

Atlantic States Marine Fisheries Commission

Law Enforcement Committee

October 24, 2016 (1:00 p.m. - 5:00 p.m.)

October 25, 2016 (8:00 a.m.- Noon)

Bar Harbor, Maine

Draft Agenda

The times listed are approximate and 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, authorized law enforcement personnel and the LEC Coordinator can be in attendance.

Monday, October 24th

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| 1. Call to Order/Roll Call of the LEC Representatives | 1:00 p.m. |
| 2. Approval of Agenda and May 2016 Minutes | 1:10 p.m. |
| 3. Public Comment | 1:15 p.m. |
| 4. Discussion of Emerging ISFMP Issues | 1:20 p.m. |
| 5. Review and Discussion of 2017 Action Plan Items | 1:30 p.m. |
| 6. Interstate Violator Compacts and Application to Marine Fisheries | 1:50 p.m. |
| 7. Review of Proposed Jonah Crab Claw Harvest Regulations | 2:15 p.m. |
| 8. Break | 3:00 p.m. |
| 9. Review Warrant and Search Provisions among LEC Jurisdictions | 3:15 p.m. |
| 10. Review and discussion of ongoing enforcement activities – NOTE: This portion of the meeting will be closed to the public | 4:00 p.m. |
| 11. Other Business and Recess | 4:45 p.m. |

The meeting will be held at The Harborside Hotel, 55 West Street, Bar Harbor, Maine: 207.288.5033

Tuesday, October 25

12. Social	8:00 a.m.
13. Reconvene	8:30 a.m.
14. Update on Future Safe Harbor Issues and Input (other emerging issues)	8:35 a.m.
15. Update on Aerial Enforcement Subcommittee Discussions	9:00 a.m.
16. Federal and State Agency Reports	9:35 a.m.
17. Break	10:25 a.m.
18. Lobster Enforcement Subcommittee Report and Discussion	10:40 a.m.
19. Review of LEC Comments and Recommendations to ASMFC Boards	11:00 a.m.
20. Review of Out-of-State Shipment/Sale Tracking for Enforcement Needs	11:20 a.m.
21. New Business or updated ISFMP Issues	11:45 a.m.
22. Adjourn	12:00 p.m.

The meeting will be held at The Harborside Hotel, 55 West Street, Bar Harbor, Maine: 207.288.5033

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

Draft Minutes

May 3-4, 2016

Alexandria, Virginia

NOTE: These minutes are unofficial until reviewed and approved by the LEC at the October, 2016 meeting in Bar Harbor, Maine

Participants:

CHAIRMAN: Michael Eastman (NH Fish & Game Department)
VICE CHAIR: Steve Anthony (NC DMF, Marine Patrol Section)
Kurt Blanchard (RI DEM, Division of Law Enforcement)
Jon Cornish (ME DMR, Maine Marine Patrol)
Larry Furlong (PA Fish & Boat Commission, Bureau of Law Enforcement)
Honora Gordon (USFWS)
Jamie Green (VA MRC, Division of Law Enforcement)
Wayne Hettenbach (US Department of Justice)
Bob Hogan (NOAA Fisheries, Office of General Counsel)
Tim Huss (NY DEC, Division of Law Enforcement)
Rob Kersey (MD DNR, Natural Resource Police)
Bob Lynn (GA DNR, Law Enforcement Section)
Doug Messeck (DE DNREC, Enforcement Section)
Pat Moran (MA Environmental Police)
Kyle Overturf (CN DEEP, State Environmental Conservation Police)
Jeff Ray (NOAA Office of Law Enforcement)
Colby Schlaht (USCG, Living Marine Resources)
Rama Shuster (FL FWCC, Division of Law Enforcement)
Jason Snellbaker (NJ Division of Fish and Wildlife, Bureau of Law Enforcement)

Staff: Mark Robson, Committee Coordinator
Megan Ware
Amy Herrlinger

Other Participants: David Borden (RI); Rene Cloutier (ME); Pat Keliher (ME)

1. Call to Order/Roll Call of the LEC Representatives

Chairman Mike Eastman called the meeting to order, welcomed members and guests. Mark Robson called the role of LEC members.

2. Approval of Agenda and October 2014 minutes

3. Public Comment

There was no public comment.

4. Review of Jonah Crab Addendum I LEC Comments and follow-up

Megan Ware and Mark Robson reviewed previous LEC comments regarding bycatch measures for the Jonah crab fishery and described a new addendum being prepared to better define bycatch and allowances for a claw harvest allowance. LEC members noted that the ASMFC has moved forward with the fishery management plan, including a 1000lb/trip bycatch allowance and is now considering allowing a claw harvest, neither of which the LEC supported. The LEC will review management options and provide comments on the addendum.

5. Presentation of Maine's lobster trap tag transferability program

Rene Cloutier and Pat Keliher briefed the LEC on the outcome of their pilot program to facilitate trap-tag transfers and replace their old system which had efficiency and enforceability concerns. Maine wants to make the program permanent and is seeking ASMFC concurrence. LEC support is considered important. The presenters gave a brief slide presentation summarizing tag and enforcement statistics. The new system was supported by the LEC with the provision that each state should be free to decide how they wish to address tag transfer and exchange, in recognition of differing methods for distributing tags to fishermen. The LEC discussed ongoing enforcement challenges such as counterfeit tags, unmarked trawl lines, and fishermen illegally using untagged traps in the water. These are issues not directly related to the transferability of tags. Maine representatives emphasized that their new regulations still require all traps on or in the water to be tagged. All tag transfers must be done onshore and no trap may be transported without a tag.

6. American Lobster Enforcement Subcommittee Update

David Borden and Mark Robson briefed the LEC on the recent work of the Lobster Enforcement Subcommittee. David Borden discussed the desire of the Lobster Management Board of the ASMFC to ensure the success of trap reduction and stock recovery efforts, and the need for successful enforcement to make that happen. The subcommittee envisions an evolving process over the course of one to three years where recommendations for enhancing enforcement efforts can be taken in steps. The subcommittee is also discussing funding mechanisms and re-prioritization by federal enforcement agencies to increase activity in all waters, but especially in offshore waters. The LEC discussed possible development of remote monitoring technologies that would mitigate the need for large vessels and specially trained crews in remote, offshore waters. LEC members discussed ways to more actively involve the USCG in offshore enforcement efforts, including joint activities with state officers. The USCG representative confirmed that lobster enforcement is a priority for them, but they do not have the equipment necessary to check offshore traps. All agreed that more discussion of prioritization within NOAA, and coordination between state and federal partners were both needed moving forward. The subcommittee will continue to meet and offer recommendations.

7. Discussion of other ISFMP Species (tentative)

The LEC discussed an ongoing issue for American lobster importation from Maine to New Jersey. Maine currently has a smaller minimum size limit. A legislative change in NJ would allow smaller lobsters to be possessed by dealers, but not fishermen. Connecticut allows dealers to hold smaller lobsters, but these may not be sold retail in the state. Law prohibits interruption of legal interstate sale or trade. Megan Ware sought information regarding enforcement problems this may cause, including traceability. Representatives from NY, CT, ME and RI all reported various allowances in regulations or statutes for importing lobster from other states with differing size limits. All reported that safeguards are in place to prevent co-mingling of product and record-keeping, and these safeguards seem to be working well. It was suggested that NJ officials may wish to propose specific regulations to address interstate import which could be reviewed and commented on by the LEC.

The LEC reviewed current issues regarding V-notching of lobster. Pat Keliher reported to the LEC that they are seeing a decline in the number of V-notched lobsters in ME, and wondered if there was a need for more standardized enforcement among states. David Borden reported that standardizing regulations has been tasked to the American Lobster plan development team. LEC members reported a need to standardize V-notching regulations, and that this is an old issue that the LEC has been concerned about for years. It was felt by some of the LEC members that V-notching regulations need better definitions, but it has been very hard to get all the states on the same page.

8. Break

9. Review and discussion of ongoing enforcement activities---closed session.

Members discussed ongoing enforcement operations and coordination.

10. JEA Update/Federal Agency Reports

Wayne Hettenbach (USDOJ) initiated a discussion of state rules mirroring federal regulations, and whether states have adequate measures in place allowing enforcement of federal fishery management plans through state regulations. There was discussion of whether and how violations may be prosecuted using Lacey Act provisions. General discussion ensued regarding how states can enforce regulations in EEZ waters.

USFWS reported on their support for elver cases. Additionally, they are in process of hiring a national class of officers, with new agents slated for the Northeast region.

NOAA OLE may be modifying JEAs to focus more on task-force type work. They are also in the process of hiring experienced enforcement officers for 25 openings. A seafood fraud working group has been established for the Northeast. The working group will be looking at I.U.U. species and seafood fraud, incorporating input from federal and state agencies working in the arena of consumer fraud.

USCG reported on their recent boardings and cases involving ASMFC species.

11. Review and Update of Dual Landings Allowances

Jason Snellbaker led of a discussion of the situation in NJ where fish dealers are supporting legislation to allow dual landings, including allowing landings of species from other states during NJ closed seasons. Snellbaker speculated about possible loss of landings and money and inevitable difficulties of enforcing landings limits. The particular case was discussed of allowing charter and party vessels to fish in DE waters and land undersized summer flounder back in NJ at home ports. Other states reported similar interest in this, but currently only VA has a similar allowance in place. Discussion centered on an inability to know where fish were actually caught without direct observation and that movement in this direction would effectively eliminate the ability to enforce state-by-state quotas or trip limits.

A related discussion of safe harbor issues ensued, and the issue of trip or quota overages when a vessel has fish on board that are reported to be bound for its home state. They are seeing more and more of this in NJ, where so far in 2016 there have been 27 safe harbor requests, compared to 30 for all of 2015. MA reported that all of their safe harbor requests were for summer flounder boats, similar to the NJ situation. It is believed some of the vessels simply don't want to steam back to home ports in VA or NC. In these situations the vessels were licensed in MA. In NJ and NY, handling these cases is straining enforcement resources. In NY, cases have been dismissed because there was no clear policy regarding

handling of safe harbor and offloads. As an example Tim Huss discussed a recent case where a NY fisherman fishing under a NJ permit made a safe harbor request for a gear issue. The limit for summer flounder was 100lbs for NY, but 5000lbs for NJ. NY let him keep the fish (over the state limit of 100lbs) but then wrote him a ticket. NY has now adopted the policy in place for RI as their guidance policy. The LEC discussed the general concern that this may be a widening issue moving towards allowance for dual landings in general. Most of the current issues are with summer flounder. The LEC recognized that allowance have to be made for emergencies or other legitimate concerns. In RI, some cases were clearly suspicious owing to the number of requests from a single vessel, or the previous histories of the fishermen involved. The LEC should be aware of this issue and be prepared to point out potential problems. States reported various criteria such as death in the family, premature birth of a spouse on land, marine casualty or medical emergency or weather safety issues. VA currently accepts all safe harbor requests. These are usually accomplished in cooperation with NC, where that state's quota may be transferred to accommodate an offload in VA. RI has not had problems with the process of transferring quota from another state to accommodate an offload, although a large offload from another state catch may adversely affect RI fishermen and their markets.

The issue of weather criteria for allowing a safe harbor request was discussed. It was not clear how a state could or should prohibit entry to a vessel based solely on a wind speed threshold. Colby Schlaht (USCG) agreed this was a difficult criterion to use properly. However RI reported that having consistent standards did help them handle requests. Despite concerns about this as a widening issue, DE reported only 1 request. A case in NJ was reported where a small boat that was stuck in NJ because of weather eventually had to throw overboard a catch of 3000lbs, because it was not legal to offload in NJ. Weather is a relative problem depending on the vessel and the captain. NC and VA have high quotas, and fishermen are fishing in cold months with severe weather. Colby Schlaht (USCG) confirmed that from their perspective, it would be a concern if a state's refusal to allow offloading caused a vessel to avoid coming to port when safety or weather issues might otherwise dictate.

In the case of the summer flounder fishery, it was pointed out that most or all of the fish are being caught in federal waters. Rama Shuster asked if there was a federal provision requiring a state to allow a vessel that has been fishing in federal waters to land. It was believed that this was not the case if the vessel is not permitted in that state.

In summary the LEC discussed the range of issues surrounding safe harbor management. One idea was to require a vessel to obtain a permit to come to port. The issues affecting enforcement include:

- Large disparities in quotas among states for a given species.
- Market Swamping
- State Quota transfer coordination
- Safety at sea concerns
- Illegal laundering of fish in excess of a state's quota or trip limit.
- inconsistent policies among states
- Increased enforcement burden

Kurt Blanchard expressed a concern that this issue may be more of a management issue to be dealt with, rather than just a law enforcement concern.

12. Review and discuss 2016 Action Plan tasks for the LEC.

Mark Robson briefly reviewed the LEC action plan items for the year, and emphasized the need to work on these for the fall LEC meeting.

13. Report of other enforcement committees and LEC coordination

Aerial Enforcement Subcommittee—Rama Shuster reviewed some of the issues to take up, including total cost and reimbursement for operations as well as equipment replacement or purchase. JEA issues need to be reviewed regarding NOAA policies regarding purchase of planes, and this is an important issue for some of the states. Therefore a review by the subcommittee would be really helpful. The subcommittee will be meeting separately by teleconference at a later date.

Tautog Enforcement Subcommittee—Jason Snellbaker reported that the subcommittee had reviewed some good tag designs, although they may not be color-coded by state. He discussed his examination of some of the tag types, and liked the metal clamp tags for their durability and design making them more tamper-proof than other styles. They are talking to commercial tautog fishermen in NJ and getting good feedback. Jason felt this was going to be important to get buy-in for an eventual program. Regarding the issue of when to tag catch, it was reported that it may need to be a compromise approach between point-of-harvest vs. point-of-sale tagging. It may be necessary to require tagging at the dock or any time prior to offloading. The LEC has expressed support for tagging at the point of harvest. Rama Shuster discussed the uniqueness of this issue with regard to preserving the quality of live fish. In Florida they have very specific requirements for keeping dead catch in good condition, but do not have any standards for live fish. On the water they enforce icing and shade requirements for keeping dead catch. Perhaps similar standards need to be considered for the tautog live fish market.

14. Other Business and Recess

Members were reminded of the invitation to attend the ASMFC Awards presentations that evening. The LEC agenda for tomorrow has been changed to accommodate a hard stop for use of the meeting room by another group.

15/16. Morning Social and Reconvene

17. Aerial Enforcement issues and subcommittee formation

This topic was covered under Agenda Item #13.

18. State Agency Reports

Members of various states reported on new or significant issues of interest in their respective jurisdictions. Updates centered around staffing and equipment changes, loss of historical knowledge through retirements, new directors, new training academies, recent cases regarding striped bass, maintenance of vessels, and funding opportunities. Several state reports discussed drug-related enforcement, including concerns about training of officers in the use of NARCAN as first responders and increases in use of drugs on certain types of commercial fishing vessels. Jon Cornish reported that ME is also concerned about drug abuse issues and the necessary training of officers for detecting and handling impairment of individuals on vessels.

19. Review and update of Safe Harbor Issues

This topic was covered under Agenda Item #11.

20. Tautog tagging program update and subcommittee review

This topic was covered under Agenda Item #13

21. Review other ISFMP species (tentative as needed)

Steve Anthony updated the LEC on the status of the Aquaculture Permit in NC. The permit has 5 pages of specific conditions which address enforcement concerns.

22. LEC webpage review and discussion

Mark Robson reviewed issues with updating the enforcement information on the ASMFC webpage and reported problems with that associated with the recent hacking of the ASMFC site. He will continue working with staff to make sure all enforcement information is maintained and up to date.

23. Information exchange on enforcement grants and funding opportunities

Steve Anthony discussed the need to exchange information and advice for tapping into available grant dollars for enforcement activity. The LEC discussed Port Security Grants and that process. The USCG wants active participation in that program and grant dollars are available. Larry Furlong reported on a Homeland Security Grant presentation he attended, which could provide a template for other states to follow. It was agreed that the more grant work you do, the more success you can have. It is time consuming but may be worthwhile to identify someone in the agency who can focus on these grant applications.

24/25. New Business and Adjournment

There was no new Business initiated by the LEC, and the meeting was adjourned at 10:30am.