

Spiny Lobster Advisory Panel

Meeting Summary

Tampa, FL

December 7, 2022

9:00 am – 4:00 pm

The meeting of the Gulf of Mexico (Gulf) Fishery Management Council's (Council) Spiny Lobster Advisory Panel (AP) was convened on December 7, 2022 at 9:00 am. Daniel Padron was elected as the Chair and Josh Nicklaus as the Vice-Chair. The agenda was approved as modified to include a discussion on possible import tax on spiny lobster. The minutes from the November 13, 2019 and September 12, 2022 meetings were approved as written.

Presentation: Florida Keys National Marine Sanctuary (FKNMS) Expansion

Ms. Beth Dieveney (FKNMS staff) presented the draft rule for the FKNMS expansion. This is the second time the Spiny Lobster AP has been presented with the opportunity to ask questions to FKNMS staff and provide recommendations to the Council.

When discussing fishing activities allowed in the FKNMS, the AP asked if the sanctuary boundary expansion would affect fishing activities, specifically shrimping as this concern had been raised during the joint Coral, Spiny Lobster, and Shrimp AP meeting. Ms. Dieveney responded that fishing is still allowed inside the FKNMS, unless otherwise specified by a special marine zone designation. The AP also asked about the definition of traditional fishing and how this may affect the development of novel fishing practices. Ms. Dieveney indicated that the procedure to allow novel fishing gear will be outlined in the Protocol for Cooperative Fisheries Management.

The AP also asked about the installment of buoys to clearly mark the marine zones, as the FKNMS is visited by many tourists who may not know the regulations on the water. Ms. Dieveney mentioned that there is a newly formed working group tasked with evaluating the need of installing buoys for the various Sanctuary Preservation Areas (SPAs), as well as researching the number of mooring buoys allowed for recreational use. The AP commented that many reefs with high traffic of snorkel and SCUBA charters seem to be in worse condition.

An AP member asked the reasoning behind closing new areas for coral nursery and restoration instead of using areas that are already closed. Ms. Dieveney responded that this practice already takes place in areas that are already closed. Council staff also mentioned that the Coral AP had a similar discussion and that the proposed regulations would prevent entanglement with the coral-nursery gear, and would protect the divers that may be working at the bottom.

The AP also asked if using baiting lobster traps would be prohibited under the "fish feeding" restrictions. Ms. Dieveney responded that the draft rule does not prohibit chumming or the use of bait for traditional fishing practices, but that activities such as chumming for recreational

shark diving would be prohibited. An AP member who also has a bait fishing permit, is against the phase out of these permits as the practice of fishing for ballyhoo does not have a negative interaction with the bottom as these fish congregate close to the surface.

The AP asked if the temporary and emergency regulations give the FKNMS the authority to close a zone for any reason. It was explained that this type of action has only been used twice since its inception two decades ago: once to aid habitat recovery after the grounding of a vessel, and another one for the recovery of corals after a disease event. The proposed change would extend the amount of days emergency rulemaking can be in effect to match the same number of days outlined under MSA. It is also being used as a tool for the FKNMS to integrate adaptive management technique and reduce response time. The draft rule includes three categories in for which emergency rulemaking could take place. Although emergency rulemaking does not require a public comment period, the FKNMS would still reach out to the affected constituents before undertaking any kind of emergency rulemaking.

An AP member asked why the draft rule expected to double the economic impact (~2% annual revenue loss) to the spiny lobster fishery, when compared to other commercial fishing practices (~1% loss). He also mentioned that although 2% sounds small, it still amounts to approximately one million dollars in dockside value, and that this value would be higher once it gets to the consumer. FKNMS staff recognized the economic value of the spiny lobster fishery and explained that the difference compared to other fishing practices is due to the reduction in benthic spiny lobster habitat that could be accessed to prosecute the fishery.

The AP suggested the FKNMS should simplify the process, make regulations consistent with other management authorities in the region as much as possible, and engage with partner agencies, especially as it pertains to water quality issues. An AP member stated that the smaller turnout for this round of public meetings compared to when the draft environmental impact statement (DEIS) was released, was due to poor public perception of how their input was considered.

The AP did not modify its previous motions from the September 2022 meeting¹, which were:

Motion: The Shrimp and Spiny Lobster APs oppose the proposed northwestern expansion of the Florida Keys National Marine Sanctuary boundary.

Motion carried with no opposition.

Motion: The Shrimp and the Spiny Lobster APs are not in favor the Florida Keys National Marine Sanctuary boundary expansion westward from the Tortugas Ecological Reserve South and the boundary expansion between the Tortugas Ecological Reserve South and the Dry Tortugas.

¹ https://gulfcouncil.org/wp-content/uploads/04b.-Jt-Coral-Shrimp-Spiny-Lobster-AP-meeting-summary-September-2022_11012022.pdf

Motion carried with no opposition.

Motion: The Shrimp and the Spiny Lobster APs are not in favor of the southernly expansion of the Florida Keys National Marine Sanctuary boundary which encompasses the Area to be Avoided.

Motion carried with no opposition.

Motion: The Spiny Lobster AP supports the status quo of the Florida Keys National Marine Sanctuary boundary until they provide industry and all user groups with a detailed law enforcement plan.

Motion carried with one in opposition.

The group is very interested in the protection of habitat, but feels that something is lacking since the condition of the sanctuary continues to deteriorate since 1997 when it was placed under federal management. The AP further reiterated their concerns that non-fishing impacts (e.g., water quality) are not being addressed. The AP also has concerns on the enforceability of the draft rule, given the reduction of funds to hire additional law enforcement officers.

The AP recommends figuring out a way to mitigate the impacts of recreational use of the sanctuary and that the FKNMS should explore the alternative of user-fees. Ms. Dieveney reminded the group that the FKNMS explored this option in the DEIS, but received many comments from locals in opposition.

Discussion on Capping the Spiny Lobster Recreational Permit

The AP compared the proportion of spiny lobster landings to the number of recreational permits and commercial lobster trap tags that have been issued by the Florida Fish and Wildlife Conservation Commission (FWC). The AP noted that commercial entry into the fishery is declining while the recreational permits continue to increase. The AP also noted that although recreational permits have increased, landings have been stable, and wondered if this isn't a red flag about the condition of the stock. Ms. Butler, AP member and FWC biologist, commented that making these kinds of comparisons is difficult given that the state has a diverse variety of fishing and hunting licenses such that the number of recreational lobster permits may not necessarily directly correlate with effort in this fishery. Surveys have shown that many users don't even know that their license has a spiny lobster permit. Another member of the AP then raised a concern of the potential for additional lobster harvest and impact to coral reefs should those people participate in the recreational fishery. Council staff economist provided an overview of the Joint Spiny Lobster Fishery Management Plan which includes the objective to

increase yield by weight from the fishery. An AP member inquired if that was specific to a sector, and Council staff replied that it was for the fishery as a whole.

The AP suggested FWC should explore avenues to monitor recreational harvest, and proposed a system similar to the alligator tags sold by the agency. Dr. Sweetman (Council representative) mentioned that the idea of lobster tags has been considered as a way to eliminate double tripping during lobster season, but issuing yearly tags would be cost-prohibitive for the agency.

Understanding that lobster tagging could be one of the avenues to explore, the AP recommend that FWC continues exploring for tools to quantify recreational effort in the spiny lobster fishery.

Motion: The Spiny Lobster AP recommends FWC to explore options for a lobster tagging program during the 2-day mini season as a way for improving tracking recreational harvest.

Motion carried 3-0 with one abstention.

Motion: The Spiny Lobster AP recommends that FWC explore a lobster tagging program, or some alternative, for recreational catch for the recreational fishery.

Motion carried with no opposition.

Discussion on Hurricane Ian Impacts to the Spiny Lobster Fishery

As a result of Hurricane Ian, many commercial lobster traps around the Tortugas region were lost. The AP is advocating to be included should Florida receive any funds under a fishery disaster declaration. At the time of the meeting, the Secretary of Commerce has not approved that declaration, thus NOAA would have to collect data and complete economic analyses that show the need for economic assistance.

Motion: The Spiny Lobster AP recommends the Council write a letter to the Secretary of Commerce in support of a fishery disaster declaration recommendation for Hurricane Ian.

Motion carried with no opposition.

Other Business

The AP asked about the possibility to impose an import tax on spiny lobster. The AP stated that spiny lobster imported from Central America is being sold at a lower price than lobster caught in Florida, which is devaluing the fishery. Council staff mentioned that NOAA Fisheries had produced a draft National Strategy for Seafood Resilience and Competitiveness that might be a good place to address this issue in the long-term. The Council staff economist responded that

anti-dumping duties have been imposed on certain shrimp imports, which may be what the AP is discussing as a possibility for spiny lobster. Staff noted that NMFS does not have the authority to impose anti-dumping duties, so the spiny lobster industry would have to petition the U.S. International Trade Commission and demonstrate injury as well as that the product is being “dumped” into the U.S. market. Staff suggested contacting the Southern Shrimp Alliance for additional information pertaining to the process.

The meeting adjourned at 3:00 pm.

Participants

Spiny Lobster AP

Daniel Padron, Chair

Josh Nicklaus, Vice-Chair

George Niles

Casey Butler

Council Representative

CJ Sweetman

Council Staff

Natasha Mendez-Ferrer

Carrie Simmons

John Froeschke

Matt Freeman

Jessica Matos

Charlotte Schiaffo