

# **SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL**

## **LAW ENFORCEMENT COMMITTEE**

**Bahia Mar Doubletree by Hilton  
Fort Lauderdale, Florida**

**June 11, 2018**

### **SUMMARY MINUTES**

#### **Law Enforcement Committee Members**

Mel Bell, Chair  
Zack Bowen  
Ben Hartig

Anna Beckwith, Vice-Chair  
Mark Brown

#### **Council Members**

Charlie Phillips  
Chris Conklin  
Dr. Michelle Duval  
Doug Haymans

Chester Brewer  
Dr. Roy Crabtree  
Tim Griner  
Jessica McCawley

#### **Council Staff**

Gregg Waugh  
Dr. Brian Chevront  
Kimberly Cole  
Mike Collins  
John Hadley  
Roger Pugliese  
Amber Von Harten

John Carmichael  
Myra Brouwer  
Dr. Chip Collier  
Dr. Mike Errigo  
Kim Iverson  
Cameron Rhodes  
Christina Wiegand

#### **Observers & Participants**

Erika Burgess  
Tracey Dunn  
Dr. Jessica Stephen  
Dr. Jack McGovern  
Dewey Hemilright  
Capt. Bob Lynn  
Lt. Warren Fair

Nik Mehta  
Mary Vera  
Rick DeVactor  
Dr. Clay Porch  
Dale Diaz  
Karen Raine

Other observers and participants attached.

The Law Enforcement Committee of the South Atlantic Fishery Management Council convened at the Bahia Mar Doubletree by Hilton, Fort Lauderdale, Florida, Monday afternoon, June 11, 2018, and was called to order by Chairman Mel Bell.

CAPTAIN LYNN: Good afternoon, everyone. Just to brief you here on the summary, we had a meeting in Charleston, South Carolina of the Law Enforcement AP on April 18 and 19, and we covered some topics. We covered discussion on some wreckfish and about some safety issues, if any known or perspective issues have been known about at-sea issues. As far as what the AP came up with, for the past twenty-five years, we were unable to come up with any known at-sea injuries or at-sea accidents or known safety precautions or known safety events that happened in that fishery, and so that's was just some general discussion. There was some discussion on hail-in and hail-out requirements for the fishery and just some general discussion about making it easier and the VMS onboard vessels in that fishery.

We covered penalties for non-reporting, and I think we've covered that on several occasions, and, again, it falls upon the Southeast Science Center to notify NOAA OLE of non-reporting issues and the Office of Law Enforcement to investigate or pursue, as far as law enforcement action goes.

Spiny Lobster, Amendment Number 13, we covered and discussed, at-length, and I think that's what up next as well, what will be covered in the next committee, but, as far as the AP, we discussed trap construction and material, and that was a pretty lengthy discussion. As far as -- Any type of regulation that were to be adopted needs to be very specific and very standard. Trap material is very difficult at times to enforce, as far as narrowing down types of wood and whether it's treated or untreated and cypress or pine, and that seemed to be a large discussion.

The artificial reefs, Florida has -- We discussed Florida laws as far as placing artificial reefs and the distance you had to fish from that artificial reef and how Florida enforces that law, and that was a lengthy discussion. As far as NOAA OLE enforcing some type of regulation, again, that would have to be a very well-crafted regulation that would have to cover that. It's very difficult to be able to tell the distance underwater and have officers that were able to go -- Dive teams that would be able to dive down with a fisherman in the water to be able to tell artificial reefs and how far off they were from it, in order to make a case against a potential violation.

We talked about Spanish mackerel gillnets, and there was discussion on how to measure nets, and the consensus of the LE AP was basically from center knot to center knot, with it stretched, and that was the general consensus on the correct way to do it and the preferred way to do it, and there was some discussion that was brought out as well as to different type or different diameters of line for the net.

The LE AP decided that it would be easier and best to stick with one recommendation and not two different line diameters. It's very difficult for a law enforcement officer to know what size line diameter it is and whether it would fall into a net being a three-inch stretch mesh or a three-and-a-half-inch stretch mesh, if it was a particular line size, and so the LE AP decided that it would be easiest for law enforcement just to have one line diameter size for a net.

Coast Guard law enforcement priorities were further discussed, and the Coast Guard is willing to help at any time they conduct their own patrols as well, but any state agency can ask for their assistance, and details have been run in numerous states in conjunction with the U.S. Coast Guard

on many occasions, and so the states have a very good working relationship with the U.S. Coast Guard, and we're always willing to help the Coast Guard, as they are likewise back to us as well, and we appreciate that partnership,

For-hire permits were discussed again, and it's still the recommendation of the LE AP that the current status, as far as the permits go, that there is really not a use for an enforcement tool at this time, until we apply that equally across-the-board to all fisheries and put some teeth in the law when it comes to the operator permits.

We discussed regulations recommended for removal, and the operator permits did come under that, and we discussed that and that the regulations that maybe have not been applied, or there hasn't been a case against or any use for the last five to ten years, to just kind of sort out what has worked and what hasn't worked and are there any issues in that particular area.

Golden crab, coral, and shrimp amendment, we discussed VMS again, and I believe this is where the talk was about a buffer zone. Yes, a buffer zone around closed areas was not very useful. Essentially, they rendered the closed area smaller, and it's better to have an all-or-nothing regulation when it comes to closed areas.

Then we did have discussion on transiting through closed areas, as we've had this year, I guess, and I know off the coast of Georgia and the coast of South Carolina that the federal waters were closed. Fishing vessels transiting through and current regulations in federal regulations and regulations in states -- Their gear has to be stored below deck, and we do know that's very difficult and very cumbersome for fishermen to do, and so the LE AP did recommend that we look at maybe rewording or trying to remove that, and we suggest that wording be inserted as to the nets and doors be separated, and that would not be as quite as cumbersome as storing all your fishing gear below deck while transiting through a closed area.

If the nets and the doors were disconnected, if you boarded a vessel or stopped a vessel and the nets and the doors were separated, you would know that they were just transiting through an area and that they were not fishing at the time, or not able to fish at the time. It would be less of a hassle than trying to store all your stuff below deck, as the current regulation states.

Charter vessel reporting, we went over that as well, with Harbor Lights, and I believe states are now -- I have received some emails myself from Georgia about training on the Harbor Lights program, and so that is continuing to move forward on the law enforcement side, so that we'll be able to tell who is reporting and who is not reporting, and so we're looking forward to that training.

Enforcement in protected areas, Florida seems to be the most active in protected areas. Of course, there is numerous ones in the state of Florida that are closer to shore, and the State of Georgia doesn't have -- Other than Gray's Reef is the closest area that we can patrol, due to the manpower and patrol vessels, and North Carolina reported the same. South Carolina has had some patrols in areas, and the Coast Guard, at the time, was unable to provide data, but they are well geared for that type of patrol through SMZs and MPAs, due to the large vessels that they have, and they stated that they have been through, but they just didn't have the numbers at the time that this discussion was going on. Of course, NOAA OLE, at the time, still depends on the state partners and agencies to assist in those areas, due to their lack of manpower and vessels at the time.

I guess the last one that we will discuss, or touch on at the time, is the LE AP would like to request the ability to meet -- We meet once a year now, and we would like the ability to meet twice a year. I think it would be better for the council for us to meet twice a year instead of once a year, because we ran into a couple of instances at our last meeting where regulations were already at the final stages, and we were behind, I guess you would be able to say, for us to make a comment as to how enforceable or how it would affect law enforcement, and so, if we met twice a year, I do believe that we would at least be in the conversation at the time the regulations are being formed, to provide input.

MR. BELL: Thanks, Bob, and, to the last point, if you think about it, the amendments that we move forward, and we can move forward a bunch of them at one time sometimes, just about every one of them has some enforcement component to it, and so our ability to communicate what we're doing and what our intentions are and what we're thinking about -- If we can do that a couple of times a year rather than just once a year -- Like, in this particular meeting, they had quite a menu selection, so to speak, to look at, and so it would be -- I think it would improve our ability to communicate to enforcement what our intentions are, and then they can give us a little bit quicker feedback and sometimes sort of a sanity check on what we're proposing, and so I think that is a good idea, if we can have this particular AP meet twice a year, as some other APs do, but, if you think of it, about everything we do touches on enforcement.

MR. HARTIG: To that point, Mel, I certainly agree that would be a great way to go, and was there any discussion about possibly doing a second by webinar instead of face-to-face?

MR. BELL: We didn't get into the how part, but that is certainly -- You could do it that way, I think, and, since the AP doesn't meet that often, and kind of watching them meet, there was a lot of -- It was good to have them all together in the same room, but you might be able to achieve that, particularly if funding were an issue, through some sort of webinar thing, but I know that having them together face-to-face worked really well in this case, and that would be my preference, if we could afford it.

MR. BROWN: Would it be -- Would you want to like have a second one six months apart and split it semi-annually, or how would you want to do it?

CAPTAIN LYNN: I would suggest -- I believe an April meeting and probably an October or November meeting, along those lines, would be sufficient, and would that fall in with the council?

MR. BELL: We just kind of need to work it into the overall schedule, but I would kind of separate them out a little bit, and there may be times when we have a particularly aggressive schedule related to the things that we're proposing or something, and we could just kind of -- But I think twice a year would be better, in some form, whether it's face-to-face and a webinar, but you would want to kind of spread them out a little bit, and we didn't really get into the specifics of that.

MR. BOWEN: Can you -- It's hard for me to hear, and could you elaborate a little more on what you all talked about with the moratorium and the for-hire permits? You used the word "enforcement", but I didn't get what you said before or after that. Maybe Myra can pull the screen back up to that page.

LT. FAIR: I believe it was the operator permit, Bob.

CAPTAIN LYNN: I am just reading back over that, and that's correct. The for-hire on the agenda was we talked more or less about the operator permits, like we have in the past, as far as the way they are currently for dolphin wahoo and the rock shrimp.

MR. BELL: It wasn't the for-hire permit, actually. It was operator cards is what they were talking about, and, in essence, it's what we've kind of heard before. In their current state, in our region, with the only fisheries they touch, they are not particularly useful, but I think the committee felt like, in a way, if the whole system were sort of redesigned and it were more consistent and across all the fisheries, it might have application, but, in its current state right now, it was of little use, but it wasn't the --

MR. BOWEN: Thank you. Again, I just couldn't hear. Thanks.

MS. BECKWITH: I just want to thank the AP. I mean, these minutes -- This report, I usually read it first in my council preparation, and I print it out, and I keep kind of going back as I prep through all my council materials, and I typically go back and double-check what the Law Enforcement AP has said, and so I do really appreciate what you guys do and the insight that you give us, and I would support meeting twice a year.

On a separate note, Mel, help me remember, but didn't we send a letter out to the other councils in reference to the operator permit, to see if we had any sort of nibbles from other councils that might want to work with us, and we got exactly nothing back from anybody, right?

MR. BELL: I believe you're right. I know we were trying to kind of get a sense of what others were doing and if there was a desire to sort of move towards standardization or something, and I don't recall any input from any of that.

MS. BECKWITH: Yes, and I'm going to look over at our Gulf Council rep, as it might be something that you guys can sort of nudge the Gulf Council and just get a sense of if the Gulf Council is in no way interested in moving forward with the idea of an operator permit, but some response would be good, because it does sort of support that, if this isn't -- If there is no desire to reorganize this operator permit in a way that sort of spans from the Gulf all the way up to the Northeast, then its utility is truly lacking, if that's not the final result.

MR. BELL: One of the issues too is it's approached differently region-by-region, and so I know that GARFO kind of does things a little differently there, but I think our officers in our region, just looking at it from their perspective and the fisheries involved, it just didn't seem to be worth the hassle, but you're right. It's almost that you kind of need to come back and sort of redesign the whole system, but that's a little bit higher level than us. I mean, we can certainly point that out, but it doesn't have a lot of utility right now here. Any other questions about specific areas? I mean, it's a wide range of topics that they touched on, and was there anything that you would like Bob to fill in the blanks on or anything?

MR. HARTIG: Mel, I think I was interested in the two-year report of the closed areas that the FWC had looked at, and they have 190 hours, but how many days were they actually out there? I mean, that would be good to know, because that's a lot of citations and warnings coming out of

that two years, and so it would be interesting to know how many days that was that they were actually on-site in those areas.

MR. BELL: We could certainly -- In fact, that could even be kind of an annual or semi-annual sort of assessment, and we could ask specific questions and quantify it like that. I mean, that would be a good thing to have, and I think this was just sort of the brief from the officers that were at the meeting, in terms of data they had, but it's not necessarily standardized for each state, but that would be useful, and that actually feeds into when we're looking at the utility of the spawning SMZs or MPAs or any kind of closed area. You want to kind of maybe standardize that reporting criteria, but that's a good suggestion, I think. Any other questions?

DR. DUVAL: I am not on the committee, but I did have a couple of questions. I guess the first - - These are both under the topic of regulations recommended for removal. The first bullet was about aggregate bag limits and the suggestion that they are difficult to enforce. The suggestion was to just remove and utilize all single-species bag limits instead, and I know we have ninety species or something like that within our management purview, and so I'm wondering -- That seems like an awful lot of single-species limits to try to establish and keep track of, and I'm wondering if it's that the issue is really more that it can be difficult to remember which species are in a particular aggregate.

One of the things that I was thinking of was -- I mean, it might be helpful for our law enforcement officers if -- This gets back to, I think, the regulations app that we have, but, even if there is some kind of card or cheat-sheet or something like that, and I think the Fish Rules app is great for when you are looking up a particular species, but I am thinking of really just more like a tiny little -- Just a little laminated card that was like here is all the species that are in the shallow-water species twenty-fish aggregate and here's all the species that are in the ten-snapper aggregate and here is all the ones -- Just like a little card like this, and that would be helpful for our law enforcement officers, because, while you can get that information from the Fish Rules app, and it tells you that this is within the twenty-fish aggregate, I don't think that Fish Rules has just a page that lists what all the species are in the aggregate, but I see Cameron coming to the table, and so I will shut up.

MS. RHODES: Hi, everyone. Within Fish Rules, there actually is an option. We can ask them to go ahead and put together some kind of page that will actually outline all of the aggregates, but, if you click on any given species and you click on the box that says "aggregate" and what aggregate it's part of, then it gives you a list of all the other species included in that aggregate, and so there's not like one general landing page, where you see all the aggregate structures, but, if you clicked on yellowtail, it's going to give you the ten-snapper aggregate, and it lists out every other species that is included in that.

DR. DUVAL: So all you have to do is click on that aggregate within the species page? Okay. Clearly I haven't done that, and so I'm just wondering if that might be helpful to point out to our LE AP members as well as our enforcement partners, because that, I think, could help maybe address the concern that is noted here under this bullet.

MR. BELL: Yes, and I think what you're seeing there is, under the discussion of regulations recommended for removal, that's not necessarily what you've got here specifically. What you had was some discussions about some things that are kind of tough to work or areas of -- One of them

being identifying aggregates, and anything we can do to facilitate -- It may be that electronically is the way to -- You provide them a tool to do that sort of thing.

MS. RHODES: Later this week, you're going to get a presentation from Kelsey Dick, where she is showing you a video of how to use the MyFishCount app, and we're working with Kelsey in the next couple of months to create a Fish Rules video, which will showcase all of those little nit-picky things that people aren't really aware of. There is all these features on the app that just really aren't all that intuitive, and so that's something that we can share with all of our law enforcement partners, for sure, to help alleviate some of the confusion with the aggregate structure.

MR. BELL: We talk about the difficulty -- We do things to help the fishermen understand this, and keep in mind the officers have to be able to do this as well, and you're in a boat, and you go alongside somebody and you go aboard or whatever it is, and you're looking at things and trying to decide stuff, and that's why I can see -- Okay, I see seven black sea bass, and I see five b-liners, and I see this, and that is easier to kind of track, but, if you have a tool to kind of help you with that aggregate stuff, that's probably the way to go.

The other things you'll see on there related to comments on standardized lengths, we know that certain species we use fork length or we use total length or whatever, and that's just kind of related to, unfortunately, how we manage some species different from the other, but that does -- What you're seeing, I think, is just -- In their minds, when they go aboard or they're looking at a cooler, it's just their ability to process what's in there and work through it, but, the simpler it is, the better, but that's true for everybody, and it's challenging.

Regulations that have not been applied in the last ten years, the point there is, if you've got regulations on the books and they're not using them and we're not enforcing them, why are they there, but, of course, they may be there because they serve a purpose in terms of management of a particular species, which we're able to assume a certain level of post-release -- One level of post-release mortality or we're able to assume that -- Like with the requirement for circle hooks, we kind of take some credits for using circle hooks, but you're just kind of seeing the -- That is their assessment of some things going on in the field that, if they could kind of change things, it would make life simpler, but -- It didn't really necessarily fit the intent of Executive Order 377.

DR. DUVAL: I guess you just touched on what my second question was, in terms of the regulations that haven't been applied in the last five or ten years and just clarifying that, by applied, that means there hasn't been a violation or a citation or something like that, and is that what was meant by that?

CAPTAIN LYNN: That was the general conversation. As it went on, as far as removing regulations, it was just look at the regulations and is there a need for a regulation and how much enforcement activity has been related to this regulation and does this regulation -- Is it relevant to what is currently desired at the time? That was the gist of the general conversation, was just kind of to go back through and match the enforcement effort versus is it really relevant at this time or does it need to be updated to what the council desires at this time, versus the way it's written now, and that was the spirit of that comment.

DR. DUVAL: Thank you. I appreciate that.

CAPTAIN LYNN: Yes, ma'am.

MR. BELL: Any other questions for Bob related to any of the items at the meeting? Okay. Seeing none, then we can move to the last agenda item, which was actually kind of touched on in one of the areas that the AP discussed, and that was the Coast Guard Law Enforcement Priorities. Myra, were you going to actually review something, or do we want to kind of go back and pull it out of here?

MS. BROUWER: Yes, and thank you, Mel. I just wanted to point out where those priorities are in your overview, and so, rather than create a whole other attachment with the comments that were provided, these were just included in the overview. A little bit of background is Sector Charleston U.S. Coast Guard approached council staff and said that we would like to come to relevant gatherings of your stakeholders, fishermen, and request some input on law enforcement priorities for the Coast Guard.

We explained to them that Sector Charleston obviously deals with enforcement off of the South Carolina and Georgia coasts and so that they were likely going to get recommendations that were not relevant to their particular geographic area, and, nevertheless, the request was made to the Snapper Grouper Advisory Panel and the Mackerel Cobia Advisory Panel and the Law Enforcement AP.

They all had the opportunity to provide comments to the U.S. Coast Guard. Lieutenant JG Jerry Brown was there to facilitate those discussions, and so your overview includes bullet points of mainly comments and some recommendations that were made that the Coast Guard could then use to prioritize, and so that is Item 3 in your overview. I don't know, Mel. In the interest of time, I didn't know if you wanted to go through any of these, but there is not that many, and you can see some of the kinds of issues that are on fishermen's minds.

MR. BELL: Keep in mind the input in there is, as she mentioned, some of the fishery-related APs, but the LE AP as well, and Jerry was at that one, and so, if there is any particular items that you want to discuss. We do appreciate the Coast Guard showing up and asking, and they really are reaching out and trying to see kind of what the interests are or what the focus areas should be, and so we do appreciate them going to that effort to at least communicate and get input, but, if there's anything in particular that you see on there that you would like to ask about or discuss, we can.

MR. HEMILRIGHT: I am not on the committee, but I was wondering about on some of these penalty schedules and what the thought process -- This might be for the council rather than the Coast Guard, but about after your second time caught fishing in a closed area that you have to have -- As part of a second time, before you can go fishing again, you have to have a working vessel monitoring system as part of your penalty to track you after the second time of being convicted or found guilty or whatever the proper word is, and so I don't know if there is cases where there has been multiple times of individuals fishing in closed areas or that type of thing, but, after the second time, as part of the vessel operator himself or the owner of that particular vessel, there has to be a working vessel monitoring system aboard before that vessel can fish again, and I was wondering people's thoughts about that.

MR. BELL: You're saying that is part of the penalty schedule now?

MR. HEMILRIGHT: No, I was wondering if it could be part of the penalty schedule in the future, as part of tracking somebody for vessel monitoring systems or something like that after they have done it a couple of times. I'm just curious.

MR. BELL: Karen, do you have any feedback on that?

MR. HEMILRIGHT: I was looking for a deterrent. Obviously, once wasn't a deterrent, and twice wasn't a deterrent, and if having to do a vessel monitoring system and tracking would be a deterrent and also would help enforcement in the future.

MR. BELL: Does that sound reasonable if the council were to --

MS. RAINE: I do have some comments, and thank you. I know this has been an issue that has sometimes come up in the past. Any authority we have for assessing penalties, whether it's a monetary penalty or a permit sanction, comes to us through Congress, and, under the Magnuson-Stevens Act, the only authority we have for penalties are permit sanctions and monetary penalties, in addition to written warnings, or fix-it tickets, which are sort of separate.

As far as attaching a penalty such as requiring somebody to install VMS, is not something that we can do as part of the delegated penalties to us. However, there have been situations in the past where, as a matter of settlement agreement, where parties have agreed to something outside of a monetary penalty or a permit sanction, and I don't know that that happens very often at all, and certainly people are not required to agree to such things.

I would say that many, many, many years ago, I had a case where someone agreed to something like that, but I know I personally haven't done that in a long, long time, and so it's something out of the ordinary, and somebody would have to agree to it, and I don't know -- Again, I don't know that anything like that is being done very often at all these days.

MR. BELL: Okay. Thank you. Gregg, do you have something to add?

MR. WAUGH: Yes, and thank you, Mr. Chairman. Just a question. The council can require VMS, and so why couldn't the council require VMS if there was a violation along the lines of what Dewey has described? If you think violation of a closed area is so egregious that that's a case where you want to require VMS, perhaps we could do it as a management measure in a plan and explore it that way, if you all are interested in looking at that.

MS. RAINE: I don't think that that can be done, because that would be a penalty then, and the authority for penalties, as far as what we can institute as penalties, comes from Congress, and, right now, that is monetary penalties, written warnings, and permit sanctions.

MR. BELL: Yes, I follow the logic, Gregg, of something like that as a useful way to ensure -- But I think Karen is -- I believe that's the critical point, is that Congress would have to -- Since it would be viewed as a penalty, then it might not be that easy to do. Any other questions about anything we've talked about? Are we all done under the heading of Coast-Guard-related items or anything else? What else did we need to bring before the committee?

We had some discussion about potential council input on law enforcement priorities and to NOAA OLE, and Tracy Dunn is here today, but I know that NOAA has as set of priorities they use related to like the JEA grants or projects, and so I don't know if there's an actual mechanism where the council, if they wanted to express interest in priorities, how we would communicate that to NOAA OLE and what would be the appropriate mechanism or how that would work, but it's just something to discuss for a second, if you would like. Warren, did you have something to add to that?

LT. FAIR: I did, sir. Thank you. Lieutenant Fair from the South Atlantic Regional Fisheries Training Center. Speaking to that, and then the discussion that we had with the Coast Guard law enforcement priorities, I think the intent that Lieutenant Jerry Brown was looking for is we're out there enforcing all the rules and regulations for NOAA as the enforcement arm of these, and we're going to be out there doing fisheries. What we are lacking, and not just in the Charleston AOR, but all the way down to the Keys and the Caribbean, and even up in North Carolina, is what does the council find as a high-precedent fishery that you want us to focus on?

Is it the snapper grouper, or is it dolphin wahoo? Should we put all of our efforts into HMS? What is it that we should do? If there was a way that the council could communicate that to us, we have monthly meetings and kind of set those priorities for every AOR, from North Carolina all the way down to the Keys, and, when we push out the living marine resource bulletin, those priorities are listed in there, and, currently, my office pushes that out once a month, and, right now, there is NTR, which is nothing to report.

That leaves specific sectors the autonomy to make up their priorities on, well, let's just go do snapper grouper, because that's what everybody is fishing for. Lacking that guidance, we're going to do the mission regardless, but, if we could focus those attentions to what is important to the council, I think it would be mutually beneficial.

MR. BELL: Okay, and so that would be potentially then direct communication from the council to the Coast Guard about that on some regular basis, and that's kind of, I guess, what Lieutenant Brown was kind of feeling around for?

LT. FAIR: Yes, sir, I believe so, but he is limited, just like Myra said, to Charleston and Georgia, but, even if the council expressed that through the LE AP and we coordinate that as these are the six-month priorities, and now we're meeting semi-annual, every six months, we could re-look at the priorities, but then there could also be a data point or data collection that said the council mentioned that these were high-precedent for the last six months and how many boardings were conducted in these areas with these fisheries and what are the results, and then you might start to be able to get a little bit of data that is important to the mission focus.

MR. BELL: So maybe twice a year would be -- Well, twice a year would be better than nothing at the moment, but that might be a way to start, in terms of communicating at the time. If we have the AP meet twice a year, there is a linkage there, and you all are a participant, or at least at some level in the AP meeting.

LT. FAIR: Yes, sir, absolutely. A little bit of guidance is better than no guidance. Otherwise, we will make up our own.

MR. BELL: Gotcha. All right. That was a little bit different from where I was going with the NOAA OLE priorities, but, again, realizing that we have some diversity in enforcement assets out there, that is certainly -- That is one of the things that came into mind particularly related, as Bob mentioned, to the MPAs or the spawning special management zones or some of the other closed areas, is the Coast Guard has the proper assets to be offshore, particularly when you get out of the south Florida area and you have to be thirty or forty or fifty miles offshore. That is who is more than likely going to be potentially out in these areas, and so I think that opportunity for direct input at least twice a year -- I mean, that makes sense to me, if we could coordinate that. Great. Any other ideas?

CAPTAIN LYNN: Tracy, would you like to come up and provide some OLE -- How you all come up with your priorities and push it out to us, the states?

MR. BELL: Just kind of knowing how you guys actually set that or if there is a potential feedback mechanism there for us to use as well.

MR. DUNN: Our priority document is a five-year document, and so it sets it to a standard that we look at, and then the Southeast -- I've been here for twenty-seven years, and it really hasn't changed a whole lot, and we go beyond what this particular council wants. We have to figure all the other councils and our protected resources and even our international program, and so it goes a little bit beyond what this body does.

To say that you've seen our priority documents, and that's a five-year review, and we ask everybody, it seems like, everybody in the fishing community to offer input as to where we should be putting our time and effort, and that can be a bit of a huge issue to cull that out to specific priorities, but, in the Southeast, we know we have TEDs, and that's absolutely essential, and we have the IFQ programs, and so there are those that we know right off the bat what we need to do.

To say that that is written in stone, however -- Well, let me back up and say that we use that priority document and our knowledge of what the Region needs and what our programs need to build the JEA, and so, every year, we sit down with the states and we talk about, in their particular area, what is the work that we need done and to focus on, but that's not all written in stone. I can change those at any particular time. If something happens off of Georgia, we sit down and we talk with them and say, okay, this is where we need to kind of change that priority for this particular timeframe, based on any feedback I'm getting from the Region or any other particular body that rises one particular priority above some others.

Normally, in any organization, you have three or maybe five top priorities. This priority document we have has priorities on top of priorities on top of priorities, and so we really have to kind of take that document and look at it specifically. We used to have quarterly meetings with the Coast Guard, where we would talk about priorities. The Coast Guard, with their multi-mission, kind of fell off of fisheries, and we kind of quit doing that, and so it's probably an opportunity -- We actually tried to reach out a little bit ago, and, with schedules being what they are, we never really got started again, but, if the Coast Guard is re-engaging with fisheries, it's probably a good opportunity for us to sit down and talk once a quarter with Roy and kind of figure out what we need to look at for that particular quarter, but, again, everything changes, and we recognize that and understand that we have to be able to adapt.

MR. BELL: Right, and that level of communication between you all -- I mean, that would be great, if we can kind of rejuvenate that and then, maybe semi-annually or whatever, we have feedback in from the --

MR. DUNN: Well, especially with Sector Charleston. I'm kind of surprised. I have two officers there, and I'm not sure if they are communicating on what we're doing.

LT. FAIR: Yes, we work with them daily.

MR. DUNN: All right. Good. Well, they should be providing that focus, and that's what our officers are supposed to be doing now, working with our field-level state partners and federal partners and helping them meet all of the priorities.

MR. BELL: Right, and we appreciate the efforts of all of you all. I mean, this is really a -- It's a team effort out there, and you both have unique and very capable assets and abilities, and so that's obviously the challenges that are presented to you from the work we do at these meetings, and we really appreciate you being there and trying to keep up with what we come up with in terms of what's relevant and necessary to take care of our fisheries, and so I think improved communications is always a good idea, and so thanks. Any other questions for anybody that we have here right now related to enforcement issues?

MR. HAYMANS: I'm not on your committee, but can I back up for a second to Karen's comment?

MR. BELL: Sure.

MR. HAYMANS: I want to make sure that I understood the penalty schedule. What I thought I heard you say was something about Congress establishing penalties, but it's the NOAA Office of General Counsel that establishes them, with public comment, right?

MS. RAINE: Congress, through the Magnuson-Stevens Act, has given us the authority to issue monetary penalties and permit sanctions and written warnings, and then delegations for the authority to implement that, I guess is the best way to put it, comes down through the Secretary and then to the Office of General Counsel.

In other words, Congress -- For our penalties, because Congress hasn't given us the authority to require, for example, fishermen to install VMS as a part of their penalty, we don't have that authority, but that does not mean, however, that in a settlement agreement that one might not agree to that, but that's not done very often, but it's Congress who establishes the authority for what can be used in NOVAs or notices of permit sanctions.

MR. HAYMANS: To follow-up, there are certain penalties in the schedule there that have \$4,000 or \$5,000 monetary penalties. If this council or other councils were to request that NOAA OLE be able to use a settlement agreement in lieu of a \$5,000 penalty to put VMS, you could do that through a summary settlement, right?

MS. RAINE: Well, no, it wouldn't be through a summary settlement. I think we're talking about a couple of different concepts. A summary settlement is essentially an offer to settle a case that is

issued by our Office of Law Enforcement through a delegation from the Office of General Counsel before a case is referred to the Office of General Counsel.

If a case comes to our office and it's decided that a monetary penalty or permit sanction should be issued, we issue that, and then the person receiving that penalty, the respondent, has the ability to do a number of things. One, they can pay, for example, the monetary penalty or abide by whatever permit sanction may have been issued, or they can request a hearing before an Administrative Law Judge, or they can ignore us, and sometimes that happens, or they can ask for us to revisit the penalty or the facts, and they can request that perhaps we enter into a settlement agreement with a compromise penalty, and so that's the kind of settlement I am talking about, after our office has issued some sort of notice of violation and penalty or notice of violation and permit sanction.

MR. BELL: Thank you. It's never as easy as you think. Any other questions or any other business to come before the Law Enforcement Committee at this point? Seeing none, then we will adjourn the Law Enforcement Committee.

(Whereupon, the meeting adjourned on June 11, 2018.)

Certified By: \_\_\_\_\_ Date: \_\_\_\_\_

Transcribed By  
Amanda Thomas  
July 19, 2018

**HIGHLY MIGRATORY SPECIES**

Anna Beckwith, Chair  
Zack Bowen, Vice-Chair  
Chester Brewer  
Mark Brown  
LCDR Jeremy Montes  
Staff contact: John Hadley

**INFORMATION & EDUCATION**

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Chester Brewer  
Michelle Duval  
LCDR Jeremy Montes  
Staff contact: Cameron Rhodes

**LAW ENFORCEMENT**

✓ Mel Bell, Chair  
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✓ LCDR Jeremy Montes *Lt. Warren Fair*  
Staff contact: Myra Brouwer

**MACKEREL COBIA**

Ben Hartig, Chair  
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Charlie Phillips  
Mid-Atlantic Liaison:  
Rob O'Reilly  
Mid-Atlantic Liaison:  
Dewey Hemilright  
Tony DiLernia  
Staff contact: Christina Wiegand

**PERSONNEL**

Jessica McCawley, Chair  
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**PROTECTED RESOURCES**

Wilson Laney, Chair  
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LCDR Jeremy Montes  
Staff contact: Christina Wiegand

**SSC SELECTION**

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Chris Conklin  
Roy Crabtree  
Michelle Duval  
Staff contact: John Carmichael

**SEDAR**

Charlie Phillips, Chair  
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Robert Beal  
Mel Bell  
Zack Bowen  
Roy Crabtree  
Michelle Duval  
Ben Hartig  
Staff contact: John Carmichael

**SHRIMP**

Charlie Phillips, Chair  
Mel Bell, Vice-Chair  
Roy Crabtree  
Doug Haymans  
Wilson Laney  
Jessica McCawley  
LCDR Jeremy Montes  
Staff contact: Chip Collier

## 2018 Council Members

### SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

#### ✓ COUNCIL CHAIR

✓ Charlie Phillips  
Phillips Seafood/Sapelo Sea Farms  
1418 Sapelo Ave  
N.E. Townsend, GA 31331  
(912)832-4423  
Ga\_capt@yahoo.com

#### VICE CHAIR

Mark Brown  
3642 Pandora Drive  
Mt. Pleasant, SC 29466  
(843)881-9735 (ph.); (843)881-4446 (f)  
Capt.markbrown101@gmail.com

Robert Beal  
Executive Director  
Atlantic States Marine Fisheries Commission  
1050 N. Highland St.  
Suite 200 A-N  
Arlington, VA 22201  
(703)842-0740 (ph); (703)842-0741 (f)  
rbeal@asmfc.org

Anna Beckwith  
1907 Paulette Road  
Morehead City, NC 28557  
(252)671-3474 (ph)  
AnnaBarriosBeckwith@gmail.com

Mel Bell  
SCDNR-Marine Resources Division  
P.O. Box 12559  
217 Ft. Johnson Road  
Charleston, SC 29422  
843/953-9007 (ph); 843/953-9159 (fax)  
bellm@dnr.sc.gov

Zack Bowen  
P.O. Box 30825  
Savannah, GA 31410  
(912)398-3733 (ph)  
zackbowensafmc@gmail.com

✓ Chester Brewer  
250 Australian Ave. South  
Suite 1400  
West Palm Beach, FL 33408  
(561)655-4777 (ph)  
wcbsafmc@gmail.com

✓ Chris Conklin  
P.O. Box 972  
Murrells Inlet, SC 29576  
(843)543-3833  
conklinsafmc@gmail.com

✓ Dr. Roy Crabtree  
Regional Administrator  
NOAA Fisheries, Southeast Region  
263 13th Avenue South  
St. Petersburg, FL 33701  
(727)824-5301 (ph); (727)824-5320 (f)  
roy.crabtree@noaa.gov

✓ Dr. Michelle Duval  
NC Division of Marine Fisheries  
PO Box 769  
3441 Arendell Street  
Morehead City, NC 28557  
(252)808-8011 (ph); (252)726-0254 (f)  
michelle.duval@ncdenr.gov

✓ Tim Griner  
4446 Woodlark Lane  
Charlotte, NC 28211  
(980)722-0918 (ph)  
timgrinersafmc@gmail.com

Ben Hartig  
9277 Sharon Street  
Hobe Sound, FL 33455  
(772)546-1541 (ph)  
mackattackben@att.net

✓ Doug Haymans  
Coastal Resources Division  
GA Dept. of Natural Resources  
One Conservation Way  
Suite 300  
Brunswick, GA 31520  
(912)264-7218 (ph); (912)262-2318 (f)  
haymanssafmc@gmail.com

Dr. Wilson Laney  
U.S. Fish and Wildlife Service  
South Atlantic Fisheries Coordinator  
P.O. Box 33683  
Raleigh, NC 27695  
(919)515-5019 (ph); (919)515-4415 (f)  
Wilson\_Laney@fws.gov

✓ Jessica McCawley  
Florida Fish and Wildlife Conservation  
Commission  
2590 Executive Center Circle E.  
Suite 201  
Tallahassee, FL 32301  
(850)487-0554 (ph); (850)487-4847 (f)  
Jessica.mccawley@myfwc.com

LCDR. Jeremy Montes  
U.S. Coast Guard  
909 SE 1st Ave.  
Miami, FL 33131  
(305)415-6788(ph); (305)710-4569(c)  
Jeremy.J.Montes@uscg.mil

Deirdre Warner-Kramer  
Office of Marine Conservation OES/OMC  
2201 C Street, N.W.  
Department of State, Room 5806  
Washington, DC 20520  
(202)647-3228 (ph); (202)736-7350 (f)  
Warner-KramerDM@state.gov

## Closed

Erika Burgess  
Nik Menta  
Tracey Dunn  
Mary Vera  
Karen Rain  
Dr. Jessica Stevens  
Rick DeVictor  
Dr. Jack McGovern  
Dr. Clay Porch

## Open

Dewey Hemilright  
Dale Diaz  
Capt. Bob Lynn

# SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

## Council Staff

### Executive Director

✓ Gregg T. Waugh  
[Gregg.waugh@safmc.net](mailto:Gregg.waugh@safmc.net)

### Deputy Directory-Science & Statistics

✓ John Carmichael  
[John.carmichael@safmc.net](mailto:John.carmichael@safmc.net)

### Deputy Director-Management

✓ Dr. Brian Chevront  
[Brian.chevront@safmc.net](mailto:Brian.chevront@safmc.net)

---

### Fishery Scientist

✓ Myra Brouwer  
[Myra.brouwer@safmc.net](mailto:Myra.brouwer@safmc.net)

### Outreach Specialist

Kathleen Howington  
[Kathleen.howington@safmc.net](mailto:Kathleen.howington@safmc.net)

### Admin. Secretary/ Travel Coordinator

Cindy Chaya  
[Cindy.chaya@safmc.net](mailto:Cindy.chaya@safmc.net)

### Public Information Officer

✓ Kim Iverson  
[Kim.iverson@safmc.net](mailto:Kim.iverson@safmc.net)

### Purchasing & Grants

✓ Kimberly Cole  
[Kimberly.cole@safmc.net](mailto:Kimberly.cole@safmc.net)

### Senior Fishery Biologist

✓ Roger Pugliese  
[Roger.pugliese@safmc.net](mailto:Roger.pugliese@safmc.net)

### Fishery Scientist

✓ Dr. Chip Collier  
[Chip.collier@safmc.net](mailto:Chip.collier@safmc.net)

### Outreach Specialist

✓ Cameron Rhodes  
[Cameron.rhodes@safmc.net](mailto:Cameron.rhodes@safmc.net)

### Administrative Officer

✓ Mike Collins  
[Mike.collins@safmc.net](mailto:Mike.collins@safmc.net)

### Financial Secretary

Suzanna Thomas  
[Suzanna.thomas@safmc.net](mailto:Suzanna.thomas@safmc.net)

### Outreach Specialist

Kelsey Dick  
[Kelsey.dick@safmc.net](mailto:Kelsey.dick@safmc.net)

### Citizen Science Program Manager

✓ Amber Von Harten  
[Amber.vonharten@safmc.net](mailto:Amber.vonharten@safmc.net)

### Fishery Biologist

✓ Dr. Mike Errigo  
[Mike.errigo@safmc.net](mailto:Mike.errigo@safmc.net)

### Fishery Social Scientist

✓ Christina Wiegand  
[Christina.wiegand@safmc.net](mailto:Christina.wiegand@safmc.net)

### Fishery Economist

✓ John Hadley  
[John.hadley@safmc.net](mailto:John.hadley@safmc.net)

### SEDAR Coordinators

Dr. Julie Neer- [Julie.neer@safmc.net](mailto:Julie.neer@safmc.net)  
Julia Byrd- [Julia.byrd@safmc.net](mailto:Julia.byrd@safmc.net)

# June Council Mtg Day 1 6/11/18

| Last Name         | First Name | Email Address                |
|-------------------|------------|------------------------------|
| Abeels            | Holly      | habeels@ufl.edu              |
| Bianchi           | Alan       | Alan.Bianchi@ncdenr.gov      |
| Brennan           | Ken        | kenneth.brennan@noaa.gov     |
| Bubley            | Wally      | bubleyw@dnr.sc.gov           |
| Byrd              | Julia      | julia.byrd@safmc.net         |
| Clarke            | Lora       | lclarke@pewtrusts.org        |
| Conklin           | Chris      | conklinsafmc@gmail.com       |
| Defilippi Simpson | Julie      | julie.simpson@accsp.org      |
| Diaz              | Dale       | Saltwaterlife@live.com       |
| Duval             | Michelle   | michelle.duval@ncdenr.gov    |
| Erwin             | Gwen       | gwen.erwin@myfwc.com         |
| Foss              | Kristin    | kristin.foss@myfwc.com       |
| Gerhart           | Susan      | susan.gerhart@noaa.gov       |
| Godwin            | Joelle     | joelle.godwin@noaa.gov       |
| Guyas             | Martha     | martha.guyas@myfwc.com       |
| Hadley            | John       | john.hadley@samfc.net        |
| Hart              | Hannah     | hannah.hart@myfwc.com        |
| Helies            | Frank      | frank.helies@noaa.gov        |
| Hemilright        | Dewey      | fvtarbaby@embarqmail.com     |
| Hildreth          | Delaine    | delaine.hildreth@dnr.ga.gov  |
| Hudson            | Rusty      | DSF2009@aol.com              |
| Iverson           | Kim        | kim.iverson@safmc.net        |
| Jiorle            | Ryan       | ryan.jiorle@mrc.virginia.gov |
| Laks              | Ira        | captainira@att.net           |
| Laney             | Wilson     | wilson_laney@fws.gov         |
| Levy              | Mara       | mara.levy@noaa.gov           |
| Lloyd             | Victor     | vic_lloyd@bellsouth.net      |
| Lupton            | Dee        | dee.lupton@ncdenr.gov        |
| Mehta             | Nikhil     | nikhil.mehta@noaa.gov        |
| Miller            | Kyle       | kyle.miller@myfwc.com        |
| Neer              | Julie      | julie.neer@safmc.net         |
| O'Donnell         | Kelli      | kelli.odonnell@noaa.gov      |
| Poland            | Steve      | steve.poland@ncdenr.gov      |
| Pulver            | Jeff       | Jeff.Pulver@noaa.gov         |
| Rock              | Jason      | jason.rock@ncdenr.gov        |
| Sedberry          | George     | george.sedberry@gmail.com    |
| Shipman           | Susan      | susanshipman@att.net         |
| Stephen           | Jessica    | jessica.stephen@noaa.gov     |
| Takade-Heumacher  | Helen      | htakade@edf.org              |

|             |          |                                   |
|-------------|----------|-----------------------------------|
| Travis      | Michael  | mike.travis@noaa.gov              |
| bowen       | zack     | fishzack@comcast.net              |
| brewer      | chester  | wcbsafmc@gmail.com                |
| brouwer     | myra     | myra.brouwer@safmc.net            |
| sandorf     | scott    | scott.sandorf@noaa.gov            |
| t           | suz      | suzanna.thomas@safmc.net          |
| Blow        | Wes      | wesamy2000@cox.net                |
| Christophoe | Michael  | mchristopher@elementalmethods.com |
| Exley       | Gary     | river92@bellsouth.net             |
| Howington   | kathleen | kathleen.howington@safmc.net      |
| dilernia    | tony     | tony@rocketcharters.com           |

# Manday Public Sign In 10/11/18

| Name  | Last    | Email               | Address                          | How do you participate in fisheries in the South Atlantic? |                             |                      |                             | If Other, please provide more information: |
|-------|---------|---------------------|----------------------------------|--|-----------------------------|----------------------|-----------------------------|--|
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| Lora  | Clarke  |                     |                                  |  |                             |                      | NGO                         |  |
| Art   | Sapp    | artsapp@hotmail.com | 2270 ne 25th street LHP FL 33064 | Private Recreational Angler                                | Charter/ Headboat/ For-Hire | Commercial Fisherman |                             |  |
| Kelie | Ralston |                     |                                  | Private Recreational Angler                                |                             |                      | NGO                         |  |