Law Enforcement Issues in For-Hire Fisheries

Mid-Atlantic Fishery Management Council

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Workshop Steering Team

Tony DiLernia, Chair MAFMC Law Enforcement Committee;
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Adam Nowalsky, MAFMC Law Enforcement Committee;
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Kurt Blanchard, ASMFC Law Enforcement Committee/ Rhode Island DEM, Division of Law Enforcement;
Doug Messeck, ASMFC Law Enforcement Committee/Delaware DNEC, Natural Resources Police;
José Montañez, MAFMC Staff.
Process

• Questions submitted independently from individuals to the U.S. Coast Guard and NOAA (Law Enforcement and HMS).

• September 20 meeting (teleconference) with MAFMC Committees (Law Enforcement, HMS, and Tilefish).

• Agreed that these questions, with minor adjustments, provided the basis for a workshop.

• Briefed ASMFC Law Enforcement Committee.

• Workshop held November 13-14, Philadelphia, PA.
Workshop Objectives

To develop recommendations to forward to the Council on:

• Issues related to the sale of fish by private recreational anglers (tilefish and tunas) focusing on the need for compliance with USCG requirements and/or Federal permits that allow for the sale of fish.

• Operator and angler (client) responsibility for fisheries violations that occur on for-hire vessels and law enforcement options for addressing these.

• Complexity of fishing regulations impacting enforceability.
Workshop Objectives

Focus on federal law enforcement, recognizing that state law enforcement overlapped considerably in some cases.
Workshop Participants

- NOAA Law Enforcement
- U.S. Coast Guard
- State Law Enforcement – DE, MD, NJ
  --ASMFC Law Enforcement Committee
- MADMF, NJDEC, and NOAA HMS
- 9 Council Members
- For-hire representatives (NC, VA, MD, DE, NJ, NY, CT, RI)
Workshop Recommendations (approved by steering committee)

Grouped under 3 categories corresponding to workshop objectives

- Data Reporting
- HMS Permitting
- Law Enforcement
Workshop Recommendations
Data Reporting

• The VTR and HMS reporting mechanisms need to be integrated to reduce duplicate reporting for dual permit holders and to draw parity between the data collected.

• Holders of HMS permits with a commercial sale endorsement should be required to report catch and harvest of all species, as well as discarded/undersize fish, to develop consistency with VTRs.

• Need to demonstrate greater use and utility of VTR data (or plans for additional uses) so that for-hire operators better understand the value of the data collected.
Workshop Recommendations

Data Reporting

• Evaluate extending the timeline for submission of electronic VTRs from 48 hours after landing to at least 72 hours (but no longer than 7 days).
  – Recognize that operators may be subject to potentially shorter timeframes imposed by reporting systems to which they may be subject under other permits (e.g., HMS or South Atlantic).

• Confirm that eVTR systems issue a timestamp when an attempt is made to submit a valid VTR but which cannot successfully be transmitted and that submission attempts are considered as fulfilling the requirement that eVTRs be submitted within 48 hours.
Workshop Recommendations
HMS Permitting

- Individuals applying for an HMS permit with a commercial sale endorsement or tilefish incidental permit should be required to enter their U.S. Coast Guard Safety Sticker number (or expiration date of Certificate of Inspection) and/or additional verification demonstrating that they meet the safety requirements established for commercial vessels.

- The NOAA HMS database and USCG safety inspection databases need to be integrated to allow stronger verification procedures for vessel operators applying for a commercial sale endorsement.
Workshop Recommendations
HMS

• The Council should communicate with NOAA’s Southeast Regional Office and the South Atlantic Fishery Management Council the need to consider allowing fileting and skinning of mahi-mahi (or dolphinfish) at sea in the mid/north Atlantic region.
Workshop Recommendations
Law Enforcement

• The Council should be cognizant of the impact of increasingly complex regulations on the ability of for-hire operators to comply with regulations and the law enforcement community to effectively enforce the regulations.

• The Council should encourage NOAA Law Enforcement, in conjunction with the ASMFC Law Enforcement Committee, to explore the development of consistent regulations in both state and federal waters regarding redistribution of fish between for-hire customers while at sea.
Workshop Recommendations  
Law Enforcement

• The Council should work with appropriate technical committees to consider the impact of allowing the captain and crew of for-hire vessels to retain an individual legal bag limit and allow this provision when feasible in fishery management plans.

• The Council should encourage state members to work with NOAA Law Enforcement, the ASMFC Law Enforcement Committee, and for-hire advisors to develop “best management practices” for for-hire operators to implement that:
  – foster greater compliance with regulations by their customers,
  – Demonstrate due diligence on the part of operators for implementing these practices.
Workshop Recommendations
Law Enforcement

• There is a need for additional communication to for-hire operators for purposes of clarifying their responsibility under federal regulations as well as state-specific requirements.

• The Council should work with member agencies to encourage periodic meetings between state and federal law enforcement agents and each state’s for-hire community to review practices and procedures related to compliance with, and enforcement of, fisheries regulations.
Workshop Recommendations
Law Enforcement

• In developing management measures impacting the for-hire community, the Council should consider the differences between “6-pack” operators and larger headboat vessels relative to the ability to comply with and enforce regulations.

• A recurring theme underlying the discussions at the workshop was the need for operators to be cognizant of the differences between state enforcement and federal enforcement of regulations and the complexity that this may create for both adherence to and enforcement of laws.
Next Steps

• Complete workshop report will reflect the context of discussions at the workshop but not alter the outcomes presented.

• Council motions or referral to committees for action.
Questions & Discussion