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Observer Advisory Committee – Meeting Report

September 28 – 29, 2010

Birch/Willow Room, Hilton Hotel

Anchorage, AK

8:30 am – 4:30 pm (Tues); 8:30 am – 12 pm (Wed)

Committee present: Cora Campbell (co-Chair), Bill Tweit (co-Chair), Bob Alverson, Christian Asay, Julie Bonney, Richie Davis, Kenny Down, Michael Lake, Todd Loomis, Paul MacGregor, Tracey Mayhew, Brent Paine, Theresa Peterson, Kathy Robinson, Anne Vanderhoeven. Not present: Matt Hegge, Jerry Bongen.

Council and NMFS Staff: Nicole Kimball (NPFMC), Darrell Brannan (NPFMC, consultant), Chris Oliver (NPFMC), Martin Loefflad (AFSC), Craig Faunce (AFSC), Patti Nelson (AFSC), Jennifer Cahalan (AFSC), Sally Bibb (NMFS).

Other participants: Josh Boyle (USCG), Karla Bush (ADF&G), Ruth Christiansen (ADF&G), Julianne Curry (PVOA), Ed Dersham (NPFMC member), Jane DiCosimo (NPFMC staff), Ed Hansen (fisherman), Kathy Hansen (SE AK Fishermen's Alliance), Jim Hubbard (Kruzof Fisheries LLC), Rhonda Hubbard (Kruzof Fisheries LLC), Dan Hull (NPFMC member), Nathan Lagerwey (NOAA OLE), Ellen Lance (USFWS), Stefanie Moreland (ADF&G), Kris Noroz (Icicle Seafoods), Mary Schwenzfeier (ADF&G), Lori Swanson (Groundfish Forum), Gregg Williams (IPHC).

Agenda

- I. Review and approve agenda
- II. Review June 2010 Council action and current suite of alternatives
- III. Review public review draft analysis to establish a new program for observer procurement and deployment in the North Pacific Groundfish Observer Program (i.e., restructuring)
- IV. Discuss feedback and/or recommendations on the analysis
- V. Overview of the NPRB-sponsored electronic monitoring study in the commercial halibut fishery (IPHC and NMFS). Preliminary discussion of electronic monitoring applications in North Pacific fisheries as appropriate, and direction for this agenda item at the February 2011 Council meeting.
- VI. Scheduling & other issues

I. Review and approve agenda

Introductions were made, and the agenda was approved. Staff outlined the schedule for the analysis and confirmed that the purpose of the meeting is to provide feedback to the Council on the public review draft analysis for the October 2010 Council meeting, at which the Council is scheduled to take final action on observer restructuring. The committee understood they were not tasked with recommending a preferred alternative.

II. Review June 2010 Council action and current suite of alternatives

Nicole Kimball (NPFMC) reviewed the June 2010 Council action, in which the Council reviewed the initial review draft analysis for restructuring the observer program and the May 2010 OAC report. The Council motion concurred with OAC recommendations regarding further development of the analysis and released the analysis for public review subject to several revisions and additions. The Council also approved two new options in June, which are applicable to all of the action alternatives (Alt. 2 – 5). Option 1 would assess half of the ex-vessel value fee selected under a preferred alternative on halibut landings and on groundfish landings from vessels <60', <50', or <40'. Option 2 would require NMFS to

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submit an annual observer sampling design and deployment plan, for review by the Plan Teams and SSC, and approval by the Council. Staff noted that the overall alternatives have not changed since the June version of the analysis, but new analysis of both Option 1 and 2, along with the other Council requests, are included in the public review draft for October.

In June, the Council also tasked the OAC, Council staff, and NMFS to develop 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 (scheduled for no earlier than 2013). Finally, the Council approved a motion to write a letter to NOAA HQ to request Federal funds for start-up funding to implement a restructured observer program in the North Pacific, as well as an annual appropriation of up to 50% of the cost of placing observers in any catch share program fisheries. This letter was sent on June 30, and a response was received from Eric Schwaab, Assistant Administrator, on August 30. Both letters were provided to the committee. The committee agreed that continued efforts on the part of NMFS and industry are necessary to secure Federal funding, and that start-up funding for the restructured program should be a high priority.

III. Review public review draft analysis to establish a new program for observer procurement and deployment in the North Pacific Groundfish Observer Program (i.e., restructuring)

NMFS and Council staff (Nicole Kimball, Darrell Brannan, Martin Loefflad, Craig Faunce) provided a detailed presentation of the public review draft analysis, focused primarily on the changes from the initial review draft in the Regulatory Impact Review (Chapter 2); the sample design and deployment sections (Chapter 3); and start-up funding (Chapter 3). The committee limited its discussion during the presentation to brief statements and clarifying questions, with the intent to have more in-depth discussion and feedback after the presentation.

The **executive summary and Chapter 1** outlined the layout of the analysis, including the problem statement and suite of alternatives. Staff presented the fundamental concepts proposed in the analysis and the primary decision points under consideration by the Council in October, including the scope of the action (i.e., which fisheries/sectors are included in restructuring). It was reiterated that if a groundfish vessel carries an FFP, they are included in the program if the species comes off a Federal TAC. Halibut and sablefish IFQ are included (regardless of whether operating in State waters or carrying an FFP) and State-managed, Guideline Harvest Level (GHL) species are not included.

Darrell Brannan presented **Chapter 2** (RIR), including the 2009 groundfish ex-vessel price data, which were requested to be added to the analysis if available. Staff requested the data from CFEC, but final COAR data are not available until October, so could not be included in a comprehensive way in the RIR. However, staff included 2009 statewide average prices in a comparison of CFEC ex-vessel prices in Appendix 5 to show differences between the average statewide landings tax price and the prices as calculated in the analysis. It was noted that although the COAR data are the basis for both calculations, the State landings tax methodology uses landed retained catch to determine prices, and the analysis uses landed catch for shoreside deliveries (including plant discards) and total catch for CPs. One member asked whether NMFS could calculate standardized ex-vessel prices for catcher vessels based only on CV landings, and exclude CPs and motherships from the calculation. In effect, that is the method used in the analysis to-date, as the CFEC data are refined by port, and staff was directed to calculate prices based on port or port group. CPs and motherships represent distinctive ‘ports’ in the data, so in calculating prices, only shorebased ports were included for determining prices for CV landings.

In addition, 2009 statewide average prices were provided in the discussion about whether to use a rolling average price as opposed to an annual price (p. 70, Figure 4). While the overall 2009 revenue estimate

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falls slightly below 2008 levels, it remains above previous years. The committee noted that such a trend is evident regardless of whether 2009 data are provided: in a fee system based on ex-vessel revenues, there are going to be years (due to reduced prices or TACs) in which revenues collected for observer deployment will be reduced. One concern is that an observer fee program based wholly on ex-vessel revenues (e.g., Alternative 5) may not provide sufficient revenues for optimal deployment.

Staff also noted that Appendix 5 responds to the Council's request to assess whether it would be feasible and/or more efficient to use the State of Alaska (Department of Revenue) as the observer fee collection agent, under contract to NMFS. Upon review, the committee did not appear to support this concept. It was noted that the State would need to be paid for this service, which the ex-vessel fee revenues could support (thus reducing the number of observer days). Others noted that the approach in the analysis is to integrate the fee liability into elandings, which makes it simple for harvesters and processors to understand the fee amount at the point of landing, with one automated invoice provided to processors at the end of the year. Thus, the existing Federal infrastructure may be simpler than the manual form provided by the State (to collect landings taxes). One member noted that the estimated cost for NMFS to collect fees seems reasonable (\$15 per invoice processed electronically), and that NMFS has previous experience with fee collection under the existing cost recovery fee programs for halibut and crab.

Staff also outlined the changes in the estimated cost of an observer day under a restructured program between the June initial review analysis (\$450/day) and the current analysis (\$467/day), which affects the cost estimates throughout the RIR (see Appendix 6). Shortly after the June Council meeting, the Dept of Labor issued a wage determination for Alaska observers, due to a new contract in the marine mammal program. The committee questioned whether new wage determinations are made on a regular basis. Staff responded that they are not done annually or on a schedule, they are typically made whenever a substantive contract is being let.

Staff reviewed other changes to the RIR based on either the June Council motion, or specific discussions and requests from the Council in June. For example, the Council provided direction to: use nominal prices; use regional halibut and sablefish prices published by RAM; and treat halibut vessels as a CP or CV based on historic activity for the purposes of the estimates, not quota share designation. Regarding this last point, the committee discussed the proposal to use the Federal Fisheries Permit (FFP) designation to determine whether a vessel is a CP or CV in the future under a restructured program. The analysis proposes that a person could choose their operating type on their FFP and that designation would feed into the sample design and determine their coverage and fee system for either the year, or the duration of the permit. While this is feasible for the groundfish sector, the committee noted that there is a subset of the IFQ fleet that fishes only in State waters and is not required to hold an FFP, thus the use of an FFP to both determine the vessel/trip selection pool and the operating type designation would not work for these vessels. Staff would need to determine a different method by which to identify these vessels for selection.¹ One member noted that, in terms of halibut CP activity, there are a few vessels that act as a CP for a short period during the year. If these vessels are required to designate themselves as a CP or CV for the entire year, they would determine which designation is the most cost effective for them, depending upon the preferred alternative.

Staff then outlined the cost tables in the RIR which estimate how much revenue would be generated under a 2% fee under Alternatives 2 – 5 (the upper bound of the potential fee), the number of observer days that

¹Given this discussion, after the OAC meeting, staff requested NMFS RAM Program to determine the universe of vessels that do not carry an FFP and fish halibut and/or sablefish IFQ only in State waters. As of 2010, 556 halibut (IFQ/CDQ) vessels and 7 sablefish IFQ vessels fit these criteria. Note that 86 halibut (IFQ/CDQ) vessels and 2 sablefish vessels fit these criteria and are also >40' LOA. (In the initial year(s) of the program, fixed gear vessels <40' would not be selected for observer coverage.) One possibility is for NMFS to use the list of ADF&G numbers assigned to these vessels from the previous year, to help establish the pool for vessel selection in the deployment year.

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could be funded by that revenue, and how both observer days funded and total costs compare to the status quo. These tables show the cost of the restructured portion of the program, as well as the cost of the portion of the program that remains under status quo (applicable to Alt. 2 and 3). These tables are also provided for all of the action alternatives with the inclusion of Option 1, assuming that the reduced fee under Option 1 would equal 1% of ex-vessel revenue. It was clarified that the primary cost tables in the RIR use average revenues during 2005 – 2008, while the sector-specific tables in Appendix 11 are based solely on 2008 data. The committee recognized that Alternatives 2 – 4 (excluding Option 1) are estimated to fund about 9,000 more observer days than the number of days under the status quo (~39,000), while Alternative 5 results in a surplus of about 600 days (using mean estimates). The lower estimate (minus one standard deviation) for Alternative 5 results in 5,000 fewer observer days than status quo. All alternatives increase costs compared to the status quo (2008 = \$14.4 million).

Staff also reviewed Section 2.10.7, which evaluates effects on harvesters, processors, and communities. One of the primary issues discussed was the intended 50:50 split of the ex-vessel fee between harvesters and processors, and the assessment that harvesters would likely bear a higher portion of the ex-vessel fee, due to higher inelasticity in the supply side of the market compared to demand. Crew members may also realize a reduced share as a result of an observer fee. One committee member stated that the effect of the fee assessment on crew depends on the fee remittal process. If captains and boat owners do not see the expense directly and the processor remits the fee, the effect is a lower price for fish, and revenue available for the entire captain and crew would be reduced in that manner. This is opposed to a vessel paying NMFS directly after each trip. Staff also presented the indirect effects and costs, such as space and safety requirements for small vessels.

AFSC staff (Martin Loefflad, Craig Faunce) presented **Chapter 3** on sample design and implementation issues, focusing on additions to the document since June. Staff outlined the two primary sampling principles: the more you sample, the more you know; and randomization helps ensure that collected data are unbiased and representative. Staff also presented a description of current observer program sampling (Table 57) and outlined Appendix 8, which describes the two potential sources of observer bias: deployment effect (non-random deployment of observers in fisheries based on quarter) and observer effect (observed trips do not represent unobserved trips).

Staff then reviewed the strata proposed initially for observer deployment on vessels, which did not change from the June analysis (Tables 59 and 60). The OAC asked for the number of catcher processors that do not currently have 100% coverage requirements that would be required to be in the full coverage stratum under restructuring. Staff responded that two vessels would potentially move from 0% to 100% coverage, and 24 vessels would move from 30% to 100% coverage. The OAC had a lengthy discussion of Section 3.2.7.3, which outlines contingencies and details regarding the selection method (vessel vs trip), and attempts to establish some concrete terms around both the selection process and the criteria for a potential exemption from observer coverage for a given time period. For the universe of vessels subject to a vessel selection process (fixed gear CVs >40' - <57.5'), NMFS would contact a vessel 1 – 2 months in advance if they have been selected to take an observer. If selected, the vessel must notify NMFS at least 72 hours in advance of each trip in the selected time period (NMFS proposed 3 months). Selection would be 'with replacement', meaning the same pool of vessels would be used for random selection in each quarter.

NMFS and the OAC had considerable discussion of the key factors to be used in determining whether a vessel can carry an observer (p. 150). If a vessel is selected and requests an exemption from observer coverage, that vessel would need to be willing to use EM as an alternative, when the technology is available. Staff noted that EM is well-suited for various platforms as a compliance tool where there is no discard requirement. It has also been demonstrated for use in species-specific counts on some operations (e.g., hook-and-line fishery), but one of the primary issues to resolve is how to rapidly extract the data for use in inseason management. This may not be necessary for fisheries in which fishing mortality is

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assessed at the end of the year, but highlights how EM needs to be designed to meet the monitoring needs and objectives in a specific fishery. Committee members delayed further discussions of EM until the relevant agenda item the following day.

While it is clear that NMFS is addressing the deployment effect through the proposed action, the committee had requested that staff provide suggestions for ways to mitigate the observer effect, or ‘gaming’ of the system. NMFS outlined two potential rules that could be established in regulation to reduce gaming (pp. 153 – 154): if a vessel/trip were selected, the vessel could not leave the dock without the observer (subject to a reasonable stand-down period but not preventing the vessel from fishing if the observer is not available); and to assign an observer’s deployment as the time from first departure until the full offload of the catch, which may make it necessary to prohibit partial offloads (as a vessel could artificially shorten its trip by partially offloading a few pounds and returning to sea without the observer). Other recommendations were provided as internal policy rules, which would remain flexible in order to address problems as they arise. One member questioned whether these should be flagged as Council decision points; staff stated they would highlight these issues in the Council presentation.

NMFS staff then outlined the proposed observer program levels: none, pilot/developing, mature, and optimized, and how to define deployment under those categories (Table 64). Questions used in the allocation strategy include whether prior data are available, and if so, is a performance standard defined. NMFS set a performance standard for estimating at-sea discards in the national bycatch strategy published in 2004, which is recommended as a target for the proposed program. For fishery resources, excluding protected species caught as bycatch, the precision goal is 20% – 30% coefficient of variation (CV) for estimates of total discards for the fishery, or if total catch cannot be divided into discards and retained catch, then the goal is a 20% – 30% CV for estimates of total catch.

Staff presented a summary of previous work that estimates the necessary sampling fraction (expressed as percent coverage rate) to meet the goal of a 20% - 30% CV (Table 61). Two primary conclusions result: the coverage required for any CV performance standard varies widely between species, with common species requiring less coverage than rare species; and estimates of required coverage for the same species in a fishery are similar between the studies presented. In sum, using some necessary assumptions, the least conservative estimate may be to apply a 30% CV for 50% of the listed fisheries, resulting in a 30% coverage recommendation for fisheries in the partial coverage stratum (this is termed P2 deployment throughout the analysis). The strategy would be to start at P2 deployment and as data are obtained through the newly restructured program, the goal would be a 20% - 30% CV. Staff noted that while each alternative combined with Option 1, with the exception of Alternative 5, is estimated to provide sufficient revenue to fund *more observer days* than the status quo, no alternative combined with Option 1 provides sufficient revenue for the target *P2 deployment levels*.

NMFS also presented the analysis of Option 2, which requires an annual sampling design and deployment plan be submitted to the groundfish plan teams, SSC, and Council for review by September 1 each year, and the Council would have approval authority. It was discussed that the chart of observer program levels could be used in this review to show how the program is progressing towards a mature and optimized program over time. In addition to a proposed plan for the coming year, the report would show how funds were used and observers deployed in the previous year. The committee supported the concept of Option 2, emphasizing that it is necessary for this level of public, agency, and Council review in order to determine priorities for observer coverage. The committee also discussed issues related to the requirement for Council approval, recognizing contracting obligations and the risk that a new deployment plan, based on the previous year’s information, would not be in place at the start of the year if the Council did not approve the plan. However, the committee agreed that a feedback loop is necessary and discussed replacing the language in Option 2 to require consultation with, not approval by, the Council.

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Finally, staff presented estimates of the start-up funding necessary under each alternative, should Federal funding not be available (Table 65). The committee noted that Alternatives 2 and 3 take a significantly shorter time to generate start-up funds than Alternatives 4 and 5. The basic approach proposed to generate industry start-up funds is similar to the 1995 research plan, in which operations were required to pay for their observer coverage under status quo requirements plus the fee assessment, then credited the difference between the two in order to avoid ‘double charging’ an operation. Thus, if an operation paid more under the status quo than the cost of a 2% ex-vessel fee, they would not pay anything above their status quo costs in year-0. While the analysis does not detail the exact implementation of the research plan approach, and could differ in some respects, the overall concepts (not double-charging, crediting back a vessel’s actual observer costs) would apply. The discussion illuminated the numerous complexities of assessing a fee in year-0 to generate start-up funds, and the strong desire for Federal funds to negate the need for this process and relieve the cost burden to industry. Members noted that Alternative 3 would require \$5 - \$6 million to meet P2 deployment levels, and industry should lobby Congress and NOAA to provide these funds.

IV. Discuss feedback and/or recommendations on the analysis

The committee was not tasked with recommending a preferred alternative, but provided comments throughout the meeting on the advantages and disadvantages of particular alternatives. The committee focused its discussion and recommendations on the following issues:

1. Start-up funding
2. List of Council decision points in executive summary
3. Mixed trips (e.g., troll caught fish and IFQ halibut during same trip)
4. Rules associated with deployment: no observer/no fishing; and trip starts with leaving the dock and ends with full offload
5. Option 2: annual observer program sampling design and deployment plan
6. Role of the OAC in development and review of rulemaking

1. Start-up funding

The committee questioned why it would only take a half year to generate sufficient funding for the first year of deployment, since fee collection was proposed to start in mid-2012, and recognized what limited coverage that would buy in year-1. Most members agreed that while the program could potentially get underway without the full year’s funding, especially if Federal funding became available, it does not make sense to start the program at such a limited scope (coverage levels lower than status quo) and that at least a full year’s funding should be collected prior to deployment under a new program. In effect, fee collection could start at the beginning of 2012, for deployment in 2013, or it could start in 2013, for deployment in 2014, under Alternatives 2 or 3. Members also emphasized that initiating a new fee collection system mid-year is likely problematic and confusing for industry. **The OAC recommended starting fee collection in the first full calendar year after the final rule is published.**

2. List of Council decision points in executive summary

The committee reviewed the list of decision points for consideration by the Council, and provided feedback on each, with the exception of the preferred alternative and the fee percentage.

Two tier system for general coverage categories

The committee did not make a recommendation on this decision point, but discussed the proposed strata and impacts on various sectors.

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Use of a rolling average price versus an annual price to calculate the annual ex-vessel fee

One member supported using an annual price, and was not concerned with NMFS' desire to smooth out revenues by using a rolling average price. Other members noted that current year's prices would not be applied to current year's landings regardless. Due to data availability, IFQ prices would be from the previous year, and groundfish prices would be from two years prior. A few members supported using a three-year rolling average, noting that if the agency can 'bank' some funds in the observer fund during years of high revenue, it may not be necessary to use a rolling average. Most members did not have a position on this issue.

Several members questioned why the fee percentage must be established in rulemaking and only changed with subsequent notice-and-comment rulemaking, as opposed to 'frameworking' the fee such that it could be adjusted annually. Others questioned whether, if NMFS had the authority to collect the full 2% fee, NMFS could choose not to collect the maximum amount in any given year. While NOAA GC has stated that frameworking the observer fee is not possible (see Section 2.9.2.2.2), a response was not provided regarding whether NOAA would be obligated to collect a 2% fee each year if a surplus was collected in previous years or a lower fee percentage was sufficient to meet deployment needs. Another member supported rulemaking that would set the initial fee at 2%, but require that Option 1 be applied after a specified time period (X years).

Exclusion of state water GHL fisheries from the restructured program

There was no support for including State water GHL species in the restructured program, regardless of whether the vessel is carrying an FFP or whether the Federal authority exists to assess a fee on such landings. One member noted that if the state wants to pursue its own observer program with specified objectives, it should be developed through the Board of Fisheries and/or the Joint Protocol Committee.

Whether catcher vessels that deliver unsorted cod ends to a mothership are subject to the ex-vessel fee

The committee agreed with the current approach in the analysis to not assess a fee or require observer coverage on vessels delivering unsorted cod ends at sea to a mothership (or CP acting as a mothership). Motherships would continue to have 100% coverage and all catch would be observed from that platform. This mirrors the status quo.

How to define a catcher processor

Upon implementation, analysts recommend using the FFP designation to define a CP for the $\geq 100\%$ coverage stratum. That method would allow the permit applicant to choose the designation for future fishing years. The committee noted that one can currently change their FFP designation mid-year and that the proposal would require that a vessel retain the same designation at least annually, if not for the entire 3-year permit period. Questions arose as to why a vessel could not start the year designated as a CV and then modify its designation to a CP for some trips during the year. The problem is that the CV/CP designation denotes the coverage rate (and the type of fee assessed under Alternatives 3 and 4), and the coverage rate is the effective sample over the number of trips. If a vessel can change its designation throughout the year, the population of vessels or trips sampled is changing over time, which makes it difficult to ensure a statistically valid sample.

Members noted that vessels will make the operating type decision based on the most cost effective system for each individual operation. If processing is a small part of their operations, they may choose a CV designation and avoid 100% coverage requirements. Others may determine (under Alternative 3 for example) it is cheaper to carry an observer 100% of the time they are operating in Federal fisheries and pay a daily rate to an observer provider, as opposed to paying a 2% fee on landings. The committee noted that there are very few halibut CPs, but they may choose to pull out of the pool for the fee program and opt to pay a daily rate. The committee also discussed the necessity of a permit other than the FFP to use for vessel selection and CP designation, for the subset of IFQ vessels that only fish in State waters and do

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not carry an FFP. Staff is considering other alternatives to identify these vessels for selection.

Development of standardized ex-vessel prices to apply to (non-IFQ) groundfish landings to determine the ex-vessel value fee

Members generally supported using the CFEC approach proposed in the analysis to establish groundfish ex-vessel prices and did not support the more aggregated approach (which is not sensitive to gear type or port) used by the Alaska Dept of Revenue to assess the State landings tax. The committee also did not support using the Dept of Revenue as the fee collection agent.

Apply the annual IFQ price, developed for the cost recovery program, by port or port group from the previous year to determine IFQ ex-vessel observer fees

The committee agreed with this approach.

Start-up funding

See previous discussion under #1.

3. Mixed trips (e.g., troll caught fish and IFQ halibut during same trip)

Members discussed the potential inefficiencies inherent in a program that (randomly) selects vessels or trips that are targeting multiple species, both included in and excluded from the program. A southeast Alaska member stated that at least 20% of the Area 2C and 10% of the Area 3A halibut trips are conducted in conjunction with salmon fisheries (which are not included in restructuring). If a trip is defined as when an observer gets onboard until the catch is delivered, those trips are going to be inefficient in terms of observer deployment, as the observer will be onboard for the entire trip, even if halibut is a very small part of the trip (vessels are required to keep halibut caught during those trips if there is halibut IFQ available). One member discussed whether there should be criteria established such that those vessels would not be considered for selection, given the potentially low catch and the inefficiencies inherent in such a deployment.

Staff responded that many of the vessels at issue are <40', for which there would be no selection in the initial year(s) of the program. Fixed gear vessels 40' – 57.5' would be in the vessel selection system, by which they would be selected for coverage for a (3-month) period and must notify NMFS prior to each trip in that period. Like status quo, it is expected that some trips will have low catch and/or bycatch and some will have high catch and/or bycatch. While it may not be the most efficient use of an observer to sample on these trips, it is necessary to include all trips in the pool to provide a representative sample, and the sample design can only be based on variables that are known before a trip starts (i.e., whether a person decides to set gear for halibut mid-trip cannot be known before the trip begins). In addition, the criteria for 'no selection' and 'vessel selection' would likely evolve over time, as new data are collected.

NMFS noted that the likely approach is to move into the new, small boat fleets in a slow, step-wise manner, working closely with the vessels and captains that are initially selected in the first few years of the program. At the same time, the agency needs to be cognizant of creating rules (or exceptions) that provide incentives to game the system (e.g., having salmon gear on board, with the potential for a 'mixed' trip, warrants an exemption from observer coverage).

One member noted that selected vessels will likely fish differently when they take an observer. They may choose to fish all of their halibut IFQ while an observer is assigned to them, and thus when they salmon fish later in the year (with no observer requirement), they will have to release any halibut bycatch because they will not have any IFQ remaining. Other members noted that the proposed program design would allow NMFS to observe both typical and atypical trips. This means there is some inherent inefficiency,

but the transparency and review process associated with an annual sampling and deployment plan should serve to make the program more efficient over time.

4. Rules associated with deployment

The committee agreed that some rules to mitigate ‘gaming’ the system are appropriate to put in regulation, and did not generally object to the two proposed by NMFS. These include: 1) if a vessel/trip were selected, the vessel could not leave the dock without the observer (subject to a reasonable stand-down period but not preventing the vessel from fishing if the observer is not available); and 2) to assign an observer’s deployment as the time from first departure until the full offload of the catch. However, the OAC recommended allowing NMFS to use its discretion to develop other internal policy rules (not in regulation) to respond to situations as they arise. Members recommended using the committee to assist in developing both the rules placed in regulation and the internal control rules; for example, the committee could provide input as to a reasonable stand-down period necessary before a vessel can leave the dock.

5. Option 2: annual observer program sampling design and deployment plan

The OAC fully supported Option 2, with the exception of the ‘approval’ mechanism. Members recognized that the primary goal is to make the sample design flexible, and while transparency and the ability to provide input as to the sampling and research priorities is fundamental to its success, they were concerned that an approval mechanism may negate this important goal. Members supported modifying Option 2 to reflect that Council ‘consultation’ is required, as opposed to approval.

The OAC also recommended that it be able to review the sampling and deployment plan required under Option 2 on an annual basis. The committee discussed meeting once a year (September) to review the plan, in order to provide feedback from their respective members on the program. In addition, members want to be able to provide input from communities and the small boat fleet regarding how the new deployment strategy is working in that sector.

The committee also recommended that the Council appoint observer program staff to the GOA and BSAI Plan Teams, in order to explain the observer data, including the variance associated with, and limitations of, the data. As an alternative, the observer program could ensure that staff attend the meetings.

6. Role of the OAC in development and review of rulemaking

The OAC discussed what factors would affect the speed of the rulemaking: staff availability, priorities of agency and Council, complexity, and legal issues. The OAC stressed that the rulemaking should be a priority of the Council and NMFS, and discussed whether the committee would want to have a role in troubleshooting implementation issues and reviewing the draft rulemaking as it progresses. While a significant portion of the implementation issues are provided in the analysis, the committee and staff recognized several implementation and logistical issues would not be fully fleshed out until the proposed rule. Members agreed that they would like to continue the open communication and transparency employed throughout the process thus far, and thought the OAC would serve to develop a better product (rule) in the long-run.

In summary statements, committee members that supported a specific alternative supported Alternative 3. They noted that this is a long overdue problem which needs to be addressed to improve data quality, and Alternative 3 solves the most pressing data quality and flexibility issues without risking reduced coverage in the sectors that are determined to need $\geq 100\%$ coverage. There were concerns with Alternative 2 not capturing the entire subset of vessels in the partial coverage stratum under a new program. Alternative 5 was noted as taking too long to generate start-up funds, if start-up is industry-

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funded. There is also a risk that it would not generate sufficient funding to cover the $\geq 100\%$ sectors, or only be able to cover them at the expense of coverage in the $< 100\%$ sectors. One member noted that Alternative 3 is not a 'pass' for the catcher processor sectors, as they would all move into the 100% coverage stratum and pay directly to observer providers. As discussed previously, several CPs would be moving from 30% to 100% coverage requirements.

One member noted that if the Council determines a 2% ex-vessel fee is warranted in the initial years of the program, it could structure its motion such that Option 1 takes effect after a few years, to automatically reduce the fee for the specified sectors. This would allow the agency to generate sufficient start-up revenue, and promote efficiency within the program as it evolves.

Other members stated support for the proposed approach, especially compared to the approach employed in 1995 under the research plan. The requirement to pay both the status quo costs and the fee percentage for several years to generate start-up funds was noted as a primary factor in the research plan's failure, which stresses the need to receive Federal funds for start-up. One member related that the start-up funding provided in the west coast catch share program was a significant factor in gaining industry support for the observer program requirements that were included in that program.

Observer providers present stated that they did not consider the 'hybrid' status of Alternative 3 a significant issue. Any new program will require additional communication and a learning curve to increase efficiency, but most providers are experienced at tracking separate programs under the status quo (e.g., providing observers for groundfish, marine mammal program, crab, etc.)

The public was also provided an opportunity for comment at the meeting. Public comment was provided by Julianne Curry, Rhonda and Jim Hubbard, and Dan Hull. Public comment centered on the need to involve industry in figuring out how the IFQ fleet can fit into the proposed program. It also focused on the importance of the annual report required under Option 2. Comment was provided on the desire to avoid setting a fee percentage in regulation that could not be revised unless through subsequent rulemaking. Comment also noted that the Council should ensure that industry not pay the bulk of the cost of the observer program, and to push for Federal funding. It was also noted that there are accredited surveyors who can do dockside boardings and qualify a vessel for a USCG safety decal; a USCG person is not the only means to acquire this inspection.

V. Overview of the NPRB-sponsored electronic monitoring study in the commercial halibut fishery (IPHC and NMFS)

Gregg Williams (IPHC), Jennifer Cahalan (NMFS AFSC) and Martin Loefflad presented a summary of the EM study recently completed in the halibut fishery. Presenters noted that the final report is with the NPRB and not yet approved, but is expected to be released soon. A formal and comprehensive presentation is planned for the Council at its February 2011 meeting.

This study was intended as a field test of EM technology for use in identifying bycatch in the commercial halibut fishery. Four commercial halibut vessels were used (volunteers), and the study was conducted over 13 trips (250+ sets). Both EM and observers were on the vessel, and the purpose was to compare the observer reported data with EM. The primary questions included: 1) whether observers and EM are identifying the fish as the same species, and 2) whether observers and EM are identifying the same numbers of fish. These comparisons were made by aligning the two data sets by each hook, in which the species and the disposition of the catch (e.g., landed, dropped off, discarded) were identified. Only complete records were used for the comparison.

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Results show that there were a high proportion of hooks with agreement on species identification for fish only (91% total; 26,000+ hooks). For bycatch only, there was near complete agreement at the species group level (rockfish, sharks, skates, flatfish, etc) (99%), but less agreement at the species specific level (81%). Image quality did not appear to affect the results significantly. Both observers and EM are counting the same number of fish in most cases, no statistical significance resulted in the differences.

The summary conclusions were as follows:

- Both EM and observer monitoring have errors
- Neither method monitored all fishing events
- Adequacy of EM monitoring was not dependent on size of catch
- Species ID of catch was statistically unbiased; some species only identified to species grouping
- EM is an additional tool for catch monitoring (potential dependent on specific monitoring goals. Note that no weights were obtained using this EM configuration)
- EM is not an alternative to observers for the collection of biological specimens

Committee members asked about the length of time required to review data (about 65% to 75% of real-time). They also clarified that it was not an objective of the study to determine which method (EM or observer) was more accurate; the purpose was to compare the differences in the estimates. One member suggested that biological samples could be taken by industry, and EM (cameras) could be used to confirm that the crew did so. The committee was also concerned with a cost comparison of the two systems, which was not available.

Staff summarized next steps for the committee, noting that NMFS is developing a white paper synthesizing previous experience and studies with regard to EM for the Council in February 2011. The OAC recommended that it review that paper after the February Council meeting, and help focus the issue on a particular problem (e.g., how to implement an EM design for the small boat fleet).

VI. Scheduling and other issues

The committee reviewed the timeline for implementation (Section 3.7), which details the Council, rulemaking, and contracting timeline associated with observer restructuring. Council final action is scheduled for October 2010, with the associated rulemaking developed through 2011. Development of a contract of this projected scope is about two years to completion, with the potential implementation of a newly restructured observer program in 2013, depending upon the preferred alternative and the availability of start-up funding to initiate contract task orders. Staff noted that, based on previous discussions, one could expect to start collecting funds in 2012 or 2013 (year-0), for implementation in 2013 or 2014 (year-1 of restructured program), depending upon the preferred alternative.

Depending upon the Council's action in October, the OAC recommended that it convene after the February 2011 Council meeting, in order to focus efforts on development of an electronic monitoring system for small vessels. One member noted the potential for increased participation from the small boat fleet if the meeting is held prior to the halibut season, which typically starts in early March. The intent would be to meet the Council's request that an EM program be in place for specified sectors at the same time that a restructured observer program is implemented. The committee could assist in determining the sectors in which to focus an EM design, and the sampling and monitoring problems to resolve. Should the Council take final action on observer restructuring, the OAC also stated an interest in reviewing the drafts of the proposed rule in an iterative process, when available in the future.