



SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

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Charlie Phillips, Chair | Captain Mark Brown, Vice Chair
Gregg T. Waugh, Executive Director

AGENDA

Law Enforcement Advisory Panel

Crowne Plaza
4831 Tanger Outlet Boulevard
North Charleston, SC

Other than the starting and ending times of the meeting, times indicated on the agenda are approximate, and the order of business may be adjusted as necessary to accommodate the completion of agenda items. Interested parties should be aware that discussions may start earlier or later than indicated.

Public comment will be solicited at the beginning and at the end of the meeting. Those wishing to comment should indicate such in the manner requested by the Chair, who will then recognize individuals to provide comment.

Wednesday, April 18, 2018 – 1:30 P.M. to 5:00 P.M.

Thursday, April 19, 2018 – 9:00 A.M. to 5:00 P.M.

Approval of Agenda – Capt. Bob Lynn

Approval of May 2017 AP minutes – Capt. Bob Lynn

1. Update on amendments recently submitted and under development (*Attachment 1*) – Myra Brouwer
2. Wreckfish Individual Transferrable Quota (ITQ) Program Review (*Attachments 2a and 2b*)
 - a) Overview – Brian Chevront
 - b) Discussion and recommendations – Capt. Bob Lynn
3. Snapper Grouper Regulatory Amendment 28 (golden tilefish; *Attachment 3*)
 - a) Overview – Brian Chevront
 - b) Discussion and recommendations – Capt. Bob Lynn
4. Penalties for non-reporting (*Attachments 4a and 4b*)
 - a) Overview – Myra Brouwer
 - b) Discussion and recommendations – Capt. Bob Lynn
5. Coral, Golden Crab, and Shrimp Amendment (*Attachment 5*)
 - a) Overview – Chip Collier
 - b) Discussion and recommendations – Capt. Bob Lynn

6. Spiny Lobster Amendment 13 (*Attachment 6*)
 - a) Overview – Christina Wiegand
 - b) Discussion and recommendations – Capt. Bob Lynn
7. Specifications for Spanish mackerel gillnets
 - a) Overview – Christina Wiegand
 - b) Discussion and recommendations – Capt. Bob Lynn
8. U.S. Coast Guard Law Enforcement Priorities
 - a) Overview – USCG
 - b) Discussion and recommendations – Capt. Bob Lynn
9. Regulations recommended for removal (*Attachment 7*)
 - a) Overview – Brian Chevront
 - b) Discussion and recommendations – Capt. Bob Lynn
10. Updates:
 - a) Law enforcement App for charter vessel reporting – Francine Karp
 - b) Enforcement in protected areas (Oculina, Spawning SMZs, Deep-water MPAs)
 - c) Coastal Migratory Pelagics for-hire permit clarification
 - d) Operator permits (*Attachment 8*)
11. Other Business – Capt. Bob Lynn

Adjourn – Capt. Bob Lynn

Advisory Panel Members:

Captain Bob Lynn (Chair)
 Major Jason Walker (Vice-Chair)
 Colonel Bruce Buckson
 Lieutenant Warren Fair
 Colonel Chisolm Frampton
 Nickey Maxey

Michael Freeman
 Bob Jones
 Captain Scott Pearce
 Karen Raine
 Assistant SAC Casey Oravetz
 Kevin Roberson

Attachments

Attachment 1: Update on amendments recently submitted and under development

Attachment 2a: Wreckfish Individual Transferable Quota (ITQ) Program Review Presentation

Attachment 2b: Draft Wreckfish ITQ Program Review

Attachment 3: Regulatory Amendment 28 Discussion Document

Attachment 4a: Permit Sanctions Presentation (June 2017)

Attachment 4b: Excerpt of Law Enforcement Committee Discussion – June 2017

Attachment 5: Golden Crab/Shrimp/Coral Amendment Options Paper

Attachment 6: Spiny Lobster Amendment 13 Discussion Document

Attachment 7: Draft of regulations recommended for removal

Attachment 8: Letter to Councils regarding operator permits

Staff: Myra Brouwer

OVERVIEW

Law Enforcement Advisory Panel

The AP will approve of minutes from May 2017 meeting and agenda.

1. Update on amendments recently submitted (*Attachment 1*)

Description: Council staff will update the AP on the status of amendments undergoing formal review and amendments being developed that have law enforcement implications.

Requested AP Action: Provide input as appropriate

2. Wreckfish ITQ Program Review (*Attachment 2*)

Description: Council staff will brief the AP on the status of the review. The Socio-economic Sub-panel of the Scientific and Statistical Committee (SSC) reviewed a draft of the document in February of 2018 and will report back to the SSC at their May 2018 meeting. Specific SEP comments and recommendations will be included in the May 2018 SSC report. During the March 2018 Council meeting, the Council provided the following guidance:

- Have the SSC, Law Enforcement AP and Snapper Grouper AP review the draft document at their Spring 2018 meetings.
- Council staff should plan a meeting with ITQ shareholders in late June, early July.
- Bring a complete document back to the Council in September 2018 for approval or further direction.

Requested AP Action: Provide feedback on safety at sea issues and on allowable offloading sites and times requirements for wreckfish.

3. Regulatory Amendment 28 (*Attachment 3*)

Description: An update to the golden tilefish stock assessment, completed in April 2016 (SEDAR 25 Update 2016), indicated the golden tilefish stock in the South Atlantic is undergoing overfishing but is not overfished. The National Marine Fisheries Service (NMFS) notified the Council (via letter dated 1/3/17), that management action was necessary to address overfishing of golden tilefish. To address the overfishing determination, the Council requested that NMFS implement an interim rule to set the 2018 annual catch limit at the projected yield at 75%F_{MSY} (323,000 pounds gutted weight) until the Council develops an amendment to revise the long-term catch levels. The interim rule is effective for 180 days from its implementation (January 2, 2018) and can be extended for an additional 186 days.

Regulatory Amendment 28 would address long-term management of golden tilefish. The Council discussed this amendment at their March 2018 meeting and considered options to modify the acceptable biological catch and annual catch limits in addition to possibly changing the commercial trip limits and modifying the start date of the fishing year for the commercial hook-and-line component. The Council requested that the Scientific and Statistical Committee reconsider their acceptable biological catch recommendation at their May 2018 meeting as the current recommendation would result in a substantial reduction in allowable harvest. In addition, the Council opted to retain consideration of the fishing year change in this amendment but remove consideration of trip limit changes. The Council will discuss this amendment again at their June meeting in Ft. Lauderdale, FL.

Requested AP Action: Provide input as appropriate.

4. Penalties for Non-Reporting (*Attachments 4a & 4b*)

Description: The Council has expressed concern over many years about the lack of adequate enforcement for violations of reporting requirements. For instance, Council members have voiced concern that the current system may allow the introduction of questionable data when fishermen apply for a permit renewal. An individual would be notified that their application is “incomplete” and that they need to provide the missing logbook reports before their application can be processed. The individual then provides the missing logbook reports and their permit is renewed. The missing logbook reports range from legitimate reports that were missing for a trip or several trips to a full year of totally manufactured data.

During discussions at the March 2017 Council meeting, a member noted that Section 307 of the Magnuson Act stated that it is unlawful to violate any provision in the Act or any regulation or permit issued pursuant to the Act. He noted that reporting requirements are considered provisions/regulations of the Magnuson Act and, therefore, subject to penalties if violated. Further, under the permit sanctions section of the Magnuson Act, it states that, in cases where a vessel has been involved in any act prohibited under Section 307, the Secretary may revoke, suspend, deny, or impose additional conditions on the vessel permit. The Council requested a clarification from NOAA GC of why non-reporting would not qualify for denial of a permit. Karen Raine, NOAA GC, delivered a presentation on this topic to the Law Enforcement Committee during the June 2017 Council meeting (**Attachment 4a**). The transcript of the presentation and subsequent discussion is included as **Attachment 4b**. The topic re-surfaced later in the week during the meeting of the Council’s Executive Finance Committee, where a motion was approved to “have the South Atlantic Fishery Management Council work through the CCC to request NOAA GC or other body, as appropriate, to address an increase in severity of penalties for non-reporting by those entities required to report, both nationally and in the Southeast.” The rationale provided was that “The South Atlantic Fishery Management Council requires reporting in many fisheries, to soon include the for-hire charter fleet, and the South Atlantic Council also is considering limited entry in the for-hire, principally as a means of enforcement reporting and compliance. If the Council feels that reporting is important enough to deny or suspend a permit for non-reporting, then the severity of the penalty schedule should be addressed, including the elevation up the penalty matrix. Furthermore, by increasing the severity of penalty, and this is important to enforcing it, by upping the severity, this should be sufficient enough to enforce compliance with reporting without limiting new entrants into the for-hire fishery.” The Council Coordinating Committee (CCC) discussed the topic of penalties for non-reporting at their February 2018 meeting in order to gauge support from other Councils on working together to have non-reporting penalties increased. While there was not much support for increasing penalties for non-reporting, the discussion rather focused on the need to ensure the existing penalties are being employed and enforced as intended.

Requested AP Action: Discuss and provide input as appropriate

5. Coral, Golden Crab, and Shrimp Amendment (*Attachment 5*)

Description: The Council requested staff develop a joint amendment for Coral, Golden Crab, and Shrimp fishery management plans. The amendment would include alternatives to consider adding a new Golden Crab Access Area in the northern zone, changing the boundary for the Oculina Bank Extension, modifying the regulations for shrimp trawlers transiting closed areas, and requiring vessel monitoring system for golden crab fishermen. The Council is considering an additional Golden Crab Access Area based golden crab fishermen indicating this

area was a historic fishing area. Changing the boundary of the Oculina Bank is being considered based on requests of rock shrimp fishermen to allow access to areas they historically fished. The NMFS identified different regulations for stowage of shrimp trawl gear when passing through a closed area. They requested the Council review gear stowage regulations in closed areas to bring make them consistent. The Council requested staff include stowage regulations from the Mid-Atlantic, South Atlantic, and Gulf regions for consideration. The Council also requested an option to consider requiring VMS on golden crab vessels.

Requested AP Action: Provide input as appropriate

6. Spiny Lobster Amendment 13 (*Attachment 6*)

Description: In response to stakeholder concerns, Florida Fish and Wildlife Conservation Commission (FWC) recently updated regulations for commercial bully netting in state waters. The new bully net regulations are meant to help quantify participation in the fishery and aid law enforcement in identifying bully netters at night and preventing illegal use of commercial gear. In addition to the new bully net regulations, FWC identified several other inconsistencies between federal regulations for spiny lobster that apply to the exclusive economic zone off Florida and Florida state regulations. Spiny Lobster Amendment 13 contains actions that would align regulations in the EEZ off Florida with Florida State regulations for bully-nets, dive trip limits, degradable panel requirements, and artificial habitat harvest restrictions. Part of the purpose of this amendment is to update management measures to aid law enforcement efforts.

Requested AP Action: Provide input as appropriate

7. Specifications for Spanish mackerel gillnets

Description: The minimum mesh size for Spanish mackerel gillnets is 3.5 inches (8.9 cm), stretched mesh. The Mackerel Cobia Advisory Panel has discussed revising the minimum mesh size, and ways to clarify and standardize how mesh size is measured. Mackerel Cobia AP members have noted that the mesh size specification was put into place when there were no trip limits or quotas in place, and that there is a minimum size limit of 12 inches fork length for Spanish mackerel. Additionally, because there have been changes in the fishery over the years, the way that mesh size is measured requires a tool that may or may not be available. The Council and Mackerel Cobia AP would like input from the LE AP on updating mesh size requirements for Spanish mackerel gillnets and clarification on how mesh would be measured.

Requested AP Action: Provide input as appropriate

8. U.S. Coast Guard Law Enforcement Priorities

Description: Representatives from the U.S. Coast Guard (USCG) Sector Charleston, contacted Council staff in late 2017 to request input on law enforcement priorities for fisheries under the Council's jurisdiction, in particular off the South Carolina and Georgia coasts. AP members are encouraged to provide feedback that would assist the USCG to focus enforcement efforts related to Living Marine Resources (LMR). A USCG representative will provide a brief overview and request specific input from the AP.

Requested AP Action: Provide input as appropriate

9. Regulations recommended for removal (*Attachment 7*)

Description: On February 24, 2017 the President issued Executive Order 13777 as part of efforts to lower regulatory burdens on the American people by implementing and enforcing regulatory reform. The NMFS requested that each of the fishery management councils identify a

process to review/evaluate existing regulations by the end of December 2017. Each Council is to conduct the review/evaluation and provide recommendations on rules to be removed by the end of June 2018. The Council is reaching out to all of its APs to get recommendations.

Attachment 7 contains a revised list (compiled by Council and SERO staffs) of regulations that could be considered for removal.

Requested AP Action: Provide input on regulations that are unnecessary or outdated.

10. Updates

a) **Law enforcement App for charter vessel reporting** – Francine Karp

A mobile application (app) to assist law enforcement officers verify compliance with reporting requirements and other regulations has been under development as part of a pilot project on electronic reporting for for-hire vessels in the South Atlantic Region. The app is nearing completion and the LE AP's input is sought to ensure its efficacy. Francine Karp, of Harbor Light Software, has led development of the app and will provide a demo to the LE AP via webinar.

b) **Enforcement in protected areas (Oculina, Spawning SMZs, Deep-water MPAs)**

Enforcement of closed/restricted areas is one of the top enforcement priorities for the Council. LE AP members are requested to provide updates, as appropriate, on enforcement of the Oculina Experimental Closed Area, the deepwater Marine Protected Areas, and the newly implemented Spawning Special Management Zones. The LE AP's input would be delivered to the Council during their June 2018 meeting.

c) **Coastal Migratory Pelagics for-hire permit clarification**

Council staff were alerted to a discrepancy on the criteria for sale of species managed under the Coastal Migratory Pelagics (CMP) Fishery Management Plan in the South Atlantic region. The South Atlantic CMP Permit stated the following: "Fish caught under this charter/headboat permit may only be sold when the commercial mackerel season is open". The NMFS Southeast Region Permits Office was alerted to the problem and promptly corrected the language on permits to read: "With the exception of Cobia, fish caught under this charter/headboat permit may not be sold. Cobia may be sold, as long as the commercial season is open."

d) **Operator permits**

During the June 2017 Council meeting, Captain Bob Lynn provided the LE AP's input regarding operator permits. The Council subsequently requested that a letter be sent to other Councils (Mid-Atlantic, New England, and Gulf of Mexico) to gauge interest in expanding the requirement for operator permits to encompass the four Council jurisdictions to provide continuity and improve their utility. A letter (**Attachment 8**) was transmitted as requested in February 2018.

Other Business

- Clarification on transporting managed species to the U.S. from the Bahamas when federal and/or state waters are closed to harvest.
- Clarification on possession of snapper grouper species on vessel with pelagic longline gear on board. Is a vessel using pelagic longline to fish for dolphin allowed to possess snapper grouper species on board? "A vessel that has on board a valid Federal commercial permit for South Atlantic snapper-grouper, excluding wreckfish, that fishes

in the EEZ on a trip with a longline on board, may possess only the following South Atlantic snapper-grouper: snowy grouper, yellowedge grouper, misty grouper, golden tilefish, blueline tilefish, and sand tilefish. See §622.170(f) for the requirement to possess a valid South Atlantic golden tilefish longline endorsement to fish for golden tilefish in the South Atlantic EEZ using longline gear. For the purpose of this paragraph, a vessel is considered to have a longline on board when a power-operated longline hauler, a cable of diameter suitable for use in the longline fishery on any reel, and gangions are on board. Removal of any one of these three elements constitutes removal of a longline.”