



January 14, 2010

APO Public Statement on Amendment 16 proposed rules for the Northeast fisheries (RIN 0648-AW72 and RIN 0648-XS55)¹:

TAKE ACTION: Prevent NMFS from Lowering Fisheries Observer Program Standards²

Hello APO Members:

TAKE ACTION TODAY by commenting on NMFS Amendment 16 proposed rules (Deadline: Wed., January 20th, 2010). To help you with commenting (which you may do anonymously), we have included in this email an "Amendment 16 Comments Template" to get you started and important resources and links you will need to easily submit your comments electronically.

The National Marine Fisheries Service (NMFS) Northeast region, is proposing, under Amendment 16, to set up an entirely new monitoring program alongside the established Northeast Fisheries Observer Program (NEFOP) called the Northeast Fisheries At-sea Monitoring Program (NEFAMP). The roles and the duties of At-Sea Monitors (ASM) would be similar to those of Fisheries Observers, yet ASM standards would be significantly lowered in several respects:

- **LOWER ELIGIBILITY STANDARDS:** ASMs recruits would require a high school education (or GED), with no science background required.
- **LESS TRAINING:** ASMs would receive less training than fisheries observers who are required to have an advanced science and math education.
- **LESS PROFESSIONAL SUPPORT:** ASMs would be paid and supported less than fisheries observers.

¹ Disseminated via APO Member "Updates", APO Email mailing list (908 contacts); APO Facebook Page (121 Members), <http://www.facebook.com/home.php?#/topic.php?uid=114464546191&topic=14450>; APO Web Homepage, www.apo-observers.org and, ObserverNet (Web: Fisheries Management & Observer Related Discussions, APO News, <http://www.observernet.org/obsforum/showthread.php?t=1907>; and, Facebook Page: <http://www.facebook.com/home.php?#/group.php?gid=5980880974>.

² APO Public Statement, 2010. TAKE ACTION: Prevent NMFS from Lowering Fisheries Observer Program Standards. January 14th, 2009.

- **LOWER DATA QUALITY/INTEGRITY:** NMFS authority and management would be undercut by a host of waivers and exemptions, and it appears that the fishing industry would gain much of the authority over fisheries monitoring.
- **HIGHER COST:** Although daily costs of ASMs might be less than for fisheries observers, overall costs would likely increase due to complications in data oversight and accountability measures and with the overall loss of data integrity.
- **LESS PUBLIC ACCESS TO OBSERVER DATA:** It is unclear how Amendment 16 will impact public access to fisheries monitoring data, though it is likely that it may be more restrictive with vessels operating under sector (co-op) management.

Creation of a sub-standard monitoring program would put the integrity of future fisheries science and fisheries management in jeopardy, and is contrary to:

- The DOC Office of the Inspector General³
- The Magnuson-Stevens Fishery Management and Conservation Act⁴
- NOAA Fisheries standards⁵
- Catch Share design standards⁶.
- The Mission and Goals of the International Fisheries Observer and Monitoring Conference⁷

³ U.S. Dept. of Commerce. 2004. NMFS Observer Programs Should Improve Data Quality, Performance Monitoring and Outreach Efforts. Final Audit Report No. IPE-15721, Office of the Inspector General, Washington D.C. Page 1: <http://www.oig.doc.gov/oig/reports/2004/NOAA-IPE-15721-03-04.pdf>,

⁴ MS Act 2007, Section 2b (Purposes), 101-627 (5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States; Section 2c (Policy), 101-627, 101-297 101-627, 104-297 (3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; considers efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective.

⁵ NMFS Policy 04-109; August 6, 2007. US National Observer Program (NOP) minimum eligibility requirements, require that Observer candidates need a bachelor's degree from an accredited university (with math/statistics and data-entry experience), unless these requirements are waived because candidates have "acquired the required skills to be considered eligible for observer training through a NMFS authorized alternative training program" (in addition to Observer Training). Both of the new programs require a high school diploma or GED equivalent, no biology background, and one shortened training class. http://www.st.nmfs.noaa.gov/st4/nop/documents/Eligibility_Procedural_Directive.pdf

⁶ The monitoring of Community Development Quota in Alaska, using data collected by the North Pacific Observer Program, is a good example of a successful Catch Share monitoring program that complies with the existing regional and national observer program standards. Like the proposed Northeast catch share program, the CDQ program requires individual vessel accountability and much more monitoring and training of the current observers. There is also more pressure on these observers to collect higher quality data than what would be collected on 'common pool' vessels.

⁷ IFOMC website; Vision, Mission, and Goals of Conference: <http://www.st.nmfs.naa.gov/ifomc2009/confProgram.html>. "Improve the training and safety of at-sea fisheries observers"; "Advance the development of the observer profession"; "Improve the quality of fishery monitoring data...".

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- The observer program guidelines established by the Food and Agriculture Organization (FAO) of the United Nations⁸

Follow these 3 easy steps to contribute your comments:

1. **RESOURCES:** review these resources that compare the NEFAMP to the existing NEFOP, and exhibit some of our Amendment 16 actions thus far:
 - a. “ASM_FactSheet” - describes the new NE FAM Program⁹
 - b. “NEFAMP vs NEFOP”¹⁰ – compares the proposed FAMP to the FOP
 - c. APO letter sent to Dr. Lubchenco on January 6, 2010¹¹
 - d. “APO Inquiries for Clarifications on Amendment 16 Proposed Rules”¹²
2. **COMMENTS TEMPLATE:** please feel free to cut and paste the “Amendment 16 Comments Template” (below) and edit with your own comments.
3. **SUBMIT COMMENTS:** submit your comments (anonymously if you like) to these 2 Amendment 16 proposed rules (your comments may be the same for both):
 - a. Submit comments on proposed rule RIN 0648-AW72, by January 20th, 2010, at the following link:
<http://www.regulations.gov/search/Regs/home.html#submitComment?R=0900006480a732f3>.
 - b. Submit comments on proposed rule RIN 0648-XS55 by January 21st, 2010, at the following link:
<http://www.regulations.gov/search/Regs/home.html#submitComment?R=0900006480a6f725>.

Note: To submit anonymously, simply enter “N/A” in the required fields. Also, you may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats.

Amendment 16 Comments Template:

The proposed new Northeast monitoring program, the “Northeast Fisheries At-Sea Monitoring Program” (NEFAMP), appears to be designed exactly how many observer programs start out (with minimal objectives and basic duties). Creating a new monitoring program, alongside the established Northeast Fisheries Observer Program (NEFOP), is

⁸ Davies, S. L.; J. E. Reynolds (ed.). 2002. Guidelines for developing an at-sea fishery observer programme. FAO Fisheries Technical Paper. No. 414. Rome, FAO. 116 pp.

<http://ftp.fao.org/docrep/fao/005/y4390e/y4390e00.pdf>

⁹ NOAA Fisheries, Northeast Fisheries Science Center (NEFSC), Northeast Fisheries At-Sea Monitoring Program, ASM Fact Sheet: http://www.apo-observers.org/docs/ASM_FactSheet.pdf

¹⁰ NOAA Fisheries, Northeast Fisheries Science Center (NEFSC). NEFAMP Monitors vs. NEFOP Observers: <http://www.apo-observers.org/docs/NEFAMPvsNEFOP.pdf>

¹¹ APO Letters, 2010. APO letter to Dr. Lubchenco (010610). http://www.apo-observers.org/docs/APO_Lubchenco_letter_01_06_10.pdf

¹² APO Letters, 2010. APO Inquiries for Clarifications on Amendment 16 Proposed Rules. Sent as an attachment to APO letter to Dr. Lubchenco (010610): http://www.apo-observers.org/docs/APO_Inquiries_for_Clarifications_Amend16.pdf

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duplicative and complicates oversight of data quality. This would be fiscally irresponsible and less efficient than augmenting the current observer program in the Northeast. Additionally, the NEFAMP intends to implement lower standards that are contrary to regional, national, and international policy and best practices.

At-sea monitors (ASM) would have the same dangerous working conditions as fisheries observers, yet be less protected. They would be less qualified/ trained to deal with situations of conflict, and have no mechanism for addressing grievances. They would be paid and supported less, with less NMFS control, oversight and accountability. The proposed At-Sea Monitor profession undercuts the established Fisheries Observer profession and is likely to be the basis for future catch share monitoring programs, potentially providing sub-standard substitutions among existing, new and developing Fisheries Observer programs.

Catch share programs may help to reduce overfishing and empower fishers to take more responsibility in managing the resources that they are permitted to harvest. However, this should not be at the expense of other fisheries or habitats and should not be at the expense of lowering fisheries observer program standards. Furthermore, NMFS guidelines on public access to fisheries monitoring information remain ambiguous, especially in light of the consolidation of fishing activity into sectors versus individual vessels. If Sector management of monitoring data further restricts public access to the data, this prevents public participation in fisheries management, which is contrary to the purpose of the MS Act. Monitoring programs must be carefully designed, with adequate peer and public review, and should include transparent accountability measures that utilize the “best scientific information available” (BSIA). Creation of the proposed Northeast Fisheries At-Sea Monitoring Program (NEFAMP) may put the integrity of future fisheries science and fisheries management in the US and beyond in jeopardy and is irresponsible.

If you have any questions or comments for the APO, contact us at: apo@apo-observers.org

For further information on proposed rule RIN 0648-AW72, contact Douglas W. Christel: email - douglas.christel@noaa.gov; phone – (978) 281-9141; fax – (978) 281-9135.

For further information on proposed rule RIN 0648-XS55, contact William Whitmore: email - william.whitmore@noaa.gov; phone - (978) 281–9182; fax - (978) 281–9135.

If you have any difficulties navigating directly to the “Submit Comments” links, go to <http://www.regulations.gov>, and:

1. Click on "Search for a Proposed Rule". "Proposed Rule" will appear in the box under "Select Document Type"
2. Click the box below it "open for comment/submission"

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2. Enter "Amendment 16" in "Enter keyword or ID"
4. Click Search and you should get 54 responses.
5. Under "Agency", click "NOAA" and it should narrow your search to 7.
6. For associated documents click on "open docket folder".
7. The proposed rule for Sector Operations and Allocation is directly below the Amendment 16 proposed rule.