



# SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

4055 Faber Place Drive, Suite 201, North Charleston SC 29405

Call: (843) 571-4366 | Toll-Free: (866) SAFMC-10 | Fax: (843) 769-4520 | Connect: www.safmc.net

Jessica McCawley, Chair | Mel Bell, Vice Chair  
Gregg T. Waugh, Executive Director

## **AGENDA**

### **Law Enforcement Advisory Panel**

Town and Country Inn  
2008 Savannah Highway  
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.

**Thursday, May 23, 2019 – 1:30 P.M. to 5:00 P.M.**

**Friday, May 24, 2019 – 8:30 A.M to 12:00 Noon**

Approval of Agenda – Capt. Bob Lynn

Approval of April 2018 AP minutes – Capt. Bob Lynn

1. Status of amendments under development or under review (*Attachment 1*) – Myra Brouwer
2. Outreach for the For-Hire Electronic Reporting Amendment (*Attachment 2*)
  - a. Overview – Kathleen Howington
  - b. Discussion and recommendations – Capt. Bob Lynn
3. Amending regulations on filleting of dolphin at sea in the Mid-Atlantic and New England regions (*Attachment 3*)
  - a. Overview – John Hadley
  - b. Discussion and recommendations – Capt. Bob Lynn
4. Regulatory Amendment 29 (Best Fishing Practices & Powerheads) (*Attachment 4*)
  - a. Overview – Christina Wiegand
  - b. Discussion and recommendations – Capt. Bob Lynn
5. Priorities for Joint Enforcement Agreements
  - a. Overview – Tracy Dunn, NOAA Office of Law Enforcement
  - b. Discussion and Recommendations – Capt. Bob Lynn

6. Guidance on prohibition on retention of species in state waters when harvest in federal waters is closed for federally-permitted for-hire vessels
  - a. Overview – Myra Brouwer/Cameron Rhodes
  - b. Discussion and recommendations – Capt. Bob Lynn
7. Enforcement of “heads and fins intact” requirement for snapper grouper species
  - a. Overview – Myra Brouwer/Cameron Rhodes
  - b. Discussion and recommendations – Capt. Bob Lynn
8. Election (Vice Chair) – Capt. Bob Lynn
9. Other Business – Capt. Bob Lynn

Adjourn – Capt. Bob Lynn

**Advisory Panel Members:**

Capt. Bob Lynn, GADNR, Chair  
Sgt. Garland Yopp, NCDMF  
Col. Bruce Buckson, Retired  
Michael Freeman, commercial  
Capt. Scott Pearce, FL FWC  
Lt. Warren Fair, USCG

Col. Chisolm Frampton, SCDNR  
Lt. Pat O’Shaughnessy, NOAA OLE  
Kevin Roberson, recreational  
Bob Jones, commercial  
Nickey Maxey, recreational  
Cynthia Fenyk, NOAA General Counsel

**Attachments**

- Attachment 1:** Update on FMP Amendments  
**Attachment 2:** Presentation on Outreach Efforts for For-Hire Electronic Reporting Amendment  
**Attachment 3:** Background document for potentially amending regulations on filleting of dolphin at sea in the Mid-Atlantic and New England regions  
**Attachment 4:** Snapper Grouper Regulatory Amendment 29 Discussion Document

**Staff:** Myra Brouwer

# **OVERVIEW**

## **Law Enforcement Advisory Panel**

The AP will approve minutes from the April 2018 meeting and the agenda for the current meeting.

**1. Update on FMP Amendments (*Attachment 1*)**

**Description:** Council staff will update the AP on the status of amendments under development and recently submitted for formal review.

**Requested AP Action:** Discuss and provide input as appropriate.

**2. Outreach for the For-Hire Electronic Reporting Amendment (*Attachment 2*)**

**Description:** The Council approved an amendment in December of 2016 that would require for-hire fishermen with federal permits in the snapper grouper, dolphin wahoo, and coastal migratory pelagic fisheries to report their fishing efforts electronically on a weekly basis. The amendment was approved by the Secretary of Commerce in June 2018. From June 2016 to June 2019, the Council has conducted outreach to educate charter fishermen on electronic reporting and the tools available to them. Another part of the outreach project was educating law enforcement officers on the amendment, the tools available, and what details in the final rule will affect law enforcement officers in the South Atlantic. However, the final rule to implement the amendment has not yet been published. The LE AP will review an outreach plan and parts of a presentation and provide their feedback.

**Requested AP Action:** Discuss and provide input as appropriate.

**3. Amending regulations on filleting of dolphin at sea in the Mid-Atlantic and New England regions (*Attachment 3*)**

**Description:** The Mid-Atlantic Fishery Management Council (MAFMC) convened a law enforcement workshop in November 2018 that brought together representatives of state and federal fisheries and law enforcement agencies, and the Mid-Atlantic for-hire community to discuss law enforcement issues, permitting, and data reporting in the region and develop potential solutions. One of the recommendations was for the Mid-Atlantic Council to “communicate with NOAA’s Southeast Regional Office (SERO) and the South Atlantic Fishery Management Council (SAFMC) the need to consider allowing filleting and skinning of mahi mahi (or dolphinfish) at sea in the mid/north Atlantic region”. The South Atlantic Council received this request in a letter dated 4/30/19 (see **Attachment 3**). The issue is being brought to the LE AP for their consideration and guidance.

**Requested AP Action:** Discuss and provide input as appropriate.

**4. Regulatory Amendment 29 (Best Fishing Practices) (*Attachment 4*)**

**Description:** The Council reviewed a draft public hearing document at their March 2019 meeting. Preferred alternatives were selected that would require a descending device be *on board* vessels fishing for or possessing snapper grouper species; require the use of non-offset, non-stainless-steel circle hooks to fish for snapper grouper species north of 28 degrees North Latitude; require the use of non-stainless-steel hooks to fish for snapper grouper species throughout the South Atlantic federal waters; and allow the use of powerheads to harvest

snapper grouper species in federal waters off South Carolina. The Council also requested development of a research and monitoring plan for descending device use and for the Scientific and Statistical Committee (SSC) to advise on how best fishing practices might be considered in future stock assessments. The Council approved Regulatory Amendment 29 for public hearings (held via webinar April 30<sup>th</sup> and May 1<sup>st</sup>). At the June 2019 meeting the Council will review public comments and input from the APs and consider modifications to the document, if necessary.

**Requested AP Action:** Provide input on enforceability and the definition of descending devices used in the document.

## 5. Priorities for Joint Enforcement Agreements

**Description:** The Cooperative Enforcement Program enables NOAA's Office of Law Enforcement (OLE) to join forces with state partners through Joint Enforcement Agreements (JEAs). Currently, JEAs are maintained with South Carolina, Georgia, and Florida. Tracy Dunn, Assistant Director of NOAA OLE's Southeast Division, will brief the LE AP on the priority-setting process for JEA activities in the South Atlantic region.

**Requested AP Action:** Provide recommendations as appropriate.

## 6. Guidance on prohibition on retention of species in state waters when harvest in federal waters is closed for federally-permitted for-hire vessels

**Description:** While conducting For-Hire Electronic Reporting Trainings in the Florida Keys in 2018, charter captains requested guidance on the current regulation that prohibits federal permit holders from retaining fish caught in state waters when federal waters are closed to harvest. Because these individuals are federal permit holders, they must abide by federal fishery closures even when fishing exclusively in state waters. The FishRules mobile app does not currently include this information, and as a result, customer satisfaction is at risk. Clients are downloading the app, reading that a fishery is open in state waters, and ending up frustrated to learn that they are unable to retain those species (because the fishery is closed in federal waters). The charter captains asked that clarifying language be added to the app to help avoid confusion and unintentional violations. Council staff wants to make sure any language that is included in the FishRules app accurately reflects how this regulation is being enforced. Council staff's understanding is as follows:

- If a federally permitted vessel fishing in federal waters catches a species that is closed to harvest in federal waters, the vessel is not allowed to retain that fish.
- If a federally permitted vessel fishing in state waters catches a species that is closed to harvest in federal waters but open in state waters, the vessel is not allowed to retain that fish.
- If a federally permitted vessel fishing in federal waters catches a species that is closed to harvest in state waters but open to harvest in federal waters, they may retain that fish if they do not stop to fish in state waters when returning to port. All gear must be stowed.

**Requested AP Action:** Some states may have landing limits for certain species that would preclude the third scenario. This is where the AP's guidance is needed. Outreach efforts need to accommodate the needs of the charter fleet while making sure reliable information is provided for different scenarios and does not conflict with enforcement efforts.

## 7. Enforcement of “heads and fins intact” requirement for snapper grouper species

**Description:** Current federal regulations are as follows: *South Atlantic snapper-grouper in or from the South Atlantic EEZ must be maintained with head and fins intact, except as specified in paragraph (b) of this section. Such fish may be eviscerated, gilled, and scaled, but must otherwise be maintained in a whole condition. The operator of a vessel that fishes in the EEZ is responsible for ensuring that fish on that vessel in the EEZ are maintained intact and, if taken from the EEZ, are maintained intact through offloading ashore, as specified in this section.* This requirement was established in Amendment 4 to the Snapper Grouper FMP in 1992. The amendment includes the following rationale: *this action will increase enforceability of minimum sizes and no retention provisions and is being added at the request of the NMFS Office of Enforcement. It is the Council’s intent that the preparation of fish for immediate consumption onboard the vessel from which the fish were caught is not prohibited.*

In 1999, Snapper Grouper Amendment 9 established an aggregate recreational bag limit of 20 fish per person per day inclusive of all snapper grouper species that were not under a bag limit at the time and excluding tomtate and blue runners (there would be no bag limit on tomtate and blue runners). The Council’s conclusion in the amendment document states that *tomtate and blue runners were excluded because they are used for bait. There would be no bag limit for these species and fishermen would be allowed unlimited retention.* Note that the Council removed blue runner from federal management in January 2014.

Hence, for tomtate:

- there is no bag limit or possession limit; they are included in the recreational and commercial ACLs for Grunts (this group includes white grunt, margate, sailor’s choice and tomtate)
- they can be prepared for immediate consumption onboard a vessel from which the fish were caught.
- they can be used with heads and fins intact for bait.
- they cannot be cut up for bait; they must be maintained with heads and fins intact like all species in the snapper grouper fishery management unit.

**Requested AP Action:** Clarify how this regulation is being enforced, and for tomtate in particular.

## 8. Election of Chair and Vice-Chair

Capt. Bob Lynn was elected AP chair during the May 2017 meeting. Major Jason Walker (NCDMF) was vice-chair at that time and continued to serve as such until his departure from the LE AP in April 2018. Current guidelines state that elected AP chairs and vice-chairs can serve for three years and can be reappointed.

## 9. Other Business

### *Recreational Bag Limit Sales*

The prohibition on bag limit sales of dolphin was implemented through Amendment 2 to the Dolphin Wahoo FMP (which was part of the Comprehensive Annual Catch Limit Amendment) on April 16, 2012. The Council has recently received multiple public comments, particularly from for-hire captains in South Florida and the Florida Keys, requesting that this prohibition be re-examined to allow bag limit sales of dolphin landed on for-hire trips.

The Dolphin Wahoo AP and Mackerel Cobia AP discussed this topic at their most recent meetings. Generally, the Dolphin Wahoo AP was in favor of allowing bag limit sales of dolphin caught on for-hire trips. Members of this AP cited that allowing bag limit sales provides locally caught dolphin to area restaurants, may help eliminate waste when clients do not take all fish landed, can improve the profitability of for-hire operations, and can help retain crew.

The Dolphin Wahoo AP discussed allowing bag limit sales during their April 21, 2017 meeting and approved the following motions:

**MOTION: IN FLORIDA ONLY, REINSTATE CHARTERBOAT FISH SALES FOR PROPERLY PERMITTED VESSELS TO BE ABLE TO SELL BAG LIMIT ONLY QUANTITIES OF DOLPHIN AND WAHOO TO A LICENSED DEALER. SOLD LANDINGS WOULD COME FROM THE RECREATIONAL ACL.**

**MOTION APPROVED: 8 IN FAVOR; 2 ABSTAIN**

**MOTION: REINSTATE CHARTERBOAT FISH SALES FOR PROPERLY PERMITTED VESSELS TO BE ABLE TO SELL BAG LIMIT ONLY QUANTITIES OF DOLPHIN AND WAHOO TO A LICENSED DEALER. SOLD LANDINGS WOULD COME FROM THE RECREATIONAL ACL.**

**MOTION APPROVED: 8 IN FAVOR; 2 OPPOSED**

An action to consider allowing bag limit sales of dolphin for dually-permitted vessels is included in Amendment 10 to the Dolphin Wahoo FMP. The amendment will be developed in 2019-2020.

The Mackerel Cobia AP was opposed to allowing bag limit sales of any Council-managed species, due to concerns over proper accounting of fish sold from for-hire trips and resource-related concerns that may result from incentivizing additional harvest of fish. The Mackerel Cobia AP felt that allowing bag limit sales of dolphin would create an unfair advantage for some for-hire operations that could benefit from a new revenue stream, so while the AP was opposed to allowing bag limits sales, should Council allow bag limit sales for any species, then bag limit sales should be allowed for all species to maintain a “level playing field” among for-hire operations in the South Atlantic Region.

The Mackerel Cobia AP approved the following motions during their April 18, 2019 meeting:

**MOTION: RECOMMEND THE COUNCIL NOT CONSIDER FOR-HIRE SALES FOR ANY SAFMC MANAGED SPECIES. IF FOR-HIRE SALES ARE ALLOWED FOR ONE SPECIES IT SHOULD BE ALLOWED FOR ALL SPECIES.**

**MOTION APPROVED**