

Data Collection Committee Report
April 3, 2023
Ms. Susan Boggs, Chair

The Committee adopted the agenda (**Tab F, No. 1**) and approved the minutes of the January 2023 meeting as amended (**Tab F, No. 2**).

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

NOAA General Counsel provided a verbal update on a recent ruling by the 5th Circuit Court of Appeals regarding the SEFHIER program. The Court ruled for the plaintiffs and set aside the final rule. NMFS has until April 10, 2023 to file a motion for rehearing within the 5th Circuit and until the end of May to file an appeal to the Supreme Court. The agency has not yet determined whether or not it will appeal the ruling.

A Committee member asked if the Court's decision could result in challenges to Vessel Monitoring System requirements in other programs. General Counsel responded that lawsuits could be filed; however, the Court's ruling was focused on the for-hire industry and the record developed to support the Gulf SEFHIER program. A Council member asked what criteria the Court used to determine that the commercial sector was a highly regulated industry, but the for-hire sector was not. General Counsel stated that the Court did not address the commercial sector in detail, but with respect to the for-hire industry, concluded there was no evidence in the record of a history of warrantless searches, and no evidence that for-hire fishing poses an overfishing risk because it accounts for such a small percentage of the fishing in the Gulf.

The Committee discussed possible next steps for the program. Several Committee members expressed support for a modified data collection program for the for-hire industry that addresses the issues identified in the SEFHIER program. However, it is unclear from the results of the Court ruling exactly which program components or other monitoring approaches may be appropriate at this time.

Modification to Commercial Coastal Logbook Reporting Requirements and AP Recommendations (Tab F, No. 5a and b)

Council staff reviewed the revised amendment, the Data Collection AP (AP) motions, provided an update from the March South Atlantic Fishery Management Council meeting, and presented a modified timeline for final approval. Capt. Troy Frady (AP chair) reported that the AP had recommended some level of beta testing for program participants be made available before implementation of electronic submission. A Committee member asked if the Southeast Fishery Science Center database infrastructure would be ready to begin receiving these data from the Gulf and South Atlantic once the modification was implemented. Southeast Fishery Science Center (SEFSC) staff replied that work was continuing to prepare for electronic reporting submissions. The Committee discussed the importance of involving the SEFSC and stakeholders early on in the process of considering modifying program reporting.

The Committee recommends, and I so move, **to direct Council staff to work with industry groups to determine what outreach and education would be appropriate to the commercial participants.**

Motion carried with no opposition.

The South Atlantic Fishery Management Council has approved the document for public hearing and will consider the document for final action at its September 2023 meeting. Similarly, the Council could consider selecting preferred Option 1 so staff can prepare the mailout and public hearing materials.

Discussion on Private Angler Licensing Requirements and AP Recommendations (Tab F, No. 6 and 5b) Remaining Data Collection AP Summary Items (Tab F, No. 5b)

Dr. Richard Cody (Office of Science and Technology) provided an overview of private recreational data collection from a federal perspective. He also outlined some challenges associated with quantifying private recreational effort data in federal waters. A Council member expressed concern and indicated there are likely not enough federal resources to tackle these issues and that the state agencies may be better equipped to explore private recreational management approaches. The AP spoke similarly in a motion to the Council which recommended collaboration between NMFS, the Gulf States Marine Fisheries Commission, and the Council to better define the universe of federal private anglers. Southeast Regional Office staff elaborated that more direction of management goals and objectives would be needed before proceeding. The Committee agreed that the issues being discussed in Committee were of broad interest and decided to further discuss these topics at full Council.

Staff provided an overview of the remaining items discussed during the Data Collection AP meeting.

Mr. Chair, this concludes my report.