



Rhode Island Marine Fisheries Council

3 Fort Wetherill Road Jamestown, Rhode Island 02835

(401) 423-1920 Fax: (401) 423-1925

RIMFC: Robert Ballou, *Chairman*; Richard Hittinger, *Vice Chair*; Kenneth Booth; Jeff Grant; William Mackintosh, III; Michael Rice, Ph.D.; Christopher Rein; Andy Dangelo

MEETING NOTICE

August 25, 2015; 6:00 PM

**URI Narragansett Bay Campus
Coastal Institute Building, Hazard Room
South Ferry Road, Narragansett, RI**

Agenda item	Items/Attachments	Recommended action(s)
1. Approval of tonight's agenda	8-25-2015 agenda	Approval of agenda and/or recommendations for modifications
2. Approval of minutes from last meeting on 6-1-15	6-1-2015 meeting minutes	Approval of minutes and/or recommendations for modifications
3. New business		
a. Announcement of new Chief of Marine Resource Management, Jason McNamee – <i>J. McNamee</i>	➤ Remarks from Jason	FYI and remarks.
b. Announcement of new/newly appointed Council members – <i>B. Ballou</i>		
c. Review of Council policies and procedures: <i>B. Ballou</i> <ul style="list-style-type: none"> • Review of workshop and advisory panel structure; • Review of Aquaculture policy; • Council approval of SAP and IAC agendas. 	<ul style="list-style-type: none"> ➤ Species Advisory Panel Policy (<i>June 2007</i>); ➤ Aquaculture policy (<i>Sept. 2009</i>); ➤ Relevant statutes governing Council responsibilities. ➤ IAC and SAP membership lists 	Review of workshop and Advisory Panel structure and policies; determination of needed policy revisions.
d. Marine Fisheries "LEAN" bill and changes to procedures: - <i>J. McNamee</i> <ul style="list-style-type: none"> • Modifications to possession limits/seasons for marine species managed under quotas (new section RIGL 20-1-12.1); • Timeframe for submittal of regulations to Council for review (amendments to RIGL 20-2.1- 	<ul style="list-style-type: none"> ➤ SO702 – LEAN bill. ➤ RIGL 20-1-12.1 ➤ RIGL 20-2.1-9(3)(ii) & (v); 	FYI and/or discussion

9(3)(ii) & (v); <ul style="list-style-type: none"> • Procedure for adoption of Sector Management Plans (amendments to RIGL 20-2.1-9(5)). 	➤ RIGL 20-2.1-9(5)	
e. Proposed repeal of RIMFR Part III “Marine Fisheries Council”. - <i>J. McNamee</i>	➤ RIMFR Part III – Marine Fisheries Council.	Vote to recommend to repeal.
f. Review of draft Sector Management Plans - <i>J. McNamee</i>	<ul style="list-style-type: none"> ➤ Draft 2016 Finfish Sector Management Plan; ➤ Draft 2016 Shellfish Management Plan; ➤ Draft 2016 Crustacean Management Plan; 	Review and discussion; recommendation/vote to be taken on 10/5 meeting.
4. FYI – <i>B. Ballou</i>		
<ul style="list-style-type: none"> • Public Hearing 9/21 • Other recently passed legislation: <ul style="list-style-type: none"> ○ SO703aa - Seafood Marketing ○ SO 751 - Student Shellfish License • NEMFC Report-June2015 • 2015 ASMFC Summer Meeting Summary 	<ul style="list-style-type: none"> ➤ Proposed Licensing regulations ➤ Proposed Aquaculture regulations ➤ Proposed Lobster regulations ➤ SO703aa - Seafood Marketing ➤ SO 751 - Student Shellfish License ➤ NEMFC Report June2015 ➤ 2015 ASMFC Summer Meeting Summary 	Review of regulations; recommendation/vote on 10/5 meeting.
5. Next Meeting – <i>P. Duhamel</i>		
6. Adjourn		

All RIMFC Meetings are open to the public



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MEETING MINUTES

June 1, 2015

Chairperson: *B. Ballou*

RIMFC Members Present: *K. Booth, R. Hittinger, D. Monti, B. Mackintosh, J. Grant, C. Rein, DEM: L. Mouradjian, G. Powers, J. McNamee, P. Duhamel, S. Olszewski, J. Mercer, Sgt. Dan White (DLE), D. Costa*

Public: Approximately 15 persons.

1) **Approval of the Agenda:** *B. Ballou* inquired as to any modifications to the agenda; hearing none, the agenda was approved.

2) **Approval of RIMFC meeting minutes from March 2, 2015:** *B. Ballou* inquired as to any proposed modifications or objections to approving the minutes. Hearing none, the minutes were approved.

3) **Public comments regarding other matters not on agenda:**

Joel Hovanesian, commercial fisherman, expressed frustration with current management of several marine finfish species, and that action was needed by RI officials at the ASMFC and MAMFC to correct low quotas and possession limits. P. Duckworth concurred that current management is resulting in a high amount of discards of fish that would appear to be plentiful. Another gentleman expressed concern that better data is needed to improve RI's quota for Black sea bass. *B. Ballou* offered that these issues would be placed on the next Council agenda to determine appropriate steps to address the issue. J. Carvalho offered that these matters need to be brought before the Director and General Assembly for action. *B. Ballou* offered that he would discuss these matters with the Director.

P. Duckworth inquired as to the commercial "per vessel" possession limit. He asked if a licensee who owned 2 vessels could catch a 2nd possession limit with the 2nd vessel on the same day after catching a possession limit with the 1st vessel. *B. Ballou* offered that the answer was not immediately clear and would therefore provide an answer at the next meeting.

B. Ballou concluded this portion of the meeting by offering the inclusion of discussions regarding quotas for commercial and recreational Black sea bass, tautog, Winter flounder and Summer flounder on the next Council agenda.

4a) **Review and recommendations to the Director on the 5/11/2015 public hearing items:**

- **Amendments to "RIMFR - Finfish", regarding regulations for Blueline tilefish:**
B. Ballou offered that the proposal originated from a request from the MAMFC to initiate federal and complementary state regulations pending the development of an FMP. *J. McNamee* offered that FMP scoping was beginning and that the need for regulations was

to provide for fairness amongst each of the participating states and to assure compliance of the 300 lbs possession limit for vessels in RI waters. He offered that the Division has requested from the MAMFC a list of states with adopted regulations. He offered that RI landings were minimal but there are a few landings exceeding 300 lbs; and that while the fish are not caught in RI waters, the 300 lb possession limit is needed to provide compliance with the federal possession limit. He offered that the need for consistent regulations by all states was necessary to avoid higher landings in states without regulations; and that without state regulations a loophole exists that could result in higher unintended landings. *B. Ballou* offered that landings in northern states increased tenfold since the enactment of stricter possession limit regulations in southern states, and that regulations were therefore needed to normalize this discrepancy and reduce the landings until the adoption of the FMP. ***D. Monti* offered a motion to recommend adoption of the regulation as proposed; 2nd by *K. Booth*.** *J. Grant* offered that he was concerned about adopting a regulation prior to the adoption of the FMP, fearing that RI could be at a disadvantage if the FMP failed to be developed, and offered a friendly amendment to only adopt regulations if other states did the same. *K. Booth* offered that it may be best to table the matter at this time, to which *J. Grant* concurred. ***D. Monti* then modified his motion, to which *K. Booth* concurred, that RI adopt such regulation only upon the federal government doing the same,** to which legal counsel *G. Powers* replied that such a contingency was not permissible as part of a motion. The motion therefore died. ***B. Macintosh* offered a motion to provide to table the matter and provide no recommendation at this time, until such time that the Council is updated as to the status of federal and neighboring state regulations; 2nd by *C. Rein*.** The motion passed by a vote of 6 – 0. The matter will be placed on the next agenda.

- **Amendments to “RIMFR - Part XV - Lobsters, Other Crustaceans, and Horseshoe Crabs”:**

- **Application period for transfer of lobster trap allocation:**

S. Olszewski provided an overview of the proposal, which is to shorten the application period for consistency with the federal application period and administration of the federal database. He offered that such consistency is necessary due the complexity of the federal trap transfer database and an accounting of possible transfer scenarios before the allocation becomes effective the following fishing year. As the State’s allocation data will be part of the federal database, the ASMFC working group, of which RI is included in, has determined that the transfer application window should be small to avoid conflicts of transfer applications with the ordering of trap tags for the upcoming fishing year. Such conflicts could create significant difficulties with administering the database. Discussion ensued as to the need for a shorter window, and that it would be best for fishermen to be able to submit an application until the end of the year; to which *S. Olszewski* re-emphasized the database administration need to avoid transfers occurring simultaneously with the ordering of trap tags. ***K. Booth* offered a motion to recommend adoption of the proposed regulation; 2nd by *D. Monti*.** *B. Macintosh* inquired as to the need for the rules consistent with the federal rule; to which *S. Olszewski* replied that federal database is being utilized for both state and federal vessels, and separate windows may not be possible. *D. Monti* inquired if it would be possible for RI to have a different window if RI is part of the federal database, to which *S. Olszewski* replied that it is unclear at this time if the federal database would be accessible outside the federal window. *J. Grant* offered that any window that provides for transfers is better than the previous years of not

allowing transfers at all. **The motion failed by a vote of 1 - 5 (B. Macintosh voting in favor).**

○ **Landing limits of lobsters taken by gear or methods other than trap:**

S. Olszewski provided that the regulation as currently written provides for the harvest of lobster as bycatch by all gears types, but the original intent was to provide this bycatch limit only to gillnet and otter trawl gear types. He offered that the proposed regulation is meant to correct this and is consistent with the neighboring states of Mass., Conn., and NY, and the federal government, which does not allow for the harvest of lobster by trap unless the trap has a properly issued trap tag. **J. Grant offered a motion to recommend adoption of the proposed regulation; 2nd by R. Hittinger.** *J. Grant* offered that he isn't uncomfortable with fishermen obtaining lobsters from crab pots, but that the current allowance is inconsistent with the lobster trap tag program and efforts to limit harvest designed to re-build the fishery. Discussion ensued regarding perceived problems with lobster management. **The motion passed by a vote of 5 – 1 (C. Rein voting against).**

● **Crustacean regulation re-write:**

P. Duhamel provided an overview of the proposal. **J. Grant offered a motion to recommend adoption of the regulation as proposed; 2nd by D. Monti.** The motion passed by a vote of 6 – 0.

● **Menhaden:**

○ **Prohibition of harvest of menhaden on weekends and holidays (section 16.2.3); Harvest of menhaden in permanently closed areas (section 16.2.7); and landing of menhaden in RI under state quota program (section 16.3.2)**

J. McNamee offered a summary of proposals; to allow for the small-scale harvest of menhaden by non-directed gear types for the purposes of allowing for a more consistent bait supply. Discussion ensued regarding the term “non-directed” gear. **K. Booth offered a motion to recommend adoption of the regulation as proposed; 2nd by R. Hittinger.** Several comments from the audience voiced support for the proposal. **The motion passed by a vote of 6 – 0.**

○ **Episodic Event Set Aside Program (section 16.4.3)**

J. McNamee offered that the proposal was consistent with the previous proposals for menhaden. **D. Monti offered a motion to recommend adoption of the regulation as proposed; 2nd by R. Hittinger.** The motion passed by a vote of 6 – 0.

○ **Fall Opening of the Narragansett Bay Marine Life Management Area (section 16.9)**

J. McNamee offered a brief summary of the proposal; to allow for a smaller purse seine harvest during such time that the Mgmt. Area is normally closed to allow for a more consistent bait supply. **B. Macintosh offered a motion to recommend adoption of the modifications as proposed; 2nd by C. Rein.** The motion passed by a vote of 5 – 0 (R. Hittinger abstaining).

4b) **Shellfish Advisory Panel report (3/4):**

J. Grant offered that the meeting was held solely for aquaculture review, and that RIMFC recommendations to CRMC had already taken place. *B. Ballou* inquired as to any objections to approving the minutes; hearing none, the minutes were approved.

4c) **Expiration of Bissel Cove oyster moratorium:**

J. Mercer explained that the Division was seeking a two month extension due to the moratorium being set to expire on September 15th, but there is currently insufficient data to support a decision as to whether or not to continue the moratorium for an extended length of time. He explained that an extension to November 15th would allow the Division time to obtain and evaluate data and provide a recommendation to the SAP and Council at September or October meeting. ***R. Hittinger* offered a motion to recommend adoption of the proposal to extend the moratorium until November 15th; 2nd by *C. Rein*. The motion passed by a vote of 7 – 0.**

4d) **Proposed AP meetings:** Meetings and agendas were approved for the Shellfish Advisory Panel and IAC.

4e) **New IAC Chair:** *C. Rein* was unanimously selected as the new IAC Chair to replace *R. Bellavance*.

4f) **Special Council meeting – LEAN and Council policies:** Discussion of the need for a meeting to discuss LEAN related updates to Council structure and procedures. A meeting was approved - date is to be determined.

4g) **Review of pending marine fisheries related legislative proposals:**

B. Ballou offered a brief summary of the proposed LEAN legislation and that the General Assembly had inquired as to the Council's input. The Council voted unanimously in support of the legislation.

Meeting adjourned at approximately 8:00

Prepared by *P. Duhamel*

Species Advisory Panel Policy

Adopted by the RIMFC June 4, 2007

Revised on 1-05-2009

Introduction

This document sets forth the policies of the Rhode Island Marine Fisheries Council (Council or RIMFC) regarding Species Advisory Panels that are formed under, and on behalf of, the Council.

The Council may appoint Species Advisory Panels composed of recreational and commercial fishermen, dealers, and other interested parties. The members will be selected to represent all applicable user groups, and will serve in an advisory capacity only. Every effort will be made to appoint individuals from various recognized fisheries organizations, user groups, and other concerned organizations that represent the public interest, in order to allow all user groups to provide the Council with their opinions and views. No applicant may serve who has been assessed a penalty for a violation of any federal or state statute or regulation governing marine fisheries within the three years prior to his/her application. [A penalty shall include any suspension or revocation of a commercial fishing license or permit or dealer's license, or any fine, donation, probation, imprisonment, or other filing, imposed administratively or by a court of law.] The advisors will be selected by the Council at a public meeting in open session after providing a one-month advance notice. Upon selection by the Council, the newly appointed advisor will be provided a letter by the Division of Fish and Wildlife outlining his/her duties as an advisory panel member. A Division of Fish and Wildlife representative will be appointed to act as both the scientific advisor and recording secretary. If an advisory panel chairperson is not able to attend a scheduled advisory panel meeting, the chairperson will ask a fellow Council member to chair that particular meeting. The chairperson of the Council should be notified prior to any substitution.

The membership list for each panel shall have a minimum of six and a maximum of fifteen primary panel members. Members will be added when deemed appropriate by the Panel Chairman and with the consent of the RIMFC.

Purpose

Per section 20-2.1-10 of the RI General Laws, Species Advisory Panels serve at the pleasure of the RIMFC, with a sole purpose to provide informed advice to the RIMFC, reflecting the concerns and opinions from the users' group that each panel member represents.

Tasking Procedures

The RIMFC will provide definitive tasking to the respective Species Advisory Panels, including a timetable for reporting back to the Council. Aside from tasking by the RIMFC, Panel members may identify issues to the Panel Chairman, and with his

agreement, the Panel Chairman may bring the issue to the RIMFC for their decision as to whether further Panel examination is warranted.

When the Council determines an issue warrants examination and advisement, the following procedures will be followed:

- (1) The Department of Environmental Management, in consultation with the Advisory Panel Chair, will prepare a range of options for the recreational, party & charter, and commercial interests which will provide regulatory (including legal/enforcement) and biological boundaries for the issues that are to be examined.
- (2) The Chairman will call for the timely scheduling of a Panel meeting. Thereafter, Panel members will be advised of the issues and of the Department prepared options.

Guidelines

Panels will adhere to the following guidelines:

- (1) Species Advisory Panels are open to all members of the general public.
- (2) The Chairman of the Panel will be a member of the RIMFC, be a non-voting member of the Panel, and be appointed by the RIMFC Chairman. The Chairman's principle role is to facilitate the conduct of the meeting. He shall not advocate a position, and will remain neutral towards any member's advocated viewpoint, or position. Further, he has the responsibility to ensure Panel meetings are conducted in a civil manner and has the authority to excuse disruptive members, and/or cancel the Panel meeting. The Representative from the Division of Fish & Wildlife will act as Secretary and distribute the panel deliberations after approval from the Chairman. The Chairman will report to the RIMFC at its next meeting.
- (3) Members will nominate their alternates from the same user group they represent. Members and alternates will serve one year, from April to April of the following year, subject to confirmation by the RIMFC. Any Panel member with 3 or more absences during their one year term, or a documented history of disruptive conduct during Panel meetings, may be removed from the Panel on the recommendation to the Chairman of the RIMFC. Replacement appointments will be made as necessary. When an advisory member's position is vacated during the one-year appointment that position will be filled by the alternate. Yearly re-appointments will be made in order to address those on the waiting lists.
- (4) If a Panel member is cited for an alleged violation of any federal or state statute or regulation governing marine fisheries, that member may continue to serve. If a Panel member is assessed a penalty for such a violation, that member shall be prohibited from serving on any Advisory Panel for three years from the date of the assessment. [A penalty shall include any suspension or revocation of a commercial fishing license or permit or dealer's license, or any fine, donation, probation, imprisonment, or other filing, imposed administratively or by a court of law.] Upon the receipt of notice of an assessment pertaining to a Panel member, the Director shall notify the Panel member and Panel Chair regarding the assessment, the removal of the member from the Panel, and the member's 3-year period of ineligibility as a member of any Panel. The removal from the Panel shall take effect on the date said notice is provided to the Panel member and Panel Chair. Said notice shall constitute the final agency decision relative to this matter.
- (5) Advisory Panels will follow Robert's Rules of Order to the extent necessary at the discretion of the Chair. With regard to quorum requirements: (a) Robert's Rules of

Order will apply to the Industry Advisory Committee (IAC), thereby mandating that one member more than one-half of the total IAC membership must be present in order to conduct business. In the presence of a quorum, a scheduled meeting of the IAC will be conducted. In the absence of a quorum, no meeting of the IAC may be conducted. (b) For all other Advisory Panels, if there is a quorum present, in accordance with Robert's Rules of Order, a scheduled meeting will be conducted. In the absence of a quorum, the Panel Chair has the authority to conduct a scheduled meeting if the Chair determines that there is adequate panel membership, and/or representation of interested parties, present. If such a determination is made, the Chair shall ensure that the minutes reflect the basis for his/her decision to move forward with the meeting, drawing upon the agenda topic(s), any time sensitivities, the members who are present, and any other relevant factors. If, in the absence of a quorum, the Chair determines that there is not adequate panel membership present, the meeting will be rescheduled.

- (6) When a Panel meets to discuss the RIMFC tasking, the recreational, party & charter, and commercial members may separately caucus to discuss the issue and options. When an Advisory Panel member has a proposal for consideration by the panel that contains numerous options the proposal should be printed out with copies for each panel member. Thereafter, Panel members will, as a body, strive for consensus on the recreational, party & charter, and commercial aspects of the issue. Compromise should be method for agreements (consensus). When a user groups' representative can not agree on a point, he must state why he can't agree and what modifications would need to be made to the proposal at hand so he would agree. Comments from the general public at the Panel meeting are welcomed. Voting is limited to Panel members only. When consensus cannot be achieved, voting can be recorded for minority and majority positions. The Panel Chairman will report the majority and minority positions to the Council along with the extent of support for each position.
- (7) A Panel Chair may request that a Division of Law Enforcement representative attend an advisory panel meeting. The RIMFC desires that that the Panel Chair communicate to the Division of Law Enforcement in a timely manner the specifics of their request so that the Division of Law Enforcement may develop a uniform recommendation to the advisory panel and Council.
- (8) Advisory panel members represent their specific user group. They should seek input from a broad sector of the user group that they represent.
- (9) Appointed individuals noted under the "Other" category on the advisory panel membership lists, including but not limited to Division of Fish and Wildlife members and Scientific advisors, serve in an advisory capacity only and may not vote.

Shellfish Aquaculture Lease Proposals

Policies and Procedures Governing RIMFC and DEM Reviews

Adopted by the RI Marine Fisheries Council – August 3, 2009
As Amended September 2009

Policy #1:

The RI Marine Fisheries Council (RIMFC) authorizes the Council's Shellfish Advisory Panel (SAP) Chair to schedule SAP meetings, on an as-needed basis, for the purpose of reviewing applications for issuance of aquaculture leases that have been submitted to CRMC and that CRMC has referred to the RIMFC for review for the consideration of recommendations pursuant to R.I. Gen. Laws §20-10-5(b). The RIMFC hereby determines that it is procedurally unnecessary for the full RIMFC to conduct preliminary reviews of each of the individual aquaculture lease applications prior to designating them for consideration as SAP agenda items. The SAP Chair will provide updates to the full Council at every regularly scheduled Council meeting regarding any/all meetings or activities involving the SAP or the SAP Chair.

Policy #2:

In accordance with the procedures set forth below, the RIMFC will be provided with full and timely notification regarding all SAP recommendations pertaining to aquaculture lease applications. The RIMFC hereby delegates the SAP with the authority to prepare recommendations concerning individual aquaculture lease applications and to forward said SAP recommendations to the CRMC, with said SAP recommendations being deemed approved by the RIMFC, and reflective of the RIMFC's final recommendation pertaining to the application, unless, within ten (10) days of the receipt of said SAP recommendation, any member of the RIMFC notifies DEM of his/her desire to bring the SAP recommendation before the full RIMFC for further review and consideration, in which case the matter will be placed on the agenda for the next RIMFC meeting.

Policy #3:

Upon receipt of SAP recommendations pertaining to aquaculture lease applications, the CRMC will immediately forward said recommendations to the applicants. If any applicant wishes to bring the SAP recommendation(s) before the full RIMFC for further review and consideration, the applicant will so notify the CRMC who in turn will notify DEM, and the matter will be placed on the agenda for the next RIMFC meeting.

Procedures:

1. The CRMC receives an initial, draft proposal for a new or expanded aquaculture facility. In response, the CRMC Aquaculture Coordinator (AC) distributes the proposal to all interested parties and conducts a Preliminary Determination (PD) meeting, inviting: ACOE, NMFS, USCG, DEM, DOH, adjacent municipality(s), the RIMFC Shellfish Advisory Panel (SAP) Chair, commercial and recreational fishing industry representatives, and other interested parties.
 - DEM and the SAP Chair make every effort to respond to the draft proposal, via the PD process.
 - As part of the PD process, DEM and the SAP Chair identify information needs and key issues to be addressed by the applicant, in coordination with the AC.
2. The AC provides recommendations back to the applicant, drawing upon the comments provided through the PD process.
3. DEM and the SAP Chair remain available for consultation with the AC, as the applicant addresses preliminary suggested modifications to his/her lease application.
4. The applicant submits a lease application to the AC, which the AC, as an action in the 30 day public notice process, distributes to all interested parties, including DEM, the RIMFC, and all members of the SAP. (*In advance, DEM shall provide the AC with names and addresses of all SAP and Council members.)
During the 30-day period:
 - The SAP Chair, in coordination with DEM, schedules a SAP meeting, with a target date within 15-20 days following the close of the 30-day period.
 - DEM conducts an internal preliminary review of the application, with a target date for completion of no more than 15-20 days following the close of the 30-day period (i.e., corresponding to the date of the SAP meeting).
 - The AC remains available for consultation with DEM and SAP Chair during the review process.
 - The AC helps ensure that key interests, including the applicant, as well as all other interested parties, are invited to attend and participate in the SAP meeting.
5. Upon completion of the 30-day notice period, the AC coordinates with the applicant regarding public comments and any potential modifications to lease application based thereupon.

6. The SAP meeting takes place. At the meeting, the AC, in coordination with the applicant, addresses any preliminary modifications to the application; DEM presents its preliminary comments on the application; and industry interests (among others) are given the opportunity to comment. Those unable to attend the meeting are encouraged to submit written comments. The SAP seeks consensus on a recommendation regarding the application, including any potential additional modifications thereto.
7. Within ten (10) days following the SAP meeting, the SAP Chair develops minutes of the meeting, with particular reference to the panel's recommendation(s). Upon completion of the minutes, they are submitted to the RIMFC, with a copy to DEM and the AC; the AC then forwards the recommendation(s) to the applicant. Simultaneously, DEM's preliminary comments on the application are submitted to the RIMFC, with a copy to the AC, who then forwards said comments to the applicant. Relevant application materials, provided by the AC, are included in the RIMFC submittal.
8. Within ten (10) days following receipt of the SAP meeting minutes, and all associated documents, and DEM's preliminary comments on the application, any RIMFC member may request that the matter be brought before the full RIMFC at the next regularly scheduled RIMFC meeting.
9. If no RIMFC member makes such a request, DEM notifies the AC, on behalf of the RIMFC, that the SAP recommendation(s) constitute(s) the RIMFC recommendation. That recommendation stands unless and until an applicant seeks further review and consideration by the full RIMFC, pursuant to #11 below.
10. If any RIMFC member does request that the matter be brought before the full RIMFC, the matter is scheduled for consideration at the next regularly scheduled RIMFC meeting. At that meeting, the RIMFC develops a recommendation to the AC, drawing upon the recommendations of the SAP, and in consideration of any other relevant issues, including DEM comments and any additional public comment offered at the RIMFC meeting. The RIMFC may continue any matter that requires additional review. The RIMFC recommendation is forwarded to the AC immediately following final adoption.
11. Notwithstanding the process outlined above, any applicant wishing to bring the SAP recommendation(s) pertaining to his/her lease application before the full RIMFC for further review and consideration may do so, at any time, by making that request to the AC, who in turn forwards the request to DEM. Upon receipt of such request, the matter is scheduled for consideration at the next regularly scheduled RIMFC meeting. At that meeting, the RIMFC develops a recommendation to the AC, drawing upon the recommendations of the SAP, and in consideration of any other relevant issues, including DEM comments and any additional public comment offered at the RIMFC meeting. The RIMFC may

continue any matter that requires additional review. The RIMFC recommendation is forwarded to the AC immediately following final adoption.

12. Immediately following the SAP meeting, or, if the matter is brought before the RIMFC, immediately following adoption of their final recommendation, DEM submits its final written comments on the application to the AC.
13. The AC completes the regulatory review process pursuant to CRMC's programmatic requirements.

TITLE 20
Fish and Wildlife

(Related to the RI Marine Fisheries Council duties and responsibilities)

CHAPTER 20-1
General Provisions

SECTION 20-1-5.1

§ 20-1-5.1 Advice of the marine fisheries council. – The director, in exercising authority under this title for the planning, management, and regulation of marine fisheries, shall request and consider in the record as applicable the advice of the marine fisheries council, and in the adoption of management plans and regulations affecting licensing for marine fisheries, the director shall provide a written response to the advice of the marine fisheries council.

CHAPTER 20-2.1
Commercial Fishing Licenses

SECTION 20-2.1-9

20-2.1-9 Powers and duties of the director. – It shall be the duty of the director to adopt, implement effective January 1, 2003, and maintain a commercial fisheries licensing system that shall incorporate and be consistent with the purposes of this chapter; in performance of this duty the director shall follow the guidelines and procedures set forth below:

(1) The rule making powers of the director to accomplish the purposes of this chapter shall include the following with regard to commercial fishing licenses and commercial fishing by license holders:

(i) Types of licenses and/or license endorsement consistent with the provisions of this chapter and applicable sections of this title, and limitations on levels of effort and/or on catch by type of license and/or license endorsement;

(ii) Design, use, and identification of gear;

(iii) Declarations for data collection purposes of vessels used in commercial fishing, which declaration requirements shall in no way, except as otherwise provided for in law, restrict the use of any vessel less than twenty-five feet (25') in length overall by appropriate holders of commercial fishing licenses;

(iv) Areas in Rhode Island waters where commercial fishing of different types may take place, and where it may be prohibited or limited, and the times and/or seasons when commercial fishing by type or species may be allowed, restricted, or prohibited;

(v) Limitations and/or restrictions on effort, gear, catch, or number of license holders and endorsements;

(vi) Emergency rules, as provided for in chapter 35 of title 42, to protect an unexpectedly imperiled fishery resource, to provide access to a fisheries resource that is unexpectedly more abundant, and to protect the public health and safety from an unexpected hazard or risk. The marine fisheries council shall be notified of all emergency rules on or before their effective date, and no emergency rule shall become a final rule unless it is promulgated as provided for in subdivision (3) of this section.

(2) When implementing the system of licensure set forth in §§ 20-2.1-4, 20-2.1-5, 20-2.1-6, and 20-2.1-7 and other provisions of this title pertaining to commercial fishing licenses, permits, and registrations, the director shall consider the effect of the measure on the access of Rhode Islanders to commercial fishing and when establishing limitations on effort and/or catch:

(i) The effectiveness of the limitation:

(A) In achieving duly established conservation or fisheries regeneration goals or requirements;

(B) In maintaining the viability of fisheries resources overall, including particularly, the reduction of by-catch, discards, and fish mortality, and in improving efficiency in the utilization of fisheries resources;

(C) In complementing federal and regional management programs and the reciprocal arrangements with other states;

(ii) The impact of the limitation on persons engaged in commercial fishing on:

(A) Present participation in the fishery, including ranges and average levels of participation by different types or classes of participants;

(B) Historical fishing practices in, and dependence on, the fishery;

(C) The economics of the fishery;

(D) The potential effects on the safety of human life at sea;

(E) The cultural and social framework relevant to the fishery and any affected fishing communities; and

(iii) Any other relevant considerations that the director finds in the rule making process;

(iv) The following standards for fishery conservation and management, which standards shall be understood and applied so far as practicable and reasonable in a manner consistent with federal fisheries law, regulation, and guidelines:

(A) Conservation and management measures shall prevent overfishing, while achieving, on a continuing basis, the optimum yield from each fishery;

(B) Conservation and management measures shall be based upon the best scientific information available; and analysis of impacts shall consider ecological, economic and social consequences of the fishery as a whole;

(C) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fisheries resources; except that no such measure shall have economic allocation as its sole purpose;

(D) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches;

(E) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication;

(F) Conservation and management measures shall, consistent with conservation requirements of this chapter (including the prevention and overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (I) provide for the sustained participation of those communities, and (II) to the extent practicable, minimize adverse economic impacts on those communities;

(G) Conservation and management measures shall, to the extent practicable: (I) minimize by-catch and (II) to the extent by-catch cannot be avoided, minimize the mortality of the by-catch;

(H) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

(3) The rule making process set forth in this subdivision shall conform with the requirements of the Administrative Procedures Act, chapter 35 of title 42, and shall include a regulatory agenda for marine fisheries management, with the advice of the marine fisheries council, in accordance with the requirements of § 42-35-5.1;

(ii) The director shall submit a proposed rule to the marine fisheries council at least thirty (30) days prior to the proposed date of the public hearing on the rule;

(iii) The public hearing shall be on either the rule as proposed to the marine fisheries council by the director or a proposed revision to that rule adopted by the marine fisheries council;

(iv) The proposed rule as submitted by the director to the marine fisheries council and the council report and recommendation regarding the rule shall both be entered into the record of the hearing conducted in accordance with the requirements of chapter 35 of title 42;

(v) Notwithstanding the provisions of paragraphs (i) – (iv) of this subdivision, the director may promulgate a rule with less than thirty (30) days notice to the marine fisheries council if and to

the extent necessary to comply with federal requirements or to respond to a sudden change in conditions, where failure to take immediate action would likely cause harm to fishery resources or participants;

(vi) The decision of the director shall state the basis for adopting the rule including a concise statement giving the principal reasons for and against its adoption and the response to positions entered into the record; and in the case of a rule promulgated in accordance with paragraph (v) of this subdivision, the reasons for having to take immediate action.

(4) *Matters to be considered in establishing license programs under this chapter.* The director shall be consistent with the requirements of § 20-2.1-2(6) in establishing and implementing a licensing system in accordance with the provisions of this chapter that shall be designed to accomplish marine fisheries management objectives. The licensing system may limit access to fisheries, particularly commercial fisheries for which there is adequate or greater than adequate harvesting capacity currently in the fishery and for which either a total allowable catch has been set or a total allowable level of fishing effort has been established for the purpose of preventing over-fishing of the resource or the dissipation of the economic yield from the fishery. This authority shall include the authority of the director to:

(i) Differentiate between the level of access to fisheries provided to license holders or potential license holders on the basis of past performance, dependence on the fishery, or other criteria;

(ii) Establish prospective control dates that provide notice to the public that access to, and levels of participation in, a fishery may be restricted and that entrance into, or increases in levels of participation in a fishery after the control date may not be treated in the same way as participation in the fishery prior to the control date; retroactive control dates are prohibited and shall not be used or implemented, unless expressly required by federal law, regulation or court decision;

(iii) Establish levels of catch by type of license and/or endorsement which shall provide for basic and full harvest and gear levels; quotas may be allocated proportionally among classes of license holders as needed to maintain the viability of different forms of commercial fishing.

(5) The director shall, annually, with the advice of the marine fisheries council, develop and update conservation and management plans for the fishery resources of the state, which conservation and management plans shall be developed and updated prior to and at the same time as adoption of any license restrictions on effort or catch. Such plans shall address stock status, performance of fisheries and quotas, and management and licensing programs, and offer any recommendations for new or alternative approaches to management and/or licensing identified by the department or the marine fisheries council. In the development of the fishery conservation and management plans, priority shall be given to those resources with the highest value to the state, either for commercial or recreational purposes.

(6) The director shall report annually to the general assembly and to the citizens concerning the conservation and management of the fishery resources of the state, noting particularly the status

of any fishery resources that are considered to be over-fished or were considered to be over-fished in the preceding year.

CHAPTER 20-2.1
Commercial Fishing Licenses

SECTION 20-2.1-10

§ 20-2.1-10 Powers and duties of the marine fisheries council with regard to licensure. – The marine fisheries council, established by chapter 3 of this title, shall have the power and the duty to advise the director in accordance with § 20-2.1-9(3) on all rules, except emergency rules, necessary to implement the provisions of this chapter. The council may establish any committees and hold any meetings and hearings that it may deem appropriate to fulfill this responsibility. The council shall advise the director on the development of the regulatory agenda for marine fisheries and shall have the power to initiate rule making by petition as provided for in § 42-35-6. The council shall advise the department concerning the development of annual plans for the allocation and use of the funds made available to the department from commercial fishing license fees, tags, permits, and vessel fees as provided in § 20-2-28.2.

CHAPTER 20-2.1
Commercial Fishing Licenses

SECTION 20-2.1-11

§ 20-2.1-11 Industry advisory committee. – The council shall establish an industry advisory committee to provide coordination among commercial fisheries sectors and to review plans and recommendations that affect more than commercial fishery sector, and to advise the council and the department on matters which affect commercial fishing as a whole, which committee shall include representatives of each commercial fisheries sector and of manners of commercial fishing.

CHAPTER 20-2.2
Recreational Saltwater Fishing License

SECTION 20-2.2-10

§ 20-2.2-10 Accountability and oversight. – (a) On an annual basis, the department shall prepare a report that details the number of recreational saltwater fishing licenses issued, the total amount of license fee revenue received, the expenditures made during the prior year utilizing the fee revenue, and how the department plans to allocate and use the fee revenue during the next year. The report shall also include any additional, relevant information relating to the administration and enforcement of the licensing program, and status of state-based recreational fishing assessments and stock assessments.

(b) The department shall annually submit the report to the marine fisheries council, and the department, in coordination with the council, shall annually schedule and conduct one or more public meetings to solicit input from recreational fisherman and the general public. On the basis of such input, and the council's own review, the council shall annually prepare an addendum to the report, setting forth the council's opinion on whether the licensing program is meeting its intended purposes, and offering any recommendations for modifying the program.

(c) The department shall annually submit the report, including the addendum developed by the council, to the general assembly.

CHAPTER 20-3 Marine Fisheries Council

SECTION 20-3-1

§ 20-3-1 Council created – Membership – Compensation. – There is hereby created a marine fisheries council. The council shall be composed of the director of the department of environmental management or the director's designee, who shall serve as chairperson and eight (8) private citizen members. The private citizen members shall be chosen from among those with skill, knowledge, and experience in the commercial fishing industry, the sport fishing industry, and in the conservation and management of fisheries resources and shall be appointed by the governor with the advice and consent of the senate. Three (3) of the private citizen members shall be representatives of the commercial fishing industry; three (3) shall be representatives of the sport fishing industry; and the remaining two (2) shall have skill, knowledge, and experience in the conservation and management of fisheries resources and/or marine biology. The chairperson of the coastal resources management council and the chiefs of the divisions of enforcement and fish and wildlife in the department of environmental management shall serve in an advisory capacity to the council. Members of the council shall serve for a term of four (4) years and may not succeed themselves more than once after January 1, 2002. Initial appointments to the council shall be appointed as follows: three (3) members for a term of two (2) years, three (3) members for a term of three (3) years, and two (2) members for a term of four (4) years. All members of the council shall serve without compensation and shall be reimbursed for their necessary expenses incurred in travel and in the performance of their duties.

SECTION 20-3-2

§ 20-3-2 Powers and duties. – (a) The marine fisheries council shall serve in an advisory capacity only to the state and agencies of the state regarding marine fisheries issues and to the director of the department of environmental management in the exercise of his or her authority under this title for the planning, management, and regulation of marine fisheries on matters, including but not limited to the following activities:

- (1) The manner of taking fish, lobsters, and shellfish;
- (2) The legal size limits of fish, lobsters, and shellfish to be taken or possessed;

- (3) The seasons and hours during which fish, lobsters, and shellfish may be taken or possessed;
 - (4) The numbers or quantities of fish, lobsters, and shellfish which may be taken or possessed;
and
 - (5) The opening and closing of areas within the coastal waters to the taking of any and all types of fish, lobsters, and shellfish.
- (b) The council shall report annually by March 1 of each year, to the governor, the speaker of the house, the president of the senate, the chairperson of the house committee on environment and natural resources, the chairperson of the senate committee on environment and agriculture, and to the house oversight committee and the senate committee on government oversight, for the preceding calendar year with regard to:
- (1) The advice it has given to state agencies, including specifically the department of environmental management, on marine fisheries issues;
 - (2) The response it received to the advice it gave;
 - (3) Any findings or position it may have with regard to the status and/or condition of marine fisheries; and
 - (4) Any recommendations it may have for maintaining, improving, or changing laws, regulations, or management programs for marine fisheries.

SECTION 20-3-4

§ 20-3-4 Shellfish and marine life management areas. – The council may recommend to the director of environmental management, the designation of certain portions of the shores of the public waters of the state, or land within the state covered by tidewater at either high or low tide, or portions of the free and common fisheries of the state as shellfish or marine life project management areas for the purpose of enhancing the cultivation and growth of marine species, managing the harvest of marine species, facilitating the conduct by the department of experiments in planting, cultivating, propagating, managing, and developing any and all kinds of marine life, and any other related purpose. The designation shall be pursuant to the Administrative Procedures Act, chapter 35 of title 42, and shall be by reference to fixed landmarks. The council, upon the designation of a management area, shall propose any rules and regulations as it shall deem necessary for the protection and management of the management area and the animal life and property in the management area, including the exclusion or restriction of persons from the area or the prohibition of certain activities within the areas or other restrictions as it may deem necessary. Upon the designation of a management area, the director of environmental management shall place any stakes, bounds, buoys or markers with the words "Rhode Island department of environmental management" plainly marked on them, as will approximate the management area. Failure to place or maintain the stakes, bounds, buoys, or markers shall not be admissible in any judicial or administrative proceeding. The director may

make any experiments or conduct any activities as in his or her discretion are appropriate in these management areas.

SECTION 20-3-5

§ 20-3-5 Emergencies. – The marine fisheries council may, without requirement of notice of hearing, recommend closure of any or all of the coastal waters of the state to the taking of any or all types of fish, lobsters, and shellfish, where it determines that a biological emergency exists that imminently threatens the marine resources of the state subject to the provisions of § 42-35-3(b).

CHAPTER 20-10 Aquaculture

SECTION 20-10-5

§ 20-10-5 Procedures for approval. – (a) Upon submission of a completed application to the CRMC, the CRMC shall notify the director and MFC and any other parties that the CRMC may by regulation designate.

(b) No application shall be approved by the CRMC or a permit granted prior to the consideration of recommendations by both the director and the MFC.

(c) The director shall review the application to determine whether the aquaculture activities proposed in the application are:

(1) Not likely to cause an adverse effect on the marine life adjacent to the area to be subject to the permit and the waters of the state;

(2) Not likely to have an adverse effect on the continued vitality of indigenous fisheries of the state.

(d) The MFC shall review the application to determine whether the aquaculture activities proposed in the application are consistent with competing uses engaged in the exploitation of the marine fisheries.

(e) The approval by the CRMC shall be subject to any public hearings, consistent with chapter 35 of title 42, that it may require.

INDUSTRY ADVISORY COMMITTEE

Chair: Rick Bellavance (Tel. 741-5648) (Appointed 10-4-2010)

email: rickbellavance@gmail.com

Approved: April 7, 2008

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Updated 6-3-2013

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RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
235 Promenade Street, Providence, RI 02908-5767 Rhode Island Relay 711

Office of the Director

Proposed Sub A for DEM's Marine Fisheries "Lean" Bill

For H-5924 and S-702

Purpose: The bill proposes to implement three recommendations developed during the application of the Lean Initiative to DEM's regulatory program for marine fisheries. The Initiative sought to identify and address inefficiencies in the system. Several opportunities to streamline the system were revealed, some requiring legislative changes. The bill advances three such changes.

Key Element: The major focal point of the bill is Section 1, which would establish a new approach for enacting routine adjustments to quota-managed fisheries.

Background:

DEM's Marine Fisheries Program administers a huge number of fishery-specific regulatory programs. Many stem from federal and regional mandates; others are based on state statutory requirements. All are designed to achieve sound resource protection, while supporting the needs and interests of Rhode Island fishermen.

To keep pace with the dynamic nature of fisheries management, DEM employs a management system that is responsive and adaptive. Regulatory programs are subject to annual review, via quarterly workshops and hearings, and regulatory changes are routinely enacted in response to new mandates and new proposals offered by fishermen. All substantive, programmatic changes are administered in accordance with the Administrative Procedures Act, and include public notice, public comment, and public hearing. They are also subject to review and recommendation by the Rhode Island Marine Fisheries Council. Once regulatory programs are enacted, they are subject to routine adjustments, per the parameters of the regulatory program, throughout the course of the year. All regulatory changes, including all routine adjustments, are filed with the RI Secretary of State's Office. During a typical year, DEM files about 70 regulatory changes pertaining to marine fisheries. About half of the changes involve substantive programmatic changes; the others involve routine adjustments to commercial possession limits and seasons for quota-managed fisheries.

The Lean Initiative found that DEM wastes considerable time and effort by filing, via hand delivery, all routine adjustments to already enacted regulatory programs with the Secretary of State's Office. DEM employs a redundant and effective process of notifying

fishermen of all regulatory changes, so the filings with the Secretary of State's Office serve little purpose.

Proposal

The bill proposes a new, more efficient approach, whereby fishermen will continue to be notified of all changes via multiple forms of communication. However, in lieu of having to file every routine change with the Secretary of State's Office, the bill would authorize the DEM Director to certify and record the changes administratively.

The new approach is set forth in accordance with the following provisions:

1. **Scope.** The new process would only apply to the administration of quota management programs already enacted in accordance with the Administrative Procedures Act (APA), and already filed with the Secretary of State's Office. Regarding those programs, the new process would only apply to modifications to possession limits and seasons.
2. **Authority.** All state agencies are required to conduct all rule-making in accordance with the APA. However, section 42-35-18(b)(5) of the APA provides an exemption for rules promulgated pursuant to the Atlantic States Marine Fisheries Compact (ASMFC). Many of DEM's marine fisheries regulations – and all regulations pertaining to quota-managed fisheries -- are enacted pursuant to ASMFC requirements. As a matter of public policy, DEM follows the APA process for all substantive programmatic changes. For routine adjustments to quota-managed fisheries, which need to be enacted quickly, and which fall under the APA exemption, DEM employs the following process: 1) providing fishermen with ample notification, at least 48 hours in advance of each change; and 2) filing each change with the Secretary of State's Office, at least 48 hours in advance. While the notification process is essential, the filing process is inefficient and unnecessary – ergo the proposal to codify an alternative approach, consistent with the exemption afforded by section 42-35-18(b)(5) of the APA.

RIGL Chapter 42-35.1 imposes a broad set of requirements pertaining to rule-making, with particular emphasis on the assessment of impacts to small businesses. All commercial fishermen, in essence, constitute small businesses. It would be impossible for DEM to manage the State's quota fisheries, in accordance with duly promulgated regulatory programs, if it had to comply with the provisions of Chapter 42-35.1 prior to making routine adjustments to possession limits and seasons. Accordingly, the bill includes a clause that renders Chapter 42-35.1 non-applicable to the new approach.

3. **Notification.** The bill obligates DEM to notify fishermen of all changes enacted pursuant to the new approach, using at least three of the same four forms of communication for regulatory changes that DEM has long employed, and

fishermen have long relied upon – a dedicated phone line, faxes to seafood dealers, list serve emails, and website postings.

4. **Certification.** To establish a formal record of all changes enacted pursuant to the new approach, the bill obligates the director to certify every regulatory change, maintain the record, and make it available for public inspection.

Additional Elements:

The bill includes two additional elements, which are both set forth in Section 2. They both involve straightforward fixes to two statutory quirks that pose unnecessary regulatory burdens to the overall regulatory process governing marine fisheries. The two additional elements are:

1. Aligning the regulatory process governing changes to commercial fishing licenses with the standard regulatory process (60-day advance notice to RIMFC would be changed to standard 30-day notice); and
2. Repealing the requirement that annual updates to the three fishery management and conservation plans -- finfish, shellfish, and crustacean -- must be done by rule. (The plans are plans, and serve as guidance for the development of rules).

2015 -- H 5924 SUBSTITUTE A AS AMENDED

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LC001736/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO FISH AND WILDLIFE - REGULATION OF MARINE FISHERIES

Introduced By: Representatives Ruggiero, Serpa, McKiernan, Tanzi, and Carson

Date Introduced: March 18, 2015

Referred To: House Environment and Natural Resources

(Environmental Management)

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 20-1 of the General Laws entitled "General Provisions" is hereby
2 amended by adding thereto the following section:

3 **20-1-12.1. Modifications to possession limits and seasons for marine species**
4 **managed under quotas. --** [\(a\) In accordance with regulatory programs promulgated pursuant to](#)
5 [the administrative procedures act, chapter 35 of title 42, and pursuant to the exemption afforded](#)
6 [by § 42-35-18\(b\)\(5\) of the act, and notwithstanding the provisions of chapter 35.1 of title 42, the](#)
7 [director shall have the authority to modify possession limits and seasons in order to meet the](#)
8 [harvest allocation for a given marine species managed under a quota.](#)

9 [\(b\) Notification of changes. For all such changes identified in subsection \(a\) of this](#)
10 [section, the director shall provide notification via a dedicated phone line, electronic notification to](#)
11 [dealers, listserv, and website posting. At least three \(3\) of these notifications shall occur a](#)
12 [minimum of forty-eight \(48\) hours prior to the date that the change is to be effective.](#)

13 [\(c\) Record of change. For all such changes identified in subsection \(a\) of this section, the](#)
14 [director shall certify the record of the change, maintain the record, and make it available for](#)
15 [public inspection.](#)

16 SECTION 2. Section 20-2.1-9 of the General Laws in Chapter 20-2.1 entitled
17 "Commercial Fishing Licenses" is hereby amended to read as follows:

18 **20-2.1-9. Powers and duties of the director.** -- It shall be the duty of the director to
19 adopt, implement effective January 1, 2003, and maintain a commercial fisheries licensing system

1 that shall incorporate and be consistent with the purposes of this chapter; in performance of this
2 duty the director shall follow the guidelines and procedures set forth below:

3 (1) The rule making powers of the director to accomplish the purposes of this chapter
4 shall include the following with regard to commercial fishing licenses and commercial fishing by
5 license holders:

6 (i) Types of licenses and/or license endorsement consistent with the provisions of this
7 chapter and applicable sections of this title, and limitations on levels of effort and/or on catch by
8 type of license and/or license endorsement;

9 (ii) Design, use, and identification of gear;

10 (iii) Declarations for data collection purposes of vessels used in commercial fishing,
11 which declaration requirements shall in no way, except as otherwise provided for in law, restrict
12 the use of any vessel less than twenty-five feet (25') in length overall by appropriate holders of
13 commercial fishing licenses;

14 (iv) Areas in Rhode Island waters where commercial fishing of different types may take
15 place, and where it may be prohibited or limited, and the times and/or seasons when commercial
16 fishing by type or species may be allowed, restricted, or prohibited;

17 (v) Limitations and/or restrictions on effort, gear, catch, or number of license holders and
18 endorsements;

19 (vi) Emergency rules, as provided for in chapter 35 of title 42, to protect an unexpectedly
20 imperiled fishery resource, to provide access to a fisheries resource that is unexpectedly more
21 abundant, and to protect the public health and safety from an unexpected hazard or risk. The
22 marine fisheries council shall be notified of all emergency rules on or before their effective date,
23 and no emergency rule shall become a final rule unless it is promulgated as provided for in
24 subdivision (3) of this section.

25 (2) When implementing the system of licensure set forth in §§ 20-2.1-4, 20-2.1-5, 20-
26 2.1-6, and 20-2.1-7 and other provisions of this title pertaining to commercial fishing licenses,
27 permits, and registrations, the director shall consider the effect of the measure on the access of
28 Rhode Islanders to commercial fishing and when establishing limitations on effort and/or catch:

29 (i) The effectiveness of the limitation:

30 (A) In achieving duly established conservation or fisheries regeneration goals or
31 requirements;

32 (B) In maintaining the viability of fisheries resources overall, including particularly, the
33 reduction of by-catch, discards, and fish mortality, and in improving efficiency in the utilization
34 of fisheries resources;

1 (C) In complementing federal and regional management programs and the reciprocal
2 arrangements with other states;

3 (ii) The impact of the limitation on persons engaged in commercial fishing on:
4 (A) Present participation in the fishery, including ranges and average levels of
5 participation by different types or classes of participants;
6 (B) Historical fishing practices in, and dependence on, the fishery;
7 (C) The economics of the fishery;
8 (D) The potential effects on the safety of human life at sea;
9 (E) The cultural and social framework relevant to the fishery and any affected fishing
10 communities; and
11 (iii) Any other relevant considerations that the director finds in the rule making process;
12 (iv) The following standards for fishery conservation and management, which standards
13 shall understood and applied so far as practicable and reasonable in a manner consistent with
14 federal fisheries law, regulation, and guidelines:

15 (A) Conservation and management measures shall prevent overfishing, while achieving,
16 on a continuing basis, the optimum yield from each fishery;

17 (B) Conservation and management measures shall be based upon the best scientific
18 information available; and analysis of impacts shall consider ecological, economic and social
19 consequences of the fishery as a whole;

20 (C) Conservation and management measures shall, where practicable, consider
21 efficiency in the utilization of fisheries resources; except that no such measure shall have
22 economic allocation as its sole purpose;

23 (D) Conservation and management measures shall take into account and allow for
24 variations among, and contingencies in, fisheries, fishery resources, and catches;

25 (E) Conservation and management measures shall, where practicable, minimize costs
26 and avoid unnecessary duplication;

27 (F) Conservation and management measures shall, consistent with conservation
28 requirements of this chapter (including the prevention and overfishing and rebuilding of
29 overfished stocks), take into account the importance of fishery resources to fishing communities
30 in order to (I) provide for the sustained participation of those communities, and (II) to the extent
31 practicable, minimize adverse economic impacts on those communities;

32 (G) Conservation and management measures shall, to the extent practicable: (I)
33 minimize by-catch and (II) to the extent by-catch cannot be avoided, minimize the mortality of
34 the by-catch;

1 (H) Conservation and management measures shall, to the extent practicable, promote the
2 safety of human life at sea.

3 (3) (i) The rule making process set forth in this subdivision shall conform with the
4 requirements of the Administrative Procedures Act, chapter 35 of title 42, and shall include a
5 regulatory agenda for marine fisheries management, with the advice of the marine fisheries
6 council, in accordance with the requirements of § 42-35-5.1;

7 (ii) The director shall submit a proposed rule to the marine fisheries council at least ~~sixty~~
8 ~~(60)~~ thirty (30) days prior to the proposed date of the public hearing on the rule;

9 (iii) The public hearing shall be on either the rule as proposed to the marine fisheries
10 council by the director or a proposed revision to that rule adopted by the marine fisheries council;

11 (iv) The proposed rule as submitted by the director to the marine fisheries council and
12 the council report and recommendation regarding the rule shall both be entered into the record of
13 the hearing conducted in accordance with the requirements of chapter 35 of title 42;

14 (v) Notwithstanding the provisions of paragraphs (i) -- (iv) of this subdivision, the
15 director may promulgate a rule with less than ~~sixty (60)~~ thirty (30) days notice to the marine
16 fisheries council if and to the extent necessary to comply with federal requirements or to respond
17 to a sudden change in conditions, where failure to take immediate action would likely cause harm
18 to fishery resources or participants;

19 (vi) The decision of the director shall state the basis for adopting the rule including a
20 concise statement giving the principal reasons for and against its adoption and the response to
21 positions entered into the record; and in the case of a rule promulgated in accordance with
22 paragraph (v) of this subdivision, the reasons for having to take immediate action.

23 (4) Matters to be considered in establishing license programs under this chapter. - The
24 director shall be consistent with the requirements of § 20-2.1-2(6) in establishing and
25 implementing a licensing system in accordance with the provisions of this chapter that shall be
26 designed to accomplish marine fisheries management objectives. The licensing system may limit
27 access to fisheries, particularly commercial fisheries for which there is adequate or greater than
28 adequate harvesting capacity currently in the fishery and for which either a total allowable catch
29 has been set or a total allowable level of fishing effort has been established for the purpose of
30 preventing over-fishing of the resource or the dissipation of the economic yield from the fishery.
31 This authority shall include the authority of the director to:

32 (i) Differentiate between the level of access to fisheries provided to license holders or
33 potential license holders on the basis of past performance, dependence on the fishery, or other
34 criteria;

1 (ii) Establish prospective control dates that provide notice to the public that access to,
2 and levels of participation in, a fishery may be restricted and that entrance into, or increases in
3 levels of participation in a fishery after the control date may not be treated in the same way as
4 participation in the fishery prior to the control date; retroactive control dates are prohibited and
5 shall not be used or implemented, unless expressly required by federal law, regulation or court
6 decision;

7 (iii) Establish levels of catch by type of license and/or endorsement which shall provide
8 for basic and full harvest and gear levels; quotas may be allocated proportionally among classes
9 of license holders as needed to maintain the viability of different forms of commercial fishing.

10 (5) The director shall, annually, ~~by rule~~, with the advice of the marine fisheries council,
11 develop and update conservation and management plans for the fishery resources of the state,
12 which conservation and management plans shall be ~~adopted~~ developed and updated prior to and
13 at the same time as adoption of any license restrictions on effort or catch. Such plans shall address
14 stock status, performance of fisheries and quotas, and management and licensing programs, and
15 offer any recommendations for new or alternative approaches to management and/or licensing
16 identified by the department or the marine fisheries council. In the development of the fishery
17 conservation and management plans, priority shall be given to those resources with the highest
18 value to the state, either for commercial or recreational purposes.

19 (6) The director shall report annually to the general assembly and to the citizens
20 concerning the conservation and management of the fishery resources of the state, noting
21 particularly the status of any fishery resources that are considered to be over-fished or were
22 considered to be over-fished in the preceding year.

23 SECTION 3. This act shall take effect upon passage.

=====
LC001736/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO FISH AND WILDLIFE - REGULATION OF MARINE FISHERIES

1 This act would authorizes the director to modify possession limits of certain marine
2 species and the fishing seasons thereto and would require notice and a record keeping of any
3 changes made to said limits or seasons and would further require that the director annually
4 develop and update plans to address stock status and fishery performance.

5 This act would take effect upon passage.

=====
LC001736/SUB A
=====



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT



RHODE ISLAND MARINE FISHERIES REGULATIONS

Part III Marine Fisheries Council

August 14, 2015

AUTHORITY: Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

1. PURPOSE

The purpose of these rules and regulations is to supplement and simplify and/or clarify existing regulations in order to more efficiently manage the marine resources of Rhode Island.

2. AUTHORITY

These rules and regulations are promulgated pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

3. APPLICATION

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

4. DEFINITIONS

See Rhode Island Marine Statutes and Regulations, Part I, '1.3.

5. SEVERABILITY

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

6. SUPERSEDED RULES AND REGULATIONS

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of Part III shall be superseded. However, any enforcement action taken by, or application submitted to, the Department prior to the effective date of these Rules and Regulations shall be governed by the Rules and Regulations in effect at the time the enforcement action was taken, or application filed.

7. REGULATIONS

7.1 Current Possession limit: If no current possession limit is noted in the table below, refer to RI Marine Fisheries Regulations (RIMFR) Part 7 – Finfish, for the sub-period starting possession limit for all species other than Striped bass, Menhaden, and Horseshoe crabs. For Striped bass, refer to RIMFR Part 12 – Striped Bass; for Horseshoe crabs, refer to RIMFR Part 15 - Lobsters, Other Crustaceans, and Horseshoe Crabs; and for Menhaden, refer to RIMFR Part 16 - Menhaden.

Species	Current possession limit	Effective dates
Atlantic Herring – Area 1A	OPEN UNLIMITED	Effective 12:01AM on January 1, 2015.
Atlantic Herring – Area 1B	Directed Fishery is CLOSED; 2,000 lbs/vessel/calendar day	Effective 12:01AM on May 28, 2014, until the next fishing season opens on May 1, 2015.

	bycatch allowance.	
Atlantic Herring – Area 2	OPEN UNLIMITED	Effective 12:01AM on October 29, 2013, until further notice.
Atlantic Herring – Area 3	Directed Fishery is CLOSED; 2,000 lbs/vessel/calendar day bycatch allowance.	Effective 12:01AM September 26, 2014, until further notice.
Black Sea Bass	CLOSED	Effective 12:01AM on July 9, 2015, until the next sub-period begins on September 1, 2015 at 50 lbs/vessel/day.
Bluefish	OPEN at 7,000 lbs/vessel/week	Effective 12:01AM on August 16, 2015, until the next sub-period begins on January 1, 2016 (unlimited).
Coastal Sharks – Smoothhound Sharks Species Group	OPEN UNLIMITED	Effective 12:01AM on January 1, 2015 until further notice.
Coastal Sharks - Non-Blacknose Small Coastal Shark Species Group	CLOSED	Effective 12:01AM on June 8, 2015, until further notice.
Coastal Sharks - Blacknose Coastal Shark Species Group	CLOSED	Effective 12:01AM on June 8, 2015, until further notice.
Coastal Sharks - Aggregated Large Coastal Sharks Species Group	CLOSED	Effective 12:01AM on December 4, 2014, until the next fishing season opens on July 1, 2015.
Coastal Sharks - Hammerhead Sharks Species Group	CLOSED	Effective 12:01AM on December 4, 2014, until the next fishing season opens on July 1, 2015.
Coastal Sharks - Pelagic Sharks Species Group (excluding Porbeagle sharks)	OPEN UNLIMITED	Effective 12:01AM on January 1, 2015, until further notice.
Coastal Sharks - Porbeagle Sharks of the Pelagic Shark Species Group	CLOSED	Effective 12:01 AM on December 19, 2014, extending through December 31, 2015.
Horseshoe Crab – commercial bait fishery	CLOSED	Effective 12:01AM on May 11, 2015.
Menhaden – in the Menhaden Mgmt. Area	CLOSED	Effective 12:01AM on August 9, 2015, until further notice.
Menhaden – In State Waters outside the Menhaden Mgmt. Area	OPEN at 120,000 lbs/vessel/day	Effective 12:01AM on May 29, 2015, until further notice.

Monkfish	OPEN at 550 lbs tail weight or 1,826 lbs whole weight per vessel/calendar day.	Effective May 1, 2014, until further notice.
Scup – General Category	OPEN at 7,500 lbs/vessel/calendar week	Effective 12:01AM on August 16, 2015, until further notice.
Scup – Floating Fish Traps	OPEN at 50,000 lbs/vessel/calendar day	Effective January 1, 2015, until the next sub-period opens on May 1, 2015 (unlimited).
Striped Bass – General Category	CLOSED	Effective 12:01AM on July 6, 2015.
Striped Bass – Floating Fish Traps	CLOSED	Effective 12:01AM on January 1, 2015, until the fishery opens on April 1, 2015 (unlimited).
Summer Flounder	Open at 50 lbs/vessel/calendar day; the Aggregate Landing Program is CLOSED.	Effective 12:01AM on August 16, 2015 until the next sub-period begins on September 16, 2015, at 200 lbs/vessel/day.
Spiny Dogfish	OPEN at 5,000 lbs/vessel/calendar day.	Effective at 12:01AM on September 8, 2014.
Tautog	CLOSED	Effective 12:01AM on May 21, 2015.

7.2 Penalties: Unless another penalty is specified in this Title, any person who violates a rule or regulation of the Department shall, upon conviction, be punished by a fine of not more than five hundred dollars (\$500) or imprisonment for not more than ninety (90) days, or both. (RIGL 20-1-16)

7.3 Shellfish and Marine Life Management Areas: The Council may, recommend to the Director, to designate certain portions of the shores of the public waters of the State, or land within the State covered by tidewater at either high or low tide, or portions of the free and common fisheries of the State as Shellfish or Marine Life Project Management Areas pursuant to RIGL Section 20-3-4.

7.3.1 Any designations under these regulations shall include an explicit description of the area to be designated and may include restrictions on the quantities, types, or sizes of shellfish or finfish which may be taken in such area, the times during which shellfish or finfish may be taken, the manner or manners in which shellfish or finfish may be taken, or may close such area to the taking of shellfish or finfish altogether.

7.3.2 A designation under these regulations may be made for a period not to exceed five (5) years. A designation may be renewed at the end of its initial term.

7.3.3 Designations under these regulations may be made pursuant to the Administrative Procedures Act, Chapter 42-35 of the General Laws of Rhode Island as amended. Such designations shall contain a brief description of the purposes for which they are being made.

7.3.4 Shellfishing and finfishing activity in a Management Area may be regulated by the Director by filing such regulation with the office of the Secretary of State. Such regulation shall take effect twenty (20) days following its filing. In case of emergency or imminent hazard found to require immediate action, the Director may issue regulations governing the taking of shellfish or finfish in a Management Area to become effective without delay. Any regulation issued under this Section shall contain an explicit description of the nature of the emergency or imminent hazard giving rise to the regulation.

7.3.5 Until and unless modified pursuant to these regulations, all Management Areas previously established by the Department shall remain in effect.

7.3.6 The Director may, where he or she reasonably believes that a delay would adversely affect the public purposes sought to be served by Title 20 of the General Laws of Rhode Island and/or would pose a danger to the public health, act to open or close any area (whether or not previously designated as a Marine Life Management Area) within the coastal waters of the State of Rhode Island to the taking of any and all types of fish, lobsters, and shellfish. In determining whether to open or close an area pursuant to this regulation, the Director shall consider what effect, if any, would be occasioned by deferring the decision to open or close such area until the next meeting of the Council. If the Director opens or closes an area without awaiting the next meeting of the Council, he or she shall:

- (A) Immediately give notice, in writing, to the Council members of his/her action, and the basis thereof;
- (B) Immediately give notice of his/her action, in a newspaper of general circulation in the area to be affected thereby; and
- (C) Place his/her decision to open or close an area on the agenda at the next scheduled meeting of the Council, for its consideration.

8. EFFECTIVE DATE

The foregoing rules and regulations "Rhode Island Marine Regulations, Part III - Marine Fisheries Council", after due notice, are hereby adopted and filed with the Secretary of State this 14th day of August, 2015 to become effective 20 days from filing, unless otherwise indicated below, in accordance with the provisions of Title 20, Chapters 42.17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35-18(b)(5), Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

Jason McNamee, Chief of Marine Resource Management
Division of Fish and Wildlife
Department of Environmental Management

Notice Given: N/A
Public Hearing: N/A
Filing date: 08/14/2015
Effective date: 08/14/2015
ERLID# 8170

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF FISH AND WILDLIFE
MARINE FISHERIES



2016 Finfish Sector Management Plan

DRAFT

DRAFT

Authority: R. I. Gen. Laws Chapter 42-17.1, Section 20-1-4, and Section 20-2.1-9, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

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INTRODUCTION

During the 2002 legislative session, the Rhode Island General Assembly adopted the Commercial Fisheries Management Act establishing a new commercial fishing license system and ending the moratorium on the issuance of new commercial fishing licenses that had been in place since 1995. To meet the purposes of the act, licensing regulations developed by DEM in 2002 created two endorsement categories for finfish: *Restricted* and *Non-Restricted*. The *Restricted* category is comprised of those finfish species in which commercial access to the fishery is limited (i.e., restricted); while species in the *Non-Restricted* category are available to all participants. Pursuant to RIGL §20–2.1-9, fisheries identified for consideration of restricted access are those “for which there is adequate or greater than adequate harvesting capacity currently in the fishery”, or are managed under a state quota system to prevent over-fishing. Hence, this management plan has been developed to identify those fisheries where access will be limited and those for which additional effort is warranted and new licenses may be issued pursuant to RIGL §20–2.1-9(5).

As stated in RIGL §20-2.1-2, the licensing regulations should seek to “*preserve, enhance, and allow for any necessary regeneration of the fisheries of the state, for the benefit of the people of the state, as an ecological asset and as a source of food and recreation*” and to “*provide Rhode Islanders who wish to fish commercially the opportunity to do so, and end the moratorium on issuance of new commercial fishing licenses so that new licenses may be issued.*” and “*respect the interests of residents who fish under licenses issued by the state and wish to continue to fish commercially in a manner that is economically viable.*” This plan will be updated annually and the list of restricted/non-restricted species evaluated with respect to stock status, current performance of the fishery, and quotas. In order to attain sustainable levels of effort (i.e. those effort levels that can be maintained while keeping fisheries open with economically viable possession limits), the number of restricted finfish licenses renewed will be reviewed annually in consideration of exit-entry ratios needed to maintain desired levels of effort.

One of the primary outcomes of the plan and management tools implemented to manage the fisheries is that of exit/entry ratios, or the number of new entrants allowed into the fishery when an existing license is not renewed. Any recommended exit/entry ratios are also provided in proposed accompanying Licensing regulations, which provides for public comment at a required public hearing. Proposed regulations and exit/entry ratios then go before the RI Marine Fisheries Council, a body of eight (8) members appointed by the governor to provide recommendations on marine fisheries regulations, before the DEM Director renders her final decision.

This management plan is developed in support of commercial licensing pursuant to RIGL 20-2.1-9(5) and will be updated annually.

RESTRICTED FINFISH ENDORSEMENT

The primary goals for quota-managed fisheries are to maintain open seasons while maintaining possession limits that are economically viable for the industry, and results in fewer regulatory discards. Due to the multi-species nature of the fishing industry however, increased effort may result in shorter seasons and an increase in such discards, as many quota-managed species are captured during closed seasons or those species when targeting species that are open for harvest.

Several questions need to be answered prior to increasing effort in these fisheries. First, have management goals been realized with current management? With current levels of effort there is a minimum quota amount needed to attain these goals, which raises a second question. Have any of the quotas in recent years been adequate to meet these goals, and what will future quotas be? Finally, would increasing effort negatively impact current license holders through shorter seasons and lower possession limits?

At this time, five (5) finfish species are included in the restricted category: striped bass, scup, summer flounder, black sea bass, and tautog. Two other species (menhaden and monkfish) have been considered for inclusion in this category, however restrictions were achieved through other methods including gear endorsements (menhaden) and management plan changes (monkfish). All species for which the state is allocated a quota are categorized as restricted, with the exception of bluefish, since the quota has been greater than harvest levels since the quota was established.

Summarized below are the stock status reports, management programs, and performance reports of species currently included in the restricted finfish category.

SUMMER FLOUNDER

Stock Status: In 2015, the stock assessment and biological reference points for the summer flounder stock were updated and reviewed through an update assessment process. The update assessment results, using a statistical catch-at-age modeling approach, indicated that the summer flounder resource is not experiencing overfishing but is overfished relative to the established biological reference points in 2014. The summer flounder stock is defined as overfished if the stock's SSB falls below the biomass (SSB) threshold, currently defined as $\frac{1}{2}SSB_{MSY} = 68.78$ million lbs. The SSB for 2014 was estimated to be 88.90 million lbs. This is 35% below the SSBtarget = 137.55 million lbs. The overfishing definition for the summer flounder stock is defined as $F_{msy} = 0.31$. The 2014 fishing mortality rate estimate ($F_{2014} = 0.359$) is above the fishing mortality reference point. Fishing mortality in 2014 may have been higher, as a retrospective analysis indicated that the current assessment method tends to underestimate F in recent years.

Management Program: In state waters, DEM manages summer flounder in consultation with the RI Marine Fisheries Council (RIMFC). Regional management of summer flounder is the shared responsibility of Mid-Atlantic Fishery Management

Council (MAFMC) and Atlantic States Marine Fisheries Commission (ASMFC). Existing DEM regulations provide a framework to manage the annual summer flounder quota allocated to RI through possession limits and seasons. The total commercial quota was allocated into three sub-periods based on the proportion of catches during the years 1980 through 1989. The original management plan in state waters had four sub periods. These percentages and sub-periods were altered in 2007 by combining the two summer sub-periods and combining the historical summer allocation, giving this period (May–October) a 35% allocation, leaving the winter 1 period allocation at 54% (January – April) and the winter 2 period allocation at 11% (November – December). Another management change in 2007 was the inclusion of an aggregate landings program in the summer sub-period. The 2007 management plan as described above was maintained during 2008 through 2014 when a further modification was put in place, which shortened the summer sub period (now ends on September 15) to better align with the residence time of summer flounder in state waters as well as providing a better opportunity to remain open at 100 pounds per day during this sub period.

In RI, management of the fishery for summer flounder has been difficult and the subject of frequent allocation disputes. Larger trawl vessels prosecute the winter commercial fishery offshore. During the summer, smaller trawl vessels, floating trap, gill net, and rod and reel fishermen direct their efforts on this species inshore, along with a substantial recreational fishery. Frequent possession limit reductions and closures are enacted by the RIDFW during each sub-period to keep RI landings within the quota allocated by MAFMC and ASMFC (Table 2a, b).

DEM implemented a Summer Flounder Exemption Program in 1995 to limit the number of vessels that could participate in the directed fishery, based upon their historical participation. At that time, a 200-pound limit was established for anyone who did not qualify for participation in the Exemption Program. Due to the stock biomass in the near shore waters and the number of license holders eligible to direct on the summer flounder fishery, the spring and summer sub-periods have been fully exhausted, even with low trip limits of 100 to 50 pounds.

Performance of Fishery and Quotas: Under current levels of effort, the summer flounder fishery has been frequently closed or dropped to low possession limits in recent history. The season most affected has been the summer because of the allocation available coupled with many participants. The proportion of summer flounder taken by different gear types during the summer months has changed over the past few years. The percentage harvested by otter trawl has declined each year during the period 1996 to 2000 while the proportion taken by all other gear types has increased with the greatest increase occurring for the rod and reel sector. As a result, the performance of the fishery has also changed over the years. In 2004, the RIMFC shifted the allocation by adding the additional quota of 469,653 pounds to summer I sub-period in order to maintain the fishery year around. This allocation succeeded in keeping the fishery open for the entire year. In 2005, rather than adding extra pounds to the first summer sub-period, an equal split of the summer allocation was implemented. It was thought that with the increase in quota in 2005, the fishery could remain open under this

regime. The summer flounder quota remained open for the entire 2005 season. Due to several factors in 2006, including the complete utilization of the winter I quota and a decreased state quota allocation, the summer flounder summer fishery saw both a possession limit decrease and a fishery closure. This was also the case in 2007 and 2008 due to a large decrease in quota for these years, while effort remained high on this species. The moderate increase in quota for 2009 was not enough to prevent premature closures in the late summer and early fall time period. The 2010 fishing year remained open with a possession limit decrease. The 2011 fishing season remained open all year with no possession limit decreases (and in fact there were several possession limit increases through the summer and fall). During 2012 there also was no closure but a shorter possession limit decrease was enacted during the summer sub period. The 2013 and 2014 fishing years remained open with one downward modification to the possession limits to prevent an early closure. Finally, in 2015 the summer sub period has remained open to date, and is projected to be fully harvested without a closure, though a drop to 50 lbs was needed to maintain an open fishery.

The quota for 2016 has been reviewed by the MAFMC's SSC (Table 3). The quota will see a significant decrease of 28% in 2016. With careful management of the quota during the summer months, the 2015 quota may be able to sustain an open fishery all year with no weekly closed days, but extended possession limit decreases will likely be needed in 2016.

DFW Recommendation: Maintain effort at or below current levels and maintain as a restricted species.

SCUP

Stock Status: The scup stock is not considered overfished and overfishing is not occurring. As for summer flounder, the scup stock is assessed using a statistical catch-at-age model. A benchmark assessment was undertaken in 2015 and this model indicated that the 2014 SSB level for the scup stock is 403.27 million pounds, well above the SSB target of 192.47 million pounds. SSB is projected to remain above the target as indicated in the most recent assessment information. The overfishing definition for the scup resource is defined as the fishing mortality (F) $F_{40\%} = F_{msy} = 0.220$. The most recent terminal year reference point from the stock assessment update for scup concluded that overfishing was not occurring with $F_{2014} = 0.127$ (NEFSC 2015).

Management Program: In state waters, DEM manages scup in consultation with the RI Marine Fisheries Council (RIMFC). Regional management of scup is the shared responsibility of the MAFMC and ASMFC. The scup Fishery Management Plan (FMP) sets annual quota specifications into three sub-periods. During the two winter sub-periods (January – April and November – December), the quota is available coast wide and is restricted through the implementation of trip limits. In 2014, RI moved scup during these winter periods to a non-restricted category. A state-by-state quota system is in place for the summer sub-period (May 1 – October 31), whereby quotas are distributed to the states based upon their percentage share of commercial landings for the period

May through October 1983–1992. RI further divides the state quota into a general category allocation (40%) and a fish trap allocation (60%). Scup remains in the restricted category during the summer months due to the constraint of the state quota.

Performance of Fishery and Quotas: Efforts to keep the scup fishery open throughout the summer period in the past had proven to be difficult due to the number of licensees who have open access to the fishery. A weekly limit was instituted in 2003 and beginning in 2004 the fishery remained open for the entire season. The 2015 quota has been sufficient to keep the fishery open throughout all of the sub-periods under the current management plan as of the date of the writing of this document, though a possession limit decrease was needed to keep the fishery open in 2015. This decreased possession limit was needed because the floating fish trap sector harvested much more of their allocation in 2015, thereby minimizing the amount of rollover pounds moved in to the general category fishery. The program for scup in state waters has performed well for the past several years, remaining open for the entire period, though quota transfers were needed from the floating fish trap sector to keep the general category open due to high catch rates.

The floating fish trap sector has harvested 36% of its quota so far in 2015. Through consultation with the floating fish trap operators, portions of the floating fish trap quota has been rolled in to the general category scup fishery throughout the sub periods to provide the opportunity for the entire commercial sector to harvest its scup allocation for 2015. As of the date of this report, 47% of the floating fish trap quota has been rolled in to the general category fishery.

The quota for 2016 has been reviewed by the MAFMC (Table 3). The quota will be less than the quota seen in 2015 by 1%. Catch rates in 2015 were high as of the writing of this document, but the quota so far has been adequate to maintain an open fishery, though a possession limit adjustment was needed to keep the first sub period open.

DFW Recommendation: Maintain effort at the current level during the summer state quota period to account for potential high catch rates in subsequent years that are scheduled to have quota decreases, which will work towards keeping the fishery open all year; and remove scup from the restricted species category during the winter sub-period where the quota is managed by the federal government, which would then allow for scup to be landed during this federal period without adverse impacts to RI's quota.

TAUTOG

Stock Status: The ASMFC Tautog Technical Committee completed the most recent benchmark stock assessment of tautog in 2015 (ASMFC 2015). This assessment was approved for management use, and is the first approved assessment to create regionally discrete assessments for this stock. As of this writing the stock units are still being debated, but RI will end up in a northern region, and the results of each northern region configuration indicate that fishing mortality rates have increased in recent years and is currently above the overfishing threshold. The northern region assessment

indicated low biomass. The current biomass is well below the SSB threshold. Exact numbers for these metrics will be available in 2016, but are not settled as of this writing due to the regional configuration of the northern region not being set at this point (northern region may or may not include CT). The main contributor to the fishing mortality rates appears to be recreational landings, which comprised approximately 75–90% of total landings over the past six years when viewed coastwide. Rhode Island is at the higher end of that range comprising approximately 90% of the landings coming from the recreational sector.

A regional approach to tautog management was approved by the ASMFC in 2008, allowing MA and RI to assess the tautog stock in the two state's waters. Even though this regional assessment allowed for a status quo management scenario, MA and RI decided on a proactive approach and did implement reduction measures in 2008. Despite these reduction measures the tautog stock continues to be subject to high recreational landings specifically in Rhode Island in the fall months.

Commercial landings have not risen appreciably since plan implementation in RI due to the constraint of a quota.

Management Program: The tautog resource is managed within state waters by the DEM with advice from the RIMFC. Regional management of the tautog resource is conducted by ASMFC through Addendum VI to the Tautog FMP, which was adopted in 2011. The FMP in part requires a reduction in fishing mortality in order to achieve an appreciable increase in spawning stock biomass. States were required to implement regulations that meet the required reductions by the start of their respective fisheries in 2012. The state commercial quota has not increased over the past few years. The commercial fishery in Rhode Island is managed through a combination of seasons, quotas, and possession limits. Although it is not specifically required by the FMP, Rhode Island established a commercial quota, which in part achieves the fishing mortality targets required by the FMP. In 2015, the commercial quota of 51,348 pounds was divided equally into three seasons with a daily possession limit of 10 fish.

Performance of Fishery and Quotas: A substantial increase in the quota would be needed to keep the commercial tautog fishery open throughout the defined seasons. This does not seem to be a realistic goal as the dynamics and size of this stock may never allow for a long open season with a large quota. Current fishing effort levels are clearly above the fishing power needed to harvest the quota with current possession limits and seasons. The spring quota remains difficult to manage due the imbalance of effort and allowable landings resulting in overages and high discard mortality, though with increased reporting accuracy and timeliness from RI seafood dealers, the spring sub period in recent years had only small overages relative to past years performance.

The commercial quota in 2016 will be the same as in 2015, minus any needed adjustments for overages.

DFW Recommendation: Maintain effort at or below current levels and maintain as a restricted species.

STRIPED BASS

Stock Status: The 2013 benchmark stock assessment of the Atlantic coast striped bass stock showed that the stock is not overfished and overfishing is not occurring (ASMFC 2013). The 2013 benchmark stock assessment incorporated changes and additions recommended by the 2007 benchmark review committee and used a statistical catch-at-age (SCA) model with data through 2012. The assessment, approved by the Board in 2013, proposed new fishing mortality (F) reference points to be consistent with the spawning stock biomass reference points. Total F was estimated to be $F=0.20$, between the newly proposed threshold and target levels, $F=0.219$ and $F=0.18$ respectively. Female spawning stock biomass (SSB) was estimated to be at 128 million pounds, above the threshold and below the target, 127 million pounds and 159 million pounds respectively (ASMFC 2013). Overall the assessment concluded that if the current fishing mortality rate is maintained through 2017, there is an increasing probability that the SSB will drop below the threshold (stock overfished) until 2015-2016 where the probability begins to decrease (ASMFC 2013).

In 2015 the Striped Bass technical committee is working to develop fleet-specific fishing mortality reference points for each of the three fleets in the SCA model (Chesapeake Bay, Ocean, and commercial discards). These reference points as well as the 2015 update assessment will be reviewed by the Striped Bass Management board in November of 2015. These fleet specific reference points, if approved for management, will ensure that the impact of the Chesapeake Bay and ocean fleets on the coastwide stock remains sustainable.

Management Program: Striped bass are managed by ASMFC through Amendment 6 to the interstate FMP, which requires minimum sizes for the commercial and recreational fisheries, possession limits for the recreational fishery, and state quotas for the commercial fishery (ASMFC 2003). Addendum 1 to Amendment 6 was approved in November of 2007. In November of 2010 the Striped Bass Management board approved Addendum 2 to Amendment 6 which keeps the coast wide Striped Bass quota at status quo, 70% of historical harvest levels. Addendum 2 redefines the juvenile recruitment data triggers and calculation methods and requires management action if there is recruitment failure for three years in a row. Addendum III to Amendment 6 was approved by the Striped Bass management board in August of 2012 to address the illegal harvest of Striped Bass and makes commercial Striped Bass tagging programs for Atlantic coast states mandatory. Addendum IV to Amendment 6 was approved by the Striped Bass management board in October of 2014. Addendum IV adopted new fishing mortality reference points and adopted new recreational and commercial management measures in order to reduce fishing mortality to at least the target. These management measures were implemented by states in 2015.

Regulations for the commercial striped bass fishery in Rhode Island include minimum sizes, possession limits, gear restrictions, seasons and quotas. The RI commercial quota is divided between two sectors, floating traps (39%) and a general category (61%). The quota for the general category, primarily rod and reel, was made available during two seasons during 2015. The first season was allocated 70% of the quota and the second season was allocated the remaining 30% of the general category quota. The floating fish trap fishery operators worked in a collaborative manner to manage their allocation with just one season in 2015 and no possession limits, but with very stringent reporting requirements.

The management plan for the general category striped bass fishery was modified in 2007. The commercial possession limits changed to a per vessel limit of 5 fish (as opposed to the per person possession limits of the past). A two-day per week (Friday/Saturday) closure was also implemented in 2007. Both of these industry supported changes were an effort to keep the season open longer than what has been the case for the recent past. In 2015, the recreational bag limit for striped bass was reduced to 1 fish per person per day and the commercial quota was reduced by 25% per Addendum IV. The floating fish traps applied for conservation equivalency in 2015 and took an additional 1.61% quota reduction in order to maintain a reduced size limit of 26".

The management plan for the general category striped bass fishery was modified in 2014 to change the start date of the commercial season for the floating fish traps to April 1st and to allow DFW to rollover any unused portion of the floating fish trap quota as they deemed fit beginning October 15. This rollover provision is intended to allow for the full harvest of the RI striped bass quota in the event that the floating fish traps are unable to harvest their entire quota in a given year.

Performance of Fishery and Quotas: The striped bass general category quota is split between two seasons with both seasons closing prematurely once the quota has been reached. The RI commercial striped bass quota for the general category in 2015 is 111,459pounds. The quota was split between two seasons with 70% allocate to the first season and 30% for the second season. So far in 2015 the first sub-period quota was fully harvested in 20 days and had an overage of 2,266 pounds. Max landings per day during this sub-period were ~8,000 pounds and therefore there was not sufficient quota remaining to re-open the fishery for another day. At the time of this report writing the second sub-period has ~31,000 pounds to be harvested and will open on September 8th. The floating fish trap quota is 70,113 pounds in 2015, of which 51,923 pounds has been harvested at the time of this report writing.

DFW Recommendation: Maintain effort at or below current levels and maintain as a restricted species.

BLACK SEA BASS

Stock Status: The black sea bass stock is no longer considered overfished and overfishing is not occurring. Previously, the black sea bass resource was defined as overfished when the three-year average of the spawning stock biomass (SSB) index, based on the NEFSC spring survey, was below the threshold biomass index. A new assessment was introduced and peer reviewed in 2008 that uses a forward projection modeling technique called SCALE (Statistical Catch at Length). A new benchmark assessment was initiated in 2011. The new assessment did not pass peer review; therefore the last peer reviewed assessment is the metric by which stock status is measured. Despite the improved stock status, the MAFMC Science and Statistical Committee (SSC) instituted a constant catch management approach given the guidance from their risk policy. They consider the black sea bass stock a level 4 stock, therefore the SSC produces an OFL (overfishing limit) and ABC (allowed biological catch) based on their control rules for their level 4 stocks. The findings were reassessed in 2014. The SSC did not change their opinion of the current stock assessment model and its ability to determine an OFL, therefore a strategy of constant catch was approved for both 2014 and 2015. A new method for assessing the SSC level 4 stocks was introduced in 2015, this method is still under review, but could potentially result in increased quotas for 2016. In parallel with the new data poor approach, a new benchmark assessment has been initiated and should be completed at the end of 2016 for potential use in 2017 management.

Management Program: The black sea bass stock is managed jointly by ASMFC and MAFMC. Amendment 13, which became effective in 2003, established a state quota system. Rhode Island's share of the commercial coastwide quota is 11%. Through advice from the RIFMC and the industry, DEM adopted regulations to allocate a percentage of the commercial quota into five seasonal sub-periods. The regulations also specified possession limits within each season.

Performance of Fishery and Quotas: The RI commercial fishery closed prematurely in each sub period to date in 2015 due to the quota remaining at low levels. This trend is expected to continue in to 2016, pending the outcome of the data poor approach noted above. RI's quota in 2015 was 238,783 pounds. The quota for 2016 will remain close to the quota allowed for in 2015 if the new data poor approach is not approved by the SSC. Any expansion of effort at this time would hinder DEM from meeting its objective of keeping the fishery open throughout the year under reasonable possession limits, and in fact until the quota increases for this species, in-season closures will be common.

DFW Recommendation: Maintain effort at or below current levels and maintain as a restricted species.

LICENSING OPTIONS AND RECOMMENDED EXIT/ENTRY RATIOS

DFW Recommendations: To protect against increasing effort on decreasing or stagnant quotas, **DFW recommends to not dramatically increase effort on any of the restricted species, but to allow effort to be maintained at current levels, or, in the case of scup, to continue to allow modest increases in effort.** Since active licenses left the fishery in 2015, DFW feels that replacing these licenses would be warranted, as data indicates introducing a small number of restricted endorsements in a cautious manner does not dramatically impact effort in a given year, thereby meeting the intent and goals of the legislature per RIGL 20-2.1-2. In 2015, there were a total of 1,055 license holders eligible to harvest the restricted finfish species; with 3 new restricted finfish endorsements issued (Table 1). For the 2016 fishing season, DFW recommends allowing restricted endorsements to be issued to current license holders, as the new endorsements issued for 2015 did not negatively impact restricted species quotas and as 19 licenses allowing harvest of restricted finfish were not renewed.

The decision to issue 3 new restricted finfish endorsements was based on DFW's assessment of the restricted finfish species, deliberations with the RIMFC, and requirements set forth in statute. An exit/entry ratio was established at 1:1 (for every 1 active licenses not renewed, 1 new restricted finfish endorsement was issued) in order to allow some new entrance into the restricted finfish category as well as replace some effort that had presumably exited the fishery. The ratio was set up to be reflective of both current fishing effort on the restricted finfish species and assuming that the latent effort was accounted for with the activity requirement of the license. Of these 19 licenses that were not renewed, only 6 had fishing activity. Constraining the new license opportunities to those that were retired and had some activity protects against dramatic increases in effort. **DFW therefore recommends an exit/entry ratio of 1:1 to be maintained for the restricted endorsement category for the 2016 fishing year.**

Of the non-renewals mentioned above, 6 had some level of fishing effort (based on 2014 landings data from SAFIS). The catch rates of the 2015 restricted finfish species were similar to the rates in 2014; therefore the increase in licenses made available in 2015 did not translate into a noticeable increase in effort on these species. The quota allocated to RI in 2016 for a few of the restricted finfish and quota species (i.e., black sea bass, tautog, and scup) are assumed to be equal to or less than in 2015.

RI Marine Fisheries Council: The **Industry Advisory Committee (IAC)** of the RIMFC met on July 21, 2015 and recommended status quo of 1:1 exit/entry ratio for restricted finfish category in 2016, which would result in 6 new PEL licenses with a Restricted Finfish Endorsement to be made available for 2016. **The RIMFC met on October 5, 2015 and recommended.....**

NON-RESTRICTED FINFISH ENDORSEMENT

Species included in the non-restricted category include all species of regulated finfish that are not included in the restricted category. Entry into this endorsement category is currently open to all RI residents. Three additional species; menhaden, cod, and monkfish, have self-imposed quotas applied to them in RI state waters. Summarized below are the stock status reports, management programs, and performance reports of species currently included in the non-restricted finfish category. All of these species are currently managed through a state quota system, with the exception of winter flounder.

WINTER FLOUNDER

Stock Status: In 2011, the NEFSC conducted the Northeast Regional Stock Assessment Workshop (SAW 52) and updated the Southern New England/Mid-Atlantic (SNE/MA) complex of winter flounder stock assessment. The previous assessment was completed in 2008 at GARM3 (NEFSC 2008). Results from SAW 52 concluded that the Southern New England/Mid-Atlantic (SNE/MA) winter flounder stock complex is overfished but overfishing is not occurring (NEFSC 2011). An update to winter flounder stocks was carried out in 2014 but not for the SNE/MA stock unit.

The 2011 SAW52 assessment applied a version of an Age Structured Assessment Program (ASAP CAT10), which is an age-structured model that uses forward computations assuming fishing mortality is separated into year and age components to estimate population sizes given observed catches, catch-at-age, and indices of abundance. The workgroup concluded this model was more advanced and flexible than the Virtual Population Analyses (ADAPT VPA vers. 2.8.0) used for the GARM3 2008 assessment. A significant change coming from SAW52 was a change in the value for natural mortality (M) for all three stock groups of winter flounder (including SNE) from 0.2 to 0.3. The change in M is supported by literature values taken from tagging studies and life history equations (NEFSC 2011). Furthermore when the new M value of 0.3 is applied to the ASAP CAT10 model, the retrospective errors that required that the data series be split between 1993 and 1994 were reduced to acceptable levels allowing all data to be considered in one model run. It should be noted that changing the M value from 0.2 to 0.3 results in a downward shift in fishing mortality (F) as well as an upward shift in spawning stock biomass (SSB).

Results from the ASAP CAT10 model estimated fishing mortality (F) in 2010 to be 0.051, well under (17%) the FMSY = 0.310 as well as below (16%) F40% = 0.327. SSB in 2010 was estimated to be 7,076 mt, about 21% of SSBMSY = 33,820 mt and 24% of SSB40% = 29,045 mt. There is an 80% probability that in 2010 F and SSB were between 0.04 and 0.06 and 6,433 mt and 8,590 mt, respectively. Projections at F in 2012-2014 = F = 0.00 indicate a <1% chance that the stock will rebuild to SSBMSY = 38,761 mt by 2014). Nonetheless, substantial increases in SSB can be achieved if F can be kept under 0.248.

Based in part on the high site fidelity of winter flounder and long history of state landings from RI, DFW assessed the local winter flounder stock within state waters in 2011 (M.R. Gibson, DFW Marine Fisheries, unpublished data). A new approach was used for a

local benchmark assessment which examines the impacts of fishing and climate change through the lens of historical stock analysis. DFW determined that the fishing mortality rate in 2010 was below the calculated FMSY = 0.20 and found to be $F = 0.09$, thus overfishing is not occurring. The FMSY calculated in 2011 accounts for rising sea temperatures reducing the sustainable F rate by 50% (M.R. Gibson, DFW Marine Fisheries, unpublished data). Estimates of biomass have fluctuated over the time period 1959–2010, with two peaks occurring in the mid-to late-1960s and early 1980s, but showed a steady decline from 1983-1993, with the estimate for 1993 being the lowest in the time series. Estimates of biomass have remained well below the 2010 calculated BMSY = 5,849 mt since 1988, despite a slight increase between 1994 and 1995. In 2010 the biomass estimate was calculated as 1034 mt indicating that the local stock is still overfished.

Management Program: The NEFMC manages the winter flounder resource through the Northeast Multispecies (Groundfish) Fishery Management Plan. Under the NEFMC Framework 50 for groundfish for the 2015-2016 fishing year, harvest of winter flounder is allowed in the federal SNE/MA stock management area, and federally permitted vessels who are in a sector are allowed to fish with no limit until they reach their sector allowable catch limit. Federally permitted vessels which are in the “common pool” have a 3,000 lb/vsl/day 6,000 lbs/vsl/trip limit which is adjustable by the NMFS regional administrator. The SNE/MA management area remains open to common pool vessels until the allowable catch limit is reached. Federally permitted vessels may transit RI state waters with a federal possession limit as long as their gear is stowed.

At the state level, ASMFC manages the inshore winter flounder stocks through Addendum 1 to Amendment 1 to the interstate fishery management plan for inshore stocks of winter flounder. The current commercial possession limit for state waters is 50 lbs/vsl/day. There are also minimum fish size limits and mesh size restrictions per the requirements of Addendum 1 to the ASMFC FMP. During 2011 DEM extended the area closed to winter flounder fishing to include Point Judith Pond, the Harbor of Refuge, and Potters Pond. Both young of the year and adult spawning indices are at historic lows, the closure aims to protect a recovery of the population in the pond due to the SNE closure (Gibson 2010). In order to maintain a stream of commercial landings for assessment purposes, RI adopted a 50 pound possession limit in the RI coastal ponds (with the exception of Point Judith Pond, the Harbor of Refuge, and Potters Pond) and all state waters, except in Narragansett Bay north of the Colregs line where harvest or possession of winter flounder is prohibited. It should be noted the recreational management measures for winter flounder also reflect an effort to greatly reduce F. The recreational size and bag limit for winter flounder in 2015 remained 12 inch size and 2 fish / person/day limit. The season was extended in 2014 and now runs from March 1st to December 31st. Management of the commercial sector changed in 2013 resulting in winter flounder being removed from the restricted species list. This change allows winter flounder to be harvested in state waters and landed at state ports by commercial fishing license (CFL) holders. The change also allows transit across state waters to land at state ports by resident and non-resident landing licenses. The rationale for this change was to facilitate federally permitted groundfish vessels to land

all of their catch in Rhode Island. Winter flounder was the only groundfish species on the state restricted list, typically these vessels have a whole suite of other groundfish to land including winter flounder. Winter flounder does not operate under a state quota system so this change should not greatly impact fishing practices.

Performance of Fishery and Quotas: A state quota has not existed since 2006.

DFW Recommendation: DFW recommends considering changes in management to allow more liberal commercial possession limit in state waters. Any changes in state waters management would be the result of and in accordance with an increased allowable catch limit allotted to states from the ASMFC Winter Flounder Management Board.

BLUEFISH

Stock Status: The 2014 stock assessment update indicated that the 2013 total biomass estimate for the bluefish stock is 123,716 mt, which is above the biomass threshold ($1/2 \text{ Bmsy}$) = 73,526 mt. The update also estimated that fishing mortality in 2013 was 0.118, well below the fishing mortality target (F_{msy}) = 0.19 (NEFSC 2014). A benchmark stock assessment for the bluefish was completed in 2015 and indicated the stock is not overfished and overfishing is not occurring. Biological reference points will be available in 2016 once the benchmark stock assessment has been approved for management by the MAFMC and ASMFC.

Management Program: Bluefish are managed cooperatively by ASMFC and MAFMC through Amendment 1 to the Bluefish Fishery Management Plan (MAFMC and ASMFC 1998). The Bluefish Monitoring Committee meets annually to review the most recent data and to make recommendations regarding the commercial quota, the recreational harvest limit, and other management measures. Amendment I dictates that 17% of the resource shall be allocated to commercial fisheries which are controlled through state-by-state quotas. The remaining 83% of the resource is allocated to recreational fisheries which are controlled through a 15 fish bag limit.

Performance of Fishery and Quotas: Since 1994 when states were first allocated a commercial quota for bluefish, Rhode Island has not fully harvested its allocation and the fishery has never been closed while the quota system has been in place, until 2006. In 2006 high catch rates in the fall period used up the quota and a commercial closure was implemented for the first time in RI. Since 2012, annual quota reductions for bluefish have been implemented due to a declining trend in biomass. In 2014 due to a smaller quota and high catch rates in the fall, RI requested and received a commercial transfer of 100,000 lbs to avoid a potential closure.

In 2015 the commercial bluefish quota in RI is 356,826 pounds, a 30% reduction from the 2014 quota. As of this writing ~212,000 pounds of bluefish have been harvested. Due to high catch rates in the month of July, for the first time on July 26, 2015, RI had to implement a possession limit of 1400 pounds/vessel/week to avoid a closure.

Additionally, RI requested a commercial quota transfer from several states and as of this writing has received 180,000 lbs. As a result of the imposed possession limit, catch rates dropped significantly the last week of July and even further the first week of August. This coupled with the commercial quota transfer allowed RI to increase the possession limit to 5,000 pounds/vessel/week on August 9, 2015. Weekly quota projections will continue throughout the year and additional possession limit changes may be made if warranted. The possibility of a potential closure still exists but would most likely occur in the latter part of the year when bluefish landings are minimal.

DFW Recommendation: Hold a public workshop and public hearing to discuss potential options for bluefish management in 2016 that would control harvest through possession limits and/or seasons. In the future, if effort increases and/or the quota continues to decrease, DFW will re-assess whether bluefish needs to be placed in to the restricted species category.

MENHADEN

Stock Status: Atlantic menhaden are a highly migratory species that undergo a large amount of mixing off the coast of North Carolina in the winter months. The ASMFC Atlantic Menhaden Stock Assessment Subcommittee last assessed the menhaden stock in 2015. While the assessment considered both the Beaufort Assessment Model (BAM) and Stock Synthesis 3, the BAM model was chosen for providing management advice. The model used fishery fleets broken up into areas to reflect the differences in selectivity along the coast. Starting in 1955, the model estimated population size at age and recruitment and projected forward through the most recent year of data available (2013) to estimate overall trends in recruitment, fecundity, abundance and fishing mortality. The 2015 benchmark stock assessment found the population is not overfished and overfishing is not occurring relative to the new maximum spawning potential (MSP) reference points (ASMFC, 2015). Full fishing mortality in 2013 was estimated at $F_{2013}=0.27$, a level that is below both the threshold and target levels, $F_{15\%MSP}=2.98$ and $F_{30\%MSP}=1.03$ respectively.

A final item being worked on by the Technical Committee is the consideration of ecosystem based reference points. A two day workshop is currently scheduled for 8/31-9/1 to work on developing these reference points. These reference points as well as changes to the current state-by-state quota allocations will be considered in Draft Amendment 3 to the Fishery Management Plan.

Management Program: Narragansett Bay in its entirety is designated a Menhaden Management Area through RI statute, which allows DEM to manage menhaden through the use of seasons and management areas. Purse seine fishing is allowed through the main stems of Narragansett Bay while excluding the Providence River. There are also weekend and holiday closures in the Bay for all directed fisheries. Purse seining for menhaden for use in the reduction fishery has been prohibited in RI state waters since 2003. Similar provisions exist in state waters along the entire Atlantic coast with the exception of North Carolina and Virginia, where the bulk of the reduction fishery takes

place. Purse seining for use in the bait industry is still allowed in RI as set forth above. Emergency regulations were implemented in 2007 that placed a cap on the daily landings that could occur in Narragansett Bay (75,000 pounds). The regulation also placed an overall cap on the amount of fish that could be removed from the Bay, stating that removals could not exceed 50% of the standing stock in the Bay. Once the 50% trigger is hit, the purse seine fishery closes in Narragansett Bay. The trigger is monitored through the use of a depletion model for open systems (Gibson 2007). This same management regime was conducted in 2010 with the exception of the additional gear restrictions on net size certification, vessel capacity restrictions, and a tiered approach to increasing possession limits based on the population level of menhaden in Narragansett Bay. The tiered system also includes a threshold amount of fish that needs to be present in Narragansett Bay before the commercial bait fishery can begin (1.5 million pounds). In 2013 and 2014, all of the elements mentioned above were in place with the exception of the increasing possession limits; the possession limits were kept at a static 120,000 per vessel per day. Amendment 2 required states to implement a state waters quota based on the calculations set forth in the Amendment. The state waters quota was implemented in RI waters via emergency regulation in June of 2013. This item officially went to public hearing in August 2013 and the final regulations were filed in November 2013. The quota monitoring is complex and allows for some landings to occur even after the quota is reached, though at a reduced level. It also allows for the state to opt in to an episodic event quota if certain requirements are met. RI has opted into the episodic event set-aside each year since 2013 as a result of exhausting the state quota early in the year and having a large abundance of fish still residing in state waters.

Performance of Fishery and Quotas: Since 2005, large schools of adult menhaden entered Narragansett Bay to varying degrees. As of the writing of this document, RI has fully harvested its state quota for menhaden and opted into the episodic set aside program through the ASMFC. The Menhaden Management Area is currently CLOSED to the commercial harvest of menhaden however the state waters outside of the Management Area remain open to commercial harvest. Table 4 details the events that have occurred for the commercial menhaden fishery in RI thus far in 2015.

DFW Recommendation: Allow effort to remain at or below current levels in the menhaden bait fishery and to maintain it as a non-restricted species. The approach of adding a gear endorsement was hoped to provide some protection against a large influx of effort in to this fishery, however DFW believes that these endorsements should only be made available on a renewal basis (place a moratoria on issuance of new purse seine endorsements). The current level of purse seine endorsements (2015 = 177 purse seine endorsements) has decreased slightly from the 2012 level (189 endorsements), however much of these are in-active. The current level is unsustainable should a large percentage of the existing latent effort become active, and could necessitate a history based restriction in the future.

MONKFISH

Stock Status: The federal monkfish (*Lophius americanus*) fishery is jointly managed by the New England Fishery Management Council (NEFMC) and Mid Atlantic Management Council (MAFMC), with the NEFMC having the administrative lead. The fishery is managed as two stocks, with the Northern Fishery Management Area (NMA) covering the Gulf of Maine and northern part of Georges Bank, and the Southern Fishery Management Area (SMA) extending from the southern flank of Georges Bank through the Mid-Atlantic Bight to North Carolina (NEFMC 2011). RI State waters are considered part of the SMA stock.

An operational stock assessment was completed in 2013 (NEFSC 2013b) that included two additional years survey data, revised discard estimates for 1980-2011, and overall contained minimal changes to methodological approaches used in the previous peer-reviewed SAW 50 benchmark stock assessment (NEFSC 2010e). Based on these results the SMA stock is not overfished and overfishing is not occurring. The current 2013 estimate of fishing mortality $F = 0.11$ does not exceed the updated $F_{max} = 0.37$. The 2013 corrected total biomass estimate is 88,806 mt, above both B_{target} (71,667 mt) and the 2013 corrected $B_{threshold}$ (23,204mt). Despite the revised estimates to the OFL, allowable biological catch (ABC) for the SMA remained status quo at 12,316 mt for the 2014-2016 fishing years (FY). A benchmark assessment scheduled for fall 2016.

Management Programs: Fishing mortality for the SMA monkfish stock is regulated by the NEFMC through minimum size limits, gear restrictions, and days at sea (DAS) restrictions. In an effort to meet statutory requirements to complement federal fishery management plans, RI has adopted a minimum size limit, daily possession limit, and state quota on monkfish harvested in state waters.

In December of 2011 RI increased the state quota from 1% to 3% of the SMA Total Allowable Landings (TAL). The current program consists of a state quota set at 3% of the SMA TAL (590,288 lbs) with a daily possession limit of 550 lbs tails or 1,826 lbs whole fish. The possession limit is reduced to 50 lbs tails or 166 lbs whole fish for the remainder of the fishing year when state-water landings reach 2% of the SMA TAL (393,525 lbs). The commercial monkfish fishery operates on a May 1 through April 30 FY, with a minimum size limit of 11" tails or 17" whole fish.

Performance of Fishery and Quotas: Over the previous five years total state-water landings were estimated at 99,119 lbs, 106,518 lbs, 182,443 lbs, 144,599 lbs, and 165,820 lbs for the 2009, 2010, 2011, 2012, and 2013 FY, respectively. Total state-water landings for the 2014 FY are estimated at 93,657lbs, representing 24% of the state possession limit reduction threshold (2% SMA TAL) and 16% of the state quota (3% SMA TAL). Under the current management program it appears this fishery could withstand a modest increase in effort and still provide for the directed fishery to remain open for the entire fishing year.

DFW Recommendation: Allow effort to increase above current levels and maintain in the non-restricted species category. The rationale for leaving this species in the non-

restricted category is based on the ephemeral nature of monkfish abundance in state waters and increasing state quota that should provide for a directed fishery to operate throughout the fishing year. In the future, if effort increases and/or quota decreases, DFW will re-assess whether monkfish need to be placed in to the restricted species category, or to reduce possession limits and/or seasons to control harvest.

COD

Stock Status: In June of 2013 the NEFSC completed a nearly one and one-half year review of the 2012 stock assessment for Gulf of Maine (GOM) and George's Bank (GB) cod stocks with the publication of the 55th Northeast Regional Stock Assessment Workshop (SAW 55) report (NEFSC 2013a). SAW 55 contains the most recent, comprehensive, peer reviewed stock assessment of the George's Bank (GB) cod stock (NEFSC 2008b), which is the stock relative to Rhode Island waters.

In short, the GB Cod stock is at historically low biomass and based on the results of SAW 55 (NEFSC 2013a) the current non-parametric biological reference points (BRP) for GB cod indicate that total biomass (SSB2011) is estimated at 13,216 mt and fishing mortality (F2011) is estimated at $F_{2011} = 0.43$; whereas, the biomass threshold of $\frac{1}{2}$ Bmsy is estimated at 93,268 mt (Bmsy = 186,535 mt) and the fishing mortality target Fmsy proxy (F40%) is estimated at $F_{40\%} = 0.18$. Based on the accepted model results, the stock is overfished (SSB2011 = 13,216 mt < $\frac{1}{2}$ SSBmsy = 93,268) and overfishing is occurring ($F_{2011} = 0.43 > F_{40\%} = 0.18$).

Management Programs: Atlantic cod (*Gadus morhua*) are managed under the New England Fishery Management Council's (NEFMC) Northeast Multispecies Fishery Management Plan (FMP). The Northeast Multispecies FMP contains a complex of 15 groundfish species that have been managed by time/area closures, gear restrictions, minimum size limits, and recently using a Catch Shares approach (i.e. sectors) under Amendment 16 (NEFMC 2009). Framework Adjustment 53 to the Northeast Multispecies FMP (NEFMC 2013) specified the ACL for the 2015 FY at 1,886 mt.

In an effort to satisfy statutory requirements to complement federal fishery management plans, RI has opted to impose a minimum size limit, daily possession limit, and a state quota. Other than technical changes, the current program has not changed since April of 2009 and consists of a state quota set at 1% of the Georges Bank annual catch limit (ACL) and a 1,000 lb possession limit with a possession limit reduction to 75 lbs limit when 90% of the state quota is harvested. A fishery closure is required when the quota is reached. The commercial codfish fishery operates on a May 1 through April 30 fishing year. During the 2013 commercial fishing year the commercial minimum size limit was reduced from 22" to 19" for federal consistency. The 2015 ACL for GB Cod is 1,886 mt, which converts to a 18.9 mt or 41,667 lbs RI state-water quota.

Performance of Fishery and Quotas: The state quota for cod has not been met since it's inception in 2009. Between the 2009 to 2014 FY total state-water landings have ranged from 5,233 lbs during the 2009 FY (6% of that FY state quota) to 31,868 lbs

during the 2012 FY (32% of that FY state quota). The estimated state-water landings for the 2014 FY were 5,698 lbs, representing 14% of the state-water quota. At present it appears this fishery is resource limited and total landings for a given fishing year may stay well below the state quota, despite the reduced minimum size and dramatic decrease in quota.

DFW Recommendation: Allow effort to increase above current levels and maintain in the non-restricted species category. The rationale for leaving cod in the non-restricted category is based on the ephemeral nature, as well as relatively low levels of cod abundance in state waters, relative to the state quota. In the future, if effort increases and/or quota decreases, DFW will re-assess whether cod should be moved to the restricted species category, or to reduce possession limits and/or seasons to control harvest.

LICENSING OPTIONS AND RECOMMENDED EXIT/ENTRY RATIOS

Division Recommendations: In 2015 there were 1,177 licensed issued with non-restricted finfish endorsements (Table 1. For the 2016 fishing season, DFW recommends maintaining open entry into this endorsement category, as the existing participation in 2015 did not negatively impact fishery management or quotas. The inclusion of bluefish in the non-restricted category may need to be evaluated in future years if catch rates remain high or if the quota continues to decline.

RI Marine Fisheries Council: The Industry Advisory Committee (IAC) of the RIMFC met on July 21, 2015 and recommended status quo (open access) for 2016. **The RIMFC met on October 5, 2015 and recommended.....**

LITERATURE CITED

- ASMFC (Atlantic States Marine Fisheries Commission). 2003. Amendment 6 to the interstate fishery management plan for Atlantic striped bass. ASMFC, Fishery Management Report No. 41, Washington, D.C. 81 p.
- _____. 2011b. Atlantic Menhaden Stock Assessment and Review Panel Reports – Revised. Stock Assessment Report No. 10-02 of the Atlantic States Marine Fisheries Commission, Washington, D.C. 328 p.
- _____. 2011. 2011 stock assessment report for Striped Bass. ASMFC, Stock Assessment Report, Washington, D.C. 281 p.
- _____. 2012. 2012 stock assessment update for Atlantic menhaden. ASMFC, Stock Assessment Report, Washington, D.C. 228 p.
- _____. 2015. Tautog benchmark stock assessment and peer review reports. ASMFC, Stock Assessment Report, Washington, D.C. 283 p. Can be viewed at: http://www.asmfc.org/uploads/file//54eccd8cTautogStockAssessment_PeerReviewReport_Feb2015.pdf

- Gibson, M. 2007. Estimating Seasonal Menhaden Abundance in Narragansett Bay from Purse Seine Catches, Spotter Pilot Data, and Sentinel Fishery Observations. Rhode Island Division of Fish and Wildlife, Marine Fisheries Section, Jamestown, RI. Unpublished. Can be viewed at: <http://www.dem.ri.gov/programs/bnatres/fishwild/pdf/menabnbnb.pdf>
- Gibson, M. 2010. Salt Pond Winter Flounder Fishery Issue Paper. Rhode Island Division of Fish and Wildlife, Marine Fisheries Section, Jamestown, RI. Unpublished.
- Gibson, M. 2011. Assessing the Local Population of Winter Flounder with a Two-Era Biomass Dynamic Model: A Narrower View of Southern New England. Rhode Island Division of Fish and Wildlife, Marine Fisheries Section, Jamestown, RI. Unpublished.
- MAFMC (Mid-Atlantic Fishery Management Council) and ASMFC. 1998. Amendment 1 to the bluefish fishery management plan. Publication of the MAFMC pursuant to National Oceanic and Atmospheric Administration Award No. NA57C0002.
- McNamee, J.E. 2013. Juvenile marine finfish survey: 2013. Rhode Island Division of Fish and Wildlife, Marine Fisheries Section, Jamestown, RI. Annual Performance Report to the U.S. Fish and Wildlife Service, Project No. F-61-R.
- NEFSC (Northeast Fisheries Science Center). 2005a. Assessment of 19 northeast groundfish stocks through 2004. 2005 Groundfish Assessment Review Meeting (2005 GARM), Northeast Fisheries Science Center, Woods Hole, Massachusetts, 15–19 August 2005. NEFSC Reference Document 05-13. 499 p.
- _____. 2005b. Report of the 41st Northeast Regional Stock Assessment Workshop (41st SAW): Stock Assessment Review Committee (SARC) Consensus Summary of Assessments. NEFSC Reference Document 05-14. 246 p.
- _____. 2007. Northeast Data Poor Stocks Working Group. 2007. Monkfish assessment summary for 2007. US Dep Commer, Northeast Fish Sci Cent Ref Doc. 07-13; 12 p.
- _____. 2008a. Report of the 47th Northeast Regional Stock Assessment Workshop (47th SAW): 47th SAW assessment summary report. NEFSC Reference Document 08-12a. 339 p.
- _____. 2008b. Assessment of 19 Northeast Groundfish Stocks through 2007 Report of the 3rd Groundfish Assessment Review Meeting (GARM III). NEFSC Reference Document 08-15. 884 p.
- _____. 2008c. Report of the 46th Northeast Regional Stock Assessment Workshop (46th SAW): 46th SAW assessment summary report. NEFSC Reference Document 08-01. 32 p.
- _____. 2009. Amendment 16 to the Northeast Multispecies Fishery Management Plan. New England Fishery Management Council, Newburyport, MA.
- _____. 2009. The Northeast Data Poor Stocks Working Group Report, December 8-12, 2008 Meeting. Part A. Skate species complex, deep sea red crab, Atlantic

- _____. 2009. Monkfish, scup, and black sea bass. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 09-02; 496 p.
- _____. 2010. 50th Northeast Regional Stock Assessment Workshop (50th SAW) Assessment Report. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 10-09; 57 p.
- _____. 2011. 52nd Northeast Regional Stock Assessment Workshop (SAW 52) “Southern New England/Mid Atlantic (SNE/MA) Winter Flounder: Stock Assessment for 2011” 2011 Stock Assessment Review Meeting, Northeast Fisheries Science Center, Woods Hole, Massachusetts, 6 – 10 June 2011. NEFSC Reference Document (under review). 196 p.
- _____. 2011a. Amendment 5 to the Monkfish Fishery Management Plan, Incorporating Stock Assessment and Fishery Evaluation (SAFE) Reports for the 2007 & 2008 Fishing Years and the Environmental Assessment, September 20, 2010; Updated January 14, 2011.
- _____. 2011b. Striped Bass Stock Assessment Update for 2011. US Dept Commer, Northeast Fish Sci Cent Ref Doc.; 207 p.
- _____. 2012. Bluefish Stock Assessment Update for 2011. US Dept Commer, Northeast Fish Sci Cent Ref Doc.; 36 p.
- _____. 2013. Framework Adjustment 53 to the Northeast Multispecies Fishery Management. New England Fishery Management Council, Newburyport, MA.
- _____. 2013a. 55th Northeast Regional Stock Assessment Workshop (SAW 55) Assessment Report. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 13-11; 849 p.
- _____. 2013b. Monkfish Assessment Update (PRE-PUBLICATION COPY). May 9, 2013. 121 p. < <http://www.nefmc.org/monk/cte%20mtg%20docs/130529-30/pre-publication%20copy%20monkfish%20assessment%20update%202013.pdf>>
- _____. 2013c. 57th Northeast Regional Stock Assessment Workshop (57th SAW) Assessment Report. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 13-16; 967 p
- _____. 2015. 60th Northeast Regional Stock Assessment Workshop (57th SAW) Assessment Report. US Dept Commer, Northeast Fish Sci Cent Ref Doc. 15-08; 967 p
- Olszewski, S. 2013. Coastal fishery resource assessment trawl survey: 2013. Rhode Island Division of Fish and Wildlife, Marine Fisheries Section, Jamestown, RI. Annual Performance Report to the U.S. Fish and Wildlife Service, Project No. F-61-R.
- SEDAR. 2015. SEDAR 40 – Atlantic Menhaden Stock Assessment Report. SEDAR, North Charleston SC. 643 pp.

Shepherd, G. 2012. Black Sea Bass Stock Assessment Update for 2011. US Dept Commer, Northeast Fish Sci Cent Ref Doc.; 24 p.

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TABLES

Table 1. Historical commercial license counts.

License Type	2010	2011	2012	2013	2014	2015
MULTI-PURPOSE LICENSE	887	867	853	829	816	804
<i>GILLNET ENDORSEMENT</i>	241	236	233	227	221	218
<i>DOCKSIDE SALE ENDORSEMENT</i>	272	261	251	241	236	236
<i>MIDWATER/PAIR TRAWL ENDORSEMENT</i>	123	124	131	132	133	137
<i>PURSE SEINE ENDORSEMENT</i>	136	137	139	134	134	129
<i>RESEARCH SET ASIDE ENDORSEMENT</i>				22	13	0
PRINCIPAL EFFORT LICENSE	735	713	690	655	615	593
<i>LOBSTER ENDORSEMENT</i>	38	37	36	30	27	21
<i>NON-LOBSTER CRUSTACEAN ENDORSEMENT</i>	22	28	33	35	36	33
<i>QUAHOG ENDORSEMENT</i>	450	422	398	376	347	340
<i>RESTRICTED FINFISH ENDORSEMENT</i>	248	258	266	262	258	251
<i>NON-RESTRICTED FINFISH ENDORSEMENT</i>	127	127	131	135	133	130
<i>SOFTSHELLED CLAM ENDORSEMENT</i>	304	284	256	235	204	194
<i>WHELK ENDORSEMENT</i>	0	0	146	118	79	62
<i>DOCKSIDE SALE ENDORSEMENT</i>	14	16	13	13	12	11
<i>MIDWATER/PAIR TRAWL ENDORSEMENT</i>	5	9	9	8	9	7
<i>PURSE SEINE ENDORSEMENT</i>	5	7	8	7	6	5
<i>OTHER SHELLFISH ENDORSEMENT (replaces non-quahog endorsement)</i>	265	249	225	211	186	177
<i>RESEARCH SET ASIDE ENDORSEMENT</i>	0	0	0	3	1	0
COMMERICAL FISHING LICENSE	449	394	398	420	404	412
<i>LOBSTER ENDORSEMENT</i>	19	17	16	15	14	14
<i>NON-LOBSTER CRUSTACEAN ENDORSEMENT</i>	119	120	114	100	101	95
<i>QUAHOG ENDORSEMENT</i>	127	141	158	165	181	189
<i>RESTRICTED FINFISH ENDORSEMENT</i>	18	0	0	0	0	0
<i>NON-RESTRICTED FINFISH ENDORSEMENT</i>	273	238	252	256	240	243
<i>SOFTSHELLED CLAM ENDORSEMENT</i>	191	175	174	163	155	148
<i>WHELK ENDORSMENT</i>	0	0	109	92	75	65
<i>DOCKSIDE SALE ENDORSEMENT</i>	22	20	16	14	16	16
<i>MIDWATER/PAIR TRAWL ENDORSEMENT</i>	39	31	40	46	39	39
<i>PURSE SEINE ENDORSEMENT</i>	28	28	42	40	42	43
<i>OTHER SHELLFISH ENDORSEMENT (replaces non-quahog endorsement)</i>	206	201	171	160	149	152
<i>RESEARCH SET ASIDE ENDORSEMENT</i>	0	0	0	10	6	0
OVER 65 SHELLFISH LICENSE	201	217	240	268	289	309
STUDENT SHELLFISH LICENSE	49	55	49	48	47	37

Table 2a. Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2015 (through July).

Month/Species	Black Sea Bass	Scup General Category	Striped Bass General Category	Summer Flounder w/out Exemption Certificate	Summer Flounder w/ Exemption Certificate	Tautog
January	750/day (1/1) 500/day (1/30)	50,000/day (1/1)	CLOSED (1/1)	200/day (1/1)	300/day (1/1) 200/day (1/8)	CLOSED (1/1)
February	500/day 250/day (2/10)	50,000/day	CLOSED	200/day	200/day 2,000/wk or 200/day (2/2)	CLOSED
March	250/day 100/day (3/17)	50,000/day	CLOSED	200/day	2,000/wk or 200/day	CLOSED
April	100/day CLOSED (4/13)	50,000/day	CLOSED	200/day 100/day (4/20)	2,000/wk or 200/day 1,500/wk or 200/day (4/6) 1,000/wk or 100/day (4/20)	CLOSED 10 fish (4/15)
May	50/day (5/1)	10,000/wk	CLOSED	100/day	100/day	10 fish CLOSED (5/20)
June	50/day CLOSED (6/3)	10,000/wk	CLOSED 5 fish (6/8) CLOSED Fri/Sat thru-out CLOSED (6/27)	100/day	700/wk or 100/day	CLOSED
July	50/day (7/1) CLOSED (7/15)	10,000/wk 5,000/wk (7/5) 2,500/wk (7/12)	CLOSED	100/day 50/day (7/27)	700/wk or 100/day 350/wk or 50/day (7/27)	CLOSED
Days in Season	334	365	207	365	365	171
Days Closed	SIP	SIP	SIP	SIP	SIP	SIP

Table 2a. (continued) Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2015.

2015 COMMERCIAL SEASONS				
Black Sea Bass	Scup ⁺ General Category	Striped Bass ⁺ General Category	Summer Flounder	Tautog
Jan. 1 - April 30 May 1 - June 30 July 1 - July 31 Sept. 1 - Oct. 31 Nov. 1 - Dec. 31	Jan. 1 - April 30 ^F May 1 - Sept. 20 Sept. 21 - Oct. 31 Nov. 1 - Dec. 31 ^F	June 8 - Aug. 31* Sept. 8 - Dec. 31*	Jan. 1 - April 30 May 1 - Sept. 15 Sept. 16 - Dec. 31	April 15 - May 31 Aug. 1 - Sept. 15 Oct. 15 - Dec. 31
2015 COMMERCIAL QUOTAS				
Black Sea Bass	Scup General Category	Striped Bass General Category	Summer Flounder	Tautog
238,783	1,858,971	111,459	1,719,629	51,348

+ Floating Fish Trap management had open seasons and no possession limit

^F Federal coastwide quota

* Closed Fridays and Saturdays

Table 2b. Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2014.

Month/Species	Black Sea Bass	Scup General Category	Striped Bass General Category	Summer Flounder w/out Exemption Certificate	Summer Flounder w/ Exemption Certificate	Tautog
January	750/day (1/1) 500/day (1/30)	50,000/day (1/1)	CLOSED (1/1)	200/day (1/1)	300/day (1/1) 200/day (1/8)	CLOSED (1/1)
February	500/day 250/day (2/10)	50,000/day	CLOSED	200/day	200/day 2,000/wk or 200/day (2/2)	CLOSED
March	250/day 100/day (3/17)	50,000/day	CLOSED	200/day	200/day 2,000/wk or 200/day	CLOSED
April	100/day CLOSED (4/13)	50,000/day	CLOSED	200/day 100/day (4/20)	2,000/wk or 200/day 1,500/wk or 200/day (4/6) 1,000/wk or 100/day (4/20)	CLOSED 10 fish (4/15)
May	50/day (5/1)	10,000/wk (5/1)	CLOSED	100/day	100/day	10 fish CLOSED (5/20)
June	50/day CLOSED (6/3)	10,000/wk	CLOSED 5 fish (6/8) CLOSED Fri/Sat thru-out CLOSED (6/29)	100/day	700/wk or 100/day (6/1)	CLOSED
July	50/day (7/1) CLOSED (7/15)	10,000/wk	CLOSED	100/day	700/wk or 100/day	CLOSED
August	CLOSED	10,000/wk	CLOSED	100/day 50/day (8/26)	700/wk or 100/day 50/day (8/26)	10 fish (8/1)
September	50/day (9/1) CLOSED (9/11)	10,000/wk	CLOSED 5 fish (9/8) CLOSED Fri/Sat thru-out	50/day 200/day (9/16) 150/day (9/28)	50/day 200/day (9/16) 150/day (9/28)	10 fish CLOSED (9/16)
October	CLOSED	10,000/wk	5 fish/day CLOSED Fri/Sat thru-out CLOSED (10/7) 5 fish/day (10/19) CLOSED Fri/Sat thru-out	150/day 100/day (10/6)	150/day 100/day (10/6)	CLOSED 10 fish (10/15)
November	50/day (11/1) CLOSED (11/13)	18,000/day (11/1)	5 fish/day CLOSED Fri/Sat thru-out	100/day 200/day (11/28)	100/day (11/1) 300/day (11/28)	10 fish CLOSED (11/11)
December	CLOSED	18,000/day	5 fish/day CLOSED Fri/Sat thru-out	200/day CLOSED (12/26)	300/day 500/day (12/19) CLOSED (12/26)	CLOSED
Days in Season	334	365	200	365	365	171
Days Closed	163	0	78	6	6	62

Table 2b. (continued) Possession limits (pounds), seasons, and quotas established for Rhode Island commercial fisheries in 2014.

2014 COMMERCIAL SEASONS				
Black Sea Bass	Scup General Category	Striped Bass General Category	Summer Flounder	Tautog
Jan. 1 - April 30	Jan. 1 - April 30 ^F	June 8 - Aug. 31 [*]	Jan. 1 - April 30	April 15 - May 31
May 1 - June 30	May 1 - Sept. 20	Sept. 8 - Dec. 31 [*]	May 1 - Sept. 15	Aug 1 - Sept. 15
July 1 - July 31	Sept. 21 - Oct. 31		Sept. 16 - Dec. 31	Oct. 15- Dec. 31
Sept. 1 - Oct. 31	Nov. 1 - Dec. 31 ^F			
Nov. 1 - Dec. 31				
2014 COMMERCIAL QUOTAS				
Black Sea Bass	Scup General Category	Striped Bass General Category	Summer Flounder	Tautog
238,700	1,921,327	146,377	1,648,193	49,474

+ Floating Fish Trap management had open seasons and no possession limit

^F Federal coastwide quota

* Closed Fridays and Saturdays

Table 3. The 2016 coastwide commercial quotas approved by the ASMFC and MAFMC in comparison to 2015. The limits for 2016 were approved by ASMFC and the MAFMC in August 2015.

Species	2015	2016
Scup	21.23	20.47
Summer Flounder	11.07	8.12
Black Sea Bass	2.24	2.24
Bluefish	5.24	3.51*

*Based on approved ABC of 19.45 million pounds and SSC and MC recommendations as presented at August 2015 MAFMC meeting.

Table 4. Summary of actions to date for the 2015 RI commercial menhaden fishery.

Date	Action	Area	Reason
5/21/15	OPEN	NB Management Area	Biomass threshold
5/28/15	CLOSED	State waters outside NB Management Area	State quota fully harvested
5/29/15	OPEN	State waters outside NB Management Area	RI opted into Episodic Event set aside program
6/28/15	CLOSED	NB Management Area	Biomass threshold
7/27/15	OPEN	NB Management Area	Biomass threshold
8/9/15	CLOSED	NB Management Area	Biomass threshold

Plan approved:

 Jason McNamee, Chief
 Division of Fish and Wildlife
 Office of Marine Resource Management

 Date

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF FISH AND WILDLIFE
MARINE FISHERIES



2016 Shellfish Sector Management Plan

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Authority: R. I. Gen. Laws Chapter 42-17.1, Section 20-1-4, and Section 20-2.1-9, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

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INTRODUCTION

During the 2002 legislative session, the Rhode Island General Assembly adopted the Commercial Fisheries Management Act, establishing a new commercial fishing license system and ending the moratorium on the issuance of new commercial fishing licenses that had been in place since 1995. One purpose of the act was to enable new entrants into commercial fisheries, while still limiting access to certain fisheries where warranted. As addressed in RIGL §20–2.1-9, fisheries identified for consideration of limited access are those “*for which there is adequate or greater than adequate harvesting capacity currently in the fishery*”, or are managed under a state quota system to prevent over-fishing. To meet the purposes of the act, licensing regulations developed by DEM in 2002 created four endorsement categories for the shellfish fishery: *Bay Quahaug; Soft-shell Clam; Whelk; and Shellfish Other*.

As stated in RIGL §20-2.1-2, the licensing regulations should seek to “*preserve, enhance, and allow for any necessary regeneration of the fisheries of the state, for the benefit of the people of the state, as an ecological asset and as a source of food and recreation*” and to “*provide Rhode Islanders who wish to fish commercially the opportunity to do so, and end the moratorium on issuance of new commercial fishing licenses so that new licenses may be issued..*” and “*respect the interests of residents who fish under licenses issued by the state and wish to continue to fish commercially in a manner that is economically viable.*”

This plan will be updated annually. Exit/entry ratios are reviewed by the Industry Advisory Committee ((IAC) annually in accordance with RIGL§20-2.1-11. Any proposed changes to the currently adopted exit/entry ratios are then presented for public comment and plans are reviewed by the RI Marine Fisheries Council prior to finalization in accordance with RIGL§20-2.1-9

This management plan addresses statutory requirements and duties of the Director to develop sustainable shellfish management plans in accordance with RIGL 20-2-44, and sector fishery management plans in support of commercial licensing (RIGL 20-2.1-9(5)).

The State of Rhode Island, through a collaborative effort between state agencies, industry, and other stakeholders, completed a comprehensive statewide Shellfish Management Plan in 2014. The plan established a number of goals that the DEM hopes to achieve through implementation of proper management.

SMP Goals:

- a. Honor, promote and enhance the existing shellfish resource and uses. Shellfish offer a myriad of ecological services to Rhode Island state waters, jobs and business opportunities to its residents, and recreation for all. As such, actions should strive to maintain healthy populations of shellfish while honoring the current uses of Rhode Island’s natural resources and promoting Rhode Island shellfish as a source of local, sustainable seafood.
- a. Contribute to a properly functioning ecosystem that is both ecologically sound and economically beneficial. The prosperity of the shellfish industry depends on

the health of our marine environment and the quality of the water that shellfish inhabit. It is therefore necessary to evaluate the current status and potential future changes to the natural resources, ecosystem conditions, and anthropogenic impacts on the marine environment and to recommend actions to protect and, where necessary, restore our marine waters.

- b. Manage marine and shellfish resources for equitable and sustainable use. Through both scientific research and practical knowledge, better understand the existing activities taking place in Rhode Island waters. Identify best management practices to support all shellfish activities for long-term sustainability while supporting compatible uses and minimizing user conflicts to ensure the equitable harvest of these marine resources.
 - c. Enhance communication and improve upon the established framework for coordinated decision-making between state and federal management agencies, industry, and other interested parties. Engage management agencies, industry and other interested parties in the development of the shellfish management plan and implementation of recommendations to ensure that all concerns and appropriate legal requirements are integrated into the process. Coordination will allow for the sharing of information across all sectors, improve management, clearly establish roles and responsibilities of all parties and streamline the licensing and permitting process where appropriate.
-

QUAHAUG ENDORSEMENT

Commercial Landings: There are two very distinct peaks in commercial landings of quahaugs in Rhode Island since 1947, the first occurred in 1955 followed by a rapid decline until 1974 and then a second peak in 1985 (Figure 1). Landings reached an all-time low in 2009 but there has been a modest increase in both landings and catch per unit effort since then (Figure 2). In 2014 landings totaled 2,708 metric tons (5.97 million lbs., Table 1), which is a 14% decrease from the most recent high in 2012. According to the Standard Atlantic Fisheries Information System (SAFIS) reporting system, 83% of the landings were harvested from Greenwich Bay, Conditional Areas A & B, and the West Passage of Narragansett Bay (Table 1). Most of the quahaugs landed by count are littlenecks (67%), followed by top-necks (23%), chowders (9%) and cherrystones (1%).

Resource Assessment: DFW conducts a survey of quahaugs in Narragansett Bay on an annual basis that commenced in 1993 (Ganz et al 1999). Both fished and unfished sections of the bay are sampled. The sampling consists of towing a small hydraulic dredge (0.36 meter sweep) for a distance of 30.5 meters (100 ft) at each station. Pressurized water is delivered to the dredge manifold which dislodges shellfish from the substrate. The dredge is designed to retain legal-sized quahaugs (> 25.4mm thickness). All species retained in the dredge when hauled are identified and all shellfish are counted and measured. Based on the survey, the stratified mean density of quahaugs in Narragansett Bay has been

fairly constant through the duration of the survey typically around 2-3 quahogs per square meter.

In short, the Division evaluated the quahog dredge survey design in 2006 and suggested a change from sampling the entire bay in one year to a rotational design that would accommodate additional sampling in each strata. In 2008 the Division started to implement a partially-revised survey design; however, minimal survey work was conducted in 2010-2011 due to vessel age and repair needs. In 2012 the annual survey employed a fully-reconfigured design to increase sampling in specific strata in a given year, ultimately allowing all strata to be sampled over several years rather than in a single year as in years past. In addition, research is being conducted to improve the precision of the survey by relating observed quahaug densities to mapping of submerged sediments. In general, the reconfiguration is designed to increase sampling intensity so that the number of samples per strata is sufficient to produce improved estimates of biomass by size class.

Management Program: Quahaugs are managed entirely by DEM with advice from the Rhode Island Marine Fisheries Council (RIMFC). The DEM, through the DFW, uses a set of management areas and a rotational transplant/harvest system to manage the resource. Permanent and conditional pollution closures restrict the fishery in addition to seasons, possession limits, and management closures.

DFW Recommendations: A 2:1 exit/entry ratio for the quahaug fishery was implemented in 2011. In 2015 DEM issued a total of 189 quahaug endorsements for the CFL license. Twenty-one of these were issued to fishermen who did not have a quahog endorsement the previous year. In 2014, DEM issued a total of 181 quahaug endorsements for the CFL license of which 92 reported landings on at least one day. Of these fishermen reporting landings the average number of days fished was 39 days with an average catch of 811 quahogs per day.

In 2015, the Department issued 340 PEL licenses with quahaug endorsements compared to 347 in 2014, a decrease of seven licenses. Of the 347 PEL licenses issued in 2014, 180 licenses reported landing quahogs on at least one day. Of those reporting landings the average number of days fished was 70 days with an average of 1,040 quahogs landed each day.

In 2015, the Department issued 804 PEL licenses with quahaug endorsements compared to 816 in 2014, a decrease of twelve licenses. Of the 816 MPURP licenses issued in 2014, 214 reported quahog landings on at least one day, with an average number of 57 days fished, and an average of 976 quahogs landed each day.

Two additional license categories are not subject to the 2:1 exit/entry ratio and are restricted to basic harvest levels. *Student shellfish licenses* decreased by 10 (from 47 in 2014 to 37 in 2015) but only 21 of these licenses reported any landings in 2014. The average number of days fished by this license group was 26 days and the daily average catch was 510 quahogs. *Over 65 shellfish licenses* increased by 20 (289 in 2014 to 309

in 2014). Only 31 of these license holders reported any landings in 2014 and the average number of days fished by this license group was 23 days. The average daily catch was 548 quahogs.

The provision set forth in the RI Marine Fisheries Commercial and Recreational Saltwater Fishing Licensing Regulations Section 6.7-4 (e) allowing an actively fishing CFL license holder with a quahaug endorsement to upgrade to a PEL license with a quahaug endorsement, and an actively fishing student shellfish license holder to upgrade to a CFL with a quahaug endorsement after two years of reporting landings and no violations, was continued in 2015.

DFW believes that the number of individuals that are licensed to fish in this fishery and the number of active fishers is more an industry-based economic issue than a resource management issue. As such, the number of people participating in the fishery is becoming less relevant from a resource management perspective. **The Division believes that the change to a 1:1 ratio will not impact the fishery to an appreciable degree.** If fishing effort levels and active participation levels remain at current levels the additional number of licenses issued at a 1:1 ratio would only result in an increase in landings in 2016 of approximately 0.7%.

DEM needs to continue to work with industry to ensure a healthy quahaug fishery consisting of resource sustainability and a licensing system that will maintain an active group of fishermen and facilitate entry of new participants. Continued improvements in the landings data collection system along with DFW resource surveys will provide for accurate evaluation of standing stock and allow for sound management. Acquisition of fishery landings by market class and tagging areas allow for area specific assessment and management. The ability of DFW to manage the resource would be further increased by improved compliance with reporting tagging areas accurately and by reducing the size of some of the larger tagging areas. In concert with transplanting and spawner sanctuaries, other area specific regulations are already established and could be refined to maximize sustainable harvest. In particular, the western Greenwich Bay Management areas have seen a dramatic reduction in biomass and CPUE in recent years despite the reduced Winter Harvest Schedule. Further reductions in the number of days open for fishing in these areas may be warranted if resource levels do not show signs of improvement.

The Narragansett Bay Commission's combined sewer overflow project combined with more-intensive water quality monitoring by RIDEM Office of Water Resources, has resulted in water quality improvements in the Providence River as well as a decreased number and duration of rainfall-induced closures in Conditionally Closed Areas "A" and "B". The high densities of quahaug broodstock observed in the Providence River combined with prior rainfall-induced closures in the Conditionally Closed Areas have resulted in a significant and sustained level of harvest. In order to sustain this harvest, it is recommended that an area-specific assessment and management plans be developed and implemented for the Providence River, Conditional Area "A", Conditional Area "B" and the recently established "Conimicut Triangle". Alternatives include, but are not limited to, establishing new shellfish

management areas, establish area-specific fishing periods, and adopting realistic possession limits.

RI Marine Fisheries Council: The Industry Advisory Committee (IAC) of the RIMFC met on July 21 and recommended to reduce the exit/entry ratio for the quahaug fishery in 2015 to 1:1 for all eligible licenses that retired in 2014. This would allow 32 new CFL licenses with a quahaug endorsement to be made available for 2015 (versus 18 at the 2:1 ratio). **The RIMFC met on October 5, 2015 and recommended....**

SOFT-SHELL CLAM ENDORSEMENT

Commercial Landings: Commercial landings of soft-shell clams in Rhode Island showed an increasing trend from the early 1980's until 2007 (Figure 4) but in recent years have been in decline (Figure 5). Soft shell clams were down 94% statewide in 2014 when compared to the 2008-2010 average. With the introduction of SAFIS, landings data have been coded by area allowing for evaluation of landings by area (Table 2) and by catch per unit effort (Figure 5). For the past three years the area with the most landings are the Coastal Ponds comprising 53% of the landings statewide. The 2014 harvest in the upper portions of Narragansett Bay was down to only 2.3% of the average landings observed in 2008-2010.

Resource Assessment: Soft-shell clam resources are distributed from inter-tidal to sub-tidal zones of Narragansett Bay and the coastal ponds and estuaries. Prior to 2012 the bulk of the biomass was located in the Upper Narragansett Bay, particularly in the Conimicut Point area. In recent years, due to the successful results from the Narragansett Bay Commission's combined sewer overflow project, measurable water quality improvements were recorded in the Providence River resulting in a substantial reduction in the number of rainfall-induced closures in Conditionally Closed Areas "A" and "B" and opening of new areas, such as the new soft-shell clam grounds in the Conimicut Pt Area called the "Conimicut triangle". The Conimicut triangle area opened on June 13th, 2010 with no changes to the existing regulations. Neither the daily catch limit of 12 bushels, nor the 1 ½" minimum size were changed resulting in the biomass being depleted to less than 1/10th its former abundance, and follow up surveys in the fall of 2011 showed astoundingly low densities (Gibson 2012). The Conimicut Shellfish Management Area was established in April of 2011 and the SMA possession limit was set at 3 bushels. The 2-inch statewide minimum size was also established in April 2011.

A dynamic depletion model for open populations based on the work of Restrepo (2001) and Sosa-Cordero (2003) was developed and applied to monthly catch and effort data for the period 2006 to 2011 (Gibson 2012). The preliminary depletion model results suggest that the population declined from 2006 to 2011 with recruitment failing to replace fishery removals (Gibson 2012). Although the model could benefit from more recent data, present landings suggest that the recent

increase in minimum size did not by itself stop overfishing and catch limits may need to be reduced to < 3 bushels per day to bring fishing mortality rates into balance with resource productivity (Gibson 2012).

Management Program: Soft-shell clams are managed entirely within state waters by DEM with advice from the Rhode Island Marine Fisheries Council (RIMFC). Permanent and conditional pollution closures restrict the fishery in addition to seasons, possession limits, and management closures.

DFW Recommendations: DFW recommends remaining at the 5:1 exit/entry ratio. The resource is at a depleted state with landings at the lowest point since 1982. The current potential fishing effort far exceeds the current resource levels and effort tends to outpace resource levels in years with higher resource abundance leading to unsustainable harvest levels.

RI Marine Fisheries Council: The Industry Advisory Committee (IAC) of the RIMFC met on July 21 and recommended to reduce the exit/entry ratio for the soft shell clam fishery in 2015 to 1:1 for all eligible licenses that retired in 2014. This would allow 51 new CFL licenses with a soft shell clam endorsement to be made available for 2015 versus status quo of 5:1 which would allow for 12 new licenses to be issued. **The RIMFC met on October 5, 2015 and recommended.....**

Future Management Considerations: The Narragansett Bay Commission's combined sewer overflow project combined with more-intensive water quality monitoring by RIDEM OWR, has resulted in further water quality improvements in the Providence River as well as a decrease in the number of rainfall-induced closures in Conditionally Closed Areas "A" and "B". In 2013 RIDEM OWR again modified the boundaries and rainfall thresholds of Conditional Area C (the Conimicut triangle). Landings of soft-shell clams at Conimicut Point area have declined significantly since the overfishing that took place in 2010 and there were no landings reported in the Conimicut Triangle for 2012 or 2013, although it is suspected that some landings did occur and were misreported as Conditional Area B. Stocks could further decline without implementation of more realistic and sustainable management measures. The isolated characteristics of the Conimicut Point fishery make the clams particularly vulnerable to variations in fishing effort. Additionally, a permanent pollution closure line bisecting the bed makes enforcement problematic.

Current harvesting regulations were developed and implemented to facilitate harvest of specific shellfish species of economic interest to the commercially fishing community. Allowable harvest methods were implemented with the intent of minimizing habitat impacts and protecting juvenile stocks while providing for commercial harvest. Species-specific regulatory language has resulted in commercial fishing activities targeting unregulated (or under-regulated) species by fishing methods considered too intrusive or unsuitable by DEM. An example is the use of mechanical harvest methods (including air-assisted and water-assisted methods) in pursuit of razor clams and mantis shrimp in direct proximity to regulated species and inside established pollution closures. The

insufficiencies also make proper resource management and habitat protection problematic. Establishment of comprehensive restrictions against the use of mechanical harvest, and/or air-assisted, and water-assisted harvest methods for all species in Narragansett Bay and the salt ponds with provisions for certain fisheries would aid in protecting soft-shell clam stocks.

Alternatives to protect this fishery include, but are not limited to, establishing new shellfish management areas, establishment of area-specific fishing periods, and adoption of reduced possession limits statewide. Measures should be implemented for the Providence River while the aforementioned pollution-closure boundary at Conimicut Point is in effect.

WHELK ENDORSEMENT

Recently, DFW conducted a new comprehensive analytical assessment on whelk resources in RI (Gibson 2010). This work constitutes the first attempt to assess the status of whelk and their fishery in Rhode Island waters.

Commercial Landings: A commercial fishery for whelks has existed in Rhode Island for many years; however, until September 2009 it was not regulated or the subject of a stock assessment. There are two species commonly landed in RI, the channeled (*Busycotypus canaliculatus*) and knobbed (*Busycon carica*) whelk. According to National Marine Fisheries Service (NMFS) statistics, RI whelk landings were 85,000 pounds of meat weight in 1950 and increased over time to a peak in 1986 at 347,000 pounds. After several years of high landings, the fishery declined rapidly and from 1994 to 2003, when reported landings were less than 2,200 pounds. Since 2006, whelk landings by species have been monitored through the SAFIS reporting system, which captures landings from both state and federally permitted fishers. A sharp increase in whelk landings occurred from 2008 to 2009, with years 2006-2008 averaging 384,489 pounds annually and years 2009-2014 averaging 654,502 pounds annually (Figure 6). The average whelk landings per fisher show a decreasing trend from 2010 onward (Figure 7). Ex-vessel value of whelks from 1950 to 1976 was steady at about \$1.25 per pound of meat. It then increased sharply from \$1.27 to \$3.24 from 1976 to 1983. From 2004 to 2008, value has fluctuated around \$3.00 per pound (Gibson 2010) but has fallen to around \$2.25 in 2013.

Resource Assessment: An initial stock assessment of the RI whelk and fishery was performed by Gibson (2010) using a biomass dynamic model (BDM) and an overfishing reference point of $F_{msy}=0.33$ was calculated. The BDM clearly showed that whelk abundance is strongly influenced by fishing mortality rate (F). High F rates above the $F_{msy}=0.33$ level result in low biomass; high whelk abundance occurs when the F is less than F_{msy} (Figure 8). Based on the available data at that time, it was concluded that $F_{msy}=0.33$ was an appropriate overfishing reference point and a fishing mortality rate target equal to 75% of F_{msy} ($F=0.25$) would provide a buffer between the overfishing threshold. Based on this initial stock assessment, F rate was at or below this level,

indicating that overfishing was not occurring. Also, biomass was estimated to be near the B_{msy} reference level, so an overfished condition was not likely (Gibson 2010).

The whelk stock assessment was updated to include data through 2013 and resulted in re-estimation of $F_{msy}=0.40$. As with the previous stock assessment, high fishing mortality rates above $F_{msy}=0.40$ result in low biomass; high whelk abundance occurs when the F is less than F_{msy} . The updated target F rate is 0.30. F has risen and is now estimated to be at or above F_{msy} (Figure 9), so overfishing is likely. Biomass remains at or above B_{msy} (Figure 10). Projections indicate however that biomass will fall below B_{msy} if overfishing continues.

The fishery seems to have operated in a pulse fishing mode with periodic increases in abundance that attracted fishing effort. High fishing mortality rates ensued (1960's, 1980's), the stock declined, effort dissipated, and a biomass recovery followed. A minimum size limit alone cannot prevent reoccurrence of these fishing pulses. To avoid opportunistic expansions in effort, consideration will need to be given to effort limitation via license/permitting or through output controls such as catch limits and quotas (Gibson 2010).

Management Program: Whelks are managed entirely within state waters by DEM with advice from the Rhode Island Marine Fisheries Council (RIMFC). Minimum sizes and possession limits restrict the fishery.

DFW Recommendations: Whelks are managed entirely within state waters by DEM. To avoid opportunistic expansions in effort, a new endorsement directed at whelk fishing was added to the licensing system for 2012. The goal of the new endorsement is to cap and monitor effort through the use of the endorsement category and avoid future boom and bust cycles that were observed over recent years (Gibson 2010). Other management measures should be considered to control output to limit fishing mortality such as quotas, daily possession limits, closed seasons, and a minimum size based upon sexual maturity. A comprehensive whelk fishery sampling program was conducted by DFW during 2012 and the results of data analyses may be considered for future whelk fishery management plan strategies.

RI Marine Fisheries Council: The Industry Advisory Committee (IAC) of the RIMFC met on July 21 and supported status quo to allow holders of a valid CFL or PEL license with a Quahaug and/or Soft-Shell Clam endorsement, as of the immediately preceding year, would be eligible to obtain a Whelk endorsement in 2015. **The RIMFC met on October 5, 2015 and recommended.....**

SHELLFISH OTHER ENDORSEMENT

Other species of shellfish commercially harvested within Rhode Island waters include oysters, blue mussels, scallops and razor clams. While these species are not routinely assessed by RI DFW and little data is available to conduct comprehensive analytical

assessments, landings data and anecdotal evidence from the commercial fishing industry are useful pieces of information in identifying populations that warrant further research.

Commercial Landings: Regarding the oyster stock, landings have decreased since the late 1990's. In 2014, 191,249 wild oysters (33,271 pounds) were landed in RI. To put this number in perspective, the aquaculture industry in Rhode Island (55 farms) sold 7.55 million oysters in 2014. Therefore only 2.5% of the oysters landed in Rhode Island are from wild harvest. According to local researchers studying oyster populations within Narragansett Bay, the effects of disease, environmental conditions, poor sets of new recruits, and fishing pressure are all responsible for the sharp decline in abundance levels (Oviatt et Al. 1998). It is a reasonable assumption that given such high rates of natural mortality, fishing pressure can lead to local depletions of the resource. Recently dead oysters (open shells) are visual evidence of the effects of oyster disease. This occurs in both fished and unfished RI waters. Further investigation into the effects of fishing effort is certainly warranted; however, until the extent of the influence that fishing effort and poor recruitment has on abundance is ascertained DFW recommends reducing the daily possession limit accordingly. Establishment of new spawner sanctuaries and harvest moratoria are considered important components of the collaborative oyster-restoration efforts that are underway. Initiating further research and monitoring to track abundance and recruitment success is needed.

Management Program: Oysters, blue mussels and scallops are managed in state waters by the DEM with advice from the RIMFC. Additional federal regulations apply to surf clams and ocean quahaugs in federal waters. DEM uses seasons and possession limits to manage the state waters fishery. Permanent and conditional pollution closures further restrict the fishery in addition to the above management measures. The DEM, in cooperation with both federal government and non-government organizations, has been conducting oyster restoration in the salt ponds and Narragansett Bay.

In 2014, the Natural Resources Conservation Service (NRCS) provided funding for a statewide oyster restoration project to help increase the spawning and recruitment levels sufficient to reestablish a self-sustaining oyster population. DEM is overseeing and authorizing the placement of the stocked oysters into the state's waters. Currently, there are established shellfish spawner sanctuaries in state waters with habitat suitable for placement of the oysters. They are in designated portions of Winnapaug, Quonochontaug, Ninigret Ponds, Potters Pond, Jenny's Creek, and Bissell cove. The Nature Conservancy (TNC) is also assisting with restoration efforts.

DFW Recommendations: DFW recommends no changes for the licensing program for shellfish that fall under the shellfish other endorsement category until better data is available on their status.

RI Marine Fisheries Council: The Industry Advisory Committee (IAC) of the RIMFC met on July 21 and supported status quo in 2016. The RIMFC met on October 5, 2015 and recommended.....

LITERATURE CITED

- Erkan, D.E. and M.R. Gibson. 2006. 2005 Shellfish Survey of Potter Pond South Kingstown, Rhode Island. RI Division of Fish and Wildlife.
- Ganz A., Lazar N., and A. Valliere. 1999. Narragansett Bay Quahaug Management Plan. RI Division of Fish and Wildlife. Report to the Narragansett Bay Project and RI Marine Fisheries Council.
- Gibson, M.R. 1999. Assessment of quahaugs (*Mercenaria mercenaria*) in Narragansett Bay: technical analyses in support of a bay wide quahaug management plan. RI Division of Fish and Wildlife. Res. Ref. Doc. 99/2.
- Gibson, M.R. 2010. Stock Assessment of Whelk in Rhode Island and Recommendations for Research and Management. In progress
- Gibson, M.R. 2012. Stock Assessment of Soft-Shell Clams (*Mya arenaria*) in Rhode Island Using a Dynamic Depletion Model Applied to SAFIS Data. Draft Report - RI Division of Fish and Wildlife.
- Murphy, B.R. 2007. Estimation of Catch per Unit Effort for the Commercial Soft-shell Clam (*Mya arenaria*) Fishery in Rhode Island. RI Division of Fish and Wildlife.
- Oviatt, C, Wolff, N, VanKeuren, D, and E. Nicosia. 1998. Oysters (*Crassostrea virginica*) as indicators of a climate warming trend in Northeast waters. CR822051-010 Final report. Funding agency: Environmental Protection Agency.
- Restrepo, V.R. 2001. Dynamic depletion models. Pages 345-356, In: J. G. Cano and V.R. Restrepo, eds. Report on the FAO/DANIDA/CFRAMP WECAFC regional workshops on the assessment of spiny lobster *Panulirus argus*. Belize City, Belize April 21- May 2, 1997 and Merida, Yucatan Mexico June 1-12, 1998. FAO Fish. Rep. 619. Part III: Stock Assessment Methods.
- Sosa-Cordero, E. 2003. Trends and dynamics of the spiny lobster, *Panulirus argus*, resource in Banco Chinchorro, Mexico. Bull. Mar. Sci. 73: 203-217.
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TABLES AND FIGURES

Table 1. RI commercial quahaug landings (A= numbers and B= lbs) for 2014 by shellfish tagging area (broad areas) and market category.

A

Shellfish Tagging Areas	Individual Quahogs Landed by Market Size				Total (#)	% of Total
	Littleneck	Top Neck	Cherry	Chowder		
<i>Unknown</i>	409,094	142,362	546	52,527	604,529	1.8%
RI 1A - Conditional Area A	7,493,915	2,740,593	89,336	1,039,491	11,363,335	32.9%
RI 1B - Conditional Area B	5,065,458	1,736,949	68,618	440,631	7,311,656	21.2%
RI 1C - Conditional Area C	5,835	2,149		1,163	9,147	0.0%
RI 2 - Greenwich Bay	1,424,409	246,117	13,540	40,078	1,724,144	5.0%
RI 3A,C,F,H - West Passage Management Areas	86,446	12,680	4,060	2,770	105,956	0.3%
RI 3W - West Passage	5,302,189	1,786,167	257,938	614,944	7,961,238	23.1%
RI 4A,B - East Passage	2,668,124	1,138,083	1,143	704,629	4,511,978	13.1%
RI 5A,K - Mount Hope Bay	2,074	721		266	3,061	0.0%
RI 5B - Sakonnet River	92,127	50,888	324	52,705	196,043	0.6%
RI 6B,N,P,Q,W - Coastal Ponds & Block Island	618,113	66,130	2,797	21,073	708,113	2.1%
Grand Total	23,167,784	7,922,839	438,300	2,970,276	34,499,199	-

B

Shellfish Tagging Areas	Pounds (lbs) Landed by Market Size				Total (lbs)	% of Total
	Littleneck	Top Neck	Cherry	Chowder		
<i>Unknown</i>	58,442	24,759	121	21,011	104,333	1.7%
RI 1A - Conditional Area A	1,070,559	476,625	19,852	415,796	1,982,833	33.2%
RI 1B - Conditional Area B	723,637	302,078	15,248	176,253	1,217,216	20.4%
RI 1C - Conditional Area C	834	374	0	465		
RI 2 - Greenwich Bay	203,487	42,803	3,009	16,031	265,330	4.4%
RI 3A,C,F,H - West Passage Management Areas	12,349	2,205	902	1,108	16,565	0.3%
RI 3W - West Passage	757,456	310,638	57,320	245,978	1,371,391	23.0%
RI 4A,B - East Passage	381,161	197,927	254	281,852	861,193	14.4%
RI 5A,K - Mount Hope Bay	296	125	0	106	528	0.0%
RI 5B - Sakonnet River	13,161	8,850	72	21,082	43,165	0.7%
RI 6B,N,P,Q,W - Coastal Ponds & Block Island	88,302	11,501	622	8,429	108,854	1.8%
Grand Total	3,309,683	1,377,885	97,400	1,188,110	5,971,406	-

Table 2. RI commercial soft-shell clam landings (lbs) for 2008-2014 by shellfish tagging area.

Shellfish Tagging Areas	2008	2009	2010	2011	2012	2013	2014	2014 % Δ from '08-'10 mean
<i>Unknown</i>	8,820	46,169	7,922	183	1,134	410	740	-96.5%
RI 1A - Conditional Area A	519,762	351,635	138,754	66,576	2,371	999	5,225	-98.4%
RI 1B,C - Conditional Area B & C	-	-	498,901	46,476	192	92	6,255	-98.7%
RI 2 - Greenwich Bay	5,704	4,182	70	358	286	0	1,073	-67.7%
RI 3 - West Passage	151,825	72,660	36,227	16,745	10,377	14,453	10,024	-88.5%
RI 4 - East Passage	4,856	5,636	2,692	19,400	377	336	3,926	-10.7%
RI 5 - Sakonnet River & Mount Hope	860	1,930	427	394	97	157	231	-78.5%
RI 6 - Coastal Ponds	22,333	12,421	13,602	33,619	27,053	29,334	10,420	-35.4%
Grand Total	714,160	494,633	698,595	183,751	41,887	45,781	37,894	-94.0%

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Figure 1. Shell weight (metric tons) of quahaugs commercially landed in Rhode Island from 1946 – 2014.



Figure 2. RI commercial quahaug landings in metric tons of shell weight and catch per unit effort (CPUE) from 2006-2014. CPUE was calculated as metric tons landed per year divided by the total number of SAFIS trips.

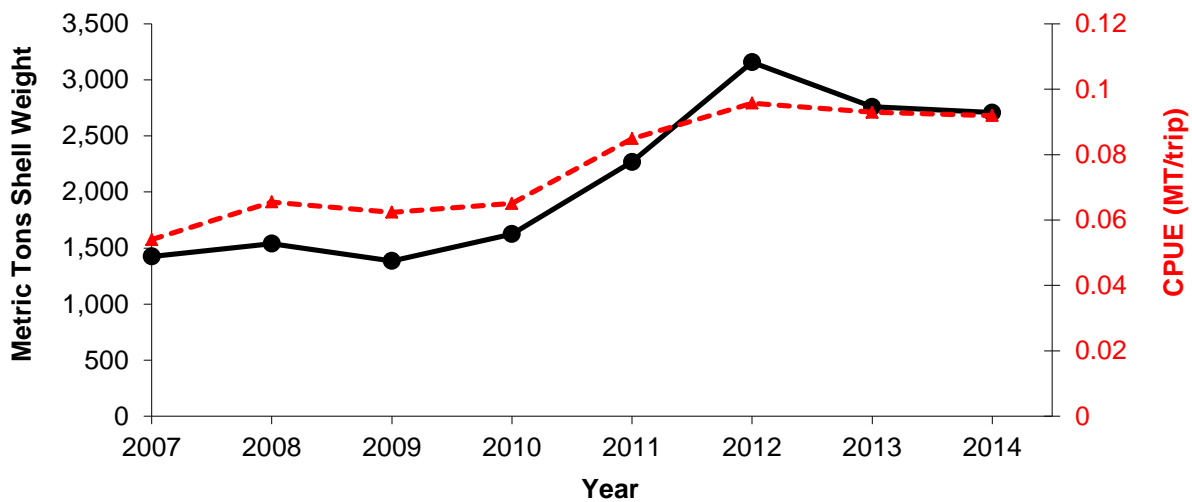


Figure 3. Recent sampling locations and survey strata in Narragansett Bay as measured by RI DEM Fish and Wildlife’s hydraulic dredge survey (2013-2014)

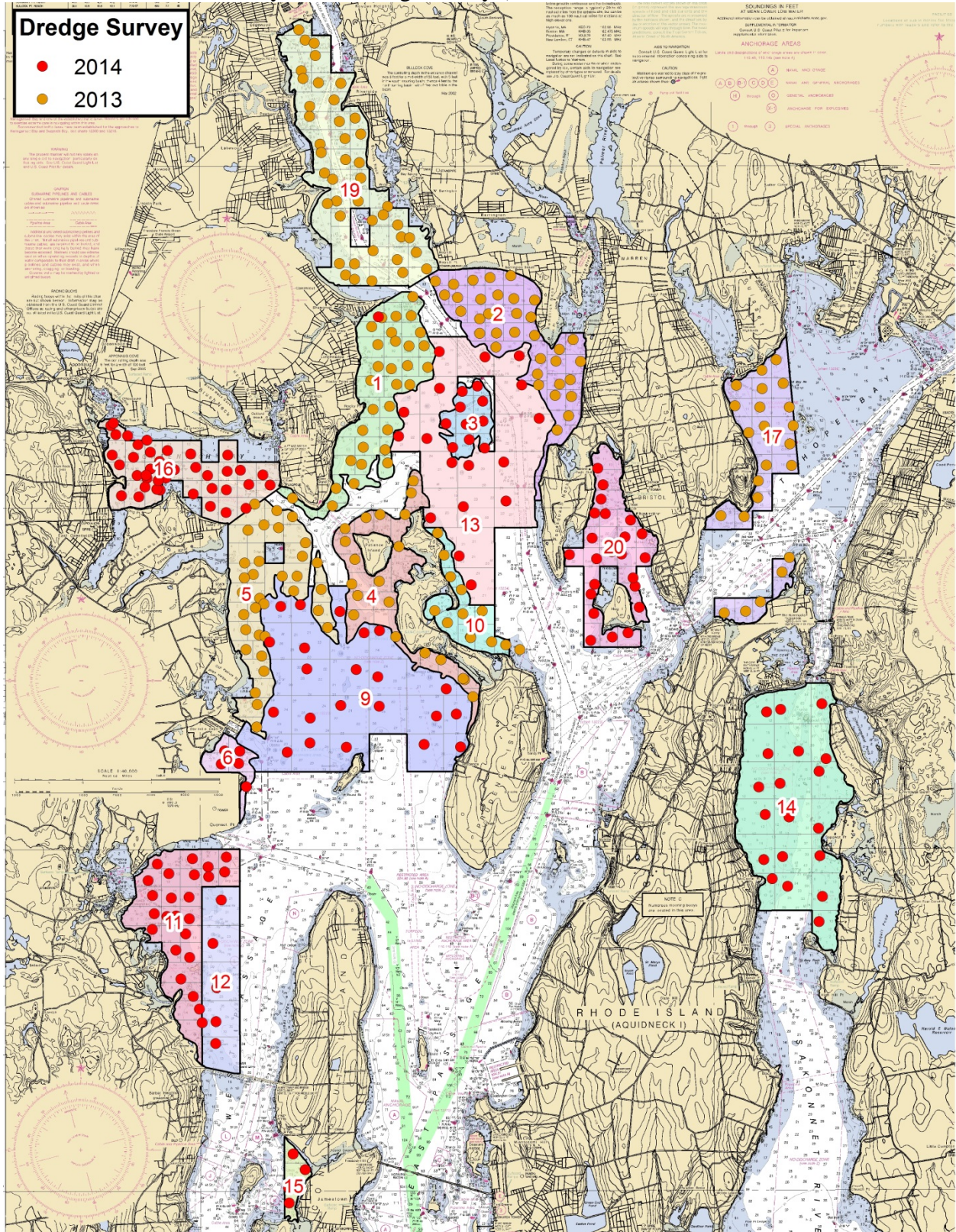


Figure 4. RI commercial soft-shell clam landings (shell weight, metric tons) from 1945-2014.

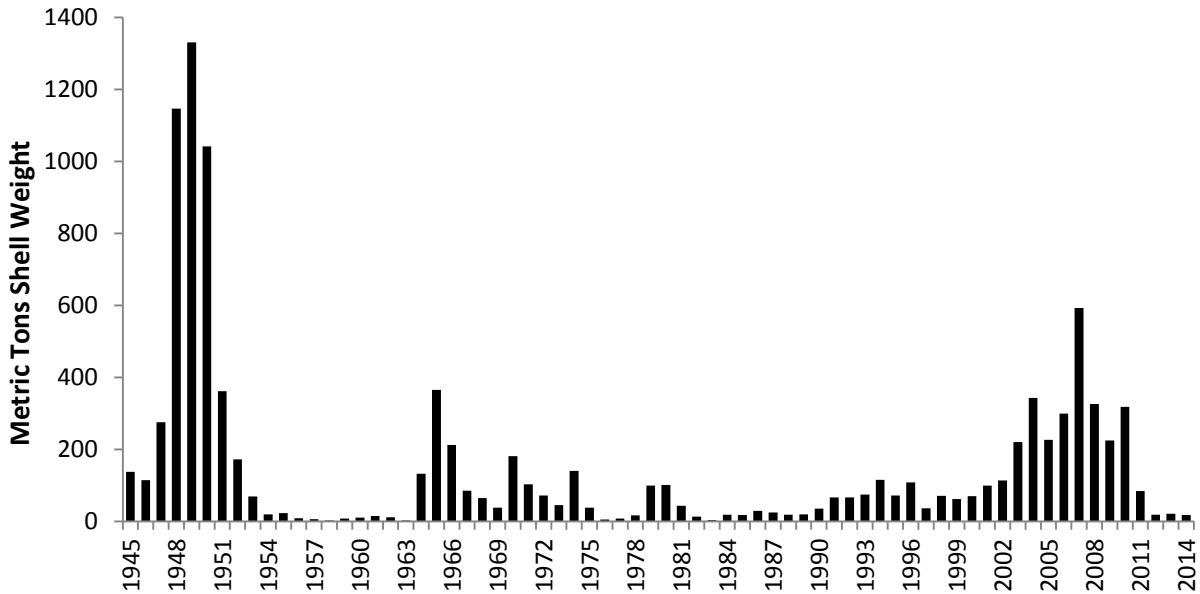


Figure 5. RI commercial soft-shell clam landings and catch per unit effort (CPUE) from 2006-2014. CPUE was calculated as pounds landed divided by the total number of SAFIS trip per year.

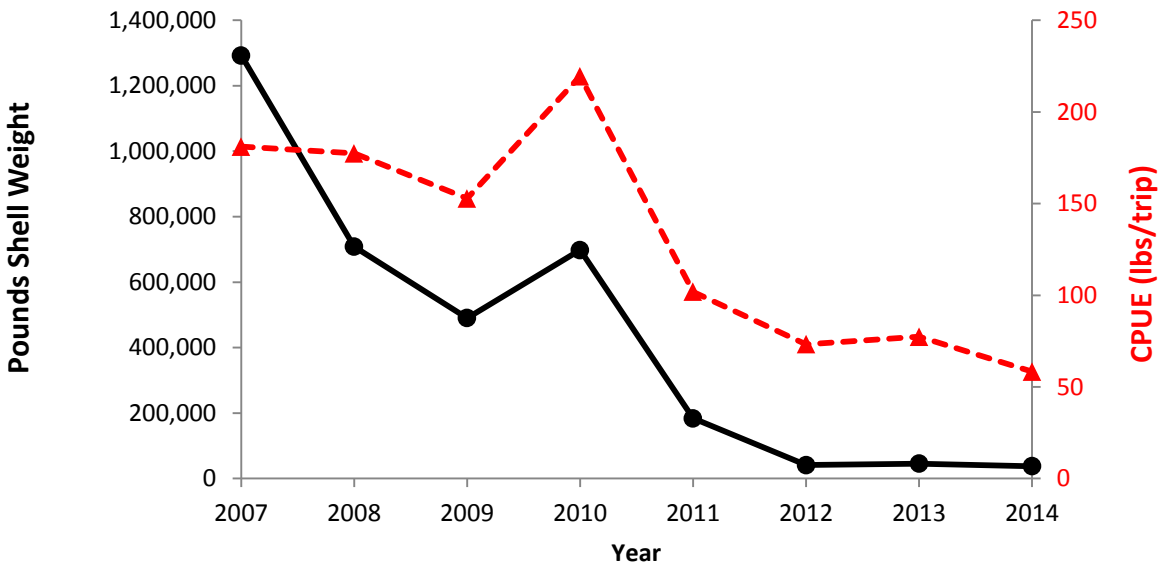


Figure 6. RI commercial whelk landings (species combined) for 2006-2014.

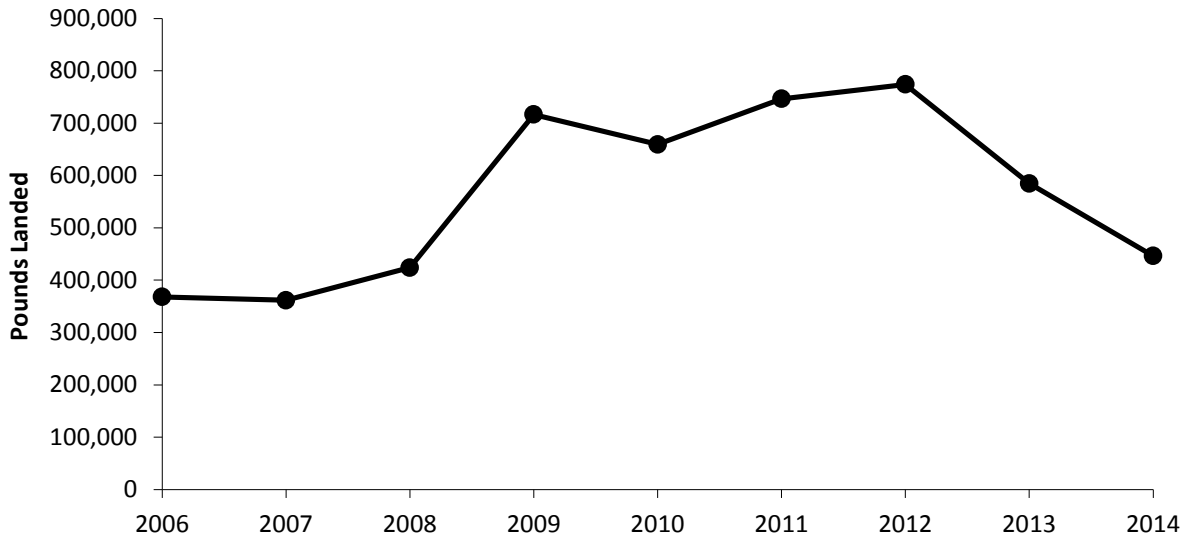


Figure 7. Number of reported fishers active in the fishery and mean landings per fisher recorded in SAFIS in the RI commercial whelk fishery from 2006-2014.

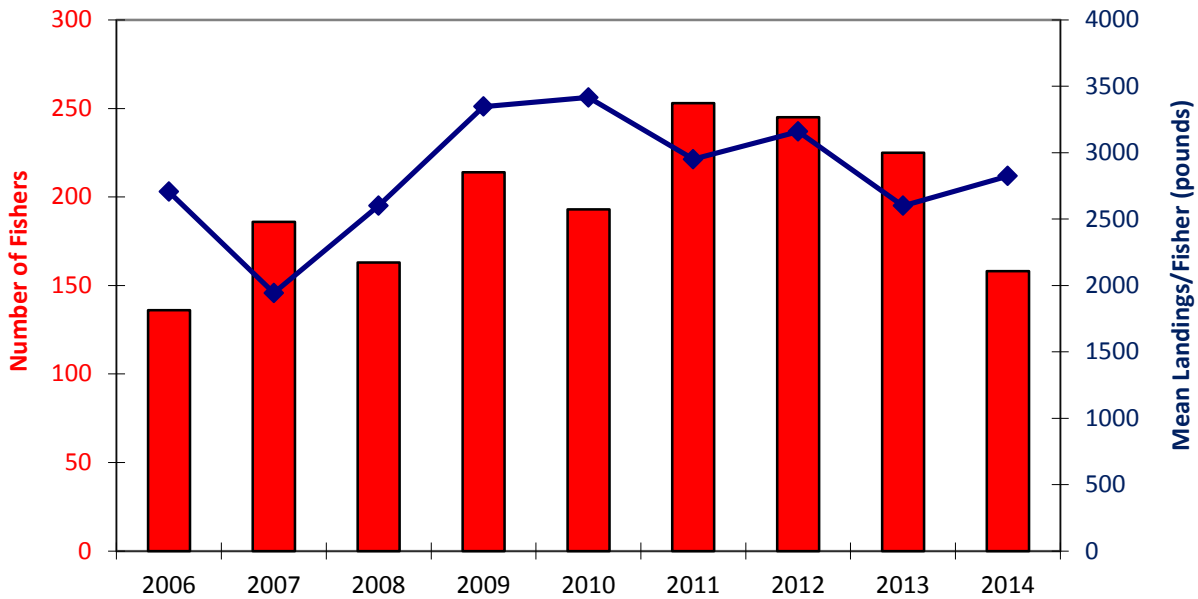


Figure 8. Phase plot for whelk fishing mortality rate (F) and stock biomass.

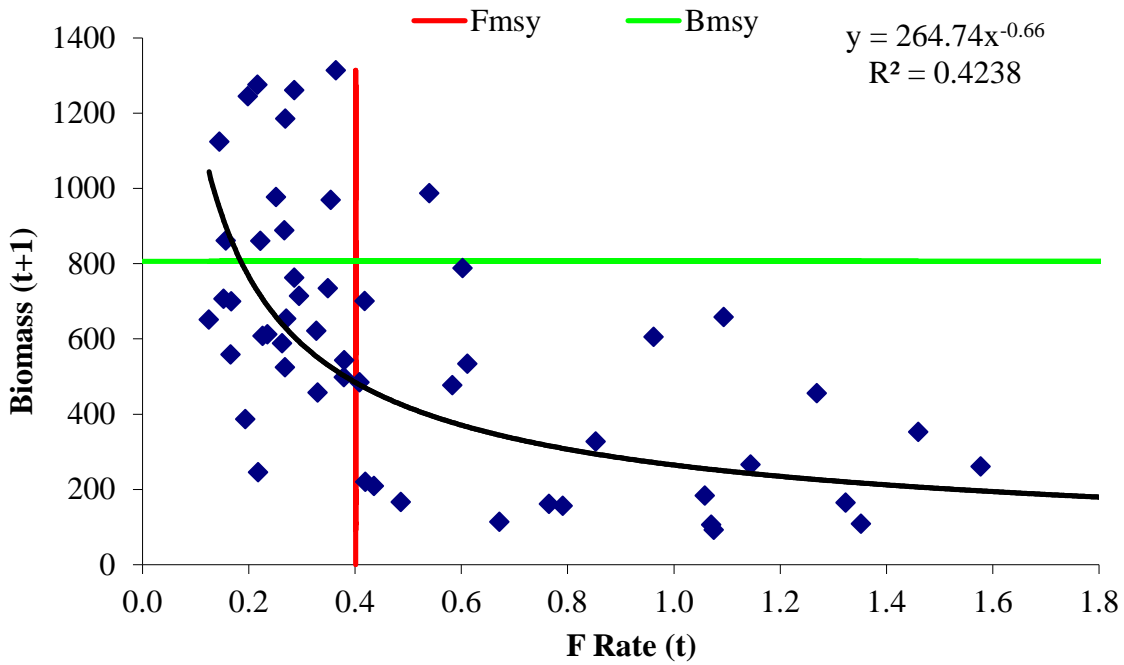


Figure 9. Estimated whelk fishing mortality rate (F) compared to Fmsy.

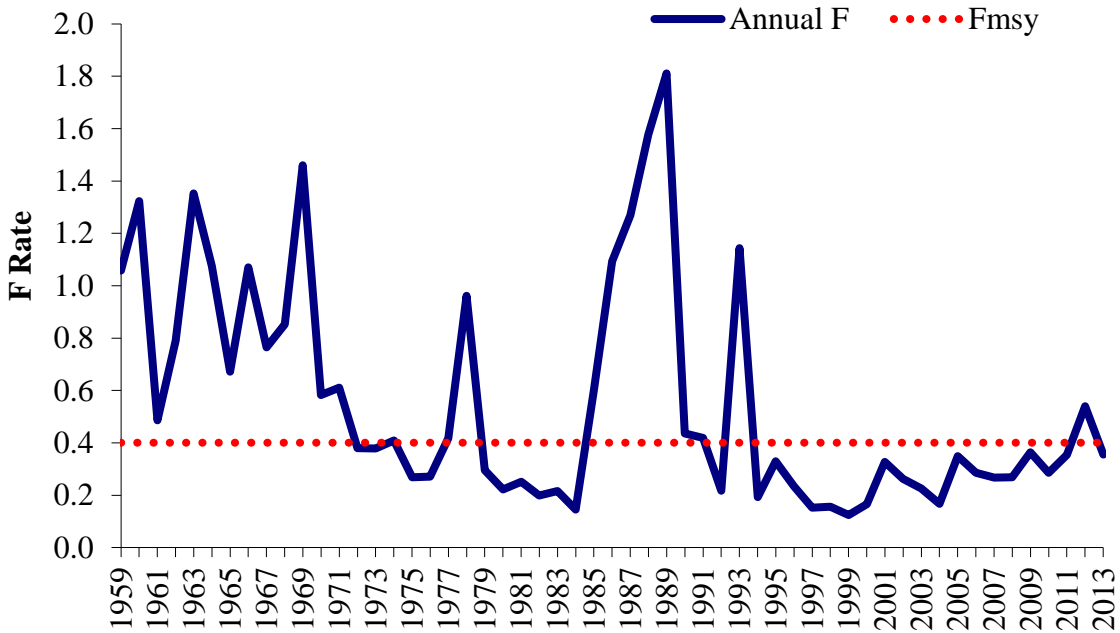
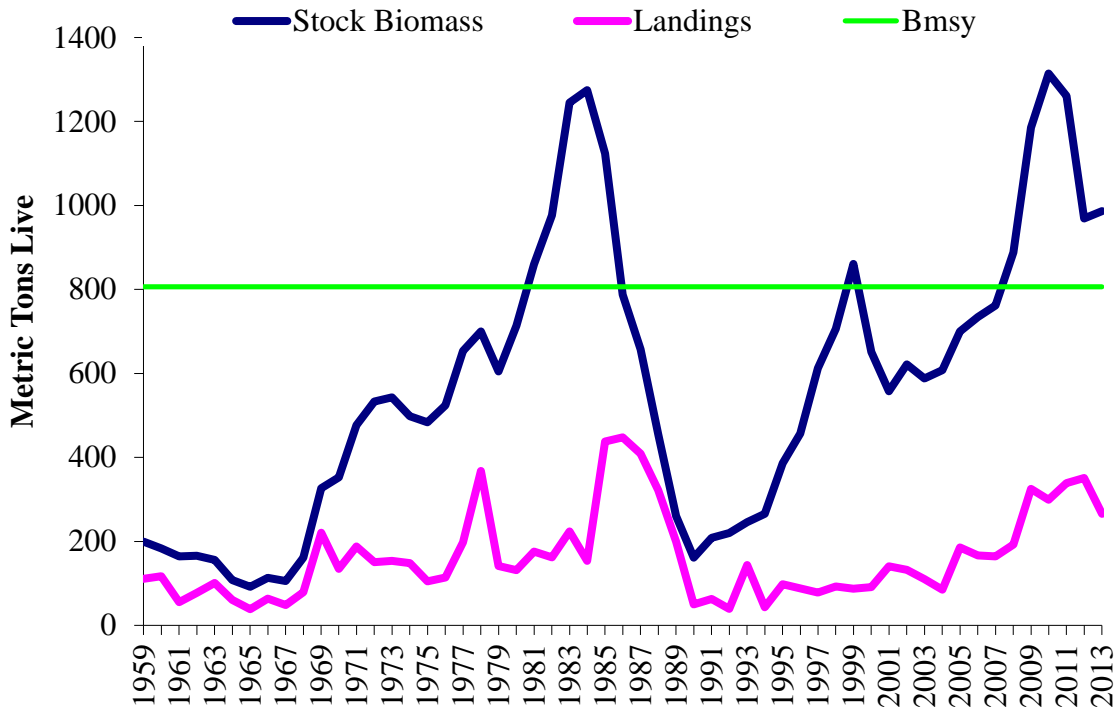


Figure 10. Estimated absolute whelk abundance and landings compared to Bmsy.



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Plan approved:

Jason McNamee, Chief
 Division of Fish and Wildlife
 Office of Marine Resource Management

Date

RHODE ISLAND AND PROVIDENCE PLANTATIONS DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

DIVISION OF FISH AND WILDLIFE
MARINE FISHERIES



2016 Crustacean Sector Management Plan

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Authority: R. I. Gen. Laws Chapter 42-17.1, Section 20-1-4, and Section 20-2.1-9, in accordance with Chapter 42-35 of the Rhode Island General Laws of 1956, as amended.

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INTRODUCTION

Rhode Island general law pertaining to commercial fishing licenses requires that the Director of the Department of Environmental Management (DEM) develop conservation and management plans in support of regulations that may restrict the issuance of licenses (RIGL 20-2.1-9(5)). Restrictions on commercial licenses were clearly contemplated by the Rhode Island General Assembly as a means to limit fishing effort and to rebuild depleted fishery resources (RIGL 20-2.1-2, 20-3.1-2 (4)). Such plans are to be developed with advice from the Rhode Island Marine Fisheries Council (RIMFC) (RIGL 20-2.1-10) and shall focus on fishery resources with the greatest value to the state. The current DEM commercial licensing program recognizes three fishery sectors; crustaceans, finfish, and shellfish. The following is the plan for the crustacean sector with recommendations for licensing in 2016. Two crustacean sector license endorsements, *lobster* and *crustaceans other* (e.g., crab, shrimp) are offered by DEM and are considered here. This plan emphasizes American lobster in recognition of their great commercial and recreational value to Rhode Island citizens.

AMERICAN LOBSTER ENDORSEMENT

Stock Status: The lobster resource in Narragansett Bay and Rhode Island coastal waters (Lobster Conservation Management Area 2, Southern New England lobster stock unit) has been over exploited for many years (ASMFC 1996, 2000, 2006a, 2009, Gibson 2000). A stock decline in 2002 prompted the Atlantic States Marine Fisheries Commission (ASMFC) to initiate emergency remedial action in Lobster Conservation Management Area 2 (Area 2), which includes Rhode Island state waters. The two ASMFC lobster stock assessments conducted since 2002 have concluded that the southern New England lobster stock, including Area 2, is in poor condition based on the recommended biological reference points, is below the abundance threshold, is at or near the fishing mortality threshold, is depleted and at the overfishing threshold (ASMFC 2006a), and is below the effective exploitation threshold (ASMFC 2009) (Table 1).

Agency trawl surveys clearly document the abundance decline that triggered the 2002 ASMFC emergency action in Area 2. Rhode Island Division of Fish and Wildlife (DFW) surveys conducted in Narragansett Bay and Rhode Island coastal waters since 1979 show that local lobster abundance dropped from high levels in the mid-1990's to low levels in 2002-2003 (Figure 1). Although surveys conducted during 2005-2008 caught slightly more lobster, abundance has not recovered to former levels and remains below the time-series average. URI scientists have observed a similar pattern in lobster catches made by the Graduate School of Oceanography survey in state waters (Figure 2). Both Massachusetts and Connecticut have reported lobster declines to the east in Buzzards Bay and to the west in Long Island Sound. The decline in abundance of both sub-legal and legal lobster from 1997 to 2002 was preceded by a steep decline in the abundance of newly settled lobster from 1990 to 1996 (Figure 3). These abundance patterns are consistent with the generally accepted time lag of 6-7 years between first settlement and attainment of adult size. In addition to reduced settlement, shell

disease, oil spills, and increasing predation by finfish have likely increased the natural mortality rate and reduced the number of lobster surviving from settlement to legal size. The combined effects of reduced settlement and declining post-settlement survivorship have impacted the fishery, reducing recruitment, landings and catch per unit effort (CPUE) to lower levels (Figure 4). Given the time lag from settler to adult, the increase in legal abundance observed in 2004-2006 was not unexpected. Although settlement from 2007-2012 was poor, on an optimistic note the 2013-2014 settlement index did increase.

The ASMFC lobster technical committee last updated the coast-wide lobster stock assessment, including evaluation of new models that can consider increased natural mortality rate, in 2009. Revisions to their definitions of stock areas and recommendations for new biological reference points were made at that time as well. The ASMFC lobster management board, at their spring 2009 meeting, accepted the assessment results and peer review which have since been published for public information (ASMFC 2009). This last assessment showed that the southern New England (SNE) stock of lobster, spanning the region from Cape Cod to New Jersey, is at low abundance and considered depleted (Figure 5). The above cited assessment results and peer review comments pertain to a broader stock area than the Rhode Island marine waters under jurisdiction of the state. In response to the assessment and peer review, the ASMFC lobster management board authorized development of several addenda to the fishery management plan for lobster pending public comment and further board deliberations. An updated lobster stock assessment based on data through 2013 has been completed and results, following a peer review will be released in late 2015 or early 2016.

The ASMFC lobster technical committee recently examined data collected since the 2009 lobster stock assessment (i.e. 2008-2012 data). The SNE stock continues to be below the reference abundance threshold and below the effective exploitation threshold, meaning *the stock is depleted but overfishing is not occurring* (Table 1). Current abundance of the SNE stock is the lowest observed since the 1980s (Figure 5) even though exploitation rates have declined since 2000. More importantly, the 2009 assessment documented recruitment at very low levels throughout the SNE stock between 1998 and 2005. A number of empirical stock status indicators were examined to judge the stock's overall health independent of assessment model results. Abundance indicators for SNE are generally negative or neutral while fishing mortality indicators are mixed. In the offshore waters covered by the NMFS survey and deeper near shore waters covered by the RI survey, exploitation rates have been neutral or positive for the 2005–2007 time period. However, exploitation for Long Island Sound and the inshore waters of NJ are negative, with the exception of the NJ Fall Survey which is neutral. Fishery performance indicators are generally negative, reflecting the fact that catches and abundance are cascading downward. In general, stock indicators and model results both reflect the same stock status: overall abundance, spawning stock biomass, and recruitment are all at low levels throughout SNE lobster stock; the stock has not rebuilt since the last assessment and is still in poor condition.

Management Program: Lobsters are managed within state waters by the DEM with advice from the RIMFC. Regional management of the lobster resource is the responsibility of the ASMFC. Amendment 3 to the fishery management plan (ASMFC 1997) and associated addenda govern the interstate management program and peer reviewed coast wide stock assessments (ASMFC 2000, 2006a, 2009, 2014) provide information on lobster biology and resource status. The ASMFC management program is organized by lobster management area with Rhode Island state waters being part of Area 2. DEM complies with the Area 2 plan through a set of management measures that includes minimum gauge and escape vent sizes, trap limits, protection of egg-bearing females, and v-notching. Both state (RI-MA) and federal waters are included in Area 2 making cooperative management essential. The plan for Area 2 initially required reductions in trap deployment in addition to a set of gauge and escape vent size increases in order to rebuild egg production to the minimum F10% level. The Addendum VII plan was structured to include transferability of lobster trap allocation, and includes a 10% conservation tax on trap allocation transfers which is expected to result in further reductions in the amount of traps deployed in Area 2 over time. The transferability provisions for Addendum VII have been developed by ASMFC Addenda XII, XVIII, XIX, and XXI. New interim biological reference points were adopted via ASMFC addendum VIII in 2006 and a rebuilding timeline with technical measures via ASMFC addendum XI were adopted in 2007. These actions were taken to remedy the over-fished condition identified in the 2006 stock assessment. ASMFC addendum XVI established new reference points for determination of lobster stock status and was adopted in November 2009.

Additionally, in response to the April 2010 ASMFC Lobster Technical Committee report on recruitment failure in the SNE lobster stock, the ASMFC Lobster Management Board called for development of an addendum (addendum XVII) to address a recommended 50-75% reduction in the exploitation rate on lobster in the SNE stock. The NMFS contracted the services of the Independent Center of Experts (ICE) to conduct a review of the 2009 stock assessment and technical committee report on recruitment failure in SNE. The ICE review produced a consensus that 1) natural mortality rate (M) had likely increased, 2) the stock was in poor condition, and 3) severe reductions in fishing mortality rate were needed immediately. The ASMFC Lobster Management Board approved Addendum XVII to the Interstate Fishery Management Plan for American Lobster in February 2012. This addendum presents a suite of management options to reduce fishing exploitation on the southern New England (including LCMA 2) lobster stock by 10% starting in July 2013. The proposed 10% reduction would come from changes in the minimum size limit, maximum size limit, and/or closed seasons. Proposals would be developed for each affected lobster conservation management area (LCMAs 2, 3, 4, 5, and 6) to meet the 10% reduction in exploitation. In lieu of a closed season, a conservation equivalency program was approved for LCMA 2 to allow the states of Rhode Island and Massachusetts to implement a mandatory v-notch program for all legal sized egg bearing females beginning June 1, 2012. If the measures do not meet the conservation objectives, an annual four month closed season from January 1 to April 30 will be implemented. As part of the Southern New England area-specific measures, LCMA 3 will implement a minimum size of 3 17/32" effective January 1,

2013. In July 2014 staff biologists analyzed available fishery dependent data and determined that the 10% reduction in exploitation had not been met mostly because of further declines in lobster abundance.

In May 2012 the ASMFC American Lobster Management Board approved Draft Addendum XVIII for Public Hearing. The draft Addendum proposed a consolidation program for LCMA's 2 and 3 to address latent effort and reduce the overall number of traps allocated. The specific management tools being considered include trap allocations, trap banking and controlled growth for participants in the fishery. Addendum XVIII was approved in August 2012 with the goal of scaling the southern New England lobster fishery to the size of the resource, with an initial goal of reducing qualified trap allocation by 25% - 50% over a 5-10 year period of time. Addendum XIX was approved in February 2013 as essentially a revision to Addendum XVIII to change the LCMA 3 transfer tax from 20% down to 10%. Addendum XXI is a continuation and refinement of aspects of Addendum XVIII and addresses mechanisms for reductions in fishing capacity for LCMA's 2 and 3 and rules governing lobster trap allocation transferability. In May 2014 and November 2014, the DEM and NOAA Fisheries respectively, implemented a State licensed and Federally permitted Lobster Trap Reduction and Lobster Trap Transferability program which allows State licensed and Federally permitted fishers to transfer traps within the pool of State licenses and Federal Permits along with a 10% transfer tax to further reduce traps in conjunction with an annual trap reduction schedule for both management areas. The 2016 fishing season will be the first reduction in all Lobster Trap Allocations by 25% in Area 2 and 5% in Area 3.

Current Rhode Island lobstermen fishing in state waters must hold either a multipurpose license, lobster principal effort license, or commercial fishing license endorsed for lobster to fish for lobster, as allowed for by existing state and ASMFC regulations. The licensing statutes require that the Director of DEM specify by rule the status of the lobster resource each year and the availability of new lobster licenses. A limited number of individuals were issued limited access, basic commercial fishing licenses in 2003. These licenses allowed for a 100-pot deployment rather than the 800 pot, full access deployment. As a result of implementation of Addendum VII, all license holders are now limited to fishing a number of traps based on their individual lobster landings and trap deployment history during the years 2001-2003 (or 1999-2000 in cases of a proven medical or military service hardship during the years 2001-2003). No new lobster licenses were recommended or issued by DEM for 2015, and none are recommended by DEM for 2016. Table 2 shows Rhode Island commercial fishing license and lobster license/endorsement issuance data for 2003-2014.

Fishery Management Goals and Objectives:

Goal: The following goal is adapted from the coast wide goal of the Atlantic States Marine Fisheries Commission (ASMFC 1996).

Rhode Island will have a healthy American lobster resource and a fishery management regime, which provides for sustainable harvest, cooperative management by stakeholders, and appropriate opportunities for fishery participation.

Objectives:

1. Maintain fishing mortality rates and brood stock abundance at levels, which minimize the risk of stock depletion and recruitment failure.
2. Extend size-age composition of the resource and increase yield per recruit in the fishery while maintaining harvest at a sustainable level.
3. Maintain existing social and cultural characteristics of the fishery wherever possible
4. Promote economic efficiency in harvesting and use of the resource
5. Provide for adaptive management that is responsive to unanticipated short-term events or circumstances.
6. Increase understanding of American lobster biology and improve data collection, stock assessment models, and relationships between harvesters and scientists.

Division Recommendations: It is clear from the above information that the regional lobster resource has undergone a decline in abundance and fishery performance. The decline has imposed substantial economic hardship on industry that has responded with attrition. Recently, the local stock has shown signs of increase but biomass remains below that needed for MSY. The regional rebuilding effort undertaken by the ASMFC has not yet been completed. Additional restrictions may be placed on existing fishers via addendums to the interstate fishery management plan including a continued prohibition on issuance of new Area 2 permits. This prohibition includes state lobster licenses and landing permits applicable to lobster. The finding of reduced resource status (biomass below threshold level) is inconsistent with Rhode Island fishery conservation standard A of RIGL 20-2.1-9. **In view of ASMFC compliance requirements and state law, it is recommended that no new lobster licenses be issued for 2016.** The state should continue to work with the RIMFC and ASMFC to further reduce fishing mortality and to rebuild the lobster resource throughout the region. Attrition is clearly occurring in the industry and contributing to reduced fishing effort. The state is preparing to neutralize latent effort through the trap reductions imbedded in Addendum XVIII starting in 2016 so that it cannot re-activate if resource conditions improve. Participation in Area 2 is based on historical performance and the state has reviewed lobster licensing and made appropriate changes in preparation for limited access-historical performance. A lobster trap allocation transferability program that was initiated with Addendum XII has been developed in consultation with ASMFC and NOAA Fisheries via Addenda XVIII, XIX, and XXI. This can be used to bring new individuals into the fishery without increasing effort above that qualified in the initial trap allocation.

RI Marine Fisheries Council: The Industry Advisory Committee (IAC) of the RIMFC met on July 21st to formulate advice for the Council on licensing. No vote or recommendation was provided, and no objection was made regarding the continued moratorium on the issuance of new lobster licenses. **At their meeting on October 5, the Council recommended**

Other Management Considerations: Industry has worked closely with the ASMFC, NOAA Fisheries, and DFW to implement the effort control program approved by the ASMFC lobster management board. Continued agency/industry cooperation is needed as implementation of transferability and historic participation schemes proceeds throughout the region. These programs, although controversial in some quarters, provide the best long-term mechanism to reduce lobster fishing effort. Industry has also expressed support for a replacement for the North Cape v-notching program that ended in July of 2006. As noted above, this has come in the form of ASMFC Addenda VII, XII, XVIII, XIX, and XXI to the American Lobster FMP. The former program had reduced the fishing mortality rate on female lobsters locally and egg production by v-notched females was a substantial component of egg production during 2002-2006. However, this component of egg production has decreased drastically since the termination of the North Cape v-notching program. Re-institution of this program in the context of achieving ASMFC stock rebuilding targets is set to occur. DEM strengthened v-notch protection by implementing a more restrictive v-notch definition on September 12, 2006. The intent was to increase the longevity of v-notched lobsters and encourage industry to practice voluntary notching. Abundance of v-notched lobsters has declined during 2006-present. This warrants close monitoring since industry based v-notching post North Cape is needed in conjunction with the effort control plan to keep mortality rates low on female lobster. The mandatory v-notch program for all legal sized egg bearing females as part of Addendum XVII to the Interstate Fishery Management Plan for American Lobster is currently still in effect. Finally, industry supports continuation of the un-vented trap survey begun in 2006 as the primary abundance-monitoring tool for lobster. Continued federal funding to Rhode Island is needed to continue this survey.

OTHER CRUSTACEANS ENDORSEMENT

Stock Status: The commercial crab fisheries in state waters consists of landings of green (*Carcinus maenas*), Jonah (*Cancer borealis*), rock (*Cancer irroratus*), and blue crabs (*Callinectes sapidus*). Total Rhode Island landings of these species is currently (2014) about 4.5 million pounds and worth about 3.38 million dollars (Atlantic Coastal Cooperative Statistics Program 2014). However, only a small amount of this is taken from state waters. Landings of deep-sea red crabs (*Chaceon quinqueedens*) are also made, but these come strictly from federal waters and participation is limited by federal permit.

An ASMFC Fishery Management Plan is currently under development for the Jonah Crab (*Cancer borealis*) fishery. Probable elements of the management plan could be but not limited to permitting, minimum size requirements, the prohibition of egg bearing females and incidental bycatch limits. Fishing mortality rate on the two *Cancer* crab species (Jonah and Rock crabs, species combined) has recently exceeded the F_{msy} level (Figure 6). Biomass, however, was above the B_{msy} level so the Jonah and Rock crab resource is not considered over-fished at this time. Figure 7 shows the URIGSO trawl survey time-series for the two *Cancer* crab species (Jonah and Rock crabs,

species combined). Recent (2006-2014) *Cancer* crab abundance is below the time-series mean.

Figure 8 shows the URIGSO trawl survey time-series for blue crabs.

There is not sufficient data to assess other crab species in state waters at this time. The introduction of the Japanese shore crab (*Hemigrapsus sanguineus*) has been noted and may have as yet unknown consequences for other crab species.

The horseshoe crab (*Limulus polyphemus*), although not a true crab, is also harvested. Horseshoe crabs in Rhode Island were found to be over-fished and at low abundance in the first DFW assessment (Gibson and Olszewski 2001) and analysis of data through early 2013 shows a continuing trend of low abundance. An updated coastwide Horseshoe Crab stock assessment was conducted in 2013 and declining abundance was evident in the New England region. These declines were evident in the previous 2004 and 2009 stock assessments, and trends have not reversed. The status of horseshoe crabs in the New England region appears worse than what it was during the 2009 stock assessment, with more indices now likely less than their 1998 reference points.

A commercial quota system with additional seasonal harvest restrictions and possession limits is being proposed to better distribute the annual catch to multiple user groups and gear types. The updated stock assessment shows that while the fishing mortality rate has been reduced to below the F_{msy} reference point, stock abundance has not yet recovered toward B_{msy} (Figures 9 and 10).

Management Program: Horseshoe crabs and crustaceans other than lobster are managed in state waters by the DEM with advice from the RIMFC. DEM uses time and area closures, quotas, and possession limits to manage the state waters fishery. Compliance with an ASMFC management plan is required in the case of horseshoe crabs and is achieved with a commercial quota and permitting system.

Division Recommendations: Crab abundance is stable or declining so that additional restrictions may be needed. The recent increase in crab landings should be monitored. The spawning period closures have greatly restricted the horseshoe crab fishery and reduced fishing mortality rates. Currently, the Rhode Island Horseshoe Crab assessment is being updated with the most recent data available. The current management approach has proven to be difficult for enforcement and does not allow multiple gear types and user groups an equal opportunity for harvest on a seasonal basis. Additional limits may be needed in the future. New commercial licenses for most of these species need not be limited and can likely sustain harvest levels equal to current licensees. In order for the DFW to react in a timely fashion to fishery landings, the reports should continue to be submitted in the current manner. However it should be noted that with somewhat un-restricted access to the horseshoe crab fishery, the likelihood of an early closure date due to an exhausted quota is high unless more restrictive daily possession limits are implemented. With a quota based management

regime there is no biological reason for limiting access however as effort increases so do landings.

RI Marine Fisheries Council: The Industry Advisory Committee (IAC) of the RIMFC met on July 21st to formulate advice for the Council on licensing. **At their meeting on October 5, the Council recommended**

LITERATURE CITED

- Atlantic States Marine Fisheries Commission (ASMFC). 1996. A review of the population dynamics of American lobster in the northeast. Special Report No. 61 of the Atlantic States Marine Fisheries Commission.
- Atlantic States Marine Fisheries Commission (ASMFC). 2000. American lobster stock assessment report for peer review. Stock assessment report No. 00-01 (Supplement) of the Atlantic States Marine Fisheries Commission. July 2000.
- Atlantic States Marine Fisheries Commission (ASMFC). 2003a. Total allowable landings for area 2. Report of the ASMFC lobster modeling subcommittee, January 2003.
- Atlantic States Marine Fisheries Commission (ASMFC). 2003b. Lobster conservation management area 2: goals and management measures. Report of the ASMFC lobster technical committee, July 2003.
- Atlantic States Marine Fisheries Commission (ASMFC). 2006a. American lobster stock assessment for peer review. Stock Assessment Report No. 06-03 (Supplement) of the Atlantic States Marine Fisheries Commission. January 2006.
- Atlantic States Marine Fisheries Commission (ASMFC). 2006b. Terms of Reference and Advisory Report to the American lobster stock assessment peer review. Stock Assessment Report No. 06-03 of the Atlantic States Marine Fisheries Commission. January 2006.
- Atlantic States Marine Fisheries Commission (ASMFC). 2009. American lobster stock assessment for peer review. Stock Assessment Report No. 09-01 (Supplement) of the Atlantic States Marine Fisheries Commission. February 2009.
- Atlantic Coastal Cooperative Statistics Program. (2012) 2012 Rhode Island Cancer Crab Landings Data; generated by Anna Webb; using ACCSP Data Warehouse [online application], Arlington, VA: Available at <http://www.accsp.org> --> Data Center --> Data Warehouse --> Login; accessed July 8, 2013.
- Atlantic States Marine Fisheries Commission (ASMFC). 2013. Horseshoe Crab Stock Assessment Update. August 2013.

Atlantic States Marine Fisheries Commission (ASMFC). 2015. American lobster benchmark stock assessment and peer review report. Stock Assessment Report (Supplement) of the Atlantic States Marine Fisheries Commission. August 2015.

Drinkwater, K.F. and D.G. Mountain. 1997. Climate and Oceanography. Pages 3-25 in J. Boreman, B.S. Nakashima, J.A. Wilson, and R.L. Kendall, editors. Northwest Atlantic groundfish: perspectives on a fishery collapse. American Fisheries Society, Bethesda Maryland.

Gibson, M.R. 2000. Alternative assessment and biological reference points for the Rhode Island inshore lobster stock with estimations of unfished stock size. Report to the Atlantic States Marine Fisheries Commission and lobster assessment peer review panel.

Gibson, M.R., and S. Olszewski. 2001. Stock Status of Horseshoe Crabs in Rhode Island in 2000 with Recommendations for Management. RI Division of Fish and Wildlife. Research Reference Document 01/01.

Gibson, M.R., and T. E. Angell. 2006. Estimating the reduction in fishing mortality rate on area 2 lobster associated with the North Cape v-notching program. RI Division of Fish and Wildlife. Report to the ASMFC lobster technical committee.

Hilborn, R., and C.J. Walters. 1992. Quantitative fisheries stock assessment choice, dynamics and uncertainty. Chapman and Hall, New York. 570 p.

Katz, C.H., J.S. Cobb, and M. Spaulding. 1994. Larval behavior, hydrodynamic transport, and potential offshore recruitment in the American lobster, *Homarus americanus*. Mar. Ecol. Prog. Ser. 103: 265-273.

Wahle, R., M. Gibson, R. Glenn, P. Lawton, D. Robichaud, J. Tremblay, and C. Wilson. 2006. New England Lobster Settlement Index: Update 2005 Climate Controls.

TABLES AND FIGURES

Table 1 - Revised threshold reference points with stock status variables for the Southern New England lobster stock unit.

Variable	SNE
Effective Exploitation	
Effective Exploitation Threshold	0.41
Recent effective exploitation 2011-2013	0.27
Effective Exploitation Below Threshold?	YES
Reference Abundance (number of lobster)	
Abundance Threshold	24,000,000
Recent Abundance 2011-2013	10,000,000
Abundance Above Threshold?	NO

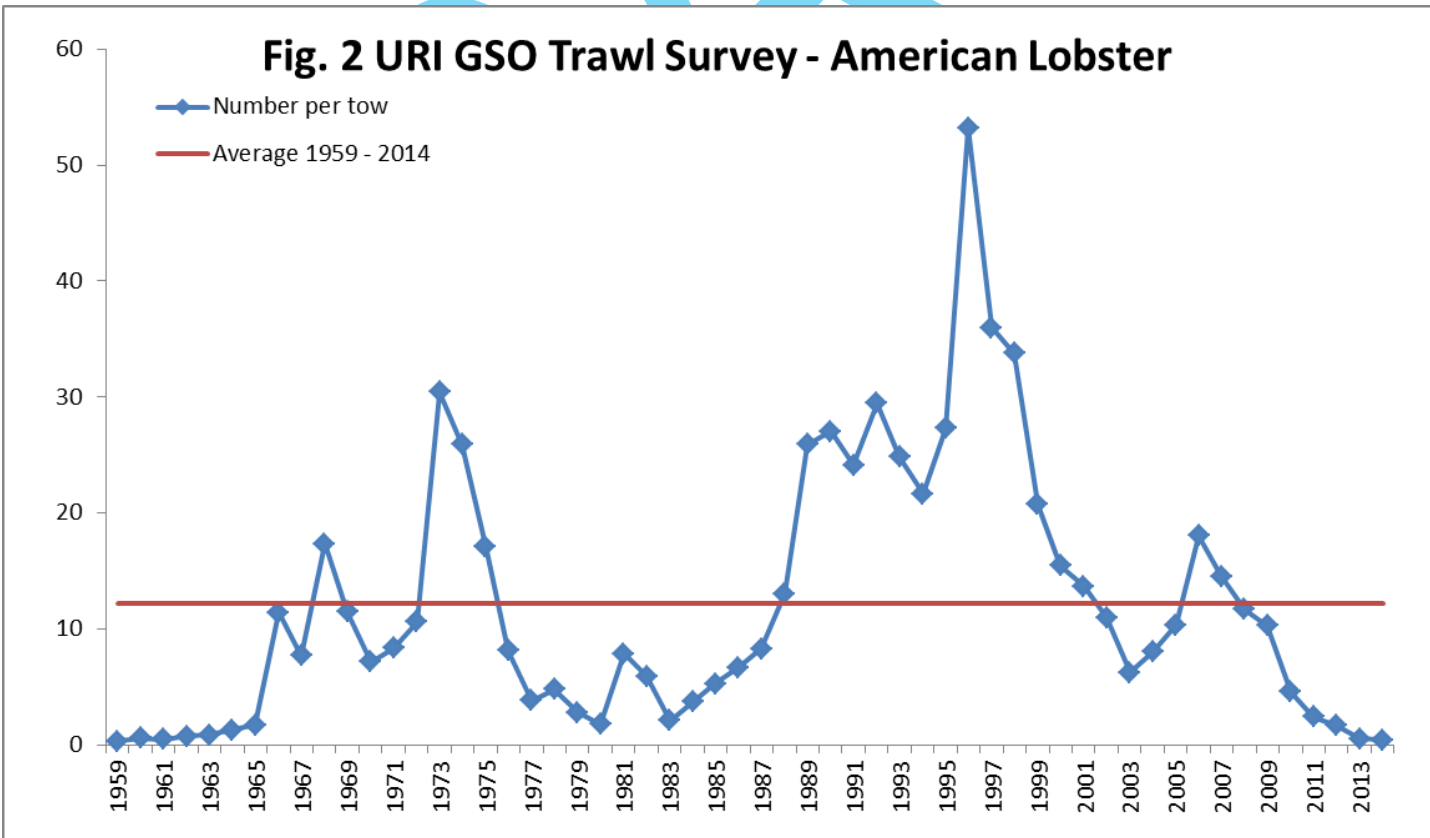
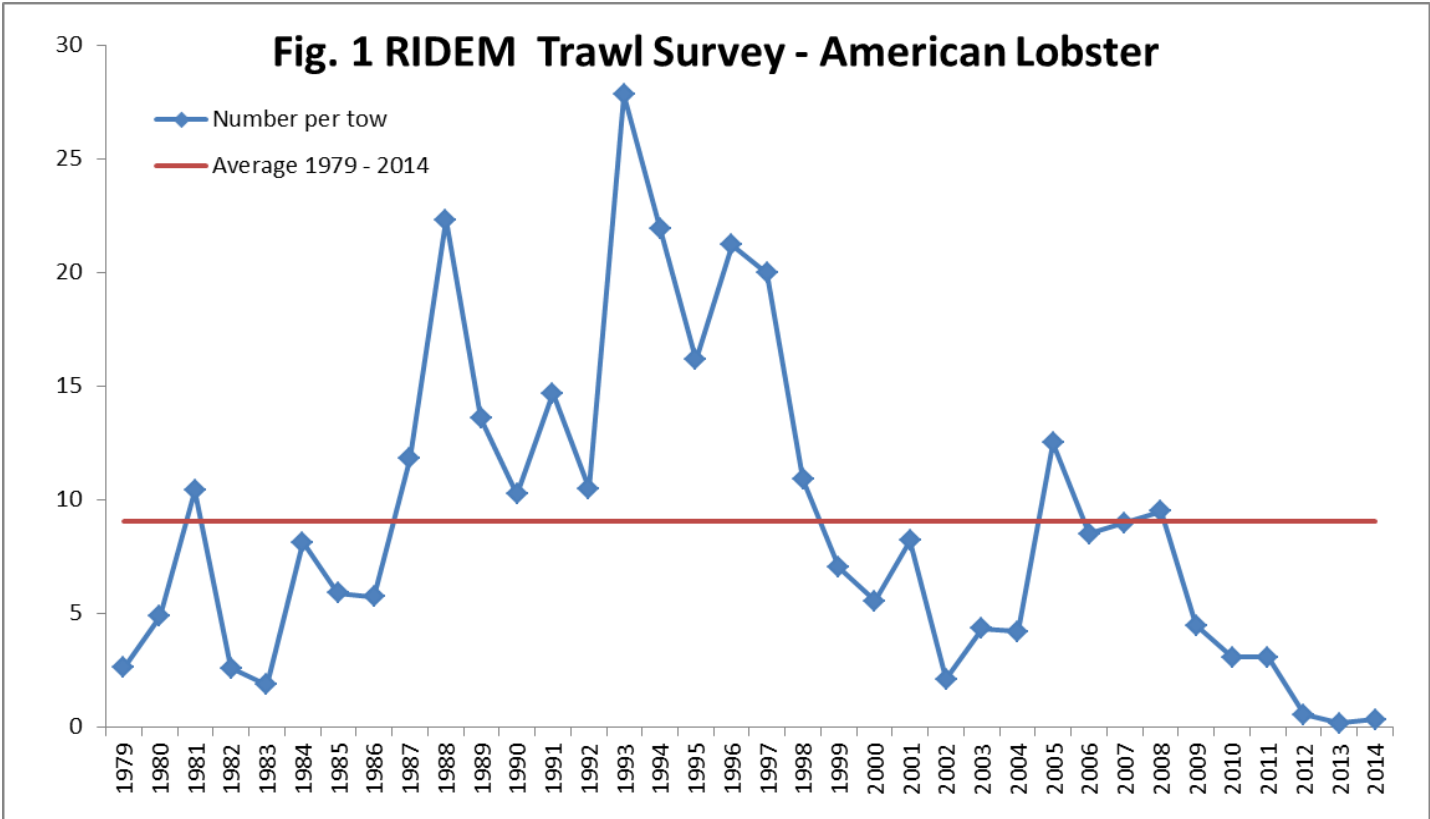
Table 2 - Rhode Island Commercial Fishing License and Lobster License/Endorsement Issuance Data, 2003-2014.

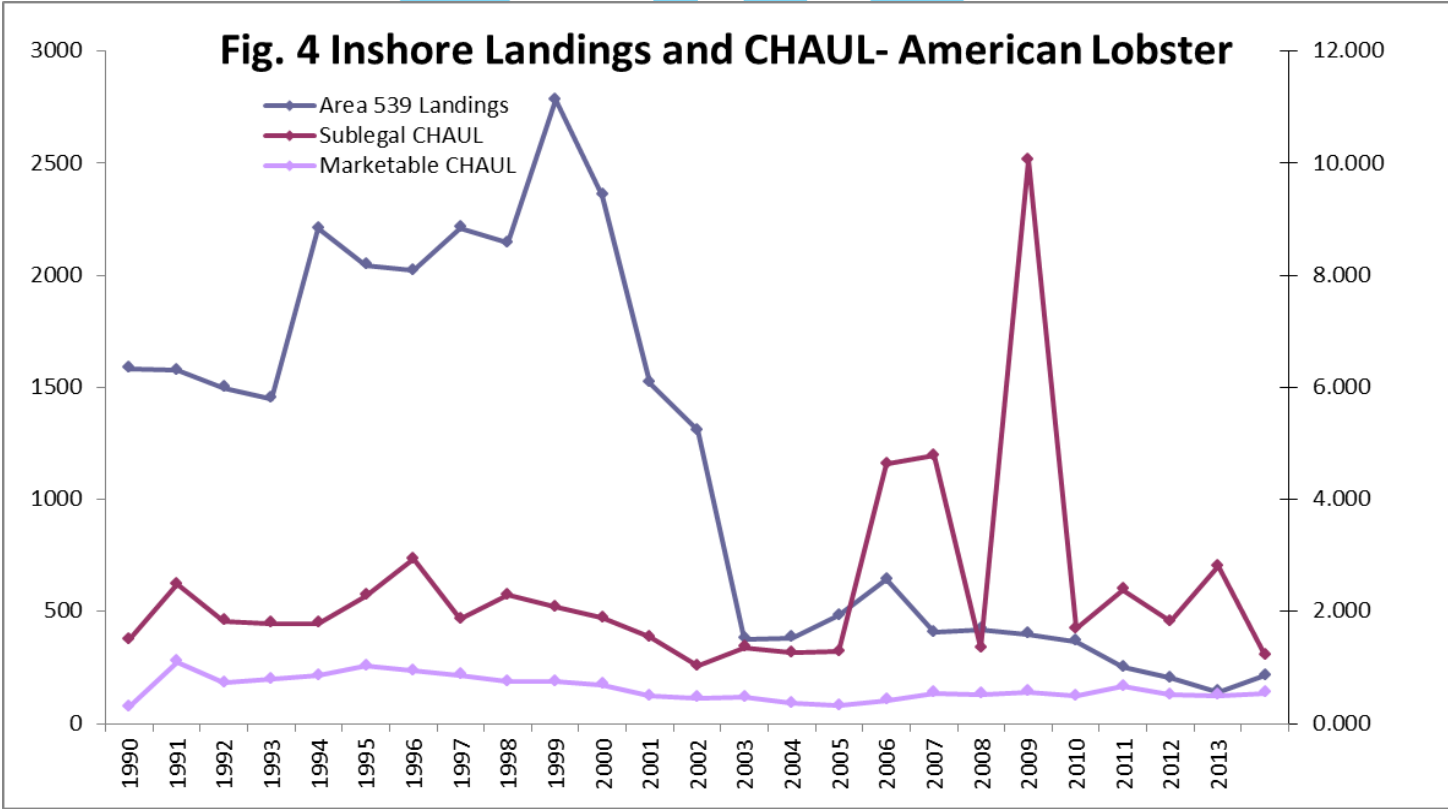
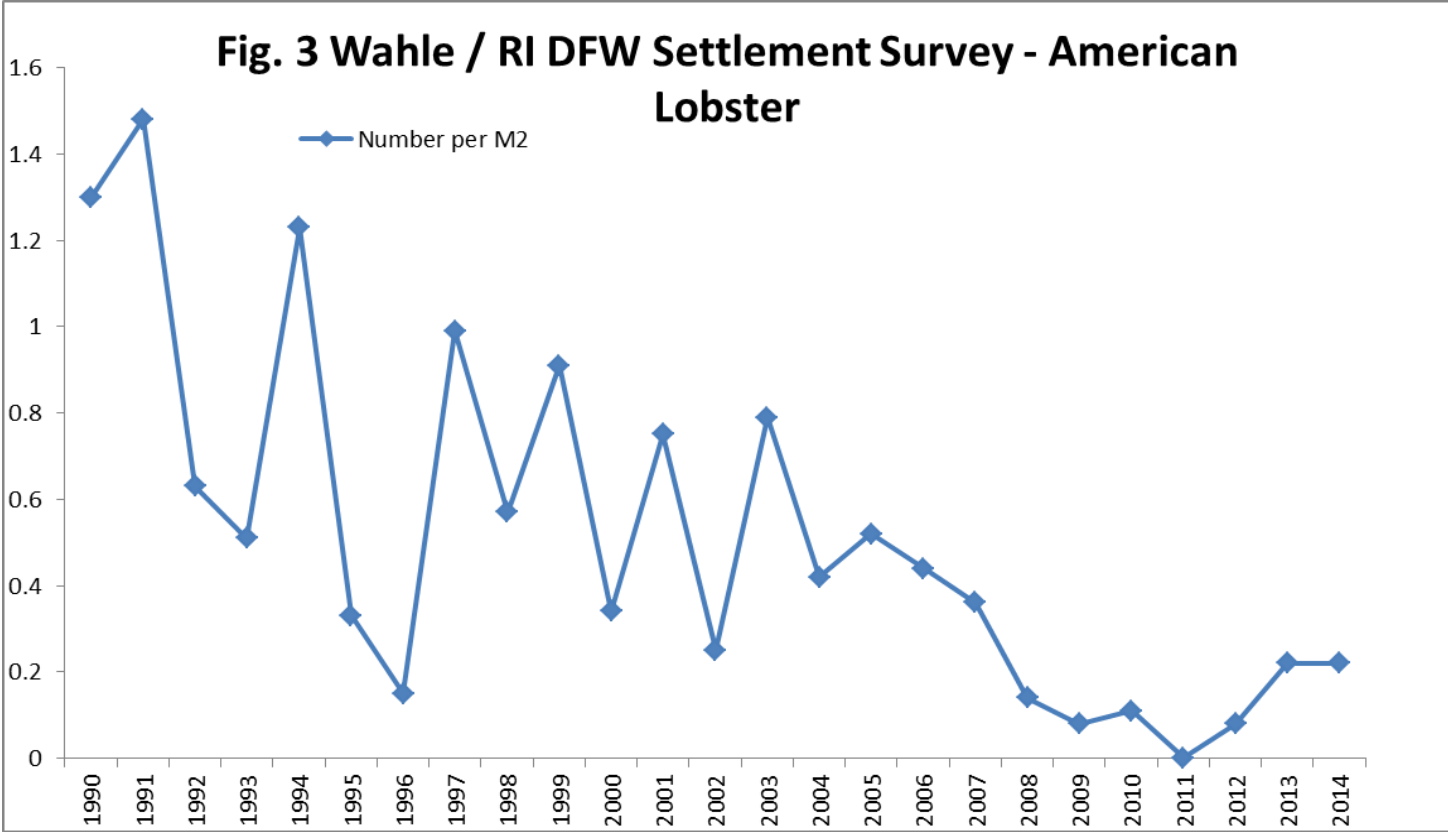
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
License Type													
Total Multi-purpose Licenses MPL	1191	1135	1075	1019	973	939	917	891	868	853	829	816	799
MPL w/lobster endorsement*	1191	1135	1075	1019	973	939	917	891	868	853	829	816	799
MPL ordered trap tags (State only /Area 2)**	265	243	228	207	154	172	148	156	141	108	113	88	86
MPL w/lobster trap allocation (State only/Area 2)*					210	219	215	210	209	209	210	200	196
MPL ordered trap tags (Federal /Area 2)**	130	130	119	108	95	91	87	89	81	78	83	64	63
MPL w/lobster trap allocation (Federal/Area 2)*					112	111	112	110	110	104	107	108	102
Total Principal Effort Licenses PEL	1325	1148	997	930	862	810	776	737	717	690	655	615	590
PEL w/lobster endorsement*	61	56	52	46	45	44	40	38	37	36	30	27	20
PEL ordered trap tags (State only /Area 2)**	25	21	19	18	20	17	17	17	13	10	10	5	6
PEL w/lobster trap allocation (State only/Area 2)*					23	22	22	21	21	21	21	16	15
PEL ordered trap tags (Federal /Area 2)**	16	15	15	10	12	12	13	13	12	7	7	7	5
PEL w/lobster trap allocation (Federal/Area 2)*					14	14	15	15	14	14	13	13	10
Total Commercial Fishing Licenses CFL	271	283	317	397	464	421	433	450	394	398	420	404	404
CFL w/lobster endorsement***	50	48	41	38	32	27	22	19	17	16	15	14	14
CFL ordered trap tags (State only /Area 2)**	24	16	13	10	6	6	6	6	5	4	4	2	2
CFL w/lobster trap allocation (State only/Area 2)***					9	8	8	8	8	8	8	6	6
CFL ordered trap tags (Federal /Area 2)**	0	2	2	2	2	2	1	1	1	1	1	1	1
CFL w/lobster trap allocation (Federal/Area 2)***					2	2	2	1	1	1	1	1	1
Total Effective Lobster Licenses	1302	1239	1168	1103	1050	1010	979	948	922	905	874	857	833
Total Effective lobster Licenses w/trap allocation					370	376	374	365	363	357	360	344	330

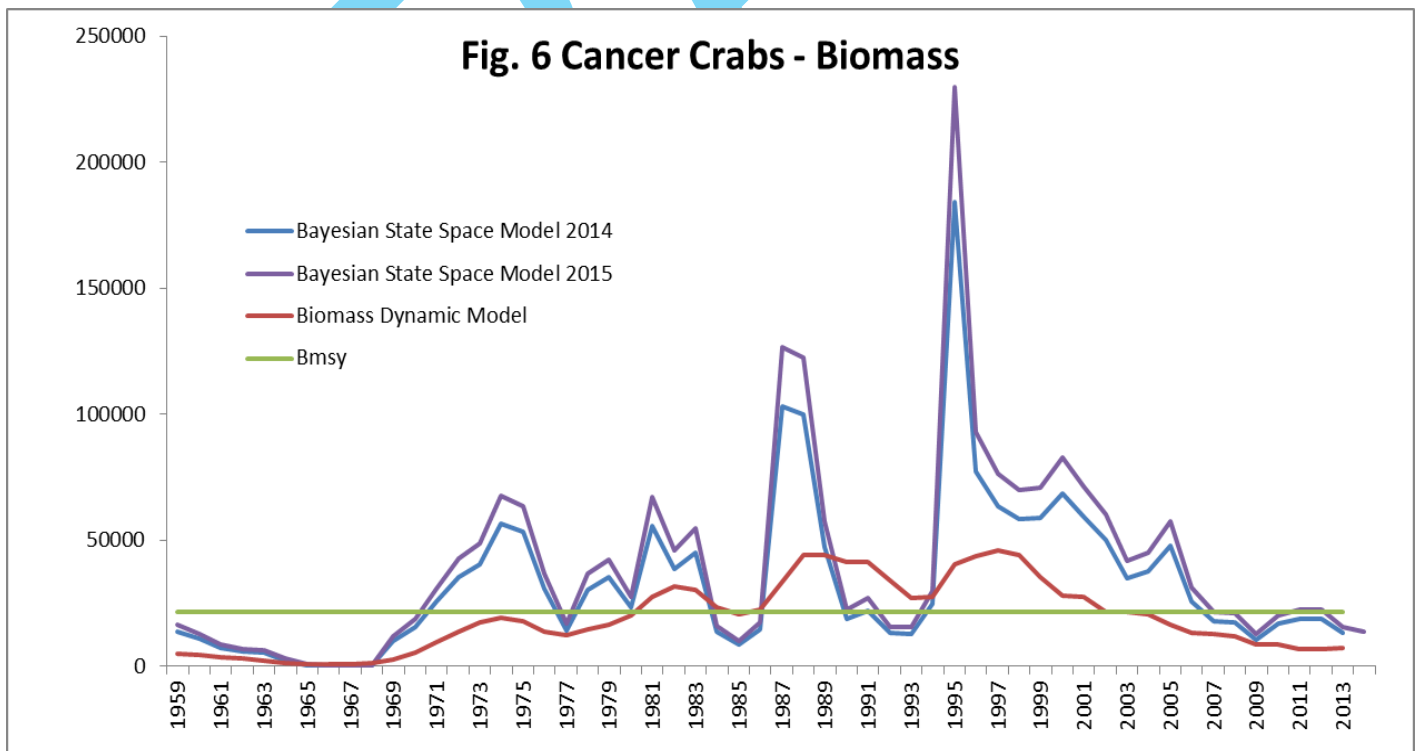
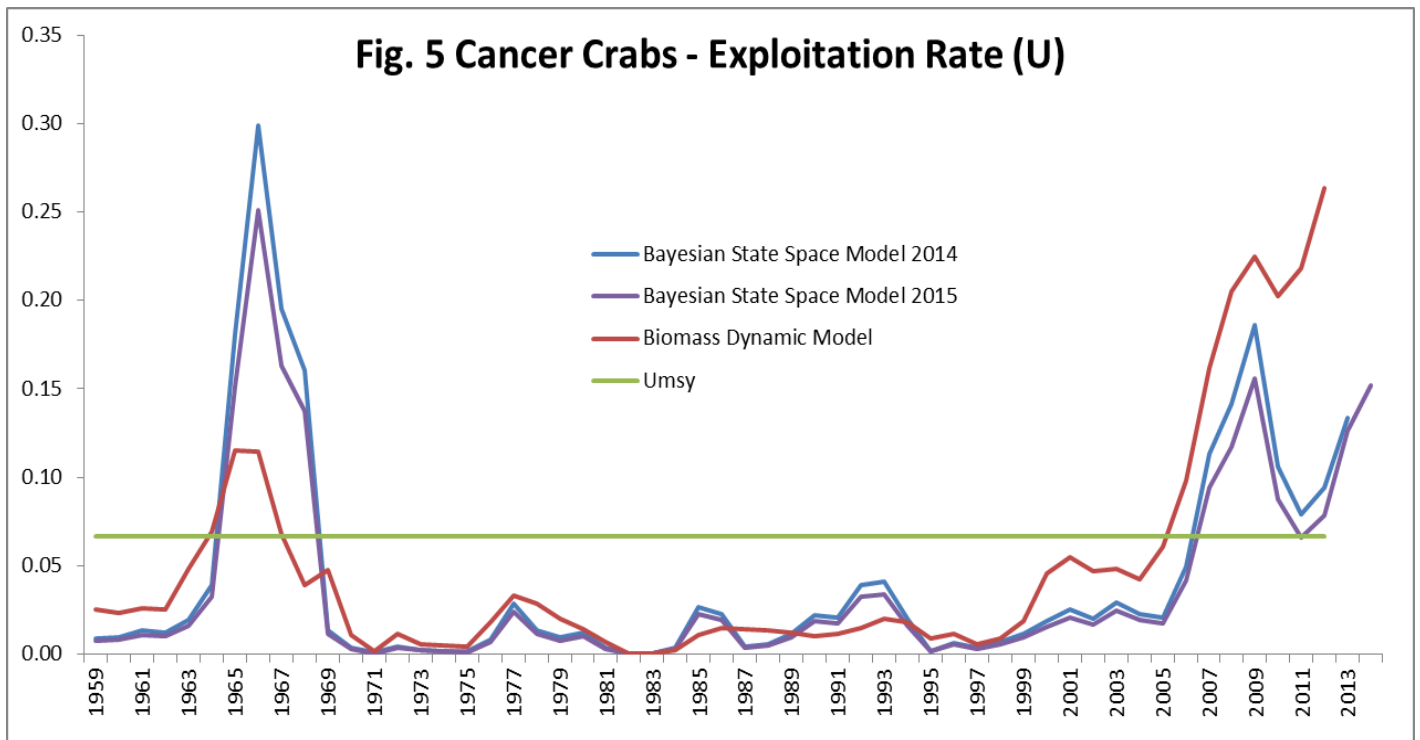
* 800 trap limit during 2003-2006; individual history-based lobster trap allocation starting in 2007; all MPL licenses are endorsed to harvest lobster

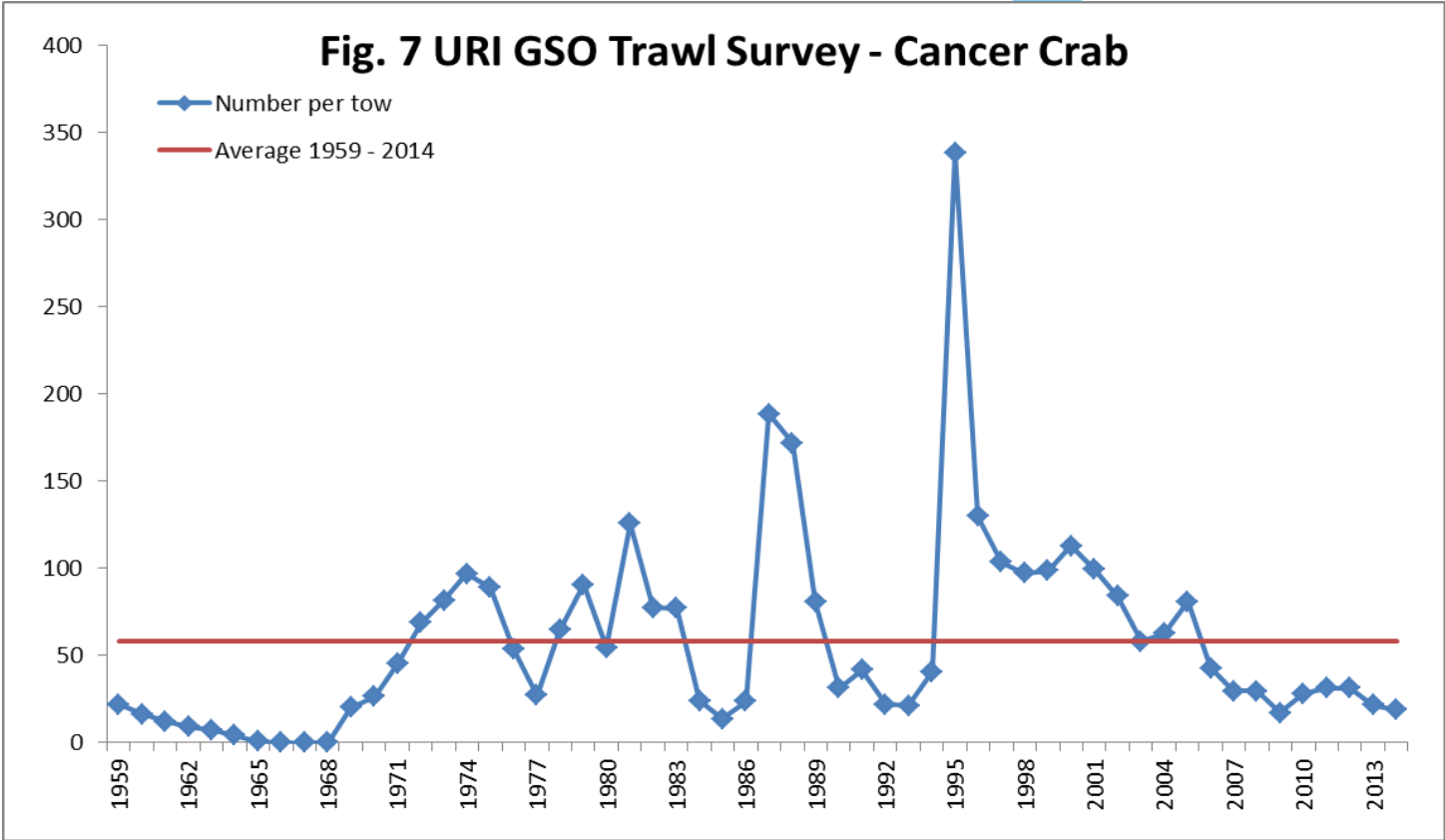
** 2003-2013 used trap tag orders as proxy for "effective" lobster licenses

*** 100 trap limit during 2003-2006; individual history-based lobster trap allocation starting in 2007









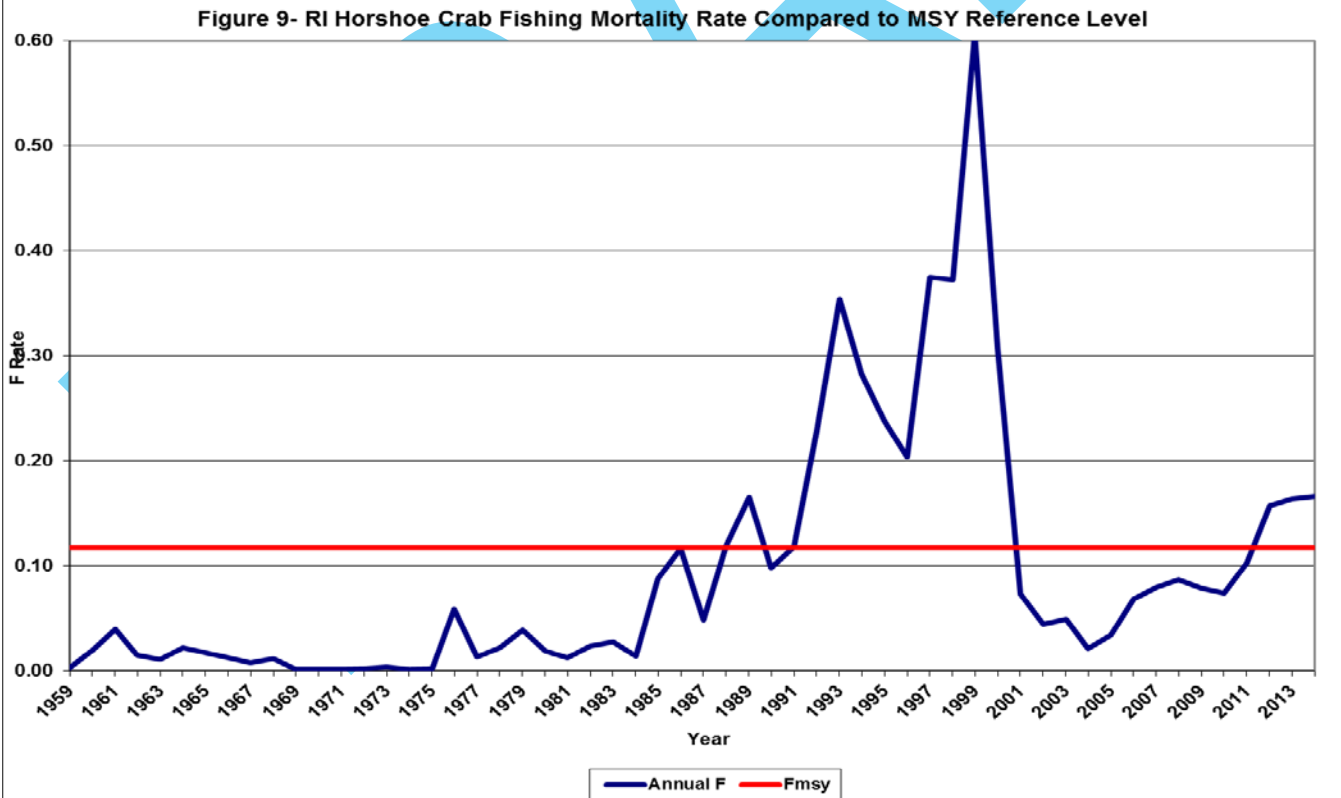
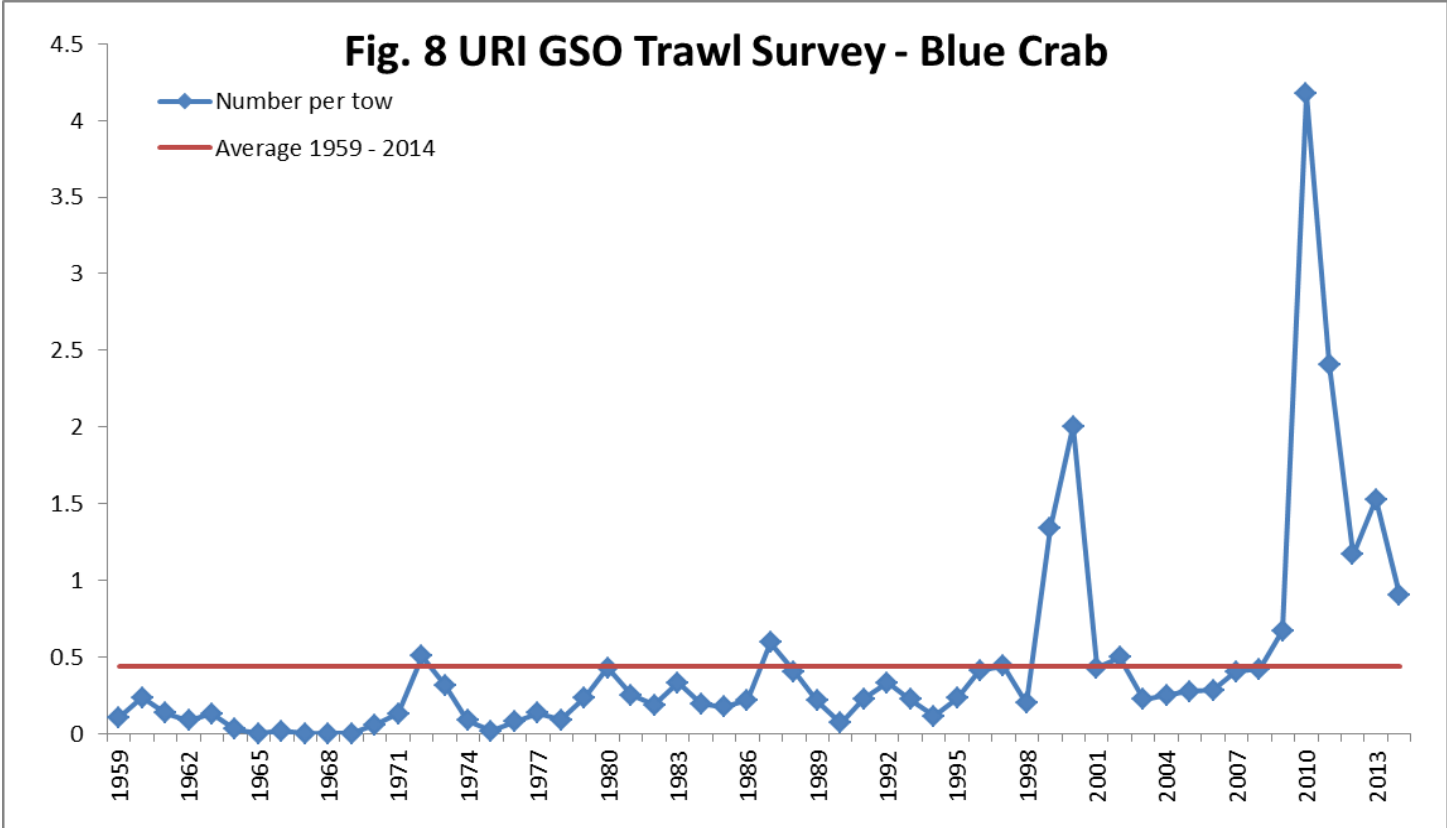
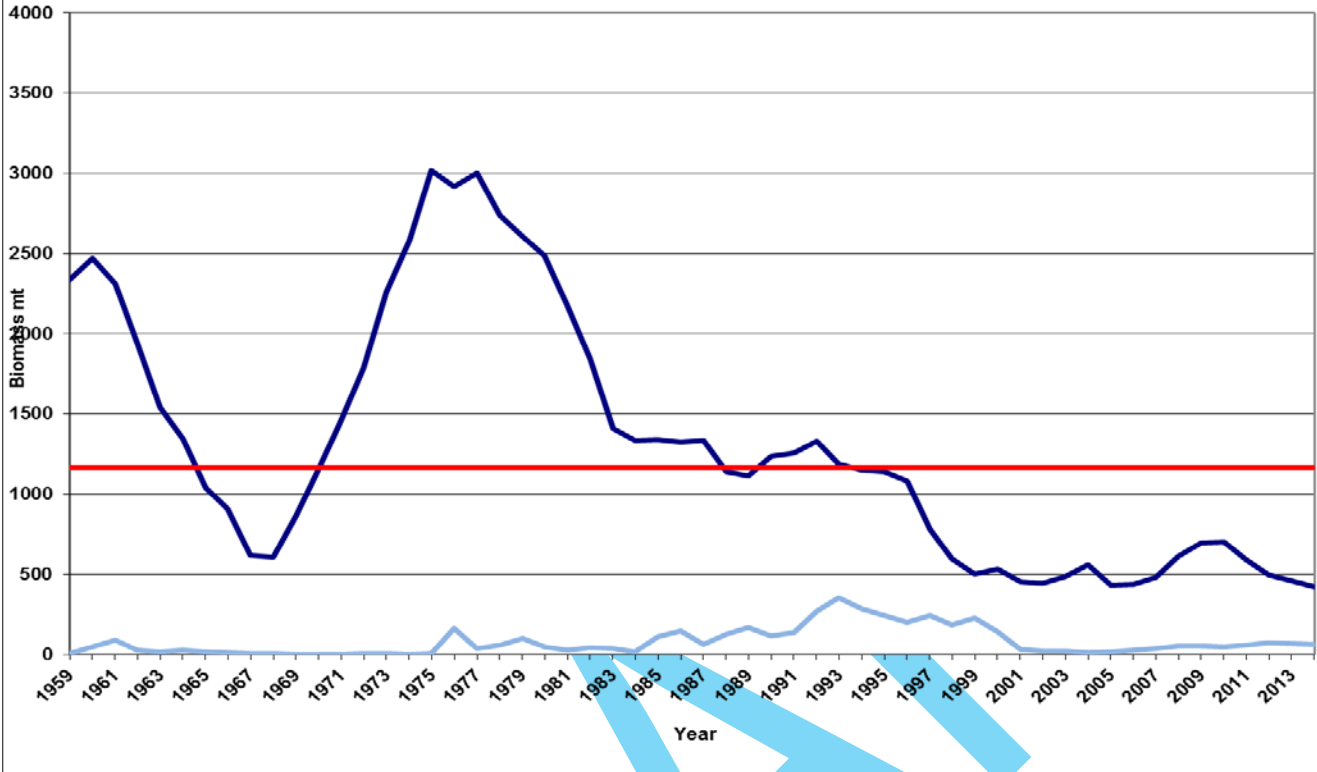


Figure 10- RI Horseshoe Crab Landings and Biomass from the BDM Assessment, 1959-2014



PLAN APPROVED:

 Jason McNamee, Chief
 Division of Fish and Wildlife
 Office of Marine Resource Management

 Date

**RHODE ISLAND DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
DIVISION OF FISH AND WILDLIFE
MARINE FISHERIES SECTION**

PUBLIC NOTICE CONCERNING PROPOSED REGULATORY CHANGES

Pursuant to the provisions of Chapters 42-17.1 and 20-3 of the General Laws of Rhode Island as amended, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Director of the Department of Environmental Management (DEM) proposes amendments to the **Rhode Island Marine Fisheries Regulations (RIMFR)** and gives notice of intent to hold a workshop and public hearing to afford interested parties the opportunity for public comment.

Public comment will be solicited on the following proposals:

- 1) Proposed amendments to **“RIMFR - Commercial and Recreational Saltwater Fishing Licensing Regulations”**:
 - a. Exit/entry ratios for quahaug and soft-shell clam endorsement (section 6.1-10);
 - b. Procedures for adopting Sector Management Plan (section 6.2-1);
 - c. Issuance of new licenses upon sale of vessel and gear (section 6.7-8); and
 - d. Date for submittal of Student Shellfish licenses (sections 5, 6.7-3, and 6.8-5).

- 2) Proposed amendments to **“RIMFR - Aquaculture Marine Species in Rhode Island Waters”**:
 - a. Proposed definitions (new section 7);
 - b. Clarifying and updating permitting and submission requirements (new section 8.0);
 - c. Clarifying submission requirements for the shipment and importation of shellfish seed (new section 9.2);
 - d. Reduce the time period requirement for the harvest of shellfish transferred from other than approved waters as seed (new section 9.8);
 - e. Updating tagging requirements (new section 11.1); and
 - f. General editing to improved readability (entire regulation).

- 3) Proposed repeal of **“RIMFR – Marine Fisheries Council”**.

- 4) Proposed repeal of **2015 Finfish, Shellfish, and Crustacean Sector Management Plans**.

- 5) Proposed amendments to **RIMFR – Lobster, Crabs, and Other Crustaceans** to correct the minimum escape vent size and season closure dates for LCMA 4 for consistency with the federal management plan.

The **workshop will commence at 4:30PM on September 21, 2015** followed by the **public hearing at 6:00PM** at the University of Rhode Island, Graduate School of Oceanography, **Coastal Institute Building, Hazard Room**, South Ferry Road, Narragansett, RI 02882. The room is accessible to the disabled. Interpreter services for the deaf and hard of hearing will be

provided if such services are requested at least three (3) business days prior to the hearing by contacting the RI Commission on the Deaf and Hard of Hearing at (401) 222-5300; or (401) 222-5301 (TTY); or <http://www.cdhh.ri.gov/>.

The Department has determined that small businesses may be adversely impacted by the proposed regulations. Small businesses which are either currently licensed, or in the future may seek a license to harvest, buy, sell, or produce seafood products, as well as the small businesses that provide services related to those engaged in such industries, are requested to comment on the proposed regulations on how such proposed action can be changed to minimize the impact on those small businesses affected.

Written comments concerning the proposed regulations may be submitted to Peter Duhamel, Division of Fish and Wildlife – Marine Fisheries office, 3 Fort Wetherill Road, Jamestown, RI 02835 no later than 12:00 Noon on September 21, 2015. A copy of the proposed regulations is available for review from August 21 through September 21, 2015 at the Marine Fisheries offices, or by mail. A copy of the proposed regulation(s) has been filed with the Office of the Secretary of State's website at <http://sos.ri.gov/ProposedRules/>. Proposed annotated regulations are also available on the DEM Marine Fisheries webpage at <http://www.dem.ri.gov/programs/bnatres/fishwild/pn092115.htm>.

Jason McNamee,
Chief

Summary of proposed modifications

Commercial and Recreational Saltwater Fishing Licensing Regulations

Public hearing
September 21, 2015

Public Hearing Item #1 **Exit/entry ratios**

Option 1: Division proposal

(6.1-10) Exit/Entry Ratios

(a) Restricted finfish – For every one (1) license, eligible to harvest restricted finfish, namely, Multi-Purpose Licenses and Principal Effort Licenses with a restricted finfish endorsement, that had some reported landings of restricted finfish during the prior calendar year and are retired, one (1) new Principal Effort License with restricted finfish endorsement will be made available; provided, that if the application of the exit/entry ratio yields a value less than a multiple of three (3) endorsements, the number of endorsements will be rounded up to yield a multiple of three (3) endorsements.

(b) Quahaug -- For every ~~two~~ **one (1)** license eligible to harvest quahaug, namely, Multi-Purpose Licenses and Principal Effort Licenses with a quahaug endorsement, that are retired, one (1) new Commercial Fishing License with quahaug endorsement will be made available; provided, that if the application of the exit/entry ratio yields one (1) or two (2) licenses/endorsements, three licenses/endorsements will be made available.

(c) Soft Shell Clam – For every five licenses, eligible to harvest soft shell clam, namely, Multi-Purpose Licenses, Principal Effort Licenses with a soft shell clam endorsement, and Commercial Fishing Licenses with a soft shell clam endorsement, that are retired, one (1) new Commercial Fishing License with soft shell clam endorsement will be made available; provided, that if the application of the exit/entry ratio yields one or two (2) licenses/endorsements, three licenses/endorsements will be made available.

Option 2: Industry/IAC proposal

(6.1-10) Exit/Entry Ratios

(a) Restricted finfish – For every one (1) license, eligible to harvest restricted finfish, namely, Multi-Purpose Licenses and Principal Effort Licenses with a restricted finfish endorsement, that had some reported landings of restricted finfish during the prior calendar year and are retired, one (1) new Principal Effort License with restricted finfish endorsement will be made available; provided, that if the application of the exit/entry ratio yields a value less than a

multiple of three (3) endorsements, the number of endorsements will be rounded up to yield a multiple of three (3) endorsements.

(b) Quahaug -- For every ~~two~~ **one (1)** licenses eligible to harvest quahaug, namely, Multi-Purpose Licenses and Principal Effort Licenses with a quahaug endorsement, that are retired, one (1) new Commercial Fishing License with quahaug endorsement will be made available; provided, that if the application of the exit/entry ratio yields one (1) or two (2) licenses/endorsements, three licenses/endorsements will be made available.

(c) Soft Shell Clam – For every ~~five~~ **one (1)** licenses, eligible to harvest soft shell clam, namely, Multi-Purpose Licenses, Principal Effort Licenses with a soft shell clam endorsement, and Commercial Fishing Licenses with a soft shell clam endorsement, that are retired, one (1) new Commercial Fishing License with soft shell clam endorsement will be made available; provided, that if the application of the exit/entry ratio yields one or two (2) licenses/endorsements, three licenses/endorsements will be made available.

Public Hearing Item #2 **Sector Management Plans**

(6.2) Management Plans

~~(6.2-1) Procedure for Adopting~~

~~(a) — Management plans shall be adopted by rule consistent with the requirements of the Administrative Procedures Act and as herein described on an annual basis no later than December 1 for the following year, provided that said plans may continue in effect for longer periods if it is determined that management conditions permit or may be adjusted more frequently if it is determined that management conditions require.~~

~~(b) — Plans shall be submitted to the Rhode Island Marine Fisheries Council [RIMFC] for review and advice at least sixty (60) days prior to any Department hearing on said plans.~~

~~(c) — RIMFC may recommend to the Director that a proposed plan be adopted, modified or withdrawn, and the Director may proceed to hearing on the plan as originally proposed or as revised by RIMFC, or both, provided that in all instances both the plan as originally proposed and as recommended by RIMFC shall be entered into the hearing record.~~

~~(d) — In adopting a proposed plan, the Director shall include a concise explanation of the principal reasons for its adoption and his or her response to positions entered into the hearing record.~~

Public Hearing Item #3 **Issuance of New Licenses upon Sale of Vessel and Gear**

(6.7-8) Issuance of New Licenses upon Sale of Vessel and Gear

- (a) This section applies only to purchasers, of vessels and gear, who are residents.
- (b) Transfer or sale of licenses and endorsements between the purchaser and seller of a vessel and gear is prohibited; provided, however, that if the seller of a vessel and gear who is actively fishing his or her license using the vessel involved in the sale shall have first surrendered it to the Department, the Department will, upon application, issue one new license to the purchaser of the vessel and gear, pursuant to the terms and conditions of this section. In the case where the seller changed the primary vessel involved in the fishing business during the period being considered for the actively fished requirement, the vessel involved in the sale must have greater than fifty percent of the landings used to qualify for the history requirement and the other vessel(s) must be documented as owned by the seller during the period being considered for the actively fished requirement.

Public Hearing Item #4

Student Shellfish License

5. DEFINITIONS

“June 30.” - The thirtieth (30th) day in the month of June or the next business day if June 30 falls on a Saturday or Sunday or holiday for the purpose of application submittals and renewal deadlines.

(6.7-3) Application Deadlines

- (a) The Department will notify all license and permit holders in writing by November 1 that said license or permit, as well as all vessel declarations, expire on December 31 of that year. The Department will also notify all holders of ~~Student Shellfish (if renewable)~~, 65 and Over Shellfish, Commercial Fishing, Principal Effort, and Multi-Purpose Licenses in writing by November 1 that said licenses, along with any and all applicable endorsements, must be renewed by February 28 of the following year in order to remain valid. Holders of a Student Shellfish license (if renewable) will be notified by November 1 and the license must be renewed by June 30 of the following year in order to remain valid.
- (b) All notices will be sent by regular mail to the mailing address given on the license or permit holder's last license application or change of address form.
- (c) All applications for ~~Student Shellfish~~, 65 and Over Shellfish, Commercial Fishing, Principal Effort, and Multi-Purpose Licenses, along with any and all applicable endorsements, whether renewals or new issues, must be made in person by 4:00 PM on February 28, or on the first business day following February 28 if that day falls on a Saturday or Sunday or holiday. Applications for a Student Shellfish license, whether renewal or new issue, must be made in person by 4:00 PM on June 30, or on the first business day following June 30 if that day falls on a Saturday, Sunday, or holiday. All license applications shall be made at the Department of Environmental Management, Office of Boat Registration and Licensing, 235 Promenade Street, Providence, 02908. Alternatively, applications must be posted to the same address with a postmark no later than the above-referenced deadline date. Alternatively,

renewals must be made electronically, via the Department's online renewal service at www.ri.gov/DEM/commercial marine, by midnight on the above-referenced deadline date. In order to be eligible to apply for a license, an application must be received, postmarked, or electronically filed by the above-referenced deadline date.

Alternatively, applications must be posted to the same address with a postmark no later than the above-referenced deadline date. Alternatively, renewals must be made electronically, via the Department's online renewal service at www.ri.gov/DEM/commercial marine, by midnight on the above-referenced deadline date. In order to be eligible to apply for a license, an application must be received, postmarked, or electronically filed by the above-referenced deadline date.

(d) No ~~Student Shellfish~~, 65 and Over Shellfish, Commercial Fishing, Principal Effort or Multi-Purpose License or applicable endorsement will be issued or renewed after the close of business on February 28, or on the first day following February 28 if that day falls on a Saturday or Sunday or holiday, unless said license or endorsement was applied for consistent with the requirements of subsections 6.7-3(c) or 6.7-3(e), or sections 6.7-8 or 6.7-9. **No student shellfish license will be issued or renewed after the close of business on June 30, or on the first day following June 30 if that day falls on a Saturday or Sunday or holiday, unless said license or endorsement was applied for consistent with the requirements of subsections 6.7-3(c) or 6.7-3(e), or sections 6.7-8 or 6.7-9.**

(e) **With the exception of Student shellfish license applications,** applications for renewal of licenses referenced in sections (c) and (d) above that are received by the Department or postmarked after February 28 or after the first day following February 28 if that day falls on a Saturday or Sunday or holiday shall be renewed only upon payment of a late fee in the amount of \$200.00 and only during the sixty (60) day grace period commencing on the day immediately following the application deadline. Such renewal applications must be made in person at the Department of Environmental Management, Office of Boat Registration and Licensing, 235 Promenade Street, Providence, 02908; or via mail at the same address; or electronically via the Department's online renewal service at www.ri.gov/DEM/commercialmarine.

(f) No license or permit will be renewed unless the data reporting requirements of Section 6.6 have been met.

(6.8-5) Student Shellfish License

(a) Applicants must present proof of Rhode Island residency and pay an annual fee of fifty dollars (\$50).

(b) Applicants must be no older than twenty-three (23) years as of ~~February 28~~ **June 30** of the license year.

(c) Applicants must present proof that they are full-time students in the form of a notarized letter or transcript from the learning institution in which they are enrolled.

(d) The holder of a Student Shellfish License may participate in the Quahaug endorsement sector at Basic Harvest and Gear Levels as set by the Department pursuant to Rule 8.

(e) The holder of a Student Shellfish License may also obtain a Commercial Fishing License and/or a Principal Effort License, with endorsements, to fish other sectors at Basic or Full Harvest and Gear Levels, if such licenses or endorsements are available for any given license year; provided that the holder of a Student Shellfish License may not also hold a Commercial Fishing or Principal Effort License with a quahaug endorsement.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

Aquaculture of Marine Species in Rhode Island Waters



~~July 1, 2014~~

~~Supersedes and Replaces all Previous Versions~~

Proposed/annotated regulations

Public hearing

September 21, 2015

AUTHORITY: Chapter 42-17.1 and Sections 20-1-2, 20-1-4, 20-1-5, 20-10-5c, and 20-10-12, and in accordance with Chapter 42-35, of the Rhode Island General Laws of 1956, as amended.

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

**Aquaculture of Marine Species in
Rhode Island Waters**

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~~STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT~~

~~**Aquaculture of Marine Species in
Rhode Island Waters**~~

~~RULE 1.~~ **PURPOSE**

The purpose of these regulations is to describe the permits, licensing, and conditions under which aquaculture shall be conducted in Rhode Island.

~~RULE 2.~~ **AUTHORITY**

Chapter 42-17.1, and §§; 20-1-2; 20-1-4; 20-1-5; 20-10-5c; and 20-10-12, in accordance with Chapter 42-35 of the RIGL 1956, as amended.

~~RULE 3.~~ **ADMINISTRATIVE FINDINGS**

These regulations acknowledge that aquaculture is a form of agriculture (RIGL 2-23-4) and that cultured crops are the property of the aquaculturist and are distinct from wild stocks. Cultured crops are therefore not subject to the statutory and regulatory restrictions governing the protection of wild stocks, except that the minimum size limit established for quahaugs, *Mercenaria mercenaria*, applies to all wild and cultured quahaugs (RIGL 20-10-13.1).

~~RULE 4.~~ **APPLICATION**

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

~~RULE 8~~ 5. **SEVERABILITY**

If any provision of these Rules and Regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the Rules and Regulations shall not be affected thereby.

~~RULE 9~~ 6. **SUPERSEDED RULES AND REGULATIONS**

On the effective date of these rules and regulations, all previous rules and regulations, and any policies regarding the administration and enforcement of aquaculture shall be superseded. ~~These rules and regulations shall supersede the Department of Environmental Management Regulation “Aquaculture of Marine Species in Rhode Island Waters (June 21, 2002).”~~

~~5.~~ 7. **DEFINITIONS**

As used in these rules and regulations, the following words and phrases have the following meanings:

~~5.4~~ **“Adequately Iced”** means that the amount and application of the ice is

sufficient to ensure that immediate cooling begins and continues for all shellfish. If ice slurry is used and the shellfish are submerged the presence of ice in the slurry indicates adequate icing. The water source for, the production of, and the handling of the ice must be approved by DOH for the intended use of cooling shellfish.

5.2 "Approved waters," or, **"Approved shellfish growing areas"** mean waters of the state which have been classified by the RI Department of Environmental Management (DEM) Office of Water Resources as Approved Areas, fit for the taking of shellfish for human consumption on a regular basis, according to criteria established by the National Shellfish Sanitation Program (NSSP) Manual of Operations. These classifications may be subject to change as water quality conditions dictate.

5.3 "Aquaculture" means the cultivation, rearing, or propagation of aquatic plants or animals, hereinafter referred to as cultured crops, under natural or artificial conditions.

5.4 "Aquaculture facility" means any properly permitted aquaculture operation, either in upland areas or in the State's waters or submerged lands.

5.5 "Aquaculture lease" means the permitted area for which the Coastal Resources Management Council (CRMC) issues a lease in which aquaculture can be conducted. Leases are discretionary and granted for the express purpose of allowing aquaculture activities on the State's submerged lands or in the water column. Certain types of permitted activities, such as experimental aquaculture operations, may not require a lease.

5.6 "Aquaculturist" means the individual, firm, partnership, association, academic institution, municipality, or corporation conducting commercial, experimental or restoration aquaculture in Rhode Island.

5.7 "Biosecurity Board" means the board, within the Coastal Resources Management Council (CRMC), established pursuant to RIGL Section 20-10-1.1 and charged with assisting and advising the CRMC in carrying out **its role under** the provisions of RIGL Chapter 20-10.

5.8 "Conditionally Approved Areas" mean any shellfish grounds underlying waters examined and found fit for the taking of shellfish for human consumption on an intermittent basis, declared by the director as conditionally approved waters pursuant to RIGL Sections 20-8.1-3 and 20-8.1-4. Such classification may be subject to change as water quality conditions dictate.

5.9 "Container" means any bag, sack, tote, conveyance, or other receptacle used for containing shellfish for holding or transporting.

5.10 "CRMC" means the RI Coastal Resources Management Council.

5.11 "Cultured crops" mean aquatic or marine animals or plants: (i) that are in the location, water column or artificial conditions specified in a valid aquaculture permit issued pursuant to RIGL section 20-10-3 or that have been taken by the holder of such permit from the location, water column or artificial conditions specified in such permit, or (ii) that have been produced by aquaculture methods outside the state and have not been commingled with wild stocks that are in or have been removed from the waters of the state. Appropriate bills of sale, bills of lading and proper tags used in accordance with Rule 6.6 herein and all other applicable state and federal laws and regulations shall be prima facie evidence of the origin of cultured crops inside or outside the state.

5.12 "DEM" means the RI Department of Environmental Management.

5.13 "Designated Temperature Control or Thermally Impacted Area" means an area designated by the Department in which aquaculturists must comply with more stringent temperature controls for harvested shellfish. These areas have been determined to be Winnapaug Pond, Quonochontaug Pond, Ninigret Pond, Potter Pond, Point Judith Pond, Island Park Cove (Spectacle Cove), Hog Island Cove and Great Salt Pond.

5.14 "Director" means the Director of the RI Department of Environmental Management or his or her duly appointed agents.

5.15 "DOH" means the RI Department of Health.

5.16 "Harvest" means the act of removing shellstock for the purpose of human consumption from the waters of growing areas. Harvest includes placement of shellfish that has been removed for the purpose of human consumption on or in a manmade conveyance, or other means of transport. Harvest commences when the first shellfish intended for human consumption is removed from the water on any given day, or is exposed by the receding tide.

5.17 "Husbandry" means any activity related to the cultivation and management of shellfish crops, including but not limited to grading, sorting, cleaning, or planting.

5.18 "Mechanical Refrigeration" means storage in a container or conveyance that is approved by the Rhode Island Department of Health and capable of cooling to, and maintaining, an ambient temperature of 45°F or less.

5.19 "Operational plan" means a written plan filed with CRMC and, approved by DEM and DOH prior to its implementation, that includes, at a minimum: description of the design and activities of the aquaculture facility, specific location and boundaries of the aquaculture lease and facility, types and locations of structures (rafts, pens, tanks, etc.), species to be cultured, source of these organisms (i.e., wild or cultured), procedures to prevent contamination, program of sanitation and maintenance, description of the water source

including details of water treatment, program to maintain water quality, maintenance of records, and how shell stock will be harvested.

“Person” means an individual, firm, corporation, society, association, partnership, or private or public body.

5.20 "Possession of aquaculture crops" means the exercise of dominion or control over cultured crops commencing at the time at which a decision is made not to return the crops to the aquaculture lease or facility from which they were taken. This decision must be made at the first practical opportunity, taking into consideration the management practices set forth in the approved operational plan.

5.21 "Possession of wild stocks" means the exercise of dominion or control over wild stocks commencing at the time at which a decision is made not to return the resource to the immediate vicinity from which it was taken. This decision must be made at the first practical opportunity.

5.22 “Resubmerge” means, and is strictly limited to, reintroduction of shell stock into approved waters following the removal of such stock from approved waters for husbandry purposes.

5.23 “Shading” means to shelter by intercepting the direct rays of the sun to protect the shellfish from heat. Shading may be accomplished by any means that effectively protects the harvested shellfish from direct sunlight and prevents excessive heat build-up in the shaded area.

5.24 “Shellfish” means all species of: (a) Oysters, clams or mussels, whether: (i) Shucked or in the shell; (ii) Raw, including post harvest processed; (iii) Frozen or unfrozen; (iv) Whole or in part; and (b) Scallops in any form, except when the final product form is the adductor muscle only.

5.25 "Shellfish seed" means, for quahaugs, *Mercenaria mercenaria*, a shell size less than 20 mm (0.78" **longest axis length**), ~~and~~ for oysters, *Crassostrea virginica* and *Ostrea edulis*, a shell size less than 32 mm (1.25") **longest axis length, and for blue mussels (*Mytilus edulis*) any mussel that settled during the current calendar year.** ~~All measurements are taken along the longest axis.~~

"Spat " means newly settled post-metamorphic bivalve.

5.26 "Spat collection" means the use of **artificial** apparatus (spat collectors) ~~or cultch~~ to ~~attract or capture~~ **induce settlement of** larval shellfish.

5.27 “Temperature control” means the use of ice or mechanical refrigeration, which is capable of lowering the temperature of the shellstock and maintaining it at 50°F or less.

5.28 "Wild stock" means natural resources, including aquatic or marine animals or plants, which grow within the waters of the state, and are not cultured in any way. Any shellfish that have settled naturally within an aquaculture facility are considered wild stock.

~~RULE 6 REGULATIONS~~

8. 6.4 ~~GENERAL~~ Permitting and Licensing Requirements:

8.1 Aquaculture shall only be conducted within the waters of the state in a manner consistent with the best public interest, with particular consideration given to the effect of aquaculture on other uses of the free and common fishery and navigation, and the compatibility of aquaculture with the environment of the waters of the state. Applications shall be reviewed for consistency with RIGL Title 20 and no license shall be issued or renewed to any person where the application is found to be in conflict with any requirement found in these statutes.

8.2 Aquaculture License Permit: An aquaculturist must apply for and obtain an Aquaculture Permit license from the Director is required for an individual to conduct aquaculture as specified in RIGL Section 20-10-12. The application for an Aquaculture Permit must include an operational plan describing the species to be cultured, the methods to be used, the locations where the work will be done, and other provisions detailed in Rule 6.3 herein. The permit shall specify the conditions governing the taking, possession, sale, importation, and transportation of to sell to licensed fish and shellfish dealers cultured crops utilized in from an the aquaculture lease or facility permitted by CRMC and operated in accordance with the aquaculturist's approved operational plan. The permit shall be automatically renewed January first annually, providing that proper annual reports of aquaculture activities conducted that year are filed with the Director, in a form prescribed by the Director, no later than December first of each year. Aquaculture Permits will be reviewed, modified if appropriate, and renewed by the Director. .

8.2.1 Application shall be made on forms as prescribed by the Director and may be submitted at any time during the year. The license shall be issued on a calendar year basis (expiring December 31) with an annual fee of two hundred dollars (\$200).

8.2.2 6.1.4 Endemic species limitation: All species cultured at an aquaculture lease or facility must be specifically authorized via an approved DEM Aquaculture Permit. Under no circumstances are permits shall a license to be granted for species that are not endemic to Rhode Island, without prior approval from the Director with the advice of the Biosecurity Board. Determination of what species are endemic to Rhode Island rests under the authority of shall be determined by the Director.

8.2.3 No license shall be renewed unless the applicant's aquaculture activities are conducted in accordance with the approved operational plan. The

operational plan must be updated, resubmitted to CRMC, and approved by DEM prior to any operational changes.

8.3 ~~6.1.1~~ Coastal Resources Management Council (CRMC) Assent or Permit: An aquaculturist must apply for and receive a Coastal Resources Management Council (CRMC) Assent or permit to conduct aquaculture ~~as specified~~ in accordance with RIGL Chapter 20-10. No application shall be approved by CRMC prior to the consideration of recommendations by the Department of Environmental Management (DEM) Director, who shall consult with and obtain input from appropriate divisions and offices within the department, ~~and~~ the Rhode Island Marine Fisheries Council and the Department of Health. ~~No application shall be approved by the CRMC prior to the issuance of a R.I. Pollutant Discharge Elimination System (RIPDES) permit shall be obtained from DEM Office of Water Resources by DEM, if required.~~

8.3.1 The Director may review the application to determine whether the aquaculture activities proposed in the application are not likely to cause and adverse effect on the marine life adjacent to the area to be subject to the permit and the waters of the state, and not likely to have an adverse effect on the continued vitality of indigenous fisheries of the state, and for consistency with other state statutes as applicable.

8.3.2 The RI Marine Fisheries Council (RIMFC) may review the CRMC application to determine whether the aquaculture activities proposed in the application are consistent with competing uses engaged in the exploitation of the marine fisheries. The RIMFC shall provide a recommendation to the CRMC consistent with RIGL 20-10-5.

8.4 As applicable or required, a R.I. Pollutant Discharge Elimination System (RIPDES) permit shall be obtained from DEM Office of Water Resources.

~~8.5~~ ~~6.6.5~~ Approved Waters— Water quality at any site used for open water aquaculture or land-based aquaculture must meet the water quality criteria appropriate to the aquaculture activity as determined by the DEM Office of Water Resources. As applicable or required, a Water Quality Certification shall be obtained from DEM Office of Water Resources.

~~6.2 GEAR REQUIREMENTS~~

~~6.2.1 Marking~~— All aquaculture apparatus must be marked as specified by the CRMC Assent. Said markings must be clearly visible and maintained at all times.

~~6.2.2 Maintenance and Removal~~— The gear and its contents are the possession and responsibility of the aquaculturist, who shall be responsible for its maintenance and eventual removal. The aquaculturist may be required to post a performance bond in an amount specified by CRMC, to be used to return the site, including tidal waters, to the condition that existed prior to the aquaculture, in the

~~event that the gear is abandoned or permit conditions violated.~~

~~6.3 GENERAL REQUIREMENTS~~

~~6.3.1 Operational Plan -- In accordance with the permitting requirements set forth in Rule 6.1 herein, the aquaculturist must submit a written Operational Plan to be reviewed and approved by DEM and maintained on file with the Division of Fish and Wildlife. Operational Plans will be made available for review and inspection by the U.S. Food and Drug Administration. The Operational Plan must be upgraded and resubmitted prior to any change(s) occurring in the aquaculture operation. Aquaculture shall be practiced only in strict compliance with the provisions of the approved Operational Plan. At a minimum, each Operational Plan shall include the following information: description of the design and activities of the aquaculture facility, specific location and boundaries of the aquaculture lease and facility, types and locations of structures (rafts, pens, tanks, etc.), species to be cultured, source of these organisms (i.e., wild or cultured), procedures to prevent contamination, program of sanitation and maintenance, description of the water source including details of water treatment, program to maintain water quality, maintenance of records, and how shell stock will be harvested.~~

~~6.3.2 Shipment/Importation -- The aquaculturist must notify the DEM Divisions of Law Enforcement and Fish and Wildlife in writing of every shipment of animals for culture entering this state, at least five working days prior to entry into the state, and each shipment must be accompanied by a certificate of disease inspection from a recognized laboratory appropriate to the species received. A copy of the certificate of disease inspection must be provided to the Division of Fish and Wildlife along with the written notice prior to the importation of any animals for culture. The Director, in consultation with the Biosecurity Board, may waive the requirement for a certificate of disease inspection, or set forth specific requirements governing shipments.~~

~~6.4 FINFISH CULTURE REQUIREMENTS -- To be developed~~

~~6.5 ALGAE CULTURE REQUIREMENTS -- To be developed~~

9. 6.6 Shellfish Culture Requirements

6.1.39.1 **Cultured crops exempt from wild stock regulations:** Aquaculturists harvesting their cultured crops, in accordance with their CRMC Assent, **and** DEM Aquaculture Permit **license, and operational plan** are exempt from the statutory and regulatory harvest restrictions governing wild stocks, including: seasons, catch or bag limits, minimum sizes, quotas, and methods of harvest. **However, i** **In** no case may aquaculturists possess, import, transport or offer for sale for human consumption to any **individual or entity** **person** cultured quahaugs, *Mercenaria mercenaria*, with a hinge width of less than one inch, unless specifically authorized to possess, import, transport, or sell legal quahaug seed.

9.2 6.6. Shipment and importation of shellfish seed: All shipments of undersized shellfish brought into Rhode Island for aquaculture operations must be approved by the Director or his/her designee and must be labeled or tagged indicating the origin (operator/company name, license number and body of water), date of importation and destination and must be accompanied by a certificate of disease inspection.

9.2.1 All persons wishing to import shellfish seed must submit a written request to the Aquaculture Coordinator of CRMC at least five working days prior to entry into the state. Such request to be mailed to Coastal Resources Management Council, Stedman Government Center, Suite 3, 4808 Tower Hill Road, Wakefield, RI 02879.

9.2.2 Prior to shipment, the Aquaculture Coordinator will make a recommendation to the Director whether to approve or deny any request to import shellfish seed and notify DEM Division of Law Enforcement and Agriculture. The Aquaculture Coordinator may seek the advice and consent of the Aquaculture Biosecurity Board in regard to such request to import shellfish seed.

~~**9.3 6.6.2 Sale for human consumption:** In accordance with all DEM and DOH regulations for the buying, trading, and selling of shellfish, o Only shellfish cultured in approved waters or within an approved land-based system meeting the water quality criteria for harvesting, may be sold for human consumption, and such sales may only be made to licensed RI dealers. All requirements for handling, tagging, use of shellfish containers, and temperature control, as set forth herein in Rules 6.7 through 6.9 inclusive, as well as all other applicable National Shellfish Sanitation Program and DOH standards, must be adhered to. The CRMC lease number will be listed as the harvest area for cultured shellfish. Aquaculturists must hold the appropriate DEM license to sell shellfish to a licensed RI dealer.~~

9.4 6.6.3 Taking or possession of wild stock shellfish by Aquaculturists:

9.4.1 Aquaculturists who also hold a commercial shellfishing or multipurpose license may not take or possess wild stock shellfish while they are in possession of cultured shellfish crops.

9.4.2 ~~Not may~~ An aquaculturist **may not** be in possession of wild stock shellfish while visiting ~~his/her~~ **their** lease or tending ~~his/her~~ **their** shellfish crops, unless they are a properly licensed shellfish dealer and the wild stock shellfish is properly tagged and being held in or at their dealer facility, buy boat, or wet storage operation.

9.4.3 6.6.10 Collection of wild stock shellfish seed: ~~Collection~~ **The taking or possession of undersized** wild stock shellfish ~~seed from other than approved waters~~ is prohibited, **except for spat collection within lease boundaries** unless approved by the Director or his/her designee ~~in a written authorization~~. If ~~permission~~

~~for wild stock seed collection is approved~~ **authorized**, the site, species and amount must be specified by the Director or his/her designee in writing. ~~The aquaculturist must notify the DEM Divisions of Fish and Wildlife and Law Enforcement in writing at least ten (10) days prior to the activity. The aquaculturist may be required to be accompanied by a DEM Environmental Police Officer, and the aquaculturist will have to pay for the Environmental Police Officer detail~~

~~6.6.4 Possession of wild undersized shellfish: Possession of undersized wild stock shellfish is not authorized under any circumstances.~~

9.5 ~~6.6.6~~ **Water quality changes:** Water quality and water quality classification of waters within the state **as determined by the Office of Water Resources** are subject to change due to various environmental conditions. In some cases the aquaculturist shall be required to respond to these changes. DEM shall not assume any liability for any changes in classification and shall assume no liability to the aquaculturist for damages incurred due to such actions.

9.6 ~~6.6.7~~ **Shellfish aquaculture in conditionally approved growing areas:** When a shellfish aquaculture lease is **located** in a conditionally **approved** area, ~~and the area is in the closed status,~~ the aquaculturist ~~may not~~ **is prohibited from** visiting his/her **the** lease to tend his/her **the** shellfish crops **when the area is in a closed status**, unless the aquaculturist has ~~applied for and~~ received permission from the Director ~~because of, and to the extent of, exigent circumstances. Under no circumstances may~~ The aquaculturist harvest **of** cultured stock ~~when his/her~~ **from the** lease ~~is in a~~ **when the** growing area ~~that~~ is in the closed status **is prohibited**.

9.7 ~~6.6.8~~ **Transfer of seed from other than approved waters:** Shellfish seed cultured in other than approved waters ~~may~~ **in accordance with a CRMC permit must** be transferred by the aquaculturist to an approved aquaculture lease in approved waters in accordance with ~~the terms of the~~ an approved **assent, license, and** operational plan, ~~with DEM Division of Fish and Wildlife and Division of Law Enforcement notification~~ **prior to the shellfish exceeding the seed size limit**. If more than 10 percent of the cultured shellfish within a lot or batch exceed the ~~definition of~~ seed **size limit** (in the case of quahaugs, if any exceed 20 mm, and in the case of oysters, if any exceed 32 mm), they shall not be moved from other than approved waters to an approved growing area without prior permission of the DEM Director and the DOH.

9.8 ~~6.6.9~~ **Harvest of shellfish transferred from other than approved waters as seed:** An aquaculturist wishing to use seed that have been produced in other than approved waters must ~~submit an~~ **describe in the** operational plan ~~to the Director~~ how he/she intends to track and document the growth and harvest of these shellfish. Aquaculturists must maintain accurate and complete records of all shellfish seed culture in other than approved waters and removal of such shellfish seed to approved waters including, but not limited to, source, numbers transferred, size composition, time/dates of transfer, harvest and sale of the shellfish. These records must be maintained for a minimum of two years and must be available for inspection by agents of the DOH, DEM ~~Division of~~

Law Enforcement, or DEM Division of Fish and Wildlife, **or CRMC** upon request. If record keeping and tracking protocols are inadequate, then the aquaculturist must only use seed from approved waters. No shellfish may be harvested until they have spent at least ~~twelve (12)~~ **six (6)** months in approved waters.

~~6.6.9.1 Permitted Activities -- If an aquaculturist has a permit to raise shellfish in other than approved water, then it is assumed that all shellfish of that species sold by that aquaculturist have been in other than approved waters, unless the aquaculturist can demonstrate that all shellfish were removed from other than approved waters when seed.~~

~~6.6.9.2 Transplanting of Shellfish Exceeding Seed Size Limits -- No shellfish exceeding the seed size limits shall be transplanted from other than approved waters unless done so under the authority of the DEM Director and DOH Director according to the Memorandum of Agreement for conducting shellfish transplant/relay operations. Possession, culture and transportation of shellfish other than seed (as defined) from other than approved water is prohibited.~~

6.7.10. Handling of Shellfish

6.7.410.1 General requirements: Shellfish aquaculturists shall conduct all activities and operations involving or relating to the possession and handling of shell stock so as to prevent contamination, deterioration and decomposition of such shell stock.

6.7.210.2 Containers: Containers used for storing shell stock must be clean.

6.7.310.3 Vessels: Vessel decks and storage bins used in the harvest or transport of shell stock shall be kept clean with potable water or water from the growing area in approved classification or the open status of conditional areas. Aquaculturists using a vessel to harvest and transport shell stock shall assure that said vessel is properly constructed, operated and maintained to prevent contamination, deterioration and decomposition of shell stock. Aquaculturists using a vessel to harvest and transport shell stock shall prevent bilge water from coming into contact with shell stock.

6.7.410.4 Bilge water: Aquaculturists using a vessel to harvest and transport shell stock shall provide such vessel with effective drainage to avoid contact between bilge water and shell stock. Aquaculturists using a vessel to harvest and transport shell stock shall locate bilge pumps so that discharge shall not contaminate shell stock.

6.7.610.5 Waste discharge prohibited: It is unlawful to discharge any sewage from a vessel into the waters of the state.

6.7.510.6 Washing: Shell stock shall be washed reasonably free of bottom sediments as soon after harvesting as possible. The harvester shall be primarily responsible for washing shell stock. If shell stock washing is not feasible at the time of harvest, the dealer shall assume this responsibility. Water used for washing shall be from a potable

water source, or growing area in the approved classification or open status of the conditionally approved classification.

6-811. Tagging of Shellfish

6-8.411.1 Required Use of Tagged Containers: Aquaculturists must place any and all shellfish taken by them (except those shellfish returned to the waters of the aquaculture lease or facility) into containers, and must tag each and every container with a completed, ~~as defined in Rule 6-8.2 below, except for the information in Rule 6-8.2.5, which will be provided at the conclusion of the harvest,~~ harvester tag, ~~as defined in Rule 6-8.2.5 below,~~ **prior to harvested shellfish being placed in the container. The approximate quantity of shellfish may be completed at the conclusion of harvest.**

6-8.211.2 Tags: The harvester tag shall be durable, waterproof and sanctioned by the DOH. The tag shall contain the following indelible, legible information in the order specified below:

6-8.2.111.2.1 Aquaculturist's **license identification** number as assigned by DEM;

6-8.2.211.2.2 Harvest commencement time and date;

6-8.2.311.2.3 The harvest location as identified by the CRMC Assent number;

6-8.2.411.2.4 Type (species) of shellfish;

6-8.2.511.2.5 Approximate quantity of shellfish; and

6-8.2.611.2.6 The following statement in bold capitalized type: **"THIS TAG IS REQUIRED TO BE ATTACHED UNTIL CONTAINER IS EMPTY OR IS RETAGGED AND THEREAFTER KEPT ON FILE FOR 90 DAYS"**

6-8.311.3 Commingling Prohibition and Tagging by Aquaculturists/Dealers:

Aquaculturists shall not place shell stock harvested from more than one growing area into the same container. When the aquaculturist is also a dealer, the aquaculturist has the option to tag the shell stock with a harvester tag or a dealer's tag meeting the requirements of the DOH regulations.

6-8.411.4 Bulk Tagging: Bulk tagging of shell stock will be permitted under the following criteria:

6-8.4.111.4.1 When shell stock are harvested from one aquaculture lease site or facility on a single day, multiple containers may be utilized on a wrapped pallet, in a tote, in a net brailer, in a single boat, in a vehicle or other container, and the unit tagged with a single tag, provided that the tag specifies the number of individual containers in the unit or an estimate of the total weight, volume, or count; and

~~6.8.4.2~~**11.4.2** A written statement is provided that “All shell stock containers in the lot have the same harvest data and area of harvest.”

~~6.9.12.~~ **Temperature Control of Shellfish**

~~6.9.2~~**12.1** General Requirements: Aquaculturists shall not allow shell stock to deteriorate or decompose from exposure to excessive temperature and shall deliver shell stock to a licensed dealer before such deterioration or decomposition occurs.

~~6.9.3~~**12.2** Harvest of Oysters annually from September 15 through June 30 inclusive: The maximum allowable time between the harvest of shell stock and delivery to a dealer shall be twelve hours. Possession of shell stock by anyone other than a licensed dealer in excess of twelve (12) hours is prohibited. This maximum allowable time may be reduced by DEM, via emergency regulation, in certain harvest areas if environmental changes necessitate such adjustment.

~~6.9.4~~**12.3** Harvest of Oysters ~~outside of designated Temperature Control or Thermally Impacted areas~~ annually from July 1 through September 14 inclusive:

~~6.9.4.1~~**12.3.1** All oysters harvested shall be transferred to a licensed dealer within five (5) hours of the commencement of harvest

~~6.9.4.2~~**12.3.2** All harvested oysters shall be subject to shading immediately upon harvest.

~~6.9.4.3~~**12.3.3** All oysters that are removed from the water for less than twelve (12) hours for husbandry purposes must be resubmerged for no less than forty-eight (48) hours before harvest.

~~6.9.4.4~~**12.3.4** All oysters that are removed from the water for twelve (12) hours or greater for husbandry purposes must be resubmerged for no less than seven days (168 hours) before harvest.

~~6.9.4.5~~**12.3.5** All oysters that are exposed to air drying must be resubmerged for no less than seven days (168 hours) before harvest.

~~6.9.5~~ Harvest of Oysters from Within a Designated Temperature Control or Thermally Impacted area

~~6.9.5.1~~**12.3.6** ~~In addition to the requirements of Rule 6.9.4 above,~~ All oysters harvested from a Designated Temperature Control or Thermally Impacted area shall **also** be harvested in compliance with one of the following requirements:

~~6.9.5.1.1~~**(A)** Harvesters shall terminate all harvest activities and all harvested oysters must be transferred to a dealer or placed in mechanical refrigeration or adequately iced by 11:00 a.m. between the dates of July 1st and August 31st,

inclusive; and by noon between September 1 and September 14th, inclusive. Upon being placed in mechanical refrigeration or adequately iced, oysters must remain under temperature control ~~or adequately iced~~ until transferred to a licensed dealer.

6.9.5.1.2(B) Oysters that are harvested after the times specified in ~~Rule 6.9.5.1.4~~ this section must be delivered to a licensed dealer within two (2) hours of the commencement of harvest; or placed in mechanical refrigeration or adequately iced within two (2) hours of the commencement of harvest until the oysters are transferred to a licensed dealer.

~~Rule 7.13.~~ **GENERAL Enforcement AUTHORITIES**

~~7.1 General -- The Director's authority to enforce aquaculture regulations and applicable statutes shall be the same as his or her enforcement powers over the free and common fisheries of the state, as provided for in RIGL Title 20 and Chapter 42-17.1.~~

7.213.1 Authority to Enter and Inspect: The Director shall have the authority to enter and inspect any and all **areas aquaculture facilities** ~~subject to an aquaculture permit~~ for the purposes of determining compliance with the terms and provisions of the CRMC assent or permit, ~~and DEM permit~~ **license, and approved operational plan (RIGL 20-10-15)**.

7.313.2 Violations: Unless otherwise provided, violations of and/or noncompliance with the regulations set forth herein shall be prosecuted under the applicable sections of RIGL Chapter 20-10. In addition to other penalties provided by law or other rule or regulation, any licensed aquaculturist who violates the provisions of these rules or any order issued by the director shall be subject to suspension, revocation or denial of his/her license and/or permit in accordance with RIGL Sections 20-2-13, 20-10-16.1, and 42-17.1-2(~~s~~**19**).

14. Effective Date

The foregoing rules and regulations, "***Aquaculture of Marine Species in Rhode Island Waters***", after due notice and an opportunity for hearing, are hereby adopted and filed with Secretary of State this _____ day of _____, 2014 become effective twenty (20) days after filing, in accordance with the provisions of the General Laws of 1956, as amended, specifically Chapters 42-17.1 and 42-35 and 4-13.

Janet L. Coit, Director
Department of Environmental Management

Notice Given: 08/21/2015
Public Hearing: 09/21/2015
Filing date: XX/XX/2015
Effective date: XX/XX/2015
ERLID# ~~7758~~ XXXX

SUMMARY OF PROPOSED CHANGES

Rhode Island Marine Fisheries Regulations LOBSTERS, CRABS, AND OTHER CRUSTACEANS

Public hearing
September 21, 2015

8.4 LCMA 4 (Inshore Northern Mid-Atlantic) regulations:

8.4.3 Minimum escape vent size: In each parlor section of the lobster trap, at least one (1) rectangular escape vent with an un-obstructed opening measuring not less than two inches by five and three-quarters (2 X 5¾) inches (50.8mm X 146.05mm), or two (2) circular escape vents, each with an un-obstructed opening measuring not less than ~~two and one half (2½)~~ two and five eighths (2 5/8) inches (~~63.5~~ 66.68 mm) diameter.

8.4.10 Season closure: A season closure to the landing of lobsters from ~~February 1 through March 31~~ April 30 through May 31 annually is required for any person or vessel permitted and declared to fish in LCMA 4. During this closure, lobster potters will have a two week period to remove lobster pots from the water and may set lobster pots one week prior to the end of the closed season.

2015 -- S 0703 AS AMENDED

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO FISH AND WILDLIFE -- SEAFOOD MARKETING

Introduced By: Senators Sosnowski, Conley, and Goldin

Date Introduced: March 18, 2015

Referred To: Senate Environment & Agriculture

(Environmental Management)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 20-38-2, 20-38-3 and 20-38-4 of the General Laws in Chapter 20-
2 38 entitled "The Rhode Island Seafood Marketing Collaborative of 2011" are hereby amended to
3 read as follows:

4 **20-38-2. Legislative findings.** -- The general assembly hereby finds that there are
5 currently insufficient resources and information necessary to support Rhode Island's local
6 fishermen and [aquaculturists and related](#) small businesses ~~and~~ [to](#) ensure the best possible
7 economic and environmental outcomes for the creation of more locally produced sustainable food
8 systems, that in particular includes seafood, in the State of Rhode Island.

9 **20-38-3. Definitions.** -- When used in this chapter, the following terms shall have the
10 following meanings:

11 (1) "Collaborative" means the Rhode Island seafood marketing collaborative established
12 under § 20-38-4;

13 (2) "Rhode Island's local fishermen [and aquaculturists](#)" means commercial fishermen
14 [and aquaculturists](#) licensed in the State of Rhode Island.

15 (3) "State agencies" means state entities responsible for the implementation of Rhode
16 Island's fishery management and economic development, including, but not be limited to:

17 (i) The department of environmental management, which shall include:

18 (A) The division of ~~agricultural and resource management,~~ [agriculture; and](#)

19 (B) The division of fish and wildlife ~~marine program;~~

1 (ii) The ~~economic development~~ commerce corporation;

2 (iii) The coastal resources management council;

3 (iv) The department of health;

4 (v) The department of administration.

5 (4) "Aquaculture" means the farming of aquatic organisms such as fish, crustaceans,
6 mollusks and aquatic plants.

7 (5) "Sustainable food system" means one in which resources (including natural resources
8 such as soil and water, as well as human resources such as labor) are used at or below their rate of
9 recovery.

10 (6) "Seafood dealers" means any person engaged in purchasing, raising, propagating,
11 breeding, or acquiring or possessing live fish or fish eggs to be sold or furnished to others for the
12 purpose of resale licensed in the State of Rhode Island.

13 ~~(7) "Locally landed" means legally produced species of fish or aquaculture caught by a~~
14 ~~vessel landing and licensed to fish in the State of Rhode Island.~~

15 **20-38-4. Collaborative established.** -- (a) There is hereby created ~~an interagency a~~
16 collaborative known as "The Rhode Island Seafood Marketing Collaborative" consisting of ~~nine~~
17 ~~(9)~~ nineteen (19) members as follows:

18 (1) The director of the department of environmental management or his or her designee,
19 who shall serve as chairperson;

20 (2) The executive director of the ~~economic development~~ commerce corporation, or his or
21 her designee;

22 (3) The chief of the division of fish and wildlife ~~in marine management~~ of the
23 department of environmental management, or his or her designee;

24 (4) The director of the department of health, or his or her designee;

25 (5) The chief of the division of ~~agricultural management~~ agriculture of the department of
26 environmental management, or his or her designee;

27 (6) The executive director of the coastal resources management council, or his or her
28 designee;

29 (7) The director of administration, or his or her designee;

30 (8) The dean of the University of Rhode Island ~~department~~ college of environment and
31 life sciences, or his or her designee; ~~and~~

32 ~~(9) One representative of higher education to be appointed by the senate president.~~

33 (9) The director of the Rhode Island sea grant program, or his or her designee; and

34 (10) Ten (10) additional members, each of whom shall be appointed by the director of the

1 department of environmental management, in accordance with the following categories:

2 (i) Two (2) Rhode Island-based dealers/wholesalers/processors who purchase and sell
3 finfish, shellfish, and/or crustaceans;

4 (ii) Two (2) commercial aquaculturists;

5 (iii) A Rhode Island-based retailer of seafood products associated with a restaurant or
6 restaurant organization;

7 (iv) A Rhode Island-based retailer of seafood products associated with an independent or
8 franchised store;

9 (v) Two (2) commercial fishermen licensed to harvest and/or land in Rhode Island;

10 (vi) A member of an independent organization or association representing the Rhode
11 Island hospitality industry;

12 (vii) An economist with expertise in seafood marketing.

13 (b) Forthwith upon the passage of this chapter, the members of the collaborative shall
14 meet at the call of the chairperson and organize. Thereafter, the collaborative shall meet ~~quarterly~~
15 ~~and~~ at the call of the chairperson or three (3) members of the collaborative.

16 (c) All departments and agencies of the state shall furnish such advice and information,
17 documentation, and otherwise to the collaborative and its agents as is deemed necessary or
18 desirable by the collaborative to facilitate the purposes of this chapter.

19 (d) The members of the collaborative shall receive no compensation for their services.

20 SECTION 2. Section 20-38-6 of the General Laws in Chapter 20-38 entitled "The Rhode
21 Island Seafood Marketing Collaborative of 2011" is hereby repealed.

22 ~~**20-38-6. Advisory council.** --- (a) The Rhode Island seafood marketing collaborative~~
23 ~~advisory council is hereby established. The advisory council shall consist of ten (10) members~~
24 ~~each of whom shall be appointed by the director of the department of environmental~~
25 ~~management:~~

26 ~~(1) A fish dealer/wholesaler/processor or representative;~~

27 ~~(2) A shellfish dealer or processor of lobster and crab;~~

28 ~~(3) A shellfish dealer or processor of clams, etc;~~

29 ~~(4) A aquaculture dealer or processor;~~

30 ~~(5) A retailer of seafood product representing a restaurant organization;~~

31 ~~(6) A seafood retailer representing an independent or franchised store;~~

32 ~~(7) A shellfish harvester;~~

33 ~~(8) A fisheries manager specialist;~~

34 ~~(9) A marine scientist;~~

1 ~~(10) An independent organization or association representing the hospitality industry.~~

2 ~~(b) Advisory council members shall serve two (2) year terms and are eligible to succeed~~
3 ~~themselves. In the event a member is unable to complete his or her term, the director of the~~
4 ~~department of environmental management shall appoint a successor, and the successor appointed~~
5 ~~to the vacancy shall serve for the remainder of the unexpired term. The members of the board~~
6 ~~shall receive no compensation.~~

7 ~~(c) The advisory council shall elect annually a chairperson from among its members.~~

8 ~~(d) The advisory council shall meet at least quarterly at the call of the chairperson or~~
9 ~~three (3) council members. The chairperson of the Rhode Island seafood marketing collaborative,~~
10 ~~or designee from among the members of the collaborative, shall be present for all advisory~~
11 ~~council meetings.~~

12 ~~(e) The advisory council shall advise the collaborative on all matters pertaining to the~~
13 ~~collaborative duties and powers.~~

14 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FISH AND WILDLIFE -- SEAFOOD MARKETING

1 This act would add aquaculturist membership and representation to the seafood
2 marketing collaborative of 2011.

3 This act would take effect upon passage.

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO FISH AND WILDLIFE

Introduced By: Senators Sheehan, and Sosnowski

Date Introduced: March 24, 2015

Referred To: Senate Environment & Agriculture

(Environmental Management)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 20-2.1-4 and 20-2.1-5 of the General Laws in Chapter 20-2.1
2 entitled "Commercial Fishing Licenses" are hereby amended to read as follows:

3 **20-2.1-4. Licenses -- General provisions governing licenses issued.** -- (a) Licenses and
4 vessel declarations required. - It shall be unlawful for any person in Rhode Island or the waters of
5 the state: (1) to catch, harvest, or to hold or transport for sale in Rhode Island any marine finfish,
6 crustacean, or shellfish without a license issued under the provisions of this title, provided,
7 however, that marine finfish, crustaceans, or shellfish may be transported by a duly licensed
8 dealer if the marine finfish, crustaceans, or shellfish has previously been sold by a duly licensed
9 person, or (2) to engage in commercial fishing from a vessel unless the vessel has been declared a
10 commercial fishing vessel as provided in § 20-2.1-5(2) and has a decal affixed to it or is
11 displaying a plate.

12 (b) Validation of license. - No license issued under this chapter shall be valid until
13 signed by the licensee in his or her own handwriting.

14 (c) Transfer or loan of license. - Unless otherwise provided for in this title, a license
15 issued to a person under this chapter shall be good only for the person to whom it is issued; and
16 any transfer or loan of the license shall be grounds for revocation or suspension of that license
17 pursuant to § 20-2-13.

18 (d) Reporting and inspections condition of license. - All persons granted a license under
19 the provisions of this chapter are deemed to have consented to the reporting requirements

1 applicable to commercial fishing actively that are established pursuant to this title and to the
2 reasonable inspection of any boat, vessel, net, rake, bullrake, tong, dredge, trap, pot, vehicle,
3 structure, or other contrivance used regularly for the keeping or storage of fish, shellfish or
4 crustaceans, and any creel, box, locker, basket, crate, blind, fishing, or paraphernalia used in
5 conjunction with the licensed activity by persons duly authorized by the director. The provisions
6 of § 20-1-8(a)(7)(ii) shall apply to these inspections.

7 (e) Possession, inspection, and display of license. - Every person holding a license issued
8 under this chapter shall have that license in his or her possession at all times while engaged in the
9 licensed activity and shall present the license for inspection on demand by any authorized person.
10 Any person who shall refuse to present a license on demand shall be liable to the same
11 punishment as if that person were fishing without a license.

12 (f) Application for license. - Every person entitled to a license under this chapter shall
13 file an application with the director or the director's authorized agent, properly sworn to, stating
14 the name, age, occupation, place of residence, mailing address, weight, height, and color of hair
15 and eyes of the applicant for whom the license is wanted and providing any other information that
16 may be required pursuant to rule in order to effectuate the purposes of this chapter, and pay the
17 fees as provided in this chapter. All licenses issued under this chapter shall be valid only for the
18 calendar year of issuance, unless otherwise specified in this chapter or in the rules and regulations
19 adopted pursuant to this chapter. If the person will be either the owner or the operator as provided
20 in § 20-2.1-5(5) of a commercial fishing vessel, the person shall declare on the application for
21 each commercial fishing vessel, the vessel name, length, horsepower, registration number, federal
22 permit number if any, gear type(s), the principal fishery or fisheries, and average projected crew
23 size.

24 (g) Application deadline, grace period for renewals, and limitation on appeals after the
25 deadlines. - For commercial marine fishing licenses provided for in §§ 20-2.1-5 and 20-2.1-6, the
26 following provisions shall apply: (1) unless otherwise specified in this chapter, an individual
27 qualified to obtain a license must submit an application to the department of environmental
28 management no later than February 28 of each year; license application shall be deemed valid if
29 submitted to the department prior to the close of regular office hours on February 28, or if
30 postmarked by February 28; (2) unless otherwise specified in this title, no new or renewed
31 licenses shall be issued after February 28 of each year, unless an applicant has submitted an
32 application by the February 28 deadline required by this section; (3) the department shall notify
33 all license holders, in writing, regarding the December 31 expiration and the February 28 renewal
34 deadline no later than November 1 of each year; (4) for renewals of existing commercial marine

1 fishing licenses that expire on December 31 of the immediately preceding year, there shall be a
2 sixty (60) day grace period from the renewal deadline of February 28; licenses issued during the
3 grace period shall be subject to a late fee in the amount of two-hundred dollars (\$200) in addition
4 to all other applicable fees; (5) except as provided for in subsection (g)(4) [or § 20-2.1-5 \(1\)\(iv\)\(A\)](#)
5 the department shall not accept any applications submitted after February 28; and (6) there shall
6 be no right to request reconsideration by the commercial fishing license review board or appeal to
7 the department of environmental management's administrative adjudication division (AAD) for
8 the rejection of any new license applications submitted after February 28, or any license renewal
9 applications submitted after the sixty (60) day grace period, except in the case of a documented
10 medical hardship as defined herein.

11 (h) Lost or destroyed licenses and duplicate licenses. - Whoever loses or by a mistake or
12 accident destroys his or her certificate of a commercial marine fisheries license may, upon
13 application to the department accompanied by an affidavit fully setting forth the circumstances of
14 the loss, receive a duplicate certificate for the remainder of the year covered by the original
15 certificate, for a fee of ten dollars (\$10.00) for each duplicate license.

16 (i) Revocation of licenses.

17 (1) License revocation. - The license of any person who has violated the provisions of
18 this chapter, or rules adopted pursuant to the provisions of this chapter or rules and regulations
19 that pertain to commercial fishing and reporting issued pursuant to this title, may be suspended or
20 revoked by the director as the director shall determine by regulation. Any person aggrieved by an
21 order of suspension or revocation may appeal this order in accordance with the provisions of the
22 Administrative Procedures Act, chapter 35 of title 42.

23 (2) False statements and violations; cancellation of license. - Any person who willfully
24 makes a false representation as to birthplace or requirements of identification or of other facts
25 required in an application for license under this chapter, or is otherwise directly or indirectly a
26 party to a false representation, shall be punished by a fine of not more than fifty dollars (\$50.00).
27 A license obtained by any person through a false representation shall be null and void, and the
28 license shall be surrendered immediately to the director. No license shall be issued under this title
29 to this person for a period of one year from the date of imposition of a penalty under this section.

30 (3) False, altered, forged, or counterfeit licenses. - Every person who falsely makes,
31 alters, forges, or counterfeits, or who causes to be made, altered, forged, or counterfeited, a
32 license issued under this chapter or title or purporting to be a license issued under this chapter or
33 title, or who shall have in his or her possession such a license knowing it to be false, altered,
34 forged, or counterfeit, is guilty of a misdemeanor and is subject to the penalties prescribed in §

1 20-1-16.

2 (j) Expiration. - Unless otherwise specified in this title, all licenses issued under this
3 chapter shall be annual and shall expire on December 31 of each year. It shall be unlawful for any
4 person to fish commercially in Rhode Island waters on an expired license; and the application and
5 grace periods set forth in subsections (g)(1) and (g)(4) above shall not extend the validity of any
6 expired license.

7 (k) Notice of change of address. - Whenever any person holding any commercial fishing
8 license shall move from the address named in his or her last application, that person shall within
9 ten (10) days subsequent to moving notify the office of boat registration and licensing of his or
10 her former and current address.

11 **20-2.1-5. Resident licenses.** -- The director shall establish as a minimum the following
12 types of licenses set forth in this section. In addition, the director may establish any other classes
13 and types of licenses and endorsements, consistent with the provisions of this chapter and with
14 adopted management plans, that may be necessary to accomplish the purposes of this chapter:

15 (1) Types of licenses.

16 (i) Commercial fishing license. - Rhode Island residents shall be eligible to obtain a
17 commercial fishing license; the license shall allow the holder to engage in commercial fishing in
18 fisheries sectors, per endorsement at basic harvest and gear levels. The annual fee for a
19 commercial fishing license shall be fifty dollars (\$50.00) and twenty-five dollars (\$25.00) for
20 each endorsement at the basic harvest and gear levels.

21 (ii) Principal effort license. - Duly licensed persons in a fishery as of December 31 of the
22 immediately preceding year, shall be eligible to obtain a principal effort license for the fishery
23 sector for which they were licensed on December 31 of the immediately preceding year, which
24 principal effort license shall allow its holder to fish in a fishery sector at the full harvest and gear
25 levels. The annual fee for a principal effort license shall be one hundred fifty dollars (\$150).
26 Principal effort license holders, in addition to the fishery sector of their principal effort, shall be
27 eligible to obtain endorsements for the other fishery sectors at the full harvest and gear levels, if
28 and when those endorsements are made available; the annual fee for each other fishery sector
29 endorsement shall be seventy-five dollars (\$75.00). Principal effort license holders shall also be
30 eligible to obtain a commercial fishing license with endorsements except for fisheries in which
31 the license holder can fish at the full harvest and gear levels.

32 (iii) Multi-purpose license. - All multi-purpose license holders as of December 31 of the
33 immediately preceding year, shall be eligible to obtain a multi-purpose license, which shall allow
34 the holder to engage in commercial fishing in all fisheries sectors at the full harvest and gear

1 levels. At the time of application for a multi-purpose license and each annual renewal of it, the
2 applicant shall make a non-binding declaration of which fishing sectors the applicant intends to
3 place significant fishing effort during the period covered by the license. The annual fee for multi-
4 purpose license shall be three hundred dollars (\$300).

5 (iv) Special licenses.

6 (A) Student shellfish license. - A resident twenty-three (23) years or younger shall pay
7 fifty dollars (\$50.00) for a student commercial license to take shellfish upon provision of proof of
8 full-time student status. [An individual qualified to obtain a license must submit an application to](#)
9 [the department of environmental management no later than June 30 of each year; a license](#)
10 [application shall be deemed valid if submitted to the department prior to the close of regular](#)
11 [office hours on June 30, or if postmarked by June 30.](#)

12 (B) Over sixty-five (65) shellfish license. - A resident sixty-five (65) years of age and
13 over shall be eligible for a shellfish license to shellfish commercially and there shall be no fee for
14 this license.

15 (2) Vessel declaration and fees; gear endorsement and fees.

16 (i) Vessel declaration and fee. - (A) The department shall require the owner and/or the
17 operator of a commercial fishing vessel to declare the vessel on the owner/operator's commercial
18 fishing license. The declaration shall be made at the time of initial license issuance and each
19 renewal, or prior to the vessels being used for commercial fishing by the owner and/or operator if
20 the first usage of the vessel for commercial fishing occurs during the course of a year after the
21 license has been issued or renewed. If the declaration is for a vessel of less than twenty-five feet
22 (25') in length, the declaration shall be transferable to another vessel less than twenty-five feet
23 (25') in length, provided the vessel is identified as commercial fishing vessel while it is being
24 used for commercial fishing by displaying a plate as provided in § 20-2.1-4.

25 (B) The annual fee for each vessel declaration shall be twenty-five dollars (\$25.00) for
26 the first twenty-five feet (25') or under, plus fifty cents (\$0.50) per foot for each whole foot over
27 twenty-five feet (25'); this declaration fee shall entitle the holder to a decal. The holder of a valid
28 decal for a vessel twenty-five feet (25') in length or under may obtain a plate from the department
29 for display on a vessel twenty-five feet (25') in length that is being used temporarily for
30 commercial fishing; the annual fee for a plate shall be fifteen dollars (\$15.00).

31 (ii) Gear endorsements and fees.

32 (A) Shellfish dredging endorsement. - A resident of this state who holds a multipurpose
33 license and/or an appropriate shellfish license is also eligible to apply for a shellfish dredging
34 endorsement to take quahogs, mussels, and surf clams by dredges hauled by powerboat. The

1 annual fee shall be twenty dollars (\$20.00).

2 (B) Fish trap endorsements. - A person who holds a multi-purpose license and/or a
3 principal effort license for finfish is also eligible to apply for a fish trap endorsement in
4 accordance with the permitting provisions in chapter 5 of this title. The fee shall be twenty dollars
5 (\$20.00) per trap location for a three (3) year period. Applicants who possessed a valid fish trap
6 endorsement as of the immediately preceding year may obtain a fish trap endorsement for the
7 immediately following year, subject to the same terms and conditions in effect as the immediately
8 preceding year. New fish trap endorsement opportunities shall be established by the department
9 by rule, pursuant to applicable management plans and the provisions in chapter 5 of this title.

10 (C) Gill net endorsements. - A person who holds a multi-purpose license and/or a
11 principal effort license for finfish is also eligible to apply for a commercial gill net endorsement
12 in accordance with the provisions of this section. The annual fee for a commercial gill net
13 endorsement is twenty dollars (\$20.00). Applicants who possessed a gill net endorsement as of
14 the immediately preceding year may obtain a gill net endorsement for the immediately following
15 year. New gill net endorsement opportunities shall be established by the department by rule,
16 pursuant to applicable management plans.

17 (D) Miscellaneous gear endorsements. - The department may establish by rule any
18 specific gear endorsements that may be necessary or appropriate to effectuate the purposes of this
19 chapter and facilitate participation in a specific fishery with a specific type of gear; the fee for
20 such a gear endorsement shall not be greater than two hundred dollars (\$200), but may be a lesser
21 amount. This endorsement shall be issued only in a manner consistent with the general
22 requirements of this chapter, including specifically those governing residency.

23 (3) New licenses.

24 (i) Eligibility. - For new principal effort and multi-purpose licenses priority shall be
25 given to applicants who have held a lower level of license for two (2) years or more, with
26 preference to family members and crew members of a license holder who is retiring his or her
27 license.

28 (ii) Priority or preference applicants. - A new license shall be granted to
29 priority/preference applicants who have acquired vessel and or gear from a license holder who
30 has retired a license, provided that as the result of any such transaction for each license retired not
31 more than one new license may be granted, nor may the nominal effort, including the total
32 number of licenses, in a fishery subject effort or catch restrictions be increased.

33 (iii) Availability of new or additional licenses. - New principal effort and multi-purpose
34 licenses that increase the total number of licenses in the fishery may be made available by rule

1 consistent with management plan for issuance effective January 1, in any year, based on status of
2 resource and economic condition of fishery. Priority for new licenses shall be given to Rhode
3 Island residents.

4 (4) Retirement of licenses. - Issuance of license shall not be deemed to create a property
5 right such that the license can be sold or transferred by license holder; fishing licenses shall be
6 surrendered to the state upon their non-renewal, forfeiture or revocation.

7 (5) Transfer for hardship. - Notwithstanding the provisions of § 20-2.1-4(c), a license
8 may be transferred to a family member upon the incapacity or death of the license holder who has
9 actively participated in commercial fishing. The transfer shall be effective upon its registration
10 with the department. A family member shall be defined as the spouse, mother, father, brother,
11 sister, child or grandchild of the transferor. The department shall make available as necessary
12 operator permits to provide solely for the continued operation of a fishing vessel upon the illness,
13 incapacity or death of a license holder who has actively participated in commercial fishing, which
14 operator permits shall be subject at a minimum to the conditions and restrictions that applied to
15 the license holder.

16 (6) Transfer of vessels and gear. - Vessels and gear may be sold, transferred, or disposed
17 at the sole discretion of the owner; provided, however, that the subsequent level of use of the gear
18 may be restricted in Rhode Island waters in order to accomplish the purposes of a duly adopted
19 management plan or other duly adopted program to reduce effort.

20 SECTION 2. This act shall take effect upon passage.

=====
LC001733
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FISH AND WILDLIFE

- 1 This act requires applications for student shellfish licenses to be submitted no later than
- 2 June 30 of each year.
- 3 This act shall take effect upon passage.

=====
LC001733
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Council Report

June 2015

The Council Report summarizes major actions approved at NEFMC meetings or highlights items of interest to stakeholders.

At its June meeting in Newport, RI, the Council:

- ◆ Approved Framework 9 to the Monkfish FMP
- ◆ Asked NOAA to take emergency action to suspend the groundfish fishery's at-sea monitoring program
- ◆ Began work on the 2016-2018 Atlantic herring specifications
- ◆ Finalized the Habitat Amendment for submission to NOAA
- ◆ Initiated work on several sea scallop management actions

Next Council Meeting
Sept. 29 through
Oct. 1
Plymouth, MA

Monkfish

NEFMC approves Framework 9

The NEFMC took final action on Framework 9 to the Monkfish Fishery Management Plan. It is developed jointly with the Mid-Atlantic Fishery Council, with New England in the lead. While this framework addresses monkfish issues, it also would modify the region's groundfish regulations. If approved by NOAA Fisheries, it would:

- Allow limited access monkfish category C and D sector vessels *only* to declare, and use, while at sea, a groundfish (or Northeast Multispecies) day-at-sea while fishing in the Northern Fishery Management Area (NFMA).
- Eliminate the monkfish trip limit when on a groundfish/monkfish day-at-sea in the NFMA.
- Reduce the minimum mesh size of standup gillnet gear in the Southern Fishery Management Area (SFMA). Vessels fishing on a monkfish day-at-sea with a stand-up gillnet in the Mid-Atlantic Exemption Area could use mesh a minimum mesh of 5-inches, fish with no more than 50 standup gillnets, and retain dogfish and monkfish.
- Allow vessels fishing on a monkfish day-at-sea in the Southern New England (SNE) Dogfish Exemption Area to use a minimum standup gillnet mesh size of 6-inches, fish no more than 50 standup gillnets from May 1 through October 31, and retain both dogfish and monkfish. Vessels fishing on a monkfish day-at-sea in the SNE Monkfish and Skate Exemption Area could use a minimum mesh size of 10-inches year round and retain both dogfish and monkfish on the same trip.
- Allow a 6.5-inch minimum mesh size for standup gillnet gear while fishing on a monkfish and groundfish day-at-sea in the SFMA.



Photo courtesy NEFSC

The Council opted for No Action on three alternatives that would have: a.) allowed vessels in the SFMA to declare a monkfish day-at-sea while at sea; b.) increased the daily day-at-sea/trip limit allocation for Category F (offshore) vessels; and c.) allowed vessels to re-declare or use a monkfish research set-aside day-at-sea while already at sea using a monkfish day-at-sea. The decisions were made largely on the basis of concerns effort shifts from north to south.

Both Councils, voting at their respective June Council meetings, agreed on the management measures proposed in Framework 9. It will be submitted to NOAA Fisheries later this summer. The Monkfish Committee is scheduled to consider next Amendment 6, and action that will address among other issues, options for catch shares in this fishery.

Info on Framework 55

The Council formally initiated this action in June.

It will include specifications for all groundfish stocks for fishing years 2016 – 2018, including the three U.S./Canada stocks for fishing year 2016, and a proposal for a new sector. Final action is scheduled for this December.

***Note to non-fishing people**

~
ACE or Annual Catch Entitlement is a term used in the Council's Groundfish Plan. It is the share of the annual catch limit (ACL) for each Northeast groundfish stock that is allocated to an individual sector.

Groundfish

ASM emergency action requested

To address a long-simmering issue that has been discussed by the groundfish industry and NOAA Fisheries for several years, the Council requested that the agency take emergency action to suspend the at-sea monitoring (ASM) program that currently applies to vessels fishing in groundfish sectors. Its request was based on serious concerns about the economic viability of the groundfish fishery, should the industry pay for a portion of the ASM program.

To provide context, the Council proposed and the agency subsequently approved rules that require sectors to pay for at-sea monitoring via Amendment 16 in 2010, although NMFS has assumed those costs over the last several years. The program is used to verify area fished and catch (landings and discards), by species and gear type, for the purpose of monitoring sector quota.

Today, given the decline of Gulf of Maine cod and the status of a number of other groundfish stocks that are still recovering from overfishing, the Council has expressed concerns that the industry needs immediate relief.

The emergency action request asked for a suspension of the at-sea monitoring program accompanied by an evaluation relative to its effectiveness in support of stock assessments, its total costs to the groundfish fishery, data precision and accuracy, and whether it is actually ensuring catch accountability.

In the event that the emergency request is denied, the Council passed a follow-on motion detailing suggestions about how NOAA Fisheries might use its administrative authority in-season in fishing year 2015 to potentially alleviate some of the financial burden on the industry.

It specified that the agency adjust the 2015 at-sea monitoring program for multispecies sectors through administrative action. The intent of the recommendations are to improve the efficiency of the program through administrative changes that will reduce costs of the ASM program without compromising current standards and requirements.

The Council is also seeking additional information from NMFS to assist in evaluating the performance of the current ASM program in the groundfish fishery in order to inform development of a Council ASM framework adjustment. The intent is to make the program more cost-effective. A timeline is under development.

Electronic Monitoring Working Group weighs in

The Council established its Electronic Monitoring Working Group (EMWG) in April 2013 to examine barriers and develop solutions to implementing electronic monitoring (EM) in the Northeast groundfish fishery sectors.

Since its inception, significant steps toward EM in the region have been taken. Moreover, sectors, NGO partners, and NOAA Fisheries are currently working together to test EM under routine fishing conditions in 2015, with a fully operational EM program option anticipated in fishing year 2016.

Seeking a short-term remedy to the possibilities raised by the above-described scenario, the Council recommended that NOAA allow use of electronic monitoring in the groundfish fishery on a voluntary basis to verify discards of groundfish *ACE reported via fishing vessel trip reports or VTRs.

Atlantic Herring

Work on 2016-2018 specs underway

The good news on the status of Atlantic herring continues. As reported at the June Council meeting, the updated stock assessment conducted this past April indicates that the Atlantic herring resource remains above its biomass target (rebuilt) and below the overfishing threshold (no overfishing). Importantly, this has been the case for this critical forage species since the current management program was adopted by the Council in 1999.

Accordingly, the Council adopted its Scientific and Statistical Committee's (SSC) recommendation to specify the Atlantic herring overfishing limit (OFL) and acceptable biological catch (ABC) for the 2016-2018 fishing years, as follows in metric tons (mt):

2016 - 138,000 mt, OFL — 111,000 mt, ABC
 2017 - 117,000 mt, OFL — 111,000 mt, ABC
 2018 - 111,000 mt, OFL — 111,000 mt, ABC

Using a *constant catch* strategy, the SSC's ABC specification of 111,000 mt for 2016-2018 represents a slight reduction from the current ABC specification of 114,000 mt. The SSC concluded that ABC should remain relatively constant, or perhaps be reduced modestly based on the following points, among others:

- A constant catch strategy is the preferred approach of the Council and industry.
- Key attributes of the stock and assessment have changed little since the benchmark assessment, on which the current control rule the current ABC was based.



In its report to the Council the SSC elaborated, noting that “survey indices suggest that the 2011 year class is the second largest in time series and will contribute significantly to the total population abundance and biomass in 2016-2018.”

The Council is scheduled to address the remainder of the 2016-2018 Atlantic herring fishery specifications, sub-annual catch limit distributions by management area and river herring/shad catch caps, at the its upcoming meeting in September.

Amendment 8 to the Atlantic Herring FMP

After a review of the scoping comments received on Amendment 8 to the Herring Fishery Management Plan, a report from the Ecosystem-based Fisheries Management Plan Development Team on an ABC control rule, and feedback from the SSC, the Council discussed its goals and objectives for the amendment:

- 1.) To account for the role of Atlantic Herring within the ecosystem including its role as forage;
- 2.) To stabilize landings at a level designed to achieve optimum yield; and
- 3.) To address localized depletion in inshore waters.

Because the Amendment 8 goals approved at the June meeting extend beyond the issues initially identified for the March-April 2015 scoping hearings, the Council will likely re-open the scoping period to solicit comments on the new amendment parameters. Once this occurs, the Council will revise the Amendment 8 Action Plan and timeline.

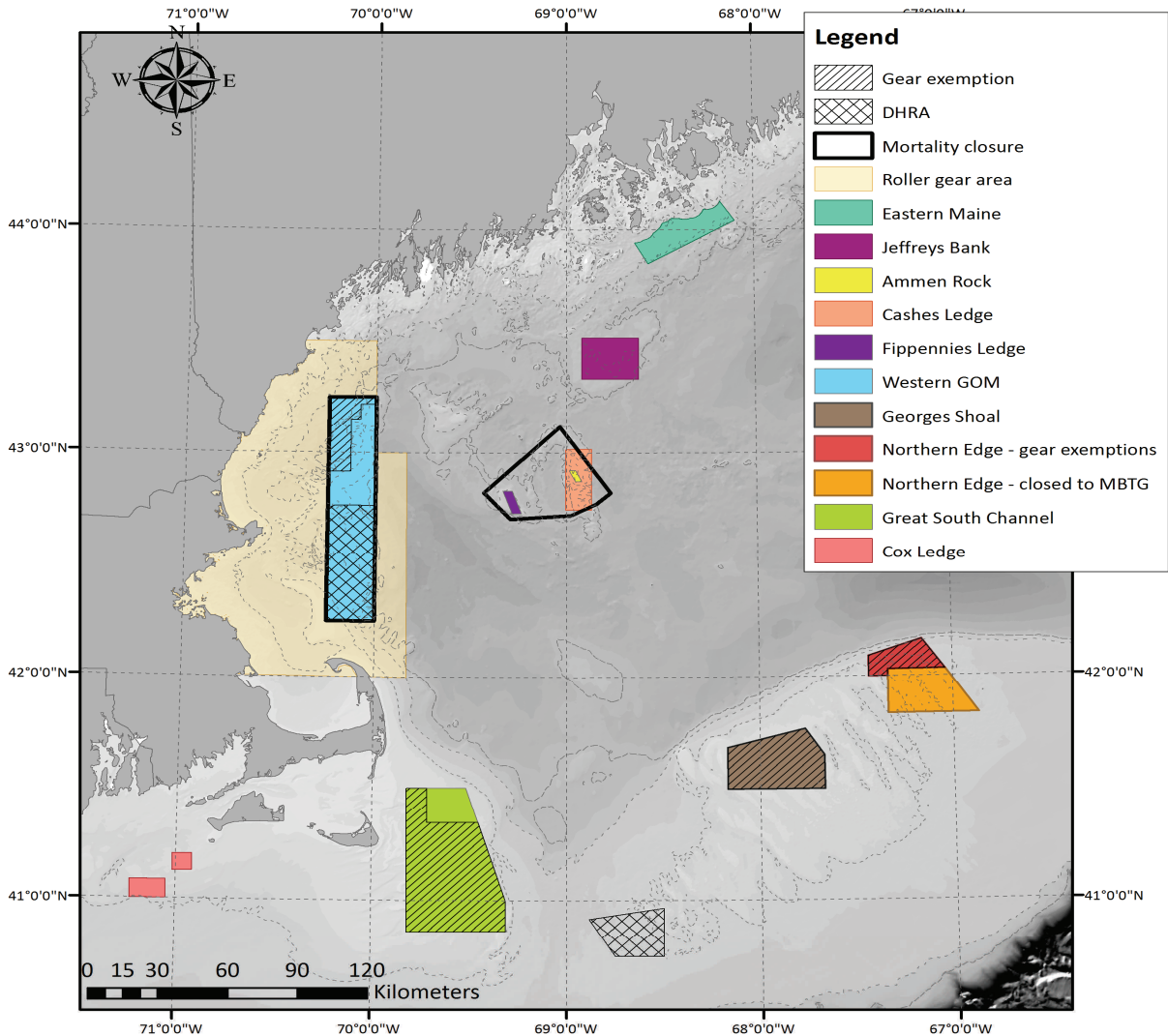
Habitat

Final action on OHA2 approved

The Council completed its remaining tasks concerning final approval of Omnibus Habitat Amendment 2 in June, following actions taken at its April meeting. It identified areas that would be subject to habitat protection on the northern edge of Georges Bank and Georges Shoal and singled out other areas to protect spawning groundfish, both on Georges and in the Gulf of Maine. *Continued on page 6.*

Omnibus Essential Fish Habitat Amendment 2: Final Alternatives as of June 2015 New England Fishery Management Council meeting. Seasonal areas are not shown.

- Gear exemption areas hatched. In western Gulf of Maine, shrimp trawls exempt. In Great South Channel and Georges Shoal, clam dredges exempt for one year. On Northern Edge (red area), scallop access fishing exempt, bottom trawling for groundfish exempt west of 67° 20' W.
- Dedicated Habitat Research Areas are cross-hatched. Stellwagen DHRA (north), Georges Bank DHRA (south)
- Mortality closures shown with heavy black outline. Current gear restrictions.
- Largest shaded area is the roller gear restricted area.
- Other shaded/colored areas are mobile bottom-tending gear closures, with gear exemptions as noted above.
- Cox Ledge closed to clam dredges, and trawls cannot use ground cables.
- Ammen Rock closed to all gears except lobster traps.



Omnibus Essential Fish Habitat Amendment 2: Final Alternatives as of June 2015
New England Fishery Management Council meeting. Seasonal spawning areas only.

GOM COD PROTECTION CLOSURES

Closed to commercial gears with various exemptions

Nov-Jan: 125 and 124 (southwest corner of 124 only)

Feb: None

Mar: 121, 122, and 123 (all areas common pool only)

April: None**

May: 125 (northern part only), 132, 133, 138, 139, 140

June: 125 (northern part only), 132, 139, 140, 146, 147

July-September: None

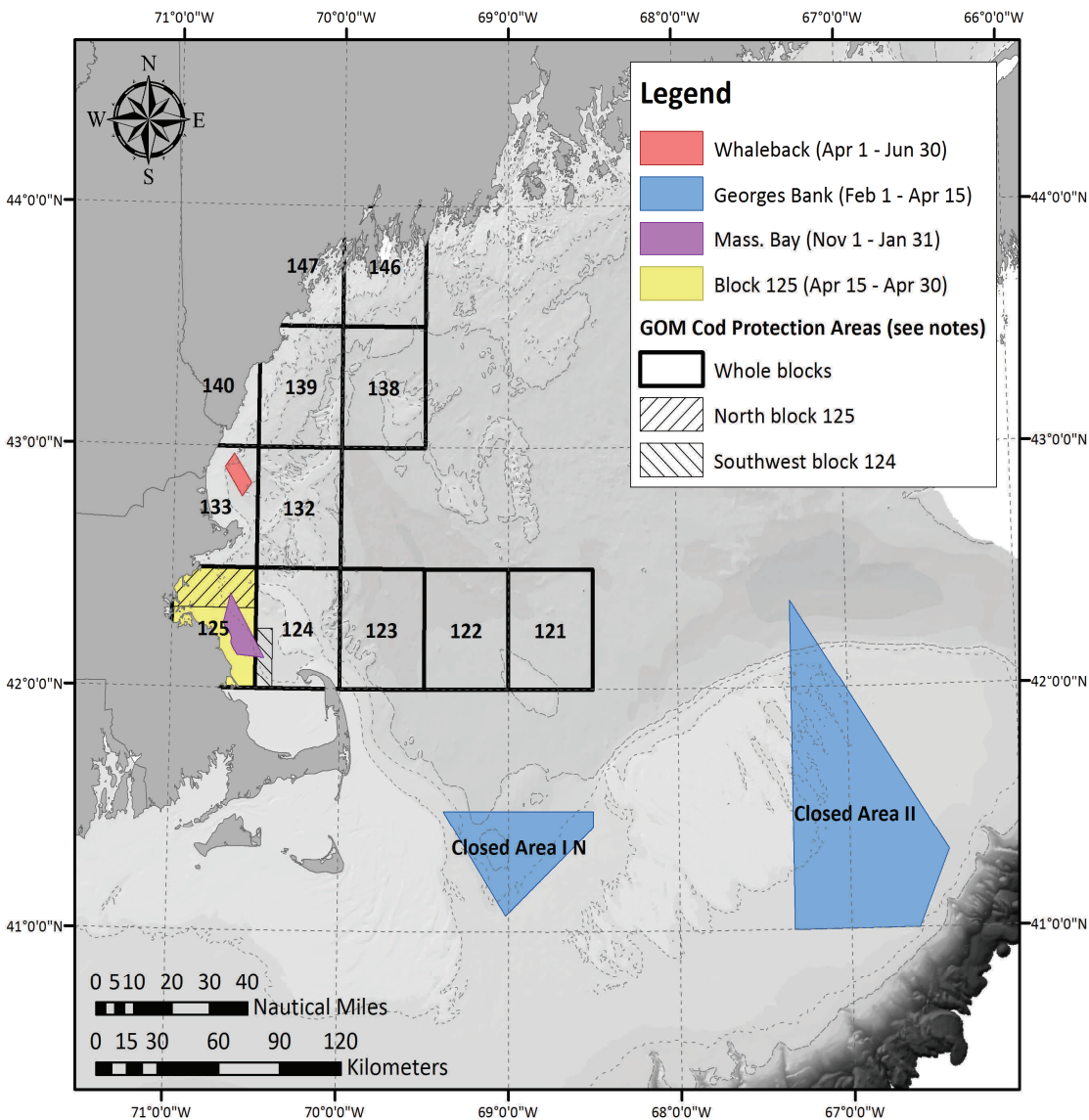
October: 124 and 125 (both areas common pool only)

SPAWNING AREAS

-- Whaleback and Massachusetts Bay Cod Spawning Protection Areas have the same gear restrictions, i.e. closed to commercial and recreational gears with various exemptions

-- Georges Bank areas closed to various commercial and recreational gears capable of catching groundfish, with various exemptions, including scallop dredges

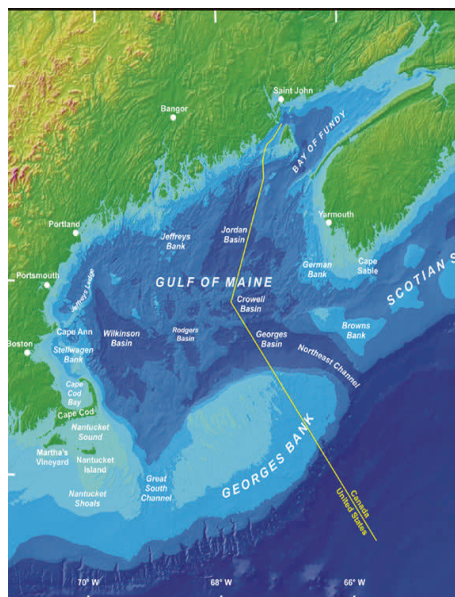
** Block 125 in April is not part of Cod Protection Closures, but was added by Council in June as a spawning area from April 15 - April 30



Habitat - continued from p.4

To review, the habitat management areas described below and shown in maps on the previous pages contain habitats of importance to multiple species, are vulnerable to impacts from fishing, and as such, would be subject to gear restrictions for conservation purposes on the basis of gear type.

At the June meeting, the Council approved the Georges Shoal Habitat Management Area (shaded brown on p.4 map) which would be closed to mobile bottom-tending gears including bottom trawls and dredges, with an exemption for hydraulic clam dredges. The exemption for clam dredges would sunset one year after implementation of the amendment allowing time to consider a targeted exemption area or areas to be considered.



Two other Habitat Management Areas were approved, both located on the northern edge of Georges Bank along the U.S./Canada boundary. The area farthest to the northeast (shaded red on p.4) was defined as a reduced impact Habitat Management Area, along with an adjacent area just to the south that was approved as a mobile bottom-tending gear closure (shaded gold, p.4). Hydraulic clam dredges would not be allowed in either area.

Exemptions in the “red area” would include limited fishing access for bottom trawls and scallop dredges. Access for the scallop fishery would be allowed under the current scallop access area regulations, with the specifics of the program to be developed in a future scallop action, and groundfish trawling would be allowed in the relatively small area west of 67° 20' W only.

Because of concerns about impacts to the lobster fishery and resource, any portions of what is currently known as Closed Area II north of 41°30' N would be closed to scallop fishing from June 15th through October 31st. While not included in the amendment, the groundfish industry has an agreement with the lobster industry to abide by similar restrictions.

Spawning Protection Measures

Georges Bank Former Closed Area I was remapped as Closed Area I North, while the boundaries of Closed Area II were retained as seasonal spawning closures. Restrictions for both would apply from February 1st through April 15th to protect spawning groundfish and would affect the use of various commercial and recreational fishing gears that catch groundfish. Scallop dredges would be exempt from the closures.

Gulf of Maine Council members voted to piggyback on to the Gulf of Maine Cod Protection Areas implemented via Framework 53 to the Groundfish Plan, but with modifications. In response to an identified need for increased protections for spawning fish during April, the Council added 30-minute block 125 to these closures for spawning protection from April 15th through April 30th.

The other Framework 53 provisions remain in place. To recap, the closures currently apply to all federally permitted commercial vessels, except for those fishing with exempted gear or that participate in an exempted fishery. As adopted in Amendment 16 to the FMP, sector vessels are exempt from the closures in March and October. The March and October closures also do not apply to Handgear A vessels, regardless of whether the vessel fishes in the common pool or in a sector. The recreational fishery measures in Framework 53 also remain unchanged --- no possession of Gulf of Maine cod is allowed in the closure areas.

In furthering efforts to protect spawning groundfish in the Gulf of Maine region, the Council retained the existing Whaleback Spawning Cod Protection Area and applied its restrictions to a new Mass Bay Area (shaded purple on the p.5 map). All groundfish gear, including recreational fishing gear, would be prohibited.

Sea Scallops

New actions initiated, research priorities approved and more

In addition to the habitat decisions that could affect the sea scallop fishery, the Council worked on a number of other scallop-related items at the Council meeting. Here is a brief summary of the topics and issues covered.

Scallop Survey Peer Review Report Dr. Paul Rago kicked off the discussions by summarizing the findings of an external peer review of the multiple scallop surveys that have been conducted in the region. These include the Northeast Fisheries Science Center's (NEFSC) federal survey; the drop camera survey conducted by UMASS Dartmouth's School for Marine Science and Technology; a towed camera survey conducted by the NEFSC and the Woods Hole Oceanographic Institution, as well as a separate camera survey conducted by the Habcam Group (an industry-supported system), and the dredge survey conducted by the Virginia Institute of Marine Science.

One of the many findings in the report prompted a Council vote in which the NEFMC will ask the Science Center to consider a joint integrated federal scallop survey, possibly using multiple commercial vessels, based on the report's conclusion that there is no compelling advantage to using both dredge and HabCam gears on the same vessel. The motion suggested an outcome that could result in improved survey coverage.

Amendment 19 The Council approved the goal, objectives and range of alternatives to consider in Amendment 19 to the Scallop Plan. Measures to be developed would allow scallop specifications to be implemented for the start of the fishing year. Specific alternatives could involve a more streamlined specifications-setting process than doing so through a framework adjustment, and moving the start of the fishing year to April. Additionally, a handful of other ideas for streamlining were discussed that do not require changes to the regulations. Final action on Amendment 19 is expected at the December 1-3 meeting in Portland, ME.

Framework 27 The Council also voted to initiate Framework Adjustment 27 at the June meeting. At this writing, the action includes fishery specifications for fishing year 2016 and default measures for fishing year 2017. A final Council vote on the framework is also scheduled for December.

RSA Priorities Priorities were approved for the 2016-2017 scallop research set-aside program. Several modifications were made to last year's list based on input from the Scallop PDT, Advisory Panel and Committee. While there were a total of 11, the top three priorities listed in order of importance called for survey-related and by-catch research, and other investigations related to scallop enhancement and the impacts of parasites on scallop mortality.

Workshop Finally, the Scallop Committee reported on updates to a draft white paper and workshop planning concerning potential inshore depletion of scallop fishing grounds and different fishing practices between the limited access and limited access general category fisheries. The Council agreed that a facilitated meeting should be planned. A steering committee will be formed to oversee the details of the workshop that will likely be held in 2016.



The New England Fishery Management Council is one of eight regional organizations created by the Magnuson-Stevens Fishery Conservation and Management Act, initially enacted in 1976.

The Council develops rules for both commercial and recreational fisheries that operate between three and 200 miles off the region's coastline. NEFMC management authority extends to fishing grounds in the Gulf of Maine, Georges Bank and southern New England and overlaps with the Mid-Atlantic Council for some species.

NEFMC Website

If you would like to receive notices for committee meetings and other types of Council information via email, please go to www.nefmc.org. Look for *Subscribe* at the top of the homepage, and sign up. It's easy and convenient. Try it!

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Atlantic States Marine Fisheries Commission

2015 Summer Meeting Summary

Vision: Sustainably Managing Atlantic Coastal Fisheries

2015 Summer Meeting
Alexandria, Virginia
August 4-6, 2015

Toni Kerns, ISFMP, or
Tina Berger, Communications
For more information, please contact
the identified individual at
703.842.0740

Meeting Summaries, Press Releases and Motions

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EXECUTIVE COMMITTEE (August 4, 2015)

Meeting Summary

The Executive Committee discussed a number of proposed changes to the Commission guidance documents in order to address inconsistencies among various guidance documents and provide additional clarification. The specific issues discussed included the ASMFC Appeals Process; ASMFC Conservation Equivalency Process; the definition of management board final actions; the timing of advisory input throughout the development of new management plans/addenda; technical committee decision-making and the role staff on technical committees; and commissioner attendance. Based on its guidance, staff will modify existing governance documents for consideration and final approval by the respective governing body, either the ISFMP Policy Board or Business Session, at the Commission's Annual Meeting in November 2015.

For more information, please contact Laura Leach, Director of Finance and Administration, at lleach@asmfc.org or 703.842.0740.

ATLANTIC HERRING SECTION (AUGUST 4, 2015)

Meeting Summary

The Atlantic Herring Section provided guidance to the Plan Development Team (PDT) for the development of Draft Amendment 3 to the Atlantic Herring FMP, this was supplemented by a Technical Committee presentation on recommended actions for spawning area efficacy. An update on the 2016-2018 Atlantic herring specification process was given.

The PDT will develop options for Draft Amendment 3 that focus on how to protect spawning fish within the specific spawning areas defined as eastern Maine, western Maine, and Massachusetts/New Hampshire. Specifically, the PDT will review timing options, including 1) spawning stage based on a gonadal-somatic index-based monitoring system, 2) closure dates, and 3) end of spawning closure (i.e. length of closure). In regard to closure dates, the PDT will consider the potential add-on of a fast track closure mechanism, up to seven days, which should provide sufficient time to convey the start of the closure to industry. An economic analysis of how options will affect fishery participants will be considered in the draft amendment.

The Advisory Panel will be involved as the options for Draft Amendment 3 are developed; meetings will take place prior to the Annual Meeting (Nov. 2015), as well as during (and after) the public comment period.

The New England Fishery Management Council (NEMFC) Herring Committee met on July 22, 2015 to discuss elements of the 2016-2018 Atlantic herring specification package including: management uncertainty; the stock-wide Atlantic herring annual catch limit (ACL), seasonal sub-ACLs (by management area), domestic annual harvesting, domestic annual processing, U.S. at-sea processing, border transfer, fixed gear set-aside, and research set-aside; and gear/area catch caps for river herring and shad. In large part, status quo options were recommended. The Committee will review analyses of the options for the specifications and finalize its recommendations for the selection of final 2016-2018 specifications at the September 2015 Council meeting.

For more information, please contact Ashton Harp, Fishery Management Plan Coordinator, aharp@asmfc.org or 703.842.0740.

Motions

Move that the PDT develop options to protect spawning fish by prohibiting landing of Atlantic herring caught within the specific spawning areas defined as eastern Maine and western Maine/MA/NH.

Motion made by Dr. Pierce and seconded by Mr. Grout. Motion carries (7 in favor).

Move to include in Draft Amendment 3 the timing options regarding spawning stage, defaults, and end of spawning closure. These issues are described in memo to the Board dated July 22, 2015.
 Motion made by Dr. Pierce and seconded by Rep. Kumiega. Motion carries (7 in favor).

AMERICAN LOBSTER MANAGEMENT BOARD (AUGUST 4, 2015)

Press Release

American Lobster Assessment Yields Mixed Stock Status Results

*Record High Abundance for Gulf of Maine and Georges Bank Stock and
 Record Low Abundance for Southern New England Stock*

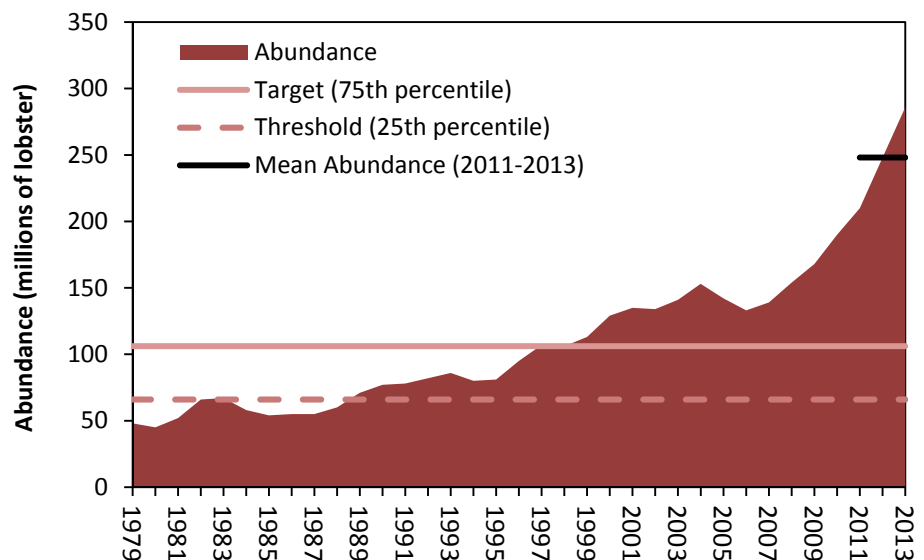
Alexandria, VA – The 2015 American Lobster Benchmark Stock Assessment and Peer Review Report indicates the American lobster resource presents a mixed picture of stock status, with record high stock abundance and recruitment in the Gulf of Maine (GOM) and Georges Bank (GBK), and record low abundance and recruitment in Southern New England (SNE). The GOM/GBK stock is not overfished and not experiencing overfishing. GOM and GBK were previously assessed as separate stock units and are now combined into one stock unit due to evidence of seasonal migratory patterns and connectivity between the two areas. Conversely, the SNE stock is severely depleted with poor prospects of recovery, necessitating protection.

Stock Status

Gulf of Maine/Georges Bank

GOM/GBK stock abundance has increased since 1979 and at an accelerated pace since 2007. Recruitment and spawning stock abundance have remained high between 2008 and 2013. Current stock abundance is at all-time highs. Exploitation (fishing mortality) declined after 1979 until the mid-1990s and then remained stable with higher exploitation on males than females. Current exploitation rates remain on par with the 2008-2013 average.

GOM/GBK American Lobster Abundance & Reference Points



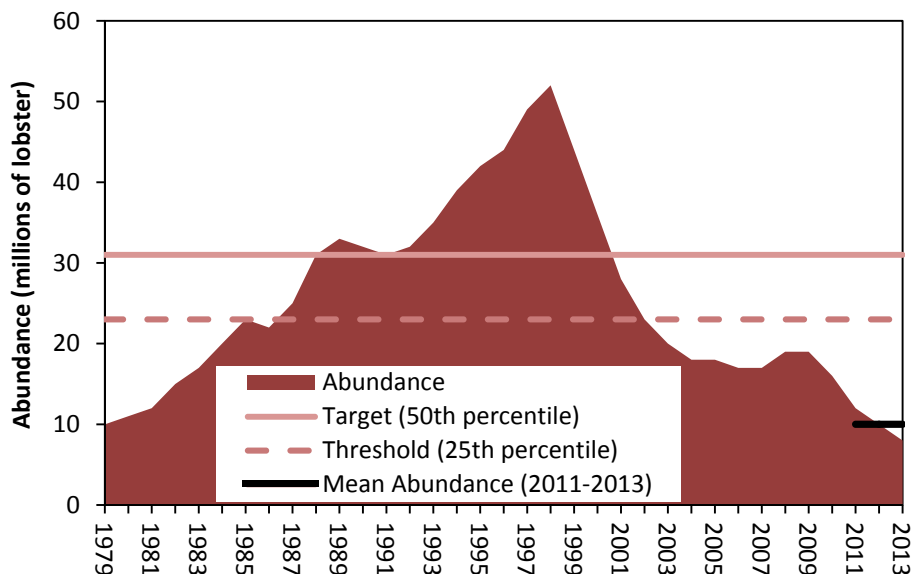
Southern New England

SNE stock abundance increased from the early 1980s, peaked during the late 1990s, then declined steeply through the early 2000s to a record low in 2013. Both the assessment and peer review support the finding that the SNE stock is severely depleted. Declines in population abundance are most pronounced in the inshore portion of the stock where environmental conditions have remained unfavorable to lobsters since the late 1990s. The stock has collapsed and is undergoing recruitment failure. Despite attrition among the fleet and fewer traps fished for lobster, declines have continued. These declines are largely in response to adverse environmental conditions including increasing water temperatures over the last 15 years combined with sustained fishing mortality.

Declines in catch and fishery-independent survey indices in the offshore portion are evident as well; however they are not as severe. It is believed the offshore area of SNE depends on nearshore larval settlement and offshore migration as the source of recruits (e.g., young of the year lobsters). Therefore, unless fishing effort is curtailed, the offshore component will be in jeopardy in the future when the poor year classes fail to materialize offshore. The Peer Review Panel noted while the SNE stock is not experiencing overfishing based on the current reference points, these reference points were established “without

considering the possibility that the stock could be at the lowest abundance level ever and the production of recruits in the inshore area (on which the offshore area depends) could be brought to an extremely low level. It is noted that pre-recruits are not measured in the offshore surveys, so the effects of recruitment failure in the inshore would not be seen in the offshore until years later when the lobsters become available to the fishery and surveys. Hence, by any reasonable standard, it is necessary to protect the offshore component of the stock until increased recruitment can be observed.”

SNE American Lobster Abundance and Reference Points



Peer Review Panel Recommendations

For SNE, the Panel recommends close monitoring of stock status along with implementing measures to protect the remaining lobster resource in order to promote stock rebuilding. Stock indicators should be updated annually and reported to the Management Board for appropriate action. Given the good condition of the GOM/GBK stock, the Panel recommended stock indicators be monitored prior to the next benchmark assessment to detect signs of changing recruitment or other conditions.

Landings

Total U.S. landings in the fishery have steadily increased in the past 35 years. Up until the late 1970s, landings were relatively constant at about 30.87 million pounds. However by 2000, landings almost tripled to roughly 86 million pounds and by 2006 grew to 92.61 million pounds. Landings in 2013 were roughly 149.94 million pounds. These landings are primarily comprised of catch from inshore waters (0 to 12 nautical miles). GOM supports the largest fishery, constituting approximately 76% of the U.S. landings between 1981 and 2007 and accounting for approximately 87% of landings since 2002. Landings in the GOM were stable between 1981 and 1989, averaging 32.13 million pounds, and then increased dramatically from 42.34 million pounds (1990) to 141.12 million pounds (2013). Landings averaged 112.46 million pounds from 2008-2013. GBK constitutes a smaller portion of the U.S. fishery, with landings averaging 4.93 million pounds between 2008 and 2013. Like the GOM, landings were stable in the 1980s and then quickly doubled in the early 2000s to a high of 5.29 million pounds in 2005. Before 2011, SNE was the second largest fishery, accounting for 19% of the U.S. landings between 1981 and 2007; however, a sharp decline in the population has significantly reduced catch. Landings peaked in the 1990s, reaching a high of 21.91 million pounds in 1997. Since this time, landings have precipitously dropped to a low of 3.31 million pounds in 2013.

The Board accepted both the stock assessment and peer review report for management use. In response to the findings regarding the status of the SNE stock, the Board established a working group of Board and Technical Committee members to review the assessment and peer review findings and develop recommendations for Board consideration. The final report will be available by mid-August via the Commission's website at www.asmf.org on the American Lobster page under Stock Assessment Reports. For more information, please contact Megan Ware, Fishery Management Plan Coordinator for Management, at 703.842.0740 or mware@asmfc.org.

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PR15-25

Meeting Summary

The American Lobster Management Board met to approve the 2015 Benchmark Stock Assessment and Peer Review Report for management use, to take final action on the Jonah Crab Fishery Management Plan, and receive an update on the Lobster Trap Transfer Database.

The Board accepted the 2015 Benchmark Stock Assessment and Peer Review Report for management use. In response to the stock assessment and review report, the Board created a single reference point for the newly combined Gulf of Maine and Georges Bank stock and established a working group of Board and Technical Committee members to develop recommendations for Board consideration with regards to the historically low abundance in Southern New England (see above press release).

The Board identified final measures for the Jonah Crab Fishery Management Plan and recommended final approval of the Plan by the Interstate Fisheries Management Program Policy Board (see press release later in this document under Business Session). The Board also agreed to move forward on the development an addendum to the FMP to identify management measures for crab-only trap fishermen (e.g., trap and landing limits). The Board will discuss the specific measures to be included in the addendum at its next meeting.

The Board also received an update on the Lobster Trap Transfer Database. The Database will be active for transfers affecting the 2016 fishing season. Trap transfer applications will be accepted from August 1-September 30, 2015 and state and federal agencies will finalize trap allocations between October and December 2015. For more information, please contact Megan Ware, Fishery Management Plan Coordinator, mware@asmfc.org or 703.842.0740.

Motions

Move to approve the 2015 Lobster Benchmark Assessment and Peer review comments for management use. Motion made by Mr. Adler and seconded by Mr. Keliher. Motion passes unanimously.

Move to combine the reference points for the GOM and GBK to one. The new reference point will be for GOM/GBK. The reference years (1982-2003) would remain the same and the targets and thresholds would remain the same (below the limit/threshold if model abundance is less than the 25 percentile and requires action; if above the 75 percentile the stock is in favorable condition. Overfishing is occurring, if model exploitation is greater than the 75 percentile and requires action).

Motion made by Mr. Borden and seconded by Mr. Adler. Motion passes unanimously.

Move that the Board convene a subcommittee of state representatives, federal representatives, industry representatives, and Technical Committee representative to devise input to the Commission on goals and objectives to manage the SNE stock and the component fisheries. Report of the group should be submitted to the Board at the Annual meeting.

Motion made by Mr. Borden and seconded by Mr. Hasbrouck. Motion fails (2 in favor, 9 opposed, 1 abstention).

Main Motion

Motion to adopt the following provisions to address the issues of commercial permitting and harvest limits of Jonah crab.

- 1. Approve Section 4.1 (Issue 1) Option 5: Commercial Fisheries Management Measures, to limit participation in the trap fishery to only those vessels and permit holders that already hold a lobster permit; and further require all traps conform to specifications of the lobster plan (including trap tags), and establish an incidental permit for retention of Jonah crab.**
- 2. Approve for Issue 6 (Incidental by-catch limit for non-trap gear) Option 1: No coastwide possession limit.**

Motion made by Mr. Adler and seconded by Mr. Train. Motion amended.

Motion to Amend

Move to amend to include option 2 for Issue 6 (200 lbs per calendar day/ 500 lbs trip limit).

Motion made by Mr. Grout and seconded by Rep. Kumiega. Motion passes as amended (7 in favor, 5 opposed).

Main Motion as Amended

Move to adopt the following provisions to address the issues of commercial permitting and harvest limits of Jonah crab.

- 1. Approve for Section 4.1 (Issue 1) Option 5: Commercial Fisheries Management Measures, to limit participation in the trap fishery to only those vessels and permit holders that already hold a lobster permit; and further require all traps conform to specifications of the lobster plan (including trap tags), and establish an incidental permit for retention of Jonah crab.**
- 2. Approve for Issue 6 Option 2: Incidental Bycatch Limit for Non-Trap Gear (200 lbs per calendar day up to a max 500 lbs trip limit).**

Motion to Amend

Move to amend to insert or can prove prior participation in the crab fishery that can be demonstrated before the control date.

Motion made by Mr. Gibson and seconded by Mr. Gilmore. Motion passes (11 in favor).

Main Motion as Amended

Move to adopt the following provisions to address the issues of commercial permitting and harvest limits of Jonah crab.

- 1. Approve Section 4.1 (Issue 1) Option 5: Commercial Fisheries Management Measures, to limit participation in the trap fishery to only those vessels and permit holders that already hold a lobster permit; or can prove prior participation in the crab fishery that can be demonstrated before the control date; and further require all traps conform to specifications of the lobster plan (including trap tags), and establish an incidental permit for retention of Jonah crab.**
- 2. Approve for Issue 6 Option 2: Incidental Bycatch Limit for Non-Trap Gear 200 lbs per calendar day up to a max 500 lbs trip limit.**

Motion to Amend

Move to amend to change 200 lbs to 200 pieces and 500 lbs to 500 pieces.

Motion made by Mr. Reid and seconded by Mr. Adler. Motion passes (10 in favor, 1 abstention, 1 null).

Main Motion as Amended

Move to adopt the following provisions to address the issues of commercial permitting and harvest limits of Jonah crab.

- 1. Approve Section 4.1 (Issue 1) Option 5: Commercial Fisheries Management Measures, to limit participation in the trap fishery to only those vessels and permit holders that already hold a lobster permit; or can prove prior participation in the crab fishery that can be demonstrated before the control date; and further require all traps conform to specifications of the lobster plan (including trap tags), and establish an incidental permit for retention of Jonah crab.**
- 2. Approve for Issue 6 Option 2: Incidental Bycatch Limit for Non-Trap Gear 200 pieces per calendar day up to a max 500 pieces per trip limit.**

Motion passes (11 in favor, 1 opposed).

Motion to adopt the following measure regarding landing of parts – Option 2: Only whole crabs may be retained and sold.

Motion made by Mr. Adler and seconded by Mr. Gibson. Motion amended.

Motion to Amend

Move to amend to exclude individuals who can prove a history of claw landings before the control date in the states of New Jersey, Delaware, Maryland, and Virginia from Option 2 (only whole crabs may be retained and sold).

Motion made by Mr. Luisi and seconded by Mr. Clark. Motion passes (6 in favor, 5 opposed, 1 abstention).

Main Motion as Amended

Motion to adopt the following measure regarding landing of parts – Option 2: Only whole crabs may be retained and sold; and to exclude individuals who can prove a history of claw landings before the control date in the states of New Jersey, Delaware, Maryland, and Virginia from Option 2 (only whole crabs may be retained and sold).

Motion passes (9 in favor, 2 opposed, 1 abstention)

Motion to adopt the following biological measures for recreational Jonah crab harvest:

- For Issue 1 (Possession Limits) – Option 2: 50 whole crabs per person;**
- For Issue 2 (Prohibition on Retention of Egg Bearing Females) – Option 2: No egg Bearing females may be retained.**

Motion made by Mr. Adler and seconded by Mr. Grout. Motion passes unanimously.

Motion to adopt 3.4.1 Monitoring Programs. For Fishery Dependent Data Collections: Adopt Option 3: Coastwide mandatory reporting and fishery dependent sampling with Sub-option 1: 100 % mandatory dealer and 100% harvester reporting. However, jurisdictions that currently require less than 100% of harvesters to report are required to maintain at a minimum their current programs and extend them to Jonah crab.

Motion made by Mr. Adler and seconded by Commissioner Keliher. Motion carries unanimously.

Motion to adopt *de minimis* Criteria. Approve a modified option 1 and sub-option 1A by establishing *de minimis* criteria allowing states to apply for *de minimis* status if that state lands less than 1% of the overall commercial landings only. Due to inadequate recreational catch data, no consideration shall be given to recreational landings for purposes of *de minimis* determination.

Motion made by Mr. Adler and seconded by Mr. Abbott. Motion carries (11 in favor, 1 abstention).

Move to recommend to the full Commission to adopt the Jonah Crab Fishery Management Plan as modified today.

Motion made by Mr. Adler and seconded by Mr. Hasbrouck. Motion carries unanimously (Roll Call Vote: In favor – ME, NH, MA, RI, CT, NY, NJ, DE, MD, VA, NMFS).

Move to direct staff to initiate the process of developing an addendum to the Lobster FMP to prohibit all mobile gear in closed area II north of 41 degrees 31 minutes during June 15th to October 31st should the area reopen.

Motion made by Mr. Borden and seconded by Mr. Adler. Motion carries.

Move to table until a final decision by the NMFS on the NEFMC Habitat Omnibus Amendment.

Motion made by Mr. Grout and seconded by Mr. Simpson. Motion passes (11 in favor, 1 abstention).

AMERICAN EEL MANAGEMENT BOARD (AUGUST 5, 2015)

Meeting Summary

The American Eel Management Board met to review Maine's proposed American eel life cycle survey. The survey is required under Addendum IV for any jurisdiction with a commercial glass eel fishery harvesting more than 750 pounds. The intent of the survey is to track the species through a complete life cycle to obtain population estimates that would provide insight into the species status. The Technical Committee (TC) raised concerns with some aspects of Maine's survey design, including the spatial and temporal coverage, and recommended that a working group of the TC assist Maine with addressing the TC's concerns. The Board agreed with the TC's recommendation and will review an updated life cycle survey design at its November 2015 meeting.

The Board also reviewed the status of implementation plans with Addendum III and recommended that the ISFMP Policy Board find the State of Delaware out of compliance with the required provisions of Addendum III. These measures are necessary to achieve the conservation goals and objectives of the FMP to rebuild the depleted American eel stock. For more information, please contact Mike Waine, Senior Fishery management Plan Coordinator, at mwaine@asmfc.org or 703.842.0740.

Motions

Move the American Eel Management Board recommend to the ISFMP Policy Board that the State of Delaware be found out of compliance for not fully and effectively implementing and enforcing Addendum III to the Fishery Management Plan for American Eel. Delaware has not implemented the following regulations required by Addendum III:

- 9" minimum size for yellow eel recreational and commercial fisheries
- ½" x ½" min mesh size for yellow eel pots
- Allowance of 4x4" escape panel in pots of ½" x ½" mesh for 3 years (beginning on January 1, 2014)
- Recreational 25 fish bag limit per day per angler
- Crew and Captain involved in for-hire are exempt and allowed 50 fish bag limit per day

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to rebuild the depleted American eel stock. In order to come back into compliance the State of Delaware must implement all measures listed above as contained in Addendum III to the Fishery Management Plan for American Eel.

Motion made by Dr. Daniel and seconded by Doug Grout. Motion carries unanimously (Roll Call Vote: In favor – ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, VA, NC, SC, GA, FL, PRFC ; Abstentions – NOAA Fisheries, USFWS).

Motion to nominate Marty Gary as Vice-Chair by acclamation.

Motion carries.

TAUTOG MANAGEMENT BOARD (AUGUST 5, 2015)

Meeting Summary

The Tautog Board reviewed the Draft Public Information Document (PID) for Amendment 1 to the Tautog Fishery Management Plan and approved new members to the Advisory Panel.

The PID's intent is to gather information concerning the tautog fishery and to provide an opportunity for the public to identify major issues and alternatives relative to the management of this species. Issues presented in the PID include regional management, FMP goals and objectives, management measures, reference points and rebuilding timeframes. In addition, the PID includes other issues such as adaptive management, monitoring requirements and illegal fishing of undersized tautog. The Board provided guidance on further improvements to the document and approved it for public comment based on its suggested changes. The PID will be released by mid-August, with state public hearings conducted in September and early October. A press release will announce the PID's availability as well as the details of the public hearings.

The Board approved Travis Barao (RI), Edward Yates (NJ) and Wes Blow (VA) as members of the Advisory Panel. For more information, please contact Ashton Harp, Fishery Management Plan Coordinator, at aharp@asmfc.org or 703.842.0740.

Motions

Move to approve the Tautog Public Information Document for public comment as revised today.

Motion made by Dr. Pierce and seconded by Mr. Gibson. Motion passes unanimously.

Move to accept Travis Barao (RI), Edward Yates (NJ), and Wes Blow (VA) to the Tautog Advisory Panel.

Motion made by Mr. Adler and seconded by Mr. O'Reilly. Motion carries unanimously.

ATLANTIC STRIPED BASS MANAGEMENT BOARD (AUGUST 5, 2015)

Meeting Summary

The Atlantic Striped Bass Management Board met to review two reports from the Atlantic Striped Bass Technical Committee on: (1) the harvest reduction estimate for 2015 fishing season, which accounts for various state regulations implemented through Addendum IV to Amendment 6, and (2) fleet-specific fishing mortality (F) reference points. Also, the Board considered approval of the 2015 Striped Bass Fishery Management Plan Review.

Addendum IV to Amendment 6 required states to reduce removals by 20.5% from 2012 harvest estimates for the Chesapeake Bay states and jurisdictions, and 25% from 2013 harvest estimates for coastal states. Compared to the reference harvest estimates, the Technical Committee (TC) reported a harvest reduction

of 21.4% for the Chesapeake Bay states and jurisdictions, a 28.2% reduction for coastal states, and a 25.6% reduction in harvest overall for the 2015 fishing season, which meets the requirements of Addendum IV.

The TC developed fleet-specific fishing mortality (F) reference points for the three fleets of the Statistical Catch-at-Age model (SCAA); the Chesapeake Bay fleet,

Fleet	F target	F threshold	F 2012	% Difference from target in 2012
Ocean	0.141	0.172	0.141	0%
Chesapeake Bay	0.052	0.064	0.059	10.8%
Commercial Discard	0.019	0.024	0.041	52.8%

the ocean fleet, and the commercial discard fleet (see table). The fleet-specific F reference points were developed using a five year time series. This methodology is consistent with that used to develop biological reference points included in Addendum IV, and ensures that the impact of each fleet on the total coastwide population remains sustainable. Upon review of the TC’s report, the Board tasked the TC to re-develop fleet-specific F reference points using an average selectivity over a longer time series (1996-2012). The thought being that a longer time series would more accurately reflect the regulatory history of the fishery. Accordingly, the TC must then re-develop coastwide F reference points to maintain consistency with that methodology. A TC report of the fleet-specific and coastwide F reference points using the longer time series, as well as the 2015 stock assessment update, will be available for review by the Board at their November 2015 meeting in St. Augustine, Florida.

Additionally, based on the revisions agreed upon, the Board approved the 2015 Striped Bass Fishery Management Plan Review for the 2013 and 2014 fishing seasons. For more information, please contact Max Appelman, Fishery Management Plan Coordinator, at mappelman@asmfc.org or 703.842.0740.

Motions

Move to accept the 2015 FMP Review for Atlantic Striped Bass.

Motion made by Mr. Abbott and seconded by Mr. Hasbrouck. Motion passes.

ATLANTIC MENHADEN MANAGEMENT BOARD (AUGUST 5, 2015)

Meeting Summary

The Atlantic Menhaden Management Board met to review the development and timeline of Draft Amendment 3. The Draft Amendment will consider changes to the management program including the development of ecological reference points (ERPs) that reflect Atlantic menhaden’s role as a forage species, as well as possible changes to the current allocation scheme. The Board received status updates from the working groups on both topics. For ERPs, the Board was updated on the upcoming Ecosystem Management Objectives Workshop, scheduled for August 31 and September 1 in Hanover, Maryland. The Workshop goal will be to identify potential ecosystem goals and objectives for Board review and consideration as part of the amendment development process. For allocation, the Board was provided a comprehensive list of allocation options that the working group is currently considering for further development. The working groups will continue their work and update the Board at its November 2015 meeting. As a reminder, the Draft Amendment will have two complete rounds of public input and is expected to be developed through 2016 and possibly into 2017.

The Board also discussed an Amendment 2 provision that allows the Board to specify a percent of unused quota to be rolled over and used in the subsequent fishing year when the stock is not overfished and overfishing is not occurring. The Board did not take action on quota rollovers at this meeting, and instead decided to address quota rollovers through the development of Amendment 3.

For more information, please contact Mike Waine, Senior Fishery Management Plan Coordinator at mwaine@asmfc.org or 703.842.0740.

Motions

Motion to defer rollover until adoption of Amendment 3.

Motion made by Dr. Daniel and seconded by Mr. Gilmore. Motion carries (17 in favor).

INTERSTATE FISHERIES MANAGEMENT PROGRAM POLICY BOARD (AUGUST 6, 2015)

Meeting Summary

The Interstate Fisheries Management Program Policy Board (Board) met to consider a number of issues including the annual performance of the stocks, progress on two stock assessments, joint fisheries management activities, and an update on Atlantic Coastal Fish Habitat Partnership (ACFHP) projects.

As a part of the Commission's 2015 Action Plan, the Policy Board conducted a review of stock rebuilding performance for each of the Commission's species to determine if rebuilding for each species is consistent with the Commission Vision and Goals. This review was intended to determine if the progress toward each species rebuilding goals was occurring at an appropriate rate. The Board focused on the species in the categories of "concern," "depleted," and "unknown" in its discussions, as well as the species boards' response to scientific advice.

The Law Enforcement Committee (LEC) was tasked with updating the Commission's *Enforceability Guidelines*. The core of the new *Guidelines* is an enforceability matrix for fishery management measures. The matrix was developed from the responses to a survey of LEC members. The enforceability ratings cover a variety of management strategies employed in marine fisheries management programs. Ratings for these strategies are based on overall, dockside, at-sea and airborne enforceability. The *Guidelines* support and strengthen the effectiveness of ASMFC efforts to conserve marine fisheries resources. The Board approved the new guidelines.

Several ASMFC species are jointly managed with NOAA Fisheries and the Regional Management Councils (e.g., summer flounder and bluefish). Disconnects in the joint management process can have impacts on state management. The Board discussed those impacts and possible ways to resolve them. It will continue the discussion at the Commission's joint meeting with the Mid-Atlantic Fishery Management Council next week.

Staff updated the Board on the progress of the weakfish and sturgeon stock assessments. The weakfish assessment committee recently completed a model workshop. It was determined the review should be delayed two months to complete the assessment for review in January 2016. The sturgeon assessment team is currently in the data-gathering stage and working with all partners to ensure a complete compilation of sturgeon data.

The Atlantic Coastal Fish Habitat Partnership (ACFHP) provided an update to the Board. ACFHP's high scores on its annual performance review to the US Fish and Wildlife Service (USFWS) has allowed for the Partnership to receive an extra \$100,000 in funding for operations and on-the-ground restoration projects in FY2015. USFWS has accepted ACFHP's recommendations for project funding in FY2015, and in addition to ACFHP operational support, three projects (Renewing Diadromous Fish Passage in Patten Stream, ME; Cotton Gin Mill Dam Removal and Fish Passage Project in East Bridgewater, MA; and Cape Fear River Fisheries Enhancement Project in NC) received funding. The announcement for [FY2016 funding has been released](#), and ACFHP will be conducting a trial run to incorporate decision support tools into the evaluation criteria this year.

In accordance to the Atlantic Sturgeon FMP, which requires the Board be informed of all aquaculture activity, staff provided the following update. In February 2015, Atlantic sturgeon were sold from LaPaz Group LLC in

North Carolina to Horse Creek Aquafarms in Florida. The fish are of non-indigenous origin. These fish were sold for the purpose of commercial production and sale of meat and caviar.

NOAA Fisheries provided the Board with an overview of the Regional Planning Body Process. Marine planning considers the ecosystem as a whole and establishes science as the basis for decision-making. This enables thoughtful discussions and informed solutions for preserving existing uses while making careful considerations for new activities. NOAA Fisheries is bringing its existing scientific capabilities at both the national and regional levels to regional planning efforts. At the same time, NOAA Fisheries is also committed to working with its partners in the federal government, states, tribal nations, nongovernmental organizations, and academia to further develop its scientific support tools, research, data, and understanding for the purposes of marine planning. The regional planning bodies have begun to engage in fisheries discussions and encourage the participation of states and the Commission.

For more information, please contact Toni Kerns, ISFMP Director, at tkerns@asmfc.org or 703.842.0740.

Motions

Move to approve the LEC Enforceability Guidelines.

Motion made by Mr. Fote and seconded by Mr. Lustig. Motion carries unanimously.

Move the American Eel Management Board recommend to the ISFMP Policy Board that the State of Delaware be found out of compliance for not fully and effectively implementing and enforcing Addendum III to the Fishery Management Plan for American Eel. Delaware has not implemented the following regulations required by Addendum III:

- 9" minimum size for yellow eel recreational and commercial fisheries
- ½" x ½" min mesh size for yellow eel pots
- Allowance of 4x4" escape panel in pots of ½" x ½" mesh for 3 years (beginning on January 1, 2014)
- Recreational 25 fish bag limit per day per angler
- Crew and Captain involved in for-hire are exempt and allowed 50 fish bag limit per day

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to rebuild the depleted American eel stock. In order to come back into compliance the State of Delaware must implement all measures listed above as contained in Addendum III to the Fishery Management Plan for American Eel.

Motion made by Mr. Gary on behalf of the American Eel Board. Motion carries unanimously (Roll Call Vote: In favor – ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, PRFC, VA, NC, SC, GA, FL; Abstentions – NOAA Fisheries, USFWS).

BUSINESS SESSION (AUGUST 6, 2015)

Press Release

ASMFC Approves Jonah Crab Interstate Fishery Management Plan

Alexandria, VA – The Atlantic States Marine Fisheries Commission has approved the Interstate Fishery Management Plan (FMP) for Jonah Crab. The FMP implements a suite of measures to manage and monitor the Jonah crab resource for the first time along the U.S. Atlantic coast. The Plan limits participation in the trap fishery to only those vessels and permit holders that already hold an American lobster permit or can prove prior participation in the crab fishery. All other harvesters using non-trap gear must obtain an incidental permit. It also establishes a 4.75" coastwide minimum size and requires the landing of whole crabs except for

individuals from New Jersey, Delaware, Maryland, and Virginia who can prove a history of claw landings before the control date of June 2, 2015.

The FMP seeks to cap effort and protect spawning stock biomass in the absence of a range-wide stock assessment. The Plan was initiated in response to concern about increasing targeted fishing pressure for Jonah crab, which has long been considered a bycatch in the American lobster fishery. Since the early 2000s, growing market demand has increased reported landings by more than six-fold. The vast majority of Jonah crab are harvested by lobstermen using lobster traps.



Photo © Derek Perry, MA DMF

With the increase in demand for crab, a mixed crustacean fishery has emerged that can target both lobster or crab or both at different times of year based on modifications to the gear and small shifts in the areas in which traps are fished. The mixed nature of the fishery makes it difficult to manage a Jonah crab fishery completely separate from the American lobster fishery without impacting the number of vertical lines and traps in state and federal waters. Furthermore, a lack of universal permitting and reporting requirements makes it difficult to characterize catch and effort to the full extent in order to manage the fishery. In federal waters, the crab resource is not directly regulated but rather is regulated incidentally by the American lobster regulations. Therefore, in the absence of a comprehensive management plan and range-wide stock assessment, increased harvest of Jonah crab may compromise the sustainability of the resource.

The FMP establishes commercial, recreational, and fishery-dependent monitoring measures for the Jonah crab fishery. In addition to the issues of minimum size, permitting, and crab part retention addressed above, the Plan also establishes a non-trap incidental bycatch limit of 200 crabs per calendar day, 500 crabs per trip extending longer than one calendar day and prohibits the retention of egg-bearing females. For fishery-dependent sampling, the plan requires 100% harvester reporting and 100% dealer reporting with port and sea sampling. Jurisdictions that currently require less than 100% harvester reporter are required to, at a minimum, maintain their current programs and extend them to Jonah crab. In the recreational sector, the FMP establishes a possession limit of 50 whole crabs per person per day. Finally, the FMP specifies that states whose commercial landings are less than 1% of the three-year coastwide average may qualify for *de minimis* status. *De minimis* states are not required to implement fishery-independent or port/sea sampling.

Since the fishery primarily occurs within federal waters, the Board has recommended that NOAA Fisheries implement the provisions of the Jonah Crab FMP in federal waters, pursuant to the NOAA's authority under the Atlantic Coastal Fisheries Cooperative Management Act. The New England Fishery Management Council, which will meet in the fall to set its management planning activities for 2016, will consider whether the development of a Council Jonah Crab FMP will be one of its priorities. Regardless of its decision, the Commission and its federal partners will continue to work closely on Jonah crab management.

The FMP, which will be implemented by June 1, 2016, will be available by the end of August via the Commission's website, www.asmfc.org, on the American Lobster page under Fishery Management Plans. Upon recommending the FMP's final approval by the Interstate Fisheries Management Program Policy Board, the American Lobster Management Board agreed to move forward on the development an addendum to identify management measures for crab-only trap fishermen (e.g., trap and landing limits). The Board will discuss the

specific measures to be included in the addendum at its next meeting. For more information, please contact Megan Ware, FMP Coordinator, at mware@asmfc.org or 703.842.0740.

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PR15-26

Meeting Summary

The Business Session met to consider taking action on a noncompliance finding, provide recommendations to NOAA Fisheries on the implementation on Jonah crab management measures for federal waters pursuant to the Interstate Fishery Management Plan for Jonah Crab, and consider final approval of the Interstate Plan. The Session moved to find the State of Delaware out of compliance with the required measures of Addendum III to the Interstate FMP for American Eel. These measures are necessary to achieve the conservation goals and objectives of the FMP to rebuild the depleted American eel stock. The Commission has 10 working days to forward its findings to the Secretaries of Commerce and the Interior, as well as the State of Delaware.

The Session requested NOAA Fisheries implement the provisions of Sections 3 (monitoring requirements) and 4 (commercial and recreational management measures) of the Interstate Fishery Management Plan for Jonah Crab for federal waters. Finally, the Session approved the Interstate Plan (see above press release for more information). For more information, please contact Robert Beal, Executive Director, at rbeal@asmfc.org.

Motions

On behalf of the ISFMP Policy Board, I move the Commission find the State of Delaware out of compliance for not fully and effectively implementing and enforcing Addendum III to the Fishery Management Plan for American Eel. Delaware has not implemented the following regulations required by Addendum III:

- **9" minimum size for yellow eel recreational and commercial fisheries**
- **½" x ½" min mesh size for yellow eel pots**
- **Allowance of 4x4" escape panel in pots of ½" x ½" mesh for 3 years (beginning on January 1, 2014)**
- **Recreational 25 fish bag limit per day per angler**
- **Crew and Captain involved in for-hire are exempt and allowed 50 fish bag limit per day**

The implementation of these regulations is necessary to achieve the conservation goals and objectives of the FMP to rebuild the depleted American eel stock. In order to come back into compliance the State of Delaware must implement all measures listed above as contained in Addendum III to the Fishery Management Plan for American Eel.

Motion by Dr. Daniel on behalf of the ISFMP Policy Board. Motion carries unanimously (Roll Call Vote: In favor – ME, NH, MA, RI, CT, NY, NJ, PA, DE, MD, PRFC, VA, NC, SC, GA, FL).

Move to request NOAA Fisheries implement the provisions of Sections 3 and 4 of the Jonah Crab FMP in federal waters pursuant to the authority of the Atlantic Coastal Act.

Motion made by Mr. Grout and seconded by Mr. Adler. Motion carries unanimously.

On behalf of the American Lobster Board, I move that the full Commission accept the Jonah Crab Interstate Fishery Management Plan.

Motion by Mr. McKiernan on behalf of the American Lobster Board. Motion carries unanimously.

SOUTH ATLANTIC STATE/FEDERAL FISHERIES MANAGEMENT BOARD (AUGUST 6, 2015)

Meeting Summary

The South Atlantic State/Federal Fisheries Management Board met to review a number of issues including extending provisions of Addendum I to the Omnibus Amendment to the Fishery Management Plan (FMP) for Spanish Mackerel, the 2015 traffic light analyses for Atlantic croaker and spot, the 2016 Atlantic croaker and spot benchmark stock assessment terms of reference, and FMP reviews for Atlantic croaker, red drum, and black drum.

The Board extended the provisions of the Spanish Mackerel Addendum I for the 2015 and 2016 fishing seasons with annual reporting from North Carolina. This provision allows states to use a reduced minimum size of 11.5" in the commercial pound net fishery for the months of July through September.

The Board reviewed the traffic light analyses for spot and Atlantic croaker. For both species, harvest and abundance indices have markedly declined; however, management measures were not triggered since the abundance indices were still above the 30% threshold. The Board also considered and approved the terms of reference for the 2016 Atlantic croaker and spot benchmark stocks assessments, which were initiated in July and peer-reviewed in 2016.

Finally, the Board approved FMP reviews and state compliance reports for Atlantic croaker, red drum, and black drum. In the Atlantic croaker fishery, Delaware (commercial fishery), South Carolina (commercial fishery), Georgia (commercial and recreational fisheries), and Florida (commercial fishery) were approved for *de minimis* status. In the red drum fishery, the Board approved New Jersey and Delaware for *de minimis* status with their commercial and recreational fisheries. For more information, please contact Megan Ware, Fishery Management Plan Coordinator, at mware@asmfc.org or 703.842.0740.

Motions

Move to extend the provisions of Addendum I of the Spanish mackerel FMP for another two years with annual reporting to the Board.

Motion made by Mr. Estes and seconded by Mr. Gary. Motion carries unanimously.

Move to accept the Terms of Reference for the Atlantic croaker assessment as presented.

Motion made by Mr. Boyles and second by Mr. Allen. Motion carries unanimously.

Move to accept the Terms of Reference for the spot assessment as presented.

Motion made by Mr. Boyles and seconded by Dr. Duval. Motion carries unanimously.

Move to approve the 2015 Atlantic Croaker FMP Review, state compliance reports, and *de minimis* status for DE (comm), SC (comm), GA (comm/rec) and FL (comm).

Motion made by Dr. Duval and seconded by Mr. Boyles. Motion carries unanimously

Move to approve the 2015 Red Drum FMP Review, state compliance reports, and *de minimis* status for NJ and DE.

Motion made by Mr. Boyles and seconded by Dr. Duval. Motion carries unanimously

Move to approve the 2015 Black Drum FMP Review and state compliance reports.

Motion made by Dr. Duval and seconded by Dr. Laney. Motion carries unanimously.



Rhode Island
Department of Environmental Management

DIVISION OF FISH AND WILDLIFE

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INTER-OFFICE MEMO

DATE: 8/25/2015
TO: RIMFC
FROM: P. Duhamel
RE: Remaining Hearings and Council meetings for 2015

- **9/21 - Workshop and Public Hearing:**
 - Licensing;
 - Aquaculture;
 - Lobster;
 - Repeal of Part III and 2015 Sector Plans

- **Oct. 5 - Council meeting:**
 - Deliberate Hearing Items;
 - Sector Mgmt. Plan recommendations;
 - Shellfish Management Area Winter Harvest Schedules;
 - Other matters as needed

- **November 16 - Workshop and Public Hearing:**
 - Commercial Summer flounder, Scup, Black sea bass;
 - Other commercial finfish species as needed (e.g., menhaden, monkfish)

- **Dec. 7 – Council Meeting:**
 - Deliberate Hearing Items;
 - Other matters as needed