

FISHING VESSEL OWNERS' ASSOCIATION INCORPORATED

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Mr. Brian Gabriel, Chairman
Alaska By-catch Review Task Force
GOA Salmon and Habitat Sub-Committee

August 9, 2022

Mr. Brian Gabriel, Chairman

The members of the Fishing Vessel Owners' Association (FVOA) appreciate this time to provide two recommendations to your committee. Our recommendations address differences in the current federal partial coverage observer program managed by the National Marine Fisheries Service (NMFS) with management and policy oversight by the North Pacific Fishery Management Council (NPFMC). We recently petitioned the NPFMC to amend the partial coverage observer program at their June 2022 meeting. The two recommendations we encourage your committee to adopt which we have sent to the NPFMC are as follows:

- 1. Amend the partial coverage observer program, such that the fleets which participate in the program are responsible for acquiring their observer coverage directly from one of the NOAA/NMFS approved observer companies. The cost of this coverage would be reimbursed at the end of the season from the landing fees that are currently collected from the partial coverage fleet to finance observers.***

Rationale for amendment 1:

Currently, the fleet pays a mileage fee of 1.65% on the value of their catch, which is sent to NMFS in order to fund the partial coverage observer program. Since 2015, the partial coverage fleet has paid in approximately \$35 million. NMFS has contracted with an observer company to provide observers for this program at an approximate rate of \$1,393.00 per day. As a price comparison, the 2021 annual observer report published in May 2022 records that those vessels that are in the 100% coverage sector are paying \$369-\$421 per day for an average of \$378 per day for their observer coverage. In this situation, the vessel owner/master is responsible for securing observers directly from NOAA\NMFS observer companies. Prior to 2015, when the partial coverage program was created, the partial coverage fleet was required to have 30% coverage per calendar quarter and obtained observers directly from observer companies. Rates of coverage prior to the current program exceeded 30% coverage. The proposed amendment would allow for a more efficient observer program, resulting in higher coverage rates and better informed by-catch information on salmon and halibut. The cost per day for FVOA vessels to participate in the 100% observer program in the Pacific Council area of authority runs \$650-\$700 per day. These rates are half the cost of the federal contract rate. Clearly, there are large

efficiencies that could be gained by amending the program so the fleet interacts directly with the observer companies. In 2021, coverage rates were 15 to 18% for pot/long line gear and 18 to 20% for trawl. The Council's own scientific and statistical committee states that a 15% coverage level is needed to be statistically relevant. The current levels of coverage should be an embarrassment to the NPFMC. Your by-catch committee endorsement for this amendment would help encourage a change that would result in greater observer coverage.

2. ***Amend the "tendering exemption," such that if the tender is less than (50, 30, 20) miles from the shore base plant it will deliver to, the exemption does not apply and the "Observer Declare and Deploy System (ODDS) process for responsibly determining observer coverage per vessel would be the process for determining observer coverage.***

Rationale for amendment 2:

Currently, vessels that are in the partial coverage program (generally, all types are catcher vessels) must log into the ODDS government program, which tells a vessel master if their next fishing trip needs an observer. The tendering exemption specifies a trip beginning when a vessel leaves port and delivers to a shore based processor that has a federal processing permit. The exemption also states the federal processing permit does not extend to tenders even if owned by the shore based processor. The consequence of this is that if a vessel does not get selected for an observer on its first trip where a tender is used, that vessel can put in a full season with no observer by continually delivering to the tender. The areas where the tendering exemption is used most are King Cove and Sandpoint. Tenders have been used in these ports for Pacific cod and Pollock deliveries. As a result, we believe the halibut by-catch in the Western Gulf has been underestimated and, in the past, Chinook by-catch misrepresented. The 2015 annual NMFS observer report details how salmon by-catch was minimized with the use of tender activity and the tender exemption was used overtly to not record Chinook by-catch.

In summary, we are asking your salmon by-catch committee to endorse these amendments to the NPFMC's partial coverage program. A copy of the 2015 tender enforcement problems involving salmon by-catch is attached.

Sincerely,



Robert Alverson, Manager
Fishing Vessel Owners' Association

RDA: kah

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The AKD and the Observer Program identified observer interference and sample biasing in the pollock partial coverage trawl fishery. The AKD and the Observer Program reviewed evidence that trawl vessel operators delivering to Western Gulf of Alaska processors altered behavior to lower salmon bycatch count estimates. The AKD and the Observer Program received several statements from observers and fishery participants indicating that vessel operators in the partial coverage trawl pollock fleet frequently asked observers (after sampling at-sea) whether or not they had salmon in their sample. After fishing was completed, if there were no salmon encountered at sea, the vessel would deliver to a tender vessel, thereby ensuring that the delivery could not be monitored by the observer and a zero bycatch rate would be applied in bycatch estimation. In many cases the 'tender' vessel was at the dock or anchored close to the shoreside processor. If however, the observer did encounter a salmon in at-sea samples, then the vessel would deliver dockside so that the a dockside monitoring 'census' value would be used in estimation under the assumption that this value would be lower than a bycatch rate applied to the total weight of the delivery using normal extrapolation estimates. This resulted in lower salmon bycatch reporting to NMFS. The case was forwarded to NOAA General Counsel, Enforcement Section, which issued a Written Warning to the shoreside processor directing the behavior. The Written Warning cited the plant for interfering and biasing observer sampling procedures, and for impeding an observer from collecting samples, from making observations, or from otherwise performing their duties. The case is pending final adjudication.

5.2.2 Observer Safety

The AKD has seen an increase in reports alleging safety concerns; 55 statements were received in 2016 compared to 40 in 2015. Reports in 2016 include failure to maintain a lookout/wheel watch, stacking products in the factory, open watertight doors during inclement weather, ammonia leaks, and unsafe conditions. Many of these safety issues were resolved through education and compliance assistance while others are still under investigation. Two summary settlements were issued for failure to maintain a lookout. Where two observers are present, two statements are sometimes generated for the same event.

5.2.3 Observer Coverage

Potential violations related to observer coverage are reported to the AKD by the FMA staff. In 2016, 89 potential violations were received involving 69 distinct vessels in partial coverage. For comparison, in 2015, 139 potential violations were received involving 86 vessels. While the majority of the potential violations in 2016 involved failure to log a trip as required, other observer coverage issues included reporting incorrect gear type and fishing on a cancelled trip.

Table 5-2 and Figure 5-1 summarize the Observer Program statements for 2016 and 2015 in partial and full coverage (Note: in the full coverage fleet, two observers are often present and two statements may be generated for the same event). When comparing the numbers between full and partial coverage it is important to recognize that number of observer days is very different in each of those categories; there were 4,677 days of observer coverage in partial coverage and 39,029 days of observer coverage in full coverage (on vessels and in plants).

