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**NMFS FOIA 2010-00126, 25 December 2009**

### **Released Documents**

Please feel free to request any of these documents from us.

1. **February 23, 2010:** Received 2 memos from headquarters
2. **October 8, 2010:** CD of 13 documents from all regions but the Southeast:
3. **October 14, 2010:** 2<sup>nd</sup> CD containing one policy memo from 1992 from the Southeast Region

Original Request: *“Pursuant the Freedom of Information Act, 5 U.S.C. 552, as amended, the Association for Professional Observers (APO) requests the written guidelines and/or rules given to the staff of each National Marine Fisheries Service Observer Program and the National Observer Program with regard to public access to fisheries observer data and information. We request these guidelines and/or rules from the following time frames and should include any updates sent to observer program staff regarding any clarification of the guidelines and/or rules:*

1. 1990-2006
2. 2007 until present

### **Released Documents:**

#### **Headquarters:**

1. 15 April 1997: Memo from headquarters (Document #8)
2. 14 March 2008: Memo from Samuel Rauch to All Regional directors, stating that NMFS is developing national standards for aggregation of confidential information but until these NS are made, funnel all FOIA requests through Lisa DeFosse, of the National Observer Program.
3. 02 July 2009: Memo from Ned Cyr to NMFS Science Directors, NMFS Regional Administrators, and Office Directors, describing data aggregation guidelines. These guidelines state that information on takes of protected species must not reveal “the identity or business of any person”. It also states that there must be at least 3 participants in a fishery in order for the information to be released.

No memos or guidelines were provided from the National Observer Program

#### **Magnusun Act Information that is already available on the internet**

4. Magnuson Act provisions (Document # 6)
5. MSRA Confidentiality provisions, 2007 (Document #11)

### **Northeast Fisheries Science Center (NEFSC)**

6. NEFSC: Data request form, dated July 2005 (Document #1)
7. NEFSC: Data waiver form from the NEFSC, no date (Document #2)
8. NEFSC: Policy for Data Requests for Observer-Obtained Information and Trip Data Release, dated January 1, 2010 (Document #3)
9. NEFSC: Data release policy for fishermen, which describes just how a captain may obtain the data collected by the observer on one of their trips. (Document #4)

These documents are only forms. No data policy for the public is included.

### **From Southwest Regional Office (SWR) and Southwest Fisheries Science Center (SWFSC)**

10. SWR and SWFSC: Data Confidentiality Handbook, August 1996 (Document #12)
11. SWR and SWFSC: Data Confidentiality Handbook February 1997 (Document #13)

No recent data policy was released.

### **Pacific Islands Fisheries Science Center**

12. Honolulu Laboratory: Policy on confidentiality of fisheries operations data, dated 12/14/1999 (Document #5)

No recent data policy was released

### **Alaska Fisheries Science Center (AFSC)**

13. AFSC: memo from Bill Karp, Confidentiality and Appropriate Use of Observer Data, dated April 16, 2007 (Document #7)
14. AFSC memo from James Coe, dated April 22, 2007 - talks about a committee that formed to deal with confidentiality issues and describes different data aggregation guidelines. (Document # 9)

No data policy prior to the 2007 MSRA was released. There was a major battle for observer information concerning coral bycatch in Alaska in 2005 by the conservation group, Oceana. That FOIA request resulted in years of intense negotiations with the North Pacific Fishery Management Council. It's difficult to believe that there weren't official guidelines that were associated with these negotiations.

### **Southeast Region**

15. 24 June 1992: SEFSC Policy on Response to Data and Information Requests
16. Observer Training Manual
17. Observer Field Instructions
18. Observer Conduct outline