

**Observer Advisory Committee – Meeting Report**  
**September 17 - 18, 2012**

Alaska Fisheries Science Center, 7600 Sand Point Way, NE, Seattle  
Building 4, Observer Training Room

8:30 am – 4:30 pm (Mon); 8:30 am – 4:30 pm (Tues)

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

**Agency Staff<sup>1</sup>:** Diana Evans (NPFMC), Chris Oliver (NPFMC), Martin Loefflad (NMFS FMA), Craig Faunce (NMFS FMA), Farron Wallace (NMFS FMA), Heather Weikart (NMFS FMA), Gwen Schnaittacher (NMFS FMA), Lisa Thompson (NMFS FMA), Liz Chilton (NMFS FMA), Jennifer Cahalan (NMFS FMA/ PSFMC), Glenn Merrill (NMFS AKR), Jennifer Mondragon (NMFS AKR), Jason Gasper (NMFS AKR), Tom Meyer (NOAA GC), Nathan Lagerwey (NOAA OLE), Alicia Miller (NOAA OLE), Nicole Kimball (ADFG).

**Other attendees included:** Liz Mitchell (Association for Professional Observers), Lori Swanson (Groundfish Forum), Gregg Williams (International Pacific Halibut Commission), Dave Benson (Trident), Karl Haflinger (SeaState), Becca Robbins-Gisclair (Yukon River Delta Fisherman’s Association/ Alaska Marine Conservation Council), Tim Carroll (Saltwater, Inc.), Dennis McManus (Midwater Trawlers Cooperative/ BS cod fisherman), Luke Szymanski (AIS, Inc.), Arvid Poshkus (AIS, Inc.), Ed Hansen (Southeast fisherman), Julianne Curry (Petersburg Vessel Owners Association), Matt Upton (U.S. Seafoods), Rob Rogers (Icicle), Troy Quinlan (Techsea), Oystein Lone (CP Pacific Sounder), Merrick Burden (Marine Conservation Alliance).

**Agenda**

- I. Introductions
- II. Review and approve agenda
  - a. Council direction on OAC task
- III. Update on implementation of observer restructuring
  - a. Update on the development of the final rule
  - b. Getting the nuts and bolts in place for implementation
  - c. Planned outreach and education efforts
  - d. Registration system and brief demonstration
- IV. Draft 2013 observer deployment plan
  - a. Presentation of the deployment plan
  - b. Public comment
  - c. Discussion and recommendations on deployment plan
- V. Electronic monitoring
  - a. Update on national white papers on electronic monitoring
  - b. Update on EM halibut fleet project
  - c. Discuss development of EM as part of restructured program
  - d. What are required elements for regulating EM
  - e. Public comment
  - f. Discussion and recommendations
- VI. Scheduling & other issues

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<sup>1</sup> NPFMC – North Pacific Fishery Management Council; NMFS FMA – Fishery Monitoring and Assessment division at the National Marine Fisheries Service’s Alaska Fisheries Science Center; PSFMC – Pacific States Marine Fisheries Commission; NMFS AKR – NMFS Alaska Region; NOAA GC – National Oceanic and Atmospheric Administration General Counsel; NOAA OLE – NOAA Office of Law Enforcement; ADFG – Alaska Department of Fish and Game.

## 1 Introductions and agenda

Introductions were made, and the agenda was approved. The Chair noted that some Committee members were not able to attend, and that while alternates are not officially permitted to sit on the Committee, the alternates could provide input during the public comment periods. The Chair identified that the Council provided two primary tasks for the Committee at this meeting. The first is to review the 2013 annual deployment plan, and provide feedback and recommendations to the Council. The Council is scheduled to review the deployment plan and the OAC report at its October 2012 meeting. In addition, the OAC is directed to provide recommendations about how electronic monitoring (EM) will function as a component of the restructured program, including recommendations on developing performance standards.

## 2 Update on implementation of observer restructuring

### *Final rule*

Glenn Merrill (NMFS AKR) summarized the agency's progress with developing the final rule to implement the observer restructuring program. Responses have been drafted to all submitted comments, and the rule is in the final review stages. It is on schedule to be published by November 30, 2012. As the rule is still under review, he could not comment definitively on the nature of changes between the proposed and final rules, however at this stage, the changes are limited to technical modifications rather than substantial changes. Some examples include adjustments to accommodate changes resulting from the recently implemented freezer longline monitoring and reporting requirements, and to address the use of tenders. Additional explanation has also been provided on the electronic monitoring component of the program. The agency has an obligation to consult with the Council on changes between the proposed and final rule. As the rule will not have been finalized until after the October Council meeting, this consultation is likely to be by letter, or if necessary, teleconference, at the end of October. Martin Loefflad (NMFS FMA) recognized the tremendous work that has gone into developing the final rule by many staff at the NMFS regional office, and especially Brandee Gerke, who has recently taken a different position within the region.

### *Implementation update*

Martin Loefflad updated the Committee on several recent developments. Last week, the agency awarded the observer provider contract for the partial coverage category to AIS, Inc. The company has been providing observer services for the Northeast Fishery Science Center for several years. A second contract has also been awarded to Saltwater, Inc. for providing EM support for the 2013 pilot project. The agency has also expanded an existing contract that supports the IFQ call-in center (NOAA Data Technician Office), and will be using the same infrastructure to provide call-in facilities for the observer program's registration system. Martin reported that funding has been allocated to support these various contracts. Additionally, a dedicated treasury account is being created, where the assessed fees from the program will be deposited.

Last week, Martin participated in the National Observer Program Advisory Team (NOPAT) meeting, which brings together NMFS' observer program managers from around the country, to deal with fiscal and operational issues. Martin highlighted last year's annual report, which includes a summary of how funding is allocated among observer programs in the various regions<sup>2</sup>, noting that comparatively little of the national funding flows to Alaska. For next year, the national observer program has received a \$4 million funding increase, however the program budget (in its entirety) has also been levied with a \$1.9 million overhead charge, and the remainder of the new funding has been earmarked for catch share

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<sup>2</sup> [http://www.st.nmfs.noaa.gov/st4/nop/Outreach/FY\\_2011\\_NOP\\_Annual\\_Report\\_FINAL.pdf](http://www.st.nmfs.noaa.gov/st4/nop/Outreach/FY_2011_NOP_Annual_Report_FINAL.pdf)

programs, primarily in the southeast and northwest. The Committee asked some clarifying questions on the budget process, and mechanisms for how Alaska could receive a larger portion of the available funds.

Another fiscal issue that Martin noted is that it is proving difficult to hire new positions. FMA has been trying to fill two positions in Kodiak, but due to agency restrictions in response to the shrinking budget, all new hires need to go through headquarters, and are facing high levels of scrutiny. The Committee questioned whether two new positions would be sufficient to deal with the increased volume of debriefing that may arise from the restructured program, and Martin noted that they are able to supplement some of the permanent staff with contract staff.

Martin reported that the registration system has been developed and tested, and one demonstration has already been conducted with industry, at the June Council meeting in Kodiak. More such opportunities are planned for later in the year. Julie Bonney noted that, based on both her demonstration test of the registration system and knowledge of her fleet, the agency should expect many skippers to be registering trips by telephone, rather than through the online interface, at least initially. Jennifer Mondragon (NMFS AKR) also reported that the agency is working on an online system to display the fees that will be assessed, on a landing by landing basis. This system will be available to processors, as well as to vessels through the eLandings portal, and will show the accruing balance of the fee. The same system will also be used to process the year-end payment. She noted that for groundfish landings (although not for IFQ), there will be a 24 hour time lag before the fees display, as the information needs to be processed through the catch accounting system. The Committee asked questions about how the information will be displayed, and the level of detail that will be available to both the processor and the vessel. The Committee recommended that the system allow both the processor and harvester portions of the fee to be separately displayed.

### *Outreach*

Martin distributed an outreach plan prepared by Sally Bibb (NMFS AKR), detailing opportunities for outreach on the restructured program, through the end of the year and the first quarter of 2013. Martin noted that the Coast Guard is also working on outreach with respect to the recent change that, as of October 16, 2012, requires all vessels operating outside of 3nm to complete a mandatory biennial dockside examination. The Committee commented that there will be logistical difficulties for vessels to meet this requirement, as the Coast Guard is underfunded for performing the dockside examinations, and there are very few qualified marine surveyors in Alaska who can be hired to perform the inspection. Nathan Lagerwey (NOAA OLE) also reported that his office is engaged in outreach to vessels that may be carrying an observer for the first time. A letter and poster has recently been sent out to vessel owners identifying expectations for how to treat the observer. The Committee discussed the outreach plan, and provided several additional suggestions, both during the discussion on this agenda item, and during the remainder of the meeting, which are all listed below.

- Develop several glossy pamphlets with an overview of the program, similar to those developed for the IFQ program.
- As the Small Entity Compliance Guide is intended more as a program user guide, it should not be titled as a “compliance guide”.
- The compliance/user guide should include examples of the particular situations that may be applicable to different fishermen and vessel owners, and what is expected in these situations.
- Develop a one page briefing document designed specifically for observers, describing how the program will (or will not) affect observers. Distribute this one pager prior to the 4 day refresher trainings.

- Provide information to previously unobserved vessels about what the requirements are for housing an observer onboard. Other than a bunk, what other expectations or needs are there for sampling space, observation, or gear.
- Make sure the October 26 letter includes sufficient background to put the program in context, as it may be the first time many people have heard about the restructured program.
- Some of the people affected by the program don't have FFPs, so won't receive the October 26 letter, but will still be charged a tax on their groundfish landings. This situation should be included in the compliance/user guide, and addressed at outreach meetings, to spread the word. Also, consider whether there is a way to notify this group through the CFEC.
- Try to expand outreach meetings to additional communities. Perhaps local fishing associations can coordinate the meetings, with support from NMFS. A meeting in Homer in December would be helpful, before the cod A season starts.
- Try to coordinate outreach meetings with the Coast Guard, including offering dockside inspections at the same time.
- AIS should be encouraged to participate in outreach meetings, in order to put a face to the company.
- Outreach and training to processors is important, especially to those who get limited deliveries. The proposed webex training seems like a good approach, but also consider encouraging processors to attend community outreach meetings if possible.
- Consider sending outreach materials to the processors as soon as they are available, to post in the plants (e.g., begin now, with the NOAA Enforcement posters about how to treat an observer).
- Consider having a registration system demonstration at the IPHC annual meeting in January, either as an evening session, or perhaps a station in the lobby.
- Consider putting a demonstration of the registration system online, so that people can practice using it before implementation.
- Acknowledge in outreach materials and presentations that it may behoove fishermen to get protection and indemnity (P&I) insurance for the observer. This coverage is typically charged at a lower rate than coverage for active crewmembers on the vessel.

### *Registration System Demonstration*

Craig Faunce (NMFS FMA) gave a powerpoint presentation describing the registration system, and showing relevant timelines and screenshots. He noted that the "registration system" essentially consists of two systems working as one, separately providing tools for the vessel and the trip selection pools. The first system, IVERS (Initial Vessel Electronic Registration System), is for vessels in the vessel selection pool, and has two purposes: to provide a vehicle for a vessel owner to dialogue with NMFS about the suitability of his vessel to carry an observer, and to provide a way for the observer provider to track logistics of coverage with these vessels. Vessels will be randomly selected for observer coverage two months before the beginning of each quarter. A letter will be sent 30 days before the quarter begins to notify the vessels of their selection. The letter must be answered within approximately two weeks, by logging into IVERS. In 2013, IVERS will not be accessible on smartphones. (Craig explained that for vessels that opt to call in to the system instead of using the online interface, the same systems will be used, only a data technician will be inputting the vessel's information into the computer based on the phone conversation, in lieu of the person doing it directly.) IVERS screens for two particular questions: are you planning to fish this quarter, and can you provide for an observer on your vessel.

The Committee clarified a number of operational, process issues with Craig. At least initially, NMFS personnel will be individually inspecting all vessels that have indicated they are unable to provide for an observer on their vessel, prior to the start of fishing in each quarter. Timing for these inspections will need to be worked out cooperatively between NMFS and the vessels. The Committee also asked whether the

same observer is likely to stay with a single boat during the entire 3 month season, if the vessel is fishing for the majority of the time. While this is not required under the program, it is likely that this would end up being the case. A further clarification related to the difficulty of notifying vessel owners that they have been selected for coverage, both because of changes in mailing addresses, and vessels being out fishing during the critical notification periods (especially during notification for the third quarter). The agency clarified that it is their responsibility to inform the vessel that it is required to have coverage, which differs from the trip selection pool, where the onus is on vessels to determine whether they need coverage. However, it is also possible for vessels to check, in the registration system, whether they have been selected to have coverage. Finally, Craig clarified that if a vessel is not part of the system, because he has never before fished in the Federal fishery, but wants to take an IFQ fisherman onboard for the first time, he does not have any responsibility to notify NMFS before he goes fishing. His Federal activity will be noted during that quarter, and the vessel will be automatically added to the vessel selection pool beginning with the following quarter.

The primary system, ODDS (Observer Declare and Deploy System), is designed to facilitate the random assignment of observers in the trip selection pool. A vessel owner or designated skipper must log each trip he intends to take, listing his intended dates and ports of departure and return. Craig clarified that the system does not require any declaration of where the vessel intends to fish, or in which target fishery it intends to participate. The system will randomly assign whether the trip needs to be observed or not. If it is to be observed, the observer provider has up to 72 hours after the trip log time to ensure that the observer is made available in the port. If the observer is not present, the provider defaults, and the vessel may leave to go fishing. Once the observer arrives, the vessel has 48 hours during which to leave on the trip. If the vessel doesn't leave during that time period, the vessel is considered to have defaulted, and on its next trip, will automatically be required to take an observer. The Committee again discussed with Craig how to deal with particular situations within this process, for example severe weather conditions, or logging multiple trips in advance. The system allows vessel owners (or designated skippers) to amend the timing of an unobserved trip, and allows observer providers to amend the timing of an observed trip. Alternatively, a vessel owner could log multiple trips to maintain flexibility in case of storms, and cancel those that do not work out. Note, if an observed trip is cancelled by the vessel, the next trip by that vessel will automatically be required to have an observer. Craig also clarified that a vessel owner does need to close out trips in the system, which allows the vessel owner to update the trip record with the actual dates and ports of departure and return. The system only allows a limited number of trips to be logged at any one time.

For both systems, the Committee raised situations where further clarification by the agency is needed. These are listed under the deployment report agenda item, as operational comments for NMFS.

### **3 Review of the 2013 Annual Deployment Plan**

#### *2013 ADP*

Craig Faunce gave a presentation of the September 5<sup>th</sup> draft of the 2013 Annual Deployment Plan (ADP). Because the costs of an observer day are not yet available, as the contract with the observer provider has only recently been finalized, the September 5<sup>th</sup> draft focuses on methods, rather than describing the actual deployment rate that will be targeted for 2013. The goal of the deployment plan is to achieve representative coverage throughout the fishing year. It is anticipated that this goal will be achieved because there is a decreased ability and incentive for vessels to introduce an observer effect, as they are not paying for their own trips, and also because the distribution of trips should be proportional to fishing effort. Craig explained the intention to apply an equal rate of deployment both to trips (in the trip selection pool) and vessels (in the vessel selection pool). He noted that data from the vessel selection pool will also be extrapolated to the zero coverage fleet (vessels under 40' LOA, and jig vessels), so that the

deployment rate in the combined sector will actually be reduced. In the example slide presented, this rate (the effective rate) would be reduced by more than 50 percent, if there were twice as many vessels under 40' LOA as were in the vessel selection pool. Craig also presented five evaluation analyses that are included in the deployment plan. He noted that there had been consultation with stock assessment authors during the development of the plan, and that the Plan Team had reviewed the draft at their September meeting.

The Committee asked many clarifying questions of Craig, including about how deployment will work differently in the trip versus vessel selection pools, and how cost effectiveness is addressed in the deployment plan. The Committee asked what the incentive would be for a vessel in the vessel selected pool to take a camera if they also had to take an observer. Craig clarified that there would be two separate selections in the vessel selected pool. One selection would be for observers, and the other would be for that subset of the vessel selected pool that volunteered for the electronic monitoring pilot project. It is possible for a vessel in the vessel selected pool to take an observer, or a camera, or both, under the proposed selection process. The Committee also noted that there is a substantial reprogramming of observer effort from shoreside processors onto vessels, compared to the status quo.

#### *Public Comment*

Ten people provided public comment on this issue, and two written letters were distributed to the Committee. The majority of issues raised in public comment were subsequently captured in the Committee's discussions and recommendations. The two issues that were not addressed relate to obtaining prohibited species catch (PSC) data in the GOA trawl fisheries. One commenter noted that it is not clear from the 2013 draft deployment plan how the restructured program will address the Council's priority of getting better PSC data from the GOA trawl fisheries. The second commenter requested that this and future deployment plans should prioritize and provide for extended periods of 100% observer coverage for GOA trawl fisheries that have significant bycatch concerns.

#### *Committee Discussion and Recommendations*

First, the Committee noted that the September 5<sup>th</sup> draft of the deployment plan is incomplete, and does not include necessary information to adequately review the 2013 deployment plan. **The Committee expressed frustration that a substantially different version of the ADP is going to be presented to the Council in two weeks.** Without the proposed coverage rates for the vessel selection fleet, the Committee is limited in its ability to evaluate whether the ADP is achieving the objectives of the restructured observer program. Additionally, it is difficult for the Committee to express support for this deployment plan, knowing that this is not the final version.

Nonetheless, the Committee highlights the following significant recommendations to the Council regarding the 2013 ADP. The Committee notes that while some of these items require clarification for implementation in 2013, others are major issues that need to be evaluated over the next 12-18 months. It is not intended that these recommendations delay implementation of the program for 2013. Additionally, the Committee has identified some other comments, and a suite of required clarifications addressed primarily to the agency, which are captured in the table at the end of this section.

1. **The Committee recommends that the Council ask NMFS to clarify how a waiver from observer coverage is granted, if the observer provider is unable to provide an observer.** The Committee notes that a timely waiver, in the instance when an observer is not available to depart at the scheduled time, will be critical to the success of the program, especially in high-paced fisheries where even a four-hour delay can mean a substantial lost opportunity. Neither the proposed rule nor the deployment plan identifies what the process for granting a waiver will be, other than indicating that the vessel must receive one. It is, however, imperative that the wait time

for this process be minimal, for example, a phone call with an immediate answer. Note, the Committee understands that the system grants the observer provider 72 hours after the trip is logged to get an observer to the port of departure; for the vessel selection pool, such time windows have yet to be specified (see related comment in the table below).

2. **The Committee recommends that the Council ask NMFS to reconsider the timing requirements for requesting a release from observer coverage, and inspecting a vessel that has made that request.** Under the proposed rule, vessels that have been selected for coverage in a particular quarter are notified by letter 30 days before the start of the quarter, and need to respond to NMFS with a minimum of two weeks before the start of the quarter as to (a) whether they intend to fish, and (b) whether they are capable of providing for an observer on their vessel. The Committee noted that, especially for the 3<sup>rd</sup> quarter notification, two weeks is an insufficient period for vessel owners to respond to NMFS with their fishing plans for the upcoming quarter. Vessels may be at sea during that time period, and either unable to obtain their mail, or unable to access internet or telephone to call into the system. The agency indicated that there is nothing prohibiting them from sending out the notifications earlier than 30 days before the start of the quarter, therefore the Committee suggests that the agency adopt a longer timeframe. Additionally, the Committee clarified with NMFS that the agency needs to have a minimum of two weeks in order to arrange for a vessel inspection, if the vessel has indicated that it cannot provide for an observer. However, this minimum time period need not necessarily occur before the start of the quarter, but rather before the vessel takes its first trip of the quarter. Consequently, the Committee recommends that the language in the proposed rule reflect this change.
3. **The Committee recommends that the Council ask NMFS to reconsider the continuous three month coverage period for vessels in the vessel selection pool.** To have an observer onboard for 100% of all trips within a three month period is onerous for small vessels, especially in periods when they are fishing continuously throughout the time period (for example, during the first quarter for vessels participating in the GOA cod fishery, or during the summer for vessels fishing IFQ species). The cost to the vessel of carrying an observer onboard (for example, food and insurance costs) will be burdensome for long durations. Additionally, the length of this time period complicates the agency's ability to predict the number of sea days that will be required to cover this sector. The Committee noted that the three month period was originally proposed when it was thought that EM would be available as an alternative to a human observer, and it was thought that the installation and removal costs of the cameras would be better amortized over the longer time period. The Committee discussed several alternatives to the three-month duration. Members of the Committee noted that even if the coverage were shortened, there would be limited opportunities to game the system (by choosing not to fish during the time period a vessel is selected for coverage), because most of the affected vessels have external constraints dictating when they are available to fish their IFQ. Another suggestion was to require that a vessel be observed no more than 30 days within the 90 day period. This would address concerns about costs to the vessel of carrying an observer potentially for 90 days. It was also noted, however, that this might increase costs to the observer provider. A final suggestion was to hasten the development of appropriate EM systems.
4. **The Committee recommends that the Council reaffirm that crew members should not be displaced by the requirement to have an observer onboard.** This issue was discussed during the development of the observer restructuring analysis, and the Committee believes that the Council clearly signaled this policy as its intent. Martin Loefflad presented two contrasting examples of how a vessel's request for release from coverage is handled in other regions of NMFS, from stricter to more lenient interpretations. At Martin's request, the Committee discussed this issue, and recommends that the policy statement above should be the agency's guideline for reviewing requests for release from coverage.

5. **The Committee recommends that the difference between coverage in the vessel and trip selection pools be evaluated.** In the immediate term, the deployment plan should include a comparison of the number of trips and sea days proposed for 2013 in the vessel selection pool, as a direct measure to compare coverage rates between the sectors. The Committee also identified tools that can help the Council to assess whether the division of the fleet into these different pools is appropriate. For example, an evaluation should be conducted of whether vessels in each stratum (over and under 57.5' LOA) fish in similar or different areas, and are thus likely to have different catch and bycatch rates, or use different gear configurations. Members of the Committee contended that the length classes were established because vessel length is a measure of a vessel's relative ability to carry an observer, rather than because the catch composition would likely be different between the classes. Therefore it is important to conduct an evaluation to see if there is a basis for treating the two classes differently in terms of the observer data received from each pool. The agency noted that some catch composition analysis of the two groups was included in the observer restructuring analysis. The Committee clarified that given its concerns, the Committee recommends that the sampling methodology be reviewed by the SSC. Another concern that was discussed was that only the observer data from the vessel selection pool vessels will be used to extrapolate to the under 40' LOA vessels that have zero coverage. The low overall deployment rate when considering these two sectors in combination could lead to management based on highly uncertain data.
6. **The Committee recommends that the agency's decision to use an equal rate of deployment between the trip selection and vessel selection strata be evaluated against the Council's original objectives for the restructured program.** The Council's problem statement for the observer restructuring analysis highlighted that "*[T]he quality and utility of observer data suffer because coverage levels and deployment patterns cannot be effectively tailored to respond to current and future management needs and circumstances of individual fisheries.*" The Committee is concerned that the deployment plan does not recognize that management needs differ among individual fisheries. There is a class of fisheries for which inseason data is imperative, for example, to manage inseason catch or PSC limits. For other fisheries, the constraint is not inseason actions so much as quota landings. These different situations lead to different priorities for observer data, and the need for a flexible program to address those needs. The Committee believes that the equal rate of deployment between strata ignores the needs of individual fisheries. Additionally, the Committee noted that throughout this process, there have been promises that the implementation of observer coverage in the previously unobserved fleet will be "low and slow". Members of the Committee objected that the deployment rate for the vessel selection pool, as proposed in the deployment plan, is not low and slow. A rough calculation, using the heat map figure in the deployment plan, indicates that approximately half of the available observer days will be allocated to previously unobserved vessels. Finally, the Committee is concerned that the restructured program has lost sight of the intent to consider cost effectiveness in deployment. An example that was frequently cited during the development of the analysis was that a vessel's trip that involved fishing IFQ for a day, followed by six days of salmon fishing, would not be required to carry an observer for all seven days of the trip, and that reasonable management decisions would ensure cost effectiveness in the program. As it has been set forth, however, the program and the deployment plan do not seem to contain any checks and balances to allow for reasonable management decisions. As a result, the Committee recommends that the Council ask for an evaluation of how the program, as it has been proposed, comports with all of the Council's original objectives.

In discussion, the Committee did note that in the analysis, it was acknowledged that the first step for the restructured program would be to get a baseline of data for some initial period of time, with representative data from across all fisheries, and that subsequently, through the annual deployment plan, there would be flexibility to change and refine priorities. The issue of whether

the proposed 2013 deployment plan is consistent with the Council’s objectives remains of concern to Committee members, however, especially as at this time, there is only a one-year time frame for evaluating where the program is headed. Additionally, it seems possible that there will only be a limited ability to make changes to the 2014 deployment plan as well (see initial comment in the table below).

7. **The Committee recommends that the Council address two situations that have arisen with respect to assigning vessels to the partial versus the full coverage categories.** First, the Committee recommends that the Council find a solution to allow vessels in the BSAI Pacific cod trawl catcher vessel fleet to continue to have 100% coverage in their fleet, even though they are currently in the partial coverage category. Vessels who participate in the cod fishery, and also fish in the Bering Sea AFA pollock fishery, have been voluntarily taking an observer 100% of the time, in accordance with the voluntary bycatch cooperative they have created to control halibut bycatch. While the Council was aware of this situation at the time of final action, the Council chose to put this fishery in the partial coverage category. Some options that may be considered, to allow the necessary coverage levels for the bycatch cooperative to continue, include the following: 1) move the fishery to the full coverage category (which will require regulatory change); 2) allow vessels to supplement partial coverage with pay-as-you-go to achieve 100% coverage. Also consider and mitigate any data bias that may arise with allowing vessels to voluntarily increase their coverage in the partial coverage fleet. Second, the Committee recommends that the Council reconsider the regulation that requires that if a vessel acts as a catcher processor (CP) for any part of the year, it is placed in the full coverage category for all fisheries. The Committee heard testimony from a vessel owner who fishes exclusively as a CP in the BSAI Pacific cod pot fishery, and for the remainder of the year in catcher vessel fisheries, and for whom the requirement for full coverage is substantially onerous.

The following table includes other comments on the deployment plan and operational recommendations for program implementation.

<b>Comments on the annual deployment plan (ADP)</b>	
Clarification as to whether the ADP can be changed	<ul style="list-style-type: none"> <li>It is still unclear whether change is possible to the 2013 deployment plan, while still meeting the goal of implementation in 2013 (e.g., making all vessels in the vessel selection pool subject to trip selection, or changing the duration of coverage for vessel selection vessels).</li> <li>The likelihood of changing the basic elements of the deployment plan for 2014 is also unclear. Will there be pressure to retain the same basic program elements for 2014, given that at the time we are developing and commenting on the 2014 plan, there will not yet have been a complete year of fishing under the new program?</li> </ul>
Additional comparisons needed in the ADP	<ul style="list-style-type: none"> <li>Program evaluation should compare the current metrics for assessing the rate of coverage (trip, vessel) with the overall percentage of catch that is observed. The Council should consider whether the volume of catch that is being observed meets the Council’s objectives for the restructured program.</li> <li>It will be useful to compare the current rate of observer coverage (for the zero + 30% fleets) to the predicted 2013 rate of coverage (for the zero + partial coverage fleets).</li> </ul>
Conservatism in predicting the required number of observer days in the ADP	<ul style="list-style-type: none"> <li>The estimate of the number of observer days required for the proposed deployment rate, as will be established in the deployment plan, has a 90% probability of not exceeding available funds for the program in the startup year. This figure may not be sufficiently conservative, as it is based on the previous system, where fishermen had an incentive to minimize costs (because they were paying providers directly).</li> </ul>
Long term evaluation	<ul style="list-style-type: none"> <li>Monitor how the 40’ and 57.5’ length class designations, for zero coverage, and differentiating between the selection pools in partial coverage, respectively, is affecting operational decisions for vessels.</li> </ul>

<b>Operational recommendations for NMFS</b>	
Vessel selection pool process	<ul style="list-style-type: none"> <li>• Need to address concern about letters reaching vessel owners in the vessel selected pool, especially for the quarter beginning July 1<sup>st</sup>, to inform them they have been selected for coverage (e.g., develop the ability to check online or through the call-in center).</li> <li>• NMFS may want to send letters by certified mail with return receipt, if the onus is on the agency to make sure the vessel owner has received the letter informing him he needs coverage.</li> <li>• Clarify the process for a vessel in the vessel selection pool which was selected for coverage, and initially indicated that they were not going to fish, when they change their mind and want to go fishing yet still comply with the coverage requirement.</li> <li>• If NMFS intends to request that any vessel that is claiming that they are unable to take a human observer make itself available in port at a specific time for the inspection, as much advance notice as possible needs to be given.</li> <li>• Clarify that the procedures for obtaining observer coverage in the vessel selection pool would use the procedures in the trip selection pool as guidelines. Due to dynamic nature of that fleet, a more flexible interpretation may be necessary.</li> <li>• Clarify what the process for requiring observer coverage will be if a vessel has a varying crew size from trip to trip (i.e., could sometimes accommodate an observer, but not other times).</li> <li>• Clarify whether the observer provider can require a vessel to house an observer onboard while the vessel is in its homeport (and the captain/crew want to be at home).</li> </ul>
Amend an existing trip in the system	<ul style="list-style-type: none"> <li>• While NMFS has identified that the ability to change the departure time and date for trips is available to the observer provider for observed trips, and the vessel owner for unobserved trips, need to reinforce that this utility is going to be critical to the success of online registration.</li> <li>• Vessel owners need to be able to change the port of embarkation and landing for an observed trip.</li> </ul>
Observer safety	<ul style="list-style-type: none"> <li>• Need to address concern that there is a higher risk for observer harassment<sup>3</sup> accompanying deployment on small vessels. The proximity between the observer and crew is very close, observers will likely be deployed continuously with the vessel for long periods of time (perhaps 3 months), and fishing occurs in remote areas where it may be difficult for the observer to be removed quickly from the situation. Some suggestions include education and outreach to vessels coming in to the program, and preparing protocols for resolving issues of conflict.</li> <li>• Prepare observers that having a safety decal does not automatically mean that a life raft will be available onboard the vessel. Some small vessels with a crew of &lt;4 people on board are not required to carry a life raft. Note, the agency may wish to investigate the use of valise life rafts for observers, in these cases.</li> </ul>
Reporting the fee	<ul style="list-style-type: none"> <li>• Have it be identifiable to the vessel which portion of the fee is apportioned to the harvester and which to the processor.</li> </ul>
Observer refuses to come onboard	<ul style="list-style-type: none"> <li>• Clarify what is the process if an observer refuses to board a vessel.</li> </ul>
Overriding existing regulations	<ul style="list-style-type: none"> <li>• Clarify whether the current regulation, that certain vessels must always take an observer on trips in Southeast, is overridden by the restructured program.</li> </ul>

## 4 Electronic Monitoring

### *National EM white papers*

Martin Loefflad and Jennifer Mondragon provided an update on national NMFS plans to develop six white papers on electronic monitoring. Note, as used nationally, the range of technologies considered to be EM extend beyond cameras to include things like vessel monitoring systems (VMS), scales, electronic logbooks, and electronic landings systems. The six white papers address the following topics: 1) Analysis of existing EM technologies/programs; 2) Enforcement issues/impediments; 3) Legal/confidentiality

<sup>3</sup> Note, in this sentence, the term “harassment” is being used as defined by the Observer Program. Members of the Committee expressed sensitivity to the use of this term, which may have a different meaning to the layman. It was noted that in some cases, the risk may be of issues resulting from social incompatibility or personality conflicts.

concerns; 4) Research and development requirements; 5) Re-alignment of management and monitoring; and 6) Funding options. The papers were originally scheduled to be developed by fall 2012, however this has been delayed. The current plan is for the papers to be reviewed at NMFS internal leadership council meetings through the end of the year, after which feedback will be solicited from the Councils and Commissions, before making the papers (perhaps combined into a synthesis) available to the public. Martin and Jennifer are providing input into the national process, including the perspective that the end product ought to be a strategic vision for EM, not a top-down prescription of how it should be implemented. Additionally, they noted that there are a lot of operational EM (broad definition) systems in operation already in Alaska (e.g., VMS, e-logbooks, eLandings, electronic observer data entry and transmission), and that the only operational<sup>4</sup> video systems in place anywhere in the United States are in Alaska (cameras are used to monitor compliance in the BSAI Amendment 80 and pollock fleets, will be required shortly for the BSAI Freezer Longline Conservation Cooperative, and are used for bin monitoring in the Central GOA Rockfish Program).

### *Halibut Fleet EM Pilot Project*

Dan Falvey presented a report on the second phase of the industry electronic monitoring program. The goal of the project, as developed with Martin after the March 2011 OAC meeting, has been to capture total removals on the subject vessels. It was specifically not designed to be an audit for logbooks, as is the goal of the Canadian EM system. The project field tested the two-camera system on ten vessels out of Sitka and Homer in phase 2, observing 21 trips and 76 hauls. Dan reported results for the four project objectives. He noted that operator engagement is critical for a successful program. In this pilot program, the incentive for participants was the development of EM to a point where it is a legitimate alternative to human observers. The field testing of EM hardware on a range of vessels met with some installation challenges, which were mostly overcome. The quality of video captured was medium to high quality, and the AFSC review of data from Phase 1 indicated that fish were able to be identified to the species level 90% of the time. Dan noted that when just counting fish (rather than every hook), the video could be adequately reviewed at 2 to 3 times the hauling speed. AFSC staff have not yet reviewed the data collected in Phase 2. The project successfully identified mechanisms to make the program cost effective, by making the control box (the most expensive portion of the system) able to be easily rotated among participants, and by maximizing the number of sea days observed for each installation. Finally, centering deployment of EM around particular ports, with a local port coordinator, is essential for success. The Committee discussed the project, and was supportive of the lessons learned. It was noted that the project did not address the cost of data review, which is an important element of an EM program; nor did it include a mechanism for assessing sample weights and lengths.

### *EM Pilot Project in the 2013 ADP*

Farron Wallace (NMFS FMA) presented the background for the agency's development of the 2013 EM pilot project. He discussed two relevant EM projects elsewhere that have influenced the design of the project, namely the 2010 Northeast multispecies fishery and the British Columbia system. In the Northeast, NMFS was trying to monitor catch on a real-time basis, for monitoring annual catch limits<sup>5</sup>. This included a need to understand both total catch, and proportion of discards, by species. They concluded, in their written report, that EM could not currently meet this objective in its present form. In Canada, the principal impetus is to monitor the status of several rockfish stocks, which are individually allocated, and for which there is a 100% retention requirement. The program covers approximately 200 vessels, and includes requirements for logbooks, a check-in/check-out for each trip, EM sensors, EM imagery (of which there is a 10% audit, comparing it to the logbook), and dockside monitoring to

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<sup>4</sup> There are pilot camera projects happening elsewhere, but they are not yet operational.

<sup>5</sup> [http://www.nefsc.noaa.gov/fsb/ems/2010\\_EM\\_REPORT\\_FINAL.pdf](http://www.nefsc.noaa.gov/fsb/ems/2010_EM_REPORT_FINAL.pdf)

measure weights<sup>6</sup>. Farron also noted drawbacks with the Canadian system, including some species identification problems, and that no biological samples are available for discarded catch. Martin also noted that there is a penalty mechanism whereby if the accuracy of the logbook is outside of the allowed 5% error margin, the vessel can be required to pay for a more extensive review of the video imagery.

Farron identified the considerations that went into developing the 2013 program. He acknowledged that the industry pilot program can be used to identify installation and configuration requirements which need to be regulated. The ability for reliable systems to perform at appropriate standards of data quality must also be taken into consideration, as well as data storage requirements. Partnership is critical to an EM program, and requires a clear definition of the relative roles of the agency and industry. In 2013, the EM program will be a voluntary program, which will begin in the second calendar quarter. It will target hook and line vessels that have had an IFQ landing in the second to fourth quarters in prior years, with an LOA of between 40' and 57.5', and with a history of fishing out of Sitka, Homer, Petersburg, or Kodiak. Eligible vessel owners will receive a postcard in early November inviting them to participate in the program, which they must return by February 13 in order to be included. While the contract for the EM program has been awarded, the agency does not yet know how many camera units will be available. The management objective of the project relates to demersal shelf rockfish retention requirements. Farron also described how the program will be used for further developing EM. Additionally, the agency will be looking for opportunities to use other, non-camera EM systems that may be less expensive, for example GPS data loggers to assess fishing effort and location, electronic logbooks to provide discard estimates, or elandings.

The Committee discussed many issues with Farron, including more details on the nature of the project, whether its focus is on compliance or bycatch accounting, whether and how it builds on previous work, and how the project fits in with the Council's direction to look at EM as a tool to replace human observers. Farron explained that for next year (2013), EM data is not yet at a stage where it can be used to replace an observer. The agency's intention, however, has been to identify a scientifically-valid first year study focused on validating an important management assumption, which they have done. At the same time, collecting video sets up the ability to evaluate other questions, including those that have been raised in previous studies, and provides an opportunity to develop the infrastructure for integrating EM data into management. He also noted that the development of the Canadian model required a three to five year implementation plan.

The Committee also discussed the importance of deciding on the management objective to be achieved before designing the EM project. It was noted that both logistic (replacing human observers on vessels) and data (discard estimates in the halibut fleet) objectives have been offered for EM. The design of the program might vary, depending on which objective is the ultimate end goal for the Council. Defining the goal would also give the agency more latitude to design a program that both meets the goal, and meets the agency's obligations (e.g., to understand sources of fishing mortality in assessing annual catch limits). For example, the EM system need not necessarily rely exclusively on cameras; it may be possible to combine a lower deployment rate of human observers with fishing location and effort data, and still meet Council objectives.

#### *Required Elements for Regulating EM*

Martin provided a brief update on the regulatory requirements for an EM program. He noted that the agency already has successful experience of regulating EM where the burden is placed totally on the industry to have a working system, and industry provides NMFS with the data (e.g., BSAI Amendment

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<sup>6</sup> Stanley, R.D., H.McElderry, T.Mawani, J.Koolman. 2011. "The Advantages of an Audit over a Census Approach to the Review of Video Imagery in Fishery Monitoring." <http://icesjms.oxfordjournals.org/content/early/2011/05/09/icesjms.fsr058.short?rss=1>

80, BSAI Amendment 91). To deploy EM in a regulated environment would require specification of several different elements, including, but not limited to: a) what industry would need to provide to NMFS; b) how would they make their vessels accessible for deployment (e.g., providing electrical power, allowing welding of EM components, etc.); and c) what would a vessel operator be required to do for maintenance out in the field (e.g., keep the camera lenses clean). The agency intends to develop a complete suite of elements from the pilot project, and also the national white papers as they develop.

The Chairman provided context for this discussion by noting that when the Council was informed that EM could not be required in the proposed rule because these details for implementation had not yet been developed, it was assumed that developing performance standards for EM was the next logical step, and the charge to the OAC was formulated accordingly. Given the agency's proposed EM pilot project, however, and the discussion of the Committee, it seems that the time is not yet ripe to initiate a regulatory package for EM.

#### *Public Comment*

Four people provided public comment on this issue. The issues that were raised in public comment were subsequently captured in the Committee's discussions and recommendations.

#### *Committee Discussion and Recommendations*

**The Committee expressed its frustration with the change in direction by the agency with respect to EM programs.** The Committee recalled its previous direction as to the priority for EM being to obtain discard estimates for the 40'-60' halibut and sablefish IFQ fleets (focusing on smaller vessels in the startup phase), which was approved by the Council in April 2011. In the industry pilot project, which was a joint effort with NMFS, this management objective was broadened to be estimation of total catch, agreed between the project developers and Martin Loefflad. The management objective that is described in the September 5<sup>th</sup> draft of the deployment plan is quite different, and focuses on using EM cameras to monitor compliance with rockfish retention requirements. Despite the indication about the importance of partnership, industry was not consulted in the change in management objective. The Committee also notes that there was originally an expectation that EM would be integrated as part of implementation; this was also changed at the last minute. The Committee would like to see the development of EM return to its original intent, namely to develop a system that can replace human observers on vessels, or for the agency to provide a thorough explanation of why that is not possible.

Additionally, the Committee makes the following three recommendations to the Council.

1. **Restate the management objective for the 2013 EM pilot project.** From the deployment plan, the focus of the EM project appears to be an enforcement one, to ensure compliance with rockfish retention standards. The Committee notes that it may be very difficult to get volunteers for such a project. Through discussion with Farron, however, the Committee discerned that the intent of the management objective is to verify assumptions rather than enforce compliance. Additionally, the goals of the pilot project are more comprehensive, and equally important is the process of figuring out how to address obstacles in order to build an EM program capable of integrating with catch accounting in the future. The documentation should be reworded to more accurately reflect the intent of the project.
2. **Encourage NMFS FMA to work cooperatively with industry regarding further development of the 2013 pilot project.** One aspect of this cooperation is to identify an objective that industry will agree with, which does not focus on compliance. It would also greatly increase motivation to participate if there was an acknowledged connection between the willingness to carry EM, and the inability to carry a human observer. The Committee notes that the EM program

is not intended to be implemented until April, and believes there is still time for further effort to be put into how the pilot project develops. The agency may also want to consider focusing on a broader species group, as demersal shelf rockfish are only caught in the halibut fishery east of 140, which effectively excludes the community of Homer. Logistically, this cooperation should include scheduling an evening session at the October Council meeting, to discuss the management objectives of the pilot project with industry. Another avenue would be to create a better description of the proposed project, which would be circulated to industry prior to or in conjunction with the postcard inviting industry to participate in the program. This could include a discussion of how the proposed pilot program builds on previous work, and contributes to a longer-term goal. It might be advisable to delay the postcard inviting participation until the program is more clearly articulated. The goal of this recommendation is for FMA to build the necessary cooperation and partnership with industry which would encourage 30 to 60 vessels to volunteer for the program.

- 3. The Committee recommends that the Council request that NMFS initiate the development of a strategic planning document for EM**, identifying the proposed management objective(s) or vision for EM in the next 3-5 years. The management objective needs to be agreed upon by stakeholders, the OAC, and the Council. The Committee discussed some possible objectives, such as minimizing human observers in the small boat fleet, or developing a more cost effective way to get at-sea data. The strategic plan should also lay out the standards that EM is intended to achieve. It should include clear benchmarks, and a timeline for evaluating progress toward achieving the objective(s). It should also show how work-to-date (both the industry pilot project, and the proposed 2013 NMFS pilot project) would fit in with this vision. The scope of the vision should include other sectors in the partial coverage category, not just the halibut and sablefish small vessel fleet. However, there may be different objectives for different segments of the fleet. Finally, the plan should also show how the EM objective fits into the overall integration of the Observer Program as a whole. A draft of the paper should be presented at the June 2013 Council meeting.

The Committee noted that while the management objective initially needs to be defined with some urgency, to establish a common understanding of the end goal for EM development in the next few years, there also needs to be sufficient adaptability in the strategic plan to allow lessons to be incorporated from the first, and subsequent, years. A review of progress on the EM strategic plan should be part of the annual program performance evaluation scheduled for each June.

## 5 Scheduling

The Committee discussed the timing of future OAC meetings. The Chair suggests that the next OAC meeting be at or prior to the June 2013 Council meeting, to review the draft EM strategic plan, and also provide comment on the 2013 performance evaluation of the program. Given the timing of implementation, it does not seem feasible for the OAC to be directly involved in FMA's efforts to foster partnerships with industry for developing the 2013 EM pilot project. However, OAC members will likely participate informally in the evening session at the October meeting, and in other efforts to build cooperation.