



## Fishery Monitoring and Advisory Committee REPORT

June 1, 2022: 8:00am-4:00pm AKDT

*Committee members present:* Bill Tweit (co-chair), Nicole Kimball (co-chair), Bob Alverson, Julie Bonney, Beth Concepcion, Dan Falvey, Kathy Hansen, Stacey Hansen, Julie Kavanaugh, Michael Lake, Mike Orcutt, Chad See, Luke Szymanski, Abigail Turner-Franke, Paul Wilkins, and Caitlin Yaeger

*Members Absent:* Tom Evich

*Agency Staff:* Sara Cleaver (NPFMC), Jason Gasper (NMFS AKR), Anna Henry (NPFMC), Gwynne Schnaittacher (NOAA AFSC), Jennifer Ferdinand (NOAA AFSC), Lisa Thompson (NOAA AFSC), Maggie Chan (NMFS AKR), Josh Keaton (NMFS AKR), Melanie Rickett (NMFS AKR), Jaclyn Smith (NMFS OLE), Dennis Jaszka (NMFS OLE), Geoff Mayhew (PSMFC), Josh Keaton (NMFS AKR), Craig Faunce (NOAA AFSC), Alex Perry (NMFS OLE), Wynn Carney (NMFS OLE), Pearl Rojas (NOAA AFSC), Megan Mackey (NMFS AKR), Andy Kingham (NOAA AFSC), Amy Hadfield (NMFS AKR), Joel Kraski (NOAA AFSC), Jennifer Mondragon (NMFS AKR), Dave Colpo (PSMFC)

*Other Attendees:* Stefanie Dukes, Darrell Brannan, Chelsae Radell, Rachel Baker (ADF&G), Heather Mann, Ruth Christiansen, Jeff Stephan, Tom Gemmel, Chris Oliver, Craig Rose, Linda Kozak

*This list may not be comprehensive as some attendees did not use full names.*

### 1. Introduction

The co-chairs of the Fishery Monitoring Advisory Committee (FMAC) opened the hybrid meeting and gave an overview of the agenda. The purpose of this FMAC meeting was for the committee to receive the 2021 Observer Annual Report, an overview of the Trawl Electronic Monitoring (EM) analysis, and an update on the NMFS Procedural Directive for EM Data. The committee also received input on other topics from stakeholders as requested.

Ms. Sara Cleaver provided observer-related updates since the last meeting of the FMAC on May 17, 2021. The update covered the Council's June and October 2021 motions including recommendations on the draft 2022 Annual Deployment Plan (ADP) for partial coverage fisheries and the Partial Observer Coverage Cost Efficiencies Integrated Analysis (Cost Efficiencies Analysis) for implementation in the 2024 ADP and in time to inform and affect the next Federal observer contract. As of September 1st, 2021, NMFS returned to deploying observers from all ports on a trip basis and the Council supported NMFS' recommendation to maintain this approach, as well as the stratification and allocation strategies from the 2022 ADP, in 2023. The update also included recommendations made by the Partial Coverage Fishery Monitoring Advisory Committee (PCFMAC) at its September 2021 and March 2022 meetings and plans for PCFMAC members to provide input to NMFS analytical staff while work is underway on the Cost Efficiencies Analysis.

### 2. Abbreviated 2021 Observer Annual Report

Ms. Jennifer Ferdinand, Mr. Geoff Mayhew, and Ms. Jaclyn Smith provided a presentation on the 2021 Observer Annual Report. Given previous committee and Council direction for an abbreviated annual

report due to the COVID-19 related complications in deployment plans, the abbreviated report focuses on enforcement and compliance information and includes limited descriptive information on the program, as well as the agency recommendations for the 2023 Annual Deployment Plan.

#### Annual Deployment Plan recommendations

**The committee supports the NMFS recommendations on pages 77-78 of the 2021 Observer Annual Report, including that the elements of the 2022 ADP be carried forward to the 2023 ADP, per the Council's previous direction.** Members of the committee were encouraged to hear that the Observer Program has a similar budget for those fisheries in partial coverage 2023 as it did in 2022. While NMFS has not yet projected effort for the 2023 fishing year, committee members are optimistic that similar coverage rates can be achieved assuming a comparable level of fishing effort. Coverage rates for non-EM fisheries in partial coverage in 2022 were projected as: hook-and-line (19%); pot (17%) and trawl catcher vessels (CV) (30%). The majority of fisheries remain in full coverage.

#### Fixed Gear EM Cost Estimates

Ms. Ferdinand described the costs of the fixed gear EM partial coverage program. The adjusted draft 2021 cost estimates for fixed gear EM are not reflective of actual costs or average cost per day, because they only include trip data reviewed and submitted to NMFS on or before Feb 28. The fixed-gear EM costs per day are expected to decrease once the rest of the trip data are reviewed, however, the magnitude of that decrease is unknown at this time. Committee members requested some indication of the percent of data reviewed.

A few committee members highlighted how the delay in EM data review by Pacific States Marine Fisheries Commission (PSMFC) could affect management for the following year, emphasizing that timely review of data is important. The agency noted that more timely review would require more EM reviewers, further increasing costs. This year was particularly affected by staffing limitations, and PSMFC is in the process of filling two positions for Alaska EM data review, which should help to improve timeliness of data review in future years.

The committee had significant discussion on the inclusion of preliminary cost estimates and the caveats of using incomplete data. **The Committee supports the agency providing updated estimates using the full year of fixed gear EM data review and costs for the final 2021 annual report.** This includes updated sea-day cost data on the fixed-gear EM Program, and an updated estimate of how much money from observer fees was used towards the fixed-gear EM program in 2021. The committee noted that the preliminary estimates do not provide an accurate accounting of average costs per day, due to the additional days of data that need to be reviewed as well as how total costs of equipment and maintenance are amortized across years under the current five-year amortization schedule. Committee members expressed concern about public perception that EM is very expensive, noting that incomplete estimates can be off by a factor of two or more and contribute to that sentiment, and for that reason, estimation of annual costs should be communicated accurately.

The committee's intent with the above recommendation is to obtain a more accurate estimate of what the fixed-gear EM program costs to run annually, what the annual draw on observer fee revenues may be, and how this may change in the future as equipment wears out. NMFS described challenges due to how the contracts with EM providers have different timings associated with them, and that they do not align with the data review or calendar years. Some committee members described how equipment is often being used longer than the predicted five years, contributing to an artificially high cost estimate, as those costs could be spread out over a longer period of time. The accounting system under the new amortization schedule for next year may provide improved accuracy in terms of estimating annual costs for ongoing replacement of equipment.

**The FMAC supports the new cost reporting categories and amortization schedule developed by the Cost Reporting Subgroup, in place for the 2022 EM data review.** This system includes a separate line item for new EM equipment installed each year. However, the committee recognizes that there is still work to be done in determining how to handle merging the legacy amortization costs to determine an annual time series of fixed gear EM costs. This is important because the cost per sea day and accounting for equipment replacement will both be used as analytical assumptions in the cost efficiencies analysis. The committee acknowledged how a mature program will eventually need to be setting aside funds each year for acquisition and replacement of equipment. NMFS staff participating in the subcommittee indicated that the goal of the subcommittee was for consistent reporting between trawl EM and fixed gear EM, and that they would reach out to the sub-committee working on the EM cost formulation approach.

#### Deployment summary

Mr. Mayhew presented target and realized coverage rates in the partial coverage fisheries. The committee stressed the importance of highlighting the difference between target rates developed, and the realized rates, as members of the public are most focused on realized rates. Table 3-1 in the annual report illustrates two periods which reflect the port-based deployment approach due to COVID-19 protection measures from Jan 1-Aug 31 and when all ports were re-opened to observer deployment during the latter part of the year (Sept 1-Dec 31).

Coverage in the HAL sector during the first part of the year did not meet the target coverage rate, as there were more waived trips than expected due to limited port deployment. Committee members explained how some vessels planned to leave from and deliver to different ports or chose to operate out of ports not included in the 14 limited ports, in order to receive observer waivers. NMFS noted that while these changes in behavior factored into the realized coverage rate in the first part of the year, the target expectation of partial coverage in observed HAL was reached in the latter part of the year. All other gear categories met or exceeded target coverage rates in 2021 (p. vi, Executive Summary).

#### Enforcement and compliance

Ms. Smith provided summary information on enforcement, compliance, and recent outreach efforts in the Observer Program.

Of particular note this year was the new trend in observer-on-observer harassment incidences in Bering Sea Aleutian Island (BSAI) American Fisheries Act (AFA) shoreside plants. In the past, NMFS OLE has expended a lot of effort into working with vessels and companies. Given recent COVID-19 restrictions, they have not had the same ability to work as closely with observer providers, but OLE disseminated outreach letters to the fleets early in the 2021 season. The current plan is to continue meeting at least once a year with observer providers. One committee member suggested that trends in “failure to provide reasonable assistance” in the open access CV pot fishery in the Gulf of Alaska (GOA) could be due to different expectations between vessel crew and observers. NMFS OLE suggested that if additional outreach is needed for the fleet, they encourage contacting the compliance liaison with the specific type of outreach needed.

The committee highlighted the importance of a safe working environment for observers, and that it would be useful to see enforcement and compliance data trends over several years to determine whether more resources and attention need to be directed to certain areas. NMFS OLE described how due to recent changes in reporting methods, data can only be reported back three years. The committee also noted that mention of specific changes in fisheries management each year could provide much-needed context for the trends exhibited in some types of enforcement and compliance issues, but that it may not be possible to capture all the factors that influence changes in these fisheries over time.

The committee emphasized that while the report highlights trends in enforcement and compliance issues, there are positive trends occurring as well. The committee suggested that some of these could be

highlighted in future years. For example, NMFS OLE indicated that in LAPPs and the catcher processor (CP) fleet, there appears improved communications between vessel operators and observers.

### 3. Trawl EM Initial Review

Ms. Anna Henry, Mr. Darrell Brannan, Ms. Melanie Rickett, and Ms. Maggie Chan presented a portion of the Trawl EM analysis, which is scheduled for initial review at the Council's upcoming meeting. Mr. Josh Keaton was available for questions. Because the Trawl EM Committee was provided with a presentation on the full analysis at its May 31st meeting, the presentation to the FMAC was focused primarily on the role and costs of shoreside observers within the Trawl EM Program.

The committee and analysts exchanged perspectives about the broad range that was used for the estimate of the per day cost of shoreside observers for partial coverage processing plants in the GOA (\$500-\$1600). Committee members questioned the high end of the range of those cost estimates and noted this cost would be untenable if realized. The analysts stated that the range in the GOA is very broad due to the high degree of uncertainty regarding actual costs and uncertainty associated with what shoreside plant observers will cost with the new NMFS observer contract in 2024.

Committee discussion also highlighted the need for an estimate of what the Trawl EM Program will cost in partial coverage fees. Additionally, there are outstanding policy decisions on program design that need to be made before determining how the Trawl EM Program draws funds from observer fees. While this cost estimate may be needed to successfully complete the cost efficiencies analysis, the analysts described the challenges of parsing out EM costs by sector (partial vs. full coverage) based on data limitations and how current costs are tracked and reported. Furthermore, costs will change when a new contract is awarded in August 2024.

There was desire from the committee for more information in the analysis on distributional impacts across sectors. Specifically, the committee questioned how overall cost savings from the Trawl EM Program (when GOA and BSAI costs are combined) will accrue to shoreside plants and what portion will be paid directly by plants and what portion will be covered by the partial coverage observer fees. The analysts provided clarity on why the analysis did not include this discussion, as there are elements of pay as you go, participation in multiple fisheries, and many other factors that make it challenging to tease apart these costs.

There was a discussion about equity and who should be paying fees for equipment system maintenance. One member noted that they did not think CVs in partial coverage category should have to pay the fee for their equipment because they are already paying their portion of the 1.65% fee, and under the fixed gear program, the partial coverage fee covers these costs. **The committee recommends that GOA partial coverage trawl CVs be treated the same as fixed gear EM participants in that the fee would pay for the costs associated with service provider fees and overhead and EM equipment maintenance and upkeep.** Vessels in catch share programs would still be required to pay directly (not use fee revenues).

### 4. Update on NMFS Procedural Directive on Applicability of Information Law to EM Data

Ms. Jennifer Ferdinand and Mr. Josh Keaton provided a brief update on the NMFS Procedural Directive and any changes the guidance in the directive may have on EM Data in the North Pacific.

There was a question about whether the observer provider contract itself is available to the public. NMFS responded that the contract does not fall under this procedural directive, and that contracting language is protected and confidential under federal acquisitions. The committee had some discussion about how observer providers are meant to compete for the contract and be competitive in the market and the difficulty of doing that without knowing the contracts they are competing against. There was a question about whether NMFS can release whether the selected contract was greater than 10% of another bidder. NMFS indicated they would follow up with the Federal Acquisitions Office to try to answer this question.

## **5. Public comment**

One member of the public provided oral testimony and one written public comment letter was submitted through the committee e-Agenda.

### **a. Direct pay as you go /multiple provider option**

The committee discussed a request submitted through written public comment, to have Council staff draft a discussion paper that would determine which regulatory actions would be needed to change the service delivery model for partial coverage vessels (and potentially shorebased processors). The concept is to allow vessels to find observer coverage directly through NMFS-approved observer providers and to submit costs of observer coverage for NMFS reimbursement at the end of the season.

The proposers are concerned that the cost efficiencies analysis will only provide minimal savings and that in another five years there may only be one observer company due to the economic advantage the current partial coverage program provides to the company which is awarded the NMFS contract.

Some committee members requested details on how this proposal relates to a prior unfunded NFWF proposal to investigate how cooperative structures could be used in a multiple provider scenario. The NFWF proposal would have been a narrowly-applied interim experiment for select vessels, while this proposal would change the partial coverage program to be market-based. The proposal also differs from a voucher program explored in a 2017 discussion paper, because the voucher program would set a maximum price per day, and this reimbursement process would have no upper range.

One committee member described how the Council's original structure for the Observer Program fee system was built around equity and consideration of fishing communities, in that all vessels pay the same percentage of ex-vessel revenues into the fee program and vessels should be able to operate out of remote ports in small communities for the same cost as more accessible areas. The committee suggested that industry could provide perspective on the balance of expense of the program and equity, as well as incentives for vessels to search for low bidders.

Overall, the committee expressed interest in the proposal of this discussion paper. However, noting the significant changes which would be required to the service delivery model through elimination of the Federal contract, the FMAC emphasized its current priority is completion of the cost efficiencies analysis in 2023 and Trawl EM.

### **b. Definition of a trip for those delivering to tenders**

Another proposal submitted through written public comment was to change the definition of a 'trip' for vessels delivering to tenders, such that they would be required to log into the Observer Deploy and Declare System (ODDS) after every delivery to a tender. The current definition means the vessel trip for the purposes of observer coverage/ODDS does not end until the vessel returns to port. This issue appears to be unique to cod in western Alaska, given that tender use is common practice (and given that tenders are included in the pelagic Trawl EM project for the pollock fishery). There was some disagreement among committee members about whether this behavior is occurring, and the committee noted that it would benefit from data related to this issue. There was a suggestion that if a tender is within a certain short distance from its processing destination, the CV delivering to that tender should be required to start a new trip in ODDS after delivery. If vessels are beyond that distance, there is an incentive built in for boats to not have to travel and they can maintain their observer. NMFS indicated that from a management perspective, there does not appear to be a data issue caused by this vessel behavior, though it may be an equity issue.

Much of the committee supported modification of the definition of a trip for those delivering to tenders, but questioned the priority. This definition change would establish a distance threshold for delivery to tenders by which a vessel needs to log back into ODDS for observer coverage. Challenges to this proposal

include situations where a vessel may not know three days in advance where the tender will be located (how far from the plant). The committee highlighted that this is not a new issue; and tender strata were evaluated in the 2017-2020 annual reports with the conclusion that there were no significant differences between unobserved and observed tender trips.

## **6. NFWF Proposals**

Alaska Groundfish Data Bank is submitting a proposal to use existing onboard video systems to develop monitoring of conservation limits on catcher vessels in the Central GOA rockfish trawl fishery. This project will evaluate video collection and analysis to improve data quality, consistency, and costs, to verify salmon retention and quantify halibut and groundfish discards. This project builds on existing EM systems used in the west coast pelagic trawl Pacific whiting fishery and the BS and GOA pelagic trawl pollock fishery and prior work to evaluate EM for the CV rockfish fishery.

United Catcher Boats is submitting a proposal to continue execution of the final phase in evaluating the feasibility and cost efficiency of using EM systems on Bering Sea and Gulf of Alaska pelagic pollock trawl catcher vessels to monitor compliance with retention regulations. Project expands on prior NFWF Projects for improved data quality, timeliness, and cost-efficiency for salmon bycatch accounting and detecting and quantifying groundfish discards.

Real Time Data is submitting a proposal to provide a customized electronic logbook interface (an application called Deckhand Pro) to 30 vessels in the GOA fixed gear halibut and sablefish fisheries. North Pacific Fisheries Association (NPFA), Alaska Longline Fishermen's Association (ALFA), and other groups are partnering with them as industry advisors, and some of their vessels will be participating in testing the e-logbook. The key objective is to provide fishermen with an e-logbook which satisfies their reporting requirements to NMFS and the IPHC while also serving as a data collection platform with features built-in to directly benefit fishermen, their businesses, and industry.

**The Committee recommends supporting all three NFWF proposals to 1) sustain final year of the Trawl EM Experimental Fishing Permit (EFP) and 2) advance new efforts in electronic technologies and monitoring.** The committee noted that the timeline of the NFWF RFP process is earlier than usual this year with deadline of June 7th, prior to the Council meeting.