

Observer Advisory Committee

June 3-4 2013 Juneau, Alaska

Committee members present: Dan Hull (Chair), Bob Alverson, Julie Bonney, Michael Lake, Dan Falvey, Kathy Hansen, Stacey Hansen, Anne Vanderhoeven, Paul MacGregor, Jerry Bongon, Joel Reyfuss, Todd Loomis, Brent Paine

Agency Staff: Chris Oliver, Glenn Merrill, Martin Loeffled, Craig Faunce, Jennifer Modragon, Megan Peterson, Nicole Kimball, Jim Balsiger, Tom Meyer, Mary Furuness, Gretchen Harrington, Gregg Williams, Diana Evans, Michael Camacho, Nathan Logerway, Frank Bonadona, Jason Gasper

Others attending: Liz Mitchell, Linda Behnken, George Hutchings, Peggy Parker, Jeff Farvour, Brian Lynch, Luke Szymanski, Dale Kelly, Megan Pasternack

Review of first year implementation (and annual deployment plan)

Overall, the OAC recognized that the restructured program was functioning largely as intended in the 2013 ADP. While some specific concerns were raised (see more detail below), full coverage was achieved for all full coverage vessels, nearly all non-AFA pollock deliveries, and coverage rates were as expected.

The OAC recognizes that major changes for 2014 are not practical, including changes in coverage rates for specific fisheries, and there is a need to continue to collect information on newly observed sectors. However, there might be minor changes to the deployment plan that we could make for 2014, which could be pursued this fall (based on issues raised in this report and/or information we may receive this fall). This report focuses on deployment of coverage in the first 4 months of the program, rather than the data resulting from that deployment (which could be used in the future for informing changes to coverage rates by fishery).

The program review raised concerns with regard to tendering and the 'observer effect' which may be occurring. There appear to be differential effects by area. Addressing the concern raised about tenders may require a regulatory amendment or may be addressed to some extent through the 2014 deployment plan. There was a request to identify both trips (leave port- return to port) and deliveries (offloads to tenders) in future presentations about tenders. The agency will consider ways to address tenders over the summer, collect more information, and may have recommendations in this regard for the 2014 annual deployment plan (ADP).

The OAC recommended that future annual performance reports about the observer program include information on the volume of catch observed in both vessel and trip selection pools, recognizing we need to be clear as to the definition of observed catch (catching vs delivering). Also, the OAC would like to know in trip selection how many vessels were picked for sequential trips and how many trips they took.

Regarding the vessel release process, the OAC noted that more than half of the vessels selected in the vessel selection pool were 'released' (most of these due to crew size problems), highlighting difficulty for small vessels to carry observers. Once released, need to clarify how long the release is good for (just the trip or the quarter?). Need to clarify that vessel modification is not a requirement (some vessels seem to be getting conflicting information in this regard from NMFS). Regarding releases for life raft capacity,

we should monitor how big a problem this is or becomes. Some release requests are taking too long to get processed, or get repeated when a vessel is selected multiple times. There should be some way to store this information, recognizing that changes could have occurred changing the vessel's status. Need to consider allowing 'de minimus catch' as a criterion to receive a release, for very small 'cleanup' trips. Should consider allowing EM as a condition for release (though guidance to date has suggested this would be a regulatory change – see further discussion under EM Strategic Plan).

RE departures from intended sampling design (bias) the OAC would like to get agency recommendations on how significant each of them are and how best to proceed in addressing them.

Regarding program costs, a number of issues were raised which could inform future iterations of the deployment plan and/or coverage levels, and inform relative to cost efficiencies/priorities. These include: more specific information on why the current program costs twice as much per day as direct-pay observers; number of vessels which were repeat selected; how much volume or how many sets were sampled relative to overall vessel activity (what percentage); how much catch was actually observed; how many stand by days are included in billable days vs actual days observing at sea for vessel selected pool; what were the reasons for the stand by days; regarding the two month deployment for vessel selection, consider shortening to one month; consider logistics/location of debriefing process. The OAC hopes to have further discussion of these cost issues, and overall program costs, as previously requested by the Council in December 2012, during the annual performance review in June 2014.

As a longer term project, the OAC would like to consider that it may be useful to tease out potential observer effect between trip and vessel selection pools and help determine whether there really is the need for two pools. The OAC would like the Council, at some point, to consider whether and how to base coverage on tonnage of catch (or anticipated catch). The full year's data provided in the annual performance review in June 2014 will further inform these issues and assist the Council in understanding whether the current deployment sufficiently tracks effort and volume.

Other information requests or recommendations include the following: (1) Include in a questionnaire', or voluntary post-trip report by skippers information on the impacts/costs of having an observer onboard (logistical issues/challenges and in terms of cost); (2) consider, in the 2014 ADP, that the vessel selection timeframe be 1 month instead of 2 months. However, there was some concern with vessels being more easily able to avoid coverage by not fishing during the one month period. So perhaps there is a way to address the observer effect of vessels choosing not to fish in the shorter time period, if you get automatically selected for next time period? (3) Figures 5 and 6 (the heat maps) should be broken out by BSAI and GOA separately; (4) what/where is the information from halibut vessels being used and is IPHC using the basic discard info in any way yet? (5) comparison of shoreside monitoring pre and post implementation; (6) identification of any contracting issues with current contractor; (7) number and nature of violations being pursued by OLE; (8) how many observers available for each pool;(9) how many trips to tenders in 610 and 620 (pre restructure vs after);(10) 'stranding' of observers if trip canceled; (11) non-compliance issues should be further specified; (12) projection of total observer fees being collected in 2013.

OAC members reiterated that the conditional release from the observer requirement is important and that the conditions for release should not change in the 2014. Two additional conditions for release were requested to be considered: 1) release for vessels fishing very small amounts of quota held by an IFQ holder; and 2) release for participating in the voluntary EM projects (see EM Strategic Plan discussion

below). In the first case, vessels holding IFQ are required to carry an observer when they participate in other fisheries, such as the salmon troll fishery and any state waters pacific cod fishery, if it is possible they will land IFQ species.

Review of EM Strategic Plan:

Martin provided an overview of national EM initiatives and the recent NMFS Policy Directive. Major highlights include further work at national level to finalize white papers, coordinate with specific regional efforts, and interact with Council Coordination Committee (Dan Hull is member of CCC subcommittee for EM). The Council's work is well aligned with the Policy Directive, which is enabling rather than prescriptive.

Farron Wallace and Martin provided the OAC with the EM Strategic Plan. Farron noted low rate of volunteers for pilot project – this is an issue the agency and industry will continue to address (see further discussion below).

OAC identified SWOT aspects of the operational environment in which the EM Plan is being developed and implemented. Weaknesses identified are that the Plan does not adequately reflect the objectives and priorities already expressed by the Council, and is focused more on capacity building than on actual implementation. Some members felt that opportunities which are not adequately detailed in the Plan include existing outside expertise from previous EM projects, including the Canadian program and others. Regarding costs, rather than be passive (measuring costs) the Plan should attempt to identify a more specific cost target and identify measures to achieve it, including how to balance costs with objectives and priorities. The OAC did acknowledge that the pending EM workgroup can work further on those issues.

OAC members provided a variety of over arching comments about the Strategic Plan that indicated an understanding that it is a big picture view of developing and integrating EM into the Observer Program across fisheries, and that this is appropriate. However, the connection between the big picture view and the specific steps to achieve the initial EM priority (to develop EM for the small boat IFQ fleet) of the Council are not as clear. The Strategic Plan should include specific discussion of how to prioritize among various (potentially competing) monitoring objectives and specify timelines for each; i.e., more specific information on 'where the rubber meets the road', and a clearly defined funding stream for the EM component. **The OAC believes catch estimation should be the EM priority, at least for sablefish and halibut fisheries, noting that the Canadian (logbook) model might be more appropriate for fixed gear cod fisheries and other (more PSC driven) fisheries.** This is likely to be an iterative implementation process, with decision points along the way. Plan ideally should have a more specific 'phase-in' component to allow initial, limited, on-the-water implementation which would allow for resolution of incremental aspects rather than wait until everything is deemed workable. For example, it is difficult to discern a specific definition of the 2013 pilot project, although it is discussed in the text and appendices of the Strategic Plan. This could also be a primary task for the EM workgroup.

Regarding the EM Workgroup – 1) OAC supports the Council's original focus for the workgroup to evaluate alternative EM approaches, with a consideration of tradeoffs between achieving monitoring objectives, timelines, and other factors (e.g. costs, disruption to fishing practices) (see April 2013 council motion); 2) Work group should identify performance standards, operational procedures, sampling and deployment plan appropriate for these vessels (for QS vessels) and also look at implementation vehicles

and potential phase-in approaches; 3) Sections of the strategic plan that can guide the workgroup are shown on page 14 (Goal II, Objective 1, Strategy C) and page 16 (Goal III, Objective 1, Strategy A); 4) Work group should focus on developing a catch estimation based program for the IFQ fisheries rather than a logbook audit approach; 5) Regarding composition, the workgroup should be a subgroup of OAC along with a couple other industry members with technical expertise and broad outreach connections, and include appropriate agency personnel. Broad outreach connections could help to increase interest and participation in the EM pilot projects, which are necessary to develop performance standards in regulation and move EM forward as a regulatory alternative. The workgroup members could also include vessels greater than 57.5' and representatives of other fixed gear types (pot and jig). Regarding timing, the workgroup should meet this fall (perhaps in conjunction with October Council meeting) and again prior to the beginning of the 2014 season.

Regarding the lack of participation in the current voluntary program, the OAC encourages the Council to consider vehicles to effect this implementation (perhaps through an EFP process, including a process for specifically testing system operations, as well as incentives for vessels to participate (such as a waiver/release from observer coverage when carrying EM). Offering a release from carrying an observer might be a different question if under an EFP vs under the current pilot project structure (which would be a specific regulatory change and guidance to date has suggested performance standards are necessary in regulation). Other incentives to carry EM should also be considered if release from the observer requirement is not possible. These could include financial incentives, such as direct compensation.

Regarding timing and urgency, most OAC members reiterated their desire to see some form of EM implemented ASAP. Other members were more concerned with making sure we 'get it right', and resolve data quality issues, and receive at least some observer data from the previously unobserved fleets prior to implementation.

Two committee members were concerned that we are not discussing VMS specifically in the context of potential EM applications. It was noted that the Council intends to revisit the overall VMS issue once the EM Strategic Plan is more fully realized.

At least one member expressed concern with the possible management tool of crew collecting data, and with statements in the strategic plan about EM replacing observers.

Regarding the potential use of an EFP (appendix H), one advantage could be that vessels would be more eager to join a voluntary program, particularly if they would have an incentive...i.e., be exempt from carrying a human observer. An EFP could also include a clear way to test equipment and attainment of objectives, but an application for an EFP would have to be received in order for the specific design to be evaluated.

Review of Regulatory Amendment Proposals:

Major Discussion Points:

Chris summarizes proposals received to date, noting that some are regulatory proposals, some could be addressed through the ADP, and some are separate initiatives.

OAC consensus is that criteria of highest importance by which to evaluate regulatory proposals are: bias in data quality, cost equity, cost savings, and enforcement. Then ask "can this be addressed through ADP

rather than reg amendment process?”. Examples: tendering issue may be addressed through ADP. Cost equity related to the method of fee collection for IFQ fleet. Council has already asked for discussion (in ADP) about allowing vessels to choose to be in either trip selection or vessel selection pool.

Discussion of specific proposals:

UCB proposal to allow them to be in 100% coverage – they could continue to sign a compliance agreement and not need reg amendment in short term. But, enforcement wants reg requirement for 100% coverage. Payment of fee, in addition to direct-pay, implies cost equity issue (250k approximately at 1.25%). Request is to be exempt from fee, which would require reg amendment. OAC supports moving forward with this proposal.

Vessels that act as both CVs and CPs – raises cost equity issue, likely inadvertent impact. OAC supports moving forward with this reg amendment change, looking at changing control date, and an option to choose on annual basis.

Allow choice between trip and vessel selection pool – already requested by Council in 2014 ADP, and supported by OAC for future consideration. In June 2014 there should be more information to inform this issue. Noting that under the ADP there is a recommendation to consider changing from two month to one month deployment obligation.

Changing method of fee collection for IFQ fleet (i.e. use standardized, current-year price rather than standardized price based on previous year; and bill vessel (rather than processors/registered buyers) for entire fee) – raises cost equity issue, was analyzed in original restructuring analysis. OAC supports moving forward for additional consideration as reg amendment.

EM performance measures – no action, being addressed through existing channels.

AGDB proposals – tendering being addressed (potentially) through the 2014 ADP. May require reg amendment in future. Regarding the 72 hour issue, it is not a priority problem at this point, so not necessary to pursue a fix yet.

Proposal to use tonnage as basis for observer coverage selection: raises a data quality/bias issue. To be addressed through information in 2014 performance review.

Review of 3rd Party Issue:

Chris provided overview of previous 3rd party efforts, and the range of possibility for the role and responsibilities of a 3rd party entity, and requested further clarity on what we mean today when we say ‘3rd party’, prior to devoting additional staff resources to this issue. The type of 3rd party construct currently envisioned will affect liability and contracting questions, as well as potential cost savings.

From the perspective of the OAC, the 3rd party concept has particular potential for implementation of the EM component specifically (perhaps through the EFP vehicle), which could potentially integrate all aspects of EM implementation under a single operational and administrative structure. The OAC would like to see further consideration of this concept within the work of the EM workgroup. Potential cost savings (application of federal procurement rules, labor law, etc) could still be explored within this more refined 3rd party construct.