Title:

Oculina Evaluation Team – Law Enforcement Sub-Group

Oculina Closed Area Evaluation Plan – Enforcement Update

Background/Context:

At their March 3-6, 2003 meeting, the Council had an in-depth discussion about the issue of law enforcement in the Experimental Closed Area and made the following motion: (1) It is the Council's position/policy that enforcement of the Oculina Closure is an utmost priority, (2) violation of the Oculina Experimental Closed Area (OECA) is egregious and of a high and aggravated nature, and (3) that we request NOAA General Counsel revise the penalty schedule to be commensurate with the above classification. In response NOAA Fisheries assigned a special agent to the area which should improve Enforcement.

At its June 2003 meeting, the Council also approved a motion to develop an updated enforcement plan within one year of the implementation of Snapper Grouper Amendment 13 A.

A revision of the Southeast Region Magnuson-Stevens Act penalty schedule was published in June 2003. The schedule provides ranges for civil administrative monetary penalty amounts and permit sanctions for violations such as illegally fishing or possessing fish within the *Oculina* Habitat Area of Particular Concern or *Oculina* Experimental Closed Area as follows: First violation - $500 to $50,000, and a permit sanction up to 45 days; Second violation - $2,500 to $90,000, and a permit sanction of 30 – 90 days; and Third violation - $5,000 – statutory maximum, and a permit sanction of 60 days to revocation. Aggravating or mitigating circumstances may be considered in determining the proper penalty level within, above, or below the penalty ranges.

At their November 22 – 23, 2004 meeting, the Council's Joint Law Enforcement Advisory Panel and Law Enforcement Committee established five enforcement principles for the *Oculina* Bank: (1) use of the Vessel Monitoring System (VMS) in certain fisheries (e.g., Rock Shrimp) or all fisheries, regardless of sector (commercial and recreational); (2) enforcement of the boundaries of the Bank is not a single agency event, but rather a cooperative effort between the Coast Guard, the Florida Fish and Wildlife Conservation Commission, and NOAA Fisheries; (3) increase enforcement presence at the Bank; (4) a report documenting fisheries violations should be given at every Council meeting and possibly posted on the Council's website; and (5) all concurred that outreach is less costly in the long run than enforcement efforts, and that better knowledge leads to better compliance.

On December 13, 2004, an *Oculina* Bank Enforcement Meeting was held, bringing together enforcement partners from the Coast Guard (USCG), Florida Fish and Wildlife Conservation Commission, and NOAA Fisheries Office for Law Enforcement. The previously mentioned enforcement principles were discussed and an enforcement strategy was created for the *Oculina* Bank Habitat Area of Particular Concern and the Closed

Area.

In March, 2005, the Oculina Experimental Closed Area Evaluation Plan was released. Section 3.0 of the Plan covered law enforcement and established the strategy for enforcement of Oculina Experimental Closed Area regulations. The strategy was based upon five principles:

1. VMS
2. Cooperative Enforcement
3. Increase Enforcement Presence
4. Enforcement Reports
5. Outreach and Education

On August 21 – 23, 2006, the Oculina Evaluation Team met in Port Canaveral, Florida to address: what had been accomplished to date, determine the effectiveness of various efforts and needed improvements, review and evaluate the current size and configuration of the OECA, and provide recommendations to the SAFMC for the OECA review in 2014.

In February 2007, the final Oculina Evaluation Team Report was released. The Law Enforcement Breakout Group report updated the status of the law enforcement strategy:

1. VMS – Continued monitoring of VMS; no USCG real time access; FWC access pending re-authorization of the MSFCMA
2. Cooperative Enforcement – Partnership between NOAA OLE, USCG, and FWC was well established and functioning well
3. Increase Enforcement Presence – Coordinated pulse operations; dedicated patrols by FWC and USCG in conjunction with NOAA OLE; NOAA OLE availability of a 24' RIB
4. Enforcement Reports – Data collected and reports created by NOAA OLE liaison agent; reports reflected increase in enforcement presence
5. Outreach and Education- Distribution of OHAPC brochures and council regulations during patrols and boardings; NOAA OLE providing press releases regarding cases; LE partners coordinated with Outreach staff during 2005 and 2006 media events.

The effectiveness of the projects were evaluated which found that the overall implementation of the law enforcement strategy had been successful. There were several recommendation for improvements primarily focused on patrol reporting, but also including increased engagement with fishing tournaments in Sebastian and Fort Pierce, expansion of VMS to other commercial fishers, and the use of plain clothes operations to detect violations.

No changes to the size and configuration of the OECA were recommended at that time. At that time, the current levels of enforcement were at capacity and that any increase in patrol effort required additional funding and assets.

In October 2013, the SAFMC executive director requested a presentation by NOAA OLE to summarize Oculina Bank enforcement activities and to update the Oculina Evaluation Team.

On December 4, 2013, a NOAA OLE agent provided an enforcement activities update. This update reviewed the Oculina Evaluation Plan, Law Enforcement Plan, presented updated enforcement data from 2007 – 2013, and highlighted areas of improvement and recommendations to the Oculina Closed Area Evaluation Team. The areas for improvement included: increased patrol coordination between FWC and USCG, establishing semi-annual Oculina specific meeting, increased enforcement presence

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utilizing covert patrols, obtaining additional USCG patrol hours, and patrolling smarter by conducting ramp and marina checks prior to launching a patrol. The presentation also identified additional areas for improvement including better recordkeeping by the source agency, more timely submission of reports, and increased engagement with recreational tournaments. Finally, the update recommended that the law enforcement plan be adopted using a Project Management format in order to increase performance of the plan.

On March 12, 2014 the Oculina Evaluation Team participated in a webinar which provided updates on all components of the plan including: research and monitoring, outreach and education, and law enforcement. On March 14, 2014, there were additional breakout group webinars specific to each part of the plan.

Objectives:

- To utilize the Vessel Monitoring System to monitor the Oculina Experimental Closed Area for illegal fishing activity
- To utilize cooperative enforcement via intelligence and asset sharing, meetings, and training to maintain a high level of cooperation and coordination of Oculina Experimental Closed Area patrols and investigations.
- To provide a deterrent presence within the Oculina Experimental Closed Area through routine aerial and at-sea patrol and dedicated surge operations
- To report enforcement and compliance activities to the South Atlantic Fishery Management Council
- To provide compliance assistance to user groups through outreach and education

Scope:

The Oculina Experimental Closed Area is a 92 square nautical mile area bounded on the north by 27°53' N. latitude., on the south by 27°30 ' N. latitude., on the east by 79°56 ' W. longitude., and on the west by 80°00 ' W. longitude. Several commercial and recreational fisheries are conducted in and around the area to include rock shrimp, snapper-grouper, coastal migratory pelagics, dolphin/wahoo, and Highly Migratory Species.

Target Outcomes:

Increased voluntary and observed compliance with Oculina Bank Experimental Closed Area regulations.

Success Measurement:

100% observed compliance during patrols and boardings.

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Outputs:

VMS monitoring of the OECA and alerts for suspected illegal incursions and fishing activity.

Periodic coordination meetings and training sessions amongst NOAA OLE, USCG, and FWC

Aerial and at-sea patrols of the OECA, boardings of commercial and recreational vessels operating in the area.

Quarterly enforcement and compliance activity reports to the SAFMC

Compliance assistance at Captain's Meetings during recreational tournaments held in Sebastian and Fort Pierce

Management:

Existing management chains will be maintained for the duration of the project. SA Richard Chesler will serve as the Focal Point/Project Manager to coordinate internal resources, stakeholders, and reporting.

Reporting Requirements:

The following statistics will be collected for the quarterly report:

1. Number of hours in the OECA,
2. Average number of hours underway/in transit to patrol areas,
3. Number of sorties/patrols,
4. Number of vessels sighted (Commercial and Recreational),
5. Number of vessels boarded (Commercial and Recreational),
6. Enforcement actions,
7. Combined operations with aircraft or other enforcement partner, and
8. Significant violations summary

In addition, the report will include a summary of Oculina specific case dispositions, media stories, outreach activities, and training. The OLE special agent will be the collection point for monthly reports and will draft the quarterly report to be presented to the Council.

Resources:

If available, the following assets will be utilized for Oculina Experimental Closed Area patrols:

USCG

87' Coastal Patrol Boats (CPB)

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45’ Response Boat - Medium

Helicopters (HH-65)

Fixed wing aircraft

Medium Endurance Cutters (MEC)

FWC

38’ Offshore Patrol Vessel (P/V)

Medium Range Patrol Boats

Covert/Unmarked boats

Aircraft

NOAA OLE

24’ Rigid Hull Inflatable Boat (RHIB) available for surge operations.

Stakeholders:

Enforcement: NOAA OLE, USCG, FWC

Management: SAFMC, Oculina Evaluation Team

User Groups: Commercial, for hire, and recreational fishers

Assumptions and Constraints:

Nothing here commits agencies to supply any specific resources or creates any financial obligations. This does not change any statutory authority or create any new responsibilities.

The participation of the U.S. Coast Guard in this project is assumed to be a low priority due to competing higher priority mission areas and the lack of Living Marine Resources patrol hours.

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Major Risks and Minimization Strategies:

Lack of coordination and reporting amongst enforcement partners, and stakeholders can be minimized through effective and consistent communications. Maintaining a single focal point/project manager will also effectively minimize this threat.

Related Projects:

An outreach plan was required by Amendment 13A to the Snapper Grouper Fishery Management Plan. This outreach plan is the primary responsibility of the Council's Information and Education Committee and Advisory Panel. The enforcement partners are important supporters of this plan. The enforcement partners can support Objective 1, Project 4 (distribution of OHAPC brochures) and Project 6 (distribution of SAFMC regulations) during law enforcement activities (boardings, dockside inspections) and scheduled outreach activities (fishing tournaments, fishing association meetings, boat shows). Project 7 (news releases) is also a vital component to the goal of increasing compliance with OHAPC regulations Enforcement news releases regarding activities and cases will be issued periodically. The enforcement partners, through the OLE liaison agent, will liaison with the Council staff on all outreach and education activities.

Guidelines and Standards:

Enforcement personnel will comply with their agency specific policy. FWC will comply with Cooperative Enforcement Program, Joint Enforcement Agreement reporting requirements.

Quality Control:

The OLE liaison agent will conduct quality control checks of USCG and FWC submitted reports prior to drafting the Quarterly Enforcement Report.

Lessons Learned:

Enforcement partners will conduct a review of enforcement and compliance assistance activities annually during the Oculina specific meeting. This review will capture lessons learned and best practices to inform and improve future activities.

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