

Summary Report

Law Enforcement Advisory Panel

The Law Enforcement Advisory Panel (LE AP) convened on February 10, 2022, at the Town and Country Inn, Charleston, SC.

Update on FMP Amendments

Council staff updated the AP on the status of amendments under development. The LE AP had comments and recommendations on the following:

Atlantic King Mackerel - Coastal Migratory Pelagics (CMP) Amendment 34

The LE AP was asked to comment on Action 7 in CMP Amendment 34, which considers allowing recreational fishermen to possess and offload ashore, cut-off (damaged) Atlantic king and Spanish mackerel that comply with the minimum size limit. Note: this provision already exists for the commercial sector. The AP had the following comments:

- General concern that allowing retention of cut or damaged fish in the recreational sector for king and Spanish mackerel will create the expectation that this practice should be allowed for other species. King mackerel are not difficult to identify, but other species may present identification issues that would make such an allowance problematic.
- AP members offered that officer discretion is generally the norm as to whether a fish that has been depredated is allowed to be retained under current regulations. Officer discretion is based on the totality of the circumstances and should be considered on a case-by-case basis. Officer discretion does not replace enforcement as an option but rather gives the Officer flexibility to utilize education or warnings as a tool. Officer discretion should not be utilized in place of regulations or policies as a normal procedure. The stakeholder must always be educated based on the regulations and not discretion. Over the years knowledge of certain discretionary considerations can be lost, it is best to address inconsistencies through regulation or policy.
- It was noted that the commercial sector is already allowed to retain cut/damaged fish that meet the minimum size limit requirement and there are no enforcement issues with that regulation.
- Some South Atlantic states currently have avenues in place to amend regulations quickly to match those in federal waters.
- If the proposed change is implemented, education and outreach to the angling public will be important to emphasize that the retained portion of the depredated/damaged fish still must meet the recreational minimum size limit and show visible signs of damage caused by depredation.

Recommendation: The proposed federal regulation would conflict with state regulations and each state would have to accommodate with this regulation in state waters.

Red Porgy - Snapper Grouper (SG) Amendment 50

The AP was asked to comment on proposed recreational possession limit changes for red porgy. The Council's current preferred alternative for the recreational bag limit is to reduce to *1 per person per day, or 1 per trip, whichever is more restrictive.*

The Council requested feedback on whether the regulation could be changed to "per person per trip per day" to simplify it.

It was noted that, in addition to the current bag limit that applies to the individual, there is also a restriction that prohibits multiple daily limits of red porgy from being retained, even on multi-day trips.

The AP had the following comments:

- The Council could consider changing the regulation to exclude the "per trip" restriction. However, this could allow retention of multiple daily limits in areas where multiple trips can be taken in a single day. It was noted that it would be unlikely that a vessel would be boarded more than once in one day, however.

Recommendation: Retain the current language in the regulations and reduce to one fish, to read: A person aboard a vessel may not possess red porgy in or from the EEZ in excess of ONE per day or ONE per trip, whichever is more restrictive.

- The AP noted that the "per trip" restriction is more conservative.

Gag - Snapper Grouper (SG) Amendment 53

The LE AP had the following comments on the potential restriction on spearfishing:

- The AP needs additional details on the proposed restrictions to provide useful input.
- It was noted that fishermen could claim they used a gaff to harvest a fish instead of spear and this could pose a difficulty for enforcement.
- Consider that any changes in federal regulations to spearfishing gear may require similar changes in state waters to facilitate enforcement.
- Consider identification issues between gag and black grouper, especially in South Florida.

Snapper Grouper Release Mortality Reduction Framework and Red Snapper Catch Levels

The AP was asked for input on any enforceability issues that may present themselves as the Council explores ways to reduce discards and discard mortality in this amendment. Of the measures that the Council has discussed as potential measures to explore, the AP had the following comments:

- Enforceability of regulations pertaining to hook size would be difficult
- A per person weight limit would not be enforceable on the water as officers would need certified scales.
- Gear regulations tend to be hard to enforce and consequently need to be kept simple.

- Consider that area closures may require on-site enforcement.
- Depth-based closures are unenforceable.
- Consider requiring a VMS if area closures are to be considered for the commercial sector
- The LE AP requests they have frequent input on this amendment as it is being developed to assist the Council in identifying potential enforceability issues of specific measures under consideration.

The AP also received updates on developing amendments addressing management of snowy grouper (SG Amendment 51) , golden tilefish and blueline tilefish (SG Amendment 52) and greater amberjack (SG Amendment 49). The LE AP had no comments on those amendments at this time.

Compliance with For-Hire Electronic Reporting Requirements

AP members offered the following pertaining to compliance with the reporting requirement for for-hire vessels:

- There have been two warnings and two citations by FWC since the program started. Compliance seems high.
- South Carolina has seen fairly good compliance with approximately 88% of vessels reporting and about 78% reporting on time.
- NOAA’s Office of Law Enforcement (OLE) has started working closer with the Southeast For-Hire Electronic Reporting (SEFHIER) Program. Eighty-nine referrals were sent for vessels that have not reported at all. NOAA OLE intends to step up the effort to increase compliance among that group.
- Once the federal agency steps up effort to increase compliance, that will help state agencies enforcing this requirement.
- NOAA OLE continues to conduct outreach and education.
- A law enforcement mobile app is under development that will assist with enforcement efforts and compliance. The app is expected to be completed and available in May/June 2022.

Compliance with Descending Device Requirement on Snapper Grouper Vessels

AP members offered the comments below regarding compliance with the requirement that vessels fishing for snapper grouper species have a descending device (DD) onboard that is “readily available” for use.

- An estimated 50% of vessels in Florida are complying with this requirement. Law enforcement officers are no longer simply providing education but enforcing the regulation. There are currently seven warnings on the books.
- North Carolina Marine Patrol has done outreach and is generally reporting adequate compliance but very few enforcement encounters. It was noted that there is more awareness of the requirement among fishermen.
- South Carolina also reported adequate compliance and continuing education and outreach efforts
- Georgia reported one warning and one case that has been referred, both at were Gray’s Reef National Marine Sanctuary.

- NOAA OLE officers encounter fishermen that don't know what a DD is, so education is continuing. It was noted that use of FishRules is widespread. Suggestion to utilize a pop-up on the application to remind users of the requirement. Staff noted that FishRules has been updated recently to better note the DD requirement.
- Generally, recreational vessels tend to have store-bought devices, whereas DIY versions are more common among commercial fishermen.
- Generating a guide that is directed to law enforcement that shows the different types of devices was suggested as a possible tool to assist officers. A similar guide would also be a good outreach tool for fishermen.
- Staff noted the recent addition of the Sea Grant Fellow to assist with Best Fishing Practices outreach and communications.
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- “Readily available” needs to be emphasized as officers are encountering many vessels that don't have the device ready for use (e.g. still in the package).
- USCG has had a couple of cases. The USCG Fisheries Training Center has incorporated DDs in their training and is continuing to conduct outreach.
- FWC law enforcement officers have been having to educate the public about the proper amount of weight to use with DDs so it may be useful to include this guidance in any education/outreach materials that are developed.
- It was noted the greater the weight used on the DD the faster the descent, perhaps reducing depredation. This information could be included in outreach materials.
- Officers have noted some concern about the use of DDs and shark depredation.

Elections

Capt. Michael Paul Thomas (SCDNR) was elected Vice-Chair of the LE AP.

Other Business

Anecdotal information was provided regarding spearfishermen using chlorine tablets (used to treat swimming pools) to flush fish out of bottom structure. If this practice is occurring, it could have negative impacts on habitat. AP members agreed to investigate the issue and keep the Council informed.

Advisory Panel Members:

Capt. Scott Pearce, FL FWC, Chair
 Capt. Chris Hodge, GADNR
 Capt. Garland Yopp, NCDMF
 Col. Bruce Buckson, Retired
 Michael Freeman, commercial*
 Lt. James Bruce, USCG

Captain Michael Paul Thomas, SCDNR
 Lt. Pat O'Shaughnessy, NOAA OLE
 Kevin Roberson, recreational
 Nickey Maxey, recreational*
 Jamal Ingram, NOAA GC Enforcement
 Alana Harrison, commercial

*Denotes AP members not in attendance