

**Data Committee Report
June 24, 2021
Mr. Kevin Anson, Chair**

The Committee adopted the agenda (**Tab F, No. 1**) as written and approved the minutes (**Tab F, No. 2**) of the April 2021 meeting as written.

Update on Southeast For-hire Electronic Reporting (SEFHIER) Program (Tab F, No. 4)

Mr. Rich Malinowski from the Southeast Regional Office (SERO) provided an update on the SEFHIER program. He updated the Committee with the number of permit holders that had signed up for the program in the Gulf of Mexico (Gulf) and South Atlantic. He indicated that permit holders that have not registered with SEFHIER program would be unable to renew their permits. Mr. Malinowski indicated that he anticipates an increase in program participation as renewal applications continue throughout the year. He also reviewed the schedule and involvement for several outreach events for both the for-hire industry and law enforcement (LE). He outlined next steps for approving more cellular-based vessel monitoring systems (VMS) to add to the list of already approved satellite and cellular units, as reporting of positional data will be required for Phase II proposed to begin in December 2021.

Several Committee members asked for clarification about notification of enrolling in the program when submitting a permit renewal application, the timeline of a grace period for complying with program requirements, and when LE would be ticketing non-compliant captains. Dr. Jessica Stephen stated that permit renewal letters are sent 60 days before the expiration of the permit. Ms. Mara Levy indicated that the permits office would also mail a letter to captains should their application packet be found to be incomplete.

Captain Scott Pierce of Florida Fish and Wildlife Conservation Commission LE indicated that several LE personnel from the state had participated in the NOAA SEFHIER outreach events. He indicated that LE in Florida is currently focused on education and no citations have been issued yet, and they would continue their supporting role as part of their Joint Enforcement Agreement with NOAA. Assistant Special Agent in Charge John O'Malley from the NOAA Office of Law Enforcement also reported that federal LE have been focusing efforts on education and training and had not begun issuing citations. Enforcement General Counsel, Mr. Duane Smith, stated that not issuing citations to non-compliant captains has been a courtesy since Phase I implementation in January 2021, but he indicated violations will have to start being reported to avoid a larger compliance issue. Mr. Smith also stated that penalties for reporting non-compliance could range from warnings to monetary consequences depending on the nature of the violation. Ms. Martha Guyas inquired if any spatial patterns in program participation were observed. Mr. Malinowski indicated that permit holders residing in portions of southwest and northwest Florida were slow to sign up for the program, but that participation was generally good throughout the rest of the Gulf.

Mr. Andy Strelcheck stated that since SEFHIER was a very comprehensive, fleet-wide initiative, that stakeholder buy-in would be crucial for the program's success rather than strict enforcement. SERO staff anticipates that the Southeast Region Headboat Survey will resume sometime in the

coming weeks and that port samplers can help with outreach along with LE. Ms. Leann Bosarge asked for clarification about the trip declaration requirement for dually-permitted vessels. Mr. Malinowski answered that commercial and for-hire trip declarations are currently forwarded to different departments or combination of departments (e.g. JEA partners, commercial or for-hire port samplers) and NMFS is working towards streamlining this process.

Draft Options for Electronic Reporting due to Equipment Failure (Tab F, No. 5)

Council staff reviewed potential draft options for the development of a document that would address an exception to electronic reporting due to unforeseen equipment failure in both the commercial and recreational sector. Separate actions are proposed, one for each sector, to address potential failure in VMS equipment which is already required for the commercial industry. Location tracking will be required for the for-hire fleet after the implementation of Phase II of the SEFHIER program.

The Committee agreed, that while the failure rate of satellite VMS equipment is low for both sectors, measures should be taken to clarify what opportunities are available for captains to remain in compliance should they experience equipment malfunctions. Ms. Boggs noted that during a headboat pilot program that required VMS equipment, she had never experienced an occasion where she was unable to fish due to an equipment failure and that a phone call or e-mail to authorities was sufficient to resolve any potential compliance issues. Ms. Levy indicated that language in the rule states should a cellular or satellite VMS unit become unresponsive, captains can contact NMFS officials, follow their instructions, and maintain communications to fully resolve any compliance issues. The Committee discussed concerns related to the length of time to resolve issues related to equipment failure if exemptions are granted. Specifically, it was noted that equipment repairs may be lengthy, VMS installation technicians may be difficult to schedule, or equipment failures may occur outside of traditional business hours. Mr. Strelcheck acknowledged that those situations present challenges; however, he stated that he wanted to avoid the creation of loopholes that could be exploited and undermine program objectives.

The Committee and Council staff discussed next steps for the document and the implementation of Phase II of the SEFHIER program. Ms. Bosarge advocated for keeping both recreational and commercial considerations in the document for the next draft as there is considerable overlap in reporting issues during the preliminary stages of document development. Council staff indicated that continued communication with SERO about their budget and the availability of personnel would be imperative to formulating alternatives that are feasible and actionable. Ms. Boggs and Ms. Guyas indicated that a possible implementation date of Phase II later than December 2021 may be advantageous. Mr. Malinowski indicated that the implementation of Phase II would have to account for the end-of-the-year holidays and beginning of fishing seasons but could start a month or two later. Ms. Emily Muehlstein informed the Committee that approximately \$6,500 remains in the Council's SEFHIER outreach budget which could be used to engage stakeholders regarding Phase II of the program. It was suggested to focus more outreach on online resources and consider in-person meetings if funds are available. The Committee directed staff to present a revised version of the document at the August meeting.

Mr. Chair, this concludes my report.