

ENFORCEMENT CONSULTANTS REPORT ON ELECTRONIC MONITORING
REGULATORY PROCESS FINAL PREFERRED ALTERNATIVES AND NEXT STEPS

The Enforcement Consultants (EC) have reviewed the documents associated with Agenda Item J.3 and has the following comments.

2.2.2.1 Video Reading Protocols: As a point of clarification, the EC would like to suggest that the audit of the logbook be understood and represented as a three-step process.

Step 1 would be a comparison of the log book entries with the fishing events recorded by the electronic monitoring (EM) system. There needs to be a one to one correlation; for every fishing event there is a logbook entry. If a one to one correlation is not presented, 100 percent review of the video would ensue. If the one-to-one correlation is presented you proceed to step 2.

Step 2 is a percentage comparison of what is documented in the log book with what is seen on the video to determine, for example, if the discard amounts are documented properly.

Step 3 would then be a random review of the “fishing event” inclusive of the haul back, catch sorting, and transiting before and after deployment of the gear.

The percentage review of step 2 and 3 would not necessarily be the same. The EC would recommend a more conservative (larger) percentage review for step 2 over step 3.

Under Alternative 2, the percent video review required should be that necessary to develop an adequate estimate of discards. Under Alternative 3, the percent video review required should be that necessary to ensure fishermen are complying with logbook data entry requirements. Alternative 3 is different from Alternative 2, in that it is more about human behavior - balancing risk and trust. As such, determining the percentage of review should be evaluated accordingly.

2.2.7.5 EM Vessel Operational Plan – Individual Vessel Monitoring Plan (IVMP) Expiration: **The EC endorses Option B (Annual Expiration, or if modifications are made) for all sectors.** This option is consistent with general West Coast permitting processes, either Federal or state. Although not a permit, the IVMP is a component of a privilege. We believe the status of that privilege should expire, be reviewed, and potentially renewed on an annual basis. An annual declaration of the status of the vessel (i.e. whether modifications have been made) will provide assurances for management and enforcement that the existing IVMP is in fact adequate in providing the EM systems data needed to effectively monitor the fishing activity of the vessel. We do not envision a complicated multipage document and therefore do not believe establishing this annual renewal requirement to be burdensome on the industry or an increased workload for National Marine Fisheries Service (NMFS). Our position demonstrates a conservative approach in implementation of the EM Program. As the program matures and all participating affected parties become familiar with the program components and requirement, this annual requirement may potentially become a candidate for modification. This has been our experience in the First Receiver Site License Program, which has similar elements.

2.2.8.4 Video Review: **The EC recommends Options A & B for all sectors. NMFS or its agent Pacific States Marine Fisheries Commission assume the video analysis responsibility, with one reviewing entity doing the data analysis for the entire coast.**

The EC is concerned there may be a conflict of interest with an EM provider reviewing their own data or another EM provider's data. EM providers want to promote the capabilities and reliability of their product as a basic element of their business plan, which may influence their review of the data generated by their systems, i.e. their analysis may be biased because of their interest in demonstrating the advertised capability or reliability of their system, which in turn may be exaggerated or overstated. Conversely, this bias may lead them to manifest doubt on the capabilities or reliability of their competition's system.

The EC is also concerned about the consistency of the data analysis fleet-wide. Even with one reviewing entity doing all data analysis coast-wide, there will be some level of subjectivity in that analysis. The inconsistency of that subjectivity could expand exponentially if, for example, there are three or four system providers all doing their own data analysis. Having EM providers doing the video analysis will complicate transfer, access, and storage of the data, potentially compromising the evidentiary integrity of the data.

Some have suggested having EM providers reviewing the data is analogous to observer providers contracting the services of observers. The EC disagrees. In this analogy, the human observer is the equivalent of the EM system collecting data. Observer data is evaluated by the Science Center, not the observer provider. EM data will be collected by an EM system obtained from an EM provider. The analysis of the data collected by the EM system should be done, not by the EM system provider, but by NMFS or its agent.

2.2.10 Spatial Variation for High Bycatch Areas:

The EC supports the GEMPAC recommendation to remove Options A for spatial management options for the bottom trawl sector. Spatial management will add complexity to the management of the IFQ fishery and will require identifying additional management areas, which in turn will be more difficult and more costly to manage and enforce.

2.2.11 Adaptive or Phased Implementation:

The EC endorses the GEMPAC recommendation of Implementation of B and E for all sectors. The EFPs will be used to either further develop the policy or test the policy. If final action is taken, then the choice would be to test the policy (Option B).

PFMC
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