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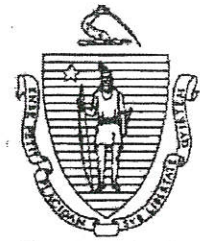
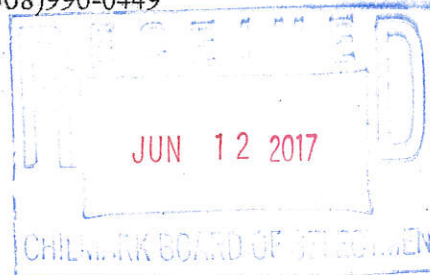
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Boards of Selectmen and Shellfish Constables,

June, 6, 2017

The U.S. Food and Drug Administration (FDA) conducts annual evaluations of state compliance with the requirements of various elements of the National Shellfish Sanitation Program (NSSP). One of the program elements is "Control of Harvest" which includes patrol of closed contaminated shellfish areas among many other activities related to effective control of commercial harvesting, handling, licensing and enforcement of rules and regulations to prevent harvest of shellfish from contaminated areas.

MGL Chapter 130, § 98 requires local shellfish constables or deputy shellfish constables in each municipality bordering on coastal waters to "...enforce all statutes, ordinances, by-laws, rules and regulations relative to shellfish in such city or town" (sic). This includes all state statutes, regulations and rules pertaining to shellfish. The shellfish constables regularly interact with the MA Office of Law Enforcement (OLE) Environmental Police Officers (EPOs) by way of field support and observational information regarding illegal activities. Shellfish constables assist the Division of Marine Fisheries (DMF) by marking classification boundary lines, posting signs for DMF contamination closures and by opening and closing conditional shellfish areas under conditional area management plans.

The MA OLE is responsible for the patrol/enforcement activities required by the NSSP in closed contaminated waters in the Commonwealth. The NSSP allows states to delegate patrol activities to any local enforcement authority as is the case with MGL Chapter 130, § 98, however the NSSP mandates that the state shall "...develop a Memorandum of Agreement (MOA) with the delegated agency to assure that patrol requirements are met and records maintained of such patrol activities related to closed contaminated waters within their jurisdictions. Massachusetts has no MOUs with any municipalities.

OLE and DMF have always depended on the cities and towns to help with patrol and enforcement in local closed contaminated areas, especially in municipalities that have active shellfish management programs. Without assistance, it would be difficult, if not impossible, for the state to meet the NSSP patrol requirements putting the state out of compliance and endangering the sale of Massachusetts shellfish in interstate commerce. According to FDA, without an MOU, in place with municipalities, "The

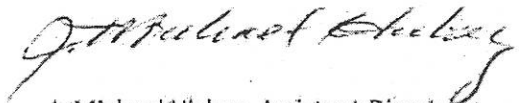
municipal shellfish officers patrol activities do not reduce the patrol efforts required of the MA OLE. If the MA OLE had a formal MOA in place with the municipalities, the shellfish bed checks performed by the shellfish constables and deputy constables, with proper documentation, could count towards the state's required frequency of patrol." Activities involved in enforcement of state shellfish tagging and *Vibrio parahaemolyticus* control regulations already being performed would also count.

On Thursday, June 15, 2017 the Massachusetts Shellfish Officers Association will be holding their Spring Meeting at the Pilot House Restaurant in Sandwich, MA. At that meeting there will be a workshop conducted by OLE and DMF to discuss FDA's request to develop a formalized MOA between the Environmental Police and municipal shellfish enforcement authorities regarding NSSP patrol requirements. Massachusetts needs to do this to be in compliance with the NSSP. This workshop will open discussions to that end.

It is imperative that each municipality be represented by their shellfish constable or a deputy to take part in the work shop.

We look forward to your participation.

Major Patrick Moran
Coastal Bureau, MA Environmental Police



J. Michael Hickey, Assistant Director
Division of Marine Fisheries, Shellfish Program

CC: DMF D. Mckiernan

Encl: (1)