



ALASKA MARINE MAMMAL OBSERVER PROGRAM 2006

National Marine Fisheries Service
Alaska Region Protected Resources
Juneau, Alaska



Program Background

In 1972 the Congress enacted the Marine Mammal Protection Act to protect and conserve marine mammals. The Congress stated that marine mammal populations should be "protected and encouraged to develop to the greatest extent feasible commensurate with sound policies of resource management and that the primary objective of their management should be to maintain the health and stability of the ecosystem."

Congress gave the Departments of Commerce and Interior the responsibility and authority to manage marine mammals, and this is delegated to their respective agencies, the National Marine Fisheries Service (NMFS) and the U.S. Fish and Wildlife Service. NMFS conducts observer programs to assess levels of mortality and serious injury of marine mammals during commercial fishing operations.

Fishermen may incidentally (unintentionally) take marine mammals in the course of commercial fishing operations, provided they have been issued the appropriate exemptions. However, the intentional lethal take of any marine mammal in the course of commercial fishing operations is prohibited.

In Alaska, NMFS's Alaska Marine Mammal Observer Program collects information on marine mammal interactions with commercial fisheries. This information is incorporated in assessments of the general status of marine mammal populations in Alaska. The Alaska Marine Mammal Observer Program began in 1990 and has since observed six Category II fisheries.

What is happening in 2006?

The Alaska Marine Mammal Observer Program will conduct a feasibility study during the 2006 fishing season in the Yakutat salmon set gillnet fishery to determine the best approach for placing observers in the fishery for data collection on marine mammal interactions. Public meetings will be held with fishermen before and after the 2006 season to develop a dialog regarding program goals/needs and fishermen input into developing data collection methods. Data col-

lection is expected to be conducted during the 2007 and 2008 fishing seasons. Public meetings will be held prior to each fishing season to ensure fishermen are well informed about the program and to provide a forum for discussion about the program details.



Sea otters are one species observed in Alaska.

Program Glossary

Marine mammal

Marine mammals are warm-blooded animals that breath oxygen, have hair at some stage of life, give birth to live young, and nurse their young. These animals are adapted to or primarily inhabit the marine environment. They include porpoise, dolphins, whales, seals, sea lions, walrus, sea otter, and polar bears.

Strategic Stock

A **strategic stock** is one that is listed as threatened or endangered under the Endangered Species Act, is likely to be listed as threatened under the Act in the near future, or which has a level of direct human-caused serious injury and mortality that exceeds the stock's **potential biological removal level**.

Stock Assessment Report

NMFS publishes annual **Stock Assessment Reports** for all marine mammal stocks in U.S. waters. A "stock" is a group of marine mammals of the same species or subspecies in a common area that interbreed when mature. A stock report contains information on the geographic range, population estimate and trend, and productivity rate. Reports also include estimates of total annual human-caused serious injury and mortality to the stock, with serious injury and mortality rates by fishery. A scientific review group determines if that rate is insignificant and approaching the zero mortality rate goal. The status of each stock is noted as either **strategic** or not.

Potential Biological Removal (PBR) Level

The **Potential Biological Removal (PBR) level** is the maximum number of animals that may be removed from a marine mammal stock, not including natural mortalities, and still allows that stock to reach or maintain its optimum sustainable population. A PBR for each stock is published in the Stock Assessment Reports. Each stock's PBR is calculated by multiplying:

$$\begin{array}{c} \text{minimum population estimate} \\ \times \\ \text{one-half the maximum net productivity rate} \\ \times \\ \text{recovery factor between 0.1 and 1.0} \end{array}$$

List of Fisheries

The National Marine Fisheries Service publishes the **List of Fisheries**, an annual list of all commercial fisheries that legally operate in U.S. waters. The list contains information on each fishery including number of participants, marine mammal stocks affected by the fishery, and the classification of the fishery relative to its impact on those marine mammal stocks.

Category I, II, or III Fishery

NMFS **categorizes a commercial fishery** based on the level of incidental serious injury and mortality of marine mammals in that fishery. Each fishery is categorized through an analysis known as the two-tiered approach. NMFS relies on observer data in the analyses, but also evaluates other factors such as fishing techniques, gear, methods used to deter marine mammals, seasons and areas fished.

Tier 1: Impact on a stock from all fisheries. For each stock, serious injuries and mortalities from all commercial U.S. fisheries are totaled. If the total is less than or equal to 10% of the Potential Biological Removal of that stock, then all fisheries interacting with this stock are placed in Category III. A fishery remains in Category III unless it interacts with a stock for which the Potential Biological Removal is exceeded by more than 10%. All fisheries that interact with a stock for which the Potential Biological Removal is exceeded by more than 10% are subject to a Tier 2 analysis. Fisheries with no serious injuries or mortalities to any marine mammal remain in Category III.

Tier 2: Impact by fishery to each stock. For each fishery, the annual serious injury and mortality for each marine mammal stock is evaluated relative to the Potential Biological Removal (PBR) of that stock. Each fishery is categorized accordingly:

Category I: Mortality > 50% PBR

Category II: 50% PBR > Mortality > 1% PBR

Category III: Mortality < 1% PBR

NMFS may require monitoring for marine mammal interactions with any Category I or II fishery. Depending on the results of the observations, the fishery may remain in the same category or may be re-categorized. Category III fisheries are not required to be observed, since the level of marine mammal serious injury or mortality is considered to be rare or zero.

The Marine Mammal Authorization Program

The Marine Mammal Authorization Program provides an exemption for the accidental injury or mortality of marine mammals during commercial fishing operations. To lawfully and incidentally take a marine mammal in a commercial fishery, the fishing permit holder in a Category I or II fishery must obtain a certificate from NMFS. Fishermen holding state or federal fishing permits for category I or II fisheries in

Alaska receive a free exemption certificate from the National Marine Fisheries Service. The exemption must be available or displayed while fishing. Fishermen must report to NMFS within 48 hours any injuries and mortalities to marine mammals that occurred during commercial fishing operations, even if an observer was present at the time.

Marine Mammal Mortality and Serious Injury Attributed to Category II Salmon Fisheries in Alaska

From the 2004 List of Fisheries. Serious injury and mortality reports are compiled from observers, fishers, and strandings.

*=Stock considered "Strategic" stock under Marine Mammal Protection Act

Gear	Area (Years Observed)	Incidental Mortality or Serious Injury Attributed to the Fishery
Drift Gillnet	Alaska Peninsula/ Aleutian Islands (None)	None documented
	Bristol Bay (None)	Beluga whale, Bristol Bay Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern North Pacific * Pacific white-sided dolphin, North Pacific Spotted seal, Alaska Steller sea lion, Western U.S. *
	Cook Inlet (1999-2000)	Beluga whale, Cook Inlet* Dall's porpoise, Alaska Harbor seal, Gulf of Alaska Harbor porpoise, Gulf of Alaska Steller sea lion, Western U.S. *
	Metlakatla/ Annette Island (None)	None documented
	Prince William Sound (1990-1991)	Dall's porpoise, Alaska Harbor seal, Gulf of Alaska Harbor porpoise, Gulf of Alaska Northern fur seal, Eastern North Pacific * Pacific white-sided dolphin, North Pacific Sea otter, Alaska Steller sea lion, Western U.S. *
	Southeast Alaska (None)	Humpback whale, Steller sea lion, Western U.S. * Dall's porpoise, Alaska Harbor seal, Gulf of Alaska Harbor porpoise, Gulf of Alaska Northern fur seal, Eastern North Pacific * Pacific white-sided dolphin, North Pacific Sea otter, Alaska
Set Gillnet	Alaska Peninsula/ Aleutian Islands (None)	Steller sea lion, Western U.S. * Harbor porpoise, Bering Sea
	Bristol Bay (None)	Beluga whale, Bering Sea Gray whale, Eastern North Pacific Harbor seal, Bering Sea Northern fur seal, Eastern Pacific * Spotted seal, Alaska
	Kodiak (2002 and 2005)	Harbor seal, Gulf of Alaska Harbor porpoise, Gulf of Alaska Sea otter, Alaska
	Yakutat (None)	Harbor seal, Southeast Alaska Gray whale, Eastern North Pacific
Purse Seine	Southeast Alaska (None)	Humpback whale, Central North Pacific *

Estimated Marine Mammal Mortality and Serious Injury Attributed to Commercial Fishing in Alaska

Compiled from 2003 Alaska Marine Mammal Stock Assessments. Serious injury and mortality estimations are calculated from observer reports, fisher self-reports, and strandings attributed to commercial fisheries in Alaska. Species where the mortality is estimated at 0 are excluded from the chart. PBR= Potential Biological Removal; *=Stock considered "Strategic" stock under Marine Mammal Protection Act

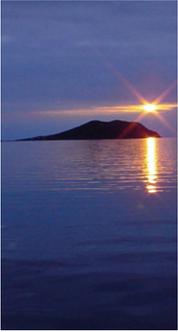
Cetacean species, stock	Number of Animals		Commercial Fisheries With Serious Injury or Mortality
	Potential Biological Removal	Commercial Fishing Estimated Annual Serious Injury and Mortality	
Beluga whale, Bristol Bay	32	≥ 0.5	Bristol Bay salmon set and drift gillnet
Dall's porpoise, Alaska	1,537	≥ 37.5	Bering Sea/ Aleutian Islands (BSAI) and Gulf of Alaska (GOA) groundfish trawl BSAI groundfish longline (incl. misc finfish and sablefish fisheries) AK peninsula/ Aleutian Islands salmon drift gillnet Prince William Sound salmon drift gillnet Southeast Alaska salmon drift gillnet
Fin whale, Northeast Pacific*	Unknown	0 - 1.1	BSAI groundfish trawl
Gray whale, Eastern North Pacific	575	≥ 8.9	Bristol Bay salmon drift and set gillnet Alaska salmon purse seine
Harbor porpoise, Bering Sea	393	≥ 1.6	BSAI groundfish trawl AK Peninsula/ Aleutian Island and Bristol Bay salmon set gillnet Koskikwim, Yukon, Norton Sound, Kotzebue salmon gillnet
Harbor porpoise, Gulf of Alaska	225	≥ 24.7	Prince William Sound salmon drift gillnet
Harbor porpoise, Southeast Alaska	90	≥ 2.8	Southeast Alaska salmon drift gillnet
Humpback whale, Western North Pacific*	0.7	≥ 0.8	BSAI groundfish trawl
Humpback whale, Central North Pacific	North=3.9 South=3.5 Total=7.4	North ≥ 0.6 South ≥ 0.4	BSAI groundfish trawl Southeast Alaska salmon drift gillnet and purse seine
Orca, Eastern North Pacific (Northern resident)	7.2	0.89 -1.91	BSAI groundfish trawl and longline
Orca, Eastern North Pacific (Transient)	2.8	0 - 1.6	BSAI groundfish trawl and longline
Pacific white-sided dolphin, North Pacific	Unknown	3.05	BSAI groundfish trawl and longline Prince William Sound/ Southeast Alaska/ Bristol Bay salmon drift gillnet
Sperm whale, North Pacific*	Unknown	0 - 1.15	Gulf of Alaska groundfish longline

Estimated Marine Mammal Mortality and Serious Injury In Alaska, Continued

Pinniped species, stock	Number of Animals		Commercial Fisheries With Serious Injury or Mortality
	Potential Biological Removal	Commercial Fishing Estimated Annual Serious Injury and Mortality	
Bearded seal, Alaska	Unknown	0.6	Bering Sea/ Aleutian Islands (BSAI) groundfish trawl
Harbor seal, Bering Sea	379	≥ 30.38 - 31.12	BSAI finfish pot, groundfish trawl and longline (incl. misc finfish and sablefish fisheries) Bristol Bay salmon set and drift gillnet
Harbor seal, Gulf of Alaska	868	≥ 34.56 - 35.54	Gulf of Alaska (GOA) groundfish trawl and finfish pot Prince William Sound set and drift gillnet Cook Inlet set gillnet Kodiak salmon set gillnet Alaska salmon purse seine (except Southeast)
Harbor seal, Southeast Alaska	2,114	≥ 34.25 - 36.25	GOA groundfish longline (incl. misc. finfish and sablefish fisheries) Southeast Alaska salmon drift gillnet Yakutat salmon set gillnet
Northern fur seal, Eastern Pacific*	16,162	≥ 15.37 - 16.63	BSAI groundfish trawl AK Peninsula/ Aleutian Islands, Bristol Bay, and Prince William Sound salmon drift gillnet
Ribbon seal, Alaska	Unknown	0.2	BSAI groundfish trawl
Sea otter, Southwest Alaska	830	≥ 0.2	Aleutian Islands blackcod pot BSAI groundfish trawl
Spotted seal, Alaska	Unknown	≥ 1.5 - 3.5	BSAI groundfish trawl Bristol Bay salmon drift gillnet
Steller sea lion, Eastern U.S. *	1,396	2.65 - 4.65	Southeast Alaska salmon drift gillnet Alaska salmon troll
Steller sea lion, Western U.S. *	209	≥ 30.46 - 31.74	Alaska halibut longline Alaska misc. finfish set gillnet AK Peninsula/ Aleutian Islands salmon drift and set gillnet Bristol Bay salmon drift gillnet BSAI/ GOA groundfish trawl and longline Prince William Sound drift and set gillnet

The Alaska Marine Mammal Observer Program Specifics

How the Level of Observer Coverage is Determined



Remote locations pose unique sampling challenges.

Prior to observation beginning in a previously unobserved fishery, the National Marine Fisheries Service collects baseline information on fishing operations and marine mammal interactions. Observer coverage levels are influenced by available funding, the number of participants in the fishery, and program goals. The Alaska Marine Mammal Observer Program wants

to determine the level of serious injury and mortality for each marine mammal stock relative to the stock's Potential Biological Removal. Once an annual expected serious injury and mortality level can be estimated, the minimum observer coverage needed level to ensure statistically valid serious injury and mortality estimates can be determined.

How Permit Sampling Design is Determined

Permit sampling design depends on the fishery, location, and logistics of placing observers in the field. Sampling design is based on random selection of permit numbers, with time and area stratification. Alternate permit selections are made when factors like severe weather prevent observation of a selected permit. Permit selections are made a week in advance of observation. The Alaska Marine Mammal

Observer Program consults the Alaska Department of Fish and Game throughout the season to monitor fishing effort and management changes, and adjusts observer coverage to maintain coverage goals. The Alaska Marine Mammal Observer Program designs fishery specific permit sampling methods to reduce statistical bias and make observations fair and equitable among permit holders.

How Observers Are Hired and Deployed



Observers are trained in bear safety

A contractor hires, pays, and deploys observers in the field, handling all logistics related to travel and data collection. The Alaska Marine Mammal Observer Program (AMMOP) is federally-funded program managed through contracts coordinated at the Protected Resources Division of the National Marine Fisheries Service (NMFS), Alaska Region office in Juneau. NMFS awards contracts through standard government procurement procedures. A Request For Proposals to provide observer services is advertised at the Federal Business Opportunities webpage (<http://fedbizopps.gov/>).

The Request For Proposals includes a description of contractual requirements for supplies or services. It establishes observer and contractor performance standards, work requirements, and level of effort required. A Selection and Evaluation Board reviews and scores proposals, with technical aspects of the proposals and cost each scored separately. The final score is based on a pre-determined ratio of technical proficiency, cost and prior experience. NMFS awards the contract to the bidder with the highest total score, while adhering to an equal opportunity and competitive acquisition process.

Alaska Marine Mammal Observer Program (AMMOP) Observers



Observers worked in Kodiak in 2002 and 2005.

To work with the AMMOP, observers must have prior observer experience, meet program standards for academic qualifications/ fishing experience and physical fitness, and pass the AMMOP training course. The AMMOP selects observers based on their capability to work independently with limited conveniences. Observers are motivated, possess good judgment, and are able to work in close quarters with fisherman in a professional and respectful manner. AMMOP observers are trained in wilderness preparedness and survival, CPR, and first aid. All observers must pass a physical examination by a licensed physician within six months prior to deployment, ensuring that the observer does not have any health conditions that would jeopardize the safety of the

observer or others while deployed, or prevent the observer from performing his or her duties satisfactorily. AMMOP observers must also pass a fitness test demonstrating that they can meet most foreseeable physical challenges, including swimming, climbing, and strength. AMMOP observers must comply with U.S. Coast Guard regulations regarding drug testing, uphold AMMOP Observer Standards of Conduct, and may not have any conflicts of interest. The AMMOP requires the contractor providing observer services is in compliance with the Federal Civil Rights Act of 1964, as amended.

Information Recorded by Observers



Salmon dominate species recorded by observers.

Observers record information on fishing techniques, gear characteristics, weather, catch and bycatch (including fish, invertebrates, mammals, and birds). Examples of gear information collected are length of net, twine material, mesh sizes, and deterrent devices used. Examples of weather data include sea state, visibility, and tide conditions. Examples of fishing data include the position of the net, set and soak times, time spent picking or hauling, and if appropriate, the time the net is left fishing but unattended; catch data includes the numbers of animals caught by species and condition. Observers collect biological samples and take photographs for species confirmation and to support further scientific research. Examples of this re-

search include life history and diet. Observers also record the species, number, and behavior of marine mammals in the immediate fishing area, and make detailed notes of entanglements. Observers may make observations from a variety of platforms, including fishing vessels, research vessels, skiffs, or shore stations.

Observers may conduct watches for mammals before and after hauls, as well as watches as the gear is being hauled or picked. Emphasis is put on observing hauls and recording what is caught in the gear. Marine mammal abundance, distribution, and behavior around fishing gear is also considered important information.

How Information is Used by the Program



Kodiak Island

Researchers use the data to produce reliable estimates of level of marine mammal serious injury and mortality in the fishery. The marine mammal mortality and serious injury estimates from fisheries are used in the broader evaluations of the health of marine mammal populations. Managers may use the information evalu-

ate ways to reduce injuries and mortalities in a fishery. The estimates are also used to categorize the fisheries in the annual List of Fisheries. Observer programs also provide a unique opportunity to collect scientific data on all bycatch, including seabirds and finfish, and other scientific information not obtainable from other sources.

Data confidentiality and Privacy

All Alaska Marine Mammal Observer Program observers receive training regarding privacy and confidentiality. Certain information collected by the Alaska Marine Mammal Observer Program may be considered proprietary and therefore subject to data confidentiality restrictions (see 50 Code of Federal Regulations 229.11). There are several provisions that can be consulted regarding observer data confidentiality and how it is released. NOAA Administrative Order 216-100 prescribes policies and procedures for protecting the confidentiality of data submitted to and collected by National Marine Fisheries Service (NMFS) (available at <http://www.rdc.noaa.gov/~nao/216-100.html>). NMFS also operates under the guidelines of the Freedom of Information Act (<http://www.rdc.noaa.gov/~foia/>).

Contractors, sub-contractors, and observers must sign a Statement of Non-Disclosure after reading and understanding the NOAA Administrative Order 216-100 on Confidentiality of Fisheries Statistics. The Alaska Marine Mammal Observer Program will release to permit holders copies of observer forms containing data collected during the permit holder's operations. Other data requests may be submitted in writing to the program coordinator at the National Marine Fisheries Service. For such requests, data would only be released in aggregate or summary form, to avoid identifying individual permit holders or vessels.

Accommodating an Observer

Observers may board vessels to conduct monitoring, or they may observe from independent vessels or from shore. Participants in Category I or II fisheries are required to accommodate an observer upon request (see 50 Code of Federal Regulations 229.7). In small-boat fisheries in particular, weather conditions and forecasts, safety conditions aboard the vessel, fishing techniques, and available alternatives will be taken into consideration. When a vessel is selected to have an observer onboard, if either the observer or program staff determines with good rea-

son that having an observer onboard is a hazardous situation, the reasons will be reported to and evaluated by National Marine Fisheries Service. The Alaska Marine Mammal Observer Program coordinator will not require an observer to board a vessel if there is a valid safety concern. If the reasons for not accommodating an observer are to impede, impair, or interfere with observer efforts, the program coordinator will notify enforcement who will investigate. Under certain circumstances, a fine may be imposed for refusing to allow an observer to perform official duties.

Fishermen's Comments Regarding the Program

Meetings, interviews, surveys, conversations, and other correspondence with fishermen have helped to develop this program. Before the Alaska Marine Mammal Observer Program begins coverage in any new fishery, public meetings are held to discuss the goals of the program and to work with the fishermen to determine the

best means for achieving the program goals while minimizing the impact on the industry. At any time, fishermen can call the Alaska Marine Mammal Observer Program coordinator to discuss the program and any concerns or questions. Permit holders may also request copies of the data collected.



Regulatory Language Mandating Marine Mammal Observers

Regulations from 50 CFR 229.7: Authorization for commercial fisheries under the Marine Mammal Protection Act of 1972; Monitoring of incidental mortalities and serious injuries

a) Purpose. The Assistant Administrator will establish a program to monitor incidental mortality and serious injury of marine mammals during the course of commercial fishing operations in order to:

- (1) Obtain statistically reliable estimates of incidental mortality and serious injury;
- (2) Determine the reliability of reports of incidental mortality and injury under Sec. 229.6; and
- (3) Identify changes in fishing methods or technology that may increase or decrease incidental mortality and serious injury.

b) Observer program. Pursuant to paragraph (a) of this section, the Assistant Administrator may observe Category I and II vessels as necessary. Observers may, among other tasks:

- (1) Record incidental mortality and injury, and by-catch of other non-target species;
- (2) Record numbers of marine mammals sighted; and
- (3) Perform other scientific investigations, which may include, but are not limited to, sampling and photographing incidental mortalities and serious injuries.

c) Observer requirements for participants in Category I and II fisheries.

- (1) If requested by NMFS or by a designated contractor providing observer services to NMFS, a vessel owner/operator must take aboard an observer to accompany the vessel on fishing trips.
- (2) After being notified by NMFS, or by a designated contractor providing observer services to NMFS, that the vessel is required to carry an observer, the vessel owner/operator must comply with the notification by providing information requested within the specified time on scheduled or anticipated fishing trips.
- (3) NMFS, or a designated contractor providing observer services to NMFS, may waive the observer requirement 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.
- (4) The vessel owner/operator and crew must cooperate with the observer in the performance of the observer's duties including:
 - (i) Providing, at no cost to the observer, the United States government, or the designated observer provider, food, toilet, bathing, sleeping accommodations, and other amenities that are equivalent to those provided to the crew, unless other arrangements are approved in advance by the Regional Administrator;
 - (ii) Allowing for the embarking and debarking of the observer as specified by NMFS personnel or designated contractors. The operator of a vessel must ensure that transfers of observers at sea are accomplished in a safe manner, via small boat or raft, during daylight hours if feasible, as weather and sea conditions allow, and with the agreement of the observer involved;
 - (iii) Allowing the observer access to all areas of the vessel necessary to conduct observer duties;
 - (iv) Allowing the observer access to communications equip-

ment and navigation equipment, when available on the vessel, as necessary to perform observer duties;

(v) Providing true vessel locations by latitude and longitude, accurate to the minute, or by loran coordinates, upon request by the observer;

(vi) Sampling, retaining, and storing of marine mammal specimens, other protected species specimens, or target or non-target catch specimens, upon request by NMFS personnel, designated contractors, or the observer, if adequate facilities are available and if feasible;

(vii) Notifying the observer in a timely fashion of when all commercial fishing operations are to begin and end;

(viii) Not impairing or in any way interfering with the research or observations being carried out; and

(ix) Complying with other guidelines or regulations that NMFS may develop to ensure the effective deployment and use of observers.

(5) Marine mammals or other specimens identified in paragraph (c)(4)(vi) of this section, which are readily accessible to crew members, must be brought on board the vessel and retained for the purposes of scientific research if feasible and requested by NMFS personnel, designated contractors, or the observer. Specimens so collected and retained must, upon request by NMFS personnel, designated contractors, or the observer, be retained in cold storage on board the vessel, if feasible, until removed at the request of NMFS personnel, designated contractors, or the observer, retrieved by authorized personnel of NMFS, or released by the observer for return to the ocean. These biological specimens may be transported on board the vessel during the fishing trip and back to port under this authorization.

d) Observer requirements for participants in Category III fisheries.

- (1) The Assistant Administrator may place observers on Category III vessels if the Assistant Administrator: (i) Believes that the incidental mortality and serious injury of marine mammals from such fishery may be contributing to the immediate and significant adverse impact on a species or stock listed as a threatened species or endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and (ii) Has complied with Sec. 229.9(a)(3)(i) and (ii); or (iii) Has the consent of the vessel owner.
- (2) If an observer is placed on a Category III vessel, the vessel owner and/or operator must comply with the requirements of Sec. 229.7(c).

(e) Alternative observer program. The Assistant Administrator may establish an alternative observer program to provide statistically reliable information on the species and number of marine mammals incidentally taken in the course of commercial fishing operations. The alternative observer program may include direct observation of fishing activities from vessels, airplanes, or points on shore.

[60 FR 45100, Aug. 30, 1995, as amended at 64 FR 9087, Feb. 24, 1999]

Regulatory Language Ensuring the Safety of Fishing Vessels that Carry Observers

Regulations from 50 CFR 600.746: Implementing regulations to ensure the safety of fishing vessels that carry observers. Owners and operators of fishing vessels that carry observers are required to comply with guidelines and regulations to ensure that their vessels are safe for the purposes of allowing normal observer functions.

(a) **Applicability.** This section applies to any fishing vessel required to carry an observer as part of a mandatory observer program or carrying an observer as part of a voluntary observer program under the Magnuson-Stevens Act, MMPA (16 U.S.C. 1361 et seq.), the ATCA (16 U.S.C. 971 et seq.), the South Pacific Tuna Act of 1988 (16 U.S.C. 973 et seq.), or any other U.S. law.

(b) **Observer requirement.** 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.

(c) **Inadequate or unsafe vessels.**

(1) A vessel is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions if it does not comply with the applicable regulations regarding observer accommodations (see 50 CFR parts 229, 300, 600, 622, 635, 648, 660, and 679) or if it has not passed a USCG safety examination or inspection. A vessel that has passed a USCG safety examination or inspection must display one of the following:

(i) A current Commercial Fishing Vessel Safety Examination decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR, chapter I and 46 CFR, chapter I;

(ii) A certificate of compliance issued pursuant to 46 CFR 28.710; or

(iii) A valid certificate of inspection pursuant to 46 U.S.C. 3311.

(2) Upon request by an observer, a NMFS employee, or a designated observer provider, a vessel owner/operator must provide correct information concerning any item relating to any safety or accommodation requirement prescribed by law or regulation. A vessel owner or operator must also allow an observer, a NMFS employee, or a designated observer provider to visually examine any such item.

(3) **Pre-trip safety check.** Prior to each observed trip, the observer is encouraged to briefly walk through the vessel's major spaces to ensure that no obviously hazardous conditions exist. In addition, the observer is encouraged to spot check the following major items for compliance with applicable USCG regulations:

(i) Personal flotation devices/immersion suits;

(ii) Ring buoys;

(iii) Distress signals;

(iv) Fire extinguishing equipment;

(v) Emergency position indicating radio beacon (EPIRB), when required; and

(vi) Survival craft, when required.

(d) **Corrective measures.** If a vessel is inadequate or unsafe for purposes of carrying an observer and allowing operation of normal observer functions, NMFS may require the vessel owner or operator either to:

(1) Submit to and pass a USCG safety examination or inspection; or

(2) Correct the deficiency that is rendering the vessel inadequate or unsafe (e.g., if the vessel is missing one personal flotation device, the owner or operator could be required to obtain an additional one), before the vessel is boarded by the observer.

(e) **Timing.** The requirements of this section apply both at the time of the observer's boarding, at all times the observer is aboard, and at the time the observer is disembarking from the vessel.

(f) **Effect of inadequate or unsafe status.** A vessel that would otherwise be required to carry an observer, but is inadequate or unsafe for purposes of carrying an observer and for allowing operation of normal observer functions, is prohibited from fishing without observer coverage.

[As amended 67 FR 64312, Oct. 18, 2002]

Contact Information

For more information on the Alaska Marine Mammal Observer Program:

Bridget Mansfield, AMMOP Coordinator
 National Marine Fisheries Service
 Protected Resources Division
 P.O. Box 21668
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 (907) 586-7642 or Fax (907) 586-7012
 Bridget.Mansfield@noaa.gov
<http://www.fakr.noaa.gov/protectedresources/observers/mmop.htm>

For questions relating to the Marine Mammal Authorization Certificate:

see AMMOP address above
 (907) 586-7236 or Fax (907) 586-7012

For questions or to report an injury or death of a marine mammal during commercial fishing or for additional Mortality/Injury Reporting Forms:

Patricia Lawson
 National Marine Fisheries Service
 Office of Protected Resources
 1315 East-West Hwy.
 Silver Spring, MD 20910-3226
 (301) 713-2322 or Fax (301) 713-4060
<http://www.fakr.noaa.gov/protectedresources/>

To obtain a copy of the most recent NOAA Technical Memorandum on Alaska Marine Mammal Stock Assessments:

National Marine Fisheries Service
 Office of Protected Resources
 1315 East-West Hwy.
 Silver Spring, MD 20910-3226
 (301) 713-2322 or Fax (301) 713-4060
http://www.nmfs.noaa.gov/prot_res/PR2/Stock_Assessment_Program/

To obtain a copy of the List of Fisheries:

Kristy Long
 National Marine Fisheries Service
 Office of Protected Resources
 1315 East-West Hwy.
 Silver Spring, MD 20910-3226
 (301) 713-2322
http://www.nmfs.noaa.gov/prot_res/PR2/Fisheries_Interactions/

For questions relating to sea bird interactions with commercial fisheries:

Kim Rivera
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 Juneau, AK 99802-1668
 (907) 586-7424 or Fax (907) 586-7012
 OR
 Kathy Kuletz
 U.S. Fish and Wildlife Service
 Migratory Bird Management
 1011 E. Tudor Road
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 (907) 786-3453

For questions relating to sea otters:

Douglas Burns
 U.S. Fish and Wildlife Service
 Marine Mammals Management
 1011 E. Tudor Road
 Anchorage, AK 99503
 (907) 786-3807

For questions relating to NMFS enforcement, observer program issues in particular:

Mark Kirkland
 National Marine Fisheries Service
 222 W. 7th Ave., Box 10
 Anchorage, AK 99513-7577
 (907) 271-3031

For information on safety decals:

Fishing Vessel Safety Coordinator
 17th Coast Guard District
 P.O. Box 25517
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 Sue A. Jorgensen
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Or call the Supervisor of the Marine Safety Detachment at the local Coast Guard office.

For questions relating to the National Observer Program:

National Marine Fisheries Service
 Office of Science and Technology
 1315 East-West Highway
 Silver Spring, MD 20910
 (301) 713-2328, x160 or Fax (301) 713-4137
<http://www.st.nmfs.gov/st1/nop/index.html>

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