

MAINE STATE LEGISLATURE

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STATE OF MAINE

Inter-Departmental Memorandum Date February 27, 1974

To Spencer Apollonio, Commissioner,

Dept. Marine Resources

From Leon V. Walker, Jr., Assistant

Dept. Attorney General

Subject Procedures to promulgate regulations under the Atlantic States
Marine Fisheries Commission (ASMFC)

In your memorandum of December 21, 1973, you state that following the enactment of P.L. 1973, ch. 468 (12 M.R.S.A. § 4062), the designated Commissioners of ASMFC from Maine, New Hampshire and Massachusetts jointly promulgated a shrimp net mesh regulation, a copy of which was given on November 19, 1973 to all fishermen who might be affected by the regulation.

Your question is whether additional formalities or procedures must be followed to insure that the ASMFC regulation is legally binding in Maine.

Amendment I of the Marine Fisheries Compact (12 M.R.S.A. § 4613) provides that any 2 or more consenting states may designate ASMFC as a joint regulatory agency with respect to specific fisheries in which such States have a common interest. Section 4613 further provides that the representatives of such states shall constitute a separate section of ASMFC for the exercise of such additional powers. Section 4653 grants to these representatives (commissioners) all the powers provided for in the Compact and all the powers necessary or incidental to the carrying out of said Compact in every particular.

The interim shrimp mesh regulation was promulgated under this authority. No requirement as to the method of promulgating such a regulation is contained in the Maine statutes or in the regulation.

Your action in mailing a copy of the regulation to every commercial fishing license holder in Maine, i. e. to every fisherman who might be affected thereby, is considered adequate to effectively promulgate it in this state, in the absence of any provisions of statute or regulation.

Leon V. Walker, Jr.
Assistant Attorney General

LWVjr/bls

AN INFORMAL OPINION