

**Data Collection Advisory Panel
Hybrid Meeting Summary
September 14, 2021**

The hybrid meeting of the Gulf of Mexico (Gulf) Fishery Management Council's (Council) Data Collection Advisory Panel (AP) was convened at 9:00 AM EDT on September 14, 2021. The agenda for this hybrid meeting, with the addition of two items under other business, and the meeting summary from the September 29, 2016 were approved.

Election of the Chair and Vice Chair

Capt. Dylan Hubbard was elected as Chair and Capt. Eric Schmidt as Vice Chair.

Review and Discussion of the Southeast For-Hire Integrated Electronic Reporting (SEFHIER) Program

Agenda Items V. a and b

Drs. Jessica Stephen and Michelle Masi from the Southeast Regional Office (SERO) provided a presentation outlining the rationale and objectives of the Southeast For-Hire Integrated Electronic Reporting (SEFHIER) program. Additionally, the presentation included an update report on the progress of the program to date. Phase I of the program, which stipulates a hail-out provision whenever a vessel is moved from a dock, along with requirements for submitting a trip report before offloading, was implemented on January 5, 2021. Phase II mandates the use of a vessel monitoring system (VMS) and is scheduled to be effective December 13, 2021.

An AP member inquired as to what law enforcement measures were being made to a program participant who did not report. Dr. Stephen indicated that, at the moment, law enforcement was focused on education and outreach as participants gain experience with the new program. She indicated captains will not be able to renew their permits if they do not submit a trip report, and anticipated compliance should increase over time as permit renewal applications are submitted.

The AP asked for clarification on how data samplers would be selected for landing locations and recording data (i.e., paper or electronic tablet datasheets). Dr. Stephen stated that the selection of intercept sites would be similar to methods used in the Marine Recreational Information Program (MRIP) and indicated samplers will record data using an electronic tablet, but the technology will not communicate with a captain's logbook in order to retain an independent sample of catch. SEFHIER requires reporting of catch before offloading fish for each trip; however, trips returning with no fish harvested may report within 30 minutes after docking. This is to help ensure that "no catch" reports are also received in a timely manner. She also mentioned that vessels will still need to report to the MRIP For-Hire Survey as a period of three to five years would be necessary to calibrate the new census-style methodology used in the SEFHIER program to the traditional survey-based design used previously for historical comparison. SERO will be collaborating with NOAA's Office of Science and Technology to complete that calibration.

The AP asked for further information on the reporting requirements of dual-permitted (Gulf and South Atlantic) SEFHIER participants. Dr. Stephen replied that dual-permitted participants must adhere to the most stringent of the permit requirements. In the case of the SEFHIER program, the Gulf requirements are more stringent than the South Atlantic, so a dual-permitted captain fishing in the Atlantic would have to adhere to the Gulf regulations. An AP member asked how outreach for the program was being conducted and further inquired as to whether engaged captains comprised mostly those already involved in the Council process. Dr. Masi stated that a series of webinars for Phase I have been completed with several other Phase II webinars scheduled in the future to inform stakeholders and field questions. She also indicated that outreach coordination was largely being conducted through the SEFHIER registry, announcements made through NOAA Fisheries Bulletins, and regular presentations at Council meetings. Ms. Emily Muehlstein added, during the Phase I initiation of the program, several outreach gaps were identified (i.e. permit holders not operating vessels). She continued that the outreach team would strive to address those gaps when engaging the industry for Phase II implementation.

Mr. Kevin Anson, Council representative, asked for clarification on SERO's reasoning that captains who appeared to be complying with the new Phase I regulations seemed to have recently decided to no longer comply. SERO staff indicated that the implementation of the VMS requirement will help better discern whether this observation is a compliance or communication issue. Capt. Hubbard stated that many captains have been reluctant to continue participating since learning about a regulation that requires a hail out when moving only a short distance for vessel maintenance or supply trips and that this stipulation is perceived as overly burdensome. Dr. Stephen stated that the agency was looking to reduce duplicative reporting such as having to fill out both a commercial and for-hire declaration for dual-permitted vessels.

*Modification to Location Reporting Requirements for For-Hire and Commercial Vessels
Agenda items V. c and d*

With the upcoming implementation of the VMS requirement mandate on December 13, 2021, several industry members have expressed concern with having to cancel a chartered trip should an unforeseen failure with a VMS unit occur. The Council is currently developing a framework action that would allow for an exemption should a VMS failure occur for both the for-hire and commercial sectors. Ms. Carly Somerset presented an overview of the document, purpose and need, and reviewed the draft alternatives and options. The document may allow for a short-term exemption to the VMS requirement but will constrain the frequency of exemption requests and set a time limit for remedying the malfunction. These constraints are necessary to limit non-compliance, loss of trip data, and achieve program reporting goals.

Discussion from commercial AP members was mixed with some members reporting few issues with the VMS units and others reporting troubles with Bluetooth communications and persistent software updates leading to lack of communication between the equipment used for reporting trip information and the onboard GPS hardware. Some issues are particularly difficult as the captain may not realize the VMS is not reporting correctly until contacted by NOAA. Additionally, hardware devices for monitoring may not be stored in areas that are readily visible, so even units that use visual indicators to communicate a problem may not be noticed by vessel operators. The

AP agreed that issues that occur without the captain's knowledge are worrisome as it is uncertain whether NOAA would be able to communicate an issue to a captain in a timely manner or if a fine would result.

Consistent among the AP was the importance of granting enough time for repairs or shipping of units when a complete hardware malfunction occurs. Many AP members reported recent supply chain and/or inventory problems associated with various vessel repairs. They advised NOAA to consider these struggles when considering putting timeline constraints on participants. Even if a total malfunction is rare, not being able to conduct business due to a VMS regulation for several weeks would be financially disastrous for many small operations that often cannot afford to have extra VMS units in their inventory.

An AP member asked for more clarification on how VMS is used between the for-hire and commercial sectors. The VMS requirement for the for-hire industry is to quantify and validate fishing effort. In the commercial sector, the VMS is primarily used for enforcement to monitor presence within restricted areas. Dr. David Gloeckner added however that catch-per-unit effort (CPUE) data is calculated in the commercial shrimp fishery using a cellular based archival GPS system which is used for scientific data collection rather than law enforcement purposes. Given the intrinsic differences in VMS data collection between the commercial and for-hire finfish fleets, the AP recommended the draft options document be split to address for-hire and commercial needs separately. Other AP members suggested that the for-hire exemptions were more urgent since the final rule has published with the VMS requirements and the cellular VMS devices had yet to be tested on for-hire vessels within the SEFHIER program; whereas, the commercial VMS satellite devices have only had a few instances of equipment failure.

Motion: The Data Collection AP recommends the Council split the current framework action into two separate frameworks in order to move the for-hire action separately from the commercial action, in order to ensure the speed of the for-hire document isn't slowed since the commercial requirement is established and it may take more time to alter their rule.

Motion carried with no opposition.

The AP continued discussion on reducing overburdensome reporting in the SEFHIER program. Several AP members expressed concern about the declaration requirement when engaged in non-fishing activities which may require several short distance movements away from the home dock or even instances where a vessel may make a stop before returning to the home port. Discussion focused on the validity of COLREGS Demarcation Lines¹, as established by the U.S. Coast Guard, to enforce hail out requirements. The AP was interested in relieving reporting burden but maintaining an enforceable fishing declaration requirement for offshore and nearshore trips for SEFHIER. An AP member asked the group if there would be interest in pursuing a similar hail out distinction for the commercial industry. An AP member indicated that this exception could create loopholes for the commercial, particularly in the individual fishing quota program, which could

1

<https://www.fisheries.noaa.gov/inport/item/56121#:~:text=U.S.%20collision%20regulation%20boundaries%20are,wit h%20the%20Inland%20Navigation%20Rules.>

cause issues for catch monitoring. The AP decided the hail out exception would be most appropriate for participants only involved in the SEFHIER program.

Motion: The Data Collection AP recommends the Council take whatever necessary action to work with NMFS to revise the SEFHIER program to allow vessels to move within the COLREGs demarcation line without declaring. If a vessel intends to fish, inside or landward of the COLREGs demarcation line the requirement to hail out would apply. If seaward of the demarcation line, regardless of the intent to fish, the requirement to hail out would apply.

(COLREGs demarcation line as defined by office for coastal management - U.S. collision regulation boundaries (COLREGs) are lines of demarcation delineating those waters upon which mariners shall comply with the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) and those waters upon which mariners shall comply with the Inland Navigation Rules).

Motion carried with no opposition.

The AP discussed more explicitly the definition of days when referring to the number of days an exemption would be valid from submittal date. The AP recommended defining “days” within the language of the draft framework’s alternatives and options. Several AP members referred back to previous discussions about timeliness of receiving replacement hardware, the burden of purchasing back up VMS units, and the hardship to a business that would have to cancel a trip for a VMS malfunction. Some AP members noted the difficulty with obtaining marine parts and equipment due to supply chain issues occurring.

Motion: To define the days, as referred to in the alternatives and options in the document, as business days and not calendar days.

Motion carried with no opposition.

When discussing limiting the frequency of VMS exemption requests and permit transfers, the AP recommended that the annual number of VMS exemption requests be reset to zero when a permit is sold or transferred. This allows the new permit holder to request an exemption without potentially being burdened by exemption requests made by the previous permit holder. SERO staff indicated they were still discussing whether annual counts of permit exemptions would be tracked by calendar or permit year.

Motion: That the Data Collection AP recommends that in the document when a permit is transferred or sold, the number of times the exemption is given resets.

Motion carried with no opposition.

The AP discussed the merits of having the VMS exemption apply to the vessel or the permit. An AP member and SERO staff acknowledged that most other regulations are tied to the permit.

SERO staff indicated that further investigation of the regulation requirements for dual-permitted SEFHIER and commercial participants was needed.

Motion: That the Data Collection AP recommends that the exemption provision applies to the vessel and its permits.

Motion carried with no opposition.

The AP discussed Action 1 alternatives and options presented in the draft framework action. An AP member asked if it would be possible for a captain to make back-to-back exemption requests which could result in a gap of VMS monitoring up to a month if selecting both proposed draft Action 1 Alternative 2 Option 2c and Alternative 3 Option 3c as preferred. Dr. Stephen indicated that was not initially a scenario considered but that the exemption, as currently written in the draft options document could allow this to occur. She stated if SERO observed this behavior becoming prevalent, then they would need to bring this to the Council's attention so that the integrity of the data collection was not compromised. She suggested, in the case of a long-term outage, that a power down exemption may be most appropriate; however, a power down exemption requires halting all fishing activity. An AP member indicated that perhaps a work order could be required when requesting a back-to-back exemption but stressed that an initial exemption request not carry that requirement so as to not disrupt fishing during non-business hours.

Motion: In Action 1, to make Alternative 2, Option 2c, as amended in the previous motion, the preferred and in Alternative 3, to make Option 3c, as amended in the previous motion, the preferred.

Alternative 2: Create an exemption to the VMS requirement to address equipment failure and set a limit on the number of days that the NMFS-approved exemption method is valid, in order to address equipment failure for vessels with Charter/Headboat permits for Reef Fish and/or CMP:

Option 2c: The exemption will be valid for up to 10 days from submittal date.

Alternative 3: Create an exemption to the VMS requirement to address equipment failure and set a limit on the number of times a permit holder can request the exemption each calendar year, per vessel:

Option 3c: The permit holder may not request more than three exemptions per vessel per calendar year.

Motion carried with no opposition.

The AP discussed whether the group was interested in selecting preferred alternatives in Action 2, which focus on VMS exemptions for the commercial sector. Mr. Jason DeLaCruz indicated that no action for the commercial sector was warranted as this time. He reiterated that VMS exemptions were important for the for-hire industry that make numerous daily trips, so this document needs to be timely for this sector. There may be interest in a future commercial exemption, but any consideration would need to require a lot of investigation to limit the creation

of potential reporting loopholes and to better tailor the exemption constraints to the commercial sector.

Review and Discussion of Modification to the Commercial Electronic Reporting Program

Dr. Gloeckner from the Southeast Fisheries Science Center (SEFSC) provided an overview on the commercial electronic reporting program. Benefits of electronic reporting include both improved timeliness and accuracy. Additionally, SEFSC is looking to reduce duplicative reporting by streamlining data reporting across fishing permit and Council regions. For now, an electronic version of the existing paper logbook will be available November 2021 and commercial fishermen in the Gulf will have one week to complete their logbook report.

An AP member indicated that the time values for data reporting can get confusing between the logbook and dealer reports. Dr. Gloeckner stated that reporting times on the logbook are meant to quantify fishing effort which is why they need to be as accurate as possible and specifically be reported by the captain. Dr. Carrie Simmons asked for clarification as to the definition of a SERO permit. Dr. Gloeckner stated that Gulf and South Atlantic permits use the same logbook and represent the minimum data collection requirements. Dr. Simmons inquired as to which vendors were approved for collecting commercial data across the Gulf and Atlantic regions. Dr. Gloeckner replied that at the moment only one vendor, eTrips from the Atlantic Coastal Cooperative Statistic Program, was available.

Dr. John Froeschke asked how the SEFSC suggested the AP and Council move forward with the commercial electronic reporting program. Dr. Gloeckner advised that the Council focus efforts on addressing reporting frequency and improving spatial resolution. An AP member indicated that the move from paper to an electronic form was a step in the right direction and recommended that any further modifications be rolled out in stages with stakeholder input and Dr. Gloeckner agreed with that approach.

Other Business

Mr. DeLaCruz expressed concern about how the recent changes to MRIP effected allocation decisions (Amendment 53) in the red grouper fishery. He indicated that this same issue was likely to arise in other fisheries as future stock assessments begin to integrate landings in MRIP-FES units in recreational data collection. Another AP member stated that he did not necessarily call into question the new MRIP methods but did agree that approaches to allocation should be revisited given these changes.

Motion: Any recalibration that would change the existing allocation between sectors when looking at the base years used, must trigger a full allocation review as required by the Gulf Council's allocation policy, taking into account the FMP goals and objectives when considering future allocations between sectors.

Motion carried with no opposition.

Capt. Hubbard spoke to the need for reevaluating the methods used to monitor the red snapper for-hire seasonal quota. He argued that the for-hire sector has been beneath its annual catch target (ACT) for several years and that accommodations should be made to ensure that the fishery is allowed to harvest their total quota. He also stated that the ACT is purposely buffered to ensure that monitoring to that target will result in sustainable harvest. The AP agreed that more timely data collection reporting for the for-hire sector is needed so that the for-hire sector is able to obtain its allowable level of harvest.

Motion: The Data Collection AP asks the Council to evaluate extending the red snapper season for the federal for-hire fleet, allowing us the days of season necessary to land our ACT. With a continuous day season starting on a Monday.

Motion carried with no opposition.

The AP then discussed recommendations to the Council regarding the timing of private recreational red snapper calibration. Dr. Simmons stated that the Council directed staff to transmit the document for recreational red snapper calibration to NMFS. The AP decided to amend their recommendation to NMFS.

Motion: The Data Collection AP urges NOAA Fisheries to move forward immediately (in 2022) on calibrating state data for state managed red snapper fishery, based on the calibration ratios developed in August 2020 by NOAA OST, as defined by law in MSA.

Motion carried with no opposition.

The meeting was adjourned at 3:45 pm EDT.

Meeting Participants

James Dylan Hubbard, *Chair*

Eric Schmidt, *Vice Chair*

Gary Bryant

Ronald Chicola

Michael Colby

Jason DeLaCruz

Sepp Haukebo

Ralph Humphrey

Charlotte Marin

Nicole A. Smith

Council Representative

Kevin Anson