

Tab L, No. 4

GSMFC Law Enforcement Committee/GMFMC Law Enforcement Technical Committee Joint Meeting Summary San Antonio, Texas March 16, 2016

The meeting was called to order at 8:30 a.m. by LEC Chair Chad Hebert.

Adoption of Agenda/Approval of Minutes

The agenda, minutes of the November 4, 2015 ASFMC LEC/GSMFC LEC meeting, and minutes of the December 14, 2015 LETC webinar were approved as written.

GMFMC LAW ENFORCEMENT TECHNICAL COMMITTEE SESSION

Enforcement Implications of LA, MS, and AL 9-mile Reef Fish Boundary

Cynthia Fenyk reviewed the language in the 2016 appropriations bill that created the 9-mile reef fish boundary. The current boundary is only in effect for FY2016, but Senator Vitter has introduced an amendment to the Submerged Lands Act that would make it permanent. The boundary affects EEZ regulations are in effect, and it vessels that have permit conditions such as complying with the more restrictive of state or federal regulations when in state waters. Because the boundary only affects harvest of reef fish and not other species such as redfish, an education program will be needed to let fishermen know which species are affected by the boundary change. It was noted that the boundary does not appear on nautical charts. Louisiana DWF and Alabama ADCNR have maps on their websites showing the approximate revised boundary (<http://www.fishla.org/fishing/recreational-fishing-regulations/revised-gulfward-boundary/> and <http://www.outdooralabama.com/sites/default/files/9%20Mile%20Limit%20Map%20on%20Nautical%20Chart.pdf>), but it was suggested that it would be inappropriate for NOS to include the boundary on its nautical charts because it is not a territorial line, and it does not affect resources other than reef fish.

Enforcement Implications of Offshore Aquaculture FMP

Cynthia Fenyk presented an overview of the features of the Aquaculture FMP while Jess Beck, Regional Aquaculture Coordinator, was available via phone to answer questions. The following issues were brought up.

- The regulations require that a vessel engaged in aquaculture operations must have a copy of its aquaculture permit on board, and it cannot commercially harvest fish while conducting aquaculture operations. Committee members felt that, for enforcement, while a vessel is engaged in aquaculture operations, must have a placard that is visible from a distance, and it should have no other permits on board.
- Restricted access zones around each aquaculture facility within which fishing or transit is

not allowed are required to be marked on each corner by a buoy. However, there are no specifications for the buoy. Committee members felt that the buoys should be required to be visible (e.g., no milk jugs) with identifying markings. One suggestion was made to require a standard color to be used to identify the region as a restricted access zone.

- There are no specifications on the final disposition of the brood stock. Some states have rules for disposition of broodstock from land-based facilities, but these may not be applicable to offshore aquaculture, or for aquaculture intended for food production as opposed to stock enhancement.
- Violation of permit terms or regulations may result in revocation or suspension of the aquaculture permit. However, unlike fishing vessels that can tie up at the dock and suspend operations, there would continue to be an active offshore facility and captive fish that must be tended. There are no provisions for continued tending or disposition of an offshore facility in the event of as permit suspension.

Protocol for Background Checks of AP Candidates for Violations in State Waters

Steven Atran reviewed the draft protocol. Although the Council had originally requested that background checks be only for violations regarding federally managed species, not all states have the ability to separate violations by species. Therefore, the request would be for all marine fishery violations. Committee members felt that a person who violated state regulations would also be likely to violate federal regulations, therefore this background check would still be useful.

Committee members requested that the candidate's driver's license number (or state issued id number) be included in the application materials in order to be able to identify unique individuals.

Committee members reviewed the signature and checkbox section for the candidate to authorize a background check. They agreed that this was an acceptable way to obtain the candidate's permission, but felt that the permission needed to explicitly allow the results of a background check to be provided to the Council. They suggested the following language accompany the checkbox:

By checking this box, I consent to allow NOAA/State law enforcement to provide a marine fishery violation background check to be provided to the Gulf of Mexico Fishery Management Council.

Current GMFMC Amendments and Framework Actions

The Committee reviewed the following draft management actions for concerns relative to enforcement.

Draft Reef Fish Amendment 36A – Red Snapper IFQ Modifications

The Committee felt that hail-in/hail-out requirements should remain as is and not be expanded to all commercial reef fish vessels. Enforcement is already dealing with a large number of hail-in/hail-outs and expanding the requirement to all commercial reef fish vessels would be overwhelming. In addition, Committee members felt that the requirement would not be as effective for non-IFQ vessels. Non-IFQ vessels are not required to have VMS and have a larger number of possible landing locations, making enforcement more difficult.

On a side note, one Committee member expressed appreciation at having the LETC review the proposed actions at an early stage of development. He felt that this allowed the LETC to have more effective input when expressing enforcement concerns.

Draft Reef Fish Amendment 43 – Hogfish Stock Definition, Status Determination Criteria, and Annual Catch Limit

Under Action 1 (hogfish management boundary), the Committee supported the recommendation of Florida FWC (Alternative 2 - south of Cape Sable).

Under Action 5 (powerhead exemption for hogfish in the stressed area), the Committee felt that there should be consistency in the regulations, and therefore supported elimination of the exemption (Alternative 2).

For the remaining actions, the Committee felt that there were no enforcement concerns. Action 4 proposes a change in the hogfish size limit, but since there is already a size limit that needs to be enforced, there would be no change to enforcement.

Framework Action Addressing Circle Hook Requirement When Fishing for Yellowtail Snapper

With respect to the boundary, the Committee previously commented on a similar boundary action for Amendment 43, and had supported consistency with that amendment. Committee members noted that J-hooks are allowed for harvest of yellowtail snapper in the South Atlantic.

Draft Shrimp Amendment 17B – Optimum Yields, Number of Permits, Permit Pool, and Transit Provisions

Under Action 6 (transit provision for non-federally permitted vessels), Committee members noted that transit is allowed in other fisheries provided that the fishing gear is stowed. Committee members felt that under Alternative 2, which only requires that door and nets be out of the water, it would be difficult to enforce the prohibition on fishing in federal waters. The Committee supported Alternative 3, which requires that trawl doors (if present) must be disconnected from the trawl gear and must be secured.

For the remaining actions, the Committee felt that there were no enforcement concerns.

Review of Coral HAPC Proposals

The Committee did not support HAPC boundary revisions that would make the HAPCs irregular in shape. Such boundaries are more difficult to enforce than rectangular shaped areas. The Committee had no comments on the number of proposed HAPCs or on the proposed regulations.

Draft Coastal Migratory Pelagics Amendment 26 – Reallocation of King Mackerel

The Committee had no enforcement concerns for any of the actions in this amendment.

Selection of Candidates for Officer of the Year Award

Each of the state representatives present reviewed the application for the candidate from his or her agency (the Florida representative was not present). After review, Committee members felt that, with only one candidate from each state agency, it would be unfair to eliminate two of the candidates, and agreed to forward all five candidates to the Council for consideration. However, some of the states may want to revise their candidate's written application before it is forwarded to the Council.

In the future, the Committee felt that it should forward one candidate from each agency. If an agency submits more than one candidate, the Committee will select one candidate from that agency to forward to the Council. Including NOAA Enforcement and the U.S. Coast Guard, which did not submit candidates, this means there could be up to seven candidates forwarded to the Council.

GSMFC LAW ENFORCEMENT COMMITTEE SESSION

IJF Program Activity

Steve VanderKooy and Brandi Reeder provided a short overview of the progress to date on the tripletail and croaker profiles. The Tripletail Profile should be completed this summer and hopefully approved this coming October by the Technical Coordinating Committee. The Georgia Department of Natural Resources has been added to the Task Force and is currently providing their enforcement information to merge with the Gulf's. The Atlantic Croaker Profile is likely to be completed sometime early 2017. Most of the enforcement material has been received and incorporated.

It is expected that the State/Federal Fisheries Management Committee will identify the next species to work on during the October meeting this coming fall and VanderKooy or McIntyre will provide the history of enforcement representation in anticipation of that Technical Task Force being formed.

Schedule of GSMFC Publications

Steve VanderKooy and Debbie McIntyre reminded the group of several of the annual documents related to state rules, regulations, and license sales and the requests for information which will be coming to the LEC and LETC over the next couple of months.

Mr. VanderKooy noted that the 4-year Strategic Plan and 2-year Operations Plan expire at the end of 2016 and requested both the LEC and LETC members to review the previous plans and determine if they need updating. He reminded them that the group typically has a joint work session to update the plans every four years, when needed, and that the meeting costs are split between the GSMFC and the GMFMC.

It was agreed that the LEC would request approval from the GSMFC to hold a work session in July or August in the northern Gulf to update the Strategic Plan and the Operations Plan, if they are determined to be in need of revision. It is expected that the meeting costs will be split between the Council and the Commission for this joint activity.

State Report Highlights

The Committee voted to forgo verbal state reports as they had been provided electronically in advance of the meeting.

OTHER BUSINESS – TED COMPLIANCE

Brandi Reeder (TPWD) brought attention to the TED compliance reports and the final draft policy being finalized by NOAA Protective Resources (attached). The policy, as written, measures TED compliance in the trawl fishery using the boarding reports developed by NOAA. In summary, if TED compliance drops below 88% in an area, steps are supposed to be taken to bring compliance back up (outreach and education). In the event that it is not within the next 3-month cycle, actions may be taken to close an area that is found out of compliance.

One of the biggest concerns raised by the group is related to ‘courtesy’ inspections. A boarding form is filled out whenever a vessel captain contacts an agency and asks to have their gear checked before they go out. If they are found to have problems, the form reflects that, but any correction is not considered. These ‘courtesy’ infractions are counted against the fleet as though it were an at-sea infraction, potentially skewing the true compliance rate. In addition, these requests are often made by captains trying to be sure they are prepared and actually in compliance. The public relations of this situation are a potential nightmare to enforcement who have finally developed a good rapport with the fleet.

In addition, NOAA Protective Resources has not sufficiently addressed how a closure might take place, the extent of a closure, and how the closure can be lifted. Most infractions occur when dealing with a migratory fishing fleet. If a region is found to be out of compliance, a closure would affect that state and its residents despite the ‘bad actors’ leaving and returning to their own waters. These issues need to be addressed before the LETC and the LEC are satisfied with the TED policy.

The TED boarding form is a great tool; however, we have serious concerns with how data is going to be used. It was also brought to our attention that the NOAA mandatory observers are being asked to provide forms as well.

This issue was discussed at the Joint ASMFC/GSMFC meeting last November but not as the Council LETC. It was agreed that a letter should be sent to the NOAA Office of Protected Resources to have them address these concerns. The Committee was unsure of whom the letter should come from, and therefore the Committee's concerns are being presented to both the Council and the Commission.

This is clearly a federal species managed by the Council but the TED Boarding Forms and the Policy were not provided to the Council's Shrimp AP. The ramifications make it a potential Commission issue as well as a Council issue.

Any letter should request that courtesy inspections should either not be counted in the compliance rate or should be a Level I violation (minimum violation statistically). In addition, the NOAA Office of Protected Resources needs to clearly define the methodology for determining an area closure for non-compliance and provide some information on what that closure might look like, i.e. what is involved, how violators will be treated, and how it will be lifted.

The meeting adjourned at 4:20 p.m.

LETC Members in Attendance:

Brandi L. Reeder, TPWD, Vice-chair
Scott Bannon, ADMR
Mark Kinsey, NOAA/OLE
Cynthia Fenyk, NOAA/GCES
Chad Hebert, LDWF
Rusty Pittman, MDMR
Dan Ellinor, FWC (for Rama Shuster)

LEC Members in Attendance:

Chad Hebert, LDWF, Chair
Rusty Pittman, MDMR, Vice-chair
Scott Bannon, ADMR
Mark Kinsey, NOAA/OLE
Cynthia Fenyk, NOAA/GCES
Brandi L. Reeder, TPWD
Dan Ellinor, FWC (for Rama Shuster)

Others:

Doug Boyd, GMFMC member
Ed Swindell, GMFMC member
Judy Jamison, Gulf & South Atlantic Fisheries Foundation
Jamie Miller, MS Dept. of Marine Resources
Darin Topping, TPWD
Toby Gascon, LDWF, GSMFC Commissioner
Chris Blankenship, ADCRN/MRD, GSMFC Commissioner
Joe Jewell, MDMR
Jerry Mambretti, TPWD
Jess Beck, NOAA Regional Aquaculture Coordinator, *via phone*

Staff:

Steven Atran, GMFMC
Steve VanderKooy, GSMFC
Debbie McIntyre, GSMFC