Atlantic States Marine Fisheries Commission

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MEMORANDUM

March 28, 2017

To: Tautog Management Board

From: Law Enforcement Committee

RE: Different Tautog Management Measures within One State

The Law Enforcement Committee (LEC) of the Atlantic States Marine Fisheries Commission (ASMFC) was asked for comments on a possible splitting of regulations in New York during a teleconference meeting on March 17, 2017.
The following were in attendance:
LEC: Capt. Steve Anthony (NC); Dep. Chief Kurt Blanchard (RI); Capt. Grant Burton (FL); Maj. Rene Cloutier (ME); Lt. Mike Eastman (NH); Lt. Col. Larry Furlong (PA); Lt. Tom Gadomski (NY); Capt. Jamie Green (VA); Maj. Rob Kersey (MD); Capt. Bob Lynn (GA); Capt. Doug Messeck (DE); Katie Moore (USCG); Asst. SAC Jeff Ray (NOAA OLE); Capt. Jason Snellbaker (NJ)
STAFF: Ashton Harp; Megan Ware; Mark Robson

LEC members were briefed on the possibility of two sets of management measures for tautog in the state of New York. A split would provide for different management measures between Long Island Sound and the south (ocean) shore of Long Island. The LEC discussed a number of concerns and difficulties in enforcing such a management split.

Defining a boundary line between areas
A proposed boundary line between the sound and the ocean would be hard to determine on the water as there are no clear buoys to reference. This would make enforcement difficult, especially if land reference points are used to define the boundary line. A boundary line over the water without clearly visible landmarks or demarcations is almost completely unenforceable. At the very least, making strong cases for violations of such a line presents numerous enforcement challenges such as verifying position data of the patrol vessel and the fishing vessel in question, and determining a vessel operator's intent to violate the boundary vs. an accident of navigation.

Enforcing different regulations in close proximity
LEC members with knowledge of the waters in question or similar situations elsewhere expressed strong sentiment that fishermen shift their fishing activity back and forth between the sound and the ocean side depending on where regulations were more liberal. It is believed that many fishermen in the eastern end of Long Island Sound are already landing their catch on the south shore, via Orient Point.

If there are different regulations in close proximity, and a pattern of fishermen easily moving between areas, effective enforcement once fish reach the dock will be limited to the most liberal regulation. Strict-possession enforcement would not be feasible.

Similarly, if there are different closed seasons in close proximity the LEC believes it is highly likely that tautog fishermen will shift effort significantly. This belief is based on field observations that fishermen are already doing this to a degree. Several LEC members reported that fishermen from other states move their fishing activity to take advantage of more liberal limits or open seasons.

Establishing a Buffer Zone

When presented with information about a possible buffer zone along a boundary line separating Long Island Sound from the ocean, LEC members questioned the value of such a zone as a "safe zone" from enforcement actions. A primary consideration was that such a zone would simply add to the confusion for fishermen and enforcement officers on the water as to where the boundary line is, where the buffer zone lines are, whether all other species regulations would still apply to the exclusion of tautog regulations, and whether egregious violations of a particular state's tautog regulations inside the buffer zone by a vessel from that state would be enforceable. It was also pointed out that since many fishermen in the eastern end of the sound currently come around Orient Point and land fish on the south shore, a buffer zone would not provide a significant benefit.

Consistency of Management Measures

The LEC felt strongly that tautog measures should be consistent among and within states. Even though this is primarily a recreational fishery, there clearly is a strong commercial aspect that requires careful monitoring and enforcement of landing points and markets. The more variation that occurs in regulations, the less likely there can be effective enforcement of minimum sizes, bag limits or possession once fish reach shore. The LEC particularly stresses the importance of a uniform minimum size limit.