

Atlantic States Marine Fisheries Commission

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MEMORANDUM

October 5, 2004

To: Carrie Selberg
Lobster FMP Coordinator

From: Colonel Joe Lynch
ASMFC Law Enforcement Chair
Atlantic States Marine Fisheries Commission

Subject: **Response to Lobster Management Board Request to Examine Issues Relating to V-Notch Enforcement**

This letter is in response to a written request dated August 31, 2004 from Mr. Pat White, Lobster Board Chair to the ASMFC Law Enforcement Committee. The letter was the result of a written request from Paul Diodati, Director of Division of Marine Fisheries in Massachusetts to Mr. White dated July 26th, 2004 and presented at the August meeting week of the ASMFC.

Mr. White has asked for feedback and that the LEC discuss the following;

1. Is the current v-notch definition enforceable?
2. Is the v-notch law interpreted consistently?
3. Compare the enforceability of the current v-notch definition to a standard that includes a minimum depth of v-notch such as 1/8 inch.

A conference call was held which included most of Area #1 states law enforcement, the chair of the LEC, a representative from the NMFS office of law enforcement and ASMFC's law enforcement coordinator.

After much discussion, a review of existing law enforcement positions on v-notching and other related letters presented to the board on lobster law enforcement, the members of the LEC concluded that;

1. The current definition of v-notching as adopted by each of the states is easily enforced and adequate for meeting the FMP's goals of zero tolerance. The definition is also adequate for prosecution of cases related to violations of this provision.

2. The laws of each state in Area #1 provide consistent wording strong enough to provide a basis for uniform law enforcement action on v-notching. It is possible that some inconsistencies may occur when individual officers use their judgment and discretion, but it is not the policy or intent of any member state to allow the statute to be violated. Local courts have and will continue to influence to what degree enforcement actions are winnable in court when a violation appears weak or unclear, such as a minor nick or the “hanging Chad”. Law enforcement has shown through its compliance report to the board in 2002 and 2003 that enforcement efforts on lobster are a priority. No significant changes to the FMP would improve enforcement of the v-notch provisions more than consistency throughout all areas as to the size or allowance of a v-notch.
3. The Zero Tolerance provision is easily enforced. A ¼” standard is enforceable, but maybe not quite to the degree of the zero tolerance once the lobster has shed. Any size less than ¼” v-notch that has to be measured on the tail flipper may be less enforceable due to the difficulty of measuring properly in the field.