

Observer Advisory Committee – Meeting Report

September 19 - 20, 2017, 9am – 5pm

Observer Training Room, Alaska Fisheries Science Center, Seattle, WA

Committee: Bill Tweit (chair), Bob Alverson, Julie Bonney, Beth Concepcion, Tom Evich, Dan Falvey, Kathy Hansen, Stacey Hansen, Dennis Jaszka, Nicole Kimball, Michael Lake, Brent Paine, Chad See, Luke Szymanski, Abigail Turner

Agency staff¹: NPFMC – Diana Evans, Sam Cunningham; AKR - Jennifer Mondragon, Sally Bibb (phone); FMA - Chris Rilling, Jennifer Cahalan (PSMFC), Gwynne Schnaittacher, Lisa Thompson, Farron Wallace ; ADFG - Trent Hartill; NOAA OLE - Nathan Lagerwey (phone), Brent Pristas (phone); NOAA GC - Tom Meyer, Alisha Falberg (GC Enforcement); PSMFC – Courtney Paiva, Dave Colpo; NOAA AGO – Kate Steff, Crystina Jubie

Other attendees included: Troy Quinlan (TechSea), Howard McElderry (AMR), Ruth Christensen (UCB), Beth Stewart (PFA), Ed Hansen, Ernie Weiss, Jeff Stephan (UFMA, phone)

Bill Tweit opened the meeting with introductions and an overview of the agenda.

Agenda

1. Introductions, review and approve agenda
2. Discuss 2018 Observer Annual Deployment Plan
3. Discuss tendering data concerns and solutions
4. Report from subgroup on options for increasing selection rates
5. Discuss observer analyses (*observer safety report and observer analytical task status*)
6. Discuss 2019 partial coverage observer contract process
7. Scheduling & other issues

2018 Annual Deployment Plan

Jennifer Mondragon and Chris Rilling presented the 2018 Annual Deployment Plan (ADP). This year the agency has integrated electronic monitoring (EM) fully into the ADP. The OAC thanks the Alaska Fisheries Science Center and the Alaska Region for their work on the ADP during a volatile budget environment and while integrating and implementing EM. There was considerable OAC discussion, and no public comment.

Chris reported on the additional Federal funding that will supplement the partial coverage program in 2018 and 2019. Partially in response to the Council's letter, NMFS headquarters has allocated \$1 million to support partial coverage, partly from FY17 funds and the remainder from FY18 funds, and the Alaska Observer Program has also reprogrammed some end-of-year funds. As a result, selection rates are higher in 2018 than were anticipated in June. Because this is potentially a one-time reprieve, Chris is planning to spread the additional funding out over 2018 and 2019, until the start of the new contract, with the goal of maintaining 4,000 sea days of coverage in both years.

The ADP evaluates two stratification schemes in the ADP (gear only, or gear plus tender) and three allocation schemes (equal allocation, 15% equal plus optimized remainder, full optimized). Appendix C evaluates these, and includes a gap analysis identifying which combination results in the fewest gaps in the most areas. Based on this evaluation, NMFS has recommended deploying observers into 7 strata in 2018: continuing to separate the three gear types (trawl, longline, and pot), as well as three strata by gear type for vessels that deliver to tender vessels, and a single EM stratum for fixed gear vessels opting in to

¹ NPFMC – North Pacific Fishery Council; FMA – NMFS Fisheries Monitoring and Analysis Division at the Alaska Fisheries Science Center (AFSC); AKR – NMFS Alaska Region; NOP – NMFS National Observer Program; NOAA GC – NOAA General Counsel; OLE – NOAA Office of Law Enforcement; ADFG – Alaska Department of Fish and Game.

EM. While the tender strata that were used in 2017 have not yet been evaluated, there have been anecdotal reports that there were implementation issues with fishermen incorrectly predicting whether they would or would not be delivering to a tender before the start of the trip. Jennifer noted that this was taken into consideration in deciding whether to recommend the tender strata again for 2018, along with the results of the gap analysis, which performs less well the more strata are added. At the same time, the SSC and the Observer Science Committee have both reiterated the importance of stabilizing the deployment design, so data can be tracked through time, and having separate tender strata does guarantee that you will get a data from tender trips, which was a problem in the past. Weighing these pros and cons, NMFS eventually recommended deploying by gear and tender strata. The OAC discussed the data, in particular that the ADP predicts achieving a single observed trip in the hook and line tender stratum, and only 18 observed trips in the pot tender stratum. The OAC posed several questions about pot vessels delivering to tenders, including whether there is a significant data need for pot tender trips that would be helped by getting tender-specific data, and whether pot vessels delivering to tenders are fishing primarily in similar or different locations to pot vessels delivering shoreside (noting that for trawl vessels, the locations are indeed different). Ultimately, **the OAC supports the strata by gear type, and having additional separate strata for trawl vessels delivering to tender and for the EM selection pool. The OAC does not recommend deploying into separate tender strata for hook-and-line and pot vessels.** Given the difficulties for vessels in predicting their delivery mode, the OAC was convinced that the data benefit does not outweigh the impact for the hook and line tender stratum, and wanted to prompt the agency to provide more justification for pot vessels delivering to tenders.

The ADP also describes the different allocation schemes for optimizing deployment among the strata, and NMFS recommends using a 15% minimum deployment level for all strata, with optimized allocation based on discarded groundfish, halibut PSC, and Chinook PSC for additional sea days within the budget. Jennifer explained that the 15% rate comes from the Supplemental EA analysis in 2015, which demonstrated that at 15% across all gears the likelihood of gaps in the data decreases, and was strongly recommended by the Observer Science Committee. She also noted that the agency did not have time to complete the gear-specific hurdle approach requested by the OAC in May. **The OAC does not agree with the NMFS recommendation for an allocation scheme, and instead recommends that deployment be allocated based on full optimization of groundfish discards and halibut PSC only, the same allocation scheme that was used in 2017.**

The justification for the OAC recommendation rests primarily on consideration of the pot fishery, for which a 15% minimum coverage level seemed too high. The OAC pointed to the gap analysis on page 43, showing the differences in the gap analysis between a 2.2% selection rate (resulting from full optimization based on discards, halibut PSC and Chinook PSC), a 4.3% rate (resulting from full optimization based on discards and only halibut PSC), and the 15% rate. The only gain from going from 4% to 15% coverage in the pot fishery is to reduce the likelihood of a gap in Area 518, which is an area with lower catch where it is hard to sample. The OAC also discussed the need for biological samples from the Pacific cod pot fishery, which are used in the GOA cod stock assessment. Trent Hartill provided a summary of the State dockside monitoring program for Pacific cod, which has already supplemented observer samples in 2017 (when the selection rate for pot vessels is 3%). He is working with the stock assessment author to help refine the dockside monitoring program to get better spatial and temporal coverage. The OAC surmised, but could not confirm, that the Observer Science Committee's recommendation for a minimum of 15% coverage in the pot fishery was largely driven by the need for biological samples. Given the strategy of getting biological samples instead from the State sampling program, and knowing the pot fishery has relatively low bycatch, the OAC preferred an allocation scheme with a lower pot selection rate, in order to increase selection rates for other sectors.

The OAC also considered whether a low selection rate for pot fisheries would discourage interest in developing the EM program for pot vessels, but concluded that because EM is still experimental, it is unlikely to change behaviors. In considering the fully optimized allocation schemes, the OAC debated

between the status quo full optimized and the blended optimized approach, but the blended approach performed less well in Figure C-4 on page 51, and also had a bigger difference between selection rates for trawl and trawl delivering to tenders. While the OAC's recommended allocation scheme would still result in a difference in rates between trawl and trawl delivering to tender strata, OAC members were not convinced that the difference would affect their business practice of whether they deliver to tenders, which is based on other factors.

The OAC also discussed what effect a low pot coverage rate would have on the vessels fishing for sablefish with longline pots, which is a new fishery beginning in 2017. Jennifer clarified that these vessels are subject to the pot selection rates, because the action did not create a new gear type, so in the landings report and in the Catch Accounting System those trips are labeled as pot trips. **The OAC recommends that NMFS consider separating out the sablefish longline pot fishery to monitor the hook and line selection rate in 2018 if possible, otherwise in 2019.** The OAC believes this new fishery requires increased monitoring, but that the small number of sablefish pot boats should not drive a higher pot selection rate. At Jennifer's request, the OAC clarified data needs from the sablefish pot fishery: selectivity of longline pots, size composition of retained sablefish, catch composition including rate of rockfish bycatch, and discards at sea from longline pots.

In deciding what allocation scheme to recommend, the OAC discussed whether it would be possible for NMFS to evaluate a gear-specific hurdle approach for the final 2018 ADP. Chris noted that not only is the timing very difficult, it would also mean that there would be no opportunity for public feedback on the new approach before the ADP needs to be finalized. As such, **the OAC recommends that the agency develop a gear-specific hurdle approach for review in the 2019 ADP.** Based on the gap analysis in the ADP, the OAC suggests, as a starting point, choosing selection rates of 5% for pot gear, 11% for longline, and 15% for trawl, as hurdles. The 5% pot rate is justified based on the gap analysis as described above, including the need for biological samples of cod. The 11% longline hurdle is also based on the gap analysis on page 43, which identifies the areas where raising the selection rate from 11% to 18% would affect the likelihood of having areas with missing data, which are few. The 15% trawl hurdle is based on Supplemental EA analysis, which showed that most observer data gaps disappeared or were severely minimized at deployment rates greater than or equal to 15% (relative to a 50% probability of a post-strata being empty). The OAC also suggests that the agency consider a 'core areas' approach when considering appropriate hurdles, so that gaps in all areas are not weighted equally, but priority is given, for example, to the Gulf of Alaska.

Jennifer highlighted the other components of the ADP. She noted in particular that the ADP's dockside monitoring objective has changed this year, to align better with the expectation that observers will not be able to census salmon bycatch in the GOA pollock fishery when vessels are delivering to a tender. In practice, this is no different than sampling practices last year. **The OAC agrees with the 2018 dockside monitoring objective, and with the remaining NMFS recommendations for 2018,** such as trip selection, zero selection criteria, not allowing conditional releases, and the continuation of existing aspects of ODDS, such as being allowed to log three trips at a time. Due to the workload involved in preparing ODDS for EM implementation, NMFS was not able to complete the programming change to require that the next trip taken be observed once an observed trip has been cancelled. The OAC suggested this be included explicitly on the observer analytical priorities tasklist.

The OAC has the following additional recommendations for the Annual Report:

- Even though they are deployed into a single stratum, distinguish between EM longline and pot vessels when assessing data quality and monitoring bias (understanding that there may be insufficient pot EM vessels for analysis)
- Track whether State dockside sampling for Pacific cod is sufficiently meeting the biological sample requirements for the GOA cod stock assessment

EM selection pool and methodology for determining costs in Appendix B of the ADP

Chris Rilling described the methodology for calculating the affordable size of the EM selection pool, with a no more than 10% risk of going over budget. Based on the \$1 million EM budget, and assuming the existing 75 pre-wired EM vessels remain in the EM pool, Appendix B uses data from AMR to calculate how many additional vessels could be accommodated in the EM pool in 2018. The ADP proposes a total EM pool of 110 vessels, which includes purchasing equipment for 35 new vessels and maintenance for all at a cost of \$850,000, and the remainder for data review. In April, the Council motion supported building to an EM fleet of 165 vessels; ALFA and NPFA have submitted NFWF proposals that, if granted, would fund additional vessels up to that limit. The OAC asked whether there would be a response from NFWF before the ADP is finalized, and while the timing does not line up exactly, Chris was hopeful that they would have some indication from NFWF to be able to plan accordingly for the final ADP.

Chris noted that in addition to NFWF funding, the other unknown is how many vessels will choose to opt in to EM in 2018. He highlighted that November 1st is a hard deadline for all vessels to opt in to the pool, including those that have participated in EM in the past. The OAC complimented NMFS on trying to address the uncertainty of the nascent EM program, especially in a challenging budget year.

Jennifer responded to questions about why a vessel cannot be in the EM pool if they trawl at any point during the year, which is because of the way ODDS is currently programmed. **The OAC recommends that ODDS be reprogrammed to allow vessels to be in the EM pool for fixed gear and in the observer pool for trawl gear in the same year.** The OAC noted that many vessels in the western GOA who are affected by this restriction are still small vessels, with limited bunk space, and which are often fishing for long periods while delivering to tenders. Western GOA representatives also noted that having exposure to EM in the fixed gear fisheries would help familiarize vessels with EM, which is hoped to eventually be available in the GOA pollock fishery to improve salmon sampling. On the priority list, this should follow the previously-tasks ODDS change to require the immediate next trip taken be observed when an observed trip is cancelled.

Jennifer also noted the statement on page 11 that NMFS intends to implement a post-trip selection period for EM in 2019, where all vessels will be required to record all of their trips, and upon their return ODDS will select whether the trip data should be submitted for video review. Diana Evans also summarized the EM Workgroup comments on this topic. **The OAC recommends that NMFS develop the following information for the 2019 ADP, to evaluate NMFS' intention to require 100% EM trip monitoring and post-trip review selection:** 1) costs from the EM service provider (e.g., logistics of erasing hard drives, additional cost for service); 2) efficiency cost to the vessel in catch handling changes; 3) post-stratification of observer effect for EM longline vessels using the six trip metrics in the Annual Report; and 4) a survey of participants to determine whether it would affect whether people opt in to the program.

Tendering data concerns and solutions

Diana Evans presented a short scoping paper identifying the observer data concerns that have been raised in the past with respect to vessels delivering to tenders, and the potential solutions that have been discussed to date to address them. OAC members had reached out to constituents, particularly in the western GOA, to inform their discussion of how well each of the solutions addresses the problem, and which are favored by industry members. The OAC agrees that it is important to consider these two different data concerns separately, and identify solutions that meet the separate objectives rather than trying to mix them together.

Chinook salmon sampling in the GOA pollock fisheries

The OAC recommends that the ideal solution for Chinook salmon sampling in the GOA pollock fishery is Option 1, to monitor all offloads at the plant, and require EM on trawl vessels to ensure

there are no discards. It was noted that observers are often already stationed at Western GOA plants because of deliveries of Bering Sea pollock - in Sand Point especially, and less so in King Cove but still some. The OAC recognizes this is a long-term process, but it represents the best solution. The industry would prefer to have the accurate salmon counts that come from censusing the offload, rather than relying on basket samples onboard vessels delivering to tenders, and tenders are an important business practice to allow vessels to fish up to their trip limit and maintain throughput in the plant.

The OAC did discuss in general terms how to go about developing an EM compliance program for the western GOA. While a very different type of EM program would be needed for bottom trawl, for the pollock fishery, where EM would be coupled with full retention, the fishery can piggyback on other EM studies. The Bering Sea pollock CVs have submitted a NFWF proposal to look at maximized retention with EM compliance monitoring in the Bering Sea pollock fishery, in lieu of carrying an observer, and will submit an EFP to the agency early in 2018. Once the parameters are worked out in the Bering Sea, the GOA pollock vessels should be able to coopt or adapt those requirements. There was some discussion about whether it would be useful to set up and kick off a workgroup in order to at least ensure that the workplan for an EFP or other study would be useful in the GOA. The OAC returned to the discussion of prioritizing the next EM projects under the Observer Analytical Projects agenda item, below.

The OAC also noted that a version of Option 4, to develop an alternative sampling program, has effectively been proposed for 2018 in the ADP, by redefining the objective for dockside monitoring to exclude deliveries to tenders. Option 2, which would require tenders to keep fish from observed and unobserved vessels separated, is not practical for the plants because it would result in too much unused capacity. Option 3, to sample the offload onboard the tender, could perhaps be workable from the industry perspective, but could be prescriptive for vessels if they were forced to deliver to the tender that has an observer. The agency also remains concerned that it would not be cost efficient for the partial coverage program, assuming that the observer is permanently stationed on the tender and accruing costs on a daily basis.

Observer bias

With respect to solutions that address representative data from observed versus unobserved vessels delivering to tenders, **the OAC recommends the Council initiate a regulatory analysis of Options 2a and 2b, to change the definition of a tender trip so that either every delivery starts a new trip, or a tender trip may constitute no more than a maximum number of deliveries. The OAC recommends that the analysis should evaluate allowing observers to deploy from tender vessels,** and that a secondary objective of the action is to provide relief to vessels that otherwise have to have an observer onboard a small vessel for long periods while the vessel is making use of a tender. This is effectively a refinement of the tabled observer tender analysis that received preliminary evaluation in 2015 and 2016.

Tom Evich, OAC member representing the western GOA, gave a briefing on where tender activity takes place in the western GOA. He noted that the practicality of returning to town to pick up an observer depends on the season and fishery, and suggested that during the winter cod fishery in the western GOA, it is impossible to go back to town for an observer, whereas in the pollock fishery it is impractical but not impossible. He also highlighted the difference on a small trawl vessel between the feasibility of having an observer onboard for a trip (24 to 48 hours) versus having the observer onboard for the tendering season, which can last up to 5 weeks. Many, although not all, OAC members disagree with previous US Coast Guard and NMFS concerns about inherent safety issues in having observers transfer vessels at the point of a tender delivery, and want to see those issues reexamined.

The OAC acknowledges that Option 1, to create separate tender strata by gear type, is already in place in 2017, although it has not yet been evaluated for its efficacy. The OAC also noted that Option 3b is already tasked, although NMFS was not able to complete the ODDS programming this year that would require the next trip to be automatically observed if an observed trip is cancelled. Again, it remains to be seen once the programming change is implemented, how it will affect data bias.

Subgroup report on options to address low selection rates

Diana Evans, Jennifer Mondragon, and Sam Cunningham summarized the report from the OAC subgroup on low sampling rates, with input from other subgroup members (Dan Falvey, Julie Bonney, Nicole Kimball, Chris Rilling, and Bob Alverson). There was discussion of the report, and the OAC requested minor clarifications and edits. The OAC appreciates the work of the OAC subgroup to scope out options to address low selection rates, and **the OAC adopted the subgroup's report, as revised, as an OAC workproduct.** Based on the report, **the OAC recommends the Council task the OAC or an OAC working group to continue to develop these options, along the lines of the following workplan:**

1. Continue to develop reference points to inform the scale of measures needed for improving selection rates. There are five example reference points included in the current discussion paper, but the OAC suggests work to develop three other approaches:
 - a. First, developing gear-specific base level thresholds (gear-specific hurdle approach) was already requested under the ADP.
 - b. Second, it would be helpful to understand what level of coverage is needed to provide sufficient biological samples for stock assessments.
 - c. Third, what coverage is needed to ensure that we are getting representative data, and that sampling levels are sufficient to evaluate the observer effect at the post-stratified gear/target fishery level (recognizing that some trawl target fisheries will need to be grouped for this analysis).
2. Continue to evaluate zero selection criteria and collaborate on the EM optimization analysis. The discussion paper identifies next steps for both of these options.
 - a. For zero selection, these include consideration of further platooning of the hook and line fleet by effort, periodic expanded sampling plans (e.g., planning for more intensive selection rates every 4-5 years for a particular sector), and inclusion of vessels under 40 ft in a redefined zero selection pool.
 - b. For EM optimization, these include developing cost forecasts for the EM selection pool, a study of how much biological data from observers is needed to support a given EM pool size, gap analyses for EM and observer strata, accounting for how the combined sampling achieves overall sampling rates for a gear sector, and consideration of how to design incentives to induce the most cost-effective vessels to participate in the EM pool.
3. Once a robust understanding of these different components is available from the first two steps, consider whether regulatory action is required to address low coverage rates, either by raising the fee, or restructuring the program.
 - o The OAC does not at this time recommend that the Council further pursue the creation of monitoring cooperatives (Option 4) as a means to increase selection rates by reducing the cost of coverage, for reasons articulated in the paper.
 - o The OAC also notes that the potential for cost reductions under both Options 4 and 5 (monitoring cooperatives and vouchers) depends in part on competition between multiple observer provider companies. If NMFS prefers to contract with a single provider, these options are unlikely to substantially reduce daily observer rates.

The OAC supports continuing to refine the reference points as the first task in order to better advise the Council about the scale of the funding shortfall in the longterm. The OAC notes that this is a different approach than the Council has taken previously, but to begin with identifying what are the monitoring needs will also help the Council and NMFS better articulate to stakeholders, and also present a case to NMFS about the need for Federal funding. The OAC discussed identifying both minimum and adequate levels of coverage as different targets, as they may vary based on the various objectives that are supported through monitoring data. The second step investigates how much we can improve coverage rates with existing tools through the ADP, to see if cost efficiencies can be achieved within the program. Based on

this evaluation, the Council would be better poised to evaluate whether to initiate a regulatory action to change the program to address the funding shortfall. The OAC emphasized that raising the fee should be considered as a last resort. Under this framework, the OAC acknowledges that the Council would not consider whether to initiate a regulatory analysis to change the fee or other solution until October 2018 at the earliest, which means that the results of that analysis would likely not be implemented before 2021. If the Council chose to raise the fee, the additional funding thus raised in 2021 would first begin to affect coverage rates in 2022.

Review of the Statements of Work for the Observer Contract

Chris Rilling provided an overview of the statements of work for the observer contract. The statement of work has been published as two separate documents, in part because it highlights that the EM component is all new. Diana Evans shared the EM Workgroup's comments on the EM portion of the contract with the OAC. Two representatives of the NOAA Acquisition and Grants Office (AGO), Kate Steff and Crystina Jubie, were available at the beginning of the discussion to answer OAC questions.

Ms. Steff explained that AGO will be attending the October Council meeting, and that she and Crystina will be available for office hours at the meeting, in addition to the more formal evening session. She noted that AGO is trying to be as open with communication as possible during this public input phase. That said, they would prefer to have written comments submitted, so that they can be sure to consider them all in revising the Statement(s) of Work. The OAC expressed their appreciation for AGO's level of expertise on the observer contract, and the access they are providing the Council and the OAC within the rigid contracting rules.

Ms. Steff also responded to three specific questions raised by the EM Workgroup. The first asked for more information on the unit of work that is being requested for bid in the EM proposal (e.g., cost per vessel, cost per day). Ms. Steff noted that this has not yet been decided, but that their office is happy to receive feedback about the appropriate bid unit. The second question asked whether it would be possible to identify a price target for the EM portion of the contract, and have providers bid for the type of service they could provide for that amount. This is not permissible under Federal contracting law, because the bids are never compared against each other, but rather are graded against the Statement of Work based on criteria established in the RFP. Finally, the EM Workgroup asked if this is the only opportunity to give public input, or whether there is time to redefine the service delivery model as currently described. Ms. Steff affirmed that this is the only period to provide public input.

OAC members asked about the criteria for evaluating the proposals, echoing previous comments about considering the technical approach criterion as a hurdle, after which cost should be the most important factor. Ms. Steff responded that they have not yet identified the criteria or their relative weighting, and comments are welcome. OAC members also discussed whether there are other contracting vehicles that would encourage multiple vendors to compete. Ms. Steff noted that other contract mechanisms, such as a Multiple Award Task Order Contract (MATOC), have a high administrative burden that would be challenging to meet. **It is possible, however, for service providers to structure themselves as a team under a single contract.** One proviso is that if this is offered as a small business solicitation, 51% of the work would need to be done by one or more small businesses that are part of the bidding team.

One of the questions on which AGO is specifically soliciting comment is whether the contracts should be bid separately or in conjunction. Chris Rilling provided a strong justification for why NMFS would like to issue the solicitation as a single contract. The Observer Program does not currently have the staff available to manage two contracts, and is already faced staffing constraints so is unlikely to be able to create new positions. Additionally, there is no flexibility to move funding back and forth among contracts, which means that NMFS will be locked in to its allocation of the fee money between EM and observer

contracts if they are separate. The timing is already challenging to get collected observer fees onto a single contract, without the additional complexity of having to decide how much to allocate to which.

The OAC remains interested to see whether another mechanism, other than a Federal contract, would be possible to give the agency more flexibility and potential cost savings. Tom Meyer (NOAA GC) reported on the research he has done, in the context of the low sampling rates subgroup, to investigate constraints on using the observer fee. The low sampling rates subgroup asked specifically whether the West Coast model of fee use is applicable in Alaska. On the West Coast, PSMFC received a grant from NMFS and used it to reimburse observer providers during the transition to 100% industry funding. Based on his consultation with the Department of Commerce Office of General Counsel, Mr. Meyer reported that it is not permissible to send the Alaska observer fee funding to PSMFC as a grant, and have them provide observer services. Using a grant rather than a contract is not permissible because the agency is seeking an arrangement that would not be temporary. It would be possible to contract with PSMFC, but the observer fee cannot be used to pay for administrative overhead costs, which could be substantial given the need for additional services to administer the program and contracts. Additionally, if the contract is offered as a small business solicitation, PSMFC would not qualify, as they are a non-profit entity.

While the agency responded to the subgroup's specific request about PSMFC's recent West Coast grant-funded program for IFQ fisheries, OAC members also identified that there is another West Coast observer service that is procured through the PSMFC for non-IFQ observer services. The discussion also noted that, while in 1998 a proposed Joint Partnership Agreement with PSMFC to provide observer services fell through because it would trigger the Service Contract Act (and likely the Fair Labor Standards Act, FLSA) and would create liability for PSMFC that its insurance would not cover, all PSMFC contracts now meet those standards and the organization carries the requisite insurance. As such, there was some OAC discussion about whether contracting through PSMFC would result in any cost reduction, or whether the potential benefit would simply be greater flexibility for competition in the marketplace than is afforded under a direct Federal contract. **The OAC requests that the agency explore whether there are other observer services procurement models in operation between NMFS and the PSMFC which could provide more flexibility to allow market incentives to affect cost efficiency; an assessment of whether they would simply shift costs or whether they would be likely to provide overall cost savings; and whether they could legally be used for the Alaska partial coverage program.**

Specific Comments on the Statements of Work

The OAC recommends that the Council submit comments to AGO that reflect the combined comments of the OAC and the EM Workgroup. The OAC agrees with the recommendations made by the EM Workgroup regarding the downsides of a single contract. The OAC agrees that it is unfortunate that under a single contract, NMFS is losing the ability to choose the best observer provider and the best EM service provider. The OAC also agrees with the EM Workgroup's specific comments on sections of the Statement of Work. One additional specific comment is that the EM contract should clarify what is entailed in developing an OLE dashboard, as the document is inconsistent in not requiring review software, but requiring development of software specifically for OLE.

The OAC noted that the EM Statement of Work seems like a first draft, and does not make clear the competencies that would be required from a bidder. The OAC would be very interested to review a more refined draft of the EM Statement of Work. The OAC discussed whether this would result in curtailing the solicitation period to the minimum of 45 days, which OAC members noted will be a challenge. **The OAC recommends that the Council request NMFS and AGO to provide a revised Statement of Work for the EM component only, for additional comment before it is finalized, as long as this does not result in reducing the schedule to the minimum solicitation period.**

The OAC reiterates its discussion from May 2017 that, when setting the relative priorities of evaluation criteria, the technical approach should be weighted such that service providers must meet a minimum technical hurdle, after which cost efficiency should then be the highest priority. The OAC minutes from May reflected that there are several proven observer service providers in Alaska that meet the necessary high technical standards, so perhaps this could be reflected as a criterion of either past performance or technical approach.

The OAC also discussed that the bidding unit for these RFPs, trying to wrap all potential cost variability into a single unit, masks the cost associated with uncertainty. **The OAC recommends that, especially for the EM component of the contract, some of the more uncertain elements of the contract should be separated out as options, so that the additional cost from uncertainty does not factor in to the baseline bidding unit.** For example, in the EM contract, there should be separate bidding units for the costs associated with baseline activities such as equipping and servicing a vessel that is new to EM and maintaining a vessel that already has EM installed. For services that include more uncertainty, such as helping to develop innovation, or installing and maintaining EM lite systems, these should be listed as options under the contract with separate pricing, rather than items built into a particular option year. **The OAC recommends that the agency consider the same concept for the observer Statement of Work,** parsing out bidding units that incorporate different levels of uncertainty, rather than requesting that a bidder roll them all up into a single bidding unit. One example could be distinguishing between providing observers for surveys rather than for partial coverage, noting that survey contracts are planned ahead.

In order to encourage companies to cooperate, the OAC recommends that the technical approach require bidders to describe how they will work as a team to ensure cost efficiency. The OAC would like the contracting process to foster a marketplace environment where the effects of competition result in cost efficiency, and innovation is applied to the quality of the program and cost efficiency.

Observer Analytical Projects

Jennifer Mondragon gave an overview of the current 'Status of analytical projects related to the Observer Program' table, and discussed each of the projects. The OAC made the following comments:

- **Low selection rates next steps:** The three projects that support ongoing work on options to address low selection rates should be added to the table: work on reference points, zero selection, and EM optimization.
- **ODDS programming changes:** The OAC requested that the observed trip cancellation project be reflected on the priority list, as well as adding the new recommendation to reprogram ODDS to allow vessel to participate in EM for fixed gear fisheries during the year, and take observers for trawl fishing.
- **Observer tendering:** The existing tender row should be divided to reflect the two separate projects recommended by the OAC: compliance EM and full retention in the GOA pollock fishery for salmon sampling, and a regulatory action to change the definition of a tender trip and consider deploying observers from tenders.

As a general guide, the OAC recommends prioritizing the decksorting regulatory analysis first, followed by work on low selection rates next steps, followed by the observer insurance amendment when it national guidance is available, and then the observer tender actions.

The OAC also discussed a table put together by Jennifer Mondragon listing all of the upcoming EM projects that have been proposed or for which staff time has been requested. Many of these are duplicated on the observer analytical priorities task list, but the OAC found it useful to look just at the EM-specific projects. **The OAC recommends that the Council schedule a time to consider how to prioritize**

among these **EM projects**, and consider when would be the appropriate time to initiate workgroups or initial planning to coordinate ongoing industry efforts.

Fleet	EM Project Goal	Supplement/ Replace Observers?	Use of EM	Would it need reg change?	How to do testing phase (prior to regs)?
BSAI trawl CPs that are decksorting	Compliance monitoring. Reduce workload for observers during decksorting. Obtain length and count of decksorted halibut	Supplement observers	Compliance Monitoring and Catch estimation	Yes	Already happening as part of decksorting EFP
Rockfish Trawl CVs	Evaluation of alternative sampling methods for salmon. One of the alternative methods being tested is industry counts in the plant with EM compliance monitoring	Supplement observers. Rockfish CVs are in full coverage and this would not change. The project would look for ways to enable dockside monitoring for salmon.	Compliance Monitoring	Yes	Can be done while fishing in Rockfish Program
BSAI pollock trawl CVs	Compliance monitoring of full retention of all species (including salmon, halibut, herring PSC) in pollock fishery	Replace vessel observers - but need to verify that all data currently being collected by at sea observers could be obtained at the dock.	Compliance monitoring	Yes	EFP
WGOA trawl pollock CVs	Compliance monitoring of full retention in pollock fishery	Replace vessel observers - but need to verify that all data currently being collected by at sea observers could be obtained at the dock. (Also need to figure out how to fit this into the partial coverage program)	Compliance monitoring	Yes	Not sure (EFP or ADP or both?)
Fixed gear CVs <40ft LOA	Catch estimation or potentially use something like "EM lite" for verification of catch estimation assumptions of areas fished, etc	Currently no observation on these vessels -- EM would be used instead of observers	Catch estimation	No. Could be done under new EM regs & ADP	ADP
Programming to allow fixed gear vessels that also fish trawl into EM stratum	Expand current fixed gear EM pool to include vessels that also trawl.	Replace vessel observers for fixed gear activity	Catch estimation	No	Already tested

Observer Safety Action Plan

Chris Rilling gave an update on the contracted Observer Safety Program Review (OPSR), a national and regional review of observer program safety policy and practices, which was undertaken by a review panel of safety experts. The report has not yet been released, but should be published by the end of the year. It contains recommendations for action both at the national and regional levels. The OAC appreciated the update.

Scheduling and other issues

The Chair noted that the next OAC meeting will be May 16-17, 2018, with May 15th reserved for a meeting of either the EM Workgroup or an OAC working group.