

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 May 26th to discuss several issues related to the ongoing development of an Electronic Monitoring (EM) program. The [GEMPAC's agenda](#) included discussions of the proposed regulatory changes ([Agenda Item F.3, Attachment 1](#)), additional proposed changes to the regulations, issues regarding catch handling and discard under EM in the bottom trawl fishery, and workload planning. The GEMPAC has the following comments and recommendations.

General: The GEMPAC continues to have concerns about the direction that the West Coast EM program is heading and appreciates the recommendations that came from the Council at their April 2020 meeting. A goal for the EM program has always been to uphold accountability using a cost-effective model. From the start, the GEMPAC and others were told that the EM program had to be at least as good as the human observer program. The GEMPAC has continued concerns that in some cases the EM program is being asked to adhere to standards that are far beyond what the human observer program provides.

GEMPAC Recommendations:

1. The GEMPAC recommends the Council finalize the recommendations noted in [Agenda Item F.3, Attachment 1](#). The GEMPAC recommends the Council continue with an amendment to revise the existing final rule to include these changes. The GEMPAC would like to continue working with National Marine Fisheries Service (NMFS), the Council, stakeholders, and the public to further refine the EM Program Guidelines and EM Manual to reflect these proposed changes.
2. The GEMPAC recommends adding two new changes identified and discussed at the GEMPAC meeting and supported by NMFS. The GEMPAC believes these are minor changes that are not controversial but that provide positive benefits to the program and they should be incorporated into the proposed regulatory amendment rulemaking package. This includes:
 - a) Changing "owner or operator" to "authorized representative of the vessel" in the regulations:
 - (3) *Must not release a vessel's EM data and other records specified in this section (including documents containing such data and observations or summaries thereof) except to NMFS and authorized officers as provided in §660.603(m)(6), or as authorized by the owner or operator of the vessel. See the April 2020 Council meeting [public comment](#) regarding this concern.*

b) An EM service provider reached out to NMFS with a request to further refine the definition for conflict of interest for EM service providers at 660.603(h). The provider suggests the definition should exempt the following companies from the list of services that are considered to be a conflict of interest: providers for vessel monitoring system tracking, Automatic Identification System transponders, telemetry (such as product temperature monitoring for seafood safety), buoy and gear monitoring, sonar systems, and mandatory safety services (i.e. GMDSS). Current regulations:

(h) Limitations on conflict of interest for providers and employees. (1) EM service providers and their employees must not have a direct financial interest, other than the provision of observer, catch monitor, EM, or other biological sampling services, in any federal or state managed fisheries, including but not limited to:

(i) Any ownership, mortgage holder, or other secured interest in a vessel, first receiver, shorebased or floating stationary processor facility involved in the catching, taking, harvesting or processing of fish; (ii) Any business involved with selling supplies or services to any vessel, first receiver, shorebased or floating stationary processing facility; or (iii) Any business involved with purchasing raw or processed products from any vessel, first receiver, shorebased or floating stationary processing facilities.

The GEMPAC reiterates its recommendation to align the data retention period in the regulations with the [NMFS National Procedural Directive on EM Data Retention](#), as noted in the [April 2020 Supplemental GEMPAC Report 1](#). The GEMPAC continues to believe that the recommendations in the national policy directive are more than adequate to meet the concerns of the enforcement industry. Currently, enforcement personnel can take possession of any third-party record for an investigation purpose. The three years proposed by the Enforcement Consultants actually will be cumbersome to administer due to the rolling nature of that process (i.e. every calendar day will see new data added and a day deleted once we are into three years, rather than batch processing as the national policy suggests). Further, the GEMPAC notes that increasing the storage time beyond the policy directive recommendations creates an additional cost burden borne by participants with no additional benefit to the fleet. The GEMPAC recommends that the Council reconsider their preliminary preferred alternative and choose storage protocols that are in line with the national policy as a final preferred alternative. The GEMPAC received comments from state enforcement and NMFS Office of Law Enforcement representatives on the GEMTAC regarding maintaining the three-year retention; however, the GEMPAC maintained its position.

3. The GEMPAC recommends extension of the exempted fishing permits (EFPs) until the effective date of the EM rule (which ideally would be the same for all gear types) and that new vessels should be allowed to join the EFPs during this time. It is still the desire of the GEMPAC and stakeholders to continue the current EM EFPs through at least December 31, 2021 as they are currently administered. Currently, 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 (PSMFC). The GEMPAC notes there is uncertainty regarding future funding of the EFP program as indicated in [NMFS letter](#) to the Council. The GEMPAC is also

concerned that PSMFC may not be willing to participate as a video review provider if a funding mechanism outside of direct industry funding is not found. If an EFP extension is provided, the GEMPAC identified three options for moving forward with the program through 2021:

- a) NMFS identifies internal funding to continue to pay PSMFC for video review. The GEMPAC suggests NMFS use funding earmarked for the audit in 2021 since there will be no audit if PSMFC is continuing to subcontract for NMFS (as is currently done). The GEMPAC heard from NMFS staff that if the extension is granted, the money earmarked for the 2021 audit will instead be used to test out the audit system and examining questions around reviewing steam time. The GEMPAC believes that funding PSMFC in 2021 is a better use of these limited resources.
- b) A congressional appropriation is made to NMFS to pay PSMFC for video review. The industry and PSMFC have been supporting this option with lawmakers in D.C. through the appropriations process.
- c) EFP participants contract and fund an EM Provider for 2021. There are concerns at PSMFC about accepting industry funds which changes the relationship dynamic with PSMFC. There is a perception that accepting industry money could lead to conflicts of interest. If the industry is going to have to pay for video review in 2021 and PSMFC is unable to accept industry funds, the industry will have to identify a new video reviewer for next year. During the GEMPAC meeting, PSMFC staff stated PSMFC is not planning to submit an application to NMFS to become a third-party video review provider. We are not aware of another entity that could provide video review services at the same cost rate as PSMFC, resulting in greater concern that if funding is not secured, the EFP program is in jeopardy. It was also noted that, if PSMFC were to successfully apply to be a third party reviewer, PSMFC would be subject to the National Oceanic & Atmospheric Administration (NOAA) audit, which negates the cost savings PSMFC provides under the current NOAA funded program.

The GEMPAC and industry participants request that NMFS decide on whether or not they will fund the EFP program in 2021 **as soon as possible**. The GEMPAC recommends NMFS provide updates regarding its decision as soon as possible. Waiting until the September 2020 Council meeting does not provide enough time for the industry to secure funding and identify an EM provider for 2021 if NMFS is unable to fund the video review.

Finally, the GEMPAC discussed catch handling issues in the bottom trawl fishery that have plagued EFP participants and caused some to stop participating in EM EFPs during the last two fishing seasons. We discussed this issue during past meetings, noting that most are not highly attained individual fishing quota species nor do they present a conservation concern. The GEMPAC would like to continue discussing this issue soon and, if necessary, develop recommendations to the Council. We expect that some members of the GEMPAC, GEMTAC, and other EFP holders will continue to work with NMFS staff to develop solutions and report back to the GEMPAC and GEMTAC.

On a multi-species trawl trip, the requirement of separating (i.e. ‘toting’) fish to species level before discarding has proven onerous and even dangerous to crew. The GEMPAC stresses that the development of the EM program began in 2011 as a potential solution for this fishery to lower

costs and create flexibility. This is not lost on the GEMPAC and we have a strong desire to see forward momentum in finding solutions. This will require a collaborative effort between EFP participants using trawl gear and NMFS staff to review the vessel monitoring plans and develop new/different sorting and discard protocols to test during the EFP trips. This could create efficiencies while allowing sufficient precision for discard estimates and catch accounting purposes. GEMPAC members heard that several trawl fishermen that do not use EM would be interested in obtaining an EM EFP or participating in the implemented EM Program if the catch sorting problems are addressed. Lowering overall costs in the bottomtrawl fishery are of utmost importance; investing in EM equipment, services, etc., is a significant investment. However, exploring EM as a longer-term solution may provide the added benefits to keep this fishery afloat.

Conclusion

The GEMPAC appreciates all 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 are committed to a creating a transparent and collaborative process to develop a program that meets the Council's intended goals of maintaining accountability for catch accounting with a cost-effective program that is operationally flexible.

PFMC

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