

**Atlantic States Marine Fisheries Commission**  
**Law Enforcement Committee**

**Approved Minutes**

November 7 and 8, 2011

1:00pm – 5:30pm; 8:00am – 10:00am

Boston, Massachusetts

Participants:

Kyle Overturf (CN DEEP, State Environmental Conservation Police)  
Lloyd Ingerson (MD DNR, Natural Resource Police)  
Rob Beaton (FL FWC, Division of Law Enforcement)  
Doug Lewis (GA DNR, Law Enforcement Section)  
Joe Fessenden (ME DMR, Maine Marine Patrol)  
John Tulik (MA Environmental Police)  
Jeff Marston (NHFish & Game Department)  
Dominick Fresco (NJ Division of Fish and Wildlife, Bureau of Law Enforcement)  
Dorothy Thumm (NY State DEC, Division of Law Enforcement)  
Steve Anthony (NC DMF, Marine Patrol Section)  
Jeffrey Bridi (PA Fish & Boat Commission, Bureau of Law Enforcement)  
Kurt Blanchard (RI DEM, Division of Law Enforcement)  
Chisolm Frampton (SC DNR)  
Richard Lauderman (VA MRC, Division of Law Enforcement)  
Logan Gregory (NOAA Fisheries)  
Otha Easley (NOAA Fisheries)  
Mark Micele (NOAA Fisheries)  
Bob Hogan (NOAA General Counsel)  
Kevin Saunders (USCG)  
Pete DeCola (USCG)  
Sal Amato (USFWS)

Others: Bruce Buckson, Tim Donovan

Staff: Vince O'Shea, Mark Robson

**1. Welcome/Call to Order**

Kyle Overturf (Chairman) called the meeting to order as the Acting Chair in place of Steve Adams.

**2. Approval of Agenda**

The Agenda was approved without any changes.

The Chairman requested volunteers for a subcommittee to nominate a new vice chair. Joe Fessenden, Kurt Blanchard and Jeff Marston volunteered and will present nominee(s) later in the meeting.

**3. Roll Call of the States**

Kyle Overturf read a roll call of the states. DC and DE were not present.

**4. Public Comment**

There was no public comment.

**5. Introduction of New Law Enforcement Committee (LEC) Coordinator**

Executive Director Vince O'Shea introduced Mark Robson who has been hired to serve as the Law Enforcement Committee's staff coordinator.

#### **6. LEC Meets with Bruce Buckson, NMFS Director of the Office of Law Enforcement (OLE)**

Executive Director Vince O'Shea introduced Bruce Buckson, who has recently taken over as Director, and as someone who understands and relates to the issues of the LEC as a former member of that group. Buckson spoke about some new processes and business practices that he is implementing. OLE is developing plans to deal with position vacancies and the current hiring freeze. Mr. Buckson informed the group that Tracy Dunn will be serving as his deputy, and other leadership positions will be filled strategically based on need. He reviewed the staff status within NOAA General Counsel's office, represented Bob Hogan, LEC member. As with OLE, the GC office is also short-handed and is trying to work through pending cases. Mr. Hogan explained current efforts to address vacant positions and the existing caseload. Cases are being evaluated for prosecution or warnings. Mr. Buckson indicated that states should continue with their normal approach to cases, under existing JEA agreements. He noted that cases in the northeast region are starting to pick up again. Several LEC members raised concerns about cases that have been made and the need to follow up with prosecution of those cases. There was discussion of the need to act on the more egregious cases that were passed along to the federal system because of the seriousness of the violations. There was additional LEC discussion about how to address this issue and whether the LEC should weigh in. No action was taken at this point in the meeting. Mr. Buckson also introduced Logan Gregory as the new Special Agent in Charge for the northeast. Mr. Gregory will be active as an LEC member. Tim Donovan and Mark Micele were also introduced. Mr. Buckson also discussed a recent work force analysis and efforts underway to have more uniformed officers interacting with state partners. This is already underway in Maine. He also discussed a revision and update to the OLE National Enforcement Operations Manual currently underway. Mr. Buckson discussed the current Joint Enforcement Agreement and answered questions from the LEC. He indicated that roughly the same dollars will likely be available, at the current level of \$16 million dollars. The program is now ten years old. A working group is examining the program and how money is distributed. The goal is to have a system of funding that makes sense to everybody involved, and is fair. There was LEC discussion of the difficulty of devising a funding matrix and recognition that this is hard work, particularly with partners as diverse as Guam, Alaska and the Atlantic and Gulf States. There was additional discussion of the need to use numbers that are realistic when evaluating state needs and to carefully evaluate things such as the actual number of fish import points, the amount of recreational enforcement conducted, and the amount of enforcement outreach completed. The matrix being developed to provide a transparent mechanism for distributing JEA dollars and OLE hopes to be able to use this tool in January 2013. Mr. Buckson stressed the need to provide input on this planning tool as soon as possible, and states should also make sure they continue to report everything they do, even beyond their agreed commitment. This additional work should be reflected in the planning tool that OLE will eventually use. Mr. Buckson continued the discussion of JEA funding. He stressed the importance of state involvement in seeking more funding if members of the LEC believe that is needed. There was general LEC discussion of how to improve the funding level for the program. The Atlantic Coastal Act has authorized \$10 million dollars, but current funding is set at \$7 million dollars. The LEC discussed ways to seek additional funding by working through their states. LEC members thanked Mr. Buckson for attending and for his candid discussion. Several members reiterated their states' good working relationship with NOAA Fisheries and the Office of Law Enforcement, and also with the United States Coast Guard.

#### **7. Presentation to LEC—Joint State/Federal Striped Bass Investigation.**

NOTE: This portion of the meeting was closed to the public.

The LEC heard a presentation summarizing the results of the regional investigation of commercial striped bass harvest and sale. Presenting was:

Ken Endress, United States Fish and Wildlife Service

Jack Bailey, MD Natural Resource Police

Wayne Hettenbach, United States Department of Justice

The presenters reviewed the case history, undercover findings and resulting prosecutions stemming from the investigation. Details were provided on methods and data used to determine illegal activity.

A similar presentation was scheduled to be given to the Atlantic Striped Bass Management Board during this annual meeting of the Commission.

#### **8. Discussion of 2012 ASMFC Action Plan**

There were no comments for revisions or changes to the draft action plan from LEC members.

#### **9. Discussion of “Guidelines for Resource Managers” and Consideration of more timely and frequent LEC input to the management process.**

There were no comments or suggestions from the LEC. Mark Robson indicated he would use the document in crafting future LEC comments, and making staff and scientists aware of the guidelines whenever possible.

#### **10. Discussion of Enforcement of Protected Resources Regulations**

Joe Fessenden led off discussion of concerns in Maine that a growing number of regulations being implemented for protected species are straining existing enforcement capabilities, especially given current budget limitations. Fessenden cited the example of enforcing lobster gear modifications for large whale take reduction, even in near shore areas where few encounters are occurring. From a law enforcement perspective, this leads to a credibility gap with fishermen.

Other LEC members discussed ongoing training for handling protected species and disentanglement.

#### **11. Discussion of Timely Communication for Interjurisdictional Enforcement Issues**

There was a brief discussion reiterating the need to address timeliness of communications between state and federal agencies. LEC members felt the communication and contact through the LEC itself offered a good mechanism. An example was discussed of coordinating handling of large whales for necropsy.

#### **12. Recess for the day**

The LEC recessed at 5:00pm.

#### **13. DAY 2 Reconvene**

The LEC reconvened at 8:00am.

#### **14. Species Issues**

Members reported on state enforcement issues for tautog, American lobster, northern shrimp, weakfish and American eels.

tautog: Illegal recreational harvest in New Jersey and potential changes to the tautog amendment.

American lobster: potential reductions in harvest of the southern New England stock.

northernshrimp: Reductions in the quota and monitoring the season starting mid-January.

weakfish: Possible bag limit for the EEZ and potential conflict with existing state limits.

American eel: Increased market and price for “glass eels leading to illegal harvest.

#### **15. State Issues**

Each state representative reported current law enforcement issues. Reports focused on vacant positions and efforts to re-fill those positions with new recruits or re-assignments. Additional reports included:

VA.—there will be a significant effort and cooperative work with the USCG to cover the Virginia striped bass season. Much of the recreational fishery is occurring in the EEZ.

SC.—the shrimp season is underway but does not appear to be a particularly good harvest season at this time.

GA.—the shrimp season has been very good so far. A number of boats were entering the area from the gulf coast.

FL.—an individual who shot a FWC officer in 2009 was convicted on all 6 counts. The Division of Law Enforcement is going through accreditation. The division is getting a 12-meter JEA boat from Boston Whaler with triple outboards for offshore work in the south end of the Oculina Banks and some of the newer marine protected areas in federal waters. The vessel will also be used to monitor pelagic longline vessels north of the Bahamas.

NH.—a number of significant lobster cases were being made this year, including one individual who was caught with 68 short lobsters. A number of repeat offenders have also been cited.

NJ.—the JEA has been very helpful and the agency is replacing its fleet with 3 new inflatables. There has been a significant amount of recreationally caught striped bass showing up in markets. The agency is working on stopping recreational sale.

RI.—Agency dispatch system will be going over to the state police, however the actual dispatch center will remain at the resource agency. The new JEA boat has been a valuable asset. It is being used for lots of offshore work.

ME.—Joe Fessenden is serving as acting commissioner. A review of the state agency was completed a reorganization of the agency is under consideration. There is support for providing full funding for the law enforcement branch. A new program with uniformed officers is working well. A successful pilot program occurred working with United States Customs and the Border Patrol. They assigned one officer to Maine LE.

NY.—the agency is taking a look at dealers and whether there is an opportunity to attack poaching problems through those. There is some talk of state agency consolidations which could affect the department but no actions are imminent.

NC.—they have noticed a problem with hiring because of the background issues of applicants. Their Commission is considering changes to the commercial striped bass program, but no changes have been made. The Commission is also considering restrictions on gill nets in some state waters to protect spotted sea trout. Recent reviews of commercial trip tickets in the oyster fishery uncovered report falsification that is being addressed.

CN.—they recently bought 4 new 21-ft Zodiacs and had a NASBLA boat training class for officers. It was well worth the cost of the training, with instructors from FL getting a nod. Another class in RI is scheduled for April 2012.

In other state issues, Kyle Overturf reported that the Association of Law Enforcement Agencies is recognizing the Arkansas game warden that engaged bad guys and killed two suspects. The officer is being recognized as a national officer of the year, a real plus for our resource profession and officers.

Joe Fessenden reported on his attendance at the Interstate Shellfish Sanitation Conference in Seattle. He discussed a presentation by Locus Traxx, a satellite communication system with options for an alternative to current vessel monitoring systems. In Maine such a low-cost system could be used for small vessels that are controlled by days fishing, and don't have VMS. Fishermen could voluntarily use it or go back to assigned days. This system can put sensors on the net reel and do things beyond what VMS does. CN is looking at a similar system. A representative of the company is available to talk to LEC members later.

## **16. Federal Issues**

NOAA Fisheries.--Otha Easley reported on staff vacancies. He reported that TED enforcement in the Gulf of Mexico is a high priority right now because of concerns over sea turtle mortality in shrimp

nets. Compliance with TED regulations was investigated and was found to be low in some areas. However compliance rates are improving off GA and FL. Gray's Reef off of GA is in the process of establishing a closed research area that may be in effect in January or February 2012. It may be necessary to beef up JEA commitments in that area. They are undergoing joint training missions and TED boardings. There have been 4 joint patrols in the Port Orange area. Most of the TED cases are receiving good penalty assessments. The smallest fine so far was \$3,000.00. This has helped turn compliance around. NOAA's new penalty policy is helping.

Logan Gregory expressed his appreciation for the cooperative effort in ME and with the USCG that was going on. He reported on some harassment cases of vessel observers, including sexual harassment cases. He expressed concern that there is an increasing chance of someone getting hurt. Fishermen see observers as the enemy and this is a concern. There were 95 observer complaints in the last year. Most are observer refusals and a number of other harassment or safety complaints. NOAA has tried to deal with most cases as outreach. They are trying to relay to fishermen that these observers are NOT enforcement. Mr. Gregory also introduced Don Fry, a former fisherman, who is working with NOAA and talking to a lot of commercial fishermen up and down the coast. Mr. Fry is a great asset for NOAA and maybe also for the states. He can relay issues he is hearing about.

Bruce Buckson added that Mr. Fry's position is a response to the IG report. He is interacting in areas where NOAA Fisheries doesn't have coverage or where relations need improving. This is an outreach effort that he believes will be very helpful.

Mr. Buckson also let members know that the Enforcement Priorities survey will be sent out for final comments soon. There will be a conference call set up to allow stakeholders and others to comment. The draft priorities document will be posted online with a 60-day comment period. The document covers two general areas: 1) Sustainable fisheries/safe seafood and, 2) Healthy species and habitats and their recovery. The prioritization effort started back in 2010 with a law enforcement summit in August that yielded good initial input.

USFWS.—they have placed 12 new agents in the last two classes and are regaining staffing. Agents are working on American eel issues up and down the coast, but were unaware of the market values that were reported earlier in the LEC meeting.

## **17. Other Business/Adjournment**

The LEC returned to the issue of staffing in NOAA General Counsel's Office. LEC members discussed the desire to continue working with NOAA Fisheries to ensure that case backlogs are addressed. In response to concerns about case backlogs at NOAA Fisheries, the LEC approved the following motion:

*It is the sense of the committee that the current situation with respect to NOAA GC Staffing levels has not escaped the visibility of industry and is undermining the deterrent effect of our collective enforcement efforts.*

*The Law Enforcement Committee recommends to the Interstate Fishery Management Program Policy Board that the ASMFC draft a letter to the Secretary of Commerce expressing our concern over staffing levels and its effect on the handling of fisheries enforcement cases.*

The nominating committee for Vice Chairman submitted Lloyd Ingerson's name to the LEC. Mr. Ingerson was selected as Vice Chair by unanimous consent.

The meeting was adjourned at 10:00am