

FISHING PARTNERSHIP



SUPPORT SERVICES

June 30, 2020

Mr. Michael Pentony
Regional Administrator
National Marine Fisheries Service
Greater Atlantic Region
55 Great Republic Drive
Gloucester, MA 01930

Dr. Jon Hare
Science and Research Director
Northeast Fisheries Science Center
166 Water Street
Woods Hole, MA 02543

Re: Observer and At-Sea Monitoring Coverage in Greater Atlantic Region

Dear Mr. Pentony and Dr. Hare:

Fishing Partnership Support Services (FPSS) is a non-profit organization dedicated to improving the health and safety of commercial fishing families throughout the Northeast. Given the state of the COVID-19 pandemic and the guidance of the Centers for Disease Control and Prevention (CDC), we are gravely concerned by your decision to reintroduce observers to fishing vessels at this time. For the safety of our fishermen and observers, as well as their families, we ask you to change course and extend the waiver until you can work with the fishing community and public health officials: 1) to analyze the risk of the observer program to safety at sea, and 2) to develop effective protocols that minimize transmission of Covid-19.

The CDC has been clear that older adults and people with underlying medical conditions are at highest risk of developing a severe illness from COVID-19. “Severe illness means that the person with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, or they may even die.”

Fishermen and their families are in both of these high-risk categories. The “Graying of the Fleet” is well documented. The median age for New England Fishermen is over 50 years old, compared to the Nation's median age of 37.9 years of age. Many of the fishermen we work with are over 60 years old. Furthermore, fishermen and their families also suffer from underlying medical conditions at rates higher than the general population. We functioned as a health insurance company for fishing families for fourteen years, and during that time, we compared

our membership to another company that managed health care for approximately 150,000 self-insured individuals. FPSS family members were found to have higher rates of multiple health conditions than non-FPSS individuals, including Chronic Obstructive Pulmonary Disease (73% higher), hypertension (56% higher), and high cholesterol (114%). These are some of the underlying medical conditions listed by the CDC as putting a person at higher risk of developing a severe illness from COVID-19.

The resumption of the observer program poses an unnecessary and avoidable health risk for fishermen, and their families. The observer deployment guidelines listed in your letter – including deploying individuals to the same ports and vessels “as much as possible,” and a 14-day isolation period “before the first deployment” – are not sufficient to mitigate the risks posed to fishing workers, particularly after observers have begun servicing multiple vessels. An observer could easily act as an asymptomatic vector, spreading the virus unknowingly to fishermen in high-risk categories across multiple vessels. In addition, it is unclear if NOAA will require or oversee a testing program. Testing is critical for rapid response and contact tracing, a specific practice required by the CDC for close contacts (any individual within 6 feet of an infected person for at least 15 minutes) of laboratory-confirmed or probable COVID-19 patients. We have been working with health providers to provide testing for fishermen. Through this effort, we have been contacted by individual observers seeking testing. We are happy to assist, but this does not give us faith that the observer providers are prepared to test their employees.

If the observer program resumes under these protocols, fishermen will be forced to make an impossible choice between accepting risky exposure to a deadly disease or tying their vessel to the dock. This is a clear example of a situation that Congress intended to avoid when it created National Standard 10 of the Magnuson-Stevens Fishery Conservation and Management Act. As you know, National Standard 10 states that “Conservation and Management Measures shall, to the extent practicable, promote the safety of human life at sea.” Your waiver of the observer requirement at the start of the pandemic promoted the safety of human life at sea; its expiration makes it more dangerous to be a fisherman and an observer. We do not understand why it is not practicable to extend the waiver given the danger to human lives at sea.

NOAA’s own regulations under 50 CFR §600.355 instruct fishery management councils to avoid those situations that “create pressures on fishermen to fish under conditions that they would otherwise avoid if they can do so consistent with the legal and practical requirements of conservation and management of the resource.” The Mid-Atlantic and New England Fishery Management Councils, which helped create the observer program, were unequivocal in their objection to the redeployment of observers on July 1. The Mid-Atlantic Council stated that they “do not believe that the observer program can be safely operated” and have asked you to reconsider.

When you waived the requirement for fishermen to carry observers and At Sea Monitors (ASM) in March, it was “to protect public health, economic security, and food security, and to safeguard the health and safety of fishermen, observers, and other persons involved with such monitoring programs, while safeguarding the ability of fishermen to continue business operations and produce seafood for the Nation.”

Three months later, the public health situation remains critical if not worse, with record breaking diagnoses totals reported daily. There are no effective treatments for the disease, nor is

there a vaccine against it. Social distancing is difficult if not impossible onboard fishing vessels. With tight working areas, poorly ventilated living quarters, and bunk berthing, there is no way to reduce the risk of transmission aboard a fishing vessel. A terrifying example of this occurred last month on the west coast aboard the factory trawler American Dynasty when at least 84 of the crew contracted COVID-19.

As you know, commercial fishing is already one of the most dangerous professions in the United States. The fatality rate for the commercial fishing industry was nearly 30 times the average rate for all workers in the U.S. according to the National Institute for Occupational Safety and Health (NIOSH). The three deadliest fisheries in the U.S. are all on the East Coast with the Northeast multispecies groundfish being the most dangerous. On average, we lose 15 fishermen in East Coast fisheries annually. It is unconscionable to think that we could lose more to minimize a scientific data gap.

We urge you to extend the waiver of observer requirements during the pandemic to enable commercial fishing workers to safely continue their vital work – and, in doing so, maintain their own health and safety.

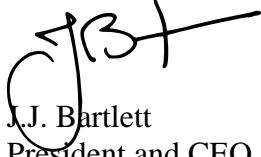
In addition, prior to resuming the observer program, we request that you consider the following in addition to the recommendations made by the New England Fishery Management Council and others:

- Conduct a prospective “Safety Analysis” with NIOSH, Coast Guard, and the regional councils to assess the potential adverse outcomes of redeploying observers into an aging workforce during a pandemic. Under National Standard 10, NOAA has worked with the Coast Guard, NIOSH and regional fishery management councils in the past to address safety at sea by analyzing historical adverse outcomes that have occurred in a fishery. These “Safety Analyses” have saved lives and reduced injuries. We did not see mention in your letter or the NOAA webpage of consultation with NIOSH or the Coast Guard. We have been working with both organizations as well as other public health official during the pandemic and would be happy to assist in any way.
- Include the fishing industry in the development of safety protocols for the return of observers. Your letter stated that NOAA has been “coordinating with observer providers to develop deployment plans that support the health and safety of observers, fishermen, and others in the fishing industry.” The fishing community needs significant opportunity to work on these protocols because they are the individuals that are at risk and have intimate knowledge of their vessels.
- Fishermen must have oversight mechanisms so that they have confidence that the government’s contractor is complying with the protocols before allowing an observer onboard their vessel. Prior to the start of a fishing trip, an observer inspects a fisherman’s lifesaving equipment to make sure that they are not boarding an unsafe vessel. If the observer finds an item of concern, the observer has the authority to prevent the vessel from lawfully fishing. The reciprocal must be part of future observer trips during the pandemic. As NOAA recognizes in 50 CFR §600.355, “The safety of a vessel and the people aboard is ultimately the responsibility of the master of that vessel.” Fishermen have a duty to keep their vessel safe. They must have the ability to review the observer’s

COVID-19 protocol compliance/symptoms and, if warranted, reject that observer without losing the ability to start the fishing trip as planned.

- Provide fishermen with the ability to receive medical waivers.

Sincerely,



J.J. Bartlett
President and CEO
Fishing Partnership Support Services
jbartlett@fishingpartnership.org
30 Chestnut Ave., Suite 2
Burlington, MA 01803
Fishingpartnership.org

CC:

U.S. Senator Elizabeth Warren
U.S. Senator Ed Markey
U.S. Senator Jack Reed
U.S. Senator Sheldon Whitehouse
U.S. Senator Charles Schumer
U.S. Senator Kristen Gillibrand
U.S. Senator Cory Booker
U.S. Senator Robert Menendez
U.S. Senator Jeanne Shaheen
U.S. Senator Margaret Wood Hassan
U.S. Senator Susan Collins
U.S. Senator Angus King
U.S. Senator Richard Blumenthal
U.S. Senator Christopher Murphy
U.S. Representative Seth Moulton
U.S. Representative Bill Keating
U.S. Representative Jim Langevin
U.S. Representative David Cicilline
Massachusetts Governor Charlie Baker
Rhode Island Governor Gina Raimondo
Massachusetts Attorney General Maura Healey
Rear Admiral Thomas G. Allan, Coast Guard First District Commander
Rear Admiral Keith Smith, Coast Guard Fifth District Commander
Jennifer Lincoln, Associate Director, NIOSH Office of Agriculture Safety and Health
New England Fishery Management Council
Mid-Atlantic Fishery Management Council
Commercial Fishing Community