



New England Fishery Management Council

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MEETING SUMMARY

Observer Policy Committee

Webinar

September 13, 2019

The Observer Policy Committee met via webinar on September 13, 2019 to: review the draft National Marine Fisheries Service Procedural Directive and consider a response.

MEETING ATTENDANCE: Dr. Mike Sissenwine (Chairman), Ms. Libby Etrie (Vice Chair), Mr. Pete Christopher, Ms. Amy Martins, Dr. Cate O’Keefe, Mr. Gerry O’Neill, Mr. John Pappalardo, and Mr. Rick Usher; Ms. Jennifer Couture and Dr. Fiona Hogan (NEFMC staff); Ms. Claire Fitzgerald and Ms. Carrie Nordeen (NMFS GARFO staff); Mr. Brett Alger (NMFS Headquarters); Mr. Mitch MacDonald (NOAA General Counsel). In addition, approximately 3 members of the public attended.

KEY OUTCOMES:

- The Committee reviewed the draft procedural directive and developed a list of points to be included in a draft comment letter for review by the Council.

AGENDA ITEM #1: REVIEW OF THE DRAFT NATIONAL MARINE FISHERIES SERVICE PROCEDURAL DIRECTIVE

The Committee chair provided background on the development of ET related policies. The Observer Policy Committee (OPC) reviewed the policy directive on cost sharing in 2018. GARFO staff informed the CTE that all the comments on the cost allocation directive were incorporated into the final document, however, the Chair noted that there was no indication of how the OPC comments were addressed. The Chair considered the outcome of the cost allocation directive to be related to storage requirements as industry is paying for video storage.

NMFS staff updated the OPC on how the cost directive comments received from all Councils were addressed and noted that the policy directive could be revised as programs mature. There are two types of video storage – video stored by the Agency when possession is taken for enforcement purposes thus becoming a Federal record and video stored by 3rd party (a vendor), which is paid for by industry and covered by the draft policy directive. The Agency considered video storage to be a sampling cost, which the Chair considered to be in contradiction to the cost allocation policy directive. A CTE member recommended additional clarifications be made to the draft directive to make sure everyone understands that industry would not be responsible for

storage beyond the 12 month minimum retention period. It was also unclear when the 12 month clock for video retention would start for specific fisheries as the fishing year varies by fishery. NMFS staff informed the OPC that the directive purposely didn't specify dates of when the retention period would begin because of that issue, allowing flexibility for the needs of individual fisheries. At the time of the call, it was thought that the Agency would decide on when the "clock" started on the retention period. A CTE member asked whether the industry data and investigation program was involved in this process. GARFO staff noted that they were part of APSD and involved in the quality control process. The OPC wanted to recognize that there are some circumstances, e.g. an EFP, where data need to be retained for longer than 1 year for analysis and this policy wouldn't need to be applied in those cases.

The OPC wanted to know the rationale for 12 months being chosen as the minimum retention period. EM programs vary by region and a lot of program design decisions were made without video storage in mind. Considering that fisheries typically operate on a 1 year time period for quotas or annual catch limits, that time frame was thought to be appropriate for video retention. That time period might also provide a balance between program needs and cost incurred by industry. Video needs to be stored for a number of reasons, including ensuring providers are doing their job properly and can be recertified. NOAA General Counsel also noted that VTRs are required to be retained onboard for at least a year, which is consistent with the time period proposed here.

A Committee member noted that processing of the video occurs, meaning linkage of that information to other data sources such as VTR and dealer data needs to occur. This may be expedited in future when the Fisheries Dependent Data Initiative is implemented.

Public Comment:

- Jeff Kaelin, Garden State Seafood Association - can they estimate what the costs are going to be based on experience in other programs, even just a ballpark estimate

NMFS staff could include rough estimates of cost in the September 2019 NEFMC meeting. A Committee member was concerned about how much data collection would be required by an EM program as this drives costs – the more video that needs to be stored the higher the overall cost. The Committee member didn't have an issue with 12 months of storage but did have an issue with 100% storage for 12 months and didn't think industry had much control over that. A presentation that highlighted the benefits to industry was also thought to be a good idea.

AGENDA ITEM #1: PRIORITIES

Staff reviewed the current priorities for the OPC and requested feedback from the Committee on what priorities should be recommended for 2020. One of the priorities was related to the NEFOP "no sail" list and better understanding of the policy of how vessels get on the list. A Committee member clarified that the observer program doesn't have a "no sail" list; there's only a temporary holding that's called a vessel of concern list. Less than 1% of the total amount of boats that the observer programs sail on per year make it onto the vessel of concern list; all safety concerns are reported to OLE and the coast guard. It was not clear what keeping this item as a

priority would do. The Committee did take a stand on this priority but would not oppose working on this if the Council chose to.

The other 2019 priority was to develop a policy and strategic approach to monitor commercial fisheries to address multiple information needs. A Committee member considered that not much progress has been made on this priority mainly because it would take up too many resources while Multispecies Amendment 23, which is focused on monitoring, was being worked on. Another Committee member disagreed that Amendment 23 was taking over the workload on this priority, however, a frank discussion was needed on whether the Council had the bandwidth to take on this priority. The Committee did not feel strongly about this priority at this time. The Committee had no additional priorities to recommend at this time. A Committee member asked about the purpose of the OPC if there were no strong recommendations for 2020 priorities. The OPC could be a sounding board for various monitoring related issues as they come up. A Committee member noted the importance of industry participation when these policies come online to help educate industry and also help implementation.

List of points to be included in the comment letter:

- Clarification that if storage, as related to federal records, is the agency's responsibility to pay for storage
- Who decides when the monitoring period is over – agency, other?
- How does the PD apply to EFPs, etc? the viewpoint should be that this should be the guidance document for FMPs while informative for EFPs but this should not be prescriptive. Don't want to constrain the EFP by forcing only 1 year of retention when you want multiple years of data kept for testing/analysis.
- Purpose of storage of the data and what it will be used for; why should that be cost responsibility of the industry and not an administrative costs; analytical basis for 1 year
- Supplemental document that provides estimates of storage costs derived from existing programs