

Atlantic States Marine Fisheries Commission

Law Enforcement Committee

May 13, 2014 (1:00pm-5:00pm)

May 14, 2014 (8:30am-12noon)

Alexandria, Virginia

Draft Agenda

The times listed are approximate; the order in which these items will be taken is subject to change; other items may be added as necessary.

NOTE: A portion of this meeting will be closed to the public to discuss ongoing enforcement activities. Only members of the Law Enforcement Committee and the LEC Coordinator can be in attendance.

Tuesday, May 13

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| 1. Roll Call of the LEC Representatives | 1:00 p.m. |
| 2. Approval of Agenda and October 2013 Minutes | 1:10 p.m. |
| 3. Public Comment | 1:15 p.m. |
| 4. Review of LEC Guidelines for Enforceability | 1:25 p.m. |
| 5. AFWA and Conservation Chief's Association Update | 1:45 p.m. |
| 6. Follow-up Discussion of American Eel Addendum IV | 2:00 p.m. |
| 7. Discussion of Other ISFMP Species (As Needed) | 2:15 p.m. |
| 8. Wildlife Violator's Compact | 2:30 p.m. |
| 9. Break | 2:45 p.m. |
| 10. Review and discussion of ongoing enforcement activities--- NOTE: This portion of the meeting will be closed to the public | 3:15 p.m. |
| 11. Discussion of Protected/Endangered Species Issues | 3:45 p.m. |
| 12. Presentation on Maine's new Dealer/Harvester Swipe Card System | 4:15 p.m. |
| 13. Recess | 5:00 p.m. |

The meeting will be held at the Crowne Plaza Hotel Old Town, 901 N. Fairfax Street, Alexandria, VA 22314
(888)233-9527

Wednesday, May 14

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|---|------------|
| 14. Social (Open to Commissioners and Staff) | 8:30 a.m. |
| 15. Social Media Uses and Challenges for Resource Enforcement | 9:00 a.m. |
| 16. Follow-up Discussion of Atlantic Striped Bass Management Issues | 9:30 a.m. |
| 17. Discussion of JEA and Other Funding Issues (TBD) | 10:00 a.m. |
| 18. Break | 10:30 a.m. |
| 19. Federal Agency Reports | 10:45 a.m. |
| 20. State Agency Reports | 11:15 a.m. |
| 21. Other Business | 11:45 a.m. |
| 22. Adjourn | 12:00 p.m. |

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

Draft Minutes

(Not official until approved)

October 30, 2013

St. Simon's Island, Georgia

Participants:

CHAIRMAN: Kyle Overturf (CN DEEP, State Environmental Conservation Police)

VICE CHAIR: Lloyd Ingerson (MD DNR, Natural Resource Police)

Steve Anthony (NC DMF, Marine Patrol Section)

Chris Baker (MA Environmental Police)

Kurt Blanchard (RI DEM, Division of Law Enforcement)

Elizabeth Buendia (USCG)

Michael Eastman (NH Fish & Game Department)

Joe Fessenden (ME DMR, Maine Marine Patrol)

Chisolm Frampton (SC DNR, Division of Law Enforcement)

Dominick Fresco (NJ Division of Fish and Wildlife, Bureau of Law Enforcement)

Jamie Green (VA MRC, Division of Law Enforcement)

Timothy Huss (NY State DEC, Division of Law Enforcement)

Doug Lewis (GA DNR, Law Enforcement Section)

John Rutherford (DE DNREC, Division of Fish and Wildlife Enforcement Section)

Luis Santiago (USFWS)

Rama Shuster (FL FWC, Division of Law Enforcement)

Staff: Mark Robson, Committee Coordinator

Toni Kerns

Marin Hawk

Guests: George LaPointe (Fishery Management Council Consultant)

Lou Goodreau (NEFMC)

Mike Fry (NOAA JEA Coordinator)

1. Welcome/Call to Order

Kyle Overturf (Chairman) called the meeting to order.

2. Approval of Agenda and May 2013 minutes

The Agenda was changed to allow timely discussion of American lobster enforcement (item 16). The May 2013 minutes were approved as written.

3. Roll Call of the Members

Mark Robson called the roll of LEC members. Pennsylvania was not represented. Chairman Overturf introduced new members and guests:

Luis Santiago, representing the USFWS

Chris Baker, accompanying Pat Moran from MA

4. Public Comment

No members of the public spoke.

5. Appointment of Nominating Committee for Vice Chair

Chairman Overturf appointed a nominating committee made up of Chisolm Frampton, Doug Lewis and Kurt Blanchard.

6. Review and discussion of American lobster enforcement issues

Gear removal during closed periods

Transferable trap tags

Members discussed the issue in Lobster Management Area 6 of gear removal during closed seasons. Enforcement has been complicated by the issuance of CT “winkle” licenses and the keeping of gear in the water for that fishery. There was additional discussion of proposals to allow transferability of lobster trap tags in Maine. This was a difficult issue in the 1990’s when the industry was requesting transferability. The experience of Canada law enforcement officials was negative when transferability was allowed. There was a potential for fishermen to set traps but remove the tags, then take more traps out with the same tags. The issue may be reintroduced in Maine at a future date as there is support for transferability. Currently the Maine tag system has exchange tags for the two types of traps (winter and summer). There are also replacement tags for up to 10% of original tags that are lost. There are no major problems with this part of the system. The violation issue is the removal of tags from active traps and resetting more traps with the same tags.

Chairman Overturf reported on the discussion at the American lobster management board meeting concerning the sale of lobster parts and differing regulations among states. There is some concern over the states’ abilities to limit interstate commerce. There are varying state regulations and some states are liberalizing import and sale of lobster parts, from other states or from Canada. A suggestion was made that the LEC could help establish minimum standards for labeling and handling of lobster parts in anticipation of liberalization by states. The LEC will follow up on recommendations for standards.

Mr. Lou Goodreau of the NEFMC addressed the meeting. The NEFMC has sent a letter our regarding gear marking inconsistencies among the states. The issue is related to whale entanglement and accountability for these entanglements through uniform gear marking. The NEFMC is seeking more discussion of the issue, especially related to uniform marking and differing enforcement in state vs. federal waters. LEC members provided input to Mr. Goodreau concerning establishment of marking standards area by area in state waters. LEC members will follow up on enforcement issues in Area 3. Conflicts between fixed and mobile gear are a further complication because fixed-gear marking expense and the loss of such equipment in mobile gear.

7. Update on Asian horseshoe crab importation.

Marin Hawk reviewed the current status of Asian horseshoe crab importations in New York. There is a demand for more crabs as bait, and a Vietnamese importer wanted to bring in Asian crabs to supplement the market. There may be prohibitions on importing such crabs, but identification becomes an issue, particularly since Asian crabs were being imported in pieces. Currently only 3 states have regulations prohibiting importation (MD, DE, SC) and some states are awaiting federal government action on imports. Identifying whole horseshoe crabs is also problematic because an officer must inspect the underside of the animal for differences in morphology. There are significant training issues for officers. The LEC suggested that DNA work be initiated for identification of Asian crabs in order to get ahead of any health issues from the importations.

8. Identification Issues for dusky sharks

Marin Hawk addressed the LEC regarding identification issues with dusky sharks and sought input on any identification concerns in the enforcement community. The LEC reported positive experiences with the NOAA-sponsored identification workshops and related materials.

9. Break

10. Review and discussion of Research Set-Aside Enforcement Issues.

Tim Huss (NY) reported on the recent case involving illegal use and reporting of research set-aside harvests for summer flounder. The enforcement issue is that the fisherman is may not call in to advise he/she is on a research set-aside fishing trip. If not checked, the fisherman off-loads the catch and then reports a very small amount. A recent case confirmed that thousands of pounds of flounder were not being reported. During discussions with Toni Kerns (ASMFC staff) regarding a letter from the attorney on the NY case, it was indicated that the impression in the courts is that there isn't a real victim so the judge may not apply a significant penalty. Ms. Kerns wanted to know if there were any enforcement issues that could be pointed to in responding to the letter. LEC members pointed out that loss of quota for the state of NY makes other fishermen the victims. The amount of effort and expense of making a large case like this, with resultant strong penalties, becomes worthwhile because of the strong deterrent effect it has on future illegal activity.

11. Review and Discussion of Enforcement Equipment/Safety Issues

George LaPointe made a presentation to the LEC on an Electronic Technologies Project he is working on for NOAA. Technologies using on-board camera systems, electronic reporting and use of VMS are being developed to the point that NOAA wants to know if these work and can save money when used systematically and in accordance with best practices. Mr. LaPointe is working on a white paper for the fishery management councils for presentation by December 2014. It will evaluate the feasibility of such monitoring systems for particular fisheries, and how data would be handled. There are obvious enforcement concerns including security of confidential information, physical custody of tapes and data, species identification on videos, and possible manipulation of camera views onboard. LEC members offered comments, including how enforcement may gain access to data if a search warrant were required. There may not be timely access unless that is built into permit provisions. There would be chain-of-custody concerns for any of the data taken initially for non-enforcement use. The LEC will be kept informed as the project is developed through 2014.

12. Closed Session

Members reported on ongoing enforcement issues and concerns.

13. Recess

14. Reconvene

15. Discussion of JEA program and reimbursement process

Members held a conference call with Mr. Mike Fry, National JEA Coordinator for NOAA. Mr. Fry reported on the tentative amount of money available for Joint Enforcement Agreements this year, with perhaps \$130,000 more than last year. Work continues on the data to be used in the disbursement matrix. There was discussion of some of the delayed payments to states because of the government shut-down, and some southeast division payments are still pending. Members asked about the average turn-around time for new submittals and it was reported to be about 10-14 business days. Beginning in 2014, all states will need to sign new Cooperative Enforcement Agreements that will be the same as 2009. The new agreements will be in effect for the next five years. The new CEAs will include allowance for at-sea boarding. Work has been delayed on a new reporting system however this is still an important issue for command staff and will hopefully be continued.

16. ASMFC Species Management Issues

American Striped Bass—LEC members reviewed the latest actions to develop management options for striped bass and expressed their desire to review and comment on enforcement issues associated with proposed management options that are developed.

Spiny Dogfish Trip Limits—Toni Kerns briefed the LEC on potential new interest in cumulative trip limits for spiny dogfish. The LEC reiterated its previous position that cumulative or multi-day trip limits are not enforceable. Likewise, differing jurisdictional regulations where there might be a weekly cumulative trip limit allowed in federal waters while daily trip limits apply to state waters, would make the state waters limit very difficult to enforce.

17. Election of Chair and Vice Chair

By unanimous acclamation, Lloyd Ingerson was selected as the new chair for a two-year term, and Michael Eastman was selected as vice chair.

18. State Reports:

New Hampshire: There has been strong support for felony charges applied to a recent glass eel case.

Massachusetts: They will be getting a new academy class for new officers soon.

Rhode Island: The state legislature has approved its participation in the wildlife violator compact. They are taking advantage of boating training through the National Association of State Boating Law Administrators (NASBLA) certification program. Massachusetts, Louisiana, Texas and Ohio have also completed this certification program.

Connecticut: Their computer-aided-dispatch (CAD) system will be going live in November 2013. The system includes vehicle locators and a number of advanced features.

New York: They have recently graduated a new academy class and vacant positions are being filled.

New Jersey: Recent cases of dolphins washing up on shore have led to use of some JEA funding for marine mammal work.

Delaware: There is evidence that oyster tags are being re-used in their fishery, and this is being reviewed by enforcement.

Maryland: They have just re-implemented their cadet program for 18-20 year-olds interested in resource enforcement careers. This program will hopefully aid in recruiting and in preparation for those entering the enforcement academy.

Virginia: The state is considering the merger of resource management agencies that would combine inland, marine and parks programs.

North Carolina: A proposal to prohibit shrimp netting in inshore waters was recently voted down by their Commission.

South Carolina: They have received good legislative support of new academy graduates. They have recently hired an attorney to work specifically on enforcement cases.

Georgia: The Division of Law Enforcement is now a separate unit from the resource agency.

Florida: They are graduating two new classes of 30 each. There has been recent coordination of federal cases to good effect.

17. Federal Reports

USCG: There has been a reduction in patrol hours for fisheries resources because of the federal budget sequester. They are still enforcing state fisheries where there is the greatest need and have been working on striped bass fishing in the EEZ.

USFWS: They may be losing agents because of possible additional budget sequestration this coming year.

18. Other Business

Lloyd Ingerson of Maryland demonstrated the use of their new computerized monitoring system now in place for the Delaware Bay. Members were able to view real-time screen views of the system in operation. It has provided officers with a very useful tool in monitoring fishing and boating activity in key parts of the bay.

The LEC reaffirmed its position supporting the addition of a United States Department of Justice representative on the committee and asked Mark Robson to work with ASMFC staff to get this done.

Members discussed new leadership training under development by the National Association of Conservation Law Enforcement Chiefs. This new program will be supported by the USFWS National Conservation Training Center and will be designed for officers below the chief level. This will be a great addition to training needs for conservation officers.

Pat Moran and Joe Fessenden will be attending the New England Fishery Management Council meeting and Chisolm Frampton is now the chairman of the South Atlantic Fishery Management Council Law Enforcement Advisory Panel.

19. Adjournment

DRAFT

Atlantic States Marine Fisheries Commission

Guidelines for Resource Managers on the Enforceability of Fishery Management Measures

**Developed by
ASMFC's Law Enforcement Committee**

July 2009



***Healthy, self-sustaining populations for all Atlantic coast fish species or successful
restoration well in progress by the year 2015***

Forward

Fisheries management relies on clear public policy to carry out the public trust responsibility for the sustainability of common property resources, quality information on the status and trends of the resources, and compliance with management measures. Enforceability of regulations is a crucial component of resource management. It needs to be considered and understood by management from the very beginning of development of consumptive or non-consumptive fishing regulations.

The Atlantic States Marine Fisheries Commission is very fortunate to have the management support of a very active Law Enforcement Committee. This document, prepared by the Law Enforcement Committee, provides pro-active management advice. The continuing support and advice by this committee, at various stages of development and implementation of the fisheries management plan measures, will provide the assurance to our public that we are doing our best to insure the sustainability of the resources, while allowing for their responsible use.

Robert H. Boyles, Jr.
Chair, Atlantic States Marine
Fisheries Commission

Introduction

Development of Regulations: Fishery management plans (FMPs) and amendments and addendums to FMPs are developed by the appropriate Atlantic States Marine Fisheries Commission (Commission) species plan development teams. FMPs and amendments are eventually approved by the full Commission, while addendums to FMPs are approved by the appropriate management boards. States are required to implement specific requirements of the FMP or may take actions that differ from the specific requirements of the FMP, but which achieve the same quantified level of conservation for the resource under management. These actions by States are termed “conservation equivalency,” and must be, in most cases, reviewed by the appropriate species technical committee and approved by the species management board. Examples of conservation equivalency are various combinations of size limits, gear restrictions, and season length that can be demonstrated to achieve the same targeted level of fishing mortality. The enforceability of regulations approved by the Commission under a FMP, amendment or addendum, and those developed by States under “conservation equivalency” and approved by the appropriate species management board, is the responsibility of the Commission’s Law Enforcement Committee (LEC).

Note: Anytime you have an exception to a regulation, such as under a conservation equivalency, you have made the regulation more difficult to enforce. Since conservation equivalency is an important tool for fishery resource managers, LEC requests that this document be used by resource managers to select management measures that are enforceable. Regulations that are understandable and enforceable are more apt to achieve conservation management objectives.

Description of Document: This is a “living document” designed to provide fishery resource managers with a guide to the enforceability of various management measures. It is divided into two sections. Section I provides a list of general precepts that make a management measure more enforceable, how the rating system was developed, how to use these guidelines, and the rating of the enforceability of fishery management measures. Section II describes each management measure, outlines the relative advantages and disadvantages, and provides recommendations for how regulations utilizing these measures should be drafted. This document will be updated yearly at the Commission’s Annual Meeting as new management measures and enforcement capabilities become available.

Section I: Enforceability of Fishery Management Measures

General Precepts

The following list should be used as guiding principles to make a management measure more enforceable. Regulations are more enforceable if they:

1. Are simple, realistic and easy to understand.
 - Regulations should be straightforward and not contain a variety of exceptions and exemptions.
 - Regulations should avoid frequent changes and updates. When this occurs, there must be a public outreach and education effort to adequately inform the public.
 - Where practical, considerations should be given to adopt similar management measures among different fishery management plans, across different state boundaries, and mirror federal regulations.
2. Are based on controlling inputs (effort control), and not the outputs (catch quota, trip and size limits).
3. Promote voluntary compliance.
4. Consider the enforcement resources available.

Note: Managers should avoid unfunded mandates, and must realize that new regulations require new resources. If new resources are not provided, enforcement will need to shift effort from what is currently enforced.

How the Rating System was Developed

The LEC conducted a survey of voting members to rate the effectiveness of enforcing various management measures based on four categories: Overall, At-Sea, Airborne, and Dockside enforceability. Each management measure was evaluated on a scale of one (most difficult to enforce) to ten (easiest to enforce) in the four categories. There is some inherent bias in the survey in that some respondents may have only responded based on what enforcement resources are actually available to them. For example, while some measures may be better enforced at sea,

if an agency does not have air or sea assets, they may be more prone to support dockside type measures. The rating scale is as follows:

Impossible	impractical	difficult	reasonable
0	1-3	4-5	6-10

The ratings by the members were averaged and are presented here. The ratings reflect the enforceability of each fishery management measure in relationship to the other fishery management measures. The management measures with the higher rating numbers are the easiest

to enforce. Those management measures with the same rating numbers are listed alphabetically and are equally enforceable.

How to Use these Guidelines:

If a manager wants to specifically target a type of enforcement effort to dockside only, the ratings under “Dockside Management Measures” in Table 1 should be consulted. Under “Dockside Management Measures” there are four management measures that received a rating of 9. These four management measures are equally enforceable, and are more easily enforced than the two management measure that received a rating of 5. Therefore, if a manager was considering two or three possible management measures, a review of each of the management measure’s ratings and a review of Section II to find each of these management measure’s advantages and disadvantages and recommendations to consider when developing regulations to implement that specific measure, would help a manager to select a management measure which is easier to enforce.

Note: If a manager has more than one possible management measures to choose from, and after consulting these guidelines needs more input, the LEC recommends discussing these measures with a member of the LEC.

Table 1: Enforceability Ratings for Management Measures

<u>Overall Management Measures</u>		<u>Ratings</u>	<u>Dockside Management Measures</u>		<u>Ratings</u>
Bag/Possession Limits (Low Volume)	9		Bag/Possession Limits (Low Volume).....	9	
Max/Min Fish Size.....	9		Max/Min Fish Size	9	
Permits	9		Permits.....	9	
Prohibited Species.....	9		Prohibited Species	9	
Closed Seasons	9		Bycatch Enforcement via Prohibiting Retention...	7	
Bycatch Enforcement via Prohibiting Retention .	8		Closed Seasons.....	7	
Closed Areas	7		ITQs/IFQs with Weighmasters.....	7	
Days-At-Sea (DAS)	6		Days-At-Sea (DAS).....	6	
ITQs with Weightmasters	5		Trip Limits (High Volume)	6	
Bycatch Enforcement via Amount Landed.....	5		Vessel Monitoring System (VMS)	6	
ITQs/IFQs	5		Annual Quotas.....	5	
Vessel Monitoring Systems (VMS)	6		Bycatch Enforcement via Amount Landed	5	
Annual Quotas	5		ITQs/IFQs	5	
Bycatch Enforcement via Amount on Board	6		Bycatch Enforcement via amount on Board.....	4	
Gear Regulations.....	7		Bycatch Enforcement via Percent Landed	4	
Gear Restricted Areas	6		Gear Regulations	4	
Trip Limits (High Volume).....	6		Closed Areas	1	
Bycatch Enforcement via Percent Landed	6		Gear Restricted Areas.....	1	
Limited Drag or Soak Times.....	2		Limited Drag or Soak Times	0	
<u>At-Sea Management Measures</u>		<u>Ratings</u>	<u>Airborne Management Measures</u>		<u>Ratings</u>
Closed Areas	8		Closed Areas	7	
Closed Seasons	8		Days-At-Sea (DAS).....	5	
Max/Min Fish Size.....	8		Closed Seasons	4	
Permits	8		Permits.....	4	
Bag/Possession Limits (Low Volume)	7		Gear Restricted Areas.....	3	
Prohibited Species.....	7		Vessel Monitoring Systems (VMS)	3	
Bycatch Enforcement via Prohibitng Retention ..	6		Gear Regulations	2	
Days-At-Sea (DAS)	6		Annual Quotas.....	1	
Gear Restricted Areas	6		ITQs/IFQs	1	
Vessel Monitoring Systems (VMS)	5		ITQs/IFQs with Weighmasters.....	1	
Gear Regulations.....	4		Limited Drag or Soak Times	1	
Bycatch Enforcement via Amount on Board	3		Prohibited Species	1	
Annual Quotas	3		Bag/Possession Limits (Low Volume).....	0	
ITQs/IFQs	3		Bycatch Enforcement via Prohibiting Retention...	0	
ITQs/IFQs with Weighmaster.....	3		Bycatch Enforcement via Amount Landed	0	
Limited Drag or Soak Times.....	3		Bycatch Enforcement via Amount on Board	0	
Trip Limits (High Volume).....	3		Bycatch Enforcement via Percent Landed	0	
Bycatch Enforcement via Amount Landed.....	2		Max/Min Fish Size	0	
Bycatch Enforcement via Percent Landed.....	1		Trip Limits (High Volume)	0	

Note: See Section II for a description of each management measure above.

Section II: Description of Management Measures

This section defines each management measure and provides a general rating of reasonable, difficult, impractical, and impossible to describe the enforceability of that measure. The advantages of each measure are discussed, and some recommendations are made on how the regulation should be written in order to provide for more effective enforcement.

For ease of organization the management measures are listed alphabetically.

Annual Quotas
Bag/Possession Limits (low volume)
Bycatch Enforcement via Amount Landed
Bycatch Enforcement via Amount on Board
Bycatch Enforcement via Percent Landed
Bycatch Enforcement via Prohibiting Retention
Closed Areas
Closed Seasons
Days At Sea (DAS)
Gear Regulations
Gear Restricted Areas
ITQs/IFQs
ITQs/IFQs with Weighmasters
Limited Drag or Soak Times
Maximum/Minimum Fish Size
Permits
Prohibited Species
Trip Limits (high volume)
Vessel Monitoring Systems (VMS)

ANNUAL QUOTAS

<u>Rating:</u>	<i>Overall:</i>	DIFFICULT
	<i>Dockside:</i>	DIFFICULT
	<i>At-Sea Surface:</i>	IMPRACTICAL
	<i>At-Sea Air:</i>	IMPRACTICAL

Definition: A specified amount of a particular species is allowed to be landed per fishing season for that entire fishery. This is almost entirely a management issue. Enforceability issues are primarily determined by the associated measures to manage the quota (e.g., closed seasons, trip limits, etc.)

Advantages

1. Limited seasons can allow law enforcement to direct efforts towards the fishery when open, and away from the fishery when closed.

Disadvantages

1. Requires long-term paper tracking procedures.

Recommendations

1. Consider how quotas will be accounted. This regulation is best-enforced dockside, and will require pre-established offloading points to accurately track quota.
2. Use simple open and closed seasons. Other management measures to extend quotas, such as trip limits, can severely complicate and hinder enforcement efforts.

BAG/POSSESSION LIMITS (low volume)

<u>Rating:</u>	<i>Overall:</i>	REASONABLE
	<i>Dockside:</i>	REASONABLE
	<i>At-Sea Surface:</i>	REASONABLE
	<i>At-Sea Air:</i>	IMPOSSIBLE

Definition: Specified amount of a particular species allowed to be landed per trip. Low volumes are generally measured by numbers of fish that can be easily counted on board.

Advantages

1. Easily definable method to quantify allowable harvest.
2. Relatively easy to enforce and prosecute.

Disadvantages

1. Has potential to be manpower intensive, especially possession limits of high volume.

Recommendations

1. Amounts should be consistent across state boundaries and in federal waters.
2. Measurement method should be consistent across jurisdictional boundaries.
3. A possession limit versus a landing limit allows for enforcement at-sea as well as dockside.
4. Require fish to remain intact to facilitate identification.
5. Bag limits should remain in effect for 2-3 years, to maintain consistency of the regulation.

BYCATCH ENFORCEMENT VIA AMOUNT LANDED

<u>Rating:</u>	<i>Overall:</i>	DIFFICULT
	<i>Dockside:</i>	DIFFICULT
	<i>At-Sea Surface:</i>	IMPRACTICAL
	<i>At-Sea Air:</i>	IMPOSSIBLE

Definition: This enforcement measure aims to restrict bycatch of a particular species by limiting the amount of that bycatch landed.

Advantages

1. There are no advantages.

Disadvantages

1. Difficult to enforce and even more difficult to prosecute.
2. Promotes the incentive to cheat by high-grading.
3. Manpower intensive.

Recommendations

1. Maintain same standards across jurisdictions.
2. Combine this with a regulation to restrict types of gear to prevent bycatch.
3. Policies should be fluid enough to change with industry recommendations.
4. Segregating the bycatch would facilitate enforcement.

BYCATCH ENFORCEMENT VIA AMOUNT ON BOARD

<u>Rating:</u>	<i>Overall:</i>	DIFFICULT
	<i>Dockside:</i>	DIFFICULT
	<i>At-Sea Surface:</i>	IMPRACTICAL
	<i>At-Sea Air:</i>	IMPOSSIBLE

Definition: This enforcement measure aims to restrict bycatch of a particular species by limiting the amount of that bycatch allowed on board a fishing vessel.

Advantages

1. There are no advantages.

Disadvantages

1. Difficult to enforce and even more difficult to prosecute.
2. Promotes the incentive to cheat by high-grading.
3. Manpower intensive.

Recommendations

1. Maintain same standards across jurisdictions.
2. Combine this with a regulation to restrict types of gear to prevent bycatch.
3. Policies should be fluid enough to change with industry recommendations.
4. Segregating the bycatch would facilitate enforcement.

BYCATCH ENFORCEMENT VIA PERCENT LANDED

<u>Rating:</u>	<i>Overall:</i>	IMPRACTICAL
	<i>Dockside:</i>	DIFFICULT
	<i>At-Sea Surface:</i>	IMPRACTICAL
	<i>At-Sea Air:</i>	IMPOSSIBLE

Definition: This enforcement measure aims to restrict bycatch of a particular species by imposing a percent bycatch landed limitation.

Advantages

1. There are no advantages.

Disadvantages

1. Difficult to enforce and even more difficult to prosecute.
2. Promotes the incentive to cheat by high-grading.

Recommendations

1. Maintain same standards across jurisdictions.
2. Combine this with a regulation to restrict types of gear used in fishery.
3. Policies should be fluid enough to change with industry recommendations.
4. Segregating the bycatch would facilitate enforcement.

BYCATCH ENFORCEMENT VIA PROHIBITING RETENTION

<u>Rating:</u>	<i>Overall:</i>	REASONABLE
	<i>Dockside:</i>	REASONABLE
	<i>At-Sea Surface:</i>	REASONABLE
	<i>At-Sea Air:</i>	IMPOSSIBLE

Definition: This enforcement measure prohibits retention of bycatch, thereby minimizing bycatch mortality.

Advantages

1. Easier to enforce and prosecute than any other bycatch enforcement measure presented in this document.

Disadvantages

1. Promotes the incentive to cheat by high-grading.
2. Detecting a violation of regulations to minimize bycatch mortality once landed is very difficult.

Recommendations

1. Maintain same standards across jurisdictions.
2. Combine this with a regulation to restrict types of gear to prevent bycatch.
3. Policies should be fluid enough to change with industry recommendations.
4. Segregating the bycatch would facilitate enforcement.

CLOSED AREAS

<u>Rating:</u>	<i>Overall:</i>	REASONABLE
	<i>Dockside:</i>	IMPRACTICAL
	<i>At-Sea Surface:</i>	REASONABLE
	<i>At-Sea Air:</i>	REASONABLE

Definition: Fishing in specific area is prohibited.

Advantages

1. Enforceable when appropriate resources are available and there are no exemptions (see recommendations below).

Disadvantages

1. Requires monitoring capability.

Recommendations (For an effective closed area, the following recommendations are critical)

1. Clearly defined areas.
2. Regular shaped areas.
3. Large areas.
4. Closed to everything, no exemptions. Where practical, the area should be closed to transiting vessels as well. If transit is allowed, fishing gear and catch should be stowed.
5. Clear definition of the time area is closed. Should be consistent and permanent. Rolling closures provide opportunity for violators to claim ignorance on what was closed, and what was opened.
6. Regulated mesh areas are very difficult to enforce.

7. Closed area regulations, ideally, should be enforceable by aircraft or a vessel monitoring system without the need for boarding. This requires very carefully worded regulations and, in some jurisdictions, will still require follow-up to positively identify the operator.

CLOSED SEASONS

<u>Rating:</u>	<i>Overall:</i>	REASONABLE
	<i>Dockside:</i>	REASONABLE
	<i>At-Sea Surface:</i>	REASONABLE
	<i>At-Sea Air:</i>	DIFFICULT

Definition: Fishing during specific times of the year is prohibited.

Advantages

1. It is enforceable.

Disadvantages

1. There are no disadvantages.

Recommendations

1. Similar to closed areas, ensure that geographic areas are easily defined.
2. Do not allow exceptions (i.e. bycatch).
3. Make times easily recognizable. Regulation must define the opening and closing times down to the minute.
4. Clarify what is allowed to occur before, during, and after the closure. For example: all gear may not be set prior to the opening, and must be hauled in prior to the closure.
5. For high value, short duration fisheries, prohibit fishing with gear type 72 hours and after the fishery for other species in the target area.

DAYS AT SEA (DAS)

<u>Rating:</u>	<i>Overall:</i>	REASONABLE
	<i>Dockside:</i>	REASONABLE
	<i>At-Sea Surface:</i>	REASONABLE
	<i>At-Sea Air:</i>	IMPRACTICAL

Definition: Specified amount of days allowed to fish for a particular species. Allocated to individuals or groups.

Advantages

1. In its simplest form, without any exception, this is enforceable.

Disadvantages

1. Manpower intensive unless a VMS tracking system is implemented.

Recommendations

1. Days at sea are easily monitored by a VMS; however, affordability becomes an issue.
2. Do not allow any exemptions or additional complications (e.g. associated trip limits).

GEAR REGULATIONS

<u>Rating:</u>	<i>Overall:</i>	DIFFICULT
	<i>Dockside:</i>	DIFFICULT
	<i>At-Sea Surface:</i>	DIFFICULT
	<i>At-Sea Air:</i>	IMPRACTICAL

Definition: Specific gear types or gear modifications are prohibited. “Gear” might include not only the primary methods and tools to harvest the resource, but also include the vessel, horsepower, number of traps, and other such variables.

Advantages

1. Restricts specific gear types or gear modifications.

Disadvantages

1. A limitation on amount of fixed gear/hooks, traps, or pots is extremely difficult enforce.
2. Extremely manpower intensive.
3. Requires specialized gear and training.
4. Enforcement agencies suffer liability costs while handling gear.

Recommendations

1. Associate a catch limitation based on reasonable catch using the allowable gear (e.g., minimum fish size to accompany minimum mesh size).
2. Standardize gear requirements, measurement procedures, equipment, and techniques across jurisdictions and time periods (i.e., do not use thresholds).
3. Trap limits are more enforceable in conjunction with trap tags on all traps at-sea (i.e., not transferable from trap to trap while underway).
4. If gear use is prohibited, then don't allow the gear on board.
 - Similarly, mesh regulations need to include regulations prohibiting the possession of undersize mesh on board a vessel (i.e., one mesh on board policy).
 - Similarly, if a net, pot, longline, etc., is required to be modified to reduce bycatch, prohibit the possession of any gear not properly modified; not just its use.

GEAR RESTRICTED AREAS

<u>Rating:</u>	<i>Overall:</i>	DIFFICULT
	<i>Dockside:</i>	IMPRACTICAL
	<i>At-Sea Surface:</i>	REASONABLE
	<i>At-Sea Air:</i>	IMPRACTICAL

Definition: Areas where the use and/or possession of specific fishing gear is prohibited.

Advantages

1. There are no advantages.

Disadvantages

1. Manpower intensive. Often requires a boarding to determine if specific gear is legal (i.e., mesh size).

Recommendations

1. Prohibit the possession of the restricted gear. It is easier to prove possession than it is prove use.
2. Do not allow the use of similar gears within the area. Law enforcement assets may be able to differentiate between a trap boat and a dragger from a distance, but will probably have to conduct a boarding to differentiate between two types of draggers.

ITQs/IFQs

<u>Rating:</u>	<i>Overall:</i>	DIFFICULT
	<i>Dockside:</i>	DIFFICULT
	<i>At-Sea Surface:</i>	IMPRACTICAL
	<i>At-Sea Air:</i>	IMPRACTICAL

Definition: Individual Transferable Quotas/Individual Fishing Quota. Under these quotas, a specified amount of a particular fish species is allocated to an individual or to a particular vessel or group of vessels for a fee.

Advantages

1. ITQs/IFQs are often praised for their safety benefits. By allowing a fishermen a set quota to be caught over a long period of time, the fishermen is able to choose when to fish rather than being forced to fish during bad weather based on arbitrarily determined time periods (derby fisheries).

Disadvantages

1. Spreads out fishing effort over time.
2. Manpower intensive, and will require additional enforcement assets.

Recommendations

1. Write regulations to be primarily enforced dockside when ITOs and IFOs are used.

ITQs/IFQs with Weigh Masters

<u>Rating:</u>	<i>Overall:</i>	REASONABLE
	<i>Dockside:</i>	REASONABLE
	<i>At-Sea Surface:</i>	IMPRACTICAL
	<i>At-Sea Air:</i>	IMPRACTICAL

Definition: Individual Transferable Quotas/Individual Fishing Quota. Under these quotas, a specified amount of a particular fish species is allocated to an individual or to a particular vessel or group of vessels for a fee. A weigh master program, managed by statistical personnel and accountable to enforcement agencies, would be required to monitor off loadings.

Advantages

1. ITQs/IFQs are often praised for their safety benefits. By allowing a fishermen a set quota to be caught over a long period of time, the fishermen is able to choose when to fish rather than being forced to fish during bad weather based on arbitrarily determined time periods (derby fisheries).

Disadvantages

1. May require additional enforcement assets depending on how quotas are allocated (e.g.) quotas allocated by areas).
2. Spreads out fishing and associated enforcement effort over time.

Recommendations

1. Can be written to be primarily enforced dockside.
2. The statistically managed contracted observer program could be paid for by associated landing fees. These landing fees could be accompanied by a tax break. Law enforcement agencies must have full and immediate access to the data, but are not normally involved unless a problem is suspected.

LIMITED DRAG OR SOAK TIMES

<u>Rating:</u>	<i>Overall:</i>	IMPRACTICAL
	<i>Dockside:</i>	IMPOSSIBLE
	<i>At-Sea Surface:</i>	IMPRACTICAL
	<i>At-Sea Air:</i>	IMPRACTICAL

Definition: This management measure limits the amount of time between deploying and hauling back the gear, normally to allow for live discards of bycatch.

Advantages

1. There are no advantages.

Disadvantages

1. Extremely manpower intensive; theoretically, would need one observer per vessel for complete compliance.
2. Can only be enforced from sea, or in limited situations from a shoreline observer.

Recommendations

Do not use.

MAXIMUM/MINIMUM FISH SIZES

<u>Rating:</u>	<i>Overall:</i>	REASONABLE
	<i>Dockside:</i>	REASONABLE
	<i>At-Sea Surface:</i>	REASONABLE
	<i>At-Sea Air:</i>	IMPOSSIBLE

Definition: Possession of fish below or above a specified size, or outside a slot category, is prohibited.

Advantages

1. It is enforceable.

Disadvantages

1. Manpower intensive.
2. Difficult to monitor with significant quantities of catch.

Recommendations

1. No filleting at sea. Measurements should include head and tail intact.
2. Standardize measurement procedures, equipment, and technique across jurisdictions.
3. Maintain consistency in length regulations. Size limits should remain in effect for at least 2-3 years.
4. Maintain same size regulations across jurisdictions.
5. All regulations should specify how a fish is to be measured.

PERMITS

<u>Rating:</u>	<i>Overall:</i>	REASONABLE
	<i>Dockside:</i>	REASONABLE
	<i>At-Sea Surface:</i>	REASONABLE
	<i>At-Sea Air:</i>	DIFFICULT

Definition: Fishing for specific species is prohibited unless authorized by the issuance and possession of a permit.

Advantages

1. Can track and identify permits and permit holders.
2. Suspension of permit is an effective enforcement measure.

Disadvantages

1. Requires manpower or technology to verify permits.

Recommendations

1. Must be carried on board the vessel at all times
2. Consider licenses/permits for both the vessel and for the individual.
3. Require permit number be displayed prominently on vessel.
4. Implement associated permit tracking system.

PROHIBITED SPECIES

<u>Rating:</u>	<i>Overall:</i>	REASONABLE
	<i>Dockside:</i>	REASONABLE
	<i>At-Sea Surface:</i>	REASONABLE
	<i>At-Sea Air:</i>	IMPRACTICAL

Definition: Possession or retention of specific species is prohibited.

Advantages

1. It is enforceable when observed.

Disadvantages

1. Manpower intensive to observe prohibited catch

Recommendations

1. No exemptions on the prohibited species.
2. Keep prohibition based on species. Do not allow exceptions, such as, where it was taken or how it was harvested.
3. Permitted species kept on board in a form easily differentiated from prohibited species (e.g., no filleting of catch).

TRIP LIMITS (high volume)

<u>Rating:</u>	<i>Overall:</i>	DIFFICULT
	<i>Dockside:</i>	REASONABLE
	<i>At-Sea Surface:</i>	IMPRACTICAL
	<i>At-Sea Air:</i>	IMPOSSIBLE

Definition: Limiting the amount of catch in high, commercial quantities. Generally measured in pounds or tons.

Advantages

1. With adequate assets, this can be accurately measured during offloading.

Disadvantages

1. Manpower intensive to monitor offloads.
2. Cannot be enforced from sea or air.
3. Measurement of large quantities of product at sea is extremely difficult.

Recommendations

1. Implement in conjunction with a “weigh master” program (see recommendations under ITQ/IFQ with weigh master).
2. Amounts should be consistent across state boundaries and in federal waters.
3. Measurement method should be consistent across jurisdictional boundaries.
4. A possession limit versus a landing limit allows for enforcement at-sea as well as dockside.
5. When possible, require fish to remain intact to facilitate fish identification.
6. Bag limits should remain in effect for 2-3 years, to maintain consistency of the regulation.

VESSEL MONITORING SYSTEM (VMS)

<u>Rating:</u>	<i>Overall:</i>	DIFFICULT
	<i>Dockside:</i>	REASONABLE
	<i>At-Sea Surface:</i>	DIFFICULT
	<i>At-Sea Air:</i>	IMPRACTICAL

Definition: A requirement to keep a positioning transmitter (transponder) on board the vessel. The transponder will transmit position at specified time intervals (hourly, 30 minutes) depending on the fishery and the requirement for position information. The primary enforcement benefit of VMS is to facilitate enforcement of management measures.

Advantages

1. Effective monitoring method of VMS-equipped vessels.
2. Enables more effective use of law enforcement resources.

Disadvantages

1. Cannot prove fishing activity, adherence to gear, size limits, or prohibited species regulations at this time.
2. May be too expensive for fishing fleet and/or enforcement agency.
3. It is difficult to detect vessels not complying with requirement.

Recommendations

1. Management should consider the cost and necessary capabilities of the system before implementing a VMS requirement in a fishery.