

SUPPLEMENTAL GROUND FISH ELECTRONIC MONITORING POLICY ADVISORY
COMMITTEE REPORT ON ELECTRONIC MONITORING PROGRAM REVIEW

The Groundfish Electronic Monitoring Policy Advisory Committee and Technical Advisory Committee (GEMPAC and GEMTAC) met via webinar on Saturday April 4th and discussed several issues related to the ongoing development of an Electronic Monitoring (EM) program for the West Coast trawl Individual Transferable Quota (ITQ) groundfish fishery. The GEMPAC thanks Council staff and GEMPAC Chair Hanson for the execution of a smooth webinar process. National Marine Fisheries Service (NMFS) staff, Ms. Melissa Hooper, and Mr. Brett Alger, provided an update on implementation of the EM Program, an overview of the [NMFS Report 1](#) (Agenda Item G.5.a, NMFS Report 1) and a summary of the final [NMFS Data Retention Procedural Directive](#) (Agenda Item G.5.a, Attachment 4). In advance of the Council reviewing the status of the EM program, considering changes to the final rule, and considering an extension to the current EM exempted fishing permits (EFPs), we provide the following comments.

General

The GEMPAC recognizes the incredible amount of work that many have put into the development of the EM program including industry, EM providers, Pacific States, Council Members and Staff, and, in particular, NMFS. Over the last few years there have been significant comments from stakeholders, providers, Council Members, and the GEMPAC regarding concerns about the direction that the West Coast EM program has been heading. Despite being within a year of implementation, there are significant uncertainties at both the macro and micro levels that have major cost implications for the program. Unfortunately, the current timeline for EM implementation does not afford us the time to refine and clarify the critical elements of the EM program that will determine whether it is successful in meeting its goals. Exacerbating these concerns is the current COVID-19 pandemic, which poses additional operational challenges that are still unfolding. With shelter-in-place orders, quarantines, social distancing, and complete uncertainty about the trajectory of the virus it is clear that we are not operating in a normal fisheries management environment. Add to that the extreme disruption in global markets, travel restrictions, and the obstacles to safely running a commercial fishing boat or seafood processor during these unprecedented times. The GEMPAC would recommend that the Council, its advisors, and the agency spend time considering immediate actions that can help bring stability to the fishing industry which has been deemed essential at the Federal and state levels.

GEMPAC Recommendations

Taking all of this into consideration, and in recognition of our collective desire to create a cost-effective and robust EM program that meets the goals and objectives identified by the Council, the GEMPAC has the following recommendations.

1. The Council should initiate an amendment process at this meeting to revise the existing final rule, change the effective date of the program, and incorporate the bottom trawl/midwater trawl program into the same rulemaking for consistency (if appropriate).

2. The Council should recommend that more time and meaningful consultation on the EM Manual and Guidelines take place between the GEMPAC, Council, and the agency, as these dictate the most important components of the program for projecting costs and operations.
3. The Council should recommend to NMFS that the existing EFPs continue until the effective date of the new rule and that new vessels should be allowed to join the EFPs during this time.

The plan amendment should include a comprehensive review of the components in the final rule and determination if the regulatory program that was designed in 2016 is still the direction that the Council wishes to proceed based on the experiences and knowledge gained over the last four years from the EM EFPs. Further, any plan amendment should have clear detail of all program components and how they function together before final action is taken. Lastly, all associated costs for the program should be fully available and understood.

The GEMPAC working with NMFS, stakeholders, and the Council should determine if it makes more sense to combine the pending bottom trawl/non-whiting midwater trawl rulemaking together with this plan amendment. This may be appropriate for consistency and efficiency.

With the plan amendment, the Council should recommend to NMFS that the effectiveness of the amended regulations should be no earlier than January 1, 2022. In tandem with this recommendation is the desire of the GEMPAC and stakeholders to continue the current EM EFPs through at least December 31, 2021, as they are currently administered. This means industry participants are required to cover the expense of equipment procurement, maintenance, and project management fees to the EM providers and NMFS covers the cost of video review services completed by Pacific States Marine Fisheries Commission.

Rationale

The GEMPAC believes there is ample justification for these recommendations and provides the following rationale.

1. COVID-19 Pandemic: As mentioned above, the GEMPAC recognizes that the operating environment is changing rapidly as a result of the COVID-19 pandemic. In addition to the basic challenges of operating fishing businesses under social distancing and quarantine requirements, there is tremendous uncertainty about the future. Seafood markets and supply chains have been disrupted and, in some cases, eliminated. Providing some certainty to fishermen with regards to EM and associated costs will go a long way towards helping the industry not only survive the pandemic but come out of it in a stronger position moving forward. At the same time, the operations of Agency are also directly impacted by the epidemic and surely are a strain on project deadlines.
2. There are several uncertainties related to the current regulatory program that will have significant impacts on the costs of operations. Presumably they will also have an effect on the guidelines and manual. These include:
 - a. Regulatory requirements for EM data retention (currently 3 years) versus NMFS

- Policy Guidance (now 2.25 years)
- b. Status of EM data, including confidentiality and ownership/access
 - c. EM video review protocols including whether the video is reviewed remotely or via web portals, and in what cases does the review of data by the Agency create a Federal record (thereby adding cost and concerns for confidentiality)
 - d. Levels of video review to be conducted and how this will be determined
 - e. Whether steam time will be reviewed and how the review will be conducted (by NMFS or an EM provider)
 - f. Potential changes to logbook review protocols
 - g. Halibut Discard Mortality Rate determination when video review is less than 100%
 - h. Updated cost modelling and analysis based on any proposed changes
3. The GEMPAC does not believe there has been an iterative, collaborative consultation process with regards to the development of the EM program. The agency prepared draft EM Guidelines, which we reviewed in September and November of 2019, and an EMP Provider Manual, which we reviewed in draft form at the November 2019 meeting; we provided substantive comments (See Agenda Item H.3, [November 2019](#)). Over the winter, these documents have not been shared again and the GEMPAC is unaware of what feedback was incorporated by NMFS. Further, NMFS staff reported taking feedback from EM providers and including it in the documents, but the GEMPAC is not aware of what that feedback entails or how it compares/contrasts to the feedback provided in November.
4. Clear Financial Concerns: Based on the limited information that has been shared relative to program components, we know that the new program will be more expensive than the program tested under the EFPs. The uncertainty around component function like the NMFS audit, Federal record retention, and the 3rd party model increases the uneasiness around runaway expenses. If the program ends up costing the industry as much as human observers, we have not met the goals and objectives laid out by the Council. With available information we cannot say with certainty that the new EM program will be cost effective. And during this time of extreme uncertainty due to the COVID-19 pandemic, having clear expectations is crucial.

Proposed Changes to Final Rule

The GEMPAC recommends a holistic review of the entire final rule, its components, and costs with Council consideration given to whether the program truly reflects the program envisioned by the Council and stakeholders. Throughout that process there should be time to refine and consider changes to the Final Rule. The GEMPAC believes that NMFS Report 1 is a good start at examining components of the Final Rule, but that simply making these changes does not take the place of a holistic review. With that caveat, the GEMPAC has the following recommendations on the items contained in NMFS Report 1.

Item 1: Hard Drive Deadline: The GEMPAC supports NMFS recommendation to increase the hard drive submission deadline to 72 hours from the beginning of the offload.

Item 2: Reusing Hard Drives: The GEMPAC supports the NMFS recommendation to require that EM data is removed before reusing it only if end-to-end encryption is not used.

Item 3: Limit on Switching Between EM and Observers for Whiting: The GEMPAC supports the NMFS recommendation to remove the limit on switching between observers and EM for whiting vessels.

Item 4: Mothership/Catcher Vessel (MS/CV) Endorsement: The GEMPAC supports the NMFS recommendation to remove the requirement for a MS/CV endorsement to use EM on mothership catcher vessel trips.

Item 5: Pre-departure Test: The GEMPAC does not agree with the NMFS recommendation to remove the pre-departure requirement. The GEMPAC does not feel this test is a burden to the industry and it is a useful requirement for the vessel operator to ensure that systems are working before leaving the dock on a trip.

Item 6: Logbook Processing: The GEMPAC supports allowing EM providers to receive and enter logbook information versus it going through NMFS. However, the GEMPAC notes this is a significant change that will need to be addressed in the guidelines and manual and it could have cost implications for the industry that are not well understood.

Item 7: Reporting Deadlines for EM Service Providers: The GEMPAC supports the NMFS recommendation to require deadlines for certain reports from EM service providers including reports of technical assistance, logbook data, vessel operator feedback reports, and EM summary and data compliance reports.

Item 8: Retention of EM Data: The GEMPAC supports amending the retention requirements for EM data in the final rule to align with the requirements proposed in the NMFS National Procedural Directive on EM Data Retention. Some GEMPAC members, in collaboration with EM EFP participants, developed additional rule change considerations that were submitted as [public comment](#) that should also be considered as part of this discussion.

Conclusion

The GEMPAC appreciates the work that has gone into development of an EM program on the West Coast. We hope the Council and NMFS will agree with our recommendations and commit once again to a transparent and collaborative process to develop a program that meets the Council's intended goals. The GEMPAC believes that the April 4th webinar was the first step towards that goal.

PFMC
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