

Section 4.3.1.10.3 Standards for Sector Monitoring and Reporting Service Providers

The following standards would be used by NMFS to evaluate service providers employed by sectors to comply with the dockside and at-sea monitoring and reporting requirements outlined in this section. NMFS will certify/approve service providers and associated dockside, roving, and at-sea monitors as eligible to provide sector monitoring services based upon criteria specified below and can decertify/disapprove service providers and/or individual monitors if such criteria are no longer being met. NMFS will publish a list of approved service providers consistent with the APA. In its yearly operations plan, each sector must demonstrate that its sector monitoring program adheres to the sector monitoring and reporting requirements outlined in this section, including the use of an approved service provider for sector reporting and dockside, roving, and at-sea monitoring services before the operations plan can be approved by NMFS. The following standards and criteria for approval can be further modified by a future Council action.

Sector monitoring program service providers, including those providing dockside, roving, and at-sea monitor services, must apply for certification/approval from NMFS. NMFS shall approve or disapprove a service provider 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 below. As part of that application, potential service providers must include the following information:

- 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.
- Contact information for official correspondence and communication with any other office
- 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.
- 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 previous decertification action while working as an observer or observer service provider.
- 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.
- A description of the applicant's ability to carry out the responsibilities and duties of a fishery monitoring/reporting services provider and the arrangements to be used.
- 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.
- Proof that its dockside, roving, and at-sea monitors, either contracted or employed by the service provider, are compensated with salaries that meet or exceed the U.S. Department

of Labor (DOL) guidelines for fishery observers. Dockside, roving, and at-sea monitors shall be compensated as a Fair Labor Standards Act (FLSA) non-exempt employees. Service providers shall provide any other benefits and personnel services in accordance with the terms of each monitor's contract or employment status.

- 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 NEFOP training course, unless otherwise specified by NMFS.
- An Emergency Action Plan (EAP) describing its response to an emergency with a dockside, roving, and at-sea monitors, including, but not limited to, personal injury, death, harassment, or intimidation.
- Evidence that the company is in good financial standing.

Dockside monitoring service providers must be able to document compliance with the following criteria and requirements:

- A comprehensive plan to deploy NMFS-certified dockside, roving, and 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 service provider must be available to industry 24 hours per day, 7 days per week, with the telephone system monitored a minimum of four times daily to ensure rapid response to industry requests.
 - A service provider must be able to deploy dockside, roving, and at-sea monitors, or other approved at-sea monitoring mechanism to all ports in which service is required.
 - A service provider must report dockside, roving, and at-sea monitors and other approved at-sea monitoring mechanism deployments to NMFS and/or the sector manager in a timely manner to determine whether the predetermined coverage levels are being achieved for the appropriate sector.
 - A service provider must 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/certified monitors and other at-sea monitoring mechanisms.
 - A service provider's dockside, roving, and at-sea monitor assignment must be representative of fishing activities within each sector and must be able to monitor fishing activity throughout the fishing year.
 - A service provider must be able to determine an estimate of discards for each trip, compare the estimated discard weights to reported discard weights 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 by this section.
- 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.

- 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.
- Service providers must submit to NMFS, if requested, a copy of each type of 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.
- 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.
- A service provider may refuse to deploy a dockside, roving, or at-sea monitor or other approved at-sea monitoring mechanism on a requesting fishing vessel for any reason including, but not limited to, the following:
 - 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 observer or other at-sea monitoring mechanism approved by NMFS within 72 hours of receiving a request from a vessel.
 - If the service provider has determined that the requesting vessel is inadequate or unsafe pursuant to the reasons described at § 600.746.
 - For any other reason, including failure to pay for previous deployments of dockside, roving, or at-sea monitors other approved at-sea monitoring mechanism.
- 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.
- A system to record, retain, and distribute the following information for a period specified by NMFS:
 - Dockside/roving monitor deployment levels
 - Incident/non-compliance reports (e.g., failure to offload catch)
 - Hail reports, landings records, and other associated communications with vessels
- A means to protect the confidentiality and privacy of data submitted by vessels, as required by the Magnuson-Stevens Act.

For an individual to be certified as a dockside, roving, or at-sea monitor, the service provider must demonstrate that each potential monitor meets the following criteria:

- Candidates must possess a Bachelor's degree with a major in one of the biological sciences from an accredited four-year college or university with at least 30 semester hours in any combination of scientific or technical courses. The education requirement may be waived, based on specialized experience, on an individual basis, with approval by NMFS.

- Successful completion of all NMFS-required training and briefings before deployment.
- Physical and mentally capacity for carrying out the responsibilities of a dockside, roving, or at-sea monitor on board fishing vessels, pursuant to standards established by NMFS such as being certified by a physician to be physically fit to work as an at-sea monitor or dockside monitor. The physician must understand the monitor's job and working conditions. Physical considerations include, but are not limited to the following:
 - Susceptibility to chronic motion sickness;
 - Ability to live in confined quarters;
 - Ability to tolerate stress;
 - Ability to lift and carry heavy objects up to 50 pounds;
 - Ability to drag heavy objects up to 200 pounds; and
 - Ability to climb a ladder.
- A current Red Cross (or equivalent) CPR/first aid certification.
- Absence of fisheries-related convictions based upon a thorough background check
- Independence from fishing-related parties including, but not limited to, vessels, dealers, shipping companies, sectors, sector managers, advocacy groups, or research institutions to prevent conflicts of interest