

RIMFC Lobster Advisory Panel
March 4, 2009
Jamestown, RI

Meeting Attendees:

Lobster Advisory Panel Members (* = primary panel member):

*Jody King, Co-Chairman
*Lanny Dellinger, Inshore Trap
*Peter Brodeur, Inshore Trap
*Robert Smith, Inshore Trap
*David Spencer, Offshore Trap
*Albert Christopher, Offshore Trap
*Jeff Jordan, Offshore Trap
*Michael Tortolani, Recreational
*Dr. John Gates, Scientific
Dennis Ingram (alternate, T. Sutton)
Greg Lisi (alternate, A. Christopher)

Others:

Thomas Angell, RIDFW	Jeff Grant
Daniel Costa, RIDFW	Seth Macinko
Timothy Baker	Gregory Duckworth
Ian Parente	Patrick Duckworth
Gary Mataronas, Jr.	Kevin Sullivan
Charles Borden	Richard Blades
Jerry Tremblay	

The meeting was convened at 6:05pm by Co-Chair Jody King. There were 24 people in attendance.

AGENDA:

- 1. Proposed change to Regulation 15.12 – “Buoying of Pots – Escape Vents”**
 - Review draft regulatory language and make recommendation to RIMFC.**

T. Angell opened the discussion; commented that the current regulation is in direct conflict with the rules being put in place for protection of whales; should consider changing this regulation to avoid possible scrutiny by environmental groups.

LAP / Other Comments:

P. Brodeur submitted proposed language to change this regulation; language is clearer (see attached draft language).

R. Smith had concerns about trawls of less than 5 traps; will lose more traps if they are only buoyed on one end.

D. Spencer comment; we can address this now or wait until the issue comes to a head.

G. Duckworth commented about gillnet regulations (end buoys / vertical lines).

J. Grant suggested to add language that these regulations are for south of the COLREGS line.

D. Spencer suggested waiting until the ALWTRT (Atlantic Large Whale Take Reduction Team) makes some decisions and we know what we are dealing with.

The LAP decided to table this issue until a later date.

No recommendation made to RIMFC on this issue at this time.

2. ASMFC Lobster Addendum XII.

- **Review draft Transferability regulations.**
- **Recommendation to RIMFC?**

T. Angell opened the discussion; commented that this draft is just for transfers between RI state commercial fishing licenses within RI only.

No partial transfers between federal permits or interstate transfers.

Some general discussion about transferability; when will the feds be ready to implement transfers?

The LAP reviewed the draft Transferability language and made comments as each section was reviewed.

The results of these discussions is the “3/4/09 – DRAFT REGULATIONS FOR IMPLEMENTATION OF LOBSTER TRAP ALLOCATION TRANSFERS AND LOBSTER TRAP BUSINESS SALES (ASMFC LOBSTER ADDENDUM XII)” document included at the end of the meeting minutes.

The LAP recommends and requests that the draft Transferability regulations (15.14.2-4) be added to the next available RIMFC public hearing agenda.

3. New/Other Business.

- **Seth Macinko request; licensing issues.**

T. Angell and S. Macinko explained the issue to the LAP.

S. Macinko has a federal lobster permit, but his RI state commercial fishing license is a CFL license and is not endorsed to fish for lobster within RI state waters.

As far as can be determined by RIDFW, he is the only person with Area 2 lobster trap allocation in this situation; all other federally-permitted lobster trap allocation holders have an RI state commercial fishing license that would allow them to fish their “federal” lobster traps in RI state waters

LAP / Other Comments:

D. Ingram – Why not just open up the lobster licenses; make licenses available for people who acquire lobster trap allocation.

T. Angell – There are provisions in the proposed regulations to deal with this; Feds have concerns about state waters traps migrating into federal waters, and vice versa.

I. Parente/G. Mataronas Jr. – This plan is to cap effort; does not make sense to open up the state licenses; this will increase effort because the traps will be fished more efficiently.

L. Dellinger – suggested that this license be restricted as a lobster trap license only and can not be converted to a license to fish in other fisheries (i.e. dragging on lobsters).

The LAP recommends that the Director review this case as a hardship case and to issue a “lobster trap only” (CFL or PEL license with restrictions?) license that will allow Mr. Macinko to fish his lobster trap allocation in RI state waters, as well as in federal waters of Area 2.

J. Gates comment that this action applies only to this case.

MEETING ADJOURNED AT 9:00PM

MEETING SUMMARY – MOTIONS, RECOMMENDATIONS, TASKS

1. Proposed change to regulation 15.12

The LAP decided to table this issue until a later date.

No recommendation made to RIMFC on this issue at this time.

2. ASMFC Lobster Addendum XII – Transferability

The LAP recommends and requests that the draft Transferability regulations (15.14.2-4) be added to the next available RIMFC public hearing agenda.

3. Seth Macinko request; Licensing issues.

The LAP recommends that the Director review this case as a hardship case and to issue a “lobster trap only” (CFL or PEL license with restrictions?) license that will allow Mr. Macinko to fish his lobster trap allocation in RI state waters, as well as in federal waters of Area 2.

Draft language for change to regulation 15.12, submitted by Peter Brodeur.

Each single lobster pot shall be plainly buoyed.

Lobster pot trawls made up of five (5) or less lobster pots shall be plainly buoyed only on one end of the lobster pot trawl.

Lobster pot trawls made up of six (6) or more lobster pots shall be plainly buoyed only on each end of the lobster pot trawl; additional buoys between each end buoy of a lobster pot trawl will not be permitted.

3/5/09 - DRAFT

REGULATIONS FOR IMPLEMENTATION OF LOBSTER TRAP ALLOCATION TRANSFERS AND LOBSTER TRAP BUSINESS SALES FOR RI STATE WATERS ONLY (ASMFC LOBSTER ADDENDUM XII)

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

- (a) Administration – The Rhode Island Division of Fish and Wildlife (RIDFW) shall administer the Area 2 Lobster Trap Allocation Transfer and Lobster Trap Business Sales Program for Rhode Island state commercial fishing license holders for the taking of American lobster. Application for lobster trap allocation transfers and entire lobster trap fishing business sales may be made at any time. Application for lobster trap allocation transfers and entire lobster trap fishing business sales shall be made to RIDFW, on forms provided by RIDFW, must be filled out completely, must be signed by both the seller and buyer, and must be notarized prior to submission of the application to RIDFW.
- (b) Foundational and Governing Principles.
- (1) A Rhode Island state commercial fishing license holder would be considered to have established a single lobster trap fishing history.
 - (2) A Rhode Island state commercial fishing license assigned with lobster trap allocation for the taking of American lobster and its history can not be separated. When such a license is transferred, the fishing history is also transferred.
- (c) Initial Qualification and Trap Allocations in Lobster Conservation Management Areas with History-based Allocation Programs.
(This section will be added when interstate and federal lobster permit transfers are approved.)
- (d) Eligibility
- (1) Any Rhode Island resident, either currently unlicensed or holding a valid Rhode Island state commercial fishing license, may participate in transfer of partial lobster trap allocation, transfer of entire lobster trap allocation without sale of entire lobster trap fishing business, or sell/purchase an entire lobster trap fishing business with lobster trap allocation assigned to the Rhode Island state waters portion of Lobster Fishery Management Area 2.
 - (2) Any unlicensed Rhode Island resident may obtain lobster trap allocation assigned to the Rhode Island state waters portion of Lobster Fishery Management Area 2 through transfer of partial lobster trap allocation, transfer of entire lobster trap allocation without sale of entire lobster trap fishing business, or purchase an entire lobster trap fishing business with lobster trap allocation assigned to the Rhode Island state waters portion of Lobster Fishery Management Area 2 from an existing Rhode Island state

commercial fishing license holder and be issued a Rhode Island state commercial fishing license (**CFL or Principal Effort License / Lobster Trap Only; no endorsements can be added; can not be converted to other fisheries**) for the taking of American lobster, pursuant to Section (6.7-8)(a) and (c) (Issuance of New Licenses Upon Sale of Vessel and Gear) under “Rules and Regulations Governing the Management of Marine Fisheries”. The issuance of such a license shall be restricted to:

- (a) fishing for American lobster in Rhode Island state waters via the use of lobster traps, and;
 - (b) can not be converted into any other Rhode Island state commercial fishing license.
- (3) Until such time as the National Marine Fisheries Service (NMFS) implements rules governing transfer of partial lobster trap allocation by federally-permitted lobster trap permit holders, there shall be no transfer of partial federal lobster trap allocations permitted. Currently, federally-permitted lobster trap allocation holders may transfer entire lobster trap allocations through federal lobster permit transfer or sale of an entire federally-permitted lobster trap fishing business with entire lobster trap allocation, without incurring the 10% conservation tax on trap allocation transfers and lobster trap fishing business sales.
- (4) There shall be no interstate transfers of partial lobster trap allocation or interstate sale of entire non federally-permitted lobster trap fishing businesses allowed at this time.
- (e) 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.
- (f) Commercial Lobster Trap Allocation Transfer and Lobster Trap Business Sale Application Period – Application for transfers of partial lobster trap allocation, transfers of entire lobster trap allocation without sale of an entire lobster trap fishing business, and sale/purchase of an entire lobster trap fishing business may be made at any time. Application shall be made to RIDFW, on forms provided by RIDFW, must be filled out completely, must be signed by both the seller and buyer, and must be notarized prior to submission of the application to RIDFW. To request a **Lobster Trap Allocation Transfer Application form**, contact the RI Division of Fish and Wildlife, Marine Fisheries Section, 3 Fort Wetherill Road, Jamestown, RI 02835, Phone (401)-423-1931 or 423-1934.

- (1) Transfers of partial lobster trap allocation, transfers of entire lobster trap allocation without sale of an entire lobster trap fishing business, and sale/purchase of an entire lobster trap fishing business shall be effective immediately upon approval of the Lobster Trap Allocation Transfer Application by RIDFW. Applications will be reviewed and a decision will be rendered within 15 business days of receipt of the application.

(g) Trap Allocation Transfer Units.

- (1) Transfer of partial lobster trap allocation shall be a minimum of 10 lobster traps and occur in minimum units of ten (10) lobster traps thereafter, until the remaining lobster trap allocation is less than ten (10) lobster traps.
- (2) For Rhode Island state commercial fishing license holders with a lobster trap allocation assigned to the Rhode Island state waters portion of Lobster Fishery Management Area 2 of ten (10) lobster traps or less, the entire lobster trap allocation must be transferred in a single transaction. Lobster trap allocation transferor's of lobster trap allocation of ten (10) lobster traps or less shall be prohibited from participation in the Rhode Island commercial lobster trap fisheries until such time as lobster trap allocation assigned to the Rhode Island state waters portion of Lobster Fishery Management Area 2 is regained through partial lobster trap allocation transfer of lobster trap allocation assigned to the RI state waters portion of Lobster Fishery Management Area 2 or purchase of a lobster trap fishing business with existing lobster trap allocation with lobster trap allocation assigned to the RI state waters portion of Lobster Fishery Management Area 2.
- (3) Sale of an entire lobster trap fishing business shall result in transfer of the RI state commercial fishing license and lobster trap allocation transferor's entire lobster trap allocation and fishing history to the license and lobster trap allocation transferee, and surrender of the license transferor's Rhode Island state commercial fishing license, pursuant to Section (6.7-8)(a) and (c) (Issuance of New Licenses Upon Sale of Vessel and Gear) under "Rules and Regulations Governing the Management of Marine Fisheries", ~~unless said license and lobster trap allocation transferee is already the holder of a comparable RI state commercial fishing license.~~

- (h) Conservation Tax on Trap Allocation Transfers and Lobster Trap Business Sales. There shall be a 10% conservation tax applied to each partial lobster trap allocation transfer, transfer of entire lobster trap allocation, and/or entire lobster trap fishing business sale.

(i) Maximum Allowable Trap Allocation.

The maximum allowable trap allocation assigned to the holder of a Rhode Island state commercial fishing license for the taking of American lobster within RI state waters shall be no more than eight hundred (800) lobster traps.

(j) **Moratorium on License Splitting.**

No Rhode Island state commercial fishing license holder shall be assigned more than one lobster trap allocation for the Rhode Island state waters portion of Lobster Fishery Management Area 2 that corresponds to a single fishing history.

(k) **License and Trap Allocation Tracking.**

Subject to the standards developed by the Lobster Transfer Committee, each state shall maintain records to track all RI state commercial fishing license lobster trap allocations and trap allocation transfers.

(l) **Prohibitions.**

It shall be unlawful:

- (1) For a Rhode Island state commercial fishing license holder for the taking of American lobster to accumulate lobster trap allocation assigned to the Rhode Island state waters portion of Lobster Fishery Management Area 2 in excess of eight hundred (800) lobster traps.
- (2) To transfer lobster trap allocation assigned to the Rhode Island state waters portion of Lobster Fishery Management Area 2, either by transfer of partial lobster trap allocation, transfer of entire lobster trap allocation without sale of entire lobster trap fishing business, or sale of an entire lobster trap fishing business, to any other jurisdiction outside of Rhode Island state waters, including the federal EEZ portion of Lobster Fishery Management Area 2.
- (3) To lease any lobster trap allocation.

ADD TO PART 1.3 – DEFINITION OF TERMS

Lobster Trap Allocation Transfer: change in ownership of a partial or entire lobster trap allocation.

Lobster Trap Allocation Transferor: the license holder or federally-permitted vessel from whom/which a lobster trap allocation transfer is made.

Lobster Trap Allocation Transferee: the license holder or federally-permitted vessel to whom/which a lobster trap allocation transfer is made.

License Transferor / Permit Transferor: the holder of a RI state commercial fishing license or a federally-permitted vessel from whom/which a RI state commercial fishing license .

License Transferee / Permit Transferee: the holder of a RI state commercial fishing license or a federally-permitted vessel to whom/which a RI state commercial fishing license.