

## Observer Advisory Committee – Meeting Report September 17-18, 2015

Mountaineers Club, 7700 Sand Point Way NE, Seattle, WA

**Committee:** Bill Tweit (chair), Bob Alverson, Jerry Bongen (telecon), Julie Bonney, Beth Concepcion, Dan Falvey, Kathy Hansen, Stacey Hansen, Michael Lake, Paul MacGregor, Brent Paine, Joe Rehfuss, Chad See, Anne Vanderhoeven, Diana Evans and Matt Robinson<sup>1</sup> (NPFMC staff)

**Agency staff<sup>2</sup>:** Sally Bibb (NMFS AKR), Marlon Concepcion (NMFS FMA), Sam Cunningham (NPFMC), Alisha Falberg (NOAA GC Enforcement), Craig Faunce (NMFS FMA), Nicole Kimball (ADFG), Nathan Lagerwey (NOAA OLE), Tom Meyer (NOAA GC), Alicia Miller (NMFS AKR), Jennifer Mondragon (NMFS AKR), Chris Rilling (NMFS FMA), Pearl Rojas (NMFS FMA), Farron Wallace (NMFS FMA)

**Other attendees:** Mark Fina (US Seafoods), Ed Hansen, Paul Olson (The Boat Company), Troy Quinlan (TechSea), Luke Szymanski (AIS), Ernie Weiss (AEB)

### Agenda

- I. Introductions, review and approve agenda
- II. Draft 2016 Observer Annual Deployment Plan
  - a. Presentation of deployment plan
  - b. Observer Outreach meetings
  - c. Public Comment
  - d. OAC Discussion and Recommendations
- III. Other analytical projects
  - a. Update on 2016 EM Plan, EM analysis timeline
  - b. Discuss options for observer insurance regulatory amendment
  - c. Discuss potential for efficiencies in the existing partial coverage program
  - d. Discuss scope of lead level 2 regulatory amendment
  - e. Review GOA trawl 100% observer coverage, BSAI trawl CVs
  - f. Review priority of analytical projects and regulatory amendments
  - g. Public Comment
  - h. OAC Discussion and Recommendations
- IV. Scheduling and Other Issues
  - a. Update on observer harassment trends

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Bill Tweit opened the meeting with introductions and a brief overview of the agenda.

### Draft 2016 Observer Annual Deployment Plan

Jennifer Mondragon, Chris Rilling, and Craig Faunce presented the Draft 2016 Annual Deployment Plan (ADP). The ADP continues to recommend using the trip selection method to assign observers to vessels in 2016, and expands the “No Selection Pool” to include an EM Selection pool of fixed gear vessels that elected to opt-in and participate in electronic monitoring (EM) research. At the request of the Council (Council) at their June 2015 meeting, the 2016 ADP evaluates new ways of defining deployment strata

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<sup>2</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 (AFSC); NMFS AKR – NMFS Alaska Region; NMFS NOP – NMFS National Observer Program; NOAA GC – National Oceanic and Atmospheric Administration General Counsel; NOAA OLE – NOAA Office of Law Enforcement; ADFG – Alaska Department of Fish and Game.

and recommended a new deployment strata, and includes a detailed analysis of 12 different sampling designs (in Appendix B of the ADP). Ultimately, NMFS recommends deploying into three strata in 2016, based exclusively on gear type (and regardless of vessel length), for trawl, hook-and-line, and pot gear, with optimal allocation of observer days among the strata resulting in preliminary selection rates of 29% for trawl vessels, and 14% each for hook-and-line and pot vessels.

The Committee appreciates the agency's work in evaluating changes to the sampling design. **The Committee supports NMFS' recommendation to deploy observers by gear strata in 2016, with optimal allocation.** There were a number of questions about the metrics used to calculate optimal allocations among the gear strata (e.g., equally weighting the uncertainty associated with estimates of total groundfish catch and estimates of discards, by gear type), and the use of the gap analysis (which required a 50% probability of having at least three observed trips in each gear/ area/ target fishery combination) to eliminate certain sampling designs. The Committee looks forward to continued improvements to the analysis of methods to optimally allocate among gear strata in future ADPs.

The Committee also discussed the NMFS recommendation not to grant any conditional releases or temporary exemptions. **The Committee supports the recommendation not to grant temporary exemptions for life raft capacity in 2016, given the EM selection pool option for small vessels.** Industry members expressed concern about vessels that missed the deadline to opt-in to the EM program because they were out fishing and did not have access to mail. NMFS noted that there is some opportunity to accommodate a few additional vessels with limited life raft capacity in the EM pool following the October meeting. **The Committee does not support eliminating the exemption that prevents a small vessel from being selected for a third consecutive observed trip.** The discussion of the committee noted that there is no data available on how often the exemption (which is automatically programmed in the Observer Declare and Deploy System (ODDS)) was triggered in 2015, and therefore no sense of the magnitude of the effect on data quality, whereas it may be providing considerable relief to individuals in the likely rare instances where it is triggered. For 2016, the Committee would ideally like the exemption to apply as in 2015, to vessels under 58 ft LOA, understanding that this will not match perfectly with the new deployment strata. NMFS indicated that it may be possible to program the exemption in ODDS in a similar fashion to what is being done in 2015. The Committee also asked NMFS to evaluate the issue further in the Annual Report.

With respect to the recommendation to reduce the number of trips that can be logged at one time in ODDS from three to two, **the Committee does not support changes to ODDS at this time.** The ADP reports that observed trips were four times more likely to be cancelled than unobserved trips, which could result in data quality issues. As the Committee discussed in June, however, this may be as much an artifact of the rules of ODDS (which force observed trips to be cancelled, but allow unobserved trips to be moved to a later date), as it is an example of people gaming the system. The general discussion reflected that being able to log three trips is critical in a race for fish situation, where vessels are potentially prosecuting trips every 24-hours, and need to know if their third trip is observed in order to account for the 72-hour leeway needed by the observer provider. The committee considered whether to apply the change only to specific gear types, but decided that there was no obvious solution, and asked NMFS to evaluate the scope of the problem by gear type and fishery before moving forward with changes. The Chair also asked industry representatives to survey their members about why this is happening.

**The committee supports other recommendations in the ADP concerning changes to eLandings, retaining the current Chinook salmon sampling protocols, allowing BSAI trawl CVs to opt-in to full coverage, and continued outreach.** Members of the Committee had additional suggestions about outreach to fishermen with respect to linking ODDS and eLandings, such as recommending simple ways to add the ODDS trip ID to logbooks. It was also noted that it would be useful to do EM outreach at the same time, especially in IFQ towns.

## Update on 2016 Electronic Monitoring Plan

Diana Evans reported on the status of the Electronic Monitoring Workgroup (EMWG) and the 2016 pre-implementation plan. Brent Paine also gave a short update on the Pacific Council's EM efforts. **The Committee is encouraged by the progress the EMWG has made with the pre-implementation plan.** There was discussion about the purpose of developing EM, namely to provide a suite of tools to achieve monitoring, so that a vessel can have the flexibility to choose which tool works best (with the proviso that flexibility will be constrained to some extent by the needs of the management program to have an optimal mix of human observers and EM to achieve good data). Committee members noted that it will be important to track how well pre-registration works in 2016 with respect to a predictable sampling frame, referencing the problems that were experienced with bias in the sampling frame in the implementation of the vessel selection pool for human observers. As referenced above, the Committee also supports a process to fill the additional slots in the EM pool following the October meeting.

The Committee discussed next steps for extending EM to vessels under 40 ft LOA, as this has been identified as a priority issue for MSC certification in the halibut longline fishery. The Council has included vessels under 40 ft as a priority for developing EM, and the EM Workgroup's next steps are to evaluate the demographic profile for this sector of the fleet, and identify an appropriate field testing design.

## Observer Insurance Regulatory Amendment

Sally Bibb gave a brief overview of the status of national discussions with respect to changing observer insurance requirements. In their letter to the Council in May 2015, NMFS agreed that some of the regulated observer provider insurance requirements are excessive or inapplicable, and should be revised. A path forward will be discussed at the internal NMFS National Observer Program Advisory Team (NOPAT) meeting in October. Although the Committee continues to support the importance of resolution on this issue, **the Committee agrees with NMFS that the Council should not begin work on an analysis** before there is further consensus nationally about what appropriate insurance coverage requirements should be, and supports placing a high priority on timely completion of the national-level work. **The Committee recommends, however, that the Council request NMFS to identify a process to keep stakeholders involved and informed.**

## Efficiencies in the Partial Coverage Contract

The Chair, Bill Tweit, reported on a meeting between himself, Chris Rilling, Steve Ignell and two of the partial coverage contract administrators about the possibility of finding efficiencies in the contract. He was very impressed with how knowledgeable the contract administrators were about the details of the contract, and their willingness to re-examine the contract provisions if circumstances change (for example, a change to observer provider insurance requirements). Chris added that his comparison of our partial coverage program to similar programs elsewhere in the country found that our rates are comparable, and from that standpoint AIS is providing service at a reasonable cost. He also noted that a key mechanism for achieving cost efficiencies will be to stabilize the program, and get to the point where we are not making radical changes from year to year.

The Committee discussed what potential changes in circumstance might justify renegotiating the contract, and how they might be achieved. **The Committee agreed with the Chair's recommendation that he meet with AIS and the contract administrators to explore more options and address some of the Committee's questions, and report back to the Committee.** These options should also include the potential for savings on travel costs. It was also noted that for some of the members' suggestions, such as voluntary cooperatives to minimize travel, it may be more appropriate to develop those as a feature of the next contract, rather than as a modification to the existing one.

## Lead Level 2 Observer Shortage

Chris Rilling, Chad See, Joe Reh fuss, Michael Lake, and Stacey Hansen all reported on the successful implementation of non-regulatory measures over the last year, by the agency, industry, and observer providers, to address the shortage of fixed gear Lead Level 2 (LL2) observers that occurred last summer in the Freezer Longline Coalition (FLC) fleet. Nonetheless, after discussion, the Committee feels strongly that regulatory solutions still need to be evaluated. The priority for regulatory options should be to address how to get observers the training they need for LL2 certification, rather than allowing inexperienced observers in the fleet. NMFS OLE noted that inexperienced observers may be more likely to experience harassment or be targets of attempts by vessel crew to bias samples. **The Committee proposed a wide range of regulatory options for consideration in a discussion paper:**

- Require 2 observers and flow scales on all FLC vessels
  - Evaluate the fleet to see whether there is a natural break whereby some vessels should be required to carry 2 observers, and others only 1
- Allow deployment of a non-fixed gear LL2 observer on FLC vessels if the only alternative is that the vessel must stand down
  - Deploy any non-LL2 observer
  - Deploy a trawl LL2 observer
- Allow observer experience on fixed gear vessels in other regions to count towards LL2 certification
- Allow full-coverage providers to deploy observers on pot CVs (in the partial coverage category) to secure fixed gear LL2 certification
- Institute an at-sea training component to the Federal observer training program, whereby the agency would pay for fixed gear LL2 certification

as well as the following non-regulatory option:

- Encourage AIS to become a certified observer provider, and supply LL2 observers to FLC vessels

## GOA Trawl 100% Observer Coverage Discussion Paper

Sam Cunningham presented a discussion paper on moving all GOA trawl CVs into the full coverage category, independent of a LAPP proposal. The Council's request was to understand the impacts on observer fee revenue, vessel costs, and observer availability. The Committee discussed many of the assumptions of the cost estimates, and how full coverage would work differently for the GOA trawl fleet in limited access, compared to a rationalized fishing scenario. **The Committee recommends that this discussion paper not move forward independently, but rather continue as a component of the GOA trawl bycatch management action.** The Committee noted that any fleet can better absorb this level of cost under a rationalized program. The discussion paper is still informative for evaluating the increased observer coverage component of the GOA action, however, and the Committee suggests the following improvements: 1) provide a more accurate estimate of the cost of daily coverage (it is likely to be higher than the current full coverage average of \$371/day, which is an average across the BSAI and GOA, and includes fleets that employ observers in 90-day contracts with few travel costs), and 2) provide a more detailed breakdown of the cost of observer coverage to individual vessels, rather than the 3.5% average fleetwide, so the Council can see the impacts to different constituents within the GOA trawl industry, such as vessels with smaller versus larger platforms. Should the Council decide not to move forward with the GOA trawl program changes, but still consider moving the trawl fleet into full coverage, the discussion needs to be broadened to evaluate how the data quality of PSC estimates would improve as a result of placing trawl vessels in full coverage. Placing all GOA trawl CVs in full coverage would be a significant change to the current criteria that catcher vessels placed in full coverage are those participating in a catch share program with a transferable PSC limit.

## **BSAI Trawl CVs Initial Review Draft**

Sam also gave an overview on the BSAI Trawl CV full coverage initial review analysis. The Committee discussed the reasons why vessels would opt-in to full coverage, and recommended that a discussion of these be added to the analysis. Two primary reasons were identified: 1) especially with the implementation of reduced halibut PSC limits, vessels want to have individual accountability for their halibut bycatch, rather than be assigned the fleet-wide average; and 2) for vessels that are already required to carry full coverage observers while participating in the AFA pollock fishery, opting in to full coverage for the cod fishery gives vessels the flexibility to switch at will between target fisheries without having to log trips into ODDS 72 hours in advance and return to port to pick up an AIS observer.

The Committee discussed the date by which vessels must decide annually whether to sign up for full coverage in the upcoming year. NMFS explained that the July 1<sup>st</sup> date is specifically to allow for effort estimations in the ADP, however industry reported that it will be difficult to make a determination that early. **The Committee recommends adding an additional option of October 15<sup>th</sup> for the annual reporting date by which to opt-in to full coverage under Alternative 3, Suboption 1.**

The committee also discussed the role of ATLAS and data transmission, and whether to include a requirement for ATLAS, with transmission capabilities at the processing facility. Ultimately, the Committee agreed with NMFS that it would be better to have a holistic analysis of ATLAS and data transmission in a single, separate analysis, and the Committee agrees with NMFS' recommendation to address only any duplicative transmission requirements as part of this package.

## **Observer Analytical Project Priorities**

Sally Bibb gave an overview of the status of all analytical projects related to the Observer Program. She clarified that this list is a guideline for staff and is used in tasking staff on existing and new projects. After discussion, **the Committee recommended that the LL2 discussion paper be listed as priority 12, and that a new project line be added for the review of observer data entry and transmission requirements across all vessels, processors, and fisheries that NMFS is working on, as time allows.** The Committee acknowledges that the observer insurance amendment and data transmission evaluation are important issues, but they are not yet ready to be assigned a priority number.

## **Update on Observer Harassment Trends**

Nathan Lagerwey presented a NOAA OLE update on trends in observer statements reporting violations. In the first six months of 2015, the number of complaints has decreased compared to 2014, reversing the increasing trend reported in the 2014 Annual Report. He noted that this may be a reflection of the increased outreach by OLE, and also the maturing of observer restructuring. As with the numbers in the Annual Report, the trends are based on observer statements reporting a violation, but some offenses can be mitigated at sea, and each complaint does not necessarily result in an enforcement case.

The Committee asked to see the complaint trends presented in the context of the number of vessels and days observed in the partial and full coverage sectors. Nathan did not have the data at the meeting, but provided it to the Committee afterwards (the revised handout is now posted). Members of the Committee noted that it is important to reflect that the violations occur in only a small fraction of the fleet program-wide, and it was suggested that it might be useful to have workshops that include skippers, agency staff, and enforcement, to educate captains and crews about the purpose of observers and why it is important to help them do their job. OLE agreed, and while only a small percentage of total vessels observed or total observer days result in complaints, every complaint and/or violation is a serious concern.

## **Scheduling**

The next OAC meeting will likely be held in May, to review the Annual Report and other observer issues.