GMFMC Law Enforcement Technical Committee/ GSMFC Law Enforcement Committee
Joint Meeting Summary
Panama City Beach, Florida
March 13, 2018

The meeting was called to order at 8:30 a.m. by LETC Chair Scott Bannon. Two of the agenda items scheduled near the beginning of the meeting (Spiny lobster Amendment 13 revised actions and Coral Amendment 9 new SSC recommendation) were deferred until later in the meeting to allow time for a late-coming Committee member to arrive. The agenda was adopted as revised, and the summary of the October 18, 2017 LETC/LEC meeting was approved as written.

GMFMC LETC Session

Recreational Red Snapper State Management Programs – updated delegation action

Staff noted that, in the amendment for state management of recreational red snapper, under actions pertaining to delegation of management authority, Louisiana and Mississippi have selected **Alternative 2** (delegation) as their preferred alternative. This alternative includes a tentative list of management measures that may be delegated to a state. The LETC was asked if there were any enforcement concerns about the list. Committee members felt that it would be a challenge to enforce area-specific regulations, but once the regulations are established, enforcement agencies could share information to make enforcement more manageable.

LT Mark Zanowicz stated that there is confusion as to whether or not regulations promulgated under the Red Snapper State Management Amendment would be enforced by both federal and state agencies or just state agencies. In other words, will these regulations be classified as state regulations (because they will be developed by the states) or federal regulations (because they are developed under authority delegated by a federal FMP)? It was understood that under the 2-year EFPs regulations be enforced by both, it has not been determined if this will be the case for regulations under the state management. Also, it was unclear whether regulations would be enforced on the water or upon landing the fish. For example, if the waters were closed off of one state but open in an adjacent state, could a vessel from the state that was open fish off of the state where it was closed? Cynthia Fenyk (NOAA/GCES) responded that the NOAA position on enforcement of regional regulations is evolving as the regional management amendment/EFPs move forward. One Committee member from Alabama noted that, under the EFP, transit through state waters with red snapper aboard would not be allowed when the state season is closed.

Review of List of Authorized Fisheries and Gear

Staff reviewed the list of authorized fisheries and gear for the Gulf of Mexico that was published by NMFS in 1999. Some gears on the list are no longer allowed (e.g., pots and traps for reef fish), and the Stone Crab FMP has been withdrawn (although stone crab traps are allowed in federal waters, per extension of Florida's regulations into federal waters). In addition, there may be gears that may be considered for addition. One Committee member suggested adding cast

nets or drop nets to the gear allowed for Spanish mackerel. Another Committee member questioned the inclusion of the oyster fishery and gear since that fishery does not occur in the EEZ. The Committee asked staff to check to make sure all gears in the authorized list have been defined in either § 622 or § 600 of the codified regulations.

Joint Spiny Lobster Amendment 13 (revised actions)

Staff reviewed the modified and additional actions and alternatives since the LETC last reviewed the draft amendment. Most of the changes were to allow federal regulations to be more consistent with Florida state regulations.

Action 1 includes an alternative to add the use of bully nets to the federal regulations to be consistent with Florida state regulations. The Committee had no comment beyond checking to make sure the federal and Florida state definitions of a bully net were consistent.

Action 2 includes alternatives to align state and federal spiny lobster commercial trip limits. For Alternative 3, which sets trip limits when diving offshore of specific counties (Broward, Dade, Monroe, Collier, and Lee), Committee members felt that the regulations need to include specific latitudes for the county boundaries.

Action 3 includes an alternative to make federal specifications of degradable panels in spiny lobster traps consistent with the more restrictive Florida state regulations. A Committee member stated that most fishermen are already building their traps based on the Florida specifications in order to have the greatest flexibility on where to fish them.

Action 4 includes an alternative to restrict harvest of spiny lobster within 10 yards of artificial habitat. A linear measurement of 10 yards is currently used by Florida Law Enforcement, but it was noted that enforcement of a 10-yard rule could be difficult to enforce.

Action 5 is primarily administrative and the Committee was not requested to provide comments.

Coral Amendment 9 – New SSC recommendation

Staff reviewed comments and motions made at the January 9-10, 2018 SSC meeting that reviewed draft Coral Amendment 9.

Action 2 proposes setting 3 new HAPC areas in the southeastern Gulf within the 400-600 meter (219-328 fathom) depth range. Each HAPC would be rectangular in shape. The SSC recommended a new alternative to create a single HAPC encompassing all 3 proposed HAPCs. This would create a larger rectangular shaped HAPC. Committee members felt they could enforce either proposal as long as the latitude-longitude coordinates are given.

Action 3 proposes setting 6 new HAPC areas in the northeastern Gulf. Bottom tending gear would be prohibited in these areas, except that in one area, Viosca Knoll 862/906, there would be an exemption for bottom tending gear for fishermen possessing a royal red shrimp endorsement for fishing with royal red shrimp fishing gear. This exemption was proposed because, although

royal red shrimp fishermen do not trawl on the reef itself, the vessel must travel a few miles while retrieving the trawl due to the depth fished. The SSC proposed alternative wording to allow permitted royal red shrimp vessels to transit the area while fishing for royal red shrimp, but with the trawl gear off the bottom. Committee members questioned the enforceability of the SSC proposal because they would have no way of knowing if the gear was on or off the bottom. Committee members instead suggested that it would be more enforceable to say that vessels must be actively retrieving the gear. The purpose of this suggested wording is to ensure that the gear is off the bottom while the vessel is in the proposed HAPC.

Discussion of Possible Team of the Year Award

The Current Officer of the Year award is for an individual officer. Committee members noted that all agencies have enforcement teams of 2 or more people, and a Team of the Year award may be appropriate. In some cases, teams could be multi-agency teams. Committee members were in support of developing a Team of the Year award. It was noted that care would need to be taken for teams that included undercover agents (e.g., names might need to be withheld, and a surrogate might need to accept the award). Colonel Bannon offered to put together some notes on modifying the Officer of the Year award into a Team of the Year award for discussion at the next LETC meeting.

LETC Other Business – Commercial IFQ Reporting

A Committee member discussed situations where a vessel in the commercial red snapper IFQ program underestimates its catch when hailing in while returning to port. In one case, a vessel hailed in with an estimate of 500 pounds of red snapper, but at the dock it unloaded 1,100 pounds In that instance, an officer was present to observe the unloading, but if no officer is present, are the fish accurately deducted from the red snapper commercial quota? The concern by the Committee is that some commercial red snapper landings could be unreported, or reported and sold as a different species such as vermilion snapper.

Under current regulations, vessels are required to notify NMFS at least three hours in advance of the time of landing to report the time and location of landing, and the estimated red snapper landings in pounds gutted weight, but there is no guidance on how accurate that estimate has to be. All that is required in the landings notification is that there be an estimate of the pounds of red snapper to be landed. One Committee member felt that some fishermen don't take the hail-in requirement seriously, and just provide any number of pounds. Committee members discussed requiring estimates to be within a certain percentage (e.g., within 10%) of the actual landings. Jessica Stephen stated that this suggestion had been previously discussed by the LETC[1], but was rejected because of difficulty in determining an appropriate percentage. For example, requiring an estimate to be within some percentage would be more difficult for a smaller amount of fish

[1] From the summary of the October 2013 LEAP meeting:
Some Committee members reported that, under the IFQ hail-in requirements, they had reports that fishermen were under-reporting their catches. The reason was because it was easier for the dealer to correct an underestimate then to go through the paperwork needed to correct an overestimate. When officers were present to observe the vessel being offloaded, any corrections needed were made, but there was some question whether those corrections to the under-reporting were being made when officers were not present. It was suggested that NMFS have an auditor investigate this.

than a larger amount of fish (e.g., 10% of 100 lbs compared to 10% of 1,000 lbs). Requiring landings estimates to be within a specific poundage was also considered by NMFS, but it was felt that this would be more difficult for newer fishermen to estimate. Instead of using these approaches, NMFS matches every landing notification to a landings transaction (completed by the dealer) so that the landings can be audited. That information is available to enforcement officers through the JEA system, and can be used to look for patterns of abuse. However, a Committee member noted that enforcement officers in the field may not have immediate access to the IFQ system. Dr. Stephen added that NMFS has discussed adding summary settlements to the penalty schedule for mis-estimating landings, but that might need to be a judgement call by the enforcement officer. Also, because of the 3-hour hail-in requirement, some vessels making day trips will both hail-out and hail-in when they are leaving the dock before actually catching any fish.

One Committee member suggested that dealer records could be examined for discrepancies between the estimated weight and the actual weight of landed fish. If all landed fish are being legally sold, then the dealer's purchase records and sales records should be about the same. After further discussion, the Committee passed the following motion.

> **The LEC/LETC recommends that Gulf Council entertain discussion regarding the accuracy of reporting estimates in the advanced notification of landing in the Red Snapper IFQ Program due to an increased observance of under-reporting.**

GSMFC LEC Session

Future of JEA and JEA Funding Discussion

Colonel Bannon (AMRD) reported that the President's budget would eliminate the JEA program which is funded at approximately $18 million. Dave Donaldson reminded the Committee that, while these cuts have been threatened in the past, they have always been reinstated. The goal of Congress is to get the budget in place earlier this year than in the past. Hopefully there will be no continuing resolution.

Regarding funding, there was no discussion in Washington as to making JEA a line item. Mr. Donaldson stated it is much harder to move money from line items.

Per Colonel Bannon, if the proposed budget cut does remain in 2019, the work will still be done and violations will not be passed up. Even though the JEAs are in question, the agencies still have the CEAs (Cooperative Enforcement Agreements) which still allow for the states to perform federal patrols, just without funding support.

Potential Updating of Two-Year Operations Plan 2019-2020

Steve VanderKooy indicated that the Gulf's Fisheries Enforcement Operations Plan will expire at the end of this year. The LEC will review the plan on behalf of both committees and suggest any additions, edits, or deletions in an effort to update the Operations Plan through 2019 and

2020. The Plan identifies tasks the agencies may pursue to accomplish the goals identified in the four-year strategic plan. Mr. VanderKooy will work to collect the changes and update the document for presentation and approval by both the Council and the Commission later this year.

IJF Program Activity

Cobia Profile – Patrick Carron discussed the profile and stated that he still needs Florida's section. He stated that the last meeting was held in December and the next meeting is planned for late April on Dauphin Island. The Task Force is moving swiftly in the drafting process and would like to have a final draft in time for the Gulf Cobia SEDAR in 2019.

Officers' Pocket Guide – Debbie McIntyre explained that the purpose of the Officers' Pocket Guide is for use by officers in the field. She stated that, due to budget issues in the recent past, the waterproof, spiral-bound version of this publication was discontinued and made available online only. She indicated that, as it turns out, the budget constraints still exist and the Commission is unable to print and distribute waterproof copies. She will email the LEC members later this month to ask for each state/agency's updates to this publication.

Annual License and Fees – Ms. McIntyre indicated that she will contact LEC members in May to ask for updates to the Annual License and Fees publication. This publication is printed in-house and distributed to the LEC by mail. Ms. McIntyre encouraged any new members of this committee to contact her with questions or for assistance with any of the enforcement publications.

Law Summary (red book) – Ms. McIntyre displayed a copy of the 2017 Law Summary (red book) and explained that this publication is too large to print for distribution but is made available online only. She will contact LEC members for their updates to this document in August. For the benefit of those new on the committee, she explained that this document is a compilation of all five states' latest saltwater regulations books (commercial and recreational) as PDFs. She urged new committee members to contact her if they have questions.

State Report Highlights

With the exception of Mississippi and Florida, written state reports were submitted prior to the meeting. **On motion by Assistant Commander Reeder, seconded by Major Hebert, the written state reports were accepted as written.**

Other Business

Colonel Bannon will give the LEC/LETC report to the Commission on Thursday. He informed Committee members that this will be his last meeting and he will be replaced soon.

Mr. Atran explained that he will retire in June. He stated that there are a lot of changes going on in the Council.

The meeting adjourned at 2:15 p.m.

LETC Members in Attendance:
Scott Bannon, ADCNR, Chair
Neil "Scott" Pearce, FWC, Vice-chair
Patrick Carron, MDMR
Cynthia Fenyk, NOAA/GCES
Chad Hebert, LDWF
Brandi Reeder, TPWD

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Mark Zanowicz, USCG
Brandi L. Reeder, TPWD
Neil "Scott" Pearce, FWC

Staff:
Steven Atran, GMFMC
Morgan Kilgour, GMFMC (via GoToMeeting)
Steve VanderKooy (GSMFC)
Debbie McIntyre, GSMFC
Dave Donaldson, GSMFC

Others:
Chris Schieble, LDWF
Jessica Stephen, NOAA/SERO (GoToMeeting)
Joseph "Pete" Harwell, NOAA/OLE
Scott Lee, Florida FWC
Troy Williamson

GMFMC Council Members
Doug Boyd