



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, MD 20910

THE DIRECTOR

Ms. Kimberly S. Dietrich
Executive Officer
Association for Professional Observers
P.O. Box 30167
Seattle, Washington 98103

AUG 28 2000

Dear Ms. Dietrich:

Thank you for your letter to Mr. Rod McInnis on behalf of the Association for Professional Observers (APO), expressing your concerns for observers and observer safety in the Hawaii longline fishery. Your letter was forwarded to me because observer safety is an important issue nationwide.

The National Marine Fisheries Service (NMFS) is developing standards and policies to ensure the safety and well-being of observers deployed on fishing vessels. To this end, NMFS established the National Observer Program in 1999 to develop and implement national standards for safety as well as hiring, training, insurance, liability, and retention of experienced observers.

Certain fisheries, such as the Hawaii longline fishery, present more difficult challenges because of the nature of the fishery and the type of vessels involved. The history of safety incidents you cite in your letter prompted changes to operational procedures in Hawaii and elsewhere, as has the NMFS promulgation of the Observer Health and Safety regulations (50 CFR 600.746).

The enclosure outlines actions which respond to the specific issues you raised. I appreciate the leadership role that the APO has embraced in the area of observer support and safety, and your assistance in recruiting observers for the Hawaii Longline Observer Program and other NMFS observer programs. Should you have any further ideas or questions please do not hesitate to contact me.

Sincerely,

Penelope Dalton

Penelope Dalton

Enclosure

THE ASSISTANT ADMINISTRATOR
FOR FISHERIES



Enclosure

In response to the issues you raised, the following outlines actions that are being taken.

Vessel Safety Inspection: Vessels are currently inspected by the Hawaii Longline Observer Program (HLOP) staff, prior to assigning an observer to a vessel, to determine whether they meet the minimum USCG safety standards. NMFS will implement procedures that also require the observer to inspect the vessel, using a safety checklist provided by NMFS, before the observer is deployed on the vessel. If the observer is inexperienced, he/she will be accompanied by a staff member of the HLOP during this pre-trip inspection. If the observer determines that a vessel is inadequate or unsafe, the HLOP will respect the right of that observer to refuse an assignment as long as that observer provides adequate documentation. The procedures that observers must follow to determine the safety or adequacy of a vessel will be outlined in the observer training course and added to the Hawaii Longline Observer Field Manual, along with the checklist.

The final determination as to whether a vessel is inadequate or unsafe for the purposes of carrying an observer and for allowing normal observer functions will be made by the HLOP. If a vessel has been determined to be unsafe or inadequate by the HLOP, they will direct the vessel to immediately correct any inadequacies or unsafe conditions. The HLOP will verify that corrective measures have been taken before any observer is assigned to that vessel. If a vessel refuses to correct these conditions, that vessel will be prohibited from fishing without observer coverage.

The HLOP will implement a system whereby records regarding recent health and safety conditions on all vessels participating in the Hawaii longline fishery will be maintained. Observers will be encouraged to review these records prior to deployment. Observers will also be encouraged to provide additional information to supplement these records after each trip.

Safety Inspection Protocols: The need for rigorous and consistently applied protocols to ensure observer safety is paramount. The Observer Health and Safety regulations provide basic guidelines for determining what constitutes an unsafe or inadequate vessel. NMFS is revising the Hawaii Longline Observer Field Manual to fully implement these regulations, including recognition of an observer's right to refuse an unsafe vessel. In addition, the Statement of Work currently being developed to contract for observer services in the HLOP will contain a section dealing exclusively with safety issues, including references to the Hawaii Longline Observer Field Manual. NMFS will continue to

work with the United States Coast Guard (USCG) to identify and document any additional factors which may contribute to unsafe conditions for observers.

Vessel Safety Records: Informing observers of health and safety conditions that exist on vessels are a necessary component of minimizing safety concerns. Before implementing a procedure for recording health and safety concerns, the HLOP will investigate what kinds of information these records should contain (e.g., safety concerns, health conditions, accommodations, vessel layout information, USCG actions), how these records would be maintained and updated, how long previous health and safety concerns or USCG actions would be kept on file, how to ensure objectivity and consistency in documentation, and who would have access. In the meantime, NMFS will work with the USCG to facilitate the communication of vessel safety information to observers.

Drug and Alcohol Use: The NMFS Office of Enforcement has no jurisdiction in the area of drug use onboard fishing vessels or large scale drug trafficking. Such activities are under the purview of the USCG and the United States Drug Enforcement Agency. Although there does not appear to be evidence of large scale drug trafficking by participants in the longline fishery, observers have noted personal use of illegal drugs and excessive alcohol. Should an observer provide credible evidence to NMFS of excessive drug use or alcohol abuse that has led to observer health and/or safety concerns, then NMFS will work with the USCG and the vessel to determine the appropriate course of action.

Sampling Protocols: Although a strict adherence to designated sampling protocols would not allow observers to eat a meal or to go the restroom during the retrieval of gear, the HLOP recognizes that these are necessary functions and observers are encouraged to use their own discretion to determine when the most opportune time for meals or relief would be. If the decision results in lost data, the observer must fully document the extent of the data gap so that analyses reflect these alterations in sampling protocol. This also holds true for missing data that occurs while attempting to collect biological samples or length frequency data from fish or protected species. Observers placed on vessels are encouraged not to disrupt the normal fishing activity of the crew and the vessel to perform their duties, and to use good judgment to ensure the objectives of the observer program are met.