

December 12, 2019

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Chair

Western Pacific

Kitty Simonds
Executive Director
Archie Taotasi Soliai
Chair

Mr. Chris Oliver
Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Room 14636
Silver Spring, MD 20610

Dear Mr. Oliver:

The Council Coordination Committee (CCC) met November 5-7, 2019 in Washington D.C. and reviewed the National Marine Fisheries Service (NMFS) Draft Procedural Directive on Minimum Data Retention Period for Electronic Monitoring Programs for Federally Managed U.S. Fisheries (Storage Directive). The CCC is supportive of efforts to further electronic technologies and electronic monitoring (EM) and appreciates the opportunity to provide the following comments.

Under the final Procedural Directive on Cost allocation in Electronic Monitoring Programs for Federally Managed U.S. Fisheries, the industry bears the responsibility of storage costs of electronic monitoring (EM) data. This cost to the industry affects the overall viability of electronic monitoring programs as an economical alternative to human observers, and therefore minimizing these costs is the primary concern of the CCC. For that reason, the CCC recommends that the Storage Directive adopt a maximum retention period that applies to all programs. The CCC recommends that the maximum retention period be minimized and clearly justified.

Under the Storage Directive, the maximum storage time is undefined. Video must be retained during a monitoring period that is specified for each program, and a minimum retention period that is proposed as twelve months. It is unclear who determines the length of the monitoring period. The CCC understands that NMFS may need to access the data within the Minimum Retention Period. While the Storage Directive treats the activities performed during the monitoring period and the minimum retention period as independent, the CCC believes this is unnecessary. The Storage Directive identifies multiple reasons for establishing a Minimum Retention Period associated with potential uses of the video, and the CCC believes that many of these activities can and should be accomplished simultaneously. For example, there does not appear to be any reason that the performance of the service provider cannot be evaluated concurrently with the processing of the data. This could reduce the total video storage time and resultant industry costs.

Depending on the purpose of the program, needs may be different. Imagery data used to monitor compliance in Limited Access Privilege Programs (LAPP) with in-season management may require ongoing video review during the fishing season, that should result in less need for post-season auditing etc., while landings based programs may not review data until after the fishery is closed necessitating a relatively longer retention period. For example,

under exempted fishing permits on the U.S. West Coast, the Pacific Council and NMFS rarely need access to EM data and typically not beyond 6-months after a landing has occurred. It is worth noting that the sooner EM data is reviewed, the sooner problems are identified and addressed, which should benefit overall program efficiency.

The greatest uncertainty around the timeline proposed in the directive is the required storage period in relation to the length of the monitoring period. Specifically, this addresses the interim time period between the end of the fishing season/year and the start of the Minimum Retention Period. The Storage Directive requires an interim period necessary to “monitor catch against some type of quota, allocation, or annual catch limit” and that the interim period be identified in advance of establishing program specific retention periods. The CCC believes the length of this period should be the minimum needed to accomplish these tasks thereby enhancing the Councils’ ability to control storage cost.

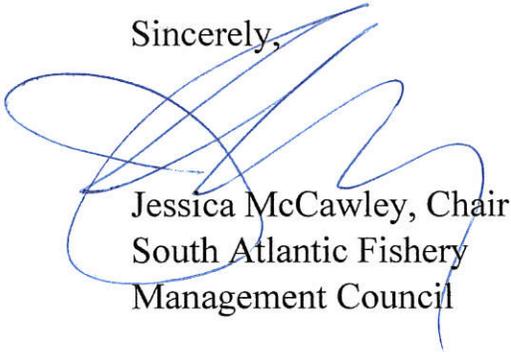
The Storage Directive does not specify a maximum monitoring period but indicates it would be program specific. The CCC recommends that a maximum duration of this interim period be established in the Storage Directive (e.g., the Minimum Retention Period will start no later than three months after the end of the fishing season/year). A lengthy overall retention time may be quite costly to EM participants, especially for those that fish many days at sea.

The CCC is also concerned about Federal records data confidentiality, access, and ownership of the stored data. Although the Storage Directive does not discuss these topics, the CCC would like to emphasize their importance and the need to document how NMFS will protect sensitive data in a cost-effective manner. The CCC suggests the final Storage Directive incorporate NMFS decisions regarding these topics or consider a new Storage Directive that will discuss protection of Federal records and how these protections are applied to EM data. It is important for NMFS to protect the confidentiality of EM data at a minimum to the standards used for observer data. Current guidance suggests that any EM video that becomes a Federal record, and would be subject to record retention requirements, would incur costs to NMFS. Agency staff noted that these storage costs could be recouped using cost recovery fees under a LAPP.

The CCC appreciates the opportunity to comment on the Storage Directive and looks forward to continued coordination with NMFS on the implementation of electronic technology in fisheries management. Individual Councils may also be sending letters with their individual concerns.

cc: Mr. Alan Risenhoover
Mr. Sam Rauch
Mr. Brett Alger
Executive Directors

Sincerely,



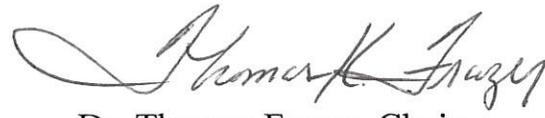
Jessica McCawley, Chair
South Atlantic Fishery
Management Council



Dr. John Quinn, Chair
New England Fishery
Management Council



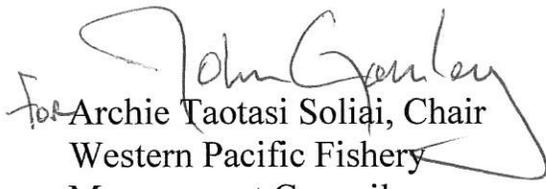
Simon Kinneen, Chair
North Pacific Fishery
Management Council



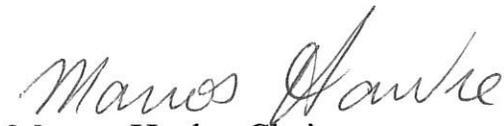
Dr. Thomas Frazer, Chair
Gulf of Mexico Fishery
Management Council



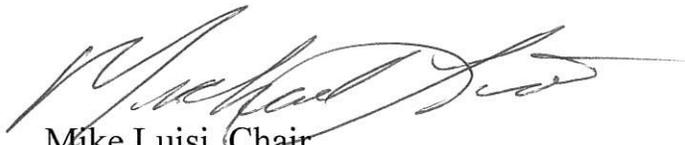
Phil Anderson, Chair
Pacific Fishery Management
Council



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