

DRAFT Joint Law Enforcement Committee (LEC)/Law Enforcement Technical Committee (LETC)
Meeting
October 18, 2022
Meeting Summary

LETC
CLOSED SESSION
8:30 a.m. – 9:10 a.m. CST

Members in Attendance:

Scott Pearce, FWC, Tallahassee, FL (Chair)
Patrick Carron, MDMR, Biloxi, MS
Jason Downey, ADCNR/AMRD, Dauphin Island, AL
Duane Smith, NOAA, OGC, St. Petersburg, FL
Joseph Scarpa, NOAA, OLE, St. Petersburg, FL
Leslie Casterline, TPWD, Austin, TX
Dean Aucoin, II, LDWF Enforcement, Baton Rouge, LA

Council Staff and Others:

Ava Lasseter, GMFMC
Joe Spraggins, Gulf Council representative, MDMR, Biloxi, MS
Lisa Motoi, USCG, New Orleans, LA
Steve VanderKooy, GSMFC, Ocean Springs, MS
Debbie McIntyre, GSMFC, Ocean Springs, MS

The closed session was called to order at 8:30 a.m. by Chairman **Pearce**. The minutes from the March 2022 closed session meeting were approved. **Lasseter** provided the revisions to the Council SOPPs approved by the Council at its August 2022 meeting regarding the process for checking advisory panel applicants for fishing violations. The LETC discussed the changes and noted the differences between state and federal written warnings. A federal written warning is a non-monetary violation that includes a process for contesting the violation, whereas there is no due process for the recipient of a state written warning. Consistent with the LETC's understanding of the fishing violations the Council intends to identify, the LETC recommends modifying the recently approved language in the SOPPs to reflect that a federal, but not state, written warning is an applicable fishing violation (recommended changes in blue):

The presence of a fishing violation is an important aspect in consideration of an AP appointment. The Council has determined: 1) Applicable fishing violations include only violations of federally managed species in either State or Federal waters, regardless of the penalty (i.e., **civil fine, criminal conviction, federal written warning**); 2) individuals are ineligible to serve on an AP within three years of the final finding of liability through adjudication, settlement, or default. A finding of liability is final after any applicable appeal period expires; and, 3) Vessel owners shall not automatically be held responsible for violations by a crew member when the owner is not present. If an individual who is currently serving on an AP is found to have a fishing violation that meets the preceding criteria, subsequent to their

appointment, the decision to maintain or remove the individual from the AP is at the Council's discretion.

Casterline (TPWD) requested that the Council clearly state the types of violations that should be included in the check consistent with the revised SOPPs language, as Texas has been providing everything. **Casterline** asked to follow up with the Council's Executive Director regarding the request letter.

The closed session was adjourned at 9:10 a.m.

Joint LEC/LETC Meeting GENERAL SESSION

Members

Scott Pearce, FWC, Tallahassee, FL (Chair)
Patrick Carron, MDMR, Biloxi, MS
Jason Downey, ADCNR/AMRD, Dauphin Island, AL
Duane Smith, NOAA, OGC, St. Petersburg, FL
Joseph Scarpa, NOAA, OLE, St. Petersburg, FL
Leslie Casterline, TPWD, Austin, TX
Lisa Motoi, USCG, New Orleans, LA
Dean Aucoin, II, LDWF Enforcement, Baton Rouge, LA

Others

Nick Haddad, Florida Sea Grant, Tarpon Springs, FL
Scott Bannon, ADCNR/AMRD, Dauphin Island, AL
Jim Brown, Commissioner, Apalachicola, FL
Geoff White, ASMFC/ACCSP, Arlington, VA
Doug Boyd, Commission Chair, Boerne, TX

Staff

Ava Lasseter, GMFMC, Tampa, FL
Joe Spraggins, GMFMC representative, MDMR, Biloxi, MS
Dave Donaldson, GSMFC, Ocean Springs, MS
Steve VanderKooy, GSMFC, Ocean Springs, MS
Donna Bellais, GSMFC, Ocean Springs, MS
Debbie McIntyre, GSMFC, Ocean Springs, MS

The meeting was called to order at 9:30 a.m. by Chairman **Pearce**.

Lasseter suggested a reorder of the agenda to address LEC items first.

The agenda was adopted on motion by **Pearce** and second by **Carron** with the reversal of the order of the agenda. The summary of the LEC/LETC joint virtual meeting, October 12, 2021, was approved as written on motion by **Pearce** and second by **Carron**.

LEC Session

Follow-up on the Future of the Strategic and Operations (Ops) Plans

VanderKooy asked the Committee members for their thoughts regarding the continued updating of these plans. He explained that, while these documents were very instrumental years ago, with reference to JEAs and other projects, the utility of these documents has changed over time. These are used to support enforcement work in the states and agencies. If the LEC/LETC stops producing the Strategic Plan, it will remain in place as general guiding principles with vision and mission statement, until it is determined a change is needed. The Ops Plan will be discontinued.

MOTION: the LEC requests the Commission's approval to allow the Operations and Strategic Plans to expire and only be updated as needed in the future.

Lasseter will bring the same motion to the Council next week in Biloxi.

Discussion on Fish Attracting Devices (FAD) in State Waters

The Committee discussed the use of FADs in recent years and if there were any problems that might need to be considered related to user group conflicts and the deployment of FADs. After much discussion, it was the consensus of the group that, while this may eventually become an issue that will need management, at the current time, there is no simple way to address this and there is not an urgent need for any action at this time.

IJF Program Activity

Red Drum Profile Status

VanderKooy reported that the Red Drum Technical Task Force (TTF) has completed the Profile and presented it to the Technical Coordinating Committee. **Pearce** is the enforcement rep on the TTF and coordinated the assignments with the LEC.

Mangrove Snapper Profile Preparations

The new Mangrove Snapper TTF membership is full. Work is expected to begin after first of year Jason **Downey** will be enforcement rep on the TTF.

Commission Publications

VanderKooy stated that the annual *License and Fees* publication for 2021 was completed and copies were mailed out last month to the LEC and the Commissioners and Proxies. **McIntyre** will ask state LEC members for their rules and regs for inclusion in the *Law Summary* (AKA the Red Book) for 2022 in March of 2023. Both the *License and Fees* and the *Law Summary* pubs serve as historical references and a way to track license sales and regulatory changes over time. All Commission publications are available on the Commission website.

State Report Highlights

Written reports were provided by most of the individual states/agencies in advance and are available upon request from the Commission office.

LETC Session

Potential management changes to vermilion snapper and gray triggerfish

Lasseter provided an update on the current status of Council actions to modify management of vermilion snapper and gray triggerfish. The LETC discussed the proposed action to modify the commercial trip limit for gray triggerfish. The LETC agreed that counting fish was simpler than weighing fish, and that when on the water, the problem with weighing fish is the need for an accurately calibrated scale, which patrol vessels do not have the ability to do that. The LETC then approved the following consensus statement.

Concerning the modification of the gray triggerfish commercial trip limit, the LETC supports all the proposed alternatives to count fish rather than weighing them. It is only possible to count fish when on the water.

Changes to Mexico status due to IUU enforcement

Casterline and **Motoi** informed the LETC on enforcement activities regarding IUU fishing by Mexican lanchas in U.S. waters, including data on the number of observed lanchas and interdictions over the last year. **Casterline** also described issues with the illegal importation of molluscan shellfish by land, highlighting the health risks arising from the consumption of such product that may not have gone through the rigorous food safety requirements of the U.S. **Motoi** noted that in response to the 2021 negative determination for Mexico, the U.S. has denied port access in Brownsville to Mexican vessels.

IFQ landings transaction discrepancies

Aucoin raised a potential issue in the IFQ programs in which some dealers may be using the 15-day period provided in CFR 622.21 to correct a landing transaction report discrepancy to circumvent law enforcement's efforts at validating landings. Described as a potential loophole, **Aucoin** expressed concern with landing transaction reports completed by a single individual representing both the dealer and fisherman, as the 15-day provision to correct a discrepancy may be used by the dealer in the event law enforcement arrives to verify the landing. **Scarpa** and **Smith** are going to follow up with **Aucoin** regarding further information on the frequency of such corrections to landing transaction reports by entities serving as both fisherman and dealer.

Downey inquired about receiving advanced landing notifications for landings outside his region of Alabama. He noted that some fish are coming to dealers in Alabama that were landed in Mississippi. Other members noted that landing notifications for additional locations can be added, but that approved landing locations are aggregated into areas. Officers receive emails for all landing notifications within the area(s) selected for monitoring, meaning that the number of additional notifications will represent the entire region rather than an individual landing location and associated dealer. It was noted that the proper permits to transport the fish to Alabama are in place and that no red flags have been raised about these transports.

State licensed charters fishing in federal waters

Carron asked about vessels taking paying passengers fishing in federal waters without a federal for-hire permit and if this is a consistent problem across the Gulf; everyone concurred. **Scarpa** described the program initiated through his office that has held workshops in the Pinellas County area with concerned charter operators. The Committee noted the difficulty in making these cases, adding that it

can be done as with recent cases. **Smith** noted that NOAA can put together strong cases by including as much information as possible provided by other law enforcement agencies or the public. The Committee will continue to discuss the topic.

Framework actions to change for-hire requirements

Lasseter informed the Committee of the Council's preferred alternatives selected in the Framework Action: Modification to Location Reporting Requirements for For-hire Vessels, on which the Council took final action at its August 2022 meeting. The Committee noted the VMS requirement went into effect earlier this year. **Smith** noted that compliance has improved.

The Committee next discussed the Draft Abbreviated Framework Action: Modification of For-hire Vessel Trip Declaration Requirements. **Smith** explained that a trip is defined as any time the boat leaves the dock. The Council may modify how a trip is defined to allow for movement of the vessel not related to fishing activity. The Committee felt it was sufficient to declare a trip when setting out fishing only; the Committee was not concerned about inshore vessel activity. By consensus, the Committee supports Option 4 (declare any fishing or charter activity, only), and does not share the concern stated in the document that this option would make law enforcement more difficult.

~~**SEFHIER program update**~~ This agenda item was withdrawn.

Downey raised a concern with not receiving declarations from a particular vendor: SkyMate, asking if this is a problem for other states. He noted that his officers had seen a vessel without having received a notification. The officers rush to intercept the vessel, only to find that the vessel does indeed have a declaration. Other Committee members are not sure if they are not receiving notifications from this vendor. **Smith** suggested contacting Carolyn Sramek at SERO to look into the issue.

Return 'Em Right

Haddad presented an update on the Return 'Em Right program. The 7-8 year project requires anglers to complete an educational program to receive the gear for free. The program is being phased out by sector and Haddad displayed a map showing where the 10,000 devices have been distributed. He noted that the average time to complete the online educational module is 14 minutes and that more than 5,700 follow-up surveys had been completed.

Since the Descend Act went into effect in January 2022, **Haddad** asked the group to share what they have observed. **Pearce** noted that at a South Atlantic Council meeting, there was a report of 50% compliance, but that he does not have hard numbers for compliance on the Gulf side. **Aucoin** notes officers have seen anglers use a knife, which is not hollow, while the venting tool is in a nearby cup holder; the vessel is in compliance as long as the gear is onboard. He added that they are seeing for-hire operators using the gear properly, but the private angling side is not yet as informed. **Pearce** notes that they would be glad to provide people with venting tools, which would be great for outreach as officers could assist in training right on the boat. **Pearce** added that it takes practice to use correctly so officers could use some training and education, too. Options for officer training was discussed, with the Committee agreeing that a hands-on workshop would definitely be better. Training of recruits at the Academy level was also suggested.

Nomination process for 2022 Officer/Team of the Year Award

Lasseter informed the LETC that Council staff will send out a call for nominations before the end of the year. After discussion with the Committee, **Lasseter** will send out a template that agencies may use internally to solicit nominees and compose their applications. This will facilitate the agencies in compiling the information necessary to complete the online form for each agency's nomination. A virtual meeting of the LETC will be convened in March 2023 so the nominations for the 2022 Officer/Team of the Year Award can be ranked before being submitted to the Council for its April 2023 meeting. The Committee confirmed awareness of having only a single in-person meeting in conjunction with the GSMFC meeting each year.

Other Business

Carron notes the benefits TPWD officers have received from recent SEFHIER and TED workshops put on by NOAA. Other Committee members are interested in these trainings and **Scarpa** will pursue this through his office, emphasizing the importance of more routine workshops. The Committee discussed the benefits and draw backs of in-person and virtual trainings.

VanderKooy raised the issue of the illegal importation of people and asked if the Committee had any issues regarding enforcement they wished to share or discuss. **Pearce** asked if immigration efforts were taking time away from regular law enforcement. **Casterline** described the border operations engaged in by TPWD, noting the substantial resources involved in terms of personnel hours and equipment.

Having no further business to discuss, on motion by **Pearce** and second by **Casterline**, the meeting adjourned at 4:30 p.m.