

North Pacific Fishery Management Council

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June 30, 2010

Eric Schwab, Assistant Administrator for Fisheries
NOAA
1315 East-West Hwy
SSMC3, Rm 14636
Silver Spring, MD 20910

Dear Mr. Schwab:

We are writing to request the agency's help in order for the North Pacific Fishery Management Council (Council) and the NMFS Alaska Region to successfully restructure the North Pacific Groundfish Observer Program. The Magnuson-Stevens Fishery Conservation and Management Act (MSA) has mandated management actions to minimize bycatch and waste, place limits on allowable annual catch, and has provided requirements associated with establishing limited access privilege programs (i.e., catch share programs) to limit fishing effort or access to fisheries. The implementation of these management objectives and others require timely, reliable, and scientifically valid information, as well as effective fisheries monitoring. The primary mechanism for collecting these data and monitoring our fisheries is through the deployment of trained fisheries observers. In the North Pacific, observers provide catch and bycatch information for quota monitoring and management of groundfish and prohibited species, biological data and samples for use in stock assessment analyses, information to document and reduce fishery interactions with protected marine resources, and information and samples used in marine ecosystem research.

The Federal groundfish observer program in Alaska is the oldest and largest observer program in the Nation and the only one whose direct costs of deploying observers are entirely funded by industry.¹ NMFS began placing observers on foreign fishing vessels operating off the northwest and Alaskan coasts in 1973, creating the North Pacific Foreign Fisheries Observer Program. The program greatly expanded in 1976 with the passage of the MSA, which mandated observer coverage on foreign-flagged vessels and processors operating in the U.S. By the late 1970s, American fishermen began entering the North Pacific groundfish fisheries that were previously pursued by foreign vessels, first as joint-ventures with foreign processing ships and later through the development of a domestic processing industry. By 1991, all foreign operations and joint-venture processing operations off Alaska were ended.

The North Pacific Fishery Management Council recognized the continued need for observers in the North Pacific groundfish fisheries to monitor catch and bycatch as the industry shifted from foreign to domestic vessels. In 1989, the Council developed the current domestic observer program and established observer coverage requirements for vessels and processors, which largely remain in place today. With the exception of vessels <60' length overall, all Federal commercial groundfish fisheries off Alaska are subject to observer coverage requirements and pay observer companies directly for observers to meet

¹The only other fisheries with industry funding of observers are the offshore component of the West Coast Pacific hake fishery and the Atlantic scallop fishery. However, over 90 percent of the industry funding for observer programs is attributed to the North Pacific groundfish fisheries (Source: NMFS, 2009. National Observer Program Annual Report 2008, U.S. Department of Commerce, NOAA, NMFS, Silver Spring, MD.)

regulated levels of coverage. These regulations generally establish observer coverage levels for vessels based on vessel length, and for processors based on monthly processing volume. Specific, higher coverage requirements have been adopted for vessels and processors operating in catch share programs such as the American Fisheries Act (AFA) Bering Sea pollock fishery, the Community Development Quota (CDQ) Program in the Bering Sea and Aleutian Islands (BSAI), the BSAI Amendment 80 flatfish and Pacific cod fisheries, and the Rockfish Pilot Program in the Gulf of Alaska. The vessels and processors participating in these programs must carry either one or two observers at all times, depending upon the vessel and the program. The vast majority of observer deployment days in the North Pacific are on vessels and in processors operating under catch share programs in the BSAI.

Under the current program, NMFS provides operational oversight, certification training, definition of observer sampling duties and methods, debriefing of observers, and management of the data. While the costs associated with managing the program are paid for by the Federal government, the vessel and plant owners pay for the entire cost of observers (on a daily basis) through contracts with private observer companies. In 2008, NMFS paid approximately \$5.4 million toward the costs of operating the North Pacific Groundfish Observer Program.² Industry paid approximately \$14.4 million, or 73 percent of the total cost.³ This funded more than 39,000 observer days in 2008, more than half the observer days across the U.S.

This approach has provided the Council and NMFS with the tools to successfully manage the Nation's largest groundfish fisheries for more than 20 years. However, despite what is considered a very successful record of management in the North Pacific due in part to data gathered by observers, NMFS and the Council are currently working toward restructuring the Observer Program such that NMFS would contract directly with observer companies and deploy observers according to a scientifically valid sample design. The design of the new program would serve to reduce sources of bias that jeopardize the statistical reliability of catch and bycatch data, which can occur under a program in which NMFS does not control when and where observers are deployed in fisheries that are not required to carry an observer 100 percent of their fishing days. In addition, the new program would include the commercial halibut sector and the <60' groundfish sector, neither of which are subject to observer requirements under the existing program. The new program is proposed to be supported by an industry fee based on the ex-vessel value of the landings, and/or a daily fee based on actual observer costs, as authorized under Section 313 of the MSA. This action is important to improve the North Pacific observer data for NOAA and the Council, and it would address a longstanding recommendation of the Department of Commerce Inspector General. The Council needs NOAA's help in moving this action forward.

The Council reviewed an initial review draft analysis of the proposed action at its June 2010 meeting, and upon review, approved a motion to request Federal funds from NOAA for start-up funding to implement a restructured observer program in the North Pacific, as well as an annual appropriation of up to 50 percent of the cost of placing observers in any catch share program fisheries. The Council's June 2010 motion in entirety is included as Attachment 1.

The Council is aware that the majority of other regional observer programs are funded through appropriations from Congress, and that more than \$33 million in Federal funding was provided across all regions in 2008. As stated previously, the North Pacific groundfish observer program typically receives just over \$5 million in Federal funds to cover agency expenses associated with training, debriefing, and supporting observers in the field, as well as costs associated with data quality control, management, and

² NMFS, 2009. National Observer Program Annual Report 2008, U.S. Department of Commerce, NOAA, NMFS, Silver Spring, MD, 32 pp.

³ Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis for Proposed Amendment 86 to the BSAI FMP and Amendment 76 to the GOA FMP: Restructuring the program for observer procurement and deployment in the North Pacific, June 2010. NPFMC, NMFS. p. 77.

analysis. The North Pacific groundfish industry pays the remaining \$13 million to \$15 million to cover the actual costs of deploying observers, including travel, accommodations, and insurance. In total, Federal funds typically represent about 25% - 30% of the total program costs.

For comparison purposes, the North Pacific costs can be compared to the costs of other observer programs in the U.S. that are Federally funded. For example, the Northwest Region observer program that monitors groundfish vessels fishing off the coast of Washington, Oregon, and California received about \$5.2 million in funding in 2008, with an additional \$390k in industry funding (i.e., 93% Federally funded). A total of 4,596 sea days was observed.⁴ The Northeast Observer Program received a total of approximately \$11.8 million in program funding in 2008, with an additional \$2.3 million paid by the fishing industry to observe the Atlantic sea scallop fishery (i.e., 84% Federally funded). Over 13,000 sea days were observed in total.⁵ The remaining regional observer programs are 100% Federally funded.

The Council is aware that NOAA is proposing \$54 million in catch share funding for FY 2011, a significant portion of which will fund observer programs in fisheries managed under catch share programs other than the North Pacific. As the majority of our fisheries are managed under catch share programs, the examples highlight a disparity in Federal funding to the various regions of NMFS in support of Observer Programs in general, and catch share programs specifically. It is unclear why the North Pacific industry bears the burden of paying for observer coverage, while other NMFS regions are heavily, and in some cases completely, subsidized by the Federal government.

Upon review of the proposed action to restructure the existing North Pacific observer program for the groundfish and halibut fisheries, the Council was provided with the associated start-up costs and annual costs estimated for the alternatives under consideration. The total annual cost of a restructured observer program, which includes both the groundfish and halibut fisheries, is estimated to range from \$19.4 million - \$22.7 million, depending upon the alternative. In addition to the catch share programs currently subject to observer requirements outlined previously, vessels and processors participating in the halibut and sablefish catch share program would also be part of the new program.

Estimated costs of a restructured observer program in the North Pacific

Summary of costs	Alternative 1 (status quo)	Alternative 2	Alternative 3	Alternative 4	Alternative 5
Start-up costs generated through industry fees	n/a	\$2.3	\$2.2	\$17.7	\$17.7
# of years to generate start-up funding through industry fees	n/a	0.3	0.5	3.6	9.9
Total annual estimated cost in millions ¹ (based on # of observer days in 2008)	\$14.4 m	\$19.4	\$19.8	\$22.7	\$19.5
# of annual observer days funded	39,300	50,600	50,400	50,400	43,300

Source: Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis for Proposed Amendment 86 to the BSAI FMP and Amendment 76 to the GOA FMP, June 2010. NPFMC, NMFS.

¹These estimates are based on the cost of the direct deployment of an observer, including travel, accommodations, and insurance, which is the portion of the cost incurred by industry in the North Pacific. They do not include the expenses typically incurred by NMFS to provide operational oversight, observer training, definition of observer sampling duties and methods, debriefing of observers, and management of the data.

Note: The estimates under Alternatives 2- 5 are based on the estimated average daily observer deployment cost of \$450/day for those sectors included under a contracted model, in which NMFS contracts directly with observer companies, and \$366/day for those sectors that remain under the regulated model, in which industry contracts directly with observer companies.

⁴NMFS, 2009. National Observer Program Annual Report 2008, U.S. Department of Commerce, NOAA, NMFS, Silver Spring, MD, p. 12.

⁵NMFS, 2009. National Observer Program Annual Report 2008, U.S. Department of Commerce, NOAA, NMFS, Silver Spring, MD, p. 16.

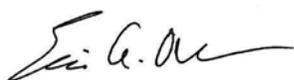
Under all of the alternatives, NMFS would enter into direct contracts with observer companies to varying extents. Thus, start-up funds would need to be available to NMFS to move from the existing program structure to the new, contracted model, as NMFS cannot assign contractual task orders without having funds available. The table above indicates that start-up costs range from \$2.2 million to \$17.7 million, depending upon the alternative selected. Lacking Federal start-up funds, NMFS would need to collect sufficient fees from industry in addition to existing observer expenses in a given year or years, in order to build up the funds necessary to issue task orders in the first year of a new program. The table provides an example of start-up and annual costs, the number of years it would take to generate sufficient start-up funds, and the number of observer days that could be funded under the construct of the alternatives.

Given that the management of the nation's fisheries is substantially dependent upon the deployment of at-sea observers to collect reliable information about catch and bycatch, and that movement toward a new observer program in the North Pacific would require funding beyond existing observer expenses prior to implementation, the Council strongly encourages NOAA to provide start-up funding to ensure a rapid transition to a restructured program. This would represent one-time funding to initiate the transition from the status quo to a restructured observer program.

The Council also requests that NOAA provide for an ongoing annual appropriation of up to 50 percent of the cost of placing observers in any catch share program fisheries. This action would help to resolve the current inconsistencies in catch share funding within NMFS. We would like to achieve a more equitable balance between NMFS and industry funding applied across the NMFS regions.

Please consider these requests in your future budget formulations, specifically in FY 2012 for purposes of the start-up funding request, as the Council continues to support moving forward with efforts to improve the North Pacific observer program to better meet evolving data and management needs. The Council is scheduled to take final action at its October meeting in Anchorage, Alaska, on this critically important restructuring program, and it would be helpful to understand whether NOAA intends to include our proposed funding in its future budget formulation. Please contact me, or our Executive Director, Mr. Chris Oliver, if you have any questions in this regard.

Sincerely,



Eric Olson
Chairman,
North Pacific Fishery Management Council

cc: Dr. Jane Lubchenco
Dr. Jim Balsiger
Dr. Douglas DeMaster
Mr. Martin Loefflad
Ms. Sue Salveson
Ms. Lisa Lindeman

Mr. Arne Fuglvog
Mr. Bob King
Mr. Dave Whaley