

**MANAGEMENT CONTROL REVIEW
OF NATIONAL MARINE FISHERIES SERVICE
OBSERVER PROGRAMS/SERVICE DELIVERY MODELS**

**Headquarters:
Office of Science & Technology
Regions:
Alaska, Northeast, Northwest, Southeast, and Southwest**



**U.S. DEPARTMENT OF COMMERCE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
NATIONAL MARINE FISHERIES SERVICE**

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MANAGEMENT CONTROL REVIEW OF NMFS OBSERVER PROGRAMS

EXECUTIVE SUMMARY

I. INTRODUCTION

NMFS OBSERVER PROGRAMS

NMFS observer programs have an important role in collecting scientific data about the catch and bycatch of marine species in the nation's commercial fisheries. They are also relied upon increasingly to monitor compliance with fishery regulations administered under the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), the Marine Mammal Protection Act (MMPA), and the Endangered Species Act (ESA).

In FY 1999, eleven observer programs, managed by staff from NMFS Regional Science Centers, Regional laboratories, or Regional offices, monitored fishing operations in 18 commercial fisheries. The Regional programs were responsible for the direct collection of scientific data. The National Observer Program, established in 1999 at NMFS Headquarters, acted as a facilitating body to assist the Regional observer programs address common issues at the national level.

Observer program activities varied widely from fishery to fishery because of differences in fishing location, types of vessels, gear types, interactions with protected or prohibited species (marine mammals, seabirds, endangered species, and certain fish), and overall program objectives. The scope and complexity of these activities have changed annually, as data on other species were needed or as new regulations were introduced.

In FY 1999, NMFS spent approximately \$8.1 million on funding observer programs: \$2.5 million was directly appropriated for North Pacific and East Coast observer programs under the Congressional line item "Observers/Training;" approximately \$5.0 million was budgeted for marine mammal observer programs out of a total of \$7.5 million under the line item "MMPA Implementation;" and another \$0.6 million was budgeted by Headquarters and/or the Regions for other observer programs. The fishing industry also contributed another \$10 million for observer services in the Alaska, Northwest, and Northeast Regions. However, the need for observers, as required by Regional fishery management plans, Endangered Species Act biological opinions, legislation, and court orders, has been growing more rapidly than the available funding.

SELECTION OF THE MANAGEMENT CONTROL REVIEW (MCR) TOPIC

At-sea observations are an excellent source of the data needed to assess marine resources and manage fisheries, such as total catch, discards, species, size and age composition, and other biological information. In most situations, observers are the only way to directly witness the interactions between fishing operations and protected species such as

marine mammals, birds, or endangered species.

Observer programs have many special characteristics that require effective management and oversight. Observers are usually hired at an entry-level position and work independently on commercial fishing vessels for up to three months without direct supervision. They must accommodate the difficult living arrangements, demanding schedules, and hazardous and unpredictable conditions imposed by commercial fishing operations. The scientific data that observers collect is critical to regulating the fishing industry. Assigned duties change frequently and on short notice, as new regulations are promulgated. The observer programs in each Region are administered differently as prescribed by law, regulation, biological opinion, or other agreement.

In 1984, an MCR was done of the foreign fishing observer program, which currently operates only sporadically in the Northeast Region (NER) to monitor the joint venture fishery, but was the predecessor for the current observer programs in the NER and the Alaska Region (AKR). Since 1984, the Regional observer programs have greatly expanded and diversified. NMFS recommended the evaluation of the operation of NMFS observer programs, as part of a Management Control Review, to ensure that management controls are in place and operating effectively in each Region and to direct and prioritize the development of standards and policies common to all Regional programs.

SCOPE OF THE REVIEW

Over the past twenty years, the Regional observer programs have increasingly relied upon independently-contracted observers, observer service provider companies, and/or independent training facilities to hire, train, and deploy observers. The MCR of NMFS observer programs was therefore designed to serve two functions. The first was a Region by Region review of current management practices. The second was a review of how the **service delivery model (SDM)**, or the system used to administer and conduct observer programs, has created additional management challenges. In 1999, the Regions managed their observer program activities using one of four¹ service delivery models:

- In-house - NMFS employees served as observers and managed all other functions.
- Contract to NMFS - Observer service providers or individuals provided observer services and, in some cases, other functions under a direct contract to NMFS; NMFS employees retained management control over contracted functions and provided and managed other functions.

¹In the workplan, there were three service delivery models identified: In-house, Contract to NMFS, and Third Party Contract with or without NMFS Certification. However, the last model was revised and split into two separate models, the NMFS-Certified Observer Companies and the Resource-Funded Third Party Agreement, to more accurately reflect the actual methods of service delivery that were in use in 1999.

- NMFS-Certified Observer Companies - Observer service providers “certified” by NMFS provided observers and, in some cases, other functions under a contract with fishing vessel owners or operators; NMFS employees provided and managed all other functions.
- Resource-Funded Third Party Agreement - An observer service provider, under an “agreement” with NMFS, paid observer salaries with funds received from the industry.

The service delivery models varied considerably among and within Regions. Each service delivery model used different management controls to ensure that observer programs were effective in controlling waste, fraud, mismanagement, and abuse. The MCR focused on the effectiveness of management controls and how they varied by service delivery model. Service delivery models in each Region were evaluated separately, although similar control techniques were tested wherever possible.

Table A. identifies the observer program(s) under each service delivery model, by Region. In Regions where the same SDM was used by more than one program managed in different locations (e.g., SWR in-house, SER contract to NMFS), the MCR treated all of the programs as one SDM. The term “program” in this document referred to the administration of observer services in one or more fisheries by a single NMFS office within a Region.

The NMFS Deputy Assistant Administrator and the Headquarters and Regional staff identified eight significant **risks** (potentially adverse situations) that were associated with observer activities:

- Funds for the observer program may be unavailable for obligation consistently and on time.
- The costs of providing observers may be excessive or misallocated within government and industry.
- Qualified observers may not be recruited and/or retained.
- Observers may not be properly trained to perform their duties.
- The health and safety of observers may be impaired.
- Insurance coverage and legal remedies may be inadequate for observers who are injured at sea.
- Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.
- The completeness and accuracy of observer data may be compromised.

Table A. NMFS Observer Programs, by SDM and Region

Region	In-house SDM (NMFS Region and Office/Division)	Contract to NMFS SDM (NMFS Region and Office/Division)	NMFS-Certified Observer Companies SDM (NMFS Region and Office/Division)	Resource-Funded Third Party Agreement SDM (NMFS Region and Office/Division)
AKR	-	Cook Inlet Driftnet and Setnet Marine Mammal Observer Program (AKR Protected Resources)	North Pacific Groundfish Trawl and Fixed Gear Observer Program (AFSC Resource Ecology and Fisheries Mgmt Division)	-
NER	-	Sustainable Fisheries and Marine Mammal Observer Program (NEFSC Fisheries Sampling Branch)	-	Scallop Closed Area Observer Program (NEFSC Fisheries Sampling Branch)
NWR	-	-	Offshore Pacific Whiting Observer Program (AFSC Resource Ecology and Fisheries Mgmt Division)	-
SER	-	Shrimp Trawl Observer Program (SER Galveston Lab); Pelagic Longline Observer Program (SEFSC Miami Lab); Shark Driftnet Observer Program (SER Panama City Lab)	-	-
SWR	Hawaii Longline Observer Program (SWR Pacific Islands Area Office); Monterey Bay Setnet Observer Program (SWR Office of Sustainable Fisheries)	California/Oregon Drift Gillnet Observer Program (SWR Office of Sustainable Fisheries)	-	-

II. METHODOLOGY

SELECTION OF THE MCR TEAM

In December 1999, the Deputy Assistant Administrator for Fisheries tasked the Regional Administrators and the Directors of the Offices of Sustainable Fisheries, Recreational and Interjurisdictional Fisheries, and Science and Technology, to designate persons to represent their organizations on the MCR Team. The MCR Team was later expanded to include a total of seventeen persons who were chosen for their knowledge of the subject, analytical skills, or observer program responsibilities. The Team included the MCR Coordinator from the Office of Operations, Management, and Information and an MCR Team Leader from the National Observer Program of the Office of Science and Technology in Headquarters.

WORK PLAN AND SCHEDULE

The MCR Team prepared a detailed Work Plan and Schedule (see Appendix) to complete the MCR. The MCR was conducted over a nine-month period (January to September 2000).

NARRATIVES

The MCR Team began by preparing narratives that described the existing observer program in each Region and service delivery model. These narratives described the five **event cycles**, or management processes, that identify the functions that observer programs must accomplish. The event cycles were, from start to finish:

- Staffing and Recruitment
- Training
- Deployment and Logistics
- Data Collection
- Debriefing, Data Entry, and Editing

The narratives also identified the employees involved in administering the event cycles (by their titles) and the activities conducted.

CONTROL TECHNIQUES

The narratives included a description of the management controls that managers employed to ensure that their resources were used efficiently and effectively. The MCR Team selected certain controls for further evaluation, including those identified by the Deputy Assistant Administrator that might not be working. To facilitate a comparison among Regions, these controls were consistent for each service delivery model.

TESTING

The MCR Team developed formal tests to determine if the identified controls were being done routinely and achieving the stated objectives. These tests involved questioning those who were involved in, or responsible for, daily operations, supplemented by document analyses and direct examination. The MCR Team prepared written questionnaires for NMFS program managers and staff, contractor staff, and vessel owners/operators. The MCR Team also incorporated the results of an independent review of the North Pacific Groundfish Observer Program that was completed in April 2000 by MRAG, Americas, Inc. for the NMFS Alaska Fisheries Science Center. In particular, the MCR Team adapted an observer questionnaire developed by MRAG for observers in other Regions.

TEAM REVIEW OF DOCUMENTS AND SYNTHESIS OF FINDINGS AND CONCLUSIONS

MCR Team review of interim documents was facilitated by extensive conference calls,

and by several meetings at which the MCR was discussed or drafts prepared. A final meeting of the MCR Team was held in August 2000 to discuss all of the Regional findings, conclusions, and recommendations and to formulate team-wide recommendations.

III. FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

This section summarizes the findings, conclusions, and recommendations developed by each Region, and also includes the recommendations made by the team as a whole. It is organized on a risk by risk basis to compare the effectiveness of similar control techniques across Regions. The reader is directed to the main document for an in-depth discussion of management processes, control techniques tested, findings, conclusions, and recommendations, organized by SDM and then by program. The reader is also directed to the main document for a summary of findings as they relate to the GAO standards, and a table listing all recommendations.

For each risk, the control techniques tested are identified, followed by the programs that the tests pertain to (in parentheses). The findings and conclusions and the recommendations also identify the programs they pertain to (in parentheses).

RISK A: FUNDS FOR THE OBSERVER PROGRAM MAY BE UNAVAILABLE FOR OBLIGATION CONSISTENTLY AND ON TIME

Control technique: Observer program managers obtain and issue funding guidance in sufficient time to recruit, train, and deploy observers (SWR in-house and NER third party agreement), to solicit and negotiate contracts (all contract to NMFS), or to train and brief observers and provide other support services (AKR and NWR NMFS-certified observer companies).

Findings and Conclusions

- Federally appropriated funds are generally distributed several months after the start of each fiscal year and observer programs have had limited spending authority until funds are distributed (team-wide).
- Actual funding distributions vary annually (team-wide).
- Base funding for the longline fishery provides for administrative support salaries, observer personnel travel costs, and vessel reimbursements. Additional funding beyond base varies annually and is unpredictable. (SER contract to NMFS)
- Actions taken to allocate funding to base for certain programs have stabilized funding (NER, SWR contract to NMFS; AKR NMFS-certified observer companies). However, funding levels were generally less than what has been requested to meet sampling objectives (team-wide).
- Industry funding was generally timely and consistent; however, some vessels did not pay in a timely manner, or at all (AKR NMFS-certified observer companies).
- There were delays in determining how funding of observers would occur at the start of the program, and the payment system was not set up to cover all program costs

- (training, gear, and equipment) (NER third party agreement).
- Delays in distribution of funds require program managers to delay hiring of new observers or, at times, to place existing observers in a non-pay, non-duty status until funds are available, which affects the program's ability to meet coverage levels (SWR in-house).
- Delays and inconsistencies in funding made the award of a contract problematic within the same fiscal year that funds were distributed, which affects the program's ability to meet coverage levels (contract to NMFS).
- The current funding mechanisms do not guarantee prompt and/or adequate payment for observer program costs (AKR NMFS-certified observer companies, NER third party agreement).

Recommendations

- Request that the Office of Protected Resources simplify the funding process for marine mammal observer programs to ensure funding is timely (AKR contract to NMFS).
- Alert higher levels within NMFS that funding must be received in time to develop a Request For Proposal (RFP) and award a contract prior to the end of the fiscal year (NER contract to NMFS).
- To reduce the risk of nonpayment of observers and observer companies, document and explore risks and benefits of alternative funding mechanisms (AKR NMFS-certified observer companies).
- Identify and request funding to cover staffing, start-up, and operational costs for the Pacific Whiting observer program (NWR NMFS-certified observer companies).
- Establish a contract to provide observer services prior to any anticipated fishery opening and ensure that industry funds provide for observer training, salaries, equipment and supplies (NER third party agreement).
- Outline budgetary requirements, based on data collection needs and priorities. Submit budgetary requirements to the National Observer Program, who will use this information to aid the Regional observer programs in efforts to secure stable funding (all in-house and contract to NMFS programs).
- Communicate to NMFS leadership that the majority of observer programs have recurring needs for long term stable funding and that funding levels and observer requirements must be known at least 6-9 months in advance of observer deployment (team-wide).

RISK B: THE COST OF PROVIDING OBSERVERS MAY BE EXCESSIVE OR MISALLOCATED WITHIN GOVERNMENT AND INDUSTRY

Control technique: Observer program staff purchase, store, and issue sampling equipment and gear (SWR in-house; AKR, NER, SER contract to NMFS; AKR NMFS-certified observer companies; NER third party agreement), or supervise contractors that do the same (SWR contract to NMFS).

Findings and Conclusions

- Gear and equipment inventory, purchasing, maintenance and storage mechanisms are generally adequate but could be improved (team-wide).

Recommendations

- Improve storage facilities (NER contract to NMFS).
- Continue the development and implementation of a gear inventory/tracking system; implement a contract with the North Pacific Observer Training Center that specifies gear maintenance standards (AKR NMFS-certified observer companies).
- Develop a contract to ensure that equipment and supplies are paid for by industry (NER third party agreement).

Control technique: The Contracting Officer's Technical Representative (COTR) monitors the contract (all contract to NMFS) or agreement (NER third party agreement) with the observer service provider by comparing invoices received from the observer provider with reports received from the observer.

Findings and Conclusions

- Contract accounting procedures are followed (NER, SER, SWR contract to NMFS).
- The work needed to determine if the invoices correctly account for work accomplished has not been completed (AKR contract to NMFS).
- The observer service provider was late in paying observers and excess funds collected have not yet been returned to the industry (NER third party agreement).

Recommendations

- Request that the Western Administrative Support Center (WASC) spot-check observer reports received from the contractor and compare them to the invoices. If discrepancies are discovered, WASC may wish to initiate an audit of the contractor (AKR contract to NMFS).
- Award a contract for providing observer services in advance of the fishery opening and determine the cost of providing different levels of required coverage to form the basis for the Total Allowable Catch (TAC) set aside and daily additional catch allowance; include in the contract a mechanism for refunding excess funds collected (NER third party agreement).

Control technique: Costs to the industry are on a pay-as-you-go system (AKR NMFS-certified observer companies).

Findings and Conclusions

- Costs are not reasonable and fair across the groundfish fleet, and some vessels and plants pay disproportionate percentages of their gross revenues for observer coverage (AKR NMFS-certified observer companies).

Recommendations

- Define "reasonable and fair" as it relates to observer programs; initiate a reevaluation of funding; initiate changes to the MSFCMA to facilitate alternative funding sources

(AKR NMFS-certified observer companies).

Control technique: The costs of federal and contract work are compared (NER contract to NMFS).

Findings and Conclusions

- Cost data for federal workers were not available and cost comparisons could not be accomplished (NER contract to NMFS).

Recommendations

- Develop method for estimating observer program costs and compare those with contractor costs (NER contract to NMFS).

Control technique: Observer coverage is required to be randomly distributed among vessels and sites (AKR contract to NMFS).

Findings and Conclusions

- Coverage goals were met in 1999; however, coverage was not distributed randomly because some vessels refused coverage by citing safety concerns. Fishery participants and observer were not fully informed of the mandatory coverage requirements (AKR contract to NMFS).

Recommendations

- Hold the observer service provider responsible for random observer placement; educate the industry of observer coverage requirements; develop a policy for handling vessels that refuse mandatory MMPA observer coverage (AKR contract to NMFS).

RISK C: QUALIFIED OBSERVERS MAY NOT BE RECRUITED AND/OR RETAINED

Control technique: NMFS recruits additional federal observers (SWR in-house) or uses observer service providers (contract to NMFS; AKR NMFS-certified observer companies, NER third party agreement) to supply observers as needed.

Findings and Conclusions

- The time lag between advertising of the position and the interviewing and selection process for hiring observers resulted in a loss of candidates and, in some cases, an inability to ramp up coverage levels quickly enough to meet sampling objectives (SWR in-house).
- In the contract to NMFS SDM, recruitment of qualified observers by observer service providers was adequate if a contract was already in place. The establishment of a contract, however, requires 6-9 months at a minimum (all contract to NMFS).
- When observer service providers are paid a fixed price per observer day and NMFS pays for training, or when work is seasonal, the providers had little incentive to

recruit or retain experienced observers that demand higher salaries or more benefits (NER, SER contract to NMFS).

- NMFS cannot set observer retention requirements or require compliance with Equal Employment Opportunity (EEO) regulations if observer service providers are not under contract to NMFS. The direct relationship between the observer provider and the industry does not provide any means to eliminate the potential for conflict of interest, removes NMFS from daily programmatic operations, and does not provide the observer program with direct control to address problems with observer providers. (AKR NMFS-certified observer companies).

Recommendations

- Implement the Commerce Opportunities On-Line automated vacancy announcement system to hasten recruitment of observers (SWR in-house).
- Use an alternative service delivery model with NMFS hiring the observers directly and retain observers though of increased benefits and job security. Alternatively, develop incentives for the next RFP that would reward the contractor for retaining and using at least 60% experienced observers (NER contract to NMFS).
- Standardize the pay scale for contract observers so that it is comparable to federal employees performing similar duties as observers (SER contract to NMFS).
- Develop a national policy that would prevent the NMFS-certified observer companies SDM from being implemented elsewhere; restructure the current SDM; consider a minimum experience requirement for observers; explore different recruitment and retention methods; develop a means for correcting problems which may not warrant the observer provider's decertification (AKR NMFS-certified observer companies).
- Develop national mechanisms to increase retention of observers such as the creation of a national registry of experienced observers that would facilitate the movement of observers from program to program (team-wide).

Control technique: NMFS establishes minimum qualifications for observer recruits (in-house and contract to NMFS), or rejects unsuitable observers recruited by observer service providers during training (AKR NMFS-certified observer companies, NER third party agreement).

Findings and Conclusions

- Minimum experience/education and skill requirements for observers have been established on a Regional level (team-wide).
- Minimum qualifications for observers were not consistently enforced. Unqualified observers were selected for training at times when the pool of qualified observers was not sufficient (SER contract to NMFS) or when there was political pressure to hire displaced fishermen (NER third party agreement).
- Lead observers did not have sufficient communication and leadership experience (AKR contract to NMFS).
- Requiring that observers have a Bachelor's Degree may not be necessary or conducive to retaining skilled observers. Requirements need to vary by fishery and should be based on observer duties (SER contract to NMFS).

- Companies are required to screen candidates and qualifications are reviewed by the observer program; however, review of resumes and rejection of unsuitable candidates is time-consuming and observer providers are inconsistent in their screening (AKR NMFS-certified observer companies).

Recommendations

- Maintain minimum qualifications for observers (SWR in-house; SWR contract to NMFS; NER third party agreement); enforce hiring standards (NER third party agreement).
- Require lead observer qualifications to include experience supervising people and coordinating tasks, or require training in these areas (AKR contract to NMFS).
- Standardize basic observer qualifications within a Region to allow observers to work in any or all of the SER observer programs (SER contract to NMFS).
- Require consistent interview screening of potential observer candidates; initiate implementation of an SDM in which observer companies are responsible for the caliber of their recruits (AKR NMFS-certified observer companies).
- Investigate whether the development of national minimum hiring standards is compatible with Regional program objectives (team-wide).
- Initiate the development of an evaluation system for determining how education and/or experience level affect data quality (team-wide).
- Investigate what issues are involved in hiring non-U.S. citizens as observers (team-wide).

Control technique: NMFS provides adequate oversight of the contractor (AKR contract to NMFS).

Findings and Conclusions

- There was insufficient staff to oversee contractor performance in the field; however, there was reasonable assurance that the contractor performed adequately (AKR contract to NMFS).

Recommendations

- Inform the Chief, AKR Protected Resource Division, of the difficulties that staff encountered in fulfilling NMFS responsibilities in monitoring the Cook Inlet Marine Mammal Observer Program (CIMMOP) contract; prioritize time and reprogram resources to ensure staff can fulfill their responsibilities to monitor any future AKR Category II fishery observer program contracts (AKR contract to NMFS).

Control technique: Observers are decertified that do not meet NMFS standards of conduct or performance while deployed (AKR NMFS-certified observer companies); only observers who meet NMFS standards of conduct or performance are rehired (NWR NMFS-certified observer companies).

Findings and Conclusions

- Observers who do not meet NMFS standards, as discovered during debriefing, are

removed; however, decertification regulations limit the reasons for which an observer can be removed. Decertification of observers is a cumbersome process (AKR NMFS-certified observer companies)

- The program is unable to direct the placement of observers in the field, creating problems when observers are placed in situations beyond their ability (AKR NMFS-certified observer companies).
- In the past, attempts to decertify whiting observers were unsuccessful because of lack of regulations. However, there have been no recent attempts to decertify observers (NWR NMFS-certified observer companies).

Recommendations

- Implement an SDM which allows for more direct oversight of the placement of observers (AKR NMFS-certified observer companies).
- Under a revised SDM, consider replacing the decertification process with a system that places responsibility of an observer's performance on the observer company (AKR NMFS-certified observer companies).
- Promulgate regulations and guidelines for observer certification and decertification (NWR NMFS-certified observer companies).

RISK D: OBSERVERS MAY NOT BE PROPERLY TRAINED TO PERFORM THEIR DUTIES

Control technique: Observers receive comprehensive training in core competencies (team-wide).

Findings and Conclusions

- Training curricula and requirements are comprehensive (team-wide, except NER third party agreement).
- Specialists outside the agency, such as the United States Coast Guard (USCG), are often used to conduct parts of the training (SWR in-house; NER, SER (shrimp trawl), SWR contract to NMFS).
- Senior observers deployed with new observers for their first trip have improved training and evaluation of new observers (NER contract to NMFS).
- Nearly all observers surveyed responded that the training was adequate in providing the skills needed (team-wide).
- Programs in all Regions, except one (SER contract to NMFS), require trainees to demonstrate comprehension of training materials as measured by the successful completion of homework assignments, in-class quizzes and tests.
- Improvements could be made in the areas of safety, fish identification, and Typical-Day-at-Sea exercises (SWR in-house; SWR contract to NMFS), lead observer training (AKR contract to NMFS), in-water training, and harassment (SER contract to NMFS).
- There was no direct contract with the training facility to ensure that training standards were met (AKR contract to NMFS; AKR NMFS-certified observer companies).
- Evaluation processes, where used, were helpful in improving teaching materials and

methods (SWR in-house; NER, SWR contract to NMFS; AKR NMFS-certified observer companies).

Recommendations

- Update training curricula to include changes in data collection requirements, observer program policies, laws and regulations (SWR in-house; NER, SWR contract to NMFS) and harassment (SER contract to NMFS).
- Expand use of observer evaluations and incorporate recommendations into training (SWR in-house; AKR, SER, SWR contract to NMFS).
- Increase training staff to include experienced trainers (NER contract to NMFS) and outside specialists (SER contract to NMFS); secure training facilities six weeks in advance of training (NER contract to NMFS).
- Standardize the basic elements (materials and length of coverage time) of the observer training courses to facilitate movement of observers between programs within the Region (SER contract to NMFS).
- Ensure that training standards (NER third party agreement) and performance standards (AKR contract to NMFS) are established and that lead observers are appropriately trained (AKR contract to NMFS).
- Contract for observer training with the North Pacific Observer Training Center (AKR contract to NMFS; AKR NMFS-certified observer companies).
- Provide “training for trainers” to facilitate distribution and sharing of resources, to improve teaching methods, and to determine whether training standards should be developed (team-wide).

RISK E: THE HEALTH AND SAFETY OF OBSERVERS MAY BE IMPAIRED

Control technique: NMFS administers the health and safety regulations at 50 CFR 600.725(p)-(u) and 600.746 (team-wide, except NER third party agreement).

Findings and Conclusions

- Observers are required to perform pre-trip safety checks to determine whether a vessel is safe (all contract, NMFS-certified observer companies, and third party agreement SDMs); the observer program administrative staff conduct pre-trip safety checks (SWR in-house).
- In at least one program, observers were not trained to check for the presence of a valid United States Coast Guard (USCG) safety decal (AKR contract to NMFS). In at least one other program, the observers relied only on the presence of a USCG safety decal to determine whether a vessel was safe (SER (shrimp and gillnet) contract to NMFS).
- For at least one program that issues observers vessel safety checklists, observers were not aware of the checklist or could not recall being issued a checklist (AKR contract to NMFS).
- Some fishery participants have not had their vessels inspected by the USCG (AKR contract to NMFS).
- Vessels selected for observer coverage that refused to carry an observer for safety

reasons were not prohibited from fishing nor were enforcement actions taken (AKR, NER, SER contract to NMFS).

- Some observers felt pressure to ignore health and safety concerns (SWR in-house; SWR contract to NMFS); observers perceived that they risked losing their job if they refused a vessel (AKR NMFS-certified observer companies).
- Some programs were not implementing and enforcing the health and safety regulations (AKR, NER, SER contract to NMFS).
- The regulations conflict with language in the MMPA (AKR contract to NMFS) or do not apply to voluntary programs (SER contract to NMFS).
- Program managers could not determine how well observer providers were implementing the regulations (NER, SWR contract to NMFS).

Recommendations

- Document and distribute policies and procedures that must be followed during pre-trip safety checks if observers have safety concerns (SWR in-house; AKR, NER, SER contract to NMFS; AKR NMFS-certified observer companies).
- Inform observers that they have the right to refuse a vessel they feel is unsafe (SWR in-house; all contract to NMFS).
- Initiate a redesign of the SDM such that observers who refuse vessels for valid safety reasons are not penalized (AKR NMFS-certified observer companies).
- Have observers conduct pre-trip safety checks (SWR in-house; AKR, NER contract to NMFS); include a dockside vessel safety inspection in the training curriculum (SWR in-house; SWR contract to NMFS).
- Increase industry awareness of safety regulations (SWR in-house; NER, SWR contract to NMFS).
- Reexamine the health and safety regulations regarding:
 - conflicts between the MMPA and MSFCMA regulations with respect to whether vessels determined to be unsafe can be prohibited from fishing,
 - applicability to voluntary programs (i.e., SER shrimp trawl and Pacific whiting fisheries), and
 - applicability to fisheries in which coverage requirements are less than 100%.

Revise regulations as necessary (team-wide).

- Investigate mechanisms for informing observers of health and safety concerns. If vessel profiles will be used, determine how they would be maintained and updated, how to ensure objectivity, consistency in documentation, and who would have access (team-wide).

Control technique: NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea (all programs, except NER third party agreement).

Findings and Conclusions

- Procedures to follow in the event an observer determines a vessel is unsafe while at sea were not well documented (SWR in-house; AKR, SER contract to NMFS; AKR NMFS-certified observer companies).

- Observers commented that there should be more support in the field in the event an unsafe condition arises (SWR in-house; SER, SWR contract to NMFS; AKR NMFS-certified observer companies), and prompt follow-up by NMFS Enforcement in cases where violations occurred (SWR in-house; SER, SWR contract to NMFS).
- Unsanitary and unhealthy conditions have been reported on some vessels (SWR in-house).

Recommendations

- Document and distribute policies and procedures that must be followed at-sea if observers have safety concerns (SWR in-house; AKR, SER contract to NMFS; AKR NMFS-certified observer companies).
- Debrief observers for possible health or safety concerns (SWR in-house; SWR contract to NMFS).
- Increase industry awareness of the observer program duties and responsibilities (SER, SWR contract to NMFS).
- Reexamine the health and safety regulations regarding health related issues (contagious diseases among the crew, water quality, mental stability, etc.). Revise regulations as necessary (team-wide).

Control technique: Observers are required to attend a USCG safety course (NER third party agreement).

Findings and Conclusions

- Observers attended a half-day training course and were instructed to check the vessel for safety concerns and for a valid USCG safety decal (NER third party agreement).

Recommendations

- Require observers to record whether or not a selected vessel has a USCG safety decal; notify vessels that they must have a valid USCG safety decal in order to carry an observer (NER third party agreement).

RISK F: INSURANCE COVERAGE AND LEGAL REMEDIES FOR OBSERVERS WHO ARE INJURED AT SEA MAY BE INADEQUATE

Control technique: Vessel owners are encouraged to obtain insurance that would protect themselves in the event an observer is injured (SWR in-house; NER, SER, SWR contract to NMFS; NER third party agreement).

Findings and Conclusions

- Some vessels indicated they were not encouraged to purchase Protection and Indemnity (P&I) insurance to protect themselves from lawsuits filed by an observer in the event an observer is injured (SWR contract to NMFS).
- Some vessels commented that they cannot afford P&I insurance premiums (SWR in-house; SWR contract to NMFS).
- Although very few vessel owners purchased P&I expressly to cover observers, most

indicated they would purchase it if they were reimbursed by NMFS for premiums (NER contract to NMFS) or that NMFS should pay for extra insurance costs when observers are required (SER contract to NMFS).

- Although claims for reimbursement of premiums were processed by NMFS, vessels indicated they did not receive reimbursements (SWR in-house); NMFS would reimburse vessels if a reasonable claim was submitted (SWR contract to NMFS).
- Vessels knew that NMFS would reimburse vessels because several claims for reimbursement of P&I expenses were received; however, observers were not adequately covered (NER third party agreement).
- Uncertainty regarding vessel liability in the event of an injury was found to hamper efforts to deploy observers (SER contract to NMFS).
- A federal observer that was unable to work due to an injury obtained at sea found that the basis for calculating disability payments under the Federal Employee's Compensation Act (FECA) resulted in compensation that was inadequate compared to his customary at-sea pay as an observer (SWR in-house).

Recommendations

- Increase outreach about insurance; explain to vessel owners that P&I insurance is provided by the observer service provider for all vessels carrying their employees; ensure that observers are aware of their insurance related responsibilities (NER contract to NMFS).
- Explore the possibility of obtaining professional liability insurance for observers (SWR in-house).
- Address vessel liability issues for vessel owners (SER contract to NMFS); ensure that the observer service provider provides blanket liability insurance coverage for all vessels, as well as coverage for observers under the Workmen's Compensation Act and other statutes (NER third party agreement).
- Provide FECA information to observers during training; request that the Department of Labor review, and possibly modify, the basis for calculating FECA compensation (SWR in-house).

Control technique: The observer service provider is required to provide adequate insurance coverage for observers in the event an observer is injured (all contract to NMFS; AKR NMFS-certified observer companies).

Findings and Conclusions

- Insurance coverage for observers provided by observer service providers was adequate; observer providers purposefully secure various overlapping types of insurance because the legal standing of observers is ambiguous (all contract to NMFS; AKR NMFS-certified observer companies).
- Observers responded that they were not aware that they could be compensated under FECA and were not aware of other remedies for compensation if they were injured (NER, SER contract to NMFS); because of lack of training in this area, observers were assumed not to be aware of FECA compensation or other legal remedies (AKR NMFS-certified observer companies).

- Insurance issues are complex and not well understood by many who are impacted (AKR NMFS-certified observer companies).

Recommendations

- Request legal advice on insurance (NER contract to NMFS).
- Analyze observer insurance issues at a national level; national policy should be issued, or legislation enacted, to clarify the standing of observers under both the Jones Act and FECA (AKR contract to NMFS; AKR NMFS-certified observer companies).
- Convene a national workshop to discuss what types of coverage are needed for observers, the feasibility of nationwide insurance policies for observers as well as vessel owners, the status of observers under both the Jones Act and FECA, and whether non-U.S. citizens can apply for compensation under FECA (team-wide).
- Work with insurance experts to create outreach materials summarizing observer insurance issues for distribution to observer programs, observers, observer service providers, and the fishing industry (AKR contract to NMFS; AKR NMFS-certified observer companies); include insurance information in training and in the manual (NER, SER contract to NMFS).

RISK G: OBSERVER COVERAGE, DEPLOYMENT, AND DATA COLLECTION MAY NOT BE WELL-COORDINATED WITHIN NMFS OR WITH OTHER FEDERAL, STATE, OR INTERGOVERNMENTAL AGENCIES

Control technique: Observer programs consult with or are coordinated within NMFS and with Fishery Management Councils, states, and other Federal agencies to provide appropriate types and levels of observer coverage (team-wide).

Findings and Conclusions

- Observer programs have established priorities for sampling based on the source of funding (SWR in-house; SWR contract to NMFS).
- There was adequate consultation with appropriate offices and agencies (AKR, NER contract to NMFS).
- Coordination between observer programs within the Region is limited (SER contract to NMFS).
- Turnover of staff and the duration of time between different Alaska Category II programs resulted in a loss of expertise (AKR contract to NMFS).
- The observer program does not set coverage levels and does not direct observer placement on vessels requiring less than 100% coverage; the process for establishing data collection priorities is not clear; there are physical impediments to random sampling of a haul (AKR NMFS-certified observer companies).
- There was insufficient time and staff resources to implement the 1999 scallop observer program (NER third party agreement).

Recommendations

- Develop management options that would retain observer program management

- expertise within NMFS (AKR contract to NMFS).
- Schedule regular meetings between observer program coordinators within the Region; improve coordination on Highly Migratory Species issues with other NMFS offices (SER contract to NMFS).
- Establish the program's mission, goals, and objectives; consider tasks and priorities within the context of these goals and objectives; restructure the SDM to meet these goals and objectives; pursue actions to reduce sampling impediments (AKR NMFS-certified observer companies).
- The coordination of the Pacific Whiting Fishery Observer Program remains problematic. There have been recent efforts to shift the administration of the observer program from the AKR to the NWR, although no clear recommendations for moving this issue along have been proposed. Funding, infrastructure, and lack of regulations are the main issues that need to be resolved (NWR NMFS-certified observer companies).
- Improve communication between the observer program and the Councils and/or the NMFS Northeast Regional Office; alert leadership of additional staffing requirements (NER third party agreement).

Control technique: Vessels are randomly selected for observer coverage (SWR in-house; NER contract to NMFS; NER third party agreement), or coverage levels are altered in response to changes in bycatch or management objectives (AKR contract to NMFS; AKR NMFS-certified observer companies).

Findings and Conclusions

- Vessel selection is not completely random because not all vessels are observable (SWR in-house), or observers may be selecting certain vessels over others (NER contract to NMFS).
- The contractor was able to move observers around more efficiently (and at a lower cost) than could have been done by NMFS; the contractual arrangement is sufficiently flexible to respond to moderate annual changes (AKR contract to NMFS).
- Although administrative staff is cross-trained to handle most jobs, peak debriefing loads can cause short term staffing shortages; recent demands for observers have not been met and changes in coverage needs may create further shortages which disrupt fishing; observer providers must devote considerable staff time to predicting and coordinating coverage needs (AKR NMFS-certified observer companies).
- Sampling was random and required coverage levels were achieved (NER third party agreement).

Recommendations

- Standardize the vessel sampling scheme to eliminate sampling bias (NER contract to NMFS).
- Consider other SDMs that would reduce or eliminate the risk of observer shortages; require vessels to provide fishing plans in advance to help in planning coverage; consider the impact of regulatory decisions on the system's ability to provide the necessary coverage (AKR NMFS-certified observer companies).

- Provide notice to vessel owners that they must notify the observer program 5 days prior to each trip (NER third party agreement).

Control technique: The observer service provider must deliver all data, reports, and specimens to NMFS at the end of the season or tour of duty (AKR contract to NMFS) or at the time of debriefing (AKR NMFS-certified observer companies).

Findings and Conclusions

- After initial difficulties were resolved, few problems were encountered in transferring data (AKR contract to NMFS).
- Most observers return data on time; data are sometimes incomplete (AKR NMFS-certified observer companies).

Recommendations

- Initiate the development of an alternative SDM that places the responsibility of data on the observer service providers (AKR NMFS-certified observer companies).

Control technique: Observer companies are evaluated and are required to comply with the conditions of their certification (AKR NMFS-certified observer companies).

Findings and Conclusions

- Evaluations do not adequately measure performance because regulations do not encompass all aspects of performance, and there is not a direct contractual arrangement between NMFS and the observer service provider ; although evaluations have not been consistently performed in the past, all problems are now fully documented (AKR NMFS-certified observer companies).
- The goals of the observer service providers are not aligned with NMFS’ goals; regulations do not place any responsibility for data quality on the observer provider; decertification is not a viable option (AKR NMFS-certified observer companies).

Recommendations

- Explore other SDMs that would allow for better management control over program components; continue having a liaison work with observer service providers (AKR NMFS-certified observer companies).

Control technique: An “agreement” for observer services was negotiated in lieu of a direct contract (NER third party agreement).

Findings and Conclusions

- Although the “agreement” was a legal option, it provided few services and essentially no management control (NER third party agreement).

Recommendation

- A direct contractual arrangement needs to be established for observer services (NER third party agreement).

RISK H: THE COMPLETENESS AND ACCURACY OF OBSERVER DATA MAY BE COMPROMISED

Control technique: The training manual describes procedures for data collection (SWR in-house; all contract to NMFS; AKR NMFS-certified observer companies).

Findings and Conclusions

- Training manuals were complete, up to date, and available to all observers (SWR in-house; SER, SWR contract to NMFS; AKR NMFS-certified observer companies).
- Training manuals were not up to date (NER contract to NMFS) or well organized (AKR contract to NMFS).

Recommendations

- Make training manuals available on the internet (SWR in-house); establish links on the National Observer Program website to Regional URL's (team-wide).
- Revise and improve training manuals (AKR, NER contract to NMFS).

Control technique: Observer data are reviewed for accuracy and completeness before final data entry (SWR in-house; NER, SER, SWR contract to NMFS; AKR and NWR NMFS-certified observer companies; NER third party agreement).

Findings and Conclusions

- Debriefing was generally well-organized and observers perceived the process as clear, professional, and useful (SWR in-house; SER, SWR contract to NMFS; AKR NMFS-certified observer companies).
- A few observers felt they could not communicate openly with program staff during debriefing (SWR contract to NMFS) or that the evaluation system provided observers with an incentive to limit information (AKR NMFS-certified observer companies).
- A more concise set of written procedures for reviewing data is needed; debriefing is not always conducted face to face (NER contract to NMFS).
- Pulses in fishing activity have resulted in debriefing delays (AKR NMFS-certified observer companies).
- Lack of control techniques to ensure the collection or entry of complete and accurate data in the Pacific whiting fishery may have resulted in biased data (NWR NMFS-certified observer companies).
- Data were not entered into the database because data collection standards were not optimal; no data audits were performed; debriefings were sufficient for the limited suite of data that were collected (NER third party agreement).

Recommendations

- Develop or redesign data editing and data auditing software; document procedures for processing data; improve coordination with Data Management System staff; debrief new observers after their first trip and set up debriefing schedules for all observers, sending debriefers to the field as necessary (NER contract to NMFS).

- Establish a reporting system where contract observers can report their concerns, problems, or dissatisfaction with NMFS (SWR contract to NMFS).
- Reconsider the current evaluation system and remove incentives to limit information and/or manipulate data; provide debriefers with training on the evaluation of work performance (AKR NMFS-certified observer companies).
- Promulgate regulations in the Pacific whiting fishery to ensure that observers can carry out their duties free from interference; begin an outreach effort to inform vessel owners and crew how sampling bias affects catch data; address impediments to sampling at-sea (NWR NMFS-certified observer companies).
- Collect all future data at the same standards as all other NER data; provide for the hiring or contracting of editing and entry staff at least 15 days prior to the fishery opening to ensure timely review of all data (NER third party agreement).
- Advocate for Regional hiring of sufficient NMFS staff to participate in observer relationship-building functions of training and debriefing; explore and provide opportunities for advanced training or the development of other skills to increase the overall professionalism of observers (team-wide).

Control technique: All observer data are safeguarded (team-wide).

Findings and Conclusions

- Current processes were adequate to safeguard against data loss or corruption (SWR in-house; AKR, SWR contract to NMFS; AKR NMFS-certified observer companies).
- Individual data files were not always locked (NER contract to NMFS; NER third party agreement).
- Some observers were not certain about what steps they should take to protect data (SER contract to NMFS).

Recommendations

- Move files to a locked cage area (NER contract to NMFS; NER third party agreement).
- Improve training on data editing and confidentiality issues (SER contract to NMFS).

Control technique: Conflict of interest standards are required for observers and observer service providers (AKR NMFS-certified observer companies).

Findings and Conclusions

- All observers were required to read and agree to a letter of understanding outlining conflict of interest standards; observers have noted several cases of being pressured to help with crew duties, to alter data forms, or to not report violations (AKR NMFS-certified observer companies).
- The relationship between the industry and observer providers creates the appearance of a conflict of interest; competition between observer providers for industry clients negatively affects observer data quality (AKR NMFS-certified observer companies).

Recommendations

- Initiate the implementation of a revised SDM that would provide NMFS with appropriate management control over observer service providers, or hire observers directly; communicate to the NMFS Assistant Administrator (AA) and Deputy AA the effects of recent management plans on the observer work environment (AKR NMFS-certified observer companies).

IV. ANALYSIS OF THE SERVICE DELIVERY MODELS

The review of all Regional NMFS observer programs, in the context of the type of SDMs that each program uses to provide observer services, has led to the following general conclusions regarding the effectiveness of management controls in the four SDMs.

IN-HOUSE SDM

The in-house program represents the ideal with respect to management controls, because there is direct federal control and oversight. It provides management with flexibility to assign observers to other projects as needed, promotes observer support and retention, and provides a career ladder for observers, which benefits the agency by keeping critical knowledge of fisheries operations within the agency to benefit both scientific and management objectives.

CONTRACT TO NMFS SDM

Programs that have direct contracts between NMFS and the observer service provider were found to have adequate management controls in place to safeguard against waste, fraud, mismanagement, and abuse. However, sufficient funds and FTEs should be secured to administer contracts effectively. Data quality should be maintained by ensuring separation of duties in key areas such as data collection and debriefing, and by developing and using comprehensive Statements of Work that incorporate the recommendations from this MCR.

NMFS-CERTIFIED OBSERVER COMPANIES SDM

Lack of management controls in programs that do not have direct contracts between NMFS and the observer service provider do not provide assurance that program objectives are being met. In addition, lack of adequate observer support affects observer performance and morale and affects the quality of data collected. Alternatives to the NMFS-certified observer companies SDM should be established and a national policy should be issued that prevents the NMFS-certified observer companies SDM from being implemented in other programs.

RESOURCE-FUNDED THIRD PARTY AGREEMENT SDM

Lack of management controls in programs that do not have direct contracts between NMFS and the observer service provider do not ensure that program objectives are being

met.

Over the next fiscal year, recommendations made in this document will be implemented by the Regional observer programs. Team-wide recommendations tasked to the Team Leader of the National Observer Program will be implemented in coordination with all Regional observer programs.

SERVICE DELIVERY MODEL: NMFS IN-HOUSE OBSERVER PROGRAMS

SOUTHWEST REGION - HAWAII LONGLINE AND MONTEREY BAY HALIBUT SET GILLNET OBSERVER PROGRAMS

NARRATIVE

Introduction

The National Marine Fisheries Service, Southwest Region, currently uses two service delivery models for collecting data by at-sea observers aboard commercial fishing vessels. One model uses a contract program service delivery and the other model uses an in-house program. The in-house observer program is used for the Hawaii longline fishery and the Monterey Bay halibut set gillnet fishery. The contract observer program is used for the California/Oregon drift gillnet (CA/OR DGN) fishery.

The Southwest Region managed the U.S. eastern tropical Pacific Ocean tuna purse seine fishery (1976-1994), the California halibut/angel shark set gillnet fishery (1990-1993), the Northwestern Hawaiian Islands (NWHI) lobster fishery (1996-1998), and the CA/OR DGN fishery (1990-1996) as in-house observer programs. In 1994, the California halibut/angel shark set gillnet observer program was discontinued; in 1995, the U.S. tuna purse seine observer program was transferred to the Inter-American Tropical Tuna Commission; and in 1996, most of the event cycles of the CA/OR DGN observer program were contracted as part of an effort to downsize the Federal workforce as required by the National Performance Review.

Event Cycles

Staffing and Recruitment

As of January 2000, NMFS, Southwest Region had approximately 25 FTE's that worked as either program staff or as observers in the in-house observer program. Observers have been hired as temporary, permanent, term, or as student appointments. The work schedules have been either seasonal or part-time. Currently, observers in the Hawaii longline observer program are full-time-permanent-seasonal appointments and 15-month term-seasonal appointments, whereas observers in the Monterey Bay set gillnet observer program are full-time-temporary appointments (not to exceed one year). The type of appointment is important to an observer and management because it affects their benefits (health and retirement), competitive status, and time in service. Under Title 5 of the Code of Federal Regulations, there are many types of appointments that may be used by program managers. However, the appointment and work schedule chosen by the selecting official ultimately depends on program goals, expected program duration, number of positions (full-time equivalents), seasonality or availability of work, experience or qualifications of candidates, and available funding. Currently, NMFS, Southwest Region program staff are full-time-permanent employees, although term and temporary appointments have been used on occasion in the past. All employees of the Southwest Region are part of the Department of Commerce Pay-Banding Demonstration Project.

For the Hawaii longline observer program, there are 16 observers (ZT-II, GS-5 through 8 equivalents), one Program Administrator (ZP-IV, GS-13 through 14 equivalent), one Operations Coordinator (ZP-II, GS-7 through 10 equivalent), and one Assistant Operations Coordinator (ZP-II, GS-7 through 10 equivalent). The Operations Coordinator is the first level supervisor and the Pacific Islands Area Administrator is the second level supervisor for the observers. In 1997, the Hawaii longline observers elected to have the Inland Boatmen's Union of the Pacific represent them as a collective bargaining unit because of their concern that the observer program may be contracted out in the future, for more pay, and for observer safety. NMFS management is still in the process of finalizing the bargaining unit agreement. For the Monterey Bay set gillnet program, there are two observers (ZT-II, GS-5 through 8 equivalents), one Program Coordinator (ZP-III, GS-11 through 12 equivalent) and one Data Coordinator (ZP-III, GS-11 through 12 equivalent). In addition to administering the Monterey Bay set gillnet program, the Program Coordinator and Data Coordinator oversee the CA/OR DGN observer program contract.

The Hawaii longline observer program shares office space with the Pacific Islands Area Office and off-site storage space near the commercial docks. The close proximity to the fishing vessels facilitates the deployment of observers and the retrieval of gear and specimens. The long range plan for the Hawaii observer program is to move the Pacific Islands Area Office into a new building scheduled to be built at the Honolulu Laboratory. The Monterey Bay set gillnet observer program leases office and storage space at the Pacific Fisheries Environmental Laboratory (NMFS, Southwest Fisheries Science Center Laboratory) for observer deployments. California observer program staff are located at the Federal building in Long Beach, California.

NMFS determines observer staffing levels depending on program needs and available funding. All recruitment actions are requested by the program managers and authorized by the Regional Administrator on a Request for Personnel Action form (SF-52). As part of the recruitment process, program managers, in conjunction with human resources advisors, develop the position description, performance appraisal plan, and the vacancy announcement for each position. The position description describes the job in terms of general duties and responsibilities, knowledge skills and abilities, and unique qualification requirements. The position description must be approved by the first and second level supervisor as well as the pay pool manager. The performance appraisal plan establishes performance objectives and major activities that will be used to evaluate an employee's performance. Performance appraisal plans are updated on an annual basis, or as necessary, and must be approved by the first level supervisor, second level supervisor, and pay pool manager. The vacancy announcement describes the duties, responsibilities, work conditions, qualifications, pay, benefits, and application instructions. The qualifications of an observer are based on complexity of their duties, level of responsibility, their required knowledge and Office of Personnel Management (OPM) job classification standards. Moreover, observer vacancy announcements include quality ranking factors developed by the program manager. The quality ranking factors are used by the selecting official to evaluate and rank the candidate based on the extent of their knowledge, skills, and abilities to conduct the work. Applicants must be citizens of (or owe allegiance to) the United States. Male selectees born after December 31, 1959 must certify their Selective Service registration status.

Based on the established qualifications, in-house observer candidates must possess at least one year of specialized experience at least equivalent in difficulty and responsibility to the next lower grade/band level in the federal service, or have a Bachelor's degree with a major in one of the biological sciences from an accredited four-year college or university with at least 24 semester hours in any combination of scientific or technical courses such as biology, chemistry, statistics, entomology, animal husbandry, botany, physics, agriculture or mathematics, of which at least six semester hours were directly related to fishery biology. The specialized experience has been defined as work in the field of fisheries which included functions such as: observing ocean fishing activities during harsh ocean conditions; recording data on protected species sighting and fishing activities; tallying incidental take of marine mammals, sea turtles, and sea birds from fishing platforms; collecting biological specimens from postmortem animals; and entering collected data into a database using computers.

NMFS program managers determine the length of time that the vacancy announcement should remain open. This determination is based on the urgency to recruit, number of vacancies, and the time needed to review, interview, and finalize selections. After the Regional Administrator determines there is adequate funding to hire, the completed recruitment package (SF-52, personnel description, performance appraisal plan, and draft vacancy announcement) is forwarded to the Administrative Support Center (ASC). The ASC posts the vacancy announcement on the OPM's website at www.usa.jobs.opm.gov. This process may take two to three weeks. In addition, NMFS observer program managers announce the vacancy in the local newspaper, on various internet discussion groups (marine mammals, sea turtles, sharks, and seabirds), as well as on at least one job announcement website such as Jobweb. NMFS observer program managers are available to answer questions from potential candidates regarding job requirements, qualifications, and duties.

After the vacancy announcement closes, ASC staff review the applications to determine whether the applicant meets the minimum qualifications. NMFS supervisors or subject matter experts, in conjunction with a human resources advisor, develop a crediting plan to rate and rank applicants. One or more subject matter experts, except the selecting official, review and evaluate the candidate's qualifications, experience, and education based on the established crediting plan. Candidates with previous experience collecting scientific information aboard fishing vessels are rated higher than inexperienced observers. The sheets containing scores based on the rating and ranking process are sent to the ASC where the applications are then ordered based on the rating scores and veterans preference. The selecting official is provided a Certificate of Eligibles containing all the applicants in descending order (highest ranked on top of the list). Depending how the vacancy was announced, there may be two or more certificates. One certificate might be for employees with competitive status (having prior Federal civil service employment) and another certificate might be for employees without competitive status (without Federal civil service employment).

Upon receipt of the Certificate of Eligibles, NMFS observer program staff can begin interviewing applicants, starting at the top of the list. Interviews are conducted using standardized interview

questions that are developed specifically for the vacancy announcement. The interview questions are developed by the observer program manager and human resources advisors. Interviews are usually done by telephone since most candidates do not live locally. However, in-person interviews are conducted if the applicant lives within commuting distance. During the interview, the information on the applicant's application is verified and the candidate's experience and suitability to work as an observer aboard a vessel in a self-supervised capacity is assessed. The interviewer assesses the candidate's ability to carry out the duties of the job, to work independently, yet follow technical instructions; to get along well with others; to swim; and to maintain objectivity. Additionally, interviewers determine that the candidates have neither direct nor indirect financial or political interest in an organization that might be aided by the performance or non-performance of observer duties. Preferred qualifications include ocean experience aboard small boats, scientific data collection and data entry experience in and beyond college, and previous experience as marine mammal or fisheries observers. After the interview, at least two previous employers are contacted by the interviewer to support the evaluator's assessment and verify the applicant's qualifications. After the interviews are completed, the selecting official makes selections and submits the recommendations to the pay pool manager for salary approval. Funds must be available at this time. Before the positions may be offered to the candidates, the selections must be approved by the ASC. Upon approval of the selections by the ASC, the selecting official may begin notifying the candidates of their selection.

As a condition of employment, as stated in the vacancy announcement and during the interview process, candidates must successfully complete a comprehensive medical examination, conducted by a NMFS approved physician (NMFS pays for the medical examination). The physician must certify that the candidate does not have any medical condition that would prevent the individual from working at sea, aboard a vessel in all types of weather conditions for extended and uncertain periods of time. Physical considerations include, but are not limited to: chronic motion sickness, ability to live in confined quarters, ability to tolerate stress, and an ability to lift and carry heavy items. If the candidate accepts the position, a medical appointment is scheduled. A selection letter confirming the candidate's appointment, providing the report-to-work date and place, and the instructions and forms to prepare for the medical examination are sent. NMFS program staff notify the candidates of their medical results prior to the beginning of training. It takes about 90 days to complete the recruitment process before an observer can report to training.

Observers meet with their team leader or rating official on a regular basis (usually after each trip) to discuss their performance. At least every six months, an employee submits a list of accomplishments to the rating official to assist with the assessment of their performance. After reviewing the list of accomplishments, the rating official prepares a formal (written) six month midterm review or a formal annual performance review. At this time, the supervisor meets with the employee to discuss their performance. The meetings focus on accomplishments and skills needing improvement. The supervisor may choose to provide recognition of accomplishments through awards or other monetary and non-monetary incentives. The supervisor may also provide the employee with a performance improvement plan which may result in dismissal if performance does not meet certain standards.

Training

Observer training standards are developed and reviewed annually by NMFS regional program staff and laboratory principal investigators to ensure data collection integrity and observer safety. Program staff document these standards in the position vacancy announcement and in the observer in-class training and at-sea field manuals. Regional management, including human resource advisors, authorizes current program training standards.

With in-house observer programs, NMFS selects the training dates based on fishery activity and program needs. Prior to issuing a vacancy announcement, the training dates are established (three consecutive weeks). Once the training dates are established, it is extremely difficult to change the dates because of scheduling conflicts and logistics. NMFS is responsible for scheduling the training facilities such as a training room (lectures), swimming pool (immersion suit and survival craft practice), museum and aquarium visits (species identification), and training presentations by American Red Cross (cardiopulmonary resuscitation and first aid certification), NMFS laboratory principal investigators (specimen collection), U.S. Coast Guard (vessel safety), NMFS Enforcement (advice and documentation), fishermen (experience at sea), and other guest speakers. The training curriculums and schedules are established by NMFS program staff and laboratory principal investigators. This includes updating or developing and publishing all the observer training manuals, field manuals, quizzes, practical exercises, and exams.

NMFS training curriculum includes:

- a. Observer Mission and Purpose
- b. Federal Work Facts, Conduct, and Policies
- c. Observer Guidelines & Responsibilities
- d. Observer Duties
- e. Regulatory Authorities
- f. Fishery Operations
- g. Data Collection Procedures
- h. Data Form(s) Instructions
- i. Protected Species Identification
- j. Pelagic Fish Identification
- k. Specimen Collection Procedures
- l. Safety Aboard Commercial Fishing Vessels
- m. Dockside Review of Vessels
- n. Conflict Resolution at Sea

During the first day of training, NMFS program staff inform the new observers about the training standards and job expectations and supervise the completion of appointment papers after which the Oath of Office is given. NMFS staff leads the trainees through the curriculum and classroom exercises. Program staff oversee all presenters to ensure accuracy and thoroughness of the subject presented. In order to demonstrate subject comprehension, trainees take quizzes,

practical exercises, or exams on a daily basis. All subsequent questions are reviewed and clarifications are made as needed. Trainees are kept informed of their progress at all times during training. At the conclusion of training, program staff determine whether the trainees have successfully completed training. In addition, trainees must demonstrate their ability to don an immersion suit in the classroom and in the pool in order to pass training. Trainees must pass with at least an overall score of 85% of all quizzes, practical exercises, and exams.

If a trainee is unable to achieve a passing score at the completion of training, program staff will determine if there is a specific area of failure or if failure is overall. If determined to be a specific area, a program staff member may continue working with the trainee during the following week until a passing score in that area is achieved. If failure is overall, program staff advise the regional human resource advisor and the trainee may be removed from service. A removed trainee may reapply for future positions and retake training. At the completion of training, observers meet with their supervisor to review their performance elements and major activities of the Performance Plan. Observers are also given the opportunity to provide program staff with feedback on how effective the training was by completing a Training Critique form on the last day of training.

On the first work day after completing training, observers are provided with an office orientation to review procedures for answering the telephone, recording vessel departure information in the Communications Log, and completing other general office duties.

Deployment and Logistics

NMFS in-house observer programs have leased space in Federal, State, and commercial office buildings. Currently, the Hawaiian observer program is located at the Pacific Islands Area Office. There is an off-site gear and specimen storage facility close to the commercial fishing docks. In the Monterey Bay set gillnet observer program, office space is leased from the Pacific Fisheries Environmental Laboratory (NMFS). Because of limited storage space in the Long Beach Federal Building, commercial storage space is leased by the regional office for extra observer gear and equipment. NMFS is responsible for procuring observer gear and equipment. This includes designing and fabricating special sampling and collection equipment as needed (sea turtle dipnets, sea turtle line cutting devices, two meter measuring sticks, caliper jaws).

NMFS prepares fleet notices and mails them by certified mail to the fishing industry informing them of their obligation to carry an observer when requested. Also, whenever there is a new observer program, NMFS, Southwest Region has conducted skipper workshops to inform them of the need to observe the fishery, to answer observer program questions, and to explain program responsibilities. NMFS program staff notify fishing vessel owners and operators of their obligation to carry an observer when they call to report their departure information or when NMFS staff are at the docks. The Hawaii longline observer program requires vessel owners to provide at least a 72-hour notice prior to departure. The vessel call-in information is recorded in a communications log. If a vessel departs without providing 72-hours notice, the Operations Coordinator reports the potential violation to NMFS enforcement. If the vessel is selected to carry an observer, NMFS must provide the vessel with at least 24-hours notice so that the vessel

may make arrangements for the observer placement (food, safety equipment, accommodations). NMFS staff monitor vessel activity on a daily basis by observing which vessels are in-port and which vessels are out fishing. This information gathered during dock rounds is used to facilitate observer placements and to verify vessel call-in information.

After vessels are notified of their obligation to carry an observer, NMFS staff make arrangements for the observer to board the vessel prior to departure. For the Hawaii longline observer program, this includes program staff conducting a vessel inspection to determine whether there are adequate observer accommodations and whether the vessel has all the required safety equipment and a valid Dockside Vessel Examination Decal issued by the United States Coast Guard certifying that the vessel has passed a safety inspection. In addition, NMFS Hawaii longline observers must be provided with a bunk. Female longline observers must be provided with adequate privacy which may include installing a temporary divider and establishing a schedule to share toilet facilities. Since the Monterey Bay set gillnet fishery does only day trips, privacy is not required for sleeping, only for “restroom” use.

Each Hawaii longline observer has blanket travel orders approved at the beginning of each fiscal year, or subsequent to successfully completing training that authorizes the observer to travel aboard commercial longline vessels to collect data. Trip Authorizations are signed by the first level supervisor and the Pacific Islands Area Office Administrator. Observers do not choose vessel assignments. Management selects sea assignments through a predetermined sampling plan and confirms that the boats meet U.S. Coast Guard safety requirements. Fishing activity dictates vessel departures and arrivals. Since vessel notification requirements limit response time, observers must be prepared for sudden sea assignments of extended and uncertain duration. It is NMFS policy to provide an observer with a few days advance notice if possible. After NMFS assigns an observer to a vessel, trip authorizations are prepared and the observer is notified of their vessel assignment. Once an observer is assigned to a vessel, NMFS’ policy is to not reassign the observer to another vessel assignment, even if the vessel is delayed for an extended period of time.

Program staff in Hawaii use a Departure Checklist to ensure that all the necessary steps are completed prior to the departure of an observer. One of the steps on this departure checklist is for NMFS to conduct an observer placement meeting prior to the vessel departure. Either concurrently or in advance of the observer placement meeting, NMFS program staff (Operations Coordinator, Assistant Operations Coordinator, or an experienced observer), reviews the safety equipment using a Safety Check Placement form and inspects the suitability of the vessel accommodations. The safety inspection focuses on the life raft (inspection date, hydrostatic release, number of persons), emergency radio indicator beacons (battery expiration date, hydrostatic release, float free position), life jackets and immersion suits (correct number on board), Dockside Vessel Safety Examination decals (expiration date), fire extinguishers (location, inspected, charged), and emergency flares (expiration, location). The inspection does not focus on the bilge pumps or other “below deck” inspections. If any deficiency is discovered, the problem is pointed out to the vessel operator. The deficiency must be rectified prior to the

vessel's departure. At these placement meetings, the observer, captain, and NMFS program staff (Operations Coordinator, Assistant Operations Coordinator, or an experienced observer) meet at the vessel to review and discuss the captain's and observer's expectations, sleeping accommodations, food requirements, and review the location and operation of the vessel safety equipment. The meeting is documented using the Placement Meeting forms. For trips when an observer is departing from a port other than Honolulu, the Operations Coordinator will sit down with the observer and review the NMFS observer safety checklist and the placement meeting topics so that the observer can conduct the meeting.

Prior to departure, observer gear and equipment is issued by program staff. The observer is responsible for replenishing the supply of data forms, specimen collection equipment and supplies, and inspecting their issued safety equipment. The observer uses a Gear Checklist to ensure that all the necessary gear is issued or replenished. Before each trip, the observer is required to demonstrate to program staff the ability to don the immersion suit within 60 seconds. At this point, the observer is deployed on their vessel assignment. This may require administrative support staff at the Pacific Islands Area Office to make airline reservations, depending on the port of departure. Airline tickets are electronic tickets. Observers are issued Government Travel Cards for any costs incurred during their travel such as hotel accommodations and meals. Observers receive a \$2.00 per diem rate while at sea to pay for incidental expenses (sunscreen, soap, toothbrush, first aid supplies).

Although there is no obligation under any rule or regulation, NMFS, Southwest Region's policy is to reimburse vessel owners for Protection and Indemnity (P & I) Liability Insurance costs associated with adding an NMFS observer to their policy, provided that supporting documentation is submitted. Supporting documentation includes a copy of the invoice from the provider and copy of the canceled check. This policy is to encourage cooperation and is written in the fleet notice sent to the vessel owners and operators informing them of their obligation to carry an observer. However, choosing to carry, or how much, P & I insurance is the choice and responsibility of the vessel owner or operator since United States law does not require coverage for uninspected vessels. Many vessels already have insurance covering crew liability. Amending their policy to add an observer is easily done for a fee. NMFS is a Federal agency of the government and is self insured against claims. For this reason, it is not necessary for NMFS to carry P & I insurance. On the other hand, it is not NMFS's responsibility to request or to ensure that vessel owners or operators obtain P & I insurance. Unless it is a very large vessel (none of the Hawaii longline vessels qualify), Occupational Health and Safety Administration does not regulate the observer's work environment.

In the Hawaii longline observer program, observers are issued laminated emergency contact cards that include the office's 800 number, toll number, fax number, home numbers for the Operations Supervisor, Operations Coordinator, and Assistant Operations, and the cellular telephone number that is kept with an "on-call" program staff person during non-business hours. In addition, at sea Hawaii longline observers are required to report on a weekly basis their personal status by radio, fax, telex, or satellite telephone. Radio reports provide a means for reporting difficult situations, harassment, or assault while on a vessel assignment. In the

Monterey Bay set gillnet observer program, the observers are provided with laminated emergency cards that have the port field station telephone numbers, fax number, observer home numbers, Long Beach office telephone and fax numbers, and the Program and Data Coordinator's home telephone numbers. Program staff review the use of the emergency contact cards and the steps that the observer should take if an injury or emergency should occur while at sea or on travel during observer training sessions.

Data Collection

Before observers are able to collect data, regional and center staff need to identify the program goals and objectives. In part, the source of the observer program funding can shape these goals and objectives. For example, if the program is supported by Marine Mammal Protection Act funding, the data collection goals and objectives will focus on marine mammals and other protected resources rather than fish specimen collections. The data collection priorities are developed by considering agency management and research needs. Available funding can affect the sampling design of a program. For example, if there is a congressional mandate to observe a specific fishery and there are insufficient funds to sample the fishery sufficiently, then statistically reliable results may not be obtained, even though program staff are still required to implement such a program. Establishing observer program data collection goals and objectives may require consulting with State and other Federal agencies.

After the data collection priorities have been established and the data fields identified to meet the goals and objectives of the program, then the data collection forms can be developed. For new programs, this is a very time consuming process. For existing programs, data forms may need only slight modifications as data collection protocols or priorities change. These types of changes are less time consuming. Regardless, a change to a data form requires the database structure to be changed, which also takes time. Finally, changes to data forms require updating the observer field manual. In the Southwest Region, observer field manuals are generally updated on an annual basis, coinciding with observer training classes. In the meantime, changes to the collection protocols or priorities are managed by issuing Data Collection Update Circulars to all field manual users (observers, scientists, managers, councils, other State and Federal agencies).

The observer in the field uses the field manual and data update circulars to ensure that data collection protocols and priorities are followed. During gear retrieval, observers record information about the prescribed data elements. Depending on priorities, observers may need to enumerate and identify the catch, record size frequency data of the catch by taking specific measurements for different species, and collect biological samples of caught species. For protected species or fish species that the observer is unable to identify, photographs are taken for later identification. Observers are instructed to review their data forms at the end of each day when the information is fresh in their minds to ensure that all data fields have been accurately completed.

Because trip lengths in the Hawaii longline fishery average three weeks, observers encode

information regarding their status and whether there are any biological samples that will need to be picked up when the vessel returns to port. This information is transmitted either by radio, fax, telephone, or telex to the Hawaii observer office. If the observer reports that data collection is difficult due to conflicts with vessel personnel, NMFS enforcement is notified of the situation and an interview will be immediately arranged when the vessel returns to port. In extremely difficult situations, arrangements will be made with the U.S. Coast Guard to evacuate the observer.

The Federal Employees' Compensation Act covers all federal appointments. Employees are required to notify their supervisor immediately of any injury and if at sea, report the injuries to the captain of the vessel. The vessel captain may notify the U.S. Coast Guard or shoreside physicians using satellite equipment, radio, fax, or cellular telephone, depending on the circumstances, to obtain medical assistance. The employee is to obtain first aid as directed and document the witness' information. If further treatment is needed, authorization needs to be granted by the supervisor for treatment by local physician or hospital of the employee's choice. Emergency treatment may be obtained without prior authorization, but the supervisor must be informed immediately. The supervisor will contact the Department of Commerce (DOC), Office of Worker's Compensation (OWC) for further instruction. The employee must submit a written report of the injury to the supervisor. The supervisor completes the report and forwards the claim to the DOC OWC. The report must be submitted (faxed) within two working days.

Debriefing

Immediately upon arriving to port, observers telephone program staff to report their arrival information. At this time, any problems that may have occurred during the trip that require immediate attention are reported to the supervisor. The supervisor assesses the situation and determines whether the observer should return to the office, seek medical treatment, or return to sea on the same or on another vessel assignment.

If the observer is instructed to return to the office to debrief, the observer makes the travel arrangements. In Hawaii, during business hours, this may be as simple as making arrangements for someone to pick them up in the government vehicle. During non-business hours, observers make arrangements for a common carrier such as a taxi to pick them up and drive them home. In the Monterey Bay set gillnet fishery, observers are provided with a government vehicle to travel to and from their vessel assignments.

In Hawaii, upon return to the office, the observer meets with the supervisor to discuss the trip. Afterwards, the observer stores the frozen samples in the freezer and records the specimens on the specimen log. Program staff use an Arrival Checklist to ensure the observer completes all the steps in the debriefing process. The observer turns in their camera and photo log to the Operations Coordinator for processing. The observer completes a post-cruise questionnaire regarding the completed trip, a trip summary for protected species interactions, a vessel reimbursement form, and a travel voucher for reimbursement of travel expenses. If necessary, the observer meets with a NMFS enforcement agent. In addition, the Operations Coordinator reviews the sea states reported by the observer to ensure that the time and attendance records are

corrected as necessary. If any sea turtle samples were collected, program staff notify the United States Fish and Wildlife Service as part of the terms and conditions under the Convention of International Trade of Endangered Species permit requirements.

In the Monterey Bay set gillnet program, the observer telephones the Program Coordinator to discuss the trip. Frozen specimens are stored in the freezer and recorded on the specimen log. The observer completes a post-cruise questionnaire regarding the completed trip and a trip summary for protected species interactions. The observer secures the data forms, camera, and photo log in a locked file cabinet at the end of the day. If necessary, the observer meets with a NMFS enforcement agent.

Data Entry

Before an observer may begin entering the data into the database, each data form must be reviewed in the office. If necessary, the observer makes additions to fields that may not have been known at sea such as the vessel state permit number, marine mammal authorization permit number, trip number, or species codes. These changes and any other change are made in blue pencil. Blue pencils are used to denote changes made in the office by an observer. For the Monterey Bay set gillnet observer program, after the observer finishes reviewing the data, the observer begins entering the data into the database. To ensure data entry accuracy, the on-screen data is read back by another observer who compares the hard data form entries with the read back data. If another observer is not available, then the read back is performed by the same observer. Upon completion, the data forms are submitted to the Data Coordinator.

For the Hawaii longline observer program, the Assistant Operations Coordinator reviews the data and corrects any data inconsistencies. Corrections made by the Assistant Operations Coordinator are made in green pencil. After the Assistant Operations Coordinator reviews the changes with the observer, the observer begins entering the data into the database. If the Assistant Operations Coordinator is not available to review the data, then an experienced observer is allowed to review the observer data. Initially, the experienced observer's review is checked by the Assistant Operations Coordinator. However, after reviewing two or three trips at an acceptable level of satisfaction, the experienced observer is allowed to review observer data without any additional reviews.

Data Editing

In the Monterey Bay set gillnet observer program, the Data Coordinator again verifies the accuracy of the data entered into the database using a combination of spot checking and data range check reports developed to identify any outlying data points. At this time, species identification is confirmed or edited using the processed photographs. When the Data Coordinator is confident about the accuracy of the database, the electronic database is transferred and hard copies are delivered to the Southwest Fisheries Science Center to the Data Editor. The Data Editor performs additional data range checks on the data and confirms or edits species identification using the processed biopsy samples. Final formatting is completed before making the database available to principal investigators through the local server.

In the Hawaii longline observer program, the Operations Coordinator reviews the observer data forms and the electronic files. The data are reviewed using a data range check procedure as part of the final data review process and species identification is confirmed using the photographs. The Operations Coordinator forwards the electronic data files to the Honolulu Laboratory where the database is made available to the principal investigators. Photocopies of data forms such as the Fish Life History form or the Sea Turtle Life History form are made and forwarded to the principal investigators including copies of photographs if applicable. Biopsy and frozen samples are delivered to the Honolulu Laboratory for further analysis. Occasionally, a principal investigator may call with some clarifying questions. The hard copies of the data forms are kept at the observer program office in the trip file. The trip file contains all the documents associated with the trip including the Departure and Arrival Checklists, Post-Cruise Questionnaires, Wind and Wave Sheets, observer data, Photo Log, photographs, and negatives. In addition, some photographs may be placed in a photo album that is available for standby observers to review for species identification purposes. The photo album includes photographs of common and unusual fish species, fish of different age classes showing morphological differences, and protected species.

RISKS, OBJECTIVES, CONTROL TECHNIQUES, TESTS, FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

A. RISK

Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE

Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE

Observer program managers obtain and issue funding guidance in sufficient time to recruit, train and deploy in-house observers.

A1. TEST QUESTIONS AND FINDINGS

Interview the observer program managers in Hawaii and California.

- Are funding levels known in sufficient time to manage the in-house observer program? If no, how do you obtain and issue funding guidance (i.e., by requesting/approving recruitment actions, reviewing sampling designs and regulatory requirements, documenting operating/financial plans, etc.)?

In general, funding levels are not known sufficiently in advance to manage in-house observer programs effectively. Currently, NMFS obtains funding for in-house observer programs (the Monterey Bay Halibut set gillnet observer program and the Hawaii longline observer program) by submitting proposals on an annual basis for Recovered Protected Species funding through a

performance review and resource allocation system¹. Proposals are evaluated and rated based on (1) what is the benefit(s) of the project to the species; (2) what are the management implications of the project; (3) is the methodological approach sensible and clear; (4) are specific milestones and products identified and is the timetable realistic; (5) were previously proposed milestones and products accomplished if the project has been funded previously; and (6) were allocated funds spent as intended. The request for proposals usually occurs in June, with proposals due in August. The review panel evaluates the proposals and then meets in September to discuss the rating for each proposal. Recommendations finalized by the review panel are then subject to approval by the Executive Board. The allowance advice with the approved funding for the recommended projects usually does not show up at the region until sometime between February and May. When the funding does arrive, the amount may differ from what was recommended by the review panel since the Executive Board approved the final spending plan. Receiving program funds late in the fiscal year does not allow program managers to spend funds earlier in the fiscal year.

During the time period when program funds are not available, program managers must place observers on the payroll into a non-pay, non-duty status. If other regional funds are available in the interim, deployments may occur at a reduced level to minimize expenditures. If a new observer program is scheduled to start up, then the appointments are delayed until there are program funds available that can cover salary costs. In the case of the Hawaii longline observer program, the level of funding received through the recovered protected species allocation process has not been adequate to cover all the observer program costs. As a result, program managers must continually seek additional funds throughout the fiscal year to make ends meet or risk the possibility of reducing the number of deployments or placing observer in a non-pay, non-duty status.

Beginning in fiscal year 2000, the overhead costs charged by the National Oceanic Atmospheric Administration, National Marine Fisheries Service at the Headquarters level, and regional office are being deducted prior to program managers receiving the allocated funds. These overhead costs can be as high as 58 percent. Previously, these costs were not deducted from program funds.

- Which of these internal controls is the most time-critical?

In-house recruitment actions usually take about 90 days.

- Do fluctuations or uncertainties in funding levels make it more difficult to recruit, train and deploy in-house observers or increase the cost of doing so?

¹This process was recently discontinued for protected species focused observer programs to a system that “permanently” transfers a set amount of funding to each region to operate their high priority observer programs.

Uncertain funding has delayed the recruitment of in-house observers for both the Monterey Bay Halibut set gillnet observer program and the Hawaii longline observer program. Whenever recruitments are delayed, the training dates are adjusted accordingly. Without predictable funding, program managers have had to reduce the number of observer deployments or place observers in a non-pay, non-duty status to reduce the level of expenditures. In-house program managers must allow at least four months to complete the recruitment and training of new observers. In addition, NMFS, Office of Protected Resources stipulates that recovered protected species funding cannot be spent on salaries, which is the largest expenditure of an observer program. This condition can limit the amount of funding that is available through this process.

- How does this affect the terms of appointment for in-house observers (temporary, permanent, term, and student) or work schedule (seasonal, part-time)?

When the duration of a program is unknown or when permanent funding is not available, NMFS has chosen to hire observers on temporary or term appointments to minimize the risk of subsequently having an unfunded position. Because funding for the Monterey Bay halibut set gillnet observer program is only known on an annual basis, NMFS has chosen to hire observers on temporary not-to-exceed one year appointments. For the Hawaii longline observer program, the most recent observers were hired as term, not-to-exceed 15 months. Previously, Hawaii longline observers were hired as permanent employees. Because fishing activity tends to be seasonal and observers are sometimes placed in a non-pay, non-duty status during periods of time with little or no fishing activity, NMFS uses full-time, seasonal appointments for observer positions. The unavailability of fishing vessels causes the work load of an observer to fluctuate. Observers have always been appointed on a seasonal basis, not because the fishery is seasonal, but because of the nature of the work. Vessels are not always available to sail. Seasonal employment allows observers to be placed on leave without pay but continue to be on the active rolls when vessels are not available. The employees also benefit by having additional shore time. Otherwise, continual sea duty would cause excessive employee turn over.

- How does this (type of appointment) affect the recruiting?

There are two different types of appointments for the Hawaii longline observer program. Some observers are full-time, permanent employees and others are full-time, term appointments. These employees receive the same benefits and are eligible for the same type of awards, incentives, and pay bonuses available under the Department of Commerce, Pay-Banding Demonstration Project. Each vacancy announcement clearly states the conditions of employment. The term appointments expire at the end of the appointment period unless extended for an additional period of time.

- Would an alternative service delivery model achieve better results? If yes, how (such as cooperative agreements with state agencies or universities, contracts, etc.)?

Whether an alternative service delivery model is able to achieve better results is difficult to assess. However, in order to award a contract, adequate funding needs to be available prior to the

award. If there are insufficient funds, a contract cannot be awarded. With an in-house observer program, the agency must compensate the employee for their work. If there are insufficient funds, the employee may be placed into non-pay, non-duty status. An advantage operating an observer program under contract is that the contractor is accountable for ensuring that observer coverage requirements are met. If a contractor is not meeting the stated coverage requirements or the expectations of the Statement of Work are not being met, NMFS can terminate the contract for breach of contract and issue another solicitation for the work. However, practically, this option is not preferred because the solicitation process takes at least 180 days before a new contract can be in place.

- How does NMFS comply with requirements for specific levels of observer coverage (such as mandated by the Council or by the SWFSC's sampling designs) if they are contingent on the availability of funding?

NMFS may not always be able to comply with the requirements set forth in the sampling designs established by the Southwest Fisheries Science Center if there is insufficient funding. When the Hawaii longline observer program was established in 1994, there were insufficient funds to sample at the 10 percent observer coverage level as outlined in the sampling design developed by Gerard T. DiNardo, *Statistical Guidelines for a Pilot Observer Program to Estimate Turtle Takes in the Hawaii Longline Fishery*. Instead, NMFS decided to sample 5 percent of the fleet's effort because there was a lack of available funds. In 1997, NMFS shifted its focus to monitor larger fishing vessels (> 70 feet) because observer data suggested that larger vessels account for 87% of the sea turtle take. By adopting this observer sampling strategy that is directly proportional to the estimated mean take rate, NMFS was able to increase the reliability of the estimate for that sector of the fleet that has the highest take rate and accounts for the highest take of turtles for the same amount of money.

In addition to funding requirements, in-house observer programs have Full-Time Equivalent (FTE) requirements. An FTE is equal to the number of hours that an employee works in a year (2087 hours). Each fiscal year, agencies are allocated a fixed number of FTE's which are divided among the Regions and Headquarters depending on agency priorities and program needs. If an office has a lot of unfilled vacancies in a given fiscal year, then the number of available FTE's may be greater until those vacancies are filled. Because in-house observer programs require many FTE's, approval of the FTE's may be a greater hurdle than the funding availability. The shortage of FTEs was the reason the California/Oregon drift gillnet observer program was contracted out in 1996.

Currently, there is insufficient funding for the Hawaii longline observer program to meet the requirements of the sampling design and council recommendations. At best, the region will obtain about 4.5% observer coverage aboard the large vessels (recommended level is 10%). For 1999, the level of coverage was 3.3% and in 1998, the coverage was 4.1%. In addition to funding shortfalls and limited number of FTEs, observer programs often have to adjust to changing priorities of the region. This was the case in 1997, 1998, and 1999, when the Hawaii

longline observer program was informed of the need to sample the Northwestern Hawaiian Island lobster fishery. Given the short notice and limited available funding allocated to observe the fishery, there was insufficient time and money to contract the program or hire additional observers. Instead, longline observers who were not at sea were trained and deployed aboard the Northwestern Hawaiian lobster vessels.

A1. CONCLUSIONS

The current system of submitting yearly proposals for funding recommendation inhibits in-house observer program managers' to achieve the long-term goals because funding is not predictable. The fact that program funds may not be available for at least six to eight months after the beginning of the fiscal year prevents in-house programs from proceeding with recruitments and deployments. This comprises the effectiveness of an observer program because the sampling design cannot be implemented. In order for an in-house observer program to achieve targeted coverage levels, annual funding needs to be consistent from year-to-year and available at the beginning of each fiscal year. This will enable program managers to schedule observer recruitments and deployments to meet the demands of the fishery.

Fluctuations and uncertainties in funding levels complicate the recruitment, training, and deployment, of in-house observers by interfering with the program manager's ability to plan and schedule the different event cycles (recruitment, training, deployment, debriefing) necessary to operate a smooth operating observer program. Uncertain funding delays may compromise observer program coverage requirements because of the long recruitment process.

By choosing appointments such as temporary or term, the risk associated with having an employee working without adequate funding is reduced. Having temporary or term appointments with not-to-exceed dates provides the agency the option to renew the appointment if sufficient funding becomes available. The downside is that employees on temporary appointments do not receive the same benefits (health insurance, retirement) as permanent employees or term employees, making the positions less desirable. However, temporary appointments and term appointments eliminate the need to complete the formal reduction in force (RIF) process if there is no longer sufficient funding to operate the observer program or if the positions are no longer needed. One of the advantages of term appointments is that employees receive the same benefits as a permanent appointment. The difference is that term positions have an expiration date. In addition, the time an employee spends in service may not count towards retirement if there is a break in service. The seasonal work schedule allows program managers to place observers into a non-pay, non-duty status without implementing the RIF process during periods of low fishing activity or an unavailability of vessels. Observers may then be recalled to duty when a vessel assignment becomes available.

Using a term or permanent appointments, both of the employees receive the same benefits and are eligible for the same awards, incentives, and pay bonuses available under the Department of Commerce, Pay-Banding Demonstration Project. NMFS chose to use term appointments rather than temporary appointments because the benefits are the same as they are for existing permanent employees. Term appointments were selected rather than permanent appointments because of

uncertain funding. By choosing term appointments, the difference and potential areas of conflict (unequal benefits for employees conducting the same work) are minimized, except term appointments expire if not extended. Term appointments may not be extended beyond four years.

In-house observer programs can hire observers even if program funds have not been distributed to the region provided the funds will be available in the future (permanent or base funding) or that other program funds are available to offset the salary costs. Contract programs are dependent upon availability of funding at the time a contract is awarded before any work may be completed. If funding will not be available until late in the fiscal year, an in-house observer program would allow the program manager to hire observers based on the commitment of future funding if there are regional funds available to pay salary costs until the promised money arrives². The risk is that if the funding does not arrive, the region is still responsible for any observer salaries and costs. This flexibility allows in-house observer programs to proceed in situations when contract programs could not, unless the observer program was a top priority and the program managers were willing to reprogram base funding to fund the contract.

Unless NMFS is mandated to achieve a specific level of observer coverage by public law or court order, observer coverage will be contingent on available funding and FTE's rather than program goals and scientific guidelines and recommendations. Because observer coverage is expensive, there may be a conflict with the goals of the scientists and the goals of the managers, resulting in a compromise. For example, even though the statistical guidelines for the Hawaii longline observer program recommended 10 percent observer coverage, this was not possible unless additional funding was available. As a result, the observer program targeted 5 percent of the overall fishing effort when the program was instituted in 1994. Without sufficient funding or available FTE's, managers are required to find ways to either reduce or eliminate expenses. Sometimes this may mean not instituting an observer program (coastal pelagics purse seine fishery, central California halibut set gillnet fishery) whereas other times, as in the case of the Hawaii longline observer program, the sampling design was refocused to gather more precise information about the entanglement rates aboard the vessels that account for a higher percentage of sea turtle takes (sampling large boats).

Although using longline observers to monitor the fishing practices of the Northwestern Hawaiian lobster fishery interfered with NMFS' ability to maintain observer coverage aboard the longline fishing vessels, the in-house observer program delivery model does provide the framework where observers could be cross-trained to observe other fisheries within a short period of time. Because of the short lead time, contracting the observer program to monitor the lobster fishery was not practical. In addition, there was insufficient funding available to pay the overhead costs that a contract would include. One of the benefits of an in-house observer program is the flexibility

²In fiscal year 2000, despite efforts to obtain additional funding to support the longline observer program, no funds were available. As a result, NMFS Southwest Region had to cut \$500,000 from other regional programs to cover observer salaries.

they can provide to adapt to changing regional (and national) priorities. This is demonstrated by how quickly the region was able to meet the Western Pacific Regional Fishery Management Council's request to place observers aboard the Northwestern Hawaiian Islands lobster vessels.

A1. RECOMMENDATIONS

1. The Southwest Region will support the National Observer Program's efforts to establish secure, stable and predictable funding for implementing Southwest Region observer programs by providing an outline with the observer program budgetary requirements, based on data collection needs and priorities, on an annual basis to the National Observer Program and the Office of Protected Resources.

Responsible Official: Regional Administrator

Completion Date: August 2001

B. RISK

The costs of providing observers may be excessive or mis-allocated within government and industry.

B. OBJECTIVE

The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE

The NMFS staff purchases, stores, and issues observer equipment at different locations.

B1. TEST QUESTIONS AND FINDINGS

Interview the observer program managers.

- Are there procedures that insure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?

The Hawaii longline observer program has observers conduct monthly inventories of the gear and equipment. According to the inventory reports, there has been no stolen or misplaced gear. Based on the monthly inventory and historical use, consumable items (data forms and sampling equipment) are ordered. The Monterey Bay halibut set gillnet observer program does not conduct formal inventories but rather monitors the inventory at the time that data forms and other supplies are replenished. The most often used non-reusable items are ordered when stocks run low.

- How are purchases accounted for?

Most purchases are made using a government credit card. Larger purchases are paid using a purchase order. Credit card purchases are authorized in advance and approved by an approving official at the time of payment by comparing the purchase receipts with the invoice amount. Purchase orders require an authorizing official to approve all purchases in advance. The dollar amount of the purchase order determines who may approve the purchase since different officials have different signatory authority amounts.

- Do you match the deliveries with the shipping document, and the receiving document with the purchase order?

As per government procurement standards, the supplies received are compared to the shipping document. The shipping document is compared to the supplies that were ordered with the amount on the invoice.

- How is the equipment maintained?

Each observer in the Hawaii longline and Monterey Bay halibut observer program is issued their own gear and equipment to use throughout their employment. In both programs, the observer is responsible for inspecting and maintaining their gear and equipment. In the Monterey Bay halibut set gillnet observer program, the immersion suits are sent back to the manufacturer for inspection and maintenance on an annual basis. Because of normal wear, suits often require the replacement of gloves, air bladders, inflation hoses, reflective tape, or the seams need to be repaired. The inspection includes cleaning, pressure testing, and visual inspecting of the seams, reflective tapes, zippers, inflation bladder, and gloves. Damaged or worn parts are replaced. The Hawaii longline observer program does not return immersion suits to the manufacturer for an annual inspection. The pressure test in combination with visual inspection of the suit provides confidence to NMFS, and the observers, that their gear and equipment meet the manufacturer standards. Small holes in the gloves may not be apparent to the naked eye and only show up during a pressure test. The same is true for the air bladder.

- Do you warehouse, limit access, account for custody and use, periodically review?

Each observer in the Hawaii longline and Monterey Bay halibut observer program is issued their own gear and equipment to use throughout their employment. For this reason, each observer is responsible for maintaining their own gear and is accountable for their issued gear. In the Hawaii longline observer program, accountable items such as 406 EPIRBs, binoculars, and immersion suits are issued to an observer but kept in a locked cabinet while observers are waiting for deployment. Before each trip, the gear is checked out to the observer by another observer using a gear checkout list. The gear checkout list is signed by the observer acknowledging receipt and acceptance of responsibility of the gear. The gear checkout list has all the serial numbers of the issued gear for accountability purposes.

In Long Beach there is a storage facility shared by the Habitat and Conservation Division. Access to this facility is available to only the Observer Program Coordinator, Data Coordinator and one senior Habitat and Conservation Division biologist. The gear issued to the Monterey Bay halibut set gillnet observer program is kept at the office or at the observer's home. When the gear is stored at the Monterey office, it is locked in a storage cabinet. Other than the gear issued to the observers, there is no account for custody nor is this reviewed periodically. For the Hawaii longline observer program, observers have access to the storage facility if the Observer Coordinator or the Assistant Observer Program Coordinator provides them the keys. The issued

gear and equipment are accounted for by the observer checkout list. Monthly inventories of the gear and equipment are conducted at the storage facility.

- Is adequate protection provided against access to inventories by outsiders or unauthorized employees?

The leased storage space in Long Beach is under lock and key and only accessible by the Observer Program Coordinator and the Assistant Program Coordinator. At the Monterey office, gear and equipment is locked and only accessible to the observers. For the Hawaii longline observer program, an observer on standby will usually help check out or check in gear for another observer. This means that observers do have access to accountable items that are kept locked. However, if accountable items are missing, the item is tracked to the last observer using the item and a determination is made whether the item was returned to the stock shelves, left on the vessel, lost, or stolen. If the item cannot be located, the information about the item would be reported to GSA security.

- Are the facilities optimal in terms of cost and location?

The off-site Long Beach and Honolulu observer program storage facilities for observer gear and equipment are located close to the offices. The storage space was secured based on availability and by obtaining three separate price quotes. The Honolulu storage facility is within a half mile of the docks where the longline vessels are located.

Examine the inventory records, sign out sheets, etc.

- Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?

There are no written policies that provide guidance to observer program staff to determine when additional gear and equipment should be ordered. Ordering of gear is done based on the experience of the program managers. However, all purchases are approved in advance. For the Hawaii longline observer program, hard copies of the monthly inventory sheets are kept on file and a spread sheet is maintained on all accountable items such as 406 EPIRBs, survival suits, and binoculars. The Monterey Bay halibut set gillnet observer program does not maintain an inventory of all the gear and equipment that is available at the Long Beach storage facility.

Examine the storage facilities for inventories.

- Do they provide adequate safekeeping?

The storage facilities are fenced, have surveillance equipment, and require a password to access the facilities. Each storage locker is secured by a padlock in which only NMFS personnel have access. There have been no reported break-ins or thefts at these facilities.

B1. CONCLUSIONS

The current procedures that are in place are adequate to insure that inventories will be reordered

promptly when they are not in stock or reach a predetermined level. The size of the observer program determines how frequently and formal the inventory system needs to be. The use of credit cards and purchase orders are an effective way for observer programs to maintain an inventory of gear and equipment. However, sometimes purchases cause the credit card dollar limit to be reached. Under these circumstances, additional purchases need to be curtailed or purchases need to be made by other credit card holders. This scenario occasionally occurs if large dollar amount items are purchased. Shipments are compared with the invoices and original procurement requests to ensure all the ordered supplies and equipment were received. The observers adequately maintain their gear and equipment. In addition, the annual inspection of immersion suits by the manufacturer ensures that the immersion suits meet their standards.

In Hawaii, observers have access to the storage facility. The monthly inventories allow program managers to track issued and available gear. There have been no reported incidences of stolen or misplaced gear and equipment. Theft of observer gear and equipment has not been an issue for the Southwest Region observer programs.

Because of limited storage space available at the Pacific Islands Area Office and the Regional Office, the storage facilities located near the offices (and docks) are ideal. In addition, the square footage cost of having an off-site storage facility is less than having the storage space on-site. The off-site storage facilities provide adequate safekeeping for the observer gear and equipment. The system currently in place is adequate although a complete inventory of the Long Beach storage facility should be completed.

B1. RECOMMENDATIONS

1. Request an increase to the dollar limit on observer program managers' credit cards to ensure that inventories of gear and equipment are maintained.

Responsible Official: Executive Officer

Completion Date: October 2000

2. Require regular maintenance of the immersion suits by all Southwest Regional observer programs.

Responsible Official: Observer Program Coordinators

Completion Date: June 2001

3. Conduct a complete inventory of the gear and equipment at the Long Beach storage facility.

Responsible Official: Long Beach Observer Program Coordinator

Completion Date: June 2001

C. RISK

Qualified observers may not be recruited and/or retained.

C. OBJECTIVE

Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE

The NMFS recruits additional Federal observers as needed by issuing vacancy announcements, advertising, and the Internet.

C1. TEST QUESTIONS AND FINDINGS

Interview observer program managers and examine recruitment records for last year.

- Do you attempt to hire or retain a given number of experienced observers each year? If no, why not?

NMFS, Southwest Region tries to recruit experienced observers and individuals with at-sea experience. This attempt is made in the vacancy announcements by stating that individuals with ocean experience aboard small boats are especially encouraged to apply. Candidates that have small boat experience receive additional credit in the ranking of candidates. The need to hire additional observers is determined by the amount of attrition, the requirements of the observer sampling plan, and the available budget. NMFS tries to retain experienced observers by providing recognition of accomplishments through awards and other monetary and non-monetary incentives.

- Was there a sufficient pool of qualified observers to replace Federal employees who quit last year? (How many candidates applied? Were selected? Showed up for training? Completed training? Were employed by NMFS?)

There were 41 qualified applicants that applied for 12 vacancies in the Hawaii longline observer program. The vacancy announcement was open for one month. Although at least 12 applicants were selected, only 10 applicants reported for training. Twelve applicants declined the position prior to selection because they were no longer available, had other commitments, or the position was no longer attractive to them. Twelve candidates declined after selection. One applicant was selected but failed to report to training. All the candidates that attended training successfully passed. No candidates were rejected because of medical conditions that would prevent the individual from working at sea for extended periods of time without jeopardizing the safety of the individual or the safety of the vessel personnel.

For the Monterey Bay halibut set gillnet observer program, there were two vacancies for observer positions. There were 45 qualified applicants of which six had previous observer experience. During the interview process, four of the experienced observers declined due to the temporary status offered and the comparatively low pay in relation to what North Pacific observer program contractors were offering. The other two experienced observers were offered the positions, accepted, and successfully completed training. If the experienced observers were not available or did not accept the positions, NFS would be forced to offer the positions to someone with less experience.

- Is an in-house program more or less cost effective than a contract would be (in hiring qualified and credible observers quickly, assigning them usefully, and then keeping them)? If yes, how?

There is insufficient information to evaluate whether contract or in-house observer programs are more cost-effective. However, contractors can generally hire more quickly than the government can by direct hiring. The Office of Personnel Management is in the process of implementing an automated vacancy announcement and application system. This system will allow candidates to submit applications on-line and will automatically rank applicants against rating criteria established and advertised in the vacancy announcement. In addition, the system will provide an on-line certificate of eligibles to the selecting official. This system should allow NMFS to develop and post vacancy announcements more quickly, reducing the amount of time required to complete a recruitment action.

Provided there is sufficient time and the support by NMFS management, an in-house observer program is capable of hiring qualified and credible observers, achieving the required coverage of the fishing effort, and satisfying the observers financial and personal needs. Contractors have the flexibility to hire more quickly, within a couple of weeks. Contractors can also design and provide creative pay incentive plans whereas NMFS is limited to the various options available under Title 5.

Interview in-house observers using the following questions.

- How did you originally learn about the observer program and observer jobs? A. Friend B. Announcement at college C. Advertisement in paper, magazine D. Word of mouth E. Prior observer F. Other (please specify)

Twelve in-house observers responded to the questionnaire. Of those 12, two learned of the position through a friend (17%); two learned about the position from an announcement at a college (17%); three learned about the position through an advertisement in a local newspaper (25%); one learned about the position by word of mouth (8%); one learned about the position from a friend (8%); two learned about the position through the internet (17%); and one learned about the position from a contractor in Seattle (8%).

- What were the primary and secondary reasons for your interest in being an observer? A. Work on fishing vessels B. Work out of the Region C. Scientific or field experience D. Money E. Other (please specify)

The primary reason why observers were interested in being an observer was for the scientific and field experience (67%). Two of the observers indicated that working for the NMFS was their primary reason (17%); one observer wanted to work on fishing vessels (8%), and one observer indicated that the observer position was the only fisheries position available in Hawaii (8%).

The secondary reason why observers were interested in being an observer was for the money (50%); work for the NMFS (25%); work on fishing vessels (8%); work on protected species (8%); and one observer was looking for adventure (8%).

- Was the observer pay level an attractive incentive for first becoming an observer? A. Yes B. No

Six observers (55%) indicated that the pay was an attractive incentive to becoming an observer whereas five observers (45%) did not.

- How was your job interview conducted? A. Over the telephone B. Conference call C. Personal meeting D. None of the above E. Other (please specify)

Sixty-six percent of the observers are interviewed by telephone and 33 percent were interviewed in person.

- If you no longer work as an observer, please indicate your primary reason for leaving. If you had more than one reason, you may mark up to three reasons in order of priority (use 1, 2, and 3). A. Too much time away from family/friends B. Sea sickness C. Safety concerns D. Better job E. Grad school F. Compensation for work unsatisfactory G. Lack of advancement opportunities H. Lack of respect/understanding/support for my work - By Whom? I. Harassment/pressure; from - J. Other (Please list)

Four observers that completed the questionnaire are no longer observers. One individual (25%) indicated the primary reason for leaving was for a better job; another stated that the compensation was unsatisfactory (25%); another indicated that they had been accepted into graduate school (25%); and another indicated that they had been injured on the job and was no longer able to perform the work (25%).

- Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future? A. Yes B. No

Two observers (67%) indicated that no incentive or change would encourage them to return to work. One observer (33%) indicated that if there was satisfactory compensation, bonuses, and health insurance provided, they would return.

C1. CONCLUSIONS

NMFS efforts to recruit and retain experienced observers is adequate. There is not sufficient information available to adequately determine whether an in-house observer program is more or less cost effective than a contract program at hiring qualified and credible observers quickly, assigning them usefully, and retaining them. Recruiting for observer positions is most successful when multiple media are used. Advertising positions in local newspapers and at major universities and colleges that have biological sciences programs has provided positive results. Word of mouth by prior observers or friends can also be an important way to recruit for observer positions.

Many of the candidates have recently graduated from college and were seeking employment in the biological sciences and looking for field work. Also, many applicants would like to work for

the NMFS in hopes of furthering their careers with the agency or transferring to another Federal agency. Some observers have the desire to work on fishing boats because of the adventure the job offers and the opportunities to travel. Money is also an important factor for candidates wanting to work as observers. The salary is not always the primary reason for deciding to become an observer. Many observers are doing the job for the experience rather than the money with the hopes of obtaining a position with NMFS or another Federal agency.

Most observer interviews are conducted by telephone because many candidates do not live in the local commuting area. If candidates live within the commuting distance of the office conducting the interviews, the policy is to have the candidates come into the office for the interview. Most observers are not within commuting distance and must relocate to work as an observer. This aspect detracts from the attractiveness of an observer position. There are many reasons why observers decide to resign. After a period of time, observers may tire of the amount of time away from home and seek a “better” job. Others may decide that the pay is inadequate and that they can do better elsewhere. Many observers who begin working immediately after graduating, decide to return to school for graduate studies after gaining valuable field experience. Observers may also resign from the observer program if they have sustained injuries (while on the job or off the job) that prevent them from meeting the medical requirements of employment.

When NMFS advertises for in-house observers, there are usually more inexperienced observers compared with experienced observers applying for the position. In Hawaii, most candidates declined the positions because of the nature of the work and because of the distance required to relocate to Hawaii. Although there is an attraction to work for NMFS as a term or temporary employee, there is a greater attraction to work for NMFS as a permanent employee. In the past, this attraction has enabled NMFS to compete for candidates with independent contractors. However, if observer positions do not have much overtime and are temporary appointments (Monterey), then the positions are not as desirable as positions that offer higher salaries because of the longer hours. There are many reasons why an observer resigns from the observer program. Often, an observer is seeking another job with more stability and opportunities for advancement. Only when an observer departs because the pay is inadequate would better compensation or health insurance encourage the observer to return, or prevent the observer from leaving.

C1. RECOMMENDATIONS

1. Implement the Commerce Opportunities On-Line automated vacancy announcement system for future in-house observer program positions to decrease the amount of time required to recruit new observers.

Responsible Official: Regional Administrator

Completion Date: June 2001

C2. CONTROL TECHNIQUE

The NMFS establishes minimum qualifications for observer recruits.

C2. TEST QUESTIONS AND FINDINGS

Interview observer program managers, and review the recent performance and retention of observers in each of the three fisheries.

- Are the minimum requirements for observer recruits specified by Office of Personnel Management appropriate (“too restrictive,” “about right,” or “not restrictive enough”)?

In an effort to recruit more candidates, NMFS, Southwest Region at one time reduced the minimum qualifications to hire candidates that did not have the required work experience to qualify for the position at the GS-5 level or the education (a degree from a four-year accredited school). Some of the individuals that were hired did not perform well and did not have the commitment necessary to perform the duties satisfactorily. Since that experience, NMFS, Southwest Region has required that observers have work experience directly related to the position or at least a four-year degree from an accredited college or university.

- Should these minimum requirements vary by fishery? If yes, why?

Observer duties are similar when monitoring different fisheries. Generally, the only difference between an observer program that monitors different fisheries is the type of data being collected. Different fisheries use different gear types and often catch different target and bycatch species. Regardless of the fishery, the same data quality standards are required and the same types of skills are usually required for the observers.

- Are the quality rating factors, score sheets, or standardized interview questions indicative of the recruits’ future success and longevity?

The crediting sheets used to evaluate the candidates against the quality ranking factors adequately rank the candidates based on their experience and their education. Candidates with work experience collecting data aboard commercial fishing vessels and completion of a degree in biological sciences will rank higher. Similarly, candidates with small boat experience will rank higher than candidates with large boat experience. The interview questionnaire provides the selecting official with an opportunity to evaluate and assess the candidates’ ability to deal with trying conditions such as living and working aboard a commercial fishing vessel in confined quarters. In addition, the interviewer is able to assess the candidate’s problem solving abilities, communication effectiveness, and to what degree the candidate is a self-starter. These characteristics are essential for observers to successfully collect the required data aboard commercial fishing vessels under, at times adverse conditions, in a self-supervised environment.

C2. CONCLUSIONS

The Office of Personnel Management’s qualification standards are established depending on the level of difficulty of the duties of a position. Observer positions are classified as technician positions because the observers are following established protocols and collecting information only. The observer does not analyze the data. The minimum standards should apply regardless of the fishery being observed. Observers need to be able to collect data according to predetermined protocols and perform their duties safely. If there is a need for the observer to have more experience in statistics, then this should be included in the training curriculum. The

observer would need to demonstrate proficiency in the subject matter to successfully complete training.

The standardized interview questions are a tool for program managers to evaluate the applicant's ability to perform the work. The quality rating factors provide a mechanism to rank applicants with different levels and types of experiences and education. Extended at-sea experience is a good indicator whether an observer will work out well. However, just because an observer has had prior observer experience, does not mean that the fishery conditions will be compatible with the applicant. Candidates that are highly qualified will rank higher than candidates with less experience. Through vacancy announcements and interviews, candidates are provided information about the vessel conditions and the work expectations for them to fully understand the benefits and challenges the position offers.

C2. RECOMMENDATIONS

1. Maintain minimum qualifications for observers in the Southwest Region that includes work experience directly related to the position or at least four years of education above high school leading to a bachelor's degree from a four-year accredited college or university with major study in the biological sciences.

Responsible Official: Regional Administrator

Completion Date: October 2000

D. RISK

Observers may not be properly trained to perform their duties.

D. OBJECTIVE

Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE

The NMFS conducts comprehensive training courses for new employees and experienced observers.

D1. TEST QUESTIONS AND FINDINGS

Interview the program staff and laboratory principal investigators who are responsible for observer training.

- How do you establish the overall training requirements, curriculums, and schedules? Do they vary from year to year? If yes, how?

The training requirements, curriculum, and schedules for the Southwest Region have been developed over time starting with the tuna/dolphin observer program in 1976. The training program has evolved and continues to be modified each year as necessary. When the Southwest Region began observing smaller uninspected fishing vessels in 1990, the training curriculum was modified to include safety at sea presentations that includes donning of immersion suits. After the U.S. Coast Guard published Commercial Fishing Vessel Industry Safety Regulations in 1991,

the training curriculum changed again to include the new information and requirements.

When the region began monitoring the Hawaii longline fishery, the training curriculum was developed based on previous knowledge and successful techniques. Each training needs to address issues specific to each fishery. Many of the training subjects are presented by Southwest Region observer program management, Southwest Fisheries Science Center staff, and U.S. Coast Guard. Subjects include the Marine Mammal Protection Act, Endangered Species Act, observer safety, data collection, sample collection, and species identification (sea turtles, marine mammals, fish, and birds). Training is conducted over a 3-week period (15 working days). Tentative schedules are developed from the previous training class and the dates and times are adjusted within the 3-week period to accommodate presenters' schedules who are participating in the training. Changes to the training curriculum are based on results from previous training classes, and the data and specimens that are being collected at the time training is conducted.

- Does each of the various trainers ensure that new observers meet the standards set by NMFS? If yes, does this include feedback from observers who have been at sea (such as those who return for an annual briefing session)? Do you certify the results?

The regional observer Training Coordinator manages all Southwest Region observer training. The Training Coordinator schedules, oversees, and ensures completeness of all presentations given by other trainers. The Training Coordinator also oversees all new observers during the training session. Observers complete training by attending the entire training session, achieving 85% on all exams, completing the safety training satisfactorily, and by passing NMFS staff assessments of whether the individual will be able to collect accurate and objective data while working at sea. If an observer does not pass the 85% training requirement, NMFS staff may provide the candidate with the opportunity to receive additional training after the 3-week training class is completed.

Interview a sample of the most recent observers in the three fisheries.

- Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties (“very great use,” “great use,” “moderate use,” “some use,” or “little or no use”)?

Two observers (17%) indicated that training was of very great use; five observers (42%) indicated that training was of great use; one observer (8%) responded that training was of some use; and three observers (25%) did not respond to the question.

- Overall, how would you rate the training and briefing? A. Very good; B. Good; C. Fair; D. Poor

Four observers (33%) reported that the training was very good; six observers (50%) reported that training was good, and two observers (17%) indicated that the training was fair.

- Overall, how well did the training and briefing prepare you? A. Very good; B. Good; C. Fair;

D. Poor

Three in-house observers (25%) indicated that the training prepared them very well, seven observers (58%) indicated that the training prepared them well, and two observers (17%) indicated that the training prepared them okay for completing their assigned duties.

D1. CONCLUSIONS

The training curriculum and overall training requirements meet the Southwest Region and Southwest Fisheries Science Center standards. Observers are provided extensive training on fish and marine mammal identification. The U.S. Coast Guard participates in the observer safety training and demonstrates the use of equipment the observers may need to use in an emergency. The regional observer program Training Coordinator in consultation with other NMFS training staff determine whether an observer has successfully met the training requirements.

The majority of the observers indicated that training was valuable and of great use. The experience of the observer at the time training begins affects how much use training may be to them. If the observer already has fish and marine mammal identification skills, the training may not be as beneficial for the individual because those portions of training would be review. In general, observers think that the training they received was good to very good. The majority of the observers feel that the training in the Southwest Region prepares them well to complete their assigned duties. Overall, training appears to be adequate, but can be improved.

D1. RECOMMENDATIONS

1. Continue modifying training curriculums to include any changes to data collection requirements, observer program policies, laws or regulations.

Responsible official: Observer Training Coordinator

Completion Date: October 2000

2. Review the observer evaluations after each training and review the observer evaluations from the previous training class before each new training to incorporate the recommendations for improvement in the presentations.

Responsible Official: Observer Training Coordinator

Completion Date: October 2000

3. Develop an anonymous observer questionnaire that would be completed after an observer's first trip to evaluate how effective observer training was at preparing them to perform their duties at sea.

Responsible official: Observer Training Coordinator

Completion Date: December 2000

D2. CONTROL TECHNIQUE

The NMFS trains observers in core competencies.

D2. TEST QUESTIONS AND FINDINGS

Interview a sample of the most recent observers in the three fisheries.

- Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics was the training deficient?

Seven in-house observers (58%) indicated that training did provide the skills and knowledge needed to accomplish their assigned tasks. Five in-house observers (42%) indicated that training did not provide them with the skills and knowledge necessary to complete their assigned duties. One in-house observer said that training needs to be more thorough whereas three of the observers indicated that more fish identification training would be helpful, and one observer indicated that more swordfish specimen collection was needed. In addition to the fish identification, one observer thought there should be more marine mammal identification in the training.

- What portion(s) of the training and briefing prepared you the best?

Eleven observers (92%) indicated that training prepared them best and one observer (8%) did not respond to the question. Four of the observers indicated that the fish identification portion of training prepared them the best, four observers indicated that the Typical-Day-at-Sea exercises prepared them the best, and three observers indicated the safety at sea portion of training prepared them the best.

- What portion(s) of the training and briefing needs improvement?

Eight observers responded. One observer indicated the need to know why the research is being conducted and who is doing the studies needs to be included in the training. The observer indicated that they would like to have direct contact between the researcher and the scientist. Three observers indicated that the fish identification portion of the training needs improvement and that there needs to be more fish identification slides. One observer would like more hands-on sampling of fish in the training. One observer indicated that a video of the gear being hauled aboard the vessel would be helpful for training. One observer would like better explanations provided for completing the data forms and one observer would like to see the Typical-Day-at-Sea exercises improved.

D2. CONCLUSIONS

The majority of the observers indicated that observer training provided them with the skills and knowledge needed to accomplish their assigned tasks. The fish identification portion of the observer training was considered deficient by most of the observers who did not feel that training prepared them adequately. The fish identification, Typical-Day-at-Sea exercises, and safety-at-sea are valuable parts of training that need to be included. Better slides of fish species and fresh specimens might improve the fish identification portion of the observer training. Video footage of the gear being retrieved might give the observer an idea of what to expect although there is no substitute for the real thing. The Typical-Day-at-Sea exercises might need to be improved slightly although many observers indicated that they are very useful as they are written for

developing the skills and knowledge for completing the observer data forms.

D2. RECOMMENDATIONS

1. Increase the number of fish pictures used in observer training so that there is at least one representative photograph for each species.

Responsible Official: Observer Training Coordinator

Completion Date: July 2001

2. Modify and improve the fish identification, Typical-Day-at-Sea exercises, and safety-at-sea portions of the training as necessary.

Responsible Official: Observer Training Coordinator

Completion Date: October 2000

3. Before a scheduled observer training class, request returning observers from a vessel assignment to bring back whole specimens of fish that can be used in training.

Responsible Official: Observer Training Coordinator

Completions Date: October 2000

D3. CONTROL TECHNIQUE

The NMFS allows experienced observers to work on special details (Hawaii-based observers).

D3. TEST QUESTIONS AND FINDINGS

Interview a sample of experienced observers.

- Did you take advantage of special details or part-time work? If yes, was this useful in acquiring needed skills?

Three observers indicated that they have taken advantage of special details or part-time work in addition to their normal observer duties. Five experienced observers indicated that they did not. Two observers indicated that the opportunity was not provided to them.

D3. CONCLUSIONS

Because there tends to be more work than observers and there tends to be limited funding, few special details are available.

D3. RECOMMENDATIONS

None.

E. RISK

The health and safety of observers at sea may be impaired.

E. OBJECTIVE

The health and safety of observers is protected.

E1. CONTROL TECHNIQUE

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST QUESTIONS AND FINDINGS

Interview the observer program managers.

- How does NMFS notify vessel owners and operators of their responsibilities and methods of compliance?

The Hawaii longline vessel owners and operators are notified of their obligations to comply with the health and safety obligations at the pre-observer placement and the observer placement meetings that are conducted prior to the departure of each observer. NMFS notified the vessel owners and operators of the Monterey Bay halibut set gillnet vessels by sending a certified letter the first year of the program and at voluntary skipper education workshops that are held every six months when NMFS reviews the results of the observer data.

In addition, after a Hawaii longline vessel owner notifies the office of their departure and the vessel is selected to carry an observer, the vessel is inspected for compliance with the observer health and safety regulations. The Port Coordinator, Assistant Port Coordinator, or lead observer inspects the vessel to determine whether the United States Coast Guard Safety Examination Decal is current and the applicable safety equipment is in compliance. A vessel placement sheet is completed by the NMFS person conducting the inspection while the captain and observer are present. All the major safety equipment items are checked such as expiration dates on EPIRBs, flares, life rafts, hydrostatic releases, the number of PFDs, fire extinguishers, and the first aid kit. If anything is expired, missing, or in an unacceptable condition, the vessel has to replace or fix the safety item before the vessel can depart. If the vessel has to get an examination sticker for the trip, NMFS does not inspect the expiration dates and other items since the U.S. Coast Guard will be completing their check within a day or two of the departure. However, NMFS does show the observer the location of all the safety equipment during the placement meeting.

- What records do you keep about the performance of this outreach program?

The vessel placement sheets for the Hawaii longline vessels are kept with the trip folder. No records are kept for the Monterey Bay halibut set gillnet fishery.

- Are these records useful in improving the outreach program?

The vessel placement sheet is completed with the vessel captain and observer present which enable them to ask questions about the regulations and requirements. In addition, the Hawaii longline observer program will reference vessel placement sheets prior to subsequent observer placements.

- How are observers instructed to spot check major items for compliance with U.S. Coast Guard regulations, (i.e., a current CG safety inspection decal, etc.)?

Observers are instructed by NMFS staff, safety videos, and U.S. Coast Guard personnel during observer training about how to conduct vessel inspections to determine whether the safety equipment is in compliance with the U.S. Coast Guard regulations.

- What records do you keep about what happened when observers made pre-trip safety checks of vessels to which they had been assigned?

In the Hawaii longline observer program, NMFS staff conduct the vessel safety inspections. The information is recorded on the vessel placement sheet. In addition to safety information, the vessel placement sheet has the trip number, vessel name, observer name, permit number, captain's name, placement meeting date and time, radio call sign, estimated trip length and number of sets, number of crew, vessel length, number of bunks, toilet and shower information, determination whether the vessel can provide reasonable privacy for female observers, and the owner's address. There are no records kept by the Monterey Bay halibut set gillnet observer program.

- Do these records indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems?

The vessel placement records do not indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems. If a vessel does not have the proper safety equipment, the program manager delays the vessel until it is compliant with the U.S. Coast Guard safety regulations. The vessel owner is told that the observer cannot be placed on a vessel until all the safety equipment meets the U.S. Coast Guard safety requirement. Any vessel departing without an observer, after notification, will be in violation of the regulations. The Monterey Bay halibut set gillnet observers verify that the vessel safety equipment meets the U.S. Coast Guard safety standards but do not record this information.

- Was there attempted or perceived pressure on observers by vessel owners or operators? If yes, do these records describe the actions and outcomes, including any delays, loss of fishing days, legal actions etc.?

Because the NMFS observer staff for the Hawaii longline fishery conduct the vessel safety inspection, there is no attempted or perceived pressure on observers by vessel owners or operators. After the inconsistency has been corrected, another vessel inspection is completed by NMFS program staff. Generally, the Operations Coordinator conducts a pre-placement meeting to determine whether the safety equipment is in compliance with the U.S. Coast Guard regulations to prevent any perceived pressure on observers by vessel owners or operators. There could be a perceived pressure on the Monterey bay set gillnet observers when they conduct vessel inspections.

Interview a sample of the most recent observers in the two fisheries.

- Were you provided with a health and safety “checklist”?

Nine observers (75%) responded they were not provided a health and safety checklist and three observers (25%) responded that they did receive a checklist.

- Are you aware of a written policy that an observer’s job will not be endangered if he refuses to board a vessel because of health or safety problems that he finds?

Six observers (56%) reported that they are not aware of a written policy that an observer’s job will not be endangered if he or she refuses to board a vessel because of health or safety problems they find. Five observers (44%) indicated that they are aware of a written policy.

- In your personal experience, is this policy being followed?

Seven observers (64%) responded that this policy is not being followed whereas four observers (36%) indicated that the policy is being followed.

- Do you ever feel any pressure from anyone to ignore health or safety concerns that you may have?

Seven observers (70%) indicated that they do not ever feel pressure from anyone to ignore health or safety issues they may have. Three observers (30%) feel they are pressured to ignore health or safety concerns. One observer indicated that just because a vessel meets U.S. Coast Guard safety requirements, doesn’t mean that the vessel is safe or that a vessel captain will operate the vessel in a safe manner. There are other factors that determine whether a vessel is safe. Another observer indicated that the pressure to ignore safety or health concerns was greater in the past.

E1. CONCLUSIONS

NMFS notifies the fleet of their obligations to comply with the observer health and safety regulations using a combination of fleet notices, skipper workshops, and in-person meetings at the docks. After two years since the regulations have been effective, vessel owners understand their obligations to comply with the U.S. Coast Guard safety regulations.

The trip folder is an appropriate and accessible location for the vessel placement sheet to be kept for future reference. The set net program should conduct safety inspections on a regular basis and record the information on a checklist. The vessel placement sheet used by the Hawaii longline observer program is useful and can be used as an outreach tool to inform vessel owners about the observer health and safety regulations.

The technical training the observer receives about conducting vessel inspections is adequate although going aboard a typical working vessel could provide an additional opportunity for the observer to see where the equipment is located. The vessel placement sheet provides assurance to NMFS staff that the vessel meets the U.S. Coast Guard safety requirements. The policy of NMFS, Southwest Region is that no observer is to be deployed upon a vessel that does not meet

the U.S. Coast Guard's safety requirements. For the Hawaii longline observer program, the vessel placement sheets support this policy. Documentation by the Monterey Bay set gillnet observer program is needed.

If a deficiency is found by NMFS program staff at the "pre-placement" meeting, the observer may not be aware there was a deficiency that needed correction. This procedure reduces the likelihood of vessel influence on the observer. In Monterey, there is the potential for vessel owners and operators to pressure an observer if they were not able to go out fishing because of a safety equipment deficiency. The results show that observers in the Hawaii longline fishery may not be provided a safety checklist to complete themselves but rely on NMFS staff to complete the vessel placement sheet. Most observers consider the placement sheet as the safety equipment inspection sheet. The Monterey Bay halibut set gillnet observers do not receive a vessel safety examination checklist.

Not all of the observers may be aware of the written regulations under 50 CFR 600.725(b) that states that "an observer is not required to board, or stay aboard, a vessel that is unsafe or inadequate as described in paragraph (c) of this section." Many observers may feel they must observe vessels even if they feel the vessel is unsafe for fear of losing their job. A vessel may meet the U.S. Coast Guard safety requirements and still be unsafe. A Dockside Vessel Examination decal indicates that the vessel has the required safety equipment and meets the minimum requirements for a documented uninspected vessel at the time of the inspection.

E1. RECOMMENDATIONS

1. Require set gillnet observers to complete vessel safety examinations and maintain the information from the safety checks in an accessible location such as a vessel log.
Responsible Official: Observer Program Coordinator
Completion Date: November 2000
2. Include an inspection of a vessel at the docks, if possible, in the observer training curriculum.
Responsible Official: Observer Training Coordinator
Completion Date: October 2000
3. Remind vessel owners and operators at skipper workshops of their obligation to ensure that their vessel meets the U.S. Coast Guard safety equipment requirements.
Responsible Official: Observer Program Coordinator
Completion Date: October 2000
4. Provide an observer with a vessel safety checklist for them to complete.
Responsible Official: Observer Program Coordinator
Completion Date: November 2000
5. Ensure training staff review the safety regulations in training and that observers are provided a copy of them. Include copy in the field manual.

Responsible Official: Observer Training Coordinator
Completion Date: October 2000

6. Develop procedure for addressing and resolving observer safety concerns.

Responsible Official: Observer Program Managers
Completion Date: December 2000

7. Establish and maintain vessel profiles that identify health and safety conditions on all vessels participating in the fisheries.

Responsible Official: Observer Program Coordinators
Completion Date: December 2000

8. Work with the United States Coast Guard to identify and document any additional factors which may contribute to unsafe conditions for observers.

Responsible Official: Observer Program Coordinators
Completion Date: March 2001

9. Clarify the language and the policy in the observer field manuals and during observer training of the procedure an observer follows to determine the safety or adequacy of a vessel and that an observer's job will not be endangered if he or she refuses to board a vessel because of health or safety concerns.

Responsible Official: Observer Training Coordinator
Completion Date: December 2000

E2. CONTROL TECHNIQUE

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST QUESTIONS AND FINDINGS

Interview the observer program managers.

- Is there any documentation of the necessary action that you will take if an observer determines that a vessel is unsafe while at sea?

The observer is instructed to record all incidences of harassment, interference, or intimidation that occurs while at sea. In addition, the observer is instructed in training to document potential hazardous situations such as unprotected machinery and open electrical outlets. However, there is no mechanism for an observer to document when a vessel becomes unsafe while at sea.

Interview (survey) a sample of the most recent observers.

- During your last detail, did you identify any unacceptable health/safety conditions while the vessel was at sea? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or returning the vessel to port? Were these conditions corrected to your satisfaction?

Ten observers (83%) indicated that during their last vessel assignment, there were no unacceptable health or safety conditions while the vessel was at sea. Two observers (17%) indicated that there were unacceptable health or safety conditions on their last trip. These ranged from cockroaches creating unsanitary conditions to suspected hull integrity concerns. The observer also expressed concern about not having a licensed captain aboard the vessel.

- Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work? If yes, can you approximate how frequently this has occurred? A. Often; B. Occasionally; C. Rarely; D. Once

Nine observers (75%) indicated that they have never been intimidated, pressured, harassed or had their sampling interfered with in a manner that affected the quantity or quality of their work. Three observers (25%) indicated that they have been. One of the observers indicated that the interference was related to bringing a marine mammal specimen aboard for collecting life history information about the animal. One observer indicated that the frequency of the interference happened occasionally. Another observer indicated the frequency occurred rarely, and the other indicated there had been only one incident.

- If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity? If no, why not?

Two observers (67%) indicated that an affidavit was completed as part of the investigation. One observer indicated that an affidavit was not necessary.

- Was the debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? A. Always; B. Usually; C. Occasionally; D. Rarely; E. Not at all

Three observers (100%) indicated that the debriefer was always able to adequately address any harassment, intimidation, or interference concerns they encountered during their work as an observer.

- In what ways could the Observer Program be more supportive of observers who have experienced harassment/intimidation/other trauma on the job? A. Better training/preparation; B. Better information in manual; C. More support in the field; D. Better outreach to industry; E. Better enforcement and follow through on observer complaints; F. More support during debriefing; G. Better grievance procedures for observers; H. Better communication and cooperation between contractor and NMFS; I. Professional counseling support for observers who have experienced trauma; J. Other (Please list)

Six observers (27%) indicated there should be more support in the field. Five observers (23%)

indicated there should be better enforcement and follow through on observer complaints. Four observers (18%) indicated there should be better outreach to the industry. Two observers (9%) indicated more support was needed during debriefing. One observer (~5%) indicated there needs to be better compensation for injured observers. One observer (~5%) indicated there needs to be better Workers' Compensation response for injured observers. One observer reported there needs to be better information included in the field manual. One observer (~5%) indicated there needs to be better training. Professional counseling support for observers who have experienced trauma is available through the Employee's Assistance Program.

E2. CONCLUSIONS

There is no formal mechanism for an observer to document a vessel that becomes "unsafe" while at sea. If the vessel truly is determined to be unsafe by the captain (vessel taking on water, fire aboard the vessel, loss of steering or power), the Coast Guard would respond to these life threatening or non-life threatening emergencies. The pre-cruise safety check provides a mechanism for determining whether the vessel's safety equipment meets the U.S. Coast Guard safety requirements or whether there are obvious hazardous conditions at the time of the inspection. The Coast Guard safety regulations do not address vessel cleanliness, mechanical soundness of the vessel equipment, or the structural integrity of the vessel. Vessel captains of uninspected vessels do not need to be licensed although they must be U.S. citizens.

Most observers do not have problems aboard a vessel that interferes with their ability to complete their duties. In situations where there is reported interference, harassment, or intimidation, the incident is reported to NMFS enforcement who then conducts an investigation. The frequency of harassment, interference, or intimidation is considered a remote occurrence. When requested, observers complete affidavits as part of ongoing investigations. NMFS policy is to have an observer complete an affidavit for incidents of harassment, interference, and intimidation. Observers are adequately debriefed for incidents of harassment, intimidation, and harassment.

Observers may feel the need for more support in the field because they work in a self-supervised environment, as the sole observer upon vessels that work at sea often for extended and uncertain periods of time. In some cases, there needs to be swift action by NMFS enforcement when following-up observer complaints. Between the fleet notices and the vessel placement sheets, there is enough outreach that is done to minimize conflicts from occurring. Some observers may feel that debriefing is too perfunctory and not adequate.

The compensation provided to observers who are injured is determined by the Federal Employees' Compensation Act.

E2. RECOMMENDATIONS

1. Ensure that observers are debriefed after each trip for possible safety or health concerns.

Responsible Official: Observer Program Coordinators

Completion Date: October 2000

2. Have NMFS enforcement participate in the observer training to teach the observers how to

complete an affidavit if requested by NMFS management or enforcement.

Responsible Official: Observer Training Coordinator

Completion Date: October 2000

F. RISK

Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE

Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE

The NMFS encourages vessel owners to obtain insurance that would protect them in the event an observer is injured.

F1. TEST QUESTIONS AND FINDINGS

Interview a sample of vessel owners in the three fisheries.

- Last year, did NMFS encourage you to indemnify yourself against financial loss because of accidents involving, or loss caused by, your vessel?

Five Monterey Bay set gillnet vessel owners and ten Hawaii longline vessel owners were interviewed. One fisherman refused to answer the questions because he felt the information was his personal business. Of the fourteen remaining, three (21%) indicated NMFS did encourage them to indemnify themselves against financial loss because of accidents involving, or loss caused by their vessel. Eleven (79%) indicated NMFS did not encourage them to indemnify themselves. When NMFS started the Monterey Bay halibut set gillnet observer program in April 1999, the vessels were not encouraged to indemnify themselves. The vessels were encouraged when the set gillnet observer program was originally established in July 1990. The Hawaii longline vessels were encouraged in the fleet notice which was mailed in February 1994, to indemnify themselves. They have not been encouraged by any subsequent mailings.

- Do you currently carry P and I insurance? If yes, (a) does this coverage extend to observers as well as crew working on your vessel?

None of the set gillnet vessels reported carrying Protection and Indemnity insurance. All of the Hawaii longline vessels reported that they do carry Protection and Indemnity insurance. Three (30%) of the ten vessels indicated that the P & I insurance did extend to the observer aboard the vessel.

- Were you reimbursed for this expense by NMFS after providing supporting records? If no, have you acquired other insurance coverage that does extend to observers?

Only two vessel owners reported that supporting documentation was submitted to NMFS for reimbursement. These vessel owners claim NMFS did not provide reimbursement. NMFS' policy is to have the check sent to the registered vessel owner listed on the limited entry longline

permit. Two of the Hawaii longline vessels indicated that they did acquire other insurance that does extend to the observer when the observer was assigned to their vessel.

Interview a sample of last year's observers.

- Are you aware that you may be compensated under the Federal Employees Compensation Act if you are injured on a vessel?

Ten observers (83%) indicated that they are aware that they may be compensated under the Federal Employees Compensation Act. Two observers (17%) were not aware.

- Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)? Was this explained to you by the vessel owner/operator or as part of your training? If yes, were you satisfied with the explanation?

Nine observers (75%) indicated that they were unaware of other remedies that may apply if they are injured at sea. Three observers (25%) indicated that they were aware of other remedies and learned of the information from the trainer.

- Have you attempted to obtain any workers' compensation or other remedy in connection with an injury you sustained at sea? If yes, in what situation?

Eight observers (67%) indicated that they have not attempted to obtain benefits from Workers' Compensation for an injury they received while working at sea. Four observers (33%) indicated that they have attempted to receive compensation.

F1. CONCLUSIONS

Some vessel owners may remember when NMFS encouraged them to indemnify themselves in earlier mailings. The set gillnet vessels are small and generally cannot afford the protection and indemnity insurance premiums. The longline vessels are larger and can afford the insurance premiums. Some insurance companies may include the observer in their policy or the vessel owner ensures the observer is covered. Many vessels choose not to submit supporting documentation to receive reimbursement for the direct insurance costs associated with having the observer included on their policy. Many times the vessel owner on the permit is not the same as the reported vessel owner at the placement meeting. Other times, the vessel owner forgets the check was cashed and believes a reimbursement check was not received.

Most observers are informed in training that they are covered by the Federal Employees Compensation Act. NMFS training in the Southwest Region does not cover different approaches for seeking reimbursement if an observer is injured at sea. The observers that are aware of other remedies may have worked in other observer programs or learned of the remedies during side discussions with the observer trainer.

F1. RECOMMENDATIONS

1. Review procedures in the observer field manual on at-sea injuries and update as necessary.
Responsible Official: Observer Training Coordinator
Completion Date: January 2001
2. Provide workers' compensation information to observers during observer training.
Responsible Official: Observer Training Coordinator
Completion Date: January 2001
3. Request Department of Labor to review, and possibly modify the basis for calculating FECA compensation provided to injured observers so that it reflects their at-sea pay.
Responsible Official: Regional Administrator
Completion Date: July 2001
4. Explore the possibility of obtaining professional liability insurance coverage to cover observers if permanently disabled while working at sea.
Responsible Official: Regional Administrator
Completion Date: July 2001

G. RISK

Observer coverage, deployment, and data collection may not be well coordinated within NMFS or with other Federal, state, or intergovernmental agencies.

G. OBJECTIVE

Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE

Observer program managers routinely consult with the Council, the State, Southwest Fisheries Science Center, and other Federal agencies to coordinate appropriate types and levels of observer coverage.

G1. TEST QUESTIONS AND FINDINGS

Interview the observer program managers and selected SWFSC staff.

- Have fishery managers and scientists coordinated their plans for observer coverage successfully in recent years (particularly with respect to MMPA and MSFCMA objectives and sampling protocols)? Specifically: How has the observer program established priorities for monitoring incidental seabird interactions?

The observer programs have established priorities based on the source of funding. If an observer program is funded with marine mammal funding, marine mammals are the number one priority. Regardless of the source of funding, protected resources always have priority over the collection of fish information. Collection of seabird interaction data is included as part of the protected species priorities. For example, in the Hawaii longline observer program, the order of priorities

of monitoring for incidental takes are: (1) sea turtles; (2) marine mammals; (3) seabirds. The priorities become important if a sea turtle, marine mammal and sea bird are caught in succession. In this case the observer would process the specimens in order of the priorities.

G1. CONCLUSIONS

NMFS, Southwest Region has managed to collect protected resources data and fishery data by prioritizing observer duties.

G1. RECOMMENDATIONS

None.

G2. CONTROL TECHNIQUE

The NMFS randomly selects vessels for observer coverage.

G2. TEST QUESTIONS AND FINDINGS

Interview the program managers and examine records of vessels selected for coverage last year.

- Were vessels that were selected by NMFS randomly distributed (by size, catch, ports, or other independent variable)? If no, could this have resulted from any demonstrable bias in selecting vessels?

Because all vessels in the fleet are not observable, vessel selection is not completely random. In addition, the Southwest Region policy is not to place observers on back-to-back trips. In the Hawaii longline fishery, vessels are randomly selected by size of the vessel. The sample size is 50 vessels a year, seven of those are 70 ft or less (small) and 43 are greater than 70 ft (large). The breakdown per quarter is as follows: 1st quarter 16 trips (14 large, two small), 2nd quarter 14 trips (12 large, two small), 3rd quarter eight trips (seven large, one small), 4th quarter 12 trips (10 large, two small). Vessels are selected based on the target number per quarter and the availability of observers. For example 12 trips per quarter is equal to approximately one trip per week. However, if there are no observers available for sea duty in a given week, zero observers would be placed that week and two the next week. Budget limitations have an effect on the actual number of observed trips. In addition, in the past two years, coverage of the lobster fishery severely reduced the number of observed longline trips during the 3rd quarter because longline observers were deployed upon lobster vessels.

In the Monterey Bay halibut set gillnet observer program, vessels are chosen depending on which vessels have their nets in the water. If only one vessel has their nets in the water, that vessel will be sampled routinely. If two vessels have nets in the water, the observer coverage will alternate between vessels. The sampling design is more systematic than random.

G2. CONCLUSIONS

Sampling by the observer program is more opportunistic than random. In Hawaii, depending on when vessels call in during the week will determine if they are included in the drawing for an observer. In Monterey, vessels are routinely sampled at an observer coverage rate of 25% to 35% which means the vessels are observed every second or third trip.

G2. RECOMMENDATIONS

None.

G3. CONTROL TECHNIQUE

The NMFS notifies vessel owners/operators by certified mail of the requirements to carry an observer when requested.

G3. TEST QUESTIONS AND FINDINGS

Interview the program managers and examine records of vessels selected for coverage last year.

- Were the vessel owners/operators selected for coverage sent certified letters notifying them of the requirements?

At the beginning of the Hawaii longline observer program, vessel owners and operators were sent a certified letter notifying them of their obligation to carry an observer. Vessel owners are now notified of their obligation to carry an observer when they telephone the Hawaii longline observer program with their departure information. In addition, information about the observer program and the call-in requirements are sent to the vessel owners when they renew their limited longline entry permit. The Monterey Bay halibut set gillnet observer program sent a certified letter to the vessel owners and operators notifying them of their obligation to carry an observer when the program was started in 1999. Subsequent to this letter, the vessel owners and operators have been reminded of their obligation to carry an observer at the voluntary skipper education workshops and by the observers at the docks.

G3. CONCLUSIONS

Vessel owners and operators are notified by certified mail at the time observer programs are started. After the initial start-up, vessel owners and operators are notified of their continued obligation to carry an observer through other means such as skipper education workshops, telephones, and in-person meetings at the docks.

G3. RECOMMENDATIONS

None.

H. RISK

The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE

Observer data is complete and accurate.

H1. CONTROL TECHNIQUE

The NMFS Manual describes procedures for data collection.

H1. TEST QUESTIONS AND FINDINGS

Examine the Manual.

- Are the procedures complete and up to date?

Manuals are updated prior to each observer training session. Any changes in data collection protocols are implemented by issuing a Data Update Circular memorandum.

- Have they been distributed to all observers?

Manuals and updates are distributed to all observers, Southwest Region program managers, and Southwest Fisheries Science Center principal investigators.

H1. CONCLUSIONS

Manuals are constantly being updated because of changing data collection priorities. The Data Update Circulars provide the observers and scientists a mechanism to implement changes without updating the entire manual. Ideally, training is conducted on an annual basis enabling manuals to be updated annually. The distribution of manuals and Data Update Circulars to observers is complete.

H1. RECOMMENDATIONS

1. Observer field manuals will be made available to various users (observers, scientists) and other interested parties (regional program managers, interested observer candidates) through the internet.

Responsible Official: Observer Training Coordinator

Completion Date: January 2001

H2. CONTROL TECHNIQUE

The Data Coordinator reviews the observers' data, (including checks for inconsistencies, spot-checking, data-range reporting, and species identification).

H2. TEST QUESTIONS AND FINDINGS

Interview the Data Coordinator and examine a sample of preliminary data records processed last year.

- Were corrections made to the data (in blue and green pencils, etc.)?

For both the Monterey Bay halibut set gillnet and the Hawaii longline observer programs, the observer edits their own data using blue pencil. For the set net program, the Data Coordinator completes any changes in green pencil. For the Hawaii longline observer program, the Assistant Operations Coordinator is responsible for reviewing the data. The data are entered into the database by the observer. Afterwards, the data are read back by the observer and another observer to verify that the hard copies were correctly entered into the database by comparing the hard copies with the information on the computer screen. After the two observers verify the hard copies of data with the electronic copy, the observer moves the electronic data to an area where only program managers can access the data. At this point, the operations coordinator conducts the final check on the data, by verifying the hard copy of the data with the electronic copy of the data. This step is facilitated by a program that conducts queries and sorts to check size

frequencies, species codes, number of fish caught, positions, dates and so on. Any changes that are made at this point are made in red pencil.

- Were the data approved before being released to the Data Editor?

For the Monterey Bay halibut set gillnet observer program, the Data Coordinator reviews all data to ensure completeness before releasing the data to the Southwest Fisheries Science Center. In the Hawaii longline observer program, the data are approved by the Assistant Operations Coordinator prior to releasing the data to the principal investigators.

Interview the observers.

- Were debriefing instructions clear and easy to follow?

Nine observers (100%) indicated that the debriefing instructions are clear and easy to follow.

- Was your debriefer able to provide adequate information you needed in a timely manner?

Nine observers (100%) indicated that the debriefer was able to provide adequate information in a timely manner.

- Were your instructions for data corrections clear?

Nine observers (100%) indicated that the instructions for data corrections are clear.

- Did your debriefing help prepare you for future cruises?

Ten observers (100%) indicated that the debriefing did help them prepare for future vessel assignments.

- Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members?

Eight observers (67%) indicated that they could freely communicate to observer program staff their concerns, problems, and dissatisfaction with vessel personnel. Four observers (33%) indicated that they did not feel that they could express their concerns, problems, and dissatisfaction.

- Were you treated with respect/professionally during the debriefing process?

Ten observers (100%) indicated that they were treated with respect and professionally during their debriefing process.

- Are you satisfied with the observer evaluation system?

Seven observers (70%) indicated that they are satisfied with the observer evaluation system. Three (30%) indicated that they are not satisfied with the evaluation system because of the lack of rewards.

- How do you think the evaluation system process affects observers' future work quality/morale? A. Useful feedback; B. Provides incentive to do good work; C. Provides incentive to limit information shared with the debriefer; D. Encourages changes to data to facilitate debriefing process/or improve personal evaluation; E. Demoralizing.

Eight (50%) indicated that the information provided during the evaluation is useful feedback. Three observers (19%) indicated that the evaluation system encourages changes to data and facilitates debriefing. Two observers (13%) indicated that the evaluation system provides an incentive to do good work. Two observers (13%) indicated that the evaluation system encourages observers to limit the information shared with the debriefer. One observer (6%) indicated that the evaluation process is demoralizing.

H2. CONCLUSIONS

The data are approved prior to releasing the data to the Southwest Fisheries Science Center's La Jolla or Honolulu Laboratories. The debriefing instructions are easy and clear to understand. The debriefer is able to provide adequate information to the observer in a timely manner. The debriefer provides clear instructions to the observer on data corrections. Debriefing is important for preparing observers for future vessel assignments. Not all observers are comfortable confiding in observer program staff. Most observers think the evaluation system is fair and equitable although some employees do not think the system is adequate.

There is a thorough system of checks that ensures observer data are accurately recorded and entered into the database. Most observers feel that the evaluation system is a positive mechanism for providing incentive to observers to collect better data. Two or three observers indicated that the evaluation system does not provide an incentive or encourage observers to share information with debriefers.

H2. RECOMMENDATIONS

None.

H3. CONTROL TECHNIQUE

The staff safeguards raw data, logbooks, and electronic data.

H3. TEST QUESTIONS AND FINDINGS

Interview the in-house staff.

- What steps do you take to protect and restrict access to critical, confidential or proprietary data?

For the Monterey Bay halibut set gillnet observer program, hard copies of observer data, logbooks, and other sensitive information are protected by lock and key at the field station and at the regional office. Only the observers have access to the data at the field station and the Data Coordinator at the regional office. The electronic observer data reside at the field office computer and the Data Coordinator's work station which are password accessible. In the Hawaii longline observer program, the hard copies of the data are kept in a locked file cabinet in which only program managers have access. The database is accessible only by the observers and program managers. Once the observer is done with the review process, only the program managers have access to the electronic data.

Interview the observers.

- Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example, through the Freedom of Information Act? If yes, has this affected your reporting of information?

Ten observers (91%) indicated that they were not concerned about the information being accessed by the fishing vessel or fishing industry through the Freedom of Information Act. One observer (9%) indicated concern that the data may be accessed by the fishing industry. None of the observers reported that having the information available under the Freedom of Information Act has affected their data collection.

H3. CONCLUSIONS

The current procedures in place are adequate to secure observer data during the editing, entering, and review process. Data collected by observers should be impartial, factual and objective so that the release of the information to the industry would not be a concern. The concern about releasing observer data to the fishing industry is not compromising the data collected by observers. Any data released would protect the confidentiality of the vessel and observer.

H3. RECOMMENDATIONS

None.

H4. CONTROL TECHNIQUE

The observer program staff updates the observer field manual and data collection protocols/priorities annually, coinciding with observer training classes.

H4. TEST QUESTIONS AND FINDINGS

Examine the latest manual and update circulars.

- Are they current?

The data collection protocols and priorities of the manual and Data Update Circulars are current. However, there is no section in the observer field manual that discusses the completion of a safety checklist prior to departing on a trip.

H4. CONCLUSIONS

The program management sections of the observer field manual should be reviewed and revised, especially sections that provide guidance on conducting vessel safety inspections.

H4. RECOMMENDATIONS

1. Update the section of the observer field manual that discusses completing a pre-cruise safety check.

Responsible Official: Observer Training Coordinator

Completion Date: November 2000

H5. CONTROL TECHNIQUE

The observer completes a post-cruise questionnaire and, if necessary, meets with an enforcement agent.

H5. TEST QUESTIONS AND FINDINGS

Examine a sample of the post-cruise questionnaires for last year.

- Are these questionnaires available for every cruise and filled out completely?

There were 38 trips completed by the Hawaii longline observer program in 1999. All these trips had a post-cruise questionnaire completed. None of these trips were referred to enforcement. As of June 30, 2000, there were 28 trips completed. All of these trips had post-cruise questionnaires completed. Of these 28 trips, 3 have been referred to NMFS enforcement for further investigation. There were 168 trips completed by the Monterey Bay halibut set gillnet observer program in 1999. All these trips had a post-cruise questionnaire completed. One trip was referred to NMFS enforcement and the observer completed an interview with a NMFS enforcement agent.

- Was an enforcement report filled out when necessary?

Enforcement reports were completed for the cases referred to enforcement.

H5. CONCLUSIONS

Post-cruise questionnaires are completed after each trip. If necessary, the observer meets with an enforcement agent. Investigations were completed by NMFS Enforcement.

H5. RECOMMENDATIONS

None.

SERVICE DELIVERY MODEL: CONTRACT TO NMFS

ALASKA REGION - COOK INLET MARINE MAMMAL OBSERVER PROGRAM

NARRATIVE

Introduction

The National Marine Fisheries Service, Alaska Region, Protected Resource Division (PRD) contracts observer recruitment, observer deployment, and collection and delivery of data to a single contractor. The contract is competitively bid and is a cost plus fixed fee contract (CPFFC) awarded on the basis of best value to the government.

Cook Inlet Marine Mammal Observer Program (CIMMOP) responsibilities are shared. The NMFS sets program objectives and the statistical sampling design framework, and provides coordination, observer gear, data entry software, and statistical analyses of data. Training is conducted by the University of Alaska, Anchorage North Pacific Fisheries Observer Training Center (NPFOTC) and an independent consultant. Hiring and deployment of observers, debriefing, and all associated logistics are provided by a contractor. This contractor is also responsible for editing, entering and auditing data using the NMFS provided software.

The CIMMOP provides the NMFS with data necessary to assess whether a threshold level of incidental injury and mortality to marine mammals occurs in Category II salmon net fisheries. This program will collect the data over a two-year period (1999 and 2000) from salmon set and drift-net fisheries in Cook Inlet and their interactions with marine mammals with a focus on the beluga whale, *Delphinapterus leucas*.

The Statement of Work (SOW) for the current contract was developed by NMFS staff with assistance from an independent consultant. One PRD staff functions as the Contracting Officer's Technical Representative (COTR), and another may serve as a backup COTR.

The advertising and receipt of bids were conducted by the Western Administrative Support Center (WASC) and evaluated by a Source Evaluation Board (SEB) following standard government and Department of Commerce protocols and guidelines. A request for proposals was announced in the Commerce Business Daily as required. All subsequent correspondence with offerors during the evaluation of bids up to selection, and post award briefing was handled by WASC and PRD staff following prescribed standard competitive procurement procedures.

The contract was awarded to Data Contractors, Inc. (referred to from here as the contractor) of Anchorage, Alaska in June of 1999 with two option years. Work on the contract began immediately. The contractor is paid by PRD by submitting deployment expenditures every two weeks. The COTR reviews the expenditures to assure that the costs of the program are within reason. The COTR is then authorized to pay the contractor for the services rendered.

Fisheries Observed

The fisheries to be observed through the Marine Mammal Protection Act(MMPA) observer program in Alaska are limited entry, state-managed, inshore, salmon gillnet fisheries in Cook Inlet, Alaska. This includes both the set and drift gillnet fisheries. These fisheries occur within Alaska state waters primarily from June to the end of September. The drift-net fisheries are observed on board fishing vessels while the set-net fisheries are observed either from shore or from small skiffs.

Event Cycles

Staffing and Recruitment

The PRD has one full time permanent staff involved in CIMMOP. One other PRD staff may assist with program management and gear logistics.

The contractor has one staff member working as the CIMMOP Program Manager and one quality control technician located in Anchorage, Alaska. The contractor has five lead observers acting as field coordinators and debriefers. Lead observers are the field persons responsible for implementing the observer program in their districts. They are the contact people in the field coordinating with the NMFS in addressing sampling, data, and deployment issues and providing in-season reports. Lead observers are responsible for the oversight and tracking of debriefing, data reviews, and data editing and entry. Lead observers organize meetings with the fishing industry to provide updates and receive fishing industry input and concerns. In addition lead observers may collect data as observers on the fishery.

The contractor determines observer staffing needs in response to observer coverage requirements determined by the PRD. In 1999 only one observer training class was held so the contractor had to train an adequate number of observers to cover potential attrition.

All observer candidates must have a minimum of 30 semester hours or equivalent in applicable biological sciences, at least one undergraduate course in math or statistics, and experience with computer data entry. Observer candidates must be able to swim at least 50 meters and tread water for 15 minutes and possess current first aid and CPR certification prior to the observer training session.

In 1999, observer candidates had to have experience as successful observers in other observer programs. Observers with experience in small boat fisheries, such as salmon net fisheries or shoreside delivery groundfish fisheries, were preferred. For 2000, the NMFS requires that at least 80% of all observers have experience as successful observers, preferably in small boat fisheries.

The lead observers' qualifications must include those listed above for the non-lead observer candidates. In addition, the contractor considers the lead observer candidates' experience in leadership, supervision, chairing meetings, coordinating programs, debriefing observers, and other relevant experience in the selection process.

Training

All observer candidates must attend an observer certification training course conducted at the University of Alaska, Anchorage North Pacific Fisheries Observer Training Center (NPFOTC). Observer certification training is two weeks long. A portion (one to three days) of observer training may take place in the field at set-net sites and aboard fishing or research vessels. Certification training includes instruction on:

- ! the Marine Mammal Protection Act and purpose of marine mammal observers;
- ! salmon fishing gear, vessels and techniques;
- ! the Cook Inlet community and salmon fishing;
- ! marine mammal identification;
- ! seabird identification;
- ! salmon identification;
- ! fishing effort data collection;
- ! interaction data collection;
- ! sighting data collection;
- ! specimen collection techniques;
- ! small boat safety;
- ! marine safety and survival;
- ! and bear safety.

A series of homework assignments and tests are administered during training. Attendance to the class was the minimum standard for certification.

As part of their certification training, observers undergo safety, basic seamanship, and cold water survival training. Observer candidates must demonstrate an ability to swim 50 m without flotation and tread water for 15 minutes. Observer candidates are required to demonstrate the ability to don an immersion suit in a timely manner, enter the water, and swim 50 m. Candidates who have completed all aspects of training receive an observer certification from the NMFS. Marine Mammal certification is valid for one fishing season only. Certified observers who successfully completed deployments in the previous fishing season must attend a one-week re-certification training course. Previously certified observers who did not successfully complete deployments in the previous fishing season must repeat the full certification training.

The NMFS has retained the right to reject any returning observer proposed by the contractor if the observer's performance was unsatisfactory on previous projects, or if their behavior on previous projects was unprofessional.

Deployment and Logistics

Deployment

Prior to the beginning of each fishing season the NMFS establishes the required observer coverage level and observer effort distribution of the fishery. The NMFS reserves the right to change the level of coverage and observer effort distribution. The contractor provides the required number of observers to meet the established level of coverage assigned by the NMFS. The unit of observer effort is a "net day"(vessel or set-net site). A "net day" is defined as any day

in which a vessel or set-net site fishes for at least six hours within a 24 hour period. The hours of fishing on days in which fishing effort is less than six hours may be summed to meet net day coverage requirements. It is difficult to predict future coverage requirements for the Cook Inlet fisheries, as returns and fishing opportunity in 1998 were below expected. Using effort data over the last five years from Alaska Department of Fish and Game (ADF&G), the PRD estimated the 1999 fishing effort potential for the set-net fishery at 300 observed net days and 180 net days for the Cook Inlet drift gillnet fishery. In 2000 the coverage requirement for the Cook Inlet set-net fishery is 300 observed net days and coverage for the Cook Inlet drift gillnet fishery is 180 observed net days. However, coverage levels may change to respond to data requirements. Additionally the NMFS may require that observer distribution reflect higher coverage levels in some subareas than in others.

The contractor determines the number of observers required to adequately meet the coverage requirements outlined by the NMFS each year. The NMFS provides a guideline for the number of observers for each fishery. In 1999 the NMFS anticipated it could take approximately 20 observers to observe 480 net days. In 2000, the NMFS anticipates it will take approximately 25 observers to cover this fishery and observe 480 net days. Since fishing effort fluctuates throughout the season, the contractor is able to adjust observer deployment levels to avoid bias and not over-sample when fishing effort is low.

The NMFS determines and informs the contractor of the needed distribution of observer effort. The NMFS requires the contractor to efficiently deploy observers to meet coverage and sampling goals. The NMFS also requests that the contractors accomplish this while minimizing the imposition to fishers. Depending on sample design and data needs, the NMFS may require that observer effort be distributed randomly, stratified, or proportionally across the area of the fishery and through the season. A goal is that the assignment of observers be fair and equitable among vessels or set gillnet sites in a fishery to avoid overly burdensome observer coverage.

The contractor maintains communications and deployment effort logs on vessel and set-net observations and on failures to observe. These logs are made available to the NMFS along with the collected data. This log is maintained on a database approved by the NMFS and includes the permit number, the vessel's name, the fisher's name, the date and area requested to observe fishing operations, the success of the request, amount of time observed, any important details regarding the assignment, and the date, area, and success of the deployment.

Prior to the fishing season the NMFS and the contractor conduct meetings with local fishing organizations and distribute information concerning the nature of upcoming observer activities. The NMFS notifies all participants in each monitored fishery that they will be required to carry observers if requested to do such by the contractor. Observer coverage is mandatory for all commercial gillnet salmon fishers in Cook Inlet when requested to do so. Failures to take an observer when requested, incidents of interference, harassment, or intimidation are all potential violations of the Marine Mammal Protection Act. Observers report these violations to the contractor who is required to report them to the COTR. These cases would be investigated, and, if warranted, prosecuted by the NMFS Enforcement.

Working with vessels and set gillnet operators to meet observer coverage requirements is perhaps the most challenging aspect of the contractor's responsibilities. The contractor is expected to understand that the fisheries are dynamic and often unpredictable - due to weather, breakdowns, fishery openings and closures, and other events. Close contact with the fishers, ADF&G, and the NMFS is required to determine and respond to fishing effort and marine mammal distribution throughout the fishing season.

The contractor is expected to encounter difficulties in placing observers at both the set-net sites and on the drift-net fishing vessels. Placing observers at remote set-net sites and moving them from site to site requires the use of a larger support vessel. In the drift-net fishery, vessels often do not return to the port they left from or anchor up in rivers and not return to port between openers. Additionally, some drift-net vessels do not have facilities to carry observers for an entire opener. Therefore, the contractor is required to supply alternate means of transportation to place observers on these drift-net vessels that cannot be reached from the dock. Some monitoring of fishing activity is conducted from research vessels and other remote platforms, but most monitoring occurs from onboard the observed fishing vessel.

Logistics

The contractor makes the necessary arrangements to support observer deployment-related logistics, including (1) travel from the training site to the port of initial embarkation or set-net site, (2) all travel between ports to redeploy an observer while on their tour of duty in Alaska, (3) in-season debriefings, as required, (4) monitoring of vessels or set-net sites, (5) travel from the final port of debarkation or set-net site to the training site. The contractor also provides all air travel, other commercial travel when air travel is not available, excess baggage fees, lodging, ground transportation, and other appropriate miscellaneous expenses.

Insurance

The contractor provides accident and health insurance for observers while they are employed. Observers must be adequately covered by policies insuring against injury, loss of work, liability, accidental death, etc. Insurance is required during the entire period an observer is employed, including during training, during traveling to and from port, while standing-by in port, during at-sea deployment or while on site for set-net monitoring, and debriefing. The contractor maintains an insurance program for its observers that adequately covers the contractor's liability for observers injured on the job, under applicable federal and state laws. Supporting documents and certificates of insurance are provided by the contractor to the NMFS prior to an observer's deployment.

Equipment and Supplies

The NMFS provides each observer with the sampling and safety gear required to perform observer duties. All gear and equipment are returned to the NMFS in clean working order, either at the completion of the tour of duty, or pursuant to a schedule determined by the NMFS. The contractor and their employees maintain all supplied equipment in good working order. All equipment is regularly inspected, cleaned, and, if appropriate, repaired by the contractor. The contractor replaces certain gear or equipment items if they are damaged, lost, or stolen. These

are not reimbursable costs. The NMFS may adjust the required sampling equipment and safety gear issued to observers at any time.

The contractor is liable for loss of property where the loss or damage results from willful misconduct, negligence, or lack of good faith on the part of the contractor or its employees. The NMFS retains the right to modify gear specifications to meet research collection needs.

All equipment provided by the government or purchased by the contractor and billed as a direct cost under the contract is considered the property of the government. Upon completion or termination of the contract, all government property, equipment, and supplies are returned to the NMFS.

Observer Safety

The contractor is responsible for providing a safe work environment for their employees. The observer and contractor may choose not to board a particular vessel or go to a particular set-net site if either consider the vessel or set-net site unsafe. In this case, a written statement must be presented to the NMFS stating the conditions on which that finding is based. Vessels that are determined unsafe are still obligated to carry an observer and must cooperate with the program to allow their fishing operations to be observed. The observers may monitor fishing operations from a chartered vessel or other means until the safety concerns on the fishing vessel have been addressed and the vessel can be safely boarded.

Severe weather and dangerous sea conditions may prohibit the ability of observers to safely conduct at sea transfers and board fishing or chartered vessels on the grounds. The contractor is required to document these incidents through a NMFS approved log, including the dates, times, and conditions that prohibit an observer's deployment. Similarly, certain conditions may prohibit observers at set-net sites from conducting their duties safely. Observers document when they are unable to sample.

Fishing Industry Outreach

The contractor is required to provide a plan for promptly dealing with complaints or concerns expressed by community or industry representatives. As part of this plan, the contractor must ensure that interested parties are provided with appropriate names, phone numbers, and addresses required to initiate this contact with a responsible contractor representative. If meetings between the contractor's staff and community or industry representatives are arranged, the contractor provides the COTR with the opportunity to attend. At the COTR's request, the contractor provides a representative to attend industry meeting arranged by the NMFS or other interested parties. The contractor can cooperate with the industry in addressing concerns as long as the NMFS' guidelines are followed.

Data Collection

Data are collected according to detailed procedures prescribed in the observer sampling manual. Specific instructions for the collection of data and biological samples, and recording of data on the forms are included in the manual. The manual was written by an independent consultant, edited

by NPFOTC staff, and reviewed by PRD staff.

Observers are provided with required sampling equipment for sampling fish, marine mammal, and incidental bird takes. Lack of work space, broken or missing equipment, unsafe working conditions, sampling under rough sea conditions, lack of cooperation from the crew as well as observer errors may contribute to incomplete data collection.

Biological sampling of marine mammals is accomplished in accordance with established protocols which range from full necropsy or full body collection to simple determination of species, sex, and length. Observers are provided with standardized data collection forms, as well as the materials, and equipment necessary for the collection of the data.

The contractor is responsible for transporting biological specimens and providing commercial freezer space for storing frozen specimens. All biological specimens are properly secured and maintained by the contractor until the samples are transferred at the conclusion of each fishing season, or sooner if requested by the NMFS. The NMFS assists by providing chest freezers to the contractor upon request.

The contractor is required to maintain a specimen log that indicates the types of samples that have been collected. The specimen log includes at least the following information: sample type, species name, specimen number, storage location, and date deposited at the contractor's storage facility.

Data Entry and Data editing

The contractor is responsible for in-season data entry. In-season data are kept current and entered into NMFS-approved databases by observers according to a regular weekly schedule, preferably after each trip. In 1999, the contractor sent summaries of data collected on a biweekly basis. For 2000, the contractor is to send copies of the entire data via electronic mail and on disks to the NMFS on a regular weekly schedule or as requested during the season. These data include current weekly fishing and observer effort, marine mammal and bird bycatch data by district and opener, and the specimen logs. The contractor maintains current back ups of all entered data.

The contractor maintains a data quality assurance program and a data tracking system which ensures that the data are collected, corrected, and entered into the computer accurately. The contractor's quality control technician completes these quality-assurance processes and makes any necessary corrections before sending data to the NMFS. Any post-cruise changes to the data are made with a colored pencil. The identities of the individuals making the corrections are written on the data form by a code or name. This is to ensure that questions can be directed to the appropriate individual later if necessary.

All data collected, including all the original data sheets, observer log books, other relevant data, and reports are submitted by the contractor to the NMFS upon the completion of the contract. The NMFS notifies the contractor of final acceptance of all reports and data and evaluates the quality of the data and reports submitted by each observer. The contractor is responsible for making sure all data corrections are made. The NMFS performs periodic evaluations of the

contractor's performance, and provides the contractor with results and recommendations for improvement.

Debriefing

Observer debriefings occur three times: 1) after each deployment, 2) after each opener if possible, and 3) at the end of the fishing seasons for a year. Deployment is any trip on a vessel or time spent at a set-net site. An opener is a period in which fishing is allowed on a particular salmon run. Fishing season is the entire summer fishery for salmon in Cook Inlet.

The contractor is required to conduct in-season debriefings of each observer at the end of every deployment. The in-season debriefings consist of: (1) a preliminary interview reviewing sampling methods, answering questions, and discussing observer concerns; (2) preliminary data review; (3) observer correction of any data errors noted; and (4) a review and correction of any errors from data turned in by the observer in a previous debriefing. The contractor coordinates with the NMFS to track observer progress and ensures observers are completing all work in a reasonable and timely manner. This quality control process is time consuming, with observers spending at least six hours each week in debriefing, reviewing data, and making corrections.

The contractor is required to conduct debriefings after each opener whenever reasonably possible. Logistical and timing constraints require some debriefings to be postponed to once a week, or occasionally at longer intervals. The contractor must ensure that in-season debriefings occur on a regular and timely schedule so that quality data are provided for bi-weekly summary reports.

All debriefings are conducted by observers certified through this program. Debriefing duties are sometimes shared among small groups of observers in a port or carried out by a designated lead observer. The NMFS provides the contractor with debriefing guidelines including a debriefing check list and protocols. The contractor works together with the NMFS to continually improve the debriefing protocols.

The SOW specified that a NMFS staff would be available to assist the contractor with debriefings in the field, particularly at the start of the season. Further, the NMFS could accompany observers into the field on occasion and hold meetings with observers and lead observers to address questions and review the progress of the program. In addition, during the first year a NMFS appointed debriefer would be located in one port and travel to several ports and provide occasional debriefing oversight, offer assistance, and answer questions on sampling and other aspects of the program. The NMFS debriefer would notify the contractor of the scheduled NMFS debriefing period. The contractor and the NMFS were then to arrange for best time and place for such meetings.

A final debriefing is required for each observer at the end of the fishing season or their tour of duty. These debriefings take place at the NPFOTC training facility or a designated port in the field. Because the in-season debriefings serve to correct most problems with collecting and recording of the data, the final debriefing would consist of a review of any outstanding data problems, a review of the observer's performance throughout the fishing season, writing of any

necessary affidavits or reports, turning in any additional biological samples, and turning in gear and equipment to the NMFS. An observer can expect the final debriefing to last one to two days. The contractor is ultimately responsible for making any changes or corrections to the data and reports requested by the NMFS prior to final acceptance.

In addition the contractor attends a final debriefing with the NMFS to answer questions, review the program's progress, and develop constructive solutions to challenges that may have presented themselves throughout the year. The contractor representatives include staff who have acted as lead observers or have adequate understanding of the issues concerning the program's implementation during the fishing season. These meetings are held at the NMFS offices in Juneau, Anchorage, or Seattle.

The NMFS notifies the contractor of final acceptance of all reports and data collected and entered. The NMFS then advises the contractor of the quality of the data and reports submitted. The contractor is responsible for making sure all data corrections are made. During the contract the contractor retains any photocopy or facsimile or other recorded copy of the original data. At the completion of the contract and after all data has been accepted, the contractor must destroy these copies. All work products are the property of the NMFS and cannot be used in any way by the contractor.

The contractor provides the IBM-compatible computers, printers, and software necessary to support the data entry and database program in each port office where observers are regularly debriefed. The NMFS developed and provides the data entry and data storage program. In addition, the NMFS provides some of the basic communications equipment. The contractor has staff and technicians with expertise to troubleshoot and manage minor in-season database problems and address other computer software and hardware problems that may arise during the field season. It is preferable that each port office has an observer that can fulfill this duty. If the contractor uses a consultant or staff person in this capacity, rather than an observer, it is preferable, but not required, that the "Data Technician(s)" participate and successfully complete relevant sections of the observer training. This ensures that the Data Technician has a clear understanding of all the data collection elements, data fields, definitions and data collection priorities.

RISKS, OBJECTIVES, CONTROL TECHNIQUES, TESTS, FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

A. RISK

Funds for the observer program may be unavailable for obligation consistently and on time.

A. CONTROL OBJECTIVE

Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE

Observer program managers obtain and issue funding guidance in sufficient time to solicit and negotiate contract support.

A1. TEST

Interview the COTR and Contractor office manager.

- In 1999, were funding levels known in sufficient time to review and accept contract proposals (i.e., for internal controls such as considering acquisition strategies, developing the SOW, issuing the RFP, reviewing proposals, negotiating with vendors, and awarding the contract)? If no, did this make it more difficult to contract for qualified observers or increase the cost of doing so? Would an alternative service delivery model achieve better results? If yes, how?

A1. FINDINGS

Funds are allocated to the CIMMOP through an internal competitive process from the Washington D.C. Office of Protected Resources (OPR). The Recover Protected Species Marine Mammal Funding Panel (the Panel) annually reviews internal NMFS proposals on a national basis and makes funding recommendations. In 1996, the Panel recommended the OPR fully support the Alaska Region Category 2 Fisheries Rotational Observer Program, including the CIMMOP, for three years. Due to the lack funding and FTEs, not all fisheries could be monitored. in a single year. The PRD received monies for the Category II fisheries marine mammal observer programs from the OPR in 1997, but the staff assigned to this project moved to another position and could not be replaced in time for the 1997 fishing season. The PRD could not complete the project, and returned the funding to the OPR. The PRD hired new staff for this project at the end of 1997 and made plans for an observer program for the 1998 fishing season. The NMFS redirected funds for the rotational program in 1998 and the program was postponed until 1999. In 1999, the NMFS approved funding for this project and made these monies available to the CIMMOP in April. The contract was awarded to the contractor in May.

All parties interviewed identified the short notice of funding as an area of concern during the 1999 season. The COTR and the contract manager for the contractor identified the uncertainty of funding amount and time of funding disbursement as a concern. The complicated funding mechanism for this program makes it impossible for the COTR to predict the timing or the amount of funding to be received. Planning for the program can only occur after the COTR has received the funding and knows the amount. Although the lateness of funding may not have increased the overall costs of the program directly, it may have limited the number of respondents to the Request for Proposals (RFP). There were several organizations that may have qualified for the program but did not respond to the RFP.

The late funding also impacted training because the NPFOTC was given little time to prepare for the 1999 CIMMOP. Both the NPFOTC trainer and an independent consultant stated that they

did not have adequate time to plan training curriculum, class exercises, or the sampling manual. The observer manual was not complete at the beginning of training and the trainers distributed the manual to observers as each section was completed.

Without timely funding, the COTR and the contractor manager were unable to plan strategically for the 1999 season. The NPFOTC trainer was conducting the training class at the same time the COTR was determining the coverage levels that could be obtained for the amount of funding available and number of observers recruited. After determining how much coverage could be obtained, the COTR and the contractor manager were then required to determine what the best distribution of observers would be to meet the program objectives. The number of vessels and sites observed was limited by the number of observers that were recruited and trained prior to the season and amount of funding available to the program.

Finally, the lack in planning time created problems during the fishing season. Observers from this program collected most of the data in an opportunistic manner rather than in the planned random collection method. The contractor encountered logistical difficulties in placing observers on vessels and at set-net sites. These problems may have been caused due to a lack of time given to the contractor to address these difficulties prior to the fishing season.

There are currently eleven Category II fisheries in Alaska. Three of these fisheries were observed prior to the rotational program¹. Under the rotational observer program the PRD was to create observer programs to observe the remaining eight fisheries. Due to the recent availability of funding, the rotational program has only monitored two of these fisheries to date; the Cook Inlet drift-net and set-net salmon fisheries.

Under the MMPA, the NMFS is responsible for conducting observer programs in the six remaining Category II fisheries in Alaska, and revisit the fisheries observed in the past. Under the current system the minimum time frame for this project would be no less than 21 years. With breaks in funding, as has occurred in the current funding system, this task is estimated to take significantly longer.

During the interview the COTR indicated that he believed an alternative funding process could achieve better results. For example, through an MMPA task base, funding could be secured for an Alaska Region Category II fishery observer program. This would allow for a more stable funding process, allow the program managers to know funding levels well in advance of seasonal openings, and allow more time to plan for each year's tasks.

A1. CONCLUSIONS

Late funding in the 1999 season caused several operational problems.

Funding to meet MMPA needs is not sufficient.

¹One of these fisheries has been re-categorized as Category III because of observer data.

An alternative funding structure may achieve better results.

A1. RECOMMENDATIONS

The Chief, Protected Resource Division, Alaska Region should inform the Chief, Office of Protected Resources of the difficulties incurred in the CIMMOP due to untimely funding.

Completion Date: September 30, 2001

Responsible Official: Chief, Protected Resource Division, Alaska Region

The Chief, Protected Resource Division, Alaska Region should ask the Chief, Office of Protected Resources to consider simplifying the funding process to ensure funding is timely. One possibility would be to secure funding from sources other than the internal competitive funding system and establish the program through stable funding.

Completion Date: September 30, 2001

Responsible Official: Chief, Protected Resource Division, Alaska Region

The Chief, Protected Resource Division should inform the Chief, Office of Protected Resources of NMFS's need to seek additional funding to meet its MMPA obligations.

Completion Date: September 30, 2001

Responsible Official: Chief, Protected Resource Division, Alaska Region

If sufficient base funding is obtained the NMFS should consider long-term contracting to provide observer services.

Completion Date: September 30, 2001

Responsible Official: COTR

B. RISK

The costs of providing observers may be excessive or mis-allocated within government and industry.

B. CONTROL OBJECTIVE

The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE

The NMFS purchases, stores and issues all sampling and safety gear.

B1. TEST

Interview the Contract Property / Supply Officer.

- Are there procedures that insure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?
- How are purchases accounted for? Do you match the deliveries with the shipping document, and the receiving document with the purchase order?
- How is the equipment maintained? Do you warehouse, limit access, account for custody and use, periodically review?
- Is adequate protection provided against access to inventories by outsiders or unauthorized employees?
- Are the facilities optimal in terms of cost and location?

Examine the inventory records, sign out sheets, etc.

- Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?
- Last year, did observers return all gear and equipment to the NMFS at the end of their tours or on schedule or at the completion of the contract?

Examine the storage facilities for inventories.

- Do they provide adequate safekeeping?

B1. FINDINGS

The NMFS provides each observer with the sampling and safety gear required to perform observer duties. The contractor is responsible for returning all gear and equipment to the NMFS clean and in good working order either at the completion of the tour of duty, or pursuant to a schedule determined by the NMFS. The contractor and their employees maintain all supplied equipment in good working order. All equipment is regularly inspected, cleaned, and, if appropriate, repaired by the contractor. The contractor replaces certain gear or equipment items if they are damaged, lost, or stolen. These are not reimbursable costs. The NMFS may adjust the required sampling equipment and safety gear issued to observers at any time.

The contractor is liable for loss of property where the loss or damage results from willful misconduct, negligence, or lack of good faith on the part of the contractor or its employees. The contractor is responsible for storing all gear during the duration of the project.

All equipment provided by the U.S. government, or purchased by the contractor and billed as a direct cost under the contract, is considered the property of the U.S. government. The NMFS inventories all equipment as it is received and retains a master list of government owned property. Upon completion or termination of the contract, the contractor must return all government property, equipment, and supplies to the NMFS.

Because the program is small the COTR and the contractor do not believe that there needs to be a formal procedure to insure that inventories will be reordered promptly. During the season the COTR communicates with the contractor and the contractor identifies equipment and supply needs as they arise. The contractor inventories gear distributed to observers and requires observers to report any lost or stolen items. The contractor submits written reports on lost gear to

the COTR at the end of each season. In 1999, the contractor only recorded two items as being lost. The contractor has accounted for all other items.

When new items are ordered the COTR compares deliveries of gear to the shipping documents when the gear is received. The COTR also compares the shipping documents with the purchase order to ensure that the goods ordered are the actual items received. The NMFS gear manager inventories all gear provided by the NMFS by recording the serial number or attaching a bar code to the item and recording this into an Access database.

The contractor stores all equipment for this program. While the program is operating all excess gear is stored at the contractor's office in Anchorage. During the program's off season, small gear items such as office supplies, and high value items, such as laptop computers, GPS equipment, and EPIRBs, are kept in an equipment room with limited access. Larger items such as a skiff and ATVs are kept in a locked storage facility in Anchorage. The contractor inventories bulky items such as immersion suits and other survival gear, then stores them in locking self-storage facilities in the towns of Homer and Kenai, Alaska. The contractor selected Homer and Kenai to store bulky items because these towns are strategically located near where observers are deployed and storing items at these locations reduced transportation costs. The contractor believes that the costs of storage are optimized in this manner. There is no cost accrued for items stored at the contractor's office. The contractor conducted cost comparisons with the other storage facilities located in Anchorage, Homer, and Kenai and found that the facilities selected were the lowest price for the amount of space needed.

The PRD is located in Juneau, AK -1070 miles from the sampling sites, and it is impractical to store gear at this location. In order for the PRD to store program equipment owned by the government, the NMFS would be required to rent storage facilities in Anchorage, Homer, and Kenai.

B1. CONCLUSIONS

The methods used to purchase and store gear are adequate.

B1. RECOMMENDATIONS

None

B2. CONTROL TECHNIQUE

The COTR monitors the costs plus fixed fee contract by comparing the invoices received from the contractor with the reports received from the observers.

B2. TEST

Interview the COTR.

- Do you compare the invoices for the services of individual observers with the records of the observer's activities? If yes, were they approved by a responsible official in accordance with the terms and conditions of the contract?

B2. FINDINGS

The COTR did not directly compare field data records with billing invoices on a one to one basis, but instead compared summaries of each. The COTR compared the summary of work completed to the summary of the invoices requested, but has not gone through the original data files individually. The COTR was responsible for signing invoices and did so in accordance with the SOW. The COTR believed that the task of reviewing each individual data file would be impossible during the season given the lack of staff and limited time frame of the project. The COTR assumed that reviewing the summary of work was adequate. The costs of the program were as expected for the amount of data produced.

B2. CONCLUSIONS

The work needed to determine if the invoices correctly account for work accomplished has not been completed.

B2. RECOMMENDATIONS

The COTR should request WASC to spot check observer reports received from the contractor and compare them to the contractor's invoices. If anomalies are discovered, the WASC may wish to initiate an audit of the contractor.

Completion Date: September 30, 2001

Responsible Official: COTR

B3. CONTROL TECHNIQUE

The NMFS requires that observer coverage in the Cook Inlet fishery be equitably distributed among vessels and sites.

B3. TEST

Interview the observer program manager and examine the communication and deployment logs prepared by the contractor for last year.

- How do you determine the most reasonable and fair way to deploy observers in this fishery? How was this communicated to the contractor last year? With what specific results?

B3. FINDINGS

Observer coverage in this fishery is based on the timing and location of fishery effort. Fishing effort is not evenly distributed throughout the fishing season and there are some areas that have a far greater number of permitted set-net sites and have more intense fishing pressure as the runs increase. Staff from the National Marine Mammal Laboratory (NMML) designed a system to maintain a constant proportion of coverage based on the amount of effort by area and time. This allowed the CIMMOP to attain adequate coverage levels and maintain equity between openers and fishing areas.

The CIMMOP attained coverage levels proportional to effort through close communication between the COTR, the contractor's office manager, and the ADF&G fishery managers. The

COTR and the contractor kept in close communication with the ADF&G fishery managers to monitor the concentration of effort and season openings and closings. The COTR communicated with the contractor several times weekly between season openers to discuss how coverage levels should be managed in the next deployment. Prior to the beginning of the 1999 season, the contractor and COTR conducted a preliminary investigation into the pattern of openers in the previous years' fisheries and during the 1999 season monitored the pattern of openers. This allowed them to roughly estimate coverage levels.

Once the COTR identified coverage goals, the contractor was allowed to make the decisions on where to place observers. The contractor planned a random sampling frame to determine which vessels or set-net sites would require observers. This system quickly broke down because it was not practical in the highly variable salmon fisheries. The planned random sampling frame became an opportunistic sampling frame within the first opener. After this, observers canvassed the salmon offloading docks for vessels or set-net sites to carry them.

Vessel operators from three vessels were documented by the contractor as refusing to take observers. The operators cited safety issues as their reason for refusing coverage. More vessels owners or set-net site operators may have refused coverage, but this was not documented. At least one of the lead observers in this program believed that coverage was voluntary and therefore observers may not have documented all refusals to carry them.

The COTR and contractor encountered some problems in determining coverage levels when there were limited numbers of fishers in an area. The COTR did not require vessels to carry observers on a repeat basis to ensure they were not overly burdened. Although the vessels did not have any direct costs associated with carrying observers, they may have had indirect costs due to observer activities slowing fishing operations.

B3. CONCLUSIONS

The coverage goals were met in the 1999 season.

The observer coverage in the Cook Inlet fishery was not distributed equitably because some vessels were able to refuse coverage citing safety concerns, and the contractor was unable to place observers randomly.

The mandatory coverage requirements were unknown to some fishery participants and observers.

B3. RECOMMENDATIONS

The NMFS should explore options and develop a policy for handling vessels which refuse mandatory MMPA observer coverage.

Completion date: September 30, 2001

Responsible Official: Program Leader, NOP

The NMFS should hold the contractor accountable for random observer placement as stated in the SOW. This includes maintaining a logistical support system to achieve this.²

Completion Date: September 30, 2001

Responsible Official: COTR

The NMFS should educate all Category II fisheries participants of mandatory coverage requirements.

Completion Date: September 30, 2001

Responsible Official: COTR

C. RISK

Qualified observers may not be recruited and/or retained.

C. CONTROL OBJECTIVE

Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE

The NMFS contracts with a private company to supply observers on a timely basis.

C1. TEST

Interview the program manager.

- Do you require the contractor to hire or retain a given number of experienced observers? If no, why not?
- Is a contract with the NMFS more or less cost effective than an alternative service delivery model (such as in-house observers) would be (in hiring qualified and credible observers quickly, assigning them usefully, and keeping them)? If yes, how (with reference to such factors as the function of “lead” observers, etc.)?

Interview a sample of last year’s observers in the Cook Inlet fishery.

- How did you originally learn about the observer program and observer jobs?
- What were the primary and secondary reasons for your interest in being an observer?
- Was the observer pay level an attractive incentive for first becoming an observer?
- How was your job interview conducted?

C1. FINDINGS

²For 2000 the contractor initiated a system for using GIS program site maps which allowed better random sampling at set-net sites and seems to have mitigated this problem for set-net sites. The problem of randomly selecting fishing vessels remains.

In 1999 the SOW required that all observers participating in the CIMMOP have prior experience in another observer program. All 27 observers recruited in the 1999 season had some experience in either the NMFS groundfish program or ADF&G shellfish program. The contractor was able to easily recruit people from other programs due to the usual slow down of other fisheries in waters surrounding Alaska during the CIMMOP's active months.

For 2000, the SOW allows the contractor to hire up to 20 percent inexperienced observers. The contractor has indicated that almost all of the observers recruited for 2000 will be experienced observers. The sole exception is an ex-ADF&G field staff member who has worked as a biologist in the Cook Inlet Region and the contractor recruited this person because of her expertise.

Fishery observers in the CIMMOP come primarily from the U.S. and Canada. Since they are not concentrated in one location and e-mail addresses were available for most, we used e-mail to survey the observers that worked in the CIMMOP in 1999 (See Appendix A). Of the 27 observers that worked in this program, 19 were sent surveys and 12 responded. The return rate was 63.2 percent. The 8 observers that were not surveyed either did not leave a means of contacting them or were unavailable.

Questions 1- 4 of the observer survey asked questions on how the respondents became involved in the observer program. The largest portion (50 percent) of respondents said they originally learned about the observer program and observer jobs through "other" means. This included direct notification by the contractor, bulletin board posting at the Seattle NPGOP office, and an announcement at a NPGOP briefing. Other respondents learned about the program from a friend (16.7 percent), and the remaining observers were informed through an announcement at college, a prior observer, an advertisement in a paper/ magazine, or other word of mouth.

We also asked observers to choose their primary and secondary reasons for their interest in being an observer (Question 2). Most respondents (41.7 percent) said the primary reason for their interest was for scientific or field experience, 25 percent were interested because of the pay, 8.3 percent were interested because they would be working on fishing boats, 8.3 percent were interested because it was work in the Alaska Region, and 16.7 percent indicated other reasons. Some were interested because the CIMMOP was a new challenge and others because it was in remote land areas in Cook Inlet. Secondary reasons for respondents interest follow closely, with 50 percent choosing scientific or field experience, 25 percent selecting work out of Alaska, followed by pay (8.3 percent) and other reasons (8.3 percent) specified as "adventure."

When asked if the pay level was an attractive incentive for first becoming an observer in this program a slim majority of respondents (58.3 percent), said this was an attractive incentive. Nearly forty-two percent stated that the pay level was not an incentive (question 3).

Question 4 of the survey asked how the job interview was conducted. The majority of respondents indicated that the contractor conducted job interviews over the telephone (75 percent), one observer (8.3 percent) indicated a personal meeting, one individual (8.3 percent) chose "none of the above," and one individual (8.3 percent) claimed "other" stating he

had “270 days at sea with the contractor.”

The COTR believed that an in-house recruitment model would not be better than the contractor in recruiting qualified observers. The NMFS would have similar challenges in recruiting observers seasonally. The NMFS would have further problems in that it would need to advertise the positions widely and sort through potential candidates for those that qualify. This can be a time consuming process in the federal system.

C1. CONCLUSIONS

The contract to the NMFS service delivery model appears to be working effectively for recruiting observers in this fishery.

C1. RECOMMENDATIONS

None

C2. CONTROL TECHNIQUE

The NMFS establishes minimum qualifications for observer recruits (for both regular and lead observers).

C2. TEST

Interview the observer program manager, and review last year’s performance and retention of observers in the Cook Inlet fishery.

- Are the minimum requirements for observer recruits, such as 30 semester hours in the biological sciences, appropriate (“too restrictive,” “about right,” or “not restrictive enough”)?

C2. FINDINGS

All observer candidates had a minimum of 30 semester hours or equivalent in applicable biological sciences, at least one undergraduate course in math or statistics, and experience with data entry on computers. All observers demonstrated the ability to swim at least 50 meters and tread water for 15 minutes. In addition, each possessed a current first aid and CPR certification prior to the observer training session.

In 1999, all observer candidates had experience as successful observers in other observer programs. Observers with experience in small boat fisheries such as salmon net fisheries or shore-side delivery groundfish fisheries were preferred. In 2000, at least 80 percent of all observers must have experience as successful observers, preferably in small boat fisheries. The COTR believes that with one year of data collection experience and management of the program behind them, lead observers and the contractor staff will be able to tutor a small number of inexperienced observers and achieve good results.

The lead observers’ qualifications were the same as regular observers with additional experience considered. The additional experience was to include experience with leadership, supervision, chairing meetings, coordinating programs, debriefing observers, and other relevant skills. In

practice, the contractor primarily chose lead observers by their field experience and past affiliation with the contractor and only secondarily by their supervisory aptitude or experience.

The COTR, contractor's office manager, NPFOTC trainer, and independent consultant felt that the educational and experience requirements were correct for this fishery. The data users were satisfied with the quality of the data and there were no significant injuries to any observer working in this program. Further, in 1999 only one observer quit during the season, leaving the program with an in-season attrition rate of 3.7 percent. The contractor has indicated that 15 of the 27 observers (56 percent) that participated in the 1999 fishery will also participate in the 2000 fishery.

Concerns about the lead observers recruited by the contractor surfaced in the observer survey. Responses to the survey indicate that there was some animosity between lead observers and regular observers. The majority (75 percent) of respondents to the observer survey thought that there were problems with the lead observer system in 1999. Many of these respondents felt that the lead observers were poorly trained for the position and were unable to provide adequate guidance during the season. A few also felt that there was difficulty in communication between observers, lead observers and the contractor management. There were some opinions that one or more leads may not have performed their duties to the standard specified in the SOW. These opinions were not in response to a direct question in the survey, but were conveyed in comments.

C2. CONCLUSIONS

The controls in place for the 1999 season were adequate and had the desired affect of recruiting qualified observers.

The program experienced difficulties in the 1999 season due to a lack of communication skills and leadership experience of the lead observers recruited by the contractor.

C2. RECOMMENDATIONS

The NMFS should require that lead observer qualifications include experience supervising people and coordinating tasks, or require training in these areas.

Completion Date: September 30, 2001

Responsible Official: COTR

C3. CONTROL TECHNIQUE

The NMFS rejects unsuitable observers recruited by the contractor during the initial training.

C3. TEST

Interview the observer program manager, and review the recent performance and retention of observers in the Cook Inlet fishery.

- How do you administer the basic educational and experience requirements for recruits?
- Do you reject unsuitable observers recruited by the contractor? If yes, for what causes

(uncooperative, abusive, inexperienced, skills lacking, etc.)? Was this disruptive or costly to the training process? If yes, does this suggest inadequate screening by the contractor?

Interview contractor staff.

- Do you screen observer recruits before sending them to the NMFS for training? If yes, how was this done last year (review of resumes, transcripts, etc.,) and with what results (“80% have proven experience as successful observers”, etc.)?

C3. FINDINGS

The contractor reviews candidates’ resumes and rejects any unsuitable candidates prior to sending them to training. The contractor then sends candidates’ resumes and transcripts to the COTR. The COTR reviews the resumes and transcripts and may reject any unsuitable observers recruited by the contractor prior to, or during, the initial training. The trainers may recommend that a trainee not be deployed if the trainee’s performance during the training is not to minimum standards. These standards were determined by the trainer. Both the COTR and the contractor review the trainer’s recommendation. The COTR may recommend the contractor reject the trainee prior to deployment or the contractor may reject the trainee without the COTR’s recommendation.

In 1999, the contractor reviewed each of the candidates’ resumes and transcripts. The contractor also conducted interviews to gauge the observer’s attitude towards working on smaller vessels and towards the project. All of the accepted candidates met the minimum educational experience and had prior experience as observers. All of the candidates had experience as observers in the North Pacific Groundfish Observer Program and many had additional experience in the Alaskan Shellfish Program.

The COTR reviewed each candidates resumes and transcripts. Additional clarification was needed on a few observers regarding previous observer experience, but the COTR did not reject any candidates submitted by the contractor before or during training.

All of the candidates fulfilled training to the standards determined by the trainer at the NPFOTC. The trainer felt that all of the observers were qualified to participate in this program.

The contractor’s office manager believes that the method of candidate review recruited high quality, professional observers. All but one observer completed the 1999 season successfully. The data of the one observer that did leave the program mid-season was still considered to be of good quality. The contractor felt very confident in the data the observers collected and believed that 90 percent of the observers worked out very well. The contractor’s office manager believed that the experienced observers were very adaptable to the situations faced in monitoring this fishery. The COTR concurred with this assessment and was pleased with the quality of data provided by these observers.

C3. CONCLUSIONS

The current review method is adequate and insures that quality observers are recruited and retained.

C3. RECOMMENDATIONS

None

C4. CONTROL TECHNIQUE

The NMFS oversees the contractor who is responsible for monitoring observer performance to ensure satisfactory execution of duties and conformance with applicable NMFS conduct and conflict of interest standards.

C4. TEST

Interview the program manager.

- Last year, was the work of certified observers properly supervised (assigned, reviewed, and approved)? If no, would an alternative service delivery model be better? How?
- What criteria (such as performance of duties, standards of conduct etc.) are used to fire observers? Are these criteria documented?
- Were any observers fired last year? If yes, in what situations?

C4. FINDINGS

The NMFS was unable to place staff in the field in 1999 due to funding and staff limitations. Therefore, the NMFS was unable to oversee the field work of the contractor or provide in-season sampling and debriefing guidance. The NMFS did review the data collected by each individual observer post-season. The NMFS also reviewed data in-season at the aggregate level. After conducting a post season review of the data and an aggregate in-season review of the data, the COTR believes that all observers had conducted their work adequately. He also believes that the contractor was adequately monitoring observer performance and conformance with applicable NMFS conduct and conflict of interest standards identified in the SOW.

The contractor provided lead observers to oversee all work conducted in the field. In 1999 the contractor deployed five lead observers in this program. Both the COTR and the contractor's office manager believed that lead observers provided an adequate level of oversight between the observers and the contractor's program management. The contractor did not need to fire any observers in 1999.

C4. CONCLUSIONS

Insufficient field monitoring makes it difficult to evaluate if the contractor or individual observers had performance or conduct problems.

The NMFS was unable to fulfill all of its duties under the SOW due to a lack of funding and staff.

C4. RECOMMENDATIONS

The COTR should inform the Chief, Protected Resource Division of the difficulties staff encountered in fulfilling NMFS responsibilities in monitoring the CIMMOP contract.

Completion Date: October 15, 2000

Responsible Official: COTR

The NMFS should prioritize time and resources to ensure staff can fulfill their responsibilities to monitor any future Alaska Region Category II fishery observer program contracts.

Completion Date: September 30, 2001

Responsible Official: Chief, Protected Resource Division, Alaska Region

D. RISK

Observers may not be properly trained to perform their duties.

D. CONTROL OBJECTIVE

Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE

The NMFS uses the University of Anchorage Observer Training Center to conduct comprehensive training courses for recruits and experienced observers.

D1. TEST

Interview the staff responsible for training (at the Anchorage Observer Training Center and the observer contractor).

- How does the NMFS establish the training requirements (subject matter and curriculum)? Does the observer contractor participate or assist in setting those requirements?
- Do you measure and demonstrate the success of the courses or the individual students? If yes, how are these tests administered (conducted, reviewed, and approved)? How effective are the tests in improving the training courses or the performance of the students?

Interview a sample of current observers in the Cook Inlet fishery.

- Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties (“very great use,” “great use,” “moderate use,” “some use,” or “little or no use”)?

D1. FINDINGS

The COTR, the independent consultant, the observer contractor, and the trainer at NPFOTC worked cooperatively to establish training requirements. The contractor was primarily consulted on logistical issues, but had some involvement in other training areas. The training developers relied heavily on experience from other observer programs they had experience with, including the North Pacific Groundfish and Alaska Shellfish Programs. They received input from a Sea Grant staffer who had trained observers in the Prince William Sound Salmon Drift Gillnet Program between 1989 to 1992.

During the course, trainers (including the independent consultant and NPFOTC trainer) gave several home work assignments, several quizzes, and a final exam. The final exam concentrated on species identification and instructions for filling out data forms. The trainers used these tools to evaluate the understanding of the individual observers. The trainers identified problem areas and focused attention on those areas. The trainers' intent in the homework, quizzes, and final test was to give students an overall understanding of where to look for information. These assignments also facilitated the trainers' ability to give an observer direct feedback on what the observer needed to study. The trainers and observers reviewed the test in class and the trainers centered class discussion around points of difficulty. The trainers felt that this method of instruction was effective. The trainers thought that the level of difficulty of the homework, quizzes and final exam was not high and that the material the observers needed to learn for this program was not difficult. The NPFOTC trainer felt that the level of knowledge and skill needed to perform well in this fishery was not high. Overall, he was satisfied with the observers' level of expertise prior to their deployment.

Most of the observers trained for this program were pleased with the training. Of the observers that responded to the survey 58.3 percent found the training to be of great or very great use, 25 percent found the training to be of moderate use, 8.3 percent found the training to be of some use, and 8.3 percent found the training to be of little or no use. One respondent identified the lack of a set grading or rating system for the class as a detriment. This individual perceived that some trainees believed that the trainer was not able to fail anyone from the class and therefore they did not participate fully in the training exercises. Two respondents identified the use of class time as an area needing improvement and thought that too much time may have been wasted on breaks instead of training exercises.

The training conducted in 1999 by the NPFOTC was conducted cooperatively rather than through a contractual agreement. While this proved successful in 1999, the NMFS lacked the authority to set training standards or even to ensure that the course took place.

D1. CONCLUSIONS

Overall observers felt that the training was useful.

Some trainees perceived that there was no performance standard to pass the class.

The NMFS lacks management controls over the training and cannot ensure that it occurs.

The NMFS did not require the class to be conducted to any set standards.

D1. RECOMMENDATIONS

The NMFS should contract observer training for this program with the NPFOTC.³

³Starting in June 2000, the NMFS contracted directly with the NPFOTC for CIMMOP training services.

Completion date: September 30, 2001

Responsible Official: COTR

The NMFS should ensure that performance standards are established for both the training course and the trainees.

Completion date: September 30, 2001

Responsible Official: COTR

D2. CONTROL TECHNIQUE

The NPFOTC trains observers in core competencies.

D2. TEST

Interview a sample of the most recent observers in the three fisheries.

- Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics was the training deficient?

D2. FINDINGS

In the observer survey we asked observers to rate the training conducted by the NPFOTC (question 8). The majority of respondents considered it “good” (33.3 percent) or “very good” (25 percent), while 25 percent considered it “fair” and 16.7 percent considered it “poor.” When asked how well the training prepared them, half (50 percent) of the respondents considered it “good,” 25 percent answered “very good,” 8.3 percent responded “fair,” and 16.7 percent considered it poor (question 9).

We also asked if the training observers received provided the skills and knowledge needed to accomplish their assigned tasks (question 10). The majority of respondents (66.7 percent) indicated that the training provided the skills and knowledge needed to accomplish the assigned task. One-third of the respondents stated that the training in 1999 did not provide the skills and knowledge needed to accomplish the assigned tasks. Of those who were dissatisfied with the class, several reasons were given. These include: 1) the trainers had not been experienced in the fishery prior to the training so were not prepared to instruct observers on the specifics of the fishery, 2) the lack of time to prepare for the training class, and 3) no training could have been adequate because on-the-job training was necessary to gain the skills and knowledge to do the job.

Question 11b asked observers what needed to be improved in the training. This question asked for a comment and was not limited to one answer, many of the respondents included a number of possible improvements to the training course. Several of the respondents replied that trainers needed to better address practical sampling issues. Others also identified a lack in practical application of lessons and sampling strategies in the field as an area of concern. Some observers questioned the experience of those conducting the training because neither the trainer nor the

independent consultant had participated in a similar fishery. Several observers indicated that the training lacked specific information on what to expect in the fishery and had not addressed some areas such as set-net distribution and speed of operations.

Several respondents believed that the lead observers were not adequately trained for the position. The NPFOTC did not train lead observers separately from non-lead observers. Lead observers were required to debrief observers and to correct data, as it was returned but they were not trained how to do these tasks. Lead observers relied solely on past experience in other fisheries and any other previous job experience to guide them. Some observers indicated that there was inconsistency between lead observers on how data was corrected and how lead observers instructed observers to collect data. One response to the observer survey indicated that inadequate training may have been an indirect factor involved in not obtaining random coverage.

D2. CONCLUSIONS

In 1999 the NPFOTC adequately trained non-lead observers in core competencies.

Some problems in training were due to trainers unfamiliarity with the Cook Inlet fisheries and the lack of available preparation time.

Training of lead observers was inadequate in 1999 and this led to operational problems.

D2. RECOMMENDATIONS

The NMFS should ensure that the NPFOTC incorporates the experience of 1999 observers in future training courses.

Completion Date: September 30, 2001

Responsible Official: COTR

The NMFS should clarify the responsibilities of lead observers and ensure they are trained appropriately.

Completion Date: September 30, 2001

Responsible Official: COTR

The NMFS should provide the NPFOTC trainer and independent consultant with a summary of the post season observer survey used to evaluate the training classes. The COTR should meet with the trainer and independent consultant to discuss issues encountered in the fishery and consider ways these issues could be resolved.⁴

⁴In June, 2000 the COTR provided the NPFOTC trainer a subset of the database so that observer performance could be reviewed for education purposes.

Completion Date: September 30, 2001

Responsible Official: COTR

E. RISK

The health and safety of observers may be impaired.

E. CONTROL OBJECTIVE

The health and safety of observers is protected.

E1. CONTROL TECHNIQUE

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST

Interview the observer program manager.

- How does the NMFS notify vessel owners and operators of their responsibilities and methods of compliance? What records do you keep about the performance of this outreach program? Are these records useful in improving the outreach program?
- How are observers instructed to spot check major items for compliance with U.S. Coast Guard regulations, (i.e., a current CG safety inspection decal, etc.)? Is there a critical form or process?
- What dispute resolution procedures does the NMFS and the Coast Guard follow when an observer and a vessel owner or operator disagree about the safety of a vessel? Are these procedures in writing (documented)? If yes, is there a clear, written chain of command? Is there required review, approval or sign off? Is there a provision for follow-up to insure that the health and safety concerns are corrected?
- What records, if any, do you keep about what happened when observers made pre-trip safety checks of vessels to which they had been assigned?
- Do these records indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems? That there was attempted or perceived pressure on observers by vessel owners or operators? If yes, do these records describe the actions and outcomes, including any delays, loss of fishing days, legal actions etc.?

Interview the DCI staff.

- What records, if any, do you supply to the observer program manager concerning health or safety problems that observers may have alleged or subsequent refusals to board these vessels?

Interview a sample of current observers in the Cook Inlet fishery.

- Were you provided with a health and safety “checklist”? Do you ever feel any pressure from the contractor or the vessel owner/operator to ignore health or safety concerns that you may have?
- During your last detail, did you identify any unacceptable health / safety conditions on the pre-trip safety check? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to

correct these conditions, such as notifying the owner/operator or the Coast Guard, or retaining the vessel in port? Were these conditions corrected to your satisfaction?

E1. FINDINGS

In the CIMMOP, the NMFS has not directly administered health and safety regulations at 600.725 (p)-(u) and 600.746. The contractor notified vessel owners and operators of their responsibilities and methods of compliance with these regulations. The contractor informed vessel owners and operators of observer requirements by participating in fishing association meetings and sending direct mailings to permit holders.

The cause of this problem was a conflict in the interpretation of the regulations between the USCG 17th district and the NOAA Alaska General Council and the COTR. The NOAA Alaska General Council and the COTR interpreted that there was inconsistency in the regulations between the MSFCMA health and safety regulations at 600.725(p)-(u) and 600.746 and MMPA health and safety regulations at 50 CFR 229.7 c(3). In essence the MSFCMA health and safety regulations state that a vessel which does not meet safety standards and cannot safely carry an observer, cannot fish until they do. The MMPA regulations state that the NMFS or the contractor can waive the observer requirement and the vessel can continue to fish without observer coverage. The USCG 17th District did not believe these regulation were inconsistent and only considered the regulations under the MSFCMA as pertinent. The USCG 17th District further interpreted regulations under the MSFCMA to mean that any vessel that did not have a safety decal would be considered unsafe, and therefore could not carry an observer.

In 1999, the contractor had no records of any safety issues arising. Observers did not record any occurrences of harassment, and only three instances were recorded of vessel owners or operators refusing to allow observers on board their vessels. In all three instances, the vessels were very small and the owners or operators claimed that safety issues precluded their ability to allow the observer on board.

The normal working environment on commercial fishing vessel is hazardous. The U.S. Coast Guard has inspected very few of the vessels involved in the Cook Inlet set-net and drift-net salmon fishery due to the size of the vessels (generally less than 60'). Although observers are not required to board a vessel that does not have a U.S. Coast Guard Commercial Fishing Vessel Safety Decal pursuant to Sec 600.746, the managers and trainers in this program have not emphasized this to either the observers or to the fishing industry in order to limit disturbance of fishing operations. The independent consultant was not certain that the vessels were required to carry a decal. Trainers did not instruct observers to look for safety decals. Instead, the trainers conducted a 1 ½ day field training on vessel safety.

In 1999, there were no documented incidents where an observer and a vessel owner or operator disagreed about the safety of the vessel. The contractor's office manager stated that in such an instance the observers have been instructed to contact the lead observer and work with the vessel owner to see if the issue could be resolved. The contractor believed that if a vessel could not resolve a safety issue before a particular opener, then the lead observers would try to resolve the

safety issue later and the observer was to observe on the vessel at a later date. If observers encountered safety issues on vessels that fished close to shore the contractor provided a research skiff from which the observers could sample without boarding the unsafe vessel.

The COTR believed that there was a clear policy regarding the identification of safety concerns. If an observer identified a problem concerning safety, the observer was to contact the contractor either through the lead observer or through the contractor's office manager. The contractor's office manager was to contact the COTR to decide on how to address the issue.

Neither the COTR nor contractor currently retains records of safety checks conducted by observers. There is a check sheet list in the manual that observers may go over when boarding a vessel, but there are no procedures involved in recording observers' findings. Of the observers that returned surveys 66.7 percent either did not know of a safety check list or they could not remember being issued a safety check list (question 13). None of the observers that returned surveys had reported any unacceptable health/ safety conditions on pre-trip safety checks and all of the observers indicated that they had not felt pressured to board unsafe vessels, either by the vessel owner/operator or by their contractor (questions 15, and 16 A-D).

E1. CONCLUSIONS

Most observers were aware of their right not to board vessels that did not have a safety decal. A small number of observers were not aware of this regulation.

The U.S. Coast Guard has not conducted safety examination on most of the vessels in this fishery.

NPFOTC staff trained observers on safety and the NMFS expected observers to make the decision on whether or not to board a particular vessel. Without understanding that they could refuse to board a vessel for safety reasons, observers may have put themselves at unacceptable risk.

There is confusion regarding the roles of the contractor, lead observers, and the COTR when observers identify safety issues.

There is a conflict in the regulations concerning health and safety standards for observers boarding unsafe vessels.

E1. RECOMMENDATIONS

The NMFS should resolve the conflicting regulations and prepare a brief that can be distributed to all observer programs concerning the issue.

Completion date: April 30, 2001

Responsible official: Program Leader, NOP

The NMFS in consultation with the USCG, should document procedures for responding when an

observer determines that a vessel is unsafe while at sea. These procedures should be distributed widely.

Completion date: May 31, 2001

Responsible official: COTR

The NMFS should clarify and document the roles of the contractor, lead observers, and the COTR regarding safety issues.

Completion date: September 30, 2001

Responsible official: COTR

The NMFS should require observers to complete a safety checklist on each observed vessel. This checklist should be retained as a permanent record.

Completion date: September 30, 2001

Responsible official: COTR

E2. CONTROL TECHNIQUE

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea or that a set-net site is unsafe while deployed.

E2. TEST

Interview the observer program manager.

- Is there any documentation of the necessary action that you will take if an observer determines that a vessel is unsafe while at sea?
- Last year did DCI report in an NMFS approved log any instances in which observers were unable to conduct their duties safely at sea?

Interview (survey) a sample of current observers in the Cook Inlet fishery.

- During your last detail, did you identify any unacceptable health / safety conditions while the vessel was at sea? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or returning the vessel to port? Were these conditions corrected to your satisfaction?

E2. FINDINGS

There is no documented procedure to follow if an observer identifies that a vessel or set-net site is unsafe. Observers did not document any safety concerns in this fishery in 1999. The COTR thought that if an observer determined that a vessel was unsafe while at sea, the COTR would contact the NMFS Enforcement. The contractor's office manager indicated that he did not have any specific procedures for addressing safety issues once the observer was deployed. He stated

that all of the observers had safety training and there were probably procedures addressed in this training, but he was not aware of what his responsibilities would be. He indicated that all observers had cell phones and a vessel radio so if they had concerns they could contact the lead observer. The research skiff was also available, so that an at sea transfer could have been arranged if the concern were great enough that the observer thought his life was at stake.

E2. CONCLUSIONS

The CIMMOP has no documented procedures on what actions should be taken by the NMFS or the contractor if an observer determines that a vessel or set-net site is unsafe.

The lack of documented procedures may increase the safety risk to observers by increasing the response time to potential emergencies.

E2. RECOMMENDATIONS

The NMFS should develop procedures which address what to do in the event that an observer identifies that a vessel or set-net site is unsafe.

Completion date: September 30, 2001

Responsible official: COTR

F. RISK

Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. CONTROL OBJECTIVE

Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE

The NMFS requires the contractor to provide adequate insurance coverage for all the observers that it employs.

F1. TEST

Interview the observer program manager.

- Does DCI cover observers under FECA? Under state workers' compensation? Under LHWCA? If yes, are any of these coverages redundant?
- Did you obtain documentation from DCI that adequate insurance coverage was in effect at the time the contract was first awarded (in June, 1999)? If no, has this documentation been obtained since then?
- In recent years, do your records indicate that there was any injury to an observer that resulted in a worker's compensation claim? In a claim against the vessel? In a claim against the certified contractor?

Interview a sample of last year's observers in the Cook Inlet fishery.

- Are you aware that you may be compensated under the Federal Employees Compensation

Act if you are injured on a vessel? (FECA/MSFCA Sec. 403(c))? Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)? Was this explained to you by DCI, the vessel owner / operator, or as part of your training? If yes, were you satisfied with the explanation?

- Have you attempted to obtain any workers' compensation or other remedy in connection with an injury you sustained at sea? If yes, in what situation?

F1. FINDINGS

Prior to deploying observers in the CIMMOP the COTR requests that the contractor provide proof that the observers are provided with adequate insurance coverage. The contractor provides observers with Alaska State Workers Compensation Insurance, \$1,000,000 Employers Liability Insurance, \$1,000,000 Maritime Employers Liability Insurance, United States Longshoreman and Harbor Workers Alaska Insurance, and Contractual Liability Insurance. The last three coverages listed can be redundant under certain circumstances, and if there were a major accident all of the insurance coverages may be applicable.

These coverages are intentionally redundant because it is unclear if observers are covered under the Jones Act. An observer, unlike a fisherman or processor, may qualify for Jones Act coverage under certain situations, and not under others. Therefore, the redundant coverage is required to fully protect observers.

In order to qualify under the Jones Act, one must qualify as a "seaman." Over time, the Courts have developed a three-prong test for determining seaman status. In order for a claimant to qualify as a seaman: 1) the vessel must be in navigation; 2) the claimant must have a more or less permanent connection with the vessel; and 3) the claimant must be aboard primarily to aid in navigation, or to contribute to the accomplishment of the mission of the vessel. (Lost At Sea: An Argument for Seaman Status for Fisheries Observers; Alecia M. Van Atta, 1995 Seattle University Law Review, V18, N3, Spring 1995) The courts have not been consistent in deciding whether an observer meets these criteria.

Observers may also be covered under the Federal Employees Coverage Act (FECA). The Magnuson-Stevens Fishery Conservation and Management Act (as amended through October 11, 1996) in SEC. 403. OBSERVERS⁷ 16 U.S.C. 1881b(c) states that "OBSERVER STATUS.--An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.)". The final rule regulating the "Claims for Compensation Under the Federal Employees' Act..." do not describe an employee situation under which an observer would fall. The NMFS is unsure which Act would take precedence. There has never been a claim for FECA coverage filed. Like coverage under the Jones' Act, the question of whether observers would successfully be able to make a claim under FECA is a legal one, and not one the NMFS can readily answer. Until the legal decisions are made, it is beneficial to observers to have companies carry all four types of insurance currently required by regulation.

Last year there were two claims by observers under workman's compensation in this program. One for a sprained elbow during training and another for a bacterial infection. No other claims have been made in this program.

Questions 20 to 23 in the observer survey address the insurance/liability coverage of observers. Of the observers that responded to the survey 58.3 percent believed they were covered under the Federal Employees Compensation Act (FECA). When asked if they were aware of other remedies that may apply if they were injured at sea (the Jones act, maintenance and cure, un-seaworthiness, and third party actions) 50 percent of the respondents indicated that they were. Only 50 percent of the respondents indicated that their liability/insurance status was explained to them by the contractor, the vessel owner/operator, or as part of the training. Of the respondents that indicated that an explanation had been given, 83.3 percent indicated that they were satisfied with the explanation. One respondent indicated that he had attempted to file a claim under workman's compensation for an injured foot, but at the time the injury occurred he was working for the contractor in the groundfish program.

F1. CONCLUSIONS

The insurance provided in 1999 was adequate to cover the limited injuries encountered.

Insurance coverage is purposefully redundant due to the ambiguity of the legal standing of observers under the Jones Act and FECA.

F1. RECOMMENDATIONS

The NMFS should analyze observer insurance issues at a national level. National policy should be issued, or legislation enacted, to clarify the standing of observers under both the Jones Act and FECA.

Completion date: September 30, 2001

Responsible Official: Program Leader, NOP

The NOP should work with insurance experts to create a pamphlet summarizing observer insurance issues. This pamphlet should be distributed to all observer program offices, observers, contractors, and the fishing industry

Completion date: September 30, 2001

Responsible Official: Program Leader, NOP

G. RISK

Observer coverage, deployment, and data collection may not be well-coordinated within the NMFS or with other federal, state, or intergovernmental agencies.

G. CONTROL OBJECTIVE

Observer coverage, deployment, and data collection are well coordinated within the NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE

The observer program manager consults with the North Pacific Fisheries Management Council (NPFMC), the Alaska Fisheries Science Center (AFSC), the National Marine Mammal Laboratory (NMML), the U.S. Fish and Wildlife Service, and the Alaska Department of Fish and Game (ADF&G) to coordinate appropriate types and levels of observer coverage or other observer duties.

G1. TEST

Interview the observer program manager.

- Have fishery managers and scientists coordinated their plans for observer coverage successfully in recent years? Specifically: How has the observer program established priorities for monitoring incidental seabird interactions? How has the observer program accommodated scientists' needs to control random sampling design and data quality/integrity? How has the contractor adjusted deployment levels to avoid bias and over sampling when fishing effort is low? With what results?

G1. FINDINGS

The CIMMOP is a program created under the Marine Mammal Protection Act, is not involve in the observation of a federal fishery, and therefore does not require consultation between designers of the program and the NPFMC. Responsibilities of this program do not overlap with those of the AFSC and no formal consultation was necessary. There was considerable consultation with NMML staff who were responsible for designing the coverage levels necessary for this program. NMML staff were involved from the outset program and they created the basic data acquisition design. The COTR relied on the expertise of NMML staff for developing appropriate coverage targets. The sampling design attempted to represent fishing effort. Therefore, observer coverage in an area needed to be proportional to the amount of fishing effort occurring in that area over the fishery. The sampling plan developed by NMML was used in setting program goals and planning observer coverage throughout the 1999 season.

The contractor's office manager indicated that the system designed by NMML worked even when fishing effort was extremely low, when there may have been an impetus to re-visit the same sites. The contractor was able to move observers from areas of low fishing effort to areas of high fishing effort throughout the season. This was in an accordance with the NMML plan to keep coverage proportional to fishing effort.

NMML also recommended that observers be placed on vessels and at set-net sites randomly for each area and opener. Vessels were to be picked randomly from each plant to which they delivered and set-net sites were to be selected using a geographic stratum (the beach was to be divided into areas then these areas would be randomly selected). According to the contractor's office manager this part of the NMML program design was not followed in 1999 due to logistical constraints and lack of planning time.

In the initiation of the CIMMOP the COTR contacted staff from the North Pacific Groundfish Observer Program (NPGOP) for advice on managing an observer program. The PRD staff assigned to the CIMMOP did not have previous experience in managing an observer program and thus felt it necessary to confer with NMFS staff who did have such experience. Staff turnover in PRD since a previous Alaska Category II fishery was observed prevented the retention of expertise from that program.

Staff members from the U.S. Fish and Wildlife Service were consulted in the design of the CIMMOP by the independent contractor hired to aid in training and program design. Due to this consultation, seabird bycatch was included as part of the data acquisition design. Seabird identification training was included in the observer training curriculum and data fields for recording seabird interactions have been included on the data forms designed for this program.

The ADF&G was not a partner in achieving the objectives of this program and no consultation on the original design of the program was necessary. The ADF&G manages the observed fishery so consultation on the in-season fishery activities was necessary. The COTR's ability to work with the ADF&G was limited due to a lack of time prior to the season. The COTR and contractor asked ADF&G staff members to provide information shortly before and continually during the fishing season to determine when area openers would occur and when areas would be closed. This communication was essential in order to keep track of fishing effort in the Cook Inlet and set observer coverage proportional to this effort.

G1. CONCLUSIONS

When designing the program the level of consultation between the CIMMOP and other agencies was adequate.

There was a loss of expertise between different Alaska Region Category II observer programs due to turnover of PRD staff and the duration of time between programs.

G1. RECOMMENDATIONS

The COTR should inform the Chief, Protected Resource Division of the difficulties encountered in the CIMMOP program due to the loss of expertise.

Completion Date: October 15, 2000

Responsible Official: COTR

The NMFS should develop and consider management options that would retain expertise within the NMFS on the management of Alaska Region Category II observer programs. One option would be to place the Alaska Region Category II observer programs under the management of the North Pacific Groundfish Observer Program.

Completion Date: September 30, 2001

Responsible Official: Chief, Protected Resource Division, Alaska Region

G2. CONTROL TECHNIQUE

The NMFS alters coverage levels in response to changes in bycatch or management objectives.

G2. TEST

Interview the observer program manager.

- How did you manage any sudden changes in manpower requirements last year? Does the use of a contractor to the NMFS help or hurt your ability to modify coverage levels to meet changing data or compliance monitoring requirements? Would an alternative service delivery model (such as in-house) achieve better results? If yes, how?

G2. FINDINGS

There were no sudden or significant changes in manpower or coverage requirements during the 1999 season. The CIMMOP has only been active for one year so there is limited experience in these findings.

There was a need to move manpower within Cook Inlet in order to obtain coverage in different openers as they occurred. Due to the nature of how the ADF&G manages the salmon fishery in Cook Inlet, fishers are only allowed to fish during short term fishing “openers.” Salmon are fished in Cook Inlet as they return to spawn in a number of rivers within the inlet. The ADF&G attempts to spread fishing effort both spatially and temporally to allow salmon from different rivers and run times to “escape” fishing efforts. Fishers are often given less than 24 hours notice as to when and where an opener will occur. In order to place observers on vessels in these openers observer program managers must be in close contact with ADF&G fishery managers and either have a very large number of observers or have the ability to move observers quickly to the opening areas.

Using a contractor allowed the program to place observers effectively. In the opinion of the COTR, the program was able to operate with fewer observers and at lower overall costs using a contractor. The contractor was able to move the observers around more efficiently than could have been done by the NMFS. The contractor had staff in the field and kept in constant contact with ADF&G to know when openers were going to occur. This onsite management of observers could only have been carried out by the NMFS with a substantial increase in staff and funding. The contractor had previous experience managing observers in several other fisheries and was able to use lead observers to coordinate observer placement. Overall, the contractor moved resources to where they were needed, all openers were observed, and the data users were satisfied with the level of coverage that was obtained.

In this fishery the NMFS does not alter coverage levels in response to bycatch, but may alter coverage for management objectives. This is easily achievable prior to the season by asking the contractor to increase the number of trainees to recruit up to a certain level. Increasing the number of observers substantially, such as doubling the number, may require a contract

modification, but could be accomplished. The contractor could charge the NMFS for the change and increase program costs.

During the season increasing the number of observers in the fishery would be difficult. The NMFS would be required to train the new recruits and thus be required to ask the NPFOTC to conduct an additional training class. The NPFOTC schedule may not permit another training class since much of the trainers time is already scheduled for other fisheries. Therefore the current model may not meet sudden needs for increased observer coverage during the fishing season due to the short fishing season and its reliance on the NPFOTC for training. However, the NMFS does not anticipate the coverage needs being dynamic.

The NMFS could decrease observer coverage levels without creating problems because all of the observers are on short contracts which have no set minimum service time. The contractor can easily shift observers to other fisheries, or lay off observers who can not be moved to other fisheries.

If large scale changes in observer coverage were needed there are two viable options, the first option would be to reissue an RFP, the second would be to create an in-house program. The COTR felt that an in-house service delivery model could best respond to large scale changes. This in-house model could be less cost effective than the current model in the day to day operations. If an in-house program was created additional NMFS staff and infrastructure would be required to support the program.

G2. CONCLUSIONS

The SDM meets the NMFS' needs in observing this fishery.

The contractual arrangement is flexible enough to adapt to moderate annual changes in management objectives.

The current delivery model (contract to the NMFS and third party training) may not be flexible enough to respond to large scale annual changes to the program.

G2. RECOMMENDATIONS

None

G3. CONTROL TECHNIQUE

The NMFS requires the contractor to insure that all data, reports, and specimens collected by observers are delivered to the NMFS at the end of the season or their tour of duty.

G3. TEST

Interview the observer program manager.

- Last year, did DCI deliver the required data, reports, and specimens on time?

G3. FINDINGS

In 1999 the COTR was to receive all of the observer collected data from the contractor on a biweekly basis through a web page data feed. Due to the newness of the program the receipt of data in the first few weeks of program operation was delayed. The software used by observers in the field and the database used by the COTR were not yet fully tested when the season began. Observers and staff encountered problems with the computer program in the first few weeks of program operation. After the COTR and the contractor resolved these difficulties, the COTR received the data on a biweekly basis with very few problems. One of the issues noted by observers was that they had not been trained in the use of the program before they were required to enter their data. This may have created further problems in the first few weeks of CIMMOP operations. The COTR received revisions and data corrections within two months after the completion of the project for 1999, and has received all paper data. The COTR and other data users thought this time frame to be acceptable.

G3. CONCLUSIONS

There were some start-up problems with the electronic reporting system, but the COTR and the contractor worked together to quickly resolve these. The system has now been well tested and should not be a problem in the future.

The contractor delivered the required data, reports, and specimens as requested.

G3. RECOMMENDATIONS

None

H. RISK

The completeness and accuracy of observer data may be compromised.

H. CONTROL OBJECTIVE

Observer data are complete and accurate.

H1. CONTROL TECHNIQUE

The NMFS Observer Sampling Manual and supplemental information packets describe procedures for data collection.

H1. TEST

Examine the Manual.

- Are the procedures complete and up to date?
- Have they been distributed to all observers?

H1. FINDINGS

The NPFOTC and independent consultant equipped all observers participating in the 1999 fishery with an observer sampling manual. In the observer survey we asked “How would you rate the observer sampling manual?”, 75 percent of the respondents indicated they thought the manual was either “good” or “very good”, 16.7 percent indicated that the manual was “Fair,” and 8.3 percent indicated they thought the manual was “poor” (question 12).

The “Cook Inlet Salmon Net fisheries Observer Program Reference Manual” was written by a contracted consultant. The consultant provided a copy of the manual for this MCR. The manual appears to include most of the essential information required by an observer working in the CIMMOP. There are complete descriptions of the fishery and of the Cook Inlet region. Sampling protocols are described and instructions on how to fill out data forms are complete. Fish, marine mammal, and bird identification for all of the commonly encountered species in Cook Inlet is included in the manual and appears accurate. Safety issue for both vessels and set-net sites are detailed and the manual provides useful information for observers in this program. However, the manual was not well organized. This made it difficult to find specific information.

H1. CONCLUSIONS

The observer sampling manual has adequate content, but could be improved with better organization.

H1. RECOMMENDATIONS

The NMFS should ensure that the organization of the manual be improved. A table of contents and an index should be included to facilitate finding specific information.

Completion Date: September 2001

Responsible Official: COTR

H2. CONTROL TECHNIQUE

The staff safeguards raw data, logbooks, and electronic data.

H2. TEST

Interview the observer program manager.

- What steps do you take to protect and restrict access to critical, confidential or proprietary data (originals in NMFS files or copies that are retained by DCI in various port offices)?

H2. FINDINGS

There are several levels of data transmission that the program must safeguard to ensure data security. After a deployment, all completed paper forms are stored with the lead observers. The individual observers only carry blank forms with them between deployments to ensure data are not released or lost.

To transmit data from the field to the contractor, each observer enters data into a program which is connected through a secured internet web site to a password protected database on a hard drive at the contractor’s office. Only the contractor office staff have the password to retrieve data from this database. The contractor kept a copy of the database on their hard drive and made a taped backup periodically throughout the season. At the end of the season observers turned in all paper and electronic data to the contractor. Once the contractor received all of the data for the 1999 season and the contractor’s quality control technician reviewed the data for errors, the contractor placed the database on a CD-Rom. At the end of the contract the contractor is to deliver all

electronic data files to the COTR and destroy all other copies.

After the data are received by the COTR all data are stored and handled by the COTR and only he has access to the data. All disbursement of data must go through the COTR. The data collected by observers would only be useful to two groups of people outside of the NMFS. Other fishers who may try to create a competitive advantage by knowing the location and amount of catch of other fishers or groups wishing to target individual fishers for marine mammal catches. To date there has not been any request for data outside of NMML and the PRD.

H2. CONCLUSIONS

There are adequate safeguards at each level of data distribution.

H2. RECOMMENDATIONS:

None

**SUBSECTION A: COOK INLET MARINE MAMMAL OBSERVER PROGRAM
SURVEY GIVEN TO OBSERVERS**

Cook Inlet Marine Mammal Observer Program Observer Survey

Hello,

This survey is being conducted as part of a National Observer Program review of all NMFS sponsored observer programs. Your responses will be used to assess the management controls within the Cook Inlet Marine Mammal Observer Program.

To complete the survey place an "X" in the box of the appropriate answer. If the answer requires a comment simply write the comment next to the answer. Thank You.

1. How did you originally learn about the observer program and observer jobs? (Check most appropriate answer)

- A. Friend
- B. Announcement at college
- C. Advertisement in paper, magazine
- D. Word of mouth
- E. Prior observer
- F. Other (please specify) _____

2. What were the primary and secondary reasons for your interest in being an observer? Please write 1 and 2 next to your choices.

- A. Work on fishing vessels
- B. Work out of the Region
- C. Scientific or field experience
- D. Money
- E. Other (please specify) _____

3. Was the observer pay level an attractive incentive for first becoming an observer?

- A. Yes
- B. No

4. How was your job interview conducted?

- A. Over the telephone
- B. Conference call
- C. Personal meeting
- D. None of the above
- E. Other (please specify) _____

5. If you no longer work as an observer, please indicate your primary reason for leaving. If you

had more than one reason, you may mark up to 3 reasons in order of priority (use 1, 2, and 3).

- G A. Too much time away from family/friends
- G B. Sea sickness
- G C. Safety concerns
- G D. Better job
- G E. Grad school
- G F. Compensation for work unsatisfactory
- G G. Lack of advancement opportunities
- G H. Lack of respect/understanding/support for my work
By Whom? _____
- G I. Harassment/pressure; from _____
- G J. Other (Please list) _____

6. Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future?

- G A. Yes, please describe _____

- G B. No

7. Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties?

- G A. Very great use
- G B. Great use
- G C. Moderate use
- G D. Some use
- G E. Little or no use

8. Overall, how would you rate the training and in season briefings?

	Training	Briefings
A. Very good	9	9
B. Good	9	9
C. Fair	9	9
D. Poor	9	9

9. Overall, how well did the training and in season briefings prepare you?

	Training	Briefings
A. Very good	9	9
B. Good	9	9
C. Fair	9	9
D. Poor	9	9

10. Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks?

G A. Yes

G B. No

In what topics was the training deficient? please describe. _____

11. Comments:

A. What portion(s) of the training and briefings prepared you the best?

Training: _____

Briefings: _____

B. What portion(s) of the training and briefings needs improvement?

Training: _____

Briefings: _____

C. Other comments:

Training: _____

Briefings: _____

12. How would you rate the observer sampling manual? (Comments welcome)

G A. Very good

G B. Good

G C. Fair

G D. Poor

Comments:

13. Were you provided with a health and safety “checklist”?

G A. Yes

G B. No

14. A. Are you aware of a written policy that an observer’s job will not be endangered if he refuses to board a vessel because of health or safety problems that he finds?

G A. Yes

G B. No

B. If yes, In your personal experience, is this policy being followed?

G A. Yes

G B. No

15. Do you ever feel any pressure from the contractor or the vessel owner/operator to ignore health or safety concerns that you may have?

G A. Yes

G B. No

16. A. During your last detail, did you identify any unacceptable health / safety conditions on the pre-trip safety check?

G A. Yes

G B. No

B. If yes for 16 A, did you contact the observer program manager about these conditions?

G A. Yes

G B. No

C. If yes for 16 A, what records did you keep about this incident? _____

D. If yes for 16 A, what actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or retaining the vessel in port? _____

E. If yes for 16 A, Were these conditions corrected to your satisfaction?

- G A. Yes
- G B. No

17. A. Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work?

- G A. Yes
- G B. No

B. If yes for 17 A, can you approximate how frequently this has occurred? (Check one)

	On Vessels	At Set-net Sites
A. Often	9	9
B. Occasionally	9	9
C. Rarely	9	9
D. Once	9	9

C. If yes for 17 A, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity?

- G A. Yes
- G B. No, why not? _____

18. Was the Lead observer “debriefed” able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? (Check one)

- G A. Always
- G B. Usually
- G C. Occasionally
- G D. Rarely
- G E. Not at all

19. In what ways could the Observer Program be more supportive of observers who have experienced harassment/intimidation/other trauma on the job? Check all that apply, the ones you consider most important, in order of importance (1=most important)

- G A. Better training/preparation
- G B. Better information in manual
- G C. More support in the field
- G D. Better outreach to industry
- G E. Better enforcement and follow through on observer complaints
- G F. More support during debriefing
- G G. Better grievance procedures for observers
- G H. Better communication and cooperation between contractor and NMFS
- G I. Professional counseling support for observers who have experienced trauma
- G J. Other (Please list) _____

20. Are you aware that you may be compensated under the Federal Employees Compensation Act if you are injured on a vessel? (FECA/MSFCA Sec. 403(c))?

G A. Yes

G B. No

21. Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, un-seaworthiness, and third party actions)?

G A. Yes

G B. No

22. Has your liability/insurance status been explained to you by DCI, the vessel owner / operator, or as part of your training?

G A. Yes, Were you satisfied with the explanation? _____

G B. No

23. Have you attempted to obtain any workers' compensation or other remedy in connection with an injury you sustained at sea?

G A. Yes, In what situation? _____

G B. No

24. Were Lead Observer "debriefing" instructions clear and easy to follow?

G A. Yes

G B. No

25. Was your Lead Observer "debriefing" able to provide adequate information you needed in a timely manner?

G A. Yes

G B. No

26. Were your instructions for data corrections clear?

G A. Yes

G B. No

27. Did your debriefing help prepare you for future deployments?

G A. Yes

G B. No

28. Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members?

G A. Yes

G B. No, please explain _____

29. Were you treated with respect/professionally during the debriefing process?

G A. Yes

G B. No

30. Are you satisfied with the observer evaluation system?

G A. Yes

G B. No

31. How do you think the evaluation system process affects observers' future work quality/morale? Check all that apply. Comments welcome.

G A. Useful feedback

G B. Provides incentive to do good work

G C. Provides incentive to limit information shared with the debriefer

G D. Encourages changes to data to facilitate debriefing process/or improve personal evaluation

G E. Demoralizing

Comments: _____

32. Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example, through the Freedom of Information Act?

G A. Yes

G B. No

G C. Don't know

33. If yes for 32, has this affected your reporting of information?

G A. Yes, Please explain _____

G B. No

34. Any other Comments: _____

SERVICE DELIVERY MODEL: CONTRACT TO NMFS

NORTHEAST REGION - MARINE MAMMAL PROTECTION ACT AND SUSTAINABLE FISHERIES ACT OBSERVER PROGRAMS

NARRATIVE

Introduction

The National Marine Fisheries Service, Northeast Fisheries Science Center (NEFSC), Fisheries Ecosystem Monitoring and Analysis Division (FEMAD), Fisheries Sampling Branch (FSB) contracts out observer recruitment, observer deployment, collection and delivery of the data to a single contractor. The contract is competitively bid and is a fixed cost contract, except for travel, that is awarded on the basis of best value to the government.

The Statement of Work (SOW) for the current contract was developed by senior staff of the FSB with help from the US Department of Commerce, Eastern Administrative Support Center (EASC), Procurement Division. General guidance was provided to FSB staff by higher levels within NMFS or by EASC. FSB staff developing the SOW were all certified as potential Contracting Officer's Technical Representatives (COTRs).

The advertising and receipt of bids were conducted by staff of the EASC Procurement Division following standard government and Department of Commerce protocols and guidelines and not subject to control by NMFS. A request for proposals was announced in Commerce Business Daily as required. All subsequent correspondence with offerors during the evaluation of bids up to selection, and post award briefing was handled by EASC staff following prescribed standard competitive procurement procedures. The FSB Chief chaired and additional FSB senior staff participated on the Technical Evaluation Panel which reviewed and rated the technical sections of all proposals.

The contract was awarded to Professional Technical Services, Inc. (PTSI) of Virginia Beach, VA in January 1999 and work under the terms of the contract began March 1, 1999. The contract has two option years. The contractor is paid a flat rate for each sea day completed and may only deploy NMFS NEFSC Certified Observers. Observers are also deployed to shore sites for the collection of data from shore side processing facilities and observation of beach-based fisheries. Observer travel including meals and observer contract management staff travel are paid to the contractor on a cost reimbursement basis. The salaries, benefits, overhead and fees paid to the contractor's management staff dedicated to the observer contract were negotiated separately from the observer compensation package, and are paid as a fixed rate in addition to the cost of the actual observer deployments.

The contractor is provided task orders containing lists of required coverage in terms of at sea days or shore days by fishery, gear, month, state and port or fishery stock area. The contractor's staff selects vessels with fishing activities meeting the sea day schedule and deploys observers to the vessels. Either the contractor's management staff or the observers may make the final

arrangements with the vessel operators. PTSI management staff makes most deployment arrangements for multi day trips while observers make most arrangements for trips of a single day's duration.

Vessel operators do not always cooperate when asked to take observers. In such situations, FSB staff randomly select vessels for mandatory coverage from the list of permitted vessels with prior records of landing the permitted species in the month(s) and port(s) needed for coverage. Owners of the selected vessels receive registered letters signed by the NMFS Northeast Regional Administrator and forwarded by FSB advising them of their requirements to arrange to take observers or cease fishing according to the terms of their fishing permits. In those situations, FSB staff provide owner and operator names, phone numbers and copies of registered letters to the PTSI Program Manager to assign observers to the selected and notified vessels.

FSB staff monitor contractor performance through several means. Within 24 hours of the completion of each trip, observers call in to report certain trip summary data to PTSI management staff. This information is then forwarded to the FSB by the PTSI Program Manager. These data enable both PTSI and FSB staff to determine the sea days completed in each assigned fishery. This information also aides the PTSI staff to shift observer coverage from one area to another or from fishery to fishery depending on the sea day schedule. FSB only pays for sea or land days completed according to the schedule and approves and pays for PTSI staff and observer travel. The funds that result from uncompleted sea days are either held to pay for sea days on later task orders or diverted from the contract to cover other FSB needs such as observer supplies and equipment.

Detailed data collected on each trip are copied locally by the observer, mailed (sent via Federal Express) once a week or every three trips, whichever comes first, to the program manager. All data are reviewed by contracted data editors and Fisheries Sampling Branch (FSB) staff, who further spot check and review records for missing or inaccurate data. Data are then entered and subjected to computer generated audits which detect additional errors. Once these additional errors have been corrected, the data are loaded into the NMFS/NEFSC database by Data Management Systems (DMS) staff.

Observers follow a general rule concerning biological sampling priorities, as stated in the observer manual. Observer trip data are not routinely reviewed to see if observers take all reasonable opportunities to collect biological samples such as scales and otoliths, or obtain length measurements. Advanced biological sampling training is offered through observer participation on Center research cruises, but not all observers have the opportunity to participate in such cruises.

Fisheries Observed

Northeast Marine Mammal Protection Act (MMPA) Observer Support

- 1) Northeast Multispecies Gillnet
- 2) Spiny Dogfish Gillnet
- 3) Monkfish Gillnet
- 4) Mid-Atlantic Coastal Gillnet
- 5) North Carolina Beach Haul Seine

Northeast Sustainable Fisheries Act (SFA) Observer Support

- 1) Northeast Multispecies Trawl
- 2) Summer Flounder Trawl
- 3) Scup Trawl
- 4) Sea Scallop Dredge
- 5) Large Pelagic Longline

Event Cycles

Staffing and Recruitment

The NEFSC Fisheries Sampling Branch has a full time permanent staff of nine personnel for overall management and support of the observer program. The staff consists of 1 GS-14 Fishery Biologist Branch Chief, 1 GS-12 Statistician, 5 GS-9 through GS-12 Fishery Biologists, 1 Computer Assistant and 1 Secretary/Office Automation Specialist.

NEFSC contracts out data editing and data entry separately from the observer deployment contract. Contracted editors and entry staff work on site at NMFS in close coordination with NEFSC permanent staff. The GS-12 Statistician is responsible for assuring that data editing and entry contracts meet NEFSC requirements. This is accomplished by reviewing the timeliness and accuracy of the data delivered for further processing by DMS and assignment of the COTR function of the data editing and entry contract to the GS-12 Statistician. The cost of data entry and editing contracts are controlled by assuring that the wages and benefits paid to employees by the contractor are not higher than those that would be paid to federal employees for the same work and that the fees charged are competitive with other potential providers. These limits are established by the COTR in cooperation with the Contracting Officer at EASC.

PTSI has on site staff at NEFSC Woods Hole, MA consisting of a Program Manager and an Administrative Assistant. PTSI also has three area coordinators located in the field to facilitate observer deployments and make arrangements with fishing vessel operators. The number of PTSI management and administrative staff and their salaries directly billed to the contract with NEFSC were negotiated by the contractor and EASC procurement staff representing NEFSC; thus, the negotiations provided NEFSC a large measure of management control over that portion

of the observer contract cost.

PTSI determines their observer staffing needs in response to task orders for observer deployments. If insufficient numbers of observers are available to meet the demand, PTSI alerts the COTR to schedule a training session and begins to recruit candidates. PTSI recruits candidates with both fishing experience and academic background. There are currently no set minimum educational requirements as none were specified in the contract SOW. Observer candidate names and background information are submitted by PTSI for review by the COTR who grants final approval of all selected candidates prior to acceptance into observer training. The COTR maintains management control of only final approval of candidates from those forwarded for review by PTSI. Since NEFSC has no set minimum standards for observer recruits, the COTR can only select the best candidates from those offered. Thus, there is risk that highly qualified observers may not be recruited.

Training

Training of observers is conducted by NMFS staff and other specialists as determined by FSB staff. U.S. Coast Guard vessel safety inspection program staff provide training in safety and vessel pre-trip safety checks. PTSI staff provide orientation to their company policies, administrative procedures, employee benefits, etc. during the training program. Observer training includes vessel safety, fishery and gear overviews, data collection and sampling priorities, biological sample collection and detailed instructions for all data forms. A variety of hands-on and classroom instruction methods are used. All observers are required to have current first and CPR certification and such training may be added as needed to the basic course.

The FSB does not have staff or facilities dedicated solely to observer training. A senior member of the staff is assigned responsibility for each training session. That person and other members of the FSB staff train observers for certain activities or sections of the manual according to their expertise and availability. The Woods Hole laboratory aquarium conference room is used if available and, if not, facilities at other Woods Hole institutions such as the Marine Biological Laboratory or Woods Hole Oceanographic Institute are leased. Facilities and lodging for observer training are generally not available for the summer months June through September due to the influx of tourists and full utilization of all classroom facilities in the greater Woods Hole community. The lack of dedicated facilities for training poses significant risk that observers may not be recruited and trained quickly enough to meet increased needs or replace unanticipated attrition of observers. There is no formal manual for trainers to use during the training course, and there is risk that training will be inconsistent from session to session as experienced FSB may not always be available when their expertise is needed.

FSB staff develops and administers quizzes, exams and homework assignments that are used during training. Each trainer is responsible for developing the exam and reviewing homework assignments related to the specific section of training which he or she provided. All subjects covered during training are included in the exams and quizzes. Homework assignments are used intermittently to demonstrate the correct use of various data forms. Observer candidates must have an overall average of 80 percent on tests and quizzes to be certified. The COTR maintains

management control by providing the contractor with the lists of Certified Observers which they may hire and deploy as observers.

Following classroom training, all new observers accompany an experienced senior observer for their first deployment. The senior observer assists with data collection, vessel protocols and vessel safety observations. Informal verbal feedback on the new observer's performance is provided by the senior observer to the on-site PTSI Program Manager. After several initial deployments, a new observer's data is very closely reviewed by both data editors and FSB staff who provide feedback on data quality to both PTSI and the new observer. Management control is exercised by direct feedback and the potential threat of decertifying the observer if the observer's data quality does not meet FSB standards and/or refusing to pay the contractor for the sea day accomplished.

Advanced training, primarily in the collection of biological data, is offered through observer participation on research vessel cruises employing trawl or scallop gear similar to that used on commercial vessels. Research cruises offer the opportunity to learn additional sampling skills with detailed guidance provided by working in teams with experienced NMFS biologists. Opportunities are provided on an ad-hoc basis as space on the vessels and funding permit. Management control is exercised by assuring that all observers are provided opportunities aboard research vessels to the extent possible. The risk is that base funds to pay for advanced training opportunities are often unavailable and non base supplemental funds are unpredictable.

Deployments and Logistics

Equipment and Supplies

FSB staff purchase, store and issue all observer equipment. New observers are issued basic equipment, including safety equipment (survival suit, EPIRB, strobe light, etc.), biological sampling gear (length frequency boards, weight scales, age structure envelopes, etc.), field guides and standardized forms following training. New observers are also instructed on the use and care of their equipment. As equipment and supplies are used, broken or otherwise in need of replacement, NMFS issues replacements at the request of the PTSI management staff. Replacement gear is shipped in a timely fashion via mail or FEDEX by FSB staff or by PTSI area coordinators. FSB staff maintain inventories of equipment and supplies as well as lists of equipment issued to observers allowing FSB staff to track observer equipment use and to ensure that extra gear is available for immediate distribution. FSB staff attempt to procure and stock equipment and supplies in anticipation of those needs in order to prevent incomplete data collection by observers. The primary risk to procurement of equipment and supplies is that funding to purchase and distribute them may be unavailable. FSB controls that risk by anticipating needs to the extent possible and buying ahead for equipment and supplies when funds are available.

Observer Deployments

Most observers employed by PTSI are strategically located in "home port" areas near concentrations of fishing vessels. Their home port areas generally cover one or more fishing

ports with fishing vessels within a 35-mile radius of the observers home in order to cut travel costs. Observers making single day trips, particularly in gillnet fisheries, travel to the ports early in the morning, determine which vessels are sailing and select one to go on following guidance aimed at preventing over sampling of some vessels at the exclusion of others. Arrangements for multi day trips are usually made by PTSI area coordinators who assign available observers and arrange in advance with the vessel to take the observers. Advance arrangements on multi day trips are essential so the bunk space and meals may be provided for the observer by the vessel. The risks associated with deployment of observers are primarily deployment to unsafe vessels and inadequate vessel liability insurance to compensate injured observers. To reduce those risks, FSB upholds the policy of not assigning observers to vessels without current coast guard safety inspection stickers. FSB does not verify that the policy is strictly adhered to. FSB requires its contractor to maintain a blanket liability policy that covers every vessel on which an observer serves whether or not the vessel has its own such policies. The level of coverage is specified in the SOW and the COTR verifies that the insurance policy is in effect.

There are seasonal highs and lows of fishing activity in nearly all observed fisheries. These seasonal changes tend to include lows in the winter in the northern parts of the regions such as the Gulf of Maine and high levels of winter activity in the southern parts of the region off North Carolina. In order to prevent loss of skilled observers due to lack of work seasonally in some areas, the observers are put on travel status to other ports. Overall, observer travel costs are controlled by setting specific limits when orders are placed for additional sea days. Those limits are set by the FSB Branch Chief based on historical practices and prior experience.

Data Collection

Observer coverage priorities are determined by NMFS RPS panels of experts who review proposals to cover fisheries for marine mammal and sea turtle interactions. Priorities are set for coverage of fisheries for fish stock assessment or fisheries management purposes by the recommendation of fisheries stock assessment scientists, or staff of the NE Regional Administrator. Basic data collection methodology follows procedures approved by the Atlantic Coast Cooperative Statistics Program, a program agreed to by all U.S. east coast states, NMFS, U.S. Fish and Wildlife Service and others. The Chief of the FSB, with staff assistance, prepares the proposals reviewed by the panels and makes sure that FSB staff and PTSI follow the priorities agreed to. The Chief of the FSB interacts with the Chief of the Population Dynamics Branch at NEFSC and staff of the Sustainable Fisheries Division at NER to assure that sampling priorities reflect their needs. When there are conflicts in priorities that cannot be resolved by the FSB Chief, they are elevated to the Science Director or Regional Administrator for resolution. These control measures assure coordination within NMFS and/or other agencies.

Statistically valid sampling designs for the collection of data and deployment of observers to vessels are designed jointly with the appropriate FSB staff and fish or marine mammal stock assessment scientists or fisheries managers who require the data. Management control of sampling design is assured through consultation with those responsible for analyzing the data. Sampling designs are not flawed by conflicts of interest such as industry pressure since the observer contractor works directly for NMFS.

Data are collected by the observers according to detailed procedures prescribed in the Observer Manual. All data forms and specific instructions for the collection of data and biological samples and recording of the data on the forms are explained in the manual. Observers are provided with measuring boards and weighing scales for the purpose of collecting actual lengths and weights of the catch; knives, forceps and age structure envelopes for the purpose of collecting scales and otoliths for aging fish species, and other essential equipment and supplies for sampling of marine mammal and sea turtle incidental takes. Lack of work space, broken or missing equipment, sampling under rough sea conditions, lack of cooperation from the crew as well as observer errors all contribute to incomplete data collection. Collusion between the observer and fishermen cannot be entirely eliminated as no level of data quality checking can assure that an observer purposely failed to report takes or catches of prohibited or protected species. However, there are no clear sources of conflicts of interest since observers do not collect data which would cause a vessel or a fleet of vessels to cease fishing, potentially putting the observer out of work.

Debriefing, Data Entry and Editing

Debriefing

Observers are debriefed by FSB fishery biologists or editors contracted separately from the PTSI Observer Deployment Contract. Observers are debriefed by phone or in meetings regularly or as needed when indicated by review of their submitted data. During the debriefing process, the debriefer and observer review sampling protocols and ambiguous entries or errors identified by the editor. The biologist or contract editor follows a written protocol to assure complete coverage of material during the debriefing with the observer. Corrections are then made by the observer to their own data prior to data entry. If the trips have already been entered into the database, then a data correction sheet is filled out and submitted to DMS by the biologist detecting the error. Corrections are subsequently made to the database by DMS and to the hard copy of the stored forms by the biologist with annotation as to the corrections made and why. Management control is exercised by the COTR who informs PTSI that debriefings of specific observers are justified based on errors found during the editing process.

Data Entry

Data entry is made by contract staff located on site in Woods Hole in office space assigned to the FSB. Data are entered following initial editing by contract editors or FSB staff biologists. The data entry program contains various audit procedures designed to detect data entry errors or other errors not detected by initial editing. The detection of certain types of errors at the data entry stage prevents further entering of data from a trip; thus, the location of data entry staff in close proximity to data editors or FSB staff who can resolve errors is essential to efficient data entry. Data entry staff provide regular progress reports to the Statistician who monitors overall data entry and data editing contract performance and provides management control. Management control is by direct feedback on quantity and quality of data entry and inadequate performance could result in contract cancellation.

Data Editing

Data editing is conducted at several stages in the data management process. Initial editing is

conducted by either contract data editors or FSB fishery biologists on data forms submitted by the observers. Each form is reviewed for completeness and correctness to assure that every field is filled out as defined in the Observer Manual. In addition, certain fields are coded prior to data entry. If errors or ambiguous information are detected, the editor contacts the observer for clarification. Staff fishery biologists are used to resolve data collection protocol issues. All corrections are made on the original data forms and comments made on a Trip File Worksheet that is initialed and dated by the original editor. Routine debriefings are conducted with each observer in order to maintain consistent data collection procedures. Data editing quality control is maintained by senior FSB staff fishery biologists conducting the original edit on some trips and random spot checking of the data editor's work.

Any errors detected during the data entry process are brought to the attention of the data editors. The editor will make corrections after conducting a second review of the data field(s) in question and the data form is annotated accordingly.

Detailed biological sample collection instructions are contained in the Observer's Manual which also contains priorities for sampling according to fishery. There are typically three types of biological samples collected: animal structures, i.e., scales, otoliths, jaws; tissue samples, i.e., fin clip, heart, kidney; and length/weight samples. Animal structures are typically used to determine age and growth and to some degree recruitment. Animal tissue is used for genetic marking which aids in stock identification, sex determination and origin while length/weight samples are used to develop factors for converting fish products as landed to live weight equivalent.

Biological samples delivered by PTSI to NEFSC follow one of two routes depending on whether they are dry or frozen. Dry age structures including scales and otoliths are collected and stored in envelopes that contain sample data consisting of trip identification, haul number, haul date, statistical area, species name, length, catch disposition and sex. Observers are required to call in a summary of their trip no more than 24 hours after disembarkation which would include whether age and/or marine mammal samples were taken. Upon receipt at the laboratory, the envelopes are compared to the called in data to assure delivery of all the samples and then to Length Frequency Logs (length/weight samples), which contains similar information as the envelopes, for further comparison of completeness and accuracy. Any missing samples or other problems are brought to the attention of the COTR who informs PTSI to correct the problem. These control measures assure completeness and accuracy of the information associated with samples.

Once all age samples and trip data for the month have been received and reviewed, a summary of all dry age structures is forwarded to appropriate staff in other NEFSC branches for further processing. Frozen age and tissue samples such as dry age samples are verified as they arrive at NEFSC on Data Tracking Sheets and compared with the computerized summary data called in by the observers. Tissue samples, which tend to be marine mammal samples, are documented on Marine Mammal Tissue Transition Tracking Forms and the samples are then forwarded to the appropriate NEFSC branch for further distribution. Frozen age samples location in the freezer are included in the monthly summary forwarded to Fish Biology Branch.

Observers take photographs of all marine mammals and sea turtles taken as well as unusual fish species that might be encountered as a control measure to help reduce the risk of inaccurate data. Marine mammal and sea turtle photos are examined and used to verify and, if necessary, correct all species identifications that appear on the data logs.

Following data entry, control measures consisting of computerized audits of the data are made by the staff of the DMS division of the NEFSC. Any errors detected by these audits are resolved via FSB/DMS collaborated efforts, the data are corrected in the database, and the forms are annotated and initialed for future reference.

Final Check

The final check is the last control measure and step in checking the entry of data and organizing the trips for proper archival. After DMS has successfully loaded the data to the Oracle master tables, an SQL script is run to retrieve and print key fields from the database. FSB staff and contracted data editors verify the output against the trip logs. This procedure ensures that all trip, haul, and incidental take records have been entered. It further checks the accuracy of certain key fields that are often used in data retrievals and difficult to check with an audit. Data errors are reported on a standard form and given to DMS. Once the corrections are completed, DMS initials and dates the form and returns it to FSB for filing.

The trip logs are ordered correctly and fastened with a stainless steel clip into a trip folder. The trip folder is color coded by fishery and marked with an Oracle-generated label. All trip folders are filed in spine folders that are labeled and filed by year, month, fishery, and trip identifier. All observed domestic commercial trips are currently filed in one office and there are no duplicate paper copies filed elsewhere.

Trip data files may be viewed by data-users to reference raw data, observer comments, and annotations on the logs. The FSB maintains control of the files via a sign-out sheet which must be completed when a trip folder is taken out and a sign-out card is placed in the empty spine folder still in place on the filing shelf. Original trips may not leave the Center and photocopies of logs should not include vessel identifiers. All monthly summaries and trip tracking sheets are filed at the front of each month in a folder.

RISKS, OBJECTIVES, CONTROL TECHNIQUES, TESTS, FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

A. RISK

Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE

Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE

Observer program managers obtain and issue funding guidance in sufficient time to solicit and negotiate contract support.

A1. TEST QUESTION(S)

Interview the observer program managers and staff to determine if funding levels were known in sufficient time to review and accept contract proposals (i.e., for internal controls such as considering acquisition strategies, developing SOW, issuing the RFP, reviewing proposals, negotiating with vendors, and awarding the contract). If no, then determine if it makes it more difficult to contract for qualified observers or increase the cost of doing so? Determine if an alternative service delivery model might achieve better results and, if so, how.

A1. FINDING

Funding levels were not always known in sufficient time to review and accept contract proposals as funding levels for only part of the program are base funded and somewhat predictable. The length of time necessary to develop an RFP, advertise it and review proposals effectively precludes that it could be done between the time that funds are received and the end of a fiscal year. It does make it more difficult to contract for observers since it is nearly impossible to estimate the number of observers needed when the funding is unknown in advance. The cost is increased because the contractor must provide for unpredictable levels of coverage and must maintain sufficient management and support staff to increase coverage on short notice while passing on the cost of maintaining that infrastructure to NMFS. A delivery model utilizing NMFS employed observers would allow NMFS to expand via term or temporary hires quickly on an as-needed basis as funds became available without having to renegotiate or modify existing contracts or develop new RFPs in response to changing situations.

A1. CONCLUSIONS

Funds for the observer program often are unavailable in time making it difficult to obligate the funds using the current contract delivery model. To the extent possible, funding should be permanent or long term base to assure that contract requirements can be accurately determined sufficiently in advance to specify the requirements in the Statements of Work in Requests for Proposals (RFP).

A1. RECOMMENDATIONS

Alert higher levels within NMFS that any annual funding must be received in time to develop an

RFP and award a contract prior to the end of the Fiscal Year in which the funds are received. When base funding is not available or annual funding arrives too late to award a contract, an alternative delivery model that includes direct NMFS hiring of supervisory staff and observers must be made available. The observers may be temporary or seasonal in nature and the supervisory staff could be hired using term appointments limited to the duration of the specific observer project for which the funds were received.

Responsible Official: Chief, FSB

Completion Date: December 31, 2000

A2. CONTROL TECHNIQUE

Observer program managers obtain observer supplies and equipment six months before they are needed.

A2. TEST QUESTION(S)

Interview the observer program managers and staff to determine if supplies and equipment were available when needed and, if no, was it because funding was not timely? Also determine if warehousing was sufficient and if purchasing equipment six months in advance resulted in any extra cost to NMFS.

A2. FINDINGS

Supplies were available when needed or if not, then not as a result of untimely funding. Warehousing was found to be sufficient with only minor problems resulting from reconstruction of the gear storage facilities, a temporary problem. Purchasing equipment up to six months in advance does not result in extra cost to NMFS and always having a ready supply on hand precludes emergency purchases of small volumes through local vendors which are generally more expensive.

A2. CONCLUSIONS

Current practices provide sufficient management control to assure supplies and equipments are available as needed.

A2. RECOMMENDATIONS

None.

B. RISK

The costs of providing observers may be excessive or mis-allocated within government and industry.

B. OBJECTIVE

The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE

The Fisheries Sampling Branch (FSB) staff purchases, stores, and issues observer equipment.

B1. TEST QUESTION(S)

Interview the program staff to determine what procedures are followed to insure that inventories will be reordered promptly when they are not in stock or reach a predetermined level, how purchases are authorized and accounted for, how equipment is maintained, how access to warehoused inventories is protected from outsiders or unauthorized employees and if the facilities are optimal in terms of cost and location.

B1. FINDINGS

The COTR, with assistance as needed from other FSB staff, orders equipment and supplies. The COTR either directly purchases equipment via a credit card, or submits purchase requests. Credit card and purchase requests are reviewed in advance by the Program Manager to determine that the equipment and supplies are needed, that funds are available and that the purchases are applied to the correct task account approved prior to purchase approval. Purchases in excess of \$5000 receive additional review at the Division level. All deliveries are checked against shipping and receiving documents following standard agency procedures. Depending on the nature of equipment and/or the purchase amount, the equipment may be issued a bar code number for property control. The equipment is warehoused in secure locked facilities with access limited to a few program staff. Those facilities may not be optimal, but new current new construction will somewhat enhance the gear storage facilities. Records are kept for equipment and supplies issued to observers by program staff.

B1. CONCLUSIONS

Sufficient management controls are currently used by the FSB staff to purchase, store and issue equipment.

B1. RECOMMENDATIONS

Continue the current inventory control practices utilized by FSB staff, but seek ways to improve the condition of the facilities by stating the required square footage of space needed, as well as special needs such as secured access, lighting, lockers, shelving, waterproofing, etc. Assure that funding is available to modify the facility, as necessary. Continue the current practices of the COTR, with assistance from FSB staff, being responsible for observer equipment and supply purchases.

Responsible Official: COTR, FSB

Completion Date: January 31, 2001

B2. CONTROL TECHNIQUE

The COTR monitors the costs of the contract by comparing the invoices received from the contractor with the reports received from the observers.

B2. TEST QUESTION(S)

Interview the COTR to determine if she monitors the costs of the contract by comparing the invoices received by the contractor with records of the observer's activities and if those invoices are in accordance with the terms and conditions of the contract.

B2. FINDINGS

The COTR routinely compares the invoices with records of the observer activities and compliance with the terms and conditions of the contract as required by U.S. Department of Commerce standards for monitoring such contracts. Any invoices with mistakes or improper charges are returned to be corrected and resubmitted. The Program Manager and Contracting Officer (CO) are both made aware of any problems encountered by the COTR when reviewing the invoices. If necessary the COTR requests the CO to contact the contractor and resolve any deficiencies or discrepancies.

B2. CONCLUSIONS

The COTR follows standard Department of Commerce contract accounting procedures to assure that the contractor abides by the terms and conditions of the contract and that any invoices are complete and free of inappropriate or inaccurate charges. Sufficient management controls are in place.

B2. RECOMMENDATIONS

None.

B3. CONTROL TECHNIQUE

The COTR and CO compare the costs of the Federal and contract workers for the same work.

B3. TEST QUESTION(S)

Interview the COTR and CO to determine if federal and contract worker costs were examined and compared the costs for last year.

B3. FINDINGS

Cost data for federal workers were not available and no cost comparisons were made.

B3. CONCLUSIONS

The cost comparison could not be accomplished.

B3. RECOMMENDATIONS

Request that the Contracting Officer, EASC, develop a method of estimating the costs of providing observer coverage using government employees and compare those estimates with the actual cost by the current contractor.

Responsible Official: COTR, FSB

Completion Date: September 30, 2001

B4. CONTROL TECHNIQUE

The FSB Branch Chief sets limits on the contractors' travel costs based on past experience.

B4. TEST QUESTION(S)

Interview the FSB Branch Chief and examine the records of travel costs last year.

B4. FINDINGS

Travel costs generally exceed the Branch Chief's estimates, but not significantly. However, that is due in part to attrition of observers and the need to send underutilized observers to other areas where needed. Although some shifts in funds may be made from observer salaries to travel allocations, the combined cost of observer travel and other deployment costs never exceed the total allocated for the contract, nor has the increased travel costs ever impacted funding to the point that it was necessary to cancel planned sea days due to lack of funds.

B4. CONCLUSIONS

The costs of observer travel are difficult to predict in advance due to unpredictable changes in fishing activity and normal attrition of observer staff. Such travel costs would be the same or similar regardless of the delivery model used providing the contractor followed government travel regulations. Current practices provide sufficient management control.

B4. RECOMMENDATIONS

None.

C. RISK

Qualified observers may not be recruited and/or retained.

C. OBJECTIVE

Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE

The NMFS uses contracts to supply observers on a timely basis.

C1. TEST QUESTION(S)

Interview the program managers and staff to determine if a given number of experienced observers are hired or retained each year, if no, why. Also if contracts would be more or less effective than an in-house program in hiring qualified and credible observers quickly, assigning them usefully and then keeping them. Explain the results.

C1. FINDINGS

The contractor attempts to hire and retain sufficient numbers of observers to meet demands; however, it is not a fixed number since the demands are highly variable consistent with the fluctuating funding and inability to predict needs in advance. The contractor attempts to make a profit from the contract and it is in the contractor's interest to pay the least for observer wages and benefits that it can. The contractor has a sliding scale based on experience similar to that which would be paid to government employees. However, the contractor receives a fixed price for each sea day completed so there is an incentive to use lower paid inexperienced observers. Since NMFS pays the cost of training new observers there is no incentive to the contractor to use higher paid, more experienced observers. The contractor does not provide the same level of benefits, job security or advancement opportunity that a federal employee would receive and therefore the observers are less likely to stay employed as observers for a contractor. Since the

cost of training observers and providing quality control of their data at the editing and entry stage is borne by NMFS, it is not cost effective to contract observers when the contract results in higher observer turnover.

C1. CONCLUSIONS

The current contract for this delivery model does not provide an incentive to the contractor to retain observers, as using less experienced and less costly observers increases profit margins. The low benefits and poor security provided to observers relative to federal employees do not favor retention.

C1. RECOMMENDATIONS

Use an alternative delivery model with NMFS hiring the observers directly and retain observers through provisions of increased benefits and job security. If an alternative model cannot be used, then develop incentives to insert in the next RFP that would reward the contractor for retaining and using at least 60% experienced observers.

Responsible Official: Chief, FSB, COTR

Completion Date: September 30, 2001

C2. CONTROL TECHNIQUE

The COTR rejects unsuitable observers recruited by PTSI during their initial training.

C2. TEST QUESTION(S)

Interview the COTR and review the recent experience in training recruits.

C2. FINDINGS

The COTR has the opportunity to review and reject applicants. Fortunately, it has not been necessary with the current contractor so no causes were needed and it was not necessary or costly to the program. Observers are screened by review of resumes, phone interviews and reference checks followed by face to face interviews prior to any invitation for training.

C2. CONCLUSIONS

All data from all observers are carefully reviewed; however, new observers get more rapid review and quick feedback after their initial trips. Current practices provide sufficient management control.

C2. RECOMMENDATIONS

None.

C3. CONTROL TECHNIQUE

The FSB staff and data editors specially review the data from new observers.

C3. TEST QUESTION(S)

Interview FSB staff and review records of recent debriefings of new observers to determine if the records suggest that new observers' data were more carefully reviewed.

C3. FINDINGS

All data submitted by all observers are carefully reviewed by data editors prior to data entry and again both during entry and post entry computerized audits. New observers are required to send in their initial trips right away and immediate feedback is provided by the editors so that mistakes in procedures will be quickly found and eliminated. Annotations on the trip records substantiate the contacts and document changes or clarifications as needed.

C3. CONCLUSIONS

All data from all observers are carefully reviewed, but new observers' data are reviewed with a high priority to provide immediate feedback. Current practices provide sufficient management control.

C3. RECOMMENDATIONS

None

C4. CONTROL TECHNIQUE

The NMFS decertifies observers who are not qualified.

C4. TEST QUESTION(S)

Interview the program manager to determine what standards are used to decertify observers.

C4. FINDINGS

There are written standards for both the decertification guidelines and the process. Decertification causes include conviction or civil judgement for any criminal offense, commission of fraud in obtaining observer certification or in performing duties, failing to perform duties satisfactorily, failure to abide by standards of conduct and conflict of interest with respect to a fishery, vessel or processing facility.

C4. CONCLUSIONS

Decertification procedures are in place and provide sufficient management control.

C4. RECOMMENDATIONS

None.

C5. CONTROL TECHNIQUE

The FSB assigns observers to other ports during seasonal slack periods.

C5. TEST QUESTION(S)

Interview the program managers and examine employment records of observers to see if they were deployed to other ports wherever feasible.

C5. FINDINGS

Some vessels move from port to port in response to seasonal movement of primary fish species

while other vessels shift fisheries while staying in the same ports. Some fisheries are regulated with closed seasons or closed areas reducing observer need in the corresponding fleets and ports. As a result, observers were deployed to different ports in response to shifts in fishing effort. Observers were also deployed to work in beach-based fisheries or shoreside facilities during periods of low activity of high priority fisheries in their home port areas.

C5. CONCLUSIONS

Observers were deployed to other ports as needed. Sufficient management controls are in place.

C5. RECOMMENDATIONS

None.

D. RISK

Observers may not be properly trained to perform their duties.

D. OBJECTIVE

Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE

The NMFS conducts comprehensive training courses for recruits and experienced observers.

D1. TEST QUESTION(S)

Interview the FSB staff responsible for training observers recruited by PTSI to establish the overall training requirements, the role of the PTSI contractor in establishing requirements, the level of standardization from session to session, determine how trainers assure that recruits meet the standards, and if feedback is obtained from observers who have been to sea. Interview observers to solicit their input on training sufficiency, advanced training opportunities on research vessel cruises, and usefulness in acquiring needed skills.

D1. FINDINGS

The subject matter for training is essentially standardized and based directly on the observer manual which contains all the instructions, examples of forms, sampling priorities as well as codes for fish species, gear, locations and others as necessary. The small size of the permanent FSB staff essentially precludes that the staff could provide training in all the necessary subject matter. Therefore, the actual training agenda is not standardized due primarily to the outside speakers and specialists who are utilized and the need to schedule them when they are available. The person with overall responsibility for training, usually the COTR, develops the actual schedule to work around the availability of the guest speakers and specialists who are generally not reimbursed for their participation. The contractor, PTSI, assists in training. They provide overviews of their company including policies on wages, benefits, travel and make suggestions to the COTR on subject matter that may need increased attention. PTSI also provides skilled senior observers who accompany and evaluate new observers on their first trips as part of the training process. Trainers primarily assure that recruits meet the standards by achieving an 85% overall score on all written tests and quizzes. This is followed up by evaluation of the new observer by a

senior observer during the new observer's initial deployment. All of the test scores and evaluations are documented as part of the certification process.

Only five observers responded to interviews concerning training and research vessel training cruise opportunities, and they responded that training was of great or moderate use. Of those offered training opportunities on research vessel cruises, two of three reported it was useful in acquiring needed skills. The exact numbers of observers and their responses are listed elsewhere in the tables.

D1. CONCLUSIONS

Observers are properly trained to accomplish their duties; however, the training process would be improved by having better facilities and sufficient onboard training staff to more fully standardize the training sessions.

D1. RECOMMENDATIONS

FSB staff that are responsible for training will be required to take at least three courses or training sessions in public speaking or making presentations. FSB staff responsible for training will review and update all training materials at least two weeks prior to the training session. Secure on site, or convenient nearby training facilities at least six weeks in advance of training. Future hires within the FSB will be screened for skills in conducting training sessions, as well as familiarity with commercial fishing gear, and commercially landed finfish and shellfish, to reduce reliance on outside specialists to facilitate training.

Responsible Official: Chief, FSB

Completion Date: September 30, 2001

D2. CONTROL TECHNIQUE

The NMFS trains observers in core competencies.

D2. TEST QUESTION(S)

Examine and compare the training curriculums in the MMPA, SFA and Atlantic Scallop fisheries by interviewing the FSB staff to determine if the training for core competencies such as vessel safety, survival training and relations with the crew are standardized and interview the observers to determine if they received training to provide the needed skills and knowledge to accomplish their tasks and if no, then identify deficiencies.

D2. FINDINGS

The training for core competencies are standardized and include training in safety and in-water survival by U.S. Coast Guard vessel safety inspectors, first aid, CPR and discussions of relationships with vessel operators and crew. The majority of responding observers rated the training and the preparation to accomplish their tasks as good. However, several rated the training and preparation as fair or poor. No specific training deficiencies were specified in observer responses. Observer responses are tabulated in attached tables.

D2. CONCLUSIONS

The core competencies are standardized to assure that all observers are well trained. Sufficient

management controls are in place.

D2. RECOMMENDATIONS

None.

D3. CONTROL TECHNIQUE

The FSB schedules and obtains temporary facilities to conduct training as needed.

D3. TEST QUESTION(S)

Interview the Program Manager to determine if training facilities are available during peak times such as in the summer at Woods Hole.

D3. FINDINGS

Facilities are not available during summer months. The Woods Hole laboratory lacks routinely available training space. The Marine Biological Laboratory and Woods Hole Oceanographic Institute do not have space available to lease during the summer months. Also, as Woods Hole is located on Cape Cod, it is in the center of a major summer tourist area when rooms are not available as most motels are sold out well in advance so there is no lodging available for observer candidates.

D3. CONCLUSIONS

Training facilities are not available during the peak tourist season.

D3. RECOMMENDATIONS

Determine observer needs three to four months in advance, to assure that observer training sessions will not be needed during the June through September tourist season in Woods Hole.

Responsible Official: Chief, FSB

Completion Date: March 1, 2001

D4. CONTROL TECHNIQUE

The FSB staff schedules training on a timely basis when alerted by PTSI.

D4. TEST QUESTION(S)

Interview the Program Manager to determine if PTSI alerted him to train observer recruits when needed and if there was sufficient time to do so.

D4. FINDINGS

PTSI generally alerted the Program Manager or COTR that they needed additional observers in time to schedule a training session as needed except during the summer months when facilities were not available. However, PTSI seemed reluctant to plan ahead and provide sufficient lead time in several instances probably due to the fact that they were concerned about having too many observers available to keep them all busy during months of lower activity. Also, PTSI seems to underestimate the lead time necessary for them to recruit observer candidates and for FSB to locate and schedule facilities, guest speakers and other specialists such as Coast Guard

vessel safety inspectors.

D4. CONCLUSIONS

PTSI could improve the amount of lead time it provides prior to needing an observer training session.

D4. RECOMMENDATIONS

Modify the current contract to define the lead time needed or put in penalty clauses for situations in which trips are not covered due to observer shortages. Assure that such clauses are included in any future RFP.

Responsible Official: Chief, FSB

Completion Date: January 30, 2001

E. RISK

The health and safety of observers may be impaired.

E. OBJECTIVE

The health and safety of observers are protected.

E1. CONTROL TECHNIQUE

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST QUESTION(S)

Interview the Program Manger, FSB staff and PTSI Project Manager to determine how NMFS notifies vessel owners and operators of their responsibilities and methods of compliance, if records are kept of performance of outreach efforts, if those records are useful, if observers spot check for compliance with U.S. Coast Guard regulations, if they use a form or process with written procedures and a clear chain of command. In addition, interview managers and staff to determine if there is a required review or approval, if impartial personnel conduct an independent investigation, what records are kept about pre-trip safety inspections, if there is reluctance to board vessels and if pressure is placed on the observer by vessel owners or operators to go regardless of safety concerns by the observer and if there is a dispute resolution procedure when there is disagreement about a vessel's safety. Observers were interviewed to determine if there is any documentation of the necessary action that they would take if an observer determines that a vessel is unsafe while at sea, if they identified any unacceptable health/safety conditions during their last trip at sea, if they contacted the PTSI Project Manager, if they kept records and what actions were taken to correct the situation and if those actions were satisfactory to the observer.

E1. FINDINGS

NMFS notifies vessel operators of their responsibilities and methods of compliance through annual letters to permit holders, registered selection letters to individual vessels selected for coverage on a particular trip and through selection letters hand delivered by PTSI employed observers prior to the trip. NMFS and PTSI keep records of receipts of registered letters and

PTSI keeps receipts from vessel operators who receive letters from observers. However, there is no general follow up concerning the letters unless a refusal occurs and there is no outreach program other than informal contact by PTSI area supervisors and FSB staff. The records are not particularly useful since there are only limited outreach efforts in place. Observers are given instructions and training in safety spot checks by U.S. Coast Guard vessel safety inspection program staff. They are instructed by PTSI to document safety issues and bring them to the contractor's attention as a routine matter partly in response to insurance liability concerns. PTSI field supervisors may independently check out any vessel reported by an observer as unsafe and bring it to the attention of FSB staff if they feel it is warranted. FSB has not fully implemented the provisions that would prevent a vessel from sailing without an observer if it was unsafe. There has been no required approval for an observer to refuse to go on a vessel because of safety concerns and observers have the last word on the issue. Since there is no incentive for a vessel to take an observer there has been no pressure brought on observers by vessel operators to depart on unsafe vessels. Since there has been no enforcement, vessels would simply sail without an observer. There is no safety dispute mechanism in place, no provisions for a separate and impartial safety inspection, and no records kept of delays and loss of fishing days due to failing safety standards and refusal by observers to serve aboard a vessel.

Only five observers responded to questions concerning health and safety issues. Only one of five responded that they were provided with health and safety checklists. All five reported that they were aware of written policies that an observer's job would not be endangered if the observer refused to board an unsafe vessel, that the policy was being followed in their experience and that there was no pressure from PTSI to board an unsafe vessel. None of the observers responded that they identified any unacceptable health or safety conditions, and therefore there were no actions needed, no records to keep, and no conditions to be corrected.

E1. CONCLUSIONS

Current outreach efforts and current procedures regarding unsafe vessels are insufficient. FSB has not fully implemented the regulations that would prevent or report a vessel that was fishing without an observer when the observer refused to serve on the vessel for safety reasons. Most observers were not provided health and safety checklists.

E1. RECOMMENDATIONS

Increase industry awareness of their responsibilities to provide safe working environments for observers by enhanced outreach efforts via newsletters or other mailings, Web page, or phone calls to vessel owners and operators. Fully implement the health and safety regulations and make sure all observers are aware of such. Provide health and safety checklists to the observers
Develop a reporting procedure that would advise the appropriate staff of the NMFS Northeast Administrator and NMFS Northeast Office of Enforcement to take action when violations occur.
Emphasize observer safety during all debriefings.

Responsible Official: Chief, FSB, COTR, Contract Program Manager, FSB staff

Completion Date: March 1, 2001

E2. CONTROL TECHNIQUE

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST QUESTION(S)

Interview the Program Manager to determine if there is any documentation of actions necessary to take if any observer determines that a vessel is unsafe while at sea. Interview or survey observers to determine if they identified any unacceptable health/safety conditions during their last deployment to sea and if so what they did in response to those conditions and what PTSI, the vessel or Coast Guard did to correct the conditions. Interview or survey observers to determine if they had been harassed or interfered with and if so, how frequently and in what ways the program could be more supportive of observers who had been harassed or intimidated on the job.

The procedures to take are taught during training and are explained in the observer manual. The procedures include radio communication codes for words that indicate a range of conditions up to and including imminent danger and initiate a request by NMFS to respond quickly. Response actions would include, if necessary, removal of the observer from the vessel by the U.S. Coast Guard.

E2. FINDINGS

None of the responding observers stated they had identified any unacceptable health/safety conditions while at sea during their last detail. Therefore, there were no useful comments concerning the responses to the situation by PTSI, the vessel, or U.S. Coast Guard. The majority (seven of 11 responding) observers did report harassment, but that it was rare or happened only once and only two observers reported that it occurred occasionally.

E2. CONCLUSIONS

Current procedures, while seldom used, provide sufficient management control.

E2. RECOMMENDATIONS

None.

F. RISK

Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE

Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE

The NMFS administers contracts with PTSI that provide both workers' compensation and blanket liability coverage to PTSI if observers are injured at sea.

F1. TEST QUESTION(S)

Interview the COTR and the CO for the PTSI contracts to determine if the current contract covers employees under the Federal Employees Compensation Act (FECA), state Workers Compensation Act and Longshoreman and Harbor Workers Compensation Act (LHWCA) and

determine if any of these coverages are redundant. Also interview them to determine if the contract provides blanket liability coverage to PTSI, if NMFS reimburse the contractors for workers compensation or blanket liability, and if any claims have been made against the contractor. Interview or survey observers to determine if they are aware they may be compensated under FECA, that they may seek other remedies that may apply such as the Jones Act, if this was explained to them during training in a satisfactory manner, if they attempted to obtain workers' compensation or other legal remedy if injured at sea.

F1. FINDINGS

The COTR, CO and PTSI Project Manager responded that all required insurance is in place. It is not clear that any insurance is redundant since injuries sustained at sea or while on a vessel in port may be covered under different insurance than for injuries occurring on shore. Insurance costs are paid for as part of the PTSI overhead and not billed directly or even itemized separately from the flat rate cost per sea day which is the current method of basis for payment to the contractor.

Three of five observers responded that they were aware that they may be compensated under FECA if injured on a vessel. Only one of 5 responded that they were aware of other remedies and none responded they had the injury compensations mechanisms explained to them by NMFS or PTSI. Fortunately none of the respondents reported attempting to obtain any compensation for injuries sustained while at sea.

F1. CONCLUSIONS

Insurance coverage is adequate to protect observers injured at sea. They are covered by FECA as though they were federal employees as well as under workers compensation or LHWCA and they are further protected by a blanket liability policy purchased by PTSI to cover every observed vessel in the event an observer is injured and sues the vessel owner or operator. Some coverage may be redundant. Observers do not fully understand the coverages that are provided.

F1. RECOMMENDATIONS

Request legal advice on the issues of coverage and redundancy. Include information concerning injuries, liability and claims processes in both the observer training and the observer manual.

Responsible Official: Chief, FSB

Completion Date: January 1, 2001

F2. CONTROL TECHNIQUE

The NMFS encourages vessel owners to obtain insurance that would protect them in the event an observer is injured.

F2. TEST QUESTION(S)

Interview a sample of vessel owners in MMPA and SFA fisheries to determine if NMFS encouraged them to indemnify themselves against loss because of accidents or loss caused by the vessel, if they carry P and I insurance against loss, if their insurance extends to the observers as well as the crew and, if no, have they acquired other insurance coverage that does extend to

observers and would they be more likely to do so if they were reimbursed by NMFS.

F2. FINDINGS

Only two of 20 respondents indicated they were encouraged to indemnify themselves against loss while 17 indicated they carried insurance that covered their vessel. Only three of 17 had coverage that extended to the observer and none had specifically purchased coverage that extended to the observer. Most, (13 of 20), indicated they would carry P & I that extended to the observers if they were reimbursed by NMFS.

F2. CONCLUSIONS

Few vessels carry P & I insurance that covers the observer, but most would if reimbursed by NMFS. However, the test did not determine if the responding vessels were aware that PTSI had a blanket policy to provide coverage for all vessels taking PTSI employed observers. Observers provide vessel captains a summary of the PTSI coverage and a phone number to call for details. Therefore, the data are difficult to interpret since the vessels may have known about the PTSI coverage and decided that they didn't need additional coverage of their own.

F2. RECOMMENDATIONS

Expand the survey of vessel operators so that the responses may be better understood. Explain the coverage through outreach efforts such as letters to all permit holders. Inform vessel owners that they will be reimbursed for insurance coverage for observers. Make sure that observers are aware of their insurance related responsibilities, such as completing the necessary paperwork.

Responsible Official: Chief, FSB, Contract Program Manager

Completion Date: December 31, 2000

G. RISK

Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.

G. OBJECTIVE

Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE

Observer program managers routinely consult with the Councils, the NEFSC, the USFWS, and the Atlantic Coast Cooperative Statistics Program to coordinate appropriate types and levels of observer coverage.

G1. TEST QUESTION(S)

Interview the Program Manager and selected NEFSC staff to determine if fisheries managers and scientists coordinated their plans for observer coverage successfully in recent years.

G1. FINDINGS

Fishery Management Council needs are passed by way of formal channels of communication through the Northeast Regional Administrator down through the NEFSC Science Director to the Program Manager. Council needs are responded to consistent with available resources. The Program Manager meets regularly with NEFSC Protected Species Branch (PSB) staff to review coverage needs for fisheries with marine mammal and sea turtle interactions. Monthly port-by-port coverage schedules for gillnet vessels are developed jointly by the Program Manager and the PSB scientist responsible for estimating marine mammal and/or sea turtle takes. The Program Manager also works closely with the PSB Chief to submit funding proposals for MMPA and ESA required observer coverage. A committee of NE and SE Regional Office and Science Center staff confer several times a year to direct general observer efforts for Mid-Atlantic gillnet fisheries which impact marine mammals and turtles that cross NMFS regional jurisdictions. The Program Manager or staff attend marine mammal Take Reduction Team (TRT) meetings to give overviews of observer coverage relative to the particular TRT and work with both environmental groups and the affected fishing industry to include their concerns and suggestions into the coverage planning process. The Program Manager meets with NEFSC Resource Assessment and Evaluation Division (READ) and Population Dynamics Branch (PDB) Chiefs and their staffs to jointly develop fishery observer priorities and goals for collecting key fisheries data. The Program Manager develops the detail deployment schedules and submits them to the READ and PDB Chiefs for review and comment before implementing the schedules. The Program Manager met with regional and national representatives of the U. S. Fish and Wildlife Service (USFWS) to help develop policies on the interactions of commercial fishing vessels with sea birds and all sea bird data collected by observers are reported annually to USFWS. The Program Manager and other FSB staff serve or have recently served on various committees of the Atlantic Coastal Cooperative Statistics Program (ACCSP) where they work to coordinate regional coverage between NMFS, USFWS and Atlantic coastal states. The ACCSP process is instrumental in bringing the different government agencies together and in setting standards and procedures for them to follow. The use of observer data and any analysis based on those data are critically reviewed for marine mammal take estimates by the Scientific Review Group and for finfish and shellfish discard estimates by the Stock Assessment Review Committee and both bodies submit suggestions for directing or otherwise improving observer coverage.

G1. CONCLUSIONS

Coverage is well coordinated. Sufficient management controls are in place.

G1. RECOMMENDATIONS

None.

G2. CONTROL TECHNIQUE

The FSB provides the contractor with a list of required observer coverages.

G2. TEST QUESTION(S)

Interview the Program Manager and examine records of vessels selected for coverage last year to determine if the vessels selected by the contractor were randomly distributed and, if no, then if

there was any demonstrable bias in selecting vessels either by the contractor or observers and also to determine if vessels selected for mandatory coverage were sent registered letters notifying them of the requirements, with copies to PTSI.

G2. FINDINGS

A review by analytical staff of the Population Dynamics Branch determined that overall the selections were sufficiently random that they would be acceptable for their analysis. However, improvement could be made as it is clear that observers tend to go on vessels where the working conditions in terms of vessel characteristics and operator/crew relationships with the observer are favorable. This has not been shown to cause a consistent bias in the analysis of the data. Standards such as not going on the same vessel more than three times (days) a month are difficult to maintain when fleets are constantly changing in response to fishery regulations and/or the availability of fish to local fishermen. While the names of vessels on which observers serve are updated to a computer file almost daily there is no one person responsible for tracking the vessel names in near real time to determine if observers are in fact making too many trips on too few different vessels.

Registered letters with return receipts are sent to vessel owners only in certain mandated fisheries where it is needed to assure compliance. When that occurs the PTSI Project Manger gets a list of all the vessels receiving letters and he in turn passes that list to the observer area coordinator to make the arrangements between the observer and vessel operator. This system holds true only for vessels making trips that last more than one day. For vessels making trips lasting a day or less, the observer selects the vessel from those available and leaving the dock in the morning and provides them with a selection letter at the time of selection.

G2. CONCLUSIONS

No demonstrable bias could be found in the selection of vessels; however, better selection could be achieved as some vessels were observed more frequently than others. Multi-day trip vessels randomly selected by NMFS for coverage were sent selection letters, the contractor was notified and suitable records were maintained.

G2. RECOMMENDATIONS

Standardize the vessel sampling scheme to eliminate the occurrence of sampling bias. Establish minimum and maximum number of trips sampled per vessel, per month, per port (or state) and modify the current observer contract to insert those standards. Set up a system to monitor observer sampling frequency to assure compliance with the sampling scheme that will alert the COTR to advise the contractor when too many trips are being taken on the same vessel and to assign the observers to other vessels.

Responsible Official: Chief, FSB, COTR

Completion Date: March 1, 2001

G3. CONTROL TECHNIQUE

FSB staff obtain trip summary data from the PTSI Project Manager and reallocate resources and adjust observer deployment schedules.

G3. TEST QUESTION(S)

Interview the Program Manager and PSB staff and examine periodic trip summary data for last year to determine if trip summary data were available when needed to determine the sea days completed and to facilitate reapplying unexpended funds.

G3. FINDINGS

Trip summary data are called in and left as voice mail after each trip. These data are entered nearly daily into a summary data file maintained by FSB staff at Woods Hole. Electronic or hard copy versions of the updated files are distributed to the Program Manager, PTSI Project Manager and their staff several times a week. Trip summary data were thus available when needed. Every two or three months the Program Manager evaluates progress in terms of completed sea days; reviews expenditures for sea days, travel and training; determines the level of remaining funds and the number of sea days that could be rescheduled; and modifies the contract to recommit the unexpended days. Having up to date information on sea day completions did facilitate the reapplying or reallocation of unexpended observer days and funds.

G3. CONCLUSIONS

Trip summaries were available when needed and did facilitate reapplying unexpended funds. Sufficient management controls are in place.

G3. RECOMMENDATIONS

None.

H. RISK

The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE

Observer data is complete and accurate.

H1. CONTROL TECHNIQUE

The NMFS Manual describes procedures for data collection.

H1. TEST QUESTION(S)

Examine the manual and determine if the procedures and manual are complete and up to date and if they have been distributed to all observers.

H1. FINDINGS

The manual has become outdated and is in the process of being revised with the planned implementation of January 1, 2001. The revision process consists of eliminating numerous redundant sections; streamlining the written instructions, procedures and protocols; eliminating data collection fields that are no longer needed; eliminating procedures requiring observers to calculate numbers and insert their calculations by having the computer calculate those numbers from data supplied by the observers; and incorporating new data fields or procedures to cover new situations. New manuals will be distributed to all observers when they become available for

implementation on January 1, 2001. New procedures are implemented at the beginning of a calendar year so that any changes in the data do not occur within a year leading to confusion by both the observer and analyst using the data.

H1. CONCLUSIONS

The observer manual needs updating.

H1. RECOMMENDATIONS

Continue the revision process with planned implementation of new procedures and distribution of new manuals by January 1, 2001.

Responsible Official: Chief, FSB

Completion Date: January 1, 2001

H2. CONTROL TECHNIQUE

FSB staff and independent contractors review observer data forms and debrief observers before final data entry.

H2. TEST QUESTION(S)

Interview FSB staff and independent contractors who review observer data forms and debrief observers before final data entry to determine if the data were reviewed using written protocols and signed off by the FSB staff and also determine if FSB staff notified PTSI of the need to debrief observers who had a high rate of errors in their data.

H2. FINDINGS

FSB staff and contractors report that they use the observer manual as the reference for reviewing data that are supplied by observers rather than a separate set of written procedures for editing the data. They also replied that a more concise set of written procedures would be useful and more efficient than the manual. The manual is very large, overly complicated, contains redundant sections and is unwieldy to use as a reference document. All data forms are closely reviewed and edited, complete with coding and annotations as needed to document any changes made during review of the data, or as a result of debriefing the observer. All forms are signed off by editors prior to submission for data entry. Any errors detected during subsequent automated audits are brought to the attention of the editor who corrects the data and again signs for the corrections. If high rates of errors are found in a particular observer's work, the observer is called for a debriefing and PTSI is notified.

H2. CONCLUSIONS

Editors and reviewers do follow the written observer manual when editing data rather than a separate set of instructions. However, data editors indicated that a more concise set of instructions would be of benefit. PTSI is notified about any high rates of errors and the need to debrief observers.

H2. RECOMMENDATIONS

Streamline the editing process by developing or redesigning data editing and data auditing

software. Hold biweekly meeting with data processing staff to discuss processing status, and means of improving the current system. Create and maintain a procedures manual that includes instructions on all aspects of observer data processing. Set up a schedule of monthly meetings with Data Management System staff to further assure that data processing is proceeding in the most efficient manner.

Responsible Official: Chief, FSB, Observer Database Manager
Completion Date: March 1, 2001

H3. CONTROL TECHNIQUE

The FSB staff safeguard all trip logs in one office with a sign-out sheet.

H3. TEST QUESTION(S)

Interview the FSB staff and a sample of observers to determine what steps are taken to insure that data on domestic commercial trips are protected and if observers had concerns, that information may be accessed by the vessel or fishing industry generally, for example, through the Freedom of Information Act.

H3. FINDINGS

Only one hard copy of the data forms is kept in order to limit access. Data are kept in locked files in an office that is occupied by several FSB staff and a sign-out sheet is maintained. However, the individual files are not always locked and when FSB staff are not present, especially during lunch hours or after normal work hours when cleaning crews are present, those files could be accessed by unauthorized personnel. Data that are released in responses to outside requests do not contain vessel identifiers. All data requests go through the Program Manger to assure adherence with confidentiality standards.

Observers report that they keep data with them at all times or locked away until it is sent in. Only the captain or owner is ever given copies, and only when they request them during or at the end of the trip. No copies are kept in the field by observers so once the data are sent in only the authorized NMFS staff can access the data.

H3. CONCLUSIONS

Current safeguards for stored hard copies of the data are not sufficient.

H3. RECOMMENDATIONS

Move files to a locked cage area so the entire file set could be secured by a single lock rather than having to individually lock a group of files whenever FSB staff leave the room.

Responsible Official: Chief, FSB
Completion Date: September 30, 2001

H4. CONTROL TECHNIQUE

The FSB staff avoids sampling bias in the data (by limiting the number of times an observer can go out on the same boat during a quarter, randomizing selection of vessels for coverage, etc.).

H4. TEST QUESTION(S)

Interview a sample of observers to determine how much discretion they use in deciding which vessel to work on.

H4. FINDINGS

Three of 5 responding observers said they exercise “a lot” of discretion and the other two responded “a little.” They indicated that vessel condition and safety were the primary considerations followed by captains and crew, and cooperation of fishermen.

H4. CONCLUSIONS

For day trip fisheries in which the observer selects the vessels from those leaving port in the morning, the observer does exercise considerable discretion in selecting favorable vessels.

H4. RECOMMENDATIONS

Standardize the vessel selection sampling scheme to eliminate the occurrence of sampling bias. Establish minimum and maximum number of trips sampled per vessel, per month, per port (or state). Monitor observer sampling frequency to assure compliance with the sampling scheme. Alert the COTR to advise the contractor when too many trips are being taken on the same vessel, and to assign the observers to other vessels. Make sure that all participating vessels are aware that the contractor has a blanket policy to provide coverage for all vessels taking PTSI employed observers. Determine if vessels selected for mandatory coverage were sent registered letters notifying them of their requirements, with copies to the contractor. Establish written guidelines for documenting vessels that refuse to take observers, including specific language as to reason(s) for the refusal. Monitor the number of vessels refusing observers by fisheries and by state or port.

Responsible Official: Chief, FSB

Completion Date: March 1, 2001

H5. CONTROL TECHNIQUE

The FSB debriefs observers on a timely and consistent basis.

H5. TEST QUESTION(S)

Interview FSB staff to determine if debriefings can be scheduled when and where they are needed, if face to face debriefings are more effective in insuring data accuracy and follow up by examining a sample of recent debriefings to determine if face to face debriefings or phone debriefings indicated a higher incidence of errors.

H5. FINDINGS

The findings varied, but clearly indicate that face to face debriefings are conducted more frequently with observers stationed in New England ports than those stationed in Mid-Atlantic ports which are further from Woods Hole. Observers can be brought in to debrief at any time, but staff or PTSI managers are reluctant to bring in observers from remote ports as it may require three or more days of travel with loss of sea day coverage while the observer is away from his or her home port. FSB staff who debrief observers consistently reported better results via face to

face as opposed to phone debriefing. However, the primary purpose of debriefing is to resolve errors already detected by editors, so it was not possible to test if face to face or phone debriefings resulted in finding additional errors.

H5. CONCLUSIONS

Debriefings can be scheduled when and where needed, but they are not always accomplished, and the frequency of debriefings was less as the distance from Woods Hole increased. No conclusions could be made about the relative number of errors from face to face as opposed to phone debriefing. While not specified in the test, it would be cost effective to send an editor out to debrief several observers on a single trip than to send several observers in to debrief at Woods Hole.

H5. RECOMMENDATIONS

Debrief all new observers after their first trip. Develop a standard debriefing schedule that includes all observers. Frequency of debriefing will be dependent upon the years of experience of the observer, or the number of errors or omissions found in the completed observer logs. Set up debriefing schedules and require PTSI to abide by them through modification of the current contract. Require PTSI to hire more observers to cover the sea days lost to current observers due to debriefing travel. Send staff to the field to debrief observers.

Responsible Official: Chief, FSB

Completion Date: March 1, 2001

H6. CONTROL TECHNIQUE

FSB staff and independent contractors verify the final data against the trip logs.

H6. TEST QUESTION(S)

Examine a sample of final data and corresponding trip logs to determine if data errors were recorded on a standard form and given to Data Management Services (DMS) for correction.

H6. FINDINGS

All data corrections are documented by annotation, signing or initialing and dating by the editor on the original forms. Data forms are then entered and audited and any errors found during the audit process are also documented and corrections are made by the data entry staff or editors and annotated on the original forms. The data are then added to the master data files by DMS staff and become the responsibility of DMS staff to maintain. If any subsequent errors are found then the necessary corrections are submitted on a standard form to DMS for correction and the original forms are annotated, signed and dated accordingly.

H6. CONCLUSIONS

Final data are verified against the trip logs and all corrections annotated and signed for by the person correcting the data or verifying its status. Sufficient management controls are in place.

H6. RECOMMENDATIONS

None.

SERVICE DELIVERY MODEL: CONTRACT TO NMFS

SOUTHEAST REGION - SHRIMP TRAWL, PELAGIC LONGLINE FISHERIES AND SHARK DRIFT GILLNET OBSERVER PROGRAMS

NARRATIVE

Introduction

Although an in-house observer program was used in the past, currently the National Marine Fisheries Service, Southeast Fisheries Science Center (SEFSC) obtains observers through contracts with Professional and Technical Services, Inc. (PTSI) and Johnson Controls, as well as purchase orders (POs) with individuals (Individual Contracts). The shrimp trawl and the shark gillnet observer programs use observers provided by contractor companies, while the pelagic longline fishery observers are obtained by both contract and individual contracts. With regards to the contract companies, Johnson Controls employs some of the observers for the pelagic longline fishery, all of the observers for the shark drift gill net fishery, and the majority of the observers for the shrimp trawl fishery. PTSI currently has one shrimp trawl fishery observer under contract, although the number is variable with the amount of funding.

The first contract for observers was awarded to PTSI Virginia Beach, VA in July 1996 and renewed on November 1999. The Statement of Work (SOW) was prepared by the Cooperative Administrative Support Unit (CASU) of the Department of Defense and the SEFSC Galveston Laboratory staff. The scope of work includes technical support (i.e., observers) for staffing both oil platform removal observations and fishery bycatch surveys (only the fishery bycatch survey observers are discussed in this narrative). With this contract, virtually all aspects of observer recruitment, training, equipment, deployment, data collection, and deliverables are under the direct supervision of Galveston Laboratory Fishery Management Branch (FMB) personnel. PTSI is responsible for observer salaries, Workman's Compensation injuries, compensation/liability insurance, and other benefits. Benefits are only offered to full time employees.

The second contract for observers was awarded to Johnson Controls in May 1998. The SOW was developed through joint efforts of the SEFSC Pascagoula and Galveston Laboratories. The specific duties of Johnson Controls as defined in the SOW involve providing qualified observers, participating in training orientations, securing travel arrangements, ensuring efficient and timely data collection methods as specified in assigned project sampling protocols, and meeting sea day target obligations. The COTR, located at the Pascagoula Laboratory, serves as the technical liaison between Johnson Controls and the Observer Project Managers in Galveston (Shrimp Trawl Fishery), Miami (Swordfish/Tuna Pelagic Longline Fishery), and Panama City (Shark Drift Gillnet Fishery). Once the need for observers has been identified, the COTR is provided task orders from staff containing lists of required coverage in terms of sea days by project type and area. Johnson Controls recruits and provides qualified observers based on program needs. The contractor is responsible for hiring personnel, for all costs of travel and salary payment (hourly wage) of their personnel when assigned for observer coverage by the Observer Program staff, and for providing Workman's Compensation. Observers are paid during training, while

at-sea on the vessels, and during debriefing. Observer Project Managers are responsible for observer training, vessel contacts and scheduling, observer deployment logistics, and data entry and management. All equipment and supplies are provided by NMFS.

The final method of obtaining observer services is through individual contracts via PO agreements. The PO was authorized under a minimum land day/sea day rate and is negotiated in each case. Each PO is issued through the Miami Facility Administration. Under this method, the observer is paid for training, travel to and from the vessel, and during deployment on the vessel. Training, equipment and supplies, as well as all travel logistics are handled by the Observer Program staff. Travel reimbursement follows government travel authorization and regulations. Observer debriefing and compilation of data collected by observers are conducted by the Observer Program staff. Injuries, should they occur, are covered through Federal Workman's Compensation. At this time, the PO agreements continue to be the primary method through which observer services for longline coverage are obtained.

Fisheries Observed

Shrimp Trawl Fishery, Swordfish/Tuna Pelagic Longline Fishery, and Shark Drift Gillnet Fishery.

Event Cycles

Staffing and Recruitment

In each of the three programs there is a permanent staff of NMFS employees that oversee the observers and data management, and a temporary staff of contract observers who are deployed for data collection. All the observers are hired under temporary/term conditions and work on an intermittent basis. Because annual funding levels fluctuate and are not known for each program until proposals are reviewed and accepted by NMFS, observers are difficult to retain over long periods of time. Once funds are exhausted in a given year, observers are not deployed for data collection. Since observers are hired on an intermittent basis, they have no income from the observer program during these periods. The minimum qualification for observers in each of the three programs is a bachelor degree (or equivalent) in a biological field. However, for some intense, short-term programs, where not enough candidates with the minimum qualifications applied to fill all the available positions, this requirement has been waived by the program staff. The selection of qualified observers is the responsibility of the program staff at each laboratory. The qualification requirements are part of the SOW. There is no process in place to hire or retain a given percentage of experience observers each year.

Shrimp Trawl Fishery

For the Shrimp Trawl Fishery Observer Program the Galveston Laboratory has a permanent staff of five personnel that support the overall management of the observer program. The staff consists of the following permanent NMFS employees: 1 GS-14 Fishery Biologist Branch Chief, 1 GS-11 Fishery Biologist, 1 GS-11 Computer Analyst, 1 GS-5 Data Entry Clerk, and 1 GS-5 Secretary/Office Automation Specialist.

One PTSI-contracted observer maintains a full-time schedule at the Galveston Laboratory. This

observer was originally brought on as an oil platform observer who was crossed trained as a fishery observer in 1996. Based on his tenure and experience, he was placed on a 40-hour workweek to assist in training and data verification, when not on a vessel.

Observers contracted through Johnson Controls work on an "as needed" basis. Although the shrimp fishery operates throughout the year and observer coverage is less than 1%, current funding does not allow for year-round coverage. This in turn makes it difficult to maintain a staff of qualified observers. Fortunately, Johnson Controls has placed their employees in other programs, such as the SEFSC pelagic longline and shark gillnet observer programs, when not needed for this program. Each year in August the plans for observer needs are proposed for the upcoming fiscal year. Competitive in-house project proposals are submitted for limited NMFS funding. Once the current level of funding is known, observer coverage levels and tasks are created for the year. Funding is usually known before deployment needs in May or June. Recruitment and hiring take approximately two months. Wages are equivalent to a GS-5/7 salary level, depending on the experience of the observer.

Pelagic Longline Fishery

The Pelagic Longline Fishery the Miami Laboratory Facility has a permanent staff of seven personnel that support the overall management of the observer program. The staff consists of the following: 1 GS-15 Fishery Biologist Division Chief, 1 GS-12 Research Fishery Biologist Program Manager, 1 GS-9 Research Fisheries Biologist, 2 GS-6 Biological Technicians, and 1 GS-7 Secretary/Office Automation Specialist. Additional staff are available for program analytical support which includes 2 GS-13 Fishery Biologists and 2 GS-11 Fishery Biologists for statistical data analysis. The Observer staff, depending on level of activity within the fishery, includes eight PO observers and three contractor-supplied observers (equivalent to GS-6/7 pay scale). When needed, Miami Laboratory Staff (GS-9 Scientific Illustrator) are also available to collect fishery-specific data aboard vessels.

Shark Gillnet Fishery

The Shark Gillnet Fishery located at the Panama City Facility has a permanent staff of three that support the overall management of the observer program. The staff consists of the following: 1 GS-14 Fishery Biologist Branch Chief, 1 GS-12 Research Fishery Biologist, and 1 GS-11 Research Fishery Biologist. The staff also includes up to six contract observers, depending on the time of the year and level of activity within the fishery.

Training

Items to be covered during training have been established by each program. No attempt has been made to standardize the classes or completion tests between programs.

Shrimp Trawl Fishery

The shrimp trawl observer program requires the observer candidates to successfully complete a 60-hour training program at the SEFSC Galveston Laboratory prior to deployment. A general training session by FMB staff describes project objectives, target-species identification, sea turtle tagging and handling, MSFCA health and safety documentation and instructions, sampling

methods and required data forms. Johnson Controls review their time-and-attendance policies, general work requirements, as well as arrange for observers to be drug tested at a local medical facility (testing fees are covered by Johnson Controls). NMFS Southeast Regional Office staff presents regulatory mandates, procedures to follow if boarded by US Coast Guard (USCG), and other fishery-related matters. Staff from Windward Sea Venture, Inc. instructs observers on assessing vessel structural integrity, lift-raft deployment, radio usage, fire extinguishers, EPIRB type and function, and general safety-at-sea procedures. The USCG Marine Safety Office Galveston further emphasizes safety-at-sea through onboard demonstrations, and thoroughly reviews the pre-safety boarding procedures. CPR and first-aid training are provided at the Laboratory through contract with the American Red Cross. The final training session involves actual hands-on training aboard a locally contracted shrimp vessel. Observer candidates are required to prove that they fully understand safety instructions and collection methods and procedures through a written examination. Success is measured by the ability to complete data forms for a series of trip and safety scenarios. If they fail to pass the test, additional instruction is given. If an observer repeatedly fails subsequent training, the FMB Project Manager contacts the contractor to decline hiring. The final determination as to whether or not to certify an observer is made by FMB staff. At the completion of the training, observers are issued a standard set of data collection and safety equipment.

Pelagic Longline Fishery

Training of observer personnel for pelagic longline coverage is conducted at the Miami and Woods Hole Laboratories by Observer Program staff. The training of the observer is typically scheduled over a four day (eight hours each day) period, with a fifth day needed if adult CPR and first-aid training are scheduled (i.e., if the observers do not have a current certification). During the training sessions, the observer is provided detailed information concerning the observer program, description of the longline fishery and vessel types, trip duration and gear configuration, as well as sampling methods and instructions for required data forms. Much time is spent on details to assist in species identification of swordfish, tunas, billfishes, sharks, and other bycatch species caught by the gear. The Observer Program staff utilizes photo slides for much of the presentation, but also rely on videotapes and outside personnel to augment information. Additionally, the Observer Program staff provides information concerning harassment policy, fishery regulations, radio and safety instructions. Written and oral tests are administered throughout the training session. If the observer trainees fail the written and oral examinations, they are rejected from the program. Before the close of the observer training, equipment and supplies needed for collecting statistical and biological data, as well as, safety gear are distributed to observers to be kept in their possession prior to deployment to a vessel.

Shark Gillnet Fishery

The training of shark drift gillnet observers is typically conducted either at the NMFS Pascagoula Laboratory or the Panama City Facility. The training is scheduled over a one-day period (~8-10 hrs). During the training sessions, the observer(s) are provided a detailed description of the fishery and vessel types, trip and gear configurations, data forms, logs, and instructions. The observer(s) are also instructed on protocols relating to incidental takes of marine mammals and sea turtles. Species identification of sharks, tunas, billfishes, and other important fishes that

historically have made up a large portion of the bycatch is provided using photographic slides. Training is also provided in the use of field diagnostic keys for any bycatch species that may be caught in the fishery. Additional emphasis is also placed on sea turtle, sea bird, and marine mammal identification. Observers are informed on harassment policy, fishery regulations, and at-sea radio and safety instructions. If the observer trainees cannot prove that they are competent through verbal inquiries, they are rejected from the program. Safety gear training and equipment are supplied as well as data forms for statistical and biological data collection. Following the training session, observer(s) are deployed to areas where fishing is currently active.

Deployments and Logistics: Equipment and Supplies

All equipment and supplies for the observer programs are purchased, stored, and issued by the Southeast Fisheries Science Center Laboratories that are in charge of observer deployment (i.e., equipment is stored in Galveston, Miami, and Panama City). Data collection equipment is composed of such items as electronic scales (0.01 kg precision), measuring boards or tapes, baskets, shovels, rain gear, taxonomic keys, cameras, waterproof data forms, etc. The safety equipment includes such items as a life vests, flare guns, survival suits, personnel EPIRBs, first-aid kits, and satellite phones (shrimp trawl fishery) or cellular phones (shark gillnet fishery). Observers are instructed on the use and care of their equipment.

Deployments and Logistics: Observer Deployments

All observers are covered for injury under workman's compensation insurance by the contractor or the federal government. Injuries that may occur to observers hired under PO agreements are covered through government workman's compensation policies (Magnuson Act 1996, Sec 403 (c)). However, there is no liability insurance coverage provided for protection of the vessel owners or crew. Vessel owners are contacted by the observer program staff and arrangements are made to place an observer on the vessel. Usually one or two days notice is given for a departure date. Records are kept with regards to refusals to carry an observer by the fishing vessel and the reasons given. Data collection protocols, departure information, trip length, USCG safety decals, etc. are discussed with vessel owners during this contact. When the observer arrives at the vessel, they use a checklist to complete a final safety check of the vessel. The observer, with consultation from the program staff, has the ability to reject a vessel if considered unsafe. Program staff deal with any issue conflicts that arise between the MSFCMA health and safety regulations and MMPA or Fishery Management Plan (FMP) coverage regulations.

Shrimp Trawl Fishery

While most US observer programs are mandatory under MMPA or other FMPs, the shrimp trawl observer program is voluntary. Thus the vessel operator is under no legal obligation to carry an observer. Deployment of observers is arranged by the FMB Observer Project Manager who contacts and arranges each trip with participating vessel operators or owners. The three most critical elements for vessel selection are: (1) a current USCG Safety Decal, (2) the vessel operator has a clear understanding of sampling protocol and regulations, and (3) safe and adequate accommodations for the observer. Vessel operators or owners are paid for observer room and board (\$25 per day), and depending on the project, compensated for possible shrimp loss due to experimental gear design (\$125 per day). Once a vessel is selected, the FMB

Observer Project Manager either contacts the observer and makes all travel arrangements if the observer is employed by PTSI, or contacts both Johnson Control's Project Manager and the observer with deployment information. In the former case, the observer is issued travel orders and travel arrangements are made by FMB staff through the SEFSC travel agency office. In the latter case, all travel arrangements are made by Johnson Controls. Once onboard, the observer must ensure the vessel has fulfilled all the safety requirements (via check-off list) prior to getting underway. While at sea, observers (via satellite phone) call FMB staff daily, or at minimum twice weekly, to report location and safety conditions. If at any time the observer determines that a vessel is unsafe, they are to immediately contact the FMB Observer Program Manager who will take the necessary action to get them to shore. Based on the severity of the safety issue or medical emergency, the observer may contact USCG directly. Johnson Controls and PTSI have set forth procedures and documentation for injury event management.

Pelagic Longline Fishery

Coverage of the pelagic longline fleet is recommended at a 5 percent fishing effort level (based on number of sets), but the locations of the fishing ports for this fleet are widespread. The fleet is very mobile and uses ports from Maine to Florida along the Atlantic coast, Florida to Texas along the Gulf of Mexico, and Puerto Rico for the southern Atlantic offshore waters. Observer personnel are dispersed in various states, depending on their residence. The Program staff are responsible for issuing travel orders to PO observer services providers and/or NMFS staff providing observer coverage. Travel arrangements are made through the SEFSC travel agency office. Because Invitational Travel Authorization is used, the travel office uses government negotiated fares for airlines, lodging, and rental car agreements whenever possible. Travel reimbursement and per diem rates are based on NOAA travel regulations. In the situation where observer personnel are provided by the Contractor, all travel arrangements and travel reimbursement or observer personnel are the responsibility of the Contractor.

Shark Gillnet Fishery

The shark drift gillnet fishery has two primary seasons. The Atlantic Large Whale Take Reduction Plan calls for 100% observer coverage aboard any drift gillnet or strikenet vessels directed at shark species during the Right Whale season (November 15 to March 31) along specified areas of the Florida and Georgia east coast. The Highly Migratory Species Federal Management Plan (FMP) and the Biological Opinion issued as a requirement of the Endangered Species Act require 100% observer coverage aboard drift gillnet or strikenet vessels targeting sharks and fishing anywhere along the east coast of the US (the area of operation of the shark drift gillnet fleet encompasses areas along the east coasts of Florida and Georgia only) from April 1 through November 14. This 100% observer coverage is contingent upon funding availability. Once a vessel is selected, the Observer Program staff contacts the Johnson Controls Project Manager and the observer with deployment information. All observer personnel are provided by the Contractor, who is responsible for all travel arrangements and travel reimbursements for observer personnel.

Data Collection

Shrimp Trawl Fishery

Observers collect species-specific bycatch data, including sea turtle take levels, from the US Gulf of Mexico and southeastern Atlantic commercial shrimp fisheries. Catch rates of bycatch species taken by shrimp trawlers are collected by area and season. Data are collected according to detailed procedures prescribed in the NMFS Sampling Procedures for Onboard Data Collection. Once a trip is completed, observers are required to have the vessel operator sign designated forms to verify that the data were collected. Two photocopies of the data forms are made at the port of return. One copy is given to the vessel operator, and the other copy is kept by the observer. The original data forms are mailed or brought to the SEFSC Galveston Laboratory for data entry and management.

Pelagic Longline Fishery

In order to record data needed to describe the catch and effort of the longline fishery, the observer must complete three data forms. The first is called the “Longline Gear Characteristic Log,” which is used to record the type of mainline used, length of drop line, number and length of gangions, make and model of hooks used, as well as the number of floats, high fliers, and radio beacons used. The second data form is the “Longline Haul Log,” which is used to describe fishing effort. This form allows the observer to record the length, location and time duration for each set and haulback, as well as environmental information, the speed at which the vessel sets the gear, and type of bait used. The last of the data forms is called the “Large Pelagic Individual Animal Log.” This data sheet allows the observer to record the species of fish caught, condition of the catch (alive, dead, damaged, or unknown) when brought to the vessel, and the final disposition of the catch (kept, thrown-back, finned, etc.). When an animal is brought onboard the vessel, the observer will verify species identification and record length measurements. A final weight of the carcass is recorded during unloading at the dock. This weight is matched to the length measurements on the data sheets using a specially numbered tag to identify the carcass of primary interest. The observer also records information of gear interactions of protected species such as marine mammals, turtles, and seabirds.

Shark Gillnet Fishery

For the shark drift gillnet fishery, the observers are provided with two types of data forms. The haul form includes fields for vessel gear and operational characteristics, and a summary of catch information, including the number of fish kept by species, calculated weight kept, number of live and dead discards, and calculated discard weight. The catch form has fields for individual sharks or bycatch species, including estimated and measured fork length(s), and calculated round weight(s). In addition to these two data forms, the observers also are provided with sea turtle life history forms and marine mammals/seabirds incidental take forms. In the event of the incidental take of any of these species the appropriate form has to be completed, and in the case of marine mammals, the marine mammal Stranding Coordinator is contacted by cellular phone. When possible, observers collect biological samples from sharks for life history studies.

Debriefing

Shrimp Trawl Fishery

Since both PTSI and Johnson Control's shrimp trawl observers have communication with FMB staff on a daily basis (satellite phones), most (if any) data collection problems are resolved (by consultation with NMFS staff) while the observer is still at sea. Approximately three to five days after returning to port, the observer reviews, organizes, makes a copy of the data, and mails the original data forms to the Galveston Laboratory. Once a trip is submitted to the FMB Project Manager, a tracking form is attached to the raw data. Each data form is carefully reviewed for completeness and accuracy prior to data entry. Observers are debriefed by phone, (in person) at the Laboratory, or as needed based on review of their data. The observer may correct his/her data in red ink, or the FMB staff may make the necessary corrections to the original data forms in red ink with documentation. Reports of illegal drug use or harassment by crew members are documented in writing by the observers and the vessel is removed from the coverage participation list.

Pelagic Longline Fishery

Once an observed pelagic longline vessel returns to port and unloading of the catch is completed, the observer returns to their home residence. Within about two to three days after returning home, the observer reviews, organizes, makes a copy of the data, and ships the original data forms to the Observer Program office (Miami Laboratory). When the Observer Program staff receive the data forms, it is reviewed for completeness. Within about one to two days upon receiving the forms, the staff personnel then calls the observer by telephone to go over any blanks or errors that occurred on the data forms and answer any questions that may arise. The observer is then requested to destroy the data form copies. In a few cases, the observer may be requested to travel directly to the Miami Laboratory following the vessel's return to port for debriefing.

Shark Gillnet Fishery

Shark drift gillnet observers are debriefed by the Observer Program staff and the Johnson Controls (Contractor) Project Manager. The observer reviews, organizes and copies the data forms, and mails the original forms to the Observer Program staff (Panama City Facility) on a weekly basis. When received by the Observer Program staff, data are logged in after preliminary inspection for missing, unusual, or illegible information. Observers are contacted by program staff for data clarification if required.

Data Entry and Editing

Shrimp Trawl Fishery

Shrimp trawl fishery data entry is made by FMB staff located at the Galveston Laboratory. Data are entered into an SQL-Server database using Microsoft Access protocol via the Internet. The data entry system provides for audit procedures designed to detect outliers for a particular data field. Once a trip has been entered, it is then proofed by FMB staff for keystroke errors. If errors are detected, it is returned to data entry personnel for corrections. This cycle continues until no further errors are detected. The trip final review is made by the FMB Program Manager who signs off on the final edit. Any additional outliers or errors found during analysis are researched, corrected or flagged, and documented. All raw data, logbooks and electronic data are archived at the SEFSC Galveston Laboratory.

Pelagic Longline Fishery

All pelagic longline data entry is handled by the Observer Program staff in Miami. Within two to three days after completing the observer debriefing, the data are entered into a database. The SEFSC Data Management staff has developed a data entry screen that reflects the image of the data forms. After each observer trip is entered into a database file, the database manager runs a series of software edit programs to look for data inconsistencies as well as entry errors. Because the coverage is based on a selection of vessels by calendar quarter, observer data are compiled at the end of the quarter and summarized. A quarterly report based on the summaries is submitted to the Program Manager. The quarterly compiled data are then appended to the annual database. Back-up and safe storage of the entire observer database occurs on a regular basis.

Shark Gillnet Fishery

Data from the shark drift gillnet fishery are entered into a Microsoft Access database and proofed immediately after entry. For quality assurance, the database contains validation rules with expressions limiting the values allowable in each field. Values of fields for which validation rules cannot be set are verified visually. Additionally, the database is checked periodically for data entry errors by searching randomly for extreme values. All data forms are safely stored at the Panama City Facility and the database is backed up on a periodic basis.

RISKS, OBJECTIVES, CONTROL TECHNIQUES, TESTS, FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

Introduction

A set of risks, each with objectives and control techniques, was developed for our current service delivery model. In order to test the effectiveness of the model, we developed a set of test questions for program managers, COTRs, and observers. These questions were sent out to the COTRs for Johnson Control and PTSI, the program managers for each fishery (shrimp trawl, shark drift gillnet, and pelagic longline), and observers. We used only observers who had been in the system within the last five years. This made a total of 45 observers.

We got responses back from both COTRs, all three program managers, and 14 of the 45 observers (five of the 45 questionnaires were returned because the observer was no longer at the address we had listed for them). Thus, we got back 14 of 40 observer questionnaires for a total of 35%.

A. RISK

Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE

Funds for the observer program are obligated consistently and on time.

A. CONTROL TECHNIQUE

Observer program managers obtain and issue funding guidance in sufficient time to solicit and

negotiate contract support.

A. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The program managers were asked if funding levels are known in sufficient time to review and accept contract proposals (i.e., for internal controls such as considering acquisition strategies, developing the SOW, issuing the RFP, reviewing proposals, negotiating with vendors, and awarding the contract), and if not, do fluctuations in funding levels make it more difficult to retain qualified observers or increase the cost of doing so. They were also asked if an alternative service delivery model would achieve better results.

All shrimp trawl bycatch observer programs are contingent on annual funding through non-base Federal sources (i.e., MARFIN and RPS). Often, high priority research programs (e.g., congressional, secretarial, or regional administrator mandates) are funded with little time to plan or prepare. Quantity over quality results in a 24-hour mental battle to ensure observer safety and quality data while at the same time deliver products. This type of funding strategy creates havoc in maintaining a quality observer pool. A set (annual base) funding amount in conjunction with realistic target sea days and time constraints would be the preferred service delivery model.

The pelagic longline program typically receives baseline funding at the beginning of the fiscal year. These funds are used for salary of the Miami Laboratory program staff, as well as covering observer personnel travel costs (airline, per diem, rental car, etc.) and vessel reimbursement. In the past several years additional funding for longline coverage has been transferred from HQ/HMS, which the program uses for renewal of PO's (contracts) to current observer personnel, hiring of new observer personnel through PO's or transferal to other NMFS laboratories that are currently using private contractors to purchase sea days. These private contractors provide employees for longline training and deployment. This additional funding has been variable in amounts, cannot be counted on from year-to-year, and timeliness in transfer to the program is variable (mid-year to end-of-year). Without being able to know with confidence what funding amounts are available each year and when the program funding will be secured, spending strategies for program expenditures (hiring, travel, contracts, and supplies) are difficult to plan for and obligate. This often causes last minute spending frenzies that are not conducive to wise spending.

Obligation of funds for shark drift gillnet coverage is more problematic. Coverage requirements for this fishery are 100%. Funds obligated for that coverage are provided at the last minute and under crisis-mode even though the regulatory mechanism has specified dates of requirement. Funding is usually inadequate to complete required coverage. This requires the observer coordinator to work quickly to develop a new sampling universe and strategy, contact the contractor to aid in recruiting new observers, train and deploy observer personnel. Both inadequacy of funding and delays in receiving funding cause coordinator and contractors to scramble to meet the coverage levels.

Next the program managers were asked how does NMFS comply with requirements for specific levels of observer coverage (such as 100% observer for the shark drift gillnet fishery) if they are contingent on the availability of funding. In the shrimp trawl fishery there are no requirements for specific levels of observer coverage. For the pelagic longline fishery compliance is never fully carried out because coverage is contingent upon funding availability. When funding is depleted, observers are pulled from the field and the fishery continues. In the shark drift gillnet fishery NMFS has not complied with the requirement for the specific level of coverage due to a shortfall in funding level. Funds are made available usually at a much lower level than were calculated to ensure the level of coverage. Normally, observers are kept in the field and observations of the fishery made until funds are exhausted.

A. CONCLUSIONS

Only the pelagic longline fishery observer program has base funding. It is used for program management, and observer deployment. Thus, the majority of the observer activities in the Southeast are covered through non-base funded sources. This type of funding strategy creates havoc within the programs since these sources have not been consistent in either funding levels or transfer schedules from year-to-year. With these funding inconsistencies, the development of spending plans and the obligation of financial resources is difficult. A core number of observers has been difficult to maintain in each program because when funding is not available the observers are not working and must seek other employment. It is not the service delivery method that is at fault; it is simply the method of funding that is being used by the agency. In all three observer programs, when funding is exhausted, the observers are pulled back to port. However, the fisheries are not impacted and continue to operate, even if 100% observer coverage is a requirement. Thus, this funding strategy has caused NMFS to be out of compliance. It appears from the testing results that funds for each of the observer programs are not obligated consistently and on time. This is not only causing problems with the programs but causes sampling designed to be changed to reflect reductions in budget.

A. RECOMMENDATION

Provide an outline with the observer program's budgetary requirements, based on data collection needs and priorities, on an annual basis to the National Observer Program. These will be submitted for approval to the Regional Administrator. Recommendations and approval will be accomplished during FY2001.

B. RISK

The costs of providing observers may be excessive or mis-allocated within government and industry.

B. OBJECTIVE

The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE

The COTR purchases, stores, and issues observer equipment.

B1. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The program managers are the individuals in the Southeast Region that purchase, store, and issue the observer equipment. The three program managers were interviewed via a series of questions.

First, the program managers were asked what procedures they followed to ensure that inventories would be reordered promptly when they are not in stock or reach a predetermined level. For all three programs the program manager and staff directly purchase the supplies. When supplies and equipment are depletion, more are ordered if funding is available.

Program managers were asked how they authorized and accounted for purchases, and if they matched the deliveries with the shipping document, and the receiving document with the purchase order. All programs indicated that program staff, using credit cards and following the policies of the respective Laboratory, make all purchases for the observer programs. Shipments are received at the facility and reconciled with ordering documentation. Program staff handles storage or dispersion of the supplies and equipment. None of the programs have experienced any problems associated with this method.

They were then asked how they maintained the equipment. For all three programs the supplies and equipment are kept in a locked storage area accessible by program staff only. Equipment that exceeds certain administrative costs is documented by government barcode. Some equipment and supplies are expendable (data forms, waterproof paper, tape measures, knives). All equipment and supplies, however, that are provided to the observer are itemized, documented, and the list filed in the program manager's office. When an observer is decertified or terminated, all equipment is returned and compared to the original documented list. None of the programs have experienced any problems associated with this method.

Program managers were asked if there was adequate protection provided against access to inventories by outsiders or unauthorized employees. All three indicated that there was adequate protection and that the equipment is stored in locked facilities.

They were queried if the facilities were optimal in terms of cost and location. All three agreed that they were optimal because of location, cost and accessibility. All storage facilities are within the laboratory complex.

Program managers responded to a question related to adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories. Each manager indicated that their program followed the DOC, NOAA, and NMFS policies for ordering and receiving. The storage and accountable inventories follow policies set by each Laboratory. In addition, all equipment is inventoried on a regular basis via written documentation.

In the final question for this section the managers were asked if the storage facilities for inventories provide adequate safekeeping. Each manager indicated that the facilities are

adequate and locked at all times.

B1. CONCLUSIONS

With regards to equipment, there has been no shortage of equipment for observers. When equipment stocks are low or depleted, more is ordered by the program manager or program staff. All programs are following the purchasing policies of the agency. All equipment is maintained in locked storage areas that are accessible only by the program staff. Equipment is checked out to each observer, and is retrieved when the observer leaves the program. None of the programs have experienced any problems with this method of dispersal. Equipment is well maintained at each of the laboratories.

B1. RECOMMENDATIONS

No changes necessary for this control technique.

B2. CONTROL TECHNIQUE

The COTR monitors the costs of the contract by comparing the invoices received from the contractor with the reports received from the observers.

B2. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The program managers and COTRs were first asked if they compare the invoices for the services of individual observers with the records of the observer's activities. If yes, they were then asked if they were approved by a responsible official in accordance with the terms and conditions of the contract.

The pelagic longline observers who are hired under a Purchase Order are monitored by a COTR, who is the observer program manager. Before the observer submits his/her invoice for payment, the program manager and the observer agree on the number of land and sea days. The invoice is mailed to the COTR/program manager who must approve the invoice. It is then mailed, along with the PO receiving report, to the Administrative Service Center (ASC) for processing and payment. Aside from ASC glitches, payment to observers by this process has been reduced from 45 days to 15 days. For the pelagic longline, shark drift gillnet, and shrimp trawl fishery observers who are hired through a contractor, the program manager communicates to the contractor the general departure and arrival dates, but all payments of salary and travel expenses are the responsibility of the contractor. The COTR for the contractor compares the invoices for the services of the individual observers with the records of the observer's activities. There are excellent communication links between program manager, contractor and contracting officer for all programs.

B2. CONCLUSIONS

The COTRs compare the invoice for service with the records of the observer activities. There are excellent communication links between program managers, contractors, and contracting officers. PO invoices are signed by the program manager and then sent in for payment to the observer.

B2. RECOMMENDATIONS

No changes necessary for this control technique.

B3. CONTROL TECHNIQUE

The NMFS compensates shrimp fishermen for possible shrimp loss (as a result of employing experimental bycatch reduction devices with observers).

B3. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The program manager for the shrimp fishery was asked how "reasonable and fair" compensation was determined and administered for the possible shrimp loss that the vessel would experience when employing experimental bycatch reduction devices (BRDs) with observers. The compensation was determined by statistical methodology from many research trips during proof-of-concept testing for various BRDs. Average pounds of shrimp loss were determined and an associated dollar value affixed to this amount.

B3. CONCLUSIONS

The amount of compensation that the NMFS pays shrimp fishermen for possible shrimp loss during BRD testing is not arbitrary, but based on the results of research cruises. The payment level has resulted in a "reasonable and fair" compensation to the vessel.

B3. RECOMMENDATIONS

No changes necessary for this control technique.

C. RISK

Qualified observers may not be recruited and/or retained.

C. OBJECTIVE

Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE

The NMFS uses contracts to supply observers on a timely basis.

C1. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The three program managers were asked if they attempted to hire or retain a given number of experienced observers each year, and if no, why not. To have an effective group of observers each program must weigh the benefits between the following: (1) keeping a large number of observers on staff but not lose them with high turnover because they can't make a reasonable salary, or (2) keeping a reasonable number of observers so they work more (i.e., make more money) but occasionally hinder the program in making the percent of coverage required. In the pelagic longline program the hiring of observers by PO and reimbursing travel expenses are very administrative intensive for the program manager, so one can only tolerate a reasonable number

of employees. However, the advantage to this is that the program manager has a more complete idea of expenses, quick submission of data, direct debriefing and feedback to the observer. Most of the problems with keeping a group of observers on staff lie in not knowing the funding situation either due to reduced funding or receiving funding at the end of the year when spending according to actual needs is difficult. The hiring of observer personnel is usually opportunistic for this program. Therefore, when the program finds a person that may fit the job, it must have the flexibility to hire that person. Reduced funding, inadequate funding, or end-of-year funding is unacceptable for meeting recruitment needs. On the other hand, the shrimp trawl fishery simply does not have the fishing effort over an entire year to make it possible to retain a group of experienced observers. The program gets new, hopefully experienced, observers as a project receives funding. For the shark drift gillnet fishery, all attempts are made to retain or rehire past observers. However, due to the uncertainty on the level of funding it is not always possible to retain observers for a long period of time.

The program managers were next asked if contracts are more or less cost effective than an in-house program would be (in hiring qualified and credible observers quickly, assigning them usefully, and then keeping them). From the view of the shrimp trawl fishery program manager, contracts are not cost effective because of the amount of overhead sought by the contractor (i.e., overhead rates are about 70%). More importantly in-house methods provide more benefits to observers in the sense of employment stability and agency loyalty, thereby increasing retention. For the shark drift gillnet program manager, utilizing contract personnel appears to be more cost effective than an in-house program. Since this observer program lacks any type of direct support staff, (e.g., technicians) and in-house administrative support staff already have many directed duties, the contractor aids a great deal in administrative, recruitment, and maintaining credible observers. The pelagic longline program manager raised several points regarding the disadvantages of in-house hiring: following policies set by Human Resource staff, such as publishing position announcements, determining GS-levels, educational minimums, and the overall selection process which can be slow and laborious; hiring freezes or abolishment of positions by Regional Management, or Congressional cut backs; and performance evaluations. The advantage to in-house hiring is that, in general, job positions have some personnel benefit packages (leave, overtime, health insurance, etc.). In the pelagic longline fishery program, the contracts and contractors are generally more cost effective to the government. However, this is because the private contractor is always looking at the profit margin for his company rather than considering pay scales of the contracted employees given the dangerous and arduous work they must perform as an observer. In other words, most contract employees are kept at their beginning salary level with little opportunity for advancement, which generally causes the high turnover rate.

Audit Findings

Two questions were addressed by looking over observer employment records for the past several years for observers in the shrimp trawl fishery program. The first question asked was if recruitment or retention was affected by the use of one, rather than more than one contractor, while the second question dealt with whether observer recruitment or retention varied among contractors. The shrimp trawl fishery has used both Johnson Control and PTSI for the past

several years. Observer retention was not affected by the contractor, since the number of individual observers moved into and out of the contract with similar frequency. With both contractors, very few observers were retained for a period longer than two years. However, recruitment was different. For Johnson Control, the contractor does all the position announcements, recruitment actions, and interviews, whereas with PTSI contracts, these same functions are all handled by the program manager and staff. Recruitment actions were more difficult for the program manager with the PTSI system, but the manager has more control over the individuals that are hired as observers.

Observer Findings

The observers were asked how they originally learned about the observer program and observer jobs. Choices included: (1) friend, (2) announcement at college, (3) advertisement in paper, magazine, (4) word of mouth, (5) prior observer, and (6) other. Six of the 14 (43%), indicated they learned about the job through an announcement at college; three (21%) through an advertisement in paper, magazine or Internet; four (29%) by "word of mouth;" and one (7%) because they had prior experience as an observer.

They were then asked the primary and secondary reasons for their interest in being an observer. Choices included: (1) work on fishing vessels, (2) work out of the region, (3) scientific or field experience, (4) money, and (5) other. Primary reasons included scientific or field experience (eight, 57%), money (four, 29%), work on fishing vessels (one, 7%), and work out of region (one, 7%). The secondary reasons included scientific or field experience (four, 29%), money (three, 21%), work on fishing vessels (four, 29%), work out of region (two, 14%), and no second choice listed (one, 7%).

Thirteen out of 14 (93%) indicated that the observer pay level was an attractive incentive for first becoming an observer. For most of the observers (10, 71%) the interview was conducted over the phone, while the other four (29%) were conducted in a personal meeting.

Six of the 14 (43%) are still employed as an observer. For the remaining eight former observers, they were asked to indicate the primary reason for leaving (could mark up to three answers in priority). The choices included: (1) too much time away from family/friends, (2) sea sickness, (3) safety concerns, (4) better job, (5) graduate school, (6) compensation for work unsatisfactory, (7) lack of advancement opportunities, (8) lack of respect /understanding/support for my work, (9) harassment/pressure, and (10) other. Three of the eight former observers (38%) indicated that the primary reason they left was because of graduate school, two (25%) gave the primary reason as safety concerns about the crew, one (13%) was because they were away from family and friends, one (13%) left for a better job, and one (13%) gave the primary reason for leaving as lack of advancement opportunities. One of the observers that listed graduated school as the primary reason for leaving, listed a better job as a secondary reason for leaving, and lack of advancement opportunities as a third reason. One of the observers that listed safety concerns about the crew as the primary reason for leaving also listed harassment, lack of advancement opportunities, and unsatisfactory compensation for work as other reasons why he left observer employment.

For the eight observers that left employment five (63%) indicated that they would consider coming back to work as an observer for the following incentives or if the following changes were made: (1) job security, (2) graduate research, (3) upward mobility, (4) better benefits, (5) increased pay, and (6) no harassment from crew. The other three (38%) indicated that they would not consider observer employment in the future.

C1. CONCLUSIONS

Recruitment methods are variable. For some programs Johnson Control does the interviews, selections, and hiring before the observers are sent to NMFS for training. For programs using PTSI observers, NMFS does the interviews and selections. Many of the observers that have been hired learned about the job through announcements at college, advertisements in papers or Internet, or simply by word-of-mouth. Most of the individuals were interested in becoming an observer to gain field experience or simply for the money. Many indicated that the observer pay level was an attractive incentive. Findings indicate that because of erratic funding associated with observer programs annually, maintaining a large number of observers on staff is not possible. It also reduces the annual salary of observers, since they are only paid during training, deployment and debriefing. With the current service delivery model, it seems to be a simple process to bring observers on board when needed, but these individuals may not be experienced and are in many cases just looking for a "summer" job. When programs get the funding to hire observers, they are only able to pick up the individuals that are available at that specific time. Contracts have a high overhead rate for observer coverage (e.g., up to 70%), but the benefits for NMFS include reduced administrative support and hiring costs, and quicker and more flexible ability to hire observers. Observer retention is not affected by the use of various contractors. Instead, it is affected primarily by the availability of funding on a consistent basis. About half of the individuals who responded to the survey are still employed as observers. For those who were no longer in the programs, many have gone back to graduate school, while some left because of safety concerns about the crews. Over 60% indicated that they would come back to the program if better pay, benefits, or the opportunity to advance in the government system were provided. The other 40% said they would not be observers again.

Thus, it appears from the findings that observers that meet the current minimum hiring standards are not recruited and / or retained by the present system. The primary reason seems to be from lack of consistent funding, which leads to recruitment of individuals that are looking for temporary or short-term employment. As a result, few are retained over a long period of time. There are some observers that have been in the programs for several years, but most of the observers are not retained past the first or second year.

C1. RECOMMENDATIONS

NMFS needs to provide more consistent and predictable funding for all Southeast observer programs.

Standardize the Pay Scale for contract observers so that it is comparable to federal employees performing similar duties as observers in the Southeast programs. These will be submitted for approval to the Southeast Science Director. Recommendations and approval will be

accomplished during FY2001.

C2. CONTROL TECHNIQUE

The NMFS establishes minimum qualifications for observer recruits.

C2. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The program managers were asked if the minimum requirements for observer recruits in the Statement of Work, such as a Bachelor's Degree, were appropriate ("too restrictive," "about right," or "not restrictive enough"). All three managers seemed to agree that requiring a Bachelor's Degree could potentially be too restrictive. From their experience, most college graduates that are young and fresh out of the school often have a false sense of what working at sea is like. Situations like unstable working platforms (foul weather, extreme heat or cold) were not what they expected. Most of the college research cruises rarely work under severe weather conditions because of safety restrictions. Likewise, food aboard commercial vessels is quite variable and sometimes poor. Lastly, most biology graduates are looking at observer jobs as temporary positions, taken while waiting for postgraduate work or while seeking full time employment in the field of biology. Of utmost importance to an observer program manager is knowing if the person is seaworthy (not prone to seasickness), reasonably healthy, and able to perform basic mathematics. There is potentially a large pool of ex-fishermen and persons with minimal college education, or typically older individuals that have the required maturity level that should be considered. Working under a hostile environment with disgruntled fishermen often requires a certain amount of maturity or wisdom to handle some situations. With some exceptions, most of the observer programs in the southeast region do not use complicated mathematical computations nor equipment that requires a "rocket scientist" to use or understand. When given the opportunity, program managers in the southeast have usually had very good experiences with less than college graduates.

The program managers were asked if minimum requirements should vary by fishery. All three felt that requirements need to vary by fishery. One could see a minimum educational requirement of a college degree only if there is going to be an observer pool that all the regional observer program coordinators could call upon for personnel. However, when programs are under pressure to spend their funds quickly, they look to private contractors to provide candidates. Coordinators may not have a say on minimum standards, because there may not be enough qualified applicants to fill the request. In order to hire individuals under purchase of service agreements in sufficient numbers or under time constraints, minimum requirements may have to be waived or overlooked. College graduates are usually looking for more permanent work and regular paychecks. Fluctuations in observer program funding causes higher turnover. Including ex-fishermen, non-college graduates, or older individuals may expand the available work force.

The COTRs were asked if they screened observer recruits before sending them to NMFS for training. For PTSI, the NMFS Galveston Laboratory screens potential hires prior to sending

them to PTSI for employment. This method works well for the Galveston laboratory, but it is site specific. Other laboratories that use PTSI may require PTSI to recruit and screen. On the other hand, Johnson Control screens all potential hires prior to sending them to NMFS for training. The resumes are checked for qualifications, and a phone interview is conducted. Johnson Control selects the observers from this pool. Before training Johnson Control also required the individuals to pass an initial drug screen. NMFS does not have a say in selection of potential observers before training.

C2. CONCLUSIONS

The program managers thought although requiring the observers to have a Bachelor's Degree has been the practice, it may not be necessary or conducive to retaining skilled observers. This requirement needs to vary by the fishery and should be based on the assignments the observer is going to accomplish.

C2. RECOMMENDATIONS

Basic observer qualifications need to be standardized in the Southeast programs. These basic qualifications, along with some specific qualifications developed by fishery type, will allow an observer to be qualified to work in one, several, or all the observer programs. The Regional Representative on the National Observer Program Advisory Team and the three Observer Program Managers will discuss this issue via conference calls and develop the basic and specific qualifications. These qualification standards will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

D. RISK

Observers may not be properly trained to perform their duties.

D. OBJECTIVE

Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE

The NMFS conducts comprehensive training courses for recruits and experienced observers.

D1. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

Program managers were asked how they establish the training requirements, and if the contractor participates or assists in the training. Observer candidates for the shrimp trawl fishery must successfully complete a 60-hour training program at the SEFSC Galveston Laboratory prior to deployment. A general training session describes project objectives, target-species identification, sea turtle tagging and handling, sampling methods, and required data forms. Johnson Controls attends the training and reviews time-and attendance policies and work requirements. They also arrange for observers to be drug tested at a local medical facility. PTSI does not assist in training. Observer candidates for the shark drift gillnet and pelagic longline fisheries are also required to successfully complete a training program, but the length of the classes is not as long

as for the shrimp trawl fishery program. Both the pelagic longline and shark drift gillnet training includes data collection, species ID, regulations, safety, radio protocol, ethics, invoicing, and travel instructions. There is no contractor involvement in this training.

The three program managers were asked if the observers were required to demonstrate that they understood the material of the training courses, and if they were, how tests were administered (conducted, reviewed, and approved). Managers were also asked how effective the tests were in improving the training courses or the performance of the students. Neither the pelagic longline nor the shark drift gillnet training programs require any tests to be completed by the observers. In the shrimp trawl fishery program the observer candidates are required to prove that they fully understand safety instructions and collection methods and procedures. Again, no written test is given, and the determination is a subjective test by the program manager. If the program manager feels that they fail to do so, additional instruction is given. The final determination as to whether or not to certify an observer is made by NMFS Galveston personnel.

Observer Findings

The observers were asked how they would rate the usefulness of the observer training in preparing them to perform their duties. Choices included: (1) very great use, (2) great use, (3) moderate use, (4) some use, and (5) little or no use. Three of the 14 (21%) found it of "a very great use," eight (57%) found it of "great use," and two (14%) found it of "moderate use." No one rated their training as of "some use" or of "little or no use" to them.

Next the observers were asked how they would rate the overall training and briefing they had received before they left on a vessel. Choices included: (1) very good, (2) good, (3) fair, and (4) poor. With regards to the training experience, seven (50%) rated it as very good, while the other seven (50%) rated it as good. For the briefing experience, seven (50%) rated it as very good, while five (36%) rated it as good. One (7%) rated it as fair, and one (7%) left it blank.

Lastly, the observers were asked how well did the training and briefing they had received prepare them for the observer experience. Choices included: (1) very good, (2) good, (3) fair, and (4) poor. Eight of 14 (57%) rated the training as very good, while the other six (43%) rated it as good. For the briefing experience, eight (57%) rated it as very good, while four (29%) rated it as good. One (7%) rated it as fair, and one (7%) left it blank.

D1. CONCLUSIONS

All the observer programs in the Southeast have training courses; however, the length of each training course is different in each program. The shrimp fishery training course has external personnel scheduled to cover various topics during each course, while the other courses use external personnel if available. No tests are administered by any of the programs, but the program managers use directed questions to subjectively determine if observers understand the materials.

The observers seemed to agree that the courses were all well run and provided the necessary materials to allow them to be observers for the various fisheries in the Southeast. Over 78% of

the observers found the training to be of very great to great use in preparing them to perform their duties. All of them thought that the overall training and briefing experience was good to very good. They all also thought that the training and briefing that they had received prepared them (good to very good) for the observer experiences.

D1. RECOMMENDATIONS

An objective testing method needs to be developed for the training courses in the Southeast Region, even though the observers feel that they are adequately trained. The Regional Representative on the National Observer Program Advisory Team and the three Observer Program Managers will discuss this issue via conference calls and develop the testing methods. These will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

D2. CONTROL TECHNIQUE

The NMFS trains observers in core competencies.

D2. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The program managers were asked if the training for core observer competencies, (such as vessel safety, survival training, relations with the crew, etc.) was standardized throughout the Southeast Region. All the program managers knew the training was not standardized in the Region, but each thought that the material covered at the three different training courses was probably similar in content. Each manager felt that they covered the items that were important for that particular fishery. Observers review VCR tapes on boarding procedures and safety equipment of the vessels, which are provided by Coast Guard. For the shark drift gillnet and the pelagic longline training courses, USCG personnel are invited as speakers when their schedule allows, whereas for the shrimp trawl fishery, the Coast Guard are always part of the training. Each of the three programs discusses harassment situations, how to avoid them, and how the agency supports any reports of problems. For the shark drift gillnet and the pelagic longline training courses there is no at-sea survival training offered or discussed during the training, although some handouts are provided which touch on the subject. For the shrimp trawl fishery course there is at-sea survival training offered in the form of videos.

The managers were then questioned if any of the curriculums place either “too much” or “too little” emphasis on particular topics, (such as sampling and estimating catch size, species identification, fishing gear, prohibited species, etc.), and if so, which ones. Each manager thought that the materials they presented were comprehensive, however, each selected the topics for the course so evaluations may be biased.

Observer Findings

The observers were asked if the training they received provided the skills and knowledge needed to accomplish their assigned tasks. If they did not think the training was sufficient, they were asked to list the topics where training was deficient. Most of the observers (11, 79%) felt the

training prepared them for their assignments. Two (14%) felt that the training did not provide necessary training in harassment and communication (i.e., communication from the observer on the vessel to their coordinator at all times). One (7%) felt the training was very good, but did not go into enough detail with respect to biology of the organisms and sampling techniques.

Next a series of three questions were asked that addressed the training and briefing sessions. The first question asked observers to indicate the portions of the training and briefing that prepared them best for their observer experience. All but two provided some answers to this question. Responses about training included: hands on experience, forms and paperwork, field work, fish identification, general safety, experienced observers, and safety gear. Responses about briefing included: helpfulness of staff, feedback, knowledge about vessels, experienced observers, and videos.

The second question asked observers to indicate the portions of the training and briefing that need improvement. Only four of the observers (29%) wrote down anything for this question. Responses about training included: new manuals, shark identification, and course too short. Responses about briefing included: need to do from distance (call the observer instead of having the observer come into the office), standard operating procedures need to be discussed, and harassment issues.

The third question allowed for other comments about the training and briefing sessions. Thirteen of the 14 observers (93%) did not respond to this question. Responses about training included: trainers should be observers. Responses about briefing included: faster access to observers by the program managers after a trip.

D2. CONCLUSIONS

All courses cover items such as data collection, species identification, regulations, vessel safety, safety equipment, radio protocol, ethics, and travel. There is no standardized training schedule, but the same basic core materials are covered in each course, although the length may vary. There is no in-water training in any of the courses. Each program manager thought their particular course was comprehensive, but each selected the materials that were covered in the course (i.e., there was no external evaluation of training materials).

About 80% of them felt that the training provided the necessary skills and knowledge needed to accomplish the assigned tasks. The other 20% felt that more training was needed in the areas of harassment and communication skills between the observers and the program staff. The items that the observers felt were best presented in the training sessions were general vessel safety issues, safety gear usage, species identification, data forms, and hands on experience on a training vessel. Only 30% indicated items that needed improvement in the training sessions, and these included new manuals, a longer course, and that experienced observers should be providing the training to the new observers.

D2. RECOMMENDATIONS

So that observers can be utilized in each of the programs, the basic elements (materials and

length of coverage time) of the observer training courses need to be standardized in the Southeast programs. Experienced observers and individuals from other agencies (e.g., USCG) need to have involvement in the training. In water training needs to be part of all training courses. The Regional Representative on the National Observer Program Advisory Team and three the Observer Program Managers will discuss these issues via conference calls and develop the list of basic elements (including in-water exercises), involvement from other agencies, and length of coverage times. These will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

A more comprehensive treatment of harassment needs to be developed and used during training courses in the Southeast Region. The Regional Representative on the National Observer Program Advisory Team and three the Observer Program Managers will discuss this issue via conference calls and develop the materials to be discussed about harassment levels. These will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

E. RISK

The health and safety of observers may be impaired.

E. OBJECTIVE

The health and safety of observers are protected.

E1. CONTROL TECHNIQUE

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The program managers and not the COTR are involved in the interface between observers and vessels. Thus, only the three managers were asked the following questions for this section.

The first question asked was how does NMFS notify vessel owners and operators of their responsibilities and methods of compliance. Managers were also asked, in conjunction with this question, if any records were kept regarding the performance of this notification procedure and if these records are useful in improving the notification procedures. For the shrimp trawl fishery, deployment of observers is arranged by the program manager who contacts and arranges each trip with participating vessel operators or owners. The three most critical elements for vessel selection are: (1) a current USCG Safety Decal, (2) the vessel operator has a clear understanding of sampling protocol and regulations, and (3) safe and adequate accommodations for the observer. Written documentation is recorded for each and all correspondence between program manager and vessel owner/operator. For the pelagic longline fishery the program manager sends letters of selection notifying the permit holder (owner or operator) of their coverage responsibility. Based on the HMS Fisheries Management Plan, once so notified, coverage

becomes mandatory. Selection letters were sent by return receipt for many years, but now the Program depends on the regular mail system. The return receipt was not working in that either the postal service only made a few attempts to deliver and then returned the envelope or the permit holder refused the letter and it was returned. The selected fishermen are allowed a short period of time to respond to the program office, however, most of the communication is initiated by the program coordinators. All calls and faxes to and from the selected permit holders, owner, or captain are kept in file folders. The records only become useful in cases of noncompliance. For the shark drift gillnet fishery, the notifications on fishers' responsibilities are communicated by letter through the NMFS/Southeast Regional Office's Protected Resources Division or the NMFS/Highly Migratory Species Division. These individuals keep all the records of contact in their offices. These records are not used for any outreach programs.

The program managers were asked how the observers are "encouraged to spot-check major items for compliance with Coast Guard regulations," and if there is a critical form or process. For the pelagic longline fishery, the observer has a safety check list that he/she is supposed to fill out with the captain during a tour of the vessel. If the vessel does not meet this minimum checklist, the observer calls the observer office to discuss the situation. For both the shark drift gillnet fishery and the shrimp trawl fishery, the observers check the vessel for a Coast Guard safety sticker before boarding. If no safety sticker is found, the observer contacts the program manager. Observers are instructed never to board a vessel without the safety sticker.

The managers were asked what dispute resolution procedures do NMFS and the Coast Guard follow when an observer and a vessel owner or operator disagree about the safety of a vessel. Follow-up questions included: Are these procedures in writing (documented); Is there a clear, written chain of command; Is there required review, approval or sign off; Do separate and impartial personnel conduct investigations. It should be noted here that for all three fisheries the requirement for the USCG safety decal in the OH&S regulations has helped substantially in this area. For the pelagic longline fishery, if the observer finds deficiencies in the process of reviewing the safety checklist, the observer is supported in his/her decision to refuse deployment on that vessel. Neither the observer nor the observer program holds a vessel at the dock should safety concerns exist. The requirements of safety are the responsibility of the Coast Guard to uphold. The regulations required by NMFS on safety and vessel compliance are the responsibility of NMFS to uphold. The observer program manager for the longline fishery files a quarterly summary report to the Regional Office which documents the safety concerns for specific vessels. For the shark drift gillnet fishery, the vessel would be reported to the USCG. In the shrimp trawl fishery the vessel operator is under no legal obligation to carry an observer since the program is voluntary. To date, if the observer concludes that he/she feels unsafe for whatever reason, they are not placed on that vessel.

The program managers were asked what records they kept about what happened when observers made pre-trip safety checks of vessels to which they had been assigned. For all three programs, observer records about pre-trip safety checks are filed in the program manager's office. Safety issues with particular vessels are recorded for future reference.

Managers were asked if these records indicated that some observers refused or were reluctant to board vessels because of alleged health or safety problems and were there any attempted or perceived pressure on observers by vessel owners or operators. They reported no attempts or perceived pressure on observers by vessel owners or operators to date in any of the programs.

Observer Findings

This set of questions allowed the observers to express their opinions about health and safety issues. The first question asked if they were aware of a written policy that an observer's job will not be endangered if he refuses to board a vessel because of health or safety problems that he finds. Seven (50%) answered yes and seven (50%) answered no. For those that answered yes, many indicated that they were aware of the policy but did not know it was written. For the seven that knew of the policy, five (71%) indicated that it was being followed, one (14%) indicated that it was not being followed, and one (14%) left it blank. When all the observers were asked if they felt any pressure from the contractors (PTSI or Johnson Controls) to ignore health or safety concerns that they had, 13 (93%) marked that they did not feel any pressure, while one (7%) indicated that they did feel pressure to ignore health or safety concerns.

The observers were then asked if they had identified any unacceptable health or safety conditions on the pre-trip safety check during their last trip. Eleven (79%) indicated that they did not, two (14%) marked that they had identified some conditions, and one (7%) left the question blank. For the two that indicated that they identified some unacceptable conditions neither indicated that they keep a written record of the incident, although one observer indicated in this evaluation that all shark drift gillnet vessels were unsafe. Neither indicated what actions were taken to correct the conditions, but both indicated that the conditions were not corrected to their satisfaction.

E1. CONCLUSIONS

For the two mandatory observer programs (pelagic longline and shark drift gillnet) the vessels are notified of their responsibilities and methods of compliance by letter. Follow-up interactions are by phone or Fax. Files are kept with regards to communications. For the voluntary shrimp trawl program, phone and Fax have been the main communication mechanisms. Again files are kept with regards to communications.

All programs have a pre-trip checklist that observers complete before they get on the vessel for a trip. All checklists require the observer to look for the Coast Guard safety decal. This decal requirement has helped the observers determine the safety of the vessel during the pre-trip check. All program managers indicated that the observers have the final say as to whether or not the vessel is safe for the trip, but there is no written policy on this matter. Any questions are directed to the program manager for resolution. Only vessels in the shark drift gillnet fishery are held in port if considered unsafe, but this has not occurred to date. All communications records about pre-trip safety issues are kept in the program manager's office.

Half of the observers indicated that they were aware of a policy that they have the final say about the safety of the vessel, but they were not aware it was written (note: there is no written policy). Only one of these seven said that the policy was not being followed by the program. This one

observer felt that all shark drift gillnet vessels were unsafe. The other half of the observers did not know about any policy with regards to this issue. Most (93%) of the observers said that they did not feel any pressure from program staff or vessel personnel to ignore any health and safety concerns about the vessel. However, one observer indicated that although the observers may not feel pressure to ignore the safety issues, since they are only paid when offshore on a trip this pressure to board a vessel may cause them to ignore some safety issues. However, if this were a universal concern, some of the others probably would have also cited this reason. Two individuals indicated that they had some pre-trip concerns that were not corrected to their satisfaction by the program staff.

E1. RECOMMENDATIONS

A written policy, defining that the observers have the right to refuse a vessel they feel is unsafe, needs to be developed for the Southeast Region. The Regional Representative on the National Observer Program Advisory Team and three the Observer Program Managers will discuss this issue via conference calls and develop the policy statement. This statement will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001. This policy will become part of the training materials.

A selected vessel in a mandatory observer program needs to be held in port and not be allowed to participate in the fishery, if that vessel will not accept an observer or if the vessel is considered unsafe for an observer to be deployed. A consistent written policy, outlining the procedures for documenting safety concerns, needs to be developed for the Southeast Region. The Regional Representative on the National Observer Program Advisory Team and the three Observer Program Managers will discuss is issue via conferences calls and develop the procedures. These will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

E2. CONTROL TECHNIQUE

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The three program managers were asked if there were any documentation of the necessary action that would be taken if an observer determined that a vessel is unsafe while at sea. For all three programs there is no written documentation of necessary action. However, all three programs have the understood policy that if at any time the observer determines that a vessel is unsafe, they are to immediately contact the program manager who will take the necessary action. Based on the severity of the safety issue, the observer may contact USCG directly. Shrimp trawl observers have satellite phones, while the observers in the shark drift gillnet have cellular phones. The pelagic longline fishery observers must use the vessel's equipment.

Observer Findings

The observers were asked if on their last detail did they identify any unacceptable health / safety

conditions while the vessel was at sea. None of the observers responded to this question, and it may have been missed because of location on the forms. However, from discussions with the program managers, they each felt that very few observers have major vessel safety concerns while at sea, mainly because of the pre-trip safety inspections. The majority of concerns occur with drug use on the vessels while at sea. These records are filed in the program manager's office.

The observers were asked if they have been intimidated, pressured, harassed, or had their sampling interfered with in a manner that affected the quantity or quality of their work. Five (36%) indicated that they had not, while the other nine (64%) marked that they have had such an experience. For the nine observers that had this experience, they were asked to document the frequency (often, occasionally, rarely, and once) and location (vessel or shoreside plant) for the event. One (11%) observer indicated that it happened occasionally on vessels and once at a shoreside plant. Four (44%) marked that they had the experience rarely on vessels, while two (22%) indicated that the situation occurred once on a vessel. Two (22%) said the events occurred occasionally as shoreside plants.

When these nine observers were asked if they filled out an affidavit for sampling interference, intimidation, harassment, or similar activity, three (33%) indicated that they had filled out an affidavit, while the other six (67%) said they did not fill out any formal complaint. The reasons for not filing a complaint were: (1) did not want to get the crew mad at them (three observers), (2) not that important or serious (two observers), and (3) not the fishermen's fault (one observer).

Next these nine observers were asked if the debriefer was able to adequately address the harassment /intimidation concerns that they had encountered during their work as an observer. Choices included: (1) always, (2) usually, (3) occasionally, (4) rarely, and (5) not at all. Six (67%) indicated that the debriefer was always able to address the concern, while two (22%) said that their concerns were usually adequately addressed. Only one observer (11%) marked that their concerns were not at all addressed by the debriefer.

All observers were asked in what ways the observer program could be more supportive of observers who have experienced harassment / intimidation / other trauma on the job, as the final question for this section. Observers were able to check all that applied from the following list by priority: (1) better training/preparation, (2) better information in manual, (3) more support in the field, (4) better outreach to industry, (5) better enforcement and follow through on observer complaints, (6) more support during debriefing, (7) better grievance procedures for observers, (8) better communication and cooperation between contractor and NMFS, (9) professional counseling support for observers who have experienced trauma, and (10) other. Two observers (one as their first and one as their fourth priority) marked "better training / preparation." Three observers (one as their first, one as their second, and one as their fifth priority) selected "better information in manual." One observer (as their third priority) marked "more support in the field." Seven observers (four as primary and three as secondary priority) selected "better outreach to industry," while seven observers (five as primary, one as secondary, and one as a fourth priority) picked "enforcement and follow through on observer complaints." One observer (as their third

priority) selected "more support during debriefing," and one observer (as their first priority) marked "better communication and cooperation between contractor and NMFS." Two of the 14 observers (14%) did not mark any answers.

E2. CONCLUSIONS

All three programs have the understood (unwritten) policy that if at any time the observer determines that a vessel is unsafe while at sea, they are to immediately contact the program manager who will take the necessary action. Based on the severity of the safety issue, the observer may contact USCG directly. Shrimp trawl observers all have satellite phones, while the observers in the shark drift gillnet have cellular phones. The pelagic longline fishery observers must use the vessel's equipment.

The program managers felt that very few vessels have major safety concerns once they are at sea, mainly because of the pre-trip safety inspections. The majority of concerns occur with drug or alcohol use on the vessels while at sea. Both the crew and the captain can be involved in the usage, but the real safety concern occurs if it is the captain. Records about drug or alcohol use are filed by the observer in the program manager's office. Although vessel safety has not been a concern expressed by the observers, about 64% had experienced harassment, intimidation, or interference during sampling. One observer indicated that it happened occasionally, while the others said it occurred rarely or once. Only about one third filled out an affidavit about the incident. The reasons why the others did not fill out an affidavit included that fact that they did not want to get crew in trouble or the observer thought the incident was not a very serious matter. All but one of the observers that had experienced harassment, intimidation, or interference felt that the debriefer was able to adequately address their concerns about the situation. Several issues were identified by the observers that they thought would help these problems. These included better training, better outreach to the industry, and better enforcement and follow-up about the observers complaints.

E2. RECOMMENDATIONS

Harassment and intimidation do not appear to be a major problem in the Southeast Region. However, observers may be just not reporting these events. Several issues were identified by the observers that they thought would help with these problems. These included: better training, better outreach to the industry about why the observers are on the vessels, and better enforcement and follow-up about the observer's complaints. To accomplish these tasks, the Regional Representative on the National Observer Program Advisory Team and the three Observer Program Managers will discuss this issue via conference calls and develop the procedures to accomplish these tasks. These will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

A written policy, defining a standardized policy for how to handle an unsafe vessel, needs to be developed for the Southeast Region and communicated to the fishermen. This will help the observers when they report that a vessel is considered unsafe. Procedures for determining who makes the final call regarding a vessel's safety needs to be established and cannot take an observer. The Regional Representative on the National Observer Program Advisory Team and

the three Observer Program Managers will discuss this issue via conference calls and develop the policy statement. This statement will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

F. RISK

Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE

Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE

The NMFS administers contracts (with PTSI and Johnson Controls) and PO's that provide workers' compensation to observers who are injured at sea.

F1. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The COTRs and program managers were asked if the current contracts with PTSI and Johnson Controls, and PO's, cover observers under FECA, under state workers' compensation, and under LHWCA. All three program managers indicated that for contracts, these coverage levels are assumed by the contractor and negotiated in the contract phase. The COTR agreed with this assessment. For the PO hires, the pelagic longline program covers the observer for injuries that occur only during travel and deployment on a vessel. The current PO's are issued with a statement that they are covered by federal workmen's compensation (FECA).

The program managers and COTRs were asked if NMFS reimburses the contractor for any of the premiums paid for workers' compensation of observers. These coverage fees are assumed by the contractor and negotiated in the contract phase. NMFS pays overhead rates to the contractors, and thus in a sense NMFS is indirectly paying the premiums for the observers.

The program managers and COTRs were asked if, in recent years, do records indicate that there was any injury to an observer that resulted in a workers' compensation claim, in a claim against the vessel, or in a claim against the contractor. In the pelagic longline and shark drift gillnet fishery programs no claims have been filed to date. In the shrimp trawl fishery a few workers' compensation claims have been filed for some minor injuries. One observer filed all three claim types.

Observer Findings

The observers were asked if they were aware that they could be compensated under the Federal Employees Compensation Act if they were injured on a vessel. Eight (57%) marked that they were aware, while the other six (43%) indicated that they were not aware of this fact.

The observers were next asked if they were aware of other remedies that may apply if they were injured at sea (Jones Act, maintenance and cure, unseaworthiness, and third party actions). Only

half (7) of the observers indicated that they were aware of these other remedies.

The third question asked if these compensations or remedies were explained by the contractor or by NMFS as part of the training. Again, half (7) of the observers indicated it was explained in the training, while the other half indicated it was not explained by either NMFS or the contractor. For the seven that indicated it was explained in the training, all said that they were satisfied with the explanation.

The final question in this section asked the observers if they have attempted to obtain any workers' compensation or legal remedy in connection with an injury that was sustained while at sea. Twelve of the observers (86%) indicated that they had not attempted these actions, while two (14%) marked that they had obtained remedy for injury under workers' compensation. Both had a positive experience with these situations.

F1. CONCLUSIONS

Insurance issues are a major concern with vessel owners, program managers and observers in each of the observed fisheries in the Southeast Region. The program managers and COTRs all indicated that observers were adequately covered through the contractor's insurance programs. Contractors are compensated for the coverage only by the fact that NMFS is paying the overhead cost for the observers. Only the shrimp trawl fishery program has experienced any workmen compensation claims, or has had an observer file a liability claim against the contractor or vessel owner.

Slightly more than half of the observers are aware that they could be compensated through FECA. Half were aware of other remedies available (Jones Act, maintenance and cure, unseaworthiness, and third party actions) if they were injured at sea. Half of the observers indicated that these facts were explained during training and to their satisfaction. Only 14% of the observers indicated that they had sought remedy because of an injury at sea. Individuals that had sought remedy because of injury at sea used workmen's compensation and had a positive experience with the process. It appears from the findings that insurance coverage and legal remedies for observers who are injured at sea are adequate, but some observers do not learn about them during the training sessions. Very few observers have ever had occasion to use these remedies in the Southeast.

F1. RECOMMENDATIONS

A better and more consistent training for observers on compensation issues needs to be developed. To accomplish this task, the Regional Representative on the National Observer Program Advisory Team and the three Observer Program Managers will discuss this issue via conference calls and develop the procedures. These will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

F2. CONTROL TECHNIQUE

The NMFS encourages vessel owners to obtain insurance that would protect them in the event an

observer is injured.

F2. TEST QUESTION(S) AND FINDINGS

No questionnaires were sent out to vessel owners. However, this insurance issue is a major concern with vessel owners for each of the observer fisheries in the Southeast Region. The shrimp vessel owners are very concerned about having observers on the vessel because of a recent claim filed by an observer against a vessel owner. Some shrimp vessels have P&I insurance, but many do not. This is also true for the pelagic longline and shark drift gillnet vessels. Many vessel owners feel that if NMFS requires an observer, then NMFS should pay the extra insurance costs of having the observer on the vessel.

F2. CONCLUSIONS

Many vessel owners in the Southeast feel that if NMFS requires an observer on their vessel, then NMFS should pay the extra insurance costs of having the observer on the vessel.

F2. RECOMMENDATIONS

Liability insurance for the vessel owners needs to be addressed in the Southeast Region. The Regional Representative on the National Observer Program Advisory Team will discuss this issue with several insurance companies to determine the best method to accomplish this coverage. This coverage method will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

G. RISK

Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.

G. OBJECTIVE

Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G. CONTROL TECHNIQUE

Observer program managers routinely consult with the Councils, the SEFSC, the USFWS, and the Atlantic Coast Cooperative Statistics Program to coordinate appropriate types and levels of observer coverage.

G. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The program managers were asked if fishery managers and scientists have coordinated their plans for observer coverage successfully in recent years. Each felt that this has occurred to a limited extent in the fisheries, but that there needs to be a lot more coordination between the groups.

G. CONCLUSIONS

There appears to be some coordination between groups, but this is an area that needs

improvement. Funding level and timing uncertainty adds a complication to this coordination mix.

G. RECOMMENDATIONS

Schedule quarterly meetings or conference calls between the SER observer programs. These will be submitted for approval to the SER Representative to NOPAT. Recommendations and approval will be accomplished during FY2001.

Request coordination meetings between SER observer program staff (driftnet and longline fisheries) and appropriate Highly Migratory Species (HMS) and Office of Protected Resources (F/PR) staff to ensure that sampling issues are discussed and resolved with input from all affected programs. These will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

H. RISK

The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE

Observer data is complete and accurate.

H1. CONTROL TECHNIQUE

The NMFS Manual prescribes procedures for data collection.

H1. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

The program managers were asked if the NMFS Sampling Procedures for onboard data collection procedures were complete and up to date and if they had been distributed to all observers. Each of the program managers responded that the procedures were all up to date and that they have been given to all observers.

H1. CONCLUSIONS

The sampling procedures for each observer program are current and all observers have a copy.

H1. RECOMMENDATIONS

No changes necessary for this control technique.

H2. CONTROL TECHNIQUE

NMFS staff review observer data forms and debrief observers before final data entry.

H2. TEST QUESTION(S) AND FINDINGS

Audit Findings

In an audit of the shrimp trawl fishery files, all raw observer data sheets that were archived

recently had been approved and signed off by the observer program manager.

Observer Findings

Under this section the observers were asked questions that dealt with the debriefing process and data entry. One of the observers felt they had never been debriefed and therefore only answered one of the questions in the section that they felt did not deal specifically with the debriefing process. Twelve of 13 observers (92%) felt that the debriefing instructions were clear and easy to follow. These same twelve also thought that the debriefer was able to provide the observer with adequate information in a timely manner, and that the debriefing process helped to prepare them for future cruises. All 13 observers indicated that the instructions for data corrections were clear, and that they were all treated with respect and professionalism during the debriefing process. Overall, 10 of the 13 observers (77%) felt satisfied with the observer evaluation system. Thirteen of the 14 observers (93%) felt that they could freely communicate to observer program staff any concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members.

The observers were finally asked if they felt that the evaluation system process affects the observers' future work quality/morale. There were asked to check all that apply about the evaluation system from the following list: (1) useful feedback, (2) provides incentive to do good work, (3) provides incentive to limit information shared with the debriefer, (4) encourages changes to data to facilitate debriefing process/or improve personal evaluation, and (5) demoralizing. Three (21%) observers did not respond to this question, while two (14%) others indicated that they had never been evaluated as an observer. Of the nine observers (64%) that responded to the question, the following answers were marked: "useful feedback" got eight marks; "provides incentive to do good work" got six marks; and "encourages changes to data to facilitate debriefing process or improve personal evaluation" got three marks.

H2. CONCLUSIONS

The data processing for each program seems to be well run and the program managers are involved in the process. The program manager signs off all archived data sheets. The observers are debriefed following a trip and all corrections to the data sheets are made at this time.

The observers are all debriefed following a trip and this process was perceived by most observers as clear and they thought that they were treated with respect and professionalism. They felt that there was excellent communication regarding sampling protocols between themselves and the program staff. The observers also felt that the debriefing process was useful for their next trip.

H2. RECOMMENDATIONS:

No changes necessary for this control technique.

H3. CONTROL TECHNIQUE

NMFS staff safeguards raw data, logbooks, and electronic data by passwords, secure storage, and backup.

H3. TEST QUESTION(S) AND FINDINGS

Program Managers and COTR Findings

Each of the program managers were asked what steps they take to protect and restrict access to critical, confidential or proprietary data (i.e., how does the staff ensure that contract observers in the pelagic longline fishery destroy the data form copies when requested to do so). For the pelagic longline fishery program coordinators have no way of knowing if the policy of the observer destroying his data copies is followed. These observers are usually debriefed following a trip at their residence. It is assumed that data are discarded after debriefing.

In both the shark drift gillnet and the shrimp trawl fishery the original data forms are sent to the observer coordinator. This is stressed in observer training (i.e., data confidentiality). To their understanding, the only access of these data is through a Freedom of Information Act (FOIA) request. The only situation where a FOIA would not be necessary would be if a vessel owners requested copies of the data collected from their specific vessel. Managers do not have any way to tell if observers are making copies of the data, however, there was no evidence to suggest that they were.

Observer Findings

Thirteen of the 14 observers (93%) provided answers to the last set of questions. When asked what steps they take to protect and restrict access to critical, confidential, or proprietary data, eight of the 13 observers (62%) said they were not sure, while five observers (38%) indicated that they destroy all copies of the data sets once they are debriefed and the data are given to the program managers (debriefers).

Ten of the 13 (77%) indicated that they did not have any concerns that information they shared with the observer program may be accessed by the fishing vessel or by the fishing industry generally, for example, through the Freedom of Information Act. Three (23%) gave the impression that they were concerned. However, these same three indicated that this concern would not affect their reporting of information.

H3. CONCLUSIONS

The original data sheets are kept by the program manager in a secure location, but they have no mechanism to determine if the observers have extra copies of the data that they keep. Observers were uncertain about what steps they should take to protect the data. This seems odd when the debriefing and data processing systems are running so well. It may be that this question was just not understood by the observers. They are given a certain protocol that they all seem to follow. They may not understand the reasons behind the protocol, but they are following it. Little concern was expressed by the observers about their data getting back out to the fishery.

H3. RECOMMENDATIONS

Data editing and confidentiality issues need to be better addressed during the observer training courses. The Regional Representative on the National Observer Program Advisory Team and the three Observer Program Managers will discuss this issue via conference calls and develop the

training materials. These will be submitted for approval to the Southeast Science Director. Recommendations and approval will be accomplished during FY2001.

SERVICE DELIVERY MODEL: CONTRACT OBSERVER PROGRAM

SOUTHWEST REGION - CALIFORNIA/OREGON DRIFT GILLNET OBSERVER PROGRAM

NARRATIVE

Introduction

In June 1996, the National Marine Fisheries Service (NMFS), Southwest Region was denied hiring authority for permanent observer positions to monitor the California/Oregon drift gillnet (CA/OR DGN) fishery. This denial was based on agency efforts to downsize the Federal workforce as required by the National Performance Review. As a compromise, authority was granted to hire observers as temporary appointments with not-to-exceed dates of September 30, 1996. With the fishing season beginning in less than two months (August 15), the Southwest Region proceeded with the hiring of temporary appointments and efforts to contract the observer program before the appointments would expire. In September 1996, a six-month sole source contract was awarded to Frank Orth & Associates.

In order to avoid a potential protest by other interested contractors and to comply with management's full-time-equivalent concerns, a full and open competitive solicitation was issued in February 1997, as a cost-reimbursable three-year contract (one base year and two option years). Frank Orth & Associates was awarded the contract (July 1997) to provide all labor, materials and logistic support to monitor the CA/OR DGN fishery. After exercising two option years (the existing contract expired in March 2000), the Southwest Region issued another full and open competitive solicitation in December 1999, using the existing Statement of Work (SOW) as a model for the solicitation, to contract the recruitment, selection, supervision, and outfitting of all sea-going personnel needed to fulfill federal fisheries obligations of the CA/OR DGN observer program. Again, the contract was awarded to Frank Orth & Associates on April 26, 2000.

The contracting process for issuing a request for proposals (RFP) to award of a contract is lengthy. For planning purposes, one needs to allow at least 180 days for the contracting process. This includes the time to develop the SOW, develop acquisition strategies, issue the RFP, review proposals, negotiate with the offerors, obtain Department of Commerce, Office of General Counsel review and clearance, and award a contract. While a procurement request may be processed prior to the receipt of funds, no contract may be awarded until funding is made available to the Contracting Officer (CO).

Event Cycles

Staffing and Recruitment

The Long Beach Observer Program Coordinator (ZP-III, GS-11 through 12 equivalent) is the Contracting Officer Technical Representative (COTR) and the Data Coordinator (ZP-III, GS-11 through 12 equivalent) is the Alternative COTR. In the SOW, NMFS Southwest Region identifies the program goal of obtaining observer coverage levels not less than 20% of the total

fishing effort for the entire drift gillnet fleet during the calendar year. The fixed-fee established through negotiation and set forth in the contract is linked to the 20% coverage requirement and may be adjusted downward in direct proportion to the actual coverage provided. If the contractor's failure to meet the 20% coverage requirement results from causes beyond the contractor's control, then no downward adjustment in the fixed-fee will be made. The fixed-fee is billed based on the number of observed days provided by the contractor and is derived by taking the contract fixed-fee and dividing it by the estimated number of observed days that will be required during the fishing season to achieve the 20% coverage requirement. NMFS provides the estimated number of observer days in the solicitation to provide consistency in the cost proposals.

The contractor is required to submit biweekly cost and progress reports to the CO and COTR that include a complete breakdown of costs incurred during the reporting period; a summary of total costs incurred under the contract to date; total fleet days at sea and sets observed during the reporting period, and an estimate of total fleet days at sea and sets that occurred during the reporting period; total fleet days at sea and sets observed during the current season, and estimated total fleet days at sea and sets occurring to date for the current season; a summary of observer deployments completed during the reporting period that includes the observer name, number of observed fleet days at sea, number of observed fishing sets, number of days in travel (to, from or waiting for a vessel, training, or debriefing), number of training/briefing days, number of debriefing days, number of days in port status (assigned to a vessel) but not at-sea, number of days in stand-by status (awaiting vessel assignment), number of employed days (in a pay status); an updated projection of total fishing activity for the current season (actual plus projected) and observed days to date expressed as a percentage of the anticipated season total; a comparison of estimated costs and actual costs (estimated costs are based on the award amount (less fixed fee) for the current season/contract year; an explanation by the contractor if the cost per 1% coverage or estimated cost to completion varies significantly from original estimates; and number of trained observers currently available for vessel assignments. The COTR verifies the accuracy of the cost and progress reports by comparing the information with the observer data forms and other submitted deliverables.

NMFS develops the technical evaluating factors that are used to evaluate the proposals submitted by offerors. The proposals are evaluated by the Source Evaluation Board on how well each offeror responds to these technical evaluating factors. The most important criterion (percentage determined by the COTR and the CO) used in the evaluation process is the offeror's technical approach. This includes the methods and facilities to be used in establishing, organizing and performing all logistics associated with the deployment of observers that will ensure the required level of coverage. The approach to estimating observer coverage requirements includes tracking fishing operations and adjusting observer coverage estimates accordingly. This ensures that coverage is distributed in a manner that maximizes utility and validity of the collected data as statistically reliable samples of the total fishing effort. The methods used to maintain a corps of experienced, professional observers include evaluation of the offeror's compensation package and other inducements and organizational policies which lead to job satisfaction and workforce stability. The methods used to recruit qualified observer candidates include advertising,

identification of sources, information supplied to potential candidates, review, evaluation, selection, and hiring procedures. The approach to quality assurance cost control ensures that the government will receive the highest quality data at the best possible cost.

The next important criterion used to evaluate proposals is the experience of the key personnel. NMFS evaluates the experience and demonstrated skills of the offeror's proposed observers in collecting data aboard commercial fishing vessels on the incidental take of marine mammals, sea turtles, and other protected species as well as target and bycatch species. This includes collecting biological specimens and recording other fish life history information. The offeror's key management staff assigned to the project, including the program manager, recruiting staff, quality assurance manager, and other key positions, are evaluated on their demonstrated experience and expertise. The proposals are also evaluated on the demonstrated experience of the offeror's organization in the successful management of observer or similar programs.

The third technical evaluating factor used is the offeror's past performance. By law, past performance must be a significant evaluation factor in all negotiated acquisitions over \$100,000. This is a qualitative evaluation of the offeror's record of performance on the same or similar efforts based on their technical performance, cost and schedule management, and business practices (responsiveness, cooperation, and business integrity). To ensure an accurate evaluation, offerors are required to submit the name, address, point of contact, telephone number, brief technical description of contract, contract value, and contract duration for the most recent four contracts where similar work was performed, and for all scientific/technical service contracts with the federal government in the last two years.

The technical quality of the proposals is substantially more important than cost. Cost proposals are evaluated separately from technical proposals. All technically acceptable offerors' cost proposals are evaluated as to the cost-plus-fixed-fee proposed, cost realism, and reasonableness. The award is made to the offeror whose proposal represents the best value to the government, cost and other evaluation factors considered. An award is not necessarily made to the lowest cost proposed.

In compliance with the Service Contract Act of 1965, as amended, and the regulations of the Secretary of Labor (29 CFR Part 4), the contractor is required to pay the employee class, Fisheries Observer, an hourly monetary wage and fringe benefits rate. In addition, the contractor must comply with the Contract Work Hours and Safety Standards Act and the Fair Labor Standards Act. The contractor is responsible for the recruitment of observers. This includes advertising, contacting, screening, and hiring qualified candidates to work as observers aboard CA/OR DGN vessels fishing for swordfish and thresher shark. The contractor is required to follow equal opportunity employer guidelines by not discriminating in recruiting, hiring, promoting, demoting, or terminating based on race, religious creed, color, national origin, ancestry, sex, age, sexual preference, or physical disability and shall comply with the provisions of the Federal Civil Rights Act of 1964, as amended.

Observers must have one year of specialized experience at least equivalent in difficulty and

responsibility to the next lower grade/band level in the federal service or a Bachelor's degree with a major in one of the biological sciences from an accredited four-year college or university with at least 24 semester hours in any combination of scientific or technical courses such as biology, chemistry, statistics, entomology, animal husbandry, botany, physics, agriculture or mathematics, of which at least six semester hours were directly related to fishery biology. The specialized experience has been defined as work in the field of fisheries which included functions such as: observing ocean fishing activities during harsh ocean conditions; recording data on protected species sighting and fishing activities; tallying incidental take of marine mammals, sea turtles, and sea birds from fishing platforms; collecting biological specimens from postmortem animals; and entering collected data into a database using computers.

In addition, the observers must be able to work independently, yet follow technical instructions; get along well with others; swim; and maintain objectivity. Observers shall have neither direct nor indirect financial or political interest in an organization that might be aided by the performance or non-performance of observer duties. Preferred qualifications include ocean experience aboard small boats; scientific data collection and data entry experience in and beyond college; previous experience as marine mammal or fisheries observers. The government retains the right to reject any observer proposed by the contractor if his or her qualifications do not meet the required standards, or if their work has been performed at an unsatisfactory level on previous projects, or if their behavior on previous projects has been disruptive. Supporting documentation to verify observer qualifications shall be provided by the contractor at least five working days prior to the beginning of a scheduled observer training or briefing session. The supporting documents include a certified copy of each person's academic transcripts and a copy of each person's resume if specialized experience is being substituted for marine science or fisheries course work. NMFS staff review the documentation provided by the contractor to verify eligibility.

In addition, due to the critical and sensitive nature of the collected data, the contractor is required to have all contract employees complete an "Authorization for Release of Information" authorizing the NMFS to conduct a background investigation and a "Security Worksheet for Non-Employees." These signed documents must be submitted to NMFS, Southwest Region at least five days prior to the beginning of training.

The contractor is responsible for providing medical fitness screening for each prospective observer candidate. Each observer must be able to work at sea for extended and uncertain durations without medical restrictions. Medical examinations are required for each new hire and are required to be renewed each year thereafter. Observers must be capable of moving marine mammal carcasses averaging 200 pounds each and have clear distant vision (correctable to 20/20 in one eye and to 20/40 in the other) for observing marine animals in the wild. Psychological stress may be high aboard these vessels because the observer must live in confined quarters with commercial fishermen whose interests may not mesh with the observer's duties. Supporting documentation to verify observers meet medical fitness requirements must be provided by the contractor prior to the completion of training.

Training

To be qualified for sea duty, contract employees must complete a two-week NMFS conducted training course by passing written tests with an overall average score of 85% or greater and must demonstrate their potential to collect accurate field data, exercise astuteness, and react to unfamiliar situations at sea in a professional manner. Qualification for sea duty is determined by NMFS training examinations and NMFS staff assessments. During the first three vessel assignments, observers are considered to be in a probationary status. Contract employees are not recognized as bona fide drift gillnet observers by NMFS, Southwest Region until after they have successfully completed their third vessel assignment. For debriefing purposes, NMFS defines a trip as one that is at least six days in duration with at least five representative sets observed, and the vessel unloads its catch. These trips are reviewed thoroughly by the NMFS Data Coordinator.

The NMFS training curriculum includes the observer mission and purpose; observer guidelines and responsibilities; observer duties; drift gillnet operations; data collection procedures; cetacean identification; pinniped identification; sea turtle identification; pelagic fish identification; specimen collection procedures; safety aboard commercial fishing vessels; and conflict resolution at sea for dealing with difficult situations and people.

The Contractor is required to provide NMFS, Southwest Region, with at least thirty days notice if additional observer training is needed. A maximum of three, two-week training sessions are permitted under the contract per calendar year, and unless otherwise approved by the COTR, each scheduled training class must consist of at least ten qualified employees. The contractor is required to submit at least five working days before the beginning of a scheduled observer training or briefing session the list of trainees and the required documentation that allows NMFS to determine that the candidates meet the minimum qualifications established in the SOW.

Prior to completing the training or briefing session, a statement from an examining physician is required to be submitted to NMFS, Southwest Region. The statement must include the date of the physical examination and certify that an observer does not have any health problems or conditions that would jeopardize the observer's safety or the safety of others while deployed, or prevent the observer from performing his or her duties. The statement must include verification that, prior to the examination, the certifying physician was made aware of the dangerous, remote and rigorous nature of the work.

The contractor's Data Editor must fully participate and successfully complete observer training to be qualified to review observer data. Preferably, the Data Editor is an experienced drift gillnet observer. This ensures that the Data Editor has a clear understanding of all the data collection elements, data fields, definitions and data collection priorities. The Data Editor must also participate in the initial debriefing sessions of each observer conducted by NMFS data editors to ensure data review consistency.

Previously trained drift gillnet observers must complete a one-week briefing session at the beginning of each subsequent fishing season. NMFS, Southwest Region retains the right to

reject any returning observer proposed by the contractor if their performance was at an unsatisfactory level on previous projects, or if their behavior on previous projects was disruptive.

Deployment and Logistics

To facilitate observer placements, NMFS requires the contractor to provide a toll-free 800 telephone number that fishermen and observers can use to call in vessel departure and arrival information. The contractor is responsible for making arrangements for observer placements aboard the vessels. This requires notifying the vessel owner/operator of their obligation to carry an observer. Vessel owners are requested by NMFS in a notice sent to the fleet by certified mail that they are to telephone the contractor at least 48 hours prior to departure. The notice is reviewed by NMFS enforcement, NOAA General Counsel, and signed by the Regional Administrator. The notice also informs the vessel owners of their obligation to provide a safe work environment for the observer. This includes having a dockside examination of their safety equipment completed and a dockside examination decal issued within the past two years aboard the vessel. The NMFS fleet notice reminds the operators of their obligations under the Pacific Offshore Cetacean Take Reduction Plan and under the Marine Mammal Authorization Program.

In addition, every time the contractor attempts to make or actually speaks with a fishing vessel representative, the information is recorded in a Communications Log for each contact. This includes conversations made at the docks, in person, or by telephone. The log includes information such as time and date of contact, contact person's name, and topic of discussion. The information is used by NMFS staff to monitor the effort of the contractor's attempt to communicate with vessel owners and by NMFS enforcement to determine whether vessels are providing adequate notice prior to departure or whether a vessel has departed without carrying an observer after being notified of their obligation to carry one. The contractor is required to provide NMFS access to the Communications Log upon request. The Communications Log data is put into an electronic database and the information is sent electronically, sorted by vessel name, upon request to NMFS.

The contractor is responsible for selecting vessels to carry an observer and assigning observers to selected vessels. The contractor must assign observers without regard to preference expressed by vessel owners or operators with respect to an observer's race, gender, age, religion, or sexual preference. In addition, the contractor is responsible for all travel arrangements associated with observer deployments. Under the contract, the contractor is responsible for obtaining statistically reliable information by achieving a minimum of 20% observer coverage of the total fleet effort. The assignment of observers shall be fair and equitable among vessels so that no individual person or vessel is subject to excessive or overly burdensome observer coverage. The contractor is responsible for immediately notifying the Southwest Region of any potential violations such as vessels failing to provide adequate notification prior to departing or failing to take an observer.

On a weekly basis, the contractor submits electronically to NMFS an update of the observed vessel departure and arrival information. The database must include the cruise number, vessel name, authorization permit number, owner name, operator name, observer name, trip dates, trip length, summary of sets by trip, and summary of mortalities by trip of protected species. The

database also includes a table that summarizes the total number of trips, sets, and mortalities of species by calendar year. The Southwest Region provides a list of certificated vessels, authorization permit numbers, vessel lengths, state commercial license numbers, owner names, addresses, and telephone numbers to the contractor. The contractor is notified of any vessel changes.

In addition, the contractor is required to estimate the overall fishing activity by monitoring vessel activity. This includes tracking each vessel's arrival and departure from port as well as by contacting vessel operators at the docks and by telephone. Vessels not in port are assumed to be fishing and counted as one day of effort. Vessels carrying an observer and not in port are counted as one observed day of effort. This requirement provides NMFS with an estimate of the overall fishing effort and the observer coverage by vessel. The information provided by the contractor is substantiated by California Department of Fish and Game logbook and landing data. Although logbook and landing data are measured on a per set unit, and the contractor measures fishing effort on a per day unit, this method for estimating fishing effort on a real time basis is fairly reliable considering the time spent traveling to and from the fishing grounds and time spent not fishing due to rough weather conditions. The contractor is required to submit to NMFS on a biweekly basis the vessel activity records that show the departure and arrival information of all drift gillnet fishing vessels with gear aboard the vessel.

Although the contract does not require the contractor to adopt the trip length policy developed by NMFS to ensure effective deployments of observers, the contractor has decided to use the same trip length definition policy. The trip length policy requires that an observer placed aboard a vessel must stay aboard the vessel until at least five representative sets have been observed, with a trip length of a minimum of six days, and target species unloaded. This policy was developed to prevent vessels from taking an observer for only one or two sets, and then saying the trip was over. NMFS determined that in order to justify the travel expenses and deployment logistics made to arrange a vessel assignment, a trip length definition had to be established. NMFS reviews the Communications Log, Vessel Activity Record, and Trip Log to verify whether vessels are being sampled equally and selected without any sampling preference expressed by vessel owners or operators.

The contractor is responsible for providing a safe work environment for their employees and determining whether the vessel is suitable for an observer placement. The contractor is required to determine whether the vessel has all of the safety equipment as required by the U.S. Coast Guard. NMFS has delegated the authority for waiving an observer placement based on a finding that "the facilities for housing the observer or for carrying out observer functions are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized." This finding is not limited to physical vessel safety concerns, but may also include operator conduct concerns, and lack of accommodations for the observer. However, if the contractor makes a finding that a vessel is exempt from carrying an observer, a written statement must be immediately presented to NMFS, Southwest Region stating the conditions on which that finding is based. Vessels that do not meet the U.S. Coast Guard safety requirements are still obligated to carry an observer and must correct the noted deficiencies. The observer or

the contractor would need to schedule an inspection by the Coast Guard if they deemed it necessary to verify the vessel safety equipment.

The contractor is responsible for providing accident and health insurance for the observers for the entire period the observers are performing work under the contract. The insurance must be adequate to provide coverage for observers injured while on the job during the performance of their duties. Under the Service Contract Act, the contractor is also responsible for providing the observers with health benefits required by the wage determination by the Department of Labor. In addition, government contracts require contractors to comply with Federal and State workers' compensation and occupational disease statutes, General Liability requirements of at least \$500,000, Automobile Liability requirements of at least \$200,000, and Aircraft Public and Passenger Liability requirements of at least \$200,000. Contractors may also obtain insurance to protect themselves for liability claims under the Jones or Longshore and Harbor Workers' Act. Adequate insurance might prevent the contractor from becoming insolvent if successfully sued by an observer or an estate. The Federal government also retains liability for observer injuries because observers are allowed to file claims under the Federal Employees' Compensation Act (FECA). The current policy is that NMFS will not reimburse vessel owners for protection and indemnity insurance obtained by a vessel for adding a contract observer to a policy. However, this does not preclude the vessel owner from obtaining insurance for when a contract observer is aboard their vessel.

Although the contract specifies minimum levels of insurance coverage, it does not restrict upper limits of coverage. In a cost-reimbursable contract, the premiums are a reimbursable expense, at least the portion that is directly related to the services provided. Contractors must protect themselves from lawsuits by carrying protection and indemnity insurance as well as insurance to cover observers when at the docks, in the office, on a plane, or in a vehicle. However, it is a business decision on how much insurance is enough. The federal government, nor the contractor, is responsible for the reimbursement of the vessel owner or operator for observer subsistence costs. However, NMFS will reimburse the contractor for any communication costs submitted for payment by a vessel owner, provided the costs were incurred by an observer in the performance of their duties.

The contractor makes all the travel arrangements for the observer to meet the vessel assignment. This includes determining which method of transportation is the best and most cost effective for any given vessel departure. In the contract, NMFS requests that the contractor use public transportation. However, this does not prevent the contractor from using rental cars or reimburse observers for privately-owned vehicles. The contractor is required to comply with Federal Travel Regulations and stay within the established per diem rates. The contractor is responsible for establishing procedures and resources (cellular phones, pagers, home telephone numbers) that ensure adequate support (24-hours availability in case of emergencies) for observers who are traveling or at sea.

At the outset of the contract, NMFS transferred all the available gear and equipment to the contractor. Thereafter, the contractor is responsible for maintaining the issued gear and

equipment. In addition, in order to insure the immersion suits would be in good shape, NMFS placed the requirement that the contractor must have the suits inspected, cleaned, and repaired annually by an authorized dealer, or by the manufacturer, at the conclusion of each fishing season. Newly purchased gear must be of the same quality as the original NMFS gear. Before purchasing expensive equipment, the contractor confers with NMFS staff about the proposed purchase and receives authorization. In the case of loss or destruction of government property, the contractor is required to notify the CO and take all reasonable steps necessary to protect the property from further damage. The contractor is liable for loss of property only if the loss or damage results from willful misconduct, negligence, or lack of good faith on the part of the contractor or its employees. The contractor may require the observer to reimburse them for lost or damaged gear.

NMFS retains the right to modify gear specifications to meet research collection needs. NMFS provided the contractor with an inventory of the available gear and a list of proposed items that should be issued to each observer. All the equipment provided by the government or purchased by the contractor and billed as a direct cost under the contract is considered the property of the government. Upon the completion or termination of the contract, all government property, equipment, and supplies shall be returned to NMFS.

Data Collection

The contractor is responsible for ensuring that observers gather information about the catch, location, gear, fishing operations, and the interaction of protected species, particularly marine mammals, sea turtles, and sea birds. The contractor is also responsible for ensuring that the observers collect biological samples from captured marine mammals, sea turtles, and fish.

When at sea, observers work in a self-supervised capacity and must sustain the highest standards of conduct. The contractor is responsible for ensuring that the observers maintain a professional, objective demeanor at all times by developing and enforcing standards of conduct for observer employees that are comparable to the Department of Commerce Administrative Order 202-735. Observers must comply with these standards and those set forth in the SOW.

Debriefing

When a vessel returns to port with an observer, the contractor makes the determination as to whether the trip is complete or not. If the contractor determines the data collection obligations aboard the vessel assignment have been fulfilled, then the contractor instructs the observer to either return to the office, board another vessel assignment, or stay in port to conduct dock rounds. However, the first two trips are considered an extension of training and the observer remains in a probationary status for at least three trips to ensure that instructions provided during training are being followed and that data are being collected according to the established guidelines in the observer field manual. During probationary status and to minimize data collection problems, observers must be debriefed after each of their first three trips. For the first and second debriefing, NMFS staff meets with the observer and reviews the data with the observer and the contractor present. After the observer's third trip, the contractor's data editor reviews the trip and submits the data to NMFS. If the data meet NMFS approval, NMFS will

authorize the observer to make back-to-back trips. For debriefing purposes, NMFS defines a trip as six days at sea which includes at least five representative net sets completed and target species landed ashore.

In order to ensure training effectiveness and data quality, an observer must complete their first trip and be deployed on their second trip within thirty (30) days after the completion of the classroom portion of training or of a briefing. In addition, their third deployment must occur within sixty (60) days of the completion of the classroom portion of training or of a briefing. Contract observers will not be recognized as bona fide observers by NMFS, Southwest Region until after they have successfully completed at least three vessel assignments. An observer may retain their bona fide observer status if they successfully complete at least three trips each season. Observers who do not satisfactorily complete three trips in one season will be required to complete another two-week training session the following season before being eligible for deployment.

The contractor debriefs the observer and ensures the observer completes a NMFS post-cruise questionnaire. In addition, the contractor ensures that all biological specimens are properly collected, labeled and stored. The contractor is responsible for maintaining a specimen log that indicates the types of samples that have been collected. This information is entered into a database and is sent on a biweekly basis to NMFS. The database includes information such as the type of sample (carcass, head, vertebrae, stomach, blubber, biopsy), species name, specimen number, storage location and date deposited at the facility. The contractor collects the camera from the observer and forwards it to NMFS, Southwest Region along with the hard copies of the data.

The contractor is responsible for determining whether potential infractions of the Marine Mammal Protection Act (MMPA) may have occurred during the trip such as incidents of interference, harassment, or intimidation. These types of occurrences are reported by the contractor to the NMFS COTR, who then reports the potential infraction to NMFS Enforcement. NMFS enforcement meets with the observer and will generally have them complete an affidavit regarding the event. Time involved completing affidavits and testifying is considered reimbursable expenses. The contractor is responsible for ensuring that observers who may have suffered injuries during their vessel assignment receive adequate medical attention and complete appropriate claim forms.

NMFS retains the right to review all work products upon request. The quality of the data provided by the contractor must be of an acceptable level. Any data quality concerns are reported to the contractor by telephone or by email. The contractor is not allowed to direct contract employees to collect information that will benefit the contractor, nor may an observer collect information that will benefit themselves, such as personal diaries, research, or photographs at the expense of government monies. All data and biological samples collected by contract employees are the property of the NMFS.

Data Entry

Before an observer may begin entering the data into the database, each data form must be reviewed in the office. If necessary, the observer makes additions to fields that may not have been known at sea such as the vessel state permit number, marine mammal authorization permit number, trip number, or species codes. These changes and any other changes are made in blue pencil. Blue pencils are used to denote changes made in the office by an observer. After the observer finishes reviewing the data, the observer meets with the NMFS Data Coordinator to review the data, with the observer present and contractor, and corrects any data inconsistencies. After the third trip, the observer meets with the contractor's Data Editor. Corrections made by the Data Editor are made in green pencil. After the Data Editor reviews the changes with the observer, the observer may begin entering the data into the database. To ensure data entry accuracy, the on-screen data is read back to another observer who compares the hard data form entries with the read back data. Upon completion, the data forms are submitted to the Data Coordinator.

Data Editing

The electronic data and hard copies of the data are sent to the NMFS Data Coordinator on a weekly basis. The Data Coordinator verifies the accuracy of the data entered into the database using a combination of spot checking and data range check reports developed to identify outlying data points. If errors are found, an orange colored pencil is used to denote that the changes have been made by the NMFS Data Coordinator. At this time, species identification is confirmed or edited using the processed photographs.

When the Data Coordinator is confident about the accuracy of the database, the electronic database is transferred and hard copies are overnight mailed to the Southwest Fisheries Science Center (SWFSC) to the NMFS Data Editor. The NMFS Data Editor performs additional data range checks on the data and confirms or edits species identification using the processed biopsy samples. Final formatting is completed before making the data available to the principal investigators through the local server.

RISKS, OBJECTIVES, CONTROL TECHNIQUES, TESTS, FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

A. RISK

Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE

Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE

Observer program managers obtain and issue funding guidance in sufficient time to solicit and negotiate contract support.

A1. TEST QUESTIONS AND FINDINGS

Interview the observer program managers in California.

- Are funding levels known in sufficient time to review and accept contract proposals (i.e., for internal controls such as considering acquisition strategies, developing the SOW, issuing the Request for Proposals, reviewing proposals, negotiating with vendors, and awarding the contract)? If no, does this make it more difficult to contract for qualified observers or increase the cost of doing so? Would an alternative service delivery model achieve better results? If yes, how?

Beginning in 1999, the drift gillnet observer program began receiving \$500,000 of MMPA implementation funds on an annual basis to operate the drift gillnet observer program and to calculate fishing effort estimates for the California gillnet fisheries (set gillnets targeting white seabass, halibut, and drift gillnets targeting thresher shark and swordfish).

A1. CONCLUSIONS

Receiving these MMPA implementation funds on an annual basis provides NMFS with the ability to develop acquisition strategies and complete the contracting process (issuing RFPs, reviewing proposals, negotiating with vendors and awarding the contract). However, because the level of funding may not be enough to continue sampling the drift gillnet fishery at 20% observer coverage, the region may need to reduce the level of coverage in subsequent option years.

A1. RECOMMENDATIONS

1. The Southwest Region will support the National Observer Program's efforts to establish secure, stable and predictable funding for implementing Southwest Region observer programs by providing an outline with the observer program budgetary requirements, based on data collection needs and priorities, on an annual basis to the National Observer Program and the Office of Protected Resources.

Responsible Official: Regional Administrator

Completion Date: August 2001

B. RISK

The costs of providing observers may be excessive or mis-allocated within government and

industry.

B. OBJECTIVE

The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE

The staff supervises the contractor who purchases, stores, and issues observer equipment.

B1. TEST QUESTIONS AND FINDINGS

Interview the observer program manager and the contractor.

- What procedures do the staff and the contractor follow to ensure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?

The Logistics Coordinator watches closely the inventory of gear as observers are deployed and return from sea. During the season, supplies are ordered as needed. Also, the contractor determines what gear and equipment need to be replaced at the end of each fishing season. At the end of each season, an extensive inventory is completed. The gear is catalogued based upon its condition (excellent, good, fair). This information is communicated to the COTR. Complete restocking of the equipment and supplies is made prior to the beginning of the following season. The level of need is determined by the number of working observers. If there are more observers, more full complements of observer gear are needed to outfit each observer. The COTR approves requests for additional equipment and supplies prior to the contractor purchasing the items.

- How do the staff and the contractor authorize and account for purchases?

Purchases are authorized by the COTR by either telephone or e-mail. After the merchandise has been received, the contractor submits an invoice for reimbursement.

- Do the staff and the contractor match the deliveries with the shipping document, and the receiving document with the purchase order?

The contractor verifies that the order received matches the amount ordered. The contractor updates the inventory information with the new order information. The COTR is sent the revised inventory and verifies that the inventory is in accordance with the number approved.

- How is the equipment maintained by the contractor?

The contractor maintains equipment according to the gear maintenance section in the observer field manual. Other equipment such as immersion suits are sent to an authorized dealer on an annual schedule for routine maintenance and service. Observers are instructed to rinse saltwater off the equipment and follow maintenance guidelines in the field manual. The contractor charges observers for any gear that is damaged or lost due to their negligence. At the end of each season, the contractor ensures that the gear and equipment maintenance has been completed.

- Does the contractor warehouse, limit access, account for custody and use, periodically review? An inventory list was provided by NMFS to the contractor when the gear and equipment were issued to the contractor at the beginning of the contract. The gear and equipment are maintained

at the contractor's office. The Logistics Coordinator and the Assistant Logistics Coordinator are the only individuals that have keys to the office and to the gear room. The gear is checked out to each observer, who is then responsible for the maintenance and accountability of the equipment. At the end of each observer contract, the gear is checked in by the Logistics Coordinator. Any missing gear is charged to the observer. The contractor conducts an inventory on an annual basis at the end of each fishing season.

- Is adequate protection provided against access to inventories by outsiders or unauthorized employees?

The contractor's Logistic Coordinator and Assistant Logistics Coordinator are the only individuals who have access to the gear room facilities. The gear room is kept locked if not in use.

- Are the facilities optimal in terms of cost and location?

The contractor's office is located in North Long Beach which is cheaper than downtown office space. The office is conveniently located to the freeways which provides easy access to the docks and airport as well as public transportation. Also, the contractor has a multi-year lease that guarantees low rent for the duration of the contract.

Examine the inventory records, sign out sheets, etc.

- Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?

The contractor requires the Logistics Coordinator to complete a purchase order and keep track of all inventory. The Logistics Coordinator must obtain approval from the Program Manager for all purchases. The contractor requires complete price checks from at least three vendors to ensure low prices. All shipments are inspected and entered into a spreadsheet upon receipt for easy tracking. These policies and procedures are detailed in the contractor's technical proposal.

Examine the storage facilities for inventories.

- Do they provide adequate safekeeping?

The gear and equipment are stored in a secured gear room that only the Logistics Coordinator and Assistant Logistics Coordinator can access.

B1. CONCLUSIONS

Based on estimated fishing effort and past years of usage, the contractor orders needed supplies before the beginning of each season. Gear is replaced and serviced as necessary. The COTR is notified prior to the purchase of gear and equipment by the contractor at the beginning or during each fishing season. The contractor ensures that the amount ordered is the same amount received and that the inventory list is updated after receiving each shipment.

The contractor submits the immersion suits on an annual basis to an authorized dealer for routine inspection and service. Observers are provided instruction in the observer training on how to maintain their equipment. If the gear is not adequately maintained, the contractor charges the observer for the reimbursement value. The contractor maintains adequate control of the issued

gear and equipment and there is adequate protection provided against access to inventories by outsiders or unauthorized employees. The office and storage facilities are in a location that is convenient and economically reasonable.

B1. RECOMMENDATIONS

None.

B2. CONTROL TECHNIQUE

The COTR monitors the costs of the contract by comparing the invoices received from the contractor with the reports received from the observers.

B2. TEST QUESTIONS AND FINDINGS

Interview the COTR.

- Do you compare the invoices for the services of individual observers with the records of the observer's activities? If yes, were they approved by a responsible official in accordance with the terms and conditions of the contract?

Invoices submitted by the contractor are compared with observer records to ensure that the number of at-sea days, travel days, debriefing days are correct. The invoices are submitted by the contractor's program manager and reviewed by the COTR for accuracy. In addition, the CO occasionally reviews the invoices.

B2. CONCLUSIONS

The COTR reviews each invoice to ensure that the number of sea days, travel days and shore days are consistent with the observer data records. The invoices are approved by a responsible official in accordance with the terms and conditions of the contract.

B2. RECOMMENDATIONS

None.

B3. CONTROL TECHNIQUE

The COTR and CO adjust the compensation to the contractor based on performance criteria in the contract.

B3. TEST QUESTIONS AND FINDINGS

Examine the most recent biweekly cost and progress reports from the contractor.

- Were these reports submitted on time, and did they include a complete breakdown of costs? Invoices are submitted bimonthly and include a complete breakdown of costs incurred by the contractor during the billing period. These invoices also include a summary of year-to-date expenditures and a progress report of the estimated coverage goals.

Examine records of contractor payments.

- Was the compensation to the contractor adjusted downward in proportion to the actual coverage that the contractor provided?

The contractor has not performed at an unsatisfactorily level that would warrant the reduction of

the fixed fee proportional to the level of coverage below the targeted amount.

B3. CONCLUSIONS

Invoices are submitted on a biweekly schedule and include a complete breakdown of costs. The provision to reduce the level of the fixed fee provides an incentive to the contractor to ensure that adequate observer coverage is maintained.

B3. RECOMMENDATIONS

None.

B4. CONTROL TECHNIQUE

The Source Evaluation Board evaluates cost proposals and technical proposals independently.

B4. TEST QUESTIONS AND FINDINGS

Interview the COTR and CO.

- Does the current solicitation provide that the vendor who meets the technical requirements at the least cost will be awarded the contract?

The Source Evaluation Board reviews bidder proposals based on technical ranking factors. The contractor that has the best technical proposal at an acceptable cost, not necessarily the lowest, is awarded the contract.

B4. CONCLUSIONS

Competition and negotiation are the two control techniques that are used to keep costs down. Competition ensures that observer providers do not propose costs so high as to be noncompetitive whereas negotiation is used to reduce proposed costs and fees if they are excessive. The Source Evaluation Board looks only at technical ranking factors in an effort to rate the proposals based on technical merit.

B4. RECOMMENDATIONS

None.

C. RISK

Qualified observers may not be recruited and/or retained.

C. OBJECTIVE

Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE

The NMFS uses contracts to supply observers on a timely basis.

C1. TEST QUESTIONS AND FINDINGS

Interview the program manager.

- Do you attempt to hire or retain a given number of experienced observers each year? If no, why not?

From NMFS' experience, 22-25 observers are needed to work during the peak period of the fishing season in order to achieve 20% observer coverage of the fleet's effort. In 1999, the contractor had difficulties supplying experienced observers. Despite efforts by the contractor to retain experienced observers, only four observers from the previous season returned.

- Are contracts more or less cost effective than an in-house program would be (in hiring qualified and credible observers quickly, assigning them usefully, and then keeping them)? If yes, how?

Contracts are not necessarily more cost-effective than in-house observer programs. However, because the government recruitment process is currently a lengthy process (at least 90 days), this interferes with the agency's ability to maintain an observer workforce necessary to meet the observer coverage requirements. On the other hand, contracts require a minimum of about 180 days to award a contract. Whether the program is in-house or contract, each type of program has overhead costs associated with them. Contract programs have insurance costs associated with them that Federal programs do not because the government is self-insured. There really has not been an in-depth analysis to determine which type of program is more cost-effective. Federal programs also need to consider the number of Full Time Equivalents necessary to operate a program since there may be a limited number available for the region or agency.

Interview the contract observers.

- How did you originally learn about the observer program and observer jobs? A. Friend; B. Announcement at college; C. Advertisement in paper, magazine; D. Word of mouth; E. Prior observer; F. Other (please specify)

Four observers (57%) learned about the observer position through a vacancy announcement at a college. Two observers (29%) learned about the position through the internet and one observer (14%) learned about the position from the contractor.

- What were the primary and secondary reasons for your interest in being an observer? A. Work on fishing vessels; B. Work out of the Region; C. Scientific or field experience; D. Money; E. Other (please specify)

Five observers (71%) responded that their interest in gaining scientific and field experience was their primary reason for becoming an observer. One observer (14.5%) indicated the money was the primary reason and another observer (14.5%) indicated that working at sea was their primary motive for becoming an observer.

Six observers (86%) indicated that their secondary reason for becoming an observer was for the money. One observer indicated the scientific field experience was their secondary reason for becoming an observer.

- Was the observer pay level an attractive incentive for first becoming an observer?

Five observers (75%) indicated that the observer pay scale was an attractive incentive for first becoming an observer. Two observers (29%) indicated that the observer pay was not attractive incentive.

- How was your job interview conducted? A. Over the telephone; B. Conference call; C. Personal meeting; D. None of the above; E. Other (please specify)

Six observers (86%) indicated that the job interview was conducted by telephone. One observer (14%) indicated that the job interview was conducted in person.

- If you no longer work as an observer, please indicate your primary reason for leaving. A. Too much time away from family/friends; B. Sea sickness; C. Safety concerns; D. Better job; E. Graduate school; F. Compensation for work unsatisfactory; G. Lack of advancement opportunities; H. Lack of respect/understanding/support for my work? I. Harassment/pressure; from; J. Other (Please list)

Four observers (36%) indicated that there is too much time away from home working as an observer or the irregularity of work in one location. Two observers (18%) indicated they had found a better job. Two observers (18%) indicated the lack of advancement opportunities was the reason they left. One observer (9%) indicated that sea sickness was a factor for leaving the observer program. One observer (9%) indicated that they were accepted to graduate school. One observer (9%) indicated that there was a lack of respect, understanding and support that lead them to leave the observer program.

- Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future?

Four observers (80%) indicated there are incentives that would encourage them to return to work as an observer. Two of these observers indicated an increase in pay would encourage them to return. The other two observers indicated that they would return as an observer if there was an opportunity for advancement such as conducting data analysis or research. One observer (20%) indicated there are no incentives that would encourage them to work as an observer again.

C1. CONCLUSIONS

The contractor attempts to hire or retain as many experienced observers as possible to work during the fishing season. However, depending on availability and interest, experienced observers may not be available. In general, observers tend to work no more than two seasons as a drift gillnet observer.

In-house programs provide NMFS with more control of the day-to-day operations of the program. A contract program can provide NMFS with more accountability of the level of coverage because recruitments can be completed in a shorter period of time. The contractor can provide observers with additional incentives whereas NMFS can only provide the benefits authorized under Title 5 of the civil service regulations. The contractor targets college graduates by focusing recruitment efforts at colleges and universities with biological science programs. The internet is also another media actively used by the contractor. Recruitment for observer positions requires the use of multiple media. Word of mouth by the contractor can also be an important way to recruit for observer positions.

Most observers are seeking scientific and field experience. This is particularly true for recent college graduates. Money is also important, but not as important as gaining experience in their

area of study. There are also people who become observers because of their desire to work at sea. These observers are looking for field experience that pays sufficiently to provide them with an acceptable lifestyle when not working aboard the vessels.

For expediency, convenience and cost effectiveness, observer interviews are generally conducted by telephone. If possible, candidates are requested to come into the office for an interview. Effective interviews can be completed by telephone because of the information gathered from the interview questions and provided on the job application. Many of the observers are not local and must move after they accept the position.

Most observers leave the observer program because of too much time away from home. The observer program requires observers to be ready for immediate departures at all times while on standby. This lifestyle makes short-term and long-term planning difficult and can become tiresome over time. After working as an observer for a year or two, many individuals begin looking for opportunities of advancement or a better job. A better job could be a job with more predictability, pay, or opportunity for advancement. Some observers quit their job to continue their education by entering graduate school whereas other observers quit because sea sickness continues to remain a problem. Occasionally, there is an observer that leaves because they perceive a lack of respect, understanding and support in continuing their work as an observer. Increasing an observer's salary might lengthen the amount of time an observer continues to work. However, ultimately, most observers want to advance their careers beyond data collection aboard commercial fishing vessels.

C1. RECOMMENDATIONS

None.

C2. CONTROL TECHNIQUE

The NMFS establishes minimum qualifications for observer recruits.

C2. TEST QUESTIONS AND FINDINGS

Interview program managers, and review the recent performance and retention of observers in the drift gillnet fishery.

- Are the minimum requirements for observer recruits in the SOW, such as a Bachelor's degree, appropriate ("too restrictive," "about right," or "not restrictive enough")?

All of the candidates selected by the contractor passed the observer training with at least 85% or better.

- Did the contractor supply NMFS with all the documentation needed to verify observers' qualifications at least five days before training?

The contractor provided the required documentation for most observer candidates at least five days in advance. One observer was waiting on their original transcripts which arrived before the completion of training, and another candidate completed the security clearance forms (fingerprint cards) during the first week of training.

Interview the contractors.

- Do you screen observer recruits before sending them to NMFS for training? If yes, how was this done recently, and with what results?

The contractor reviews resumes and transcripts, telephones or sends letters to listed references, and conducts interviews with each observer before sending them to NMFS' training. The contractor telephones previous employers and references. The contractor asks the previous employer questions such as what is the candidates (1) dedication to their work; (2) suitability to harsh conditions; (3) attention to details; (4) work skills; and (5) strengths and weaknesses? The contractor screens candidates based on previous observer work, small boat experience or minimum education qualifications.

C2. CONCLUSIONS

The minimum requirements for observer recruits are appropriate based on the experience of the Southwest Region during the past 25 years. The contractor provides NMFS the necessary documents in sufficient time before training to allow NMFS to review each candidate's qualifications. If all the documents are not available, NMFS has allowed the contractor to submit them before the end of training provided sufficient documentation was available in advance to determine the candidate's qualifications from the already submitted documents. The contractor has submitted candidates that meet the minimum qualifications outlined in the SOW. The contractor's interview process appears to adequately screen candidates for the essential skills to perform the work.

C2. RECOMMENDATIONS

1. Require minimum qualifications for contract observers in the Southwest Region to include work experience directly related to the position or at least four years of education above high school leading to a bachelor's degree from a four-year accredited college or university with major study in the biological sciences.

Responsible Official: Contracting Officer Technical Representative

Completion Date: October 2000

C3. CONTROL TECHNIQUE

The NMFS decertifies observers who do not meet NMFS standards of conduct or performance standards.

C3. TEST QUESTIONS AND FINDINGS

Interview the program manager.

- Were any previously trained observers rejected before or after the two-week training session at the beginning of last season? If yes, why?

Last season, there were no observers that were rejected for the two-week training for failing NMFS' Standards of Conduct or performance proficiency requirements. However, in previous years, NMFS encouraged the contractor not to rehire certain observers because of data collection deficiencies or behavioral inconsistencies with NMFS' Standards of Conduct.

C3. CONCLUSIONS

If NMFS determines that an observer's data collection proficiency is deficient or compromised and has the ability to jeopardize the credibility and integrity of the observer program, NMFS informs the contractor of the concern. Based on this determination, the contractor is encouraged not to rehire the observer.

C3. RECOMMENDATIONS

None.

D. RISK

Observers may not be properly trained to perform their duties.

D. OBJECTIVE

Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE

The NMFS conducts comprehensive training courses for recruits and experienced observers.

D1. TEST QUESTIONS AND FINDINGS

Interview the staff responsible for training.

- How do you establish the training requirements?

Training requirements, curriculums, and schedules have been developed by the Southwest Region during the past twenty five-year period starting with the tuna/dolphin purse seine program. The training was modified to include small boat safety issues when NMFS began observing the California gillnet fisheries in 1990. The specific subjects presented in training come from Southwest Region management policies, MMPA and Endangered Species Act mandates, priorities established by principal investigators and the U.S. Coast Guard.

- Does the contractor participate or assist?

The SOW requires that the Logistics Coordinator attend and successfully complete the observer training. Currently, the Logistics Coordinator attends only certain subjects during training and does not assist formally with the training.

- Does the contractor consistently provide NMFS with 30 days notice when training is required, as specified in the SOW?

The contractor provides at least a 30-day notice of the need for a briefing or training session.

- Do you measure and demonstrate the success of the courses or the individual students? If yes, how are these tests administered (conducted, reviewed, and approved)?

Each student completes all exams at the 85% level and satisfactorily demonstrate their proficiency at donning immersion suits to pass training. Exams are designed by Southwest Region observer program staff and given to each student to complete in class. The tests are graded and then reviewed by the entire class.

- How effective are the tests in improving the training courses or the performance of the

students?

Students who are close to the cutoff line tend to study and try harder to pass training. Students toward the top of the class continue to try and do better than their classmates.

Interview a sample of observers in the drift gillnet fishery.

- Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties (“very great use,” “great use,” “moderate use,” “some use,” or “little or no use”)?

Three observers (50%) indicated that the usefulness of observer training was of very great use to prepare them to perform their duties. Two observers (33%) indicated that the training was of great use. One observer (17%) indicated that observer training was of moderate use. One observer did not respond.

- Overall, how would you rate the training and briefing? A. Very good; B. Good; C. Fair; D. Poor

Five observers (71%) indicated that overall the training was very good. Two observers (29%) indicated that the training was good. Four observers (57%) indicated that overall the briefing was good. Two observers (29%) indicated briefing was very good. One observer (14%) indicated the briefing was fair.

- Overall, how well did the training and briefing prepare you? A. Very good; B. Good; C. Fair; D. Poor

Six observers (86%) indicated that overall the training did a very good job at preparing them to perform their duties. One observer (14%) indicated that the training did a good job preparing them to perform their duties. Five observers (71%) indicated that briefing did a good job preparing them to perform their duties. Two observers (29%) indicated that the briefing did a very good job preparing them to perform their duties.

D1. CONCLUSIONS

The training curriculum and overall training requirements meet the Southwest Region observer program and SWFSC standards. Observers are provided extensive training on fish and marine mammal identification, data collection protocols and safety guidelines and procedures. The contractor’s Logistic Coordinator attends certain training subjects to remain current. The contractor is not expected to conduct or assist with training. The contractor has been providing at least a 30-day notice prior to the start of a requested briefing or training session.

Exam scores reflect whether students are understanding the subject and lectures are modified accordingly. Essay type questions are given to demonstrate specimen collection proficiency. The essay questions seem to improve performance. Most observers feel that the usefulness of observer training was of very great or of great use in preparing them to perform their duties. Overall training was very good and the briefing is good.

D1. RECOMMENDATIONS

1. Modify training curriculums to include any changes to data collection requirements, observer

program policies, laws or regulations.

Responsible official: Observer Training Coordinator

Completion Date: October 2000

2. Review the observer evaluations after each training and review the observer evaluations from the previous training class before each new training to incorporate the recommendations for improvement in the presentations.

Responsible Official: Observer Training Coordinator

Completion Date: October 2000

3. Develop an anonymous observer questionnaire that would be completed after their first trip to evaluate how effective observer training was at preparing them to perform their duties at sea.

Responsible official: Observer Training Coordinator

Completion Date: December 2000

D2. CONTROL TECHNIQUE

The NMFS trains observers in core competencies.

D2. TEST QUESTIONS AND FINDINGS

Interview a sample of the most recent observers in the three fisheries.

- Did the training you receive provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics was the training deficient?

Seven observers (100%) indicated that the training provided the skills and knowledge needed to accomplish the assigned duties.

- What portion(s) of the training and briefing prepared you the best?

Four observers indicated the species identification prepared them the best to work as an observer at sea. Three observers indicated the training prepared them best for completing data forms. Three observers indicated the dissection training was important. One observer indicated the safety training prepared them well.

- What portion(s) of the training and briefing needs improvement?

One observer recommended replacing the safety-at-sea videos with lectures and demonstrations. Two observers recommended better time management so that training wouldn't last as long. One observer suggested having appropriate sized classes so that people are not easily distracted. One observer requested that the shark anatomy descriptions be improved. One observer wanted less interrogation during the class.

D2. CONCLUSIONS

Observer training provides the skills and knowledge necessary for an observer to accomplish their assigned duties. Species identification, dissection training, completion of data forms and safety training are important aspects of observer training and are essential to preparing observers to work at sea in a self supervised capacity.

D2. RECOMMENDATIONS

1. Increase the number of fish pictures for use in observer training so that there is at least one representative photograph for each species.

Responsible Official: Observer Training Coordinator

Completion Date: July 2001

2. Modify the fish identification, Typical-Day-at-Sea exercises, and safety-at-sea portions of the training.

Responsible Official: Observer Training Coordinator

Completion Date: December 2000

3. Before a scheduled observer training class, request returning observers from a vessel assignment to bring back whole specimens of fish that can be used in training.

Responsible Official: Observer Training Coordinator

Completions Date: November 2000

D3. CONTROL TECHNIQUE

The NMFS places observers who have completed training on probationary status for the first three voyages.

D3. TEST QUESTIONS AND FINDINGS

Interview the staff responsible for training.

- Were any trained observers rejected during probation last season? If yes, why?

All observers completed their first three trips successfully.

D3. CONCLUSIONS

All of the observers satisfactorily completed their probationary period (first three trips) and did not require additional debriefings or additional tutorials.

D3. RECOMMENDATIONS

None.

E. RISK

The health and safety of observers may be impaired.

E. OBJECTIVE

The health and safety of observers are protected.

E1. CONTROL TECHNIQUE

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST QUESTIONS AND FINDINGS

Interview the observer program manager.

- How does NMFS notify vessel owners and operators of their responsibilities and methods of compliance?

NMFS sends annual letters by certified mail to the vessel owners and operators regarding their observer responsibilities and obligations. This includes information about compliance with the safety regulations. NMFS also discusses the safety regulations and observer responsibilities at mandatory skipper education workshops that are convened as part of the Pacific Offshore Cetacean Take Reduction Plan. In addition, the contractor sends the vessel owners and operators a letter that describes their obligations and the requirement for observers to conduct a safety spot check.

- What records do you keep about the performance of this outreach program?

NMFS receives certified mail return-receipts for letters that were delivered. In addition, sign-in sheets from skipper workshops are kept. Observer data records indicate that an observer was deployed on the vessel and that the vessel met the safety requirements. The contractor keeps the Vessel Examination Safety Checklists completed by each observer when they board the vessel.

- Are these records useful in improving the outreach program?

NMFS does not keep safety checklist records.

- How are observers instructed to spot-check major items for compliance with U.S. Coast Guard regulations, (i.e., a current U.S. Coast Guard safety inspection decal, etc.)?

Observers are trained by U.S. Coast Guard personnel during observer training and through a vessel examination video. Observers are also instructed by NMFS staff.

- Is there a critical form or process?

The contractor designed a form called the Vessel Examination Safety Checklist which is similar to what the U.S. Coast Guard boarding officers use during their official vessel inspections.

- How does NMFS delegate to the contractor the authority to temporarily exempt a vessel from observer coverage because of health and safety concerns?

Through the SOW, NMFS allows the contractor to determine whether a vessel is unsafe because of health or safety concerns. The contractor may exempt the vessel from carrying an observer if “the facilities on a vessel for quartering an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized.” The contractor must notify the COTR immediately if a vessel is determined to be unsafe. If the vessel does not have the proper safety equipment or vessel examination safety decal, then the vessel must stay in port until the needed corrections are made and the vessel complies with the safety regulations.

- Are these procedures in writing (documented)? If yes, is there a clear, written chain of command?

The SOW clearly states that the contractor may determine whether a vessel is unsafe if the COTR is immediately notified in writing. However, for practical purposes, the contractor does not immediately notify the COTR but rather waits till the end of the season after being asked why

certain vessels were not sampled during the fishing season.

- Is there required review, approval or sign off? Is there a provision for follow-up to ensure that the health and safety concerns are corrected? What records, if any, do you keep about what happened when observers made pre-trip safety checks of vessels to which they had been assigned?

The contractor keeps a written record of all the pre-trip safety checks. NMFS does not review or receive copies of the vessel examination safety checklists.

- Do these records indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems? That there was attempted or perceived pressure on observers by vessel owners or operators? If yes, do these records describe the actions and outcomes, including any delays, loss of fishing days, legal actions etc.?

According to the contractor, no observer refused or was reluctant to board vessels because of health or safety concerns.

- What records, if any, does Frank Orth and Associates supply to NMFS observer program manager concerning safety problems that observers may have alleged or subsequent refusals to board these vessels?

The observer completes a Vessel Safety Examination Checklist prior to departing on a trip. After each trip, the Vessel Safety Examination Checklist is submitted to the Logistics Coordinator during debriefing. The observer documents all safety concerns and incidents of refusal in their Greenbook. The observer reports this information immediately to the Logistics Coordinator and Program Manager who then reports the information to the COTR. The Vessel Safety Checklist is available to the COTR as is the Greenbook. At the top of the Vessel Safety Checklist, the observer is reminded not to depart upon a vessel that they do not feel is safe. The checklist asks questions about the condition of the vessel, whether there are safety training drills, and specific instructions to the observer about the safety drills.

Interview a sample of current observers in the drift gillnet fishery.

- Were you provided with a health and safety “checklist?”

Six observers (86%) indicated that they were provided a health and safety checklist. One observer (14%) indicated that they received a “vessel safety” rather than a “health and safety” checklist.

- Are you aware of a written policy that an observer’s job will not be endangered if he refuses to board a vessel because of health or safety problems that he finds?

Six observers (86%) indicated that they knew of a written policy that an observer’s job would not be endangered if they refused to board a vessel because of health or safety problems that are found. One observer (14%) claims he is unaware of the written policy.

- In your personal experience, is this policy being followed?

Five observers (83%) indicated that they felt this policy was being followed. One observer (17%) indicated that they did not feel this policy was being followed.

- Do you ever feel any pressure from anyone to ignore health or safety concerns that you may have?

Four observers (67%) indicated that no one has pressured them to ignore health or safety concerns. Two observers (33%) indicated they have been pressured by the vessel captain.

- During your last detail, did you identify any unacceptable health / safety conditions on the pre-trip safety check? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or retaining the vessel in port? Were these conditions corrected to your satisfaction?

Seven observers (100%) indicated that they did not identify any unacceptable health or safety conditions on the pre-trip safety check.

E1. CONCLUSIONS

NMFS reminds vessel owners and operators of the safety regulations and observer program responsibilities at the beginning of each fishing season (when vessels may fish inside 75 nautical miles) by sending them a certified letter and at the mandatory skipper education workshops. In addition, the contractor notifies them of their obligation with their annual fleet letter. The annual reminder to the vessel owners and operators by the fleet notice and at the skipper education workshops has been successful for notifying them of their obligation to carry an observer and to comply with the safety requirements. NMFS does not keep any records on the performance of the outreach program.

Observers are trained to complete spot checks of major items for compliance with U.S. Coast Guard regulations by the U.S. Coast Guard and NMFS staff. There is enough information on the form to determine whether the vessel complies with U.S. Coast Guard safety requirements. Through the SOW, the contractor is allowed to exempt a vessel from carrying an observer if the determination is made that the vessel is unsafe and the safety of the observer and the safe operation of the vessel would be jeopardized. The contractor cannot exempt a vessel if the vessel does not comply with the U.S. Coast Guard safety regulations. There is a clear procedure in the SOW for determining whether a vessel is unsafe although NMFS has not been insistent on being notified immediately of this determination.

NMFS relies on the contractor to ensure that vessels are in compliance with the U.S. Coast Guard safety regulations. In addition, NMFS relies on the contractor to ensure that vessels are not departing without an observer just because they do not meet the safety requirements and that noted deficiencies are corrected prior to departing on a trip with an observer. The contractor ensures that observers are not placed aboard vessels that do not comply with the U.S. Coast Guard safety regulations. Observers receive a Vessel Safety Examination Checklist to conduct a spot check to verify that major safety equipment complies with U.S. Coast Guard safety regulations.

Most observers are aware of the written policy that their observer job will not be jeopardized if they refuse to board a vessel because of health or safety problems that are found. For the most

part observers are aware of the policy that vessels must comply with the minimum U.S. Coast Guard safety regulations before an observer may be deployed upon the vessel. Most observers feel the contractor is following the policy in the safety regulations and that outreach efforts to inform vessel operators of the need to be in compliance with the U.S. Coast Guard safety regulations have been successful.

E1. RECOMMENDATIONS

1. Remind vessel owners and operators of their obligation to comply with the U.S. Coast Guard safety regulations when skipper education workshops are conducted under the Pacific Offshore Cetacean Take Reduction Plan.

Responsible Official: Observer Training Coordinator

Completion Date: September 2001

2. Send annual vessel notices to the fleet reminding them of their obligations to comply with the observer program.

Responsible Official: Contracting Officer Technical Representative

Completion Date: July 2001

3. Review the vessel safety examination checklists completed by each observer.

Responsible Official: Contracting Officer Technical Representative

Completion Date: November 2000

4. Conduct a vessel safety examination when conducting the dockside tour during observer training.

Responsible Official: Observer Training Coordinator

Completion Date: October 2000

5. Require the Contractor to notify NMFS if a vessel does not meet the minimum U.S. Coast Guard safety equipment requirements or if a vessel is determined to be unsafe for purposes of carrying an observer.

Responsible Official: Contracting Officer Technical Representative

Completion Date: October 2000

6. Review the Vessel Safety Examination Checklist and safety regulations with the observers during the Safety-At-Sea presentation of observer training. Include copy in the field manual.

Responsible Official: Observer Training Coordinator

Completion Date: November 2000

7. Clarify the language and policy in the observer field manual and during observer training that an observer's job will not be endangered if he or she refuses to board a vessel because of health or safety concerns.

Responsible Official: Observer Training Coordinator

Completion Date: October 2000

E2. CONTROL TECHNIQUE

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST QUESTIONS AND FINDINGS

Interview the observer program managers.

- Is there any documentation of the necessary action that you will take if an observer determines that a vessel is unsafe while at sea?

Observers are instructed during training to immediately notify the U.S. Coast Guard if an emergency should arise while at sea. If an observer determines that a vessel is unsafe prior to departure, the observer is instructed to notify their supervisor.

Interview (survey) a sample of current observers in the drift gillnet fishery.

- During your last detail, did you identify any unacceptable health / safety conditions while the vessel was at sea? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or returning the vessel to port?

Four observers (57%) indicated that they did not identify any unacceptable health or safety conditions while the vessel was at sea. Three observers (43%) indicated they did. No details were provided about the unacceptable safety conditions that were discovered while the vessel was at sea except one observer indicated that the unacceptable safety condition was bad weather for which nothing could be done. Two of the observers (67%) indicated that they did not report the incident to the program manager. One observer (33%) did not respond to the question. One observer indicated that the observer notified the vessel owner/operator about the unacceptable safety condition and the vessel returned to port. The unacceptable safety condition was not identified by the observer.

- Were these conditions corrected to your satisfaction?

The observer indicated that the conditions were corrected to their satisfaction because the vessel didn't complete the trip and stayed in port.

- Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work?

Four observers (57%) indicated that they have not been intimidated, pressured, harassed or had their sampling interfered with in a manner that affected the quantity or quality of their work. Three observers (43%) indicated that they have been intimidated, pressured, harassed, or had their sampling interfered with in a manner that affected the quantity or quality of their work. The type of harassment, intimidation, or interference was not described by the observers although one observer indicated that the sleep/wake cycles required by working at sea as an observer interfered with their ability to complete their work.

- If yes, can you approximate how frequently this has occurred? A. Often; B. Occasionally; C. Rarely; D. Once

One observer (33%) indicated he was harassed often. Another observer (33%) indicated he was

rarely harassed or intimidated. The other observer (33%) indicated there was only one incident.

- If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity? If no, why not?

Two of the observers (66%) indicated that they did complete an affidavit. One observer (33%) indicated that the incident was reported only on the post-cruise questionnaire.

- Was the debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? A. Always; B. Usually; C. Occasionally; D. Rarely; E. Not at all.

All three of the observers (100%) indicated that the debriefer was able to adequately address their harassment, intimidation or interference concerns.

- In what ways could the observer program be more supportive of observers who have experienced harassment/intimidation/other trauma on the job? A. Better training/preparation; B. Better information in manual; C. More support in the field; D. Better outreach to industry; E. Better enforcement and follow through on observer complaints; F. More support during debriefing; G. Better grievance procedures for observers; H. Better communication and cooperation between contractor and NMFS; I. Professional counseling support for observers who have experienced trauma; J. Other

Four observers (20%) would like to see more support in the field to assist them with completing their duties. Four observers (20%) would like better enforcement and follow through on observer complaints. Three observers (15%) would like more outreach to the industry regarding the observer duties and responsibilities. Two observers (10%) would like better information in the field manual to assist them with completing their duties. Two observers (10%) would like a better procedure for filing grievances. Two observers (10%) would like better communication and cooperation between the contractor and NMFS. One observer (5%) would like better training to prepare them to perform their duties. One observer (5%) would like more in support during the debriefing process. One observer would like professional counseling support for observers who have experienced trauma.

E2. CONCLUSIONS

If an observer determines that the vessel is unsafe while at sea and the safety of the vessel is jeopardized, the U.S. Coast Guard should be notified immediately. Although unacceptable safety conditions may be discovered while the vessel is at sea, safety checks completed prior to vessels departing should reduce the likelihood of identifying unacceptable safety conditions while at sea. These vessels typically operate in rough weather which is not in itself an unacceptable safety conditions. Many times, the observer does not consider a potentially unsafe condition at sea an incident worthy of informing the program manager.

Observers are subjected to many challenging situations while working at sea aboard privately-owned commercial fishing vessels. The work is conducted in a work environment where the observer duties do not always mesh with the priorities of the vessel operators. This is compounded by the need to share cramped living quarters. The observer must withstand mild

forms of kidding around by vessel personnel. An act crosses the line and becomes harassment, interference, or intimidation when the observer perceives there is a problem. What one observer perceives as good fun, another observer may perceive as harassment. Regardless of whether the harassment, interference, or intimidation aboard a vessel is mild or severe, the action is not tolerated by NMFS.

In general, observers are not subjected to harassment, interference, or intimidation while working at sea aboard commercial fishing vessels. Sometimes vessel personnel may accidentally forget, or the observer will fail to communicate the need for vessel personnel to provide swordfish specimens to the observer for collecting measurements. This situation may arise because crew are moving quickly and are used to working aboard the vessel without an observer. A one time occurrence of this nature does not warrant an affidavit. If this type of interference recurs throughout the trip, an affidavit would be completed.

If the debriefer is notified of a situation of harassment, interference, or intimidation, the observers feel that the debriefers are addressing the situation to the satisfaction of the observer. The observers would like to see more support in the field to assist them in completing their duties. However, because observers are self-supervised individuals who travel to and from vessel assignments on their own, this can be challenging as they are traveling with a large amount of sampling gear and biological samples. More infrastructure in the field could facilitate deployments by providing better transportation and storage facilities.

There is a need to expedite the enforcement investigation process and the issuance of a notice of violation process. Presently, this process may take more than a year. The observers feel that there needs to be more outreach to the industry about their duties and their responsibilities. In fact, the observers are the ambassadors of the agency by living with the vessel owners and operators and explaining to them why NMFS is collecting the data. NMFS does conduct mandatory skipper workshops under the Pacific Offshore Cetacean Take Reduction Plan to review the requirements under the MMPA. Included in these workshops is a review of their obligations under the Marine Mammal Authorization Program and the observer program. Some observers would like to see the field manual include better information about the data collection requirements and their duties. The observers would like the contractor to provide a better grievance system for the observers.

E2. RECOMMENDATIONS

1. Encourage observers during the debriefing process to notify the Data Coordinator or Logistics Coordinator of any unsafe condition that was discovered while the vessel was at sea.

Responsible Official: Data Coordinator

Completion Date: October 2000

2. Review the observer program duties and responsibilities at the Skipper Education Workshops.

Responsible Official: Observer Training Coordinator

Completion Date: September 2001

3. Request NMFS Enforcement to complete their investigations and NOAA General Counsel to review the cases in a timely manner.

Responsible Official: Regional Administrator

Completion Date: March 2001

F. RISK

Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE

Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE

The NMFS administers a contract with Frank Orth and Associates that provides workers' compensation to observers who are injured at sea.

F1. TEST QUESTIONS AND FINDINGS

Interview the COTR and the CO.

- Does the current contract with Frank Orth and Associates cover observers under Federal Employees' Compensation Act?

Under section 403(c) of the Magnuson-Stevens Fishery Management Conservation Act, observers are considered Federal employees for the purpose of compensation under the Federal Employees' Compensation Act (5 U.S.C. 8101 et seq.).

- Under state workers' compensation?

As a condition of awarding a contract, the contractor must provide state workers' compensation. The contract observers are covered on land and at sea for observers in California, Oregon, Washington, and any waters associated with these states.

- Under Longshoremen and Harbor Workers' Compensation Act? If yes, are any of these coverages redundant?

The contractor does provide insurance for observers under the Longshoremen and Harbor Workers' Compensation Act. Whether this coverage is redundant has not been determined.

- Does NMFS reimburse the contractor for any of the premiums paid for workers' compensation? If yes, what are the annual amounts?

NMFS reimburses the contractor for all costs incurred under a cost reimbursable contract. For the period August 1, 1999 through May 31, 2000, the cost for state workers' compensation was approximately \$48,000.

- In recent years, do your records indicate that there was any injury to an observer that resulted in a workers' compensation claim? In a claim against the vessel? In a claim against the contractor?

One claim was submitted under the state workers' compensation insurance. There were no claims against the vessel or the contractor.

Interview a sample of last year's observers in the drift gillnet fishery.

- Are you aware that you may be compensated under the Federal Employees Compensation Act if you are injured on a vessel? (FECA/MSFCA Sec. 403(c))?

Six observers (86%) indicated that they were aware that they may be compensated under the Federal Employees Compensation Act if they are injured on a vessel. One observer (14%) indicated that he was not aware that contract observers may be covered under FECA.

- Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)?

Six observers (86%) indicated that they were not aware of any other remedies that may apply if they were injured at sea. One observer (14%) indicated that he had recently learned about these other remedies.

- Was this explained to you by the vessel owner/operator or as part of your training? If yes, were you satisfied with the explanation?

No observers responded to this question.

- Have you attempted to obtain any workers' compensation or other remedy in connection with an injury you sustained at sea? If yes, in what situation?

Six observers (86%) indicated that they have not tried to obtain any workers' compensation or other remedy in connection with an injury sustained at sea. One observer (14%) indicated that he had tried to obtain compensation under workers' compensation for dental care.

F1. CONCLUSIONS

Under the Magnuson-Stevens Fishery Management Conservation Act, the current contract appears to cover observers under FECA.

Despite this possible coverage, NMFS reimburses the contractor for costs associated with obtaining state workers' compensation insurance for the observers working on land and at sea partly because the Department of Labor has not determined whether these coverages are redundant and current contracting regulations require the contractor to have state workers' compensation insurance. State workers' compensation insurance covers employees for injuries incurred while on the job. Regardless, under a cost-reimbursable contract, NMFS is responsible for reimbursing the contractor for all costs associated with operating the observer program.

Most observers are aware that there is a provision in the Magnuson-Stevens Fishery Conservation Management Act that states contract observers shall be considered Federal Employees for purposes of coverage under FECA. The contractor and NMFS training do not discuss liabilities and legalities under maritime laws. Because most observers are not injured at sea, they have not tried to obtain compensation under workers' compensation. The dental care claim was denied because the cause was not work related.

F1. RECOMMENDATIONS

None.

F2. CONTROL TECHNIQUE

The NMFS encourages vessel owners to obtain insurance that would protect them in the event an observer is injured.

F2. TEST QUESTIONS AND FINDINGS

Interview a sample of vessel owners in the drift gillnet fishery.

- Last year, did NMFS encourage you to indemnify yourself against financial loss because of accidents involving, or loss caused by, your vessel?

Only two vessels were interviewed. Both vessels indicated that NMFS did not encourage them to indemnify themselves against financial loss because of accidents involving, or loss caused by, their vessel.

- Do you currently carry P and I insurance? If yes, does this coverage extend to observers as well as to crew working on your vessel? If no, have you acquired other insurance coverage that does extend to observers?

One vessel does not carry Protection and Indemnity insurance. The other vessel does. One vessel operator indicated that he could not afford the insurance premium. The vessel with P & I insurance indicated that the coverage does extend to the observer.

- Were you reimbursed for this expense by NMFS after providing supporting documentation? The vessel with Protection and Indemnity insurance indicated that he was not reimbursed by NMFS nor did he submit an invoice for reimbursement.

F2. CONCLUSIONS

NMFS does not encourage drift gillnet vessels to obtain Protection and Indemnity insurance. However, if a vessel were to submit a reasonable claim for reimbursement with supporting documentation, NMFS would reimburse the vessel through the contractor. Many of the drift gillnet vessels do not carry Protection and Indemnity insurance. The larger vessels are more apt to carry Protection and Indemnity insurance than the smaller vessels.

F2. RECOMMENDATIONS

None.

G. RISK

Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other federal, state, or intergovernmental agencies.

G. OBJECTIVE

Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE

Observer program managers routinely consult with the Council, the California Department of Fish and Game, SWFSC, and other Federal agencies to coordinate appropriate types and levels of

observer coverage.

G1. TEST QUESTIONS AND FINDINGS

Interview the observer program managers and selected SWFSC staff.

- Have fishery managers and scientists coordinated their plans for observer coverage successfully in recent years (particularly with respect to objectives and sampling protocols)?

Observer coverage is established by SWFSC staff, in conjunction with the recommendations from the Pacific Scientific Review Group and the Pacific Offshore Cetacean Take Reduction Team. Observer coverage is also dictated by the level of funding recommended by the Marine Mammal Recovered Protected Species Review Panel which are approved by the Executive Board.

- How has the observer program established priorities for monitoring incidental seabird interactions?

Priorities are based on the source of funding. This program is mandated under the MMPA. Marine mammals are considered the top priority, with sea turtles second, and marine seabirds third. To date, there have not been conflicts with the collection of protected species information based on these priorities.

G1. CONCLUSIONS

The SWFSC and the Southwest Regional Office are satisfied with the 20% observer coverage level for estimating marine mammal entanglement rates. NMFS considers the collection of protected species data as a top priority. The collection of other protected species data has not prevented observers from collecting seabird information.

G1. RECOMMENDATIONS

None.

G2. CONTROL TECHNIQUE

The contractor estimates overall fishing activity by monitoring vessel activity. NMFS uses this data to estimate overall fishing effort and manage observer coverage by vessel.

G2. TEST QUESTIONS AND FINDINGS

Examine recent biweekly vessel activity records that were sent to NMFS, and interview the observer program staff.

- Do these records show complete departure and arrival information for all vessels?

The vessel activity records submitted show departure and arrival information for all vessels that are known to be fishing.

- Do these records show that observers were on board for at least six days and observed at least five sets? If no, was this trip justified?

The Vessel Activity Record shows the arrival and departure information for each vessel and the number of days the vessel was at sea. This information in combination with the Trip Synopsis form and the observer data records show whether five representative sets were completed. For

debriefing purposes, a trip is defined as a trip with five representative net pulls, at least six days in length and fish are unloaded. The contractor also uses this definition for a trip to facilitate observer placements. If a vessel returns to port without completing a “trip,” the vessel will continue on its next departure with the observer until the defined trip criteria are met.

G2. CONCLUSIONS

The vessel activity records are complete and show the departure and arrival information for all vessels. NMFS receives enough documentation from the contractor and the observer that trip lengths can be determined.

G2. RECOMMENDATIONS

None.

G3. CONTROL TECHNIQUE

NMFS notifies each vessel owner by certified mail of his obligations to carry an observer and phone the contractor 48 hours before departure.

G3. TEST QUESTIONS AND FINDINGS

Examine recent notices to vessel owners by certified mail.

- Were these notices reviewed by NMFS Enforcement, NOAA General Counsel, and signed by the Regional Administrator?

Recent fleet notices were reviewed by NMFS Enforcement and the Office of General Counsel prior to the Regional Administrator signing them. The 2000 fleet notice was hand delivered to skipper education workshop participants.

G3. CONCLUSIONS

Fleet notices are reviewed by NMFS Enforcement and the Office of General Counsel prior to the Regional Administrator signing them.

G3. RECOMMENDATIONS

None.

G4. CONTROL TECHNIQUE

Whenever communicating with a fishing vessel representative, the contractor records information in a log; these logs are made available to NMFS upon request.

G4. TEST QUESTIONS AND FINDINGS

Examine recent communication logs in the electronic database that were requested by NMFS, and interview the observer program staff and the enforcement staff.

- Did the program staff use these logs to monitor communications with the vessel owners? NMFS program staff reviewed the Communications Log at the end of the season. Contractor staff used the Communications Log on a daily basis to track conversations with vessel owners and operators.

- Did the enforcement staff use these logs to insure adequate notice and compliance?
In 1999, enforcement did use the Communications Log.

- Did the contractor notify NMFS immediately about any vessels that failed to phone the contractor 48 hours before departure or failed to take an observer as required?

The contractor did not immediately notify NMFS if a vessel departed without providing 48 hours notice. Although many times vessels provide less than 48 hours notice, the contractor was still able to place an observer aboard the vessel. There were no vessels that departed without taking an observer after being notified of their obligation to carry one.

G4. CONCLUSIONS

The Communications Log is an important tool to monitor conversations between vessel owners and contractor program staff. NMFS program staff can use the communication log to clarify information on the Vessel Activity Record or to assist with ongoing investigations. NMFS enforcement did not need to review the Communications Log to ensure adequate notice and compliance with the call-in requirements during the 1999 season. To facilitate observer placements and compliance, the contractor works with the vessel owners and operators if there is less than 48 hours notice to place an observer aboard their vessel. If the vessel provides less than 48 hours notice, the contractor can ask the vessel to delay its departure until the observer is able to arrive to the docks.

G4. RECOMMENDATIONS

1. Use the Communications Log to verify the accuracy of the information submitted on the Vessel Activity Record.

Responsible Official: Contracting Officer Technical Representative
Completion Date: November 2000

H. RISK

The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE

Observer data is complete and accurate.

H1. CONTROL TECHNIQUE

The NMFS Observer Field Manual describes procedures for data collection.

H1. TEST QUESTIONS AND FINDINGS

Examine the Manual.

- Are the procedures complete and up to date?

The observer field manual is updated prior to each fishing season. Updates during the season are provided to the contractor and each observer.

- Have they been distributed to all observers?

Each observer receives a new field manual during their briefing or training session prior to each

fishing season. Any Data Update Circulars are distributed by the contractor.

H1. CONCLUSIONS

Each observer is issued an updated field manual at the beginning of each fishing season. For data collection purposes, the observer field manual is up to date.

H1. RECOMMENDATIONS

None.

H2. CONTROL TECHNIQUE

The observer program staff reviews observer data forms and debriefs observers before final data entry.

H2. TEST QUESTIONS AND FINDINGS

Examine a sample of raw observer data that was archived recently.

- Was the data from probationary observers examined for compliance with the field manual and approved by the contractor and NMFS staff?

Together, the NMFS Data Coordinator and the contractor's Logistic Coordinator closely reviewed the data from new observers' first three trips. The data were of good quality and all the observers were removed from probationary status.

- Was this data researched, corrected, and signed off by the contractor before submission to NMFS?

The contractor reviewed and signed off on all observer data prior to submitting the data to NMFS.

- By the Data Coordinator before entry into the database?

To save time, the observers entered the data prior to having the NMFS Data Coordinator review the data for accuracy. Observers then made any changes to the electronic data that were required by the data coordinator prior to submission to NMFS. Occasionally, the Data Coordinator received the electronic data and some of the changes had not been made.

- By the Data Editor before release to principal investigators?

The Data Coordinator thoroughly reviewed the data, both hard and electronic copies, prior to releasing the data to the SWFSC.

Interview the drift gillnet observers.

- Were debriefing instructions clear and easy to follow?

Seven observers (100%) indicated that the debriefing instructions are clear and easy to follow.

- Was your debriefer able to provide adequate information you needed in a timely manner?

Seven observers (100%) indicated that the debriefer was able to provide adequate information to them in a timely manner.

- Were your instructions for data corrections clear?

Seven observers (100%) indicated that the instructions for data corrections were clear.

- Did your debriefing help prepare you for future cruises?

Seven observers (100%) indicated that the debriefing helped them prepare for future cruises.

- Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members?

Five observers (71%) indicated that they felt they could freely communicate to observer program staff their concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members. Two observers (29%) indicated that they could not freely communicate their concerns or problems.

- Were you treated with respect/professionally during the debriefing process?

Seven observers (100%) indicated that they were treated with respect and professionally during the debriefing process.

- Are you satisfied with the observer evaluation system?

Five observers (71%) indicated that they were satisfied with the observer evaluation system. Two observers (29%) indicated that they were not satisfied with the evaluation system.

- How do you think the evaluation system process affects observers' future work quality/morale? A. Useful feedback; B. Provides incentive to do good work; C. Provides incentive to limit information shared with the debriefer; D. Encourages changes to data to facilitate debriefing process/or improve personal evaluation; E. Demoralizing

Five observers (42%) indicated that useful feedback is important. Three observers (25%) indicated that they encourage changes to facilitate debriefing or to improve the personal evaluation system. Two observers (17%) indicated that the evaluation system is incentive to do good work. One observer (8%) indicated that evaluation system is an incentive to limit the amount of information that is shared with the debriefer. One observer said that the evaluation system is demoralizing.

H2. CONCLUSIONS

NMFS' Data Coordinator reviewed the data collected by new observers from their first three trips to determine whether the data were being collected according to the protocols in the observer field manual. The contractor reviewed and signed off on all observer data prior to submitting the data to NMFS. Observers are entering the data into the database prior to the Data Coordinator reviewing the data in an effort to save time. Because the observer read back of the data is done after the entering of the data, the read back is not catching whether the observer made all the changes required by the Data Coordinator. However, the data are thoroughly reviewed by the Data Coordinator prior to sending the electronic and hard copies to the SWFSC.

According to the observers, the debriefing instructions are clear and easy to follow and the

debriefing is able to provide adequate information to observers who are debriefing. If there are any data errors, the debriefer and Data Coordinator are providing clear instructions for correcting them. Debriefing is an important step that provides useful feedback to new observers that prepares them for collecting better data on subsequent cruises. Unfortunately, not all observers feel they can communicate with program staff about their concerns, problems or dissatisfaction with specific vessels, contractors or other staff members for fear of negative repercussions. Even though, observers report they are treated with respect and professionally during the debriefing process.

Not all of the observers are satisfied with the contractor's evaluation system of the employee's performance. Although most observers found the evaluation system provides useful feedback and provides an incentive to do good work, some observers felt that there should be changes to facilitate debriefings or to improve the evaluation system. Some observers found the evaluation system demoralizing and that the system encourages observers to limit the information shared with the debriefer.

H2. RECOMMENDATIONS

1. Require observers to enter their data into the database after the Data Coordinator has reviewed their data.

Responsible Official: Contracting Officer Technical Representative

Completion Date: October 2000

2. Establish a reporting system where contract observers can report their concerns, problems, or dissatisfaction with NMFS.

Responsible Official: Contracting Officer Technical Representative

Completion Date: December 2000

H3. CONTROL TECHNIQUE

The staff safeguards raw data, logbooks, and electronic data.

H3. TEST QUESTIONS AND FINDINGS

Interview the staff and a sample of contract observers.

- What steps do you take to protect and restrict access to critical, confidential or proprietary data?

Hard copies of the data are kept by the NMFS Data Coordinator under lock and key. Electronic data is protected by the NMFS Data Coordinator under a password. Data are only released when requested in writing through proper NMFS channels and after removing or modifying sensitive data fields. The contractor keeps the observer data locked and secure.

Interview the drift gillnet observers.

- Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example, through the Freedom of Information Act?

Five observers (71%) indicated that they do not have concerns about the information provided to

the observer program may be accessed by the fishing vessel or fishing industry. Two observers (29%) indicated that they did have concerns.

- If yes, has this affected your reporting of information?

The two observers reported that their concern about information being released to the public did not affect their objectivity.

H3. CONCLUSIONS

NMFS and the contractor adequately protect information on the data forms that may be perceived as confidential. Most observers are not concerned about the information being available under the Freedom of Information Act. Data collected by observers should be impartial, factual and objective so that the release of the information to the industry under the Freedom of Information Act should not be a concern. Any data released does not identify the name of the vessel or the name of the observer.

H3. RECOMMENDATIONS

None.

H4. CONTROL TECHNIQUE

The NMFS requires the contractor to obtain an *Authorization for Release of Information* from each observer before training, enabling NMFS to conduct a background investigation and *Security Worksheet for Non-Employees*.

H4. TEST QUESTIONS AND FINDINGS

Examine recent authorizations.

- Is there an authorization for each observer that was recently trained?

The contractor provided the required documentation, including the *Authorization for Release of Information*, *Security Worksheet for Non-Employees*, and fingerprint cards to NMFS prior to the ending of each training session for each contract observer.

- Were there a corresponding investigation and worksheet?

There was an investigation completed for each new contract observer. There were no negative findings. However, background investigations require several months for the Regional Security Office to complete which means the first season is usually completed before the reports are available.

H4. CONCLUSIONS

NMFS requires the submission of the required documentation for an observer to successfully complete training. Background investigations provide a mechanism to verify whether observers have falsified any personal information. However, there is a need for background investigations to be completed in a more timely manner. Often the results from the security clearance are available toward the end of the fishing season.

H4. RECOMMENDATIONS

1. Request that the Regional Security Office complete the background investigations in a more timely manner.

Responsible Official: Regional Administrator

Completion Date: November 2000

SERVICE DELIVERY MODEL: NMFS-CERTIFIED OBSERVER COMPANIES

ALASKA REGION - NORTH PACIFIC GROUND FISH OBSERVER PROGRAM

NARRATIVE

Introduction

The responsibilities of the North Pacific Groundfish Observer Program (NPGOP) are shared among (1) the National Marine Fisheries Service (NMFS) Alaska Fisheries Science Center's (AFSC) Observer Program Office (OPO), (2) observer companies, and (3) the fishing industry. The duties and responsibilities of each group are distinct.

1. The OPO funds, and is responsible for, the overall administration of the program, observer company certification, observer training and certification, observer debriefing, and data management.
2. The fishing industry is responsible for making arrangements for, and paying the direct costs of, obtaining NMFS-certified observers from an independent NMFS-certified observer company. Industry members are responsible for obtaining the appropriate amount of observer coverage days, as required by federal regulation.
3. The observer companies are responsible for recruiting qualified observer candidates, deploying observers, providing logistical support to observers, ensuring observers have been certified by the NMFS, providing required insurance for observers, providing observers' salaries and benefits, and delivering observer data to the NMFS.

Observer companies must be certified by the NMFS, but have no direct contractual relationship with the agency. Rather, management controls are set by federal regulation, with the companies being the regulated party. Once certified, observer companies are free to compete with each other to provide vessels and processing plants with observer services as required under the Fishery Management Plans (FMPs) for the Bering Sea/Aleutian Islands (BSAI) and the Gulf of Alaska (GOA). At the time of this Management Control Review (MCR), there were six certified observer companies. Five companies were actively providing observer services in the Alaska groundfish fisheries, and the remaining company had just been certified and was not yet active. Vessel and processing plant owners and operators are able to choose the certified observer company or observer companies who provide the best service to them for the lowest cost. They may also change observer companies at any time for any reason.

The responsibilities of each of the three components of NPGOP are defined in federal regulations in (50 CFR 679 Subpart E). Any changes to these responsibilities must first be approved by the Observer Advisory Committee (OAC) of the North Pacific Fisheries Management Council (NPFMC), then approved by the NPFMC, and go through the federal proposed and final rule making process.

The original Observer Plan was adopted on November 1, 1989 with Amendments 13 and 18 to the groundfish FMPs for the Bering Sea/ Aleutian Islands and the Gulf of Alaska. This plan identified the responsibilities of each component of the NPGOP, and set minimum observer coverage requirements for vessels or plants harvesting, transporting, processing, delivering, or taking deliveries of groundfish. The regulations governing the requirements for observer coverage are complex and differ depending on fishery, vessel size, time of year, amounts of groundfish landed, etc.

The overall structure of the Service Delivery Model (SDM) created by the original Observer Plan has remained the same since its implementation. However, revisions have been made to many policies and procedures including: suspension and decertification procedures for both observers and observer companies; observer coverage requirements for vessels; conflict of interest standards for observers and observer companies; and the addition of more stringent observer requirements for vessels and processors participating in Community Development Quota (CDQ) and American Fisheries Act (AFA) fisheries.

Fisheries Observed

The North Pacific Groundfish Observer Program places observers in all federally managed groundfish fisheries in the Bering Sea/Aleutian Island and Gulf of Alaska, except for the directed halibut fishery. Observed fisheries include a wide variety of target fisheries, such as walleye pollock, Pacific cod, yellowfin sole, shallow water flatfish, deep water flatfish, Pacific ocean perch, etc. Fishers in the North Pacific also use a variety of gear types including trawl, pot (or trap), longline, and jig. Groundfish fisheries are further divided into four separate management regimes; the Community Development Quota (CDQ) Program, the Individual Fishing Quota (IFQ) Program, the groundfish fisheries specified in the American Fisheries Act (AFA), and the “open access” groundfish fisheries.

Event Cycles

Staffing and Recruitment

The total number of NPGOP observers employed each year varies depending on the number and type of vessels participating in the groundfish fishery. In 1999, there were 370 individual observers: 183 were new recruits and 187 were experienced observers. These individuals worked a total of 632 observer contracts: 183 contracts were completed by new observers and 449 were completed by experienced observers. In total, these individuals were deployed for more than 32,000 days at sea.

Observer Program Office Staff

At the time of this MCR, the OPO had a full-time permanent staff of 35 personnel for overall management and support of the NPGOP. The staff consisted of one GS-13/14 Program Leader, two GS-13 Supervisory Fishery Biologists, 23 GS-7 to GS-12 Fishery Biologists (for training and debriefing, staffing the field offices, and program support), four GS-5 to GS-6 Biological Technicians (for data entry and editing), four GS-9 to GS-12 Computer Specialists, and one GS-9 Program Support Assistant. The OPO also uses outside contractors for some data entry and computer programing work. The OPO also contracts with a fish identification trainer from the

University of Washington and an “advanced communications” trainer for some training classes. The staff of the OPO is recruited and hired through normal federal government employment practices. Funding for OPO staff and operations concerning the NPGOP comes out of the NMFS general budget.

North Pacific Fisheries Observer Training Center Staff

A large portion of observer training is done by the North Pacific Fisheries Observer Training Center (NPFOTC) at the University of Alaska, Anchorage (UAA). The NPFOTC staff consists of one office manager, three trainers, and one office assistant. They are State of Alaska employees with the University of Alaska, Anchorage and are hired following Alaska state hiring procedures. Funding for the NPFOTC comes through from the NMFS through the Alaska Sea Grant program. The OPO does not have a direct contract with the NPFOTC.

Observer Company Certification

To begin the certification process, an observer company must provide the NMFS with a work proposal which outlines how the company will accomplish their required responsibilities. Proposals do not have to include information regarding how they plan to collect funds from the fishing industry, or how they plan to compensate observers. If the company adequately shows that they can meet the federal regulatory requirements of an observer provider, they will be certified. Once certified, observer companies are free to compete with one another for contracts with the fishing industry.

Observer company responsibilities are defined by the NMFS in federal regulations (50 CFR Part 679 Subpart E). The NMFS certification of an observer company is valid indefinitely, unless revoked by the NMFS. A company’s certification may be revoked only if (1) they are found to have a financial or personal conflict of interest with a vessel or processing facility owner; (2) they are deficient in the performance of their required duties; or (3) changes are made to the Observer Program which no longer require NMFS-certified observer companies.

In the past, the OPO has conducted annual performance reviews for each certified observer company. Currently, these structured reviews are not being done. Rather, the OPO’s observer company liaison immediately informs the company representative of any problems. Revoking certification or enforcing regulations are the only mechanisms available to the NMFS to control observer company practices. There are no contracts between the NMFS and the observer companies.

Observer Companies’ Structure

Each of the six observer companies employs their own staff. In total, the six companies employ ~24 personnel, including company owners. Company owners also act as the management coordinators and/or office managers for three of the companies. Three of the companies employ field coordinators in either Dutch Harbor or Kodiak, Alaska.

The organization of each company differs considerably. Three companies are involved solely with contracting observers to the North Pacific fishing industries, another company provides observers

to the North Pacific fisheries and directly to the NMFS in a separate Alaska observer program, and the remaining two companies are subdivisions of larger companies involved in a variety of biological and technical work throughout North America. The home offices of each company also vary with one in Sisters, Oregon, two in Anchorage, Alaska, two in Seattle, Washington, and one in Halifax, Nova Scotia.

Although observer companies hire and compensate observers, it is the vessels and shoreside processing facilities that bear the direct cost of placing observers aboard their vessels or at their shoreside facilities. Any vessel or shoreside processing facility that is required by federal regulation to have observer coverage is responsible for obtaining an observer from a certified observer company.

Observers in four of the six observer companies have unionized under the Alaska Fishermen's Union (AFU) Division of the United Industrial Workers Seafarer's International Union of North America, AFL-CIO. The AFU has secured, as part of their contracts with these four companies, further requirements on observer recruitment. For some companies, this includes hiring a minimum of 65% prior observers, minimum salary requirements, and salary increases based on experience. Observers working for these four companies must be members of the AFU. Non-union companies do not have these requirements

Observer Recruitment

Certified observer companies predict their observer staffing needs in response to requests for observer services from vessel and processor plant owners and operators. There are always insufficient numbers of experienced observers available to meet demand, so observer companies must recruit new observers throughout the year. Training sessions are scheduled at the AFSC in Seattle and NPFOTC in Anchorage as needed. Observer candidates are primarily recruited from universities and colleges. Observer candidate names, resumes, and transcripts are screened by the observer companies and OPO staff prior to their acceptance into a training class.

To qualify for basic observer training, an observer candidate must have a bachelor degree or higher from an accredited college or university with a major in one of the natural sciences. An observer candidate must have a minimum of 30 semester hours or equivalent in applicable biological sciences with extensive use of dichotomous keys in at least one course. Candidates must also have successfully completed at least one undergraduate course each in math and statistics (minimum of five semester hours in total). In addition, all applicants are required to have computer skills that enable them to work competently with standard database software and computer hardware. Prospective observers must also successfully complete (with a passing score of at least 75%) a basic math and an algebra test administered on the first day of training.

Additional qualifications are necessary to observe in certain fisheries. To qualify as an observer for the Community Development Quota (CDQ) program, a prospective observer must have all of the qualifications listed above, and must have served as a NPGOP observer for at least 60 days, be in good standing with the NMFS, and complete additional training. To qualify as "lead" observer in either the CDQ or AFA fisheries the prospective observer must have all of the above

requirements and have prior experience on the vessel/plant type and gear type to which he or she will be assigned as a lead. This experience must be at least 60 sample days for processing plants and between 50 and 100 sampled hauls depending on vessel and gear type.

Training

Observers who meet the basic educational requirements established by the OPO and are hired by observer companies must successfully complete a three-week training class prior to being deployed as a NPGOP observer. Upon successful completion of the class, observers receive their NMFS-certification. Certification is valid for 18 months past the successful completion of each deployment. Therefore, observers must complete a deployment at least every 18 months in order to maintain their certification. After completing training, experienced observers generally require only a 1- or 4-day briefing before being redeployed. However, a few experienced observers have been required to retake the three-week training in order to correct deficient work. Observer certification may be revoked if the observer fails to perform assigned duties satisfactorily or does not adhere to conduct, confidentiality or conflict of interest standards as prescribed by the NMFS in the federal regulations.

The training courses are divided into four distinct types: (1) the initial observer training course (the three-week training); (2) the CDQ and lead AFA observer training (a 5-day Level 2 training for experienced observers); (3) the basic groundfish briefings (1- or 4-day briefings for experienced observers); and (4) the CDQ and lead AFA annual briefing (1-day briefing for experienced observers who have completed the Level 2 training).

All types of training and briefing are held at the NPFOTC in Anchorage and at the AFSC in Seattle. Basic 1-day briefings are also held in the OPO field stations in Dutch Harbor and Kodiak, Alaska. The subject matter taught in each training type is determined by OPO staff. The curriculum for each of these training types is decided in biannual meetings between OPO and NPFOTC training staff.

Trainers

Currently, all trainers at the OPO and NPFOTC are prior North Pacific groundfish observers. To become a trainer, the staff member must be certified by experienced trainers at the OPO. To obtain certification, the candidate must attend each type of course (taught by an experienced trainer) and then must conduct their own training course. An experienced trainer evaluates the candidate's training abilities and gives feedback to the candidate. Most candidates receive certification after teaching once, but the process may be repeated if the candidate needs to improve their training skills. Trainers must be able to make clear presentations, answer questions asked by the observers, and demonstrate a thorough knowledge of the subject matter presented. Certification of trainers and the biannual training meetings are control techniques in place to ensure consistency between the two training centers.

Training for New Observers

The three-week training covers vessel safety, fishery and gear overviews, data collection and sampling priorities, biological sample collection, use of the ATLAS application (described below),

detailed instructions for completing data forms, fishing regulations, and the observers' role in compliance monitoring. There are several homework exercises and quizzes given throughout the three-week training and in order to be certified the prospective observer must have a cumulative test score of greater than 75%. There are five major exams: the math exam, the sampling and species composition data exam, and three species identification exams. The number and exact subject covered by each exam may vary between trainers.

In addition, to be certified all prospective observers must undergo safety and cold water survival training that requires the candidate to demonstrate their ability to properly put on an immersion suit within 60 seconds, enter the water, enter and exit a liferaft, travel approximately 50 meters to a ladder, and climb out of the water.

Advanced Training for Experienced Observers

The training course for prospective CDQ and lead AFA observers is five days long and is referred to as a Level 2 training. The prospective observers for the Level 2 training are required to have experience in the open access groundfish fishery and are given an exam on the first day of training on sampling protocols, regulations, and general fishery information based on reading material provided prior to the training course. This exam must be passed with a score of at least 90%, or the observer is excluded from the class. During the training the prospective Level 2 observers are interviewed individually and questioned on their motivations for becoming a Level 2 observer. The training curriculum includes communication, conflict resolution, time management, conduct and integrity, regulations specific to CDQ and AFA fisheries, compliance monitoring, sampling and data collection, and the use of motion compensated flow and platform scales. There are three exams relating to these subjects and each must be passed at 90% or above in order for the observer to be initially certified as a Level 2 groundfish observer.

Briefing for Experienced Observers

There are two types of basic briefings for prior observers: a "1-day" and a "4-day." The 4-day briefing covers annual changes to sampling protocols, changes to regulations, instructions for special projects, a refresher in fish and albatross identification, communication skills, conflict resolution, and tutoring for individuals with specific problems discovered in an observer's previous debriefing. Observers are required to attend and participate in all four days of the briefing and pass a species identification exam at 75% or greater to be re-certified. All experienced observers must complete a 4-day briefing before their first deployment in any calendar year, and individuals may be required to complete an additional 4-day briefing or the 3-week training if deemed necessary by OPO debriefers upon evaluation of the observer's work performance.

The one day briefing covers any inter-annual changes to observer program sampling protocols, regulations, and any assigned special projects. Attendance and participation in the one-day briefing are all that is required for re-certification. Either a one-day briefing or a briefing waiver granted by the OPO is required prior to subsequent deployments within a calendar year.

The Level 2 briefing is 1-day long and covers communication and conflict resolution, any changes

to the regulations or program policies, sampling protocols, and a refresher on using motion compensated flow and platform scales. Only attendance and participation are required for re-certification. All prior Level 2 observers must complete this 1-day briefing prior to the first deployment in any calendar year as a Level 2 observer.

Deployment and Logistics

Sampling Gear and Equipment

The OPO purchases, stores and issues a majority of the basic sampling equipment (scales, measuring strips, length frequency boards, knives, scalpels, deck forms, writing utensils, etc.), safety equipment (immersion suit and strobe light, life vest, mustang suit), field guides, standardized data forms, and a sampling manual. Observers or the observer companies supply all personal and wet weather gear. In the CDQ and AFA fisheries the vessels supply NMFS-certified motion compensated flow and platform scales, and NMFS-certified sampling stations.

The equipment supplied by the OPO is warehoused at the AFSC in Seattle, but gear is distributed to observers in Anchorage, Seattle, Dutch Harbor and Kodiak. The NPFOTC and field stations request gear shipments periodically. The OPO gear coordinator maintains a rough estimate of available equipment and supplies. Paper copies of the observer's gear check-out are maintained at the various locations, depending on where gear was issued. After the gear is returned by observers, OPO staff maintains the equipment and replaces broken or worn out items. Observer companies may be held liable for replacement of lost or stolen gear.

Catcher processor vessels, motherships, and shoreside processing facilities are required to provide a computer capable of supporting a data entry and communications application (ATLAS) developed by OPO staff. This application allows observers to enter and transmit data via satellite communications to a database at the AFSC. Vessels and processing plants are responsible for all costs associated with data transmission.

Observer Insurance

Observer companies provide required insurance for observers for the entire period they are employed. Observers, by regulation, must be adequately covered by policies insuring against, for example, injury, loss of work, liability and accidental death. Insurance is required during the entire period an observer is employed, including travel to and from port, stand-by time in port, at-sea deployment, and debriefing. Observer companies maintain insurance that adequately covers their liability for observers injured on the job, under applicable federal and state laws. Each year, supporting documents and certificates of insurance are provided to the OPO by the observer companies.

Observer Coverage Requirements

The FMPs for the Bering Sea/Aleutian Islands and Gulf of Alaska set the observer coverage levels that are required by each sector of the groundfish fleet. Observer coverage levels vary depending on vessel type, fishery, gear type, and time of year.

Observer coverage requirements for motherships and processing plants vary with the amount of

fish processed in a calendar month and type of groundfish being processed. Motherships and shoreside processing plants processing 1,000 metric tons or more per month are required to have an observer on board each day they are processing groundfish. Motherships and processing plants processing less than 500 to 1,000 metric tons require observer coverage for 30% of the days they are processing fish. If they process less than 500 metric tons in a month, observer coverage may not be required. If the mothership or processing plant is receiving deliveries of pollock from catcher vessels fishing in some areas of the Bering Sea and certain time periods, they may require two observers for every day they are processing fish.

Coverage requirements for catcher and catcher/processor vessels depend upon the length of the vessel, the management regime, and the gear type being fished. In the open access and IFQ groundfish fisheries all catcher and catcher/processor vessels 125 ft length overall (LOA) require observer coverage for every day they fish groundfish, unless it is fishing using pot gear. Catcher and catcher/processor vessels equal to or greater than 60ft LOA, but less than 125 ft LOA, are required to carry an observer 30% of the time. Vessels 60 ft LOA or greater fishing with pot gear are required to have an observer on board 30% of the time they are fishing groundfish in the open access and IFQ fisheries. All catcher vessels 60 ft LOA or greater fishing under the CDQ program are required to have observer coverage for every day they fish on a CDQ. Catcher/processor vessels fishing under the CDQ program or in AFA fisheries are required to have two observers on board for every day they fish or process fish and are required to have every sample set or haul sampled by an observer. One of the two observers on these vessels must be a certified “lead” observer. Vessels less than 60 ft LOA are not required to have observer coverage.

Vessels requiring 30% coverage determine when to carry observers in order to meet the regulatory requirements. Vessels or processing facilities which fail to obtain required coverage are subject to enforcement action. This requirement places the responsibility to ensure coverage requirements are met on industry and observer companies. The NMFS Alaska Regional Office and the NMFS Office of Enforcement monitor observer coverage and the placement of observers aboard vessels and at shoreside facilities to confirm coverage requirements are met. If coverage requirements are not met, the NMFS Office of Enforcement can take action against the vessel owner or operator.

All other deployment and logistic tasks while the observers are in the field are the responsibility of the fishing industry and observer companies. Fishing industry personnel purchase observer coverage as needed from one or more of the six observer companies. The observer companies procure certified observers, transport the observer to the ports where they are needed, and ensure that the observers reach the vessels or plants that require coverage. The vessels and plants are responsible for maintaining safe conditions on the vessel for the protection of the observer during the time the observer is on board the vessel by adhering to all U.S. Coast Guard and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel. All vessels are required to have a valid Coast Guard Commercial Fishing Safety Decal prior to an observer boarding the vessel. After the deployment the observer companies are responsible for transportation arrangements for the observers and their data and biological samples to either their

next deployment or a debriefing office specified by OPO staff.

Scheduling observer debriefing interviews is the responsibility of the observer companies and OPO staff. Observer companies contact the OPO when the observers' contracts are finished. Observers cannot be deployed for more than 90 days, or on more than four vessels, without debriefing, and attending another briefing or receiving a waiver from the OPO. Program staff attempts to schedule the debriefing interview as soon after the observers' contract is finished as possible. Due to the highs and lows of fishing activities in the groundfish fisheries off Alaska the wait for a debriefing interview is highly variable. It can deviate from less than a day in the summer months to greater than two weeks in mid-November.

In previous years there had been high demand for observers in January through March and again in late August to November and planning of staffing needs and logistics was relatively simple. In 1999, predicting the seasonal highs and lows was extremely difficult due to changes in the groundfish and other fisheries off Alaska. Some of these changes occurred because of the extension of the CDQ program to include all commercially important species, the initiation of policies specified in the American Fisheries Act, the changes in fishing seasons due to Stellar sea lion Emergency Actions, and the delay in opening the Opilio crab season. In 1999 there was high demand for observers throughout the year, excluding December, making it difficult to predict when observers would be returning for debriefing interviews.

Data Collection

While at sea or at processing plants, observers collect a variety of data from commercial catches necessary to support in-season catch monitoring, stock assessment, and other functions of the NMFS. Observers are responsible for collecting data on total catch, fishing effort, fishing location, species composition, length frequency measurements, and age structures from target and prohibited species. Observers also monitor for compliance with specific fishery, marine mammal, and marine pollution regulations. Observers collect information necessary to support management of marine mammals, seabirds, and other protected species in accordance with the Marine Mammal Protection Act (MMPA) and Endangered Species Act (ESA). This is accomplished by documenting incidental takes and sightings of the animals and collecting whole animal, teeth, or tissue specimens from the animals. Observers also provide information necessary to support other science and management programs through assigned special projects.

Data are collected according to detailed procedures prescribed in the North Pacific Groundfish Observer Manual or as described in supplemental information packets for special projects. Specific instructions for the collection of data and biological samples, recording of data on the forms, and entering data into the ATLAS application are explained in the manual. The manual is written and edited by OPO staff and the appropriate sections are reviewed by data users, including U.S. Fish and Wildlife, National Marine Mammal Laboratory, International Pacific Halibut Commission, and the various groups within the NMFS. Special projects outside of our normal data collections are often collected with the project requester developing the collection instructions. The observer sampling manual can be found on line at <http://www.refm.noaa.gov/observers/NPGOP2000man.html>.

All data are identified by cruise number, vessel code, and haul or set number. Biological samples are further identified by distinct specimen numbers. At the beginning of each contract an observer is assigned a cruise number to indicate the particular contract. Cruise numbers began with “one” for the first domestic observer contract in 1989, and are now greater than six thousand. Each vessel that participates in the groundfish fisheries off Alaska, and requires observer coverage, is assigned a distinct alphanumeric code. These codes were necessary to eliminate confusion between vessels with the same name. Observers are instructed that for his/her deployment on a vessel each haul or set must be numbered with distinct consecutive numbers for each vessel deployment. In the database, these identifiers allow one data type to be associated with another, such as associating fishing area with species composition, or fishing depth with length/frequency data, etc.

Vessel owners and operators are required under federal regulation to allow observers access to, and use of, the vessel’s navigation equipment upon request, so that the observer may determine the vessel’s position. The vessel must allow observers free and unobstructed access to the vessel’s bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products. Vessels must notify the observer at least fifteen minutes before fish are brought on board. Vessels must allow observers to inspect and copy the vessel’s official logbooks or documents required by regulation, printouts or tallies of scale weights, scale calibration records and production records. Vessels are also required to provide all reasonable assistance to enable observers to carry out their duties, including, but not limited to: measuring decks, codends, and holding bins, providing the observer with a safe work area adjacent to the sample collection site, collecting bycatch when requested by observers, collecting and carrying baskets of fish when requested by observers, and allowing observers to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch.

In the CDQ program and AFA fisheries, catcher/processors and motherships are further required to provide certified flow and flatbed scales, and NMFS-certified sampling stations containing elements determined by the OPO to be necessary for the collection of quality data. Vessel sampling stations must be inspected by OPO staff on an annual basis in order for a vessel to participate in the CDQ program.

Observers are provided with tape measures, calibrated bins, or flow scales in the trawl fisheries or thumb counters and weighing scales in the longline and pot fisheries for estimating total catch; measuring boards and weighing scales for the purposes of collecting actual lengths and weights from the catch; knives, scalpels, forceps, age structure packets, and vials for the collection of salmon scales and groundfish otoliths for aging fish species, and other essential equipment for sampling marine mammal and bird incidental catch. Equipment for special projects is supplied by the data user of the project. Lack of work space, broken or missing equipment, sea sickness, sampling under rough sea conditions, lack of cooperation from the crew, as well as observer errors, all contribute to incomplete data collection.

In-season Advising

With the ATLAS application, OPO staff members are able to review raw data and easily communicate with observers while the observers are still at sea. Once the data is received, it is moved to preliminary tables in the database and messages from observers are disseminated to the appropriate in-season advisor (see below). The ATLAS program is now available on all catcher/processor and mothership vessels, and most shoreside processing plants participating in the groundfish fisheries off Alaska.

When ATLAS is available, observers collect data and enter it into the ATLAS application. The data is transmitted on a daily or weekly schedule depending upon the need. Each OPO staff member and OPO field office staff member has been assigned a group of vessels and acts as a mentor (in-season advisor) to the observers working on those vessels. The in-season advisors are able to review the data and run computer checks for commonly occurring errors found in the data. If potential errors are found, the in-season advisor sends an e-mail message to the observers, asking them to investigate the problem and, if it is an error, to correct it. The observers are able to send e-mail messages to their advisors to ask questions on sampling protocols or inform the advisor of problems that are occurring on the vessel.

The ATLAS application is not available on most catcher-only vessels, so data quality issues cannot be addressed until either a mid-cruise review or the debriefing interview. Observers on these vessels fax data to the OPO from the processing plant to which their vessel is delivering. Any observer that is having sampling difficulties during their deployments is encouraged to visit the field offices in Kodiak or Dutch Harbor and ask for assistance. Many Alaskan ports are remote, and delivery times are sporadic, so it is common for observers to be unable to meet with OPO field staff directly. Observers can also call the OPO collect or send a message via fax if they have a sampling problem or any other problem with a vessel or crew. The telephone and fax numbers of all NMFS offices and other contacts are listed in the observer manual. OPO staff members attempt to reply to observer questions as soon as possible, but difficulties arise due to the transitory nature of the catcher vessel fleet.

Mid-Cruise Review

Observers are required to complete a mid-cruise review during each deployment, unless they are excused from this requirement by an OPO staff member. An observer is eligible to become “mid-cruise exempt” after the completion of their second cruise, but the exemption is granted based on the observer’s performance - not on the number of cruises completed. If an observer is assigned to a vessel or plant in Kodiak or Dutch Harbor, they must visit an OPO field station to complete a face-to-face mid-cruise interview with OPO field staff. The interview covers all data collection methodologies and confirms that the observer is following program protocols. Any problems found with the sampling methods the observer is using are discussed and the interviewer makes suggestions on how the observer can correct these problems. A computer report of commonly occurring errors is run on available data and given to the observer. The observer can then make any corrections to the data. If an observer who is required to complete a mid-cruise cannot access a field station, he or she can fulfill this responsibility by faxing a description of sampling methods to the OPO, or by calling the OPO.

Data Entry

The OPO has two different data entry models. For observer data from vessels and plants with the ATLAS application, all data entry is performed by the observer at sea, shortly after the data is collected. For observer data from vessels without ATLAS, the data on fishing effort, location, total catch, and species composition are sent to the OPO at intervals throughout the observers' deployment. OPO staff keypunches this data into the database. Observers return all other data (length/frequency data, biological sample data, marine mammal interaction data, special project data) to the OPO at the time of debriefing. This data is sent to a contracted keypunching company. The contract company keypunches the data twice to limit keypunch errors and returns the digitized data to the OPO. The contract company does not edit any of the data. If errors are found that preclude keypunching, the data is returned to the OPO. All the data, except special project data and mammal sighting forms, are then placed into preliminary tables of the database. Hard copies of special project data are provided to the requester for processing. Marine mammal sighting forms are given to the NMML, and they arrange for data entry.

Debriefing

All observers are debriefed face to face by an OPO debriefer. Current program policy is that all debriefers must have observed in the groundfish fisheries off Alaska and qualify as at least a NMFS GS-7 fisheries biologist. A new debriefer observes several debriefing interviews conducted by experienced debriefers prior to conducting their own. An experienced debriefer attends at least the first debriefing a new debriefer does.

The first step of the debriefing process is the computerized survey. Observers complete a survey for each of their deployments. The survey asks fishery and vessel specific data on data collection techniques for total catch, species composition, and biological samples, as well as data on vessel safety and any impediments the observers may have encountered during their deployments. The data from the surveys are stored on the database at the AFSC.

The second step is a face-to-face interview with an OPO debriefer. Prior to an interview the debriefer reviews the observer's data. This involves running computer checks for commonly occurring errors, and comparing the paper forms with electronic data. Any discrepancies are noted and a list of errors found by the computer is generated. The debriefer also checks any data forms that are not yet keypunched for form and content, reads the observer's logbook, checks any messages sent to or from the observer, reviews the past history of the observer, and reads the electronic surveys. During the interview, the observer is asked to explain data collection techniques and to elaborate on any vague entries on the survey.

Once the debriefer is satisfied with the answers on the survey, the debriefer works together with the observer to correct mistakes that are discovered in the data. Data collected in a method that is not approved by OPO staff are removed from the database. Errors that can be corrected are fixed on the database and on the paper forms. A hard copy of the errors found by the computer and debriefer are stored with the hard copy of the data.

The third step of the debriefing is for the debriefer to write an evaluation for the observer. The

evaluation briefly describes the observer's experience, and then summarizes the assignments for the current cruise. The summary includes a description of the vessel logistics, methods used to estimate catch, sampling methods, problems encountered and how they were overcome, general effort and attitude, and the level of documentation and communication. Additionally, recommendations may be made regarding how the observer could improve their work on future cruises. As part of the evaluation process, observers are given a numerical rating of 0, 1, or 2 for each assignment. This score indicates whether the observer has not met the program's expectations (0), has met the program's expectations (1), or has exceeded the program's expectations (2). A "0" on any assignment within a cruise indicates that the observer is no longer in good standing with the program. By federal regulation, the observer will be prohibited to observe on a vessel participating in a CDQ fishery, or as a lead observer in an AFA fishery. An observer regains their "good standing" status when they complete a subsequent cruise in which they score a "1" or "2" on all assignments.

Finally, the debriefer makes a training recommendation for the observer, based on the observer's overall performance. This recommendation describes which type of briefing the observer is required to complete prior to their next cruise, whether they are required to complete a mid-cruise during their next cruise, and whether the observer has received a notice that their work must improve greatly during their next cruise. This last piece of information lets NMFS staff know that the observer has not completed some aspect of the job correctly and has been given notice as to how the problem may be corrected. An observer who is "on-notice" risks being recommended for decertification if the specific problems mentioned recur.

The observer's evaluation, deployment scores, and certification recommendation are provided to the observer and their company. This information is also stored in the database at the AFSC.

Decertification

If an observer's performance is egregiously bad, or if the observer violated the NMFS' codes of conduct, conflict of interest or confidentiality, the debriefer may turn the case over to the decertification official. The decertification process is described in detail below. If decertified, an observer loses his/her NMFS certification and can never be certified again as a NPGOP observer. Generally, on-notice and decertification recommendations are discussed among the debriefing staff prior to notifying the observer. A staff consensus is not needed, but these discussions help debriefers maintain some consistency in their recommendations.

The decertifying official is a NMFS Supervisory Fisheries Biologist at the OPO. The official investigates the case and determines if decertification is warranted under federal regulations. If it is determined that a decertification case will go forward, all processes must be completed as described in 50 CFR Part 679 Subpart E.

Data Editing

Any data that is not keypunched while the observer is at sea, (non-ATLAS length/frequency data, marine mammal interaction data, and biological sample data) are processed during and after debriefing. The debriefer spot checks the data prior to the interview and corrections are made to

the forms during the debriefing. The data forms are then sent to the contracted keypunch company. Once returned, an electronic version of the data is loaded into preliminary tables in the database. Data editors at the AFSC then run computer checks for commonly occurring errors and compare the paper data to the electronic data. If errors are found, the data editors either correct the data themselves according to program protocol or work with the debriefer to rectify problems. Editors document corrections to the data and file the hard copies of the error sheets with the hard copy of the data. If a large amount of editing was required, the editor will enter a comment describing the problems and how they were solved. These comments are available to trainers, in-season advisors, and debriefers, so OPO staff can alert the observer, who can then avoid these problems in their subsequent deployments.

Biological samples are returned to the AFSC or OPO field stations by observers at the time of the debriefing interview. There are a large variety of biological samples collected by observers and each path of dissemination is different. Data associated with standard biological samples are stored on the database at the AFSC. The actual specimens are then forwarded to the appropriate users with an identifying cruise number, vessel code, haul or set number, and specimen number.

Once all the corrections are made to the data and the editors and/or debriefers are satisfied with the quality of the data, the electronic data is moved to the final tables on the database and becomes available for use to the data users. All the associated paper data, including forms and observer logbooks, are placed into accordion files labeled with the observer's cruise number. Within the file, the data is sorted by vessel code, and the entire file stored in locked filing cabinets at the AFSC for two years. After two years, the data is moved to the National Archives and stored indefinitely.

Observer data is classified and is only released to authorized users or in composite form. Some authorized data users are given permission to query the data on the database, but the data are password protected so that only authorized OPO staff can alter the data once it has been finalized by debriefers and editors. Haul or set specific data such as fishing location and depth are only disseminated to authorized users. Vessel representatives are able to obtain data from their vessels via the World Wide Web. The OPO's web page is password protected. The user name and password allow an industry representative to view all observer data from vessels associated with their user name and password combination. Data users who are not authorized to view haul or set specific data may request composite data from the OPO.

Original observer data forms and logbooks cannot be removed from the AFSC until it is moved to the National Archives. The OPO maintains control of paper data files on site via a sign-out sheet which must be completed when data is taken out of the file cabinet. The paper data may be removed, but the accordion file remains in the file cabinets as a "place-holder," to show that data has been removed and needs to be returned. Only authorized OPO staff is allowed to view or remove data from the National Archives. This security measure is monitored by Archive personnel.

RISKS, OBJECTIVES, CONTROL TECHNIQUES, TESTS, FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

A. RISK

Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE

Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE

Observer program managers obtain and issue funding guidance in sufficient time to train and brief observers, and provide other observer support services.

A1. TEST QUESTION(S) AND FINDINGS

Interview the observer program manager and examine the current sources of funding.

- Does the current pay-as-you-go system provide consistent and timely funding for the observer program? If no, would an alternative system, such as a federally funded program, be better? How?

There are two sources of funding for the NPGOP: (1) the fishing industry funds the direct cost of placing observers on vessels by making direct payments to a NMFS-certified observer company for observer coverage, and (2) federal funds provide for the administrative costs of the program and are received through the federal budget process.

The industry-funded portion of the NPGOP is provided through direct contracts between the observed industry and private NMFS-certified observer companies. These monies pay for the logistics and salaries of observers and are provided as a contractual fee for a service provided. This funding is generally consistent and timely. However, observer companies have reported that some industry members do not pay their bills in a timely manner, or at all. Nonpayment by industry was cited as a reason for the failure of one observer company in 1993. In that failure, the observer company went bankrupt and several observers were not paid for the services they provided.

The federally funded portion of the NPGOP covers the costs associated with the administration of the Observer Program Office (OPO) within the NMFS. The services provided include observer certification training and briefing, observer debriefing, management of observer data, and overall program administration.

The federal component of funding is fairly consistent, but like other federal funding, it may not be timely. Prior to the fiscal year 2000 there was only one base source of funding, through the Marine Mammal Protection Act (MMPA). However, in 1999, additional monies came from the Sustainable Fisheries Act (SFA), the Alaska Groundfish Monitoring Program, and the American Fisheries Act (AFA). In the past, these three sources were not considered base funding, so money from these sources was not guaranteed. As of FY2000, all four funding sources are considered

base, however the amount of money from each source is still subject to change. In FY1999, the administrative branch of the Observer Program operated on approximately \$3.2 million. At the time of this interview, the program manager had not received a final budget for FY2000, but it was expected to be approximately \$2.8 million.

The MCR interview with the program manager was done in April, more than six months after the beginning of the fiscal year. The fact that the budget is not completed in a timely fashion is due to the federal budgetary process. The budget is frequently tied up in Congress and, once passed, takes additional time to filter through the DOC/NOAA/NMFS/AFSC levels. The delay causes spending difficulties because the OPO is in a “critical spending only” status for much of the year. When the funding is finalized, the program managers must procure goods rapidly in order to prepare for the rest of the year. Program managers and staff plan for this budget delay, and attempt to have the necessary spending lists drawn up in advance.

The NMFS also funds the University of Alaska-Anchorage’s North Pacific Fisheries Observer Training Center (NPFOTC). Currently, the funding comes to the NPFOTC from the NMFS as a grant through the Alaska Sea Grant program. As of yet, federal funding processes have not impaired the NPGOP’s ability to train or brief observers at either the AFSC or the NPFOTC.

A1. CONCLUSIONS

The current pay-as-you-go system generally provides consistent and timely funding for the direct costs of placing observers on vessels but with the risk of nonpayment to observer companies and observers.

The portion of the NPGOP budget that is federally funded is consistent, but risks not being timely due to federal budgetary process limitations.

The federal funding process for the NPFOTC through Sea Grant is adequate.

A. RECOMMENDATIONS

As an effort to determine a funding mechanism which reduces the risk of nonpayment to observers and observer companies, the NMFS should document alternative funding mechanisms and begin to explore the risks and benefits of each.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

B. RISK

The costs of providing observers may be excessive or mis-allocated within government and industry.

B. OBJECTIVE

The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE

The AFSC staff purchases, stores and issues all sampling and safety gear.

B1. TEST QUESTION(S) AND FINDINGS

Interview the observer program gear coordinator.

- Are there procedures that insure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?

Currently, there are no procedures that insure gear inventories are maintained at appropriate levels. OPO gear staff make visual estimates of gear items, and take a physical inventory one or two times each year. An electronic gear inventory/tracking system is under development and is expected to solve these problems (see “Recommendations” below).

- How are purchases accounted for? Do you match the deliveries with the shipping document, and the receiving document with the purchase order?

The gear coordinator is given an annual budget, and its management is left to her discretion. Priority is given to an annual large budgetary item, such as weighing scales or baskets, and the inventories of other items are maintained with the remaining monies. Purchase decisions are made, and accounted for, by the gear coordinator. Documentation such as invoices and packing slips are retained and compared to procurement paperwork upon receipt of each shipment. This documentation is submitted to the program’s budget manager.

- How is the equipment maintained? Do you warehouse, limit access, account for custody and use, periodically review?

Equipment is maintained by observers and OPO/NPFOTC staff. Observers are instructed in training, and in the North Pacific Groundfish Observer Manual, how to keep their issued sampling gear in good working order. When gear is returned to the AFSC in Seattle, the gear coordinator performs any additional maintenance prior to re-shelving the item. Performing maintenance at the point of check-in assures that gear is ready for future check-out. A basic set of gear which an observer is issued costs the NMFS nearly \$1200. In 1999, five hundred and ninety-nine observer cruises were completed. Gear procurement and maintenance are generally not regarded as a high priority but they are important and expensive endeavors.

Observers frequently complain that the maintenance standards are different between the AFSC and the NPFOTC. The NPFOTC does not currently have a dedicated staff member to maintain and inventory the gear issued through their office, whereas the AFSC does. In 1999, the NPFOTC hired several temporary assistants to maintain gear. These assistants undoubtedly freed up NPFOTC trainers for other commitments, but did not lead to consistency between gear quality standards at the two locations. The NMFS currently has no management controls to hold the NPFOTC accountable for these complaints.

While not in use, gear is warehoused in one of four locations: the AFSC in Seattle, WA; the NPFOTC in Anchorage, AK; or at the OPO field stations in Dutch Harbor and Kodiak, AK. Gear

issue and return are fluid in that observers may check gear out from one location and return it to another. This complicates inventory practices. The OPO gear coordinator is responsible for issuing gear to the three other sites. Shipping gear is a considerable expense, and OPO would prefer to send large shipments by ground-transportation on a regular schedule. Emergency gear requests from the NPFOTC are frequent and are more expensive in that they need to be shipped by air. Additionally, emergency requests make it difficult for the gear coordinator to manage staff time effectively. The electronic gear inventory system being developed has been designed with these problems in mind, and should help to relieve some of them (see “Recommendations” below).

- Is adequate protection provided against access to inventories by outsiders or unauthorized employees?

The storage facilities used to warehouse gear are kept locked unless staff is present. When observers check-out gear, they are supervised in order to reduce the “shopping” atmosphere, and observers are required to sign-in and sign-out all gear items.

- Are the facilities optimal in terms of cost and location?

Storage facilities are convenient and are part of each office. Observers are encouraged to clean sampling gear prior to returning to Seattle or Anchorage because the facilities are not outfitted with dedicated cleaning equipment. At the AFSC and NPFOTC, gear is cleaned in the wet-lab, which is not always available for this purpose. The AFSC recently purchased a pressure-washer in order to clean gear outside the wet-lab. However, the logistics on where and how to use it has delayed the implementation of an alternative cleaning area.

- Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?

Purchasing of gear is done by either government credit card or through the procurement office. The gear coordinator holds a government credit card. The Commerce Acquisition Manual describes all the policies and procedures regarding the use of a government credit card. Purchases which exceed the program’s credit limit are done through the government procurement office.

- In the past year, did observers return all sampling and safety gear to the Observer Program Office?

Currently, there is not a good system to determine whether all gear is returned at the end of a deployment. Computerized records are not yet kept for gear check-out and return. Observers occasionally choose to keep their gear for their next contract, especially if they plan to return to sea quickly. While the OPO would prefer that observers return their gear after each contract, a tracking system ensuring return is not yet in place.

B1. TEST QUESTION(S) AND FINDINGS (Continued)

Examine the storage facilities for inventories.

- Do they provide adequate safekeeping?

Storage facilities at each site provide adequate safekeeping. If gear is lost or damaged, it occurs while observers are on vessels. Observers occasionally report theft or tampering of observer gear. This is a problem for observers at sea and undoubtedly costs the OPO in gear replacement, but the amount is unknown. Commercial fishing vessels often do not provide a safe, clean, dry place for gear storage, and some loss is to be expected.

B1. CONCLUSIONS

The OPO adequately monitors the purchase of gear to assure that the initial costs of observer gear are reasonable. Individual purchases are controlled through government credit card expenditure limits or a procurement office review.

The OPO does not adequately or efficiently inventory gear.

Gear maintenance at the NPFOTC is inadequate.

Current storage facilities at the AFSC, the NPFOTC, and field offices are adequate to provide safe keeping of government property. Storage of government property by observers in the field is not secure and is one area where gear loss occurs.

B1. RECOMMENDATIONS

The OPO should continue the development and implementation of a gear inventory/tracking system using modern technologies such as databases and barcoding. This system should:

- < track gear for individual observers,
- < report on observers who repeatedly lose or damage expensive gear items,
- < allow for inventory reports and warnings when inventory is low at any of the four gear storage locations,
- < create shipping schedules to field stations,
- < track individual gear items which expire (such as immersion suits and strobe batteries),
- < determine the time between the end of a deployment and gear return, and
- < allow staff to track damage and repairs to individual items to determine if money spent on repairs extended the life of the equipment sufficiently.

Responsible Official: OPO Gear Coordinator

Completion Date: September 30, 2001

The NMFS should implement a contract with the NPFOTC which specifies gear maintenance standards.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

Observer Program staff should work closer with industry members on gear storage issues.

Responsible Official: Program Leader, OPO
Completion Date: September 30, 2001

B2. CONTROL TECHNIQUE

Costs to the industry are based on a pay-as-you-go system, where industry contracts with private companies for observers.

B2. TEST QUESTION(S) AND FINDINGS

Interview the observer program manager, and examine the NMFS 6/3/97 analysis of observers' costs by vessel and gear type.

- Are the costs to vessels in the groundfish fishery based on a reasonable and fair measure of overall benefit?

It is important to point out that the current service delivery model, in which industry members pay a private company directly for observer costs, was set up as an interim plan. The current pay-as-you-go system was implemented by the North Pacific Fisheries Management Council (the Council) in 1989/1990 because, at the time, the NMFS did not have authority to collect fees from industry to fund an observer program. Cost equity was not part of the interim program's design. It was to be addressed in the North Pacific Fisheries Research Plan, which was to replace the interim plan. The Council's rejection of the Research Plan leaves cost inequity as a primary concern under the current pay-as-you-go plan. For more information on the Research Plan, see below.

Observer coverage costs to vessels in the groundfish fishery are not based on overall benefit, and there is a disparity between the percentage of ex-vessel value paid as observer costs within and between fishery sectors.

Observer coverage levels were established through the Council process and set broadly by regulation (50CFR679.50(E)(c)). Coverage requirements are based on length overall (LOA) of vessels, rather than on the amount of fish that a vessel can, or does, harvest. Observer costs are borne only by vessels and processing plants required to have observer coverage.

Currently, vessels less than 60 feet LOA are exempt from observer coverage. Vessels between 60-124 feet LOA are required to carry an observer for 30% of their fishing days whenever they harvest groundfish for more than three days in any calendar quarter. Vessels 125 feet LOA and greater are required to carry an observer at all times when participating in a groundfish fishery. The American Fisheries Act (AFA) and Multi-Species Community Development Quota (MSCDQ) regulations increased coverage requirements for vessels operating in these fisheries.

Processing plant coverage requirements are based on the amount of groundfish received or processed each month. Facilities receiving or processing 1,000 mt or more of groundfish per month must have an observer present each day fish is processed. Those which process or receive 500-1,000 mt each month must arrange for observer coverage for 30% of those days.

On June 3, 1997, the OPO issued a memo to the members of the Council and its committees addressing groundfish observer costs by harvesting and processing sector. The data used was based on the costs associated with obtaining observer coverage in 1995. At the time, the total annual observer costs, as a percentage of ex-vessel value, were at or below 1.0% for motherships, processing plants, 30% coverage catcher vessel trawlers and 100% coverage catcher processor trawlers. The costs were between 1.0% and 2.0% for all other sectors except for 100% coverage catcher vessels using fixed gear, for which the cost was 2.8% of the ex-vessel value of fish landed by this sector. Individual coverage costs also varied within each sector. Some participants had unusually high costs: one 30% coverage fixed gear vessel paid 24.8% of their ex-vessel value in observer costs. In cases where observer cost was high relative to the ex-vessel value, the vessel's catch was small. Some operator's observer costs comprise a disproportionately high percentage of their gross revenue.

Observer costs for motherships, catcher processor vessels and processing plants have likely increased due to additional coverage requirements in AFA and CDQ fisheries.

Observer costs have risen since this analysis was done, but have not been compared to ex-vessel values. Observer costs are estimated based on information provided by certified companies. In 1995, the average daily cost for an observer borne by a vessel was \$187.00. In 2000, the cost has increased to \$279.08¹. This cost is actually low, since all companies add items such as transportation, food, and lodging to base costs (see Figure 1).

¹ This rate is based on examining observer company-vessel contracts from three of the five active companies. The remaining two companies did not provide the costs in the sample contracts, and thus could not be incorporated into this estimate.

Observer Coverage Costs Based on YR2000 Observer Company-Vessel Contracts			
Company	Vessel Type	Daily Cost (per observer)	Notes
Company A	100% Coverage	\$ 285.00	Plus transportation, a company-experienced observer shortage is cause for cost increase, request \$5000 deposit
	30% Coverage	\$ 275.00	Plus transportation, subsistence, travel days and debriefing, request \$5000 deposit, shortage cause for increase
	Processing Plants	\$ 275.00	Plus transportation, subsistence, and travel days, request \$5000 deposit, shortage cause for increase
Company B	100% Coverage	\$ 264.00	Plus transportation, food, and lodging
	Level 2	\$ 309.00	Plus transportation, food and lodging
	30% Coverage	\$ 268.00	Plus transportation, food and lodging
Company C	100% Coverage	\$ 270.00	Plus transportation, excess baggage, food, and lodging, request \$8000 deposit
	30% Coverage (3-6 days)	\$ 268.00	Plus transportation, food, and lodging, request \$8000 deposit, minimum of \$1500 per calender quarter
	30% Coverage (7-14 days)	\$ 295.00	Plus transportation, food, and lodging, request \$8000 deposit, minimum of \$1500 per calender quarter
	30% Coverage (15-24 days)	\$ 290.00	Plus transportation, food, and lodging, request \$8000 deposit, minimum of \$1500 per calender quarter
	30% Coverage (25-29 days)	\$ 280.00	Plus transportation, food, and lodging, request \$8000 deposit, minimum of \$1500 per calender quarter
	30% Coverage (Monthly rate)	\$ 270.00	Plus transportation, food, and lodging, request \$8000 deposit, minimum of \$1500 per calender quarter
	Average Daily Cost	\$ 279.08	
	Average Daily Cost for 30% Coverage	\$ 278.00	
	Average Daily Cost for 100% Coverage (Including Level 2)	\$ 282.00	

Figure 1. Chart of observer coverage charges.

- If no to the above test question, would an alternative system, such as a TAC set-aside or a user fee system, be better? How (for example, equity, stability, efficiency, accountability, etc.)?

Alternative funding systems may solve the problem of inequity amongst the fleet. To address cost inequities, two systems are potentially viable: a fee system and a total allowable catch (TAC) set-aside program.

The fee system was attempted in 1994, when the NMFS implemented the North Pacific Fisheries Research Plan (the Research Plan). This plan called for the NMFS to collect fees from processing companies based on the value of landed catch. The NMFS began collecting some fees in 1995 in order to begin paying for observer coverage using this funding on January 1, 1996.

During 1995, industry representatives became concerned with the complexities of the government procurement system, and the NMFS was challenged with designing coverage levels which would meet scientific, management, and compliance monitoring data needs. Additional concerns arose from some industry sectors, as they realized that their observer costs would rise substantially. Thus, in late 1995, the Council voted to repeal the Research Plan.

It is important to point out that the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) allows for a fee rate “not to exceed 2%” of the value of fish and shellfish harvested under the jurisdiction of the Council, including the North Pacific halibut fishery. The NMFS would need to do a detailed cost analysis to determine whether the allowed fees would support a program the size of the NPGOP. In the 1997 observer cost analysis (using data from 1995), ex-vessel value was \$728.65 million and observer costs were \$6.36 million, or 0.9% for 33,994 coverage days. Although it would appear that this fee would cover programmatic costs, the estimate does not include observer’s non-salary costs. Additionally, future ex-vessel value of fish harvested may drop if quotas are reduced, and the number of observer days has been increasing due to the additional coverage requirements in MSCDQ and AFA fisheries.

Following the demise of the Research Plan, the Council initiated the development of a modified pay-as-you-go system where a “prime contractor,” operating under a Joint Partnership Agreement (JPA), would receive payments for observer services from industry participants. The prime contractor would then contract with observer companies. This plan was initiated to resolve conflict of interest concerns, but did little to address the inequity in funding. In 1997, the intended prime contractor, Pacific States Marine Fisheries Commission, was unable to resolve legal and insurance questions related to their participation in this program and future work in this direction was abandoned.

Upon the discontinuation of the JPA, the Council requested that the NMFS develop another fee-based plan which could be developed under the authority of the Magnuson-Stevens Act. The NMFS did not take further action in this area pending completion of a comprehensive program review.

A TAC set aside system may allow for funding of the observer program, and has been used recently by the Alaska Department of Fish and Game (ADF&G) to fund an expansion of their observer program. TAC-based funding would allow for the resource to pay for its own management. The NMFS has not explored a TAC set aside funding program, so it is not yet possible to estimate what percentage of each TAC would need to be dedicated to fund such a large program. In addition, a TAC set aside would require changes to the MSFCMA.

Even with a TAC set aside program, the NPGOP may risk not being fully funded due to fluctuations in the ex-vessel value of fish products. If the monetary value of the TAC was estimated, then back calculated to determine the proportion of the catch, this may allow for more continuous guarantees of sufficient money to meet the coverage needs.

- How should supplemental data needs (special science projects) be financed?

The issue of supplemental data covers a wide range of potential costs depending on the type and quantity of data needed. In some cases, such as CDQ and AFA fisheries, additional observer coverage requirements have been needed to meet management needs. These “supplemental” observers have been funded by industry through the pay-as-you-go system. Payment for these “supplemental” observers was a controversial and unresolved issue under the Research Plan discussed earlier.

Research is an additional demand on staff and funding resources. These research projects involve collecting non-observer data, and the projects have not been fully incorporated into the OPO’s goals or mission. In 2000, staff from the OPO have participated, or will participate, in a longline seabird deterrent project and a project comparing observer reported catch rates to those derived using product recovery rates. In the future, additional OPO monies may be used to participate in research on a “virtual observer program” involving fish recognition technology and the applications of Vessel Monitoring Software (VMS).

On a finer scale, observers are often assigned special projects with special equipment to meet the needs of the NMFS. Most funds for equipment to complete these special projects are from the data requester. For example, stomach collection materials are provided entirely by the AFSC’s Resource Ecology and Ecosystems Modeling Task, although the OPO provides staff members to assist in distributing the equipment and collecting completed projects. In 2000, the OPO issued nine special projects. Of these, only four required special gear or supplies, which were provided by the data requestor. The OPO funded only printing and training costs.

However, in recent years, the OPO has been given the responsibility for organizing and funding some standard projects, such as otolith collections. The funds for these projects are from the administrative OPO budget. For example, in 1999, the OPO spent more than \$7000 on otolith collection supplies alone. As of May 2000, the OPO has already spent more than \$6000 on otolith collections. Not included in these figures is the cost of staff. Gear personnel, debriefing staff, and other OPO staff spend many man-hours preparing otolith materials, editing and loading otolith data in the Observer Program’s database, and organizing final specimens.

Finally, the Observer Program is asked to supply some materials for non-observer related projects. In 2000, the program was requested to supply two scientists with otolith vials for their projects. The cost to the OPO was nearly \$1400, not including staff time for compiling and organizing the vials. While there are differences in what program funds these projects, they are all ultimately funded through the REFM division of the AFSC.

B2. CONCLUSIONS:

Costs are not reasonable and fair across the groundfish fleet because there is no scaling of the cost of an observer to any effective measure of effort, fishing capacity, or catch value. Therefore, some vessels and processing plants pay disproportionate percentages of their gross revenues to obtain observer coverage. In addition, only those vessels and processing facilities required to carry observers bear the cost.

Alternative funding mechanisms may provide a more equitable and reasonable means of funding the Observer Program. However, defining equity among different user groups is problematic.

Year-to-year fluctuations in fishing and fish prices will affect alternative funding mechanisms linked to fishing activity.

Funding mechanisms linked to fishing activity need to consider the year-to-year uncertainty in fishing and fish prices.

Alternative funding for supplemental observers has not yet been explored.

The OPO staff works on research projects which are outside of the scope of normal observer data needs. These projects are funded by the OPO.

Fine scale supplemental data needs (special projects) are currently being met with NMFS funding.

The funding issues identified have previously been addressed without resolution through the Council.

B2. RECOMMENDATIONS:

The NMFS should request, in writing, that the agency define “reasonable and fair” as the term relates to funding observer programs nationwide. The NMFS should request that the agency address the impact of this definition on all affected parties.

Responsible Official: Program Leader, NOP

Completion Date: February 28, 2001

Any changes to the MSFMCA needed to facilitate alternative funding sources should be initiated for inclusion in the Act’s next reauthorization.

Responsible Official: Program Leader, NOP

Completion Date: March 31, 2001

Once a national policy defining “reasonable and fair” has been established, the NMFS should initiate a reevaluation for funding of the NPGOP with the Council. The funding for supplemental observers should be addressed and resolved in this redesign.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The NMFS should define the research responsibilities of the OPO.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

C. RISK

Qualified observers may not be recruited and/or retained.

C. OBJECTIVE

Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE

The NMFS uses certified companies to supply observers on a timely basis.

C1. TEST QUESTION(S) AND FINDINGS

Interview OPO’s observer company liaison.

- Does the OPO require the certified companies to hire or retain a given number of experienced observers each year? If no, why?

The OPO would like to retain a high number of experienced observers within the program for a variety of reasons. Experienced observers have proven themselves in the field and have a thorough understanding of the rigors and hazards of observing. Experienced observers recognize their limits and are less likely to be unable to recover from seasickness, to put themselves in situations where their safety is compromised, or to be swayed in their sampling procedures. In short, deploying an experienced observer helps ensure that data will be collected. Finally, experienced observers require less OPO staff time during training, in-season support and debriefing. Although the OPO would like to retain experienced observers, the program is restricted in its actions to do so.

Observer companies are not under contract to the NMFS. Therefore, we cannot set requirements for them to retain any level of prior observers on their staff. The only way the NMFS could currently implement such a requirement would be to go through the federal regulation process.

The Association of Professional Observers² (APO) identified high observer turnover as a problem,

² The Association for Professional Observers is a non profit advocacy group for certified observers working in the North Pacific. It was formed in 1995, primarily to address observer concerns such as pay levels, safety, insurance, grievance procedures, and the impacts of

and mobilized an effort to form an observer union. In 1997, observers with the five existing companies voted to join the Alaska Fisherman's Union (AFU) and the union contracts began to be implemented in January 1998. These contracts called for a higher retention of prior observers, so the AFU enacts the only management control regarding observer retention. The current status of the union contracts is:

- In 1999, observers from Data Contractors, Inc. voted to secede from the AFU.
- The current (YR2000) union contracts require Saltwater, Inc., NWO, Inc., and Frank Orth and Associates to commit to hiring 65% prior observers on an annual basis if qualified priors are available.
- The Alaska Observers, Inc. union contract states that they will hire all priors in good standing with a written commitment of 60 days prior to training, but does not commit to a specific percentage of priors.

Two problems with the union contracts have been identified. First, the union does not define a prior observer in regards to number of sampling days or days at sea, and secondly the contracts do not require a minimum percentage of prior observers throughout the year.

In 1999, twenty-nine trainees worked fewer than 30 days during their first contract. When, or if, these observers were hired again, they would be considered prior observers under the current union contract.

In 1999, there were 599 total cruises completed by 370 individual observers. Of these individual observers, 183 were new observers (trainees). If the total number of cruises is used to determine the percentage of new observers in the work force, then 31% of the work force was made up of new observers. Although this is high, it may be a more accurate picture if the total number of individual observers is used to determine the percentage of new observers in the work force. When this denominator is used, it shows that 49% of the observers working in 1999 had no experience prior to that year.

The confusion between these two numbers is due to the fact that the NMFS, the observer companies, and the AFU account for the percentage of prior observers based on the number of cruises completed by the workforce, rather than by the percentage of people who have experience at any one time in the year. When we look at annual observer experience in 1999, we see that the percentage of actual prior observers (those who observed prior to 1999) is much lower than the 65% called for by the union contracts.

- Do you require the certified companies to comply with the same EEO regulations (Executive Order 11246) that are applicable to NMFS contractors (regarding nondiscrimination in employment, affirmative action, and compliance reviews)? If no, why?

regulatory changes on observer duties.

No, observer companies are not required to comply with the Equal Employment Opportunity (EEO) regulations that are applicable to government contractors. The NMFS does not have a contract with observer companies, and therefore cannot hold these companies to EEO standards. However, the NMFS does have some management controls in this arena, using regulations to set conflict of interest standards for observer companies. According to regulation, “observer contractors . . . must assign observers without regard to any preference by representatives of vessels and shoreside facilities based on observer race, gender, age, religion, or sexual orientation.” The NMFS could only enforce this regulation if a formal complaint was lodged against a company by an observer. The observer would need evidence that he or she was not given an assignment based on an industry representative requesting observers of a particular gender, age, etc. If this occurred, the observer would be required to file an affidavit, which would be turned over to the NMFS Office of Enforcement for investigation.

The OPO can track some trends in observer assignments by gender and has brought this to light in company evaluations. For example, in 1997, while reviewing observer companies’ performance of responsibilities named in regulation, the OPO noticed that seven vessels covered by one company seemed to have had male observers preferentially assigned to them. The NMFS asked the company if any of these clients had requested male observers, and if not, what deployment practices would lead to these numbers (see Figure 2). The observer company responded that although early in the domestic observer program they had received requests from vessel owners for various types of observers, that this no longer occurred. They assigned observers to vessels based on giving prior observers preference and observer and vessel schedules. The company representative wrote that they did not track the gender of observers assigned to a particular vessel.

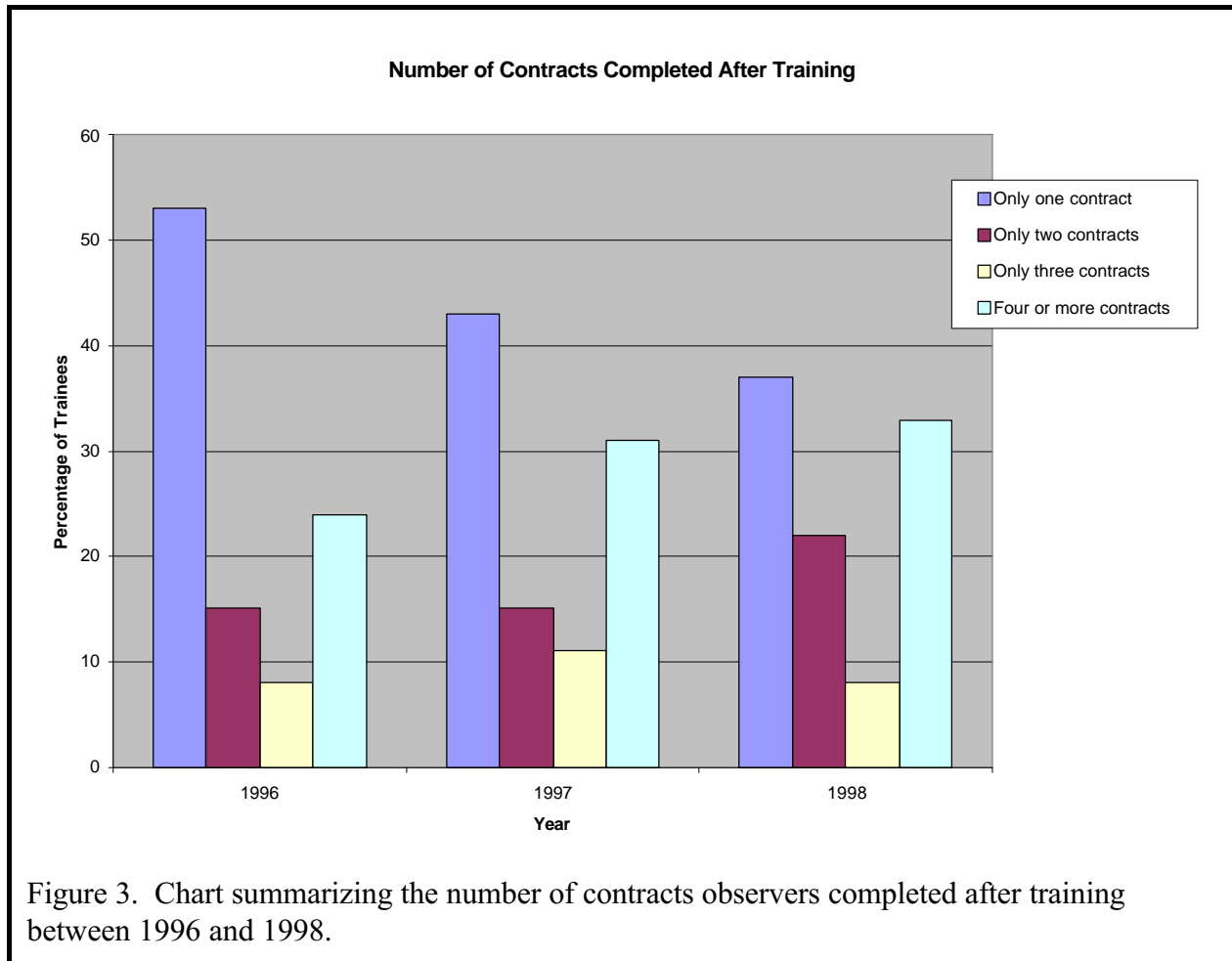
- What is the turnover rate of first-time observers? Is this relatively high compared to other observer programs? If yes, why (unrealistic or confused expectations, harsh work conditions, enforcement issues, multiple roles and demands, etc.)?

Vessel (Names Withheld)	Number & Gender of Observers		Years
	Males	Females	
C/P Longline #1	12	1	1993 - 1997
C/P Trawler #2	14	0	1994 - 1997
C/P Longline #2	15	0	1994 - 1997
C/P Longline #3	10	1	1994 - 1997
C/P Longline #4	11	1	1994 - 1997
C/V Trawl/Fixed #1	9	0	1993 - 1997
C/P Longline #5	13	0	1995 - 1997

Figure 2. Chart of vessels which seemed to have males preferentially assigned.

The turnover rate for NPGOP observers is quite high. Figure 3 below summarizes the number of contracts observers completed after training. The years 1996-1998 were chosen for analysis because certification expires 18-months after the observer’s last debriefing. Therefore, observers

who completed training prior to, or in, 1998 and completed only one contract either no longer have a valid certification, or it is about to expire.



There are many reasons why observers do not return to the program. The NMFS requests that observers complete an anonymous exit survey after completing debriefing. This survey asks observers, “Would you go out as an observer again?”. Between 1996 and 1999, 1048 observers answered this question. Of those, 798 answered “yes,” 38 answered “no,” and 212 answered “maybe.”

Of those observers who indicated that they would not return, they indicated the following reasons: poor treatment by the NMFS (24%), their company representatives (11%), or industry (8%); seasickness (22%); poor working conditions (8%); low pay (16%); going to graduate school or other job plans (11%); and/or that observing was no longer challenging, worthwhile or interesting (31%). Most observers, other than those who were leaving due to seasickness, listed multiple reasons for not returning.

Fifty-eight percent of the observers saying they would not return had just completed their first

contract. When the reasons for not returning are analyzed for first time observers only, the following were cited: poor treatment by the NMFS (19%), their company representatives (14%), or industry (9%); seasickness (33%); poor working conditions (19%); low pay (14%); other job plans (5%); and/or that observing was not challenging, worthwhile or interesting (29%)³.

Clearly, the fact that observing ceases to be challenging, worthwhile or interesting is a major reason for both prior and first-time observers leaving the program. When the MRAG⁴ group requested feedback from observers regarding the reasons they left the program, they found that many observers had the impression that OPO personnel did not view observing as a long term occupation. In fact, observers have been told just this by program managers who felt that the program was not designed to encourage “career observers.”

Observing is an extremely difficult and taxing job and observers are only paid while they are on contract. Because of tough working conditions, it is unrealistic to expect people to become career observers or to work for months on end without several weeks off between contracts. The NMFS has a limited ability to restrict an observer’s work or to protect them from “burnout.” For an observer to continue observing and collecting high quality data, he or she must take some time off. However, under the current SDM, the NMFS has no ability to give an observer time off from sea duty with salary.

Poor treatment by the NMFS was also cited as a top reason why observers left the program. Under the current SDM, the NMFS has limited abilities to interact with and support observers. The OPO staff communicates and builds relationships with observers at three times during an average contract: (1) during training/briefing, (2) in-season via a mid-cruise review and e-mail messaging, and (3) during the final debriefing process. These interactions provide the NMFS with an opportunity to support observers and offer assistance and advice on their work. However, observers often view mid-cruise checks and debriefings as adversarial interactions.

For the most part, observers are expected to be self-reliant and work without daily guidance. While aboard a vessel, they have little in common with the crew, and may have their methods and motives questioned. Unfortunately, many observers feel that this vein of questioning continues through debriefing, making the process abusive and inappropriate.

Having an individual review your work, and decide whether you should continue in your work

³ Many respondents cited more than one reason for leaving the program, so one observer response may be listed under more than one category.

⁴ In 1999, the NMFS commissioned an independent review of the NPGOP. The review was done by the Marine Resource Assessment Group (MRAG) and it was focused on the component of the program which are under the control of the NMFS. The review is referred to throughout this MCR, and much of the data used in our findings is from a survey done by MRAG. The complete MRAG report, “Independent Review of the North Pacific Groundfish Observer Program,” is available from the OPO office in Seattle.

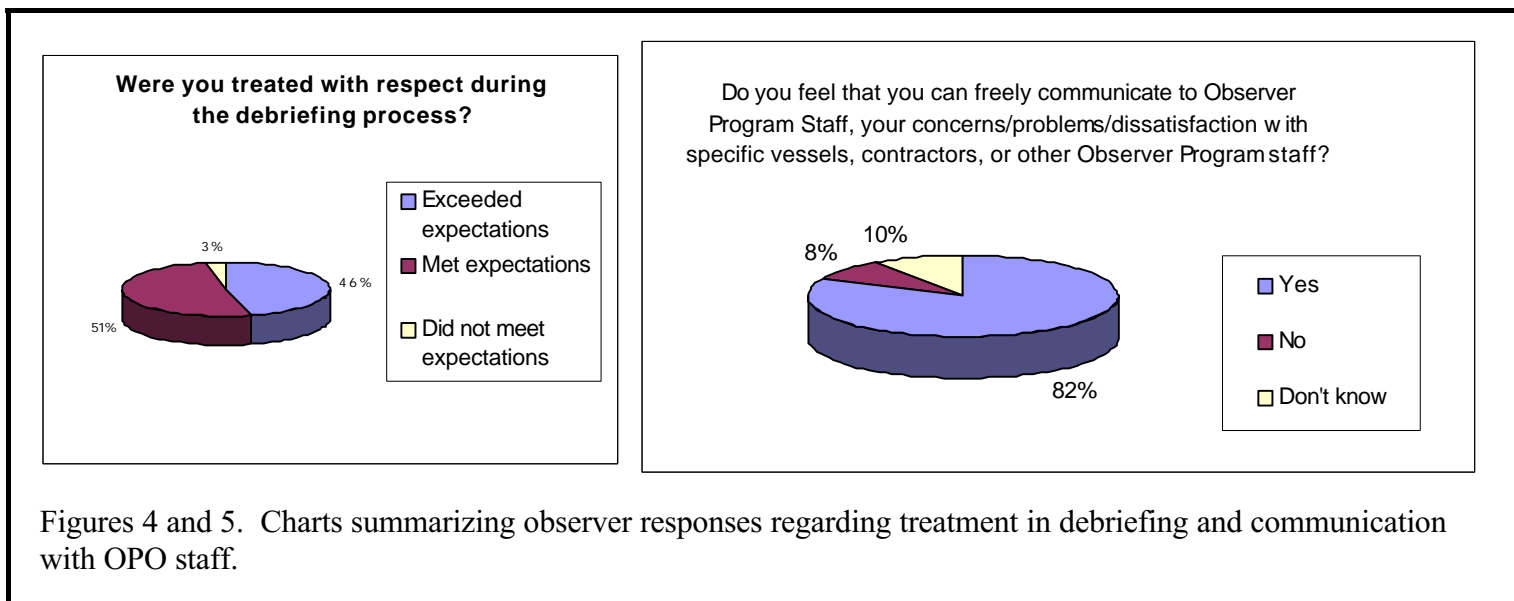
can be a disturbing process. However, it is even more disconcerting when the reviewer is not your direct supervisor or employer. Many observers have adopted an attitude that they should only tell their debriefer “what the NMFS wants to hear,” or not volunteer any information without first being asked. The OPO is uncomfortable with this relationship with observers, and feels that it adversely impacts both data quality and observer morale.

During the post-debriefing exit survey, observers are asked, “Were you treated with respect during the debriefing process?” (see Figure 4). Since 1996, this question has had 1036 respondents. Only 3% (33 respondents) answered that the level of respect had not met their expectations. Although this is a very small percentage of respondents, it is important to the OPO to determine what type of treatment was considered disrespectful. Therefore, those observers who responded that they were dissatisfied with the way they were treated during debriefing were asked to provide comments and/or possible solutions. The comments covered a wide range of problems, but a few common themes were: that debriefers were inconsistent in their expectations and evaluations (15%), that debriefers treated observers as if they were inconvenient and unwelcome (15%), that debriefers seemed distrustful of the observer (24%), and that debriefers came across with an air of superiority (21%). The remaining 25% of comments couldn’t be easily classified, or were left blank.

Additionally, observers are asked, “Do you feel that you can freely communicate to Observer Program Staff, your concerns/problems/dissatisfaction with specific vessels, (observer companies)⁵, or other Observer Program Staff?” (see Figure 5). Since 1996, there have been 1034 respondents. The majority of observers seem to be comfortable communicating freely with OPO staff members. Nevertheless, 86 respondents (8%) felt that they could not speak freely with OPO staff, and 101 respondents (10%) answered that they were unsure. Again, those who responded that they could not, or were unsure if they could, speak with OPO staff freely were asked to provide comments. The comments also covered a wide range of topics and reasons, but some common reasons given were⁶: that comments provided to OPO staff would affect the observer’s job or evaluation (14%), that the observer had previous negative experiences with OPO staff (6%), that observers generally distrusted OPO staff or believed that the information would not be kept confidential (5%), that no action would be taken on complaints and that OPO staff would side with one another (16%), that communication is inconsistent (3%), or that they felt caught between their company, the NMFS and the fishing industry, and were unsure where to turn (3%).

⁵ Observer companies are often called “contractors.” This is a misnomer, as the NMFS does not have a contract with any observer providers. Where “observer company” appears in parentheses, it has replaced “contractor” in a quote.

⁶Some respondents’ answers were unique and not easily classified. The remaining 53% of comments were either left blank (23%), were unique, or did not apply to communicating with OPO staff.



Poor working conditions and low pay were the third most common reasons for leaving the program. Since the inception of the NPGOP in 1990, the roles and responsibilities of observers have changed, and ultimately increased. Observers have experienced an increased role in individual vessel (or group) quota accounting and fishery regulation compliance monitoring, and are often expected to be “all things to all people.” These multiple, and even conflicting, roles create huge workloads for observers in difficult and stressful conditions. Observers are often unprepared for this work atmosphere. Observers are well prepared for the scientific and biological data collection portions of their job, but in the past have received little training or experience in regulation compliance monitoring or conflict resolution.

Training staff at the AFSC and NPFOTC have attempted to add conflict resolution, communication skills and compliance monitoring training. The time allowed in the three-week training class is sufficient for training species identification, data collection methods, data recording procedures, and at-sea safety. Additional material would require additional training time. Beginning in 2000, the NMFS contracted private advanced communication trainers to work with new and prior observers. The training staff is currently working with these contractors to make the training more relevant to situations observers find themselves in.

Recruitment requirements include educational prerequisites, but do not specify that observer candidates have previous field experience. Although there is no job that is analogous to observing in the North Pacific, other intense field work requires the same abilities possessed by a good observer: independent, resourceful, highly motivated, self-reliant, logical and a good problem solver. Additionally, previous field experience may prepare people for harsh working environments at low pay (although since unionization, observer pay has increased).

Some observers also reported that they were treated poorly by the company for which they worked, and heard that other companies treat their observers similarly. Again, this problem is aggravated by the certified observer company SDM. Observer companies have very little contact with their employees, and the majority of the contact is by phone. Observers may feel they are a means to an end for industry, the NMFS and the observer companies. During the NMFS' exit survey, observers are asked, "How would you rate your (observer company) overall?". Since 1996, 1027 observers have responded to this question. The results can be seen in Figure 6 below.

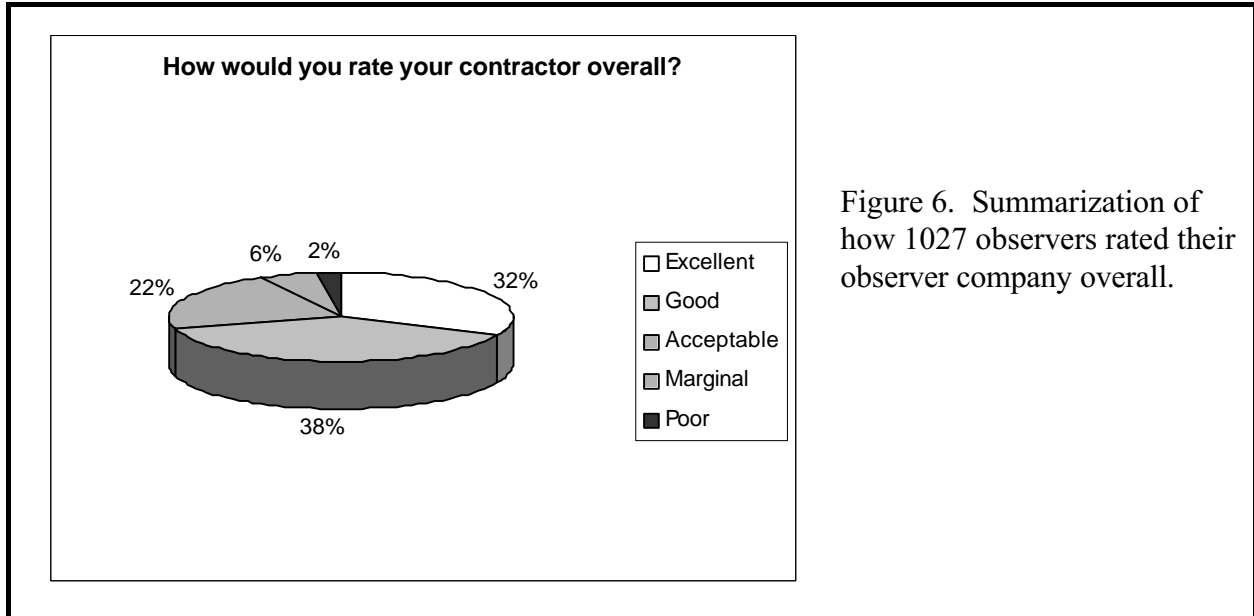


Figure 6. Summarization of how 1027 observers rated their observer company overall.

Although the NMFS feels that observer turnover rate is high, it is hard to judge against other observer programs. The North Pacific Groundfish Observer Program is not only the largest observer program in the world, it is also extremely diverse.

For comparison, we looked at the 1995 Canadian Department of Fisheries and Oceans' Observer Program's corporate review, evaluation and audit. They reported that, on average, the observers in the Newfoundland and Scotia-Fundy programs had 6.5 and 5.5 years of experience respectively. The Newfoundland observers spent an average of 94 days at sea per year, and the Scotia-Fundy observers spent an average of 150 days at sea per year. Only 10% of NPGOP observers in 1999 had as much or more experience as the average Newfoundland observer. Only 6% of NPGOP observers had as much or more experience as the average Scotia-Fundy observer (see Figure 7 below).

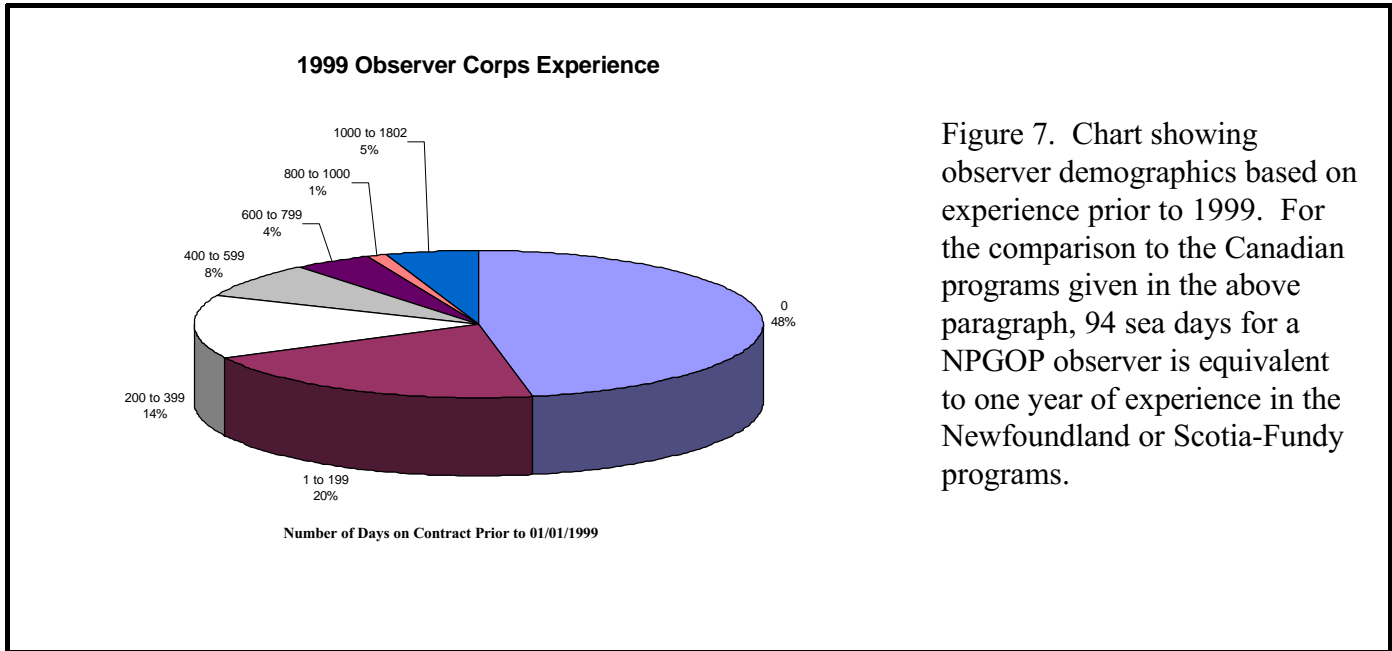


Figure 7. Chart showing observer demographics based on experience prior to 1999. For the comparison to the Canadian programs given in the above paragraph, 94 sea days for a NPGOP observer is equivalent to one year of experience in the Newfoundland or Scotia-Fundy programs.

C1. TEST QUESTION(S) AND FINDINGS (Continued)

Interview program managers and staff.

- Does a service delivery model that allows the fishing industry to select and pay observers directly present any special management control problems for the NMFS? If yes, how (with reference to such factors as designing sampling protocols, setting coverage levels, placing observers, providing professionalism and competence, insuring that observers receive the pay that is owed them, etc.)?

Yes, the current private company-industry contract service delivery model presents the NMFS with five specific management control problems.

1. The NMFS has no ability to eliminate the potential for conflict of interest, or the appearance of conflict of interest.

The MRAG “Independent Review of the North Pacific Groundfish Observer Program” provides a thorough discussion of this particular problem with the current SDM. The MRAG identified six essential elements for an effective SDM. Two of these elements, an arms-length from industry and high level of integrity and perception of integrity, are missing from the current SDM.

2. The NMFS has limited ability to direct which observers assume specific assignments.

The OPO recognizes that observer companies need flexibility in order to deploy large numbers of observers in a wide variety of fisheries. Each of these fisheries presents their own challenges to an observer, but some present difficult sampling situations. Under the current SDM, the OPO has no ability to direct which observers board vessels participating in these difficult fisheries. The NMFS has some ability, through regulations, to require experienced observers on vessels participating in

AFA and MSCDQ fisheries. Using regulations to direct observer assignments is cumbersome and inflexible.

3. Observers, companies, vessel personnel and OPO staff are unclear on who has supervisory roles.
4. The current service delivery model removes the NMFS from daily programmatic operations.

Observer company representatives are the primary contacts that industry members and observers have within the NPGOP. Observer companies have only one true client, which is the fishing industry.

Observer company representatives are able to use the OPO as a scapegoat for unsolved problems in order to further a working relationship with both industry and observers. This tarnishes the image of the OPO and degrades observer morale.

Under the current SDM, there is a lack of opportunity for clear accountability and support for observers by the NMFS. Since they are not OPO employees, the NMFS has no way to reward observers for high quality work. Although deployment scores have been used by observer companies to penalize observers, they have never been used to reward observers⁷. There are no repercussions to observer companies for employing observers who collect substandard data or who violate standards of conflict-of-interest or conduct. Therefore, there is no incentive for companies to rehire highly-rated observers, and little incentive for observers to put forth the effort to receive high ratings and good evaluations.

It should be noted that even though the OPO is unable to offer incentives to observers for good work, as a rule, observers themselves are highly motivated and self-directed people. Observers regularly push themselves to do a good job in the most difficult of positions. An observer's pride and satisfaction in their job are two of the biggest influences allowing the agency to collect the data it does. These are the qualities that the NMFS would want to encourage, reinforce and reward within the observer support system.

Using a SDM which removes the NMFS from daily program operations also negatively impacts the NMFS' ability to design effective sampling protocols. The NMFS sets sampling protocols and

⁷ In the past, many observer contracts were designed to withhold a percentage of an observer's daily wage. Withheld salary was only given to observers upon successful completion of debriefing. Successful debriefing meant that observer was not put on probation, recommended for suspension, or recommended for decertification by OPO staff. If an observer did not successfully complete debriefing, the observer company was not obligated to pay the remaining salary. Current contracts do not allow for this type of pay arrangement, but do allow an observer company to discount sea days spent on an assignment for which the observer received a deployment score of "0." Assignment days are used to calculate pay scales and observer pay raises.

coverage levels by regulation. This system has proven to be inflexible. This inflexibility hampers the NMFS' ability to respond to changing data needs.

The OPO is only able to create sampling procedures and protocols for observers. Therefore, it is only the observer who is responsible for implementing the NMFS' protocols. Only minimal requirements are asked for from vessels, in the form of regulations requiring "reasonable assistance."

5. The NMFS does not have normal management controls over the largest portion of the NPGOP: the observer companies. Currently, the OPO can exercise only two types of management controls: (1) recommending companies for decertification or (2) reporting regulation infringements to the NMFS Office of Enforcement. Both these management controls consist of turning the issue over to entities outside the OPO.

The duties and responsibilities of observer companies are laid out in federal regulations. Failure to perform these duties is grounds for a recommendation of decertification. The OPO can make such a recommendation, but the Regional Administrator acts as the decertification official (the Deputy Regional Administrator acts as the suspension official). However, due to the fact that this puts the company out of business, decertification has only been recommended in the most egregious cases.

In the history of the NPGOP only one company has been decertified. Unfortunately, this was after the company had filed for bankruptcy. Some observers were left unpaid for completed contracts, and the NMFS was unable to reimburse them.

If an observer company is reported to have broken a federal regulation, the OPO would turn the case over to the Office of Enforcement for investigation and further action.

Although regulations are the primary management control available to the OPO, it is not the OPO which drafts or implements these regulations. Regulations must be reviewed through the Council process. Development and implementation of regulations are time consuming and arduous. If the OPO had contracts with observer companies, management controls could be implemented and modified much more easily.

- Are third party contractors more or less cost effective than an alternative service delivery model (an in-house, contract to the NMFS, or modified pay-as-you-go) would be (in hiring qualified and credible observers quickly, assigning them usefully, and then keeping them)? If yes, how (with reference to such factors as unionization, the Service Contract Act, etc.)?

A cost effectiveness model has not been done for the NPGOP. When cost alone is considered, we see that this program is very inexpensive for the amount of data which is collected. However, just because the NPGOP is a cheap program, does not mean that it is an effective program. An in-depth analysis of acceptable costs for managing the North Pacific groundfish fishery is beyond the scope of this work. However, we can touch on main points of how well the current SDM provides observers to the fishing industry.

At this time, it is unclear whether certified observer companies are less costly than alternative SDMs, such as an in-house or direct federal contract program. The last cost analysis was done by the OPO in 1997, using 1995 cost data. At the time, it appeared that observer salaries under current SDM were operating at just less than 2% of the ex-vessel value of fish from the entire fleet. The 2% limit was critical because it is the highest fee percentage currently allowed by the Magnuson-Stevens Fisheries Conservation and Management Act. The costs of alternative SDM's have not been analyzed.

Any SDM has cost takeoffs that need to be considered. A SDM with more direct government oversight is no exception. For example, a government contract could be done in two ways: (1) a no-cost contract between the NMFS and the observer providers, where industry would continue to fund a large portion of the NPGOP or (2) a contract between the NMFS and the observer providers, where the government funds the NPGOP (by either a fee collection or a TAC based program). A model which uses a government contract could control costs because the government can set limits on each observer company's profit margin, and contracts would be bid on competitively. However, in either of the two types of contract, the Service Contract Act (SCA) would come into effect, and may require observers to be paid overtime wages. Observers could consequently make more money, causing the cost of the program to rise.

It is difficult to determine whether the SCA would cause observer salaries to increase. How one defines "observer work" could change pay rates under SCA. Currently, observers are paid whenever they are assigned to a vessel, and sometimes when they are between assignments. The NMFS is unsure if this would remain true under the SCA. For example, is an observer "working" while they are on a vessel that is traveling to fishing grounds or waiting out weather? Will an observer be paid the same rate for doing paperwork as for collecting samples or for resolving problems by talking with the skipper? Once on a vessel, an observer is essentially "on-call" and must be prepared to work at all times. Between vessels, observers are currently required to maintain contact with their company, and be ready for another deployment at any time. Would the SCA define this period of time work?

The additional costs due to the SCA may be balanced under a government contract because the number of observer companies could be reduced, reducing overhead. Currently, the NPGOP works with six certified companies, all of which have similar overhead needs (bunkhouses, offices, logistics coordinators, office equipment, etc.). Finally, a government contract SDM would reduce OPO staff time spent monitoring observer companies and maintaining working relationships with six companies. If observer salaries remained near the current level, and the contractual system allowed for lower overhead and less staff resources, it would likely be less costly than the current SDM.

From the NMFS perspective, the current SDM is not cost effective because the interim program is not sufficiently effective in producing the desired outputs of consistent, credible, and high quality data. At a minimum, the SDM is fraught with the perception of conflict of interest and even the perception affects program credibility. In addition, the SDM does not promote quality data and is often unfair to observers. These perspectives on the current SDM are further reflected in the

independent review on the NPGOP conducted by MRAG.

C1. TEST QUESTION(S) AND FINDINGS (Continued)

Interview observer company representatives.

- In recent years have you been able to accurately predict and recruit the required number of observers, based on requests from vessels and processing plants? If no, why not (periods of increased activity because of pulse fishing or season openings, etc.)?

Between May 2 and 10, 2000, an OPO staff member interviewed four of the five active certified observer companies. The above question was asked.

Company representatives responded with a resounding, “Yes, but...”. All representatives mentioned that predicting and recruiting observers had recently become more difficult.

Company representatives felt that historically they had been able to accurately predict and recruit the numbers of observers needed. However, beginning in the spring of 1999 (the historic groundfish “B” season) and continuing through the winter of 2000 (the historic groundfish “A” season), the demand for observer coverage has changed drastically, and some companies were caught short. Subsequently, some vessels did not receive their required observer coverage. There are four reasons for the change in observer demand, and each one serves to compound the next.

On August 30, 1999, the Alaska Department of Fish and Game Board of Fisheries (ADF&G BOF) implemented an emergency action which increased observer coverage requirements for vessels planning to participate in the Bristol Bay (Area T) red king crab fishery. This fishery had a history of overharvest, and the BOF was concerned that vessels harvesting groundfish would use the groundfish fishery to prospect for red king crab. In order to circumvent this possibility, the BOF made it illegal for anyone to participate in the Area T red king crab fishery without having 100% observer coverage for the 30 days prior to the fishery. The rule was implemented for 120 days⁸.

The additional coverage requirements increased demand for groundfish observers. The majority of vessels that traditionally participated in groundfish and red king crab fisheries were 30% coverage vessels in the groundfish fleet. The increase in coverage meant that an observer that would have been able to cover three or four of these vessels for 30% of their fishing days was now dedicated to only one of these vessels. Consequently, some observer companies were not able to provide the required amount of coverage to their customers.

The NMFS responded by implementing a short-term adjustment to the regulations which allowed vessels to receive their 30% coverage over a six-month period, rather than during the standard

⁸ Hughes, A. Summary of Actions, Alaska Board of Fisheries, Teleconference Re: Bristol Bay Red King Crab Observer Coverage, Aug. 30, 1999.

calendar quarters⁹. Whereas this alleviated some pressure on industry, observer providers were still not able to give the required “one trip per fishery” coverage for all vessels.

Another change in a historic crab fishery caused many crab vessels to roll over into groundfish fisheries during the 2000 “A” season. The NMFS trawl surveys indicated that the opilio tanner crab abundance had significantly declined since 1998. Consequently, ADF&G reduced the 2000 opilio quota to only ~13% of the 1999 quota. Additionally, weather delayed the opener far past the scheduled January 15, to April 1.¹⁰ The vessels planning to fish crab in January turned to groundfish, and greatly increased the number of vessels needing observer coverage. One company’s representative, who provides many crab observers, noted that while ~20-30 observers could cover the opilio fishery, it would take more than 50 observers to cover the same boats during a groundfish fishery. This is due to the fact that opilio crab catcher vessels do not carry observers, whereas groundfish catcher vessels more than 60 feet do.

The next factor which impacted the providers’ ability to predict and recruit the number of observers required by industry in 1999 and 2000 was the implementation of CDQ/AFA observer coverage regulations.

On June 4, 1998, the final rule implementing the Multispecies Community Development Quota (MSCDQ) Program was passed. These regulations increased observer coverage on vessels participating in MSCDQ fisheries, and required additional training for the people observing on these vessels. Observers had to have previous experience prior to completing the additional training, and lead observers were required to have previous experience with the gear type being used by the MSCDQ vessel.

On January 22, 1999, the NMFS issued an emergency rule which required catcher processors covered by the American Fisheries Act (AFA) to carry two observers as well, one of which had to be trained to observe in MSCDQ fisheries. On January 28, 2000, the NMFS further restricted which observers could participate on AFA vessels by requiring that one of the two observers on AFA C/Ps and motherships must be lead MSCDQ certified. For the 2001 fishing year, it has been proposed that both observers be MSCDQ certified, one being qualified as a lead¹¹.

The increased coverage and training requirements have the observer companies looking not just

⁹ NMFS Information Bulletin (99-110), Sustainable Fisheries Division, NMFS Intent for Short-term Adjustment to Observer Coverage Requirements, Sept. 16, 1999.

¹⁰ Morrison, R. State of Alaska, Department of Fish and Game, Division of Commercial Fisheries, Memo regarding 2000 Bering Sea snow crab fishery summary, April 24, 2000.

¹¹ When the AFA assumed the regulations stating that observers must have the same advanced training as MSCDQ observers, the NMFS incorporated AFA and MSCDQ information into one training- now called “Level 2.” A Level 2 observer is now synonymous with a MSCDQ observer.

for observers, but for the right kind of observers. This is further complicated by the fact that the industry seems to consider MSCDQ as a fill-in fishery, one to be harvested after open access fishery closures. Therefore, the day on which the vessel needs their MSCDQ observer fluctuates based on other fishery closures. One observer company representative had just put five observers through Level 2 training. The vessels which had requested Level 2 observers decided to delay their MSCDQ harvest, so these observers were deployed in open access fisheries. The observers trained for these boats will likely be at their 90-day cruise limit, or four-vessel limit, prior to any vessel needing their Level 2 observing skills. This company representative felt that for every Level 2 observer actually deployed in a Level 2 fishery, they needed to put three or four people through the training. As experienced observers circulate out of observing, they need to be replaced with other prior observers, who then also need to be Level 2 trained, so the process is continuous. Finally, observer companies need to put as many observers as possible through Level 2 training, so that they will have someone ready when their customers (the industry) do want them.

Initially, observer companies were told by MSCDQ proponents that it would be a windfall for the companies. In actuality, the representatives feel it has been the opposite. The Level 2 program isn't efficient for observer companies because they need to pay salaries and per diem to observers during the five-day training, but when the vessels put off harvesting their MSCDQ quotas, the money is still spent. Company representatives feel that the industry expects them to have observers ready when, or even if, they decide to fish MSCDQ.

Whereas most company spokesmen cited the unpredictability of MSCDQ fishing as the main difficulty in predicting the number of observers needed, one said that the qualifications for Level 2 observers were too restrictive. This provider felt that although they could generally get enough observers, the observers weren't qualified for Level 2 training.

Additionally, in the last year, fishery closures have been difficult for observer companies to predict. The NMFS Alaska Regional Office maintains a weekly fishery outlook on its web site. The companies use this information source to predict how much coverage may be needed on their 30% fleet. On March 10, 2000, the NMFS announced the closure of hook-and-line and pot vessels targeting Pacific cod in the Bering Sea and Aleutian Islands. This closure came several weeks earlier than the fishery outlook had predicted. Had the prediction been more accurate, the companies could have used their observers more effectively to provide more vessels with coverage. Two of the companies reported that they were unable to provide the required coverage on one or more vessels due, in part, to the early closure. One mentioned that the fact that these vessels may be held accountable for not obtaining their coverage by the NMFS Office of Enforcement, even though they had used the NMFS Regional Office predictions, seemed unjust.

Inaccurate closure predictions also impact the company logistics. The NMFS requires that observers are deployed for no more than 90 days and on no more than four vessels prior to debriefing. Closure predictions are used to make decisions on whether to recruit new trainees, or to rotate people nearing the end of their contracts to enable them to be deployed again.

Incorrect closure predictions cost companies' staff time as well. Logistic coordinators spend time

talking with fishermen and observers and researching each fishery's past history. Throughout the season they are trying to make the information match in order to predict coverage needs.

How observer companies communicate with their vessels in order to plan coverage also must be explored. Each of the four companies interviewed arrange their logistics a bit differently, but all said that they keep in near-daily contact with vessels requiring 30% coverage. For vessels which will need an observer for all its fishing days, the companies request either annual, six-month, or monthly need projections. It is clear that coverage logistics are time-consuming and constant communication is needed in order to best use the resources (observers) to provide the coverage required by regulation. It is important for the NMFS to understand and realize these difficulties when creating regulations and when/if the NMFS designs an alternative SDM.

Recruiting new trainees has become more difficult for observer companies. The tight job market was cited as one reason for this, in that many people are getting jobs immediately upon graduating college. One representative said that in the past they received thirty applications per month, and that this rate has dropped to around five per month.

Finally, the number of individuals needed to provide observer coverage may have risen. Since the union contracts have increased observer salaries, some observers are choosing to work less. With these higher wages, they can make the same income with fewer sea days.

C1. TEST QUESTION(S) AND FINDINGS (Continued)

- Examine the other recruitment/retention related questions in the MRAG questionnaire (#1, #2, #3, #4, #16 and #17).

MRAG #1. How did you originally learn about the observer program and observer jobs? (Check most appropriate answer) A. Friend B. Announcement at college C. Advertisement in paper, magazine D. Word of mouth E. Prior observer F. Other (please specify)

The MRAG survey was returned by 107 observers. The largest portion of observers (35%), said they originally learned about the observer program and observer jobs through an announcement at college. Other respondents learned about the program from advertisements in papers or magazines (25%) and some (14%) specified other sources. Of those who chose "other," seven of 15 respondents referred to the Internet.

Within the observer exit survey administered by the OPO, observers are asked, "How did you first learn about the Observer Program?" Since 1997, there have been 1030 respondents. This survey complements the MRAG results in that the largest percentage of observers learned about the program from a job announcement at college (see Figure 8).

MRAG #2. What were the primary and secondary reasons for your interest in being an observer? Please write 1 and 2 next to your choices. A. Work on fishing vessels B. Work out of the Region C. Scientific or field experience D. Money E. Other (please specify)

Most respondents (50%) said the primary reason for their interest in being an observer was for scientific or field experience, 24% wanted to work out of Alaska and 15% were interested because of the pay (see Figure 9). Secondary reasons for their interest follow closely, with the largest portion choosing for scientific or field experience (30%), followed closely by an interest in working out of Alaska (27%) and earning money (25%).

MRAG #3. Was the observer pay level an attractive incentive for first becoming an observer?

A very large majority of respondents (72%), said that the observer pay level was an attractive incentive to first becoming an observer and only a minority (27%) stated that the pay level was not an incentive.

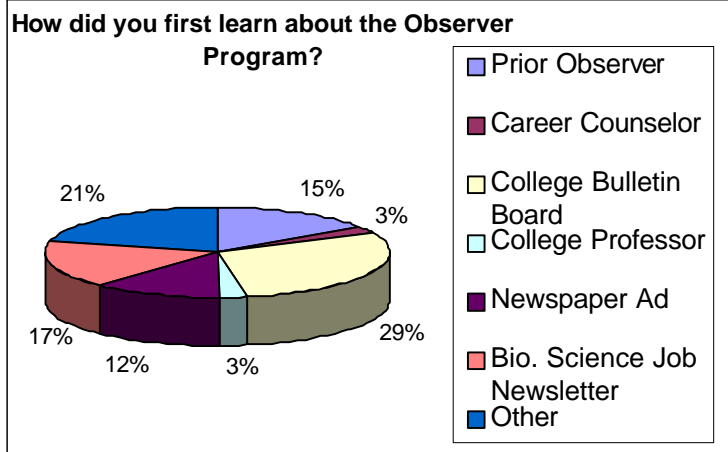


Figure 8. Chart of the predominant ways recruits learn about the Observer Program. These data are from the OPO's computerized exit survey.

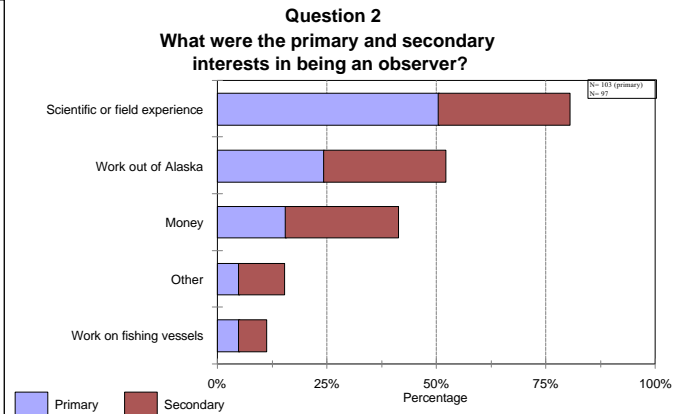


Figure 9. Chart showing primary and secondary interests in being an observer. These data are from the MRAG mail survey.

MRAG #4. How was your job interview conducted? A. Over the telephone B. Conference call C. Personal meeting D. None of the above E. Other (please specify).

Job interviews for almost all respondents were conducted over the telephone (89%), with very few (6%) having a personal meeting or conference call (one of 104 responses). Two individuals responded “none of the above,” and one individual could not remember having an interview.

MRAG #16. If you no longer work as an observer, please indicate your primary reason for leaving. If you had more than one reason, you may mark up to three reasons in order of priority (use 1, 2, and 3). A. Too much time away from family/friends B. Sea sickness C. Safety concerns D. Better job E. Grad school F. Compensation for work unsatisfactory G. Lack of advancement opportunities H. Lack of respect/understanding/support for my work I. Harassment/pressure; from - J. Other (Please list).

Of the 58 respondents that indicated that they no longer work as an observer, the survey asked them to choose up to three reasons for leaving, in order of priority. Eighteen percent indicated that the primary reason for leaving observer work was “too much time away from family and friends,” and another 18% checked “other” reasons. Attending graduate school followed closely behind with 17%, 15% left for a “better job,” and 10% chose the “lack of respect/understanding/support for my work.” Specific comments offered by respondents who answered “other” included references to observer work being too difficult for too many hours, or boredom resulting from the required routine observer duties. Health reasons were also mentioned, describing the vessels as too isolating or citing lack of physical exercise as a concern. One respondent also claimed that their certificate had expired. Respondents indicated secondary and tertiary reasons as well (see Figure 10).

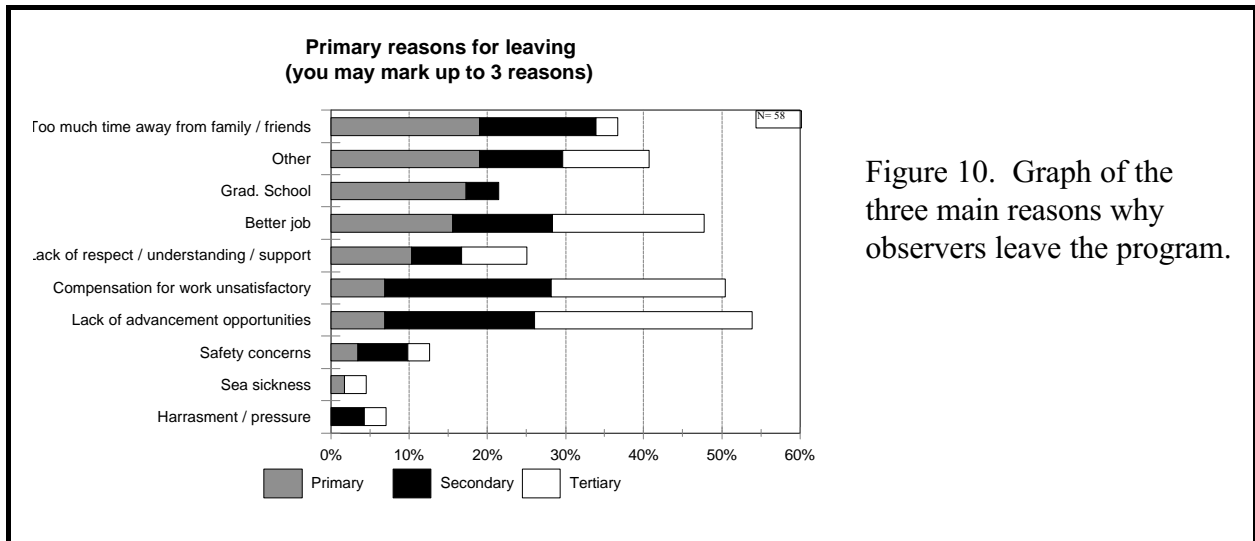


Figure 10. Graph of the three main reasons why observers leave the program.

MRAG #17. Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future? A. Yes, please describe B. No.

Of the 62 total responses, just over half of the respondents (54%) answered in the affirmative, and 45% said there were no incentives. Of the 33 that answered positively, the majority (20) cited an increase in observer remuneration as the incentive they would require. Seven indicated that the problem was also the lack of respect and trust with which they were treated when they were observers.

C1. CONCLUSIONS:

The NMFS does not require certified companies to hire or retain a given number of experienced observers, and does not define experience. The AFU sets a minimum level of experienced observers for union companies. Non-union companies have no such requirements. The retention of observers is not currently within the NMFS' control.

The NMFS does not require observer companies to comply with the same EEO regulations (Executive Order 11246) that are applicable to NMFS contractors (regarding nondiscrimination in employment, affirmative action, and compliance reviews) because the observer companies are not contracted to the federal government. The NMFS has set some regulations which require observer companies to assign observers without prejudice. In some cases, the NMFS has evidence suggesting that the observer companies have not followed these regulations. Although the observer companies were questioned in these cases, the NMFS did not take any further punitive action against these companies.

The NPGOP experiences a high observer turnover rate compared to similar Canadian programs. The reasons for this are complex, but some turnover may be traced directly to relationships created under the current SDM between the NMFS, the fishing industry, the observer companies, and the observers.

There are significant problems associated with the third party certification SDM. These problems undermine the integrity of the NPGOP and, by association, the integrity of the NMFS.

The OPO currently has very little direct management control of the certified observer companies. The two controls available to the OPO are inadequate in that:

- The OPO cannot decertify an observer company because that authority currently lies with the Regional Administrator, and
- The OPO can provide the NMFS Office of Enforcement with documentation of regulation violations made by observer companies, but the decision to investigate lies with Enforcement Office. The decision to pursue legal action lies with NOAA General Counsel or the U.S. Attorney depending on the nature of the violation.

It is unclear whether certified observer companies are more cost effective than alternative SDMs, such as an in-house or direct federal contract, because a cost analysis has not yet been completed for alternative SDMs. However, it is clear that the current SDM is not producing desired outputs.

In the last two years, disruptions in fishing season patterns and sudden changes in the fisheries caused by new management measures have made it difficult to predict observer needs in the groundfish fisheries.

In 1999 and 2000 there was a shortage of available observers.

C1. RECOMMENDATIONS

The NMFS should develop national policy which prevents this SDM from being implemented elsewhere.

Responsible Official: Program Leader, NOP
Completion Date: October 31, 2000

The NMFS should initiate development of a revised SDM in the North Pacific which provides the NMFS with appropriate management controls of observer companies, or take the responsibility of providing observers on itself. This could be accomplished by direct federal hiring, direct contracts, or a combination of the two. Any alternate SDM should include EEO concerns.

Responsible Official: Program Leader, OPO
Completion Date: September 30, 2001

As part of SDM restructuring, the NMFS should consider requiring a minimum level of experienced observers and create a consistent measure of experience.

Responsible Official: Program Leader, OPO
Completion Date: September 30, 2001

The OPO Program Leader should describe the potential impacts of management decisions on observer availability to the Regional Administrator and ADF&G Board of Fisheries managers.

Responsible Official: Program Leader, OPO
Completion Date: September 30, 2001

As part of the SDM restructuring, the NMFS should require observer companies to explore different methods for recruiting new observers and retaining experienced observers. This may include increasing observer remuneration and implementing alternate recruitment procedures.

Responsible Official: Program Leader, OPO
Completion Date: September 30, 2001

The NMFS should implement measures which provide appropriate management controls to correct problems which may not warrant an observer company's decertification. This could be done by implementing a direct contract between the NMFS and observer companies.

Responsible Official: Program Leader, OPO
Completion Date: September 30, 2001

C2. CONTROL TECHNIQUE

The NMFS rejects unsuitable observers recruited by certified observer companies during their initial training.

C2. TEST QUESTION(S) AND FINDINGS

Interview the observer program manager, and review the recent experience in training recruits.

- How do you administer the basic educational and experience requirements for recruits?

The program has designed basic educational requirements which must be met by each trainee candidate (see Figure 11). Certified observer companies obtain copies of each candidate's college transcripts and submit these to the OPO. An OPO staff member reviews these to ensure that the candidate has: a bachelor's degree from an accredited college or university with a major in one of the natural sciences, a minimum of 30 semester hours (or equivalent) in applicable biological sciences with use of dichotomous keys, one undergraduate course in each math and statistics (at least five semester hours), and evidence that they have computer skills that enable them to work with standard software and hardware. In 1998, the OPO designed the "NMFS Observer Qualifications, Education and Experience Standards." This laid out the qualifications for candidates, as well as suitable exceptions when a sufficient number of individuals are not available.

If a candidate does not meet these qualifications, the company is notified and the candidate, through their perspective company, has the ability to petition the OPO to accept a substitution. For example, if the candidate has 25 hours in biological sciences, but can show that another five credit course could be counted as an applicable biological science, that candidate may still be approved. The burden of proof is ultimately on the company to demonstrate that each of their potential employees is qualified to attend the training course.

- Do you reject unsuitable observers recruited by certified observer companies? If yes, for what causes (uncooperative, abusive, inexperienced, skills lacking, etc.)? Was this disruptive or costly to the training process? If yes, does this suggest inadequate screening by the observer companies?

The first step in assuring that unsuitable candidates are not certified as observers is in the NMFS screening process (described above). Adhering to these guidelines helps eliminate candidates who lack the qualities, skills, and abilities to be an observer. Ultimately, the OPO would prefer to eliminate all unsuitable candidates before allowing them to begin the three-week training class. However, this is not always possible.

Trainees must pass the three-week training course in order to be certified as a groundfish observer. The course is administered by OPO or NPFOTC staff. Unsuitable candidates do not receive certification.

The purpose of the course is for trainees to gain an understanding of how to collect unbiased data for use in managing North Pacific fish stocks. Trainees must demonstrate to the trainer that they

understand proper data collection techniques by completing a variety of in-class and take-home exercises and exams. Trainees must receive an average score of 75% to pass the three-week class. Failure to demonstrate understanding or ability to perform the tasks as an observer are two reasons why trainees may not be certified.

In 1998, only six of the 145 trainees failed the training class, and one additional trainee dropped out and was deemed ineligible for rehire. In 1999, six of the 233 trainees failed, an additional three dropped out and were designated “no rehire,” and yet another six dropped out, but are still eligible for rehire. None of the 42 trainees from 2000 have failed, but three dropped out of class and remain eligible for rehire¹² (see Figure 12).

Of the twelve trainees that did fail the three-week class, 67% demonstrated that they did not understand the basic concepts required to do the job. For example, these trainees had difficulty understanding why a density would be used, how independent catch estimates would be taken, or how data was to be recorded. One individual was unclear on the concepts in class, but was officially dismissed due to obvious cheating on a homework assignment. Furthermore, 43% of these trainees who failed due to an inability to grasp sampling concepts also had difficulty on fish identification.

The remaining 33% of the trainees who failed did so due to their inability to pass a fish and crab identification test. Trainees are given two chances to pass these lab exams, unless they demonstrate a complete inability to pass. For example, in 1999 a trainee scored a 14% on her fish ID test. In this case, the trainer did not feel that a second exam was warranted.

Trainees do not spontaneously fail the training class. Generally, these trainees begin having difficulty in the class within the first week. Once this is recognized, training staff begin spending a great deal of time working with the trainee, carefully evaluating assignments and explaining both general concepts and precise ways to make corrections to their work. This extra tutoring takes place outside of regular class time and is very taxing to staff resources. For example, the trainee who scored a 14% on her fish ID test had previously spent more than twelve hours in the wet-lab receiving individual assistance. Another staff member had spent more than three hours explaining errors contained in only one of this trainee’s homework assignments. In this case, like most, the trainee either did not apply herself or had such low comprehension of prerequisite knowledge that there was little the training staff could do.

The OPO developed the Education and Experience standards to ensure that trainees had a basic framework on which the trainers could build an understanding of the OPO’s objectives. In 1998 and 1999, training staff saw trainees without adequate math knowledge to calculate volume and density, trainees without basic knowledge of anatomical terminology such as “dorsum” and

¹² Classes from 1998 and forward were used because staff could verify the accuracy of the data. Information from previous years is given in Figure 12, but some staff felt that data prior to 1998 may not be complete.

“pectoral” and trainees with such low reading comprehension abilities that they could not apply the information from the manual to assignments. The training staff felt that this was unusual, and feels that there has been an increase in the number of failing trainees in recent years.

<u>Year</u>	<u>Observers Trained</u>	<u>Trainees Failed</u>	<u>Percentage</u>
1995	216	1	0.46 %
1996	197	3	1.52 %
1997	182	0	0.00 %
1998	145	7	4.83 %
1999	234	8	3.42 %
2000	42	0	0.00 %

Figure 12. Percentage of trainees who have failed the three-week training class in the past five years.

C2. TEST QUESTION(S) AND FINDINGS (Continued)

Interview observer companies’ staff.

- Do you screen observer recruits before sending them to NMFS for training? If yes, how was this done recently (review of resumes, transcripts, etc.) and with what results?

All company representatives reported that they had a screening process for observer candidates, and that this was done prior to a trainee arriving at the AFSC or NPFOTC for training. All companies incorporate an application, interview and OPO review process in order to screen their applicants.

The application process requires potential candidates to submit a resume, application and transcripts to the company. A staff member (usually involved in logistics) reviews the information for the basic NMFS requirements: the appropriate degree, 30 semester hours of applicable biology classes, a math and statistics class, prior use of dichotomous keys, and computer proficiency. Of these qualifications, the company representatives mentioned the lack of a statistics class and questionable biology classes eliminate the most number of applicants. If the applicant is missing the statistics class, the company will generally tell them that they will not be approved by the OPO. College career counselors may tell students not to take statistics, because higher level courses such as ecology cover the material. However, these courses will not satisfy the NMFS statistics requirement. Some applicants choose to pick up a statistics class and reapply. Observer companies may petition the OPO to receive approval on people with excellent qualifications who are missing a statistics class, but report that the applicant is “always” turned down.

The OPO receives very few petitions to waive the statistics class requirement. The program prefers to substitute course material, rather than experience. Substitutions are granted if the company or applicant can demonstrate that the applicant has had sample design and theory.

What counts as a biology or natural sciences degree, or class, is another sticking point for some applicants. Observer companies reported having a particular problem with forestry, ecology, and environmental science degrees. Applicants with these degrees may have adequate numbers of biology classes, but the university grouped the courses in alternate departments.

Interviews are handled differently by different observer companies. Some have multiple structured interviews, while others use one structured interview in conjunction with more casual discussions with applicants. Almost all interviews are done by telephone, with rare exceptions of in-person interviews with applicants living in the vicinity of the company's office. One observer company has visited college campuses in order to interview and recruit, but reported that this didn't yield better results. The purpose of the interview is twofold: to disseminate information about the job, especially the negative aspects; and to determine if observing is really something the applicant has an interest in.

C2. CONCLUSIONS:

Qualifications of observer recruits are reviewed by both OPO and observer company staff.

Unsuitable candidates are not certified by OPO or NPFOTC staff.

Rejecting (failing) unsuitable candidates is time consuming for training staff.

Training staff feels that there has been an increase in unqualified or poorly suited candidates.

Improvements could be made to the interview component of the screening process to ensure that all candidates are equally screened.

Observer companies are inconsistent between one another in candidate screening and interviewing processes.

C2. RECOMMENDATIONS:

The OPO needs to require consistent interview screening of potential observer candidates.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The NMFS should initiate implementation of an SDM in which observer companies are responsible for the caliber of their recruits.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

C3. CONTROL TECHNIQUE

The NMFS decertifies observers who do not meet NMFS standards of conduct or performance while deployed.

C3. TEST QUESTION(S) AND FINDINGS

Interview the acting decertification official.

- Is the work of certified observers properly supervised (assigned, reviewed, and approved)? If no, would an alternative service delivery model be better? How?

The nature of an observer's work requires it to be mostly unsupervised. For the vast majority of observers, the low level of supervision meets the observer's and the NMFS' needs. In cases where an observer was recommended for decertification, he or she may have benefitted from having an OPO staff member aboard each vessel to constantly supervise and check their work. However, it is usually not possible to predict which observers would need such a mentor. Although one of the possible uses of the observer cadre would be to support and mentor new observers, only 37% of the recommendations made for decertification were for observers completing their first cruise.

Some supervision takes place in-season during mid-cruise reviews and in-season advising by OPO staff. Observers are required to complete a mid-cruise review during each cruise until they receive an exemption by OPO staff. Exemptions are given to observers who have met the OPO's expectations over multiple cruises, preferably on a variety of vessel types and fisheries¹³. The mid-cruise review is structured time during which the observer meets with OPO staff. During the mid-cruise, an OPO staff member reviews the vessel logistics, the methods used to calculate official total catch and observer estimate of catch, the ability for the observer to randomize their species composition sampling, how biological data is being collected and recorded, how well the observer has been identifying species, and the state of the observer's logbook - including calculations and daily notes. The OPO prefers that mid-cruises take place in person, but observers working out of remote ports often cannot do this. Under the current SDM, the NMFS does not have the authority to request that observers needing a review are assigned to ports in which a face-to-face interview could take place.

In-season advising is available only to observers which are on vessels with the ATLAS data and message transmission system. Currently, there are 102 vessels¹⁴ equipped with the ATLAS program. Each member of the OPO debriefing staff is assigned to be an advisor for multiple vessels.

Alternate service delivery models (i.e., observers directly employed by the federal government, preliminary certification system¹⁵, or a direct contract with observer providers) could allow the

¹³ Observers are always required to complete a mid-cruise review during their first and second cruise.

¹⁴ Five of these vessels have not recently been active in the groundfish fishery.

¹⁵ The preliminary certification system refers to one in which observers are not certified until they successfully complete a cruise (or several cruises). A similar system is used in the ADF&G crab observer program, where upon successful completion of the training class and practicum, observers are granted a "trainee permit." While working under a trainee permit, observers must report to ADF&G every 35 days for evaluation and debriefing. Trainee permits

NMFS to have some management control over the placement of observers, which may reduce the number of decertification cases and increase data quality. Ultimately, we would like to place more experienced, higher qualified observers on vessels which participate in small fisheries (such as Atka mackerel and Greenland turbot), on vessel types that have difficult sampling procedures (some flatfish catcher/processors and Pacific cod trawl vessels), and on vessels which participate in fisheries where species identification is difficult (rockfish). Allowing the NMFS to control the placement of observers would allow for staff to give vessel and fishery specific directions to observers prior to embarkation. The NMFS could then direct individual observers to collect specific biological data, rather than following broad guidelines for all fisheries. Finally, the NMFS could place good observers on vessels with trainees, or with prior observers who need some supervision. Although the additional supervision may not reduce the number of decertification recommendations, it may reduce data loss involved in the process.

An alternative service delivery model that allows the NMFS to have a contract directly with the observer provider may completely alleviate the need to certify observers. The certification/decertification process was developed in order for the NMFS to gain some control over observers that were not federal employees or direct contract employees. The NMFS could incorporate performance evaluations into a contract with observer providers and effectively hold providers accountable for the quality of work of their employees. The Observer Program is a NMFS program, but the NMFS' only true management controls over observer companies, observers, and industry are federal regulations. Regulating observers is similar to policing observers, and does not lead to a trustworthy, cooperative relationship between observers and the NMFS.

- What criteria (such as performance of duties, standards of conduct etc.) are used to decertify observers? Are these criteria documented?

The criteria which are used to decertify observers are documented in regulation. Decertification can be done for a variety of reasons including: commission of fraud, embezzlement, bribery, making false statements, or other offenses indicating a lack of integrity reflecting upon observers; failure to satisfactorily perform observer duties as prescribed by the NMFS; or failure to abide by the NMFS observer standards of conduct. These standards, and the program's list of duties and priorities are in the North Pacific Groundfish Observer Manual, given to each observer during training and briefing. Also given to each observer during training and annual briefings is the "Groundfish Observer Letter of Understanding." This is a letter that states that the observer has received and understands the program's guidelines and agrees to abide by the standards of conduct, conflict of interest and confidentiality. Each observer signs this letter and it is kept in their personnel file at the AFSC.

- Have any observers been decertified in recent years? If yes, in what situations?

expire 180 days from the date of issue, so trainee observers must strive to gain full certification within this time period.

Between 1990 and April 2000, 137 observers were recommended for decertification. Of these recommendations, 116 observers were decertified, 11 were overturned by the decertifying official due to lack of evidence, and two were appealed, and the observer's certification was reinstated. The remaining eight recommendations are still pending. Again, the process of decertification is laid out in regulation. The steps that the OPO must complete are as follows:

1. OPO personnel (usually a debriefer) must investigate, document and submit evidence of a cause for decertification to the decertifying official.
2. The decertifying official reviews the material, and determine whether to proceed with the decertification process.
3. The decertifying official sends a notice of proposed decertification informing the observer that decertification is being considered, for what reasons, and that the observer has 30 days in which to submit, in writing, documentary evidence and argument in opposition.
4. After these 30 days, the decertifying official must make a decision based on all information in the administrative record. There is no time limit in which this decision must be made.
5. If decertification is imposed, the decertifying official must notify the observer and specify the reasons for the decertification.

Decertification is generally regarded as indefinite. However, it may be rescinded if new material is introduced to the decertification appeals official.

The majority of observers recommended for decertification had performance problems. Observer performance is evaluated during a mid-cruise review, in-season communication, and a final debriefing. After each final debriefing, observers are given vessel specific deployment scores, a certification recommendation, and a written evaluation. Vessel logistics, the observer's decisions on how to collect data, problem solving skills, the quality of documentation and the observer's ability to communicate both verbally and in writing are all taken into account when evaluating the observer's work. Generally, the OPO debriefing staff focuses on the quality, rather than the quantity, of data collected. Many observers are unable to complete all their duties during a cruise. However, most observers will document the reasons why they were unable to complete tasks, and follow the program's priority list when deciding when to reduce tasks. When observers demonstrate a severe deficiency in work, or the inability to understand the concepts, the observer may be decertified.

C3. CONCLUSIONS

The OPO is in the unusual position of supervising and evaluating the employees of private observer companies.

This control technique is effective at removing observers who do not meet the NMFS standards of conduct or performance discovered during debriefing.

Decertification regulations limit the reasons for which the NMFS can remove an observer from the program.

Most of the work of observers is not directly supervised, and many issues cannot be discovered during debriefing.

The observer companies are not responsible for the performance of their employees.

The NMFS lacks control over observer placement in the field and this creates a problem when observers are placed in situations beyond their ability to successfully complete their duties.

Decertification is a cumbersome bureaucratic process that may not be necessary in a SDM where the observer company has direct responsibility for employee performance.

C3. RECOMMENDATIONS

The NMFS should implement a SDM which allows for more direct oversight of the placement of observers.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

Under a revised SDM, the NMFS should consider replacing the decertification process with a system that places responsibility of an observer's performance on the observer company.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The NMFS should have more direct oversight of observers and observer companies.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

D. RISK

Observers may not be properly trained to perform their duties.

D. OBJECTIVE

Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE

The NMFS conducts comprehensive training courses for recruits and experienced observers.

D1. TEST QUESTION(S) AND FINDINGS

Interview the staff responsible for training (at the NPFOTC and AFSC)

- How do you establish the training requirements (subject matter and curriculum)? Does the certified observer company participate or assist in setting those requirements?

Training subject matter and curriculum are developed by training staff at the AFSC. Training materials, however, are developed by staff at both the AFSC and the NPFOTC. The curriculum is

designed to reflect observer priorities which are set by OPO staff. Training staff attempts to have two face-to-face meetings per year to bring AFSC and NPFOTC staff together. However, in the past, staff has only been able to meet once each year. In 2000, we hope to fulfill the goal of meeting twice.

Certification requirements are policies set by the OPO. Certified observer companies are notified of these requirements, but do not participate in their development. Training staff at both centers try very hard to keep observer company representatives informed of how their trainees are progressing in the course. Company representatives are notified when there are problems with a trainee, and training staff try to let them know what the outcome of the problem will likely be. If a trainer feels that a trainee is likely not to pass the course, he or she notifies the observer company. This communication is important in that it allows the trainee's direct employer to take action regarding the problem, and it notifies the observer company that they may not be able to rely on being able to deploy this trainee as an observer.

- Do each of the various trainers (at NPFOTC and AFSC) insure that recruits meet the standards set by the NMFS? If yes, does this include feedback from observers who have been to sea?

Training staff at both centers use the same criteria to gauge the success of a trainee. Training meetings are designed to give training staff a chance to discuss what parts of the curriculum are working well, and which ones may need updating. The training staff at the OPO serves other roles, including that of a debriefer. During debriefings and debriefer meetings, AFSC trainers have an opportunity to listen to observer and staff feedback. After the first wave of debriefings (generally in March and April), OPO training staff requests input from all debriefers on what common errors they are seeing in debriefings. This list of common errors is distributed to all training staff, and is reviewed in the subsequent 1-day and 4-day briefings. The error list is a good tool for trainers, allowing them to determine what information was not adequately conveyed to observers. Using this information, training staff develop new ways to present the material.

Although the trainers at both locations do a good job ensuring that trainees meet the NMFS standards for certification, training and briefing continuity is a major concern of the OPO. Currently, the NMFS does not have a contract with the NPFOTC, and although the center is federally funded, they receive their funding via the SeaGrant program. This system removes the NPFOTC from OPO, and from any direct accountability for the outcome of the training/briefings.

- Is there a need for advanced training of MSCDQ (multi-species community development quota) observers? If yes, is this need being met? If no, why?

The requirement for advanced training for MSCDQ observers was set by federal regulation on June 4, 1998 (final rule). The same requirements for AFA lead observers were set by emergency rule on January 21, 2000. It is likely that all AFA observers will be required to complete advanced training (Level 2 training) for the 2001 fishing year.

The NMFS feels that observers need additional training prior to working on vessels involved in MSCDQ fisheries. The vessels and MSCDQ groups participating in these fisheries use data on a

haul-by-haul basis to manage each component of the fishery. Observers must have a thorough knowledge of the NMFS sampling protocols in order to collect random, unbiased data since the management of these fisheries is based solely on observer data.

A component of collecting unbiased data involves MSCDQ observers being able to professionally interact with upper level crew in order to solve sampling problems encountered, particularly if the problem is exacerbated by vessel design or operations. Communication and conflict resolution skills are also vital to enable MSCDQ observers to recognize, document, and solve problems dealing with harassment and interference with their duties. At the onset of the MSCDQ program, the NMFS was very concerned with an increase in these problems, since influencing observer data would directly impact the in-season management of these fisheries. In previous vessel-specific management programs, such as the Vessel Incentive Program (VIP), complaints of observer harassment and interference increased. Often, observers on vessels participating in the VIP were first-time observers and did not have the experience or training to cope with, or even recognize, these problems.

A request for comments was issued when the proposed rules for regulating the MSCDQ fisheries were published in the Federal Register on August 15, 1997. The NMFS received many comments on MSCDQ observers, observer duties, and observer coverage requirements. The following comments and responses from the Federal Register provide further information on why the NMFS felt that advanced training was necessary for MSCDQ observers.

Comment 38: “NMFS should not create a special category of observer for the MSCDQ fisheries. NMFS has not demonstrated that successful data collection on MSCDQ vessels will require specialized observers and additional observer training. Specifically, it is unclear that the needs of the MSCDQ Program will be different from the needs of the current pollock CDQ fishery, for which specialized training is not required. NMFS has rated the observers in the pollock CDQ fisheries as acceptable or better, demonstrating that these observers have been capable of meeting the demands of the pollock CDQ fisheries. The MSCDQ fisheries do not require any better or more experienced observers than those required by the open-access fisheries. The responsibilities of MSCDQ observing are not significantly different from those for the other fisheries. On vessels with two CDQ observers, each observer would have less work to do. In addition, implementation of electronic reporting of observer data and scales to weigh catch on some processor vessels will reduce observer workload. Rather than requiring that vessels carry a specially trained, designated CDQ observer, NMFS should revise current observer training and briefing to prepare all observers for the requirements of the multispecies CDQ fisheries.” **Response:** NMFS disagrees. The MSCDQ Program does require specialized observers and additional observer training because the demands of the MSCDQ Program will be very different from the current pollock CDQ fishery. For many MSCDQ vessels, estimates based on observer data will be used as the primary source of information about the catch of all species, including prohibited species. In order to fulfill the responsibility of determining CDQ and PSQ catch, the MSCDQ observer must have both prior experience as an observer and training specific to the CDQ program. Additionally, the equipment requirements and record keeping and reporting requirements, with which the MSCDQ observer must be familiar, will be different in the MS CDQ fisheries from the existing requirements for the CDQ and IFQ fisheries and for the moratorium groundfish fisheries.”

Comment 42: “The proposal to create a special category of observers for the CDQ fisheries will negatively impact the overall quality of data collected for other groundfish fisheries, because experienced observers will be concentrated in CDQ fisheries.” **Response:** NMFS disagrees that requirements for the CDQ observers will reduce the quality of observers or observer data collected in the other groundfish fisheries. Many factors contribute to the overall quality of observer data, including certification requirements, training, compensation, working conditions, and NMFS support. NMFS is pursuing improvements to some of these factors through separate development of policy and rulemaking. The requirement for CDQ observers alone is not expected to have a significant negative effect on the number or quality of observers available for non-CDQ fisheries. In addition, CDQ observers will not be required to work in CDQ fisheries all the time and will continue to be available for the non-CDQ fisheries.

A need for additional training has been identified by the NMFS. The Level 2 certification training began in August 1998, and as of June 9, 2000, 150 observers have passed this training, making them eligible for observing in both CDQ and AFA fisheries.

D1. TEST QUESTION(S) AND FINDINGS (Continued)

Interview a sample of current observers in the groundfish fishery.

- Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties (“very great use,” “great use,” “moderate use,” “some use,” or “little or no use”)?

The NMFS exit survey asks several specific questions about materials covered in training classes. However, the question that best addresses this test is, “Overall, how would you rate your training class?”

Between 1997 and 2000, this question received 198 responses (see Figure 13). The following responses were made: 10.6% rated their training as exceptional, 51.0% rated it as very good, 30.8% rated it as average, 7.1% felt it needed improvement, and only 0.5% (one respondent) felt that the training was unsatisfactory.

Of observers who responded that they found the training needed improvement or was unsatisfactory, the following reasons were given: the training was too short to incorporate all observer duties (29%); there were not enough “hands-on” activities, or that too much time was spent on training how to record data (50%); and/or that the trainer was unprofessional or had poor training abilities (29%). One additional trainee mentioned that although their training was good, there was too much time between training and deployment - causing him to forget material.

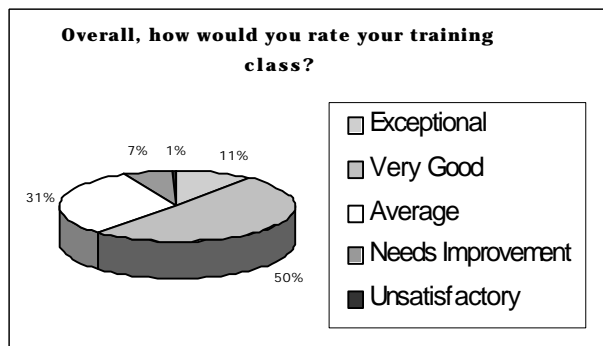


Figure 13. Chart of how returning first-time observers rated their training class.

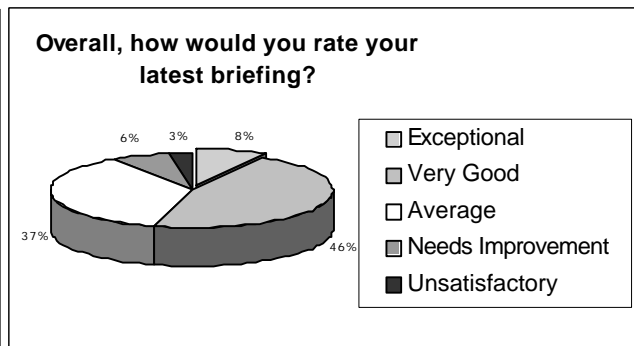


Figure 14. Chart of how returning experienced observers rated their most recent briefing.

In addition to being asked specifically how they would rate their training, observers are asked how well each topic was covered. In 1998 and 1999, no more than 5% of trainees felt that any topic was covered in too much detail. No more than 15% of trainees felt that the majority of topics were not covered in enough detail. Two topics had much higher percentages of trainees answering that they had not been adequately covered: mammal and bird identification (29%) and fishery management/use of the data (19%).

Observers in the NPGOP are generally required to complete a three-week training class only once during their tenure as an observer. However, all experienced observers are required to complete a briefing prior to each subsequent contract¹⁶. Briefings may be either one or four days in duration. All observers must attend an annual 4-day briefing, and additional 4-day briefings may be required if an observer's work during a cruise was substandard. If all work is done well during an observer's first cruise of the year, then he or she only needs to complete a one-day briefing prior to the next cruise.

In order to capture whether the NMFS is adequately preparing prior observers to go out on additional cruises, we ask the following question in the exit survey: "Overall, how would you rate your latest briefing?". Between 1997 and 2000, this question received 431 responses. The following responses were made: 8.4% rated their briefing as exceptional, 45.9% rated it as very good, 36.7% rated it as average, 6.5% felt it needed improvement, and only 2.3% felt that the

¹⁶ The NMFS does issue one-day briefing waivers to some experienced observers. To receive a briefing waiver, the observer company must request one from the OPO observer company liaison. The liaison looks at the observer's history, and checks with the observer's last debriefer. If records and staff indicate that a briefing waiver would be acceptable, the liaison notifies the company and requests that the observer call or fax an acceptance of the waiver. This part of the process was implemented in 2000 and is very important, because the observer agrees to meet the NMFS' expectations without the benefit of a briefing. Only the observer would suffer if these expectations were not met.

training was unsatisfactory (see Figure 14).

Of observers who responded that they found the briefing needed improvement, or that it was unsatisfactory, the following reasons were given: the briefing was too long (28%); materials which they thought were important were not covered in enough detail (26%); they disagreed with having a fish exam in the annual 4-day briefing (8%); the briefing was too large (3%); and/or that they disliked a trainer's or guest speaker's presentation (8%). Additionally, one observer complained of receiving a briefing waiver to enter a fishery in which they were not knowledgeable.

D1. TEST QUESTION(S) AND FINDINGS (Continued)

Examine the training related questions in the MRAG observer questionnaire (# 7 and #8).

MRAG #7. Overall, how would you rate the training and briefing? **Training:** A. Very good, B. Good, C. Fair, D. Poor; **Briefing:** A. Very good, B. Good, C. Fair, D. Poor.

Training: The vast majority also rated the overall training as either "good" (43%) or "very good" (41%), while only 13% considered it "fair" and a negligible amount (2 responses, or 1.9%) considered it "poor." **Briefing:** Nearly half of the respondents (42%) rated the overall briefing as "good," 29% said it was "very good," and a minimal amount of (4%) claiming it to be "poor."

MRAG #8. Overall, how well did the training and briefing prepare you? **Training:** A. Very good, B. Good, C. Fair, D. Poor; **Briefing:** A. Very good, B. Good, C. Fair, D. Poor.

Training: When asked how well the training prepared them, answers correspond to the quality of the training; nearly half (45%) considered it "good," 41% answered "very good" and only two responses were "poor." **Briefing:** When asked how well the briefing prepared them, answers also corresponded to the quality of the briefing, as nearly half (48%) responded "good," 20% answered "very good," and only a few (3%) answered "poor."

D1. CONCLUSIONS

Training staff is unable to meet often enough to adequately ensure consistency between the two training centers (AFSC and NPFOTC).

The NMFS lacks management control over the NPFOTC.

There is a need for advanced training for MSCDQ observers, and this need is being met.

Overall, training is very good, and prepares observers for their job.

D1. RECOMMENDATIONS

The NMFS should increase the frequency of training staff meetings to achieve desired consistency.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The NMFS should develop a direct contract with the NPFOTC to provide better management controls for training.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

D2. CONTROL TECHNIQUE

The NMFS trains observers in core competencies.

D2. TEST QUESTION(S) AND FINDINGS

Examine and compare the training curriculums at the NPFOTC and the AFSC.

- Is the training for core observer competencies, (such as vessel safety, survival training, relations with the crew, etc.) standardized throughout the Alaska Region for Pacific groundfish fisheries? If no, how does it vary?

The groundfish curriculum is designed by trainers at the AFSC, is reflective of the NMFS' priorities, and is generally standardized throughout the Alaska Region. Both the NPFOTC and the OPO train observers using standardized training requirements, subject matter, and curriculum. Some differences occur in training technique between different trainers and courses, but training materials are shared amongst all of the trainers at annual or biannual meetings. However, consistency between the two centers is still a concern of the OPO.

D2. TEST QUESTION(S) AND FINDINGS (Continued)

Interview the staff responsible for training at the OTC and the AFSC.

- Do any of the curriculums place either "too much" or "too little" emphasis on particular topics? If yes, which ones (such as sampling and estimating catch size, species identification, fishing gear, prohibited species, etc.)?

The curriculums are designed to reflect the program's priorities. Trainers attempt to spend appropriate amounts of time on each subject, and are currently working on a set of fixed lesson plans which will standardize the amount of time spent on each topic. However, the trainers must always be able to adapt to the needs of their class. If an observer asks questions on a topic, a trainer must be able to spend the necessary time to ensure that the entire class fully understands the issue.

D2. TEST QUESTION(S) AND FINDINGS (Continued)

Interview a sample of the most recent observers in the groundfish fishery.

- Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics (such as computer literacy) was the training deficient?

During the observer exit survey, observers who have just completed training are asked a series of questions regarding how well their training prepared them for the cruise they just experienced. In 1998 and 1999, 207 new observers responded to this series of questions. The majority (nearly 90% of respondents) said they received "adequate training and information" on species composition sampling, catch estimation, compiling and sending in-season reports, completing

data forms¹⁷, fish and crab identification, biological data collection¹⁷, completing special projects, coping with harassment and other regulation noncompliance issues¹⁷, coping with life at sea¹⁷, and vessel and observer safety issues.

The only topics for which less than 90% of observer trainees reported not receiving adequate training and information during 1998 and 1999 were mammal and seabird identification and the observer's role in fisheries management and how observer data are used.

Mammal and bird identification is of a fairly low priority for NPGOP observers, unless the animal is taken as bycatch. However, these are organisms of great interest to the majority of observers. Although trainers try to balance the lower priority with the high interest, it is unlikely that all observers will be content with the amount of time spent on live mammal and bird identification.

The program recognizes the importance of informing observers of how their data is used, and how important their role is in the management of the North Pacific fisheries. Multiple outreach options have been discussed within the program, such as the inclusion of federally employed observers doing industry and observer outreach, creating newsletters and a more informative web-site to spotlight observer achievements, and making time for new training sessions which include end-users describing how observer data is vital to the work they do.

D2. TEST QUESTION(S) AND FINDINGS (Continued)

Examine the other training related questions in the MRAG observer questionnaire (#9).

This was a comment only question asking, “**A.** What portion(s) of the training and briefing prepared you the best? **B.** What portion(s) of the training and briefing needs improvement? and **C.** Other comments.” Due to the nature of the question, the responses were highly varied.

Seventy-six observers answered the question regarding the portions of the training which best prepared them for their job. In-class and homework exercises (including how to properly record data) were most often mentioned (39%), followed by fish identification (32%), and sampling

¹⁷ For these topics, slightly less than 90% of respondents reported receiving adequate training and information during either 1998 or 1999, but greater than 90% responded that they had received adequate training in the other year. For example, in 1998, 90% of respondents said that they had received adequate training on identifying and reporting observer harassment, sampling interference, and compliance with fisheries regulations. In 1999, this percentage dropped to 87% of respondents saying that they had received adequate training on this topic. In this case, the difference may be due to an increase of respondents saying that they had received too much information on this topic.

protocols and practices (16%). How to properly estimate total catch, safety at sea, life aboard vessels, fishing regulations, vessel specific issues, MSCDQ regulations, and having a trainer who was experienced at sea were also mentioned by respondents. Fifty-four observers answered the question regarding the portion of the briefing that best prepared them. The majority (35%) of respondents said that the review of changes was best, followed by vessel specific information (14%), fish identification (11%), being able to ask questions and review issues from their last cruise (9%) and completing in-class exercises (9%).

Sixty-two observers answered the question regarding the portions of the training which needed improvement. The majority of respondents (21%) said that more “hands-on” exercises would be useful - including ideas such as vessel visits or at-sea training. Only 31 observers responded to the same question regarding briefing. Twenty-three percent stated that the briefings were too long, 13% said that they would have liked to receive more specific information on their upcoming assignment.

D2. CONCLUSIONS

Training staff at the AFSC or the NPFOTC are successful in training observers in core competencies. This control technique is adequate.

D2. RECOMMENDATIONS

None

E. RISK

The health and safety of observers may be impaired.

E. OBJECTIVE

The health and safety of observers are protected.

E1. CONTROL TECHNIQUE

The NMFS administers the health and safety regulations in CFR 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST QUESTION(S) AND FINDINGS

Interview the observer program manager.

- How does the NMFS notify vessel owners and operators of their responsibilities and methods of compliance? What records do you keep about the performance of this outreach program? Are these records useful in improving the outreach program?

The NMFS notifies vessel owners and operators of their safety responsibilities through the federal regulation process. The USCG and the observers themselves also help inform industry members by conducting safety inspections and pre-trip safety checks, respectively. The USCG is responsible for inspecting vessels and issuing the commercial fishing vessel safety decal. The USCG keeps all associated records regarding decal issue and a vessel’s level of compliance with safety regulations. Observers are required to check for this decal upon boarding a vessel, and are now prohibited from boarding a vessel without a valid decal. The OPO is working with the

USCG to develop a list of observed vessels and their corresponding decal issuance information.

Observers are required to document the types of safety equipment and the presence or absence of a valid decal for each vessel on which they are deployed. During debriefing, this information is put into a computerized vessel report. These records are kept in an Oracle database at the AFSC and are provided to the USCG upon request.

The NMFS and the USCG notify vessel owners and operators of their responsibilities for vessel safety through the federal regulation process. The USCG may conduct other outreach, but the OPO currently does not.

- How are observers instructed to spot-check major items for compliance with U.S. Coast Guard regulations, (i.e., a current CG safety inspection decal, etc.)? Is there a critical form or process?

Observers are directed in training, and in the manual, to check for twelve critical safety equipment requirements. This list includes the USCG Commercial Fishing Vessel Safety Examination decal. On January 26, 2000, the OPO updated the safety policy in response to an incident where observers were deployed on a vessel with an expired decal. The current policy is that observers must check the safety decal upon boarding. If the vessel does not have a safety decal, or if it has expired, the observer must disembark the vessel and notify their observer company, who should then notify the NMFS. The NMFS considers checking for a decal part of normal observer duties which are completed as a first priority upon boarding a vessel. Additionally, the NMFS encourages observer companies to verify with the vessels they work with that these decals are present and valid prior to deploying an observer on a vessel. The NMFS has placed a higher priority on this during training, and is currently working with the USCG to identify vessels which do not have decals, or have expired decals.

The NMFS stresses that observer safety is of the utmost importance. If an observer feels that a vessel is unsafe, they are to contact their company. A company representative then must contact the NMFS (within 24 hours as per 50CFR679.50 (i)(2)(xiv)(H)), and the NMFS may require the vessel operator to either pass a USCG safety examination or inspection; or correct the deficiency that is causing the vessel to be unsafe.

It is generally believed that observers are reluctant to refuse to board a vessel due to safety complaints because they are put in the position of putting themselves out of work. For example, in 1998 an observer requested to disembark a vessel for safety concerns and was removed by his company's logistics coordinator. The company placed another observer, who didn't know of the safety concern, on the vessel. The first observer was now without work, and the vessel continued to fish. These situations are exacerbated by the SDM in that observer companies have the vessels as their clients, as opposed to having the NMFS as a client.

- What dispute resolution procedures do the NMFS and the Coast Guard follow when an observer and a vessel owner or operator disagree about the safety of a vessel? Are these procedures in writing (documented)? If yes, is there a clear, written chain of command? Is there required review, approval or sign off? Is there a provision for follow-up to insure that the health and safety concerns are corrected?

The NMFS does not have specific, documented dispute resolution procedures that are followed when an observer and a vessel owner/operator disagree about the safety of a vessel. The NMFS directly reports the disputed information to the USCG. The USCG has the authority to board a vessel or have a vessel return to port in order to conduct a safety inspection if they feel it's needed. The NMFS will also inform the company that the observer has brought a safety problem to our attention. Once the USCG is engaged in solving the problem, the NMFS refrains from interceding unless the Coast Guard requests the agency to do so. The Coast Guard informs the NMFS if the concerns were valid, and if they were, when they have been resolved.

Although the NMFS' procedures are not written with a clear chain of command, they are understood by OPO staff. Observer safety is the program's top priority, and when the NMFS has been alerted to a safety concern, it has been turned over to the Coast Guard quickly.

For example, in January of 1999 an observer on a flatfish catcher-processor notified her in-season advisor (via ATLAS message capabilities) that the vessel had lost a life raft and did not have raft capacity for all aboard. The advisor spoke with the NMFS Office of Enforcement's special agent assigned to observer issues, who then contacted the Coast Guard. The USCG called the fishing company, informed them of the missing raft and requested that the vessel return to port immediately, or be escorted in by a USCG cutter. Within 48 hours of the observer sending the message, the vessel was anchored in a safe harbor awaiting a new life raft.

- What records, if any, do you keep about what happened when observers made pre-trip safety checks of vessels to which they had been assigned?

During debriefing, observers complete a computerized vessel or plant report for each completed assignment. The USCG provided the OPO with a list of which safety questions they would like observers to answer as part of this survey. Observers are asked which safety equipment was located during their pre-trip safety check, whether they received a safety orientation, whether safety drills were done on the vessel and whether there were any safety concerns while they were aboard. Vessel and plant surveys are stored at the AFSC on an Oracle database, and this information is provided to the USCG upon request.

- Do these records indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems? That there was attempted or perceived pressure on observers by vessel owners or operators? If yes, do these records describe the actions and outcomes, including any delays, loss of fishing days, legal actions etc.?

The vessel and plant surveys would not reflect a refusal to board situation, unless the observer eventually boarded the vessel. Refusal to board issues would be brought to the immediate

attention of the OPO's observer company liaison, who keeps records on these situations. Any refusal to board due to health or safety problems/concerns would be turned over to the U.S. Coast Guard. Records reflecting delays, loss of fishing days, or legal actions would be kept by the USCG and/or the NMFS Office of Enforcement.

E1. TEST QUESTION(S) AND FINDINGS (Continued)

Interview the six certified observer companies.

- What records, if any, do you supply to the observer program manager concerning health or safety problems that observers may have alleged or subsequent refusals to board these vessels?

All four company representatives interviewed reported that they inform the OPO's observer company liaison whenever they become aware of a health or safety problem on a vessel. This notification would occur within 24-hours of the company being notified of the problem, and representatives report that they notify the OPO by either phone, fax, or e-mail. No company reported having a refusal to board issue in recent years. The only safety issues that have arisen this year were those involving an expired USCG Commercial Fishing Vessel Safety Examination decal. In these cases, the observer notified the company, who notified the OPO. In most cases, companies and vessel representatives have worked together to ensure that these vessels are available for inspection, and a decal has been issued prior to the observer boarding the vessel.

E1. TEST QUESTION(S) AND FINDINGS (Continued)

Examine observer program policies.

- Were all observers provided with a health and safety "checklist?"

Every observer is given two different health and safety "checklists" during briefing or training. These checklists are included in the Groundfish Observer Manual and the Observer Logbook - both of which are issued to every observer prior to any cruise.

The checklist in the manual is a twelve-step list of items to check during a safety tour. Additionally, a list of required safety equipment that an observer should look for prior to leaving port with a vessel is provided.

The health and safety checklist in the Observer Logbook focuses on the questions that will be asked in the computerized vessel survey at the end of each cruise. Observers are asked in their logbook (and later in the survey) to indicate what safety equipment was found on the vessel, who lead the safety orientation, what emergency situations were addressed in either the orientation or drills, whether drills were held while the observer was aboard, whether alcohol or drugs were used to the degree that the observer felt his/her safety was compromised, and who (if anyone) aboard was designated to provide medical care and what their training was.

- Have there been reports of observers feeling pressure from the certified observer company or the vessel owner/operator to ignore health or safety concerns observers may have?

North Pacific groundfish observers often feel pressure to board a vessel even if they have safety

concerns. This is a direct result of the current SDM. Observers are paid only when they are working for their certified company, and if they refuse a vessel for any reason, they effectively remove themselves from the company payroll, and put themselves out of business. This unemployment may be short lived, if the company has another vessel on which to deploy the observer, but could be long-lasting. Additionally, there is a fear amongst some observers that if their safety concerns are deemed unwarranted by the USCG or other agency, that their company may take the position that the observer quit. When an observer quits in the field, they are responsible for travel back to Seattle or their point of hire. This trip can cost several thousand dollars from some remote ports in Alaska.

The OPO is aware of several anecdotal complaints of observers feeling pressure to board or remain on a vessel with safety concerns, but does not collect this information specifically. Furthermore, this concern is kept quiet in the observer community, possibly because no observer wants the stigma of being difficult to deploy. The cases which the OPO is most often aware of are the ones in which the observer stood their ground despite pressure from the crew or perceived pressure from their company¹⁷.

For example, in the early 1990s an observer was deployed aboard a vessel which was operated unsafely, allowing the decks to become awash frequently while retrieving gear or traveling. The observer knew that no other vessel was available and felt that a few trips aboard this boat were worth the risk to please his company and keep his job. It was the observer's first contract, he was in debt from the training class expenditures¹⁸, and he didn't want to cause trouble for his new employer.

In 1997, an observer was aboard a factory vessel with severe ammonia leaks. The observer remained aboard the vessel until it was forced to come to port by the USCG and other authorities. The observer felt that his company would simply replace him with a less "picky" observer and that he may not be redeployed if he requested to disembark the boat.

In 2000, an observer boarded a vessel with an expired USCG safety decal. Although the observer knew that the decal was expired, and that he should not board, he did so anyway because the vessel crew had taken great pains to get him and his gear aboard. The boat was unable to come to shore, so the observer was brought to the vessel by skiff. He boarded the vessel late at night and felt that his refusal to board would cause the boat to delay its fishing. He completed a trip without the decal, and the vessel was inspected later in the year. Several other observers have been put in similar situations this year, but the majority have declined the assignment until the

¹⁷ Note that these examples are interpretations of the observer's perspective of what occurred. They are not meant as fact or a thorough examination of the occurrence. Rather, they are presented only as evidence that a problem with observers feeling pressured to board unsafe vessels may occur.

¹⁸ At the time, observers were not compensated for training or briefing. Since unionization, observer trainees are given some stipend during training and briefing.

USCG inspected the vessel. These observers often reported that the crew was upset, put pressure on them to board, and that in some cases, the inspection caused delays and additional cost to the vessels.

E1. CONCLUSIONS

The NMFS, in cooperation with the USCG, adequately administers the safety regulations under CFR 600.725(p)-(u) and 600.746.

The steps which the OPO takes when alerted to an observer's health or safety concern are understood by OPO staff, but are not well documented.

Under the current SDM, observers perceive that they risk losing their job if they refuse a vessel for health or safety reasons.

Under the current SDM, observers who refuse a vessel may simply be replaced with another observer who may not be aware of a health and safety problem.

E1. RECOMMENDATIONS

The OPO should document the procedures for responding to observer concerns about health or safety. These procedures should be distributed to observer companies, observers, fishing industry members, the NMFS Office of Enforcement, and the USCG.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The NMFS should initiate a redesign of the SDM such that observers who refuse vessels for valid safety reasons are not penalized.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

E2. CONTROL TECHNIQUE

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST QUESTION(S) AND FINDINGS

Interview the observer program manager.

- Is there any documentation of the necessary action that you will take if an observer determines that a vessel is unsafe while at sea?

There is no specific documentation of what actions the agency would take upon being informed that an observer feels a vessel is unsafe at sea. Actions would be determined based on what type of danger the observer feels they are facing. This is because the criteria for determining if a vessel is safe or unsafe are very difficult to define. If the vessel was at sea, the NMFS would notify the U.S. Coast Guard, and proceed from there with their advisement.

E2. TEST QUESTION(S) AND FINDINGS (Continued)

Interview (survey) a sample of current observers in the groundfish fishery.

- During your last detail, did you identify any unacceptable health/safety conditions? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or returning the vessel to port? Were these conditions corrected to your satisfaction?

All observers are required to complete a computerized vessel survey for each completed assignment. The survey is completed prior to debriefing. One question in the survey asks “Did you incur an illness or injury while working aboard this vessel?” There were 1203 responses to question this question in 1999. Of these responses 349 (29%) indicated that they incurred either an injury or an illness while deployed. If the observer answers in the affirmative, they are further asked to describe the illness or injury. In total there were 366 injuries or illnesses described, 23 of the 343 respondents indicated more than one injury or illness. The types and frequencies of illnesses and injuries incurred are documented in Figure 15 below.

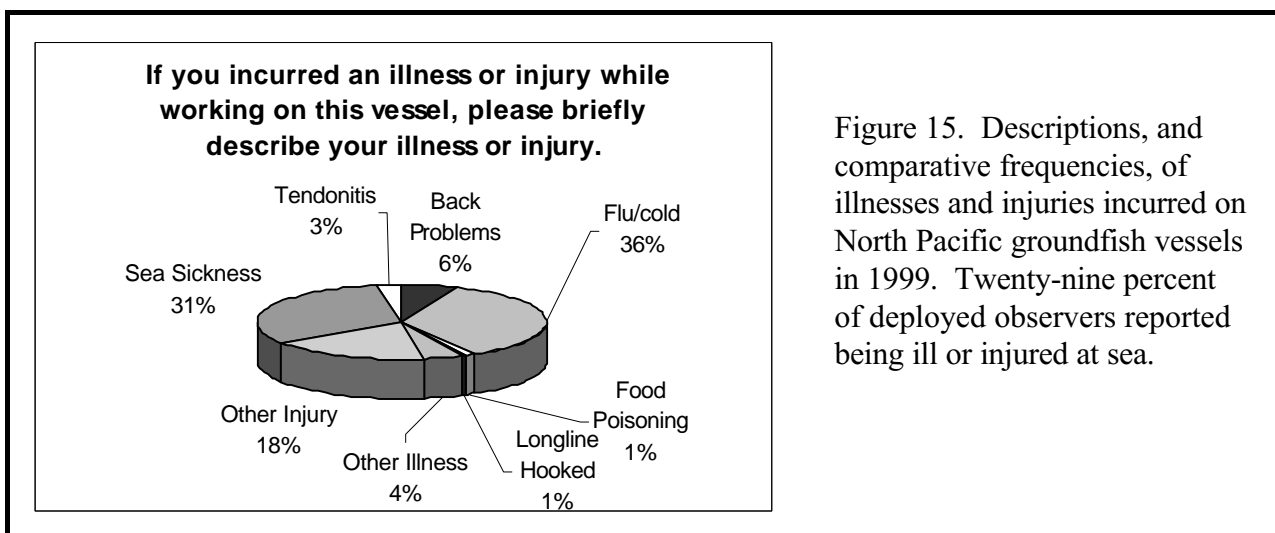
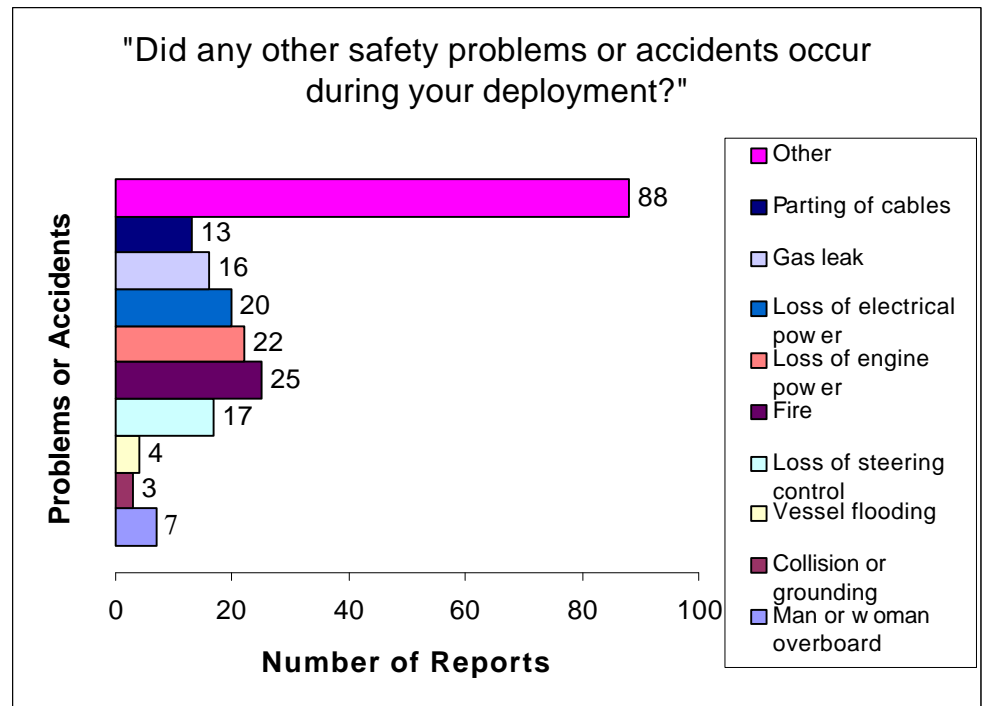


Figure 15. Descriptions, and comparative frequencies, of illnesses and injuries incurred on North Pacific groundfish vessels in 1999. Twenty-nine percent of deployed observers reported being ill or injured at sea.

An additional question asks “Did any other safety problems or accidents occur during your deployment?” In 1999 there were 1196 responses to this question. One hundred and seventy-six (15%) of these responses indicated that there was one or more safety problems encountered on a vessel. Within these 176 responses, observers identified 215 different safety concerns. Of the 215 safety concerns identified, 12 were serious enough to warrant staff to ask the observer to fill out an affidavit on the incident. The types of incidents observers encountered are listed in Figure 16.

The last safety question in the computerized vessel survey asks, “Were there any conditions aboard this vessel (that have not been previously been mentioned) that may have affected your safety and well being?” There were 1203 responses to this question in 1999. Fifty-eight observers responded that there were conditions aboard the vessel that had not been previously mentioned that may have affected their safety and well being. Included in the “other” category

Figure 16. Types and frequencies of safety problems and accidents that occurred during observer deployments in 1999. One hundred and seventy six observers identified a total of 215 safety concerns.



were such problems or accidents as crew injury (46%), unsafe vessel operation (19%), observer injury or near injury (10%), engine problems (9%) and cables breaking (8%).

E2. TEST QUESTION(S) AND FINDINGS (Continued)

Examine the other health and safety-related questions in the MRAG observer questionnaire (#58, #59, #60, #61 #63, and #66).

MRAG #58. Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work? A. Yes B. No

More than half the respondents to the MRAG survey (57%) said they had not had been harassed or had their sampling interfered with. Forty-two percent answered that their work had been affected in these ways.

MRAG #59. If yes, can you approximate how frequently this has occurred? (Check one) For: On Vessels A. Often, B. Occasionally, C. Rarely, D. Once; For: At Shoreside Plants A. Often, B. Occasionally, C. Rarely, D. Once.

The responses to this question were separated between vessels and processing plants. For vessels, there were 43 respondents to this question. Three observers reported that harassment and similar activity occurred frequently on vessels. Nine observers reported that it occurred occasionally, 20 (47%) said that it occurred rarely and 11 observers reported that this type of activity had only occurred once.

For processing facilities, there were six respondents. Three observers said that intimidation, sample interference, or pressure occurred occasionally and the remaining three said it had happened once.

MRAG #60. If yes (to the above question), have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity?

Of those who were affected by sampling interference, intimidation, harassment or similar activity, more than half (65% of 43 responses) said they had not filled out an affidavit(s). Only one third (34%) had filled out an affidavit(s).

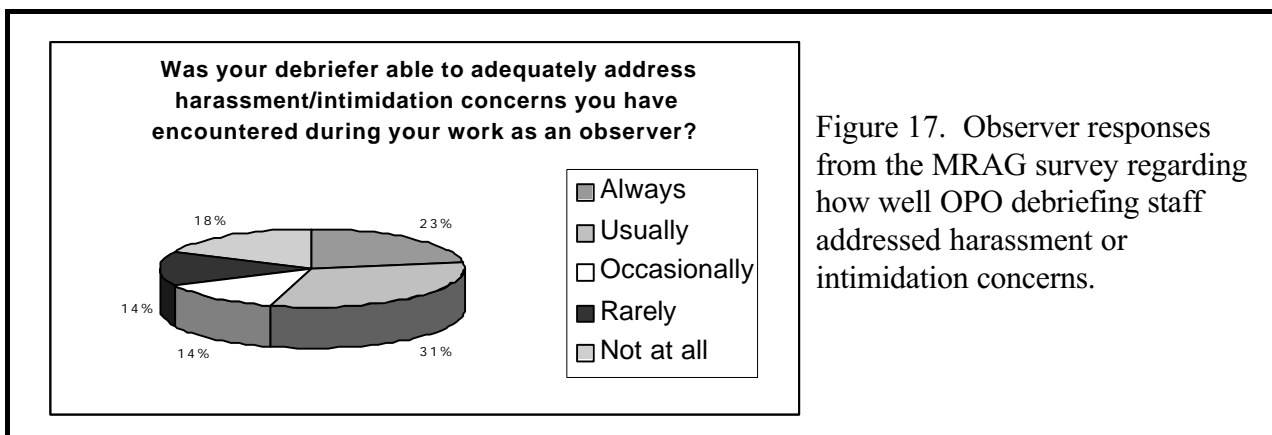
MRAG #61. If no (to the above question), why not?

Twenty-eight observers responded to this question. The majority (36%) of respondents felt that they were able to handle the problem at sea, and that since the problem had been solved, an affidavit seemed unwarranted. Twenty-one percent reported that an affidavit was not deemed necessary by their debriefer, or that they were simply never asked to complete an affidavit. Finally, 18% responded that the harassment, interference or intimidation was not severe enough to file an affidavit.

It is this acceptable level of harassment that particularly concerns the OPO because if a tolerable level exists, this level can constantly be pushed and expanded.

MRAG #63. Was the debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? (Check one) F. Always, G. Usually, H. Occasionally, I. Rarely, J. Not at all.

One hundred and two observers answered this question. The majority (54%) of respondents felt that their debriefer was always or usually able to address harassment or intimidation concerns. However, a large percentage (32%) felt that their debriefer was rarely or never able to respond to these concerns. The specific responses can be seen in Figure 17 below.



MRAG #66. In what ways could the Observer Program be more supportive of observers who have experienced harassment/intimidation/other trauma on the job? Check all that apply, the ones you consider most important, in order of importance (1=most important) A. Better training/preparation, B. Better information in manual, C. More support in the field, F. Better outreach to industry, G. Better enforcement and follow through on observer complaints, H. More support during debriefing, I. Better grievance procedures for observers, J. Better communication and cooperation between (observer companies) and the NMFS, K. Professional counseling support for observers who have experienced trauma, L. Other (Please list)

This question provided nine options for responses, and observers were asked to indicate which options they considered to be the most important, by numbering them (one to nine). Several observers just marked crosses next to those options they considered to be the most important. For the purposes of data analysis it was assumed these observers considered all of their selections to be equally important and they were allotted priority one. Twenty-one out of a total 107 respondents did not indicate any ways that the observer program could be more supportive of observers who had experienced harassment, intimidation or other trauma. The results are shown in Figure 18.

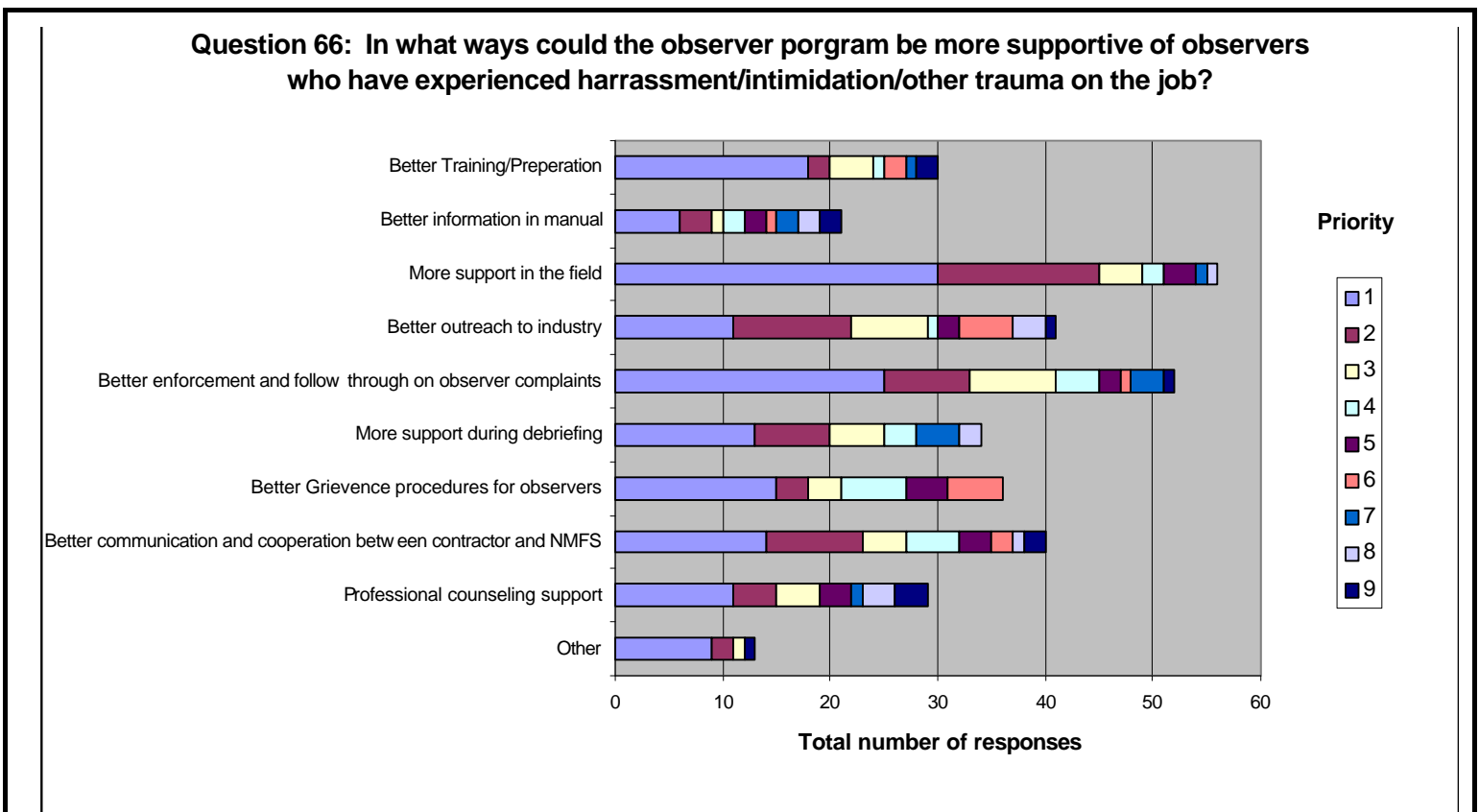


Figure 18. Responses to the MRAG survey ranking which support techniques would be most helpful if used by the OPO to assist observers who experience harassment or intimidation on the job.

Observers were also asked to list any ways other than the nine options provided. Fourteen observers provided additional answers. In summary, these covered issues of:

- better information and mentoring for new observers (including training in conflict resolution);
- improvement in the debriefing and evaluation process;
- establishment of clear rules, and consequences for breaking them, for vessel masters and crew when dealing with observers;
- better communication with vessel crews;
- reduction in enforcement role for observers; and
- development of a process by which observers can discuss their experiences without fear that the information provided will be used against them.

E2. CONCLUSIONS

There is no specific documentation of what actions the agency would take upon being informed that an observer feels a vessel is unsafe.

OPO actions would be determined based on what type of danger the observer feels they are facing. If the OPO is left with the impression that a vessel is unsafe, the OPO would apprise the USCG of the situation and proceed according to the USCG advisement.

E2. RECOMMENDATIONS

The OPO, in consultation with the USCG, should document procedures for responding when an observer determines that a vessel is unsafe while at sea. These procedures should be distributed to observer companies, observers, and OPO staff.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

F. RISK

Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE

Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE

The NMFS certifies those observer companies that provide both workers' compensation and Protection and Indemnity insurance if observers are injured at sea.

F1. TEST QUESTION(S) AND FINDINGS

Interview the observer program company liaison.

- Do the six certified observer companies cover observers under FECA? Under state workers' compensation? Under LHWCA? If yes, are any of these coverages redundant?

Protection and Indemnity insurance is carried by observer companies to protect them against general liability claims. Some type of "Commercial General Liability" insurance is required by federal regulation.

In addition, observer companies are required by regulation to carry three other types of insurance: “Maritime Liability to cover “seamen’s” claims under the Merchant Marine Act (Jones Act) and General Maritime Law (\$1 million minimum); Coverage under the U.S. Longshore and Harbor Workers’ Compensation Act (\$1 million minimum); and State Workers’ Compensation as required.” Observer companies must provide OPO with certificates of insurance each year, and the Observer Program Task Leader must be displayed as the certificate holder.

These coverages are redundant, but are purposefully duplicative. It is unclear whether observers are covered under the aforementioned Jones Act. Furthermore, an observer, unlike a fisherman or processor, may qualify for Jones Act coverage under certain situations, and not under others. Therefore, the redundant coverage is required to fully protect observers. In order to qualify under the Jones Act, one must qualify as a “seaman.” Over time, the courts have developed a three-prong test for determining seaman status. In order for a claimant to qualify as a seaman: (1) the vessel must be in navigation; (2) the claimant must have a more or less permanent connection with the vessel; and (3) the claimant must be aboard primarily to aid in navigation, or to contribute to the accomplishment of the mission of the vessel¹⁹. The courts have not been consistent in deciding whether an observer meets these criteria.

Observers may also be covered under the Federal Employees Coverage Act (FECA). The Magnuson-Stevens Fishery Conservation and Management Act (as amended through October 11, 1996) in SEC. 403. OBSERVERS⁷ 16 U.S.C. 1881b(c) states that “OBSERVER STATUS.--An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.).” The final rule regulating the “Claims for Compensation Under the Federal Employees’ Act...” do not describe an employee situation under which an observer would fall. The NMFS is unsure which Act would take precedence. There has never been a FECA claim filed by a NPGOP observer. Like coverage under the Jones’ Act, the question of whether observers would successfully be able to make a claim under FECA is a legal one, and not one the NMFS can readily answer. Until the legal decisions are made, it is beneficial to observers to have companies carry all four types of insurance currently required by regulation.

- In recent years, do your records indicate that there was any injury to an observer that resulted in a worker’s compensation claim? In a claim against the vessel? In a claim against the certified observer company?

The OPO does not keep any records on observer compensation claims, although staff is aware of some worker’s compensation claims. Commonly, claims are filed against the observer company, and the OPO has not heard of any recent problems with injuries or illnesses being covered. The OPO is not aware of any recent claims against a vessel.

¹⁹ Lost At Sea: An Argument for Seaman Status for Fisheries Observers; Alecia M. Van Atta, 1995 Seattle University Law Review, V18, N3, Spring 1995

F1. TEST QUESTION(S) AND FINDINGS (Continued)

Interview a sample of last year's observers in the groundfish fishery.

- Are you aware that you may be compensated under the Federal Employees Compensation Act if you are injured on a vessel? (FECA/MSFCMA Sec. 403(c))?

The OPO was unable to poll observers on whether they were aware that compensation may be available under FECA if they were to be injured on a vessel. However, it is believed that NPGOP observers do not know this, as this issue was not even fully understood by OPO staff - most of whom are former observers. Additionally, coverage under FECA is not mentioned in the contracts between observers and their companies. Since insurance is an item wholly supplied by observer companies, the NMFS does not counsel observers on the possibility of being covered by FECA or any other insurance issue.

- Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)?

Observers are likely unaware of alternate remedies that may apply if they are injured at sea. The majority of observer injuries are covered by workman's compensation claims, not by other remedies. For an observer to take advantage of other compensation avenues (such as the Jones Act), he or she would need to obtain legal counsel who would be aware of these possibilities.

- Was this explained to you by the certified observer company representative, the vessel owner / operator, or as part of your training? If yes, were you satisfied with the explanation?

Insurance coverage is provided to observers by their employer. The OPO has one major control over observer insurance by acting as the policy holder. All insurance explanations are done by the provider, and coverage types are included in each observer's contract with their company. The NMFS does not provide any explanation of insurance in training.

- Have you attempted to obtain any workers' compensation or other remedy in connection with an injury you sustained at sea? If yes, in what situation?

OPO staff is aware of many workers' compensation claims filed by observers in recent years. Observers have filed claims in a variety of situations including strained backs, torn ligaments, appendicitis, abscessed teeth, tendinitis, broken bones, pneumonia, and other ailments. To the best of the program's knowledge, no serious difficulty has taken place with these claims. However, since the NMFS has little power to influence the outcome of such claims, problems may not always be brought to the agency's attention.

F1. CONCLUSIONS

Observer coverage is purposefully redundant due to the ambiguity of the legal standing of observers under the Jones Act and FECA.

The insurance issues are complex, confusing, and are not well understood by many who are

impacted.

NPGOP observers are covered adequately by the insurance options provided to them.

F. RECOMMENDATIONS

The NMFS should analyze observer insurance issues at a national level. National policy should be issued, or legislation enacted, to clarify the standing of observers under both the Jones Act and FECA.

Responsible Official: Program Leader, NOP

Completion Date: September 30, 2001

The NOP should work with insurance experts to create a pamphlet summarizing observer insurance issues. This pamphlet should be distributed to all observer program offices, observers, observer companies, and fishing industry representatives.

Responsible Official: Program Leader, NOP

Completion Date: September 30, 2001

G. RISK

Observer coverage, deployment, and data collection may not be well-coordinated within the NMFS or with other Federal, state, or intergovernmental agencies.

G. OBJECTIVE

Observer coverage, deployment, and data collection are well coordinated within the NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE

The observer program manager routinely consults with the North Pacific Fishery Management Council, the AFSC (i.e., the Stock Assessment Group, the Ecosystems Modeling Group, and the National Marine Mammal Laboratory), the International Pacific Halibut Commission, the Alaska Department of Fish and Game, the Pacific States Marine Fisheries Commission, the U.S. Fish and Wildlife Service, and the U.S. Coast Guard to coordinate appropriate types and levels of observer coverage.

G1. TEST QUESTION(S) AND FINDINGS

Interview the observer program manager.

- Have fishery managers and scientists coordinated their plans for observer coverage successfully in recent years? Specifically: How has the observer program established priorities for monitoring incidental seabird interactions? How has the observer program accommodated the scientists' needs to control random sampling design and data quality/integrity and the Council's mandate? With what results?

Observer coverage in the North Pacific was established in 1990 by regulation as recommended by the Council. Changes to coverage since the inception of the program have been developed through the Council and its Observer Advisory Committee (OAC). The OPO can influence coverage decisions but it has no ability to set specific coverage requirements to meet fishery

managers' and stock scientists' needs. While working through the Council adds a political element to the decision making process, it has resulted in very broad observer coverage requirements across the North Pacific. Thus, large components of the North Pacific, notably the 100% coverage vessels, are the best observed fisheries in the world and the coverage is supported financially by the fishing industry.

Broad coverage allows the OPO to meet the needs of a variety of NMFS and non-NMFS data users. These include fishery managers, fishery scientists, policy analysts, protected resource managers, enforcement agents, and industry. However, each data user tends to view their specific needs as top priority and the OPO must balance all data requests and resolve conflicting demands. Currently, the OPO lacks a clear statement of goals and objectives that would help staff and end users understand both the possibilities and limitations of what observers do.

The OPO works very hard to meet the needs of all end users of observer data in the absence of clear goals and objectives. Typically, this is done on a case-by-case basis with the specific end user who has a data need that is not being met. Recent work on seabirds is a good example of the process used.

Information on the incidental catches of seabirds has been part of the design of observer species composition sampling since the program's start. The data collected initially was general and did not identify the birds to the species level. The OPO expanded the duties in 1993 to include species identifications of some birds. This was initiated through cooperative work between USF&W and OPO staff who recognized the importance of the more specific information.

The incidental catches of seabirds drew attention in the late 1990's. Bycatch of endangered short-tail albatrosses was of particular concern. This resulted in regulations requiring that certain gear types use bird avoidance measures when setting and retrieving fishing gear. The NMFS project coordinator of this work needed to monitor that avoidance activity and approached the OPO for assistance. The OPO staff worked to educate the project coordinator on what could be done through the observer data collections and what was needed to enable it. The end result was that vessel operators now record their bird avoidance activity in their logs, observers copy those logs and report the data to the OPO in-season, and observers complete specific questions in a post-deployment survey related to the bird avoidance activity.

This new bird data collection activity needed to be added to the existing responsibilities of observers with some sense of its priority. The priority was low relative to other existing duties. However, because the basic data collection was well integrated with existing logbooks and the observers routine data collections, the data are collected consistently and are of high quality.

While the bird example presented is a success story, it is important to note that it was assigned a low priority due to other existing tasks. Observer time is limited and observers need a clear sense of priorities for their work.

Most of the core data collections from observers are completed in a scientific manner with established protocols. In the past three years, the Observer Program has encouraged collecting

random species composition and biological data samples. The new random sampling protocols have been incorporated into the program's Observer Manual and training sessions.

Although observers show an excellent understanding of random sampling theory and design, they cannot always collect random samples in the field. The majority of the problems observers face at sea have to do with the fact that they are sampling on commercial fishing vessels in adverse conditions. The Observer Program hopes to continue with industry outreach attempts to educate industry about the importance of random sampling, and what they can do to allow observers to collect good samples. Some of the problems observers encounter include: inaccessible portions of the catch, insufficient space for collection or storage of samples, insufficient amounts of time to collect samples, inherent dangers of working on deck on small vessels, deliberate crew interference and adverse weather conditions. Our best successes in random sampling come on those vessels which have a required observer sampling station (CDQ and AFA vessels).

While the observers are attempting to collect data randomly, the placement of observers on the less than 100% coverage fleet is not accomplished in a random manner. Under the current SDM, vessels between 60 and 125 ft. are required by regulation to obtain 30% coverage. It is up to vessel operators, in conjunction with their chosen observer company, to decide when and where they obtain that coverage to meet their regulatory requirement. The NMFS has no direct role in the placement of observers and randomization is not part of the design of this coverage scheme. This non-random approach affects the scientific validity of the data collected from this segment of the fleet.

G1. CONCLUSIONS

Changing coverage levels is currently outside of the scope of the OPO, as they are currently set through the Council process.

The NMFS lacks control over the placement of observers on vessels requiring less than 100% coverage. This negatively affects the scientific validity of these data and efficient use of observer resources.

The OPO lacks a clear mission with an established set of goals and objectives.

Data users are in competition for observer time but there is only an ad hoc process for establishing priorities.

Random sampling is taught but there are physical impediments to achieving it on many vessels.

G1. RECOMMENDATIONS

The NMFS should establish the program's mission, goals, and objectives.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

Program tasks and priorities should be reconsidered within the context of these goals and objectives.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The goals and objectives should be reviewed and revised periodically.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The NMFS should restructure the SDM to meet these goals and objectives.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The NMFS should pursue actions which will reduce the impediments to random sampling on commercial fishing vessels.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

G2: CONTROL TECHNIQUE

The Regional Administrator alters observer coverage levels in response to changes in bycatch or management objectives.

G2. TEST QUESTION(S) AND FINDINGS

Interview the observer program manager.

- How have you managed sudden changes in manpower requirements in recent years? Does the use of certified observer companies help or hurt your ability to modify coverage levels to meet specific data or compliance monitoring requirements? Explain. Would an alternative service delivery model achieve better results? If yes, how?

There are several different manpower requirements within the NPGOP. Two issues which will be explored here are: OPO staffing and observer manpower requirements. The OPO has dealt with program staff changes through the government recruitment system. The OPO encountered difficulties in staffing in the mid 1990's due to government wide downsizing and hiring freezes which prevented replacing staff. These difficulties were resolved once the hiring freeze was removed. The OPO has also cross-trained most staff to handle multiple jobs, allowing the OPO to shift resources in response to heavy loads of debriefings. Peak debriefing loads occur when major fisheries close and large numbers of debriefings need to occur at once.

The certified observer companies are responsible for managing changes in observer manpower requirements. In the past, companies were able to accurately predict the number of observers needed each season. However, in 1999 and 2000, changes in the crab and emerging MSCDQ and AFA fisheries caused some companies to be unable to meet requests for observer coverage. These shortages were disruptive to both the industry and the NMFS.

Vessels with mandatory coverage requirements can only procure observers through certified contractors and there are few options if no observers are available. In 1999, some vessels were unable to obtain coverage after contacting all observer providers. This situation left vessels with a choice to not fish, to fish in violation, or to seek waivers to the regulations from the Regional Administrator. As a policy, waivers were not granted.

Outside of these recent shortage situations, observer companies are generally very good at meeting the fishing industry's needs for observers. There is still a great deal of concern among companies and industry that further regulation changes may cause an observer shortage again.

Observer companies work diligently with fishing company representatives in order to predict and prepare for coverage needs. Between May 2 and May 10, 2000, four of the five active observer companies were interviewed. The company representatives reported that they communicated with vessels in a variety of ways. Most reported that for 100% covered vessels, they requested a fishing plan and contract for coverage annually. For 30% coverage vessels, observer companies hope that they can get requests between two and four weeks prior to coverage actually being needed. Since this is not always possible, observer companies work very hard to communicate with industry representatives on a weekly, or even daily, basis. Several observer companies maintain field staff in Dutch Harbor and/or Kodiak. These staff have regular interaction with vessel managers and captains. This enables observer companies to keep in touch with their client's needs and to distribute observer effort efficiently.

One company representative reported that providing observers was an unusual business because they are sometimes put in the position of purposefully not pleasing their customers (the fishing industry). Each observer company is juggling multiple contracts - which may use the same observer. Thus, the company may only be able to provide exactly the amount of coverage needed for each vessel. However, some vessels may want to carry an observer for an extra trip, to prevent the possibility of not being able to get another observer later in the quarter if they need more coverage than originally expected. Observer companies may refuse this request in order to maintain the observer's scheduled assignment rotation. The free-market system, where industry can pick which company to obtain an observer from, may be part of the reason why this unusual business relationship is accepted. If observer services were regulated more heavily by the government, or if they were provided by the government, this relationship may not be so readily accepted.

An alternative service delivery model may achieve better results, in that it could allow the OPO to directly modify coverage and sampling requirements rather than going through the Council and regulation processes.

G2. CONCLUSIONS

The use of certified companies specifically does not hurt the NMFS' ability to modify coverage levels to meet specific data or compliance monitoring requirements.

The NMFS is significantly limited in its ability to modify coverage levels for any purpose, but that is due to the processes used to modify coverage.

Recent changes in the fisheries have increased the demand for observers and that demand has not always been met under the existing SDM.

Under the existing SDM, changes in observer coverage needs may create further observer shortages.

Under the current SDM, large amounts of observer company staff time are devoted to predicting and coordinating the regulatory coverage needs of industry.

Observer shortages are disruptive to industry because vessels are unable to fish without being in violation of coverage requirements.

G2. RECOMMENDATIONS

The NMFS should consider other SDM approaches which would reduce or eliminate the risk of future observer shortages.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

Under a revised SDM, the NMFS should require vessels to provide fishing plans in advance so service providers can plan coverage accordingly.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The OPO Program Leader should communicate, in writing, to the Regional Administrator, the impact of regulatory decisions on the system's ability to provide the necessary coverage.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

G3. CONTROL TECHNIQUE

The observer program manager evaluates observer companies and requires them to comply with the conditions of their certification.

G3. TEST QUESTION(S) AND FINDINGS

Interview the OPO company liaison.

- Do current evaluations adequately measure the companies' performance?

Observer company evaluations, as conducted by the OPO, can only attempt to measure company performance relative to their regulatory responsibilities. Because the regulations do not encompass all aspects of the work of a company, the evaluations do not adequately measure a company's performance. On the surface, an OPO evaluation of certified companies appears to be a good idea, but in reality they are not effective. The OPO has little ability to control company performance and behavior, as long as the company obeys the pertinent federal regulations.

Even within the scope of its authority, the OPO has not maintained a consistent performance evaluation system for certified companies. The evaluation process was started in the early 1990's,

but was discontinued after several years because it was not seen as a useful exercise. The OPO observer company liaison's time was redirected to the development of the Research Plan. During these years, there was no "checks and balances" system between the OPO and the companies, and overall the OPO's perception of observer company performance faltered.

In 1997, the OPO focused on this problem again, and the OPO observer company liaison rekindled the close work with company representatives and began the evaluation process again. The 1997 company evaluations reflected the decline in performance. By the time the 1998 evaluations were being done, observer company performance had improved, and the evaluations appeared benign. The OPO received criticism from the Association of Professional Observers (APO) for "rubber-stamp" evaluations. The observer company liaison felt that company performance had improved due to the increased involvement from the OPO, not due to the evaluations. In 1997 the evaluations had served the purpose of getting the companies' and observer's attention, but in 1998 they were again not reflective of each company's overall performance.

The OPO's company liaison now addresses problems with a company as soon as they arise, so change can take place immediately. A description of the problem and solution is then kept on file at the AFSC. In this manner, the OPO can keep a reliable, complete record of performance and documentation for each certified observer company.

Maintenance of these accurate records is important for the OPO because if the NMFS is able to implement a direct contract with observer companies it will be important to be able to truly evaluate their past performance. The OPO feels that these detailed records will serve as a better reflection of each company's past performance. These records also can, and have been, used to evaluate an observer company's performance when they apply for other federal contracts.

- How has the use of certified companies affected your ability to exercise management control over data quality and delivery?

The use of certified observer companies restricts the NMFS' ability to implement management controls over data quality and delivery. It has already been described that observer data quality is not linked to company performance or certification. The current management controls over certified companies involve enforcement of federal regulations. Although these regulations suggest a time frame in which companies must submit data to the NMFS, they do not address data quality.

Under the current SDM, the operational goals of the NMFS, observer companies, and observers are not well aligned. In general, the NMFS needs high quality data collected by observers to manage fishery quotas at an increasingly fine scale, assess impacts on protected species, annually assess the condition of the stocks, and complete various analyses of alternatives in decision making processes.

The observer companies need to provide a service to cover their operating expenses, and make a profit. The service they provide is recruiting and deploying certified observers to the industry. For this, they are compensated financially by the industry. Observer companies compete with

each other on a day to day basis to provide this service to their clients. When providing this service, they must adhere to the regulations which pertain to certified contractors. These regulations do not place any responsibility for data quality on the observer company. There is no incentive for a company to report an observer with a data quality problem to the NMFS because that could lead to possible decertification of that observer. This could cause the company to delay providing coverage to a customer, or losing that customer entirely if they were unable to replace the observer.

The observers working for observer companies are diverse and have many different needs. At a minimum, they need some level of employment and salary. They need to perform at a level that satisfies the OPO's quality control checks at mid-cruise and final debriefings. They also need to work at a level that satisfies the needs of their direct employer, the observer company. While the NMFS instructs observers in data collection and stresses integrity, there are many pressures on them in the work environment which have caused some to sacrifice data quality. For example, observers collect data which is used to close fisheries. This may terminate their own employment. In other cases, reporting on regulatory infractions can place observers in conflict with vessel crew, and affect their employer's contract with that vessel. Essentially, observers are put in the position of having to choose between the demands of the observed vessel or plant, the NMFS, and their direct employer.

The NMFS is aware of several instances where observers intentionally falsified data and many others where observers failed to report violations. In one well-documented case, an observer intentionally falsified data to extend the fishery and thus extend his work period. This observer was prosecuted and sentenced to federal prison.

- If a company no longer performs satisfactorily, is decertification a viable option? If no, would an alternative service delivery model achieve better results? How?

Decertification of observer companies is not within the controls of the OPO because decertification authority is retained by the Regional Administrator. The OPO investigates possible offenses and communicates them to the suspension and decertification officials.

Decertifying a company has wide spread implications to industry and observers. Decertification is a final action which terminates a company's ability to provide observers. Each company plays an integral part in the SDM of the NPGOP. Removing any one company, especially a large one, could leave industry members without coverage and observers without an employer. If a decertification was to occur with observers in the field, it is unclear as to what would become of those observers, who would be unable to immediately disembark vessels.

This fear of creating havoc amongst participants in the fishery arose when the OPO staff began noticing troubling trends with the one company which was eventually decertified. The company filed for bankruptcy and several observers were not paid for completed assignments. Had the company been decertified earlier, fewer observers' salaries may have been compromised. The possible repercussions of decertifying an observer company may serve as a deterrent to implementing this control technique.

In another case, the OPO recommended the decertification of another observer company, but the problem was not considered egregious enough to warrant decertification and the company is still operational today.

An alternative SDM such as a direct contractual agreement between the NMFS and the observer companies would end this lack of management control. Data quality and performance expectations could be captured in the contract statement of work. Performance would be monitored as a normal process of contract management. Problems identified could be addressed and solved through the Contracting Officer's Technical Representative. The contractual process offers several alternatives to handle problems. Generally, contracts provide intermediate measures to correct problems short of termination of the contractor. But, termination is possible. As well, contracts would be periodically renewed and opened to further competition so there is an incentive to provide a quality product. Ultimately, the essence of a contractual SDM is that it would make the NMFS, rather than the industry, the client of the observer service provider.

G3. CONCLUSIONS

Observer company evaluations have been completed inconsistently.

The OPO has very limited direct management controls of observer company performance. The only control outlined in federal regulations is decertification of observer companies. This is not viewed by OPO staff as a viable option.

G3. RECOMMENDATIONS:

The NMFS should explore other SDMs which would allow finer resolution management controls for each component of the NPGOP.

Responsible Official: Program Leader, OPO

Completion Date: September 31, 2001

The NMFS should continue having a liaison work with observer companies and documenting their performance.

Responsible Official: Program Leader, OPO

Completion Date: September 31, 2001

G4. CONTROL TECHNIQUE

The NMFS requires the observer company to insure that all data, reports, and biological samples from observer deployments are complete and submitted to the NMFS at the time of debriefing.

G4. TEST QUESTION(S) AND FINDINGS

Interview the observer program manager.

- Last year, did each certified observer company deliver the data, reports, and biological samples complete and on time? If no, why?

The NMFS does not have an accurate record of when all data, reports and biological samples are turned in by observers. As policy, observers are requested to turn all data, reports and biological samples in at the time they are scheduled for their computerized vessel survey

A number of observers have returned for the debriefing interviews with incomplete data. In many cases this may be due to the current SDM. Observer companies are required to pay observers for the debriefing process and thus want observers to finish debriefing as soon as possible. The observer companies schedule observers for debriefing interviews soon after the completion of the observers' last assignment. Often observer companies will put observers on "red-eye" flights from Alaska to Seattle on the same day the observer disembarks the vessel. In several instances this has meant that the observers were unable to complete their data prior to the scheduled interview. These late night flights also cause observers to begin the debriefing process while fatigued, and some observers have had their interview delayed so that they can rest.

Under the current debriefing process this practice may in fact increase overall costs for observer companies. Beginning in 2000, the OPO implemented a "front-loading" data management system. Front-loading data allows all haul and species composition data to be in a database prior to an observer's debriefing. This speeds up the data editing and finalization process, but it means that the observer must have all data complete and turned in to the NMFS prior to the beginning of a debriefing interview. There are a limited number of OPO debriefers. When an observer arrives for a debriefing interview with incomplete data, the debriefing process is slowed. A debriefer must spend time working with an observer to ensure that the data is entered properly into the database. This takes time away from the actual debriefing interview and increases the wait time for other observers.

Additionally, there are some unusual circumstances that occasionally account for some data loss. In 1999 two full sets of data were lost; one set was lost along with the observer's luggage, the other set was lost when the observer did not return for a debriefing interview and did not return the data set. In the past observers have lost data due to a wide variety of mishaps out of their control including vessels sinking and onboard fires.

G4. CONCLUSIONS

The vast majority of observers return all data to the NMFS at, or before, the time of debriefing. Only in a few cases has data been misplaced or destroyed and therefore not returned to the NMFS at the time of debriefing.

Observer data is sometimes incomplete at the time of debriefing due to a variety of reasons. One reason that appears to occur frequently is the lack of time observers are given between their last disembarkation and their scheduled debriefing.

G4. RECOMMENDATIONS

The NMFS should initiate the development of an alternative SDM which places the responsibility of data being delivered to the NMFS at or before the time of debriefing upon the observer companies.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

G5. CONTROL TECHNIQUE

The NMFS grants waivers to observers on a case by case basis that allow them to work briefly past the 90-day and/or four vessel limit.

G5. TEST QUESTION(S) AND FINDINGS

Interview the OPO observer company liaison.

- Last year, how did you insure that individual observers did not exceed the contract or cruise restrictions (no more than 90 days without debriefing, no more than four vessels per contract, etc.)?

During an observer's cruise, each observer company is responsible for reporting vessel assignment information to the OPO logistics staff. This data is entered into the database at the AFSC. Once an observer has been assigned to their first vessel, their 90 assignment days begin to be counted and tracked. Additionally, an estimated "final return" date is assigned. Logistics staff monitors the observer company roster sheets for any observer who may have been assigned to more than four vessels or who have been out for more than 90 assignment days.

If logistics staff notices that a company has exceeded either of these assignment limits, they notify the OPO's observer company liaison, who in turn contacts the company to inquire on the reasons why the limits were exceeded.

- Last year, were waivers granted to observers when it was to the advantage of the NMFS to do so? If no, why?

On November 24, 1998, the OPO manager sent a letter to all observer companies explaining that no waivers to either the 90-day or four vessel limits would be granted after June 30, 1999. The OPO felt that, in many cases, data quality began to decline far before the 90-day limit had been reached. Additionally, companies were often requesting waivers without an observer's consent. Some observers were frustrated that they were required to work past their contract limits due to the OPO granting the waiver request. Finally, a cruise which is longer than 90-days or which covers more than four vessels, increases the time it takes to complete a debriefing.

After June 30, 1999, no waivers to the 90-day limit were granted, although on ten occasions in 1999 observer companies exceeded these limits. As of April 2000, five more cases of surpassing the 90-day limit have occurred, in violation of the regulations.

Violations of the 90-day rule, and other regulation violations, may be handled by the OPO in one of two ways: (1) a letter may be sent from the OPO to the company in order to bring the problem to the attention of the company representatives and request a response, or (2) evidence may be turned over to the NMFS Office of Enforcement for investigation and pursuit.

G5. CONCLUSIONS

The NMFS no longer grants waivers allowing observers to work past the 90-day and/or four vessel limit.

There have been several instances where observer companies have violated this regulation. The OPO has either sent a letter to the observer company informing them of the problem or has turned evidence of these violations over to the NMFS Office of Enforcement.

G5. RECOMMENDATIONS

None

G6. CONTROL TECHNIQUE

The observer program manager provides certified observers with guidance about their roles and priorities.

G6. TEST QUESTION(S) AND FINDINGS

Interview (survey) a sample of observers in the groundfish fishery.

- Are you satisfied with your ability to communicate with the NMFS, the certified observer company, and the industry? With your support in the field? If yes, how (quality control, mid-cruise reviews, industry outreach, post-cruise interviews, etc.)?

The issue of how comfortable observers feel communicating with OPO staff has been explored earlier in this document. Within the anonymous observer exit survey, observers are asked several questions about their experience with the company for which they worked. Two of these questions apply to this test.

The first question is, "How would you rate your (company) in their ability to help you with any problems that you experienced, including problems with logistics and travel, as well as any problems with observer harassment or concerns that you may have had about vessel safety?" Since 1997, 645 observers have answered this question. Sixty-six percent of observers rated their company as excellent or good at helping with problems encountered in the field (see Figure 19). An additional 26% felt that their company had acceptable performance in assisting them. Only 8% of responders felt that their company did a marginal or poor job helping them with problems and giving support in this arena.

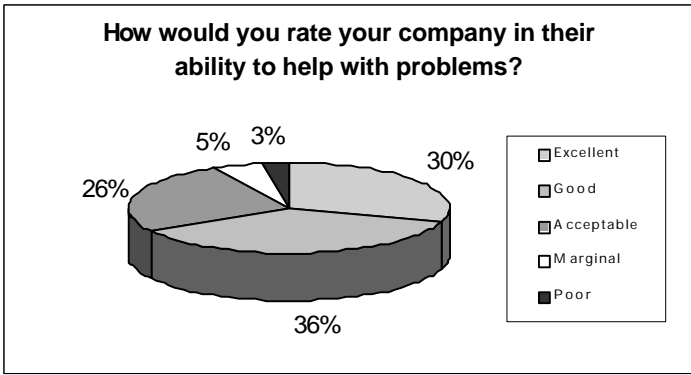


Figure 19. Observer rating of how well their employer assisted with problems.

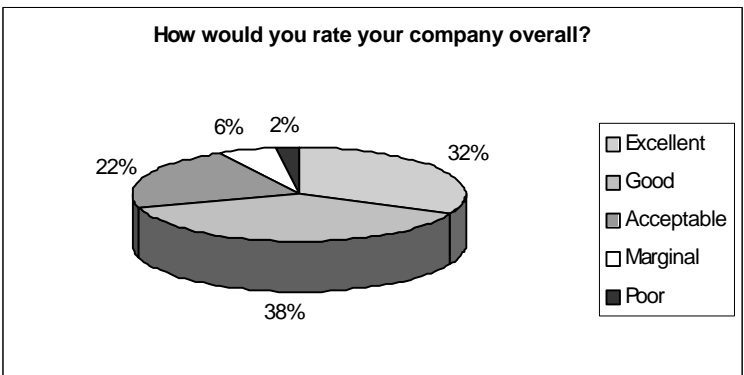


Figure 20. Observer rating of their employer overall.

The second question asks observers to rate their company on overall performance. Since 1997, 1027 observers responded to this question. The percentages are very similar to those from the

previous question, and again only 8% of respondents felt that their company did a marginal or poor job overall (see Figure 20).

During an observer's contract, the OPO is able to give support in-season using mid-cruise debriefings and through in-season advisors. These support methods are not available to all observers. Mid-cruise debriefings are required for all first and second time observers and for some experienced observers. During a final debriefing, the debriefer determines whether an observer requires a mid-cruise during their next deployment. Mid-cruise debriefings are meant to take place face-to-face with an OPO staff member. The OPO has three field stations, and only two of those are in ports which fishing vessels routinely operate from. Often observers working on vessels out of more remote ports such as King Cove, Sand Point, Adak and Akutan are unable to complete mid-cruise reviews. Some observers attempt to substitute a mid-cruise via phone or fax, but these are likely much less helpful to observers.

During the NMFS observer exit survey, observers are asked if their mid-cruise was handled professionally, if it was beneficial, and if it helped prepare them for their final debriefing.

Since 1997, only 265 observers indicated that they had a mid-cruise check during the cruise for which they were being surveyed. Of those respondents, 90% felt that their mid-cruise had been handled professionally, and 10% felt that it had not. Observers who said that the mid-cruise check had been handled unprofessionally were asked to comment on what the problems were and to make suggestions. In 92% of these comments, observers described that the staff had been uninterested, preoccupied or rude. The remaining 8% of observers felt that their mid-cruise had been adversarial and interrogatory.

Two hundred and sixty-five observers who had completed a mid-cruise answered the question, "If you had a mid-cruise debriefing or check, was it beneficial to your understanding of observer duties and sampling methods?". Eighty-three percent of respondents felt that the experience had been beneficial, and the remaining 17% felt it had not. Observers who said that the mid-cruise wasn't helpful were asked to comment on the problems they faced. The majority of these respondents (31%) said that the OPO staff member conducting the mid-cruise was inconsistent with staff conducting their final debriefing, or that the staff were unable to answer the observer's questions. An additional 27% said that major problems were overlooked during their mid-cruise, which affected their final evaluation. Sixteen percent of respondents said that the mid-cruise had taken place either too early or too late in their cruise to be helpful, and 13% felt that they didn't need a mid-cruise. The remaining 13% either left the comment blank, or spoke again of the unprofessional atmosphere.

G6. CONCLUSIONS

Although the majority of observers feel that they are able to communicate freely the NMFS, there is a significant minority that feel they cannot.

The majority of observers feel that their company performs well and is able to assist them with problems.

The OPO has adequate methods of communicating with most observers in the field via phone, fax, field offices and e-mail systems.

For observers who are on vessels that do not deliver to ports with field stations or do not carry the ATLAS program, there is no direct support from the NMFS during deployment.

A significant minority of observers felt that their mid-cruises were not beneficial.

G6. RECOMMENDATIONS

The OPO should increase communications training for OPO staff and observers.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The NMFS should expand the ATLAS program to include vessels delivering to more remote ports (those without field stations).

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

Observer Program field staff should rotate through the main office at the AFSC periodically in order to maintain current with OPO policies and procedures. OPO staff from the AFSC should also periodically rotate through field stations to remain cognizant of problems encountered by observers.

Responsible Official: Program Leader, OPO

Completion Date: Ongoing.

H. RISK

The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE

Observer data is complete and accurate.

H1. CONTROL TECHNIQUE

The NMFS Observer Sampling Manual and supplemental information packets describe procedures for data collection.

H1. TEST QUESTION(S) AND FINDINGS

Examine the North Pacific Groundfish Observer Manual.

- Are the procedures complete and up to date?

Sampling, data recording, confidentiality and observer conduct requirements are all documented in the North Pacific Groundfish Observer Manual. The manual is revised annually to incorporate any policy changes which may have occurred. Staff attempt to create as comprehensive a manual as possible, but recognize that every situation cannot be addressed. Therefore, the briefing, mid-cruise interviews, and debriefings are important to supplement and reinforce the protocols in the manual.

- Have they been distributed to all observers?

The North Pacific Groundfish Observer Manual is issued to every observer during their training and briefing sessions. If an observer is granted a briefing waiver, the observer company is responsible for ensuring that the observer receives the latest version of the manual, along with other information and supplies.

- Does the manual describe a process for correcting errors and communicating them back to the observer program in Seattle? If no, what is the result?

The manual describes how to communicate with, send, and resubmit data to the Observer Program Office in Seattle, WA. In-season support staff communicate either by e-mail, fax or phone with observers in the field to ensure that errors affecting the in-season management of the fisheries are corrected as quickly as possible.

H1. CONCLUSIONS

The current NMFS sampling manual is complete and accurate.

H1. RECOMMENDATIONS

None

H2. CONTROL TECHNIQUE

An OPO fisheries biologist debriefs certified observers between deployments in the field so that the data can become available for entry, editing, and use on time.

H2. TEST QUESTION(S) AND FINDINGS

Interview the observer program manager.

- Last year, did backlogs result when large numbers of observers needed to be debriefed at once?

The number of observers needing debriefings fluctuates throughout the year. In 1999 the average number of debriefings per month was 47.3 and the average wait time between the observer disembarking their last vessel and when they started entering the debriefing computer survey was 5.9 days. In 1999 the number of debriefings per month varied between five in January and 102 in October. The average wait time also varied by month, with the shortest wait time being four days in September to the longest being 12.5 days in November.

Figure 21 illustrates the number of debriefings per month and the average time observers wait to start debriefing for August 1997 through June 2000. Although the average number of debriefings varies considerably between months, there is relatively little variation in the average wait time. The average wait time for an observer to start their debriefing in August 1997 through June 2000 was 5.5 days. The graph shows two significant peaks where wait time greatly increased: one in January of 1998 and another in November of 1999. The peak in wait time in January of 1998 was an anomaly reflecting the OPO policy of allowing observers to return home for the holidays prior to completing their debriefing. The OPO has since retracted this policy. The long wait time in November of 1999 was caused by a lack of OPO staff available for debriefing.

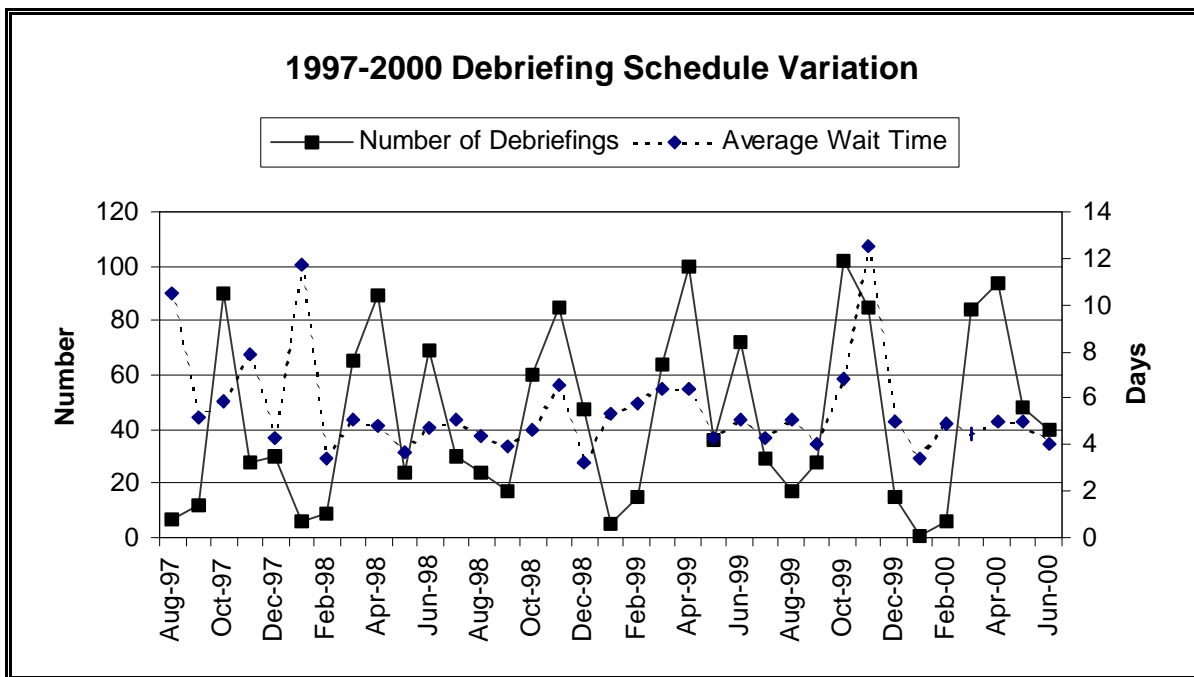


Figure 21. Graph showing the number of debriefings and average wait time throughout the annual cycle. The OPO usually experiences two peak loading times each year.

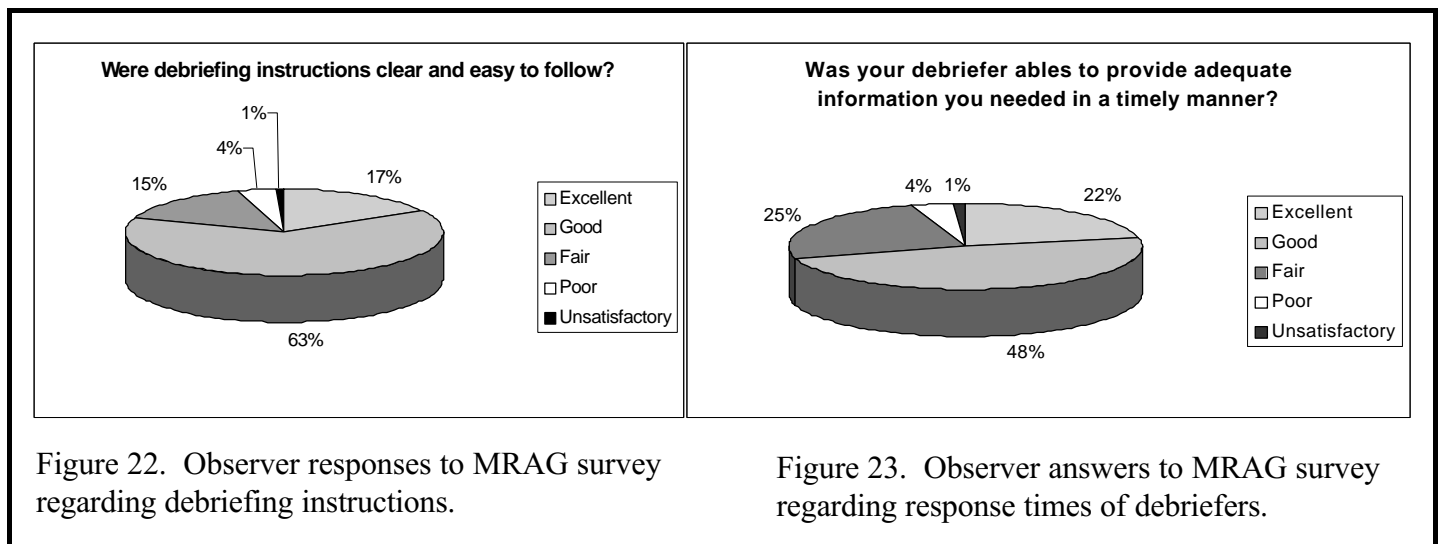
H2. TEST QUESTION(S) AND FINDINGS (Continued)

Examine the other debriefing related questions in the MRAG observer questionnaire (#45, #46, #47, #48, #49, #50, #51, #52).

For questions 45-51, observers were asked to comment using the following key: 1= Excellent/exceeded expectations, 2= Good/met expectations, 3= Fair/average/adequate but would benefit from improvement, 4= Poor/needs improvement/did not meet expectations, and 5=unsatisfactory.

MRAG #45. Were debriefing instructions clear and easy to follow?

One hundred and three observers answered this question. The majority (63%) of respondents felt that the instructions met their expectations (see Figure 22). The percentage of observers that felt the instructions exceeded their expectations (17%) was similar to those that felt the instructions were adequate, but could benefit from some improvement (15%). Only 5% of respondents felt that the instructions were poor or unsatisfactory.



MRAG #46. Was your debriefer able to provide adequate information you needed in a timely manner?

There were 102 respondents to this question. The majority (48%) of respondents felt that the debriefer met their expectations in providing timely information (see Figure 23). The percentage of observers felt that their debriefer exceeded their expectations (22%) was similar to those that felt the debriefer's communication of pertinent information was adequate, but could benefit from some improvement (25%). Again, only 5% of respondents felt that the debriefer did a poor or unsatisfactory job in providing information in a timely manner.

MRAG #47. Were your instructions for data corrections clear?

One hundred and two observers answered this question. Most respondents found the instructions for data corrections good (63%) or excellent (24%). A few (11%) observers felt that instructions were adequate, but would benefit from some improvement. Only 2% felt that the instructions for data corrections were poor, and none found them to be unsatisfactory (see Figure 24).

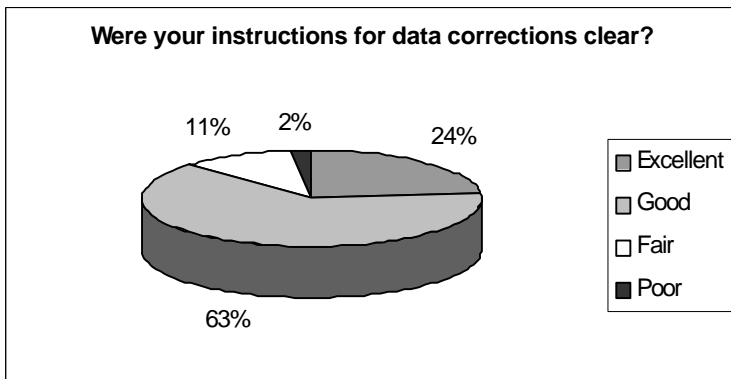


Figure 24. Observer responses to the MRAG survey regarding the clarity of data correction instructions.

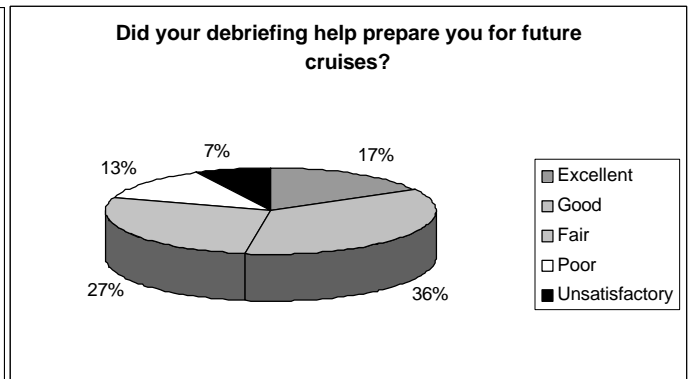


Figure 25. Observer responses to the MRAG survey regarding using the debriefing to prepare for future deployments.

MRAG #48. Did your debriefing help prepare you for future cruises?

Ninety-five observers answered this question. The OPO designed the debriefing process to meet two goals: (1) to ensure that data collected by observers is of the highest possible quality prior to being entered in the final domestic NORPAC database, and (2) to provide support and feedback to observers both on the cruise for which they are debriefing and improvements that could be made during future cruises. The answers to this question show that the OPO may only be meeting one of these goals. About half (53%) of respondents felt that their debriefing had done a good or excellent job preparing them for future cruises. Twenty-seven percent of observers answered that their debriefing had only done a fair job at assisting them in future cruises. Finally, 20% of respondents felt that the debriefer, or the debriefing process, did a poor or unsatisfactory job of preparing them for their next cruise (see Figure 25).

MRAG #49. Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, (observer companies), or other observer staff members?

One hundred and three individuals responded to this question. The majority observers (61%) felt that they could communicate with OPO staff freely (“excellent” and “good” responses). However, the remaining respondents were nearly equally split between feeling that communication lines with OPO staff were adequate (19% were “fair” responses), or that they

needed improvement (a total of 20% respondents said that the ability to communicate with OPO staff was “poor” or “unsatisfactory”) (see Figure 26).

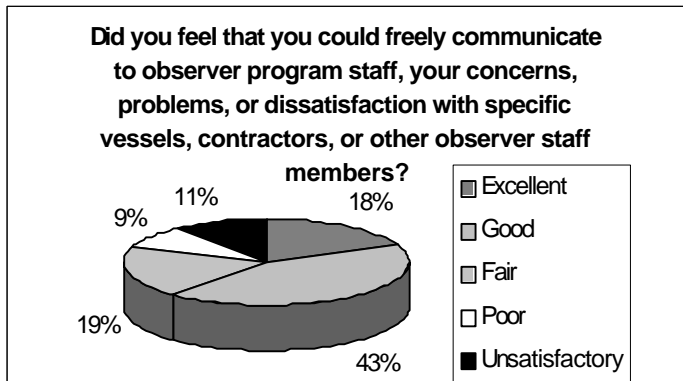


Figure 26. Observer responses to the MRAG survey regarding how comfortable observers were talking to OPO staff.

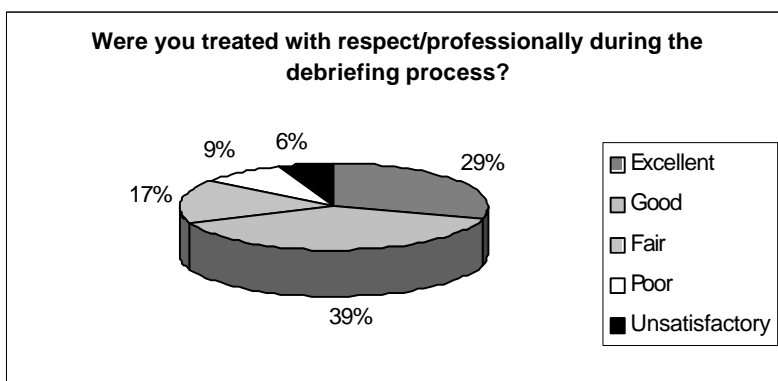


Figure 27. Observer responses to the MRAG survey regarding how observers felt they were treated during debriefing.

MRAG #50. Were you treated with respect/professionally during the debriefing process?

Again, there were 103 respondents to this question. The answers were similar to those from question #49. The majority observers (68%) felt that they had been treated with respect from OPO staff during debriefing (“excellent” and “good” responses). The remaining respondents were nearly equally split between feeling that the level of respect they were treated with was adequate (17% were “fair” responses), or that they needed improvement (a total of 15% respondents said that the level of respect that was afforded to them was “poor” or “unsatisfactory”) (see Figure 27).

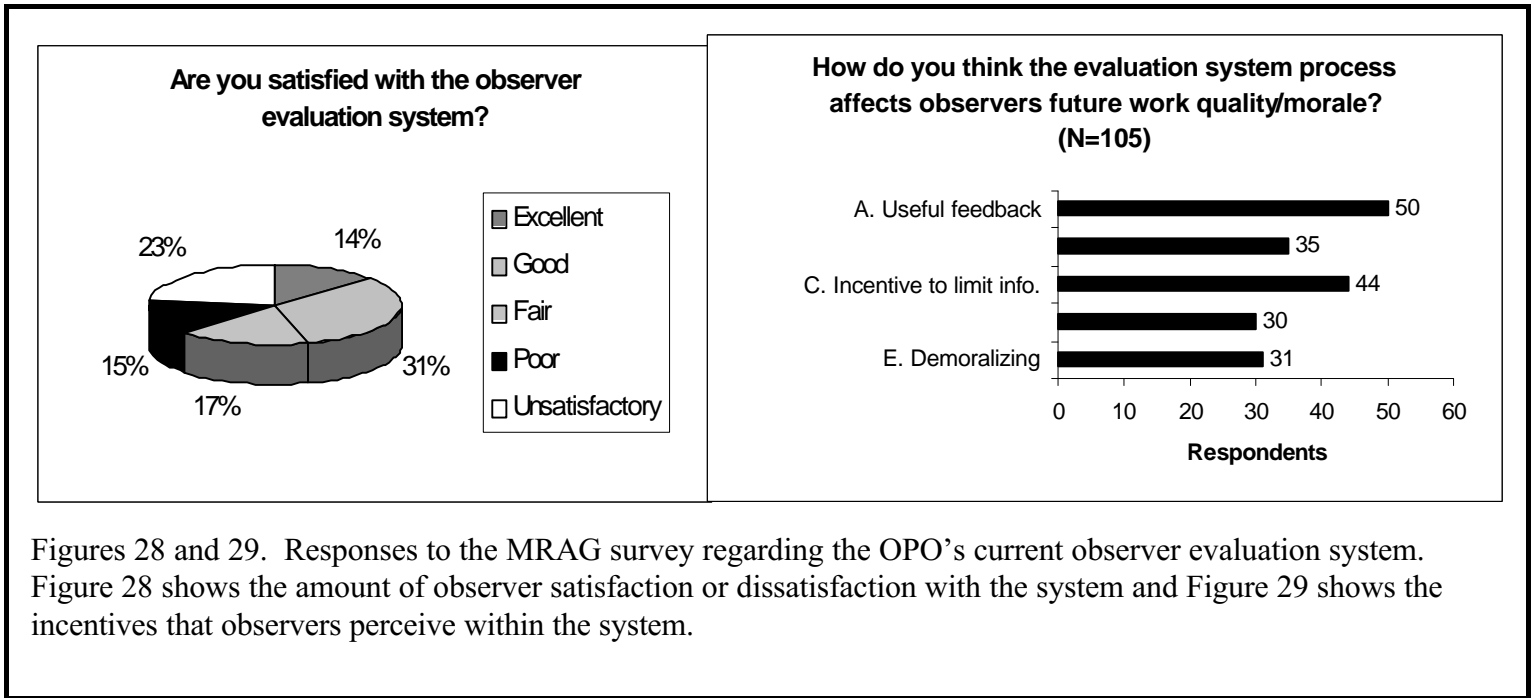
MRAG #51. Are you satisfied with the observer evaluation system?

Ninety-six observers responded to this question. The responses illustrate observers’ general dissatisfaction with the OPO’s evaluation system is obvious from the responses to this question. Only 45% answered that they were satisfied with the system (“excellent” and “good” responses). Nearly a quarter (23%) found the evaluation system unsatisfactory. A further 17% found the evaluation system “fair,” and the remaining 15% rated the system “poor” (see Figure 28).

MRAG #52: “How do you think the evaluation system process affects observers’ future work quality/morale?”.

The question allowed for multiple answers and observers were asked to check all that applied from: A. Useful feedback, B. Provides incentive to do good work, C. Provides incentive to limit information shared with the debriefer, D. Encourages changes to data to facilitate debriefing process/or improve personal evaluation, or E. Demoralizing.

One hundred and five observers responded to this question, and most indicated more than one response as applicable. Figure 29 shows the frequency of responses.



H2. CONCLUSIONS

The NMFS routinely completes a thorough debriefing of observers which improves data quality.

There are peak loading times which, at times, delay the start of the debriefing process.

The majority of observers are satisfied with the NMFS debriefing the data.

There is dissatisfaction with the evaluation system.

The evaluation system provides observers with an incentive to limit information and manipulate data. For some observers, it is demoralizing.

H2. RECOMMENDATIONS

The OPO should recognize and plan for peak loading events if timely debriefing is a priority.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The OPO needs to reconsider the current evaluation system and remove the incentives to limit information and/or manipulate data.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

If the NMFS decides to continue with an observer evaluation system, debriefers need to be trained to evaluate work performance.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

H3. CONTROL TECHNIQUE

The observer program staff safeguards all observer data on paper at the AFSC with a sign-out sheet; haul or set specific data is only given to authorized users.

H3. TEST QUESTION(S) AND FINDINGS

Interview observer program staff.

- What steps do you take to insure that cruise data is protected?

Cruise data is edited by debriefing and editing staff at the AFSC and field stations. Once completed, the electronic versions of the data are moved into a final database at the AFSC. The database is password protected and user names are recorded when a staff member electronically “checks-out” data for further editing or review. Hard copies of cruise data are stored at the AFSC and at the National Archives in Seattle. The most recent two years’ worth of data are stored in locked filing cabinets at the AFSC. Staff must sign all data in and out whenever it is removed from the filing cabinets. Hard copies of data more than two years old are moved to the National Archives. One staff member at the AFSC is responsible for recording when the data is moved, and is generally the only person who retrieves data from the Archives.

H3. CONCLUSIONS

Cruise data is protected from unauthorized use.

H3. RECOMMENDATIONS

None.

H4. CONTROL TECHNIQUE

The NMFS requires conflict of interest standards for NPGOP observers and observer companies.

H4. TEST QUESTION(S) AND FINDINGS

Interview (survey) a sample of current observers in the groundfish fishery.

- Are you aware of the conflict of interest standards that apply to NMFS-certified observers?

The OPO was unable to conduct an additional survey that addressed this question. However, we believe that all observers are aware that conflict of interest standards apply to certified observers. This material is covered in three ways: (1) standards are published in the North Pacific Groundfish Observer Manual, (2) standards, expectation, and specific situations are reviewed and discussed in annual 4-day briefings, and (3) all observers are required to sign a “Groundfish Observer Letter of Understanding” during 3-week training courses and annual 4-day briefings. This letter is kept in each observer’s personnel record at the AFSC.

- Are there any situations in which an observer may have an incentive to perform inappropriately as a result of the principal/client relationship that exists between the fishing vessel owners/operators and the certified observer companies? If yes, briefly describe those possible situations (such as presorting of prohibited species catch, etc.).

The OPO realizes that there are situations in which an observer may have an incentive to perform inappropriately, or alter their data, as a result of the client relationship that exists between the fishing vessel and the observer company. There are two reasons why this problem appears: (1) because the observer wishes to please his/her company's client by getting along well with the crew, and/or (2) because the pay structure designed by observer companies allow for observers to benefit by altering data if it will allow a vessel to fish for more days than it ought to.

It is difficult to assess the frequency of which either of these scenarios occurs, and much of the information the NMFS has about these problems is anecdotal. It is important to point out that observers may not always be aware that they are allowing the vessel to influence their data, or why they are allowing this to happen.

For example, several observers have reported being suspicious that pre-sorting²⁰ of prohibited species was occurring, but that they did nothing about it. The observers have good reasons to suspect that the illegal activity is ongoing: they see no prohibited species in their samples, they hear rumors on the vessel, or they know of other observers who have encountered the problem on the same vessel. When questioned about why they didn't do something to solve the problem, they are often vague and seem unsure of the reasons behind their inaction. It is difficult for many observers to be outside the social group on vessels, and they may feel pressure to do what they can to "get along." If observers feel this way on a vessel, it is likely that they also feel this way toward their employer.

Some observers may also feel that their future employment may be limited, or even at risk, if they report too many problems on vessels. For example, an observer was asked by an OPO staff member whether the observer could request a processing plant for the next contract, so as not to aggravate a past injury. The observer replied that an affidavit was filed at a plant they were previously assigned to, and the plant was subsequently fined. The observer heard that the plant had complained to the observer company. The observer felt that a request to be assigned to this plant again would be denied by the observer company because of this report of a violation, which was required by the NMFS. Although in this case, the observer fulfilled his/her duties by reporting the violations, it is clear that he or she now had concerns regarding future employment

²⁰ Pre-sorting is any activity that removes fish (or other marine animals) from a haul prior to an observer's sampling. Observers are instructed to collect random samples, defined by every member of the population (which in most cases is a haul) having an equal opportunity of being sampled. Pre-sorting can either be done mechanically (by grating across hatches, steep incline belts, fish pumps, or size sorters) or done physically (by crew hand-sorting fish, dumping undesirable portions of the catch, or otherwise interfering with sampling). In either case, pre-sorting compromises the observer's data quality.

possibilities.

The other scenario of why observers may feel pressure to perform inappropriately or alter their data has to do with the current observer pay structure. Observers are only paid their full wage rate when they are assigned to, and on, a vessel. Lower pay rates apply for days spent on stand-by, in briefing, in debriefing and while traveling.

During the past ten years, several programs have been developed which make an observer more responsible for individual vessel catch accounting. These programs include the Vessel Incentive Program (VIP), the Multi-Species Community Development Quotas (MSCDQ), and the cooperative fishing agreements formed as part of the American Fisheries Act (AFA).

The VIP was designed to encourage trawl vessels with high bycatch rates of Pacific halibut and red king crab to change their fishing strategies to reduce their incidental catch of these species. It was instituted in 1991, and each year, the program establishes bycatch rate standards for all North Pacific groundfish trawl fisheries. Vessel operators who exceed the standards for their target fisheries may be subject to penalties for not taking measures to reduce their individual bycatch rates. These bycatch rates are determined by observer data. An observer's data can influence these fisheries by altering their reporting of Pacific halibut and red king crab. In fisheries where there are few participating vessels, altering observer data may extend the entire fishery as well as protect a vessel from VIP fines. For example, in 1994 an observer under-reported halibut bycatch on a vessel in the rock sole fishery. The falsified in-season data caused the fishery to remain open over a week longer than when the closure would have been, had accurate data been reported. The observer reported that he altered his data only because he wanted to get along with the crew and work extra days. The observer was prosecuted, found guilty, and sentenced to a year in federal prison. In this case, the observer was not coerced or bribed by vessel personnel, but this is also a concern to OPO staff.

Beginning in 1992, the Community Development Program (CDQ) set aside portions of the walleye pollock, Pacific halibut, and sablefish TACs for harvest by Bering Sea coastal communities. In 1998, the CDQ program was greatly expanded to include portions of the TACs of all groundfish and crab species harvested in the BSAI. These communities use existing fishing companies to harvest their quotas, and these vessels are required to abide by increased observer coverage requirements in order to obtain independent verification of catch amounts. Observers participating in this fishery must go through additional training. To date, the OPO has not heard of any incidents where observers altered their data purposely during a CDQ fishery. However, the NMFS is concerned that these observers are at high risk of being pressured to change their data, sampling techniques, or compliance reports.

The American Fisheries Act was passed in 1998. The Act addressed multiple issues regarding vessels participating in the BSAI and GOA pollock fisheries, including ownership provisions,

pollock allocations, vessel buyouts, and cooperatives²¹. New regulations implementing the AFA and the formation of vessel co-ops created another situation where observers are required to provide individual vessel catch accounts. The pressures on these observers are the same, and therefore, the regulations required at least one Level 2 certified observer on catcher/processor vessels participating in AFA fisheries. Again, the OPO is not aware of any observers purposefully altering their data during an AFA fishery, but is concerned about observers being at an increased risk of being pressured to do so.

- Have you personally experienced any pressure from the industry or the certified observer company that was intended to influence the performance of your official duties, actions, or judgement? If yes, briefly describe those actual events.

During the debriefing process, observers complete a detailed report capturing different aspects of each assignment. As part of this survey, observers are asked, “Did you encounter any other impediments during your deployment? In your response please include both significant and insignificant incidences.” There are fourteen options to choose from, and they are: A) A hostile or observer unfriendly environment, B) Verbal intimidation, harassment or abuse, C) Physical intimidation, harassment or abuse, D) Sexual intimidation, harassment or abuse, E) Denial of access to communications equipment, F) Denial of access to work areas of the factory, deck, or freezer space, G) Denial of access to bridge and equipment necessary to determine vessel position, H) Intentional efforts to block or interfere with the collection of fish samples, I) Intentional efforts to bias the quality of observer samples, J) Refusal to offer reasonable assistance to enable observer to carry out duties, K) Refusal to notify observer at least 15 minutes prior to haulbacks, L) Required to perform duties normally performed by crew, M) Theft or intentional damage to personal belongings or observer gear, and N) No impediments encountered.

From this survey, we can get a good idea of how many observers experienced pressure from an industry member to alter their data or perform in an inappropriate manner. These surveys are done for each assignment completed during a cruise, and therefore are cruise and vessel (or plant) specific. In 1999, there was a total of 1265 cruise/vessel responses. Observers reported encountering some impediment in 17% of these assignments (see Figures 30 and 31).

Although all the impediments listed could influence an observer’s samples, only answers “H” and “I” (intentional efforts to block, interfere, or bias samples) may fall under the heading of receiving pressure from industry intended to influence the performance of an observer’s official duties, actions, or judgement. Thirteen percent of the impediments reported fell under this category.

²¹ Oliver, C. Implementing the American Fisheries Act of 1998: Current and Future Actions by the North Pacific Fishery Management Council, Prepared for the 1999 National Fishery Law Symposium, March 25-26, 1999.

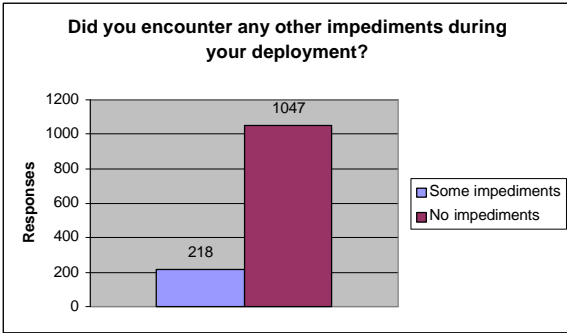
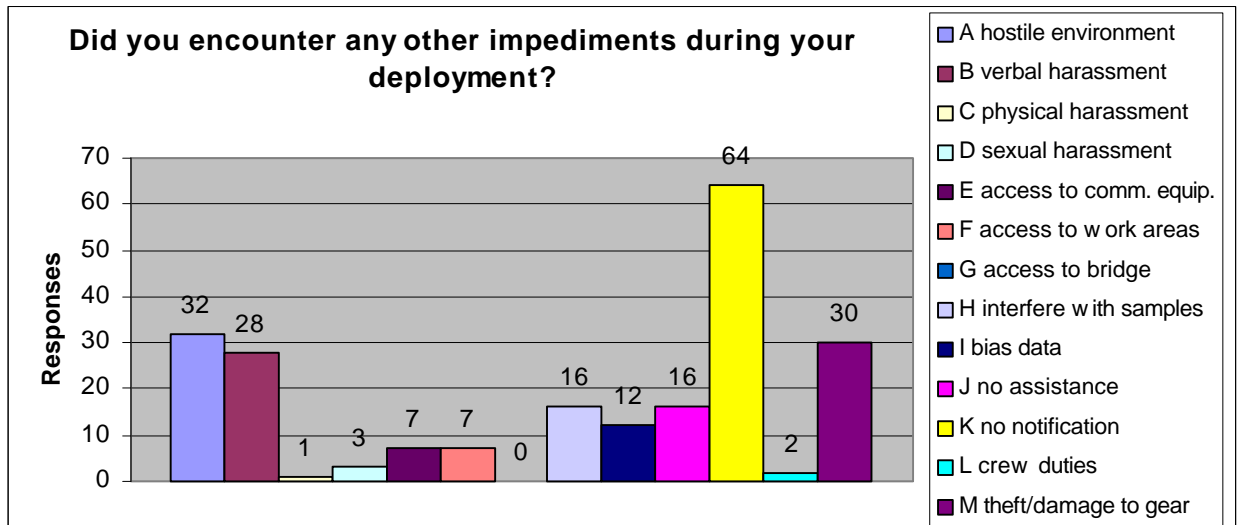


Figure 30 (to left). Chart showing the number of observers who reported encountering impediments during their deployment.

Figure 31 (below). Chart showing classification and frequency of impediments reported by observers.



An additional question asks, “Were you asked to do anything that was contrary to what was presented in the observer standards of conduct, conflict of interest standards, or confidentiality standards?”. Observers are given seven answers from which to pick. They are: A) Yes, was asked to show data collected on one vessel to personnel from another vessel, B) Yes, I was asked to inaccurately report sample data, reports, or suspected violations, C) Yes, ask to engage in what I believe was an illegal action, D) Yes, I was given an offer that was in my financial best interest. Offered money, gift, bonus, travel or employment, E) Yes, I was asked to do something other than those things already mentioned, F) I am unsure if the situation was contrary to the standards of conduct, conflict of interest, or confidentiality standards, and G) No such situations were encountered.

All the above situations fall under the category of being pressured to alter data or act inappropriately. In 1999, there were 1029 cruise/vessel (or plant) responses. Observers reported being asked to do something contrary to the NMFS conflict of interest, confidentiality, or conduct standard on 2% of their assignments (see Figures 32 and 33).

When an observer reports that they were asked to do something contrary to the NMFS standards, they are asked to provide a comment explaining the situation. Some examples of these comments are:

- “I was offered money in exchange for small work related functions. They offered me money to tie gangions for them, but I was aware of what they were actually trying to do and so declined.”
- “The captain asked me to alter my 1US form (fishing effort data) in order to show that the vessel was fishing in the Bering Sea (area 518) when we were fishing in the Gulf of Alaska (area 610).”
- “The captain said he was impressed with my work and he would have a position on the boat available. The position paid more money. He stated his average crew made \$60,000 a year.”
- “They joked around with me about not reporting the halibut they consumed. They kept saying all I needed to say is that they ate a really big yellowfin sole.”

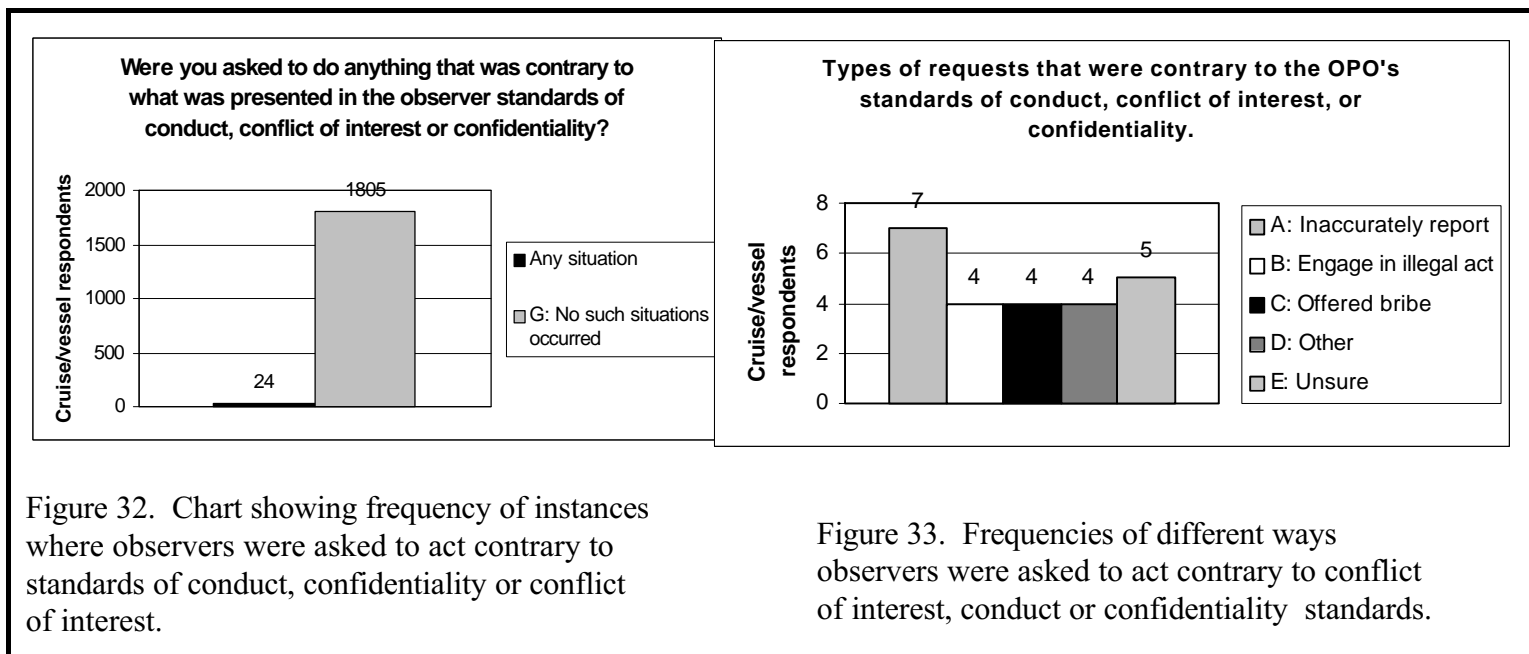


Figure 32. Chart showing frequency of instances where observers were asked to act contrary to standards of conduct, confidentiality or conflict of interest.

Figure 33. Frequencies of different ways observers were asked to act contrary to conflict of interest, conduct or confidentiality standards.

H4. TEST QUESTION(S) AND FINDINGS

Interview the observer program manager.

- Does the relationship between the industry and the observer companies create the appearance of a conflict of interest? If yes, how?

Observer companies compete for the industry’s business, and that requires that they respond to industry’s needs. Some of those needs are perfectly legitimate and appropriate. For example, industry members need to require an observer company have an observer at the right port and the right time. Observer companies are very good at making sure this happens, which satisfies the

industry's need. However, in an effort to remain competitive, there is pressure to reduce observer remuneration, have observers work for longer periods of time and assign observers to multiple boats during each contract. Maintaining a competitive edge, and a desire to maintain contracts with industry members, may also expose observers to less than satisfactory working conditions. These factors reduce data quality. Observers work for the company, so it is natural that some observers feel that they must please their employer in order to be rehired. Observer companies work for the industry, so it is natural that some company representatives feel that they must please their customer in order to be rehired. The OPO feels that this situation causes, at the minimum, an appearance of a conflict of interest. The line between who is working to please whom is blurred, which may leave the observer feeling responsible for pleasing the fishing industry. At the very minimum, it is obvious that none of the parties involved in this part of the SDM have NMFS as the client.

Industry members may not be aware of the appearance of conflict of interest, and many vessel captains and crew feel that observers work for the NMFS, rather than for a private company. Regardless of where the pressure, or perception of pressure, for an observer to please an industry member comes from, it causes data quality concerns.

The OPO has many case histories and anecdotal data regarding the conflict of interest between observer companies and industry, some of which are given as examples above. The OPO has not analyzed how often this occurs. However, the anecdotal information demonstrates that the problem exists, and the OPO feels that it must be solved.

- Does the competition among certified observer companies to supply observers at the least cost have an effect on the completeness or accuracy of observer data? If yes, how is government control (over contract performance, observer placement, data collection, etc.) affected?

The competition among certified observer companies to supply observers at the least cost has had an effect on the completeness and accuracy of observer data. In the current SDM competition amongst certified companies creates an environment where the quality of the data is not a consideration.

The observer companies consider the goals of the NMFS secondary to the needs of industry under the current SDM, and in reality they need to in order to remain competitive. In this way, cost concerns outweigh data quality concerns.

H4. CONCLUSIONS

Observer conflict of interest standards are documented in the Observer Manual and are reviewed in training.

Under the current SDM observers have incentive to misreport and falsify data.

The relationship between the industry and observer companies creates, at a minimum, the appearance of a conflict of interest.

The current SDM creates competition among certified observer companies which negatively affects observer data quality.

H4. RECOMMENDATIONS

The NMFS should implement a revised SDM in the North Pacific which provides the NMFS with appropriate management controls of the service providers, or take the responsibility on itself.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

The OPO Program Leader should communicate, in writing, to the Regional Administrator the effects of recent management plans on the observer work environment.

Responsible Official: Program Leader, OPO

Completion Date: September 30, 2001

SERVICE DELIVERY MODEL: NMFS-CERTIFIED OBSERVER COMPANIES

NORTHWEST REGION - PACIFIC WHITING OBSERVER PROGRAM

NARRATIVE

Introduction

NMFS manages the U.S. groundfish fisheries off the Washington-Oregon-California (WOC) coasts under the Pacific Coast Groundfish Fishery Management Plan (FMP). The FMP contains provisions that allow for the placement of observers on at-sea processing vessels, although implementing regulations have not been finalized. The Endangered Species Act (ESA) Section 7 consultation on the Pacific Coast groundfish fishery requires 100% observer coverage to account for incidental takes of ESA listed salmon. Since 1991, the domestic at-sea whiting processors have voluntarily carried NMFS-trained observers to provide data for estimating total landed catch and discards; monitoring the attainment of annual groundfish allocations; estimating catch rates of prohibited species; and assessing stock conditions.

Observer coverage in the domestic offshore whiting fishery has been the result of shared efforts between the NMFS Northwest Regional Office (NWR), the North Pacific Groundfish Observer Program (NPGOP) within the NMFS Alaska Fisheries Science Center (AFSC), independent observer contractors, and the fishing industry. The NPGOP provides for the pre-hire screening, field training, debriefing interviews, at-sea support, sampling equipment, and data management services. Companies that are certified as observer contractors for the Alaskan program provide hiring and support services for the whiting fishery and individual processing vessels pay the direct costs associated with carrying the observers. The cost for the observer is paid directly to the observer contracting company who in turn pays the observer's salary. Observer companies freely compete with each other to provide processing vessels with observer services. Vessel owners are able to choose the certified observer company that provides the best service to them for the lowest cost. The AFSC's MCR provides a more detailed summary of duties and management structure. The NWR monitors the fishery, regulates the opening and closure of each fishery sector, and interacts with industry.

The NMFS is planning to move the duties and functions of the Pacific whiting observer program from the AFSC to the Northwest Fisheries Science Center (NWFSC) as soon as practicable. To accomplish such a transition, it will be necessary for the NWFSC to acquire adequate funding and develop the infrastructure to support such a program. It is anticipated that this funding will become available in 2001.

Fisheries Observed

The Pacific whiting fishery is a mid-water trawl fishery that is composed of three offshore fishing sectors: catcher processors, mothership processors with supporting catcher vessels, and tribal catchers delivering to a mothership. In addition, a fourth fishery sector is composed of catchers that deliver to shore-based processors. At present, each sector of the offshore whiting fleet voluntarily

carry 1-2 observers when they participate in the fishery. Exempted Fishing Permits are used to allow shore-based vessels to delay sorting of prohibited species and groundfish catch in excess of cumulative trip limits until they deliver their catch to shore-based processing facilities where state biologists sample the catch and collect incidental catch data.

The processing vessels in the catcher processor, mothership and tribal fisheries primarily operate in the Alaskan pollock fisheries, but move south to WOC to fish for whiting between pollock seasons. In 1999, 12 processing vessels carried observers while operating in the fishery. The offshore whiting season begins on May 15 and has generally extended into late July or early August. In recent years, only the mothership engaged in processing the tribal allocation has returned to the whiting fishery for a brief period in late October and November after the fall Alaskan pollock allocation was taken.

Individual vessels voluntarily pay for observers according to coverage levels established in the terms and conditions of the Section 7 Endangered Species Act (ESA) consultation on the Pacific Coast groundfish fishery which requires 100% observer coverage to account for incidental takes of ESA listed salmon. In addition, since mid-1997, when the Department of Justice approved division of the catcher-processor allocation among members of the Pacific Whiting Conservation Cooperative (PWCC), all catcher-processors have generally carried two observers when available. Having two observers allows all or almost all hauls to be sampled. This level of sampling provides the PWCC members with the primary data for self-managing their voluntary quota program.

The mothership sector typically carries one observer and competes in an open access fishery. The one mothership which processes catch taken by catcher vessels harvesting the tribal whiting allocation has carried two observers most of the time while participating in the fishery.

The observed whiting fishery is a mid-water trawl fishery with very low incidental catch, averaging less than 2% per year, and occurs over a short season during the summer. Only very large vessels (256-688 ft) that are accustomed to carrying one to two observers in Alaska process whiting and carry observers in the at-sea sector of the fishery. It is likely that these factors are what have lead many observers to refer to whiting as an easy fishery to sample.

Because of the lack of regulations, NMFS has no authority to require that vessels carry observers, to regulate observer performance, or to assure that vessels cooperate with observers to provide the necessary quality of data. Fortunately, for the most part, the offshore whiting fishery has been adequately monitored as a voluntary program. However, NMFS's ability to assure the integrity and availability of observer data in the future is jeopardized by the lack of regulatory requirements that define the needs of an observer program and mandatory coverage levels. Without regulations, it is likely that similar coverage levels would be seen in the future. However, the voluntary nature of the coverage does not guarantee this. At any point, all or some of the vessels may choose not to carry an observer, or choose not to provide NMFS with landing data. If this were to occur, information used for management decisions would be inadequate. Without accurate and timely information, the risk of error associated with fishery management decisions will increase and the ESA terms and conditions for incidental takes of listed chinook salmon would not be met.

NMFS has no regulations in place to mandate sampling stations or any other features that may improve data accuracy or facilitate the work of observers. Using substandard or inadequate data could impair the ability to manage the fishery resources and increase the risk of error associated with fishery management decisions. If it were determined that the data collected by voluntary observers were not collected according to NMFS protocols or was otherwise inadequate or substandard, fishery managers would be required to give first consideration to the resource thereby making conservative decisions to compensate for the lack of adequate biological and harvest data.

The lack of regulatory guidelines opens the observers to a degree of vulnerability to harassment, interference with data collection, access to the communication and logbooks, timely pay, insurance coverage, and logistical and at-sea support services. Fortunately, no issues of this nature have been brought to the attention of the NWR. Adopting regulations is expected to bring more structure to the contractor-observer relationship and reduce the observers' level of vulnerability.

Although there are currently no federal regulations defining the responsibilities of vessels, Pacific whiting vessels have generally provided living and working accommodations similar or identical to those provided to observers while operating in Alaska. All processing vessels participating in the at-sea whiting fishery must comply with general U.S. Coast Guard regulations at 46 CFR Chapter I, pertaining to the safe operation of a vessel. In addition, vessels that carry observers in Alaska are required to have a valid U.S. Coast Guard safety decal, which is valid for two years under the health and safety requirements at 600.725 (p)-(u) and 600.746. Because vessels in the Pacific whiting observer program are voluntarily carrying observers, it is unclear how whiting observers are affected by Magnuson-Stevens Act provisions at 50 CFR 600.725 and 600.746, which provide for observer health and safety. Whiting vessels have generally followed the same health and safety standards that they do when carrying observers in Alaska. The NWR is aware of a few minor safety concerns that have been reported by observers in recent years.

Event Cycles

Staffing and Recruitment

In 1999, the NPGOP deployed 19 experienced observers in the Pacific whiting fishery. The whiting fishery represents approximately 2% of the 32,000 observer days at sea supported annually by the NPGOP. At this time, neither the Northwest Region nor the Northwest Fisheries Science Center receive funding necessary to support Pacific whiting observer functions and therefore does not employ staff to directly support observers or analysis of observer data.

Observers serving in the Pacific whiting fishery are employed under the same terms and conditions as those in the Alaska fisheries. The NPGOP is responsible for contractor interactions and all aspects of observer training. To qualify as a whiting observer, the requirements are the same as those for an open access observer in Alaska. However, to date the NPGOP has chosen to deploy only individuals in the Pacific whiting fishery who have successfully completed at least one cruise in Alaska (on any type of vessel or in a shore-based facility) and have completed a briefing in the calendar year. Observer contractor responsibilities are not defined by regulation. However, contractors have voluntarily followed the same procedures as required in Alaska.

Training

The training of observers is the responsibility of the NPGOP. Whiting observers are required to attend a 3-day briefing session held in Seattle by the NPGOP. The NPGOP staff determines the subject matter taught in each briefing, including: annual changes to sample protocols, changes to regulations, instructions for special projects, and west coast species identification. Observers are required to attend and participate in all days of the briefing and to take a proficiency test. Observers who pass the proficiency test are then issued a letter indicating that they successfully completed a NMFS conducted whiting briefing. Contractors are notified when observers do not meet proficiency requirements for whiting. Only individuals who have a proficiency letter have been deployed as whiting observers.

Equipment and Supplies

Supplied by NPGOP

Insurance

In 1999, all contracting companies indicated that they provided WOC observers with insurance coverage that is equal to that provided to observers in Alaska.

Observer Deployments

From 1991 until 1999, all at-sea processing vessels participating in the offshore whiting fishery have voluntarily carried at least one observer when participating in the fishery. Since mid-1997, when the Department of Justice approved allocation of quota shares among members of the Pacific Whiting Conservation Cooperative, all catcher processors have carried two observers. Having two observers allows all or almost all hauls to be sampled. This level of sampling provides the Pacific Whiting Conservation Cooperative members with additional data for managing their voluntary individual quota program. This is in contrast to the mothership sector, which typically carries one observer. Since 1996, the one mothership which processes catch taken by catcher vessels harvesting the tribal whiting allocation, has carried two observers most of the time while participating in the fishery.

After deployment, the observer companies make transportation arrangements for the observers and biological samples to the NPGOP office in Seattle. Scheduling and conducting debriefing interviews is the joint responsibility of observer companies and NPGOP staff. Observer contractors do not edit, collect or distribute any observer information. Instead, observers directly edit their information and submit in-season reports via the ATLAS data communication system that can be accessed by the NWR for timely fishery monitoring.

Data Collection

Same as NPGOP with ATLAS application.

In season Advising, Mid-cruise Review, Data Entry, and Editing

Same as NPGOP with ATLAS application.

Debriefing

Unlike the NPGOP, observers who have serious errors in their data, perform poorly, or behave in an unprofessional manner in the Pacific whiting fishery are not subject to decertification actions. As in the Alaska fisheries, Pacific whiting observers receive a debriefing score that may provide an incentive to perform well when deployed in the Pacific whiting fishery. Rehire of observers with poor debriefing scores would be made at the contractor's discretion. It is not certain how debriefing scores in the whiting fishery affect an observer's opportunities for deployment in the Alaska fishery.

RISKS, OBJECTIVES, CONTROL TECHNIQUES, TESTS, FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

A. RISK

Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE

Funds for the observer program are obligated consistently and on time.

A. CONTROL TECHNIQUE

Observer program managers obtain and issue funding guidance in sufficient time to train and brief observers, and provide other observer support services.

A1. TEST

Interview: NWR and AKFSC personnel.

Are funds available to assume program duties for the Pacific whiting observer that are currently performed by NPGOP (e.g., training, briefing, debriefing, data editing, storage, and transmission, and gear)?

A1. FINDINGS

No dedicated funds have been available to support the whiting observer program. Continuation of this program over the past 10 years has been possible only by including it in the much larger Alaska observer program administered by the NPGOP. The NWR and NWFSC FY00 budget does not provide any funds or FTEs for administering or staffing the Pacific whiting observer program.

A1. CONCLUSIONS

Until sufficient funds become available to the NWR/NWFSC staff to conduct this program, there is no realistic option other than for the NPGOP to retain the duties and observer support functions it currently provides.

A1. RECOMMENDATION

Identify and request that adequate funding be provided to the NWFSC to cover the staffing and start-up costs and operational costs of this program. Request the Regional Administrator of the AKR to do the same.

Responsible Official: Regional Administrator
Completion Date: March 2001

A2. TEST - REGULATIONS

Interview: NWR and NPGOP personnel.

Does the present absence of regulations governing observer placement jeopardize deployment of observers on vessels fishing for Pacific whiting?

A2. FINDINGS

Currently observer coverage has been good even though there are no regulations requiring offshore Pacific whiting vessels (motherships, catcher-processors, and tribal allocation) to carry any observers. Observers are voluntarily carried on these vessels. For the past four years, the catcher processors have voluntarily carried two observers during the Pacific whiting fishery. In recognition of the increased accuracy in total catch estimates for incidental species, five of the six motherships began to carry two observers in 2000. Prior to 2000, only one observer was present on the mothership processors during the Pacific whiting fishery. Since 1996, the tribal allocation fishery has generally carried two observers. However, vessels may choose not to carry an observer. Without the observer information, voluntarily submitted vessel logbook data, though less accurate, could be used to determine total catch of whiting. Without any observers, season openings and closures could be dictated by a prescribed duration of season rather than catch of the targeted species. Without 100% observer coverage, the terms and conditions of the Section 7 ESA consultation on the Pacific Coast groundfish fishery which requires 100% observer coverage to account for incidental take of ESA listed salmon, would not be met. Biological data from only the shore-based sector would be inadequate for stock assessments.

A2. CONCLUSIONS

Despite the lack of mandatory coverage requirements, all processing vessels have voluntarily carried at least one or two observers since 1991. Observer information exclusively is used to estimate the total catch of target and incidental species in the offshore portion of the Pacific whiting fishery. Maintaining the flow of observer data at current levels would reduce the likelihood of greatly exceeding whiting allocations or substantially underestimating bycatch species. Both of these conditions could affect the long-term biological stability and yield of whiting or other species. Having two observers on each vessel is expected to improve the quality of information used for quota management and for estimating incidental species bycatch by reducing the influence of between-haul variability. By reducing observer coverage below current levels on board these vessels, the margin of error in determining total catch by species is likely to increase.

A2. RECOMMENDATION

NMFS promulgate regulations requiring two observers be placed on motherships (open access and tribal allocation) and catcher processing vessels.

Responsible Official: Regional Administrator NWR
Completion Date: March 2001

C. RISK

Qualified observers may not be recruited and/or retained.

C. OBJECTIVE

Only observers who meet NMFS standards of conduct or performance while deployed are rehired.

C1. CONTROL TECHNIQUE

The NPGOP requests that contractors only provide experienced observers for the Pacific whiting fishery. There are no regulations that prohibit rehiring of observers who do not meet NMFS standards of conduct or performance while deployed. Rehiring of observers is at the contractor's discretion, which may be influenced by industry's need for observers to provide data necessary to monitor the whiting cooperative.

C1. TEST

Interview NWR and NPGOP personnel.

C1. FINDINGS

1. Two of the four contractors who placed observers in the Pacific whiting fleet were interviewed. Regardless of whether regulations are in place, the same insurance coverage and other aspects of deployment, hiring and training (with the exception of providing a prior observer) are exactly the same as those under the NPGOP. One contractor mentioned that he did not review the debriefing score for Pacific whiting observers. His impression is that the lack of regulation governing observer behavior made no difference in the observer's performance of her/his duties.
2. Two NPGOP staff were interviewed and asked if there was any difference in the quality of Pacific whiting observer data compared with data gathered from observers in Alaska. Both staff personnel thought that there was no difference in quality of the work. They also noted that contractors have been complying with all NMFS's requests in terms of providing experienced observers and observers passing the fish identification test. One staff member thought that Pacific whiting observers performed well because observers were fearful that NMFS would make them go through a 4-day training session or require additional training if they did not maintain the performance standards of those in Alaska.
3. In 1996, the NPGOP attempted to decertify two observers whose job performance was unacceptable. Because there were no regulations in place regarding certification and decertification of observers, no action could be taken. Since that time, whiting observers' performance has been satisfactory and the NPGOP has not attempted to decertify any Pacific whiting observers.
4. Observer contractors have indicated that the experience in the whiting fishery has been used to qualify observers for participation in the restricted access fisheries in Alaska where there have been observer shortages.

C1. CONCLUSIONS

Although Pacific whiting observers currently appear to be performing their duties as well as observers serving in Alaska, there is no guarantee that observers will continue to perform at a high standard. While regulations governing decertification may appear cursory, there are serious data quality implications. Data generated by Pacific whiting observers are used immediately for in season management. If these data were collected in an unscientific manner, the season could be prematurely closed or Pacific whiting over harvested by extending the season.

C1. RECOMMENDATION

NMFS should promulgate regulations and guidelines for observer certification and decertification.

Responsible Official: Regional Administrator NWR

Completion Date: March 2001

E. RISK - HEALTH AND SAFETY

The health and safety of observers may be impaired.

E. OBJECTIVE

The health and safety of observers are protected.

E1. CONTROL TECHNIQUE

The NMFS administers the health and safety requirements of 600.725 (p)-(u) and 600.746.

E1. TEST AND FINDINGS

Analyze the results from the Pacific whiting observer survey.

1. Were there any tripping hazards or dangerous obstacles between the collection point and sampling locations? Twenty-five percent of observers indicated "Yes, most of the time or always," 25% answered "Yes, occasionally," and 50% responded "No, never."

2. Did vessel, plant or company personnel create any impediments to either sending or receiving catch messages and/or other work related issues? Observers reported that 4% "Suspected there was interference but was unsure," 4% said "Yes, but with minor interference," 92% responded that "No difficulties were encountered."

3. Did you encounter any other difficulties or concerns in your communications? One hundred percent responded "No."

4. Did any personnel show you or were you able to determine the location of the following safety features?

	Yes	No
A. General Alarm	97%	3%
B. EPIRB	100%	
C. Survival Suits for all aboard	100%	
D. Life preservers for all aboard	77%	23%
E. Life raft capacity for all aboard	100%	

F. Fire extinguishers	97%	3%
G. First aid equipment	97%	3%
H. Life rings/buoys equipment	100%	
I. Flares/smoke or dye markers	70%	30%
J. Radio equipment	100%	

5. Who showed you what to do in case of an emergency? Thirteen percent indicated the captain, 57% indicated the mate, 13% factory manager/foreman, 13% other crewmember.

6. When you were shown what to do in an emergency, what emergencies were addressed?

	Yes	No
A. Abandon ship	97%	3%
B. Fire	87%	13%
C. Man overboard	73%	27%
D. Vessel flooding	40%	60%
E. Collision or grounding	27%	73%
F. Loss of engine power	30%	70%
G. Loss of electrical power	20%	80%
H. Gas leak	3%	97%

7. Which of the following emergency situations were addressed during the safety drills?

	Yes	No
A. Abandon ship	90%	10%
B. Fire	77%	23%
C. Man overboard	50%	50%
D. Vessel flooding	30%	70%
E. Collision or grounding	23%	77%
F. Loss of engine power	23%	77%
G. Loss of electrical power	17%	83%
H. Gas leak	7%	93%

8. Were safety drills held while you were on the boat? Respondents indicated “Yes” 93% and 7% indicated “No.”

9. Were alcohol and/or drugs used by vessel personnel to a degree that you felt your safety was compromised? One hundred percent responded “No.”

10. Was there an individual on board who was designated to provide medical services as needed? One hundred percent responded “Yes, there was.”

11. What was the position of the individual who was designated to provide medical services as needed? Seven percent indicated the captain, 13% mate, 3% factory manager/foreman, 47% purser, 13% other crewmember, 17% other individual.

12. Did this individual have specialized training to aid them in providing medical services?

Observers indicated 33% “Yes but didn’t know the type of training,” 40% “Yes, emergency medical training,” 17% “Yes, general first aid,” 3% “No specialized training” 7% “Don’t know.”

13. Did you incur an illness or injury while working on board this vessel? Seven percent indicated they experienced an illness while on board, 23% were injured while on board and 70% were neither injured nor ill during their observer contract.

14. Did any other safety problems or accidents occur during your deployment? Sixty-nine percent indicated there were no other problems, 6% person overboard, 6% loss of steering, 6% fire, 6% loss of engine power, and 6% other problems.

15. Were you provided with safe conditions during embarkation, disembarkations or transfers? One hundred percent of the respondents answered “Yes.”

16. Did your vessel have a current “USCG Commercial Fishing Vessel Safety Examination” decal on board? Eighty-three percent noted that “Yes, the vessel had a current vessel safety decal.” The remaining 17% were unsure since they did not check to see if the vessel had a safety sticker or its expiration date.

17. Were there any conditions aboard this vessel (that have not previously been mentioned) that may have affected your safety and well-being? One hundred percent responded “No.”

18. Did you encounter any other impediments during your deployment? Include both significant and insignificant incidences. Ninety percent of observers reported that no impediments were encountered, 3% noted that they experienced a hostile or observer unfriendly working environment, 3% they experienced verbal intimidation by the crew, and 3% said there was intentional effort to block or interfere with the collection of fish for samples.

19. Were you notified at least three hours before the time you were to disembark this vessel? One hundred percent of observers indicated they were notified at least three hours prior to disembarkation of their vessel.

20. Did you notice any potential violations? Ninety percent of observers responded that they did not witness any potential violations, 7% were unsure if they had witnessed a violation because they noticed plastics in the water that may have come from their vessel, and 3% observed the crew throwing plastic material into the water, which is a Marpol violation.

21. Were you asked to do anything that was contrary to what was presented in the observer standards of conduct, conflict of interest standards, or confidentiality standards? One hundred of the observers indicated that they had not been asked to do anything contrary to standards of conduct, conflict of interest or confidentiality standards.

22. Have you had any late payment or non-payment problems with your contractor? Ninety percent of observers responded that they had not had problems with payment by their contractors and 10% were unsure if they had payment problems because the pay date had not arrived.

E1. CONCLUSIONS

Most vessels appear to be doing a good job of pointing out to the observers where the safety equipment is located and having safety drills. However, observers must be more motivated or better trained to identify if there is a safety decal on board since 17% did not check to see if the vessel had a current safety decal. Observers encountered a surprisingly large (30%) rate of injury/illness while on board these large factory trawlers and motherships. Injuries comprised the majority (76%) of these problems. In addition, 50% of observers encountered obstructions from their data collection point to the sampling station.

E1. RECOMMENDATION

Clarify that the health and safety requirements at 600.725 (p)-(u) and 600.746 apply to the Pacific whiting fishery. If the program becomes mandatory, require that the regulations be in effect.

Responsible Official: Regional Administrator NWR

Completion Date: March 2001

H. RISK - DATA ACCURACY

The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE

Observer data is complete and accurate.

H1. CONTROL TECHNIQUE

None

H1. TEST AND FINDINGS

Interview: Pacific whiting observers.

1. Was the Daily Cumulative or Daily Fishing Logbook maintained in an accurate and timely manner? Trawl/set number, time, position and estimated weight within two hours, processing data by noon next day. The vast majority of observers (90%) indicated "Yes," while some observers (7%) responded "usually but not always" and 3% said "No" the logbook was not filled out.
2. Were you allowed access to the vessel's NMFS required logbooks? Ninety percent of the observers indicated they were "allowed unobstructed access" to vessel logbooks, 3% "Yes but at the convenience of vessel personnel," 3% "did not try to gain access," while 3% "was allowed to collect fishing effort data from a logbook that is different than the one required by NMFS."
3. Did you notice significant discrepancies between logbook information that is used for the

Haul forms and your own observations? Ninety percent of observers said they noticed no differences between the logbook information and their own observations, 3% indicated “Yes, there were differences,” while 7% did not look for discrepancies.

4. Were you asked to maintain any part of the logbook? One hundred percent of the observers responded “No” they had not been asked to maintain any part of the vessel’s logbook.
5. Did you have free access to unsorted catch in all bins/tanks/pots/or areas of deck or longline at all times when haul/set was processed or brought aboard? Eighty-nine percent of observers responded “Yes, always” that they had access to unsorted catch while 11% indicated “Yes, occasionally” they had access to unsorted catch.
6. Were you able to apply random sample techniques using a sampling frame? Seventy-five percent of the observers indicated they were able to apply the random sampling technique using a sampling frame, 3% said they were “occasionally” able to use this, while 19% said this was impossible on their vessel and 3% listed other reasons for not using random sample techniques with the sampling frame.
7. What vessel related factors may have compromised completely random sampling? Twenty-five percent of observers did not encounter any problems, 36% indicated that there was sorting either mechanically or physically by the crew, 11% did not have complete access to all portions of the haul, 11% indicated they needed more time between hauls, 7% respondents indicated there were too many sorters creating space constraints, 3% said that mixing of hauls occurred that impacted random sampling, 3% space limited their sampling efforts, and 3% indicated the location of their sampling station reduced their ability to sample.
8. Do you believe that there is a chance that some sample bias occurred in the species composition samples taken aboard this vessel? Fifty-seven percent of observers responded “No” there was no chance that sampling bias had occurred, 23% responded “Maybe” while 20% indicated “Yes” it was possible that sample bias was occurring.
9. Were you able to randomly collect approximately 20 sexed lengths per sampled haul or set on this vessel? Ninety percent of observers indicated they were able to collect 20 sexed lengths for every sampled haul, 7% said “Yes, on almost all hauls,” while 3% noted “Yes but only able to collect sexed lengths from a small number of sampled hauls/sets on this vessel.”
10. Were any animals intentionally or unintentionally removed from the catch prior to the collection of your composition or prohibited species samples? Fifty-two percent of respondents noted “nothing was ever removed,” 34% indicated that “Yes, large animals such as sharks and extremely large halibut (150cm+)” were removed, 6% indicated “whole or partial codends were dumped overboard,” 3% noted “various animals were removed prior to the collection of the samples,” 3% indicated “prohibited species of various sizes were removed,” and 3% did not know if any animals were removed prior to sampling.

11. How often were animals removed from sampled hauls prior to the collection of composition and prohibited species samples? Fifty-seven percent of observers responded that “no animals were removed prior to the collection of samples,” 30% indicated that it “happened on one or two occasions only,” while 13% indicated this occurred “very infrequently (less than 25%).”

(Sample station questions are not here. They are relevant to providing conditions that allow an observer to carry out their required duties according to the defined protocols.)

H1. CONCLUSIONS

Most Pacific whiting vessels appear to be recording catch and location information in their logbooks correctly and without asking observers for assistance. The management structure presently employed in the Pacific whiting fisheries is based on the assumption that observer samples accurately represent catch, particularly for declaring fishery closures based on the total catch of whiting. Multiple sources may contribute to inaccuracy or bias in observer samples of catch. Observers on whiting vessels identified some sources of bias which occurred rarely and do not appear to affect overall catch estimates or management, while other sources of bias may have been more consistently present and have a greater impact of the accuracy of observer data. Since the data that observers collect is extrapolated to non-sampled hauls and to non-sampled vessels, underestimation in sample data has the potential to affect the overall estimates. From the data provided by observers, the degree to which bias affects the total catch estimates is not measurable.

H1. RECOMMENDATION

NMFS promulgate regulations for vessels to provide conditions that allow an observer to carry out their required duties and to prohibit interference of vessel personnel regarding the sampling of catch. NPGOP staff should begin an outreach effort to vessel owners and personnel regarding how sampling bias affects observer information. In addition, NPGOP staff should tour each vessel that has been identified as having mechanical bias problems and review ways to avoid this bias by changing the sampling protocol, or requesting the vessel redesign a portion of the factory.

Responsible Official: Regional Administrator, NWR

Completion Date: March 2001

SERVICE DELIVERY MODEL: RESOURCE FUNDED THIRD PARTY AGREEMENT

NORTHEAST REGION - SEA SCALLOP DREDGE OBSERVER PROGRAM

NARRATIVE

Introduction

For the first time NMFS used a new service delivery model in 1999 termed the “Resource Funded Third Party Agreement” because it uses a portion of a fishery’s Total Allowable Catch to fund the observer program.

The National Marine Fisheries Service (NMFS), Northeast Fisheries Science Center (NEFSC) signed an Agreement with the National Fish and Wildlife Foundation (NFWF) to receive funds from the sale of allocated resources by the fishing industry for observer salaries and to disburse those funds to the observers. The payments were made to observers who were deployed on sea scallop vessels fishing in an area previously closed to mobile gear fishing activity. The observers were recruited, trained under contract, and deployed by staff of the NEFSC Fisheries Sampling Branch (FSB).

Funding for observer deployments was provided by allocation of sea scallop resources specified for that purpose. The Total Allowable Catch (TAC) of sea scallops from the Georges Bank Closed Area II was determined to be 4,300 metric tons of meat weight. One percent of that or 43 metric tons were added to the TAC and set aside for the funding of observer costs.

None of the funds derived from sale of the scallops was used to defray cost incurred by NMFS. Those costs were paid from funds originally allocated for other purposes. The costs included NEFSC staff time, equipment, supplies, training contracts, observer deployments made by the NEFSC’s observer contractor to supplement the supply of new sea scallop observers and any deployments made by the new sea scallop observers prior to the implementation of the agreement with NFWF.

Each vessel taking an observer was allowed to harvest 200 additional pounds of sea scallop meat for each day an observer was assigned to the vessel. Vessels would then sell the additional catch allocation at prevailing dockside prices. At a minimum dockside price of \$5.00 per pound, this resulted in vessels making at least \$1,000 in additional revenue per day. At the completion of the trip, each vessel owner or designee sent a check to the NFWF for \$425 for each day an observer was on the vessel. Observers provided invoices to the FSB itemizing their deployment days. Upon verification of the invoices by a member of the FSB staff, the FSB Chief authorized payment by NFWF to the observers. Any amount of money remaining in the NFWF fund after all compensations were made to observers were divided proportionately among all vessels which contributed to the fund.

The Statement of Work (SOW) for the current agreement was developed by staff of the Fisheries Ecosystem Monitoring and Analysis Division (FEMAD) and the FSB with help from the US Department of Commerce, Eastern Administrative Support Center (EASC), Procurement Division.

A sole source justification was made by NMFS in order to procure services in time to open the fishery, so no Request for Proposals (RFP), advertising or receipt of bids was conducted by EASC. The agreement was negotiated directly by EASC with NFWF and NMFS did not exercise any direct management control over the process. The Agreement did receive extensive legal review by NOAA General Council and it was determined that it was not a contract or grant. The Agreement was awarded to NFWF in July 1999 and work under the terms of the agreement began with trips which ended 30 July 1999. NFWF was paid a flat fee of 8% of the payments made to the observers. The agreement was not in place prior to the opening of the fishery and funds to cover the costs of deployments for the first six weeks of the fishery were reallocated from other NMFS accounts. No control measure was in place to prevent the opening of the fishery and deployment of observers prior to implementation of the agreement.

Observers submitted invoices to FSB following each deployment. FSB staff reviewed and validated the invoices by comparing the claims against trip records. The validated invoice from the observer with the vessel name and dates of deployment was provided to NFWF by FSB with a cover letter requesting that payment be made to the observer whose invoice was attached.

Captains/owners sent checks directly to NFWF along with the vessel name and address for the payment of the \$425 per observer day. NFWF sent receipts for payments received to each vessel.

There was a lengthy delay in the issuing of the initial 40-50 checks. NFWF was attempting to initiate a new computer program to automate the issuance of the checks to observers. The delay became excessive and FSB staff needed to intercede in the matter with several phone calls. The checks were finally drafted by NFWF using typewriters. At least half way through the Agreement, NFWF still did not have the computer program running. No management control was available with regard to enforcing timely delivery under the agreement.

Data collected on each trip were mailed by the observer to the FSB after each trip, unless the observer deployed directly to another vessel. Data were collected using highly simplified versions of the logs regularly used by observers covering the scallop fishery and those data were primarily concerned with the monitoring of yellowtail flounder bycatch. Thus, extensive data on other species and age structures were not collected by observers in this program.

Because the logs were a modification of logs currently used by the FSB existing data entry programs could not be used and no resources were available to pay for data entry even if entry programs had been available. Also, it was anticipated that the quality of the data would be poor so there was little incentive to develop data entry programs or seek funding to enter the data. As a result, data were not entered by NMFS and not subjected to computerized audits for error detection.

Fisheries Observed

Atlantic Sea Scallop Dredge Fishery - Georges Bank Closed Area II

Event Cycles

Staffing and Recruitment

The NEFSC Fisheries Sampling Branch has a full time permanent staff of nine personnel for overall management and support of all northeast regional observer programs. The staff consists of one GS-14 Fishery Biologist Branch Chief, one GS-12 Statistician, five GS-9 through GS-12 Fishery Biologists, one Computer Assistant and one Secretary/Office Automation Specialist. FSB staff dedicated to this Sea Scallop Dredge Fishery primarily consisted of the Branch Chief and one GS-12 Fishery Biologist with additional help primarily with recruiting and training from FSB staff.

The GS-12 Statistician recruited observers with help from other FSB staff. Observer candidates were recruited by advertisements in newspapers, contacts with the fishing industry, contacts in the fisheries academic community and contacts with observer programs in other regions. An application format was used with a simple listing of past fishing vessel employment and/or qualifying fisheries related formal education. No background checks nor contacts with references were made. A committee of 3 NEFSC staff headed by the GS -12 Statistician reviewed the applicants and selected candidates based on availability for specific training sessions combined with fishing experience and education in fisheries related fields.

Observers were not employed by NMFS. Observers were individually contracted for the duration of training and deployments using blanket purchase agreements. Blanket purchase agreements remained in effect for observer deployments until the agreement with NFWF became effective. After the agreement went into effect, blanket purchase agreements were used to pay observer candidates only during training. Observers were treated as though they were individual contractors even though they did not have contracts with NMFS, NFWF or the scallop industry.

Training

FSB staff developed a brief training agenda outline and provided some limited staff to help train observers. Four training sessions for observers were subsequently conducted under contract with the Manomet Center for Conservation Sciences. Manomet charged NMFS \$78,978 for conducting the four training courses, each of which lasting five days including one day devoted to safety, first aid and CPR. The U.S. Coast Guard vessel safety inspection program staff provided safety training at no cost to Manomet or NMFS. Manomet determined if the observer passed the course based on tests they developed and administered. No at-sea training was provided.

Trainees were contracted by the NEFSC and paid \$200 per day or \$1,000 for attending the 5-day training session. All candidates who were accepted into the training program verbally indicated they would accept deployments prior to start of training. Of 42 selected applicants, two did not show and were replaced, two dropped out during training, four passed the course but never deployed, 10 passed the course and deployed only once and 20 passed the course and were

deployed more than once.

Cost of the Manomet training contract, individual observer training contracts, travel and time lost from other duties by FSB staff during training were not reimbursed by the industry.

Deployments and Logistics

Equipment and Supplies

FSB staff purchased, stored and issued all observer equipment. Observers were issued basic equipment, including safety equipment (survival suit, EPIRB, strobe light, etc.), sampling gear (length frequency boards, weight scales, etc.), field guides and standardized forms following training. As equipment and supplies were used, broken or otherwise in need of replacement, NMFS issued replacements. FSB staff maintained inventories of equipment and supplies. Sign-out sheets were used by each observer to record issued gear and supplies. Observers turned in their gear following their last deployment. No control mechanisms were in place to assure they did and it required repeated phone calls and threats of prosecution to get equipment back from the one observer who did not turn it in.

Funds for purchase of equipment and supplies were not reimbursed from the sale of allocated resources. Equipment and supplies were purchased using funds from other NEFSC accounts. As no mechanism was in place to provide for the reimbursement of cost incurred by NMFS and there was risk of mis-allocating government funds meant for other projects.

Observer Deployments

The goal of the program was to assign observers to 25% of all vessel trips in order to collect sufficient data to determine when the yellowtail flounder bycatch quota would be met. Vessel operators called in their daily sea scallop catch reports which were used to monitor the status of the sea scallop quota.

Vessels sailed from Virginia, New Jersey, New York, Connecticut, Massachusetts, New Hampshire and Maine with the majority sailing from New Bedford, Massachusetts, the dominant sea scallop port of landing in the northeast. Because of the distance to the Georges Bank site, many vessels from ports south of central New Jersey landed their catches in New Bedford. Observers worked out of their homes in Massachusetts, New Hampshire and Maine. No observers were successfully recruited and trained from New Jersey or Virginia, states other than Massachusetts with large scallop fleets.

Initial assignment of observers was done by random selection of vessels expected to participate and they were notified at the time the fishery opened in mid June. Subsequently, each vessel was required to give five days notice prior to sailing. A decision was made by the FSB Chief as to whether or not to assign an observer or grant a waiver based on observer availability and whether or not the vessel had taken an observer previously. Each vessel was required to report its activities daily via a satellite based tracking system. That system relayed files of vessel activities twice daily that were accessed by the FSB Chief. Using those files, he determined the vessel's

status as to previous observer assignments and remaining trips and attempted to select as many different vessels as possible for observation. One member of the FSB made all of the actual assignments of the observers to the selected vessels. Once an observer was assigned a vessel and the vessel operator informed, it became the responsibility of the observer to contact the vessel operator and assure that he or she met the vessel at the port site and date scheduled for departure.

Observers were instructed to check vessels for safety including display of current coast guard safety inspection stickers. When they were found not to be in compliance, the vessel operator was advised to get inspected, remedy any unsafe conditions and pass the inspection before they could fish under their closed area permit. In a few cases, observers were reassigned pending the inspection and the vessel was allowed to make one trip conditional on passing inspection and taking an observer on the next trip.

Observers were neither federal employees, vessel employees nor employees of the NFWF. Thus, there were no provisions made for liability or other appropriate insurance including workman's compensation or unemployment insurance. Vessel owners were advised via a notice to all permit holders to take out insurance riders to protect themselves from claims by observers. There were no control mechanisms in place to assure that vessels complied with the recommendations to carry insurance riders.

Data Collection

The goal of the sampling design was to determine the ratio of bycatch of yellowtail flounder to scallops landed in the scallop fishery so that estimates of total yellowtail flounder bycatch could be made and the fishery closed if and when the bycatch limit was met. The New England Fishery Management Council recommended the opening of the fishery contingent on NMFS obtaining 25% coverage of the fleet to assure sufficient sample size for accurate bycatch estimates. NMFS supported the opening of the fishery. No actual post fishery analysis was conducted to determine if 25% coverage was appropriate and as the data were not entered to analyze, no control mechanism was in place to assure that future levels of coverage are based on analysis of those data.

A limited suite of data were collected including information on each observed haul location, species caught, species discarded and size frequency of sea scallops and several key groundfish species including yellowtail flounder, monkfish, and barndoor skate. Observers were provided with measuring boards and weight scales for the purpose of collecting actual lengths and weights of the catch composition. Other essential equipment and supplies needed for the collection of these data were also provided.

Among the limited suite of data collected was the estimation of pounds of sea scallop meat and pounds of yellowtail flounder caught from each tow. These estimates were summed daily by the observer and reported to the vessel captain. The vessel captain in turn transmitted those daily estimates as well as the captain's own estimate of the total pounds of sea scallops caught and kept via the vessel monitoring system's satellite-based communication system. The daily ratio of observed yellowtail flounder catch to sea scallop catch kept multiplied by the total scallops

caught and kept was used to estimate total yellowtail flounder bycatch. The fishery was closed when the estimated yellowtail flounder bycatch quota was met. The data transmitted by the vessel captains and used to estimate the yellowtail flounder bycatch was not compared to the data actually collected and recorded by the observers. Thus, there was no control mechanism to assure that either the observers or captains provided correct information.

Debriefing, Data Entry and Editing

Debriefing

Observers received only limited debriefing by FSB staff. Less than 5% of the trips were followed by face to face debriefings. Some debriefings were conducted by phone. There were no funds for observer travel to Woods Hole for debriefing nor staff available to debrief the observers.

Data Entry

Data were not entered except by the vessel operator who sent a daily summary of estimated total scallop catch, observed scallop catch kept, and total observed yellowtail flounder catch. There were no control mechanisms in place to assure that each vessel actually reported on each fishing day.

Data Editing

Some editing of the observer data was done on a manual basis by FSB staff. However, it was very limited due to lack of staff available for the project. Routine comparisons were not made between the data transmitted by the vessel captain and that documented on the data collection forms by the observer. A superficial spot check of 20 trips indicated that the daily summary data transmitted by the vessel captains were different from the observer's recorded daily totals from the same trips on at least one day for 18 out of 20 trips. A further spot check, comparing transmitted data with observer logs from only inexperienced observers recruited from the industry, indicated that daily summaries disagreed on 30 of 32 comparisons. Since the data were not entered, computerized audits of the data could not be made.

The catch reporting system used by the vessel operators did not specify the sequential tow numbers that were observed. This prevented a detailed comparison between the captain and observer data since it was not possible to always determine which set of observed hauls were used by the captain in his daily report.

Data Location

All trip folders are filed in spine folders that are labeled and filed by year, month, and trip identifier. The sea scallop closed area observed trips are currently filed in one office and there are no duplicate paper copies filed or computerized files elsewhere. Trip data files may be viewed by data users to reference raw data, observer comments, and annotations on the logs. The FSB maintains control of the files.

RISKS, OBJECTIVES, CONTROL TECHNIQUES, TESTS, FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

A. RISK

Funds for the program may be unavailable for obligation consistently and on time.

A. OBJECTIVE

Funds for the program are obligated consistently and on time.

A1. CONTROL TECHNIQUE

The program manager obtains and issues funding guidance in sufficient time to recruit, train and deploy observers.

A1. TEST QUESTIONS(S) AND FINDINGS

The program manager was asked if funding guidance (and mechanism) was issued in sufficient time to set up the program for the season (advertising for, hiring and training observers, procuring sufficient equipment, developing a logistics plan for deployment of observers, establishing a mechanism for receiving funds from the industry.) If not, what other arrangements were made.

The time frame for setting up the first year of the Closed Area scallop fishery was short. The decision to open the area was not made in time to implement strategies for the smooth operation of the program.

The program manager was originally instructed to hire displaced fishermen as observers. While this may have provided temporary relief to some fishermen who were out of work, it failed to solve their long term problem. Additionally, it opened up the program for accusations regarding conflict of interest. Overall accuracy of data was questioned and, in fact, the data were not of sufficient quality to allow entry into the database. The requirement to hire fishermen was lifted and non-fishermen were recruited and trained as well. However, the delay in recruiting non-fishermen resulted in limiting the pool of observer candidates.

No mechanism was in place for the industry to fund the training nor for the industry to fund procurement of equipment and supplies as there was insufficient time to develop the mechanism. NMFS contracted and paid for training and purchased equipment and supplies.

A mechanism was ultimately put in place using an agreement with National Fish and Wildlife Foundation (NFWF) to act as receiver for funds from the industry to pay for observers' salaries. NMFS set a daily rate charge for each day an observer was deployed on the vessel. An observer TAC was implemented to allow vessels with observers to catch an additional 200 pounds of scallop meats per day to offset the cost of the observer. However, while industry did pay for most of the deployments, it did not pay for all of them. The initial deployments were paid for by NMFS since the agreement with NFWF was not implemented prior to the opening of the fishery.

A1. CONCLUSIONS

A well thought out funding mechanism was not in place in time to allow for efficient set up and running of the program. The pool of observer candidates was limited by uncertainty concerning hiring of displaced fishermen, the agreement was not in place prior to the opening and there was insufficient time to develop a mechanism for industry to pay for training, equipment or supplies.

A1. RECOMMENDATIONS

The program needs to develop the Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening and be prepared to proceed with the solicitation, proposal review and selection of a contractor and to recruit and train observers. The contract must provide for training as well as procurement of equipment and supplies from a fund paid into by the industry.

Responsible Official: Chief, FSB.

Completion Date: Immediate

B. RISK

The cost of providing observers may be excessive or mis-allocated within government and industry.

B. OBJECTIVE

The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE

The FSB purchases, stores and issues observer equipment.

B1. TEST QUESTION(S) AND FINDINGS

The COTR was asked how she authorizes and accounts for purchases, and if staff matches the deliveries with the shipping document and the receiving document with the purchase order. She was asked how purchases are made, equipment stored and distributed to observers and how inventories are maintained.

The COTR supervised one FSB staff member who maintained an inventory of supplies and equipment. The COTR determines the kinds and amounts of supplies and equipment needed based on experience and standardized lists of supplies and equipment which observers need to perform their duties. When the level of supplies and equipment was reduced to a predetermined level, more were ordered by the COTR. It was determined that program staff make purchases, using credit cards following Laboratory policies.

Supplies and equipment are maintained in a locked storage area which is accessible only by program staff. Equipment which cost is above a certain dollar amount is labeled with U.S. Government bar codes. A sign-out sheet is completed for each observer when any equipment or supplies are issued (other than data forms and expendable items such as gloves, knives, etc.) No problems have been encountered. Program staff handled the storage and dispersal of supplies and equipment and no problems were encountered.

B1. CONCLUSIONS

Sufficient management controls exist for purchasing, storage and dispersal of supplies and equipment.

B1. RECOMMENDATIONS:

None

B2. CONTROL TECHNIQUE

NMFS pays all costs associated with supplies, equipment and training for observers.

B2. TEST QUESTION(S) AND FINDINGS

Interview the COTR for the training contract and the FSB Chief.

Due to short lead time, NMFS was required to sole-source the contract for the training of observers. The only available contractor did not have highly qualified training staff available and NMFS lacked its own staff and facilities to conduct the training at their own site. This resulted in a less than satisfactory training program. Cost was high and quality of training was poor.

No mechanism existed for the industry to pay for the cost of training, equipment or supplies so it was necessary to divert funds allocated to other high priority programs to pay for those costs. Thus, NMFS rather than the industry, paid for the training, equipment and supplies as there was insufficient time to develop a mechanism for the industry to pay.

B2. CONCLUSIONS

The training was poor and NMFS rather than industry paid for it. Equipment and supplies were paid for and procured by NMFS rather than the industry. The TAC set aside for the observer program was not efficiently utilized to cover the actual costs of the program. Funds were diverted from other existing programs creating shortfalls.

B2. RECOMMENDATIONS

Develop a Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening and be prepared to proceed with the solicitation, proposal review and selection of a contractor and to recruit and train observers. The contract must provide for training as well as procurement of equipment and supplies to be paid from a fund paid into by the industry.

Responsible Official: Chief, FSB.

Completion Date: October 2000

B3. CONTROL TECHNIQUE

NMFS compensates scallop fishermen for the costs of deploying observers.

B3. TEST QUESTION(S) AND FINDINGS

Interview the program manager.

TAC was set aside to pay for observer coverage. During the 1999 season, vessels were allowed to catch an additional 200 pounds above the limit of scallops for each day the vessel carried an observer. The vessel was then required to provide \$425 per day to the fund set up by National Fish & Wildlife Foundation (NFWF) for the cost of the observer's salary. Any money remaining in the fund after salaries are dispersed was to be returned to the industry by NFWF. As of July 2000, the money had not been returned by NFWF to the industry participants.

B3. CONCLUSIONS

The sale of additional catch rather than NMFS compensated the fishermen. The TAC set aside and daily additional catch allowance were sufficient to compensate fishermen. However, while the TAC set aside compensated the fishermen, it did not compensate NMFS for the costs of training observers, supplies, equipment or managing the program.

B3. RECOMMENDATIONS

The program manager needs to develop the Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening and be prepared to proceed with the solicitation, proposal review and selection of a contractor. The cost of providing different levels of required coverage must be estimated and those estimates used to form the basis for the TAC set aside and daily additional catch allowance. The terms of the contract and moneys to be paid into the fund from which the contractor draws from must be determined in advance to assure that sufficient funds will be deposited to cover the cost of the project. The contract must also require a mechanism for refunding excess funds collected.

Responsible Official: Chief, FSB

Completion Date: Immediate

B4. CONTROL TECHNIQUE

FSB staff verifies invoices submitted by observers.

B4. TEST QUESTION(S) AND FINDINGS

Interview the program manager and examine recent invoices from observers.

In 1999, the COTR received invoices submitted by observers after each deployment. These were verified using data logs submitted for the trip. Upon verification by NMFS staff, they were forwarded to NFWF for payment to the observer.

NFWF received a flat fee of 8% to provide payment services. It is difficult to assess if this was an appropriate amount for the service provided. Several times, calls had to be made to NFWF because payment had not been received by the observer after several weeks. It took more than six weeks after NFWF was to have begun issuing checks for the first checks to be issued. They were unable to implement a computer program and checks finally had to be typed by hand. As of 7/24/00, NFWF has not returned the excess amounts received in 1999 from the participating

vessels despite repeated telephone calls from NMFS. This money was to have been returned by March 2000.

B4. CONCLUSIONS

NFWF did not perform and deliver well. Unlike a contract with clear deliverables and accountability the agreement with NFWF lacked sufficient management control to assure that NFWF complied with the terms.

B4. RECOMMENDATIONS

The program needs to develop the Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening and be prepared to proceed with the solicitation, proposal review and selection of a contractor and to recruit and train observers. The contract must provide for training as well as procurement of equipment and supplies from a fund paid into by the industry. The contract must also require a mechanism for refunding excess funds collected.

Responsible Official: Chief, FSB

Completion Date: Immediate

C. RISK

Qualified observers may not be recruited and/or retained.

C. OBJECTIVE

Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE

NEFSC staff recruits observers by advertising and by personally contacting other observer programs.

C1. TEST QUESTION(S) AND FINDINGS

The NEFSC staff were interviewed.

In 1999, constraints were initially placed on the program requiring the hiring of displaced commercial fishermen. No minimal educational standards were established. Based in part on those constraints the quality of data was anticipated to be poor, and it was decided before the fishery opened that detailed data would not be collected nor entered into the NEFSC sea sampling database. Data logs were pared down drastically and simplified from the usual logs used for scallop deployments in the regular NEFSC observer program.

Constraints on the recruiting and hiring of non-fishermen were subsequently removed. However, the limited remaining time reduced chances to advertise and recruit widely.

In 1999, the pool of available qualified observers was small. Approximately 100 applications were received. Forty-four were selected. Forty individuals showed up for training. Forty completed training. Thirty-four deployed once and nineteen deployed more than once. Most of

the individuals who did not make themselves available for even one trip were commercial fishermen. This was in spite of the fact that all applicants were told specifically that they needed to be available to deploy to fishing vessels at the beginning of the season.

C1. CONCLUSIONS

The hiring practice used was inadequate to provide high quality observer candidates and data collection had to be limited to a few key observations.

C1. RECOMMENDATIONS

Hiring standards for candidates should be developed and enforced. Those standards should be consistent with standards employed elsewhere in NMFS observer programs which require at the minimum a 4-year college degree in fisheries science or closely related field or a 2-year degree with further qualifying experience. Observer program staff should start recruiting at least 135 days prior to any anticipated fishery opening.

Responsible Official: Chief, FSB

Completion Date: Immediately

D. RISK

Observers may not be properly trained to perform their duties.

D. OBJECTIVE

Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE

NMFS contracted with Manomet Center for Conservation Sciences to conduct training based on a brief training agenda provided by NMFS.

D1. TEST QUESTION(S) AND FINDINGS

Interview the COTR for the training contract.

Because of time constraints imposed by the schedule for the opening of the closed area, the program was not able to draft an RFP for the training contract. A contract was awarded using a sole source justification for the only local entity with prior training experience, Manomet Center for Conservation Sciences. The COTR provided Manomet with an agenda consisting of the program's standard training for CPR, First Aid and Vessel Safety plus instruction for logs specific to this fishery. Manomet's person put in charge of the training was not a full time employee, the courses were poorly presented and she did not conduct formal testing of observers. In short, the contractor did a less than adequate job.

The poor quality of the training was reflected in part by the poor quality of the data that were provided particularly by observers making only one trip subsequent to the training.

D1. CONCLUSIONS

Training was poor.

D1. RECOMMENDATIONS

The program needs to develop the Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening and be prepared to proceed with the solicitation, proposal review and selection of a contractor and to recruit and train observers. The contract must provide for training to standards used by NEFSC for training observers for its other observer programs including a curriculum specified by NEFSC.

Responsible Official: Chief, FSB

Completion Date: Immediate

E. RISK

The health and safety of observers may be impaired.

E. OBJECTIVE

The health and safety of observers are protected.

E1. CONTROL TECHNIQUE

NMFS arranges for observers to attend a Coast Guard safety course.

E1. TEST QUESTION(S) AND FINDINGS

Interview the program manager.

As part of their overall training, observers attended a half day safety training course conducted by Coast Guard safety inspectors. They are instructed to check the vessel for all required safety equipment. They are also instructed in the use of all required safety equipment. They are told to first look for a safety inspection decal and check for its expiration date. They are instructed to not deploy to the vessel if the vessel does not have a current inspection sticker. The observer has the option to decline a vessel, even if it has a current CG safety inspection sticker. In 1999, we had observers do this after checking the vessel.

In 1999, vessels were compensated for the cost of any riders they took from their insurance companies to cover the observer during deployment to that vessel.

E1. CONCLUSIONS

Safety training by the Coast Guard is beneficial. The CG safety inspection sticker is a valuable tool, if utilized.

E1. RECOMMENDATIONS

Observers should be required to document whether or not a selected vessel has a safety inspection sticker. In order to facilitate the implementation of safety standards all permitted vessels must be given notice by the Regional Office 90 days in advance of the start of a fishery

opening season that, in order to be able to participate in the closed area fisheries, they must be capable of taking an observer and in order to do that, they must possess a current Coast Guard safety inspection sticker. The Observer Program should advise the Regional Administrator at least 120 days in advance of an anticipated opening to alert the industry as to the safety inspection requirement.

Responsible Official: Chief, FSB
Completion Date: March 30, 2001

F. RISK

Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE

Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE

NMFS advises vessel owners to obtain insurance to cover the vessel in the event an observer is injured.

F1. TEST QUESTION(S) AND FINDINGS

Interview a sample of vessel owners in the Atlantic Scallop fishery. Interview the program manager.

In 1999, the Letter to the Permit Holder stated that NMFS would reimburse the vessel for any rider the owner took on his insurance policy to cover the observer during his/her deployment.

With some vessels, their P & I insurance policy covers the period of an observer's deployment to the vessel. Not all vessels were insured or the operators were unaware of the coverage provided relative to observers. We received approximately six invoices from vessels in 1999 requesting reimbursement for the cost of a rider.

F1. CONCLUSIONS

Observers may not have always have been adequately covered with insurance by the vessel during their deployment.

F1. RECOMMENDATIONS

The program needs to develop the Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening and be prepared to proceed with the solicitation, proposal review and selection of a contractor. The contract must provide for blanket liability insurance coverage for all vessels carrying observers to be paid from the funds deposited from sale of scallop TAC set aside. It must further provide for Workman's Compensation and, if appropriate, Longshoreman's and Harbor Worker's Compensation.

Responsible Official: Chief, FSB

Completion Date: Immediate

G. RISK

Observer coverage, deployment and data collection may not be well coordinated within NMFS or with other Federal, state or intergovernmental agencies.

G. OBJECTIVE

Observer coverage, deployment and data collection are well coordinated within NMFS and other Federal, state and intergovernmental agencies.

G1. CONTROL TECHNIQUE

The observer program manager routinely consults with the Fisheries Management Councils, NEFSC staff and the Regional Office staff to coordinate appropriate types and levels of coverage.

G1. TEST QUESTION(S) AND FINDINGS

Interview the program manager and appropriate NEFSC and Region staff.

The program interacted with several of the Regional Office staff members on a daily basis to provide up to the minute summaries of coverage. Regional Office staff interacted with the New England Fishery Management Council rather than NEFSC Observer Program staff as appropriate chain-of-command procedures.

The program staff also interacted with NEFSC staff who are tasked with stock assessment and quota monitoring. Meetings were held prior to the start of the program to determine what data would be needed to assess stocks and monitor quotas. Overall, the program supplied daily coverage summaries to RO, NMFS Enforcement and NEFSC.

State interaction did not occur because fishing areas were exclusively in Federal waters.

No new hiring or increase in support staff within the NEFSC Observer Program was allowed in response to significantly increased requirements.

G1. CONCLUSIONS

In spite of extended even daily communication efforts by NEFSC and F/NER staff, the total time allotted to develop and implement an entirely new program was insufficient. In addition to short time frames the NEFSC observer program lacked sufficient staff to implement all of the necessary procedures to assure an efficient and effective sea scallop observer program.

G1. RECOMMENDATIONS

Improve communication relative to its needs to implement programs mandated by Councils or the NER at least 90 days in advance of fishery openings.

Responsible Official: Chief, FSB

Completion Date: March 30, 2001

Alert Regional Administrator that program needs additional staff to carry out requested monitoring tasks.

Responsible Official: Chief, FSB
Completion Date: March 30, 2001

G2. CONTROL TECHNIQUE

The FSB Chief examines vessel records (received twice daily from vessels at sea), selects different vessels for coverage and assigns observers to specific vessels.

G2. TEST QUESTION(S) AND FINDINGS

Interview FSB Chief and examine records of vessel coverage.

VMS reports were monitored by the FSB Chief. However, vessels were assigned observers on a random basis. Because the Regional Office did not provide letters of instruction to the vessel owners in time to allow for the call in 15 days prior to the first fishing month, the requirement ended up being waived for the month of June. Not all vessels provided a full five days notice prior to each closed area trip.

Vessels were contacted by the program and given contact telephone numbers for the observers. Observers were given contact numbers for the vessels. If a vessel was not assigned an observer, they were contacted with a waiver from the program.

G2. CONCLUSIONS

Assignment of observers was based on random selection rather than use of VMS reports. Random selection was accomplished and the required 25% coverage level was achieved for the fishery.

G2. RECOMMENDATIONS

The Program Manager must assure that the notice to permit holders sent prior to the opening of a fishery includes the requirement to notify the Observer Program 5 days prior to each trip.

Responsible Official: Chief, FSB.
Completion Date: Immediate

G3. CONTROL TECHNIQUE

EASC negotiated and implemented an "agreement" with NFWF.

G3. TEST QUESTION(S) AND FINDINGS

Interview the FSB Chief and staff of NOAA General Counsel.

The agreement with NFWF passed NOAA and Commerce legal review. It differs from a

contract, grant or cooperative agreement in that there is no exchange of money between the Government and the “contractor.” The agreement was meant only to serve as a means of receiving payment for observers’ salaries from the industry. It was not a means to assure appropriate observer coverage and did not contain the same level of management control that a contract provides. It did not provide for training, procurement of equipment and supplies, insurance or other essential elements.

G3. CONCLUSIONS

“Agreements” were a legal option for the program, but the one in use with NFWF provided few services and essentially no management control.

G3. RECOMMENDATIONS:

The program needs to develop a contract Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening and be prepared to proceed with the solicitation, proposal review and selection of a contractor and to recruit and train observers. The contract must provide for training as well as procurement of equipment and supplies from a fund paid into by the industry.

Responsible Official: Chief, FSB

Completion Date: Immediate

H. RISK

The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE

Observer data is complete and accurate.

H1. CONTROL TECHNIQUE

The FSB staff compares the daily trip reports (for scallop and yellowtail flounder bycatch) transmitted by the vessel captains with the data recorded by the observers.

H1. TEST QUESTION(S) AND FINDINGS

Examine the spot checks of observers’ data and captains’ data.

Data collected in 1999 were not entered into the database, therefore, the program’s usual audits were not done on these data. Manual spot checks were done on the data and an error rate of approximately 10% was found. These included captain errors, observer errors and vessel reporting entry errors. Data are sometimes not received from the field for several weeks, if the observer is making back-to-back trips. Because of this, it is not possible to utilize the observers’ data to check VMS reports from the vessel in a timely manner.

H1. CONCLUSIONS

It was not possible to perform timely and accurate comparisons of catch reports sent from the vessels’ VMS with sea scallop observers’ data collected in 1999. Future data collected by sea scallop observers should be collected to the same standards that all other NE observer data are,

and processed through the observer program's usual editing procedure to be entered into the program's database with audit system. Data editing and entry may either be accomplished by inclusion in the overall contract observer services or through separate contracts. Clean, error free data can then be compared with other NMFS databases, if desired.

H1. RECOMMENDATIONS

The Program Manager should provide for the hiring or contracting of editing and entry staff at least 15 days prior to the opening of any fishery. Routine audits and checks shall be made.

Responsible Official: Chief, FSB

Completion Date: Immediate

H2. CONTROL TECHNIQUE

The FSB staff conducts limited debriefing of observers.

H2. TEST QUESTION(S) AND FINDINGS

Interview the FSB Chief and examine record of debriefings.

FSB was not provided with additional financial or staff resources for the program, and as a need for quick deployment turnarounds by the observers existed, most debriefings were done over the phone. Because the data being collected were significantly pared down from the regular observer program logs, debriefings could be done effectively over the phone at a rate of approximately 95%. However, debriefings catch mistakes made only after the fact and do not compensate for poor data collection in the first place so they were of limited value overall as only about ½ of all the observers trained made more than one trip.

H2. CONCLUSIONS

Debriefings were sufficient for the limited suite of data that were collected. However, additional staff will be needed for debriefing when the full suite of data are collected by future sea scallop observers.

H2. RECOMMENDATIONS

Additional debriefing staff must be hired or contracted at least 30 days in advance of any future opening in order to be trained to provide timely review, correction and feedback to observers.

Responsible Official: Chief, FSB

Completion Date: Immediate

H3. CONTROL TECHNIQUE

The FSB safeguards all trip data files in a single, secure location.

H3. TEST QUESTION(S) AND FINDINGS

Interview FSB staff and a sample of observers

Trip files are stored in a lockable room in a building with a security system. The room is an office containing many filing cabinets and staffed by two members of FSB. However, the door to the room is not always secured when staff is not present and filing cabinets are not all individually locked at all times when contents are not in use by authorized staff.

Ultimately, there is no means to assure that an observer has not retained copies of data files. The program can only instruct observers about the subject of data confidentiality and their responsibilities to maintain it. Observers are required to sign statements agreeing to assure confidentiality of all data and information gathered on a vessel.

H3. CONCLUSIONS

Data storage facilities are inadequate to maximize confidentiality.

H3. RECOMMENDATIONS

FSB should obtain a dedicated storage facility for data. This should be a location where access is not possible at any time without a key and accompanying FSB staff member.

Responsible Official: Chief, FSB

Completion Date: May 30, 2001

PART 2. DEVELOPMENT OF TEAM-WIDE RECOMMENDATIONS

In August 2000, the MCR Team met for two and one-half days in Boulder, Colorado. The objective of the meeting was to:

- present and discuss each region's major findings and conclusions, on a risk by risk basis
- finalize the regional recommendations (including completion dates and responsible officials)
- develop appropriate team-wide recommendations
- decide on the structure of the final report
- determine how the report might be adapted for external documents.

This section briefly summarizes the team-wide recommendations that were made in Boulder. Team-wide recommendations were developed primarily to address issues that were common to all regions and that would be more effectively implemented by the National Observer Program (NOP), in cooperation with each region.

A. Risk: Funds for the observer program may be unavailable for obligation consistently and on time.

In general, inconsistencies and delays in funding affected the regional observer programs' abilities to meet target coverage levels according to sampling design objectives. The team recommended that NMFS Leadership be made aware that the majority of observer programs have a recurring need for long term stable funding, and that observer coverage requirements need to be known and funding needs to be secured 6-9 months in advance of when observers are to be deployed to ensure that cost-effective contracts are in place or that sufficient numbers of federally-employed observers are hired and on staff.

The team also recommended that each region seek stable and consistent funding. Because one of the objectives of the NOP is to develop national budget initiatives to aid regional efforts to secure stable funding, the team recommended that the NOP use budgetary information provided by each region to achieve this objective. The team also recommended that the NOP determine whether there is flexibility in carryover authority, and investigate how other federal agencies with large-scale contracting responsibilities award contracts on a timely basis.

B. Risk: The cost of providing observers may be excessive or misallocated within government and industry.

Each region (except the NWR) administers observer programs developed to monitor interactions between commercial fishing operations and marine mammals, and each region has experienced some difficulties in having vessel owners comply with the requirement to carry an observer when asked to do so by NMFS. Therefore, the team supported the recommendation made by the Alaska Region, Cook Inlet Marine Mammal Observer Program, to explore options and develop a policy for handling vessels that refuse mandatory observer coverage under the Marine Mammal Protection Act (MMPA).

The Alaska Region determined that the NMFS-certified observer companies SDM has cost inequities for different segments of the fleet because there is no scaling of observer costs to any effective measure of effort or fishing capacity. Determining what is an equitable arrangement for industry cost-sharing in this SDM may be problematic. A clear definition of “reasonable and fair”, as it relates to industry funding of observer programs, is needed by the Alaska Region North Pacific Groundfish Observer Program. The team supported the Alaska Region’s recommendation that the NOP assist in defining these terms. The team also agreed that the NOP should initiate or support actions to amend the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) that would facilitate the development of alternative funding sources for observer programs.

C. Risk: Qualified observers may not be recruited and/or retained.

Based on the lack of management controls in the NMFS-certified observer companies SDM to recruit and retain qualified observers, the Alaska Region North Pacific Groundfish Observer Program recommended, and the team concurred, that the NOP should develop national policy that would prevent this SDM from being implemented in other regions.

Most programs, regardless of SDM, require that observers have certain minimum qualifications to be hired and/or trained as an observer. Although the regions discussed the benefits of developing minimum national hiring standards as a method for ensuring the quality of recruited observers, the SER found that current requirements for observers to have a bachelor’s degree may not be necessary or conducive to recruiting observers that have sufficient skills to perform assigned tasks, and that hiring requirements should be based on the assignments the observer is going to accomplish. The lack of consensus on whether national minimum hiring standards should be developed led to the recommendation that the NOP investigate further whether the development of minimum, agency-wide hiring standards would be compatible with regional program objectives. If standards were developed, the NOP would initiate, with the regions, the development of an objective and quantitative evaluation system for determining how education level and other skills affects data quality.

In reviewing responses by former observers that were asked if there were any incentives/changes in the program that would encourage them to return to work as an observer, more than half responded that there were incentives that would encourage them to return to work as observers. This prompted a recommendation by the team that the NOP work with each region to implement national mechanisms to increase the retention of observers, such as the creation of a national registry of experienced observers that would facilitate the movement of observers from program to program. The team also recommended that the NOP investigate what issues are involved in hiring non-U.S. citizens as observers.

The team discussed how recent management decisions have had impacts on each region’s ability to recruit sufficient numbers of observers. The team recommended that the NOP alert NMFS leadership that management decisions need to consider the availability of observers.

D. Risk: Observers may not be properly trained to perform their duties.

Training was generally of high-quality in each program, but trainers in different programs are isolated from one another. The program managers recommended that the NOP arrange a national workshop for regional observer program trainers. This workshop would facilitate distribution and sharing of training resources between programs, improve teaching methods, and help determine whether training standards should be developed. This workshop would be used to bring the various regional trainers together, possibly with a professional that can “train the trainers” to improve teaching methods and help develop objective evaluations of observer competency.

E. Risk: The health and safety of observers may be impaired.

Regulations that fishermen must comply with to ensure that their vessels are safe for an observer are at 50 CFR 600.725(p)-(u) and 600.746. However, the application and enforcement of these regulations varies between programs due to questions of applicability to certain vessels or fisheries. The team indicated that the regulations also did not address potential health hazards observers are exposed to on vessels. Therefore, the team recommended that the NOP re-examine health and safety regulations regarding:

- conflicts between the MMPA and MSFCMA regarding whether vessels determined to be unsafe can be prohibited from fishing
- applicability to voluntary programs
- applicability to fisheries in which required coverage is not 100%
- health issues.

The team recommended that the NOP initiate changes to the regulations as necessary.

The team recommended that the NOP investigate mechanisms for informing observers of health and safety concerns. The use of vessel profiles was cited as one way of recording information about current and past safety hazards aboard vessels, and actions taken to correct hazardous conditions. However, before vessel profiles are used as a method for informing observers, the team recommended that the NOP determine how they would be maintained and updated, how to ensure objectivity and consistency in documentation, and who would have access to the profiles.

F. Risk: Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

Although insurance coverage is required to be provided for all federal and contracted observers, the Alaska Region voiced the concerns of all programs when they noted that insurance issues are confusing and complex and not well understood by program managers, observer provider companies, observers, and General Counsel. Both programs operating in the Alaska Region recommended that the NOP analyze observer insurance issues at a national level, including clarification of the status of observers under the Jones Act and the Federal Employees Compensation Act (FECA). They also recommended that the NOP work with insurance experts to create a pamphlet summarizing observer insurance issues for distribution to observer program

managers, observers, observer service providers, and fishing industry representatives.

To implement these recommendations, the team recommended that the NOP convene an insurance workshop with maritime insurance and legal experts to discuss and gather information about insurance options and legal remedies for observers and vessel owners. The workshop would also be a forum for discussing the feasibility of nation-wide, cost-effective and adequate coverage to cover all observers and vessel owners, the status of observers under both the Jones Act and FECA, and whether observers that are not U.S. citizens can apply for compensation under FECA.

G. Risk: Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.

There were no team-wide or regional recommendations tasked to the NOP for this risk. However, there was discussion regarding the coordination of the Pacific Whiting Fishery Observer Program. There have been recent efforts to shift the administration of the observer program from the AKR to the NWR, although no clear recommendations for moving this issue along have been proposed. Funding, infrastructure, and lack of regulations are the main issues that need to be resolved.

H. Risk: The completeness and accuracy of observer data may be compromised.

The Alaska Region North Pacific Groundfish Observer Program provides access to their training manual via the internet. Others indicated interest in doing the same. The team recommended that the NOP website have links to the regional training manual URLs (Uniform Resource Locator).

The training and debriefing functions were found to be important opportunities for maintaining trusting relationships between observers and NMFS. Therefore, the team recommended that the NOP help advocate for sufficient employee resources to keep these critical functions in-house (i.e., performed by federal employees). The team also recommended that the NOP explore and provide opportunities for advanced training or the development of other skills to increase the overall professionalism of observers.

PART 3. EVALUATION OF INTERNAL CONTROLS BY GENERAL ACCOUNTING OFFICE STANDARDS

The MCR Team evaluated the internal controls that managers used most recently in each of the four service delivery models (SDM's) (i.e., In-house, NMFS contract, NMFS-certified observer companies, and resource funded third party agreement), to determine if they were consistent with the specific standards of the General Accounting Office (GAO) for Executive Agencies.

The MCR Team had "reasonable assurance" that most of these controls met the objectives of the observer program; however, some did not fully comply with these standards because of the different SDM's or peculiar circumstances in each Region.¹

Recommendations will be implemented before the end of FY 2001 to correct each of the concerns about the six GAO standards that are summarized below.

1. DOCUMENTATION

Control objectives and internal control techniques, workflow and operational procedures, and other important transactions and events should be clearly documented.

All SDM's

- The NMFS has no documented policies about the appropriate type or amount of observer insurance coverage, Nationally or Regionally. Statutes and case law are ambiguous, and these requirements are not well understood by NMFS, the industry, or the observers themselves; therefore, the costs of insurance may be duplicative or excessive, or needs may be unmet.

AKR NMFS-certified, AKR NMFS Contract, SWR In-house, and SER NMFS Contract

- There was little or no documentation of the operating procedures that managers should follow when observers raise concerns about their health or safety during a pre-trip safety check and at sea. A significant number of observers felt that no one was able to respond to those concerns, and feared losing their jobs (in mandatory programs) if they reported them.

AKR NMFS Contract, NER NMFS Contract, and SWR In-house

- The NMFS Observer Training Manual in the Region was incomplete, imprecise, and/or not well organized, particularly with regard to observer support in the field.

¹ The control techniques in the NWR NMFS-certified observer companies SDM are very similar to those in the AKR NMFS-certified observer companies SDM; therefore, they were not tested separately. The comments below that apply to the AKR NMFS-certified observer companies SDM also generally apply to the NWR NMFS-certified observer companies SDM, particularly with regard to authorization, structure, and supervision.

AKR NMFS-certified observer companies

- A policy for allocating the costs of “supplemental” observers between the government and industry has not been defined.
- The Observer Program Office lacked a clear set of goals and objectives; therefore, observer priorities were often set for a singular, rather than a coordinated, purpose on an “ad hoc” basis.
- Gear maintenance standards differed between the Alaska Fisheries Science Center and the North Pacific Fisheries Observer Training Center.

NER resource-funded third party agreement

- A funding policy was not determined in time to administer the observer program fairly and efficiently in its first year.
- Time constraints prevented issuing a request for proposals to obtain observer training; the resulting sole source provider did an inadequate job.
- The undocumented policy that required hiring of displaced fishermen adversely affected the quality of observer data.

SER NMFS Contract

- The minimum qualifications for new observers, the basic elements of the observer training courses, the methods for testing trainees, and the operating procedures for responding to observer harassment were not standardized and documented in the three SER fisheries.

2. RECORDS: RECORDING OF TRANSACTIONS

Transactions should be recorded as executed, when executed, and properly classified.

AKR and NWR NMFS-certified observer companies, NER resource-funded third party agreement, and all NMFS contract (AKR, SWR, SER and NER)

- The NMFS did not keep complete records on observers’ claims under the Federal Employees Compensation Act, state workers’ compensation, or Longshore and Harbor Workers’ Compensation Act.

AKR NMFS-certified observer companies

- The Observer Program Office did not keep adequate records to determine if all gear had been returned at the end of a deployment.

NER resource-funded third party agreement

- Because data quality from displaced fishermen was expected to be poor, observer data logs were simplified and 1999 data was not entered into the database.
- It was not possible to perform timely and accurate comparisons of catch reports sent from the vessels’ VMS with observers’ data.

AKR NMFS Contract

- Neither the COTR nor the contractor retained records of observers’ pre-trip safety checks on

vessels in the Cook Inlet fishery. Two thirds of the observers surveyed were not aware of a safety checklist or could not remember having received one.

NER resource-funded third party agreement

- There were no records describing observers' pre-trip safety checks on vessels in the MMPA and SFA fisheries. Almost all the observers surveyed were not provided with a safety checklist.

SWR In-house

- There were no records describing the pre-trip safety checks that observers were encouraged to make on vessels in the Monterey Bay halibut set gillnet fishery.

3. AUTHORIZATION: EXECUTION OF TRANSACTIONS

Persons should act within the scope of their authority and transactions conform with the terms of the authorizations.

AKR and NWR NMFS-certified observer companies

- Physical impediments on commercial fishing vessels prevented some random sampling.

NWR NMFS-certified observer companies

- The NMFS lacks the authority to control most critical observer functions because vessels in the Pacific Whiting fishery voluntarily obtain observers from a third party, and there are no Federal regulations that apply to these observers. Therefore, insuring the integrity and availability of observer data, as well as the health and safety of observers, is problematic.

SER Contract and SWR In-house

- Program managers could not effectively plan for or comply with observer coverage requirements because of sudden fluctuations in their authorized funding or Full Time Equivalents. Recruitment and retention of qualified observers were adversely affected by a lack of predictable funding, notably in the Atlantic shark drift gillnet and the Hawaii-based longline fisheries.

AKR NMFS-certified observer companies

- The NMFS could not effectively control the retention of experienced observers.
- The NMFS could not effectively require certified observer companies to comply with the same regulations of the Equal Employment Opportunity Act (E.O. 11246) that apply to NMFS contractors.
- The NMFS in practice both supervised and evaluated the employees of private observer companies.
- The NMFS did not have a contract with the North Pacific Fisheries Observer Training Center, and therefore lacked management control over training and briefings.
- The Observer Program Office had no ability to direct which observers are deployed on vessels in difficult sampling situations.
- Observer companies devoted large amounts of time to predicting and coordinating the

regulatory coverage needs of industry. Observer shortages resulted that were disruptive to the industry.

NWR NMFS-certified observer companies

- Pacific whiting vessels carried observers voluntarily and without regulations; therefore, data quality was impaired by sampling bias, presorting of catch, and potentially poor job performance.

SER NMFS Contract, AKR NMFS Contract, and NER resource-funded third party agreement

- Program managers could not commit funding to contractors on a timely basis which made it more difficult to recruit and retain qualified observers.

AKR NMFS Contract

- The NMFS did not have a contract with the North Pacific Fisheries Observer Training Center, and therefore could not set training standards for observers or insure that training had taken place.
- The Coast Guard did not conduct a safety examination on most vessels in the Cook Inlet fishery. Trainers did not instruct observers to look for a Coast Guard safety decal, and a large number of observers were not aware of their right to refuse to board a vessel that does not have one (Sec. 600.746).
- The health and safety regulations under the Magnuson-Stevens Fishery Conservation and Management Act and under the Marine Mammal Protection Act are inconsistent; the former requires a vessel to meet safety standards in order to carry an observer, while the latter allows a vessel to fish without an observer – therefore, a vessel may avoid carrying an observer because it is unsafe.
- The COTR did not directly compare field data records with billing invoices on a one for one basis; rather, summaries of each were used.

AKR NMFS Contract, SWR In-house, and NER resource-funded third party agreement

- Most observers felt that in order to keep their jobs they might be required to work on vessels that were not safe or adequate. (Program managers in the AKR thought that this was also true in the Pacific Groundfish observer program; however, observers in this NMFS-certified program were not surveyed to substantiate this conclusion.)

4. STRUCTURE: SEPARATION OF DUTIES

Key duties should be separated to support internal control objectives.

AKR NMFS-certified observer companies and NER resource-funded third party agreement

- The principal/client relationship that existed between the fishing vessel owners/operators and the observer companies created the appearance of a conflict of interest.

NER resource-funded third party agreement

- Observer data for 1999 could not be put into the database because of the high incidence of errors and a lack of editing capability.

All NMFS Contract (SER, SWR, AKR, and NER), AKR NMFS-certified observer companies, and NER resource-funded third party agreement

- When the costs of training observers were borne by others, observer providers may have had an incentive to increase their profits by recruiting and deploying inexperienced observers who are paid less; this discouraged retention of qualified observers.

SWR NMFS Contract

- Occasionally, observers entered data into the database without prior review by the Data Coordinator.

5. SUPERVISION

Qualified and continuous supervision should be provided to insure that approved procedures are followed, and lines of personal responsibility should be clear.

AKR NMFS-certified observer companies, SWR NMFS Contract, and SWR In-house

- A significant number of observers felt that they could not communicate freely with NMFS for fear of reprisals.

AKR NMFS-certified observer companies

- The NMFS did not have effective management control over the largest component of the North Pacific Groundfish Observer Program, the observer companies themselves. Because it lacked direct supervisory authority, NMFS has evaluated observer companies inconsistently, and could not provide qualified and continuous supervision to insure that they followed approved procedures.
- Supervisory and support responsibilities were unclear. Observers, companies, vessel personnel and staff of the Observer Program Office were uncertain about accountability.
- Observers had an inherent conflict of interest, with an incentive to misreport and falsify data or fail to report violations.
- Competition among certified observer companies negatively affected the quality of observer data.
- In certain sampling situations, NMFS could not place observers aboard vessels as needed.
- The NMFS could not adequately administer the daily operations of the program that were controlled by observer companies.
- The NMFS could not require the observer companies to screen observer candidates consistently.
- Peak loading times have occasionally delayed the start of observer debriefings, inconveniencing observers and increasing the overall costs to NMFS and the observer companies.
- The observer evaluation system demoralized observers.
- Neither recommending decertification to the Regional Administrator nor reporting violations to the NMFS Office of Enforcement was a viable method of insuring the satisfactory performance of observer companies.

NER resource-funded third party agreement

- The contract with Manomet Center for Conservation Sciences did not meet NMFS's expectations for recruiting and training high quality observers.
- Staffing at NMFS was insufficient last year to undertake the additional work of monitoring observed catches, deploying observers, and providing updates.
- Observers may not have had adequate insurance coverage during their deployment.
- Procurement of equipment and supplies was not efficient.

AKR NMFS Contract

- Observer coverage in the fishery was not distributed equitably. The contractor could not place observers randomly because some vessels were able to refuse them by citing safety concerns.
- The fishery experienced operational problems in 1999 because the lead observers recruited by the contractor lacked adequate communications skills, leadership experience, and training.
- The NMFS did not have the resources needed in 1999 to oversee the field work of the contractor or provide in-season sampling and debriefing guidance.

SWR NMFS Contract

- The NMFS could not obtain all the experienced observers it wanted from the contractor in 1999.

SER NMFS Contract

- A significant number of observers felt that they should have received more support from NMFS and the contractor when they experienced harassment/intimidation/or other trauma on the job.

6. SECURITY: ACCESS TO RESOURCES

Access to resources should be limited to authorized personnel.

AKR NMFS-certified observer companies

- The OPO did not inventory gear efficiently.
- Gear maintenance at the North Pacific Fisheries Observer Training Center was inadequate.
- Storage of government property by observers in the field was not secure and gear loss may have occurred.

NER resource-funded third party agreement

- The "agreement" with the National Fish and Wildlife Foundation did not meet NMFS's expectations for providing financial services to NMFS and observers.
- The NMFS has been unable to secure a refund from the National Fish and Wildlife Foundation of the excess amounts it received from participating vessels in 1999.
- Data storage facilities were not adequate to insure confidentiality of trip data files.

SER NMFS Contract

- Observers who were unfamiliar with data confidentiality requirements may require additional

training.

SWR NMFS Contract

- The Regional Security Office did not complete background investigations of contract observers on time.

SWR In-house

- There was no inventory of the gear and equipment for the Monterey Bay halibut set gillnet fishery at the Long Beach storage facility.

PART 4. TABLE OF RECOMMENDATIONS

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
<i>RISK A: Funds for the observer program may be unavailable for obligation consistently and on time.</i>				
In-House	SWR	Provide an outline with the observer program's budgetary requirements, based on data collection needs and priorities, on an annual basis to the National Observer Program and the Office of Protected Resources.	Regional Administrator	August 2001
Contract to NMFS	AKR	Inform the Director, Office of Protected Resources, of the difficulties incurred in the CIMMOP due to untimely funding.	Chief, AKR Protected Resources Division	September 2001
		Ask the Director, Office of Protected Resources, to consider simplifying the funding process to ensure funding is timely. One possibility would be to secure funding from sources other than the internal competitive funding system and establish the program through stable funding.	Chief, AKR Protected Resources Division	September 2001
		Inform the Chief, Office of Protected Resources, of NMFS' need to seek additional funding to meet its MMPA obligations.	Chief, Protected Resources Division, Alaska Region	September 2001
		If sufficient base funding is obtained, consider long-term contracting to provide observer services.	Contracting Officer Technical Representative (COTR)	September 2001
	NER	Alert higher levels within NMFS that any annual funding must be received in time to develop an RFP and award a contract prior to the end of the Fiscal Year in which the funds are received.	Chief, Fishery Sampling Branch (FSB)	December 2000
	SER	Provide an outline with the observer program's budgetary requirements, based on data collection needs and priorities, on an annual basis to the National Observer Program.	Regional Administrator	September 2001
	SWR	Provide an outline with the observer program's budgetary requirements, based on data collection needs and priorities, on an annual basis to the National Observer Program and the Office of Protected Resources.	Regional Administrator	August 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
NMFS - Certified Observer Companies	AKR	As an effort to determine a funding mechanism which reduces the risk of nonpayment to observers and observer companies, document alternative funding mechanisms and begin to explore the risks and benefits of each.	Observer Program Office (OPO) Program Leader	September 2001
	NWR	Identify and request that adequate funding be provided to the NWFS to cover the staffing and start-up costs and operational costs of this program. Request the Regional Administrator of the AKR to do the same.	Regional Administrator	March 2001
		Promulgate regulations requiring 2 observers be placed on motherships (open access and tribal allocation) and catcher processing vessels.	Regional Administrator	March 2001
Resource Funded 3 rd Party Agreement	NER	Develop the Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening and ensure that any fund paid into by the industry provide for observer training as well as procurement of equipment and supplies.	Chief, FSB	October 2000
All SDMs	Teamwide	Use the budgetary information provided by each region to aid their efforts to secure stable funding.	National Observer Program (NOP) Team Leader	March 2001
		Communicate to NMFS leadership that the majority of observer programs have a recurring need for long term stable funding and that funding levels and observer requirements must be known at least 6-9 months in advance of observer deployment.	NOP Team Leader	October 2000
		Investigate how other federal agencies with large-scale contracting responsibilities award contracts on a timely basis; determine whether there is flexibility in carryover authority.	NOP Team Leader	June 2001
<i>RISK B: The costs of providing observers may be excessive or mis-allocated within government and industry.</i>				
In-House	SWR	Request an increase to the dollar limit on observer program manager's credit cards to ensure that inventories of gear and equipment are maintained.	Executive Officer	October 2000
		Require regular maintenance of the immersion suits by all Southwest Regional observer programs.	Observer Program Coordinator	June 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
		Conduct a complete inventory of the gear and equipment at the Long Beach storage facility.	Observer Program Coordinator, Long Beach	June 2001
Contract to NMFS	AKR	Request WASC to spot check observer reports received from the contractor and compare them to the contractor's invoices. If anomalies are discovered, the WASC may wish to initiate an audit of the contractor.	COTR	September 2001
		Explore options and develop a policy for handling vessels that refuse mandatory MMPA observer coverage.	NOP Team Leader	September 2001
		Hold the contractor accountable for random observer placement as stated in the SOW. This includes maintaining a logical support system to achieve this.	COTR	September 2001
		Educate all CIMMOP participants of mandatory coverage requirements.	COTR	September 2001
	NER	Seek ways to improve the condition of the existing gear storage facilities by stating the required square footage of space needed, secured access, lighting, lockers, shelving, waterproofing, etc.	COTR, FSB	January 2001
		Request that the Contracting Officer, EASC, develop a method of estimating the costs of providing observer coverage using government employees and compare those estimates with the actual cost by the current contractor.	COTR, FSB	September 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
NMFS - Certified Observer Companies	AKR	Continue the development and implementation of a gear inventory/tracking system using modern technologies such as databases and bar coding. This system should: <ul style="list-style-type: none"> - track gear for individual observers, - report on observers who repeatedly lose or damage expensive gear items, - allow for inventory reports and warnings when inventory is low at any of the four gear storage locations, - create shipping schedules to field stations, - track individual gear items which expire (such as immersion suits and strobe batteries), - determine the time between the end of a deployment and gear return, and - allow staff to track damage and repairs to individual items to determine if money spent on repairs extended the life of the equipment sufficiently. 	OPO Gear Coordinator	September 2001
		Implement a contract with the NPFOTC which specifies gear maintenance standards.	OPO Program Leader	September 2001
		Work closer with industry members on gear storage issues.	OPO Program Leader	September 2001
		Request, in writing, that the agency define “reasonable and fair” as the term relates to funding observer programs nationwide. The NMFS should request that the agency address the impact of this definition on all affected parties.	NOP Team Leader	February 2001
		Any changes to the MSFMCA needed to facilitate alternative funding sources should be initiated for inclusion in the Act’s next reauthorization.	NOP Team Leader	March 2001
		Once a national policy defining “reasonable and fair” has been established, initiate a reevaluation for funding of the NPGOP with the Council. The funding for supplemental observers should be addressed and resolved in this redesign.	OPO Program Leader	September 2001
		Define the research responsibilities of the OPO.	OPO Program Leader	September 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
Resource Funded 3 rd Party Agreement	NER	Develop a Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening and ensure the contract provides for training as well as procurement of equipment and supplies to be paid for from a fund paid into by the industry.	Chief, FSB	October 2000
		Develop a Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening and determine the cost of providing different levels of required coverage to form the basis for the TAC set aside and daily additional catch allowance. The terms of the contract and monies to be paid into the fund must be determined in advance to ensure that sufficient funds will be deposited to cover the cost of the project. The contract must also require a mechanism for refunding excess funds collected.	Chief, FSB	October 2000
<i>RISK C: Qualified observers may not be recruited and/or retained.</i>				
In-House	SWR	Implement the Commerce Department Opportunities On-Line automated vacancy announcement system for future in-house observer program positions to decrease the amount of time required to recruit new observers.	Regional Administrator	June 2001
		Maintain minimum qualifications for observers in the Southwest Region that includes work experience directly related to the position or at least four years of education above high school leading to a bachelor's degree from a four-year accredited college or university with major study in the biological sciences.	Regional Administrator	October 2000
Contract to NMFS	AKR	Require that lead observer qualifications include experience supervising people and coordinating tasks, or require training in these areas.	COTR	September 2001
		Inform the Chief, AKR Protected Resource Division of the difficulties staff encountered in fulfilling NMFS responsibilities in monitoring the CIMMOP contract.	COTR	October 2000
		Prioritize time and resources to ensure staff can fulfill their responsibilities to monitor any future AKR Category II fishery observer program contracts.	Chief, AKR Protected Species Division	September 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
	NER	Use an alternative service delivery model with NMFS hiring the observers directly and retain observers through provision of increased benefits and job security. Alternatively, develop incentives to insert in the next RFP that would reward the contractor for retaining and using at least 60% experienced observers.	Chief, FSB and COTR	September 2001
	SER	Standardize the Pay Scale for contract observers so that it is comparable to federal employees performing similar duties as observers in the Southeast programs.	Southeast Science Director	September 2001
		Standardize basic observer qualifications in the Southeast programs to allow observers to be qualified to work in one, several, or all the observer programs.	Southeast Science Director	September 2001
	SWR	Require minimum qualifications for contract observers in the Southwest Region to include work experience directly related to the position or at least four years of education above high school leading to a bachelor's degree from a four-year accredited college or university with major study in the biological sciences.	COTR	October 2000
NMFS - Certified Observer Companies	AKR	The NMFS should develop national policy which prevents this SDM from being implemented elsewhere	NOP Team Leader	October 2000 ¹
		Initiate the development of a revised SDM in the North Pacific which provides NMFS with appropriate management controls of observer companies, or take the responsibility of providing observers on itself.	OPO Program Leader	September 2001
		As part of the SDM restructuring, require a minimum level of experienced observers and create a consistent measure of experience.	OPO Program Leader	September 2001
		Describe the potential impacts of management decisions on observer availability to the Regional Administrator and ADF&G Board of Fisheries.	OPO Program Leader	September 2001

¹ The development of a National policy will be initiated in October 2000, but will require additional time for completion.

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
		As part of the SDM restructuring, require observer companies to explore different methods for recruiting new observers and retaining experienced observers. This may include increasing observer remuneration and implementing alternate recruitment procedures.	OPO Program Leader	September 2001
		Implement measures which provide appropriate management controls to correct problems which may not warrant an observer company's decertification. This could be done by implementing a direct contract between the NMFS and observer companies.	OPO Program Leader	September 2001
		Require consistent interview screening of potential observer candidates.	OPO Program Leader	September 2001
		Initiate implementation of an SDM in which observer companies are responsible for the caliber of their recruits.	OPO Program Leader	September 2001
		Implement a SDM which allows for more direct oversight of the placement of observers.	OPO Program Leader	September 2001
		Under a revised SDM, consider replacing the decertification process with a system that places responsibility of an observer's performance on the observer company.	OPO Program Leader	September 2001
	NWR	Have more direct oversight of observers and observer companies.	OPO Program Leader	September 2001
		Promulgate regulations and guidelines for observer certification and decertification.	Regional Administrator	March 2001
Resource Funded 3 rd Party Agreement	NER	Develop and enforce hiring standards for candidates. The standards should require at the minimum a 4 year college degree in fisheries science or closely related field or a 2 year degree with further qualifying experience. Observer program staff should start recruiting at least 135 days prior to any anticipated fishery opening.	Chief, FSB	October 2000
All SDMs	Teamwide	Investigate whether the development of minimum national hiring standards is compatible with regional program objectives.	NOP Team Leader	February 2001
		Initiate the development of an evaluation system for determining how education and/or experience level affects data quality.	NOP Team Leader	June 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
		Develop national mechanisms to increase retention of observers, such as the creation of a national registry of experienced observers that would facilitate the movement of observers from program to program.	NOP Team Leader	September 2001
		Alert NMFS leadership that management decisions need to consider observer availability.	NOP Team Leader	October 2000
<i>RISK D: Observers may not be properly trained to perform their duties.</i>				
In-House	SWR	Modify training curriculums to include any changes to data collection requirements, observer program policies, laws or regulations.	Observer Training Coordinator	October 2000
		Review the observer evaluations after each training and review the observer evaluations from the previous training class before each new training to incorporate the recommendations for improvement in the presentations.	Observer Training Coordinator	October 2000
		Develop an anonymous observer questionnaire that would be completed after their first trip to evaluate how effective observer training was at preparing them to perform their duties at sea.	Observer Training Coordinator	December 2000
		Increase the number of fish pictures for use in observer training so that there is at least one representative photograph for each species.	Observer Training Coordinator	July 2001
		Modify and improve the fish identification, Typical-Day-at-Sea exercises, and safety-at-sea portions of the training.	Observer Training Coordinator	October 2000
		Before a scheduled observer training class, request returning observers from a vessel assignment to bring back whole specimens of fish that can be used in training.	Observer Training Coordinator	October 2000
Contract to NMFS	AKR	Contract observer training for this program with the NPFOTC.	COTR	September 2001
		Ensure that performance standards are established for both the training course and the trainees.	COTR	September 2001
		Ensure that the NPFOTC incorporates the experience of 1999 observers in future training courses.	COTR	September 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
		Clarify the responsibilities of lead observers and ensure they are trained appropriately.	COTR	September 2001
		Provide the NPFOTC trainer and independent consultant with a summary of the post season observer survey used to evaluate the training classes. Meet with the trainer and independent consultant to discuss issues encountered in the fishery and consider ways these issues could be resolved.	COTR	September 2001
	NER	FSB staff responsible for training will take at least 3 courses or training sessions in public speaking or making presentations.	Chief, FSB	September 2001
		FSB staff responsible for training, will review and update all training materials at least two weeks prior to the training session.	Chief, FSB	September 2001
		Secure on site, or convenient nearby training facilities, at least six weeks in advance of training.	Chief, FSB	September 2001
		Future hires within the FSB will be screened for skills in conducting training sessions, as well as familiarity with commercial fishing gear and commercially landed finfish and shellfish, to reduce reliance on outside specialists.	Chief, FSB	September 2001
		Determine observer needs three to four months in advance, to assure that observer training sessions will not be needed during the tourist season in Woods Hole (June through September).	Chief, FSB	March 2001
		Modify the current contract to define the lead time needed or put in penalty clauses for situations in which trips are not covered due to observer shortages. Assure that such clauses are included in any future RFP.	Chief, FSB	January 2001
	SER	Develop an objective testing method for the training courses.	Southeast Science Director	September 2001
		Standardize the basic elements (materials and length of coverage time) of the observer training courses to facilitate movement of observers between SER programs.	Southeast Science Director	September 2001
		Involve experienced observers and individuals from the fishing industry and USCG in the training.	Southeast Science Director	September 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
		Include in-water training in all training courses.	Southeast Science Director	September 2001
		Develop and use a more comprehensive treatment of harassment during training.	Southeast Science Director	September 2001
	SWR	Modify training curriculums to include any changes to data collection requirements, observer program policies, laws or regulations.	Observer Training Coordinator	October 2000
		Review the observer evaluations after each training and review the observer evaluations from the previous training class before each new training to incorporate the recommendations for improvement in the presentations.	Observer Training Coordinator	October 2000
		Develop an anonymous observer questionnaire that would be completed after their first trip to evaluate how effective observer training was at preparing them to perform their duties at sea.	Observer Training Coordinator	December 2000
		Increase the number of fish pictures for use in observer training so that there is at least one representative photograph for each species.	Observer Training Coordinator	July 2001
		Modify the fish identification, Typical-Day-at-Sea exercises, and safety-at-sea portions of the training.	Observer Training Coordinator	December 2000
Before a scheduled observer training class, request returning observers from a vessel assignment to bring back whole specimens of fish that can be used in training.	Observer Training Coordinator	November 2000		
NMFS - Certified Observer Companies	AKR	Increase the frequency of training staff meetings to achieve desired consistency.	OPO Program Leader	September 2001
		Develop a direct contract with the NPFOTC to provide better management controls for training.	OPO Program Leader	September 2001
Resource Funded 3 rd Party Agreement	NER	Develop a Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening that provides for training to standards used by NEFSC, including a curriculum specified by NEFSC.	Chief, FSB.	October 2000

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
All SDMs	Teamwide	Arrange a workshop for regional observer program trainers to facilitate distribution and sharing of resources, to improve teaching methods, and to determine whether training standards should be developed.	NOP Team Leader	February 2001
		Investigate what issues are involved in hiring non-US citizens as observers.	NOP Team Leader	February 2001
<i>RISK E: The health and safety of observers may be impaired.</i>				
In-House	SWR	Require observers to complete vessel safety examinations and maintain the information from the safety checks in an accessible location such as a vessel log.	Observer Program Coordinator	November 2000
		Include an inspection of a vessel at the docks, if possible, in the observer training curriculum.	Observer Training Coordinator	October 2000
		Remind vessel owners and operators at skipper workshops of their obligation to insure that their vessel meets the U.S. Coast Guard safety equipment requirements.	Observer Program Coordinator	October 2000
		Provide observers with a vessel safety checklist for them to complete.	Observer Program Coordinator	November 2000
		Ensure training staff review the safety regulations in training and that observers are provided a copy of them. Include copy in the field manual.	Observer Training Coordinator	October 2000
		Develop procedure for addressing and resolving observer safety concerns.	Observer Program Managers	December 2000
		Establish and maintain vessel profiles that identify health and safety conditions on all vessels participating in the fisheries.	Observer Program Coordinators	December 2000
		Work with the United States Coast Guard to identify and document any additional factors which may contribute to unsafe conditions for observers.	Observer Program Coordinators	March 2001
		Clarify the language and the policy in the observer field manual and during observer training of the procedure an observer follows to determine the safety or adequacy of a vessel and that an observer's job will not be endangered if he/she refuses to board a vessel because of health and safety concerns.	Observer Training Coordinator	December 2000

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
		Ensure that observers are debriefed after each trip for possible safety or health concerns.	Observer Program Managers	October 2000
		Have NMFS enforcement participate in the observer training to teach the observers how to complete an affidavit if requested by NMFS management or enforcement.	Observer Training Coordinator	October 2000
Contract to NMFS	AKR	In consultation with the USCG, document procedures for responding when an observer determines that a vessel is unsafe while at sea. These procedures should be distributed widely.	COTR	May 2001
		Clarify and document the roles of the contractor, lead observers, and the COTR regarding safety issues.	COTR	September 2001
		Require observers to complete a safety checklist on each observed vessel. This checklist should be retained as a permanent record.	COTR	September 2001
		Develop procedures which address what to do in the event that an observer identifies that a vessel or set-net site is unsafe.	COTR	September 2001
	NER	Increase industry awareness of their responsibilities to provide safe working environments for observers by enhanced outreach efforts via newsletters or other mailings, Web page, or phone calls to vessel owners and operators.	Chief, FSB	March 2001
		Fully implement the health and safety regulations and make sure all observers are aware of such.	Chief, FSB	March 2001
		Provide health and safety checklists to the observers so that health and safety conditions can be documented.	Chief, FSB	March 2001
		Develop a reporting procedure that would advise the appropriate staff of the NMFS Northeast Administrator and NMFS Northeast Office of Enforcement to take action when violations occur.	Chief, FSB	March 2001
		Emphasize observer safety during all debriefings.	Chief, FSB	March 2001
	SER	Develop a written policy, clarifying that the observers have the right to refuse a vessel they feel is unsafe.	Southeast Science Director	September 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
		Require that a selected vessel in a mandatory observer program needs to be held in port and not be allowed to participate in the fishery, if that vessel will not accept an observer or if the vessel is considered unsafe for an observer to be deployed.	Southeast Science Director	September 2001
		To address the potential problem of harassment and intimidation, improve training, increase outreach to the industry as to why observers are on vessels, and improve enforcement and follow-up of observers' complaints.	Southeast Science Director	September 2001
		Define a standardized policy for how to handle an unsafe vessel and communicate this policy to fishermen.	Southeast Science Director	September 2001
	SWR	Remind vessel owners and operators of their obligation to comply with the U.S. Coast Guard safety regulations when skipper education workshops are conducted under the Pacific Offshore Cetacean Take Reduction Plan.	Observer Training Coordinator	September 2001
		Send annual vessel notices to the fleet reminding them of their obligations to comply with the observer program.	COTR	July 2001
		Review the vessel safety examination checklists completed by each observer.	COTR	October 2000
		Conduct a vessel safety examination when conducting the dockside tour during observer training.	Observer Training Coordinator	October 2000
		Require the Contractor to notify NMFS if a vessel does not meet the minimum U.S. Coast Guard safety equipment requirements or if a vessel is determined to be unsafe for purposes of carrying an observer.	COTR	October 2000
		Review the Vessel Safety Examination Check list and safety regulations with the observers during the Safety-At-Sea presentation of observer training. Include copy in the field manual.	Observer Training Coordinator	November 2000
		Clarify the language and the policy in the observer field manual and during observer training that an observer's job will not be endangered if he or she refuses to board a vessel because of health or safety concerns.	Observer Training Coordinator	October 2000
		Encourage observers during the debriefing process to notify the Data Coordinator or Logistics Coordinator of any unsafe conditions that were discovered while the vessel was at sea.	Data Coordinator	October 2000

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
		Review the observer program duties and responsibilities at the Skipper Education Workshops.	Observer Training Coordinator	September 2001
		Request NMFS Enforcement to complete their investigations and NOAA General Counsel to review the cases in a timely manner.	Regional Administrator	March 2001
NMFS - Certified Observer Companies	AKR	Document the procedures for responding to observer concerns about health or safety. Distribute them to observer companies, observers, fishing industry members, the NMFS Office of Enforcement, and the USCG.	OPO Program Leader	September 2001
		The NMFS should initiate a redesign of the SDM such that observers who refuse vessels for valid safety reasons are not penalized.	OPO Program Leader	September 2001
		In consultation with the USCG, document procedures for responding when an observer determines that a vessel is unsafe while at sea. Distribute them to observer companies, observers, and OPO staff	OPO Program Leader	September 2001
	NWR	Clarify that the health and safety requirements at 600.725 (p)-(u) and 600.746 apply to the Pacific whiting fishery. If the program becomes mandatory, require that the regulations be in effect.	Regional Administrator NWR	March 2001
		Investigate the cause of injuries and identify ways to decrease the rate of observer injuries.	Regional Administrator NWR	March 2001
		Pursue more cooperation from fishing companies to reduce any obstacles to collecting or moving observer samples.	Regional Administrator NWR	March 2001
Resource Funded 3 rd Party Agreement	NER	Require observers to document whether or not a selected vessel has a safety inspection sticker.	Chief, FSB	March 2001
		Request the Regional Office provide 90 days advance notice to fishermen that they must be capable of taking an observer and must possess a current Coast Guard safety inspection sticker.	Chief, FSB	March 2001
		Advise the Regional Administrator at least 120 days in advance of an anticipated opening to alert the industry of the safety inspection requirement.	Chief, FSB	March 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
All SDMs	Teamwide	Re-examine health and safety regulations regarding: <ul style="list-style-type: none"> - conflicts between the MMPA and MSFCMA regarding whether vessels determined to be unsafe can be prohibited from fishing - applicability to voluntary programs - applicability to fisheries in which required coverage is not 100% - health issues. Initiate changes to the regulations as necessary.	NOP Team Leader	September 2001
		Investigate mechanisms for informing observers of health and safety concerns. If vessel profiles will be used, determine how they would be maintained and updated, how to ensure objectivity, consistency in documentation, and who would have access.	NOP Team Leader	September 2001
<i>RISK F: Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.</i>				
In-House	SWR	Review procedures in the observer field manual on at-sea injuries and update as necessary.	Observer Training Coordinator	January 2001
		Provide workers' compensation information to observers during observer training.	Observer Training Coordinator	January 2001
		Request Department of Labor to review, and possibly modify, the basis for calculating FECA compensation provided to injured observers so that it reflects their at-sea pay.	Regional Administrator	July 2001
		Explore the possibility of obtaining professional liability insurance coverage to cover observers if permanently disabled while working at sea.	Regional Administrator	July 2001
Contract to NMFS	AKR	Analyze observer insurance issues at a national level. National policy should be issued, or legislation enacted, to clarify the standing of observers under both the Jones Act and FECA	NOP Team Leader	September 2001
		Work with insurance experts to create a pamphlet summarizing observer insurance issues. This pamphlet should be distributed to all observer program offices, observers, observer service providers, and fishing industry representatives.	NOP Team Leader	September 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
	NER	Request legal advice on the issues of coverage and redundancy. Include information concerning injuries, liability and claims processes in both the observer training and manual.	Chief, FSB	January 2001
		Expand the survey of vessel operators so that the responses may be better understood. Explain the coverage through outreach efforts such as letters to all permit holders.	Chief, FSB, Contract Program Manager	December 2001
		Inform vessel owners that they will be reimbursed for insurance coverage extended to include observers.	Chief, FSB, Contract Program Manager	December 2001
		Inform observers of their insurance related responsibilities, such as completing required paperwork.	Chief, FSB, Contract Program Manager	December 2001
	SER	Develop better and more consistent training for observers.	Southeast Science Director	September 2001
		Address the need for liability insurance for vessel owners.	Southeast Science Director	September 2001
NMFS - Certified Observer Companies	AKR	Analyze observer insurance issues at a national level. National policy should be issued, or legislation enacted, to clarify the standing of observers under both the Jones Act and FECA	NOP Team Leader	September 2001
		Work with insurance experts to create a pamphlet summarizing observer insurance issues. This pamphlet should be distributed to all observer program offices, observers, observer service providers, and fishing industry representatives.	NOP Team Leader	September 2001
Resource Funded 3 rd Party Agreement	NER	Develop the Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening that provides for blanket liability insurance coverage for all vessels carrying observers to be paid from the funds deposited from sale of scallop TAC set-aside. It must further provide for Workman's Compensation and, if appropriate, Longshoreman's and Harbor Worker's Compensation.	Chief, FSB	Immediate

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
All SDMs	Teamwide	Convene an insurance workshop to discuss and gather information about insurance options and legal remedies for observers and vessel owners with maritime insurance and legal experts. Also discuss feasibility of nation-wide, cost-effective and adequate coverage to cover all observers and vessel owners, the status of observers under both the Jones Act and FECA, and whether observers that are not US citizens can apply for compensation under FECA.	NOP Team Leader	March 2001
<i>RISK G: Observer coverage, deployment, and data collection may not be well-coordinated within the NMFS or with other Federal, state, or intergovernmental agencies.</i>				
Contract to NMFS	AKR	Inform the Chief, AKR Protected Resources Division, of the difficulties encountered in the CIMMOP due to the loss of expertise.	COTR	October 2000
		Develop and consider management options that would retain expertise within the NMFS on the management of Alaska Region Category II observer programs. One option would be to place the Alaska Region Category II observer programs under the management of the North Pacific Groundfish Observer Program.	Chief, AKR Protected Resources Division	September 2001
	NER	Standardize the vessel sampling scheme to eliminate sampling bias. Establish minimum and maximum number of trips sampled per vessel, per month, per port (or state) and modify the current observer contract to insert those standards.	Chief, FSB, COTR	March 2001
		Set up system to monitor observer sampling frequency to assure compliance with the sampling scheme that will alert the COTR to advise the contractor when too many trips are being taken on the same vessel and to assign the observers to other vessels.	Chief, FSB, COTR	March 2001
	SER	Schedule quarterly meetings or conference calls between the SER observer programs.	SER Representative to NOPAT	September 2001
		Request coordination meetings between SER observer program staff (driftnet and longline fisheries) and appropriate Highly Migratory Species (HMS) and Office of Protected Resources (F/PR) staff to ensure that sampling issues are discussed and resolved with input from all affected programs.	Southeast Science Director	September 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
	SWR	Use the communications log to verify the accuracy of the information submitted on the Vessel Activity Record.	COTR	November 2000
NMFS - Certified Observer Companies	AKR	Establish the program's mission, goals, and objectives.	OPO Program Leader	September 2001
		Consider the program tasks and priorities within the context of these goals and objectives.	OPO Program Leader	September 2001
		Review and revise the goals and objectives periodically.	OPO Program Leader	September 2001
		Restructure the SDM to meet these goals and objectives.	OPO Program Leader	September 2001
		Pursue actions to reduce the impediments to random sampling on commercial fishing vessels.	OPO Program Leader	September 2001
		Consider other SDM approaches that would reduce or eliminate the risk of future observer shortages.	OPO Program Leader	September 2001
		Under a revised SDM, require vessels to provide fishing plans in advance so service providers can plan coverage accordingly.	OPO Program Leader	September 2001
		Communicate, in writing, to the Regional Administrator, the impact of regulatory decisions on the system's ability to provide the necessary coverage.	OPO Program Leader	September 2001
		Explore other SDMs that would allow finer resolution management controls for each component of the NPGOP.	OPO Program Leader	September 2001
		Continue having a liaison work with observer companies and documenting their performance.	OPO Program Leader	September 2001
		Initiate the development of an alternative SDM that places the responsibility of data being delivered to NMFS upon the observer companies, at or before the time of debriefing.	OPO Program Leader	September 2001
		Increase communications training for OPO staff and observers.	OPO Program Leader	September 2001
		Expand the ATLAS program to include vessels delivering to more remote ports (those without field stations).	OPO Program Leader	September 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
		Observer program field staff should rotate through the main office at the AFSC periodically to maintain current with OPO policies and procedures. OPO staff from the AFSC should also rotate periodically through field stations to remain cognizant of problems encountered by observers.	OPO Program Leader	September 2001
Resource Funded 3 rd Party Agreement	NER	Improve communication relative to its needs to implement programs mandated by Councils or the NER at least 90 days in advance of fishery openings.	Chief, FSB	March 2001
		Alert Regional Administrator that program needs additional staff to carry out requested monitoring tasks.	Chief, FSB	March 2001
		Assure that the notice to permit holders sent prior to the opening of a fishery includes the requirement to notify the Observer Program 5 days prior to each trip.	Chief, FSB	October 2000
		The program needs to develop a contract Statement of Work for an RFP at least 135 days prior to any anticipated fishery opening.	Chief, FSB	October 2000
<i>RISK H: The completeness and accuracy of observer data may be compromised.</i>				
In-House	SWR	Observer field manuals will be made available to various users (observers, scientists) and other interested parties (regional program managers, interested observer candidates) through the internet.	Observer Training Coordinator	January 2001
		Update the section of the observer field manual that discusses completing a pre-cruise safety check.	Observer Training Coordinator	November 2000
Contract to NMFS	AKR	Ensure that the organization of the manual be improved. A table of contents and an index should be included to facilitate finding specific information.	COTR	September 2001
	NER	Continue the revision process with planned implementation of new procedures and distribution of new manuals.	Chief, FSB	January 2001
		Streamline the editing process by developing or redesigning data editing and data auditing software.	Chief, FSB, Observer Database Manager	March 2001
		Hold bi-weekly meetings with data processing staff to discuss processing status and means of improving the current system.	Chief, FSB, Observer Database Manager	March 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
		Create and maintain a procedures manual that includes instructions on all aspects of observer data processing.	Chief, FSB, Observer Database Manager	March 2001
		Set up schedule of monthly meetings with Data Management System staff to further assure that data processing is proceeding in the most efficient manner.	Chief, FSB, Observer Database Manager	March 2001
		Move files to a locked cage area so the entire file set could be secured by a single lock.	Chief, FSB	September 2001
		Establish minimum and maximum number of trips sampled per vessel, per month, per port (or state). Monitor observer sampling frequency to assure compliance with the sampling scheme.	Chief, FSB	March 2001
		COTR will advise the contractor when too many trips are being taken on the same vessel, and to assign the observers to other vessels.	Chief, FSB	March 2001
		Ensure all participating vessels are aware that the contractor has a blanket policy to provide coverage for all vessels taking PTSI employed observers.	Chief, FSB	March 2001
		Determine whether vessels selected for mandatory coverage were sent registered letters notifying them of their requirements, with copies to the contractor.	Chief, FSB	March 2001
		Establish written guidelines for documenting vessels that refuse to take observers, including specific language as to reason(s) for the refusal.	Chief, FSB	March 2001
		Monitor the number of vessels refusing observers by fisheries and by state or port.	Chief, FSB	March 2001
		Debrief all new observers after their first trip.	Chief, FSB	March 2001
		Develop a standard debriefing schedule that includes all observers.	Chief, FSB	March 2001
		Set up debriefing schedules and require PTSI to abide by them through modification of the current contract.	Chief, FSB	March 2001
		Require PTSI to hire more observers to cover the sea days lost to current observers due to debriefing travel.	Chief, FSB	March 2001
		Send staff to the field to debrief observers.	Chief, FSB	March 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
	SER	Data editing and confidentiality issues need to be better addressed during the observer training courses.	Southeast Science Director	September 2001
	SWR	Require observers to enter their data into the database after the Data Coordinator has reviewed their data.	COTR	October 2000
		Establish a reporting system where contract observers can report their concerns, problems, or dissatisfaction with NMFS.	COTR	December 2000
		Request that the Regional Security Office complete the observer background investigations in a more timely manner.	Regional Administrator	November 2000
NMFS - Certified Observer Companies	AKR	Recognize and plan for peak loading events if timely debriefing is a priority.	OPO Program Leader	September 2001
		Reconsider the current evaluation system and remove the incentives to limit information and/or manipulate data.	OPO Program Leader	September 2001
		If the an observer evaluation system is continued, debriefers need to be trained to evaluate work performance.	OPO Program Leader	September 2001
		Implement a revised SDM in the North Pacific which provides NMFS with appropriate management controls of the service providers, or takes the responsibility on itself.	OPO Program Leader	September 2001
		Communicate, in writing, to the Regional Administrator the effects of recent management plans on the observer work environment.	OPO Program Leader	September 2001
	NWR	Promulgate regulations for vessels to provide conditions that allow an observer to carry out their required duties and to prohibit interference of vessel personnel regarding the sampling of catch	Regional Administrator, NWR	March, 2001
		Begin an outreach effort to vessel owners and personnel regarding how sampling bias affects observer information.	Regional Administrator, NWR	March 2001
		Tour each vessel that has been identified as having mechanical bias problems and review ways to avoid this bias by changing the sampling protocol or requesting the vessel redesign a portion of the factory.	Regional Administrator, NWR	March 2001

Service Delivery Model	Region	Recommendation	Responsible Official	Completion Date
Resource Funded 3 rd Party Agreement	NER	Collect all future data at same standards as all other NER data; provide for the hiring or contracting of editing and entry staff at least 15 days prior to the opening of any fishery.	Chief, FSB	October 2000
		Hire or contract additional debriefing staff at least 30 days in advance of any future fishery opening.	Chief, FSB	October 2000
		Obtain a dedicated storage facility for data, where access is not possible at any time without a key and accompanying FSB staff member.	Chief, FSB	May 30 2001
All SDMs	Teamwide	Develop a link from NOP website to regional training manuals' URLs.	NOP Team Leader	April 2001
		Advocate in support of the regional hiring of sufficient NMFS staff to participate in key observer relationship-building functions of training and debriefing.	NOP Team Leader	September 2001
		Explore and provide opportunities for advanced training or the development of other skills to increase the overall professionalism of observers.	NOP Team Leader	September 2001

APPENDIX A: LIST OF ACRONYMS

ACCSP	Atlantic Coastal Cooperative Statistics Program
ADF&GBOF	Alaska Department of Fish and Game Board of Fisheries
ADF&G	Alaska Department of Fish and Game
AFA	American Fisheries Act
AFSC	Alaska Fisheries Science Center
AFU	Alaska Fisherman's Union
AKR	Alaska Region
APO	Association for Professional Observers
ASC	Administrative Service Center
ATV	All Terrain Vehicle
BRD	Bycatch Reduction Device
BSAI	Bering Sea/Aleutian Islands
CA/OR DGN	California/Oregon Drift Gillnet
CASU	Cooperative Administrative Support Unit
CDQ	Community Development Quota
CFR	Code of Federal Regulations
CIMMOP	Cook Inlet Marine Mammal Observer Program
CO	Contracting Officer
COTR	Contracting Officer's Technical Representative
CPFFC	Cost Plus Fixed Fee Contract
DCI	Data Contractors, Inc.
DMS	Data Management Systems
DOC	Department of Commerce
EASC	Eastern Administrative Support Center
EEO	Equal Employment Opportunity
EPIRB	Emergency Position Indicating Radio Beacon
FECA	Federal Employees Compensation Act
FEMAD	Fisheries Ecosystem Monitoring and Analysis Division
FMB	Fishery Management Branch
FMP	Fisheries Management Plan
FOIA	Freedom Of Information Act
FSB	Fisheries Sampling Branch
FTE	Full Time Employee
HQ/HMS	Headquarters/ Highly Migratory Species
IFQ	Individual Fishing Quota
JPA	Joint Partnership Agreement
LHWCA	Longshore and Harbor Workers Compensation Act
MARPOL	International Convention for the Prevention of Pollution from Ships, or MARPOL Treaty
MARFIN	Marine Fisheries Initiative
MCR	Management Control Review
MMPA	Marine Mammal Protection Act
MRAG	Marine Research Americas Group, Ltd
MSCDQ	Multi-Species Community Development Quota
MSFCMA	Magnuson-Stevens Fisheries Conservation and Management Act
NEFSC	Northeast Fisheries Science Center
NER	Northeast Region
NFWF	National Fish & Wildlife Foundation
NMFS	National Marine Fisheries Service
NMML	National Marine Mammal Laboratory

APPENDIX A: LIST OF ACRONYMS

NOAA	National Oceanic And Atmospheric Administration
NOPAT	National Observer Program Advisory Team
NOP	National Observer Program
NPFMC	North Pacific Fisheries Management Council
NPFOTC	North Pacific Fisheries Observer Training Center
NPGOP	North Pacific Groundfish Observer Program
NWFSC	Northwest Fisheries Science Center
NWHI	Northwestern Hawaiian Islands
NWR	Northwest Region
OAC	Observer Advisory Committee
OPM	Office of Personnel Management
OPO	Observer Program Office
OWC	Office of Worker's Compensation
PDB	Population Dynamics Branch
PFD	Personal Floatation Device
P&I	Protection & Indemnity
PO	Purchase Order
PRD	Protected Resource Division
PSB	Protected Species Branch
PTSI	Professional and Technical Services, Inc.
PWCC	Pacific Whiting Conservation Cooperative
RPS	Rebuild Protected Species
RFP	Request For Proposal
SDM	Service Delivery Model
SEB	Source Evaluation Board
SEFSC	Southeast Fisheries Science Center
SER	Southeast Region
SFA	Sustainable Fisheries Act
SOW	Statement Of Work
SWFSC	Southwest Fisheries Science Center
TAC	Total Allowable Catch
TRT	Take Reduction Team
URL	Uniform Resource Locator
USCG	United States Coast Guard
USF&WS	United States Fish & Wildlife Service
VIP	Vessel Incentive Program
VMS	Vessel Monitoring System
WASC	Western Administrative Support Center
WOC	Washington/Oregon/California

**APPENDIX B:
MCR PERSONNEL**

MCR Coordinator

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Members of the MCR Team: (from left to right) Jim Nance, Steve Barbeaux, Darryl Christensen, Vicki Cornish, Jennifer Ferdinand, Tim Price, Teresa Turk, Martin Loefflad, Dennis Hansford, Neil Williams, and Margaret Toner

APPENDIX C.
MCR WORKPLAN AND SCHEDULE

MANAGEMENT CONTROL REVIEW (MCR) WORK PLAN

NAME OF MCR

NMFS Observer Program / Service Delivery Models

OPERATING UNIT

National Marine Fisheries Service (NMFS)

ASSESSABLE UNIT(S)

Headquarters Office of Science and Technology (ST) and all Regional Offices (NER, SER, SWR, NWR, and AKR)

DESCRIPTION OF THE PROCESS OR EVENT CYCLES SELECTED FOR REVIEW

The NMFS observer program, consisting of a Headquarters program and five Regional programs, has an important role in collecting scientific data about the catch and bycatch of marine species in the Nation's commercial fisheries. It is also relied upon increasingly to monitor compliance with fishery regulations administered under the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act, and the Endangered Species Act. Observers' duties include: collecting biological samples of target species; observing the species composition of the catch before non-target species are discarded; recording interactions with protected species such as marine mammals, birds or endangered species; and monitoring compliance with fishery regulations or other requirements.

In FY 1999, the NMFS Regions had observer activities covering 18 fisheries: 6 in the Northeast Region; 3 in the Southeast Region; 2 in the Alaska Fisheries Science Center and 2 in the Alaska Region; 1 in the Northwest region that is currently managed by the Alaska Fisheries Science Center; and 4 in the Southwest Region.

Observer activities vary widely from fishery to fishery because of differences in location, vessels, gear types, interactions with non-target species (fish, marine mammals, birds, and endangered species,) and program objectives. The scope and complexity of these activities have changed, as data on other species is needed or as new regulations are introduced.

The NMFS observer program consists of five "event cycles" (or management processes) in each of the five Regions. These event cycles describe the functions that the observer program must accomplish to successfully meet its objectives and are, from start to finish:

- Staffing and Recruitment,
- Training,
- Deployment and Logistics,

- Data Collection, and
- Debriefing, Data Entry, and Editing.

NUMBER OF STAFF (FTE'S) IN THE REVIEW AREA

In FY 1999, there were about 100 full time equivalents (FTE'S) in the NMFS Regions involved in observer activities (e.g., program support staff and observers.) Most of these FTE's were in the Alaska and Southwest Regions.

BUDGET IN THE REVIEW AREA

In FY 1999, NMFS received \$2.6 million in appropriated funds under the Congressional line item "observers and training;" however, about \$9.2 million was actually spent by the Regions on observer activities when funds obtained from related activities in the NMFS budget are included. The fishing industry and the states also contributed over \$10 million to observer activities in the Alaska and Northwest Regions. In FY 2000, NMFS Headquarters expects to spend about \$300 thousand on the National Observer Program (NOP) to support these Regional activities. The need for observers, expressed in Regional fishery management plans and legislation, as been growing more rapidly than the available funding.

REASONS FOR THE PROPOSED REVIEW

At-sea observations are an excellent source of the data needed to assess marine resources and manage fisheries, such as: catch; discards; species, size and age composition; and other biological information. Observers are the only way to directly witness the interactions between fishing operations and protected species such as marine mammals, birds, or endangered species.

The observer program has many special characteristics that require effective management. Observers are usually inexperienced and work alone on private fishing vessels without direct, continuing supervision. They must accommodate the difficult living arrangements and tight deadlines imposed by commercial fishing operations. Each trip at sea may be as long as three months, in hazardous and unpredictable conditions. The scientific data that observers collect is often of interest to the public, critical to regulating the fishing industry, proprietary, or confidential. Observers' duties change frequently and on short notice, as new regulations are promulgated. The observer program is administered differently as prescribed by law, regulation, contract, or other agreement, either directly by NMFS employees or by others.

The MCR will focus on the methods, or **service delivery models**, that the Regions use to provide and manage observer services. The Regions currently manage their observer activities using some variation of three service delivery models:

- In House (NMFS employees provide and manage all functions.)
- Contract to NMFS (NMFS employees provide and manage some functions and retain management control over the rest that are provided directly to NMFS under contract.)

- Third Party Contract with or without NMFS certification (Independent businesses or institutions, or individuals may be certified by NMFS, and provide most functions under a contract or agreement with fishing vessel owners or operators.)

These service delivery models occur throughout the Regions, and are an “umbrella” for the MCR. However they vary among Regions, as well as within a Region by event cycle and by fishery. Each service delivery model uses different management controls to insure that the observer program is effective and eliminates waste, fraud, and abuse. Therefore, the service delivery models in each Region will be defined and analyzed separately.

The MCR is expected to improve the current service delivery models and suggest by example how new observer activities should be managed. Accordingly:

- For the service delivery model(s) in each Region, the MCR Team will describe the management controls that are currently employed for the applicable event cycles and fisheries.
- The MCR Team will then empirically test the effectiveness of those management controls in averting selected risks, such as those listed below.
- Based on these findings and conclusions, the MCR Team may recommend corrective actions to comply with the specific standards of the General Accounting Office or meet the management needs of the observer program.

SIGNIFICANCE OF THE REVIEW

The Office of Science and Technology in NMFS Headquarters established the National Observer Program (NOP) in FY 1999 to address the common concerns of the Regions about observer activities. These included: cost management; recruitment, training, and retention; health and safety; insurance and liability; and data processing (recording, reporting, and maintenance) standards and methods. The NOP Advisory Team, with representatives from each of the Regions and Headquarters, will improve the Regional observer activities by making them more consistent while retaining local flexibility.

The NMFS Deputy Assistant Administrator and the Headquarters and Regional staff recently identified some significant “risks” (potentially adverse consequences) that are associated with observer activities:

- Funds for the observer program may be unavailable for obligation consistently and on time.
- The costs of providing observers may be excessive or misallocated within government and industry.
- Qualified observers may not be recruited and/or retained.
- Observers may not be properly trained to perform their duties.
- The health and safety of observers may be impaired.
- Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

- Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.
- The completeness and accuracy of observer data may be compromised (by flawed sampling design, conflicts of interest such as industry pressure on contractors and observers, collusion between fishermen and observers, unclear observers' authority, and inconsistent NMFS priorities/legislative mandates/regulations/political considerations, etc..)

An MCR of the foreign fishing observer program, which no longer exists but was the precedent for some current observer activities, was done in 1984. Since then, there has not been an MCR of the greatly expanded and diverse observer program and its service delivery models. Now that the NOP has begun working with the Regions, it is very timely to do another MCR.

MCR START DATE AND COMPLETION DATE

November 1999 to approximately July 2000

CONTACT PERSONS

MCR Coordinator

Neil K. Williams	F/OM	301-713-2245
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Assessable Unit Manager

William W. Fox	F/ST	301-713-2367
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MCR Team Leader

Victoria R. Cornish	F/ST (NOP)	301-713-2367
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MCR Team

Darryl J. Christensen	NEFSC	508-495-2351
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Stephen L. Copps	F/SF	301-713-2341
William J. Bellows	F/SF	301-713-2344

MCR SCHEDULE (REVISED)

TASK DESCRIPTION	ELAPSED TIME	BEGIN DATE	END DATE
1. <u>Develop MCR Topic & Materials</u>	2 weeks	11/22/99	12/6/99
a. Discuss with Deputy AA.			
b. Provide OFA with List of Event Cycles & Rationale.			
c. Draft Work Plan & Schedule.			
d. Organize MCR Team.			
e. Discuss with OFA and A.U. Manager.			
2. <u>Document Event Cycles</u>	6 weeks	12/6/99	1/17/00
a. Discuss with program manager(s).			
b. Discuss with OFA.			
3. <u>Analyze General Control Environment</u>	1 week	1/17/00	1/24/00
4. <u>Determine Risks</u>	1 week	1/24/00	1/31/00
5. <u>Determine Control Objectives</u>	1 week	1/31/00	2/7/00
6. <u>Identify Control Techniques</u>	6 weeks	2/7/00	3/20/00
a. Provide OFA with Risks, Control Objectives, & Control Techniques.			
b. Discuss draft Testing Plan with OFA.			
7. <u>Test Internal Control Techniques</u>	8 weeks	3/20/00	5/15/00
a. Prepare Testing Summary.			
b. Conduct Tests.			
8. <u>Evaluate Internal Controls</u>	6 weeks	5/15/00	7/3/00
9. <u>Prepare Recommendations</u>	4 weeks	7/3/00	7/31/00
a. Draft Recommendations.			
b. Consult with A.U. Manager.			
c. Consult with Responsible Officials, OD's and SD's etc.			
10. <u>Write Final Report</u>	8 weeks	7/31/00	9/25/00
a. Obtain AA approval.			

- b. Print and distribute MCR.

APPENDIX D.
TEST QUESTIONS

I. IN-HOUSE SERVICE DELIVERY MODEL

- A. Southwest Region Hawaii Longline and Monterey Bay Halibut Set Gillnet Observer Programs 417

II. NMFS CONTRACT SERVICE DELIVERY MODEL

- A. Alaska Region Cook Inlet Marine Mammal Observer Program 425
- B. Northeast Region Marine Mammal Protection Act and Sustainable Fisheries Act Observer Programs 433
- C. Southeast Region Shrimp Trawl, Pelagic Longline, and Shark Gillnet Observer Programs 443
- D. Southwest Region California /Oregon Drift Gillnet Observer Program 451

III. NMFS-CERTIFIED OBSERVER COMPANIES SERVICE DELIVERY MODEL

- A. Alaska Region North Pacific Groundfish Observer Program 461
- B. Northwest Region Pacific Whiting Observer Program 471

IV. RESOURCE FUNDED THIRD PARTY AGREEMENT SERVICE DELIVERY MODEL

- A. Northeast Region Sea Scallop Dredge Observer Program 475

SOUTHWEST REGION TEST QUESTIONS

SERVICE DELIVERY MODEL: IN HOUSE (HAWAII-BASED LONGLINE AND MONTEREY BAY HALIBUT SET GILLNET FISHERIES)

A. RISK: Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE: Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE:

Observer program managers obtain and issue funding guidance in sufficient time to recruit, train and deploy in-house observers.

A1. TEST:

Interview the observer program managers in Hawaii and California.

- Are funding levels known in sufficient time to manage the in-house observer program? If no, how do you obtain and issue funding guidance (i.e., by requesting/approving recruitment actions, reviewing sampling designs and regulatory requirements, documenting operating/financial plans, etc.)? Which of these internal controls are the most time-critical?
- Do fluctuations or uncertainties in funding levels make it more difficult to recruit, train and deploy in-house observers or increase the cost of doing so? How does this affect the terms of appointment for in-house observers (temporary, permanent, term, seasonal, part-time, and student)? How does this affect the program manager's relationship with the observers or the union (for the HBLL fishery)? Would an alternative service delivery model achieve better results? If yes, how (such as cooperative agreements with state agencies or universities, etc.)?
- How does NMFS comply with requirements for specific levels of observer coverage (such as mandated by the Council or by the SWFSC's sampling designs) if they are contingent on the availability of funding?

B. RISK: The costs of providing observers may be excessive or misallocated within government and industry.

B. OBJECTIVE: The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE:

The NMFS staff purchases, stores, and issues observer equipment at three locations.

B1. TEST:

Interview the observer program managers.

- Are there procedures that insure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?
- How are purchases accounted for? Do you match the deliveries with the shipping document, and the receiving document with the purchase order?
- How is the equipment maintained? Do you warehouse, limit access, account for custody and use, periodically review?
- Is adequate protection provided against access to inventories by outsiders or unauthorized employees?
- Are the facilities optimal in terms of cost and location?

Examine the inventory records, sign out sheets, etc..

- Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?

Examine the storage facilities for inventories.

- Do they provide adequate safekeeping?

C. RISK: Qualified observers may not be recruited and/or retained.

C. OBJECTIVE: Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE:

The NMFS recruits additional Federal observers as needed by issuing vacancy announcements, advertising, and the Internet.

C1. TEST:

Interview observer program managers and examine recruitment records for last year.

- Do you attempt to hire or retain a given number of experienced observers each year? If no, why not?
- Was there a sufficient pool of qualified observers to replace Federal employees who quit last year? (How many candidates applied? Were selected? Showed up for training? Completed training? Were employed by NMFS?)
- Is an in-house program more or less cost effective than a contract would be (in hiring qualified and credible observers quickly, assigning them usefully, and then keeping them)? If yes, how?

Interview (survey) a sample of gillnet and longline observers, using the recruitment/retention related questions in the MRAG questionnaire (#1, #2, #3, #4, #16 and #17).

#1. How did you originally learn about the observer program and observer jobs? (Check most appropriate answer) A. Friend B. Announcement at college C. Advertisement in paper, magazine D. Word of mouth E. Prior observer F. Other (please specify)

#2. What were the primary and secondary reasons for your interest in being an observer? Please write 1 and 2 next to your choices. A. Work on fishing vessels B. Work out of the Region C. Scientific or field experience D. Money E. Other (please specify)

#3. Was the observer pay level an attractive incentive for first becoming an observer? A. Yes B. No

#4. How was your job interview conducted?

A. Over the telephone B. Conference call C. Personal meeting D. None of the above E. Other (please specify)

#16. If you no longer work as an observer, please indicate your primary reason for leaving. If you had more than one reason, you may mark up to 3 reasons in order of priority (use 1, 2, and 3). A. Too much time away from family/friends B. Sea sickness C. Safety concerns D. Better job E. Grad school F. Compensation for work unsatisfactory G. Lack of advancement opportunities H. Lack of respect/understanding/support for my work - By Whom? I. Harassment/pressure; from - J. Other (Please list)

#17. Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future? A. Yes, please describe B. No

C2. CONTROL TECHNIQUE:

The NMFS establishes minimum qualifications for observer recruits.

C2. TEST:

Interview observer program managers, and review the recent performance and retention of observers in each of the fisheries.

- Are the minimum requirements for observer recruits specified by OPM appropriate (“too restrictive,” “about right,” or “not restrictive enough”)?
- Should these minimum requirements vary by fishery? If yes, why?
- Are the quality rating factors, score sheets, or standardized interview questions indicative of the recruits’ future success and longevity?

D. RISK: Observers may not be properly trained to perform their duties.

D. OBJECTIVE: Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE:

The NMFS conducts comprehensive training courses for recruits and experienced observers.

D1. TEST:

Interview the program staff and laboratory principal investigators who are responsible for observer training.

- How do you establish the overall training requirements, curriculums, and schedules? Do they vary from year to year? If yes, how?
- Do each of the various trainers insure that recruits meet the standards set by NMFS? If yes, does this include feedback from observers who have been at sea (such as those who return for an annual briefing session)? Do you certify the results?

Interview a sample of the most recent observers in the two fisheries.

- Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties (“very great use,” “great use,” “moderate use,” “some use,” or “little or no use”)?

Examine the other training related questions in the MRAG observer questionnaire (# 7 and #8).

#7. Overall, how would you rate the training and briefing? Very good, Good, Fair, Poor

#8. Overall, how well did the training and briefing prepare you? Very good, Good, Fair, Poor

D2. CONTROL TECHNIQUE:

The NMFS trains observers in core competencies.

D2. TEST:

Interview a sample of the most recent observers in the two fisheries.

- Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics was the training deficient?

Interview (survey) observers in the two fisheries, using the training related questions in the MRAG observer questionnaire (#9).

#9. A. What portion(s) of the training and briefing prepared you the best?

B. What portion(s) of the training and briefing needs improvement?

C. Other comments.

D3. CONTROL TECHNIQUE:

The NMFS allows experienced observers to work on special details and to work part-time while attending class (Hawaii-based observers).

D3. TEST:

Interview a sample of experienced observers in the two fisheries.

- Did you take advantage of special details or part-time work? If yes, was this useful in acquiring needed skills?

E. RISK: The health and safety of observers may be impaired.

E. OBJECTIVE: The health and safety of observers is protected.

E1. CONTROL TECHNIQUE:

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST:

Interview the observer program managers.

- How does NMFS notify vessel owners and operators of their responsibilities and methods of compliance? What records do you keep about the performance of this outreach program? Are these records useful in improving the outreach program?
- How are observers instructed to spot check major items for compliance with U.S. Coast Guard regulations, (i.e., a current CG safety inspection decal, etc.)? Is there a critical form or process?
- What records do you keep about what happened when observers made pre-trip safety checks of vessels to which they had been assigned?
- Do these records indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems? That there was attempted or perceived pressure on observers by vessel owners or operators? If yes, do these records describe the actions and outcomes, including any delays, loss of fishing days, legal actions etc.?

Interview a sample of the most recent observers in the two fisheries.

- Were you provided with a health and safety “checklist”?
- Are you aware of a written policy that an observer’s job will not be endangered if he refuses to board a vessel because of health or safety problems that he finds? In your personal experience, is this policy being followed? Do you ever feel any pressure from anyone to ignore health or safety concerns that you may have?
- During your last detail, did you identify any unacceptable health / safety conditions on the pre-trip safety check? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or retaining the vessel in port? Were these conditions corrected to your satisfaction?

E2. CONTROL TECHNIQUE:

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST:

Interview the observer program managers.

- Is there any documentation of the necessary action that you will take if an observer determines that a vessel is unsafe while at sea?

Interview (survey) a sample of the most recent observers in the two fisheries. Include the

health and safety related questions in the MRAG observer questionnaire (#58, #59, #60, #61 #63, and #66).

- During your last detail, did you identify any unacceptable health / safety conditions while the vessel was at sea? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or returning the vessel to port? Were these conditions corrected to your satisfaction?

#58. Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work? Yes, No

#59. If yes, can you approximate how frequently this has occurred? (Check one) Often, Occasionally, Rarely, Once

#60. If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity? Yes, No

#61. If no, why not?

#63. Was the debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? (Check one) Always, Usually, Occasionally, Rarely, Not at all

#66. In what ways could the Observer Program be more supportive of observers who have experienced harassment/intimidation/other trauma on the job? Check all the ones you consider most important, in order of importance (1=most important)

- Better training/preparation
- Better information in manual
- More support in the field
- Better outreach to industry
- Better enforcement and follow through on observer complaints
- More support during debriefing
- Better grievance procedures for observers
- Better communication and cooperation between contractor and NMFS
- Professional counseling support for observers who have experienced trauma
- Other (Please list)

F. RISK: Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE: Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE:

The NMFS encourages vessel owners to obtain insurance that would protect them in the event an observer is injured.

F1. TEST:

Interview a sample of vessel owners in the two fisheries.

- Last year, did NMFS encourage you to indemnify yourself against financial loss because of accidents involving, or loss caused by, your vessel?
- Do you currently carry P and I insurance? If yes, (a) does this coverage extend to observers as well as crew working on your vessel? (b) were you reimbursed for this

expense by NMFS after providing supporting records? If no, have you acquired other insurance coverage that does extend to observers?

Interview a sample of last year's observers in the two fisheries.

- Are you aware that you may be compensated under the Federal Employees Compensation Act if you are injured on a vessel?
- Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)?
- Was this explained to you by the vessel owner / operator or as part of your training? If yes, were you satisfied with the explanation?
- Have you attempted to obtain any workers' compensation or other remedy in connection with an injury you sustained at sea? If yes, in what situation?

G. RISK: Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.

G. OBJECTIVE: Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE:

Observer program managers routinely consult with the Council, the State, SWFSC, and other Federal agencies to coordinate appropriate types and levels of observer coverage.

G1. TEST:

Interview the observer program managers and selected SWFSC staff.

- Have fishery managers and scientists coordinated their plans for observer coverage successfully in recent years (particularly with respect to MMPA and MSFCMA objectives and sampling protocols)? Specifically: How has the observer program established priorities for monitoring incidental seabird interactions?

G2. CONTROL TECHNIQUE:

The NMFS randomly selects vessels for observer coverage.

G2. TEST:

Interview the program managers and examine records of vessels selected for coverage last year.

- Were vessels that were selected by NMFS randomly distributed (by size, catch, ports, or other independent variable)? If no, could this have resulted from any demonstrable bias in selecting vessels?

G3. CONTROL TECHNIQUE:

The NMFS notifies vessel owners/operators by certified mail of the requirements to carry an observer when requested.

G3. TEST:

Interview the program managers and examine records of vessels selected for coverage last year.

- Were the vessel owners/operators selected for coverage sent certified letters notifying them of the requirements?

H. RISK: The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE: Observer data is complete and accurate.

H1. CONTROL TECHNIQUE: The NMFS Manual describes procedures for data

collection.

H1. TEST:

Examine the Manual.

- Are the procedures complete and up to date?
- Have they been distributed to all observers?

H2. CONTROL TECHNIQUE:

The Data Coordinator reviews the observers' data, (including checks for inconsistencies, spot-checking, data-range reporting, and species identification).

H2. TEST:

Interview the Data Coordinator and examine a sample of preliminary data records processed last year.

- Were corrections made to the data (in blue and green pencils, etc.)?
- Was this data approved before being released to the Data Editor?

Interview (survey) observers in the two fisheries, using the debriefing related questions in the MRAG observer questionnaire (#45, #46, #47, #48, #49, #50, #51, #52).

#45. Were debriefing instructions clear and easy to follow?

#46. Was your debriefer able to provide adequate information you needed in a timely manner?

#47. Were your instructions for data corrections clear?

#48. Did your debriefing help prepare you for future cruises?

#49. Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members?

#50. Were you treated with respect/professionally during the debriefing process?

#51. Are you satisfied with the observer evaluation system?

#52. How do you think the evaluation system process affects observers' future work quality/morale? Check all that apply. Comments welcome.

A. Useful feedback

B. Provides incentive to do good work

C. Provides incentive to limit information shared with the debriefer

D. Encourages changes to data to facilitate debriefing process/or improve personal evaluation

E. Demoralizing

Comment.

H3. CONTROL TECHNIQUE:

The staff safeguards raw data, logbooks, and electronic data.

H3. TEST:

Interview the in house staff.

- What steps do you take to protect and restrict access to critical, confidential or proprietary data?

Interview (survey) observers in the two fisheries, using the security related questions in the MRAG observer questionnaire (#64 and #65).

#64. Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example, through the Freedom of Information Act? Yes, No, Don't know

#65. If yes, has this affected your reporting of information? Yes, No

H4. CONTROL TECHNIQUE:

The observer program staff updates the observer field manual and data collection protocols/priorities annually, coinciding with observer training classes.

H4. TEST:

Examine the latest manual and update circulars.

- Are they current?

H5. CONTROL TECHNIQUE:

The observer completes a post-cruise questionnaire and, if necessary, meets with an enforcement agent.

H5. TEST:

Examine a sample of the post-cruise questionnaires for last year.

- Are these questionnaires available for every cruise and filled out completely? Was an enforcement report filled out when necessary?

ALASKA REGION TEST QUESTIONS

SERVICE DELIVERY MODEL: CONTRACT TO NMFS (COOK INLET MARINE MAMMAL OBSERVER PROGRAM)

A. RISK: Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE: Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE:

Observer program managers obtain and issue funding guidance in sufficient time to solicit and negotiate contract support.

A1. TEST:

Interview the COTR.

- In 1999, were funding levels known in sufficient time to review and accept contract proposals (i.e., for internal controls such as considering acquisition strategies, developing the SOW, issuing the RFP, reviewing proposals, negotiating with vendors, and awarding the contract)? If no, did this make it more difficult to contract for qualified observers or increase the cost of doing so? Would an alternative service delivery model achieve better results? If yes, how?

B. RISK: The costs of providing observers may be excessive or misallocated within government and industry.

B. OBJECTIVE: The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE:

The NMFS purchases, stores and issues all sampling and safety gear.

B1. TEST:

Interview the Contract Property / Supply Officer (COTR).

- Are there procedures that insure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?
- How are purchases accounted for? Do you match the deliveries with the shipping document, and the receiving document with the purchase order?
- How is the equipment maintained? Do you warehouse, limit access, account for custody and use, periodically review?
- Is adequate protection provided against access to inventories by outsiders or unauthorized employees?
- Are the facilities optimal in terms of cost and location?

Examine the inventory records, sign out sheets, etc..

- Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?
- Last year, did observers return all gear and equipment to NMFS at the end of their tours or on schedule or at the completion of the contract?

Examine the storage facilities for inventories.

- Do they provide adequate safekeeping?

B2. CONTROL TECHNIQUE:

The COTR monitors the costs plus fixed fee contract by comparing the invoices received from

the contractor with the reports received from the observers.

B2. TEST:

Interview the COTR.

- Do you compare the invoices for the services of individual observers with the records of the observer's activities? If yes, were they approved by a responsible official in accordance with the terms and conditions of the contract?

B3. CONTROL TECHNIQUE:

NMFS requires that observer coverage in the Cook Inlet fishery be equitably distributed among vessels and sites.

B3. TEST:

Interview the observer program manager and examine the communication and deployment logs prepared by DCI for last year.

- How do you determine the most reasonable and fair way to deploy observers in this fishery? How was this communicated to DCI last year? With what specific results?

C. RISK: Qualified observers may not be recruited and/or retained.

C. OBJECTIVE: Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE:

The NMFS uses DCI to supply observers on a timely basis.

C1. TEST:

Interview the program manager.

- Do you require DCI to hire or retain a given number of experienced observers? If no, why not?
- Is a contract with NMFS more or less cost effective than an alternative service delivery model (such as in-house observers) would be (in hiring qualified and credible observers quickly, assigning them usefully, and keeping them)? If yes, how (with reference to such factors as the function of "lead" observers, the Service Contract Act, etc.)?

Interview a sample of current observers in the Cook Inlet fishery, using the recruitment/retention related questions in the MRAG questionnaire (#1, #2, #3, #4, #16 and #17).

#1. How did you originally learn about the observer program and observer jobs? (Check most appropriate answer) A. Friend B. Announcement at college C. Advertisement in paper, magazine D. Word of mouth E. Prior observer F. Other (please specify)

#2. What were the primary and secondary reasons for your interest in being an observer? Please write 1 and 2 next to your choices. A. Work on fishing vessels B. Work out of the Region C. Scientific or field experience D. Money E. Other (please specify)

#3. Was the observer pay level an attractive incentive for first becoming an observer? A. Yes B. No

#4. How was your job interview conducted?

A. Over the telephone B. Conference call C. Personal meeting D. None of the above E. Other (please specify)

#16. If you no longer work as an observer, please indicate your primary reason for leaving. If you had more than one reason, you may mark up to 3 reasons in order of priority (use 1, 2, and 3). A. Too much time away from family/friends B. Sea sickness C. Safety concerns D. Better job E. Grad school F. Compensation for work unsatisfactory G. Lack of advancement opportunities

H. Lack of respect/understanding/support for my work - By Whom? I. Harassment/pressure; from
- J. Other (Please list)

#17. Are there any incentives/changes in the program that would encourage you to return to work
as an observer in the future? A. Yes, please describe B. No

C2. CONTROL TECHNIQUE:

The NMFS establishes minimum qualifications for observer recruits (for both regular and lead
observers).

C2. TEST:

Interview the observer program manager, and review last year's performance and retention of
observers in the Cook Inlet fishery.

- Are the minimum requirements for observer recruits, such as 30 semester hours in the
biological sciences, appropriate ("too restrictive," "about right," or "not restrictive enough")?

C3. CONTROL TECHNIQUE:

The NMFS rejects unsuitable observers recruited by DCI during their initial training.

C3. TEST:

Interview the observer program manager, and review the recent performance and retention of
observers in the Cook Inlet fishery.

- How do you administer the basic educational and experience requirements for recruits?
- Do you reject unsuitable observers recruited by DCI? If yes, for what causes (uncooperative,
abusive, inexperienced, skills lacking, etc.)? Was this disruptive or costly to the training
process? If yes, does this suggest inadequate screening by the contractor?

Interview DCI staff.

- Do you screen observer recruits before sending them to NMFS for training? If yes, how was
this done last year (review of resumes, transcripts, etc.,) and with what results ("80% have
proven experience as successful observers", etc.)?

C4. CONTROL TECHNIQUE:

The NMFS decertifies observers who are not qualified.

C4. TEST:

Interview the program manager.

- Last year, was the work of certified observers properly supervised (assigned, reviewed, and
approved)? If no, would an alternative service delivery model be better? How?
- What criteria (such as performance of duties, standards of conduct etc.) are used to decertify
observers? Are these criteria documented?
- Were any observers decertified last year? If yes, in what situations?

D. RISK: Observers may not be properly trained to perform their duties.

D. OBJECTIVE: Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE:

The NMFS conducts comprehensive training courses for recruits and experienced observers.

D1. TEST:

Interview the staff responsible for training (at the Anchorage Observer Training Center and DCI).

- How does NMFS establish the training requirements (subject matter and curriculum)? Does
DCI participate or assist in setting those requirements?
- Do you measure and demonstrate the success of the courses or the individual students? If

yes, how are these tests administered (conducted, reviewed, and approved)? How effective are the tests in improving the training courses or the performance of the students?

Interview a sample of current observers in the Cook Inlet fishery.

- Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties (“very great use,” “great use,” “moderate use,” “some use,” or “little or no use”)?

Interview a sample of current observers in the Cook Inlet fishery, using the training related questions in the MRAG observer questionnaire (# 7 and #8).

#7. Overall, how would you rate the training and briefing? Very good, Good, Fair, Poor

#8. Overall, how well did the training and briefing prepare you? Very good, Good, Fair, Poor

D2. CONTROL TECHNIQUE:

The NMFS trains observers in core competencies.

D2. TEST:

Interview a sample of the most recent observers in the three fisheries.

- Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics was the training deficient?

Interview a sample of current observers in the Cook Inlet fishery, using the training related questions in the MRAG observer questionnaire (#9).

#9. A. What portion(s) of the training and briefing prepared you the best?

B. What portion(s) of the training and briefing needs improvement?

C. Other comments.

E. RISK: The health and safety of observers may be impaired.

E. OBJECTIVE: The health and safety of observers is protected.

E1. CONTROL TECHNIQUE:

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST:

Interview the observer program manager.

- How does NMFS notify vessel owners and operators of their responsibilities and methods of compliance? What records do you keep about the performance of this outreach program? Are these records useful in improving the outreach program?
- How are observers instructed to spot check major items for compliance with U.S. Coast Guard regulations, (i.e., a current CG safety inspection decal, etc.)? Is there a critical form or process?
- What dispute resolution procedures does NMFS and the Coast Guard follow when an observer and a vessel owner or operator disagree about the safety of a vessel? Are these procedures in writing (documented)? If yes, is there a clear, written chain of command? Is there required review, approval or sign off? Is there a provision for follow-up to insure that the health and safety concerns are corrected?
- What records, if any, do you keep about what happened when observers made pre-trip safety checks of vessels to which they had been assigned?
- Do these records indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems? That there was attempted or perceived pressure

on observers by vessel owners or operators? If yes, do these records describe the actions and outcomes, including any delays, loss of fishing days, legal actions etc.?

Interview the DCI staff.

- What records, if any, do you supply to the observer program manager concerning health or safety problems that observers may have alleged or subsequent refusals to board these vessels?

Interview a sample of current observers in the Cook Inlet fishery.

- Were you provided with a health and safety “checklist”?
- Are you aware of a written policy that an observer’s job will not be endangered if he refuses to board a vessel because of health or safety problems that he finds? In your personal experience, is this policy being followed? Do you ever feel any pressure from the contractor or the vessel owner/operator to ignore health or safety concerns that you may have?
- During your last detail, did you identify any unacceptable health / safety conditions on the pre-trip safety check? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or retaining the vessel in port? Were these conditions corrected to your satisfaction?

E2. CONTROL TECHNIQUE:

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST:

Interview the observer program manager.

- Is there any documentation of the necessary action that you will take if an observer determines that a vessel is unsafe while at sea?
- Last year did DCI report in an NMFS approved log any instances in which observers were unable to conduct their duties safely at sea?

Interview (survey) a sample of current observers in the Cook Inlet fishery.

- During your last detail, did you identify any unacceptable health / safety conditions while the vessel was at sea? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or returning the vessel to port? Were these conditions corrected to your satisfaction?

Interview a sample of current observers in the Cook Inlet fishery, using the health and safety related questions in the MRAG observer questionnaire (#58, #59, #60, #61 #63, and #66).

#58. Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work? A. Yes, B. No

#59. If yes, can you approximate how frequently this has occurred? (Check one) Often, Occasionally, Rarely, Once

#60. If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity? Yes, No

#61. If no, why not?

#63. Was the debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? (Check one) Always, Usually, Occasionally, Rarely, Not at all

#66. In what ways could the Observer Program be more supportive of observers who have

experienced harassment/intimidation/other trauma on the job? Check all the ones you consider most important, in order of importance (1=most important)

- A. Better training/preparation
- B. Better information in manual
- C. More support in the field
- D. Better outreach to industry
- E. Better enforcement and follow through on observer complaints
- F. More support during debriefing
- G. Better grievance procedures for observers
- H. Better communication and cooperation between contractor and NMFS
- I. Professional counseling support for observers who have experienced trauma
- J. Other (Please list)

F. RISK: Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE: Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE:

The NMFS requires the contractor (DCI) to provide adequate insurance coverage for all the observers that it employs.

F1. TEST:

Interview the observer program manager.

- Does DCI cover observers under FECA? Under state workers' compensation? Under LHWCA? If yes, are any of these coverages redundant?
- Did you obtain documentation from DCI that adequate insurance coverage was in effect at the time the contract was first awarded (in June, 1999)? If no, has this documentation been obtained since then?
- In recent years, do your records indicate that there was any injury to an observer that resulted in a worker's compensation claim? In a claim against the vessel? In a claim against the certified contractor?

Interview a sample of last year's observers in the Cook Inlet fishery.

- Are you aware that you may be compensated under the Federal Employees Compensation Act if you are injured on a vessel? (FECA/MSFCA Sec. 403(c))?
- Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)?
- Was this explained to you by DCI, the vessel owner / operator, or as part of your training? If yes, were you satisfied with the explanation?
- Have you attempted to obtain any workers' compensation or other remedy in connection with an injury you sustained at sea? If yes, in what situation?

G. RISK: Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.

G. OBJECTIVE: Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE:

The observer program manager routinely consults with the North Pacific Fishery Management Council, AFSC, and the Alaska Dept. of Fish and Game to coordinate appropriate types and levels of observer coverage.

G1. TEST:

Interview the observer program manager.

- Have fishery managers and scientists coordinated their plans for observer coverage successfully in recent years? Specifically: How has the observer program established priorities for monitoring incidental seabird interactions? How has the observer program accommodated scientists' needs to control random sampling design and data quality/integrity? How has DCI adjusted deployment levels to avoid bias and over sampling when fishing effort is low? With what results?

G2. CONTROL TECHNIQUE:

The NMFS alters coverage levels in response to changes in bycatch or management objectives.

G2. TEST:

Interview the observer program manager.

- How did you manage any sudden changes in manpower requirements last year? Does the use of a contractor to NMFS help or hurt your ability to modify coverage levels to meet changing data or compliance monitoring requirements? Would an alternative service delivery model (such as in-house) achieve better results? If yes, how?

G3. CONTROL TECHNIQUE:

The NMFS requires DCI to insure that all data, reports, and specimens collected by observers are delivered to NMFS at the end of the season or their tour of duty.

G3. TEST:

Interview the observer program manager.

Last year, did DCI deliver the required data, reports, and specimens on time?

H. RISK: The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE: Observer data is complete and accurate.

H1 CONTROL TECHNIQUE: The NMFS Observer Sampling Manual and supplemental information packets describe procedures for data collection.

H1. TEST:

Examine the Manual.

- Are the procedures complete and up to date?
- Have they been distributed to all observers?

H2. CONTROL TECHNIQUE: The observer program staff reviews observer data forms and debriefs observers before final data entry.

H2. TEST:

Interview a sample of current observers in the Cook Inlet fishery, using the debriefing related questions in the MRAG observer questionnaire (#45, #46, #47, #48, #49, #50, #51, #52).

#45. Were debriefing instructions clear and easy to follow?

#46. Was your debriefer able to provide adequate information you needed in a timely manner?

#47. Were your instructions for data corrections clear?

#48. Did your debriefing help prepare you for future cruises?

#49. Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members?

#50. Were you treated with respect/professionally during the debriefing process?

#51. Are you satisfied with the observer evaluation system?

#52. How do you think the evaluation system process affects observers' future work quality/morale? Check all that apply. Comments welcome.

A. Useful feedback

B. Provides incentive to do good work

C. Provides incentive to limit information shared with the debriefer

D. Encourages changes to data to facilitate debriefing process/or improve personal evaluation

E. Demoralizing

F. Comment.

H3. CONTROL TECHNIQUE:

The staff safeguards raw data, logbooks, and electronic data.

H3. TEST:

Interview the observer program manager.

- What steps do you take to protect and restrict access to critical, confidential or proprietary data (originals in NMFS files or copies that are retained by DCI in various port offices)?

Interview a sample of current observers in the Cook Inlet fishery, using the security related questions in the MRAG observer questionnaire (#64 and #65).

#64. Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example, through the Freedom of Information Act? Yes, No, Don't know

#65. If yes, has this affected your reporting of information? Yes, No

NORTHEAST REGION TEST QUESTIONS

SERVICE DELIVERY MODEL: CONTRACT TO NMFS (MMPA & SFA FISHERIES)

A. RISK: Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE: Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE:

Observer program managers obtain and issue funding guidance in sufficient time to solicit and negotiate contract support.

A1. TEST:

Interview the observer program managers and staff (MMPA and SFA observer support).

- Are funding levels known in sufficient time to review and accept contract proposals (i.e., for internal controls such as considering acquisition strategies, developing the SOW, issuing the RFP, reviewing proposals, negotiating with vendors, and awarding the contract)? If no, does this make it more difficult to contract for qualified observers or increase the cost of doing so? Would an alternative service delivery model achieve better results? If yes, how?

A2. CONTROL TECHNIQUE:

Observer program managers obtain observer supplies and equipment six months before they are needed.

A2. TEST:

Interview the observer program managers and staff (MMPA and SFA observer support).

- Were supplies and equipment available when needed by observers last year? If no, was this because funding was not timely?
- Was warehousing sufficient?
- Did purchasing six months in advance result in any extra costs to NMFS?

B. RISK: The costs of providing observers may be excessive or misallocated within government and industry.

B. OBJECTIVE: The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE:

The Fisheries Sampling Branch (FSB) staff purchases, stores, and issues observer equipment.

B1. TEST:

Interview the FSB staff.

- What procedures do you follow to insure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?
- How do you authorize and account for purchases? Do you match the deliveries with the shipping document, and the receiving document with the purchase order?
- How do you maintain the equipment? Do you warehouse, limit access, account for custody and use, periodically review?
- Is adequate protection provided against access to inventories by outsiders or unauthorized employees?

- Are the facilities optimal in terms of cost and location?

Examine the inventory records, sign out sheets, etc..

- Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?
- Examine the storage facilities for inventories.
- Do they provide adequate safekeeping?

B2. CONTROL TECHNIQUE 1:

The COTR monitors the costs of the contract by comparing the invoices received from the contractor with the reports received from the observers.

B2. TEST:

Interview the COTR(s).

- Do you compare the invoices for the services of individual observers with the records of the observer's activities? If yes, were they approved by a responsible official in accordance with the terms and conditions of the contract?

B3. CONTROL TECHNIQUE:

The COTR and CO compare the costs of Federal and contract workers for the same work.

B3. TEST:

Examine records (cost data comparisons) for last year.

- Are the cost comparisons complete? If yes, do they demonstrate that contract costs do not exceed Federal costs?

B4. CONTROL TECHNIQUE:

The FSB Branch Chief sets limits on the contractor's travel costs based on past experience.

B4. TEST:

Interview the FSB Branch Chief and examine the records of travel costs last year.

- Do the records of travel costs show that the limits were met? If no, why?

C. RISK: Qualified observers may not be recruited and/or retained.

C. OBJECTIVE: Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE:

The NMFS uses contracts to supply observers on a timely basis.

C1 TEST:

Interview the program manager.

- Do you attempt to hire or retain a given number of experienced observers each year? If no, why not?
- Are contracts more or less cost effective than an in-house program would be (in hiring qualified and credible observers quickly, assigning them usefully, and then keeping them)? If yes, how?

Interview a sample of current observers in the MMPA and SFA fisheries using the recruitment/retention related questions in the MRAG questionnaire (#1, #2, #3, #4, #16 and #17).

#1. How did you originally learn about the observer program and observer jobs? (Check most appropriate answer) A. Friend B. Announcement at college C. Advertisement in paper, magazine D. Word of mouth E. Prior observer F. Other (please specify)

#2. What were the primary and secondary reasons for your interest in being an observer?

Please write 1 and 2 next to your choices. A. Work on fishing vessels B. Work out of the Region C. Scientific or field experience D. Money E. Other (please specify)

#3. Was the observer pay level an attractive incentive for first becoming an observer? A. Yes B. No

#4. How was your job interview conducted?

A. Over the telephone B. Conference call C. Personal meeting D. None of the above E. Other (please specify)

#16. If you no longer work as an observer, please indicate your primary reason for leaving. If you had more than one reason, you may mark up to 3 reasons in order of priority (use 1, 2, and 3). A. Too much time away from family/friends B. Sea sickness C. Safety concerns D. Better job E. Grad school F. Compensation for work unsatisfactory G. Lack of advancement opportunities H. Lack of respect/understanding/support for my work - By Whom? I. Harassment/pressure; from - J. Other (Please list)

#17. Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future? A. Yes, please describe B. No

C2. CONTROL TECHNIQUE:

The COTR rejects unsuitable observers recruited by PTSI during their initial training.

C2. TEST:

Interview the COTR, and review the recent experience in training recruits.

- Do you reject unsuitable observers recruited by PTSI? If yes, for what causes (uncooperative, abusive, inexperienced, etc.)? Was this disruptive or costly to the training process?

Interview PTSI staff.

- Do you screen observer recruits before sending them to NMFS for training? If yes, how was this done recently (application criteria, initial interview, etc.,) and with what results?

RECOMMENDATION? The NMFS should modify the SOW to define the minimum qualifications that the contractor must use to screen recruits.

C3. CONTROL TECHNIQUE:

The FSB staff and data editors specially review the data from new observers.

C3. TEST:

Interview FSB staff and review records of recent debriefings of new observers.

- Do these records suggest that new observers' data were more carefully reviewed?

C4. CONTROL TECHNIQUE:

The NMFS decertifies observers who are not qualified.

C4. TEST:

Interview the program manager.

- What standards are used to decertify observers?

C5. CONTROL TECHNIQUE:

The FSB assigns observers to other ports during seasonal slack periods.

C5. TEST:

Interview the program manager and examine employment records of observers last year.

- Were observers deployed to other ports wherever feasible?

D. RISK: Observers may not be properly trained to perform their duties.

D. OBJECTIVE: Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE:

The NMFS conducts comprehensive training courses for recruits and experienced observers.

D1. TEST:

Interview the FSB staff responsible for training observers recruited by PTSI.

- How do you establish the overall training requirements? Is training standardized from session to session? Does PTSI participate or assist in setting those requirements?
- Do each of the various trainers insure that recruits meet the standards set by NMFS? If yes, does this include feedback from observers who have been to sea? Do you certify these results?

Interview a sample of current observers in the MMPA and SFA fisheries.

- Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties (“very great use,” “great use,” “moderate use,” “some use,” or “little or no use”)?
- Have you been offered advanced training on research vessel cruises? If yes, was this useful in acquiring needed skills?

Examine the other training related questions in the MRAG observer questionnaire (# 7 and #8).

#7. Overall, how would you rate the training and briefing?

- Very good, B. Good, C. Fair, D. Poor

#8. Overall, how well did the training and briefing prepare you?

- Very good, B. Good, C. Fair, D. Poor

D2. CONTROL TECHNIQUE:

The NMFS trains observers in core competencies.

D2. TEST:

Examine and compare the training curriculums in the MMPA, SFA, (and Atlantic Scallop) fisheries.

- Is the training for core observer competencies (such as vessel safety, survival training, relations with the crew, etc.) standardized throughout the NER? If no, how does it vary?

Interview a sample of the most recent observers in the MMPA and SFA fisheries.

- Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics was the training deficient?

Examine the other training related questions in the MRAG observer questionnaire (#9).

#9. Comments:

A. What portion(s) of the training and briefing prepared you the best?

B. What portion(s) of the training and briefing needs improvement?

C. Other comments:

D3. CONTROL TECHNIQUE:

The FSB schedules and obtains temporary facilities to conduct training as needed.

D3. TEST:

Interview the FSB staff.

- Were training facilities available during peak times, such as in the summer at Woods

Hole?

D4. CONTROL TECHNIQUE:

The FSB staff schedules training on a timely basis when alerted by PTSI.

D4. TEST:

Interview the FSB staff.

- In recent years, did PTSI alert you to train observer recruits when needed? Did you have sufficient time to do so?

E. RISK: The health and safety of observers may be impaired.

E. OBJECTIVE: The health and safety of observers is protected.

E1. CONTROL TECHNIQUE:

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST:

Interview the observer program managers and staff (MMPA and SFA observer support).

- How does NMFS notify vessel owners and operators of their responsibilities and methods of compliance? What records do you keep about the performance of this outreach program? Are these records useful in improving the outreach program?
- How are observers instructed to spot check major items for compliance with U.S. Coast Guard regulations, (i.e., a current CG safety inspection decal, etc.)? Is there a critical form or process?
- What dispute resolution procedures does NMFS and the Coast Guard follow when an observer and a vessel owner or operator disagree about the safety of a vessel? Are these procedures in writing (documented)? Is there a clear, written chain of command? Is there required review, approval or sign off? Do separate and impartial personnel conduct investigations?
- What records do you keep about what happened when observers made pre-trip safety checks of vessels to which they had been assigned?
- Do these records indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems? That there was attempted or perceived pressure on observers by vessel owners or operators? If yes, do these records describe the actions and outcomes, including any delays, loss of fishing days, legal actions etc.?

Interview PTSI.

- What records, if any, does PTSI supply to the FSB concerning safety problems that observers may have alleged or subsequent refusals to board these vessels?

Interview a sample of current observers in the MMPA and SFA fisheries.

- Were you provided with a health and safety “checklist”?
- Are you aware of a written policy that an observer’s job will not be endangered if he refuses to board a vessel because of health or safety problems that he finds? In your personal experience, is this policy being followed? Do you ever feel any pressure from PTSI to ignore health or safety concerns that you may have?
- During your last detail, did you identify any unacceptable health / safety conditions on the pre-trip safety check? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What

actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or retaining the vessel in port? Were these conditions corrected to your satisfaction?

E2. CONTROL TECHNIQUE:

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST:

Interview the observer program managers.

- Is there any documentation of the necessary action that you will take if an observer determines that a vessel is unsafe while at sea?

Interview (survey) a sample of current observers in the MMPA and SFA fisheries.

- During your last detail, did you identify any unacceptable health / safety conditions while the vessel was at sea? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or returning the vessel to port? Were these conditions corrected to your satisfaction?

Interview a sample of current observers in the MMPA and SFA fisheries, using the other health and safety related questions in the MRAG observer questionnaire (#58, #59, #60, #61 #63, and #66).

#58. Have you ever been intimidated, pressured, harassed or had your sampling

interfered with in a manner that affected the quantity or quality of your work? Yes, No

#59. If yes, can you approximate how frequently this has occurred? Often, Occasionally, Rarely, Once

#60. If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity? Yes, No

#61. If no, why not?

#63. Was the debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? Always, Usually, Occasionally, Rarely, Not at all

#66. In what ways could the Observer Program be more supportive of observers who have experienced harassment/intimidation/other trauma on the job? Check all the ones you consider important, in order of importance (1=most important)

- Better training/preparation
- Better information in manual
- More support in the field
- Better outreach to industry
- Better enforcement and follow through on observer complaints
- More support during debriefing
- Better grievance procedures for observers
- Better communication and cooperation between contractor and NMFS
- Professional counseling support for observers who have experienced trauma
- Other (Please list)

F. RISK: Insurance coverage and legal remedies for observers who are injured at sea may

be inadequate.

F. OBJECTIVE: Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE:

The NMFS administers contracts with PTSI that provide both workers' compensation and blanket liability coverage to PTSI if observers are injured at sea.

F1. TEST:

Interview the COTR and the CO for the contracts with PTSI.

- Do the current contracts with PTSI cover observers under FECA? Under state workers' compensation? Under LHWCA? If yes, are any of these coverages redundant?
- Do the current contracts provide blanket liability coverage to PTSI?
- Does NMFS reimburse the contractor for any of the premiums paid for workers' compensation or blanket liability coverage? If yes, what are the annual amounts?
- In recent years, do your records indicate that there was any injury to an observer that resulted in a workers' compensation claim? In a claim against the vessel? In a claim against the contractor?

Interview (survey) a sample of current observers in MMPA and SFA fisheries.

- Are you aware that you may be compensated under the Federal Employees Compensation Act if you are injured on a vessel? (FECA/MSFCA Sec. 403(c))?
- Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)?
- Was this explained to you by the contractor or by NMFS as part of your training? Were you satisfied with the explanation?
- Have you attempted to obtain any workers' compensation or legal remedy in connection with an injury you sustained at sea? If yes, in what situation?

F2. CONTROL TECHNIQUE:

The NMFS encourages vessel owners to obtain insurance that would protect them in the event an observer is injured.

F2. TEST:

Interview (survey) a sample of vessel owners in MMPA and SFA fisheries.

- Last year, did NMFS encourage you to indemnify yourself against financial loss because of accidents involving, or loss caused by, your vessel?
- Do you carry P and I insurance to indemnify yourself against financial loss because of accidents involving, or loss caused by, your vessel? If yes, does this coverage extend to observers as well as to crew working on your vessel? If no, have you acquired other insurance coverage that does extend to observers? Would you be more likely to carry P and I insurance that extended to observers if you were reimbursed for this expense by NMFS?

G. RISK: Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.

G. OBJECTIVE: Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE:

Observer program managers routinely consult with the Councils, the NEFSC, the USFWS, and the Atlantic Coast Cooperative Statistics Program to coordinate appropriate types and levels of observer coverage.

G1. TEST:

Interview the observer program managers and selected NEFSC staff.

- Have fishery managers and scientists coordinated their plans for observer coverage successfully in recent years?

G2. CONTROL TECHNIQUE:

The FSB provides the contractor with a list of required observer coverages.

G2. TEST:

Interview the observer program managers and examine records of vessels selected for coverage last year.

- Were the vessels that were selected by the contractor randomly distributed (by size, catch, ports, or other independent variable)? If no, could this have resulted from any demonstrable bias in selecting vessels either by the contractor or the observers?
- Were vessels selected for mandatory coverage sent registered letters notifying them of the requirements, with copies to PTSI?

G3. CONTROL TECHNIQUE:

FSB staff obtain trip summary data from the PTSI Program Manager, and deploy observers accordingly.

G3. TEST:

Interview the FSB staff and examine periodic trip summary data for last year.

- Was trip summary data available when needed to determine the sea days completed in each fishery? If yes, did this facilitate reapplying unexpended funds?

H. RISK: The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE: Observer data is complete and accurate.

H1. CONTROL TECHNIQUE: The NMFS Manual describes procedures for data collection.

H1. TEST:

Examine the Manual.

- Are the procedures complete and up to date?
- Have they been distributed to all observers?

H2. CONTROL TECHNIQUE:

FSB staff and independent contractors review observer data forms and debrief observers before final data entry.

H2. TEST:

Interview the FSB staff and examine a sample of raw observer data that was recently entered.

- Were these data reviewed using written protocols, and signed off by the FSB staff?
- Do records indicate that the FSB staff notified PTSI of the need to debrief observers who had a high incidence of errors in their data?

Interview a sample of current observers in the MMPA and SFA fisheries, using the debriefing related questions in the MRAG observer questionnaire (#45, #46, #47, #48, #49, #50, #51, #52).

- #45. Were debriefing instructions clear and easy to follow?
- #46. Was your debriefer able to provide adequate information you needed in a timely manner?
- #47. Were your instructions for data corrections clear?
- #48. Did your debriefing help prepare you for future cruises?
- #49. Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members?
- #50. Were you treated with respect/professionally during the debriefing process?
- #51. Are you satisfied with the observer evaluation system?
- #52. How do you think the evaluation system process affects observers' future work quality/morale? Check all that apply. Comments welcome.
- Useful feedback
 - Provides incentive to do good work
 - Provides incentive to limit information shared with the debriefer
 - Encourages changes to data to facilitate debriefing process/or improve personal evaluation
 - Demoralizing

Comment.

H3. CONTROL TECHNIQUE:

The FSB staff safeguard all trip logs in one office with a sign-out sheet.

H3. TEST:

Interview FMB staff and a sample of contract observers.

- What steps do you take to insure that data on domestic commercial trips is protected? Interview a sample of current observers in the MMPA and SFA fisheries, using the other security related questions in the MRAG observer questionnaire (#64 and #65).

#64. Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example, through the Freedom of Information Act? Yes, No, Don't know

#65. If yes, has this affected your reporting of information? Yes, No

H4. CONTROL TECHNIQUE:

The FSB staff avoids sampling bias in the data (by limiting the number of times an observer can go out on the same boat during a quarter, randomizing selection of vessels for coverage, etc.).

H4. TEST:

Interview a sample of current observers in the MMPA and SFA fisheries.

- How much discretion do you exercise in deciding which vessel to work on (“a lot,” “a little,” or “none”)? If “a lot” or “a little,” what are the characteristics of the vessels that you prefer (i.e., accommodations, food, crew, safety, etc.)?

H5. CONTROL TECHNIQUE:

The FSB debriefs observers on a timely and consistent basis.

H5. TEST:

Interview FSB staff.

- Can debriefings be scheduled when and where they are needed, or are they limited (due to lack of travel funds, remoteness of ports, etc.)?

- Are face to face or telephone debriefings more effective in insuring data accuracy?
Examine a sample of recent debriefings in person and remotely.

- Which had the higher incidence of errors?

H6. CONTROL TECHNIQUE:

FSB staff and independent contractors verify the final data against the trip logs.

H6. TEST:

Examine a sample of final data and corresponding trip logs.

- Were data errors recorded on a standard form and given to DMS?

SOUTHEAST REGION TEST QUESTIONS

SERVICE DELIVERY MODEL: CONTRACT TO NMFS (SHRIMP TRAWL, SHARK DRIFT GILLNET, & PELAGIC LONGLINE FISHERIES)

A. RISK: Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE: Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE:

Observer program managers obtain and issue funding guidance in sufficient time to solicit and negotiate contract support.

A1. TEST:

Interview the observer program managers at the Galveston Lab, the Miami Lab, and Pascagoula Lab / Panama City.

- Are funding levels known in sufficient time to review and accept contract proposals (i.e., for internal controls such as considering acquisition strategies, developing the SOW, issuing the RFP, reviewing proposals, negotiating with vendors, and awarding the contract)? If no, do fluctuations in funding levels make it more difficult to retain qualified observers or increase the cost of doing so? Would an alternative service delivery model achieve better results? If yes, how?
- How does NMFS comply with requirements for specific levels of observer coverage (such as 100% observer for the shark drift gillnet fishery) if they are contingent on the availability of funding?

B. RISK: The costs of providing observers may be excessive or misallocated within government and industry.

B. OBJECTIVE: The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE:

The COTR purchases, stores, and issues observer equipment.

Interview the COTR(s).

B1. TEST:

Interview the COTR.

- What procedures do you follow to insure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?
- How do you authorize and account for purchases? Do you match the deliveries with the shipping document, and the receiving document with the purchase order?
- How do you maintain the equipment? Do you, limit access, account for custody and use, periodically review?
- Is adequate protection provided against access to inventories by outsiders or unauthorized employees?
- Are the facilities optimal in terms of cost and location?

Examine the inventory records, sign out sheets, etc..

- Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?

Examine the storage facilities for inventories.

- Do they provide adequate safekeeping?

B2. CONTROL TECHNIQUE 1:

The COTR monitors the costs of the contract by comparing the invoices received from the contractor with the reports received from the observers.

B2. TEST:

Interview the COTR(s).

- Do you compare the invoices for the services of individual observers with the records of the observer's activities? If yes, were they approved by a responsible official in accordance with the terms and conditions of the contract?

B3. CONTROL TECHNIQUE:

The NMFS compensates shrimp fishermen for possible shrimp loss (as a result of employing experimental bycatch reduction devices with observers).

B3. TEST:

Interview the observer program manager (shrimp fishery).

- How is "reasonable and fair" compensation determined and administered?

C. RISK: Qualified observers may not be recruited and/or retained.

C. OBJECTIVE: Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE:

The NMFS uses contracts to supply observers on a timely basis.

C1. TEST:

Interview observer program managers.

- Do you attempt to hire or retain a given number of experienced observers each year? If no, why not?
- Are contracts more or less cost effective than an in-house program would be (in hiring qualified and credible observers quickly, assigning them usefully, and then keeping them)? If yes, how?

Examine observer employment records for recent years.

- Is recruitment or retention affected by the use of one, rather than more than one, contractor? If yes, why?
- Has observer recruitment or retention varied among contractors? If yes, why?

Interview (survey) a sample of current observers in each of the three fisheries (shark drift gillnet, pelagic longline, and shrimp trawl), using the recruitment/retention related questions in the MRAG questionnaire (#1, #2, #3, #4, #16 and #17).

#1. How did you originally learn about the observer program and observer jobs? (Check most appropriate answer) A. Friend B. Announcement at college C. Advertisement in paper, magazine D. Word of mouth E. Prior observer F. Other (please specify)

#2. What were the primary and secondary reasons for your interest in being an observer?

Please write 1 and 2 next to your choices. A. Work on fishing vessels B. Work out of the Region C. Scientific or field experience D. Money E. Other (please specify)

#3. Was the observer pay level an attractive incentive for first becoming an observer? A. Yes B. No

#4. How was your job interview conducted?

A. Over the telephone B. Conference call C. Personal meeting D. None of the above E. Other (please specify)

#16. If you no longer work as an observer, please indicate your primary reason for leaving. If you had more than one reason, you may mark up to 3 reasons in order of priority (use 1, 2, and 3). A. Too much time away from family/friends B. Sea sickness C. Safety concerns D. Better job E. Grad school F. Compensation for work unsatisfactory G. Lack of advancement opportunities H. Lack of respect/understanding/support for my work - By Whom? I. Harassment/pressure; from - J. Other (Please list)

#17. Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future? A. Yes, please describe B. No

C2. CONTROL TECHNIQUE:

The NMFS establishes minimum qualifications for observer recruits.

C2. TEST:

Interview observer program managers, and review the recent performance and retention of observers in selected fisheries (i.e. red snapper, etc.).

- Are the minimum requirements for observer recruits in the Statement of Work, such as a Bachelor's Degree, appropriate ("too restrictive," "about right," or "not restrictive enough")?
- Should these minimum requirements vary by fishery? If yes, why?

Interview the contractors (PTSI and Johnson Controls).

- Do you screen observer recruits before sending them to NMFS for training? If yes, how was this done recently, and with what results?

D. RISK: Observers may not be properly trained to perform their duties.

D. OBJECTIVE: Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE:

The NMFS conducts comprehensive training courses for recruits and experienced observers.

D1. TEST:

Interview the NMFS staff responsible for training (at the Galveston Lab, the Miami Lab, and Pascagoula Lab / Panama City).

- How do you establish the training requirements? Does the contractor participate or assist?
- Do you measure and demonstrate the success of the courses or the individual students? If yes, how are these tests administered (conducted, reviewed, and approved)? How effective are the tests in improving the training courses or the performance of the students?

Interview (survey) a sample of current observers in each of the three fisheries (shark drift gillnet, pelagic longline, and shrimp trawl). Include the training related questions in the MRAG observer questionnaire (# 7 and #8).

- Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties ("very great use," "great use," "moderate use," "some use," or "little or no use")?

#7. Overall, how would you rate the training and briefing? Very good, Good, Fair, Poor

#8. Overall, how well did the training and briefing prepare you? Very good, Good, Fair, Poor

D2. CONTROL TECHNIQUE:

The NMFS trains observers in core competencies.

D2. TEST:

Examine and compare the training curriculums for each of the three fisheries (shark drift gillnet, pelagic longline, and shrimp trawl).

- Is the training for core observer competencies, (such as vessel safety, survival training, relations with the crew, etc.) standardized throughout the SER? If no, how does it vary?

Interview the NMFS staff responsible for training at the Galveston Lab, the Miami Lab, and Pascagoula Lab / Panama City.

- Do any of the curriculums place either “too much” or “too little” emphasis on particular topics, (such as sampling and estimating catch size, species identification, fishing gear, prohibited species, etc.)? If yes, which ones?

Interview (survey) a sample of current observers in each of the three fisheries. Include the training related questions in the MRAG observer questionnaire (#9).

- Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics was the training deficient?

#9. A. What portion(s) of the training and briefing prepared you the best?

B. What portion(s) of the training and briefing needs improvement?

C. Other comments.

E. RISK: The health and safety of observers may be impaired.

E. OBJECTIVE: The health and safety of observers is protected.

E1. CONTROL TECHNIQUE:

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST:

Interview the observer program managers for the three fisheries.

- How does NMFS notify vessel owners and operators of their responsibilities and methods of compliance? What records do you keep about the performance of this outreach program? Are these records useful in improving the outreach program?
- How are observers “encouraged to spot check major items for compliance with Coast Guard regulations”? Is there a critical form or process?
- What dispute resolution procedures does NMFS and the Coast Guard follow when an observer and a vessel owner or operator disagree about the safety of a vessel? Are these procedures in writing (documented)? Is there a clear, written chain of command? Is there required review, approval or sign off? Do separate and impartial personnel conduct investigations?
- What records do you keep about what happened when observers made pre-trip safety checks of vessels to which they had been assigned?
- Do these records indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems? That there was attempted or perceived pressure on observers by vessel owners or operators? If yes, do these records describe the actions and outcomes, including any delays, loss of fishing days, legal actions etc.?

Interview PTSI and Johnson Controls.

- What records, if any, do you supply to the observer program managers concerning safety problems that observers may have alleged or subsequent refusals to board these vessels.

Interview (survey) a sample of current observers in each of the three fisheries (shark drift gillnet, pelagic longline, and shrimp trawl).

- Are you aware of a written policy that an observer's job will not be endangered if he refuses to board a vessel because of health or safety problems that he finds? In your personal experience, is this policy being followed? Do you ever feel any pressure from PTSI or Johnson Controls to ignore health or safety concerns that you may have?
- During your last detail, did you identify any unacceptable health / safety conditions on the pre-trip safety check? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or retaining the vessel in port? Were these conditions corrected to your satisfaction?

E2. CONTROL TECHNIQUE:

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST 2:

Interview the observer program managers for the three fisheries.

- Is there any documentation of the necessary action that you will take if an observer determines that a vessel is unsafe while at sea?

Interview (survey) a sample of current observers in each of the three fisheries (shark drift gillnet, pelagic longline, and shrimp trawl). Include the health and safety related questions in the MRAG observer questionnaire (#58, #59, #60, #61 #63, and #66).

- During your last detail, did you identify any unacceptable health / safety conditions while the vessel was at sea? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard? Were these conditions corrected to your satisfaction?

#58. Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work? Yes, No

#59. If yes, can you approximate how frequently this has occurred? (Check one) Often, Occasionally, Rarely, Once

#60. If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity? Yes, No

#61. If no, why not?

#63. Was the debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? (Check one) Always, Usually, Occasionally, Rarely, Not at all

#66. In what ways could the Observer Program be more supportive of observers who have experienced harassment/intimidation/other trauma on the job? Check all the ones you consider most important, in order of importance (1=most important)

- Better training/preparation
- Better information in manual
- More support in the field
- Better outreach to industry
- Better enforcement and follow through on observer complaints
- More support during debriefing
- Better grievance procedures for observers
- Better communication and cooperation between contractor and NMFS
- Professional counseling support for observers who have experienced trauma
- Other (Please list)

F. RISK: Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE: Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE:

The NMFS administers contracts (with PTSI and Johnson Controls) and PO's that provide workers' compensation to observers who are injured at sea.

F1. TEST:

Interview the COTR and the CO.

- Do the current contracts with PTSI and Johnson Controls and PO's cover observers under FECA? Under state workers' compensation? Under LHWCA? If yes, are any of these coverages redundant?
- Does NMFS reimburse the contractor for any of the premiums paid for workers' compensation of observers? If yes, what is the annual amount?
- In recent years, do your records indicate that there was any injury to an observer that resulted in a workers' compensation claim? In a claim against the vessel? In a claim against the contractor?

Interview (survey) a sample of current observers in each of the three fisheries (shark drift gillnet, pelagic longline, and shrimp trawl).

- Are you aware that you may be compensated under the Federal Employees Compensation Act if you are injured on a vessel? (FECA/MSFCA Sec. 403(c))?
- Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)?
- Was this explained to you by the contractor or by NMFS as part of your training? Were you satisfied with the explanation?
- Have you attempted to obtain any workers' compensation or legal remedy in connection with an injury you sustained at sea? If yes, in what situation?

F2. CONTROL TECHNIQUE:

The NMFS encourages vessel owners to obtain insurance that would protect them in the event an observer is injured.

F2. TEST:

Interview (survey) a sample of vessel owners in each of the three fisheries (shark drift gillnet, pelagic longline, and shrimp trawl).

- Last year, did NMFS encourage you to indemnify yourself against financial loss

- because of accidents involving, or loss caused by, your vessel?
- Do you carry P and I insurance to indemnify yourself against financial loss because of accidents involving, or loss caused by, your vessel? If yes, does this coverage extend to observers as well as to crew working on your vessel? If no, have you acquired other insurance coverage that does extend to observers? Would you be more likely to carry P and I insurance that extended to observers if you were reimbursed for this expense by NMFS?

G. RISK: Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.

G. OBJECTIVE: Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE:

Observer program managers routinely consult with the Councils, the SEFSC, the USFWS, and the Atlantic Coast Cooperative Statistics Program to coordinate appropriate types and levels of observer coverage.

G1. TEST:

Interview the observer program managers and selected SEFSC staff.

- Have fishery managers and scientists coordinated their plans for observer coverage successfully in recent years?

H. RISK: The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE: Observer data is complete and accurate.

H1. CONTROL TECHNIQUE:

The NMFS Manual prescribes procedures for data collection.

H1. TEST:

Examine the NMFS Sampling Procedures for Onboard data collection.

- Are the procedures complete and up to date?
- Have they been distributed to all observers?

H2. CONTROL TECHNIQUE:

FMB staff reviews observer data forms and debriefs observers before final data entry.

H2. TEST:

Examine a sample of raw observer data that was archived recently.

- Were these data researched, corrected, and signed off by the observer program manager?

Interview (survey) a sample of observers in each of the three fisheries (shark drift gillnet, pelagic longline, and shrimp trawl), using the debriefing related questions in the MRAG observer questionnaire (#45, #46, #47, #48, #49, #50, #51, #52).

#45. Were debriefing instructions clear and easy to follow?

#46. Was your debriefer able to provide adequate information you needed in a timely manner?

#47. Were your instructions for data corrections clear?

#48. Did your debriefing help prepare you for future cruises?

#49. Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer

staff members?

#50. Were you treated with respect/professionally during the debriefing process?

#51. Are you satisfied with the observer evaluation system?

#52. How do you think the evaluation system process affects observers' future work quality/morale? Check all that apply. Comments welcome.

A. Useful feedback

B. Provides incentive to do good work

C. Provides incentive to limit information shared with the debriefer

D. Encourages changes to data to facilitate debriefing process/or improve personal evaluation

E. Demoralizing

Comment.

H3. CONTROL TECHNIQUE:

FMB staff safeguards raw data, logbooks, and electronic data by passwords, secure storage, and backup.

H3. TEST:

Interview the FMB staff and a sample of contract observers.

- What steps do you take to protect and restrict access to critical, confidential or proprietary data? (For example, how does the FMB staff insure that contract observers in the pelagic longline fishery destroy the data form copies when requested to do so?)

Interview (survey) a sample of observers in each of the three fisheries (shark drift gillnet, pelagic longline, and shrimp trawl), using the security related questions in the MRAG observer questionnaire (#64 and #65).

#64. Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example, through the Freedom of Information Act? Yes, No, Don't know

#65. If yes, has this affected your reporting of information? Yes, No

SOUTHWEST REGION TEST QUESTIONS

SERVICE DELIVERY MODEL: CONTRACT TO NMFS (CALIFORNIA/OREGON DRIFT GILLNET FISHERY)

A. RISK: Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE: Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE:

Observer program managers obtain and issue funding guidance in sufficient time to solicit and negotiate contract support.

A1. TEST:

Interview the observer program managers in California.

1. Are funding levels known in sufficient time to review and accept contract proposals (i.e., for internal controls such as considering acquisition strategies, developing the SOW, issuing the RFP, reviewing proposals, negotiating with vendors, and awarding the contract)? If no, does this make it more difficult to contract for qualified observers or increase the cost of doing so? Would an alternative service delivery model achieve better results? If yes, how?

B. RISK: The costs of providing observers may be excessive or misallocated within government and industry.

B. OBJECTIVE: The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE:

The staff supervises the contractor that purchases, stores, and issues observer equipment.

B1. TEST 1:

Interview the observer program manager and the contractor.

2. What procedures does the staff and the contractor follow to insure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?
3. How does the staff and the contractor authorize and account for purchases? Does the staff and the contractor match the deliveries with the shipping document, and the receiving document with the purchase order?
4. How is the equipment maintained by the contractor? Does the contractor warehouse, limit access, account for custody and use, periodically review?
5. Is adequate protection provided against access to inventories by outsiders or unauthorized employees?
6. Are the facilities optimal in terms of cost and location?

Examine the inventory records, sign out sheets, etc..

7. Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?

Examine the storage facilities for inventories.

8. Do they provide adequate safekeeping?

B2. CONTROL TECHNIQUE:

The COTR monitors the costs of the contract by comparing the invoices received from the

contractor with the reports received from the observers.

B2. TEST:

Interview the COTR(s).

9. Do you compare the invoices for the services of individual observers with the records of the observer's activities? If yes, were they approved by a responsible official in accordance with the terms and conditions of the contract?

B3. CONTROL TECHNIQUE:

The COTR and CO adjust the compensation to the contractor based on performance criteria in the contract.

B3. TEST:

Examine the most recent biweekly cost and progress reports from the contractor.

10. Were these reports submitted on time, and did they include a complete breakdown of costs?

TEST:

Examine records of contractor payments.

- Was the compensation to the contractor adjusted downward in proportion to the actual coverage that the contractor provided?

B4. CONTROL TECHNIQUE:

The Source Evaluation Board evaluates cost proposals and technical proposals independently.

B4. TEST:

Interview the COTR and CO.

- Does the current solicitation provide that the vendor who meets the technical requirements at the least cost will be awarded the contract?

C. RISK: Qualified observers may not be recruited and/or retained.

C. OBJECTIVE: Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE:

The NMFS uses contracts to supply observers on a timely basis.

C1 TEST:

Interview the program manager.

- Do you attempt to hire or retain a given number of experienced observers each year? If no, why not?
- Are contracts more or less cost effective than an in-house program would be (in hiring qualified and credible observers quickly, assigning them usefully, and then keeping them)? If yes, how?

Interview (survey) observers, using the recruitment/retention related questions in the MRAG questionnaire (#1, #2, #3, #4, #16 and #17).

#1. How did you originally learn about the observer program and observer jobs? (Check most appropriate answer) A. Friend B. Announcement at college C. Advertisement in paper, magazine D. Word of mouth E. Prior observer F. Other (please specify)

#2. What were the primary and secondary reasons for your interest in being an observer? Please write 1 and 2 next to your choices. A. Work on fishing vessels B. Work out of the Region C. Scientific or field experience D. Money E. Other (please specify)

#3. Was the observer pay level an attractive incentive for first becoming an observer? A. Yes B.

No

#4. How was your job interview conducted?

A. Over the telephone B. Conference call C. Personal meeting D. None of the above E. Other (please specify)

#16. If you no longer work as an observer, please indicate your primary reason for leaving. If you had more than one reason, you may mark up to 3 reasons in order of priority (use 1, 2, and 3). A. Too much time away from family/friends B. Sea sickness C. Safety concerns D. Better job E. Grad school F. Compensation for work unsatisfactory G. Lack of advancement opportunities H. Lack of respect/understanding/support for my work - By Whom? I. Harassment/pressure; from - J. Other (Please list)

#17. Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future? A. Yes, please describe B. No

C2. CONTROL TECHNIQUE:

The NMFS establishes minimum qualifications for observer recruits.

C2. TEST:

Interview program managers, and review the recent performance and retention of observers in the drift gillnet fishery.

- Are the minimum requirements for observer recruits in the SOW, such as a Bachelor's degree, appropriate ("too restrictive," "about right," or "not restrictive enough")?
- Did the contractor supply you with all the documentation you needed to verify observers' qualifications at least five days before training?

Interview the contractors.

- Do you screen observer recruits before sending them to NMFS for training? If yes, how was this done recently, and with what results?

C3. CONTROL TECHNIQUE:

The NMFS decertifies observers who are not qualified.

C3 TEST: Interview the program manager.

- Were any previously trained observers rejected before or after the one-week training session at the beginning of last season? If yes, why?

D. RISK: Observers may not be properly trained to perform their duties.

D. OBJECTIVE: Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE:

The NMFS conducts comprehensive training courses for recruits and experienced observers.

D1. TEST:

Interview the staff responsible for training.

- How do you establish the training requirements? Does the contractor participate or assist?
- Does the contractor consistently provide NMFS with 30 days notice when training is required, as specified in the SOW?
- Do you measure and demonstrate the success of the courses or the individual students? If yes, how are these tests administered (conducted, reviewed, and approved)? How effective are the tests in improving the training courses or the performance of the students?

Interview a sample of observers in the drift gillnet fishery. Include the training related questions in the MRAG observer questionnaire (# 7 and #8).

- Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties (“very great use,” “great use,” “moderate use,” “some use,” or “little or no use”)?

#7. Overall, how would you rate the training and briefing? Very good, Good, Fair, Poor

#8. Overall, how well did the training and briefing prepare you? Very good, Good, Fair, Poor

D2. CONTROL TECHNIQUE:

The NMFS trains observers in core competencies.

D2. TEST:

Interview a sample of the most recent observers in the two fisheries.

- Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics was the training deficient?

Interview a sample of observers in the drift gillnet fishery, using the training related questions in the MRAG observer questionnaire (#9).

#9. A. What portion(s) of the training and briefing prepared you the best?

B. What portion(s) of the training and briefing needs improvement?

C. Other comments.

D3. CONTROL TECHNIQUE:

The NMFS places observers who have completed training on probationary status for the first three voyages.

D3. TEST:

Interview the staff responsible for training.

- Were any trained observers rejected during probation last season? If yes, why?

E. RISK: The health and safety of observers may be impaired.

E. OBJECTIVE: The health and safety of observers is protected.

E1. CONTROL TECHNIQUE:

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST:

Interview the observer program manager.

- How does NMFS notify vessel owners and operators of their responsibilities and methods of compliance? What records do you keep about the performance of this outreach program? Are these records useful in improving the outreach program?
- How are observers instructed to spot check major items for compliance with U.S. Coast Guard regulations, (i.e., a current CG safety inspection decal, etc.)? Is there a critical form or process?
- How does NMFS delegate to the contractor the authority to temporarily exempt a vessel from observer coverage because of health and safety concerns? Are these procedures in writing (documented)? If yes, is there a clear, written chain of command? Is there required review, approval or sign off? Is there a provision for follow-up to insure that the health and safety concerns are corrected?

- What records, if any, do you keep about what happened when observers made pre-trip safety checks of vessels to which they had been assigned?
- Do these records indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems? That there was attempted or perceived pressure on observers by vessel owners or operators? If yes, do these records describe the actions and outcomes, including any delays, loss of fishing days, legal actions etc.?

Interview Frank Orth and Associates.

- What records, if any, does Frank Orth and Associates supply to the observer program manager concerning safety problems that observers may have alleged or subsequent refusals to board these vessels?

Interview a sample of current observers in the drift gillnet fishery.

- Were you provided with a health and safety “checklist”?
- Are you aware of a written policy that an observer’s job will not be endangered if he refuses to board a vessel because of health or safety problems that he finds? In your personal experience, is this policy being followed? Do you ever feel any pressure from Frank Orth and Associates to ignore health or safety concerns that you may have?
- During your last detail, did you identify any unacceptable health / safety conditions on the pre-trip safety check? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or retaining the vessel in port? Were these conditions corrected to your satisfaction?

E2. CONTROL TECHNIQUE:

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST:

Interview the observer program managers.

- Is there any documentation of the necessary action that you will take if an observer determines that a vessel is unsafe while at sea?

Interview (survey) a sample of current observers in the drift gillnet fishery. Include the health and safety related questions in the MRAG observer questionnaire (#58, #59, #60, #61 #63, and #66).

- During your last detail, did you identify any unacceptable health / safety conditions while the vessel was at sea? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or returning the vessel to port? Were these conditions corrected to your satisfaction?

#58. Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work? Yes, No

#59. If yes, can you approximate how frequently this has occurred? (Check one) Often, Occasionally, Rarely, Once

#60. If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity? Yes, No

#61. If no, why not?

#63. Was the debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? (Check one) Always, Usually, Occasionally,

Rarely, Not at all

#66. In what ways could the Observer Program be more supportive of observers who have experienced harassment/intimidation/other trauma on the job? Check the ones you consider most important, in order of importance (1=most important)

- Better training/preparation
- Better information in manual
- More support in the field
- Better outreach to industry
- Better enforcement and follow through on observer complaints
- More support during debriefing
- Better grievance procedures for observers
- Better communication and cooperation between contractor and NMFS
- Professional counseling support for observers who have experienced trauma
- Other (Please list)

F. RISK: Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE: Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE:

The NMFS administers a contract with Frank Orth and Associates that provides workers' compensation to observers who are injured at sea.

F1. TEST:

Interview the COTR and the CO.

- Does the current contract with Frank Orth and Associates cover observers under FECA? Under state workers' compensation? Under LHWCA? If yes, are any of these coverages redundant?
- Does NMFS reimburse the contractor for any of the premiums paid for workers' compensation? If yes, what are the annual amounts?
- In recent years, do your records indicate that there was any injury to an observer that resulted in a workers' compensation claim? In a claim against the vessel? In a claim against the contractor?

Interview a sample of last year's observers in the drift gillnet fishery.

- Are you aware that you may be compensated under the Federal Employees Compensation Act if you are injured on a vessel? (FECA/MSFCA Sec. 403(c))?
- Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)?
- Was this explained to you by the vessel owner / operator or as part of your training? If yes, were you satisfied with the explanation?
- Have you attempted to obtain any workers' compensation or other remedy in connection with an injury you sustained at sea? If yes, in what situation?

F2. CONTROL TECHNIQUE:

The NMFS encourages vessel owners to obtain insurance that would protect them in the event an observer is injured.

F2. TEST:

Interview a sample of vessel owners in the drift gillnet fishery.

- Last year, did NMFS encourage you to indemnify yourself against financial loss because of accidents involving, or loss caused by, your vessel?
- Do you currently carry P and I insurance? If yes, does this coverage extend to observers as well as to crew working on your vessel? If no, have you acquired other insurance coverage that does extend to observers? Would you be more likely to carry P and I insurance that extended to observers if you were reimbursed for this expense by NMFS?

G. RISK: Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other federal, state, or intergovernmental agencies.

G. OBJECTIVE: Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE:

Observer program managers routinely consult with the Council, the California Dept. of Fish and Game, SWFSC, and other Federal agencies to coordinate appropriate types and levels of observer coverage.

G1. TEST:

Interview the observer program managers and selected SWFSC staff.

- Have fishery managers and scientists coordinated their plans for observer coverage successfully in recent years (particularly with respect to objectives and sampling protocols)? How has the observer program established priorities for monitoring incidental seabird interactions?

G2. CONTROL TECHNIQUE:

The contractor estimates overall fishing activity by monitoring vessel activity; NMFS uses this data to estimate overall fishing effort and manage observer coverage by vessel.

G2. TEST:

Examine recent biweekly vessel activity records that were sent to NMFS, and interview the observer program staff.

- Do these records show complete departure and arrival information for all vessels?
- Do these records show that observers were on board for at least six days and observed at least five sets? If no, was this trip justified?

G3. CONTROL TECHNIQUE:

NMFS notifies each vessel owner by certified mail of his obligations to carry an observer and phone the contractor 48 hours before departure.

G3. TEST:

Examine recent notices to vessel owners by certified mail.

- Were these notices reviewed by NMFS Enforcement, NOAA GC, and signed by the Regional Administrator?

G4. CONTROL TECHNIQUE:

Whenever communicating with a fishing vessel representative, the contractor records information in a log; these logs are made available to NMFS upon request.

G4. TEST:

Examine recent communication logs in the electronic database that were requested by NMFS,

and interview the observer program staff and the enforcement staff.

- Did the program staff use these logs to monitor communications with the vessel owners?
- Did the enforcement staff use these logs to insure adequate notice and compliance?
- Did the contractor notify NMFS immediately about any vessels that failed to phone the contractor 48 hours before departure or failed to take an observer as required?

H. RISK: The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE: Observer data is complete and accurate.

H1. CONTROL TECHNIQUE: The NMFS Manual describes procedures for data collection.

H1. TEST:

Examine the Manual.

- Are the procedures complete and up to date?
- Have they been distributed to all observers?

H2. CONTROL TECHNIQUE:

The observer program staff reviews observer data forms and debriefs observers before final data entry.

H2. TEST:

Examine a sample of raw observer data that was archived recently.

- Was the data from probationary observers examined for compliance with the field manual and approved by the contractor and NMFS staff?
- Was this data researched, corrected, and signed off by the contractor before submission to NMFS? By the Data Coordinator before entry into the database? By the Data Editor before release to principal investigators?

Interview current observers, using the debriefing related questions in the MRAG observer questionnaire (#45, #46, #47, #48, #49, #50, #51, #52).

#45. Were debriefing instructions clear and easy to follow?

#46. Was your debriefer able to provide adequate information you needed in a timely manner?

#47. Were your instructions for data corrections clear?

#48. Did your debriefing help prepare you for future cruises?

#49. Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members?

#50. Were you treated with respect/professionally during the debriefing process?

#51. Are you satisfied with the observer evaluation system?

#52. How do you think the evaluation system process affects observers' future work quality/morale? Check all that apply. Comments welcome.

A. Useful feedback

B. Provides incentive to do good work

C. Provides incentive to limit information shared with the debriefer

D. Encourages changes to data to facilitate debriefing process/or improve personal evaluation

E. Demoralizing

Comment.

H3. CONTROL TECHNIQUE:

The staff safeguards raw data, logbooks, and electronic data.

H3. TEST:

Interview the staff and a sample of contract observers.

- What steps do you take to protect and restrict access to critical, confidential or proprietary data?

Interview current observers, using the security related questions in the MRAG observer questionnaire (#64 and #65).

#64. Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example, through the Freedom of Information Act? Yes, No, Don't know

#65. If yes, has this affected your reporting of information? Yes, No

H4. CONTROL TECHNIQUE:

The NMFS requires the contractor to obtain an "Authorization for Release of Information" from each observer before training, enabling NMFS to conduct a background investigation and "Security Worksheet for No-Employees."

H4. TEST:

Examine recent authorizations.

- Is there an authorization for each observer recently trained?
- Was there a corresponding investigation and worksheet?

ALASKA REGION TEST QUESTIONS

SERVICE DELIVERY MODEL: NMFS-CERTIFIED OBSERVER COMPANIES (NORTH PACIFIC GROUND FISH OBSERVER PROGRAM)

A. RISK: Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE: Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE:

Observer program managers obtain and issue funding guidance in sufficient time to solicit and negotiate contract support.

A1. TEST:

Interview the observer program manager and examine the current sources of funding.

- Does the current pay-as-you-go system provide consistent and timely funding for the observer program? If no, would an alternative system, such as a federally funded program, be better? How?

B. RISK: The costs of providing observers may be excessive or misallocated within government and industry.

B. OBJECTIVE: The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE:

The AFSC staff purchases, stores and issues all sampling and safety gear.

B1. TEST:

Interview the observer program manager or AFSC staff.

- Are there procedures that insure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?
- How are purchases accounted for? Do you match the deliveries with the shipping document, and the receiving document with the purchase order?
- How is the equipment maintained? Do you warehouse, limit access, account for custody and use, periodically review?
- Is adequate protection provided against access to inventories by outsiders or unauthorized employees?
- Are the facilities optimal in terms of cost and location?

Examine the inventory records, sign out sheets, etc.

- Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?
- In the past year, did observers return all gear and equipment to NMFS within 5 days of completion of their deployment?

Examine the storage facilities for inventories.

- Do they provide adequate safekeeping?

B2. CONTROL TECHNIQUE:

- Costs to the industry are based on a pay-as-you-go system (vessels of different sizes pay placement costs directly through a flat sea day rate at the required coverage levels).

B2. TEST:

- Interview the observer program manager, and examine the NMFS 9/5/97 analysis of observers' costs by vessel and gear type.
- Are the costs to vessels in the groundfish fishery based on a reasonable and fair measure of overall benefit (for example, on catch such as tonnage or value, or on fishing effort such as days at sea or vessel size)? In other words, is there a direct relationship between vessel catches or vessel fishing effort and the amount paid for observer coverage? If no, would an alternative system, such as a TAC set-aside or a user fee system, be better? How (for example, equity, stability, efficiency, accountability, etc.)?
- How should supplemental observer needs (special science projects) be financed?

C. RISK: Qualified observers may not be recruited and/or retained.

C. OBJECTIVE: Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE:

The NMFS uses certified contractors to supply observers on a timely basis.

C1. TEST:

Interview the program manager.

- Do you require the contractor to hire or retain a given number of experienced observers each year? If no, why?
- Do you require the certified contractors to comply with the same EEO regulations (Executive Order 11246) that are applicable to NMFS contractors (regarding nondiscrimination in employment, affirmative action, and compliance reviews)? If no, why?
- What is the turnover rate of first-time observers? Is this relatively high compared to other observer programs? If yes, why (unrealistic or confused expectations, harsh work conditions, enforcement issues, multiple roles and demands, etc.)?
- Does a service delivery model that allows the fishing industry to select and pay observers directly present any special management control problems for NMFS? If yes, how (with reference to such factors as designing sampling protocols, setting coverage levels, placing observers, insuring professionalism and competence, etc.)?
- Are third party contractors more or less cost effective than an alternative service delivery model (an in-house or a contract to NMFS, or modified pay-as-you-go) would be (in hiring qualified and credible observers quickly, assigning them usefully, and then keeping them)? If yes, how (with reference to such factors as unionization, the Service Contract Act, etc.)?

Interview contractor staff.

- In recent years have you been able to accurately predict and recruit the required number of observers, based on requests from vessels and processing plants? If no, why not (periods of increased activity because of pulse fishing or season openings, etc.)?
- Examine the results of other recruitment/retention related questions in the MRAG questionnaire (#1, #2, #3, #4, #16 and #17).

#1. How did you originally learn about the observer program and observer jobs? (Check most appropriate answer.) A. Friend B. Announcement at college C. Advertisement in paper, magazine D. Word of mouth E. Prior observer F. Other (please specify)

#2. What were the primary and secondary reasons for your interest in being an observer? Please write 1 and 2 next to your choices. A. Work on fishing vessel B. Work out of the Region C. Scientific or field experience D. Money E. Other (please specify)

#3. Was the observer pay level an attractive incentive for first becoming an observer? A. Yes B. No

#4. How was your job interview conducted?

A. Over the telephone B. Conference call C. Personal meeting D. None of the above E. Other (please specify)

#16 If you no longer work as an observer, please indicate your primary reason for leaving. If you had more than one reason, you may mark up to 3 reasons in order of Safety concerns D. Better job E. Grad school F. Compensation for work unsatisfactory G. Lack of advancement opportunities H. Lack of respect/understanding/support for my work - By Whom? I. Harassment/pressure; from - J. Other (Please list)

#17. Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future? A. Yes, please describe B. No

C2. CONTROL TECHNIQUE:

The NMFS rejects unsuitable observers recruited by certified contractors during their initial training.

C2. TEST:

Interview the observer program manager, and review the recent experience in training recruits.

- How do you administer the basic educational and experience requirements for recruits?
- Do you reject unsuitable observers recruited by certified contractors? If yes, for what causes (uncooperative, abusive, inexperienced, skills lacking, etc.)? Was this disruptive or costly to the training process? If yes, does this suggest inadequate screening by the contractors?

Interview contractors' staff.

- Do you screen observer recruits before sending them to NMFS for training? If yes, how was this done recently (review of resumes, transcripts, etc.), and with what results?

C3. CONTROL TECHNIQUE:

The NMFS decertifies observers who do not meet NMFS standards of conduct or performance while employed.

C3. TEST:

Interview the program manager.

- Is the work of certified observers properly supervised (assigned, reviewed, and approved)? If no, would an alternative service delivery model be bettering? How?
- What criteria (such as performance of duties, standards of conduct etc.) are used to decertify observers? Are these criteria documented?
- Have any observers been decertified in recent years? If yes, in what situations?

D. RISK: Observers may not be properly trained to perform their duties.

D. OBJECTIVE: Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE:

The NMFS conducts comprehensive training courses for recruits and experienced observers.

D1. TEST:

Interview the staff responsible for training (at the observer program, Observer Training Center, and AFSC).

- How do you establish the training requirements (subject matter and curriculum)? Does the certified contractor participate or assist in setting those requirements?
- Do each of the various trainers (at OTC, AFSC, and field stations) insure that recruits meet the standards set by NMFS? If yes, does this include feedback from observers who have been to sea?
- Is there a need for advanced training of MSCDQ (multi-species community development quota) observers? If yes, is this need being met? If no, why?

Interview a sample of current observers in the groundfish fishery.

- Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties (“very great use,” “great use,” “moderate use,” “some use,” or “little or no use”)?
- Examine the results of other training related questions in the MRAG observer questionnaire (# 7 and #8).

#7. Overall, how would you rate the training and briefing? Very good, Good, Fair, Poor

#8. Overall, how well did the training and briefing prepare you? Very good, Good, Fair, Poor

D2. CONTROL TECHNIQUE

The NMFS trains observers in core competencies.

D2. TEST:

Examine and compare the training curriculums at the OTC and the AFSC.

- Is the training for core observer competencies, (such as vessel safety, survival training, relations with the crew, etc.) standardized throughout the AKR for Pacific groundfish (and Cook Inlet) fisheries? If no, how does it vary?

Interview the staff responsible for training at the OTC and the AFSC.

- Do any of the curriculums place either “too much” or “too little” emphasis on particular topics? If yes, which ones (such as sampling and estimating catch size, species identification, prohibited species, etc.)?

Interview a sample of the most recent observers in the groundfish fishery.

- Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics (such as computer literacy) was the training deficient?
- Examine the results of other training related questions in the MRAG observer questionnaire (#9).

#9.A. What portion(s) of the training and briefing prepared you the best?

B. What portion(s) of the training and briefing needs improvement?

C. Other comments.

E. RISK: The health and safety of observers may be impaired.

E. OBJECTIVE: The health and safety of observers are protected.

E1. CONTROL TECHNIQUE:

The NMFS administers the health and safety regulations at 600.725(p)-(u) and 600.746 (pre-trip safety checks).

E1. TEST:

Interview the observer program manager.

- How does NMFS notify vessel owners and operators of their responsibilities and methods of compliance? What records do you keep about the performance of this outreach program? Are these records useful in improving the outreach program?
- How are observers instructed to spot check major items for compliance with U.S. Coast Guard regulations, (i.e., a current CG safety inspection decal, etc.)? Is there a critical form or process?
- What dispute resolution procedures does NMFS and the Coast Guard follow when an observer and a vessel owner or operator disagree about the safety of a vessel? Are these procedures in writing (documented)? If yes, is there a clear, written chain of command? Is there required review, approval or sign off? Is there a provision for follow-up to insure that the health and safety concerns are corrected?
- What records, if any, do you keep about what happened when observers made pre-trip safety checks of vessels to which they had been assigned?
- Do these records indicate that some observers refused or were reluctant to board vessels because of alleged health or safety problems? That there was attempted or perceived pressure on observers by vessel owners or operators? If yes, do these records describe the actions and outcomes, including any delays, loss of fishing days, legal actions etc.?

Interview the six certified observer companies.

- What records, if any, do you supply to the observer program manager concerning health or safety problems that observers may have alleged or subsequent refusals to board these vessels?

Interview a sample of current observers in the groundfish fishery.

- Were you provided with a health and safety “checklist”?
- Are you aware of a written policy that an observer’s job will not be endangered if he refuses to board a vessel because of health or safety problems that he finds? In your personal experience, is this policy being followed? Do you ever feel any pressure from the certified contractor or the vessel owner/operator to ignore health or safety concerns that you may have?
- During your last detail, did you identify any unacceptable health / safety conditions on the pre-trip safety check? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or retaining the vessel in port? Were these conditions corrected to your satisfaction?

E2. CONTROL TECHNIQUE:

The NMFS takes necessary action if an observer determines that a vessel is unsafe while at sea.

E2. TEST:

Interview the observer program manager.

- Is there any documentation of the necessary action that you will take if an observer determines that a vessel is unsafe while at sea?

Interview (survey) a sample of current observers in the groundfish fishery.

- During your last detail, did you identify any unacceptable health / safety conditions while the vessel was at sea? If yes, did you contact the observer program manager about these conditions? What records did you keep about this incident? What actions were taken to correct these conditions, such as notifying the owner/operator or the Coast Guard, or returning the vessel to port? Were these conditions corrected to your satisfaction?
- Examine the results of other health and safety related questions in the MRAG observer questionnaire (#58, #59, #60, #61 #63, and #66).

#58. Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work? Yes, No

#59. If yes, can you approximate how frequently this has occurred? (Check one)

On Vessels	At Shoreside Plants
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- A. Often
- B. Occasionally
- C. Rarely
- D. Once

#60. If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity? Yes, No

#61. If no, why not?

#63. Was the debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? (Check one) Always, Usually, occasionally, Rarely, Not at all

#66. In what ways could the Observer Program be more supportive of observers who have experienced harassment/intimidation/other trauma on the job? Check all that apply, the ones you consider most important, in order of importance (1=most important)

- A. Better training/preparation
- B. Better information in manual
- C. More support in the field
- D. Better outreach to industry
- E. Better enforcement and follow through on observer complaints
- F. More support during debriefing
- G. Better grievance procedures for observers
- H. Better communication and cooperation between contractor and NMFS
- I. Professional counseling support for observers who have experienced trauma
- J. Other (Please list)

F. RISK: Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE: Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE:

The NMFS certifies those contractors that provide both workers' compensation and P and I insurance if observers are injured at sea.

F1. TEST:

Interview the observer program manager.

- Do the six certified contractors cover observers under FECA? Under state workers' compensation? Under LHWCA? If yes, are any of these coverages redundant?
- In recent years, do your records indicate that there was any injury to an observer that resulted in a worker's compensation claim? In a claim against the vessel? In a claim against the certified contractor?

Interview a sample of last year's observers in the groundfish fishery.

- Are you aware that you may be compensated under the Federal Employees Compensation Act if you are injured on a vessel? (FECA/MSFCA Sec. 403(c))?
- Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)?
- Was this explained to you by the certified contractor, the vessel owner / operator, or as part of your training? If yes, were you satisfied with the explanation?
- Have you attempted to obtain any workers' compensation or other remedy in connection with an injury you sustained at sea? If yes, in what situation?

G. RISK: Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.

G. OBJECTIVE: Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE:

The observer program manager routinely consults with the North Pacific Fishery Management Council, the AFSC (i.e., the Stock Assessment Group, the Ecosystems Modeling Group, and the National Marine Mammal Laboratory), the International Pacific Halibut Commission, the Alaska Dept. of Fish and Game, the Pacific States Marine Fisheries Commission, the USFWS, and the Coast Guard to coordinate appropriate types and levels of observer coverage.

G1. TEST:

Interview the observer program manager.

- Have fishery managers and scientists coordinated their plans for observer coverage successfully in recent years? Specifically: How has the observer program established priorities for monitoring incidental seabird interactions? How has the observer program accommodated the scientists' needs to control random sampling design and data quality/integrity and the Council's mandate? With what results?

G2. CONTROL TECHNIQUE:

The Regional Administrator alters observer coverage levels in response to changes in bycatch or management objectives.

G2. TEST:

Interview the observer program manager.

- How have you managed sudden changes in manpower requirements in recent years? Does the use of certified contractors help or hurt your ability to modify coverage

levels to meet specific data or compliance monitoring requirements? Explain.

Would an alternative service delivery model achieve better results? If yes, how?

G3. CONTROL TECHNIQUE:

The observer program manager evaluates contractors and requires them to comply with the conditions of their certification.

G3. TEST:

Interview the observer program manager.

- Do current evaluations adequately measure the contractors' performance?
- How has the use of certified contractors affected your ability to exercise management control over data quality and delivery?
- If a contractor no longer performs satisfactorily, is decertification a viable option? If no, would an alternative service delivery model achieve better results? How?

G4. CONTROL TECHNIQUE:

The NMFS requires the contractor to insure that all data, reports, and specimens collected by observers are delivered directly to NMFS within 5 working days of the completion of each observer trip.

G4. TEST:

Interview the observer program manager.

- Last year, did each certified contractor deliver the data, reports, and specimens on time? If no, why?

G5. CONTROL TECHNIQUE:

The NMFS grants waivers to observers on a case by case basis that allow them to work briefly past the 90 day and/or four vessel limit.

G5. TEST:

Interview the observer program manager.

- Last year, how did you insure that individual observers did not exceed the contract or cruise restrictions (no more than 90 days without debriefing, no more than four vessels per contract, etc.)?
- Last year, were waivers granted to observers when it was to the advantage of NMFS to do so? If no, why?

G6. CONTROL TECHNIQUE:

The observer program manager provides certified observers with guidance about their roles and priorities.

G6. TEST:

Interview a sample of observers in the groundfish fishery.

- Are you satisfied with your ability to communicate with NMFS, the certified contractor, and the industry? With your support in the field? If no, would a federal "observer cadre" be useful? If yes, how (quality control, mid-cruise reviews, industry outreach, post-cruise interviews, etc.)?
-

H. RISK: The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE: Observer data is complete and accurate.

H1 CONTROL TECHNIQUE: The NMFS Observer Sampling Manual and supplemental information packets describe procedures for data collection.

H1. TEST:

Examine the Manual.

- Are the procedures complete and up to date?
- Have they been distributed to all observers?
- Does the Manual describe a process for correcting errors and communicating them back to the observer program in Seattle? If no, what is the result?

H2. CONTROL TECHNIQUE:

An NMFS fisheries biologist debriefs certified observers between deployments in the field so that the data can become available for entry, editing, and use on time.

H2. TEST:

Interview a sample of observers in the groundfish fishery.

- Is the observer evaluation system satisfactory in your recent experience? If no, do you perceive a problem in having “two bosses” (the NMFS and the certified contractor)?
- Examine the response to the debriefing related questions in the MRAG observer questionnaire (#45, #46, #47, #48, #50, #51, #52).

#45. Were debriefing instructions clear and easy to follow?

#46. Was your debriefer able to provide adequate information you needed in a timely manner?

#47. Were your instructions for data corrections clear?

#48. Did your debriefing help prepare you for future cruises?

#49. Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members?

#50. Were you treated with respect/professionally during the debriefing process?

#51. Are you satisfied with the observer evaluation system?

#52. How do you think the evaluation system process affects observers’ future work quality/morale? Check all that apply. Comments welcome.

A. Useful feedback

B. Provides incentive to do good work.

C. Provides incentive to limit information shared with the debriefer

D. Encourages changes to data to facilitate debriefing process/or improve personal evaluation

E. Demoralizing

F. Comment.

H3. CONTROL TECHNIQUE:

The observer program staff safeguards all observer data on paper at the AFSC with a sign-out sheet; haul or set specific data is only given to authorized users.

H3. TEST:

Interview observer program staff.

- What steps do you take to insure that cruise data is protected?

Interview a sample of observers in the groundfish fishery.

- Examine the responses to the security related questions in the MRAG observer questionnaire (#64 and #65).

#64. Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example, through the Freedom of Information Act? Yes, No, Don't know

#65. If yes, has this affected your reporting of information? Yes, No

H4. CONTROL TECHNIQUE:

NMFS requires conflict of interest standards for NMFS observers and contractors.

H4. TEST:

Interview (survey) a sample of current observers in the groundfish fishery.

- Are you aware of the conflict of interest standards that apply to NMFS certified observers?
- Are there any situations in which an observer may have an incentive to perform inappropriately as a result of the principal/client relationship that exists between the fishing vessel owners/operators and the certified contractors? If yes, briefly describe those possible situations (such as presorting of prohibited species catch, etc.).
- Have you personally experienced any pressure from the industry or the contractor that was intended to influence the performance of your official duties, actions, or judgement? If yes, briefly describe those actual events.

Interview the observer program manager.

- Does the relationship between the industry and the contractors create the appearance of a conflict of interest? If yes, how?
- Does the competition among certified contractors to supply observers at the least cost have an effect on the completeness or accuracy of observer data? If yes, how is government control (over contract performance, observer placement, data collection, etc.) affected?

NORTHWEST REGION TEST QUESTIONS

SERVICE DELIVERY MODEL: NMFS-CERTIFIED OBSERVER COMPANIES (PACIFIC WHITING OBSERVER PROGRAM)

A. RISK

Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE

Funds for the observer program are obligated consistently and on time.

A. CONTROL TECHNIQUE

Observer program managers obtain and issue funding guidance in sufficient time to train and brief observers, and provide other observer support services.

A1. TEST

Interview: NWR and AKFSC personnel.

Are funds available to assume program duties for the Pacific whiting observer that are currently performed by NPGOP (e.g., training, briefing, debriefing, data editing, storage, and transmission, and gear)?

A2. TEST

Interview: NWR and NPGOP personnel.

Does the present absence of regulations governing observer placement jeopardize deployment of observers on vessels fishing for Pacific whiting?

C. RISK

Qualified observers may not be recruited and/or retained.

C. OBJECTIVE

Only observers who meet NMFS standards of conduct or performance while deployed are rehired.

C1. CONTROL TECHNIQUE

The NPGOP requests that contractors only provide experienced observers for the Pacific whiting fishery. There are no regulations that prohibit rehiring of observers who do not meet NMFS standards of conduct or performance while deployed. Rehiring of observer is at the contractors discretion which may be influenced by industry's need for observers to provide data necessary to monitor the whiting cooperative.

C1. TEST

Interview NWR and NPGOP personnel.

E. RISK

The health and safety of observers may be impaired.

E. OBJECTIVE

The health and safety of observers is protected.

E1. CONTROL TECHNIQUE

The NMFS administers the health and safety requirements of 600.725 (p)-(u) and 600.746.

E1. TEST

Analyze the results from Pacific whiting observer survey.

1. Were there any tripping hazards or dangerous obstacles between the collection point and sampling locations?
2. Did vessel, plant or company personnel create any impediments to either sending or receiving catch messages and/or other work related issues?
3. Did you encounter any other difficulties or concerns in your communications?
4. Did any personnel show you or were you able to determine the location of the following safety features?
5. Who showed you what to do in case of an emergency?
6. When you were shown what to do in an emergency, what emergencies were addressed?
7. Which of the following emergency situations were addressed during the safety drills?
8. Were safety drills held while you were on the boat?
9. Were alcohol and/or drugs used by vessel personnel to a degree that you felt your safety was compromised?
10. Was there an individual on board who was designated to provide medical services as needed?
11. What was the position of the individual who was designated to provide medical services as needed?
12. Did this individual have specialized training to aid them in providing medical services?
13. Did you incur an illness or injury while working on board this vessel?.
14. Did any other safety problems or accidents occur during your deployment?
15. Were you provided with safe conditions during embarkation, disembarkations or transfers?
16. Did your vessel have a current "USCG Commercial Fishing Vessel Safety Examination" decal on board?
17. Were there any conditions aboard this vessel (that have not previously been mentioned) that may have affected your safety and well-being?
18. Did you encounter any other impediments during your deployment? Include both significant and insignificant incidences.
19. Were you notified at least three hours before the time you were to disembark this vessel?
20. Did you notice any potential violations?
21. Were you asked to do anything that was contrary to what was presented in the observer standards of conduct, conflict of interest standards, or confidentiality standards?
22. Have you had any late payment or non-payment problems with your contractor?

H. RISK

The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE

Observer data is complete and accurate.

H1. CONTROL TECHNIQUE

None

H1. TEST

Interview: Pacific whiting observers.

1. Was the Daily Cumulative or Daily Fishing Logbook maintained in an accurate and timely manner? Trawl/set#, time, position & estimated weight within 2 hrs., processing data by noon next day.
2. Were you allowed access to the vessel's NMFS required logbooks?
3. Were you asked to maintain any part of the logbook? 100 % of the observers responded "No" they had not been asked to maintain any part of the vessel's logbook.
4. Did you have free access to unsorted catch in all bins/tanks/pots/or areas of deck or longline at all times when haul/set was processed or brought aboard?
5. Were you able to apply random sample techniques using a sampling frame?
6. What vessel related factors may have compromised completely random sampling?
7. Do you believe that there is a chance that some sample bias occurred in the species composition samples taken aboard this vessel?
8. Were you able to randomly collect approximately 20 sexed lengths per sampled haul or set on this vessel?
9. Were any animals intentionally or unintentionally removed from the catch prior to the collection of your composition or prohibited species samples?
10. How often were animals removed from sampled hauls prior to the collection of composition and prohibited species samples?.

NORTHEAST REGION TEST QUESTIONS

SERVICE DELIVERY MODEL: RESOURCE FUNDED THIRD PARTY “AGREEMENT” (ATLANTIC SCALLOP FISHERIES)

A. RISK: Funds for the observer program may be unavailable for obligation consistently and on time.

A. OBJECTIVE: Funds for the observer program are obligated consistently and on time.

A1. CONTROL TECHNIQUE:

Observer program managers obtain and issue funding guidance in sufficient time to recruit, train, and deploy observers.

A1. TEST:

Interview the observer program managers at the NEFSC Fisheries Sampling Branch (FSB).

1. In the past year, were funding levels known in sufficient time to manage the observer program for Atlantic scallops? To meet the requirements for trained recruits? If no, (a) What other arrangements were made to recruit observers? and (b) Are management controls now in place to do this in the future?

B. RISK: The costs of providing observers may be excessive or misallocated within government and industry.

B. OBJECTIVE: The costs of providing observers are reasonable and fairly distributed.

B1. CONTROL TECHNIQUE:

The FSB staff purchases, stores, and issues observer equipment.

B1. TEST:

Interview the FSB staff.

2. Are there procedures that ensure that inventories will be reordered promptly when they are not in stock or reach a predetermined level?
3. How are purchases accounted for? Do you match the deliveries with the shipping document, and the receiving document with the purchase order?
4. How is the equipment maintained? Do you warehouse, limit access, account for custody and use, periodically review, etc.?
5. Is adequate protection provided against access to inventories by outsiders or unauthorized employees?

Examine the inventory records, sign out sheets, etc..

6. Are adequate written policies and procedures used for the purchasing, receiving, inspecting, and storing of inventories?

Examine the storage facilities for inventories.

7. Do they provide adequate safekeeping?

B2. CONTROL TECHNIQUE:

The NMFS pays all the costs associated with supplies, equipment and training for observers.

B2. TEST:

Interview the COTR for the training contract.

8. Were the costs to the government adequately controlled (i.e., by formal advertising and bidding, at the best price available etc.)? If no, why?

Interview the observer program manager for the Atlantic scallop fishery.

9. How was the decision made to allocate the costs of supplies, equipment, and training to NMFS? Is this allocation “reasonable and fair”?

B3. CONTROL TECHNIQUE:

The NMFS compensates scallop fishermen for the costs of deploying observers.

B3. TEST:

Interview the observer program manager.

10. Is the amount of Total Allowable Catch (TAC) that is set aside to compensate scallop fishermen equal to the costs they assume? If yes, how was “reasonable and fair” compensation determined? If no, would an alternative method of allocating costs, such as the pay-as-you-go system for North Pacific Groundfish, be better? How?

B4. CONTROL TECHNIQUE:

The FSB staff verifies the invoices prepared by observers that itemize their services.

B4. TEST:

Interview the observer program manager and examine recent invoices from observers.

11. Are responsibilities for accounts payable clearly assigned?
12. Are the invoices for services received compared with the observer logs or other records?
13. Are the records controlled in such a way that it can subsequently be established whether the observer services have all been accounted for (e.g., by sequentially numbering claims forms or by entering claims in a register)?
14. Are the invoices approved by a responsible official?
15. Is the flat fee of 8% of observer payments that NFWF assesses equal to the costs it assumes to process observers? If yes, how was “reasonable and fair” compensation determined?

C. RISK: Qualified observers may not be recruited and/or retained.

C. OBJECTIVE: Qualified observers are recruited and retained.

C1. CONTROL TECHNIQUE:

The NEFSC staff recruits observers by advertising and by personally contacting the fishing industry and other observer programs.

C1. TEST:

Interview the NEFSC staff.

16. What selection criteria were used last year? Is there a need for minimum qualifications? For background checks or references?
17. Does a service delivery model that relies on “agreements” among the parties, rather than on valid contracts, present any special management control problems for NMFS? If yes, how?
18. Is a third party contract (i.e., an “agreement”) more or less cost effective than an alternative service delivery model (in-house or a contract to NMFS) would be (in hiring qualified and credible observers quickly, assigning them usefully, and then keeping them)? If yes, how?

Examine recruitment records for the last year.

19. Was there a sufficient pool of qualified observers to choose from last year? (How many candidates applied? Were selected? Showed up for training? Completed training?)

Deployed once? Deployed more than once?)

Interview (survey) a sample of former observers in the Atlantic scallop fishery.

20. How were you recruited (advertising, personal contacts, etc.)?
21. Given a choice, would you prefer to be hired independently, as an employee of the Federal government, or as an employee of a private contractor?

Interview a sample of current observers, using the recruitment/retention related questions in the MRAG questionnaire (#1, #2, #3, #4, #16 and #17).

#1. How did you originally learn about the observer program and observer jobs? (Check most appropriate answer) A. Friend B. Announcement at college C. Advertisement in paper, magazine D. Word of mouth E. Prior observer F. Other (please specify)

#2. What were the primary and secondary reasons for your interest in being an observer? Please write 1 and 2 next to your choices. A. Work on fishing vessels B. Work out of the Region C. Scientific or field experience D. Money E. Other (please specify)

#3. Was the observer pay level an attractive incentive for first becoming an observer? A. Yes B. No

#4. How was your job interview conducted?

A. Over the telephone B. Conference call C. Personal meeting D. None of the above E. Other (please specify)

#16. If you no longer work as an observer, please indicate your primary reason for leaving. If you had more than one reason, you may mark up to 3 reasons in order of priority (use 1, 2, and 3). A. Too much time away from family/friends B. Sea sickness C. Safety concerns D. Better job E. Grad school F. Compensation for work unsatisfactory G. Lack of advancement opportunities H. Lack of respect/understanding/support for my work - By Whom? I. Harassment/pressure; from - J. Other (Please list)

#17. Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future? A. Yes, please describe B. No

D. RISK: Observers may not be properly trained to perform their duties.

D. OBJECTIVE: Observers are properly trained to perform their duties.

D1. CONTROL TECHNIQUE:

The NMFS contracts with the Manomet Center for Conservation Sciences to perform training according to a brief training agenda. (Currently, this contract has been discontinued and will be replaced by in-house training.)

D1. TEST:

Interview the FSB staff responsible for administering the contract with Manomet.

22. How do you establish the training requirements? Does the contractor participate or assist?
23. Do you measure the success of the courses or the individual students? If yes, how are these tests administered (conducted, reviewed, and approved)? Were the tests effective in improving the training courses or the performance of the students?

Interview a sample of last year's observers in the Atlantic scallop fishery.

24. Overall, how would you rate the usefulness of the observer training you received in preparing you to perform your duties ("very great use," "great use," "moderate use," "some use," "or "little or no use")?

25. Did the training you received provide the skills and knowledge needed to accomplish your assigned tasks? If no, in what topics was the training deficient?

Interview a sample of current observers, using the training related questions in the MRAG observer questionnaire (# 7 and #8).

#7. Overall, how would you rate the training and briefing?

A. Very good, B. Good, C. Fair, D. Poor

#8. Overall, how well did the training and briefing prepare you?

A. Very good, B. Good, C. Fair, D. Poor

Examine the other training related questions in the MRAG observer questionnaire (#9).

#9. A. What portion(s) of the training and briefing prepared you the best?

B. What portion(s) of the training and briefing needs improvement?

C. Other comments:

E. RISK: The health and safety of observers may be impaired.

E. OBJECTIVE: The health and safety of observers is protected.

E1. CONTROL TECHNIQUE:

The NMFS arranges for observers to attend a Coast Guard course on safety.

E1. TEST:

Interview the observer program manager.

26. How are observers instructed to spot check major items for compliance with Coast Guard regulations, (i.e., a current CG safety inspection decal, etc.)? Is there a critical form or process?

27. After training, are there any management controls in effect to protect the health and safety of self-employed observers? If no, would an alternative service delivery model be more effective? If yes, how?

Interview (survey) a sample of current observers in the Atlantic scallop fishery.

28. Last year, did you identify any unacceptable health and safety conditions before boarding a vessel or at sea? If yes, did you feel that reporting these conditions would have jeopardized your job? What records, if any, did you keep about this incident? What actions did you take to correct these conditions, such as notifying the owner/operator, NMFS, NFWF, or the Coast Guard? Were these conditions corrected to your satisfaction?

E2. CONTROL TECHNIQUE:

After training, NMFS relies on the industry to protect the health and safety of observers.

E2. TEST:

Examine the other health and safety related questions in the observer questionnaire (#58, #59, #60, #61 #63, and #66).

#58. Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work? A. Yes, B. No

#59. If yes, can you approximate how frequently this has occurred? (Check one)

Often, Occasionally, Rarely, Once

#60. If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity? Yes, No

#61. If no, why not?

#63. Was the debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer? (Check one)

Always, Usually, Occasionally, Rarely, Not at all

#66. In what ways could the Observer Program be more supportive of observers who have experienced harassment/intimidation/other trauma on the job? Check all the ones you consider important, in order of importance (1=most important)

1. Better training/preparation
2. Better information in manual
3. More support in the field
4. Better outreach to industry
5. Better enforcement and follow through on observer complaints
6. More support during debriefing
7. Better grievance procedures for observers
8. Better communication and cooperation between contractor and NMFS
9. Professional counseling support for observers who have experienced trauma
10. Other (Please list)

F. RISK: Insurance coverage and legal remedies for observers who are injured at sea may be inadequate.

F. OBJECTIVE: Observers who are injured at sea have adequate insurance coverage and legal remedies.

F1. CONTROL TECHNIQUE 1:

The NMFS advises vessel owners to obtain insurance that would protect them in the event an observer is injured.

F1. TEST:

Interview a sample of vessel owners in the Atlantic scallop fishery.

11. Last year, did NMFS advise you to indemnify yourself against financial loss because of accidents involving, or loss caused by, your vessel?
12. Do you currently carry P and I insurance? If yes, does this coverage extend to observers as well as crew working on your vessel? If no, have you acquired other insurance coverage that does extend to observers?

Interview a sample of last year's observers in the Atlantic scallop fishery.

13. Are you aware that because you are self-employed without a contract you may not qualify for worker's compensation if you are injured on the job?
14. Are you aware of other remedies that may apply if you are injured at sea (the Jones Act, maintenance and cure, unseaworthiness, and third party actions)?
15. Was this explained to you by the vessel owner / operator, National Fish and Wildlife Foundation (NFWF), NMFS, or Manomet as part of your training? Were you satisfied with the explanation?
16. Have you attempted to obtain any workers' compensation or other remedy in connection with an injury you sustained at sea? If yes, in what situation?

G. RISK: Observer coverage, deployment, and data collection may not be well-coordinated within NMFS or with other Federal, state, or intergovernmental agencies.

G. OBJECTIVE: Observer coverage, deployment, and data collection are well coordinated within NMFS and other Federal, state, or intergovernmental agencies.

G1. CONTROL TECHNIQUE:

The observer program manager routinely consults with the New England Fisheries Management Council, the NEFSC, and the Region to coordinate appropriate types and levels of observer coverage.

G1. TEST:

Interview the observer program manager and selected NEFSC and Region staff.

17. Did fishery managers and scientists coordinate their plans for observer coverage successfully last year?

G2. CONTROL TECHNIQUE:

The FSB Chief examines vessel records (received twice daily from vessels at sea,) selects different vessels for coverage, and assigns observers to specific vessels.

G2 TEST:

Interview FSB Chief and examine records of vessel coverage for last year.

18. Were vessel reports complete and available when needed to make observer assignments?

19. Were vessels randomly selected for coverage?

20. Did each selected vessel give five days notice to the FSB before sailing?

21. Did observers who were assigned to vessels contact those vessels and depart as scheduled?

G3. CONTROL TECHNIQUE:

The NMFS negotiates and implements an “agreement” with NFWF.

G3 TEST:

Interview the FSB Chief and the staff of the NOAA General Counsel.

22. What is the legal status of the “agreement” with the NFWF? How does it differ from a contract, a grant, or a cooperative agreement?

23. Does this “agreement” afford NMFS the management controls it needs to insure appropriate observer coverage, deployment, and data collection? If no, what additional controls are needed to comply with the six GAO Standards for Executive Agencies under the Federal Managers’ Financial Integrity Act (i.e., documentation, records, authorization, separation of duties, supervision, and security)?

H. RISK: The completeness and accuracy of observer data may be compromised.

H. OBJECTIVE: Observer data is complete and accurate.

H1. CONTROL TECHNIQUE:

The FSB staff compares the daily trip reports (on scallop catch or yellowtail flounder bycatch) transmitted by the vessel captains with the data recorded by the observers.

H1. TEST:

Examine the spot checks of observers’ data and captains’ data for last year.

24. Did these spot checks show any discrepancy? If yes, how much and why?

25. Could computerized audits or data entry screens be done? If no, why?

H1. CONTROL TECHNIQUE:

The FSB staff conducts limited debriefing of observers.

H1. TEST:

Interview the FSB Chief and examine records of debriefings last year.

26. What percentage of observers were debriefed by the FSB staff (“face to face,” “by phone,” or “other”)? Was this sufficient to insure completeness and accuracy?

Interview a sample of last year’s observers in the Atlantic scallop fishery, using the debriefing related questions in the MRAG observer questionnaire (#45, #46, #47, #48, #49, #50, #51, #52).

#45. Were debriefing instructions clear and easy to follow?

#46. Was your debriefer able to provide adequate information you needed in a timely manner?

#47. Were your instructions for data corrections clear?

#48. Did your debriefing help prepare you for future cruises?

#49. Did you feel that you could freely communicate to observer program staff, your concerns, problems, or dissatisfaction with specific vessels, contractors, or other observer staff members?

#50. Were you treated with respect/professionally during the debriefing process?

#51. Are you satisfied with the observer evaluation system?

#52. How do you think the evaluation system process affects observers’ future work quality/morale? Check all that apply. Comments welcome.

27. Useful feedback

28. Provides incentive to do good work

29. Provides incentive to limit information shared with the debriefer

30. Encourages changes to data to facilitate debriefing process/or improve personal evaluation

31. Demoralizing

H3. CONTROL TECHNIQUE:

The FSB staff safeguards all trip data files in a single, secure location.

H3. TEST:

Interview the FSB staff and a sample of observers.

32. What steps do you take to protect and restrict access to critically confidential or proprietary data? (For example, how does the FSB staff insure that observers in the Atlantic scallop fishery or others do not retain copies of trip data files?)

Examine the other security related questions in the MRAG observer questionnaire (#64 and #65).

#64. Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example, through the Freedom of Information Act? A. Yes, B. No, C. Don’t know

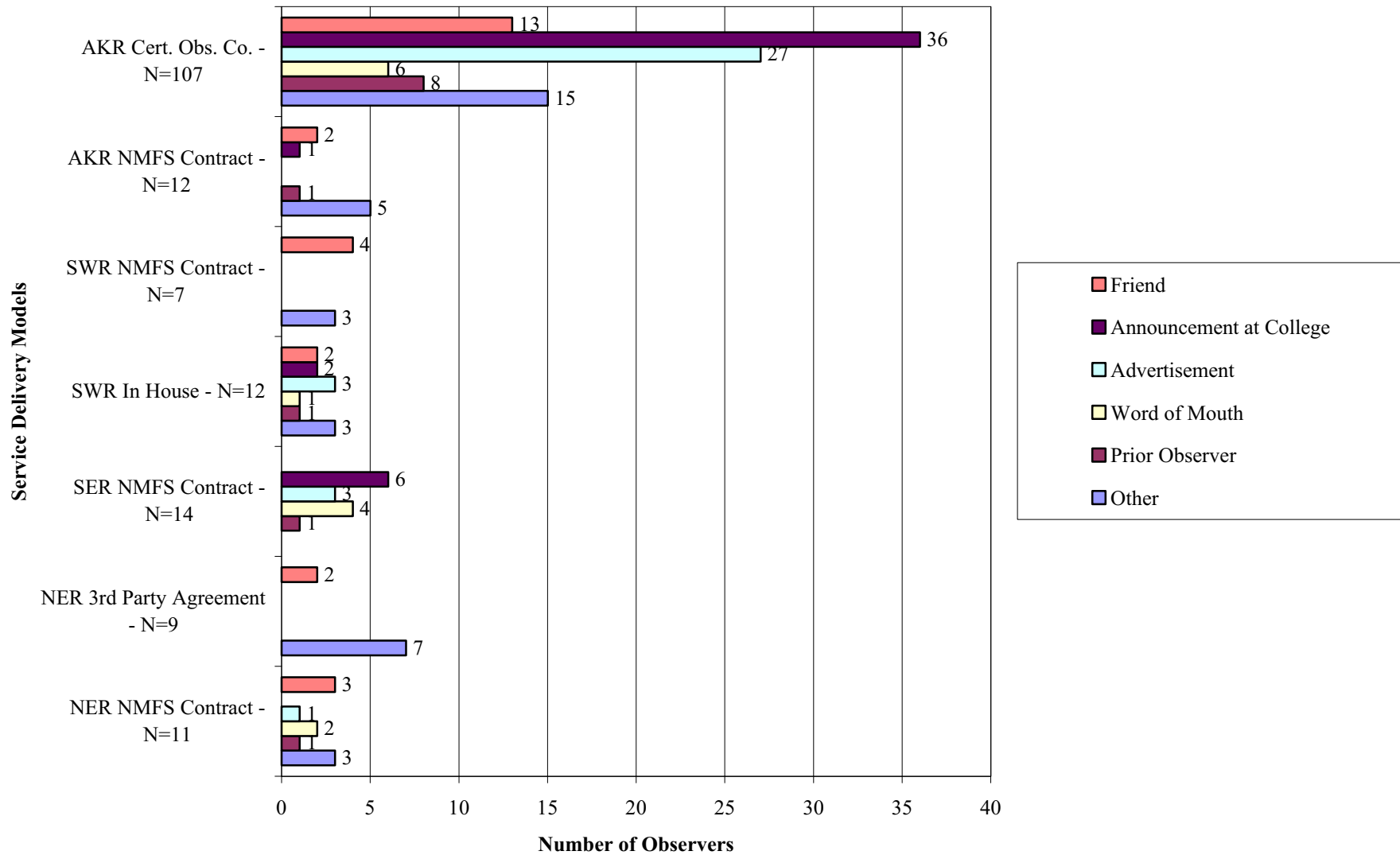
#65. If yes, has this affected your reporting of information? Yes, No

APPENDIX E: OBSERVER SURVEY RESPONSES, FROM ALL PROGRAMS

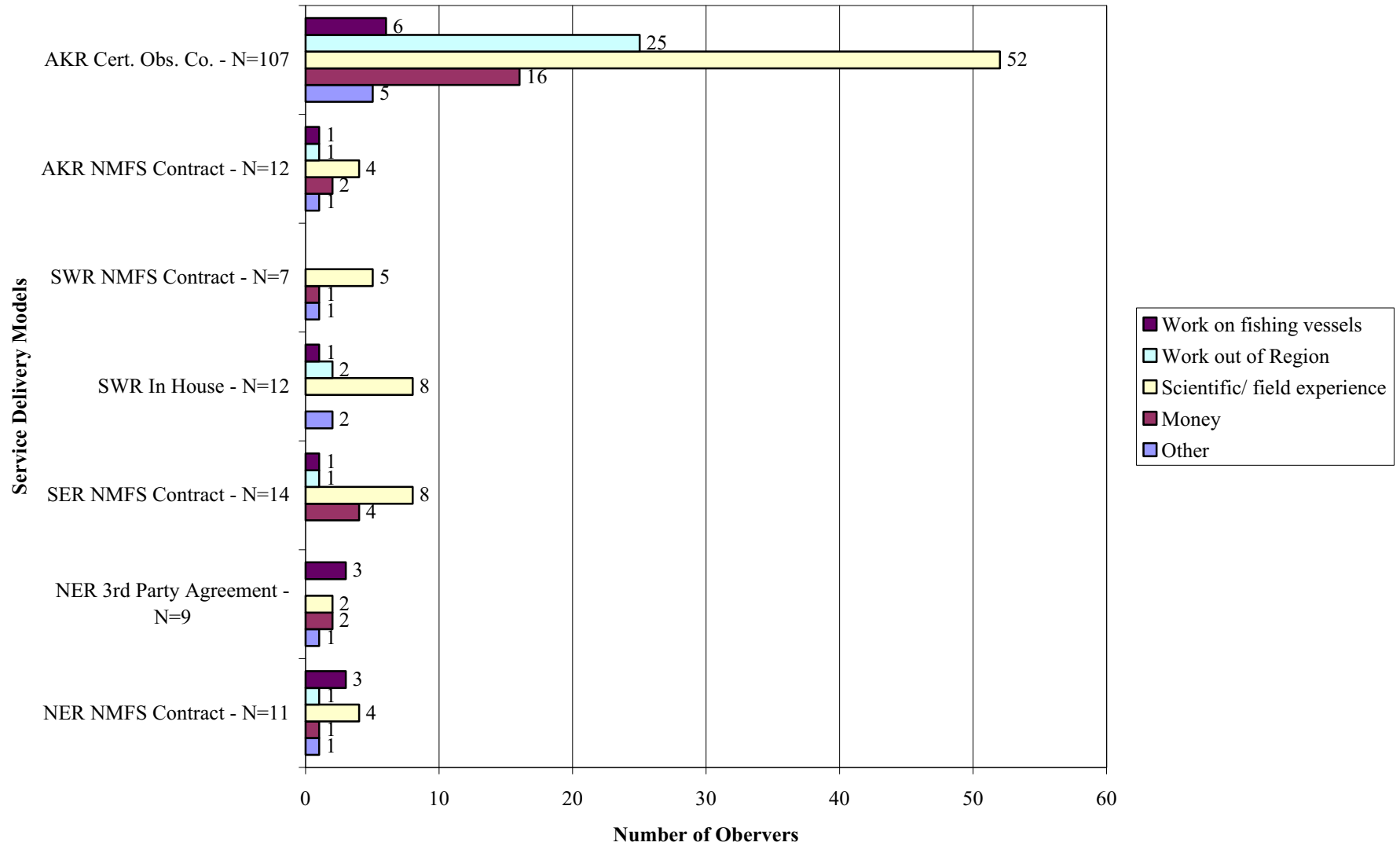
Risk C: Qualified observers may not be recruited and retained.	
How did you originally find out about the observer program and observer jobs?	485
What was your primary reason for your interest in being an observer?	486
What was your secondary reason for your interest in being an observer?	487
Was the observer pay level an attractive incentive to first becoming an observer?	488
How was your job interview conducted?	489
Are there any incentives/changes in the program that would encourage you to return as an observer in the future?	490
Risk D: Observers may not be properly trained to perform their duties.	
Overall, how would you rate the training?	491
Overall, how would you rate the briefing?	492
Overall, how well did the training prepare you?	493
Overall, how well did the briefing prepare you?	494
Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties?	495
Did the training you received provide you the skills and knowledge needed to accomplish your assigned tasks?	496
Risk E: The health and safety of observers may be impaired.	
Were you provided with a health and safety checklist for the pre-trip safety check?	497
Are you aware of a written policy that an observer's job will not be endangered if he/she refuses to board a vessel because of health or safety problems that he/she finds?	498
In your personal experience, is this written policy that an observer's job will not be endangered being followed?	499
Do you ever feel pressured from anyone to ignore health or safety issues that you may have?	500
Have you ever been intimidated, pressured, harassed or had your sampling interfered with in a manner that affected the quantity or quality of your work?	501
If yes, can you approximate how frequently this intimidation, harassment or interference has occurred?	502
If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity?	503
Was your debriefer able to adequately address harassment/intimidation concerns you encountered during your work as an observer?	504
In what ways could the observer program be more supportive of observers who experienced harassment/intimidation or other trauma on the job?	505
Risk F: Insurance coverage and legal remedies for observers who are injured at sea may not be adequate.	
Are you aware that you may be compensated under the Federal Employees Compensation Act (FECA) if you are injured at sea?	506
Are you aware of other remedies that you may apply for if you are injured at sea?	507

Have you attempted to obtain any Workers' Compensation or other remedy in connection with an injury you sustained at sea?	508
Risk H: The completeness and accuracy of observer data may be compromised.	
Were debriefing instructions clear and easy to follow?	509
Was your debriefer able to provide you adequate information when you needed it in a timely manner?	510
Were your instructions for data corrections clear?	511
Did your debriefing help prepare you for future cruises?	512
Did you feel that you could freely communicate to observer staff your concerns, problems, dissatisfaction with vessels, contractors, or other observer staff?	513
Were you treated with respect/professionally during the debriefing process?	514
Are you satisfied with the observer evaluation system?	515
How do you think the evaluation system process affects observers' future work quality/morale?	516
Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry?	517

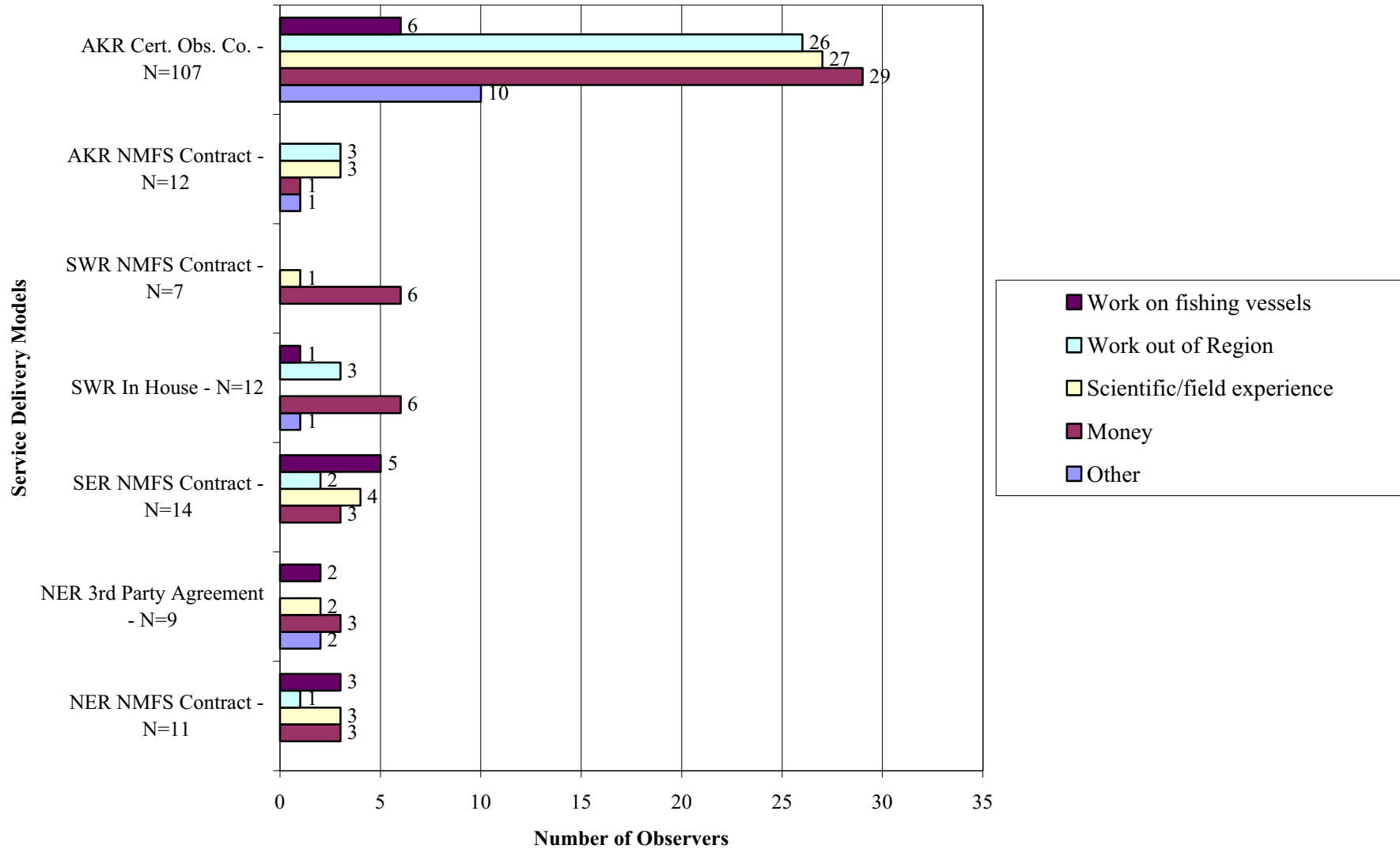
How did you originally find out about the observer program and observer jobs?



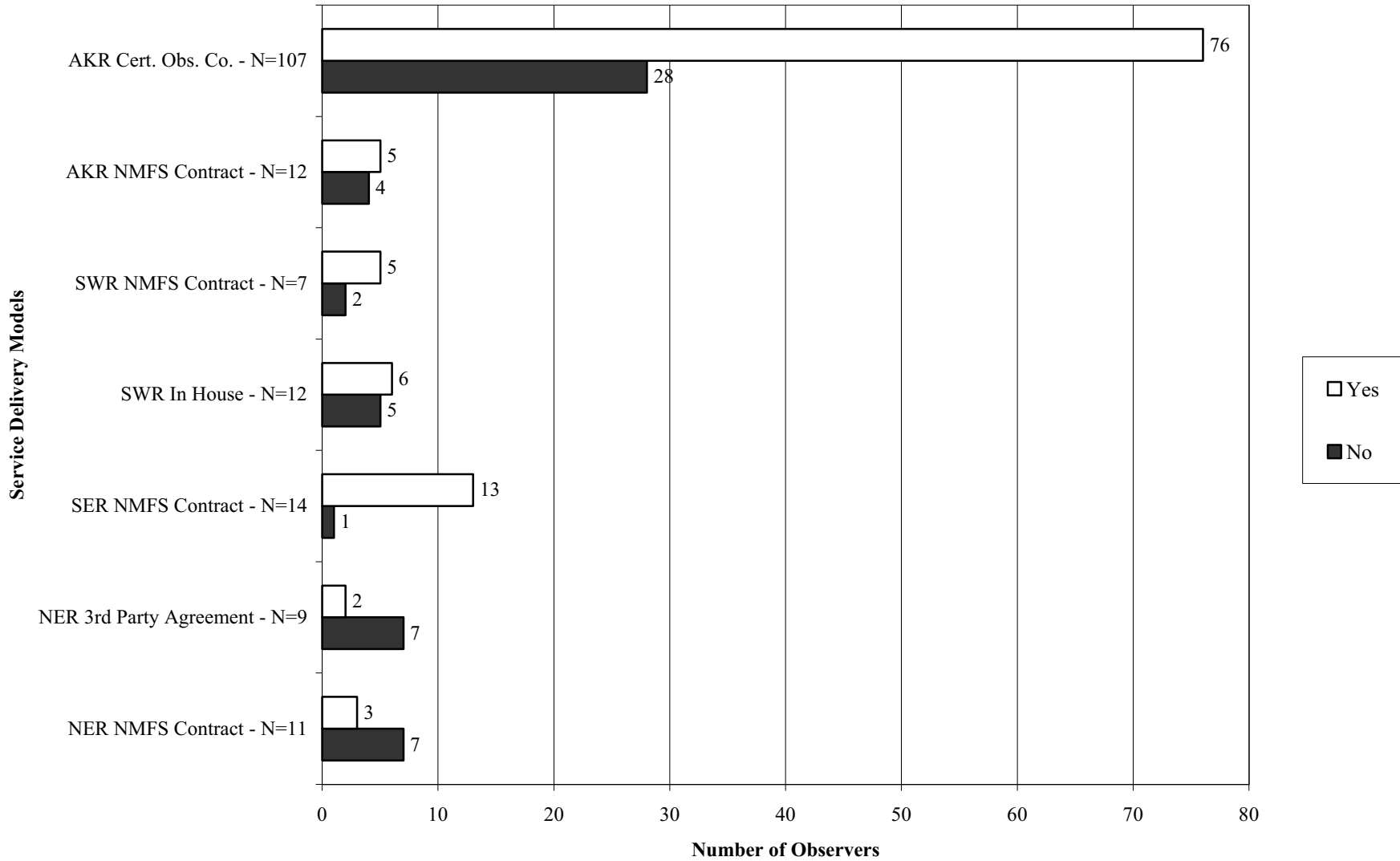
What was the primary reason for your interest in being an observer?



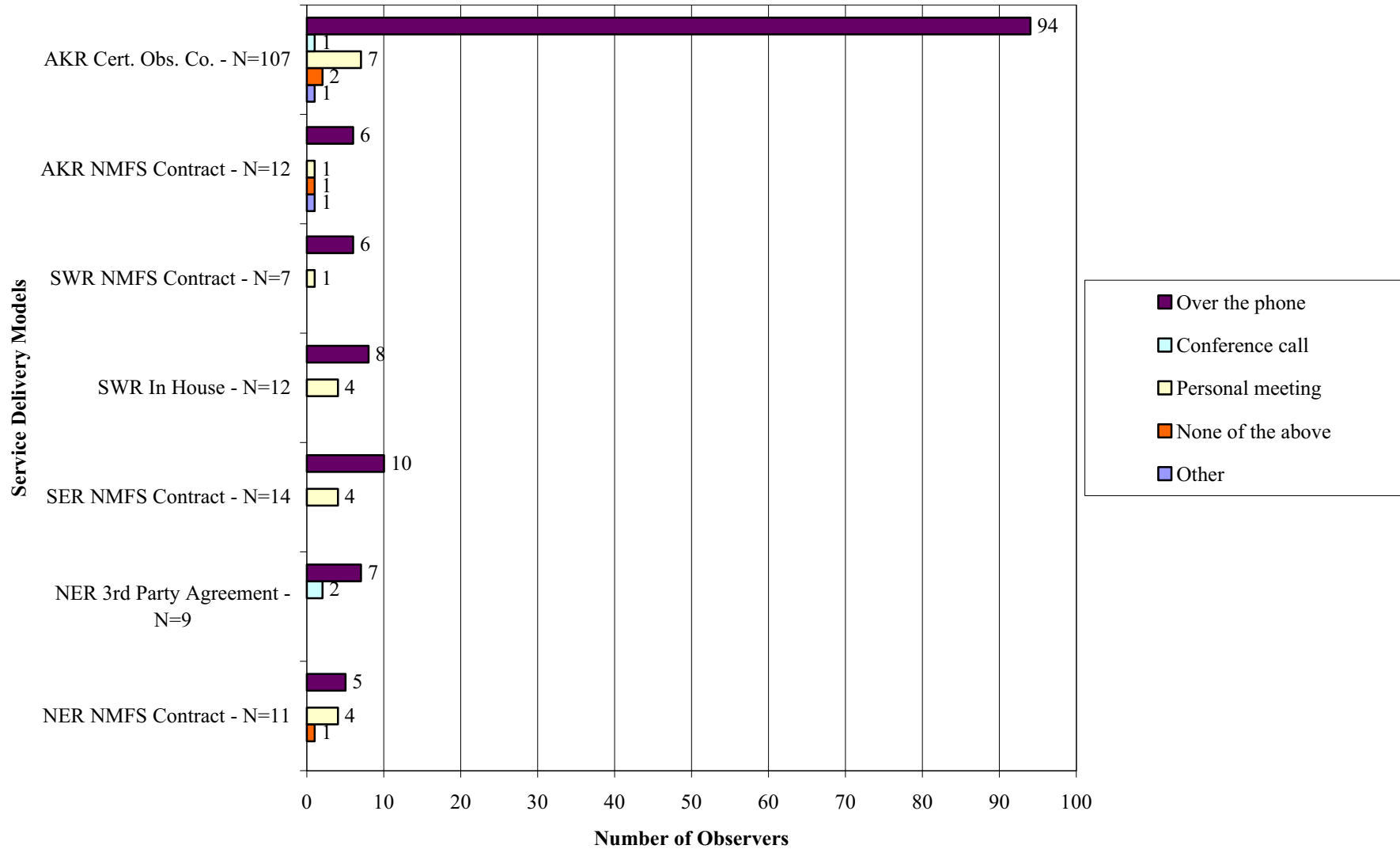
What was the secondary reason for your interest in being an observer?



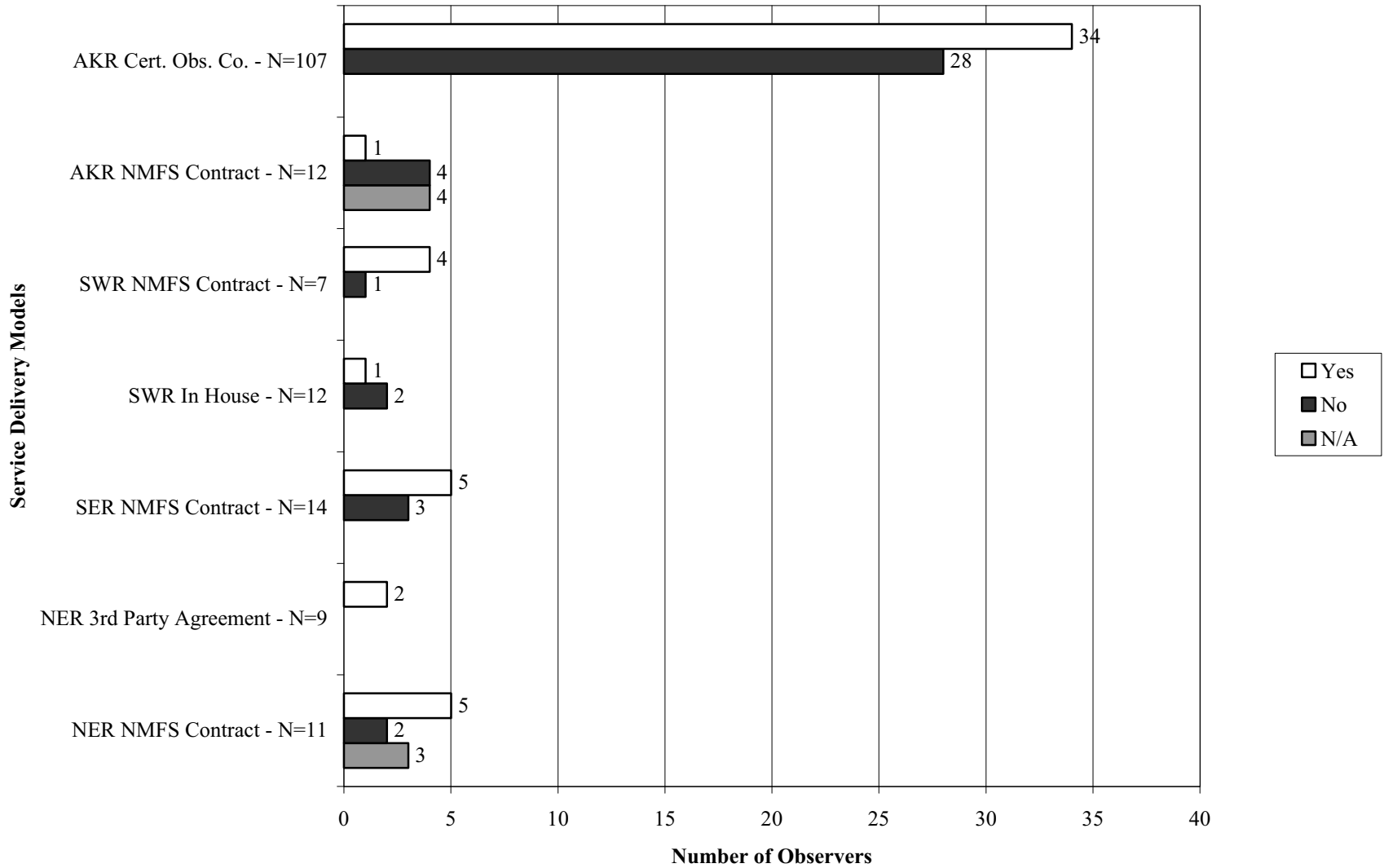
Was the observer pay level an attractive incentive to first becoming an observer?



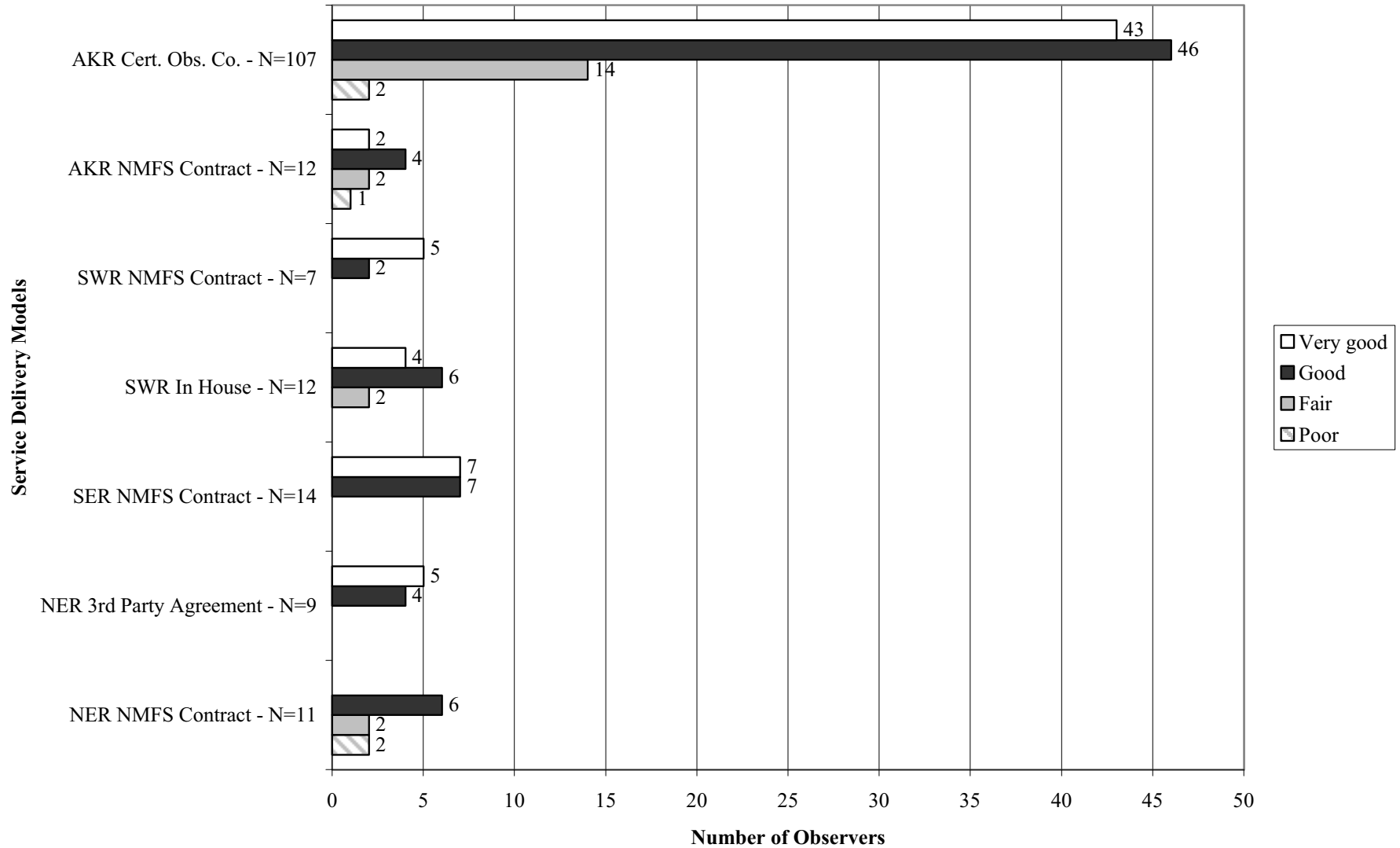
How was your job interview conducted?



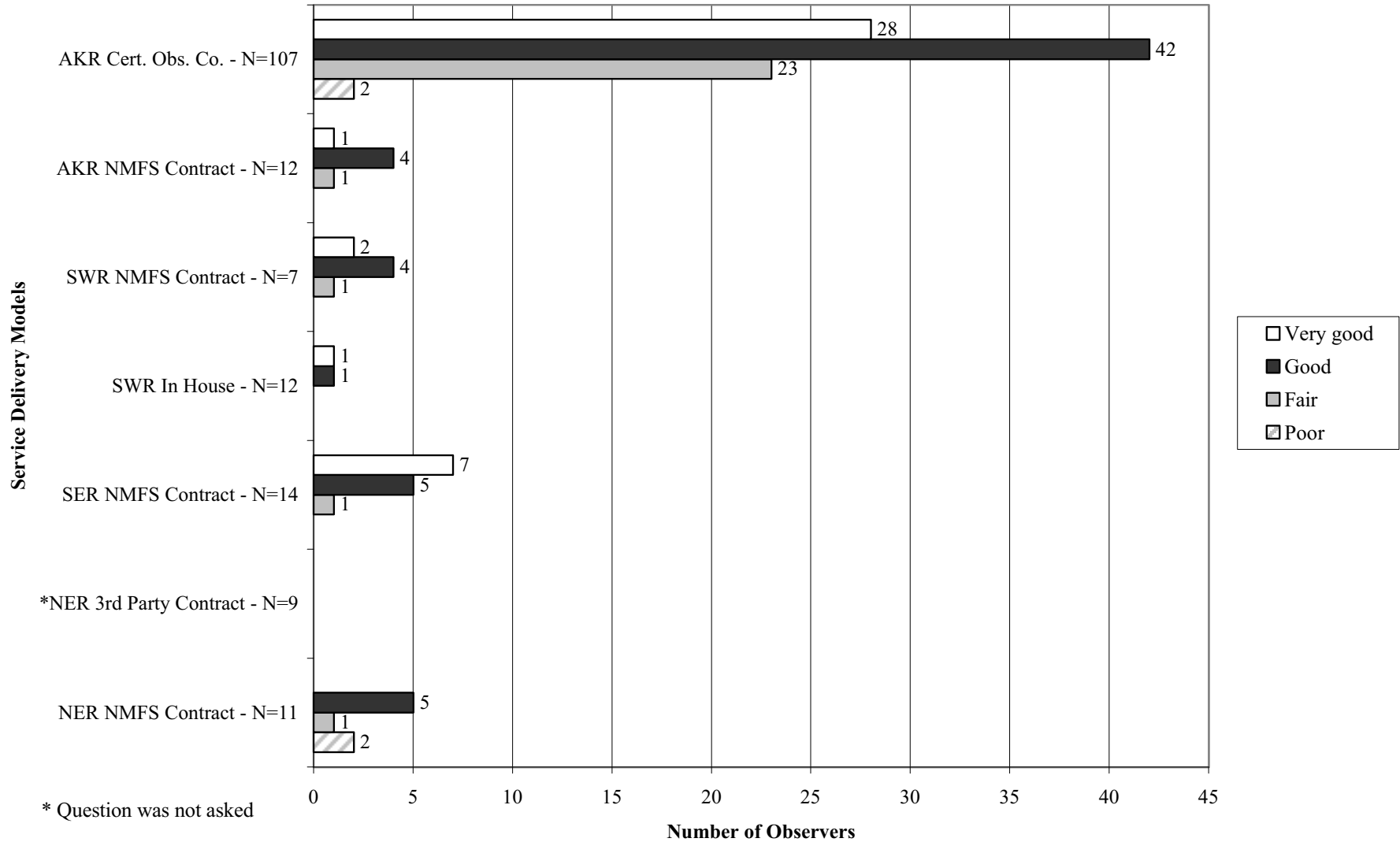
Are there any incentives/changes in the program that would encourage you to return to work as an observer in the future?



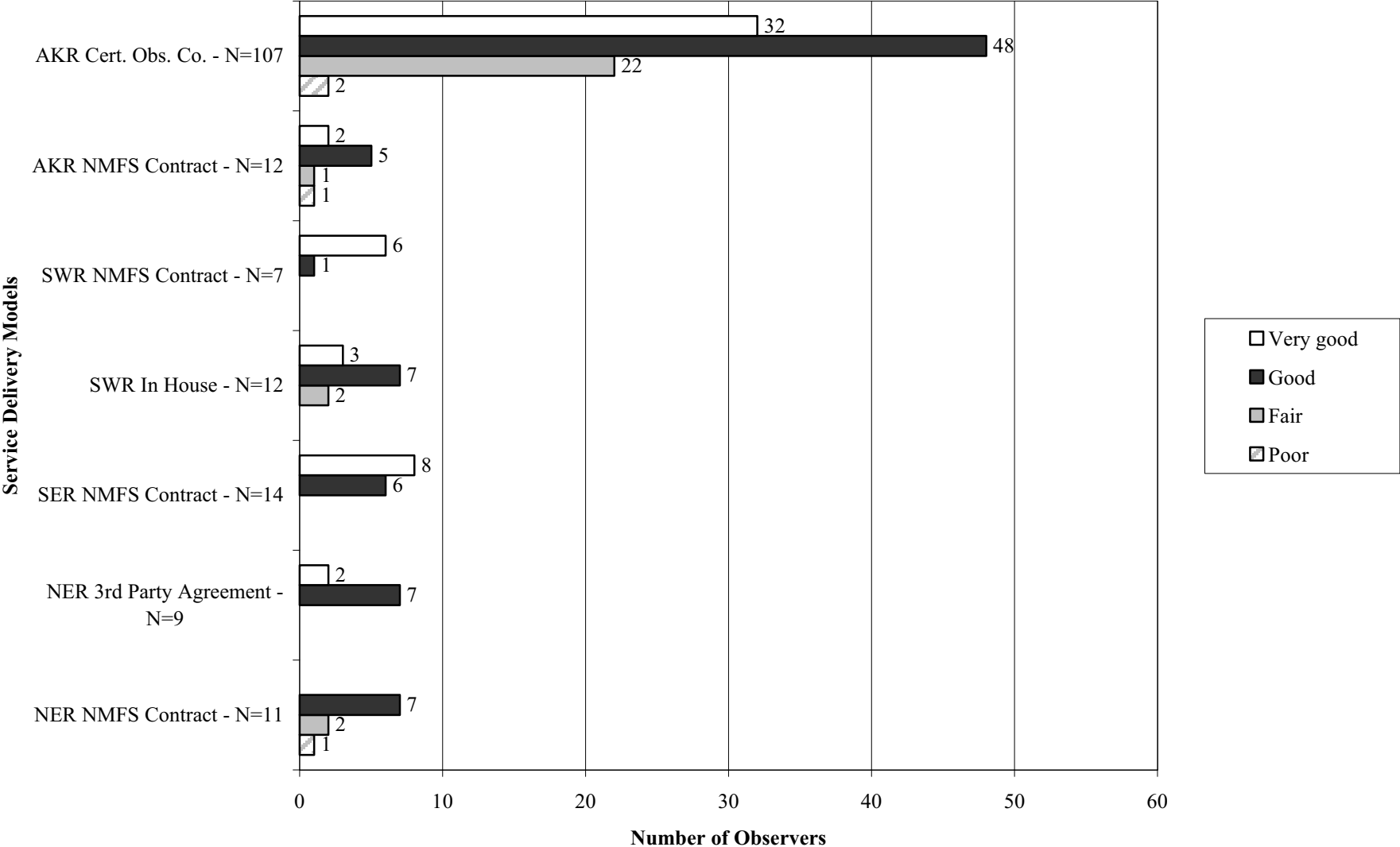
Overall, how would you rate the training?



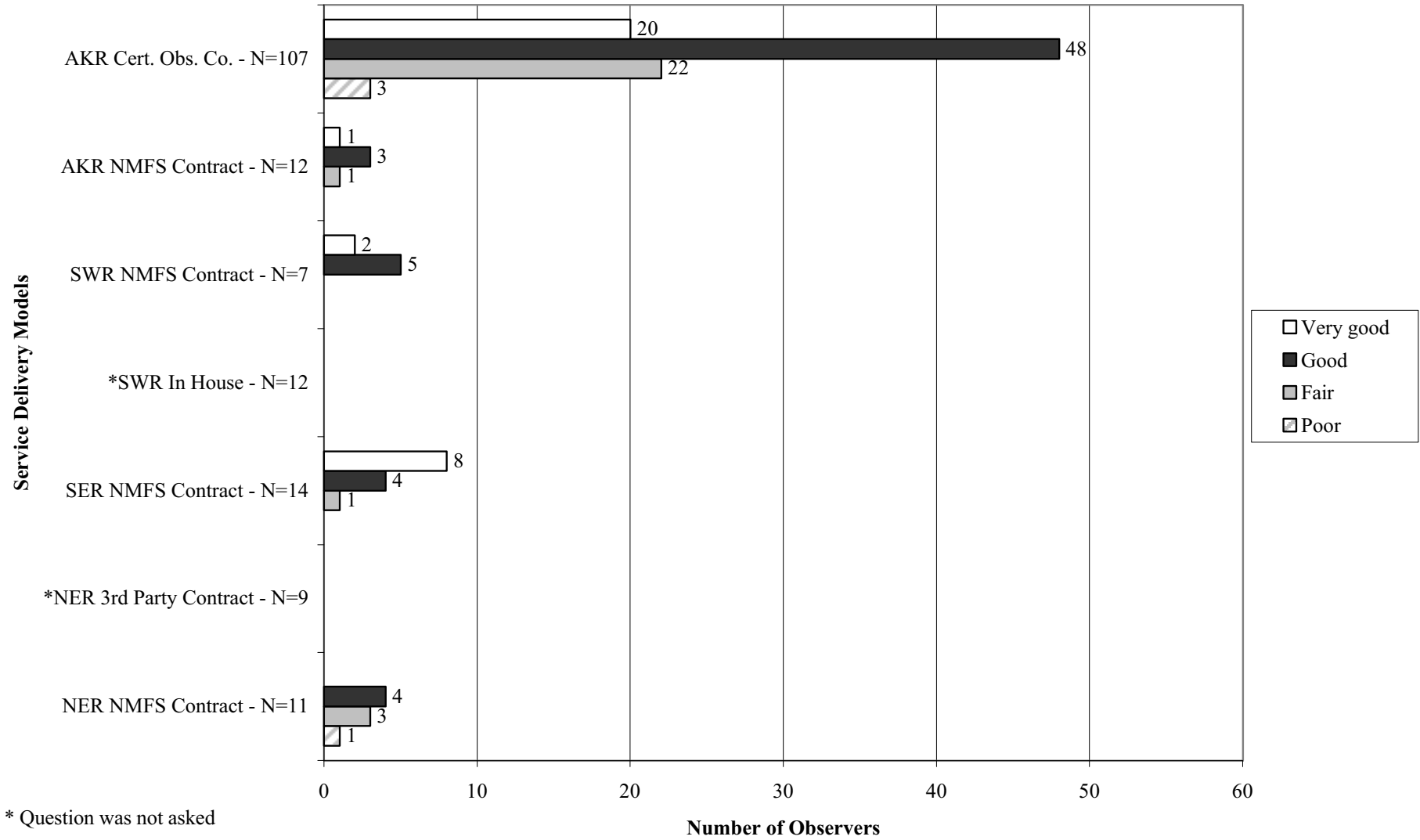
Overall, how would you rate the briefing?



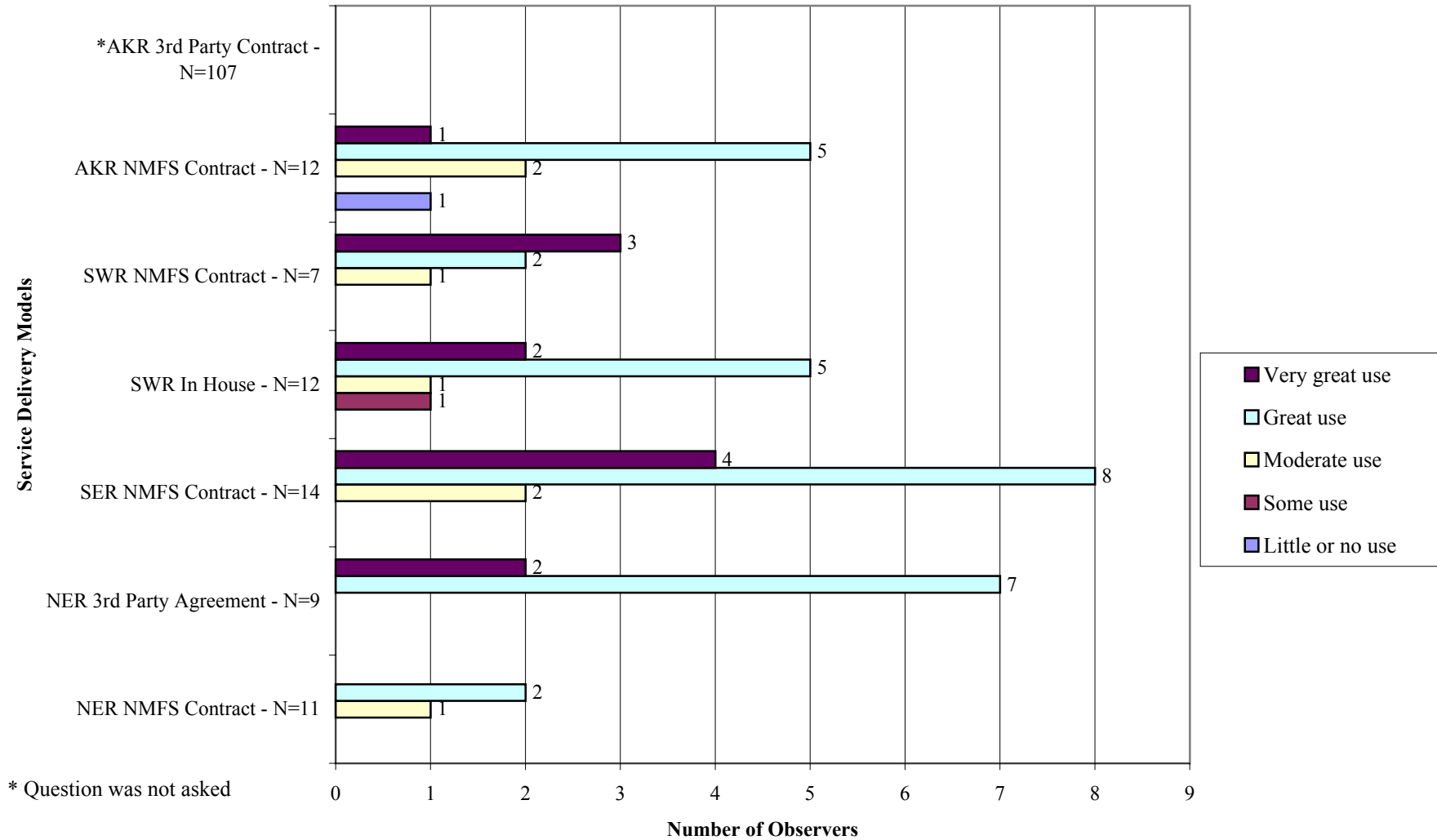
Overall, how well did the training prepare you?



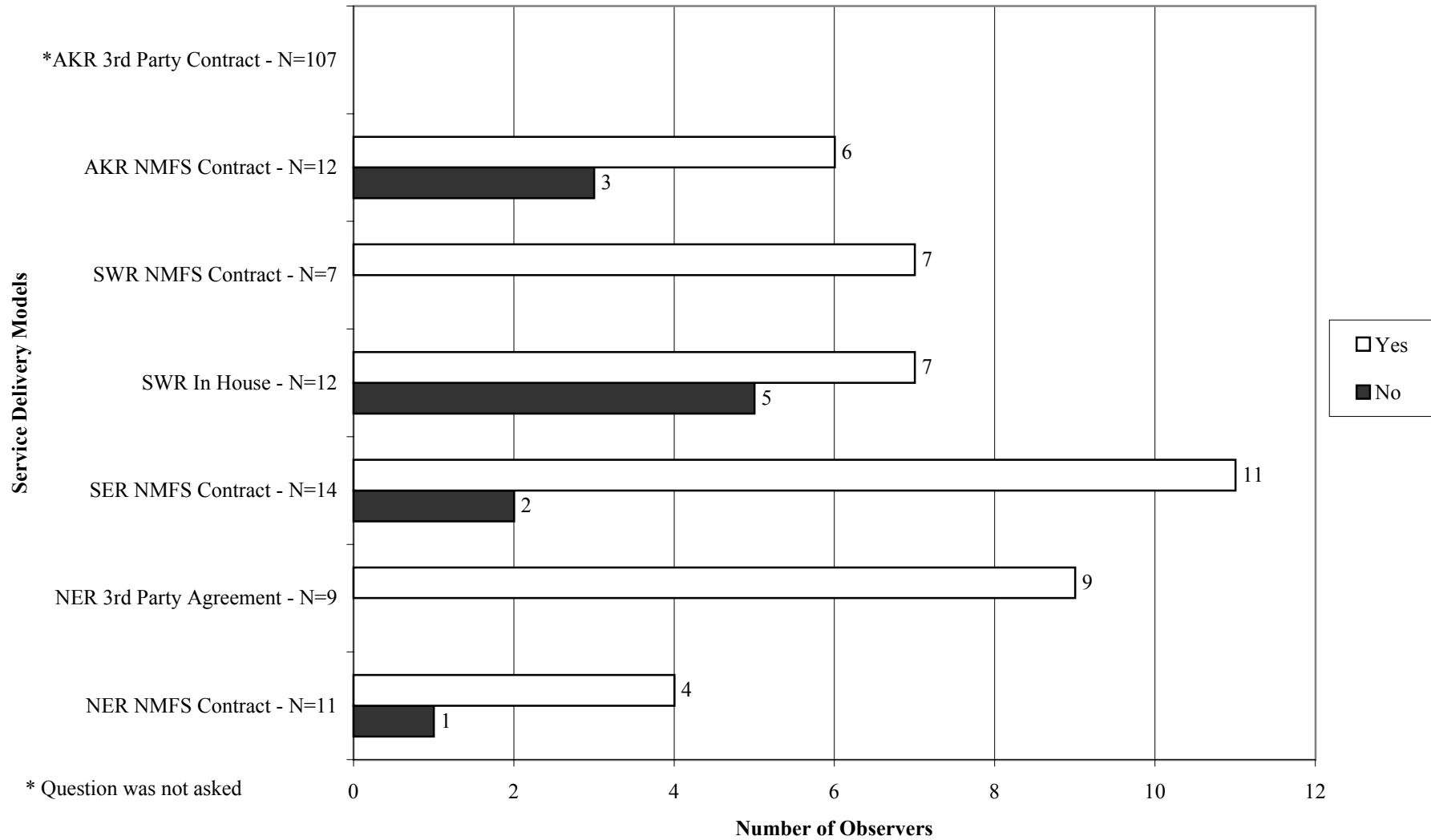
Overall, how well did the briefing prepare you?



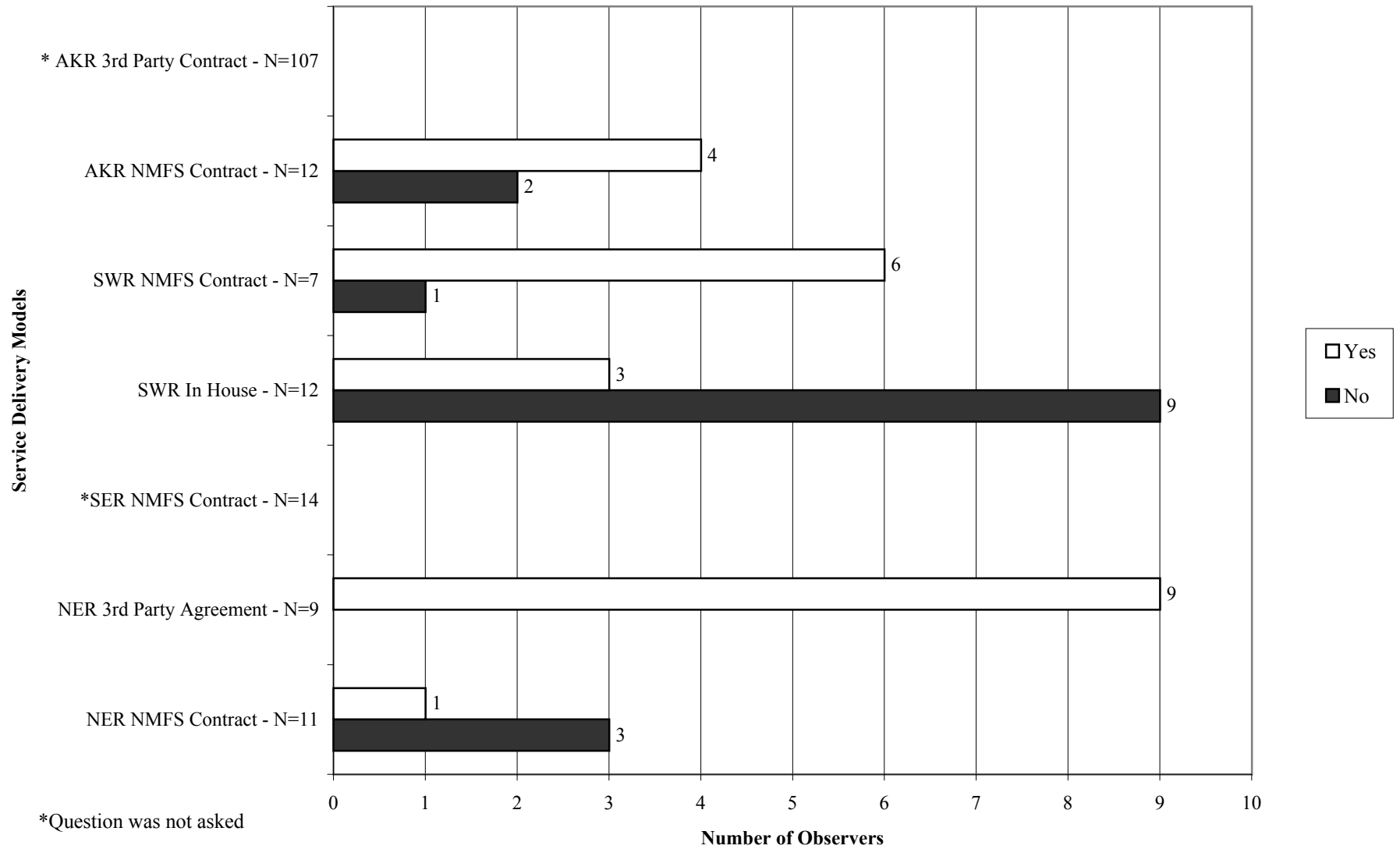
Overall, how would you rate the usefulness of the observer training you have received to date in preparing you to perform your duties?



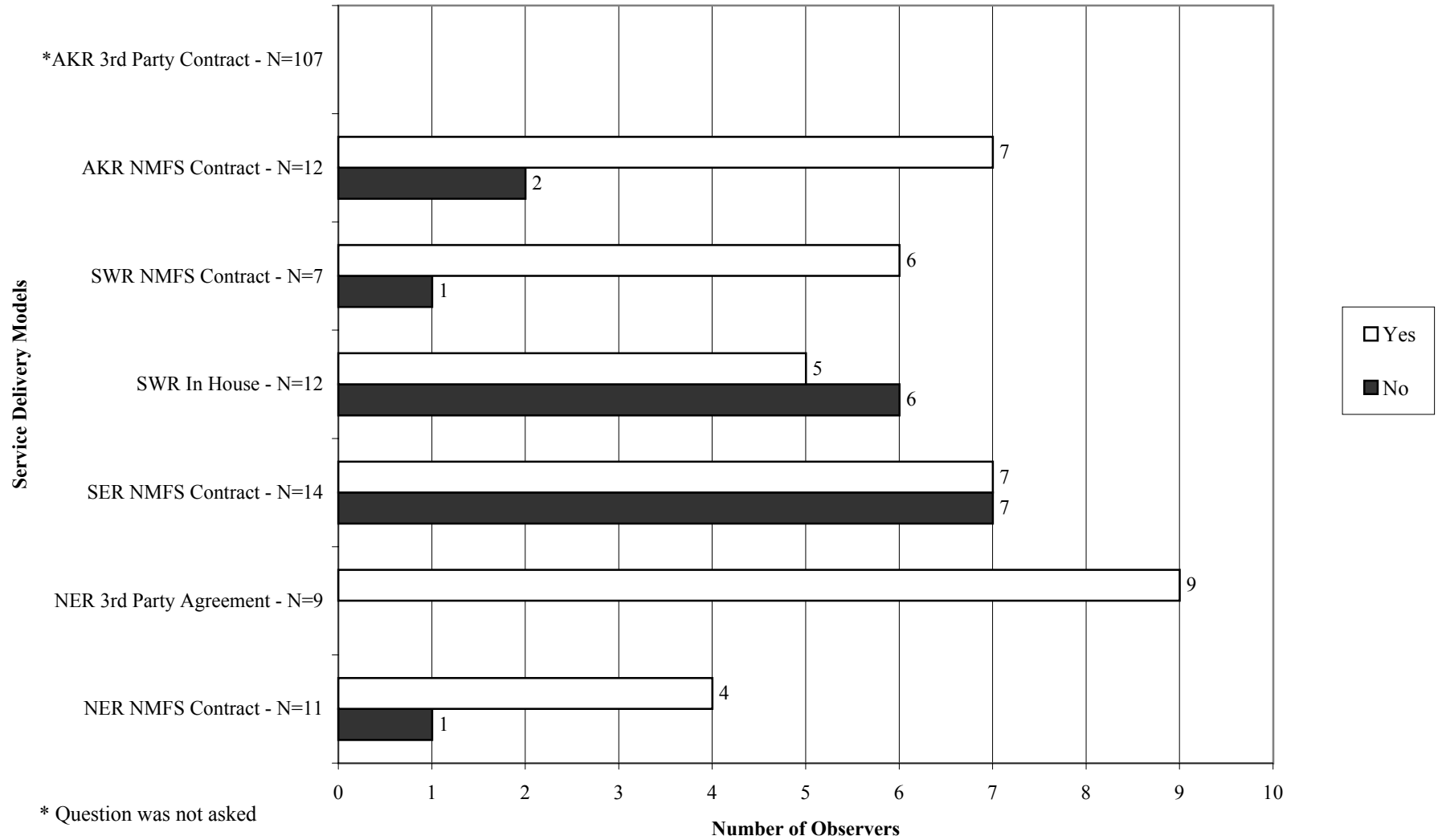
Did the training you received provide you the skills and knowledge needed to accomplish your assigned tasks?



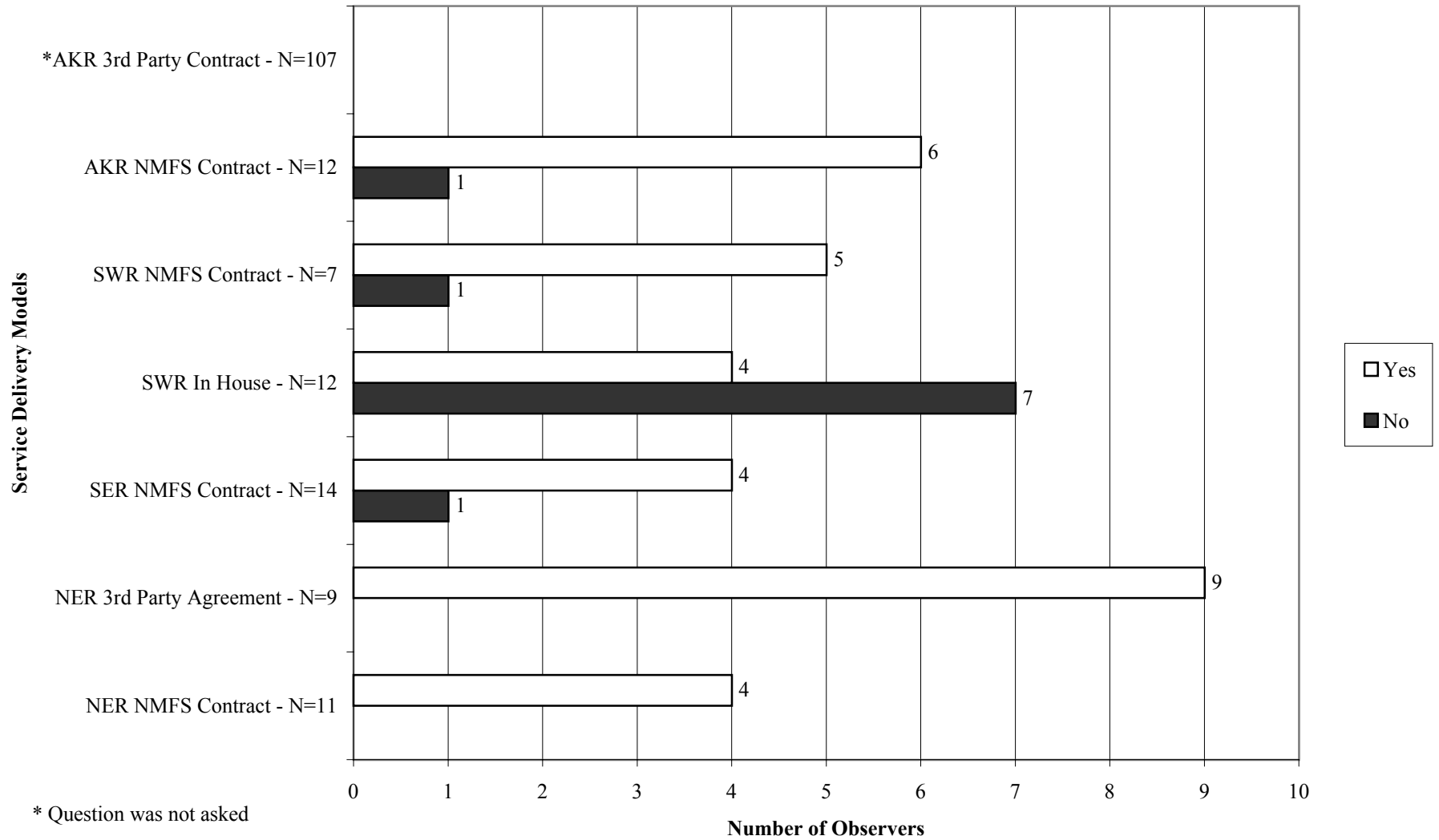
Were you provided a health and safety check list for the pre-trip safety check?



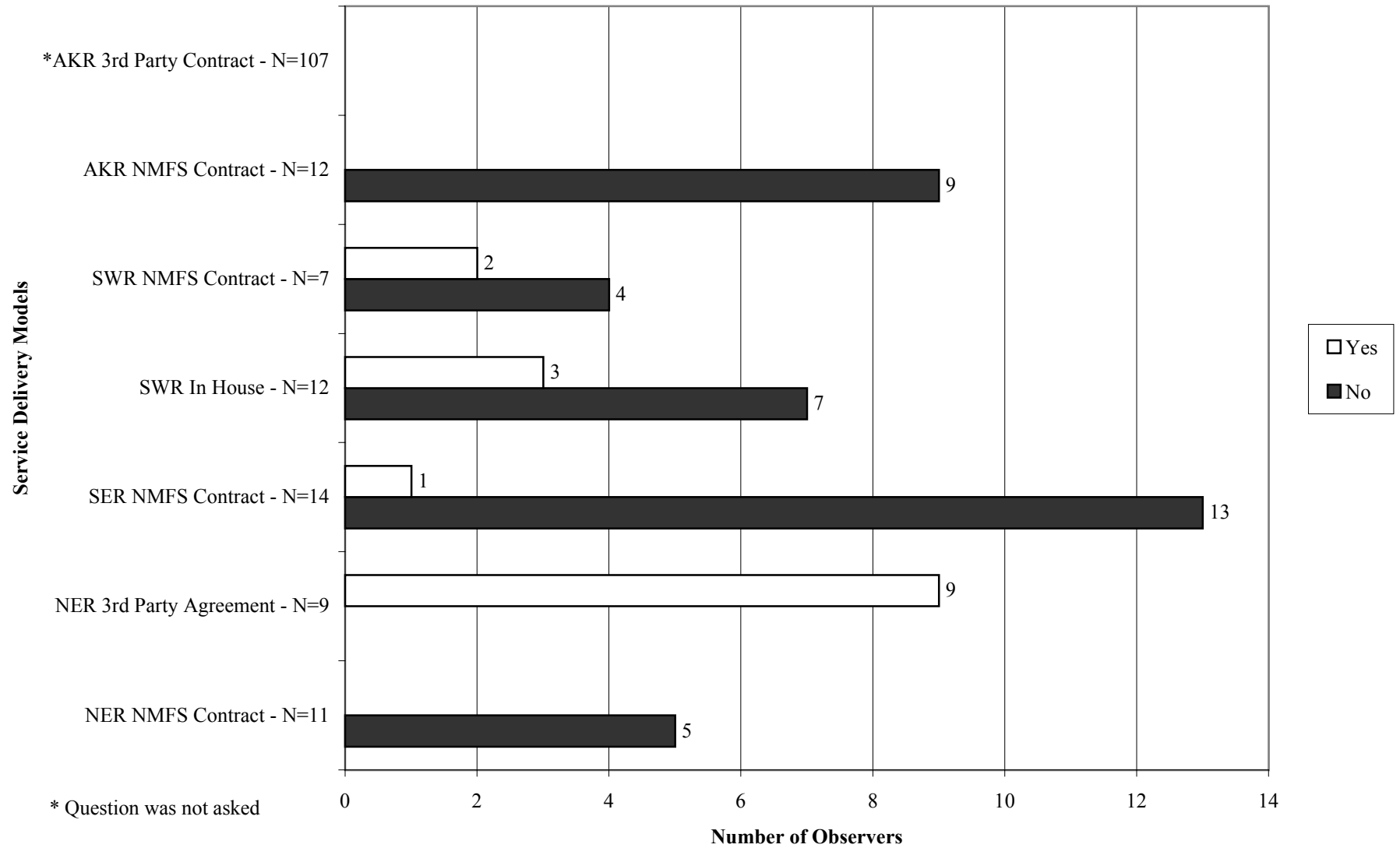
Are you aware of a written policy that an observer's job will not be endangered if he/she refuses to board a vessel because of health or safety problems that he/she finds?



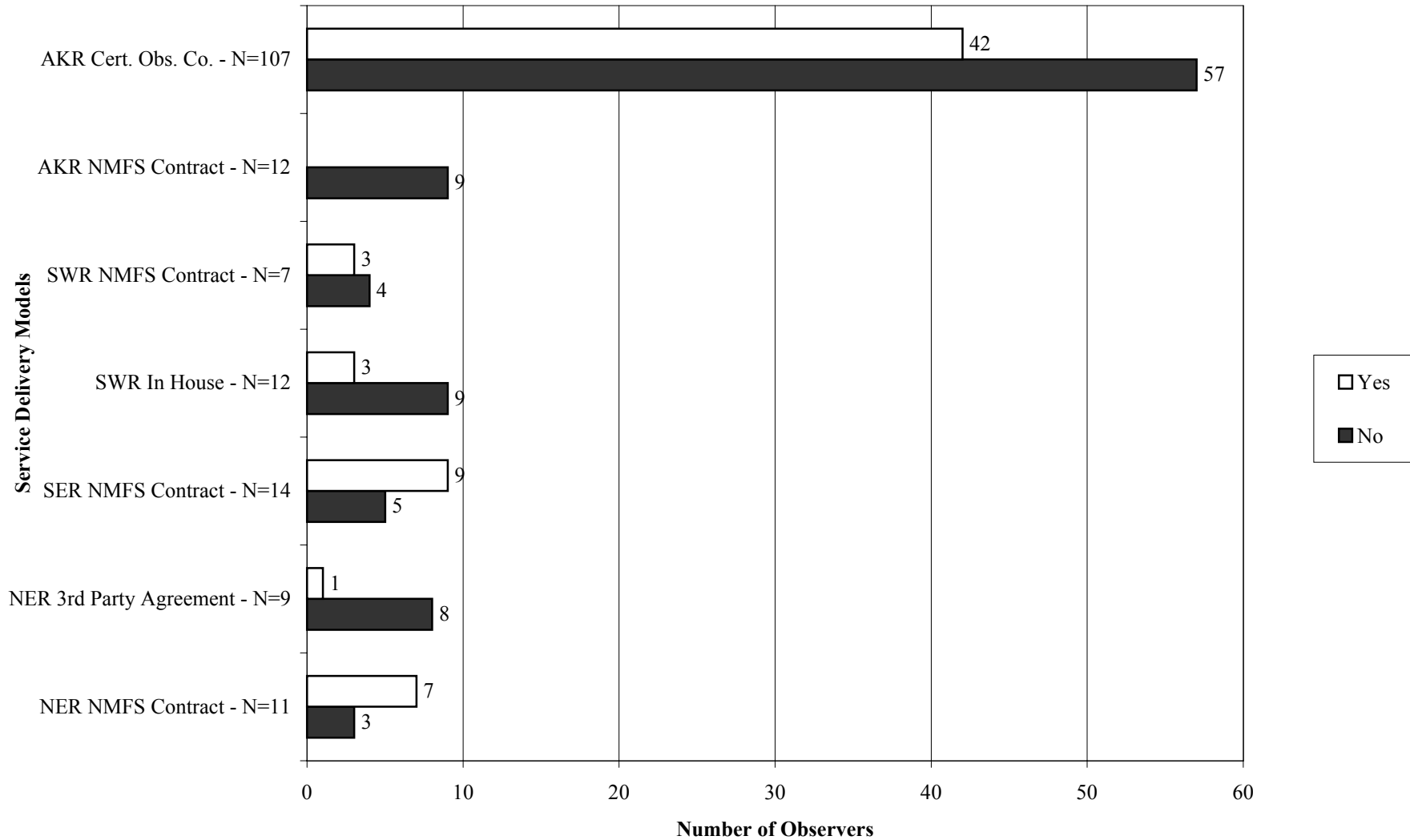
In your personal experience, is this written policy that an observer's job will not be endangered being followed?



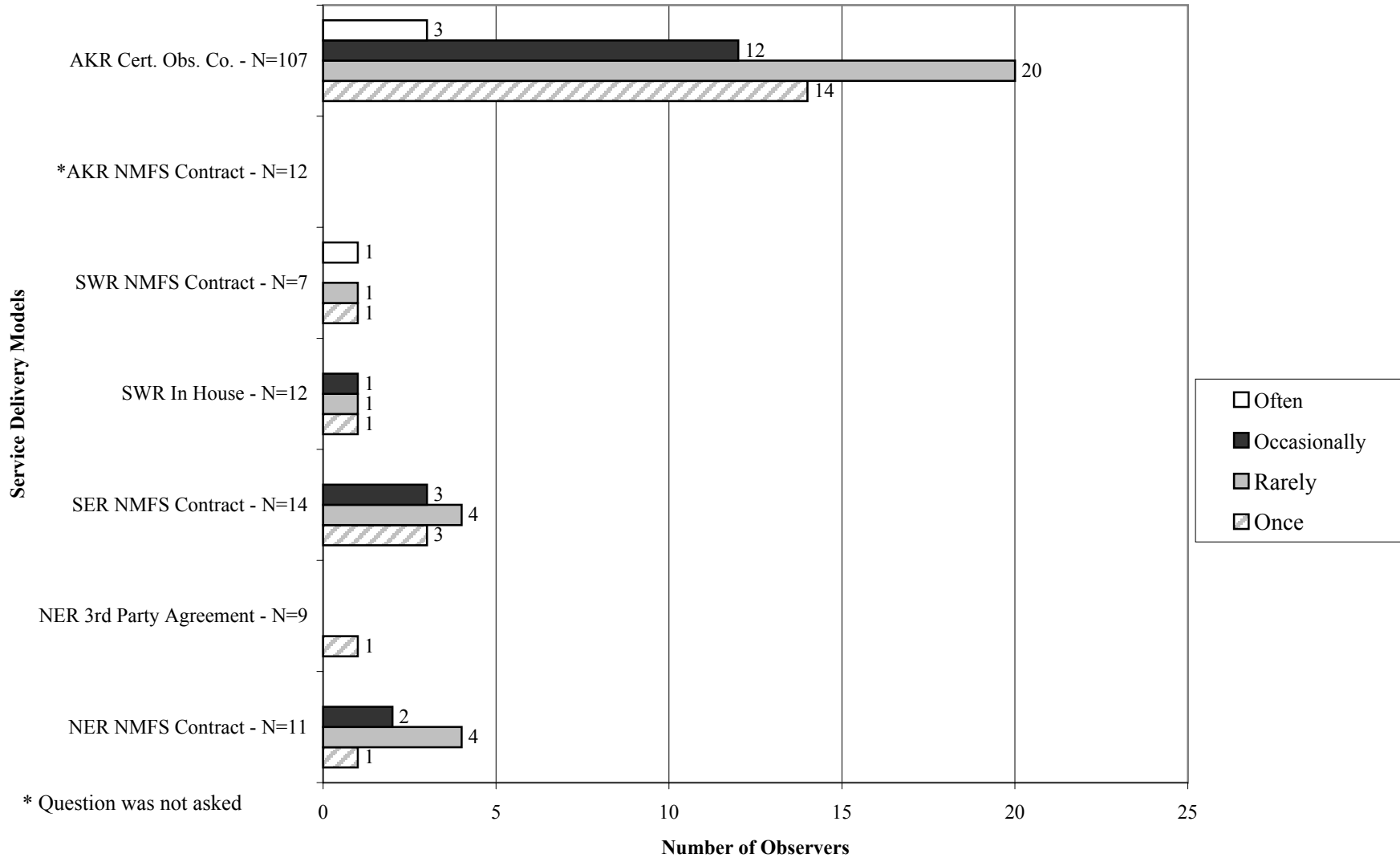
Do you ever feel any pressure from anyone to ignore health or safety concerns that you might have?



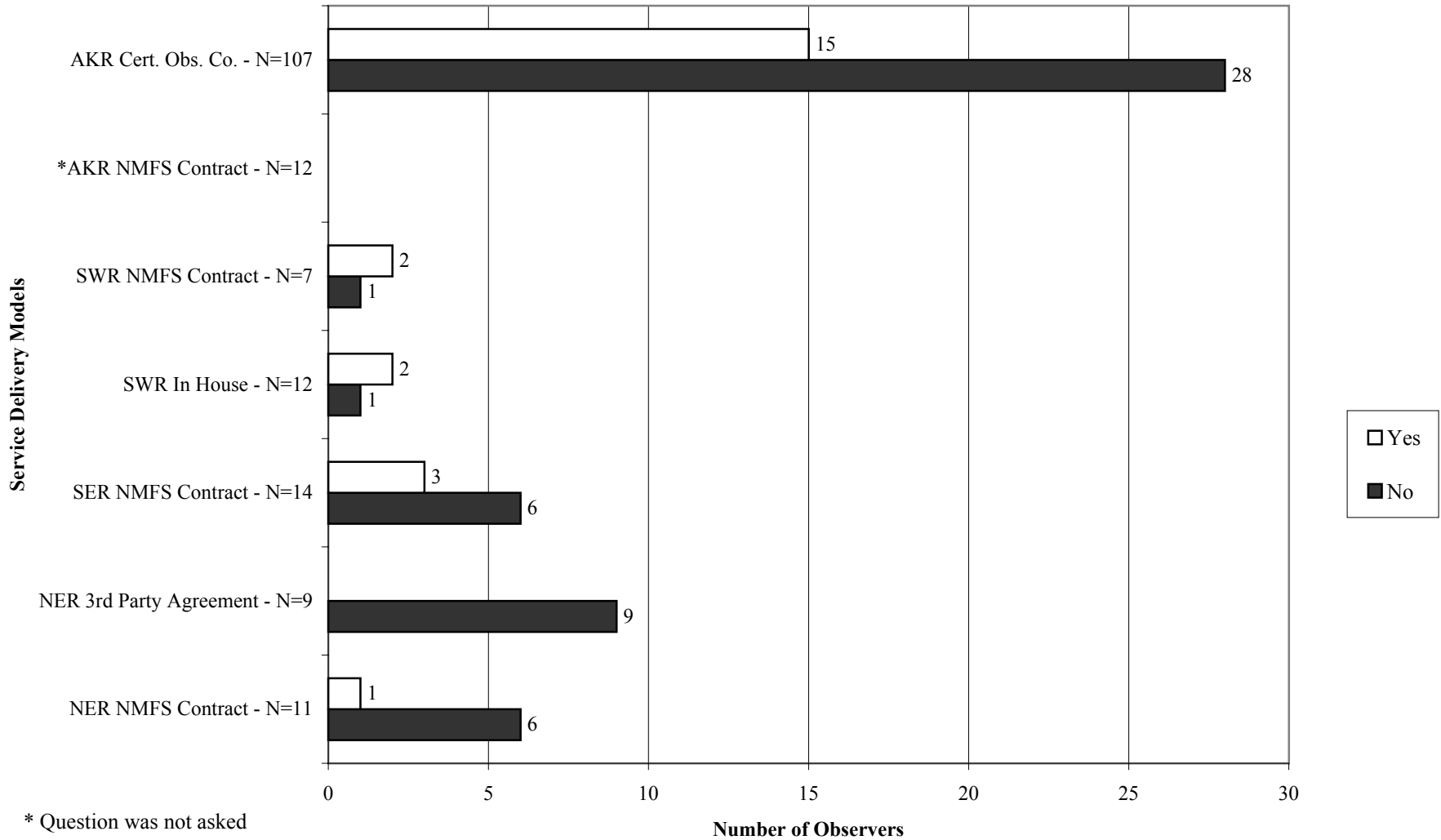
Have you ever been intimidated, pressured, harassed, or had your sampling interfered with in a manner that affected the quantity or quality of your work?



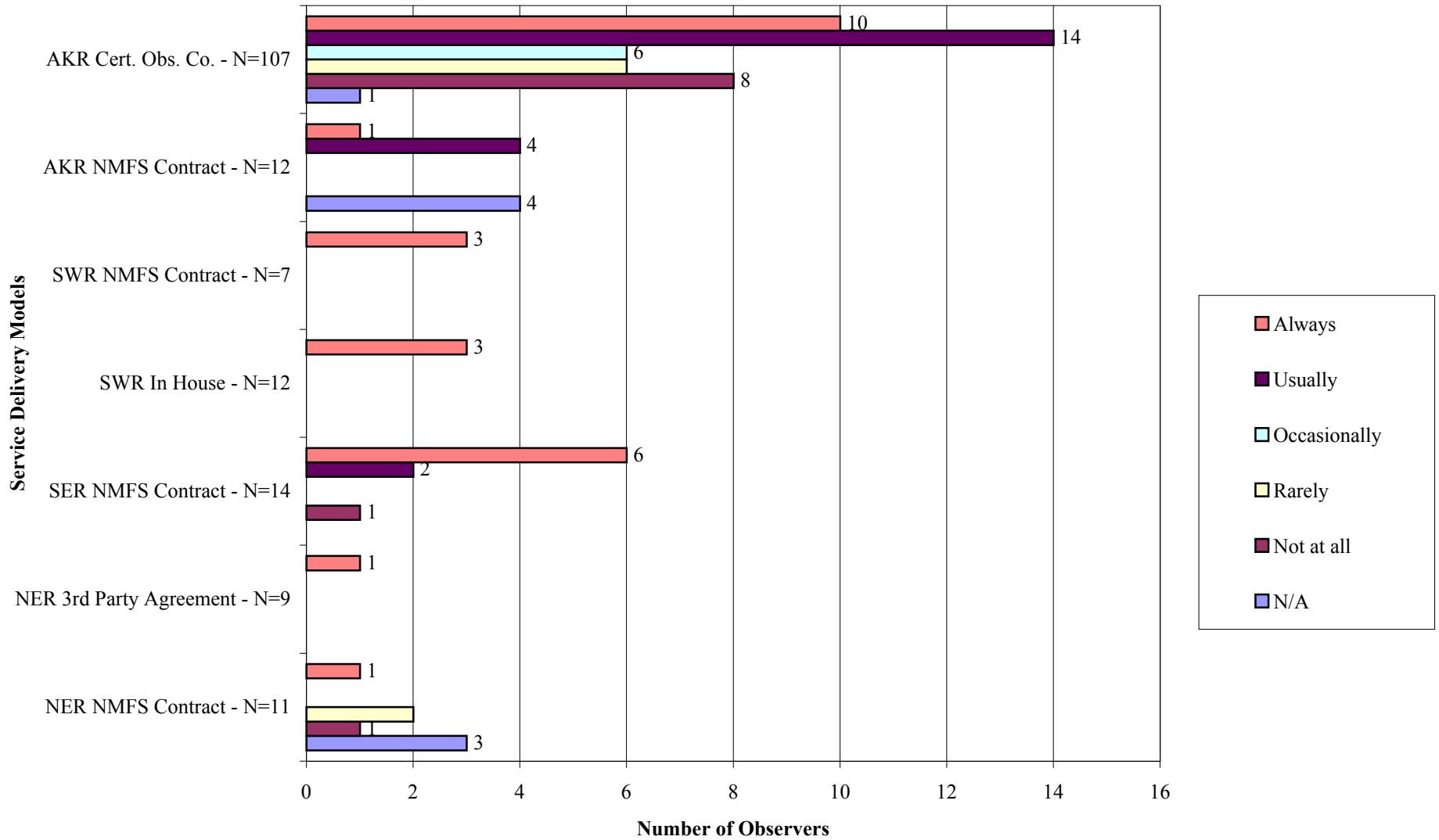
If yes, can you approximate how frequently this intimidation, harassment or interference has occurred?



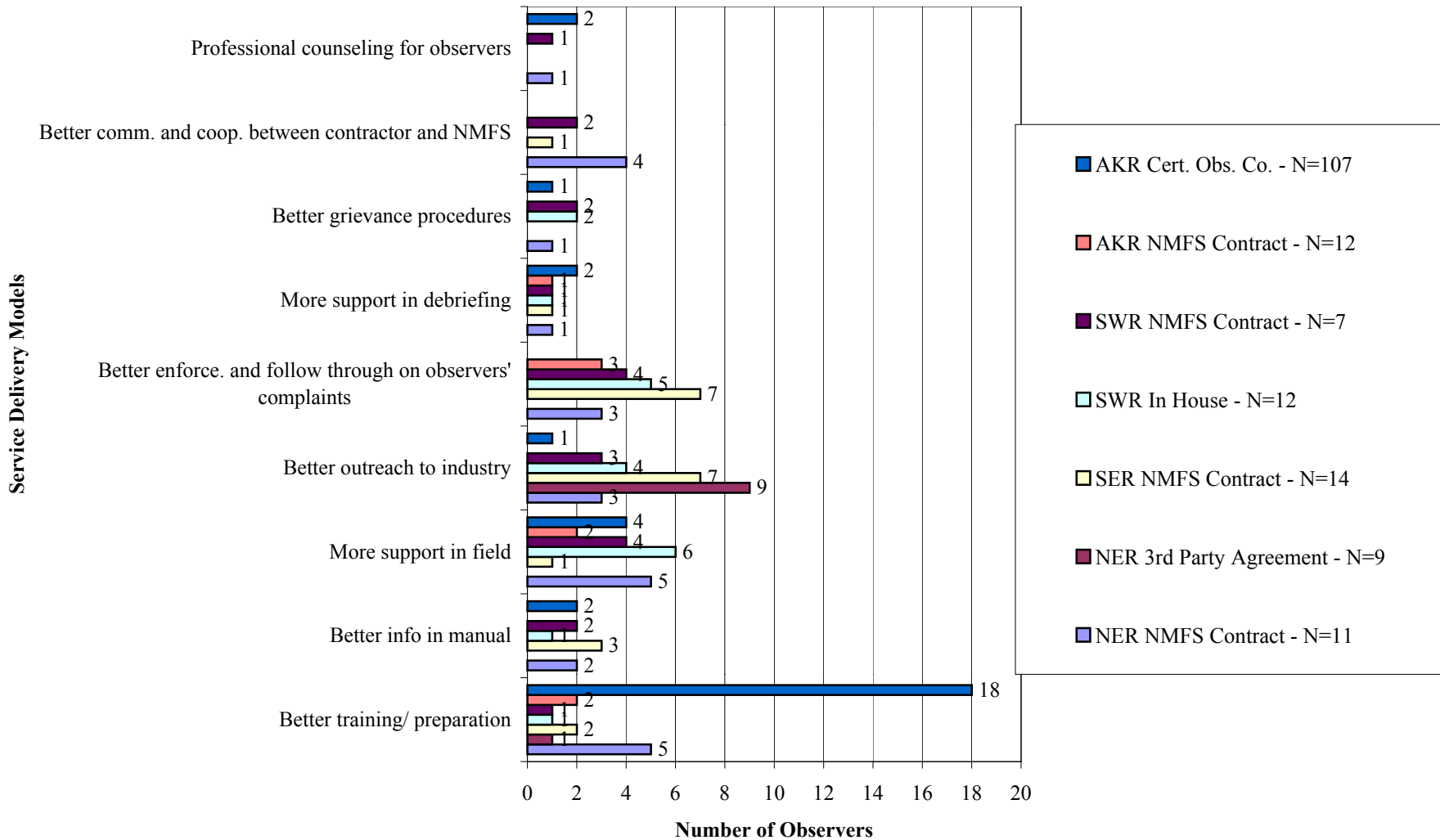
If yes, have you filled out an affidavit(s) for sampling interference, intimidation, harassment, or any similar activity?



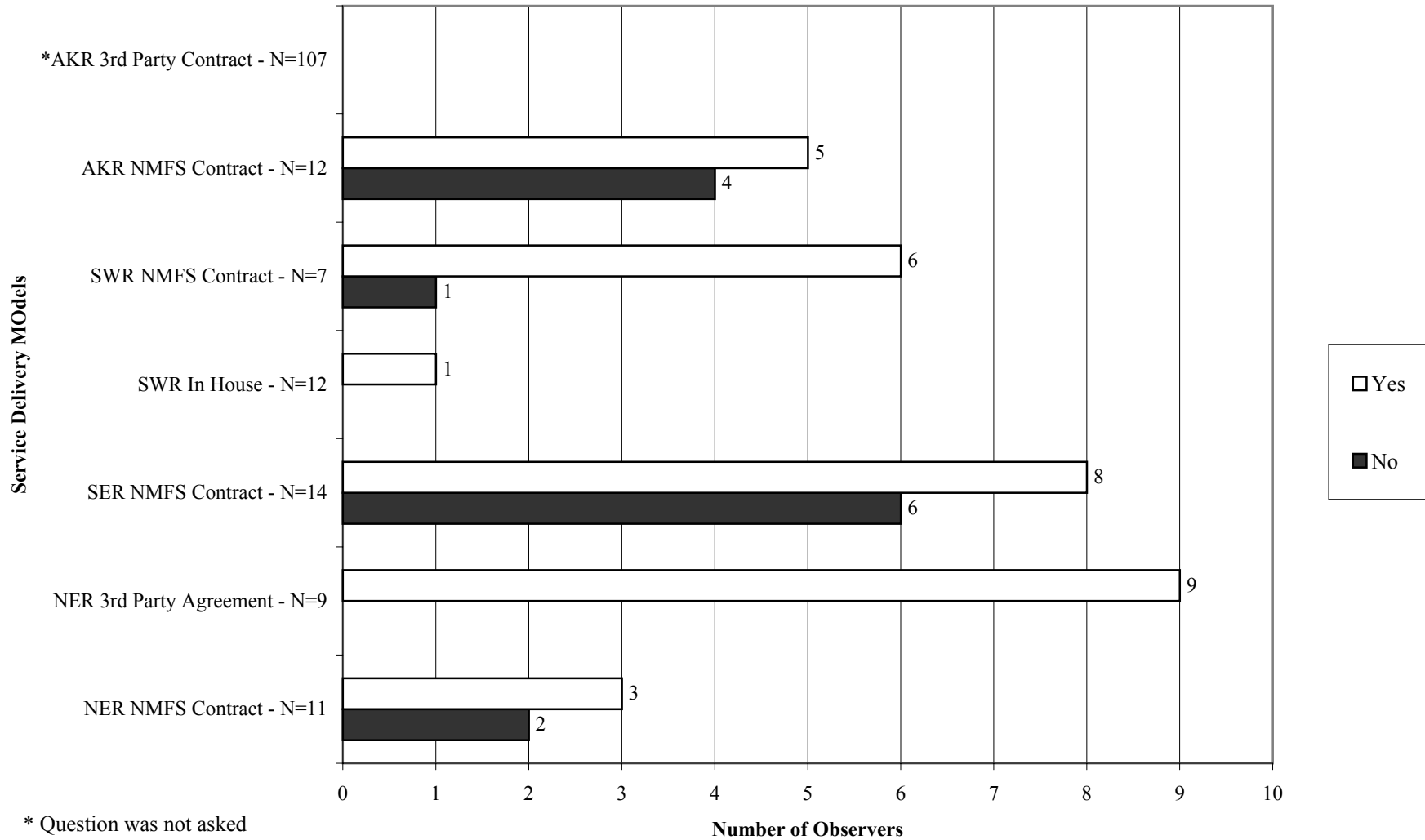
Was your debriefer able to adequately address harassment/intimidation concerns that you have encountered during your work as an observer?



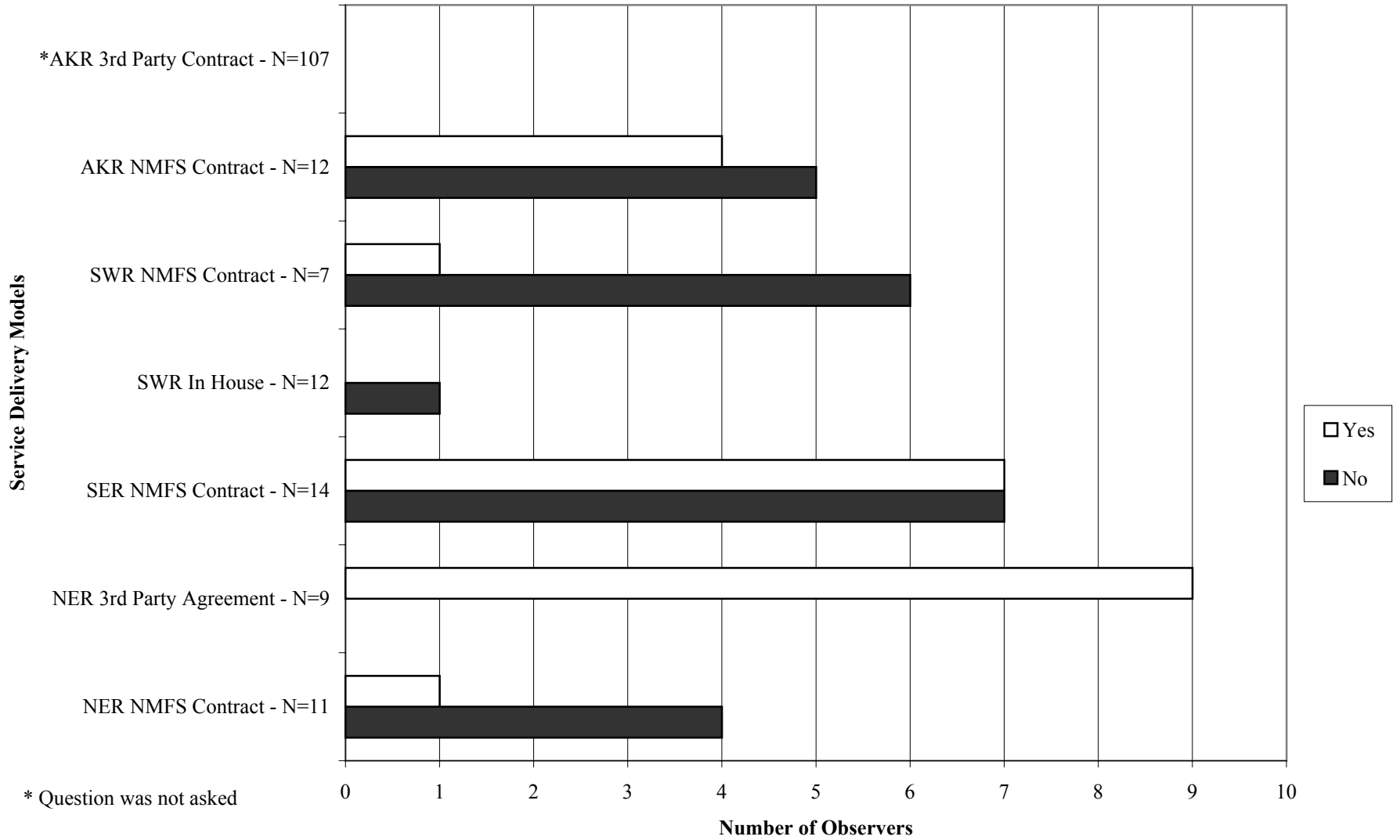
In what ways could the observer program be more supportive of observers who experienced harassment/intimidation or other trauma on the job?



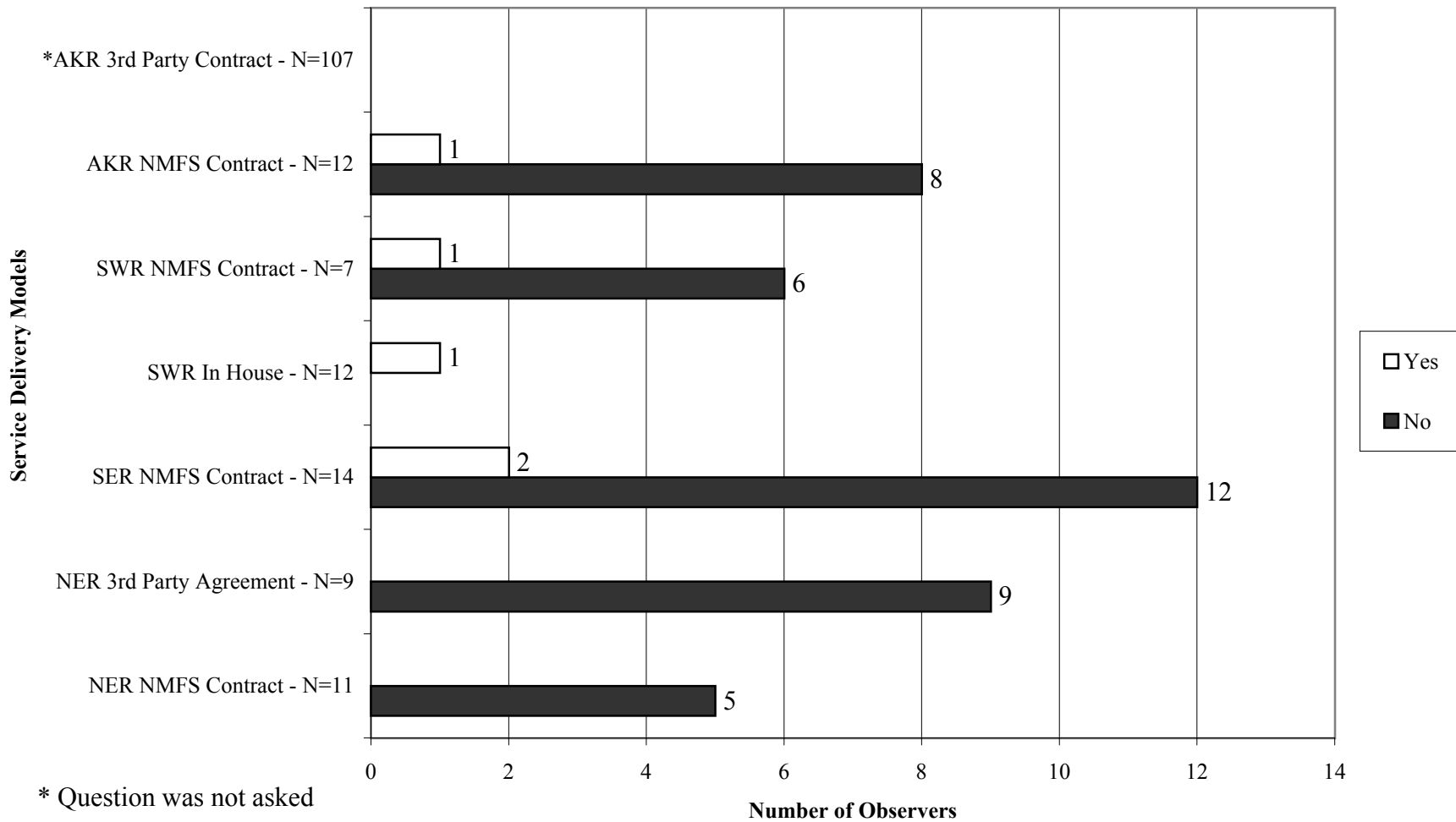
Are you aware that you may be compensated under the Federal Employees Compensation Act (FECA) if you are injured at sea?



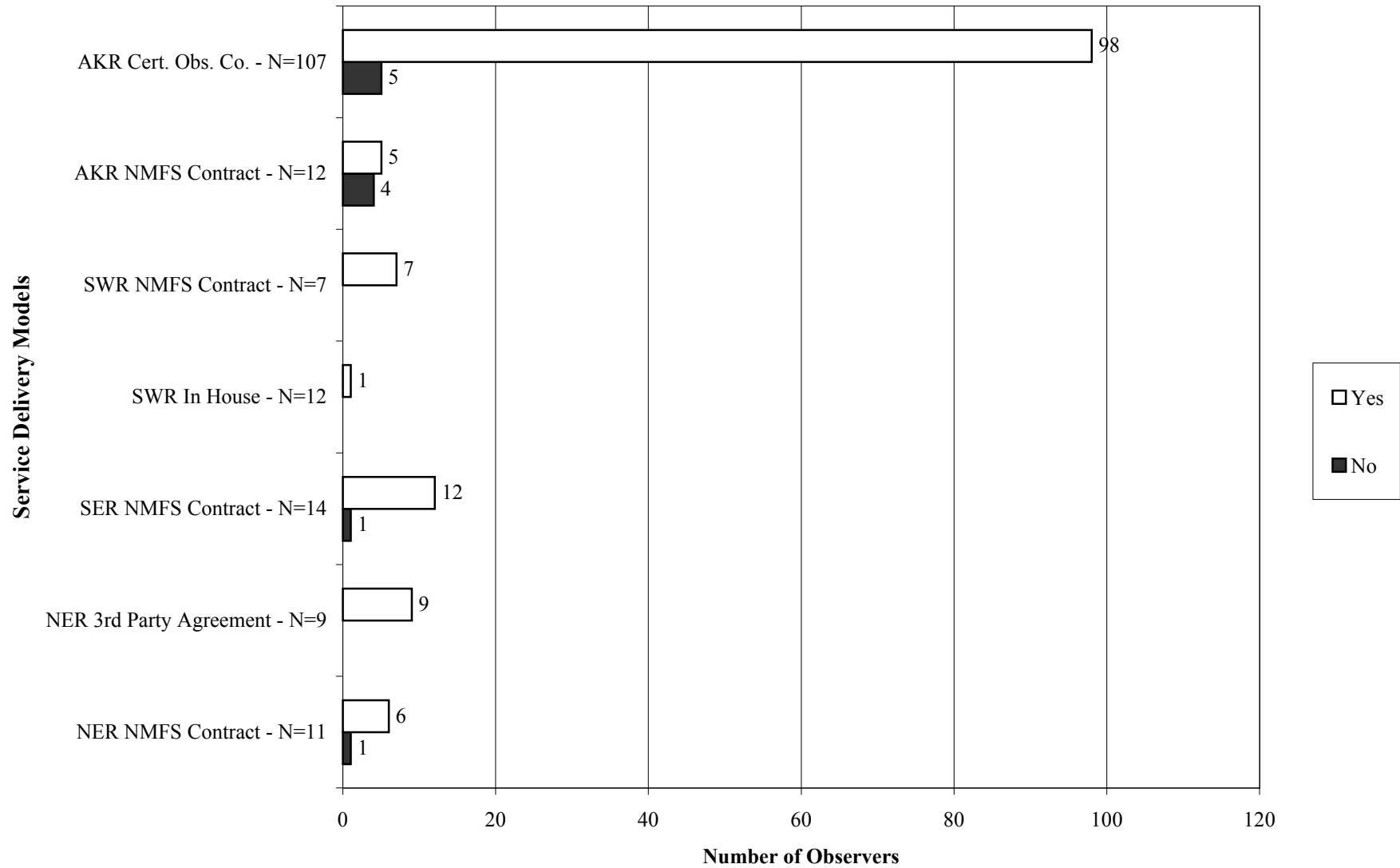
Are you aware of other remedies that you may apply for if you are injured at sea?



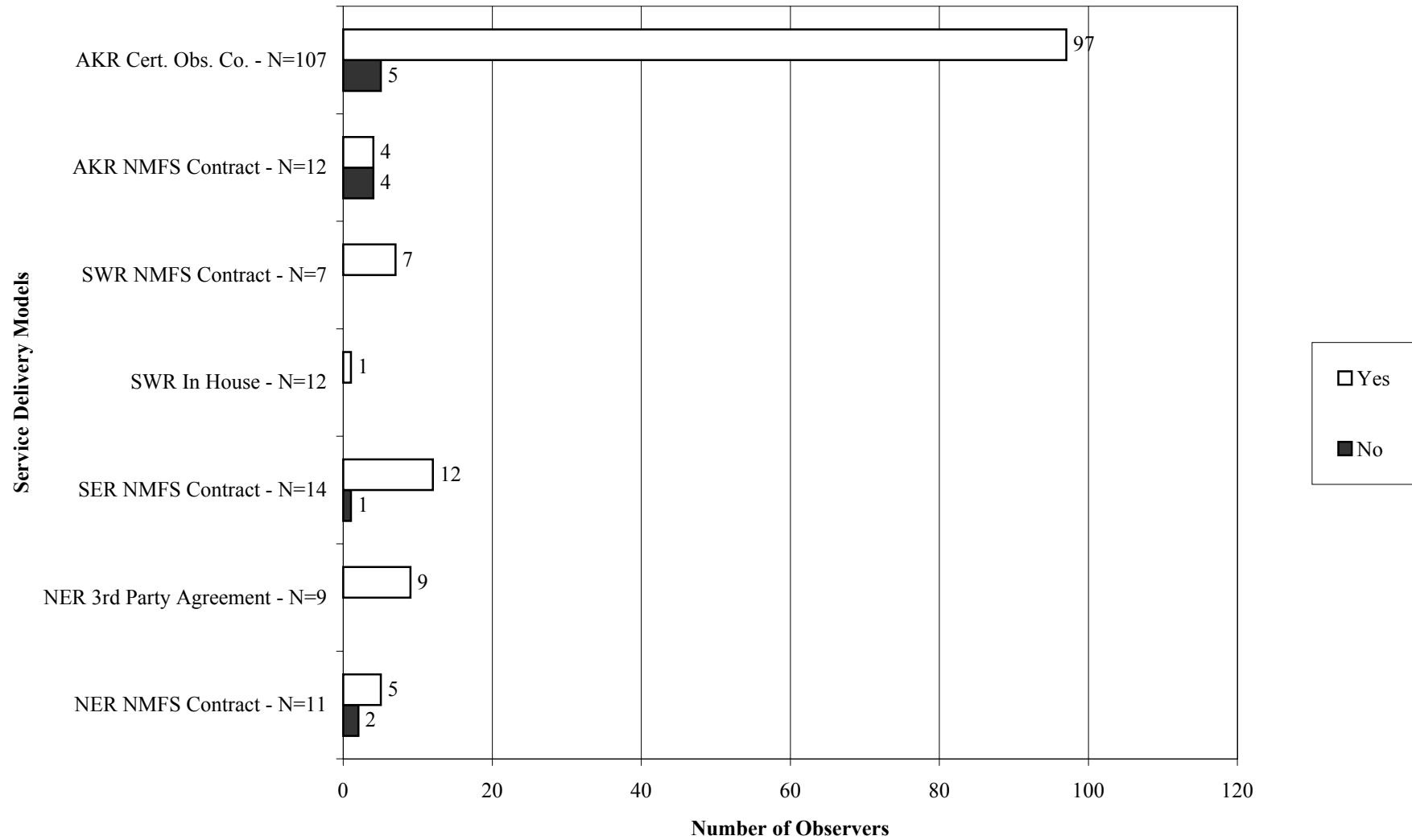
Have you attempted to obtain any Worker's Compensation or legal remedy in connection with an injury you sustained at sea?



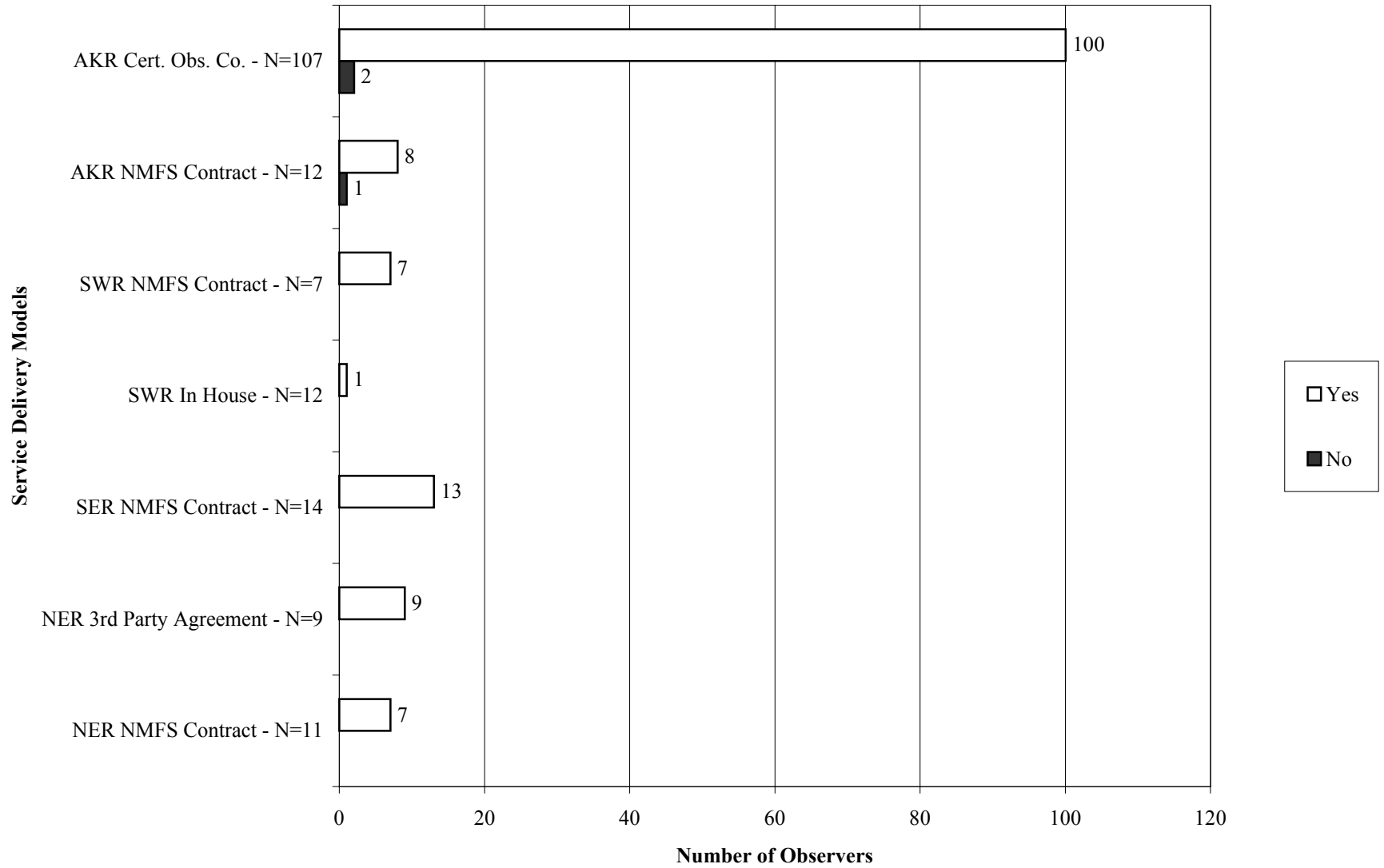
Were debriefing instructions clear and easy to follow?



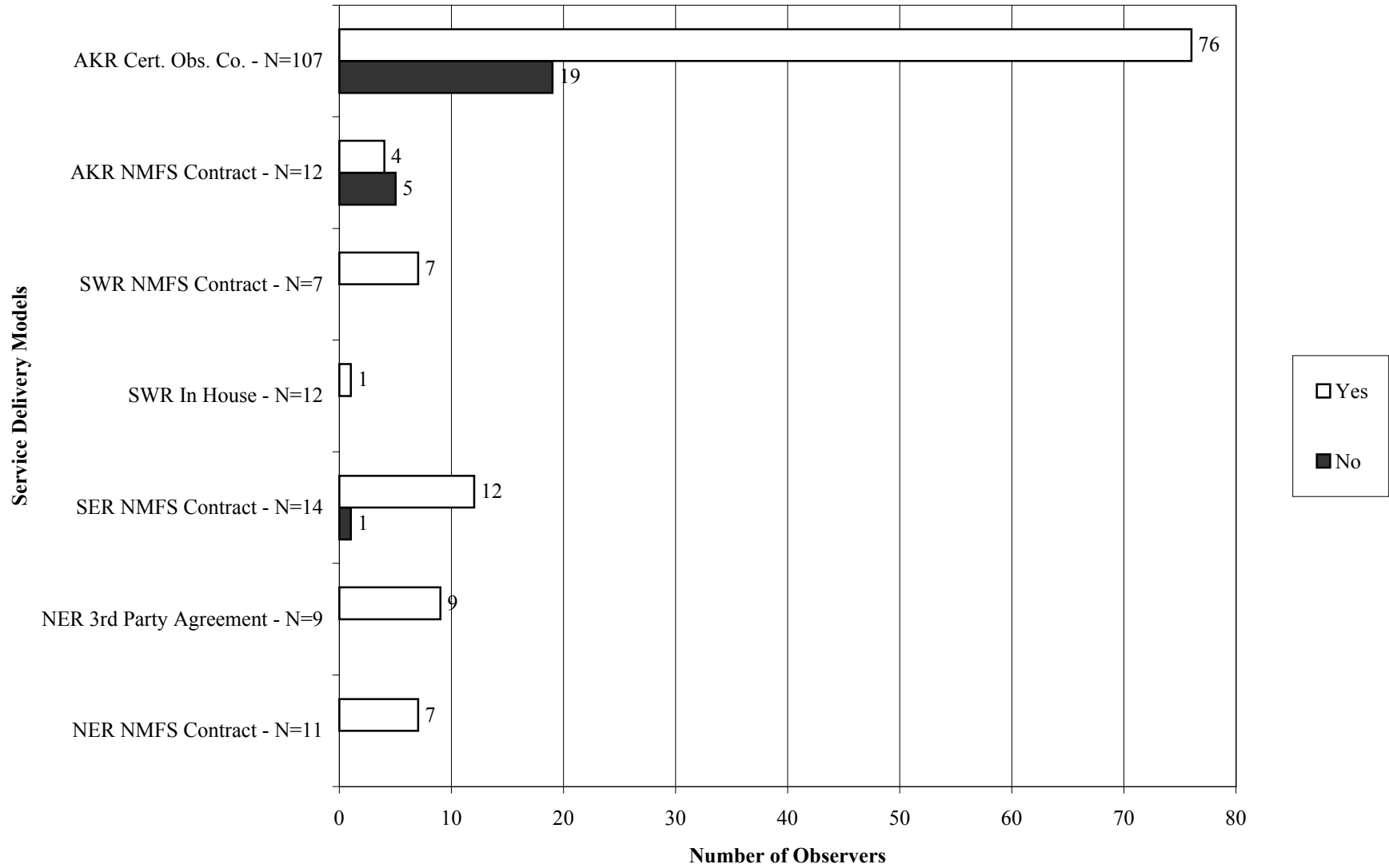
Was your debriefer able to provide you adequate information when you needed it in a timely manner?



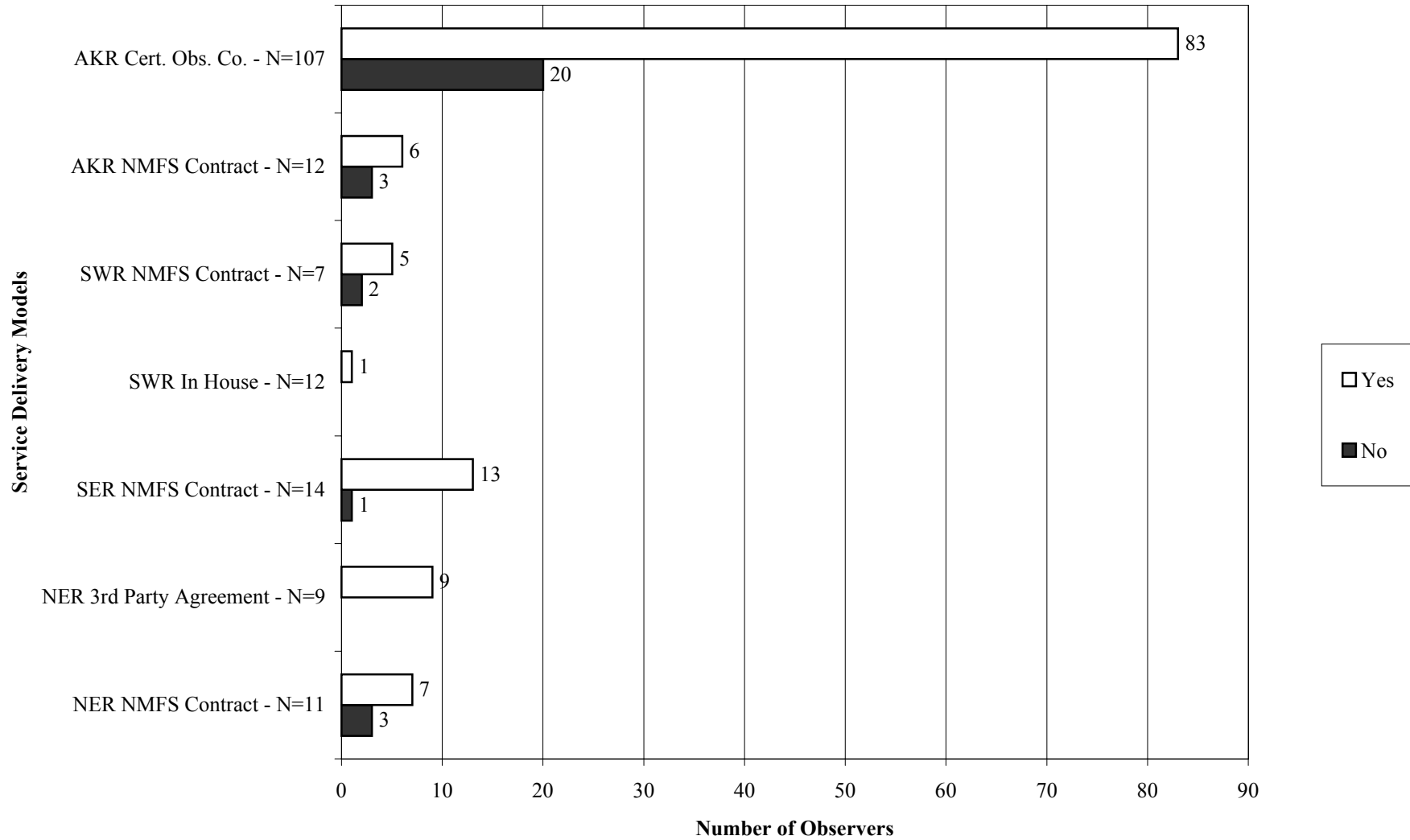
Were your instructions for data corrections clear?



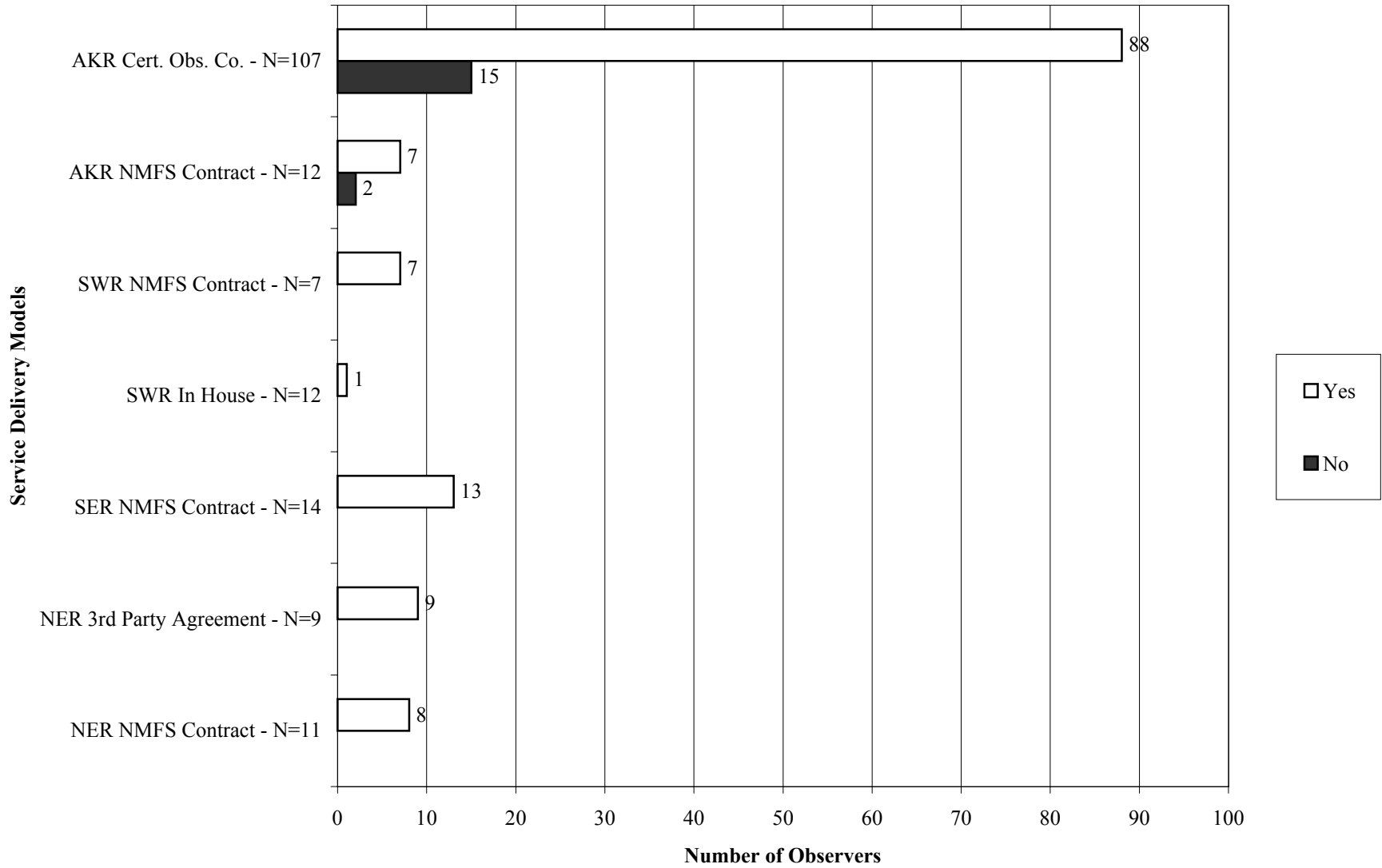
Did your debriefing help prepare you for future cruises?



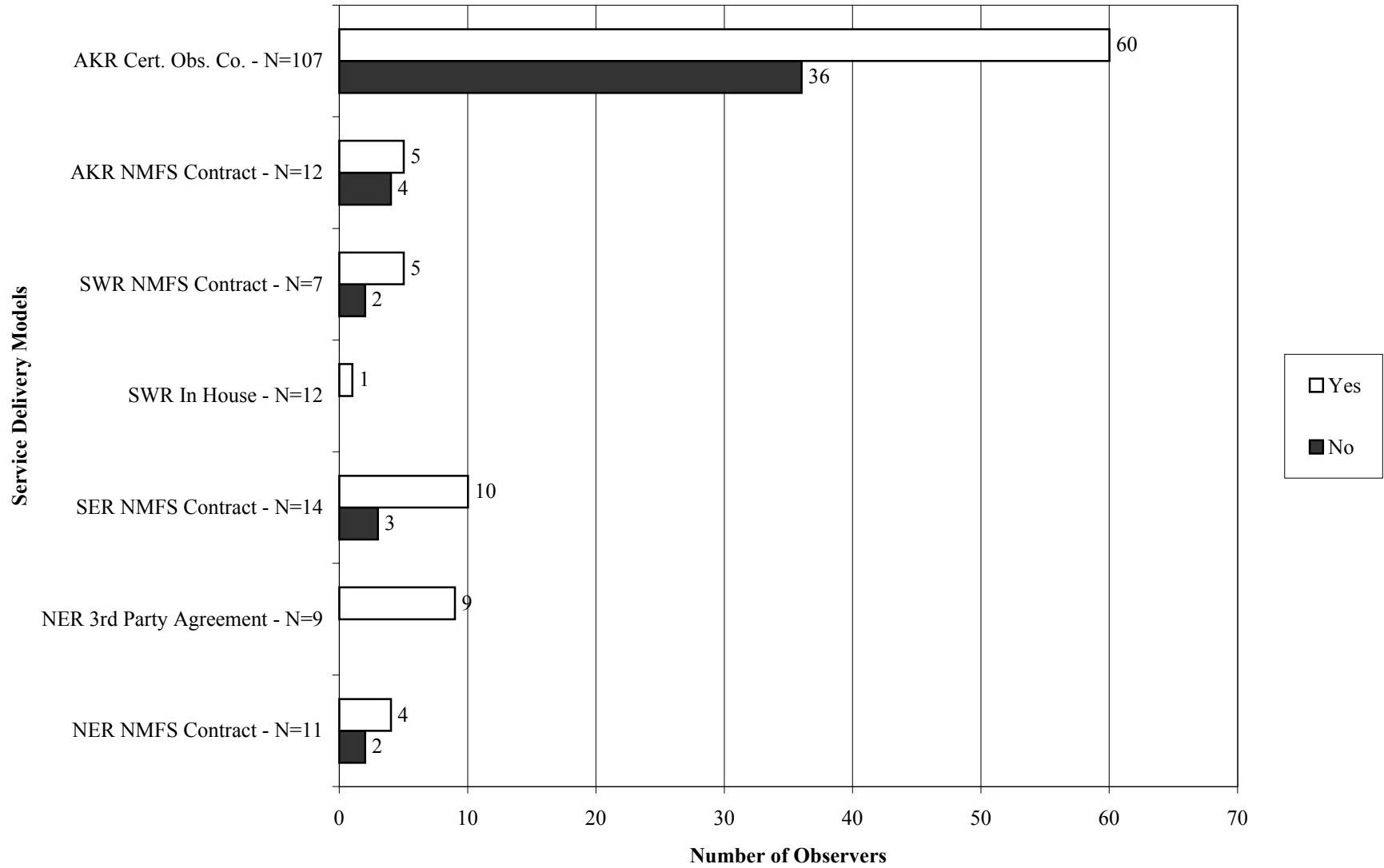
Did you feel that you could freely communicate to observer staff your concerns, problems, or dissatisfaction with specific vessels, contractors or other observer staff members?



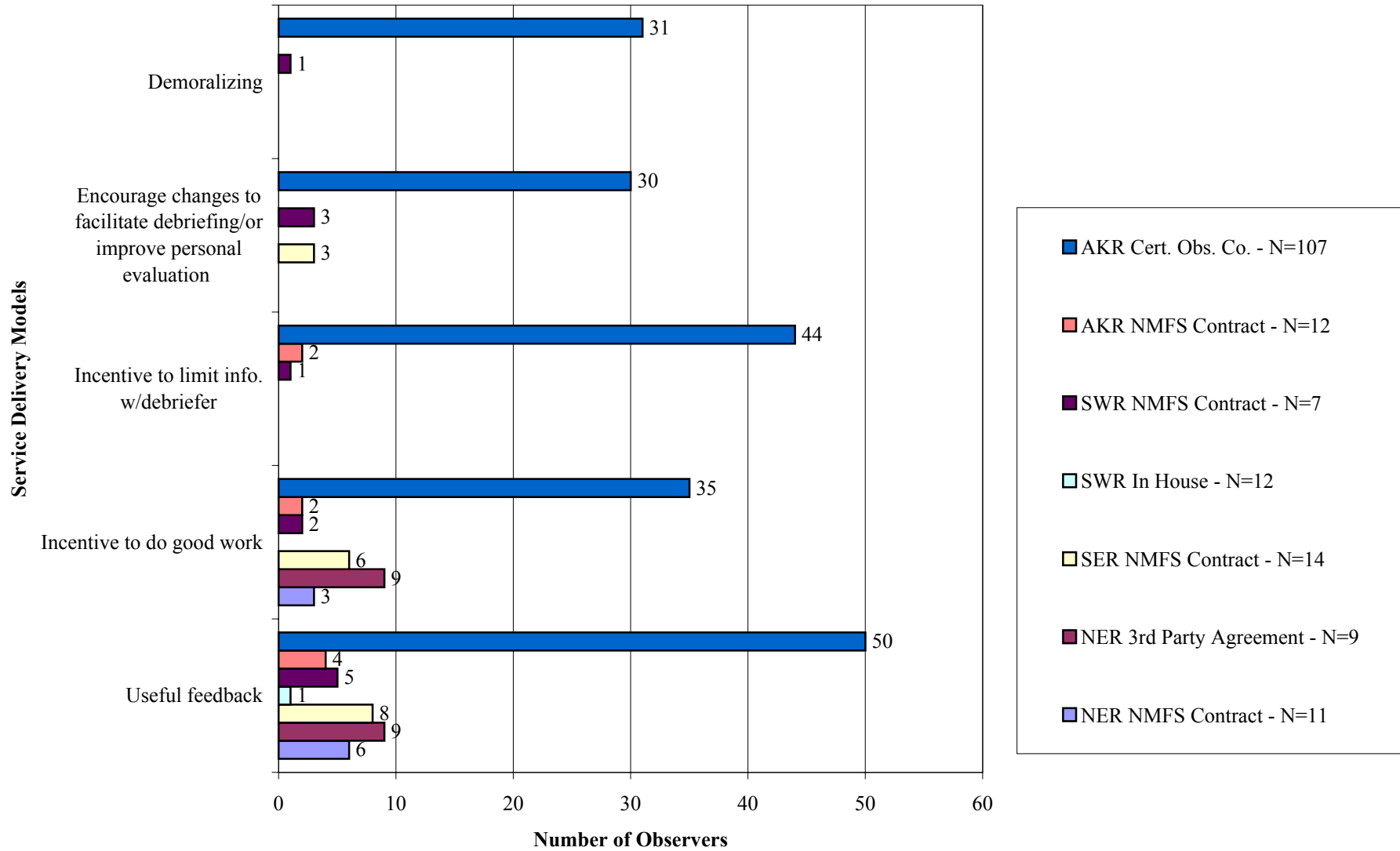
Were you treated with respect/professionally during the debriefing process?



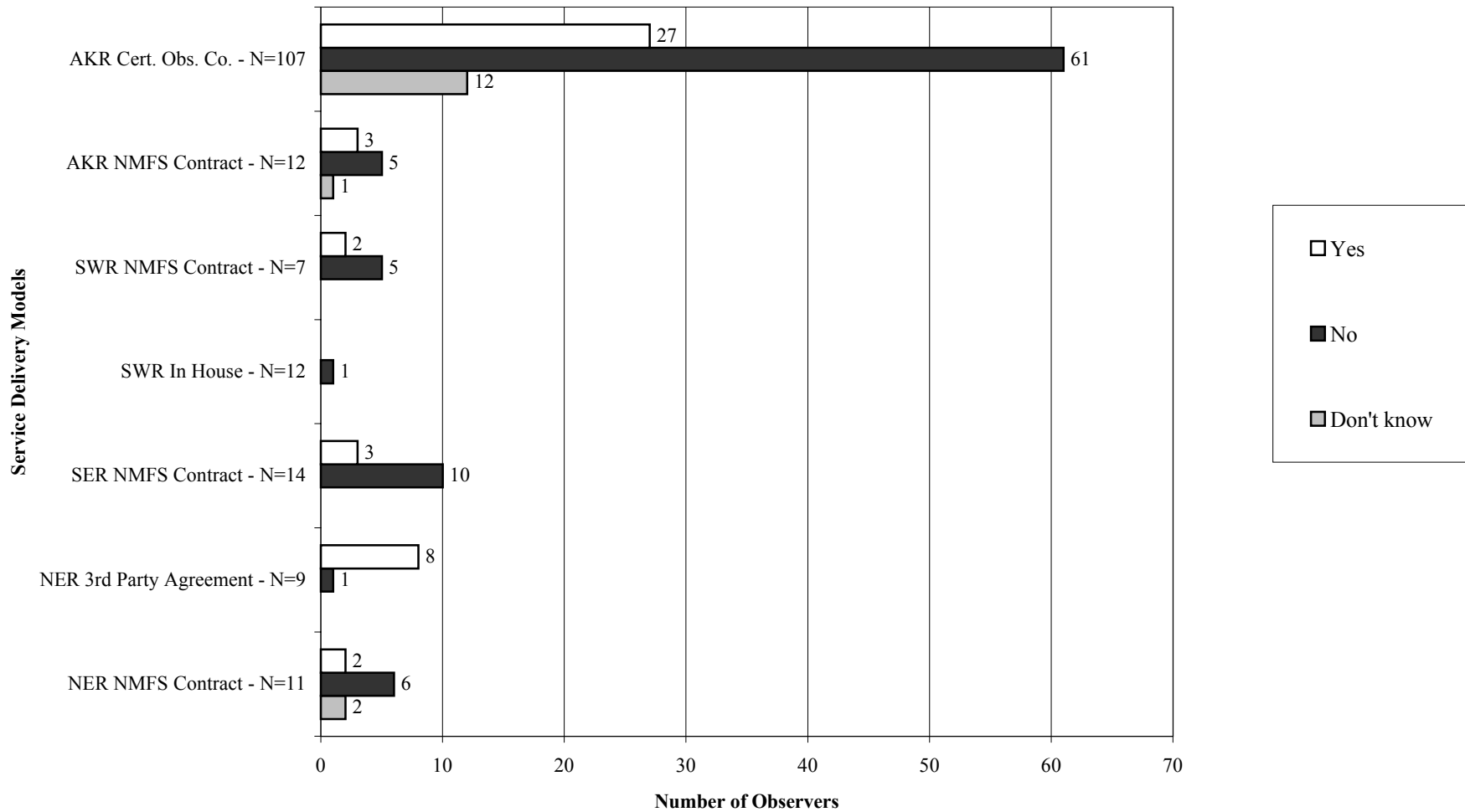
Are you satisfied with the observer evaluation system?



How do you think the evaluation system process affects observers' future work quality/morale?



Have you had concerns that information you share with the observer program may be accessed by the fishing vessel or fishing industry generally, for example through the Freedom of Information Act?



APPENDIX F.

**TRANSMITTAL MEMO
(TRANSMITTING MCR FINAL REPORT FROM NMFS TO NOAA)**

October 16, 2000

MEMORANDUM FOR: D. James Baker
Under Secretary for Oceans and Atmosphere

FROM: Penelope D. Dalton

SUBJECT: FY 2000 Management Control Review

The National Marine Fisheries Service (NMFS) is pleased to provide you with the attached *Management Control Review of NMFS Observer Programs / Service Delivery Models*. It was prepared in accordance with the Office of Management and Budget's Circular A-123, and the Department's assessment and review cycle for FY 2000. Completion of the Management Control Review (MCR) will be noted in my annual statement on agency control systems as required by the Federal Managers' Financial Integrity Act.

NMFS observer programs have an important role in collecting scientific data and about the catch and bycatch of marine species in the Nation's commercial fisheries. They are also relied upon increasingly to monitor compliance with fishery regulations.

This MCR evaluated the internal controls associated with the following observer activities or "event cycles": staffing and recruitment; training; deployment and logistics; data collection; and debriefing, data entry, and editing. It focused on the methods, or "service delivery models," that the observer program used in 1999 to provide and manage observer services: in-house; contract to NMFS; NMFS-certified observer companies; and resource-funded third party agreement. The MCR also addressed eight concerns or "risks" that the Deputy Assistant Administrator and Headquarters and Regional staff identified.

The MCR Team did not identify any material weaknesses as a result of this review. The MCR Team developed substantive recommendations that will foster good management and meet the General Accounting Office standards for Executive Agencies. All recommendations will be implemented by the identified responsible official before the end of fiscal year 2001. The status of implementation of the recommendations will be reported to NOAA on a quarterly basis. At the end of fiscal year 2001, NMFS will have reasonable assurance that internal controls are operating as intended.

Attachment
cc:

Addendum: Revised distribution list, November 20, 2000.

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