

MEMORANDUM

TO: Council, SSC and AP Members  
FROM: Clarence G. Pautzke  
Executive Director  
DATE: August 30, 2000  
SUBJECT: Observer Program



ESTIMATED TIME  
3 HOURS

**ACTION REQUIRED**

- (a) Receive report from Marine Resource Assessment Group (MRAG).
- (b) Receive report from your Observer Committee and provide recommendations as necessary.

**BACKGROUND**

MRAG Report

Last year NMFS contracted with MRAG Americas to conduct an independent review of the North Pacific groundfish observer program. Their report was completed and released in late June, and was mailed to you in late July, along with NMFS' response to the recommendations, and the report from your Observer Committee which met in late July and reviewed the MRAG report. Representatives from MRAG Americas are on hand to summarize for the Council the results of their independent review. Due to timing issues with the rest of our agenda, and availability of the contractors, we should take the MRAG report and get any questions of the contractors answered at this time. Later in the meeting (scheduled for Sunday), we would get additional reports from NMFS and from the Observer Committee and reserve Council discussion then. The Executive Summary from the report is under Item C-1(a).

Agency Response and Observer Committee Report

NMFS' response to the MRAG recommendations is contained under Item C-1(b), and will be summarized for the Council by Dr. Dan Ito. Your Observer Committee met in Seattle on July 24-25 to discuss a variety of program issues, with emphasis on some of the recommendations from the MRAG report. In particular is the recommendation to establish (in lieu of a fully federal program) a contractual relationship between NMFS and the contractors which will place the agency in the role of the client as opposed to industry. This structure would allow NMFS to make determinations as to which contractors would cover specific fisheries, and would create the desired 'arms length' relationship. It would not address cost equity or overall funding issues, but would not preclude development of any particular funding mechanism. The agency intends to proceed with this recommendation using the offshore AFA fishery (catcher/processors and motherships) as a pilot program module. This is discussed more fully in both the agency response to the MRAG report and the Observer Committee report.

Following Dr. Ito's report, Council staff will present the Observer Committee report (Item C-1(c)). Given the pending internal discussions by NMFS regarding program goals and objectives and resolution of issues regarding the no-cost contract proposal, along with additional information requests to staff, it appears most feasible to schedule the next Observer Committee meeting for sometime following the October Council meeting. We would then have an update for the Council at our December meeting.

# Executive Summary

## Background

The North Pacific Groundfish Observer Program (NPGOP) collects, maintains, and distributes data for scientific, management, and regulation compliance purposes for fisheries in the 900,000 square mile Exclusive Economic Zone off the coast of Alaska. The NPGOP is administered from the Observer Program Office (OPO) at the Alaska Fisheries Science Center (AFSC).

The NPGOP was created in its current form in January 1990, with the establishment of the Alaska domestic groundfish observer program. Prior to this, observers deployed on foreign vessels had been paid for through fees collected directly from the foreign fleet. In 1990, NMFS lacked the authority to collect user fees from participants in the domestic fishery, effectively ending its ability to provide funds for, and use the federal contracting process. Consequently, the North Pacific Fisheries Management Council (the Council) devised an interim third party "pay-as-you-go" system under which vessel and processing plant owners contracted directly with private observer companies certified by NMFS, and paid for observer services as needed.

Under the NPGOP, requirement of observer coverage is based on vessel size and gear type for vessels and on the amount of groundfish delivered each month for fish processing plants. The Federal Government covers the costs associated with the administration of the program by the OPO, observer certification training and briefing, observer debriefing, and management of the observer data.

The third party pay-as-you-go system developed by the Council was regarded as an interim solution, designed to meet the needs at that time. From the outset, the Council was committed to working with Congress on a Magnuson Act amendment which would authorize collection of fees to cover observer coverage costs. Under the fee-based program concept, NMFS would contract directly for observer services, thereby eliminating the potential for conflict of interest generated by the direct contractual arrangement between the industry and the observer providers, and establishing arrangements under which observer companies would be directly accountable to NMFS for data quality.

The Magnuson Act amendment was passed in 1990 and NMFS began to develop the regulatory infrastructure necessary to support the new Observer Program and to put in place a system for collecting fees. This later became known as the North Pacific Fisheries Research Plan, or Research Plan for short. Final action to implement the Research Plan was taken in 1994. The implementation plan provided for collection of some fees in 1995 so that government funds would be available to initiate contracts with observer companies before the beginning of 1996.

During 1995, industry representatives became increasingly concerned with some aspects of the fee collection system, the complexities of the government procurement system, and the challenges associated with reaching consensus on coverage levels which would meet information needs for science, management, and compliance. Thus, in December 1995, the Council voted to repeal the Research Plan. In its place, the Council initiated development of a modified pay-as-you-go Observer Program under which a "prime contractor," operating under a Joint Partnership Agreement (JPA) would receive all industry payments for observer coverage and would, in turn, contract with observer providers. However, this too failed when the designated prime contractor, the Pacific States Marine Fisheries Commission, was unable to resolve legal and insurance problems associated with this role.

In 1996, the Council called on NMFS to develop a new fee-based program and asked staff to consider several design concepts, some of which could not be implemented under existing Magnuson-Stevens Act authority. Over the past few years, NMFS and the Council have worked together to address fundamental concerns with the design of the NPGOP, primarily associated with the third party pay-as-you-go system. In 1998, the AFSC decided to undertake a comprehensive review of the NPGOP to address these concerns prior to embarking on another major attempt to re-develop the program. This independent report, initiated in August 1999, forms part of that review process.

### **Review strategy**

This independent review was commissioned by NMFS. While it was intended to look at the overall performance of the NPGOP, the main focus was on components under the control of NMFS, and how NMFS could best move towards achieving the goals and objectives it has set for the NPGOP (note that these goals and objectives are not yet those of the NPGOP as a whole).

Two basic approaches were used for the evaluation of the NPGOP. The first was to look at its performance relative to the Program's stated goals and objectives - has it met these in a cost effective manner, and, if not, what needs to be done to ensure that it does in the future? The second approach was to look at the program objectives, structure, implementation and performance relative to similar observer programs in the region and elsewhere in the world, making direct "peer-group" comparisons.

One of our main strategies for evaluating the Observer Program was to contact as many of the stakeholder groups as possible to solicit opinions and data on its performance. A large amount of information was provided and many opinions expressed during meetings, interviews and other contacts. It was then up to the review team to process this information in order to reach independent and objective conclusions and provide recommendations for the future of the Observer Program. Within the scope of this review it was not possible to treat every issue comprehensively. Hence, not every comment, recommendation or suggestion proposed by the stakeholders is critically reviewed. Instead we have tried to focus on what are perceived to be the major issues within the NPGOP and provide recommendations for the direction in which the program managers should take it both in the short and longer term. We considered the following five major issues:

- program goals and objectives,
- program authorities and organizational structure,
- coverage levels,
- cost distribution, and
- the observer support system.

Note, however, that there are important issues which cut across these headings. For example, problems and potential solutions associated with the Service Delivery Model have fundamental implications for the program authorities and organizational structure, the cost distribution and the observer support system. At the end of Section 3 we have also added the issue of stakeholder outreach, which we consider to be an important component of any observer program.

The main body of the report presents our discussion and recommendations. To make this report as comprehensive as possible, we have also included the "unprocessed" results of our contacts with stakeholders in an appendix (Appendix 3). None of this information should be viewed necessarily as opinions or conclusions of the review team; it is purely a presentation of information received. Nevertheless, this feedback was one of the major sources of information on which we have based our conclusions.

Other important sources of information for the review included a considerable number of papers, meeting reports, and memos relating to the NPGOP, its problems and the attempts which have been made to improve it. Also, a member of the review team attended the three week observer training course in Seattle in August/September 1999, and observed a number of observer debriefings. Finally, in view of the number of present and past observers and a desire to gain as balanced a view as possible, an extensive observer mail survey was undertaken in late 1999.

The stakeholder groups we considered are listed below:

- **National Oceanic and Atmospheric Administration (NOAA) & National Marine Fisheries Service (NMFS)**
  - NMFS Alaska Regional Office
  - NMFS Alaska Fisheries Science Center (AFSC)
  - NMFS Office of Law Enforcement, Alaska Enforcement Division
  - NOAA Office of General Counsel, Alaska Region
- **Other governmental organizations**
  - North Pacific Fishery Management Council (NPFMC)
  - International Pacific Halibut Commission (IPHC)
  - Pacific States Marine Fisheries Commission (PSMFC)
  - Alaska Department of Fish and Game (ADF&G)
  - U.S. Fish and Wildlife Service (FWS)
  - U.S. Coast Guard (USCG), 17<sup>th</sup> District
  - Sea Grant and the North Pacific Fisheries Observer Training Center (OTC)
- **Fishing Industry**
  - Industry associations
  - Multi-species Community Development Quota (MSCDQ) Group
  - Data contractors & other services
- **Observer companies**
  - Alaskan Observers, Inc.
  - Data Contractors, Inc.
  - Frank Orth & Associates
  - NWO, Inc.
  - Saltwater, Inc.
  - TechSea International
- **Observer and observer organizations**
  - Individual Observers
  - Association for Professional Observers (APO)
  - Alaska Fishermen's Union (AFU)
- **Non-governmental organizations**
  - Alaska Marine Conservation Council (AMCC)
  - Other non-governmental organizations that get involved in fishery issues in the North Pacific region were contacted (i.e. Greenpeace, Center for Marine Conservation, Pacific Seabird Group, American Bird Conservancy, Sierra Club). However, they have not been actively involved in issues related to the NPGOP, therefore, had no comments to provide.

## Summary of findings

The main report is a substantial document containing a large amount of information on the NPGOP, discussion of the current issues within the Program and recommendations for its improvement. Here we present an at-a-glance overview of findings of the review in the form of a summary table. To succinctly paraphrase the report we have adopted a project planning format, which lists the Present, the Problems, the Possibilities and the Proposals:

- **Present** - the present conditions of the NPGOP
- **Problems** - problems which result from the present situation
- **Possibilities** - a brief look at the possible options available to address the problems
- **Proposals** - a summary of our recommendations for the future development of the NPGOP to address the problems, given the possibilities.

The main issues are presented under the same headings used in the main report and listed in the previous section of this executive summary. There is obviously a substantial amount of detail in the main report which could not be included in this summary, and readers are strongly advised to read the relevant sections of the main report in order to gain a more complete picture of the problems and the suggestions we have made. As an introduction to the table, below we provide an abstract which explains the overarching difficulties facing the OPO.

**Present:** An interim design (third party, pay-as-you-go) adopted for the NPGOP, based on constraints existing in 1989/90 remains in place, despite substantial effort to devise a replacement design acceptable to all stakeholders.

**Problems:** The failure of the Research Plan and JPA proposals after several years of effort, and the fact that recognized problems remained, were demoralizing to those involved in their preparation. Remedial action is now limited to short term patch-up remedies applied to the existing system, even though it is recognized by many stakeholders that fundamental change in the NPGOP's structure is required. The OPO is now struggling to respond to conflicting scientific, catch accounting and compliance needs, many of which were not envisioned when the Program was originally designed.

**Possibilities:** Despite these problems, the NPGOP has achieved a great deal. It is the largest single fisheries observer program in the world and has been functioning continuously in its present form for more than ten years. This achievement is a great credit to those involved in the implementation of the Program. It should not, however, be viewed as an indication that no action needs to be taken. Over time, increasing emphasis has been placed on catch accounting, and individual vessel accountability, resulting from new regulations covering bycatch and quota allocation. The problems of the interim SDM have become even more acute as this emphasis has increased and there is no doubt that significant change is required for the Program to function effectively in the future.

**Proposal:** This report contains a large number of recommendations for changes to the structure and administration of the NPGOP (see following table), requiring action at many levels in the Program. Implementation of these recommendations requires the development of a coordinated action plan detailing activities, with clear, short and long term objectives and milestones leading to the resolution of existing problems within the NPGOP.

Present	Problems	Possibilities	Proposal
<b>Program goals and objectives</b>			
<p>Observer Program mission statement, goals and objectives drafted by the NMFS OPO in 1996, but not yet formally adopted for the NPGOP as a whole.</p>	<p>The logical structure of the existing draft is poor.</p> <p>The goals and objectives include conflicting demands and there is no clear understanding of priorities amongst all stakeholders.</p> <p>There is no apparent linkage between the current draft and the SDM, which comprises the activities and distribution of labor intended to achieve the objectives. Priorities for the NPGOP have been changing over time without consideration of changes required within the SDM.</p>	<p>If the NPGOP's goals and objectives are more clearly defined and understood, this will promote uniformity in the performance of program tasks and clarify requirements for the SDM.</p> <p>Awareness of the purpose of the Program should be promoted among all stakeholders. The main report presents an alternative structure for the NPGOP goals and objectives, which could form the basis for discussion amongst stakeholders, leading to formal adoption for the NPGOP as a whole.</p>	<p>The Program's goals and objectives should be reexamined using more structured program planning tools, such as the Logical Framework. This should be done as part of a wider consulting exercise which provides opportunity for on-going input from the stakeholder community both within and outside NMFS. e.g. using facilitated planning workshops. A draft of the goals and objectives should be offered as a "straw man" to initiate discussions at the planning workshop.</p> <p>The costs, benefits and environmental value of the NPGOP should be studied.</p>

Present	Problems	Possibilities	Proposal
<b>NPGOP Authorities and organizational structure</b>			
<p>Industry pays private observer companies directly for observer coverage as required.</p>	<p>The direct business relationships between fishing companies and observer companies create, at a minimum, the appearance or perception of a conflict of interest.</p> <p>The pay-as-you-go observer procurement system leaves observers and observer companies vulnerable to pressures that jeopardize the quality and credibility of the data that the Program is seeking to provide, particularly with the increased emphasis on individual vessel accountability which has taken place since the Program started.</p> <p>Negative incentives also exist at the individual observer level, which may add to the data quality problem. For example, in some fisheries, observers can benefit directly from under reporting bycatch of protected species, because this prolongs the open season, thereby extending the requirement for observer coverage and their days at sea.</p>	<p>A new SDM needs to be developed which removes the requirement for industry to make direct payments to the observer companies. There are three main types of SDMs used for fisheries observer programs:</p> <ul style="list-style-type: none"> <li>• government program;</li> <li>• government-contractor relationship; and</li> <li>• SDMs involving "third party" contracting.</li> </ul> <p>Six essential elements for an SDM to ensure observer program objectives are met have been identified:</p> <ul style="list-style-type: none"> <li>• arms-length from industry;</li> <li>• operational efficiency;</li> <li>• high level of integrity and perception of integrity;</li> <li>• provision of high quality, experienced observers; and</li> <li>• responsiveness to government and industry needs.</li> </ul> <p>The most obvious way to eliminate the potential conflict of interest and provide observers with increased backup on compliance issues would be to make all observers federal employees within a wholly government controlled observer program. This would enable NMFS to effectively deliver on its responsibilities for monitoring north Pacific groundfish. However, this would result in major disruption amongst current stakeholders, and would resurrect the problems of funding and cost equity which were the reason for the failure of the Research Plan in 1995/96.</p>	<p>If the option of a government program is open to the OPO, then we recommend that it is implemented as soon as possible, to enable NMFS to effectively deliver on its responsibilities for monitoring north Pacific groundfish.</p> <p>In the event that this is not an option, a viable alternative would be to establish direct contractual relationships between the government and the observer companies.</p>



Present	Problems	Possibilities	Proposal
<p>Multiple observer companies compete on a day-to-day basis to provide observer coverage for multiple industry clients.</p>	<p>Day-to-day competition between observer companies may give rise to poor work conditions for observers which may be detrimental to the observers' work and have negative consequences for data quality. For example, observers have reported that vessel masters or owners have refused to take them on board, because they had previously filled out affidavits or noted violations on that vessel, and the vessel masters have sought a replacement observer. Vessels which are not subject to 100% coverage of sea days can turn away an observer and proceed with their fishing trip, opting to fulfill the coverage requirement at a later date.</p>	<p>The use of private observer companies in the NPGOP <i>per se</i> is not the root cause of the problem with the SDM. It is the lack of direct contractual obligations between the government and the companies, the direct industry payments, and the existence of multiple observer companies competing for business from industry clients which have lead to many of the problems with the SDM noted during this review.</p>	<p>To address the problem of day-to-day competition and the direct industry-observer company relationship we recommend a two-phase approach for implementation in the short term.</p> <p>Phase One would develop and implement a system under which the industry has no choice regarding the observer company from which it can obtain the observer service it requires. To achieve this, and allow several observer companies to still take part in the Program, we suggest that the NPGOP is subdivided into smaller units, based on a rational sub-division of the north Pacific groundfish fishery. Only one observer company would be certified to provide observer coverage in each fishery unit (although one company could be certified for more than one unit).</p> <p>Phase two would seek to establish direct contractual agreements between observer companies and the government. This would be a natural progression from the certification process established in phase one. Some form of agreement would be required to ensure the conditions of certification (including fixed prices charged to the industry) are met. This could be achieved through carefully drafted certification conditions (which if not met would result in de-certification), but a formal contract would be more effective. The form of the contract may or may not imply that the pay-as-you-go system would need to be replaced. A "no-cost" contract could be used to establish government control first, with the cost recovery issue being addressed separately.</p>

Present	Problems	Possibilities	Proposal
<b>Coverage levels</b>			
<p>Some vessels do not require observers. Government control over placement of observers and the quality of performance of the data collection task is limited.</p>	<p>Non-random placement of observers in the groundfish fleet may result in bias in stock assessment data.</p> <p>There are no observer data from vessels less than 60ft LOA.</p> <p>Vessels may behave differently when they have observers on board compared to when they do not.</p> <p>The observer companies have experienced difficulties in finding enough observers, for example to fulfill the demand for MSCDQ vessels.</p>	<p>Government control over the placement of observers needs to be strengthened.</p> <p>There are alternative approaches to monitoring fishing activity, which have potential to reduce the number of observers required. These include vessel monitoring systems (VMS), digital video surveillance, and the use of imaging devices with fish recognition software for automatic monitoring of species composition.</p>	<p>The requirement for government control over observer placement would be met either by a wholly government based observer program, or through the establishment of direct government-observer company contracts.</p> <p>The Council should establish coverage requirements for placement of observers on vessels less than 60ft LOA.</p> <p>Logbook data should be used to cross-reference with observer data and for extrapolating observer sample data to the un-observed component of the fishery.</p> <p>Development of a mechanism, agreeable to the OPO, observer companies, and observers, under which waivers can be granted for short extensions to the 90 day cruise limit.</p> <p>Alternative approaches to monitoring fishing activity (i.e. other than using observers) should be investigated.</p>

Present	Problems	Possibilities	Proposal
<b>Cost distribution</b>			
<p>Observer coverage is paid for by the industry under a pay-as-you-go system</p>	<p>Only those vessels with observer coverage pay for the cost of the Program, creating a cost inequity across the groundfish fleet. Many who benefit from the NPGOP pay no costs at all (i.e. the &lt;60ft LOA vessels).</p> <p>Among those who do pay, some operators' observer costs comprise a disproportionately high percentage of their gross revenues, in many cases much higher than 2%.</p>	<p>The funding policy should:</p> <ul style="list-style-type: none"> <li>• provide financial support for current and future observer coverage needs;</li> <li>• ensure adequate observer coverage and data quality;</li> <li>• ensure equity of payment to all industry sectors;</li> <li>• keep costs of observer coverage reasonable; and</li> <li>• ensure adequate compensation for fisheries observers.</li> </ul>	<p>The Council needs to return to the issue of funding of the Observer Program as part of the process of changing the SDM. It may be possible to address some issues within the SDM without changing the pay-as-you-go system. Nevertheless, cost inequities will need to be addressed sooner rather than later.</p> <p>The Council should develop a fee system which distributes the cost of the observer program across all vessels which benefit - i.e. include the &lt;60ft vessels targeting groundfish.</p>
<p>The Research Plan included a cost distribution plan based on a percentage of ex-vessel value of the catch (2%, as allowed for in the Magnuson-Stevens Act).</p>	<p>Under the Research Plan proposal, the observer costs to many fish processing companies would have increased substantially. Each participant paid the same fraction of the landed value of their catch, but fees were collected only from processing companies (processing companies were supposed to collect half of their fees from owners of vessels delivering to their plants).</p>	<p>An alternative to the pay-as-you-go payment system needs to be devised. The council has discussed a number of alternatives, including:</p> <ul style="list-style-type: none"> <li>• 2% of ex-vessel value with an absolute cap (as authorized under Magnuson-Stevens);</li> <li>• 2% fee with a supplemental program for monitoring programs which require direct individual vessel benefits such as the MSCDO, AFA, and similar programs;</li> <li>• TAC set aside for cost recovery, as was used by ADF&amp;G to help fund observer program expansion in the Alaska crab fisheries;</li> <li>• pay-as-you-go with an ancillary fee, surcharge, or voluntary industry contribution; and</li> <li>• full federal funding.</li> </ul> <p>The Council has established that its current task is to develop a model that relies on an industry fee assessment and the use of contractors for observer procurement (NPFMC 1998).</p>	<p>The most promising of the options discussed by the Council to date is probably the TAC set aside. Its advantages compared to the Research Plan options include the removal of the need to assess fees on vessels and processors, and elimination of the accounting and collection burden placed on processors.</p> <p>We also recommend that the Council consider another option: linking observer fees to fishing effort, in the form of days at sea. This would express the program costs in the same "currency" as the service provided (i.e. days). As the observer requirement changes, due to changes in the overall days spent fishing, so would the fee levied.</p>

Present	Problems	Possibilities	Proposal
<b>The observer support system</b>			
<p>Under the existing SDM there is a lack of opportunity for clear accountability and support for the observers by NMFS. Under the SDM, NMFS have developed an evaluation system for providing the OPO, observer companies, data editors and end users with a description of sampling methods, a quality rating of the data and observer performance.</p>	<p>The commercial pressures created by the pay-as-you-go system can have an effect on observers' working conditions, which may, in turn, affect observer morale and hence data quality. Low remuneration is cited as an important cause of the unionization of observers in the mid 1990's.</p> <p>The results of the observer survey indicate that job satisfaction amongst observers is low.</p> <p>Observer turnover is high, with approximately 45% of trained observers completing only a single cruise (OPO figures from observers trained in 1998 and 1999).</p> <p>Some observers consider the observer evaluation to be inconsistent and subjective. More than 20% of respondents rated it as unsatisfactory (the lowest possible rating). The evaluation system may also provide negative incentives to observers to limit information shared with the debriefer, and to "say the right thing" to receive a better score.</p>	<p>The OPO has already responded to the need to enhance support for observers through the establishment of the observer cadre. This is intended to:</p> <ul style="list-style-type: none"> <li>• improve communications between components of the Observer Program;</li> <li>• increase support for observers, particularly in the field; and</li> <li>• improve relations with industry through enhanced outreach.</li> </ul> <p>Observers can be encouraged to remain longer in the profession through better incentives and career path development; including a clearer progression from trainee observer, through various stages of experience with commensurate levels of responsibility and compensation.</p> <p>The training and debriefing processes and newsletters, such as the APO's <i>Mail Buoy</i> can be used to promote the concept of observing as a profession, and retention of trained observers for several years if possible.</p>	<p>A reformed SDM, will be the best means of achieving greater support for observers.</p> <p>The observer cadre is a good initiative and should be encouraged. We support it as a useful short term improvement to alleviate some of the problems created by the existing SDM, but it is likely to be also a valuable component of a reformed SDM.</p> <p>The OPO should develop a more objective and less confrontational evaluation system for observers which provides encouragement and fosters confidence in the support system provided by NMFS. The need for the simple 0,1,2 scoring system should be reconsidered. The OPO should solicit regular feedback from observers on the evaluation system, and allow observers the opportunity to comment on their evaluation.</p> <p>Observers need to be given clear guidance on their roles and priorities in the NPGOP, in an effort to create a more standardized interpretation, particularly amongst trainee observers. Some progress has been made in this regard with the revision of the NPGOP Observer Manual in 1999.</p> <p>The OPO should seek to enhance and broaden the observer recruitment criteria to include candidates with more practical sea-time experience; waive the requirement for a college degree for individuals who have gained requisite scientific experience elsewhere.</p> <p>The training program should provide better preparation and support for trainee observers in what to expect from working at sea on fishing vessels (for example through training on vessels), and, if possible, accompany all first-time observers to their first deployment (for example using experienced observers, and/or cadre personnel).</p> <p>The OPO should promote the use of debriefers with recent and varied sea-time experience on vessels similar to those observed by individuals they are debriefing.</p>

Alaska Fisheries Science Center (AFSC) response to recommendations included in the Independent Review of the North Pacific Groundfish Observer Program provided by MRAG Americas, Inc.

I. PROGRAM GOALS AND OBJECTIVES

Present state

Observer Program mission statement, goals and objectives drafted by the NMFS Observer Program Office (OPO) in 1996, but not yet formally adopted for the North Pacific Groundfish Observer Program (NPGOP) as a whole.

MRAG Proposed action

Recommendation 1 - The Programs goals and objectives should be reexamined using more structured program planning tools, such as the Logical Framework. This should be done as part of a wider consulting exercise which provides opportunity for on-going input from the stakeholder community both within and outside of NMFS, e.g. using facilitated planning workshops. A draft of the goals and objectives should be offered as a "straw man" to initiate discussions at the planning workshop.

Recommendation 2 - The costs, benefits and environmental value of the NPGOP should be studied.

AFSC response

Response to recommendation 1 - The AFSC concurs with this recommendation and plans to initiate a planning process with the North Pacific Fishery Management Council to establish goals and objectives for the Observer Program. We believe this is the crux of the problem currently facing the Observer Program. The issues the Council, the Agency, and observers face have changed over the 10 year history of the Domestic Observer Program. Therefore, fundamental issues such as the role of observers need to be re-examined. We believe that this process must involve NMFS, the Council, and the various constituencies dependent on observer data if it is to be successful. We may wish to use the services of outside consultants more familiar with structured planning processes and tools involving multiple constituencies, such as the Logical Framework suggested by MRAG, in order to facilitate this activity. Once the goals and objectives of this program are agreed to, the Observer Program will be able to proceed to meet these goals and objectives.

Beyond that initial planning process, we will need to continue with a project planning approach for any new activity proposed

for observers or the Observer Program. This will help the Program stay on track by either adhering to the stated goals, or working through the process necessary to modify goals if that is required.

Response to recommendation 2 - The AFSC concurs with this recommendation and will explore funding and alternatives to initiate this study. We believe the current Observer Program offers great value to the management of the North Pacific groundfish fisheries and is the cornerstone of resource assessment and management. It would be beneficial to quantify that value.

## II. NPGOP AUTHORITIES AND ORGANIZATIONAL STRUCTURE

### Present state

Industry pays private observer companies directly for observer coverage as required.

### MRAG Proposed action

Recommendation 3 - If the option of a government program is open to the OPO, then we recommend it is implemented as soon as possible, to enable NMFS to effectively deliver on its responsibilities for monitoring North Pacific groundfish.

In the event that this is not an option, a viable alternative would be to establish direct contractual relationships between the government and the observer companies.

### AFSC response

Recommendation 3 - The AFSC concurs. NMFS, the Council, and industry through Council Committee have worked to rectify this problem for the past several years. This work, which included efforts on the Research Plan and later on a Joint Project Agreement with Pacific States Marine Fisheries Commission, has not been effective in accomplishing the changes necessary. This independent report makes it clear that this problem needs immediate corrective action to ensure we are meeting our responsibilities with a credible program free from conflict of interest.

The AFSC takes the recommendation of a federal program seriously and we would like to see this developed in a manner which continues industry funding of the Program. This approach may not be practical in the immediate term because federal monies are not currently available, and mechanisms to collect fees from industry to fund a federal program are not in place. However, we believe

this model is the most consistent with the job we are asking observers to do. They are functioning as agents of NMFS by collecting data for NMFS. Therefore, they should be recognized and rewarded as an integral part of the NMFS effort. The Observer Program is in the process of implementing a limited federally funded and employed cadre of staff who will play a role in an expanded NMFS presence in the field. While the cadre will improve many aspects of the program, it will not be sufficient to solve current problems.

Lacking a fully federal program, the AFSC believes a direct contract between the government and observer companies is necessary in the short term. There are options for rapid action on this issue and they are described further below.

#### Present state

Multiple observer companies compete on a day-to-day basis to provide observer coverage for multiple industry clients.

#### MRAG Proposed action

Recommendation 4 - To address the problem of day to day competition and the direct industry-observer company relationship we recommend a two-phase approach for implementation in the short term.

Phase one would develop and implement a system under which the industry has no choice regarding the observer company from which it can obtain the observer service it requires. To achieve this, and allow several observer companies to still take part in the Program, we suggest that the NPGOP is subdivided into smaller units, based on a rational sub-division of the North Pacific groundfish fishery. Only one observer company would be certified to provide observer coverage in each fishery unit (although one company could be certified for more than one unit).

Phase two would seek to establish direct contractual agreements between observer companies and the government. This would be a natural progression from the certification process established in phase one. Some form of agreement would be required to ensure the conditions of certification (including fixed prices charged to the industry) are met. This could be achieved through carefully drafted certification conditions (which if not met would result in decertification), but a formal contract would be more effective. The form of the contract may or may not imply that the pay-as-you-go system would need to be replaced. A "no-cost" contract could be used to establish government control first, with the cost recovery issue being addressed separately.

## AFSC Response

Response to recommendation 4 - The AFSC concurs with the essence of this recommendation but we plan to modify aspects of the recommended implementation. This review makes it clear that the day-to-day competition between observer companies and the direct industry to observer company relationship is problematic and detrimental to the overall success of the program. In the short term, the AFSC intends to pursue no-cost contracts and exclusivity among the service providers for a portion of the fishery. This will break the conflict of interest in the near term while still providing for a distribution of work among existing observer companies. Costs would be controlled by the competitive process used in bidding for a federal contract.

We differ with MRAG in that we view their two phase approach as best being accomplished in one step. That is, a logical segment of the fishery would be treated as a module and put out for bid by all interested observer companies in the normal government contracting process. The cost to the industry for observers would be established up front in the bid. Each module could be awarded to one or several contractors depending on the size and complexity of that module. Once awarded, vessels and processing plants in each module would work with a single observer service provider who would be responsible for their performance to NMFS through the contract. While money would still flow directly from the industry to contractors, the cost would be fixed in the contract and the day to day competition between contractors for the services of a boat or a company would be eliminated. NMFS would have contractual oversight of the financial interactions. Contractors would also be protected because vessels which did not pay for observer services could be denied future coverage until their accounts were settled. They would not be able to go to another contractor.

We believe this single phase approach is best because it is both achievable in the near term, and it eliminates the AFSC having to split the existing workload into components and assigning it through a certification process as is recommended in phase one of the MRAG recommendation. The AFSC prefers that the process of receiving exclusive rights to work with a module of a fishery be competitive. We propose using the well established and well defined federal procurement system to achieve this.

The AFSC proposes to conduct an assessment of this module approach by implementing a pilot program for a segment of the groundfish fishery that is well defined and for which observer coverage requirements are largely independent of different management programs. The catcher/processors and motherships that have been issued a permit to fish groundfish under the American Fisheries Act meet these criteria. The AFA established exclusive



rights to fish for Bering Sea pollock, as well as limitations on the amounts of other groundfish and prohibited species that may be harvested. These harvest rights and restrictions increase the need for high quality observer data. Thus, the discrete number of at-sea AFA processors and the demand for high quality observer data from this fleet provide the criteria for a pilot module that would provide a good opportunity to assess this contract approach for procurement of observer services.

Once this pilot program is in place and running, NMFS will consider additional modules under this approach.

### III. COVERAGE LEVELS

#### Present

Some vessels do not require observers. Government control over placement of observers and the quality of performance of the data collection task is limited.

#### MRAG Proposed Action

Recommendation 5 - The requirement for government control over observer placement would be met either by a wholly government based observer program, or through the establishment of direct government-observer company contracts.

Recommendation 6 - The Council should establish coverage requirements for placement of observers on vessels less than 60 ft LOA.

Recommendation 7 - Logbook data should be used to cross-reference with observer data and for extrapolating observer sample data to the un-observed component of the fishery.

Recommendation 8 - Development of a mechanism, agreeable to the OPO, observer companies, and observers, under which waivers can be granted for short extensions to the 90 day cruise limit.

Recommendation 9 - Alternative approaches to monitoring fishing activity (other than using observers) should be investigated.

#### AFSC Response

Response to recommendation 5 - The AFSC concurs and feels strongly that more traditional management controls implicit in direct federal hires or direct federal contracts need to be provided to the program managers if the Observer Program is to successfully meet its responsibilities. In the immediate term, the AFSC is planning to move forward with a direct no-cost

contract as a first step to correct this deficiency." Our response to recommendation number 4 provides additional detail on this topic.

This recommendation also highlights the need for direct control over when and where observers are placed. Vessels with less than 100 percent coverage control when the observer is placed on their vessel. The AFSC believes observer placement must be government controlled and done as part of a designed sampling scheme.

Response to recommendation 6 - The AFSC concurs if these data are specifically directed to meet a fisheries management objective.

Response to recommendation 7 - The AFSC agrees that use of the logbook data is a potential option, but that the issues related to logbooks are more complex and need further analysis. We have a second contract in place looking at, in part, how we estimate catches. We believe the use of logbook data can best be addressed at that time.

There may be confusion regarding the current use of logbooks. When observers are on vessels, they use the logbook as an integral part of their data collection. The basic haul or set parameters (location, depth, time, vessel estimate) are all obtained from vessel logs. A copy of the logbook is returned to NMFS with the observer and it is stored as the reference for those data. Vessel personnel also submit logbooks to the NOAA Office of Enforcement for their use in monitoring regulatory compliance. Unobserved vessels (those less than 60 ft) are not required to maintain or submit a logbook to NMFS. Thus, the recommendation to use logbooks to expand to the unobserved portion of the fleet would require an expansion of that logbook program and increased data entry and quality control efforts. This is a significant and costly task that cannot be undertaken without a clearly defined need.

Response to recommendation 8 - The AFSC agrees that flexibility around the duration of a deployment is desirable as long as individual observers are supported, and data timeliness and quality do not suffer. Unfortunately, under the current service delivery model (SDM), previous requests for extensions were being abused by some observer companies competing with each other. This was being done in a manner where we believed the data quality was suffering because some observers were kept at sea beyond their fatigue threshold. Many observers believed they could not refuse an extension coming from their employer. Because of these situations, we ceased granting waivers. In addition, for some people (most first timers), the 90 day cruise limit is too great and should be reduced. We believe that flexibility in these limits would be possible under a revised SDM which places a responsibility on the observer provider for data

The Research Plan included a cost distribution plan based on a

Present state

Council's OAC to address funding. using a no-cost contract approach) while still working with the we intend to make systematic changes to the observer SDM (i.e., difficulties implementing the current statute. In the meantime, progress on this issue may require changes to the MSA to address on this issue without significant change to the interim system. However, we are concerned that a great deal of work has been done authorities that exist under the Magnuson-Stevens Act (MSA). mechanisms that could be implemented given the current with the NPFMC's Observer Advisory Committee (OAC) on funding Response to recommendation 10 - The AFSC concurs and is working

AFSC Response

i.e. include the >60 ft vessels targeting groundfish. The Council should develop a fee system which distributes the cost of the observer program across all vessels which benefit - rather than later. Nevertheless, cost inequities will need to be addressed sooner within the SDM without changing the pay-as-you-go system. It may be possible to address some issues changing the SDM. Funding of the Observer Program as part of the process of Recommendation 10 - The Council needs to return to the issue of

MRAG Proposed action

Observer coverage is paid for by the industry under a pay-as-you-go system.

Present state

IV. COST DISTRIBUTION

as Vessel Monitoring Systems (VMS). observer project) and are interested in other technologies such the video monitoring of hook-and-line gear (e.g., the digital of data. We are currently working with the industry looking into that alternative approaches exist to the collection of some types Response to recommendation 9 - The AFSC concurs and recognizes address data quality, protection for the individual observer needs, appropriate compensation for extra time at sea and in debriefing, and overall workloads for Observer Program staff.

percentage of the ex-vessel value of the catch (2%, as allowed for in the MSA).

#### **MRAG Proposed action**

Recommendation 11 - The most promising of the options discussed by the Council to date is probably the TAC set aside. Its advantages compared to the Research Plan options include the removal of the need to assess fees on vessels and processors, and elimination of the accounting and collection burden placed on processors.

Recommendation 12 - We also recommend that the Council consider another option: linking observer fees to fishing effort, in the form of days at sea. This would express the program costs in the same "currency" as the service provided (i.e. days). As the observer requirement changes, due to changes in the overall days spent fishing, so would the fee levied.

#### **AFSC response**

Response to recommendations 11 and 12 - The AFSC agrees that both of the proposals offered by MRAG are options which should be considered by the Council in resolving the cost distribution issue. We will work with the Council and Council Committees to further explore these options for cost distribution and to pursue amendments to the MSA which would provide the authority to develop alternative funding mechanisms.

### **V. The Observer Support System**

#### **Present state**

Under the existing SDM there is a lack of clear accountability and support for the observers by NMFS. Under the SDM, NMFS has developed an evaluation system for providing the OPO, observer companies, data editors and end users with a description of sampling methods, a quality rating of the data and observer performance.

#### **MRAG Proposed Action**

Recommendation 13. A reformed SDM will be the best means of achieving greater support for observer.

Recommendation 14. The observer cadre is a good initiative and should be encouraged. We support it as a useful short term improvement to alleviate some of the problems created by the existing SDM, but it is likely to be also a valuable component of

a reformed SDM.

Recommendation 15. The OPO should develop a more objective and less confrontational evaluation system for observers which provides encouragement and fosters confidence in the support system provided by NMFS. The need for the simple 0,1,2 scoring system should be reconsidered. The OPO should solicit regular feedback from observers on the evaluation system, and allow observers the opportunity to comment on their evaluation.

Recommendation 16. Observers need to be given clear guidance on their roles and priorities in the NPGOP, in an effort to create a more standardized interpretation, particularly amongst trainee observers. Some progress has been made in this regard with the revision of the NPGOP Observer Manual in 1999.

Recommendation 17. The OPO should seek to enhance and broaden the observer recruitment criteria to include candidates with more practical sea-time experience; waive the requirement for a college degree for individuals who have gained the requisite scientific experience elsewhere.

Recommendation 18. The training program should provide better preparation and support for trainee observers in what to expect from working at sea on fishing vessels (for example through training on vessels), and, if possible, accompany all first time observers to their first deployment (for example using experienced observers, and/or cadre personnel).

Recommendation 19. The OPO should promote the use of debriefers with recent and varied sea-time experience on vessels similar to those observed by individuals they are debriefing.

#### **AFSC Response**

Response to recommendation 13. The AFSC concurs that a reformed SDM is the best means of achieving greater support for observers. The support provided to observers includes many tangible and intangible items which in their entirety effects each individual observer in their role as a critical information collector for NMFS. We believe the observers need to feel a part of the Agency they work for and that direct linkage should be a part of the SDM. It is currently lacking and we believe this will be partially corrected under the contract model we are proposing.

Response to recommendation 14. The AFSC concurs that an Observer Program cadre is a good initiative that should be encouraged in both the long and short term. We have already been proceeding in this direction with a scaled implementation starting this year.

Response to recommendation 15. The AFSC concurs that we should develop a more objective and less confrontational evaluation system for observers which provides encouragement and fosters confidence in the support system provided by NMFS. The Observer Program has initiated several actions to improve the debriefing process. A debriefing coordinator has been appointed and will complete a review this summer, with a new debriefing process to be instituted for the 2001 calendar year. We have an additional contract in place to provide specific recommendations on the debriefing process. The debriefing coordinator will be seeking additional observer input into this process.

Problems in the current system are exacerbated by the existing SDM where NMFS acts in the role of evaluating the performance of an observer company's employee without any clear commensurate responsibility for performance by the company. In the immediate term, The Observer Program has been moving toward a more constructive critique of each observer's performance and will consider eliminating the scaled rating system. In the establishment of direct agency-service provider contracts, we intend to establish mechanisms to hold the observer provider accountable for the quality of the observers and the data provided.

Response to recommendation 16. The AFSC concurs with the recommendation and has always strived to give clear guidance to observers on this as is evidenced by our manual for observers, the training and briefing programs, and in-season advising and mid-cruise reviews. However, there is room for improvement. As the tasks assigned to observers have increased in recent years, it has been increasingly difficult to balance work between competing objectives. Without stakeholder agreement on the Observer Program goals and objectives, and a clear process for periodic review, it is difficult for staff to understand the priorities, much less convey them to observers. Better clarity in the day to day priorities will hopefully be one product of the broad planning exercise we are proposing.

Response to recommendation 17. The AFSC concurs with the recommendation to enhance and broaden the observer recruitment criteria to include candidates with more practical sea-time experience. The Observer Program will consider the recommendation to waive the requirement for a college degree for individuals who have gained the requisite scientific experience elsewhere but only with the qualification that this action be taken with the implementation of a revised SDM. Under the current SDM, the observer providers are not accountable for the quality of the products produced by their employees. We would need that linkage before considering alternative standards. Ideally, new observers would have both the academic background and some practical sea-time experience before becoming an

observer although there are constraints to the number of people with these skills available.

Response to recommendation 18. The AFSC concurs noting that we are proud of our existing training program and that it has been a model used by several other programs in their development. We are constantly striving for improvement in training and we recognize that providing practical experience on a vessel would be the best training of all. It is very difficult to train people for the actual experience of being on a working fishing vessel at sea. At sea training is also time consuming and expensive. We believe that observers would need to be compensated for additional training time. An alternative may be to limit the deployments and specify assignments of first time observers so that their first trip at sea is straight forward, of short duration, and designed as an integrated part of their training.

We also agree that observers should be accompanied to their first deployment whenever possible. We feel observers and industry would benefit by all observers being accompanied to their first deployment on any vessel. This could improve communication and mutual understanding considerably. The task could be accomplished by NMFS or the observer provider. In the current SDM, some observer companies provide this service in some ports, while others do not. The AFSC intends to supplement this work through the cadre it is developing. With the cadre and a new SDM which requires port coordinators, we think it could be accomplished consistently.

Response to recommendation 19. The AFSC concurs with this recommendation and notes that we have been doing this already for several years. All debriefers hired by the Observer Program within the past several years were selected from the domestic observer pool. All were highly regarded observers and are now highly regarded staff. Where possible these staff act as in-season advisors to observers on vessels they are familiar with, and try to debrief the observers off those vessels. Debriefers also try to match up with observers on boats the debriefer has worked on previously. However, we do not delay debriefings in order to make this match nor do we reschedule between the widely dispersed debriefing locations. We do not feel the observer is disadvantaged in these situations because a variety of resources are available to staff to ensure they understand the background on the observed vessel or plant.

To develop the debriefing staff further, we strive to make opportunities available for them to continue to obtain field experience as they develop in their careers with us. These opportunities include staffing our field offices, participating as an observer and working on research vessels. In addition, we

provide staff training in interviewing skills, interpersonal skills, writing, and conflict resolution. While familiarity with the observed vessel and at sea sampling experience are important, these other skills are equally important to being a successful debriefer.



Report of the NPFMC Observer Committee

July 24-25, 2000 - Seattle, Washington

Committee: Joe Kyle (Chair), Chris Blackburn, Kathy Robinson, Kim Dietrich, Mandy Merklein, John Iani, Paula Cullenberg, Susan Robinson, Trevor McCabe, Arni Thomson, John Gauvin

Staff: NPFMC - Chris Oliver  
NMFS-AFSC - Dan Ito, Martin Loefflad, Shannon Fitzgerald, Jennifer Ferdinand, Steve Barbeux, Todd Parker, Sharon Davis, Douglas Limpensel  
NMFS AK Region - Bridget Mansfield  
NOAA GC AK- Tom Meyer  
NMFS NWFSC - Teresa Turk

Other: Brent Paine, Paul McGregor, Gillian Stoker, Liz Mitchell, Dave Edick

The Observer Committee met July 24-25 to discuss the following major topics: the MRAG report and NMFS response to their recommendations; establishment of a contractual relationship between NMFS and the observer contracting companies; review of information previously requested by the Committee; baseline program goals and objectives; potential long-term program models; and, Magnuson-Stevens Act language relative to observer programs. A summary of the Committee's discussions and recommendations follows:

MRAG report and agency response

Dan Ito provided the Committee with an overview of the contracted study by MRAG, along with the agency's response to each of the specific recommendations from that report. The Committee did not discuss each of these recommendations in detail, but focused their discussions primarily on two aspects - (1) program goals and objectives, and (2) organizational structure (making NMFS the client instead of industry).

Program goals and objectives

NMFS believes, and the Committee concurs, that defining and prioritizing the program's overall goals and objectives remains the critical step necessary to make progress on developing a new program model. Specific goals and objectives for observer data needs, by fishery or management programs, are necessary to define baseline observer coverage levels (by fishery or management program), and those coverage levels will directly impact any discussions of overall program structure and funding issues. Further, the Committee believes that a necessary first step in resolving this is for NMFS to determine its baseline objectives, from the perspective of science, management, and enforcement considerations (while the Committee does not believe enforcement is a priority in terms of goals and objectives, or that observers

should be placed in an enforcement role, it is recognized that data collected by observers can be and is used in enforcement related actions by the agency, and that this is increasing as programs of individual accountability evolve).

NMFS staff informed the Committee that the agency intends to meet in September to develop an agency position on this very issue, through a series of internal discussions, and that Committee/Council input would benefit that process. Once NMFS further defines their baseline goals and objectives, those could be further refined through the Committee/Council process. This will be followed by a similar process to define coverage levels by fishery/management program. **The Committee generally agreed with the draft goals and objectives from 1996 (attached), with the following recommendations on priorities:**

**-Goal 1 in the draft (to provide data necessary for in-season monitoring and stock assessment) should indeed be the primary focus of the program.**

**-Relative to Goal 1, the stock assessment and quota monitoring aspect should be higher priority than the catch composition and bycatch monitoring aspect, in terms of % coverage required.**

**-Enforcement/Compliance (currently listed as Goal 2) should be relegated to lowest priority. That is viewed by most Committee members as a side benefit of the program. The Committee feels that compliance objectives need to be better defined in terms of an observer's specific duties on board.**

**- Relative to Goal 4 (marine mammal management), the Committee questioned how such information is actually used by the agency, particularly in terms of defining the extent of fishery interactions.**

**-Relative to all goals and objectives, it would be useful to try and quantify (in terms of efficiency or cost/benefit) the value of observer data collected versus the cost. The pollock fisheries were cited as an example where the costs of coverage may outweigh the marginal gains in information collected. Video coverage may be an option in these fisheries for some purposes.**

**-An additional goal of the program could be to utilize the information collected to assess long-term, time-series ecosystem related issues.**

**-There may be sampling bias on the part of some observers, and NMFS needs to examine its methodologies and instructions to observers in that sense**

#### Organizational structure - Who is the client?

NMFS outlined a proposal to pursue a no-cost contract between NMFS and the observer contracting companies, including dividing the fishery into observer coverage modules which would be bid on by the contractors. While this would not address all program issues, it would directly address the 'arms length' relationship by establishing the agency as the client, rather than the industry, and would put NMFS and the contractors in more of a cooperative, rather than an adversarial, relationship. It could provide a bridge to a program structure which can address flexibility in placing observers, and does not preclude development of any funding mechanisms. It was clarified that NMFS intends to first pursue a pilot program focusing on the AFA catcher/processor fleet and the three motherships. This is viewed as a fairly discrete and

homogenous module, which will allow the agency to explore the administrative and logistical aspects, and overall feasibility, of this approach.

**The Committee supports NMFS' initiative to pursue a pilot program in the AFA fishery, noting the following issues/concerns:**

- cost implications to industry (including implications relative to the Services Contract Act (SCA) and whether additional responsibilities will be given to the contractor which could increase costs).**
- implications for other fisheries sectors (does this appear feasible in the other fisheries? is it necessarily a blueprint for other fisheries).**
- how best to break up the fisheries (what are the appropriate modules?). This will be critical in terms of program function and program cost. Several Committee members felt that a different, more 'difficult' fishery may be more appropriate for a pilot program.**
- level 2 observer availability (will having this pilot program in the AFA sector affect observer availability in other fisheries?).**
- tremendous advantages which would be imparted to the successful contractor for this module.**
- will this give NMFS more flexibility to deal with observer availability issues?**
- this pilot program should not in any way preclude or delay the resolution of other program issues, and the Committee/Council process should have another opportunity to address the pilot program prior to any actual implementation (NMFS agreed and explained that they will be meeting with WASC to determine the rules, they will meet with individual contractors and with relevant industry (APA), with observer representatives, etc. and they will draw up a draft SOW for review by this Committee).**

**The Committee believes that, while we are not sure of the appropriate modules, or whether this will ultimately work, it is a positive step in breaking the inertia and moving toward a better program, and hopefully will be viewed positively by the observers themselves.**

It was noted that some modules (like 30% boats in the Gulf) will be more expensive due to the administrative logistics (compared to the AFA modules), and that observer availability could be compromised for certain modules which may be unattractive to observers. Definition of the modules will be critical, and might ultimately be based on time/area divisions, as opposed to specific fishery divisions.

#### Review of information previously requested

Observer needs by week - NMFS staff provided the Committee several graphs depicting observer needs by week (for the 1999 fisheries), by various categories, intended as background information relative to the issue of observer availability (noting this is what happened in 1999, not necessarily what is ideal). While observer availability has not been a problem so far this year, some Committee members advised that it could be an issue this August/September, even though industry appears to have developed more flexibility themselves in terms of responding to this issue. It was noted that the highly bi-modal peaks have general

implications from an observer/contractor perspective, but that the trend is generally towards more extended seasons. It was also noted that these bi-modal peaks do not accurately reflect patterns in the GOA fisheries. Additional information requests relative to this issue are summarized separately (below).

Current rationalization programs in the fisheries, and the flexibility involved, may exacerbate this problem-while planning is easier for individual operators, everyone is making independent decisions, sometimes on the spur of the moment, with implications for short-term observer availability.

Fee projections: Council staff provided updated (rough) estimates of observer costs, exvessel values, and project fee percentages (1.4% for current coverage). The Committee feels that the \$300/day average cost is probably too low and should be further examined, taking care to include air fare, insurance, and logistical implications of moving observers around the fisheries. More definitive estimates will be required as we further develop funding options.

#### Magnuson-Stevens Act language

At our last meeting the Committee discussed the need for more generic language in Section 313 (Research Plan authorization) to allow us to pursue alternative funding mechanisms. The Committee was informed at this meeting of two draft bills (from Senator Snowe and Senator Kerry) which contain more generic language for observer program development nationwide. While these drafts contain language that would provide flexibility for funding options, there are some major concerns with some aspects of the language. **The Committee had the following recommendations, intended for consideration by the Council and the industry, as well as by NMFS in formulating an agency position on this issue.**

- some cap on cost to industry should be retained, perhaps expressed as being 'equivalent to 2% of exvessel value'.
- the terms 'statistically reliable' should be modified to say 'in accordance with regional goals and objectives'.
- the term 'fair and equitable', while debatable in terms of its meaning, should be retained in the language.
- definition of the term 'fishery' should be clarified in terms of its relationship to collection of fees vs expenditure of fees for coverage. **The Committee recommends that the term 'fishery' would apply to all North Pacific groundfish (and halibut) fisheries; i.e, funds collected from pollock, for example, would not be reserved specifically for coverage in pollock fisheries.**
- regarding the concept of a National Observer Fund, funds from one region should only be used to support observer coverage in that region.
- if new language is adopted, there should be clarification on whether and how Section 313 applies to the North Pacific region.

### Potential long-term program models

The Committee did not have time for detailed discussions of long-term program models at this meeting (for example, fee plan based on exvessel value; fee plan based on fishing days (as suggested by the MRAG report); TAC set-aside program (similar to the crab fisheries); subsidy program, etc.. The MRAG report identified a fully federalized program as the ideal model, and the Committee generally feels that this idea has not been given enough serious consideration. Depending on program goals and objectives, federal funding (even partial) may be appropriate. However, we recognize that this is unlikely in any near-term, and therefore are committed to developing alternative program models based on industry funding and contracted observers. The MRAG report, NMFS, and the Committee believe there are alternatives that could address both flexibility and cost equity issues within this framework, and that the no-cost contract pilot program can lead us in that direction.

While a fee program, or a TAC set-aside, would address these fundamental issues, Committee discussions indicated that something other than a fee program may be more viable for the industry at this time. **One new approach identified by the Committee which would achieve flexibility in placing observers without a research plan, is the idea of a 'flat fee', either fishery-wide or sector-specific.** As one example, the pollock fishery sector would pay into a fund the total amount of money they pay for current coverage levels, but then allow NMFS to deploy some of those observer days in other fisheries, thereby defraying the costs in those other fisheries, and at the same time achieving the flexibility in placing observers where most needed. Alternatively, each fishery sector could retain the total amount of their costs in that sector, pay a flat fee based on number of vessels in that sector, and still have NMFS deploy observers as appropriate within that sector (note that this approach addresses the flexibility issue but may not address the cost equity issue as total costs by sector would be the same - cost inequities *within a sector* could be addressed to some extent.) A third approach would be to take the overall program costs and assess a flat fee on each industry participant to cover those costs, with a differential flat fee amount based on vessel size or some other combination of factors (noting that this approach could end up being equivalent to a fee percentage, and determination of how to break down that flat fee would likely be controversial).

**The Committee was very interested in pursuing this idea further, and requested staff to work with industry members to further flesh this out in a discussion paper to be reviewed at our next Committee meeting.** This approach would eliminate the issue of exvessel value, would not involve a complex accounting burden, and could likely be implemented quite quickly. Timing of payments was of particular concern to the Committee, given that few participants (particularly smaller operators) would be able or willing to make pre-payments for such a program. Perhaps some system of quarterly payments, with jump-start funding from the federal government, would make this approach feasible. Payment into the program by the under 60' fleet, and the halibut fleet, under this approach was not resolved in these initial discussions.

### Additional information requests

During Committee discussions the following information requests were raised (and staff will respond as feasible):

- depictions of observer days need to be separated for the BSAI and the GOA, given the very different patterns in the GOA.
- a comparison of fishing days per gear type with observer days by gear type.
- an estimate of effective coverage by fishery; i.e., the relative % of catch which is observed (both observed hauls and simply when an observer is on board)
- relative % of the TAC of each species caught by each vessel size category.
- estimates of cost per vessel, for each sector, which would occur under the flat fee concept.
- consistency of catch composition for each fishery/area (is it stable or variable?) in order to help determine necessary coverage levels.

**Finally, the Committee believes strongly that successful development of any program model will depend directly on determination of appropriate coverage levels for each fishery (given the goals and objectives determined by NMFS and the Council), and that parallel efforts to make such determinations should be ongoing.**

**NMFS - North Pacific Groundfish Observer Program  
Draft Statement of Goals  
July 1996**

**MISSION**

To provide information essential for management of sustainable fisheries in the North Pacific.

**GOAL 1**

Provide catch, bycatch, and biological data necessary to support inseason monitoring and stock assessment

Objectives

- 1) Provide timely, reliable catch information for quota monitoring and management of groundfish and prohibited species.
- 2) Collect biological data and samples required for stock assessment analysis.
- 3) Ensure that the quantity and quality of data collected are consistent with needs for inseason management and stock assessment.

**GOAL 2**

Provide information to increase compliance with specific regulations.

Objectives

- 1) Collect information from which NMFS and the USCG can enforce regulations.
- 2) Collect information which can be used to assess the effectiveness of management programs.
- 3) Establish standardized compliance monitoring and reporting procedures for observers.
- 4) Maintain effective communication and coordination on compliance issues with appropriate government agencies and industry organizations, and ensure responsiveness to compliance concerns raised by observers.
- 5) Minimize the level of observer harassment and sampling interference.
- 6) Enhance awareness of the impact of noncompliance on the quality of observer data.

### **GOAL 3**

**Improve and maintain the infrastructure necessary to carry out observer functions.**

#### **Objectives**

- 1) Maintain effective communication between observers, program staff, government agencies, and industry participants.**
- 2) Maintain a stable system to allow for effective recruitment, training, provision of equipment, field support, and compensation for observers.**
- 3) Secure and maintain sufficient funding and staff resources for observer program functions.**
- 4) Maintain procedures for reviewing and modifying observer recruitment, training and briefing, and debriefing criteria to meet the needs of NMFS.**

### **GOAL 4**

**Provide information necessary to support management of marine mammals and other protected species.**

#### **Objectives**

- 1) Document fishery/protected species interactions.**
- 2) Provide information to support population assessments and biological studies.**
- 3) Provide information to reduce interactions.**

### **GOAL 5**

**Provide information necessary to support other specified science and management programs.**

#### **Objectives**

- 1) Collect observations and samples as required for marine ecosystem research.**
- 2) Provide information and support in the development of proposed management measures.**



## **GOAL 6**

**Develop awareness of the goals, objectives and activities of NPGOP.**

### **Objectives**

- 1) Maintain and improve communications with observers, observer contractors, the fishing industry, the North Pacific Fishery Management Council and its committees, and other individuals and groups interested in the program.**