



Atlantic States Marine Fisheries Commission

1050 N. Highland Street • Suite 200A-N • Arlington, VA 22201
703.842.0740 • 703.842.0741 (fax) • www.asmf.org

Dr. Louis B. Daniel, III, (NC), Chair Douglas E. Grout (NH), Vice-Chair Robert E. Beal, Executive Director

Sustainably Managing Atlantic Coastal Fisheries

MEMORANDUM

March 24, 2014

TO: Atlantic Striped Bass Advisory Panel
FROM: Mike Waine, Fishery Management Plan Coordinator
RE: AP Conference Call Scheduled for April 14, 2014 at 3 p.m.

At its February 2014 meeting, the Atlantic Striped Bass Management Board tasked the Advisory Panel to evaluate a potential recommendation to NOAA fisheries to open the exclusive economic zone (EEZ; 3-200) to catch and release fishing for striped bass. At this point, the Board is gathering information regarding the potential impacts of a catch and release fishery in the EEZ. This would not include allowing harvest of striped bass in the EEZ, just catch and release fishing. Please consider how the striped bass fishery would change if catch and release fishing were allowed in the EEZ. A conference call has been scheduled as follows to discuss this issue:

Date: April 14, 2014
Time: 3:00 p.m.
Number: 1-888-394-8197
Passcode: 815277

Recently the Law Enforcement Committee commented on the enforcement issues and the Technical Committee has commented on the biological impacts of a potential catch and release fishery for striped bass in the EEZ. Please see their respective memos enclosed. A member of the Law Enforcement Committee and Technical Committee will participate on the Advisory Panel call.

Additionally, the Board has initiated a Draft Addendum to implement new reference points and consider management changes for the 2015 fishing year. Although the Plan Development Team is in the early stages of drafting the addendum, we will briefly discuss the addendum process and its potential contents as time allows on our April 14th conference call. Please note there will be a specific opportunity for the Advisory Panel to comment on the Draft Addendum once it is approved by the Board for public comment.

Please call (703) 842-0740 or email (mwaine@asmfc.org) with any questions.

Encl: Law Enforcement Committee Memo, Technical Committee Memo
cc: Charlton Godwin, Mark Robson

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MEMORANDUM

March 3, 2014

To: Atlantic Striped Bass Management Board

From: Law Enforcement Committee

RE: Enforcement of fishing prohibitions in the Exclusive Economic Zone (EEZ)

At the winter 2014 meeting of the Atlantic States Marine Fisheries Commission (ASMFC), the Striped Bass Management Board requested input on how enforcement is working in the EEZ. The context of this discussion is that the Board is considering making a recommendation to NOAA Fisheries to allow catch and release fishing in the EEZ. However, before doing so the Board wants to fully understand how the current prohibition on targeting/harvest/possession is working in the EEZ. The ASMFC Law Enforcement Committee (LEC) met via conference call on February 26, 2014 to address this issue.

Committee Members Present: Kurt Blanchard (RI); Elizabeth Buendia (USCG); John Cornish (ME-alternate); Dominick Fresco (NJ); Larry Furlong (PA); Honora Gordon (USFWS); Jamie Green (VA); Logan Gregory (NOAA OLE); Bob Hogan (NOAA OGC); Tim Huss (NY); Drew Idelit (DE-alternate); Lloyd Ingerson (MD); Kyle Overturf (CT); Gentry Thames (SC-alternate); Carter Witten (NC-alternate).

ASMFC Staff: Mark Robson; Kate Taylor; Mike Waine; Marin Hawk

Other Law Enforcement: Tracy Dunn (NOAA OLE); Jeff Radonski (NOAA OLE); Robert Kersey (MD NRP)

The Law Enforcement Committee offers the following comments relating to striped bass fishing regulations in the EEZ.

Illegal Harvest Activity

LEC members reported that varying levels of illegal harvest have occurred in New Hampshire, Massachusetts, Rhode Island, New York, New Jersey, Maryland and Virginia. Enforcement is ongoing and a number of successful cases have been publicized. However, enforcing a prohibition of harvest in the EEZ can be complicated by local factors. For example in Virginia, recently the fish were concentrated farther offshore, making it difficult to locate and monitor activity without use of aircraft. In federal waters in the vicinity of Block Island, private and for-hire vessels have attempted to take advantage of contiguous state boundaries to elude enforcement checks.

Current Enforcement

LEC members reported successful enforcement efforts to address illegal take and possession in the EEZ. However, there was agreement that enforcement of possession in the EEZ is a very involved process when fish are otherwise legal to take in state waters. Covert and overt operations are used to target areas of known activity. States are coordinating cases with NOAA and USCG where appropriate. When cases have been made and publicized in a local area, this has resulted in diminishment of illegal activity for some period of time.

Enforcement of Targeting vs. Possession

The consensus of the LEC was that enforcing targeting prohibitions in the EEZ is extremely difficult, and in fact not occurring to any degree. Some states reported that targeting does occur, but making cases in court is difficult where intent must be proven. Most state regulations are written to address possession and take. Successful cases citing targeting generally require a level of surveillance that is not feasible. Further, such cases would need to demonstrate fishing behavior that is consistent with repetitive effort and techniques for catching striped bass in the EEZ in order to be successfully prosecuted. Another complication ensues when anglers may be legally targeting another species, e.g., bluefish off of New Jersey.

Catch and Release Allowance in the EEZ

The consensus of the LEC was that allowing catch and release fishing would only exacerbate enforcement of illegal harvest and possession. In many cases, allowing catch and release fishing would offer a reason to be fishing in the EEZ at a time and location where an angler might not otherwise be fishing. This provides additional cover to illegally take a fish and transport it back to state waters. The LEC discussed existing catch and release opportunity for striped bass in Chesapeake Bay. But in that circumstance, fishing activity can be more closely monitored and is allowed in a relatively small area.

Penalties

At least one state reported that there has been good support for cases and an interest in increasing penalties. At the federal level, many cases are handled through a summary settlement. Written Warnings, Summary Settlements and NOVAs are civil/administrative penalties, not criminal fines. Written Warnings are non-monetary penalties. Summary Settlements are monetary penalties based on the number of fish possessed, and NOAA Office of Law Enforcement personnel are authorized to issue specific monetary penalties for specific violations. For illegal possession of up to 10 fish and a first offense, the penalty is \$100 per fish. If the alleged violator has a prior offense for possession of striped bass in the EEZ, the penalty is \$250 per fish up to 10 fish. Possession of more than 10 fish can result in assessment of a Notice of Violation and Assessment (NOVA). NOVAs are also civil/administrative penalties, but are handled through the NOAA Office of General Counsel. Criminal violations are either misdemeanors or felonies, depending on the nature of the violation. Felony criminal fines have been applied to only a handful of cases where significant illegal operations (conspiracy, destruction of evidence, resisting boarding, etc.) greatly exceeded simple recreational fishing violations.



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MEMORANDUM

March 19, 2014

To: Atlantic Striped Bass Management Board

From: Atlantic Striped Bass Technical Committee

RE: Biological Impact of Catch and Release Fishing in the EEZ

The Striped Bass Technical Committee met via conference call to discuss the biological implications of allowing catch and release fishing for striped bass in the exclusive economic zone (EEZ; 3-200m miles). From a biological standpoint, the TC concluded that opening a fishery for striped bass in the EEZ would not decrease fishing mortality at a time when current F estimates are above its target level. Additionally, tagging data suggest that larger females tend to aggregate in the EEZ and allowing a fishery for these individuals may jeopardize the reproductive output of the striped bass spawning stock. Lastly, it is impossible for the TC to predict whether opening the EEZ will result in a shift or an increase in fishing effort, but any fishing that occurs in the EEZ will result in a source of mortality that is currently minimized by the prohibition.

DRAFT