

## NAO 216-100 Confidentiality Workshop

### **Northeast**

#### **Region**

Greg Power (Supervisory Fishery Information Specialist)

#### **Center**

Joan Palmer (NEFSC DMS Chief)

Gina Shield (Fisheries Biologist)

#### **Observer Program**

David Potter (Head- Northeast Fisheries Observer Program)

### **Southeast**

#### **Region**

Dr. Steve Branstetter (Fishery Management Specialist)

#### **Center**

Guy Davenport (Acting Chief – S/F and Head of Fishery Dependent Data)

#### **Observer Program**

Larry Beerkircher (Head - Pelagic Longline Observer Program)

### **Southwest**

#### **Region**

William Jacobson (will also represent SW Observer Programs)

#### **Center**

Al Coan (Fisheries Resources Division)

John Childers (IT Specialist (DB Mgmt/Applications))

#### **Observer Program**

*William Jacobson*

### **Northwest**

#### **Region**

Kevin Ford (Trade Specialist)

Steve Freese (Supervisory Economist)

#### **Center**

Janelle Majewski (Research Fish Biologist)

#### **Observer Program**

Jonathan Cusick (Head – Northwest Groundfish and At-Sea Hake Observer Programs)

### **Alaska**

#### **Region**

Mary Furuness (Resource Management Specialist)

Jennifer Mondragon (Resource Management Specialist)

Tracy Buck (Supervisory Permit Specialist)

Jessica Gharrett (Supervisory Biologist)

**Center & Observer Program**

Bill Karp (Head – North Pacific Groundfish Observer Program)  
Martin Loefflad (Supervisory Fish Biologist, Observer Program)  
Brian Garber-Yonts (Socioeconomic Branch)

**Pacific Islands****Region**

Walter Ikehara (Fishery Information Specialist)

**Center**

David Hamm (Supervisory Operations Research Analyst)  
Brent Miyamoto (IT Specialist)  
Christofer Boggs (HMS Data Correspondent)

**Observer Program**

John Kelly (Observer Program Manager)  
Eric Forney (Observer Data Manager)

**Headquarters**

Lisa Desfosse (F/ST -NOP)  
Steven Koplín (F/ST – Statistics)  
Samantha Brooke (F/ST – NOP)  
Larry Goldberg (CIO - Management Analyst)  
Mark Holliday (Office of Policy)  
Joe Terry (F/ST- Economics)  
Regina Spallone (F/SF)  
Susan Bishop (F/SF)  
Todd Dubois (OLE)  
Vacant- IA  
Kristy Long (F/PR)  
Therese Conant (F/PR)

**General Counsel**

Tom Myers (AK)  
Frank Sprtel (HQ)

**National Confidentiality Workshop  
January 15-17, 2008  
Seattle, WA**

**Draft Agenda**

Times	Agenda Item	Outcome
<b>Tuesday January 15</b>		
8:30 – 8:45 am	Introductions and Welcome	
8:45 – 9:15 am	Review Agenda and Workshop Outcomes <ul style="list-style-type: none"> <li>• Final Agenda</li> </ul>	
9:15 – 10:00 am	Overview of Draft Confidentiality Regulation <ul style="list-style-type: none"> <li>• Draft 50 CFR 600 Subpart E</li> </ul>	Review draft updated confidentiality regulations.
10:00 – 10:30 am	NAO Purpose, Scope and Definitions <ul style="list-style-type: none"> <li>• Draft revised NAO 216-100</li> </ul>	Review and modify NAO purpose, scope and definitions
10:30 – 11:00 am	NAO Authorized Use and Users	Review and modify NAO use and users.
11:00 am – 12:00 pm	NAO Section 4 - Policy	Review and modify NAO Section 4.
12:00 – 1:00 pm	Lunch	
1:00 – 2:00 pm	NAO Section 5 – Operational Responsibilities	Review and modify NAO Section 5.
2:00 – 5:00 pm	NAO Section 6 - Procedures	Review and modify NAO Section 6.
<b>Wednesday January 16</b>		
8:30 – 9:30 am	NAO Section 7 - Penalties	Review and modify NAO Section 7.
9:30 – 10:30 am	NAO Appendices A and B – Statutes and Primary Protective Authorities	Review and modify NAO Appendices A and B.
10:30 am – 12:00 pm	NAO Appendices C and D – Non-Disclosure Forms and Access Agreements	Review and modify NAO Appendices C and D.
12:00 – 1:00 pm	Lunch	
1:00 – 3:00 pm	Regional Data Suppression Methods <ul style="list-style-type: none"> <li>• Northeast</li> <li>• Southeast</li> <li>• Alaska</li> <li>• Northwest</li> <li>• Southwest</li> </ul>	Regional presentations on current data suppression methods for all confidential information.

	<ul style="list-style-type: none"> <li>• Pacific Islands</li> </ul>	
3:00 – 5:00 pm	<p>General Discussion of Regional Methods</p> <ul style="list-style-type: none"> <li>• Regional Issue Papers</li> <li>• Synthesis Document</li> </ul>	General discussion of differences and similarities in regional data suppression methods. General discussion of relationships between MSRA, MMPA and ESA provisions.
<b>Thursday January 17</b>		
8:30 – 9:30 am	<p>Other Data Suppression Methods</p> <ul style="list-style-type: none"> <li>• OMB</li> <li>• US Census</li> <li>• EU CENEX</li> </ul>	Review other data suppression methods.
9:30 am – 12:00 pm	Roundtable Discussion	<p>General discussion on best practices for regional and national data suppression methods.</p> <p>Questions:</p> <p>1) What is the overlap between MSRA, MMPA, and ESA confidentiality provisions?</p> <p>2) Is it possible to develop best practices across all programs (e.g. observer, permits, economics), or are should different best practices apply to different programs?</p>
12:00 – 1:00 pm	Lunch	
1:00 – 3:30 pm	Identify Initial Best Practices	Identify initial list of best practices developed during the morning roundtable discussion.
3:30 – 5:00 pm	Next Steps	Develop tasks and timeline for finalizing data suppression best practices.
5:00 pm	Adjourn	

**Synthesis of Regional Data Confidentiality Procedures and  
Suppression Procedures**

Prepared by Samantha Brooke and Larry Perruso for the National Confidentiality  
of Information Workshop

January 15-17, 2008  
Alaska Fisheries Science Center, Seattle WA

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**Other regional materials are posted on the conference website at:  
TBD**

## Northeast Regional Issues Regarding Data Confidentiality and Suppression

Data collections in the Northeast affected by confidentiality requirements are as follows:

- Commercial fisheries statistics (landings, prices, etc.) collected from fish dealers and processors. This includes data are collected under State and Federal authority.
- Vessel trip reports collected from Federally permitted vessels operating under the region's Fishery Management Plans which require a logbook. These data include catch, effort, gear characteristics, and spatial data variables.
- Observer data collected by fishery observers at sea aboard commercial fishing vessels. The Northeast Observers Program collects, processes and manages data and biological samples. These data are collected for scientific and fisheries management purposes. Observed trips are required under many of the region's fishery management plans, and for some fisheries by other federal laws and authorities such as the Marine Mammal Protections Act, the Sustainable Fisheries Act and the Magnuson-Stevens Fishery Conservation and Management Act.
- Economic survey data collected from commercial fishing vessels using customized survey instruments or collected by observers while at sea.
- Vessel Monitoring System (VMS) data. These data are collected from commercial fishing vessels operating under Fishery Management Plans with the VMS requirement. These data are collected and managed by the Office of Law Enforcement.

### Northeast's process for protecting confidential data

#### Existing Policy

- NOAA Administrative Order 216-100, dated July 18, 1994, Protection Of Confidential Fisheries Statistics.
- Magnuson-Stevens Fishery Conservation and Management Act, amended through Jan 12, 2007. Section 402. 109-479 (b). Confidentiality of Information.

Procedure for non-NOAA Requestors: Upon receipt of a data request, determine the eligibility of the requestor to receive confidential data within the guidelines of NAO 216-100. If eligible and the requestor is not a NOAA employee, then provide a Data Access Agreement template to be completed by the requestor to define:

- 1) the organizational relationship between the requestor and NOAA,
- 2) the project description for which the data will be used,
- 3) the specific data time series being requested,
- 4) the time period during which the data will be used,
- 5) the individual(s) requiring access to the confidential data,

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- 6) the organizational individual(s) responsible for protecting the data,
- 7) the necessary review requirements by NOAA before project reports using the confidential data can be released to the public,
- 8) the consequences for unauthorized disclosure, misuse, or other violation of the confidentiality of statistics made available to the requestor.

Upon receipt of the completed DRAFT template from the requestor submit to NOAA General Counsel (GC) for review and comment.

Finalize the completed DRAFT template from review comments provided by NOAA GC and submit to the requestor for review and signatures of acceptance to the terms of the Access Agreement.

Upon receipt of a signed final agreement from the requestor complete the signatures for NOAA and provide the data time series being requested to the requestor.

### Procedure for NOAA Requestors

Access to confidential data by NOAA staff is covered by a "statement of nondisclosure" which is signed by the requestor and their supervisor. The more detailed Access Agreement outlined above is usually not required.

### Existing data suppression methods used for aggregation of confidential data.

For requestors who are not qualified to receive confidential data, the response may be provided in an aggregated form. The aggregation and suppression of certain columns must render the resulting content non-confidential. Aggregation is usually based on the rule of three. Data variables that identify a firm or a reporting entity such as a vessel, trip, or dealer are suppressed.

Templates of data access forms: Provided upon request.

## Southeast Regional Issues Regarding Data Confidentiality and Suppression

Data collections in the southeast affected by confidentiality requirements are as follows:

- Commercial fisheries statistics (landings, prices, costs, etc...) collected from fish dealers, vessels, and permit holders. These collections include trip ticket data, general canvass data, strandings and discards data, size frequency data, and bioprofile data. *Does the rule of three apply when one respondent accounts for the majority of landings/revenues? How does the definition of reporting strata (area of capture, season, gear, homeport, and species) affect disclosure risk?*
- Federal and non-federal permit lists.
- Quota monitoring.
- Cooperative research data collected under grants.
- Non-NOAA collected fishery statistics maintained under MOA. *Are these subject to new confidentiality rules?*
- Vessel trip reports collected from federally permitted vessels operating under the region's Fishery Management Plans (FMP) which require a logbook. These data include catch, effort, gear characteristics, economic, and spatial data variables.
- Observer Program (OP) data collected by fishery observers at sea aboard commercial fishing vessels. *Should non-pooled or non-aggregated set-level observer data be provided to the public (utility of pooled data is limited)? Are observer photographs confidential (current OP public websites post pictures taken during deployment)? Will new confidentiality rules apply to 1992-2005 data currently available on the web and pictures already in the public domain?*
- Economic survey data collected from commercial fishing vessels using continuous logbook reporting or one-time data collections for each species managed by an FMP depending on regulatory and economic impact. Number of management actions drive focus of economic data collections. *Should economic data collections be held to higher confidential standards than biophysical or ecological related data collections due to possible disclosure of personal financial information?*
- National Standard 8 data collections on fishing communities. *Are all communications conducted during personal interviews considered confidential? How are anonymous or personal communications to be referenced?*
- Vessel Monitoring System (VMS) data. These data are collected from Gulf commercial fishing vessels operating under an FMP VMS requirement. These data are collected and managed by the Office of Law Enforcement. *Would a FOIA request result in disclosure risk by exposing desirable fishing spots or profitable patterns of gear deployment?*



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### Southeast's process for protecting confidential data

#### Existing Policy

- SEFSC Standards and Procedures for Handling/Releasing Confidential Fisheries Statistics (see regional materials).
- NOAA Administrative Order (NAO) 216-100, dated July 18, 1994, Protection Of Confidential Fisheries Statistics.
- Magnuson-Stevens Fishery Conservation and Management Act, amended through Jan 12, 2007. Section 402. 109-479 (b). Confidentiality of Information.
- Rule of three even if one participant is the major contributor based on percent of landings.
- SEFSC unofficial data confidentiality policy?

#### SEFSC Observer Programs (OP)

Responsibility for observer coverage in various fisheries is allocated among three laboratories. Confidentiality policies and issues are not uniform across programs; but there are many similarities. All three programs devote time during training to discuss the importance of data confidentiality and the individual program's policies. All three programs have confidentiality "policies" in place; in the form of a section or sections in training manuals (a detailed example is available in regional materials section). Two of the three programs require observers to read and sign NAO 216-100.

#### Social Science Research Group

Requests for confidential economic data are made formally through the Logbook Program. Distribution of these data is governed by the standards and procedures pursuant to NAO 216-100.

#### Procedures for Requestors

These standards and procedures apply to all employees of the SEFSC that need access to confidential fisheries statistics. This includes full time or term employees, contractors, volunteers, and/or other employees associated with the SEFSC, but not directly employed by either organization. Any SEFSC employee that needs or desires access to confidential data must have read NOA 216-100 and submitted a signed nondisclosure statement to the Director, Information Research Information Division (IRMD). The non-disclosure statement must be approved by the Director, IRMD and maintained on file by IRMD. It is the responsibility of the Director, IRMD to certify, upon request, that a person or organization that requests access to confidential data is authorized access to those data. All employees that have access to and/or use confidential data (federal and non-federal) are responsible to protect those data from unauthorized access or release.

Contractors or grantees that have an agreement with NMFS can be granted access to confidential data as an authorized user (See NOA 216-100, Section 6.03e). It should be clearly understood that confidential data cannot be released simply by an individual signing a nondisclosure statement. There must be a clear and

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demonstrable need for the confidential data that are requested as part of a contract or grant. Confidential data can only be released for the specific contract or grant. Upon completion of the contract or grant, the recipient must either return the data or state that it has been destroyed. The contractor or grantee cannot use the data for any purpose other than the uses stated in the agreement.

The Contracting Officers Technical Representative (COTR) or the Technical Monitor (TM) that has been assigned to the contract or grant, respectively, has the following responsibilities:

- The COTR/TM has the responsibility to determine whether the contractor/grantee is eligible to receive the confidential data that are requested in the agreement.
- The COTR/TM has the responsibility to assure that all persons included in the agreement have read NOA 216-100 and have signed a nondisclosure statement. A statement must be signed by each person that will have access to the confidential data under the agreement, i.e., a blanket statement cannot be used for the company or firm. The COTR/TM also has the responsibility to make sure that the Director, IRMD has signed and approved the nondisclosure statement and the statement is on file with IRMD.
- The COTR/TM has the responsibility to assure that confidential data are not released in any publication, report, oral presentation, or other means to the public by the contractor or grantee.

### Existing data suppression methods used for aggregation of confidential data.

Data that are submitted as confidential can be released to the public under the following circumstances:

- Combined or aggregated data. Confidential data can be released if the data are aggregated or summarized in a manner that prevents the identification of the person or organization that submitted the data. The "rule of three" and "identification of majority allocations" are the primary data suppression methods.
- Obscure (scramble) or remove the data identifier. For some types of data, confidential data can be released as non-confidential if the identity of the person, vessel, company, etc. that submitted the data is not included or is scrambled as part of the data that are released.
- Submitter. Confidential data collected under federal authority can be released to the original entity (person, vessel, business, etc.) that submitted the data.
- Confidential data waived. The protection of confidential data can be waived by the person or business that submitted the data.

### Guidelines for the release of non-confidential data for specific types of data

- General canvass landings statistics
  - o Collected by both the SEFSC and the respective states' fishery agencies.
  - o Aggregate the data so that the resulting data includes 3 or more dealers for whatever level of aggregate is used (i.e., county, state, region).

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- o Confidential data that are released from the general canvass data must be collected by the SEFSC and not by one or more of the state fishery agencies.
- o Although the general canvass data are stored in the Accumulated Landings System by the SEFSC, most of these data are collected by the respective state fisheries agency, and the confidential data cannot be released to contractors even if they meet the qualifications in NOA 216-100.
- Vessel logbook data. The trip or set data collected by any of the established logbook programs can be released in one of two forms as non-confidential.
  - o Aggregated summaries. Non-confidential logbook data can be released if the trip or set data are aggregated so that the data for 3 or more vessels are combined. The vessel identification number or dealer codes cannot be included in the aggregated data set.
  - o Catch per unit effort data. Catch per unit effort data (i.e., catch per trip or set) can be released if the vessel identification number and county of landings are removed. A surrogate vessel identifier can be included so that catch data can be associated with the same vessel over time, but the identifiers cannot be associated with the vessel in a manner that can be known by the public.
  - o Exception. The exception to the above two guidelines are logbook programs that include 5 or fewer active vessels that participated in the fishery for the time period of the request.
- Observer data. All data that are collected by any of the observer programs managed by the SEFSC are considered confidential and cannot be released to the public in the form in which the data are collected. The following are the specific circumstances under which confidential data can be released.
  - o Owner of record. Confidential data can be released to the permit or lease holder of record as shown in the SERO's permit database for the period of time the vessel had a federal permit and was owned or leased by the requestor.
  - o Release of non-confidential data. Data can be released to the public if the vessel identification number for the vessel is either deleted or transformed such that the original vessel number cannot be determined.

### SEFSC Observer Programs (OP)

One program has provided set-level data via a public website, with vessel identifiers scrubbed.

### Social Science Research Group

Disclosure risk is minimized by suppressing the identification of vessels based on majority revenue shares by the following strata: year, gear deployed, area fished, and species group caught. The rule of three has been used in the past.

Current research involves the use of simulation methods to produce synthetic data sets.

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### Other Questions and Issues

- Once a contract is over does the contractor have the ability to keep using confidential data (either in raw or manipulated form) in future analyses that are not contracted by NOAA? If so, how will disclosure risk be minimized? If not, how will this be enforced?

Contractors or grantees that have an agreement with NMFS can be granted access to confidential data as an authorized user (See NOA 216-100, Section 6.03e). It should be clearly understood that confidential data cannot be released simply by an individual signing a nondisclosure statement. There must be a clear and demonstrable need for the confidential data that are requested as part of a contract or grant. Confidential data can only be released for the specific contract or grant. \*Upon completion of the contract or grant, the recipient must either return the data or state that it has been destroyed. The contractor or grantee cannot use the data for any purpose other than the uses stated in the agreement.

- We do not address penalties for unauthorized release (whether intentional or not) and who is the enforcing body? The SEFSC unofficial policy states : Persons who make unauthorized disclosure of confidential data may be subject to civil penalties or criminal prosecution under several statutes as listed in the Administrative Order. Persons may be subject to disciplinary action, including removal, for failure to comply with the Administrative Order. Prohibited activities include, but are not limited to, unlawful disclosure or use of the data, and failure to comply with implementing regulations or statutory prohibitions relating to the collection, maintenance, use and disclosure of data covered by these standards and procedures as specified in NAO 216-100.

But it is based on the AO only.

- Confidential users - standards for establishing who has or is granted access. NMFS employees, Contractors, Other Federal agencies (NOS), Universities, Commissions, Councils and Council Staff etc.....

-Also Authority to grant access(person in charge) is stated in the policy as being the Chief of IRM but that may change to the Division level where they have a better grasp on the data caveats and that which is truly confidential.

- Authority to Grant access (person in charge)?
- Access by Enforcement (State or Federal) as requested.....

## Northwest Regional Issues Regarding Data Confidentiality and Suppression

Data collections in the Northwest affected by confidentiality requirements are as follows:

*Note: The following data collection programs are included here in relation to specific questions/concerns raised prior to the workshop. Other data collection programs occur in the Northwest Region.*

- **Permits/registrations:** Applications for various permits and registrations are collected from individuals under the authority of the Magnuson-Stevens Act and the High Seas Fishing Compliance Act.
- **Observer Programs:** The Northwest has several observer programs, including the West Coast Groundfish Observer Program and At-Sea Hake Observer Program. *There has been inconsistency between regions in level of data released by observer programs in the past. For consistency, should there be a [national] minimal level of aggregation that maintains data confidentiality under the reauthorization yet still continues to meet the needs of regional stock assessments and management use of observer data?*
- **Other Concerns:** Staff resources given/needed to maintain data confidentiality.

### Northwest's process for protecting confidential data

*Excerpted from the NW Region's FR Notice of a new Privacy Act System of Records November 28, 2006 (Volume 71, Number 228)*

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Uses:

These records or information contained therein may specifically be disclosed as a routine use as stated below. The Department will, when so authorized, make the determination as to the relevancy of a record prior to its decision to disclose a document.

1. In the event that a system of records maintained by the Department to carry out its functions indicates a violation or potential violation of law or contract, whether civil, criminal or regulatory in nature and whether arising by general statute or particular program statute or contract, or rule, regulation or order issued pursuant thereto, or the necessity to protect an interest of the Department, the relevant records in the system of records may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigation or prosecuting such violation or charged with enforcing or implementing the statute or contract, or rule, regulation or order issued pursuant thereto, or protecting the interest of the Department.
2. A record from this system of records may be disclosed in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed to a Member of Congress submitting a request involving an individual when the individual has requested assistance from the Member with respect to the subject matter of the record.

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4. A record in this system of records may be disclosed to the Department of Justice in connection with determining whether the Freedom of Information Act (5 U.S.C. 552) requires disclosure thereof.
5. A record in this system of records may be disclosed to a contractor of the Department having need for the information in the performance of the contract, but not operating a system of records within the meaning of 5 U.S.C. 552a(m).
6. A record in this system of records may be disclosed to approved persons of the states of Washington, Oregon, California or the Pacific States Marine Fisheries Commission for the purpose of co-managing a fishery or for making determinations about eligibility for permits when State data are all or part of the basis for the permits.
7. A record in this system of records may be disclosed to Pacific Fishery Management Council (Council) staff and contractors tasked with development of analyses to support Council decisions about Fishery Management Programs.
8. A record in this system of records may be disclosed to the NOAA Fisheries Observer Program for purposes of identifying current permit owners and vessels and making a random assignment of observers to vessels in a given fishing season.

### Procedure for Release of Observer Data:

*Excerpted from DRAFT NW Region SOP for handling WCGOP data*

"External data releases vary greatly in frequency. External data releases can be one-time or reoccurring. The WCGOP must have procedures in place to deal with release that occur multiple times as well as those that occur only once."

- 1) Requestor contacts the WCGOP data request contact via phone, email, or other.
- 2) WCGOP Data Request Form is completed.
  - a) Form can be completed by data request contact during conversation with requestor.
  - b) Form can be sent to requestor for completion.
- 3) WCGOP Data Request Form is sent to Team Lead for approval/denial.
  - a) Approval/denial is based upon requested data, staffing constraints, and other factors.
    - i) If a request is denied: Data release contact sends a denial letter to requestor.
- 4) A hardcopy of the completed WCGOP Data Release Form and the denial are maintained in the Data Release binder.
  - a) An electronic copy of the WCGOP Data Release form and denial letter are maintained in the FRAM/Observer/Data Release folder.
- 5) If request is accepted, data release contact continues with process.
- 6) Data request contact informs database manager of request.
  - a) Database manager and data request contact discuss request and determine the appropriate data fields/aggregation of release.

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7) Database manager determines if vessel identifiers are to be released with data

- b) The Database Manager aggregates data. The aggregation level is dependent upon the data request.
  - i) Database manager determines aggregate level and if request meets "rule of three".
  - ii) Data may be delivered raw (no catch weight expansions and no proportioning of landed weights by catch weights).
  - iii) The Database Manager may expand species composition weights to total catch weights.

8) Additional data processing is offered only to internal NMFS scientists as resources permit. Other data requesters will be provided with fish ticket numbers (as appropriate) in order for them to be able to perform their own analysis.

9) Database manager sends the query to the data release contact.

10) Data release contact send requestor additional forms to complete.

- a) Non-Disclosure Agreement - Requestors outside of state and federal agencies must complete.
- b) Agreement of Access - All requestors must complete.

11) Database manager sends results to data release contact.

12) Data release contact completes a data summary document, if necessary.

- a) Depending on the request, an explanation of data may be required.
- b) The summary of data is completed by data release contact and reviewed by the Team Lead.

(1) Data summaries are written on an individual request basis.

13) Once proper paperwork is acquired, data request contact releases data to requester with data summary, if required.

14) Requestor must submit a copy of draft analysis/report to the WGCOP for review.

- a) Team Lead and data release contact review report for any errors or issues.
- b) Data release contact communicates with requestor until issues resolved.

15) Data request is maintained:

- a) A hardcopy of WGCOP Data Request form, data summary, Non-Disclosure Agreement, and Agreement of Access forms in Data Request binder.
- b) An electronic copy of WGCOP Data Request form, data summary, query results, and other forms and the final report generated by requestor in FRAM/Observer/Data Release.

Existing data suppression methods used for aggregation of confidential data.

Observer data: The rule used to determine the specificity of the data to be released. It requires at least three data points in a given area, port, and/or time period. It is used to prevent vessel specific information from being released.

Templates of data access forms:

- WGCOP Data Request Forms

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- Non-Disclosure Agreement- Requestors outside of state and federal agencies must complete.
- Agreement of Access- All requestors must complete.

See regional materials for forms



## **Southwest Regional Issues Regarding Data Confidentiality and Suppression**

Data collections in the Southwest affected by confidentiality requirements are as follows:

*Note: The following data collection programs are included here in relation to specific questions/concerns raised prior to the workshop. Other data collection programs occur in the Southwest Region.*

- Guidance from GC on release of fisheries information: main advice has been to not violate the Trade Secrets Act
  - o Observer program data
  - o Commercial fisheries statistics
  - o Economic data
  
- Dissemination of HMS fisheries data to regional fishery organizations (RFOs). The SWSC, SWRO, PISC, and PIRO follow an established policy for the dissemination of HMS fisheries data to regional fishery organizations (RFOs). RFOs include, but are not limited to, the Inter-American Tropical Tuna Commission, International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean, Secretariat of the Pacific Community, and Western and Central Pacific Fisheries Commission.

### Southwest's process for protecting confidential data

As outlined in the SW Region Data Confidentiality Handbook:  
<http://lajolla.noaa.gov/its/internal/policies/dataconf.htm>

Confidential data means data that are identifiable with any person, that reveal the business practices of an individual, and that are prohibited by law from being disclosed to the public. The release of these data could place the supplier or subject of the data at a competitive disadvantage and could result in adverse impacts on that person's business.

### Procedure for NOAA Requestors

All Region and Center staff members collecting confidential data will be required to sign a nondisclosure statement acknowledging their responsibilities to maintain data confidentiality and the penalties for unauthorized disclosure of data.

Staff members with access to confidential data are assigned an "access number". This Access Number will be confidential, and will be used as identification when making telephone inquiries. The Access Number will not be revealed to others, including other authorized users.

Staff members collecting confidential data must maintain all documents containing confidential data in secure facilities, and may not disclose confidential data, whether recorded or not, to anyone not authorized to receive and handle such data.

Each contractor employee collecting or processing confidential data on behalf of the Regional Director will be required to read, date, and sign a statement of nondisclosure that affirms the employee's understanding of NMFS obligations with respect to confidential data and the penalties for unauthorized use and

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disclosure of the data. Upon signature, the employee's name will be placed on record as an "authorized user," and the employee will be issued certification.

Data collected by a contractor must be transferred in a timely manner to authorized Federal employees; no copies of these data may be retained by the contractor. NMFS may permit contractors to retain aggregated data. A data return clause shall be included in the agreement. All procedures applicable to Federal employees must be followed by contractor employees collecting data with Federal authority.

### Procedure for non-NOAA Requestors:

Staff and members of a Regional Fishery Management Council may be designated authorized users and be provided access to confidential data; provided that (1) they have signed nondisclosure forms and (2) the Council's procedures for ensuring the confidentiality of data have been furnished to the Regional Director in the year in which access is provided. However, data submitted in accordance with a fishery management plan will be provided to a Council member only after determining, under 50 CFR 603.5(d), that the member will not gain personal or competitive advantage from access to the data and that the suppliers of the data will not be placed at a competitive disadvantage by public disclosure of the data at Council meetings or hearings.

Any State agency staff member collecting confidential data on behalf of NMFS under a data agreement shall sign and provide to the Regional Director either a NMFS nondisclosure form, or a statement at least as protective as the NMFS form, acknowledging the requirements of Federal laws and policies and the Federal penalties for unauthorized disclosure.

Confidential data shall only be disclosed to the public if required by the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, or by court order.

Data may also be released if signed waivers are obtained by the submitter of the data

### Existing data suppression methods used for aggregation of confidential data.

For requestors not eligible to receive confidential data, screening of data is done by NMFS's three or more rule applied to each stratum in the summary. If the strata are month and one degree square then each of these strata are screened to eliminate strata with less than three vessels or companies operating. This policy began in 2005. Previously, data were screened at the summary level. So in the previous example, if three or more vessels or companies data were used in the summary then data were released even if stratum with less than three were present (this was for highly migratory species fisheries only). In the late 1970's, data were released with only vessel, company or person identifiers removed.

### Templates of data access forms:

See regional materials

## Alaska Regional Issues Regarding Data Confidentiality and Suppression

Data collections in the Alaska affected by confidentiality requirements are as follows:

Note: The following data collection programs are included here in relation to specific questions/concerns raised prior to the workshop. Other data collection programs occur in the Alaska Region.

- Landings Data - refers to those confidential statistics related to the catch, landings, and value of commercial fishery products collected by agents of the NMFS, "fish ticket" or "processor summary" information collected by ADF&G, or observations of ADF&G or NMFS onboard observers.
- Port Sampling: information concerning the catch, fishing effort, etc., of commercial fishermen collected by means of personal interviews by agents of the NMFS or ADF&G.
- Observer Data - Observer data by vessel haul/set, date, area, gear, target fishery, species, sampling method, and other records and reports submitted to NMFS by NMFS-certified fishery observers and by observer contractors. AK has two programs: the North Pacific Groundfish Observer Program, and the Alaska Marine Mammal Observer Program (which observer state fisheries)

*What is the specific meaning of "as authorized by the secretary" when referring to observer information? This needs clarity so we all know what is encompassed by the definition. One can read the definition broadly as the observer presence is authorized and, in Alaska, mandated by the secretary or statute. Under this broad interpretation, all information collected by an observer on a vessel could be protected. A more narrow interpretation of this language could be that only authorized data elements (assigned for example, in a training manual) are protected. Under the more narrow interpretation, observers could make unauthorized information collections which we could not protect.*

*Who is the submitter of the information when referring to observer information? Past practice and prior interpretations of the MSA had the vessel owners as the submitters of the observer information. This interpretation allowed us to provide observer information to vessel owners or their designees. This is an important process that we need to continue as the selective sharing of observer information with the vessel ownership supports industry bycatch management efforts.*

*Is it possible to allow release of specific observer information when there is a compelling policy or scientific interest in the information? If so, what process should be followed and what are the potential consequences of release. For example, if we make the non-aggregate data associated with coded wire tags available to the public, must the same data for non-coded wire tags be released? Our earlier package of information contained three examples where past practices are constrained by the new observer information definition in the MSA.*

## DRAFT- FOR INTERNAL USE ONLY

*Understanding and delineating the legal distinction and requirements between "required" and "authorized" information in reference to observer data.*

- Economic Data Report (EDR): Questions

*Differentiation of confidentiality concerns between catch and landings data compared to costs and earnings data collected in EDR programs. Is the detail and sensitivity of cost and earnings data sufficient to justify a different standard for data suppression? Are parent firms the correct entities for which to suppress data release in vessel or plan-level data sets? What is the potential for incidental disclosure in combining data from separate data releases from separate but associated data sets with different disclosure prevention procedures?*

*What is the FMCs role in determining appropriate disclosure prevention procedures?*

*Is there a need for mandatory ownership reporting by data providers for disclosure prevention purposes? What are the implications for implementing ownership level disclosure prevention procedures for data quality and resolution in public reporting of data and analyses?*

*Can guidance be provided to assist data users and administrators in evaluating tradeoffs between risk of disclosure, data quality and analytical detail in public reporting, tractability of data suppression methods, and industry reporting burden?*

### Alaska's process for protecting confidential data

*Excerpted from the Alaska Region Data Confidentiality Handbook*

Confidential Data means information that is identifiable with any person and prohibited by law from being disclosed to the public. This definition is similar to "Controlled Information," as defined in the Department of Commerce Handbook of Security Regulations and Procedures (DOA 207-2). Confidential data include fisheries data such as landings and port sampling information.

Any confidential information submitted to NMFS (including data provided to NMFS by a State agency, the International Pacific Halibut Commission, regional fishery management councils, or marine fisheries commissions), by any person in compliance with Federal data collection requirements, including cooperative research, fishery monitoring and management, and enforcement shall not be disclosed. Exceptions are allowed for disclosure, as outlined in the AK Region Data Confidentiality Handbook.

### Procedure for all Requestors:

Access to confidential data shall never be granted to an office or other organization or group; access to confidential data shall only be granted to an individual that meets the criteria outlined in Section E1 a-j above. Access can only be granted to an individual if a signed and effective Confidentiality Agreement, Data Access Sharing Agreement, Memorandum of Understanding, Standard Statement of Nondisclosure, or similar agreement is in place. These signed agreements shall indicate that individuals have reviewed and understand the provisions in this manual governing the legal use of confidential data. The signed agreements are maintained by the Alaska Regional Records office. The

DRAFT- FOR INTERNAL USE ONLY

name of each individual that has signed a statement of nondisclosure for using confidential data will be added to the Alaska Region list of authorized confidential data users.

Existing data suppression methods used for aggregation of confidential data.

A general rule that is applied in the Alaska Region for aggregation is that any unit (e.g., fishery, fleet, or sector) for which statistical information is reported must include at least three entities (i.e., individuals, vessels, corporations, associations, or whatever form the data takes). Under the data sharing agreement between ADF&G and NMFS, fisheries data supplied by ADF&G are to be aggregated over units of at least four entities.

Templates of data access forms:

See regional Confidentiality Handbook

## Pacific Islands Regional Issues Regarding Data Confidentiality and Suppression

Data collections in the Pacific Islands affected by confidentiality requirements are as follows:

*Note: The following data collection programs are included here in relation to specific questions/concerns raised prior to the workshop. Other data collection programs occur in the Pacific Islands Region.*

- *Permits: Non-confidential permit information that are made available to the public, NMFS staff, Council staff, USCG, USFWS, and other island fishery agencies, are limited to permit holder name, vessel name and number, type of permit, date of issuance and expiration, and permit holder business contact information. The Pacific Islands primary need is to address the confidentiality of PII (primarily SSN) on permit applications and records.*
- *Dissemination of fisheries data to regional fishery organizations (RFOs). How should international agreements that require the provision of summaries or copies of data at levels violating our agency's 'rule of 3' be handled?*
- *Commercial Fisheries: The PIRO Sustainable Fisheries Division does not collect or process fishery logbooks, sales reports, or receipts from individuals or companies. When fishery performance or financial documents are provided to the permit program by the applicant to support permit qualifications, the documents are stored with the permit record in a locked permit cabinet. We do not collect or keep credit card or bank account information. Would it be possible to relax the 'rule of 3' for certain types of fisheries performance factors, especially for pelagic fisheries (e.g. plotting exact locations of catches, cpue, and/or effort for every longline set for a fishery for the year)? Would it be possible to exercise sunset clauses for certain types of fisheries performance issues at some point in time (e.g. CPUE GIS plots for the whole fishery XX number of months/years? after the 'season')?*
- *Observer Program: The Pacific Islands has several observer programs, including programs for the Hawaii longline for swordfish and tuna, and the American Samoa pelagic longline fishery.*

### Pacific Islands's process for protecting confidential data

PIRO relies on the Southwest Region and Southwest Fisheries Center Data Confidentiality Handbook<sup>1</sup> (excerpted here), implementing NAO 216-100, for handling of confidential permit data. All PIRO employees and contractors are required to sign the non-disclosure statement. The region will be developing a procedures manual for permit processing and data handling which will address confidentiality requirements, among other things.

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<sup>1</sup> Fougner, S. and A. Coan. 1997. Southwest Region and Southwest Fisheries Science Center Data Confidentiality Handbook. SWFSC Administrative Report LJ-97-01. February 1997. 11p + app.

## DRAFT- FOR INTERNAL USE ONLY

- All incoming permit applications are referred to permit staff (2 persons) for handling.
- Applications are date stamped on receipt, put into a file folder, and are locked in a desk file or the permit file cabinet when not in use by permit staff.
- Permits and applications that are undergoing review for approval are stored in messenger envelopes during routing to supervisors for review and the RA's office for approval and signing. A routing slip is attached and the distribution is logged and tracked.
- Permit databases containing PII are accessible only to permit staff.
- Permit applications containing PII are not viewable by unauthorized PIRO staff. Authorized staff include permit staff, Sustainable Fisheries Division ARA, and the RA, Deputy RA, and RA's secretary.
- Copies of permit applications requested by OLE are provided to OLE by permit staff.
- No PII or personal information are released to the public.
- Permit files are kept locked in a file cabinet when not in use and only permit staff have the keys.

### Procedure for Release of Observer Data:

Currently all observer data requests that are received either by the Center or directly by the program are handled in the following manner:

- If request is made directly to the Center the Center will contact the program by forwarding the written request to the Program manager requesting guidance.
- After reviewing the request the program manager will briefly discuss the request with the Center. If there are questions the Center will contact requester and ask for clarification or will clarify with requester in what form the data can be released.
- If request comes directly to the observer program the program will contact the Center and forward the contact information to the Center.
- The Center will contact the requester and ask for clarification regarding the request.
- When clarification is provided the Center then asks that the requester sign the Non-Disclosure Form. When that is signed the Center will begin to work with the requester on how they want to receive the data.
- The observer program released requested data for special circumstances
- The Center will not release observer data until after they have discussed the data request with the program and we say it is ok.
- All data that is released is done so in some sort of an aggregate format
- Specific information on a vessel or where it fished is not provided except for special research investigations done by Universities or under a contract with NMFS to certain types of fishery analysis.
- All observer data forms are kept in locked file cabinets.
- Latitude/long data is provided in 5 degree grids.
- When there are three boats or less the three boats rule is invoked.

### Procedure for non-NOAA Requestors:

The Region has a Cooperative Agreement with the State of Hawaii, Department of Land and Natural Resources (DLNR), through the Board of Land and Natural Resources, for the exchange of fisheries data for the purposes of management

## DRAFT- FOR INTERNAL USE ONLY

(attached). The agreement specifies conditions under which NMFS and DLNR can share fisheries data and the use and release of information derived from the data. Annually, the DLNR provides PIRO Permits with landings data for fishermen holding federal limited entry bottomfish permits for the Northwestern Hawaiian Islands. The data are used to determine their compliance with minimum landing requirements and eligibility to renew permits.

Existing data suppression methods used for aggregation of confidential data.  
*Excerpted from the "Pacific Islands Policy on Confidentiality of Fisheries Operations Data"*

1. Individual vessel identifiers cannot be attached to any individual data items which are made public. (Vessel identifiers include vessel name or permit number; individual data items include fishing location, catch, and effort.) Vessels could be differentiated by random identifiers for some purposes, as long as such an identifier did not reveal actual identities.
2. Any fishery-wide aggregations of fisheries operations data shall include information from three or more individual vessels. Effort information, including just the presence of fishing, can be just as sensitive as the actual catch itself. All data analysis programs should include a procedure for calculating the number of vessels within the aggregate. Wherever possible, aggregations should be large enough to include more, rather than fewer, vessels.
3. If fisheries operations data are aggregated into classes of vessels or types of operations, then there should be three or more individual vessels in each aggregate. (E.g., large, medium, and small-sized vessels; vessels targeting tuna, swordfish, or mixed species.) Wherever possible, classes should be large enough to include more, rather than fewer, vessels.
4. In many cases, confidentiality can be assured by increasing the time or area range of strata, e.g., multiple months, multiple years, or multiple locations.
5. Fishing location information is most sensitive because it is essentially a "trade secret" for the vessels involved. Latitude and longitude information should be reported or plotted primarily on monthly 5 degree squares, which is the de facto international standard for longline fisheries data exchange. (Smaller aggregations are indicated for some other fisheries but must be reviewed for confidentiality.)
6. Where data are reported by standard fishing area (e.g., by Northwestern Hawaiian Islands fishing banks), the same aggregation rules apply.
7. Where finer displays of data are required (e.g., in examining the 50-25 mile longline area closures), smaller area aggregations may be used. In these cases, alternative ways of displaying data may be required (e.g., contours or bands of fishing activity rather than lat/long squares or individual data points). Care should be taken on the temporal scale: monthly plots of 1 degree square information are much more sensitive than annual plots.

Templates of data access forms:

See regional materials



# Northwest Data Collection, Aggregation and Release

*Jonathan Cusick*  
NOAA Fisheries, Northwest Fisheries Science Center  
Fishery Resource Analysis and Monitoring Division  
Seattle, WA

National Data Confidentiality Workshop  
January 2008



## Northwest: What 'confidential' data is collected?

- Observer data
  - Fishing effort data
  - Catch and bycatch data
  - Biological data
- Economic and Social Science survey(s)
  - Revenue
  - Costs
- Permit information
  - Personally identifiable information



## Confidential Data Protection

- Economic and Social Science survey data
  - Very recently collected and analyzed for the first time.
    - Limited staff access
    - No release, except for aggregated results



## Confidential Data Protection

- Observer program data
  - Data collected by observers
  - Data entered electronically and any paper forms submitted to NMFS staff
  - Paper forms kept in NMFS offices
  - Database access limited by passwords, user roles, IT security such as auto time out/encrypt



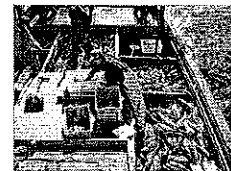
## Procedures for requesting observer data

- Data requestor furnishes:
  - Contact information
  - Whether one-time or on-going request
  - Data being requested
  - Purpose of the data
  - Requestor contacted to determine specific needs/goals



## Data Aggregation

- The 'rule of three' as a guide
  - No less than three vessels
- Depends on data requestor needs
- Stratification of data (west coast example)
  - Strip off vessel identifiers then stratify by:
    - Gear
    - Year
    - Area
    - Period
    - Depth



## If non-aggregated, confidential data released to:



- Internal requestor
  - Completes statement of non-disclosure
- External requestor
  - Follow NAO 216-100 to confirm accessibility
  - Completes statement of non-disclosure if app.
    - No statement needed from permit owner
- Contractor
  - Completes Agreement of Access that provides more detail than statement of non-disclosure

## Regional Concerns



- Inconsistent regional responses for nationwide observer data requests
- Minimize staff resources needed to maintain data confidentiality and respond to data releases

## NMFS Policy Directives System website

<http://reefshark.nmfs.noaa.gov/f/pds/publicsite/index.cfm>

## Pacific Islands Science Center and Regional Office Procedures for Maintaining Data Confidentiality

National Confidentiality Workshop  
Seattle Washington  
Jan 15-17, 2008



## Confidential Data Collection

- HMS Data (Tuna, Billfish, Associated Spp.)
  - Longline Logbooks (Federal)
  - Longline Observer Program (Federal)
  - VMS (Federal)
  - Foreign Data (held in collaborative assessments)
- Bottomfish (Deep Slope Snappers and Groupers
  - Logbooks and Observer Programs (Federal)
- Commercial Catch Reports (State/Territory to Fed)
- Dealer Data (State/Territory to Fed)
- Data Collected from Contracted Fishermen
- Surveys (Cooperative, WESTPACFIN, MRFS, Ad Hoc)
- Licensing and Permitting (Federal)

## Process for Protection

Pacific Islands Fisheries Science Center

Suggestions for Handling Confidential Data

Policy on Confidentiality of Fisheries Operations Data

Data Confidentiality Summary from the Pacific Islands Fisheries Science Center

SIS Data Services Confidential/Sensitive Data Request Procedure

Pacific Islands Regional Office

Confidentiality Workshop summary for Pacific Islands Regional Office – Observer Program

Confidentiality Workshop Summary for Pacific Islands Regional Office – Permits

Cooperative Agreement between the Board of Land and Natural Resources, State of Hawaii, and the Southwest Region/Southwest Fisheries Science Center on the Exchange and Use of Confidential Fisheries Information.

## Process for Protection

- Secure Facilities (State of the Art Security)
- Secure Transfer to Users (Encryption)
- User Security Training (Annual)
- User Authorization and Agreements (on File)
- Checkout Procedures upon Termination
- Access to each Data Set on Need-to-Know Basis
  - Includes Feds, Grantees, Contractors, Council Staff, State and Territorial Staff AND OTHER COLLABORATORS
- Grantees heavily involved in data collection, processing and maintenance at all levels

Suggestions for handling confidential or sensitive data

## Issues

- Aggregation to Maintain Confidentiality
  - Strictness and Uniformity
  - Flexibility
  - Sunset (why not ?!)
- Collection and Submission of Data for the Western and Central Pacific Fisheries Commission

## Aggregation to Maintain Confidentiality

- "Rule of 3 or More"  
Must drink 3 or more beers before making decisions regarding data confidentiality (Jerry Wetherall, PIFSC, January 2008)

Policy on Confidentiality of Fisheries  
Operations Data

**Issue: Collection and Submission of Operational-Level Data for the Western and Central Pacific Fisheries Commission**

Western and Central Pacific Fisheries Commission: Rules and Procedures for the Protection, Access to, and Dissemination of Data Compiled by the Commission.

Western and Central Pacific Fisheries Commission: Proposed Revisions to the Provision of Data. Draft Framework for Access to Different Types of Non-Public Data, Draft Data Request Form and Draft Confidentiality Agreement.

Statement from NMFS International Affairs

IA has several concerns about MSA data confidentiality provision relative to US obligations to RFMOs. RFMOs routinely require Parties to submit detailed data on catch and effort that is obtained from national programs for VMS, observers, logbooks, dealer reports and trade monitoring. Some of these obligations can be fulfilled with aggregate data, while other obligations require firm level data. Increasingly, RFMOs are considering centralized systems for vessel registries, observer programs, trade data exchange and VMS whereby the respective Secretariats will either collect the data directly from fishery participants or receive firm level data from contracting parties.

It is essential that NOAA Fisheries determines whether the US can participate in these centralized data collection programs. If so, are there contractual arrangements needed with the RFMOs to ensure that firm level data are not released to unauthorized sources? NOAA Fisheries policies in this regard must be communicated to all staff assigned to RFMO support and Commissioners must be briefed if there are constraints on data sharing.

### **The Marine Mammal Take Reduction Program Uses Observer Data to:**

- Make Serious Injury Determinations
- Estimate Annual Serious Injury/Mortality
- Classify Commercial Fisheries on the LOF
- Inform the TRT process
- Monitor the effectiveness of take reduction measures
- Document opportunistic sightings and research depredation

### **Determining Serious Injury**

- Analysts use photos and observer logs, especially comments, to assess an injury
- Criteria to determine if injury is "serious", e.g., amount of gear left on the animal
- Recent Serious Injury Technical Workshop revised the criteria and recommended that an external panel review SI determinations (and relevant data).

### **Estimating Annual Serious Injury/Mortality**

- Estimates are a required element in stock assessment reports and take reduction plans
- Primary source of data is observer logs
- Location of take is sometimes essential in determining the stock impacted by the fishery

### **Classifying Commercial Fisheries on the List of Fisheries**

- Annual process according to levels of serious injury/mortality in a fishery
  - Category I – frequent incidental SI/M
  - Category II – occasional incidental SI/M
  - Category III – remote likelihood/no known SI/M
- SI/M must be linked to a specific fishery to affect classification

### **Take Reduction Planning**

- Teams need data particularly on the nature of interactions as well as locations to pinpoint hotspots
- Teams then recommend measures to NMFS and the agency implements via rulemaking
- After measures become effective, observer data are used to monitor the effectiveness of measures

### **Sightings and Research**

- Opportunistic sightings are part of a large database in AKR
  - Sightings come from variety of sources, but primarily fisheries observers
  - Vessel may be in transit rather than fishing
- Sightings plotted on a broad scale
- Any data released is stripped of PII
- Not clear whether sightings data considered "confidential data"?

## **Sea Turtle ESA Observer Rule**

- Published in August 2007
- Broadened ESA authority for observers
- Includes state and recreational vessels
- NMFS decides which fisheries to observe through an annual determination process
- Fisheries remain on the list for 5 years
- Rule does not address "confidentiality"

## Data Confidentiality Workshop Northeast Region

Gina Shield, NEFSC,  
Fisheries Sampling Branch

## Data Collections Affected

- Commercial Fisheries Landings Statistics – data submitted to NMFS by federally permitted dealers / processors.
  - Owner: NERO – Fisheries Statistics Office
  - Principal Users: NERO – monitoring, NEFSC – stock assessments, sea day assignments, FMC – FMP development and monitoring.
  - Time Series: 1964 to present
  - Data Types: dealer and vessel identifiers, landings, ports, prices.

## Data Collections Affected

- Port Biological Sampling – length frequency and age structure data collected by port agents
  - Owner: NERO – Fisheries Statistics Office
  - Principal Users: NEFSC – stock assessments
  - Time Series: 1960's to present
  - Data Types: dealer and vessel identifiers, number of fish at length, age of fish.

## Data Collections Affected

- Vessel Trip Reports – data submitted by federally permitted vessels.
  - Owner: NERO – Fisheries Statistics Office
  - Principal Users: NERO – monitoring, NEFSC – stock assessments, FMC – FMP development and monitoring.
  - Time Series: 1994 – present
  - Data Types: vessel and dealer identifiers, catch, effort, gear, area fished

## Data Collections Affected

- Vessel Monitoring System – data submitted by vessel owners/captains on vessel activity, vessel positions obtained automatically.
  - Owner: Office for Law Enforcement
  - Principal Users: OLE, Permit Office, DAS monitoring, NEFSC and Councils
  - Time Series: 1996 - present
  - Data Types: Vessel Identifiers, permit #, activity codes, das declarations, positional time and locations (30 – 60 min).

## Data Collections Affected

- Economic Survey Data – vessel operating data collected by observers and independent surveys.
  - Owner: NEFSC – Social Sciences Branch & FSB
  - Principal Users: SSB
  - Time Series: 1995 - present
  - Data Types: Trip cost data - fuel, ice, food, bait, etc. Annual cost data - insurance costs, repair and maintenance costs, new equipment costs. Vessel identifiers & characteristics - length, gross tons, horsepower, etc.

## Data Collections Affected

- **Northeast Fisheries Observer Program** – detailed trip and haul level data collected by fishery observers while at sea aboard commercial fishing vessels.
  - Owner: NEFSC – Fisheries Sampling Branch
  - Principal Users: Stock Assessment Analysts, Protected Species, University Researchers, NGOs, Industry, Council Staff/Analysts
  - Time Series: 1989 - present
  - Data Types: vessel id, gear characteristics, effort, catch, environmental, biological samples, protected species, photos, comments.

## NEFOP data requests in 2007

- 18 from NMFS & Council Staff\*
- 4 from States\*
- 1 State Univ – non public (AA)
- 15 from Industry (11 non release)
- 8 from University public
- 4 from ngo public

## NER Process for Protecting Confidential Data

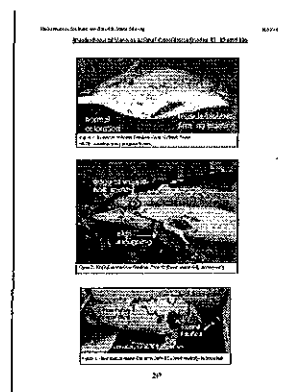
- **NOAA Requesters**
    - Statement of Non-Disclosure signed by all staff – acknowledges understanding of NAO 216-100.
    - most data sets access is granted upon request
      - exception...VMS
- NE needs a regional handbook

## NER Process for Protecting Confidential Data

- **Non-NOAA Requestors**
  - Eligibility determined based on guidelines of NAO 216 -100
  - **If eligible**, develop individual Data Access Agreement: defining relationship, project applicability, data needs, timeline, responsibility in protecting the data, review requirements, consequences of disclosure.
    - typically not direct access, data retrieved, provided, and then returned.
  - AA subject to GC, RA or Science Center Director review and approval

## AA Example - STSIE

- **AGREEMENT # STSIE2007-01**
- **between**
- **NATIONAL MARINE FISHERIES SERVICE (NMFS)**
- **and**
- **Sea Turtle Serious Injury Experts (STSIE)**
- **See Appendix III for list of experts and their addresses**
- **I. PURPOSE**
- The purpose of this Agreement is to outline the understanding among the NMFS, and the **Sea Turtle Serious Injury Experts**, relative to the protection of NMFS' **confidential observer information to which access is granted to the Sea Turtle Serious Injury Experts** to work on the project, "Serious Injury Criteria for Sea Turtles Caught in Northeast and Mid-Atlantic Fishing Gear".





## NER Process for Protecting Confidential Data

- Non-NOAA Requestors
  - If **ineligible**, aggregated data may be provided.

Suppression.....

## Data Suppression

- General Procedures
  - Individual Identifiers removed – dealer codes/names vessel numbers/names
  - “Rule of Three” – any unit for which data is supplied must have at least 3 entities.
    - Menhaden example
  - Positions aggregated on statistical area, ten minute square, quarter degree sq.

(b) (4)



(b) (4)



(b) (4)



## NER Process for Protecting Confidential Data

### Exceptions:

Observer Program Data Release  
capt or owner  
sectors

Commercial Fisheries Landings Report  
permittee

## Northeast Issues

- Statute of Limitations on confidentiality?

10 years?

20 years?

(b) (4)

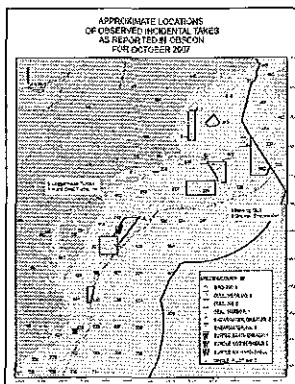


## Northeast Issues

- Observer Data and the TRT process
  - Is the indirect disclosure of a vessel identity to other fishers a concern?
  - Sharing photos for injury determinations

## NE Issues

- Individual Record requests
  - incidental take data
  - comments



### VESSEL LICENSING WITHIN REQUEST FORM

I, \_\_\_\_\_, owner of the above vessel, being duly sworn, depose and say that the information furnished herein is true and correct to the best of my knowledge and belief.

Signature of Vessel Owner: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Vessel Operator: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Vessel Master: \_\_\_\_\_

Date: \_\_\_\_\_

Official Agency: \_\_\_\_\_ Date: \_\_\_\_\_

This document is not valid unless it is signed by the vessel owner, operator, master, and the official agency. It is not valid if it is signed by any other person. It is not valid if it is signed by any person who is not the vessel owner, operator, master, or the official agency. It is not valid if it is signed by any person who is not the vessel owner, operator, master, or the official agency.



## Data Suppression Methods at SWR and SWFSC

Bill Jacobson, SWR Long Beach  
John Childers, SWFSC La Jolla

## Customers & Partners

- Regional Fishery Management Organizations
- Regional Management Councils
- Assessment Scientists
- Research Projects
- Constituency:
  - Administrative reports
  - Periodic data requests and submissions

## Data Collection Activities

- SWR
  - Fisheries of the U.S. - California commercial landings; fish meat processor survey
  - Tuna Tracking & Verification Program – NOAA Form 370, domestic cannery data, audit & spot checks)
  - Observer data
  - Permit data (PII)
  - Protected Resources – Habitat conservation planning, marine mammal stranding data
- SWFSC
  - Fisheries catch/effort data
  - Landings
  - Observer
  - Sampling programs

## Access to Confidential Information Not Maintained by NMFS Southwest

- PacFIN - for permit compliance & OLE investigations
- IATTC/AIDCP
  - Observer Records
  - International Review Panel
  - List of AIDCP Qualified Captains
  - Weekly Purse Seine Fleet Landings
- Customs and Border Protection data
  - ACE system and NMFS Entry Summary Database
- Western Pacific Purse Seine Fleet Activity
- Local Dealer Fish Tickets

## Process for Protecting Confidential Data

- Hard copies stored in locked cabinets
- Computerized data protected by IT network procedures and policies
- Access limited to authorized personnel
- Removal of identifying data elements (Names, ID numbers, etc.)
- Aggregation
  - Aggregated data must contain three or more distinct suppliers (vessel, person, business, etc.)
- If release forms are provided by submitter, data can be released.

## Procedure for non-NOAA Requesters

- Requester presents a 'need to know' justification
- Statement of Nondisclosure must be provided
  - Read NAO 216-100
  - Read the Regional Data Confidentiality Handbook
- Only individuals are designated as "authorized users". Access is not provided to offices or organizations

## Procedure for NOAA Requesters

- > Requester presents a 'need to know' justification
- > Statement of Nondisclosure must be provided
  - Read NAO 216-100
  - Read the Regional Data Confidentiality Handbook
- > Requester must provide details of data items and resolution needed

## Existing Data Suppression Methods Used for Aggregation of Confidential Data

- > SWR
  - Redaction of hard copies (FOIA)
  - Simple "rule of three" applied for summary data
  - Does not vary by data type
- > SWFSC
  - "Rule of three" applied for every data element at each level of resolution

## Regional Issues/Questions/Concerns

- > Various Interpretations of the "rule of three"
- > No time limit set on Non-Disclosure agreements or use of data
- > Interpretation of "confidential": Simple removal of identifiers vs. aggregating at the level of three or more
- > Are video images confidential?
- > Are observer data from a voluntary program confidential?
- > Are observer data from a voluntary program confidential?
- > What is the definition of a 'Need to Know'