

ENFORCEMENT CONSULTANTS REPORT ON ELECTRONIC MONITORING
PROGRAM – FINAL ACTION

The Enforcement Consultants (EC) have reviewed the material associated with Agenda Item F.3. Electronic Monitoring (EM) Program – Final Action and provide the following comments. The EC has no concerns with the proposed EM Program alternatives identified in *Agenda Item F.3. Attachment 1, Proposed Electronic Monitoring Program Alternatives Adopted for Public Review*, and recommends that the Pacific Fishery Management Council (Council) take no action to change the Retention of Records requirements specified in 50 CFR 660.603.(m).(6):

Retention of records. Following an EM trip, the EM service provider must maintain all of a vessel's EM data and other records specified in this section, or used in the preparation of records or reports specified in this section or corrections to these reports, for a period of not less than three years after the date of landing for that trip. EM data and other records must be stored such that the integrity and security of the records is maintained for the duration of the retention period. The EM service provider must produce EM data and other records immediately upon request by National Marine Fisheries Service (NMFS) or an authorized officer.

The EC reviewed *F.3.a, Supplemental GEMPAC Report 1 – Costs and management of data*. The EC notes the Groundfish Electronic Monitoring Policy Advisory Committee (GEMPAC) concerns about costs associated with the program, and in no way wants to unnecessarily increase costs. While actual costs are unknown, estimated costs associated with the EM program were provided in *Supplemental NMFS Report 6 to Agenda Item H.3.a (November 2019), NMFS Report on EM Costs*. This report estimates the long-term data storage costs at between \$15 and \$25 per fishing day. Data storage is shown to be the lowest cost associated with the program. The EC also believes there may be a misinterpretation of prior EC statements, inaccurately understanding the EC to recommend a new requirement or burdensome process that would add costs to the EM program. The EC's recommendation to retain the three-year record retention requirement is not intended to be cumbersome to manage, nor require any specific framework for the movement of data into long-term storage, nor specify how the vendor should manage the deletion of data. We would hope and encourage third-party vendors to consider and propose a data storage system and process that meets the "not less than three years..." data retention requirement, while seeking to provide the most cost efficient administration and management of the data, no matter how long it is stored, or how frequently old data is deleted (e.g., daily, monthly or annually). The EC further understands that much of the data management can be automated, particularly data deletion, and may have no fees associated with it.

The EC discussed *National Marine Fisheries Service Procedure 04-115-03, Third-Party Minimum Data Retention Period in Electronic Monitoring Programs for Federally Managed U.S. Fisheries*. The EC notes that the procedure document stresses that it is a *minimum* recommendation, depending on the program. Given that this is a new program, with an unknown third-party vendor, and video review changing from a 100 percent sampling rate to a mix of 100 percent and 25 percent sampling rates (depending on the fishery), the EC believes the retention of records is justified for

longer than the minimum. Because the 25 percent sampling will be random, it is very possible that issues or concerns identified in year two or three may have also occurred in year one but were unidentified. This could be an issue of concern for enforcement or management, depending on what was found.

In recognition of the concerns expressed about the costs associated with the administration of the program, the EC recommends that the record retention requirement remain as is but be revisited after three to five years to determine if a reduction is warranted.

PFMC
06/17/20