


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Clarence G. Pautzke
Executive Director 

DATE: June 18, 1992

SUBJECT: North Pacific Fisheries Research Plan

ACTION REQUIRED

Receive report of Observer Oversight Committee and consider taking final action on the Research Plan.

BACKGROUND

At the April 1992 meeting, the Council approved the Research Plan and EA/RIR/IRFA for public review. The elements and options of the proposed program are summarized in Item C-3(a), titled 'Framework for the North Pacific Fisheries Research Plan'. This Framework document is the same that was presented at earlier Council meetings and contains the provisions of the Research Plan which must be approved by the Council as well as the options which still require Council decision. These include: objectives of the Research Plan; identification of the fisheries from which fees would be collected; determination of the fee percentage; timing of fee collection; discards and Donut Hole fisheries options; appropriate levels of observer coverage for the Research Plan objectives; start-up funding alternatives; and, methods to cover potential funding shortfalls.

The staff report will follow this Framework document and reference the accompanying analysis (EA/RIR/IRFA) where necessary. Options within the Plan are indicated by shading and are followed by a brief discussion. It is anticipated that the Council could use this document in a framework motion in their final deliberations.

The Council appointed an Observer Oversight Committee which met in Seattle on June 4 and 5 to review the document in order to provide technical advice to the Council at this meeting. A copy of the report from that meeting is included in your notebook as Item C-3(b). Following the staff report, Chairperson Chris Blackburn will present the findings of the Committee to the Council.

If the Council makes a final decision on the Research Plan at this meeting, staff will proceed with preparation of the regulations (proposed rule) to implement the Plan. This will include amending the FMPs to reference the provisions of the Research Plan. The FMPs currently reference the provisions of the Observer Plan. The language in the Magnuson Act which authorizes the Research Plan contains a specific schedule for Secretarial review which is slightly different than the normal amendment process. After receiving the Council approved Plan, the Secretary has 60 days to either remand the Plan back to the Council or to publish the proposed regulations in the FEDERAL REGISTER. Following publication, a 60-day public comment period begins, during which a public

hearing must be held in each state represented by the Council. Within 45 days after the end of the public comment period, the Secretary, in consultation with the Council, will publish the final rule implementing the Research Plan. The Magnuson Act language is included here as Item C-3(c).

Assuming Council approval at this meeting, the Plan could be submitted to the Secretary by the beginning of August (this allows about one month to draft the proposed regulations and other necessary documentation). Depending upon how long the Secretary reviews the package before publishing the proposed rule, the public comment period could occur during October and November, but possibly sooner. The required public hearings would occur during this time. Under this schedule, the Plan could be implemented by the start of 1993; however, the availability of start-up funding still remains the critical factor which would determine functional implementation of the Plan.

FRAMEWORK FOR THE
NORTH PACIFIC FISHERIES RESEARCH PLAN

A. Objectives:

1. To provide a framework for developing an observer program for the Alaska groundfish fishery which has the capability to perform inseason management, to accommodate status of stocks assessment and to provide accurate, real-time data of sufficient quality to implement an individual vessel incentive program.
2. To provide a framework for developing an observer program for Bering Sea/Aleutian Islands king and Tanner crab fisheries which accommodates inseason management needs, ensures management compliance, and provides for the collection of biological and management data necessary to achieve the sustained yield of the crab resource without overfishing.
3. To ensure that the groundfish and crab observer programs are efficient and cost effective, that any increased costs are commensurate with the quality and usefulness of the data to be derived from any revisions to the programs, and that such changes are necessary to meet fishery management needs.
4. To provide for cooperation and coordination between the groundfish observer program administered by the NMFS and the crab observer program administered by the Alaska Department of Fish and Game (ADF&G).

B. Elements of the NMFS Groundfish Observer Program:

1. Level of coverage:

- a. **OPTION 1:** Initial level of coverage shall be that of the current industry funded groundfish observer program.

Under the present industry funded program, all vessels 60 feet length overall (LOA) or greater must carry observers. All shore side plants, floating processors, and motherships must provide observers for any month in which they process 500 metric tons of groundfish or more. Though all vessels or processors who meet the minimum length or processing requirements must carry observers, the percent of time that an observer needs to be present varies by size of vessel or monthly processing activity. Present levels of coverage are: 100% for vessels 125 feet length overall (LOA) and larger and shore plants, floating processors and motherships which process 1,000 mt or more in a month; 30% for vessels 60 to 125 feet LOA and shore plants, floating processors and motherships which process 500 mt to 1,000 mt in a month.

OPTION 2: Levels of observer coverage may vary by fishery and vessel size depending upon the objectives to be met for each fishery. Various levels of observer coverage, ~~from 30% to 100%~~, which are necessary to maintain statistical reliability, are identified for each of the stated objectives of the Research Plan. The Council will review this and other relevant information on an annual basis to determine appropriate coverage levels given the available funds as well as the goals of the program.

Option 3: Require some coverage levels in the halibut fisheries.

*thc
hal. ms.*

DISCUSSION: The discussion of coverage levels is contained on pages 28-31 (Section 2.3.4) in the analysis (EA/RIR). Appendix II of the EA/RIR contains an analysis of coverage levels required relative to the goals of the Research Plan. Current levels of observer coverage are adequate for TAC monitoring, but are inadequate for reliable bycatch monitoring or for implementing the vessel incentive program (VIP). the VIP will likely require up to 100% coverage of all vessels and 70-80% coverage will be required for reliable bycatch monitoring. For catch monitoring only, as little as 30% coverage may be adequate. Costs and tradeoffs associated with these various coverage levels are discussed in Section 2.3.4 of the analysis. The Council has requested that the option be available for requiring some type of coverage in the halibut fisheries. The analysis suggests some type of pilot program for these fisheries which could be later evaluated in terms of the benefits derived from this coverage versus the costs incurred. The advent of the IFQ program could have an effect on the costs and benefits associated with observer coverage in this fishery.

- b. Changes to the existing groundfish observer program to improve the accuracy and availability of observer data may be implemented by the Alaska Regional Director (NMFS) upon recommendation by the Council based on one or more of the following:
 - (i) a finding that there has been, or is likely to be, a significant change in fishing methods, times, or areas for a specific fishery or fleet component;
 - (ii) a finding that there has been, or is likely to be, a significant change in catch or bycatch composition for a specific fishery or fleet component;
 - (iii) a finding that modifications to the observer program are warranted to improve data quality and availability necessary to implement an individual vessel incentive program for a specific fishery or fleet component.
 - (iv) a finding that such modifications are necessary to improve data availability or quality in order to meet specific fishery management objectives.
 - (v) a determination that any increased costs are commensurate with the quality and usefulness of the data to be derived from any revised program, and are necessary to meet fishery management needs.
2. Observer employment and contracts:
- a. Observers will be either employees of NMFS, or be under contract to NMFS.
 - b. Observer contracts will be subject to a competitive bid process and will comply with federal and/or agency procurement regulations. If in accordance with procurement regulations, and if cost effective, multiple contractors will be used.
 - c. Observer deployment shall be determined by NMFS.
 - d. Observers must possess the education and specific training necessary to meet the requirements of the groundfish observer program.
3. Duties of observers:
- a. collect data on catch, effort, bycatch, and discards of finfish and shellfish, including PSCs, and transmit required data to facilitate in-season management.

- b. collect biological samples which may be used to determine species, length, weight, age and sex composition of catch and predator prey interactions;
 - c. collect data on incidental take of marine mammals, seabirds, and other species as appropriate;
 - d. other duties as described in the NMFS observer manual.
4. Data collection, transmission, and input programs shall be implemented according to the following:
- a. initial implementation shall be as specified under existing regulations and guidelines;
 - b. the Regional Director, NMFS Alaska Region, shall review fishery monitoring programs and report to the Council on methods to improve data collection and sampling techniques, provide for real time data transmission from the fleet including daily reporting, and other measures as appropriate to improve the accuracy and efficiency of fishery monitoring programs.
5. NMFS's detailed budget for implementing the groundfish observer program including:
- (i) costs for observer training and certification;
 - (ii) costs for stationing observers on board fishing vessels and United States fish processors, including travel, salaries, benefits, insurance;
 - (iii) costs for data collection, transmission, and input;
 - (iv) contract services and general administrative costs.

C. Elements of the ADF&G Crab Observer Program:

Option 1: assess fees against all crab processors but not include the crab fisheries under the Plan.

Option 2: assess fees against those in the crab fisheries who do not now pay directly for observer coverage but not include the crab fisheries under the Plan.

* **Option 3:** collect fees from all processors and incorporate the State of Alaska shellfish observer program within the Research Plan. To this point in time, Council, NMFS, and ADF&G staff have worked successfully toward attainment of Option 3. Including the shellfish program within the Research Plan would generate an estimated \$2.96 million in additional fees at an additional cost of \$2.4 million (under current projections of program costs and revenues). The details of the ADF&G shellfish program under Option 3 are contained below.

DISCUSSION: These options are discussed in further detail on pages 18-19 of the EA/RIR.

1. Level of Coverage:
- a. Initial levels of observer coverage under the North Pacific Fisheries Research Plan shall be that of the existing industry funded crab observer program.

- i. Presently 100% of all catcher/processors and floating processors are required to have an onboard observer to engage in the BS/AI crab fisheries.
 - ii. ADF&G traditionally collected essential biological and management data at the point of shoreside landing immediately before processing. The rapid evolution to processing by catcher/processor and floating processor vessels in particular shellfish fisheries seriously eroded the department's ability to adequately monitor harvests to ensure sustained yield without overfishing. Onboard observers supply two critical functions, without which offshore processing would not be allowed.
 - They are the only practical data gathering mechanism which would not disrupt processing.
 - They provide the only effective means to ensure management compliance.
 - b. Pursuant to the Bering Sea and Aleutian Islands king and Tanner Crab FMP, the State of Alaska crab observer program has been designed by the Alaska Board of Fish and administered by the Alaska Department of Fish and Game. Future modifications to the crab observer program will be made through the board process, under general oversight of the Council, in accordance with the king and Tanner crab FMP.
2. Observer employment and contracts:
 - a. Observers will be either employees of ADF&G, or be under contract to NMFS.
 - b. Observers for the Shellfish Observer Program obtained from contractors will be obtained through the NMFS observer contracts. Observer contracts will be subject to a competitive bid process and will comply with federal and/or agency procurement regulations. If in accordance with procurement regulations, and if cost effective, multiple contractors will be used. *Motion on 3 min. qualifying etc*
 - c. Observer deployment shall be determined by ADF&G.
 - d. Observers will possess the education and specific training necessary to meet the requirements of the crab observer program.
3. Duties of observers:
 - a. collect data on catch, effort, bycatch and discards of finfish and shellfish, and transmit required data to facilitate inseason management;
 - b. collect biological samples which may be used to determine species, length, weight, age and sex composition of catch;
 - c. collect data on marine mammals, seabirds, and other species as appropriate;
 - d. other duties as described in the ADF&G observer manual.
4. Data collection, transmission, and input programs shall be implemented according to the following:

- a. initial implementation shall be as specified under existing regulations and guidelines to facilitate inseason management at the Dutch Harbor and Kodiak offices;
 - b. ADF&G shall review their fishery monitoring and data transmission programs in conjunction with the NMFS, to help develop coordinated methods to improve data collection and sampling techniques, provide for real time data transmission from the fleet including daily reporting, and other measures as appropriate to improve the accuracy and efficiency of fishery monitoring programs and improve coordination between agencies.
5. ADF&G's detailed budget for implementing the crab observer program including:
- (i) costs for observer training and certification;
 - (ii) costs for stationing observers on board crab catcher/processors, United States crab floating processors, and shoreside observers/debriefers, including travel, salaries, benefits, insurance;
 - (iii) costs for data collection, transmission, and input;
 - (iv) contract services and general administrative costs.

D. Coordination Between the NMFS Groundfish Program and the ADF&G Crab Observer Program:

1. Recognizing the differences in the missions between the ADF&G crab observer program and the NMFS groundfish observer program, but wishing to provide for the maximum efficiency in administration and implementation of the groundfish and crab observer programs, NMFS and ADF&G will form a work group to address the following:
 - a. to the extent possible and practicable, development of consistent, cost effective, and compatible observer training and debriefing procedures.
 - b. development of a consistent data collection, transmission and processing system including a single data base available to both agencies on a real-time basis.
 - c. identification of costs which are appropriate for reimbursement to the State pursuant to the MFCMA.
2. The University of Alaska, as an observer training entity, shall be included as an ex-officio member of the agency workgroup for the purpose of part 1 (a) above. Recognizing industry concerns regarding administrative costs of the plan and possible shortfalls under the 1% formula, direct the agency workgroup identified above to review costs and identify possible cost savings measures, including the use of public or private contractors to perform some or all of the duties under the plan, as well as the costs and benefits of training groundfish observers in Alaska or elsewhere.
3. On an annual basis, NMFS and ADF&G will provide to the Council a report detailing steps taken to improve overall coordination between the two observer programs and to improve administrative efficiency.

E. Fee Assessment:

The North Pacific Fisheries Research Plan fee assessment program will be based on the following:

1. Fisheries subject to fee assessment;
 - a. Gulf of Alaska groundfish.
 - b. Bering Sea and Aleutian Islands groundfish
 - c. North Pacific halibut
 - d. Bering Sea and Aleutian Island king and Tanner crab
2. *Reviser* Fees will be assessed at up to 1% of ex-vessel value of fish and crab harvested in the fisheries identified above, before any processing occurs. Though the potential maximum fee is prescribed by the Magnuson Act, the actual maximum for any given year may be less after determining the cost of the Plan and after deducting funds from other sources, if required (discussed below).
7/15/11 whenever over 60
3. Fees from the program may only be used to pay for: (1) stationing observers including the direct costs of training, placing, maintaining, and debriefing observers; (2) collecting, verifying, and entering collected data (not manipulating data); (3) supporting an insurance risk-sharing pool; and (4) paying the salaries of personnel to perform these tasks. The fees cannot be used to pay administrative overhead or other costs not directly incurred in carrying out the Plan, or to offset amounts authorized under other provisions of law.
4. *Approval* Annually the Regional Director, in consultation with the Council, will establish a fee percentage taking into account the ex-vessel value of the plan fisheries, the costs of implementing the Plan, other sources of funds, and limitations on the total amount that can be collected. This will be done concurrent with Council ~~review~~ *review* of observer needs of the fisheries. This annual process will be completed by the time the fisheries commence. The fee will be expressed as a percentage of the exvessel value of the fisheries.
 - a. The Chairman of the Council shall establish the Observer Plan Oversight Committee, identified earlier in this outline, to provide the Council with an independent review of the budget and implementing measures for the observer program and fee assessment system.
+ rep of usds under 60 for.
 - b. *Appr.* **Option 1:** The reports and budget documents outlined above shall be provided annually to the Council a month prior to its June meeting. The Oversight Committee shall review the documents under Sections E and G of this Outline and provide a recommendation to the Council at the June meeting. The Council will review the Committee's recommendation and take final action in September.

Option 2: The reports and budget documents outlined above shall be provided annually to the Council a month prior to its September meeting. The Oversight Committee shall review the documents under Sections E and G of this Outline and provide a recommendation to the Council at the September meeting. The Council will review the Committee's recommendation and take final action in December.

- All plan fisheries will contribute to the total exvessel value of the fisheries; NMFS, in consultation with the Council, will use the best information available to project the exvessel value of fisheries. The factors that will be taken into account include but are not limited to: average prices for species or species groups, product forms, discards, and other factors during the year preceding the year for which the fee is being established, anticipated changes in the coming year, and projected catch based on expected harvest in plan fisheries. These projected values will be subjected to public review. Initial estimates are shown below:

<u>FISHERY</u>	<u>1991 EX-VESSEL VALUE (\$ millions)</u>	<u>1% FEE VALUE (\$ millions)</u>
GOA/BSA Groundfish	\$518.2	\$5.18
GOA/BSA Halibut	67.7	0.68
BSAI king and Tanner Crab	<u>296.1</u>	<u>2.96</u>
Totals	\$882.0	\$8.82

- NMFS, with the assistance of ADF&G, will provide an estimate of the costs of providing required observer coverage for the groundfish and shellfish programs for the coming year based on anticipated observer coverage and the anticipated costs of the activities listed under Item E.3 above, including any additional costs of utilizing observers.
- NMFS will provide an estimate of surplus funds in the North Pacific Observer Fund and estimate the amounts of funds that may be available from other sources.
- The fees shall be set such that the total amount of fees collected are not expected to exceed the limitation prescribed by the Magnuson Act.
- The user fee percentage for the coming year will be the total amount to be collected divided by the exvessel value of the plan fisheries, multiplied by 100. This fee will be established before the fishing year to which it will apply. It will be subject to Council and public review before being finalized.
- The State of Alaska will be reimbursed for all of the costs of the crab observer program which are allowable under the MFCMA from fees collected under the North Pacific Fisheries Research Plan, consistent with C.1 above.

New # 11 re discards - when relative mesh etc.

Option: Include discards in the fee assessment.

Option: Include Donut Hole fisheries in the fee assessment.

DISCUSSION: These options are discussed on pages 22-24 of the EA/RIR. Assessing the fee against discards may result in an additional \$.71 million in collectable fees, though this is probably a high estimate as it assumes the same value for discards as for retained catch. This estimate is based on 1991 discard information. The problems associated with this option include: difficulty in accurately estimating discards for some operations; difficulty in determining which discards to include; and, difficulties associated with determining an appropriate value of even a known quantity of discards. The analysis makes no projections concerning possible fees collectable under the option to include Donut Hole fisheries, but, again, discusses the problems associated with this option.

F. Fee Collection

Although fees are assessed against all fishing vessels and fish processors, they are collected from fish processors participating in plan fisheries. Fish processors are defined in the Magnuson Act; however, their operating characteristics fall into one of two categories. Processors are in Category A when they purchase unprocessed fish, that is when there is a documented commercial transaction between independent parties. Processors are in Category B when they obtain fish without such a transaction. For purposes of collecting fees, harvesting vessels are considered Category A processors when they sell directly to any entity other than a federally permitted processor under this plan.

1. Estimation of exvessel prices and fee liability

- a. Category A Processors: It is assumed that these processors weigh or otherwise directly determine the amount of all fish delivered. Their fee liability is the product of the fee percentage established by NMFS for the fishing year, actual (or average) exvessel price paid to the fisherman, and the amount of fish received. In addition, fees may be required on discards as described above. Fee liability will be divided equally between the processor and fisherman. The following options exist for determining the exvessel price against which to apply the fee percentage:

Option 1: Data provided by all processors who purchased unprocessed fish will be used to estimate the average exvessel price by species group for that period. These fishery-wide average prices will then be used to calculate the exvessel value of the user fee fish used by each processor.

Suboption 1: Average exvessel price is calculated on an annual basis based on data from the previous year's fisheries. + AP words

Suboption 2: Average exvessel price is calculated on a quarterly basis based on data from the previous quarter.

Option 2: Exvessel price and fish usage data provided by each processor who purchased unprocessed fish will be used to estimate the exvessel value of user fee fishery fish for that processor and period.

DISCUSSION: (page 25 of the EA/RIR) Option 1 has the following advantages: (1) average prices are subject to public review while actual prices paid by each processor are not, (2) the incentives a processor has to understate the value of the fish it receives are reduced, and (3) exvessel price information is not required from all processors who purchase user fee fishery fish. The advantages of Option 2 are (1) fees are more closely linked to the exvessel value of the fish used by a processor, (2) tends to result in greater equity in terms of benefits received and ability to pay because there can be substantial variability in exvessel prices among areas, seasons, gear types, processors, ports, and species within a species group. Regarding the suboptions, either suboption 1 or 2 would require a reconciliation at some point in time, either at the end of each quarter or at the end of the year. This would be necessary to reconcile the projected average exvessel price (upon which the fee was based) with the actual average exvessel price which occurred during the year (or quarter).

- b. Category B Processors: If these processors weigh or otherwise directly determine the amount of their catch, then those documented amounts will be used to estimate fee liability. Otherwise, product recovery rates published by NMFS will be used to estimate retained catch. Their fee liability is the product of the fee percentage established by

NMFS for the fishing year, an exvessel price as estimated and published by NMFS, and the estimated retained catch. The price estimates provided by NMFS will be based on price data from Category A Processors, taking into consideration the species mix, quarter of the year, area, and other appropriate factors. In addition, fees may be required on discards as described above.

DISCUSSION: (Page 26 of the EA/RIR) For Category B processors, Option 2 above is not a viable option. Exvessel prices for this category would be calculated as described under Option 1. One problem associated with basing the Category B exvessel value on the average for the Category A processors is that fees are due 30 days after the end of each quarter. This may not be adequate time for the information to be compiled and for the fee to be paid on time. Suboptions 1 and 2 listed above are still alternatives for Category B processors.

2. Fee payments will be made quarterly within 30 days of the end of the quarter to the NOAA Office of the Comptroller to be deposited in the North Pacific Observer Fund within the U.S. Treasury. The fee will be documented in a manner prescribed by NMFS. When new information becomes available to a processor concerning exvessel value of fish it received from plan fisheries during previous quarters, it will recalculate its fee liability for those quarters. It will claim any overpayment as a credit on its next quarterly payment and it will add any underpayment to its next quarterly payment.
3. All processors as defined under Item F(1) above may be required to have a federal permit to receive fish from plan fisheries. Processors must apply for these permits annually by the deadline prescribed by the Regional Director. Permits would be issued annually on January 1 and renewed semi-annually on July 1 to those processors whose fee payments are current. The NOAA Office of the Comptroller shall assess late charges for underpayment or late payments of fees. A bond may be required of processors to cover the anticipated fee liabilities.

Options: 1. Prepayment of total annual estimated fee.

2. Irrevocable letter of credit for the annual estimated fee.

3. Surety bond equal to the annual estimated fee.

Suboption 1: Require bond/letter of credit or prepayment equal to twice the annual estimated fee.

X Suboption 2: Bond/letter of credit or prepayment based on quarterly, as opposed to annual calculation. *with Amendment - L.C.*

DISCUSSION: (page 26 of the EA/RIR) The State of Alaska has noted that a requirement for bonding of onshore processors may require legislative action by the State.

G. North Pacific Fisheries Research Plan Implementation Analysis:

1. NMFS and ADF&G will provide to the Council a report with the following information:
 - a. As required under Section E.4, the costs of the groundfish and crab observer programs and the funds expected to be available under the 1% fee assessment program will be provided. This will include an estimate of the costs of providing required observer coverage for the coming year based on anticipated observer coverage and the anticipated costs of the activities listed under Item E.3 above, including any additional costs of

DISCUSSION: The options for funding shortfalls are contained in detail on pages 35-39 of the EAIRR. Even under a Plan where the up-front funding requirements are provided, there still exists the potential for a shortfall at some point in time. Estimates from the analysis show that, under existing coverage levels, the anticipated revenues from the 1% of excess value fee would be just adequate to cover the

Option 4: Establish a supplemental program in conjunction with the Research Plan, under this option, some or all segment of industry would have to pay for observer coverage directly, as is currently done, in addition to paying the 1% fee.

Option 3: Reduce levels of coverage to conform to available funds.

Option 2: Increase the value against which the 1% fee is applied (for example, up to first wholesale; this option was rejected by the Council at previous meetings).

Option 1: Have Congress increase the fee to greater than 1%.

The following options exist to deal with the potential funding shortfall under the Research Plan:

DISCUSSION: The Observer Fund established by the Research Plan must have at least the equivalent of six months worth of fees on deposit (approximately \$5 million) before the Plan can be implemented. Option 2 would take about two years to accumulate the necessary funds. Under Option 3, it is estimated to take about six months to accumulate the necessary funds, but would result in 'double payment' by some segments of the industry. Under any option, the accounting difficulties associated with the cash flow and the availability of funds must be kept in mind. With quarterly payments collected after the fact, there is a constant lag time between the funds collected and the coverage which these funds will be used for. Receipts will not match expenditures, adding to the necessity to have an adequate balance in the Observer Fund at all times. Fluctuating prices could add to these accounting difficulties. A more detailed discussion is contained on pages 33-35 of the EAIRR.

Option 3: Assess fees on all segments of the industry covered by the Plan while simultaneously continuing the existing program.

Option 2: Assess fees on those segments of the industry covered by the Research Plan who are not currently required to pay for and carry observers, while continuing the current Observer Program.

Option 1: Congressional appropriation of the necessary amount.

The following options exist to deal with the transition period between the current program and the proposed Research Plan (start-up funding issue):

b. A report will be provided which outlines options for maintaining current levels of observer coverage in the event of a funding shortfall, including options for utilizing elements of the existing industry funded programs in a fair and equitable manner, and a discussion of time needed to capitalize fund or need for start-up funds to implement programs.

The report will assume full funding of the existing ADF&G crab observer program as well as full funding of the existing groundfish observer program, and will identify the total amount of any shortfall of funds.

costs of the Plan. This is summarized below (the detailed budgets for NMFS and ADF&G are contained in Appendix I of the EA/RIR):

Estimated cost of the groundfish program	<u>\$3.737</u>
Estimated cost of the shellfish program	<u>\$2.406</u>
Total Cost	<u>\$9.743</u>
Less available federal funding	<u>\$1.35</u>
Recoverable cost	<u>\$8.393</u>
Estimated revenue from 1% fee	<u>\$8.82</u>
Surplus (annual)	<u>\$.427</u>

Revised estimates in the EA/RIR/IRFA project the cost per observer month in the groundfish fisheries to be \$5,790 per month for 100% coverage vessels and \$7,080 per month for 30% coverage vessels. This is exclusive of operational costs. Cost per observer month in the shellfish program is estimated to average \$5,642 per month.

If it becomes necessary to increase the levels of observer coverage beyond the existing levels, it is likely that the available funds under the 1% fee will be inadequate to cover the costs of the program. For example, if overall coverage levels in the groundfish program are increased to 80% (a level of coverage which is estimated to be adequate for reliable bycatch monitoring and would approach that necessary for the vessel incentive program), the costs for the groundfish portion of the program would increase to \$9.442 million. It is assumed that the coverage levels in the shellfish program will remain at their current levels. Under this scenario, an annual shortfall of \$1.678 million would result.

The report from the Observer Oversight Committee contains further revised estimates which result in increases in the estimated cost per observer month. These revised estimates increases the overall costs of the program and result in an overall projected shortfall of \$1.4 million under current levels of observer coverage. These revised figures will be discussed in the Observer Oversight Committee report.

DRAFT
Report of the Observer Oversight Committee
on the
North Pacific Fishery Research Plan

The Committee met on June 4-5 in Seattle, Washington to discuss the Research Plan in order to provide this report to the Council prior to final action on the Research Plan. The following persons attended the meeting:

Committee Members

Chris Blackburn	GOA Catcher/Trawler (Committee Chair)
Phil Chitwood	Factory Trawler
Barry Collier	Shoreside Processor
Andy Hollenbeck	Observer Contractor (Alternate)
Mike Lake	Observer Contractor (Alternate)
Mandy Merklein	Observer
Nancy Munro	Observer Contractor
Jerry Nelson	Crab Catcher/Processor
Arni Thompson	Crab Catcher
LeeAnne Tryon	Observer (Alternate)
Tyson Vogeler	Observer Trainer
Gary Westman	BSAI Catcher/Trawler

Committee members Jack Hill (Catcher Longliner) and John Winther (Freezer Longliner) were unable to attend.

Agency Staff

Dave Benton	ADF&G
Earl Krygier	ADF&G
Rich Marasco	NMFS
Rance Morrison	ADF&G
Russ Nelson	NMFS
Chris Oliver	NPFMC
Clarence Pautzke	NPFMC
Janet Wall	NMFS

Other Industry/Public

Vince Curry
Pam Gale
Cheri Hanneman
Chuck Jensen
Kirsten Rohrbach
Laurie Williams
Helen Woods

I. COMMITTEE OBJECTIVES

The Committee understood its assignment for its first meeting to be:

1. Review the EA/RIR to assure that the data used was correct.
2. Comment on the feasibility of each of the options before the Council.

The Committee took its charge to be a technical one rather than a policy one.

NMFS and NPFMC staff gave the Committee a generalized overview of the EA/RIR and answered questions to assure that all Committee members understood the document, where the numbers came from, and the options within the document. Committee members identified areas of data analysis for detailed review and listed the options that seemed appropriate for Committee review.

II. COMMENTS ON DATA ANALYSIS

A. ESTIMATED NUMBER OF VESSELS (Tables 1.1 through 1.5 - Pages 5-7)

COMMITTEE RECOMMENDATIONS: Numbers appear accurate.

COMMITTEE COMMENTS: Committee members asked if vessels with multiple gear permits (i.e. a trawler which also longlined) could have been counted twice.

Russ Nelson checked the data source and reported the estimated number of vessels came from actual vessels, not number by gear type, and therefore no double counting should have occurred.

B. ESTIMATED REVENUE FROM 1% ASSESSMENT OF EXVESSEL VALUE (Table 2.1 a, Page 21)

COMMITTEE RECOMMENDATIONS:

1. Though prices and quotas may fluctuate in the future, the estimates given on Page 21 appear reasonable for the purposes of projecting anticipated revenues.
2. For budget purposes revenue estimates should be conservative. The estimates on page 21 appear appropriately conservative.

C. ESTIMATES EXPENSES PER OBSERVER MONTH (Appendix I, Table A3)

1. For budget purposes, expenses should be estimated at the high end of any range.
2. The estimated expenses per observer month shown in Appendix I, Table A3, appear to be at the low end of the potential range and should be adjusted upward as follows:

100% Observer Program:	\$7,068/observer month
30% Observer Program:	\$8,680/observer month
Crab Fisheries:	\$7,414/observer month

Details of the recommended revised monthly costs and reasons for the adjustments are contained in the Appendix portion of this report.

3. If the fee is held at 1% of exvessel value and the observer program continued at its present level, a shortfall in funds should be anticipated. Based on the Committee's revised cost estimates shown above, the funding shortfall is estimated at \$1.409 million as follows:

Revised Cost Estimate of North Pacific Fisheries Research Plan 6/5/92.

Estimated Cost of Groundfish Program	\$ 8.595 million
Estimated Cost of Shellfish Program	+ 2.984 million
Total Cost	\$11.579 million
Less Federal Funding	- 1.350 million
Recoverable Cost	\$10.229 million
Estimated Revenue from 1% Fee	- <u>8.820 million</u>

SHORTFALL

\$ 1.409 million

COMMITTEE COMMENTS:

1. The Committee's recommended revised cost estimates are quite close to NMFS' original estimates.
2. The revised estimates were arrived at by the observer contractors present at the committee meeting. Six of the nine certified contractors were represented at the meeting.
3. For budget purposes the Committee members feel that if there is any error in the cost estimates, the error should be made by overestimating, not underestimating. It will be much more difficult to deal with unexpected shortfalls than unexpected surpluses which can be used to reduce the following year's assessment.
4. The revised observer cost/month estimates create an estimated shortfall of \$1.409 million in program costs compared to estimated program revenues - **BASED ON 1992 EXVESSEL PRICES, CATCH AND THE CURRENT OBSERVER PROGRAM.** (See supporting data in the Appendix).
 - a. Cost per observer too low.
 - b. Ratio of experienced to new observers discussed. Since experienced observers cost more than new observers, this ratio is relevant to the cost estimates. The Committee found no problems with the ratio used. (See supporting data in the Appendix.)
5. NMFS is requesting reimbursements of \$.220 million of its total reimbursable costs of \$1.578 million (Table A2). Additionally, \$1.35 million in potentially reimbursable costs are being funded through the federal budget. The State of Alaska is requesting \$.567 million (Table A6) for its legally reimbursable costs. Crab observer training costs, presently borne by industry, are now reflected under state operational costs to mirror budgetary consistency with the groundfish program.

6. Using the original cost figures in the EA/RIR, gives a range of program costs versus revenues of +\$427,000 to -\$1.7 million. The inference is that a shortfall is more likely than a surplus. The revised cost estimates make this even more likely.

III. COMMENTS ON OPTIONS

The Committee feels the selection of options is, in many cases, a policy call which should be made by the Advisory Panel and Council. The Committee's comments are confined to the technical feasibility of the options.

A. FEE ASSESSMENT AND COLLECTIONS (Page 20)

1. FISHERIES: The Committee is comfortable with the fisheries listed for assessment on page 21.
2. DISCARDS: Until there is an accurate method of weighing discards, assessing discards does not seem feasible. The Committee does feel that the option for including discards should remain under consideration until such time as a fair and equitable method is devised for incorporating discards.
3. CYCLE: Setting the fee percentage and coverage levels during a June/September annual cycle will facilitate planning for the vessels, corporation, observer contractors and agencies involved. Setting the fee percentage and coverage levels in December does not leave adequate time for industry to do its annual budgeting nor contractors to prepare to meet observer needs.
4. ASSESSMENT:
 - a. Category A processors: assessment should be based on the actual price paid by the processor being assessed. The Committee noted that there are times when processors pay different prices -- for example, surimi processors during first quarter pollock 1992 may have paid higher prices than fillet processors. To use other than the actual price paid did not seem fair or equitable to the Committee members.
 - b. Category B processors: There appeared to the Committee to be no option other than using the average price paid by the Category A processors.
5. ASSESSMENT PERIOD: Because the exvessel price in any fishery does not always remain constant throughout a year, the Committee feels determining the average price and assessment should be done on a quarterly, rather than annual basis.
6. ENFORCEMENT OF FEE COLLECTION:
 - a. The Committee came to the conclusion that the option for annual processor permitting would be both useless and unenforceable.
 - b. It appeared that enforcement for non-payment of fees could be accomplished by withholding observer coverage if fees are not paid in

timely manner. This would put the processor/vessel in violation of coverage requirements, which are enforceable.

7. FEE COLLECTION:

- a. Both bonding/letter of credit and prepayment by the processor appeared to the Committee to be viable methods of fee collection. While bonding offers the least financial up front costs for the processor, there was some question about the availability of bonds; therefore the Committee suggest that both options be made available.
- b. There did not appear to be any reason to require a bond greater than that equal to the processor's highest projected quarter. The bond would remain valid for the entire year as long as the processor paid quarterly.
- c. In the event a processor cannot acquire a bond, the processor should be allowed to make quarterly payments in advance.

OTHER ISSUES REGARDING FEE COLLECTION: The following legal questions were raised by the Committee members during their discussions. The Committee member feel these questions should be addressed before the proposed program is implemented.

1. Can a processor, as the fee collection point, make the fishermen (vessel) pay his share of the fee by withholding, automatically, the fee from the vessel's settlement check?
2. Would it violate National Standards to have different enforcement/collection criteria for onshore processors than offshore processors?
3. What does a processor do if a vessel refuses to pay its share?
4. How "set in stone" is NOAA General Counsel's opinion on the withholding processor permits (if this were included as alternative)?

B. START-UP FUNDING

1. START-UP FUNDS: The Committee received a report from the NMFS Observer Program explaining the necessity to have approximately \$5 million on deposit in the observer fund before the program can be implemented and concurred with the need.
2. BUFFER FUNDING: As a buffer against unanticipated shortfalls, the Committee also feels that an amount equal to one quarter's funding also needs to be kept onhand.
3. RETAINING START-UP AND BUFFER FUNDS: The Magnuson Act stipulates that any surplus funds at the end of the year must be used to reduce the fee percentage assessed for the following year. This means that at the end of the second year all the start-up funds and buffer funds would have been spent and the program would be back to ground zero. A method for protecting six months start-up and three months buffer funds is required.

4. COLLECTING START-UP FUNDS:

- a. For many vessels, "double paying" (paying both for their observers and the assessment fees simultaneously) is not financially feasible.
- b. The Committee agrees that the sooner the program can be implemented the better, but sees the following as the only feasible method of collecting start-up funds:
 - (1) All vessels or fisheries not currently paying for observer coverage (vessels under 60-feet, halibut fishery and crab catcher vessels) begin paying an assessment as soon as the program is implemented.
 - (2) Industry continue to lobby Congress for start-up funds.

C. FUNDING ANY SHORTFALL

After reviewing cost and revenue projections, the Committee feels that under a 1% assessment of the exvessel value the funds will be inadequate to cover the existing mandatory program and a shortfall is inevitable.

Further, Committee members noted the following:

1. The Council or the Alaska Board of Fish may, in the future, require observers onboard crab catcher vessels, as well as on shoreside plants at an estimated 90 additional observer months.
2. There are groundfish fisheries where the participants strongly feel an incentive program is imperative and want 100% observer coverage on all participants.
3. Providing coverage adequate for an incentive program is a critical need in some fisheries -- but under the 1 % assessment meeting this goal is unlikely.
4. TACs, catch, and value may fluctuate significantly.

EA/RIR OPTIONS

The Committee discussed the options presented in the EA/RIR for funding shortfalls and concluded:

1. **MEETING THE SHORTFALL WITH DIRECT PAYMENTS ON A DAILY BASIS:** trying to pay directly for a percentage of observer coverage on a daily, weekly or quarterly basis is complicated and probably would not, in practical terms, be feasible.
2. **BOATS PAY FOR THEIR OWN OBSERVER WHEN THE RESEARCH FUNDING IS EXHAUSTED:** This option is inequitable as some fisheries such as trawl Pacific cod and rockfish and Gulf longline blackcod occur in the first part of the year and the participants would have all their coverage under the assessment program, while late year fisheries would have to self fund all their observer coverage.

3. **REQUIRE VESSELS TO PAY DIRECTLY FOR ADDITIONAL COVERAGE NECESSARY TO PARTICIPATE IN AN INCENTIVE PROGRAM FISHERY:**
The Committee did not pursue this option as any supplemental program appears to run into practical problems of collection and problems of equity.

THE DILEMMA

The Committee noted that successful programs are those that are simplest. In summary the Committee noted that the dilemma it was faced with was as follows:

- a. **FEE SETTING AND COLLECTION MUST BE BASED ON EXVESSEL VALUE.** This is the simplest, most direct method and the exvessel value is a well documentable figure.
- b. **USING FIRST WHOLESALE VALUE AS THE BASE WOULD ALLOW SUFFICIENT FUNDS TO BE RAISED.**
 - (1) However, product often waits in cold storage for months until it is sold, and first wholesale values can vary substantially over time.
 - (2) There is great concern that, if first wholesale value is used, the cost of the observer program will grow without restraint.

SOLUTION NO. 1:

The Committee agreed that it may be possible to resolve the dilemma by setting the fee at up to 1% of first wholesale value **NOT TO EXCEED 2% OF EXVESSEL VALUE.** Actual percentage to be set annually.

1. This method allows using the first wholesale value in order to meet the program's funding needs.
2. Caps the amount at 2% of exvessel value, removing the concern over unrestrained cost increases.
3. Allows collection based on exvessel value.
4. The Committee feels that its annual review role, including some input on program operations, is sufficient to safeguard industry concerns over the first wholesale option.
5. The Committee realized that this option may require additional analyses and possible delays in implementing the program.
6. **THE COMMITTEE FEELS THAT WITHOUT THE POTENTIAL FOR ADDITIONAL REVENUES THE PROGRAM IS NOT "DOABLE."**

As a reference point it is estimated that funding <u>current</u> coverable levels would require a 1.15% fee on exvessel value, using 1991 price data.

SOLUTION NO. 2

Reduce coverage levels: The Committee did not feel this option was in the best interest of the resource. Were the Council to recommend that coverage levels be reduced to meet anticipated revenues, the Committee is willing to work with NMFS and make recommendations.

SOLUTION NO. 3

The Committee briefly discussed that there may be other approaches to equalizing coverage costs. For example, one fall back approach (which may be outside the authority of the NPRP) mentioned is to continue the current program, but collect the 1% (or approved fee) from all vessels which are not required to pay for observers, put the funds into a pool, and proportionally redistribute the money at the end of the year to those who paid directly for coverage. This fall back suggestion at least partially addresses the equity question, but does not address the observer placement and conflict of interest issues.

UNEXPECTED SHORTFALLS:

The Committee recognizes that even with the best estimates of cost revenues, it is possible that program costs could overrun revenues before the end of the year. For example, vessels or plants now allow observers to stay on vessels or in plants prior or post duty time to save themselves money. This incentive is lost under the NPRP. In this event the Committee feels that the shortfall should be made up out of the start-up funds and the funds replaced the following year, either by increasing the assessment or reducing the size of the program.

IV. COVERAGE LEVELS

The Committee did not wish to comment on required coverage levels until it better understood the budget constraints, but did feel that coverage levels should be part of the Committee's tasking in the future, should the Research Plan be approved.

V. INSURANCE

The Committee had lengthy discussions on the issue of insurance.

1. The bottom line from these discussions was that contractors should, and could be required to carry standardized insurance coverages.
2. One goal of the standardized insurance will be to minimize the need for both the vessel and contractor to insure the observer.
3. The Committee felt this issue should be resolved prior to RFP being released. A subgroup was formed to come up with a recommended package to submit to various insurance people to determine if a workable solution can be achieved. Council staff will work with this subgroup to accomplish this task.

VI. OTHER BUSINESS

The Committed discussed their next task, which, according to Council direction, would involve meeting with staff to review the proposed changes to the existing Observer Program for 1993. The Committee proposes to meet on August 13, when staff expects to be able to provide a draft analysis of the proposed changes. The Committee will provide staff with appropriate input before the analysis is completed for Council review in September.

The Committee also recommends that the Council appoint one or two more alternatives for the Observer position on the Committee due to the possibility of the current representatives being unable to attend future meetings.

**Appendix to Observer Oversight
Committee Report**

- This Appendix contains additional information regarding the Committee's revised estimates of costs of implementing observer coverage. Also contained in this Appendix is additional information which was provided to the Committee regarding Observer Statistics and operational staffing for the Groundfish Observer Program.

Table 3A. Estimated average costs per observer month for domestic groundfish observers in Alaska based on comments by observer contractors.

Average Observer Costs - 3 Month Deployment

<u>Cost Item</u>	<u>100% Vessels Cost/Month</u>	<u>30% Vessels Cost/Month</u>
Observer Salaries ¹	\$3,370	\$3,370
Benefits (12.5%)	421	421
Insurance (28%) ²	<u>945</u>	<u>945</u>
Sub-Total cost	\$4,736	\$4,736
Travel		
Air fare ³	\$ 440	\$ 500
Per diem ⁴	135	1,305
Excess baggage	50	50
Physical exam ⁵	25	25
Contractor's services (25%) ⁶	1,346	1,654
Profit or Fee (5%) ⁷	37	410
Total	\$7,068	\$8,680

1/ Average observer salary per month is prorated to include training and debriefing time. We are assuming that 50% of observers will be experienced observers and 50% of the observers will be new. The average salary for an experienced observer is \$3,200 not \$2,900/mo. and they are employed for 3.33 months. Average salary for three levels of experienced observers is: Grade 2 = \$3,000, Grade 3 = \$3,200, and Grade 4 = \$3,400. The average salary for a new observer is \$2,450/mo. and they are employed for 3.9 months.

2/ Insurance assumes Alaska Worker's Comp. with maritime and USLH endorsements and group buying by contractors. Also assuming \$1 million limits and CGL.

3/ Original estimate did not allow for observers quitting, getting sick, or other reasons for leaving prior to 90 days, nor does it include moving observers to multiple assignments/destinations within the 3 mo. contract. Add 10% for 100% boats and \$100/mo. for 30% boats. Use of standard round trip air fare, for example Seattle to Dutch Harbor which is about \$1,200.

4/ Possibly high for 100% boats. Assume 3 days x \$135/day per 90 day trip. Use of standard government per diem rates for Dutch Harbor deployment.

5/ Does not allow for drug tests or increased requirements.

6/ Depends on role and services to be provided by the contractor and number of contractors. 24 hour beeper service, phone access for observers, experienced people for staff, data checking all cost money. Of the 6 contractors present, none thought they could accomplish the existing services/requirements for 15%. They felt 25-30% was more realistic.

7/ Is this realistic? What has NMFS negotiated in the past? Were the services comparable? The contractor is allowed to charge a fee in addition to their staff and office costs for services provided.

Table 7A. Estimated average costs per observer month for ADF&G shellfish observers in Alaska based on comments by observer contractors.

Average Observer Costs - 3 Month Deployment

<u>Cost Item</u>	<u>New Observers Cost/Month</u>	<u>Experienced Observers Cost/Month</u>
Observer Salaries ¹	\$3,370	\$3,370
Benefits (12.5%)	421	421
Insurance (28%) ²	<u>945</u>	<u>945</u>
Sub-Total cost	\$4,736	\$4,736
Travel		
Air fare ³	\$ 600	\$ 440
Per diem ⁴	540	200
Excess bag	0	0
Physical exam ⁵	25	25
Contractor's services (25%) ⁶	1,475	1,350
Profit or Fee (5%) ⁷	368	338
Total	\$7,744	\$7,089

Average cost per observer month assuming a 50:50 ratio of new to experienced observers is about \$7,414.

1/ Average observer salary per month is prorated to include training and debriefing time. We are assuming that 50% of observers will be experienced observers and 50% of the observers will be new. The average salary for an experienced observer is \$3,200 not \$2,900/mo. and they are employed for 3.33 months. Average salary for three levels of experienced observers is: Grade 2 = \$3,000, Grade 3 = \$3,200, and Grade 4 = \$3,400. The average salary for a new observer is \$2,450/mo. and they are employed for 3.9 months.

2/ Insurance assumes Alaska Worker's Comp. with maritime and USLH endorsements and group buying by contractors. Also assuming \$1 million limits and CGL.

3/ Airfare for new observers does not include 30-day check-in requirement. Many are from Pribilof Islands to Dutch Harbor. Travel for experienced observers does not allow for observers quitting, getting sick, or other reasons for leaving prior to 90 days, nor does it include moving observers to multiple assignments/destinations within the 3 mo. contract.

4/ Original estimate did not include time between test and season opening for new observers, week between fisheries for red king crab and C. bairdi tanner crab, time for 30-day check-in for new observers. For new observers, assume 12 day per contract (4 days x \$135/day=\$540/mo.). For experienced observers assume 4.5 days per contract (1.5 days x \$135/day=\$200/mo.). Use of standard government per diem rates for Dutch Harbor deployment.

5/ Does not allow for drug tests or increased requirements.

6/ Depends on role and services to be provided by the contractor and number of contractors. 24 hour beeper service, phone access for observers, experienced people for staff, data checking all cost money. Of the 6 contractors present, none thought they could accomplish the existing services/requirements for 15%. They felt 25-30% was more realistic.

7/ Is this realistic? What has NMFS negotiated in the past? Were the services comparable? The contractor is allowed to charge a fee in addition to their staff and office costs for services provided.

Revised 6/5/92 using Contractor's Revised Estimates of Cost

TOTAL ESTIMATED COST OF SHELLFISH OBSERVER PROGRAM

1. OBSERVER COSTS	326 MO. X \$7,414/MO. =	\$2,416,964
AGENCY COSTS		566,900
TOTAL		\$2,983,864

Revised 6/5/92 via Contractor's Estimates of Cost

Table 1. Estimated cost for domestic groundfish observer program. Cost estimates are for a program at the same level of coverage as the current industry funded program (Refer to Tables 2,3 and 4 for details on NMFS program costs and average cost/observer-month).

A. Estimated direct observer costs of vessels, motherships & plants covered at the 100% and 30% levels of observer coverage:

100% vessels, motherships, & processors:	683 Mo. X \$7,068 =	\$4,827,444
30% vessels, motherhsips, & processors:	241 Mo. X \$8,680 =	\$2,091,880
Total estimated effort and cost needed:	924 Observer Mo. =	\$6,919,324

B. Estimated NMFS operational costs.

NMFS Regional and Science Center cost: \$1,676,100

C. Total estimated cost for program: \$8,595,424

DOMESTIC OBSERVER STATISTICS, 1989 - 1992

	thru May 1992	1991	1990	1989	Total
No. Observers Trained or Briefed	344	574	581	57**	1556
No. Observers Deployed	418*	613*	520		1551
No. Individual Observers	289	458	472	57	
No. Individual Vessels Covered	345	363	289		
No. Individual Plants Covered	29	28	32		
No. Prior Observers	250	331	206	19	806
No. New Observers	94	243	375	38	750
‡ Prior Observers	73‡	58‡	35‡	33‡	52‡
‡ New Observers	27‡	42‡	65‡	67‡	48‡

* The reason the number of deployments exceeds the number trained or briefed is because the deployments count those observers that were trained or briefed late in the previous year, but were deployed early in the present year.

** 57 observers who were trained or briefed in 1989, were also deployed in 1990.

F/AKC2: 6/2/92

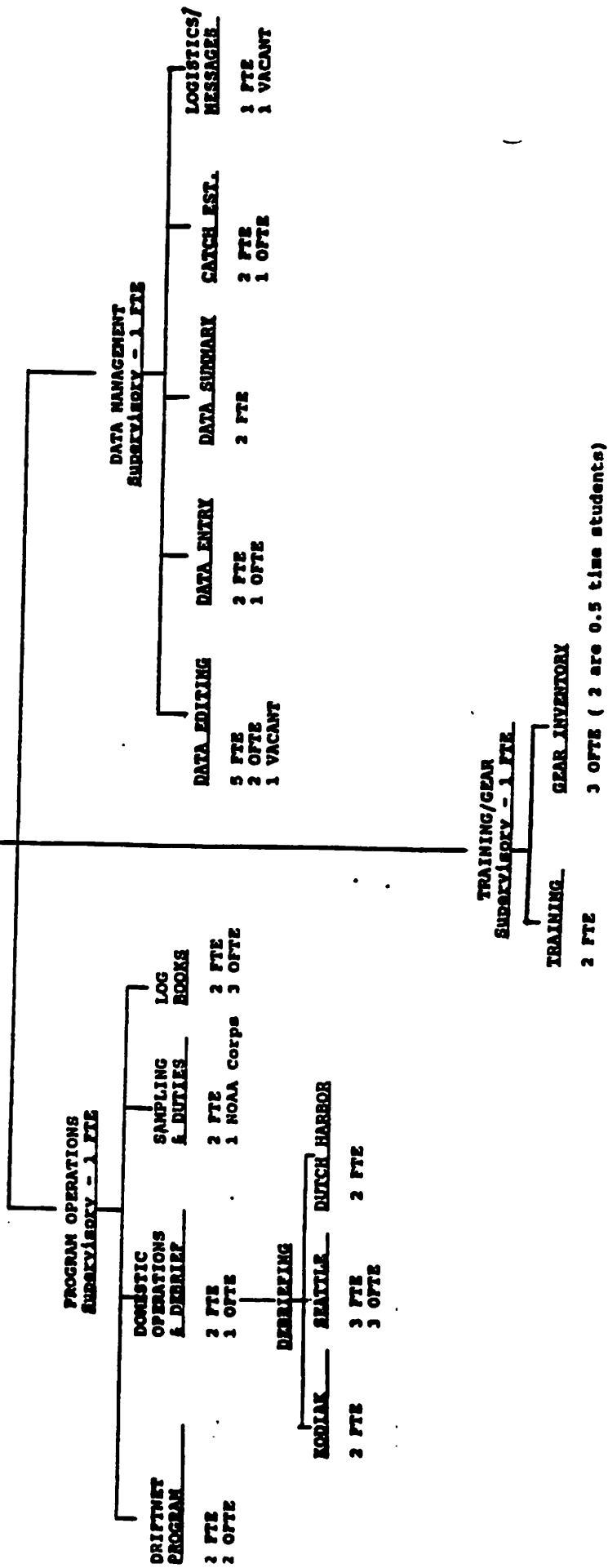
Observer.Comm

SUMMARY OF OBSERVER DATA COLLECTED, ENTERED AND EDITED IN 1990 AND 1991

YEAR	OBSERVER TYPE	DATA SETS	HAUL FORMS	NUMBER OF LINES OF DATA ENTERED AND EDITED				TOTAL LINES
				SPECIES COMP.	LENGTH FREQ.	AGE STRUCT.	MARINE MAMM.	
1990	TRAWL	544	53,723	353,655	116,454	16,591	34,592	573,215
	LONGLINE/POT	205	12,339	86,813	24,217	2,554	9,135	135,058
	MOTHERSHIP	11	4,601	21,868	4,977	569	2,235	34,250
	PLANT	104	6,890	NA	14,408	15,504	NA	36,802
	TOTAL	864	77,553	462,536	160,056	35,218	45,962	781,323
1991	TRAWL	690	62,852	418,185	110,939	14,078	38,081	644,135
	LONGLINE/POT	267	13,975	113,843	29,608	3,076	8,681	169,185
	MOTHERSHIP	25	6,363	27,019	5,742	1,025	2,173	42,322
	PLANT	114	10,992	NA	21,042	23,408	NA	55,442
	TOTAL	1,096	94,182	559,047	167,331	41,589	48,935	911,084

5/29/92

FISHERIES OBSERVER PROGRAM
SUBKYSIENY - 1 FTE



16 U.S.C. 1861

99-659

(f) DEFINITIONS.--For purposes of this section--

(1) The term "provisions of this Act" includes (A) any regulation or permit issued pursuant to this Act, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 201(b) or (c), with respect to fishing subject to the exclusive fishery management authority of the United States.

(2) The term "violation of any provision of this Act" includes (A) the commission of any act prohibited by section 307, and (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

101-627

SEC. 313. NORTH PACIFIC FISHERIES RESEARCH PLAN

16 U.S.C. 1862

(a) IN GENERAL.--The North Pacific Fishery Management Council may prepare, in consultation with the Secretary, a fisheries research plan for all fisheries under the Council's jurisdiction except salmon fisheries which--

(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

(2) establishes a system of fees to pay for the costs of implementing the plan.

(b) STANDARDS.--(1) Any plan or plan amendment prepared under this section shall be reasonably calculated to--

(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

(B) be fair and equitable to all vessels and processors;

(C) be consistent with applicable provisions of law; and

(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

(2) Any system of fees established under this section shall--

(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool implemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

16 U.S.C. 1862

(C) provide that fees collected not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the plan;

(D) not be used to offset amounts authorized under other provisions of law;

(E) be expressed as a percentage, not to exceed one percentum, of the value of fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(F) be assessed against all fishing vessels and United States fish processors, including those not required to carry an observer under the plan, participating in fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

(H) provide that fees collected will only be used for implementing the plan established under this section; and

(I) meet the requirements of section 9701(b) of title 31, United States Code.

(c) ACTION BY SECRETARY.--(1) Within 60 days after receiving a plan or plan amendment from the North Pacific Council under this section, the Secretary shall review such plan or plan amendment and either (A) remand such plan or plan amendment to the Council with comments if it does not meet the requirements of this section, or (B) publish in the Federal Register proposed regulations for implementing such plan or plan amendment.

(2) During the 60-day public comment period, the Secretary shall conduct a public hearing in each State represented on the Council for the purpose of receiving public comments on the proposed regulations.

(3) Within 45 days of the close of the public comment period, the Secretary, in consultation with the Council, shall analyze the public comment received and publish final regulations for implementing such plan.

(4) If the Secretary remands a plan or plan amendment to the Council for failure to meet the requirements of this section, the Council may resubmit such plan or plan amendment at any time after taking action the Council believes will address the defects identified by the Secretary. Any plan or plan amendment resubmitted to the Secretary will be treated as an original plan submitted to the Secretary under paragraph (1) of this subsection.

(d) FISHERY OBSERVER FUND.--There is established in the Treasury a North Pacific Fishery Observer Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purpose of carrying out the provisions of this section, subject to the restrictions in subsection (b)(2) of this section. The Fund shall consist of all monies deposited into it in accordance with this section. Sums in the Fund that are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(e) SPECIAL PROVISIONS REGARDING OBSERVERS.--(1) The Secretary shall review--

(A) the feasibility of establishing a risk sharing pool through a reasonable fee, subject to the limitations of subsection (b)(2)(E) of his section, to provide coverage for vessels and owners against liability from civil suits by observers, and

(B) the availability of comprehensive commercial insurance for vessel and owner liability against civil suits by observers.

(2) If the Secretary determines that a risk sharing pool is feasible, the Secretary shall establish such a pool, subject to the provisions of subsection (b)(2) of this section, unless the Secretary determines that--

- (A) comprehensive commercial insurance is available for all fishing vessels and United States fish processors required to have observers under the provisions of this section, and
- (B) such comprehensive commercial insurance will provide a greater measure of coverage at a lower cost to each participant.

TITLE IV -- MISCELLANEOUS PROVISIONS

95-354, 97-61, 97-453, 99-659, 101-627

SEC. 406. AUTHORIZATION OF APPROPRIATIONS.--There are authorized to be appropriated to the Secretary, for purposes of carrying out the provisions of this Act, not to exceed the following sums:

- (1) \$5,000,000 for the fiscal year ending June 30, 1976.
- (2) \$5,000,000 for the transitional fiscal quarter ending September 30, 1976.
- (3) \$25,000,000 for the fiscal year ending September 30, 1977.
- (4) \$30,000,000 for the fiscal year ending September 30, 1978.
- (5) \$30,000,000 for the fiscal year ending September 30, 1979.
- (6) \$33,000,000 for the fiscal year ending September 30, 1980.
- (7) \$40,000,000 for the fiscal year ending September 30, 1981.
- (8) \$47,000,000 for the fiscal year ending September 30, 1982.
- (9) \$59,000,000 for the fiscal year ending September 30, 1983.
- (10) \$64,000,000 for the fiscal year ending September 30, 1984.
- (11) \$69,000,000 for the fiscal year ending September 30, 1985.
- (12) \$69,000,000 for the fiscal year ending September 30, 1986.
- (13) \$70,800,000 for the fiscal year ending September 30, 1987.
- (14) \$72,900,000 for the fiscal year ending September 30, 1988.
- (15) \$75,000,000 for the fiscal year ending September 30, 1989.
- (16) \$77,200,000 for the fiscal year ending September 30, 1990.