

# Discussion Paper

## Observer Data Entry and Transmission Requirements

Prepared by the National Marine Fisheries Service  
Alaska Region  
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### Introduction

This document identified operational problems, regulatory gaps and potential overlaps that exist with current requirements for facilitating electronic reporting of observer data. Current requirements are summarized in Section 2 and issues are discussed in Section 3. Recommended actions to be analyzed are identified in Section 4.

### *Background*

In April 2015, the Council took final action on a salmon bycatch management measures (Amendment 110). Included in the analysis were provisions to change monitoring and enforcement requirements to facilitate electronic observer data entry and transmission. The proposed rule, published in the Federal Register on Feb 3, 2016 (81 Federal Register 5681), included these new requirements for AFA catcher vessels less than 125 ft. LOA when directed fishing for pollock in the BSAI to facilitate observer data entry by providing the onboard observer with a computer installed with the NMFS – approved software, ATLAS. This action is the most recent change to observer data entry requirements that were first implemented in 1995 onboard processing vessels and at processing plants.<sup>1</sup>

Data entry and transmission requirements have been updated periodically since 1995 to allow the incorporation of changing technologies and to apply to certain large catcher vessels (CVs) in 2004 and CVs participating in the CGOA Rockfish Program in 2006. In 2013, electronically reported observer data

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<sup>1</sup> Final Rule implementing electronic reporting of observer data published in the Federal Register on July 5, 1995 (60 Federal Register 34904)

was achieved on vessels in the partial observer coverage category as a result of the restructured Observer Program. **Amendment 110 will again expand electronic reporting of observer data, nearly eliminating faxed observer data.** Approximately 50 AFA CVs in the full observer coverage category will have ATLAS installed for the first time in 2016. This discussion paper examines observer data entry and transmission requirements without regard to the specific scope of any singular management action and identifies regulatory gaps, overlaps or operational problems.

## 1. Current Requirements

Table 1. Summarizes requirements to facilitate observer data entry and transmission by fishing operation type and observer coverage category. Requirements to provide a computer installed with the ATLAS software and access to transmission or communications equipment are identified with a yes or no. Yes means it is required and no means it is not required. Maximum data transmission frequency is provided as an indication of potential data timeliness. Data transmission is an observer duty as defined in the observer sampling manual and is not a requirement in regulation. A vessel or processor is not responsible to ensure an observer completes this duty, they are responsible to provide the equipment that would allow the observer to perform these duties. Three types of issues are identified in the table including operational problems, regulatory gaps, and regulatory overlaps, explained in more detail in Section 3. The vessel counts included in Table 1 are derived from information about the number of entities with ATLAS installed provided by FMA staff and information about fishery participants in the BSAI and GOA trawl fisheries in the Public Review draft RIR/IRFA for Full Observer Coverage on BSAI Trawl Catcher Vessels presented at the February 2016 meeting of the NPFMC.<sup>2</sup>

### *AFA Trawl CVs less than 125 ft. LOA<sup>3</sup>*

The implementation of Amendment 110 is expected mid-year 2016. The rule implementing Amendment 110, approved on March 29, 2016, would expand requirement to provide a computer installed with the NMFS-approved data entry software – ATLAS, to approximately 50 catcher vessels where observers have typically faxed data to NMFS. The ATLAS software will allow observers to electronically enter and edit fishery data, resulting in significant improvements to the initial data quality and speed of data availability. Faxed observer data could be delayed as much as a two weeks longer than electronically transmitted data. The group of vessels impacted by this new requirement is the last large group of vessels participating in fisheries in the BSAI and GOA where observers consistently have to rely on a fax machine to send their data to NMFS. **After Amendment 110 is implemented, NMFS anticipate all observer data will be reported electronically but existing regulatory gaps might result in some faxed observer data if additional vessels are placed in the full observer coverage category in the future.** These issues are discussed in more detail below.

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<sup>2</sup> Available online under agenda item C6  
[http://legistar2.granicus.com/npfmc/meetings/2016/2/934\\_A\\_North\\_Pacific\\_Council\\_16-02-01\\_Meeting\\_Agenda.pdf](http://legistar2.granicus.com/npfmc/meetings/2016/2/934_A_North_Pacific_Council_16-02-01_Meeting_Agenda.pdf)

<sup>3</sup> This discussion paper assumes that Amendment 110 will be implemented in 2016. The Proposed rule published in the Federal Register on Feb 3, 2016, and the FMP amendment was approved on March 29, 2016.

**Table 1. Regulatory requirements to facilitate observer data entry and transmission by fishing operation type and observer coverage category.**

Operation type & Observer Coverage Category		Count	Industry facilitate data entry and transmission?		Data Timeliness	Problem
			ATLAS	Transmit		
<b>Full Observer Coverage Category</b> (Approx. 40,000 Obs. Days, 177 Vessels/Processors, 5,000 Trips)	AFA Shoreside Plants & Stationary Floating Processors	7	YES	YES	Daily	NO
	Catcher/Processors	70	YES	YES	Daily	NO
	Motherships	3	YES	YES	Daily	NO
	AFA Trawl CVs ≥125' LOA	26	YES	YES	Daily	NO
	AFA Trawl CVs <125' LOA	45	YES	NO	Trip – by – Trip	Operational Challenge
	Trawl CVs ≥125' LOA Voluntary full coverage during BSAI TLAS fisheries	7	YES	YES	Daily	NO
	Trawl CVs <125' LOA Voluntary full coverage during BSAI TLAS fisheries	34	NO	NO	Trip – by – Trip	GAP
	CGOA Rockfish Program CVs	28	YES	NO	Trip – by – Trip	Transmission Problems
	Groundfish CDQ CVs <sup>4</sup> (H&L>46' LOA and Trawl <125' LOA)	0	NO	NO	Trip – by – Trip	GAP
<b>Partial Observer Coverage Category</b> (Approx. 4,500 Obs. Days, 230 vessels, 1,000 trips)	Processing Plants & Stationary Floating Processors	(7)	YES	YES	Daily	Overlapping Responsibility
	Small Catcher/Processors		NO	NO	Trip – by – Trip	NO
	Trawl CVs ≥125' LOA	(5)	YES	YES	Daily & Trip – by – Trip	Overlapping Responsibility
	Trawl CVs <125' LOA		NO	NO	Trip – by – Trip	NO
	H&L CVs ≥125' LOA	(4-5)	YES	YES	Daily & Trip – by – Trip	Overlapping Responsibility
	H&L CVs <125' LOA		NO	NO	Trip – by – Trip	NO
	Pot CVs – All lengths		NO	NO	Trip – by – Trip	NO

<sup>4</sup> This category likely does exist in practice, but this activity is authorized in regulation and if a vessel were to choose to participate in this fishery, they would not be required to facilitate observer data transmission.

## 2. Issues

### *Rockfish Catcher vessels*

Observer data transmission from catcher vessels participating in the Central GOA Rockfish Program has been increasingly problematic since 2014. The Rockfish Pilot program is the model for implementation of the new data entry requirements for AFA Trawl CVs <125' LOA. As such, these CVs are required to provide a computer with ATLAS, but not data transmission because the vessels make short duration trips and communications equipment that would allow daily or at-sea data transmission can be costly to install and maintain. Without the capability to transmit directly from the vessel, the observer enters data on a computer provided by the vessel at sea and upon return to port, transfers the data to an external storage device and transmits to NMFS using a computer installed with ATLAS provided by the processing plant.

The Rockfish Pilot Program, first implemented in 2006 required observer coverage at the processors for all rockfish deliveries. The Rockfish Pilot program expired in 2009 and the new Rockfish Program, implemented in 2010, did not include an observer coverage requirement for the processing plants. From 2010 to 2013, these processing plants maintained observer coverage in compliance with requirements for receiving GOA pollock catch, requiring the processors to maintain a functioning ATLAS computer system. Data transmission problems started in 2014 after the restructured observer program placed all these processing plants in the partial observer coverage category and observer coverage was not assigned to processing facilities under the partial coverage observer deployment plan for 2014.

Since 2014, these processors have not had an observer coverage requirement and therefore have not been required to maintain or provide equipment essential to the transmission of observer data from catcher vessels participating in the RFP. Lack of maintenance and out of date software has contributed to significant data delays of observer data collected on some vessels in the RFP. Other vessels voluntarily provide transmission capabilities and the observer sends data to NMFS from the vessel. As of April 2016, there are 10 trawl catcher vessels that operate in the GOA and voluntarily provide a computer with transmission capabilities. In 2014 there were 28 CVs that participated in the RFP fisheries.

### *Non – AFA Volunteer Trawl CVs < 125 ft. LOA*

NMFS is currently developing regulations to allow the owner of a trawl catcher vessel to annually choose to place their vessel in the full observer coverage category for all directed fishing for groundfish using trawl gear in the BSAI. Any trawl vessel owner can opt into the full observer coverage category for fishing activity in the BSAI, so this could result in a vessel without requirements to facilitate observer data entry and transmission being placed in the full observer coverage category and the observer would then fax their data to NMFS. This is problematic because as faxed data is becoming less common, it is becoming more difficult to find a working fax machine.

In addition to the operational challenge of entering data on one computer and transmitting from another as described below under the AFA Trawl CVs < 125 ft. LOA heading, there are at least two data entry and transmission issues with this group of trawl catcher vessels, and those include the lack of a computer at non-AFA processing facilities during BSAI TLAS fisheries in the full observer coverage category and if these vessels will voluntarily provide the ATLAS software and computer equipment during non-AFA trawl fisheries. For the most part, this refers to CVs participating in the BSAI Pacific cod fishery. Some of these vessels volunteer to be placed in the full observer coverage category during non-pollock trawl fisheries in the BSAI. The new ATLAS requirement implemented along with Amendment

110 will only apply during AFA pollock fisheries. NMFS anticipates that many of these vessels will not deny the observer access to this equipment during TLAS fisheries, but it would not be a requirement so this is a regulatory gap that might result in faxed observer data.

The second component of this particular scenario is how the observer would transmit data if they were to deliver Pacific Cod to a non-AFA processor. This could result in significant data delays. The reason that dockside transmission is successful in the AFA Pollock fishery is because of the presence of the observer assigned to the processing plant. The observer assigned to the vessel would have access to that computer to transmit at the completion of each trip. This would not be the case for a Pacific Cod delivery to a non-AFA processor.

Then there is the potential for non-AFA vessels to volunteer for full observer coverage in the BSAI TLAS fisheries. NMFS does not think this is a likely situation, but it could happen under the proposed regulatory action to allow an annual coverage choice. All in all, NMFS does not anticipate these regulatory gaps resulting in significant amounts of faxed data, but in order to change observer training and shift from faxed forms as an accepted method of data transmission, the regulatory gaps must be closed in order to ensure that all observers have access to equipment that allows electronic data entry and transmission to NMFS. Most of the volunteer full coverage vessels are  $\geq 125'$  LOA.

**Table 2. Likelihood an observer will have access to electronic data entry and transmission if trawl CV volunteered to be in the full observer coverage category and participating in the BSAI TLAS fishery.**

	<b>Data Entry (ATLAS)</b>	<b>Data transmission</b>
AFA eligible CV $\geq 125$ ft. LOA (7 vessels)	Required	Required
AFA eligible CV < 125 ft. LOA (34 vessels)	ATLAS is likely available but not required during BSAI TLAS fisheries.	Transmission is possible if delivery to an AFA processor
	Paper forms if ATLAS is not available.	Transmission will not be likely if delivery to a non- AFA processor
NON – AFA eligible (No vessels to date)	Not required likely paper forms would be completed	FAXED if fax machine is available

***AFA Trawl CVs < 125 ft. LOA***

The implementation of Amendment 110 will require the installation of the ATLAS software onboard AFA catcher vessels participating in the BSAI pollock fisheries. Though this will greatly improve data quality and timeliness, operational challenges will still exist because of the additional steps needed to transmit observer data from this segment of the fleet. These vessels will not be required to facilitate observer data transmission, only data entry. Instead of connecting the computer required by Amendment 110 to a communications system and transmitting observer data directly from the vessel to NMFS, the observer will be expected to transfer their data to an external storage device and access the computer provided by the processing plant to the plant observer to transmit their data to NMFS. This transfer of data from

one computer to another can introduce errors, as well as the additional steps necessary could introduce user errors, all contributing to potential delays in data availability. There is the potential for a relatively large number of observers to use this data transmission method, up to approximately 50 observers at any time during the pollock season if all CVs less than 125 ft. LOA are not capable of data transmission from the vessel. This is a potential implementation issue with Amendment 110, but worth noting here to monitor if this becomes an issue after implementation.

### *Groundfish CDQ H&L and Trawl CVs between 46 ft. LOA and 125 ft. LOA*

The Council recently approved a regulatory and FMP Amendment to allow small boats (catcher vessels <46' LOA) participating in the CDQ groundfish fishery to operate in the partial observer coverage category. Catcher vessels are currently authorized to participate in the groundfish CDQ fisheries. Any CV greater than 46' LOA would be required to carry full observer coverage and the lack of a requirement for these vessels to facilitate observer data entry and transmission would result in any observer assigned to one of these CVs to fax data to NMFS. This is not currently a problem because there are no boats that fit this operational description, but this could be a problem in the future if fishery behavior changes.

### *Overlapping Responsibilities*

Current requirements to facilitate observer data entry and transmission include all shoreside processors, stationary floating processors and catcher vessels larger than 125 ft. LOA (except those fishing with pot gear). These processors and CVs must provide a computer installed with ATLAS as well as data transmission capabilities. Prior to the implementation of the restructured observer program in 2013, these data entry and transmission requirements aligned with full observer coverage requirements. Now this data entry and transmission requirement applies to any vessel or processor in either the full or partial observer coverage category when required to maintain observer coverage. Observer data entry and transmission requirements are included in the partial observer coverage contract and paid for by the observer fee. The regulatory requirement for large CVs and processors to provide data entry and transmission requirements overlap with the requirements in the partial coverage contract resulting in duplicative payment for observer data entry and transmission by those industry participants. This is a minor issue because NMFS has not assigned observer coverage to processors in the partial coverage category since 2013. There are few catcher vessels greater than 125 ft. LOA that participate in fisheries in the partial observer coverage category so this may also be a relatively small issue for those few vessels.

## **3. Recommendations**

To address the operational problems, and regulatory gaps and overlaps identified in this document, NMFS could initiate an Analysis for a stand-alone regulatory amendment to do the following:

- 1) Define the industry entity responsible to facilitate observer data transmission for data collected aboard catcher vessels participating in the Central Gulf of Alaska Rockfish Program (RFP). Options could include: 1) Require the processor receiving RFP catch to facilitate data transmission for the observer assigned aboard the delivering catcher vessel; 2) Require the catcher vessel facilitate data transmission prior to the start of their next RFP trip; and 3) Require the observer provider facilitate observer data transmission prior to the observer embarking on the next trip or next assignment. Similar options for data transmission requirements are under

consideration as part of the monitoring and Enforcement considerations included in the Gulf Trawl Bycatch Management Action.

- 2) Define the industry entity responsible to facilitate observer data transmission for trawl catcher vessels operating in the BSAI TLAS fisheries if catch is delivered to a non-AFA processing plant. Options analyzed could be the same as listed above for CVs participating in the RFP.
- 3) Require any vessel in the full observer coverage category to facilitate observer data entry by providing a computer installed with NMFS-supplied software. This requirement would close the regulatory gap that currently exists for any non-AFA BSAI trawl volunteer-full-coverage catcher vessel or CDQ catcher vessels between 46 and 125 ft. LOA.
- 4) Remove the Data entry and transmission requirements from processors and catcher vessels greater than 125 ft. LOA in the partial observer coverage category.

The actions listed above would not remove or reduce current regulatory requirements for vessels or processors in the full observer coverage category to facilitate observer data entry and transmission to NMFS. These actions would close current regulatory gaps in the full observer coverage category to allow the Observer Program to continue moving toward phasing out faxed observer data from observer training and debriefing. These actions would improve observer data quality and timely availability to fishery managers for the BSAI TLAS and RFP fisheries.

*Appendix A. Applicable Regulations*

Regulations excerpted from ecf.gov on May 5, 2016.

Title 50: Wildlife and Fisheries

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

Subpart E—Groundfish and Halibut Observer Program

**§679.51 Observer requirements for vessels and plants.**

\* \* \* \* \*

(a) *Observer requirements for vessels—*

(1) *Groundfish and halibut fishery **partial observer coverage category—***

(i) *Vessel classes in partial coverage category.* Unless otherwise specified in paragraph (a)(2) of this section, the following catcher vessels and catcher/processors are in the partial observer coverage category when fishing for halibut with hook-and-line gear or when directed fishing for groundfish in a federally managed or parallel groundfish fishery, as defined at §679.2:

(A) A catcher vessel designated on an FFP under §679.4(b)(1); or

(B) A catcher vessel when fishing for halibut with hook-and-line gear and while carrying a person named on a permit issued under §679.4(d)(1)(i), §679.4(d)(2)(i), or §679.4(e)(2), or for sablefish IFQ with hook-and-line or pot gear and while carrying a person named on a permit issued under §679.4(d)(1)(i) or §679.4(d)(2)(i); or

(C) A catcher/processor placed in the partial observer coverage category under paragraph (a)(3) of this section.

\* \* \*

(2) *Groundfish and halibut fishery **full observer coverage category—***

(i) *Vessel classes in the full coverage category.* The following classes of vessels are in the full observer coverage category when harvesting halibut or when harvesting, receiving, or processing groundfish in a federally managed or parallel groundfish fishery, as defined at §679.2:

(A) Catcher/processors, except a catcher/processor placed in the partial observer coverage category under paragraph (a)(3) of this section;

(B) Motherships; and

(C) Catcher vessels while:

(1) Directed fishing for pollock in the BS;

(2) Using trawl gear or hook-and-line gear while groundfish CDQ fishing (see §679.2); or

(3) Participating in the Rockfish Program.

\* \* \* \* \*

(e) *Responsibilities*—

(1) *Vessel responsibilities*. An operator of a vessel required to carry one or more observers must:

\* \* \*

(iii) **Transmission of data**. Facilitate transmission of observer data by:

(A) *Observer use of equipment*. Allowing observers to use the vessel's communications equipment and personnel, on request, for the confidential entry, transmission, and receipt of work-related messages, at no cost to the observers or the United States.

(B) *Communication equipment requirements*. In the case of an operator of a catcher/processor (except for a catcher/processor placed in the partial observer coverage category under paragraph (a)(3) of this section), a mothership, a catcher vessel 125 ft LOA or longer (except for a vessel fishing for groundfish with pot gear), or a catcher vessel participating in the Rockfish Program:

(1) *Observer access to computer*. Making a computer available for use by the observer. This computer must be connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(2) *NMFS-supplied software*. Ensuring that the catcher/processor, mothership, or catcher vessel specified in paragraph (e)(1) of this section has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software.

(3) *Functional and operational equipment*. Ensuring that the communication equipment required in paragraph (e)(1)(iii)(B) of this section and that is used by observers to enter and transmit data, is fully functional and operational. "Functional" means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (e)(1)(iii)(B)(2) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.

\* \* \*

(2) *Shoreside processor and stationary floating processor responsibilities*. A manager of a shoreside processor or a stationary floating processor that is required to maintain observer coverage as specified under paragraph (d) of this section must:

\* \* \*

(iii) **Transmission of data**. Facilitate transmission of observer data by:

(A) *Observer use of equipment*. Allowing observers to use the shoreside processor's or stationary floating processor's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers or the United States.

(B) *Communication equipment requirements*—(1) *Observer access to computer*. Making a computer available for use by the observer. This computer must be connected to a communication device that provides a point-to-point connection to the NMFS host computer.

(2) *NMFS-supplied software.* Ensuring that the shoreside or stationary floating processor specified in paragraph (e)(2) of this section has installed the most recent release of NMFS data entry software provided by the Regional Administrator, or other approved software.

(3) *Functional and operational equipment.* Ensuring that the communication equipment required in paragraph (e)(2)(iii)(B) of this section and that is used by observers to enter and transmit data, is fully functional and operational. “Functional” means that all the tasks and components of the NMFS supplied, or other approved, software described at paragraph (e)(2)(iii)(B)(2) of this section and the data transmissions to NMFS can be executed effectively aboard the vessel by the communications equipment.