

### **Monitoring Plan Requirements for Sector Operations Plans**

Assuming Amendment 16 is approved, in its yearly operations plan, each sector must demonstrate that its sector monitoring program adheres to the sector monitoring and reporting requirements outlined in Amendment 16 to the Northeast Multispecies Fishery Management Plan, including the use of an approved service provider for dockside and at-sea monitoring services, and standards issued by NOAA's National Marine Fisheries Service (NMFS) before the operations plan can be approved by NMFS.

#### **Dockside**

Sectors are required to develop and implement an independent third-party dockside monitoring system, beginning in fishing year (FY) 2010, for monitoring and validation of landings as an input to monitoring the utilization of annual catch entitlements (ACE). The details of the dockside monitoring system must be provided in the sector's operations plan and be satisfactory to NMFS. Standards for dockside monitoring programs are attached.

The dockside monitoring plan information in the operations plan must include:

1. A list of specific ports where members will land fish; specific exceptions should be noted (e.g., safety, weather) and allowed, provided there is reasonable notification of a deviation from the listed ports.
2. Who (either the dockside monitoring provider or sector manager) will maintain the database of vessel trip reports (VTR), dealer, observer, and monitoring reports.
3. How the sector plans to implement the dockside monitoring standards (attached) issued by NMFS. Specifically, the operations plan must specify:
  - a. Method of transmission of hails;
  - b. Timing of trip end hails for trips less than 6 hours in length, or occurring within 6 hours of port;; and
  - c. A plan to select an approved provider.

#### **Monitoring Provider Approval**

NMFS will approve service providers for the at-sea and dockside programs as eligible to provide sector monitoring services based upon criteria specified in Amendment 16 and standards issued by NMFS, and can revoke any approval of service providers and/or individual monitors if such criteria are no longer being met.

NMFS shall approve or disapprove a service provider detailed in sector operations plans based upon the completeness of the application and a determination of the applicant's

ability to perform the duties and responsibilities of a sector monitoring service provider, as further defined in Amendment 16.

**As part of that application, potential service providers must provide the following information to any interested sector to include in its sector operations plan:**

1. Identification of corporate structure, including the names and duties of controlling interests in the company such as owners, board members, authorized agents, and staff; and articles of incorporation, or a partnership agreement, as appropriate.
2. Contact information for official correspondence and communications.
3. A statement, signed under penalty of perjury, from each owner, board member, and officer that they are free from a conflict of interest with fishing-related parties including, but not limited to, vessels, dealers, shipping companies, sectors, sector managers, advocacy groups, or research institutions and will not accept, directly or indirectly, any gratuity, gift, favor, entertainment, loan, or anything of monetary value from such parties.
4. A statement, signed under penalty of perjury, from each owner, board member, and officer describing any criminal convictions, Federal contracts they have had, and the performance rating they received on the contract, and any previous decertification actions while working as an observer or observer service provider, or dockside monitor.
5. A description of any prior experience the applicant may have in placing individuals in remote field and/or marine work environments. This includes, but is not limited to, recruiting, hiring, deployment, and personnel administration.
6. A description of the applicant's ability to carry out the responsibilities and duties of a sector monitoring/reporting service provider and the arrangements to be used, including whether the service provider is able to offer dockside or at-sea monitoring services, or both.
7. The geographic area in which the provider is able to provide its services.
8. Evidence of adequate insurance to cover injury, liability, and accidental death for dockside, roving, and at-sea monitors (including during training). Workers' Compensation and Maritime Employer's Liability insurance must be provided to cover the dockside, roving, and at-sea monitors; vessel owner; and service provider. Service providers shall provide copies of the insurance policies to dockside, roving, and at-sea monitors to display to the vessel owner, operator, or vessel manager, when requested.
9. Details of the benefits and personnel services in accordance with the terms of each monitor's contract or employment status.

10. Proof that the service provider's dockside, roving, and at-sea monitors have passed an adequate training course that is consistent with the curriculum used in the current Northeast Fisheries Observer Program (NEFOP) training course, unless otherwise specified by NMFS.
11. An Emergency Action Plan (EAP) describing the provider's response to an emergency with a dockside, roving, and at-sea monitors, including, but not limited to, personal injury, death, harassment, or intimidation.
12. Evidence that the company is in good financial standing.

**Monitoring service providers must be able to document compliance with the following criteria and requirements, but do not need to provide such documentation to any sector to include in its operations plan:**

1. A service provider must have a comprehensive plan to deploy NMFS-approved dockside, roving, and/or at-sea monitors, or other at-sea monitoring mechanism, such as electronic monitoring equipment that is approved by NMFS, according to a prescribed coverage level (or level of precision for catch estimation), as specified by NMFS, including all of the necessary vessel reporting/notice requirements to facilitate such deployment, including the following requirements:
  - a. Be available to industry 24 hours per day, 7 days per week, with a sufficient telephone system monitored to ensure rapid response to industry requests.
  - b. Be able to deploy dockside, roving, and/or at-sea monitors, or other approved at-sea monitoring mechanism to all ports in which service is required by this section, or a subset of ports as part of a contract with a particular sector.
  - c. Report dockside, roving, and at-sea monitors and other approved at-sea monitoring mechanism deployments to NMFS and the sector manager in a timely manner to determine whether the predetermined coverage levels are being achieved for the appropriate sector.
  - d. Assign dockside, roving, and at-sea monitors and other approved at-sea monitoring mechanisms without regard to any preference by the sector manager or representatives of vessels other than when the service is needed and the availability of approved monitors and other at-sea monitoring mechanisms.
  - e. Assignments for dockside, roving, and at-sea monitor must be representative of fishing activities within each sector and must be able to monitor fishing activity throughout the fishing year utilizing information provided by the sector managers.
  - f. For service providers offering catch estimation or at-sea monitoring services, a service provider must be able to determine an estimate of discards for each trip, compare the estimated discard weights to discard

weights reported on VTRs to utilize the most accurate source of discard data, and provide such information to the sector manager and NMFS, as appropriate and required.

2. The service provider must ensure that dockside, roving, and at-sea monitors remain available to NMFS, including NMFS Office for Law Enforcement, for debriefing for at least 2 weeks following any monitored trip/offload.
3. The service provider must report possible dockside, roving, and at-sea monitor harassment; discrimination; concerns about vessel safety or marine casualty; injury; and any information, allegations, or reports regarding dockside, roving, or at-sea monitor conflict of interest or breach of the standards of behavior to NMFS and/or the sector manager, as specified by NMFS.
4. Service providers must submit to NMFS, if requested, a copy of each signed and valid contract (including all attachments, appendices, addendums, and exhibits incorporated into the contract) between the service provider and those entities requiring services (i.e., sectors and participating vessels) and between the service provider and specific dockside, roving, or at-sea monitors.
5. Service providers must submit to NMFS, if requested, copies of any information developed and used by the service providers distributed to vessels, such as informational pamphlets, payment notification, description of duties, etc.
6. A service provider may refuse to deploy a dockside, roving, or at-sea monitor or other approved at-sea monitoring mechanism on or to a requesting fishing vessel for any reason including, but not limited to, the following:
  - a. If the service provider does not have an available dockside/roving monitor prior to a vessel's intended date/time of landing, or if the service provider does not have an available at-sea monitor or other at-sea monitoring mechanism approved by NMFS within the advanced notice requirements.
  - b. If the service provider is not given adequate notice of vessel departure or landing from the sector manager or participating vessels, as specified by the service provider.
  - c. If the service provider has determined that the requesting vessel is inadequate or unsafe pursuant to the reasons described at 50 CFR 600.746.
  - d. For any other reason, including failure to pay for previous deployments of dockside, roving, or at-sea monitors other approved at-sea monitoring mechanism.
7. A service provider must not have a direct or indirect interest in a fishery managed under Federal regulations, including, but not limited to, fishing vessels, dealers, shipping companies, sectors, sector managers, advocacy groups, or research institutions and may not solicit or accept, directly or indirectly, any gratuity, gift,

- favor, entertainment, loan, or anything of monetary value from anyone who conducts fishing or fishing-related activities that are regulated by NMFS, or who has interests that may be substantially affected by the performance or nonperformance of the official duties of service providers. This does not apply to corporations providing reporting, dockside, and/or at-sea monitoring services to participants of another fishery managed under Federal regulations.
8. A system to record, retain, and distribute the following information for a period specified by NMFS:
    - a. Dockside, roving, and/or at-sea monitor and other approved monitoring equipment deployment levels, including the number of refusals and reasons for such refusals.
    - b. Incident/non-compliance reports (e.g., failure to offload catch).
    - c. Hail reports, landings records, and other associated communications with vessels.
  9. A means to protect the confidentiality and privacy of data submitted by vessels, as required by the Magnuson-Stevens Act.
  10. A service provider must be able to supply dockside and at-sea monitors with sufficient safety and data-gathering equipment, as specified by NMFS.