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NOAA Fisheries Updates

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Office of Sustainable Fisheries

Council Coordination Committee
May 2022

Outline

- Electronic Monitoring Information Law Procedural Directive
- Update on National Standard 1 (NS1) Technical Guidance Workgroups
- Best Scientific Information Available Regional Framework
- Follow up on Council Executive Order 13921
- Status of Regional Recusal Determination Handbooks



Applying Information Law to Electronic Monitoring Data & Supporting Guidance in U.S Fisheries

Final Procedural Directive 04-115-04



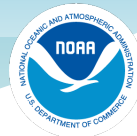
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Key feedback on Draft Directive (July 2021)

- Obscuring PII and/or BII, release of still imagery vs video
- Clearer connection between application law and third party reporting requirements
- Clarity on determining when EM data becomes a Federal record
 - E.g. Contracting and grants or remotely accessed records
- Clarity on who is the “submitter” - fishing vessel vs EM service provider
- Applicability to scientific research surveys and pilot projects
- Clarity on process for acquiring data managed by a third party

Next Steps & Implementation Guidance

- Final directive published May 2022
- Develop appropriate regulations and guidance for EM programs
- EM programs should examine current practices, data collected under pilot



Summary of Information Law Application to Raw EM Data in Federal EM Programs

Party Maintaining Raw EM Data	FRA	MSA 402(b)	FOIA
NOAA Fisheries	Applies	Applies	Applies
NOAA Fisheries Contractor	Does Not Apply ^{4,5}	Applies ¹	Does Not Apply ⁴
NOAA Fisheries Federal Financial Assistance Recipient ²	Does Not Apply ^{4,5}	Applies ¹	Does Not Apply ⁴
Fishing Industry Contractor/Service Agreements	Does Not Apply	Applies ³	Does Not Apply

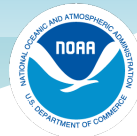
¹ NOAA Fisheries would include a requirement in any contract or financial assistance award to maintain the confidentiality of EM data.

² Entity is a recipient of a grant or is a party to a cooperative agreement.

³ Given applicability of MSA §402(b), NOAA Fisheries expects regulations for an industry-funded EM program to require that third parties have a means to protect EM data.

⁴ Does not apply if the EM data are stored on a non-NOAA system. Any EM data stored on a NOAA system would be subject to the FRA and FOIA.

⁵ By default, NOAA Fisheries would not include a provision in a contract or federal financial assistance award to require that the EM data be stored on a NOAA system. However, Section III.1.A. provides clarity on when NOAA Fisheries would consider requiring that the EM data be maintained on a NOAA system.



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Monitoring Third Party Performance

- Authority established by FMP and implementing regulations, and generally means species managed under MSA, MMPA, and ESA
- Monitor third party performance of service and data quality standards
- Remote record access provides direct access to EM data to NOAA Fisheries
 - Program would need a process for NOAA Fisheries to acquire a copy of any record used in official business (could be only certain trip EM data, e.g. single fishing haul)
 - Third party must retain original record submitted, per EM program requirements

Access to and Use of EM Information

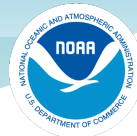
- Any agency record may be used for agency business to carry out functions under MSA, and other authorities such as MMPA and ESA
- NOAA Fisheries' employees or other federal agencies may need to sign non-disclosure statements to access and use MSA confidential data
- Analysts may observe events that would be forwarded onto the Office of Law Enforcement for further investigation (E.g. harassment of a marine mammal or an observer)
 - NOAA Fisheries may refer information to the U.S. Coast Guard or other appropriate agencies for further investigation if an exception to MSA 402(b) authorizes such disclosure



Existing NOAA Fisheries ET policies:

- [National Electronic Technologies Policy Directive \(04-115\)](#)
- [EM Cost Allocation Procedural Directive \(04-115-02\)](#)
- [EM 3rd-Party Data Retention Procedural Directive \(04-115-03\)](#)
- [Information Law Application For Data And Supporting Guidance In Electronic Monitoring Programs \(04-115-04\)](#)

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National Standard 1 (NS1) Workgroups & Best Scientific Information Available (BSIA)



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Subgroup 1: Reference points

- Guidelines for estimation of F_{msy} , B_{msy} , and their proxies
- Limited advice on additional considerations
 - Data-limited situations
 - Reference points under changing prevailing conditions
- Draft in development

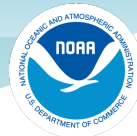
Subgroup 3: Data-Limited ACLs

- Tech Memo: “Managing with ACLs for data-limited stocks in federal fishery management plans - Review and recommendations for implementing 50 CFR 600.310(h)(2) flexibilities for data limited stocks”
- Addressing comments with target to finalize by Fall 2022



Best Scientific Information Available

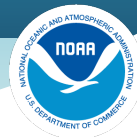
- BSIA procedural directive – finalized May 2019.
- By May 2022, each Region – Center – Council group should develop a regional BSIA framework.
 - Identify general timelines, roles, and be publicly available.
- Applying framework ensures that management decisions are based on BSIA.



Region	Status of regional BSIA framework
Northeast (NEFMC, MAFMC, GARFO, NEFSC, ASMFC)	Completed July 2021.
Southeast (SAFMC, GMFMC, CFMC, SERO, SEFSC)	Draft developed and in review by South Atlantic, Gulf of Mexico, and Caribbean Councils.
West Coast (PFMC, WCRO, NWFSC, SWFSC)	Completed May 2022.
Alaska (NPFMC, AKRO, AFSC)	Completed May 2022.
West Pacific (WPFMC, PIRO, PIFSC)	Draft developed and in review by Council.
Atlantic HMS (HMS, SEFSC, NEFSC)	Completed May 2022.



Executive Order 13921 Promoting American Seafood Competitiveness and Economic Growth



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Executive Order 13921, Section 4

- In May 2020, NMFS requested all Councils submit a prioritized list of actions to “reduce burdens on domestic fishing and to increase production within sustainable fisheries”.
- On behalf of DOC, NMFS continues to add recommended regulatory actions to the Unified Agenda (UA) as Councils take final actions.
 - Examples:
 - Amendment 22 to the Mackerel, Squid, and Butterfish Fishery Management Plan (Fall 2021 UA)
 - Regulatory Amendment To Remove Processing Restrictions on Squid and Sculpin Species in the Gulf of Alaska and Bering Sea and Aleutian Islands Groundfish Fisheries (Spring 2021 UA)
- Recommendations were evaluated by NMFS HQ and Regions, and were shared internally to inform development of a National Seafood Strategy.



Regional Recusal Determination Handbooks



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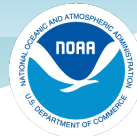
Regional Recusal Determination Procedure Handbooks

Background:

- NMFS finalized updated [Policy and Procedural Directives](#) on Financial Disclosures and Recusal Determinations in November 2021.

Development of Regional Recusal Determination Procedure Handbooks:

- Regional recusal handbooks will explain the process and procedure typically followed by the region in preparing and issuing recusal determinations.
- Handbooks are being developed by NOAA GC with drafts expected for Council review by November 2023.



Questions?



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