North Pacific Fishery Management Council

Eric A. Olson, Chairman
Chris Oliver, Executive Director

Telephone (907) 271-2809

605 W. 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Fax (907) 271-2817

Visit our website: http://www.fakr.noaa.gov/npfmc

Observer Advisory Committee – Meeting Agenda
September 15, 2011: 8:30 am – 4:30 pm
September 16, 2011; 8:30 am – 12 pm
Alaska Fisheries Science Center
7600 Sand Point Way, NE, Seattle
Building 4, Traynor Conference Room

I. **Review and approve agenda**

II. **Observer restructuring amendment package (NMFS)**

   a. **Update/review schedule for observer restructuring regulatory package**
   b. **Update on potential NMFS observer funding for 2013**
   c. **Review & comment on draft regulations for observer restructuring** *(Primary purpose of meeting)*

III. **Electronic monitoring**

   a. **Update on EM halibut fleet pilot project proposal (Dan Falvey)**
   b. **Discuss development of EM in draft regulations**
   c. **Other EM issues?**

IV. **Public comment**

V. **Scheduling & other issues**

NOTE: Please bring a copy of the draft regulations (agenda item IIc) with you. They will be emailed to you by September 6.

Council Final Motion on Observer Restructuring

BSAI Amendment 86/GOA Amendment 76
October 8, 2010

The Council adopts Alternative 3, the "coverage-based" restructuring alternative as its preferred alternative, with the following components that include a modified version of Option 2:

Two tier system for general coverage categories: All vessels and processors in the groundfish and halibut fisheries off Alaska would be placed into one of two observer coverage categories. These categories would be established in regulation:

1. the "greater than or equal to 100%" (≥100%) coverage category, and
2. the "less than 100 percent" (<100%) coverage category.

Vessels and processors in the ≥100% coverage category would not be included under the ex-vessel fee-based program and would continue to obtain observers by contracting directly with observer providers ("status quo").

Vessels and processors that would be placed in the ≥100% include:

1. all catcher/processors and motherships participating in the groundfish and halibut fisheries,
2. all catcher vessels while fishing under a management system that uses prohibited species caps in conjunction with a catch share program, and
3. all shoreside and floating processors when taking deliveries of AFA or CDQ pollock.

100% coverage would not be mandated for vessels <60' with a history of CP and CV activity in a single year or any catcher processor vessel with an average daily production of less than 5,000 pounds[1], in the most recent full calendar year of operation prior to January 1, 2010. These vessels would make a one-time election as to whether they will be in the <100% coverage and ex-vessel based fee structure or the ≥100% coverage and (status quo) fee structure category.

All other catcher vessel landings in the groundfish and halibut fisheries, and processors taking deliveries of this catch, would fall into the <100% coverage category. Observer coverage for vessels and processors in the <100% coverage category would be managed under an ex-vessel fee based observer service delivery model with the following features:

Basis of the fee assessment: A fee would be assessed on the ex-vessel value of the landed catch weight of groundfish and halibut. The landed catch weight would be the weight equivalents used to debit quotas (e.g., round weight for groundfish and headed and gutted net weight for halibut) which are reported on the processor's or registered buyer's landing report submitted to NMFS.

Ex-vessel value fee percentage of 1.25%: The fee percentage would be set in regulation at 1.25% of the ex-vessel value of groundfish and halibut. The fee percentage will be reviewed annually by the Council after the second year of the program (see Option 2 annual reports, below).

Selection of vessels and processors for observer coverage: The selection of vessels and processors that must carry an observer under the restructured program would be determined through a sampling and deployment plan. Observer coverage rates (trips or vessels) would not be in regulation.

[1]Staff note: The 5,000 pounds would be calculated as the round weight equivalent. The Council clarified that this would be calculated by dividing total annual production by the number of days of processing activity.

Standard ex-vessel prices to apply to (non-IFQ) groundfish landings to determine the ex-vessel value based fee liability would be based on standardized ex-vessel nominal prices calculated using data derived from COAR using the methodology developed by the CFEC for their gross earnings estimates.

Standard ex-vessel prices would be established for groundfish by species, port of landing, and gear. Three gear type categories would be established: pelagic trawl gear, non-pelagic trawl gear, and fixed gear (everything else besides trawl gear). Because of data confidentiality issues, standardized price data must be aggregated if there are fewer than 3 entities in a price category.

A 3-year rolling average would be used to calculate the standard ex-vessel prices for groundfish (excluding fixed gear IFQ/CDQ sablefish).

Standard annual ex-vessel prices for halibut and sablefish IFQ and CDQ: The most recent available standard annual ex-vessel price for IFQ halibut and IFQ sablefish developed for the IFQ cost recovery program would be applied to landings by:

- catcher vessels in the <100% observer coverage category of halibut IFQ,
- halibut CDQ,
- sablefish IFQ, and
- sablefish that accrues against the fixed gear sablefish CDQ allocation.

This standard ex-vessel price is established annually by port or port group from registered buyer reports.

How to define a catcher/processor: The determination of whether a vessel is a catcher/processor or a catcher vessel for assignment to an observer coverage category would be based on the designation that is on that vessel's Federal Fisheries Permit (FFP). Once established prior to the beginning of each fishing year, the designation as a catcher/processor or catcher vessel determines the vessel operation category assignment within the restructured observer program sampling and deployment plan for the calendar year. A different approach would be used for vessels that are included in the program, but not required to obtain an FFP. The appropriate approach would be determined during development of the proposed rule

<u>The following exclusions would be made</u>:

State water GHL and state-managed fisheries: Vessels participating in GHL groundfish fisheries and other state managed non-groundfish fisheries (e.g., lingcod) would be excluded from Federal observer coverage requirements, but non-GHL groundfish incidentally caught in the State GHL and other non groundfish managed fisheries that are landed by vessels with FFPs would be subject to the fee assessment.

Vessels with an FFP fishing in the State of Alaska parallel groundfish fisheries would be subject to the Federal observer coverage requirements and the ex-vessel fee assessment.

Catcher vessels delivering unsorted cod ends to a mothership: As is the case under status quo, observers would not be required on catcher vessels delivering groundfish in unsorted codends to a mothership. Because all motherships are in the ≥100% observer coverage category, no fee would be assessed on these groundfish landings, and observer coverage of the catch would occur on the mothership under the status quo system of observer coverage requirements.

Landings from catcher vessels in the <100% coverage category that deliver groundfish or halibut catch that is retrieved onboard the catcher vessel before delivery to the mothership ("sorted catch") would be subject to the fee assessment and observer coverage under the restructured program.

Start-up funding: Funds must be collected prior to deployment of observers under the restructured portion of the program to initiate contracts for observer deployment. Alternative 3 is expected to provide start-up funding in one year. During the start-up period ("year-0"), vessels and processors subject to the 1.25% fee assessment would continue to pay for current observer coverage requirements. Processors would be billed at the end of the year. Vessels and processors will only be required to pay the difference between the fee assessment and the actual year-0 observer costs under the status quo deployment model.

Federal funding for start-up costs: The Alaska Region NMFS will continue to seek federal funding for start-up costs of implementation of the restructured observer program. If federal funding is available, it would be used towards the initial deployment of observers under a restructured program.

Modified Option 2: Annual Report and Review of the Sampling and Deployment Plan and the 1.25% fee assessment:

The following statement replaces the existing language for Option 2:

NMFS will release an observer report by September 1 of each year. The report will contain the proposed stratum and coverage rates for the deployment of observers in the following calendar year, as well as a detailed financial spreadsheet by budget category on the financial aspects of the program. The Council may request its Observer Advisory Committee, Groundfish Plan Teams and/or the SSC to review and comment on this draft plan. NMFS will consult with the Council each year on the draft plan for the upcoming year, at a meeting of the Council's choosing that provides sufficient time for Council review and input to NMFS.

NMFS also would prepare an annual report on the observer program for presentation to the Council each year, including information on how industry participants have adapted to and been able to accommodate the new program. As part of this annual report, the 1.25% fee percentage would be reviewed by the Council after completion of the second year of observer deployment in the restructured program. The Council could revise the fee assessment percentage in the future through rulemaking after it had an opportunity to evaluate program revenues and costs, observer coverage levels, fishery management objectives, and future sampling and observer deployment plans. This report would be provided to the Council at the same time the annual deployment plan is being provided.

Development of regulations (deeming):

The Council requests to see the draft proposed regulations prior to their submission to the Secretary of Commerce.

Program review:

The Council approved a review of the observer program, to begin five years after implementation (i.e., first year of deployment is year one), to assess whether the goals and objectives of the problem statement to restructure the observer program have been achieved.

FISHING VESSEL OWNERS' ASSOCIATION
INCORPORATED

ROOM 232, WEST WALL BUILDING • 4005 20TH AVE. W.
SEATTLE, WASHINGTON 98199-1290
PHONE (206) 284-4720 • FAX (206) 283-3341

SINCE 1914

August 17, 2011

Mr. Dan Hull
Chairman, Observer Committee
North Pacific Fishery Management Council
605 W. 4th, Suite 306
Anchorage, AK 99501-2252

Dear Chairman Hull:

We have an Observer Committee meeting in Seattle on September 15-16, 2011. I notice we have part of the agenda scheduled for electronic monitoring. I would like to suggest that we expand the discussions beyond species identification to include vessel area accountability.

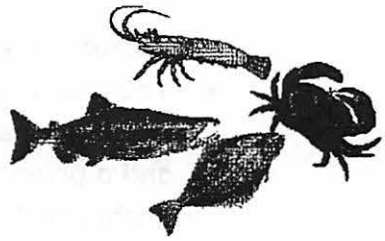
The members of the Fishing Vessel Owners' Association (FVOA) believe that there needs to begin a serious discussion of the use of VMS in the quota share programs in general, but specifically for the halibut and sablefish program. Many of FVOA vessels currently use VMS. Our vessels that operate in the Aleutians must have VMS based on the establishment of six coral gardens; our vessels that fish any sablefish in the Aleutians or Bering Sea are required to have VMS, in fact, FVOA sponsored this requirement. Our members that fish Gulf of Alaska cod must have VMS activated while fishing halibut and sablefish QS. FVOA vessels that fish in the Pacific Council waters must have VMS. There are no exceptions given by the Pacific Council. We have one vessel that is 19 feet long out of California that participates in the live fish markets. That vessel has VMS.

In summary, FVOA would like to see a discussion of the use of VMS for all regulatory areas for the halibut/sablefish program and a broader discussion of VMS for quota share programs in general.

Sincerely,

Robert D. Alverson
Manager

Southeast Alaska Fishermen's Alliance
9369 North Douglas Highway
Juneau, AK 99801
Phone: 907-586-6652 Email: seafa@gci.net
Fax: 907-523-1168 Website: http://www.seafa.org



September 19, 2011

North Pacific Fishery Management Council
Eric Olson, Chair
605 4th Ave, Suite 306
Anchorage, AK 99501
Fax 907-271-2817

RE: C-4 Observer Program

Dear Eric Olson, Chair and Council Members,

We have reviewed the draft preamble to the proposed rule and draft regulations and attended the Observer advisory committee meeting in Seattle Sept 15-16. First we would like to thank the Council for supporting our request to have individual OAC committee members weigh in on issues as the agency developed the regulatory package. We believe that it made for a better and more complete draft package for review at this time. There are some areas of the preamble and regulations that could be strengthened before publication.

We would like to offer the following recommendations on the draft regulatory package:

Electronic Monitoring:

- The electronic monitoring (EM) as described in the preamble makes EM sound like it will be used only as a last resort if a human observer is not available. We would recommend that the preamble be written that electronic monitoring options are being developed and integrated as part of the restructured North Pacific (NP) Observer program as an independent option for at-sea monitoring of specific fishery

sectors where it can effectively meet at-sea monitoring needs.

- You could then further clarify that at the beginning of the restructured program there may be a shortage of EM units available and a priority may be placed on use of EM for those vessels that are unable to take a human observer for safety or logistical reasons.
- It should also be clarified that the Council's priority for EM is in on the vessels that haven't been required to carry observers in the past, under 57.5 feet where prohibited species catches (PSC) are not a concern.
- During registration in the deployment system when assigned to the vessel selection pool, you should be given the choice if you prefer EM over a human observer and then additional questions could be asked to assign those vessels that would have a priority for EM use. This would allow a determination of the pool of vessels that prefer EM monitoring over human observation and would allow the EM portion of the restructured program to continue to develop.
- During the OAC meeting it was suggested by one member that a portion of the funds be used to develop the EM program. We support this idea as EM as an option was a very important component that allowed our membership to accept the restructured program and observer fees.

Waiver Process:

- The regulations (page 3) that the Regional Administrator may release a selected trip or a selected vessel from observer coverage on a case-by-case basis. But, the preamble nor the regulations further clarify how this process might work, the length of time you have to wait for the administrator to release the trip or vessel from coverage.

Vessel Selection- partial coverage:

- Since the regulations on vessel selection were written to allow maximum flexibility to allow the program to be adjusted in future years it is important that the preamble expand on how this might work. It was explained at the OAC meeting that the expectation is that operators of the vessel pool will have to contact the deployment center every quarter. For vessels in the vessel selection pool, it is unclear what space requirements are necessary for an observer to perform their duties, this should be expanded in the preamble.

Trip Selection:

- In the regulations page 3 (4) Delayed Trip. We understand the intent of this regulation but recommend that it be revised so that the Deployment System doesn't automatically invalidate a trip due to delays if the vessel operator is working with the observer contractor but the Contractor could after 48 hours invalidate a trip if the vessel operator is not cooperating or they need to assign the vessel somewhere else. As written vessels in the trip selection pool might leave on a trip before the weather is truly safe to prevent losing the observer or having the trip invalidated.

Deployment System Registration:

- In the regulations on page 2 it describes who needs to register by December 1st of each year as owners and operators of vessels in the partial coverage observer coverage category. This includes IFQ Catcher Vessels. Yet, the preamble goes on to imply that all vessels that fished for halibut IFQ's this year must register for next year by December 1st. The regulations should be revised to clarify that all IFQ catcher vessels that participated in the halibut fishery must register by December 1st. In addition the portion of the regulation that goes on to state . . . or within thirty days of issuance of an FFP or IFQ permit should be revised to read . . . or within thirty days of issuance of an FFP or upon the determination that a vessel will be used as a IFQ Catcher Vessel. This revision would close a few of the loopholes that could have been used to get around observer coverage in the new restructured program. We are recommending that a IFQ permit holder doesn't have to register within thirty days as those permit holders that ride on other vessels don't necessarily know who they are going to ride with within 30 days of purchasing the quota share so what would they register.

Some additional changes to the regulatory package were raised at the OAC that staff took note of to better clarify the preamble and regulations. With the issues above addressed SEAFA supports the re-structured regulatory package to move forward as a proposed rule.

SEAFA also supports the OAC recommendation to re-send a letter to NOAA/NMFS and the AK & WA Congressional Delegations supporting the

need for start-up funding for the first year of the observer program since the regulations are dependent upon that source. A second letter should be sent to AFSC Administrator support the request for $600K funding for Electronic monitoring and an analytical person in the internal budget of AFSC.

Thank you for consideration of our comments. If you have any questions about the issues raised please feel free to contact us at any time as we will not be at the Dutch Harbor meeting.

Sincerely,

Kathy Hansen
Executive Director

P.O. Box 933
Eugene, Oregon 97440
Tel: (541) 344-5503
Web: www.apo-observers.org
E-mail: apo@apo-observers.org

Eric A. Olson, Chairman
North Pacific Fishery Management Council
605 W. 4th Avenue
Anchorage, Alaska

September 20, 2011

Re. Reinstate the Observer Seat on the Observer Advisory Committee

Dear Mr. Chairman and Members of the Council,

The Association for Professional Observers (APO) would like to thank NMFS, the Observer Advisory Committee (OAC) and the North Pacific Fishery Management Council ("Council") members for their efforts that have gone into the draft regulations for the restructuring of the North Pacific Groundfish Observer Program (NPGOP). We applaud this forward move to create a more unbiased Observer Program to monitor Alaska's groundfish and halibut fisheries.

I am writing today to request that a seat on the Observer Advisory Committee (OAC) be provided to an Observer representative – either to an Observer or an APO representative. APO is an advocacy group that serves to educate Observers and the public about fisheries monitoring issues and the uses of Observer data. We now have several hundred members from various stakeholder groups, both nationally and internationally. The APO communicates regularly with North Pacific Observers, as well as with fisheries managers, members of the fishing industry and the public.

APO members served on the OAC for many years when talks first began about restructuring the NPGOP in the mid-90s. APO members also served on the North Pacific Fisheries Management Council ("Council") Advisory Panel from 2000 until the Council removed the Observer seat in 2004, claiming redundancy because Observers at that time had representation on the OAC. In 2010, the Council eliminated the OAC seat, along with it, any representation of Observers

in the Council process. APO members applied a few times when a position opened up on the OAC during the last couple of years but have been rejected each time without explanation. Many of the current members of the OAC have been with the OAC since it's inception, gaining access to NOAA and the Council through its advisory role on Observer issues. We feel that an Observer representative should be afforded the same opportunity. The Observer seat was wrongfully taken away and it should be reinstated and the position opened up to new applicants.

From the Draft NPGOP regulations that you have before you, please review the importance of Observers to fisheries management in Alaska:

- *Observers obtain information for the conservation and management of the groundfish fisheries managed under the Fishery Management Plans.*
- *The Secretary and the Council recognized that effective management of living marine resources requires the types of information that are either available only or most efficiently through an Observer program.*
- *The Observer Program has an integral role in the management of the North Pacific fisheries. The information collected by Observers provides the best available scientific information for managing the fisheries and developing the measures to minimize bycatch in furtherance of the purposes and national standards of the MSA.*
- *Data collected by Observers are used by managers to monitor quotas, manage groundfish and prohibited species catch and document and reduce fishery interactions with protected resources.*
- *Scientists use Observer-collected data for stock assessments and marine ecosystem research.*
- *High quality Observer-collected data are a cornerstone of Alaska groundfish fisheries management.*

Clearly Observers are an important stakeholder and an essential component of the NPGOP. Observers in the NPGOP have a biology background and could provide the OAC with a unique perspective because they are the ones that collect the data and know, first hand, the challenges in data collection on board a variety of fisheries and vessel types. They could provide valuable input regarding changes to NPGOP protocols and how to collect better data.

Instead, the process of restructuring of the NPGOP has moved forward without consultation of Observers and we feel this is simply unfair and not in the spirit of the kind of fisheries management that supports quality data collection. The overall number of seats on the OAC has been reduced since 2009 – surely there is room at the table for one more seat for an Observer representative. It is only fair that Observers are part of an advisory team concerning the changes in the Observer program that will undoubtedly impact their work environment. To deny Observers' access to the Council can create the appearance of the Council cherry picking from whom it receives advice, instead of a fair and balanced group of advisors. This goes completely against the Council's purpose of integrating stakeholder input.

We realize that the bulk of the issues currently discussed concern electronic monitoring (EM) of the small boat fleet as an alternative to Observer placement. However, it is not clear in the draft regulations how Observers will be impacted as the restructuring of the program unfolds. Observers will undoubtedly be placed on small vessels and the restructuring of the NPGOP will make a huge difference in the way Observers are assigned to vessels. In addition, beyond the current restructuring issues, there are bound to be future changes in the NPGOP. Other sectors of Alaska's groundfish fleet may be considered for EM in the future. Regardless, Observers will be impacted by any changes that occur in the NPGOP and deserve representation.

It is crucial that Observers are *part of the dialogue* to these changes, not only in the formative process, but also throughout the implementation of the changes. Usually, observers are the last to know about major changes involving the NPGOP and often find out during their briefing just prior to going out to sea. Having an Observer representative on the OAC will help facilitate outreach to observers in the formative stages of NPGOP changes so that observers may provide valuable insight before implementation, when changes to improve protocols and policy can still be made. So we[1], once again, implore you to allow an Observer representative to serve on the OAC.

It's my belief that Observers care deeply about the monitoring of Alaska's fisheries and the integrity of the NPGOP, regardless of whether it is accomplished using EM or through Observer placement. Having an Observer representative on this committee would bring a unique perspective to the Council not shared by anyone on the OAC or Council members. We believe that it is also in public interest to have a fair and balanced advisory team working on fisheries monitoring issues in Alaska.

Thank you very much for your consideration.

Sincerely,

Elizabeth Mitchell
Association for Professional Observers (APO)
P.O. Box 933
Eugene, Oregon 97440
Tel: 541-344-5503
Cell: 541-515-3716
E-mail: apo@apo-Observers.org
Web: www.apo-Observers.org

[1] Signatories to this letter on the following pages are APO members, primarily current or former observers.

APO Member Signatories

Eddie Agae
Native Observer Training Program
Hawaii

Josh Bak
North Pacific Groundfish Observer Program (NPGOP)

Reuben Beazley
Canadian Observer Program
Newfoundland

Shanna Belknap
NPGOP

Ethan Brown
International Commission for the Conservation of Atlantic Tuna (ICCAT) Observer Program
Dredge Observer Program
Southeast Observer Programs

Brian Burton
NPGOP
APO North Pacific Representative

Guillermo Cañete
Former Chief
National Observer Program
Argentina

Scott Casey
NPGOP
West Coast Highly Migratory Species and California Coastal (HMS/CCS) Observer Program

Anabel Colmenero
NPGOP

Jon Combs
NPGOP
NMFS Pelagic Observer Program
NMFS Southeast
Pacific Islands Regional Observer Program (PIROP)
Shark Bottom Longline Observer Program

Keith Davis
NPGOP
Northeast Scallop Observer Program
PIROP
South Africa Observer Program
IATTC Transshipment Observer Program
Former APO Officer

Wayne DeGruchy
Canadian Observer Program
Newfoundland

Kim Dietrich
Former OAC Member
Former APO Officer
NPGOP

Aaron Eilers

Ann England
NPGOP

Kimberly Fuchs
NPGOP
Admin. Assistant, NWO Inc.
Observer House Steward, NWO

Rachel Gugler
NPGOP

Mark Hagianis
NPGOP

Melissa Head
NPGOP

Michael Hill
NPGOP

Kerry Hinote-Rollo
Dredge Observer Program

Bret Jagger
NPGOP

Jeff Kimes

Melanie Lettau
NPGOP

Tate Mason
NPGOP Program
West Coast Groundfish Observer Program (WCGOP)

Kimberly Johnson McGlaun
NPGOP

Jason Molner
NPGOP
WCGOP
PIROP
American Samoa Longline Observer Program

Brendan Newell
NPGOP

Noah Oppenheim
NPGOP

Katie Pilarski
NPGOP

Mary Powers
NPGOP
Alaska Dept. of Fish & Game (ADFG) Shellfish Observer Program
New England At-sea Monitoring Program
West Coast Catch Share Observer Program
Southeast Bluefin Tuna Study
IATTC Observer Program
PIROP

John Rand
NPGOP

Joseph Rehfuss
NPGOP

Charles Riley
NPGOP

Sarah Stelter
NPGOP

Jason Teixeira
CapFish
South Africa

John Thayer
NPGOP

Phillip Tobin
NPGOP

Nicole Vasak
PIROP
North Atlantic At-sea Monitoring Program
IATTC Observer Program

William Waters
North Pacific Foreign Fisheries Observer Program

Robin Wolfe
NPGOP

Tatyana Yanishevsky
NPGOP

Petersburg Vessel Owners Association

PO Box 232
Petersburg, AK 99833
Phone & Fax: 907.772.9323
pvoa@gci.net • www.pvoaonline.org

September 20th, 2011

Mr Eric Olson, Chair
North Pacific Fishery Management Council
605 West 4th Avenue, Suite 306
Anchorage, AK 99501-2252
By fax: (907) 271-2817

RE: AGENDA ITEM C-4, DRAFT OBSERVER RESTRUCTURING REGULATORY PACKAGE

Dear Chairman Olson,

The Petersburg Vessel Owners Association (PVOA) is a diverse group of 100 commercial fishermen and businesses based in Alaska. Our members provide millions of meals to the public annually by participating in a variety of fisheries statewide with our foremost interest in the North Pacific Fishery Management Council being the commercial halibut, sablefish, and Pacific cod fisheries. PVOA appreciates the opportunity to comment on the draft observer restructuring regulatory package.

PVOA appreciated the ability to attend the Observer Advisory Committee meeting in September in Seattle. We would also like to thank Council staff Nicole Kimball for the ongoing communication with the development of the observer package. We are looking forward to the additional outreach that will occur before implementation of the restructured observer program.

We concur with the comments submitted by Observer Committee member Kathy Hansen with the Southeast Alaska Fishermen's Alliance, but we would also like to reiterate our position on electronic monitoring (EM) as the reg package moves forward. PVOA members supported observer restructuring with the understanding that EM would be a voluntary component of the program. For PVOA members, their support of a restructured program was contingent on being able to carry a form of EM **or** an observer if they were selected to carry an observer (recognizing that development of EM is a few years out). For PVOA members, the inability to choose an observer or EM is a deal-breaker. We respectfully request that the Council review the language regarding EM and provide appropriate direction with this issue.

Thank you for your time and attention to this important matter. If we can provide further information or answer any questions as you develop the observer package, please feel free to contact us.

Sincerely,

Julianne Curry
Director

NOAA FISHERIES SERVICE

Draft Proposed Rule to Restructure the Funding and Deployment System for Observers in the North Pacific Groundfish and Halibut Fisheries

October 2011 Meeting of the North Pacific Fishery Management Council

Objective

Provide an overview of the draft proposed regulations for observer program restructuring (FMP Amendments 86/76)

Outline

1. Review Council's motion to restructure the funding and deployment system for observers in the North Pacific
2. Highlight errors discovered in the draft preamble and regulations
3. Present the draft proposed regulations and program elements that would be specified through an annual deployment plan and the deployment system

Council's Motion

- "Coverage-Based"
- Establish two observer coverage categories in regulation:
  1. ≥ 100% category
  2. < 100% category
- Vessels and processors in ≥ 100% coverage category continue to contract directly with providers for required coverage (status quo funding and deployment)
  a. All catcher/processors and motherships in groundfish and halibut fisheries
  b. Catcher vessels while fishing under a management system that uses prohibited species caps in conjunction with a catch share program,
  c. Shoreside and floating processors when receiving AFA or CDQ pollock

Council's Motion cont'd

- One time election of observer coverage category for:
  1. Vessels < 60 ft. LOA with a history of C/P and CV activity in single year, or
  2. Any C/P with average daily production < 5,000 lbs. round weight equivalent in most recent full calendar year prior to January 1, 2010.
- All other catcher vessels in the groundfish and halibut fisheries and processors receiving this catch would be in < 100% category.
- < 100% category managed under an ex-vessel fee based observer service delivery model

Council's Motion cont'd

- Fee assessed on ex-vessel value of the landed catch weight of groundfish and halibut.
- The landed catch weights are the weight equivalents used to debit quotas (round weight for groundfish and headed and gutted net weight for halibut) which are reported on landing reports submitted to NMFS.
- The fee percentage will be set in regulation at 1.25% of the ex-vessel value of groundfish and halibut.
- After the 2nd year of the program, the fee percentage will be reviewed by the Council.

Council's Motion cont'd

- Selection of vessels and processors that must carry an observer will be determined through a sampling and deployment plan. Observer coverage rates will not be in regulation.
- Ex-vessel prices for non-IFQ groundfish landings based on standard ex-vessel prices calculated using data derived from COAR using CFEC methods for gross earnings estimates.
- Standard prices would be established for groundfish by species, port of landing, and gear (pelagic trawl, non-pelagic trawl, and fixed-gear)
- Prices must be aggregated if < 3 entities in a price category.

Council's Motion cont'd

- A 3-year average will be used to calculate standard ex-vessel prices for groundfish (excluding sablefish)
- Standard ex-vessel prices for halibut and sablefish IFQ and CDQ: most recent prices for halibut and sablefish IFQ cost recovery would be applied to landings by:
  - Catcher vessels in the < 100% category of halibut IFQ
  - Halibut CDQ
  - Sablefish IFQ, and
  - Sablefish that accrues against the fixed gear sablefish CDQ allocation.

Council's Motion cont'd

- How to define a C/P for observer coverage:
  - Based on the designation on the FFP
  - The designation established prior to fishing year determines coverage category for full year
  - The approach for vessels without an FFP will be established during development of proposed rule

Council's Motion cont'd

Excluded

- Vessels participating in GHL groundfish and other State managed non-groundfish fisheries (e.g. lingcod)
- Catcher vessels delivering unsorted cod ends to a mothership

Included

- Fee: Non-GHL groundfish incidentally caught in State GHL & other non-groundfish fisheries landed by FFP vessels
- Fee & observer coverage: Vessels with an FFP fishing in State parallel groundfish fisheries
- Fee & observer coverage: Landings from catcher vessels in < 100% category that deliver "retrieved" halibut or groundfish to a mothership

Council's Motion cont'd

Start-up Funding

- Vessels and processors would be required to pay the difference between fee assessment and "year-0" observer costs under status quo deployment.
- The Alaska Region will continue to seek Federal funding for start-up costs. If available, will be used towards the initial deployment of observers under a restructured program.

Council's Motion cont'd

Annual Report and Review of the Sampling and Deployment Plan and 1.25% Fee Assessment

- NMFS will release an observer report by September 1 of each year containing:
  - Proposed strata and coverage rates for observer deployment in following year
  - Detailed spreadsheet by budget category on program's financial aspects
- Council may request review by OAC, Groundfish Plan Teams, and the SSC.
- NMFS will consult with Council on draft plan for upcoming year at a meeting selected by the Council.
- NMFS would also report annually on how industry has adapted to new program.
- Council will review the 1.25% fee after completion of 2nd year to evaluate suitability of fee percentage.

Council's Motion cont'd

- Council requests to see draft proposed regulations prior to submission to Secretary of Commerce.
- Council approved review of the program, to begin 5 years after implementation, to assess whether the goals and objectives of the problem statement to restructure the observer program were achieved.

June 2010 Council Motion

- Tasked the OAC, Council staff, and NMFS staff with developing electronic monitoring as an alternative tool for fulfilling observer coverage requirements with the intent that it be in place at the same time as the restructured observer program.

Draft Proposed Rule and Regulations

- September 2, 2011: Provided the draft proposed rule (preamble) and regulations to 50 CFR 679 to implement FMP Amendments 86/76 to the OAC & Council
- Goal of preamble: explain the regulations and program aspects that are not in regulations
  - Error on page 54-55: NMFS does not propose to combine an IFQ Registered Buyer's observer fee invoice with the IFQ cost recovery invoice.

Draft Proposed Rule and Regulations

The draft regulations show how regulations at 50 CFR 679 would be amended

- Existing regulations are denoted with blue text, proposed changes are in black

Draft Proposed Rule and Regulations

Errors in draft regulations:

- Page 2:
  - (a)(1) unclear when observer requirements apply to FFP and IFQ vessels
  - Excludes phone information for registering with the Deployment System
- Page 5: footnote should refer to regulations anticipated with CDQ Regulation of Harvest final rule (November 2011)
- Page 8: 679.51(d)(2) Requirements for compliance with Deployment System instructions should only refer to vessels
- Page 22: Text referring to full observer coverage in 679.53(a)(1) should be black

Draft Proposed Rule and Regulations

Errors in draft regulations (cont'd):

- Page 31: Draft regulations and Council motion state at least 3 entities needed to protect confidentiality; data sharing agreement with State requires at least four as explained on page 45 of the preamble
- Page 33: Entire newly added definition for parallel groundfish fishery should be in black text
- Excludes newly proposed requirements explained on page 42 of the preamble for value and volume information for halibut CDQ as part of the IFQ Buyer's report

50 CFR 679 Subpart E Groundfish and Halibut Observer Program

Applies to:

- Vessels designated on an FFP when fishing for halibut with hook-and-line gear or directed fishing for groundfish;
- Vessels not designated on an FFP when fishing for halibut with hook-and-line gear or sablefish IFQ with hook-and-line or pot gear; and
- processors designated on an FPP or an IFQ Registered Buyer's Permit.
- Except for catcher vessels that deliver only unsorted codends to a mothership.
- For subpart E, halibut means CDQ and IFQ halibut

Ray Troll ©

§ 679.51 Coverage Requirements for Vessels and Plants

Vessels in the Partial Observer Coverage Category:

- All catcher vessels not in the full coverage category
- Initially, catcher vessels less than 40 ft. LOA and catcher vessels using jig gear would not be in the selection pool for observer coverage, however, this is not in regulations to allow inclusion in future through annual deployment plan.

Partial Coverage Category Registration and Notification

Vessels

- Must register with the Deployment System by:
  - December 1, or
  - within 30 days of issuance of new IFQ permit or FFP
- Upon registration, the Deployment System will notify operator as to "trip" or "vessel" selection pool
- Owners and operators must comply with instructions set forth by system
  - Examples: future notification requirements, how to coordinate with an observer provider, how to amend trip information

	Vessel Selection Pool	Trip Selection Pool
Selected Unit	Vessel	Fishing Trip
When Selected	Prior to each calendar quarter	At least 72 hours prior to trip
When Operator Notified	Prior to each calendar quarter	Prior to each trip
How Operator Notified	Via Deployment System	Via Deployment System
Duration of Coverage	For the first year of the program, three months. Subject to change per annual deployment plan.	Fishing Trip
Possible Electronic Monitoring Option	Yes	No
Owner or Operator's Notification Requirements	If selected, must comply with instructions provided by the Deployment System to obtain observer coverage.	Must notify NMFS at least 72 hours prior to embarking on a groundfish or halibut fishing trip.

Trip Selection Pool

- Must hail-in to Deployment System and register a trip 72 hours prior to planned embarkation
- System will notify operator whether trip is selected for observer coverage
- A receipt number corresponding to the registration will be provided to the operator
- Operator may embark on a registered trip:
  - At any time after registration if not selected
  - When observer is onboard the vessel if selected

Trip Selection Pool cont'd

- Delayed Trip: A selected fishing trip not realized within 48 hours of time registered with Deployment System is invalidated; operator must register new trip
- Duration of coverage: entire fishing trip
  - Selected trip may not begin until all previously harvested fish offloaded
  - An observer may not be transferred off of a vessel until the end of a trip

Vessel Selection Pool

- Duration of coverage specified in Annual Deployment Plan rather than regulations
- A selected vessel must carry an observer for all subject groundfish and halibut trips for time period specified by Deployment System (and in plan)
- Operators must coordinate with NMFS to make their vessel available for evaluation and installation of EM equipment if NMFS concurs with operator's assessment that EM is appropriate

Release from coverage requirement

- Clause in regulations permitting the Regional Administrator to release a selected trip or vessel from observer coverage on a case-by-case basis
- Examples of why Regional Administrator may release trips/vessels:
  - Vessel not suited for an observer and no EM equipment available
  - Provider unable to deploy observer in timely fashion
  - As well as others...

Vessels in the Full Coverage Category

Catcher/processors

Motherships

Catcher vessels while participating in:

AFA or CDQ pollock fisheries

CDQ groundfish fisheries (except: sablefish; and pot or jig gear catcher vessels)

Central GOA Rockfish Program fisheries

Inshore processors when receiving or processing Bering Sea pollock

Full Coverage Category

- Must have an observer onboard at all times when harvesting, receiving, or processing halibut or groundfish in a federally managed or parallel fishery unless
  - Subject to partial coverage, or
  - Subject to additional coverage requirements
    - Refers to existing coverage for AFA and CDQ pollock, AI pollock catcher/processors, Amendment 80 vessels, Rockfish Program catcher/processors (anticipated), and groundfish CDQ fisheries (with some anticipated changes from CDQ Regulation of Harvest rule)
- *Second observer coverage requirements for hook-and-line vessels fishing groundfish CDQ will be amended with Freezer Longliner Monitoring and Enforcement Regs expected ~ November 2012. Would remove requirement that second observer be level two.*

Subpart E C/P Classification

- Vessel classified by operation designation on its FFP
- C/P designation "trumps" if C/P and C/V designation
- C/P designation at any time during calendar year qualifies as C/P for remainder of year, regardless of subsequent FFP Amendments
- C/P that processes up to 1 mt per day in round weight equivalent groundfish may elect to register with Deployment System for partial observer coverage for the following calendar year; *recurring* election if eligible.

One-Time Election

- Operators meeting following criteria may make one-time election of coverage category:
  - Vessel < 60 ft. LOA with both C/P and CV activity in a single year, or
  - C/P with an average daily production < 5,000 lbs. round weight equivalent in most recent calendar year of operation (2003 through 2010).
- Must notify Regional Administrator of election in writing by November 1, 2012
- If forego election, assigned to relevant default category
- Election effective for duration vessel designated as both C/P and CV on FFP, or duration FFP is issued to person making election; depending on relevant qualifying criteria

Observer coverage for processors

- All shoreside and stationary floating processors receiving deliveries from FFP catcher vessels or catcher vessels delivering IFQ halibut or sablefish except:
- AFA inshore processors → which are in the full coverage category

Observer coverage for processors

- Observers would be assigned to ports and randomly assigned by NMFS to offloads as they occur.
- NMFS would rely on existing notification requirements for plants at 679.50; require managers to notify observers of planned facility operations and expected receipt of groundfish prior to receipt.
- An observer would be assigned for the duration of the randomly selected offload.

Procurement of Observers

1. Full Coverage Category: Operators must arrange and pay for observers from a permitted provider (*status quo*)

2. Partial Coverage Category: Operators must comply with instructions provided by the Deployment System

Vessel Responsibilities and Release of Observer Data to the Public

- No changes are proposed for existing regulations for:
  - vessel (operator) responsibilities at 679.50
  - release of observer data to the public at 679.50

§679.52 Observer Provider Permitting and Responsibilities

- Existing requirements amended to apply to persons providing observers to operations requiring full observer coverage
- Requirements for persons providing observers for partial coverage category will be specified in contracts rather than regulations

§ 679.53 Observer Certification and Responsibilities

- Existing requirements amended to apply to individuals fulfilling observer duties for operations requiring full observer coverage
- Requirements for observers fulfilling duties for operations in the partial coverage category will be specified in contracts between NMFS and observer providers

§ 679.55 Observer Fees

- Responsibility in regulations applies to processors named on an FPP and Registered Buyers
- Intent is for fee to be split between vessels and processors, though not specified in regulations
- Processors will collect fees throughout year based on standard prices that will be calculated per the Council's motion and published in the Federal Register prior to the fishing year in which they will apply

§ 679.55 Observer Fees (cont'd)

- Paragraph (c) provides a table of the landings by vessels in the partial coverage category that are subject to the observer fee (page 28).
- List of FMP groundfish which accrue against the TAC rather than State's GHL provided in existing Table 2a to part 679 (table is provided on page 46 in preamble for quick reference).
- The proposed fee percentage (1.25%) is in regulation and could be adjusted by the Council through a future rule as necessary.

Payment of Observer Fees

- Originally NMFS envisioned that standard prices would be entered into eLandings at the beginning of each year so that processors could determine the fee liability of each landing at the time of landing.
- Upon further review, NMFS determined that information entered by processors does not provide all of the information to determine whether a landing is subject to the observer fee.
- Thus, NMFS proposes to develop a separate web-based application that would assess each landing report submitted via eLandings and each manual IFQ landing report to determine which species in the landing are subject to the observer fee.

Fee Remittal Process

1. Annually, NMFS would publish a standard price per pound by port, species, and gear type in the Federal Register.

2. NMFS would program the most recent standard prices into an observer fee web-based application at the beginning of each year.

3. Processors would enter the delivery information and the pounds of each species landed into eLandings.

4. The observer fee web-application would evaluate the landings report and calculate the fee liability for the landing, this information will generally be available within 24 hours of receipt of the report.

5. Processors could access the web-based application at least 24 hours after submitting a report to view the landing-specific observer fee liability information.

Fee Remittal Process (cont'd)

6. Processors would withhold the vessel operator's portion and self-collect the processor's portion of the observer fee liability.

7. By January 15 each year, NMFS would invoice processors for the total fee liability determined by the sum of the fees reported by the observer fee web-application for each processor for the prior calendar year.

8. Processors would remit the fees to NMFS electronically by February 15.

9. NMFS would audit the payments to ensure all liabilities are paid in full.

Modify FPP and Registered Buyer Permit Cycle

- To match the observer fee payment schedule proposed by this action, NMFS proposes to modify the current 3-year FFP and Registered Buyer permit cycle to an annual cycle.
- The effective duration would be from the latter of March 1 or the date of issuance, through February 28.
- Consistent with the current regulations for the FPP effective duration at § 679.4, these dates would not be codified in regulations.
- FPP or Registered Buyer Permits would be renewed electronically at the time the permit holder submits electronic payment to NMFS for their observer fee liability.

Underpayment and Overpayment

- An application for a new FPP or Registered Buyer permit will not be considered complete until NMFS receives full payment of an applicant's observer fee liability
- If payment not received by 30th day after final agency action, the matter will be referred to authorities for collection.
- If excess amount submitted, NMFS will refund the excess unless the permit holder requests the agency to credit it against future observer fee liability

Appeals

- A permit holder who receives an IAD may either pay the fee liability or appeal the IAD pursuant to § 679.43.

Annual Report and Review of Deployment Plan and Fee %

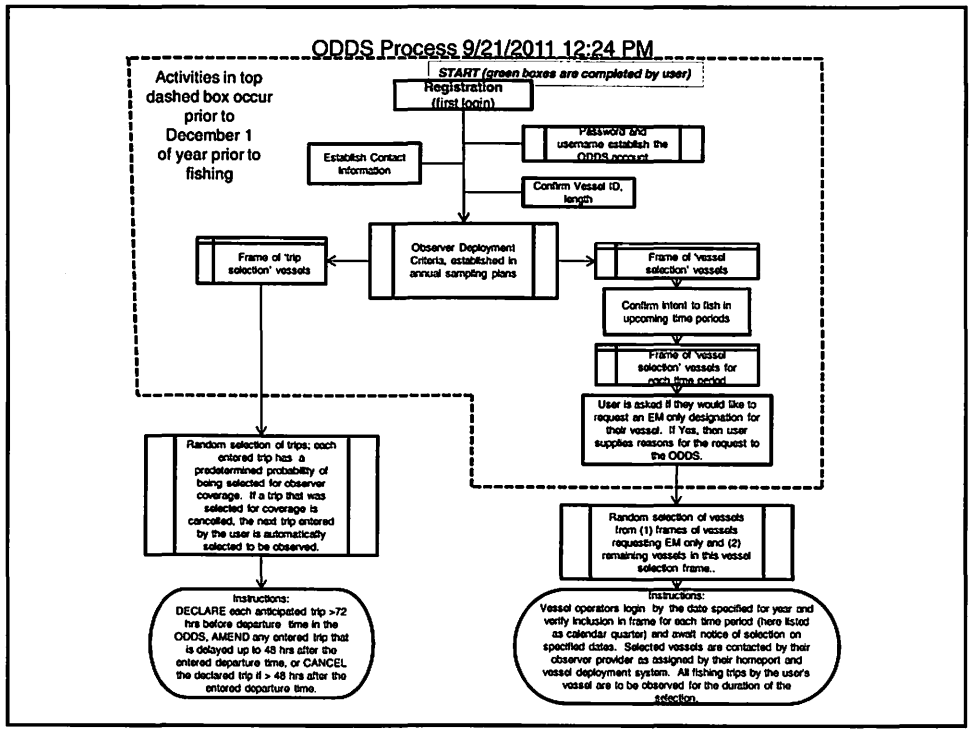
- NMFS would release an observer report by September 1 each year containing:
  - Detailed spreadsheet by budget category on financial aspects of the program
  - The proposed strata and coverage rates for deployment of observers in the following calendar year
  - Information on how industry participants have adapted to the new program
- NMFS would consult with the Council on the observer report for the upcoming year
- The Council could revise the fee assessment through rulemaking after evaluating the program's costs, coverage levels and future deployment plans

Program Review

- Beginning five years after implementation, the Council would assess whether or not the goals and objectives leading to the proposed modifications to the Observer Program have been achieved.

Start Up Funds

- NMFS proposes to use Federal funds to pay for the first year of observer coverage for the partial coverage category and anticipates that funds will be available for this purpose.
- This approach would preclude the need for NMFS to calculate and collect the difference of an operation's observer costs under the status quo system and the associated rulemaking for that one-time event.



Halibut/Sablefish EM Pilot Project

A Collaboration Involving:

- Alaska Longline Fishermen's Assn
- Southeast Alaska Fishermen's Alliance
- Petersburg Vessel Owners Assn
- Archipelago Marine Research
- NMFS AFSC

Funding provided by National Fish and Wildlife Foundation.

Project Goals

- Engage stakeholders in developing a workable at-sea monitoring process
- Field test EM hardware on a range of vessels and in varied fishing conditions to ensure system reliability
- Develop a cost effective means of deploying EM hardware among vessels and retrieving data
- Summarize study findings to inform development and implementation of the restructured N. P. Observer Program.

Approach

Start-up

- Assemble stakeholder team
- Identify EM hardware Needs
- Select EM provider

Phase 1

- EM on 2 vessels
- Engage stakeholders
- Test system reliability
- Test deployment plan
- Evaluate video quality
- Develop data analysis methodologies
- ID changes for Phase 2
- Report to NPFMC/OAC and stakeholders

Phase 2

- EM on 12 vessels
- Engage stakeholders
- Test system reliability
- Operationalize deployment plan
- Operationalize data analysis methods
- Report to NPFMC/OAC and stakeholders

Conclusion

- Summarize Findings
- Distribute findings to stakeholders
- Outreach to NPFMC/OAC & stakeholders

Progress to Date

- Archipelago Marine Research selected as EM provider
- Installed EM systems on 2 vessels for initial testing
- Identified a cost effective deployment approach

Sablefish Season Profile

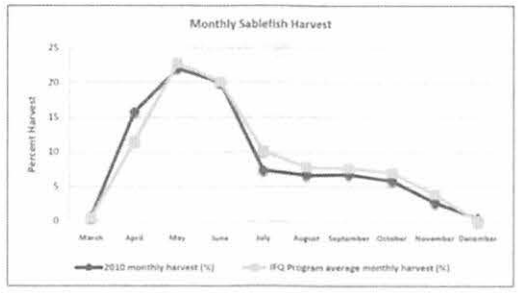


Figure 2.2 2010 Monthly Sablefish Harvest (%) and Average Monthly IFQ Sablefish Harvest (1995–2010)

Source: NMFS 2010 IFQ Report To The Fleet

Halibut Season Profile

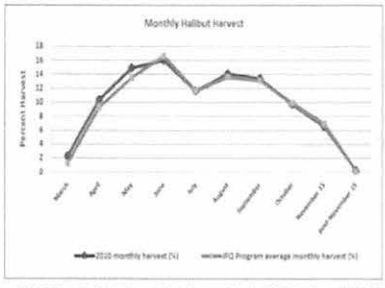
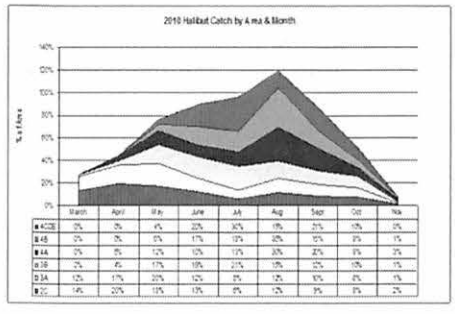


Figure 2.1 2010 Monthly Halibut Harvest (%) and Average Monthly IFQ Halibut Harvest (1995–2010)

•Source:
NMFS 2010 IFQ Report To The Fleet
IPHC 2010 Bluebook Table 8



Deployment Plan

March/April
"A" Boats

- Pre-wire Sensor Package
  - Hydraulic
  - Rotation
  - GPS
  - wires
- 2 Cameras
- Control Box, Monitor, Power Supply

May/June/July
"B" Boats

- Pre-wire Sensor Package
  - Hydraulic
  - Rotation
  - GPS
  - wires
- 2 Cameras

Aug/Sept/Oct
"C" Boats

- Pre-wire Sensor Package
  - Hydraulic
  - Rotation
  - GPS
  - wires

Deployment Plan

March/April
"A" Boats

- Pre-wire Sensor Package
  - Hydraulic
  - Rotation
  - GPS
  - wires

May/June/July
"B" Boats

- Pre-wire Sensor Package
  - Hydraulic
  - Rotation
  - GPS
  - wires
- 2 Cameras
- Control Box, Monitor, Power Supply

Aug/Sept/Oct
"C" Boats

- Pre-wire Sensor Package
  - Hydraulic
  - Rotation
  - GPS
  - wires
- 2 Cameras

Deployment Plan

March/April
"A" Boats

- Pre-wire Sensor Package
  - Hydraulic
  - Rotation
  - GPS
  - wires

May/June/July
"B" Boats

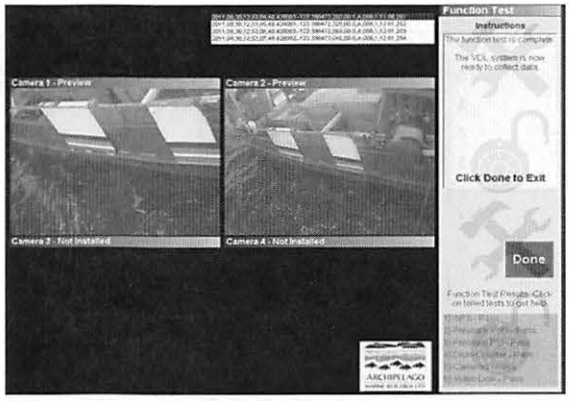
- Pre-wire Sensor Package
  - Hydraulic
  - Rotation
  - GPS
  - wires

Aug/Sept/Oct
"C" Boats

- Pre-wire Sensor Package
  - Hydraulic
  - Rotation
  - GPS
  - wires
- 2 Cameras
- Control Box, Monitor, Power Supply

Installation Certification

- Technician installs and aligns cameras
- Skipper performs function test
- Local agent rotates hardware & collects data



Pilot Program Straw Man Costs

Hardware Costs

- Control Box, Monitor, 2 Cameras, Power supply.....$8,100
- ½ "B" vessel cameras....$1,600
  Total..... $9,700
- 5 Year deprecation = $1,940/yr.
- Pilot program goal—Rotate EM unit to 3 vessels for minimum of 8 sea days/vessel (24 total/unit)
- **$81/sea day hardware cost**

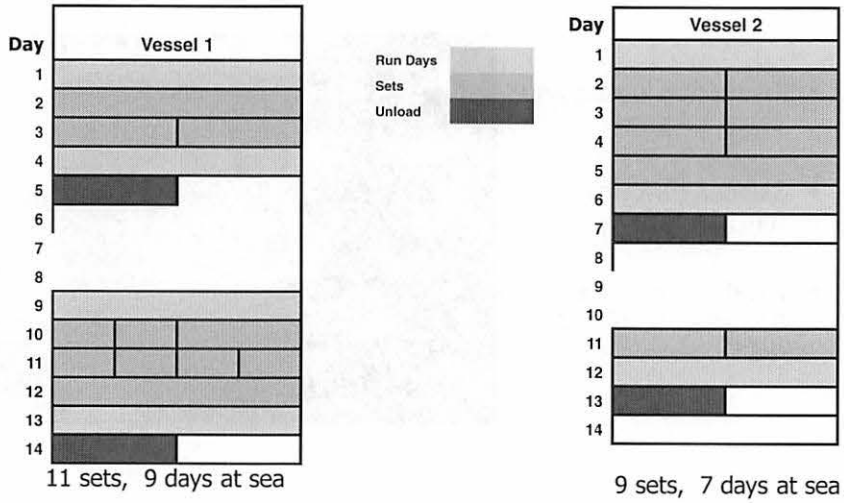
Vessel Costs

- Sensor Package..... $700
- Technician time (6 hrs)..... $450
- Hardware cost for 8 sea days..... $650
  Total.....$1,800
- **$225/sea day**

Analysis Costs

- 10 sets @ 2 hrs each = 20 hrs video
- Review Speed = 2X
- Technician Time (10 hrs @ $25/hr).....$250
- **$32/sea day**

Data Collected



11 sets, 9 days at sea

9 sets, 7 days at sea

Phase 1 Results

Vessel 1

- 5 Year deprecation = $1,940/yr.
  1/3 of annual depreciation = $646
- **9 sea days = $72/sea day hardware cost**

Vessel Costs

- Sensor Package..... $700
- Technician time (8 hrs)..... $600
- Hardware cost for 9 sea days..... $648
  Total.....$1,948
- **$216/sea day**

Analysis Costs

- 11 sets @ 2 hrs each = 22 hrs video
- Review Speed = 2X
- Technician Time (11 hrs @ $25/hr).....$275
- **$30/sea day**

Phase 1 Results

Vessel 1

- 5 Year deprecation = $1,940/yr.
  1/3 of annual depreciation = $646
- **9 sea days = $72/sea day hardware cost**

Vessel Costs

- Sensor Package..... $700
- Technician time (8 hrs)..... $600
- Hardware cost for 9 sea days..... $648
  Total.....$1,948
- **$216/sea day**

Analysis Costs

- 11 sets @ 2 hrs each = 22 hrs video
- Review Speed = 2X
- Technician Time (11 hrs @ $25/hr).....$275
- **$30/sea day**

Vessel 2

- 5 Year deprecation = $1,940/yr.
  1/3 of annual depreciation = $646
- **7 sea days = $92/sea day hardware cost**

Vessel Costs

- Sensor Package..... $700
- Technician time (8 hrs)..... $600
- Hardware cost for 7 sea days..... $644
  Total.....$1,944
- **$277/sea day**

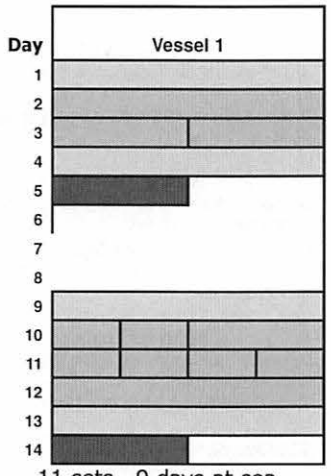
Analysis Costs

- 9 sets @ 2 hrs each = 18 hrs video
- Review Speed = 2X
- Technician Time (9 hrs @ $25/hr).....$225
- **$25/sea day**

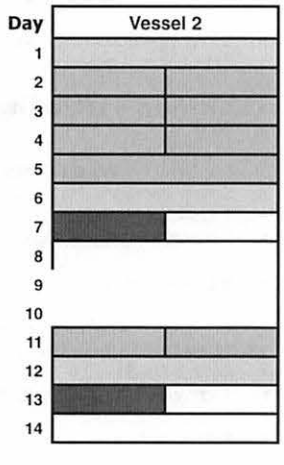
Next Steps

- Review Phase 1 data to develop efficient review methodologies
- Refine EM hardware for Phase 2 deployment on 12 Vessels (2012 Season)
- Vessel recruitment and stakeholder outreach
- Summarize findings and more outreach
- **Capacity building within communities???**

Data Collected



11 sets, 9 days at sea



9 sets, 7 days at sea

14 Day Cost

Vessel 1

- 5 Year deprecation = $1,940/yr.
  1/3 of annual depreciation = $646
- **14sea days = $46/sea day hardware cost**

Vessel Costs

- Sensor Package..... $700
- Technician time (8 hrs)..... $600
- Hardware cost for 14 sea days..... $644
  Total.....$1,944
- **$138/sea day**

Analysis Costs

- 11 sets @ 2 hrs each = 22 hrs video
- Review Speed = 2X
- Technician Time (11 hrs @ $25/hr).....$275
- **$30/sea day**

Full Scale Program Straw Man

Hardware Costs

- 35 full EM units, 70 Camera packages = $340,000
- Pre Wire 100 Vessels = $125,000

Total $465,000

Analysis Costs

- 10 sets @ 2 hrs each = 20 hrs video
- Review Speed = 2X
- Technician Time (10 hrs @ $25/hr).....$250
- **$32/sea day**

Deployment Approach

- 5 hub ports, with/ 7 EM packages ea.
- Vessel owner declares fishing plan/quarter & anticipated # of trips
- Deployment plan groups vessels by port, fishing season and # of trips.
- Random selection of 7 vessels/port/quarter... Approx 100 vessels selected total
- Pre-wire vessels in rotation
- Average sea days/vessel = 14 for 1,400 total sea days

Total = $332/sea day

Observer Advisory Committee – Meeting Report
September 15 - 16, 2011
Alaska Fisheries Science Center
7600 Sand Point Way, NE, Seattle
Building 4, Traynor Conference Room
8:30 am – 4:30 pm (Thurs); 8:30 am – 1:30 pm (Fri)

Committee: Dan Hull (Chair), Jerry Bongen, Julie Bonney, Kenny Down, Dan Falvey, Kathy Hansen, Michael Lake, Paul MacGregor, Brent Paine, Darren Stewart, Anne Vanderhoeven. **Not present:** Bob Alverson, David Polushkin, Todd Loomis.

Council and NMFS Staff: Nicole Kimball (NPFMC), Martin Loefflad (NMFS AFSC), Patti Nelson (NMFS AFSC), Craig Faunce (NMFS AFSC), Sally Bibb (NMFS AKR), Brandee Gerke (NMFS AKR), Tom Meyer (NOAA GC), Heather Weikart (NMFS AKR), Nathan Lagerwey (NOAA OLE).

Other attendees: Ed Hansen (SE fisherman), Tim Carroll (Saltwater, Inc.), Yakov Reutov (GOA hook-and-line fisherman), Lori Swanson (BSAI Am. 80 sector), Elizabeth Mitchell (Association for Professional Observers), Arni Thompson (ACC), Julianne Curry (PVOA), Glenn Reed (PSPA).

Agenda

I. Review and approve agenda
II. Observer restructuring amendment package (NMFS)
    a. Update/review schedule for observer restructuring regulatory package
    b. Update on potential NMFS observer funding for 2013
    c. Review & comment on draft regulations for observer restructuring
III. Electronic monitoring
    a. Update on EM halibut fleet pilot project proposal (Dan Falvey, ALFA)
    b. Discuss development of EM in draft regulations
    c. Other EM issues
IV. Public comment
V. Scheduling & recommendations

I. Review and approve agenda

Introductions were made, and the agenda was approved. The Chair added a second public comment opportunity after agenda item II. The Chair also added a discussion of the potential use of VMS on the IFQ sector, at the written request of a committee member. The Chair confirmed that the primary purpose of the meeting is to review the regulatory package for the observer restructuring action the Council approved in October 2010, and make recommendations to the Council. The Council is scheduled to review the OAC report and the draft regulatory package at its October 2011 meeting. In addition, the OAC is scheduled to discuss development of an electronic monitoring (EM) design as a potential alternative for small vessels to meet the requirements of the restructured observer program, and the ongoing pilot project work occurring in the halibut/sablefish IFQ sector.

II. Observer restructuring amendment package

a. Update/review schedule for observer restructuring regulatory package

Nicole Kimball (NPFMC) reviewed the schedule for the observer restructuring regulatory package, including the review of this package at the upcoming October 2011 Council meeting, and the potential

publication of the proposed rule in early 2012. A final rule would be expected in fall 2012, for implementation in 2013, if Federal start-up funding is procured.

b. Update on potential NMFS observer funding for 2013

Martin Loefflad (NMFS AFSC) provided an update on the potential for NMFS observer funding. The schedule for and structure of the proposed and final rulemaking assumes that Federal start-up funding will be obtained to pay for deployment in the first year of the new program. The schedule includes letting contracts in 2012 and deploying observers under the new program in 2013 with Federal funding. In effect, ex-vessel fees would first be collected from industry in 2013, which would fund deployment in the subsequent fishing year. Absent Federal funding, NMFS would need to develop further regulations to collect the observer ex-vessel fee prior to implementing the program. There is no regulatory framework in the current draft regulations to collect fees prior to the restructured program (year-0). NMFS would need Federal funds by July 2012 in order to complete contracting in time for 2013. It is not likely that NMFS would publish the proposed rule as it stands without Federal funding, thus, if Federal funding does not come through in 2012, implementation would be delayed as NMFS revises the rule to account for collecting funds from industry in year-0.

The committee recommended that the Council write another letter to NOAA, emphasizing the need and timing to receive Federal start-up funding for the restructured observer program.

c. Review & comment on draft regulations for observer restructuring

Brandee Gerke (NMFS AKR) presented the draft preamble and regulations to implement the restructured observer program, per the Council's October 2010 motion. The primary components of the rulemaking include: coverage requirements/categories, vessel registration and notification processes, derivation and collection of fees, development and review of the annual deployment plan, and electronic monitoring (EM). The presentation focused on the Council motion, the primary components of the rule, program aspects that are not in regulation, any changes that were not anticipated in the analysis for this action, and the implementation issues on which OAC members were asked to provide feedback prior to the development of the draft regulations.

The OAC questioned whether the preamble has the force of law, to determine how precise the preamble language must be. Although the preamble is not regulation, it is important in that it indicates the agency's proposed plan, provides an overview of what the regulations are intended to establish, provides a general description of the program, and highlights.details of issues that may be of particular importance to the public. There is some flexibility to revise procedures outlined in the preamble (if not also in regulation) if determined necessary in the future, without necessitating additional rulemaking.

Partial coverage category registration and notification

The regulations propose that within 30 days of issuance of a *new* IFQ permit or FFP (or December 1), one must register with the observer deployment system. The committee clarified that it is obtaining a new IFQ permit number (not purchasing additional IFQ) that triggers the registration requirement.

The presentation outlined the selection process for various categories of vessels in the partial coverage category. Fixed gear vessels <40' LOA have no coverage initially; vessels between 40' – 57.5' LOA that use fixed gear to fish groundfish or halibut are in the vessel selection pool; and fixed gear vessels ≥57.5' LOA and all trawl vessels in the partial coverage category are in the trip selection pool. These sub-categories within the partial coverage category will be established in the annual deployment plan, and not in regulation; thus, theoretically they may change annually.

Staff explained the proposed notification requirements for both of the selection pools. In the **vessel selection pool**, one must register with the deployment system prior to each fishing year; upon log-in, the system would indicate whether they are selected for the upcoming calendar quarter (3 months). The person would then need to log-in prior to each quarter, per the instructions provided through the deployment system. The duration of the selection period (3 months) would be established in the annual deployment plan, and is not proposed to be in regulation. Vessel operators may also indicate whether they prefer to use EM, as opposed to an observer, during registration. If so, vessel operators must coordinate with NMFS to make their vessel available for evaluation and installation of EM equipment if they are selected and NMFS concurs with operator's assessment that EM is appropriate and available.

The committee had several questions regarding the system for vessels in the vessel selection pool. One member noted the December 1 deadline to register a vessel, and suggested that the regulations should also require vessels that fished any IFQ in the previous year to register with the deployment system, noting that many vessels will not know if they are going to fish IFQ until late in the fishing year. This may capture a subset of vessels that otherwise would not be registered prior to the fishing year, understanding that it is preferable for NMFS to know the number of vessels in the selection pool in advance of the fishing year. Secondly, the OAC suggested that the regulations require a vessel that decides to fish IFQ after the December 1 deadline to register within a specified timeframe prior to fishing. For example, if a vessel decides to fish IFQ in September, it must first register with the system so as to be captured in the selection pool for that year (and the subsequent year).

The committee also discussed linking the system not only to the IFQ permit, but to the vessel. It may not make sense to require a person to register with the observer deployment system if they obtain a new IFQ permit, if that person does not yet have a vessel on which to fish the quota. Conversely, the committee agreed that while the onus is on the permit holder to be registered, there must be a requirement that a person cannot use their IFQ on a vessel unless it is registered with the deployment system. NMFS staff agreed to consider these issues and intends to remedy gaps in the regulations that may prevent capturing all eligible vessels in the vessel selection pool.

One member asked whether a troller with halibut IFQ would need to register with the deployment system, since if they have IFQ they are required to keep any halibut caught incidentally in the troll fishery. NMFS responded that vessels using troll/jig gear and fixed gear vessels <40' are not required to have observer coverage, per the annual deployment plan, so they would not register and be in the observer selection pool. However, any incidental catch of halibut in that case must be retained, and thus assessed the ex-vessel fee at the time of landing. As long as the troll vessel is not directed fishing for halibut (which is limited to hook-and-line gear), it is not required to register with the system for potential coverage.

NMFS explained that the one-time registration process would require information about the vessel to determine whether the vessel falls into the vessel or trip selection category, thus there will be two different protocols for how one receives an observer (by quarter or by trip, respectively). Because the system places a vessel into a selection process based on gear type and length, several members wanted to ensure that NMFS will have the flexibility to prioritize higher or lower coverage on specific fisheries. Members were concerned that the system does not require an operator to specify the intended target fishery. NMFS noted that the majority of coverage will initially track the majority of fishing effort; in the future, the Council will help determine priorities through the annual deployment plan review, and NMFS and the Council will be able to decide which fisheries necessitate more (or less) coverage based on the data collected in previous years and evolving conservation and management priorities. At that time, it may become necessary to require more information upon registration. The committee agreed that the preamble would be strengthened by adding more about what kind of information will be required in the deployment system upon and after the initial registration for those in the vessel selection pool. Some

committee members also wanted to provide a phone, fax, and/or paper form option for registration, as opposed to only the internet.

NMFS described that vessels in the **trip selection pool** must hail-in to the deployment system and register an upcoming fishing trip at least 72 hours prior to the planned trip. The deployment system would notify the operator at that time whether the trip is selected for observer coverage. A receipt number corresponding to the registration would be provided to the operator; and the operator may embark on a registered trip: 1) at any time after registration, if the trip is not selected; or 2) when the observer is onboard, if the trip is selected.

The committee questioned what a vessel must do if a trip is already registered and then there are cancellations or delays. The regulations propose that if a selected trip is not realized within 48 hours of the time registered with the deployment system, it is invalidated and the vessel operator must then register a new trip. NMFS proposed a default period of 48 hours in order to avoid a situation in which an observer is waiting at the dock for several days (funded through fee proceeds) if a trip is delayed beyond a reasonable timeframe. NMFS noted, however, that the vessel can work with the observer provider to provide some flexibility for selected vessels (i.e., in the case that further delay is relatively short, etc). The committee was concerned with the regulations imposing a 48-hour period in which the trip is automatically cancelled in the deployment system, even if an operator has coordinated with their observer provider. NMFS clarified the intent was not to automatically cancel the trip if an operator is working with the observer provider, but that someone must modify the trip information within the system. Staff committed to reviewing the regulatory language to ensure it meets the intent. In addition, the committee supported the provision in regulation that would allow the NMFS Regional Administrator to release a selected trip or vessel from observer coverage on a case by case basis (e.g. if a vessel cannot take an observer and an EM system is not available; or the observer provider cannot deploy an observer in a timely fashion, etc.) The committee questioned how quickly NMFS would be able to respond if a release is deemed necessary.

Committee members were also concerned that vessels in the trip selection pool that fish in short, fast-pulse fisheries, will find it difficult to call in 72 hours in advance of a fishing trip to find out if they are selected for coverage. In the GOA pollock fisheries, for example, vessels may know they will be fishing continuously from January 20 until the fishery closes, so it would be preferable to be able to register multiple (at least three) trips ahead of time. Vessels in this case do not necessarily know their offload schedule and next departure time in advance. NMFS has considered the ability to register multiple trips, and noted that the annual deployment plan would initially allow a vessel to register up to two trips at a time in the same 72-hour period, and the vessel would know whether either of those trips is selected for coverage. It is anticipated that observer providers will be able to accommodate such fast-pulse fisheries, in part by having several observers available in port for rotation among multiple vessels in the fleet.

In sum, because the 72-hour notice is proposed in regulation, and because a vessel is prohibited from leaving the dock without the observer if selected (unless they are released from coverage), committee members were concerned that the regulations may be problematic for vessels in the trip selection pool, unless some level of flexibility is built-in to allow direct coordination with the observer provider.

Requirements for vessels in the full coverage category

NMFS outlined the requirements for vessels in the full coverage category, including the use of the operation designation on the FFP to classify whether a vessel is a catcher processor (CP) or catcher vessel (CV). The CP designation trumps if both designations exist on the FFP, and a CP designation at any time during the calendar year qualifies the vessel as a CP regardless of subsequent FFP amendments. NMFS stated that a CP that processes up to 1 mt per day (round weight equivalent) of groundfish may elect to

register with the deployment system for partial observer coverage for the following calendar year, with recurring election if eligible. This is intended to address vessels targeting groundfish (e.g., rockfish) that freeze a very small amount onboard, but who are not intended to be covered at 100% as a CP. In addition, the regulations account for the provision in the Council motion which allows a one-time election to be in the partial coverage category for a vessel <60' LOA that had both CP and CV activity in a single year, or a CP with an average daily production of <5,000 lbs round weight equivalent, in the most recent calendar year of operation during the time period 2003 through 2010. The deadline for the one-time election is proposed to be November 1, 2012; if no election is made, the vessel is assigned to the relevant default category. The election is proposed to be effective for the duration the vessel is designated as both a CP and a CV on the FFP, or the duration the FFP is issued to the person making the election (i.e., if the permit is transferred to a new person, it defaults to the full coverage category).

The committee identified a need for clarifying language to be added to the preamble regarding the one-time election provision, to ensure that it is not perceived as an open-ended qualification period (i.e., the time period for applying the criteria is limited to 2003 – 2010, and not any year that any vessel ever had processing activity of less than 5,000 lbs).

Observer coverage for processors

NMFS described the process for assigning observers to processing plants, with random assignment to offloads as they occur. NMFS would rely on existing notification requirements for plants at 670.50, which requires managers to notify observers of planned facility operations and expected receipt of groundfish prior to receipt. The process for deploying observers to plants is proposed to remain very similar to the status quo, and processing plants are not required to register with the deployment system. Registered buyers of halibut and sablefish are included in the program, per the Council motion, and NMFS intends to build from the existing 'prior notice of landing' system for the IFQ fleet. The committee also requested that NMFS ensure that the requirements for vessels that direct market their catch are clear.

Observer providers questioned whether NMFS would require that they fly an observer to plants in more remote locations, as it would be very costly; NMFS responded that it may be necessary if there is an important information need from that port. However, NMFS will primarily focus on ports with significant activity and effort.

One member from the freezer longline fleet also related that the program needs to ensure that there continues to be a training ground for level 1 observers to become lead level 2 observers, as this sector will have. an option through a separate regulatory amendment to choose one lead level 2 observer and specified scale requirements in place of two observers. This may increase the demand for lead level 2 observers in the future.

Procurement of observers

NMFS outlined that the purpose of this section is to differentiate the mechanism by which observers will be procured in the two coverage categories (<100% or ≥100%). In the full coverage category, operators must arrange and pay for observers from a permitted provider (status quo); in the partial coverage category, operators must comply with instructions provided through the observer deployment system. No changes are proposed to the existing regulations for vessel operator responsibilities when carrying an observer or the release of observer data to the public. The existing requirements are amended to apply only to persons providing observers to operations requiring full coverage, as the requirements for persons providing observers to operations in the partial coverage category will now be specified through contracts.

One member received clarification that the observer provider, not the individual vessel operator, is responsible for the observer's food and accommodations if a vessel (and its assigned observer) is detained in port. They also asked NMFS to consider whether a vessel should be required to have a USCG safety decal if it has been selected for EM, as opposed to an observer.

Observer fees

NMFS presented the newly created section of the regulations authorizing the observer fee collection of 1.25% of ex-vessel value, at 50 CFR 679.55 (p. 28 of draft regulations). In effect, the collection and submittal of the fee is the responsibility of the processor named on the FPP and IFQ registered buyers. The intent is that the fee be split evenly between vessels and processors, but the percentage split is not codified in regulation. Processors would collect fees throughout the year based on standard prices published annually in the Federal Register, prior to the fishing year in which they will apply. These prices would apply for the full calendar year. The committee reviewed the table in the preamble identifying which species accrue to a Federal TAC (p. 46), which determines which landings are subject to the observer fee (p. 28 of the regulations).

NMFS outlined the process for the payment of observer fees in detail, as it departs somewhat from the structure outlined in the analysis for this action. It was originally envisioned that standard prices would be entered into eLandings at the beginning of the year so that processors could determine the fee liability of each landing at the time of landing. Upon further review, NMFS determined that information entered by processors into eLandings does not provide all of the information to determine whether a landing is subject to the observer fee. NMFS has proposed to develop a separate web-based application that would assess each landing report submitted via eLandings, and each manual IFQ landing report, to determine which species in the landing are subject to the observer fee. This information would generally be available to processors within 24 hours of receipt of the report.

The draft regulations also propose to modify the FPP and registered buyer permit cycle from a three-year to an annual cycle (effective duration from March 1 – Feb 28). Currently, there are not dates specified for when an FPP is effective, so these dates would not be codified in regulation.

The committee voiced several concerns with not using eLandings to determine the observer fee liability on an immediate basis. Members were concerned with needing to wait 24 hours from when the landing is entered until receipt of the report identifying the fee amount, specifically in the halibut fishery in which fishermen typically receive payment at the time of delivery. In smaller ports, waiting for 24 hours may become an issue and result in shifting fishing patterns to larger ports.

The OAC also questioned what was missing in eLandings that would prohibit NMFS from using the existing system. NMFS responded that for landings of species in which there is both a Federal fishery and a State GHL fishery (e.g., sablefish, pollock, Pacific cod), it would not be possible to differentiate to which fishery the landing should be attributed (and thus, whether it is subject to the observer fee), until it goes through the NMFS catch accounting system, in which NMFS evaluates the time and area to determine whether it accrues against a Federal TAC. Most landings may not cause an issue, but if NMFS programs the standard prices into eLandings and they apply against every delivery of a species at the time of landing, the program will overestimate the fee if there are fish in the delivery that are not subject to the fee. It was suggested that some species could be parsed off and included in eLandings; for example, halibut prices could be programmed into eLandings since every halibut landing is subject to the fee, whether CDQ or IFQ, and whether an FFP is held or not. It was recognized that target species such as halibut are likely more straightforward than incidental groundfish associated with the halibut target; NMFS has relied on the catch accounting system to make such determinations.

The OAC also recognized that while fishermen and processors can calculate the fee liability using the published standardized prices and applying it to their landings at the time of delivery, only the processor will receive a receipt from NMFS for the exact observer fee liability (as processors submit the fee to NMFS). Fishermen thus may not understand exactly how much they paid for the observer fee. Other members noted that processors are not likely to want to be responsible for determining which species should be assessed a fee. The intent was to have that responsibility lie with the NMFS system (eLandings or otherwise).

Annual report and review of deployment plan and fee percentage

NMFS reviewed the type of information that would be in the annual observer report (financial and deployment), which will be required of NMFS by September 1 annually. NMFS will consult with the Council upon completion of this report each year, and the Council's motion stated that it would like to target a full review of the program and the fee percentage (1.25%) five years after implementation. The committee recommended previously that it review the annual report prior to NMFS' consultation with the Council, which may mean late summer or fall of 2012.

Schedule and outreach

Staff reviewed the proposed schedule for rulemaking and implementation, which requires publication of the proposed rule in early 2012, with a 60 day public comment period (January/February 2012). One public hearing in each of three states (AK, OR, WA) must be conducted during the public comment period on the proposed rule. NMFS has targeted mid-2012 to receive Federal funds to fund the year-1 contracts under the new system, with publication of the final rule in August 2012. NMFS would conduct outreach meetings in various affected ports in the fall and winter of 2012, and deployment under the new program is slated for January 2013.

The committee discussed the proposed locations for the required public hearings, understanding that the primary purpose of the public hearing is to take public comment on the proposed rule, and will likely be a less interactive forum than the proposed outreach meetings. NMFS proposed to hold the public hearings in Anchorage, Seattle, and Portland, to reach the largest population centers and fleets. One member suggested that the Oregon hearing be held in Newport, as there are few vessel owners in Portland. The committee also suggested considering holding the Anchorage public hearing during the IPHC meeting in early 2012. The Seattle public hearing could potentially be held in conjunction with the February 2012 Council meeting.

Regarding the outreach meetings, the committee suggested hosting a workshop during Fish Expo in Seattle (November 2012), in order to demonstrate how to use the deployment system and solicit registration for the coming fishing year. Most of the outreach meetings would be held in late 2012 in Alaska ports that are most affected. NMFS will consider the list of suggested locations provided by the OAC in May. The committee stressed the need to be able to demonstrate during outreach meetings: 1) the vessel operators' responsibilities for registration, both through the web-based program and the phone; and 2) the processors' responsibilities for collecting and submitting the fee. One member also suggested using webinars for outreach.

Existing regulations that are not being changed

NMFS reviewed the existing regulations that are not proposed to be modified, per the OAC's request. The discussion focused primarily on the vessel requirements and responsibilities for when a vessel carries an observer. The committee also discussed the conflict of interest provisions (p. 21 of the regulations) and whether the existing regulations accommodate the use of EM. The committee wanted to ensure that this

section would not preclude an existing observer provider from providing EM, or preclude a provider from using a subcontractor within a community to install, repair, or maintain an EM system. NMFS responded that this section applies to the observer providers, and whether they have a direct financial interest in a vessel or business. These regulations would not preclude the use of EM, observer companies from providing EM, or subcontracting.

NMFS summarized that the approach taken in the proposed regulations is to provide the regulatory framework that would allow the opportunity for EM, without building in very specific parameters surrounding its use. Thus far, EM is only an option for those vessels in the vessel selection category (fixed gear 40' – 57.5' LOA), but the regulations allow for the development of EM beyond that category and in many different applications.

d. Public comment

Yakov Reutov (K-Bay Fisheries Association, Homer): Yakov stated that much of the Homer longline fleet fishes almost all year, both IFQ and Pacific cod, and some fish salmon in the summer. He emphasized the need to be able to register by phone, fax, and mail, and not just the internet, as many in his sector do not use computers. He was also concerned with the duration of selection for vessels in the vessel selection pool (3 months), and that one could be selected to carry an observer for one quarter, and potentially be selected for the next quarter as well (selection without replacement). Possible solutions suggested include: implement selection *with* replacement (i.e., if you are selected for a quarter, you cannot be selected for the rest of the year); or shorten the selection duration to one month. He also commented that the 72-hour notification requirement is too long; many members fish opportunistically for halibut, depending on the weather.

Liz Mitchell (Association of Professional Observers): Liz recommended that observers be involved in the outreach meetings. Craig Faunce (AFSC) noted that he provides a presentation to all observers in the required four-day training course, on changes under observer restructuring. NMFS could notify observers of the outreach meetings through the APO newsletter, observer providers, and union representatives.

Julianne Curry (Petersburg Vessel Owners Association): Julianne noted that the number of southeast IFQ holders equals the same number of all other quota share holders in all other areas combined. She encouraged efficiencies in the deployment process, such that we are not using observer resources on small vessels doing mixed trips. She also encouraged early notice of the proposed program and outreach, as many IFQ participants will be fishing during the fall outreach meeting timeframe. She suggested sending letters to IFQ permit holders now, so that they understand program changes being developed.

III. Electronic monitoring

a. Update on EM halibut fleet pilot project proposal

Dan Falvey (Alaska Longline Fishermen's Association) provided a presentation on the EM pilot project ALFA is conducting, in coordination with NMFS, under a grant from the National Fish and Wildlife Foundation. ALFA submitted this proposal in the 2010 application cycle and received funding for 2011 – 2012. ALFA is also working with the Southeast Alaska Fishermen's Alliance, PVOA, and Archipelago Marine Research.

ALFA's pilot project proposes to build on previous work, focusing on how to operationalize cameras for use on small longline boats in Alaska. They have developed an approach in terms of logistics and hardware, in order to help inform the final contract that occurs under the restructured program. The four goals of the project are:

- Engage stakeholders in developing a workable at-sea monitoring process
- Field test EM hardware on a range of vessels and in varied fishing conditions to ensure system reliability
- Develop a cost effective means of deploying EM hardware among vessels and retrieving data
- Summarize study findings to inform development and implementation of the restructured observer program

In the start-up phase, ALFA assembled the stakeholder team, identified the EM hardware needs, and selected an EM provider (Archipelago). Dan noted that the monitoring objective for the project is to get a stand-alone estimate of what is caught on the longline, in order to determine catch and catch composition.[1] The focus is on biological, as opposed to compliance or enforcement, monitoring. One member asked whether they had considered incorporating a type of compliance monitoring tool into the project as well. The capability exists; one would need to reconfigure the cameras to meet those objectives.

Dan reported primarily on the operational aspects of Phase 1 (started mid-August 2011), which deployed EM on two (53' LOA) halibut and sablefish longline vessels. Phase 2 is scheduled for 2012, the plan for which is to deploy EM on 12 vessels in order to: engage stakeholders, test system reliability, operationalize a deployment plan, and operationalize data analysis methods. The conclusion of the project is slated for fall 2012, to summarize findings, distribute findings to stakeholders, and conduct outreach to the Council, OAC, and stakeholders.

While only two vessels were used in Phase 1, a seasonal profile was easily detectable, with a lot of sablefish effort in the first part of the season (April – June), and less in the latter part of the season. Halibut effort was more steady, May – September. Recognizing both temporal and spatial shifts in effort is intended to help determine where and when to focus EM deployment.

The deployment plan targeted specific vessels that would carry cameras at different times of the year. Phase 1 included installing a pre-wire sensor package (hydraulic, rotation, GPS, wires) and two cameras, and the control box and cameras were distributed across vessels. The approach is to leave the pre-wire sensor packages on the vessels (it takes time to route the wires, secure the power supply, etc). Dan reported that most boats in Sitka have stabilizer poles on which to mount the cameras. If that is not available, one has to have a mount fabricated which allows the cameras to be placed outboard of the vessel. Dan Hull, who has experience in a previous EM pilot project, noted that stabilizer poles are not as common in other areas of the Gulf of Alaska, and not simple to install. In this pilot project, a technician installs and aligns the cameras, the skipper performs a function test, and a local agent rotates the hardware and collects the data. It took about 8 hours to install each system.

The goal is to rotate the EM units to 3 vessels for a minimum of 8 sea days per vessel, which equates to 24 sea days per unit. Given this goal of 8 sea days monitored by EM per vessel, Dan reported the straw man costs estimated for the project, in terms of cost per sea day. These include: 1) leasing the hardware (control box, monitor, cameras, power supply), 2) vessel costs for 8 sea days (sensor package, technician time, plus the hardware costs per sea day), and the video data analysis costs. The projected costs totaled $257/sea day. These per day costs would be lower if the vessel fished more sea days. Dan noted that the projected cost is generally for parts and labor, it does not include spare parts, program costs, or management costs (e.g., accommodations and travel costs for getting the technician to port). However, he

[1]The project is primarily estimating catch composition, as a deck camera is not provided 24 hours a day, every day, and thus cannot ensure that all discards are captured. Discards may be able to be estimated by counting drop offs and released fish, or by comparing the EM catch composition with the landings report, but the camera placement is primarily designed to provide an independent estimate of catch composition.

asserts that even with the addition of those unknown costs, it is still likely that the cost per sea day is equal to or less than the estimated observer cost of $467/day.

Dan outlined the number of sets that were monitored and the number of days at sea (vessel 1: 11 sets in 9 days at sea; vessel 2: 9 sets in 7 days at sea). The data is catalogued by transit days, set days, and unload days. These data were incorporated into the Phase I results to document actual costs by sea day, which equated to $302/sea day.

The purpose of Phase 1 testing was to identify problems and determine how to scale up the project for Phase 2 in the following year. The next steps include reviewing the biological data to develop efficient review methodologies, reviewing the hardware needs for Phase 2 deployment on 12 vessels, recruiting vessels to volunteer for Phase 2, stakeholder outreach, and summarizing the findings. In addition, the project team hopes to build capacity in the community to install, repair, and maintain the hardware and equipment.

Dan emphasized that the pilot project is not focused on providing baseline catch data for the fleet, it is primarily to help determine how to best deploy the equipment. One member questioned where the pilot project ends and the NMFS program for EM begins. NMFS stated that because the IFQ fisheries are not constrained by PSC limits, real-time data is not required for catch accounting. Thus, the primary monitoring need is catch and catch composition, to complement the existing IPHC dockside monitoring program. The AFSC, as a project partner, is responsible for addressing issues relative to video review and use of the resulting data.

Julie Bonney noted that in the previous pilot project in the GOA rockfish fleet, they concluded that private industry could conduct the data analysis more cost-effectively than NMFS, which would require two hard-drives (one for private analysis and one for NMFS to audit). The Archipelago system used for the pilot project has only one hard-drive. The data belongs to ALFA, and data analysis will be done by ALFA after coordinating with NMFS on data review methodologies.

The committee questioned how the EM system responds to power fluctuations on the vessel, or when the vessel powers down. The project is evaluating a 12V power source and a 110V power source on vessels in Phase 1. The 12V system is designed to put the system into sleep mode at any time there is less than 12.6V, such as when the vessel anchors up with the engine off. Once the engine is restarted, the voltage increases above the threshold and the system is turned back on. The GPS continues tracking while in sleep mode and wakes the system if the GPS detects a speed greater than 0.5 knots. If necessary, the system can manually be put on stand-by mode.

The OAC also discussed the applicability of the cost comparisons with an observer, recognizing that some costs will vary significantly among ports. For example, vessel 1 carried the EM system for 14 days, but only 9 of those days were at sea (transit and fishing days). If an observer was assigned to the vessel for the entire 14 days (which includes days in port), they would have been paid for 14 days. The cost estimates provided were based on the cost of EM for 9 days at sea; the cost per sea day would have been lower if spread across the full 14 days. For some ports, an observer may need to stay with the vessel and thus be paid for those days in port; however, other larger communities (e.g., Kodiak) have 17 or 18 observers in port at all times, thus, observers can be rotated among boats more easily and limit the 'non-working' days in port. Other members noted that in discussing costs, one must also compare the data obtained from each system, which are typically much more limited from EM. The data analysis has not been completed for Phase 1.

The committee also discussed chain of custody issues. Dan stated that hard drives in this system can hold 21 days of continuous video, and most of the vessels in his fleet fish a maximum of 8 or 9 hours a day.

One could be required to seal the hard drive inside the unit upon completion, making it inaccessible, and submit it to the responsible official in the community. The ability to leave the unit on the vessel for the full calendar quarter would lessen the chain of custody issue.

In sum, the committee was appreciative of the project effort and interested in the results of the data analysis. Because real-time data is not used currently to manage the IFQ fisheries, the committee questioned whether NMFS would need to obtain the data immediately after a trip, or whether data review could be delayed until the end of the calendar quarter, or at the end of the year. The committee was interested in moving forward in future discussions to determine how EM and the resulting data can be integrated into the restructured program, such that catch composition could be generated for the IFQ fleet and eventually used in the catch accounting system. NMFS noted that one immediate use of this type of information would be to allow the agency to validate (or invalidate) the use of applying the same catch composition and discard rates between observed and unobserved portions of the IFQ fleet.

b. Discuss development of EM in draft regulations

Prior to action on the restructured observer program, in June 2010, the Council tasked the OAC, Council staff, and NMFS to develop EM as a potential alternative tool for fulfilling observer coverage requirements for specified sectors with the intent that it be in place at the same time as the restructured observer program. NMFS reviewed how EM was addressed in the draft regulatory package under agenda item II.

Currently, the proposed regulations allow for EM to be an option for those in the vessel selection pool, but the criteria for which vessels are in the vessel selection pool are not proposed to be in regulation, so could change over time under the annual deployment plan. The regulatory language allows for the opportunity to use EM by stating that a vessel selected for observer coverage is required to have an observer or electronic monitoring system onboard, as directed by NMFS, for all groundfish and halibut fishing trips specified at paragraph (a)(1)(i) for the time period indicated by the deployment system. The preamble discusses the process by which a vessel operator could indicate their assessment of whether or not an observer can be accommodated on their vessel through registration with the deployment system, or if an EM system would likely be necessary in lieu of an observer. The vessel operator would be prompted to enter the rational for why an observer cannot be accommodated, and then NMFS may visit the vessel to verify the assessment. If NMFS determines that the vessel cannot accommodate an observer, it could approve and provide an EM system; if none are available, NMFS, in its discretion, could release the vessel from the requirement to be observed for that selection period.

The committee wanted to ensure that the regulatory package would allow for EM development over the next few years, but also have a system in the field the first year of the new program to the extent possible. While the intent was to ensure that flexibility, the committee recommended re-evaluating and revising the preamble language to be more flexible to achieve the longer-term goals, such that EM is not characterized as a 'last resort' tool. They noted that the preamble should not pre-determine the conditions for necessitating the use of EM. NMFS agreed to review the preamble language, noting that the initial years will need to be flexible as they work through implementation issues. At least two members of the committee wanted the vessel operator to be able to self-select for EM, and not have the determination about whether an observer is a viable option left to NMFS. One member also stated that the preamble should be expanded to include a discussion of what types of space, equipment, etc., are necessary to accommodate an observer, and this information should be included in the deployment system during registration, such that a vessel operator may make a better assessment of whether they can take an observer. Upon registration, vessel operators should also understand that EM will be limited in the initial years, but that NMFS is working toward EM being a fully integrated tool for some sectors. NMFS AFSC

reported that it has requested funds internally to develop EM and fund an analyst, with some portion of that staff time dedicated to EM.

c. Other EM issues

The committee discussed two other EM issues under this agenda item, the potential use of logbooks and vessel monitoring systems (VMS). One member emphasized that a more cost effective approach would be to require logbooks on the IFQ fleet and to use video to verify the logbooks (as opposed to full video review). A logbook verification program is a timely way of obtaining inseason data on PSC, for example, on the GOA Pacific cod longline vessels. Another member noted that the current EM pilot project does not employ logbooks, the objective is to evaluate video data, and there is a concern with the additional burden of a logbook, which may be vulnerable to error.

The committee also reviewed a letter from Bob Alverson (OAC member and FVOA). The letter supports initiating a discussion of the use of VMS in quota share programs in general, but specifically for the halibut and sablefish IFQ fishery, for the purpose of vessel area accountability. Bob was not able to attend the OAC meeting, so Paul MacGregor spoke to some of the VMS issues raised in the Alverson letter.

The OAC discussed VMS as a compliance tool, but Paul noted that the resulting data also feeds into the biological objectives of EM (e.g., it documents where vessels are fishing and links it to the catch composition analyzed from the video). VMS can also be used to compare vessel fishing patterns with observer deployment strategies to ensure that observer generated data is representative of actual fishing effort. Members noted that for vessels carrying the EM system, the GPS component of that system would provide location data. The Alverson proposal was supporting a broader application, in which the entire IFQ fleet would carry VMS, supplemented by cameras on individual vessels. Members of the committee noted that most sectors in the groundfish fisheries are already required to carry VMS. While the Council is approaching EM to obtain total catch and catch composition data through video in the restructured program, the OAC could recommend VMS in another application through a regulatory amendment. Paul recommended that the preamble for observer restructuring needs to be specific in that "EM", at this point, means video data.

NOAA OLE staff also noted that VMS is used for safety issues, to either identify the location of a vessel that is in distress, or an observer that needs assistance. There is a real-time enforceability aspect of VMS that is not possible with GPS (i.e., a GPS signal that is not sent to a central monitoring system does not provide real-time information on location).

Staff stated that the language of the MSA does not appear to preclude the use of the fee proceeds to fund the purchase of VMS systems (under the EM component), but a separate rulemaking package would be necessary if one was to propose requiring the use of VMS on specific sectors. The analysis for observer restructuring did not propose or analyze the impacts of such a requirement.

Paul suggested that an amendment should be considered to require VMS: 1) on all unobserved federally licensed groundfish vessels that do not have existing VMS requirements, or 2) the IFQ sector. The committee did not support taking up the issue at this time, in part in recognition that the IFQ fleet needs first to be incorporated into the restructured program in the way the current Council action intended. One member noted that the Council addressed this issue in 2007/2008 and chose not to act on it at that time.

In sum, some members noted that NMFS should be addressing EM alternatives to meet the biological monitoring objectives as a first priority. There are more pressing data needs from the IFQ fishery, and focusing on area compliance is not a high priority at this time. The committee decided to table the VMS discussion at this point, as no members were interested in delaying the current effort toward restructuring.

IV. Public comment

Yakov Reutov (K-Bay Fisheries Association, Homer): Yakov does not support VMS for the IFQ fleet, even though some vessels already carry VMS for the GOA Pacific cod fishery A season. For many vessels that only fish one or two weeks a year, it would be cost prohibitive and unnecessary. For those that carry an EM system in the future, NMFS can determine location from the GPS unit.

Tim Carroll (Saltwater, Inc): Tim stated that Saltwater is currently involved in a research and development project (through NFWF) to develop an alternative technology to the existing Archipelago model. The objective is to use less intrusive wiring and lower power, with a more robust species identification technology. The project is on the west coast fisheries, but they are attempting to make this an alternative for application in the North Pacific. The findings will be available by the end of summer 2012.

Mitch Edie (fishermen, Petersburg): VMS is too costly for small IFQ vessels with little quota.

Liz Mitchell (APO): Liz conveyed that she would appreciate support for a seat on the OAC for an observer representative. The more you involve observers in the dialogue, the better the data.

Julianne Curry (PVOA): Julianne noted appreciated for the work of the OAC and patience in working with the IFQ fleet. She related that VMS is archaic as a monitoring tool, and should not be considered. It would be more effective to progress in the direction of electronic logbooks, with a GPS component. EM should be at the discretion of the vessel operator, and should be a fully integrated tool to provide more flexibility in monitoring options.

Ed Hansen (Southeast IFQ fisherman): Ed stated that observers will be too difficult to deploy on some boats used by the IFQ fleet, due to their size and fishing patterns. There are many small wooden boats with 1,900 lbs or less; some fish halibut between two salmon gillnet openings. It will be logistically difficult for these vessels to comply with the 72-hour notification requirement.

V. Scheduling and Recommendations

The OAC made several recommendations for Council consideration, as follows:

1. The OAC recommends that the Council send a letter to the AFSC, supporting the internal observer program funding request for EM.

2. The OAC recommends that the Council send another letter to NOAA, requesting start-up funds for the restructured observer program (to fund year-1).

3. The OAC recommends that a designated alternate should be allowed for each OAC member, in the case that members cannot attend a meeting in person. The committee Chair should be notified of the alternates.

4. The OAC recommends that it convene prior to the draft annual deployment plan being completed, to both review the plan and receive a general status report on NMFS' progress in overall program implementation. The committee could recommend a specific time to meet once the September 2011 OAC minutes are finalized and Council action from the October 2011 meeting is completed.

5. **The committee recommends that the draft regulatory package is sufficient for deeming by the Council, with the consideration of the issues documented in this report, and after addressing the following highlighted issues.**

Summary of highlighted issues related to the draft preamble and proposed regulations:

- The OAC notes there is considerable flexibility in the draft regulations to develop an EM program as applicable. However, the preamble narrowly defines the use of EM to instances where vessels are incapable of carrying an observer. The OAC believes this is unnecessarily limiting and may create an undesirable precedent. There will likely be instances where EM could be a preferred tool for some uses and sectors. The OAC recommends the preamble be revised to reflect the potential integration of EM as an independent tool in the research plan and not conditional on a vessel's ability or inability to carry an observer.

- The OAC recognizes that the scope of EM may be limited in the initial year, and NMFS will need to prioritize vessels in determining whether they receive EM (i.e., all small vessels that identify a preference to using EM in the deployment system may not receive EM). The preamble should highlight to the public that EM will not be available to all vessels; the priority, as identified by the OAC and Council, is to focus the initial effort on 40' – 60' IFQ vessels (those vessels that are not managed by real-time data and are not constrained by PSC). The committee supports dedicating funds from start-up funding and fee proceeds toward EM development.

- The OAC recommends adding language in the preamble that better describes the process and timing for receiving a 'release' from observer or EM requirements from the NMFS Regional Administrator.

- The regulations need to include a requirement that any IFQ vessel that fished in the previous year must register for the following year with the observer deployment system by the December 1 deadline. The regulations must also include a requirement that any IFQ vessel that did not register by December 1 of the preceding year, but decides to start fishing during the season, must register with the deployment system before fishing.