

GROUND FISH ELECTRONIC MONITORING POLICY ADVISORY COMMITTEE REPORT ON  
FOR FINAL ACTION ON ELECTRONIC MONITORING OF NON-WHITING MIDWATER AND  
BOTTOM TRAWL FISHERIES REGULATIONS AND UPDATE ON EXEMPTED FISHING  
PERMIT

The Groundfish Electronic Monitoring Policy Advisory Committee (GEMPACs) Supplemental Report provides a summary of four topics: 1) Recommendations for the Final Preferred Alternative and Sub-options for and Electronic Monitoring (EM) program; 2) Draft Regulations Revisions, 3) Future GEMPAC/Groundfish Electronic Monitoring Technical Advisory Committee (GEMTAC) meeting topics; 4) and Third-Party Review Discussion.

**1. Recommendations for the Final Preferred Alternative and Sub-options for and EM program** The GEMPAC provides the following recommendations and rationale for revisions of the final preferred alternatives and sub-options for an Electronic Monitoring Program.

The GEMPAC prefer the following Alternatives and Sub-Options:

1. Alternative 2 – Electronic Monitoring (No change from previous preferred).
2. Sub-Option A2: Logbook data is used as the primary data source to debit vessel accounts and EM data is used to audit the validity of the logbook data. (No change from previous preferred).
3. Sub-Option B2: Less than 100 percent of the video is reviewed. The level would initially be 100 percent, but NMFS would have the ability to modify the percentage based on performance in consultation with the Council. The review rate would not be less than 10 percent. The GEMPAC agrees with the Council's original motion for the percent review to be the minimum level determined to be necessary to ensure compliance with an escalation clause for non-compliance. However, the GEMPAC notes that a process for lowering the rate of review below 100% to reduce costs needs to be developed in the near future. Therefore, the GEMPAC suggests that the level of review should initially be 100 percent, but NMFS would have the ability, in consultation with the Council, to modify the percentage based on the amount of review necessary to verify the accuracy of logbook information, and the performance of individual operators.
4. Sub-Option C1: All discards would be debited from individual fishing quota (IFQ) accounts. This is consistent with the EM program that is being proposed for the fixed gear and whiting midwater trawl fisheries. (No change from previous preferred).
5. Sub-Option D2 for the bottom trawl and non-whiting midwater trawl fishery: Optimized retention - Vessel operators would be able to discard those species that can be differentiated on camera. (No change from previous preferred).
6. Change the final preferred alternative from Sub-Option E1 and E6, to a new Sub-Option E8: Use a NMFS-approved discard mortality rate (DMR), developed in consultation with the Council, with the intent of finalizing halibut DMRs under EM by November 2017. The GEMPAC would like NMFS, in consultation with the Council, to develop and implement DMRs that are less than 90% to better reflect the mortality rates of the fleet. The DMRs would be applied upon implementation of the final rule for bottom trawl and non-whiting midwater trawl EM program. Therefore, GEMPAC recommends the following process to examine and apply DMRs for IFQ accounting and total mortality accounting:

- a. Explore potential fleet-wide and vessel-specific rates using data from observed EM and Non-EM trips in years 2011 to 2016, and examine rates by depth;
  - b. Examine current data collected by Pacific States Marine Fisheries Commission (PSMFC) to assess the possibility of creating an EM DMR and how that rate compares to fleet-wide and vessel-specific rates;
  - c. Potential timeline for Council and Advisory Body discussions:
    - i. *April to September* - Council staff work with NMFS, West Coast Groundfish Observer Program (WCGOP), International Pacific Halibut Commission (IPHC), PSMFC to scope out data and the methods to calculate fleet-wide, vessel-specific, and EM viability DMRs;
    - ii. *September, 2017 Council meeting* - WCGOP would provide a draft annual halibut mortality report to Council for comment (likely report would include fleet-wide EM DMRs and other info); ABs review fleet-wide and vessel-specific rate methodology and provide comment for which rates should be applied in the bottom trawl and non-whiting midwater trawl fishery under EM.
    - iii. *November, 2017* – If needed, return to Council and Abs for final discussion and changes based on previous meetings.
7. Change the final preferred alternative from Sub-Option F2 (Annual Expiration) to Sub-Option F1 (No Expiration): Vessel monitoring plans would be effective until revised. The GEMPAC notes that Sub-Option F1 provides more flexibility. This is consistent with the EM program that is being proposed for the fixed gear and whiting midwater trawl fisheries.
  8. Change the final preferred alternative from Sub-Option G2 to Sub-Option G1: No limit on switching between EM and observers. This incorporates more flexibility for vessels. Preseason planning would still be conducted to assist observer providers and the WCGOP in workload planning to supply an appropriate number of observers in each port. This is consistent with the EM program that is being proposed for the fixed gear fishery.
  9. Sub-Option H1: A representative of the vessel (vessel operator or crew) would be responsible for delivering the hard drive to the EM service provider. Remove preference for Sub-Option H3 since it is no longer needed - the vessel operator is solely responsible for delivery of the hard drive. This is consistent with the EM program that is being proposed for the fixed gear and whiting midwater trawl fisheries.
  10. For the topic of Discard Species List Adjustments, Change the Sub-Option I2 to I1: NMFS to make determination and provide list to fishers through the NMFS approval process to use EM. The GEMPAC notes that this topic was omitted from the analytical document but believes that the recommended change provides more flexibility for the fishery participants, reflects the current practice under the EFPs whereby the discard species list is placed in the vessel monitoring plan (VMP) and changes are approved by NMFS. In addition, changing the list via the VMP is a more expedient process versus waiting for a change via a Council action with proposed and final rulemaking.

The following Sub-Options are under the topic of Discard Species List Adjustments:

Option Sub-Option I1: NMFS to make determination and provide list to fishers through the NMFS approval process to use EM.

Sub-Option I2 (Council Preferred in Sept, 2014): Use Council process for changing species list using routine management measures if initial list is fully analyzed for environmental impacts (e.g., use groundfish specification process, or some other routine management measure).

Sub-Option I3: Set initial lists in regulation and change at some future point through Council process with proposed/final rule making.

## **2. Draft Regulations Revisions**

The GEMPAC reviewed the draft regulations in [Supplemental NMFS Report 2](#) (Agenda Item F2a, April 2017) and offers the following changes:

1. Add a requirement for a self-enforcing agreement groups to submit an annual report to the Council;
2. Add deep sea sole, sanddabs, and starry flounder to the list of species that can be discarded. Deep sea sole and sanddabs would be counted as IFQ species, if mixed with IFQ species;
3. Modify the draft regulations to reflect changes based on Council final action and guidance.

## **3. Future GEMPAC/GEMTAC Meeting Topics**

GEMPAC/GEMTAC meetings beyond April, 2017 will likely focus on development of policy and regulations for:

1. Third party video review;
2. Self-enforcement agreements;
3. Adjustment of video review rates to audit logbooks (i.e., move to less than 100 percent for compliant vessels, need criteria for increasing rate to address compliance issues);
4. Incorporating advances in technology into the EM program;
5. Changes in structure of program as needed (e.g., multiple EM providers could change dynamics of costs among fisheries);
6. Other fisheries that may want to implement EM (e.g., drift gillnet fishery).

## **4. Third Party Review Discussion**

The GEMPAC recommends that the Council support moving forward with Pacific States Marine Fisheries Commission as the only EM video reviewer and that any development of a program that allows 3<sup>rd</sup> party reviewers be suspended until it can be demonstrated that 3<sup>rd</sup> party review will meet the fundamental goal of the EM program by reducing overall costs.

Questions from GEMPAC discussion

1. Can PSMFC be designated as a primary/singular/sole source video reviewer?
2. Will NMFS require an audit of PSMFC?
3. What are the incremental costs of an audit? Can it be covered through cost recovery?

The GEMPAC assumes if PSMFC is the singular video reviewer then there may be a lower bar for the “audit” requirements, and we could possibly do away with it completely.

If the Council moves forward with this recommendation then the third party provisions in section 660.603 would be removed for the EM program regulations for fixed gear and whiting final rule and not implemented for bottom trawl and non-whiting midwater trawl fisheries.

The GEMPAC provides the following quote from [Supplemental public comment](#) (Agenda Item F.2.b, April 2107) the industry letter:

“Specifically, we are concerned that NMFS’s intention to transition all electronic monitoring data processing and video review to third parties by 2020 will result in significant costs to the industry that have not been properly evaluated, disclosed or analyzed. We are respectfully requesting that the Council recommends that all language regarding Third Party Data Processing and Video Review be removed from the final regulatory package for fixed gear and whiting § 660.603(m) and from any final preferred alternatives for trawl regulation that will follow and that the Council and NMFS reserve action for a separate rulemaking.”

The GEMPAC provides the following rationale for this recommendation:

- Intention to transition EM video review to third parties by 2020 will result in significant costs to the industry that have not been properly evaluated, disclosed or analyzed.
- There is evidence from the EFPs that documents PSMFC’s costs to deliver these services, but there are no cost estimates for a third party model provided in the draft Environmental Assessment or draft Regulatory Impact Review and Initial Regulatory Flexibility Analysis (RIR/IRFA).
- Proposed rule does not explicitly describe many of the requirements a third party provider has to meet (such as video review coverage level or sampling schemes), the current PSMFC costs cannot be assumed to be the same as third party provider costs.
- Additionally, it is not clear if NMFS will have additional costs under a third party provider model and what those costs are.

PFMC  
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