations would inadvertently destroy that system if an option for these vessels to carry observers on a 100% basis is not found.

In reviewing the Council motion it is provided that included in the group of vessels that should be subject to 100% coverage:

All catcher vessels while fishing under a management system that use prohibited species caps in conjunction with a catch share program.

We would submit that by virtue of the Intercooperative Agreement allocating the cod cap on an individual catcher vessel basis (and on a Coop basis for exempt catcher vessels) as well as the corresponding halibut that essentially the Bering Sea AFA cod fishery is within the intent of the Council motion of fisheries that should be included within 100% coverage. However, since the cod fishery is not technically a catch share program (and therefore not directly included within the Council's motion) we would respectfully suggest that the regulations should include an exemption for AFA catcher vessels that fish in the Bering Sea cod fishery to make on an annual basis an election to participate in the full coverage category of observer coverage.

As described above, the ability of AFA catcher vessels in the cod fishery to maintain 100% observer coverage is necessary to continue the rationalization that has been achieved and to continue and improve on the conservation of halibut bycatch.

Thank you.

Sincerely,

David Jincks  
President

David Jincks, President

880 E. Bay Blvd \* Newport, OR 97365 \* (541) 265-9317 \* Fax 265.4557 \* Email: jincks@pioneer.net

March 26, 2013

Mr. Glenn Merrill  
Assistant Regional Administrator  
Sustainable Fisheries Division  
NMFS, Alaska Region  
P.O. Box 21688  
Juneau, Alaska 99802-1668

**RECEIVED**  
MAR 26 2013

Attention: Ellen Sebastian

FDMS Docket Number NOAA-NMFS-2011-0210

My name is Oystein Lone I am the operator and manager of the FV-C/P Pacific Sounder. The vessel is based out of Dutch Harbor, Alaska. We do a combination of fisheries in the Aleutian Islands and Bering Sea. As a C/V we catch King Crab, Snow Crab, Pot Cod and Halibut. As a C/P we catch Sablefish & Turbot.

We do not qualify for the partial observer coverage under the new plan. Under the new plan there is a cut off date 2003 to 2010 to comply under the 5,000 lb. per day if you operate as a C/P. Our business was started in 2011. My question is; "why is there a control date on this"?

Yearly costs for observer coverage is around \$30,000. Under the new program, the cost would jump to over \$110,000 per year. That is if we stay at the same rate. Under the new plan we will be spending from 8% to 10% of our gross stock on observer coverage.

This will severely impact our ability to stay in this fishery. We have now changed our business plan for the year, reducing our fishing by 30% to try to make this work. So, now we will leave fish on the table that will not be harvested under the IFQ flag. Further cuts will be necessary if no changes are made to this program.

I recommend highly that the council make some changes to make this program so that it is fair for everyone.

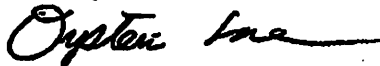
1. Extend the access period, which is currently 2003-2010, to 2012 or eliminate the control date altogether to make it open for boats in the future.
2. Raise the 1 metric ton limit to 5 metric tons per day. This will make it easier to comply and retain fish and not have wastage of fish in a 24 hour period.

It has been a struggle this past year trying to comply with laws from the EPA and the Coast Guard ACSA program. Because the daily reporting requirement, our vessel had to put a very costly communication system onboard. Being a small boat owner we are just trying to make a decent living for the crew, my partner and myself while still having enough profit to keep up with vessel maintenance. This is extremely difficult to do for a small business such as ours. We would hope that public policy would be shaped to help small businesses such as ours to thrive, rather than forcing us out of business.

With the aging of the fleet, I know it would be good to have new participants coming in to the industry. This is very difficult because of all the restrictions and new regulations. There just doesn't seem to be the same hope for the future of the fishing industry that there was when I started out over 30 years ago. I am asking you to please look into this new ruling and to try to come up with a solution that will allow me to keep my business going well into the future as well as provide hope for incoming participants.

If you have any questions please feel free to contact me either on the vessel @ 206-965-9539 or via email at [oysteinlone@frontier.com](mailto:oysteinlone@frontier.com)

Sincerely,



Oystein Lone  
CN-C/P Pacific Sounder

**C2 - Freezer Longline Issues: Final Action on GOA Pacific Cod Sideboards**

June 2013

**Motion:**

**Alternative 2: Remove freezer longline non-AFA crab GOA Pacific cod hook-and-line sideboards**

**Option: Permanently remove Gulf of Alaska (GOA) Pacific cod hook-and-line sideboard limits for affected freezer longline (FLL) vessels/Federal Fisheries Permits (FFP) and LLP licenses when all GOA FLL endorsed LLP holders notify NMFS of an agreement to remove the sideboards. Under the option, the LLP holders would have 18 months from the publishing date of the final rule to provide notification to NMFS. The CGOA and WGOA may be taken up separately so that cooperative formation and sideboard removal can occur independently in each area.**

### **C-3 (a) Observer Program Annual Performance Review**

The AP recommends the Council approve the recommendations of the Observer Advisory Committee, highlighting the bolded sentence on page 3 which reads, "The OAC believes catch estimation should be the EM priority at least for sablefish and halibut fisheries, noting that the Canadian (logbook) model might be more appropriate for fixed gear cod fisheries and other (more PSC driven) fisheries. The AP also emphasizes the last paragraph of page 3 regarding the EM workgroup. *Motion passed 20/0.*

#### ***Rationale:***

- *The AP recognizes the importance of good data to fisheries management and the need to develop a cost effective integrated data collection system that is not disruptive to our fishing operations.*
- *55% of the vessels in the "vessel selection" pool picked for observer coverage were issued releases due to the impracticality of placing human observers on small vessels.*
- *EM provides a cost effective strategy for gathering good data from these small boats. The Council EM priority fisheries and monitoring objectives are absent from the EM Strategic Plan.*
- *Collection of at sea data should not make small boat operations less economically viable. These operations are important to coastal communities.*

***Minority Report:*** *The minority supported an amendment to recommend the Council ask NMFS to prioritize observer coverage for the GOA trawl fleet in the 2014 Annual Deployment Plan. In the GOA, there is a high degree of uncertainty regarding PSC estimates which creates problems for PSC management. Better data will assist all parties in accurately managing PSC. With recent PSC caps and new PSC management in GOA trawl fisheries, it is important to increase coverage in these fisheries because of their high interaction with PSC and the need for timely data and management precision. Signed by: Alexis Kwachka, Joel Peterson, Becca Robbins-Gisclair, Ernie Weiss, Theresa Peterson, John Crowley, Tim Evers.*



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Samuel D. Rauch III  
Deputy Assistant Administrator for Regulatory Programs,  
performing the functions and duties of the Assistant Administrator for Fisheries  
National Marine Fisheries Service/NOAA  
U.S. Department of Commerce  
301-427-8000

activities on living marine resources and their habitat. In turn, most Council policy decisions are now informed by observer information integrated into policy analyses, stock assessments, and catch statistics.

Fisheries observers also benefit fishermen. High-quality data means less uncertainty, which results in fishing closer to annual catch limits without exceeding them. Increasingly, fishermen rely on data collected by observers to help in their efforts to monitor individual fishing quotas and manage bycatch.

Observers are highly trained, professional, and dedicated individuals. NOAA Fisheries has national standards for observer education, professionalism, conflict of interest, and safety training.<sup>[1]</sup> Observers must meet educational and physical requirements prior to enrolling in a comprehensive three-week NOAA Fisheries training course in data collection, species identification, biological sampling, and safety training. Recurrent training occurs on an annual basis, and we require safety refresher training for all observers every three years. Many programs exceed our national requirement. We are proud that many former observers have moved into careers with NOAA Fisheries, our state agency partners, and our Councils. In fact, our Chief Scientist, Dr. Richard Merrick, began his career as a foreign fisheries observer in Alaska. It was a job that had a lasting influence on him throughout his career.

Protecting observers is a priority for the NOAA Fisheries. NOAA's Office of Law Enforcement provides enforcement training to new and veteran observers, and observers have agents' cell phone numbers as well as the national enforcement hotline number. Agents are on call 24/7 to respond to crimes against observers, as well as other violations. Reports are assessed as they are received, and any alleged violations that victimize the observer—assault, harassment, intimidation and interference—are given the highest priority for investigation. Many enforcement actions are taken, including outreach efforts to improve compliance, verbal and written warnings, and civil and criminal prosecution.

Observers, like fishermen, face challenging and dangerous working conditions at sea. Deploying observers safely and collecting data at sea requires an active partnership between NOAA Fisheries, observers, observer providers, and the fishing industry. I would like to acknowledge our partners, including the commercial fishing industry, for their support of fisheries observers. I would also like to thank all our fisheries observers who do a commendable job collecting data under difficult conditions. The success of fisheries management in the United States is in due in no small part to a robust observer program and an effective partnership between NOAA, the Councils, and the fishing industry.

Sincerely,

Samuel D. Rauch III

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<sup>[1]</sup> National standards for observers are available at <http://www.st.nmfs.noaa.gov/observer-home/index> . Select the link for National Eligibility and Safety Standards.

**Subject:** Fwd: Importance of NOAA Fisheries Observers  
**From:** Chris Oliver <chris.oliver@noaa.gov>  
**Date:** 6/6/2013 3:34 PM  
**To:** Maria Shawback - NOAA Affiliate <Maria.Shawback@noaa.gov>

Sent from my iPhone

Begin forwarded message:

**From:** Samuel Rauch - NOAA Federal <[samuel.rauch@noaa.gov](mailto:samuel.rauch@noaa.gov)>  
**Date:** June 6, 2013 2:31:10 PM AKDT  
**To:** Tom Nies <[TNies@nefmc.org](mailto:TNies@nefmc.org)>, "Moore, Christopher" <[CMoore@mafmc.org](mailto:CMoore@mafmc.org)>, Bob Mahood <[Robert.Mahood@safmc.net](mailto:Robert.Mahood@safmc.net)>, [Doug.Gregory@gulfcouncil.org](mailto:Doug.Gregory@gulfcouncil.org), Miguel Rolon <[Miguel.Rolon\\_CFM\\_C@yahoo.com](mailto:Miguel.Rolon_CFM_C@yahoo.com)>, Donald Mclsaac - NOAA Affiliate <[Donald.Mclsaac@noaa.gov](mailto:Donald.Mclsaac@noaa.gov)>, Chris Oliver - NOAA Affiliate <[Chris.Oliver@noaa.gov](mailto:Chris.Oliver@noaa.gov)>, Kitty Simonds - NOAA Affiliate <[Kitty.Simonds@noaa.gov](mailto:Kitty.Simonds@noaa.gov)>, Robert Mahood - NOAA Affiliate <[Robert.Mahood@noaa.gov](mailto:Robert.Mahood@noaa.gov)>  
**Cc:** Carrie Selberg - NOAA Federal <[carrie.selberg@noaa.gov](mailto:carrie.selberg@noaa.gov)>, Alan Risenhoover - NOAA Federal <[alan.risenhoover@noaa.gov](mailto:alan.risenhoover@noaa.gov)>, Richard Merrick - NOAA Federal <[richard.merrick@noaa.gov](mailto:richard.merrick@noaa.gov)>, Paul Doremus <[paul.n.doremus@noaa.gov](mailto:paul.n.doremus@noaa.gov)>, Emily Menashes - NOAA Federal <[emily.menashes@noaa.gov](mailto:emily.menashes@noaa.gov)>  
**Subject:** Importance of NOAA Fisheries Observers

Dear Council Colleagues,

I would like to take this opportunity to reaffirm our commitment to and emphasize the importance of NOAA Fisheries observers.

For more than 40 years, NOAA Fisheries observers have collected data necessary for the conservation and management of our nation's living marine resources. Authorized under the Magnuson-Stevens Act, Marine Mammal Protection Act, and Endangered Species Act, observers are vital to the independent collection of unbiased commercial fishing data. In 2012 more than 900 fishery observers logged 83,000 days at sea in 47 fisheries nationwide. This remarkable achievement speaks to the dedication of our fisheries observers, the contractors who employ them, and the NOAA Fisheries staff who manage observer programs.

Fisheries observers and the data they collect are essential to sustainable management of our nation's fisheries resources. Their data is the most reliable, high-quality source of fishery-dependent data currently available to the agency. Scientists and managers use the data for a variety of purposes, including but not limited to, stock assessments, quota monitoring, bycatch monitoring, and assessing methods to reduce the impacts of fishing



# Alaska House Bush Caucus

Representative Bryce Edgmon, Chair  
Alaska State Legislature  
Capitol Building, Room 410  
Juneau, AK 99801

March 15, 2013

Dr. Kathryn Sullivan, Acting Administrator  
National Oceanic and Atmospheric Administration  
1401 Constitutional Avenue, NW  
Room 5128  
Washington, DC 20230

Re: NMFS 2013 Restructured Observer Program

Dear Dr. Sullivan,

We are writing in regard to the National Marine Fisheries Service's 2013 restructured observer plan. Of major concern is the inclusion of some 1,300 new community-based vessels that are less than 60 feet in length. The Alaska House Bush Caucus, which represents many of the 1,300 small vessels impacted, urges you to make changes to this plan.

The Bush Caucus is a bipartisan working group composed of 12 of the 40 members of the Alaska House of Representatives. The Bush Caucus represents rural and coastal Alaska. Our districts cover approximately 98% of Alaska's 6,649-mile coastline, from the Alexander Archipelago to the Arctic Ocean. We share the concerns of fishermen and their associations about the current plan's negative impact on the operators of these small vessels. They include additional expense, safety concerns, unnecessarily intrusive oversight, reduction of coverage on high volume catchers, and the lack of implementation of the electronic monitoring program (EM) that could resolve many of these issues.

Alaska's fishing associations and the Alaska Legislature have long recognized the need to gather scientific information to manage the fishery for sustainability and we doubt that the current plan achieves this need. The 2013 plan reduces coverage in high volume fisheries that have substantial Chinook and halibut bycatch. It also assigns over half the observed trips to vessels that account for less than 12% of the catch without providing any guarantee that priorities will be adjusted in the future.

We are also concerned that NMFS has not provided an electronic monitoring (EM) alternative to human observers for the small longline fleet. Implementation of EM concurrent with the restructured program was requested by fishing associations, vessel owners, and the North Pacific Fishery Management Council. The industry-run EM pilot program costs significantly less than

human observers. EM can provide a representative estimate of catch and bycatch for small vessels while providing cost efficiencies for the program and Alaskan's small fishing businesses. If NOAA cannot develop performance standards and technical guidelines for integrating EM into the restructured program, then NOAA needs to explore other avenues, such as Exempted Fishery Permits, to ensure EM is available to the "vessel selection pool" as an alternative to human coverage by 2014.

We recommend that NOAA expedite the deployment and integration of EM to the observer program. Until EM is a viable component of the observer program, we request waivers be provided to the "vessel selection pool" boats that volunteer to carry EM. We agree with our Alaska Congressional Delegation that NOAA has the flexibility to take either or both of these steps now.

In closing, we urge you to prioritize coverage to fisheries with the most impact to the resource and to mitigate impacts to Alaska's coastal fishermen and fishery dependent communities by providing EM to small boats as an alternative to human observers. We also implore you to work with the North Pacific Fishery Management Council and fishing associations to initiate a meaningful stakeholder process that identifies changes to the observer program with the goal of increasing efficiency while achieving scientific goals and minimizing impacts to Alaska fishery dependent communities.

Sincerely,

The Alaska House Bush Caucus

Representative Bryce Edgmon (Chair)  
Representative Alan Austerman  
Representative Eric Feige  
Representative Neal Foster  
Representative David Guttenberg  
Representative Bob Herron  
Representative Beth Kerttula  
Representative Jonathan Kreiss-Tomkins  
Representative Cathy Muñoz  
Representative Benjamin Nageak  
Representative Paul Seaton  
Representative Peggy Wilson

JH

Paul Keaton

Beth Kuttel

Bye Edgmon

Peggy Wilson

Dave Little

William King

ZZ

Ann Hesterman

Wood Boston

B.P. Nagel

Jim

## Considerations Related to the

### Strategic Plan and Timeline for Developing EM:

#### 1. EM as an at-sea monitoring tool

- *"Since these [EM] data come from video footage collected at the moment of capture, the video estimate cannot be corrupted by misreporting of discards or by dumping fish after being retained. Thus, the video data provide an unbiased and virtually independent batch estimate—rare in fisheries monitoring—that captures the extent to which the official catch accounting systems might be biased." Stanley 2011, Independent Validation of the Accuracy of Yelloweye Rockfish Catch Estimates from the Canadian Groundfish Integration Pilot Project*

#### 2. Council and OAC recommendations on EM

- **Council June 2010 Motion on EM:** *"The Council also approved a motion to task the Observer Advisory Committee, Council staff, and NMFS staff to develop electronic monitoring as an alternative tool for fulfilling observer coverage requirements"*
- **Council October 2011 Motion:** *"Finally, the Council urges the agency to make as many EM systems available as possible to vessels in the vessel selection pool in order to advance the Council's goal of integrating EM into the observer program as an alternative tool for meeting program requirements."*
- **March 2011 OAC meeting minutes:** *"AFSC asked ALFA to consider a primary monitoring objective of assessing catch and catch composition, particularly at-sea discards, for this project. Because the IFQ fisheries are not constrained by PSC limits, real-time data is not required for catch accounting. Thus, the primary monitoring need is total catch composition and species discards, to complement the existing IPHC dockside monitoring program."*
- **May 14 2012 Council Comments on Proposed Rule:** *The Council proposes that NMFS consider alternative ways to meet the Council's intent, which is to incentivize the agency and the fleet to actively develop appropriate standards for the use of electronic monitoring, at the outset of the newly restructured observer program. It is the Council's view that a critical component of this effort is for the regulations to allow a vessel in the vessel selection pool, that would otherwise be required to take an observer, to use an electronic monitoring system instead (at the agency's discretion).*

*Therefore, the Council requests that the agency consider the following options:*

1. *Return to the original language. 679.51(a)(1)(ii)(F)(1) would be rewritten to read: "A vessel selected for observer coverage is required to have an observer or electronic monitoring system onboard, as directed by NMFS, for all groundfish and halibut fishing*

*trips specified at paragraph (a)(1)(i) for the time period indicated by the Deployment System."*

2. *Insert new language, such as: "In order to encourage the development of electronic monitoring as a pilot project, a vessel that is selected for observer coverage, and is able to carry an observer, may be released from the observer requirement if they agree to system onboard, in lieu of an observer, subject to the discretion of NMFS".*

- **June EM strategic plan Page 1:** *In October of 2012, the Council initiated an electronic monitoring strategic planning process by requesting that NMFS: "provide a strategic planning document for electronic monitoring (EM) that identifies the Council's EM management objective of collecting at-sea discard estimates from the 40' – 57.5' IFQ fleet, and the timeline and vision for how the M pilot project in 2013 and future years projects will serve to meet this objective, including funding."<sup>2</sup> And that NMFS: "...report to the Council on other EM options that may be appropriate to replace or supplement human observers."*

### 3. NMFS October 2010 EA/RIR

- **Section 2.5 Analytical Assumptions Page 22 Assumption 2:** *If pursued, the details and design of an electronic monitoring system should be addressed in a separate analysis..... "Staff has thus proceeded with the assumption that development of electronic monitoring options for specific sectors would be addressed under a separate, but coordinated, process and timeline."*
- **Sec 3.2.7.3 Contingencies and details regarding the selection method, P 165** *"Any vessel that NMFS determines is physically impractical for human observation would need to accept EM as an alternative at such time that NMFS has the capability to deploy EM and effectively use the resulting data to meet sampling objectives. The development of EM holds potential as an alternative, or a supplement, to an observer in some cases. As stated previously, NMFS and the Council are actively exploring EM as a potential alternative to human observers for specified types of vessels. **The intent is to have this alternative available in the first year of implementation of a restructured observer program.**"*

### 4. Previous work on EM

- *"Comparison of species identification of catch between standard observer estimation, complete hook-status observer coverage, and EM coverage showed statistically unbiased and acceptable comparability for almost all species except for some that could not be identified beyond the species grouping levels used in management. Similarly, comparisons of total species-specific numbers of fish estimated using EM collected and hook-status observer-collected data showed few statistically significant differences." (2010 Cahalan study with IPHC. Ex sum P iii)*
- *"Based on this study, although limited in scope, EM can provide an additional tool for catch monitoring in the commercial halibut fishery. However, the potential uses of EM need to be determined by the specific monitoring requirements of each management*



*application. EM is not an alternative to observers for the collection of certain biological specimens (e.g., otoliths, scales, etc.) from the catch. With the further development of EM systems and procedures, estimation of bycatch species composition in numbers of fish in the Pacific halibut fishery could be achieved with a high degree of accuracy. (2010 Cahalan study with IPHC. Ex sum P iii)*

- *EM and observer fishing event and catch data were available for over 105,000 total fish catch items and a total of 276 fishing events. EM data had 1% less pieces of catch than observer overall, with high agreement on piece counts of sablefish (1% difference) and grouped rockfish (4% difference), the two most important species groups of this study (for market and conservation reasons, respectively). There were 328 events compared between EM and fishing log data. The total piece comparison between EM and fishing log data was very good, since fishing log data contained 0% different total catch items and 1% more and 4% less items for sablefish and rockfishes respectively. Out of 329 fishing events captured on video, only one was unusable due to poor lighting during a night haul when the deck lights failed and the catch was processed using headlamps. While sun glare and backlighting by deck lights during night hauls can adversely affect video quality, determining catch count and composition was typically unimpacted. (Morrow Bay EM project Page ii)*
  
- *Consistent with the findings of the 2008 study, EM has been demonstrated to be an effective tool for at sea monitoring, delivering fishing effort and catch data comparable to on-board observers. There is no need for continuing to concentrate future research efforts on comparing EM data with observers. (Morrow Bay EM project Page ii)*
  
- **ALFA EM 2011-2012 Pilot Project:**
  - EM systems proved reliable and adaptable to a variety of vessel configurations
  - EM systems monitored 41 trips, 158 sea days and recorded 215 hauls
  - EM data allowed species level identification for 94% of fish on reviewed hauls
  - EM costs, including data analysis, were \$198/sea day for Sitka vessels and \$332/sea days for Homer vessels

### Waiver References:

NMFS October 2010 EA/RIR Page 164

In June, the Council asked NMFS to provide further information as to what criteria would be used to determine whether a vessel in the vessel selection system (fixed gear vessels >40' - <57.5') would be exempted from coverage. NMFS staff conducted a workshop on small boat observation in 2003 and would develop criteria based on information derived from that workshop, agency experience, and information obtained during outreach meetings with industry. In short, there is no simple formula for deciding to place an observer on a vessel, but there are a range of factors the agency would consider.

Key factors include:

1. The distance the vessel will be operating from shore can change the safety requirements and the time the vessel will be at sea.
2. The type of gear being used, as that impacts deck space and safety considerations.
3. The size of fish being landed.
4. The vessels hold capacity, as that can impact trip duration.
5. The weather at the time of deployment.
6. The adequacy of berthing space.
7. The planned duration of the trip in the particular fishery observed.
8. Seasonality.
9. The general size, length and width, and layout of the vessel.
10. The general upkeep and age of the vessel.
11. The amount of deck space available for observer work.
12. Overall fleet characteristics and whether the vessel at issue matches them.
13. The experience of the captain and crew.
14. The size of the crew.
15. Feedback from the observers.
16. The safety of the observer.

In addition, the outreach efforts identified additional factors to consider. These include:

1. The nature of any prior U.S. Coast Guard violations.
2. The ability/willingness of the vessel to use EM instead of a person.
3. Information as to whether the vessel is taking family members on board as crew.
4. The need to reduce crew size or supplement a life raft to be in compliance with U.S. Coast Guard requirements.<sup>84</sup>

## Documentation of Observer and F/V Sabrina Joy

Chad Smith, owner/operator of the F/V Sabrina Joy received notification that the F/V Sabrina Joy had been placed on the list of possible observer carriers for the 2013 halibut season.

We received the next notification in the form of a letter dated 1/18/13 stating that the F/V Sabrina had been selected to carry an observer for any halibut trips during the months of March and April 2013. We waited to hear from someone.

About the 7<sup>th</sup> of March Megan of AIS called Chad Smith. Megan was our initial contact for an observer to be placed on the boat. She started off by introducing herself and asking if we had a Coast Guard Exam on the boat. Chad said that we did and pointed out the lack of accommodations for an observer on the boat. He explained that we have 3 bunks/3 permit holders and that we make one trip a year for our halibut. Chad also explained that his wife, Sharil, had already taken time off from her full time job for the halibut opening beginning 3/23/13. Megan provided Chad with the phone number of a person to contact in regards to his concerns about accommodations. Chad left a number of messages at this number and was getting frustrated because no one answered the phone or returned his calls.

On 3/12/13 Liz Chilton called Chad and said that he should have been given her number. Chad explained to Liz that we had 3 bunks and 3 quota holders. That we only did one trip each year and that his wife, Sharil, had already taken time off from her job for the opening on 3/23/13. Liz told Chad that the F/V Sabrina Joy would have an observer onboard and that he would need to figure out how to do it. She directed Chad to the ODDS site to fill out the survey. We tried accessing the site from the letter we had received but could not get onto the site. I ended up calling the NOAA Data Technician Office and speaking with Jack who took my information down and entered it into the data base for me, giving me a confirmation number of #54. In talking with Jack we found that the link for the site was incorrect on the letter. Once given the correct link from Jack I was able to access the site and could see that the survey had been completed for me. I explained to Jack that we had 3 bunks and 3 permit holders. The Captain, a crewman and myself. Jack said that someone would be contacting us based on the data that we had submitted.

The paperwork we printed off from

<http://alaskafisheries.noaa.gov/sustainablefisheries/observers/faq.htm> states that "once NMFS receives the survey from you claiming your vessel is unable to accommodate an observer, NMFS will contact you and arrange to visit the vessel in port to evaluate your claims."

We had submitted the survey claiming that our vessel was unable to accommodate an observer and now we were waiting for someone to contact us to visit the vessel. Our understanding was that we would probably be exempted based on the conversation with Liz, the conversation with Jack and from the paperwork we had printed off from NOAA.

An AIS Representative called Chad asking when the vessel would be leaving on the halibut trip. Chad explained that we were waiting for someone to come and inspect the vessel. That we had not heard back from anyone since filling out the survey. The AIS Representative said he would call back.

Approximately 10 minutes later he called to inform Chad that the F/V Sabrina Joy had NOT been exempted. Chad said "okay....you guys better bring a tent".

On 3/12/13 I called Liz to talk with her about an observer being put on the vessel. Liz said that we WOULD be taking an observer. I explained that we had no bunk for an observer. She said again that we had to take an observer. I explained again that we had 3 persons onboard already. The Captain, a crewman and myself. I said that if we took another person that they would have to sleep on the floor because the 3 bunks were full. She suggested that I read the regulations that say that they observer needed to be treated the same as the Captain of the boat. I then told Liz that my husband (Captain) would sleep on the floor the first night and the observer could sleep on the floor the second night. Liz's tone said that she was not happy with me when she said " I SUGGEST YOU RETHINK THAT POSITON RIGH NOW!". I then said that it would then mean that a 54 year old Grandmother would be sleeping on the floor of a Commercial Fishing Vessel, the wet floor of a commercial fishing vessel so that an observer could have my bunk. Liz said that if I chose to do that it would be up to me but that we WOULD be taking an observer. I asked her what else we were supposto do? She said that we had other options available to us, such as take two trips. I asked if NMFS was going to pay for the fuel and the food for a second trip. That I could document that we historically take one trip per year and no more. The cost of another trip we should not have to pay....just to accommodate an observer. Liz then said that I could fish my quota on another vessel. I asked if NMFS was going to compensate us for the loss of income when we had to pay another boat 30 or 35% to catch my quota. Liz said that some people are selling their quota to their spouse so that they didn't have to go on the halibut trip. I explained that Chad already had his limit of halibut blocks. Liz said again that we would have to figure out how we were going to accommodate an observer because we WERE taking an observer. I asked about the person who would be coming to inspect the vessel to see that we only had 3 bunks. Liz said that she had already talked with Chad about this and understood that there was no room to put another bunk in the boat. Liz said that Chad had agreed to leave one of the Permit Holders behind to take an observer. I told her that he DID NOT say that. She may have misunderstood something he said but that his understanding from talking with her had been that we were working towards an exemption and were waiting for a phone call from either Liz or an inspector. Neither had contacted us. We contacted Liz again because time was getting closer to our needing to leave port and we still had not resolved the observer issue. Liz said that no one would be coming to inspect the boat. She had spoken with Chad and understood that there was not a way to put another bunk on the boat. She had determined that an observer would be going with us. She asked me what an inspector would be able to see that we had not told her already. I told her that I didn't know. I again explained to Liz that we needed the 3 persons on the boat. Chad was the Captain of the boat, we had a crewman to clean fish and work the deck and myself, a permit holder. I explained that we could not leave the deckhand behind because Chad could not Captain the boat and be the deckhand and that I was not capable of wrestling halibut around and cleaning them. We needed all three of us on the boat.

I read Liz the paperwork from NOAA stating "Consistent with Council directions, for the 2013 Observer Deployment, NMFS will consider an IFQ holder as a crew member. Crew Members will not be displaced by the requirement to have an observer onboard for vessels in the vessel selection pool". She still

stated that we would have to figure out how we were going to accommodate an observer....because we were going to have one on board. I asked Liz who else I could talk with about this issue. She said she didn't know. That we had discussed everything and that we would be taking an observer. I again asked for a name of someone to contact. Liz told me to "contact someone on the council". I asked who and she would not answer me. I could not get the name or number of anyone else to contact from Liz. This really upset me. By the time I was off the phone with Liz I was so upset that I was shaking. When I got home and spoke with Chad he was very upset also. Chad said that he had never told Liz that he would leave a permit holder behind to accommodate an observer. It was the evening of 3/12/13 and I called Megan of AIS again...in hopes of getting directions to someone else to speak with since Liz would not give me any information. I explained my conversation with Liz to Megan and she said that they did not want me sleeping on the floor so that they could be on the boat. She said that she would be contacting Lucas and would get back to me.

**3/13/13** Chad asked me if I had heard from Liz again after I had spoken with Megan. I said no.

**3/15/13** I called Megan again to see if she had heard from Lucas. She said that she had gotten ahold of him but was still waiting for him to get back to her. She said she would check with Lucas again.

Megan contacted Chad to let him know that it sounded as if the F/V Sabrina Joy had been released for March and April. She had been cc'd on an email and thought that ours would follow.

**3/19/13** Liz called and said that the decision to have an observer onboard the F/V Sabrina Joy for March and April had been reversed. That we would not be required to have an observer at this time. I thanked Liz and contacted Chad to let him know that Liz had contacted me.

We did receive written confirmation that the F/V Sabrina Joy had been released from one halibut trip, but that if the vessel traveled out again or was going fishing without the 3<sup>rd</sup> person that we would be required to take an observer. This letter, though addressed to Chad Smith, had been previously opened and was in another envelope.

I would hope that there would be a better system set into place in the coming years. There are a lot of smaller fishing vessels that halibut fish. These vessels are not set up to take a full crew as well as an observer. By forcing an observer on a smaller vessel I'm concerned for the welfare of the Captain and the Crew.

I do not believe that the intent of the Observer Program was to:

- displace crewmen (financial loss to families)
- force fishermen to take an additional trip
- put Captains and crew in the position of injury due to not having enough hands on deck
- force IFQ holders to sell their Quota
- cause financial hardship by forcing additional trips (additional fuel, food, insurance, time)
- put vessel at risk by forcing Captains on deck due to not having needed crewmen

I feel that the "voice" of the Fishermen was not heard nor heeded and I would like to encourage the rethinking of the Observer Program. Conversation on the Observer Program had included a camera onboard the smaller vessels and I would like this option to be brought back to the table.

Sincerely,

*Sharil Smith*

Sharil Smith

IFQ holder

PO Box 1741

Wrangell, AK 99929

907-470-4995

Tara and Charley Mason  
9342 Stephen Richards Dr  
Juneau, AK 99801

June 3, 2013

To Whom It May Concern:

I'm writing to inform you of our frustration with this new program being implemented. After being selected for March and April to have an observer we went into NOAA and asked several question to try and understand what was being required of us. We left feeling more frustrated because of all the things required and worried to have the responsibility for another person on our boat. We were then notified by an observer coordinator and had more question for him and met to discuss some of the problems we were having, one of them being our size of life raft. We asked, "What do we do if we have the captain, crew, permit holder and observer making us over on people to fit in the raft?" We were told that "if we don't have the right size lift raft to accommodate an observer we would have to buy a new life raft to accommodate the observer or get rid of a deckhand." We were not going to buy a new life raft after paying one thousand dollars to have ours repacked. And to take a job from a deckhand to give the spot on the boat to the observer just didn't feel fair. We didn't feel we could fish without our deck hands, and it just became too much a burden to go fishing during the required time.

We are now placed again in the same situation for July and August. Being selected two out of the three time periods. How random is that? With the new observer program there are many issues making it a burden on us.

- A.) The observer fee-a fee that is not getting split between the processor and the fisherman, because the processors said they would just take that out of the price of fish and when you add taking last year's prices in charging that 1.25% while prices are currently dropping.
- B.) Added expenses for another person on the boat.
- C.) Tight quarters on a boat that's already full and giving the small half bunk to a hard working crew member to accommodate the observer.
- D.) Added responsibilities making it more of a burden to have one more person.

On top of quota shares being down and our loan payments still the same, fuel prices up, grocery expenses going up, bait expense up due to whales. All of these added expenses when the price of fish is down. For us to buy a new life raft is just not fair and we need our deckhands to get the job done. There should be some kind of exemption for us. We worked hard for many years to buy into the IFQ program and have taken many hits since. This program is making life very difficult and an added burden to a job that we use to enjoy.

Tara and Charley Mason

# PUBLIC TESTIMONY SIGN-UP SHEET

Agenda Item: C-3 Observer Program

#	NAME (PLEASE PRINT)	TESTIFYING ON BEHALF OF:
1	Megan Pasternak	SELF
2	Oystein Lorne	F/V Pacific Sounder <span style="float: right;">Testified 6/6/13</span>
3	Kate File	Self / F/V Icy Queen
4	George Hutchins	F/V K/Rebeck F
5	Leonard Henry	FV Aleutian Sable
6	Sylvia Ettefagh	F/V Fidelia
7	Thanda Hubbard	Fixed Gear Alliance
8	JEFF FALVOUR	Halibut Fisherman
9	Todd Hope	NPFA
10	BRENT PALINE	UCB
11	Megan Pasternak	<span style="float: right;">Testified 6/6</span>
12	Nancy Wittstrand	
13	Jonathan Kreiss-Tomkins	Self
14	Linda Behnken	ALEFA
15	Kathy Hansa	SEAFA
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.