


MEMORANDUM

TO: Council, SSC, and AP Members

FROM: Clarence G. Pautzke
Executive Director 

DATE: September 20, 1992

SUBJECT: Observer Program

ACTION REQUIRED

- a. Receive status report on North Pacific Fisheries Research Plan - schedule public hearings.
- b. Observer requirements for 1993--receive committee report and initiate regulatory amendment.

BACKGROUND

Research Plan

At their June meeting in Sitka the Council approved the Research Plan and requested staff to prepare the Proposed Rule package to be forwarded to the Secretary of Commerce for approval. Draft regulations are currently being drafted but are not yet completed due to the press of other Council tasking. Staff is also awaiting the outcome of a change to the Magnuson Act which would set the fee limit at 2% of exvessel value, as opposed to the 1% wholesale value approved by the Council in April. This legislation, if approved, would be consistent with the Council's intent, but would change the way in which the Proposed Rule is structured. This proposed legislation is attached to the driftnet bill (H.R. 2152, published August 12, 1992) and action is expected within the next few weeks. Staff will then complete the Proposed Rule package for Secretarial review.

Item C-1(a)(1) has the current Magnuson Act schedule for the Research Plan. It differs from a normal amendment schedule and gives the Secretary 60 days after receipt of the plan to publish the Proposed Rule (regulations), after which follows a 60-day public review period. A public hearing is to be held in each State represented on the Council to solicit public comment. If the package is forwarded to the Secretary by the end of October, we could schedule the hearings for January of 1993, or possibly sooner if the Proposed Rule is published quickly. The Alaska hearing could be held in conjunction with the January meeting in Anchorage which begins the week of the 12th. Meetings need to be scheduled for Washington and Oregon as well. It is not mandatory that the Council schedule these hearings at this meeting; Council and NMFS staff could monitor the progress of the amendment package and determine the appropriate meeting dates later this fall. Council and industry could be notified at that time.

Current Observer Program

At the April 1992 Council meeting NMFS presented some proposed changes to the Observer Program which are intended to correct deficiencies in the current program. The Council recommended development of a regulatory amendment which would allow for implementation of these changes for the 1993 fisheries, and possibly into 1994, depending on full implementation of the Research Plan. The proposed changes are as follows:

1. Reduce the lower length limit for 100% coverage from 125' to 115'.
2. Reduce the lower length limit for 30% coverage from 60' to 55' or 57'.
3. Change the 30% coverage requirement from a quarterly requirement with no connection to target fishery to a monthly requirement, possibly also by target fishery.
4. Consider reducing the level of coverage for vessels fishing with pot gear.
5. Redefine 'fishing day'.
6. Revise conflict of interest standards for observers and observer contractors.

A draft EA/RIR/IRFA will be available at this Council meeting for review. It could be released for public review after the September meeting with final action by the Council occurring in December. The changes to the Observer Program could then be implemented sometime in 1993.

In developing the Regulatory Amendment for these proposed changes, staff met with the Observer Oversight Committee in Seattle on August 13. Their input was incorporated in drafting of the EA/RIR/IRFA. The Committee's report is included in your notebooks as Item C-1 (b)(1). Committee Chair Chris Blackburn will be available to address the Council at this meeting. Item C-1(b)(2) contains information presented to the Oversight Committee which describes the percentage of catch which was observed in the 1991 and 1992 fisheries.

16 U.S.C. 1861

99-659

(f) DEFINITIONS.--For purposes of this section--

(1) The term "provisions of this Act" includes (A) any regulation or permit issued pursuant to this Act, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 201(b) or (c), with respect to fishing subject to the exclusive fishery management authority of the United States.

(2) The term "violation of any provision of this Act" includes (A) the commission of any act prohibited by section 307, and (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

101-627

SEC. 313. NORTH PACIFIC FISHERIES RESEARCH PLAN

16 U.S.C. 1862

(a) IN GENERAL.--The North Pacific Fishery Management Council may prepare, in consultation with the Secretary, a fisheries research plan for all fisheries under the Council's jurisdiction except salmon fisheries which--

(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

(2) establishes a system of fees to pay for the costs of implementing the plan.

(b) STANDARDS.--(1) Any plan or plan amendment prepared under this section shall be reasonably calculated to--

(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

(B) be fair and equitable to all vessels and processors;

(C) be consistent with applicable provisions of law; and

(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

(2) Any system of fees established under this section shall--

(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool implemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(C) provide that fees collected not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the plan;

(D) not be used to offset amounts authorized under other provisions of law;

(E) be expressed as a percentage, not to exceed one percentum, of the value of fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(F) be assessed against all fishing vessels and United States fish processors, including those not required to carry an observer under the plan, participating in fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

(H) provide that fees collected will only be used for implementing the plan established under this section; and

(I) meet the requirements of section 9701(b) of title 31, United States Code.

(c) **ACTION BY SECRETARY.**--(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

(2) During the 60-day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

(d) **FISHERY OBSERVER FUND.**--There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(e) **SPECIAL PROVISIONS REGARDING OBSERVERS.**--(1) The Secretary shall review--

(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of his section, to provide coverage for vessels and owners against liability from civil suits by observers, and

(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that--

(A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and

(B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.

TITLE IV -- MISCELLANEOUS PROVISIONS

95-354, 97-61, 97-453, 99-659, 101-627

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this Act, not to exceed the following sums:

- (1) \$5,000,000 for the fiscal year ending June 30, 1976.
- (2) \$5,000,000 for the transitional fiscal quarter ending September 30, 1976.
- (3) \$25,000,000 for the fiscal year ending September 30, 1977.
- (4) \$30,000,000 for the fiscal year ending September 30, 1978.
- (5) \$30,000,000 for the fiscal year ending September 30, 1979.
- (6) \$33,000,000 for the fiscal year ending September 30, 1980.
- (7) \$40,000,000 for the fiscal year ending September 30, 1981.
- (8) \$47,000,000 for the fiscal year ending September 30, 1982.
- (9) \$59,000,000 for the fiscal year ending September 30, 1983.
- (10) \$64,000,000 for the fiscal year ending September 30, 1984.
- (11) \$69,000,000 for the fiscal year ending September 30, 1985.
- (12) \$69,000,000 for the fiscal year ending September 30, 1986.
- (13) \$70,800,000 for the fiscal year ending September 30, 1987.
- (14) \$72,900,000 for the fiscal year ending September 30, 1988.
- (15) \$75,000,000 for the fiscal year ending September 30, 1989.
- (16) \$77,200,000 for the fiscal year ending September 30, 1990.

REPORT

from the

OBSERVER OVERSIGHT COMMITTEE

August 13, 1992

The Council-appointed Observer Oversight Committee met in Seattle on Thursday, August 13, 1992 to review changes to the existing Observer Plan proposed by NMFS. These proposed changes, depending on Council approval, would be implemented in 1993 and remain in effect for the duration of the existing program. The existing Observer Plan will be replaced by the North Pacific Fisheries Research Plan, approved by the Council in April of 1992 and scheduled to fully replace the existing program in 1994. A regulatory amendment analysis for these proposed changes will be presented to the Council in September for review and possible action; or, the Council may wish to solicit additional public/industry input and schedule a decision for December. The purpose of this meeting of the Observer Oversight Committee was to get industry input at a very early stage in the amendment process. The proposed changes would affect various segments of industry, observer contractors, and observers themselves. The Council felt that the Observer Oversight Committee, originally established for the Research Plan review, would be an appropriate forum for NMFS to interact with industry in the formative stages of this amendment.

The following persons were in attendance: **Committee members:** Chris Blackburn (Chair), Barry Collier, Nancy Munro, Jerry Nelson, Tyson Vogeler, John Winther. **Committee alternates:** Andy Hollenbeck, Michael Lake. **Staff and interested public:** Ray Baglin, Earl Krygier, Martin Loefflad, Russ Nelson, Chris Oliver, Clarence Pautzke, Connie Sathre, Galen Tromble, Janet Wall, Kim Dietrich, David Edick, Diedre Hartford, Chuck Jensen, Eloise Kristianson, Kristen Moynihan, Penny Pagels, Margaret Toner, Marie Windrow, and Helen Woods.

Preceding the discussion of the specific proposals, Russ Nelson and Galen Tromble presented summary information to the Committee on total catch and observed catch for each fishery for 1991 and 1992. This included a breakdown of the allocation of observer effort, for 1991, by target fishery; i.e., the percentage of total observer days spent on each fishery in the Gulf of Alaska (GOA) and the Bering Sea/Aleutian Islands (BS/AI). An outline of observer duties in processing plants was also provided. Additionally, data from the 1990 fisheries was presented which summarized the occurrence, by fishery, of prohibited species bycatch. This data was useful in pointing out the amounts and percentages of all PSC bycatch species in specified groundfish fisheries in the BS/AI and the GOA.

The Committee had considerable discussion of the information in these reports. Foremost among the discussions was the fact that the total reported catch differed significantly from the observed catch for many species, particularly for yellowfin sole, rock sole, and rockfish in the GOA. These discrepancies were primarily evidenced in the 1991 data and were clearly reduced in the 1992 data. To the extent that the reported catch is what is used to manage the fisheries, the Committee was concerned about the implications of these differences (overharvest for example) and how they might be reconciled in the future. The discussion then revolved around the accuracy of PRRs, the accuracy of industry reporting, and the accuracy of the observations by observers. Staff reviewed for the Committee the current proposals under consideration for volumetric measuring of total catch, which may alleviate many of the problems. It was also noted that the discrepancies may rise from accounting mechanisms for discards. The Committee then moved into a discussion of the proposed

changes to the Observer Plan, using this background information as a reference point where applicable.

The following is a summary of the proposed changes and Committee discussion on each:

1. Reduce the lower length limit for the 100% observer requirement from 125 feet to 115 feet

The Committee heard that vessels from 115' to 124' took about 9% of the total 1991 catch. In the catcher/processor category, 1.4% of their catch was taken by vessels in this class, and about 22% of the total shoreside catch was taken by those vessels. This is the primary rationale for the proposal to lower the length limit to 115'. In discussing the potential gains derived from this increased coverage, versus the costs, it was noted that the pollock and P. cod fisheries in the GOA are two fisheries in need of additional coverage. This proposal would accomplish that goal, particularly in light of recent fisheries management actions, such as inshore/offshore allocation, which will mean that an even higher percentage of the catch from these two fisheries will occur in the 115'-124' vessel category. It was noted that we would miss the GOA P. cod trawl fishery in 1993 anyway if this measure is not implemented until April of 1993 or later. However, we would likely be covering the first part of 1994 with this measure as well. So, the Committee felt that this proposal should be examined in the regulatory amendment due for Council review in September.

2. Reduce the lower length limit for 30% coverage from 60' to 58' or 55'

A significant portion (7.5%) of the total fishing effort is accounted for by vessels in the 55' to 60' category which is currently not covered by observers. This size class account for 1.2% of the total groundfish catch in 1991 and this amount is increasing. The Committee noted that 58' limit seiners would be much more able to carry observers, from a practical and safety perspective, than would other vessels from 55'-58'. Vessels from 55'-58' are probably not as much in need of coverage as the 58'-60' class anyway. The ability to collect accurate samples on trawl vessels in this smaller category is also a factor for consideration. Insurance coverage for observers on these smaller vessels may also be an area of concern since many of these carry no liability insurance. Even with experienced observers, which the Committee recommends for these vessels, it will likely be difficult, due to the nature of the operations, to collect data which is comparable to that collected in the larger categories. However, the Committee feels that the sablefish longline vessels, particularly from 58'-60' are very much in need of some type of observer coverage due to the bycatch experienced in this fishery. It may be easier for observers to operate on longliners than on small trawlers, for example. It was noted that the PVOA and FVOA endorse consideration of coverage for sablefish longliners for 58'-60'. The cutoff for the length requirement would need to be 57' to eliminate any gray areas in vessel measurement. The Committee recommends that these options be covered in the analysis and that some type of pilot program for trawl fisheries be considered. It was noted that current RD authority exists to place observers on selected vessels in this category, but, in practice, is very difficult to do. The Committee also noted that placement of observers by varying vessel length and by fishery will be possible under the Research Plan. However, it may be 1994 before this is actually possible.

3. Change the 30% coverage requirement from quarterly to monthly, possibly by target fishery.

Currently, the potential exists for vessels to manipulate their observer coverage to avoid having an observer when they are fishing in fisheries, or at times, when their bycatch rates are high. They do so by choosing which trips to have observed. By changing the observer coverage to 30% by month and/or by target fishery, this potential may be reduced. Tied into this would be the elimination or

modification of the minimum number of days fished which would trigger the observer coverage requirement. The result of this proposal is a number of options and suboptions: for example, we could go to a monthly requirement but not by target fishery or vice-versa, and there are suboptions concerning the number of days fished which would trigger the coverage requirement. NMFS suggests initially that the best option at this time may be to maintain the quarterly requirement, but make it by target fishery. Another member of the Committee suggested a bi-monthly requirement as a possible compromise, given the problems associated with this proposal which are discussed below.

Problems associated with this proposal, particularly the portion which would move the coverage requirement to a monthly basis, are that observers would be changing vessels very frequently. If an observer is forced to ride 3 or 4 or more vessels per month, for example, the quality of the data collected will likely suffer. Sampling patterns will vary by vessel and make it difficult for the observer to maintain a consistent pattern of data collection. Additionally, the monetary costs to the vessels may be higher under such a requirement. One contractor representative estimated an additional average cost of \$3200 per quarter per vessel if we go to the monthly requirement. Similar problems exist with the proposal to make the requirements by target fisheries. One Committee member suggested a requirement to have coverage required in proportion to a vessel's target fishery. This is a move in the right direction, but may be difficult due to uncertainty in estimating particular operations in advance, in terms of the proportion of each target fishery to their operations.

Overall, the Committee felt that although there are certainly problems with the current requirements for the 30% coverage category, this proposal may not be the best solution. However, the Committee, as well as NMFS, does not want to abandon the possibility of addressing the current problems. Staff will further develop the options under this proposal in the analysis due in September. The task will be to develop a proposal which addresses the current problems while minimizing the logistical and practical problems associated with such a proposal.

4. **Require catcher/processor vessels, mothership vessels, and shoreside processors of a certain size to carry multiple observers.**

NMFS advised, and the Committee concurred, that this proposal could be postponed until implementation of the Research Plan. Coverage needs for these and other segments of the industry will be reviewed on an annual basis following implementation of the Research Plan.

5. **Consider reducing the level of observer coverage for groundfish vessels fishing with pot gear.**

The exemption of pot gear from the halibut bycatch caps was proposed based on the minimal halibut bycatch mortality experienced in this fishery. In reviewing the 1990 bycatch data provided to the Committee, the members noted that there was also a substantial crab catch in the Pacific cod pot fishery and suggested the mortality on crab also be evaluated.

Because a reduction in observer coverage would reduce the amount of data collected, the Committee asked NMFS to review whether the loss of data would significantly impact the overall accuracy of the bycatch estimates.

The Committee noted that if the vessel length requirement for 100% coverage were dropped to 115', the increase in coverage might offset any loss in coverage by reducing the coverage levels in the 30%

coverage component. The Committee also noted that changing the definition of fishing day would also increase effective coverage and could have an offsetting effect.

Another important factor pointed out by the Committee was that the logistics, and costs, of a 10% coverage requirement may not be that much different than under the 30% coverage requirement.

The recommendation to staff from the Committee was to consider an option in the analysis for 30% coverage for all pot vessels above 60' or 57' (if the lower length limit is reduced). This would eliminate the 100% coverage requirement.

6. Change the requirement for observer coverage from fishing trip days to fishing days, and define fishing days.

A fishing trip is currently defined to start on the day when fishing gear is deployed and end on the day of offloading of fish or return to port. As structured, vessels may get credit for several days of observer coverage while actually fishing only one or two of those days, either by setting gear which was not meant to catch fish, or by manipulating the clock to get coverage for a day in which they may actually have gear in the water for only a few minutes. In order to correct this deficiency in the observer program, the proposal would change the basis for coverage to actual fishing days, and define a fishing day as a day in which gear is begun to be retrieved and catch is landed. Such gear must be deployed in a manner that is intended to catch fish. Questions were raised by the Committee regarding the enforceability of this specific provision. A suggestion by the Committee was to consider an option that would define an observer day (for credit purposes) as a day in which catch is made available to the observer for sampling. Staff will attempt to work such an option into the analysis for the regulatory amendment.

7. Amend the fishing industry/owner responsibilities to clarify certain requirements for observer sampling.

The problem to be addressed by this proposal is that the observers sometimes find themselves unable to complete their sampling duties before going back out to sea or transferring to another vessel. Sometimes the shoreside observer is able to complete the sampling on a load but the lines of responsibility are unclear, and consequently, entire cruises have had to be thrown out of the data base for the observer program because of the inability to complete sampling of the load. This is also a source of confusion for observers who are put in a position between carrying out their observer duties while answering the demands of vessels and/or observer contractors. When an observer is forced to stay and sample a particular load, as opposed to the plant observer finishing the sample, it also becomes monetary issue in terms of who is paying for the costs of the observer.

Some members of the Committee felt that, while the Research Plan would solve the monetary issue, the logistics problems would remain as they do under the current system. Giving the vessel observer the option to stay with the load to complete the sampling was discussed as one option to the problem. Under this option, it would need to be clarified whether the plant observer could be used in the instance where the vessel observer cannot stay with the load. Committee members noted that a clear, black and white rule would be preferable to any option which still leaves a gray area. One Committee member noted that multiple shoreside observers, a possibility under the Research Plan, would solve the problem: the vessel observer could leave the load at that point and not hold up the vessel.

The option to the status quo presented to the Committee was that an observer assigned to a given vessel must be given the option of sampling the delivery to a floating or shoreside processor. This observer must be allowed to stay with the catch until the vessel has at least completed the offload. Staff will further develop options for this proposal in the regulatory amendment, or possibly defer action on this issues to the Research Plan..

8. Revision of conflict of interest standards for observers and certified observer contractors.

Because present conflict of interest standards are incomplete and contradictory, NMFS has proposed changes to the language that would clarify and tighten the standards. This includes defining "observed fishery" and "financial interest". The proposal would also place restrictions on observers from accepting employment from a vessel or plant on which they were assigned to observe. For example, in addition to not being able to have a financial or personal interest in the plant, vessel, or observed fishery to which he or she is assigned, the observer would not be able to serve as an observer for 12 consecutive months after the last day of employment as a paid employee in the observed fishery.

The Committee felt that some of the proposed restrictions were unduly restrictive on the observers. For example, they were concerned about the definition of financial interest which includes interest by not only the observer, but their spouse or parent. This would, literally interpreted, prevent an observer from operating in a fishery in which his/her parents may own some interest, through a mutual fund for example. Similar concerns were expressed about this definition as they related to observer contractors as well. The Committee also felt that the '12 month' restriction noted above was also unduly restrictive. The wording of the definition of observed fishery was also troubling to the Committee, in that it could be interpreted too broadly, and that it was unnecessary.

Overall, the Committee felt that we should be doing everything we can to make the job of an observer as attractive as possible and imposing restrictions which are beyond those expected from the rest of the industry would reduce the flexibility of an observer's career plans to the point where it is no longer attractive. The need to develop and maintain a cadre of experienced, professional observers is imperative from the Committee's viewpoint. The restrictions placed on them should not be so restrictive as to make being an observer an obstacle in their fisheries careers. The Committee recommends reducing the '12-month' restriction to 3 or 6 months, for example.

In terms of the conflict standards for observer contractors, the Committee felt that the financial interest provision should be applied to the individual owners of the contracting company, but that it was too restrictive to impose such a restriction on the employees of the contracting company. Overall the Committee felt that the definition of financial interest was too broad in its inclusion of spouses and relatives. The whole definition of financial interest should be narrowed to refer to the individual in question. The Committee also discussed the provision that would prohibit a contractor owner, office employee, or business agent from working as an observer for a period of six months after the last day of employment with the contractor. This proposal was intended to eliminate the situation whereby observer contractors, as business agents, might act, in an observer capacity, as "marketers" for the company. It is believed that this creates the possibility for such person to act contrary to the best interests of the observer program. It was noted by observer contractors that they need to have themselves and their office employees work as observers in order to understand the business in which they operate. The Committee felt that this perceived problem was not really a problem at all and that such a provision was overly restrictive. They felt that the current 30-day policy is sufficient and could be merely tightened up.

9. Oversight of contractor/industry interactions.

There were a few items originally proposed under this heading. One would be to require that a copy of all industry contracts, and contracts with observers, be provided to NMFS upon request. The Committee had no problems with this proposal as long as it was understood that such documents would be proprietary and would not be made available to other industry members.

Another proposal originally contained in this package was to allow NMFS to invalidate coverage provided by a contractor to a vessel in the event the fishing company fails to pay the observer costs to the contractor. In an industry that relies heavily on credit, this proposal would protect the financial interests of the observer contractor. NOAA General Counsel has advised that this proposal be dropped from the package and that contractors would have to seek other methods by which to protect themselves from non-payment. The Committee, with the exception of some contractor representatives, felt that it was not the role of NMFS to take on this responsibility for the contracting companies.

The Committee also discussed briefly the issue of limiting contractor certification to a specific number of years, possibly two. However, staff advised that this could be dropped from the package, given the imminent (hopefully) approval of the Research Plan, which will make this an unnecessary provision.

10. Revisions to observer qualifications

This issue will not be pursued through this regulatory amendment, but will be taken up under the Research Plan and the RFP process.

The Committee also discussed the subject of the next meeting of the Committee. Staff advised that a meeting may be required this fall, likely in November, to discuss the setting of the fee percentage for 1993. The portion of the Research Plan which allows for collection of the up-front funding should be in place in 1993, even though the existing Observer Plan will be in effect. The Council will need to address this issue at their December 1992 meeting. The Committee noted the possibility for having the next meeting somewhere other than Seattle, if staff and other members could be accommodated by a meeting outside Seattle.

Table 1. Total catch of groundfish taken by vessels with observers (Tonnage Observed), total catch of groundfish by all vessels and percentage taken by observed vessels by region, fishery, and gear in the Bering Sea/Aleutian Islands and Gulf of Alaska in 1991 and 1992 (through July 26, 1992).

Year: 1991

Region/Fishery	Tonnage Observed*	Total Catch	Percent
A. Bering Sea/Aleutians			
Pollock			
a. shorebased	200,152	370,702	54%
b. at-sea	1,091,597	974,388	112%
Pacific cod			
a. trawl	74,346	61,418	121%
b. longline	80,558	106,496	76%
Rockfish	9,045	8,190	110%
Rock sole	57,934	46,738	124%
Yellowfin sole	138,019	94,783	146%
B. Gulf of Alaska			
Pollock	50,534	93,999	54%
Pacific cod - trawl			
a. Western Gulf	18,413	27,026	68%
b. Central Gulf	8,138	25,565	32%
Pacific cod - longline			
a. Western Gulf	990	1,173	84%
b. Central Gulf	900	5,373	17%
Rockfish			
a. trawl	22,335	16,130	138%
b. longline	18	1,684	1%
Sablefish - longline	2,866	19,622	15%
Flatfish			
a. shorebased	3,229	10,737	30%
b. at-sea	13,532	20,630	66%

*Tonnage observed refers to that reported by observers.

Table 1. Continued

Year: 1992 through July 26, 1992

Region/Fishery	Tonnage Observed	Total Catch	Percent
A. Bering Sea/Aleutians			
Pollock			
a. shorebased	120,727	164,178	74%
b. at-sea	733,770	889,059	82%
Pacific cod			
a. trawl	65,452	63,805	102%
b. longline	67,750	73,426	92%
Rockfish	15,099	15,879	95%
Rock sole	29,150	30,609	95%
Yellowfin sole	65,659	56,815	115%
B. Gulf of Alaska			
Pollock	24,254	64,783	37%
Pacific cod - trawl			
a. Western Gulf	12,040	27,243	44%
b. Central Gulf	6,354	20,741	31%
Pacific cod - longline			
a. Western Gulf	3,496	6,960	50%
b. Central Gulf	291	5,314	5%
Rockfish			
a. trawl	10,553	11,922	88%
b. longline	17	1,826	1%
Sablefish - longline	1,615	20,928	8%
Flatfish			
a. shorebased	1,751	7,717	23%
b. at-sea	6,666	15,209	44%

Table 2. Allocation of 1991 Observer Effort by Target Fishery
(percentage of total observer-days)

<u>Region</u>	<u>Target Fishery</u>	<u>% Overall</u>	<u>% of Regional Effort</u>
BSA	Pollock - Bottom	10.5%	12.9%
	Pollock - Midwat.	23.3%	28.6%
	Atka Mackerel	2.0%	2.5%
	Pacific cod	26.2%	32.2%
	(trawl	8.4%	10.3%)
	(longline	15.9%	19.6%)
	(pot	1.9%	2.3%)
	Flatfish	10.7%	13.1%
	Rockfish	0.9%	1.1%
	Rock sole	2.8%	3.4%
	Other species	0.2%	0.3%
	Sablefish	1.0%	1.2%
	(trawl	<0.1%	<0.1%)
	(longline	1.0%	1.2%)
	Turbot	2.2%	2.7%
	(trawl	0.9%	1.1%)
	(longline	1.3%	1.6%)
Arrowtooth fl.	1.6%	2.0%	
	Subtotal for BSA	81.4%	-
GOA	Pollock - Bottom	0.9%	4.8%
	Pollock - Midwat.	3.3%	17.7%
	Pacific cod	5.7%	30.6%
	(trawl	3.9%	21.0%)
	(longline	0.7%	3.8%)
	(pot	1.0%	5.4%)
	Deep water flat.	1.9%	10.2%
	Shallow water flat.	0.4%	2.2%
	Rockfish	2.4%	12.9%
	Other species	0.5%	2.7%
	Sablefish	3.4%	18.3%
	(trawl	0.2%	1.1%)
(longline	3.2%	17.2%)	
	Subtotal for GOA	18.6%	-

DRAFT FOR COUNCIL REVIEW
**ENVIRONMENTAL ASSESSMENT/REGULATORY IMPACT REVIEW/
INITIAL REGULATORY FLEXIBILITY ANALYSIS
FOR A REGULATORY AMENDMENT TO THE FISHERY MANAGEMENT PLANS FOR
GROUNDFISH OF THE GULF OF ALASKA
AND THE
GROUNDFISH FISHERY OF THE BERING SEA AND ALEUTIAN ISLANDS AREA**

Prepared by

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North Pacific Fishery Management Council

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TABLE OF CONTENTS

1.0	PURPOSE AND NEED	1
2.0	REDUCE THE LOWER VESSEL LENGTH LIMIT FOR THE 100 PERCENT OBSERVER COVERAGE REQUIREMENT FROM 125 FEET TO 115 FEET LENGTH OVERALL	3
2.1	Description of and Need for the Proposed Action	3
2.2	Analysis of Alternatives	4
2.2.1	Alternative 1: Status Quo	4
2.2.2	Alternative 2: Lower the minimum size limit for the 100% coverage class of vessels from 125 feet LOA to 115 feet LOA	4
2.2.3	Physical and Biological Impacts	5
2.2.4	Distribution of Benefits and Costs	5
3.0	REDUCE THE LOWER VESSEL LENGTH LIMIT FOR THE 30 PERCENT OBSERVER COVERAGE REQUIREMENT FROM 60 FEET TO EITHER 55 FEET OR 57 FEET LENGTH OVERALL	5
3.1	Description of and Need for the Proposed Action	5
3.2	Analysis of Alternatives	6
3.2.1	Alternative 1: Status Quo	6
3.2.2	Lower the minimum size limit for vessels required to carry an observer 30% of the time from the current minimum size of 60 feet to 55 feet LOA	6
3.2.3	Lower the minimum size limit for vessels required to carry an observer 30% of the time from the current minimum size of 60 feet to 57 feet LOA	7
3.2.4	Lower the minimum size limit for vessels fishing with longline and pot gear to 57 feet LOA from the current minimum size requirement of 60 feet LOA. Vessels using trawl gear would be covered under a pilot program where the NMFS Alaska Regional Director would direct a number of vessels using trawl gear in the 57 - 59 ft LOA class to carry observers	7
3.2.5	Physical and Biological Impacts	8
3.2.6	Distribution of Benefits and Costs	8
4.0	CHANGE THE REQUIREMENT FOR OBSERVER COVERAGE FROM FISHING TRIP DAYS TO FISHING DAYS AND DEFINE FISHING DAYS	9
4.1	Description of and Need for the Proposed Action	9
4.2	Analysis of Alternatives	9
4.2.1	Alternative 1: Status Quo	9
4.2.2	Alternative 2: Change the basis of observer coverage to be fishing days. A fishing day would be defined as a day in which gear is retrieved. Such gear must have been deployed in a manner that is intended to actually catch fish--as a minimum, pots, traps, and longlines must be baited; trawls must have closed cod-ends attached and be set to fishing depth.	10
4.2.3	Physical and Biological Impacts	11
4.2.4	Distribution of Benefits and Costs	11

5.0	CHANGE THE 30 PERCENT OBSERVER COVERAGE REQUIREMENT FROM A QUARTERLY REQUIREMENT WITH NO CONNECTION TO TARGET FISHERY TO A MONTHLY REQUIREMENT, OR A QUARTERLY REQUIREMENT BY TARGET FISHERY	11
5.1	Description of and Need for the Proposed Action	11
5.2	Analysis of Alternatives	13
5.2.1	Alternative 1: Status Quo	13
5.2.2	Alternatives 2A and 2B	13
5.2.3	Alternatives 3A and 3B	14
5.2.4	Alternative 4	15
5.2.5	Physical and Biological Impacts	15
5.2.6	Distribution of Benefits and Costs	15
6.0	REDUCE THE LEVEL OF OBSERVER COVERAGE FOR GROUND FISH VESSELS FISHING WITH POTS/TRAPS	17
6.1	Description of and Need for the Proposed Action	17
6.2	Analysis of Alternatives	17
6.2.1	Alternative 1	17
6.2.2	Alternative 2	20
6.2.3	Alternative 3	20
6.2.4	Physical and Biological Impacts	21
6.2.5	Distribution of Benefits and Costs	21
7.0	REVISE CONFLICT OF INTEREST STANDARDS	22
7.1	Description of and Need for the Proposed Action	22
8.0	CONSISTENCY WITH OTHER APPLICABLE LAW	31
8.1	Effects of Endangered Species and Marine Mammals	31
8.2	Coastal Zone Management Act	31
8.3	Executive Order 12291	31
8.4	Regulatory Flexibility Act	31
8.5	Finding of No Significant Impacts	32
APPENDIX 1	Analysis of Observer Coverage levels for Bering Sea and Gulf of Alaska Pot Fisheries	1

SUMMARY

The North Pacific Fishery Management Council (Council) at its June 1992 meeting approved a North Pacific Fisheries Research Plan which will include observer programs for groundfish, crab, and halibut. If the Research Plan is approved by the Secretary of Commerce (Secretary) it will replace the current groundfish Observer Plan. Although the Research Plan is scheduled to be submitted to the Secretary in October 1992, if approved it could not be fully implemented until 1994 because start up funds are not presently available. Therefore, the Observer Plan which provides for the current industry funded program would remain in effect during 1993. NMFS staff has encountered several problems with the Observer Plan and met with the Council appointed Industry Oversight Committee on August 13, 1992. Recommended changes to the Observer Plan by the NMFS staff and the Industry Oversight Committee are analyzed in this document.

1.0 PURPOSE AND NEED

The groundfish fisheries in the exclusive economic zone of the Bering Sea/Aleutian Islands (BSAI) and the Gulf of Alaska (GOA) are managed under Fishery Management Plans (FMPs) for the Groundfish Fishery of the Bering Sea/Aleutian Islands and Groundfish of the Gulf of Alaska. These FMPs were developed by the Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act). They were approved by the Secretary and implemented in 1981 and 1978, respectively.

On November 1, 1989 the Secretary approved Amendment 13 and 18 to the groundfish fishery management plans for the Bering Sea/Aleutian Islands and Gulf of Alaska. The implementing regulations were published as a final rule on December 6, 1989 (54 FR 50386). One measure authorized a comprehensive domestic fishery observer program. An Observer Plan to implement the program was prepared by the Secretary in consultation with the Council and implemented by NOAA, effective February 7, 1990 (55 FR 4839, February 12, 1990). In December 1990 the Council recommended changes to the Observer Plan which were approved by the Secretary and published as a final rule on July 8, 1991 (56 FR 30874).

The Observer Plan requires specific levels of observer coverage which vary with size of fishing vessel and quantity of fish processed by floating and shoreside processors. These requirements were established because it was recognized that living marine resources could not be effectively managed without the types of information that were either available only or most efficiently through an observer program.

The Observer Plan requires that owners and operators of vessels and shoreside processing facilities participating in the groundfish fishery arrange for and pay the cost to NMFS certified contractors for placing observers aboard their vessels and at their shoreside processing facilities. The Observer Plan imposes responsibilities on NMFS, vessel operators, managers of shoreside processing facilities, and NMFS certified contractors who provide observers to groundfish fishing vessels and shoreside processors. The Observer Plan also prescribes observer conduct, conflict of interest standards for observers and contractors, and reasons for revoking contractor or observer certification. In 1991 the Observer Plan observer requirements for shoreside processing facilities and for mothership processor vessels were changed. The release of observer-estimated bycatch rates as public information were authorized, and the certification time for observer contractors was extended.

One part of this document is an environmental assessment (EA) that is required by the National Oceanic and Atmospheric Administration (NOAA) to comply with the National Environmental Policy Act of 1969 (NEPA) for purposes of analyzing the impacts of proposed federal actions on the quality

of the human environment. The EA serves as a means of determining if significant environmental impacts could result from a proposed action. If the action is determined not to be significant, the EA and resulting finding of no significant impact (FONSI) would be the final environmental documents required by NEPA. If the action is determined to be significant, an environmental impact statement (EIS) must be prepared.

An EIS is required if a proposed action may reasonably be expected to: (1) jeopardize the productive capability of the target resource species or any related stocks that may be affected by the action; (2) allow substantial damage to the ocean and coastal habitats; (3) have a substantial adverse impact on public health or safety; (4) affect adversely an endangered or threatened species; (5) result in cumulative effects that could have a substantial adverse effect on the target resource species or any related stocks that may be affected by the action. Following the end of the public review period, the Council could determine that the proposed changes will have significant impacts on the human environment and proceed directly with preparation of an EIS.

Another part of this document is the Regulatory Impact Review (RIR) that is required by the NMFS for all regulatory actions, and Department of Commerce or NOAA policy changes that are of significant public interest. The RIR: (1) provides a comprehensive review of the level and incidence of impacts associated with a proposal or final regulatory action; (2) provides a review of the problems and policy objectives prompting the regulatory proposals and an evaluation of the major alternatives that could be used to solve the problems; and (3) ensures that the regulatory agency systematically and comprehensively considers all available alternatives so the public welfare can be enhanced in the most efficient and cost effective way.

The RIR also serves as the basis for determining whether any proposed regulations are major under criteria provided in Executive Order 12291 and whether or not proposed regulations will have a significant economic impact on a substantial number of small entities in compliance with the Regulatory Flexibility Act (Publ. L. No. 96-354) (RFA). The primary purpose of the RFA is to relieve small businesses, small organizations, and small governmental jurisdictions (collectively, "small entities") of burdensome regulatory and recordkeeping requirements. The RFA requires that if regulatory and recordkeeping requirements are not burdensome, then the head of an agency must certify that the requirement, if promulgated, will not have a significant effect on a substantial number of small entities or provide sufficient justification to receive a waiver. This RIR analyzes the impacts proposed changes to the Observer Plan would have on both the GOA and the BSAI groundfish fisheries. It also provides a description and estimate of the number of vessels (small entities) to which any regulation implementing this regulatory amendment would apply.

This document provides background information and assessments necessary for the Secretary to determine if the Amendment is consistent with the Magnuson Act and other applicable law. It also provides the public with information to assess the alternatives that are being considered and to comment on the alternatives. These comments will enable the Council and Secretary to make more informed decisions concerning the resolution of the management problems being addressed. This document analyzes potential impacts of the following proposed changes to the Observer Plan:

- (1) Reduce the lower vessel length limit for the 100 percent observer coverage requirement from 125 feet to 115 feet length overall.
- (2) Reduce the lower vessel length limit for the 30 percent observer coverage requirement from 60 feet to either 55 feet or 57 feet length overall.
- (3) Change the requirement for observer coverage from fishing trip days to fishing days and define fishing days.

- (4) Change the 30 percent observer coverage requirement from a quarterly requirement with no connection to target fishery to a monthly requirement, or a quarterly requirement by target fishery.
- (5) Reduce the level of observer coverage for groundfish vessels fishing with pots/traps.
- (6) Revise conflict of interest standards.

Description of the Groundfish Fisheries

The most recent description of the groundfish fisheries is contained in the draft SAFE documents for the GOA and BSAI groundfish fisheries for 1992. These documents include information on the catch and value of the fisheries, the numbers and sizes of fishing vessels and processing plants, and other economic variables that describe or affect the performance of the fisheries.

2.0 REDUCE THE LOWER VESSEL LENGTH LIMIT FOR THE 100 PERCENT OBSERVER COVERAGE REQUIREMENT FROM 125 FEET TO 115 FEET LENGTH OVERALL

2.1 Description of and Need for the Proposed Action

The observer coverage requirements for vessels have remained essentially the same for 1990 through 1992. While adequate for some purposes, such as estimating the catch of target species, it is inadequate for other tasks, such as in-season prohibited species cap monitoring and the vessel incentive program for vessels in the 30 percent coverage category.

Vessels 125 feet length overall (LOA) and longer are currently required to carry observers 100% of the time they are operating in the groundfish fishery. This group of vessels accounted for 75% of the total groundfish catch taken in 1991 in the Bering Sea/Aleutian Islands and Gulf of Alaska regions and 39% of the total number of fishing days.

Vessels from 60 feet LOA and less than 125 feet LOA are required to have 30% observer coverage during each quarter in which they fish 10 or more days. The class of vessels from 115 feet LOA but less than 125 feet LOA is currently in the 30% coverage category. In order to provide additional coverage of the fisheries for purposes of monitoring bycatch caps, catches of groundfish and compliance with the individual vessel incentive program, the Council is requested to consider requiring these vessels to be included in the 100% coverage category.

Two alternatives are proposed for Council consideration.

Alternative 1. Maintain the status quo. The lower size limit for the 100% coverage class of vessels would remain at 125 feet LOA.

Alternative 2. Lower the minimum size limit for the 100% coverage class of vessels from 125 feet LOA to 115 feet LOA.

2.2 Analysis of Alternatives

2.2.1 Alternative 1: Status Quo

Maintenance of the status quo would continue to provide for 100% observer coverage of the portion of the groundfish fleet which in 1991 accounted for 75% total catch of groundfish and 39% of the total number of fishing days in the Bering Sea/Aleutian Islands and Gulf of Alaska regions. The status quo would result in the vessels which took 22.4% of the groundfish catch in 1991 and accounted for 38.6% fishing days continuing to have 30% coverage by quarter. The primary benefit from continuing the status quo would be maintaining the current level of industry cost for observer coverage and not increasing the cost as proposed under Alternative 2. Data would continue to be collected and available for use in estimating bycatches of prohibited species, monitoring groundfish catches, and collecting biological data from the fishery.

There are a number of disadvantages to maintaining the status quo. There will continue to be difficulty in applying the individual vessel incentive program to vessels with less than 100% coverage. The ability to choose when and where to take observer coverage and the statistical need for essentially 100% coverage of vessels make it difficult to include vessels in the 30% category in the vessel incentive program. Though data for estimating bycatches of prohibited species would continue to be available if the status quo is maintained, there is often a lack of data by target fishery and area since vessels within the 30% class can carry the observer whenever they choose during a quarter. This often results in the use of default bycatch rates having to be used because of lack of data rather than the actual bycatch rates occurring in the fishery. Finally, with the implementation of Amendments 18/23, Inshore/Offshore, larger portions of the pollock catches in both the Bering Sea/Aleutian Islands and Gulf of Alaska and the Pacific cod catch in the Gulf of Alaska will be taken by catcher vessels delivering to shoreside processing facilities. Elimination of the offshore vessels, the majority of which have 100% observer coverage, will mean a decrease in the sampling and coverage of these fisheries.

It should be noted that some of the problems associated with the continuation of the status quo may be somewhat alleviated by other proposed changes to the Observer Plan. For example, requiring 30% coverage to take place by target fishery by quarter and the changing to the use of fishing day to measure observer coverage may provide better coverage of target fisheries by time and area than under the current program.

2.2.2 Alternative 2: Lower the minimum size limit for the 100% coverage class of vessels from 125 feet LOA to 115 feet LOA

The lowering of the minimum vessel length for inclusion into the 100% observer coverage category would provide 100% coverage of the portion of the fleet which landed 184,302 metric tons or 9.3% of the groundfish catch in 1991 and accounted for 8.3% of the total number of fishing days. According to logbooks submitted in 1991, there were 33 vessels which fished 3,719 days in the size class from 115 - 124 feet LOA. Of these 33 vessels, there were 19 vessels which only fished trawl gear in 1991. One of these vessels was a catcher/processor. Six of the 33 vessels fished only longline gear and 5 of these were catcher processors. Six vessels only fished pot gear and the remaining 2 vessels fished a combination of either trawl and pot gear or longline and pot gear. According to the logbook data, all 33 of the vessels spent some time targeting on Pacific cod while all of the trawlers also targeted on pollock and one longline vessel also targeted on sablefish.

The estimated additional annual cost to these vessels for inclusion into the 100% category would be about \$525,000 (an additional 84 observer months at a cost of \$7,080/month versus the 44 months

at \$8,680/month currently being paid). Under the proposed revision, the cost for observer coverage per ton of groundfish would be \$4.92/ton of groundfish as compared to the current rate of \$2.07/ton of groundfish for vessels 115 - 124 feet LOA. The entire 30% group of vessels average cost for observer coverage per ton of groundfish is \$4.69/ton while vessels currently in the 100% coverage class are paying \$3.24/ton of groundfish.

2.2.3 Physical and Biological Impacts

The alternatives are not expected to have a direct effect on the quality of the human environment. However, Alternative 2 is expected to have a positive effect by increasing the ability of NMFS to manage the resources by providing additional observer coverage by time, area, and target fishery for use in monitoring and estimating bycatch caps for halibut and other prohibited species.

2.2.4 Distribution of Benefits and Costs

Benefits of Alternative 2 include full sampling of a larger portion of the entire groundfish catch and effort. Improved sampling within this class of vessels will result in the inclusion of these vessels within the individual vessel incentive program and the provision of additional observer coverage. All 33 of the vessels within this size category participated in the Pacific cod fisheries in 1991, a fishery for which the monitoring of the bycatch of halibut is extremely important. Inclusion of these vessels within the 100% category will also offset some of the reduced levels of sampling in fisheries where participation by at-sea or offshore processing has been reduced or eliminated as a result of Amendments 18/23.

The primary disadvantage to adoption of Option 2 is the increased cost which this segment of the industry will be required to provide for observer coverage. An increase of about \$525,000 will be experienced as compared to a total cost of about \$382,000 for their current mandatory level of observer coverage. There will also be some disadvantages experienced aboard each of these vessels in having to provide for accommodations for observers 100% of the time as compared to the current 30% requirement.

3.0 REDUCE THE LOWER VESSEL LENGTH LIMIT FOR THE 30 PERCENT OBSERVER COVERAGE REQUIREMENT FROM 60 FEET TO EITHER 55 FEET OR 57 FEET LENGTH OVERALL

3.1 Description of and Need for the Proposed Action

Vessels under 60 feet LOA are not currently required by the Observer Plan (Plan) to meet a specified level of observer coverage, although the Plan provides the NMFS Regional Director the authority to require any vessel or plant owner and operator in the groundfish fishery to carry and pay for an observer. A lower size limit of 55 feet LOA was originally proposed for vessels requiring 30% observer coverage in the draft rules for the Observer Program in 1989 but was revised as a result of public comment in the final rule implementing in the program in 1990. This issue was reviewed again in September, 1990, as a possible change in the Plan for 1991. At the time the Council decided not to change the lower limit from 60 feet LOA to 55 feet LOA.

Since 1990, increasing proportions of the Pacific cod catch in the Gulf of Alaska have been taken by vessels in the 55 to 59 foot category. It is likely that the catch taken by these vessels will increase as a result of the inshore allocation of 90% of the Pacific cod TAC to vessels delivering to shoreside facilities. There has also been low coverage of the sablefish longline fishery in the eastern Gulf of

Alaska over the past three seasons which could be improved by requiring coverage of this group of vessels. As a result, the Council is again asked to consider revision of the lower size limit of the 30% observer coverage category.

Four alternatives are proposed for Council consideration.

Alternative 1. Maintain the status quo. Vessels from 60 feet LOA but less than 125 feet LOA would continue to be required to carry an observer 30% of the fishing trip days in any calendar quarter in which they fish ten or more days.

Alternative 2. Lower the minimum size limit for vessels required to carry an observer 30% of the time from the current minimum size of 60 feet LOA to 55 feet LOA.

Alternative 3. Lower the minimum size limit for vessels required to carry an observer 30% of the time from the current minimum size of 60 feet LOA to 57 feet LOA.

Alternative 4. Lower the minimum size limit for vessels fishing with longline and pot gear to 57 feet LOA from the current minimum size requirement of 60 feet LOA. Vessels using trawl gear would be covered under a pilot program where the NMFS Alaska Regional Director would direct a number of vessels using trawl gear in the 57 - 59 foot LOA class to carry observers.

3.2 Analysis of Alternatives

3.2.1 Alternative 1: Status Quo

Maintenance of the status quo would provide for 97.4% of the groundfish catch and 77.9% of the 1991 fishing effort to be subject to observer coverage by vessels currently with mandatory observer coverage requirements. The advantages of maintaining the status quo are the reduced cost to industry which would range from \$225,680 to \$330,000 for Options 2 through 4. An additional advantage would be a lower chance of injury to an observer or crew on the vessel since many of these vessels have limited working space and accommodations. Under the current Observer Plan requirements, portions of the fleet under 60 feet LOA could be covered by the NMFS Regional Director requiring specific individual vessels to carry observers at their own expense.

The disadvantage of this approach is that only those vessels designated to carry the observers would be subject to the cost. The disadvantages of maintaining the status quo include no coverage of portions of the trawl fleet which are taking increasing levels of the Pacific cod catch in the Gulf of Alaska and an inability to directly estimate their bycatch of halibut and other species. There has also been a lack of coverage in the sablefish longline fleet in the eastern Gulf of Alaska where the fishery is predominated by vessels less than 60 feet LOA. The longline fleet which has been observed since 1990 has had areas of high bycatch of halibut which have resulted in the closure of longline fishing in the Gulf of Alaska in 1990 and 1991 without any data on halibut bycatch from vessels less than 60 feet LOA.

3.2.2 Lower the minimum size limit for vessels required to carry an observer 30% of the time from the current minimum size of 60 feet to 55 feet LOA

The most recent complete year for which data on both catch and fishing effort data are available is 1991. In 1991, there were 165 vessels in the 55 - 59 ft LOA category which submitted logbooks to NMFS. These vessels accounted for 3,065 fishing days or 7.5% of the total number of fishing days in the 1991 groundfish fishery. Of the 165 vessels in this size range, 5 vessels were catcher/processors

which accounted for only 75 of the fishing days or 2.4% of the fishing effort. The remaining 97.6% of the effort and 160 vessels were attributed to catcher vessels. Vessels fishing with only hook and line gear (longlines, pots, and jigs) accounted for 75% of the number of fishing days while 25% of the effort was accounted for by vessels permitted as either trawlers or a combination of trawl and hook and line gear.

Review of catch data obtained from ADF&G fish tickets and NMFS weekly processor reports show that vessels in the 55 - 59 ft. LOA category accounted for 24,532 metric tons or 1.23% of the total groundfish catch. Within the 55 - 59 foot class, catcher vessels accounted for 99% of the group's catch and their catch was 3.2% of the total catch taken by all catcher vessels in 1991. Longline vessels accounted for 42% of the catch taken by vessels in this size class while trawl vessels accounted for 45% and pot vessels 13%.

The estimated cost to industry to provide 30% coverage of the fishing effort in the 55 - 59 ft. category would be about \$330,000 per year. The average cost per observer month for shoreside catcher vessels estimated by the Council's Observer Oversight Committee is \$8,680/month. It is estimated that approximately 38 observer months of additional coverage would be required by this alternative. The estimated cost of this coverage expressed as cost per ton of groundfish harvested would be \$13.45/ton of groundfish landed in 1991. The comparative cost for vessels currently in the 30% coverage category is \$4.69/ton of groundfish landed and \$3.24/ton of groundfish landed for vessels required to carry 100% observer coverage.

3.2.3 Lower the minimum size limit for vessels required to carry an observer 30% of the time from the current minimum size of 60 feet to 57 feet LOA

Under this alternative the minimum size of vessel required to carry an observer would be 57 feet LOA. Vessels in the size class 57 - 59 ft LOA accounted for 2,420 fishing days in 1991 or 5.9% of the total groundfish fishing effort in 1991. Within the size range of vessels from 55 - 59 ft LOA, the vessels from 57 - 59 ft accounted for 70% of the vessel effort. This group of vessels includes the limit seine vessels that are of concern in the Pacific cod and longline fisheries. Within the class of vessels from 57 - 59 ft LOA, 1,686 fishing days or 70% of the days in the 57 - 59 ft LOA were attributed to fixed gear vessels in 1991; 734 days or 30% of the effort were expended by vessels using trawl gear. In terms of groundfish catch, 82% of the groundfish catch taken by vessels 55 - 59 ft LOA was taken by the group of vessels 57 - 59 ft LOA. Within the 57 - 59 ft class, fixed gear vessels accounted for 47% of the catch while trawl vessels accounted for 53% of the catch in 1991. Adoption of this option would cost the industry \$260,000 (30 observer months x \$8,680/month). The cost per ton of groundfish landed is estimated to be \$12.97/ton.

3.2.4 Lower the minimum size limit for vessels fishing with longline and pot gear to 57 feet LOA from the current minimum size requirement of 60 feet LOA. Vessels using trawl gear would be covered under a pilot program where the NMFS Alaska Regional Director would direct a number of vessels using trawl gear in the 57 - 59 ft LOA class to carry observers

This alternative combines parts of Alternatives 1 and 3. Industry representatives at a meeting of the Council's Observer Oversight Committee recommended that an alternative be evaluated which would lower the minimum size limit to 57 ft LOA for longline and pot vessels and require operators of vessels using trawl gear to work with NMFS to develop a pilot program for 1993. The Committee reasoned that longline and pot vessels could safely accommodate the housing and work of observers on the smaller vessels and that data from that portion of the fleet was needed to manage the sablefish hook and line fishery and its bycatch of halibut in the Gulf of Alaska. However, there was concern over adequate and safe work conditions for observers on these smaller vessels using trawl gear. The

development of a pilot program using experienced observers was recommended to determine whether it was practical and safe to expand the requirement for specific levels of coverage to all vessels in the 57 - 59 ft range in future years.

Within the size class of vessels from 57 - 59 ft LOA, 1,686 fishing days or 70% of the days in the 57-59 ft LOA were attributed to fixed gear vessels in 1991; 734 days or 30% of the effort were expended by vessels using trawl gear. In terms of groundfish catch, fixed gear vessels accounted for 47% of the catch while trawl vessels accounted for 53% of the catch in 1991.

The estimated cost for observer coverage of the longline/pot fleet would be about \$182,280 (21 months x \$8,680/mo.). The cost for a pilot program on the trawl vessels of 15% coverage of fishing effort would be about \$43,400 (5 months x \$8,680/mo.). The pilot effort would allow for the placement of 2 experienced observers for 2.5 months each during the period of January through March which was the period in 1991 when most of the trawl activity occurred. The estimated cost per ton of groundfish landed for this option is \$11.26/ton.

3.2.5 Physical and Biological Impacts

The alternatives are not expected to have a direct effect on the quality of the human environment. However, Alternatives 2, 3, and 4 are expected to have a positive effect by increasing the ability of NMFS to manage the resources by providing additional observer coverage by time, area, and target fishery for use in monitoring and estimating bycatch caps for halibut and other prohibited species.

3.2.6 Distribution of Benefits and Costs

The benefit of lowering the minimum size requirement to 55 feet LOA under Alternative 2 would be to provide observer coverage of a portion of the fishing fleet which accounts for important portions of the catches of Pacific cod and sablefish in the Gulf of Alaska and the associated bycatch of halibut in those fisheries. The disadvantages of the lowering of the minimum size requirement include the increased cost to a portion of industry not currently required to carry or pay for observers and the increased risk of injuries or accidents involving observers due to the limited work space and accommodations aboard small vessels.

The primary benefits and disadvantages of Alternative 3 are essentially the same as those from Alternative 2. The primary difference between Alternatives 2 and 3 is fewer vessels will be required to carry and pay for observers under Alternative 3 thus decreasing the cost to industry and the potential safety and injury problems under this alternative.

The advantages and disadvantages to Alternative 4 for longline and pot gear are the same as those of Alternative 3. For trawl vessels the advantage is that it will allow both the industry and NMFS to evaluate the working conditions on these vessels to determine if accurate data can be collected under safe conditions. The disadvantage is that unless industry cooperates in the formulation and performance of the pilot program, the program will be difficult to implement and the cost will be placed on only those designated by the NMFS Regional Director to carry an observer.

4.0 CHANGE THE REQUIREMENT FOR OBSERVER COVERAGE FROM FISHING TRIP DAYS TO FISHING DAYS AND DEFINE FISHING DAYS

4.1 Description of and Need for the Proposed Action

Currently, a fishing trip is defined to start on the day when fishing gear is first deployed and end on the day the vessel offloads groundfish, returns to an Alaskan port, or leaves the U.S. EEZ off Alaska and adjacent waters of the state of Alaska. Observer coverage is calculated by dividing the observed fishing trip days by the total fishing trip days for each vessel. At present, vessels may only fish one day during a multiple day fishing trip but get credit for all days in the trip. Reasons at the time justified why the program was set up for doing it this way, but it is shortchanging the NMFS on what is actually needed which is coverage of actual fishing days. A change of definition is not necessarily trivial since it ultimately affects how many days a vessel or plant pays for the cost of an observer. In addition to taking into consideration any economic impacts, whatever measure is used as a basis for observer coverage needs to be able to be determined for each vessel and plant, whether or not an observer is onboard, and should be able to be verified from at least one other source.

Under the current fishing trip definition, a vessel can set gear at 11:55 PM and get observer coverage credit for a whole day and then return a few minutes after midnight and get credit for another whole day. Vessels have also gone out and set gear which was never meant to catch fish but because gear was set, the days counted toward coverage. The new definition of fishing days should indicate that longline and pot gear must be baited and trawl gear must be fished at fishing depth with the cod-end closed. Other stipulations to consider might include a minimum number of hooks/pots; distance from the dock; or time of day by which the gear must be deployed in order to count as a whole day. The determination of whether or not the day is counted must be capable of being made whether or not an observer was aboard at the time. Regulations should clarify that days in which an observer spends aboard a vessel that delivers unsorted codends to a mothership does not count as observer coverage, unless such coverage is required in a particular specified opening.

Two alternatives are proposed for Council consideration.

Alternative 1. Maintain the status quo. Under this alternative, observer coverage is calculated in terms of fishing trip days, which is defined to start on the day when fishing gear is first deployed and end when the vessel offloads groundfish, returns to an Alaskan port, or leaves the U.S. EEZ off Alaska and adjacent waters of the State of Alaska.

Alternative 2. Change the basis of observer coverage to be fishing days. A fishing day would be defined as a day in which gear is retrieved. Such gear must have been deployed in a manner that is intended to actually catch fish--as a minimum, pots, traps, and longlines must be baited; trawls must have closed cod-ends attached and be set to fishing depth.

The Council may want to consider an additional stipulation that fish actually have to be landed for a day to count as coverage. Days in which an observer spends aboard a vessel that delivers unsorted codends to a mothership do not count as observer coverage, unless such coverage is required in a particular specified opening.

4.2 Analysis of Alternatives

4.2.1 Alternative 1: Status Quo

As there would be no change to the current situation there would be no cost associated with this option. The net loss however would be that the quantity of data obtained by the NMFS would be less than was originally intended under the observer plan.

4.2.2 Alternative 2: Change the basis of observer coverage to be fishing days. A fishing day would be defined as a day in which gear is retrieved. Such gear must have been deployed in a manner that is intended to actually catch fish--as a minimum, pots, traps, and longlines must be baited; trawls must have closed cod-ends attached and be set to fishing depth.

The Council may want to consider an additional stipulation that fish actually have to be landed for a day to count as coverage. Days in which an observer spends aboard a vessel that delivers unsorted codends to a mothership do not count as observer coverage, unless such coverage is required in a particular specified opening.

For an analysis of the current problem our efforts here focus on the 1991 data for that set is complete and should best describe the current situation. As the problem is restricted to the 30% coverage class of vessel we have also restricted this analysis to the GOA where the 30% coverage vessels are most prevalent. The problem as described is difficult to quantify as the days where coverage was obtained due to coverage manipulation cannot be readily separated from those that were obtained through actual fishing effort.

A comparison of the actual sampling days that were obtained versus the amount of coverage that was credited during these fishing trips was made. The percentage difference is days in which the observer was aboard but did not, or could not, sample. Generally observers are sampling each day of a trip that fish are brought aboard the vessel. Days not sampled could be due to days running, poor fishing, gear problems, or manipulation of the coverage requirements. Under the present system these days are all counted toward the vessels coverage requirements.

1991

Bottom trawl gear, All vessels, GOA wide

855 sample days, 1159 coverage days

26.2% of the days were unsampled.

Bottom trawl gear, 30% coverage vessels, GOA areas 620, 630.

402 sample days, 591 coverage days

32.0% of the days were unsampled.

Pelagic trawl gear, All vessels, GOA wide

406 sample days, 573 coverage days

29.1% of the days were unsampled

Pelagic trawl gear, 30 % coverage vessels, GOA areas 620, 630.

323 sample days, 419 coverage days

28.1% of the days were unsampled.

Pot gear, All vessels, GOA wide

217 sample days, 285 coverage days

23.9% of the days were unsampled

Longline gear, All vessels, GOA wide

611 sample days, 798 coverage days

23.4% of the days were unsampled.

These large differences between sampled and covered days only tells us that a large number of days are unsampled and that there are differences between gear types and vessel coverage categories. It does not, however, address the reasons for it. These days could as easily be attributed to gear problems as to coverage manipulation by the fleet. To address this question, the coverage data from twelve vessels fishing bottom trawl gear in the GOA areas 630 and 620 were looked at in 1992. Together these vessels obtained 68 observer coverage days 14 of which were attributed to either the setting of a test tow just prior to midnight or to returning to port within one hour after midnight. Each of these results in additional coverage being obtained by the vessel. In this small sample, 20.6% of the coverage obtained was coverage that was not actual effort but appeared to have been intended to obtain additional observer coverage. Of the vessels, 11 of the 12 looked at were obtaining coverage in the manners described. If this sample is indicative of the bottom trawl gear type in the 30% fleet then there is a significant problem which is decreasing the amount of actual data being obtained by the NMFS.

A further problem has been identified with this sample in that 8 of these 12 vessels have been identified in 1992 as inadequately reporting all of their days during fishing trips in their logbooks. As days during fishing trips is the currently accepted definition of days to which coverage requirements are applied, the unreporting of days results in a lower need for observer coverage. As unreported days are lost, the magnitude of this problem can not be identified. That it is a problem seems apparent from this sample. This situation will be corrected by these definition changes where coverage will be based on fishing days as long as the fishing days are accurately reported.

4.2.3 Physical and Biological Impacts

The alternatives are not expected to have a direct effect on the quality of the human environment. However, Alternative 2 is expected to have a positive effect by increasing the amount of data available to NMFS.

4.2.4 Distribution of Benefits and Costs

As the NMFS would be looking at essentially the same coverage of the fishing effort as was outlined in the 1990 observer plan, there would be no increase in cost to those that have been following the letter of the observer plan to date. The days counted toward coverage when an observer is aboard would decrease but the days which need to be counted toward obtaining coverage when an observer is not aboard would also decrease accordingly. The members of the Industry that have utilized the coverage loopholes in existence would see their costs rise to the levels of coverage set in 1990 as these loopholes are closed.

5.0 CHANGE THE 30 PERCENT OBSERVER COVERAGE REQUIREMENT FROM A QUARTERLY REQUIREMENT WITH NO CONNECTION TO TARGET FISHERY TO A MONTHLY REQUIREMENT, OR A QUARTERLY REQUIREMENT BY TARGET FISHERY

5.1 Description of and Need for the Proposed Action

At present, vessels in the 30 percent observer coverage category can choose which fishing trips, and hence, target fisheries to have monitored by an observer. There is the potential for the manipulation of observer coverage to avoid having an observer while operating in fisheries/fishing areas with high bycatch of prohibited species. There is the perception that this is in fact happening--that vessels operating in multiple fisheries tend to take their required observer coverage during those fisheries

which have relatively low bycatch of prohibited species. By changing the observer coverage to 30 percent by month or by target fishery, the potential for some of this manipulation may be reduced. The following alternatives are an attempt to address the problem of getting representative observer data from all of the fisheries.

Another problem is that fisheries openings have been getting progressively shorter. In some instances, a fisheries opening has been only 10 days, thus under the present observer coverage requirements, vessels that participated only in one such fishery in a quarter would have 10 or fewer fishing days, and would thus be exempt from any observer coverage for that quarter. This situation could result in a serious lack of observer data for particular fisheries. Some of the suggested alternatives reduce the 10 fishing day exemption, and others eliminate it entirely. Reduction or modification of the observer coverage trigger would be especially important if the coverage regulation was changed from a quarterly to a monthly basis.

The following alternatives are proposed for Council consideration:

Alternative 1. Maintain the status quo. Vessels 60 feet and over but less than 125 feet in length overall are required to carry a NMFS certified observer during 30 percent of their days during fishing trips in each calendar quarter of the year in which they fish more than 10 days in the groundfish fishery.

Alternative 2A. Require that vessels 60 feet and over but less than 125 feet in length overall carry a NMFS certified observer during 30 percent of their days during fishing trips in each month of the year in which they fish more than 3 days in the groundfish fishery.

Alternative 2B. Require that vessels 60 feet and over but less than 125 feet in length overall carry a NMFS certified observer during 30 percent of their days during fishing trips in each month of the year in which they fish in the groundfish fishery.

Alternative 3A. Require that vessels 60 feet and over but less than 125 feet in length overall carry a NMFS certified observer during 30 percent of their days during fishing trips in each calendar quarter in which they fish more than 3 days in the groundfish fishery. Each vessel must meet some of its observer coverage requirements for the quarter by carrying an observer during at least one fishing trip for each target fishery in which the vessel participated. Each fishing trip resulting in retained catch that the vessel makes during the quarter will be designated as having been operated in a particular target fisheries, using the targeting criteria listed below.

The following target criteria would be used to determine the target fishery of each vessel trip. If one species or species group has the largest amount of retained catch, that is the target.

Targets in the Gulf of Alaska are:

- Pollock
- Pacific cod
- Flatfish
- Rockfish
- Sablefish
- Other (everything else)

Targets in the Bering Sea/Aleutian Islands are:

**Pollock
Atka mackerel
Pacific cod
Rockfish
Flatfish
Sablefish
Other (everything else)**

Alternative 3B. Require that vessels 60 feet and over but less than 125 feet in length overall carry a NMFS certified observer during 30 percent of their days during fishing trips in each fishery, in each calendar quarter in which they fish more than 3 days in the groundfish fishery. Each fishing trip resulting in retained catch that the vessel makes during the quarter will be designated as having been operated in a particular target fisheries, using the same criteria listed in Alternative 3A above.

Alternative 4. Require that vessels 60 feet and over but less than 125 feet in length overall carry a NMFS certified observer during 30 percent of their days during fishing trips in each calendar quarter of the year in which they fish more than 3 days in the groundfish fishery.

5.2 Analysis of Alternatives

5.2.1 Alternative 1: Status Quo

Maintenance of the status quo would continue to provide for 30% coverage of those vessels 60 to 125 feet in length overall that fish more than 10 days in the groundfish fishery. This requirement has been in effect for nearly three years and there are some indications that observer coverage is not being adequately represented in some fisheries. For example, in the 1992 Gulf of Alaska Pacific cod fishery, out of 925 data cells (a data cell consists of a particular fishery type, week, subarea, and gear type), there were corresponding observer data (incidental catch rates of prohibited species) for only 77 data cells. Of the remaining 848 cells, 461 were able to be filled with rates obtained by averaging three weeks of observer incidental catch rates. Default rates had to be used for 387 data cells (or 42 percent of the total data cells) for which neither corresponding observer data nor three-week averaged observer data were available. In the Gulf of Alaska rockfish and sablefish fisheries, default rates were used for 66 and 38 percent of the data cells, respectively. Some of the data cells filled with default rates consisted of fisheries conducted in areas in which only small boats exempted from observer coverage were operating, but that does not account for many of the defaulted data cells. Maintenance of the status quo means that NMFS would have to continue to depend on the voluntary efforts of fishermen to ensure that adequate observer data are obtained for each fishery.

Due to the fact that fisheries openings are getting shorter, more vessels are being exempted from observer coverage because the vessels fish only 10 days or less in a quarter. As mentioned previously, this could result in a serious lack of observer data in particular fisheries.

5.2.2 Alternatives 2A and 2B

Both of these alternatives require 30 percent coverage by month, instead of by quarter, as in the status quo. The difference between Alternative 2A and 2B lies in the trigger of the number of fishing days which requires coverage. Alternative 2A releases vessels that fish three or fewer days in the month from having observer coverage, and Alternative 2B requires all vessels that fish any number of days in the month to have observer coverage.

It is thought that requiring observer coverage by month, rather than by quarter would result in better coverage of some of the fisheries that are not being adequately covered now. It would reduce the amount of latitude that a fisherman has in taking the observer any time in the quarter, possibly only during those fisheries which traditionally have low bycatch.

The disadvantages of these two alternatives are that observers would be changing vessels very frequently in order to satisfy each vessel's monthly coverage requirement. Each time an observer boards a new vessel, some efficiency is lost in adapting to the new sampling conditions and new crew, and the quality of the data can suffer. Data can be lost in the rapid transfer from ship to ship, especially if the transfer from one vessel to another means that an observer is prevented from sampling the delivery in certain fisheries in which sampling of the delivery is the best method for obtaining the data. The increase in the number of vessels that an observer boards in a month would also complicate the logistics for vessel owners and observer contractors and increase the bookkeeping needed by NMFS to keep track of the data and reports.

5.2.3 Alternatives 3A and 3B

Both of these alternatives require some coverage by fishery, by quarter, rather than by month as in the preceding two options. They both allow vessels to fish for three days in the quarter before triggering the requirement for observer coverage. The difference between the two alternatives lies in the amount of observer coverage required in each fishery in which the vessel participates. Alternative 3A requires observer coverage for at least one fishing trip for each target fishery, while Alternative 3B requires 30 percent observer coverage for each target fishery. The retained catch for the fishing trip would be used to determine the target in which the vessel participated for that trip. The associated fishing trip days (or fishing days if Item 4.0 is implemented), would be attributed to that target fishery for the purpose of determining observer coverage by fishery.

The benefits of either of these alternatives are that it would result in improved observer coverage of some of the fisheries that are not being adequately covered now. Alternative 3A would assure that each of the fisheries a vessel participated in would receive at least some coverage during the quarter, and hence there would be observer data from a number of vessels for use in estimating bycatch for those fisheries. A fisherman or observer contractor would have to make sure that there was at least some observer coverage for each fishery that vessel participated in for the quarter, but bookkeeping would be simplified because the observer coverage would not have to be tracked by fishery, only by quarter. Alternative 3B is more stringent than 3A in that it would require that the observer coverage be proportional to the fishing trip days the vessel spent in each fishery. It is likely that this alternative would provide more observer data of certain key fisheries than Alternative 3A because, depending on the length of time each vessel participates in those fisheries, more than one observer trip would be required.

In both Alternatives 3A and 3B, observer coverage is calculated by quarter rather than by month (as in Alternatives 2A and 2B). If a vessel operated only in one fishery over a period of several months, the owner would have the possibility of taking the observer coverage all in one period of time. This would not be possible in Alternatives 2A or 2B, in which it would be hard to avoid taking the observer coverage in three or more separate periods of time. Short, discontinuous observer trips are difficult logistically and are hard for the observer who must adjust to the different situations on each vessel. It may also be difficult for the crew, who might have to adjust to different observers.

Both Alternatives 3A and 3B would implement the reduction of the quarterly 10 fishing day trigger to a quarterly 3 fishing day trigger, which would help to counteract the problems mentioned under Alternative 1 regarding progressively shorter fishing openings.

The disadvantages in either alternative include the difficulties some fishermen may have in making sure that they have adequate observer coverage in each fishery. This would be less difficult under Alternative 3A than in Alternative 3B, where a specified percentage of each target fishery must be observed. The fishermen would have to be aware of the target fishery each trip is planned for and ultimately designated as, and for Alternative 3B, keep track of the exact fishing trip days by fishery. If either alternative is adopted, the cautious fisherman would want to assure that he had observer coverage for the first trip in each fishery, because it is possible that early fishery closures, vessel breakdowns, bad weather, poor market conditions, or other reasons might result in his not making other trips in that fishery during the quarter.

5.2.4 Alternative 4

Alternative 4 represents the status quo in that it would not require observer coverage to be calculated either by month or by target fishery. It differs from the status quo alternative (Alternative 1) in that it does incorporate a reduction of the quarterly 10 fishing day trigger to a quarterly 3 fishing day trigger, which would help to counteract the problems mentioned under Alternative 1 regarding progressively shorter fishing openings. This alternative would require vessels in the 30 percent observer coverage category that have more than 3 fishing days in a quarter to obtain observer coverage.

5.2.5 Physical and Biological Impacts

None of the proposed alternatives would be expected to have a direct effect on the quality of the human environment. Requiring 30% observer coverage on a monthly basis or quarterly by target fishery should remove the potential for the manipulation of observer coverage.

5.2.6 Distribution of Benefits and Costs

In terms of cost to the industry, the maintenance of the status quo regulation would actually result in some decrease in the current cost for observer coverage as fishing openings get shorter and more vessels fall under the 10 fishing day exemption.

Under Alternatives 2A and 2B, it is expected that an unknown amount of additional cost would result to the fishermen because of having to contract observers several different times during a quarter, rather than just once, although many fishermen now contract observers multiple times because they are not certain how many vessel trip days in the quarter they will end up having. It will also be difficult for the vessel owner to obtain exactly the right amount of observer coverage needed each month without cutting a vessel trip short or leaving an observer aboard for additional days at the owner's expense.

The change from the status quo of the 10 fishing day quarterly trigger to a 3 fishing day monthly trigger in Alternative 2A or to no exemption in Alternative 2B will result in additional cost to some fishermen. Some fishermen who have never had to have observers before (because they always had fewer than 10 fishing days in a quarter) will have to obtain observers. The cost to vessel owners of these two alternatives are illustrated in the explanation and table below. The benefits to NMFS of either of these two alternatives are discussed under Alternative 1.

Under Alternative 2A, a vessel would no longer be able to fish 10 days in a quarter without an observer, but it would be able to fish 9 days if the 9 days were spread out with 3 days in each month. In this instance, vessels that typically fished exactly 10 days would have to either fish only 9 days, spread out as noted above, or be forced to take an observer. In 1991, the number of vessels, by

quarter that fished exactly 10 days is as follows: Quarter 1, 0 vessels; Quarter 2, 8 vessels; Quarter 3, 5 vessels; and Quarter 4, 7 vessels. If each of these 20 vessels took 2 days of observer coverage during one of the months (to cover 6 or fewer vessel trip days during that month), the overall cost to industry could be calculated as 20 vessels x 2 days = 40 observer days = 1.33 observer months x \$8680/month = \$11,573. The actual cost would probably be more than that unless the contractor is able to arrange the logistics of sharing the observer training costs, travel, overhead, etc. with an optimum number of other vessel owners.

Under Alternative 2B, any vessel in the 30 percent coverage category would be required to take an observer each month in which they fished, regardless of how few days they fished. The following table lists the numbers of vessels which fished 10 days or fewer in any quarter in the 1991 fishery, and corresponding vessel days, which were used to estimate the cost to this portion of the fishing industry if these days were no longer waived from observer coverage. It must be emphasized that this is only an estimate based on the way these vessels were fishing in 1991, and may not reflect what vessels do in the future.

Calculation of cost of Alternative 2B on vessels in 30% category that fished 10 days or less during a 1991 quarter

1991 qtr	no. of vessels	total no. days	30% of days	observer months	cost at \$8680/mo
1	29	140	42.0	1.40	\$12,152
2	73	439	131.7	4.39	38,105
3	55	251	75.3	2.51	\$21,787
4	40	216	64.8	2.16	\$18,749
		1046	313.8	10.46	\$90,793

Under Alternatives 3A and 3B, the following table lists the numbers of vessels which fished from 4 to 10 days in any quarter in the 1991 fishery, and corresponding vessel days, which were used to estimate the cost to this portion of the fishing industry if these days were no longer waived from observer coverage. It must be emphasized that this is only an estimate based on the way these vessels were fishing in 1991, and may not reflect what vessels do in the future.

Calculation of cost of Alternatives 3A and 3B on vessels in 30% category that fished from 4 to 10 days during a 1991 quarter.

1991 qtr	no. of vessels	total no. days	30% of days	observer months	cost at \$8680/mo
1	17	115	34.5	1.15	\$ 9,982
2	56	407	122.1	4.07	\$35,328
3	30	209	62.7	2.09	\$18,141
4	28	194	58.2	1.94	\$16,839
		925	277.5	9.25	\$80,290

The benefits of Alternative 4 were discussed in the Alternative 1 discussion, and the costs of this particular variation of the observer coverage trigger are given in the discussion of Alternatives 3A and 3B, including the table just above. The estimated additional cost to industry for the adoption of this Alternative would be \$80,290, based on the 1991 fishing effort.

6.0 REDUCE THE LEVEL OF OBSERVER COVERAGE FOR GROUND FISH VESSELS FISHING WITH POTS/TRAPS

6.1 Description of and Need for the Proposed Action

The United Fishermen's Marketing Association, Inc. requested the NMFS to consider reducing the required level of observer coverage of the groundfish pot fleet to 10% of the fishing trip days by quarter. Their reason for requesting the reduction is that the Pacific cod pot fishery is an exceptionally clean fishery from the standpoint of bycatch and that a lower level of observer coverage would be adequate to collect basic data on the activities of this fleet. Vessels using pot gear are currently subject to the same levels of observer coverage as vessels using other gear types. The required level of observer coverage is based on a vessel's overall length. Vessels 125 ft. length overall (LOA) or longer must have 100% observer coverage, vessels from 60 ft. LOA but less than 125 ft. LOA must have 30% coverage by quarter, and vessels less than 60 ft. LOA are not required to meet mandatory levels of observer coverage.

Three alternatives are proposed for Council consideration.

Alternative 1. Maintain the status quo which would continue to require vessels using pot gear to carry an observer 100% of the time if the vessel was 125 ft. LOA or longer and 30% of the time in any calendar quarter in which more than 10 days area fished if the vessel were at least 60 ft. LOA but less than 125 ft. LOA.

Alternative 2. Decrease the required level of observer coverage on vessels using pot gear which are at least equal to the minimum length of a vessel required to carry an observer (currently 60 ft. LOA) but less than 125 ft. LOA to 10% of the fishing trip days during any calendar quarter in which they fish more than 10 days.

Alternative 3. Require 30% observer coverage on vessels using pot gear which are at least equal to the minimum length of vessel required to carry an observer (currently 60 ft. LOA) during each calendar quarter in which they fish more than 10 days.

6.2 Analysis of Alternatives

6.2.1 Alternative 1

The pot fishery for Pacific cod was a relatively small fishery in 1990, increased in size in 1991 and continues to increase in 1992, especially in the Bering Sea/Aleutian area. The total catch made by pot vessels in 1990 was 8,422 t (1,418 in the Bering Sea/Aleutian area and 7024 t in the Gulf of Alaska). The fishery increased to 14,975 t in 1991 (4,370 t in the Bering Sea/Aleutian area and 10,605 t in the Gulf of Alaska) and through August 23, 1992, has increased further to 20,487 t of groundfish (11,368 t in the Bering Sea/Aleutian area and 9,119 t in the Gulf of Alaska).

During 1990, pot-sets (a group or string of pots set in the same general location) sampled by observers accounted for 20% of the total groundfish taken by pot vessels. By region in 1990, 70% of the catch was sampled in the Bering Sea/Aleutian Islands area and 10% in the Gulf of Alaska area. The corresponding percentages of observer sampling for 1991 were 27% of the overall catch and by region, 69% in the Bering Sea area and 9% in the Gulf of Alaska region. Sets sampled by observers in 1992 accounted for 22% of the total catch. By region in 1992, observer sampling accounted for 32% of the Bering Sea/Aleutian Island area catch and 10% of the Gulf of Alaska catch. The large difference between the Bering Sea/Aleutian Islands area and the Gulf of Alaska area in percent of the catch observed is due to the greater number of vessels requiring 100% observer coverage in the BSA fishery as compared to the GOA fishery. The GOA fishery is composed primarily of vessels requiring either 30% coverage or no coverage.

Table 1 shows the estimated catches of prohibited species, the proportion of the total incidental catch of each prohibited species taken by the pot fishery, and average bycatch rates observed from pot vessels in 1990. Except for the estimated bycatch of halibut from 1991, estimates of pot catches of other prohibited species taken in the pot fishery are not yet available. Halibut and crab were taken as bycatch in the Pacific cod pot fishery in both the GOA and BSA. In 1990, halibut bycatch by pot vessels accounted for 0.3% of the BSA halibut bycatch and 1.1% of the GOA halibut mortality. In 1990, 90% - 94% of the halibut observed were in excellent condition at the time of release. The 1991 observer data indicated that 96% - 97% of the halibut released were in excellent condition.

The pot fishery accounted for larger portions of the crab bycatch in 1990. The 1990 BSA pot fishery accounted for 7.7% of the red king crab catch, 1.1% of the C. bairdi tanner crab catch and 8.4% of the catch of other tanner crab. The 1990 GOA pot fishery accounted for 91% of the red king crab bycatch, 51.8% of the C. bairdi bycatch, and 25.8% of the other tanner crab bycatch. Data collected by observers on the condition of crab at time of release showed that over 95% of all crab were released in excellent condition.

A statistical review of observer data collected from the pot fishery is provided in Appendix 1. The study shows that the catch and proportion of catch of Pacific cod can be estimated with relatively high precision at low levels of observer coverage (10% coverage of pot sets) but that high levels (80% coverage of pot sets or higher) of observer coverage are required to estimate the catch and catch rates of species which occur infrequently in the catch such as Pacific halibut, Tanner crab and king crab. These results are similar to those obtained in analyses on observer data collected from other target fisheries and gear types.

Maintenance of the status quo would continue to provide basic data on the catch and bycatch of the pot fishery for Pacific cod. This is a fishery which is still developing and growing, especially in the Bering Sea/Aleutian Islands area. Current data can provide precise estimates of the catch of the target species but imprecise estimates of the bycatches of other species such as Pacific halibut, king crab and Tanner crab.

Table 1. Estimated catches of prohibited species taken by vessels using pot gear in 1990, the proportion of the total prohibited species catch taken by all gears accounted for by pot vessels, and the average bycatch rate observed on pot vessels for each prohibited species for the Bering Sea/Aleutian area and the Gulf of Alaska area.

A. Bering Sea/Aleutian Area - 1990

Prohibited Species Group	Estimated Pot Vessel Catch	Proportion of Total Prohib. Catch	Ave. Bycatch Rate
Pacific halibut	21.5 t	0.3%	15.2 kg/t
Red king crab	8,262 crab	7.7%	5.8 crab/t
Other king crab	39 crab	0.2%	0.03 crab/t
C. bairdi tanner c.	20,003 crab	1.1%	14.1 crab/t
Other tanner c.	255,767 crab	8.4%	180.4 crab/t
Salmon	0 fish	0.0%	0.0 fish/t

B. Gulf of Alaska - 1990

Prohibited Species Group	Estimated Pot Vessel Catch	Proportion of Total Prohib. Catch	Ave. Bycatch Rate
Pacific halibut ¹	34.7 t	1.1%	6.2 kg/t
Red king crab	6,295 crab	91.1%	1.1 crab/t
Other king crab	0 crab	0.0%	0.0 crab/t
C. bairdi tanner c.	102,717 crab	51.8%	18.2 crab/t
Other tanner c.	1,674 crab	25.8%	0.3 crab/t
Salmon	0 fish	0.0%	0.0 fish/t

¹ In the Gulf of Alaska, Pacific halibut bycatch is measured in terms of halibut mortality. The estimated catch, proportion of total halibut catch and catch rate for the Gulf of Alaska shown in Table 1 are for halibut mortality. Halibut bycatch in the Bering Sea/Aleutian area is not managed in terms of halibut mortality but by total halibut catch.

6.2.2 Alternative 2

Alternative 2 would reduce the level of required observer coverage on vessels using pot gear which are at least equal to the minimum length of a vessel required to carry an observer (currently 60 ft. LOA) but less than 125 ft. LOA to 10% of the fishing trip days during any calendar quarter in which more than 10 days are fished. The impact of this alternative would be to reduce the coverage of the pot fisheries for Pacific cod below those levels cited above for 1990, 1991, and 1992. In the Gulf of Alaska, the level of observer coverage in terms of proportion of the catch observed has been about 10% of the fishery over the past three years. Reduction of the coverage requirement in the Gulf of Alaska would result in less than 10% of the actual catch being observed. In the Bering Sea/Aleutian Islands area observer coverage of the pot fishery was about 70% in 1990 and 1991 but has decreased to 32% in 1992. The pot fishery in the BSA area has increased substantially in 1992 and is expected to continue to increase in size. The decrease in 1992 in the level of actual observer coverage of the catch is due to an increase in participation in the fishery of the number of smaller vessels requiring 30% coverage as compared to vessels requiring 100% coverage.

The disadvantages of adopting Alternative 2 include a further reduction in data from the pot fishery, especially in the Gulf of Alaska. Current coverage levels in the Gulf of Alaska are essentially already at the 10% level when viewed in terms of the percent of the catch sampled. The level of observer coverage in the Bering Sea/Aleutian Islands area has decreased in 1992 as the pot fishery has grown in that area. The statistical analysis included in Appendix 1 shows that current levels do not provide good estimates of bycatches of prohibited species and lower levels of coverage would provide even poorer estimates. The decreases in observer coverage resulting from selection of this alternative would be offset by recommendation and approval of other proposed changes to the Observer Plan. Reduction of the minimum length of a vessels required to carry observers to either 55 ft. LOA or 57 ft. LOA would provide additional coverage of vessels not currently covered by observers. Additionally, the change from observer coverage defined as a percentage of vessel trip days to a percentage of fishing days would also provide additional observation of fishing days in the fishery.

6.2.3 Alternative 3

Alternative 3 would require that all vessels using pot gear which meet the minimum vessel length requirement for mandatory observer coverage carry an observer 30% of the vessel trip days during each calendar quarter in which they fish more than 10 days. This alternative would maintain the status quo for observer coverage requirements for vessels currently required to carry observers 30% of the time but would reduce the coverage of vessels 125 ft. LOA or longer from 100% to 30% coverage. This alternative was recommended for analysis by the Council's Observer Oversight Committee at their meeting on August 13, 1992 and was intended to be an alternative if the minimum vessel size limit for vessels requiring 100% observer coverage was reduced from 125 ft. LOA to 115 ft. LOA. The intent is to reward the use of gear with low bycatch rates and mortality of prohibited species through a reduction in the cost of observer coverage.

Adoption of Alternative 3 would not improve estimates of the bycatch of halibut and other prohibited species since overall coverage in the Bering Sea/Aleutian Islands area would be reduced and coverage in the Gulf of Alaska would essentially remain unchanged. As with Alternative 2, the decrease in coverage under Option 3 would be compensated to some extent by increases in the number of fishing days observed if proposed changes are made to use fishing days to measure observer coverage and the lower size limit of vessels required to carry observers 30% of the time is decreased to either 55 ft. LOA or 57 ft. LOA.

6.2.4 Physical and Biological Impacts

The alternatives are not expected to have a direct effect on the quality of the human environment.

6.2.5 Distribution of Benefits and Costs

The estimated cost of observer coverage in 1991 paid for by industry was about \$285,000. This cost was shared by 35 different vessels which carried observers in 1991 which resulted in an average cost of about \$8,140 per vessel for the year. Disadvantages of maintenance of the status quo include continued cost of observer coverage to industry. This cost is most likely higher in 1992 because of the growth in the catch and effort in the pot fishery. Maintenance of the status quo may also indicate to fishermen that development of fisheries using gear that results in low bycatches and mortality of prohibited species are not rewarded with reduced costs for observers and fisheries management.

Adoption of this Alternative 2 would be beneficial to the industry by reducing the costs for those now required to carry observers 30% of the time by about 67%. This reduction would have the greatest impact on vessels fishing in the Gulf of Alaska since the majority of these vessels are less than 125 ft. LOA which requires 100% observer coverage. There would be less impact on vessels fishing in the Bering Sea/Aleutian Islands area since many of these vessels are 125 ft. LOA or longer and would continue to be required to have 100% observer coverage. Adoption of this option would also, to some extent, reward those fisheries using a gear which results in low bycatches and mortalities of prohibited species.

With respect to the cost of coverage, a reduction in the required coverage to 10% may result in an increased cost per observer month for these vessels thus reducing the net savings to this portion of the fleet. The cost per observer month would most likely increase as a result of greater logistical costs for placement of observers on vessels for shorter periods of time and unit increases in the fixed costs for such things as travel. There are fewer observer days over which to spread the fixed cost of training and preparing observers and the travel associated with getting the observer to and from the port of vessel operation.

There would be no benefit in the adoption of Alternative 3 to vessels which are currently required to have 30% observer coverage. This means that the status quo would be maintained in the Gulf of Alaska pot fishery since most of the vessels in that area are below the length current requirement for 100% observer coverage. There would be a benefit to vessels large enough to require 100% coverage which are primarily vessels in the Bering Sea/Aleutian Islands pot fishery. In 1991, there were 5 vessels 125 ft. LOA or longer with groundfish permits for the pot fishery. There were an additional 9 vessels which had permits for multiple gear types including pots. These 14 vessels would have required 36 months of observer coverage in 1991 assuming that all of the days expended by vessels with permits for multiple gears were only counted as pot fishing days. This provides an overestimate of cost and cost savings since some of these vessels did fish other gears during the year. The estimated cost for 36 months of observer coverage is about \$255,000. If the coverage requirement were reduced to 30%, the estimated cost would be about \$113,200 resulting in a savings of \$141,800.

7.0 REVISE CONFLICT OF INTEREST STANDARDS

7.1 Description of and Need for the Proposed Action

The existing conflict of interest standards for observers and contractors are incomplete and contradictory. These standards appear on pages 4, 5, and 7 of the Observer Plan (Plan), and Attachments 3 and 4 to the Plan. The changes would include: 1.) clearing up inconsistencies and ambiguities surrounding the definitions of "financial and personal interest"; 2.) defining "observed fishery"; 3.) placing restrictions on observers who choose to work in the observed fishery after serving as observers; and 4.) prohibiting observer contractors from assigning observers in response to requests for or against a specific individual or specific gender, race, creed or age of individual.

Problem 1: Incomplete and contradictory definitions of "financial and personal interest"

This problem came to light during a proposed decertification proceeding against an observer stationed at a shoreside plant. This observer's husband operated a groundfish fishing vessel in state and federal waters at the same time that she served as a certified observer. It was felt that she and her husband were in a position to use observer fishery data for personal profit, thus constituting an impermissible "financial interest in the observed fishery" under the Plan's conflict of interest standards. However, closer examination revealed that the Plan defines a "financial interest" as "payment or compensation received directly from the owner or operator of the vessel or shoreside facility being observed that results from a property interest or business relationship in that vessel or shoreside facility." This narrow definition swallows the seemingly broader prohibition on conflicts in the "observed fishery." Under the narrow definition, the observer had no conflict; indeed, she could have had a conflict only if she had a property interest in, or a business relationship with, the plant at which she was stationed.

This same definition of "financial interest" applies in the conflict of interest standards for contractors. In addition, since "contractor" is not defined, it would be possible under current wording, for even the CEO or president of an observer contracting company to own a commercial groundfish vessel. Therefore, this loophole is closed through a wording change which includes any "employee" of a contractor (refer to suggested wording change below). Still other inconsistencies in the conflict of interest standards exist and have been clarified under the suggested wording changes. For example, although an observer may not have a "personal interest" in the vessel to which she is assigned, under current wording, it would be permissible to have a personal interest in the shoreside facility being observed.

Alternative 1 (NMFS Suggestion):

5. ~~Conflict of Interest Standards for NMFS Certified Observers and Contractors~~

a. ~~Conflict of interest standards for certified observers.~~

A certified NMFS observer --

2. ~~may not have a financial or personal interest in the observed fishery; specifically including any financial or personal interest in the vessel or shoreside facility to which he or she is assigned;~~

3. ~~may not have a personal interest in the vessel to which he or she is assigned;~~

b. ~~Conflict of interest standards for certified observer contractors.~~ A certified observer contractor --

1. ~~and any employee of a certified observer contractor may not be an individual, partnership or corporation with a have a financial or personal interest in the observed fishery, specifically including any financial or personal interest in any vessels or shoreside facilities that harvests or processes fish in the observed fishery, other than the provision of observers;~~

c. ~~in this section~~

- ~~A direct financial interest is defined as payment or compensation received directly from the owner or operator of the vessel or shorebased facility being observed that results from a property interest or business relationship in that vessel or shorebased facility. A financial or personal interest means any source of income to, or capital investment or other interest is defined as an interest or involvement held by, an individual, partnership, or corporation or an individual's spouse, the contractor or observer, or the contractor's or observer's immediate family or parent, from which the contractor or observer, or the contractor's or observer's immediate family or parent, receives a benefit.~~

Advantages: Corrects contradictory wording and clarifies ambiguities. Enables the intent of the conflict of interest provisions to be enforced. Closes up an existing loop hole which allows a non-observer employee of a contractor (including the president or CEO of the company), to become financially involved in the observed fishery.

Disadvantages: From NMFS point of view, there are none. However, if a contractor, contractor employee, or observer, currently had a financial interest in the observed fishery, they would find this change to be a disadvantage, because they would no longer be exempt from having a conflict of interest. Contractors also might complain because it would mean that they would be in a conflict of interest if their spouse, immediate family member or parent, had a financial interest in the observed fishery.

Costs: None, except for the contractor, contractor employee, or observer that is considered to have a conflict of interest.

Alternative 2a (Observer Oversight Committee (Committee) Suggestion):

5. ~~Conflict of Interest Standards for NMFS Certified Observers and Contractors~~

- b. ~~Conflict of interest standards for certified observer contractors. A certified observer contractor --~~

1. ~~and any employee of a certified observer contractor may not be an individual, partnership or corporation with a have a financial or personal interest in the observed fishery, specifically including any financial or personal interest in any vessels or shoreside facilities that harvests or processes fish in the observed fishery, other than the provision of observers;~~

In this section

~~A direct financial interest is defined as payment or compensation received directly from the owner or operator of the vessel or shorebased facility being observed that results from a property interest or business relationship in that vessel or shorebased facility. A financial or personal interest means any source of income to, or capital investment or other interest is defined as an interest or involvement held by, an individual, partnership, or corporation or an individual's spouse, the contractor or observer, or the contractor's or observer's immediate family or parent, from which the contractor or observer, or the contractor's or observer's immediate family or parent, receives a benefit.~~

Advantages: None, from NMFS point of view. From the contractors point of view, it would allow them or their employees to become financially involved in the observed fishery in other ways besides through the provision of observers, which would enable them to become more diversified and financially stable. It would also not put a contractor under a conflict of interest when an immediate family member or parent was financially involved in the fishing industry. As an example, it would enable a contractor to supply observers for a fishing vessel that was owned by an immediate family member (brother, sister), or parent.

Disadvantages: None, from the contractors point of view. From NMFS point of view however, it weakens the existing conflict of interest language as applies to contractors. Under the wording suggested by the Committee, a contractor or employee of a contractor would have to own a vessel or shoreside facility or receive crew-shares from a vessel in order to be in a conflict of interest. If they received a portion of the profit from a fishing company through stock holdings or were a salaried employee of a fishing company, or were on contract with a fishing company to provide other services, they would not be in conflict of interest. In addition, under the wording suggested by the Committee, for instance, it would not be considered a conflict of interest if a contractor provided observers for a vessel that was owned by the contractor's immediate family member or parent.

Costs: None

Alternative 2b (Committee Suggestion):

In this section

~~A direct financial interest is defined as payment or compensation received directly from the owner or operator of the vessel or shorebased facility being observed that results from a property interest or business relationship in that vessel or shorebased facility. A financial or personal interest means any source of income to, or capital investment or other interest is defined as an interest or involvement held by, an individual, partnership, or corporation or an individual's spouse, the contractor or observer, or the contractor's or observer's immediate family or parent, from which the contractor or observer, or the contractor's or observer's immediate family or parent, receives a benefit.~~

Advantages, Disadvantages, Costs:

The only difference between alternative 2a and 2b, is that alternative 2b further weakens the existing conflict of interest standards, because it eliminates an individual's spouse from the wording under the "financial and personal interest" definition. Therefore, as an example, it would not be considered a conflict of interest if a contractor supplied observers for a vessel owned by their spouse. On the other hand, it could be considered a conflict of interest, under a strict interpretation of the NMFS suggested definition of "financial and personal interest", if a contractor's spouse worked as a secretary in the office of a fishing company.

Alternative 3: Status Quo, Retain Current Wording

Advantages: None

Disadvantages: Contradictory and ambiguous wording would still exist which would not allow for the decertification of observers, contractors or contractor employees who have personal or financial conflicts of interest.

* * * * *

Problem 2: Defining "Observed Fishery"

Since the term "observed fishery" is used extensively throughout the existing conflict of interest section of the Plan, it was considered prudent to define this term so that questions of interpretation would not arise. The term "observed fishery" is most commonly interpreted as the groundfish fishery, but questions arise such as, "Does that include state as well as federal waters?", or "Should it be interpreted to include other fisheries managed by the North Pacific Fisheries Management Council, such as halibut, crab and herring?".

Alternative 1 (NMFS Suggestion):

c. In this section --

2. observed fishery means the fishery for groundfish (as that term is defined at 50 C.F.R. §§ 672.2 and 675.2) in waters of Alaska and the exclusive economic zone off Alaska, and any other fishery managed by the North Pacific Fisheries Management Council.

Advantages: It clarifies what "observed fishery" means, and it further protects the integrity of the Observer Program by eliminating a potential conflict of interest. For example, it is arguable that a contractor or observer would be in conflict of interest if they had a financial interest in the halibut fishery. Especially since so many groundfish fisheries are under an incentive plan to restrict the bycatch of halibut and because many groundfish allocations have halibut cap limits. An observer who is also a commercial halibut fisher for instance, may be biased in his reporting of halibut bycatch in the groundfish fishery.

Disadvantages: None, from NMFS point of view. From the contractor's or observer's point of view, it would eliminate their ability to become financially involved in some fisheries, thus limiting their sources of income.

Costs: There would be a cost to contractors and observers in that their ability to diversify their financial interests would be curtailed.

Alternative 2 (Committee Suggestion):

c. In this section --

2. "observed fishery" means the fishery for groundfish (as that term is defined at 50 C.F.R. §§ 672.2 and 675.2) in waters of Alaska and the exclusive economic zone off Alaska, and any other fishery managed by the North Pacific Fisheries Management Council

Advantages: It still defines "observed fishery" in the terms that were originally intended in the Plan, and it eliminates a stretching of the definition to include fisheries which arguably, are not "observed".

Disadvantages: It would allow a contractor or observer to have a financial interest in the halibut, crab or herring fisheries and not be under a conflict of interest.

Costs: None

Alternative 3: Status Quo, do not Define "Observed Fishery" or Replace it with "Groundfish Fishery"

Advantages: None

Disadvantages: The term "observed fishery" would remain subject to interpretation and even if it were replaced with "groundfish fishery", you would still need to define "groundfish fishery" to include state and federal waters. Substituting the word "groundfish" for "observed" does nothing to solve the problem.

Costs: None

* * * * *

Problem 3a: Placing Restrictions on Observers who choose to work in the observed fishery:

Some observers are currently alternating between working as commercial fishers and observers. This situation leaves open the possibility that these observers may compromise their professional observer standards in order to gain favor of the vessel captain and crew to secure employment on the vessel. In addition, as a crew member a prior observer could misuse fishing information gained while acting as an observer on another vessel.

Alternative 1 (NMFS Suggestion):

a. Conflict of interest standards for certified observers.

A certified NMFS observer --

5. may not serve as an observer for twelve consecutive months after the last day of employment as a paid crew member or employee in the observed fishery.

Advantages: This would help to solve a problem which is now occurring quite frequently. It would not forbid observers from gaining employment in the observed fishery after working as an observer, but it would curtail them from jumping between dual professions (i.e. as crew and as NMFS observers on fishing vessels). In addition, it should be noted that similar changes to the shellfish observer program's conflict of interest standards are being considered by ADF&G.

Disadvantages: From the NMFS point of view, there are none. From the observer's point of view it limits their ability to quickly alternate between employment as fisheries observers and employment as crew on fishing vessels.

Costs: Possible costs to the observer who cannot immediately switch between types of employment.

Alternative 1a (Committee Suggestion): Change the period of time in option one from 12 months to 6 months.

The **advantages**, **disadvantages** and **costs** are the same as for alternative one. However, it is an arguable point that a six month delay between working for the fishing industry and working as a NMFS observer is not sufficiently long enough to curtail the activity of those observers who alternate between these two forms of employment.

Alternative 2: Status Quo (Committee Suggestion): There are currently no restrictions of this type placed on observers.

Advantages: From NMFS point of view, there are none. From the observers point of view, it would allow them more job opportunities.

Disadvantages: From the observers point of view, there are none. From NMFS point of view, this kind of conflict of interest would be allowed to go on.

Costs: There would only be costs to the observer who wants to have access to both types of professions at the same time. There might possibly be costs to the fishing vessel owners who want to employ observers on a part-time basis.

* * * * *

Problem 3b: Further Restrictions on Observers who choose to work in the observed fishery:

In addition to the restrictions outlined under problem 3a above, NMFS and the Committee feel that a more obvious case of conflict of interest occurs when an individual works as an observer on a vessel or at a shoreside plant which is owned or operated by a person who formerly employed that observer. This situation is already listed as a conflict of interest under the standards of conduct for ADF&G shellfish observers. The only difference between the NMFS suggested wording for this standard and the Committee's suggested wording is that the Committee wanted to put a time limit of 6 or 12 months in the restriction.

Alternative 1 (NMFS Suggestion):

- a. ~~Conflict of interest standards for certified observers.~~
A certified NMFS observer --

~~4. may not serve as an observer on any vessel or at any shorebased facility owned or operated by a person (as that term is defined at 50 C.F.R. § 620.2) who formerly employed the observer.~~

Advantages: Does not allow a person to alternately work for a fishing company as both an employee of the company and as their observer. This would be a much clearer case of conflict of interest and thus by not allowing it, the integrity of the Observer Program would be protected. This situation is

currently not allowed in the ADF&G shellfish observer program.

Disadvantages: None, especially since the observer is permitted to work at other assignments.

Costs: None, except for the observer who wants to alternately work for a fishing company as both an employee of the company and as their observer.

Alternative 2 (Committee Suggestion):

- a. ~~Conflict of interest standards for certified observers.~~
A certified NMFS observer --

~~4. may not serve as an observer on any vessel or at any shorebased facility owned or operated by a person (as that term is defined at 50 C.F.R. § 620.2) who formerly employed the observer, for a period of 12 months after being employed by that person.~~

Advantages: From NMFS point of view, there are none, because if a 12 month time limit is put in place under item 5.a.5. as NMFS suggested, then limiting the conflict of interest under item 5.a.4. to 12 months, would be redundant and not needed. However the conflict of interest items 5.a.5. and 5.a.4. are ultimately worded, item 5.a.4. should be more restrictive than item 5.a.5. From the Committee's point of view, they feel that having no time limit on this conflict of interest is too restrictive.

Disadvantages: The disadvantage from NMFS view point is explained in the paragraph above. By putting the same time limit on this restriction, as the restriction in item 5.a.5., it makes the restriction redundant.

Costs: None, except for the observer who wants to alternately work for a fishing company as both an employee of the company and as their observer.

Problem 4: Prohibiting Observer Contractors From Assigning Observers in Response to Requests For or Against a Specific Individual or Specific Gender, Race, Creed or Age of Individual:

The current language of the Plan prohibits contractors from responding to requests from vessel or shoreside facility owners and operators for specific individuals. However, it does not prohibit contractors from responding to requests for a specific gender, race, creed or age of individual. In addition, it does not prohibit contractors from responding to requests against a specific individual or specific gender, race, creed or age of individual. Both NMFS and the Committee felt that this sort of manipulation of the contractor by a vessel or shoreside facility owner or operator constitutes a conflict of interest and should not be allowed. This sort of problem has occurred in examples where a vessel operator will reject an observer at the dock before she gets on the vessel, simply because the observer is a women or of a particular race, or the operator will insist that the contractor replace their observer with someone who does not cause "trouble", when later it has been discovered that "trouble" meant reporting too many halibut in the catch.

Alternative 1 (NMFS Suggestion):

- b. ~~Conflict of interest standards for certified observer contractors. A certified observer contractor --~~
 - 2. shall assign observers ~~without regard to any preference by representatives of~~ vessels and shoreside facilities ~~without regard to requests from vessel owners or operators for~~ ~~or against~~ a specific individual ~~observer.~~
 - 3. shall assign observers without regard to any preference by representatives of vessels and shorebased facilities for or against any classification of observers based on race, gender, age or religion.

Advantages: Further strengthens an already existing conflict of interest standard for contractors, by not allowing them to replace an observer through requests by the vessel or shoreside facility owner or operator alone. They currently are required through NMFS policy to get permission from NMFS before replacing an observer after being requested to do so by an owner or operator. This would simply put this policy which is already in practice, into the conflict of interest standards for contractors.

Disadvantages: None, from NMFS point of view. However, some owners and operators of vessels or shoreside facilities may feel that it limits their ability to get rid of an observer who is not doing their job or acting in a manner which has a detrimental affect on the vessels operations. It is worthy of note, however, that this argument was not expressed by members of the Committee. In addition, the argument is somewhat weak, because a vessel owner or operator can always take complaints about observers directly to the NMFS Observer Program, and these complaints will be treated seriously and will be investigated in an expedient manner.

Costs: None

Complete Text of NMFS Suggested Wording Changes to Conflict of Interest Standards in the Observer Plan:

- 5. ~~Conflict of Interest Standards for NMFS Certified Observers and Contractors~~
 - a. ~~Conflict of interest standards for certified observers.~~
A certified NMFS observer --
 - 1. must be employed by an independent contracting agent certified by NMFS to provide observer services to the industry;
 - 2. may not have a financial ~~or personal~~ interest in the observed fishery; ~~specifically including any financial or personal interest in the vessel or shorebased facility to which he or she is assigned;~~
 - 2. ~~may not have a financial interest in the observed fishery;~~
 - 3. ~~may not have a personal interest in the vessel to which he or she is assigned;~~

3. may not solicit, accept, or receive, directly or indirectly, a gift, whether in the form of money, service, loan, travel, entertainment, hospitality, employment, promise, or in any other form that is a benefit to the observer, under circumstances in which it could be reasonably inferred that the gift is intended to influence the performance of official duties, actions or judgment;

4. ~~may not serve as an observer on any vessel or at any shorebased facility owned or operated by a person (as that term is defined at 50 C.F.R. § 620.2) who formerly employed the observer;~~

5. ~~may not serve as an observer for twelve consecutive months after the last day of employment as a paid crew member or employee in the observed fishery;~~

b. ~~Conflict of interest standards for certified observer contractors.~~ A certified observer contractor --

1. ~~and any employee of a certified observer contractor may not be an individual, partnership or corporation with a have a financial or personal interest in the observed fishery, specifically including any financial or personal interest in any vessels or shoreside facilities that harvests or processes fish in the observed fishery, other than the provision of observers;~~

2. shall assign observers ~~without regard to any preference by representatives of~~ to vessels and shoreside facilities ~~without regard to requests from vessel owners or operators for or against~~ a specific individual ~~observer;~~

3. ~~shall assign observers without regard to any preference by representatives of vessels and shorebased facilities for or against any classification of observers based on race, gender, age or religion;~~

c. ~~In this section --~~

1. ~~A direct [financial or personal] interest] is defined as payment or compensation received directly from the owner or operator of the vessel or shorebased facility being observed that results from a property interest or business relationship in that vessel or shorebased facility means any source of income to, or capital investment or other. A personal interest is defined as an interest or involvement held by, the contractor or observer, or the contractor's or observer's, an individual, partnership, or corporation or an individual's spouse, immediate family member or parent from which the contractor or observer, or the contractor's or observer's immediate family or parent, receives a benefit;~~

2. ~~"observed fishery" means the fishery for groundfish (as that term is defined at 50 C.F.R. §§ 672.2 and 675.2) in waters of Alaska and the exclusive economic zone off Alaska, and any other fishery managed by the North Pacific Fisheries Management Council;~~

8.0 CONSISTENCY WITH OTHER APPLICABLE LAW

8.1 Effects of Endangered Species and Marine Mammals

None of the alternatives would constitute actions that would effect endangered species or their habitat within the meaning of regulations implementing Section 7 of the Endangered Species Act of 1973. Thus, consultation procedures under Section 7 on the final actions and their alternatives will not be necessary. None of the alternatives is expected to have effects on marine mammals occurring in the waters off Alaska.

8.2 Coastal Zone Management Act

Each of the alternatives would be conducted in a manner consistent, to the maximum extent practicable, with the Alaska Coastal Management Program within the meaning of Section 307(c)(1) of the Coastal Zone Management Act of 1972 and its implementing regulations.

8.3 Executive Order 12291

Executive Order 12291 requires that the following three issues be considered:

- (a) Will the proposed changes have an annual effect on the economy of \$100 million or more?
- (b) Will the proposed changes lead to an increase in the costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions?
- (c) Will the proposed changes have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign enterprises in domestic or export markets?

Regulations do commonly impose costs and cause redistribution of costs and benefits. If the proposed regulations are implemented to the extent anticipated, these costs are not expected to be significant relative to total operational costs.

The proposed changes to the Observer Plan will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S. based enterprises to compete with foreign enterprises in domestic and export markets. The proposed changes should not lead to a substantial increase in the price paid by consumers, local governments, or geographic regions since no significant quantity changes are expected in the seafood markets resulting from implementation of the above alternatives.

8.4 Regulatory Flexibility Act

The Regulatory Flexibility Act requires that impacts of regulatory measures imposed on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions with limited resources) be examined to determine whether a substantial number of small entities will be significantly impacted by the proposed measures. Fishing vessels are considered to be small businesses, and processors may fit into this category as well. More than 2,000 vessels may fish for groundfish off Alaska in 1992 and beyond. While these numbers of vessels are considered substantial, the regulatory measures are designed to result in only insignificant impacts.

8.5 Finding of No Significant Impacts

For the reasons discussed above, neither implementation of the status quo nor any of the alternatives would significantly affect the quality of the human environment, and the preparation of an environmental impact statement on the final action is not required by Section 102(2)(c) of the National Environmental Policy Act or its implementing regulations.

Assistant Administrator for Fisheries

Date

APPENDIX 1

**Analysis of Observer Coverage levels for
Bering Sea and Gulf of Alaska Pot Fisheries**




UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Alaska Fisheries Science Center
Resource Ecology and Fisheries Management Division
7600 Sand Point Way Northeast
Bin C15700, Building 4
Seattle, Washington 98115-0070

September 8, 1992 F/AKC2:MWD

MEMORANDUM FOR: Russ Nelson

FROM: Martin Dorn 

SUBJECT: Analysis of observer coverage levels for
Bering Sea and Gulf of Alaska pot fisheries

Ren Narita and I have put together an analysis of Bering Sea and Gulf of Alaska pot fisheries using the procedures described in the document "An evaluation of observer coverage levels in Alaska groundfish fisheries," submitted to the North Pacific Fishery Management Council in April 1992. Although the analytical methods in that paper were developed for examining observer coverage levels in trawl fisheries, by treating the sample data from a set of pots as analogous to the data from a sampled groundfish haul, the same methods can be used with pot fisheries. The attached figures and tables describe the effect of changes in the percent observer coverage on confidence intervals for the species composition of the catch for a simulated fishery using weekly blocks of observer data by vessel.

A. Bering Sea pot fishery.

1. Data set.

The data set used in the analysis was 84 observer vessel-weeks (primary sampling units) during weeks 26-50 of 1991. The total reported catch during this period for these vessels was 4,281.49 mt. 66.4 percent of all sets made during this period were sampled (1111 out of 1672). For unsampled sets the average number of pots per set was 23.3, while sampled sets averaged 27.4 pots per set.

2. Results.

Estimates of the total catch, and species composition for pollock, Pacific cod, the red rockfish species group, halibut, tanner crab, and king crab were investigated (Table 1, Figures 1-7).

The total estimated catch is based on expansions using the ratio of total sets to sampled sets within a vessel week and the ratio of total vessel-weeks to sampled vessel-weeks. Although the reported total catch is below the 90 percent confidence interval at 95 and 100 percent observer



coverage (Figure 1), this is not necessarily evidence of underlogging the catch of unsampled sets, since average number of pots per set is higher in the sampled sets.

The proportion of Pacific cod is high (94 percent) and is estimated with relatively high precision even at low levels of observer coverage. The other species examined were much rarer in the catch, and were not estimated with as much precision. At 30 percent observer coverage the average CV (coefficient of variation), excluding Pacific Cod was 0.51. King Crab had the highest CV (0.801), and pollock had the lowest (0.354).

B. Gulf of Alaska pot fishery.

1. Data set.

The data set used in the analysis was 84 observer vessel-weeks during weeks 2-16 of 1991 and 5-13 of 1992. The total reported catch during this period for these vessels was 1608.21 mt. 66.6 percent of the sets were sampled (989 out of 1484). For unsampled sets the average number of pots per set was 16.9, while sampled sets averaged 21.1 pots per set.

2. Results.

Estimates of the total catch, and species composition for pollock, Pacific cod, pelagic shelf rockfish, halibut, tanner crab, and king crab were investigated (Table 2, Figures 8-14). At 30 percent observer coverage the average CV, excluding Pacific Cod was 0.42. King Crab again had the highest CV (0.921), and tanner crab had the lowest (0.246). The estimates of species composition show the same general characteristic as the Bering Sea data: precise estimates of species composition for Pacific cod at all levels of observer coverage, but for the relatively rare and irregularly distributed bycatch species and nontarget allocated species the estimates of species composition were relatively imprecise. Reductions can be made in error levels by increasing the level of observer coverage, but increases in precision have to weighed against the cost of achieving that precision.

Table 1. Species composition and bootstrap estimates of 90 percent confidence intervals for the Bering Sea pot fishery for different levels of observer coverage. The coefficient of variation is the standard deviation divided by estimate. The percent error of the 90% confidence interval is calculated by $1/2(90\% \text{ upper } b. - 90\% \text{ lower } b.) / (\text{est.prop.}) \times 100$.

A. Pollock (proportion by weight)

Percent of vessels	Estimate	Bootstrap mean	CV	90% CI Lower	90% CI Upper	Pcnt. error
10	0.00042	0.00045	0.758	0.00003	0.00098	114.5
20	0.00025	0.00026	0.515	0.00009	0.00051	82.4
30	0.00031	0.00032	0.354	0.00016	0.00052	58.4
40	0.00019	0.00019	0.328	0.00010	0.00030	53.0
50	0.00010	0.00010	0.296	0.00005	0.00015	47.4
60	0.00012	0.00012	0.239	0.00008	0.00018	39.9
70	0.00021	0.00021	0.191	0.00015	0.00028	31.1
80	0.00021	0.00021	0.149	0.00016	0.00026	24.1
90	0.00017	0.00017	0.127	0.00014	0.00021	20.5
100	0.00018	0.00018	0.075	0.00016	0.00020	12.2

B. Pacific cod (proportion by weight)

Percent of vessels	Estimate	Bootstrap mean	CV	90% CI Lower	90% CI Upper	Pcnt. error
10	0.950	0.949	0.020	0.912	0.974	3.2
20	0.923	0.921	0.023	0.881	0.949	3.7
30	0.919	0.919	0.016	0.893	0.942	2.7
40	0.951	0.943	0.011	0.925	0.959	1.7
50	0.939	0.933	0.007	0.921	0.943	1.1
60	0.952	0.946	0.005	0.938	0.953	0.8
70	0.936	0.936	0.005	0.928	0.943	0.8
80	0.932	0.932	0.004	0.926	0.937	0.6
90	0.941	0.936	0.004	0.929	0.942	0.7
100	0.942	0.937	0.005	0.929	0.944	0.8

C. Red rockfish (proportion by weight)

Percent of vessels	Estimate	Bootstrap mean	CV	Lower	90% CI Upper	Pcnt. error
10	0.00005	0.00005	0.634	0.00001	0.00010	103.2
20	0.00019	0.00020	0.617	0.00005	0.00043	99.6
30	0.00010	0.00010	0.462	0.00004	0.00018	74.7
40	0.00012	0.00012	0.422	0.00005	0.00021	68.2
50	0.00008	0.00008	0.277	0.00005	0.00012	44.7
60	0.00013	0.00013	0.249	0.00008	0.00019	40.3
70	0.00009	0.00009	0.224	0.00006	0.00012	37.1
80	0.00014	0.00014	0.172	0.00010	0.00018	28.2
90	0.00014	0.00014	0.148	0.00011	0.00018	24.6
100	0.00014	0.00014	0.112	0.00011	0.00016	18.2

D. Halibut (kg per metric ton of groundfish catch)

Percent of vessels	Estimate	Bootstrap mean	CV	Lower	90% CI Upper	Pcnt. error
10	11.1	11.4	0.559	4.0	22.9	85.8
20	3.6	3.7	0.307	2.1	5.8	50.5
30	10.9	10.9	0.451	4.6	20.2	71.4
40	7.8	7.8	0.342	4.1	12.8	55.9
50	10.8	10.9	0.256	6.6	15.8	42.4
60	10.9	10.8	0.194	7.6	14.4	31.4
70	10.4	10.4	0.166	7.7	13.4	27.3
80	10.3	10.3	0.124	8.4	12.4	19.6
90	9.2	9.2	0.095	7.7	10.6	15.6
100	8.7	8.7	0.034	8.2	9.2	5.6

E. King crab (all species) (numbers per ton of groundfish catch)

Percent of vessels	Estimate	Bootstrap mean	CV	Lower	90% CI Upper	Pcnt. error
10	0.00	0.00	---	0.00	0.00	---
20	5.02	5.26	0.788	0.71	12.52	117.7
30	2.71	2.80	0.801	0.39	6.92	120.5
40	2.17	2.20	0.699	0.51	5.21	108.3
50	1.95	1.95	0.512	0.73	3.96	82.6
60	0.20	0.20	0.591	0.07	0.42	86.6
70	1.40	1.40	0.408	0.70	2.45	62.3
80	1.32	1.31	0.331	0.77	2.17	53.0
90	1.16	1.15	0.271	0.78	1.74	41.6
100	1.12	1.12	0.146	0.85	1.39	24.1

F. Tanner crab (all species) (numbers per ton of groundfish catch)

Percent of vessels	Estimate	Bootstrap mean	CV	Lower	90% CI Upper	Pcnt. error
10	11.5	12.3	0.930	0.7	32.2	136.3
20	29.8	31.8	0.562	9.5	62.3	88.6
30	24.9	25.6	0.482	8.7	47.7	78.4
40	18.5	18.8	0.367	9.3	30.7	57.9
50	9.4	9.3	0.348	4.7	15.6	57.7
60	13.3	13.3	0.311	7.3	20.8	50.7
70	10.7	10.8	0.234	7.1	15.0	36.8
80	11.6	11.7	0.164	8.8	15.0	27.0
90	13.5	13.4	0.131	10.9	16.7	21.4
100	12.9	12.8	0.060	11.6	14.1	9.7

Table 2. Species composition and bootstrap estimates of 90 percent confidence intervals for the Gulf of Alaska pot fishery for different levels of observer coverage. The coefficient of variation is the standard deviation divided by estimate. The percent error of the 90% confidence interval is calculated by $1/2(90\% \text{ upper } b. - 90\% \text{ lower } b.)/(est.prop.) \times 100$.

A. Pollock (proportion by weight)

Percent of vessels	Estimate	Bootstrap mean	CV	90% CI Lower	90% CI Upper	Pcnt. error
10	0.0017	0.0018	0.714	0.0003	0.0041	111.8
20	0.0003	0.0003	0.375	0.0001	0.0005	61.3
30	0.0006	0.0006	0.264	0.0004	0.0009	43.0
40	0.0026	0.0026	0.554	0.0010	0.0053	84.0
50	0.0006	0.0006	0.166	0.0005	0.0008	27.3
60	0.0025	0.0025	0.358	0.0013	0.0042	58.1
70	0.0018	0.0019	0.342	0.0011	0.0030	52.6
80	0.0013	0.0013	0.311	0.0008	0.0021	48.1
90	0.0017	0.0017	0.161	0.0013	0.0021	25.8
100	0.0016	0.0015	0.044	0.0014	0.0017	7.3

B. Pacific cod (proportion by weight)

Percent of vessels	Estimate	Bootstrap mean	CV	90% CI Lower	90% CI Upper	Pcnt. error
10	0.940	0.939	0.011	0.920	0.954	1.8
20	0.944	0.945	0.010	0.930	0.961	1.6
30	0.939	0.939	0.011	0.921	0.956	1.8
40	0.949	0.949	0.007	0.938	0.959	1.1
50	0.955	0.955	0.004	0.948	0.961	0.7
60	0.949	0.949	0.004	0.943	0.955	0.6
70	0.952	0.952	0.003	0.947	0.957	0.5
80	0.949	0.949	0.003	0.945	0.954	0.5
90	0.950	0.950	0.002	0.947	0.953	0.3
100	0.949	0.949	0.001	0.947	0.950	0.2

C. Pelagic shelf rockfish (proportion by weight)

Percent of vessels	Estimate	Bootstrap mean	CV	Lower	90% CI Upper	Pcnt. error
10	0.00003	0.00003	0.609	0.00001	0.00007	96.7
20	0.00006	0.00006	0.543	0.00001	0.00011	90.3
30	0.00009	0.00010	0.394	0.00004	0.00016	64.1
40	0.00011	0.00011	0.318	0.00006	0.00017	50.9
50	0.00010	0.00010	0.232	0.00007	0.00014	37.1
60	0.00010	0.00010	0.240	0.00006	0.00014	39.1
70	0.00009	0.00009	0.192	0.00006	0.00012	31.4
80	0.00009	0.00009	0.173	0.00007	0.00011	27.7
90	0.00009	0.00009	0.146	0.00007	0.00011	23.3
100	0.00009	0.00008	0.112	0.00007	0.00010	17.6

D. Halibut (kg per metric ton of groundfish catch)

Percent of vessels	Estimate	Bootstrap mean	CV	Lower	90% CI Upper	Pcnt. error
10	8.24	8.04	0.374	2.99	13.07	61.2
20	6.72	6.63	0.366	3.26	11.05	58.0
30	5.03	4.92	0.291	2.78	7.54	47.3
40	3.43	3.44	0.165	2.51	4.40	27.5
50	4.63	4.63	0.230	3.17	6.61	37.1
60	3.59	3.60	0.156	2.81	4.60	25.0
70	3.70	3.70	0.119	3.04	4.45	19.1
80	5.45	5.42	0.104	4.55	6.47	17.7
90	4.12	4.12	0.076	3.66	4.67	12.3
100	4.88	4.87	0.057	4.42	5.35	9.5

E. King crab (all species) (numbers per ton of groundfish catch)

Percent of vessels	Estimate	Bootstrap mean	CV	Lower	90% CI Upper	Pcnt. error
10	0.0000	0.0000	---	0.0000	0.0000	---
20	0.0044	0.0044	0.912	0.0003	0.0118	131.1
30	0.0027	0.0027	0.921	0.0003	0.0077	136.4
40	0.0000	0.0000	---	0.0000	0.0000	---
50	0.0102	0.0100	0.414	0.0038	0.0179	68.9
60	0.0000	0.0000	---	0.0000	0.0000	---
70	0.0076	0.0077	0.360	0.0038	0.0129	59.3
80	0.0031	0.0030	0.365	0.0016	0.0052	58.5
90	0.0053	0.0054	0.249	0.0035	0.0078	40.6
100	0.0048	0.0048	0.157	0.0036	0.0061	26.2

F. Tanner crab (all species) (numbers per ton of groundfish catch)

Percent of vessels	Estimate	Bootstrap mean	CV	Lower	90% CI Upper	Pcnt. error
10	5.25	5.68	0.568	1.84	11.53	92.3
20	1.63	1.67	0.325	0.90	2.60	52.5
30	2.72	2.77	0.246	1.76	3.97	40.6
40	1.49	1.50	0.175	1.09	1.95	28.8
50	2.67	2.68	0.215	1.88	3.70	34.2
60	3.10	3.11	0.226	2.14	4.45	37.2
70	2.68	2.68	0.141	2.14	3.38	23.1
80	2.23	2.24	0.114	1.89	2.69	18.0
90	2.76	2.76	0.105	2.37	3.29	16.6
100	2.60	2.59	0.067	2.31	2.87	10.8

Total catch, Bering Sea pot fishery

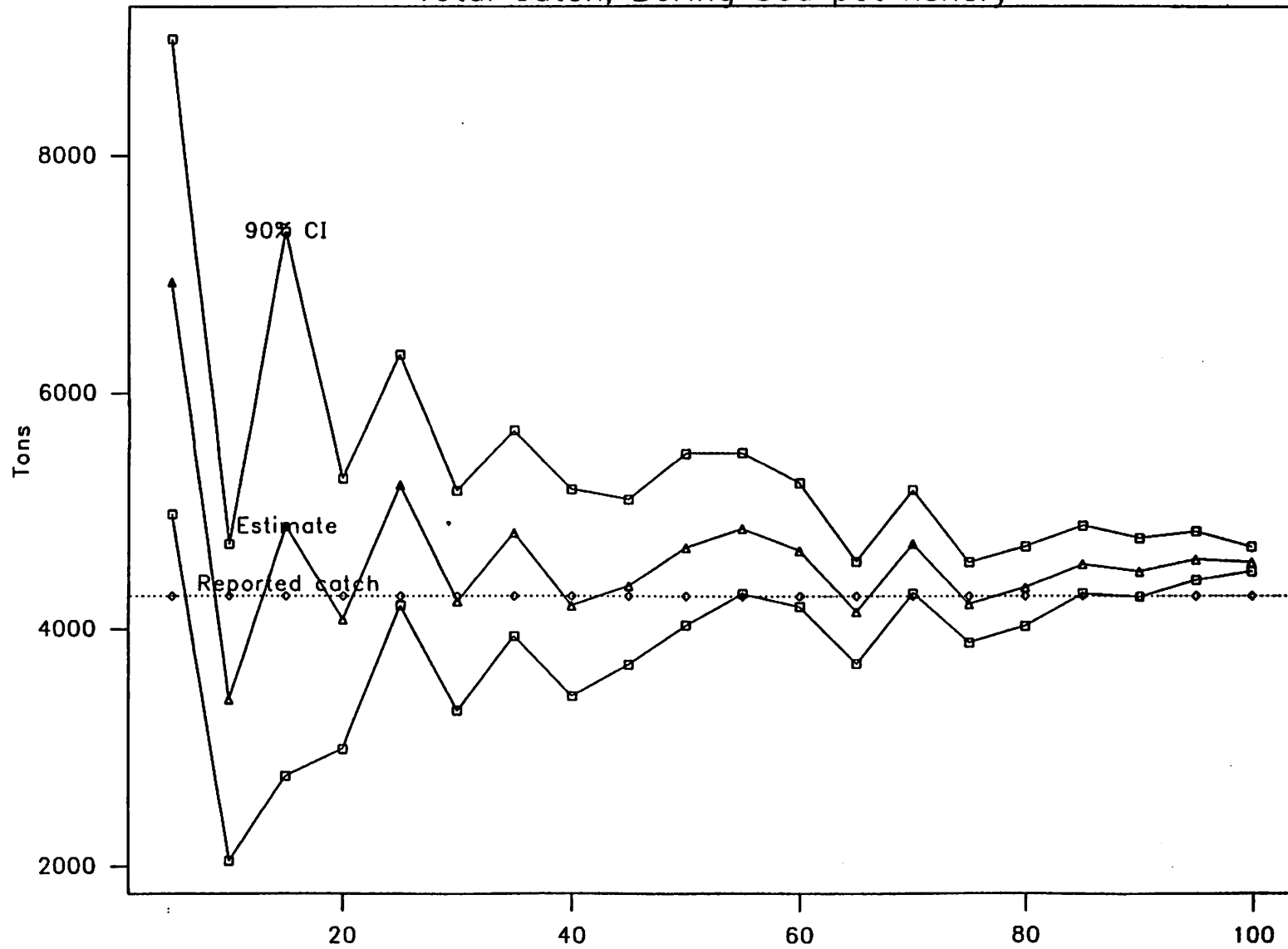


Figure 1

Percent observer coverage

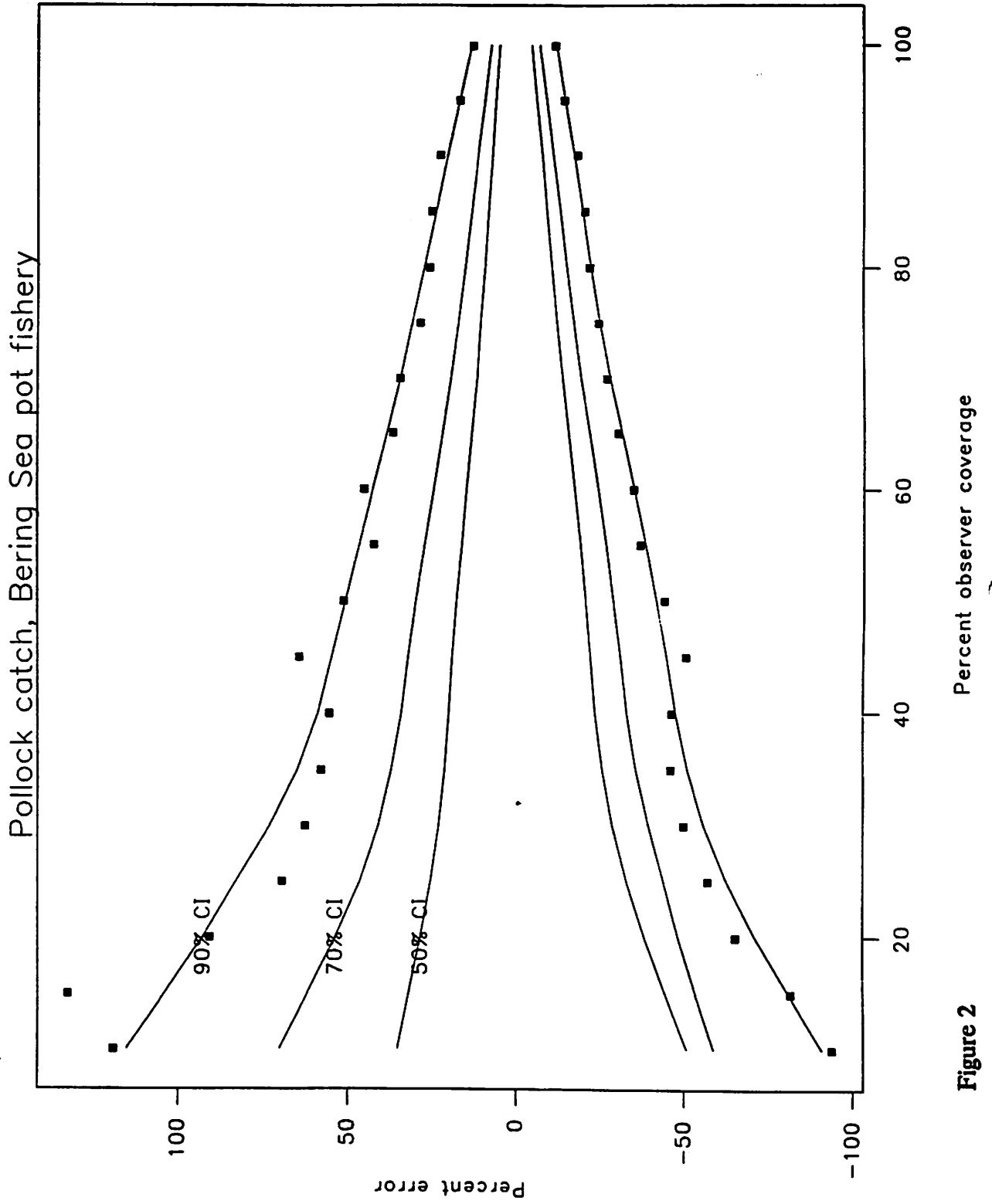


Figure 2

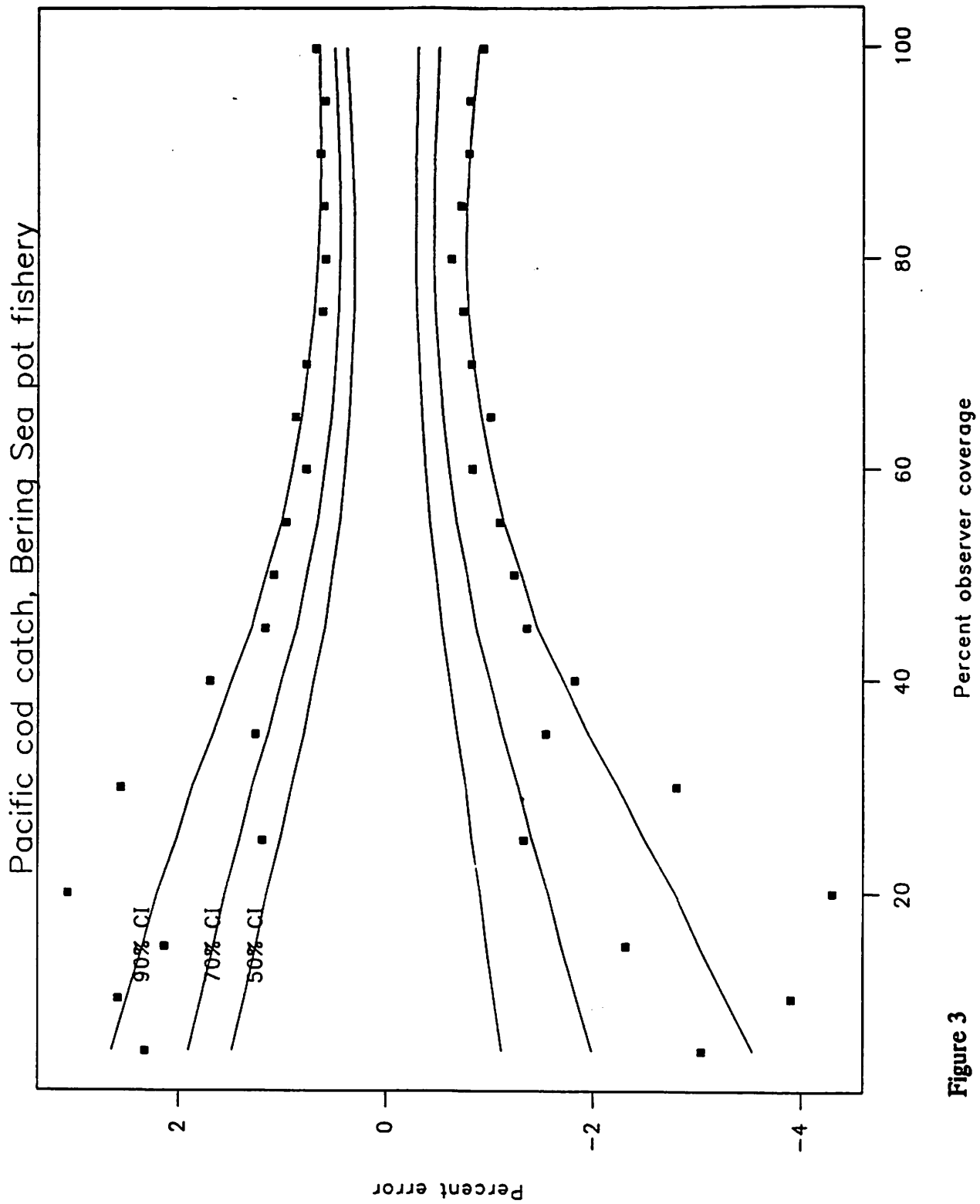


Figure 3

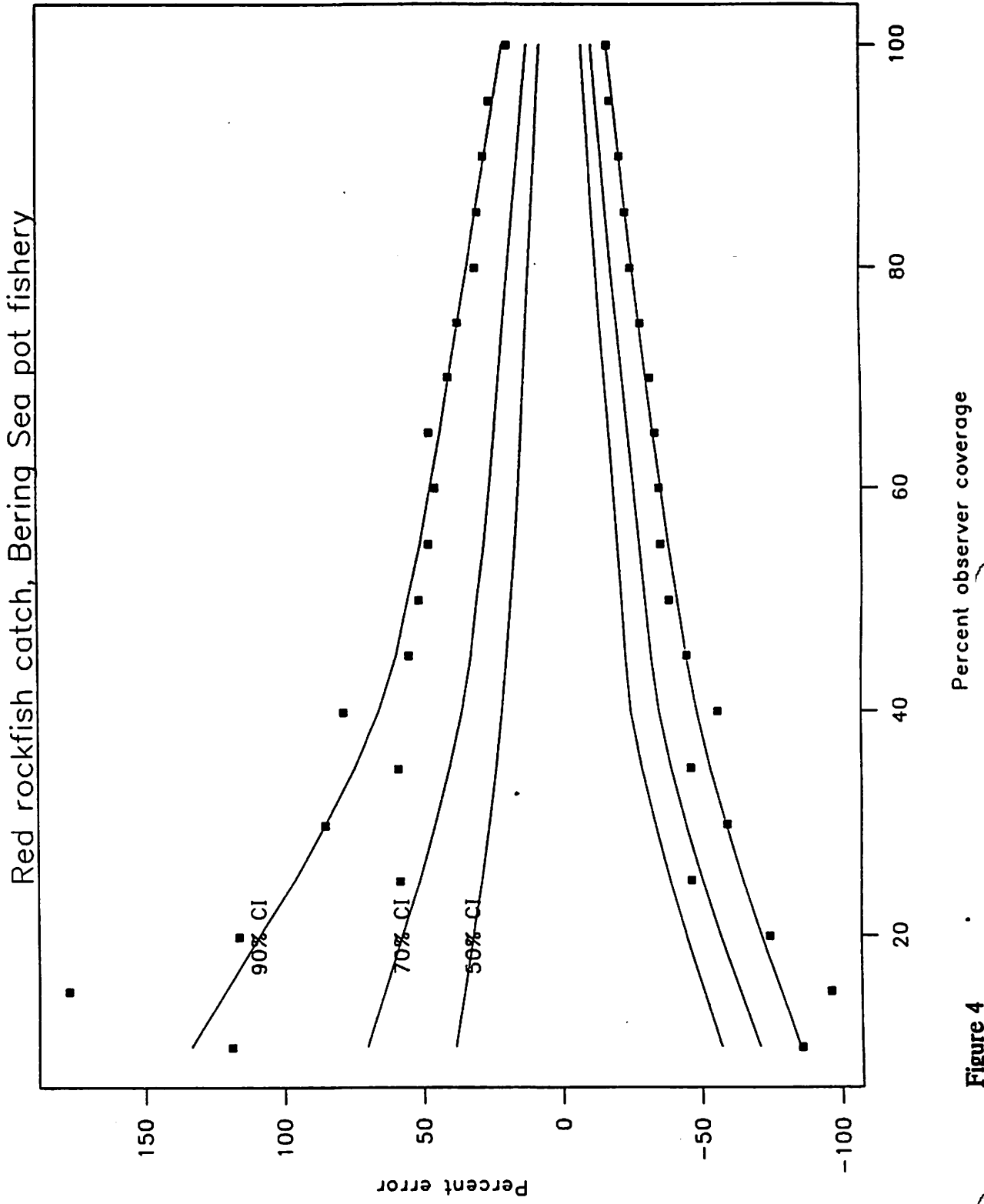


Figure 4

Percent observer coverage

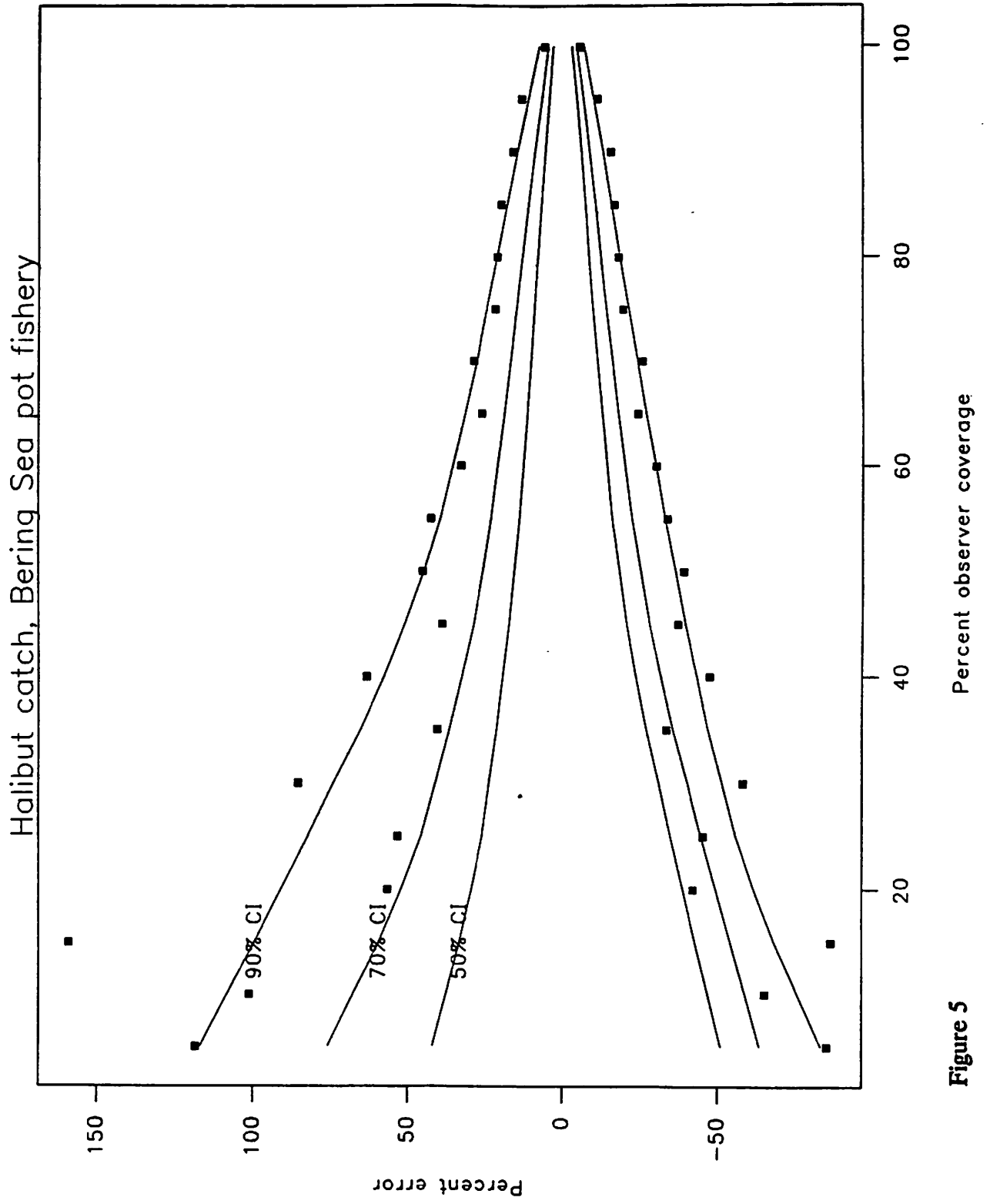


Figure 5

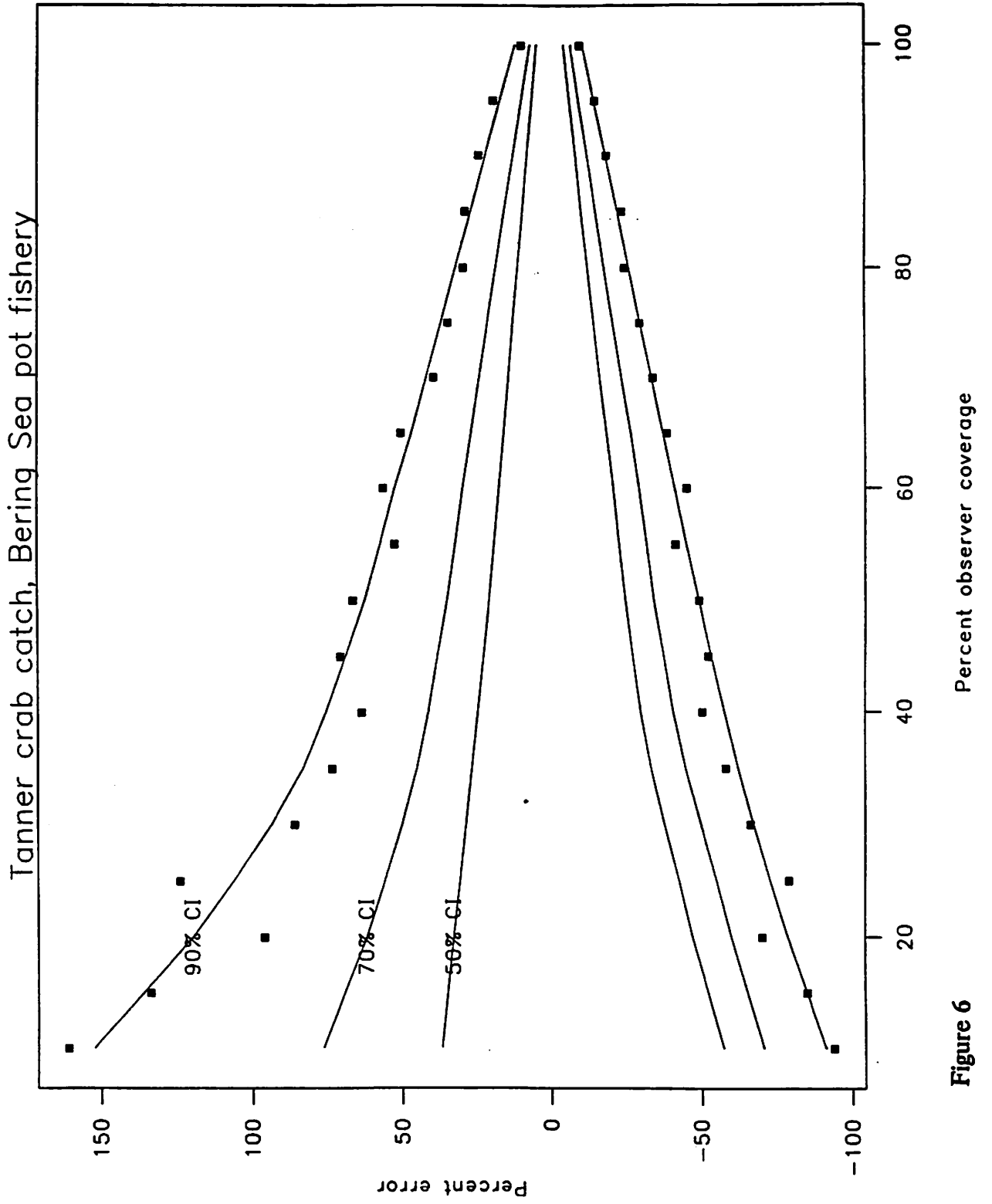


Figure 6

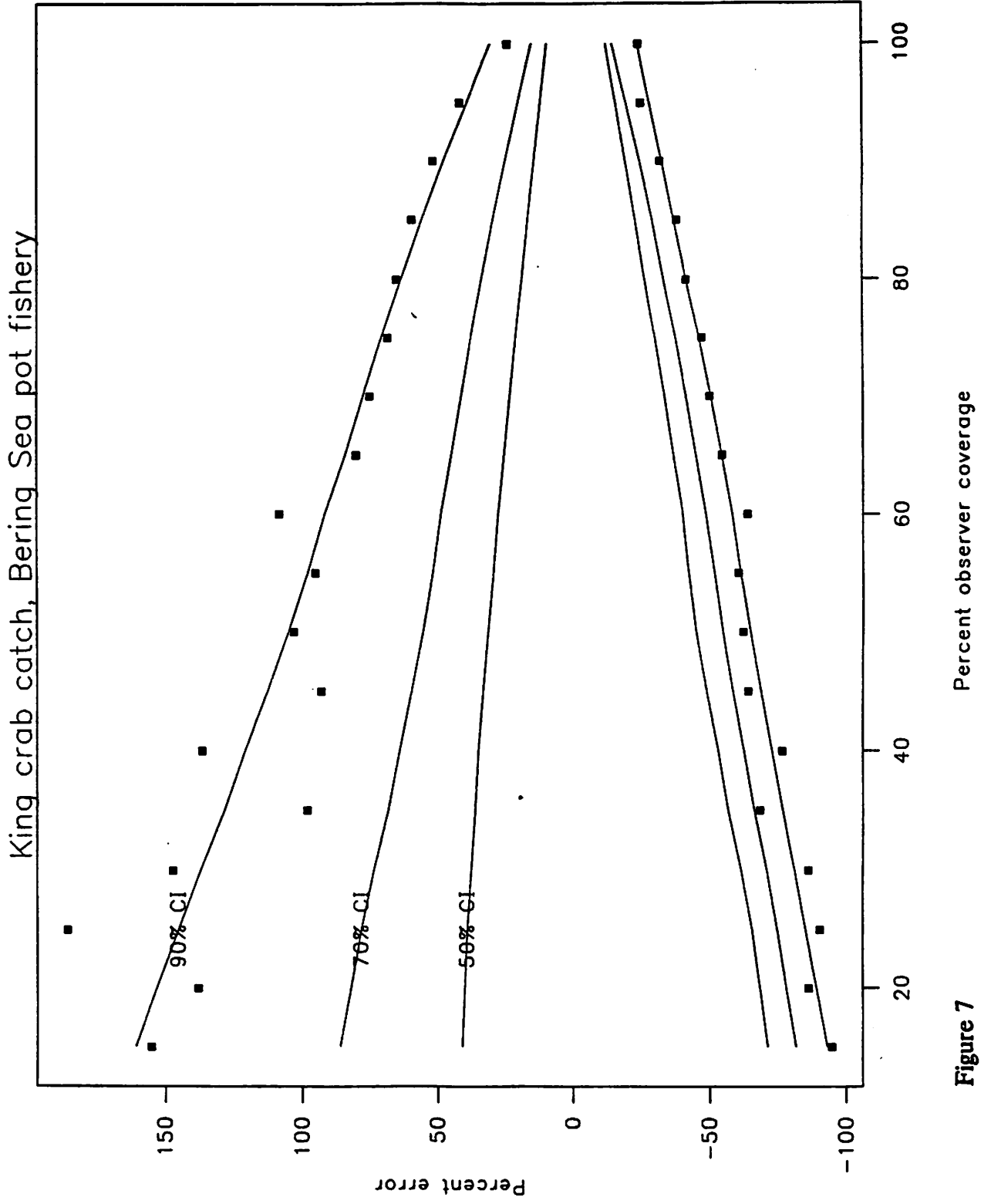


Figure 7

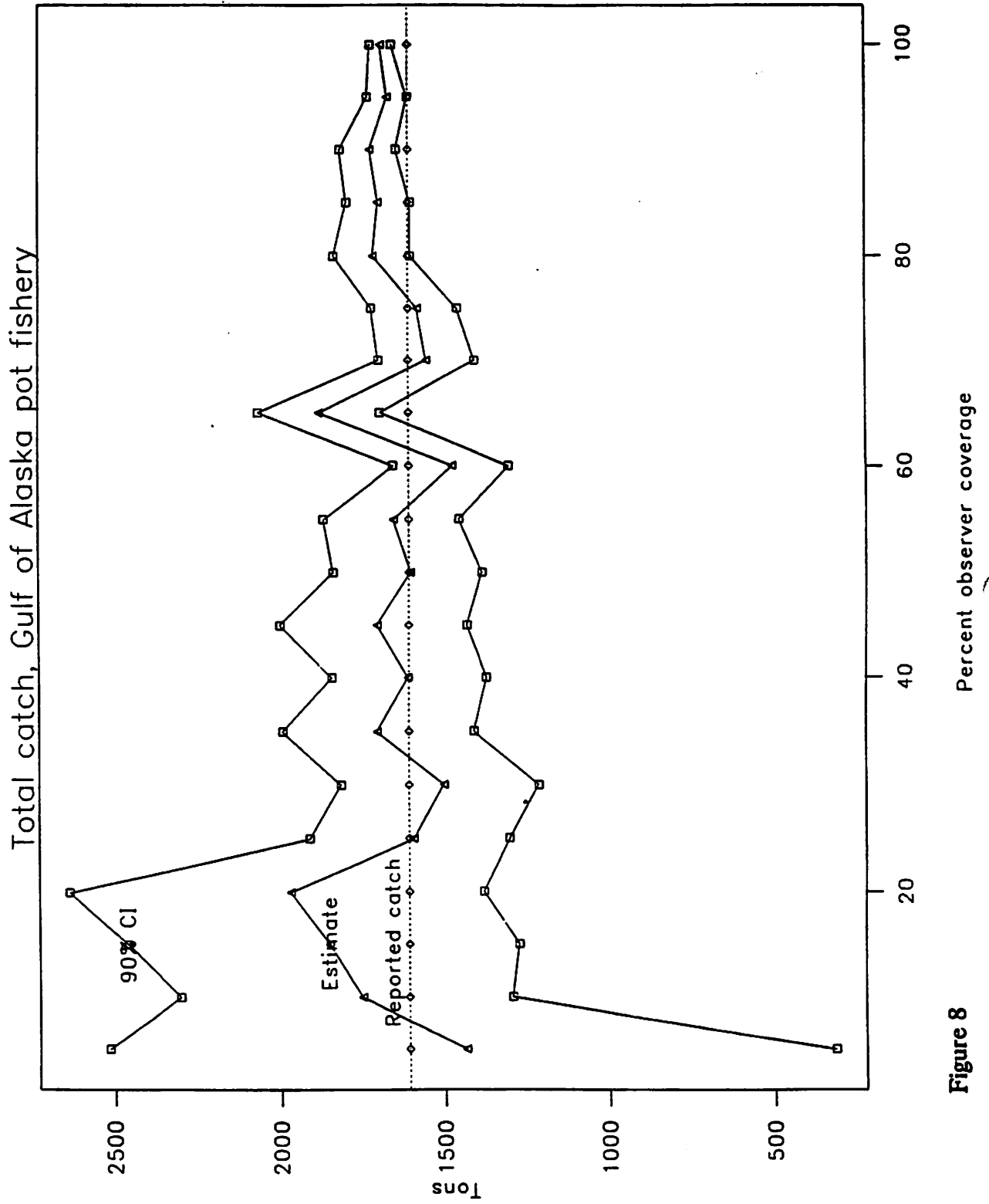


Figure 8

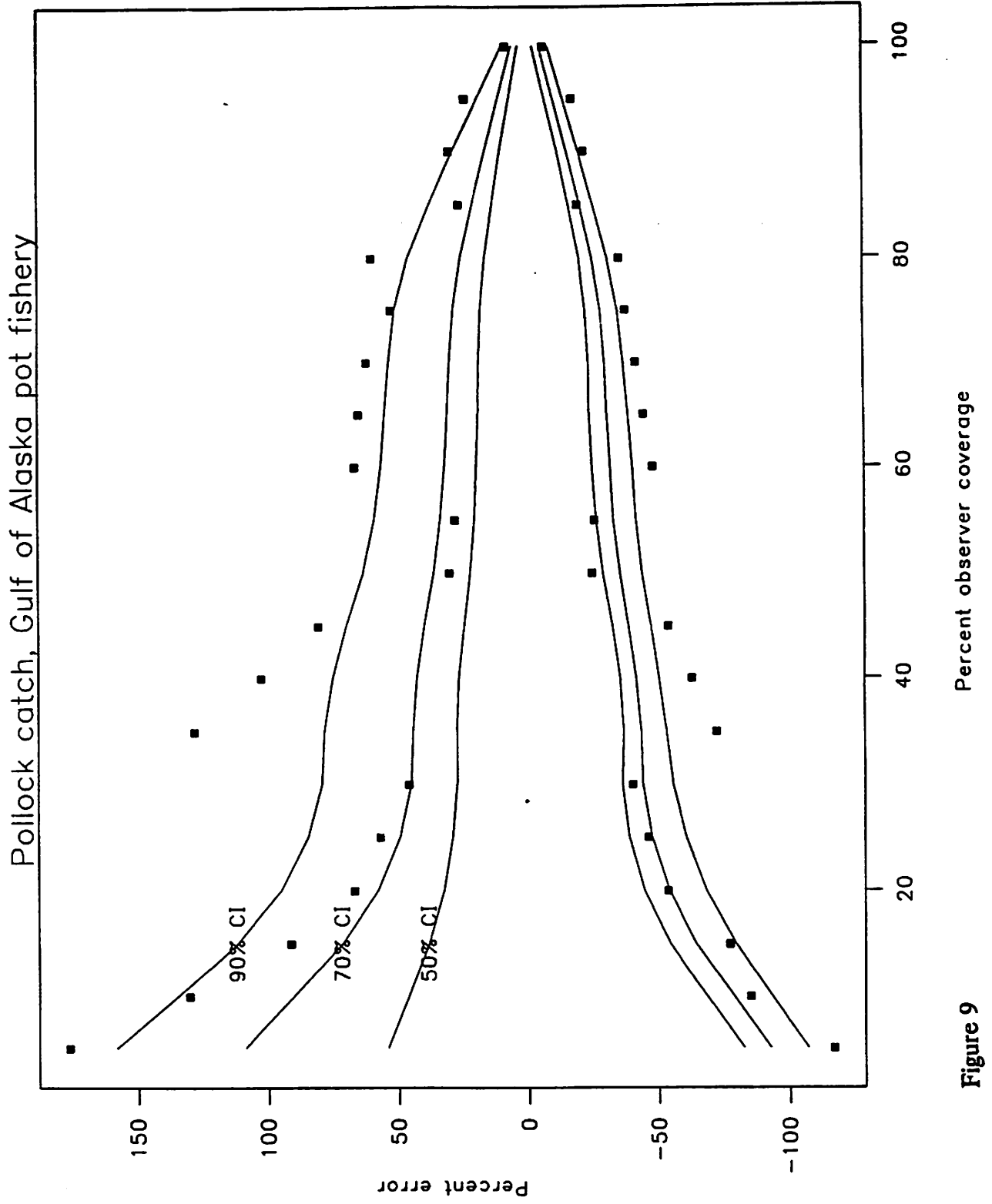


Figure 9

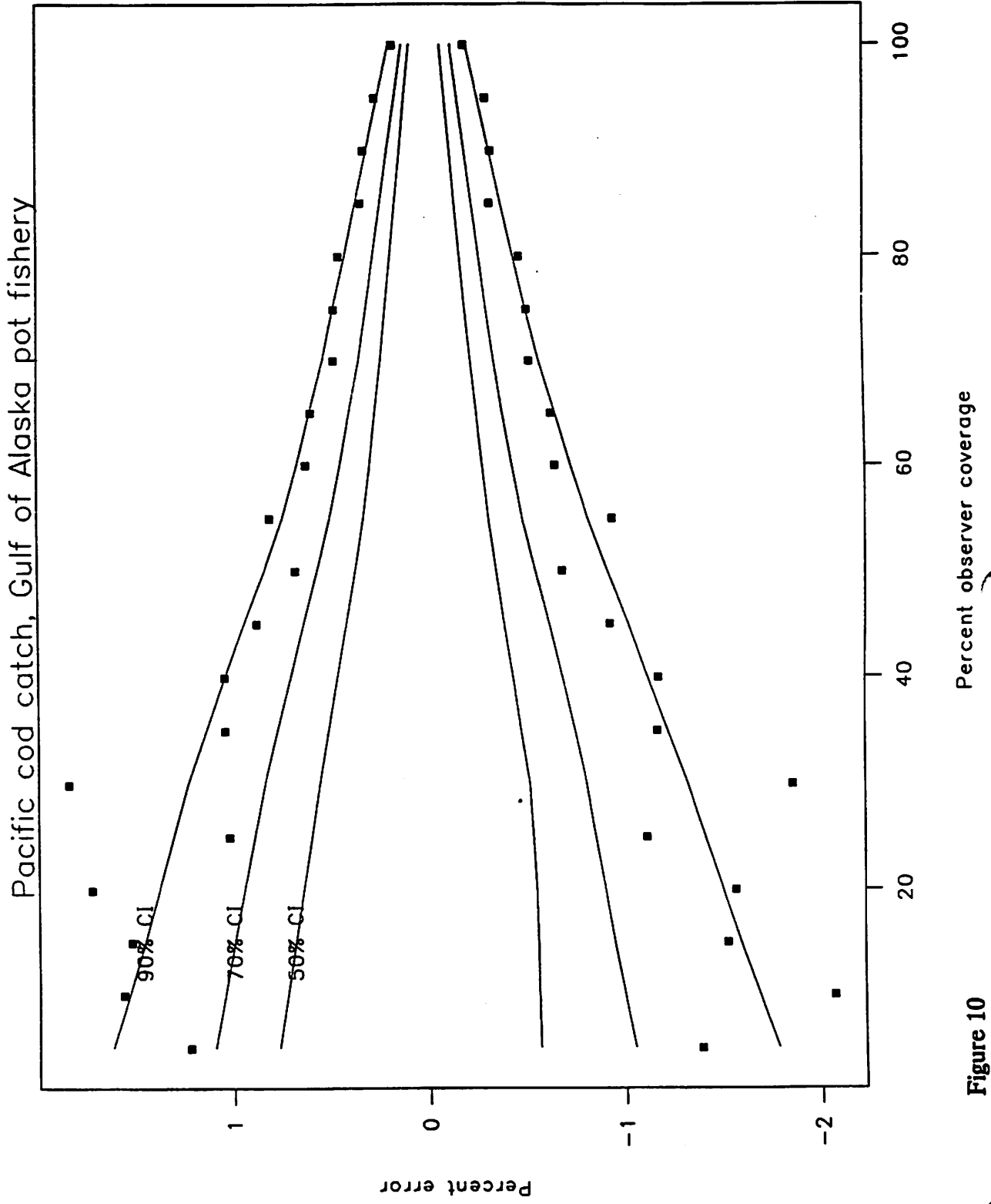


Figure 10

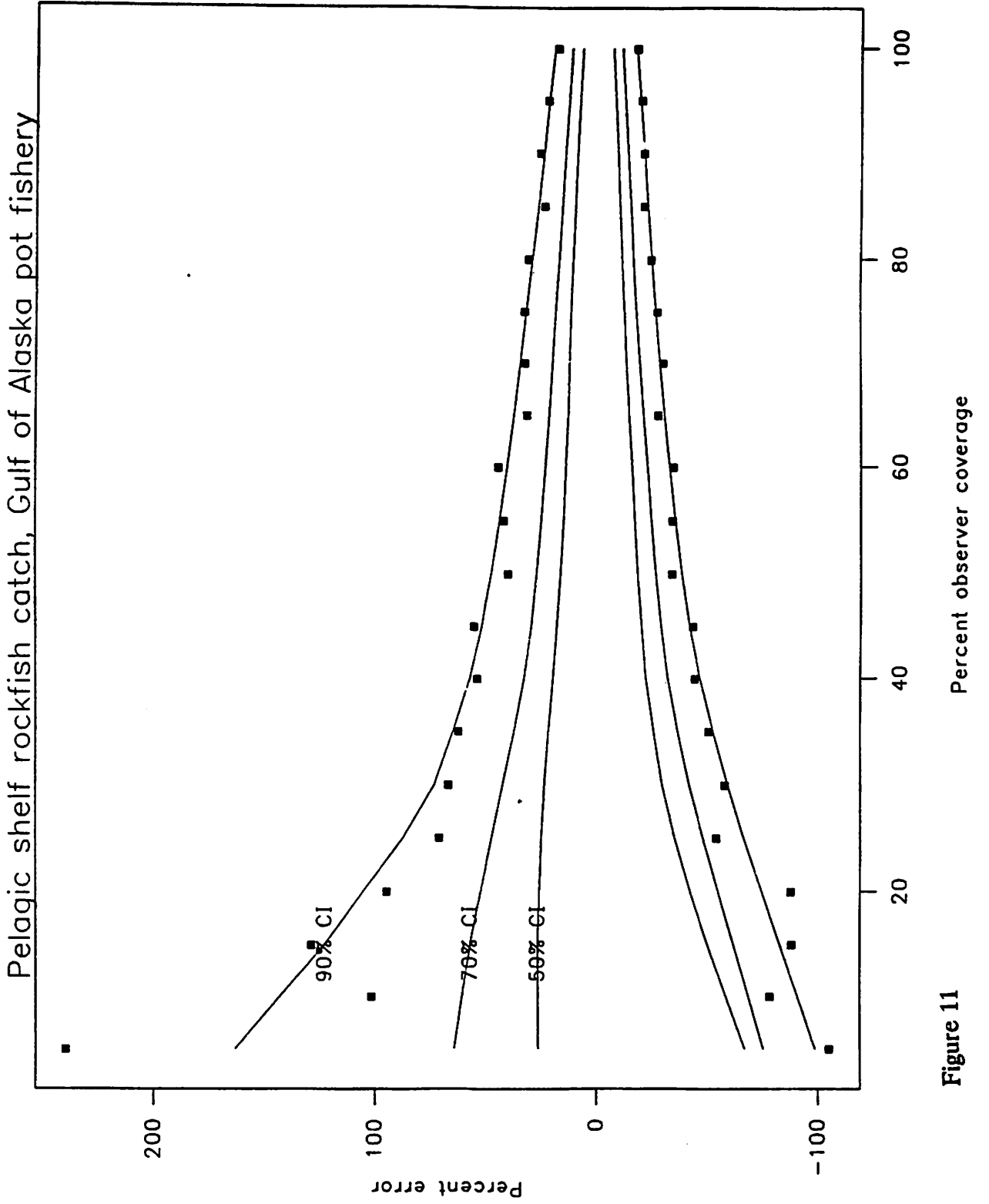


Figure 11

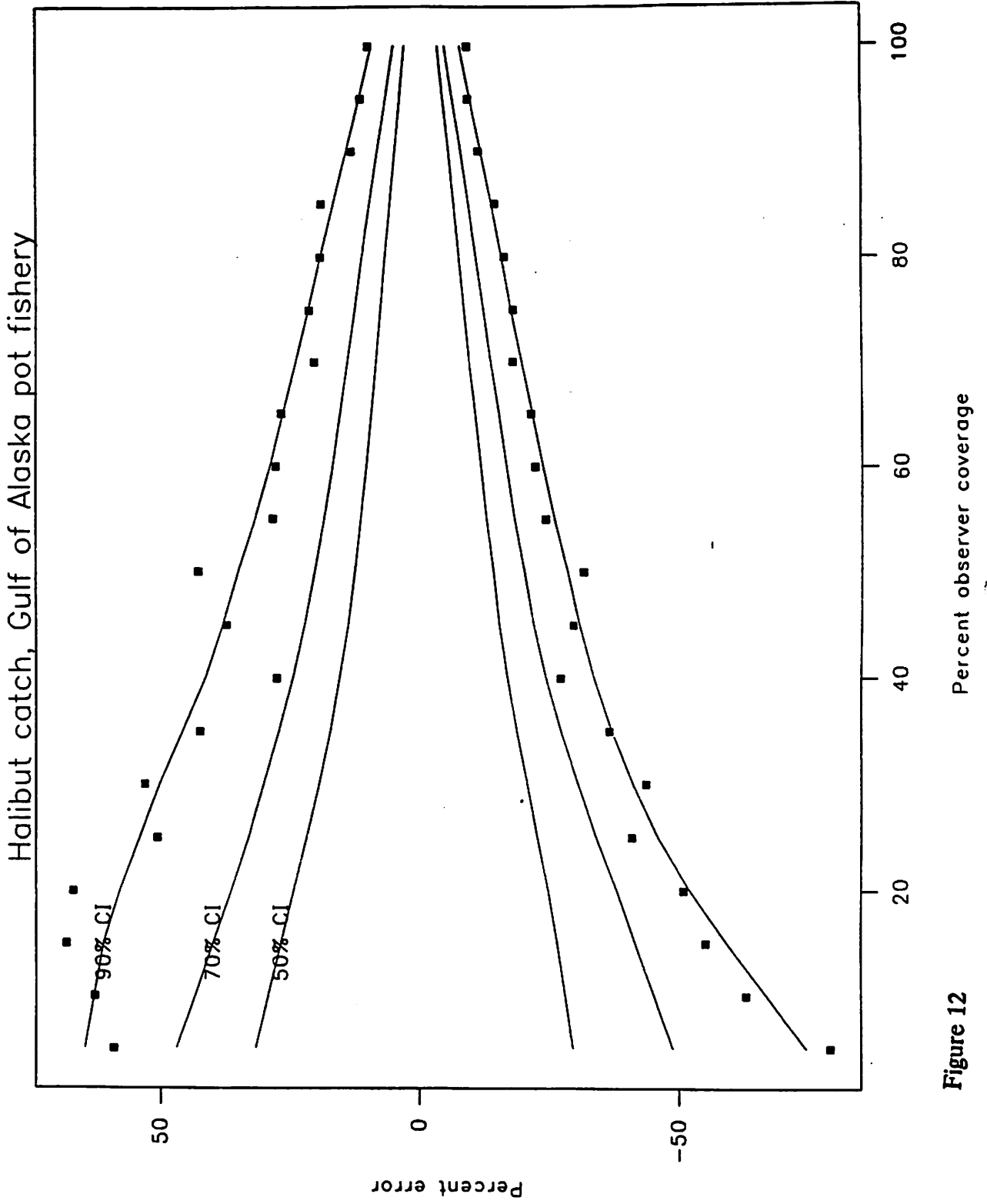


Figure 12

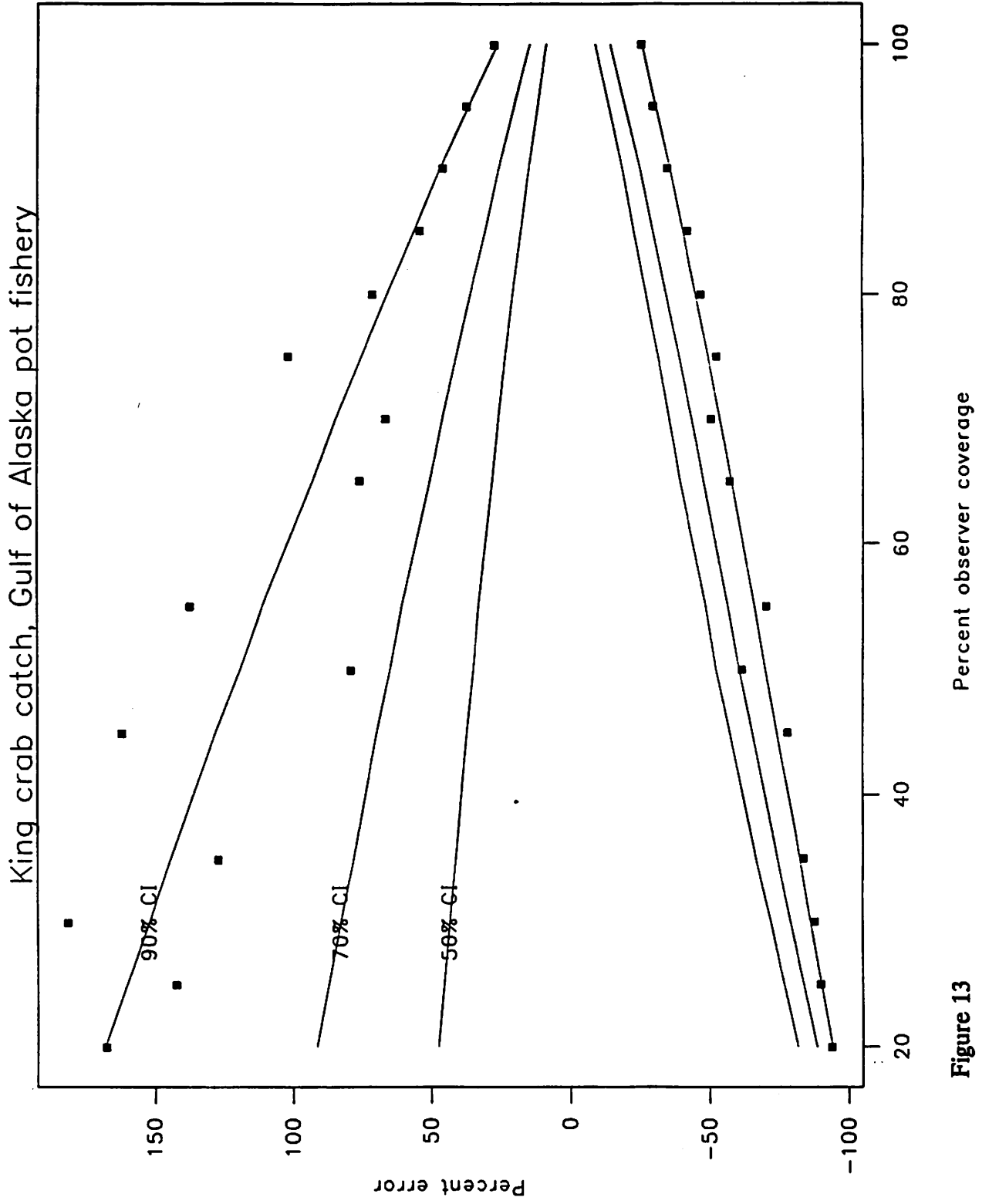


Figure 13

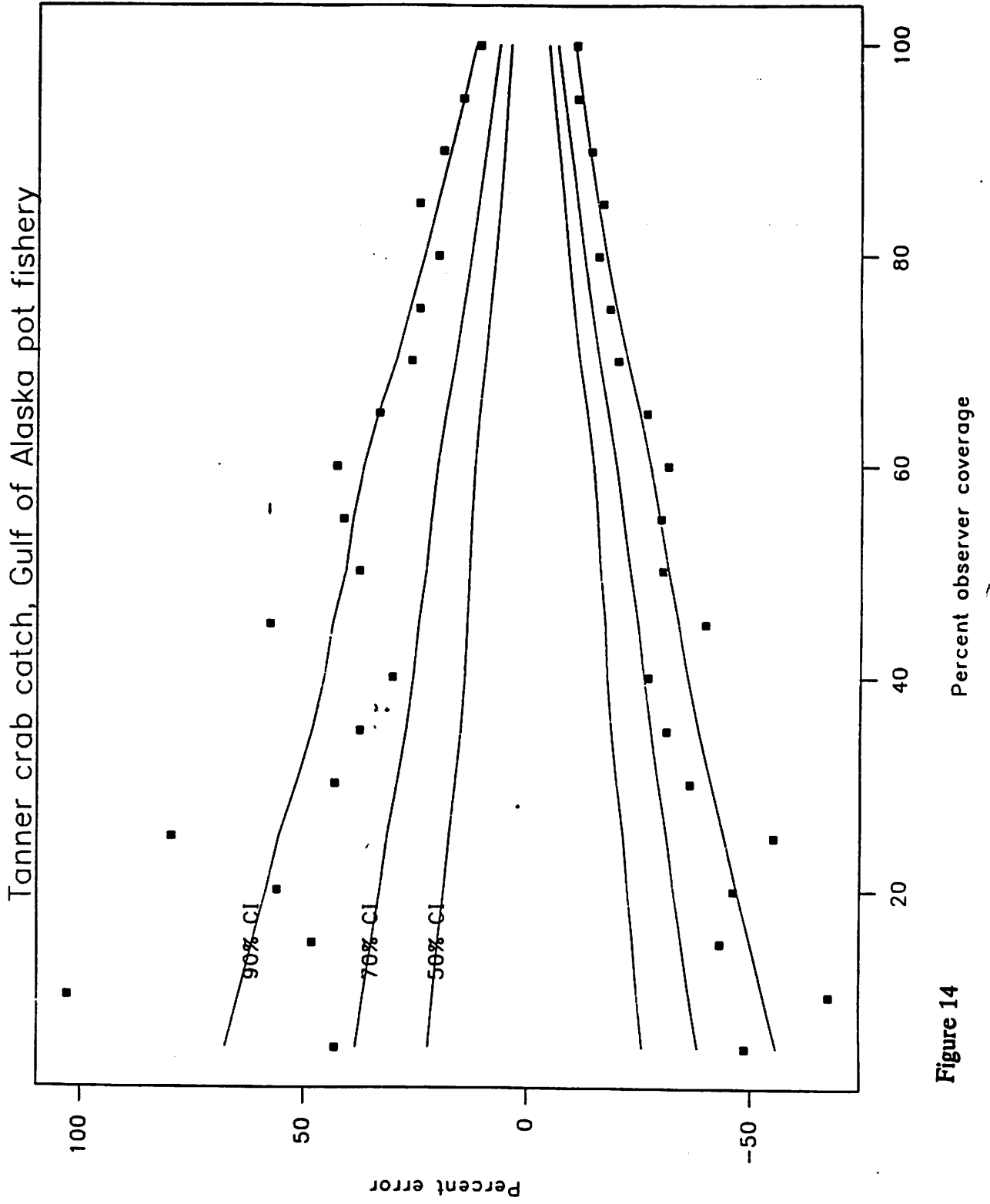


Figure 14

Oct. 11. 1989

Petersburg Vessel Owners Association

P.O. Box 232
Petersburg, Alaska 99833
Phone (907) 772-9323 Voice and Fax

September 20, 1992

Mr. Rick Lauber, Chairman
North Pacific Fishery Management Council
P.O. Box 103136
Anchorage, Alaska 99501

Dear Rick,

It has come to our attention that the Observer Oversight Committee will be recommending to the Council that the minimum length for vessels required to have 30% coverage be lowered to 57 feet.

We realize that 57 to 60 foot vessels harvest a significant amount of groundfish and that in some areas (particularly Southeast Outside) there is a real lack of observer data. However, we have some serious concerns with lowering the size requirements.

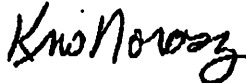
Vessels 57 to 60 feet vary greatly in their beam and configuration. While some modern built 58 foot vessels have quite adequate berth and deck space, we also have in our fleet some older wood vessels which are the same length, but are very narrow in comparison. As a result, their ability to accommodate an observer is not the same. Some of these vessels already have crew persons sleeping without bunks.

In addition, we are also concerned about adequate deck space to allow the observer to be in a safe area while performing their duties. It may be that we need to re-evaluate what the observer is required to do on these vessels. Perhaps changing the format and procedures for sampling will have to be somewhat modified to allow the observer to perform them and still be safe.

Another major concern is that of meeting U.S. Coast Guard safety requirements. Many of our 58 foot vessels have six person crews and six person life rafts. Will vessel owners be required to purchase larger life rafts to accommodate observers? Could observers possibly supply and be responsible for their own? Will one crew person have to be left ashore when observers are onboard? The latter would be a severe financial hardship on crews considering the short duration of our seasons. The displaced crewperson would lose one-third of their income!

We realize the importance of the observer program and the need for all of us to bear the responsibility for the program. However, we have some very legitimate concerns with regards to lowering the minimum size requirements for vessels required to have 30% coverage. We hope you will give our concerns serious consideration.

Sincerely,



Kris Norosz
Director