



Atlantic States Marine Fisheries Commission

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MEMORANDUM

March 25, 2014

To: American Eel Management Board

From: Law Enforcement Committee

RE: Glass eel Enforcement

At the winter 2014 meeting of the Atlantic States Marine Fisheries Commission (ASMFC), the American Eel Management Board asked the Law Enforcement Committee (LEC) to provide a summary of current regulations and enforcement efforts relating to the illegal harvest of glass eels (elvers). The ASMFC Law Enforcement Committee (LEC) met via conference call on February 26, 2014 to address this issue.

Committee Members Present: Kurt Blanchard (RI); Elizabeth Buendia (USCG); John Cornish (ME-alternate); Dominick Fresco (NJ); Larry Furlong (PA); Honora Gordon (USFWS); Jamie Green (VA); Logan Gregory (NOAA OLE); Bob Hogan (NOAA OGC); Tim Huss (NY); Drew Idelit (DE-alternate); Lloyd Ingerson (MD); Kyle Overturf (CT); Gentry Thames (SC-alternate); Carter Witten (NC-alternate).

ASMFC Staff: Mark Robson; Kate Taylor; Mike Waine; Marin Hawk

Other Law Enforcement: Tracy Dunn (NOAA OLE); Jeff Radonski (NOAA OLE); Robert Kersey (MD NRP)

The Law Enforcement Committee offers the following information and comments regarding glass eels, and will provide updated information as it becomes available.

Current Regulatory Structure

Harvest of glass eels is allowed in Maine and South Carolina.

Maine: Increased enforcement and penalties for illegal harvest (primarily fishing without a license) are being implemented. A new electronic card for documenting harvest transactions will provide better tracking and enforcement. Most violations are criminal and may result in up to \$2000 fines.

South Carolina: Maintains a limited, legal fishery with 10 permits issued each year. Legal fishing is restricted within a certain area of the Cooper River. Penalties for permit violations are misdemeanors and upon conviction, must be fined not less than \$200 but not more than \$1000, or imprisoned for not more than 30 days.

All other states maintain a moratorium on harvest of glass eels or elvers. Typically, regulations prohibit fishing for, taking, or possessing eels measuring less than a specified minimum size.

New Hampshire: Take or possession of eels less than 9 inches is prohibited. Eel traps may not have a mesh size less than ½ inch unless there is an escape panel. The current penalty is a violation with up to a \$1000 fine per eel. Overall penalties for cases involving eels, including illegal possession, taking eels without a permit, and added penalty assessments, resulted in an average of \$7440 per case for 22 cases last year.

Massachusetts: Fishing for, take or possession of eels less than 6 inches in total length (TL) is prohibited. From February 15 through June 15, possession or use of any device with mesh opening less than 1/8 inch is prohibited. Current penalties for a criminal prosecution of an elver case are \$50-\$1000. The Courts have also been awarding the state any associated gear that is seized during the violation including, for example, nets and vehicles.

Rhode Island: Attempting to take, take, possession, sale or offer for sale of any eel less than 9 inches is prohibited. Mesh size less than ½ x ½ inches is prohibited unless an escape panel is provided. Misdemeanor fines are not more than \$500 or imprisonment for up to 90 days or both.

Connecticut: It is illegal to take or attempt to take any elver eel, glass eel or silver eel from the waters of the state less than 6 inches. Any person who violates the provisions of this section shall be fined not more than \$250.

New York: Take or possession of eels less than 6 inches TL is prohibited. Trap mesh size less than 1 x ½ inch is prohibited unless an escape panel is provided. Fines range from \$25/eel (1-5 taken illegally), up to \$100/eel (more than 25), and may include a fine and imprisonment. For commercial violations (illegal sale, trade or barter), fines are based on the value of the resource. These could range from \$500 and/or up to 15 days imprisonment, up to a misdemeanor charge of \$5000 and/or not more than one year imprisonment. More severe cases may be a class E felony charge under the provisions of penal law.

New Jersey: It is illegal to possess eels less than 9 inches. The civil penalty for violating this provision is \$30 per eel. Mesh size smaller than 1/2 inches (inside bar measure) on mini- fyke nets or pots for taking eels is prohibited. If illegal nets are used, each illegal net carries a civil penalty of \$300-\$3000. There are additional criminal penalties for offering or possessing illegally harvested eels for sale.

Delaware: Possession of eels less than 6 inches TL is prohibited. Allowable commercial and non-commercial gears are specified. Fines are not less than \$25 or more than \$500.

Maryland: Recreational minimum size limit is 9 inches for non-tidal hook and line harvest. Commercial regulations prohibit harvest of eels less than 6 inches. Eel posts are required to have an escape panel if the mesh size is less than ½ x ½ inches. Fines vary depending on whether they are commercial or recreational violations, and are based on the number of illegal fish possessed. Generally, fines for illegal possession range from \$50 to \$1000 for first offenses.

Pennsylvania: Possession of eels less than 9 inches is prohibited. The base penalty for fishing without a license is \$50. There are provisions for charging additional fines per fish taken illegally

Virginia: Take, catch, landing or possession of eels less than 9 inches is prohibited. No eel pots may have less than ½ x ½ inch mesh size. Any pots having a ½ x ½ inch mesh must have an escape panel. Penalties for a first offense are considered a Class 3 misdemeanor with not more than \$500 fine. Second or subsequent violations within 12 months are considered a Class 1 misdemeanor with a fine of up to \$2500 and/or imprisonment up to 12 months.

North Carolina: Take, possession or sale of eels less than 9 inches is prohibited. No eel pots may have a mesh size less than 1 x ½ inch unless it has an escape panel. Violations of size limits regulations typically have a charge of \$35 plus court costs (currently about \$135). In some cases officers may request additional penalties for replacement cost of the resource, which may or may not be applied by the court.

Georgia: Take or possession of eels less than 9 inches TL is prohibited. Traps with less than 1 x ½ inch mesh are prohibited. Fines for violations vary by county. The maximum fine is up to \$1000 and/or 12 months imprisonment.

Florida: There is no minimum size limit. Under freshwater commercial regulations, eel pots shall be 1 x ½ inch wire mesh. Penalties for any illegal eel harvest or licensing regulations may range from a \$50 noncriminal infraction to a \$500 maximum fine for a second degree misdemeanor. More severe fines would be applied for large-scale or repeat offenses.

Illegal Activity and Cases

Maine: Last year there were around 200-250 violations outside of tribal areas, most successfully prosecuted. Most of the violations were for harvesting without a license (poaching).

New Hampshire: Last year, 22 individuals were arrested for illegal fishing activity.

Rhode Island: There are still out-of-state poachers working in Rhode Island, although there have been several successful cases made. Resource enforcement officials are working closely with the judiciary and local police departments to highlight the concern about illegal harvest of glass eels. In at least one case, an extraditable warrant was issued for a poacher from Maine. Working with local police officials has also proved successful in helping to uncover illegal activity.

New York: There have not been any significant cases made recently, and the state has large penalties in place which may be serving as a deterrent.

New Jersey: There was illegal harvest activity last year, with a number of cases made. In March, 2013, 3 individuals were apprehended and each charged with possession of 25,000 eels smaller than the legal minimum size. Additionally they were charged with use of illegal nets. All their equipment and the vehicle used to store eels were seized. The case was settled with a total penalty assessment of \$31,500 and forfeiture of a truck and all equipment.

North Carolina: Illegal activity appears limited, with no recent cases made.

South Carolina: Enforcement officers are aware of illegal activity going on, both by locals and out-of-state harvesters. Two individuals were recently apprehended and charged with harvesting glass eels in an area not designated as a legal harvest area.

Potential Changes in Regulations

Maine: Maine has recently adopted legislation that will allow officers to cite those who assist illegal harvesters at the same criminal levels as the actual harvesters. Negotiations continue with tribal leaders to develop separate quotas for harvest of glass eels and to control illegal harvest of glass eels on tribal lands and waters.

New Hampshire: A bill has been filed to change the penalty for the taking of American eels. If enacted it would change violations to misdemeanors or felonies.

Massachusetts: A bill has been filed to increase the fine for the illegal taking of eels and elvers. If enacted it would increase the penalty for taking elvers or eels less than six inches, with a significant fine for illegal commercial harvest. Enforcement officials also believe it would be helpful to amend current regulations to extend the area where certain fishing gear is prohibited out from the immediate area of a streams or rivers, to include within 100 yards of any riverbank.

New York: New York will likely be taking up a nine-inch minimum rule at some time in the near future.

New Jersey: Enforcement officials believe it would be helpful to include violations its criminal law regarding sale of illegal wildlife in the current bail schedule. This would allow judges to apply bail to an offense and help ensure that out-of-state violators return for their court appearance.

Delaware: The Legislature is considering changes to law that would increase the minimum size limit from six inches to nine inches. Legislation would implement a ½ x ½ inch minimum mesh size, allowing for use of an escape panel through 2017. The Legislature is also considering an increase in the minimum fine from \$25 to \$50.

SUMMARY

The ASMFC Law Enforcement Committee reports continuing illegal harvest of glass eels or elvers in the two states where some legal harvest is permitted, and in a number of states where any harvest of eels below a minimum size is prohibited. This is not unexpected given the high dollar value associated with the fishery. Enforcement agencies are dedicating resources to monitor and enforce regulations through stepped up patrols, coordination with local enforcement authorities, and by communicating the importance of glass eel cases to judiciary officials. Specific changes to regulations or statutes that would enhance field enforcement and/or penalties are encouraged, and those that have been implemented (in Maine, for example) have improved the outcome of arrests and convictions. Because of the cross-state nature of illegal glass eel harvest, strengthening of extradition or bail provisions for criminal violations would enhance the deterrent effect of enforcement actions.