

**RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

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 certain amendments to the Rhode Island Marine Fisheries Regulations and gives notice of intent to hold a public hearing to afford interested parties the opportunity for public comment.

Public comment will be solicited on the following proposals:

- 1) Amendments to the recreational striped bass management plan, and to update regulatory citations for consistency with certain statutory changes;
- 2) Amendments to the commercial general category striped bass management plan, and to update regulatory citations for consistency with certain statutory changes;
- 3) Amendments to the commercial floating fish trap striped bass management plan, and to update regulatory citations for consistency with certain statutory changes;
- 4) Amendments to the spiny dogfish management plan in order to come into compliance with federal requirements;
- 5) Amendments to the coastal sharks management plan in order to come into compliance with federal requirements;
- 6) Amendments to the lobster management plan for mandatory v-notching of certain female lobsters in LCMA 4 with a season closure from February 1 through March 31 annually, in order to come into compliance with federal requirements; and
- 7) Amendments to the Lobster management plan for mandatory v-notching of certain female lobsters in LCMA 5 with a season closure from February 1 through March 31 annually, in order to come into compliance with federal requirements.

The public hearing will commence at 6:00 PM on **Tuesday, February 19, 2013**, in the University of Rhode Island, Graduate School of Oceanography, Corless Auditorium, South Ferry Road, Narragansett, RI 02882. The room is accessible to the disabled. Interpreter services for the hearing impaired will be provided if such services are requested at least (3) business days prior to the hearing. Requests for such services may be made in writing or by calling TTY (711) or (401) 222-5300. A recording of the hearing will be made by DEM staff. Written comments concerning the regulations proposed for promulgation by the DEM may be submitted to the Division of Fish and Wildlife, 3 Fort Wetherill Road, Jamestown, RI 02835 no later than 12:00 PM on February 19, 2013.

The Department has determined that small businesses may be adversely impacted by some of the proposed regulations. The public hearing is being conducted to solicit comment on the proposals and to allow public input from small businesses or any cities or towns, which may be adversely affected. Small businesses which are either currently licensed or in the future may seek permission to harvest, buy, sell, or produce seafood products as well as the small businesses that provide services related to those engaged in such industries and small businesses which buy, sell, or produce products or provide services related to fishing 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.

A copy of the proposed regulations will be available for examination from January 18, through February 19, 2013, by mail or at the offices of the Division of Fish and Wildlife located at 3 Fort Wetherill Road, Jamestown, RI 02835. Electronic copies of the proposed regulations will also be available on the DEM website at the following web address: <http://www.dem.ri.gov/programs/bnatres/fishwild/pn021913.htm>.

Janet L. Coit, Director
Department of Environmental Management

Date Posted 01/18/2013

DEM/DFW February 19, 2013 Public Hearing
Table of Public Hearing Items and Proposals Included in
**Part XV – Lobsters, Other Crustaceans, and
Horseshoe Crabs**

Public comment will be solicited on the following proposals:

Public Hearing Item #6 – Amendments to the lobster management plan for mandatory V-notching of certain female lobsters in LCMA 4 with a season closure from February 1 through March 31 annually, in order to come into compliance with federal requirements: (Section 15.20.3(4))

Public Hearing Item #7 – Amendments to the Lobster management plan for mandatory V-notching of certain female lobsters in LCMA 5 with a season closure from February 1 through March 31 annually, in order to come into compliance with federal requirements: (Section 15.20.3(5))



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

BUREAU OF NATURAL RESOURCES
FISH AND WILDLIFE
&
LAW ENFORCEMENT

RHODE ISLAND MARINE FISHERIES STATUTES AND REGULATIONS

Part XV Lobsters, Other Crustaceans, and Horseshoe Crabs



Annotated Excerpts (1/15/2013)

September 6, 2012

AUTHORITY: These regulations are adopted pursuant to Title 20, Chapters 42-17.1, 42-17.6, and 42-17.7, and in accordance with Chapter 42-35, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

Excerpts from

R.I. Marine Fisheries Statutes and Regulations
PART XV - LOBSTERS, OTHER CRUSTACEANS,
AND HORSESHOE CRABS

15.20 Additional Management Measures

15.20.1 Penetrating Devices -- It shall be unlawful for any person to use a spear, gig, gaff, or other penetrating device to harvest lobsters.

15.20.2 V-Notched Lobsters -- No person shall retain on board, land, or possess any V-Notched female American lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants.

V-notched female lobster means any female American lobster with a V-notch mark, or the remnant of a healed V-notch mark in the end part of the right tail flipper adjacent to the middle tail flipper, or any lobster which is mutilated in such a manner which could hide, obscure, or obliterate such a mark, including a missing right tail flipper. A V-notch shall be a notch or the remnant of a healed notch, with or without setal hairs, at least 1/8 inch (1/8") in depth. Any licensed/permitted commercial fisherman required or authorized to mark lobsters with a v-notch mark in LCMA 2 shall make a v-notch mark by means of a sharp-blade instrument, at least 1/4 inch (1/4") and not greater than 1/2 inch (1/2") in depth and tapering to a sharp point. The flipper to the right of the center flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

15.20.3 ASMFC Lobster Conservation Management Area Management Measures

- 1. Lobster Conservation Management Area 1 (Inshore Gulf of Maine) –**
 - A. Minimum Gauge Size** – The minimum gauge size for American lobster in LCMA 1 shall be no lower than 3-1/4 inches (82.55 mm) carapace length.
 - B. Maximum Gauge Size** – It shall be unlawful by any person or vessel permitted or declared to fish in LCMA 1 to possess an American lobster with a carapace length of greater than 5 inches (127.0 mm).
 - C. Minimum Escape Vent Size** – For any person or vessel permitted or declared to fish in LCMA 1, all lobster traps fished in LCMA 1, whether fished commercially or recreationally, must contain at least one (1)

rectangular escape vent or two (2) circular escape vents according to the following schedule:

<u>YEAR One (1) Rectangular Escape Vent</u>	<u>Two (2) Circular Escape Vents</u>
<u>2007* 2 inches by 5-3/4 inches</u>	<u>2-1/2 inches</u>

*NOTE: Area 1 will implement a 2” rectangular / 2-1/2” circular escape vent increase in 2007, if, following an updated stock assessment, it is necessary to meet lobster management plan goals and objectives.

D. Maximum Trap Size – It shall be unlawful to possess a lobster trap with a volume of greater than 22,950 cubic inches in LCMA 1.

E. Zero Tolerance V-Notching Definition – For any person or vessel permitted or declared to fish in LCMA 1, a v-notched female lobster means any female lobster bearing a v-shaped notch of any size in the flipper next to and to the right of the center flipper, as viewed from the rear of the female lobster. V-notched female lobster also means any female lobster which is mutilated in such a manner as to hide, obscure, or obliterate such a mark. The flipper to the right of the center flipper will be examined when the underside of the lobster is down and its tail is toward the person making the determination.

F. Mandatory V-Notching Requirements – For any person or vessel permitted or declared to fish in LCMA 1, it shall be required to v-notch all egg-bearing female lobsters caught in the process of lobstering.

G. Limits on Landings by Fishermen Using Gear or Methods other than Traps – Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips 5 days or longer.

2. Lobster Conservation Management Area 2 (Inshore Southern New England) –

A. Minimum Gauge Size – Effective January 1, 2003, the minimum gauge size for American lobster in LCMA 2 shall be no lower than the carapace length of 3-3/8 inches (85.73 mm). (RIMFC Regulation 15.11)

B. Maximum Gauge Size – The maximum gauge size for American lobster in LCMA 2 shall be no greater than the carapace length of 5-1/4 inches (133.35 mm).

C. **Minimum Escape Vent Size** – For any person or vessel permitted or declared to fish in LCMA 2, all lobster traps fished in LCMA 2, whether fished commercially or recreationally, must contain at least one (1) rectangular escape vent or two (2) circular escape vents of the following size:

<u>One (1) Rectangular Escape Vent</u>	<u>Two (2) Circular Escape Vents</u>
2 inches by 5-3/4 inches	2-5/8 inches

D. **Maximum Trap Size** – It shall be unlawful to possess a lobster trap with a volume of greater than 22,950 cubic inches in LCMA 2 (RIMF Regulation 15.12.2).

E. **Prohibition on possession of V-Notched female American lobsters** – It shall be unlawful for any person or vessel permitted or declared to fish in LCMA 2 to possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants. A V-notched female lobster is defined in section 15.20.2 of this section.

F. **Mandatory V-Notching Requirements** – Effective June 1, 2012, any person or vessel permitted or declared to fish in LCMA 2, shall be required to v-notch all legal-sized egg bearing female lobsters and return them to the water immediately.

G. **Limits on Landings by Fishermen Using Gear or Methods other than Traps** – Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips 5 days or longer.

H. **Area 2 Effort Control Measures:**

(1) **Minimum Gauge Size:**

The minimum size for American lobster in management Area 2 shall be no lower than 3-3/8” Carapace length is the straight-line measurement from the rear of the eye socket parallel to the centerline of the carapace to the posterior edge of the carapace. The carapace is the unsegmented body shell of the American lobster.

(2) **Escape Vent Size Management Measures:**

Each minimum gauge size has a corresponding rectangular and circular

vent size. When a LCMA has an increase in the minimum gauge size, the corresponding vent size changes are required at the same time. For those areas that have already implemented a 3-3/8" minimum gauge size, the increase in circular vent size would be required by December 31, 2004. The changes and/or additions to previous ASMFC measures are highlighted in bold and italics.

Minimum Gauge Size	Rectangular Vent	Circular Vent
3-1/4"	1-15/16" x 5-3/4"	2-7/16"
3-3/8"*	2" x 5-3/4"	2-5/8"

* The Area 1 plan maintains a 3-1/4" minimum gauge size and adds a 2" x 5-3/4" rectangular vent and corresponding circular vent to be implemented in 2007 if necessary.

3. Lobster Conservation Management Area 3 (Offshore Waters) –

A. Minimum Gauge Size – The minimum gauge size for American lobster in LCMA 3 shall be no lower than 3-1/2 inches (88.90 mm) carapace length. However, effective January 1, 2013, the minimum gauge size for American lobster in LCMA 3 shall be no lower than the carapace length of 3-17/32 inches (89.69 mm).

B. Maximum Gauge Size – Effective July 1, 2010, the maximum gauge size for American lobster in LCMA 3 shall be no greater than the carapace length of 6-3/4 inches (171.45 mm).

C. Minimum Escape Vent Size – For any person or vessel permitted or declared to fish in LCMA 3, all lobster traps fished in LCMA 3, whether fished commercially or recreationally, must contain at least one (1) rectangular escape vent or two (2) circular vents of the following size:

<u>One (1) Rectangular Escape Vent</u>	<u>Two (2) Circular Escape Vents</u>
2-1/16 inches by 5-3/4 inches	2-11/16 inches

D. Maximum Trap Size – It shall be unlawful to possess a lobster trap with a volume of greater than 30,100 cubic inches in LCMA 3.

E. Prohibition on possession of V-Notched female American lobsters – It shall be unlawful for any person or vessel permitted or declared to fish in LCMA 3 to possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants. A V-notched female lobster is defined in section 15.20.2 of this section.

F. Mandatory V-Notching Requirements – There are currently no mandatory V-notching requirements for any person or vessel permitted and declared to fish in LCMA 3.

G. Limits on Landings by Fishermen Using Gear or Methods other than Traps – Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips 5 days or longer.

H. Limits on the Number of Traps –

Qualification Criteria – The trap limit in LCMA 3 shall be based on the historical level of traps fished by a vessel in LCMA 3. To qualify for Area 3 participation, vessels must meet all of the following criteria:

1. A vessel must be able to demonstrate a history of two (2) consecutive calendar-months of active lobster trap fishing in Area 3 in any year between March 25, 1991 and November 1, 1997.
2. A vessel must hold a current federal lobster permit endorsed for traps.
3. Applicants for an Area 3 trap allocation are required to produce sales receipts or records showing the landing of at least 25,000 pounds of lobster from throughout the range of the resource during the year used as the qualifying year and between March 25, 1991 and November 1, 1997.

Basis for Initial Trap Limit Number – Initial trap allocations to qualifying vessels (Federal Limited Access Lobster Permit holders that meet the performance criteria listed above) shall be based on the applicant's choice of year and trap level, in the water in Area 3, during the period from January 1, 1994 through November 1, 1997. Vessels that did not lobster trap fish in Area 3 during the period from January 1, 1994 through November 1, 1997, but did qualify as a Federal Limited Access Lobster Permit holder, must pick the most recent year in which they actively fished lobster traps in Area 3, such year not to pre-date the March 25, 1991 control date.

Maximum Initial Trap Allocation is 3250 Traps – No vessel shall be given an Initial trap allocation of more than 3,250 traps, regardless of previous historical participation.

Vessels Applying for both Area 3 and Additional Area Trap Allocations – Vessels applying for multiple area trap allocations must use the same period to determine their total trap numbers to avoid allocating more total traps to an individual/vessel than that individual/vessel had in the water at

any one time. Applicants for Area 3 trap allocations, who are also applicants for trap allocations in other lobster conservation management areas, must meet the same qualifying criteria as defined above.

Certification of Initial trap Allocation Applications – Within 60 days of the close of the trap application period, the Regional Administrator should publish a notice that specifies preliminary initial lobster trap allocations for each Federal Limited Access Lobster Permit holder. The amounts will be based on lobster trap information submitted by the applicant in accordance with the evaluation process, and other information considered appropriate by the Regional Administrator. The notice will provide for a 30-day public comment period. Simultaneous with the publication, the same information contained in the notice (including the 30-day comment period) will appear in a *Notice to Permit Holders*.

I. Trap Reduction Schedule for Lobster Conservation Management Area 3 – Each Area 3 trap allocation of greater than 1,200 lobster traps will be reduced on a sliding scale basis over a 4 year period. Trap reduction will not go below a baseline level of 1,200 lobster traps. Area 3 trap allocations of less than 1,200 lobster traps will remain at their initial qualifying level and will not be permitted to increase up from that number. The Area 3 trap reduction schedule is as follows:

INITIAL ALLOCATION	3250	3000	2800	2600	2400	2200	2000	1800	1600	1400
Year 1	2656	2493	2357	2218	2076	1930	1762	1628	1467	1290
Year 2	2493	2351	2230	2107	1981	1849	1715	1573	1423	1251
Year 3	2351	2225	2117	2008	1896	1776	1654	1523	1380	1213
Year 4	2267	2150	2050	1949	1845	1732	1616	1492	1352	1200

J. No Closure between LCMA 1 and LCMA 3 – There shall be no area closure between LCMA 1 and LCMA 3.

K. Limit on Vessel Upgrades – It shall be unlawful for a vessel over 50 feet in length or upgrading over 50 feet in length, receiving an Area 3 trap allocation, to upgrade and/or replace their vessel by more than 10% increase in length overall nor 20% increase in shaft horsepower for two years, from January 1, 2000 to December 31, 2001.

L. Plan Review at the end of the Stock Rebuilding Period – The Area 3 Lobster Conservation Management Team (LCMT) shall review the Area 3 management program at the end of the stock rebuilding period to allow for additional effort and entry into the Area 3 fishery.

M. Reporting requirements for Lobster Conservation Management Area 3 – For any person or vessel permitted and declared to fish in LCMA 3, it shall be required to fill out multi-species logbooks until a lobster-specific logbook is approved.

N. Area 3 “Choose and Use” Provision – Once qualified for historic participation in Area 3, a federal lobster permit holder requesting an Area 3 designation (area declaration) is required to permanently designate Area 3 on his/her/vessel federal permit. Federal permit holders have a one-time opportunity to drop the Area 3 designation. In addition, when an Area 3 federal permit is sold or transferred, permanent designation can be reconsidered, which allows the new owner the decision of whether or not they wish to designate/declare Area 3 on his/her/vessel federal permit.

4. Lobster Conservation Management Area 4 (Inshore Northern Mid-Atlantic) –

A. Minimum Gauge Size – The minimum gauge size for American lobster in LCMA 4 shall be no lower than the carapace length identified in the following schedule. The 2001 year indicated runs throughout the entire calendar year (January 1-December 31). July 1st is the deadline for implementing regulations in years 2002-2004.

<u>YEAR</u>	<u>AREA 4</u>	
<u>2001</u>	<u>3-9/32”*</u>	<u>(83.34 mm)</u>
<u>2002</u>	<u>3-5/16”</u>	<u>(84.14 mm)</u>
<u>2003</u>	<u>3-11/32”</u>	<u>(84.93 mm)</u>
<u>2004</u>	<u>3-3/8”</u>	<u>(85.72 mm)</u>

*NOTE: No action may be taken in Area 4 until 2002.

B. Maximum Gauge Size – As of July 1, 2008, for any person or vessel permitted or declared to fish in LCMA 4, the maximum gauge size for American lobster shall be no greater than 5-1/4 inches (133.35 mm).

C. Minimum Escape Vent Size – For any person or vessel permitted or declared to fish in LCMA 4, all lobster traps fished in LCMA 4, whether fished commercially or recreationally, must contain at least one (1) rectangular escape vent or two (2) circular escape vents in each parlor section of the lobster trap according to the following schedule:

<u>YEAR</u>	<u>One (1) Rectangular Escape Vent</u>	<u>Two (2) Circular Escape Vents</u>
<u>2003</u>	<u>2 inches by 5-3/4 inches</u>	<u>2-1/2 inches</u>

D. Maximum Trap Size – It shall be unlawful to possess a lobster trap with a

volume of greater than 22,950 cubic inches in LCMA 4.

E. Prohibition on possession of V-Notched female American lobsters – It shall be unlawful for any person or vessel permitted or declared to fish in LCMA 4 to possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants. A V-notched female lobster is defined in section 15.20.2 of this section.

Public Hearing Item #6 – Amendments to the lobster management plan for mandatory V-notching of certain female lobsters in LCMA 4 with a season closure from February 1 through March 31 annually, in order to come into compliance with federal requirements:

F. Mandatory V-Notching Requirements – ~~There are currently no~~ **Mandatory V-notching and immediate release of egg-bearing female lobsters is required** for any person or vessel permitted and declared to fish in LCMA 4. **V-notches must be to the right of the center flipper as viewed from the rear of the female lobster when the underside of the lobster is down. The V-notch should be made by the means of a sharp bladed instrument, at least ¼ inch and not greater than ½ inch in depth and tapering to a sharp point.**

G. Limits on Landings by Fishermen Using Gear or Methods other than Traps – Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips 5 days or longer.

H. Limits on the Number of Traps –
Qualification Criteria – The trap limit in LCMA 4 shall be based on the historical level of traps fished by an individual. To qualify for Area 4 participation, individuals must prove participation in the Area 4 lobster fishery between March 25, 1991 and September 15, 1998.

Basis for Initial Trap Limit Number – Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one calendar year during the period from January 1, 1994 through September 15, 1998. Individuals that did not lobster trap fish in Area 4 during the period from January 1, 1994 through September 15, 1998, but did fish between 1991 and 1993, inclusive, must pick the most recent year in which they actively fished lobster traps in Area 4, such year not to pre-date the March 25, 1991 control date. Individuals shall be allocated the total number of traps fished.

I. Area Closures – It shall be unlawful to harvest lobsters using trap gear in four (4) closed areas: (1) Fire Island; (2) Moriches; (3) Shinnecock and; (4) Montauk. Fishermen may fish traps for finfish in these areas, but may not possess lobsters while fishing in these designated areas. These areas were designated using LORAN coordinates. The following GPS coordinates are rough conversions of the LORAN line coordinates. The closed area boundaries are:

FIRE ISLAND:

POINT	LATITUDE(°N)	LONGITUDE(°W)	LORAN
A (NW)	40° 31.344	73° 25.823	26730 / 43710
B (NE)	40° 33.233	73° 09.249	26600 / 43710
C (SE)	40° 23.377	73° 11.708	26600 / 43620
D (SW)	40° 23.464	73° 10.976	26730 / 43620

MORICHES:

POINT	LATITUDE(°N)	LONGITUDE(°W)	LORAN
A (NW)	40° 24.276	72° 46.617	26400 / 43605
B (NE)	40° 25.688	72° 34.048	26300 / 43605
C (SE)	40° 18.380	72° 35.063	Area 3 boundary; 26300 line
D (SW)	40° 12.831	72° 48.559	26400 / 43500

SHINNECOCK:

POINT	LATITUDE(°N)	LONGITUDE(°W)	LORAN
A (NW)	40° 34.389	72° 27.420	14960 / 43670
B (NE)	40° 35.904	72° 16.223	14890 / 43670
C (SE)	40° 27.997	72° 13.117	Area 3 boundary; 14890 line
D (SW)	40° 23.105	72° 23.782	Area 3 boundary; 14960 line

MONTAUK:

POINT	LATITUDE(°N)	LONGITUDE(°W)	LORAN
A (NW)	40° 43.678	72° 12.521	14850 / 43730
B (NE)	40° 46.053	71° 56.974	17850 / 43730
C (SE)	40° 37.120	71° 53.188	Area 3 boundary; 26300 line
D (SW)	40° 30.741	72° 07.616	Area 3 boundary; 26300 line

J. Season Closure – A season closure to the landing of lobsters from February 1 – March 31 annually is required for any person or vessel permitted and declared to fish in LCMA 4. During the February 1 to March 31 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.

5. Lobster Conservation Management Area 5 (Inshore Southern Mid-Atlantic) –

A. Minimum Gauge Size – The minimum gauge size for American lobster in LCMA 5 shall be no lower than the carapace length identified in the following schedule. The 2001 year indicated runs throughout the entire calendar year (January 1- December 31). July 1st is the deadline for implementing regulations in years 2002-2004.

<u>YEAR</u>	<u>AREA 5</u>	
<u>2001</u>	<u>3-9/32”*</u>	<u>(83.34 mm)</u>
<u>2002</u>	<u>3-5/16”</u>	<u>(84.14 mm)</u>
<u>2003</u>	<u>3-11/32”</u>	<u>(84.93 mm)</u>
<u>2004</u>	<u>3-3/8”</u>	<u>(85.72 mm)</u>

*NOTE: No action may be taken in Area 5 until 2002.

B. Maximum Gauge Size – As of July 1, 2008, for any person or vessel permitted or declared to fish in LCMA 5, the maximum gauge size for American lobster shall be no greater than 5-1/4 inches (133.35 mm).

C. Minimum Escape Vent Size – For any person or vessel permitted or declared to fish in LCMA 5, all lobster traps fished in LCMA 5, whether fished commercially or recreationally, must contain at least one (1) rectangular escape vent or two (2) circular escape vents according to the following schedule:

<u>YEAR</u>	<u>One (1) Rectangular Escape Vent</u>	<u>Two (2) Circular Escape Vents</u>
<u>2003</u>	<u>2 inches by 5-3/4 inches</u>	<u>2-1/2 inches</u>

D. Maximum Trap Size – It shall be unlawful to possess a lobster trap with a volume of greater than 22,950 cubic inches in LCMA 5.

E. Prohibition on possession of V-Notched female American lobsters – It shall be unlawful for any person or vessel permitted or declared to fish in LCMA 5 to possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants. A V-notched female lobster is defined in section 15.20.2 of this section.

Public Hearing Item #7 – Amendments to the Lobster management plan for mandatory V-notching of certain female lobsters in LCMA 5 with a season closure from February 1 through March 31 annually, in order to come into compliance with federal requirements:

F. Mandatory V-Notching Requirements – ~~There are currently no~~ **Mandatory V-notching and immediate release of egg-bearing female lobsters is required** for any person or vessel permitted and declared to fish in LCMA 5. **V-notches must be to the right of the center flipper as viewed from the rear of the female lobster when the underside of the lobster is down. The V-notch should be made by the means of a sharp bladed instrument, at least ¼ inch and not greater than ½ inch in depth and tapering to a sharp point.**

G. Limits on Landings by Fishermen Using Gear or Methods other than Traps – Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips 5 days or longer.

H. Limits on the Number of Traps –
Qualification Criteria – The trap limit in LCMA 5 shall be based on the historical level of traps fished by an individual. To qualify for Area 5 participation, individuals must prove participation in the Area 5 lobster fishery between March 25, 1991 and September 15, 1998.

Basis for Initial Trap Limit Number – Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one calendar year during the period from January 1, 1994 through September 15, 1998. Individuals that did not lobster trap fish in Area 5 during the period from January 1, 1994 through September 15, 1998, but did fish between 1991 and 1993, inclusive, must pick the most recent year in which they actively fished lobster traps in Area 5, such year not to pre-date the March 25, 1991 control date. Individuals shall be allocated the total number of traps fished.

I. Season Closure – **A season closure to the landing of lobsters from February 1 – March 31 annually is required for any person or vessel permitted and declared to fish in LCMA 5. During the February 1 to March 31 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.**

6. Lobster Conservation Management Area 6 (New York and Connecticut State Waters) –

A. Minimum Gauge Size – The minimum gauge size for American lobster in LCMA 6 (New York and Connecticut state waters) shall be no lower than the carapace length identified in the following schedule. July 1st is the deadline for implementing these regulations in the calendar years indicated

below:

<u>YEAR</u>	<u>AREA 6</u>
<u>2004*</u>	<u>3-9/32" (83.34 mm)</u>
<u>2005*</u>	<u>3-5/16" (84.14 mm)</u>

***NOTE: Area 6 will implement minimum gauge size increases beyond 3-1/4", at the rate of 1/32" per year, beginning in 2004, until a final minimum gauge size of 3-5/16" is reached, if, following an updated stock assessment, it is necessary to meet lobster management goals and objectives.**

B. Maximum Gauge Size – The maximum gauge size for American lobster in LCMA 6 shall be no greater than the carapace length of 5-1/4 inches (133.35mm).

C. Area 6 Lobster Management Program after Calendar Year 2005 – The Area 6 Lobster Conservation Management Team (LCMT) will choose among two (2) possible paths for lobster management beyond 2005. July 1st is the deadline for implementing regulations in the calendar year indicated below.

PATH 1:

<u>YEAR</u>	<u>ACTION</u>
2006	Evaluate minimum gauge increase and effort reduction from trap tag buy-back program.
2007*	Implement 1/32" minimum gauge increase, and/or 2" escape vent increase, and/or V-notch some(?) percentage of female lobsters, and/or establish a maximum gauge size.
2008*	Implement 1/32" minimum gauge increase, and/or 2" escape vent increase, and/or V-notch some(?) percentage of female lobsters, and/or establish a maximum gauge size.

***NOTE: Area 6 will implement the above management measures, if following an updated stock assessment, it is necessary to meet lobster management plan goals and objectives.**

-OR-

PATH 2:

<u>YEAR</u>	<u>ACTION</u>
2006	Implement a 2" escape vent size if a gauge increase was implemented in 2005.
2007	Evaluate with new information, confirm that the overfishing threshold has been met or exceeded.

2008 Evaluate with new information, confirm that the overfishing threshold has been met or exceeded.

D. Minimum Escape Vent Size – For any person or vessel permitted or declared to fish in LCMA 6, all lobster traps fished in LCMA 6, whether fished commercially or recreationally, must contain at least one (1) rectangular escape vent or two (2) circular escape vents according to the following schedule. If PATH 2 (see Part C above) is selected for implementation, then all lobster traps in LCMA 6, whether fished commercially or recreationally, must contain at least one rectangular escape vent per trap or at least two circular escape vents according to the following schedule. July 1st is the deadline for implementing regulations in the calendar year indicated below.

<u>YEAR</u>	<u>One (1) Rectangular Escape Vent</u>	<u>Two (2) Circular Escape Vents</u>
2006*	2 inches by 5-3/4 inches	2-1/2 inches

*NOTE: Area 6 will implement a 2” escape vent size increase if a minimum gauge size increase is implemented in 2005.

E. Maximum Trap Size – It shall be unlawful to possess a lobster trap with a volume of greater than 22,950 cubic inches in LCMA 6.

F. Prohibition on possession of V-Notched female American lobsters – It shall be unlawful for any person or vessel permitted or declared to fish in LCMA 6 to possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants. A V-notched female lobster is defined in section 15.20.2 of this section.

G. Mandatory V-Notching Requirements – There are currently no mandatory V-notching requirements for any person or vessel permitted and declared to fish in LCMA 6.

H. Limits on Landings by Fishermen Using Gear or Methods other than Traps – Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips 5 days or longer.

I. Limits on the Number of Traps –
Qualification Criteria – The trap limit in LCMA 6 shall be based on the historical level of traps fished by an individual. To qualify for Area 6 participation, individuals must prove participation in the Area 6 lobster

fishery between January 1, 1995 and June 8, 1998.

Basis for Initial Trap Limit Number – Initial trap allocations to qualifying individuals shall be based on the number of traps fished in any one calendar year during the period from January 1, 1995 through June 8, 1998.

7. Outer Cape Cod Lobster Management Area –

A. Minimum Gauge Size – The minimum gauge size for American lobster in the Outer Cape Cod LCMA shall be no lower than the carapace length identified in the following schedule. The 2001 year indicated runs throughout the entire calendar year (January 1- December 31). July 1st is the deadline for implementing these regulations in the calendar years indicated below:

<u>YEAR</u>	<u>OUTER CAPE</u>	
<u>2001</u>	<u>3-9/32"</u>	<u>(83.34 mm)</u>
<u>2002</u>	<u>3-5/16"</u>	<u>(84.14 mm)</u>
<u>2003</u>	<u>3-11/32"</u>	<u>(84.93 mm)</u>
<u>2004</u>	<u>3-3/8"</u>	<u>(85.72 mm)</u>
<u>2005*</u>	<u>3-13/32""*</u>	<u>(86.52 mm)</u>
<u>2006*</u>	<u>3-7/16""*</u>	<u>(87.31 mm)</u>
<u>2007*</u>	<u>3-15/32""*</u>	<u>(88.11 mm)</u>
<u>2008*</u>	<u>3-1/2""*</u>	<u>(88.90 mm)</u>

*NOTE: The Outer Cape Cod LCMA will implement minimum gauge size increases beyond 3-3/8", at the rate of 1/32" per year, until a final minimum gauge size of 3-1/2" is reached, if, following an updated stock assessment, it is necessary to meet lobster management plan goals and objectives.

B. Maximum Gauge Size – There is currently no maximum gauge size for American lobster in the Outer Cape Cod LCMA.

C. Minimum Escape Vent Size – For any person or vessel permitted or declared to fish in the Outer Cape Cod LCMA, all lobster traps fished in the Outer Cape Cod LCMA, whether fished commercially or recreationally, must contain at least one (1) rectangular escape vent or two (2) circular escape vents according to the following schedule:

December 31, 2004 is the deadline for implementing the new circular escape vent size (2-5/8 inches).

July 1, 2008 is the deadline for implementing the scheduled escape vent size increases for both rectangular and circular escape vents.

YR One (1) Rectangular Escape Vent Two (2) Circular Escape Vents

2003	2 inches by 5-3/4 inches	2-1/2 inches
2004	2 inches by 5-3/4 inches	2-5/8 inches
2008	2-1/16 inches by 5-3/4 inches	2-11/16 inches

D. Maximum Trap Size – It shall be unlawful to possess a lobster trap with a volume of greater than 22,950 cubic inches in the Outer Cape Cod LCMA.

E. Prohibition on possession of V-Notched female American lobsters – It shall be unlawful for any person or vessel permitted or declared to fish in the Outer Cape Cod LCMA to possess a V-notched female lobster. The prohibition on possession of V-notched female lobster applies to all persons, including, but not limited to fishermen, dealers, shippers, and restaurants. A V-notched female lobster is defined in section 15.20.2 of this section.

F. Mandatory V-Notching Requirements – There are currently no mandatory V-notching requirements for any person or vessel permitted and declared to fish in the Outer Cape Cod LCMA.

G. Limits on Landings by Fishermen Using Gear or Methods other than Traps – Landings by fishermen using gear or methods other than traps (non-trap fishermen) will be limited to no more than 100 lobsters per day (based on a 24-hour period) up to a maximum of 500 lobsters per trip, for trips 5 days or longer.

H. Trap Reduction Schedule for Lobster Management Area Outer Cape Cod (OCLMA) -

Beginning in 2002 and extending through 2008, a 20% reduction in the total number of lobster traps allowed to be fished will occur in the Outer Cape Cod LCMA. An additional 5% reduction in the total number of lobster traps allowed to be fished per year may be employed in 2006 and 2007, if necessary, to meet lobster egg production goals and objectives.

In order to control the expansion of fishing effort, an overall total number of traps allowed to be fished in the Outer Cape Cod LCMA has been established from the sum of individual maximum traps reported by each OCLMA lobster fisher on Massachusetts (MA) catch reports in the year 1998. A reduction of this total number of traps by 20% will be implemented and resulting individual trap allotments will be defined accordingly during the stock rebuilding period. The starting trap allotments for each lobster fisher in the year 2002 will be based on MA 2000 catch report statistics. Allotments will be debited thereafter as needed by MA Division of Marine Fisheries (DMF). Participants in the 2001 Outer Cape Cod lobster trap fishery, who received a license through the MA DMF or waiting list

provisions during 2001, and as a result, have no prior lobster fishing history (i.e. filed catch reports) in the Outer Cape Cod LCMA, will receive a trap allotment based on proof of documentation of the number of traps they fished during 2001. These allotments will be apportioned from a percentage of the overall trap cap, not to exceed 2% of the total. Those who received a transferred license with an Outer Cape Cod LCMA fishing history will receive a starting trap allotment based on that history.

The annual trap transfer period will be January 1 – March 31. Trap tags may be transferred among OCLMA lobster fishers to allow an individual business to build up or down within the maximum allowable 800 trap limit, however, a passive reduction in traps will occur with each trap transfer event at the rate of 10%. For example, if 100 trap tags are transferred to a lobster fisher, the net transaction received by that lobster fisher will be 90 and the overall Outer Cape Cod LCMA trap cap will be reduced accordingly. The trap cap may be adjusted downward over time through active and/or passive reduction measures until such time that the Fishing mortality rate is reduced to a level below F10%.

Each time a lobster license is transferred to another lobster fisher within the OCLMA, the trap tag allowance associated with that license will be reduced by 10%. No new participants will be permitted to partake in the OCLMA lobster fishery without receiving trap tags through a transfer from those fishing within the established total trap cap.

A trap haul-out period will occur from January 1 – March 31 each year to assist in the enforcement of the trap cap. There will be no lobster trap in the waters of the OCLMA during this time period.

RIMF REGULATION [Penalty - Part 3.3 (RIGL 20-1-16)]

Rule 8. EFFECTIVE DATE

The foregoing rules and regulations Rhode Island Marine Statutes and Regulations, after due notice, are hereby adopted and filed with the Secretary of State this ~~6th day of September, 2012~~ to become effective 20 days after 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, Administrative Procedures Act of the Rhode Island General Laws of 1956, as amended.

Janet L. Coit, Director
Department of Environmental Management

Notice Given: 03/02/2012

Public Hearing: 04/23/2012

Filing date: 09/06/2012

Effective date: 05/31/2012

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