

GROUND FISH ADVISORY SUBPANEL REPORT ON RECOMMENDATIONS FOR FINAL ACTION TO ADOPT FIXED GEAR ELECTRONIC MONITORING ALTERNATIVE AND DEEM WHITING AND FIXED GEAR ELECTRONIC MONITORING REGULATIONS

Recommendations for Revisions to the Final Preferred Alternative (FPA) for the Fixed Gear Fishery:

Agenda Item F.4, Attachment 1

The Groundfish Advisory Subpanel (GAP) heard a presentation from Mr. Brett Wiedoff, Council staff, and reviewed the Groundfish Electronic Monitoring Policy Advisory Committee (GEMPAC) Report.

Regarding the Electronic Monitoring (EM) **Vessel Monitoring Plan for fixed gear**, the GAP joins GEMPAC in recommending that the final preferred alternative be changed from Option B, annual expiration, to **Option A, no expiration**. The change would reduce unnecessary paperwork to industry, and be more cost effective for government. The vessel monitoring plans already include a provision requiring a plan review when changes are made. Additionally, preseason planning will still take place between vessels and National Marine Fisheries Service (NMFS) regarding fishing plans, to assist in planning for observer needs in each port.

Regarding **Declaration of EM use**, the GAP joins the GEMPAC in recommending that the final preferred alternative (FPA) be changed from Option A -Annual, choose for entire year, to **Option D, no limit on frequency of change**.

Regarding the **Data Transfer Process**, the GAP joins the GEMPAC in recommending that only **Option D be included, Vessel Operator and Crew**, as the FPA. In all the exempted fishing permits (EFPs), there has been no use of a shoreside monitor for data transfer and having the vessel operator responsible for transfer has worked well.

As to **Video and Data Processing Analysis**, the GAP joins the GEMPAC in stating that once a certification process is in place, third party reviewers will be competing for business. It should be emphasized that from the perspective of the GAP, the work done by Pacific States Marine Fisheries Commission has been excellent under the EFP, and the GAP recommends that Pacific States be eligible to continue to provide those services as a third-party provider.

Deeming of Fixed Gear and Whiting Regulations for 2017

Agenda item F.4.a, NMFS Report

The GAP heard a presentation from Ms. Melissa Hooper from NMFS, which included a PowerPoint, and also reviewed the GEMPAC statement pertaining to the deeming of regulations.

Regarding the final regulations from NMFS for whiting and fixed gear EM, the GAP agrees with all the GEMPAC recommended changes, including incorporating the changes to the FPA for fixed gear set forth above, into the proposed regulations.

In addition, the GAP has the following comments:

The GAP notes and appreciates the approach of NMFS to use "program guidelines," instead of strict regulation, in some instances, in order to allow flexibility in the EM program as a whole.

EM Service provider approval process

The GAP recommends that NMFS incorporate language into the regulation that requires that the service agreements comply with state and federal laws pertaining to warranties of equipment provided to vessel owners. Currently, warranty language in service provider agreements is unduly restrictive regarding vessel owner remedies.

Vessel Approval Process to Participate in EM

The GAP examined the draft regulations regarding a two-step application process for a vessel new to EM to be eligible to participate. It is the GAP's opinion that the application process is unduly complex. Note that the application process is set forth over 3 pages of regulations. Extensive and excessive paperwork is required to get into the program. The process is such that it may serve as a barrier to new applicants. The GAP recommends that NMFS significantly simplify the process in the regulation.

It is also the GAP's recommendation that for vessels already participating in the EM EFP during 2016, if those vessels are in good standing, that there be an extremely simplified one-page application to transition from the EFP program to an EM program established by regulation.

Retention of Records

This issue is the very important to the GAP and generated the most discussion. First, the GAP strongly opposes a three-year period for video record retention. The purpose of EM is for compliance monitoring only. The GAP notes the following:

- There is **NO STATUTORY REQUIREMENT** that the records be retained for three years.
- Requiring that industry pay for video storage for three years is an unjustifiable additional financial burden on the industry.
- For every hard drive of data received, a report is prepared as to findings that notes any anomalies in the initial video review of the catch. Currently, this report is distributed among Pacific States Marine Fisheries Commission, NMFS and the Office of Law Enforcement. It is at this point that if there is a law violation, if warranted, OLE will have evidence to initiate an enforcement action.
- It is clear to the GAP that enforcement wants the retention of records for 3 years in order to look at previous data to inform their decisions as to whether to take enforcement action. The position of the GAP is that industry should be responsible only for storage costs to the extent it is needed for compliance monitoring, not for enforcement. If enforcement wants the records retained, enforcement should pay for the storage costs.

- The GAP wishes to point out that the Canadian EM program does not require storage of the data on hard drives, and does not burden industry with a requirement to keep the videos and/or pay for the storage.
- The GAP strongly agrees with the GEMPAC report that states: Retention of video should only be a one-year requirement unless there is a compliance issue identified. The GEMPAC does not believe that the retention of the actual video is necessary. Reports generated by the video reviewer could be kept for three years, but the retention of video is redundant and results in expenses that are burdensome to the fleet. The GAP also agrees with GEMPAC statement that expenses could be significant if the entire video is required to be saved, rather than the individual discard events themselves.

PFMC
04/11/16