

Aleutian Spray LLC
101 Nickerson Street, Suite 340
Seattle, Washington 98109

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
npfmc.comments@noaa.gov

Re: February 2014 meeting agenda item C-13 – Observer Program Regulatory Amendments
Discussion Paper

Dear Mr. Olson:

Aleutian Spray LLC holds Aleutian Islands sablefish IFQ that is harvested aboard the 98-foot catcher-processor PACIFIC SOUNDER. Even without the added expense of full observer coverage, it is difficult enough to conduct the sablefish fishery in the Aleutians – in recent years the TAC has not come close to being fully harvested as it has been in other areas.

We support the Council easing some of the burden on harvesters in the Aleutians through a regulatory amendment that would place CPs like the PACIFIC SOUNDER with relatively low production in the partial observer coverage category, the same category that applies to catcher vessels in the sablefish IFQ fleet.

Sincerely,

Aleutian Spray LLC

Kristofer Knutsen,
Owner

David Knutsen - *DK Knutsen*
Knut Knutsen - *Kn Knutsen*
Managers

Kristofer Knutsen

Andrew P. Richards

PHONE: 206.995.8287
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Seattle, WA 98199

January 28, 2014

Mr. Eric Olson, Chairman
North Pacific Fishery Management Council
npfmc.comments@noaa.gov

Sent via Email

Re: February 2014 meeting agenda item C-13 – Observer Program Regulatory
Amendments Discussion Paper

Dear Mr. Olson:

We represent HAT, LLC, and Far West Fisheries LLC, vessel-owning companies whose members are Neil Anderson, Leonard Herzog and skipper Joshua Trosvig. HAT owns the fishing vessel CYNOSURE and Far West Fisheries owns the fishing vessel CERULEAN. Both vessels are less than 60' in length and primarily harvest halibut and sablefish in the Bering Sea and Aleutian Islands (BSAI) in the individual fishing quota (IFQ) fisheries and on behalf of Western Alaska Community Development Quota (CDQ) Program groups. The vessels also are licensed to participate in pot cod fisheries in the Bering Sea and Gulf of Alaska.

As explained below, HAT and Far West Fisheries support amending observer program regulations to apply partial rather than full observer coverage to relatively low-production catcher processor (CP) vessels. An excerpt of the relevant regulations is enclosed as Appendix 1.

- A. Partial observer coverage for relatively low-production CPs would support increased utilization of remote BSAI fisheries and address the “disproportionate cost” issue.

The CYNOSURE and CERULEAN currently operate only as catcher vessels (CVs) but were designed for CP operations in the BSAI sablefish IFQ and CDQ fisheries, and potentially other fisheries as well. Operating as CPs in remote areas of the BSAI would allow the vessels to extend their trip length, which would help them fully harvest all the sablefish available to them and their IFQ and CDQ partners. That can be difficult to do in the BSAI, where Restricted Access Management records indicate only 57% of the total allowable catch (TAC) was landed in 2013. (Over 90% of TAC was landed in every other area.)

One significant expense associated with CP operations is the cost of the required additional observer coverage. The regulations require vessels with CP-endorsed Federal Fisheries Permits to maintain at least 100% observer coverage while operating as CPs or CVs, with partial coverage available only for a) three CPs based on their historical operations, 2014 Annual Deployment Plan, December 2013, p. 17, and b) an unknown number of CPs each year that processed no more than 1 MT round weight on any day in the prior calendar year. The historical exception is not available to either the CYNOSURE or the CERULEAN, and the exception for production under 1 MT would not be available to them after their first year operating as CPs, as

they would likely exceed that very low threshold. The cost of full observer coverage – not only for fishing days but also running time in the BSAI – would be high relative to the vessels' comparatively modest anticipated production.

One of the restructured observer program's main goals was to address the problem of "disproportionate costs" – observer costs based on a set fee regardless of the extent of the participant's use of the resource. The partial coverage category attempts to address the problem by funding coverage through a fee based on ex-vessel revenue, but the Council and NMFS acknowledged during development of the restructured observer program that the full coverage category "do[es] not address the problem of disproportionate costs" because CPs pay a set daily observer fee rather than a fee based on ex-vessel revenues. Environmental Analysis, March 2011, p. 140.

Within the range of CPs subject to full coverage, the CYNOSURE and CERULEAN would likely pay some of the most disproportionate costs compared to their relatively modest anticipated production levels. Those costs could exceed \$100,000 per vessel per year for full coverage of both CP and CV operations, as the current regulations would require. The combination of coverage for long trips in the BSAI and relatively low production could result in significantly more observer days and cost per pound of production than higher-production CP operations. Allowing vessels like the CYNOSURE and CERULEAN to operate under partial coverage would both address the disproportionate cost issue and support increased resource utilization in the BSAI.

B. Options for partial coverage for a limited number of relatively low-production CPs.

This past June, the Observer Advisory Committee (OAC) voiced its support for regulatory amendments addressing what it described as the "cost equity issue" and the "likely inadvertent impact" on hybrid CV/CP vessels. Observer Advisory Committee Report, June 2013, p. 5. HAT and Far West Fisheries agree with the OAC that the observer program regulations should be amended to allow for partial coverage of relatively low-production CP operations. The companies' preferred options for analysis are as follows:

1. Increase the 1 MT threshold to 5, 7 or 10 MT average daily production.

The only on-going exception to full coverage for CPs allows CPs that processed "no more than one metric ton round weight of groundfish on any day" in one year to be included in the partial coverage category the following year. 50 CFR § 679.51(a)(2)(iv)(B). That exception is based on production level and applies across gear groups, fisheries, areas and vessel length categories. NMFS added the exception in the course of drafting the regulations implementing the observer program by tracking similar language from License Limitation Program (LLP) regulations allowing processing up to 1 MT under CV-endorsed LLP licenses. 77 Fed. Reg. 70062, 70075 (Nov. 21, 2012). There does not seem to have been any analysis of how many, if any, vessels would benefit from the 1 MT exception to full coverage.

HAT and Far West Fisheries believe the 1 MT threshold is too low to support even relatively low-production CP operations, especially those attempting to remain viable in the BSAI. Accordingly, the companies support analysis of potential alternative thresholds set at a) 5, 7 and 10 MT round weight equivalent, and b) on an “average daily production” basis rather than a limit not to be exceeded on “any day” of the prior year.

From the companies’ review, it does not appear that a significant number of CPs would be removed from full coverage at the proposed alternative thresholds. Apart from groundfish LLP licenses associated with CPs in the American Fisheries Act, Amendment 80 and freezer longline fleets – whose daily production would likely exceed the alternative levels proposed above – there seem to be only around 50 remaining groundfish LLP licenses endorsed for CP operations. And in the sablefish and halibut IFQ fisheries, processing is allowed only under relatively-scarce “A” shares. Those pre-existing constraints on CP participation would likely limit the impact of increasing the 1 MT threshold on program-wide observer coverage levels.

2. Allow partial coverage for CPs in sablefish IFQ and CDQ fisheries.

As an alternative to increasing the 1 MT threshold, HAT and Far West Fisheries would support analysis of an option allowing partial coverage for CPs while participating in sablefish IFQ and CDQ fisheries, with full coverage of those vessels in all other fisheries if they operate as CPs in any of those other fisheries. Because most sablefish IFQ is not harvested under “A” shares and therefore cannot be processed, it is almost certainly being harvested by CVs subject to partial coverage. There does not seem to be any compelling need for the CPs comprising the remainder of that same sablefish fleet to operate under full coverage.

Thank you for your consideration of these comments.

Sincerely yours,

Sullivan & Richards LLP

Andrew Richards

Andrew Richards

APR:apr
Encl.

APPENDIX 1

§ 679.51 Observer requirements for vessels and plants.

(1) A vessel selected for observer coverage is required to have an observer on board for all groundfish and halibut fishing trips specified at paragraph (a)(1)(i) of this section for the time period indicated by ODDS.

(2) At its discretion, NMFS may provide electronic monitoring equipment to a vessel owner or operator to use on a vessel. A vessel owner or operator must coordinate with NMFS to make the vessel available for evaluation and installation of electronic monitoring equipment if NMFS determines that electronic monitoring is appropriate.

(iii) Release from observer coverage. The Observer Program may release a selected trip per paragraph (a)(1)(ii)(C) of this section or a selected vessel per paragraph (a)(1)(ii)(D) of this section, from observer coverage on a case-by-case basis.

(2) Groundfish and halibut fishery full observer coverage category

(i) Vessel classes in the full coverage category. The following classes of vessels are in the full observer coverage category when harvesting halibut or when harvesting, receiving, or processing groundfish in a federally managed or parallel groundfish fishery, as defined at § 679.2:

(A) Catcher/processors;

(B) Motherships; and

(C) Catcher vessels while:

(1) Directed fishing for pollock in the BS;

(2) Using trawl gear or hook-and-line gear while groundfish CDQ fishing (see § 679.2); or

(3) Participating in the Rockfish Program.

(ii) Observer coverage requirements. Unless subject to the partial observer coverage category per paragraph (a)(1)(i) of this section, a vessel listed in paragraphs (a)(2)(i)(A) through (C) of this section must have at least one observer aboard the vessel at all times. Some fisheries require additional observer coverage in accordance with paragraph (a)(2)(vi) of this section.

(iii) Observer workload. The time required for an observer to complete sampling, data recording, and data communication duties per paragraph (a)(2) of

this section may not exceed 12 consecutive hours in each 24-hour period.

(iv) Catcher/processor classification.

(A) For purposes of this subpart, a vessel is classified as a catcher/processor according to the operation designation on its FFP. A vessel designated as a catcher/processor at any time during the calendar year is classified as a catcher/processor for the remainder of the calendar year.

(B) An owner or operator of a catcher/processor that processes no more than one metric ton round weight of groundfish on any day, may be included in the partial observer coverage category in lieu of the full coverage category for the following calendar year.

(v) One-time election of observer coverage category. The owner of a vessel less than 60 ft. LOA with a history of catcher/processor and catcher vessel activity in a single year from January 1, 2003, through January 1, 2010; or any catcher/processor with an average daily groundfish production of less than 5,000 pounds round weight equivalent in the most recent full calendar year of operation from January 1, 2003, to January 1, 2010, may make a one-time election as to whether the vessel will be in the partial observer coverage category at paragraph (a)(1) of this section, or the full observer coverage category at paragraph (a)(2) of this section. The daily groundfish production average is based on the number of days the vessel operated each year from January 1, 2003, through January 1, 2010.

(A) Notification of election. The person named on the FFP for a vessel eligible for the one-time election must notify the Regional Administrator, NMFS, P.O. Box 21668, Juneau, AK 99802, of their election in writing, at least 30 days prior to embarking on his or her first fishing trip.

(B) Default coverage category. If an owner forgoes the opportunity for the one-time election, the vessel will be assigned to the partial or full observer coverage category per paragraphs (a)(1)(i) or (a)(2)(i) of this section.

(C) Effective duration. The one-time election is effective for:

(1) The duration that both the catcher/processor and catcher vessel designations are listed on the FFP for vessels less than 60 ft. LOA; or

- AGENDA ITEM - C-13
- OBSERVER PROGRAM REGULATORY
AMENDMENTS DISCUSSION PAPER

January 27, 2014
Mr. Glenn Merrill
Assistant Regional Administrator
Sustainable Fisheries Division
NMFS, Alaska Region
P.O. Box 21668
Juneau, Alaska 99802-1668

Attention: Ellen Sebastian

FDMS Docket Number NOAA-NMFS-2011-0210

Dear Council members,
My name is Oystein Lone, I am the owner and operator of the F/V-C/P Pacific Sounder. We participate in the BSS/BBR crab, Sablefish, Halibut, and Turbot fisheries. This has us labeled as a hybrid vessel.

I am writing this letter in response to the new observer program that began in 2013. Being that we are a small 98' C/P, we now are required to maintain 100% observer coverage while participating in a federal fishery. This new change has taken a significant percentage of the vessels profits.

I feel that this is unjust that we are paying such high fees. Not only am I paying for my IFQ quotas and paying annual fees on them. I am now forced to pay a 70% increase in observer coverage. We operate in a very low CPU fishery, with allot of travel time. Second, only to fuel, is observer fees.

I Recommend the following options:

1) Increase the 1 metric ton round per day to the following 5, 7, or 10.

I encourage the council to move fast on this, hopefully before the season opens in March. In my years of fishing, I have not seen such a heavy fee for a small boat.

If you have any questions you can contact me on the vessel @ 206-965-9539 or email me at oysteinlone@frontier.com

Sincerely,



Oystein Lone

Ken Christiansen
C/P Fishin Magician
1849 Marmot Drive
Kodiak, Alaska, 99615

January 22, 2014

North Pacific Fisheries Management Council
Via email: npfmc.comments@noaa.gov

RE: Observer Coverage Requirements

Council Members:

My name is Ken Christiansen. I own and operate the catcher processor, Fishin Magician. The Fishin Magician is a fifty-two foot fiberglass lobster style hulled vessel strictly used for jigging Cod, Rockfish, and Pollock. I am a 52 year old life-long fisherman (I began fishing with my father at the age of six). I began jigging in the early 90's, and started freezing onboard in 2007. I chose to forgo the high volume fresh delivered fishery and invested thousands of dollars to install freezer equipment in the effort to provide a high quality fresh-frozen product.

It is my position that the small catcher-processor vessels participating in the jig fisheries should not require an onboard observer for two reasons. First, there is virtually no by-catch in the jig fishery, mostly because the various fisheries are specifically targeted, and are found in differing habitat (depth, seafloor type, etc.) And, if I happen to catch an untargeted fish, halibut for example, I simply use my gaff to release it with no harm to the halibut and then pull anchor and change location. Jig fisheries are very specific to each targeted species.

Second, in 2013, when the observer program came into effect I chose not to participate in the fishery simply because I cannot afford to pay an observer. At a price of \$350 per day, the observer program would be making more money than anyone on the boat including me. As a small catcher processor vessel, I am only able to catch and process a limited amount of product in a day. I am limited by the size of my vessel, the labor necessary to process and the time required for freezing the fish. On an average day, I might catch and process 1,500 pounds of cod at a price of \$1.00/lb. which is \$1,500 that has to pay for crew, fuel, insurance, groceries and maintenance; this is not a "get-rich" fishery!

I have fished the waters from Kodiak to Dutch Harbor, in state and federal waters, and would like to repeat that I see no reason for the observer program to include the jig fleet who are simply trying to make a living, and catch such a small amount of product that is irrelevant to the real volume being

caught. We cannot be compared to the longline, pot, or the trawl fleet that take a huge amount of by-catch as I'm sure your data already shows from previous years.

In closing, I would like to thank you for your consideration of this important matter.

Respectfully,

Ken Christiansen
Owner/Operator

Adam Lalich
F/V YORJIM
box 2583
Homer Alaska 99603
907 359 1332
vamosak@hotmail.com

January 24,2014

North Pacific Fisheries management Council

Observer Coverage C/P

To Chairman and all council member

My name is Adam Lalich. I own and operate the 44ft fishing vessel YORJIM. I am a 36year resident of Alaska and the sole owner and sole operator of my vessel the YORJIM. I myself just strictly jig for cod fish as of right now. Over the last 3 years I am working my way to making my boat a freezer boat to look more for high quality product than always looking for volume. I will have have my freezer installed this coming winter 2014-15 as the last stage of the project. Before I started the observer coverage was for vessels who did MORE than 5000lb a day round weight of fish . This was going to work for me as I am hoping to do 3000lb a day round weight,or 1500lbs of finished weight. If my freezer work very well there is a chance I might be able to do 4500lbs round weight or 2100lbs finished product but this is yet to be seen. My boat will be set up to do only 700-750lbs of finished product on a freeze cycle.

In 2013 the observer coverage was changed in the C/P section. There is no under 5000lbs a day exemption we small vessels who may be trying to work are way up are put in the same class as the high volume C/P vessels longline, trawling ,pot gear who hold 100s of thousand pounds, million pounds and such we are in a very different league and have been left not a chance to work are way up.

I have FFP of jigging cod right now and icing, I pay into the federal observer program, but when I freeze I will not be able to get a FFP as I would be required to pay for a observer and this is not a option, full time coverage at my expense,and having another body on board all the time. I have no problem with the observer program and paying into, I do think it could be directed to more of the vessels who we all know should have it but this is a start

In the jigging there is very little by catch. I fish 27 hooks 9 per jig machine the average soak time is 5 minutes and any by catch is alive I can return the fish unharmed without even pulling out of the water. If there happens to be a lot of bycatch I move. My gear is NOT soaking and catching fish while I haul a longline string. In 4-5 minutes I am up and gone and looking for better fishing. At the end of the I get very little bycatch and EVERYTHING goes back alive, healthy and on to grow never anything is dead or sandfled up or such NEVER

Right now as I understand if I do not get a FFP for jigging C/P I stay inside 3 miles in the federal fisheries I pay into the program yet don't need a observer. I would like to have a FFP jigging C/P so at times I may go out side 3 miles if need be. There are also other fisheries I want to look into Dusky, lingcod and ones that I might need to go out side 3 miles.

I feel that all C/P to have full coverage no matter what volume is unfair. Any small boat who is trying to freeze and do under 5000lbs of round product a day (as written prior to 2013) is someone who is trying to work there way up in a fishery, most likely a Alaska resident, the owner of the vessel and operator and in my case I am doing all the work as I have yet to hire crew. We can not be put in the same class as the long line fleet, large vessels, and such who rely on huge volume to make it pay for the many owners and crew of the big vessels

Council members, staff, OAC I hope you take this into consideration for small vessel C/P doing small volume who are investing a lot of money to make a great product and are most likely the owner,operator of the there own vessels and I would imagine in Alaska they are ALASKAN residents.

Thanks for your time

Adam Lalich
f/v YORJIM



P.O. Box 3302, Seward, Ak 99664, (907)224-5584, kruzof@ak.net

North Pacific Fisheries Management Council
Via email attachment: npfmc.comments@noaa.gov

1/28/14

Attn: Members of OAC, AP and Council

RE: Observer Program regulatory Amendments – Agenda item C13

A. Allowances for Catcher Processors:

For vessels who may qualify both as a Catcher Vessel and Catcher processor during their operating seasons, the re-structured observer program has posed economic hardship and constricts flexibility. We encourage the OAC, AP and Council to help expedite the following changes for such operators as soon as possible.

(note: The outline below shows suggested amendments to the existing regulatory language in Vol 77, No 225, CFR 679.51 pg70079, **Catcher/Processors classification.**

- I. Eliminate control date of allowing observer choice and exceptions for vessels of certain size vessels (<60) and / or who fell within a production limit (<5000 lbs round/day).

Current Regulations provide allowances for certain operations that occurred between Jan 2003 and Jan 2010. A control date is not necessary since quota types (CDQ, A-shares) and Federal Fishery Permits have already identified the type of quotas and limited the number of prospective vessels who can function as CP's. Observer coverage options should be allowed so they do not induce economic hardship on vessel operations that choose to participate in fisheries as a CP from one year to the next or in the future.

- II. Provided that allowances are met, permit an annual choice (eliminate the "one-time choice" language) to be in the partially observed, or 100% observer pay as you go pool.

Current regulations allow a one-time choice for CP/s that operated within the control date period and met noted allowances to enter the fee based program or be 100% observed. It is expected that this choice follows the vessel into perpetuity. Without compromising the observer coverage necessary, vessels meeting allowances should be allowed flexibility to choose the type of observer coverage that fits their ops plan from one year to the next. Changes in fisheries, quota allowances, markets, and operations are inevitable therefore CP's should not be limited by a one-time choice of a certain observer coverage option. Furthermore, if more observer coverage proves necessary on such vessels, it can be adjusted via the annual deployment plan, versus the lengthy rule change process.

- III. Review the production threshold and allow it to be within a more reasonable range. An average daily groundfish production range not less than 7mt or more than 10 MT of "round" weight equivalent in the most recent full calendar year of operations should be considered.

The current regulation allows CP/s who didn't meet allowances during the control dates, and produce no more than one mt of groundfish in any day of a calendar year to be in the partially observed coverage category. Those who may function as a CP', with limited capacity or during times and in areas where CPUE's are typically low, need the flexibility to manage observer coverage costs so it isn't cost prohibitive. Operations where CPUE's are low, cannot afford 100% daily observer costs. It should also be noted that CP's with a low cost of operations are better equipped to harvest stranded fish, and provide a better quality product for the marketplace.

- IV. Given I thru III above, eliminate exception in rule for those who currently fall under the 1MT/day round production threshold. This daily threshold amount was not analyzed and is too small to be considered by anything other than a freezer troller harvesting and processing products of very high market value.
- V. Recommend that rule change on CP allowances be limited as follows:
- a). Will not apply to Trawl vessels of any type.
 - b). Will not apply to factory longliners operating as a COOP in the P.Cod A & B seasons
 - c). Will apply only when doing catching processor activity for other Groundfish, including those species identified as IFQ or CDQ.
 - d). Will apply only if vessel is operating within a certain production threshold.

B. Standardized current year ex-vessel prices for IFQ fish.

For purposes of streamlining billing and using more accurate pricing that reflects the regionality and seasonality of purchases, Observer fees for IFQ landings and the incidental catches that correspond with those landings should be billed to and in conjunction with the IFQ Permit holder's NMFS Cost Recovery fee.

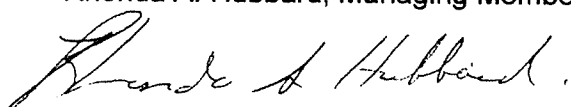
Current regulations use previous year pricing for IFQ's and a 3 year rolling average price for other groundfish. It is possible to use current year ex-vessel prices for IFQ fish by using the same method of pricing used in the NMFS cost recovery fee for IFQ fish. Incidental catches landed with IFQ fish can also be tracked thru the same reporting system and applied to the same billing using the established 3 year average prices.

By changing this method of applying price and attached billing to the cost recovery fee the following will likely be realized;

- 1). Billing efficiencies as well as security since payments are tied to the annual re-issuance of IFQ permits.
- 2). Less burden on processors who pay this component of Observer fees
- 3). Less probable impact on price reduction to fishermen by the processor.
- 4). Agency will enjoy receiving payments of Observer fees earlier from the IFQ fleet which represents 60-70% of the Observer fee income.

We look forward to seeing these rule changes implemented as soon as possible.

Sincerely yours,
Rhonda A. Hubbard, Managing Member



Subject: Agenda Item C-13 (Observer Program Regulatory Amendments Discussion Paper)
From: Alaska Jig Association <akjig.assn@gmail.com>
Date: 1/28/2014 12:45 PM
To: npfmc.comments@noaa.gov
CC: "dianna.evans@noaa.gov" <dianna.evans@noaa.gov>, "danhullak@gmail.com" <danhullak@gmail.com>

Chairman Olsen, Council Members and OAC members,

The Alaska Jig Association (AJA) supports a regulatory change for catcher/processor (C/P) vessels harvesting under 5000 lb round weight per day operating in Federal waters, in that these vessels should be exempted from observer requirements.

In particular, we support exempting jig gear C/Ps from the observer requirement.

There is currently a precedent for jig gear vessels (catcher vessels) to be exempted from Federal observer requirements, regardless of harvest pace.

Vessels utilizing jig gear are highly selective with short gear soak times lasting minutes instead of hours, and are able to respond to changing harvest circumstances quickly and efficiently to avoid bycatch. Bycatch mortality is also extremely low, owing to the ability to release freshly captured fish before they even come over the side of the vessel.

C/P jig vessels are typically smaller (under 60 feet) and barely have room to house their processing equipment, much less an observer. There are space and safety constraints involved with carrying an observer aboard a small C/P vessel, which can be expected to remain at sea for weeks or even months at a time between offloading at a port.

AJA respectfully requests that these concerns be alleviated, by returning C/P vessels harvesting under 5000 lb round weight per day in Federal waters, to the observer exempt status that they operated under prior to 2013.

Thank you for your consideration of these matters.

Sincerely,

Darius Kasprzak
President, AJA
akjig.assn@gmail.com