

RIMFC Lobster Advisory Panel
February 28, 2007
Jamestown, RI

Meeting Attendees:

RIMFC Lobster Advisory Panel (*= primary voting member):

Jody King (RIMFC, Co-Chair)
*Todd Sutton (Inshore Trap)
*Lanny Dellinger (Inshore Trap)
*Jeffrey Jordan (Offshore Trap)
*David Spencer (Offshore Trap)
*Kevin Bates (Dealer)
*Albert Christopher (Offshore Trap)
Brian Thibeault (alternate / R. Smith)
Dennis Ingram (alternate / T.Sutton)
Gregory Lisi (alternate / A. Christopher)
Michael Marchetti (alternate /

Others:

Alan Eagles	Mark Gibson, Deputy Chief, RIDFW
David Borden	Thomas Angell, RIDFW
Timothy Baker	Scott Olszewski, RIDFW
Peter Brodeur	Daniel Costa, RIDFW
Bruce Hawkins	

Meeting convened by Co-Chair J. King at 6:35pm.
There were 20 people in attendance (see list above).

AGENDA:

1. Lobster Advisory Panel membership (J. King).
 - Review meeting attendance and vacant panel positions.

The LAP needs representatives for Inshore Trap alternate and Recreational primary member and alternate, Scientific primary and alternate

Recommendation for William McElroy as alternate for Lanny Dellinger (Inshore Trap).

Representatives for Inshore Trawl and Offshore Trawl have not been attending recent meetings.

Brian Loftes has submitted application as a potential Inshore Trawl representative.
LAP voted to recommend Brian Loftes as Inshore Trawl representative.
T. Angell will contact Paul Westcott and Brian Loftes regarding the changes made to LAP membership.

Offshore Trawl representative? No applications submitted to RIMFC.
Recreational primary and alternate? No applications submitted to RIMFC.

Scientific primary and alternate? No applications submitted to RIMFC. John Gates may fill Kathy Castro's position.

2. Update on ASMFC Addenda and Amendments (M. Gibson).

Winter ASMFC meeting – considering Amendment 5; ASMFC Lobster Management Board was unhappy with Amendment 5 language; new language will be presented at spring ASMFC meeting. M. Gibson will confer with D. McKiernan (MA) regarding coast-wide v-notching definition.

Addendum 10 – data reporting requirements; some adjustments made for Maine (only required to get 10% reporting from dealers); trying to improve lobster data collection on a coast-wide basis. RI is in compliance with data reporting requirements.

Addendum 11 – approved as PID; rebuilding measures for SNE stock area; several options proposed; TC has concerns regarding the long-term viability of a v-notching program. A public hearing will be held on this addendum sometime in the near future.

Addendum 7 – implementation of addendum 7 by RI is well in progress; have gone through the data review process; now in the AAD process; AAD process is advisory to the Director; Director has final decision on the allocation. If final Area 2 trap allocation numbers are significantly higher than 2003 trap levels, then ASMFC would require a percentage cut across-the-board to bring trap levels back to the Area 2 trap cap number.

Panel Comments / Discussion:

- Comments regarding possible legal/court actions that may take place due to implementation of this plan; don't know what the result may be.
- Comments regarding the ability of NMFS to keep up with ASMFC lobster management; usually takes NMFS 2-3 years to catch up to ASMFC lobster management initiatives.
- Comment that the RI v-notching language could be made stronger by adopting language similar to Maine; suggestion to adopt mandatory v-notching language.
- LAP would like to have further discussions regarding a "Zero Tolerance / Mandatory V-Notching regulation.
- Comment that there needs to be an LCMT meeting to discuss this.

Motion by B. Thibeault to put agenda item regarding "Mandatory V-Notching of egg-bearing legal-sized female lobsters" for next LAP meeting and discussion

Second by T. Sutton

No LAP discussion.

Voted YES unanimous. The motion passes.

3. Trap Allocation Transferability:

- Review draft regulatory language; suggestions for changes/additions.

M. Gibson explained that this section was left out of current Area Trap Allocation regulations.

Currently, we can recognize sales of entire lobster business, but don't have regulations for transfers of partial allocations.

Comment that we (RIDFW) should talk to MA regarding their transferability regulations.

T. Angell suggested the LAP review the draft document one section at a time.

LAP REVIEW OF DRAFT TRANSFERABILITY REGULATIONS:

15.14.2-4 – RIDFW Rules Governing Lobster Trap Allocation Transfers and Lobster Trap Business Sales.

(a) The Area 2 Lobster Trap Transfer and Lobster Trap Business Sales program shall be administered by the Rhode Island Division of Fish and Wildlife (RIDFW). Application for lobster trap allocation transfers and lobster trap business sales shall be made on forms provided by RIDFW, must be signed by both the seller and buyer, and must be notarized prior to submission of the application to RIDFW. No applications may be accepted after November 30 annually, for the following fishing year, unless an entire lobster trap fishing business is sold.

LAP Discussion:

- Does this apply to sale of an entire business? Add language “unless an entire lobster trap fishing business is sold.” (see section d also).
- Sale of an entire business (license, boat, gear, and allocation). Questions raised regarding the 10% conservation tax and if it can be applied to sale of an entire lobster trap fishing business; need to check RI state laws.
- LAP had discussion regarding whether or not the 10% conservation tax should be applied to the sale of an entire lobster trap fishing business.
- LAP has concerns regarding the 10% conservation tax and its application; need to review current RI state laws and also need to get copy of MA transferability regulations for comparison.
- Comment that Area 3 has a 20% conservation tax for transfer of partial allocation and a 10% conservation tax for transfer of an entire allocation.
- Comment that it is critical that RI and MA have the same regulations regarding transferability.
- Discussion regarding whether or not an Area 3 trap allocation can be transferred to Area 2. **Add this as an agenda item for next LAP meeting.**

Motion by A. Christopher to separate the transfer of trap allocation and sale of an entire lobster fishing business.

Second by J. Jordan.

Voted – YES 2, NO 4. Motion does not pass.

LAP Discussion:

- What is the intent? Does that include all the licenses? YES.

- Comment that the LAP needs more information in order to continue this discussion; need information from upcoming March ASMFC meeting.
- Comment that a transfer of a federal permit does not require that a vessel be involved. This is NOT true; a vessel must be involved in transfer of a federal permit.

Motion by T. Sutton to deal with the allocations as separate and subject to the 10% conservation tax, whether it is an entire business sale or trap allocation transfer.

Second by L. Dellinger.

LAP Discussion: None

Voted Yes 4, NO 2. The motion passes.

(b) There is a Coordinating Committee, made up of agency representatives from MA, RI, CT, and NMFS, to review appeals and proposed resolutions developed by the management agency of a license/permit holder's state of legal residence. The purpose of this committee is to facilitate communication and coordination, which is expected to result in more consistent decisions amongst the decision-making entities. The Coordinating Committee may provide comment to alert a state of any concerns with the proposed solution for consistency with similar decisions in the other states. The federal government (NMFS) shall have the opportunity to sit on this committee so that it may provide its perspective on these issues. The decision of the state or federal agency shall be the final determination on lobster trap allocations.

- **No comments by LAP; no recommendation for changes.**

(c) Commercial Lobster Trap Vessel Registration Period:

~~Any person wishing to participate in the Area 2 and/or Area 3 lobster trap fisheries after the effective date, must register a specific vessel (Commercial Vessel Declaration/Boat Plate Application form) for the Area 2 and/or Area 3 lobster trap fishery with the Division of Licensing and Boat Registration, Room 360, 235 Promenade Street, Providence, RI 02908. The registration period for commercial lobster trap vessel declarations will be January 1–September 30, 2006. Failure to register a commercial lobster trap vessel during this period will result in an individual or lobster trap fishing business losing the right to participate in the Area 2 and/or Area 3 lobster trap fisheries.~~

~~For vessels under construction or under contract for construction during the period of January 1–September 30, 2006, said vessel must be registered with the Division of Licensing and Boat Registration during this period. A vessel owner/licensee must provide written documentation that the vessel is under construction or under contract for construction.~~

LAP Comments / Discussion:

- Comment that a person can “shelf” a federal permit for up to a year.
- **Recommendation to delete entire section; consensus of the LAP to do this; delete section (c) “Commercial Lobster Trap Vessel Registration Period”.**

(d) Commercial Lobster Trap Transfer and Lobster Trap Business Sale Registration Period:

Registration of transfer and/or sale of lobster trap allocation and/or an existing lobster trap fishing business must be made to the RI Division of Fish and Wildlife (RIDFW) on forms provided by RIDFW. To request a Lobster Trap/Lobster Trap Business Transfer or Sale Registration form, contact the RI Division of Fish and Wildlife, Marine Fisheries, 3 Fort Wetherill Road, Jamestown, RI 02835, Phone (401)-423-1931 or 423-1934.

The registration period for transfer of lobster traps and sale of lobster trap businesses shall be January 1-September 30, annually. All trap transfers and lobster trap business sales must be registered with the Division of Fish and Wildlife during this time period. Trap transfers and/or lobster trap business sales can occur only during January 1-September 30 and must be registered with the Division of Fish and Wildlife. There shall be no trap transfers and/or lobster trap business sales that occur after September 30 and prior to January 1.

Trap transfers shall become effective on May 1st in the year immediately following the year in which the transfer and/or sale of lobster trap fishing business occurred (i.e., when the following year's lobster trap tags become valid).

Sale of an entire lobster trap fishing business can occur at any time and shall be effective immediately upon the registration of the commercial lobster trap fishing vessel by the new owner.

LAP Comments / Discussion:

- Why is there lag time of a year before a person can use the trap allocation he required? This is a huge impediment to transferability. This is too restrictive.
- RIDFW will review this and make a recommendation.
- Need to develop a reasonable timeframe for allocation transfers to be finalized.

(e) Trap Allocation Transfer Units.

For transfer of lobster trap allocation by Area 2 trap allocation holders with an initial Area 2 lobster trap allocation of 100 traps or less, transfers shall be made in minimum units of 10 lobster traps. For transfer of lobster trap allocation by Area 2 trap allocation holders with an initial Area 2 lobster trap allocation of 100 traps or greater, transfers shall be made in minimum units of 50 lobster traps.

Sale of an entire lobster trap business shall result in transfer of the seller's entire lobster trap allocation and fishing history to the buyer.

LAP Comments / Discussion:

- Suggestion for change – If seller's trap allocation 100 traps less, use units of 10; if seller's trap allocation is over 100 trap, use units of 50. Consensus of LAP to make the recommended language change.

(f) Conservation Tax on Trap Allocation Transfers and Lobster Trap Business Sales.

There shall be a 10% conservation tax applied to each lobster trap allocation transfer and/or lobster trap business sale.

LAP Comments / Discussion:

- See previous motion by T. Sutton.
- This should be applicable to Area 2 only at this point; Area 3 may want something different.

(g) Maximum Allowable Area 2 Trap Allocation.

Any qualified Area 2 license/permit holder can buy lobster trap allocation from other qualified Area 2 license/permit holders up to a maximum of eight hundred (800) traps.

LAP Comments / Discussion:

- No comments; this is already required by ASMFC plan.

(h) Moratorium on License/Permit Splitting.

No vessel or license/permit holder shall hold more than one Area 2 lobster trap allocation that corresponds to a single Area 2 fishing history.

LAP Comments / Discussion:

- Comment that this is already a requirement of Addendum 7.
- Comment that this may be an issue in the future.
- Check Addendum 7 language and make possible revisions.

(i) Nothing shall prevent the owner of one or more vessels that have trap allocations assigned to them, based on separate fishing histories, from owning or transferring or acquiring a vessel with its assigned fishing history or transferring trap allocation to another vessel or license/permit holder eligible to fish in Area 2. However, the total lobster trap allocation for any single [Area 2](#) lobster trap fishing history may not exceed eight hundred (800) lobster traps.

LAP Comments / Discussion:

- Recommendation to add language; insert “Area 2” in last sentence.

(j) Nothing shall prevent a holder of a state commercial lobster license/federal lobster permit ~~without a~~ **with an initial trap allocation of zero** ~~trap allocation~~ from acquiring traps from a trap allocation-holder once a transferability program is accepted and implemented.

LAP Comments / Discussion:

- What is the purpose of this section?
- Needs revision; taken under advisement.

(k) A License/permit holder’s trap allocation shall be adjusted annually, based on any Lobster Trap Allocation transfers or Lobster Trap Fishing Business sales

LAP Comments / Discussion:

- No comments.

(1) Prohibitions.

It shall be unlawful:

(1) for a license/permit holder to retain a trap allocation equal to less than 50 traps after they have transferred part of their trap allocation to another license/permit holder, or a trap allocation greater than 800 traps after they receive a trap allocation from another license/permit holder.

LAP Comments / Discussion:

- Recommendation to delete “50 traps”.

(2) For trap allocation transfers to involve the transfer of trap allocation outside of the specific Lobster Fishery Management Area (LFMA) for which the trap allocation is designated.

LAP Comments / Discussion:

- No comments.

(3) to transfer a commercial lobster license/permit endorsed for lobster traps from one LFMA to another LFMA unless the license/permit is transferred to an LFMA under management of an approved effort control plan for which the license/permit holder has received an LFMA-specific trap allocation.

LAP Comments / Discussion:

- No comments.

Meeting adjourned at 9:30 pm.