Observer Program Restructuring Discussion Paper
December 2008

I. Introduction

At its April 2008 meeting, the Council approved a series of proposed regulatory amendments relevant to numerous administrative, technical, and procedural requirements applicable to observers, providers, and industry participating in the North Pacific Groundfish Observer Program (Observer Program). At the same time, the Council approved a separate motion relative to the decision of whether to reinitiate an effort to 'restructure' the existing Observer Program, such that NMFS would contract directly with observer providers for observer coverage (as opposed to industry), and this would be supported by a broad-based user fee and/or direct Federal funding. This motion is as follows:

Council motion on observer restructuring – April 2008

The Council tasks staff to develop a discussion paper to evaluate the problem statement, issues, and alternatives in the observer restructuring analysis last reviewed by the Council in 2006. The discussion paper also will identify any new issues that have arisen in the meantime, including the Magnuson-Stevens Act amendments, the status of cost information, and any relevant changes in the fisheries. Staff will provide recommendations about possible modifications to the problem statement and alternatives. ADF&G and IPHC staff will be asked to participate with Council and NMFS staff in development of this discussion paper. The discussion paper will be provided to the Council for consideration at the December 2008 meeting.

The purpose of this paper is to review the Council's past efforts toward restructuring the Observer Program, and identify any new issues or changes in the fisheries that may factor into a decision to reinitiate a restructuring effort. The paper will also assess whether the previous problem statement and suite of alternatives continue to be relevant, should the Council choose to reinitiate an analysis.

Background on current observer coverage levels

The original 1990 Observer Plan based coverage levels on vessel length and processing volume for catcher vessels and processors of BSAI and GOA groundfish fisheries. These requirements remain largely unchanged, with the exception of requirements put in place to implement certain limited access programs with increased monitoring needs, such as the Western Alaska Community Development Quota (CDQ) Program, the AFA pollock fishery, the GOA Rockfish Pilot Program, and Amendments 79 and 80 to the BSAI FMP.

Under the plan, groundfish vessels under 60' length overall (LOA) are not required to carry observers, groundfish vessels longer than 60' and shorter than 125' are required to carry observers 30% of their fishing time, and groundfish vessels 125' and longer are required to carry observers 100% of their fishing time. Shoreside processors that process between 500 mt and 1000 mt of groundfish in a calendar month are required to have observers 30% of the days that they receive or process groundfish. Shoreside processors that process 1,000 mt or more of groundfish in a calendar month are required to have observers 100% of the days that they receive or process groundfish. One change to the original coverage requirements was a reduction from 100% to 30% for vessels 125' and over using pot gear.

As mentioned above, coverage requirements have increased for vessels and processors participating in (rationalized) limited access and individual quota based fisheries. In fisheries where individual entities or

cooperatives receive an allocation of the TAC, observer coverage has been increased to ensure harvesters maintain catches within the annual allocations and do not exceed prohibited species catch or sideboards. The amount of observer coverage in these fisheries is typically higher than in the open access groundfish fisheries and observers may be required to have additional training and experience beyond an entry level groundfish observer.

Observer endorsements and coverage levels required for each fishery are shown in Appendix A. There are three levels of observer endorsements: Level 1, Level 2, and Lead Level 2. A Level 1 observer is a NMFS certified observer. A certified observer may obtain a Level 2 endorsement by completing at least 60 days of observer data collection in the groundfish fisheries off Alaska, receiving a satisfactory evaluation for their most recent deployment by the Observer Program, and successfully completing a NMFS-approved Level 2 observer training, which has now been incorporated into the initial 3-week training course (i.e., the separate, 4-day Level 2 training class has been eliminated). A Lead Level 2 endorsement may be obtained by a certified Level 2 observer after completing two observer cruises and sampling a minimum number of hauls or sets specified for the gear type. These endorsements help ensure that quality data are collected for these fisheries that are highly reliant on observer data for effective management.

Note that the December 2006 amendments to the Magnuson-Stevens Act (MSA) resulted in changes to CDQ observer coverage requirements. Section 305(i)(1)(B)(iv) of the MSA now requires the following for the CDQ Program:

> *REGULATION OF HARVEST.—The harvest of allocations under the program for fisheries with individual quotas or fishing cooperatives shall be regulated by the Secretary in a manner no more restrictive than for other participants in the applicable sector, including with respect to the harvest of nontarget species.*

Current regulatory observer coverage requirements for halibut, fixed gear sablefish, and pollock CDQ fisheries were more restrictive, in some cases, than requirements that apply in the comparable IFQ or pollock AFA fisheries. These regulations are now inconsistent with section 305(i)(1)(B)(iv) of the MSA. As NMFS works to revise regulations at 50 CFR part 679 to be consistent with the MSA, NMFS cannot enforce any requirements on the harvesting of halibut, fixed gear sablefish, crab, or pollock CDQ that are more restrictive than regulations governing the harvesting of the IFQ or cooperative allocations for these species. NMFS issued a policy to this effect in 2007.[1] Observer requirements currently in effect for the IFQ or cooperative fisheries that should be followed by vessels and processors participating in the halibut, fixed gear sablefish, and pollock CDQ fisheries are indicated in Appendix A.

Recently, in May 2007, the Observer Advisory Committee requested NMFS analyze the 2004 - 2006 Alaska groundfish fisheries for the percent of catch observed. NMFS calculated the total catch, observed catch, and percent catch observed by year, FMP area, processing sector, gear type, trip target fishery, and vessel length for the groundfish fisheries from 2004 – 2007. The results of these analyses are provided in Appendix B.

II. Previous restructuring efforts

The Council and NMFS worked for several years to develop a new system for observer funding and deployment in the Observer Program, the most recent effort culminating at the June 2006 Council meeting. As stated above, under the previously proposed system, NMFS would contract directly with observer providers for observer coverage, and this would be supported by a broad-based user fee and/or

[1]Letter from R. Mecum, Acting Administrator, Alaska Region, NMFS to M. Crow, Executive Director, Western Alaska Community Development Association, March 15, 2007. http://www.fakr.noaa.gov/cdq/ltrcdqobservers.pdf.

direct Federal funding, if available. The primary concerns with the existing program arose from the inability of NMFS to determine when and where observers should be deployed, inflexible coverage levels established in regulation, disproportionate cost issues among the various fishing fleets, and the difficulty to respond to evolving data and management needs in individual fisheries. These concerns were summarized in the original problem statement below:

Observer Program Problem Statement from June 2006 Restructuring Analysis

The North Pacific Groundfish Observer Program (Observer Program) is widely recognized as a successful and essential program for management of the North Pacific groundfish fisheries. However, the Observer Program faces a number of longstanding problems that result primarily from its current structure. The existing program design is driven by coverage levels based on vessel size that, for the most part, have been established in regulation since 1990. The 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. In addition, the existing program does not allow fishery managers to control when and where observers are deployed. This results in potential sources of bias that could jeopardize the statistical reliability of catch and bycatch data. The current program is also one in which many smaller vessels face observer costs that are disproportionately high relative to their gross earnings. Furthermore, the complicated and rigid coverage rules have led to observer availability and coverage compliance problems. The current funding mechanism and program structure do not provide the flexibility to solve many of these problems, nor do they allow the program to effectively respond to evolving and dynamic fisheries management objectives.

While the Council continues to recognize the issues in the problem statement above, existing obstacles prevent a comprehensive analysis of potential costs. Immediate Council action on a restructured program is not possible until information is forthcoming that includes clarification of cost issues that arise from Fair Labor Standards Act and Service Contract Act requirements and statutory authority for a comprehensive cost recovery program. During the interim period, the Council must take action to prevent the expiration of the existing program on December 31, 2007.

During the development of the 2006 analysis, the Council encountered several barriers that ultimately prevented restructuring the program as intended. With the recommendation from NMFS,[2] the Council instead chose to extend the existing Observer Program, whereby vessels and processors contract directly with observer providers in order to meet observer coverage levels required by regulation. Thus, the Council selected the 'status quo' program in June 2006, and removed the sunset date from regulations in order to prevent the program from expiring.

The primary barriers to restructuring in 2006 were reiterated in the Council's motion on the issue. At the time the Council identified its preliminary preferred alternative (February 2006), it also approved an addition to the problem statement which outlined the existing obstacles (the last paragraph of the problem statement above). These include: 1) a lack of statutory authority to implement any of the fee-based alternatives proposed, and 2) an inability to provide an adequate assessment of industry costs associated with changes in the observer service delivery model. These obstacles are summarized below.

[2]Letter from Robert D. Mecum, Acting Administrator, Alaska Region to Stephanie Madsen, Chair, North Pacific Fishery Management Council, January 22, 2006.

Barrier 1 - Statutory Authority

The previous (2006) alternatives for restructuring the Observer Program developed through an iterative process, which first focused primarily on Gulf of Alaska vessels and processors, then expanded to seven alternatives, some of which included the BSAI, and were finally consolidated to a suite of five alternatives by recommendation of the SSC, NMFS, and the Council. These alternatives were developed during a series of OAC and Council meetings, and reflected a desire to consider partial restructuring (GOA only, or <100% covered vessels only) as well as comprehensive restructuring. The intent under partial restructuring was to allow NMFS to get a new program operational in most smaller-scale fisheries of the GOA that may have more acute data quality and disproportionate cost issues, without initially affecting the large-scale fisheries of the BSAI, which comprise the majority of current observer coverage. Even the one alternative proposing 'comprehensive' restructuring required a different fee (ex-vessel value versus daily fee) on different sectors of the fisheries. Thus, while the suite of alternatives included three 'restructuring alternatives', none of those included a comprehensive alternative that would have assessed the same ex-vessel value percentage fee on every groundfish fishery sector in the GOA and BSAI.

The groundfish fisheries in the EEZ off Alaska are managed by NMFS under the authority of the MSA. Subsections 313(a) through 313(e) of the MSA establish the authority for the Council to prepare a fisheries research plan that requires observers to be deployed in North Pacific fisheries and establishes a system of fees to pay the costs of observer coverage. However, despite the general authority to establish an observer research plan in Section 313 of the MSA, the Council and NMFS lacked statutory authority to implement the specific proposals set out in the restructuring alternatives in June 2006.

Prior to the reauthorization of the MSA in December 2006, Section 313(b)(E) required that the fee to pay for observer coverage "be expressed as a percentage, not to exceed 2 percent, of the unprocessed ex-vessel value of the fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery." Section 313(b)(F) required that the fee "be assessed against all fishing vessels and United States fish processors, including those not required to carry an observer under the plan, participating in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery." Thus, NOAA General Counsel, Alaska Region (GCAK) made a determination that the Research Plan authority provided in Section 313 of the MSA (prior to reauthorization) could not be applied to only a *subset* of the vessels in the fisheries for which the Council and NMFS have the authority to establish a fee program.

Because none of the previous restructuring alternatives proposed (Alternatives 3 – 5) would assess the same ex-vessel value based fee on all fishing vessels and processors participating in fisheries under the jurisdiction of the Council, the Council and NMFS recognized that new statutory authority was necessary to implement an observer program under the alternatives they approved. For example, Alternative 3 proposed to assess an ex-vessel value based fee only on vessels and processors in the GOA, and Alternatives 4 and 5 proposed to assess an ex-vessel value based fee only on vessels and processors that have less than 100% observer coverage requirements. Alternative 4 left vessels and processors that require 100% or more observer coverage in the existing pay-as-you-go program, while Alternative 5 assessed a different fee (daily observer fee) on vessels and processors that require 100% or more observer coverage.

Therefore, at the time of final action in June 2006, all of the alternatives, except no action (Alternative 1) and the extension of the existing program (Alternative 2), required new statutory authorization. As stated previously, this was one of the reasons the Council ultimately selected Alternative 2.

Barrier 2 – Inability to Adequately Estimate Costs

The second major barrier to restructuring the Observer Program in 2006 was the inability to adequately estimate costs of the proposed changes to the observer service delivery model. The Council cited outstanding information on the application of the Fair Labor Standards Act (FLSA) and the McNamara-O'Hara Service Contract Act (SCA) to observer services under a model where NMFS contracts directly with observer providers, as an obstacle to partial or comprehensive program restructuring. Thus, one of the issues the Council recommended be resolved prior to reinitiating a new restructuring amendment was related to clarifying FLSA issues, such that it would be possible to estimate costs associated with the fee-based alternatives. NMFS has requested guidance on observer remuneration from the Wage and Hour Division of the U.S. Department of Labor (DOL) on many occasions. The DOL has responded to several of these requests, though as of June 2006, had not responded to a November 2005, letter from the Assistant Administrator of NMFS requesting interpretation about the applicability of the FLSA and SCA to unique scenarios encountered by fisheries observers.

Observer program costs may vary, to a large degree, depending on the interpretation reached about the applicability of wage and labor laws to fisheries observers. Due to the immense scale of the labor cost associated with observing the groundfish fisheries in the North Pacific, it is important to understand how a restructured service delivery model would impact industry and agency costs to ensure continuation of this critical data collection. Given the various interpretations, their implications, and lack of clarification from DOL, who has authority for enforcing the SCA and FLSA, NMFS and the Council decided to maintain the status quo service delivery model beyond 2007, until these issues were clarified such that the costs of a restructured program could be understood before implementing changes.

2006 Council Motion on Restructuring

At the same time that the Council selected its preliminary preferred alternative (Alternative 2), to extend the existing program, in February 2006, it also approved the following motion regarding future efforts to restructure the Observer Program:

> *The Council recommends that a new amendment proposing restructuring alternatives for the Observer Program should be considered by the Council at such time that: 1) legislative authority is established for fee-based alternatives; 2) the FLSA issues are clarified (by statute, regulation, or guidance) such that it is possible to estimate costs associated with the fee-based alternatives; and/or 3) the Council requests reconsideration in response to changes in conditions that cannot be anticipated at this time. Subsequent amendment packages regarding the Observer Program should include an option for the Federal funding of observers.*

The Council's February 2006 motion outlines the intent to consider a new amendment to change the Observer Program service delivery model at such time that additional cost information is available, and assuming new fee authority is granted by Congress. Members of the Council were concerned that a decision to extend the existing program (i.e., not restructure) could be taken out of context without such a statement. They also wanted the final analysis, sent to the Secretary of Commerce, to reflect the efforts toward restructuring and the reasoning for adopting an extension to the current program, despite its problems and shortcomings. Thus, this part of the motion was intended to guide the Council, should the conditions be met that would allow observer restructuring in the future. And while a future Council would not be required to evaluate the same suite of alternatives, the 2006 analysis of the restructuring alternatives was intended as a starting point for a future amendment.

The first part of the motion is self-explanatory: if the two primary issues encountered in 2006 are resolved (i.e., statutory authorization and the ability to estimate costs under the FLSA and SCA), the Council

would have reason to reinitiate an analysis to restructure the Observer Program. The last part of the motion refers to Federal funding, requiring that a subsequent amendment package addressing changes to the service delivery model should include an option for Federal funding of observers. Restructuring the Observer Program, such that NMFS contracts directly with observer providers, would create a mechanism by which Federal funds could be injected into the program, based upon availability.

All of the restructuring alternatives contained within the 2006 analysis anticipated funding the new Observer Program through some combination of user fees and direct Federal funding. Under the new program, most sectors included would pay a percentage of the ex-vessel value of their groundfish catch (or halibut catch in the case of the halibut sector) to cover the costs of observer services. This would create an annual budget within which NMFS would need to work to deploy observers in the North Pacific on those sectors covered by the program. In effect, once an ex-vessel value fee is established, industry would have increased certainty of annual costs, compared to the status quo.

The analysis stated that Federal funding may be necessary to get the new program started or to provide ongoing support. Without start-up funding, fees would need to be collected in advance of the implementation date, until sufficient fees are collected through the program to make it self-supporting. Ongoing Federal funding could be used to cover some direct observer costs to offset industry costs, or in the case that industry fees are inadequate for the desired coverage levels. In addition, Federal funding could be used to cover agency costs associated with implementing and maintaining the program. Therefore, decisions related to the type of user fee did not preclude the possibility of obtaining Federal funding to cover observer costs, and all of the alternatives considered could incorporate Federal funding, should it become available. However, the Council does not control whether Federal funds would be available, and thus, with regard to funding, the analysis focused on the user fee, as that was a primary decision under the Council's authority.[3]

It is not anticipated that this situation would change, should the Council reinitiate an analysis to consider restructuring the Observer Program. The program would need to be designed such that it could receive and use Federal funds, should they become available, to pay for the direct costs of observer coverage, although Federal funding could not be depended upon to pay for the direct costs of deploying observers for the overall feasibility of the program.

Given the above, however, there are several reasons why Federal funding could or should become a reasonable possibility. With two exceptions,[4] the Federal observer programs in other regions of the U.S. are entirely Federally-funded. The National Observer Program (NOP) produces an annual report summarizing activities of all Regional Observer Programs. They provide summary information on the history of Federal funding for observer programs and the most recent report provides detailed information on 2007 funding. This information is summarized in the following sections.

Funding History for Observer Programs

Although NMFS has utilized fishery observers to collect data since 1972, NMFS Office of Science and Technology's NOP was not established until 1999. Prior to 1998, the majority of funding for regional observer programs was provided through indirect sources, such as Congressional allocations supporting fisheries management and protected resource legislation. Beginning in the early 1990s, domestic industry funds were also used to support observer programs; the amount of industry funding has remained

[3]Note that in the 2006 analysis, it was explicit that the user fee proposed under the restructuring alternatives would not have been used to cover NMFS administrative and management costs of implementing the new Observer Program.

[4]The Pacific hake observer program in the Northwest region and the Atlantic sea scallop program in the Northeast Region are funded by industry. The NW is a pay-as-you-go system in the same manner as the North Pacific Groundfish Observer Program, whereas the NE model allots additional scallops or sea days to compensate for the cost of observers.

relatively stable. In 1999, the first Congressional funds were directly appropriated for observer program budget lines, and the NOP was established to coordinate U.S. observer program activities. In general, funding for observer programs has increased over time. The number of fisheries observed has increased nationally, as programs obtain the means to develop observer programs for new or experimental fisheries, while maintaining established monitoring programs.

FY 2007 Budget Summary

In FY 2007, total funding from all sources for Federal fisheries observer programs was approximately $48,611,000 for observer coverage and program infrastructure. This funding enabled regional observer programs to provide coverage for more than 64,000 days at sea in 42 fisheries (Appendix C provides a detailed breakdown of funding and coverage levels by program). The industry-provided portion of total funding in FY 2007 was $14,990,000. Industry funds were used to support observer coverage of fishing vessels in the Northwest hake, Atlantic sea scallop, and Alaska groundfish fisheries.

The majority of funding for observer programs comes from Congressional appropriations. In FY 2007, Congressional funding for observer programs totaled $33,631,000. All NMFS Regions have at least one dedicated budget line supporting observer program activities, except the Southwest, which has never had a dedicated budget line for observer programs. Alaska does have a Congressional line item for Federal fisheries (the North Pacific Groundfish Observer Program), which covers a portion of the agency's observer program administrative costs. There is no Congressional line item for the Alaska Marine Mammal Observer Program, which observes State fisheries. Funding is also available from two National budget lines, which are equally allocated to Regional programs. In addition to direct budget lines, observer programs may receive funding from Federal appropriations, supporting programs under the American Fisheries Act (AFA), Endangered Species Act (ESA), Marine Mammal Protection Act (MMPA), and the MSA.

Table 1. National Congressional funding for Federal fisheries' observer programs in FY07

Budget Line Item	Line Total
National Observer Program [1]	$2,970,000
Reducing Bycatch[1]	$1,508,000
West Coast Observers	$4,948,000
North Pacific Marine Resource Observers	$2,272,000
North Pacific Observer Program	$1,512,000
Hawaii Longline Observer Program	$3,966,000
Northeast Groundfish Observers	$7,427,000
East Coast Observers Atlantic Coast	$345,000
Observers South Atlantic/ Gulf of Mexico	$3,323,000
Shrimp Observers	$1,797,000
Other Federal Funds	$3,563,000
Total Congressional Funding (all sources)	$33,631,000

[1]Allocated to other programs.

Regional and National observer program activities are funded through a number of dedicated Congressional budget lines (Table 1). It is important to note that an observer program may be funded by more than one budget line, and a single budget line may support observer program activities in more than one Region. Many observer programs are funded through a combination of funding sources in order to maintain sufficient observer coverage and infrastructure. The 'Reducing Bycatch' line is split between the Office of Science and Technology for observer activities and the Office of Sustainable Fisheries for bycatch technology research. The Office of Science and Technology portion of the 'Reducing Bycatch'

line, along with the 'National Observer Program' line, are equally allocated to the regional programs and used for observer coverage, program infrastructure, and National Bycatch Report development. The National Observer program retains some funds from these lines to support national program activities.

Current Funding for the North Pacific Groundfish Observer Program

The current funding for the Observer Program monitoring the groundfish fishery in Alaska is composed of two sources, industry and the Federal government. The fishing industry pays all of the direct costs of placing observers on their vessels. This industry component of Observer Program funding includes food and all direct costs such as salary, insurance, housing, and travel. The fishing industry pays the food costs directly, while all other costs are paid to one of several observer providers certified by NMFS. While NMFS does not know the actual costs industry pays for observers, the Council took action in February 2008 authorizing NMFS to collect actual cost information from observer providers, once every three years. NMFS is currently developing rulemaking to implement this action. Without actual cost data, NMFS has made estimates of the industry contribution of costs. The last estimate of industry costs in 2004 was $355/day including travel, resulting in a total industry cost estimate of approximately $13 million annually. Should the Council proceed with a restructuring analysis, this estimate would need to be updated.

Current Federal funding for the Observer Program supports the agency requirements of observer training, sampling and safety gear, field office support, data management, data quality control, and some analysis. The majority of the cost of analytical work done with the observer data is absorbed in the broader budgets of NMFS, ADF&G, IPHC, and the Council, as there are numerous clients using the Observer Program information. Appendix C provides details on the costs and money sources for all observer programs in all Regions of NMFS in 2007.[5] As an update, NMFS costs for the groundfish Observer Program in 2008 were $5.2 million.

NMFS maintains Observer Program staff in Seattle, with field offices in Anchorage, Dutch Harbor, and Kodiak. In addition, NMFS contracts with the University of Alaska-Anchorage (UAA) to provide the majority of observer training at their facility in Anchorage. A new contract, implemented in October 2008, is expanding the UAA role to include observer debriefing, in an effort to increase debriefing capacity. Table 2 provides a general breakdown of NMFS program costs in 2007, noting that the majority of those costs are allocated to labor.

Table 2. Allocation of NMFS' Observer Program costs based on 2007 spending

Salary and benefits	67.9%
Travel & Transportation	2.5%
Transportation of things	1.7%
Rents, Communications, Utilities	4.6%
Printing/Reproduction	0.4%
Contracts/Training	15.2%
Supplies/Materials	2.8%
Shared AFSC administrative costs	4.8%
	100.0%

[5]Industry costs and contributions for the North Pacific Groundfish Observer Program have been estimated.

III. Status of the problems – is there still a reason to restructure?

Though recognized as a successful and essential program for management of the North Pacific groundfish fisheries, a number of longstanding problems stem from the current structure of the Observer Program. Problems and concerns with the Observer Program, cited in previous restructuring analyses, remain unresolved and are not likely to be resolved without fundamental changes to the observer service delivery model. Primary concerns with the existing structure center around the disproportionate percentage of revenue paid by some sectors to fulfill observer coverage requirements, the inability of NMFS to determine when and where observers will be deployed in sectors with less than 100% coverage requirements, the inability to effectively tailor coverage levels and deployment patterns to address emergent management needs, and the lack of data from vessels not subject to observer coverage under the existing requirements.

Coverage Based on Vessel Size – Cost Disparity and Lack of Data

The current groundfish Observer Program throughout Alaska is one in which groundfish vessels less than 60' are not required to carry observers and vessels 60' - 125' LOA are required to carry and pay for their own observers 30% of their fishing days, regardless of gear type or target fishery.[6] These two size categories make up the majority of vessels fishing in the GOA and out of ports other than Dutch Harbor and Akutan in the BSAI. Observers on vessels greater than 60' estimate total catch for a portion of the hauls or sets, and sample these hauls or sets for species composition. These data are extrapolated to make estimates of total catch by species for the entire fishery, including unobserved vessels. Observer data from observed vessels are assumed to be representative of the activity of all vessels, and are used to estimate total catch of prohibited species for the entire fishery.[7] On average, vessels less than 60' harvested 27% of the total GOA groundfish catch from 2003-2007. All of this catch was unobserved. Vessels less than 60' are not observed, in part because of concerns with the cost of observer coverage and the practical and logistical difficulties with placing observers on smaller vessels.

Vessels between 60'-125' LOA operating in the GOA pay a disproportionate percentage of their revenues towards observer costs, relative to both their under 60' counterparts and the larger offshore vessels operating in the BSAI. Not only do these vessels have far lower revenues on a per-vessel basis than do the large offshore vessels in the BSAI, the daily costs of coverage are often higher for vessels operating in the GOA, due to the logistics of deploying observers to remote ports for short periods of time. For example, the fewer the number of participants in a particular fishery, the more difficult it is for observer providers to develop cost-effective methods of rotating observers between vessels. Observer transportation costs also increase greatly in remote ports or rural locations that require chartered air service.

Vessels greater than 60' LOA operating in the GOA also pay a disproportionate percentage of their revenues towards observer costs, relative to their counterparts outside of Alaska. The North Pacific Groundfish and the Northwest Pacific Hake Observer Program are the only programs in the U.S. in which fishing vessels pay for their own observer coverage to meet coverage requirements established in Federal regulations. This means that fishermen operating in the GOA pay a much higher percentage of their revenues for observer coverage than do similarly-situated fishermen outside of Alaska. In addition, Alaska's coastal communities are, in general, far less economically diversified, have fewer economic

[6] Unless participating in a limited access quota program as described previously, which may require additional coverage.

[7] This has resulted in additional data problems owing to fishing behavior by some boat operators, when an observer is aboard, that is clearly not representative of fishing practices when unobserved. Referred to as "fishing for observer coverage", these resulting data, when extrapolated to other vessels that are unobserved, compound the potential catch and bycatch estimation errors, but to an unknown degree.

opportunities, and are more dependent on commercial fishing than most fishing communities outside of Alaska.

Halibut Fisheries

In addition to the lack of observer coverage in the less than 60' fleet, there is no observer coverage in the halibut fisheries. Halibut fisheries are only observed incidentally to groundfish operations. In 2007, 1,211 vessels fished 2,632 IFQ permits, for a total harvest of 24,644 tons of halibut.[8] There are a number of potential bycatch issues pertaining to the halibut fleet, of concern to managers, where observers or electronic monitoring may be necessary in the future.[9] Most of the information gathered for management of halibut vessels (and vessels <60') currently takes place at shoreside processors, which may provide adequate catch accounting for target species and retained incidental catch species. However, discards are self-reported for all vessels in these sectors. NMFS does not currently have a verifiable measure to account for these discards, nor does it have a method for assessing the accuracy of its management decisions. Additionally, current self-reporting requirements do not include information about vessel fishing behavior.

Vessel Selection

Currently, owners and operators of plants and vessels with a 30% observer requirement determine when to carry observers, to meet their mandatory coverage levels. These deliberate choices may result in biased information on the composition and temporal and spatial distribution of catch. In addition, substantial data gaps may occur in certain fisheries or areas. For fishery management purposes, NMFS needs to have a rational, scientifically-based vessel selection plan, which the fleet does not control. Under the current structure, NMFS has no means by which to assign observers to vessels and plants with 30% observer coverage requirements. For example, many 30% vessels take observers at the beginning of the fishery, to ensure they meet their coverage requirements before the fishery closes (at a future uncertain date). This may result in a relatively substantial amount of observer data available at the beginning of the fishery, tapering off toward the end of the fishery. A relatively small amount of observer data at the end of the fishery can greatly influence both the total catch and PSC estimates, which in turn influences fishery closures. This problem has been acknowledged by NMFS, the Council, and industry for many years, but has not changed.

In a March 2004 report, the U.S. Department of Commerce, Office of Inspector General (OIG) recommended that NMFS work with the Council to establish requirements for an observer program that includes a vessel selection process that is scientifically valid and unbiased. NOAA concurred that improved vessel selection procedures are needed for scientific data collection, and indicated that they were working with the Council to address these biases. A follow-up memorandum from the OIG to NMFS' Assistant Administrator in September 2008, documented that the OIG recommendation for this issue remains open, as fishery managers still cannot control when and where observers are placed in the North Pacific groundfish fisheries. All other recommendations in the 2004 OIG report for improving data quality, performance monitoring, and outreach efforts in NMFS observer programs have been addressed with this one exception. This is an important data quality issue that is raising public questions about the existing observer deployment system in less than 100 percent observed fisheries.

[8]In the CDQ halibut fisheries, 278 vessels fished 6 CDQ permits.
[9]Note that NMFS and the IPHC are currently working through an NPRB grant to evaluate the potential for EM systems on these vessels.

Observer Skill and Sampling Complexity

Work requirements for observers vary according to vessel, gear type, and target fishery. For example, monitoring and sampling onboard a pollock catcher vessel is technically straightforward, whereas sampling on some of the small "head and gut" factory trawlers can be challenging. Observer skill levels differ, and depend on experience and other factors. Observer effectiveness and efficiency, and overall data quality would be best served under a system which allows NMFS to develop observer skills progressively; first deploying observers in less challenging situations, or at locations where they can be mentored by experienced observers or NMFS staff. As observers become more experienced and skilled, they could then be deployed in more complex and challenging sampling environments and could, in turn mentor newly-trained observers. It is not possible to implement this approach under the current service delivery model except through broad regulatory requirements for level 2 and lead level 2 observers. This approach can best be fully implemented under a restructured program that provides the flexibility necessary to properly match deployment complexity with observer skill level in all observed fisheries, and to implement a mechanism to develop observer skills consistent with the overall requirements for observers.

IV. Status of the obstacles from 2006 – have the conditions to restructure been met?

As discussed previously, the two primary obstacles to restructuring the Observer Program in 2006 were: 1) a lack of statutory authority to implement any of the fee-based alternatives proposed, and 2) an inability to provide an adequate assessment of industry costs associated with changes in the observer service delivery model. In February 2006, the Council recommended that a new amendment, proposing restructuring alternatives for the Observer Program, should be considered at such time as the legislative authority is established, and the FLSA issues are clarified (by statute, regulation, or guidance) such that it is possible to estimate costs associated with the fee-based alternatives. Thus, in order to help the Council determine whether it wants to reinitiate a restructuring effort at this time, one must consider whether these criteria have been sufficiently met.

Statutory Authority Issue

The reauthorization of the MSA (December 2006) provides the statutory authority necessary to assess different fees on various sectors of the fisheries, as proposed under the Council's previous restructuring analysis. Changes to Section 313(a) and (b) allow the Council to establish a system, or systems, of fees, which may vary by fishery, management area, or observer coverage level, to pay for the cost of implementing the research plan. These fees can be expressed as a fixed amount reflecting actual observer costs or as a percentage of ex-vessel value (not to exceed 2 percent) of the fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery. Thus, it appears that the authority now exists for all of the Council's previous restructuring alternatives; these changes represent a broad authority to assess either a flat fee or an ex-vessel value based fee on a subset of, or all, fishery sectors under the jurisdiction of the Council. The revisions to Section 313 of the MSA are provided below:

SEC. 313. NORTH PACIFIC FISHERIES CONSERVATION 16 U.S.C. 1862

(a) IN GENERAL.--The North Pacific Council may prepare, in consultation with the Secretary, a fisheries research plan for ~~all fisheries under the Council's jurisdiction except salmon fisheries~~ **any fishery under the Council's jurisdiction except a salmon fishery** which--

(1) requires that observers be stationed on fishing vessels engaged in the catching, taking, or harvesting of fish and on United States fish processors fishing for or processing species under the jurisdiction of the Council, including the Northern Pacific halibut fishery, for the purpose of collecting data necessary for the conservation, management, and scientific understanding of any fisheries under the Council's jurisdiction; and

(2) ~~establishes a system of fees to pay for the costs of implementing the plan.~~ **Establishes a system, or system [*sic*], of fees, which may vary by fishery, management area, or observer coverage level, to pay for the cost of implementing the plan.**

(b) STANDARDS.--

(1) Any plan or plan amendment prepared under this section shall be reasonably calculated to--

(A) gather reliable data, by stationing observers on all or a statistically reliable sample of the fishing vessels and United States fish processors included in the plan, necessary for the conservation, management, and scientific understanding of the fisheries covered by the plan;

(B) be fair and equitable to all vessels and processors;

(C) be consistent with applicable provisions of law; and

(D) take into consideration the operating requirements of the fisheries and the safety of observers and fishermen.

(2) Any system of fees established under this section shall--

(A) provide that the total amount of fees collected under this section not exceed the combined cost of (i) stationing observers**, or electronic monitoring systems,** on board fishing vessels and United States fish processors, (ii) the actual cost of inputting collected data, and (iii) assessments necessary for a risk-sharing pool implemented under subsection (e) of this section, less any amount received for such purpose from another source or from an existing surplus in the North Pacific Fishery Observer Fund established in subsection (d) of this section;

(B) be fair and equitable to all participants in the fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(C) provide that fees collected not be used to pay any costs of administrative overhead or other costs not directly incurred in carrying out the plan;

(D) not be used to offset amounts authorized under other provisions of law;

(E) be expressed as **a fixed amount reflecting actual observer costs as described in subparagraph (A) or** a percentage, not to exceed 2 percent, of the unprocessed ex-vessel value of the fish and shellfish harvested under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(F) be assessed against **some or** all fishing vessels and United States fish processors, including those not required to carry an observer **or an electronic monitoring system** under the plan,

participating in fisheries under the jurisdiction of the Council, including the Northern Pacific halibut fishery;

(G) provide that fees collected will be deposited in the North Pacific Fishery Observer Fund established under subsection (d) of this section;

(H) provide that fees collected will only be used for implementing the plan established under this section; ~~and~~

(I) provide that fees collected will be credited against any fee for stationing observers or electronic monitoring systems on board fishing vessels and United States fish processors and the actual cost of inputting collected data to which a fishing vessel or fish processor is subject under Section 304(d) of this Act; and

(**J**I) meet the requirements of section 9701(b) of title 31, United States Code.

Note that should the Council initiate a new restructuring analysis, a legal interpretation of Section 313 would likely be necessary, in order to determine limitations on using fee proceeds. Sections 313(b)(2)(C), (H), and (I) provide language directing how the fee proceeds can be used, but are not explicit as to whether some agency costs of implementing the plan can be covered by fee proceeds. For example, although Section 313(b)(2)(C) does not allow for fees collected to be used to pay for administrative overhead, it is uncertain whether the fee could be used toward other agency costs associated with implementation.

Note also that the changes to Section 313(b)(2) also allow for fees collected under this section to be used for electronic monitoring (EM) systems. This language appears to anticipate the future potential of electronic monitoring technologies as part of a comprehensive monitoring plan in the North Pacific. The previous 2006 analysis on restructuring provided an appendix on fisheries monitoring technologies that could potentially be used in the North Pacific to augment observer programs, increase the accuracy of data collected by observers, and potentially replace some observers in particular applications. However, the restructuring analysis itself focused on changing the service delivery model, such that NMFS would contract with observer providers, as opposed to industry contracting with them. Thus, while the 2006 analysis recognized the future potential of electronic monitoring, the actions proposed were specific to improving the existing Observer Program, understanding that observers are currently, and will likely remain, a central part of the overall monitoring system.

Staff anticipates that, should the Council reinitiate an analysis to restructure the Observer Program, it will remain necessary to focus that action on alternatives to design a fee system and to determine the scope of restructuring (i.e., which fishery sectors will pay into a specific fee program). This will need to be based on an assessment of monitoring needs throughout the fisheries, in order to determine the fee necessary to cover the level of observer coverage identified. In contrast, an analysis to regulate electronic monitoring would provide a very different set of decision points regarding the specific applications by which electronic monitoring can be used in individual fisheries. However, even if a new restructuring analysis focuses on changes to the Observer Program, a fee or fees established under the new system authorized by Section 313 could be used toward electronic monitoring systems, should that technology become available and be recommended by the Council and NMFS in the future.

Note that the Council, NMFS, and the North Pacific Research Board recently (July 2008) collaborated to host a public workshop on electronic monitoring, in Seattle, with a focus on video applications. The workshop, which garnered national and international participation, attempted to assess the current state of

the technology, its potential use for research and management in the North Pacific, and future research and development needs. In general, the workshop presentations demonstrated that electronic monitoring appears to work very well for making counts of individual fish in some fisheries (e.g., in the hook-and-line fisheries) and documenting activities (e.g., discarding or not discarding fish, using or not using bird avoidance devices), but most current EM programs have limited biological data collection components (e.g., species composition). Overall, the primary issues recurring throughout the workshop were categorized as administrative, practical, and related to data quality. Refer to the proceedings of the workshop for a detailed summary.[10]

Note also that Section 313(b)(2)(D) states that: "Any system of fees established under this section shall not be used to offset amounts authorized under other provisions of law." Thus, in considering the authority to assess a fee for observer services under Section 313, staff consulted with NOAA GC to determine if there is any overlap with the Limited Access Privilege Program (LAPP) cost recovery fees authorized under Section 303A(e):

> (e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—
>
> (1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and
> (2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

Section 304(d)(2) provides the authority to collect fees to recover the actual costs directly related to management, data collection, and enforcement of any LAPP and CDQ Program. This section notes that the LAPP or CDQ fee cannot exceed 3 percent of the ex-vessel value of fish harvested under any such program, and further states:

> (C)(i) Fees collected under this paragraph **shall be in addition to any other fees charged under this Act** and shall be deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B). (emphasis added)

Both Section 313 and Section 304 are relatively clear that the fees collected under the research plan authority in Section 313 are separate from, and should not be used to offset, any other fees authorized in the Act, which includes the LAPP cost recovery fee. Upon request, NOAA GC has provided preliminary guidance to staff that the two different fee authority sources (i.e., research plan fee under 313 and LAPP fee under 303A) are mutually exclusive, and thus, could be additive. For example, for vessels participating in a LAPP, NMFS could theoretically assess a 2% ex-vessel value based fee to pay for observer coverage under a restructured program, as well as a 3% ex-vessel value based fee to pay for the costs of implementing the LAPP (costs directly related to management, data collection and analysis, and enforcement). NOAA GC also agrees that observers fall under the definition of 'data collection and analysis' as stated in Sections 303A and 304 and, thus, LAPP cost recovery fees could be used to pay for observer coverage directly related to and in support of the LAPP.

NMFS guidance on the new LAPP provisions in the MSA is forthcoming, and is supposed to include guidance on the components of the LAPP fee. However, one approach to considering the relationship between the two fees may be that the observer fee assessed under a restructured program would pay for the direct costs of placing observers in the various fisheries and, if a fishery is then changed to a LAPP,

[10]http://www.fakr.noaa.gov/npfmc/misc_pub/EMproceedings.pdf.

the LAPP cost recovery fee may be used to pay for any additional observer coverage that may be necessary for monitoring in the new LAPP. In effect, this is similar to the concept of 'supplemental' fees, which were addressed in previous analyses. Supplemental fee revenues, generated by increasing the ex-vessel fee percentage for participants in LAPPs, were discussed as a means of generating additional funds to cover the increased observer coverage typically associated with monitoring catch and bycatch at the individual vessel or cooperative level. While a supplemental fee program was not included as a component in any of the alternatives proposed in 2006, it was noted that the Council may need to consider supplemental fees or changes to the fee level in the future, should they be needed to address additional management needs in specific fisheries that are subject to an ex-vessel value based fee. In the previous 2006 analysis, vessels and processors that required 100% or 200% coverage – primarily those in limited access privilege programs – were either left in the existing pay-as-you-go program, or subject to a daily fee, paying actual costs, which negates the supplemental fee issue.

The cost recovery fee under the BSAI Crab Rationalization Program provides a recent example. The State of Alaska (State) is responsible for establishing observer coverage requirements for the crab fisheries managed under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs. All of these crab fisheries, except Norton Sound red king crab, were rationalized under a limited access system of individual fishing and processing quota in 2005. Rationalization of these fisheries required implementation of a cost recovery program under section 304(d)(2)(A) of the Magnuson-Stevens Act "to recover the actual costs directly related to the management and enforcement of any...individual fishing quota program [or] community development quota program." Because the State incurs many of the actual costs associated with management and enforcement of the rationalized crab fisheries, the additional costs to the State as a result of the crab rationalization program are recovered through the cost recovery program. Included in the costs recovered by the State are the additional administrative costs associated with observer coverage in the rationalized crab fisheries, including crab allocated to the CDQ Program, and the additional direct costs of paying observers. For the 2007 - 2008 crab fisheries, the observer coverage costs recovered by the State were approximately $92,000 for administrative costs and $380,000 for the direct costs of paying observers.

In sum, the statutory authority issues, identified as an obstacle to restructuring in 2006, have been resolved through amendments to the MSA.

Cost Issues

As indicated previously, uncertainties about how the Service Contract Act (SCA) and Fair Labor Standards Act (FLSA) would apply under a restructured service delivery model have resulted in concerns about increases to the overall cost of a restructured program. Resolving these issues is another one of the conditions the Council stated should be met prior to reinitiating restructuring. Because the industry currently contracts directly with and pays observer providers for observers and because, as of yet, Federal funds have not been made available for the deployment of observers in the North Pacific, these ambiguities carry potentially large implications about the ability to adequately fund a restructured program. Whereas these issues have been unsatisfactorily resolved for over a decade and have thwarted previous restructuring attempts, a discussion about the status of these pivotal concerns is warranted as the Council considers whether or not to undertake yet another restructuring analysis.

Service Contract Act

The SCA requires that Federal service contracts over $2,500 performed in the United States pay service employees no less than the locally prevailing wage rates and fringe benefits, or the rates contained in a predecessor contractor's collective bargaining agreement. Since the early 1990s, NMFS, NOAA General Counsel, and NOAA Acquisition and Grants Office (AGO) have grappled with the applicability of the

SCA to fisheries observers employed by observer providers contracted by NMFS. There has been extensive correspondence between NOAA and the DOL in attempts to resolve confusion with the application of the SCA to fisheries observers. At this time, virtually all uncertainties about the applicability of the SCA to a government contract for North Pacific groundfish observer services have been clarified.

The SCA would apply to observer provider contracts under a service delivery model where NMFS contracted directly with observer providers. As part of a regularly recurring review process, whereby wage determinations are updated, the DOL issued a revised wage determination for Alaska fishery observers in August 2008,[11] making it possible to estimate direct observer labor costs (although not other associated costs of supplying observer coverage) under a direct contract service delivery model under various scenarios.

The geographic scope of the SCA is defined at 29 CFR 4.112 and includes the 50 states within the United States and the Outer Continental Shelf lands, as defined in the Outer Continental Shelf Lands Act (43 U.S.C. 331 *et seq*.). In the North Pacific, Outer Continental Shelf lands are submerged lands under Federal jurisdiction beneath the waters seaward from 3 nm to 200 nm[12] All GOA and BSAI groundfish FMP fisheries occur in these waters; thus, the SCA would apply to all observer services provided under government contract in the BSAI and GOA.

Fair Labor Standards Act

A primary barrier to restructuring the Observer Program has been confusion about how FLSA overtime provisions would apply to observer compensation. The FLSA establishes minimum wage, overtime pay, recordkeeping, and youth employment standards affecting employees in the private sector and in Federal, State, and local governments. FLSA overtime provisions are particularly germane to questions surrounding fisheries observer compensation and resulting observer program costs. The FLSA requires covered nonexempt employees be paid overtime pay for hours worked over 40 per workweek (any fixed and regularly recurring period of 168 hours — seven consecutive 24-hour periods) at a rate not less than one and one-half times the regular rate of pay (29 U.S.C. §207). The workweek ordinarily includes all the time during which an employee is necessarily required to be on the employer's premises, on duty, or at a prescribed work place (29 CFR §785.7).

Given the nature of fishery observer duties, hours in the work week considered compensable work hours for purposes of the FLSA can be difficult to determine. This confusion has resulted in concerns that fisheries observers would have to be compensated every hour they are onboard a vessel, if NMFS were to contract directly with providers. Because the manner in which observers' work hours are calculated and how the FLSA applies to those hours has large implications for the overall cost of deploying observers NMFS and the Council sought guidance from the DOL, who is the ultimate authority for administering and enforcing the FLSA, on issues specific to the duties and unpredictable nature of fisheries observers work. The June 2006 Restructuring Analysis provides an extensive discussion of FLSA issues and correspondence between NMFS, the Council, and DOL on these issues. The DOL had not clarified these issues for NMFS and the Council by the June 2006 Council meeting. Lack of clarification on how FLSA overtime provisions would affect observer labor costs was a primary reason the Council selected the 'status quo' as their preferred alternative.

[11] See Appendix D.
[12] See definition at: http://www.mms.gov/aboutmms/ocsdef.htm; the Minerals Management Service administers and enforces the Outer Continental Shelf Lands Act.

Two FLSA overtime questions for fisheries observers under a direct NMFS contract raised in a 2005 letter to DOL that have not been addressed include: determining which hours of an observers' day are compensable work hours; and whether or not fisheries observers are exempt from FLSA overtime provisions via an exception for 'certain other activities performed on a fishing vessel in connection with [fishing operations]' (29 U.S.C. §213(a)(5); 29 CFR 784.121-122; and 29 CFR §784.131). In April, 2008, the Council sent a letter urging NMFS to follow up with the DOL for clarification on these issues to inform deliberations on restructuring the Observer Program. NMFS responded to the Council in June, 2008 indicating that NMFS was aware of fishing industry efforts to resolve observer labor uncertainties with the DOL and as such, NMFS would allow that process to conclude before taking further action. To date, industry has not received a response from DOL. While NMFS has not received direct guidance from the DOL on these issues, several NMFS' Regions have direct contracts with observer providers which contain provisions for complying with the FLSA that provide guidance on how to determine the number of hours worked by an at-sea observer each day and how to incorporate overtime pay into an observers 'sea day' wage.

Determining Hours Worked

FLSA implementing regulations[13] contain provisions for determining hours worked for employees who reside on the employer's premises. Employees residing on an employer's premises on a permanent basis are not considered to be working all the time they are on the premises (§785.23). Guidance for determining hours worked at 29 CFR §785 notes that, only the amount of time allowed by the contract is required to be counted and that periods in which the employee is completely relieved, which are long enough for him to use the time effectively for his own purposes, are not hours worked. Where the employee resides on the employer's premises, §785.23 states that, "it is, of course, difficult to determine the exact hours worked under these circumstances and any reasonable agreement of the parties which takes into consideration all of the pertinent facts will be accepted."

NMFS has existing contracts for observer services in other Regions which provide useful examples as to how the FLSA has been applied. An overview of pay schedules for NMFS-contracted observer programs is provided in Appendix E. The information included in Appendix E is specific to observer salary and work hour limitations imposed by the various programs to control costs. These pay schedules demonstrate the potential flexibility in defining hours worked for observer contracts and that observers are not considered to be working the entire time they are at-sea. For example, the Pacific Islands, Northeast, and Southeast Regions of NMFS have direct government contracts with observer providers. A maximum daily limit on the number of hours an observer can work is specified for each of these programs. In the Southeast the maximum daily limit is 16 hours, the maximum in the Northeast is 12 hours, and the Pacific Islands daily allowed maximum is 10 hours. The Alaska Marine Mammal Observer Program, which operates under a direct government contract, limits the number of hours worked by observers to a maximum of 12 hours. In these programs, observers are paid overtime for all hours worked in excess of 40 hours per week.

NMFS has compiled a spreadsheet incorporating the prevailing SCA wage and fringe benefits and FLSA provisions which can be used to estimate observer labor costs under various workday scenarios and assumptions about the number of hours worked. The spreadsheet incorporates SCA wage and fringe benefit requirements with FLSA overtime provisions assuming observers are non-exempt. The DOL job series lists three levels of observers. If we assume observers in Alaska will work 12 hours per day, as is the common practice, the range of labor costs will be from $227 per day for an Observer 1 to $252 for an Observer 2 as defined in the DOL job titles. The current description of an Observer 3 is as a field coordinator. The Observer Program does not currently have certified observers in that capacity, though

[13] 29 CFR §785 Subpart B, Principles for Determination of Hours Worked.

some contractors employ staff in that role. These labor cost estimates are higher than current estimates for observer labor costs in the existing program. Estimates for observer labor costs under the current program structure range from $130 to $205 per day depending primarily on experience.[14] Thus, staff's best estimate is that labor costs would increase under a direct Federal contract. It should be noted that even with specific interpretations from the DOL on these issues, there will always be circumstances (weather delays, vessel break-downs, number of fishing days, etc.) that will create uncertainties about the costs of a restructured service delivery model.

If a fee is assessed on vessels and processors for observer coverage that is based on a percentage of ex-vessel value, the MSA limits that amount to two percent of the unprocessed ex-vessel value. After the fees are determined and collected from the industry, NMFS would have to work within that annual budget to deploy observers in the North Pacific. Thus, despite any cost uncertainties inherent with implementing a restructured service delivery model for the Observer Program, industry would have an indication of the upper extent of fees they would be required to pay under a fee-based program. Any subsequent change to the fee would have to be implemented through a new analysis and rulemaking. Note, however, that the MSA authorizes that the fee can also be expressed as a fixed amount reflecting actual observer costs, which is not subject to a prescribed limit. An example would be the 'daily observer fee' that was proposed for specific sectors requiring 100% and 200% observer coverage under the previous restructuring analysis.[15] (This was the preferred approach of these sectors at the time, even if they were not subject to a limit, given that those estimates still represented lower costs than an ex-vessel value fee on those sectors.)

NMFS Costs to Implement a Restructured Program

NMFS would incur additional responsibilities and costs, beyond those of the status quo, to implement a restructured observer service delivery model where the government enters into direct contracts with observer providers for observer services. In the development of this paper, NMFS cursorily explored potential new agency costs and responsibilities given the situation in which it would contract directly with observer providers. New responsibilities were identified within the following broad categories with several tasks implicit to each: fee collection, government contract awarding and oversight, assigning vessels and processors to tiers, implementing the annual sampling scheme, and making adjustments to existing information systems to accommodate changes.

The greatest increases in agency resources required to implement a restructured program are likely to be associated with fee collection, government contract award and oversight, and designing and implementing the annual sampling plan for fisheries with less than 100% coverage levels. An adaptive sampling design will require annually recurring activities, such as designing a sampling plan, specifying coverage levels, notifying fishery participants, and modifying contracts as necessary. The actual workload will depend on how the sampling plan is designed and executed. Finer scale fisheries management will require more intensive program management. None of the duties noted are currently performed by NMFS and would likely require the addition of from one to several full-time employees (FTEs) to perform them. NMFS is currently collecting fees from processors and IFQ participants to pay for administrative costs of implementing rationalized crab and halibut programs. However, depending on the timing and magnitude of fee collection from industry to pay for observer coverage, one additional FTE may be needed to implement fee collection and budgeting. A Contracting Officer's Technical Representative (COTR) would also need to be designated, which may require an additional FTE. Certainly, the scope of

[14]Staff welcomes comments from observers, the observer union, and the contracting industry to improve these estimates.

[15]Refer to Alternative 5 of the 2006 observer restructuring analysis.

restructuring would influence the magnitude of new responsibilities required for successful implementation.

NMFS staff initiated discussions on the potential increase in responsibility to design and implement a new sampling plan. A broad range of new agency responsibilities was anticipated, depending on the complexity of the sampling plan. A thorough analysis of new responsibilities over and beyond what is required to implement the current observer service delivery model and sampling plan should be assessed for any alternatives considered in a future restructuring analysis. The analysis should also consider whether any portion of the fees assessed on industry could be used toward agency costs.

V. Problem statement & alternatives

Should the Council choose to reinitiate an analysis to restructure the Observer Program, it will need to develop a problem statement and alternatives as the basis for action. The problem statement from 2006 is provided earlier in this paper (pp. 1 – 2) for review. The problem statement appears to still be relevant today, in addressing the main problems identified by NMFS and the Council (i.e., reasons to restructure the groundfish Observer Program). While some action has been taken since 2006 to improve the operations of, and data quality resulting from, the Observer Program, a comprehensive solution has not been undertaken – primarily because the concerns identified are not wholly resolvable through piecemeal regulatory changes. (A previous section provides the status of these concerns.) Both the data quality issues resulting from the unobserved and 30% fleets, as well as the disproportionate cost issues, are most comprehensively resolved through a change to the service delivery model and observer funding mechanism. As those changes have not occurred, the fundamental concerns outlined in the problem statement remain.

While the 2006 problem statement remains relevant, it may be improved by adding specific language relative to the lack of observer coverage in specific sectors (e.g., the <60' vessels and halibut fleets). This concern may be captured in part by the portion of the problem statement that states: "The existing program design is driven by coverage levels based on vessel size that, for the most part, have been established in regulation since 1990." However, the Council may want to consider an addition, in order to clarify that the lack of coverage in some sectors is of specific concern. A possible addition to the end of that sentence could be: "and do not include observer requirements for either the <60' groundfish sector or the commercial halibut sector."

There were five alternatives proposed in the public review draft analysis, evaluated by the Council in June 2006. The Council previously wanted to consider this suite of alternatives as a starting point, should a new analysis be initiated in the future. The intent was that the Council would make changes to these alternatives, if desired or necessary, recognizing that these alternatives were developed over several years with industry, agency, and public participation. As such, the Council must determine whether these alternatives continue to meet the objectives of the proposed action.

Inclusion of the commercial halibut sector

While the restructuring alternatives differed in scope, in general, they included GOA and/or BSAI groundfish sectors and the commercial halibut sector (GOA and BSAI). All of the 2006 restructuring alternatives included groundfish vessels <60' and all halibut vessels. A previous section in this paper reviewed the status of the concerns that originally spurred restructuring. That section noted that the halibut sector is not required to carry observers, and that sectors without coverage requirements continue to be a management concern. Should the Council reinitiate a restructuring effort, the NMFS, IPHC, and ADF&G staff that met to discuss the development of this paper recommend to again include the BSAI and GOA halibut fisheries for consideration under this action.

The halibut sector is relatively diverse, in terms of operations (e.g., 70 percent also participate in at least one groundfish fishery), but approximately 90 percent of the halibut vessels fishing off Alaska are <60'.[16] In 1989, the decision was made to exclude halibut vessels and <60' groundfish vessels from any coverage requirements, in part based on the contention that coverage requirements for these smaller vessels were not economically viable under the pay-as-you-go program (whereby each vessel pays a daily rate for an observer). This is because average annual revenues for smaller vessels were less than one-third of the average annual revenues for vessels in the 60' – 124' size range. However, a fee program based on a percentage of ex-vessel revenues mitigates the problem of disproportionate costs for smaller vessels and makes their inclusion into a restructured Observer Program more economically feasible.

Another reason that vessels <60' and halibut vessels were not included in the original Observer Program is because these smaller vessels present particular monitoring challenges due to their size. The previous analysis noted that prior to implementing any type of regular observer coverage on these vessels, a number of practical and logistical issues would have to be addressed, including insurance requirements, bunk space, safety, observer work space, etc. However, NMFS has deployed observers on many types of similarly-sized vessels extensively in other regions, and these issues have largely been addressed. In addition, in recognition of the learning curve in deploying observers on small vessels, the previous restructuring analysis proposed that, at the outset, coverage in the halibut fleet (and <60' fleet) would be used primarily for special data needs, baseline data, and research, rather than inseason management data. Thus, initial observer coverage on this fleet was intended to be relatively low.

Over the long-term, the primary benefit of including the halibut (and <60') sector for consideration is that NMFS' ability to manage these fisheries could be improved by deploying observers to collect catch and effort information. To account for catch, vessels with no observer coverage are currently assigned rates, based on algorithms that attempt to match similar fishing behavior from observed vessels. However, smaller vessels are not often able to travel to the same fishing areas as larger vessels, and their fishing behavior can be significantly different than the vessels used to calculate the catch rates. In some cases, catch rates from much larger vessels, and even catcher processors, are used to estimate catch rates for much smaller catcher vessels. Application of these rates to the smaller vessels is not likely to be accurate, but it is the best option available, absent observer coverage. By placing observers on these smaller vessels and distributing observer resources to various spatial and temporal strata, managers could more accurately account for catch, bycatch, and discards.

Most of the information gathered for management of halibut vessels (and vessels <60') currently takes place at shoreside processors. While this may provide adequate catch accounting for target species and retained incidental catch species, discards are self-reported for all vessels in these sectors. NMFS does not currently have a verifiable means of accounting for these discards, nor does it have a method for assessing the accuracy of its related management decisions. Additionally, current self-reporting requirements do not include information about vessel fishing behavior. Thus, observer information from this fleet would provide information to help accurately assess catch quantities.

In addition, observer collected data are routinely used by scientists in the stock assessment process. Biological data collected by observers at shoreside plants is one way to collect some of this information for vessels that are not observed at sea. However, the information collected shoreside is at a much larger resolution than if it was collected at sea. For example, data collected at sea (otoliths, fishing set and retrieval position, fishing depth, effort, etc.) can be attributed to an individual haul.

[16]Secretarial review draft EA/RIR/IRFA for BSAI Am. 86 and GOA Am. 76, p. 113. October 2006. This analysis reported an estimate of 1,385 commercial halibut vessels fishing off Alaska.

In sum, there are several management and scientific reasons for extending observer coverage to halibut vessels. However, lack of information on vessel behavior and activities, coupled with the logistical issues described above, made it impractical to propose allocating high levels of observer coverage during the initial years of a restructured program. Rather, in the previous restructuring analysis, NMFS intended to initially allocate lower levels of coverage to this fleet in order to gather additional information on fleet behavior and assess management and scientific data needs.

Exclusion of the BSAI crab sector[17]

The previous restructuring analysis did not propose to include the BSAI crab fisheries, which have operated under a separate observer program, managed by the Alaska Department of Fish and Game (ADF&G), since 1988. The State of Alaska Shellfish Onboard Observer Program, is implemented through regulations adopted by the Alaska Board of Fisheries, and has evolved over time to help meet the MSA National Standards. Program development has been independent of the Federal groundfish Observer Program, because the crab fisheries operate under delegated authority to the State of Alaska through the BSAI Crab FMP. These fisheries are unique, with differing management concerns and data needs. Varying levels of observer coverage are required for each crab fishery, and observers are deployed on catcher vessels, catcher processors, and floating processors. Should the Council reinitiate an observer restructuring effort, NMFS and ADF&G staff recommend again excluding the BSAI crab fisheries from the proposed action.

In 1999, the Alaska Board of Fisheries (BOF) granted ADF&G full authority and responsibility for deploying observers on any vessel participating in BSAI crab fisheries. The BOF also established a 15-member Crab Observer Oversight Task Force, comprised of crab industry representatives, to provide recommendations for the observer program to ADF&G. Crab observers conduct species composition sampling of retained catch and bycatch, and record data on retained catch, fishing effort, and location. Reports on vessel and observer activity are coded and periodically sent via single-side band radio, facsimile, e-mail, or telephone to ADF&G.

Changes to the crab observer program regulations, due to BSAI crab rationalization in March 2005, resulted in decreased catcher vessel observer coverage in the Aleutian Islands golden king crab fishery and increased observer coverage on catcher vessels for the Bristol Bay red king crab, St. Matthew Island blue king crab, Pribilof Islands blue and red king crab, and Bering Sea Tanner and snow crab fisheries.[18] (There were no changes made to observer coverage levels in the non-quota BSAI fisheries.) Quota fisheries that require observer coverage are the Adak Community Allocation of golden king crab, CDQ, and IFQ fisheries.

Observer coverage is implemented in two ways for CVs in the BSAI crab quota fisheries. For the Aleutian Islands golden king crab fishery, a percentage of the total harvest weight of each CV is observed. Catcher vessel observer coverage in the Bristol Bay and Bering Sea crab quota fisheries may be met by either requiring that a percentage of the harvest on each vessel be observed, or ADF&G may select a certain percentage of the registered vessels to carry observers for 100% of their fishing time.

Observer coverage requirements for all processing vessels in all BSAI crab fisheries are 100% for all fishing activities. Until rationalization of the crab fisheries, CDQ observer coverage was based on a fixed number of vessels per group in each CDQ fishery. After crab rationalization, observer coverage for all

[17]The information in this section is based primarily on excerpts from the ADF&G Fishery Management Report 08-02, *Annual Management Report for the Commercial and Subsistence Shellfish Fisheries of the Aleutian Islands, Bering Sea and the Westward Region's Shellfish Observer Program, 2006/2007.*

[18]During the March 2005 BOF meeting, observer coverage levels for all quota fisheries were established in the State's commercial shellfish fishing regulations at 5 AAC 39.645.

quota fisheries is managed under one system, since all quota fisheries may be harvested concurrently during identical season dates.[19]

Direct observer costs are paid by either the vessel or through ADF&G administered test-fisheries or crab rationalization reimbursement funds (see Table 3). Observer providers secure contracts for observer services directly with vessel owners or ADF&G, depending on the funding source for observer coverage. Observer providers are required by regulation to hire, train, deploy, and logistically support their observers with food, accommodations, sampling equipment, and transportation.

Table 3 Observer coverage levels and funding since August 2005 for the BSAI CDQ, Adak Community Allocation, IFQ, and Commissioner's permit crab fisheries

Fishery	Preseason Registration Deadline[a]	Catcher Vessels		At-Sea Processors	
		Observer Coverage	Observer Costs Subsidized[b]	Observer Coverage	Observer Costs Subsidized
St. Matthew blue king crab	none	100%	no	100%	no
Pribilof red and blue king crab	none	100%	no	100%	no
Bristol Bay red king crab	24-Sep	20% [c]	yes	100%	no
Bering Sea Tanner crab	24-Sep	30% [c]	yes	100%	no
Bering Sea snow crab	24-Sep	30% [c]	yes	100%	no
St. Matthew golden king crab	none	100%	no	100%	no
Pribilof golden king crab	none	100%	no	100%	no
Bering Sea hair crab	none	100%	no	100%	no
BSAI grooved and triangle Tanner crab	none	100%	no	100%	no
Aleutain Islands golden king crab	none	50% [d]	no	100%	no
Aleutian Islands red king crab	none	100%	no	100%	no

[a] When the preseason vessel registration deadline occurs on a weekend or holiday, the deadline is extended to the next business day.

[b] Observer coverage is funded with test fishery revenue and Federal grant.

[c] For Bristol Bay red king crab and Bering Sea Tanner and snow crab the observer coverage level in each of those fisheries is a percentage of pre-season registered vessels. Observer deployment costs are paid for with test fishery and Federal crab rationalization cost recovery funds.

[d] For Aleutian Islands golden king crab the coverage is set at a percentage of the harvest on each vessel in each of three trimesters.

ADF&G pays a portion of the costs of crab observer coverage, through ADF&G cost recovery fishing, under State of Alaska test-fishery authority. The test-fishery funded portion of the program began July 1, 2000. Test fish funds are program receipts that the State legislature authorizes ADF&G to collect through harvest and sale of fishery resources to fund specific fishery projects. For the purposes of observer coverage, the test fishery authority was originally capped at $650,000, and structured as a revolving fund which, if not used in one fiscal year may be available in the following fiscal year. The ADF&G observer program test fishery budget allocation cap was increased to $875,000 for FY 2006 (from $650,000 in FY05) to aid in funding the increased catcher vessels' observer coverage costs, as a result of crab rationalization. A percentage of randomly selected catcher vessels in specific fisheries[20] are required to carry observers during 100% of their fishing in those fisheries, and observers are provided and fully funded through a State of Alaska contract with a state certified observer provider. For the 2006/2007 and 2007/2008 seasons, ADF&G paid about $637,000 and $684,000 for observer deployment costs, respectively.

[19]Crab fisheries currently included in the CDQ program are Aleutian Islands golden king crab east of 174° West Longitude, Bristol Bay red king crab, Norton Sound red king crab, St. Matthew blue king *P. platypus* crab, Pribilof red and blue king crab, and Bering Sea Tanner and snow crab.

[20]These are the Bristol Bay red king crab, Bering Sea Tanner crab, and Bering Sea snow crab fisheries.

All other vessels that are required by regulation to carry observers pay for their own coverage (pay-as-you-go) and contract for them directly through state certified observer providers. ADF&G is not privy to the amount that industry pays for crab observer costs and does not require access to that information. The total number of crab observer days paid for by ADF&G versus industry for the last two crab seasons is as follows:[21]

Crab season	Funding source	# observer days
2006/2007	ADF&G	1,692 (62%)
	Industry	1,044 (38%)
2007/2008	ADF&G	2,160 (61%)
	Industry	1,364 (39%)

Because regulatory authority for the shellfish observer program is deferred to the State of Alaska, and completely separate from that of the groundfish Observer Program, staff is not recommending changes to this system through observer restructuring. The combination of funding mechanism and observer requirements in the shellfish observer program do not create the same data quality issues identified as a fundamental reason to restructure the groundfish Observer Program. The flexibility provided to fishery managers under the shellfish observer program allows managers to deploy observers as needed and to make changes in-season, if necessary, to address concerns if deployment patterns are not found to provide representative information or sufficient information to support management. In the majority of the CV crab fisheries, ADF&G can select a percentage of the vessels to carry observers 100% of their fishing time, and this additional coverage is funded by ADF&G. If coverage is determined not to be adequately representative, ADF&G can make adjustments relatively quickly. In addition, all crab processing vessels are required to have 100% coverage under a pay-as-you-go system. Thus, the data quality issues associated with the groundfish 30% fleet and the lack of flexibility associated with the existing groundfish observer system do not exist in the shellfish observer program.

Alternatives considered in 2006

The five alternatives considered by the Council in 2006 are as follows:

Alternative 1. **No action alternative.** Under this alternative, the current interim "pay-as-you-go" program would continue to be the only system under which groundfish observers would be provided in the groundfish fisheries of the BSAI and GOA. Regulations authorizing the current program expire at the end of 2007, meaning that no action is not a viable alternative over the long-term.

Alternative 2. **Rollover alternative: Extension of the existing program.** Under this alternative, the 2007 sunset date for the existing program would be removed and the program would be extended indefinitely, with no changes to the overall service delivery model. Because unresolved issues related to labor costs prevent a comprehensive analysis of potential costs, and the Council currently lacks the statutory authority to implement the funding mechanisms proposed in Alternatives 3 through 5, immediate Council action on a restructured program is not possible. This alternative would prevent the existing program from expiring, until such time that comprehensive restructuring may be possible.

[21] Personal communication, M. Schwenzfeier, ADF&G. October 31, 2008.

Alternative 3. GOA-based restructuring alternative. Restructured program for GOA groundfish and all halibut fisheries; rollover existing program in BSAI. A new ex-vessel value fee program would be established to fund coverage for GOA groundfish vessels, GOA-based processors, and halibut vessels operating throughout Alaska and adjacent EEZ waters. Regulations that divide the fleet into 0%, 30%, and 100% coverage categories would no longer apply to vessels and processors in the GOA. Fishermen and processors would no longer be responsible for obtaining their own observer coverage. NMFS would determine when and where to deploy observers, based on data collection and monitoring needs, and would contract directly for observers using fee proceeds and/or direct Federal funding. Vessels in the GOA would be required to carry an observer when one is provided by NMFS. Under this alternative, the current "pay-as-you-go" system would be unchanged for all groundfish vessels and processors that operate in the BSAI. Vessels and processors that operate in both management areas would obtain their observer coverage and pay fees through whichever program applies to the management area in which they are operating.

Alternative 4. Coverage-based restructuring alternative. Restructured program for all fisheries with coverage less than 100% (Tiers 3 and 4). This alternative differs from Alternative 3 in that the program would be defined by coverage categories, rather than geographic area. All vessels and processors assigned to Tiers 3 and 4 (i.e. that require less than 100% coverage) would participate in the new program throughout Alaska and pay an ex-vessel value based fee. Vessels would be required to carry an observer when one is provided by NMFS. In general, this alternative would apply to all halibut vessels, all groundfish catcher vessels <125' LOA, and all non-AFA shoreside processors. All vessels and processors assigned to Tiers 1 and 2 (100% or greater coverage) would continue to operate under the current "pay-as-you-go" system throughout Alaska.

Alternative 5. Comprehensive restructuring alternative. Restructured program for all groundfish and halibut fisheries off Alaska. This alternative would establish a new fee-based groundfish observer program within which NMFS has a direct contract with observer providers for all GOA and BSAI groundfish and halibut vessels. Under this alternative, vessels with 100% or greater coverage requirements would pay a daily observer fee and vessels with coverage requirements of less than 100% would pay an ex-vessel value based fee.

Alternatives 1 and 2 are fairly self-explanatory. Alternative 1 was the no action alternative, which in effect, would have meant the groundfish Observer Program would have expired on December 31, 2007. The Council's action to remove the sunset date in Federal regulations and extend the program (Alternative 2) prevented that situation.

Alternatives 3 through 5 proposed to restructure the Observer Program, such that NMFS would contract directly with observer providers and determine when and where observers would be deployed. Alternatives 3 and 4 were two distinct approaches to partially restructure the program. Alternative 3 was based on geography: all groundfish fisheries in the GOA and all halibut fisheries would be included. Alternative 4 was based on coverage levels irrespective of geography and required that each harvesting and processing sector be placed into a coverage category. All vessels and processors assigned to a category that required less than 100% coverage would be included in the new program and pay an ex-vessel value based fee, and all vessels and processors assigned to a category requiring 100% or more coverage would be excluded and continue under the status quo program.

Alternative 5 was identified as a comprehensive alternative, because every vessel and processor operating off Alaska would be included in the new program, i.e., NMFS would have a direct contract with observer providers for all GOA and BSAI groundfish and halibut vessels, and none would operate under the existing program. However, like Alternative 4, Alternative 5 required that each harvesting and processing sector be placed into a coverage category. Under Alternative 5, the coverage category dictated what type of fee would apply: vessels with coverage requirements of less than 100% would pay an ex-vessel value based fee, and vessels with 100% or greater coverage requirements would pay a daily observer fee based on actual observer costs.

Thus, under the restructuring alternatives, two of the primary Council decision points were to determine: in which coverage category (or tier) the sectors would be placed (Alternative 4 and 5), and the level at which to set the ex-vessel value based fees (Alternatives 3 – 5).

Potential changes to the alternatives

If the Council decides to reinitiate a restructuring analysis, it will need to approve a suite of alternatives. The previous set of alternatives was developed and reviewed over several years, through many OAC and Council meetings. Assuming that the 2006 suite of alternatives serves as a starting point for these discussions, staff has considered whether the alternatives are still appropriate. Evaluation of the no action alternative (Alternative 1) is required by law, but will represent a different situation than in 2006. As the program sunset date has been removed, through previous Council and NMFS action, the no action alternative would simply represent the status quo groundfish Observer Program, whereby industry contracts with observer providers directly, in order to meet coverage levels required in Federal regulations. Alternative 2 is no longer relevant, as the current program is no longer subject to a sunset date, and would remain the Observer Program in perpetuity, unless the Council and NMFS took specific regulatory action to terminate it. Thus, Alternative 2 should be removed.

The Council may also want to consider removing Alternative 3. Alternative 3 proposes a partially restructured program based on geography. A vessel or processor operating in the GOA (and halibut vessels in the GOA and BSAI) would be subject to the new program and pay an ex-vessel value based fee to NMFS for direct coverage costs. The regulations that divide the fleet into 0%, 30%, 100%, and 200% coverage categories would no longer apply to vessels and processors in the GOA. A vessel or processor operating in the BSAI would continue in the pay-as-you-go program and contract directly with observer providers to meet coverage levels required in regulation. Alternative 4 also proposed partial restructuring, but is based on coverage needs, as opposed to geography, and thus, received more support in terms of meeting the data quality objectives. For example, Alternative 4 treats a trawl catcher vessel with <100% coverage requirements the same way in the GOA as in the BSAI, in terms of monitoring needs.

While possibly feasible to implement, previous discussions of both alternatives highlighted the complexity associated with a 'hybrid' program, particularly for vessels who fish in both the BSAI and the GOA. A hybrid program is one in which NMFS manages two different service delivery models for observer procurement: one based on Federal contracts for observer services (restructured program) and the other implemented through regulations (status quo).

The 2006 analysis outlined some of the implications of administering two separate programs under Alternatives 3 and 4. Some of the data quality issues are not obstacles so much as points of comparison to a comprehensive program, as some issues are better addressed by a comprehensive, rather than hybrid, program. These may include: 1) deployment of observers in less than 100% covered fisheries; 2) matching deployment complexity to the observer skill and experience level; and 3) managing contractor and observer performance to optimize overall data quality. Under the hybrid program proposed under Alternative 3, in particular, NMFS would continue to be unable to direct deployment of observers on all

vessels which are allowed to have less than 100% observer coverage. This is one of the primary objectives of restructuring – eliminating industry control over the placement of observers, which leads to inadequate coverage of some sectors, or insufficiently distributed data over space and time. The other data quality issues (managing contractor and observer performance to optimize overall data quality) are limited under any service delivery model in which there is no direct contract between NMFS and observer providers. Thus, because Alternatives 3 and 4 propose a hybrid program, the benefits of a direct contract model are limited to the sectors which are included in the new program.

Managing a hybrid program could present challenges for NMFS, contractors, and fishery participants, primarily because of the potential for overlap for individual vessels. The previous 2006 analysis identified a number of these 'crossover' issues which could complicate a hybrid program, including logistical concerns; confidentiality requirements; a potential diversion between Observer Program rules and operating procedures in the restructured program and the existing program, as the new, contracted program would be more easily and quickly modified to meet changing data needs; agency costs; and the complexity for industry to comply with the rules of two separate programs. While NMFS could attempt to administer and manage each system independently and minimize any overlap, operating two separate programs will necessarily result in increased agency administrative costs, because NMFS will need to maintain different staff skill sets (e.g., contract development and management expertise, as well as regulation writing and monitoring expertise). Contractor and industry costs would also likely increase due to the need to maintain different administrative systems for the two different models.

In sum, a hybrid system will incorporate inefficiencies, because of the need to run two separate models with different authorities and management controls. The Council may want to consider removing at least one of the alternatives for a hybrid system, given the costs and complexities associated with both the administration and compliance with such a program. Alternative 3 is recommended to consider for removal over Alternative 4, because Alternative 3 meets fewer of the objectives set out for this action. Alternative 3 does not address the issue of bias associated with the non-random placement of observers on vessels or control the distribution of observer coverage for those sectors that require less than 100 percent coverage, objectives which have been a priority for the Council and NMFS. In addition, as stated in a previous section, the Office of the Inspector General has explicitly recommended that NMFS address this issue in the North Pacific.

Agency staff that consulted on this paper also agreed that the Council may want to consider adding a restructuring alternative that would require all groundfish vessels and processors operating in the GOA and BSAI, and all commercial halibut vessels, to be assessed the same ex-vessel value based fee to fund observer coverage. This would be similar to Alternative 5, in that all vessels and processors are included in the new program, except that everyone would be paying the same percentage fee. One of the primary advantages of an ex-vessel value fee is that it is perhaps the most equitable method of funding observer coverage, as it is based on the value of the resource each operation uses. An ex-vessel value fee is commensurate both to each operation's ability to pay and the benefits received from the fishery. As one of the main issues identified in the problem statement is that of the disproportionately high costs paid by some smaller vessel operators (relative to their revenue), this may be an alternative worth considering. In addition to the equity issues, an ex-vessel value fee is likely the easiest type of fee to apply on a universal basis to all participants, as the fee can be assessed at the time of landing, regardless of how large or small the landing. Predictability is also an advantage of such a fee; industry can predict and plan for the fee that is withheld at the time of landing.

An alternative that would require all groundfish vessels and processors to be assessed the same ex-vessel value based fee to fund observer coverage was explored in the previous restructuring effort, but ultimately not considered in the final analysis. One of the primary reasons was the lack of industry support from many of the 100% and 200% covered sectors in the BSAI, who asserted that the current program was

working adequately for their sectors and that the analysis should focus on the <100% sectors (primarily in the GOA), which experience the majority of the data quality issues. In addition, there was a concern that including the larger BSAI fleets under an ex-vessel value based fee would effectively result in subsidizing observer coverage for the smaller GOA sectors. For many of those larger sectors, an ex-vessel value fee could result in higher costs than a daily fee, which was the other alternative for the 100% and 200% coverage sectors.

One of the other reasons this alternative was not wholly supported previously is that despite the many advantages of an ex-vessel value fee based on landed catch, one of the main disadvantages is that fee revenues are not directly linked to coverage costs. The amount of revenue generated by an ex-vessel value fee depends on a variety of factors, including: (1) the fee percentage, (2) ex-vessel prices for species covered by the program, and (3) the amount of total landings. Observer coverage costs also depend on various factors including: (1) the daily rate charged by observer providers, (2) the number of vessels participating in a fishery, (3) season lengths, and (4) the desired coverage levels. Thus, one of the major problems facing the design of an ex-vessel value fee program to support observer coverage is that total revenues from the groundfish and halibut fisheries tend to fluctuate much more widely on an annual basis than do coverage needs. Given that fee revenues and coverage costs are likely to vary independently, from year to year, as a result of factors that may be difficult to predict or control, it is unlikely that an ex-vessel value fee program could be designed to exactly match coverage costs.

Given that scenario, an ex-vessel value fee is likely most appropriate for fisheries that do not necessitate 100% coverage. This is because, to some extent, coverage levels in the <100% covered fleets can be adjusted to account for fluctuations in revenue without dramatically affecting the ability of NMFS to manage the fisheries. In the sectors that NMFS has determined need 100% or 200% coverage, one would instead want to ensure revenues exactly match the direct costs of observer coverage, so that coverage in these fisheries would not be threatened by revenue shortfalls in a given year. This is part of the reason the 2006 restructuring analysis proposed a daily observer fee for vessels and processors that require at least 100% coverage. In contrast, the daily fee is not advantageous in the <100% covered sectors, as it does not address the disproportionate cost issues among sectors, and it inhibits NMFS' ability to modify coverage levels in a timely manner to respond to changing data needs. In effect, if a daily observer fee is linked to coverage levels in a particular fishery, then every decision by NMFS to modify coverage levels would result in fee increases or decreases and require analysis and rulemaking. The flexibility for NMFS to easily modify coverage levels across the <100% covered fisheries (without needing to change the fee) was one of the primary objectives of the action; this flexibility would be lost under a daily fee for the <100% covered sectors.

However, agency staff that consulted on this paper agreed that the Council may want to consider adding a comprehensive ex-vessel value fee alternative for analysis. This is a legally viable alternative that would provide a distinct comparison to the other alternatives originally proposed, as well as addressing the disproportionate cost issues that are identified in the problem statement. Should it be included, the advantages and disadvantages of the alternative would be evaluated in detail in the analysis.

Finally, given that NMFS would incur additional responsibilities and costs beyond the status quo to implement a restructured observer service delivery model, the Council may want to consider whether any portion of the fees assessed on industry could be used toward agency costs. While the 2006 suite of alternatives did not include explicit language on the types of activities for which the proposed industry fees could be used, it was explicitly stated in the analysis that the fee could only be used toward the direct costs of observers. This was a decision point deliberated in the Observer Advisory Committee and recommended to the Council. Thus, under the construct of the previous analysis, none of the funds generated from the industry fees could have been used toward agency implementation costs or administration of the program.

Several new agency responsibilities have been identified, most significantly those associated with fee collection, government contract award and oversight, and designing and implementing the annual sampling plan for fisheries with less than 100% coverage levels. While the scope of restructuring would certainly influence the magnitude of new responsibilities required for implementation, agency costs will increase under a restructured system. It may be prudent to require that any new restructuring analysis evaluate the impacts of allowing some portion of the fees assessed on industry to be used toward agency costs attributable to its observer functions and responsibilities, and identify that issue as a decision point for the Council. As stated previously, as part of this assessment, it is likely that a legal interpretation of Section 313 of the MSA would be necessary, in order to determine limitations on using fee proceeds.

The following summarizes the possible changes to the 2006 suite of alternatives discussed in this section:

- Remove Alternative 2 (extension of the existing program).
- Consider removing Alternative 3.
- Consider adding a comprehensive restructuring alternative that would require all groundfish vessels and processors operating in the GOA and BSAI, and all commercial halibut vessels, to be assessed the same ex-vessel value based fee to fund observer coverage.
- Consider adding a decision point for analysis that would allow some portion of the ex-vessel value based fees assessed on industry to be used toward agency costs.

VI. Summary of decision points for the Council

The Council is scheduled to review this discussion paper and take action as necessary at its December 2008 meeting. **No action is required by the Council at this meeting. However, the Council could choose to reinitiate a formal analysis to change the service delivery model for the Observer Program, or request additional information prior to taking this step.** If the Council chooses to reinitiate a restructuring analysis at this meeting, it will need to approve a problem statement and suite of alternatives for analysis. The previous 2006 problem statement and alternatives were intended as a starting point; the Council may want to consider the changes to the problem statement and suite of alternatives suggested in this paper.

The Council could also determine not to take action to reinitiate at this time, particularly if the Council thinks the conditions it set in June 2006 have not sufficiently been met. This paper reviews how the statutory authority issue has been resolved through MSA reauthorization, and the ways in which the costs associated with a change to the service delivery model can be estimated. However, if the Council does not have confidence that a new analysis can estimate costs resulting from a change in the service delivery model to the extent necessary to approve a restructured program at this time, it may choose not to reinitiate an analysis.

In addition to considering whether cost issues can be sufficiently addressed at this time, the Council must weigh the tradeoffs of either embarking on a new restructuring effort or continuing with the current Observer Program and working on adjustments to the existing regulatory framework. The benefits of restructuring (and the consequences of not restructuring) the Observer Program are identified in the problem statement from the June 2006 analysis and discussed throughout this paper. Restructuring the Observer Program is the only way for NMFS to determine when and where observers are placed on vessels and in processing plants. A restructured Observer Program also provides the only means by which NMFS could make adjustments within the program without having to go through lengthy rulemaking processes. A new fee-based alternative could distribute costs of the program more equitably among participants, depending on structure. Through the process of restructuring, NMFS and the Council could address many longstanding limitations and concerns of existing observer coverage requirements that cannot be remedied by regulatory amendments. Moreover, implementing a new service delivery model is

the only way for NMFS to comply with the recommendations in the 2004 OIG Report calling for a random vessel selection process for entities with less than 100% observer coverage requirements.

One consequence of restructuring the Observer Program is the probable cost increases for some industry participants and NMFS. The cost barrier to restructuring has often been described as an inability to adequately assess industry costs associated with changes in the observer service delivery model. In the development of the discussion paper, staff has been able to estimate observer labor costs under a new service delivery model based on some relatively safe assumptions. In addition, the MSA stipulates the maximum percent ex-vessel fee that may be charged for deploying observers (2%), which provides certainty with regard to the upper range of a vessel's fee, if the fee is established as a percentage of ex-vessel revenues. For some vessels and processors, this upper fee level will be more than they currently pay for observer coverage, for others it will be less. (Conceivably, all vessels and processors could pay less than they do currently for observer coverage, though given the extra requirements of Federal service contracts, this scenario is unlikely.) Under a daily fee that is based on actual observer costs, the cost estimates will be less certain, mostly due to uncertainty in staff estimates of non-labor costs. (These costs may be somewhat better assessed through the Council's recent action to require that observer providers submit vessel/processor invoices to NMFS on a three-year cycle.[22] However, this rulemaking has not yet been published and would be implemented sometime in 2009 at the earliest.) In sum, it is possible to estimate costs of a restructured program; however, this may not provide sufficient certainty for everyone. For some, the current cost structure of the existing program is highly preferable to a restructured program under which their observer coverage costs may increase.

Potential increases in agency costs as a result of a restructured program are summarized in a previous section. These are due to new responsibilities of the agency, associated primarily with fee collection, government contract awarding and oversight, determining which industry sectors require at least 100% observer coverage, implementing the annual sampling scheme for fisheries with less than 100% coverage levels, and making adjustments to existing information systems to accommodate changes. While NMFS had preliminary discussions of implementation issues during the development of this paper, a thorough analysis of new responsibilities and costs would need to be assessed in a future restructuring analysis (e.g., an implementation analysis). While the level of new costs would be directly associated with the scope of a new restructured program selected in a preliminary preferred alternative, there are several agency tasks that would be necessary under any restructured program. For example, under any restructuring alternative, the agency will have to design a plan to deploy observers under a fixed budget on an annual basis. It is possible that the results of an implementation assessment, including agency costs, may serve to drive the decision for this action, including the fundamental decision of whether to restructure the program at all. Thus, it may be important to develop this portion of the analysis first.

Another tradeoff for the Council to consider is the current unavailability of NMFS and Council staff to focus on regulatory amendments while working on programmatic changes to the Observer Program. Several concerns with the current Observer Program have been brought to the Council's attention via the OAC and written correspondence from industry. These concerns include observer availability, lead level 2 observer requirements, coverage requirements for various sectors, observer workload, and the length of time it takes for observer debriefing. These issues are related to, but outside the direct scope of, Observer Program restructuring. However, some of these issues may be readily addressed under a new service delivery model in which NMFS contracts directly with observer providers. Others would require regulatory amendments to remedy. As noted in the June 2006 problem statement, the current Observer Program structure is inflexible, and issues often arise with seemingly straightforward regulatory fixes and quickly escalate to the level of changing the 'program structure.' Most often, these issues provide the impetus for reinitiating a restructuring analysis. The Council's priorities for either: 1) addressing issues

[22]See the April 2008 Council motion at: http://www.fakr.noaa.gov/npfmc/current_issues/observer/ObserverMotion408.pdf

that have recently arisen through regulatory changes, or 2) restructuring the service delivery model, will determine where NMFS and Council staff focus their time and efforts over the next few years. Note that staff resources will need to be devoted to one or the other priorities; both cannot occur simultaneously. Finally, note that at the same time the Council tasked staff with the development of this discussion paper (April 2008), it approved the following recommendation by the OAC:

> *The Council stated its intent to have the OAC convene in the future to re-evaluate the problem statement and objectives from the June 2006 observer program restructuring analysis, in order to explore whether some of the problems particular to the GOA fisheries can be resolved through regulatory measures as opposed to comprehensive restructuring.*

The OAC made this request at its March 2008 meeting, in order to have a scheduled meeting at which to discuss the possibilities for resolving the most acute problems through regulatory changes. This recommendation was made during the review of the regulatory amendment to revise administrative and technical aspects of the program, in the context of discussing the quality of the observer data in the GOA. Some OAC members expressed concern about whether these data are sufficient to use for the type and level of extrapolations currently necessary in the catch accounting system, given the large unobserved sector (catcher vessels <60') and 30% fleet in the GOA, and they questioned whether any changes could be made under the current service delivery model that would improve the status quo.

Staff assumes that, should the Council determine not to reinitiate a restructuring analysis, the OAC's request to review regulatory solutions could be made a priority. However, should the Council determine that a restructuring effort is desired at this time, given that restructuring would be intended to resolve the data quality issues identified, the Council may want to re-focus the purpose of a future OAC meeting to review a draft restructuring analysis. Given the limitations with staff resources, the Council will likely need to choose a priority action: to either focus staff on program restructuring or regulatory fixes.

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Appendix A. Observer Coverage Requirements for North Pacific Groundfish Fisheries

Groundfish and Halibut Observer Requirements Including Current Requirements for CDQ fisheries (where the regulations are no longer applicable)							
Area	**TAC**	**Type**	**Vessel Type**	**Size/Specification**	**Coverage Requirement**	**Observer Requirement**	**Regulation**
BSAI	IFQ - Halibut	All			None unless also directed fishing groundfish CDQ		
BSAI	CDQ - Halibut	See IFQ - Halibut					Reauthorized MSA
BSAI	IFQ - Fixed Gear Sablefish	Any	Catcher Vessel	< 60'	None		
		Pot	Catcher Vessel	≥ 60'	30% + one full trip per quarter	≥ 1	679.50 c(1)(vii)
			Catcher/Processor	All			
		Longline	Catcher/Processor	60' to < 125'	30% + one full trip per quarter in EGOA		679.50 c(1)(v) & (vi)
				≥ 125'	100%		679.50 c(1)(iv)
		Any	Shoreside Processor	< 500 mt	None		
				500 to < 1,000 mt	30% per quarter	≥1	679.50 d(2)
				> 1,000 mt	100%		679.50 d(1)
BSAI	CDQ - Fixed Gear Sablefish	See IFQ - Fixed Gear Sablefish					Reauthorized MSA
BS	AFA Pollock	Trawl: Listed Vessels	Catcher/Processor & Mothership		100%	≥ 2; 1 must be lead level 2	679.50 c(5)(i)(A)
		Trawl: Non-Listed Vessels BSAI pollock directed fishing or deliveries	Catcher/Processor		100%	≥ 2; 1 must be lead level 2	679.50 c(5)(ii)(B)
		Trawl	Catcher Vessels	< 60'	None		
				60' to <125'	30% + one full trip per quarter	1	679.50 c(1)(v)
				≥125'	100%	≥1	679.50 c(1)(iv)
		Groundfish Deliveries from vessels in BSAI pollock fishery	AFA Inshore Processor		100%	≥ 1	679.50 d(6)
AI	Pollock	Catcher/Processor & Mothership			100%	≥ 2; 1 must be lead level 2	679.50 c(5)(i)(C)
AI	Atka Mackerel	Trawl in the HLA	Any except Amendment 80 Vessel		100%	2	679.50 c(1)(x)
		Trawl Deliveries	Amendment 80 Catcher/Processor as Mothership	See BSAI Amendment 80			679.50 c(6)(i)
BSAI	CDQ - Pollock	See AFA Pollock					Reauthorized MSA

Appendix A. Observer Coverage Requirements for North Pacific Groundfish Fisheries

Area	TAC	Type	Vessel Type	Size/Specification	Coverage Requirement	Observer Requirement	Regulation
BSAI	CDQ - Groundfish	Trawl & Trawl Deliveries	Catcher/Processor & Mothership		100%	≥ 2 level 2; 1 must be lead	679.50 c(4)(i)(A)
		Longline	Catcher/Processor		100%	≥ 2 level 2; 1 must be lead[a]	679.50 c(4)(ii)
		Pot	Catcher/Processor		100%	≥ 1 lead level 2	679.50 c(4)(iii)
		Trawl	Catcher Vessel[b]	≥ 60'	100%	≥ 1 level 2	679.50 c(4)(iv)
		Non Trawl, Option 1	Catcher Vessel	≥ 60'	100%	≥ 1 level 2	679.50 c(4)(v)(A)
		Non Trawl, Option 2				≥ 1 lead level 2	679.50 c(4)(v)(B)
		Shoreside processor and floating stationary processor receiving CDQ groundfish [c]			100%	≥ 1 level 2	679.50 d(5)
BSAI	Amendment 80	Any	Catcher/Processor		100%	≥ 2; 1 must be lead level 2	679.50 c(6)(i)
GOA	Amendment 80	Any	Catcher/Processor		100%	≥ 1	679.50 c(6)(ii)
CGOA	Rockfish Cooperative	LLP License, May1st through November 15 or time and date of cooperative termination of fishing declaration (whichever earlier)	Catcher/Processor		100%	≥ 2; 1 must be lead level 2	679.50 c(7)(i)(A)&(D)
			Catcher Vessel		100%	≥ 1	679.50 c(7)(ii)(A)
CGOA	Rockfish Limited Access	July1st through November 15 or time and date of fishing closure (whichever earlier)	Catcher/Processor		100%	≥ 2; 1 must be lead level 2	679.50 c(7)(i)(B)&(D)
			Catcher Vessel		100%	≥ 1	679.50 c(7)(ii)(B)
GOA except SE Outside	Rockfish Sideboard	Other than catcher processor in opt-out fishery; July 1 thorugh July 31 in West Yakutat, Central GOA, or Western GOA	Catcher/Processor		100%	≥ 2; 1 must be lead level 2	679.50 c(7)(i)(C)&(D)
		Opt-Out Fishery	Catcher/Processor		100%	≥ 1	679.50 c(7)(i)(F)

Appendix A. Observer Coverage Requirements for North Pacific Groundfish Fisheries

Area	TAC	Type	Vessel Type	Size/Specification	Coverage Requirement	Observer Requirement	Regulation
ALL	Groundfish	Any	Catcher Vessel	< 60'	None		
		Any	Catcher/Processor or Catcher Vessel	60' to <125'	30% + one full trip per quarter	1	679.5 c(1)(v)
		Any	Catcher/Processor or Catcher Vessel ≥125' except for pot gear	≥125'	100%	≥ 1	679.50 c(1)(iv)
		Pot	Catcher/Processor or Catcher Vessel	Any Length	30% + one full trip per quarter	1	679.50 c(1)(vii)
		Any	Shoreside or stationary floating processor	500 to 1,000 mt	30% per quarter	1	679.50 d(2)
				≥1,000 mt	100%	1	679.50 d(1)
		Trawl	Any Catcher/Processor or Catcher Vessel fishing for groundfish in the Nearshore Bristol Bay Trawl Closure Area		100%	1	679.50 c(1)(ix)
		Any	Any Catcher/Processor or Catcher Vessel fishing for groundfish in the Red King Crab Savings Area				679.50 c(1)(viii)

[a] NMFS may approve alternate fishing plan authorizing vessel to carry only one lead level 2 observer if CDQ group supplies vessels logbook or observer data that demonstrates that one level 2 observer can sample each CDQ set for species composition in one 12-hour shift per fishing day.

[b] Except catcher vessels delivering only unsorted codends to processor or other vessel.

[c] Level 2 observer not required for halibut CDQ vessels < 60' LOA; CDQ vessels ≥ 60' using nontrawl gear that have selected Option 1 so long as the level 2 observer on the vessel monitors the entire delivery; or vessels ≥ 60' using nontrawl gear that have selected Option 2.

Edited: 8/27/08

Appendix B. Actual Percent of North Pacific Groundfish Fisheries Observed 2004 - 2007

In May 2007, the Observer Advisory Committee requested NMFS analyze the 2004-2006 Alaska groundfish fisheries for the percent of observed catch. NMFS calculated the total catch, observed catch, and percent observed by year, FMP area, processing sector, gear type, trip target fishery, and vessel length. NMFS obtained total catch data from the NMFS Alaska Region catch accounting system and rounded to the nearest metric ton. NMFS obtained observer data from the NMFS observer database, and included both sampled and unsampled hauls when an observer was onboard the vessel. Sampled and unsampled hauls were included in this analysis because this data request attempts to determine the percent observed catch whenever an observer is onboard a vessel. NMFS screened these data for confidentiality so that more than two processors or vessels reported for a given target fishery. These data were last updated on March 26, 2008.

Aleutian Islands total catch (mt), observed catch, and percent observed catch by area, harvest sector, gear type, trip target fishery, and vessel length.

					2004			2005			2006			2007		
Area	Sector	Gear	Trip target	Length	Total	Observed	Percent	Total	Observed	Percent	Total	Observed	Percent	Total	Observed	Percent
AI	CP/M	HAL	C	>=60 and <125	0	0	0%	0	0	0%	--	--	1055%	--	--	112%
				>=125	3,764	3,754	100%	2,627	2,233	85%	2,797	2,877	103%	2,410	2,420	100%
			S	>=60 and <125	356	226	64%	351	170	48%	426	153	36%	377	259	69%
				>=125	--	--	99%	187	182	97%	143	142	99%	128	123	96%
			T	>=60 and <125	0	39	0%	31	51	81	0	3	0%	0	0	0%
				>=125	162	160	99%	72	50	69%	250	244	98%	566	550	97%
		NPT	A	>=60 and <125	0	0	0%	0	0	0%	0	0	0%	--	--	121%
				>=125	57,185	57,184	100%	61,968	61,968	100%	61,605	61,656	100%	59,308	59,307	100%
			C	>=60 and <125	--	--	0%	0	0	0%	0	0	0%	0	0	0%
				>=125	14,946	14,946	100%	12,424	12,424	100%	11,574	11,813	102%	13,945	14,798	106%
			K	>=125	9,931	9,931	100%	8,125	8,125	100%	9,717	9,201	95%	15,146	15,138	100%
		POT	C	>=60 and <125	0	0	0%	0	0	0%	--	--	0%	--	--	0%
				>=125	0	0	0%	0	0	0%	0	0	0%	59	0	0%
			S	>=125	0	0	0%	--	--	57%	0	0	0%	0	0	0%
		PTR	B,P	>=125	0	0	0%	--	--	100%	0	0	0%	--	--	100%
	S	HAL	C	<60	--	--	0%	--	--	0%	7	0	0%	34	0	0%
				>=60 and <125	0	0	0%	0	0	0%	0	0	0%	--	--	0%
			S	<60	146	0	0%	170	0	0%	117	0	0%	55	0	0%
				>=60 and <125	44	2	5%	36	2	6%	25	0	0%	28	5	18%
		NPT	C	<60	--	--	0%	--	--	0%	--	--	0%	351	0	0%
				>=60 and <125	5,067	2,112	42%	4,848	1,610	33%	4,202	2,342	56%	7,240	2,364	33%
				>=125	3,937	4,626	117%	--	--	104%	1,383	1,710	124%	4,188	4,361	104%
		POT	C	<60	0	0	0%	0	0	0%	0	0	0%	7	0	0%
				>=60 and <125	0	0	0%	0	0	0%	290	26	9%	--	--	0%
			S	<60	0	0	0%	0	0	0%	0	0	0%	--	--	0%
				>=60 and <125	392	152	39%	387	230	59%	226	106	47%	--	--	28%
		PTR	B,P	>=60 and <125	0	0	0%	0	0	0%	--	--	0%	--	--	59%
				>=125	0	0	0%	0	0	0%	0	0	0%	--	--	0%

Note: This table does not include data from shoreside processors using paper weekly production reports (WPR) because the data are at the processor level. The vessel length associated with the catcher vessels delivering to the shoreside processor is not available. This includes 239 mt of total groundfish catch in the BSAI, consisting of two processors in 2004 and one processor in 2005 in the BSAI.

1. Values where total and observed columns are blank (-) indicate confidential data.
2. Confidential data have been defined as <3 vessels and processors for that given year, area, sector, gear type, target fishery, and vessel length.
3. These data do not include CDQ catch.
4. Total catch data are from the catch accounting system, and the observer data are from the observer database in March 2008.
5. In some cases, observed data are higher than the total catch data for a given area, sector, gear type, target fishery, and vessel length. There are several reasons that this occurs:

a. In 2004-2006, four CPs >=125 ft. had haul data considered to be invalid by the Observer Program. These data were replaced with weekly production reports in the catch accounting system, but the observer data are still used as the observed total.

b. For catcher/processors and motherships >=60 and <125, there can be a mismatch between the trip target that is assigned from the observed data and the trip target that is assigned based on WPR data. This occurs when a vessel targets more than one target species during a week.

c. For the shoreside sector, the total catch is based on fish tickets, which could be different from the observer data.

d. The two databases include separate sources of information. The catch accounting system partially uses at-sea weekly production reports, landing reports, and observer data. Production reports are focused on different goals from the observer data (production vs. total catch), uses a different method to determine catch and targets, and in the cases of 30% observer coverage include dis-coordinated time frames of estimates, especially at the target level (i.e. observer data may not cover the entire week that a production report is based on).

6. Gear type: HAL=hook-and-line; JIG=jig (not included in this table); NPT=non-pelagic trawl, POT=pot; PTR=pelagic trawl
7. Year= target fishery year
8. Harvest sector: S=shoreside; CP/M=catcher processor or mothership
9. Trip target code: A (Atka mackerel), B (Pollock, bottom), C (Pacific cod), D (Deep water flatfish), E (Alaska plaice), F (Other flatfish), H (Shallow water flatfish), I (Halibut), K (Rockfish), L (Flathead sole), O (Other species), P (Pollock, midwater), R (Rock sole), S (Sablefish), T (Greenland turbot), W (Arrowtooth flounder), X (Rex sole), Y (Yellowfin sole)
10. Vessel length: <60=vessels less than 60 ft length overall (LOA); >=60 and <125=vessels greater than or equal to 60 ft and less than 125 ft LOA; >=125=vessels greater than or equal to 125 ft LOA
11. Weight is rounded to the nearest mt.
12. Percent= (mt of observed catch/mt of total groundfish catch in catch accounting system)*100
13. Not included in the BSAI are trip target fisheries per gear type: HAL=B/P, I, K, O, T, W (57 mt shoreside, 2,934 mt CP/M); NPT= B, E, K, O, P, S, T, W, R (1,618 mt shoreside, 6,446 mt CP/M); POT= K, O, T, W (33 mt shoreside, 7 mt CP/M); PTR= A, C, R (2,372 mt shoreside, 186 mt CP/M).
14. For CPs and motherships groundfish catch estimates, the catch accounting system uses weekly production reports for vessels >=60 and <125 and observer data for vessels >=125, except for pot gear uses weekly production reports for vessels >=60.
15. This is NMFS' approach to the Observer Advisory Committee data request, as of March 26, 2008.

Bering Sea total catch (mt), observed catch, and percent observed catch by area, harvest sector, gear type, trip target fishery, and vessel length.

					2004			2005			2006			2007		
Area	Sector	Gear	Trip target	Length	Total	Observed	Percent	Total	Observed	Percent	Total	Observed	Percent	Total	Observed	Percent
BS	CP/M	HAL	C	<60	--	--	0%	--	--	0%	0	0	0%	--	--	0%
				>=60 and <125	22,079	13,187	60%	24,520	15,558	63%	21,674	14,345	66%	19,188	13,328	69%
				>=125	92,520	91,441	99%	99,148	99,754	101%	78,550	78,132	99%	61,898	61,228	99%
			S	>=60 and <125	0	0	0%	--	--	0%	--	--	68%	--	--	114%
				>=125	--	--	100%	11	11	100%	56	56	100%	139	139	100%
			T	>=60 and <125	718	654	91%	663	401	61%	520	550	106%	--	--	113%
				>=125	777	770	99%	1,251	1,249	100%	953	953	100%	1,105	1,103	100%
		NPT	A	>=60 and <125	984	780	79%	1,072	823	77%	1,099	530	48%	1,202	750	62%
				>=125	1,226	1,226	100%	998	998	100%	1,047	1,046	100%	2,017	2,017	100%
			C	>=60 and <125	21,754	8,340	38%	14,015	7,790	56%	16,033	7,922	49%	15,647	7,612	49%
				>=125	29,598	29,596	100%	19,344	18,359	95%	20,873	20,872	100%	23,059	23,058	100%
			F	>=60 and <125	1,119	81	7%	770	30	4%	240	5	2%	2,684	1,048	39%
				>=125	1,546	1,546	100%	1,193	1,484	124%	254	254	100%	382	382	100%
			K	>=60 and <125	0	23	0%	0	0	0%	--	--	2%	0	0	0%
				>=125	107	107	100%	--	--	100%	0	0	0%	0	0	0%
			L	>=60 and <125	8,763	4,108	47%	8,002	2,964	37%	7,348	3,806	52%	7,844	3,282	42%
				>=125	19,792	19,791	100%	14,489	14,489	100%	12,951	12,950	100%	13,532	13,532	100%
			R	>=60 and <125	6,495	5,798	89%	4,613	6,249	135%	5,979	7,172	120%	3,396	4,353	128%
				>=125	40,029	40,028	100%	34,258	34,258	100%	39,612	39,611	100%	33,637	33,637	100%
			W	>=60 and <125	700	610	87%	591	635	107%	285	293	103%	62	259	420%
				>=125	2,650	2,650	100%	5,013	5,010	100%	3,592	3,591	100%	1,181	1,181	100%
			Y	>=60 and <125	10,238	5,797	57%	12,039	5,593	46%	10,627	1,585	15%	12,609	6,130	49%
				>=125	80,729	80,728	100%	101,629	101,629	100%	102,088	102,087	100%	122,912	122,911	100%
		POT	C	<60	0	0	0%	0	0	0%	0	0	0%	--	--	0%
				>=60 and <125	--	--	39%	--	--	0%	31	0	0%	--	--	45%
				>=125	--	--	61%	--	--	73%	3,120	2,581	83%	--	--	54%
			S	>=125	--	--	0%	0	0	0%	--	--	99%	0	0	0%
		PTR	B,P	>=125	656,361	656,358	100%	654,476	654,432	100%	666,357	667,315	100%	618,557	618,553	100%
	S	HAL	C	<60	--	--	0%	1,097	0	0%	605	0	0%	382	0	0%
				>=60 and <125	--	--	65%	5	0	0%	--	--	0%	--	--	0%
			S	<60	166	0	0%	86	0	0%	165	0	0%	55	0	0%
				>=60 and <125	--	--	0%	8	0	0%	1	4	348%	--	--	0%
		NPT	C	<60	--	--	0%	--	--	0%	0	0	0%	0	0	0%
				>=60 and <125	30,278	11,084	37%	26,657	10,704	40%	26,032	10,172	39%	24,564	9,313	38%
				>=125	1,296	1,251	97%	1,332	1,615	121%	1,795	1,896	106%	--	--	128%
			Y	>=60 and <125	--	--	60%	0	0	0%	--	--	46%	--	--	41%
				>=125	0	0	0%	0	0	0%	--	--	132%	0	0	0%
		POT	C	<60	2,568	0	0%	2,132	0	0%	3,430	0	0%	3,182	0	0%
				>=60 and <125	8,948	2,756	31%	9,231	2,604	28%	9,248	3,018	33%	9,436	3,422	36%
				>=125	3,000	1,070	36%	3,004	1,187	40%	4,038	1,480	37%	2,525	1,023	41%
			S	<60	0	0	0%	--	--	0%	--	--	0%	--	--	0%
				>=60 and <125	341	154	45%	360	187	52%	404	151	37%	605	255	42%
				>=125	--	--	413%	0	0	0%	0	0	0%	0	0	0%
		PTR	B,P	>=60 and <125	284,092	105,936	37%	275,129	96,096	35%	260,499	94,361	36%	244,245	84,322	35%
				>=125	361,212	359,786	100%	381,283	379,814	100%	394,395	392,285	99%	336,251	335,208	100%

Note: This table does not include data from shoreside processors using paper weekly production reports (WPR) because the data are at the processor level.
The vessel length associated with the catcher vessels delivering to the shoreside processor is not available. This includes 239 mt of total groundfish catch in the BSAI, consisting of two processors in 2004 and one processor in 2005 in the BSAI.

1. Values where total and observed columns are blank (-) indicate confidential data.
2. Confidential data have been defined as <3 vessels and processors for that given year, area, sector, gear type, target fishery, and vessel length.
3. These data do not include CDQ catch.
4. Total catch data are from the catch accounting system, and the observer data are from the observer database in March 2008.
5. In some cases, observed data are higher than the total catch data for a given area, sector, gear type, target fishery, and vessel length.
There are several reasons that this occurs:

a. In 2004-2006, four CPs >=125 ft. had haul data considered to be invalid by the Observer Program.
These data were replaced with weekly production reports in the catch accounting system, but the observer data are still used as the observed total.

b. For catcher/processors and motherships >=60 and <125, there can be a mismatch between the trip target that is assigned from the observed data and the trip target that is assigned based on WPR data. This occurs when a vessel targets more than one target species during a week.

c. For the shoreside sector, the total catch is based on fish tickets, which could be different from the observer data.

d. The two databases include separate sources of information. The catch accounting system partially uses weekly production reports, landing reports, and observer data. Production reports are focused on different goals from the observer data (production vs. total catch), uses a different method to determine catch and targets, and in the cases of 30% observer coverage include dis-coordinated time frames of estimates, especially at the target level (i.e. observer data may not cover the entire week that a production report is based on).

6. Gear type: HAL=hook-and-line; JIG=jig (not included in this table); NPT=non-pelagic trawl, POT=pot; PTR=pelagic trawl
7. Year= target fishery year
8. Harvest sector: S=shoreside; CP/M=catcher processor or mothership
9. Trip target code: A (Atka mackerel), B (Pollock, bottom), C (Pacific cod), D (Deep water flatfish), E (Alaska plaice), F (Other flatfish), H (Shallow water flatfish), I (Halibut), K (Rockfish), L (Flathead sole), O (Other species), P (Pollock, midwater), R (Rock sole), S (Sablefish), T (Greenland turbot), W (Arrowtooth flounder), X (Rex sole), Y (Yellowfin sole)
10. Vessel length: <60=vessels less than 60 ft length overall (LOA); >=60 and <125=vessels greater than or equal to 60 ft and less than 125 ft LOA; >=125=vessels greater than or equal to 125 ft LOA
11. Weight is rounded to the nearest mt.
12. Percent= (mt of observed catch/mt of total groundfish catch in catch accounting system)*100
13. Not included in the BSAI are trip target fisheries per gear type: HAL=B/P, I, K, O, T, W (57 mt shoreside, 2,934 mt CP/M); NPT= B, E, K, O, P, S, T, W, R (1,618 mt shoreside, 6,446 mt CP/M); POT= K, O, T, W (33 mt shoreside, 7 mt CP/M); PTR= A, C, R (2,372 mt shoreside, 186 mt CP/M).
14. For CPs and motherships groundfish catch estimates, the catch accounting system uses weekly production reports for vessels >=60 and <125 and observer data for vessels >=125, except for pot gear uses weekly production reports for vessels >=60.
15. This is NMFS' approach to the Observer Advisory Committee data request, as of March 26, 2008.

Central Gulf of Alaska total catch (mt), observed catch, and percent observed catch by area, harvest sector, gear type, trip target fishery, and vessel length.

					2004			2005			2006			2007		
Area	Sector	Gear	Trip target	Length	Total	Observed	Percent	Total	Observed	Percent	Total	Observed	Percent	Total	Observed	Percent
CGOA	CP	HAL	C	<60	--	--	0%	--	--	0%	0	0	0%	0	0	0%
				>=60 and <125	0	0	0%	0	0	0%	--	--	100%	--	--	17%
				>=125	--	--	100%	--	--	100%	1,195	1,195	100%	--	--	100%
			S	<60	--	--	0%	--	--	0%	--	--	0%	--	--	0%
				>=60 and <125	458	325	71%	397	465	117%	385	282	73%	477	381	80%
				>=125	247	247	100%	287	281	98%	184	184	100%	189	188	99%
		NPT	C	>=60 and <125	--	--	0%	565	411	73%	--	--	0%	0	166	0%
				>=125	--	--	100%	0	0	0%	0	0	0%	0	0	0%
			K	>=60 and <125	--	--	17%	0	0	0%	--	--	0%	0	4	0%
				>=125	6,654	6,655	100%	7,973	7,353	92%	7,716	7,716	100%	4,656	4,656	100%
			L	>=60 and <125	--	--	104%	--	--	77%	--	--	70%	--	--	104%
			W	>=60 and <125	0	0	0%	2,735	2,150	79%	3,878	1,500	39%	518	0	0%
				>=125	--	--	100%	--	--	100%	3,785	3,785	100%	4,498	4,498	100%
			X	>=60 and <125	2,674	0	0%	2,776	1,133	41%	6,883	1,691	25%	--	--	36%
				>=125	--	--	100%	--	--	100%	0	0	0%	0	0	0%
		POT	C	>=60 and <125	0	0	0%	0	0	0%	0	0	0%	--	--	0%
		PTR	K	>=125	0	0	0%	0	0	0%	0	0	0%	--	--	100%
	S	HAL	C	<60	5,144	0	0%	4,289	0	0%	6,185	0	0%	6,617	0	0%
				>=60 and <125	748	99	13%	519	226	43%	802	179	22%	512	116	23%
				>=125	0	0	0%	0	0	0%	0	0	0%	0	0	0%
			S	<60	2,772	0	0%	2,531	0	0%	2,390	0	0%	2,137	0	0%
				>=60 and <125	1,512	525	35%	1,544	510	33%	1,980	499	25%	1,578	440	28%
		NPT	C	<60	--	--	0%	--	--	0%	--	--	0%	--	--	0%
				>=60 and <125	12,443	3,716	30%	7,376	2,185	30%	4,861	1,152	24%	8,377	2,216	26%
			W	<60	0	0	0%	0	0	0%	0	0	0%	--	--	0%
				>=60 and <125	7,517	1,476	20%	8,519	2,212	26%	12,543	2,993	24%	12,818	2,574	20%
			H	<60	0	0	0%	11	0	0%	0	0	0%	547	0	0%
				>=60 and <125	3,339	1,127	34%	6,835	1,300	19%	10,432	1,393	13%	13,382	3,441	26%
			K	<60	120	0	0%	0	0	0%	0	0	0%	134	0	0%
				>=60 and <125	12,292	3,864	31%	9,477	2,989	32%	7,197	1,913	27%	5,758	3,522	61%
		POT	C	<60	2,426	0	0%	3,233	0	0%	3,778	0	0%	4,296	0	0%
				>=60 and <125	2,475	687	28%	4,920	1,298	26%	4,369	981	22%	4,090	969	24%
				>=125	0	0	0%	0	0	0%	--	--	0%	0	0	0%
		PTR	K	>=60 and <125	66	217	327%	535	636	119%	1,999	1,211	61%	2,990	4,029	135%
			B,P	<60	--	--	0%	1,677	0	0%	--	--	0%	--	--	0%
				>=60 and <125	36,431	13,520	37%	47,273	14,845	31%	44,371	14,187	32%	33,530	11,150	33%

Note: This table does not include data from shoreside processors using paper weekly production reports because the data is at the processor level. The vessel length associated with the catcher vessels delivering to the shoreside processor is not available. This includes 5,717 mt of total groundfish catch in the GOA, consisting of 19 processors in 2004, 11 processors in 2005, and 8 processors in 2006 in the GOA.

1. Values where total and observed columns are blank (-) indicate confidential data.
2. Confidential data have been defined as <3 vessels and processors for that given year, area, sector, gear type, target fishery, and vessel length.
3. Total catch data are from the catch accounting system, and the observer data are from the observer database in March 2008.
4. Gear type: HAL=hook-and-line; JIG=jig (not included in this table); NPT=non-pelagic trawl, POT=pot; PTR=pelagic trawl
Year= target fishery year
Harvest sector: S=shoreside; CP/M=catcher processor or mothership
5. Trip target code: A (Atka mackerel), B (Pollock, bottom), C (Pacific cod), D (Deep water flatfish), E (Alaska plaice),
F (Other flatfish), H (Shallow water flatfish), I (Halibut), K (Rockfish), L (Flathead sole), O (Other species),
P (Pollock, midwater), R (Rock sole), S (Sablefish), T (Greenland turbot), W (Arrowtooth flounder), X (Rex sole), Y (Yellowfin sole)
6. Vessel length: <60=vessels less than 60 ft length overall (LOA); >=60 and <125=vessels greater than or equal to 60 ft and less than 125 ft LOA; >=125=vessels greater than or equal to 125 ft LOA
7. Weight is rounded to the nearest mt.
8. Percent= (mt of observed catch/mt of total groundfish catch in catch accounting system)*100
9. Not included in the GOA are trip target fisheries per gear type: HAL=B/P, D, K, O, W (2,406 mt shoreside, 404 mt CP/M);
NPT=B,D,H,K,L,O,P,S (21,367 mt shoreside, 1,633 mt CP/M); POT=B,O,P (18 mt shoreside); PTR=C,H,L,O,W,S (2,220 mt shoreside,566 mt CP/M)
10. For CPs and motherships groundfish catch estimates, the catch accounting system uses weekly production reports for vessels>=60 and <125 and observer data for vessels >=125 except for pot gear uses weekly production reports for vessels >=60.
11. In some cases, the observed data are higher than the total catch for a given area, sector, gear type, target fishery, vessel length. There are several reasons that this occurs:
a. In 2004-2006, four CPs >=125 ft. had haul data considered to be invalid by the Observer Program.
These data were replaced with weekly production reports in the catch accounting system, but are still used as the observed total.
b. For catcher/processors and motherships >=60 and <125, there can be a mismatch between the trip target that is assigned from the observed data and the trip target that is assigned based on weekly production report data.
This occurs when a vessel targets more than one target species during a week.
c. For the shoreside sector, the total catch is based on fish tickets, which could be different from the observer data.
d. The two databases include separate sources of information. The catch accounting system partially uses weekly production reports, landing reports, and observer data. Production reports are focused on different goals from the observer data (production vs. total catch), uses a different method to determine catch and targets, and in the cases of 30% observer coverage include dis-coordinated time frames of estimates, especially at the target level (i.e. observer data may not cover the entire week that a production report is based on).
12. A high level of variability in the percent observed catch for a given target fishery may be explained by the level of coverage that vessels had prior to entering a different FMP area. Observer coverage is by quarter and by fishery category not by FMP area.
A 30% vessel may have enough observer coverage in one FMP area to meet the requirements for their fishing in another FMP area.
A high level of variability in percent observed catch also may be attributed to a variable number of vessels that participate in certain GOA fisheries each year.
13. This is NMFS' approach to the Observer Advisory Committee data request, as of March 26, 2008.

Eastern and Western Gulf of Alaska total catch (mt), observed catch, and percent observed catch by area, harvest sector, gear type, trip target fishery, and vessel length.

					2004			2005			2006			2007		
Area	Sector	Gear	Trip target	Length	Total	Observed	Percent	Total	Observed	Percent	Total	Observed	Percent	Total	Observed	Percent
EGOA	CP	HAL	S	<60	--	--	0%	--	--	0%	--	--	0%	--	--	0%
				>=60 and <125	183	201	110%	262	216	82%	139	152	109%	66	106	162%
				>=125	--	--	100%	--	--	92%	--	--	77%	--	--	156%
		NPT	K	>=60 and <125	0	0	0%	0	0	0%	0	0	0%	--	--	101%
				>=125	--	--	100%	--	--	100%	--	--	100%	--	--	100%
		POT	C	>=60 and <125	0	0	0%	0	0	0%	0	0	0%	0	2	0%
		PTR	K	>=125	--	--	100%	--	--	100%	--	--	103%	--	--	100%
	S	HAL	C	<60	2	0	0%	0	0	0%	13	0	0%	43	0	0%
				>=60 and <125	0	0	0%	--	--	0%	--	--	0%	0	0	0%
			S	<60	3,498	0	0%	3,140	0	0%	3,285	0	0%	1,096	0	0%
				>=60 and <125	1,727	990	57%	1,848	956	52%	1,785	910	51%	1,050	878	84%
		PTR	K	>=60 and <125	0	0	0%	0	0	0%	--	--	36%	--	--	66%
			B,P	>=60 and <125	260	204	79%	1,940	532	27%	--	--	38%	--	--	580%
WGOA	CP/M	HAL	C	<60	0	0	0%	0	0	1%	0	0	0%	--	--	0%
				>=60 and <125	2,394	509	21%	--	--	7%	2,199	1,587	72%	2,895	1,989	69%
				>=125	925	925	100%	292	292	100%	956	956	100%	442	444	100%
			S	>=60 and <125	572	211	37%	618	254	41%	540	288	53%	758	447	59%
				>=125	359	359	100%	415	411	99%	344	341	99%	191	172	90%
		NPT	C	>=60 and <125	635	0	0%	--	--	625%	--	--	0%	--	--	39%
				>=125	--	--	100%	0	0	0%	0	0	0%	0	0	0%
			H	>=60 and <125	--	--	0%	--	--	21%	--	--	57%	--	--	0%
			K	>=60 and <125	--	--	117%	--	--	0%	--	--	189%	0	0	0%
				>=125	5,291	5,298	100%	3,459	3,351	97%	6,625	6,623	100%	8,274	8,272	100%
			L	>=60 and <125	1,047	114	11%	1,803	24	1%	--	--	35%	1,040	352	34%
				>=125	--	--	100%	--	--	100%	0	0	0%	0	0	0%
			W	>=60 and <125	--	--	1989%	--	--	2134%	--	--	71%	--	--	94%
				>=125	901	901	100%	1,220	1,220	100%	953	953	100%	1,771	1,771	100%
			X	>=60 and <125	--	--	5%	--	--	12%	--	--	21%	--	--	56%
				>=125	--	--	100%	0	0	0%	0	0	0%	--	--	100%
		POT	C	<60	0	0	0%	0	0	0%	0	0	0%	--	--	0%
				>=60 and <125	--	--	0%	--	--	34%	--	--	0%	--	--	18%
	S	HAL	C	<60	--	--	0%	242	0	0%	78	0	0%	327	0	0%
				>=60 and <125	4	0	0%	--	--	0%	0	0	0%	--	--	0%
			S	<60	837	0	0%	728	0	0%	1,043	0	0%	982	0	0%
				>=60 and <125	529	41	8%	380	122	32%	461	141	31%	471	56	12%
				>=125	0	0	0%	--	--	0%	0	0	0%	0	0	0%
		NPT	C	<60	1,464	0	0%	3,554	0	0%	5,114	0	0%	--	--	0%
				>=60 and <125	183	0	0%	783	392	50%	--	--	25%	--	--	77%
		POT	C	<60	4,823	0	0%	1,962	0	0%	1,913	0	0%	2,441	0	0%
				>=60 and <125	5,016	1,138	23%	4,428	965	22%	3,882	683	18%	2,205	378	17%
				>=125	--	--	64%	--	--	0%	--	--	0%	--	--	0%
		PTR	B,P	<60	--	--	0%	--	--	0%	13,391	0	0%	13,029	0	0%
				>=60 and <125	7,611	2,938	39%	10,988	5,613	51%	11,604	4,858	42%	5,258	1,662	32%

Note: This table does not include data from shoreside processors using paper weekly production reports because the data is at the processor level. The vessel length associated with the catcher vessels delivering to the shoreside processor is not available. This includes 5,717 mt of total groundfish catch in the GOA, consisting of 19 processors in 2004, 11 processors in 2005, and 8 processors in 2006 in the GOA.

1. Values where total and observed columns are blank (-) indicate confidential data.
2. Confidential data have been defined as <3 vessels and processors for that given year, area, sector, gear type, target fishery, and vessel length.
3. Total catch data are from the catch accounting system, and the observer data are from the observer database in March 2008.
4. Gear type: HAL=hook-and-line; JIG=jig (not included in this table); NPT=non-pelagic trawl, POT=pot; PTR=pelagic trawl
Year= target fishery year
Harvest sector: S=shoreside; CP/M=catcher processor or mothership
5. Trip target code: A (Atka mackerel), B (Pollock, bottom), C (Pacific cod), D (Deep water flatfish), E (Alaska plaice),
F (Other flatfish), H (Shallow water flatfish), I (Halibut), K (Rockfish), L (Flathead sole), O (Other species),
P (Pollock, midwater), R (Rock sole), S (Sablefish), T (Greenland turbot), W (Arrowtooth flounder), X (Rex sole), Y (Yellowfin sole)
6. Vessel length: <60=vessels less than 60 ft length overall (LOA); >=60 and <125=vessels greater than or equal to 60 ft and less than 125 ft LOA; >=125=vessels greater than or equal to 125 ft LOA
7. Weight is rounded to the nearest mt.
8. Percent= (mt of observed catch/mt of total groundfish catch in catch accounting system)*100
9. Not included in the GOA are trip target fisheries per gear type: HAL= B/P, D, K, O, W (2,406 mt shoreside, 404 mt CP/M);
NPT=B,D,H,K,L,O,P,S (21,367 mt shoreside, 1,633 mt CP/M); POT=B,O,P (18 mt shoreside); PTR=C,H,L,O,W,S (2,220 mt shoreside,566 mt CP/M)
10. For CPs and motherships groundfish catch estimates, the catch accounting system uses weekly production reports for vessels>=60 and <125 and observer data for vessels >=125 except for pot gear uses weekly production reports for vessels >=60.
11. In some cases, the observed data are higher than the total catch for a given area, sector, gear type, target fishery, vessel length. There are several reasons that this occurs:
a. In 2004-2006, four CPs >=125 ft. had haul data considered to be invalid by the Observer Program. These data were replaced with weekly production reports in the catch accounting system, but are still used as the observed total.
b. For catcher/processors and motherships >=60 and <125, there can be a mismatch between the trip target that is assigned from the observed data and the trip target that is assigned based on weekly production report data. This occurs when a vessel targets more than one target species during a week.
c. For the shoreside sector, the total catch is based on fish tickets, which could be different from the observer data.
d. The two databases include separate sources of information. The catch accounting system partially uses weekly production reports, landing reports, and observer data. Production reports are focused on different goals from the observer data (production vs. total catch), uses a different method to determine catch and targets, and in the cases of 30% observer coverage include dis-coordinated time frames of estimates, especially at the target level (i.e. observer data may not cover the entire week that a production report is based on).
12. A high level of variability in the percent observed catch for a given target fishery may be explained by the level of coverage that vessels had prior to entering a different FMP area. Observer coverage is by quarter and by fishery category, not by FMP area.
A 30% vessel may have enough observer coverage in one FMP area to meet the requirements for their fishing in another FMP area.
A high level of variability in percent observed catch also may be attributed to a variable number of vessels that participate in certain GOA fisheries each year.
13. This is NMFS' approach to the OAC data request, as of March 26, 2008.

Appendix C. Federal Costs for NMFS Regional Observer Programs

Fisheries Observed	Fleet Size	Authority to Place Observers	Season of Operation	Funding Amount	Funding Source	Program Duration	Target % Coverage	Actual % Coverage	Target Sea Days	Actual Sea Days	Number of Observers
PACIFIC OCEAN											
North Pacific Groundfish Observer Program, Alaska Fisheries Science Center, 7600 Sand Point Way NE, Seattle, WA 98115-0070											
Program Manager: Martin Loefflad, 206-526-4195, martin.loefflad@noaa.gov, website: http://www.afsc.noaa.gov/refm/observers/											
Bering Sea, Aleutian Islands and Gulf of Alaska Groundfish Trawl, Longline and Pot Fisheries	303 vessels / 24 shore plants	MSFCMA (50 CFR 679.50)	year-round	$1,512,000	Obs/Trn-North Pacific Marine Resource Observers/ North Pacific Observer Program[1]	1973 - present	100% vessels >125 ft.	100% vessels >125 ft.	Defined by regulation (approx. 37,000)	35,324	384
				$2,272,000	Alaska Composite[2]						
				$11,904	National Standard 8/Fish Statistics						
				$15,201	Fisheries Management Program						
				$187,667	Reducing Bycatch		30% vessels 60-124 ft.	30% vessels 60-124 ft.			
				$8,096	Reducing Bycatch[3]						
				$13,000,000	Industry funds		30% or 100% shore plants	30% or 100% shore plants			
Data to assess the current actual coverage in the 30% fleet are not available, and compliance with the requirement has been an enforcement function. The North Pacific Groundfish Observer Program uses observer days rather than observer sea days, because the coverage regulations require observers to be stationed at shoreside plants as well as on vessels. [1]Portion of budget line used to support management activities [2]Portion of budget line used to support management activities [3]Approximately 8K in Reducing Bycatch funding provided by NMFS but not through the National Observer Program											
Alaska Marine Mammal Observer Program, Alaska Regional Office, P. O. Box 21668, Juneau, AK 99802-1668											
Program Manager: Bridget Mansfield, 907-586-7642, bridget.mansfield@noaa.gov, website: http://www.fakr.noaa.gov/protectedresources/observers/mmop.htm											
AK Yakutat Salmon Set Gillnet Fishery	100 set net permits	MMPA Cat. II (50 CFR 229)	June - Sept	$375,333	Obs/Trn-National Observer Program	1999 - present	5%	5%	300 permits	304 permits	13

Appendix C. Federal Costs for NMFS Regional Observer Programs

Fisheries Observed	Fleet Size	Authority to Place Observers	Season of Operation	Funding Amount	Funding Source	Program Duration	Target % Coverage	Actual % Coverage	Target Sea Days	Actual Sea Days	Number of Observers
West Coast Groundfish Observer Program, Northwest Fisheries Science Center, 2725 Montlake Blvd East, Seattle, WA 98112-2097											
Program Manager: Jonathan Cusick, 360-332-2793. jonathan.cusick@noaa.gov, website: http://www.nwfsc.noaa.gov/research/divisions/fram/observer/											
West Coast Groundfish Limited Entry Fleets (trawl and fixed gear)	179 trawl, 190 longline, 30 trap permits	MSFCMA (50 CFR 660)	year-round	$4,823,000	Obs/Trn-West Coast Observers	2001 - present	10-20%	17-30%	1,900	1,936	43
				$151,334	Obs/Trn-National Observer Program						
				$75,666	Reducing Bycatch						
State Managed and Open Access Fisheries (includes California halibut trawl, nearshore rockfish, pink shrimp, prawn and open access fixed gear fisheries)	approx. 1,000	MSFCMA (50 CFR 660)	year-round	Included in groundfish		2001 - present	<1 - 10%	<1 - 10%	500	947	included in groundfish
Shore-Based Hake Mid-Water Trawl Fishery	36 vessels	MSFCMA (50 CFR 660)	Apr - Aug	$125,000	Obs/Trn-West Coast Observers	2004 - 2007	100% vessels covered with pilot electronic monitoring	100%	1,800	1,817	electronic monitoring, no observers used
				$200,000	Industry						
				$98,000	Reducing Bycatch						
At-Sea Hake Mid-Water Trawl Fishery	15 vessels	MSFCMA (50 CFR 660)	May - Dec	$224,000	Obs/Trn-National Observer Program	1975 - present	100% (two observers on every vessel)	100%	800	1,114	~40
				$390,000	Industry						
Southwest Region Observer Program, Southwest Regional Office, 501 West Ocean Blvd, Long Beach, CA 90802-4213											
Program Manager: Lyle Enriquez, 562-980-4025, lyle.enriquez@noaa.gov, website: http://swr.ucsd.edu/hcd/fishobs.htm											
California/Oregon Pelagic Drift Gillnet Fishery	60 vessels	MMPA Cat. I (50 CFR 229)	May - Jun	$156,000	MMPA	1990 - present	20%	20%	350	350	10
				$84,667	Reducing Bycatch						
				$177,333	Obs/Trn-National Observer Program						
California Pelagic Longline Fishery	5 vessels	MMPA Cat. II (50 CFR 229)	Sep - Jun	$100,000	Reducing Bycatch	2001 - present	100%	100%	100	100	3
California Coastal Pelagic Species Purse Seine Fishery	70 vessel	MMPA Cat. II (50 CFR 229)	Jan - Dec	$198,000	Obs/Trn-National Observer Program	2004 - present	200 sea days	2-3%	200	200	6

Appendix C. Federal Costs for NMFS Regional Observer Programs

Fisheries Observed	Fleet Size	Authority to Place Observers	Season of Operation	Funding Amount	Funding Source	Program Duration	Target % Coverage	Actual % Coverage	Target Sea Days	Actual Sea Days	Number of Observers
Hawaii Fisheries Observer Program, Pacific Islands Regional Office, 1601 Kapiolani Blvd, Honolulu, HI 96814-4700											
Program Manager: John Kelly, 808-973-2935, john.d.kelly@noaa.gov, website: http://swr.nmfs.noaa.gov/pir/index.htm											
Hawaii Pelagic Longline Fishery	164 vessels with permits (112 active)	MSFCMA (50 CFR 660)	year-round	$3,966,000	Obs/Trn-Hawaii Longline Observers	1994 - present	20% Tuna	20%	Fleet dep.	5,836	60
				$1,000,000	Hawaii Sea Turtles		100% swordfish	100% swordfish	Fleet dep.	2,837	35
American Samoan Pelagic Longline fishery	30	MSFCMA (50 CFR 660) in Jan. 2005	year-round	$37,667	Reducing Bycatch	2005-present	7%	7%	1047	522	11
				$245,334	Obs/Trn-National Observer Program						
Developing and Adapting LODS to Enable the Integration of Observer and Logbook Data (LLDS)	NA	NA	year-round	$126,000	Reducing Bycatch	NA	NA	NA	NA	NA	NA
Upgrades to LODs System	NA	NA	year-round	$130,000	Obs/Trn-National Observer Program	NA	NA	NA	NA	NA	NA
				$24,000	Reducing Bycatch						
ATLANTIC OCEAN, GULF OF MEXICO, CARIBBEAN											
Northeast Fisheries Observer Program, Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 02543-1097											
Program Manager: Amy Van Atten, 508-495-2266, amy.van.atten@noaa.gov, website: http://www.nefsc.noaa.gov/femad/fsb/											
New England Groundfish Trawl and Sink Gillnet Fisheries (also shrimp trawl, bottom longline/tub, herring mid-water pair trawl, whiting trawl)	approx. 1,200 trawl vessels and 250 gillnet vessels	MSFCMA (50 CFR 648); MMPA Cat. I (50 CFR 229)	year-round	$7,427,000	Obs/Trn-New England Groundfish	1990 - present	5%	5%	6,458	6,350	65
Mid-Atlantic Coastal Gillnet Fishery (includes monkfish, dogfish, and several state fisheries)	>665 vessels	MMPA Cat. II (50 CFR 229)	year-round	$809,352	MMPA	1994 - present	<1	<1	703	450	included in groundfish
NE and Mid-Atlantic Small Mesh Trawl Fisheries (squid, mackerel, butterfish)	719 permits	MMPA Cat. I (50 CFR 229.7); MSFCMA (50 CFR 648)	year-round	$1,485,233	Obs/Trn-Atlantic Coast Observers	2001 - present	<1	<1	1172	1100	included in groundfish
Mid-Atlantic Illex Squid Trawl Fishery	vessels unknown	MSFCMA (50 CFR 648); MMPA Cat. I (50 CFR 229)	year-round	included in small mesh trawl fisheries		2004 - present	<1	<1	100	79	included in groundfish

Appendix C. Federal Costs for NMFS Regional Observer Programs

Fisheries Observed	Fleet Size	Authority to Place Observers	Season of Operation	Funding Amount	Funding Source	Program Duration	Target % Coverage	Actual % Coverage	Target Sea Days	Actual Sea Days	Number of Observers
Atlantic Sea Scallop Dredge Fishery	250 vessels with permits, 185 active	MSFCMA (50 CFR 648)	year-round	$1,400,000	Industry funds	1999 - present	8-10%	8-10%	TBD	2155	included in groundfish
				$187,667	Reducing Bycatch						
				$52,666	Obs/Trn-National Observer Program						
NE and Mid-Atlantic Large Mesh Trawl Fisheries (summer flounder, bluefish, monkfish, dogfish)	620 vessels (2,138 permits)	MSFCMA (50 CFR 648)	year-round	$322,667	Obs/Trn-National Observer Program	1998 - present	2%	2%	380	380	included in groundfish
Southeast Fisheries Observer Programs - Programs are managed in separate laboratories as indicated below.											
Southeast Shrimp Trawl Observer Program, Southeast Fisheries Science Center, Galveston Laboratory, 4700 Avenue U, Galveston, TX 77551-5997											
Program Manager: Elizabeth Scott-Denton, 409-766-3571, elizabeth.scott-denton@noaa.gov, website:http://galveston.ssp.nmfs.gov/galv/research/management.htm#observer_program											
Southeast and Gulf of Mexico Shrimp Otter Trawl Fisheries (including rock shrimp)	approx. 1,870 (GOM) and 640 (SA) USCG federally permitted vessels, unknown number of state vessels, ~257 rock shrimp vessels	Voluntary through July 2007; Mandatory -July 2007 MSFCMA (50 CFR 635)	year-round	$235,000	Obs/Trn-National Observer Program	1992 - present	1%	<1%	1,200	996	16
				$1,797,000	Obs/Trn-South Atlantic and Gulf Shrimp Observers						
				$210,000	Obs/Trn-Atlantic Coast Observers						
Atlantic Pelagic Longline Observer Program, Southeast Fisheries Science Center, 75 Virginia Beach Dr, Miami, FL 33149-1003											
Program Manager: Lawrence Beerkircher, 305-361-4247, lawrence.r.beerkircher@noaa.gov, website: http://www.sefsc.noaa.gov/											
Atlantic, Gulf of Mexico, Caribbean Pelagic Longline Fishery	70-80 active vessels	MSFCMA (50 CFR 635); MMPA Cat. I (50 CFR 229); ATCA	year-round	$1,253,095	Obs/Trn-Atlantic Coast Observers	1992 - present	8% by vessel sets	11%	900	1450	10
				$345,000	Obs/Trn - East Coast Observers						
				$915,000	Enhanced Bluefin Tuna						

Appendix C. Federal Costs for NMFS Regional Observer Programs

Fisheries Observed	Fleet Size	Authority to Place Observers	Season of Operation	Funding Amount	Funding Source	Program Duration	Target % Coverage	Actual % Coverage	Target Sea Days	Actual Sea Days	Number of Observers
Southeast Shark Driftnet Observer Program & Shark Bottom Longline Observer Program, Southeast Fisheries Science Center, Panama City Laboratory, 3500 Delwood Beach Rd, Panama City, FL 32408											
Program Manager: Dr. John Carlson, 850-234-6541, john.carlson@noaa.gov, website: www.wefscpanamalab.noaa.gov/shark/observersBLL.htm											
Southeast Shark and Coastal Teleost Gillnet Fishery	4-23 vessels with directed shark permits	MMPA Cat. II (50 CFR 229); MSFCMA (50 CFR 635)	year-round	$324,305	Obs/Trn-Atlantic Coast Observers	1998 - present	38% shark drift gillnet; 100% shark strike gillnet;	39% of drift sets, 100% strike sets, 20% sink-shark sets.	~200 sets	196 sets	2 to 4
Atlantic and Gulf of Mexico Directed Large Coastal Shark Bottom Longline Fishery	251 directed shark permits (as of Oct. 2002)	MSFCMA (50 CFR 635)	3 seasons - Jan-Apr; May-Aug; Sep-Nov	$150,000	F/ST - Expand Stock Assessment	1994 - present	4-6%	8%	233 sets	264 sets	4 to 6
				$140,300	Obs/Trn-National Observer Program						
				$198,000	Fisheries Research and Management Program - SF Funding						
Gulf of Mexico Reef Fish Fishery Observer Program, Southeast Fisheries Science Center, Galveston Laboratory, 4700 Avenue U, Galveston, TX 77551											
Program Manager: Elizabeth Scott-Denton, 409-766-3507, elizabeth.scott-denton@noaa.gov											
Gulf of Mexico Reef Fish Fishery	Approx. 1,000 permitted USCG documented vessels	mandatory	year-round	$187,667	Reducing Bycatch	2006 - present	<1%	1%	300 + transfer from FY06	644	16
				$33	Obs/Trn-National Observer Program						
National Observer Program, Office of Science and Technology, 1315 East West Highway, Silver Spring, MD 20910											
Manager: Dr. Lisa Desfosse, 301-713-2363, lisa.desfosse@noaa.gov, website: http://www.st.nmfs.gov/st1/nop											
National Bycatch Report NOTE: funds distributed to ST and regional programs	NA	NA	year-round	$322,862	Obs/Trn-National Observer Program	2005 - present	NA	NA	NA	NA	NA
				$399,138	Reducing Bycatch						

Appendix C. Federal Costs for NMFS Regional Observer Programs

Fisheries Observed	Fleet Size	Authority to Place Observers	Season of Operation	Funding Amount	Funding Source	Program Duration	Target % Coverage	Actual % Coverage	Target Sea Days	Actual Sea Days	Number of Observers
National Observer Program Support Activities	NA	NA	year-round	$50,278	Obs/Trn-Atlantic Coast Observers	1999 - present	NA	NA	NA	NA	NA
				$150,000	MMPA						
				$150,000	Fisheries Research and Management Program - SF Funding						
				$81,577	Obs/Trn-National Observer Program						
Regional Safety Cross-Training (NE and NW regions)	NA	NA	NA	$3,000	Obs/Trn-National Observer Program	2007	NA	NA	NA	NA	NA
NMFS Reserve	NA	NA	NA	$300,000	Obs/Trn-National Observer Program	2007	NA	NA	NA	NA	NA

TOTAL OBSERVER PROGRAM CONGRESSIONAL FUNDING	**$26,277,350**	**$33,621,042.00**
Total Reducing Bycatch	**$1,508,139**	
Total National Observer Program	**$2,959,439**	
TOTAL OTHER FUNDING	**$7,343,692**	
TOTAL INDUSTRY FUNDING	**$14,990,000**	
TOTAL OBSERVER FUNDING - ALL FUNDING SOURCES	**$ 48,611,042**	**Totals may not sum due to rounding**

ESTIMATED NUMBER OF SEA DAYS TARGETED - Does not include programs that target permits, sets, or trips instead of sea days	**54,110**
ACTUAL NUMBER OF SEA DAYS OBSERVED - Includes days deployed for electronic monitoring, does not include programs that target permits, sets, or trips instead of sea days.	**64,587**

TOTAL NUMBER OF OBSERVERS - Does not include deployments for electronic monitoring	**722**

Appendix D

Fishery Observer Wage Determination, August 15, 2008

REGISTER OF WAGE DETERMINATIONS UNDER
THE SERVICE CONTRACT ACT
By direction of the Secretary of Labor

Shirley F. Ebbesen
Director

Division of
Wage Determinations

U.S. DEPARTMENT OF LABOR
EMPLOYMENT STANDARDS ADMINISTRATION
WAGE AND HOUR DIVISION
WASHINGTON, D.C. 20210

Wage Determination No.: 1996-0362
Revision No.: 17
Date of Last Revision: 08/15/2008

State: Alaska
Area: Alaska Statewide

** Fringe Benefits Required Follow the Occupational Listing **

CODE	OCCUPATION TITLE	MINIMUM WAGE RATE
91401	Fishery Observer I	13.81
91402	Fishery Observer II	15.39
91403	Fishery Observer III	17.11

ALL OCCUPATIONS LISTED ABOVE RECEIVE THE FOLLOWING BENEFITS:

HEALTH & WELFARE: $3.24 per hour or $129.60 per week or $561.60 per month

VACATION: 2 weeks paid vacation after 1 year of service with a contractor or successor; 3 weeks after 5 years, and 4 weeks after 15 years. Length of service includes the whole span of continuous service with the present contractor or successor, wherever employed, and with the predecessor contractors in the performance of similar work at the same Federal facility. (Reg. 29 CFR 4.173)

HOLIDAYS: A minimum of ten paid holidays per year: New Year's Day, Martin Luther King Jr.'s Birthday, Washington's Birthday, Memorial Day, Independence Day, Labor Day Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (A contractor may substitute for any of the named holidays another day off with pay in accordance with a plan communicated to the employees involved.) (See 29 CFR 4.174)

** UNIFORM ALLOWANCE **

If employees are required to wear uniforms in the performance of this contract (either by the terms of the Government contract, by the employer, by the state or local law, etc.), the cost of furnishing such uniforms and maintaining (by laundering or dry cleaning) such uniforms is an expense that may not be borne by an employee where such cost reduces the hourly rate below that required by the wage determination. The Department of Labor will accept payment in accordance with the following standards as compliance:

The contractor or subcontractor is required to furnish all employees with an adequate number of uniforms without cost or to reimburse employees for the actual cost of the uniforms. In addition, where uniform cleaning and maintenance is made the responsibility of the employee, all contractors and subcontractors subject to this wage determination shall (in the absence of a bona fide collective bargaining agreement providing for a different amount, or the furnishing of contrary affirmative proof as to the actual cost), reimburse all employees for such cleaning and maintenance at a rate of $3.35 per week (or $.67 cents per day). However, in those instances where the uniforms furnished are made of "wash and wear" materials, may be routinely washed and dried with other personal garments, and do not require any special treatment such as dry cleaning, daily washing, or commercial laundering in order to meet the cleanliness or appearance standards set by the terms of the Government contract, by the contractor, by law, or by the nature of the work, there is no requirement that employees be reimbursed for uniform maintenance costs.

** NOTES APPLYING TO THIS WAGE DETERMINATION **

Under the policy and guidance contained in All Agency Memorandum No. 159, the Wage and Hour Division does not recognize, for section 4(c) purposes, prospective wage rates and fringe benefit provisions that are effective only upon such contingencies as "approval of Wage and Hour, issuance of a wage determination, incorporation of the wage determination in the contract, adjusting the contract price, etc." (The relevant CBA section) in the collective bargaining agreement between (the parties) contains contingency language that Wage and Hour does not recognize as reflecting "arm's length negotiation" under section 4(c) of the Act and 29 C.F.R. 5.11(a) of the regulations. This wage determination therefore reflects the actual CBA wage rates and fringe benefits paid under the predecessor contract.

The duties of employees under job titles listed are those described in the "Service Contract Act Directory of Occupations", Fifth Edition, April 2006, unless otherwise indicated. Copies of the Directory are available on the Internet. A links to the Directory may be found on the WHD home page at http://www.dol.gov/esa/whd/ or through the Wage Determinations On-Line (WDOL) Web site at http://wdol.gov/.

REQUEST FOR AUTHORIZATION OF ADDITIONAL CLASSIFICATION AND WAGE RATE {Standard Form 1444 (SF 1444)}

Conformance Process:

The contracting officer shall require that any class of service employee which is not listed herein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed classes of employees shall be paid the monetary wages and furnished the fringe benefits as are determined. Such conforming process shall be initiated by the contractor prior to the performance of contract work by such unlisted class(es) of employees. The conformed classification, wage rate, and/or fringe benefits shall be retroactive to the commencement date of the contract. {See Section 4.6 (C)(vi)} When multiple wage determinations are included in a contract, a separate SF 1444 should be prepared for each wage determination to which a class(es) is to be conformed.

The process for preparing a conformance request is as follows:

1) When preparing the bid, the contractor identifies the need for a conformed occupation(s) and computes a proposed rate(s).

2) After contract award, the contractor prepares a written report listing in order proposed classification title(s), a Federal grade equivalency (FGE) for each proposed classification(s), job description(s), and rationale for proposed wage rate(s), including information regarding the agreement or disagreement of the authorized representative of the employees involved, or where there is no authorized representative, the employees themselves. This report should be submitted to the contracting officer no later than 30 days after such unlisted class(es) of employees performs any contract work.

3) The contracting officer reviews the proposed action and promptly submits a report of the action, together with the agency's recommendations and pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. (See section 4.6(b)(2) of Regulations 29 CFR Part 4).

4) Within 30 days of receipt, the Wage and Hour Division approves, modifies, or disapproves the action via transmittal to the agency contracting officer, or notifies the contracting officer that additional time will be required to process the request.

5) The contracting officer transmits the Wage and Hour decision to the contractor.

6) The contractor informs the affected employees.

Information required by the Regulations must be submitted on SF 1444 or bond paper.

When preparing a conformance request, the "Service Contract Act Directory of Occupations" (the Directory) should be used to compare job definitions to insure that duties requested are not performed by a

classification already listed in the wage determination. Remember, it is not the job title, but the required tasks that determine whether a class is included in an established wage determination. Conformances may not be used to artificially split, combine, or subdivide classifications listed in the wage determination.

COPY FOR YOUR INFORMATION

Appendix E

Regional Labor Costs of NMFS Observer Programs

	Alaska North Pacific Groundfish Observer Program			Alaska Marine Mammal Observer Program			Northeast Fisheries Observer Program		
	Observer I	**Observer II**	**Observer III**	**Observer I**	**Observer II**	**Observer III**	**Observer I**	**Observer II**	**Observer III**
Wage per Hour *	13.81	15.39	17.11	13.81	15.39	17.11	14.24	15.88	17.64
Health and Welfare (Per Hour) *	3.24	3.24	3.24	3.24	3.24	3.24	2.59	2.59	2.59
Total Wage per Hour	17.05	18.63	20.35	17.05	18.63	20.35	16.83	18.47	20.23
Limits on Hours Worked per Day				12	12	12	12	12	12
Limits on Hours Worked per Week				84	84	84	84	84	84
Standard Observer Pay Per Week (assumes 40 hour work week)	682.00	745.20	814.00	682.00	745.20	814.00	673.20	738.80	809.20
Overtime Hours (Hours per Week > 40 Hours)	(40.00)	(40.00)	(40.00)	44.00	44.00	44.00	44.00	44.00	44.00
Overtime Pay (1.5 times standard pay)	(828.60)	(923.40)	(1,026.60)	911.46	1,015.74	1,129.26	939.84	1,048.08	1,164.24
Total Weekly Pay	(146.60)	(178.20)	(212.60)	1,593.46	1,760.94	1,943.26	1,613.04	1,786.88	1,973.44
Fringe Benefits (Percentage) ***	25%	25%	25%	25%	25%	25%	25%	25%	25%
Total Weekly Pay + Benefits	(183.25)	(222.75)	(265.75)	1,991.83	2,201.18	2,429.08	2,016.30	2,233.60	2,466.80
Total Cost Per Day (assumes 7 day work week)	(26.18)	(31.82)	(37.96)	284.55	314.45	347.01	288.04	319.09	352.40

NOTE 1: For the North Pacific Program, parenthesis are used for numbers that will change based on the limits on hours worked per day and hours worked per week selected by the North Pacific Council.

NOTE 2: Department of Labor wage determinations for each region require 10 days of vacation pay and 10 days of holiday pay per year. This additional wage is NOT included in the hourly or weekly wage calculations in the above table.

* Wage per hour is based on Department of Labor wage determinations for each region. These are minimum wages and do not reflect any actual contract costs.

** The Northwest observer program pays observers based on a minimum of 12 days at sea per month (average deployment). The daily rates, if multiplied by 12 days, represent an average monthly cost for an observer. Additional sea days would incur additional observer cost, but at a reduced daily rate. The observer pay categories are based on the GS pay schedule (GS5-1 to GS5-7), not the DOL observer categories.

*** An average amount of 25% is used for fringe benefits, which include FICA, Medicare, and state unemployment. Insurance costs are not included.

**** The Southwest observer program only uses Observer I categories for observer wages.

	Southeast Fisheries Observer Program			Northwest Groundfish Observer Program **				Southwest Fisheries Observer Program		
	Observer I	**Observer II**	**Observer III**	**GS5-1**	**GS5-3**	**GS5-5**	**GS5-7**	**Observer I**	**Observer II ******	**Observer III ******
Wage per Hour *	14.24	15.88	17.64	NA	NA	NA	NA	13.22		
Health and Welfare (Per Hour) *	2.59	2.59	2.59	NA	NA	NA	NA	3.24		
Total Wage per Hour	16.83	18.47	20.23	NA	NA	NA	NA	16.46		
Limits on Hours Worked per Day	16	16	16	NA	NA	NA	NA	10		
Limits on Hours Worked per Week	112	112	112	NA	NA	NA	NA	70		
Standard Observer Pay Per Week (assumes 40 hour work week)	673.20	738.80	809.20	2037.00	2170.00	2310.00	2443.00	658.40		
Overtime Hours (Hours per Week > 40 Hours)	72.00	72.00	72.00	NA	NA	NA	NA	30.00		
Overtime Pay (1.5 times standard pay)	1,537.92	1,715.04	1,905.12	NA	NA	NA	NA	594.90		
Total Weekly Pay	2,211.12	2,453.84	2,714.32	2,037.00	2,170.00	2,310.00	2,443.00	1,253.30		
Fringe Benefits (Percentage) ***	25%	25%	25%	25%	25%	25%	25%	25%		
Total Weekly Pay + Benefits	2,763.90	3,067.30	3,392.90	2,546.25	2,712.50	2,887.50	3,053.75	1,566.63	-	-
Total Cost Per Day (assumes 7 day work week)	394.84	438.19	484.70	363.75	387.50	412.50	436.25	223.80	-	-

	Pacific Islands Fisheries Observer Program		
	Observer I	**Observer II**	**Observer III**
Wage per Hour *	$13.61	$14.02	$14.43
Health and Welfare (Per Hour) *	1.29	1.29	1.29
Total Wage per Hour	14.90	15.31	15.72
Limits on Hours Worked per Day	10	10	10
Limits on Hours Worked per Week	70	70	70
Standard Observer Pay Per Week (assumes 40 hour work week)	596.00	612.40	628.80
Overtime Hours (Hours per Week > 40 Hours)	30.00	30.00	30.00
Overtime Pay (1.5 times standard pay)	612.45	630.90	649.35
Total Weekly Pay	1,208.45	1,243.30	1,278.15
Fringe Benefits (Percentage) ***	25%	25%	25%
Total Weekly Pay + Benefits	1,510.56	1,554.13	1,597.69
Total Cost Per Day (assumes 7 day work week)	215.79	222.02	228.24