

PEER Comments on proposed rule RIN 0648-AW72 and proposed rule RIN 0648-XS55
1/20/10

The following comments are submitted on behalf of Public Employees for Environmental responsibility (PEER).

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.
- **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 not spelled out 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 Concerns regarding the use of At-Sea Monitors in a Catch Share Program.

In addition, creation of the ASM system threatens important marine management objectives, including:

1. Requirements under MMPA and ESA

NMFS uses observer data to implement both the Marine Mammal Protection Act (MMPA) and the Endangered Species Act (ESA).

Monitors would collect significantly fewer protected species data than traditional observers because of the time necessary for monitors to complete catch data requirements; thereby compromising NMFS' ability to meet statutory requirements under MMPA and ESA. The "Marine Mammal, Sea Turtle, and Sea Bird Incidental Take Log" will have 60% fewer data fields. The following logs will not be used by monitors: Individual Animal Log; Protected Species Sighting Log; Marine Mammal Biological Sample Log; and Sea Turtle Biological Sample Log. Further, the Gear Characteristic and Haul Logs would also have fewer data fields.

The following programs use the data collected on these logs for:

- *Marine Mammal Serious Injury Determinations* would not be possible without the Individual Animal Log, which provides detailed information on the how the animal interacted with the gear and its disposition upon release.
- *ESA Biological Opinions* rely heavily on both the Individual Animal Log as well as both Biological Sample Logs to determine how fisheries will impact listed entities.
- *Marine Mammal Take Reduction Teams* would have fewer data to inform deliberations and develop management measures to reduce by-catch.

2. Diminished Data Collection and Data Quality

The ASMs' data collection activities have been significantly reduced from observers. Although less data is required to be collected, the most difficult decision an observer encounters, the selection of a random sample, remains part of the monitor's duties.

College educated observers have been taught and understand the critical principles of the scientific process and why they are important in the collection of data. It is important that samples are collected randomly and an observer has the training necessary to achieve random sampling goals without direct on-site supervision.

Observers also encounter a wide variety of organisms while at sea. A science background aids in, and reduces mistakes in the identification process of many difficult to distinguish organisms.

3. By-Catch Mortality

When an observer is on board a fishing boat, the amount of discarded fish is estimated. However, when there are no observers on board, a fisherman can discard limiting stocks, and therefore not count fish which could potentially limit the harvest of other stocks. This creates an incentive for fishers with observers to change their behavior when an observer is present (observer bias). A fisherman with an observer on board has an incentive to fish in a way to minimize by-catch of limiting stocks, by changing fishing location, gear, or fishing techniques.

Freed of an observer, a fishing boat is free to fish in a way which maximizes catch even if that means increased catch of limiting stocks. Observer bias is very difficult to estimate and limits the usefulness of the fishery dependent data in stock assessments. In addition it does not accurately represent catch (total fishing mortality) which needs to be assessed to fulfill NS1 ACL requirements.

The New England groundfish fishery is a multi-species fishery which catches several stocks in a single tow, which is sorted and unwanted fish are discarded at sea. There are a number of rebuilding stocks, some at very low abundance levels, which means that sectors will have small allocations of those species, which could significantly constrain their ability to harvest their allocations of more abundant stocks.

4. Problems with Previous Non-Degree Observer Programs

In the past NMFS and the Alaska Department of Fish and Game (ADFG) have used non-degreed to serve as observers.

NEFSC-Scallop Observer Program:

In 1999, the NEFSC was required to hire displaced fishermen and no educational standards were applied. Because the NEFSC anticipated that the data would be of less quality, a reduction in the data fields and data collection process was simplified. Eventually the pool of applicants was opened to non-fishermen. Forty people completed training. Of the 40 people, 34 people deployed once, 19 people deployed more than once. This example represents a very high turnover rate of over 50% after 2 trips. The recommendation of this section of the Management Control Review (MCR, page 359-360, September 2000, DOC/NOAA/NMFS) based on these results was:

“Hiring standards for candidates should be developed and enforced. Those standards should be consistent with standards employed elsewhere in NMFS observer programs which require at the minimum a 4 year college degree in fisheries science or a closely related field or a 2 year degree with further qualifying experience.”

ADFG-Crab Observer Program:

In 1989, the ADFG started their crab observer program and did not require a degree for observers. ADFG experienced a large number of professional and data problems. In 1991, they increased their eligibility and training standards significantly.

5. Duplication and Confusion

If the NEFMC's catch shares program remains unchanged, additional agency management and training staff will be required. Two programs will be in operation simultaneously and thus have a different process for training, in season management, contract management, administrative oversight, data management and data modeling.

It is unknown what amount of work that will be needed to harmonize data collected from monitors because many required data fields will be missing due to the reduced collection standards. These additional costs to the tax payer would not produce any identifiable public benefit.

Conclusion:

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. 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.

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. Creation of the proposed Northeast Fisheries At-Sea Monitoring Program may put the integrity of future fisheries science and fisheries management in jeopardy. To proceed with the monitoring program outlined in this program without addressing three concerns would be irresponsible.

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