

Observer Advisory Committee – Meeting Report REVISED 9/27/2013
September 18 - 19, 2013

Alaska Fisheries Science Center, 7600 Sand Point Way, NE, Seattle
Building 4, Observer Training Room
8:30 am – 4 pm (Weds); 8:30 am – noon (Thurs)

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

Agency Staff¹: Diana Evans (NPFMC), Chris Oliver (NPFMC), Martin Loefflad (NMFS FMA), Farron Wallace (NMFS FMA), Gwen Schnaittacher (NMFS FMA), Lisa Thompson (NMFS FMA), Glenn Campbell (NMFS FMA), Glenn Merrill (NMFS AKR), Jennifer Mondragon (NMFS AKR), Sally Bibb (NMFS AKR), Matt Baker (NMFS REFM), Tom Meyer (NOAA GC), Nathan Lagerwey (NOAA OLE), Alicia Miller (NOAA OLE), Nicole Kimball (ADFG), Megan Peterson (ADFG).

Other attendees included: Liz Mitchell (Association for Professional Observers), Jason Anderson (Alaska Seafood Cooperative), Becca Robbins-Gisclair (Yukon River Delta Fisherman's Association/Alaska Marine Conservation Council), Luke Szymanski (AIS, Inc.), Troy Quinlan (TechSea), Mike Murphy (TechSea), Heather McCarty (Central Bering Sea Fishermen's Association / Pacific Seafood), Mike Szymanski (Fishermen's Finest), Denby Lloyd.

Agenda

- I. Introductions
- II. Review and approve agenda
 - a. Council direction on OAC task
- III. Update on implementation of observer restructuring
(including information about observer coverage comparison 2012 vs 2013, and information about program costs / initial thoughts on ways to achieve savings)
- IV. Draft 2014 Observer Annual Deployment Plan
 - a. Review of NMFS letter responding to Council recommendations and requests for the 2014 ADP
 - i. *Conditional release for trips harvesting small amounts of IFQ*
 - ii. *Observer coverage for vessels delivering to tenders*
 - iii. *Deployment period for the vessel selection pool (evaluate 2-month period)*
 - b. Presentation of deployment plan
(including discussion of GOA Chinook salmon genetic sampling)
 - c. Public Comment
 - d. OAC Discussion and Recommendations
- V. Scheduling & Other issues
 - a. Discussion of voluntary observer coverage for clean up IFQ trips involving multiple regulatory areas
 - b. Discussion of NMFS letter to Council on 2014 EM pilot project

Introductions and agenda

Introductions were made, and the agenda was approved. The Chair identified that the primary task for the Committee at this meeting is to review the 2014 annual deployment plan, and provide comment and recommendations to the Council. In October, the Council is also scheduled to discuss issues relating to

¹ NPFMC – North Pacific Fishery Management Council; NMFS FMA – Fishery Monitoring and Assessment division at the National Marine Fisheries Service's Alaska Fisheries Science Center (AFSC); NMFS REFM – Resource Ecology and Fisheries Management division at the AFSC; 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.

electronic monitoring (EM). Although these are not on the OAC agenda, a brief update was provided about developments that have occurred over the summer with respect to the anticipated appointment of a Council EM working group, of markup language in the Senate appropriations bill with respect to funding for developing EM, and the potential development of an EM experimental fishing permit by the Alaska Longline Fishermen's Association. The Committee also had a brief discussion of the agency's letter to the Council with respect to the 2014 EM pilot project, and added further comments on the letter to the agenda.

Update on implementation of observer restructuring

Martin Loefflad updated the Committee on several issues related to the program. A scientific review of the AFSC's data collection programs was conducted in September, looking at the fishery dependent data collection program as well as the AFSC surveys. Martin also reported on personnel changes and an upcoming scientific conference. Also, the agency is preparing for the implementation of the fee collection portion of the restructured program. Observer fee bills will be mailed to processors on January 15, 2014, and bills are due on February 15.

The agency is getting ready to embark on its second year with AIS, Inc. as the observer provider. Some cost savings that are being implemented in 2014 include transferring the call center responsibilities for the trip selection pool directly to AIS, and changes to the process for collecting salmon genetic samples in the GOA. The agency is also preparing to rebid the observer provider contract for the partial coverage category for 2015 and beyond, which may result in changes to the cost structure.

Draft 2014 Annual Deployment Plan

Farron Wallace and Martin Loefflad presented the agency's response to the six requests and recommendations made by the Council in June 2013 with respect to the 2014 ADP, as well as the ADP itself, with the help of NMFS Alaska Region staff. In general, the 2014 ADP employs the same process for deployment as was implemented in 2013. Staff continues to improve its projections of fishing effort, which form the basis of the ADP, as well as improving the presentation of data for the Council.

The Committee asked many clarifying questions about the issues addressed in the letter, and elements of the ADP. Martin explained that the ADP is based on a target budget of \$4.8 million. The exact budget resulting from fee collection has yet to be determined, although it is anticipated to be at least \$4 million. Approximately \$700,000 in end-of-the-year federal funding has also been allocated to the program for next year, as well as bridge funding to allow the program to operate until the February 15 observer fee payments are received. Farron also provided additional explanation of the heat maps that evaluate the range of observer coverage by fishery, and compare 2012 versus 2013. He noted that for next year, these maps will also be broken down by gear type and area, to improve their accessibility. He also provided a description and analysis of the proposed change in genetic sampling for salmon in the GOA trawl fisheries.

Public Comment

Four people provided public comment on this issue. The Committee heard concern about continued low coverage on vessels that are operating under PSC limits; an impetus to initiate a regulatory amendment to address the tender issue; and a concern that supplemental funds will be needed next year in order to reach the target budget, highlighting the importance of cost savings to maintain current and achieve higher rates of coverage. There were also questions about how AIS is performing under the observer provider contract.

Committee Discussion

The OAC makes the following comments and recommendations on issues addressed in the NMFS ADP letter.

1. Continued priority to set vessel selection pool selection rate at 0.75 of trip selection pool. **The OAC continues to support the priority of setting a higher selection rate for PSC-limited fisheries.** It was noted in the discussion that the trip selection versus vessel selection pools are not ideal proxies for this distinction, as there are vessels in trip selection that are not PSC-limited, and the OAC looks forward to more data on this question at the June 2014 review.

2. Conditional release policy maintained, but restricted to the vessel selection pool beginning in 2014. Members of the Committee were concerned about the agency's decision not to allow conditional releases in the trip selection pool, and would prefer that no policy statement is made about the trip selection pool. It was noted that the small number of releases requested in the trip selection pool should not represent a burden for the agency, but there were cases in which the release provided tangible relief. Another member of the Committee expressed concern that the policy allowing conditional releases introduces bias into the data.

3. Releasing vessels based on de minimus IFQ in their accounts may be complicated and require regulatory amendments. The OAC felt that the analysis of this issue, as included in the NMFS letter, identified a complicated, logistical path that the OAC and Council did not intend. Based on the specific language included in the Council motion, the agency focused on the need to track IFQ holders onboard the vessel, with the conclusion that this would be extremely difficult. **Instead, OAC members identified two separate issues that this request is intended to address, and recommends that further analysis be undertaken to evaluate them.** The more immediate issue identified is that IFQ holders that have fished almost all of their IFQ, but have a small poundage remaining in their account, are triggering the requirement to carry an observer when they switch fisheries and move into a State water fishery, when otherwise they would not be required to have observer coverage. It was noted that this amount of IFQ might normally be rolled over into the following year's IFQ account (under the 10% rollover provision), and instead vessels are having to go out to catch the last few fish to void their accounts. Members of the Committee offered a suggested solution of granting conditional release in these instances, where a vessel would be released from coverage based on the condition of not landing more than a specified number of pounds of groundfish or halibut (and landing in excess of that amount would incur a penalty). There was discussion with the agency about the logistics of the proposal, whether it is enforceable, and also about how this proposal would improve or decrease data quality. The Committee discussed several thresholds that could be analyzed to define a 'de minimus' amount in this instance (e.g., 500, 1,000, or 2,000 lbs). Members of the Committee noted that they would like to see this specific issue addressed in the 2014 ADP.

Second, the OAC also reiterated that the issue of considering a release from coverage based on de minimus amount of IFQ is also relevant to the issue of programmatic cost savings, where it may not be worth spending the program's limited observer days on vessels that only fish for a small amount of poundage. Data to address this question are scheduled to come back to the Council in June 2014, for example, the number of vessels that were observed in the program, and the amount they landed. Another way to evaluate this issue might be to suggest a system whereby a vessel that only landed a de minimus amount of fish in year X is exempted from the program in year X+1. The system could be linked to either a self-reporting system, or a conditional release, where the onus is on the vessel to opt back into the program if it is likely to land more IFQ than in previous years. Similar thresholds as

above could be used to evaluate these scenarios. NMFS noted that violations of such provisions can only be enforced if there is a regulation (not policy) to violate.

4. Tender activity is a potential source of bias in the observer data, and will require a regulatory amendment to address. The OAC recommends that the Council initiate a regulatory amendment to address tender activity. This issue should be added to the previously-tasks regulatory amendment discussion paper, currently scheduled to come back to the Council in December 2013, in order to identify the main issues for analysis, including potential options and data quality implications. The OAC discussion noted that this issue affects all sectors of the fleet (trawl, longline, and pot vessels), and contributes to fishermen's sense of whether the program is being implemented fairly.

There are two aspects to the tendering issue: first, a potential bias in the catch data if vessels are making extended, unobserved deliveries to a tender, and second, the lack of salmon genetic sampling that occurs with trawl tender deliveries. With respect to the catch bias, the NMFS letter preliminarily identifies the regulations that would need to be changed to deploy observers on or from tenders. The OAC highlighted that under the old program, observers were regularly deployed from tenders, either by vessels sharing an observer, or through the use of water taxis to get the observer out to the tender and ultimately the vessel. A member of the Committee also suggested that a VMS analysis could identify whether there are observed vessels delivering shoreside which are participating in the same fishery at the same locations as vessels delivering to tenders, in which case the data bias is likely to be less acute. With respect to the genetic sampling of salmon, the OAC suggests that agency also look at mechanisms to census and sample offloads at the tender, or to institute salmon sampling protocols on fish delivered to the tender when the tender delivers to port. It would also be useful to identify linkages between this action and the Council's broader reconsideration of GOA trawl tendering practices (currently scheduled to come back to the Council in February 2014). The OAC understands that it is the Council's intent to consider prioritizing among the regulatory amendments in December, and notes that in June, the OAC identified bias in data quality as one of the highest priorities for regulatory amendments.

5. Evaluation of the average number and length of trips in the 2-month deployment periods in 2013. The OAC appreciated seeing the additional data, and looks forward to further information in future reports.

6. NMFS' recommendation against reducing the deployment period from 60 to 30 days in the vessel selection pool. The OAC discussion reflected differing viewpoints with respect to this issue. It was noted that in some fisheries, where vessels are fishing continuously during the two month period, the economic burden of carrying an observer can be high. A shorter period would reduce the burden, and may allow the program to observe more vessels and thus improve data collection. At the same time it was noted that the observer experience is improved with longer stays, both socially and in terms of collecting the best data, as the observer gets in sync with the boat's fishing pattern. Some members of the Committee stated that they did not believe that there would be an increased ability to game the system (by choosing not to fish) with a one month versus a two month selection period. Others noted that a change in the length of the selection period should be tied to a shortened notification period, the implementation of a vessel registration system, and a provision that any vessel choosing not to fish would automatically be selected for the next period.

The Committee observed that some information relevant to this issue will be available in the June 2014 program review, and highlighted the need to be able to evaluate mean fishing days and trips among different sectors of the vessel selection pool. With respect to the potential for gaming, however, the agency noted that there is little further analysis that they will be able to provide, because

the release policy makes it difficult to evaluate who will be in the selection pool in a given period. The Committee discussed using a registration system, whereby vessels would notify the agency when they intended to fish, but also reiterated earlier discussions about shortfalls in the reliability of such a system.

The OAC also makes the following comments and recommendations on other aspects of the ADP.

Overall, the majority of the OAC supports the 2014 ADP, while continuing to support the need to improve some aspects of the restructured observer program. One committee member conveyed they do not support the 2014 ADP because the sampling fraction problem in the vessel selection pool is not being addressed adequately.

The OAC discussed the vessel selection sampling plan for 2014, especially in relation to the difference in anticipated versus actual sampling rate in the vessel selection pool. The agency reported that they will likely only achieve about half of the observed trips that they were hoping for in the vessel selection pool for 2013, even though they are over-selecting vessels for coverage in each period. **The OAC recognizes that the actual sampling rate in the vessel selection pool is a concern.** Members of the Committee offered various suggestions for addressing this issue, both immediately (for 2014) or on a longer term basis. For example, all fixed gear boats could be moved into the vessel selection category, which would address data and fairness issues with having only a few boats (that can accommodate an observer) in the current vessel selection pool representing a very large portion of the data collected. Another solution would be to provide an electronic monitoring alternative in the vessel selection pool, either through the NMFS pilot program, or through an experimental fishing permit if developed and approved. Rescinding the conditional release policy could also address this issue, and perhaps a vessel registration system would help, if designed to provide reliable data. The OAC also discussed whether registration for State water fisheries would provide an additional information source for when and where vessels may be fishing.

The OAC endorses the alternative salmon genetic sampling approach that is incorporated in the 2014 ADP. The Committee discussion noted that the new approach probably results in better data, although missing catch from tender deliveries continues to be a problem (see discussion above). A member of the Committee noted that once the non-pollock trawl regulations for full retention of Chinook salmon go into effect, the Council may want to reconsider sampling practices on non-pollock trawl vessels with full observer coverage, so that all Chinook salmon that are encountered are sampled.

Another issue discussed by the OAC relates to the process for making changes to the ADP. There is not much time between the June meeting (where the program review is presented) and the October meeting (for which the draft ADP is prepared) for the agency to respond with detailed evaluations of any Council recommendations. The OAC chair and the agency both noted that this is the first time we are engaging in this process. In order to improve the agency's ability to respond accurately to Council intent, the chair identified the importance of ensuring that the language of OAC recommendations and Council motions is clear. There was additional comment about whether the focus of the Observer Science Committee (OSC), as a science group, is by nature too narrow and not capable of providing a more balanced review of social and economic factors that proposed changes to the ADP are intended to address. It was suggested that the process should be modified to allow a more balanced review of requests.

Other issues

Voluntary observer coverage for clean up IFQ trips involving multiple regulatory areas

The OAC discussed the need for a regulatory amendment to address a NMFS IFQ regulation that prohibits a vessel from having more IFQ species onboard than the IFQ holder has remaining quota for in a single regulatory area, unless an observer is onboard. Under the old program, in order to avoid having to

make multiple trips (and engendering prohibitive costs) to conduct clean up fisheries in multiple regulatory areas, a vessel could choose to pay for an observer to come on the trip. This self-selection of observer coverage is not allowed under the restructured program, so if a vessel doesn't get selected for observer coverage, it is unable to fish its remaining quota amounts in multiple regulatory areas on a single trip. The Committee's discussion noted that the observer is primarily a compliance agent in this instance, so other compliance solutions might more appropriately and inexpensively meet this need. For example, the OAC learned that under the IPHC regulations in Area 4A-B-C-D, a vessel can choose to either carry an observer or use VMS in such instances, as long as catch from each regulatory area is clearly distinguishable (e.g., fin clips, colored bands tied around the fish, or fish stored in different bins or holds). **The OAC recommends that this issue be added to this list of potential regulatory amendments in the Council-tasked discussion paper, for further scoping and action.** The Committee notes, however, that this may in fact be as much an issue for the IFQ Implementation Committee, as an observer issue.

NMFS letter on 2014 EM pilot program

The Committee had many questions about NMFS' proposal for moving 14 vessels that participate in the 2014 EM pilot program into the zero selection pool. On learning that many of the details of this proposal remain undetermined, and that the agency is looking to the Council for guidance, **the OAC offers the following comments.**

- Noting the Council's existing priority for developing EM is the 40-57.5' fleet that is not restricted by PSC limits, these vessels should be the first priority for the 2014 pilot program. Secondary priorities can be determined by seeing how other fleets would match against pilot program monitoring objectives.
- Focus on vessels that have already been released from the requirement to have a human observer, or go back to the Council's April 2012 comment letter that linked the release from coverage after random selection to the offer of an EM unit. In this way, the EM program would provide data on vessels that would not otherwise be in the program, rather than reducing the pool of vessels that would otherwise have coverage.
- Get as much utility from the camera units during the year as possible, including deployment on multiple vessels. For example, consider deploying in the small boat Pacific cod A season, until vessels switch to salmon fishing. Need to clarify whether only the 14 vessels identified at the beginning of the year will be placed in the zero selection category, or whether that applies to any vessel on which the cameras are placed during the year.
- Be transparent about the objectives of the 2014 EM pilot program, as a way to determine which are the best vessels to participate. For example, is the objective to observe a vessel that is spending most of its time fishing, in order to assess how a lot of data can be processed; to see how easily (or not) cameras can be transferred among vessels; or to see how physically robust the camera systems are when they are used throughout the year in different weather conditions. Prioritize cameras for those vessels whose fishing characteristics are most likely to achieve the stated objectives.