

FINAL
MEETING REPORT
SPINY LOBSTER ADVISORY PANEL
SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL
May 7, 2018

The Spiny Lobster Advisory Panel (SL AP) met via webinar to discuss topics supporting management of the spiny lobster fishery. Below is a summary of the group's discussions and recommendations. The SL AP approved motions for recommendations to the Council, but a summary of all viewpoints relevant to each motion/recommendation are included.

AP Members

Bruce Irwin, Chair
Robert Burton
Gary Nichols II
Peter O'Bryan
Mickey Whittington

AP Members Not in Attendance

Bill Mansfield, Vice Chair
Richard Diaz
Sean Espenship
Tony Iarocci
Russell Moore
Mimi Stafford

Council Members

Jessica McCawley, Spiny Lobster Chair

South Atlantic Council Staff

Christina Wiegand, Spiny Lobster Lead
Brian Chevront
Mike Collins

Other Attendees

Bill Kelly, Gulf Spiny Lobster AP Chair
Simon Stafford, Gulf Spiny Lobster AP

The Advisory Panel approved minutes from the April 2016 meeting and the agenda.

Update on Spiny Lobster Amendment 13

Recently, constituents expressed concerns to Florida Fish and Wildlife Conservation Commission (FWC) about increased participation in the open-access spiny lobster bully net component of the spiny lobster fishery along with growing conflicts between recreational bully netters, commercial bully netters, and other members of the public such as homeowners. Based on stakeholder input, FWC approved a set of regulations that would help quantify participation in the commercial bully net fishery, while continuing to allow entry into the fishery, and address other stakeholder concerns. The Spiny Lobster Fishery Management Plan had included a protocol and procedure for enhanced cooperative management for spiny lobster that allowed the National Marine Fisheries Service to update federal regulations to align with Florida regulations without formal action by the Gulf and South Atlantic Councils. However, the protocol and procedure need to be updated before federal regulations can be revised to align with FWC regulations.

Spiny Lobster Amendment 13 contains actions that would update federal regulations to align with State of Florida spiny lobster regulations, including: the recently implemented bully nets regulations, trip limits for bully nets and divers, degradable panel specifications, and artificial habitat definition and restrictions. The amendment also contains an action that would update the enhanced cooperative management procedure between FWC and NMFS. The SL AP discussed the costs and benefits of the amendment and made recommendations for each action.

Points raised during the discussion of **Action 1** (bully net permits) included:

- The SL AP felt that consistency in regulations was important for law enforcement efforts but noted that bully nets are not a gear type that is used to harvest spiny lobster in federal waters.

The SL AP approved the following motion:

MOTION #1: RECOMMEND ALTERNATIVE 2 UNDER ACTION 1.

Alternative 2: Align federal regulations to be consistent with Florida regulations for spiny lobster commercial harvesters *using bully net gear* by implementing the following:

- Require commercial bully net vessels in the EEZ off Florida to have a bully net permit from Florida
- Require that the vessel be marked with the harvester's Florida bully net permit number using reflective paint or other reflective material
- Prohibit commercial bully net vessels from having trap pullers onboard
- Prohibit the simultaneous possession of a bully net and any underwater breathing apparatus (not including dive masks or snorkels) onboard a vessel used to harvest or transport spiny lobster for commercial purposes.

APPROVED (UNANIMOUS)

Points raised during the discussion of **Action 2** (dive and bully net trip limits) included:

- SL AP members felt that it was important to establish trip limits in federal waters, especially for divers. Again, the SL AP noted that they were unaware of any area where bully nets could be used in federal waters.
- The SL AP supported consistent regulations to aid law enforcement efforts.

The SL AP approved the following motion:

MOTION #2: RECOMMEND ALTERNATIVES 2 AND 3 UNDER ACTION 2.

Alternative 2. Establish a commercial daily vessel harvest and possession limit of 250 per day/vessel for spiny lobsters harvested by bully net in or from the entire EEZ off Florida.

Alternative 3. Establish a commercial daily vessel harvest and possession limit of 250 per day/vessel for spiny lobsters harvested by diving in or from only the EEZ off Broward, Dade, Monroe, Collier, and Lee Counties, Florida.

APPROVED (UNANIMOUS)

Points raised during the discussion of **Action 3** (degradable panels) included:

- The SL AP felt that consistency in regulations is important, however degradable panel construction is one of the few examples where state and federal regulations should not be aligned.
- Non-wooden traps are primarily used in federal waters and construction of degradable panels is different than what would be found in state waters. Currently, non-wooden traps constructed for use in federal waters are using treated wood for the degradable panel. SL AP members noted that treated wood was necessary because of the worms that eat traps in federal waters. SL AP members felt that if fishermen were to switch and use the wood types proposed in **Alternative 2**, the degradable panel wouldn't last a full 90-days. **Alternative 2** would result in a loss of production and increased costs for commercial spiny lobster fishermen.
- SL AP members felt that the current federal regulations should remain in place because the wood fishermen are using degrades in approximately a year.

The SL AP approved the following motion:

MOTION #3: RECOMMEND ALTERNATIVE 1 (NO ACTION) UNDER ACTION 3

Alternative 1. No Action. In the EEZ off Florida, a spiny lobster trap constructed of material other than wood must have a panel constructed of wood, cotton, or other material that will degrade at the same rate as a wooden trap. Such panel must be located in the upper half of the sides or on top of the trap, so that, when removed, there will be an opening in the trap no smaller than the diameter found at the throat or entrance of the trap.

APPROVED (UNANIMOUS)

Points raised during the discussion of **Action 4** (artificial habitat) included:

- SL AP members felt that discouraging the placement of casitas was important but noted that there is material in federal waters that isn't permitted but wasn't intentionally placed. For example: rubble from old bridges, materials placed during hurricanes etc. Some of this material is currently utilized by a number of divers to harvest spiny lobster. It is coral encrusted and has been available for decades.
- The definition for artificial habitat is vague and doesn't provide a way to distinguish between artificial habitat that's not permitted but is regularly used for harvest and casitas illegally placed by fishermen to create habitat.

The SL AP approved the following motion:

MOTION #4: RECOMMEND ALTERNATIVE 2 UNDER ACTION 4

Alternative 2. No person shall harvest any spiny lobster from artificial habitat in the EEZ off Florida. The harvest and possession in the water of spiny lobster in excess of the recreational bag limit is hereby prohibited within 10 yards of artificial habitat as is consistent with FAC. For spiny lobster, "artificial habitat" means any material placed in the waters of the state that is reasonably suited to providing cover and habitat for spiny lobster. Such material may be constructed of, but is not limited to, wood, metal, fiberglass, concrete, or plastic, or any combination thereof, and may be fabricated for this specific purpose or for some other purpose. The term does not include fishing gear allowed by rule of the Florida Fish and Wildlife Conservation Commission (FWC), legally permitted structures, or artificial reef sites constructed pursuant to permits issued by the United States Army Corps of Engineers or by the state regulatory agency.

APPROVED (UNANIMOUS)

Points raised during the discussion of **Action 5** (cooperative management) included:

- The SL AP felt that the South Atlantic and Gulf Councils have done an excellent job managing spiny lobster and wanted to ensure that the enhanced cooperative management procedure did not allow the state of Florida to impose regulations in federal waters without approval from both Councils.
- The SL AP noted that there are some situations where state and federal waters should have different regulations, for example degradable panels.

The SL AP approved the following motion:

MOTION #5: RECOMMEND ALTERNATIVE 2 UNDER ACTION 5

Alternative 2. Establish an enhanced cooperative management procedure that allows Florida to request changes to the spiny lobster federal regulations through NMFS rulemaking.

APPROVED (UNANIMOUS)

Regulatory reform for CMP species

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 SL AP has the following recommendations:

- SL AP members agreed with the Council staff recommendation that spiny lobster should be eligible for exemption from the annual catch limit (ACL) requirement under the Magnuson Stevens Fishery Conservation and Management Act (Magnuson Stevens Act). SL AP members felt that effort in the spiny lobster fishery was heavily regulated, specifically citing the trap certificate program. Additionally, SL AP members noted that genetics work illustrates that recruitment comes from outside the southeastern United States, and that having a trigger when landings get below a certain threshold makes more sense than setting a trigger for when the ACL is exceeded.
 - SL AP members also noted that, when implemented, Spiny Lobster Regulatory Amendment 4 will increase the current ACL. Additionally, there is a safeguard in place that would require the Spiny Lobster Review Panel to meet if there are two consecutive years of low landings (below 5.3 million pounds). Given these changes, exemption from the ACL may not be a top priority, but SL AP members would like to see some options for alternative ways to regulate the fishery.
- SL AP member suggested the regulations be revised to clarify when you can leave the dock to tend your spiny lobster traps. SL AP member indicated that there was some confusion regarding whether a vessel could leave the dock before sunrise, provided traps were not pulled or worked prior to one hour before official sunrise.

Fishery Performance Reports

The SL AP was asked to provide information to develop a fishery performance report (FPR) for spiny lobster. The purpose of these FPRs is to assemble information from AP members' experience and observations on the water and in the marketplace to complement scientific and landings data. The FPRs include information on catch levels over the last five years, effectiveness of current management measures, environmental conditions and ecology, and social and economic influences. The FPRs will be provided to the Scientific and Statistical Committee (SSC) and the Socio-Economic Panel (SEP) to complement material being used in assessments and to inform future South Atlantic Council management. The FPRs will also be made available on the South Atlantic Council's website.

Other Business